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SENATE—*Monday, August 1, 1977*

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

The effectual fervent prayer of a righteous man availeth much.—James 5:16b.

Let us pray.

Eternal Father, whose we are and whom we serve, at the opening of a new week we pray fervently to qualify us for the tasks before us. Where we are weak, make us strong. Where we lack wisdom, impart to us Thy higher wisdom. Where we are lacking in righteousness, set us on the righteous course that in and through Thee we may avail much. Grant us Thy grace that we may exert our best effort to complete the American Revolution, fulfill the vision of the Founding Fathers, and advance Thy kingdom on Earth. And to Thee shall be the praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 1, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, July 29, 1977, be approved.

The ACTING PRESIDENT pro tempore (Mr. RIEGLE). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield back my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back my time.

PUBLIC FINANCING OF SENATE ELECTIONS

The ACTING PRESIDENT pro tempore. The question recurs on S. 926, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The Senate resumed the consideration of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

Mr. BAKER. Mr. President, as one of the primary participants in the effort to defeat S. 926, a bill to provide partial public financing, I was particularly pleased to read the Washington Post editorial printed yesterday. The Post editorial emphasized many of the same points that have been made repeatedly on the floor of the Senate in the past week of debate and speaks for itself.

Mr. President, I ask unanimous consent that a copy of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contributions limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts, publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend

millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, morning business is concluded.

PUBLIC FINANCING OF SENATE ELECTIONS

Mr. ROBERT C. BYRD. Mr. President, may we have the clerk restate the measure before the Senate?

The ACTING PRESIDENT pro tempore. The clerk will restate the pending business.

The assistant legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 706

Mr. CLARK. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) proposes unprinted amendment numbered 706.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 20, strike out lines 9 through 24 and insert in lieu thereof the following:

"(4) 'major party' means—

"(A) a political party whose candidate for election to the United States Senate in the preceding general election for that Senate seat received, as the candidate of that party, 25 percent or more of the total number of votes cast in that election for all candidates for that seat, or

"(B) if only one political party qualifies as a major party under the provisions of subparagraph (A)—

"(i) the political party whose candidate for election to that seat in that election received, as the candidate of that party, the second greatest number of votes cast in that election for all candidates for that seat (if such number is equal to 15 percent or more of the total number of votes cast in that election for all candidates for that seat),

"(ii) if no political party qualifies as a major party under clause (i), a political party whose candidate for election to the United States Senate in any two of the preceding three general elections for the United States Senate in the same State received, as the candidate of that party, 25 percent or more of the total number of votes cast in each of those two elections for all candidates for the United States Senate from that State, or

"(iii) if no political party qualifies as a major party under clause (i) or (ii), the political party whose candidate for election to that office in any two of those three elections received, as the candidate of that party, the second greatest number of votes cast in each of those two elections for all candidates for the United States Senate from that State (if such number is equal to 15 percent or more of the total number of votes cast in those elections for all candidates for the United States Senate from that State);

Mr. CLARK. Mr. President, the purpose of this amendment is rather clear, I think. First, it would make a technical correction the necessity of which was pointed out during the opening day of debate by the junior Senator from Virginia (Mr. SCOTT) to insure that, in defining a major party, we are referring to the previous election to that Senate seat rather than the previous election for the office of Senator in that State.

Furthermore, if I might just explain, the bill as presently written and what the amendment will do, as the bill—S. 926—is presently written, a party, a political party, qualifies as a major party if it receives at least 25 percent of the vote in the general election, or if it received 15 percent of the vote in the previous election and came in second.

In some States it is possible and, indeed, probable, that major parties, serious parties, well-established, traditional parties, would not qualify in the general election for funding.

By taking two of the last three elections to the Senate and using exactly the same kind of qualification, that is to say, 25 percent in the general election or 15 percent if the candidate comes in second, we think this solves the problem.

It is an issue, as I said, which Senator SCOTT, of Virginia, raised. I said at that time I felt he was quite right, that it was an inequity, and we would be offering an amendment to try to correct that problem.

I would hope the managers of the bill would find it possible to accept this, but I am perfectly willing to go to a vote if that is not possible.

Mr. CANNON. I say to the Senator from Iowa, as far as the manager of the bill is concerned, that is an acceptable amendment. I think it does address the problem that was raised by several on the Republican side of the aisle last week, and it seems to me it was a good point they made. I think this properly corrects the situation and resolves the matter to meet the needs that were pointed out as being inequitable last week.

Mr. HATFIELD. Mr. President, I want to thank the Senator from Iowa (Mr. CLARK) for his response to this one inequity among many we have pointed out in this bill. It does represent a small step in the direction of correcting at least one inequity. I might say there are many others in the bill, and we shall from time to time raise them, as we have now in two instances where the proponents of the bill have recognized the inequities and have taken steps to correct them.

I think that is good faith and commendable, and I am ready to accept the amendment and vote on it at this moment.

Mr. CLARK. Vote.

The ACTING PRESIDENT pro tempore. The Senator from Iowa requests a vote.

The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the distinguished Senator from Iowa has stated that one of the reasons he moved, in the Rules Committee, to delete primary campaigns from S. 926 was the fact that if primaries were included in the bill, there would not be enough funds in the Presidential election campaign fund to finance all Federal campaigns. The Senator said the following:

Furthermore, it is quite right to say that with the checkoff funds we have provided for, it is clear we will not have enough funding as far as primary elections are concerned, and that would also kill the bill. The senator went on to say: "we would like to have primary elections but are prepared to take half a loaf rather than none."

Well, Mr. President, the proponents seem very concerned about not running the Presidential election campaign fund into the red, so I am curious as to why they have failed to apprise the Members of the Senate of the potential deficit

in this fund once the House of Representatives adds its own campaigns to the public financing program.

I would like to bring to the Senate's attention that by December 1980 the Presidential election campaign fund could be in the hole anywhere from $1.8 million to $19.8 million. This deficit means that candidates for the House and the Senate will be receiving less public financing funds for the 1980 elections than they are entitled to receive. In other words, Mr. President, the proponents admit they are willing to accept half a loaf in order to pass the public financing program, but at the same time, they are also going to force the 1980 House and Senate candidates to accept half a loaf in public financing funds.

Since the proponents of S. 926 have accepted Senator PEARSON's amendment, which prohibits the use of any Government funds for public financing other than those funds generated through the $1 checkoff, we can be certain of one thing—they will be back in 1978 asking the Senate to increase the $1 checkoff to $2, thus creating yet another raid on the Federal Treasury.

Mr. President, it should be clear to the Senate why House campaigns are not included in S. 926. If they were, attention would be drawn to the fact that there just is not enough money in the Presidential election campaign fund to cover the public financing of Presidential, Senatorial, and House campaigns. The Senator from Iowa is attempting to put blinders on the Members of this Chamber and the American people, because he knows that once the true cost figures come to light the American people are going to rise up against the passage of this measure, and the Members of the Senate are going to vote "No" on the bill.

Daily, we hear this hocus-pocus about how this measure is not increasing the tax burden on the American taxpayers. Well, Mr. President, our 1040 form may say that the Presidential election campaign fund checkoff will not increase our taxes or decrease our refund. But whom are we trying to kid? Every dollar which is diverted from our Federal Treasury to line the pockets of candidates running for President, the Senate, or the House means an additional dollar not available for other Federal programs or, even more importantly, available for reducing our national debt.

Whom are we trying to fool, Mr. President? Certainly not the taxpayer, for 72 percent have elected not to check off just $1 for the Presidential campaign fund. They know that someday, down the road, they are going to have to assume an additional tax burden to cover the costs of financing these Federal political campaigns.

If the principle behind truth-in-lending legislation were applicable to this bill, we would have next to the checkoff box on our 1977 tax forms the following: "Caution: This checkoff will eventually increase your Federal tax burden."

Mr. President, we cannot ignore the costs associated with this Senate bill.

We cannot ignore the fact that this measure does not add any more integrity to the electoral process than is already present.

We cannot ignore the fact that this measure does nothing to stop special interest groups from spending as much as they want to elect or defeat candidates to Federal office.

We cannot ignore the fact that this measure does nothing more than increase the tax burden of the American taxpayer.

Mr. President, this bill is like a leaking ship. It is springing holes left and right, and in the end it is going to sink.

The purpose of this debate is to recognize that the holes are there, and that the best remedy—the most cost-effective method—in dealing with this situation is to guide the ship into drydock and to scrap it.

This debate, thus far, has served to apprise Members of this Chamber of the many pitfalls to be found in this measure. Even the news media is beginning to take note of the shortcomings of S. 926. Yesterday's Washington Post carried a thought-provoking editorial on this very subject. I have had copies of this placed on every Member's desk, and I urge them to carefully consider the arguments found in the editorial.

Mr. President, for my colleagues' benefit, I read a portion of the last three paragraphs of the Post's editorial:

> More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment. Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?
>
> That leads to the rock-bottom question: To what extent should Government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolvable.
>
> Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

I can find no better reason for continuing this debate than those found in this editorial. Let the proponents say what they want about this extended debate, but for me, this debate must go on in order to protect our system of free elections—a system free from Government control, and free for all men and women to participate in, regardless of political philosophy or party affiliation.

S. 926 means nothing but more Government control and more discrimination against minor and third-party candidates. These are principles and concepts that I cannot and will not accept. I urge my colleagues to do the same by voting against this motion to invoke cloture.

Mr. President, I suggest the absence of a quorum.

Mr. CLARK. Mr. President, will the Senator withhold his request?

Mr. HATFIELD. Yes.

Mr. CLARK. Just a couple comments and very briefly because we are at a quarter to four.

First of all, with regard to whether there is enough checkoff money remaining in the Presidential account to cover general elections, I find it interesting, that there is argument being made, on the one hand, that we should include primaries but, on the other, that there is not enough money even to cover general elections. The distinguished Senator from Oregon, of course, offered an amendment to include primaries. But be that as it may, the particular estimates that the Senator from Oregon cited from the FEC were estimates that were made with regard to Anderson-Udall bill, plus S. 926, plus the Presidential campaign of 1980.

The fact is that they are just that—estimates. We do not know whether the Udall bill is going to become law. We do not know whether this bill will be substantially changed before it leaves this body. We do not know, in fact, whether the Udall bill if it is indeed considered in the House committee, because it has not been marked up yet—no bill has been marked up—whether in fact the levels will be cut in the House just as we did in the Senate. We significantly cut the amount of total cost in the Senate Rules Committee. So they are estimates and, of course, it is entirely possible that there will not be adequate funds. I think there will be.

I think if one takes the tax returns and looks at the increased percentage each year of people who check off and take the estimates that we have now, there will be enough money. But it is only an estimate. It is not possible to get anything other than estimates at this point.

The fact is, of course, that if we get to 1980, if this bill is implemented and we get that far, and indeed there are not enough funds, if I am wrong about that then obviously one of two things occurs. We either have the opportunity to increase the checkoff in some form or, if no action is taken beyond the passage of this legislation, then obviously the amounts of matchable money, amount of money available to the candidates, as the bill indicates, would be cut back so

that, in fact, each person would be treated equally.

I wanted also to address the question the Senator raised about the Washington Post editorial. I found the Post editorial interesting but for somewhat different reasons. It seems to me there is some confusion about the issue of campaign financing, in fact, among the members of the Post editorial board.

Yesterday the Post wrote that "the most corrosive kinds of interest-group money either have been illegal for decades or were curbed by the disclosure rules and contribution limits enacted in 1974."

However, on Friday, the Post ran quite a different editorial entitled "Big Money v. No-Fault." And the major thrust of that editorial 2 days earlier was to attack "a strong, well-financed campaign" being waged by the Association of Trial Lawyers of America against no-fault insurance. Based on an earlier news story by Post reporter Spencer Rich, the editorial noted that the trial lawyers' political action committee, their PAC, collected $439,000 in contributions from lawyers and distributed $315,000 to Members of Congress in campaign donations.

And that earlier editorial continued:

As the news report noted, the roster of recipients looks like an honor roll of the House Commerce Committee, which has jurisdiction over the no-fault bill, plus a quarter of the Senate and many other House Members.

Mr. President, I am not questioning whether they are accurate or inaccurate. I am only talking about the consistency of the Washington Post editorial position.

The Post, it seems to me, cannot have it both ways. They cannot write editorials attacking special interest campaign contributions on Friday and then on Sunday say that special interest money really is not a problem.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the two Post editorials, as well as recent editorials in the New York Times and the Washington Star in support of S. 926, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 29, 1977]

BIG MONEY V. NO-FAULT

It isn't supposed to be dignified for lawyers to chase ambulances, but chasing lawmakers, when what is at issue is a large chunk of the law business, is apparently quite acceptable in the trade. As a Herblock cartoon noted so well the other day, the thousands of lawyers whose practice is built upon the risks of driving an automobile can be counted on to swarm all over Congress on short notice whenever no-fault insurance bills are up for consideration. Right now, the no-fault issue is before Congress, and, sure enough, the lawyers are all over the place, dispensing big money, political influence—and generous servings of baloney—in another spare-no-expense effort to kill a sensible no-fault bill.

According to a report this week by Washington Post staff writer Spencer Rich, the Association of Trial Lawyers of America—whose 34,000 members include those who bring virtually every lawsuit in the nation having to do with auto accidents—has been waging a strong, well-financed campaign. Last year, the association's political fund, called the Attorneys' Congressional Campaign Trust, collected $439,000 in contributions from lawyers and distributed $315,000 to members of Congress in campaign donations. So far this year, the association has accumulated $128,000.

Now, there's nothing necessarily wrong with the amounts of money involved here, especially if you consider how much lawyers pocket in fees from automobile-injury cases. The association's president says it's about $300 million; a 1971 Department of Transportation study estimates that it's more like $1 billion. What's more interesting is the pattern of the campaign contributions. As the news report noted, "the roster of recipients looks like an honor roll of the House Commerce Committee, which has jurisdiction over the no-fault bill, plus a quarter of the Senate and many other House members." The lawyer-lobbyists oppose genuine no-fault legislation because they know full well what a sound no-fault law would do—namely, wipe out the vast number of lawsuits and allow victims to collect automatically from their own insurance companies on most personal injuries. The premiums people pay to insurance companies could then be put to use for swift, direct compensation instead of for needless, time-consuming litigation, red tape and excessive legal fees.

That's precisely why more and more consumer groups, insurance companies, premium-payers and accident victims are calling for passage of federal minimum no-fault insurance standards. This year, the administration also strongly supports the no-fault effort in Congress. And now a citizens' group is organizing to push for enactment of a bill. Though this new coalition may not enjoy nearly the financial support behind the effort to kill no-fault, sensitive members of the Senate and House should recognize that their constituents are sick of America's insurance mess—and of the lawyers' lame excuses for it. The debate has already gone on for too many years. Congress should enact the no-fault bill in this session.

[From the Washington Post, July 31, 1977]

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contributions limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

[From the New York Times, July 27, 1977]

THE EFFORT TO UNPAC CONGRESS

Ever since candidates discovered television ads and the cost of campaigning began to soar, students of government have wondered how to contain it. They have feared that,

without some limit, the only candidates who could win would be those who are rich or who will accept, to an unhealthy extent, money from special interests. Congress tried to allay these concerns in 1974 by establishing campaign spending limits. But they were struck down as unconstitutional by the Supreme Court. Such limits, the Court said, would be acceptable only within the framework of campaigns that are publicly financed. And that is exactly the proposal now being filibustered in the Senate.

It is not a perfect piece of legislation. Even if enacted, it would not altogether substitute public dollars for special-interest dollars as the mother's milk of politics. But while it would not wholly solve the problems, it would lessen them, perhaps substantially. And that's enough to make us hope the filibuster is successfully punctured and the bill passed.

One of the compelling factors in favor of the legislation is the rapid growth of PAC's—political action committees for unions, business and other special interests. According to Common Cause (itself a political action group, for reform-minded citizens) there are now at least 1,166 of them. And Congressional campaign contributions made by PAC's jumped from $8.5 million in 1972 to $22.6 million last year. That growth has stirred uneasy feelings on Capitol Hill where Watergate has barely been interred and the Korean skeleton is rattling loudly in the closet. Whether or not such contributions actually succeed in buying votes, the appearances are unsettling.

The proposed legislation, sponsored by the Carter Administration and fiercely resisted by the Republican leadership, seeks to nullify such influence, real or apparent, with public funding. It would draw from the surplus of the voluntary $1 contributions citizens can now make by checkoff on their tax returns for Presidential elections. For Senate races, for example, each major party candidate would be eligible to receive 25 percent of a total spending limit. This limit would be $250,000 plus 10 cents for each eligible voter. (In New York the spending ceiling would come to about $1.5 million and the lump-sum payment to the candidate to $375,000.) In addition, within the overall limit, the candidate could continue to accept private contributions and these would be matched, up to $100 apiece, with public funds.

The filibustering critics object to the proposal as philosophically misguided and administratively tangled. Why is it necessary, they ask, to create so elaborate a mechanism to check the influence of the political action committees? PAC's, they note, are already limited to a maximum contribution of $5,000 to any one Congressman. Why not simply lower the limit, to, say, $100—a level so low that no question of undue influence could arise. In any event, even under the proposed legislation, could not the PAC's continue to make their influence felt, through the private contributions that candidates would still be allowed to accept?

The answer to the first question is that a new, low limit would make it very much harder for new faces to conduct successful campaigns. If there is neither PAC money nor public money in a campaign, there won't be much money of any kind—and hence there could not be much of a campaign. And that would heavily favor the incumbent against the less-well-known challenger. As to continued special-interest contributions, supporters of public financing contend that candidates now take them only because they have to; that for them to take PAC money once public funds were available would subject them to damning criticism. This is an optimistic view, but it has some force. A candidate with guaranteed access to a sizable amount of public funds may still take PAC money, but would not be, as now, so dependent on it.

The current proposal is not perfection; there may be no way to keep special-interest money altogether out of American politics. But it is progress and it's worth a try.

[From the Washington Star, July 29, 1977]

CONGRESSIONAL CAMPAIGNING

The basic question involved in the current debate on campaign financing is this: Should congressional campaigns be financed largely by $1 contributions from American taxpayers or by contributions from special interests?

Stated another way: Should members of Congress be beholden to the American public or to business and union interests that are able to contribute large amounts of cash to campaigns?

The answer is easy: Public officials should be indebted and answerable to the public, not to special interests that finance their campaigns.

That isn't the question raised, though, by Senate opponents of legislation that would provide public financing for congressional campaigns. Led by Minority Leader Howard Baker, they are raising the smokescreen charge that the legislation is designed to perpetuate incumbents in office. They would have everyone believe that if incumbents had access to the federal treasury for campaign funds, it would take blasting powder to get them out of office.

The answer we like best to that argument is one used some time ago by John Gardner, founder of Common Cause: "If it (public financing) really favored incumbents, Congress would have passed it years ago."

No, public financing wouldn't be an incumbents' protective system. That label could more appropriately be attached to the present system of private financing, under which the special interests—the lobbyists, the fat cats—beat a path to incumbents' doors, carrying campaign contributions and expecting or hoping for favors in return.

Except in a few cases, notably candidates with large personal fortunes, it is considerably easier for incumbents to raise campaign money than it is for opponents. More than anything else, what has kept public financing of congressional campaigns from being enacted has been incumbents' fear of giving opponents access to the federal treasury.

If direct evidence is needed to counter the claim that public financing is incumbents' protective legislation, one need look no farther than last year's presidential race. For the first time, public money was made available to presidential candidates. Who won? Not the incumbent, Gerald Ford, but the challenger, Jimmy Carter.

But the important point about the financing of the 1976 presidential campaign is that the candidates no longer had to depend on contributions from special interests and fat-cats. Mr. Carter came to office less beholden to special interests than any president of recent times.

It is not stretching things much to say, as Mr. Gardner and others have, that when special interests found that they couldn't buy a president they tried to buy a Congress. A study by Common Cause showed that special interests contributed more than $22 million to House and Senate campaigns in 1976, twice as much as in 1974.

President Carter put in a timely plug yesterday for extending public financing to congressional campaigns. We hope his support will be enough to swing today's Senate vote against the filibusterers who are trying to talk this important reform to death.

Mr. CLARK. I yield.

Mr. HATFIELD. Mr. President, I am glad that the Senator from Iowa is affirming two of my arguments by his most recent comments. One is that when he says these figures are only estimates with respect to the true costs and that the House of Representatives has not even marked up a bill. That is why I raised an argument in the very beginning of this whole debate that this was a matter that should be considered as a comprehensive bill with the House and the Senate in one major public financing proposal.

We have had that problem ever since this matter was brought to the floor, and I think probably it is a part of the strategy to revise estimates lest we nail down some of the specific points relating to costs, and so forth.

I think also the Senator recognizes that when I raise the question today, it is not only as to the matter of estimates, but I also indicated what the Senator has affirmed, that is, that we may have a deficit—a deficit of as much as $2 million to $20 million.

I do not know what the range of that deficit might be, but at least the Senator admits there could be a deficit, and there could be a possibility that we would be back here in 1976 or 1978 with another dollar checkoff proposal.

How can we consider passing a public financing measure without knowing something about the compresensive costs? We are asked to buy a pig in a poke. This is a grab-bag proposal. As Senators rise day by day with amendments, trying to correct obvious defects in the bill, it becomes obvious that this is a poorly-drafted measure indeed. I suggest that they could have presented a bill far superior to this one. In my judgment this is the poorest piece of legislation I ever saw brought out of a committee. As time goes on, I think Senators are going to have to admit it is, and attempt to draft amendments on an ad hoc basis to improve it. In short, this is a very deficient bill.

Mr. President, I suggest the absence of a quorum.

Mr. SCHMITT. Mr. President, before the Senator does that, will the Senator yield to me?

Mr. HATFIELD. I would for only about 1 minute.

Mr. SCHMITT. Only 1 minute, to say that I think the effect of the efforts of Senators and other individuals in this extended debate is beginning to be noted throughout the country.

Just this morning I was in communication with a number of individuals in the media from New Mexico and Texas, in an open question format, and more than half of those individuals asked questions relative to public financing. And I see by the coverage in the national newspapers as well as the local newspapers that finally this issue is becoming apparent to the rest of the country.

I think that is exactly what our purpose has been. I think it is what our purpose wants to continue to be all this week, to insure that there is full and public airing of the issues the Senator has raised, and all of us are trying to

raise, in this very important and critical matter.

Mr. HATFIELD. Mr. President, I thank the Senator for his contributions over the past few days and his continuing efforts.

I ask unanimous consent that an editorial entitled, "A Steamroller Bogs Down," published in the Chicago Tribune of Saturday, July 30, 1977, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A STEAMROLLER BOGS DOWN

Senate Democrats failed Friday to end the four-day Republican filibuster against the Democratic Party's scheme to extend public financing to congressional campaigns; but they will try again next week. The vote for cloture was 49 to 44, well short of the necessary two-thirds.

In the long march of American political history, this fight over Senate Bill 926 may seem minor, but it could have profound results. It could lead to the perpetuation through statute of a degree of one-party domination not seen since the Jackson era. It could also pave the way for passage for other hasty and dangerous Democratic election "reforms" which fortunately have been held up elsewhere in the congressional process.

Obviously the Republicans are motivated by partisan interests. But resistance to one-party domination is just as obviously in the public's interest.

In his news conference Thursday, President Carter said that public financing of congressional campaigns would remove the appearance of conflict of interest that so often taints the acceptance of large private campaign contributions.

Possibly so. But as Senate Minority Leader Howard Baker replies, its chief effects would be to further entrench incumbent members of Congress—the overwhelming majority of them Democrats—and to strengthen the hand of labor unions in elections.

All this week, interestingly enough, Senate Democrats fiercely resisted amendments to extend public financing to primary campaigns—which is where most Democratic incumbents are most vulnerable to challenge. A Democratic incumbent welcomes juicy private contributions when his opponent is another Democrat.

They also fought desperately against attempts to alter the bill so as to impose curbs on union political activities comparable to those imposed on business.

The threat of a filibuster on the floor is all that is keeping the Democratic leadership of the Senate Governmental Affairs Committee from moving on an even more frightening bill which would all but repeal the Hatch Act. This would make federal employes fair game for political pressure and create a 2.8 million-man patronage army largely subservient to the AFL–CIO.

Success of SB926 could possibly also revive Mr. Carter's proposal for "instant voter registration," now stalled in the House, as an unnecessary invitation to fraud.

It would also embolden Sen. Birch Bayh to proceed with his equally dubious plan to replace the Electoral College with a direct, national popular election.

Filibusters can be a nuisance or a blessing, depending on whose ox is being gored. But they are necessary for the protection of the minority—subject to the rule of cloture—and in the present instance Mr. Baker's Republicans and their allies among responsible Democrats may be likened to the Spartans at Thermoplyae.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MOYNIHAN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF FEDERAL HOME LOAN BANK ACT

Mr. PROXMIRE. Mr. President, there is a joint resolution at the desk which would extend for an additional 15 days the term of the member of the Federal Home Loan Bank Board which expired on July 31, 1977.

The purpose of the 15-day extension provided by the joint resolution would be to permit the Board to obtain a quorum for transacting business until the new prospective chairman, Mr. Robert McKinney, can be sworn into office.

This extension was requested by the White House in order to give Mr. McKinney time to wind up his affairs before being sworn into office.

The joint resolution has been approved by the ranking member of the Banking, Housing, and Urban Affairs Committee, and it is noncontroversial.

I ask unanimous consent that the clerk state the joint resolution by title, that it be considered as having been read the second time at length, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 79) to amend the Federal Home Loan Bank Act.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the joint resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senate will proceed to its immediate consideration.

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 79) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(a) of the Federal Home Loan Bank Act, 12 U.S.C. 1437, as amended, is amended by adding the following immediately at the end thereof:

"Upon the expiration of the term of office of a member of the Federal Home Loan Bank Board, such member shall continue to serve until a successor is appointed and has qualified, but not to exceed forty-five days."

SEC. 2. The last sentence of section 17(a) of the Federal Home Loan Bank Act is repealed, effective August 15, 1977.

SEC. 3. This Resolution shall take effect on July 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 4 p.m. having arrived, and 1 hour having passed since the Senate convened, the clerk will state the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon S. 926, a bill to provide for the public financing of primary and general elections for the United States Senate.

Robert C. Byrd, Dick Clark, Alan Cranston, Edward M. Kennedy, Gary Hart, Mike Gravel, Adlai Stevenson, John A Durkin, Spark M. Matsunaga, Wendell Anderson, James Abourezk, Joe Biden, Howard Metzenbaum, Claiborne Pell, Patrick Leahy, Harrison Williams, John Glenn, Gaylord Nelson, Walter D. Huddleston, William Proxmire.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 21 Leg.]

Abourezk	Gravel	Moynihan
Allen	Griffin	Muskie
Baker	Hansen	Nelson
Bartlett	Hart	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Biden	Hathaway	Proxmire
Brooke	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Wallop
Eastland	McGovern	Weicker
Ford	McIntyre	Williams
Garn	Melcher	Young
Glenn	Metcalf	Zorinsky
Goldwater	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 926, a bill to provide for the public financing of primary and general elections for the U.S. Senate, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CANNON (after having voted in the negative. On this vote, I have a pair with the Senator from Minnesota (Mr. ANDERSON). If he were present and voting, he would vote "yea." I have already voted "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS) would vote "yea."

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. MCCLELLAN), would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The yeas and nays resulted—yeas 47, nays 46, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—47

Abourezk	Hart	Moynihan
Bayh	Haskell	Muskie
Biden	Huddleston	Nelson
Brooke	Humphrey	Pell
Burdick	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Chiles	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Mathias	Sasser
Culver	Matsunaga	Sparkman
DeConcini	McGovern	Stevenson
Durkin	McIntyre	Stone
Ford	Melcher	Williams
Glenn	Metcalf	Zorinsky
Gravel	Metzenbaum	

NAYS—46

Allen	Griffin	Packwood
Baker	Hansen	Percy
Bartlett	Hatch	Roth
Bellmon	Hatfield	Schmitt
Bentsen	Hathaway	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
Case	Heinz	Stafford
Chafee	Helms	Stennis
Curtis	Hollings	Stevens
Danforth	Javits	Talmadge
Dole	Johnston	Thurmond
Domenici	Laxalt	Tower
Eastland	Long	Wallop
Garn	Lugar	Weicker
Goldwater	McClure	Young
	Nunn	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against.

NOT VOTING—6

Anderson	Eagleton	Morgan
Bumpers	McClellan	Pearson

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

EXPORT-IMPORT BANK AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6415.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. STEVENSON, and Mr. HEINZ conferees on the part of the Senate.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. The question is on the passage of S. 926.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY DROUGHT RELIEF

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask unanimous consent that the Senate proceed to the consideration of S. 1935, which has been cleared on both sides of the aisle, and that there be a time limitation of 2 minutes thereon.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1935) to amend Public Law 95–18, providing emergency drought relief measures.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, this bill, which was reported favorably by the Committee on Energy and Natural Resources, amends Public Law 95–18, which appropriated funds for emergency drought relief and allocated those funds to specific emergency drought programs administered by the Secretary of Interior. However, the Department's experience with the programs indicates that the allocations have not matched the applications for funding. Certain programs may run short of funds while others will have surplus funds.

S. 1935 would remove constraints on the allocation of funds and permit the use of funds already appropriated for the programs authorized by Public Law 95–18 in a more effective and timely manner.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. We have drought in Virginia and in a number of other States at the present time. Would this measure affect these conditions in any way?

Mr. ROBERT C. BYRD. I suggest that the Senator address his question to Mr. MCCLURE or Mr. HANSEN.

Mr. SCOTT. My question is this: In Virginia, in recent weeks or days, we have had some drought problems, and that is true in a number of other Eastern States. I wonder whether this measure would have any effect. I am parochial about this in asking about my own State. Would it have any adverse effect?

Mr. MCCLURE. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MCCLURE. It would have no adverse effect; but, in my judgment, it would not extend to any of the conditions that exist in Virginia. This is the bill which earlier was drafted to impact primarily in the areas of the country where irrigated agriculture is predominant. All the money was not used for those purposes. It simply broadens within that bill the purposes for which it can be used.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I appreciate the Senator's comments.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1935) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (a) of the first section of the Act entitled "An Act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought", approved

April 7, 1977 (91 Stat. 36), is amended by striking out "November 30, 1977" and inserting in lieu thereof "January 31, 1978".

(b) Section 8(c) of such Act is amended by striking out "September" and inserting in lieu thereof "November".

(c) Section 9 of such Act is amended by striking out all beginning with "water purchase" through "authorized by this Act and for" and inserting in lieu thereof "provisions of this Act which shall include the".

(d) Section 10(a) of such Act is amended by striking out all beginning with "during fiscal year" through "(62 Stat. 1052)", and inserting in lieu thereof "pursuant to this Act and the Act of June 26, 1948 (62 Stat. 1052)".

(e) Section 10(b) of such Act is amended—

(1) by striking out all beginning with "during fiscal year" through "(62 Stat. 1052)", and inserting in lieu thereof pursuant to this Act and the Act of June 26, 1948 (62 Stat. 1052)"; and

(2) in the first sentence by striking out all beginning with the colon through "State".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no more roll call votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Ellen Werther and John Colvin of my staff have the privileges of the floor during the pendency of S. 926.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

INCREASING THE INFLUENCE OF SPECIAL INTEREST GROUPS

Mr. TOWER. Mr. President, the notion that passage of public financing legislation will eliminate the influence of special interest groups on Federal elections is a false one. As the editors of the Wall Street Journal recently pointed out, the results of the last electoral "reform" was not a transfer of power from "the interests" to "the people," but was a transfer of power from individuals with one kind of political resource to individuals with another.

The Supreme Court ruled in the *Buckley* case that although Congress may limit the amount of money a person or organization can give directly to a campaign, it cannot limit truly independent expenditures respecting candidates or issues. Thus an organization such as a labor union or action group might spend large sums of money to oppose a particular candidate whose ability to reply is constrained by the expenditure ceiling he must observe as a condition of accepting public funds. Consequently, the influence of the special interests has not been eliminated but has been strengthened.

Michael Malbin, writing the National Journal gave this illustrative example:

> The biggest winner was organized labor. The magnitude and sophistication of labor's efforts last year are more impressive when stacked up against what others could do, particularly on the presidential level * * * in contrast, labor was unable to spend as much as it wanted to in communicating with union members and their families, registering them to vote, and getting them to the polls.
>
> While the total spending on these efforts cannot be determined with any precision, a conservation estimate of what they were worth to the ticket of Jimmy Carter and Walter F. Mondale is at least $8.5 million. Uncounted and unreported additional spending almost certainly pushed the total up to over the $11 million mark, compared with the $21.8 million that the ticket legally was permitted to spend.

Not to be overlooked is the enhancement of the biggest pressure group of them all—the Federal bureaucracy. The conduct and possibly the outcome of senatorial elections will be lodged in the hands of un-elected bureaucrats in the Federal election commission.

DISCOURAGEMENT OF CITIZEN PARTICIPATION IN POLITICS

If enacted into law, S. 926 would discourage all but minimal participation of a citizen in senatorial campaigns. As a start, the taxpayer may not designate the candidate or party which will receive his checkoff. Instead, the bureaucrats at the Federal Election Commission make that determination. Thus, an independent's tax money may well be added to the coffers of Republican and Democratic candidates.

Nor is there any real incentive to make meaningful personal contributions. The amount of tax deductions and credits are severely limited.

In a similar vein, volunteerism is is discouraged. Experience with the Federal Election Campaign Act demonstrates that because of the intricacies of that law, with its incumbent regulations and interpretations, only the most experienced lawyers, accountants and professional campaign managers dare manage a Federal election campaign. Some technical error can trigger a Federal criminal prosecution or civil liability. Gone are the days of the citizen armies that nominated and elected Dwight D. Eisenhower to the office of Presidency. The additional restrictions on the action of senatorial campaigns will further discourage volunteer management.

Citizens who wish to support or run as third party or independent candidates are discouraged from doing so. Under the bill, independents and third-party candidates are given short shrift. A minor or third-party candidate must raise privately 10 percent of the total expenditures a candidate would make in the general election or $100,000—whichever is smaller—to qualify. For most, this is an impossible task.

DECREASING THE TIES OF A SENATOR TO HIS CONSTITUENTS

If we are to learn anything from the 1976 Presidential Election we find that the combination of limited funds and the need for strict accounting forced candidates to rely heavily on television and radio. In large- and medium-size States this would simply mean that the candidates could not travel in the State to meet and talk with the people.

In addition, the curtailment of grassroots contributions, as S. 926 would do, would tend to have the effect of insulating the candidate from taking stands on controversial issues. In the past a candidate was compelled to spell out where he stands on many issues to raise significant funds. But under S. 926 when he receives public funding, he may be reticent to deal with matters of substance.

ABRIDGMENT OF THE CONSTITUTIONAL RIGHT OF POLITICAL EXPRESSION AND EQUALITY OF TREATMENT

The American Bar Association's special committee on election reform cautioned that the expenditure limitation in S. 926 presents substantial legal questions regarding the curtailment of first amendment rights of free speech and expression. The Bar Association report suggests that the more desirable way of limiting the influence of money in the electoral process with the minimum of interference with the first amendment rights is through full disclosure of private contributions which are limited to reasonable amounts.

Equally disturbing is the inequality of treatment given candidates and States.

Incumbents and major party candidates are favored over independents and challengers.

Smaller, more densely populated States are favored over those States with a larger geographic area and widely dispersed population. The formula does not take into account the problems of travel and multimedia markets, which may differ considerably from State to State.

Prof. Roy A. Schotland, of Georgetown University, questions the fundamental soundness of expenditure limits and raises questions about the equity of the ceilings. In a recent study, he points out that if the limits prescribed in the new proposal had been in effect in 1972 and 1974, 29 of 73 candidates in the smaller States would have broken the law while only 8 of 51 candidates in the larger States would have exceeded their limits.

ENHANCEMENT OF THE ADVANTAGES OF INCUMBENCY

If enacted into law, S. 926 will help to keep in office the persons who are already there. It will exclude fresh talent and new ideas. The expenditure ceilings in the bill will have the effect of freezing the status quo; it discriminates against new candidates who may need to spend larger amounts of money merely to achieve name recognition.

It is therefore repugnant to the spirit of the Constitution in advancing the establishment of the first State political party in our history as a nation. This upsets every historic tradition of limited government by compelling the American taxpayer to finance opinions and candidates of the "established party" which he or she may abhor.

ENLARGEMENT OF THE REGULATORY AND TAX BURDEN

The cost estimates for this bill are seriously underestimated. Its proponents claim that, if the bill is passed, the Presidential election campaign fund will still have a surplus in December 1980, in the neighborhood of $50 million. However, if House campaigns are added to the bill—as they must be to make it work—the fund's deficit may be as high as $19 million. Where will this deficit funding come from? The Treasury? The public will not get the complete bill for S. 926 until it is too late to refuse payment.

Persons who refuse to check off the campaign financing option on their tax returns will be forced to pay for congressional campaigns anyway. Their taxes will have to pay the tremendous administrative costs of implementing this legislation.

The bill will only increase bureaucratic redtape and candidate confusion. Anticipating passage of the bill, the Federal Election Commission has already requested an additional appropriation of nearly $1,800,000 for expenses to handle the administration of public financing for the 1978 Senate elections. Further, since the bill contains conflicting reporting requirements, the FEC will have to issue a considerable amount of new regulations. Finally, candidates will need to incur greater costs for attorneys and accountants in order to be sure that they are in compliance with the law.

In conclusion, Mr. President, I urge that we not take precipitous action in this matter. The only other major change in the election of Senators—the 17th amendment providing for direct popular vote—was before Congress for some 80 years before it passed in June 1911. In contrast, the Rules Committee had a scant 3 days of hearing on S. 926.

Why the rush?

There is no ground swell of popular demand for it.

Of course, the fact that it is here and that we are debating on it, and there is no ground swell of popular opinion in favor of it, is adequate indication that we are operating under pressure group influence now in considering the measure, because self-appointed keepers of the public morality have decided that we are unduly influenced by pressure groups. They do not say which ones. They do not specify to make it clear. It is that we are unduly influenced and, therefore, this corrupting influence of campaign money should be abolished. They proceed under the fiction that campaign money is the only thing that influences a candidate or a sitting Member.

We have been buffaloed into this by Common Cause. Common Cause has recently demonstrated its own intellectual and moral dishonesty in opposing an amendment which would make this bill applicable to primary campaigns.

Common Cause, this self-appointed keeper of the public morality, is quick to decry pragmatism on the part of Members of Congress when they seek honestly to arrive at a compromise to resolve differences that are honestly held. But Common Cause has not the intellectual honesty or the moral courage to stand up and publicly say if public financing for campaigns is right in the sense that it mitigates, ameliorates, or abolishes pressure group influence for general elections, then the same must necessarily apply to primaries.

No. What have the people for Common Cause done? They have whispered around in the hallways, "Oh, yes, in principle you are right in saying it should apply to primaries because there is an enormous amount of influence on a candidate in a primary. But that might make the bill less palatable to some people who do not want it for primaries. To achieve the end we desire, we are willing to strike a corrupt bargain to defeat the provision," that however much more equitable it might make the bill might have the effect of bringing about its defeat because some Members have been convinced that they will support this measure only so long as it does not apply to them in that they have no fears in a general election situation.

Their concern is the primary because in many States in this country nomination in the primary is tantamount to election. It is tantamount to election, yet Common Cause does not seek to remove what they allege to be a corrupting influence on candidates in a primary election.

Why do they not have the guts and the moral courage to stand up and say publicly why they oppose the application of the provisions of this bill to primaries and let them justify it?

It is insupportable to pretend that a man can be corrupted by a compaign contribution in a general election but cannot be in a primary. How can anybody rationalize that? The answer is it cannot be rationalized.

I call on the self-appointed spokesmen for the public morality, Common Cause and others who travel with it, to have the moral courage and the guts to say publicly why they go along with this double standard. Let them explain it to the public. They have easy access to the media. They have buffaloed a lot of commentators and columnists into believing that they have some kind of higher morality. They do not feel it is necessary to explain anything to anybody, including what their source of financial support is.

Whose ax are they grinding? Whose interests are they representing?

They have things going for them. Most of the folks up here in the press gallery will accept a lot of things they say as stemming solely from conscience and from those who desire to advance any kind of selfish end of their own.

Is it possible they want to create a new kind of society? Is it possible they conceive of themselves as the prophets and the planners of a new order in which they will be the ruling elite? Why do they not respond?

Of course they will not. They do not have to, because so much of what they have said and done has been bought lock, stock and barrel.

It should go on the record that they are engaged in a patent act of intellectual and moral dishonesty.

ADDITIONAL STATEMENTS SUBMITTED ON S. 926

Mr. HATCH. Mr. President, the opinion written in dissent by Chief Justice Warren E. Burger in the case of *Buckley* v. *Valeo*, 424 U.S. 1 (1976) at 229, contains a number of astute observations which are certainly germaine to the Senate consideration of Federal funding of Senate elections.

The Chief Justice presented particularly significant views relating to disclosure of contributions, limitations on contributions, and public financing of campaigns. I ask unanimous consent that the dissenting opinion of Chief Justice Burger be printed in the RECORD for the further consideration by each of us.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISSENTING OPINION OF CHIEF JUSTICE BURGER

For reasons set forth more fully later, I dissent from those parts of the Court's holding sustaining the Act's provisions (a) for disclosure of small contributions, (b) limitations on contributions, and (c) for public financing of Presidential campaigns. In my view, the Act's disclosure scheme is impermissibly broad and violative of the First Amendment as it relates to reporting $10 and $100 contributions. The contribution limitations infringe on First Amendment liberties and suffer from the same infirmities that the Court correctly sees in the expenditure ceilings. The Act's system for public financing of Presidental campaigns is, in my judgment, an impermissible intrusion by the Government into the traditionally private political process.

More broadly, the Court's result does violence to the intent of Congress in this comprehensive scheme of campaign finance. By dissecting the Act bit by bit, and casting off vital parts, the Court fails to recognize that the whole of this Act is greater than the sum of its parts. Congress intended to regulate all aspects of federal campaign finances, but what remains after today's holding leaves no more than a shadow of what Congress contemplated. I question whether the residue leaves a workable program.

DISCLOSURE PROVISION

Disclosure is, in principle, the salutary and constitutional remedy for most of the ills Congress was seeking to alleviate. I therefore agree fully with the broad proposition that public disclosure of contributions

by individuals and by entities—particularly corporations and labor unions—is an effective means of revealing the type of political support that is sometimes coupled with expectations of special favors or rewards. That disclosure impinges on First Amendment rights is conceded by the Court, *ante*, at 58-60, but given the objectives to which disclosure is directed, I agree that the need for disclosure outweighs individual constitutional claims.

Disclosure is, however, subject to First Amendment limitations which are to be defined by looking to the relevant public interests. The legitimate public interest is the elimination of the appearance and reality of corrupting influences. Serious dangers to the very processess of government justify disclosure of contributions of such dimensions reasonably thought likely to purchase special favors. These fears have been at the root of the Court's prior decision upholding disclosure requirements, and I therefore have no disagreement, for example, with *Burroughs* v. *United States*, 290 U.S. 534 (1934).

The Court's theory, however, goes beyond permissible limits. Under the Court's view, disclosure serves broad informational purposes, enabling the public to be fully informed on matters of acute public interest. Forced disclosure of one aspect of a citizen's political activity, under this analysis, serves the public right-to-know. This open-ended approach is the only plausible justification for the otherwise irrationally low ceilings of $10 and $100 for anonymous contributions. The burdens of these low ceilings seem to me obvious, and the Court does not try to question this. With commendable candor, the Court acknowledges:

"It is undoubtedly true that public disclosure of contributions to candidates and political parties will deter some individuals who otherwise might contribute." *Ante*, at 62.

Examples come readily to mind. Rank-and-file union members or rising junior executives may now think twice before making even modest contributions to a candidate who is disfavored by the union or management hierarchy. Similarly, potential contributors may well decline to take the obvious risks entailed in making a reportable contribution to the opponent of a well-entrenched incumbent. This fact of political life did not go unnoticed by the Congress:

"The disclosure provisions really have in fact made it difficult for challengers to challenge incumbents." 120 Cong. Rec. S 18544 (October 8, 1974) (remarks of Senator Long).

See *Pollard* v. *Roberts*, 283 F. Supp. 248 (ED Ark. 1968), aff'd *per curiam*, 393 U.S. 14 (1968).

The public right-to-know ought not be absolute when its exercise reveals private political convictions. Secrecy, like privacy, is not *per se* criminal. On the contrary, secrecy and privacy as to political preferences and convictions are fundamental in a free society. For example, one of the great political reforms was the advent of the secret ballot as a universal practice. Similarly, the enlightened labor legislation of our time has enshrined the secrecy of choice of a bargaining representative for workers. In other contexts, this Court has seen to it that governmental power cannot be used to force a citizen to disclose his private affiliations, *NAACP* v. *Button*, 371 U.S. 415 (1963), even without a record reflecting any systematic harassment or retaliation, as in *Shelton* v. *Tucker*, 364 U.S. 479 (1960). For me it is far too late in the day to recognize an ill-defined "public interest" to breach the historic safeguards guaranteed by the First Amendment.

We all seem to agree that whatever the legitimate public interests in this area, proper analysis requires us to scrutinize the precise means employed to implement that interest. The balancing test used by the Court requires that fair recognition be given to competing interests. With respect, I suggest the Court has failed to give the traditional standing to some of the First Amendment values at stake here. Specifically, it has failed to confine the particular exercise of governmental power within limits reasonably required.

"In every case, the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom." *Cantwell* v. *Connecticut*, 310 U.S. 296, 304 (1940).

"Unduly" must mean not more than necessary, and until today, the Court has recognized this criterion in First Amendment cases:

"In the area of First Amendment freedoms government has the duty to confine itself to *the least* intrusive regulations which are adequate for the purpose." *Lamont* v. *Postmaster General*, 381 U.S. 301, 310 (1965) (BRENNAN, J., concurring). (Emphasis added.)

Similarly, the Court has said:

"[E]ven though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose." *Shelton* v. *Tucker*, *supra*, at 488 (STEWART, J.).

In light of these views,[1] it seems to me that the threshold limits fixed at $10 and $100 for anonymous contributions are constitutionally impermissible on their face. As the Court's opinion notes, *ante*, at 77, Congress gave little or no thought, one way or the other, to these limits, but rather lifted figures out of a 65-year-old statute.[2] As we are all painfully aware, the 1976 dollar is not what it used to be and is surely not the dollar of 1910. Ten dollars in 1976 will, for example, purchase only what $1.68 would buy in 1910. Handbook of Labor Statistics—1975, Reference Ed., at 313. To argue that a 1976 contribution of $10 or $100 entails a risk of corruption or its appearance is simply too extravagant to be maintained. No public right-to-know justifies the compelled disclosure of such contributions, at the risk of discouraging them. There is, in short, no relation whatever between the means used and the legitimate goal of ventilating possible undue influence. Congress has used a shotgun to kill wrens as well as hawks.

In saying that the lines drawn by Congress are "not wholly without rationality," the Court plainly fails to apply the traditional test:

"Precision of regulation must be the touchstone in an area so closely touching on our most precious freedoms." *NAACP* v. *Button*, 371 U.S. 415, 438 (1938).

See, *e.g.*, *Aptheker* v. *Secretary of State*, 378 U.S. 500 (1964); *United States* v. *Robel*, 389 U.S. 258 (1967); *Lamont* v. *Postmaster General*, *supra*. The Court's abrupt departure[3] from traditional standards is wrong; surely a greater burden rests on Congress than merely to avoid "irrationality" when regulating in the core area of the First Amendment. Even taking Court at its word, the particular dollar amounts fixed by Congress that must be reported to the Commission fall short of meeting the test of rationality when measured by the goals sought to be achieved.

Finally, no legitimate public interest has been shown in forcing the disclosure of modest contributions that are the prime support of new, unpopular or unfashionable political causes. There is no realistic possibility that such modest donations will have a corrupting influence especially on parties that enjoy only "minor" status. Major parties would not notice them; minor parties need them. Furthermore, as the Court candidly recognizes, *ante*, at 64, minor parties and new parties tend to be sharply ideological in character, and the public can readily discern where such parties stand, and without resorting to the indirect device of recording the names of financial supporters. To hold, as the Court has, the privacy must sometimes yield to congressional investigations of alleged subversion, is quite different from making domestic political partisans give up privacy. Cf. *Eastland* v. *U.S. Servicemen's Funds*, 421 U.S. 492 (1975). In any event, the dangers to First Amendment rights here are too great. Flushing out the names of supporters of minority parties will plainly have a deterrent effect on political contributors, a consequence readily admitted by the Court, *ante*, at 65, 77, and supported by the record.[4]

I would therefore hold unconstitutional the provisions requiring reporting of contributions of $10 or more and to make a public record of the name, address, and occupation of a contributor of $100 or more.

CONTRIBUTION AND EXPENDITURE LIMITS

I agree fully with that part of the Court's opinion that holds unconstitutional the limitations the Act puts on campaign expenditures which "place substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." *Ante*, at 53. Yet when it approves similarly stringent limitations on contributions, the Court ignores the reasons it finds so persuasive in the context of expenditures. For me contributions and expenditures are two sides of the same First Amendment coin.

By limiting campaign contributions, the Act restricts the amount of money that will be spent on political activity—and does so directly. Appellees argue, as the Court notes, that these limits will "act as a brake on the skyrocketing costs of political campaigns," *ante*, at 20. In treating campaign expenditure limitations, the Court says that the "First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise." *Ante*, at 51. Limiting contributions, as a practical matter, will limit expenditures and will put an effective ceiling on the amount of political activity and debate that the Government will permit to take place. The argument that the ceiling is not, after all, very low as matters now stand gives little comfort for the future, since the Court elsewhere notes the rapid inflation in the cost of political campaigning.[5] *Ante*, at 51.

The Court attempts to separate the two communicative aspects of political contributions—the "moral" support that the gift itself conveys, which the Court suggests is the same whether the gift is of $10 or $10,000,[6] and the fact that money translates into communications. The Court dismisses the effect of the limitations on the second aspect of contributions: "[T]he transformation of contributions into political debate involves speech by someone other than the contributor." *Ante*, at 16. On this premise—that contribution limitations restrict only the speech of "someone other than the contributor"—rests the Court's justification for treating contributions differently from expenditures. The premise is demonstrably flawed; the contribution limitations will, in specific instances, limit exactly the same political activity that the expenditure ceilings limit,[7] and at least one of the "expenditure" limitations the Court finds objectionable operates precisely like the "contribution" limitations.[8]

The Court's attempt to distinguish the communication inherent in political *con-*

Footnotes at end of article.

tributions from the speech aspects of political *expenditures* simply will not wash. We do little but engage in word games unless we recognize that people—candidates and contributors—spend money on political activity because they wish to communicate ideas, and their constitutional interest in doing so is precisely the same whether they or someone else utter the words.

The Court attempts to make the Act seem less restrictive by casting the problem as one that goes to freedom of association rather than freedom of speech. I have long thought freedom of association and freedom of expression were two peas from the same pod. The contribution limitations of the Act impose a restriction on certain forms of associational activity that are for the most part, as the Court recognizes, *ante*, at 24, harmless in fact. And the restrictions are hardly incidental in their effect upon particular campaigns. Judges are ill-equipped to gauge the precise impact of legislation, but a law that impinges upon First Amendment rights requires us to make the attempt. It is not simply speculation to think that the limitations on contributions will foreclose some candidacies.[9] The limitations will also alter the nature of some electoral contests drastically.[10]

At any rate, the contribution limits are a far more severe restriction on First Amendment activity than the sort of "chilling" legislation for which the Court has shown such etxraordinary concern in the past. See, e.g., *Cohen* v. *California*, 403 U.S. 15 (1971); see also cases reviewed in *Miller* v. *California*, 413 U. S. 15 (1973); *Redrup* v. *New York*, 386 U.S. 767 (1967); *Memoirs* v. *Massachusetts*, 383 U.S. 413 (1966). If such restraints can be justified at all, they must be justified by the very strongest of state interests. With this much, the Court clearly agrees; the Court even goes so far as to note that legislation cutting into these important interests must "employ . . . means closely drawn to avoid unnecessary abridgment of associational freedoms." *Ante*, at 20.

After a bow to the "weighty interests" Congress meant to serve, the Court then forsakes this analysis in one sentence: "Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption. . . ." *Ante*, at 22. In striking down the limitations on campaign expenditures, the Court relies in part on its conclusion that other means—namely, disclosure and contribution ceilings—will adequately serve the statute's aim. It is not clear why the same analysis is not also appropriate in weighing the need for contribution ceilings in addition to disclosure requirements. Congress may well be entitled to conclude that disclosure was a "partial measure," but I had not thought until today that Congress could enact its conclusions in the First Amendment area into laws immune from the most searching review by this Court.

Finally, it seems clear to me that in approving these limitations on contributions the Court must rest upon the proposition that "pooling" money is fundamentally different from other forms of associational or joint activity. But see *ante*, at 60. I see only two possible ways in which money differs from volunteer work, endorsements, and the like. Money can be used to buy favors, because an unscrupulous politician can put it to personal use; second, giving money is a less visible form of associational activity. With respect to the first problem, the Act does not attempt to do any more than the bribery laws to combat this sort of corruption. In fact, the Act does not reach at all, and certainly the contribution limits do not reach, forms and "association" that can be fully as corrupt as a contribution intended as a *quid pro quo*—such as the eleventh hour endorsement by a former rival, obtained for the promise of a federal appointment. This underinclusiveness is not a constitutional flaw, but it demonstrates that the contribution limits do not clearly focus on this first distinction. To the extent Congress thought that the second problem, the lesesr visibility of contributions, required that money be treated differently from other forms of associational activity, disclosure laws are the simple and wholly efficacious answer; they make the invisible apparent.

PUBLIC FINANCING

I dissent from Part III sustaining the constitutionality of the public financing provisions of the Act.

Since the turn of this century when the idea of Government subsidies for political campaigns first was broached, there has been no lack of realization that the use of funds from the public treasury to subsidize political activity of private individuals would produce substantial and profound questions about the nature of our democratic society. The Majority Leader of the Senate, although supporting such legislation in 1967, said that "the implications of these questions . . . go to the very heart and structure of the Government of the Republic." [11] The Solicitor General in his *amicus curiae* brief states that "the issues involved here are of indisputable moment." [12] He goes on to express his view that public financing will have "profound effects in the way candidates approach issues and each other." [13] Public financing, he notes, "affect[s] the role of the party in campaigns for office, changes the role of the incumbent government vis-a-vis all parties, and affects the relative strengths and strategies of candidates vis-a-vis each other and their party's leaders." [14]

The Court chooses to treat this novel public financing of political activity as simply another congressional appropriation whose validity is "necessary and proper" to Congress' power to regulate and reform elections and primaries, relying on *United States* v. *Classic*, 313 U.S. 299 (1941), and *Burroughs* v. *United States*, 290 U.S. 534 (1934). No holding of this Court is directly in point, because no federal scheme allocating public funds in a comparable manner has ever been before us. The uniqueness of the plan is not relevant, of course, to whether Congress has power to enact it. Indeed, I do not question the power of Congress to regulate elections; nor do I challenge the broad proposition that the General Welfare Clause is a grant, not a limitation, of power. *McCulloch* v. *Maryland*, 4 Wheat, 316 (1819); *United States* v. *Butler*, 297 U.S. 1, 66 (1936).

I would, however, fault the Court for not adequately analyzing and meeting head-on the issue whether public financial assistance to the private political activity of individual citizens and parties is a legitimate expenditure of public funds. The public monies at issue here are not being employed simply to police the integrity of the electoral process or to provide a forum for the use of all participants in the political dialog, as would, for example, be the case if free broadcast time were granted. Rather, we are confronted with the Government's actual financing, out of general revenues, a segment of the political debate itself. As Senator Howard Baker remarked during the debate on this legistion:

"I think there is something politically incestuous about the Government financing and, I believe, inevitably then regulating, the day to day procedures by which the Government is selected. . . . I think it is extraordinarily important that the Government not control the machinery by which the public expresses the range of its desires, demands, and dissent." 120 Cong. Rec. S 4457 (daily ed., Mar. 26, 1974).

If this "incest" affected only the issue of the wisdom of the plan, it would be none of the concern of judges. But, in my view, the inappropriateness of subsidizing, from general revenues, the actual political dialog of the people—the process which begets the Government itself—is a basic to our national tradition as the separation of church and state also deriving from the First Amendment, see *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1971); *Waltz* v. *Tax Commission*, 397 U.S. 664, 668–669 (1970), or the separation of civilian and military authority, see *Orloff* v. *Willoughby*, 395 U.S. 83, 93–94 (1953), neither of which is explicit in the Constitution but which have developed through case by case adjudication of express provisions of the Constitution.

Recent history shows dangerous examples of systems with a close, "incestuous" relationship between "government" and "politics"; the Court's opinion simply dismisses possible dangers by noting that:

"Subtitle H is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people."

Ante, at 86–87. Congress, it reassuringly adds by way of a footnote, has expressed its determination to avoid such a possibility.[15] *Id.*, at 87 n. 126. But the Court points to no basis for predicting that the historical pattern of "varying measures of control and surveillance," *Lemon* v. *Kurtzman*, *supra*, at 621, which usually accompany grants from Government will not also follow in this case.[16] Up to now, the Court has always been extraordinarily sensitive, when dealing with First Amendment rights, to the risk that the "flag-tends-to-follow-the-dollars." Yet, here, where the Act specifically requires the auditing of records of political parties and candidates by Government inspectors,[17] the Court shows little sensitivity to the danger it has so strongly condemned in other contexts. See, *e.g.*, *Everson* v. *Board of Education*, 330 U.S. 1 (1947). Up to now, this Court has scrupulously refrained, absent claims of invidious discrimination,[18] from entering the arena of intra-party disputes concerning the seating of convention delegates. *Graham* v. *March Fong Eu*, No. 75–740, judgment affirmed January 19, 1976; *Cousins* v. *Wigoda*, 419 U.S. 477 (1975); *O'Brien* v. *Brown*, 409 U.S. 1 (1972). An obvious underlying basis for this reluctance is that delegate selection and the management of political conventions have been considered a strictly private political matter, not the business of Government inspectors. But once the Government finances these national conventions by the expenditure of millions of dollars from the public treasury, we may be providing a springboard for later attempts to impose a whole range of requirements on delegate selection and convention activities. Does this foreshadow judicial decisions allowing the federal courts to "monitor" these conventions to assure compliance with court orders or regulations?

Assuming arguendo that Congress could validly appropriate public money to subsidize private political activity, it has gone about the task in this Act in a manner which is not, in my view, free of constitutional infirmity.[19]

I do not question that Congress has "wide discretion in the manner of prescribing details of expenditures" in some contexts, *Cincinnati Soap Co.* v. *United States*, 301 U.S. 308 (1937). Here, however, Congress has not itself appropriated a specific sum to attain the ends of the Act but has delegated to a limited group of citizens—those who file tax returns—the power to allocate general revenue for the Act's purposes—and of course only a small percentage of that limited group has exercised the power. There is nothing to assure that the "fund" will ac-

Footnotes at end of article.

tually be adequate for the Act's objectives. Thus, I find it difficult to see a rational basis for concluding that this scheme would, in fact, attain the stated purposes of the Act when its own funding scheme affords no real idea of the amount of the available funding.

I agree with Mr. Justice Rehnquist that the scheme approved by the Court today invidiously discriminates against minor parties. Assuming *arguendo* the constitutionality of the overall scheme, there is a legitimate governmental interest in requiring a group to make a "preliminary showing of a significant modicum of support." *Jenness* v. *Fortson*, 403 U.S. 431, 442 (1971). But the present system could preclude or severely hamper access to funds before a given election by a group or an individual who might, at the time of the election, reflect the views of a major segment or even a majority of the electorate. The fact that there have been few drastic realignments in our basic two-party structure in 200 years is no constitutional justification for freezing the status quo of the present major parties at the expense of such future political movements. Compare discussion, *ante*, at 67. When and if some minority party achieves majority status, Congress can readily deal with any problems that arise. In short, I see grave risks in legislation, enacted by incumbents of the major political parties, which distinctly disadvantage minor parties or independent candidates. This Court has, until today, been particularly cautious when dealing with enactments that tend to perpetuate those who control legislative power. See *Reynolds* v. *Sims*, 377 U.S. 533, 570 (1964).

I would also find unconstitutional the system of "matching grants" which makes a candidate's ability to amass private funds the sole criterion for eligibility for public funds. Such an arrangement can put at serious disadvantage a candidate with a potentially large, widely diffused—but poor—constituency. The ability of a candidate's supporters to help pay for his campaign cannot be equated with their willingness to cast a ballot for him. See *Lubin* v. *Panish*, 415 U.S. 709 (1974); *Bullock* v. *Carter*, 405 U.S. 134 (1972).

I cannot join in the attempt to determine which parts of the Act can survive review here. The statute as it now stands is unworkable and inequitable.

I agree with the Court's holding that the Act's restrictions on expenditures made "relative to a clearly identified candidate," independent of any candidate or his committee, are unconstitutional. *Ante*, at 32–45. Paradoxically the Court upholds the limitations on individual contributions, which embrace precisely the same sort of expenditures "relative to a clearly identified candidate" if those expenditures are "authorized or requested" by the "candidate or his agents." *Ante*, at 18 n. 25. The Act as cut back by the Court thus places intolerable pressure on the distinction between "authorized" and "unauthorized" expenditures on behalf of a candidate; even those with the most sanguine hopes for the Act might well concede that the distinction cannot be maintained. As the Senate Report on the bill said:

"Whether campaigns are funded privately or publicly . . . controls are imperative if Congress is to enact meaningful limits on direct contributions. Otherwise, wealthy individuals limited to a $3,000 direct contribution [$1,000 in the bill as finally enacted] could also purchase one hundred thousand dollars' worth of advertisements for a favored candidate. Such a loophole would render direct contribution limits virtually meaningless." S. Rept. No. 689, 93d Cong., 2d Sess., 18 (1974).

Given the unfortunate record of past attempts to draw distinctions of this kind, see *ante*, at 55–57, it is not too much to predict that the Court's holding will invite avoidance, if not evasion of the intent of the Act, with "independent" committees undertaking "unauthorized" activities in order to escape the limits on contributions. The Court's effort to blend First Amendment principles and practical politics has produced a strange offspring.

Moreover, the Act—or so much as the Court leaves standing—creates significant inequities. A candidate with substantial personal resources is now given by the Court a clear advantage over his less affluent opponents, who are constrained by law in fundraising, because the Court holds that the "First Amendment cannot tolerate" any restrictions on spending. *Ante*, at 53. Minority parties, whose situation is difficult enough under an Act that excludes them from public funding, are prevented from accepting large single-donor contributions. At the same time the Court sustains the provision aimed at broadening the base of political support by requiring candidates to seek a greater number of small contributors, it sustains the unrealistic disclosure thresholds of $10 and $100 that I believe will deter those hoped-for small contributions. Minor parties must now compete for votes against two major parties whose expenditures will be vast. Finally, the Act's distinction between contributions in money and contributions in services remains, with only the former being subject to any limits. As Judge Tamm put it in dissent from the Court of Appeals' opinion:

"[T]he classification created only regulates certain types of disproportionate influences. Under section 591(e)(5), services are excluded from contributions. This allows the housewife to volunteer time that might cost well over $1,000 to hire on the open market while limiting her neighbor who works full-time to a regulated contribution. It enhances the disproportionate influence of groups who command large quantities of these volunteer services and will continue to magnify this inequity by not allowing for an inflation adjustment to the contribution limit. It leads to the absurd result that a lawyer's contribution of services to aid a candidate in complying with FECA is exempt, but his first amendment activity is regulated if he falls ill and hires a replacement." 519 F. 2d, at 915.

One need not call problems of this order equal protection violations to recognize that the contribution limitations of the Act create grave inequities that are aggravated by the Court's interpretation of the Act.

The Court's piecemeal approach fails to give adequate consideration to the integrated nature of this legislation. A serious question is raised, which the Court does not consider:[20] when central segments, key operative provisions, of this Act are stricken can what remains function in anything like the way Congress intended? The incongruities are obvious. The Commission is now eliminated, yet its very purpose was to guide candidates and campaign workers—and their accountants and lawyers—through an intricate statutory maze where a misstep can lead to imprisonment. All candidates can now spend freely; affluent candidates, after today, can spend their own money without limit; yet, contributions for the ordinary candidate are severely restricted in amount —and small contributors are deterred. I cannot believe that Congress would have enacted a statutory scheme containing such incongruous and inequitable provisions.

Although the statute contains a severability clause, § 454, such a clause is not an "inexorable command."[21] *Dorchy* v. *Kansas*, 264 U.S. 286, 290 (1924). The clause creates a rebuttable presumption that "eliminating invalid parts, the legislature would have been satisfied with what remained." *Welsh* v. *United States*, 398 U.S. 333, 364 (1970) (Harlan, J., concurring, quoting from *Champlin Rfg. Co.* v. *Commission*, 286 U.S. 210, 235 (1932)). Here just as the presumption of constitutionality of a statute has been overcome to the point that major portions and chapters of the Act have been declared unconstitutional, for me the presumption of severability has been rebutted. To invoke a severability clause to salvage parts of a comprehensive, integrated statutory scheme which, standing alone, are unworkable and in many aspects unfair, exalts, a formula at the expense of the broad objectives of Congress.

Finally, I agree with the Court that the members of the Federal Election Commission were unconstitutionally appointed. However, I disagree that we should give blanket *de facto* validation to all actions of the Commission undertaken until today. The issue is not before us and we cannot know what acts we are ratifying. I would leave this issue to the District Court to resolve if and when any challenges are brought.

In the past two decades the Court has frequently spoken of the broad coverage of the First Amendment, especially in the area of political dialogue,

". . . to assure unfettered interchange of ideas for the bringing about of political and social change desired by the people." *Roth* v. *United States*, 354 U.S. 476, 484 (1957);

and:

". . . there is practically universal agreement that a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs . . . [including] discussions of candidates. . . . *Mills* v. *Alabama*, 384 U.S. 214, 218 (1966);

and again:

". . . it can hardly be doubted that the constitutional guarantee [of the First Amendment] has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Monitor Patriot Co.* v. *Ray*, 401 U.S. 265, 272 (1971).

To accept this generalization one need not agree that the Amendment has its "fullest and most urgent application" only in the political area, for others would think religious freedom is on the same or even a higher plane. But I doubt that the Court would tolerate for an instant a limitation on contributions to a church or other religious cause; however, grave an "evil" Congress thought the limits would cure limits on religious expenditures would most certainly fail as well. To limit either contributions or expenditures as to churches would plainly restrict "the free exercise" of religion. In my view Congress can no more ration political expression that it can ration religious expression; and limits on political or religious contributions and expenditures effectively curb expression in both areas. There are many prices we pay for the freedoms secured by the First Amendment; the risk of undue influence is one of them, confirming what we have long known: freedom is hazardous, but some restraints are worse.

FOOTNOTES

[1] The particular verbalization has varied from case to case. First Amendment analysis defies capture in a single, easy phrase. The basic point of our inquiry, however, expressed, is to determine whether the Government has sought to achieve admittedly important goals by means which demonstrably curtail our liberties to an unnecessary extent.

[2] The 1910 legislation required disclosure of the names of *recipients* of expenditures in excess of $10.

[3] Ironically, the Court seems to recognize this principle when dealing with the limitations on contributions. *Ante*, at 20.

[4] The record does not show systematic harassment of the sort in *NAACP* v. *Alabama supra*. But uncontradicted evidence was adduced with respect to actual experiences of minor parties indicating a sensitivity on the part of potential contributors to the prospect

of disclosure. See, *e.g.*, District Court findings of fact, Wertheimer, ¶ 6; Reed, ¶ 8. This evidence suffices when the governmental interest in putting the spotlight on the sources of support for minor parties or splinter groups is so tenuous.

[5] The Court notes that 94.9 percent of the funds raised by congressional candidates in 1974 came in contributions of less than $1,000, *ante*, at 20 n. 27, and suggests that the effect of the contribution limitations will be minimal. This logic ignores the disproportionate influence large contributions may have when they are made early in a campaign; "seed money" can be essential, and the inability to obtain it may effectively end some candidacies before they begin. Appellants have excerpted from the record data on nine campaigns to which large, initial contributions were critical. Appellants' Brief, 132–138. Campaigns such as these will be much harder, and perhaps impossible, to mount under the Act.

[6] Whatever the effect of the limitation, it is clearly arbitrary—Congress has imposed the same ceiling on contributions to a New York or California senatorial campaign that it has put on House races in Alaska or Wyoming. Both the strength of support conveyed by the gift of $1,000 *and* the gift's potential for corruptly influencing the recipient will vary enormously from place to place. Seven Senators each spent from $1,000,000 to $1,300,000 in their successful 1974 election campaigns. A great many congressional candidates spent less than $25,000. 33 Congressional Quarterly 790 (April 19, 1975). The same contribution ceiling would seem to apply to each of these campaigns. Congress accounted for these tremendous variations when it geared the *expenditure* limits to voting population; but it imposed a flat ceiling on *contributions* without focussing on the actual evil attacked or the actual harm the restrictions will work.

[7] Suppose, for example, that a candidate's committee authorizes a celebrity or elder statesman to make a radio or television address on the candidate's behalf, for which the speaker himself plans to pay. As the Court recognizes, *ante*, at 18 n. 25, the Act defines this activity as a contribution and subjects it to the $1,000 limit on individual contributions and the $5,000 limit on contributions by political committees—effectively preventing the speech over any substantial radio or television station. Whether the speech is considered an impermissible "contribution" or an allowable "expenditure" turns, not on whether speech by "someone other than the contributor" is involved, but on whether the speech is "authorized" or not. The contribution limitations directly restrict speech by the contributor himself. Of course, this restraint can be "avoided" if the speaker makes his address without consulting the candidate or his agents. Elsewhere I suggest that the distinction between "independent" and "authorized" political activity is unrealistic and simply cannot be maintained. For present purposes I wish only to emphasize that the Act directly restricts, as a "contribution," what is clearly speech by the "contributor" himself.

[8] The Court treats the Act's provisions limiting a candidate's spending from his *personal resources* as *expenditure* limits, as indeed the act characterizes them, and holds them unconstitutional. As Mr. Justice Marshall points out, *infra*, at —, by the Court's logic these provisions could as easily be treated as limits on *contributions*, since they limit what the candidate can give to his own campaign.

[9] Candidates who must raise large initial contributions in order to appeal for more funds to a broader audience will be handicapped. See n. 5, *supra*. It is not enough to say that the contribution ceilings "merely require candidates . . . to raise funds from a greater number of persons," *ante*, at 16, where the limitations will effectively prevent candidates without substantial personal resources from doing just that.

[10] Under the Court's holding, candidates with personal fortunes will be free to contribute to their own campaigns as much as they like, since the Court chooses to view the Act's provisions in this regard as unconstitutional "expenditure" limitations rather than "contribution" limitations. See n. 8, *supra*.

[11] 113 Cong. Rec. 12165 (1967).

[12] Brief, at 93.

[13] *Id.*, at 94.

[14] *Id.*, at 93.

[15] Such considerations have never before influenced the Court's evaluation of the risks of restraints on expression.

[16] The Court's opinion demonstrates one such intrusion. While the Court finds that the Act's expenditure limitations unconstitutionally inhibit a candidate or a party's First Amendment rights, it imposes, by invoking the severeability clause of Subtitle H, such limitations on qualifying for public funds.

[17] See, *e.g.*, 26 U.S.C. § 9003, 26 U.S.C. 9007, 26 U.S.C. § 9033, 26 U.S.C. § 9038.

[18] Cf. *Terry* v. *Adams*, 345 U.S.C. 461 (1953); v. *Alwright*, 321 U.S. 649 (1944).

[19] See generally remarks of Senator Gore, 112 Cong. Rec. 28783 (1966).

[20] The problem is considered only in the limited context of Subtitle H.

[21] Section 454 provides that if a "provision" is invalid, the entire Act will not be deemed invalid. More than a provision, more than a few provisions, have been held invalid today. Section 454 probably does not even reach such extensive invalidation.

Mr. TOWER. Mr. President, during the past few days of Senate debate on the question of Federal financing for Senate elections, a number of us have pointed out repeatedly the dangers inherent in enacting this kind of legislation.

We have warned repeatedly that this bill will in no way reduce the impact of large interest groups in the election process; that it will, in fact, encourage the growth of independent, unreportable, perhaps even anonymous activities, accountable to no one, and motivated solely by the narrow interests of the group involved.

Further, it has been demonstrated quite clearly that the net result of Federal financing for Senate elections will ultimately discourage and demean the role of the individual in the electoral process—a step which I, for one, find personally intolerable and inconsistent with basic Democratic principles.

The argument has been made by the bill's proponents that it will tend to equalize the opportunities for all who seek to run for office. The fact of the matter is that it will do just the opposite. This is an incumbent's bill—make no mistake about it, and the most grave injustice will be done to those who may prefer to run without the blessing of what this bill so mechanically designates as a "major party."

As those of us who oppose this bill have sought to convey our objections to the public, I have noted with some frustration a certain reluctance, perhaps even indifference, on the part of the media in terms of reporting this ongoing exchange. Fortunately, there have been some outstanding exceptions to this trend recently, and I would like to comment briefly on two of these for the benefit of my colleagues.

On July 28, the Dallas Morning News ran an excellent editorial entitled "The 'Democratic' Way"; and again this weekend, in Sunday's edition of the Washington Post, I was pleased to note another fine commentary entitled "Campaign Money and Public Trust." Both articles, in my view, emphasize in cogent fashion the major objections to S. 926:

It will not reduce political activities by interest groups and large contributors;

It is inconsistent by not including primaries, which, in some States, may be tantamount to election;

It would work to cement the "status quo," protecting incumbents and discouraging new entrants in the political system;

It debases the role of the individual in the political process; implying that the Government, and not the voters, should decide whether or not big spending on the part of a candidate is bad;

And it thrusts the Federal Government into the business of regulating political activity.

Mr. President, I have taken several opportunities to express my own views on this matter, and I expect that I shall continue to do so as our debate here in the Senate proceeds. As the complexities of this issue are unraveled and scrutinized here on the Senate floor, I believe it would behoove all of my colleagues to avail themselves of the sanguine editorial comment contained in the Dallas Morning News and the Washington Post, and I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the article were ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, July 28, 1977]

THE "DEMOCRATIC" WAY

The essence of the Public Financing of Senate General Elections Act and Federal Election Campaign Act Amendments of 1977—now under scrutiny by the U.S. Senate—is just this: A lot of senators want to stake out permanent political careers by spending our tax money.

The whole idea is indefensible. Prosperity, therefore, to the bloc of senators, both Democratic and Republican, who are resisting through filibuster. They are relatively few in number, but they are dead right.

The campaign financing proposal is the logical followup to the 1975 law handing tax money to presidential candidates. The idea is supposedly to insulate office-seekers from the atrocious advances of special interest groups by letting the taxpayer underwrite the political ambitions of Claghorns various and sundry.

Senatorial candidates (a similar bill is under consideration by the House) would be subsidized in general elections $250,000 plus 10 cents a voter. The number of voters would of course vary from state to state.

The faults with such a bill are manifold. First, although there is much talk from Common Cause about the sinister "special interests" and how they should be barred from influencing elections, the Senate bill hardly touches, top-side or bottom, the special interest known as labor. Labor would be subject to direct spending limitations, but not to limits on the "volunteer" services it literally provides pro-labor candidates.

Public financing is likewise an imposition on the taxpaying public. Why should public money finance the aspirations of any politician? Why should he not compete for con-

tributions with other aspirants, and may the best man collect the most? That is, if we may say so, the democratic way.

The capital-d Democratic way, alas, is to institutionalize through this scheme Democratic control of the Senate at a time when the Republican party is weakest. The public financing proposal would be overwhelmingly advantageous to incumbents, of whom just now there are 61 Democrats, 38 Republicans and 1 independent.

The reason that is so is that incumbents enjoy inherent advantages over challengers: Name identification, to start with; big staffs and state offices and travel privileges and free mail and the power to dispense favors and patronage—such are the fruits of incumbency. To hold an incumbent and a challenger to the same spending level is manifestly unfair; yet this is what the Senate is being asked to do.

Likewise, the Senate is being asked, so Senators Packwood and Goldwater have charged to define the Republican party in Mississippi, Virginia, West Virginia, Alabama and Louisiana as a "minor party," not a major one (this because of its showing in the 1976 general election). Thus the party's candidates would be denied access to the public purse until after the Democratic primary.

For all these reasons the public financing bill is being heatedly opposed, and Sen. John Tower is predicting success for the filibuster, at least on the first attempt to defend it against cloture. Let's hope he's right. The bill is both cynical and dangerous, the sooner buried beneath an avalanche of words, the better for us all.

[From the Washington Post, July 31, 1977]

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing 'the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contribution limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect.

Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts, publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

Mr. HATCH. Mr. President, as the flurry of debate continues on the question of Federal funding of senatorial elections, many places serve as a forum for public opinion. I refer my distinguished colleagues to an editorial appearing in the Washington Post on Sunday, July 31, 1977, entitled "Campaign Money and Public Trust."

This editorial clearly identifies some of the hidden consequences which could follow from passage of S. 926. It points out that the actions which have made "special interest" and "corruption" synonymous were crimes long before they occured. It also points out that the role of big donors and political action committees would not be diminished by S. 926. I commend this editorial to my colleagues and ask unanimous consent that it be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

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President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

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Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on indeepndent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

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spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fundraising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

POSITION ON CLOTURE VOTE

Mr. ANDERSON. Mr. President, may the record show that as I was traveling today from Minnesota to Washington in order to cast my vote in favor of the motion to invoke cloture, I was unavoidably detained by violent weather. Had the airplane I was traveling in been able to land as scheduled, I would have been here and voted. Mr. President, may the record show clearly my support of the cloture motion.

Mr. HATCH. Mr. President, the controversy over Federal funding of political campaigns is not new to this Congress. For almost a decade now the propriety, efficacy and intent of using tax checkoffs to finance elections has been debated.

In the 93d Congress, the distinguished Senator from South Carolina, Mr. THURMOND, inserted into the RECORD an article entitled "The Ripoff Named Reform." This straightforward expression of mistrust and scepticism was written by Patric J. Buchanan and appeared in Newsweek magazine. I ask unanimous consent that this article be printed in the RECORD, again for consideration, by my colleagues in the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE RIPOFF NAMED REFORM

Having passed the Senate by a score of votes, "public funding" of Federal campaigns is before the House. If it is enacted, the burden of financing future Federal campaigns will be shifted permanently off congressmen, their fund raisers, and "fat cats"—onto the backs of the American taxpayers.

The ultimate argument of Senate liberals has a certain crude appeal: only if you taxpayers shoulder the full cost of all our future campaigns, i.e., ads, airline tickets, polling and partying, only then can you be certain we won't sell you out to the big contributors.

This legislation amounts to as splendid a piece of political larceny as this city has seen in some time. What gives the planned political ripoff of the Treasury a special patina is that the enterprise was conceived and carried out in the hallowed name of campaign reform.

As Senator Roscoe Conkling observed: when Dr. Johnson referred to patriotism as the last refuge of a scoundrel, he obviously had not fully considered the uses of the word "reform."

Where, during the Senate balloting, were those eloquent opponents of Congressional "conflict of interest"—Senators Bayh, Mondale, Kennedy, and Jackson? Each, with unblinking eye, voted himself millions of dollars in Federal matching funds for his Presidential primary campaign in 1976—with $17 million in prize money to the winner. As they say in the Statehouse, when the political pork is about to be distributed, "what the hell do you mean 'conflict of interest'? This bill doesn't conflict with my interests."

WINNERS

Who will be the winners when taxpayers are forced to finance elections?

Topping the list is Common Cause and John W. Gardner, the former HEW secretary, who, with ex-Attorney General Ramsey Clark, provided the indispensable goo-goo sheen to LBJ's war Cabinet during the years of escalation in Vietnam. When large private contributions become a Federal crime, Common Cause, the liberal lobby, becomes the likely repository for the millions in "peace" and "conscience" money that can no longer go to liberal candidates. Small wonder the Gardner team has been working the Hill as only the National Rifle Association can, when the Saturday-night special is in trouble.

Runners-up would have to be Mr. Meany and Cope. While the legislation restricts monetary contributions, no similar prohibitions are placed upon contributions in kind, i.e., the millions in manpower unions provide to candidates.

A third beneficiary would be the big media. Under the bill, conservative Republicans—prohibited from raising the funds to overcome off-year media bias in favor of liberal candidates and causes—would have to depend increasingly upon the big media's fairness, objectivity and balance. Good luck.

Fourth, the measure might be retitled the "Incumbents Preservation Act." Not only will congressmen be able to bill the Treasury for campaign costs; the measure effectively clips the wings of potential challengers by denying them the financial resources needed to overcome the traditional incumbents' advantages of recognition, the franking privilege and free media in the off year.

LOSERS

Who are the losers?

First, the nation's business men, whose political influence will contract, while the power of their critics and adversaries in the national media and labor will be correspondingly enhanced.

Second, conservative Republicans, one of whose primary political resources will be curtailed. Third, that perennial loser when national legislators gather, the taxpayer. Certainly, he will be pleased to learn that his role in the national atonement for Watergate is to spare the friends of Senator Kennedy the burden of financing his Presidential ambitions. A fourth loser will be our major political parties. In a prophetic observation, FDR once termed welfare a "narcotic," a "subtle destroyer of the human spirit." What the dole has done to millions, public financing will do for our political parties, when they start mainlining it out of the Treasury.

That "public funding" should be ballyhooed as the answer to Watergate is thoroughly in keeping with the modern politician's instinctive response to each new "crisis" or "problem" that arises: create a new agency, draw up some new laws, give government new powers.

Even those most enthusiastic about the bill, however, leave the impression that they are unconvinced by their own arguments. Does anyone truly believe the influence peddlers and vote buyers who congregate along the Potomac will pull up stakes because the 93rd Congress has outlawed campaign contributions as a medium of exchange?

Few liberals believe that. To them, "public financing" means another new Federal agency, new Federal jobs for sympathetic bureaucrats and those new rules, regulations and guidelines they love to draw up and enforce.

All the media propaganda to the contrary notwithstanding there is no "irresistible public demand" for this legislation. Only 14 percent of the American taxpayers, one in seven, this year exercised the political checkoff on their tax returns, despite the fact it would not have cost them a dime. The 86 per cent who voted to ignore the checkoff option seem rather more expressive of the public will than the tiny fraction who did not.

GOOD-BY JEFFERSON

To the conservative, the measure is just another utopian exercise, calling forth new restrictions on individual freedom, new intrusions into the private sector, and a new transfer of wealth, power and responsibility from the citizenry to the bureaucracy—when every lesson of the last decade screams out that we are headed in the wrong direction.

Finally, in that it requires taxpayers to subsidize candidates they oppose, the scheme is antidemocratic in nature. "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical." That is what Thomas Jefferson at least believed and wrote in the Statute on Religious Freedom. And it is at least mildly heartening to know that in 1974 the caucus of the Democratic Study Group would have thrown him out on his ear.

(This concludes additional statements submitted on S. 926.)

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDNG OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisons of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon S. 926, a bill to provide for the public financing of primary and general elections for the United States Senate.

Robert C. Byrd, Dick Clark, Alan Cranston, Edward M. Kennedy, Gary Hart, Mike Gravel, Adlai E. Stevenson, John A. Durkin, Spark M. Matsunaga, Wendell R. Anderson, James Abourezk, Joseph R. Biden, Jr., Howard M. Metzenbaum, Claiborne Pell, Patrick Leahy, Harrison Williams, John Glenn, Gaylord Nelson, Walter D. Huddleston, William Proxmire.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

JOINT RESOLUTION APPROVED

A message from the President of the United States announced that on July 31, 1977, he approved and signed the following joint resolution:

S.J. Res. 77. Joint Resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 3:04 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 7558. An act making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under authority of the order of the Senate of July 29, 1977, the following reports were submitted during the recess of the Senate on July 29, 1977:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I (Rept. No. 95-375).

H.R. 7345. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes (Rept. No. 95-374).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Without amendment:

H.R. 1952. An act to amend the corporate name of AMVETS (American Veterans of World War II), and for other purposes (Rept. No. 95-376.)

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

A special report entitled "Report to the Senate Pursuant to Section 302(b) of the Congressional Budget Act (Rept. No. 95-377).

Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Governmental Affairs concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the first concurrent resolution on the budget:

The PRESIDING OFFICER. The report will be received and printed.

By Mr. WALLOP, from the Committee on the Judiciary:

Without amendment:

H.J. Res. 372. A joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1977, as "National Family Week" (Rept. No. 95-378).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Without amendment:

S. 1935. A bill to amend Public Law 95-18, providing for emergency drought relief measures (Rept. 95-379).

By Mr. CANNON, from the Committee on Rules and Administration:

Special report entitled "Accounts of Senate Committees, Offices of Members, and Offices of the Senate and Expenses Incurred by Senators in the use of the Senate Recording Studio" (Rept. No. 95-380).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Azie Taylor Morton, of Virginia, to be Treasurer of the United States.

Robert H. Mundheim, of Pennsylvania, to be General Counsel for the Department of the Treasury.

Blandina Cardenas, of Texas, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ROBERT C. BYRD:

S. 1967. A bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis; to the Committee on Finance.

By Mr. RIBICOFF:

S. 1968. A bill to authorize the establishment of the Long Island Sound Heritage in the States of Connecticut and New York; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD:

S. 1969. A bill to reform and simplify the Federal individual income tax; to the Committee on Finance.

By Mr. PERCY:

S. 1970. A bill to establish the National Commission on Interfuel Competition; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 1971. A bill to remove excise tax on bus parts and accessories and to remove excise tax on certain items used in connection with intercity, local, and school buses; to the Committee on Finance.

By Mr. PERCY:

S. 1972. A bill to insure adequate compensation to the United States for the use of Federal property for automobile parking purposes, to encourage the use of mass transportation and car-pooling by Federal employees, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NELSON:

S. 1973. A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such Act; to the Committee on Foreign Relations.

By Mr. NELSON (for himself and Mr. CULVER):

S. 1974. A bill to amend section 553 of title 5, United States Code, to improve Federal rulemaking practice by creating procedures for regulatory issuance in two or more parts; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. TALMADGE, Mr. HUMPHREY, Mr. INOUYE, Mr. MATSUNAGA, Mr. SARBANES, and Mr. RIEGLE):

S. 1975. A bill to amend title XVIII of the Social Security Act to provide coverage for the services of optometrists related to the treatment of aphakia; to the Committee on Finance.

By Mr. CRANSTON:

S. 1976. A bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 1968. A bill to authorize the establishment of the Long Island Sound Heritage in the States of Connecticut and New York; to the Committee on Energy and Natural Resources.

Mr. RIBICOFF. Mr. President, Long Island Sound is the largest protected area of saltwater available to our country. Located between New England and Long Island in New York, the sound extends for 90 miles east and northeast from New York City to Plum Island. This great water resource, formed by glaciers thousands of years ago, is situated in the midst of North America's greatest population center.

The 1,300 square miles of Long Island Sound represent a unique study in contradictions. On the one hand it is a pop-

ular area for swimming, boating and sport fishing; on the other hand, it serves as a catch basin for urban waste. In some locations the sound is bordered by industrial harbors and decaying waterfronts while elsewhere there are bright, clean beaches and scenic areas of magnificent beauty. Commercial activities range from nuclear submarine construction to clamming. It is the nesting area for numerous species of birds—the least, common and roseate terns, the glossy ibis, the great egret and the herring and great black-backed gulls. Several nuclear and conventional power generating facilities are situated on its shores.

Long Island Sound displays the way in which Americans use and enjoy but also misuse and destroy many invaluable natural resources. For the last several decades the sound has been jeopardized by spreading pollution and unplanned development along its shores. Described by Daniel Webster as the American Mediterranean, this important and scenic body of water faces a questionable future. Both the public and the private sector have been taking steps and making plans which may infringe on the sound's great potential.

Although there may be no overt attempts to attack or destroy any portion of the sound or its shores, this important area is threatened by the menace of our own carelessness. Water pollution, shoreline erosion, the destruction of rich marshlands, and the loss of open spaces all diminish this great asset. The sound and its shoreline risk being engulfed by unplanned and uncaring urban sprawl.

The sad fact is, Mr. President, that what was once a rich fluid extension of the Atlantic Ocean has become an urban sea which, in some locations, sustains only algae and similar growth. The sound is on the brink of suffering irreparable harm. The quality of life along the shores of southern Connecticut and northern Long Island is menaced. The remaining marshlands, the ecologically fragile wetlands and various rare and endangered species of waterfowl are in even greater danger. Prompt and affirmative action must be taken to reverse the trend of recent years and to protect this rich natural resource.

My deep concern over the sound's future prompted me to introduce legislation in June 1969 which authorized a comprehensive study of the sound and its shoreline. This investigation was to carefully examine the public and private development programs which existed at the time and which were contemplated in the future. A series of hearings were conducted in Connecticut and New York on the various problems facing the sound. Close consideration was given to the many recommendations we received on plans to deal with these diverse issues.

In August 1971 the New England River Basins Commission—NERBC—initiated the Long Island Sound study. The goal of this study was to produce a plan of action which balanced the needs to protect, conserve, and wisely develop the sound and its related shoreline as a major economic and life-enriching resource for the more than 12 million people who live near it. After almost 4 years of effort, the expenditure of $3 million, numerous hearings and onsite studies, the NERBC completed its work. The final report contained more than 600 recommendations for guiding shoreline development, reversing the trend in pollution and enhancing the sound's economic, recreational, and esthetic potential. The proposals suggest action by the Federal, State and local governments.

One of the key recommendations of the Long Island Sound study was the creation of the Long Island Sound Heritage—an expanded system of parks and beaches in Connecticut and New York which would enable more people to enjoy the sound's pleasures. The study proposed that the Federal Government furnish approximately $50 million. These Federal funds would provide up to 75 percent assistance for State and local acquisition and/or development of certain areas of particular recreation, conservation, and scenic opportunity. Fifteen different locations in Connecticut and New York were specifically nominated for acquisition or expansion.

Today I am introducing legislation to carry out this recommendation of the Long Island Sound study. This measure authorizes the creation of the Long Island Sound Heritage in Connecticut and New York. It proposes 15 sites in these two States to be considered for initial inclusion in the Heritage.

The bill I introduce today recognizes that portions of the sound reflect the region's unique natural and cultural heritage. It focuses on the fact that the area's scenic, recreational, natural, and cultural resources are threatened by growth and development pressures. In addition, the legislation addresses the serious shortage of public conservation, recreation, and open lands along the shores of the sound.

The Secretary of the Interior is directed to develop specific plans, following onsite public hearings, for the acquisition, development, protection, maintenance, and administration of the 15 sites. These plans are to be available within a year of the bill's enactment. The plans are to include the specific description of the various Heritage sites, their proposed uses, provisions for public access and mass transportation as well as minimizing the impact on local public facilities. Recommendations on the best methods to acquire, develop, and maintain the properties will also be covered. Once plans have been prepared, the Interior Secretary can acquire the sites, either through donation or purchase. The Interior Department will then enter into agreements with local and State officials on the administration and maintenance of the areas as components of the Heritage. Financial and other aid will be furnished to the States and local communities by the Federal Government to assist them in administering the sites.

The Long Island Sound Heritage will inaugurate a close working relationship among the Federal Government, the States of Connecticut and New York and the appropriate local communities in acting to preserve and protect these areas. Furthermore, natural scientists, such as marine and wetland biologists, local conservation, recreation, and environmental groups and concerned citizens shall play an integral role in the formulation of plans for the protection, development, and administration of the Heritage.

I ask unanimous consent that the full text of the Long Island Sound Heritage bill and a brief section-by-section analysis be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND STATEMENTS OF POLICY

SECTION 1. The Congress finds and declares that—

(1) there are portions of Long Island Sound, such as its waters, islands therein and lands adjacent thereto, which reflect the special natural and cultural heritage of the region;

(2) there are resources of extraordinary scenic, scientific, recreational, natural, historic, and cultural value which are being irretrievably damaged and lost through growth and development pressures, and that such development threatens heretofore successful State and local government and private voluntary preservation, conservation, and planning efforts;

(3) there exists a serious shortage of public conservation, recreation and open lands along the shores of Long Island Sound, and that this shortage of public land has limited the recreation opportunities to the 12 million people living and working in the Long Island Sound region, as well as the Nation;

(4) State and local government efforts to provide conservation and recreation opportunities and to protect unique areas have been hampered by severely limited financial resources;

(5) there is a national interest in preserving and conserving these resources and values for the present and future well-being of the Nation, and the massive Federal expenditures committed to the restoration of the Long Island Sound are evidence of the national interest in the health and use of the Sound;

(6) critical to more effective conservation of the unique values and wise use of Long Island Sound and its environs is a program of coordinated action by Federal, State and local governments to protect areas for natural, scenic, ecological, scientific, cultural, historic, conservation and recreation opportunities; and

(7) the developing of the Long Island Sound Heritage should be carried out in a controlled manner to preserve and protect natural ecosystems.

DEFINITIONS

SEC. 2. For the purpose of this Act, the term "Long Island Sound Heritage" or "Heritage" shall mean those parcels of water-related land areas which, because of their unique scenic, historic, architectural, cultural, conservation, ecological, scientific and natural values, possess characteristics worthy of the Long Island Sound Region.

LONG ISLAND SOUND HERITAGE

SEC. 3. (a) In order to restore, preserve and protect areas which reflect or could reflect the unique natural and cultural heritage of Long Island Sound, Congress hereby authorizes the establishment of the Long Island Sound Heritage in accordance with the provisions of this Act.

(b) The following areas shall be considered for initial inclusion in the Heritage:

(1) Bluff Point State Park, Groton;

(2) Ram, Dodges, and Andres Islands in

the Mystic Island Group in the eastern Sound;

(3) Rocky Neck State Park in East Lyme, including Niantic State Farm for Women;

(4) Stony Creek Quarry and Faulkner's Island;

(5) Lighthouse Point Park, New Haven;

(6) Silver Sands State Park;

(7) Pleasure Beach in Bridgeport; Long Beach in Stratford; and the Great Meadow wetland complex;

(8) Sheffield Island and Chimon Island in Norwalk;

(9) Sherwood Island State Park;

(10) David's Island in New Rochelle;

(11) Fort Totten in Queens;

(12) Port Washington Sand Pits;

(13) Hen Island in Rye;

(14) Caumsett State Park; and

(15) Roanoke Point in Suffolk.

(c) The Long Island Sound Heritage shall include lands, waters, islands, interests or partial interests therein, as may be identified as having special recreational, ecological, conservation, scenic, historic, or cultural potential by the Secretary of the Interior (hereinafter referred to as "Secretary"), by other Federal agencies, or by the State of Connecticut or New York, or political subdivisions thereof.

(d) At such time as the Secretary, in cooperation with the States of Connecticut and New York, and affected political subdivisions thereof, determines that lands, and waters and interests therein, have been sufficiently identified, designated or acquired to provide an efficiently administrable unit to establish the Long Island Sound Heritage, the Secretary is authorized and directed to establish the Long Island Sound Heritage by publishing notice to that effect in the Federal Register, together with a detailed description and map setting forth the parcels of land included therein, and to make such notice and maps otherwise available to the public.

IMPLEMENTATION OF THE LONG ISLAND SOUND HERITAGE

SEC. 4. (a) To implement the purposes of this Act, the Secretary, in cooperation with the States of Connecticut and New York, and affected political subdivisions thereof, the United States Army Corps of Engineers, the New England River Basins Commission, other interested Federal departments and agencies, and appropriate natural scientists, conservation, environmental, and recreation groups, and concerned citizens shall formulate, within one year following the date of enactment of this Act, detailed, site-specific plans for the acquisition, development, protection, maintenance and administration of those areas, parcels of land, or structures thereon, which comprise the Long Island Sound Heritage.

(b) In formulating such plans, the Secretary shall conduct public hearings at or near sites selected for inclusion in the Heritage, and shall receive and consider the comments and recommendations of public interest groups, appropriate natural scientists, conservation, environmental, and recreation groups and other interested individuals, and, if necessary, shall modify such plans accordingly.

PLANS

SEC. 5. The plans formulated under section 4 shall contain but not be limited to the following elements:

(1) precise delineations of the areas to be included in the Heritage.

(2) proposed uses, including conservation, nature trails, recreation, historic and cultural preservation, wetlands, and scientific purposes.

(3) provisions for public access and mass transportation to such areas, where appropriate.

(4) provisions to minimize the impact, such as traffic, and demand for services, on local public facilities.

(5) recommended methods to best assure that such land and water areas, including beaches, will be available to the public, consistent with recreation and conservation purposes of the Heritage.

(6) recommendations as to the least costly and most expedient methods of acquisition, development, and maintenance of such properties.

(7) recommendations to the appropriate agencies and levels of government as to carrying out the plans and proposals contained therein.

LAND ACQUISITIONS

SEC. 6. The Secretary is authorized to acquire by donation or by purchase with donated or appropriated funds, all lands, waters, and interests or partial interests in the areas enumerated in section 3(b) above, and which may be identified in the future.

COOPERATIVE AGREEMENTS

SEC. 7. (a) In furtherance of the purposes of this Act, the Secretary is authorized to enter into cooperative agreements with each of the States of Connecticut and New York, and political subdivisions thereof, pursuant to which such States or subdivisions shall be authorized to administer, operate and maintain areas within such States or subdivisions which are components of the Long Island Sound Heritage.

(b) The Secretary is authorized to provide, by grant or otherwise, financial and other assistance to each of the States of Connecticut and New York or political subdivisions thereof to assist those States or political subdivisions in carrying out its responsibilities under any such agreement. Such grants shall be payable at such time and in such manner, and in such amounts, and subject to such conditions, as the Secretary shall prescribe by regulation, but in no case shall exceed 75 per centum of the cost of administering, operating, or maintaining eligible areas which comprise the Long Island Sound Heritage.

(c) Any such cooperative agreement shall require that such lands, waters, interests or partial interests therein, be administered, operated and maintained in accordance with the plans formulated pursuant to section 5 of this Act, the provisions of this Act, and consistent with the standards promulgated pursuant to the Act of August 25, 1916 (39 Stat. 335; 16 U.S.C.A. 1, 204), as amended and supplemented.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. For the fiscal year beginning October 1, 1977, there is authorized to be appropriated the sum of $50,000,000, and for each fiscal year thereafter, such sum as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

S. 1968, To authorize the establishment of the LONG ISLAND SOUND HERITAGE in the States of Connecticut and New York.

Section 1. Findings and Statements of Policy.

The Congress finds that portions of Long Island Sound reflect the region's special natural and cultural heritage; that invaluable resources are threatened by growth and development; that there is a serious shortage of public conservation and open lands along the Sound; that State and local government conservation efforts are hampered by a lack of funds; that there is a national interest in preserving and conserving the Sound's resources; and that the Long Island Sound Heritage's development should be carried out in a controlled manner.

Section 2. Definitions.

The Long Island Sound Heritage means those parcels of water-related land areas which, because of unique values, have characteristics worthy of the region.

Section 3. Long Island Sound Heritage.

Congress authorizes the establishment of the Long Island Sound Heritage to restore, preserve, and protect areas reflecting the unique natural and cultural heritage of the region. Fifteen locations are to be considered for initial inclusion in the Heritage. The Secretary of the Interior, other Federal agencies, the States of Connecticut and New York or local governments can identify areas having the necessary potential for inclusion in the Heritage.

Section 4. Implementation.

Within one year following the bill's enactment the Interior Secretary—with the cooperation of Connecticut, New York, affected local governments, other Federal and regional agencies, conservation and environmental groups and concerned citizens—is to formulate detailed plans for the Heritage. On-site hearings are to be conducted and the comments and recommendations of all interested groups and persons are to be received.

Section 5. Plans.

Plans shall contain precise delineations of the areas; proposed uses; provisions for public access and mass transportation where appropriate; provisions to minimize the impact on local public facilities; public availability; acquisition, development and maintenance methods; and recommendations for carrying out plans.

Section 6. Land Acquisitions.

The Interior Secretary can acquire land through donation or purchase.

Section 7. Cooperative Agreements.

The Interior Secretary can enter into cooperative agreements with Connecticut, New York and local governments for them to administer, operate and maintain areas within the Heritage. Financial assistance, including grants up to 75 percent of the cost of administering the areas, will be available from the Federal Government under conditions prescribed by the Interior Department.

Section 8. Authorization.

$50 million, the figure recommended in the NERBC Long Island Sound Study, is authorized for Fiscal Year 1978 and open-ended authorizations for subsequent fiscal years.

Mr. RIBICOFF. Mr. President, prior to the introduction of the Long Island Sound Heritage bill, I sought the views and recommendations of the responsible officials of Connecticut and New York, various local officials and a number of environmental and conservation groups. I am very gratified by the response. My proposal has met with support across the board. In each instance specific suggestions and/or critical analyses were made.

I welcome these responses and, in particular, the recommendations and thoughtful analyses which were provided. I ask unanimous consent that the text of my letter soliciting views and the responses I have received to date be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 5, 1977.

Hon. STANLEY PAC,
Commissioner of Environmental Protection, Department of Environmental Protection, Room 117, State Office Building, Hartford, Conn.

DEAR STANLEY: Almost two years ago the New England River Basins Commission (NERBC) submitted a final report on its

four-year study of the Long Island Sound. This comprehensive investigation examined a number of issues related to the economic and environmental future of the Sound and to the twelve million persons residing near it.

A major NERBC recommendation was the creation of the Long Island Sound Heritage—a proposal to acquire fifteen sites at various locations along the 577 miles of coastline in Connecticut and New York to protect their unique scenic, scientific, natural, historic and cultural resources. I believe this is a worthwhile recommendation and I have drafted legislation to create the Heritage. A copy of a "discussion draft" is enclosed for your information.

Briefly, this legislation notes the importance of these fifteen locations and provides that they should be closely examined by responsible local, state and Federal officials. If it is determined that they should be included in the Heritage, plans for their acquisition, development, protection, maintenance and administration are to be developed, following public hearings. Once such plans have been formulated, the Secretary of the Interior will acquire the sites through donation or purchase. The Secretary will then enter into agreements with local and state officials to administer, operate and maintain the areas as part of the Heritage. The Interior Department will provide financial and other aid to the states and local communities to assist them in carrying out the administration of the sites.

It has taken approximately a year to draft this measure. I believe it is now time to act to insure that these sites—and others which may be added in the future—are preserved and protected and that local communities and states are assisted in properly maintaining them.

In view of the scope of the proposed Heritage legislation and your obvious interest in this issue, I would welcome and appreciate your comments and observations. If possible, I would like to have your views and recommendations by June 15.

Sincerely,

ABE RIBICOFF.

STATE OF CONNECTICUT,
Hartford, June 6, 1977.

The Honorable ABRAHAM A. RIBICOFF,
337 Russell Senate Office Building,
Washington, D.C.

DEAR ABE: Thank you for providing me the opportunity to comment on proposed legislation affecting Long Island Sound. The work you have performed over the years in protecting and nurturing the sound has clearly led the way in developing a public attitude toward preservation of this resource. This legislation authorizing the establishment of the Long Island Sound Heritage in the states of Connecticut and New York is an excellent method of continuing these efforts.

I fully endorse the concept of protecting the unique and irreplaceable resources on the sound and properties adjacent to it. I will support your efforts to see that this proposal is enacted into law.

I would like to offer one suggestion. Those areas for inclusion in the "Heritage" which are presently owned and operated by the State of Connecticut, such as state parks and the State Farm for Women at Niantic, should remain under the jurisdiction of the state. This would accomplish the objectives of the "Heritage" plan without adding administrative and procedural complications to the proposal.

I have discussed the Long Island Sound Heritage proposal with Commissioner Stanley J. Pac of the Connecticut Department of Environmental Protection and he agrees with my recommendation concerning Connecticut state parks. Commissioner Pac also will support your efforts to protect the resources of Long Island Sound.

Thank you for the opportunity to comment on this important legislation.

With best wishes,

Cordially,

ELLA GRASSO,
Governor.

STATE OF NEW YORK, DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
Albany, N.Y., June 21, 1977.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Committee on Governmental Affairs, Washington, D.C.

DEAR SENATOR RIBICOFF: This is in reply to your letter of May 5 in which you requested comments on the draft bill to establish a Long Island Sound Heritage.

We have reviewed this draft and also have sought comments from other affected state agencies.

In our comments to you on May 13, 1976 we indicated that we support this legislation as a major step forward from the Long Island Sound Study. At the same time we recognized that some of the areas proposed for study are controversial. We also emphasized the need for close cooperation between the states and the Secretary of the Interior.

With regard to the latter point, we are pleased to note the provision for cooperative agreements (Section 7) between the Secretary and the states and their local governments for administration, operation and maintenance of areas comprising the Heritage. However, we also recommend that such agreements should be extended to include the study phase of the program.

We also are concerned with the timing suggested in Section 4 of the bill. Subdivision (a) states that site specific plans for areas to be included must be prepared one year from the date of enactment. This timing does not allow for adequate study of the areas to be recommended for inclusion, nor does it seem to allow for subsequent additions to the Heritage.

The proposed funding levels and conditions are generous. They constitute a major advantage of this special legislation over the usual funding arrangements under the Land and Water Conservation Fund. It hardly needs to be pointed out, however, that this type of special federal funding formula, and the qualification of operation and maintenance expenses as well as acquisition and development activity for such funds, has not been well-received by the Administration and by Congress in the past.

We hope that these comments will be helpful to you. Please be assured of our continuing interest in and support for this proposal.

Sincerely,

PETER A. A. BERLE.

OFFICE OF THE MAYOR,
CITY OF BRIDGEPORT, CONN.,
June 13, 1977.

Hon. ABRAHAM RIBICOFF,
Senate Office Building,
Washington, D.C.

DEAR ABE: After carefully reviewing the discussion draft of the proposed bill to authorize the establishment of the Long Island Sound Heritage, I believe that this proposal is sound and would provide improved services to the populace of this region. As you know, municipalities such as Bridgeport are hard pressed these days to find the resources to fund the facilities and services required and demanded by our residents. The Heritage legislation is important because it permits and actually facilitates a comprehensive planning effort, with the technical assistance of the federal government, involving an area in Bridgeport (Pleasure Beach) which has traditionally suffered from a lack of funds to properly maintain it. I believe that a study of the 15 sites suggested for initial inclusion in the Long Island Sound Heritage is a worthwhile endeavor.

There is one problem, however, with the bill as it now stands and this relates to the question of providing capital improvements in areas selected for inclusion in the Heritage. While the legislation would provide for up to 75 percent of the ". . . cost of administering, operating, or maintaining eligible areas . . .", the issue of who would fund the construction of necessary facilities is not addressed. I would recommend that the federal government assume all or most of the cost of capital improvements in a designated area. In the case of Pleasure Beach, public access will be a problem due to the antiquated bridge, and the inclusion of this area would seem to necessitate a new structure.

I trust that you will introduce this legislation as soon as possible and keep my office informed of its progress.

Yours very truly,

JOHN C. MANDANICI,
Mayor.

OFFICE OF THE MAYOR,
New Haven, Conn., June 20, 1977.

Senator ABRAHAM RIBICOFF,
Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR ABE: I am writing to express my support for your draft bill creating the Long Island Sound Heritage.

In its local-Federal partnership, this is unquestionably landmark legislation, and a significant harvest from your Long Island study.

I am particularly impressed by the fact that the Heritage brings national interest to bear on precious sites and locations which previously would have been considered too small for Federal attention.

I have had the opportunity to visit national parks throughout the United States and I have great admiration for the National Park Service. The development of a workable and continuing partnership has a means for the Service to oversee small areas while maintaining local control represents a critical innovation in the application of the Federal interest.

Throughout the legislation I am impressed with the careful thought and attention given to the broad range of issues which would inevitably arise in the implementation of such a program, including: opportunities for public input; the impact of traffic and the need for transportation arrangements; the need for continued maintenance of facilities; and concern for those particular assets which make the sites appropriate for inclusion in your initial Heritage list.

The selection of Lighthouse Park is most appropriate, and appears to meet your criteria precisely. I would note that the Long Island Sound study itself, in describing the Heritage proposal and the specific recommendations for Lighthouse Park, looked to the acquisition of adjacent property known as the Shell Beach area in East Haven. This land presently is unutilized, and contains about six vacant cottages, as well as a substantial area of beach and tidal wetland.

I have a few brief recommendations on the legislation:

1. Section 3(d) states that when "lands and waters and interests therein, have been sufficiently identified, designated or acquired to provide an efficiently administrable unit to establish the Long Island Sound Heritage, the Secretary is authorized and directed to establish the Long Island Sound Heritage. . . . etc." The question of what constitutes an efficiently administrable unit is of course an important one.

I would strongly recommend that the identification of any one of the recommended initial Heritage sites should constitute such a unit and start implementation of the Act's purposes.

2. Section 4(a) states that the Secretary is to work in cooperation with state and local bodies, as well as the Army Corps of Engineers, the New England River Basins Commission, other federal departments, agencies, appropriate natural scientists, conservation, environmental, and recreation groups and citizens; and indicates that this combination is to formulate within one year following the date of enactment of the legislation, detailed site plans. Clearly, the development of specific plans for such an important project should draw upon all knowledgeable sources. However, in the development of any plan, it is important there be a body or bodies specifically responsible for the final determination of just what shall constitute the plan and these should be identified.

In my view, the most appropriate pairing of interests in terms of final responsibility would be the Park Service and that entity which is to assume final operation, administration and maintenance of the facility.

3. The means of funding and carrying out improvements to Heritage sites is not set forth in the bill. I would suggest full federal funding, perhaps on a reimbursement basis, with construction handled locally. This would involve a Cooperative Agreement as delineated in Section 7. A new section covering construction and other improvements might be added, specifying full Federal funding, with an option for Federal or local construction.

It is important to stress that cooperative agreements otherwise discussed under administration, operation, and maintenance (Sect. 7) are set on a 75% funding basis. Improvements sould be at 100%.

My congratulations for your efforts to preserve the heritage of Long Island Sound.

Cordially,

FRANK LOGUE,
Mayor.

CONNECTICUT FOREST AND PARK ASSOCIATION, INC.,
East Hartford, Conn., June 7, 1977.

Senator ABRAHAM A. RIBICOFF,
Chairman, Committee on Government Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: In response to your letter of May 5, 1977, I have reviewed the discussion draft of the proposed bill to establish the Long Island Sound Heritage. As you know I have previously indicated my support for this concept to members of your staff as well as the general support of the Connecticut Forest and Park Association, Inc.

I believe that the designation of the 15 areas proposed to be included in the Heritage is sound in that the possibility to improve the co-ordination efforts to preserve the natural and ecological values of the areas is greatly enhanced. I would also hope that the study requested in the proposed bill would be sufficient to deliniate areas to be preserved for their educational and scientific value such as Bluff Point Coastal Reserve in Groton and others for more intensive recreational development such as Silver Sands State Park in Milford.

I have very strong feelings about the need to acquire, as soon as possible, those areas which are not currently publicly owned. Several of these areas have been on the market from time to time and experience has shown that when they are sold they are quite likely to be developed and less likely to be available for public use.

I do not believe that the title to areas presently owned by the state of Connecticut has to pass to the Federal government so that the Secretary of the Interior can assist the state in the management of these areas. I do, however, support the thought that because of the significance of these areas, the state of Connecticut both needs and welcomes the prospect of Federal assistance in the development and management of these areas. In addition, I also believe that the state can accomplish the management objectives at a lower cost to the public.

I also believe it would be desirable to provide for the identification of additional areas to be included in the Heritage during the study period.

I am most appreciative of the opportunity to present these brief comments which will be supplemented in the hearing process in tho future.

Sincerely,

JOHN E. HIBBARD,
Secretary-Forester.

TOWN OF STRATFORD, CONN.,
May 16, 1977.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Government Affairs, Washington, D.C.

DEAR SENATOR RIBICOFF: Your efforts toward drafting legislation for the creation of the Long Island Sound Heritage are to be highly commended.

The Town of Stratford fully supports your efforts to preserve and protect the unique and valuable costal areas along Long Island Sound.

Of special interest to the Town of Stratford in the proposed Senate bill are Long Beach and the Great Meadows wetland complex cited on page 3, section 3, item number 7.

Stratford has been seeking Federal funds for some time to acquire the Great Meadows wetland complex as a viable open space area through the Bureau of Outdoor Recreation and the National Oceanic and Atmospheric Administration. Our efforts have met with great enthusiasm but little success due to the magnitude of the area involved.

Acquisition and protection of the Great Meadows for open space would be a high priority as far as Stratford is concerned.

Since the Long Beach area of Stratford is presently owned and adequately protected and maintained by the Town of Stratford, I feel that inclusion of this area in the Long Island Sound Heritage would be a duplication of governmental efforts. Due to the funding limitation of the Act, money might be better spent in acquiring properties not already publicly owned and protected.

Thank you for the opportunity to contribute input into this worthwhile program and the Town of Stratford will cooperate in every way that it can to provide any needed information or assistance that we can make available.

Sincerely yours,

H. BERNHARD EWERT II,
Town Manager.

CITY OF MILFORD, CONN.,
May 13, 1977.

Honorable ABE RIBICOFF,
U.S. Senator, 337 Russell Senate Office Building, Washington, D.C.

DEAR ABE: Thank you for your lettter of May 5, regarding your draft of a bill to acquire property in Connecticut, including Silver Sands in Milford. As you may be aware, the City has been fighting a long battle with the State over this property, much of which is still owned by the United Illuminating Company.

Our concerns are with access, life guards, policing, and vandalism, all of which must now be borne by the City of Milford. Additionally, the State of Connecticut has promised to build a road along the north boundary of the park and create proper drainage for the wetlands, which encompass at least half the area. In the past, the State has been unwilling or unable to assist the City of Milford in any of these endeavors, and we have borne the load ourselves. This has been offset somewhat by the fact that we have received tax revenue from the United Illuminating property, which lasts until 1981.

The history of Silver Beach is much too long to discuss here. If the Federal government was willing to build a proper park and relieve the City of all responsibility for it, or at least recompense the City or State for its management, I would be more favorable; rather than the lack of action shown by the State over the last 15 years.

I have enclosed a clipping from the Bridgeport Post, which shows both the problem and attitude of the State at present. You will note particularly, the fact that the D.E.P. is willing to let the City of Milford spend money on its park. As you might be able to guess, we are not willing.

If I can be of further service to you in this matter, please do not hesitate to contact me.

Very truly yours,

JOEL R. BALDWIN, *Mayor.*

TOWN OF GROTON,
Groton, Conn., May 24, 1977.

Re: Long Island Sound Heritage

The Honorable ABRAHAM A. RIBICOFF,
U.S. Senate, 337 Russell Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: Generally, I support the intent of this legislation and feel that the basic purpose has a great deal of merit. There should be an adequate program to carry out a plan for Bluff Point, however, it should be stressed that any plan developed for this area should reflect the concerns of the local community. At the time plans are formulated for the area, the Town should be assured that the potential impact on the Town will be kept to a minimum and the development will not impair the existing natural resource system of Bluff Point.

Sincerely,

CLINTON H. STRONG,
Town Manager.

YALE UNIVERSITY,
New Haven, Conn., May 26, 1977.

Senator ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: The Long Island Sound Heritage Bill is superior in intent. I support the ideas and the general tenor of the bill. We have valuable shoreline resources which are being lost for all time. They must be protected. Unhappily, I do not believe the bill in its present form will accomplish its goals.

The Long Island Sound Study consumed a considerable amount of money and time. It was generally praised. It was ignored. We do not need any more hearings. We do not need any more general plans. We do not need any more subsidies to architects, planners, academics, ecologists and others. We need money for acquisition and for management.

The barriers to rapid acquisition are local control and fiscal tightness by those well able to afford certain public expenditures. Connecticut has consistently failed to spend its approved BOR funds because it has been unwilling to put up even the small amount of required matching funds. Connecticut is one of the richest states—yet in the realm of public services is one of the poorest. Funds for outdoor recreation are usually the first to be cut and the last to be supported. Fiscal irresponsibility is tied to local control. There are forty coastal towns. Each thinks of itself as an independent nation-state which seeks "foreign" aid from the State or the Federal Government, but like other foreign nations, it assumes this donation holds no obligations to the donor. The property tax is the sole support for local services and town politicians. Consequently, anything that threatens to take away substantial land resources from taxation will be feared. Secondly, each town thinks that the shore resource is its own and does not look kindly upon 'outsiders' using the facility.

Finally, there is the organized irresponsi-

bility where each region of the State looks elsewhere for its center. Fairfield County is an extension of Westchester County, New York. It wants to earn high salaries in the city and have low taxes and no ethnics in its countryside. Litchfield is a center of old wealth, quite content to collect on its stocks and bonds and protect its precious heritage through various restrictive covenants. The Northeastern counties assume they are still in a mid-19th century agricultural era with mom, apple pie, and the American Legion taking care of most things. The New London region has a direct symbiotic relation to the Defense Department and seems to consider Hartford as part of the enemy rather than the center of the State.

The Senator knows all of these political peculiarities. I am merely reminding him. If the intent of protection is to be accomplished, it must mean nearly 100 percent Federal financing; it must mean subsidy in lieu of taxes to the local community; it must mean ample funds for management of the facilities so that "outsiders" do not add to local burdens.

This last point requires a bit more elaboration. The Bluff Point Park has become virtually a local park for the Town of Groton. The State has acquired it but has not developed a management plan for its operation. I include a report done by some of my students to help nudge the State in a management direction. As this report clearly indicates, there is a great deal of money required to maintain a property after the high acquisition costs have been met. Too often we think that the big problem is gaining public ownership, yet this is only the very beginning. And when the State does acquire these valuable lands and then fails to provide adequate facilities for their use and maintenance, they become slums and a strong argument against public ownership of the next likely tract. Consequently, every dollar of acquisition should be doubled and applied to management of the existing properties.

In sum:

(1) Only the barest of funds should be spent on multi-colored maps and extensive hearings. The Long Island Sound Study gave the professionals and the concerned citizens their opportunity.

(2) Nearly 100 percent Federal Funding will be needed if the acquisitions are to occur before the properties are lost forever.

(3) Money in lieu of property tax should be available to the local towns where the properties are purchased.

(4) There is a strong reservoir of quality talent which can do many of the planning and development tasks at low cost . . . see the Bluff Point Plan. A program of small grants for activities such as this would return benefits several times over. Local professional consultants might complain, but let them be satisfied with the Environmental Impact Statement windfall.

(5) At least twice as much money should be allocated to aid the management of the acquired properties.

(6) As we mentioned in the 1973 SCORP, a contingency fund for acquisition following the next major hurricane is an ideal way to return properties to more ecological and economic uses.

Again, I admire the intentions of the Senator's Bill and make these suggestions in the hope that the realities of the bill will match the intentions. I shall be happy to elaborate on these and other points.

Sincerely,

WILLIAM R. BURCH, Jr.,
Professor of Forestry and Environmental Studies.

Mr. RIBICOFF. Finally, I ask unanimous consent that an excerpt from the final NERBC study on the Long Island Sound, containing the Heritage recommendation, be included in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

1. Long Island Sound Heritage. The study has concluded that there exists: (1) a serious shortage of general public open lands along the shores of the Sound, (2) large concentrations of recreationally deprived low and moderate income families throughout and on the edges of the study area; (3) very limited state and local financial resources for providing significantly increased access to the Sound; and (4) a clear federal interest in the general health and use of the Sound, as evidenced by the massive federal expenditures committed to its restoration.

Presently, the federal role in recreation takes primarily two forms: 50 percent cost sharing in state or local acquisition and development of land through the Land and Water Conservation Fund or 100 percent federal control of recreation lands by the creation of national parks and national recreation areas. Public comment on the recreation recommendations indicated that there is no support for a new national park or other federally-administered area. And, although the Bureau of Outdoor Recreation, which administers the Land and Water Conservation Fund, believed that their existing program and other federal programs were sufficient to provide more recreation, a majority of the other study participants and the general public felt otherwise, for the reasons listed above.

The study therefore recommends that Congress appropriate approximately $50 million to a Long Island Sound Heritage Fund, which would provide up to 75 percent federal assistance for state and local acquisition and/or development of certain areas of particular recreation, conservation, and scenic opportunity. Obviously, much more detailed site plans, including minimizing impacts upon wetlands and other natural systems, detailed cost estimates, and capacity ratings, will be required for each area. To be included in the Heritage:

The southeastern portion of Bluff Point State Park in Groton should be developed by 1977 with one-half mile of beach—in conjunction with Ram Island (see below)—and 500 picnic sites. Controlled hiking trails and an interpretive program will keep the southwestern portion of the park—including the eroding tombolo—undeveloped for wildlife and nature study.

Ram, Dodges, and Andrews Islands in the Mystic Islands Group in the eastern Sound, should be purchased immediately. One-half mile of beach on Ram should be developed by 1980, with ferry service from Bluff Point State Park. Dodges and Andrews should be limited to nature observation activities, with only casual recreation, such as fishing and scuba diving.

Rocky Neck State Park in East Lyme should be expanded with the annexation of undeveloped portions of the about-to-be abandoned Niantic State Farm for Women, an 850-acre tract with prime natural areas, Bride Lake, and a significant freshwater marsh. Buildings on the site should be put to some appropriate re-use, while development of the open land could include about 400 campsites by 1985. State construction of a new erosion control structure at the mouth of Bride Brook would result in the natural restoration of about 0.6 mile of beach.

Stony Creek Quarry and Faulkner's Island should be purchased by 1980 to serve as a single, interrelated casual recreation resource. Access to the historic lighthouse island would be provided by a small recreational ferry or launch. Development of both sites could include 300 picnic sites and at least one-half mile of beach.

Lighthouse Point Park in New Haven should be upgraded and expanded to the east by 1985, through the purchase of flood prone land along Shell Beach on an as-available basis or after a major flood. The area should then be developed as a major new state park, including about one-half mile of beach, 500 picnic sites, and provision for a ferry service to downtown New Haven.

Silver Sands State Park should be developed immediately by the state and expanded by 1980 to include adjacent flood prone areas, which should be significantly enlarged and nourished with sand fill. A boardwalk from Silver Sands to Charles Island would serve as a fishing pier and means of access. Development could include 500 picnic sites, about two miles of beach, and a small public marina facility, including boat rentals and slips.

Pleasure Beach in Bridgeport should be substantially upgraded for development as a state park. *Long Beach* in Stratford should be purchased and included in the park as leases expire. Additional expansion could include the purchase of the *Great Meadow* wetland complex for use in conjunction with a "Classroom by the Sound" nature center. Ferry service between downtown Bridgeport and the existing ferry dock at Pleasure Beach, restoration of the bridge to Pleasure Beach from Bridgeport, and a new road to Long Beach from Great Meadows Road in Stratford would provide access. Parking should be situated at or near the northern terminus of the bridge, with shuttle bus and pedestrian access from there. Recreational use of portions of Long Beach will have to be restricted during the Least Tern nesting season.

Public ownership of the *Norwalk Islands* should be augmented through state purchase of *Sheffield Island* by 1975, as a public offshore swimming and general recreation facility, and of *Chimon Island* as a wildlife refuge. A passenger ferry service between downtown Norwalk and Sheffield would provide access.

Sherwood Island State Park should be expanded by 1980 to include the flood prone properties immediately to the west (0.4 mile) and the area between the northern park boundaries and the Connecticut Turnpike. Development would include 500 picnic sites and four boat ramps.

David's Island in New Rochelle should be purchased by 1978. Development here should include 0.8 mile of beach, 200 picnic sites, and twenty-five to fifty transient marina slips. Access would be provided by passenger ferry from New Rochelle.

Hen Island in Rye should be purchased as a wildlife management and nature observation area which might operate in conjunction with the existing Marshlands Conservancy. Development might include a Classroom by the Sound.

Fort Totten in Queens should be developed by 1980, possibly along the lines of Mission Bay in San Diego or Toronto's new waterfront park, rehabilitating significant buildings within the Fort, adding sand fill to about three miles of beaches west and south, 100 picnic sites, a marina to include public boat rentals, launch ramps, and slips and moorings, a parking garage, and a pier for recreational ferry service to Caumsett State Park.

Port Washington Sand Pits should be purchased and reclaimed as a major new public shorefront facility by 1980. Major emphasis of the reclamation, particularly along the shore, should be the provision of expanded recreation opportunities. Detailed plans should be developed in concert with the Town of North Hempstead and Nassau County.

Caumsett State Park should be developed by the state by 1980 as a regional beach and as a casual recreation facility inland. Development on the shore could include a Classroom by the Sound in the Fly Island wetland area and more than one mile of beach. In the inland portion, development should be limited, but include the preservation and appropriate reuse of the buildings, about 200 camping and picnic sites. Minor improvements to existing roads, development of a small minibus service from inland parking facilities, and passenger ferry service from Fort Totten and Oyster Bay to the existing dock within the cove would provide access.

Roanoke Point in Suffolk. Four hundred and fifty acres of beach, bluff, and woodlands along Suffolk County's north shore between Roanoke Landing and Jacobs Point, should be purchased by 1978, for recreation and scenic preservation. While the back of the bluffs could be used for camping, hiking, and picnicking, foot access to the beach or bluffs, which are extremely erodible, would be limited to a few points.

North Shore Bluffs to the east and west of Roanoke Point should be designated as an area of particular concern in New York State's coastal zone management plan. The bluffs should be preserved and development prevented by the study's proposed permit process described in Chapter 9.

Mr. RIBICOFF. In his message on the environment, President Carter proposed establishing a comprehensive Federal program to identify, acquire, and protect our natural and historic heritage. This national heritage trust is to help coordinate Federal programs with States and private citizens more effectively and to acquire significant and endangered areas. I believe that the Long Island Sound Heritage is precisely what Mr. Carter has in mind. The legislation I am introducing today is not only consistent with the President's objectives but also represents a crucial step in protecting this very necessary area.

Long Island Sound is at a critical turning point in its centuries-old history. It can no longer be ignored or abused by the people who live and work along its shores or who govern activities related to it. The Long Island Sound Heritage is a first step but an important one in reversing public and private indifference to the future of the sound.

Writing of Long Island Sound the late American poet Mark Van Doren, a very dear friend, said:

All such glories must be preserved, and if damage has already been done to them, they must be restored as nearly as possible to their original state. The beauty of beaches is nothing slight; it is solid, it is substantial, it is health and wealth and life itself for millions of people who have every right to take its natural continuation for granted.

Meaningful efforts to revitalize and preserve the sound are long overdue. I urge that prompt and favorable action be taken on the Long Island Sound Heritage so that the necessary work can begin without further delay.

By Mr. HATFIELD:

S. 1969. A bill to reform and simplify the Federal individual income tax; to the Committee on Finance.

SIMPLIFORM TAX ACT OF 1977

Mr. HATFIELD. Mr. President, perhaps the most enduring issue before the U.S. Congress has been the need for tax reform and simplification. Most of my colleagues agree that tax reform and simplification is necessary, but when we set out to do it, conflicting interests result in a tax code even more incomprehensible than before.

During the last year the Congress has taken action on two major tax "reform" or "simplification" bills. The Tax Reform Act of 1976 and the Tax Reduction and Simplification Act were discussed by my colleagues with every good intention of carrying out what their titles imply. These bills left us, however, with a tax code still seemingly ready to crumble under its own weight. Now we are awaiting the Carter administration's own views on tax reform, with a new push for tax legislation expected later this year or early next year. What will be the result of this new debate? If past history is any indication. Congress will once again fail to significantly reduce the burden of a complex and often inequitable tax code on the citizens of this country.

For this reason, Mr. President, I am sending to the desk today a bill which would totally restructure the individual income tax system. The Simpliform Tax Act, which I am introducing is similar to the bill I proposed in the last Congress, and to the concept originally offered to the Republican Platform Committee in 1972.

Few would deny that the Federal income tax system is an indispensible tool for gathering revenue and redistributing income. Since it was first authorized by the 16th amendment to the Constitution in 1913, it has played a leading role in our Federal revenue system. Individual and corporate income taxes are expected to provide 52 percent of the revenue for the fiscal year 1978 Federal budget. State and local governments have also employed income taxes to supplement other forms of revenue.

Nearly 200 years ago Adam Smith offered a helpful set of criteria for a "good tax." He said:

It should be certain, convenient, cost little to collect, and be based on the capacity of the taxpayer.

There is little question that our income tax system is currently falling well short of those goals.

In the first place, income taxes are not certain in the sense of being clear and indisputable to the ordinary taxpayer. The layman who itemizes his deductions must struggle through a very complex tax form or turn to a professional tax preparer or Internal Revenue Service employee for assistance. Even the experts, who work with the Tax Code every day, frequently disagree or make errors about the application of tax laws to an individual. The complexity of the forms required for filing a return with itemized deductions violates the principle of convenience. While some progress has been made toward simplifying income tax forms, they remain far too inconvenient and complex. The person who can afford to employ a tax accountant to handle his personal taxes benefits more than those who cannot afford such services.

Of greatest concern to me, however, in offering the simpliform tax proposal, is the failure of the present system to genuinely reflect the capacity to pay. The Internal Revenue Code is still formally based upon the principle of the ability to pay. That is, the rates are scaled upwards along with income. There is nothing sinister or un-American about this committee to income redistribution. From the very adoption of income tax laws, it has been assumed that the funds to meet the social and economic needs of those with little or no income must come from the higher tax rates of the wealthy.

The failure of the individual income tax to be genuinely progressive in this country is best seen by considering the total tax bills, particularly including the regressive payroll tax. This combined analysis, however, is not necessary to demonstrate the failings of the individual income tax. The public exposure of the minimal income tax payments of public figures over the last several years has dramatized the failings of our tax code. Quite apart from the ethical and legal questions about the tax payments of particular individuals, the point is that the intent of the tax has been violated when a wealthy person pays little or no tax and a person of modest income surrenders $1 in $5 to the Federal Government.

It should not be thought that income tax underpayment is limited to a few highly publicized cases. In fact, studies by the Brookings Institution have indicated that the tax paid by those with income of six figures and above does not average more than 30 percent, in spite of a statutory rate up to 79 percent. Recent attempts to correct the problem by means of a minimum tax have not solved the fundamental problem. The result of this nonprogressive tax is a serious imbalance of income in a country that supposedly values equal opportunity. Studies conducted in 1970 indicate that the wealthiest 10 percent of the population receives 29 percent of the personal income and own 56 percent of the wealth. In contrast, the poorest 10 percent receive 1 percent of the income and owe more than they own.

The feature of the tax laws which allows most people, regardless of income, to keep their tax rate in the 20-percent range is, of course, the generous array of deductions, credits, and exemptions. Tax reform groups have been warning us about the violation of the progressive tax principle and now two significant studies from both the legislative and executive branches lend weight to their arguments.

The Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of Congress completed a study in October 1974 of Federal subsidy programs. This excellent document prepared under the direction of the subcommittee chairman, the distinguished Senator from Wisconsin (Mr. PROXMIRE) covers the full range of direct cash payments, credit subsidies, and in-kind distributions. Of greatest significance in reference to tax policy is the section on tax subsidies, that is, those

provisions of the law which allow an individual or firm engaging in a specific market activity to make smaller tax payments to the Government than would otherwise be made. Having dealt with items which allow reduced tax payments for such things as capital gains, charitable contributions, and medical expenses, the committee estimated that nearly $60 billion was retained by individuals and corporations in fiscal year 1975 because of tax subsidies. Undoubtedly, the figure was even higher in fiscal year 1976.

Of even greater interest is the disclosure by the Office of Management and Budget of a similar listing of tax breaks called tax expenditures in the "special analysis" to the fiscal year 1978 budget. The disclosure of this information is required by the Congressional Budget Act of 1974. Tax expenditures are defined in this report as "revenue losses attributable to a special exclusion, exemption, or deduction from gross income or to a special credit, preferential rate of tax, or deferral of tax liability." It is correctly pointed out that tax expenditures are best seen as alternatives to budget outlays. They are used to encourage specific behavior by individuals and organizations by distributing to such individuals and organizations tax money which would normally be placed in the public coffers.

Of greatest interest in the context of individual income tax reform is the fact that almost 40 percent of the tax expenditures expected for fiscal year 1978 will go to individuals. Even allowing for a margin of error in these estimates—or this year, budget revisions by the new administration—the amount is enormous compared to the total expected receipts from individual income taxes in fiscal year 1978, which totals about 39 percent of total receipts, or an estimated $171.2 billion.

Tax expenditures and subsidies, then, are responsible for short-circuiting a supposedly progressive income tax. We agonize over finding the funds to appropriate a few million dollars for various worthy programs, but do not bother to regularly review the system of hidden appropriations in the form of tax expenditures or tax subsidies.

These new studies speak eloquently of the need for tax reform, as do the economic problems of our country and the world. President Carter has promised a tax reform package to the American people before the end of 1977. The Congress will probably begin considering tax legislation early in 1978. While I do not pretend that tax reform, whether achieved by my plan or any other, will cure all our economic ills, I do insist that it be considered as a necessary component of current as well as long-range economic policy.

Despite the well-intentioned efforts of the Congress to achieve comprehensive tax reform last year and on a more limited basis earlier this year, we were hindered by the resistance to basic tax reform from many sectors. Item-by-item reform, in my opinion, is always doomed to failure. Beneficiaries of tax loopholes will continue to bring pressure to bear in order to protect laws that are advantageous to themselves.

For these reasons, Mr. President, I offer Simpliform as one solution to the failings of the individual income tax. I am leaving to others the needed reforms in the corporate income tax, the payroll tax, and the estate and gift taxes. My plan would complement efforts to reform these other taxes, as well as to overhaul our welfare and income maintenance programs.

For most people, Simpliform would substitute a four-line calculation for the present complex form 1040. It replaces 27 tax brackets with nine, and four tax tables with one. It provides one tax credit for adults in place of a series of exemptions under present law. No technical assistance would be needed in most cases to complete the tax forms, and the process of filing returns and receiving refunds would be quick and inexpensive.

The reform features of Simpliform are even more important than the simplification gains. The multitude of individual tax subsidies would be eliminated in favor of a lower, but progressive tax rate. While the personal tax credit would mean that a couple with income under $5,000 would pay no tax, the basic tax rate would be 10 percent for those with income above $5,000. As income moved above $10,000, the progressive feature would be implemented by means of a surtax, which would reach a total of 50 percent for incomes in excess of $1 million. While upper income people who have been benefiting from various deductions would be subject to more tax under Simpliform, their tax rate would not surpass 30 percent unless their income exceeded $50,000.

Simpliform would also achieve some profound gains in fairness and equity. Personal tax credits are much more equitable than exemptions, for they always carry the same dollar value. The present personal exemptions provide four times as much tax saving for the wealthy as for the lower-income person. Simpliform's restriction of credits to adults removes the tax disadvantage from the single and childless taxpayers. The advantages enjoyed by the homeowner over the renter are eliminated, at least from the tax law. While these and other tax advantages under present law may actually be consistent with American goals and values, the problem is that these deductions always benefit the wealthy more than the middle- and lower-income person. As in the case of personal exemptions, the person in the higher tax bracket gains more from deductions than the lower-income person.

There are those who are troubled at the thought of tampering with some tax subsidies, such as reduced rates for capital gains and deductions for charitable contributions. Actually, reduced rates for capital gains would no longer be necessary for most people, because their lower Simpliform rate would be comparable to the reduced capital gains rate.

The elimination of deductions for contributions to charitable organizations should not be seen as a threat to the many worthy causes benefiting from these deductions. In some cases, such as educational institutions and health agencies, support should be provided by means of the direct and responsible route, that of appropriations. This could be done without seriously increasing the tax burden of the average person. Those organizations which should not be directly subsidized, such as religious groups, would continue to rely on the voluntary contributions of their supporters. Those who deeply believe in the goals and values of such groups will not cease their support because of the loss of the tax deduction. Moreover, the typical taxpayer would have additional funds for such purposes, because of the tax savings under Simpliform.

A person can easily compare the effect of Simpliform on his own income tax obligation by a quick exercise in arithmetic and a comparison with his 1976 return. Simpliform is calculated by multiplying income by the appropriate tax rate and subtracting the number of $250 adult tax credits. While those now subtracting large deductions from an income over $20,000 will probably pay more tax, they can depend on the rate not exceeding a reasonable figure and are assured of fairness in the amount that they pay. The modest income family, the single person, and the typical senior citizen can count on paying less tax under Simpliform, and can also be assured of fairness in what they pay.

Mr. President, I submit Simpliform in the hope that it will be given thorough consideration. Other tax reform plans will be offered and I am happy to have them considered as well, hoping that they too will be thorough and simple. Let us not become so preoccupied with short-range economic solutions that we neglect the urgent goal of true comprehensive tax reform.

Mr. President, I ask unanimous consent that an article by Henry M. Wriston which appeared in the April 13, 1977, issue of the Christian Science Monitor entitled "The Scandalous Form 1040," as well as an article in the April 1977, issue of Harper's by Peter Meyer entitled "A Short History of Form 1040," appear in the RECORD at this time.

Mr. President, I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Simpliform Tax Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act a reference is made (by way of amendment, repeal, or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury

or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

EFFECTIVE DATE

SEC. 2. Except as otherwise provided the amendments and repeals made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

REPEALS

SEC. 3. (a) The following provisions in chapter 1 (relating to normal taxes and surtaxes) are repealed:

(1) Section 37 (relating to credit for the elderly).

(2) Section 41 (relating to contributions to candidates for public office).

(3) Part VI of subchapter A (relating to minimum tax for tax preferences).

(4) All sections in part III of subchapter B (relating to items specifically excluded from gross income), except—

(A) section 101 (relating to certain death benefits),

(B) section 102 (relating to gifts and inheritances),

(C) section 104 (relating to compensation for injuries or sickness),

(D) section 105 (relating to amounts received under accident and health plans),

(E) section 106 (relating to contributions by employer to accident and health plans),

(F) section 109 (relating to improvements by lessee on lessor's property),

(G) section 110 (relating to income taxes paid by lessee corporation),

(H) section 115 (relating to income of States, municipalities, etc.),

(I) section 118 (relating to contributions to the capital of a corporation),

(J) section 122 (relating to certain reduced uniformed services retirement pay), and

(K) section 124 (relating to cross references to other Acts).

(5) All sections in part IV of subchapter B (relating to standard deductions for individuals) except section 143 (relating to determination of marital status).

(6) Part V of subchapter B (relating to deductions for personal exemptions).

(7) Section 163 (relating to interest).

(8) Section 164 (relating to taxes).

(9) Section 170 (relating to charitable, etc., contributions and gifts).

(10) All sections in part VII of subchapter B (relating to additional itemized deductions for individuals) except—

(A) section 211 (relating to allowance of deductions),

(B) section 212 (relating to expenses for production of income), and

(C) section 215 (relating to alimony, etc., payments).

(11) Subchapter D (relating to deferred compensation, etc.).

(12) Section 911 (relating to earned income from sources without the United States).

(13) Section 6013 (relating to joint returns of income tax by husband and wife).

(b) All provisions of law (other than the provisions of subtitle A of the Internal Revenue Code of 1954, as amended by this Act), and all administrative regulations or rulings which exempt or exclude items of income of individuals from the tax imposed by such subtitle A shall have no force or effect for taxable years beginning after the date of the enactment of this Act.

RATE OF TAX ON INDIVIDUALS

SEC. 4. Part I of subchapter A of chapter 1 (relating to tax on individuals) is amended to read as follows:

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.

"Sec. 2. Community property laws not to apply.

"Sec. 3. Cross references relating to tax on individuals.

"SECTION 1. TAX IMPOSED.

"(a) BASIC TAX.—There is imposed on the taxable income of every individual a tax of 10 percent.

"(b) SURTAX.—There is imposed on the taxable income of every individual a surtax in accordance with the following table:

"If the taxable income is:	The surtax is:
Over $10,000 but not over $15,000	5% of the excess over $10,000.
Over $15,000 but not over $20,000	$250, plus 10% of the excess over $15,000.
Over $20,000 but not over $25,000	$750, plus 16% of the excess over $20,000.
Over $25,000 but not over $50,000	$1,500, plus 20% of the excess over $25,000.
Over $50,000 but not over $100,000	$6,500, plus 25% of the excess over $50,000.
Over $100,000 but not over $500,000	$19,000, plus 30% of the excess over $100,000.
Over $500,000 but not over $1,000,000	$169,000, plus 35% of the excess over $500,000.
Over $1,000,000	$344,000, plus 40% of the excess over $1,000,000.

"(c) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, the tax imposed by subsections (a) and (b) shall apply only as provided by section 871 or 877.

"SEC. 2. COMMUNITY PROPERTY LAWS NOT TO APPLY.

"For purposes of this subtitle, the income of a married taxpayer shall be determined without regard to the property laws of any State under which any part of the income of a married individual is treated as the income of his spouse.

"SEC. 3. CROSS REFERENCES RELATING TO TAX ON INDIVIDUALS.

"(a) OTHER RATES OF TAX ON INDIVIDUALS, ETC.—

"(1) For rates of tax on nonresident aliens, see section 871.

"(2) For computation of tax where taxpayer restores substantial amount held under claim of right, see section 1311.".

PERSONAL EXEMPTION CREDIT

SEC. 5. (a) Subpart A of part IV of subchapter A of chapter 1 is amended by adding before section 45 the following new section:

"SEC. 44B. PERSONAL EXEMPTION.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed to an individual as a credit against the tax imposed by this subtitle for the taxable year an amount equal to—

"(1) $250 for the taxpayer,

"(2) $250 for the spouse of the taxpayer (unless such spouse files a separate return), and

"(3) $250 for each dependent of the taxpayer who is 18 years of age or older.

"(b) DEFINITION OF DEPENDENT.—For purposes of this section, the term 'dependent' means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) or (e) as received from the taxpayer):

"(1) A son or daughter of the taxpayer, or a descendant of either,

"(2) A stepson or stepdaughter of the taxpayer,

"(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

"(4) The father or mother of the taxpayer, or an ancestor of either,

"(5) A stepfather or stepmother of the taxpayer,

"(6) A son or daughter of a brother or sister of the taxpayer,

"(7) A brother or sister of the father or mother of the taxpayer,

"(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

"(9) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to subsection (e), of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or

"(10) An individual who—

"(A) is a descendant of a brother or sister of the father or mother of the taxpayer,

"(B) for the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

"(C) before receiving such institutional care, was a member of the same household as the taxpayer.

"(c) RULES RELATING TO DEFINITION OF DEPENDENT.—For purposes of this section—

"(1) The terms 'brother' and 'sister' include a brother or sister by the halfblood.

"(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of subsection (b) (9) with respect to such individual), shall be treated as a child of such individual by blood.

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer—

"(A) born to him, or legally adopted by him, in the Philippine Islands before January 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him, or

"(B) legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principle place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

"(4) A payment to a wife which is includable in the gross income of the wife under section 71 or 682 shall not be treated as a payment by her husband for the support of any dependent.

"(5) An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(d) MULTIPLE SUPPORT AGREEMENTS.—For purposes of subsection (b), over half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(1) no one person contributed over half of such support;

"(2) over half of such support was received from persons each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

"(3) the taxpayer contributed over 10 percent of such support; and

"(4) each person described in paragraph (2) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(e) DETERMINATION OF MARITAL STATUS.—For purposes of this section—

"(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

"(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(f) CROSS REFERENCES.—

"(1) For definitions of 'husband' and 'wife', as used in subsection (c)(4), see section 7701(a)(17).

"(2) For deductions of estates and trusts, in lieu of the credit under this section, see section 612(b).".

(b) The table of sections for such part is amended by inserting before the item relating to section 45 the following:

"Sec. 44B. Personal exemption."

(c) Section 143(b)(1) is amended by striking out "deduction" and inserting "credit", and by striking out "section 152" and "section 151" and inserting in each place "section 42".

(d) Section 46(a)(4)(B) (relating to the investment credit) is amended to read as follows:

"(B) section 42 (relating to personal exemptions), and".

(e) Section 172(d)(3) (relating to net operating loss deduction) is amended to read as follows:

"(3) ESTATES AND TRUSTS.—No deduction shall be allowed for the personal exemption allowed an estate or trust under section 642(b).".

(f) Section 443(c) (relating to return for short period) is amended by striking out "a deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 42 or a deduction under section 642(b)" and by inserting "Credit for" before "Personal" in the heading thereof.

(g) The last sentence of section 642(b) (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsection shall be in lieu of the credits allowed under section 42 (relating to credit for personal exemptions).".

(h) Section 703(a)(2) (relating to partnership computations) is amended by striking out subparagraph (B).

(i) Paragraph (3) of section 873(b) (relating to non-resident aliens) is amended to read as follows:

"(3) CREDIT FOR PERSONAL EXEMPTION.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 42.".

(j) Section 891 (relating to citizens of foreign countries) is amended by striking out "under section 151 and".

(k) Section 933(1) (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(l) Section 1211(b)(3) (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(m) Section 1402(a) (relating to self-employment income) is amended by striking out paragraph (7).

GAINS AND LOSSES ON PROPERTY HELD AT DEATH OR TRANSFERRED BY GIFT

SEC. 6. (a) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new sections:

"SEC. 85. GAINS AND LOSSES ON PROPERTY AT TIME OF DEATH.

"(a) IN GENERAL.—Upon the death of an individual, there shall be taken into account in computing taxable income for the taxable period in which falls the date of his death, a percentage (determined under subsection (c)) of the gains and losses which would have been realized and taken into account in computing taxable income (of the decedent or some other person) (if all the property (other than property described in subsection (b)) required to be included in determining the value of the decedent's gross estate under chapter 11 had been sold immediately before his death at the estate tax fair market value. This subsection shall not apply unless the aggregate amount of such fair market value exceeds $60,000.

"(b) EXCLUDED PROPERTY.—Subsection (a) shall not apply to—

"(1) property which passes or has passed from the decedent to his surviving spouse and which qualifies for the deduction provided by section 2056;

"(2) property which passes or has passed to a corporation, organization, or other entity described in section 2055 and which qualifies for the deduction provided by such section;

"(3) items of gross income in respect of a decedent described in section 691; or

"(4) any other property includable in the gross estate of the decedent under chapter 11 for which basis is not provided for in section 1014(a).

"(c) RULES FOR APPLICATION OF SUBSECTION (a).—For purposes of subsection (a)—

"(1) The estate tax fair market value of property is the fair market value of the property at the date of the decedent's death, or, in the case of an election under section 2032 or 2032A, its value at the application valuation date prescribed by that section.

"(2) If the aggregate adjusted basis of all property subject to the provisions of subsection (a) is less than $60,000, and the gains under subsection (a) (without the application of this paragraph) exceed the losses, then the aggregate adjusted basis of such property shall be increased to $60,000.

"(3) Losses shall be taken into account without regard to the provisions of section 1091.

"(4) The percentage of gains and losses taken into account shall be determined in accordance with the following table:

"For taxable years beginning:	The percentage is:
Less than 1 year after the date of enactment of the Simpliform Tax Act	0 percent
1 year or more but less than 2 years after such date	20 percent.
2 years or more but less than 3 years after such date	40 percent.
3 years or more but less than 4 years after such date	60 percent.
4 years or more but less than 5 years after such date	80 percent.
5 years or more after such date	100 percent.

"(d) TIME FOR FILING RETURN.—If subsection (a) applies to the taxable year, the time for filing the return for such year shall be the date 9 months after the date of the decedent's death if such date is later than the time prescribed in section 6072 for filing such return.

"(e) LIABILITY WITH RESPECT TO PROPERTY TRANSFERRED BEFORE DEATH.—If gain is taken into account under subsection (a) with respect to property transferred by the decedent during his lifetime, the executor shall be entitled, unless the decedent directs otherwise in his will, to recover from the transferee of such property the amount of income tax imposed with respect to such gain.

"SEC. 86. GAINS AND LOSSES ON INTER VIVOS GIFTS.

"(a) IN GENERAL.—In the case of the transfer of property by an individual by inter vivos gift, there shall be taken into account in computing taxable income for the taxable period in which the transfer was made, the gain or loss which would have been realized and taken into account in computing taxable income if the taxpayer had sold the property at its fair market value at the time of the transfer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a transfer of property, to the extent that, at the time of the transfer, the aggregate fair market value of—

"(A) property (including the transferred property) held by the taxpayer, and

"(B) property previously transferred by the taxpayer after the date of the enactment of the Simpliform Tax Act,

does not exceed $60,000.

"(2) GIFTS TO SPOUSE.—Subsection (a) shall not apply to a transfer of property to the taxpayer's spouse.".

(b)(1) Section 1014(b) (relating to basis of property acquired from a decedent) is amended by striking out paragraphs (5) and (6).

(2) Paragraph (9) of section 1014(b) is amended by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(3) Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

"(e) PROPERTY SUBJECT TO TAX UPON TRANSFER.—If the property was acquired by a gift in a transfer to which section 85(a) (relating to gains and losses on inter vivos gifts) applied, the basis shall be the fair market value of the property at the time of the transfer.".

(4) Section 6161(a) (relating to extension of time for paying tax) is amended—

(A) by inserting "or income tax for a decedent's final taxable period" after "estate tax" in paragraph (1),

(B) by inserting "AND INCOME TAX ON GAINS AT DEATH" after "ESTATE TAX" in the heading of paragraph (2), and

(C) by inserting after "chapter 11," in paragraph (2)(A) "or of any part of the tax imposed by chapter 1 attributable to the application of section 84,".

(5) Section 6166A (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended—

(A) by inserting "AND INCOME TAX ON GAINS AT DEATH" after "ESTATE TAX" in the heading, and

(B) by redesignating subsections (j) and (k) as (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

"(j) TAX ON GAINS AT DEATH.—Under regulations prescribed by the Secretary, the provisions of this section shall apply with

respect to so much of the tax imposed by chapter 1 as is attributable to the application of section 85 (relating to gains and losses on property at time of death) in the same manner as it applies to the tax imposed by section 2001.".

(c) Section 85 of the Internal Revenue Code of 1954 (as added by subsection (a)) and the amendments made by paragraphs (1), (2), (4), and (5) of subsection (b) shall apply with respect to decedents dying after the date of enactment of this Act. Section 86 of such Code (as added by subsection (a)) and the amendments made by paragraphs (3) of subsection (b) shall apply with respect to transfers of property by inter vivos gift after such date.

TREATMENT OF CAPITAL GAINS

SEC. 7. (a) Section 1201(b) (relating to other taxpayers) is amended by inserting "or an individual" after "other than a corporation".

(b) Section 1202 (relating to deduction for capital gains) is amended by inserting "or an individual" after "other than a corporation".

(c) Section 1211 (relating to limitation on capital losses) is amended by—

(1) inserting "or Individual" after "Corporations" in the heading of subsection (a) and inserting "or an individual" after "a corporation" in the text of subsection (a),

(2) inserting "or an individual" after "other than a corporation" in paragraph (1) of subsection (b), striking out subparagraph (B) of such paragraph, and redesignating subparagraph (B) as (C), and

(3) striking out paragraph (2) and redesignating paragraph (3) as (2).

SPECIFIC INCLUSIONS IN GROSS INCOME

SEC. 8. (a) Part II of subchapter B of chapter 1, as amended by section 6, is amended by adding at the end thereof the following new section:

"SEC. 87. SOCIAL SECURITY AND WELFARE PAYMENTS.

"There shall be included in gross income monthly insurance benefits paid under title II of the Social Security Act to the taxpayer and any other cash benefits paid (other than a lump sum payable on account of death) to the taxpayer under such Act or any other Act of the United States or of any State providing for the payment of money to individuals in order to enable them to purchase food, clothing, and shelter and otherwise provide for their general welfare.".

(b) The table of sections of such part is amended by adding at the end thereof the following new item:

"Sec. 87. Social security and welfare payments.".

(c) Section 74 (relating to prizes and awards) is amended to read as follows:

"SEC. 74. PRIZES AND AWARDS

"Gross income includes amounts received as prizes and awards, including amounts received as scholarships and fellowship grants.".

(d)(1) Section 274(a) (relating to entertaining, amusement, or recreation expenses) is amended to read as follows:

"(a) ENTERTAINMENT, AMUSEMENT, OR RECREATION.—No deduction otherwise allowable under this chapter shall be allowed for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity. For purposes of this subsection—

"(1) dues or fees to any social athletic, or sporting club or organization shall be treated as items with respect to facilities, and

"(2) an activity described in section 212 shall be treated as a trade or business.".

(2) Section 274(e) (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) (relating to business meals).

MISCELLANEOUS AMENDMENTS

SEC. 9. (a) Section 62 (relating to adjusted gross income defined) is amended by striking out paragraphs (3) and (8) and redesignating paragraphs (4), (5), (6), (7), and (9) as (3), (4), (5), (6), and (7), respectively.

(b) The text of section 63 (relating to taxable income defined) is amended to read as follows: "For purposes of this subtitle the term 'taxable income' means gross income minus the deductions allowed by this chapter.".

WITHHOLDING

SEC. 10. (a) Section 3402 (relating to income tax collected at source) is amended by—

(1) striking out subsections (b), (c), (f), and (m), and

(2) amending subsection (a) to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Every employer making payment of wages shall deduct and withhold upon such wages (except as otherwise provided in this section) a tax determined in accordance with tables prescribed by the Secretary.".

(b) Subsection (o) (relating to extension of withholding to certain payments other than wages) is amended by—

(1) striking "GENERAL RULE." in paragraph (1) and inserting in lieu thereof "SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS AND ANNUITIES.",

(2) redesignating paragraphs (1) through (3) as (2) through (4), respectively,

(3) striking "paragraph (1)" in paragraph (3)(A) (as redesignated by this Act) and inserting in lieu thereof "paragraph (2)", and

(4) inserting before paragraph (2) (as redesignated by this Act) the following new paragraph:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, any person making a payment of interest, a dividend, or any other payment subject to tax under chapter 1, shall deduct and withhold upon such payment a tax of 10 percent. For purposes of this chapter (and so much of subtitle F as relates to this chapter) any such payment shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.".

[From the Christian Science Monitor, Apr. 13, 1977]

THE SCANDALOUS FORM 1040

(By Henry M. Wriston)

Income tax time invites rage. To be constructive anger should spark a concerted demand for fundamental reform. No thousand-page "amendment" will do; it only makes the taxpayer more frustrated. No draftsman can write so large a volume without providing many "loopholes."

The demand should be for clarity. The bill should raise taxes and avoid attempts at social engineering, which belongs, if anywhere, in separate legislation. The present law has so many purposes, some incongruous with others, that it makes the constructs of the late Rube Goldberg seem models of simplicity and elegance of design. In its present form the income tax law shows Congress to be the enemy of thrift, generosity, common sense and even good morals. It is as though Congress had purposely incorporated into law some of the widely advertised bad habits of certain members.

There is no excuse for a statute so long and so complex that its purported authors cannot expound it. Millions watching TV heard the director of the Internal Revenue Service admit that some passages were obscure to him. And the chairman of one of the responsible committees conceded that he found a passage he could not recall approving.

Most citizens are ready to render unto Caesar that which bears his image and superscription. We have a right, indeed a duty, to denounce a quagmire of needlessly involved requirements which expose to us to penalties for perjury, for lateness and other entrapments. It is intolerable, moreover, to face a law which virtually requires a retired teacher to employ a lawyer, an accountant, a banker or a wizard—or a team of them, to guide him through a legal maze so complex that even experts get confused. I have paid penalties for "errors" when I felt sure the IRS auditors were as likely to be wrong as my own experts were said to have been. The needless cost to the taxpayer arising from poor congressional draftsmanship is an unreasonable burden on the innocent. It is an added impost which arises from no fault of the citizen but from carelessness on the part of Congress.

The President of the United States told the senators and representatives in joint session assembled that, on the average, they each cost a million dollars a year for salary, staff, pension and other expenses. At that heavy price it is insufferable to have Congress enact a statute which confuses the taxpayer and endows an ever growing bureaucracy as well as a generation of lawyers, et al. who make a living out of penetrating obscurity.

Senators blather about the aged ad nauseum. "Senior citizens," they proclaim, must be treated with compassion. I am one of the aged who consider the scandalous stimulation of inflation by acts of Congress a heavy, needless burden upon those of us who are retired. Added to the weight of taxation it is unendurable. What we need is a law which we can read, understand, and obey at no extra cost occasioned by the ineptitude of costly Job's counselors in Washington.

While imposing unnecessary punishment upon the hapless citizen, Congress wonders why it is not held in high esteem. How can the public have confidence in legislators who turn out volumes of sticky flypaper and call the mess law? Each member took an oath to "perform to the best of my ability." Then they enact a tax statute that make a mockery of their oath. If that law is the best they can do they should all resign forthwith. At an annual cost of a million dollars apiece we have a right to demand clarity of language, readable prose. No senator can stand in his place (among the six or eight colleagues who normally attend) and assert he has met that elementary test. No representative (between Tuesday and Thursday, his normal week) can say "under penalty of perjury" that he has even tried to meet that modest obligation. No one who voted for this convoluted abomination can pretend he tried to be clear. Whatever else he had in mind, convenience of the taxpayer was not on the list.

The Congress voted a premium on immorality. President Carter, speaking in the Department of Agriculture, made the offhand comment that some in his audience were living in sin. That quaint expression clearly puzzled his hearers. When he clarified it by suggesting that those who were so living should get married, the response was laughter. Did not the President know that, by congressional ukase, marriage would result in a tax penalty? That was part of a "reform" bill. It was made the law of the land by a Congress which, in exchange for "30 pieces of silver" they were too craven to vote themselves, is now taking an exceedingly elementary course in "ethics," and making heavy weather of it.

Finally, consider the cost of this legislative monstrosity. It calls to mind a passage in the Declaration of Independence, he "has erected a multitude of New Offices and sent hither swarms of officers to harass our people and eat out their substance." The sheer bureaucratic cost of administering this atrocious caricature of "a government of laws, not of men" boggles the mind. When to this first cost is added the time and effort of the tax-

payer, his aides, and then the auditors, the cost of obedience to law is staggering.

The President characterized this law as a scandal. Too long we have submitted to taxation without lucidity. It is time for Congress to write a statute an honest citizen can understand.

[From Harper's—April 1977]

A SHORT HISTORY OF FORM 1040

On October 11, 1913, Edward S. Beach dashed off an angry letter to the New York Times. He called President Wilson "the father of spies," and thanked the "whole brood of predatory politicians for the coming espionage." Beach was convinced that the new tax law would unleash upon the country a whole "army of Federal spies whose nose will be stuck into the affairs of every man suspected of having an income of $3,000 or more a year."

Unfortunately for Beach, the vast majority of Americans earned much less than $3,000 a year in 1913. In fact, they welcomed a law which promised to police the incomes of the rich, a measure which would redistribute the wealth and equalize the tax burden. The week before Beach's letter, Congress had attempted to do just that.

With its newly acquired Sixteenth Amendment powers, Congress wrote the first income-tax law of the century, an appendage to the Underwood-Simmons Tariff Act which reduced the tariff to its lowest level since the Civil War. Rep. Cordell Hull, chief draftsman of the income tax, had called the tariff an "infamous system of class legislation." The new tax, he argued, would rectify the inequities of a system which was "virtually exempting the Carnegies, the Vanderbilts, the Morgans and the Rockefellers with their aggregated billions of hoarded wealth." Congressman Hull also boasted that the new law was brief. In less than fifteen pages, Congress spelled out the income-tax requirements for both corporations and individuals. Only on net incomes above $3,000 (roughly equivalent to $17,550 today), said Congress, would the "normal tax" of 1 percent be levied. An additional tax ranging from 1 to 6 percent was imposed on amounts in excess of $20,000 (about $117,000 today). In the first full year of enforcement of the new law, the tax burden fell to a scant 357,000 people—less than one-half of 1 percent of the population. Few could complain. At a time when the per capita annual income of the gainfully employed hovered near $900, the weight of the tax ballast fell clearly to those most able to pay.

On January 5, 1914, the Treasury Department unveiled the individual income-tax blank. Form 1040, together with its instructions—four pages in all—read like a Dick-and-Jane primer. It was short enough to be reproduced, instructions included, in four columns of a single page of the New York Times. (The next day two New Jersey gentlemen filed the Time's clippings, dutifully filled in, with their local revenue agent.) The original 1040 form is no less a relic of simpler times than the 1913 law itself. But the majority of the country, it seems, once granted a reprieve from taxation in 1913, sighed in relief and promptly fell asleep. From a perspective granted by six decades of tax increases and bureaucratic expansion, it appears that something has run amok.

Rep. Charles A. Vanik was born just a few months before the passage of the first income-tax law. He now sits on the House Ways and Means Committee, but believes that "there is an Alice-in-Wonderland quality in speaking of a voluntary tax system when nearly half of the nation's taxpayers feel that they must get or pay others to help them complete their own returns." The phenomenal proliferation of law, loophole, litigation, and juridical exegesis has spawned a huge tax industry. It gathers its capital from legal conundrums. "The tax system and support for it," as Vanik points out, "is being smothered by the endless forms, instructions, and complexities of present tax law."

During 1975 the weekly Internal Revenue Bulletin notified its subscribers of 576 revenue rulings, 66 revenue procedures, 27 public laws relating to Internal Revenue matters, 31 committee reports, 3 executive orders, 42 Treasury decisions, and a host of other addenda. What does this catalogue of IRS statistics and tax-law twists and turns do for taxpayers? It insures that millions of them run to the doors of their preparers each year for guidance.

But even this recourse is not safe. A report reluctantly released by the IRS last year revealed that the experts, too, are confused. Three out of four tax returns filed by paid preparers—attorneys, public accountants, CPAs, commercial preparers—for those with incomes between $10,000 and $50,000 contain mistakes. Even the IRS errs on 79 out of each 100 returns it completes for the middle-income taxpayer.

Altogether the IRS audits a couple of million returns each year. And each year the American taxpayer comes up short—$5.3 billion in 1975. Countless millions more contain mathematical errors, most of which increase the taxpayer's liability when corrected. (The word countless is a slight exaggeration because there are very few things which the IRS doesn't count.) The mistakes, whether made innocently or fraudulently, speak less than optimistically either about our ability to comprehend our tax responsibilities or our desire to tolerate them.

So Congress bemoans the muddle in the IRS while the service pleads for simplification of the law. Commissioner Donald Alexander once told a Ways and Means subcommittee that taxpayers couldn't "find their way through the maze that Congress intended for them." Though the Tax Reform Act of 1976 was the most extensive overhaul of the system since the Internal Revenue Code of 1954, it did little to de-maze the law. As a result, the commissioner was forced back to the drawing board to relay the good news to 1977 taxpayers. "Completing your return this year," he writes, "could be more difficult."

The instructions for page one of this year's 1040 comprise nearly four pages. If the taxpayer perseveres that far he will have already encountered 15 "cautions" and "notes," as well as 206 "if" clauses, and been referred to another 39 forms, schedules, and related IRS publications. If he had a question about estimated itemized deductions for alimony expenses, for example, and had a copy of the new law at hand he might turn to Code Section 3402(m)(2)(A) for explanation:

"The term 'estimated itemized deductions' means the aggregate amount which he reasonably expects will be allowable as deductions under chapter 1 (other than the deductions referred to in sections 141 and 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62 other than paragraph (13) thereof) for the estimation year."

As the figures show, most taxpayers will pay an expert to make their mistakes.

The code remains our basic tax document, a legal farrago that, as one IRS spokesman has said, "defies human understanding." Prior to last year's Reform Act it was barely compactible into a single bulky volume. The amending legislation is itself nearly 1,000 pages long. There are also volumes of Income Tax Regulations (the Treasury Department's interpretation of the code), volumes of revenue rulings (the IRS's interpretation of specific situations), and more volumes of court decisions. It's no wonder that such an imposing tax industry has risen to interpret, administer, and exploit that document.

How many different livelihoods depend on the legal tax jargon? Nine percent of the 218,146-member American Bar Association are considered tax specialists. The IRS itself employs more than 800 attorneys; some 200 lawyers work in the Justice Departments' Tax Division. Hundreds of commercial tax preparers (in the Manhattan Yellow Pages alone, seventy-five entries crowd under the "Tax Preparation" heading) vie for the $600 million that Americans pay annually for their services. H. & R. Block, "the income tax people," last year prepared 10 percent of the more than 85.5 million individual income tax returns. Twenty research centers across the country find sustenance in tax specializing, as do 14 tax associations and some 300 journals and periodicals. And not to be forgotten in the enumeration is the IRS and its 82,000 employees, 4,050 different forms, and hundreds of publications.

The latest development in the tax imbroglio industry is the electronic law libraries. Their services are increasingly valuable as a means of sorting through what otherwise would be reams of paper. The Lexis Library of Meade Data Central, Inc., for example, has nearly 300 subscribers throughout the country. In a matter of seconds any one of them may requisition the latest tax regulation or court decision from an IBM 370/155 computer. Not surprisingly, Meade's most frequent patron is the Internal Revenue Service.

It has taken less than sixty-four years to slide into a system which warrants Mr. Beach's wrath. In the meantime we seem also to have slipped "through the looking-glass" and come upon a system bereft of manageability, not to mention comprehensibility. But Lewis Carroll said it best. " 'Curiouser and curiouser!' cried Alice. . . . 'Now I'm opening out like the largest telescope that ever was! Good-bye, feet!' "

THEN AND NOW

	1914	1975	Percentage change
U.S. population	97 million (est.)	214 million	120
U.S. labor force	34.8 million (est.)	94.8 million	172
Total Internal Revenue collections.	$415.6 million ($2.43 billion today).	$293.8 billion	172
Individual income tax collected.	$41.04 million ($24 billion today).	$156.4 billion	551
Number of individual returns.	357,515	85,518,719	23,800
Percent of population taxed	Less than 0.5 percent	40 percent	
Percent of labor taxed	1 percent	90 percent	
Tax per capita	$4.28 ($25.03 today)	$1,375	5,390
Tax per return	$114.80 ($671.58 today)	$1,840	173
IRS employees	4,000	82,000	1,950
IRS employees per capita	1:24,250	1:2609	829
IRS forms	45 (est.)	4,050	8,900
ABA members	8,033 (1913)	218,146	2,600
IRS lawyers	1	800	799
Tax-related court cases	4,731	43,687	820
IRS costs	$6.8 million ($39.7 million today).	$1.58 billion	3,900
Number of words of law	10,000 (good est.)	750,000 (good guess)	7,400

By Mr. PERCY:

S. 1970. A bill to establish the National Commission on Interfuel Competition; to the Committee on the Judiciary.

Mr. PERCY. Mr. President, in the wake of the many serious energy shortages in the United States and the world in the last few years, we are finally coming to grips with the realization that the days of cheap energy abundance and the freedom to use energy resources inefficiently are quickly becoming relics of the past.

Under these new conditions, and in conjuction with our development of a national energy policy, Americans are going to be faced with many changes in their everyday lives. Conservation will become a habit, even a necessity, as prices continue to increase and more energy-efficient technologies are developed.

The most dramatic shift, however, and the most significant for our economy as a whole, will be the transition from oil and gas to alternative fuels for a large percentage of our enery needs.

The petroleum age came about voluntarily, as oil and gas were found to be cheaper and cleaner than coal for most large-scale uses. Our national energy policy now must include special incentives and even outright restrictions on oil and gas consumption to spur the shift back to coal, and to insure more rapid acceptance of alternative energy sources.

The major oil companies have been accused of contributing to the onset of the energy crisis. The sheer size of the most successful companies and the dominance of the entire industry by these giants has most certainly had an effect on the rate of expansion and new production in the industry, energy prices in the international and domestic market, and the development of the current distribution system.

For a number of years there has been growing public concern over the impact that the increasing integration of the major petroleum firms into nonpetroleum energy resources is having on prices, supplies, and competition in the energy marketplace. Despite the potential significance of this trend, though, there has been little, if any, substantive analysis of the issues.

To date, most analyses of the subject have come from various petroleum companies, or have been funded at least in part by the petroleum industry. As might be expected, all of these studies tend to conclude that there is no significant anticompetitive problem caused by horizontal energy integration. Unfortunately, the general lack of independent studies of this issue prevents one from making a full appraisal of the soundness of such industry findings.

Numerous divestiture proposals, both vertically and horizontally directed, have been entertained in this body in the past few years.

The oil companies and their critics have been equally adamant in their opposing arguments on the question, and the lack of any definitive information on the subject has prevented the Congress from taking any action.

Senator KENNEDY, the very able chairman of the Subcommittee on Antitrust and Monopoly who has been studying the problem of competition in the oil industry for many years, introduced a bill a few days ago to require the oil companies to cease acquisition of uranium and coal properties, and to divest themselves of their current holdings. However, I personally find it impossible to either support or oppose this bill on the basis of currently available information.

The energy industries represent an extremely large, and rapidly expanding segment of our economy. A divestiture or non-divestiture decision involves many billions of dollars in American investment funds, hundreds of thousands of individual workers, and will have an effect on energy prices and availability far into the future.

We cannot afford to make this decision without adequate research into all of its possible ramifications.

For these reasons, I am today introducing legislation to establish a Presidentially-appointed National Commission on Interfuel Competition. The purpose of this Commission is to investigate all of these concerns and independently determine whether there are any grounds for legislative, administrative, or judicial action. It will be charged with the responsibility of reporting back a full and unbiased assessment of all the alternatives, and making whatever policy recommendations it deems appropriate.

The competence and independence of the Commission shall be derived from its stature and origins. Its three members will be drawn from the Federal service, the private sector, and the academic community, appointed by the President and confirmed by the Senate.

The thoroughness and accuracy of the report shall be insured by the powers of compulsory process, enforcement, and appeal, including subpena power, granted under the law, and through the cooperation of all departments and agencies of the Federal Government.

The Commission shall be granted 18 months in which to gather their data and prepare their report. The sooner this legislation can be enacted, the sooner this information will be available.

I urge all my colleagues in the Senate and in the appropriate committees to give this bill their most serious attention and support.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission on Interfuel Competition Act".

SEC. 2. (a) There is hereby created the National Commission on Interfuel Competition (hereafter referred to as the "Commission") which shall be composed of three members of whom one shall be appointed from the Federal service, one from the private sector, and one from the academic community. Members shall be selected for their outstanding qualifications and demonstrated competence. The members of the Commission shall be appointed by the President, with the advice and consent of the Senate. One member shall be designated by the President, at the time of such appointment, as Chairman.

(b) The members of the Commission shall serve without compensation, as such, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(c) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. Two members of the Commission shall constitute a quorum. The first meeting of the Commission shall be called by the Chairman within the sixty calendar day period following the date of the enactment of this Act.

SEC. 3. The Commission shall make a full and complete study for the purpose of recommending to the President and the Congress those policies which would help insure a maximum degree of interfuel competition. This study shall include, without being limited to, a determination of:

(1) the impact of Federal and State energy resource leasing policies, rules, statutes, and regulations on the structure and degree of interfuel competition among firms in the domestic energy industry;

(2) the impact of cross-ownership of competing forms of energy on the degree of interfuel competition and on the development of alternative energy supplies and systems; and

(3) the trends in ownership (or control), production, distribution, and marketing of energy resources and energy products derived from Federal, State, or private lands, in terms of their effect on the degree of interfuel competition.

SEC. 4. (a) In order to carry out the purposes of this Act, the Commission is authorized:

(1) to appoint and fix the compensation of such staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed $150 a day for individuals; and

(3) to hold public hearings, commission independent studies, solicit relevant studies, and gather relevant data.

(b) In the exercise of its duties and responsibilities under this Act, the Commission may exercise the same power of compulsory process and appeal as is granted to the Federal Trade Commission under the Federal Trade Commission Act and as is granted to the Attorney General of the United States under the Antitrust Civil Process Act.

(C) Each department, agency, and instrumentality of the executive branch of the Government, including independent establishments, is directed to furnish the Commission, upon request made by the Chairman, such relevant data, reports, information and other resources as the Commission deems necessary to carry out its functions under this Act.

SEC. 5. The Commission shall submit to the President and to the Congress a report with respect to its findings and policy recommendations no later than 18 months fol-

lowing the date of the enactment of this Act. Upon the expiration of the sixty day period following the submission of such report the Commission shall cease to exist.

SEC. 6. There is authorized to be appropriated such sum, not to exceed $2,000,000, as may be necessary to carry out the provisions of this Act.

By Mr. WILLIAMS:

S. 1971. A bill to remove excise tax on bus parts and accessories and to remove excise tax on certain items used in connection with intercity, local, and school buses; to the Committee on Finance.

BUS EXCISE TAX REPEAL ACT OF 1977

Mr. WILLIAMS. Mr. President, I am today introducing legislation designed to make Federal tax law more consistent with our goal of a comprehensive national energy policy.

Meaningful energy conservation requires the use of efficient, economical mass transit systems. Our success in coming to grips with our energy crisis depends to a significant degree on how well we succeed in encouraging people to leave their cars for other modes of transportation.

Our Nation's bus lines comprise a crucial component of mass transit. Millions of Americans daily depend on intracity and intercity buses to get them to work or shopping and back home again. Energy savings from operating buses in large cities as well as in small towns is well known and appreciated. Unfortunately, certain provisions of The Federal Tax Code interfere with the ability of privately owned bus companies to provide the best possible service by imposing on these companies a number of excise taxes.

At present, privately owned bus companies must pay Federal excise taxes on replacement parts and accessories, motor fuels, lubricating oil, highway tires, tread rubber, and inner tubes as part of the purchase price of these items. A manufacturer's excise tax of 8 percent exists for bus replacement parts and accessories. The tax on gasoline, diesel fuel, and other motor fuels is 4 cents a gallon, while lubricating oil is taxed at a rate of 6 cents a gallon. Highway tires and inner tubes are taxed at 10 cents a pound, and tread rubber for highway use carries an excise tax of 5 cents a pound.

Private, local transit companies are now eligible for a 50-percent refund or credit on their motor fuel taxes if at least 60 percent of their income from scheduled passenger service is "commuter fare revenue." The criteria for commuter fare revenue include the requirement that bus fares not exceed 60 cents. This requirement has remained unchanged for over 20 years, although the dramatic rise in transportation costs has forced bus fares in many areas to climb far above the 60-cent level. Because fares greater than 60 cents may not count as commuter fare revenue, bus companies across the country are losing their fuel tax exemptions as the proportion of their income from commuter fare revenue dips below 60 percent.

The Federal excise taxes relating to buses are outdated, burdensome, unfair, and should be repealed. These taxes are vestiges of the transportation policies of the mid-1950's and thus bear no relevance to the policies we must pursue today. Bus lines seeking to expand service or to upgrade the service they already provide find that their tax burdens would increase as a result. In effect, Federal tax law penalizes these companies for doing precisely what we want them to do.

State governments are also affected by Federal bus excise taxes. A large portion of our private bus companies must depend on State assistance in order to maintain current levels of service or to meet increasing service needs. This dependence means that the excise taxes imposed on transit companies can in many instances add to the financial strains on State government which are already faced with serious budgetary problems.

Federal bus excise taxes are also inequitably applied because they fall on only one segment of the Nation's bus companies—those that are privately owned. Publicly owned bus companies are exempt from these taxes. Furthermore, since a large number of bus lines are small operations, owning less than 5 buses each, the amounts they must pay in Federal excise taxes can mean the difference between financial trouble and financial independence. This is especially true for those small companies which have lost their eligibility for Federal fuel excise taxes.

In recognition of the need for a coordinated, consistent Federal approach to the encouragement of mass transit, the legislation I am offering today would repeal the excise taxes which privately owned bus companies must pay on fuel, lubricating oil, replacement parts and accessories, highway tires, tread rubber, and inner tubes. These taxes would be repealed for intercity and intracity buses as well as for privately owned buses used to transport schoolchildren. I hope removal of these taxes will help to maintain and improve the quality of bus service while helping to preserve existing fares.

The U.S. Treasury Department estimates that my legislation would save our private bus companies as much as $16 million in unnecessary taxes for taxable year 1978 and for each year thereafter. Legislation to repeal these taxes has been offered in the House by Representatives HELEN MEYNER, JAMES JONES, and RICHARD GEPHARDT and will be considered on the House floor later this week.

Mr. President, we are now carving out a national energy policy that we should be able to live with for many years to come. In doing so, we must make sure that all our laws are consistent with our energy aims. The excise taxes imposed on privately owned bus companies fly directly in the face of our energy conservation efforts, and I hope that they are promptly repealed. I ask unanimous consent that the full text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1971

Be it enacted by the Senate and House of Repesentatives of the United States of America in Congress assembled, That this Act may be cited as the "Bus Excise Tax Repeal Act of 1977."

REMOVAL OF EXCISE TAX ON BUS PARTS

SEC. 2. (a) Exempt sales.—Subsection (e) of section 4221 of the Internal Revenue Code of 1954 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(6) Bus parts and accessories.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) Refund for certain sales of bus parts.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows:

"(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;".

(c) Effective date.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

REMOVAL OF EXCISE TAX ON CERTAIN ITEMS USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES

SEC. 3. (a) Tires, tubes, and tread rubber.—

(1) In general.—Paragraph (5) of section 4221(e) of the Internal Revenue Act of 1954 (relating to school buses) is amended to read as follows:

"(5) Tires, tubes, and tread rubber used on intercity, local and school buses.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

(2) Qualified bus defined.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) Qualified bus.—

"(A) In general.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) Intercity or local bus.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the passenger seating capacity of such bus is at least 20 adults (not including the driver).

"(C) School bus.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

(3) Technical amendment.—Paragraph (2) of section 6416(b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and

inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

(b) Repayment of tax on lubricating oil used in intercity, local, or school buses.—

(1) In general.—Subsection (a) of section 6424 (relating to lubricating oil not used in the highway motor vehicles) is amended to read as follows:

"(a) Payments.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

"(1) otherwise than in a highway motor vehicle, or

"(2) in a qualified bus (as defined in section 4221(d)(7)), the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) Technical and conforming amendments.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTOR VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES".

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes".

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes".

(D) Sections 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes".

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes".

(c) Repayment of tax on fuels used by public transit buses or school buses.—

(1) Gasoline.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) Intercity, Local, or school buses.—

"(1) Allowance.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) Limitation in case of nonscheduled intercity or local buses.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(2) Other fuels.—Section (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) Intercity, local, or school buses.—

"(1) Allowance.—Expect as provided in paragraph 2 and subsection (g), if any fuel on the sale of which tax was imposed by subsection (a) or (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) Limitation in case of nonscheduled intercity or local buses.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) Technical amendments.—

(A) Subsection (d) of section 6421 is amended to read as follows:

"(d) Gasoline defined.—For purposes of this section, the term 'gasoline' has the meaning given to such term by section 4082(b)."

(B) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1977)" after "section 6421(b)(2)".

(d) Effective date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

By Mr. PERCY:

S. 1972. A bill to insure adequate compensation to the United States for the use of Federal property for automobile parking purposes, to encourage the use of mass transportation and carpooling by Federal employees, and for other purposes; to the Committee on Environment and Public Works.

Mr. PERCY. Mr. President, on July 15, my distinguished colleague from the State of Colorado, Senator HART, introduced an amendment to the legislative appropriations bill which would have required congressional employees to pay for their parking privileges on Capitol Hill. This proposal, as might be expected, was not particularly popular on this floor, and was defeated by a considerable margin.

Several criticisms were leveled at the particular language of this amendment, including its selective application to congressional employees while other Federal workers continued to receive free parking, the fee schedule based primarily on employees' salaries rather than market-based rates, and the alleged "unique nature" of Capitol Hill life which supposedly necessitates free staff parking.

It is significant to note, however, that nobody on this floor attacked the basic premise of Senator HART's amendment: that in the interests of equity and in support of our own avowed energy conservation policies the taxpayers of the United States should not subsidize the use of private automobiles by congressional employees.

I am introducing a bill today which would institute a system of parking fees for all Federal employee parking. Entitled "The Federal Parking Act," this legislation requires the Administrator of the General Services Administration, the Director of the Administrative Office of U.S. Courts, and the Architect of the Capitol to develop procedures for identifying all Federal properties in the United States which are used primarily for private motor vehicle parking and determining parking fees for the use of those properties based on the rates charged for other public parking facilities in the immediate area.

Priority and eligibility for parking privileges may still be determined in accordance with current seniority systems and carpooling, vanpooling, and other energy saving plans.

Rates would be determined for each individual building, lot, or other parking location which would equate Federal employees' parking costs with those of private employees working in the same locality. In suburban or rural areas where no parking fees are customarily charged for any facilities, no fee would be required.

The only exception to these general rules would be for parking facilities for Federal employees' residential facilities. This exclusion is designed to protect military personnel and others who live on Federal property and need parking space for their cars even if they do not commute to work.

The justification for this bill is quite simple. We have been asking the American public to cut back on their driving, to use mass transportation whenever possible, and to conserve energy by a variety of means. Yet according to public opinion polls, many of our citizens either do not believe in or have never even heard of the energy crisis.

If we expect the citizens of the United States to cooperate in our national energy policies, we in the Congress must demonstrate our own sincerity and willingness to make the same sacrifices we ask of the public. Free Federal parking can only serve to undermine and contradict this endeavor.

I ask all my colleagues to consider the question of parking charges in terms of their personal responsibility to the public, and to lend their support to this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Federal Parking Act".

SEC. 2. (a) No real property located in the United States, which is owned or leased by, or otherwise under the jurisdiction of, the United States Government, which is principally utilized, as determined by the Ad-

ministrator of the General Services Administration, to provide parking facilities for privately owned motor vehicles in connection with employment, business, or visitation at Federal offices or installations, may be utilized for such purpose unless there is assessed against each such vehicle a charge or fee within the range of charges or fees generally applicable for public parking purposes in similar facilities in the same general locality.

(b) As used in this Act the term "similar facilities" shall refer to publicly available parking facilities in nearby business or commercial areas which are of the same kind (lot, garage, or on-street parking), convenience, and quality as that granted on the Federal property. If such similar facilities do not exist in nearby areas a fee shall be assessed which reflects fees charged in any public or private parking facility in a comparable area elsewhere in the United States.

SEC. 3. The restrictions imposed by Sec 2. of this Act shall not be applicable to parking facilities provided in connection with any Federal employee's residence, including, but not limited to, housing and visitation facilities at military bases and installations.

SEC. 4. The Administrator of the General Services Administration, the Director of the Administrative Office of United States Courts, and the Architect of the Capitol shall take such steps as may be necessary to coordinate the respective activities of the Executive, Judicial, and Legislative Branches of the Government in the implementation of the restrictions imposed under section 2 of this Act

SEC. 5. The provisions of this Act shall become effective upon its enactment; except that the restrictions imposed by section 2 of this Act shall become effective on the first day of the first month which begins more than 90 calendar days after the date of enactment of the Act.

SEC. 6. All revenues collected pursuant to the provisions of this Act shall be deposited in the Treasury of the United States as miscellaneous receipts.

By Mr. NELSON:

S. 1973. A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such act; to the Committee on Foreign Relations.

Mr. NELSON. Mr. President, this legislation extends the time period for congressional review of major arms sales proposals from 30 calendar days to 45 days in which Congress is in continuous session.

The ongoing debate in Congress concerning the executive branch's proposal to sell seven E–3A Airborne Warning and Control System (AWACS) aircraft to Iran for $1.2 billion has raised a number of very serious questions. Not least of the issues is the Congress ability to debate and consider responsibly and effectively major arms sales.

The AWACS sale to Iran is a classic case of Congress inability—given current time constraints—to consider the serious implications of the executive branch's arms sales policy.

By withdrawing the AWACS request, President Carter has temporarily defused the AWACS issue until Congress returns in September when he will resubmit his proposal. However, the matter of Congress severely limited time period for review is a chronic problem which has plagued us in the past and looms over us in the future.

Pursuant to legislation that I introduced in June 1973, the President is required to submit to Congress any proposed foreign military sale in excess of $25 million. Section 36(b) of the Arms Export Control Act provides Congress 30 calendar days to review and, if necessary, veto by concurrent resolution such major arms sales proposals of the executive branch.

My purpose in offering this legislation was to bring Congress for the first time into the decisionmaking process of the U.S. burgeoning foreign military sales program, through which this country has become far and away the world's leader in exporting arms. The Congress at that time had no real voice in the direction of our arms sales policy, which had become a major foreign policy tool with great consequences for the United States and recipients around the world.

Congress eventually adopted this measure and President Ford signed it into law in January 1975. As a result, Congress gradually began to assert its voice in the formulation of our arms transfers policy. However, the need I foresaw at that time for a sufficiently long period for congressional review—30 or more days of continuous session—has been demonstrated in the practical application of the congressional veto procedure since its passage. Today we are preoccupied with the AWACS sale to Iran. But the 1975 sale of Hawk missiles to Jordan constituted the first major test of this new statute. In that instance the congressional review mechanism forced committee debate on the important foreign policy ramifications of the sale, exposed serious disagreement within the administration on the wisdom of the sale as proposed, and in the end Congress extracted significant concessions in the form of assurances from the President that the weapons would not be transferred in such a way as to allow their use in an offensive capacity against Israel.

Those were not insignificant accomplishments. The Congress has, indeed, shown sensitivity to the concerns expressed by this legislation. In the words of Judith Miller of the Progressive magazine—

> Congress effectively served notice that it is able and willing to exercise supervisory authority in some cases over administration arms sale policy.

Senator HUBERT H. HUMPHREY, chairman of the Senate Foreign Assistance Subcommittee, asserts it is now "standard practice" for the subcommittee to hold hearings on arms sales which are controversial and deserve thorough analysis.

But the case of the Jordan Hawk missile sale also pointed out very serious shortcomings in the congressional veto procedure. At the very least, it became apparent that 20 calendar days—as the law then provided—was altogether too short a time for both Houses of Congress to consider adequately a significant and controversial arms sale proposal. Moreover, notification of the Hawk sale coming as it did shortly before the August recess, further dramatized the inadequacy of the review period. Nothing presently stops any administration from submitting a sale when Congress is not in session, thus precluding any congressional action.

Last year, Congress increased the time period from 20 to 30 calendar days. But 30 calendar days is still inadequate, considering that the 30-calendar-day provision in the law as currently written still makes no distinction between workdays and recesses.

Events in the closing days of the last session dramatically demonstrated the shortcomings of the 30-calendar-day period. On September 1, 1976—the eve of Congress traditional Labor Day recess—the President informed Congress of a decision to sell arms to 11 separate countries for a total dollar figure of $6.024 billion in 37 separate transactions. Starting from the moment Congress received the executive announcement, the clock began ticking toward the 30-day deadline. Failure to act meant that the sale would go through exactly as proposed by the President. The clock had ticked over the recess. When Congress returned from the Labor Day recess, it had only 24 days in which to act.

The AWACS controversy again presents us with the now familiar situation in which Congress simply lacks the time necessary to examine conscientiously foreign military sales questions, which call for major foreign and military policy decisions.

The legislation that I am introducing today would give the Congress a good deal more time in which to deliberate on the important domestic and international ramifications that inevitably accompany foreign military sales. Currently, Congress is allowed just 30 calendar days, whether it is in session or not. If adopted this measure would give the legislature 45 days of "continuous session" to consider major arms transfers. This formula means that no days during a recess of either House of more than 3 days would count against the overall review period, in effect extending it for a corresponding time. (The legislative precedent for the "continuous session" computation is now found in section 601 of the Arms Export Control Act of 1976.) This proposed change in the language of the law, then, would also prevent a situation in which an administration could report several proposed sales during the August recess, for example, and thus effectively prevent congressional review and a possible veto. This change would allow Congress a significantly longer time for its deliberation.

The Senate passed a "continuous session" provision back in 1973, when I first introduced legislation in this field, but Congress subsequently adopted the calendar day computation. Since then, I have repeatedly reintroduced legislation to extend the review period by proposing the "continuous session" formula. Specifically, on June 6, 1974; June 12, 1975; and again on April 26, 1977, legislation was introduced to extend the period of

time that Congress had to review significant arms sales. On September 21, 1976, at the time that the Ford administration sent up the $6.1 billion package of several dozen separate sales, I wrote the chairman of the Foreign Assistance Subcommittee, HUBERT HUMPHREY, that "experience * * * should make it clear that the timetable provided for congressional oversight is too short."

The change embodied in the legislation offered again today is demonstrably needed. The present time period of 30 calendar days for the passage of a concurrent resolution by both Houses is clearly inadequate. If Congress is to act responsibly, hearings must be held and adequate time allowed for genuine debate of the merits of each sale. It is simply not realistic to expect that a resolution of disapproval of a proposed arms sale, a matter which requires comprehensive review and hearings in both Houses, could possibly be passed in such a short time.

It should also be noted that since delivery time for an arms contract can extend over several months or years after a sale is agreed to, there is no reason to believe that a slightly extended period of time for congressional consultation would be onerous for the prospective arms buyer or for the State or Defense Departments. In fact, $32 billion worth of arms have been approved by the Congress but have not been delivered to their destined country. Indeed, the first AWACS aircraft is not due to be delivered to Iran until late 1981, and the entire delivery will extend an additional 2 years.

Had Congress already accepted the legislation offered to extend the period it would have had the time to consider and debate the AWACS proposal. Instead, it has found itself in the uncomfortable position of having to rely on the good will of the executive branch to withdraw the proposal and resubmit it at a later date.

TRENDS

It is now only too well documented that the United States is the world's leader in selling arms abroad. From 1966 to 1975, this country sold $34.9 billion worth of armaments to other countries, or more than the rest of the world's major suppliers combined. In fiscal 1975, the United States exported practically twice the amount that U.S.S.R. did. In the last fiscal year alone, the United States agreed to sell abroad military equipment and weapons worth over $14 billion.

The trends are disturbing. We have witnessed over the last several years an alarming growth in the volume of military equipment and arms sold abroad by the United States. As recently as 1970, our entire foreign military sales program accounted for less than $1 billion worth of equipment and weapons, this in stark contrast to last year's total, which represents nearly 14 percent of the dollar value of all U.S. foreign military sales in the last quarter century.

There has also been a dramatic change in the identity of those receiving our arms largess. A program originally designed to assist major NATO allies has become the chief means by which many nations of the so-called Third World acquire weapons. The developing countries bought over half—53 percent—their weapons from the United States during 1966–75. Our share of this market totaled $27.5 billion. This included 96 percent of their imports of air-to-surface and air-to-air missiles. More than half of our foreign military cash sales in recent years have been made to nations of the newly oil rich Persian Gulf and Mideast. By fueling local arms races, the United States advances the potential for the creation or exacerbation of regional tensions and conflicts, which in turn increase the likelihood of major-power confrontation.

In addition, the United States is selling increasingly destructive and sophisticated military equipment. In contrast to the days when the United States drew only on surplus stocks for foreign military sales, we now sell some of our most advanced missiles, warplanes, and electronic gear. This policy has deleterious effects on our own armed services readiness as well as our overall national security.

With the move away from U.S. military aid and toward payment by the recipient country for its arms, the recipients are more often demanding—and receiving—our most sophisticated armaments off the same assembly line that supplies our own forces, and sometimes before we are fully supplied. Foreign orders for highly advanced weaponry are made even before we proceed to their full-scale production. Maintenance of our technological superiority is threatened by such concurrent sales of advanced weaponry. This is especially so when sales are made to unstable regimes whose successors may not be friendly to the United States, or when such equipment falls into hostile hands in a regional conflict.

THE CARTER ADMINISTRATION

Mr. President, I am encouraged by President Carter's stance on restraining the heavy flow of arms abroad. His administration reflects a philosophy in refreshing contrast to that of recent administrations.

President Carter assured us on May 19 that—

> The United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests. . . . The burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.

This is not a partisan issue. It is a question of the constitutional need for adequate input by the legislative branch into the process by which this country relates to others. This requirement speaks to the proper congressional role which is independent of the Executive role.

It was the legislative branch which first recognized and focused on the significance of U.S. arms transfers, and brought the issue into the public forum. Foreign military sales constitute major foreign policy decisions involving the United States in military activities and potential de facto commitments without sufficient deliberation or participation by those outside the confines of the executive branch. These matters require serious consideration by the Congress in an institutionalized fashion, and should not be the exclusive domain of the executive branch.

The legislative branch should not wait to act merely at the will of the executive branch. If Congress is serious about exercising its full constitutional duty in the formulaiton of U.S. foreign policy, it must clearly fashion substantive tools with which to forge a responsible arms control policy.

Mr. President, I ask unanimous consent that the text of the legislation being introduced today be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 36(b)(1) of the Arms Export Control Act is amended by striking out "thirty calendar days after receiving such certification" and inserting in lieu thereof "the first period of 45 days of continuous session of Congress after the date on which Congress receives such certification".

By Mr. NELSON (for himself and Mr. CULVER):

S. 1974. A bill to amend section 553 of title 5, United States Code, to improve Federal rulemaking practice by creating procedures for regulatory issuance in two or more parts; to the Committee on the Judiciary.

Mr. NELSON. Mr. President, today I am introducing the Regulatory Flexibility Act, a bill which amends the Administrative Procedure Act to eliminate some current inequities in Federal rulemaking. This bill would create different sets of regulations for smaller units of the regulated public whenever feasible.

Two key problems in current administrative practice are the heavy load that reporting requirements place on individuals and smaller enterprises, and the disproportionate cost of regulatory compliance to these persons and enterprises. These two problems are interrelated, and this bill addresses both.

In information-gathering, the bill puts added emphasis on privacy rights and the costs of information; in rulemaking, the bill establishes procedures to support the principle that regulations should fit the scale of those being regulated.

REPORTING REQUIREMENTS

Government information requests of the public should be guided by the principle of obtaining the least information necessary to execute the laws faithfully. The collection of information on the minutiae of everyday life, merely because that information is accessible and inexpensive to the Government, represents a dangerous movement toward unwarranted government surveillance of the public as well as disregard of our traditions of personal privacy. At present few constraints exist on the kinds of ques-

tions that are asked of the public, particularly business concerns and organizations, and the redundancy with which questions are asked. Public costs of reporting are not calculated in any systematic way. We do know that there are over 5,000 Federal forms distributed to the public, and more than 10 each year for every man, woman, and child in the country. Investigations by the Senate Small Business Committee, the Federal Paperwork Commission, and others, have turned up such examples of Federal information demands as these:

An elderly couple in Arizona, proprietors of literally a "mom and pop" auto business, testified that they spend an average of 15 hours a week preparing Federal reports.

An Army veteran made a 130-mile round trip to complete paperwork at a Veterans' Administration office, only to be told a few months later that he had to make the trip again to provide the same information for a different program.

The most needy Americans may be the least able to complete the paperwork necessary to get help, the Federal Paperwork Commission recently noted. "It may take as many as 60 forms to obtain comprehensive financial assistance," the Commission observed. "A not untypical 10-year-old case file in New York City contained over 700 separate documents."

A Harris poll indicates 34 percent of all Americans do not possess the reading and comprehension skills necessary to complete a medicaid application.

The owner of a machine shop in Iowa, who was unable to complete the Census Bureau's massive MA–200 report on pollution abatement expenditures without changing his entire accounting system, filled out the reports as best he could and offered to let the Bureau examine his books. The Bureau threatened punitive action if its specifications were not met in full.

Government agencies do not consciously set out to violate privacy rights or impose heavy reporting costs on the public. The real problem is that the design of the regulatory process encourages regulators to treat information as a free good. Thus, any effective solution to the paperwork problem must deal with Federal rulemaking practice as a whole.

REGULATORY INEQUITIES

Protecting our Nation's competitive marketplace requires precise rules which are sharply focused on key problems. Our present system abuses commonsense and good government by equating the resources of every individual and every enterprise. Our investigations of the impact of regulations on individuals and businesses of limited means turned up incidents such as these:

Oil jobbers in Oklahoma submitted the Federal Energy Administration's "petroleum company financial reporting system"—a system which lumps together Exxon and the smallest oil marketer—to an internationally-recognized auditing firm. The auditors concluded the PCFRS was "inapplicable and inappropriate to small business petroleum marketers."

Small airline companies have testified that Civil Aeronautics Board requirements have concentrated the airline industry in the hands of a few big carriers. One former CAB staffer, now a law professor at two California universities, testified that—

> The Board was attempting to create conditions, in my opinion, that made (the smaller carriers') operations nonviable, in the hopes they would go away.

Other witnesses have made similar charges regarding the Interstate Commerce Commission and the trucking industry.

The costs of regulatory delay add more than $18,000 to the price of a new home that would otherwise sell for $30,000, according to two recent studies. In some areas, delay caused by local, State, and Federal regulations in homebuilding now averages 3½ years between submission of plans and groundbreaking.

A number of small businesses using two-way radios were forced to hire consultants to interpret new FCC guidelines.

A small contractor in Wisconsin detailed 26 separate Federal regulations he had to comply with before he could break ground on a highway he had contracted to build.

The president of a rural Indiana feed and farm supply company testified that his firm now spends 80 bookkeeping days per year, 120 auditing hours, and 80 legal hours complying with regulations from the Departments of Agriculture, Commerce, Labor, and Transportation, as well as the FCC, the IRS, the EEOC, OSHA, the FDA, the Social Security Administration, and the Census Bureau. He also testified that, during the height of one harvest season, the Transportation Department demanded an exhaustive record of every shipping transaction his firm had made in a previous year—and then sent out an investigator when he did not comply at once. He later learned it was a "random survey."

Masonry contractors objected to proposed HUD regulations which would discriminate against the use of masonry in housing; the regulations were finalized without meetings ever having been held or testimony taken. The contractors then spent tens of thousands of dollars running tests and computer studies to show the HUD standards were not cost-effective when applied to masonry. HUD finally agreed to a cumbersome process of "local exemptions" from the standards, but the contractors then found the local HUD officials unwilling to depart from the national standards.

A pension plan in Montana with 12 members is subject to precisely the same informational and regulatory requirements as the 843,000 member Carpenters' Union pension plan.

The central dilemma of current regulatory practice, as far as many individuals and small enterprises are concerned, is this: The costs of compliance must be either absorbed, creating competitive disadvantages for smaller businesses, or passed on to consumers, creating in effect a regressive form of taxation. Either way, increased costs or increased prices, regulations ultimately work to the advantage of larger enterprises.

Dr. Milton Kafoglis, formerly senior economist of the Council of Wage and Price Stability, summed it up this way:

> There seem to be clear economies of scale imposed by the regulatory endeavors of the newly created agencies. Uniform application of the "standards" approach . . . thus seems to increase the size firm that can effectively compete. The cost curve of the firm is shifted upward and to the right with its minimum point (or the elbow in an L-shaped cost curve) occurring at a larger output. If one employs the well-known "dominant firm" model and introduces upward shifts in cost curves (the small firms' cost curve shifting more than that of the dominant firms), the share of the dominant firm will increase and concentration will have increased. This hypothesis has not been questioned and is consistent with most of the case analyses that have been completed.
>
> The usual paperwork and reporting burden whose total costs are invariant to output is the most obvious example of economies of scale imposed by regulation . . . Such costs raise the cost curves of all firms but place the small firm at a relative disadvantage on a unit cost basis. More importantly, the technology imposed by most regulations is subject to scale economies. . . . In establishing standards there seems to be a "bias" favoring technologies which generate economies of scale. Firms do not have the choice of paying a charge or developing new technology. For example, OSHA has insisted that noise levels be reduced by mechanical means rather than by personal protective devices, thus imposing a given technology and possibly thwarting the development of new processes and technologies. . . . Total modification costs are invariant to firm size. There is not to my knowledge a government regulation which (*if uniformly applied to all firms*) would generate diseconomies of scale and increase the number of firms in an industry, thus encouraging industrial deconcentration and increased competition.

Indeed, when the Small Business Administration surveyed the small business community in 1975, about 60 percent of the firms surveyed reported that they were unable to pass on costs mandated by Federal regulations, "strongly suggesting that the 'passthrough' assumption, sometimes made by Federal agencies should be reexamined."

When one assesses the rulemaking sequence—research, "public participation," and intervention—it becomes clear that the general public and small business is not well represented at any step in the sequence. This has resulted in charges of "capture" of regulatory agencies, for example in transportation, by the dominant firms. The bill I am introducing today will not solve this problem, but it will provide an important first step by inserting the Office of Program Analysis of the General Accounting Office and the Office of Advocacy of the Small Business Administration in the decisionmaking process. GAO will be able to assist in cost/benefit analysis and the examination of regulatory impact on market structures and competition. SBA will be able to assist in the determination of whether legal, consulting, accounting, and other costs necessitated by proposed rules would adversely affect individuals and small businesses.

The principal innovation of this bill is that it empowers and encourages agencies to issue different sets of rules—with varying informational demands, compli-

ance requirements, and timetables—for different segments of the regulated public.

This approach is not altogether novel, having long been implemented on a piecemeal basis. For example:

The IRS issues a "short form" for low- and middle-income taxpayers to use for filing their annual taxes.

ERISA now provides a "model plan" to shorten regulatory delay in approving pension plans for 10 or fewer employees.

OSHA recently exempted many nonhazardous small businesses from a number of OSHA regulations.

The NLRB is permitted to decline jurisdiction in a case when "the policies of the act would not be effectuated by assertion of jurisdiction."

The Federal Water Pollution Control amendments specify that the technology imposed by regulations under the law should represent "the maximum use of technology within the economic capability of the owner or operator."

What this bill creates is a permanent mechanism for the differing treatment of individuals and organizations of different economic size across the entire regulatory spectrum. This is a practical, affirmative approach to the paperwork problem and the associated inequities of the regulatory process.

Prof. Marver H. Bernstein, writing in the "Annals of the American Academy of Political and Social Science," summed up the need aptly:

> . . . the greatest need in administrative regulation today is to focus attention on strategies of regulation. The primary question that we must try to answer as systematically as possible is this: For a given set of objectives, what combination of statutory provisions, regulatory powers, processes, and techniques; incentives and sanctions; political leadership and administrative resources is likely to achieve results that approximate the goals of the regulatory program? After nearly a century of regulatory experience in an industrial economy, we are unable to identify . . . the requisites of acceptable administrative performance—given the objectives sought, the mix of parties in interest, the state of technology, the economic stakes and the number of firms subject to regulation, the strength of consumer interests, and the degree of danger to individuals.
>
> The talent and energy we have devoted to designing regulatory programs to protect the regulated from unfair procedures and to minimize effects adverse to regulated clienteles must now be targeted on the modest problem of designing and improving systems of regulation that have a fighting chance of achieving some useful public result.

Mr. President, I ask unanimous consent that a study of the legal standing of this approach to regulation, prepared by the American Law Division of the Congressional Research Service, be included in the RECORD at this point. I ask further consent that the section-by-section analysis of the bill, as well as the full text of the proposed legislation, also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

SEC. 2(a)(1) The Congress finds that in numerous instances compliance with Federal regulatory and reporting requirements imposes inequitable demands and burdens on individuals of limited means and on small businesses and organizations.

(2) A regulatory dilemma has developed in which efforts to protect the Nation's health, safety, and economic welfare have created a burden of required legal, accounting, and consulting services which is causing economic harm to individuals and organizations of limited resources, and is adversely affecting competition in the marketplace.

(3) The sheer scope and volume of regulations already in place has created high entry barriers in many industries, and discouraged potential entrepreneurs from introducing beneficial products and processes.

(4) The practice of treating all regulated individuals, organizations, and businesses as equivalent, for purposes of regulatory and paperwork requirements, has led to inefficient use of regulatory agency resources, enormous enforcement problems, and in some cases a tendency to lose sight of the legislative intent of health, safety, and economic welfare objectives.

(5) Government information collection has not adequately weighed the privacy rights of individuals and enterprises against the government's need-to-know because the design of the regulatory process has encouraged regulators to treat information as a free good.

(6) The deep public dissatisfaction with the regulatory process has stemmed in large part from a public perception of burdensome regulations failing to correct key national problems.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that regulatory and informational requirements fit the scale of those being regulated, that fewer, simpler requirements be made of individuals, small organizations and small businesses, and that to achieve these ends agencies be empowered and encouraged to issue regulations which apply differently to different segments of regulated populations, industries, and activities.

ADMINISTRATIVE PROCEDURE

SEC. 3. Section 553 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f)(1) Prior to the issuance of a proposed substantive rule, the agency shall conduct an analysis for the purpose of making a determination, based on the amount of public information collection the proposed rule would necessitate, the amount, if any, of legal, consulting, and accounting costs to the public which would be so necessitated, and the overall cost of compliance with the rule, averaged, for each person, business concern, and organization affected by it, as compared with the importance of the public policy to be achieved, whether such rule should apply (at all or in the same manner) to persons, business concerns, and organizations of various sizes and resources.

"(2) The head of each agency preparing any such proposed substantive rule (a) shall—

(A) submit such substantive rule to, consult with, and obtain comments of, the Office of Advocacy of the Small Business Administration, and such office shall provide such comments with respect to the impact on smaller enterprises resulting from the promulgation in final form of such proposed substantive rule;

(B) include such statement and comments of the Office of Advocacy in the records made in connection with the proposed rule;

(C) make available such statement and comments of the Office of Advocacy to each officer or employee of the United States who, after such date, reviews such rules;

(D) make available such statements and comments of the Office of Advocacy to the public pursuant to section 552 of this title;

(E) publish a summary of such statement and comments of the Office of Advocacy with the final notice of proposed rulemaking in the Federal Register.

"(3) Paragraph (2) shall not apply to any rule if such agency head, with the concurrence of the Office of Advocacy of the Small Business Administration, determines such rule will not, if implemented, have a substantial effect on any significant number of small businesses. Notice of such determination shall be published in the Federal Register.

"(4) Whenever the results of any such analysis by an agency, and such statement and comments by the Office of Advocacy of the Small Business Administration, indicate the desirability and feasibility of promulgating rules which differ with respect to their applicability to various segments of the regulated industries, activities, or populations, the agency shall issue the new rule in two or more parts, with each part containing varying requirements for performance or reporting, as appropriate to persons, business concerns, and organizations of varying economic sizes and resources.

"(5) In establishing segments of regulated industries, activities, or populations for the purposes of this subsection, agencies shall establish objective, and to the maximum extent feasible, uniform criteria to facilitate determinations by such populations, activities, and industries, of the applicability of rules issued hereunder.

"(6) Each agency shall, during the 5-year period beginning with the date of enactment of this subsection, review its substantive rules which are in effect on such date and make the determinations referred to in paragraphs (1) through (5) with respect to each rule.

"(7) The Office of Program Analysis of the General Accounting Office is authorized to furnish, upon request, advice and assistance to agencies making determinations under this subsection.".

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 25, 1977.

To: Hon. Gaylord Nelson, Attn: Jim Morrison.

From: American Law Division.

Subject: Constitutionality of Legislation Which Classifies Businesses by Some Criterion of Size for Purposes of Regulation.

This is in response to your inquiry whether legislative classification of businesses by a criterion of size for the purpose of regulation would be constitutional. You have particular reference to proposed legislation by Senators Nelson and Culver which would incorporate such a scheme.

The traditional standard of review of equal protection challenges of classifications developed largely though not entirely in the context of economic regulation. It is still most validly applied there.

Mr. Justice Frankfurter once noted "The Fourteenth Amendment enjoins 'the equal protection of the laws'; and laws are not abstract propositions. They do not relate to abstract units, A, B, and C, but are expressions of policy arising out of specific difficulties, addressed to the attainment of specific ends by the use of specific remedies. The Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same." *Tigner* v. *Texas,* 310 U.S. 141, 147

(1940). The mere fact of classification will not void legislation, then, because in the exercise of its powers a legislature has considerable discretion in recognizing the differences between persons and situations *Barnett* v. *Indiana*, 229 U.S. 26 (1913). "Class legislation, discriminating against some and favoring others, is prohibited; but legislation which, in carrying out a public purpose, is limited in its application, if within the sphere of its operation it affects alike all persons similarly situated, is not within the amendment." *Barbier* v. *Connolly*, 113 U.S. 27, 32 (1885). Or, more succinctly, "statutes create many classifications which do not deny equal protection; it is only 'invidious discrimination' which offends the Constitution." *Ferguson* v. *Skrupa*, 372 U.S. 726, 732 (1963); *Williamson* v. *Lee Optical Co.* 348 U.S. 483, 489 (1955).

Economic regulation under a state's police power has rarely been held unconstitutional under the equal protection clause. "[T]he Fourteenth Amendment permits the States a wide scope of discretion in enacting laws which affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. State legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 425–426 (1961). These principles apply equally, of course, to federal economic regulation. See, generally, *Weinberger* v. *Wiesenfeld*, 420 U.S. 636, 638 n. 2 (1975); *Frontiero* v. *Richardson*, 411 U.S. 677, 680 n. 5 (1975); *Richardson* v. *Belcher*, 404 U.S. 78, 81 (1971).

With particular reference to precedents dealing with regulations classifying on the basis of size, the Supreme Court in a number of instances has upheld such legislation against equal protection attack. Thus in *McClean* v. *Arkansas*, 211 U.S. 539 (1909), the leading case in this area, the Court upheld as reasonable an exemption of coal mines employing less than ten percent from a law pertaining to measurement of coal to determine a miner's wages. The Court stated (211 U.S. at 551–552):

"The law is attacked upon the further ground that it denies the equal protection of the law, in that it is applicable only to mines employing ten or more men. This question is closely analogous to one that was before this court in the case of *St. Louis Consolidated Coal Co.* v. *Illinois*, 185 U.S. 203, wherein an inspection law of the State was argued to be clearly unconstitutional by reason of its limitation to mines where more than five men are employed at any one time, and in that case, as in this, it was contended that the classification was arbitrary and unreasonable, that there was no just reason for the discrimination. Of that contention this court said (185 U.S. 207):

"This is a species of classification which the legislature is at liberty to adopt, provided it is not wholly arbitrary or unreasonable, as it was in *Cotting* v. *Kansas City Stock Yards Co.*, 183 U.S. 79, in which an act defining what should constitute public stock yards and regulating all charges connected therewith was held to be unconstitutional, because it applied only to one particular company, and not to other companies or corporations engaged in a like business in Kansas, and thereby denied to that company the equal protection of the laws. In the case under consideration there is no attempt arbitrarily to select one mine for inspection, but only to assume that mines, which are worked upon so small a scale as to require only five operators, would not be likely to need the careful inspection provided for the larger mines, where the workings were carried on upon a larger scale or at a greater depth from the surface, and where a much larger force would be necessary for their successful operation. It is quite evident that a mine which is operated by only five men could scarcely have passed the experimental stage, or that the cautions necessary in the operation of coal mines of ordinary magnitude would be required in such cases. There was clearly reasonable foundation for discrimination here.

"This language is equally apposite in the present case. There is no attempt at unjust or unreasonable discrimination. The law is alike applicable to all mines in the State employing more than ten men underground. It may be presumed to practically regulate the industry when conducted on any considerable scale. We cannot say that there was no reason for exempting from its provisions mines so small as to be in the experimental or formative state and affecting but few men, and not requiring regulation in the interest of the public health, safety or welfare. We cannot hold, therefore, that this law is so palpably in violation of the constitutional rights involved as to require us, in the exercise of the right of judicial review, to reverse the judgment of the Supreme Court of Arkansas, which has affirmed its validity. The judgment of that court is *Affirmed*."

The *McLean* precedent has subsequently been applied by the court in upholding analogous regulatory legislation. See e.g. *Carmichael* v. *Southern Coal Co.*, 301 U.S. 495, 510–512 (1937) (upholding state unemployment compensation act which taxed employers employing eight or more persons for 20 or more weeks in the year and also exempted particular classes of employers such as those employing agricultural laborers, domestic servants, seamen, among others); *Middleton* v. *Texas Power and Light Co.*, 249 U.S. 152, 159 (1919); *Jeffrey Mfg. Co.* v. *Blagg*, 235 U.S. 571, 576 (1915) (employers of five or more included within workmen's compensation act); *Booth* v. *Indiana*, 237 U.S. 391, 397 (1915). See also, *Asbury Hospital* v. *Cross County*, 326 U.S. 207 (1945).

Finally, the Court most recently reaffirmed the continuing vitality of the foregoing principles in *New Orleans* v. *Dukes*, 427 U.S. 297 (1976). There the Court upheld against an equal protection attack a local regulation which banned all street food vendors from the Vieux Carre except those who had been doing business for eight years prior to 1972. The grandfather clause was contested by a vendor who had been in business for only two years prior to 1972. The Court found that the city's classification rationally furthered its purpose of preserving "the appearance and customs valued by the Quarter's residents and . . . tourists," noting that (427 U.S. at 303–304):

"When local economic regulation is challenged solely as violating the Equal Protection Clause, this Court consistently defers to legislative determinations as to the desirability of particular statutory discriminations. See, *e. g., Lehnhausen* v. *Lake Shore Auto Parts Co.*, 410 U. S. 356 (1973). Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate State interest. States are accorded wide latitude in the regulation of their local economies under their police powers, and rational distinctions may be made with substantially less than mathematical exactitude. Legislatures may implement their program step by step, *Katzenbach* v. *Morgan*, 384 U. S. 641 (1966), in such economic areas, adopting regulations that only partially ameliorate a perceived evil and deferring complete elimination of the evil to future regulations. See, *e. g., Williamson* v. *Lee Optical Co.*, 348 U.S. 488–489 (1955). In short, the judiciary may not sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines, see, *e.g., Day-Brite Lighting, Inv.* v. *Missouri*, 342 U.S. 421, 423 (1952); in the local economic sphere it is only the invidious discrimination, the wholly arbitrary act, which cannot stand consistently with the Fourteenth Amendment." See, *e.g., Ferguson* v. *Skrupa*, 372 U.S. 726, 732 (1963).

A pertinent situation arising under the Taft-Hartley Act, 29 U.S.C. 141 et seq., may be noted. Under that Act the National Labor Relations Board's general jurisdiction extends to "labor disputes," which include representation questions and unfair labor practices, "affecting" interstate commerce. In fact, the plenary scope of the Board's jurisdiction has never been fully exercised, for the Board, it has been held, may properly decline to take jurisdiction of a case, with certain exceptions, because "the policies of the Act would not be effectuated by assertion of jurisdiction." *NLRB* v. *Denver Bldg. Trades Council*, 341 U.S. 675, 684 (1951). The Supreme Court observed in *Polish National Alliance* v. *NLRB*, 322 U.S. 643, 648 (1944): "Congress . . . left it to the Board to ascertain whether proscribed practices used in particular situations adversely affect commerce. . . ." In 1959 Congress amended the Act to specifically delineate the scope of the Board's discretion as follows: (20 U.S.C. 164(c)(1):

"The Board, in its discretion, may, by rule of decision or by published rules adopted pursuant to the Administrative Procedure Act, decline to assert jurisdiction over any labor dispute involving any class or category of employees where in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: *Provided*, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959."

Under present practices, the Board has issued standards which govern the exercise of its jurisdiction over various types of enterprises. Thus, for example, with regard to retail establishments, the Board will exert jurisdiction where there is a gross business volume of at least $500,000 per year and substantial purchases from or sales to other states on a direct or indirect basis. But where non-profit private educational institutions are involved, the Board will assert jurisdiction only when there is showing that the institution has a gross annual revenue of at least $1,000,000 for operating expenses.

In conclusion, it would appear that legal precedent would generally support the type of regulatory classification you are proposing.

MORTON ROSENBERG,
Legislative Attorney.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

Section 2. (a) Findings. The special burden reporting and regulatory requirements impose on individuals and enterprises of limited resources.

(b) Purpose. To achieve a fit between the scale of requirements and the scale of those being regulated.

Section 3. Amends Administrative Procedures Act to provide for:

(1) agency determination of the economic impact of regulatory and paperwork requirements on various segments of the regulated public, and agency determination of whether proposed rules should apply equally to all segments of the regulated public.

(2) submission of proposed substantive rules to the Office of Advocacy of the Small Business Administration for statement and comments on small business impact; public availability of such statements and comments; publication of such statement and comments in the Federal Register with final notices of proposed rules.

(3) exemption from (2) for rules which do not affect small business substantially.

(4) promulgation of rules with varying requirements, based on these determinations.

(5) maximum possible uniformity and objectivity of criteria for establishing segments of the regulated public.

(6) retroactive determinations in accordance with paragraphs (1) through (5) of existing regulations.

(7) GAO assistance in agency determinations.

CULVER SPONSORS REGULATORY REFORM ACT

Mr. CULVER. Mr. President, the bill that Senator NELSON and I are introducing today, the Regulatory Flexibility Act, addresses one of the most serious problems that small businesses face in dealing with the Federal Government—the problem of complying with a never-ending stream of complex and expensive regulations.

While this bill does not stop that stream, it aims at reducing the flow significantly for many individuals, small businesses, and small organizations who have been increasingly overburdened by the requirements of regulatory compliance.

This legislation has two main objectives. One is to create an awareness in the agencies issuing these regulations that information is not a free good—that there should be greater respect for privacy and for the costs of gathering information. The second objective is to establish a regulatory principle that the scale of regulations ought to fit the scale of those being regulated.

The costs of regulation can often be substantial both in terms of financial outlay and in terms of the time and effort required to comply. Recent testimony before the Small Business Committee and letters that I, and most likely all of us in this body, receive daily contain example after example of the hardships imposed by regulatory action by the Federal Government.

Only last week the Federal Commission on Paperwork reported that paperwork requirements cost business $32 billion a year. This cost, of course, must be passed on to consumers in higher prices. If it cannot be passed on a business will soon find itself out of operation; and further costs, through lost production, unemployment, and idle capital, will accrue to society as well as to the individuals who are affected directly.

While much of the information gathered as a result of Federal regulation is necessary to protect American workers, consumers, and businessmen themselves, it has become increasingly evident that we must weigh more carefully the costs as well as the benefits of obtaining the information.

In addition to increased paperwork, many other costs are imposed on business, and thereby consumers, by additional regulatory requirements. I am convinced that more often than not these regulations, at least over the long run, make a net positive contribution to the quality of life in our society. It is not the aim of this bill to allow the persistence of practices that are, for example, dangerous to workers or to the environment. The bill's chief aim is to approach the regulation of such practices in a manner which minimizes the cost of regulation on those least able to bear that cost; that is, the small business operator. This bill is an attempt to shape our regulatory procedures so as to recognize the wide diversity in the American economy and the broad range of needs and abilities that characterize our economic system.

The Regulatory Flexibility Act would direct Federal agencies to study the economic impact of compliance with new regulations on small businesses and organizations before those regulations are issued. The agencies would then be charged with weighing this economic impact against the economic and social objectives to be achieved by the proposed rules to determine whether partial, or perhaps full, exemptions ought to be granted.

While this bill may increase somewhat the cost of Federal review and design of regulations, the savings, in terms of reduced paperwork that must be generated and processed and through the elimination of unwarranted requirements on small businesses, will likely far outweigh the additional administrative costs.

It is my firm belief, Mr. President, in light of the evidence presented before the Small Business Committee, that the simplified regulation envisioned by this bill is the best solution to the current climate of regulatory overkill. We do not present it as a panacea. There is much yet to be done in the area of regulatory reform. It is, however, a critical step in providing relief for those who are perhaps most seriously affected by the growing demands of regulatory compliance.

By Mr. DOLE (for himself, Mr. TALMADGE, Mr. HUMPHREY, Mr. INOUYE, Mr. MATSUNAGA, Mr. SARBANES, and Mr. RIEGLE):

S. 1975. A bill to amend title XVIII of the Social Security Act to provide coverage for the services of optometrists related to the treatment of aphakia; to the Committee on Finance.

Mr. DOLE. Mr. President, today I am introducing legislation to provide part B medicare reimbursement for the services provided by optometrists to aphakia patients. Certain diseases of the eye result in surgical removal of the lens of the eye. The resulting condition, that is, absence of the lens of the eye, is known as aphakia. Very often, surgery necessary for the treatment of cataracts is the cause of this condition.

Vision is a precious commodity that we often take for granted. Yet, those elderly persons who suffer from various disabilities that alter their vision find day-to-day living a difficult and often dangerous experience.

Elderly patients are likely to suffer from multiple symptoms with underlying disease that is complex and that requires a range of diagnostic and therapeutic care services. These health conditions are usually complicated by corresponding social, economic, and psychological circumstances.

The elderly population accounts for a disproportionate share of vision/eye problems. It is estimated that in 1972 somewhat over 300,000 surgical operations were performed for cataract extraction, with the largest proportion occurring among the elderly.

Under present medicare law, many of the services presently eligible for reimbursement are only covered if performed by doctors of medicine or osteopathy. In addition to physicians, optometrists are reimbursed under the program for services to aphakia patients. These reimbursable services are limited, however, to dispensing services in connection with the actual fitting and provision of the prosthetic lenses.

Section 109 of Public Law 94–182 is an amendment I sponsored requiring the Department of Health, Education, and Welfare to conduct a study concerning the appropriateness of medicare reimbursement for optometrist services related to aphakia not presently covered, but within the scope of optometric practice. The report was transmitted to the Congress on January 12, 1977. HEW recommends that those covered services related to aphakia and within the scope of optometric practice be reimbursable under part B medicare.

Mr. President, the study provided us with a good deal of information as relates to this group of professionals. I would like to share with my colleagues one particularly important aspect, access to care.

As I noted earlier, the management of these patients requires a broad range of services apart from surgery. Specifically, lack of access to these services may create another obstacle for patients. The study points out that it is clear that currently covered vision/eye care services related to aphakia and cataract conditions can be made more accessible to the medicare-eligible population by including services provided by optometrists. At a minimum, greater financial equity can be extended to those medicare beneficiaries who currently obtain necessary health services from optometrists without medicare reimbursement.

This conclusion is principally supported by analyzing the distributional patterns of optometrists and ophthalmologists. It should be noted that ophthalmologists are not the only physician group rendering vision/eye care services and included under medicare provisions. Among physicians, however, it is reasonable to infer that ophthalmologists provide the bulk of overall vision/eye care services.

In 1973, there were approximately two active optometrists for every active ophthalmologist in the United States. Respective active supply estimates numbered 19,300 and 10,500. On a comparative basis, the supply of optometrists was more evenly distributed across the country. The HEW study utilized data assembled from American Medical Association records, the 1972–73 optometry inventory conducted by the American Optometric Association, as well as sta-

tistics collected by HEW's National Center for Health Statistics to examine overall supply and distributional patterns between the two provider groups.

Active ophthalmologists exceeded the number of active optometrists in only two areas of the Nation, Maryland and the District of Columbia. In seven States, in contrast, there were greater than three times as many optometrists than ophthalmologists.

The Bureau of Health Manpower projects the overall number of active ophthalmologists in the United States to rise to 13,300 in 1980 and to 18,400 by 1990; this compares with projected levels of 22,000 and 28,200 for optometrists in the same time intervals. The proportion of ophthalmologists as a percent of total professional vision care manpower is projected to grow from 35 percent in 1973 to 38 percent in 1980 and 39 percent in 1990. In rural areas, the distribution factor is of vital importance. The accessibility of health professionals in these areas is of serious concern to many of us.

The legislation I am introducing today would bring us that much closer to the goal of high-quality and accessible eye care for elderly citizens.

By Mr. CRANSTON:

S. 1976. A bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRANSTON. Mr. President, I am introducing today for appropriate reference the administration's proposed legislation to enlarge Redwood National Park.

As you know, Mr. President, the Senator from Washington (Mr. JACKSON), chairman of the Committee on Energy and Natural Resources, requested a drafting service from the Department in April regarding the expansion of the Redwood National Park. The bill I am introducing today is in response to that request.

I am introducing the administration's bill for two major reasons: first, to expedite Senate action on the Redwoods issue so that final approval hopefully can be achieved before adjournment this year; and second, to express my support for the efforts this bill represents by the Carter administration to resolve a controversial issue of many years' standing.

The bill authorizes additional land acquisition totaling 48,000 acres. It also establishes authority for the Secretary of the Interior, where necessary to protect the Park, to regulate activities on nonfederal lands upstream from the Park. It further authorizes $12 million for a rehabilitation program in the Redwood Creek watershed. For land acquisition purposes, the bill authorizes such sums as may be necessary from the Land and Water Conservation Fund. Secretary Andrus has indicated that the anticipated total cost to acquire the additional lands is $359 million.

The existing 58,000-acre Redwoods National Park in Humboldt and Del Norte Counties in northern California was established by Public Law 90-545 on October 2, 1968:

To preserve sign'ficant examples of the primeval coastal redwood (Sequoia sempervirens) forests and the streams and seashores with which they are associated for purposes of public inspiration, enjoyment, and scientific study.

The 1968 law fused three existing State parks into a 50-mile long national park through the addition of some 28,000 acres of privately-owned lands. The existing park occupies portions of three major streams and several minor coastal drainages. Portions of the Lost Man Creek watershed, the Mill Creek watershed and the Redwood Creek watershed were included in the 1968 park.

Nowhere is the danger of partial watershed protection more apparent than with Redwood Creek. The 1968 act acquired a narrow strip of land straddling Redwood Creek, one-half mile wide and 7½ miles long along the alluvial portion of the lower watershed in order to include the tall trees grove in the park. This strip of land—the so-called worm—has been the focus of the continuing controversy which has raged since 1968. On either side of the creek active logging operations have subjected the park to physical damage and the visitor to the sights and sounds of commercial timber harvesting.

The additional land acquisition authorized by this administration bill accomplishes two main purposes: to provide protection to the "worm" area of the existing park by acquiring adjacent lands from ridge to ridge; and second, to provide a more manageable and attractive park unit.

In my initial explorations of the redwood park expansion issue, I endeavored to identify a land acquisition option that, by acquiring less than 48,000 acres, might have lessened the potential adverse economic impact of this expansion. I have now concluded, however, that 48,000 acres is the minimal acreage that can accomplish my overall objectives for the park itself of protecting the redwoods, especially the tall trees grove, rehabilitating the Redwood Creek watershed, and putting together a more manageable and attractive national park that can attract many new visitors.

But I have been equally concerned about the loss of jobs—and the possible decline in the economies of nearby communities—because of reduced logging. Hopefully the tourist lure of a truly attractive park ultimately will help offset any economic loss the economy of the area might suffer because of somewhat reduced logging. I am not entirely satisfied that the administration has come up with the full answer for finding suitable jobs and for helping the affected communities, and I will be exploring this subject further during Senate hearings in September.

Other provisions of the bill include a directive that the Secretary convey rights-of-way to the State of California for a bypass highway around the park, with reconstruction to be achieved by the State. Also, the bill calls for claimants for compensation to bring their claims before the U.S. District Court, rather than before the Court of Claims as is now the case. The bill includes down timber personal property to be acquired in the legislative taking. It further provides for a revesting of title by the Secretary subject to certain conditions in order to minimize payment of severance damages and to allow for the orderly removal of down timber; or to sell down timber that can be removed without damage to the park.

In addition, the bill contains a number of measures designed to mitigate the adverse effects on the local economy that might result from the expansion of the national park. These include the expression that Congress intends to provide employment opportunities to those individuals affected by this taking; a directive to the Secretary to analyze appropriate Federal actions to mitigate adverse economic impacts to the economy and to report back to the Congress by September 30, 1977; authorization to appoint and fix compensation for personnel to achieve protection and enhancement of park values and for maximum visitor use and enjoyment; and authorization for payment in lieu of taxes to local governments for lands taken for inclusion within Redwood National Park. Finally, the Secretaries of Commerce and Labor are directed to take all appropriate actions to implement available authority to mitigate adverse unemployment and economic impacts resulting from park expansion.

Furthermore, the bill enhances the authority of the Secretary to protect the resource value of Redwood National Park by authorizing him to carry out a land rehabilitation program on lands upstream and adjacent to the park. Contracts or cooperative agreements would be authorized to initiate, develop, and implement such a program on lands contributing significant sedimentation because of past land use practices and to reduce risk of further damage to streamside areas adjacent to Redwood Creek.

The Secretary is also authorized to establish zones where regulations are needed to protect the park resources from activities and interference occurring on non-Federal lands, and to enforce reasonable timber harvesting, land rehabilitation, and management practices where the existing State of California regulations are found insufficient to achieve the necessary protection. Secretary Andrus, in his transmittal letter to the Congress, noted in this regard that these steps were considered necessary because of the extraordinarily fragile ecology of the Redwood Creek watershed, particularly the Tall Trees Grove. The Secretary further noted, however, that this grant of authority would not be viewed as establishing a precedent for Federal regulation of private lands adjacent to other parks in the absence of equally exceptional circumstances.

Mr. President, I am pleased to introduce the administration's bill to add 48,000 acres of land to the Redwood National Park and to strengthen the economic base of the affected region. Naturally, I reserve the right to amend the bill—especially on more effective ways to

provide suitable alternative work for loggers and others who may lose their jobs—in light of further study and what may be developed at Senate hearings. Senator ABOUREZK, chairman of the Parks and Recreation Subcommittee, has assured me that hearings will be set in September and that these hearings will focus primarily on how best to enhance job opportunities. I completely agree with him that they should, and I have urged that hearings be set as early in September as possible so that final action can be achieved on this legislation before October adjournment.

ADDITIONAL COSPONSORS

S. 79

At the request of Mr. HELMS, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 79, relating to gold clause contracts.

S. 1297

At the request of Mr. MATSUNAGA, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1297, to guarantee that individuals receiving both veterans' pension and social security not suffer reduction of either benefit because of cost-of-living increase in the other.

S. 1540

At the request of Mr. TOWER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1540, to amend the Davis-Bacon Act.

S. 1644

At the request of Mr. PACKWOOD, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 1644, to give tax equity to parents without partners.

S. 1692

At the request of Mr. MELCHER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1692, to reform the Postal Service.

S. 1868

At the request of Mr. MELCHER, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1868, the National Crude Oil Supply Act of 1977.

S. 1923

At the request of Mr. ROTH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1923, to amend the Consolidated Farm and Rural Development Act.

S. 1935

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON), the Senator from Wyoming (Mr. HANSEN), the Senator from Colorado (Mr. HASKELL), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1935, to provide emergency drought relief.

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL ENERGY POLICY—S. 1469

AMENDMENT NO. 746

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. PERCY. Mr. President, since the turn of the century, electric companies have given the public more reliable service and ever-lower rates by building larger electric grids and generating stations. They have provided electric service unmatched in the world, and have fueled the growth of this Nation's economy.

In the last 5 to 10 years the economies of scale in the utility industry have ended. To expand production of electricity costs up to twice as much as the average cost of power. Central generating technology gives us a choice among expensive new oil imports, pollution problems with coal, or possible safety dangers from the atom.

We may be at the beginning of a new era in electric power production. There now exists an array of promising new small energy-producing technologies, all of which would supply electric power in small amounts, be operated locally, and be owned by individuals or small companies instead of by central electric utility companies. Preliminary assessments indicate they will have minimal environmental and safety problems. The systems include small-scale hydroelectric dams, cogeneration of industrial process steam and electricity, wind, and solar power.

Dow Chemical Co. and others calculate that cogeneration could by 1985 provide generating capacity equal to 40 to 60 large coal or nuclear powerplants. Existing dams could provide the equivalent of up to 2 dozen such plants, according to the Federal Power Commission. Mr. President, I ask that the full text of an article from the Chicago Tribune dated July 22, 1977 on the small hydroelectric work of Dr. David Lilienthal be printed in the RECORD at the end of my statement.

There is one institutional difficulty which could impede the implementation of these small technologies. Small dams, windmills, and other systems cannot replace central electric grids. Traditional utilities are needed to complement onsite power by providing backup power and by purchasing surplus power.

Some electric utilities, unfortunately, are uneasy about this new source of competition. Many are worried about the effects that technically unreliable equipment might have on their systems. Some fear solar generators would require expensive backup arrangements for critical peak periods, while eroding demand most of the time. For these reasons some utility companies refuse to interconnect with small power systems, or charge prohibitive electric rates. The most vivid recent example occurred in New York City. The State public service commission needed to issue a special order to Consolidated Edison Co. to connect with a windmill.

The Public Utility Holding Company Act and the Federal Power Act both make it difficult for a firm to sell electricity as a sideline to its main line of business. Moreover, the burden and cost of paperwork associated with filing as a public utility before State and Federal regulatory agencies could be prohibitive for many small power producers.

The Carter administration has taken note of these difficulties in its National Energy Plan legislation, S. 1469. The President's bill provides suitable remedies for these problems for one type of small-scale technology: the cogeneration of industrial process steam and electricity. I commend the administration for its foresight in this area.

Unfortunately, cogeneration is only one of several frontier electric technologies. Protection must be given to the full array of new small-scale systems now being tested, lest unreasonable barriers block economically and technically effective technologies from commercial application. Our deteriorating energy situation mandates that we encourage all possible solutions.

For these reasons, Mr. President, I am submitting today an amendment to the National Energy Plan, S. 1469, which provides for all small electric power producers the protections which the President recommends for cogenerators. It also guards the interests of existing electric utilities.

My amendment contains the following provisions:

First. Electric utilities are required to provide power to small power producers, and purchase surplus power. The Secretary of Energy will establish rules governing these sales;

Second. Cost of service is mandated as the criterion for rates. This explicitly establishes that special treatment of small-scale power producers is permitted when electric companies can justify rates based on cost;

Third. Small-scale power producer is defined as any small electric facility whose owner is not primarily in the electric energy business. Technologies include, but are not limited to, cogeneration, small-scale hydroelectricity, solar electric systems, windmills, solid-waste facilities, and electric storage operated in conjunction with any of the above;

Fourth. The Secretary of Energy is allowed to exempt small power producers from provisions of Federal and State public utility law as is necessary to encourage these technologies;

Fifth. The Secretary of Energy is required to prescribe technical standards for small power systems. This protects electric utilities against poorly designed or unreliable equipment;

Sixth. The administration's requirement that small power producers allow the electric utility to operate the facility is deleted. This may be anticompetitive, and does not significantly add to the technical standards protection;

Seventh. The amendment extends to all small power producers a guarantee—which is in the administration plan for cogenerators—that electric utility companies will transmit their power to third parties.

I note that this legislation will not preempt the authority of State regulators once the new regulations are promulgated. Case-by-case implementation of the rules will proceed on the State level. My amendment merely sets minimum standards, as do the other administration utility provisions; it shifts the burden of proof in rate discrimination cases from the small producer to the electric utility company.

Mr. President, I ask unanimous consent that the text of the amendment, together with the article mentioned earlier, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT. No. 746

On page 3, section 522, strike out "Cogeneration" and insert in lieu thereof "Small power producers.".

On page 75, line 10, strike out "cogenerator" and insert in lieu thereof "small power producer".

On page 75, line 15, strike out "cogenerator" and insert in lieu thereof "qualifying small power producer".

On page 76, beginning with line 14, strike out all through line 3 on page 78 and insert in lieu thereof the following:

"SMALL POWER PRODUCERS

"SEC. 522. (a) Not later than one year after the date of enactment of this Act, the Administrator shall, after consultation with representatives of State regulatory authorities, prescribe rules requiring electric utilities to offer to sell electric energy to any qualifying small power producer and to offer to purchase electric energy from any qualifying small power producer. Such rules shall insure that rates for such sales and purchases do not discriminate against small power producers except as such rates are justified by the cost of providing service to small power producers, as determined in accordance with sections 512 and 515 of this Act. Such rules may, in order to carry out the purposes of this Act, include provisions exempting qualifying small power producers in whole or in part from the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting electric utility regulation, if the Administrator determines such exemption is necessary to carry out the purposes of this section.

"(b) For the purposes of this section, the term—

"(1) 'small power production facility' means a facility owned by a person not primarily engaged in the generation or sale of electric power, which facility produces electric energy. Such term includes, but is not limited to:

"(A) cogeneration of electric energy and other forms of useful energy (such as steam or heat);

"(B) hydroelectric dams;

"(C) solar electric systems;

"(D) wind systems;

"(E) production of electric energy from solid waste;

"(F) electric energy storage facilities operated in connection with such a small power production facility.

"(2) 'qualifying small power production facility' means a small power production facility which the Administrator determines meets such requirements (including requirements respecting fuel use, fuel efficiency, and technical reliability) as the Administrator, by rule, prescribes.

"(3) 'qualifying small power producer' means any person who is, or will be, the owner or operator of a qualifying small power production facility.".

[From the Chicago Tribune, June 27, 1977]

PATERSON, N.J., REHARNESSES WATER POWER . . .

(By John Cunniff)

NEW YORK.—A contract was awarded this month to begin redeveloping a small hydroplant on the Passaic River at Paterson, N.J., that was abandoned after a 1968 flood.

At that time it was decided that spending $120,000 on repairs would not be economical, especially since electricity could be provided by a modern, powerful central generating plant.

But when this work is completed, Paterson, a city trying to recapture the energy that made it an industrial center before the 19th Century, will have an installation of perhaps 4,500 kilowatts, tiny by modern standards, but significant.

As one of those involved in the project said, "It's enough to keep an industry from leaving town."

That comment was made by David Lilienthal, who once subscribed to the engineering concept that big is beautiful and efficient, and who seemed to apply that view—he might argue with you—as head of the Tennessee Valley Authority.

Lilienthal, whose company, Development and Resources Corp., is planning the Paterson project, now believes the nation has gone too far toward a belief in centralization, as it pertains to generating power and locating the people who need that power.

Small hydropower now appears competitive at least in the Northeast, in terms of unit investment costs and operation-maintenance costs. There is no shortage of sites; there appear to be thousands of them.

The tumbling waters of New England's streams, which turned the gears of factories since colonial days, are perhaps the most abundant source. But reservoirs, locks, navigational dams, even irrigation canals, offer other opportunities everywhere.

Municipal leaders, factory owners, utility managers, and federal officials are showing interest in sites long abandoned, left behind by the supposed march of progress.

A Federal Power Commission survey of potential sites almost ignores those of less than 5,000 kilowatts, or roughly enough to serve a city of 5,000 population. But President Carter recently asked for, and soon will receive, a report on such possibilities.

An investigation by the Mitre Corp. confirmed the economic feasibility of restoring a 300-kilowatt hydroplant at Wareham, Mass. On the Nubanusit River at Harrisville, N.H., a manufacturer is restoring a 180-kilowatt site.

Lilienthal, who also served as the first chairman of the Atomic Energy Commission, believes the potential of other sites is obvious, providing leaders have adapted to the realization that power need not be centralized. Sites of as little as 500 kilowatts, and sometimes even less, might be feasible, he said.

On his desk is a report that 25 small dams in Minnesota have been withdrawn by the Northern States Power Co. in the last 20 or 30 years.

A particularly fine example, he said, is the Coon Rapids Dam at Brooklyn Park, on the Mississippi River near Minneapolis. The power equipment was removed in 1966 and the dam transferred to the Hennepin County Park Reserve District.

If restored, that same facility might provide 6,500 kilowatts, or about $1.35 million a year in power. Most likely it would not interfere with recreational facilities. Most likely it would not offend conservationists.

Lilienthal's company has designed large-scale, integrated, agricultural-industrial-human redevelopment projects around the world, but in recent months his contagious enthusiasm has centered on small power.

Since he first spoke out a year or so ago he has been deluged with inquiries. "I am not used to pioneer ideas being accepted quickly. This comes as close as any," he said.

Among other virtues, small power returns power to the people, he said. It permits the people to decentralize and retain local autonomy. Big power helped bring centralization, he said, but now "decentralization is a worldwide feeling."

To Lilienthal, perhaps more philosophical than ever in his 70s, decentralization is associated with the spirit of independence, initiative, and enterprise. He said these concepts are practicalities rather than abstractions in local communities.

"The fact that people poured into the cities was not because they wanted to go to the cities but because of forces at work that made small cities less attractive economically," he said.

"Once you change that, people will prefer to go to the small cities," he said, suggesting that youth is well aware of this.

"I take my cue from younger people. They know what is about to happen, as well as what has happened."

PUBLIC FINANCING OF SENATE ELECTIONS—S. 926

AMENDMENT NO. 747

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (S. 926) to provide for the public financing of primary and general elections for the U.S. Senate.

AMENDMENTS NOS. 748, 749, AND 750

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted three amendments intended to be proposed by him to the bill (S. 926), supra.

ADDITIONAL STATEMENTS

SENATE IS JEOPARDIZING U.S. ROLE AS HUMAN RIGHTS LEADER

Mr. PROXMIRE. Mr. President, in his historic American University speech of June 1963, President John F. Kennedy emphasized what is a profound truth of our age: the indivisibility of peace and human rights. The furnaces of war have been manned by those who have been driven by the ideology of hate and violence, by those that hold man and his dignity in utter contempt.

For men of good will everywhere, the new world that was to emerge in the aftermath of the Auschwitz ovens and the holocaust of World War II was to be one ruled by international law, and a law instilled with a profound respect for the rights of man.

At the United Nations, legally binding conventions designed to guard human rights were painstakingly hammered out. In one convention, acts committed with an intent to destroy in whole or in part an ethnic, racial, or religious group were branded an international crime—the crime of genocide.

It was hardly surprising that the United States would, in the immediate postwar years, champion the efforts to create a new legal order, dedicated to the advancement of human rights. With Mrs. Eleanor Roosevelt acting as our representative and chairing the Commission on Human Rights, the United States had an eloquent and forceful spokesperson rallying other nations around a human rights crusade.

In some ways, Mrs. Roosevelt was more successful in rallying the legislative bodies of other nations than that of her own. It is indeed peculiar that

during the 28 years since President Truman transmitted the Genocide Convention to the U.S. Senate, the convention has been ratified by almost every nation except the United States. This body's failure to act on this important treaty is an embarrassment to the American people who have long been recognized as the international leaders of the fight for human rights.

I urge the Senate to ratify the convention immediately and bring this embarrassment to an end.

SOVIET OCCUPATION OF CZECHOSLOVAKIA

Mr. PERCY. Mr. President, we shall soon mark the anniversary of the fateful events of August 21, 1968, when Soviet-led armies of the Warsaw Pact occupied Czechoslovakia and brought to an end the Czechoslovak experiment in liberalization. It was a sad day for the peoples of Czechoslovakia and for the cause of freedom.

Now, 9 years later, the peoples of Czechoslovakia are still deprived of the blessing of liberty. This situation is especially distressing to those of us who in our youth came to revere the names of Masaryk and Benes, and for those of us who are aware of the constructive citizenship of the Czechs and Slovaks in this country.

It is important that Members of Congress take note of this anniversary and speak out, so that the plight of Czechoslovakia will not be forgotten.

COMPUTERS RAISE LEGAL QUESTIONS

Mr. RIBICOFF. Mr. President, Robert P. Bigelow, who practices law in Boston, has written books and articles on problems caused in law by the advent of computer technology.

Mr. Bigelow wrote an article entitled, "Attorney for the Computer User," in the July 1977 edition of the American Bar Association Journal.

Legal problems associated with computer technology were examined in a staff report issued February 2, 1977, by the Senate Governmental Affairs Committee. The report, "Computer Security in Federal Programs," was part of the committte's yearlone investigation into computer security in Federal programs and private industry. The investigation resulted in a bill, The Federal Computer Systems Protection Act of 1977 introduced June 27, 1977.

Mr. President, I ask unanimous consent that Mr. Bigelow's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATTORNEY FOR THE COMPUTER USER

(By Robert P. Bigelow)

In May of 1966 this Journal published its first article on the legal problems caused by the computer (Bigelow, "Counseling the Computer User," 52 A.B.A.J. 461), and in June of that year the first book to discuss these questions, Computer and the Law—An Introductory Handbook, appeared under the aegis of the American Bar Association Committee on Electronic Data Retrieval, now the Section of Science and Technology.

Since 1966 the literature has expanded substantially. The committee book has appeared in a second edition. Several one-volume treatments of one or several aspects of the field have appeared, and a nine-volume treatise of text and cases, Computer Law Service, has been published. Computer law is now a field recognized by the Association's Law Lists Committee.

The 1936 article looked at problems faced by counsel to the computer user in five areas—corporate, contractual, insurance, liability, and evidence. In the first area it was suggested that in acquiring a computer a board of directors should consider business need, competition, labor problems, and liability for not using a computer. These questions are still valid, but little law has been made except in the labor field.

Computer personnel have organized into unions and sometimes find themselves in the same bargaining unit as nonc.mputer personnel. Boeing Company v. Seattle Professional Engineering Employees Association, 3 C.L.S.R. 542 (N.L.R.B. 1972). Since computer people sometimes think they are "better," this could cause morale problems and labor troubles. The Labor Department also has ruled that systems analysts and computer programmers are generally not exempt employees, although in certain cases they may exercise discretion and independent judgment. 29 C.F.R. 541, Section 207(c)(7). Cases have been decided both ways, for example, Pezzillo v. General Telephone and Electronics Information Systems, Inc., 414 F. Supp. 1257 (M.D. Tenn. 1976); Horne v. Singer Business Machines, Inc, 413 F. Supp. 52 (W.D. Tenn. 1976); and Zacek v. Automated Systems Corporation, 541 S.W. 2d 516 (Tex. Civ. App. 1976).

In the area of contracts there has been some litigation between manufacturers and users on whether the computer system the maker supplied is what the user thought he was getting. The results have been mixed. In some cases the court has relied strongly on the parol evidence rule and the entire contract clause, for example, Bakal v. Burroughs Corporation, 343 N.Y.S. 2d 541 (Sup. Ct. 1972); Farris Engineering Corporation v. Service Bureau Corporation, 276 F. Supp. 643 (D. N.J. 1967), affirmed, 406 F. 2d 519 (3d Cir. 1969) (services) In other cases these rules have been narrowly construed, or the court has found misrepresentation by the supplier. A case of the first variety is I.B.M. v. Catamore Enterprises, Inc., 1 C.L.S.R. 1025 (D. R.I. 1975), in which I.B.M. obtained judgment for the rented system and the jury awarded Catamore $11.4 million as damages for breach of the contract. This case was reversed for a new trial, 5 C.L.S.R. 1409 (1st Cir. 1976). A case of the second type is Clements Auto Company v. Service Bureau Corporation, 298 F. Supp. 115 (D. Minn. 1967), modified, 444 F. 2d 169 (8th Cir. 1971).

Computer systems are supplied under a standard contract prepared by the manufacturer. In recent years, however, there appears to be a trend by the manufacturers toward a willingness to negotiate variations from the standard form for bigger customers, if not for everyone. The biggest customer of all, the federal government, has its own standard forms. Counsel who negotiates a contract for the user may find a study of these provisions helpful. Several of these contract forms appear in 2 Computer Law Service, Appendix 3–6e.

SCOPE OF INSURANCE COVERAGE CAN CREATE DISPUTES

Insurance coverages for data processing equipment and services still are not generally satisfactory, although improvements have been made from the user's point of view. The scope of coverage can create disputes. In one case, *Datatab, Inc.* v. *Saint Paul Fire and Marine Insurance Company*, 347 F. Supp. 36 (S.D. N.Y. 1972), a water main broke in the basement of the building occupied in part by the computer user. This caused damage to several water pumps, which in turn rendered the air conditioning system inoperative. Datatab turned off its computers to prevent damage to them. Judge Lasker held Saint Paul, the user's insurer, liable under a business interruption policy, although the location of the injury to the water main was in premises beyond the control of the computer company.

Liability based on the misuse of the computer has not been the subject of many court cases. An article in this journal in 1975 (Nycum, "Computer Abuses Raise New Legal Problems," 61 A.B.A.J. 444) discussed intentional torts and the nature of the tortfeasor. The Ford Motor Company has lost three reported cases for excessive reliance on the accuracy of its computerized account records,[1] and a service bureau in Illinois has been sued by a school district whose building burned down and was allegedly underinsured because the service bureau failed to make proper statistical calculations.[2]

The admissibility into evidence of records kept on computer has been considered in a number of cases under both common law and the Uniform Business Records as Evidence Act. In general this evidence has been admitted, provided a proper showing is made that the computer was employed as a usual part of the company's business. Rule 1001 of the new Federal Rules of Evidence specifically provides that the terms writings and recordings include 'magnetic impulse, mechanical or electronic recording, or other forms of data compilation." The advisory committee's report clearly indicates this contemplates the use of computers.

The admissibility of summaries prepared by computers of statistical data is covered by a somewhat different rule. Here the underlying information must be available for examination by other parties. A thorough discussion of this rule is in D & H Auto Parts Company, Inc. v. Ford Marketing Corporation, 341 F. Supp. 989 (1973), written by the late Judge Orrin Judd of the Eastern District of New York, who was active in the Section of Science and Technology. The point also is considered in Rule 1006 of the Federal Rules of Evidence. A good discussion of admissibility problems in the computer age is found in Section 2.71 of The Manual for Complex Litigation.

Counsel who are considering either the liability or the evidentiary problems of the computer should heed the words of Judge Vincent Biunno of the United States District Court for the District of New Jersey, one of the first lawyers to consider the computer as a tool for legal research, and perhaps the most knowledgeable member of the Judiciary on the subject of computers. In Neal v. United States, 402 F. Supp. 679 (1975), he wrote: "The computer is a marvelous device that can perform countless tasks at high speed and low cost, but it must be used with care. This is because it can also make errors at high speed. Those who use computers for record and accounting purposes, including the government, are accordingly obliged to operate them with suitable controls to safeguard the reliability and accuracy of the information."

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[1] *Ford Motor Credit Company* v. *Hitchcock*, 158 S.E. 2d 468 (Ga. App. 1967); *Ford Motor Credit Company* v. *Swarens*, 447 S.W. 2d 53 (Ky. App. 1969); and *Price* v. *Ford Motor Credit Company*, 530 S.W. 2d 249 (Mo. App. 1975).

[2] Independent School District No. 454, *Fairmont, Minnesota*, v. *Statistical Tabulating Corporation*, 359 F. Supp. 1095 (N.D. Ill. (1973).

In the last ten years legal problems involving computers have arisen in a number of legal fields. Four of these—taxation, proprietary rights, privacy, and data communications—are of particular interest to counsel for the user. Some computers, because of the nature of their business or their size, are also concerned with problems that have arisen in particular contexts, such as electronic fund transfer systems, electronic stock transfer, point of sale systems in retailing, and the peculiar problems of automating hospital records.

Computer hardware generally has not caused many tax problems. But the programs that instruct the computer system have been the source of considerable difficulty because the function of software (as programs and their associated documentation and manuals often are called) has not been well defined. The Internal Revenue Service in Revenue Procedure 69–21 concluded that for income tax purposes the cost of developing software resembles research and experimental expenditures and should receive a similar accounting treatment. When the user purchases software for a separately stated price, the buyer must treat the software as intangible and ordinarly amortize the cost on a straight-line basis over a period of not less than five years. If the user acquires a computer system, however, and the price of the software is not separately stated from the hardware, the buyer may depreciate the system over its useful life, using one of several methods. This hastens the taxpayer's recapture of cost and decreases its net income.

PROBLEMS ALSO EXIST IN PATENT, COPYRIGHT FIELD

Sales, use, and property taxes are assessed by the states on tangible property. The state tax authorities have been quick to rule that separately purch sed software is goods and subject to sales tax and that it is an integral part of the computer system and subject to the property tax.

The valuation of computer systems for property tax purposes is also a matter for counsel's consideration. A computer properly maintained will continue to function for many years, and some major manufacturers so refurbish their equipment that they can sell used equipment at the same price s new. But computers tend to become obsolete within a short period of years, and the market value may fall substantially below the depreciated book value. Occasionally some models of a used computer become popular and in scarce supply. Then the price can rise almost to list. This situation usually lasts only until the specific demand is filled, at which time the secondhand market value plummets.

The tangible or intangible nature of software also has caused problems in the patent and copyright field. The Copyright Office ruled in 1964 that computer programs can be registered if certain requirements are met. The current rules are set out in Circular 61 of the Copyright Office. Major computer manufacturers rely on copyright licenses to customers as the primary method of protecting properietary programs. One of these companies advised its customers that the basic operating programs of its computers are proprietary, that the owner's right to sell the computer secondhand does not include the right to transfer these basic programs, and that the user who buys a secondhand computer from anyone other than the manufacturer must obtain a license from the manufacturer. Since the license fees run into hundreds or thousands of dollars, the effect of this policy, if enforceable, on owners and potential buyers of this company's equipment is dramatic.

A computer frequently can be instructed to accomplish a specific result either by the insertion of a program encoded on a magnetic tape or disk or by the actual hard wiring one to the other of the various parts of the computer. The latter procedure may give rise to a patentable invention, but there has been no final determination whether the former procedure is patentable. The United States Supreme Court declined to consider this general question in *Dann* v. *Johnston*, 425 U.S. 219 (1976), although the commissioner of patents in his brief requested a determination of "whether programs for existing general purpose digital computers, however claimed, are patentable under present law."

Because there has been no judicial validation of copyright protection and because of the uncertain status of patentability, many software developers (including computer users who find a market for their own internally developed programs) have turned to the law of trade secrets for proprietary protection. For a time there was doubt as to the validity of this state-enforced doctrine, but these were set to rest in Kewanee Oil Company v. Bicron Corporation, 419 U.S. 470 (1974).

The ability of the computer to handle and analyze vast quantities of data with tremendous speed has served as a catalyst in alerting the American citizen to the possibility of an invasion of his privacy through the development of massive personal data banks. As a practical matter, the economics of computer acquisition and operation have prevented any major data accumulation, but the need for succinctness in personal data entries on computer has encouraged the use of abbreviated records that often may lack the accuracy of a detailed discussion.

On January 1, 1975, the Privacy Act of 1974, the first broad federal enactment of the subject, became effective. The act is applicable primarily to federal agencies, although certain government contractors are covered, and all levels of government are prohibited from requiring disclosure of an individual's social social security number unless authorized by federal statute or pursuant to a regulation adopted before January 1, 1975.

Section 3 of the Privacy Act which requires each federal agency to establish records on all their personal data systems and, subject to limited exceptions, to permit an individual to find out the information about him therein, became effective September 27, 1975. Publication during the last five months of 1975 of notices of regulations and systems required by the act consumed 4,815 pages of the Federal Register. The publication cost alone exceeded $800,000.

The Privacy Act established a seven-member Privacy Protection Study Commission to determine the need for additional regulation, particularly at the state and local levels and for private industry. This commission must render its report by June of 1977. Several states have enacted regulations covering state and local data systems and, while no state laws now cover private systems, bills pending in Congress and several state legislatures would regulate both computerized and noncomputerized privately maintained personal data banks.

A computer system is not only a group of black boxes sitting in one corner of an office building. It is frequently a network of processing units connected to other pieces of equipment—terminals, printers, and other computers in other buildings, cities, states, and even foreign nations. Private telephone lines, the public switched telephone network, microwave systems, radio, and satellites can connect this equipment. Most of these communication services are provided by common carriers, regulated in the United States by the Federal Communications Commission.

The interplay of unregulated computers and regulated communications has developed a number of interesting legal problems. In the fall of 1966 the F.C.C. began an inquiry into this relationship and concluded (40 F.C.C. 2d 293) after numerous submissions, studies, interim rulings, appellate court decisions, and mountains of paper that in fact it had jurisdiction over data processing when connected to the communications network but would not exercise this jurisdiction; that it would continue to control communications common carriers; and that it would rule case by case in the in-between area it called "hybrid data processing." This has not proved successful, and in August, 1976, the commission began a new inquiry into the computer-communications interface.

The efficient transfer of computer data from one point to another has led to the emergencies of specialized common carriers and new technical methods that are more cost effective than the use of the telephone voice network. New companies have appeared both as carriers and as suppliers of terminal equipment for connection to the network. I.B.M., the major computer manufacturer, has joined Aetna Life Insurance Company and Comsat to establish a satellite network emphasizing service to the data processing industry.

COMPUTER WILL HAVE PERVASIVE EFFECT

State regulatory authorities conflict both philosophically and politically with the Federal Communications Commission, and the scope of the federal preemption under the Communications Act of 1934 is the subject of several pending cases. While users' counsel may have little effect on communications law, general familiarity with the subject can be helpful when dealing with the client.

The computer as a practical machine is less than thirty years old. Pocket calculators now available will accomplish most of the arithmetical operations that could be done on the early machine. It has been estimated that by 1975 the computer industry represented almost $30 billion of the gross national product, and that by 1980 its share of the G.N.P. will be larger than that of the automobile industry.

The computer does not have the consumer visibility of the automobile and the airplane, but its effect on American life will be as pervasive as any invention in history. While a majority of a lawyer's contact with computers will be as a member of the public, each of us is likely to have at least one case during our professional life in which an understanding of the computer—and the policy and legal problems it has created—will be needed.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau approximations, the total population of the United States as of August 1, 1977 is 217,435,879. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,655,964 since August 1 of last year. It also represents an increase of 192,401 since July 1, 1977, that is, in just the last month.

Over the year, therefore, we have added enough additional people to fill the combined cities of Honolulu, Hawaii, El Paso, Tex., St. Paul, Minn., Norfolk, Va., and Rochester, N.Y. And in just 1 short month, our population has grown enough to more than fill the city of Shreveport, La.

TVA

Mr. SASSER. Mr. President, today the Committee on the Environment and

Public Works held a hearing on the nomination of S. David Freeman to be a member of the board of directors of the Tennessee Valley Authority. I testified at that hearing. With the indulgence of my colleagues and because TVA is so important to the State of Tennessee, I would like to take this opportunity to express my feelings about TVA and its future.

In four decades the people of the Tennessee Valley have seen TVA grow into the largest public power facility in the world. During that time, TVA has been traditionally at the forefront of public power. The Tennessee Valley committed itself to TVA and has reaped its benefits.

We have been supplied with inexpensive electrical power and a reliable source of energy. TVA has provided countless jobs for the people of the Tennessee Valley, jobs which will continue as TVA maintains its leadership in the energy field.

Now the time has come to renew the pioneer spirit of TVA. TVA was a true pioneer in energy when it began serving as the yardstick of power companies years ago. It has lost its place as the yardstick; it can regain it quickly with bold, fresh ideas and aggressive implementation of technology and manpower. But, as a citizen of the State of Tennessee and as an elected Representative of the people of that State, I am anxious about the direction TVA will take in the future.

I have some concerns, concerns of and for the people of the Tennessee Valley. My most pressing concern is that TVA continue supplying electricity to the people of the valley at the lowest cost possible considering all the circumstances in which we find ourselves in this energy deficient time.

We need the best possible service at the lowest possible cost. Because of TVA's aggressive merchandising of electricity, the dependence of households and business in the Tennessee Valley is greater than anywhere else in the country. Because of TVA, we use more electricity than other regions of the country. Therefore, large rate increases disproportionately affect all users, and especially the poor and the elderly of the region. Having encouraged the extensive use of electricity, TVA has an obligation to provide it at the lowest cost, given the circumstances.

I am also concerned that the people of the valley and TVA have developed, in some areas, an adversary relationship. This can be changed. TVA was established to serve the people and the people must have faith in TVA's direction, in its integrity, and in its honesty.

TVA should take steps to restore publice confidence in its ability to serve the people. The members of the board of directors make decisions which affect people in seven States.

The impact of these decisions is widespread. The slightest hint of deception is easily perceived. There can be no appearance of deception. TVA, like the Federal Government of which it is a part, must be honest and open.

Many people in Tennessee perceive TVA as another monolithic, uncaring, unresponsive bureaucracy incapable of serving them and uninterested in bargaining aggressively for them in an attempt to hold down the cost of coal and other components of the production process. There are several means by which TVA can assist the consumer rather than oppose him.

It is possible for TVA to drive hard bargains for the consumers, not against them.

It is possible for TVA to consider well their projects so that the consumers do not pay for questionable and costly activities.

It is possible for TVA to revise its rates so that individuals who have been encouraged by TVA to own all electric homes will get a better break at bill paying time.

It is possible for TVA to show compassion for the poor and the elderly who must use TVA's product but cannot afford it during winters like this year's.

One attitude which will improve TVA's image is a reminder that each member of the board of directors has, just as I have and just as every Member of the Senate has, a natural constituency which must be served. Some say this fact has been overlooked in recent years.

The board members do, however, represent directly every person who uses TVA power. These users, in a very real sense, own the Authority. It is the investment of the American people which created TVA and they deserve dividends in the form of responsive, aggressive, and compassionate leadership. They want to have the opportunity to assist the directors in the decisionmaking processes. They want to feel as if their advice is welcome. They want to be assured that the people of the TVA are working for them, not against them.

Changing attitudes is a hard process and the erosion of TVA's image is, I'm sorry to say, deep. I hope that it is not too deep that the image of TVA's first 30 years cannot be reclaimed. Now is the time that the reclamation must occur.

Also I'm concerned that, while TVA should again become the showcase of public power, the people of the valley not be forgotten in this process. TVA must not become a showcase at their expense. TVA's primary purpose is the production of power as inexpensively as possible under the existing circumstances. Even though there may be some circumstances which are beyond our control, there are others which are controllable. Such control can lead to the more efficient production of electrical power. This will be fairer to the people of the Tennessee valley who have no alternative but to use TVA's product.

Furthermore, I am concerned about the possibility of experimentation at TVA at the expense of the consumer. Any testing of new technology must be done cautiously and deliberately to insure that the consumers of the Tennessee Valley do not have to pay for unnecessary governmental mistakes. I do not mean that TVA should not be innovative. It certainly should be; it must be. And it must be innovative in ways beneficial to the people of the Tennessee Valley.

In keeping with the needs of the people, TVA should embark solidly and surely on a course of providing more service in the form of insulation and weatherization advice, in the form of assistance to industry in coal conversion and waste heat recovery techniques. TVA should continue its leadership and move vigorously in utilizing new technologies like magnetohydrodynamics and fluidized bed combustion.

The Energy Research and Development Administration was established in 1975 to consolidate Federal activities relating to research and development of sources of energy.

ERDA has worked toward developing energy sources that will meet the needs of present and future generations. What ERDA, soon to be part of the Department of Energy, needs most, however, is a place where these ideas can be developed on a large scale. I would like to see the Department of Energy and TVA working together in an effort to make use of such technologies as solar power, improved geothermal power, and cogeneration. I am convinced that TVA can and should be at the forefront of utilization of alternative sources of energy.

But I do not feel that the Authority should carry the burden of this country's energy future. That burden must be carried by all Americans.

The eyes of the Nation will be watching TVA closely. As a model for our energy future it will be central in developing programs for other parts of the country. I expect that Congress will want to oversee the process of TVA and its programs. I am studying means of increasing congressional oversight of the activities of TVA.

I feel this is very important if TVA is going to be central to our national energy plan. I also expect a great deal of cooperation between TVA, Congress, and the people of the Tennessee Valley. Without cooperation, our energy plans will fail.

The Senate will soon vote on the confirmation of a new director for the Tennessee Valley Authority. The fact that we will be filling this position at this time is significant. The individual that is to be selected director is going to play an important role in the future of TVA. As I have stated on other occasions, a Director of TVA has to be committed to providing electricity to the consumers of the Tennessee Valley at the lowest possible cost. The Directors of the TVA will also have to cooperate with the energy mandate of Congress.

I am concerned about energy conservation; I am concerned about the environment; and I am concerned that we continue to supply low-cost electrical energy in the Tennessee Valley to future generations. The people of the Tennessee Valley share these concerns.

PAN AMERICAN AND ITS EMPLOYEES SUPPORT AIRLINES REGULATORY REFORM

Mr. PERCY. Mr. President, another major airline and its employees have decided to support the Airline Regulatory Reform Act of 1977. Pan American, the Nation's largest international air carrier,

recently announced its endorsement of this important legislation.

In addition to the 19 cities within the United States which Pan American services, it flies to 63 countries across the globe. It employs 20,180 workers in the United States alone. Its many charter flights, which last year carried 156,300 passengers from Chicago's O'Hare International Airport, makes it the largest carrier of international passengers from Chicago. It is significant that the unionized employees as well as the corporate management of Pan American support this bill.

Many of those who oppose the measure are concerned with the adverse impact which a more competitive airline industry might have on their job security. However, Ms. Nancy Hafner, chairman of the Pan American employees group, says Pan American employees have no problem supporting airline regulatory reform. Hafner notes:

We endorse the majority of the language of the bill, knowing it establishes the opportunity to compete for our jobs. Pan American employees are more aware than any other group in the U.S. air industry of the circumstances which have threatened our careers. The Cannon-Kennedy Regulatory Reform Bill is the first legislation introduced since the CAB was formed in 1938 which can lend some stability to our airline and our jobs.

According to Hafner, all four of Pan American's unions—the Air Line Pilots, Flight Engineers, the Teamsters, and the Transport Workers—have accepted the awareness committee's stand. As Hafner points out, the flight engineers and the airline pilots have protested to their internationals on their position against passage of this bill.

The Pan American employees group has an interesting history of involvement with political issues bearing on the airline industry. The group was formed 2½ years ago when Pan Am's bankruptcy seemed imminent. It labored successfully for the enactment of the Fair Competitive Practices Act of 1975 and has worked consistently for what Hafner calls "political relief of Pan American's problems." In light of this history, it is notable that an employee group, so acutely sensitive to the impact on employment levels of airline legislation, would support airline reform.

Pan American Airways has traditionally been in the vanguard of an airline industry effort to serve air travelers more efficiently and more economically. Juan Trippe, Pan American's founder, has been described by a New York Times article as "a prophet of the doctrine of cheap mass air travel." Under Trippe's leadership, Pan American changed the course of international civil aviation after World War II. Rather than cater to a small market comprised of the well-to-do, who could afford the luxury of first class travel, Trippe chose to develop a broad new tourist market. As the Times article notes:

Overriding the opposition of other international carriers, Pan Am became the first airline to offer an over-the-water discount fare, on its Mainland to San Juan flights in 1948. Four years later, Mr. Trippe won his battle to operate tourist-class flights between the United States and Europe, and a revolution in international travel began.

Most recently Pan American has endeavored to lower fares for Midwest and New England air travelers. A Civic Aeronautics Board decision late last year allowed Pan American to offer, on a 6-month trial basis, standby fare for the Detroit to Boston portion of its Detroit-Boston-Europe flights. The standby fare costs $50, as opposed to the normal one-way coach fare of $74 offered on competing lines. Before this CAB ruling, passengers traveling on Pan American flights from Detroit could not buy tickets to Boston, or vice versa. The results of this new fare have been astounding. In March 1977, 704 domestic passengers flew on Pan American flights between Boston and Detroit. Of that number, 323 were on a standby basis. It was found that most were not business travelers, but rather college students who would travel by other means of transportation or not at all. Pan American was not diverting the traffic from other airlines, as some had feared.

I think the sensitivity to the consumer of both Pan American management and employees is admirable. I ask unanimous consent to have printed in the RECORD the Pan American employee's announcement supporting airline regulatory reform.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

PAN AM EMPLOYEES SUPPORT REGULATORY REFORM

The Pan Am Employees Awareness Committee, speaking for Pan Am employees worldwide, supports the Cannon-Kennedy Regulatory Reform Legislation.

Again, as when petitioning for passage of the International Air Transportation Fair Competitive Practices Act of 1975 (FCPA) Pan Am employees wish your support. This time, in total agreement with Congress and the Administration, our effort seeks meaningful and prompt air transportation industry regulatory reform.

We disagree with the Mail section of the bill. It is inconsistent with the mail provision of the existing law as set forth in the FCPA. We helped to pass that law which directed that Universal Postal Union mail rates be considered to protect U.S. flag carriers from foreign competition.

We are extremely encouraged to see come our way, after 33 years domestic fill-up rights, domestic route entry, and expedited procedures.

We endorse the majority of the language of the bill, knowing it establishes the opportunity to compete for our jobs.

Pan Am employees are more aware than any other group in the U.S. air industry of the circumstances which have threatened our careers. The Cannon-Kennedy Regulatory Reform Bill is the first legislation introduced since the CAB was formed in 1938 which can lend some stability to our airline and our jobs.

We wish to enlist your support for the Cannon-Kennedy Bill.

We need you.

All we have ever asked of our government is equity of job opportunity. Nothing has changed.

Thank you.

CONGRESS AND THE MEDIA

Mr. MUSKIE. Mr. President, Joe McCaffrey, a veteran of 33 years reporting in Washington, paused recently to analyze the uneasy relationship between Congress and the media, and to reflect on the causes of public discontent with the Congress. As always, I found his thoughts well stated and to the point. To share his recent commentary on WMAL radio with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

VOICE FROM THE CAPITAL

(By Joseph McCaffrey)

Congress is very nervous about the media, and the media is becoming very nervous about Congress.

It is a "Which came first, the chicken or the egg?" sort of thing.

Did the media bring about the Congressional nervousness, or did Congress make the media nervous and the media in turn paid back the Congress?

Congressman David Obey made a speech in May to the Western Wisconsin Press Association in which he talked about the relationship between Congress and the media. Some reporters thought this was the beginning of a vendetta against them.

Now, shaking his head in disbelief, Obey says the only thing that was reported in detail about the speech was his listing of the free perquisites provided to newspeople covering the Congress.

"But that was not my point," Obey says, "I only used the media perks as an example to expand on my concern about cheap shots by members of the press and also some members of the Congress."

Obey sees a growing tendency in Congress and in the media to pander to popular prejudices, providing in overexpanding quantity information "more of a muckraking nature and not of an analytical nature."

I would agree with the Wisconsin House member. The Washington reporting corps is off with the hounds in the search of the "jazzy" story. For example, in covering the very complicated story of the Labor-Hew appropriations bill most all the attention, or at least 98% of the attention, was focused on the abortion issue. Yet there were items in that bill, funding for the cancer program for one example, which were of greater and more significant importance.

This is the fault of television. Television reporting focuses most of its attention below the belt no matter what the subject. The "grabber" is the big thing in television news reporting, substance comes last, if it comes at all.

The ideal television news story is a mad gunman holed up in an apartment building, accessible to the cameras. This is meat for TV news, and it almost seems as if TV news directors say a prayer that the next day will bring one of these deranged people into their net.

So too the coverage of the Congress is, in the minds of some desk editors, and many reporters, the bed romps of a few members, rather than the committee and floor work of most members.

One reporter said the other day that the only story she enjoyed reporting was when she "had someone by the short hair." How many such stories she had been able to develop I did not ask.

But there is a wide difference between reporting shortcomings on the Hill on the part of members and staff, and the taking of "cheap shots."

The other day there was a widely reported story about an Ohio Congressman who had his staff trucking discarded books from the Library of Congress to his office for, in most cases, his own personal use, although the provision is that such books are to be sent

to libraries and schools which could use them. Thousands of books were involved.

On the night this was reported the newspaper lay open to that story on my desk. Someone stopped at my desk and pointing to the story asked, "Joe, is there anyone up there who is honest?"

For a minute I was shocked at the question, but then I realized this was probably a normal reaction for anyone who knew the Hill only from TV and newspapers and did not know its people. My answer is, most of them are honest, very honest, but they are over-shadowed by those who fall by the wayside.

The library book story helps build a negative image of Congress.

Whose fault is it? Not, certainly the fault of those who researched and wrote the story.

No, the fault lies right inside the Congress itself. The actions of a Wayne Hays, or of a Neal Gallegher were not forced by the news media. They were naturally, reported by the media.

But then, it may be too much to expect 535 men and women to stay on the straight and narrow, temptations being what they are.

Once someone strays, the only way we know about it, usually, is because the sinner is caught by the media.

I seriously doubt if Congress makes any attempt to restrict reporters on Capitol Hill, and I also doubt that reporters will be less vigilant in watching members of Congress. Regretfully, I would also say I doubt if the cheap shot artists will refrain from their speciality.

REVENUES RESULTING FROM REPEAL OF THE SOCIAL SECURITY EARNINGS LIMITATION AT AGE 65

Mr. GOLDWATER. Mr. President, for several years now, it has been my aim to get the earnings limit of the Social Security Act repealed for all workers 65 or older. Basically, I think the law has the effect of robbing senior citizens of their money at this age since they and their employers have paid taxes into the social security system all during their working lifetimes. The earnings limit puts a condition on the receipt of their social security checks which these workers have paid for themselves, and it is most unfair as well as being totally lacking in logic.

Mr. President, the major reason used by opponents of eliminating the test is its supposed cost. But we never hear about the revenue offsets which will flow into the Treasury or the social security system as a result of repeal.

For years, I have been asking the Social Security Administration to give me an estimate of the additional social security payroll taxes and Federal income taxes that will be paid after the earnings limitation is abolished, but they have persistently refused to do so saying it cannot be done.

Fortunately, there are several economists outside of the Social Security Administration who are doing independent studies relative to the effect of the earnings limitation upon workers' decisions to retire and upon the economy, and it is not necessary to wait for the Social Security Administration to come up with revenue estimates that they say they will never produce anyway. Based on these new economic studies, some of which were just published this year, and with the help of certain reports, both published and unpublished, prepared by the U.S. Bureau of the Census, it is now possible to compute an estimate of the total tax revenues resulting from repeal of the earnings limit. I can today announce that these tax revenues will be in excess of $1 billion.

In fact, the total revenues gained by repeal of the earnings limit at age 65 will likely reach $1.3 billion.

Mr. President, what we must keep in mind is that repeal of the earnings test will primarily benefit persons who are presently nonworking and already receive all their social security benefits. It will not cost anything in additional benefits for these retirees to return to work. Once they do decide to go back to work, however, they will pay additional social security taxes, and their employers will pay an equal amount of taxes for them. Moreover, some of them will move into income levels that generate additional income taxes.

For example, if just one retiree is induced to return to work by repeal of the earnings limit and should earn $10,000, this will be a gain of $1,170 in OASDI taxes. This is the combined total of the taxes paid by both the worker and employer.

Multiply this amount by the 2 million or more older persons who will either decide to return to work or increase their earnings above the exempt amount if the earnings limitation is removed, and you can get a rough idea of the potential for additional tax revenues that will arise from eliminating the earned income test.

Mr. President, I am pleased today to release a report identifying exactly where these additional revenues will come from and how much new revenues can be anticipated as a result of repeal of the earnings limit at age 65. To my knowledge, this is the first paper of its type covering both retirees who are presently nonworking and social security beneficiaries who are presently employed, but with earnings below the exempt amount.

Mr. President, this report refutes the allegations that repeal of the earnings test will be unduly expensive. The report demonstrates that repeal will actually generate revenue offsets that recover approximately half of the claimed cost of repeal.

Cost can no longer be used as an excuse for failing to repeal the earnings limit, and I hope the Congress will soon get about the job of sending to the White House, S. 146, legislation which I and 33 other Senators have introduced to do just that.

Mr. President, I ask unanimous consent that the report of revenue offsets resulting from repeal of the earnings test for workers age 65 or older be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

INCREASED REVENUES RESULTING FROM REPEAL OF EARNINGS LIMIT AT AGE 65

A. REVENUES FROM BENEFICIARIES PRESENTLY NONWORKING WHO ALREADY RECEIVE ALL THEIR BENEFITS AND WHO WILL DECIDE TO RETURN TO WORK

	Total persons returning to work [1] (thousands)	Mean earnings [2]	Revenues		
			OASDI [3] (millions)	Income tax [4] (millions)	Total (millions)
High estimate:					
Total	2,000		$1,014.8	$207.0	$1,221.8
Males	1,200	$6,070	736.0	180.0	916.0
Females	800	3,040	278.0	27.0	305.8
Low estimate:					
Total	1,500		784.4	155.0	939.4
Males	900	6,070	575.3	135.0	710.3
Females	600	3,040	209.1	20.0	229.1

B. REVENUES FROM BENEFICIARIES PRESENTLY EMPLOYED WHO ALREADY RECEIVE ALL THEIR BENEFITS AND WHO WILL INCREASE THEIR EARNINGS ABOVE EXEMPT AMOUNT

	Total Persons increasing earnings [1] (thousands)	Mean earnings over $3,000 [2]	Revenues		
			OASDI [3] (millions)	Income tax [4] (millions)	Total (millions)
High estimate:					
Total	500		$77.4	$14.7	$92.1
Males	300	$3,070	76.7	12.0	88.7
Females	200	40	.7	2.7	3.4
Low estimate:					
Total	300		58.0	11.0	69.0
Males	180	3,070	57.5	9.0	66.5
Females	120	40	.5	2.0	2.5

C. TOTAL REVENUES GAINED BY REPEAL OF EARNINGS LIMIT AT AGE 65

	Billions
High estimate	$1.3
Low estimate	1.0

[1] The analysis takes account of the fact that the labor force participation rate of men is greater than that of women in the age group 65–71. See U.S. Dept. of Commerce, Bureau of Census, *Current Population Reports—Consumer Income*, Series P–60, No. 105, June 1977, table 49, at pp. 216–219.

[2] Source: Unpublished working paper, U.S. Dept. of Commerce, Bureau of Census (June 1977). For purposes of computing OASDI and income taxes, this analysis assumes the potential earnings of workers will fall within the same range as the actual range of earnings, from wages or salaries only, of persons 65 or older who were employed in 1975, as reported in such working paper.

[3] The analysis includes the combined amount of OASDI taxes imposed both on employees and employers (5.85%+5.85%) and takes account of the fact that such taxes apply only to income up to $16,500.

• Beginning with the 1977 tax year, taxpayers must use a new "tax table income" feature, which incorporates a flat "standard" deduction and other new concepts, in order to determine their tax liability. Although the IRS has not yet published the new tax tables, the analysis projects a conservative estimate of the likely tax revenues based upon the provisions of H.R. 3477, P.L. 95–30 and assumes that earnings will fall within the same range proportionally as the incomes from wages or salaries *only* of persons 65 or older, as reported by the U.S. Bureau of Census for 1975. This under-estimates tax revenues since the *total* income of such employed older persons actually was much greater than their earnings from wages or salaries alone, causing their incomes to be pushed into higher tax brackets than those used for computations in this analysis.

THE HIGH ACCIDENT RATES IN MINES

Mr. CHURCH. Mr. President, the Comptroller General of the United States has just sent a report to the Congress describing how the safety in our Nation's metal mines can be improved. He indicates in his report that little improvement has been made in the safety record of noncoal mines since the Metal Act was enacted in 1960.

The GAO report notes that Congress is currently considering major revisions in Federal regulation of mine health and safety. As a cosponsor of the Senate version of this legislation (S. 717) and a strong proponent of effective mine safety legislation, I am pleased to discover that the GAO feels that S. 717, as passed by the Senate, "contains a number of provisions which, if enacted, should help correct some of the problems" identified in the GAO study. S. 717 is presently in conferences in the two versions of this legislation.

This report adds to the overwhelming evidence that our Nation's mines can be made much safer, particularly our metal mines. Idaho's miners have waited far too long for effective Federal legislation establishing a strong health and safety program for metal mines. Too many lives have been lost due to an enforcement program without "teeth" and the lack of mandatory health and safety standards.

I am hopeful that strong legislation will emerge from the House and Senate conference. Our Nation's metal miners deserve no less.

Mr. President, I ask unanimous consent that the digest of the Comptroller General's report to the Congress on the Metal Act be printed in the RECORD.

There being no objection, the digest was ordered to be printed in the RECORD, as follows:

[Comptroller General's Report to the Congress]

AFTER YEARS OF EFFORT, ACCIDENT RATES ARE STILL UNACCEPTABLY HIGH IN MINES COVERED BY THE FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

DIGEST

Mining operations that produce nonfuel mineral commodities—classified as metallic ores, nonmetallic ores, and construction materials (such as crushed stone, sand, and gravel)—involve virtually every mineral except coal and usually are referred to as the "noncoal mining industry."

During 1976 there were over 12,600 active mines employing almost 248,000 persons in this industry.

The Mining Enforcement and Safety Administration (part of the Department of the Interior) compiled statistics showing that little improvement was made in the safety record of noncoal mines between 1966 and 1974, although in 1975, for the first time, progress was reported. However, the agency's program could be more effective in reducing injuries and illnesses.

The agency measures the industry's safety record primarily by the number of injuries per million hours worked that caused death or permanent injury or that prevented a person from doing regular duties for a full day beyond the day of injury. Although the agency's statistics are not completely accurate, they are the only ones available.

A few mines accounted for a large part of the reported overall reduction in injury rates in 1975, and the extent that Federal involvement was responsible for the reported reductions is uncertain. (See pp. 13 to 15.)

Other factors that contributed to reduced rates at these mines included reductions in hours worked, decreased numbers of inexperienced miners, and the failure of some operators to report all injuries. (See pp. 15 to 20.)

The Congress is considering legislation which, if enacted, should help correct some of the problems identified in this report. (See pp. 10 to 11.) This legislation would also transfer primary Federal responsibility for most aspects of mine health and safety from the Department of the Interior to the Department of Labor. If this legislation is enacted, GAO's recommendations to the Secretary of the Interior will apply to the Secretary of Labor.

REPORTING AND ANALYSIS OF ACCIDENTS, INJURIES, AND ILLNESSES CAN BE IMPROVED

Occupational illnesses are difficult to identify, and reporting of them has been minimal. (See pp. 23 to 24.) The agency's instructions to mine operators do not prescribe clear criteria for determining which injuries must be reported, and mine operators do not report add injuries as required. (See pp. 24 to 25.) The agency does not effectively analyze injury and accident information reported by mine operators and its own inspectors. (See pp. 27 to 33.) As a result, the agency's statistics are not complete and accurate and its efforts to identify specific causes of accidents and illnesses and to develop techniques to reduce them have not been based on all available information.

The agency should change its system for obtaining and analyzing accident, injury, and illness information so data will be complete and accurate. The agency should also analyze its data more efficiently and effectively. (See pp. 35 to 36.)

HEALTH AND SAFETY STANDARDS NEED IMPROVEMENT

Hundreds of major hazards are not adequately covered by the agency's mandatory standards. GAO recommends, and the agency agrees, that the agency needs additional mandatory standards to effectively prevent these hazards. (See pp. 37 to 49.)

Mandatory standards covering these hazards have been proposed by the agency (between October 1973 and August 1976) but have not been issued. At least 339 proposed standards and definitions were backlogged in various stages as of April 1977.

Issuing of standards has been delayed unnecessarily because of the agency's manner of processing. The agency said inadequate staffing also resulted in unwarranted delays. (See pp. 40 to 45.)

Hundreds of other hazards are covered only by advisory standards to which mine operators are not required to comply. GAO and the agency believe these should be replaced by mandatory standards. (See pp. 45 to 47.)

To speed up processing of mandatory standards already proposed, the agency should carry out, as soon as possible, its plans to (1) stop processing standards in large groups and (2) assign enough staff to process the standards. (See pp. 48 to 49.)

Also, to help eliminate other hazards, the agency should evaluate, as soon as possible, the merits of all existing advisory standards and upgrade them to mandatory status as appropriate. (See p. 49.)

IMPROVEMENTS NEEDED IN THE AGENCY'S ENFORCEMENT AUTHORITY AND ACTIVITIES

The agency's enforcement authority has not permanently reduced health and safety hazards in the noncoal industry.

Hazards must be identified and corrected continuously if they are to be permanently reduced. Since agency inspectors cannot be at a mine every day, mine operators must do this.

Most of the mines visited, however, were cited repeatedly for violating mandatory standards on the same types of hazards, and violation notices and noncompliance closure orders (orders withdrawing employees from the mine or affected area) were virtually useless in preventing this. (See pp. 50 to 54.) Except in situations of imminent danger, closure orders cannot be issued unless the operators fail to correct a cited hazard within the allotted time. As long as this is done, an operator can violate the same standard again. The agency can do nothing more than require correction by issuing another violation notice. Obviously, this process can be continued indefinitely with little or no disruptive effect on the operation.

The Congress should amend the Federal Metal and Nonmetallic Mine Safety Act to give the agency authority to levy appropriate penalties, such as on-the-spot closure orders and/or fines, in cases where mine operators repeatedly violate the same agency standards. (See p. 80.)

Agency inspectors look for different things during inspections and vary in their ability to identify and evaluate the severity of similar hazards. (See pp. 54 to 72.) Also, during inspections the agency has not sufficiently emphasized enforcement of health and training standards. (See pp. 73 to 79.)

The agency should:

Provide inspectors guidance on the basic procedures necessary to guarantee thorough inspections,

Place greater emphasis on enforcing mandatory health and training standards, and

Assess the quality of its enforcement activities at least annually, by analyzing inspection statistics relating to various organizational units. (See p. 80.)

MORE ACCIDENT PREVENTION TRAINING NEEDED

Accident prevention training is the most effective type of training for reduced injury rates, especially when it is directed toward specific hazards and individual jobs. (See pp. 82 to 83.) Accident prevention training for the noncoal industry is not required by the agency's mandatory standards but is recommended by an agency advisory standard.

Most agency-sponsored training in the noncoal industry involves mandatory courses: first aid, use of the self-rescuer (emergency breathing apparatus used in underground mine fires), and mine emergency and rescue procedures. Although important, this training focuses on problems resulting from accidents rather than the problems that cause accidents. For 55 high-injury mines, only 4 percent of the employees had received accident prevention training. Meanwhile, the accident rates at these mines continued to increase. (See pp. 83 to 85.)

The agency will be issuing mandatory accident prevention training standards, but they will not become effective for some time. The agency should—

Issue mandatory standards requiring mine operators to provide accident prevention training to all employees, and

Encourage voluntary accident prevention training until the mandatory standards become effective. (See p. 88.)

ROLE OF RESEARCH IN MINE HEALTH AND SAFETY

To achieve the greatest possible degree of protection for miners, the Mining Enforcement and Safety Administration develops and enforces standards and provides technical assistance to mine operators to help them comply with standards. The Bureau of Mines conducts a research program to develop technology to help carry out these activities.

The Bureau's noncoal mine research projects had—

Not led to the enactment of standards,

Assisted the Mining Enforcement and Safety Administration only slightly in enforcing standards, and

Assisted mine operators only slightly in complying with standards. (See pp. 91 to 95.)

The research program's ineffectiveness resulted from a lack of coordination and cooperation between the Bureau and the Mining Enforcement and Safety Administration in establishing project priorities, monitoring progress of projects, transferring resulting technology to mine operators and from low funding and budget priorities. (See pp. 95 to 102.)

The Bureau and the Mining Enforcement and Safety Administration agreed that the low funding severely limits the research program. Repeated attempts by Bureau officials to substantially increase funding were rejected by the Department of the Interior, until recently.

According to the Department, the noncoal research program has low funding because the Congress has not specifically ordered more funds.

The Secretary of the Interior should:

Instruct the agencies to set up and use procedures for coordinating transfer of technology between them, as they have agreed to do.

Watch how the agencies put into practice agreed-upon procedures for coordinating the program.

Continue the Department's recent efforts to increase the funding of the Bureau's research program. (See pp. 102 to 103.)

To clarify the scope of Federal noncoal mine health and safety research, the Congress should enact legislation specifically authorizing the types of research and the funding they should get. (See p. 103).

NEW APPROACH TO IMPROVING THE INDUSTRY'S HEALTH AND SAFETY RECORD

The Mining Enforcement and Safety Administration's Program in Accident Reduction, designed to reduce injuries at operations with significant safety problems, began late in 1975. It recognizes that only a few operations account for most reported injuries. (See pp. 105 to 107.)

The Program in Accident Reduction is still relatively new and improved approaches and techniques undoubtedly will develop. The program is a crucial test of whether the agency can fulfill its mandate to improve the health and safety of noncoal workers.

Results of the new program through September 1976 have been mixed. Eleven of the 30 operations in the program reported no reduction in their injury rates, 5 reported only marginal reductions, but the remaining 14 reported large and, in some cases, dramatic reductions. (See p. 107 to 110.)

The agency's expansion into areas other than its traditional compliance inspections and training activities can be effective. Improved guidance and training for those conducting the program is needed. (See pp. 110 to 114.)

AGENCY COMMENTS AND GAO'S EVALUATION

The Department of the Interior agreed with GAO's recommendations and said that some had already been implemented by Department agencies. It said GAO's review had already served as the basis for improvements in its noncoal mine health and safety program and anticipated that GAO's report would be of considerable value to its program in the future.

However, the Department questioned the validity of some of the analyses presented in GAO's report and conclusions derived therefrom. The Department's comments and GAO's evaluation, when appropriate, are discussed on pp. 20, 21, 36, 49, 81, 89, 103, 104, and 115.

UNION-MANAGEMENT COOPERATION FOR PRODUCTIVITY IMPROVEMENT

Mr. PERCY. Mr. President, responding to the general concern that the pace of economic recovery may be slowing down, it is my conviction that we can bolster our economic security and insure our standard of living by substantially increasing productivity in industry and commerce.

Productivity improvement has been a longstanding interest of mine, and I have been particularly interested in union-management cooperation in areas and concerns beyond the collective bargaining boundaries as a means of increasing productivity.

According to Milton Derber, professor of labor and industrial relations at the Institute of Labor and Industrial Relations, University of Illinois, such cooperation can be found as far back as the 1920's.

In an article published in the "Annals of the American Academy of Political and Social Science," in May of this year, Professor Derber explains that, while the history of such cooperation dates back half a century, many of these early efforts have not survived.

The National Center for Productivity and Quality of Working Life, established by Congress with my full support, and that of my colleagues Senator JAVITS and Senator NUNN, has sought to encourage such cooperative effort. Professor Derber reports that the National Center has sponsored union-management conferences and distributed popularly written reports and pamphlets publicizing labor-management committee operation.

Among such plans publicized by the National Center, Professor Derber notes, were the Employment Security and Productivity Committee established in the basic steel industry as a result of the collective bargaining agreement of 1971; the relatively long-established Scanlon Plans which provide for group bonus participation in productivity gains; the joint cooperative committees in the Tennessee Valley Authority; the Jamestown, N.Y., community program begun in 1971; the labor-management cooperation arrangements developed through the initiative of the Federal Mediation and Conciliation Service; the national joint labor-management committees in the retail food and interstate trucking industries, and in other industrial and mining enterprises.

In my own State, such committees have been established, both in the public and private sectors, including the city of Chicago, where the Chicago Construction Coordinating Committee has been functioning since 1973. The city of Champaign and AFSCME Local 47, with the help of the university's institute, have organized joint committees to deal with problems of mutual concern.

A listing of these committees, State by State, is included in a "Directory of Labor-Management Committees," published by the National Center in October 1976, and which I am informed is presently being updated. This is a useful report for anyone who wants to find out from others how to organize a labor-management committee.

Significantly, I have noted through my work on the Foreign Relations Committee that cooperative labor-management initiatives have extended to many of the industrial nations of Europe, and in some nations the labor movement has sought greater participation in functions traditionally seen as management.

The leaders of the American labor movement have maintained a firm ideological attachment to collective bargaining as the main route to industrial democracy. The establishment of labor-management committees in this country has been as an adjunct to the collective bargaining process, with joint-committees mainly confining themselves to areas of labor-management concern outside of collective bargaining issues.

Such cooperation, properly organized and motivated, can lead to improvement in productivity, as has been shown in initiatives recently undertaken.

Mr. President, I ask unanimous consent that the full text of Professor Derber's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLLECTIVE BARGAINING: THE AMERICAN APPROACH TO INDUSTRIAL DEMOCRACY

(By Milton Derber)

Abstract: Collective bargaining is the American route to industrial democracy. Some unionists and others, however, have advocated a widening and deepening of the participative role of workers and unions in managerial decision making. Examples of union-management cooperation outside of the conventional collective bargaining boundaries can be found as far back as the 1920s. But only a small number of cases have survived to the present day. Since 1970 the federal government has encouraged joint union-management committees and autonomous work group experiments to improve productivity and the quality of working life. A National Center for Productivity and Quality of Working Life has been established by Congress. A number of companies have, independently or in cooperation with unions, introduced job enrichment programs, flexible work schedules, and semi-autonomous work groups. Many companies have taken advantage of tax law benefits to adopt profit-sharing and employee stock ownership plans. Union leaders have generally been suspicious of such management schemes as well as productivity plans unless safeguards are provided for worker job security and employ-

ment conditions. They have rejected the German codetermination system of worker-directors. There appears to be little prospect of dramatic change during the foreseeable future although collective bargaining may gradually extend worker participation in managerial decision making.

In contrast to European developments, the theme of industrial democracy has evoked relatively little discussion in the United States in recent decades. This condition is not attributable to a lack of interest on the part of unionists or weakness in the labor movement. It is due, rather, to the predominant view that industrial democracy in the United States has been widely achieved through the system of collective bargaining. Imperfections and limitations of collective bargaining are recognized, but only a small minority of labor activists call for new routes to industrial democracy, such as German co-determination, Yugoslav workers councils, or Scandinavian autonomous work groups.

COLLECTIVE BARGAINING: THE AMERICAN ROUTE

The American idea of collective bargaining as industrial democracy is the product of more than a century's experience. Since I have treated this evolution in a book-length analysis,[1] I shall not attempt even a short sketch here. It is important to note only that the collective bargaining system emerged out of fierce competition with numerous alternatives: individualism; socialism; profit-sharing, stock-ownership, co-partnership; company employee representation plans; syndicalism; producers cooperation; scientific management; and others.

The essence of collective bargaining as industrial democracy is as follows: (1) employees have the right to form, belong to, and govern labor organizations of their own choice without employer interference; (2) employers and their managerial staffs have the right to form their own representative organizations and to manage the operations of their enterprise; (3) wages, hours, and other terms and conditions of employment are codetermined through the process of collective bargaining, and the agreement is reduced to writing in a signed and legally enforceable contract; (4) employee grievances and complaints over the implementation of the contract and claims to fair treatment are subject to due process through a formal grievance procedure specified in the contract; (5) neither the managers nor the union officers may discriminate against an employee (or potential employee) because of race, sex, age, national origin, or religion; (6) the strike or lockout is a legitimate tool in the determination of the contractual rules governing the relationship, although the parties may voluntarily abstain from or relinquish its use; (7) in the resolution of grievances the strike is generally replaced by binding arbitration; (8) the personal dignity of all employees, whether part of a minority or majority group, is respected, their freedom of speech is protected, and they are treated as equal citizens with equal opportunities at the work place and in their union.

This model of industrial democracy, like the counterpart model of political democracy, is rarely achieved in its entirety and is often seriously abused. The federal and some state governments have sought through legislation, administration, and adjudication to safeguard and promote its principles.

BEYOND COLLECTIVE BARGAINING

Since the 1930s, most trade unionists and their leaders, as well as most large employers, have been content to work and live under the collective bargaining system. Some, however, have desired to extend the scope of union-management interaction beyond its conventional boundaries. In particular, they have advocated a widening and deepening of the participative role of workers and the union in managerial decision making. This approach was epitomized several decades ago by a work entitled *Organized Labor and Production: Next Steps in Industrial Democracy*,[2] jointly authored by Philip Murray, then head of the Steel Workers Organizing Committee and vice-president of the Congress of Industrial Organizations, and Morris L. Cooke, a kell-known consulting engineer and advocate of scientific management. The imaginative work envisaged a comprehensive integration of unionism and scientific management in the enterprise and the industry, the full sharing of business and industrial information, and even the seating of one or more union officials on company boards of directors. At the national level, unions, management, and government would cooperate in close harmony to achieve a stable and growing full-employment economy based on collective bargaining, civil rights for employees, and scientific control of industrial relations.

Although the Murray-Cooke dream of industrial democracy was largely ignored, a small minority of unionists and managers did develop schemes of union-management cooperation outside the normal collective bargaining boundaries. Examples[3] can be found as far back as the 1920s in the railroad and garment industries, but the best-known programs developed just before and after World War II are the Tennessee Valley Authority joint cooperative committees to eliminate waste, increase efficiency, stimulate training, safeguard health, and generally improve employee morale, and the Scanlon Plan, a system of joint worker-supervisor suggestion committees combined with a cost-saving plant-wide bonus. In both cases, the cooperative arrangements were carefully kept separate from the collective bargaining process.

During World War II, some 5,000 joint management-labor production committees were set up under government sponsorship to help increase productivity and to boost morale, but only a few hundred were estimated to have made any significant contributions to productivity and virtually all of them disappeared after the war.[4] In the late 1950s and early 1960s, several major union-management agreements revived interest in developing new collective bargaining institutions for the furtherance of productivity, the protection of employee job rights, and the enhancement of cooperative relations. Among these were the Armour Automation Plan (1959) in which Armour and Company and the then two major meat packing unions attempted to ease the displacement effects of a major company reorganization involving the shutdown of about a dozen obsolete plants and the opening of several new plants in different geographical locations; the Mechanization and Modernization Agreement of the West Coast Longshore Industry (1960), in which the Pacific Maritime Association bought out a complex of restrictive work rules with work and income guarantees; and the Basic Steel Human Relations Committee (1959), which was an outgrowth of the 116-day steel strike and which established joint union-management subcommittees to study problems and potential conflict issues during the period between contract negotiations. All three of these programs and most of the others like them had a limited life but made important contributions during their existence.[5]

THE NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

A new stage in the evolution of methods to extend union-management relations beyond traditional collective bargaining limits was presaged by the establishment of the National Commission on Productivity by President Richard M. Nixon in July 1970.[6] As its name indicates, the orginal purpose of the commission was to revitalize a slackening productivity and to "achieve a balance between costs and productivity that will lead to more stable prices."[7] In December 1971, an amendment to the Economic Stabilization Act (Public Law 92–210) gave the commission statutory recognition and enlarged the scope of its functions and responsibilities, including encouragement and assistance in the establishment of "labor-management-public committees."

In 1973, when the Stabilization Act expired, the Senate passed a bill that would have expanded the commission's objectives to include "to help improve the morale and quality of work for the American worker." It was also proposed to change the name of the agency to the National Commission on Productivity and Work Quality. This bill was disapproved in the House, objections being voiced to its $5 million cost, and only by executive order was the curtailed commission able to survive as the Office of Productivity under the Cost of Living Council.

In the spring of 1974, however, the House reversed its earlier vote and a new law was enacted and signed on June 8, 1974, establishing the National Commission on Productivity and Work Quality under the chairmanship of Vice-President Nelson Rockefeller with a one-year appropriation of $2.5 million. In November 1975, still another law was passed (Public Law 94–136) which repealed its predecessors and transferred the staff and functions of the commission to a new National Center for Productivity and Quality of Working Life. The center was to be governed by a board of directors composed of 27 members, appointed by the president, from labor, business, the general public, state and local government, and the federal government. In addition to its prior functions of fostering productivity and work quality, it was directed to work closely with federal departments and agencies to help improve their productivity. It was given an appropriation of $6.25 million for the period to September 30, 1976, and $5 million for each of fiscal 1977 and 1978, thus assuring a continuity of nearly three addtional years. The word "center" instead of "commission" was apparently intended to emphasize the agency's continuing role.

This brief, rather erratic experience was reflective of two incongruent forces. In the one hand, there was a widespread feeling in many influential circles (the media, academe, and segments of industry workers were becoming increasingly discontented with work and work relations and that the productivity of American producers was falling behind that of their competitors in Europe and Japan. This sentiment, whether wholly accurate or not, was fostered by the widely publicized strike of General Motors workers at the company's new and highly automated assembly plant at Lordstown, Ohio, in early 1972; by the report of a Task Force of the Secretary of Health, Education, and Welfare published in December 1972 under the title, *Work in America* and European publications and conferences on worker alienation, the "new working class," job enrichment and enlargement, and humanization/democratization of the work place.

As a brake on the over-zealous proposals of some proponents of a new industrialized order, spokesmen for organized labor expressed reservations and conditions. In cases such as Lordstown, they noted that the factors involved were no different from those in disputes of prior years over the speedup and other unsatisfactory working practices. On the productivity front, they reaffirmed a long-held position that productivity gains must not be made at the expense of worker employment, pay levels, or conditions of work. At the same time, they made it clear that if steps were to be taken to spur worker productivity and to humanize the work place, they wanted to be consulted.

Footnotes at end of article.

The intended consequences of these dual forces were, as noted above, a continued and ultimately successful pressure for the establishment of a permanent center and a readjustment of the objectives and structure of the center (1) to balance employer interests in greater efficiency and competitiveness with labor interests in improved working conditions and (2) to assure that programs stimulated or assisted by the center would be based on union-management agreement and, where feasible, joint committees. In the course of these developments, the boundaries of the system of industrial democracy, based on collective bargaining principles and procedures, were enlarged.

It is too early to try to evaluate the contributions of the center and its predecessors since 1970 to American industrial democracy. Moreover, both before and since 1970, some of the more progressive corporations, occasionally in cooperation with unions, have conducted autonomous experiments and developed innovative programs without the commission's or center's involvement. Some illustrations from both categories may illuminate the paths for possible future development.

COMMISSION/CENTER HIGHLIGHTS [8]

The principal contribution of the commission was to encourage and support joint committee programs through publicity in the media, the issuance and distribution of popularly-written reports and pamphlets, and union-management conferences. Supplementing these efforts on a very limited scale, the commission helped to initiate and sometimes to finance joint committee systems as well as some experiments in autonomous work groups.

Among the plans which the commission widely publicized were the Employment Security and Productivity Committees established in the basic steel industry as a result of the collective bargaining agreement of 1971; the relatively long-established Scanlon Plans and the joint cooperative committees in the Tennessee Valley Authority (TVA); the Jamestown, New York, community program begun in 1971; several labor-management cooperation arrangements developed through the initiative of the Federal Mediation and Conciliation Service (FMCS) and utilizing its Relations by Objectives (RBO) technique; [9] the national joint labor-management committees in the retail food and interstate trucking industries fostered by the Cost of Living Council and the FMCS; the quality of work demonstration project at the Cleveland plant of the Eaton Corporation; and the autonomous work group experiment at the Rushtown Coal Mine of Philipsburg, Pennsylvania. In addition to these largely private sector plans, the commission/center has focused attention on the use of joint committees in the federal and local governments.[10] The origins, objectives, and procedures of these plans varied significantly. A brief description of three of them may indicate the range of thinking and practice.

In the steel industry, for example, the 10 major corporations and the United Steelworkers of America agreed in 1971 that in order to improve the international competitive position of American steel and thereby to protect jobs and profits, joint labor-management employment security and productivity committees would be set up at the plant level. The committees were to be composed, for the union, of the local union president, the chairman and secretary of the grievance committee, and the grievance committeemen most concerned with the agenda problems to be discussed, and for management, of the plant manager, the superintendent of industrial relations, the plant industrial engineer, and the area superintendent. Although final decisions on operations changes were left to management, the latter often adopted union ideas. When they did not, they discussed with the unionists the reason for not acting.

According to the National Center report, some 250 plant committees had been established by 1975 with widely varying results. Workers in some plants continued to be suspicious that productivity gains would be at the expense of speedup and job loss. On the other hand, examples of successful committees were cited to illustrate that by reducing costs and improving quality, job security was enhanced and worker morale was strengthened. Union President I. W. Abel credited the committees with contributing to more mature collective bargaining relationships throughout the industry. There were dissenters in the union, however, who thought the workers' interests had been sacrificed.

The Jamestown, New York, program illustrates a community-wide effort to restore economic health to a depressed and conflictful industrial city through union-management cooperation. The initiative came from the mayor with the assistance of a representative of the Federal Mediation and Conciliation Service. About two years after the Jamestown Area Labor-Management Committee had been established and had demonstrated notable progress in increasing productivity and reducing strife in its 36 member enterprises, it received financial assistance from the National Commission on Productivity and Work Quality and the Economic Development Administration of the U.S. Department of Commerce to intensify its program at the plant level. A full-time professional coordinator was appointed to get plant union-management committees started or restarted, to help implement skill development training of workers and managers, and to extend committee activities to work redesign, communication, grievance handling, and safety. No attempt was made to standardize in-plant committees. The parties in each plant determined their own structure, procedures, and problem priorities. In some plants, the committees almost failed because of insufficient or ineffective communication with rank and file workers. But overall, the leaders of the program felt that substantial progress had been made.

Perhaps the most far-reaching experiment sponsored by the National Commission was the autonomous work group program in the Rushton Coal Mine, Philipsburg, Pennsylvania, modeled after European examples, with the agreement of the United Mine Workers of America. The experiment took the form of an action-research project initiated by the private National Quality of Work Center, with the research team drawn from the University of Pennsylvania and Penn State University. A local union-management committee, known as the Steering Committee, collaborated with the research team in designing, developing, and implementing the project.

Initially a 27-member work group, consisting of volunteer miners, was trained to peform a variety of jobs in a section; pay and classification differences were eliminated: and the three crew foremen were limited to planning and safety functions. The work group was given full responsibility in mining the coal. Collaboration replaced competition among the workers, interest in the work and worker satisfaction grew measurably, accidents declined, and productivity jumped. The experiment encountered many difficulties, but these were gradually overcome and the experiment was extended to the entire mine, after the plan was modified to take into account some worker objections and ideas.[11]

As noted above, the Rushton experiment was initiated by a unit originally known as the Quality of Work Program. This unit originated in the Federal Price Commission in 1972, was transferred the following year to the National Commission on Productivity and Work Quality, and in April 1974 was transformed into the private, non-profit Washington-based National Quality of Work Center in close association with the University of Michigan's Institute of Social Research. The center's goals are to develop and seek funding for demonstration projects, such as Rushton, in order to improve productivity, the quality of working life, and labor-management relations.[12]

INDEPENDENT COMPANY EXPERIMENTS [13]

In the decade or so prior to the establishment of the first commission, a number of leading companies had introduced, more or less independently, a variety of schemes designed to improve employee morale and boost productivity. Some of these schemes involved simply the redesign (enlargement, enrichment, rotation) of jobs and work practices; a few were more farreaching, emphasizing greater participation of workers in management decision making and alteration of supervisory structures and styles. Virtually all were initiated by management, often as a result of some academician's or consultant's theories or suggestions. Most, but not all, were conducted in non-union plants or among non-union groups of employees.

Among the participative programs that received particular attention was one established in 1971 at a new Pet Food plant (General Foods Corporation) in Topeka, Kansas. All 70 of the employees were organized into relatively autonomous work groups (from 8 to 12 members) responsible for a production process. Group members were trained to perform all requisite tasks. Supervisors were replaced by team leaders, who were ultimately expected to be unnecessary. Parking lot, cafeteria, locker rooms, and other facilities were available to all on an equal basis. It was estimated that the 70 produced as much as a conventional plant of 110. But the Pet Food approach has not been widely imitated, and the General Foods Company has been cautious in extending ideas gained from this experiment to its other plants.[14]

A number of other major companies have developed self-management work groups or redesigned jobs to make them less boring, including AT&T, Polaroid, Texas Instruments, Monsanto Chemical, and Kaiser Aluminum, but these have mostly been confined to small sections or groups. No large-scale changes in company practice have been reported. For the most part, it may be suggested, these job enrichment and worker participation schemes are a late twentieth-century revision of Taylorism, a new model of scientific management based on recent psychological theories about job satisfaction and communications instead of engineering concepts. Like the earlier scientific management models, they have rarely been adopted in a total system but rather have been applied in selected parts.

OTHER APPROACHES

Contemporary with the foregoing programs were scattered company experiments with other ideas about the humanization of work, the improvement of worker morale, and increases in productivity, efficiency, and profitability. One set of ideas focused on work schedules, another on financial incentives.

Experiments with unconventional work schedules reflected the belief that workers would be happier and more productive (these qualities are not necessarily correlated in practice) if they had more flexibility in coming to or leaving work or if they had a prolonged weekend.[15] The former typically provided a band of starting and finishing hours between, say, 7 and 9 A.M. and 3 and 5 P.M., maintaining the same number of hours in a work day or work week while allowing employees to avoid rush-hour traffic, carry out domestic and personal errands, or get children off to school. The latter lengthened the

Footnotes at end of article.

work day from eight to ten hours while reducing the work week from five to four days, thereby giving employees a longer weekend and cutting down on travel time. Both schemes appeared to achieve their aims to the mutual satisfaction of some employers and employees.

In other enterprises, however, the experiments were unsuccessful either because of the nature of production or, in the extended workday case, because of opposition to a lengthening of the historic eight-hour day. Unions, in particular, objected to the latter scheme. Instead, they proposed a shortening of the work week to 36 or 35 hours and the elimination or reduction of overtime. In 1973 one of the major issues in the lengthy Chrysler strike was compulsory overtime, and the compromise settlement provided that production employees may not be required to work more than nine hours a day, six days a week, or two consecutive Saturdays except during the annual model changeover period and at key parts plants. In 1976 a central issue of the Ford strike was an increase in the number of paid days off, and the three-year settlement provided for 13 additional paid nonwork days (over the three years, not per year) beyond the existing paid vacations and holidays. But this step toward reduced work time was designed to spread work and increase job opportunities rather than to make the work situation more palatable to employees.

Since the last quarter of the nineteenth century, one of the paths to democratization of industry as well as to higher productivity advocated by some reformers was to give employees either a share in current profits or in stock ownership. In either event, it was felt that the tie of employees to the enterprise would be strengthened and their productive effort would be enhanced. Neither profit sharing nor stock ownership made a great deal of headway, however, until after World War II. Changes in the tax law gave profit sharing a tremendous impetus with the result that between 1947 and 1965 the number of plans approved by the Internal Revenue Service rose from under 2,000 to nearly 43,000. Parallel tax law changes in 1974 and 1975 promised to have a comparable effect on stock ownership. A particular beneficiary was a plan developed and long advocated by lawyer Louis O. Kelso under the label ESOP (employee stock ownership plan). ESOPs have been used to enable companies to make capital investments at reduced interest and tax rates. In some cases, they have led to employee ownership of financially distressed companies. Although most of the ESOP users are comparatively small, an increasing number of major firms are exploring the feasibility and desirability of its adoption.

Whether profit sharing or stock ownership increases employee loyalty or productivity remains a debatable question.[16] There is very little hard evidence thus far that employee participation in decision making has advanced. For the most part, unions have been suspicious and antagonistic, fearing that successful schemes will weaken employee attachment to their union and unsuccessful ones will bring criticism on cooperating union leaders. Others are critical on the grounds that whatever financial benefit accrues to companies and employees will be at the expense of taxpayers and the U.S. Treasury.

UNION ATTITUDES

Throughout the swirl of discussion and experimentation during the 1960s and 1970s in the United States and Europe, the leaders of the American labor movement have maintained a firm ideological attachment to collective bargaining as the main route to industrial democracy.

This view was clearly and succinctly expressed by Thomas R. Donahue, executive assistant to the president of the AFL–CIO, in a speech delivered at an international conference in Montreal on May 26, 1976.

"We do not seek to be a partner in management—to be, mostly likely, the junior partner in success and the senior partner in failure.

"We do not want to blur in any way the distinctions between the respective roles of management and labor in the plant.

"We guard our independence fiercely—independent of government, independent of any political party and independent of management.

". . . We've watched co-determination and its offshoot experiments with interest, and will continue to do so, but it is our judgment that it offers little to American unions in the performance of their job unionism role (given our exclusive representative status and our wide-open conflict bargaining) and it could only hurt U.S. unions as they pursue their social unionism functions—seeking through legislation, political action, community involvement and a host of other approaches, to improve our members' lot by improving society generally." [17]

William W. Winpisinger, general vice-president of the International Association of Machinists and Aerospace Workers, put labor's position about job enrichment more bluntly.

"I can think of no better way to sum up my opinion of job enrichment than to say that it's nothing more than good old "job evaluation" and "time and motion study" in sheep's clothing. Any time industrial engineers and management get together, the workers end up getting it in the neck." [18]

A somewhat more sanguine view has been expressed by Irving Bluestone, a top official of the United Automobile Workers Union.

". . . American unions move to meet practical problems with practical solutions. It is highly improbable that they will approach the problem of worker participation in decision making via fierce ideological struggle founded in socioeconomic theory. . . . When workers feel victimized, they combine their forces to correct the situation, case by case, problem by problem. Gradual persistent change, not revolutionary upheaval, has marked the progress of the American worker." [19]

Bluestone went on to note that decisions regarding purchasing, advertising, selling, and financing, or the selection of a board chairman, are far more remote from the immediate problems facing the worker than are job-related decisions. He foresaw, as areas of possible confrontation between union and management, decisions about plant shutdowns and relocations, subcontracting of work or shuffling of work among facilities in a multiplant corporation, production scheduling and standards, technological innovation, and calls for excessive overtime. Beyond the immediate job level, however, he envisaged controversy about the double standard for managers and workers with regard to hourly and salaried pay and the use of time clocks, "paneled dining rooms" versus "spartan cafeterias," privileged parking facilities, and organizing the work schedule to enable the worker to manage his personal family and home chores. Responding, in effect, to the Lordstown publicity, he stated that one of the essential tasks of the union movement is to "humanize the work place." But he also warned that humanizing the work place "must not become simply another gimmick designed essentially to 'fool' the worker by having as its primary goal or hidden agenda an increase in worker productivity." [20]

As to the sentiments of the mass of union members on the subject of industrial democracy, John Carmichael, executive secretary of the Newspaper Guild of Minneapolis and St. Paul, suggests:

". . . many trade union leaders in this country have underestimated the interests of their members in this kind of development [that is, worker participation in the decisions of the work place]. It may not have surfaced yet in a volatile way, but I am convinced the interest is there. You don't have to be an alienated, dissatisfied worker to be interested in worker participation. Some of the most productive, responsible workers . . . are interested in workplace decision-making and will participate." [21]

Carmichael's view is given some reinforcement by a report issued by a group of some 50 California trade unionists, members of a wide variety of unions, attending a university conference on "The Changing World of Work." The report starts out with the assertion: "This first Western Assembly of Workers calls for a major extension of democratic principles in the workplace. While our individual needs vary widely, we have the strong conviction that we as workers generally have too long been ignored in making critical decisions affecting our work life." [22] The report continues, however, with an expression of strong support for the collective bargaining system, and the belief that it is compatible with a broader worker participation role. It calls, in particular, for experiments with worker-elected supervisors, without disciplinary powers, whose primary function would be coordination.

PROSPECTS

Predicting the future course of social change is a dubious project. The history of American industrial democracy, however, suggests little prospect of dramatic change in the work place during the foreseeable period ahead. Partly out of concern with domestic problems including high turnover and absenteeism, ineffective discipline, and slackening productivity growth, and partly in response to publicity about recent European industrial relations developments, American managers and unionists have displayed increasing sensitivity to methods of extending worker participation in decision making, making the work place more satisfying, and reducing job boredom. But the approaches that have been adopted in most quarters have reflected the traditional pragmatic, nonideological spirit, and collective bargaining, despite its recognized limitations and imperfections, seems certain to retain its dominant role.

Indeed, the strength of collective bargaining has been its pragmatic quality in response to changing conditions, and needs. It has never been constant or static, as even a superficial review of bargaining structure and scope, contract administration, and dispute settlement procedures demonstrates. Most of the recent innovations in job redesign, employee-supervisor relations, flexible work schedules, and incentive pay schemes are compatible with collective bargaining. Joint union-management productivity and work quality committees have many forebears. Neither profit sharing nor stock ownership is novel, and recent versions, largely stimulated by tax law benefits, do not appear to promise a fundamental change in the management of most enterprises. Finally, there is little current evidence that American workers or unions desire to assume managerial responsibilities apart from the codetermination of job-related terms and conditions.

FOOTNOTES

[1] Milton Derber, *The American Idea of Industrial Democracy* (Urbana: University of Illinois Press, 1970).

[2] (New York: Harper & Row, Publishers, 1940).

[3] See Harry M. Douty, *Labor-Management Productivity Committees in American Industry* (Washington, D.C.: The National Commission on Productivity and Work Quality, May 1975).

[4] Dorothea de Schweinitz, *Labor and Management in a Common Enterprise* (Cambridge, Mass.: Harvard University Press, 1949).

[5] See James J. Healy, ed., *Creative Collective Bargaining: Meeting Todays Challenges to Labor-Management Relations* (Englewood Cliffs, N.J.: Prentice-Hall, 1965).

[6] This commission offers a striking contrast to the National Commission on Technology, Automation, and Economic Progress, established by Congress and appointed by President Lyndon Johnson in 1964. The latter was based on the assumption of an accelerating automation which, many feared, would displace workers and create extensive social and personal dislocations and hardships. See Report of the National Commission on Technology, Automation, and Economic Progress, *Technology and the American Economy*, vol. 1 (February 1966).

[7] First Annual Report of the National Commission on Productivity, appendix A, (March 1972), p. 21.

[8] See National Center for Productivity and Quality of Working Life, *Recent Initiatives in Labor-Management Cooperation*, February 1976, 62 pp. and appendices.

[9] RBO is a technique devised by the FMCS to resolve deeply imbedded union-management conflicts that have reached crisis proportions for the parties. It involves separate and joint sessions in which union and management officials are led to define what the other party should do to improve relations, what each party should do itself, what "action steps" should be followed to achieve each of a mutually accepted list of objectives, and a timetable for implementation.

[10] Only limited information is available on these governmental committees. See, for example, James E. Martin, "Union-Management Committees in the Federal Sector," *Monthly Labor Review*, vol. 99, no. 10 (October 1976), pp. 30–2.

[11] An enlightening account of the Rushton experiment is provided by Ted Mills, "Altering the Social Structure in Coal Mining: A Case Study," *Monthly Labor Review*, vol. 99, no. 10 (October 1976), pp. 3–10.

[12] National Quality of Work Center, *The Quality of Work Program: The First Eighteen Months*, April 1974–October 1975.

[13] See, in particular, Special Task Force to Secretary of Health, Education and Welfare, *Work in America* (Cambridge, Mass.: MIT Press, n.d.) ch. 4 and appendix.

[14] In the case of a group program at another of its plants, the company has been charged with committing a violation of the Labor-Management Relations Act by allegedly dominating a labor organization. The case had not been decided by the National Labor Relations Board at this writing.

[15] See, for example, Riva Poor, ed., *4 Days, 40 Hours* (Cambridge, Mass.: Bursk and Poor, 1970); Douglas L. Fleuter, *The Workweek Revolution* (Reading, Mass.: Addison-Wesley Publishing, 1975).

[16] See, for example, Bertram L. Metzger. Profit *Sharing in Perspective*, 2d ed. (Evanston, Ill.: Profit Sharing Foundation, 1966) and Work in America Institute, Inc., *World of Work Report*, vol. 1, no. 7 (September 1976), pp. 4–5, for a discussion of ESOP.

[17] International Conference on Trends in Industrial Relations, "Remarks" (mimeographed), p. 5.

[18] "The Job Satisfaction Debate—What's Relevant to Labor," remarks at Center for Labor Research and Education, Palo Alta, California, 28 September 1974 (mimeographed), p. 13.

[19] "Worker Participation in Decision Making," in Roy P. Fairfield, ed., *Humanizing the Workplace* (Buffalo, N.Y.: Prometheus Books, 1974), p. 57.

[20] Correspondence with the Research Department of the UAW in November 1976 revealed that following the 1973 GM agreement, 14 local participative programs had been developed within the corporation, 10 involving the UAW. Because of a commitment not to publicize the programs prematurely, the informant was not able to provide details, but he reported that in some cases discipline problems had disappeared, absenteeism had dropped dramatically, the quality of the product as well as efficient had improved, and respect for both company and union had increased.

[21] "Worker Participation in the U.S.: Seeds of a Quiet Revolution," paper prepared for Harvard Trade Union Program, fall 1974, p. 42.

[22] "The Changing World of Work," Report of the Western Assembly of Workers, 27–29 September 1974, Palo Alto, California, sponsored by the Center for Labor Research and Education, Institute of Industrial Relations, University of California, Berkeley, and The American Assembly, Columbia University.

RULES OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, section 133B of the Legislative Reorganization Act of 1970 requires Senate committees to publish their rules of procedure in the CONGRESSIONAL RECORD. As chairman of the Senate Special Committee on Aging, I submit the rules of the committee. I ask unanimous consent that these rules, as amended and agreed to by committee members, be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD,

RULES OF THE U.S. SENATE SPECIAL COMMITTEE ON AGING

(As originally adopted June 12, 1963, as amended February 28, 1973, and as amended further February 28 and March 11, 1977)

RULE 1

Convening of meetings. The Committee shall meet at the call of the Chairman, to the extent practicable, at least four times a year to (1) plan future activities, (2) evaluate progress on projects already under way, and (3) discuss use of Committee funds.

Special meetings may be called by a majority of Committee (or any subcommittee designated by the Committee) [1] upon written notice to the Clerk of the Committee. The Clerk shall, to the extent practicable, give at least 24 hours notice to every member of the meeting, time, and place.

RULE 2

Presiding officer. The Chairman of the Committee (or any subcommittee designated by the Committee)[1] or, if the Chairman is not present, the ranking Majority member present shall preside at all meetings.

RULE 3

Quorum. A majority of the Committee, or any subcommittee designated by the Committee) [1] shall constitute a quorum sufficient for the conduct of business at executive sessions. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

RULE 4

Subcommittees. Subcommittees may be established and their size determined by vote of a majority of all members of the Committee. The Chairman of the full Committee and the Ranking Minority Member shall be ex-officio members of all subcommittees. Party membership of each subcommittee shall be proportionate to Party membership on the full Committee. Each subcommittee is subject to these rules and any limitations imposed by the full Committee and is authorized (a) to hold and report hearings; (b) to conduct business within its jurisdiction; and (c) to require by subpoena or otherwise the attendance of witnesses and the production of documentary evidence.

RULE 5

Agenda and voting at meetings. The business to be considered at any meeting of the Committee (or any subcommittee designated by the Committee)[1] shall be determined by its Chairman and any other measure, motion, or matter substantive or procedural within the jurisdiction of the Committee or (or any subcommittee designated by the Committee)[1] shall be considered at such meeting and in such order as a majority of the members of such Committee indicate by their votes or by presentation of written notice filed with the Clerk. Voting by proxy shall be permitted in the full Committee (or any subcommittees designated by the Committee).[1]

RULE 6

Right to Counsel. Any witness subpoenaed to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

RULE 7

Amendment of Rules. The rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

RULE 8

Reports. Committee (or any subcommittee designated by the Committee) [1] reports offering Committee (or any subcommittee designated by the Committee) [1] findings and recommendations shall be printed only with the prior approval of a majority of the full Committee (or any subcommittee designated by the Committee).[1] The printing, as Committee (or any subcommittee designated by the Committee) [1] documents, of materials prepared by staff for informational purposes or the printing of materials not originating with the Committee (or any subcommittee designated by the Committee)[1] or staff shall require consultation with Minority staff; these publications shall have the following language on the cover of the document: "Note: This document has been printed for information purposes. It does not offer findings or recommendations by this Committee" (or any subcommittee designated by the Committee).[1]

Wherever feasible, staff reports shall be coordinated and produced in cooperation with other appropriate Congressional units.

[1] Committee members on March 11, 1977, decided to conduct business and hearings as a Committee as a whole, without subcommittees. However, the option to establish temporary subcommittees at any time for special purposes remains.

THE NORMALIZATION OF RELATIONS WITH THE CHINESE COMMUNISTS WOULD CONTRADICT THE ADMINISTRATION'S AVOWED COMMITMENT TO HUMAN RIGHTS AND MORALITY

Mr. GOLDWATER. Mr. President, it is understandable how this administration's repeated avowal of its support for the advancement of human rights around the world has encouraged the Chinese people living on Taiwan to see a contradiction between those statements and recent remarks announcing the administration's goal of pursuing

"full normalization of relations" with Red China. There is probably no government on the face of the Earth which has ever committed such atrocities on a massive scale as have the Chinese Communists; and the idea of legitimizing their atrocities at the expense of one of our country's most dependable allies, the Republic of China on Taiwan, would expose professions of morality in foreign policy as having been mere rhetoric without any substance.

Mr. President, an interesting editorial on this very subject appeared in the China Post of July 2, 1977, and so that my colleagues may see this concise analysis of the contradictions between morality and normalizing relations with mainland China, I ask unanimous consent that the editorial may be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

U.S. SECRETARY CYRUS VANCE'S SPEECH

U.S. Secretary of State Cyrus Vance's speech before the Asia Society on June 29 reflected much of the muddled thinking in Washington which does not help in stabilizing the Asian situation. It opened up the possibility for the United States to be submitted to all sorts of Communist united front maneuvers and even blackmail.

Secretary Vance professed at a press conference one day before his speech on June 29, that U.S. China policy was not decided yet and a final decision "will not be taken until shortly before I go to Red China in August." In the much heralded speech, Vance said that the United States considers friendly relations with mainland China "a central part of our foreign policy". He continued by saying that "We want to explore ways to normalize further our bilateral relationship. Red China's role in maintaining world peace is vital. A constructive relationship with (Red) China is important not only regionally but also for global equilibrium."

Those positive statements are far from indecision. They represent some major premises of U.S. foreign policy toward Asia, especially on the China question. In stating that the United States will pursue "full normalization of relations" with the Communist nations, he admitted that: "We will also place high importance on the peaceful settlement of the Taiwan question by the Chinese themselves".

The essential implications of his remarks left no doubt that the United States has finally and officially discarded the containment policy of President Dwight Eisenhower and John Foster Dulles. It proposes now to embrace all former enemies who killed countless numbers of American soldiers, including the North Vietnamese, who betrayed the United States' good faith in signing the Paris ceasefire Agreement. In assigning the Chinese Communists the role of maintaining world peace, the United States seemed to ask Asia's number one gangster, robber and arch criminal to act as a policeman to safeguard and maintain peace. It contradicted President Jimmy Carter's profession of a foreign policy of morality, confidence and human rights. The contradiction is patently clear.

Secretary Vance failed to refer to the Chinese Communist position on these vital issues. He certainly must be well aware of the recent attacks on the U.S. position by Chinese Communist leaders, Chi Teng-kuei and Li Hsien-nien. They were aimed at intimidating the United States in order to prepare for the United States to capitulate before the Chinese Communists at the negotiating table in Peiping. Secretary Vance's positive statements on the Chinese Communist role in world peace would merely embolden the Chinese Communists to make even harsher demands upon the United States as a price of their cooperation.

The revelation by a senior State Department official that the administration would be prepared to establish "full diplomatic relations" with Peiping immediately were it not for the concern with the people of the Republic of China, describing this situation as the "logjam", did not help matters either. This was further compounded by Vance's failure to mention the name of the Republic of China in his lengthy speech.

All these misgivings were not much clarified by President Carter's press conference remarks on June 30 leaving the final decision on U.S. policy until after Vance's visit to Peiping. But the U.S. President openly professed hopes to work out with mainland China to establish full "diplomatic relations".

It is quite clear that the United States is on the verge of adopting a drastic new policy in Asia which will open the door wide to Communist influence and penetration. The people of the Republic of China should be alert to more adversities such a new policy will bring. The United States has not only failed to distinguish between friends and foes but considers foes as friends. It will play right into the Chinese Communist design of creating big disorder in the world and will make another catastrophe in Asia inevitable.

JUSTICE DEPARTMENT LEGAL MEMORANDUM ON ABORTION

Mr. BAYH. Mr. President, tomorrow the House of Representatives will once again vote its wishes on the emotional issue of denying medicaid funds for abortions. The House will be voting on whether to sustain its position denying Federal funds for abortions for the poor. Before this vote takes place, I think that it is extremely important that each member be aware of a legal memorandum prepared by the Justice Department's Office of Legal Counsel at the request of Secretary Califano detailing how HEW would interpret language similar to that being considered by the Labor-HEW appropriations conference committee.

As most of us are aware, the position of the Congress on the issue of medicaid funds for abortions has never been a clear one. Last year, the Congress enacted a statutory ban on medicaid funds except where the life of the mother was endangered. While the statutory language was clear on its face, the Congress wrote conference report language to accompany the ban which provided a broader conflicting interpretation. Under the conference report language, abortions were to be provided in cases of rape, incest, multiple sclerosis, renal disease, and ectopic pregnancies. Many Members of Congress voted for the strict ban in the bill, confident that HEW would look to the conference report as a guide in its interpretation of the ban on funds.

At the time the conference committee deliberated the report language last year, I attempted to point out to my colleagues that I thought HEW would interpret the language based upon the statutory construction alone. This language was clear on its face, and necessitated no further search for legislative intent by the Congress. I understand that this indeed is the position taken by the Justice Department in its memorandum to Secretary Califano. I was informed that the Justice Department's interpretation would provide abortions only in cases where the mother's life was endangered despite the conference committee report language.

In other words, if House language is sustained denying funds for abortions except where the life of the mother is endangered, subsequent conference report language using Senate language permitting funds for abortions for pregnancies resulting from rape or incest, and where otherwise medically necessary, will have no effect on the House statutory language prohibiting abortions.

Many of us will differ on our positions relating to medical funds for abortions, but I think that it is vital that we all know the consequences of what we are voting on. I know that many Members of Congress feel that the language which denies funds for all abortions except those to save the life of the mother is too narrow. Some of these Members are deeply concerned about the incidences of rape and incest; others are concerned about incidences of a debilitating disease; others the alarmingly high rate of teenage pregnancies. I think we must all recognize that if we want to have these exceptions the statutory language we support must say so, and say so clearly.

MARTIN DIAMOND

Mr. PERCY. Mr. President, on July 22, at a hearing of the Senate Judiciary Committee's Subcommittee on the Constitution, one of this Nation's great scholars, Prof. Martin Diamond, suddenly suffered a fatal heart attack. He had just finished his testimony on electoral college reform.

I had known Marty Diamond for nearly 20 years and appreciated his insightful and skillful formulations of national problems in their historical context. He had a first-rate mind, a capability to get to the roots of controversies, a deep devotion to the Nation and its founding principles, and the humor to leaven the most intense intellectual discussions.

At the age of 57, Professor Diamond was moving from Northern Illinois University to take an endowed chair on the Foundation of American Freedom at Georgetown University. In fact, at the time of his seizure, the movers were hauling his furniture into his new home in Spring Valley. His abrupt death at this moment has been a terrible shock to his wife Ann, as we can all appreciate.

The loss of Marty Diamond will be deeply felt by academicians and students and public men who listened to him. Had he survived, his presence in Washington would have enabled him to continue his important studies on the origins of our American democracy and to counsel in greater depth with the men and women who make policy in this capital. It is a shame that his studies and counsel will now be denied to us.

REAR ADM. HUGH H. HOWELL, JR., USNR (RETIRED), ADDRESSES NEWLY NATURALIZED CITIZENS

Mr. NUNN. Mr. President, it is my privilege to bring to the attention of my colleagues, an excellent and patriotic speech delivered by Rear Adm. Hugh H. Howell, Jr., USNR, retired, as he addressed a group of newly naturalized citizens at naturalization and immigration ceremonies in Atlanta.

I commend it to your reading, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE REMARKS OF RADM. HUGH H. HOWELL, JR., JAGC, USNR (RET.)

NATURALIZATION

It is a great pleasure for me to have this opportunity to share these joyous and historic moments with you—as you become citizens of our great country.

How fitting and proper that these naturalization ceremonies be held here in a court room—a room of law. It is proper because our country is a country ruled by law—not by the gun.

How fitting and proper that these naturalization ceremonies be conducted by this distinguished jurist, Judge Frank Hooper, a gentle and learned man whose public and private life has been an inspiration to all of us who know him. It has now been some 30 years ago that I was first admitted to practice law here in Atlanta. One of my very first classes was before Judge Hooper. He has always been a source of strength and integrity and encouragement.

It is with honor that I too extend to you the warm hand of friendship and welcome you to our great country.

George Washington, our great first President, said in 1783: "The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions. Whom we shall welcome to a participation of all our rights and priviliges if, by decency and propriety of conduct, they appear to merit the enjoyment."

That was true 200 years ago, it is true today.

When we try to describe our country and what it is, most of us end up with saying something like: This is a country of hard working, freedom loving people who like to sing and play and worship, and work and eat hot dogs and go to ball games.

Steven Vincent Benet expresses it much plainer when he wrote: "This is a country of hope, this is a country of freedom. This is a country where all sorts of different people, drawn from every nation in the world, get along together under the same big sky. They belong to any church they choose—Catholic, Protestant, Jewish, Mohammedan, Buddhist—and no man may be persecuted here for his religion. The men and women of this country elect the people they wish to govern them, remove those people by vote—not by revolution— if they feel their representatives have done badly, speak their minds about their government and about the running of their country at all times, stay themselves and yet stay loyal to one cause, one country, and one flag."

The flag is the stars and stripes. The country is the United States of America. The cause is the cause of democracy.

You and I know we have a truly great country but we also know it is not an earthly paradise. It is not a garden of eden or a perfect state. It does not pretend to be any of these things.

Read our daily newspapers and listen to the radio or watch the television and you can see that our country has not solved every problem of how men and women should live. It has made mistakes in its own affairs, mistakes in the affairs of the world. But friends, it looks to the future always—to a future of free men and women, where there shall be bread and work, security and liberty for the children of mankind.

It does not want to rule the world or set up an American empire in which Americans will be the master race and other people subject races. If you ask any real American whether he believes in a master race, you will get a long stare or a long laugh; Americans do not believe in master races.

It is a fighting country, born in battle, unified in battle, ready and willing always to fight for its deep beliefs. It has never lost a war. But it does not believe that war and the martial spirit are the end and goal of man. It honors the memory of its great soldiers—men like Washington and Lee and Grant and McArthur and Eisenhower—as it honors the names of those who have fought for it more recently. But every one of those men fought for something more than conquest. When the wars were done, they said:

"Let us have peace, let us build up the land. Let us make something, build something, grow something that was not there before. Let us try to make a good country—a place where people can live in friendship and neighborliness."

In your studies of the United States, haven't you run across the words: "We, the people" many times.

The 39th President of the United States is now in the White House.

The 95th Congress of the United States is now in session.

They were put there by the will of the people. And, since the constitution of the United States was first adopted, the people have stayed in power and the will of the people has ruled. Always, since the first, the American people have had a chance to use their own judgment, make their own mistakes, correct them and go ahead. And "the people", in America, does not mean a class, a caste, or a specially appointed set of men. It means you and me and the man next door—the butcher, the baker, the farmer, the workman, the lawyer, the doctor, the woman who keeps her house. It means everybody.

To our enemies, the United States is a country entirely composed of millionaires, gangsters, weaklings, movie stars, corrupt politicians, idle women, and a starved and selfish proletariat. We Americans do not mind their saying any of those things. Our enemies can make no harsher or sterner criticisms of the country we believe in and love than have already been made by loyal and devoted Americans, living and dead.

When disaster strikes abroad, you and I see American doctors and nurses and medicines and food going to help out the victims of floods and fires and earthquakes. Our country and our people do these things because we believe we should.

Ever since you have been in our great country, you have probably met many Americans. We hope they have been kind to you. You probably have met just plain average Americans, brought up in freedom. They are tall and short, dark and fair, talkative and silent—men who work with their hands, men who work with their heads—men who come from little towns and big cities and quiet farms—all sorts of men, but behind them all, whether they are able to talk about it or not, there is a spirit. A spirit and an idea.

As new citizens you too will get that spirit and be very proud of it. We call it patriotism, Patriotism to your new country—the United States. Patriotism that will grow in you to the point you will want to tell some of our critics to "love our country—or leave it".

You—like I—will develop a true patriotism. Not the patriotism of the sentimentalist who may deem that love of country to be an attachment to the hills and valleys, the mountains and the bubbling springs, the rivers and glens, and while absorbed in these things looses the real meaning of patriotism.

Real love of the United States exists not in love of the soil, the climate, the scenery, because these may be found in other countries. Neither does it consist in an attachment to governments, constitution and laws, but patriotism does consist of a brotherly affection and an extensive love toward the whole of a nation.

These are the things the spirit—the idea—patriotism to your new home—the United States—mean.

President Franklin D. Roosevelt spoke and wrote of the four freedoms . . . . freedom of speech, freedom of worship, freedom from war, freedom from fear.

That is what we all are after. That is what our flag means. It means freedom and it means hope. It means a good neighbor—not a master. It means men making their own destiny and running their own government. It means peaceful men who can fight with God's own wrath in them when their country is assailed. It means a nation and a people who believe in man and man's future and the free world that man can make.

It is to these things my friends that I take honor to extend to you a hearty congratulation and a warm handclasp of friendship and encouragement.

SCIENCE POLICY: A WEAPON AGAINST ECONOMIC PROBLEMS

Mr. SCHMITT. Mr. President, the issue of science and technology policy as an economic weapon has remained hidden from serious consideration for too long. We have seen our fellow lawmakers year after year, Congress after Congress, resort to Federal spending programs and hasty, albeit well-intentioned, fiscal policy changes in order to combat the economic problems of inflation and unemployment. Most will agree that the Congress, as well as the administration and the Federal Reserve System, must use these economic weapons, but few understand that there are attractive and historically proved alternatives.

One of these attractive alternatives is the carefully planned application of research and development funds. The combination of fiscal and monetary policy to help stabilize the economy, of investment to fuel the economy, and of research and development for new economic growth provide the only real promise for long term and equitable improvements in our standard of living. Science and technology policy is a particularly powerful weapon in the United States because scientific and technological innovation is what Americans do best. History has shown this is true in industry, agriculture, communications, electronics, space, energy, medicine, and many other areas.

Proponents of stimulative fiscal and monetary policy will argue that science is too slow. But that is precisely why it is such a good weapon; enhanced technological progress increases productive capacity and provides job opportunities which have a multiplying effect in the

job market and a stabilizing effect on the economy. More traditional economic weapons have long been criticized—and rightly so—because they bring about short term, unstable economic impacts. Why are they used? Because they provide a visible sign that politicians are trying to do something about one crisis or another.

William D. Carey recently wrote an editorial for Science magazine entitled "The Blind Side of Science Policy," that draws our attention to this "new" alternative. He correctly states the frustration which is felt by our dwindling scientific community. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BLIND SIDE OF SCIENCE POLICY

(By William D. Carey)

In the on-again, off-again chronology of the President's Office of Science and Technology Policy there has been at least one consistency: it never has had a voice in the economic policy circles of a President. Unlike other advanced nations, both democratic and authoritarian, the United States has not seen fit to make explicit the role of science and technology in mapping economic strategy. We are likely to regret it.

In last year's presidential race, both Mr. Ford and Mr. Carter were questioned about their positions on government spending for research and development. Mr. Carter thought that both public and private R & D should grow as the economy grows, but that it would be wrong to tie R & D spending to any fixed fraction of any macroeconomic indicator, "for R & D is a microeconomic factor." President Ford argued not that R & D promotes the national economy but that a strong economy is a necessary precondition for science and technology.

These views reflect a consensus of opinion across the otherwise contentious spectrum of our political economy. It would be hard to argue that R & D should drive the national economy. But the absence of *any* explicit R & D component in macroeconomics flags a significant and puzzling flaw in our national policy machinery.

It is conventional wisdom to say that we see science and technology as only parts of a large family of forces which influence the quality of the national economy. We subordinate their roles to more important elements: skilled management, product diversification, market satisfaction, modernization, entrepreneurship, ingenious infrastructure, and career self-selection. If these elements are not in place and working, R & D is insufficent by itself. On the whole, the thesis stands up. The trouble is that while it has served to explain the past, it may not be good enough to produce a future.

America's macroeconomic goals are not hard to capture and describe. They are to maintain a high standard of living, to confine unemployment within a range of 4 or 5 percent of the work force, to secure a favorable international trade balance, to minimize extreme swings of the business cycle, to produce enough to meet demand without inflation, and to generate enough real growth to create the jobs needed for a growing labor force. These are consensus objectives.

But it is noticeable that when the economic script goes wrong, we invariably grab for the emergency cords of money and credit policy, tax policy, and spending policy. It is doubtful that it ever occurred to an economic czar that an explicit public policy to strengthen public and private technological drive would contribute something of value to long-term stabilization and growth.

There are signs that the vitality of growth-producing technological effort in the United States is not what it used to be. In industry, despite the impressive dollars assigned to R & D, the mix of spending has shifted strongly away from innovation and toward defensive research and development. The U.S. economy cannot count on much of a future if this scenario continues, resting content with old beliefs in the strictly *micr*economic role of R & D.

Down at the White House, reorganizers are busy with plans to shape up the sprawling Executive Offices. Someone should be thinking hard about new assumptions as to how the Office of Science and Technology Policy can make a real difference in policy planning. Seen from here, an important difference could be made if the science adviser were linked not only to the President's budgetary staff but also to the Council of Economic Advisers. The time has come to deal with the blind side of science policy.

TRIBUTE TO DR. JACK NIX, GEORGIA SUPERINTENDENT OF SCHOOLS

Mr. NUNN. Mr. President, on July 31, a great Georgian and American retired from public service. Dr. Jack Nix, Georgia Superintendent of Schools for the last 11 years and a public servant and educator for 34 years, left his post. There is no question that Dr. Nix has made a lasting contribution to public education in Georgia and the Nation and will leave a legacy of dedication and excellence for others to follow. The Atlanta Constitution paid tribute to Dr. Nix in an editorial last week, and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DISTINGUISHED CAREER

When Jack Nix took over as Georgia's superintendent of schools in 1965 he set himself and the school system a series of high goals.

He wanted to improve teacher salaries. He wanted more teachers for fewer pupils—a pupil-teacher ratio of 20–1—so that both would benefit. He wanted improvements in teacher education and certification, driver education, expanded high school vocational education programs in the less skilled areas, more exploratory and orientation opportunities in the upper elementary grades and early high school, minimum standards for elementary and high schools, financing the school building program on a current basis, utilizing school buildings during summer months, instructional services across county lines. He wanted all those things for Georgia's schools—and more.

He wanted and fought for a statewide kindergarten program.

And he worked to achieve these and other goals during trying times for Georgia's schools. Gov. Busbee put it this way:

"Jack Nix has pulled public education in Georgia through its most difficult period. He held education together through the trying times of desegregation and saw to it that Georgia complied with federal law and court decisions with the least possible disruption. . . . Despite the turbulent times during which Jack Nix headed public education in Georgia, we have made steady advances in all areas of education."

Gov. Busbee spoke of Dr. Nix's accomplishments when announcing Monday that Nix was retiring. He mentioned the 15 goals Nix set for public education when he was appointed by Gov. Sanders. "During his tenure as superintendent 11 of those goals have been met or partially accomplished," Gov. Busbee said. He called Nix "the father of vocational education in Georgia."

Dr. Nix won election to three four-year terms, running twice unopposed and winning a contested election 3–1. He was nationally known and respected by educators and served as president of the Council of Chief State School Officers, an organization of state school heads from 50 states and six other jurisdictions. A native of White County, he served in the infantry in the Pacific in World War II, became a vocational education teacher in Banks County in 1946 and was vocational education administrator of Georgia's schools when appointed superintendent.

Dr. Nix's contributions to his state and his fellow citizens have been outstanding, his record distinguished. We wish him well on his retirement from public office.

TWA AND SKYSTREAM ANTICIPATE REFORM: LOWER FARES

Mr. PERCY. Mr. President, I am pleased to call attention to a recent decision by the Civil Aeronautics Board which approved a Trans World Airlines proposal to offer a reduced one-way "super coach" fare of $99 between Chicago and Los Angeles; a 37-percent reduction from the current $159 fare. This decision marks an important victory for supporters and cosponsors, like myself, of the Airline Regulatory Reform Act of 1977.

It is clear that the CAB's willingness to approve this important test case was affected by the strong bipartisan support for this bill and by the encouraging prospects for its passage in the Senate. In fact, shortly after the CAB announced its decision in the Trans World Airlines case, Continental Airlines announced that it would be applying to the Board for an $89 fare to Los Angeles. American Airlines, which opposes this legislation, protested to the CAB against approval of the TWA fare. It now says that possible fare reductions on its own flights are under study.

In order to implement the "super coach" fare, TWA will remodel its Boeing 707 aircraft to seat more passengers and cut the number of flights between Chicago and Los Angeles from five to two a day.

Although TWA itself has not yet joined the ranks of United Air Lines, Hughes Airwest, Pan American World Airways, and Frontier Airlines, which are promoting reform, its proposal is a good example of the type of price flexibility and competitive marketing which we are seeking to develop with the proposed legislation.

Donald M. Casey, senior vice president for marketing for TWA, commented that:

TWA is offering the consumer what he has long desired, a low-priced choice with no restrictions. For years the airlines have been urged to come up with a simple, efficient, cost-based service for the traveling public. The airlines have gamely responded with a varied array of discounted fares that have come close to hitting the mark. Super Coach goes the whole route.

Not only will the consuming public benefit from the proposed fare reduction, but the airlines themselves stand to gain. TWA's current service between Chicago and Los Angeles is typical of much airline service throughout the

Nation: empty planes, low-passenger growth, and too-frequent flights have generally characterized the airline industry under current regulation. The innovative TWA proposal, and others which might be developed in a more competitive airline industry, would utilize airline resources more productively and more economically.

The Justice Department's appraisal of the current airline industry corroborates this view. In response to other airlines' complaints about the TWA proposal, the Justice Department found that:

> The absence of price competition on major scheduled service routes has led to inefficient forms of competition, including low density seating configurations, low load-factor operations resulting from excessive scheduling, and inflated expenditures on advertising, reservation systems, and a broad variety of in-flight amenities. TWA proposes to reverse several of these tendencies by offering a high-density, high load-factor, low-fare service.

The Justice Department called upon the CAB to "give maximum encouragement" to TWA's proposal.

The experience of Skystream Airlines, a small Midwestern commuter airline operating outside the auspices of the CAB, exemplifies the new type of service which the Justice Department praises. This small airline formerly flew virtually empty planes between Chicago and both South Bend and Detroit. In May, it announced a low-price standby fare of $7—$18 less than other airlines, for its service to South Bend from Chicago, and in June of this year, it announced a $20 standby fare between Chicago and Detroit compared with the normal fare of $39. The airline flies directly into Miegs Field and is convenient to travelers seeking easy access to downtown Chicago.

Ms. Pat Pond, president of Skystream, expects that the new service will generate profits in excess of $300,000 during the coming year. Already, of the 240 seats available during 1 day's flights between Chicago and Detroit and Chicago and South Bend, 91 of the seats are filled by standby passengers.

Not only does the Skystream plan aim to use the airline's own resources more efficiently, but it also seeks to take advantage of certain existing underutilized, airport facilities in the Chicago Metropolitan area. These are among the goals embraced by the Airline Regulatory Reform Act of 1977.

Mr. President, recently, the Ad Hoc Committee on Airline Regulatory Reform presented an all-day seminar in the Senate caucus room, on the need for passage of this bill. Judging from the standing room only audience of 250 congressional staff members who voiced their opinions, I am convinced this legislation enjoys wide support. The seminar assembled airline regulatory reform advocates ranging from the American Conservative Union, to Common Cause, to the Civil Aeronautics Board itself.

During that seminar, my distinguished colleague, Senator EDWARD KENNEDY of Massachusetts, joined Senator CANNON and myself in calling for expeditious action on this legislation. I should hope that, in doing so, we give serious thought to the position of the Justice Department in the TWA case and to the practical experiences of airlines such as Skystream.

THE DIESEL FUEL AND GASOLINE CONSERVATION ACT OF 1977

Mr. JOHNSTON. Mr. President, on June 15, 1977, I introduced S. 1699, the Diesel Fuel and Gasoline Conservation Act of 1977, a bill that seeks to encourage backhauling in the trucking industry. On June 27, I chaired a hearing on this legislation in the Subcommittee on Energy Conservation and Regulation of the Committee on Energy and Natural Resources. Since then I have received quite a number of letters on this bill, the great majority in favor of S. 1699.

I want to share with my colleagues some of the responses that I have received since that hearing because these views are from people who would be affected by enactment of S. 1699. Who better than they can discuss the merits or demerits of this legislation? I ask unanimous consent that the letters from the National Industrial Traffic League, the American Retail Federation, the Cooperative Food Distributors of America, the Contract Carrier Conference, and the National-American Wholesale Grocers' Association be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NATIONAL
INDUSTRIAL TRAFFIC LEAGUE,
Stamford, Conn., July 20, 1977.

Hon. J. BENNETT JOHNSTON,
Chairman, Senate Energy Committee's Subcommittee on Energy Conservation and Regulation, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN JOHNSTON: In behalf of The National Industrial Traffic League I would like to submit the following remarks for the record of hearings on S. 1699, the "Diesel Fuel and Gasoline Conservation Act of 1977."

The League is a voluntary organization of 1,800 shippers, shippers' associations, boards of trade, chambers of commerce and other entities concerned with rates, traffic and transportation services of all carrier modes. It is the only shipper organization which represents all types of shippers nationwide. Its members include large, medium and small shippers who use all modes of transportation and who ship all types of commodities. The League is not a panel or committee of a trade group, or a spokesman for a particular commodity or transportation point of view, and does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers a sound, efficient, well-managed transportation system, privately owned and operated.

To arrive at positions reflective of the broad range of shipper interests within the League, the League membership at its annual and special meetings considers, debates and votes on actions to be taken. During its seventy years of existence, the League has frequently been the spokesman for the nation's shippers before Congress on proposed transportation and regulatory reform legislation.

S. 1699, has as its purpose to provide energy conservation by alleviating current and continuing fuel waste, to reduce empty vehicle movements, and to increase efficiency in transporting goods by motor carrier which will ultimately benefit consumers.

Section 2 of S. 1699 amends Section 382 of the Energy Policy and Conservation Act of 1976 (42 U.S.C. 6201) by adding a paragraph (d) to read as follows:

"(d) It shall not be unlawful for a seller of goods, wares, or merchandise pursuant to a uniform zone delivered pricing system to grant back haul allowances to a buyer where the back-haul function is actually performed by the buyer or an authorized carrier serving the buyer, where the allowance is no greater than the actual savings in delivery costs to the seller and where the allowances are available to all the seller's customers on a nondiscriminatory basis."

Although League members have not had an opportunity to thoroughly consider S. 1699, they do support the purpose of the bill in removing regulatory limitations causing energy waste and inefficiency. Strictly speaking, of course, S. 1699 does not address itself to the regulatory actions of the Interstate Commerce Commission under its basic statute. It involves an effort to modify the administrative interpretation of the Robinson-Patman Act by the Federal Trade Commission. Nonetheless, this interpretation has prevented the implementation of transportation practices which could save energy resources. The League has a number of policies and positions which fully support elimination of regulatory policies which waste energy. The League's policy *M-1 Productivity*, states: Transportation must obtain greater productivity from its use of fuel including the minimization on fuel inefficiencies of: economic regulations; consignor or consignee loading/unloading practices; and labor practices—and with due consideration to environmental and safety requirements.

Secondly, in addressing commodity and route restrictions, the League supports elimination of gateway restrictions for irregular route and regular route carriers and an increase in the circuity factor. The League also strongly supports elimination of unneeded restrictions in existing operating rights that cause excessive energy use.

Thirdly, in regard to private and contract carriers, the League members fully support liberalization of the present ban on "within the family" hauling. The new League policy E-1 applies the principle of "freer entry" to both common and contract carriers. Also, conglomerates should be considered as a single shipper for purposes of contract carriage.

Finally, regarding private carrier equipment leases to common carriers, the League members recently voted on a proposal prohibiting the ICC from regulating the duration of all vehicle leases whether by common or private carrier (in addition to the present exemption with respect to lease duration on vehicles used for hauling agricultural products). The League members voted to support the intent of this proposal to permit trip leasing of private carrier equipment.

The League appreciates this opportunity to present its views on S. 1699 supporting the purpose of the bill to abolish regulatory limitations which cause inefficiency and energy waste.

Thank you for including the League's statement in the record of hearings as well.

Sincerely,

J. ROBERT MORTON,
President.

AMERICAN RETAIL FEDERATION,
Washington, D.C., June 27, 1977.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy Conservation and Regulation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Retail Federation supports legislation which would clarify the conditions under which private carriage may be used, such as the provisions in S. 1699. The Federation's transportation policies support an interpretation of private

carriage so that a shipper or retailer may engage in the transportation involving movement of merchandise incidental to carrying on his own business.

Under Advisory Opinion No. 147, dated March 28, 1975, the Federal Trade Commission reaffirmed a previous interpretation under the Robinson-Patman Act which would curtail the use of private motor vehicles by the purchaser under certain conditions of selling terms in a delivered price basis. The FTC ruling did not deal with the basic price of the merchandise sold, but with the transportation cost involved thereon and would not permit the seller, without radical changes in the pricing structure, to allow the purchaser the cost he would have otherwise incurred had not the private carriage of the purchaser been used in lieu of common carriage.

The Federation supports the view that the use of private motor carriage in such instances in no way contravenes the intent of the Robinson-Patman Act as to discriminatory pricing of goods sold, but has as its purpose a more efficient utilization of motor equipment. Passage of the proposed legislation will encourage energy-saving practices of retailers utilizing private equipment in the transportation of their goods. We urge approval of S. 1699.

Sincerely,

LOYD HACKLER.

CFDA, COOPERATIVE
FOOD DISTRIBUTORS OF AMERICA,
Des Plaines, Ill., July 8, 1977.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Energy Conservation and Regulation Subcommittee, Energy and Natural Resources Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR JOHNSTON: Our association, Cooperative Food Distribtuors of America (C.F.D.A.), is a national food trade association representing the retailer-owned form of food distribution. Our sixty-four members in the United States operate eighty-five distribution centers, with annual sales of approximately $8 billion. These wholesalers are owned by some 28,000 independent food retailers whose estimated annual volume is approximately 20% of all food sold at retail in America.

C.F.D.A. supports the principle of any legislation which would clarify the legality of granting full backhaul allowances which would be equal to actual savings in delivery cost to the seller. We strongly support your efforts to enact this energy-saving legislation.

Sincerely,

EARL E. MASON,
President.

CONTRACT CARRIER CONFERENCE,
Washington, D.C., July 15, 1977.

Re: S. 1699—Diesel Fuel and Gasoline Conservation Act of 1977.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy Conservation and Regulation, U.S. Senate, Washington, D.C.

DEAR SENATOR JOHNSTON: I am writing you to express the support of the Contract Carrier Conference for the subject legislation. The Contract Carrier Conference is a trade association representing the interests of contract carriers throughout the country. The Conference is affiliated with the American Trucking Associations.

Contract carriers are trucking companies licensed by the Interstate Commerce Commission to haul freight in interstate commerce. There are approximately 4,000 contract carriers in the country the vast majority of which are independently, as opposed to publicly, owned. Contract carriers are fully regulated with respect to safety, financial responsibility and scope of operating authority.

Contract carriers differ from common carriers in that they offer a specialized transportation service that is not held out to the public. A contract carrier offers this service generally in one of two ways: (1) by dedicating his equipment to the exclusive use of a shipper; or (2) by providing a transportation service designed to meet a distinct need of the shipper. Contract carriage is the logical alternative for a shipper who does not want to invest the time and money to acquire and run his own fleet of trucks but has needs that cannot be met by a common carrier who, by law, must hold himself out to the general public.

Many contract carriers serve food stores like A&P, Shop Rite, and the like. As we understand the subject legislation, a purchaser of goods in a uniform zone delivered pricing system would be able to get a reduction in the price of the goods purchased (not to exceed the vendor's cost of delivery) if he picks up the goods at the seller's place of business.

Presently, many contract carriers are operating at less than capacity when they return to their contracting shipper's warehouse after making deliveries. If the proposed legislation is enacted, there will be an economic incentive on the part of the purchaser to utilize his contract carrier to pick up purchased goods from his vendors located in the area of the carrier's last deliveries for return haul to the purchaser's warehouse. While the purchaser gets the reduction in price to reflect the money he saves the vendor, the carrier obtains more freight and operates in a more fuel efficient manner.

Indeed, it is our understanding that some vendors in a uniform zone delivered pricing system do offer a discount to purchasers who pick up the purchased goods while others do not citing the Robinson-Patman Act to justify their refusal. Consequently, enactment of the proposed legislation will clarify this somewhat uncertain area.

We respectfully request that this letter be included in the hearing record on the subject legislation.

Very truly yours,

THOMAS A. CALLAGHAN, Jr.

NAWGA, NATIONAL-AMERICAN
WHOLESALE GROCERS' ASSOCIATION,
New York, N.Y., July 11, 1977.

Hon. J. BENNETT JOHNSTON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JOHNSTON: Please consider these observations in support of S. 1699. They supplement testimony delivered June 27.

Arguments for S. 1699 include:

1. Significant diesel fuel and gasoline savings—the 100 million gallon estimate is challenged but that is not really important. We made no quantity estimate but it is apparent that major and unnecessary fuel waste can be corrected by S. 1699.

2. No conflict with Robinson-Patman—A critically important concern for us. We represent small wholesalers and their customers.

3. Benefit accrue to the consumer—We can speak only for the food industry but competition in all industries should force benefits to consumers.

4. Small business has equal opportunity—buyers with only one truck or an authorized carrier can backhaul.

5. Cost savings—savings in fuel not consumed and other savings resultant from one truck run replacing two truck runs.

6. Increased Productivity—control of timing maximizes utilization of equipment and, in the buyer's warehouse, it helps to balance workloads.

7. Increased Control—over sanitation and damage and security because the buyer is handling his own mechandise in his own trucks.

Arguments against S. 1699 include:

1. *"Special interest bill for profiteering major food chain."* Simply untrue. S. 1699 will benefit wholesalers and retailers, large and small as well as chains large and small. Consumers will get food price benefits. The nation will save fuel. Profiteering allegations have been disproved repeatedly in recent years. There is no windfall in S. 1699 or any other backhaul option unless it is the cost savings that may be retained by sellers who are paid for delivery but do not provide it. Nevertheless we are sincerely grateful to Mr. Rothwell for leaping to the defense of Robinson-Patman.

2. S. 1699 "substantially weakens and modifies the Robinson-Patman Act." Mr. Rothwell states that S. 1699 "rewards remoteness and punishes proximity" an "overt and incongruous discrimination." The uniform delivered price system itself, not S. 1699, "rewards remoteness and punishes proximity but neither the FTC nor Robinson-Patman consider that a discrimination. And S. 1699 offers a compensating factor. In the real world shorthaul costs more per mile or per weight than longhaul by a sizeable margin.

On the "actual cost savings" credit basis of S. 1699 the closer buyers can be paid more per mile or per weight for their backhaul service than remote buyers. It is also a fact that most buyers will have a combination of remote and close-in backhaul opportunities that tend to be compensating. Also both close-in and remote buyers may be large or small, chain or wholesale.

The other reference to possible Robinson-Patman violation was made by Mr. Owen Johnson who left FTC three days after the hearing. He said the views in his testimony were "not those of the Commission or any Commissioner." He also confessed to personal "skepticism toward delivered price systems generally." Then he said that FTC advisory opinions and clarifications of backhauling in uniform delivered price situations avoided Robinson-Patman concerns without discouraging backhaul. He went further to recommend that S. 1699 be made mandatory to demonstrate FTC support for backhaul. However, he also said that S. 1699 created a new condition wherein a distant buyer could "deduct more from the uniform delivered price than his competitor, a close-in buyer, resulting in a variance in the pickup, or f.o.b. price, and a discrimination which may violate the Robinson-Patman Act."

Mr. Johnson's statement raises the question of where and when and how determinations of discrimination are made. The "Mill Net Theory" measured price equality at the seller's dock for merchandise only, holding that transportation costs were an accident of geographic location. FTC once embraced that doctrine in interpreting Robinson-Patman, at the seller's dock whether the sale is "less freight" or "freight included." In fact we still have f.o.b. uniformity measured but FTC has apparently shifted [1] to a new principle which measures the "actual price" paid by the buyer including merchandise and delivery and possibly other factors. This new system describes uniform delivered price system and it definitely moves the point of equity measurement to the buyer's receiving dock.

Mr. Johnson reverts to the seller's dock and f.o.b. price to frame his question about a possible Robinson-Patman violation au-

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[1] Anti-trust law developments prepared by the Section of Anti-trust law of the American Bar Association.

thorized by S. 1699 despite the fact that S. 1699 is very clearly limited to uniform delivered price situations. The question is invalid for that reason.

A careful examination of the current pricing systems and purchasing options approved by FTC under Robinson-Patman law reveals that the impact of S. 1699 is to modify current and acceptable differences. Therefore S. 1699 is clean in the legal sense of conformity with Robinson-Patman and, equally important, it promotes equity at the buyer's receiving dock.

3. Mr. Donn D. McMorris of American Trucking Associations, Inc. said that S. 1699 backhaul will "adversely tamper with regulated carriers balance of multi-directional movements." We suspect this to be true to some extent because distributors suffer constantly from delivery delays caused by regulated carriers' attempts to limit service to minimize cost. It is hard to conceive that the relatively minor shift of freight hauled to backhaul handling can unbalance the enormous trucking industry. Carriers' share of wholesalers' inbound tonnage increased twice as much as backhaul over the last ten years. Carriers currently deliver 63% of our inbound compared to 15% that is backhauled. As food wholesalers, our economic function is lowest cost distribution. Backhaul lowers total system costs and saves energy. S. 1699 will encourage backhaul in one limited sector of delivered price sales.

4. "It isn't true that 100 million gallons of fuel could be saved with enactment of this bill." The question is not whether it is 78 million or 118 million gallons. It's not really important. The big difference is between could and would. I don't share Mr. McMorris' access to the "genesis of the estimate" but I do recognize that the difference between potential and actual is far more significant than guesstimates of absolute gallons.

5. Mr. McMorris is also misinformed about the nature of the limited application of backhaul covered by S. 1699. Hauling one's own merchandise in one's own truck is emphatically not an opportunity limited to a few giants "seeking competitive advantage and not a reduction in fuel usage." That "most firms cannot afford to have trucks away from their base and primary source of business and extra time and distance involved in backhauling" is untrue. It has been proven arithmetically many thousands of times. That is not to say that buyers' trucks always operate more efficiently than carrier trucks but rather that the circumstance which make the backhaul more efficient should be encouraged for the benefit of energy savings and lower food costs to consumers.

Respectfully submitted.

GERALD E. PECK,
President.

TAKING AIM AGAINST MEDIA BIAS

Mr. GARN. Mr. President, few Americans will deny the necessity of a free press as an essential foundation of a free society. Yet because the news media today is heavily composed of people from one side of the political spectrum, frequently the public's right to know is seriously infringed. No one is more aware of the fact that a free press does not guarantee absence of bias than Reed J. Irvine, head of Accuracy in Media. He and others at AIM serve as a watchdog for the American public by identifying and seeking to correct instances of distorted reporting by the news media. The murder of Orlando Letelier last September in a Washington bomb-blast is a case in point.

Letelier, a former member of the Chilean Cabinet under the Marxist junta of Salvador Allende, fled to the United States in 1974 when the Communists were overthrown. He soon became closely associated with Washington's Institute for Policy Studies and other leftwing groups. He sought out and maintained contact with many influential people in Washington including academic, congressional and administrative staffers, Senators and Congressmen. Letelier's numerous contacts on Capitol Hill and within the executive branch gave him potential access to sensitive U.S. intelligence information and a possible influence over decisionmaking.

The media, of course, treated the Letelier murder as a major news event. But 3 months elapsed before the American people were informed that Letelier's attaché case, which had survived the blast, contained incriminating documents which suggest that Letelier had indeed been using and manipulating his Washington contacts. This delay alone is troubling, considering the aggressive investigations conducted by the news media in the recent past on other subjects. Even as the nature of the documents became apparent, the editor of the New York Times made it clear that the only important thing about Letelier was who had killed him and why. A spokesman for the Washington Post concurred. "The important thing about Letelier," he said, "is that he is dead." The national media's reluctance to pursue the matter became even more apparent as Reed Irvine and AIM sought to disclose the wider implications of the Letelier documents.

Through the effort of Representative LARRY MCDONALD of Georgia the contents of Letelier's attaché case have been published in the CONGRESSIONAL RECORD of June 24, 1977. They reveal that Letelier aided the Cuban intelligence service and probably supported Soviet and East German intelligence undertakings as well. In particular he was working to overthrow the present anti-Communist government in Chile.

Included in the attache case was a letter to Letelier from Beatrice Allende Fernandes, daughter of Salvador Allende and the wife of a top Cuban intelligence official. She informed Letelier that payment to support his work had been approved and that he was to be paid $1,000 each month to finance his activities in the United States. According to one note in the case a U.S. Congressman was given $380, from the fund of a Soviet-based Communist front in Helsinki, to attend a conference inquiring into crimes of the Chilean military government. This meeting, held in Mexico City in February 1975, had been planned in part by a handful of liberal U.S. Senators and Congressmen. Letelier's strategy as he describes it was to "mobilize the liberals" by defining issues in terms of human rights and concealing the Communist ideology which in reality motivated his efforts. He was, in short, duping representatives of the American people to further the Communist movement in the Western Hemisphere.

Letelier's activities may or may not have posed a threat to U.S. interests. This dispute is tangential to the real issue at hand. The question, properly posed is, should a small number of men who control the major organs of the news media judge Letelier's activities or should the American people? Clearly the public has a right to know whose money Letelier was receiving, the nature of the services he was performing, and the manner in which his presence influenced their representatives.

The leaders of the news media apparently think otherwise. The wire services demonstrated only mild interest when AIM brought the neglect of the story to their attention. The first prominent mention of the significance of the Letelier documents was a December 30 column by Jack Anderson and Les Whitten. This was followed by a Rowland Evans and Robert Novak article on February 16. The next day the Washington Post published an inaccurate and misleading article concerning the Letelier incident which skipped over the important implications of the case. The superficial investigation was conducted by a reporter whose ability to read the documents was limited because they were written in Spanish. The Post then ran a letter on the op-ed page written by an apologist for Letelier from the IPS.

At this point AIM stepped into the picture. AIM asked that their critique of the Post's article be printed and was refused. Compelled to inform the readers of the Post in another manner, AIM sought to place a paid ad in the Post on February 28 setting forth their criticism of the story.

The Post frustrated AIM's effort to do this, and at the same time refused to print a second Evans and Novak column on the subject on the grounds that the issue had been sufficiently covered. AIM then turned to the Washington Star and the New York Times but each of these newspapers violated their advertising policy, as had the Post, and declined to print the ad. Because neither of the columns which dealt with the Letelier documents appeared in the Times, readers of that newspaper have yet to be informed of their significance. To conclude this scenario, on March 5 NBC ran a segment on Letelier on the program "Weekend" without mentioning the documents or the facts revealed by the columnists.

What the Letelier incident suggests is not that there is a conspiracy among the major organs of the news media to deny the American people information. Rather it points to a more insidious form of censorship by selective omission. With the great mass of news items from which the media must choose, certain stories cannot command the same aggressive investigation as others and some must be ignored altogether. When a single ideology and persuasion alone determines what is deleted and what remains in the major organs of our news media, then the public's right to know is compromised and even denied. This is a result that Reed Irvine and Accuracy in Media valiantly seek to prevent. I salute Mr. Irvine for his efforts.

Human Events recently printed an interesting story on Mr. Irvine and AIM presenting some of the details I have been

discussing. I would like to share it with my colleagues at this time. Mr. President, I ask unanimous consent that the article, "Taking AIM against Media Bias" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Human Events, July 2, 1977]

TAKING AIM AGAINST MEDIA BIAS

(By M. Stanton Evans)

On first encounter, Reed J. Irvine of Accuracy in Media appears to be a modest, unassuming fellow.

On closer acquaintance, however, Mr. Irvine and his colleagues at AIM turn out to be a bunch of tigers. They have tackled the enormous task of playing ombudsmen to the major media—correcting errors, proving bias, calling for a greater sense of fairness. Their bi-weekly publication, *AIM Report*, is a tough compendium of media gaffes and oversights that must be a source of acute embarrassment to the New York *Times*, the Washington *Post*, and other pillars of the establishment.

Irvine and AIM are not content, however, simply to document and complain. They have developed a method of seeking corrective action that is proof of their tenacity and enterprise. Since the major media are large, publicly-held corporations, Irvine and his colleagues have purchased shares and taken to showing up at stockholder's meetings to ask the management thorny questions.

In recent weeks, Irvine and Co. have hied themselves off to the annual meetings of CBS, NBC, the *Times* and the *Post*.

Among the topics canvassed in their questions were media coverage (or non-coverage) of the Communist genocide now going forward in Southeast Asia, excessive gentleness toward Communist dictator Mao Tse-tung, media contributions to the scare over food additives, the NBC deal with Moscow for coverage of the 1980 Olympics, lopsided handling of the nuclear power issue, and so on.

The result of this procedure is that the grandees of the media world have suddenly found themselves on the receiving end of the treatment they routinely serve to others. By and large, they don't seem to be handling the matter very well—as witness the recent exchange between Mr. Irvine and Philip Geyelin, editorial page editor of the Washington *Post*. The topic of their discussion was Orlando Letelier, the left-wing former diplomat from Chile who was murdered in a bomb blast last September.

In the aftermath of the slaying, Letelier's briefcase was found to contain all manner of documents linking him to Havana and suggesting he was using money from Cuba to finance attempted manipulations of the U.S. Congress. Irvine wanted to know why the Post had killed the second of two columns on this subject by Rowland Evans and Robert Novak. Geyelin's answer was that the column was "scurrilous" and that the Letelier documents should not have been leaked—the latter statement paraphrasing the previously rendered editorial judgment of the Post: "The disturbing thing is that the leaks appear to be coming from some of the very quarters charged with investigating the crime."

Considering the fact that the Post is the newspaper that employs Bob Woodward and Carl Bernstein of Watergate-leakage fame, and that it defends such massive leaks of data as the publication of the Pentagon Papers, this is a breathtaking assertion. The irony is well developed in the Irvine-Geyelin exchange:

"Geyelin. What is scurrilous about that second column in my view is what is scurrilous in a general way about hounding a man into the grave who is unable to defend himself, for purposes which escape me, without having access to these documents that you have access to, and which, in fact, you shouldn't have access to.

"Irvine. We shouldn't have access to them? Why is that?

"Geyelin. Because that briefcase was taken by the authorities purely for the purpose of investigating that murder, and it was leaked all over town by the authorities and subsequently. . . .

"Irvine. The Washington Post is opposed to leaks now?

"Geyelin. Not a bit. Not a tiny bit.

"Irvine. Then it would be all right if the Washington Post had the documents and we didn't? If we offered them to you, would you accept them?

"Geyelin. I'm saying as a matter of principle these documents should not have been leaked.

"Irvine. Well, no documents should be leaked, should they? The Pentagon Papers shouldn't have been leaked.

"Geyelin. No, that's not true.

"Irvine. Oh, they should have been leaked.

"Geyelin. Well they shouldn't. . . . No, that is not my point. My point is that once they went into the public domain, then we had every right to find out what we could about them.

"Irvine. Well, these are now in the public domain. [Jack] Anderson has them. Evans and Novak have them. Why do you say that I shouldn't have them?

"Geyelin. Maybe you should. I didn't say you shouldn't, in theory. . . ."

And so forth and so on, including other questions—and inadequate responses—about some submachine guns that Letelier had acquired, and the refusal of the *Post* to accept an ad on this general subject from AIM although it has run ads from Communist North Korea and recently ran an ad proposing "normalized" relations with Red China signed by two registered agents of the Peking government (see Human Events, May 14, 1977, page 10).

In the case of the submachine guns, Irvine noted, the *Post* omitted to tell its readers that Letelier had secured a couple of these to take back to Chile in 1973, a curious step for an alleged political idealist. The North Korean newspaper ads asserted, among other things, that "our national sovereignty is still being trampled underfoot by foreign aggressors in one half of our country."

This bald untruth by a Communist dictatorship, Irvine observed, was considered acceptable as an advertisement in the *Post*, but AIM's own ad detailing the unsavory background of Letelier, and the *Post's* mishandling of that issue, were verboten. Game, set, and match to Mr. Irvine.

HOSPITAL COST CONTAINMENT

Mr. SCHMITT. Mr. President, the effects and implications of the administration's hospital cost containment proposal on the delivery of health care in New Mexico are vast and alarming.

Placing an arbitrary "cap" on health care costs is not going to keep actual costs from rising. It is going to take some innovative and imaginative uses of modern management techniques such as those in use in New Mexico to actually cut costs of health care. Some exciting New Mexico experiments include the establishment of rural clinics tied to crisis care facilities through modern transportation and communication systems, such as the Phelps Dodge system; modern group management review techniques, such as those practiced by Presbyterian Hospital; and efficient State malpractice legislation, such as we have working for us now in New Mexico. In addition, increasing the use of local rest home facilities for long-term care to decrease hospital bed load should help relieve health care costs.

Mr. President, I ask unanimous consent that the letters from the New Mexico Nurses Association, Presbyterian Hospital, the New Mexico Hospital Association, the New Mexico Medical Society, and Bernalillo County Medical Center be printed in the RECORD as an indication of what some of our medical professionals in New Mexico feel is wrong with the proposed hospital cost containment legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NEW MEXICO NURSE ASSOCIATION,
Albuquerque, N.M., June 22, 1977.

Hon. HARRISON SCHMITT,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHMITT, The New Mexico Nurses' Association would like for you to know our position on President Carter's cost containment bill. We do support the objectives of the bill, but have serious questions about certain aspects of the proposed legislation. To correct rapidly rising costs and to promote quality health care requires more than such a simplistic solution. Only by resolving underlying problems of inflation can hospital revenues be contained and the needs of the people met. To attack only one segment—hospitals—will not be a long-term solution.

We believe attention must be given to altering the system of reimbursement which is inefficient and offers little incentive for effective management control. The third party system for reimbursement encourages institutional care which is very costly, but does not include reimbursement for primary care nurses who can and are able to keep people out of institutions. To attack the acute care inpatient services without providing opportunities to develop and expand alternative approaches to inpatient care can, at best, be of only a temporary benefit.

We also believe that the cap of hospital revenue as now proposed will adversely affect the quality of health care. The bill carries a section (113) for an admission load formula which is inadequately conceived, and will reduce the quality and quantity of services required for safe care of in-patients.

All of these points are covered in greater length in a statement prepared by the American Nurses' Association for the Senate Subcommittee on Health and Scientific Research of the Committee on Human Resources. If you will be in New Mexico for a summer break, I will be happy to discuss this with you.

Sincerely,

(Mrs.) JUDITH BROWN, R.N.,
Executive Director.

PRESBYTERIAN HOSPITAL,
Albuquerque, N. Mex., June 24, 1977.

Sen. HARRISON SCHMITT,
United States Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: The two basic arguments against the President's hospital revenue "cap" proposal are that hospitals suffer from inflation like all businesses and individuals, and hospital costs increase because of expanded and improved technology and service.

To provide you with additional information, we compiled fiscal data comparing our 1976 and 1977 fiscal years, and our depart-

ment heads compiled services and procedures we now routinely offer our patients that were not offered ten years ago. Many items on the list have only been offered in the last five years.

I contend that "hospital inflation" defined as increased costs of what we purchase, rises at a rate significantly greater than "general inflation" or the gross national product deflator. Our fiscal study demonstrates a 14.5 percent "hospital inflation" increase in 1977 over 1976 for 70 percent of our expenses compared to the 6 percent GNP deflator for the same time period and is used in calculating the 9 percent "cap".

In fiscal year 1977, Presbyterian Hospital inpatient days increased 2½ percent over 1976, and outpatient visits increased 24 percent. To provide this service, expenditures at Presbyterian Hospital for the fiscal year ended March 31, 1977, increased $4.9 million or 21 percent over the previous fiscal year. The major categories of expense are shown in the following table:

	Operating expenses		Total increase	
	Fiscal year 1977	Fiscal year 1976	Amount	Percent
Salaries and benefits	$15,015,794	$12,285,790	$2,730,004	22.2
Professional fees	1,633,032	1,386,853	246,179	17.8
Supplies and purchased services	8,481,939	6,819,837	1,662,102	24.4
Insurance	715,631	471,214	244,417	51.9
All other	345,531	477,718	(132,187)	(27.7)
Total	26,191,927	21,441,412	4,750,515	22.2
Depreciation and interest	1,494,991	1,364,918	130,073	9.5
Total	27,686,918	22,806,330	4,880,588	21.4

Of the total increase, approximately 15 percent was due to inflation. The overall rate of inflation was determined by examining the changes in volume which had occurred in certain large expense areas in the two fiscal years. The areas examined are shown on the attached table and represent more than 70 percent of the total expenses excluding the fixed costs of depreciation and interest.

In the area of Supplies and Purchased Services, the sample items listed account for 37 percent of the total expenditures for this category. The Supply and Purchased Services sample items increased 16.8 percent, including inflation and volume, compared to 24.4 percent overall increase in this category. The sample increase was expected to be lower since it included the high volume items that are sometimes amenable to cost containment by aggressive purchasing.

It is interesting to note that the only decreases (unemployment taxes, IV solutions, food and X-Ray film) were the result of an active ongoing cost containment program. The only changed purchasing practice in the four areas of savings affected IV solutions.

Because of Presbyterian's pioneering efforts in founding an offshore mutual insurance company, general liability insurance was held to a 50.2 percent increase compared to 100 percent plus increases nationally. Many of the other increases, excluding salaries, were mandated by law, regulation, or a sole supplier.

The services we offer today that were unavailable to our patients ten years ago include:

Coronary Care Unit
Total hip & joint replacement
Oxytocin Challenge Testing
Dialysis
Amniocentesis
Fetal Heart Monitoring
Cardiac Catheterization Laboratory
EKG Telemetry
Pressure Monitoring
Ultrasound
Nuclear Medicine
Pulmonary Function Studies
Cardiopulmonary Resuscitation Team
Home Care Planning
Patient Education Programs
Patient Assistance & Counseling
Hyperbaric Chamber
Interaortic Balloon Pump
Intensive Care Unit
Retinal Surgery
Therapeutic Drug Levels
Laminar Flow
Infection Surveillance Nurse
Enterostomal Therapy
Blood Gases
Professional Standards Review Organization
Open Heart Surgery
Emergency Department fulltime M.D. coverage
Day Surgery Unit
Ambulance Company
Laparoscopy
Micro-surgery
Malpractice monitoring
Blood Component Therapy
Patient Representatives
Newborn Intensive Care Unit
Intravenous Therapy Team

The hospital cost spiral is explainable. The real issues of how we allocate our national health resources and the cost benefit analysis of improving the quality of a life, or even extending it, are ignored in the President's proposal.

I am particularly distressed that the President's proposal will inevitably stifle innovation and responsiveness to patient needs. Presbyterian Hospital Center has an enviable record of striving to meet the health needs of its constituents. We have successfully weathered other storms and learned to balance aspirations with fiscal realities, but I see the current proposal before Congress as one that will inevitably result in marked reduction of services in community hospitals like our rural affiliates and in regional hospital centers like Presbyterian.

Especially disquieting is the fact that individuals, regardless of their income, will not be allowed to obtain health care above certain minimum levels mandated by the government formula regardless of their desire or ability to purchase care, because hospitals will be prevented from selling services above the mandated levels. Citizens are allowed to obtain private education, but the "cap" proposal would eliminate this alternative in health care. I urge your opposition to this poorly conceived legislative proposal.

Thank you, as always, for your understanding and consideration. Please let me know if we can provide additional information.

Sincerely,

RICHARD R. BARR,
Administrator.

Problems With the Hospital Cost Containment Act of 1977 (S. 1391—Kennedy—approved by the NMHA membership at its May 12, 1977, meeting)

The New Mexico Hospital Association opposes the Cost Containment Act of 1977 for the following reasons:

1. The formula on increase in revenues will eliminate technolcgical innovation. Although the formula was designed to allow for changes in services and intensity, the GNP Deflator understates the effect of inflation on hospitals since hospitals intensively use rapidly increasing cost items such as utilities, plastic products, foods, postage, etc.

2. With limited resources, hospitals must make policy decisions on allocation of resources and who obtains what care. These policy decisions are better made as a part of a national health policy. The federal government appears unwilling to make these difficult decisions and is forcing these decisions upon the Board of Trustees, medical staffs and administration of hospitals.

3. The allocation of capital expenditures, strictly by population, may discriminate against New Mexico, with its small, rural, and widely dispersed, but rapidly growing, population. The plan does not recognize the greater needs of rural citizens for health care. Approximately $12-million would be available for New Mexico, which would not pay for the full costs of updating current facilities, let alone provide additional services necessary. Such limitations also would impede or cancel planned consolidation of services or other innovations which could lead to short and long-run cost containment. Thus, such an allocation, in effect, is contrary to the stated intent of this legislation of avoiding duplicative hospital facilities.

4. Individuals, regardless of their source of income, will not be allowed to obtain health care above certain minimal levels. Citizens are allowed to obtain private education regardless of cost, but this proposal would eliminate this alternative in health care. Due to the limitations on income, which discourage increased admissions, a hospital will have several alternatives, all of which are bad. Among these alternatives would be to discontinue admissions after the revenue limit has been reached and/or limit admissions during the year. This could lead to inappropriate shifting of patients to other facilities which may not be appropriately equipped to care for the patients' needs.

5. No incentives are included within this proposal. Only disincentives and punitive actions are included.

6. It does not reward hospitals which have kept their costs down. A hospital with high charges is allowed a larger increase than the hospital that has kept its prices low.

NEW MEXICO MEDICAL SOCIETY,
Albuquerque, N. Mex., May 12, 1977.

Hon. JACK SCHMITT,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR SCHMITT: At the Annual Meeting of the New Mexico Medical Society in Albuquerque on May 6, the House of Delegates unanimously passed the enclosed Resolution and I was instructed to forward this to you with the House of Delegates request that you use your efforts in defeating these poorly conceived bills.

The medical profession views bills of this type as very dangerous to the entire health industry, and we hope that you will vigorously use your influence to oppose passage of this type legislation.

The House of Delegates also went on record to notify the U.S. Senators and Representatives of the discrimination that exists in the federal laws and regulations which require review of private hospitals from which federal hospitals are excluded. The profession

is very much disturbed over the scrutiny placed on our private hospitals. They feel that the same professional review should be carried out with all health facilities and that government institutions should not be excluded.

Best wishes,

RALPH R. MARSHALL,
Executive Director.

RESOLUTION

Whereas, at the request of the Carter administration, Senator Kennedy and Representatives Rogers and Rostenkowski have introduced identical bills into the Eightieth Congress titled "Hospital Cost Containment Act of 1977", Senate Bill 1391—H.R. 6575, and

Whereas, these bills limit hospitals' revenue from in-patient services to approximately a 9-percent increase, and

Whereas, hospitals are facing ever-increasing costs in energy, insurance premiums, food, labor, and other goods and services through inflation, and

Whereas, the national Consumer Price Index (CPI) has risen 10 percent in the first quarter of 1977, and

Whereas, the 9-percent ceiling would discriminate against the health care industry in placing them under wage-price controls without equal controls over the rest of the economy, and

Whereas, this legislation's limitation on capital expenditures based strictly on population discriminates against New Mexico's widely dispersed, small population and their greater needs for rural health care facilities, and which would stifle developing new technologies and plant modernization, and

Whereas, these limitations could compromise a physician's judgement in ordering necessary, but expensive, diagnostic and/or therapeutic services, and would reduce the quality and quantity of health care, and

Whereas, the most serious penalties are placed on the health care industry for noncompliance, and

Whereas, these laws may contribute to the closure of needed hospitals in New Mexico, and

Whereas, these bills' exclusion of Federal hospitals discriminates against all other hospitals, and

Therefore, be it resolved that the New Mexico Medical Society House of Delegates does hereby urge that the Congress of the United States defeat these bills which are poorly conceived efforts at cost containment and which would place great hardship on the entire health care industry and the health of the people of New Mexico.

BERNALILLO COUNTY MEDICAL CENTER,
Albuquerque, N. Mex., May 23, 1977.

Hon. HARRISON SCHMITT,
U.S. Senator,
Albuquerque, N. Mex.

DEAR SENATOR SCHMITT: I am writing you to oppose the Hospital Cost Containment Bill H.R. 6575 and S. 1391. In my opinion, this bill will be a total disaster for the American hospital system.

As you know, Bernalillo County Medical Center is the University teaching hospital and, in addition to the service impact on the hospital, this bill would probably have a serious education impact since we would have to reduce expenses and, in effect, become a second or third rate hospital.

My fiscal director estimates that we would have to cut expenses by $1.3 million if this bill were to be passed in its present form. BCMC lagged behind in raising rates to cover costs and was on the verge of bankruptcy when my predecessor took over in January 1976. He adjusted rates to more accurately reflect costs and as a result, if that period became a base year, it would have disastrous effects on this hosptial. I am sure there are other hospitals in the country that have a similar situation.

The Administration's claim that this legislation is "simple" and "fair" is a total misrepresentation. It is such bad legislation that I would recommend total defeat rather than attempt to amend it to make it acceptable. If passed, it will have a serious adverse effect on the health care furnished your constituents.

I stand ready to do all in my power to contain cost but feel that this approach is certainly not the way to go.

I hope that you will share this view.

Sincerely,

WILLIAM M. WEGNER,
FACHA Administrator.

BENJAMIN HOOKS HEADS NAACP

Mr. SASSER. Mr. President, today, August 1, 1977, the Reverend Benjamin Lawson Hooks becomes head of the National Association for the Advancement of Colored People. The State of Tennessee and the people of our great country are justifiably proud of the contributions made by this man. I would like to express my own appreciation for the valuable service Ben Hooks has rendered throughout his long career.

Today, Benjamin Hooks becomes the ninth chief executive of the largest civil rights organization in the world, a 67-year-old institution that has been a leading force in the most sweeping social movement of our time. Judge Hooks will bring to the organization the kind of energy and experience necessary to lead the NAACP through these troubled times.

Judge Hooks has been a trailblazer and an outspoken social advocate, but he has also been that rare man whose balanced judgment earns the respect of his staunchest opponent.

Born January 31, 1925, in Memphis, Tenn., Judge Hooks attended Lemoyne College and later went to Howard University. After serving his country in World War II, with the predominantly black 92d Infantry Division, he took his law degree at DePaul University and returned to the city of his birth.

From 1949 to 1965, Judge Hooks practiced law in the city of Memphis. In his words:

> . . . I came back to change things in the South, that was part of my mission in life. And I've been working at it 28 years now, in the South first and then in the country.

He was a local leader in a budding social movement that would later grip our entire Nation. In the courtroom and in the pulpit of the Middle Baptist Church, Benjamin Hooks was not afraid to speak out for the cause of social justice.

In 1965, he was appointed the first criminal court judge in the history of Tennessee, and became the first of his race to head a court of public record in the South. Seven years later he became the first black man to serve on the Federal Communications Commission.

These were important "firsts," but the personal excellence Benjamin Hooks exhibited in these positions of public trust outshines the fact that he happens to be a black American.

For the last 5 years, Judge Hooks has compiled an exemplary record as Commissioner of the FCC. He has brought a new perspective to this regulatory agency that plays an increasingly important role in the life of every American. Many regret that Judge Hooks is leaving the FCC. I share that feeling, but at the same time fully expect him to reach new heights in public service. As he answers his latest "call," I know that Benjamin Lawson Hooks will continue to remain dedicated to the cause of social justice. His contributions will continue to strengthen our American democracy. I wish him well and I offer my help.

SENATOR SCHMITT COSPONSORS GOLD CLAUSE FREEDOM BILL

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from New Mexico (Mr. SCHMITT) be added as a cosponsor to S. 79. This bill would effectively repeal the joint resolution of June 5, 1933, which declared unenforceable gold clause contracts.

These contracts were widespread at that time. One estimate I have seen indicated that $135 billion of outstanding financial obligations carried gold clauses. Without any attempt to compensate the contract holders, the Federal Government abrogated this important clause in the contracts. It was an unfortunate chapter in our history.

At that time, of course, there was a firm link between gold and the dollar. At that time, too, the problem the Nation faced was not one of inflation. It was one of deflation—declining prices. Gold was revalued upward in an effort to provide inflationary stimulation.

Today, gold no longer has any official tie with the dollar. The restrictions against gold ownership were repealed in 1973 and there is no reason not to repeal the restrictions against gold clause contracts.

Recently, the Institute on Money and Inflation provided me with a copy of a letter received from Mr. Samuel M. Robbins concerning this matter. The institute has done considerable work on this topic for me and they have provided the facts and figures I have utilized in my efforts to get the gold clause freedom restored.

Mr. Robbins points out the savings that might be made available to individuals, business, and Government if gold clauses were put into bonds and other debt instruments. He proposes a gold clause in Federal securities, a device which some feel would provide an official Government imprimatur to such contracts. It is my view that we should first restore the freedom and then look at the experience others gain from it. Since gold is considered a "commodity" by the Federal Government, it would seem to be inconsistent for the Government to utilize gold in its financial instruments any more than soy beans or tin or other freely negotiated homogeneous commodities.

Individuals can, of course, utilize nongold commodity clauses in their contracts, but until S. 9 is passed, clauses calling for payment in gold or in dollars

measured in gold are not enforceable in the courts.

Mr. President, I ask unanimous consent that the letter from Mr. Samuel M. Robbins to the Institute on Money and Inflation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ROBBINS PLANNING CO.,
West Newton, Mass., June 24, 1977.

INSTITUTION ON MONEY AND INFLATION,
Washington, D.C.

DEAR SIRS: I hear that you are doing research on the possible effects of gold clauses which might be used in contracts in this country.

I have studied this issue in some depth.

To me the net effect of having gold clauses legalized would be to lower interest rates and to facilitate the raising of capital. The latter problem of course needs all the help it can get.

To put it simply, which would you rather invest your money in: A long term bond with a 5 percent coupon, due let's say in the year 2,000, but at maturity the amount of principal due and payable would be adjusted by the price of gold, as compared to what the price of gold was at the time of issuance. If we assume that the free-market price of gold adjusts over time to rates of inflation, if we accept the notion that gold tends to maintain its "real" value over the years, then a bond indexed to gold would offer the bond investor some reasonable prospect of protecting his capital from the inroads of inflation. Thus as long as an investor knows that he is going to get income equal to what he could get in the savings bank, but that at maturity he will get back his "real" principal, a whole new avenue to financing industrial expansion will have been opened up.

The alternative is what we have now. Presumably an 8 percent coupon, payable in a fixed number of dollars at maturity. Such a bond really is a certificate of confiscation of wealth, since long term inflation destroys much of the original meaning of the capital invested.

The result is that in today's world it is extremely difficult for corporations to raise substantial sums of long term money. The rates of interest are obviously considerably higher than need be, to compensate the investor not only for the true interest he feels he deserves for the use of his money, but to allow him a factor to cover the cost of inflation.

Thus in today's world the corporation suffers the impact of an immediately higher cost of interest, whereas a goldclaused bond would postpone the day of reckoning to maturity. To be sure the total costs to the corporation at maturity may well have been the same, but for a long period of years the company enjoyed the use of lower cold funds with which to make money, to create wealth, to build new plant and so on.

Also this means that borrowers would have a stake in lowering inflation. Right now, borrowers figure that inflation will lessen the difficulties in paying off bonds at maturity many years from now when inflation will have theoretically reduced the real value of the bonds. Thus our present system encourages borrowers to see a certain value in inflation. Inflation ultimately destroys the long bond market.

This might not be so bad except that Uncle Sam happens to be one of the biggest borrowers of them all.

If the U.S. Government started to issue gold-indexed bonds, they could probably lower the coupon to 3%. Meanwhile they would have good reason to try to lower the rates of long term inflation—they would have to pay out less at maturity.

Thus from one little clause, an awful lot of good can flow to this country over the years.

Take note that the insertion of gold clauses in contracts, notes and bonds does not require corporations or governments to have vast quantities of gold bullion on hand. It simply ties the maturity value of the bond to the price of gold.

Nor would investors require the borrower to pay them in raw gold at maturity. They don't really want all that bulk. All they want is the protection that gold affords. Hence it is not even necessary to legalize the payment of obigations in raw gold. It is only necessary to allow the bond to be indexed to gold prices.

America could solve some of its most destabilizing problems at the stroke of a pen.

It's as simple, and as complicated, as that.

Yours very truly,

SAMUEL M. ROBBINS.

PS. I call to your attention that there is no long term market for bonds in Brazil. All financing must be financed on a short term basis, even long term financing!

COLLEGE REPUBLICANS ENDORSE SCHWEIKER TUITION TAX RELIEF ACT OF 1977

Mr. SCHWEIKER. Mr. President, at its recent meeting, the College Republican National Committee, representing the large and growing number of young Americans who are finding in the Republican Party the reflection of their values and the enunciation of their ideals, approved a section of its platform endorsing S. 834, a bill which I have introduced to provide tax credits or deductions for tuition. This legislation has already won broad bipartisan cosponsorship; and a similar bill (H.R. 3403) has been introduced in the House of Representatives by Congressman JAMES DELANEY, the chairman of the House Rules Committee.

I am pleased to have the additional support of the college Republicans, many of whom are experiencing firsthand the difficulties of financing their college education at a time when inflation has undermined their families' income and Federal regulations have driven up their college expenses. Present Federal programs provide relief to only a limited portion of those paying for tuition.

I ask unanimous consent that their platform's endorsement of S. 834 be printed in the RECORD.

There being no objection, the endorsement was ordered to be printed in the RECORD, as follows:

COLLEGE REPUBLICAN NATIONAL COMMITTEE PLATFORM 1977

Over the past few years, the cost of education at all levels has risen dramatically. While inflation has driven wages, salaries, food and fuel prices, and other expenses up and eroded the value of scholarship funds, the recent recession has depleted most schools' endowments and has discouraged alumni contributions. This has made it increasingly difficult for many Americans to afford the cost of educating their children at college, and has denied to others the choice of sending their children to private school.

The existing system of federal grants to colleges has created significant complications at the expense of both taxpayers and tuition payers. Last year, it cost American colleges nearly $2 billion to comply with H.E.W. regulations. Furthermore, H.E.W. has perniciously used these grants to deprive colleges of their autonomy.

Legislation has been proposed (S. 834, H.R. 3403) granting a 50% tax credit of up to $250 or a $1,000 deduction for tuition payments. The College Republican National Committee heartily endorses the passage of this bill as a step in the right direction.

MINORITY OPPRESSION IN ROMANIA

Mr. HEINZ. Mr. President, many nations still oppress minorities and ethnic groups despite a worldwide movement to insure human rights. Often this oppression is overt, but some countries employ subtle methods of discrimination to achieve their oppressive ends. A prime example, and one which I believe we should recognize, is the discrimination against minority groups in Romania.

There are 2.5 million Hungarians living in Romania, as well as 400,000 Germans, and sizable numbers of Ukrainians, Jews, Serbs, Greeks, and Turks. Yet Government policy has insisted on the forcible assimilation of these people into a national Romanian culture, violating United Nations and Helsinki agreements protecting minority rights. Romania is a signatory to these international pacts, however, and remains answerable to the world community for human rights transgressions.

The degree of discriminataion in Romania must not be underestimated. The April 17, 1977, Sunday Times of London concluded, "Romania's unstated but unmistakable aim is to become a state without minorities." Romania forbids the use of the Hungarian language in government; Hungarian universities have been eliminated by a strict Romanian education system; the archives of religious communities are confiscated for purposes of "protection." Even the publication and number of pages of Hungarian-language newspapers has been forcibly curtailed. Six Hungarian newspapers formerly published daily are now allowed to appear only weekly. Children's books, journals, and professional publications appear less and less in minority languages. Ethnicity is systematically being worn away in Romania, and the people have been unable to alter the Government's campaign of cultural genocide.

Discrimination is also a part of the ruling structure. Hungarians are proportionally represented in Government only in those state and party organs which are not allowed to exercise real power. Of the 25 members of the Council of Ministers, for example, only 1 is Hungarian. In several primarily Hungarian counties, Hungarian representation is completely excluded from the party bureaus.

It is apparent that Romania's policy toward its minority citizens is calculatedly deceptive and harsh. By ignoring international treaties, Romania has denied basic freedoms. The United States should recognize and condemn Romania's policies against minorities; millions of people are being denied their heritage and freedom while the Western world stands idly by.

THE PRESIDENT'S CONSUMER REORGANIZATION

Mr. JAVITS. Mr. President, President Carter this afternoon announced his proposal for eliminating or merging 26 units

of the Federal Government which would overlap or duplicate functions proposed to be created in the new Agency for Consumer Protection.

As reported by the Governmental Affairs Committee, S. 1262—the Consumer Protection Act of 1977—provides that the President must submit a reorganization plan to Congress within 180 days after enactment to achieve that objective.

By releasing the substance of this plan today, the President has both emphasized his determination and commitment to cut back on inefficient and bureaucratic government, and given the Congress an excellent opportunity to consider the specific offices and functions which would be eliminated by enactment of the Consumer Protection Act.

We are advised by Ester Peterson—the President's very able and effective Consumer Affairs Adviser—that this reorganization involves units currently spending $11.6 million annually, and employing more than 200 people.

The President also announced today that the executive departmental consumer representation plans which were developed last year would be rescinded, at a cost saving of $8.5 million annually.

I strongly endorse these actions—they will make more than $20 million available for reallocation.

The new Agency for Consumer Protection will operate with a first year budget of only $15 million. Enactment of this bill will therefore, not only reduce the overall size of the Federal Government, but also bring about a saving to the American taxpayer.

Mr. President, as the Senate knows, with Senators RIBICOFF and PERCY, I have been working for enactment of a consumer protection agency bill for more than seven years. I believe we have been responsive to the concerns of our colleagues in the Congress and those of the American business community. We have always contended that it will help honest business, will not be meddlesome with a host of protections in the bill to assure these objectives, and will only consolidate the consumer functions of the Federal Government and not proliferate them. The President's proposal of today makes that crystal clear.

The Consumer Protection Agency will be a small, effective organization designed for advocacy—not meddling. It will genuinely open up our governmental process to allow the interests of consumers to be articulated and heard on an institutionalized basis for the first time. It is long overdo. The enactment of this legislation will increase public confidence in Government and materially improve the administrative process by facilitating agency and court consideration of major consumer interests.

THE PROTESTANT IRISH HERITAGE IN AMERICA

Mr. KENNEDY. Mr. President, one of the most difficult challenges in the continuing search for peace in Northern Ireland is to build effective bridges between the Catholic and Protestant communities. The development of a greater sense of mutual trust and respect between the two communities will help to enhance the prospects of a negotiated settlement that respects the rights of both sides and that can bring a permanent end to the present tragic conflict.

Throughout the current conflict, the Irish-American community has tended to be closely identified with the Catholic community in Northern Ireland. Those ties are close because of the strong Irish Catholic heritage and tradition in the United States, the natural sympathy which Irish American Catholics feel for the problems of their fellow Catholics in Northern Ireland, and the oppression, discrimination, and violations of human rights which the Catholic community in Northern Ireland has suffered.

It is clear, however, that the search for peace cuts across sectarian lines in Northern Ireland. The spontaneous origin and the dramatic success of the peace movement last year, for example, demonstrated the powerful desire for peace with justice by the overwhelming majority of the ordinary citizens of Northern Ireland, both Protestant and Catholic.

We have tried to do our share in the United States, by condemning the violence on both sides, and by urging Irish Americans to renounce any action that supports or encourages the violence.

In this sensitive period, it is important for Irish Americans in the United States to do what we can to reassure the Protestants in Northern Ireland that they have nothing to fear from the Irish American community, and that we are as concerned to reach a settlement that respects their basic rights as we are to secure the basic rights of the members of the Catholic community.

An effective way to demonstrate the good will of Irish Americans toward the Protestant community in Northern Ireland to recall the Protestant Irish heritage in America. That heritage is a major strand in the Irish tradition in the United States, and it has played a key role at critical periods in American history, particularly in the Revolutionary War era. Yet it is a strand that has not been well enough appreciated or recognized in modern times.

For that reason, I requested the Library of Congress to conduct a study of the Protestant Irish heritage in America. The Library's report, which I am releasing today, presents an excellent and readable analysis of this neglected part of America's Irish heritage.

Few Irish Americans, I suspect, are aware of the major role that Irish Protestants played in the Revolutionary War. It is well known, for example, that John F. Kennedy was the first Irish Catholic President of the United States. But few are aware that one of our most famous Presidents, Andrew Jackson, was an Irish Protestant President, or that 12 other Presidents also share that Irish Protestant heritage.

The Library of Congress study is a valuable reminder of this important aspect of our past. As Irish Americans, we are proud of the twin pillars of our Irish heritage. And as Irish Americans, we wish both the Protestant and the Catholic communities well in Northern Ireland, as persons of good will on both sides carry on their search for peace.

A day will come when the guns and bombs and inflammatory words are quiet, when the people of Northern Ireland will live together in peace and mutual understanding, when the two communities will be as proud of the twin strands of their own fine Irish heritage as we are of our heritage in the United States.

Mr. President, I believe that the Library of Congress study will be of interest to all of concerned about the tragic situation in Northern Ireland, and I ask unanimous consent that the study may be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE PROTESTANT IRISH HERITAGE IN AMERICA

(By Peter B. Sheridan, Analyst in American National Government, Government Division, Congressional Research Service, Library of Congress, July 21, 1977).

Most Americans, when they think of the Irish in American history, think of the famine immigrants, the Gaelic-speaking Catholics from Southern Ireland, the "Paddies" of the railroads, the canals, and the mines. There were other Irish, however, who were here long before the famine years. These were the Irish Protestants, generally, but not always, from Northern Ireland, who began arriving in the colonies in great numbers as early as 1717–18, a time of great economic distress in Northern Ireland. Some had, of course, come earlier, for example, James Logan, the Quaker from Armagh, who arrived as secretary to William Penn, founder of Pennsylvania, in 1699. Logan later became a member of the provincial council, mayor of Philadelphia, governor, and, chief justice of Pennsylvania. Other waves of immigrants from Northern Ireland arrived in 1725–29, 1740–41, 1754–55, and 1771–75, after which the tide, for all practical purposes, ceased. Each of these periods coincided with a time of economic difficulty (drought, poor crops, high taxes, increased rent on leased land, and evictions) in Northern Ireland.[1]

These Irish Protestants were, in the main, the result of several "plantations" by the British early in the seventeenth century, particularly the Plantation of Ulster, in an effort to establish a loyal and stable population in Ireland and, it was hoped, to prevent any further acts of rebellion on the part of the native population. Many of these settlers were Lowland Scots, predominately Presbyterian, although there was a sprinkling of other denominations as many Irish Protestants in the seventeenth century were of English descent, others were of French

[1] Throughout this paper I have used the term Irish Protestant rather than the commonly used, but erroneously designated, "Scotch-Irish," as not all Irish Protestants were of Scottish origin, and they did not all come from Northern Ireland. Moreover, it is a matter of historical record that no distinction was made among the Irish immigrants in the colonial period. They were all considered, and thought of themselves, regardless of sectarian differences, as Irish. The fictitious designation, "Scotch-Irish," as a general application to the Irish Protestant, did not make its appearance in the United States until the 1840's. In common with some recent historians, I have followed the historically accurate concept of considering all emigrants from Ireland as possessing common nationality.

extraction, and some were of Welsh, German, Dutch, or Scandinavian origin.

These successive plantations were not, however, as extensive or as successful as was once widely assumed. Despite the wish of the British to remove the native Irish, it was soon discovered that they constituted a source of labor and were, in the absence of enough settlers, needed as tenants and workers on the new lands. Even under the harsh decrees of Cromwell, there was no total displacement of the native population. Those native Irish remaining in Ulster after the plantations lived, to be sure, in a precarious position, surrounded as they were by people of varying faiths and dispositions. Many of the native Irish adopted the religions of the new settlers, perhaps not by choice as much as by a sense of necessity, since their own religion was proscribed and severe penalties were inflicted for any variance from the law. To what extent the new settlers intermarried with the native stock is a moot question. No records exist to support adequately a claim for or against such occurrences. It would appear that, subsequent to the Reformation, the new settlers kept to themselves. At the same time, it would seem plausible, considering the remarkable absorptive quality of the Irish, that some intermarriages must have taken place. It is, after all, one of the great themes of Irish history that all would-be conquerors have been conquered in turn by mixing with the native population and adopting native customs and manners. This was the case with the Normans, the Danes, and several other invaders. In any event, it was not long before the new arrivals became "Hiberniores Hibernicis ipsis"—more Irish than the Irish.

This turning against the British was brought about by several economic and religious measures which were directed against the thriving Protestants of Ireland. The details of these restrictive and oppressive measures are not important except that they caused a mass migration of these Irish to the colonies, especially to the frontier regions of Pennsylvania, Virginia, and the Carolinas, where land was, if not free, cheap. By 1730, Pennsylvania had townships named Derry, Donegal, Tyrone, Coleraine, and Fermanagh. In 1722, Londonderry, New Hampshire was founded, and in 1770, Belfast, Maine was established. Derry, New Hampshire, once part of Londonderry, was founded by Irish Protestants in 1827. Similar Irish settlements occurred in Virginia where some areas were known simply as the "Irish Tract" and the "Irish Settlement."

Irish settlers were found in almost every colony, but it was the frontier regions of Pennsylvania, Virginia, and the Carolinas that received the greatest number. The Irish Protestants, according to Paul A. W. Wallace, author of *Pennsylvania: Seed of a Nation*, "moved across the ranges in full self-reliance, felling trees and Indians with equal aggressiveness, running up log houses, schools, and churches, distilling whiskey as a medium of exchange." Between 1739 and the Revolution it is estimated that 65,000 Irish had settled in the mountainous area of North Carolina, and between 1728 and 1776 it is estimated that eighty-five thousand Irish were in Pennsylvania. In 1790, when the first census was taken, there were about a hundred thousand in Pennsylvania and more than 200,000 in the nation had Ulster origins. Exact figures are impossible to obtain but it has been estimated that of a total white population of 3,172,444 in 1790, at least 6.0 per cent were from Northern Ireland (Ulster), and 3.7 percent from Southern Ireland.

So numerous were these Irish that soon several societies were formed to assist the new immigrant. One of the most interesting of these societies was the Charitable Irish Society of Boston, founded in 1737 by twenty-six members of the Presbyterian Church of Long Lane. Among the early members, who described themselves as "of the Irish nation," were the father and the uncle of General Henry Knox, Chief of Artillery during the American Revolution and, later, the first United States Secretary of War. The general and his son later became members. General Knox was also a member of the Friendly Sons of St. Patrick of Philadelphia. It is of further interest to note that in 1833 Andrew Jackson, the seventh President of the United States, and the son of immigrants from County Antrim, visited Boston and was greeted by the Society. Jackson's reply was as follows: "I feel grateful, sir, at the testimony of respect shown me by the Charitable Irish Society of this city. It is with great pleasure that I see so many of the country men of my father assembled on this occasion. I have always been proud of my ancestry and of being descended from that noble race." It should also be noted that Jackson joined the Hibernian Society of Philadelphia in 1819.

Another Irish society was the Friendly Sons of St. Patrick of Philadelphia, founded on March 17, 1771. The first president was Stephen Moylan, whose brother was a Catholic bishop. The second president of the society was John M. Nesbitt, an Ulster Presbyterian. Among the early members were generals Richard Butler from Dublin, Edward Hand from King's County, and William Irvine from Fermanagh. John Dunlap of Strabane, County Tyrone, printed to the Continental Congress and the first to print the Declaration of Independence, was also a member. In 1780, the Friendly Sons raised $103,500 for the purchase of supplies for the Continental Army. In 1803 the Benevolent Hibernian Society of Baltimore was established. The first president was Dr. John Campbell White, an Episcopalian who fled Belfast after the failure of the United Irishmen in the revolt of 1798.

When the American Revolution began, the Irish Protestants, with their long memories of British injustices, were in the forefront of opposition, not only in the colonies, but also in Ireland. In June of 1776, for example, Horace Walpole declared that "all Ireland is America mad," and Lord Shelburne wrote from his estate in Kerry that the customary toast of the Protestant Irish was "Success to the Americans." Irish enlistments in the Continental Army reached such proportions that General Henry Lee is said to have remarked that the Line of Pennsylvania should be called the Line of Ireland. Officers of Irish birth soon appeared in the army and some rose to high rank. General Andrew Lewis, for example, the victor of the Battle of Point Pleasant in 1774, was born in Donegal, as was General Richard Montgomery, who was killed leading the attack on Quebec in 1776.

Other generals of Irish birth include William Thompson of Londenderry, William Irvine of Fermanagh, and Edward Hand of King's County. Irish-born officers of lesser rank abounded. One of the most interesting of these was Colonel Thomas Proctor of Longford, who raised the first artillery company in Pennsylvania and was, next to Knox, the most distinguished artillery officer of the Revolution. Proctor also had the somewhat dubious distinction of being satirized by Major Andre in his poem "The Cow Chace":

> Sons of distant Delaware
> And still remoter Shannon,
> And Major Lee with honor rare,
> And Proctor with his cannon.

Many of the Continental officers were descendants of Irish emigrants. General Henry Knox's ancestors came from County Antrim and "Mad Anthony" Wayne's parents came from Ulster. The leader of the American forces at the Battle of King's Mountain in 1780 was Col. William Campbell, whose family came from Ulster. In several other actions on the frontiers, the Irish, who did not particularly care for the military discipline of the regular army, excelled in what was essentially guerrilla warfare. There was, for example, a large proportion of Irish among the members of the George Rogers Clark expedition into the Illinois country in 1778–79. The expedition captured several important British posts and halted, at least temporarily, Indian raids along the frontier.

Irish Protestants were equally as active in the political sphere. In several colonies the first overt political resistance against the British came from the Irish Protestants. In May 1775, for example, the Irish Presbyterians of Mecklenburg County, North Carolina, adopted a resolution which was tantamount to a declaration of independence. In May 1775 the Irish in Hannastown, Pennsylvania, adopted the Westmoreland Declaration, a statement of protest and opposition to the acts of the British. On July 4, 1776, the Irish at Pine Creek, Pennsylvania, adopted their own declaration of independence. In Virginia, the Irish sent supplies to the beseiged port of Boston and issued resolutions supporting the American cause.

Many of these Irish became members of provincial councils, committees of various kinds, and, in at least a few cases, the Continental Congress. Four of the signers of the Declaration of Independence were born in Ireland: George Taylor of Pennsylvania, an Episcopalian, was born in Ulster; James Smith of Pennsylvania, a Presbyterian, was born in Ulster; George Thornton of New Hampshire, a Congregationalist, was born in Derry; and Charles Thomson, the "perpetual secretary" of the Continental Congress, was born in Derry. Several other signers of the Declaration were of Irish ancestry: Robert Treat Paine of Maine, Thomas Lynch of South Carolina, Thomas Nelson of Virginia, George Read of Delaware, and Edward Rutledge of South Carolina.

So prevalent was the participation of the Irish Protestants in the Revolution, especially that of the Presbyterians, that it is no wonder that King George is said to have remarked that the American Revolution was "a Presbyterian war." With a little more humor, Horace Walpole once said in Parliament that "there is no use crying about it. Cousin America has run off with a Presbyterian parson, and that is the end of it."

The Constitutional Convention of 1787 again saw the participation of Irish Protestants. From Maryland came the Presbyterian James McHenry, born in Balymena, County Antrim. From New Jersey came the Presbyterian William Paterson, born in County Antrim, and from South Carolina came the Episcopalian Pierce Butler, born in County Carlow.

Emigration from Ireland was brought to a halt with the outbreak of the American Revolution. In 1783, emigrant traffic once again flowed from Irish ports, although not in the same volume as before. The reasons for emigrating remained largely the same, that is, economic and religious. To these was added a third, political discontent, and emigration reached a peak with the collapse of the 1798 revolt of the United Irishmen. Irish emigration continued for several years but was once again stopped by the entry of the United States into the War of 1812.

Unlike their predecessors, these Irish remained in the cities where they began to exert a political influence by joining the newly formed Democratic-Republican party of Thomas Jefferson. Hostility to Great Britain remained, however, and some of the most vociferous opposition to the Jay Treaty of 1794 came from Irish immigrants. The alliance of the immigrants, especially the Irish, with the Jeffersonians, soon convinced the Federalists that some measures would have to be taken to curb the influence of the new voter. Harrison Gray Otis of Massachusetts thought that unless means were taken to prevent the "indiscriminate admission of wild Irishmen and others to the right of suf-

frage" there would "soon be an end to liberty and property." Uriah Tracy, a Connecticut Federalist, put it a little more forcefully when he characterized the Irish as "United Irishmen, Free Masons, and the most God-provoking Democrats this side of Hell."

Federalist hostility to the new immigrants and their allegiance to the Jeffersonians resulted in the passage in 1798 of the Alien and Sedition Acts. These acts attempted to curb the influence of the Irish and other immigrants at the polls and in the press. Several editors and others were imprisoned under these acts, including Matthew Lyon of County Wicklow, William Duane of County Tipperary, and John Daly Bank.

These acts, however, resulted only in further entrenching the Irish and other immigrants in the Democratic-Republican party, and it is thought that the influence of the Irish may have been a decisive factor in electing Jefferson in 1800. In New York City in particular, Jefferson received the support of almost all the Irish and French voters. Irish participation in politics continued with some variations as the parties developed. In 1812, for example, the chief spokesman for the Democratic-Republican Madison, fourth President of the United States, was Thomas Addis Emmet, a Presbyterian from Cork. Madison's rival, the Federalist De Witt Clinton, later governor of New York, was supported by John Binns, an Irish Protestant from Dublin.

In some ways the War of 1812 marked a turning point in the history of Irish emigration. The Irish were, of course, loyal to the American cause. Memories of the abortive 1798 revolt and the practice of impressment reinforced the tradition of hostility to Great Britain. Many Irish had by this time considered themselves Americans and had dropped any reference to national origins. The one distinguishing factor among all the Irish, new and old, was "A common loyalty to America."

One other characteristic of the Irish at this time is worth mentioning, and that is that "immigrants from every part of Ireland shared a sense of fellow-feeling." They were "content to be simply Irishmen, collaborating in politics, sharing newspapers like the New York *Shamrock*, and joining in such benevolent organizations as the Friendly Sons of St. Patrick." This group-consciousness was noted years later, in 1897, by Rev. J. Gray Bolton, a Presbyterian clergyman of Philadelphia, when he said that "The Irish Catholic and the Irish Presbyterian have more than once stood together for liberal government in Ireland. And the Irish Presbyterian and the Irish Catholic stood together here when Washington was leading the people from the yoke of oppressive taxation without representation."

A glance at the ancestries of American presidents reveals three whose parents were born in Ireland. Andrew Jackson, the first of these presidents, was the Presbyterian son of parents born in County Antrim. James Buchanan was a Presbyterian whose father came from Donegal. Chester Arthur was an Episcopalian whose father came from County Antrim. This list of presidents of Irish Protestant ancestry could be extended (depending on how far back one wanted to count national origins, how important one considered any trace of Irish origin, or how much weight one assigned to a tincture of Irish Protestantism) to include James K. Polk, Andrew Johnson, Ulysses Grant, Grover Cleveland, Benjamin Harrison, William McKinley, Woodrow Wilson, Warren Harding, Harry Truman, and Richard Nixon.

Considering the extent and length of Irish Protestant immigration, it would be a fairly simple matter to amass a list of notable achievers with at least some of this background. In truth, however, this would be a mixture of the good, the bad, and the indifferent. In the final analysis, the heritage of the Irish Protestants lies not in the mere listing of individual achievements, some of dubious importance, as much as it does, in a broad and sometimes intangible sense, in the influence of this group on American education, religion, and politics.[2]

The Irish have always had a keen appreciation of the importance of education, and the Irish Protestants were no exception. This deep interest in learning was especially true of the Irish Presbyterians. In 1726, for example, Rev. William Tennent of County Armagh established the famous "Log College" at Neshaminy in Bucks County, Pennsylvania. This educational forerunner of many similar institutions was designed to provide a trained ministry for the burgeoning Presbyterian population and has been termed "the first literary institution above the common schools in Pennsylvania." Presbyterian zeal in education is further evidenced by the fact that they were instrumental in founding 49 of the 207 permanent colleges established in the United States before the Civil War.

The Irish Presbyterians were especially active in tending to the spiritual needs of the new immigrant. In 1706, Francis Makemie of County Donegal organized the first Presbytery in Philadelphia. Makemie is considered to be the founder of Presbyterianism in America. Other Presbyteries were soon established as, for example, the first New England Presbytery (Londonderry) in 1729, and the Pennsylvania Presbytery (Donegal) in 1732.

Other Irish Protestants were equally as active in establishing religious institutions. In 1768 a group of Irish Methodists, led by Philip Embury of Ballingrane, County Limerick, established the Wesley chapel in New York City, the first Methodist Church in America. Embury was a descendant of German Protestants who came to Ireland to escape the persecution of Loius XIV. In 1792, James O'Kelly seceded from the Methodist Episcopal Church and established the first Republican Methodist Church in Virginia and North Carolina.

Irish Protestants were also in the vanguard of many moves toward a liberalization of society. In 1780, for example, George Bryant, a Dublin Presbyterian and a Pennsylvania delegate to the Continental Congress, was one of the main authors of the Pennsylvania law freeing the slaves. Years before the beginning of the abolition movement, slaveholders were denied communion by the Reformed Presbyterians of South Carolina and east Tennessee.

Perhaps the story of the Irish Protestant in America can best be summarized by the epitaph, in Latin, on the tombstone of Captain Henry Parkinson, quartermaster of Stark's Regiment during the American Revolution and teacher, of Canterbury, New Hampshire:

"Hibernia begot me, Columbia nurtured me, Nassau Hall taught me. I have fought, I have taught. I have labored with my hands."

[2] I have refrained from compiling a list of each and every Irish Protestant who happened to achieve some rank or importance in the Congress, the courts, State legislatures, or governors' offices. To do so would be, in the words of James G. Leyburn, author of *The Scotch-Irish: A Social History*, "misleading," as it assumes "their achievement resulted from some mysterious genetic quality transmitted from generation to generation" or that their "culture was so uniform and integrated that it necessarily resulted in political leadership." An additional danger is, again according to Leyburn, that "Some of the officials catalogued in the eulogies have actually been more notable for their deficiencies than for their laudable qualities; moreover, other ancestral strains had long since intermixed . . . and might easily be claimed as causative."

ORDER FOR RECESS UNTIL 3 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 3 o'clock tomorrow afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 221, 95th Congress, appoints the following Senators to the study on U.S. economic and security interests in Latin America: The Senator from South Carolina (Mr. HOLLINGS), chairman; the Senator from Nevada (Mr. CANNON); the Senator from Texas (Mr. BENTSEN); the Senator from Illinois (Mr. STEVENSON); and the Senator from Virginia (Mr. SCOTT).

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I inquire whether or not there are any Senators who wish to speak further today on the pending matter.

Does the distinguished acting minority leader know of anybody on his side?

Mr. TOWER. I know of nobody on our side.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 3 p.m. At 4 p.m., the clerk will establish a quorum under the rule. Following the establishment of a quorum, the automatic rollcall vote will occur on the motion to invoke cloture.

RECESS

Mr. ROBERT C. BYRD. If there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 3 p.m.

The motion was agreed to; and, at 5:31 p.m., the Senate recessed until tomorrow, Tuesday, August 2, 1977, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1977:

DEPARTMENT OF JUSTICE

Juan G. Blas, of Guam, to be U.S. marshal for the district of Guam for the term of 4 years, vice John T. San Agustin.

Wallace P. Bowen, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years, vice Everett R. Langford, term expired.

Bernal D. Cantwell, of Kansas, to be U.S. marshal for the district of Kansas for the term of 4 years, vice Jack V. Richardson.

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida for the term of 4 years (reappointment).

Carl W. Gardner, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years, vice Harry Connolly.

James I. Hartigan, of Massachusetts, to be U.S. marshal for the district of Massachusetts for the term of 4 years, vice John A. Birknes, Jr., resigned.

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years, vice Benjamin F. Butler, resigned.

SECURITIES AND EXCHANGE COMMISSION

Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1981, vice A. A. Sommer, Jr.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Gordon Cantlay, [redacted], U.S. Army.

Maj. Gen. Charles Calvin Pixley, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army) for appointment as The Surgeon General, U.S. Army, with the grade of lieutenant general, under the provisions of title 10, United States Code, section 3036.

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. Spencer Beal Reid, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. William Sinclair Augerson, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Col. Quinn Henderson Becker, [redacted], Medical Corps, U.S. Army.

Col. William Raymond Dwyre, [redacted], Medical Corps, U.S. Army.

Col. Edward James Huycke, [redacted], Medical Corps, U.S. Army.

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3284, 3306 and 3307:

To be major general, Medical Corps

Maj. Gen. William Albert Boyson, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Charles Calvin Pixley, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Brig. Gen. Spencer Beal Reid, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Kenneth Ray Dirks, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

First lieutenant to captain

Abadie, Peter J., [redacted].
Aberle, John R., [redacted].
Abrami, John R., [redacted].
Abshere, Philip M., [redacted].
Acquaviva, James F., [redacted].
Acuff, Gregory M., [redacted].
Adams, Terry R., [redacted].
Adams, Wayland K., [redacted].
Adams, Wiley F., [redacted].
Agnew, Richard H., Jr., [redacted].
Ahern, Edward J., [redacted].
Albright, Kenneth R., Jr., [redacted].
Alexander, Dana L., [redacted].
Alexander, John W., [redacted].
Alford, Truman G., Jr., [redacted].
Alford, William L., [redacted].
Allen, Danny R., [redacted].
Allen, Lindsey E., [redacted].
Allen, Michael D., [redacted].
Allen,(Robert K., [redacted].
Allison, Kenneth L., [redacted].
Allison, Michael W., [redacted].
Allison, Steven R., [redacted].
Allyn, Ronald C., [redacted].
Almond, Daniel L., [redacted].
Alonso, Francis A., [redacted].
Altobelli, Anthony, [redacted].
Amos, David E., [redacted].
Anderl, Robert S., [redacted].
Andersen, Paul C., [redacted].
Anderson, Donald C., [redacted].
Anderson, Glenn E., Jr., [redacted].
Anderson, Mark C., [redacted].
Anderson, Nolan H., Jr., [redacted].
Anderson, Robert D., [redacted].
Andrew, Myron C., [redacted].
Angle, George M., Jr., [redacted].
Apel, William A., [redacted].
Armbrust, Gregory N., [redacted].
Armstrong, Russell A., [redacted].
Arnold, Andrew L., [redacted].
Arnold, Carlton L., [redacted].
Ashcraft, Joe C., [redacted].
Ashura, Patrick J., [redacted].
Atkinson, John M., [redacted].
Atwood, Eugene G., [redacted].
Austin, Robert A., [redacted].
Autry, Larry D., [redacted].
Avallone, Joseph A., [redacted].
Avramovich, Jim L., [redacted].
Ayres, Harrison G., Jr., [redacted].
Bach, Michael J., [redacted].
Bachman, Robert G., [redacted].
Backlund, Donald R., [redacted].
Bachman, Stephen M., [redacted].
Bader, Walter L., Jr., [redacted].
Baethge, Jonathan D., [redacted].
Bagley, Ronald L., [redacted].
Bagwell, Terry D., [redacted].
Bailey, Burnell W., [redacted].
Bailey, Jefferson M., [redacted].
Bailey, Larry A., [redacted].
Bailey, Marcus D., [redacted].
Baker, Glenn F., [redacted].
Baker, Jack T., [redacted].
Baker, Robert D., [redacted].
Baker, Robert F., [redacted].
Baker, Robert W., [redacted].
Baker, Rodney W., [redacted].
Baker, William P., [redacted].
Bakken, Lloyd A., [redacted].
Balcom, Cecil G., [redacted].
Ballard, Michael W., [redacted].
Ballas, Richard D., [redacted].
Baltzer, Robert L., [redacted].
Bang, Stephen B., [redacted].
Bangs, Daniel P., [redacted].
Banks, Dale M., [redacted].
Banks, Reginald I., [redacted].
Banks, Robert K., [redacted].
Banner, Clifden A., [redacted].
Bante, Thomas M., Jr., [redacted].
Baptiste, Samuel J., [redacted].
Barber, Gary N., [redacted].
Bard, Nathan R., Jr., [redacted].
Barilleaux, Ira C., Jr., [redacted].
Barker, Daniel H., [redacted].
Barker, Kerry B., [redacted].
Barnes, Gary I., [redacted].
Barnes, Michael, [redacted].
Barnes, Michael R., [redacted].
Barnett, Leslie W., Jr., [redacted].
Barngrower, Grady C., [redacted].
Barnidge, Leroy J., [redacted].
Barrett, Henry K., [redacted].
Barrett, Ronald R., [redacted].
Barringer, John D., Jr., [redacted].
Barrow, Charles M., Jr., [redacted].
Barry, James A., Jr., [redacted].
Bartell, David W., [redacted].
Bartholomew, Donald F., Jr., [redacted].
Barton, James D., [redacted].
Barton, Rick R., [redacted].
Baschab, Roger G., [redacted].
Bass, Keith A., [redacted].
Bates, Donald G., [redacted].
Bates, Rodney L., [redacted].
Bauer, Robert P., [redacted].
Bauman, John V., [redacted].
Bauman, Philip J., [redacted].
Baxter, Tommy J., [redacted].
Beal, Thomas L., [redacted].
Bean, James M., [redacted].
Bearor, Thomas R., [redacted].
Beavers, Robert G., Jr., [redacted].
Beck, Norman M., Jr., [redacted].
Becker, David M., [redacted].
Beckman, Thomas R., [redacted].
Bedillion, Arley R., [redacted].
Beebe, James R., [redacted].
Bell, Anthony W., Jr., [redacted].
Bell, John W., Jr., [redacted].
Bell, Michael V., [redacted].
Bell, Ronald W., [redacted].
Bender, Donald C., [redacted].
Bender, Richard L., [redacted].
Bendixen, Lonnie H., [redacted].
Bendrick, Jerome G., [redacted].
Bendure, Alva E., III, [redacted].
Benedict, William P., [redacted].
Benefield, Horace, Jr., [redacted].
Benger, Jeffrey S., [redacted].
Bennett, Christopher P., [redacted].
Bennett, Robert B., [redacted].
Bend, William C., Jr , [redacted].
Berger, Stephen F., [redacted].
Bernhard, Craig A., [redacted].
Berry, Thomas A., [redacted].
Berry, Thomas J., Jr., [redacted].
Betran, Eldon E., [redacted].
Bess, Michael P., [redacted].
Bethel, Harry E., [redacted].
Betsch, Keith A., [redacted].
Bielanski, Allan, [redacted].
Bielowicz, Paul L., [redacted].
Bierle, John M., [redacted].
Bierma, Stephen G., [redacted].
Biggar, Stuart F., [redacted].
Biggs, John P., [redacted].
Billings, Robert, [redacted].
Bilotta, Joseph P., Jr., [redacted].
Binder, Gregory A., [redacted].
Binnebose, James P., [redacted].
Bird, Donald M., [redacted].
Black, Donald A., [redacted].
Black, Robert H., [redacted].
Blackmore, Gay D., [redacted].
Blackwood, Douglas K., [redacted].
Blair, David M., [redacted].
Blair, Susan M., [redacted].
Blakelock, Ralph A., Jr., [redacted].
Blalock, Lamberth W., Jr., [redacted].
Blameuser, Lawrence F., Jr., [redacted].
Blatchley, Charles C., [redacted].
Blind, John A., [redacted].
Blodgett, Dennis R., [redacted].
Blondefield, Clark L., [redacted].
Bloom, James P., [redacted].
Blough, Robert D., Jr., [redacted].
Blue, Roscoe, Jr., [redacted].

Blum, Gray R., xxx-xx-xxxx.
Blumberg, William A., xxx-xx-xxxx.
Boatright, Rodney L., xxx-xx-xxxx.
Bockbrader, K. Nathan, xxx-xx-xxxx.
Bohlin, Daniel J., xxx-xx-xxxx.
Bolen, Michael D., xxx-xx-xxxx.
Bolick, Thomas R., xxx-xx-xxxx.
Boling, Ellis D., xxx-xx-xxxx.
Bon, Jaromir J., xxx-xx-xxxx.
Bondurant, Frederick N., xxx-xx-xxxx.
Booth, William H., xxx-xx-xxxx.
Bordelon, Vernon P., Jr., xxx-xx-xxxx.
Boren, Robert I., xxx-xx-xxxx.
Borkowski, Robert A., xxx-xx-xxxx.
Bost, Barry F., xxx-xx-xxxx.
Botch, Gregory G., xxx-xx-xxxx.
Bovey, Edward M., xxx-xx-xxxx.
Bowen, Robert S., xxx-xx-xxxx.
Bowman, Steven O., xxx-xx-xxxx.
Box, Arthur C., xxx-xx-xxxx.
Boyd, George E., xxx-xx-xxxx.
Boyer, Paul E., xxx-xx-xxxx.
Boyle, Patrick M., xxx-xx-xxxx.
Braddock, Harry L., xxx-xx-xxxx.
Bradford, Victor P., xxx-xx-xxxx.
Bradford, William C., xxx-xx-xxxx.
Bradley, Alan R., xxx-xx-xxxx.
Bradley, Richard G., xxx-xx-xxxx.
Bradley, Steven A., xxx-xx-xxxx.
Bradshaw, Edward P., xxx-xx-xxxx.
Brady, Robert B., xxx-xx-xxxx.
Brady, William R., xxx-xx-xxxx.
Brand, Larry W., xxx-xx-xxxx.
Brandt, Frederick S., xxx-xx-xxxx.
Brann, Jeffrey L., xxx-xx-xxxx.
Brasher, Charles T., xxx-xx-xxxx.
Braswell, David B., xxx-xx-xxxx.
Braun, John M., xxx-xx-xxxx.
Brazell, Willis E., Jr., xxx-xx-xxxx.
Brazelton, Glenn A., xxx-xx-xxxx.
Bredengerd, Laurence W., xxx-xx-xxxx.
Bredfeldt, John C., xxx-xx-xxxx.
Brennan, Gerald M., xxx-xx-xxxx.
Bresett, Don E., xxx-xx-xxxx.
Breuhl, Timothy E., xxx-xx-xxxx.
Brickman, Eugene, xxx-xx-xxxx.
Bright, Duane E., xxx-xx-xxxx.
Brigman, David F., xxx-xx-xxxx.
Brims, Richard C., xxx-xx-xxxx.
Brinkmann, Daniel M., xxx-xx-xxxx.
Broadwater, David D., xxx-xx-xxxx.
Brock, John F., Jr., xxx-xx-xxxx.
Brockhurst, Frederick C., xxx-xx-xxxx.
Brocki, Paul D., xxx-xx-xxxx.
Brodel, Robert S., xxx-xx-xxxx.
Brocks, Jonathan N., xxx-xx-xxxx.
Brocks, William C., xxx-xx-xxxx.
Browder, David L., xxx-xx-xxxx.
Brown, Charles R., Jr., xxx-xx-xxxx.
Brown, Gerald L., xxx-xx-xxxx.
Brown, Oliver E., xxx-xx-xxxx.
Brown, Ollie W., xxx-xx-xxxx.
Brown, Robert C., Jr., xxx-xx-xxxx.
Brown, Samuel, Jr., xxx-xx-xxxx.
Brown, Sidney A., Jr., xxx-xx-xxxx.
Browning, Roger S., xxx-xx-xxxx.
Brunelle, Francis R., xxx-xx-xxxx.
Brunn, Herbert L., xxx-xx-xxxx.
Bruns, Barry J., xxx-xx-xxxx.
Bryan, Steven A., xxx-xx-xxxx.
Bryant, Henry A., xxx-xx-xxxx.
Bryant, Leonard W., xxx-xx-xxxx.
Bryson, Harry A., xxx-xx-xxxx.
Buchholtz, William H., III, xxx-xx-xxxx.
Buck, Walter P., III, xxx-xx-xxxx.
Buckowsky, John P., xxx-xx-xxxx.
Bugner, John R., xxx-xx-xxxx.
Bunker, Rodney B., xxx-xx-xxxx.
Bureage, John V., xxx-xx-xxxx.
Burke, Bryant N., Jr., xxx-xx-xxxx.
Burklund, Bernard B., Jr., xxx-xx-xxxx.
Burns, Robert P., xxx-xx-xxxx.
Busboom, Stanley L., xxx-xx-xxxx.
Bush, Franklin L., xxx-xx-xxxx.
Bush, Richard H., xxx-xx-xxxx.
Bushore, Randy L., xxx-xx-xxxx.
Bustell, Donald K., xxx-xx-xxxx.
Butler, William D., xxx-xx-xxxx.
Butson, Gary J., xxx-xx-xxxx.
Butt, Gerald L., xxx-xx-xxxx.
Button, Ronald E., xxx-xx-xxxx.
Butts, James N., xxx-xx-xxxx.
Byrd, Lanny A., xxx-xx-xxxx.
Byrd, Michael C., xxx-xx-xxxx.
Cabezas, Jorge E., xxx-xx-xxxx.
Cabrera, Joseph R., xxx-xx-xxxx.
Caffall, William E., xxx-xx-xxxx.
Cagle, Lloyd L., xxx-xx-xxxx.
Cain, Edward M., xxx-xx-xxxx.
Callan, Thomas M., xxx-xx-xxxx.
Callen, Thomas R., xxx-xx-xxxx.
Campbell, Charles K., xxx-xx-xxxx.
Campbell, James B., xxx-xx-xxxx.
Campbell, Larry C., xxx-xx-xxxx.
Cann, Robert A., xxx-xx-xxxx.
Canning, David W., xxx-xx-xxxx.
Carleton, Jon R., xxx-xx-xxxx.
Carlson, Bruce A., xxx-xx-xxxx.
Carlson, David A., xxx-xx-xxxx.
Carlson, Robert O., Jr., xxx-xx-xxxx.
Carman, Timothy L., xxx-xx-xxxx.
Carmichall, Steven, xxx-xx-xxxx.
Carpenter, David W., xxx-xx-xxxx.
Carr, James R., xxx-xx-xxxx.
Carr, Wiley R., xxx-xx-xxxx.
Carraway, James E., xxx-xx-xxxx.
Carroll, Julian C., xxx-xx-xxxx.
Carson, John H., xxx-xx-xxxx.
Carson, John K., xxx-xx-xxxx.
Carter, John H., xxx-xx-xxxx.
Carter, Milton J., xxx-xx-xxxx.
Carter, Raymond N., xxx-xx-xxxx.
Carter, Ted J., xxx-xx-xxxx.
Casada, Laurence L., xxx-xx-xxxx.
Case, Donald R., xxx-xx-xxxx.
Cashero, Gary A., xxx-xx-xxxx.
Cassano, Ronald, xxx-xx-xxxx.
Cassity, Michael T., xxx-xx-xxxx.
Castiaux, Darel D., xxx-xx-xxxx.
Castle, Sara M., xxx-xx-xxxx.
Castorena, Robert, xxx-xx-xxxx.
Catalano, Charles P., xxx-xx-xxxx.
Caton, William T., xxx-xx-xxxx.
Caudle, Keith H., xxx-xx-xxxx.
Caulfield, John B., xxx-xx-xxxx.
Caywood, Douglas E., xxx-xx-xxxx.
Ceroni, Andrew J., Jr., xxx-xx-xxxx.
Cessna, Dennis M., xxx-xx-xxxx.
Chalk, Jess W., Jr., xxx-xx-xxxx.
Channell, Ronald E., xxx-xx-xxxx.
Chaplin, Leighton D., xxx-xx-xxxx.
Chapman, Willie E., xxx-xx-xxxx.
Chase, Gregory M., xxx-xx-xxxx.
Chase, Joseph D., xxx-xx-xxxx.
Chatfield, James R., xxx-xx-xxxx.
Chavezgarcia, Pedro, xxx-xx-xxxx.
Chedister, Robert W., xxx-xx-xxxx.
Childers, Clifton H., xxx-xx-xxxx.
Childers, Kenneth R., xxx-xx-xxxx.
Chic, Wace A., xxx-xx-xxxx.
Chirko, Charles P., xxx-xx-xxxx.
Christensen, Susan A., xxx-xx-xxxx.
Christensen, Thomas W., xxx-xx-xxxx.
Christy, Earl B., Jr., xxx-xx-xxxx.
Chudanov, Thomas J., xxx-xx-xxxx.
Cioli, Brian H., xxx-xx-xxxx.
Clark, John A., xxx-xx-xxxx.
Clark, Robert E., Jr., xxx-xx-xxxx.
Clark, Steven E., xxx-xx-xxxx.
Clay, John I., xxx-xx-xxxx.
Clifford, Thomas C., xxx-xx-xxxx.
Cline, Bennie A., xxx-xx-xxxx.
Cline, Scott S., xxx-xx-xxxx.
Clohan, Paul S., Jr., xxx-xx-xxxx.
Clounch, Mark R., xxx-xx-xxxx.
Clovis, Samuel H., Jr., xxx-xx-xxxx.
Clymer, Gregg N., xxx-xx-xxxx.
Cochran, James R., xxx-xx-xxxx.
Coffey, Gregory D., xxx-xx-xxxx.
Cohen, James S., xxx-xx-xxxx.
Cole, Lawrence M., xxx-xx-xxxx.
Coleman, William I., III, xxx-xx-xxxx.
Collier, Charles W., Jr., xxx-xx-xxxx.
Collier, Mary F., xxx-xx-xxxx.
Collins, Dennis M., xxx-xx-xxxx.
Collins, James E., xxx-xx-xxxx.
Combee, Donald E., Jr., xxx-xx-xxxx.
Concannon, James P., xxx-xx-xxxx.
Conley, James H., xxx-xx-xxxx.
Conlin, Joseph S., Jr., xxx-xx-xxxx.
Connell, Carl H., xxx-xx-xxxx.
Connell, Rooney A., xxx-xx-xxxx.
Connor, Gary W., xxx-xx-xxxx.
Conrad, Charles W., xxx-xx-xxxx.
Considine, John R., xxx-xx-xxxx.
Contos, Christopher, xxx-xx-xxxx.
Cook, Gene A., xxx-xx-xxxx.
Cook, Kenneth G., xxx-xx-xxxx.
Cook, Ronald R., xxx-xx-xxxx.
Cooper, Robert L., xxx-xx-xxxx.
Copeland, Arthur E., Jr., xxx-xx-xxxx.
Cordova, John F., Jr., xxx-xx-xxxx.
Cornatzer, Ollie R., xxx-xx-xxxx.
Corsi, Robert E., Jr., xxx-xx-xxxx.
Corson, Alan J., xxx-xx-xxxx.
Costain, Arthur R., III, xxx-xx-xxxx.
Cote, Richard W., III, xxx-xx-xxxx.
Cotter, Stephen D., xxx-xx-xxxx.
Coulie, David A., xxx-xx-xxxx.
Coury, Thomas F., xxx-xx-xxxx.
Covington, Fred D., Jr., xxx-xx-xxxx.
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CHAPLAIN CORPS

To be lieutenant colonel

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Clark, Donald D., xxx-xx-xxxx
David, Lawrence T., xxx-xx-xxxx
Day, Roland F., xxx-xx-xxxx
Easley, Howard A., xxx-xx-xxxx
Fung, Edmond Y., xxx-xx-xxxx
Gibbs, Charles R., xxx-xx-xxxx
Gray, George H., xxx-xx-xxxx
Grubb, Hugh M., xxx-xx-xxxx
Howerton, Robert B., xxx-xx-xxxx
Hughes, Marvin C., xxx-xx-xxxx
Hyde, Patrick H., xxx-xx-xxxx
Jett, Mace T., xxx-xx-xxxx
Mehring, Ralph A., xxx-xx-xxxx
Moore, Willard J., xxx-xx-xxxx
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WOMEN'S ARMY CORPS

To be lieutenant colonel

Caldwell, Doris L., xxx-xx-xxxx
Davis, Alice M., xxx-xx-xxxx
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To be lieutenant colonel

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MEDICAL CORPS

To be lieutenant colonel

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To be lieutenant colonel

Adcock, Bobby R., xxx-xx-xxxx.
Allgood, Gerald D., xxx-xx-xxxx.
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Wilburn, James H., xxx-xx-xxxx.
Wood, Malcolm H., xxx-xx-xxxx.

ARMY MEDICAL SPECIALISTS CORPS

To be lieutenant colonel

Fritsch, Ann D., xxx-xx-xxxx.
Gierhart, Jane E., xxx-xx-xxxx.
Gronley, Joanne K., xxx-xx-xxxx.
Hall, Mary S., xxx-xx-xxxx.
Landen, Betty R., xxx-xx-xxxx.
Lofton, William, Jr., xxx-xx-xxxx.
McDowell, Joyce, xxx-xx-xxxx.
Ozburn, Mary S., xxx-xx-xxxx.
Strand, Eloise B., xxx-xx-xxxx.

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To be lieutenant colonel

Bucci, Thomas J., xxx-xx-xxxx.
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Kovatch, Robert M., xxx-xx-xxxx.
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ARMY NURSE CORPS

To be lieutenant colonel

Burton, Cora L., xxx-xx-xxxx.
Cruzen, Oran G., xxx-xx-xxxx.
Farrell, Joanne T., xxx-xx-xxxx.
Gorman, Carole A., xxx-xx-xxxx.
Hanson, Carol L., xxx-xx-xxxx.
Hartman, Jay N., xxx-xx-xxxx.
Horan, Mary T., xxx-xx-xxxx.
Jaskoski, Margaret, xxx-xx-xxxx.
Johnson, Hazel W., xxx-xx-xxxx.
Keaton, Lillie M., xxx-xx-xxxx.
Kulvi, Ruth L., xxx-xx-xxxx.
Labbe, Elizabeth A., xxx-xx-xxxx.
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The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3294 and 3298.

ARMY PROMOTION LIST

To be first lieutenant

Cokley, Johnny L., xxx-xx-xxxx.

IN THE NAVY

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the various staff corps, as indicated, pursuant to title 10, United States Code, section 5793, subject to qualification therefor as provided by law:

MEDICAL CORPS

Asaad, Farouk B.
Norris, David M.

DENTAL CORPS

Brown, James K.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the staff corps, as indicated, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law:

JUDGE ADVOCATE GENERAL'S CORPS

*Kelly, Michael A.
Tucker, Charles W.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line officers) and 5773 (staff corps officers), subject to qualification therefor as provided by law:

LINE

Albracht, Randal T.
Brache, Ruben R., Jr.
Braddy, Raymond F.
Campbell, John F.
Fineran, John S., III
Gagnon, Donald R.
*Green, David K.
Horvath, Joseph J., Jr.
McNab, Otto F.
Moore, Charles D., Jr.
Neimeyer, David E.
Rose, James W.
Scott, Winston E.
*Thomas, William C.
Stack, John J.

SUPPLY CORPS

*Bremer, Richard W.
Sanders, Robert E.
Thamer, Steven D.

MEDICAL SERVICE CORPS

Maher, William C.

NURSE CORPS

*Brown, Trumin P.
*Greve, Rochelle R.
Jacobson, Roger A.
*Keane, Claire T.
*Renkiewicz, Kathleen A.
*Tomasicyk, Marylouise
*Walsh, Veronica A.

The following named ensigns of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5784, subject to qualification therefor as provided by law:

LINE

Abbruzzese, William C.
Adkins, James M., Jr.
Albertin, James M., Jr.
Albury, Merrill C.
Allensworth, Timothy
Amrowski, Ted A.
Arsta, Charlie L.
Askins, William D.
Aultman, William R.
Baca, Eduardo, F.
Bagley, Neil W.
Bailey, Bruce
Bain, Charles L.
Bakken, Merle W.
Baldwin, William J.
Balles, George M.
Barnett, Donald R.
Barrick, Ronald E.
Barry, Michael J.
Beasley, Philip W.
Beatty, Jonathan T.
Bennett, Rex. G.
Berkheimer, Thomas E.
Bissonnette, John R.
Blackie, John A.
Blankenship, Hubert B.
Bolding, Larry L.
Booth, Grady L.
Borszich, Everett P.
Bradley, Karl F.
Bradsher, Robert L.
Brant, James L.
Braswell, MacArthur D.
Bregg, Gerald B. W.
Briggs, L. J.
Brobjorg, James C.
Browning, Harold D.
Burgess, Carl H.
Burrows, Gerald E.
Butler, Dorniece
Byrne, Paul M.
Cahoon, Doyle E.
Cain, James M.
Calhoun, Michael A.
Callahan, Alvin E.
Calveard, Samuel R.
Campbell, David B.
Carbaugh, Lewis H., Jr.
Cardens, James T.
Carlson, Murl N.
Cary, John D.
Castle, William R.
Chamberlain, Charles E.
Chelgren, Karl W.
Coarsey, John R., Jr.
Coleman, Robert W.
Collins, Jerry I.
Conklin, Kenneth J.
Cook, Richard D.
Corradi, Edward B.
Cowan, David L.
Cox, Evan D.
Cox, Travis B., Jr.
Crawford, Charles H.
Crawford, Michael W.
Crist, Howard R.
Crossland, Joseph L., Jr.
Dallamura, John P.
Daub, Nevin E.
Daugherty, Duane L.
Davis, Gerald H.
Davis, Lloyd D.
Davis, Robert E.
Davis, Terry T.
Dean, Thomas D.
Delaney, Darrell D.
Deseve, Darryl D.
Donohoe, James P.
Downie, Donald A.
Drewes, Kenneth N.
Duncan, David L.
Dunn, Jerry A.
Duryea, George W.
Eccleston, John M.
Edwards, James H.
Elrod, Albert W., Jr.
Erickson, Alvin B.
Eubanks, Vernon R.
Fahrenkrug, Thomas P.
Fairweather, Bruce A.
Farley, David E.
Fenton, Don J.

*Ad Interim.

Fichter, Paul H.
Fisher, Roy F.
Flaherty, Gerry A.
Flinner, William W.
Flint, Robert C.
Forgays, Reginald E.
Fraker, Jackie P.
Frazer, Neil S.
Frederick, Herbert E.
Freeman, James B.
Frese, David J.
Garon, Norman G.
Geithmann, Gary R.
Giersch, John L.
Gilbert, Jon C.
Gilbert, Willie D.
Glencoe, Thomas M.
Glow, Dennis N.
Goins, Donald R.
Gold, William L.
Gonzalez, James
Gorday, Vivian W., Jr.
Gossett, William D.
Gott, William T.
Garcia, Javier
Green, Robert L.
Guest, Lyman H.
Gunter, Danny O.
Hagan, Pascal W.
Hanson, James H.
Harker, Ralph J.
Harvey, Gaylord L.
Haskell, Charles W., Jr.
Heck, Carl H.
Hessler, Harold R.
Hieber, Raymond A.
Highlander, Lucian P., Jr.
Hightshoe, Ronnie L.
Hill, Donald W., Jr.
Hilt, Jomes R.
Hines, William J.
Hinnefeld, Garrett J.
Hoag, Arthur B.
Holik, Manfred J.
Hollis, Lon E.
Holtzclaw, Winston M.
Hornaman, David H.
Hudek, Franklin R.
Hulsing, Russell D.
Hunter, Stanley O.
Hurdle, Daniel C., Jr.
Hutchins, Robert T.
Isbell, Calton R.
Jackson, Chales W.
Jaeh, Roland H.
James, Joseph D.
Johnson, Lynn N.
Jolly, Edward G.
Jones, Arthur H.
Jones, William J.
Jordan, Edwin M.
Joyce, Richard C.
Keller, Burlyn L.
Kelley, Charles D., II
Kennedy, John P.
Kern Phillip E.
Kieffer John R.
Kincade, Jerry G.
King, Kenneth J.
Kitchen, Glen E., Jr.
Knutson, Thomas E.
Koch, Harry G.
Kosowski, Jerry S.
Kostich, Michael E.
Krauss, Donald J.
Kuenzinger, James R.
Lachance, Dennis R.
Lane, Robert T., Jr.
Law, Roger D.
Lawrence, Robert E.
Lebert, David L.
Lecompte, Timothy E.
Leonard, Richard L. Jr.
Leonard, Rondal R.
Lewis, Christopher H.
Ligon, Thomas M.
Long, Gary A.
Long, Tommy, Sr.
Love, Charles E., Jr.
Love, Odell G.
Lucas, Earl E.
Lucie, George R.
Lyon, John D.
Mack, Judson C.
Maggard, Andrew J.
Mahoney, John M.
Malone, Henry B.
Marsh, Robert W., Jr.
Martin, Cecil H.
Marx, Keath L.
Maurer, Paul M.
McClymonds, Samuel L., Jr.
McElhinney, William J.
McKinney, Lawrence A.
McMullen, John W.
Merkling, Kurt C.
Miller, Earl Y.
Miller, George P.
Moon, Edward M., Jr.
Moore, Richard A.
Morrison, James S.
Morrow, Benedict
Mosher, Robert D.
Mundy, Charles T., Jr.
Nash, David D.
Nuti, Fred T.
Nutting, Dwight P.
Odom, Phillip M.
O'Donnell, Edward J., Jr.
O'Hara, Vincent B.
Olsen, Harvey E., Jr.
O'Neal, William T.
Opseth, Don E.
Parks, Lowell L.
Payne, Ronald L.
Pearce, Johnny, L.
Pehl, Thomas L., Jr.
Perriman, Ronald O.
Pfranger, Delavan E.
Piepenhagen, Ulrich G.
Pierson, Robert G.
Pimm, Bruce B.
Pittman, Adrian R.
Plaza, Edward J.
Porter, Pihilip V., Jr.
Proctor, Danny L.
Ramsey, John C.
Ramstad, Lawrence M.
Reinke, Gerald G.
Ritchey, Leonard E.
Robles, Joe L.
Rohlf, Dale M., Jr.
Ruth, Charles M. Jr.
Rylander, Jon L.
Schaefer, Andrew C.
Schander, Lawrence E.
Schlatter, Ronald K.
Schlomer, Gary L.
Schoenberg, William D.
Schuhl, Peter C.
Schultz, William L.
Settje, Larry A.
Sewell, William J., Jr.
Sharkey, Edward R.
Shirer, Glenn S., Jr.
Shuck, Ronald G.
Sidner, William H., Jr.
Siguenza, Emmanuel S.
Simmons, James A.
Simpson, Halley L.
Sizemore, Jack
Smeltzer, Lowell L.
Smith, Albert L.
Smith, Danny F.
Smith, George W.
Smith, Malcolm, E.
Smith, Thomas R.
Smith, William J.
Smothers, Curtis J.
Sooy, Richard A.
Sowers, Ersul E.
Spann, Robert W.
Stang, David H.
Stark, Timothy B.
Stephens, Arnold D.
Stevens, William D.
Stewart, James R.
Stoddard, Leon B.
Stoneking, Thomas C.
Stout, Chester H.
Stuart, Daniel W.
Svensson, Ike L.
Swayne, Richard E. Jr.
Tanner, Marvin M.
Taylor, Henry H.
Thomas, Larry R.
Thomas, Richard H.
Thompson, Carl W.
Thompson, Robert A., Jr.
Thornberry, Donald E.
Thornton, Francis F.
Thornton, Fred D. Jr.
Thurman, Curtis W.
Tidd, Thomas J.
Tinney, Thomas G.
Todd, Wiley W.
Tomlinson, Johnny S.
Toombs, Jon L.
Turner, Raymond T., Jr.
Vancleave, Jerry M.
Vanvleet, Barry L.
Verhage, Lloyd K.
Verhasselt, Ray J.
Vongehr, Kurt J.
Walsh, Richard B.
Walsworth, Danny L.
Walter, Mervin D.
Webster, Charles C.
Weisinger, Jack P.
Welch, Brian W.
West, Louis F.
Westfall, Donald L.
White, Kenneth D.
White, Merion D.
Widerburg, Oliver L.
Williams, John P.
Williams, Stephen P.
Williams, Terrell W.
Willits, Larry L.
Wise, Terry P.
Witmer, Mark H.
Wolstenholme, Albert H.
Wood, Ray B.
Wright, David J.
Yano, Laurence A.
York, Gerald W.
Zabetakis, Nick
Zabielski, Robert A.

SUPPLY CORPS

Adams, Donald F.
Boswell, William S., Jr.
Dixon, James W.
Mumford, Donald E.

CIVIL ENGINEER CORPS

Jensen, Albert H.

MEDICAL SERVICE CORPS

Betsworth, Richard D.
Carsten, John E.
George, James A.
Hall, John W.
Horwhat, Paul, Jr.
Kilgore, Larry L.
Kroutil, Michael L.
Menifee, James T.
Moran, Raymond L.
Patton, Robert L.
Rice, Stephen C.
Robson, Joseph R., Sr.
Shore, John E.
Smith, Ric. M.
Standard, Bob E.
Stoddard, Sheldon T.
Tate, Arthur C.

Comdr. Lyndon C. Murchison, Jr., U.S. Navy for permanent promotion to the grade of commander in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780, subject to qualification therefor as provided by law.

The following named commanders in the Reserve of the U.S. Navy for permanent promotion to the grade of commander as Reserve officers, pursuant to title 10, United States Code, section 5911, subject to qualification therefor as provided by law:

Beck, Luther B., Jr.
Bishop, John W.
Geimer, Allen F.
Kline, Warren S.
Mayfield, Howard E.
Nichols, James A.
Sanders, Reginald R.

The following named lieutenant commanders of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the staff corps, as indicated, pursuant to title 10, United States Code, section 5782, subject to qualification therefor as provided by law:

SUPPLY CORPS

Bano, Edward J., Jr.

JUDGE ADVOCATE GENERAL'S CORPS

Furdock, Ronald M.

Lt. David D. Payne, Supply Corps, U.S. Navy, for permanent promotion to the grade of lieutenant in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5782, subject to qualification therefor as provided by law.

The following-named lieutenants (junior grade) women officers of the U.S. Navy for permanent promotion to the grade of lieutenant in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Fuqua, Ana M.
Washling, Mary L.

The following-named ensigns of the line, of the U.S. Navy for appointment in the Supply Corps as permanent ensigns.

Cook, James M.
Driver, David E.
McDaniel, David E.
Wulff, Robert A.

Lt. William P. Fogarty, U.S. Navy, an officer of the line, for appointment in the Civil Engineer Corps as permanent lieutenant (junior grade) and temporary Lieutenant.

Lieutenant (junior grade) Deborah N. Moore, U.S. Navy for permanent promotion to the grade of lieutenant (junior grade), in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5788(a), subject to qualification therefor as provided by law.

*Ad Interim.

HOUSE OF REPRESENTATIVES—*Monday, August 1, 1977*

The House met at 12 o'clock noon.

The Reverend Samuel A. Stanley, Jr., Walker Chapel, United Methodist Church, Arlington, Va., offered the following prayer:

Great God, we give thanks that You have called us to serve You in the service of our fellow man; that the challenges of each day call for our best in response; that the opportunities for the enrichment of life are ever present.

This day help us to feel Your presence offering guidance as we deal with the issues before us.

Grant us the understanding and wisdom necessary to respond to the needs of one another, of the Nation, and of the peoples of the world in a way that is constructive and supportive.

So lead us, we pray, this day and always, through Jesus Christ who is our Lord and Master. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 317. Concurrent resolution providing for an adjournment of the House from August 5 until September 7, 1977 and an adjournment of the Senate from August 6 until September 7, 1977.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R.

7558) entitled "An act making appropriations for Agriculture and Related Agencies program for the fiscal year ending September 30, 1978, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 2, 17, 71, 75, 91, 93, 98, and 99 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 705. An act to amend the Public Health Service Act to revise and strengthen the program under that Act for the regulation of clinical laboratories.

The message also announced that the Vice President, pursuant to Public Law 95–24, appointed Mr. PROXMIRE and Mr. GARN to be members, on the part of the Senate, of the National Commission on Neighborhoods.

THE REVEREND SAMUEL A. STANLEY, JR.

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, I know we have all been inspired by the beautiful prayer just offered by our visiting chaplain, the Reverend Samuel Allen Stanley, Jr., and on behalf of my colleagues I want to express my appreciation to Reverend Stanley for getting us off to such a good start on a week that is sure to be onerous, at best, important to the future of this Nation.

Reverend Stanley has very recently come to the Capitol area from a ministry with the First United Methodist Church in Hampton, Va., where he was held in fond esteem by many of my constituents. He was called to the Walker Chapel United Methodist Church in Arlington a few weeks ago. However, Reverend Stanley, or "Sam," as he asks everyone to call him, is a native of Roanoke, Va., and I express these greetings on behalf of my colleague, Representative CALDWELL BUTLER, who regretted that he could not be here to do it in person.

Reverend Stanley's wife, the former Ruth O. Smith, his mother, Mrs. Eva Margaret Stanley of Roanoke, and other members of the family, can take justifiable pride in this great moment in Reverend Sam's life of Christian commitment.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and I ask the same permission for all other Members who may care to.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the only bill on the Consent Calendar.

DIRECTING THE SECRETARY OF THE INTERIOR AND THE ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN PUBLIC AND ACQUIRED LANDS IN THE STATE OF NEVADA TO THE COUNTY OF MINERAL, NEV.

The Clerk called the bill (H.R. 4979) to direct the Secretary of the Interior and the Administrator of General Services to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.

There being no objection, the Clerk read the bill as follows:

H.R. 4979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the officer of the United States who has the primary responsibility for the administration of the real property described in this section shall issue to the county of Mineral, State of Nevada, a patent or other instrument of conveyance for such real property, or any portion thereof, upon payment into the Treasury of the United States the appraised value of the parcel to be conveyed: *Provided,* That any of the land described in this section which remains unconveyed to the county of Mineral on and after five years from the date of approval of this Act shall remain the property of the United States and shall no longer be subject to conveyance under this Act.

(1) The following described lands situated in the State of Nevada are hereby made subject to this Act: The west half of the northwest quarter of section 26, township 8 north, range 30 east; the part of the northwest quarter of the southwest quarter of section 26, township 8 north, range 30 east, that is north of the highway 95 right-of-way.

(2) The northwest quarter of the northeast quarter and the east half of the east half of section 25, township 8 north, range 29 east; all of sections 29 and 30, township 8 north, range 30 east.

(3) The part of section 21, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 28, township 7 north, range 30 east; the part of the northeast quarter of section 28, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 27, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the east half of the northwest quarter and the north half of the southeast quarter of section 34, township 7 north, range 30 east; the part of the northeast quarter of section 34, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 35, township 7 north, range 30 east, that is west of Nevada State Highway Route 31.

SEC. 2. Upon receipt of a request from the county of Mineral, State of Nevada, for the purchase of a tract of the lands described in section 1 herein, the officer of the United States having primary responsibility for the administration of such lands shall immediately cause the same to be appraised and, upon completion of such appraisal shall notify the county of Mineral of the appraised value of such tract and the county shall have six months from the date of such notice to complete the purchase of such tract by payment of the appraised value into the Treasury of the United States whereupon a patent or other instrument shall be issued conveying such tract to such county subject to valid existing rights and subject to any reservation necessary to protect the continuing use by the United States of real property owned by the United States which is adjacent to the tract conveyed.

SEC. 3. All moneys received from the conveyance of lands under the terms of this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received as reimbursement for costs of appraisal, surveys, and extinguishing adverse claims may be used by the Secretary for said purposes without appropriation.

SEC. 4. The lands described in section 1 and subject to conveyance under the terms of this Act shall be segregated from all forms of appropriation under the public land laws including the mining and mineral leasing laws, from and after the date of approval of this Act, until the officer of the United States having primary jurisdiction for the administration of such lands shall provide otherwise as to any interest remaining in the United States by publication of an order in the Federal Register.

With the following committee amendments:

Page 1, strike all of lines 3 and 4 and through "section" on line 5 and insert in lieu thereof: "That the Secretary of the Interior, hereinafter referred to as the 'Secretary',".

Page 2, lines 2 and 3, strike the words "shall remain the property of the United States and".

Page 2, line 14, strike the word "east." and insert in lieu thereof: "east; the north half of the southeast quarter of section 28, township 7 north, range 30 east."

Page 3, lines 7 through 9, strike the words "the officer of the United States having primary responsibility for the administration of such lands" and insert in lieu thereof: "the Secretary".

Page 3, line 17, after the word "rights" insert "and easements of record".

Page 4, strike all of lines 8 and 9 and insert in lieu thereof: "Secretary provides otherwise".

The committee amendments were agreed to.

(Mr. SANTINI asked and was given permission to revise and extend his remarks.)

Mr. SANTINI. Mr. Speaker, H.R. 4979 authorizes the conveyance of approximately 2,620 acres of land to Mineral County, Nev. The lands were previously withdrawn by Executive order for a Naval Ammunition Depot; however, in 1972 the Navy declared the lands to be excess to their needs and requested the Interior Department to return the land to the Bureau of Land Management.

On June 24 the subcommittee received testimony from the BLM. The Associate Director testified that the lands may be difficult and uneconomic to manage if they are returned to BLM and there is no need for the lands for any BLM programs.

Mineral County would like to have the land for resale to attract commercial and industrial business. Since the county is approximately 98 percent federally owned, there is little space available for expansion.

H.R. 4979 would give Mineral County 5 years after the date of enactment in which to purchase portions of or all the parcels described in the bill. At the end of the 5-year period, any lands which were not conveyed would no longer be subject to conveyance under H.R. 4979. By allowing a 5-year period to pur-

chase the lands, the county would not be placed in a financial burden. The county would notify the Secretary of Interior when it wanted to purchase a specific tract, and the Secretary would have the tract appraised. The county would have 6 months after the appraisal to purchase the tract at the fair market value.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "To direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada."

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT ON TUESDAY, AUGUST 2, 1977, AND WEDNESDAY, AUGUST 3, 1977, WHILE HOUSE IS IN SESSION

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be authorized to hold hearings solely for the purpose of taking testimony on August 2 and 3, 1977, while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7589, MILITARY CONSTRUCTION APPROPRIATION ACT, 1978

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 7589 making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

REPORT ON CONCURRENT RESOLUTION PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF REPORT ENTITLED "THE ROLE OF THE FEDERAL GOVERNMENT IN NUTRITION EDUCATION"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–550) on the privileged concurrent resolution (H. Con. Res. 263) providing for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education," which was referred to the House Calendar and ordered to be printed.

REPORT ON CONCURRENT RESOLUTION PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF SUBCOMMITTEE PRINT ENTITLED "GIVE YOURSELF CREDIT: GUIDE TO CONSUMER CREDIT LAWS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–551) on the privileged concurrent resolution (H. Con. Res. 241) providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws," which was referred to the House Calendar and ordered to be printed.

REPORT ON CONCURRENT RESOLUTION AUTHORIZING PRINTING OF REVISED EDITION OF "OUR AMERICAN GOVERNMENT" AS A HOUSE DOCUMENT

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–552) on the privileged concurrent resolution (H. Con. Res. 205) to authorize the printing of a revised edition of "Our American Government" as a House document, which was referred to the House Calendar and ordered to be printed.

REPORT ON CONCURRENT RESOLUTION AUTHORIZING PRINTING OF REVISED EDITION OF "OUR FLAG" AS A HOUSE DOCUMENT

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–553) on the privileged concurrent resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR REPRINTING OF HOUSE REPORT 94–1688 AND HOUSE REPORT 94–1757

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–554) on the privileged resolution (H. Res. 490) to provide for reprinting of House Report 94–1688 and House Report 94–1757 which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR PRINTING OF FINAL REPORT OF AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–555) on the privileged resolution (H. Res. 608) providing for the printing of the final report of the American Indian Policy Review Commission, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING AS A HOUSE DOCUMENT OF COMMITTEE PRINT OF SUBCOMMITTEE ON THE CITY OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–556) on the privileged resolution (H. Res. 654) authorizing the printing, as a House document, of a certain committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs, which was referred to the House Calendar and ordered to be printed.

PRINTING OF A BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 190) to provide for the printing of the brochure entitled "How Our Laws Are Made."

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 190

Resolved by the House of Representatives (the Senate concurring), That the brochure entitled "How Our Laws Are Made", as set out in House Document Numbered 94–509 of the Ninety-fourth Congress, be printed as a House document, with a suitable paperback cover of a style, design, and color, to be selected by the chairman of the Committee on the Judiciary of the House of Representatives, with emendations, and with a foreword by the Honorable Peter W. Rodino, Junior; and that there be printed two hundred and forty-six thousand additional copies, of which twenty-five thousand shall be for the use of the Committee on the Judiciary and the balance prorated to the Members of the House of Representatives.

Mr. HAWKINS. Mr. Speaker, this concurrent resolution provides for the printing of a brochure entitled "How Our Laws Are Made" as a House document. I ask for its approval.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF REVISED EDITION OF "THE CAPITOL" AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 222) to authorize the printing of a revised edition of "The Capitol" as a House document.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 222

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edi-

tion of "The Capitol", revised under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number of copies, there shall be printed five hundred and seventy-five thousand additional copies, of which four hundred and forty-two thousand copies shall be for the use of the House of Representatives, one hundred and three thousand copies shall be for the use of the Senate, and thirty thousand copies for the use of the Joint Committee on Printing.

Mr. HAWKINS. Mr. Speaker, the purpose of this resolution is to print a revised edition of "The Capitol" as a House document.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "THE CONSTITUTION OF THE UNITED STATES OF AMERICA"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 217) to provide for the printing of a revised edition of "The Constitution of the United States of America."

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 217

Resolved by the House of Representatives (the Senate concurring), That there is printed as a House document a revised edition of "The Constitution of the United States of America", revised under the direction of the Committee on the Judiciary.

SEC. 2. In addition to the usual number of copies, there shall be printed two hundred and ninety eight thousand additional copies, of which twenty thousand shall be for the use of the Committee on the Judiciary, two hundred and twenty-six thousand five hundred copies for the use of the House of Representatives, and fifty-one thousand five hundred for the use of the Senate.

With the following committee amendment:

Strike out all after the resolving clause and insert:

That there be printed as a House document a revised edition of "The Constitution of the United States of America, as amended", revised under the direction of the Committee on the Judiciary.

SEC. 2. In addition to the usual number of copies, there shall be printed two hundred and ninety-eight thousand additional copies, of which twenty thousand shall be for the use of the Committee on the Judiciary, two hundred and twenty-one thousand five hundred copies for the use of the House of Representatives, fifty-one thousand five hundred for the use of the Senate, and five thousand copies shall be for the use of the Joint Committee on Printing.

The committee amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING AS A HOUSE DOCUMENT OF PAMPHLET ENTITLED "BLACK AMERICANS IN CONGRESS"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 182) providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress."

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 182

Whereas black Americans have been among this Nation's leadership; and

Whereas this Nation's black leadership has received only limited recognition; and

Whereas the forty-five black Americans who have been elected to Congress over the past century brought with them an impressive array of professional, technical, and political skills; and

Whereas black Americans in the United States Congress have constituted a representative cross section of its total membership—in essence, a Congress in microcosm; and

Whereas black Americans who have served and are serving in the United States Congress are outstanding in their demonstrated ability as public servants and zealous in their constitutional pursuit of justice and equality of opportunity for all, without reference to race, creed or national origin; and

Whereas black Americans in the United States Congress have directed their energies toward promoting the public welfare by developing, introducing, supporting and enacting legislation designed to meet the needs of neglected persons; and

Whereas this corps of black Congresswomen and Congressmen inspires by its precept a deep and basic sense of racial pride and individual worth; and

Whereas the black Members of the House of Representatives conceived and launched the congressional Black Caucus to "promote the public welfare", a function which it has, and continues to, faithfully discharge: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document the pamphlet entitled "Black Americans in Congress". Except as provided in section 2 of this concurrent resolution, the document shall be identical to the original pamphlet published pursuant to H. Con. Res. 682, adopted August 30, 1976.

SEC. 2. The material on the inside front cover of such original pamphlet shall be deleted and a copy of this concurrent resolution, excluding this section and sections 3 and 4, shall be printed in lieu thereof. The inside front cover of the document printed pursuant to this concurrent resolution shall be identical in format to the inside front cover of such original pamphlet. The inside back cover of such document shall contain a list of the cosponsors of this concurrent resolution and of any companion concurrent resolutions introduced by the sponsor of this concurrent resolution. In such listing, the party affiliation and the State of residence of each such cosponsor shall be indicated.

SEC. 3. There shall be printed, in addition to the usual number of copies, three hundred twenty-three thousand four hundred copies, of which two hundred sixty-three thousand four hundred copies shall be for the use of the House of Representatives, and sixty thousand copies shall be for the use of the Senate.

SEC. 4. Copies of such document shall be prorated to each Senator and Representatives in, or Delegate or Resident Commissioner to, the Congress for a period of sixty days, after which the unused balance shall revert to the respective Senate and House document rooms. During the sixty-day period beginning on the date the unused balance reverts to the respective document rooms, any Senator and Representative, in or Delegate or Resident Commissioner to, the Congress may draw on the unused balance of the House in which such individual serves for additional copies of the document, but the aggregate number of additional copies drawn during such period by any such individual may not exceed the individual's pro rata share of the unused balance. After that period, any such individual may draw on any unused balance of either House for additional copies of the document without limitation on the number of copies which may be so drawn.

With the following committee amendment: Strike out all after the resolving clause and insert:

That there be printed as a House document the pamphlet entitled "Black Americans in Congress". Except as provided in section 2 of this concurrent resolution, the document shall be identical to the original pamphlet published pursuant to H. Con. Res. 682, adopted August 30, 1976.

SEC. 2. The material on the inside front cover of such original pamphlet shall be deleted and a copy of this concurrent resolution, excluding this section and sections 3 and 4, shall be printed in lieu thereof. The inside front cover of the document printed pursuant to this concurrent resolution shall be identical in format to the inside front cover of such original pamphlet. The inside back cover of such document shall contain a list of the cosponsors of this concurrent resolution and of any companion concurrent resolutions introduced by the sponsor of this concurrent resolution. In such listing, the party affiliation and the State of residence of each such cosponsor shall be indicated.

SEC. 3. There shall be printed, in addition to the usual number of copies, two hundred and thirty-eight thousand six hundred copies, of which one hundred and seventy-six thousand eight hundred copies shall be for the use of the House of Representatives, and sixty-one thousand eight hundred copies shall be for the use of the Senate.

SEC. 4. Copies of such document shall be prorated to each Senator and Representative in, or Delegate or Resident Commissioner to, the Congress for a period of sixty days, after which the unused balance shall revert to the respective Senate and House document rooms. During the sixty-day period beginning on the date the unused balance reverts to the respective document rooms, any Senator and Representative in, or Delegate or Resident Commissioner to, the Congress may draw on the unused balance of the House in which such individual serves for additional copies of the document, but the aggregate number of additional copies drawn during such period by any such individual may not exceed the individual's pro rata share of unused balance. After that period, any such individual may draw on any unused balance of either House for additional copies of the document without limitation on the number of copies which may be so drawn.

Mr. HAWKINS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BRECKINRIDGE. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

Mr. BRECKINRIDGE. Mr. Speaker, I thank the chairman, the gentleman from California (Mr. HAWKINS), for yielding to me.

Mr. Speaker, I rise in support of House

Current Resolution 182, which provides for the printing as a House document, "Black Americans in Congress."

Black Americans have long contributed to this Nation's leadership, and more particularly, to the Congress since 1870, when the racial barriers to congressional membership were finally broken down by the election of Hiram R. Revels to the U.S. Senate. However, the congressional leadership which our black colleagues have accorded the Congress and the Nation has received only limited recognition, and this story has been encapsulated in the brochure, "Black Americans in Congress."

Forty-five black Americans have been elected to Congress over the past century, bringing with them an impressive array of professional, technical, and political skills, which has, in fact, constituted a cross section of its total membership—in essence, a Congress in microcosm.

Those who have served, and are serving in the U.S. Congress are outstanding in their demonstrated abilities as public servants, zealous in the constitutional, pursuit of justice and quality of opportunity for all without reference to race, creed, or national origin. They have directed their energies toward promoting the public welfare by developing, introducing, supporting, and securing the enactment of legislation designed to meet the needs of the neglected.

This corps of black Congresswomen and Congressmen inspires, by its precept, a deep and basic sense of racial pride and individual worth, and I am indeed proud to be able to reintroduce this pamphlet for additional dissemination originally printed as a bicentennial document, only a limited number were made available for distribution by the Members. Additional distribution of these booklets be sent to black leaders in our districts, to our social science teachers, and to the political and history departments in our colleges and universities in order to better acquaint our students with the contributions of our black leadership to our Nation.

I take great pride in presenting this pamphlet, which includes biographical notes and portraits, to serve as a historical guidepost for those who do not know about these black Congressmen's and Congresswomen's contributions to the Congress and to the Nation at large, because I feel such a publication will serve as a source of inspiration for all, I urge the Congress to pass this measure by unanimous consent.

The committee amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2176, FEDERAL BANKING AGENCY AUDIT ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. 95-557), on the resolution (H. Res. 728) providing for the consideration of H.R. 2176 to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, which was referred to the House Calendar and ordered to be printed.

NATIONAL ENERGY ACT

Mr. ASHLEY. Mr. Speaker, pursuant to the provisions of House Resolution 727, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8444) to establish a comprehensive national energy policy.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were— yeas 365, nays 12, answered "present" 1, not voting 55, as follows:

[Roll No. 487]

YEAS—365

Abdnor	Brodhead	Delaney
Addabbo	Brooks	Dellums
Akaka	Broomfield	Devine
Alexander	Brown, Calif.	Dickinson
Ambro	Brown, Mich.	Diggs
Ammerman	Brown, Ohio	Dingell
Anderson, Calif.	Buchanan	Dornan
	Burgener	Downey
Anderson, Ill.	Burke, Calif.	Drinan
Andrews, N. Dak.	Burke, Fla.	Duncan, Oreg.
	Burleson, Tex.	Duncan, Tenn.
Annunzio	Burlison, Mo.	Early
Applegate	Burton, Phillip	Eckhardt
Archer	Byron	Edgar
Armstrong	Caputo	Edwards, Ala.
Ashbrook	Carney	Edwards, Calif.
Ashley	Carr	Edwards, Okla.
Aspin	Carter	Ellberg
Badham	Cavanaugh	Emery
Bafalis	Cederberg	English
Baldus	Chappell	Erlenborn
Barnard	Clausen, Don H.	Ertel
Baucus		Evans, Colo.
Bauman	Clawson, Del	Evans, Del.
Beard, R.I.	Clay	Evans, Ga.
Beard, Tenn.	Cochran	Evans, Ind.
Bedell	Cohen	Fary
Beilenson	Coleman	Fascell
Benjamin	Collins, Ill.	Fenwick
Bennett	Collins, Tex.	Findley
Bevill	Conable	Fish
Bingham	Conyers	Fisher
Blanchard	Corcoran	Fithian
Blouin	Corman	Flood
Boggs	Cornell	Florio
Boland	Cotter	Flowers
Bolling	Coughlin	Flynt
Bonior	Cunningham	Foley
Bonker	D'Amours	Ford, Mich.
Bowen	Daniel, Dan	Ford, Tenn.
Brademas	Daniel, R. W.	Fountain
Breaux	Danielson	Fowler
Breckinridge	Davis	Fraser
Brinkley	de la Garza	Frenzel
Frey	McCormack	Rudd
Fuqua	McFall	Runnels
Gammage	McKay	Russo
Gaydos	Madigan	Ryan
Gephardt	Maguire	Sarasin
Gibbons	Mahon	Satterfield
Gilman	Markey	Sawyer
Ginn	Marks	Scheuer
Glickman	Marlenee	Schroeder
Gonzalez	Marriott	Schulze
Gore	Martin	Sebelius
Gradison	Mathis	Seiberling
Grassley	Mattox	Sharp
Gudger	Mazzoli	Shipley
Guyer	Meyner	Shuster
Hagedorn	Michel	Sikes
Hall	Mikulski	Simon
Hamilton	Mikva	Sisk
Hammer-schmidt	Miller, Calif.	Skelton
	Miller, Ohio	Skubitz
Hanley	Mineta	Slack
Hannaford	Minish	Smith, Iowa
Hansen	Mitchell, N.Y.	Smith, Nebr.
Harkin	Moffett	Snyder
Harris	Mollohan	Solarz
Harsha	Montgomery	Spellman
Hawkins	Moore	Spence
Heckler	Moorhead, Calif.	St Germain
Hefner		Stangeland
Heftel	Moorhead, Pa.	Stanton
Hightower	Moss	Stark
Hillis	Mottl	Steed
Holland	Murphy, N.Y.	Steers
Hollenbeck	Murphy, Pa.	Steiger
Holt	Myers, Gary	Stockman
Horton	Myers, John	Stokes
Howard	Myers, Michael	Stratton
Huckaby	Natcher	Studds
Hughes	Neal	Stump
Hyde	Nedzi	Taylor
Ichord	Nichols	Thompson
Ireland	Nix	Thone
Jenkins	Nolan	Thornton
Jenrette	O'Brien	Traxler
Johnson, Calif.	Oberstar	Treen
Johnson, Colo.	Obey	Trible
Jones, N.C.	Ottinger	Tsongas
Jones, Okla.	Panetta	Ullman
Jones, Tenn.	Patten	Van Deerlin
Jordan	Patterson	Vanik
Kasten	Pease	Vento
Kastenmeier	Pepper	Volkmer
Kazen	Perkins	Waggonner
Kelly	Pettis	Walgren
Kemp	Pickle	Walker
Ketchum	Preyer	Wampler
Keys	Price	Watkins
Kildee	Pritchard	Waxman
Kindness	Pursell	Weiss
Kostmayer	Quayle	Whalen
Krebs	Quie	White
Krueger	Quillen	Whitehurst
LaFalce	Rahall	Whitley
Lagomarsino	Railsback	Whitten
Le Fante	Rangel	Wiggins
Leach	Regula	Wilson, C. H.
Lederer	Reuss	Wilson, Tex.
Leggett	Rhodes	Winn
Lehman	Richmond	Wirth
Lent	Rinaldo	Wolff
Levitas	Risenhoover	Wright
Lloyd, Calif.	Roberts	Wylie
Lloyd, Tenn.	Robinson	Yates
Long, Md.	Rodino	Yatron
Lott	Roe	Young, Alaska
Lujan	Rogers	Young, Fla.
Luken	Rooney	Young, Mo.
Lundine	Rose	Young, Tex.
McClory	Rousselot	
McCloskey	Roybal	

NAYS—12

Broyhill	Jacobs	Oakar
Crane	Latta	Poage
Derwinski	McDonald	Symms
Forsythe	Mitchell, Md.	Wilson, Bob

ANSWERED "PRESENT"—1

Allen

NOT VOTING—55

Andrews, N.C.	Dicks	McEwen
AuCoin	Dodd	McHugh
Badillo	Flippo	McKinney
Biaggi	Giaimo	Mann
Burke, Mass.	Goldwater	Meeds
Burton, John	Goodling	Metcalfe
Butler	Harrington	Milford
Chisholm	Holtzman	Moakley
Cleveland	Hubbard	Murphy, Ill.
Conte	Jeffords	Murtha
Cornwell	Koch	Nowak
Dent	Long, La.	Pattison
Derrick	McDade	Pike

Pressler	Staggers	Weaver
Roncalio	Teague	Wydler
Rosenthal	Tucker	Zablocki
Rostenkowski	Udall	Zeferetti
Ruppe	Vander Jagt	
Santini	Walsh	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8444) to establish a comprehensive national energy policy, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. ASHLEY) will be recognized for one-half of the debate on this legislative day and the gentleman from Illinois (Mr. ANDERSON) will be recognized for one-half of the debate on this legislative day.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, this is a momentous occasion for the House of Representatives. Today we begin consideration of an omnibus energy bill, which for the first time in our country's history will establish a rational, comprehensive national energy policy. Never before in the annals of this House has there been considered in one bill subject matter which encompasses 113 separate legislative initiatives involving the jurisdiction of five major standing committees of the House. Never before has this body considered legislation of more direct and vital interest to the future of our Nation.

Today the energy future of our Nation is very uncertain and very insecure. It is uncertain because of the widening gap between energy supply and demand in the United States and it is dangerously insecure because of increasing reliance on foreign oil to bridge this gap. Americans—the Congress included—have been slow to realize that our domestic production of oil and natural gas peaked in the early 1970's and has been on the decline since that time. Only about 1 out of every 2 Americans realize that we import oil and only 1 out of 10 understands that these imports now constitute nearly 50 percent of the oil we consume.

But the facts are there and they present dangers which are undeniable. This heavy and increasing reliance on insecure foreign sources of oil poses a constant and growing threat to our domestic economy and to the security of our country. The threat comes not alone from the possibility of higher OPEC prices, another embargo, or the ability of an enemy to interdict foreign oil supplies destined for the United States. It comes as well from the certain knowledge that world production of oil will peak sometime in the 1980's and that thereafter world supplies will increasingly fall short of world demand. For the United States this means that even without higher OPEC prices, an embargo, or interdiction, there simply would not be, as there is now, the availability of foreign oil to bridge that widening gap between our own production and consumption of oil and natural gas.

This is what the energy crisis is all about. Today our factories are producing, crops are being harvested, homes are air-conditioned and there is plenty of gasoline for summer vacation trips. Yet our energy supplies are dangerously insecure and in the absence of prompt and decisive action will become more so with each month and year that passes.

The choice we face is clear. We can rob the Nation of options now available by deluding ourselves that the energy problem is of no urgency, and by so doing invite the economic disruption and peril to our security that could be thrust upon us from external sources. Or we can adopt policies now which allow time for our economy to make an orderly transition from an era of cheap energy resources to one which inevitably will be more costly.

The legislation before us today is the first essential step in establishing an energy policy responsive to the security and well-being of our own generation of Americans and those to follow. It is neither an all-encompassing policy nor is it cast in stone. The energy policy of our country must and will be an evolving policy constantly being modified to meet both the short and intermediate term needs as well as our longer range requirements.

H.R. 8444 is vitally important because it establishes a policy framework for the present and future, and because it provides an initial set of strategies to achieve the energy goals set by the President.

Both the national energy plan and the legislation before us are based on three fundamental predicates: First, the need to become less wasteful in the way we use energy and to effect substantial conservation particularly with respect to the consumption of oil and natural gas; second, the need to convert from use of the energy sources being most rapidly depleted—oil and natural gas—to coal, nuclear, and renewable sources; and, third, the need to provide adequate incentives for continued exploration and production of domestic sources of energy.

In the process of developing the legislation before us, there has been no real dispute over these major policy cornerstones. Specific strategies, as was to be expected, have involved controversy and disagreement and it now falls upon this body, resolved into the Committee of the Whole House on the State of the Union, to decide the issues which so importantly will shape our country's future.

Perhaps it is worth noting as we undertake this task that some 200 Members of the House already have played a role in shaping the energy bill that we are now considering. Five committees of jurisdiction and the Ad Hoc Committee on Energy have worked with a sense of commitment and cooperation that speaks proudly for the House of Representatives.

Pursuant to its charge contained in House Resolution 508, the ad hoc committee has provided a forum for review of the standing committees' recommendations, a forum to insure that the many components fit together into a sensible whole. In addition, it has proposed a number of amendments on its own initiative which we believe strengthen the overall product.

Some 40 amendments in all were considered by the Energy Committee; about half were adopted. In such subject matter areas as residential and commercial conservation, transportation, coal conversion, and public utility regulatory policies, significant changes were agreed to. Most important of all was the amendment adopted involving the price and definition of new natural gas. In the President's energy plan, it was proposed that new natural gas should be defined as gas produced from wells at least 2½ miles from existing onshore producing wells, from new reservoirs 1,000 feet deeper than current producing wells within the 2½-mile radius/or produced from Outer Continental Shelf Federal lands leased after April 20, 1977. New gas was to be subject to a ceiling price equal to the Btu equivalent of the average refiners' acquisition cost of all oil produced in the United States—now about $1.75 per mcf.—with authority for higher prices for high-cost production.

The ad hoc committee's definition of new natural gas is somewhat more liberal. It adds to the new gas discovered outside the 2½-mile, thousand-foot cylinder, gas discovered within that cylinder in a new reservoir. That new gas, too, qualifies for the top ceiling price, beginning at $1.75.

It is the strong majority view of the Energy Committee that the proposed definition and price of new natural gas will provide ample incentive for needed new production and at the same time furnish protection to the consumer of natural gas against runaway prices and unwarranted profits. We are convinced that the Brown amendment proposing immediate price deregulation and a definition of new natural gas that includes any gas newly committed to Interstate Commerce, will result in an immediate escalation of prices and profits that will severely and adversely impact on consumers and the general economy.

Mr. Chairman, this may be the most important, but it is only one of many issues that have been considered by the Energy Committee and will be debated fully before being decided by a vote of this body.

When our work is completed, later this week, I hope and trust that each of us will be able to share a sense of having participated in the shaping of a comprehensive national energy policy that will serve the urgent needs of our country in the years ahead.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, as I am sure those who were present for the debate on the rule on this legislation observed last Friday, we are considering it under rules of procedure that are unusual, if not unprecedented, in the history of this House. One of the interesting features of the rule is that it makes H.R. 8444 in order under a rule whereby we will consider it in terms of general debate for a legislative day, rather than for the normal period of

hours, where we usually quantify general debate in terms of 2, 4, 6 hours.

It occurs to me that a single legislative day is not really a vast amount of time, given the complexities of the subject before us.

I am reminded of that Old Testament story of Joshua, who on one occasion when he was engaged in battle with the Philistines, prayed to Jehovah that the Sun stand still, which it did, in order that the battle could be completed within a single day. And we might really need the intervention of divine providence before this day is over. We would indeed were we to gain universal agreement on the features of this legislation.

Let me say at the very outset, Mr. Chairman, as I proceed to consider and discuss the legislation before us, that I am going to take a position that is quite different from that which has just been enunciated by the able and distinguished chairman of the Ad Hoc Energy Committee, the gentleman from Ohio (Mr. ASHLEY). That does not mean in any way that I want to detract from the idea that the gentleman from Ohio (Mr. ASHLEY) has presided with great dignity and, I think, with essential fairness during the 3 long days of markup that were spent on H.R. 8444. My differences with the gentleman—and they are many, both procedural and substantive—certainly do not in any way detract from my admiration—yes, even my affection—for the gentleman from Ohio as one who is sincerely dedicated to his cause.

The energy bill that we proceed to debate today, Mr. Chairman, can perhaps most accurately be described as a half a loaf. Unfortunately, we cannot go on to complete that old proverb or adage which goes on to say that "a half a loaf is better than none." In this case I think that a half a loaf, if adopted in the form that it was reported to the floor of this House, would not be good for the future of our country. Let us make no mistake about it, the policies which the majority seek to lay down with this legislation would affect this country not just in the coming year or in even the coming decade. The policies that would be laid down in this legislation will, I think, have an impact well into the next century.

Our country has been blessed with ample supplies of easily obtained oil and natural gas. When those first discoveries were made a century ago and as the clear advantages of oil and natural gas over other fossil fuels such as coal became clear, as oil and gas rapidly began to displace fuels that we found were not as convenient, not as clean, and not as easily transportable, in addition we discovered a wide range of other uses for these new sources of energy.

By far, the largest uses of the two fuels that I have mentioned, oil and gas, were in the field of transportation. Oil and gas also found extensive uses in the industrial field. And finally, they became virtually indispensable for the heating and the cooling of millions of American homes, offices, and commercial establishments.

The industry that produced oil and gas was able to find ample supplies of this form of energy and to get it to market cheaply. Only in 1965 did our excess capacity for producing oil fall below our imports.

However, since that time we have seen a very, very rapid disintegration in the situation to the point where we have come all the way to a place where virtually 50 percent of our consumption of oil is coming from imported oil.

What has also happened during the years past, which I have all too briefly described, is that the American people and American industry have been accustomed to low prices. As a result, industrial processes, home heating systems, our automobiles, and essentially all the capital stock of the country have been built in a manner where they did not use energy efficiently for the simple reason that it really did not pay to go to the extra expense and to make the added effort to make them more energy efficient.

Our homes, for example, are not as well insulated as they should be. Indeed, they are not as well insulated as the homes that are to be found in much of northern Europe. Our industry has not been obliged to be as energy efficient in the use of energy in connection with industrial processes as some of our competitors in Western Europe. Over the years we have, as a result, drawn down our reserves of oil and gas very rapidly. We were able to find enough each year to provide the kind of supply-and-demand balance that kept prices either stable or even trending downward.

It is clear, however—and in this respect I do agree with what my distinguished friend, the gentleman from Ohio (Mr. ASHLEY), said just a few moments ago—that this era of cheap and abundant energy has ended. We cannot expect to find within the borders of this great Nation of ours the kind of supplies at the cost at which we have been able in the past. New supplies will be available. I believe that. New supplies must be developed, but it is going to be at a higher cost; and this is the crux of our energy policy problem. The problem is basically one of balancing expectations with reality. While we might expect to be able to continue our wasteful and, yes, even our prodigal ways, the reality of our energy supply profile today is that we cannot rest content in the same old way; and the longer we procrastinate in making necessary decisions to change our ways, the more danger there is that we will move our country into a position where we will face truly monumental problems in national security as well as economic problems of untold magnitude.

I believe, as I look at the four corners of H.R. 8444, that the Carter administration and the majority party in the Congress have not done their best to fashion a comprehensive energy policy that will address the problems to which I have just referred.

I said the other day when I was discussing the rule before the Committee on Rules that it does not help to throw a drowning man a 10-foot rope when he is 20 feet away from the dock. That is what has happened with H.R. 8444. It is my view that in it we have some good beginnings, to be sure. No one can dispute that in its embrace of the idea and the concept of a new conservation ethic, this bill has made a good start. However, I repeat that it goes only halfway.

I must say now with some considerable regret that the job required of this House as we sit here today in the Committee of the Whole has been made somewhat more difficult by the rush that has been placed on this bill by the leadership and by the procedures that were ordained for the ad hoc committee to follow as they marked up and reported H.R. 8444.

Frankly, Mr. Chairman, I never could understand why it was that the majority leadership in this body placed such a premium on having final action on an energy bill of this magnitude, of some 580 pages in length, of having all of that very sensitive and important action completed by a date certain. Why were we unwilling to take the few extra days that might have been required to hold some hearings? I regret to say that one of the matters in which this bill is most deficient is that it does not go into the very important question of oil pricing policy. The changes in oil pricing that Congress made in 1975 in the Energy Policy and Conservation Act raise an important question: Have these policies succeeded in reversing the declining trend of domestic production of oil and gas in the United States, or have they exacerbated that trend?

I wrote to the distinguished chairman on the 24th of June and I pleaded with the gentleman that we hold some hearings by the Ad Hoc Energy Committee. The Committee on Interstate and Foreign Commerce has not done it. No other committee of the House has duplicated that effort. It was my view that we at least hold a few days of hearings and go into that very sensitive and important area that so obviously impacts the energy policies of our Nation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 5 additional minutes.

Unfortunately, Mr. Chairman, that request was not granted.

We held 3 days of hearings. We heard Mr. Schlesinger, Mr. Brown, Mr. Blumenthal, Mr. Schultze, and Mr. Lance, but, other than those very estimable gentlemen who, after all, were speaking on behalf of the administration which drafted this legislation and which brings it to the floor today, as I say, other than those, we have not heard other witnesses either from the administration or from people from the private sector on either the President's bill or the bill that has been reported as the bill of the standing committees, H.R. 8444. Rather we found that in order to avoid lengthy debate, and I do not believe that 3 days in the ad hoc committee was an excessive amount of time to spend in debating this enormous bill or in considering, as the chairman said, two score of amendments to that bill, we had to markup the entire bill completely in only 3 days. Granted that those were long days, nevertheless we found that the tendency on the majority side of the aisle was to retreat to

a caucus behind closed doors and then to troop out into the Chamber to mow down the Republican amendments to the bill and to adopt almost in every instance the amendments that had been agreed to in that caucus.

I suppose those streamlined procedures worked to avoid some of the public bitterness that might otherwise have erupted on the majority side of the aisle. They might have worked to streamline the procedure and the amount of time that we took in considering this bill, but I believe the question has to be asked: Was all of that saving of time really in the public interests, or could we have given more time and have worked out the more sensitive and more comprehensive policies, or set of policies, had we been allowed to adopt a less abbreviated procedure?

As I said a moment ago, Mr. Chairman, one of the things that I find distressing about this legislation is that it does not go into the very important question of oil pricing. I would call your attention to the fact that the majority report on the National Energy Act in volume 1, at page 9, has the following to say:

> The Nation must, therefore, encourage increased exploration and development of our remaining oil and national gas resources. However, because consumption of these fuels is central to the health of the Nation's economy, allowing price increases which do not produce additional supplies would not be sound policy.

And yet this bill is going to increase prices at least 7 to 9 cents a gallon at the pump. And how is it going to do it? It is going to do it by imposing a crude oil equalization tax that is going to flow into the coffers of the Federal Government.

It is going to do it by imposing a crude oil equalization tax that is going to flow into the coffers of the Federal Government. It is not going to go into the hands of producers to encourage additional exploration and development. Yet they have said in their report they do not think the price increases, which do not produce additional supplies, would be sound policy.

I find a sad contradiction between the words of the majority report and the language as contained in the sections and the parts of this bill that deal with the crude oil equalization tax.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield at this point to my friend and distinguished member of the Committee on Ways and Means, the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. I thank the gentleman for yielding.

I have asked the gentleman to yield for the purpose of propounding a question to him. It seems to me that we have a situation as the gentleman just indicated, that is really the worst of both worlds from the point of view of the consumer—higher prices but no asurance that those higher prices are going to bring adequate supplies of energy. I would appreciate the gentleman's comments on that.

Mr. ANDERSON of Illinois. I think the gentleman has hit the nail precisely on the head. We are going to have higher prices at the pump, and this is leaving aside for the moment the fact that the administration has now put its blessing on the so-called Howard amendment which will be offered later in these proceedings whereby we would increase the present four cents Federal gasoline tax to nine cents a gallon, courageously enough in 1979 after we are safely past the next congressional elections, I would note. But leaving that aside, in addition to that, with a crude oil equalization tax on lower-tier oil and upper-tier oil, they are going to extract between now and 1985 an estimated $70 billion from the American consumer in the form of higher prices at the pump that is going to have to be paid for petroleum products. Yet that is not going to go to encourage increased exploration and development.

I note with interest that that philosophy is not confined to the Members on the minority side of the aisle. I have before me an article which appeared over the weekend which is quoting the President of the United States directly. I think I should spend just a minute or two calling to the Members' attention what he had to say in an interview which took place on Friday of this week, and it was on the record. The President of the United States characterized the deregulation argument as urging that we should have extremely high prices to be established by the oil and gas companies without constraint and accept their proposition that exploration would go forward by leaps and bounds, and that we would have unlimited supplies of oil and natural gas as a result. In the first place, no one is suggesting that even given the incentive that will be offered in a Republican substitute, H.R. 5555, we cannot promise unlimited supplies of oil and gas. We realize that eventually the age of oil and gas will come to an end. But, Mr. Chairman, as my friend, the genteman from Wisconsin, will point out in a few minutes, it is perfectly reasonable to postulate that given the added reasonable incentives for exploration and development in the substitute bill, we can certainly look forward to, rather than a continuation of the present declining trend in production, an increase of perhaps 2 million barrels a day by 1985.

Just think what that would mean. Even at today's prices, and of course by 1985 any reasonable person has to assume that prices will have increased, that would mean savings of more than $10 billion a year in import payments. That ought to mean something to a country that is concerned over the fact that last month we saw the deficit in our balance of payments soar to $2.8 billion, and that in the first 6 months of 1977 alone that deficit is more than in all of 1977.

I frankly cannot understand the economic reasoning of an administration that professes not to be concerned by the fact that the American dollar is depreciating today on foreign exchange markets as against the yen, as against the mark, as against the Swiss franc, as against the French franc, and as against almost all the other convertible currencies of the world, and we are paying out perhaps as much as $40 billion.

Would it not make more sense to pay a higher price for domestically produced oil and know that some of that higher price was going to be plowed back into discovering new supplies of oil and gas than to sit back with hands folded, very complacently accepting, as this administration seems to do, the notion that we go on endlessly paying out our Treasury to the Arab potentates of the Middle East to the tune of $40 billion a year?

I hope when the time comes to present the substitute to this committee bill that Members will listen very carefully as we explain in even greater detail the advantages of an oil pricing policy that will give some encouragement, some incentive to the production of indigenous sources of energy.

I am not going to take any more time or a great deal more time this afternoon, although I think that in view of the fact that we have an entire day at our disposal it is warranted because I do agree with the President that this is the most serious problem that will confront him during his administration. I do agree with the President that it is absolutely crucial and critical that we address the problem, and that is why I voted for a rule on this bill.

I think the distinguished chairman of this ad hoc committee will say that in my capacity as the ranking minority Member I did nothing to obstruct or delay a decision by that committee on this issue. I want action as much as anyone in this Chamber. It is not my purpose merely to delay. But I would hope that we would take the time, that we would be sufficiently patient in listening to and trying to understand the amendments and the explanations that will be offered and that we would be willing to accept the solemn responsibility that is ours to fashion the kinds of policies that will give us not only a comprehensive energy policy but one that we can live with in the years to come.

I am not going to take the time at the moment because I am sure it will be available subsequently to go over all of the features of the substitute legislation. But I think I should very, very quickly outline what its major features are.

It would retain the insulation programs that are recommended by the administration. We do believe that a sound Presidential conservation program, weatherization, and insulation tax cuts, and so on are necessary to save energy.

We have some differences with the administration on such things as the preparation of lists, and more will be said about that later.

We believe that something ought to be done to restrain people in the purchase of large automobiles that are not energy efficient, and so we have retained the recommendations of the Ways and Means Committee as they relate to the so-called gas guzzler tax.

We have retained the idea that there ought to be a tax on those industrial

users of natural gas and oil who do not convert but in some very important amendments, that will be discussed in more detail by my friend and colleague, the gentleman from Ohio (Mr. BROWN), we believe that a more reasonable program for administering that tax has been fashioned in the substitute, one that will cause American industry far less disruption.

For example, 80 percent of the boilers of this country are between 100 million and 300 million BTU's per hour and yet they account for only 9 percent of all the energy used and consumed by all the boilers in this country. We think it makes sense to refashion that segment so that we do not fasten on the backs of the American industry a huge bureaucratic empire that will require additional thousands of employees and man-hours of work in simply filling out forms and engaging in contesting the feasibility of making these conversions.

In the crude oil pricing policy, as I have indicated, we would make some significant changes in present policies by instituting a crude oil equalization tax that applied to lower tiered oil, old oil. Gradually over a period of 5 years our plan would free up to the market price so-called new oil produced after April 1972, with the advantages I have mentioned, with the potential of producing by 1985 an added 2 million barrels a day.

We would also provide with respect to natural gas that price controls ought to be removed on new onshore natural gas. More on that subject later from my friend, the gentleman from Ohio (Mr. BROWN).

We would, in addition to that, put the burden of proof for conversion from oil and gas to coal on the FEA. We think it makes sense, rather than giving it the kind of broad unrestrained rulemaking authority that the majority party has provided for in this bill, to say to the FEA that "you shall come in and establish a case, and prove whether your use of oil and gas should be converted to coal."

Finally, Mr. Chairman, we have some very, very important provisions, that deal with the subject of coal conversion. We happen to think that this bill, the administration bill, is sadly deficient in that it does not provide for the development of alternative fuel technologies whereby we can use coal cheaper and even more importantly, cleanly, over the coming years to make up that gap in our energy supplies.

So we would provide that the energy trust fund set up under the bill with our crude oil equalization tax, that 65 percent of that trust fund would go to demonstrating the feasibility of low to medium Btu coal gasifiers.

In addition, we would give aid to the States for road rehabilitation and maintenance.

Finally, 20 percent of that trust fund would go for the purpose of mass transit, which certainly is germane to the whole effort to try to conserve energy in the field of transportation.

Mr. Chairman, these are the broad outlines we will discuss later; but I hope during this time of general debate that Members will listen very carefully as various amendments are discussed, because I think that even though the hour is late, if we act prudently, if we act wisely, and adopt the right amendments, it is possible to produce a sensible and coherent set of energy policies for the Nation.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the very able chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, my friend and colleague, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I want to begin by paying tribute to my distinguished friend, the gentleman from Ohio (Mr. ASHLEY) for an outstanding job done under enormously difficult circumstances, as chairman of the Ad Hoc Committee. The gentleman has shown remarkable patience and ability, as well as extraordinary willingness and ability to work with his colleagues to achieve a desirable end for the House on this important legislation. He has provided valuable leadership to harmonize the different viewpoints, the different approaches, the different jurisdictional concerns of the affected committees.

He merits the commendations of all of my colleagues. I salute him for his labors. He certainly merits the thanks of all of us.

I also pay tribute to our distinguished Speaker (Mr. O'NEILL) for the way that he has pushed, urged, cajoled all of us by all manner of proper means toward bringing this matter before the House before the August recess. It was not infrequent, during my consideration of this matter and during the consideration of the legislation by the subcommittee, that I felt that the time limits imposed were impossible, but we have nonetheless met them, and I believe have met them well.

My colleagues on the subcommittee on Energy and Power, without exception, on both sides, merit the thanks and congratulations of the House. The members of the ad hoc committee do likewise, because they have worked hard under enormously difficult circumstances. They have done it without partisanship, without bitterness, without anger, and in a remarkable spirit of good will under great pressure as to time and complexity of subject matter.

I want to pay particular tribute to my distinguished friend and colleague from Ohio (Mr. BROWN), who is a legislator of great power, an adversary of fearsome characteristics, and yet a wonderful, good friend, an honorable adversary and an honorable friend. I am proud of the friendship which he and I have developed during these difficult days.

The staffs of both the Committees on Energy and Power and Interstate and Foreign Commerce, and the staff of the ad hoc committee, merit the particular thanks of this body, because theirs has been the truly hard work which has been done on this matter. I do not stint on praise for either the staffs of the subcommittee or the minority staffs, who have labored long and hard under, as I have mentioned, considerable difficulty.

The labors which we have completed, I believe, are historic. They represent the first time that an ad hoc committee has rhymed the labors of the different committees and subcommittees of legislative jurisdiction. I believe the consequences are good, and the precedents established are sound. The legislative committees with the principal responsibility for energy matters have reported a single measure to the House which combines both regulatory policies and tax policies dealing with our Nation's energy problems.

Many of us can recall the difficulties which have confronted the legislative committees writing energy proposals in earlier Congresses. We have always had reason to feel that part, either regulatory or tax aspects, were missing. As a result, the Congress was hampered in achieving a truly comprehensive national energy policy because of the difficulty of combining and coordinating regulatory and tax policy treatment of the Nation's important, related problems. The legislation before the House this week, therefore, represents a significant and a major step forward in the development of a coordinated energy policy. In that, we might well rejoice.

The legislation before the House this week carries forward the regulatory initiatives established in prior legislation and establishes new regulatory initiatives, substantially revises some existing regulatory programs and, in addition, sets in place for the first time a series of energy tax initiatives coordinated with the regulatory programs.

Happily, the provisions that lie before us—and I particularly want the attention of the Chair on this point—deal not with the subject of oil pricing, a matter which has been addressed in extenso in earlier Congresses. This Congress and this committee will be much sheltered by the fact that the devisive questions which oftimes are related to oil pricing will not be before us and will not be the source of conflict and contradiction among us because of the germaneness rules which will, to some degree at least, shelter us from the kind of controversy at a time when it is little needed because of the complexity of the matter before us.

Parenthetically at this point, Mr. Chairman, I might note that the legislative history of H.R. 8444 is the same as the legislative history of H.R. 6831, which was the antecedent legislation introduced by our majority leader at the request of the White House to carry forward the administration's policy.

I note for the benefit of all that the language of the report of the different committees of jurisdiction, the comments of the minority members and the special and other comments included in the report are embodied by understanding in the legislative history of the ad hoc committee.

Mr. Chairman, the legislation before us in the public interest, it will move the Nation forward. While we must recognize that probably other further addi-

tional legislation in this area will continue to be required, as early as the next session of this Congress, it is plain to me that this is nevertheless strongly in the public interest and is a milestone toward achieving the national energy policy so necessary to the salvation of the Nation.

Mr. Chairman, today, the House embarks upon historic consideration of a major legislative proposal which represents in a true sense a comprehensive outline of a national energy policy.

Under the able leadership of our new Speaker, the legislative committees with principal responsibility for energy matters have reported a single measure to the House which combines both regulatory policies and tax policies dealing with our Nation's energy problems. Many of us can recall the difficulties which have confronted legislative consideration of prior energy proposals. Past efforts to develop a truly comprehensive national energy policy were hampered by the difficulty of combining and coordinating regulatory and tax policy treatment of the Nation's energy-related problems.

The legislation before the House this week, therefore, represents a major step forward in the development of a coordinated energy policy. Many aspects of the National Energy Act are rooted in energy legislation already enacted by the Congress. For example, the Energy Policy and Conservation Act established the legislative authority under which the President has implemented a National Strategic Petroleum Reserve Program. The Energy Policy and Conservation Act established the mandatory fuel efficiency standards applicable to all new automobiles; these standards provide the basis for the automobile fuel inefficiency taxes now reported by the House Ways and Means Committee and incorporated in title II of the legislation now before the House. Similarly, the Energy Policy and Conservation Act established the basis for continued regulation of domestic crude oil prices. The crude oil equalization tax set forth in this legislation builds upon the oil pricing policies adopted in EPCA.

However, despite its major accomplishments, EPCA could establish no more than the foundation for a comprehensive national energy policy because EPCA represented only the regulatory responses to our Nation's energy problems.

The legislation before the House this week carries forward the regulatory initiatives established in prior legislation, establishes new regulatory initiatives, substantially revises some existing regulatory programs, and, in addition, sets in place for the first time a series of energy tax initiatives coordinated with the regulatory programs.

Title I of H.R. 8444 establishes major energy conservation regulatory initiatives. These initiatives include a program to encourage the installation of energy efficiency improvements in private residences and schools, hospitals and other public buildings. Title I of H.R. 8444, the National Energy Act, establishes a revised energy conservation program dealing with the energy efficiency of consumer products other than automobiles. This program substantially improves the appliance labeling program contained in EPCA by authorizing the establishment of mandatory Federal efficiency standards.

Title I of the National Energy Act would establish for the first time Federal initiatives dealing with the regulation of electric utilities. Electric utility rate reform has long been recognized as one of the prerequisites to establishment of a true national energy policy. This legislation will facilitate nationwide electric utility regulatory reforms which are so sorely needed.

The legislation also establishes a major revision of the Nation's existing coal conversion program under the Energy Supply and Environmental Coordination Act. The legislation substitutes a broader more comprehensive program dealing with the use of both petroleum and natural gas. This regulatory program seeks to maximize the use of coal where its use is technologically feasible and would not result in violation of environmental requirements. The program is also directed at achieving significant conservation of wasteful uses of natural gas so that this premium fuel may be directed to more valuable uses. The regulatory aspects of the coal conversion program established in this legislation are coordinated with and supplemented by a major energy conservation use taxes levied on certain forms of industrial and utility consumption of petroleum and natural gas. This coordinated approach will assure maximum conversion to coal and, in addition, more efficient industrial and utility use of petroleum and natural gas where conversion to coal is not practicable.

Title I of the National Energy Act also includes a long overdue substantive revision of the Nation's natural gas pricing policies. By establishing a single uniform price for natural gas produced in the United States, the legislation removes the disparity in treatment between the interstate and intrastate markets for natural gas. The distortions created by this disparate treatment should therefore be removed. Moreover, this legislation would depart meaningfully from the historical "cost-based" pricing policy which underlies the Natural Gas Act and substitute an "incentive-based" system for the pricing of newly discovered supplies of natural gas.

This legislation joins to these major regulatory initiatives a series of energy tax programs which are designed to supplement existing and new regulatory programs through the operation of the price mechanism. These tax programs include a crude oil equalization tax, automobile fuel inefficiency taxes, the "gas guzzler tax," a gasoline tax, an excise tax on the business use of oil and natural gas, the "burner tip tax," and a series of tax credits including a residential energy credit for taxpayers who retrofit their homes with energy saving improvements, and a credit for businesses which invest in coal conversion equipment. Other tax programs include amendments which encourage the use of buses, encourage the rerefining of lubricating oil, and stimulate the development of our Nation's oil and natural gas resources through the treatment of intangible drilling costs for purposes of the minimum tax. Finally, these numerous tax programs contain mechanisms designed to minimize their overall economic impact by providing the recycling of these tax revenues to the economy.

In the Washington Post the past weekend, there was a report of a recent poll of the American people regarding their views on the energy legislation now before the House. That poll indicated that substantial disagreement existed with particular elements of this legislation. In fact, in several instances a majority of those polled responded negatively toward specific elements of the legislation. Nevertheless, a substantial majority of those polled agreed that the Congress should enact the legislation. I believe this poll indicates to the House its responsibilities and its duties. Too often in the past debate regarding energy legislation has focused on these questions of opposition to particular elements of the program. This opposition has often blurred our vision and prevented the House and Senate from considering the totality of the legislative package rather than its individual pieces. Fortunately, the rule under which this legislation will be considered is designed to focus debate on the totality of the legislative package rather than on any specific element. The rule does provide for consideration of certain amendments, but each of these amendments deals with a major aspect of this energy program. Perhaps more importantly, these amendments are not the debilitating sort which have too often in the past been politically attractive and therefore adopted without due consideration to their effect upon the totality of the legislative program.

If the House fails to adopt this legislation, we shall have no one else to blame for our failures and our inability to address the Nation's pressing energy problems than ourselves. If the House responds to the challenge presented to it and enacts this legislation, we shall be entitled to be justifiably proud of our product and this institution.

I urge my Colleagues to listen to the debate on this legislation; to vote as their conscience dictates on the amendments which will be offered; and to respond to the challenge before us. When the time comes for a vote on final passage of this landmark legislation, I urge my colleagues to provide the leadership this Nation needs by setting aside regional and even philosophical differences and standing up to support adoption of this historic legislation.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I rise in opposition to this bill. I opposed it in the Committee on Ways and Means, with the hope that the ad hoc committee would make appropriate changes that would allow me to vote for it. Unfortunately, they have not only not made those

changes that I felt were necessary but, worse, they have made changes which make the bill even less attractive than it was.

I cannot in conscience support what is a punitive measure, negative in approach, designed to impose burdensome costs and regulation on the American people when there are alternatives available which would help solve the energy crisis without punitive action.

In the light of what I have said, it is interesting to note that I think we all sense widespread public approval of an energy program and also a widespread public disinterest in the details. Now, there's the rub. That the public wants an energy program, after all these years of congressional balkiness, does not mean the public is prepared to pay the price required by this bill. Yet, in another sense, the public does understand some sacrifice is to be required.

"I don't mind having to pay more for my energy as long as I know everybody is being treated fairly," thoughtful people are saying in letters to me urging my support of the President's program. I hope they will also ask, "How much more?" and, even more importantly, "What will the program accomplish?" If the price is too high and the results too uncertain, should we accept sacrifice just because everybody suffers equally?

I do not think so, Mr. Chairman. Marxist regimes require equality of sacrifice to the collective, and yet I do not note many Americans lining up to move to those regimes.

I differ with the basic thrust that the President and the majority in the Congress have recommended to deal with energy. The notion of the Carter program, which is well reflected in the bill before us, is to spread the scarcity of energy in a way that will impose high taxes on our people, cost us perhaps untold numbers of jobs, raise the rate of inflation to totally unacceptable levels and put us at a disadvantage vis-a-vis the other industrialized countries of the world in our ability to produce our own energy.

For those who do not know it, in the not too distant future the United States may be the only industrialized country in the world that is not moving vigorously toward energy self-sufficiency. In 2 years Great Britain will be energy sufficient due to the North Sea oil and due to the progress that has been made in nuclear energy. The Western European countries that are heavily industrialized and almost completely devoid of energy are pushing ahead in a major way with nuclear energy as their only alternative to the enormous oil costs which they are presently incurring. Likewise with Japan, which is forging ahead significantly in the nuclear field and in developing oil and gas reserves in the waters off Southeast Asia.

The Soviet Union is virtually energy self-sufficient today.

Yet here sits the United States trying to settle its energy crisis not by insuring its own self-sufficiency in energy but only by trying to limit the extent to which it uses energy. This is the Carter program. Its misconceptions invite disaster.

Our goal should be further production, as well as conservation, and we should develop the reserves of oil and gas that we have in this country, moving ahead also to develop alternatives sources of energy, such as the liquefaction of gas and coal, shale oil, and the other so-called exotic fuels. Unfortunately, neither the Carter administration nor the bill before us seeks to do that. Instead, it says, "Let's just use less and not worry about the future," when other countries with whom we compete in world markets will be able to place us at a competitive and perhaps a strategic disadvantage because we have been shortsighted in recognizing that we must strive for energy self-sufficiency, not simply conservation.

Thus, Mr. Chairman, I cannot support a program that will confine my children and their children to a world in which they will not have the energy vital to their lives and their freedom. Let the word go forth now that it was the Carter administration and the majority party here in Congress who decided for future generations of Americans the kind of society in which they would live, the kind of place they would have in the world community. Let it also go forth that there were those of us who knew of that situation and said no and warned of the dangers and refused to be a party to such a policy.

Mr. Chairman, the ad hoc committee, it is boasted, spent 23 hours in developing a 500-page bill to outline the energy-efficient policy for America. It is clear from a reading of that bill that their actions were hasty and merely a rubberstamp of the views submitted to them by the Carter administration.

There are all kinds of economic penalties in the bill, some of them direct and some of them indirect. For instance, the Federal tax on gasoline will go up by either 4 or 5 cents, directly increasing the cost of a gallon at the pump by that much. As a result of the wellhead tax on domestic crude oil, the indirect cost of gasoline will probably be raised by an additional 7 cents.

Mr. Chairman, recent polls show that people will drive just as much despite the higher price of gasoline since in most places there is no other way to get around. Therefore, we have not done much to encourage conservation in this bill, at least as far as gasoline use is concerned. Worse still, if those nefarious oil companies do not see the value to them in building more gasoline refineries, the eventual shortage either puts us deeper into the hands of the Arabs or drives the price of gasoline still higher.

There is very little elasticity of demand in gasoline prices until one reaches such a high level that the cost would be prohibitive.

Thus, a 4-cent gasoline tax is not a conservation measure, but simply another scheme to raise taxes on Americans. It is thoroughly consistent with everything else the President has done or recommended; whether in the social security area or in the energy area or in the tax area, the administration's position is to increase taxes. The Commissioner of Internal Revenue would even increase taxes by the taxation of fringe benefits.

It is clear that this administration is committed to a program of increasing taxes on Americans. The 4-cent gasoline tax increase is just one plank in their tax platform.

Consistent with this policy, the ad hoc committee would increase the tax on general aviation fuel from 7 cents to 11 cents and put these funds into the energy trust fund in order to build highways and similar things.

General aviation is perhaps one of the most energy-efficient modes of travel. Imposing a 4-cent gasoline tax on people who ride airplanes will not cut down their discretionary flying. It would simply take money out of their pockets that can be used by the administration to fulfill one of its campaign promises.

Mr. Chairman, such a move is directly contrary to the notion of conserving energy, and this amendment should be rejected.

In title II the ad hoc committee made many of the mistakes which the Committee on Ways and Means tried to rectify in altering the proposal originally submitted to it by the Carter Administration. We limited the insulation credit in his bill to an expenditure of only 2 years, for the reason that if we were going to spend the vast amount of money such a program would require, we ought to incur those expenses now, get the insulation installed, and quickly put an end to the subsidy.

Like the administration, the ad hoc committee proposes that this program be a 4-year program, adding an additional revenue loss of $1.5 billion over the recommendation of the Committee on Ways and Means. This is silly. The insulation credit is questionable for 2 years, but certainly without merit for any longer than that.

I would urge the Members to reject the ad hoc committee amendment to extend the insulation credit for an additional 2 years.

Also consistent with the generally negative thrust of this energy policy is the amendment by the ad hoc committee to eliminate the definition by the Committee on Ways and Means of new-new oil. By doing this the Administration and the ad hoc committee, in effect, are eliminating incentive for new drilling, new drilling that is vital if we are to have increased energy supplies. However, it is obvious that the administration is not interested in new energy supplies. Therefore, this amendment also should be rejected.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Mr. Chairman, I will yield to the gentleman from Texas at the conclusion of my statement.

The ad hoc committee eleminated the so-called Steiger amendment which would have rendered inoperative the users tax on business when that business was exempt from the regulatory portions of this measure imposed in title 1. It seemed only fair that if by regulation we were not to require certain conversions that we should not turn around and impose a tax when those businesses involved did not convert. Yet the ad hoc

committee decided that it wanted a double standard, that it really did not care about conversion, it simply wanted to collect the tax. Thus it voted to eliminate the provision of the gentleman from Wisconsin (Mr. STEIGER) which was adopted in the Committee on Ways and Means. Surely such a double standard is foolish and I am sure the gentleman from Wisconsin will speak to this point during the debate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, the things that I have mentioned are bad, but I think there are other parts of the bill which will require even more sacrifices from Americans to even less purpose.

American industry, which runs on oil, has been using a mix of foreign oil, at the world price, and domestic oil at a price controlled below the world price. Since industries in other countries pay the world price for oil, this had given us a competitive advantage and our economy has snapped back quicker than the others from the recent world recession. The wellhead tax on domestic crude oil will raise its price to the world price, now, eliminating the competitive advantage, while still making our producers develop their oil for a price to them below the world price. Then the bill assumes that industries which use oil for their energy can convert to coal if they want to, and so it puts an additional tax on their continued use of oil. Since nothing protects them from increased coal prices or the environmental problems that come with coal burning, many industries will go on using oil, paying the tax on it, and in this way having industrial energy costs above those of industries in other countries which pay only the world price for their oil. The sacrifice involved here is imbalance of trade and, eventually, jobs. Any industry dependent on oil for its products would be foolish to stay in the United States with such a prospect, when it can go and build a new shiny factory in the Persian Gulf area.

Mr. Chairman, equality of sacrifice is a good idea. But nobody sacrifices just to sacrifice. The bottom lines should be: Will it help solve the problem? I do not think this energy program does and I do not want my vote to contribute to an America of increasing scarcity, more regulation, more taxes, less competitiveness, higher prices and fewer jobs. It is not necessary and it certainly is not desirable.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman from New York (Mr. CONABLE) has referred to the definition of new-new oil. The gentleman in the well is familiar, I am sure, with the fact that that definition could only affect the tax consequences of such definition. So it may well have had the effect of preventing any tax from being applied to any oil that should fall under this committee established definition of new-new oil. Thus had the President permitted a $13.50 price only for that oil outside the 2½-mile limit, or below 1,000 feet from an existing find, then all other oil in that definition could have been purchased by the refinery without the imposition of a tax. So this definition would have done nothing but give a windfall to the refineries and would not have done anything toward correcting the problem. The gentleman is familiar with that fact, is that not right?

Mr. CONABLE. My impression was that this was done because people will be discouraged from the kind of development that follows the initial discovery of oil.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CONABLE. The particular provision in the Committee on Ways and Means bill was designed to try to take some of that oil outside the rigid definition the administration had been advocating.

Mr. ECKHARDT. But the gentleman is familiar with the fact, is he not, that the change is that definition did not apply to the pricing of oil because that was not before the Committee on Ways and Means. Therefore, pricing authority would have remained with the President, and the only effect of the definition would be to deny the opportunity to place a tax against that portion of new oil that the President did not include in his additional price.

Mr. CONABLE. I think it would give added incentives to refineries to buy domestic oil were that to be the case, and that certainly is desirable. What I am afraid of is that many of these refineries are going to want to import oil. They are going to be concerned about the price of domestic oil, actually in some cases where you have increase in severance taxes and things like that, going above the price of domestic oil.

Mr. ECKHARDT. That may be true. Of course, they would be inclined toward such domestic oil so that they could buy it at the absolutely rock bottom price. But the point is that the producer would not get a nickel more because of that provision in the Ways and Means bill.

Mr. CONABLE. The gentleman, of course, comes from a region where oil is widely understood, the details of the intricacies of this process I am not familiar with, but I will say that my impression is that the definition of new oil in the Ways and Means bill would have given considerable greater incentive to the development of domestic energy than anything that is in the ad hoc bill. However the pricing mechanism is designed, I am concerned that we have taken another step away from encouraging production.

Mr. ARCHER. Mr. Chairman, I rise to oppose enactment of the National Energy Act. I oppose this bill. I strenuously object to the manner in which it has been railroaded through this House. I object to the arrogant manner in which the administration has forced this institution to bend to an artificially imposed timetable.

I object to the fact that the Members of this House, the members of the press, and the public have been given very little knowledge of what is contained in this bill—because of the absurd time frame within which it has been considered.

If it is dilatory to want reasonable hearings on a measure of this nature, then I am dilatory. If it is dilatory to allow the public and the press ample opportunity to review and comment on proposed legislation, then I am dilatory.

If it is dilatory to implore the administration to invite the public in to comment during the preparation of a major legislative initiative, then I am dilatory again.

But I cannot believe that any thinking person would regard any of these acts as dilatory. They are but reasonable and necessary.

What is unreasonable—and what will in the long run cause more delay than a comprehensive review of this legislation in the House of Representatives—is the manner in which this proposal has been developed.

President Carter took office in January of this year. And 3½ months later, be unveiled for the first time what is now called the national energy plan. The plan was thrown together with little public participation.

Those involved in the energy production business in this country were almost entirely excluded from the process. I can only assume that President Carter did not want his preconceived notions of what ought to be done clouded by facts. That must have been the rationale for excluding those who might know somethink about finding and producing energy.

Now, 3½ months after the unveiling of the national energy plan, we are here debating on the floor of this House—under a gag rule—what will probably be the most important legislative initiative produced by this administration. It is appalling. It is a disgrace to this institution and to the country it is supposed to serve.

Lest there be any doubt of the ramrod approach which has been used in fashioning this legislation, I would like to bring one example to my colleagues' attention. The report on the bill we are now debating, prepared by the Ad Hoc Committee on Energy (Rept. No. 95–543) was not available to Members of this House—except for those who served on the committee—until after the close of business last Friday. The bill itself, 580 pages in length, has not been available much longer.

There will be precious few Members of this House on the floor in the next week who will have any real notion of what the bill contains—much less the impact of individual provisions on segments of our society and the country as a whole. Almost none of us will have any true feeling for those ramifications.

And yet the majority leadership and President Carter—in their blind, headlong rush to "do something"—have handcuffed this institution, made a

mockery of its procedural safeguards and are now thundering toward the horizon with a vigor which can only be described as foolhardy.

The people of this country will be far better served by a rational, reasonable discussion of important alternatives to the tunnel vision approach taken by the majority on this bill.

We must be concerned about economic impact of this bill—the critical relationship between energy and jobs, and what it does to our balance of payments and inflation here at home.

We cannot and need not continue to import $40 billion worth of crude oil every year. We can and must produce a much greater quantity of domestic oil and gas to reduce that dependency.

The two keys to accomplishing that are decontrol of oil and deregulation of natural gas—alternatives that the administration refused to consider, in spite of the hard economic logic calling for their inclusion in any workable program.

Chase Manhattan contends that decontrol of oil would bring domestic crude oil production up to a level of 13 million barrels a day—as compared to just 10.6 million barrels under the present proposal.

Importantly, this would not diminish our domestic known reserves. On the contrary, decontrol would increase proven reserves by some 8 billion barrels over present levels by 1985. Moreover, decontrol would not increase costs to consumers over levels in the present plan—and yet it would provide a strong stimulus for increased domestic production.

The arguments for deregulation of natural gas are just as compelling—and yet the administration, with the majority leadership's rubber stamp of approval, is actually proposing a price rollback in producing States and an extension of Federal regulation to all domestically produced natural gas.

The plan calls for a totally unrealistic timetable for massive conversion to coal and then uses that basically false assumption as its answer to pleas for consideration of the supply side of the energy equation.

No, Mr. Chairman, if this plan is adopted in its present form—without radical corrective surgery by this House which might make it workable—the administration and the Congress will have made a terrible mistake.

They will have surrendered perhaps their only chance in this decade to solve our energy dilemma—all for the sake of meeting one man's own artificially imposed campaign promise to adopt some sort of national energy policy.

Is this House going to continue with this absurd lemming mentality—or is the leadership going to muster the courage to stand up and tell the President he's wrong before his sham of a program is allowed to become the law of the land?

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Title II contains four major parts and several relatively less far-reaching sections. The fundamental purpose of these provisions is the encouragement of more efficient uses of oil and natural gas and conversion from oil and gas to other, more abundant domestic fuels. Incentives are provided to stimulate efficiency. Disincentives are provided by raising the cost of inefficient uses of fuel. Conversion to coal, solar and other forms of energy are given positive inducements.

RESIDENTIAL CREDITS

The first major part of title II seeks to encourage residential conservation and conversion. In both cases, income tax credits will be available to help homeowners meet the costs of installing the desired types of equipment.

To encourage conservation, the Ways and Means Committee action provides a credit of 20 percent on the first $2,000 of cumulative expenditures on home insulation and other energy conserving components, for a maximum credit of $400. The credit would be available for installations made from April 20, 1977, through December 31, 1982. This credit is available for forms of insulation that will reduce the heat loss or heat gains of a residence, and it covers the types of material whose fundamental use is insulation. Energy conserving components qualifying for the credit include additions to heating and cooling systems that increase their efficiency and also extend to clock thermostats, storm doors and windows, caulking and weatherstripping.

New technologies are becoming available for residential use, and the Ways and Means Committee has provided a credit to stimulate conversion to solar and wind energy equipment.

A credit up to $2,150 would be available on the first $10,000 of expenditures on solar and wind energy equipment. The credit is 30 percent of the first $1,500 spent and 20 percent of the next $8,500 spent for installations of this equipment from April 20, 1977, through December 31, 1982. Eligible equipment covers equipment that uses solar energy to heat or cool, or to provide hot water for a principal residence, and equipment that uses wind to generate electricity and other forms of energy.

TRANSPORTATION

The Ways and Means Committee's bill includes several tax changes dealing with personal and mass transportation.

GAS GUZZLER TAX

The first one is the gas guzzler tax which is designed to be a strong disincentive to the purchase of fuel inefficient automobiles.

The tax would apply to each initial sale by the manufacturer of an automobile that falls 3 to 5.5 miles per gallon below efficiency standards established for each model year. A separate tax table applies to each model year 1979 through 1985; the table for 1985 applies to later model years as well. The lowest tax increases for $339 for an auto efficiency rating of 15 miles per gallon in 1979 to $397 for an efficiency rating of 23.5 miles per gallon in 1985 and later years. The highest tax each model year applies to vehicles with efficiency ratings at or below 12.5 or 13 miles per gallon and increases from $553 in 1979 to $3,856 in 1985 and later model years.

The amount of this tax is not to be taken into account when computing depreciation, the investment tax credit, or gain or loss on resale.

The Ways and Means Committee action also establishes a public debt retirement trust fund into which the proceeds of the gas guzzler tax will be deposited and used to retire public debt obligations of the United States.

GASOLINE AND OTHER FUEL TAXES

In 1976, more than 40 percent of domestic demand for refined petroleum products was for gasoline. The Ways and Means Committee acted to maintain current tax levels on gasoline and to eliminate some special tax benefits for nonhighway use.

To realize these objectives, the current Federal excise taxes of 4 cents a gallon on gasoline and other motor fuels will be continued at that rate through September 30, 1985. These taxes are currently scheduled to be reduced to 1½ cents a gallon after September 30, 1979. No action was taken at this time on the highway trust fund, which will continue to receive these funds under present law through September 30, 1979.

The committee action also repeals the 2-cents-a-gallon refund of the excise tax on gasoline and special motor fuels used in a motorboat. The increased tax on motorboat fuel will go into the land and water conservation fund as a user tax on motorboat operators—as does the present 20-cents-a-gallon tax.

The committee also acted to repeal the personal deduction for State and local government taxes paid on the purchase of gasoline and diesel and other motor fuels for nonbusiness use after December 31, 1977. This change represents a symbol for both energy policy and tax policy. For the standpoint of tax policy it eliminates an itemized deduction that most taxpayers could estimate reasonably only after a generous application of imagination to a set of somewhat ambiguous tables.

BUSES, BUS PARTS AND ACCESSORIES

The 10-percent excise tax on all buses and the 8-percent excise tax on bus parts and accessories will be repealed under the committee action. Parts and accessories that may be interchangeable between trucks and buses will be taxed on sale unless it is certified that the parts are purchased for use on a bus. The committee also removed the excise taxes on tires, inner tubes and tread rubber, gasoline and other motor fuels, and lubricating oil sold for use with privately owned intercity, local, and schoolbuses. Removal of these excise taxes on private transit and private schoolbus operators puts them on a par—with respect to these excise taxes—with governmental and nonprofit schoolbus operators.

TAX CREDIT FOR ELECTRIC MOTOR VEHICLES

New electric cars purchased for personal use on public roads will be eligible for a tax credit of $300.

CRUDE OIL EQUALIZATION TAX AND REBATES

CRUDE OIL EQUALIZATION TAX

Under the Ways and Means Committee bill, an excise tax is imposed on the first purchase—generally by the refiner—of price controlled domestically pro-

duced crude oil. The tax increases the cost of all crude oil to the world price by 1980. The termination date of the tax is September 30, 1981, which is the date the price controls terminate under existing law.

This tax will increase gasoline prices by about 3 to 4½ cents per gallon by 1980, or 1 cent per year as the tax is phased in. If this tax went into effect all in one step, it would have a somewhat greater impact on prices. For example, gasoline prices would increase by 5 to 7 cents a gallon in 1978, if this tax were fully effective in that year. The normal decline in production of crude oil, however, will mean less crude oil will be subject to the highest tax in 1980 than in 1978.

The tax is imposed in three stages. In 1978, a tax of $3.50 per barrel is imposed on lower tier oil—old oil under current regulations. In 1979, the tax on lower tier oil will be raised so that the national average refiner acquisition cost will be identical for lower tier and upper tier oil. In 1980 and for the duration of the tax, the tax will equal the difference between the wellhead prices of uncontrolled and controlled crude oil of the same classification.

An equalization tax also is imposed on sales to end users of natural gas liquids, and it is based upon the difference—the price gap—between the controlled price of the liquid and the wholesale price for No. 2 distillate oil in the region. The tax will be equal to one-third of the price gap in 1978, two-thirds of the gap in 1979, and equal to the entire gap in 1980 and later years.

There are exemptions for natural gas liquids used in residences, on farms and in churches, schools and hospitals.

An exception is provided from the crude oil equalization tax for heating oil used in residences, churches, schools, universities and hospitals, distributors of heating oil will receive a refund of the equalization tax for each gallon sold to one of these users, so long as the dealers certify that the refund is passed through completely to the customer as lower prices.

CRUDE OIL REBATES

The net receipts from the equalization taxes will be apportioned equally and returned to each taxpayer in 1978 through a new tax credit. Single taxpayers and married persons filing separately will receive a single payment, and married persons filing joint returns and heads of households—single persons with dependents—will receive a double payment.

Special payments will be made in 1979 to adults who are recipients of monthly benefits under social security, railroad retirement or supplemental security income. These payments will be made in the fall of 1979 and will equal the credits rebated to individual taxpayers.

Special payments also will be made to adults who receive aid to families with dependent children. Other adults who do not receive a tax credit or special payment under one of the programs referred to above may file a form with the Secretary of the Treasury in order to receive their payment.

The committee amendment also authorizes payments to the governments of Puerto Rico and the possessions for distribution of amounts similar to the tax credits and special payments.

EXCISE TAX ON BUSINESS USE OF OIL AND GAS AND CREDIT

A three level tax is imposed on the use of oil or natural gas as fuel in a trade or business beginning in 1979. Tier 1 which would apply to an industrial use where conservation in fuel consumption is feasible; tier 2 which would apply to uses of oil or natural gas in which conversion to another fuel is feasible; and tier 3 would apply to electric utilities and industrial producers of electricity using boilers with a total rating of at least 100 megawatts per plant.

The first tier conservation tax on oil will start at 30 cents a barrel and level off at $1 for 1981 and later years. The tier 2 conversion tax also starts at 30 cents, but it will continue rising through 1985 when the tax will become $3 a barrel for 10 and later years. The tier 3 utility tax is a constant $1.50 a barrel that begins in 1983.

The tier 3 utility tax on natural gas also begins in 1983, but starts at 55 cents per million Btu, and rises by 10 cents in 1984 and 1985. It remains at the 1985 level of 75 cents in later years.

The tier 1 and tier 2 taxes on natural gas will vary annually between 1979 and 1985. This tax basically is intended to bring the cost to the user—that is, the price he pays plus the tax—into line with the average regional price for No. 2 grade distillate oil. The prices of oil and natural gas, including the tax, then will not encourage shifts from one to the other scarce fuel.

Both tax rates will be adjusted annually for the inflation that occurs after 1979.

An exemption from the use tax is provided for the Btu equivalent of the first 50,000 barrels of oil per year which should cover almost all small and medium-sized firms. There is also an additional exemption in case of regional competitive disadvantage.

Other exemptions from the business use tax are provided for:

One. Industrial process use when the use of fuels other than oil or natural gas would materially and adversely affect the manufacturing process or the quality of the manufactured goods, and when the use would not be economically and environmentally feasible.

Two. Nonindustrial uses of oil and natural gas in residential facilities, in transportation—including pipelines—on a farm for farming purposes, in nonmanufacturing commercial buildings, and in the exploration, development, and production of crude oil and natural gas.

Three. Oil and natural gas used in a facility that was in existence or under construction on April 20, 1977, and which was precluded from using coal by State air pollution regulations or a regulation of a local agency having jurisdiction over a facility under an approved State implementation plan.

Four. An industrial use for the duration of an exception provided under specified provisions of title I of the National Energy Act.

Special provisions allow the Secretary of the Treasury to reclassify individual firms to a category which is taxed at a lower rate or which is exempt from tax. Reclassification under the procedure would take into account the potential for conversion or conservation in the use of oil and gas and would also consider environmental, economic, as well as technological factors relevant to the individual case.

CREDIT AGAINST TAX ON BUSINESS USE OF OIL AND GAS

A taxpayer may elect a credit against the use tax of $1 for each dollar of qualified investment up to 100 percent of the taxpayer's oil and natural gas use taxes. Carryforwards are provided for use taxes not offset by investments in the first years of the tax.

Qualified energy investment which could be a credit against the use tax includes the cost of alternative energy property placed in service during the year or, if the taxpayer elects, the progress expenditures made for that property during the year. It includes—

First, a boiler, burner, or combustor whose primary fuel is an alternate substance;

Second, certain equipment used in the production of energy by nuclear, hydroelectric, or geothermal power;

Third, equipment for converting an alternate substance into synthetic gas;

Fourth, pollution control equipment required to be installed in equipment described above;

Fifth, equipment required with the use of an alternate substance, or in a facility which uses coal as a feedstock for products other than coke; and

Sixth, the costs for plans and design for equipment described above.

An alternate substance would be a fuel that is not oil, natural gas or their products.

BUSINESS ENERGY PROPERTY TAX CREDIT; INVESTMENT CREDIT AND DEPRECIATION CHANGES

BUSINESS ENERGY CREDIT

A 10-percent business energy tax credit is allowed in addition to the investment credit provided under present law for investments by business in qualified property intended to reduce the amounts of oil, natural gas or other energy consumed in heating or cooling a building or used in an industrial process.

The credit would be available for investments in qualifying property made after April 19, 1977, and before January 1, 1977, and before January 1, 1983. Credits generated by investments in alternative energy property may be applied against 100 percent of the taxpayer's income tax liability, rather than the 50-percent limitation that is now generally available.

The business energy tax credit would be available for alternative energy property as an option under which the taxpayer could elect either the dollar-for-dollar credit of the use taxes or the business energy credit for investments in alternative energy property. A taxpayer who elected the credit against the use tax would receive the regular invest-

ment credit only on the amount of the investment that was not credited against the user tax.

Qualifying property.—For the business energy tax credit, qualifying property in addition to alternative energy property includes:

First, installation or expansion of cogeneration property in an existing facility;

Second, advanced technology property which would use solar, geothermal, or wind energy to provide heat, cooling or electricity;

Third, specified items of heat exchange equipment which would recover waste heat and gases or otherwise reduce energy consumption, and also equipment to modify existing facilities to allow the use of oil or natural gas and at least 25 percent of some other substance in a combustor or to produce an industrial feedstock; and

Fourth, equipment to recycle solid waste and to sort and prepare solid wastes for recycling.

BUSINESS INSULATION

For purposes of the regular investment credit, insulation installed in connection with an existing building or industrial facility would be qualifying property through 1982. Insulaton includes storm doors and windows, thermal glass and double glazing.

DENIAL OF REGULAR INVESTMENT TAX CREDIT AND ACCELERATED DEPRECIATION

The regular investment credit would be denied for air conditioners and space heaters.

The regular investment credit also would be denied for new oil and gas boilers. In addition, straight-line depreciation would be required for these boilers, and the 20-percent variance from the guideline lives for depreciable property under ADR would not be available for these boilers. These limitations, however, would not apply where the use of coal as an alternative fuel is precluded by Federal or State regulations or if oil or natural gas qualifies as an exempt process use.

DEPRECIATION ADJUSTMENT FOR PLANNED RETIREMENT OF BOILERS

If a taxpayer certifies that he plans to replace or retire a boiler or other combustor which uses oil or natural gas as a fuel before a specified date, the undepreciated value of the equipment would be deductible using the straight line method over the time remaining before the date specified for retirement.

MISCELLANEOUS PROVISION

TAX TREATMENT OF GEOTHERMAL EXPENSES

A current deduction would be allowed for intangible drilling costs related to the exploration and development of geothermal resources. To the extent that these intangible drilling costs exceed the taxpayer's income from the production of geothermal resources, these costs would be subject to the minimum tax on preference items.

In addition, percentage depletion will be allowed at a 10-percent rate for all geothermal resources, subject to the limitation that the total amount of depletion allowed with respect to any property is not to exceed the taxpayer's adjusted cost basis in that property.

MINIMUM TAX ON INTANGIBLE DRILLING COSTS FOR OIL AND GAS WELLS

The committee extended beyond 1977 the provision in present law relating to the minimum tax on intangible drilling costs. As a result, the minimum tax on preference items applicable to intangible drilling costs for oil and gas wells would be modified to treat these intangible costs as preference items only to the extent they exceed the taxpayer's oil and gas production income.

REREFINED LUBRICATING OIL

New lubricating oil would be exempt from the 6-cents-per-gallon excise tax, if it is combined with rerefined oil and the new oil makes up 55 percent or less of the mixture. If the new oil in the mixture exceeds 55 percent of the contents, the exemption would apply only to the new oil that would make up 55 percent of the mixture. In any case, the mixture must contain at least 25 percent waste or rerefined lubricating oil in order to qualify for the exemption.

ANNUAL REPORT ON ENERGY SAVINGS AND REVENUE EFFECTS

Beginning in August 1978, the President will report each year to the Congress on the savings in energy use accomplished, the revenue received, and the revenue disbursed under each specific program contained in title II of H.R. 6831, the Energy Tax Act of 1977.

This summarizes the provisions in title II of the National Energy Act as reported by the Committee on Ways and Means. The committee worked long and hard in developing this package and in my view it represents a sound energy tax program.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield briefly?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I think my distinguished chairman of the Committee on Ways and Means will confirm the proposition that I was attempting to clarify with the gentleman from New York (Mr. CONABLE), and that is that in no way would the definition of new-new oil in the Ways and Means bill give one penny additional money to the producer. It would simply give a windfall to the refiner with respect to that oil which the President had not defined and had not altered the price of as frontier oil.

Mr. ULLMAN. Let me say to the gentleman that yes, it is my understanding that would be the impact. The ad hoc provision makes the definition of new-new oil under the tax conform to whatever definition is used for price controls.

Mr. ECKHARDT. They will permit the President's program and the tax program to interface in a proper way in order to encourage the production of frontier oil, as I understand it. That is the reason I offered the amendment.

Mr. ULLMAN. Yes, I agree with the gentleman.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I do not want to prolong this, and I thank the gentleman from Oregon very much for yielding.

I think it is important to set the record straight. We will get into the debate when we get to the Eckhardt amendment. The point is that under the Committee on Ways and Means bill we had a definition of new-new oil and the tax that could be applied. That definition meant that the President would then have to face that issue. Without it, the President is allowed to write his own definition. It seems to me the Congress has lost its opportunity—the opportunity it would have if that Jones definition stayed in the bill. It is that point that has to be made. We have lost that chance if the Eckhardt amendment is adopted.

Mr. ECKHARDT. If the gentleman will yield very briefly, I do not want to entrench on his time.

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. I do want to answer that point. I thank the gentleman for yielding. Had the definition remained in the Ways and Means bill it would have in nowise constrained the President to follow it with respect to pricing. It simply would have constrained the Government from taxing a portion of the oil which the Ways and Means Committee defined as new-new oil.

Mr. ULLMAN. Mr. Chairman, first let me commend the Ad Hoc Committee and all of the committees of jurisdiction. I commend the Rules Committee for issuing a responsible rule.

The chairman, the gentleman from Ohio (Mr. ASHLEY), did a splendid job of pioneering a new procedure in the House of Representatives that enables us now to bring an energy package to the floor that is comprehensible, that is responsible, and that is responsive to the recommendations of the administration. I think this will enable this Congress and this Nation to make the very fundamental decisions needed to turn the corner on energy policy and energy use in a way that will allow us to avert the kind of major crisis that would be imminent without this kind of change in direction.

So I am pleased to be a part of it. We have been able to do this without sacrificing in any way the major jurisdictional responsibilities in the House. We bring here a recommendation from the Ways and Means Committee as we reported it from that committee, a fine, responsible package. The coordinating committee under the gentleman from Ohio (Mr. ASHLEY) is going to bring a series of recommendations that the ad hoc committee has suggested are important and necessary in order to make this a good, solid working package.

This, I think, is a very important day in the history of the Congress because I think it is going to give us the kind of procedures that we are going to need more and more in order to solve the very complex problems of this Nation.

Let me go briefly, then, through the provisions of the bill in title II which are under the jurisdiction of the Committee on Ways and Means.

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a question?

Mr. ULLMAN. I will be happy to yield.

Mr. ALLEN. I thank the gentleman for yielding.

My reason for rising to ask questions is because I did not receive a copy of the bill or of the committee reports until about one-half hour before I had to leave here on Friday, and with a 500-page bill and all of these reports, quite frankly, I have not had an opportunity to read them, let alone digest them. But, with respect to the tax fund, the gentleman spoke of the tax on crude oil gradually going up. Does it ever cease? That is the tax on crude oil?

Mr. ULLMAN. Well, let me say to the gentleman that in the first two stages we bring the price of old oil up to the price of second tier or new oil; then, in the third stage, we bring all price-controlled oil up to world levels.

Mr. ALLEN. When we get to the third stage, will the Government be getting that money, or will the bill then be permitting oil drillers and the petroleum companies to be charging the same as the world price on crude oil?

Mr. ULLMAN. The Government gets those revenues, and then they are returned to the people through a tax credit, special payments, and through a heating oil rebate.

Mr. ALLEN. But it will not go back to the oil companies, in any event?

Mr. ULLMAN. No. No. They will continue to get the same price that they do now. Crude oil price controls will remain in effect.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 additional minute.

Mr. ALLEN. If the gentleman will yield further, the gentleman said someting about the tax on what they call gas guzzlers, the Lincolns and Continentals and big Oldsmobiles. When would those taxes go into effect, and how much would they be?

Mr. ULLMAN. They do not go into effect until model year 1979, and then on a graduated scale.

Mr. ALLEN. Starts at what and goes to what?

Mr. ULLMAN. The tax phases in between 1979 and 1985, and the lower a car's mileage below the mandated standards, the higher the tax. For a given level of gas mileage, the tax rate increases year by year, so that out there in 1985 one could be paying a tax of almost $4,000 if he bought a very inefficient automobile, assuming it is on the market then.

Mr. ALLEN. A $4,000 tax on the automobile?

Mr. ULLMAN. If it were really inefficient and out there in 1985, that is correct.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 2 additional minutes.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I thank the gentleman for yielding.

Mr. Chairman, I think public opinion in most areas of the country—certainly in my area—supports the idea, the recommendations of the administration, that industry convert, insofar as possible, back to the use of coal from fuel oil and natural gas.

I have a number of industries in my congressional district which some time ago, because of the Environmental Protection Act and the recommendation to clean up the environment, moved from coal to natural gas and to fuel oil and such other oils as it may use.

What protection is there in this legislation, exemptions, exceptions, or whatever form it may be, to those industries which now attempt to go back to the use of coal rather than to natural gas and other oils in the environmental protection area?

Mr. ULLMAN. As I have indicated, we have attempted to apply this tax in a practical and realistic way. We have said if there are economic, technical or environmental reasons why they cannot convert to alternative energy sources, then we have exempted them from the tax, except in certain instances where we say that if they cannot convert but can conserve, we have a second tier, a modest tax, which in some instances would apply.

Mr. FOUNTAIN. I thank the gentleman.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I have a question I would like to ask the Chairman, if I may, on this question of the tax on the crude oil. As I understand it, under this bill some portion of it will go back in rebates, $22 rebates to the public, and the remainder into the general revenue; right?

Mr. ULLMAN. First, there is a heating oil rebate. That is applied through the dealers in a reduction in the bills for those families, schools, churches, and hospitals which burn heating oil, and, in addition to that heating oil rebate, there is that per capita rebate to the American people; that is correct. The heating oil rebate applies for the life of a tax; the per-person rebate applies to 1978.

Mrs. FENWICK. And the remainder goes back into the general revenue?

Mr. ULLMAN. That is right. After 1978 the bill does not have a per-person rebate. The committee plans to provide such a tax reduction in the tax reform bill we will consider next year, and it wanted to integrate the return of crude oil equalization taxes to consumer with the comprehensive tax reform program.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 additional minute.

Mrs. FENWICK. If the gentleman will yield further, as I understand it, the total take, so to speak, on the subject of this tax, will be many tens of billions of dollars; is that correct?

Mr. ULLMAN. Over the period of the tax it amounts to close to $28 billion, yes.

Mrs. FENWICK. Close to $30 billion

What proportion of that will be going into the general treasury and what proportion of that will be going into these rebates?

Mr. ULLMAN. In 1978, the vast majority will go into per person rebate. The rest goes to the heating oil rebate.

Mrs. FENWICK. I understand.

Mr. ULLMAN. So most of the revenues over the period of time, if the law is not changed, would go into the general treasury. The anticipation is that we probably will in the tax reform bill continue to rebate just as much as possible to the American people.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 2 additional minutes.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate having the chairman of the committee yield to me.

In one of the tables here in the committee report, I notice that there is a figure for "total of all parts" under a table called "Summary of Estimated Budgetary Effects of Title II of H.R. 8444, Fiscal Years, 1978 to 1985," and it shows: $93 billion.

What does that mean?

Mr. ULLMAN. That is the revenue impact. We have the gas tax, the industrial use tax, and the crude oil tax. That is a composite of the full general revenue impact.

Mr. ROUSSELOT. Does the gentleman mean taxes on people overall, and that that would be a cumulative figure for potential revenues from taxation?

Mr. ULLMAN. This is the total net revenue gain from the ad hoc committee's bill.

Mr. ROUSSELOT. Does the gentleman mean the rebates are subtracted from that?

Mr. ULLMAN. Yes, that is right. This is the gross tax revenues for this whole period of years, from 1978 through 1985. This is the total of all parts of the bill insofar as revenue is concerned.

Mr. ROUSSELOT. Is this after the rebates have been given back or what? Is this a net figure?

Mr. ULLMAN. Yes.

Mr. ROUSSELOT. Before rebates?

Mr. ULLMAN. This is the net revenue.

Mr. ROUSSELOT. How much will the rebates be?

Mr. ULLMAN. Well, I believe that figure has been indicated. In 1978 the per person rebate will be $3.4 billion.

Mr. ROUSSELOT. What I am trying to get at is this: Is this going to cost the taxpayers $93 billion? That is a tidy little figure.

Mr. ULLMAN. The reason the figure is so high in that the bill limits the per-

person rebate of the crude oil tax to 1978. There will be a further extension of those rebates, or equivalent tax cuts, in the tax reform bill, or other legislation.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. STEIGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I attempted to gain the attention of the chairman of the Committee on Ways and Means when he was speaking a minute ago. I would like to pursue my point, if I may.

One point did come up, and that is that we will have the additional tax on old oil, that we will bring the price up to the world price, and that we will have a rebate. So my question is this:

Could the gentleman from Oregon (Mr. ULLMAN) tell the House how we will be able to produce more oil if we do not plow part of that money back in for exploration, drilling, and production?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the chairman of the committee to try to answer the question.

Mr. ULLMAN. Mr. Chairman, what we are saying is that new oil, under the new liberal definition of "new new oil," is given the world price. The reason people go out and discover oil is to get that price. That is where the incentive is.

People go out and make a new discovery, and the oil that results from that new discovery will get the world price for oil. I do not know of a more dynamic incentive than that.

Mr. MILLER of Ohio. In other words, if the gentleman from Wisconsin will yield further, are you saying that the tax on old oil will be a revenue maker for the Federal Government and it will tend to discourage consumption; because the price is higher, is that the idea?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the chairman of the committee.

Mr. ULLMAN. No. that is not what we are saying. What we are saying is that unless we can get a mechanism to get the price of domestic oil and petroleum products to competitive world levels, we are not ever going to stimulate our industry and our people to convert and move toward other energy sources.

We have to solve the pricing problem. There is a very equitable way of doing it. Through the tax mechanism, we are bringing it up to world level. We are giving the incentives to explore for new oil. For all the new oil discovered we are giving the world price, and we are establishing the kind of price mechanism that is absolutely essential to get people to convert to coal and other energy sources.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. STEIGER. Mr. Chairman, may I say to my friend, the gentleman from Ohio (Mr. MILLER), that his questions are very good. The answers given are not satisfactory from my standpoint, and that is one of the deficiencies in the bill before us. We are simply raising money. From my standpoint, we get absolutely nothing except higher taxes.

Mr. MILLER of Ohio. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for his comment.

Perhaps during the other half of this legislative day we will be able to unravel this bill and find out exactly what is in it.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Given the limited time available, of course, I will yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I think the record ought to show again that this question was asked of the chairman of the Committee on Ways and Means just a few minutes earlier; and he pointed out to the gentleman from Tennessee that the tax would stay the same and that although it would start at $3.50 and would change a little bit, the price would remain the same.

Obviously there is no increased tax in the bill. There is no extra incentive for exploration and development.

The chairman may be correct that the world price, whatever it is, may give sufficient incentive. If that is his point, it may be well taken; but there is not any increase and there is no incentive in this bill.

That ought to be understood by the Members.

Mr. STEIGER. It should be, and I thank the gentleman from Texas (Mr. PICKLE) for that clarification.

We will face that issue, as my colleagues know, a little bit when we get to the Jones amendment on the plowback.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, what we are, in effect, then doing, if I understand it correctly—and I hope the gentleman will correct me if I am wrong—is that after about 3 years, we are going to permit the OPEC oil companies or the countries of this world to set the price of oil that the American people will pay, whether it is foreign oil or domestic oil; is that correct In other words, we are going to permit the OPEC nations to set the price of all oil that is sold in the United States?

Mr. STEIGER. As a practical matter, that is exactly what happens today to a very real extent in terms of new oil.

My concern over the way that the ad hoc committee has operated and with respect to the total bill as we have it before us is that my instincts tell me—I am not sure that anybody can ever prove this, and we will not be able to prove it until 2 or 3 years down the road—my instincts tell me that the national energy policy that this House is about to adopt at some point this week would result in reliance upon more imported petroleum at higher prices because we provide no significant incentive for us to increase domestic production as a way to get at the OPEC price structure.

Mr. ALLEN. Certainly that is one point, but what I want to get clear in my own mind is the answer to this question: Let us suppose that OPEC prices, the prices for OPEC oil, go to $20 a barrel. Then what will the domestic oil be selling for? What will the tax on that be, enough to bring it up to $20 a barrel, too?

Mr. STEIGER. The answer is yes, enough to bring it up to that price.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio, hesitatingly, of course.

Mr. ASHLEY. Mr. Chairman, may I say to the gentleman that that is not necessarily so at all. The tax is not pegged to the OPEC price or the world price. That tax can be suspended on authority, as the gentleman knows, so the answer to the question is not yes, but that it is not necessarily so at all.

Mr. STEIGER. There is a song from Porgy and Bess with a similar title.

Mr. ASHLEY. It is not necessarily so.

Mr. STEIGER. That is right. I remember that song well.

Mr. ALLEN. If the gentleman will yield further, of course, we can change the law at any time.

Mr. STEIGER. I cannot yield to the gentleman from Tennessee (Mr. ALLEN) at the moment, but "It ain't necessarily so," that is right.

Mr. Chairman, the gentleman from Ohio (Mr. ASHLEY), our distinguished chairman, who, I must say, has done a superb job under very difficult circumstances, is a gentleman to whom I give great credit in spite of the fact that he runs a helluva lot better railroad than anybody I see around here does. I give him great credit for how he handles himself under these circumstances.

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield, let me say that I agree with the chairman, the gentleman from Ohio (Mr. ASHLEY) that it is not neccesarily so, but that is the basis for this whole act, and the supposition is that if the OPEC price goes to $20 a barrel, the chances are it will take our price up to $20 a barrel. It does not have to happen, but that is the basis of the act.

Mr. ASHLEY. But it is not the basis of the legislation.

Mr. STEIGER. But the tax is, in fact, designed to bring domestic oil up to the world price.

Mr. ASHLEY. The present world price.

Mr. STEIGER. The present world price, that is correct.

Mr. ASHLEY. And that was made clear in the gentleman's committee and in the ad hoc committee: If there is a sudden escalation in the price of oil, the tax would not necessarily follow the rapidly escalating price of world oil.

Mr. STEIGER. No, it does not necessarily follow.

Mr. ASHLEY. It may not be in the best interests of our economy to allow it to do so, in which case the President would not allow it.

Mr. Chairman, I fail to see the mystery in this.

Mr. STEIGER. I do not believe there is any mystery in this.

Does that help to clarify it?

Mr. ALLEN. Mr. Chairman, if the gentleman will yield, let me say that it helps to confuse me all the more.

I want to know if the present bill is based on having at some future time down the road a situation where if the price of OPEC oil goes to $20 a barrel, if, under the bill, we are not saying that the tax goes up sufficiently to bring the domestically produced crude oil up to the OPEC or world price.

Mr. STEIGER. The answer to the question is that the tax, under this bill, and I would appreciate the gentleman from Oregon (Mr. ULLMAN) correcting me if I am wrong—is that the tax under the bill geos up automatically unless the President suspends it. If I understand the way it is supposed to operate, it would require a suspension by the President of that tax above the world oil price.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, in the instance related by my friend, the gentleman from Tennessee (Mr. ALLEN), my judgment is that the President would not allow the price of oil to follow the world price in that kind of an escalation. The President simply is not going to allow the OPEC prices to dictate to our economy an undue increase in the price of petroleum.

Mr. ALLEN. But, Mr. Chairman, that is up to the President to instigate such action. If he did not suspend it, it would do so, would it not?

Mr. ULLMAN. That is correct. The whole purpose here of the legislation is that if it does do so, if there is an undue increase, the President will suspend it. That is the whole impact of the legislation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I have been listening to this debate with interest, and I thank my colleague, the gentleman from Wisconsin (Mr. STEIGER) for pointing out these particular portions in the bill. It is my understanding, however, that the President has requested this authority and now we are hearing that should anything take place he would set aside the tax. It is also my memory that the President of the United States was seeking a much greater tax than what the gentleman handling this bill ended up putting into this legislation. I believe he was talking up to 50 cents, was he not?

Mr. STEIGER. That is correct, but the effect of it would have been higher revenue raised because it is higher than that which comes to us from the Committee on Ways and Means.

Mr. ASHBROOK. As I understand it, as one of the members of the Committee on Ways and Means pointed out, the President is asking for a tax but may not urge its implementation. Is that not what the gentleman is saying?

Mr. STEIGER. Let me say that I have a lot of problem with the President's proposal, and I have a great deal of problem with the things that are in this bill, but I do not wish to be unfair to the President of the United States. I think he made it quite clear, and I think it is clear in the Committee on Ways and Means version of the bill that, yes, it is true, the tax is designed to take domestic oil presently controlled up to the world market price by a taxing mechanism, and that if the OPEC nations raise their prices sharply above the present level, the President of the United States would intend to suspend further taxes above the level contained in the bill. If he does not do that, then the tax automatically would go up to that new world price.

But I think President Carter made it eminently clear that he intended to use the tax mechanism as a vehicle to say to OPEC, "If you are going beyond this price level in a dramatic fashion, I intend not to let domestic prices follow you automatically." I do not think I misstate that.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Texas.

Mr. HALL. I thank the gentleman for yielding.

With reference to what the gentleman has just said, would the President only have the right to suspend that until 1981? After 1981 he would not have the right to suspend?

Mr. STEIGER. The gentleman is talking about two different things. One is the so-called controlled price of oil that is controlled by law until May 1979—that the President may administratively extend until October 1, 1981. That is under the Energy Policy and Conservation Act of 1975. The second is the tax which expires on October 1, 1981.

Mr. HALL. If the gentleman will yield further, with reference to what the gentleman from Tennessee (Mr. ALLEN) had referred to a moment ago, would not the President have the right to keep that price from going up to, say, $20 a barrel of the OPEC nations only until 1981, and if that situation occurred after 1981, he would have no right to suspend that tax?

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. ASHLEY. I thank the gentleman for yielding.

The authority for the tax expires in 1981, so if no action is taken, there will not be any wellhead tax. There will be no equalization tax thereafter. So clearly both the tax and the authority of the President to suspend the tax expire coterminously in 1981.

Mr. HALL. So after 1981 if the OPEC nation price went to this theoretical $20 a barrel and the domestic price went up to that price also, the President would have no authority to keep that domestic price from raising to $20 a barrel?

Mr. STEIGER. I think the answer is yes if both expired. I yield to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. If both expired, there would be no wellhead tax after 1981.

Mr. STEIGER. No tax and no controlled price because both expire.

Mr. ASHLEY. Precisely so.

Mr. HALL. No control after 1981?

Mr. ASHLEY. That is correct. That is correct. The authority that currently controls the price of crude oil of the United States expires in 1981. This is under the legislation that was enacted in 1975.

Mr. HALL. I thank the gentlemen.

Mr. STEIGER. Mr. Chairman, I am embarrassed. I have not even given the Members a chance to hear what I started out to say. I will try very hard not to impose upon the committee's time more than I have already.

Mr. Chairman, I am opposed to this legislation. There is very little time left. What this institution is about to do is, in my view, irrational, but I hope that in the end we will not fail in our responsibilities to the American people.

I sat through the Committee on Ways and Means' deliberations. I served on the ad hoc committee. I attended as faithfully as I possibly could all of the briefing sessions. Unfortunately, some of the ad hoc sessions were going on at the same time the Committee on Ways and Means was meeting. I attended the ad hoc committee's markup sessions which lasted only 3 days. To say that I am disappointed would be an understatement of incredible proportion.

Mr. Chairman, if we look back on recent history, the President of the United States on the 20th of April in proposing this bill said we are going to embark on what is the moral equivalent of war. As that week went on, it was a little bit less, and a little bit less, and a little bit less. I said after listening to the President that what we are embarking upon is the moral equivalent of peace. What we were embarking upon in the ad hoc committee deliberations and what we are embarking upon in the Committee of the Whole House to consider the bill is neither war nor peace but an effort to prevent the House of Representatives from adequately considering the most profoundly important and far-reaching policy decision that this country will be embarking upon.

As I said during debate on the rule, it makes absolutely no sense to me that we will be voting upon the Davis-Bacon Act and upon bicycles but will not be voting upon such things as crude-oil pricing, or insulation tax credits, or any number of areas that are legitimate public-policy issues, to prevent us from dealing with it because of the rule we are operating under.

I have never in my legislative career, either in the Senate of Wisconsin where I had lots of frustrations or in the House of Representatives, had a more frustrating time in attempting to deal with an issue of this magnitude under these circumstances. The administration at the time it proposed the bill could not even answer the most basic questions as to who was going to pay the tax and what its distribution was going to be and who was going to feel the bite, and neither could we find out, and here we are just before the August "district work period" begins and we are going to be debating this bill under the most incredible time constraints I have yet seen despite the amount of time given here this afternoon for general debate.

Let me talk now about some of the issues I see us talking about in this bill.

In the crude oil equalization tax as proposed by the Ways and Means Committee, the tax would produce $26.6 billion in net tax revenues between now and 1982. That is a staggering sum of money. But as staggering as it may be it is a net figure. The gross revenues produced from this tax—and I am only talking about one tax now, the crude oil equalization tax—would be $38.9 billion between now and 1982. In 1980 alone it will be $11.3 billion. It will be $14.5 billion in 1981.

But that is, as I said, only the crude oil equalization tax. Let us stop and look for a moment at the total tax picture presented by the National Energy Act as reported by the Ad Hoc Committee on Energy. Between now and 1985 it will produce $93.259 billion in net revenue increases. The gross number is far higher.

My principal objection to the crude oil equalization tax as proposed by the Ways and Means Committee is its failure to deal with the issue of production incentive. In this connection, in the ad hoc committee I proposed an amendment which was ruled out of order.

We cannot touch production incentives for new crude oil.

Let me just briefly describe what my amendment would have done. The crude oil excise tax would apply to only lower tier—old oil. It would be identical with that proposed by the Ways and Means Committee. New oil—or upper tier oil—would be decontrolled over a 5-year period. The tax on old oil would be imposed on the first sale of that oil beginning January 1, 1978; it would be imposed in three stages: $3.50 per barrel in calendar 1978, $7 per barrel in calendar 1979, and, effective January 1, 1980, and for each year thereafter, the tax would equal the difference between the average U.S. lower tier controlled price in that year and that year's average imported cost of foreign oil. The per barrel tax would be identical for all lower tier crude oils, irrespective of quality or location differences, thereby preserving absolute differences among crudes.

Producers would be eligible for credits against the tax by initiating eligible expenditures for oil and gas exploration and development. Tax credits could not exceed 50 percent of the total excise tax revenues generated. Eligible expenditures would include any bona fide cash outlays for purposes of finding and developing domestic crude oil and natural gas reserves except that payments for purposes of acquiring or holding leases shall be excluded. Eligible expenditures would be applied against Federal crude oil excise tax liability on a 50 to 1 basis above a base spending or threshold requirement. The threshold level would be the average of a producer's otherwise qualified investments over the proceeding 3-year period.

Plowback credits would be carried forward or back 3 years from the year in which the expenditures was made and used to offset Federal crude oil excise tax liabilities.

This proposal could have increased domestic oil production by as much as 2 million barrels of oil a day in 1985. It is the kind of proposal we ought to be here today debating. But we cannot under the rule touch the oil pricing policy except through the substitute, and thus let me touch on a couple of other points I think we ought to look at.

The transportation provisions of title II relate to a number of things but perhaps the most important for our purpose today is the proposed gasoline tax. The ad hoc committee has proposed a gasoline tax of 4 cents per gallon. The gentleman from New Jersey (Mr. HOWARD) has proposed an amendment which would and will be permitted to impose a gasoline tax of 5 cents a gallon. I must say I am absolutely dumbfounded that this House is going to even consider such proposals. They certainly will produce no incentive to conserve energy and in fact a lesson from our recent history ought to make that painfully clear to everyone.

In January 1973 the average selling price of regular gasoline at a full service retail outlet in the United States was 37.3 cents a gallon. In December 1976 that price had increased to 59.9 cents, a rate of increase of 60.6 percent.

Yet gasoline consumption during that period of time increased by over 15 percent.

Now we are faced with a situation where we are going to actually consider the imposition of a 4 or 5 cents a gallon gasoline tax. The crude oil equalization tax when fully effective and passed through will push costs up at least 5 cents, and I think with accompanying markup this will translate to almost 7 cents at the pump. The proposed gasoline tax will add another 4 or 5 cents depending upon which version we consider. That is these two taxes will result in a 17.5 to 19 percent increase in gasoline costs over average December 1976 prices by mid-1980.

We might say that 17.5 or 19 percent is not very substantial, but I would like to point out that the 60.6 percent increase which occurred between January 1973 and December 1976 when adjusted for inflation translates to a 17.8 percent increase.

So we are looking at proposals which will have the same effect on gas prices as an oil embargo.

The ad hoc committee amendments would also impose a tax on general aviation fuel. The tax would be 2 cents a gallon in 1978 and 4 cents a gallon in 1979 and thereafter. The revenues from the tax would not be put into the airport and airway trust fund. They would be put into a trust fund which would be used to develop mass transportation, highways and energy research and development. This latter category could almost be justified. But to put a tax on aviation fuel to be used to develop mass transit and highway facilities is probably an embarrassment even to those who propose and support it.

The excise tax on business use of oil and gas was substantially improved by the Ways and Means Committee. It was significantly better when reported by that committee than when proposed by the President. That is because the Ways and Means Committee recognized that certain kinds of process uses simply could not be converted to coal. Additionally, the Ways and Means Committee took into account the fact that certain petrochemical feedstocks simply could not be replaced by coal. It was a major battle to get the administration to recognize these things. And even now their recognition is grudgingly.

The ad hoc committee, with no hearings on the matter and only several minutes of discussion, reversed the Ways and Means Committee position on a critical issue associated with the oil and gas use tax. It would delete the exemption from taxes on business use of oil and gas for facilities which would be exempt from the regulatory program under title I of the bill. The Ways and Means Committee bill recognized that in title I there were mandatory prohibitions against the use of oil and gas in new "major fuel burning installations" and new electric generating facilities. These prohibitions however were subject to exemption upon fairly narrow showing that the use of coal was simply impossible or totally impractical economically. As proposed by the administration, the bill would have continued to tax facilities which were able to obtain exemptions under the regulatory program.

This can only be described as the kind of disparity of treatment which so infuriates the American citizens in their dealings with Washington. You apply for an exemption under one program. You obtain that exemption at great cost and after large legal expense and hassle, only to find out in the end that you are still not exempt.

The Ways and Means Committee was wise enough to recognize that once the regulatory exemption process had been fully exhausted and a particular facility had become exempt, that it should not be subject to the tax. The ad hoc committee has taken a twisted view and has concluded that even though a facility is exempt under title I from the prohibition against using oil or gas that facility's use of oil and gas ought to continue to be taxed.

The stated reason for the ad hoc committee's action is that the tax will encourage conservation. It strikes me as bizarre that people who are able to obtain exemptions under a regulatory program so they may use oil and gas will have to pay prices higher than those which prevail throughout the world. That is what will result from the ad hoc committee action. Under the crude oil equalization tax, by 1980 crude oil will be available to consumers only at market levels. That means that an industrial facility which uses oil which has obtained an exemption under title I will have to pay world market prices for oil. That is fine. I have no quarrel with that. But in addition, that facility will have to pay a use tax. That will not produce conservation. It will only produce tax revenues. Perhaps the greatest affront of all is the proposition put forward by the majority that this disparity of treatment will result in an energy savings of between 250,000 and 400,000 barrels of oil per day by 1985. If it does result in any decrease in oil use at all it will be because

most of the people who would have otherwise been employed at the facilities in question will be unemployed. All of the factories that would otherwise have been producing will be idle and nearly all of those still engaged in the enterprise in question will be spending three-quarters of their time completing forms and submitting them to the Departments of Energy and Treasury. They will be spending the remaining quarter of their time trying to make sure that the employees of those two Departments talk to each other directly on occasion.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, I know the gentleman during the meetings of the Committee on Ways and Means showed a great deal of interest in the so-called residential energy credit. Section 2011 of the bill provides for residential energy credit, sometimes called the insulation credit. In an analysis issued in June by the Congressional Budget Office which goes into the insulation credit indicated that the number of homes being insulated was rising rapidly following the oil embargo of several years ago, the rising price of fuel, and the very bitter winter of last year.

The Congressional Budget Office also made an estimate that between now and 1985 24 million homeowners and renters are likely to insulate their dwellings and that only about one-third of those will be attributable to the proposed insulation credit. That is, two-thirds of those who would insulate between now and 1985 are going to do so.

The Congressional Budget Office went on to say:

> Some experts suggest that the windfall portion of the credits to buyers who planned to insulate anyway will only compensate those buyers for the cost increase resulting from announcement of the credit.

Mr. Chairman, I want to call attention of the House and the gentleman from Wisconsin that at least in the area I represent this theoretical possibility has already come to pass. It appears that there is a current waiting list for insulation, that the shortage has actually happened, that the supply is short. Sales are going up and the price is going up as well.

I want to call this to the attention of the gentleman from Wisconsin and ask for the gentleman's comments about this.

My personal concern is that while we may have on our hands a very popular proposal, one which does provide a credit for insulation, we may actually be taking money away out of one pocket as we put it in the other; that is to say that by making this credit available at the time insulation sales are going up anyway, we may really have increased the price of insulation for those who would benefit from the credit.

Mr. STEIGER. Mr. Chairman, the gentleman from Ohio is absolutely correct. If we look further at the Congressional Budget Office study, it indicates for each barrel of oil concerned by the credit, there will be a revenue reduction of $2.42.

The CBO report goes on to say:

> These costs are high because a large portion of the credits are paid to people who would have made energy-saving improvements anyway. This represents a payment from taxpayers in general to those who buy insulation.

I am concerned, because one of the features of the rule under which we are operating today is that the gentleman from California (Mr. STARK), the gentlewoman from Kansas (Mrs. KEYS), the gentleman from Indiana (Mr. JACOBS), all came to the Committee on Rules, as did I, asking for a motion to strike the insulation credit. We are going to be giving $500 million a year to 1984, which is a very substantial sum of money, to a relatively small group of people, most of whom would have made that improvement, anyway, as energy prices are going to go up.

I think the House has been deprived of a chance to operate more effectively if that issue could have been debated. For all practical purposes, the issue will not even be touched upon during debate on amendments because there will be no amendment.

Mr. GRADISON. I thank the gentleman.

Mr. STEIGER. I thank the gentleman for raising the issue.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Will the gentleman explain to me, if there is a windfall profit on energy, that is somehow outrageous, but, if there is a windfall profit to an insulation manufacturer or installer, that is very good. Does the gentleman understand the rationale behind those two circumstances?

Mr. STEIGER. I really do not understand the rationale behind the point, and I am waiting to see if the Committee on Banking, Finance and Urban Affairs and International Monetary Affairs can come out with a reasonable proposal for wage-price controls that will be directed at insulation. I said, during debate on the bill in the Ways and Means Committee that this was an open invitation to every soft-shoe artist in the country because they are all going into the insulation business, and you better believe that under the proposal we are presenting that costs will go up. They have already started, and we are opening the door for the worst kind of chicanery under the guise of energy conservation.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course, I yield to the distinguished chairman of the Housing and Community Development Subcommittee, who wrote an excellent letter, may I say, to the chairman of the Ways and Means Committee on just that point.

Mr. ASHLEY. If the gentleman will yield to me in my other capacity, I would like to ask if my understanding is correct, that the Republican substitute that will be offered does not contain an extension of the tax credit through 1984. Is my understanding of that correct?

Mr. STEIGER. The chairman of the ad hoc committee has dealt me a low blow. The answer to the question—over my strenuous objection, I must say—is yes. But, please understand that we extended the credit to 1985 in order to soften that inflationary effect. I intend, as contrasted to my distinguished and able minority leader on the Ways and Means Committee, the gentleman from New York (Mr. CONABLE) to support the Fisher motion to extend that another 2 years, because if we took it off in 1982, we are just going to force everybody to move much more quickly than they ought to do. But, I am sorry that the chairman of the ad hoc committee would be so perceptive as to find that one slight discrepancy in the substitute.

Mr. ECKHARDT. Mr. Chariman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Texas.

Mr. ECKHARDT. I know that some of the factual bases of the objection of the gentleman in the well have evaporated, but he still retains objections to the bill.

Mr. STEIGER. Yes. If the gentleman from Texas were able to make the kind of compromise that Mr. WILSON, Mr. WRIGHT, and others did on the natural gas price, he will understand that there are times when one compromises one's deeply-held beliefs in an effort to reach agreement.

Mr. ECKHARDT. The gentleman who is questioning at this time had suggested that very thing before the time Mr. WILSON came over to that particular proposition, but I have not heard the gentleman from Wisconsin, nor did I hear the gentleman from Illinois, recognize, when they both stated how much the crude oil equalization tax would bring in, anything about the equalization tax credit, which, as I understand, during 1978 would be designed totally to pay back to taxpayers and to nontaxpayers and certain others the whole amount collected by that tax. That is on page 491 of the bill.

Now, it is true that this is for 1978 in the bill, except in the case of home heating oil, but we retain authority, of course, to do the same thing in subsequent years. We have the statement of the President that his plan is not to use this as a revenue-raising measure, but rather to get rid of some of the problems that existed with respect to the disparate prices of oil.

I think the major purpose, as I see it, is to get rid of the entitlements provisions, which are about 75 percent of the bureaucratic burden of FEA at the present time. It strikes me that that is very laudable and very desirable.

Mr. STEIGER. The gentleman from Texas is correct that that is the purpose of what the President proposed. Please understand that I started out, essentially, as being very sympathetic to the concept of trying to get out of the entitlements program, trying to get out of the controlled program, going to allowing that price to go up. So that it is comparable to the world price. That is the direct way of doing it. I have a difference, in terms of how I would get there, but, yes, that is where I would like to go. The credit, obviously, is throwing $22 bills out of airplanes, which I do not believe is a very good way to do it and I think is discredited, as compared to the thoughtful approach of the gentleman from New York (Mr. CONABLE) which is a tax cut, a plain tax cut. But we both attempted, in

different ways, to get to the point where we soften the blow.

Mr. ECKHARDT. If the gentleman will yield further, I do not have a great deal of disagreement with the approach of the gentleman from New York (Mr. CONABLE), except for the fact that he only returns the tax, which is paid on the higher cost of all things, including gasoline, to those who pay a tax. He does not take into account those persons who do not pay enough tax to give a sufficient offset for the increased cost of gasoline and food hauled by diesel fuel. He does not manage to take care of that situation.

Mr. STEIGER. Yes, he does. Under the present law, for example, AFDC, SSI or social security have increases built in to reflect higher costs and inflation. Therefore, the gentleman from New York, I think, wisely separates those programs, be they social security or welfare, that have automatic built-in cost-of-living increases, to take care of just that point, as compared to those who are in the tax program.

Mr. ECKHARDT. But the thing is that that is a built-in cost-of-living increase, that relates to the ordinary increase in cost of living. These extra payments might be paid, for instance, to offset the cost of gasoline. In many sections of the country these are very heavy additional costs and they may be in excess of the overall increases in the cost of living.

Mr. STEIGER. That is possible, I will say, and I think the gentleman will join with me in opposition to the 4-cents or 5-cents gas tax.

Mr. ECKHARDT. I have never been enthusiastic about that portion of the President's program.

Mr. STEIGER. I had great respect for the gentleman's courage in the ad hoc committee for opposing that proposal.

Mr. ECKHARDT. And I did vote against it.

Mr. STEIGER. Yes, sir.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Minnesota.

Mr. FRENZEL asked and was given permission to revise and extend his remarks following the remarks of the gentleman from Wisconsin (Mr. STEIGER.))

Mr. FRENZEL. Mr. Chairman, the gentleman from Texas indicated that three-quarters of the bureaucracy comes from the entitlements program, and the gentleman from Wisconsin responded that when you get the price of domestic energy up to the world price, that only then can you get rid of the entitlements program. Did I understand that correctly?

Mr. STEIGER. That is correct.

Mr. FRENZEL. Then we get back to the problem of the gentleman from Tennessee, that if the OPEC price goes to $20 we cannot get rid of the bureaucracy unless we let that price go up to $20.

Mr. STEIGER. Yes. I suspect that the honest answer is that we cannot.

Mr. FRENZEL. The tax refund, credit, and heaven knows what, are all tied together in this package. Once we pull one fishhook out of the bait box, the whole bait box comes with it. This program is exactly like that. Each part sticks to all the other parts. The plain fact is that this program is unnecessarily overcomplicated, based on an unnecessary system of tax rebates which will condemn this country to bureaucratic redtape so long as the program continues.

Mr. STEIGER. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRENZEL) for his remarks. I did get a little perplexed when that part about the "bait box" got in there. Other than that, I think the gentleman did an excellent job.

Mr. FRENZEL. Mr. Chairman, the minority views in which I shared pointed out that Carter proposed was one-half of a bill. Focused as it is almost entirely on conservation, it ignores the need to increase domestic energy supplies. Conservation is an essential part of any energy, but it is not a whole energy policy.

Conservation implies sacrifice, and the American people is willing to make sacrifices. It will be less willing to do so if it feels the sacrifice is unequal or is made without reasonable hope of improvement. Since the Carter/Congress program with which we are dealing today does not offer any real hope of increasing supplies, the public is likely to feel that the sacrifice is for no good purpose.

If the added tax burden of H.R. 8444 does not improve domestic supplies, all of our sacrifice will add up to an even greater reliance on foreign oil. Conservation without more supply can only create a need for more conservation. Sacrifice will lead not to less dependency, but to more sacrifice. If we are successful in meeting all of the President's conservation goals, and that I assure you, is an assumption of heroic proportions, we will be repaid by the need to save more, to cut demand further. The only place this can lead our country is to unemployment, no-growth, and higher and higher taxes on energy for all our consumers.

The primary defect of H.R. 8444 is that it ignored the need to increase domestic supply. Because of that defect, the bill had to contain its second important defect—that is, its conservation mechanism is a highly complicated, burdensome tax scheme, which is partially relieved, but further complicated by a wide range of tax credits, rebates, and refunds. The Republican substitute has the nature of a vastly simplified tax system and a simple, easily understood tax cut.

These additional taxes, rebates, refunds, and credits will condemn our society to additional burdens of regulation, redtape, and bureaucracy. I find it ironic that a President who calls our tax system "a disgrace to the human race," and who has repeatedly called for tax simplification, has suggested an energy plan which creates 10 new taxes, refunds, rebates, and credits. It could, I suppose, be more complicated, but one has difficulty in comprehending such a thing.

Since the early warning of the embargo of 1973, this country has desperately needed a comprehensive energy policy. Unfortunately, H.R. 8444 is not a comprehensive energy policy. Because of the flaws noted here, I will vote against it.

I shall oppose both of the amendments to raise the gas tax. They are not high enough to discourage demand, and they are too high to impose just for show, or to serve other purposes which could be done with State taxes, or by the regular appropriations process.

Finally, I regret that, after its 4-year nap, Congress has awakened to give the country half an energy policy—and one that is badly flawed at that.

Mr ASHLEY. Mr. Chairman, I am pleased at this time to yield 5 minutes to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield briefly to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Just a few minutes ago we had colloquy concerning the tax on crude oil. We seemed to have the gentleman from Wisconsin (Mr. STEIGER) stating his point of view and the chairman of the ad hoc committee stating his, concerning whether the President has the authority to suspend the increase in tax.

Because we have a bill containing more than 580 pages, it took a little time to find it, but on page 477 it is spread out for the RECORD very clearly.

It says that the President may, if he determines "that, by reason of a significant increase in the world price of oil, there has been or will be an increase in any tax imposed by section 4986"—and then it goes on to say "that such increase in tax will have a significant adverse effect on the economy of the United States"—"submit to the Congress a suspension plan providing for the suspension of part or all of such increase in tax for the period specified in such plan."

That clears it up. That is what we were looking for in our attempt to have someone on the committee clear it up.

Then on the next page the bill also says as follows: "before the close of the 15th day (as defined in section 2081(c)(5) of such Act) after the day on which such plan is delivered to the Congress, neither the House of Representatives nor the Senate disapproves such plan * * * " and in that event it will go into effect.

Mr. Chairman, I think that even though we went into this matter in colloquy, it was not made clear, and so I think that is important for the RECORD.

Mr. Chairman, I thank the gentleman for yielding.

Mr. REUSS. Mr. Chairman, I rise in support of H.R. 8444, the National Energy Act, particularly with reference to subparts A, B, C, and D of part I of title I, which were approved by the House Committee on Banking, Finance and Urban Affairs and referred to the Ad Hoc Committee on Energy on July 11, 1977.

The House Committee on Banking, Finance and Urban Affairs was the first of the legislative committees to which parts of the National Energy Act were referred to complete its work and report its version of the Energy Act proposals to the Ad Hoc Energy Committee. These proposals were embodied in H.R. 7893, the National Weatherization Act, and was approved by a vote of 38 to 1 by the committee.

UTILITY PROGRAM—SUBPART A

Mr. Chairman, the provisions that are contained in H.R. 8444 pertaining to the utility program are the provisions that were ordered reported by the Committee on Interstate and Foreign Commerce, along with some minor changes that the ad hoc committee approved along the lines recommended by the Banking Committee.

The distinguished chairman of the Interstate and Foreign Commerce Committee has outlined the program that is proposed in subpart A. The Banking Committee's proposals regarding the use of utility companies in the energy conservation effort was a more voluntary approach than the Commerce Committee's. The Banking Committee's proposals would have prohibited utility companies from engaging in financing and in the installation of weatherization materials, while the approach adopted by the Commerce Committee and the ad hoc committee would not bar utility companies from engaging in the financing, nor would they mandate them to do so.

WEATHERIZATION GRANT ASSISTANCE—SUBPART B

In order to achieve the national residential energy conservation goal, 90 percent of the Nation's housing stock must be weatherized by 1985. Among those families that occupy this housing, about 14 million have incomes less than 125 percent of the poverty level. These families require special assistance to enable them to afford to weatherize their homes to conserve energy and to lessen the burden of increasing fuel costs.

There are currently three Federal agencies with weatherization programs directed to meeting the needs of these low-income families: The Communities Services Administration, the Federal Energy Administration, and the Farmers Home Administration. These existing weatherization grant assistance programs have different income eligibility, grant amounts, eligible activities, and energy conservation standards. The bill eliminates these differences and makes uniform the weatherization grant assistance provided through these programs for low-income families.

The bill establishes a new income eligibility level at 125 percent of the poverty line established by the Office of Management and Budget. It extends and makes uniform the definition of weatherization materials that may be purchased and installed for the purposes of weatherizing structures among the various regions of the Nation. Accordingly it increases the maximum amount of weatherization materials that are eligible under the grant from $400 to $800 per dwelling unit. Volunteer or CETA labor will be used for installing weatherization materials in the homes of families assisted through these programs. To assure the supply of this, labor provisions are included to have the Secretary of Labor take all appropriate steps to have local CETA sponsors allocate the appropriate number of workers to these programs. Under the FmHA program, however, the allowance grant may be increased to $1,500 to cover both the cost of materials and labor in the event that volunteer or CETA labor is not available in rural areas. All three programs are required to use consistent national weatherization standards that are established in the bill to assure that the investment in weatherization materials and applications will be economically optimal for each dwelling unit. This is to insure that the weatherization measures applied to dwellings in the various regions of the Nation will reflect the differences in climate and in the cost of fuel and that savings generated by the installation of such measures will be in proportion to the cost of the investment in such measures.

The bill increases the authorizations for the FEA low-income weatherization grant program from $65 million to $130 million for fiscal year 1978, from $80 million to $200 million for fiscal year 1979, and an additional $200 million for fiscal year 1980. The bill also designates that $25 million of the funds already authorized for the FmHA section 504 program be appropriated for the new FmHA weatherization grant program.

FINANCING OF WEATHERIZATION IMPROVEMENTS—SUBPART C

The Banking Committee has proposed three steps to assure that sufficient credit is available to finance these improvements and to meet the special credit needs of various income groups.

First, to assist low- and moderate-income homeowners who are traditionally excluded from credit markets, a low-cost loan program has been created. This program, utilizing the facilities of the Government National Mortgage Association, would require the Government to purchase up to $2 billion—outstanding at any one time—worth of weatherization loans from lenders made to homeowners with incomes of less than 90 percent of median area income. These loans would be coinsured under the FHA title I insurance program, not to exceed $2,200 per loan and have terms of not less than 5 years nor greater than 15 years—though prepayment without penalty would be permitted. The interest rate on the loans could be lowered by the Secretary of HUD from the applicable rate for FHA title I insured loans—currently 12 percent, to as low as the Treasury borrowing rate, currently 6.75 percent, if she finds it necessary.

Second, since many multifamily property owners find it difficult to get financing, in addition to their principal mortgage, an insured loan program to assist these owners has been developed. The Federal Housing Administration would be permitted to coinsure loans made to any multifamily property owner for the purpose of weatherizing their property or the conversion from master meters to single meters. The terms of the loans would have to meet the requirements of the Secretary of HUD. Provisions are also included to assure that the benefits of improvements financed by an insured loan would primarily accrue to the tenants of the property.

Third, to assure a general availability of credit for financing weatherization improvements, a standby secondary market in FHA title I insured weatherization loans has been developed. The Secretary of HUD, after finding that insufficient credit exists for weatherization loans, would require the Government National Mortgage Association to purchase such loans from traditional lenders. The GNMA could purchase up to $3 billion of such loans—outstanding at any one time—as approved in appropriation acts.

The definition of "energy conserving improvements" in the FHA title I insurance program is conformed by the bill to the list of "weatherization materials" as contained in the FEA weatherization grant program.

MISCELLANEOUS—SUBPART D

The Banking Committee also addressed several other specific areas relating to energy conservation. The committee provided $10 million of annual contributions contract authority to finance energy conserving improvements in existing conventional low-rent public housing. This authority, subject to appropriations, is sufficient to finance approximately $110 million worth of energy conservation improvements.

The committee also directed the Secretaries of HUD and Agriculture to upgrade the energy efficiency standard contained in minimum property standards used in the construction of homes insured by FHA and financed by FmHA.

The Banking Committee proposal would also assist in the financing of solar energy systems for both new and existing residential structures under provisions of the National Housing Act.

And finally, Mr. Chairman, the Banking Committee recommendations would direct the Secretary of HUD, in consultation with other Federal agencies, to determine the need for and feasibility of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficiency standards. This study would be submitted to the Congress 1 year after the date of enactment.

Mr. Chairman, the gentleman from Wisconsin (Mr. STEIGER) mentioned the inflationary danger of a huge outpouring of demand making contact with, at the present time at least, a rather limited supply. I shared that feeling, and I hope it will not come to pass if and when, as we probably shall, we pass the weatherization tax credit.

However, I would point out that in the financing features there is a sensible measure of anti-inflationary control because the Secretary of HUD, of course, can turn the needle valve on these GNMA controls and thus speed up or slow down the past weatherization program. After all, we have 7 years in which to do it, and we should not try to build a weatherized Rome in a day.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, what the gentleman from Wisconsin (Mr. REUSS) has just said is important, and I wish to say that my friend, the gentleman from Wisconsin (Mr. REUSS) had what I do not think was a still, small voice; it was quite a good voice in support of striking the insulation tax credit.

I am perplexed, if I may say so, about the amendment we will debate tomorrow or whenever we get to it of the gentleman from Michigan (Mr. FORD).

What effect would that amendment have, in the gentleman's view, since it directly goes to provisions that were in the bill of the Committee on Banking, Finance and Urban Affairs, if we apply Davis-Bacon to all of these weatherization projects for poorer people?

Mr. REUSS. It will have about the same effect that Davis-Bacon has over the entire spectrum. At the margin it may up costs a bit. I do not think it will be very serious.

This is similar to the old question of the minimum wage; and that is if we did not have a minimum wage, goods would be much cheaper. Yet, I know that the gentleman supports a minimum wage and agrees that some heightening of the costs of goods is not too much of a price to pay for fair labor standards.

I believe the same argument applies to Davis-Bacon so I think the economic effect would be only marginal.

Mr. STEIGER. I thank my colleague.

Mr. Chairman, I understand that there are a number of speakers on the majority side. As you can tell when I came forward so early, we are a little short of hitters, and I therefore would like to have the majority side use some of its talent so that we may have something to rebut.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the distinguished gentleman from Missouri (Mr. BOLLING) for yielding me this time.

Mr. Chairman, the President on April 20 most forcefully alerted all of us to the serious worldwide decline in oil reserves, and has asked us, as a nation, to respond as we would in time of war.

I agree we do face very grim prospects, as he has pointed out, if we did not begin immediately to conserve and slow down on our ever-escalating consumption and waste of energy.

I may say that many of the bills that came out of the various committees of original jurisdiction, after lengthy hearings, contain many meritorious and worthwhile suggestions. But I will have to say in all honesty that, in my judgment, the bill that came out of the ad hoc Committee on Energy, without proper public hearings, does not fulfill the test of meeting the President's objectives.

All we know for sure about the proposed tax on domestic crude oil to bring it up to the price of imported crude oil, is that it would increase the price of gasoline at the service stations by 7-to-9 cents a gallon. Further, such a heavy tax on domestic crude oil would skyrocket the price of fuel oil for both heating and manufacturing. Even though it is said that that which was used for home heating would be refunded, there is nothing said about refunding to the manufacturer and this would eventually increase the prices on manufactured articles at both the wholesale and retail levels. This would bear hardest on families and individuals with both low and modest incomes and would place an especially heavy burden upon the elderly with small and fixed incomes.

Likewise the proposed 4-cent-per-gallon tax on gasoline at the service station, proposed by the ad hoc Committee on Energy, on top of all of the Federal, State and local taxes which are already added into the price of gasoline, would hit hardest those who work for a living and must use their automobiles and trucks, sometimes many miles a day, to go to and from work, and would leave them much less of their net wages and salaries to support themselves and their families. Such an increase in taxes on gasoline and crude oil would further fan the flames of inflation, which is already one of the biggest drags on our economy and on our efforts to provide full employment.

We can conserve the use of energy, and we must, as the President has said, but still avoid the huge bureaucratic monstrosity that I am afraid would be required to administer these increased taxes and then figure out the amount of rebates which each of millions of citizens in varying circumstances would be entitled to under any law that can be devised that would be fair and equitable to all. If we have limited oil resources, I say we should allocate fairly what we do have and in order to prevent the utter ridiculousness of this Nation's exporting crude oil, gasoline, and fuel oil at the same time we are paying extortionate prices to import crude oil and petroleum from foreign countries, we certainly should prohibit any such expor's during any year when we are importing from abroad.

With respect to this crude oil tax, the answer to the question has since been given about whether or not if the price of OPEC crude oil goes up to $20 or $25, the President will make an adjustment in the amount of taxes. The law says, as has been correctly pointed out, that he may do it but then his power and the whole control program expires in 1981. All controls over the price of crude oil expire on that day. So if this goes on as anticipated and contemplated in this bill, the U.S. crude oil for 1981, which is the year after the next Presidential and congressional election of 1980, could go sky high, as dictated, not by the President, or the Congress, but by the OPEC nations.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, the consideration of the National Energy Act has probably set many records for the speed in which legislation as far reaching, as complex, and as extensive in its impact on the American public has been considered in the House of Representatives. In the interest of completing consideration of the extremely controversial issue of energy as soon as possible in our new President's first year in office, the usual safeguards which provide for careful legislative deliberation were either severely compromised or eliminated. There was little or no time for Members to absorb the vast amount of information generated by hearings which proceeded morning, noon and night before the Subcommittee on Energy and Power, there was no attempt by the ad hoc committee to consider the views of outside parties on how the various pieces of the legislative package reported by the standing committees should be fit together. And matters such as the requirements of the Budget Act were waived by the rule under which we are considering this legislation in spite of the multibillion tax impact of this bill.

The result of this rush to judgment on energy was sadly predictable. What has emerged is a series of legislative provisions which, under the banner of conservation, do nothing but disguise many of our basic energy problems and attempt to create the illusion that we are moving toward solutions to the crisis.

H.R. 8444 can be characterized as billions of dollars in taxes but very little for energy supply and energy conservation. The American people are being asked to pay and pay and pay for this program. The sum effect of the tax proposals in H.R. 8444 will be to load on each American family $1,000 in the new taxes in the next 4 years and uncounted thousands of dollars in costly new Government regulation and interference in our lives.

What are they getting in return? Very little.

First, as to conservation, the program can be termed "the great illusion." In presenting his program—which remains substantially unchanged in its impacts from the results of hasty conclusions taken by standing committees and the ad hoc committee, President Carter stated:

> The Cornerstone of our policy is to reduce demand through conservation.

Unfortunately, the conservation aspect of this program is pretty much of an illusion. As the GAO in its very critical study of the program stated,

> (It is) more of a fuel-switching program than a conservation program.

The administration's own numbers confirm the illusion of conservation. On page 95 of the National Energy Plan submitted to Congress by the Executive Office of the President, it states that demand in 1985 without the plan will be 48.3 million barrels of oil equivalent but with the plan will equal 46.4 million barrels per day. Thus, the American people are being deceived into thinking that they are being forced to accept significant changes in their lifestyle mandated by this plan—and to pay $93 billions in new taxes by 1985—in exchange for achieving national conservation effects which in fact are virtually negligible.

Second, as to supply of energy, the bill literally guarantees that OPEC will be our major supplier of energy for years to come. The bill fails to provide any adequate incentives for production of both conventional and nonconventional fuel sources—first, as manifested by the President's CIA report, the program gives up on conventional sources of our cleaner fuels such as natural gas in favor of the far more environmentally dangerous coal. Second, the bill fails to deal with questions of nuclear, synthetic, solar, and

other nonconventional sources in any meaningful way.

The major specific problems with the Commerce Committee's part of the bill are as follows:

NATURAL GAS

The natural gas pricing policy of H.R. 8444 is a seriously flawed provision which will not protect consumers from either higher gas prices or the devastating economic effects of continuing winter gas shortages. As the Commerce Committee bill is now drafted, Federal price and allocation controls are extended into the presently unregulated intrastate market. A ceiling price for new natural gas—both interstate and intrastate—is set equal to the Btu equivalent price of refinery-acquired domestically produced crude oil. Energy Czar James Schlesinger said this would amount to $1.75 by the time the bill would be passed. Today, this price is approximately $1.60 per Mcf—a figure substantially less than the near $2 price at which unregulated intrastate gas is now selling and 14 cents higher than current Federal price controls on very sparse interstate sales.

The administration recommended/Commerce Committee bill is merely an extension of the present deficient natural gas price control policy which has resulted in the shrinkage of our gas supplies.

In a July 14, 1977 study, the Brookings Institution concluded:

> If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now . . . In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled.

The supposed "compromise" position proposed by Mr. ECKHARDT and apparently blessed by the majority leader and passed by the ad hoc committee changes the administration-proposed/Commerce Committee-passed bill in only two respects: First, the new gas definition has been modified so as to allow only slightly more gas to qualify for new gas treatment than the administration bill. Second, the ad hoc committee amendment would permit "new" natural gas to be sold at the higher of $1.75 per million Btu's or the current Btu-related price immediately, rather than creating, as the Commerce Committee bill did, an initial ceiling of $1.60/mcf and which would allegedly move to $1.75 by early next year. But although initial prices will be slightly higher under the ad hoc committee amendment than they would be under the Commerce Committee bill, the $1.75 price is still significantly less than the near $2 intrastate new gas price. For producers currently selling in the intrastate market, this price represents a rollback from current market prices, and together with the restrictive definition is a disincentive which will cause many independents—who are the greatest source of new gas finds—to withdraw their capital from gas exploration.

Although this amendment addresses one flaw present in the Carter/Commerce Committee proposal—the new gas definition—it falls far short of making any significant improvement in the bill.

The committee apparently intends to offer as a solution to our increasing natural gas shortage, legislation which would extend counterproductive Federal price controls in the intrastate market. If this legislation is enacted, undersupplied American consumers will be forced to spend $48 billion more for energy than they would pay if Federal price controls on new gas were not in effect during the next 13 years. In my part of the country it has already cost millions to have gas. As a result of the negative impact on U.S. production of gas resulting from controls in the bill, U.S. consumers will spend an extra $26 to $40 billion on imported crude oil alone between now and 1990.

Because it fails to address the really significant problems in the Commerce Committee/administration proposal, that is, continuation of counterproductive price controls on new natural gas in the interstate market and extension of such controls into the intrastate market, the ad hoc committee amendment is cosmetic, not "compromise."

UTILITY REGULATORY REFORM

This part of the commerce bill establishes national minimum standards for retail electric rates, and thus, provides a Federal role for the first time in a matter traditionally left to the States. The minimum standards require utilities to implement peak-load, time-of-service rates and mandate that rates be based on the cost of providing the electric service to the customer. While I do not quarrel with the possibility that benefits can accrue from cost-based rates or peak-load pricing, I am concerned about the extent of the Federal Government's role in the implementation of enforcement of the minimum standards. The States, and not the Federal Government, should implement and enforce the minimum standards. Instead, the bill gives the FPC the authority to promulgate the rules with respect to the gathering of information which will be used by the State regulatory authority to determine cost-of-service rates. This is an undesirably intrusive influence on the State regulatory authorities which are charged with the responsibility for selecting methods of cost determination and devising cost-of-service and time-of-use rates. Because format and type of information specifications can dictate methodology and eventual rate determinations, State discretion and flexibility are thus undercut. In addition, there are vast differences among the States and the utility systems serving each State. State regulatory authorities are better able to adopt techniques of information gathering to particular circumstances and to integrate the information requirements of this legislation with the extensive information gathering in which they already engage so as to make such information gathering less burdensome and less expensive for the State regulated but customer-financed utilities.

Furthermore, the compliance determination and judicial review provisions create a contradiction between the expressed intention of the committee to continue State regulation of retail rate structures and the role being given by the committee to the Federal Government.

The FPC is given the power to review patterns of compliance within a State regulatory authority's jurisdiction and the FPC can seek judicial review in Federal court of every rate determination pursuant to H.R. 8444 made by a State regulatory authority. The power to obtain review of all cases means that the flexibility of the State regulatory authorities would be effectively eliminated and that, in actuality, the Federal Government could be setting retail utility rates through Federal courts.

PART VI—COAL CONVERSION

The fundamental problem with the President's coal conversion program is twofold. First, it presents, with its prohibition on gas and oil use in new and existing facilities, perhaps the most far-reaching extension of Government involvement in the private sector decision-making ever conceived in the energy area. Second, the program has failed to receive from the administration a coherent explanation of the projected results and the economic and environmental impacts of the coal conversion program. The fact is that the economic cost of the program could be well over $50 billion in electric powerplant conversion alone. And the environmental costs of mandating the burning of our least-clean fuel may be staggering. The objective seems to be more to proscribe the use of natural gas than to restrict the use of oil—which use benefits OPEC and hurts the U.S. economy—or to enhance the use of coal—which is otherwise severely restricted by Clean Air Act legislation, et cetera.

The vast majority of testimony presented before the Subcommittee on Energy and Power indicated that electric utilities and industry in general are already, where possible, converting to coal from oil and natural gas, and showed that the proposed administration coal conversion program in fact will not substantially increase the amount of coal that would otherwise be used in 1985 without the program. Furthermore, the hearings made it eminently clear that the proposed program was conceived prior to developing the supportive data and analysis of the impact of such a policy. The environmental and physical constraints of coal use; the availability of an adequate coal supply, coal boiler equipment and transportation facilities for coal; labor, health, and safety limitations; and technological and economic impact problems of the coal conversion policy are not adequately addressed and reconciled by the President's program. Unfortunately, therefore, switching from oil and natural gas to coal or anything else is not as simple as the administration has stated.

The Energy and Power Subcommittee and full Commerce Committee did make some improvements in the President's bill, but it remains confusing and unacceptable, particularly with respect to existing powerplants and major fuel-burning installations—MFBI's.

Under section 613, the Administrator could require all installations of a certain category to convert, even though individual facilities could not do so. The burden is clearly on the wrong party. Before someone is required to convert, the FEA

should have to first determine that the use of coal or other fuels is possible and that the facility is capable of conversion. The Republicans offered an amendment which would have required the FEA to make certain specific findings prior to the issuance of a general conversion order. This amendment was not adopted, unfortunately.

The conversion requirements also apply to facilities as small as 100 million Btu's per hour. The problem with ordering conversion of smaller facilities is that, while they are fairly numerous, they consume very little energy in comparison with the larger facilities. For example, industrial facilities of a size which consume in excess of 300 million Btu's per hour, consume 91 percent of the boiler fuel energy consumed by all industry. But 80 percent of the boilers in the United States fall within the 100 to 300 million Btu's per hour range. By permitting conversion orders for the 100 to 300 million Btu's per hour range, the President's program would subject 80 percent of these facilities—assuming they could all convert—to the economic cost and agonies of Federal regulation to save only 9 percent of the energy consumed. The result will be needless and very expensive bureaucratic chaos at FEA which probably will paralyze the implementation of the more important part of the program which deals with the facilities above the 300 million Btu's per hour threshold.

OIL POLICY

The failure to reform our disastrous oil pricing policy represents another serious defect of H.R. 8444.

The need for correcting flaws in our oil pricing policy is readily apparent. The present provisions simply have not worked. The United States is today more dependent than ever on Arab oil and this Nation's consumers are paying more for foreign oil than they would be for domestic oil. In addition, EPCA has exacerbated the decline in our domestic production. In 1973, when Federal price controls were first enacted, our average domestic production was 9.2 million barrels per day. By March of this year, this had declined to only 7.8 million barrels per day.

In 1972, just prior to the imposition of price controls on crude oil, the United States imported 2.2 million barrels of oil per day at an annual cost of $3 billion. In 1974, 1 year after the Arab embargo and the imposition of price controls, our imports averaged 3.5 million barrels per day at an annual cost of $24 billion. At the end of this past year, 1976, U.S. imports were 5.3 million barrels per day at an annual cost of over $40 billion. Last week's headlines indicated that our balance of payments deficit for the first 6 months this year exceed the total deficit of last year—largely as a result of oil imports.

The significant failure of our crude oil pricing policy begs for a solution. It is a problem basic to our whole energy crisis, but the administration and the Democrats in Congress have turned their backs on this problem. Significant adjustment is necessary in the oil price control mechanism to meet the original goals that the architects of EPAA and EPCA desired—protecting the consumer from excessive energy price increases while at the same time providing appropriate incentives and certainty for the producers. H.R. 8444 fails completely to deal with these basic questions. It does not even try to address it.

Those of us opposed to various parts of the bill have attempted, to the extent that the very restrictive legislative process has permitted to make improvements through the amending process. Unfortunately, the 25-page-per-hour speed with which we have proceeded has made it very difficult to enable our colleagues to evaluate the various alternatives that we have presented. Furthermore, the rule under which we are operating will make it difficult for us to present many of these alternatives to our colleagues who have not had the opportunity to deal with this bill either through the standing committees or the ad hoc committee. There will, however, be an amendment offered to modify the natural gas provision so as to provide better incentives for domestic supply while at the same time protecting the consumer. I urge my colleagues to support this amendment which I intend to offer when we get to the natural gas part of the bill.

A whole substitute which modifies the many objectionable provisions of the bill will be offered by Mr. ANDERSON of Illinois and I urge support of this substitute.

Finally, a motion to recommit may provide opportunities for further change in this disastrous legislative proposal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER. Mr. Chairman, I yield the gentleman from Ohio an additional 5 minutes.

The CHAIRMAN. The gentleman from Ohio is recognized for 5 additional minutes.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I understand it is the gentleman's intention to offer an amendment during the reading of the bill under the 5-minute rule for total deregulation of natural gas. Is my understanding correct?

Mr. BROWN of Ohio. There is a proposal which will be found in the CONGRESSIONAL RECORD of July 27, 1977, on page 25321, that provides for deregulation of the price of a very narrowly defined category of new natural gas. That proposal for the termination of Federal price control will be explained, in addition to the remarks that I have made here verbally.

Mr. YATES. Is there a difference between that proposal and the one in the committee bill, under the terms of which, as I understand it, there will be a total deregulation of natural gas by 1981, through increases in the world price over the years?

Mr. BROWN of Ohio. Mr. Chairman, I might say to my friend, the gentleman from Illinois (Mr. YATES), that the committee bill does not deregulate the price of natural gas any time within the foreseeable future.

Mr. YATES. I was under the impression, at least from the explanations that I have had, that the price of crude oil, to which natural gas would be tied in the committee bill, would be increased progressively by taxes until in 1981 the price of crude oil would match that of the world price.

Mr. BROWN of Ohio. I might say to the gentleman that I do not think that is a correct interpretation of what the bill does. What the bill does, as it came from the ad hoc committee, is to tie the price of natural gas to the Btu equivalency of refiners' cost of domestic oil.

Domestic oil, as I am sure the gentleman knows, is price controlled now at about $8.19, which is a little over half the price of market-priced oil, and there is no prospect that this oil will be decontrolled, because unfortunately your President, and mine, has said that he would like to continue the price control on domestic oil indefinitely into the future. Price controls were due to terminate, as I recall, by 1981, but the President has already said that he is going to ask for an extension of that price control.

So, in effect, what that means is that oil will be price controlled. That pertains not to foreign oil, not to the Arab oil, but just the oil produced in the United States. We will go ahead and pay whatever the OPEC nations ask in order to receive an increasing amount of our oil supply, but to our domestic producers we can only pay what the Federal Government tells us we can pay. And thus it will be with natural gas.

Mr. YATES. Mr. Chairman, will the gentleman yield for another question?

Mr. BROWN of Ohio. Of course, I yield to the gentleman from Illinois.

Mr. YATES. Is it the gentleman's understanding of the ad hoc committee bill, then, that the control over the price of new natural gas will continue beyond 1981?

Mr. BROWN of Ohio. It will continue as long as the price controls on oil continue, and since the President said he intends to continue those beyond 1981, the answer to the gentleman's question is: Yes, the price control will continue beyond 1981.

The CHAIRMAN pro tempore (Mr. BENNETT). The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. STEIGER. Mr. Chairman, I yield 5 additional minutes to the gentleman from Ohio (Mr. BROWN).

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, may I ask the gentleman this question?

Again in the event the price controls are not extended beyond 1981, even through the President were to request it, then all regulation on crude oil and on natural gas would cease; is that not correct?

Mr. BROWN of Ohio. That is not true with respect to natural gas. The prospect of our terminating price controls on oil, however, may be more difficult now than it was when we passed EPCA in 1975, because in fact the price spread now—and this is one of the wonderful things about Federal regulation—between the price of domestic oil and foreign oil is greater than it was then. It was supposed to have

narrowed over the years, but somehow somebody in the bureaucracy made a slight miscalculation, and the result has been that the price of new oil that is domestically produced has gone down in the United States since EPCA was passed.

The result has been that our supply has gone down and our dependence upon foreign oil has gone up. So I suppose that establishes once again the validity of the desirability of the Federal Government's trying to set prices in any area.

Mr. YATES. Mr. Chairman, I thank the gentleman for his replies.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, if I may direct the attention of the gentleman from Illinois (Mr. YATES) to this, there is some confusion in all of this, but let me see if I can correctly state it, and if I do not, the gentleman from Ohio (Mr. BROWN) and the gentleman from Ohio (Mr. ASHLEY) may correct it.

My understanding of the way the ad hoc committee bill is drafted is that it ties the price of new natural gas—and that is a relatively small slice of it—to the price of average domestic oil, and that is the $7 price, or whatever it is.

Mr. BROWN of Ohio. That is not the real price of oil in the United States.

Mr. STEIGER. Correct, but that is what it is tied to. The authority of the President to control the price of oil expires October 1, 1981. Therefore, it would be possible, if controls on oil were not continued, to have the price of new natural gas increased; but it does not under the Eckhardt amendment or the ad hoc committee bill, deal with the issue of old natural gas, which would continue to be controlled.

Mr. BROWN of Ohio. Old natural gas would continue to be controlled, in any event; and the amendment which the gentleman from Ohio, the gentleman in the well, will offer also continues controls over old natural gas.

Mr. YATES. Mr. Chairman, will the gentleman yield for another question?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, is there any estimate as to how many trillion cubic feet are in the so-called new gas reserves? Do we know that at all?

Mr. BROWN of Ohio. I cannot answer the question of the gentleman specifically but I can say that some 20 studies of potentially available additional natural gas of a conventional nature have been made.

We are not talking about the MOPPS study which said that we might have as many as 1,000 years of geopressurized gas in the geothermal area.

With respect to conventional natural gas the estimates are, except for the CIA estimate on which the President leans so heavily, that we will have from 30 to 40 years' supply of natural gas. If we take all the different studies done by educational institutions, by private industry, and by select groups of educational institutions, all of these studies indicate an adequate natural gas supply.

The question is, at what price does that supply come in? The MOPPS study by ERDA suggested that that volume would begin to come in as the price goes up.

Mr. YATES. The MOPPS study consisted of three conclusions, as I remember; is that correct?

Mr. BROWN of Ohio. That is right. The most optimistic indicated that we have vast quantities of conventional supplies. That was sent back. Somebody in the administration said that the study was much too optimistic, I imagine.

They went back and restudied it; and they came back with a somewhat less optimistic study, but still it was fairly optimistic. They came up with a third study, and in that study their figures were not quite so optimistic, but they were nevertheless fairly optimistic that we would get somewhere in that price range above $2 a rather significant supply response. I might say that at $2.50, natural gas in our part of the country, the Midwest, which the gentleman and I represent, would still be a much cheaper fuel to use than oil, which many of our constituents must use because they cannot tap into natural gas lines. Certainly it is much cheaper than electricity, and when it is blended with our presently contracted low-priced gas, it is still cheaper than the price paid by our friends in Texas where the gas is produced and where they have been getting an adequate supply over the last few years.

Mr. YATES. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, let me say to the gentleman that I will offer an amendment to the National Energy Act (H.R. 8444) seeking to end Federal price controls on new natural gas. It is the same proposal—with two slight modifications—as the Krueger-Brown-Wirth amendment which was narrowly defeated in the full Commerce Committee. It was introduced as separate legislation as the Natural Gas Supply and Conservation Act of 1977 (H.R. 8585) by Congressmen JOHN ANDERSON of Illinois, BROWN of Ohio, KRUEGER of Texas, and WIRTH of Colorado on Thursday, July 27, 1977, and will be found printed in the RECORD as an amendment by Mr. BROWN on page 25321 and as part D of H.R. 8555.

This amendment removes Federal price controls from a very narrowly defined quantity of new natural gas. "New" gas is defined as: first, gas sold or delivered in interstate commerce for the first time on or after April 20, 1977, provided that such gas could not have been sold or delivered prior to April 20, 1977; second, gas produced from a new well which is 2.5 miles or more from any old well or gas from a new reservoir; or third, gas from a well drilled 1,000 feet deeper than an existing well less than 2.5 miles away or in a reservoir discovered after April 20, 1977, as established by applicable State or Federal authorities.

Offshore natural gas—which must be sold to the interstate market—remains subject to Federal price controls through April 20, 1982, based on a new national ceiling reflecting prospective costs and Federal price controls are thereafter removed.

Old natural gas if sold in the interstate market remains subject to present FPC cost-based price controls and present contracts—ranging from about 18 cents per MCF to $1.46 per MCF—remain in effect until they expire by their own terms. Most of these contracts are for the life of the well. This maintenance of gas supplies at existing old price-controlled contracts is the first protection for interstate gas consumers.

Natural gas now being sold in the intrastate market is not subject to any price control. Prices are designated in contracts, but such contracts are usually for shorter periods and at higher prices. Under this amendment, when these intrastate contracts expire, that gas can be bid for by buyers for interstate markets thus bringing added supplies to interstate gas consumers.

The Emergency Natural Gas Act of 1977—requested last winter by President Carter—is extended through April 20, 1980, to give the President power to cancel contracts for new "market-price" gas purchases if he thinks the prices excessive—thus providing a second protection to consumers from natural gas price increases that are too sharp. Under this provision, the President also has the authority to allocate natural gas from one part of the country to another to meet any emergency shortages.

The third protection against prices jumping too rapidly is afforded the residential consumer by assuring that all the new gas purchased to fill shortages in a pipeline will be charged to boiler fuel users of natural gas and industrial users to the extent that they use gas in excess of their base period consumption until such costs reach 120 percent of the costs of imported crude oil on a Btu basis. This means that all higher cost new gas will be charged first to large industrial boiler users and then to medium and large users using over their base allowance, thus holding residential users harmless. Not until old low cost contracts expire and are gradually replaced by contracts for more recently developed higher cost wells will the residential user be affected by higher prices for natural gas.

As a matter of fact, as pipelines become 100 percent utilized and fixed pipeline costs are spread over more units of gas in the line, transportation costs for consumers which now represent about 70 percent of the consumers' bill, may actually go down. And as excessively costly synthetic fuels are no longer needed to supplement shortages of lower cost natural gas, the costs to present natural gas users may in some cases be reduced. Finally, the necessity to curtail natural gas tap-ins for new homes—in effect in many parts of the Nation since the early seventies—may actually be ended so that new home buyers can once again use environmentally clean, economical natural gas rather than electricity which is generally four times more expensive and environmentally more damaging to produce.

The amendment provides for the Federal price controls on new natural gas to be lifted after April 30, 1978, in order to give the Congress time to enact, if it wishes, a tax on windfall profits of gas producers which may occur. Chairman

ULLMAN of the Ways and Means Committee has indicated he would call his committee together for this purpose and that the time allowed would be adequate for such deliberation and action.

A careful study of our natural gas amendment versus the natural gas provisions which emerged from the House Commerce Committee indicate that our amendment will provide for 25 trillion cubic feet more gas to be produced between now and 1990—about 3 trillion cubic feet per year more than the Commerce Committee plan. In the same period of time, maintaining Federal price controls as the Carter-Dingell bill proposes would cost American consumers $48 billion more than terminating Federal price controls, or about $7 billion per year more than removal of Federal controls. Slight changes made by the ad hoc committee would have no appreciable affect on this cost and production analysis.

I urge you to study the facts carefully and vote to avoid the future of shutdown factories and closed schools which last winter's shortage predicted for our Nation if past Government policies are continued in the future by supporting my amendment.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, section 701 of this bill is really the cornerstone of the President's energy policy.

We have spent a lot of time today in talking about some of the less important, esoteric aspects; but this measure would provide authority for a van-pooling program for Federal employees.

Van-pooling is a concept that has worked very well in the private sector as well as in the State of California where it is funded through the State CalTran Agency.

In the State of California we have found that for every 50,000 people who are involved in the van pooling program, we can save some 30 million gallons of gasoline.

Testimony before the subcommittee showed strong support for this aspect of the energy program from people in the private sector who were involved in this program. They feel if the Federal Government would get involved in a minimal program for its employees that that would show tremendous encouragement to the private sector and would help the program grow.

Basically, Mr. Chairman, we authorize up to 1500 vans a year through either purchase or lease by the Federal Government, asking also that the major emphasis be placed upon private vans owned by private employees or employees of the government.

These vans carry between 9 and 12 individuals to and from work. It has been shown in the private sector to be not only a savings in energy and a savings in commuter dollars by the employees but actually had shown to provide for better morale at work, more timely showing up at work and better production by those individuals who are in the program.

I have heard that there would be an amendment to gut the Nation's energy policy by striking this from the bill. I would hope that the Members do not support such an amendment. I believe our Nation's energy policy is much too important to have it shot down in such a careless way.

Lastly, I would like to say that all costs of the programs are recoverable except for some administrative costs that would be difficult to compute such as maybe an employee spending 30 minutes a day making telephone calls, or things of this sort. Also the cost of making these vans accessible to the elderly or the handicapped would not be recoverable, otherwise the program is a fully recoverable one. It will be self-supporting.

As I said, Mr. Chairman, it had strong support from those segments of the private sector who are involved in this program. They feel that this definitely can lead to a tremendous conservation savings on the part of not only the Federal Government but on the part of the private sector as this program will grow.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I wish to state to the gentleman that I believe this sounds like a very good program and a very desirable one and a self-sustaining one, paying for most of the riding. I know that many private companies are doing this. They say that in most cases it pays for itself because the people pay less than they would if they were riding in their own cars.

So I believe this sounds very sensible.

Mr. JOHN L. BURTON. I thank the gentlewoman from New Jersey.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, as a Member of the House, as a minority member generally, as a member of the ad hoc committee and as a member of the Banking Committee, I have grave reservations concerning the substance of H.R. 8444 and the procedures under which it is being considered.

I will not belabor the procedural points which I detailed last Friday during consideration of the rule. However, there is something totally unsatisfactory about considering this legislative package under a virtually closed rule when it is obvious that the various parts would never have qualified for such a rule.

What is it about the fact that they are all titles in one bill that makes them sacrosanct?

But, beyond the procedural problems, we still must deal with substance. Unfortunately, the substance is either lacking or misdirected in H.R. 8444.

Throughout this debate you will hear much about energy conservation and energy supply. You will also hear a good deal about energy prices.

Regrettably, Mr. Chairman, the era of cheap energy is over, but that fact does not diminish by sticking our heads in the sand and hoping it will go away. We must conserve. We must adjust the pricing mechanism which is detrimentally artificial, and we must encourage new exploration to add to our energy supplies. The latter should also be thought of in the context of new technologies and types of energy.

While many of us may disagree on how to do these things, I regret that H.R. 8444 does not address the supply question adequately. Any schoolchild knows that when something is in short supply, you must either reduce its use or supplement the supply, or both. Our domestic production of oil and natural gas has declined from 9.2 million barrels per day to 7.8 million barrels per day, and from 22 trillion cubic feet to 19.8 trillion cubic feet annually for oil and gas respectively, since the 1973 oil embargo.

The other side of this equation is that imports since that time have risen dramatically. Since 1972 the cost of this imported oil has risen from $4.6 billion to nearly $40 billion. Unless this Congress faces the issue squarely and does not hide behind the parliamentary ruse of closed rules and similar devices, there will never be a solution to our energy problems.

It is beyond me how the U.S. House of Representatives can hold its head high with respect to the energy problem while admitting it is afraid to let its Members offer amendments and consider proposals which the leadership might disagree with.

Let me point out just a couple of things—anomalies if I may call them such—about this rule as applied to the public utility program. I asked the Committee on Rules to permit me to offer amendments so that the provisions reported from the Committee on Banking, Finance, and Urban Affairs that are in H.R. 8444 could be considered by the whole House. The rule was not granted. Rather, the only thing that we will have before us is the ad hoc committee amendment dealing with public utility programs. Since there is the possibility, of course, that the ad hoc committee amendment will be defeated, I then urged the Committee on Rules to provide that an amendment would be in order to strike the Commerce Committee portions of the bill if the ad hoc committee amendment fails. I did this because it is totally irresponsible, it seems to me, to leave that possibility open.

In short, what I am saying is that if the ad hoc committee amendment is defeated, we will have in the bill that goes to the Senate, H.R. 8444, two diametrically opposed programs, one from the Commerce Committee and one from the Committee on Banking, Finance and Urban Affairs, and they are irreconcilable. Yet the Committee on Rules did not see fit to avoid this irresponsible result and permit an amendment to strike either one or the other of the provisions. Of course, I preferred the Banking Committee provisions, so I wanted a rule that would permit the striking of the Commerce provisions. But as it stands, it is not permitted and, as a result, it is entirely possible that these totally irreconcilable programs incorporated in the same bill will be sent to the Senate. I guess at this point in time all we can say is thank God there is another body.

Another interesting aspect of the provisions of H.R. 8444 is that it delegates

to the energy czar—the Secretary of Energy, if that comes to be by the time this legislation is implemented—or other Federal officials almost unfettered discretion in more than 100 instances to make vital energy-related determinations without any congressionally enacted guidelines, standards, or anything else.

Let me just point out one of these because an example occurred in the ad hoc committee.

Mr. ECKHARDT offered an amendment which attempted to make some sense out of the limitation about what shall be considered to be new gas. In that amendment he provided that if the well is more than 2½ miles from an existing well, or if it is drilled more than 1,000 feet deep, then that can be considered new gas. But he knew that was too restrictive a limitation, so he added the words "or a new reservoir." Then he went on to say very properly, I think, and I quote:

> On the request of any State agency having regulatory authority over the drilling of natural gas wells or the production of such wells, the Commission shall delegate to such State agency the authority to determine whether the requirements of section 402(5)(B)(iii) (relating to the definition of new natural gas) have been satisfied for purposes of applying section 404.

Then he goes on to say in the amendment:

> Any such delegation shall be upon terms and conditions prescribed by the Commission.

I thought that was a little bit too broad a grant of authority since there were no controls or standards proposed, so I offered an amendment to the amendment in the committee that basically such terms and conditions could not be inconsistent with the generally accepted standards of the industry and regulatory bodies for wells in the area in which this well was located.

Then with respect to the recinding of this authority, since the Eckhardt amendment provided for rescinding authority to the State agency, instead of just saying "The Commission may rescind any such delegation at any time by notifying the State agency of such rescission," I suggested that we add the language "upon good cause shown" immediately after "The Commission."

All I was attempting to do is to have the House of Representatives and the Congress apply just a little bit of qualification on this unfettered discretion, and of course the amendment was defeated by an overwhelming majority of Democratic votes.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, in the committee report on this matter, it says:

> With respect to its application to the definition of newly discovered reservoir, a special rule may be required. Satisfaction of the requirements of this definition will always involve circumstantial evidence. What evidence should be considered sufficient by a State agency? The Committee anticipates that the Federal Power Commission could require a natural gas producer to certify, under oath, to the State agency that the producer (1) had not previously discovered the natural gas by the drilling of any well, (2) has no knowledge that any other person previously discovered the natural gas, and (3) has no information in his possession, including well logs, indicating the fact of a prior discovery of the natural gas by the drilling of a well.

I construe that as giving some guide as to whether or not a producible reservoir was previously discovered and if gas in any appreciable quantity was discovered the Commission would simply not treat it as new gas.

The gentleman in the well would like to give that authority to the State agency. Is that correct?

Mr. BROWN of Michigan. The gentleman in his amendment gives that authority to the State agency. It says: "the Commission shall delegate."

And then it says: "under such terms and conditions."

Mr. ECKHARDT. That is correct.

Mr. BROWN of Michigan. The point I am making is the gentleman does not give any indication as to what the terms and conditions shall be. The gentleman makes the best argument for me, which is that we have to explain in the report that which we do not say in the statutory language. I do not think it is proper for the House of Representatives and the Congress of the United States to legislate by report.

Mr. ECKHARDT. I think the gentleman and I have a legitimate difference. I felt that it was necessary for the Federal agency to have control over standards and definitions. The gentleman in the well would feel that there should have been a mandatory delegation to the State agency to deal with that subject matter. Is that correct?

Mr. BROWN of Michigan. No. The gentleman heard my discussion in the ad hoc committee. He just heard my remarks here. I am just saying in the delegating of authority the FEA Administrator may not impose terms and conditions that are not generally accepted as standards of the industry.

Mr. ECKHARDT. That is not what the language in the bill says.

Mr. BROWN of Michigan. Of course, because we did not accept my amendment. The important thing here is not the substance or the merits of the language. The important thing here is that in over 100 instances we have granted almost life and death authority over our energy usage and our economic existence, to an Administrator with practically no or no guidelines and standards, and I think this is improper legislation.

Mr. ECKHARDT. I think the gentleman and I simply disagree on what should be done.

Mr. BROWN of Michigan. Mr. Chairman, I decline to yield further.

Mr. Chairman, there is no question that we disagree, and I disagree with the constantly burgeoning Government we have and in this bill we have quadrupled the problem.

Maybe, the leadership's answer to this problem is to pass the buck. Unfortunately, I do not see that now famous sign "The Buck Stops Here" anywhere in the Congress or in H.R. 8444.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 8444 and the President's national energy program. For the first time we have proposed a truly comprehensive national energy program. Through companion legislation almost completed, the administration will be given authority to create a Department of Energy with which to administer the program. I am proud to have played a part in the creation of this program through my service on both the Energy and Power Subcommittee of the House Committee on Interstate and Foreign Commerce and the energy subcommittees of the House Committee on Science and Technology.

The accent of the President's program is properly on conservation, for it is only by elimination of our enormous waste of energy that we can quickly overcome the staggering burdens of our current dependence on oil imports. Conservation is the only quick, clean, safe path to reducing that dependence. The President's program addresses all the major areas of potential conservation: in transportation, in buildings and in industry and commerce.

On the supply side of the equation, the President's program gives ample incentives for the discovery and production of new gas, while avoiding gigantic windfall profits to the gas-producing companies.

While I am seriously concerned with the economic consequences of the wellhead tax on oil, those affects will be cushioned both by the phase-in of the tax and by rebating the revenues to the taxpayers. While this will still result in very serious price increases for virtually every category of goods and services in our economy, it is the best available compromise for backing-up conservation strictures in the marketplace without unconscionable enrichment of the giant energy companies. While I would have relied on controls rather than price as the Government's principal conservation mechanism, certainly the critical nature of our oil import situation requires immediate action. Faced with this provision or nothing, and having viewed the great difficulties of adopting more stringent conservation measures in the Energy and Power Subcommittee, I have to conclude that this provision is far preferable to inaction, despite its risks.

Indeed, my chief concern with the President's program is that it does not go far enough. All the available evidence indicates that it will not roll back existing oil import levels at all. Indeed, the three independent studies done of the program by the General Accounting Office, the Congressional Budget Office, and the Office of Technology Assessment indicate that even after adoption of the program, oil imports will rise to a level of 10 to 12 million barrels a day by 1985. This means we must witness a continued drain of our dollars to the OPEC countries of more than the present $43 billion a year, on top of an accumulated $150 billion, imposing an intolerable risk to our national security and to our economy and that of the entire free world.

Indeed, in recent days we have seen oil import-generated record deficits in our trade and international payments balances. The international banking system and our own banks are staggering under the burden of financing payments for oil by the less developed countries. The Department of the Treasury has estimated that the OPEC embargo and resulting oil price increases will "probably cost the U.S. economy a cumulative loss in real output of about $500 billion over the period 1974 to 1980." These are trends that cannot be allowed to persist.

The President's program that we are considering today, therefore, must be viewed only as a good first step. Much more drastic measures must be taken quickly to protect our security and end this deadly drain on our economy and that of our allies.

In the next few days, therefore, I will be proposing to the administration and to Congress with several of my colleagues very drastic follow-on measures to assure that we will meet the President's originally announced goal of reducing oil imports to a level of 6 million barrels a day by 1985. To achieve this, we will be proposing oil import quotas and both mandatory conservation measures and a crash program to utilize existing renewable energy supply technologies including solar energy and use of agricultural and human wastes for fuel production.

I view the energy crisis as the greatest danger which faces us today. It poses the greatest immediate threat to our security and international relations. It faces us with virtual control by the OPEC countries and the major international energy producing companies. It involves a drain of capital to the OPEC countries that is in itself intolerable and is threatening to topple the international banking system and our own economic viability. The President's program is to be applauded for recognizing these problems and for proposing sound first steps for addressing them.

I hope my colleagues will join in support of the program, even though it may not be viewed as the ideal solution by many of us in particular provisions, and in resisting the many weakening amendments which will be offered.

Mr. ASHLEY. Mr. Chairman, I yield 8 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I am pleased to report on the sections of H.R. 8444 handled by the House Public Works and Transportation Committee. Sections 721 through 789 reported by the committee are intended to insure that Federal agencies further intensify their efforts to conserve energy and utilize solar energy.

There are approximately 400,000 federally owned buildings totaling about 2.5 billion square feet of floor space. Fiscal year 1976 energy use was equivalent to 353,000 barrels of oil per day, or roughly 1 percent of total U.S. energy demand. Implementation of cost-effective conservation measures and the life-cycle costing procedures could save 20 percent of the energy used in existing Federal buildings.

The sections of H.R. 8444 reported by the House Public Works and Transportation Committee encompasses four subparts of part (G), of title I, section 721, (subpart 2) amends section 381 of the Energy Policy and Conservation Act which directed the President to develop and implement a 10-year plan for energy conservation with respect to buildings owned or leased by the Federal Government. This section specifies that all executive agencies and the U.S. Postal Service shall be included in the development of the plan, and authorizes to be appropriated $25 million for fiscal year 1978 and $50 million for fiscal year 1979 in addition to funds authorized under other statutes.

Although it is difficult to estimate precisely the costs of implementing conservation measures in Federal buildings where such investments are cost justified administration officials testified the total required investment is likely to be about $2.67 billion, but the resulting energy savings are likely to save more than $4 billion in the utility costs by 1990.

Clearly, the selection of the actual measures to be undertaken should and will, involve life-cycle cost analyses to determine the cost savings that will result over the building's economic life. The most effective measures should be implemented first, and the measures that are not cost effective will not be implemented.

The President's bill as transmitted to the committee recommended open ended funding for an 8-year period. However, the committee amended the bill to read for fiscal years 1978 and 1979 in order for the Congress to have a control on the program.

Sections 741 through 746 (subpart 3) authorizes appropriations of up to $100 million over the next three years to add solar hot water and space heating to suitable Federal buildings to reduce consumption of conventional fuels and demonstrate the feasibility of widespread solar energy use. Installations of solar space cooling are also authorized and the committee is particularly interested in their potential for reducing the summer peak demands on electric utilities. The program to be implemented by the administration of the FEA could involve approximately 3,000 buildings. The committee believes that a program funded at this level can make two vital contributions.

First, it would have the Federal Government lead the way in making use of solar energy in its own buildings. In addition, the Federal Government would then be in a position to gain experience with the maintenance and operation of solar equipment and to use this experience in assisting other solar energy users. The committee views this particular aspect, together with the overall Federal leadership role, as an important contribution to increasing consumer confidence in such technologies.

Second, substantial purchases by the Federal Government over the next few years can help lower the cost of production and installation as experience is gained and economies of scale are attained.

The committee amended the bill to include sections 761 through 772 (subpart 4). These sections set up a program for the use of energy conservation measures and solar energy systems in Federal buildings. These sections establish comprehensive and uniform energy conservation performance targets which are considered essential to the effectilve implementation of the energy conservation activities in Federal buildings to be undertaken pursuant to section 721. It is also the purpose of these sections to aim for a reduction of energy use in existing Federal buildings by 20 percent by 1985.

The Administrator of the Federal Energy Administration is charged with the responsibility of implementing the program and he is directed to establish life cycle cost methodologies, develop forms to be used, and procedures to be followed in conducting the preliminary energy audits required by the bill which will identify, for example, the type, size, energy use, and major energy systems of Federal buildings.

These audits will identify those buildings which are the best candidates for further examination for energy conservation improvements. It is not the intent of the committee that these audits should require onsite inspections by trained professionals. It is envisioned that the information required will be able to be provided by the building manager with available resources. The Administrator is further directed to insure that all new Federal buildings are life cycle cost effective. He is directed to establish energy performance targets for existing buildings, structures, and facilities. Upon enactment, each Federal agency shall conduct a preliminary energy audit and reports will be submitted to the Congress on the findings. Upon completion of the reports Federal agencies are directed to retrofit buildings under their control and all existing buildings will have been the subject of retrofit measures by January 1, 1990. Also, Federal agencies are directed to line item in their budget request those funds being requested for retrofit measures which will enable the Congress the opportunity to have a complete handle on this program. Last, there is authorized to be appropriated to the Administrator $2 million to allow him to perform the functions vested in him under this subpart.

The committee also amended the bill to include sections 781 through 789—subpart 5—cited as the "Federal Photovoltaic Utilization Act."

Solar photovoltaic conversion systems are composed of photovoltaic or solar cells which convert sunlight directly into electricity. These systems offer the potential for highly reliable power in a variety of applications ranging from small, low power in remote instruments, to dispersed systems, to large central power stations, for intermediate and peak load operations.

Photovoltaic conversion systems operate on principles which are widely understood as a result of experience gained from their use in the national space program. Therefore, the major thrust of this program is to reduce the costs of the cells themselves.

These sections establish a photovoltaic energy commercialization program for the accelerated procurement and instal-

lation of photovoltaic systems for the electric production in new and existing Federal facilities.

The Administrator of FEA is directed to administer the program which shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability, primarily for use by the Department of Defense. There is authorized to be appropriated $39 million for a 3-year period to carry out this program.

It is the committee's intent that this program be fully coordinated with the ongoing research and development activities of the Energy Research and Development Administration.

The energy crisis is here now and it is vital we act now. I, therefore, recommend favorable action on H.R. 8444 as proposed with the House working its will on amendments.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I want to express some rather strong reservations that I have about this bill, although I do favor the intent of the legislation; and support the bill merely to advance the general idea of establishing a national energy bill. However, let us face it—this bill is a bill of tax and rebate, control and more Government control, and more tax and rebate.

Punish and penalize is not the right emphasis for a national energy bill.

This is not to say that I am against a conservation energy bill. Since 1973 I have felt there would be little voluntary conservation in this country. I think it is logical to have a Government program taxing and requiring steps that result in conservation. It may be the only way we can "conserve" energy. The people will conserve only when they are forced to conserve.

On the other hand, this bill is not a full national energy plan. The bill before us should be called the national energy conservation program. This bill is only one part of the solution to our energy problems. This bill is not the answer to our energy problems. This bill is only a partial answer.

At some point, we, the national Congress, must realize that we need to have a national energy production bill. Even with the President's limited energy demand forecasts, his administration bill requires a 9 percent increase in the production of oil and gas by 1985.

This is an incredible figure when our domestic oil and gas production is going down, and has been for the past few years. And even though the bill before us foresees an increase in production, little or nothing in the bill will help increase production. It is for sure that nothing in the bill encourages production to the tune of a whopping 9 percent increase of domestic oil and gas.

I recognize that many people, many people in this Congress and in the administration, feel that price controls and more price controls are the best answer.

With all due respect, less controls and more production would be more helpful to the American people, and would be a more logical energy program.

I would say that the story that we all read in the Washington Post yesterday will probably prove true. Everyone is for the so-called national energy bill, but when the money starts flowing from the consumers' pockets to implement all the requirements and taxes, the support will be shallow.

This means that this is not the last time there will be a bill on the floor of the Congress dealing with the same issues we see in H.R. 8444.

The energy issue is not solved by H.R. 8444, but it is a measure that can be helpful in awakening all Americans to our energy plight.

Mr. Chairman, I also want to make some specific remarks about parts IV and V of title II of the bill, and then some general remarks about the whole coal conversion program and its future.

Part IV of title II set up a program where utilities that burn oil or gas are taxed extra on the oil or gas burned. Part V of title II says that credits are allowed against the tax for money spent converting to nonoil or gas generators.

An examination of this tax shows that it will impact mainly on Texas, Oklahoma, and Louisiana. As introduced the bill would have also impacted heavily on southern California, but the administration, for rather obvious and predictable reasons, agreed to exempt most gas boiler use in southern California.

Now the reason why the tax hits mainly three States is historical. When oil was discovered in the early 20th and mid-20th century, natural gas was burned off, or totally wasted.

The people in producing States decided to put an end to this waste; they decided to use the natural gas in boilers to make electricity.

I do not believe anyone can quarrel with what was done. Natural gas was being wasted, it was plentiful, and thus it was put to use making cheap electricity. As a result, utilities, at least in Texas, made electricity using gas in all their boilers—in other words, 100 percent gas electric utility systems.

Times change, of course, and in the late 60's and early 70's, the price for natural gas for electrical generation began to skyrocket. Also, during this time, gas supply problems began to develop. In turn, these new economic realities started massive planning for coal-fired, lignite-fired, and nuclear electrical generating plants in this area.

The building of electrical plants is not easy, however, and it takes a long time. Coal and lignite plants take 5 to 8 years from planning to actual production. Nuclear plants sometimes take as long as 10 to 15 years to build.

To summarize at this point, the utility user tax will impact mainly on three States, the conversion program underway in those States mean a 100 percent rebuilding of the electrical production system, and the billions of dollars spent to convert 100 percent will be paid by the consumers in these States.

The administration originally proposed a very general but, in theory, fair concept that for each dollar spent on conversion, there would be a dollar credit against the tax.

Since the States using natural gas are converting, it appeared in this initial stage of the energy bill that the consumers in my area would have little to worry about the user tax. In other words, it appeared the consumers conversion credits would equal, and even exceed the tax.

As the details of the utility tax emerged, however, a haunting feeling grew that the consumers paying the most to convert—billions of dollars—would end up paying the most in user taxes—again, billions of dollars.

In fact, an irony became clear that these consumers would have to slow down, or even stop conversion efforts, in order to pay a tax that is supposed to make them convert. This would be a true Catch-22—the conversion tax prevents conversion.

In the Ways and Means Committee, I was able to amend the administration's bill to help prevent such a situation from developing. In all these efforts I and other members had the support of Treasury and FEA officials, and the unanimous backing of the committee members. These amendments were:

First. An amendment on the natural gas tax on utilities reduced the tax rate by 31 percent;

Second. There will be a cap on the tax so that utilities will not have to pay more for natural gas than they would for the BTU equivalent of residual oil.

Third. Tax credits for construction of coal fired plants will now apply to nonprofit utilities.

Fourth. The administration's proposal could not be used for more than 1,500 hours per year in order to be considered and officially phased out in order to get a credit. My amendment offers more flexibility so that these plants could operate up to approximately 2,000 hours per year and still be considered as "out of operation" or "phased down".

Fifth. The natural gas tax will not have to be paid until 6 months after the end of the year instead of each month as the President proposed. This will allow utilities time to compute their construction credits from the previous year and use them to offset the tax: and

Sixth. One of the most important amendments was one setting up a certification program that allows a utility in the process of building a replacement coal plant to apply its construction credits to the tax during the period of construction. The President proposed collecting the tax during construction and then rebating it after the new replacement plant is completed.

Even with these amendments, however, there is some concern that the consumers paying most for conversion will pay an unfairly high amount of the tax. This feeling stems from the fact that the area where this user tax will impact are growth areas. The consumers in Texas, for example, are having to spend millions and millions to build new facilities just to keep up with new electricity demands.

The bill before us does not give any direct relief in this situation. I would hope that the section of bill giving the agencies authority to exempt utilities from the tax would be used fairly where the consumer just cannot pay any more conversion costs, growth costs, and tax costs.

The final word I have on the utility user tax is one of personal pique that a tax is proposed here impacting mainly on consumers living in the producing States, and no sympathy is given to them on this side of the Potomac. Where other regional taxes are proposed, you can be sure crocodile tears will be shed for the people in that region.

Turning from the specific concern of the conversion tax to the general trend this Government wants in the use of coal, I must express an alarm, a concern, and deep frustration at what I see developing.

With this bill, we are announcing a tremendous commitment to using coal. We are saying that we have coal, and that we are going to use that coal. Also we are saying that those who don't use coal will have to pay a very high tax. The bill before us punishes noncoal users.

Specifically, the President's national energy plan calls for an increase in coal production by 1985 of 84 percent over 1976 domestic production. Coal must move from 26 percent of our current domestic production of energy to 36 percent by 1985. In doing so, the rate of increase over the next 9 years must be seven times that of the last 9 years, a period of time in which record coal production occurred nationally.

These goals for coal are fine. We have the coal, no one disputes that.

If the coal story ended here, then I could be quiet; and in fact, I would go home and tell everyone to be calm: coal is the answer. But there is no end here, and there is no peace of mind. For the Congress and administration have done some things that severely restrict our ability to get coal out of the ground, and our ability to burn coal.

Given the Clean Air Act which prevents coal burning in some areas, given recent amendments that require expensive scrubbers on new coal plants no matter what kind of coal is burned, and given the rather complex Federal coal leasing laws, the Congress has thrown strong roadblocks against using coal. And do not let rhetoric deceive, these are very real roadblocks.

Given executive branch action taking 2 or 3 years to see if the FEA orders to convert to coal are environmentally sound, and given recent action by the Secretary of Interior that he will not sell Federal coal for at least 3 years to be used in a conversion effort, it is easy to see the President's people are creating coal roadblocks also.

Mr. Chairman, I make some predictions.

One, I predict that we will be mining one-half the coal we will need based on projected coal needs of 1983.

Two, I predict since we will not be mining or burning the coal we need for conversion, there will be strong pressure to repeal oil and gas users tax.

The final prediction is that Congress experience with coal conversion perhaps will be just like our experiences with automobile emission standards. I predict that Congress, in the early 1980's will be voting to delay or ease mandatory conversion orders, and to delay or ease the user taxes. I predict these delays will be reasonable because Federal policy will be preventing the mining and burning of coal.

Again, the Federal Government must be chastised for no foresight.

By passing laws calling for the use of coal, but preventing mining and burning of coal, the Congress, and the President, are putting the American people on a dead end street.

We all, or our successors, will see the day the dead end street becomes obvious to the people.

We must change our attitudes, and our laws to mine and burn more coal.

We cannot kid ourselves, and the administration is encouraging us to do just that.

So, in sum, I generally protest the very regional impact of the gas user tax, and the stated reliance on coal that may not be usable because of Federal statutes and regulations.

The CHAIRMAN. The time of the gentleman from California (Mr. MINETA) has expired.

Mr. ASHLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, the gentleman in the course of his remarks—which were very eloquent, I will point out—mentioned that in several places, I think there were about 8 or 9, as I recall, in respect to the public utility program, the Federal Energy Administrator is given the authority to make certain determinations. What are the congressional guidelines, standards, et cetera, that are set forth in the bill for the making of those determinations?

Mr. MINETA. The bill itself calls for utilization of solar energy life cycle costing methods as a way of determining as to construction of new Federal buildings, as to the type of installation which might be required. Life cycle costing is a kind of generic term which is already the state of the art language, so that we know what they are, and that is incorporated in the bill.

Mr. BROWN of Michigan. If the gentleman will yield further. I am well aware of the general argument in support of this provision, but the gentleman mentioned other areas where the Federal Energy Administrator makes certain determinations, I think if the gentleman will go back and read the bill, he will find that in the public utility program, which relates to the solar energy program also, and other areas, by and large the administrator is given the authority to make any determinations, without any guidelines or standards set forth in the bill for making of those determinations.

Mr. MINETA. I do not recall that we got into the public utility aspect of it, other than the cost of installation of the various kinds of equipment versus the operational and maintenance cost as related to that equipment.

Mr. BROWN of Michigan. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from California (Mr. MINETA) has expired.

Mr. ASHLEY. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I understand that much of what the gentleman has said involves solar energy and solar cells. I understand, too, that there would be a possibility of utilizing this energy through a power station. I have read about feedback from one area where the Sun is out and blooming and another area where cloud formations would be between the Earth and the Sun and, therefore, excess energy would be diverted from one region to another. But energy from solar cells is d.c., and we have on our transmission lines 60 cycle a.c. How do we convert this so that we will be able to move it across the transmission lines?

Mr. MINETA. The program, as it is envisioned in this bill, is a limited program, only as it relates to mostly Department of Defense installations. This program is really not for the generation of electric power for transmission purposes.

As the gentleman has indicated, it would require conversion from d.c. to a.c. But in this instance we are thinking only in those areas where we can utilize solar or photovoltaic cells for onsite generation and use, rather than for transmission of long distances.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 7 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, these are not times for easy answers about this extremely complex bill, H.R. 8444. Let me clarify, for anyone who is wondering if that is the number of pages, it is only 580 pages long. For the benefit of the Members who have not had a chance to go over the bill to familiarize themselves with it, let me say that there are copies available at each of the party desks on either side of the aisle.

If a quick glance through these 580 pages of the legislation does not clarify all the questions that might come to our minds, let me say that there are an additional 924 pages of the report from the ad hoc committee that can be examined when one has the opportunity. Because of this, I hope that all of us will stay as close to the debate on this bill as we would to our wallets during a blackout.

Mr. Chairman, what we do here this week is going to have a tremendous significance for this Nation's future, no matter whether we approve or reject the bill before us. Every district in the country will be affected by this legislation, and affected differently from every other. So you had better watch closely lest the latterday fallout fall on your district. This is not the time for moving in herds, following the thumb signals flashed by ones' favorite guide standing just outside or inside the door of the House Chamber.

America is the national power it is, and we have the wealth we have, thanks in part to cheap, plentiful energy in our past. Relative to the rest of the indus-

trialized world, our energy is still cheap and plentiful. We will almost certainly retain that enviable relative position for many years. I mention this because some would have us dash pellmell into untested energy use patterns on the theory that otherwise the lights go out tomorrow. We should not; and they would not.

The bill before us is a monster, neither all-benevolent nor all-evil. In the Committee on Ways and Means, I voted for reporting out the titles dealing wth tax incentives and that put me in a distinct minority—of one—on my side of the committee's somewhat rigid aisle. But, even that segment of the bill, the one out of Ways and Means, could stand a bit of improvement. Just a touch, here and there, ought to help.

Going back for a minute, if our Nation grew on cheap, plentiful energy, we have to recognize that what we do here to change all that very likely will change radically the shape of American industry, the American economy, and Americans' way of life. Some of that may well be necessary and desirable; but there are great risks.

We have a bill proposing to add 4 cents to the gasoline tax and further increase the cost of gasoline through the wellhead tax on oil, the so-called equalization tax. I previously opposed those provisions in Committee and still do. They are OK, if the goal is to bloat the Federal treasury. But, they will not conserve gasoline. We found out with the OPEC price increases that a near-doubling of the price of motor fuel does not cause a drop in consumption; people buy the stuff instead of buying clothing or small appliances. There is a consumer effect, but not the intended effect. There will be a political effect, though, with voters blaming Congress for the 4 cents tax and the oil companies for the effect of the wellhead tax. So, to set the record straight: If both taxes become law, 4 cents more at the pump is Congress's fault; another 7 cents or so is also Congress's fault, even though it is designed to look like it goes to the oil companies. That is about 11 cents on the gallon, altogether, and it will not cause much conservation.

There is the much-noted "gas guzzler" tax. Here, we seek to change the composition of our car population to smaller, more efficient vehicles. I support the general objective and am delighted the industry is responding rapidly, even with station wagons meeting the standards. And, I am pleased with the changes made by the Ways and Means Committee in the original proposal. By cutting the revenue windfall to the Treasury by 90 percent, we lose only 10 percent of the fuel savings. That is a break for the consumer.

For a while, I was the extent of my party's support for the home insulation credit, and I am still looking for more company. Since 25 percent of our total residential fuel consumption is wasted due to poor insulation, this will save energy, but at a cost. There are other provisions of the bill which may well interact with the credit to produce a generation of more energy-efficient housing. But, let us be aware of what we are saying here to homebuilders and buyers. We say that more of the total price of a home or office should be devoted to its energy efficiency. Since the average renter or buyer looks for the most he can afford, and since what he can afford is relatively constant, we say your budget should devote more resources to insulation rather than to, say, an extra lavatory or spare room.

There are provisions of this bill placing great emphasis on mass transit and other public transportation. It is much needed. But, let us recognize that with transportation and residential provisions of the bill what we are saying is that we want more densely-settled areas which can support public transportation, and we want to get away from sprawling subdivisions toward garden townhouse clusters and high rises.

In the bill we tax the use of gas and oil and place greater emphasis on coal and electricity. Let us recognize what this means in trade offs. It means environmental problems we will have to face, and facing them will be costly. As we increase the use of coal we increase the need for deep-mining labor. Proximity to coal reserves and rail lines will be an increasingly important factor, with demographic significance. By that, I mean that someone's constituents will move to someone else's district.

But, let us recognize that what we do here will have effects far removed from gas consumption. As people adjust, disposing of their large cars, replacing them with others that will handle most of the same tasks, but with smaller chassis, there will be gradual changes in the design of garages, parking lots, and roads. Shopping patterns may well change.

On top of the fact that energy has ceased to be an insignificant item in the American citizen's budget, this legislation—adopted or not—will have a sweeping impact on how, where, and how well we live. Too much discussion has been on the bill's relative trivia. Before we vote it up or down, we should hope that every Member will seriously assess its social, economic, political, and demographic impacts, for his Nation as well as his district. It is not a simple choice about gas taxes and gas guzzlers and storm windows. The choice is as to how far and how fast we can shove the people in the direction of a new pattern of residential living, commerce, and transportation. We need to move in the direction the bill points. As for me, I am going to see—before voting—whether the pace prescribed here is one that can be met and tolerated.

The major deficiency, the glaring flaw, in this legislation, is its disregard for the energy production side of the equation. If we reduce our rate of growth for consumption from 4 to 5 percent down to 2½ percent, but without increasing domestic energy supplies by the same 2½ percent a year, the net imbalance will leave us increasingly dependent on foreign oil producing nations. That will leave our foreign policy increasingly dependent on their attitudes and policy objectives.

Because it avoids any serious effort to encourage or generate domestic energy supplies, President Carter's so-called comprehensive energy program is really only half a comprehensive program. What is more, throughout its legislative journey, all efforts to stimulate supply and discovery have been blocked, either by small margins secured by the proxies held by each committee chairman, or by procedural rulings to the effect that we could not amend earlier energy laws unless the President first asked us to. Even though President Carter earlier assured Louisiana, Oklahoma, and Texas that he favored deregulation of oil and gas, thereby assuring his own victory in those States, he has fully neglected those commitments in this proposal and his party intends to keep it that way.

We must take the few opportunities allowed us by the rules to remedy this omission. Otherwise, this bill, for all its weight, will do little more than create a greater shortage and direct the public how to manage it, and at widely varying personal sacrifices depending on where one lives and how one makes a living.

Mr. ECKHARDT. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, first of all, I want to applaud the efforts of the committee, all of the committees, the ad hoc committee, they Ways and Means Committee, and the Commerce Committee for dealing with these issues.

I would say, however, that what I am going to talk about today is perhaps, in the views of some people, not quite so significant as the issues of pricing and regulation. Perhaps the whole problem with respect to this energy bill is that it has gotten too hung up with these issues and perhaps it has not dealt effectively with some of these alternative energy sources available to us today.

Mr. Chairman, I recall that not too long ago the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY), was on television. He said that we need to reduce our consumption of gasoline by 10 percent.

Mr. Chairman, while I do not have the answer to all of our energy problems, I do have a method by which we can reduce our consumption by 10 percent. And it can be done soon.

I went to the Committee on Rules on this issue, and while it is not possible for me to offer an amendment to this bill, I thought I would talk to the House about it. That is the issue of alcohol.

Mr. Chairman, alcohol is a fuel additive to gasoline. Alcohol is derived from renewable resources and in the appropriate mixture, can be put into our automobiles today, right now, with no modification whatsoever to our cars, and it will run. It is not a novel idea. Henry Ford thought about it a long time ago. Congress considered the idea in 1940 just prior to World War II as a result of President Roosevelt's urging that we needed to consider alternative fuel resources.

Mr. Chairman, in Brazil automobiles run partially on gasohol which is an alcohol-gasoline mixture. They make theirs from sugar beets or sugar cane.

The State of Nebraska has run 1½ million miles of road testing using an alcohol-gasoline mixture called gasohol.

They found, No. 1, that the car has fuel emissions which meet the most stringent

1978–79 clean air standards because the alcohol component reduces hydrocarbon and nitrous oxide emissions.

No. 2, they found that because of octane problems with nonleaded gasoline, alcohol provides that needed octane requirement.

No. 3, they found some increased fuel efficiency.

Mr. Chairman, the question is, Why do we not have gasohol, the mix of alcohol and gasoline, being sold in our service stations? I think the historic reason is that it has been more expensive to produce, even when mixed with petroleum, although as we are seeing and talking to people today, that is probably going to change. Although it would probably cost, under existing technology, 3 or 4 or 5 cents a gallon more to produce, the problem is that the oil companies have no incentive by which they can market it because they have no control over raw materials, the growing crops, the coal, the timber, and anything else that constitutes renewable resources. All they seem to know about, and care about, is the marketing of depleting resources.

For that reason, Mr. Chairman, I, along with 16 of my colleagues, signed a letter to the gentleman from Ohio (Mr. ASHLEY) asking that if we adopt an excise tax or additional Federal taxes on gasoline, we consider exempting from these taxes alcohol-based fuels such as gasohol.

This was something that President Roosevelt suggested over 35 years ago.

The response I got—and I asked people in the various committees to which I went—was, "That is a great idea, but we "have not considered it."

Mr. Chairman, what I am saying to the Members of the House here today is if we are dealing with a comprehensive energy policy and we have a technology that is feasible, that is renewable in character, which grows in our backyards and which can be used now in our cars with no modification whatsoever of our engines, why is it not in a part of our energy package?

It is really too late to do anything about it right now. It is not in here, and it is absolutely necessary. It could provide some reduction, as much as 10 percent, if we could only provide incentives for marketing it.

The only reason I came down into the well today is to tell the people, the American public and the Members that we do have this technology, that it is feasible, it is possible, and we could now start using alcohol far differently from the way it has been used before, now we can find a clean way to use alcohol, people can now put it in their automobiles and for other uses and it would provide an immediate reduction in petroleum consumption. It has beautiful regional appeal, also particularly in areas of the country which have a surplus of growing crops that could be converted into alcohol.

I have written President Carter and I have written Mr. Schlesinger about this subject and, while it will not make us completely energy independent, on the other hand, it would be a ludicrous lack of commonsense indeed for us not to explore alcohol as a fuel.

So, Mr. Chairman, I shall introduce legislation that would provide an exemption from Federal gasoline taxes for alcohol-based fuels. The idea has merit. I think it should be explored. It should have been explored as a part of this energy package.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, may I say to the gentleman from Kansas (Mr. GLICKMAN) that his concept has been one of interest to the people of rural America because it would obviously have something to do with the price of corn.

There have been many experiments on the part of the university in the gentleman's area that has been referred to.

I might mention that earlier this spring the Subcommittee on Family Farms, Rural Development, and Special Studies of the Committee on Agriculture, held hearings on this, and one of the agencies we had in was ERDA. And, as a result of the hearing, I was quite astounded to find these figures come out, and I had it followed up with a letter, and I will be glad to show it to the gentleman from Kansas if he has further interest in it. The letter shows that if we were to go on the assumption that in 1985 we would have about the same number of cars per person that we have today, and if they would go an average of 25 miles on a gallon of gasoline and travel the usual 10,000 miles as the average car today does, and if we were to use a 10 percent mixture of alcohol and gasoline that it would take 4 billion bushels, or about two-thirds of the corn crop, to even provide that much of a mixture.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHLEY. Mr. Chairman, I yield 2 additional minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GRASSLEY. Mr. Chairman, if the gentleman will yield further, all I am saying to the gentleman from Kansas is that if this were to be implemented, it would, in effect, demand a rapid increase in the production of corn.

Mr. GLICKMAN. I believe that is a good point but I would point out to the gentleman from Iowa (Mr. GRASSLEY) that alcohol need not be produced from only one renewable resource such as corn, but it can be made from sugar beets, wheat garbage, timber, and practically everything is renewable in character. Also, I am not proposing that we go into this immediately, overnight. All I am saying is that there are renewable resources that can be utilized in this process.

The point the gentleman has made is well taken. All I am saying is that the technology is with us now, and we could start with it right now.

I have talked with people from ERDA about this before. The thing seems to be sort of a mystery to them. I have talked to several people over there who really are not too serious about the concept, but I cannot see how such a large possibility could be overlooked by the Government. Could it be that there are some people in this Government who have blinders on as far as this proposal is concerned?

Mr. GRASSLEY. I would simply point out that since I received the message that they gave me regarding the large volume of corn that would be involved in this technology that could it possibly be that maybe they are trying to put us off?

Mr. GLICKMAN. You bet.

Mr. GRASSLEY. Are not those people saying that there is no alternative? The people in this country are interested in this, and they believe that it should be explored because it is one alternative that we could get in production in a hurry, we could do it a lot quicker, and it would not be a program using scarce resources in order to meet our needs. Is that what the gentleman is saying?

Mr. GLICKMAN. Yes, I think the gentleman has made a good point.

Mr. Chairman, I would like to ask the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY) a question on the subject of alcohol. The gentleman has been kind enough to talk to me in some depth about this proposal. As I say, I realize it is too late to deal with this issue now, but I would ask if there is any way that this particular issue can be explored in further depth, is there any way that it can be given some serious attention, because the technology is here and now.

Mr. ASHLEY. Mr. Chairman, in reply to the inquiry of the gentleman from Kansas (Mr. GLICKMAN), I will say that as a result of our discussions I did ask representatives of ERDA to reply to the persistent interest that has been shown by the gentleman from Kansas in this approach, and I have a reply in which ERDA acknowledges that the use of alcohol as a fuel does have a certain potential to stretch our petroleum supplies.

The major obstacles to alcohol fuel use are lack of supply and the presently unfavorable economics.

They go on to say:

Alcohols of the type which would predominate in fuel, ethanol and methanol, are presently almost totally derived from natural gas and petroleum derivatives. Ethanol for beverage use is derived from grain. Alcohols for fuel would be made from coal, agricultural or forest products and, perhaps eventually, municipal solid waste. The technology for production is well known," says ERDA, "and, with the exception of municipal solid waste, application is straightforward. Limited biomass resource and economics of conversion"—the memo goes on to say—"are such that alcohols from biomass would be applicable primarily on a local or regional basis. Substantial new production facilities would be required as present U.S. alcohol capacity for industrial purposes would provide only one-tenth that needed for a 10 percent alcohol blend in gasoline.

The memo concludes by saying:

The consequences of using alcohol fuels are sufficiently significant that they warrant serious review and consideration. Most aspects are of the nature that they are the province of industry, and if economics were favorable they would be made by any prudent party prior to commercial activities. However, they have not been adequately addressed or assessed by the Government to assure that a policy decision to use alcohol fuels would permit success without added supportive action not yet identified. Thus

it appears prudent that this matter be looked at on an overall basis with all reasonable options and needs fully understood. In this way, a supportive decision can be made if warranted in such a manner as to assure that petroleum conservation goals are achieved.

I take it from this that ERDA supports the interest of the gentleman and feels, as he does, that there is a very real potential as far as the use of alcohol fuel is concerned. I would suppose that with the efforts such as the gentleman has shown, we could get some specific commitments from ERDA as far as this is concerned.

Mr. GLICKMAN. I appreciate the remarks of the gentleman. I also appreciate his thoroughness and agreeability in dealing with this issue. I just hope that when this energy legislation passes, which I think it will, we in the Congress can continue to move on some of these types of subjects that do need addressing by special legislation.

Mr. ASHLEY. If the gentleman will yield further, I do want very particularly to commend the gentleman, because he has in discussions with me and others evidenced a real understanding and solid understanding of the subject matter at hand. There is no question in my mind that this will be available, that this will be a feasible economic development in the immediate out years. I am glad that the record as of this date will record the contribution of the gentleman in this regard.

Mr. GLICKMAN. I thank the gentleman for his comments.

Mr. Chairman, I yield back the remainder of my time.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman fom New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, during the amending process I will offer an amendment which the Rules Committee has made in order which would substitute a 1-year tax cut and an increase in the earned income credit in lieu of the ill-begotten and discredited rebates and payment scheme that was recommended by the Committee on Ways and Means and the Ad Hoc Committee on Energy.

The administration recommended rebates and payments to certain individuals including those on SSI, AFDC, Veterans and others, modeled after the so-called $50 rebate that President Carter himself junked earlier this year when it was clear that the Senate Finance Committee might not order it reported. It is perfectly obvious to those of us who have been through this charade on energy that the only reason the administration recommended the so-called "rebate scheme" was that they had no other alternative readily at hand. The energy bill submitted to the Committee on Ways and Means was substantively weak. It was, as is often said, " a mile wide and an inch deep." It was conceptually poor and technically inaccurate. The rebate scheme was obviously the only concept drafted at the time and it was therefore put in the bill.

I have found it incredible that an administration which claims that the tax system is a disgrace, that cries for simplicity in the tax system, that calls for reform, would for a second time propose a scheme that is not only complex, but administratively difficult and conceptually unwise. As I said when the administration sent their stimulus proposal to the Committee on Ways and Means earlier in the year, the $50 rebate is like shoveling dollars out of an airplane; "You do not know where they are going to go, or who is going to get them." And yet, this administration and the majority in the House have failed to recognize that there are other ways of dealing with the problem of alleviating the enormous burdens of taxation that the energy bill we are about to vote on will impose.

If anyone has missed the point, this bill is really a tax bill. For those who do not know it, between 1978 and 1985 the bill reported by the Ad Hoc Energy Committee will increase taxes on the American people by $93.3 billion. That is equivalent to a 50 percent average increase in the taxes people in America now pay. It is also equivalent to removing $93.3 billion from a shaky economy and has the overall probability of thrusting this country into a major economic crisis.

It is clear that if we are to have an energy policy—albeit only half one—which tries to spread a scarcity by increasing taxes with the goal of conserving energy that we must also protect our economy, its consumers, its taxpayers. This must be accomplished by returning to them at least a portion of these tax increases in order that they may continue to provide for their families, pay their mortgages, drive their cars to work and generally have the cash flow that is necessary to sustain life in this country. The $22 rebate scheme recommended by the ad hoc committee on energy is a joke. It is half of a dinner for one person at an expensive restaurant in Washington. It is not even one dinner for a family of four in a modest priced restaurant in an average city in America. It will buy a tank and half of gasoline for the average sized car at today's gasoline prices. In short, it is a drop in the bucket and an insult to those that will have to absorb huge costs resulting from this program. The only way that we can really effectively return funds vitally needed by our citizens to them is through a general tax cut, a tax cut that recognizes that the heaviest burden will fall on those in the lower income categories and thus, rewards them proportionately more than those who can absorb the burden that this hastily drafted bill will impose.

The tax cut that I propose provides a reduction ranging up to $80 for 63.2 million tax returns; 6.3 million returns receive up to an additional $150 as a result in an increase in the earned income credit that this measure contains 33.8 percent of the revenue loss or, to put it, another way, the tax benefit from this proposal, goes to those with adjusted gross incomes below $10,000 and 76.3 percent of it goes to those with adjusted gross incomes below $20,000. 194,000 returns are made nontaxable. Thus this proposal is not a Robin Hood scheme but rather one that recognizes that the ultimate tax reform is tax-reduction and gives that tax reduction to those who need it most.

Its cost is $3.3 billion in 1978 and that is $1.5 billion more than the crude oil equalization tax would raise in that year. It should be made clear, however, that in the future this bill raises enormous amounts of revenue and this one-time, $1.5 billion revenue loss can more than be absorbed by other parts of the bill in future years. The proposal I am submitting would reduce taxes for most Americans, in fact, it would reduce taxes for all who now pay taxes. It would not however, provide a special payment of $22, to those who are on welfare, those who receive social security, payments, those who receive social security payments, those who get SSI payments. The latter two categories already have indexed benefits which simply means that the amounts they received are increased whenever the cost of consumer goods increases. Thus, when this energy bill hikes prices of gasoline and other goods—as it inevitably will—their payments will be increased accordingly. It seems to me unfair for them to receive a double-dip, for them to get a special payment in addition to the indexed benefit they will receive as a result of the increases in cost of living that will be occasioned by this measure.

I urge my colleagues to think seriously about the way we return some of these tax revenues to our people. The administration's rebate scheme is loaded with administrative difficulties; it was estimated that it would take several months for the $50 scheme to be administratively handled due to the difficulties that would occur in attempting to prevent double and triple dipping. My proposal avoids that and will assure a neat, simple and understandable mechanism to provide overall tax relief to taxpayers.

In addition, it saves for future use the revenues raised by these energy taxes and provides an assured source of revenue for tax simplification and reform that the President has said he will propose in the fall. It allows flexibility in future years for providing more tax relief if that is indicated. If we find that as a result of this energy measure, that the economy is sluggish and that stimulus is required, we can simply reduce taxes after the fashion recommended in my proposal and these will be immediately reflected in the withholding schedules. If, at this time next year, it should be obvious that we need additional stimulus and we have a rebate program in effect, then we will have to take the time to either accelerate that program or redo it. Such administrative difficulty is unnecessary. Finally, I would like to point out to my colleagues some very interesting results from the Roper Poll that was released last week. This poll which was commissioned by the H. R. Block firm asked over 2,000 Americans several pertinent questions about the tax system. The results are interesting.

It shows that while Americans favor tax reform by a 2 to 1 ratio, to them, in each instance, tax reform means lower taxes. The poll also indicates that while Americans favor the new tax deductions and exemptions by a wide margin, they said that a lower tax rate was more important to them than additional tax allowances. In each case where the Roper organization asked about a lower tax

rate Americans favored it, not because they are ignorant of the tax system, as some people in the administration have suggested, but because, in my view, they well understand that a lower tax rate is the best way to assure that they have the needed funds to live their lives as they see fit and to make the economic choices they desire.

The tax cut I am proposing here is sound, it deals with the problem directly, it is something that all Americans will understand and it is a foundation for tax reform. I urge you to support it.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, just a little over 3 months ago this House gathered to hear the President of the United States announce that he had discovered an energy crisis in the country which, he said, would require our immediate and urgent attention.

We have been giving it that kind of attention. Urgent and immediate. In fact there is some little temptation to call it hasty, but whether we went too fast or too slow, considered too long or too little, one important point remains. After 3 months of Rube Goldberg deliberations we have come up with exactly nothing.

That is not to say that this bill, if it is passed, will not be noticed. It imposes taxes. It increases costs. It bans. It prohibits. It orders.

It does almost everything we as a Congress can economically do to the people. The only thing it does not do is increase their supply of energy. Which is what this whole exercise was supposed to be about.

Well, I would like to share a couple of observations with you.

First, I think the House must come to the shocking realization that this Government that says it is going to solve the energy crisis is now, as a matter of policy, deliberately withholding huge supplies of energy from the American public.

We have bills in the House to lock up more than 100 million acres of land, removing their natural resources from the use of the American people. The administration has cut offshore lease sales and 96 percent of all the oil and gas leaseholds have not yet been sold.

Mr. Chairman, whether it is coal mining, wood cutting, water damming, oil drilling, or whatever, the Congress has been proceeding not to increase energy, but to decrease it. And what we sow, our poor constituents reap—in the form of higher utility prices, more dependence on foreign energy sources, tax increases.

And that is precisely what is wrong with this bill: it continues all of the problems and offers none of the solutions.

Mr. Chairman, my own State of Oklahoma has had the great good fortune of enjoying plentiful supplies of energy at reasonable cost. Why? Not because we are sitting on oil and gas, but because we are not sitting on it. Because we are developing it. And because we are doing it under the wonderful protection of intrastate commerce which until now has meant simply that the Government has had to keep its hands off and let the people do their work.

The result has been interesting. While regulated parts of the energy picture have been in a state of chaos—rather expensive chaos, I might add—in Oklahoma, during the years 1972 through 1976, under the free market, the number of active drilling rigs has increased from 103 to 192; additions to our natural gas reserves have increased from 393 billion cubic feet in 1972 to 878 billion cubic feet in 1976—and our increase in net reserves totaled more than 454 percent.

Energy crisis? Where? In the parts of the energy sector that are controlled by the Government. And the only solution, Mr. Chairman, is to get the Government out.

But this bill does the exact opposite. It gets the Government more into the energy field. Under the tent. In the door. Through the cracks in the walls and around the windows. Government is coming in. And it is bringing with it high taxes; high electric utility bills; power blackouts; high prices for consumer products and more and more bureaucrats to feed.

The American people are going to sacrifice all right. If we pass this bill there will be economic and energy sacrifices the likes of which the American people have not seen in years. It is good for us. Builds character. I hope so, Mr. Chairman—because it will not do anything else.

This is a bad bill, Mr. Chairman.

Even worse; it is a silly bill. A bill that sets no goals for increased energy production, but provides for studies and demonstration projects for conversion from automobiles to bicycles.

A silly bill. But if we pass it, nobody will be laughing.

The old people on fixed incomes will not be laughing. The people who have to travel long distances to work will not be laughing. Young married couples socked with higher utility bills will not be laughing. The poor will not be laughing.

And, after the next election the Members of this Congress will not be laughing either.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I have before me the average price for new contracts for gas in Oklahoma for the first months of this year, January, February, and March. I find it to be $1.6362. Would the gentleman object to the price that we establish in the bill at $1.75 and moving upward with the escalator?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would say to the gentleman from Texas, the factor that increases production is a free market. We cannot set one price that is going to be the price, regardless of what the other factors are.

Mr. ECKHARDT. But the price goes up.

There is one other question I would like to ask the gentleman. When I was sitting in a committee hearing on this subject your Governor urged us to enlarge the definition of new gas, saying that if we left the original definition at 2½ miles and 1,000 feet, it would embrace a relatively small amount of gas in Oklahoma that would realize the advantage of the higher price.

The gentleman will concede that the Eckhardt-Wilson amendment did, to a very great extent, meet the objection of the Governor of the State of Oklahoma?

Mr. EDWARDS of Oklahoma. The Eckhardt amendment was better than what we had in the bill we were confronted with.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I appreciate this time. I will only take a limited amount of time. I will not attempt to persuade my colleagues at this point to vote for an amendment to plow back the crude oil tax to qualified producers to increase production of oil and gas in this country.

Mr. Chairman, I will take only a limited amount of time, first of all, because I am sure the few who are here have heard just about enough of energy.

Second, as I look at the schedule for this week, I am reminded of the story of Winston Churchill, who was once attending a Women's Christian Temperance Union meeting. During the question and answer session he was berated by one of the women, who said, "Mr. Churchill, if all the brandy and liquor you consumed in your lifetime were poured into this great hall, it would fill the hall from the floor halfway to the ceiling."

To which Mr. Churchill replied, first of all, looking at the floor, then looking halfway up the wall and then looking up to the ceiling, "My little lady, so much to do and so little time in which to do it."

That is sort of what we are faced with this week with the energy bill. What I ask today is that you read the CONGRESSIONAL RECORD, in which I will insert the technical explanation of the plowback amendment, which the gentlewoman from Colorado (Mrs. SCHROEDER) and I have introduced.

Mr. Chairman, a great deal of misinformation has been spread around the floor about the cost and the thrust of this particular amendment. Particularly, if you feel as I do that we should have some slight increase in the domestic production of oil and gas and at least some slight decrease in our dependence on foreign oil, then I know you will support our plowback amendment. I hope you will read the technical explanation of the amendment and you will find there are no hidden surprises in our proposal. It is merely an attempt to provide a very modest incentive to increase domestic production of oil and gas.

I include at this point in the RECORD, the full explanation of the plowback amendment:

ANALYSIS OF SCHROEDER-JONES PLOWBACK AMENDMENT

The Schroeder-Jones Plowback Amendment proposes to amend the Crude Oil Equalization Tax by allowing producers of crude oil who have paid the equalization tax to earn a credit against a portion of their equalization tax liability, provided they qualify for the credit by previously investing a substantial portion of their production in-

come in crude oil or natural gas exploration or development.

Section 4987(a)(1). Liability for Tax.—The amendment to Section 4987(a)(1) places the liability for the crude oil equalization tax imposed by Section 4986(a) on the economic interest owner of the crude oil subject to the equalization tax. Section 611 of the Internal Revenue Code, which established the rights of various persons to the depletion deduction, is referenced to assign the liability for the crude oil equalization tax in the same manner. Each interest owner will be liable for the equalization tax on crude oil to the extent of his economic interest. For example, if a property were leased with a 12.5% royalty, the royalty owner would be liable for 12.5% of the equalization tax and the working interest owner (or owners) would be liable for 87.5% of the tax. The liability for the tax on the 87.5% working interest would in turn be subdivided among the various working interest owners, if necessary, in accordance with each interest owner's share of the working interest.

Section 4987(a)(2)(B). Alternative Method of Collecting Tax.—The amendment to Section 4987(a)(2)(B) provides a general rule allowing the Secretary of the Treasury the flexibility to issue regulations so that the first purchaser or subsequent purchasers can collect the tax and disburse it to the government. It is not the intent of the amendment to Section 4987(a)(1) to create an inordinate administrative burden but rather to place the wellhead tax liability on the owner of the crude at the wellhead. The purchaser can serve as the collecting agent in much the same manner as employers collect withholding tax from their employees and disburse it to the government. As an alternative, this provision also allows the Secretary the flexibility to collect the tax from the operators of producing properties, who normally handle severance tax, royalty, and working interest accounting and disbursing for each of the parties to a lease.

New Section 4989. Plowback Credit Against Tax.—A new Section 4989 is added to Subpart A to provide for the plowback credit. The credit would be provided only for calendar year 1978 to conform with the Ways and Means Committee provisions rebating the equalization tax for calendar year 1978 only.

Section 4989(a). Allowance of Credit.—This subsection allows a credit against the equalization tax to each person liable for the tax of an amount equal to 90 percent of his plowback investment, subject to the limitations of Section 4989(b). Plowback investment is defined in Section 4989(c). A 90 percent credit is provided so that anyone who claims the credit must risk his own funds in any venture. Producers will, therefore, not be permitted to obtain a credit against the equalization tax without financial risk to themselves.

Section 4989(b). Limitation based on Amount of Tax.—This subsection limits the amount of the credit available to each interest owner to an increasing portion of the crude oil equalization tax for which he is liable. The portion of the equalization tax available for the credit would be ½ percent of the person's total equalization tax liability in January 1978, the month the equalization tax first becomes effective, and would increase at ½ percent per month during each month thereafter. The applicable percentage in April 1978 (4th month) would be 2 percent, and in December 1978 (12th month) 6 percent.

Each person's total monthly equalization tax liability would be determined by summing his monthly equalization tax liability for each of the properties in which he has an economic interest. To determine the amount of available credit his total monthly liability would then be multiplied by the percentage applicable to the month in question. This aggregate amount of available credit for each month in 1978 would then be summed to establish the total amount of the credit which would be available to the taxpayer for that calendar year.

Inordinate administrative and compliance burdens are not intended. The amount of production from each property for each month is to be based upon actual sales for such month. The Secretary should consider that a sale occurred in the month in question provided such sales occur at normal time intervals and do not appear to be adjusted in order to maximize available credit.

Section 4989(c) Plowback Investment.—This subsection defines plowback investment as the difference between a person's qualified investment (defined in Section 4989(e)) and his plowback threshold (defined in Section 4989(d)). The credit to the equalization tax for each person would then be determined by multiplying the plowback investment by 90 percent. The amount could be no greater than the limitation of section 4989(b).

Section 4989(d). Plowback Threshold.—This subsection defines plowback threshold for each person as 25 percent of his gross income during calendar year 1978 from crude oil and natural gas production, subject to a net income limitation, determined on a property-by-property basis. The 25 percent figure is based upon the average historical spending level of domestic producers in the qualified investment categories which are defined in Section 4989(c). The percentage is directly tied to the specific qualified investment categories and there are a number of additional categories of expenditures typically made by domestic producers such as offshore lease acquisition costs, severance and ad valorem taxes, overhead, operating and lifting costs which are not included in the qualified categories. Because independent producers typically spend more of their gross income in domestic exploration and production than do major oil companies, active independent producers should be able to attain the threshold more readily than the majors. If a major oil company qualifies for the credit, a significant effort to increase domestic crude oil and natural gas supplies will have been made.

Calculation of the plowback threshold for calendar year 1978 will be made by summing 25 percent of the person's gross oil and gas production income from each property in which he has an interest. The amount from each property to be included in the plowback threshold will be limited to 75 percent of taxable income. The calculation of gross production and taxable income from a property will be determined as Section 613 of the Internal Revenue Code, under which percentage depletion would be calculated. Basically, gross production income is the person's fractional interest multiplied by price multiplied by volume of production for the oil and gas produced and sold from the property. Taxable income is gross income minus all operating costs and deductions for cost depletion and depreciation of prior years' investments but not cost depletion or depreciation of amounts treated as qualified investments under Section 4989(e) in such period or deductions for any other amount treated as qualified investments in such period. This taxable income represents the producer's true economic income from the property. Percentage depletion would not be included in the calculation of taxable income.

The net income limitation is included in the determination of plowback threshold so that producers would not be required to invest more than their profits from marginally economic properties. For example, if a producer had a very high cost per barrel stripper property, profit per barrel would be low, but gross income would be quite high. It would defeat the purpose of this plowback credit to assign a plowback threshold based upon gross income which far exceeds true economic income.

Section 4989(e). Qualified Investment.—This subsection defines qualified investment as the amount paid or incurred by the interest owner during 1978 for intangible drilling and development costs; geological and geophysical expenses; drilling nonproductive wells; construction, reconstruction, erection, or acquisition of depreciable assets used in the exploration, development, or production of crude oil or natural gas, or pipelines used for gathering crude oil or natural gas and transporting it to the point of first sale; secondary or tertiary recovery of crude oil or natural gas; and onshore lease acquisition costs.

Only pipelines used in the gathering of crude oil or natural gas and for transporting to the first sale point are to be included. It is not intended that pipelines which levy a tariff and produce revenue for the owners be included as qualified investments. Secondary and tertiary recovery of crude oil and natural gas includes not only investments in physical assets such as pumping and fluid handling and disposal equipment, but also the direct costs of operating such projects and of injected fluids and fluid additives.

All of these categories of expenditures are for the purpose of increasing oil and natural gas production and reserves. Routine operating expenses and overhead are specifically excluded because they are generally associated with maintaining existing production and not with increasing or finding new production.

Section 4989(f). Denial of Double Benefit for Qualified Investment—This subsection denies double tax benefits to the extent of any plowback credit which is claimed. The purpose of this provision is to prevent the producer from obtaining the plowback credit as a result of qualified investment and then obtaining a normal income tax deduction for the amount claimed as a credit.

There are other more simple methods to accomplish the objectives of this subsection than provided herein. This method was chosen because of the parliamentary situation in the House.

The total credit will be prorated to each of the person's qualified investments based upon the ratio of the individual qualified investment involved and the person's total qualified investment. The tax deduction (if the qualified investment is expensible for tax purposes) or the increase in basis of either depreciable or depletable property associated with the individual qualified investment will be reduced by this prorated amount. The person will then calculate normal income tax in the usual way.

A special rule is provided for a qualified investment which would increase depletable basis.

Section 4989(g). Geological and Geophysical Costs—This subsection defines geological and geophysical costs. It is intended that geological and geophysical costs be defined and interpreted in a manner similar to existing law.

Section 2032(c). Effect of Crude Oil Equalization Taxes on Crude Oil Pricing—This new subsection states that the crude oil equalization tax imposed by Section 4989(a) shall not be considered an element of price for crude oil pricing purposes pursuant to the Emergency Petroleum Allocation Act (EPAA) of 1973, as amended. The purpose of this section is to make clear that the crude oil equalization tax is a tax, is not price, and does not constitute gross income for purposes of Section 61 of the Internal Revenue Code of 1954, if collected by the producer. The tax, however, is to be included in the cost to the first purchaser. It is not intended that the producer's severance or other state or local tax liability would be increased as a result of the equalization tax, or credits against the equaliza-

tion tax, nor should the tax be considered in calculating the actual weighted average first sale price pursuant to the EPAA.

Amendments to Subpart B, Section 2033 (b)(1)(A)(ii) and Section 2043(a) (new section "44E(c) (1) (B)") provide that the amount of the plowback credit during 1978 will not be transferred to the Trust Fund and will be excluded in determining the amount of the per taxpayer crude oil payment.

Mr. ASHLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I appreciate the opportunity to address this body at this time. I have, as I am sure many of us do, a certain sense of déjà vu about coming back over here again to consider this question, another time.

As we look back at the history of natural gas legislation, we find that William Fulbright in one of his very early addresses to the Congress brought to the floor the question of deregulation of natural gas. It has always been a closely fought question in the past and was the most closely fought question last year. It was decided by a margin of less than one-half of 1 percent of the House.

Now, the major problem, I think, with regard to the question of appropriate natural gas legislation is that this is an instance in which legislation has its major benefit some years away, but offers political difficulty in the short run.

It is always easier for people in the short run to say. "I am going to vote for price ceilings. That is going to save us." That is the instant way. "Take the instant way," we are told, "and honor will pursue immediately behind." The problem is that if we take the instant way, it may help us before the next election, but it is not going to help the country several years down the road when we need the energy to fuel our industrial enterprise.

Natural gas is the largest single source of energy for industry in our Nation. It constitutes some 30 percent of all of the energy which we use. It constitutes 40 percent of the domestically produced energy. Over half of the industry in this country depends upon natural gas. Yet, unfortunately, the administration has given us a program that will not in any way add to natural gas supplies, and it has given us a program in which the price is established by statute at a price well below the general intrastate price today. Since most gas goes into the intrastate market, that effectively means that what we have is a price that is set below the current market clearing price, the major intrastate market being Texas.

Now, this is an issue that I think is best discussed with cool reason and with an interest in intelligent, long-term policy. I am sorry that on occasion today I think we have heard more partisanship in this debate than we should have. I am quite prepared to work with the administration for future energy policy, regardless of the President's politics, and I think it is important that we try to approach this in as nonpartisan a manner as possible. The people in this country want a good energy policy, and they really do not care that much whether it wears the label of a donkey or of an elephant. They would just like to get better energy policy.

If we look back in particular to natural gas and what has happened with regard to natural gas in this country, we see that the roots of our current problem were laid in 1954 when the Supreme Court—in my judgment—misinterpreted the Natural Gas Act and concluded that the Congress intended to regulate the wellhead price of natural gas when it passed legislation to regulate transmission costs. With that 1954 decision came the responsibility of the Federal Power Commission to set price controls for wellhead sales of natural gas in interstate commerce.

The Federal Power Commission then found, that if it attempted to determine on each different reservoir what should be the appropriate cost-base price, that they would create a backlog of cases that would last until the year 2049. They could not decide on a cost-base basis as to what price gas from the various reservoirs should receive. Since this did not work, they decided to go to an area pricing concept, and divided the United States into seven different areas, each with its own price. When that did not work, they decided to go to one national rate.

Yet, this policy, too, was doomed to fail because prices were based on historical, rather than prospective costs. Therefore, producers were only allowed to receive last year's prices for this year's gas. Accordingly, exploration and production declined.

The crossing point in our country's supply and demand curves came in 1968, when, for the first time, demand for natural gas exceeded supply or, rather, exceeded the extent of new reserves added. At that time, for the first time the pipelines themselves changed from favoring Federal regulation to favoring deregulation of the wellhead price because they could look ahead and realize that all of that vast pipeline system would not be worth very much if they did not have gas to put in at the end of it. Since that time we have consumed natural gas at twice the pace in this country than we have been replacing it. That very policy of putting Federal controls on the wellhead, whenever natural gas crossed the State line, meant shortages occurred. And, of course, natural gas gravitated towards the intrastate markets. Now a lot of people take delight in coming up with monstrous scare figures about the cost of deregulating. I understand that that might be good politics, but I do not think it is good policy. Let us be realistic about what the costs are with natural gas deregulation. As so many New Yorkers know, in 1975 of the $3 the New York consumer paid for natural gas, $2.30 went for the amortization cost of the pipeline system delivering gas inside New York City. Forty cents went to transport that natural gas from Texas or Louisiana or Oklahoma up to New York, and only 30 cents, or 10 percent, actually went to the producer. When we talk about deregulation, we are not talking about pipeline costs, which will continue to be regulated. We are talking about simply removing Federal price controls on the producer's segment. Last year there was an average increase of 6 cents in the wellhead cost for interstate natural gas. There was a corresponding increase of 30 cents to the consumer because of the increased pipeline costs. Those pipeline costs went up more because there was less gas transmitted through the pipeline. As a matter of fact, it might be instructive, I think, to look at the cost of regulation versus the cost of the product that we are talking about. Last year producers of natural gas, for all gas sold in interstate commerce, received $5 billion. That $5 billion provided the American people with 15 percent of all of the energy used in this country. Natural gas producers got $5 billion. This year, Mr. Schlesinger has come to us and asked for $10 billion for a Department of Energy budget. So the Department of Energy is asking over twice as much money to regulate an industry than producers received for all natural gas sold last year in interstate commerce. We know, I think, what happens to Federal budgets, and we have no doubt that the budget for the Department of Energy will continue to rise. The world is out of joint—

O cursed spite,
That ever I was born to set it right!

To find that the Department of Energy should receive twice as much to regulate an industry as a producer receives for actually providing the energy itself.

One of the assumptions, unfortunately, of the administration policy is that we seem to largely have run out of natural gas.

The problem with that is that it lacks historical perspective. If we look at the past decade, we find that within the last 10 years the largest single reserve ever found and proven on the North and South American continents were discovered at Prudhoe Bay, Alaska, which is larger than the Maracaibo Bay field in Venezuela or the East Texas field, which started the oil boom in my own State in the 1920's.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KRUEGER) has expired.

Mr. ASHLEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. In the last 10 years, then, Mr. Chairman, we found Prudhoe Bay. In the last 5 years England discovered its North Sea reserves, which already constitute a total amount corresponding to two-thirds of our known American energy reserves, and in the last year in Vera Cruz, Mexico, new discoveries have been made which, if they are proven, will probably be larger than those of either Prudhoe Bay, Alaska, or any known reserves on either the North or the South American continent.

Ten years ago we often heard it said that we were running out of petroleum reserves. Suppose someone at that time had imposed price controls and said, "Let's not bother looking for any more." That is a shortsighted approach. It is an approach that will work to the detriment of the American people, because any natural gas that we do not find in this country is replaced at much higher cost by imported crude oil from other countries, or it is replaced at vastly higher prices by synthetic natural gas. Natural gas at deregulated prices is far and away the lowest cost energy our American consumers can get.

Mr. Chairman, I will conclude with one final observation about the administration proposal. The administration proposal has as its keystone the assumption that we should convert massively to coal. Currently this Nation gets about 16 or 17 percent of its energy from coal, and I have no doubt that we will increase that use. However, we need to recognize what it means to our environment if we do not maximize natural gas production but, instead, rely overwhelmingly on coal.

Let us just consider this one small statistic. If we use coal to substitute for 4 trillion cubic feet of natural gas, which is 20 percent of the gas we now use, and if that coal is 4 percent sulfur coal and we burn it in circumstances under which we remove 90 percent of the sulfur from that coal by using the best available control technology, we will still put into the atmosphere 10 pounds of sulfur for every man, woman, and child in America. That is 10 pounds in just 1 year as we substitute for only 20 percent of the gas. So at the same rate, the Congress of the United States could take credit for having put 50 pounds of sulfur per year into the atmosphere for every man, woman, and child in America, if we substitute coal for natural gas 100 percent.

For that reason we ought to maximize domestic natural gas reserves and production, because that energy is going to be needed for our own economic survival, and it will be needed if we are not to become increasingly dependent upon the Middle Eastern nations. If we do not go ahead and make this important decision this time around, if we continue to take the short run view and say, "I am simply going to vote for price controls, because that makes it more comfortable for me in the next election," the natural gas shortages this winter, which the Federal Power Commission has already said will be 4 percent worse than last year, are going to cause us to come back and reconsider our actions. There is going to be turmoil again, and we will see the same loss of jobs again this winter that we experienced last winter when we saw massive economic losses.

Mr. Chairman, we will return here, not because of the actions of those of us who believe in market pricing rather than the pricing of five wise men or of the Congress of the United States, in Washington. We will return to this issue not because anyone asks us to return, but we will have to revisit this issue because we have not had the guts to make the right decision now.

I hope the other Members here present will join me in making the best choice for our Nation's energy future now when it will do us the most good. We simply must deregulate the price of new natural gas sold at the wellhead. Federal price controls will not furnish us with the energy we will need in the next decade, but a market pricing system will automatically act to bring future supplies into balance with our needs.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I want to take this opportunity to commend the gentleman from Texas (Mr. KRUEGER) for the very learned and dispassionate remarks he just made on the question of natural gas.

Before I go into my own prepared remarks, I want to elaborate on one very important point the gentleman from Texas (Mr. KRUEGER) called to the attention of the House. I am referring to a date the gentleman alluded to in his remarks, a date that is terribly significant and that I believe we really ignore.

The gentleman from Texas (Mr. KRUEGER) pointed out that in 1968 for the first time we consumed more natural gas in this country than we put into new reserves. I think that really needs to be broadened out. It answers very effectively, I believe, the charge that we have heard time after time from the administration that if we allow higher prices, if we decontrol the price of natural gas, we will not get any additional production because we are running out of gas. The fact is that in 1967 we were adding about 20 trillion cubic feet of reserves a year to our inventory of natural gas that could be produced in later years. By 1973, 6 years later, we were only adding 6 trillion cubic feet a year, or, in other words, the rate of drilling and exploration and the adding of new reserves to our producible inventory had declined something like 70 percent.

That radical decline in the amount of new reserves is fundamentally responsible for the decline in production from 1974 to 1976. It is a clear indication that that is the cause of this production decline which we have had in natural gas and that we are not going to turn it around. We are not going to meet the natural gas needs of this country until we can get that rate of reserve additions back up to the level of the 20 trillion cubic feet a year or more than we had in the 1960's. I can guarantee this House that we will not do that at $1.75.

Mr. Chairman, I want to take this opportunity to express my strong opposition to the basic thrust of the energy plan we have before us. I do so not unmindful of the diligent labors and good intentions that have gone into the formation of this bill in the various standing committees as well as the ad hoc committee. I served on one of those standing committees. We spent from 8 to 10 good weeks in the process of hearing and marking up this legislation. I certainly do not believe that a more conscientious effort could possibly have been made in the time available.

Nevertheless, Mr. Chairman, I have to come to the very harsh judgment that despite all of the modifications and the amendments and the attempts at improvement that we adopted during the course of those various committee hearings, our efforts are largely in vain because the original plan is fundamentally flawed in its design and rests on a total misperception of the basic energy problem that we have before us.

Mr. Chairman, I think that that misperception, that fundamental flaw in the basic approach to the administration's energy plan was fully apparent in the President's recent intemperate and erroneous outburst this past weekend. He berated the American consumer for—and I use his words—"increasing their waste of energy." He pointed the accusatory finger of blame at the household, at business, at auto dealers, and at others in the consuming sector of our economy. He pointed the accusatory finger of blame at them for the substantial increase in OPEC imports and import dependency that we have experienced in the last 3 years.

Mr. Chairman, I would suggest that the only thing that the President had right in those remarks which he made this past weekend was the objective fact that imports have risen. In fact, they have risen by about 2.7 million barrels a day since 1974, but I think he is absolutely mistaken in laying the blame on the American consumer for that rise in imports and dependency on OPEC as he accuses the consumer of gluttony and waste of energy, focusing exclusively on the demand side of the equation.

I think it is pretty obvious that in the last 2 years there has been an increase in oil consumption. Oil consumption is up, but that is primarily because of the strong economic recovery that we have had in this country since the bottom of the recession in 1975. In fact, in the last 24 months real GNP has risen by 14 percent, and in the first two quarters of this year we have had positively a boom recovery in this economy because, as the Members know, GNP has been rising at the rate of 6 or 7 percent.

Mr. Chairman, the real question we have to ask, the question before this House, is not about energy consumption in some absolute aggregate sense, but the real question is, is energy consumption rising relative to the level of economic activity? Is it still rising faster than GNP, as it did during the 1960's and early 1970's, or are the higher prices and costs of all types of energy that we have experienced since 1973 encouraging an adjustment of our consumption habits?

Mr. Chairman, I think if we look at the objective facts, the indicators that are available, it is unmistakably clear that the unsustainable rate of energy growth that we had in this country prior to 1973 has not been reignited. The rate of energy consumption relative to economic activity is cooling down. There is already underway a very substantial adjustment on the demand side of the equation. For example, in 1976, at the end of the year, real GNP, the level of economic activity, was higher than it was in 1974. It had fully recovered from the recession, and yet total energy consumption, of oil, gas, coal, or the other elements that go into the total energy consumption in 1976 was actually lower than it was in 1974 despite the fact that the rate of economic activity had recovered and actually risen above its 1974 level.

In fact, energy consumption was 70 million barrels a day of oil equivalent lower than it was in 1974 at substantially the same level of economic activity. So this suggests to me that the objective facts in our economy today do not sustain at all the charge that was made by the President over this weekend that consumers are engaging in an enormous

increase—and I underscore "increase"—in the waste of fuel in this economy.

If we look at gasoline consumption, we find another example. We find the same trend in the 2 or 3 years after the 1970 recovery. Gasoline consumption increased at the rate of 6.2 percent a year as the economy recovered and consumers had more money to spend.

Look at the figures for last year, 1976. Despite a very strong recovery, an 11-percent increase in personal consumption expenditures, gasoline consumption only rose by 4.5 percent, below its historic average during periods of strong economic recovery. This is again an indicator that we are getting some adjustment on the demand side of the equation.

There are many other measures where we can find the same result. I would just point out to the House that in the 30 years from 1940 to 1973 when real electricity prices were declining very rapidly, the household sector tripled its kilowatt-hour consumption of electricity per dollar of real disposable income. Since 1973, when real electricity prices have been rising, electrical consumption relative to the income or the demand in the household sector has been entirely flat, again an indication that a consumption adjustment is taking place.

The same is true in industry regarding electrical consumption. The point here is that, contrary to the baseless accusations that were made by the President over the weekend, and contrary to the basic assumptions which are embodied in this energy plan before us, the demand at the consumption side of the energy equation is responding to the energy crisis that we have before this country. It will continue to respond in the years ahead simply because it takes time for habits of individual consumers and businesses, and for the capital stock, to adjust to higher energy prices and costs. But the point is it is happening very substantially already. So if we want to find a real explanation for the rise in imports since 1974, I think we have to look in another direction. I would suggest to the House that specifically we look on the production side of the equation, because from 1973 until the present when imports rose by about 3 million barrels a day, as I have indicated in the last 3 years, just consider what has happened on the production side of the energy equation. Today oil production is 1.2 million barrels a day below its 1973 level. Natural gas liquids are .3 million barrels a day below their 1973 level. Natural gas production is 1.3 million barrels a day in oil equivalent below its 1973 level. When we add those up, we get 3 million barrels a day of reduced hydrocarbon production in the last 3 years in this country.

That 3 million barrels a day of reduced production is exactly equal to the amount of increase that we have experienced on the import side in terms of this rise of imports from OPEC, and since the problem is on the production side, very clearly it seems to me that if we want to find culprits, then we ought to look at the pricing policies for natural gas and for oil that we have in this country. We could start with EPCA which was passed in December of 1975. I think most of the Members will recall that at that time EPCA was voted in as a way of reversing the decline in oil production by gradually phasing out over a 39-month period the price controls on upper-tier or new oil.

But, as a matter of fact, just the opposite consequence occurred, In current 1977 dollars, the price for new oil in January 1977 was $12.75 a barrel. Today it is $11 a barrel. That is a 15 percent reduction in the price for new oil over the last 24 months.

I cannot believe that anyone would advocate or argue that a 15 percent reduction in the incentive price in the new oil price is likely to turn around that decline in oil production that we are facing.

The same thing can be said of natural gas. The $1.75 cap proposed by the administration would amount to a 15 percent reduction in the price that actually prevails in the unregulated intrastate market today.

It seems to me that the basic flaw in this plan is that it attempts to adjust the entire problem of the equilibrium of energy supplies, and to reduce the cost, but the indicators show that adjustments are being made in the rate of economic activity and our real income, in which energy consumption is going down, and we are not going to pass an energy plan that will effectively meet the needs of this country for the next 10 or 15 years until we turn our attention to the production side and specifically to the pricing policies for natural gas and oil, both of which are entirely omitted by the plan before us.

For that reason I urge that it be defeated.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, I wish to take this opportunity to commend the gentleman who just preceded me in the well for the outstanding presentation and learned discussion of the energy problem that he has laid out before us. He obviously has devoted considerable time and thought to this complicated problem.

As a freshman Member from the State of Michigan, the gentleman has made a great contribution to the ad hoc committee. We are very proud of the kind of representation that he continues to give his constituents and to the grave national problems now facing us.

Early in his service in this body the gentleman from Michigan proved his worth. As chairman of the Republican task force on fiscal policy he has recently released a report recommending a new fiscal policy framework upon which the Congress could well base its tax and spending decisions. This is a drastic departure from the policy that has resulted in some of our present day fiscal difficulties and this new approach has been long overdue. I am confident that his constituents are as proud of his work as we are.

Mr. Chairman, I would very briefly go on to observe that when President Carter first presented his energy proposals, he emphasized the aspect of sacrifice entailed in its provisions. We would be engaged in the "moral equivalent of war" said the President. It was clear that he wanted all Americans to accept the kinds of sacrifices any nation must be prepared to make during a war.

But now we see that we are being asked to sacrifice not for the sake of national security or increased sources of energy or even reasonable conservation measures. We are being asked to sacrifice for nothing. We are being asked to sacrifice so that President Carter will have additional tax revenues to help him balance the budget, something he promised to do and, of course, could not do by ordinary means, given the economic policies of his party.

This bill, in my opinion, is a fraud. It will, by some estimates, cost each taxpayer $1,000 over a 4-year period. It makes no provision for giving producers incentives to find new oil. Its proposal on natural gas, which is to raise the current price to $1.75 per thousand cubic feet was, according to the Wall Street Journal, "plucked out of mid-air." It will not help producers to search for new gas.

This is a revenue-raising bill, pure and simple. It is disguised as an energy bill, but even a cursory glance at its provisions will show that it will not do the one thing that must be done: It will not help America find new sources of energy.

When this was first introduced, in April of this year, I said that the President was asking us to fight one of our greatest challenges with one hand tied behind our back. We were being asked to conserve, and that is fine. But there was nothing in the proposal to help us produce, to find new sources of energy.

And that is where we are today. This bill, if passed in its present form, will come back to haunt the American people like no other bill in recent memory. It is a bad bill because it is rooted in the kind of fiscal and economic irresponsibility and ignorance that have led us to the energy crisis in the first place.

During reading of the bill, there will be attempts made to amend this bad bill. I might add here that similar attempts to amend the bill in committee were defeated by the majority party's manipulation of the rules. It is unfortunate that the rule under which we are considering this bill excludes the opportunity for legitimate efforts to improve the bill. Only certain amendments are made in order and the general membership of this House has been prevented any meaningful chance to work its will.

I do know one thing: This should be called the "Carter administration bailout bill," for it seeks to deviously provide tax revenues he needs to keep his promise to balance the budget and provide Federal goodies for just about everyone except the taxpayers. If this is what President Carter and the majority mean by sacrifice, we know what they really mean: The worker and the taxpayer sacrifices, the majority collects. And the country still suffers an energy crisis, only this time at higher and higher prices on top of a heavier tax burden.

Mr. ECKHARDT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I will speak briefly on the question of gas pricing.

I believe the question of gas pricing must be looked at in historic context. It was, I believe, in 1970 that the uncontrolled price of intrastate gas crossed the line so as to move above the price of controlled interstate gas. At that time both were selling at approximately 20 cents per Mcf.

This gives you a little picture of how the price of gas has gone up from that time, so shortly ago, to the present time.

By about 1975 the average price of new gas in Texas, which was not in any way controlled but bore the market price, was about $1.50. This was up from approximately 20 cents in 1970, as I said. Just last year, the uncontrolled price on intrastate gas in Texas had moved from $1.50 to $1.75. At the present time the price is nearly $2. If we were to completely decontrol, it would be quite easy for new gas in Texas to sell for $4 in competition with the price paid by a pipe line in the case of a mixture that is perhaps 95 percent 50 cent gas and perhaps 5 percent new gas which is uncontrolled.

Now if that will only raise the gas cost price at the other end of the pipeline from 50 cents to 67½ cents, it means that new gas is bid up to astronomically high figures at the place where it is produced. Initially the persons who suffer the most are the persons in the State where the gas is produced because many of them will be buying 100 percent $4 gas—not only 5 percent $4 gas as is being delivered at the other end of the pipeline.

My distinguished colleague, the gentleman from Texas (Mr. KRUEGER) recognized this problem in his first amendment to our bill before the Interstate and Foreign Commerce Committee and provided that gas selling out of intrastate stocks into interstate commerce would, if I recollect the figure—and if I am wrong the gentleman might correct me—be limited to $1.45. That was in order to prohibit this inordinately great increase in the price of gas when decontrol was complete.

What has happened about added reserves per foot of well drilled as price has gone up? Actually, ever since 1947 added reserves have decreased per foot of well drilled. A peak was reached in 1955 and 1956, and again when we began to talk about increased prices and the Federal Trade Commission began to permit increased prices. It is true drilling activity increased, and we are at the absolute drilling peak in 1977, but I venture to say we will still experience a decrease in added reserves per foot drilled in the future.

This is simply for the reason that we discover the biggest finds first and we are now getting finds of smaller quantity. That does not mean that we should not encourage those finds, and that is the reason why the gentleman from Texas (Mr. WILSON) and myself offered an amendment to the President's program permitting drilling anywhere within the onshore areas for new gas which would bring the $1.75 maximum limit, rather than limiting that to outreach of 2½ miles beyond present wells to a depth of more than 1,000 feet below existing finds.

The reason for that was to broaden the base in which gas could be discovered and receive the $1.75 price. There are diminishing reserves. Why not give an incentive over the entire reach for all possible gas production which had not yet been discovered?

That is the reason that we broadened the area in which gas could be sought and could thereafter receive the bonus of $1.75.

We would not have brought on much more gas at a higher price because gas has moved in price at such a rate that there is presently sufficient incentive to produce it. But I want to point out to the Members that $1.75 is not the end of the road in price. It has been estimated that over the 15-year existence of a field and under the formula that has been devised, so that gas receives the average price of domestic oil in Btu equivalent value, the average price over that 15 years would be about $2.40.

Would any more money produce any appreciable amount more gas? I think the answer to that is manifestly "no." As has been seen, we are moving sharply upward in this bill in the price of gas but, at the same time, cautiously upward with respect to the amount of expensive gas we are mixing in the total stream to the American consumer.

I suggest that this is a prudent course. It is a course that will permit exploration at a profitable level in a wider area, a course that will not disproportionately increase the price. I suggest to all of the Members and particularly to my Texas colleagues that it would be most disastrous if there were no limit in price.

The threat of forcing the price of gas sharply upward is far greater than that which existed when we were talking about the Emergency Gas Act. I know many agreed with me that to permit that price to go up to whatever the market would bear would suck gas out of use in Texas, unless the intrastate market could meet something like a $3 or $4 price. That is the danger we would run into in Texas now, but it is a danger over the long run that we would run into in the Nation, because the price in the producing States is the ultimate price for the entire country.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BOLLING. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, I observed the gentleman indicates he feels that the amendment offered by the gentlemen in the ad hoc committee and now to be offered by the ad hoc committee would offer substantial incentives in the acquisition of new gas; but it is my understanding from one of the members of the ad hoc committee that the administration suggests that the additional amount of gas so recovered would be 130 trillion cubic feet, which would be 5 percent of 1 year's usage. I suggest that is not a very substantial amount of gas, if that is all the additional recovery would bring on. I would think it really does not amount, frankly, to very much.

Secondly, I would observe under the proposal of the gentleman here that the gentleman advises his Texas colleagues to go along with suggests, under the suggestion the gentleman in the well makes, there are substantial allocation authorities of gas from our State to other States which do not now exist and which would not exist if the Brown amendment is passed.

Mr. ECKHARDT. Mr. Chairman, if the Brown amendment is passed?

Mr. KRUEGER. If the Brown amendment is passed, there are not those allocations extended, because there are allocations in intrastate pipelines, such as are part of this administration.

Mr. ECKHARDT. I would say that if, indeed, this is not advantageous in encouraging production of gas by oil and gas companies, I would hardly have thought I would have been urged so strongly that it was important to go to seek gas within the discovered territories, but from new reservoirs. I have been told by those who know most about the business—and I suppose those are the persons who seek it—that it was crucial to them to have a more realistic definition permitting them to take gas from a newly discovered reservoir where gas has not yet been detected and that this was of crucial importance to them, that the 2½ mile, 1,000-foot limit, would not, in fact, have satisfied the incentive requirement for further discovery in the United States.

Mr. BOLLING. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, during the discussion and debate and amendment process on this energy bill, the House will be voting on the future of surface transportation in this Nation. It was not intended to have this issue come up in this bill, but it is absolutely unavoidable. The amendment will be an amendment to increase the price of gasoline in this Nation by 5 cents per gallon. Under the amendment one-half of this, 2½ cents would go for the establishment and operation of a mass transportation trust fund.

Mr. Chairman, the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation has been involved in this total problem for over 2½ years. We held hearings during the entire 94th Congress and have held hearings for months during this Congress in looking at the future in transportation in this country.

We found some definite needs. One need crying out is the need to repair and replace the unsafe bridges in this country. There are today over 105,000 unsafe bridges in the United States, both on and off the Federal aid system. With these structurally deficient or functionally obsolete bridges, we have found that on the average there is a bridge collapse in this Nation once every 2 days. We had 176 last year.

The cost, on and off the Federal aid system, to repair and replace the bridges needed today is $23 billion; $12.4 billion on the system, and $12.6 billion off the system. In our current legislation, we are putting only $180 million per year federally to meet this problem. At that rate, it will take us over 100 years to replace and repair the bridges that need it today.

Again, with the great emphasis we have had on the interstate system in past years, we have seen a deterioration of the primary and secondary road system in this country. A recent Department of Transportation study has shown that the primary and secondary road system in this Nation is deteriorating 50-percent faster than we can maintain and upgrade these important roads for all the people in the United States.

We also have a great deal that we need to do in the area of safety. We have done our demonstration programs and our pilot programs, and we find that we can effectively save lives by putting money into programs, increasing the amount to eliminate railway crossings on the system and off the system; for the removal of roadside obstacles in high-hazard locations, and in the very important area of energy conservation and traffic signalization programs.

We also found that we need a stable funding source for mass transit systems in our large cities, but in a program that will sift down to every small city, every town, every county, every area that can effectively use some means of public transit. These could be funded under a 5-cent gasoline tax. We are going to be faced with the vote up or down Wednesday on this issue. If it goes down, we will not have, in this Congress or any future Congress that I can see for the next decade, a sufficient amount of money because we will not have the opportunity again—as far as I am concerned, away—to be coming back for gasoline taxes for these modes. We have to vote on the tax at this time.

What about fuel conservation? This is supposed to be an energy bill. People say, "Is a 5-cent increase going to cut down on the use of gasoline?" Directly, probably not, but indirectly, it will because with the amount of money available we will not only improve our roads and have people move more smoothly, but we will have better roads. We have some old primary roads, two-lane roads, which were all right when they were built, but we need four-lane roads in the same areas. Traffic signalization will save fuel and, most importantly, the availability of alternatives to the automobile, decent public transit systems, will be there. If we do not have an alternative, a mass transit system, available in this country, we can be paying three dollars a gallon for gasoline and still have people buying it because they have no other way to go.

So, this is the opportunity to do that. We will save gasoline and also save the gas guzzler. That was brought out, and probably will be voted upon. None of these companies are going to pay the gas-guzzler tax because we know that when the deadline comes they are going to be meeting the criteria of miles per gallon.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. ASHLEY. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Jersey.

Mr. HOWARD. The increase in the criteria for the mileage we must have in the next few years in our automobiles is proportionately more than is the proportion with the 5-cent gasoline increase, so even with this increase, with the gas-guzzler tax, by the time it is paid the people will be able to go farther per cent on gasoline than they are today without the tax. So, there is a gas saving that is going to be in the gas-guzzler tax. I did not even talk about the bill, but I would like to talk about the urgency of this bill because it means that the need for the urgency of mass transit will be an absolute disaster if we do not pass this substitute amendment when it comes up during debate on this bill.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate the gentleman on the amendment. I would just like to take one thing down for certain, and that is that in the allocation of funds, the receipts of this tax, that there will be no additional roads built. All of that fund that goes to the highway portion will be used for the rehabilitation, for the building of new bridges, but not for new roads, in any case. Am I correct?

Mr. HOWARD. I will tell the gentleman that last Friday, along with 24 cosponsors, I introduced a surface transportation bill, which will be worked on and which will come out of our committee early next year. We had several cosponsors on both sides of the aisle for this bill. The gentleman is correct. As to the 2½ cents which goes to highway programs, not 1 cent will go to build 1 foot of new additional highway in this country. The only purposes will be approximately $2 billion a year for bridge replacement and repair, the upgrading and maintenance of primary and secondary systems and various safety programs, and not for new highways. That is stipulated in the percentages as they were laid out in the bill which was introduced last Friday.

Mr. OTTINGER. Is that stipulation in the amendment that we will have before us?

Mr. HOWARD. Unfortunately, the only amendment which we have before us is the 5 cents increase in the gasoline tax, one-half of which is to go into the highway trust fund and one-half to go into the mass transit trust fund. However, I would say that in all of the hearings, in the discussions we have had, both in the committee and out of the committee, there has been no justified need proposed for any money for expansion of highway systems in this country beyond what we have now. So I can say that this bill will be the result of the passing of this amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Chairman, I rise in opposition to this bill because I believe it will not only fail to solve our energy problems but also will impose unnecessary burdens on our people and our economic system. As the first line in the minority views accompanying the Ways and Means report on title II of this bill states, "the fundamental flaw in this bill is its perspective: it looks backward rather than forward." The perspective of H.R. 8444 is to tax Americans who for the most part must use energy in their daily lives and businesses which depend on energy for their continuation with the hope that somehow we will reduce our dependence on foreign oil. Unfortunately this is the wrong way to go. It is clear that in the past we have attacked problems facing our country in a positive way. For example, when we found it in our national interest to compete with the Soviet Union in outerspace we did so by going forward, by initiating a program to get us to the moon within a certain number of years and we were successful.

This positive approach has been the hallmark of our greatness and yet the negative approach contained in this bill could very well be the hallmark of our decline. I will not be a party to such an approach.

I am concerned with several features in this measure, particularly, the huge new taxes that it will impose on an already overtaxed populace. This bill will raise $93.3 billion between now and 1985. Some of it will be rebated to Americans but a good portion of it is clearly designed to help the Carter administration fulfill its many outrageous campaign promises. Such a scheme is not in the national interest and will doubtless impose burdens which none of us can foresee. Among them will be an increase in the rate of inflation, joblessness, and perhaps even an alteration in our way of life. The most disturbing thing about this scheme is that it is not necessary. We could very well expand our ability to produce the energy we need thereby putting people to work and increasing our overall productivity as a Nation. This is a positive approach and the Carter administration has rejected it.

I am unalterably opposed to the imposition of a 4 or 5 cent gasoline tax as recommended by the ad hoc committee on top of the 7 cents gasoline tax that will result from the crude oil equalization tax contained in H.R. 8444. This is simply a tax on work; 47 percent of the personal gas consumption used is for commuting for individuals to and from their jobs. It is clear from recent polls that this kind of a gas tax—in the neighborhood of 11 cents—will do little if anything to reduce the consumption of gasoline. The polls indicate that Americans would have to have a gas tax in the neighborhood of 90 cents to $1.30 for them to reduce their consumption for pleasure and business purposes. This 11 cents increase in gas taxes is not a conservation measure but rather another punitive feature of the Carter administration's overall scheme to raise taxes on working Americans. It should be rejected.

I am also disturbed that we have imposed a tax on businesses which do not convert from oil and gas to coal. The assumption of this tax is that it is easy to convert and, in some instances that is probably the case. However, there is nothing in this measure that will insure the availability of the amount of coal that will be necessary for this conversion to take place. There is no guarantee that

we can get the coal out of the ground at the levels that will be required nor is there any incentive or provision for the transportation of this coal to its ultimate users. Testimony before the Ways and Means Committee indicated that there is a shortage of railroad cars for the transportation of coal today and there is a general need for the updating of track and roadbeds so that the coal, if it can be extracted from the ground, can be properly moved. In the absence of such provisions the idea of a users tax on businesses which do not convert is punitive. There is little concern on the part of those who advocate this conversion for the practical physical difficulties of storing coal or of the environmental concerns which will be raised by its burning. These are serious issues and have failed to be addressed in this legislation.

Also, I question the wisdom of a crude oil tax which, when combined with the users tax, will raise the price of domestic oil above the world price. It seems to me that this is an invitation for the OPEC countries to simply raise their prices—a move clearly not in our national interest Also it is difficult to understand why the administration is so concerned about any attempt to include production incentives in this measure. If we are to have the energy we need in the future we must recognize that spreading of the scarcity will not provide it. Rather we must take positive steps to insure that our vast reserves of oil and gas and coal are properly developed. In addition we should do everything possible consistent with safety and environmental concerns to develop our nuclear capacity as the Western European countries and Japan are doing so that we will not continue to be dependent on the importation of foreign oil.

Unfortunately this bill is a rejection of the idea that we can produce our way out of this crisis. I could not disagree with it more. In looking backward it is a direct affront to the American spirit to get ahead and to the extent to which it is only half an energy policy it will prove to be one of the unfortunate pieces of legislation ever considered by any Congress.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, the legislation now before the House (H.R. 8444) is officially cited as the "National Energy Act" by its proponents. But I would submit that this bill as currently drafted should, and could, be more aptly referred to as the "Omnibus Tax Increase and Redistribution of Earnings Act of 1977."

In support of this statement I would commend to my colleagues the Congressional Budget Office's estimate that passage of the so-called National Energy Act would result in an increased tax burden of $73.6 billion by 1985 causing the average American family to pay an additional $1,050 in taxes over the next 8 years.

Economic studies have projected that implementation of the administration's energy plan will directly and indirectly cost the American people $380 billion by 1985. It does not matter whether we tax petroleum products at the wellhead or at the service station pump. The American people will, as usual, end up footing the bill which will be in excess of $5,000 for each American family.

It seems that those responsible for bringing this legislation before the House at this time, want an energy bill passed now—regardless of its merits. So next week we will be able to go back home and be able to tell people that we in the House have passed an energy bill and everything is taken care of. It will be a splendid example of the form-above-substance type of legislating which has been the rule, rather than the exception, this year in Congress.

Consider if you will, Mr. Chairman, the always controversial, but unpopular Federal gasoline tax. Initially, the President sought a 5 cents per gallon increase in this tax together with language which would have provided for more or less automatic yearly increases. The Ways and Means Committee of the House wisely rejected this, and it should have been a dead issue.

As you may know, the Federal gasoline tax was scheduled to decrease from the current 4 cents per gallon to 1½ cents per gallon in 1979. The bill before us would have frozen the tax at 4 cents per gallon. Then along came the Ad Hoc Committee on Energy and decided to levy an additional 4 cents per gallon tax. The crude oil equalization tax which will be imposed at the wellhead, will add another 5 cents to 7 cents per gallon to the cost of gasoline.

Columnist Patrick J. Buchanan has noted that a Federal gasoline tax is probably one of the most regressive forms of taxation. Increasing the direct Federal gasoline tax from 4 to 8 cents would simply mean that an additional $5 billion would flow into the Federal Treasury at the expense of American consumers. This tax increase will most adversely affect those who are least able to pay it. Particularly hard hit will be residents of the midwest and the rural regions who are not able to take advantage of mass transit systems.

Quoting from Mr. Buchanan's column,

> The tax is regressive in that it drains off billions annually from the productive private sector into the generally nonproductive bureaucratic sector. Carter apparently intends to balance his budget by 1980 by sticking his taxpayers with a higher bill.

That is what I mean when I say that this legislation is redistributive in nature.

All Americans should, by now, be aware of the harsh reality that in the future we are going to pay more for energy. Two years ago there was a proposal before Congress which would have allowed the increased costs of securing energy to be passed on by the operation of the marketplace. The free market system, which most of us supposedly subscribe to, would have been allowed to operate. At that time there was a tremendous hue and cry from the other side of the aisle. Now we are told that the only way to decrease consumption and conserve energy is to do so legislatively. The same people who were opposed to free market increases in energy costs 2 years ago are the very ones who now want to increase energy costs by taxation and legislation.

An amendment will be offered which would provide for the gradual deregulation of natural gas prices. I support the concept and will vote in favor of the amendment, particularly if it is married to an excess profits tax. This may mean short term increases in the price of natural gas; but it will insure that there is natural gas available to heat homes and supply both commerce and industry in the long run. It boils down to a question of doing something now or not doing anything. The latter course of action would be disastrous for the American people and the United States.

This is a bad bill. It emphasizes conservation through taxation, and gives only lip service to increased production. Certain amendments will be offered which, if adopted, would enable us to cut the losses of the American people. I hope that my colleagues on both sides of the aisle will listen to and carefully consider the arguments, facts, and figures. A matter such as this of overriding national import should be decided not on rhetoric which, unlike energy, is cheap; rather, let us do what is best for the American people.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, President Carter's bill, H.R. 8444, as before us today, will intensify our energy crisis. I rise in opposition because of its staggering taxation load and the bureaucracy it establishes to overpower our normal energy development.

President Jimmy Carter has put the full powers of the Presidency behind the passage of this energy bill. The Democrats showed the party strength behind the bill when they voted it out of the Ad Hoc Committee on Energy 26 to 14.

I realize that as Republicans we are outnumbered 2 to 1 in this House by Democrats. I realize that the full weight of the Democrat Party is pushing this bill through Congress. But for my colleagues who are independent and will weigh H.R. 8444 with an open mind, I ask them to weigh these factors.

This H.R. 8444 is a heavy, 580-page book. Few Members of Congress understand what is in it. In fact, I will dare say that out of 435 Members, I doubt if 43 of them actually have a full comprehension of what is in the bill. It should have been brought to the House in 10 different specialized bills instead of this overloaded, complex, and confused document.

This bill represents nine dogs and one wildcat, but it comes before the House as one bill, and we have a tiger by the tail with this H.R. 8444.

This bill, this 580-page book, covers everything from a bicycle study to corporate directorates, newspaper advertising, labels for automobiles, how to price electricity, and tiers for oil and gas.

The bill does not face the major economic fact of our energy crisis, and that is the imports of oil. That is our major fact on energy. This year America will pay $45 billion for imported oil. This has risen from less than $5 billion for im-

ported oil in 1972. Just realize that—$5 billion to $45 billion in just 5 years.

If we will take the 8 years that President Carter stipulates for the energy program, this means that the oil imports will cost America more than $360 billion by 1985, and it means the loss of 7 million American jobs.

The bill does not provide a plowback tax credit, and a plowback tax credit is the device we could use to enable American producers to produce here at home the oil and gas that is needed within America.

Let us consider the lack of balance that Congress has in financial planning. Congress has appropriated $10.6 billion for a new Department of Energy. Now, for $10.3 billion the oil producers in America each year drill all the new oil wells and they drill all the new gas wells. They lose $2.3 billion in drilling dry holes, they rework over 500,000 old oil and old gas wells, they pay $1.6 billion to lease acreage, and they pay out $1.5 billion in leasing equipment. Everything they do in the entire oil industry in drilling for oil and gas comes to $10.3 billion.

This bill, through tax credits, could have increased our annual $10.3 billion drilling effort so that we could reduce this $45 billion we send each year to the Arab OPEC group.

H.R. 8444 is a heavy tax bill. The Carter bill plans to get 5 cents a gallon more from every automobile owner. They also have a tax on larger cars.

But the heavy tax is on old American crude oil. This American oil which was discovered prior to the 1970's and is now under price control at $5.16 a barrel will be taxed to raise the price up to the $14.50 a barrel, which is the price that Americans pay the Arab OPEC. The tax is on Americans. This assesses no tax on Arab OPEC oil. The income will be distributed on some share-the-wealth plan, however it works out.

Gas will also be a most serious problem as a result of this bill. Price controls have caused the gas shortage, and yet this bill legislates and regiments price control. Oil and gas is the only commodity in this country under price control, and never in peacetime history has price control worked.

Gas sells for one-half of what it costs for coal. Let us take crude oil. It will usually sell for six times the price of gas. With world oil selling at $14.50 a barrel, gas should be $2.41 an Mcf.

This bill pushes strongly in the direction of socialistic legislation. One of its worst features is the overriding of intrastate supervision of gas within a State. This law will make a dictatorial Federal Government even more dominant with centralized control.

The planners who advocate absolute Federal controls have written the provisions governing electric utilities. This law would mandate full control to Washington for allocation by interconnection of all the electricity in this country. It would provide Washington with the final say in all ratemaking.

This bill does not seem cognizant of the burdens Congress has already placed on industry and on the utilities. Scrubbers for powerplants, just to mention one item, will cost over $50 billion. Water pollution controls that are already being implemented will cost $300 billion, and the question of their need still goes unanswered. EPA and OSHA can mandate another $400 billion with the regulations Congress has provided for them. We have a clean air bill that is in conference right now, and it will probably require another $100 billion.

Taxation and inflation have severely limited capital funds for industry. From 1950 to 1970 the American economy enjoyed a real growth rate of 4 percent, but in the 1970's that growth rate has dropped to 2.3 percent.

Congress should realize that all these environmental and bureaucratic control requirements are nonproductive and are using up all of industry's capital funds while increasing the costs of manufacturing the product.

One of America's greatest Speakers of the House, one of the greatest statesman of all times, Sam Rayburn, said, "When in doubt, don't."

You should have plenty of doubts on this bill, so do not vote for it.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, it was my understanding, if I can obtain the attention of the gentleman from Ohio (Mr. ASHLEY), that the gentleman from New Jersey (Mr. HOWARD) stated that we would have an opportunity to vote on the so-called gas-guzzler tax. Perhaps I misunderstood the gentleman from New Jersey, but it is my understanding that under the rule, there will be no opportunity to vote on the gas-guzzler tax; is that correct?

Mr. ASHLEY. If the gentleman will yield, Mr. Chairman, the gentleman is right.

Mr. ICHORD. Mr. Chairman, that reason and that reason alone would be enough for me to cast my vote in opposition to H.R. 8444.

Rather than use the term "tax on gas guzzlers," I would prefer to use the term "tax on the family car," because what is a more efficient carrier of passengers? Is it a family car or a gas guzzler—if we want to use the term—that will get 15 miles to the gallon and carry six passengers, or is it a car which is more efficient and gets 30 miles to the gallon but only carries two passengers?

Mr. Chairman, this reason alone, as I stated previously, is sufficient cause for me to cast my vote against H.R. 8444, particularly when we do not have the opportunity to vote on the issue.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield further, I would like to point out to the gentleman that the proposal that was received from the administration and referred to the Committee on Ways and Means provided for a tax on inefficient cars that was much more stringent than the one which was reported by the Committee on Ways and Means.

It was that committee which after considerable testimony found, as the gentleman has, that the proposal contained in the national energy plan would, indeed, impose a burdensome tax on the family car.

It was for that very reason that the Committee on Ways and Means, I believe with the support of the minority as well as the majority, structured the tax in a way that imposed no tax on model cars achieving less than the fleet average. Therefore, for example, in 1979, when the tax takes effect, the tax will kick in some 4 miles per gallon below the fleet average.

Mr. Chairman, let me just say to the gentleman because I am anxious to at least have him keep an open mind that as far as support of H.R. 8444 is concerned, this was done and this provision was ratified by the ad hoc committee having in mind the very concerns which the gentleman has expressed.

I simply wanted to make sure that the gentleman understood the rather considerable changes that were made by the Committee on Ways and Means with respect to the provisions contained in the administration's proposal.

Mr. ICHORD. I appreciate very much the efforts of the gentleman from Ohio (Mr. ASHLEY) to ameliorate the burden upon the family car owner.

I must also state I very much appreciate the tremendous problem which the gentleman and his committee, and all of the standing committees who contributed to this legislation faced in considering the issues surrounding our so-called energy crisis because the myriad of issues surrounding the so-called energy crisis are, indeed, complex. This is a complex piece of legislation and the rule is even complex. But I am deeply concerned that the committee did not see fit to move in a more positive direction toward the reestablishment of the principle of the free enterprise system and the law of supply and demand and the price in the marketplace, to eventually solve our energy problem. Because I believe that is the only way that we will eventually ever solve the so-called energy crisis.

I consider the bill too long on conservation and entirely too short on incentive toward bringing new energy sources into being.

I will state quite frankly that I fully believe there is no energy shortage in the United States of America. It is a contrived crisis. True, there is only so much oil under the ground in the United States and only so much offshore and I am quite sure that some of the big oil companies have held back on the production of oil.

I am also positive that we have ourselves to blame for this so-called energy crisis because we are using up oil at a fantastic rate.

The last time I looked at the figures we were gulping oil at the rate of 17.1 million barrels a days. I also believe very strongly that the greatest entity at fault is probably the Federal Government because there is no shortage of energy. Energy is all around us. Quite a bit of energy has been expended today. I am expending some right now. I do not know how much of a contribution I am making and I do not know how much contribution has been made by the speakers before me, but there is an abundance of energy everywhere, in the farmer's barnyard, in your sewage, geothermal, solar, wind, shale, coal, nuclear and so

forth. We should be building all of the nuclear plants we possibly can. I greatly deplore the decision to stop the breeder reactor. Then there is hydroelectric power, and I have already mentioned oil and gas. But I am adamantly and irrevocably opposed to that portion of this legislation which proposes taxation as a means of conservation. I believe that the proposal of using taxation as a means of conservation parallels the great mistakes of the 1930's when we tried to bring ourselves out of the depression by destroying hogs and cattle even though millions of Americans were on the verge of starvation.

The energy shortage of the United States should be solved by the use of the free enterprise system, the law of supply and demand, and prices fixed by the marketplace. One of the greatest criticisms that I hear of the free enterprise system is that it frequently overproduces. Why, then, do we not move toward—and I know we cannot move toward it immediately—a more positive direction to use the free enteprise system to solve our energy shortage?

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentlemen from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

The gentleman was not here when I was asking the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), about this gas-guzzling tax, when it will start, what it would be at the beginning, and how it would go. Had he been here, he would have heard him say that by 1985 on a car that uses much more gas than those who are in power think it should use, the tax could go as high as $4,000 per car, which we call a family car—$4,000.

Mr. ICHORD. Let me state that I think this strikes at the very heart of what America is all about. If the gentleman from Tennessee wants to eat cornbread and beans—and I think cornbread is still pretty cheap and I think beans are still pretty cheap—and drive a Mark IV Lincoln Continental, if the gentleman from Tennessee wants to eat caviar, drink champagne, eat high-priced beef and drive a Honda, that is his privilege. I do not think that we are going to solve the energy crisis by such things as a so-called gas-guzzler's tax or a family-car tax, whatever one wants to call it. I agree with the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, the last three Presidents of the United States have given the Congress a tremendous challenge, that is, to adopt a workable national energy plan. We have been striving for the past 3 or 4 months to adopt such a plan. The American people are ready to make sacrifices in order that they might be sure that they have an energy supply that will take care of their industries and their homes and family needs. The product that we have come up with, however, has totally failed the American people in a solution of their problems. When they find out a few years down the line that they have spent $350 billion by 1985 as a result of this legislation and still we have taken no positive steps forward in solving our American energy problem, they are going to be totally disillusioned, and it is going to be difficult to get a plan at that time that makes any sense.

We have a great opportunity over the next few days of changing this plan around so that it will produce energy. At the present time it produces taxes, it produces bureaucracy and redtape, but it produces very little energy. If we start from the beginning, we go into the work that we are asking the American people to do on their homes. Surely that will conserve some energy if they do the work that we are asking of them, but it is not going to solve the problem of supplying the energy for our plants and factories to keep our free-enterprise system going in this country.

If we bring about a tax on gasoline and on the production of oil under this legislation, but that money does not go into the production of new energy and goes into a redistribution plan, it will do nothing toward solving America's problem. We have seen since 1973 that as the price of gasoline has gone up, the use of gasoline has also gone up.

Because there is no alternate fuel taking the place of gasoline or oil derivatives for the operation of our motor vehicles, the rise of prices has not cut down on the use of the product.

I think our legislation that we passed last year or the year before in which we told the major motor car companies that they had to reach certain standards as far as fuel efficency goes much further than any gas guzzler tax that we are putting on the use of larger cars in this Nation. The companies will reach those goals, required under present law, but any kind of tax we place on the larger cars will do very little good because there are many people in this country who have the money to pay additional taxes and they will not cut down their use because they can afford the extra costs. Under the tax scheme it is only the poor who would be adversely affected. Under the present plan we give the people of the country no alternatives, no new way to look into new kinds of automobiles that will use less gas and less oil.

In the field of natural gas we can cut down use by higher prices because gas is in competition with coal, oil, and other energy sources. If we allow gas to go to the free market price, we have been told by Mr. Johnson, the Assistant Administrator of ERDA, that we can have all the natural gas that America needs over the next 50 or 60 years. This we are told by the Carter administration, and yet the program we follow is one that is restrictive, that takes taxes off of the use of gas, but it gives nothing to the producer and does not encourage the producer to produce more natural gas for our Nation's needs.

Many people say if we raise the price to $1.75, artificially fix a ceiling, it will solve the problem. It will not. The money may be there. That may be a higher price than we would pay if we had a free market, but with the Government stepping in and setting a ceiling the companies will not go out and spend the billions of dollars necessary to bring in the deep gas that is available for America's use. They will not take a gamble when there are Government ceilings that are sitting there.

If we really want energy at a reasonable price in this country, we have to get off of the artificial Government ceilings that have been established over the past few years. They have been a total failure. If America is willing to pay a reasonable price over the next year or two until there is some kind of stabilization and we start developing synthetic fuels, and we bring in LNG if it is necessary, and we start developing the coal fields, we can get the products we need at a reasonable price.

But with artificial goals set, our major companies will still go to natural gas if they feel it is the cheaper fuel, and they will slow down on going to coal and other forms of energy, and America will still be in the same difficult position that it is in at the present time.

Under this legislation we encourage the American people, we say to go to coal, but at the same time we impose upon the American people tremendous redtape that is not necessary for this program. For instance, we tell the people of California and other areas that cannot use coal in their factories and plants, that there is going to be an extra tax on other forms of fuel if they do not convert. There is no way they can convert so they are going to pay a tax and there is going to be no possible benefit to them or to the country in raising that tax.

We also tell the people of the country that if ERDA uses its power to declare large areas of people—and they can be divided in many ways—that they must convert, it is up to each company to show that they have an exemption that they can use.

Thousands of them have exemptions that they are given under the law, but they are going to have to go to the Federal Government and prove those exemptions or else they and their companies are going to be restricted in what they do and in their uses.

Now, it is true that under the bill we have ways that they can have these restrictions withheld until they have had a hearing on their exemptions; but they are going to be artificially restricted from any expansions, from any hirings, from any changes in their processes, until these determinations have been made and it will result in the lost employment of perhaps hundreds of thousands of American people.

Mr. Chairman, let us get a workable energy plan. Let us develop more energy for our country. Let us make our Nation free of the OPEC nations and the controls that they have on us.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, let us take those steps that are necessary then. Let us give Americans a plan that will work, that they will not

be disillusioned 2 or 3 years down the line or 5 years down the line.

Let us be proud of the product that we put out and let us serve the American people.

Let us make the changes that are necessary in this legislation in the time that is left, so that we can go back to our people and say, "Yes, we have solved the energy problem of this country."

Mr. ASHLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 8444, the National Energy Act. I do not do so in the belief that this legislation is perfect, for it is not. Rather, I do so in the conviction that this bill does represent a major step forward in developing a national energy policy—a task of the utmost national urgency.

This legislation reaches the floor of the House after lengthy and detailed consideration by five standing committees and the Ad Hoc Committee on Energy. I have had the opportunity to participate in this process as a result of my membership on the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce.

Mr. Chairman, as we look at this monumental 580-page document before us, I believe it is essential that we look back to the principles articulated by President Carter in his presentation of the original legislation to the Congress. In the booklet entitled, "The National Energy Plan," in accompaniment of H.R. 6831, he stated:

> Above all, the United States must solve its energy problems in a manner that is fair to all regions, sectors and income groups.

I repeat: Above all, it must be fair.

It must be noted that the legislation before us does contain inequities; as for example, section 2071, which provides a permanent exemption from even a minimum tax on intangible drilling costs. This represents a sizable windfall for a tiny sector of one income group. I regret that we will not have the opportunity to strike this unfortunate provision.

Nonetheless, in its fundamental elements, this is a fair bill. As we look to the major issues we will resolve on the floor in the coming days, one must note that we will be presented with a series of opportunities to strike that fundamental fairness from our national energy policy.

We will be presented with two opportunities to enact a regressive gasoline tax for which no conservation claims are made. I oppose both amendments.

We will be presented with the opportunity to deregulate natural gas, both by specific amendment and as a part of the Republican substitute. We will also be presented with the opportunity to rebate some of the crude oil equalization tax—not to consumers confronting higher prices, but rather to the producers themselves.

In urging rejection of these income redistribution schemes—redistribution, that is, from the pockets of American consumers to the pockets of the major oil and gas companies—I call to the attention of my colleagues the excellent and concise analysis contained in the report of the Committee on Interstate and Foreign Commerce on this National Energy Act:

> Because consumption of these fuels is central to the health of the Nation's economy, allowing price increases which do *not* produce additional supplies would *not* be sound policy. Such price increases would be inflationary, while simultaneously imposing recessionary pressures by reducing the level of consumer dollars available to purchase other goods and services, other than essential energy supplies.
>
> . . . the legislative program recommended by President Carter seeks to implement such an energy policy.

Mr. Chairman, the alternatives we will consider seek to implement the antithesis of such an energy policy.

Mr. Chairman, this bill will not be the first piece of energy legislation to be passed, nor will it be the last. But it does represent the first effort to establish a comprehensive energy policy. The President described the cornerstone of his policy as the development of our Nation's cheapest and most readily available energy resource—conservation. I for one wish that call for conservation were stronger and believe that we will have to return in the future to add that strength. For now, what is essential is that we take that first step, pass H.R. 8444, and in passing it be sure that we say no to those who seek an energy policy that is not "fair to all regions, sectors, and income groups."

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 12 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, time is growing exceedingly short for the House of Representatives to show the American citizen that we deserve their respect and confidence. We begin today the consideration of the so-called National Energy Act of 1977. At this moment, with the exception that this bill will have very substantial national impact, it is not and cannot legitimately claim to be national energy legislation.

Even though you and I will be considering the bill under a "gag" rule that effectively disenfranchizes the Members of the House and, thereby, our constituents, we do have a limited opportunity to correct several serious and potentially fatal flaws in it. We have the opportunity to adopt several important amendments. We do have the opportunity, if each Member of the House gets up the courage to vote his conscience, to defeat the bill if corrective amendments are not adopted. The choice is up to you.

Frankly, the bill reported by the Ad Hoc Energy Committee amounts to outright consumer fraud. If a merchant had advertised a product in the glowing terms that this energy bill has been advertised and then offered to the consuming public a product as shoddily put together and incomplete as this bill is, he would be guilty of blatant "bait and switch" tactics. This bill bears little resemblance to the general claims of praise about it that have been presented to the press and the public at large.

With a few exceptions that I will note in a moment, the provisions of this bill insure we will not meet our national energy goals, insure increased financial and procedural burdens for the public—producer and consumer alike—and, insure a substantial erosion of our liberties and freedoms.

I do not believe nor intend to imply that Members of the House deliberately set out to accomplish such a result. I personally believe that all of the individuals associated with the preparation of this legislation have acted with the best of intentions.

The problem is, this bill bears as much resemblance to those intentions as Dr. Frankenstein's monster did to the original objectives of his experiments. And, make no mistake about it, this bill is a real monster.

There are many general problems with it, but I want to direct your attention to just a few blatant ones. In the so-called utilities section, the operating presumption of the bill is based on the Napoleonic Code theory that a utility is presumed guilty until it can prove its innocence. Title I gives the Federal Energy Administrator the authority to presume guilt, in this case for "failure" to implement a federally ordered residential energy conservation program and it requires the Administrator to fine the offending utility regardless of whether or not there has been any finding of fact. This provision doesn't even maintain the quaint fiction of other statutes than a utility is dealing with a rebutable presumption.

While such an approach is fully consistent with the authoritarian, nationalized tone of the bill as a whole, not one shred of evidence was produced to show that it is necessary or justified to do away with the Anglo-Saxon legal concept that innocence is presumed and that the burden of proof lies with the accusor.

The Congress should be fully aware that in passing this bill with such provisions in it we are taking a legal and policy stance that is contrary to our Constitution and national experience.

To my deep regret, this energy bill not only continues most of the Federal regulations and controls developed over the last 30 years but it also greatly increases them. The proponents of the bill blithly assume that current regulation and control do not have anything to do with the energy crisis. What is more, they presume that any workable, fair solution cannot be achieved without increased regulation and control.

I find this to be an amazing presumption. Most of the original committees of jurisdiction over this legislation received massive amounts of testimony and expert analytical studies by OTA, the Congressional Research Service, the GAO, and others, which clearly indicate that arbitrary and inflexible regulatory controls significantly contributed to the current situation. History as well teaches that price, supply, and demand are directly related. Basic economics teaches, unless it is based on Marx, State capitalism or authoritarianism, that the arbitrary setting of price will directly affect the degree of consumption and supply. Experience over the last decade clearly reveals that as resources become more scarce, more difficult to locate and produce, and as required technologies become more expensive, arbitrarily lowered and con-

trolled prices encourage overconsumption. They also discourage increased exploration, development, and adoption of expensive technologies. As a matter of fact, it is artificially controlled low pricing of energy that is in the main preventing the adoption of synthetic energy technologies and the production of more inaccessible fossil energy resources.

This bill not only continues price controls, although it does permit an arbitrarily determined increase, but it proposes to extend these controls into the intrastate area as well.

In addition, general Federal regulation and control is extended. For example, governmental entities are put in the business of establishing lists of businesses that consumers can use, if they want to have their insulation improvments qualify for tax credits. Not only does this bill fail to deal with the problem of business discrimination that is inherent in this approach but also there is no remedy for any injury that could occur from being left off. If any of my colleagues are under the delusion that an errata sheet can be effective and compensate for loss of revenues or competitive position, I urge them to talk to the victims of such errors that have been perpetrated by OSHA, EPA, and others.

Several companies have gone out of business, filed for bankruptcy or been irreparably harmed as the result of Federal "lists." And, every Member should understand that in the main the businesses involved will be small with little ability to absorb loss of income or reputation.

Make no mistake about it, underneath the velvet glove of energy conservation is a mailed fist of arbitrary, capricious, callous Federal regulation and control.

Finally, as an individual Member of the House, I must protest the manner in which this legislation was ramrodded through the ad hoc energy committee and brought to the floor of the House.

All, I repeat all, of the members of the committee were promised by the Speaker and the leadership that the legislation would be openly and fairly considered. The committee was assured that all points of view and concern would be considered. Such was not the case. Almost all amendments were developed in Democrat caucus. They were presented to the Republican members of the committee either immediately before the committee took them up or as they were being offered. No serious consideration was given to other amendments. The votes for the most part followed strict party lines. It was a roughshod approach to legislation.

The vitality of our political system and of the parliamentary rules that govern the House depend in large measure on insuring that majority tyranny does not control events. Legislation developed under such circumstances has not been open to meaningful criticism and it cannot legitimately lay claim to being truly national legislation.

The rule under which we are now operating permits the full House to consider only those amendments adopted by the ad hoc committee and those few specified in the text of the rule.

Individuals who did not serve on the ad hoc committee or who are not named in the rule are prohibited from offering any amendments.

Such a circumstance makes a lie of the label many Members of the House would like to have apply to this Congress: The sunshine Congress. We are disenfranchised from full participation and, as a result, so are our constituents.

Fortunately, in a strictly partisan sense, I am glad this is the case, because the Republican Members of Congress will not have to bear the certain burden of defending before the Nation the effects this bill will have. The blame for higher prices and taxes Americans will have to bear will not be ours. The blame for increased Federal control of our institutions and our lives will not be ours. The blame for lost opportunity and misguided effort will not be ours.

I am, however, deeply saddened by the fact that it is all the American people who will have to pay the staggering price the bill will demand of them.

Mr. Chairman, there are several specific provisions of this bill that I find particular disturbing.

First, the ad hoc committee voted a 4 cents a gallon additional tax to be paid by all consumers at the gas pump. In the debate on the amendment, its proponents admitted the increase would have negligible conservation impact. They did admit it would raise substantial revenue, possibly as much as $40 billion by 1985. They admitted the real motive behind the tax was to raise revenue, no more no less. I have consistently opposed such a tax as being unnecessary at this time and as being patently unfair because it will hit hardest those citizens who can least afford to pay. Unfortunately, the House will not have the opportunity to do anything about the provision.

Second, the committee chose to add an additional 4 cents a gallon tax to general aviation fuel. This segment of our society uses planes for business-related purposes 75 percent of the time and accounts for less than 1 percent of the fuel consumed in the Nation. Such a tax on an industry that has one of the best energy efficiency records in the Nation is clearly not intended to encourage conservation. Once again, its motive is to raise revenue. And, once again, the American public will pay the price for such increases in the goods and services they buy.

The provision on Federal van pooling is a farce. In the first place, it puts the Federal Government in the business of providing "free" personal transportation for Federal employees. No evidence was produced to show that private enterprise jitney services could not do the job. No evidence was produced to show that federally sponsored van pooling is the most cost-effective, energy efficient way to go. The proposal would permit private, personal use on weekends with accounting methods, responsibility for repair, insurance, and other questions unresolved. It frankly makes little sense to force the executive branch to give up its limousines, which cannot number more than 300, and then deliberately opt for 6,000 vans that are subject to notorious fuel efficiency problems.

The decision to repeal the deduction for State and local gasoline taxes is equally ill advised. State and local governments depend on such taxes to finance roads, schools, and other basic programs. If a loss in revenue continues, and it is obviously the intention that this provision will encourage a reduction in gasoline purchases, then local units of government will be even harder hit than they are now. And, once again, taxpayers will be hit regardless of ability to pay.

There are many other provisions that should not be adopted by the House but I have no illusions about the probability of such an event.

The bill should contain natural gas deregulation provisions. It should contain provisions which deliberately aim to stimulate all forms of energy production. The bill should deal with the coal transportation and supply problems that will accompany the coal conversion program. The conflict between the coal conversion provisions and the clean air standards should be resolved. And, the bill should generally give the free market the opportunity to show what it can do.

Instead, we have a bill that as far as I am concerned is anti-consumer. We have a bill that is in large measure a tax raiser, a revenue raiser for the Federal Government, with no guarantee that the revenues will not be used to fund new, additional Federal programs having nothing to do with our energy situation.

I hope the House will see fit to amend this bill to the maximum extent the rule allows. I also urge my fellow colleagues to defeat this bill.

The Nation deserves better. The House is capable of producing better legislation. This energy crisis will not be solved by half-measures that rely on increased Federal regulation and control and taxes. Failure is in store if that is the route we insist on taking.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, the National Energy Act has much to commend it, and the citizens of our country want to do something about the elusive phantom, the energy problem. But what is it we are trying to do? What will we accomplish if we enact this hefty bill?

The President and his advisers tell us that we will be saving a great deal of energy through this program. But the General Accounting Office and the Congressional Budget Office tell us that the projected savings are overstated.

We are told that portions of the bill will give new incentives to the producers of domestic oil and gas. But producers say otherwise.

We are told that this is the moral equivalent of war—but against whom?

We have had only a very short time to study this bill, and to study the recommendations of the Ad Hoc Energy Committee, and those few amendments that have won the blessing of the Rules Committee. In the time that I have had, however, my general conclusion is that the bill suffers from a fatal confusion of objectives. It goes in too many opposite directions at the same time, and so leaves us in danger of going nowhere.

Is the objective to bring about some reasonable degree of American energy

independence, so that we are not so overwhelmingly dependent on imported oil? If that were so, conservation measures would have to be far more stringent than anything in the bill, and there would be far more incentives in the bill to spur domestic production of oil and gas. My reading of the bill shows some commitment to conservation, but no real incentives to add to domestic levels of production.

Is the objective to decrease the power of the oil cartel, perhaps even to break up its ability to demand any price that comes to mind, and enforce that demand? If that were the case, we would hear much more about the need to conserve, and much, much more about the importance of the proposed strategic petroleum reserve.

We hear that the bill will accelerate conversion to coal, thereby saving oil and gas. But there is no evidence that industry would move any faster, under this bill, than it is today, to convert to coal. I cannot think of a single major energy user that has not taken, or committed to take, every possible action to convert to coal at the earliest feasible time.

The bill would raise fuel costs to consumers, but then rebate many of these increased costs. One version of the Energy Act continues the gasoline tax at present levels, the ad hoc committee recommends a 4-cent increase, which I thought was the administration bill, but now the Department of Transportation is lobbying for a 5-cent tax addition. What is it that the plan calls for? An 8-cent tax or a 13-cent tax? We are faced with a Dutch auction here, in which nobody knows what the bids are, but everybody is supposed to get a piece of the action, if his guess is at an acceptable minimum, to be determined sometime later.

In any case, we all know that the proposed gasoline taxes would not really conserve any significant amounts of fuel, gasoline is one of those commodities for which there is an almost inelastic demand. The result of the gasoline tax provision will be to raise revenues, but not to conserve energy; and the tax on motor fuels like diesel will be to raise the general level of inflation, which the administration wants to see go down. On the whole, the fuel tax provisions make sense only as revenue raising devices of the most regressive possible kind—the kind of taxes that I have always opposed.

If we are to have anything like a trade balance or trade surplus at any time in the foreseeable future, we have the choice of reducing oil imports or reducing the price of oil. The choice the bill makes is to more or less stabilize oil consumption. But the oil cartel, OPEC, can unhinge the whole savings or economic stabilization effect that this would have, simply by kicking prices up once again, as they have the power to do at any time .

The only way the bill addresses this problem is to set up a strategic petroleum reserve, which would hopefully give us some defense against an embargo by OPEC. In itself, the reserve is a good idea, badly needed. The very existence of the reserve might help break up the cartel itself.

For so long as the cartel has the economic initiative, nothing that we can do by way of stabilizing import demand will enable us to realize any economic benefits from such a program.

Not only our own economic well being is at stake: the whole world, rich and poor alike, finds itself being strangled by the cost of oil. The oil-producing countries are taking in vast surplus revenues that they cannot possibly dispose of. As their money piles up, no way exists for others to earn the money back—for what they cannot spend, no one can earn. Inflation thus builds up, for currencies in deficit depreciate inevitably; and the consequence of that is that the cartel wants to raise prices again, which only exacerbates the whole problem.

If we could buy oil in only those countries that can dispose of their oil revenues, we might be in a better economic situation. Is that an option that is available, or even potentially available? If a policy of that kind might help destroy the power of OPEC, should we not pursue it? But the plan is silent on this critical economic point.

There is no way that I, or any other Member, could fully weigh the energy plan envisioned in this bill, in one short statement. I cannot even cover all my major concerns. But it is essential to say this: if we are to enact what the President is pleased to call the moral equivalent of war, we must be certain of the enemy.

In this bill, we are largely fighting against ourselves—consumers against producers, spenders against savers, Americans against Americans. But we are not the real enemy.

It may be that we need to change our pattern and extent of energy use. I think that most of us realize that, and I believe that the country is far along in that process. To the extent that we can encourage and help people to make changes and adjustments, this is a good and worthy bill. No one can quarrel with provisions that assist homeowners in saving energy, or require higher efficiency in various kinds of products, or penalize energy uses that are patently wasteful.

But the bill fails to have any underlying purpose, with respect to the larger economic problems—the very problems that are central to the whole issue. And those economic problems—domestic pricing, the trade balance, the dependence of the country on foreign sources of energy—are bound up in one question—what to do about the power of the oil cartel.

The bill is nearly silent on that, except for the implicit strategy of the petroleum reserve. But in dealing with the power of OPEC, no implicit weapon is enough. There has to be some kind of explicit commitment. We have the choice, in dealing with OPEC, of submitting to its power, or becoming independent of it, or of attempting to diminish that power. This bill does not address any one of those choices. In that sense, it is no answer at all.

It would be one thing to tell Americans that there is an energy crisis, in the sense that we must become independent and make sacrifices to do that. It is another thing to tell our people that there is a crisis that we are not really dealing with, but that sacrifices have to be made anyway. I think that our citizens will only become disillusioned if there is no clear purpose for the sacrifices called for in this bill. Let the goal be clear. Let the means be adequate. But do not fail to set goals that people find reasonable and necessary. A free people will find enough sense of purpose and strength to reach such goals. This bill does not meet that crucial test. It does not have a clear goal and does not have within it any real unity of purpose. I am disappointed by it, and find enthusiasm for it only among those whose job is to sell it, and whose interests will benefit from it. That is too narrow a base to conduct a great national policy from.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, I want to take a moment to explain to the House the process fuel exemption from the excise tax levied on business use of oil or natural gas. Although it is not now subject to an amendment, it is important for Members to understand how it will work and what it seeks to do.

The House Ways and Means Committee approved legislation which would impose a tax on the business use of oil and gas. The legislation would, however, exempt various uses. Among these would be "process use," defined to mean:

. . . The use of oil or natural gas in any manufacturing process where there is no substitute fuel—

(A) which may be used without materially and adversely affecting the manufacturing process or the quality of the manufactured goods, and

(B) the use of which is economically and environmentally feasible.

A substitute fuel such as coal would have to meet both tests in (A) and (B) or else the tax would not be levied. It is important to note that the exemption for "process use" does not include use in a boiler or in a turbine or other internal combustion engine, so that the exemption from tax would not apply to those uses.

This exemption is consistent with the President's proposal to tax those uses of oil or natural gas which can readily be converted to coal or some other substitute fuel. The tax seeks to promote such conversion to coal. It recognizes, however, first, that there are some uses of oil or natural gas where the characteristics of the fuel are essential to the process and substitution is not feasible, second, that these involve relatively minor amounts of oil and natural gas, and third, that it would be useless and counterproductive to tax those uses of these fuels for which there is no adequate substitute.

The uses of oil and natural gas where substitution of coal is not possible fall into a number of categories. These include instances where the substitution of coal would materially and adversely affect the manufacturing process because precise, consistent, or evenly distributed temperature control or rate of heating is vital; instances where the substitution of

coal would materially and adversely affect the quality of the manufactured goods because clean burning characteristics or other physical properties of oil or natural gas are essential to change the chemical composition of the product or to prevent product contamination; instances where the substitution of coal would materially or adversely affect the overall energy efficiency of existing energy conservation equipment such as furnace regenerators; instances where the use of oil or natural gas is required because of the nature or character of the process equipment such as, for example, where alternate fuels would corrode or damage the process equipment; and instances where oil and natural gas is required for plant protection purposes, such as to protect process equipment from damage during shutdowns, process upsets, et cetera.

To impose a tax on types of uses where oil or natural gas must continue to be used would not serve the purpose of causing a shift from the use of these fuels to the use of coal, but would simply raise costs which would be reflected in the prices of goods sold and hence would be both burdensome and inflationary for the consumer. In the case of some industries such as, for example, textiles and steel, which even at present are beset with competition from foreign imports, there may be serious competitive disadvantage. This, of course, is not the purpose and should not be the effect of enactment of the national energy plan. My amendment to exempt process uses was approved by an overwhelming majority of the Ways and Means Committee and I am pleased to note that it is retained intact in H.R. 8444.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, it is only human nature for each of us to favor those parts of this comprehensive bill that help our individual districts; and, to oppose vigorously those parts of the bill that hurt us most. Whatever is said here in general debate will probably have little influence upon these individualized choices.

Some time ago, I polled the people of my congressional district as to their feelings on this energy package and the results of that poll could probably be duplicated in any other congressional district in the Nation. Basically, the overwhelming majority of people strongly support the President's call for some form of a national energy policy. By the same poll, they are strongly opposed to various specific parts of that proposal. This leads me to one conclusion that overrides all other questions in this debate, and that is simply this: the people clearly recognize that the President is correct in responding to the absolute necessity of developing a national energy policy; and, that they are depending upon this Congress to supply the details of a workable plan. Without question, there will be many parts of this bill with which I disagree. Many of the proposed amendments, I cannot support. But, basically, I feel that the various provisions of the legislation that have been approved and passed by the standing committees of this House are supportable. It is a step in a long journey that must be taken. It is incumbent upon this Congress to take that step at this time, even though some parts of the bill will be distasteful to each of us.

Mr. Speaker, we are fast approaching the time when we will have substantially depleted the traditional energy sources of this great Nation. The real question before us is not which plan or proposal will intensify this depletion, however comfortable this might appear for the short run, but which plan will best serve the future generations of this great Nation. In my opinion, it would not be in the best interest of our people to encourage an immediate withdrawal and consumption of the remaining traditional energy resources, without any regard for conservation and the needs of future generations. For these reasons, it appears that the President is right in asking that sacrifices be made now in order to avoid the total disintegration of our way of life in the future. This decision must be faced now. I trust that this Congress will measure up to this grave responsibility, and produce a workable piece of legislation which will serve all of us.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Chairman, I rise in opposition to H.R. 8444. I do not oppose the concept of a national energy policy, for one is definitely needed if the United States is to protect its national security and its energy security. Nor do I oppose the energy conservation concepts embraced by this bill.

I speak in opposition to H.R. 8444, however, because it fails to consider both sides of the energy equation. While it gives dutiful emphasis on energy demand, it fails to adequately assess our Nation's energy supply capabilities. Several congressional analyses, including those by the Office of Technology Assessment and the General Accounting Office, conclude that this legislation will fall short of the energy goals established by the administration. And the basic reason this plan fails to achieve its goals is that it fails to provide adequate incentives for increased production of domestic energy, primarily oil and natural gas.

Simply stated, this legislation provides too much "stick" and not enough "carrot." Rather than increasing incentives for production of domestic petroleum, it levies a crude oil equalizing tax, which the General Accounting Office concludes will result in a $13 billion shortfall in capital formation for the producers. Rather than deregulating the price of natural gas, this legislation actually extends that regulation to the intrastate market, the only domestic energy market which has balanced supply with demand, simply because of free market forces.

Consequently, this legislation is inherently counterproductive and self-defeating. While the conservation provisions may trim the energy demand between now and 1985, domestic oil and natural gas production will decline at an increasing rate during this time period.

The consequences of failing to properly address the supply side of the energy equation can only be increased reliance on foreign energy sources. These shortfalls will have to be made up, and the only way to balance this delicate equation is with imported energy. That means the net effect of this legislation is that it will have little effect in dealing with the problems it outlines—in 1985 we will be just as dependent on outline energy sources as we are now, if not more so.

Therefore, I have no choice but to oppose this legislation as it has been presented to us. However, over the next few days I will be supporting and voting for two amendments that will deal with the critical problems I have outlined. So I urge my colleagues to keep an open mind about this bill, and to give careful consideration to the consequences of their actions on the House floor this week. At stake is our national security, as well as our economic and energy security.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. Mr. Chairman, as we begin consideration of the energy bill, and take this vital step in planning how we will meet our Nation's future energy needs, we all realize there are vital industries and segments of our economy that will merit special consideration. The foremost of these is agriculture.

The special problems of having needed fuel available for tractors, combines, trucks, and irrigation wells when it is needed often means the difference between a crop being harvested or not harvested. The timing of plowing, planting, watering, and harvesting is crucial to producing food and fiber for the consumer. The day of the horse and mule is gone, but depending on what we do here, may soon return.

Not being able to plan when the moisture is available to sprout the seeds can mean no crop that year. Being late watering a crop only a few days during the hot summer months can mean stunted growth or even loss of the entire crop. Bringing in the crops before hail, a driving windstorm, or a falling price can mean the difference between profit and disaster during harvest time.

As many of you have heard during the recent debate on the farm bill, the cost of fuel has played a major role in placing farmers in the loss side of the profit and loss column over the past 3 or 4 years. The price of their products have dropped dramatically while the costs of their fuels have climbed at an equally drastic rate. The cost of fertilizer made from fossil fuels has moved upward right along with the other costs. During some of the shortage periods, chemical fertilizers became almost impossible for farmers to find for any price.

The energy crisis to which this bill is addressed can be best understood as a problem of basic economics. President Carter is correct in telling the Nation that we must find an efficient means of allocating a scarce resource to meet the

requirements of an energy-thirsty and complicated economy.

The unique American economic system provides an excellent mechanism for performing such an allocation. This mechanism is neither new nor revolutionary, it is the "free market" system, where the supply and demand for a resource is regulated by the market price charged. Clearly, the imposition of a crude oil equalization tax proposed in this bill will prevent this traditional and proven system from operating properly.

One of the reasons for the present crisis is that Government policies have made petroleum products artificially cheap. All of us find it difficult to conserve a product which we have always viewed as cheap and plentiful. When the economic realities of our petroleum pricing policies causes the old controls to break down, shortages develop and rationing and supply restrictions—more artificial mechanisms—are seriously discussed.

This legislation includes a crude oil equalization tax which is just one more artificial economic mechanism to equate the price of domestic crude with the price charged on the world market. Why must we continue relying on artificial controls when the price movements in the free market can and would accomplish the same effect as well as provide an extremely important additional benefit.

If we allowed producers to charge the free market price for crude oil or gas, the additional revenues from such pricing would become an invaluable incentive for them to explore and develop additional supplies of petroleum reserves. In my home State of Texas there are no artificial controls on the price of natural gas sold within the State, and the developmental activity is intense. The evidence that a fair market price for petroleum stimulates development is overwhelming in the 13th District which I represent. I see no reason to believe that such activity would not increase on the national level if we had a national policy that would rely on the incentives of the free market to stimulate such activity.

Many have charged that such action would result in what is sometimes termed "obscene profits" for oil companies. Many claim that we have no guarantee that such profits would be plowed back into increased production. Jim Langdon of the Texas Railroad Commission answers this contention most expressively. He said that if the oil and gas producers make windfall profits, tax them. If they make them dishonestly or improperly, "put them in jail, but don't just assume these people are a bunch of bandits." He summarized it very well.

Conservation of petroleum resources is the announced cornerstone of the administration's energy policy. The rigidity of this reliance on conservation above all other considerations is disturbing to me. Geologists and geophysicists insist that there are reserves which we must develop, yet this legislation downplays development. Most of us agree that we will continue to rely on petroleum products for many years to come. Since this is the case we must work to develop all the resources which are within our borders. Pure economic incentives are the best means of encouraging this kind of development. The proposed equalization tax prevents such an incentive from having this effect.

The Government must act as a catalyst in helping the American people solve our energy dilemma. Too often the Government becomes only an administrator, an inefficient one at that, who shoves us to a goal rather than helping get there on our own initiative. Artificial controls on petroleum prices have not worked in the past. This equalization tax is nothing more than an income distribution program. We have no evidence that such a program will even help us to conserve petroleum resources. But worse, we are sure that it will never provide the producer with the economic ability to increase production.

The farmer is one producer who is not in a position to add the cost of production on to the price of his products. The nature of our free marketing system of supply and demand precludes this type of price adjustment. As we continue these debates, keep in mind, the availability of food and fiber at a reasonable price depends on the cost and availability of energy for the farm.

The poor, the disabled, the aged who are often victims of economic policies that they have no means to influence or control, would not be helped by an energy policy that is centered on conservation alone, they are already conserving all they can, they will only be truly helped by a policy that will continue to provide the energy necessary for their sustenance.

Why not let a free market for petroleum products limit the demand for petroleum while providing producers the ability and incentive to develop new resources within our borders? The free market system helped make this country great. We should turn again to proven methods to solve one of the most difficult problems.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

I take this time to ask the chairman of the ad hoc committee about the gas-guzzler tax.

The purpose of inquiring about the tax is that I find in the charts on page 416 of the bill if you receive at least 17 miles per gallon in the year 1980, there is no tax.

If you receive at least 16, but less than 17, there is a $249 tax.

Now, as we go into the next year's model of 1981, it is necessary to receive 18½ miles per gallon in order to not pay a tax.

As you go into the next model year of 1982, you must receive 20 miles per gallon in order not to pay a tax; so we are jumping up 1½ miles per gallon each year until we hit the year 1983. Then we only need to receive from our automobiles 20.5 miles per gallon in order not to pay a tax. As we continue to go to the model year 1984 and above into 1985, we jump back again to 1½ miles per gallon increase; so for the year of 1983 we only have to have ½-mile-per-gallon increase.

The purpose of taking this time is to have it clear in the record as to why every year we would increase 1½ miles per gallon, but in that 1 year, of 1983, we only have to receive ½-mile-per-gallon increase.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, the gentleman is asking a question that was addressed, as the gentleman knows, by the Committee on Ways and Means. I am advised that as that committee considered the proposal of the administration and in doing so determined that the so-called family car should be accorded more consideration.

Mr. MILLER of Ohio. That really does not answer my question.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. ASHLEY. As the fleet efficiency became greater over the years, the schedule of taxes would be reflected as suggested by the committee.

Mr. MILLER of Ohio. Let me put it this way, if I may. If in the year 1982 one would have an automobile that would give one 19.9 miles per gallon, he would have to pay $266 tax.

Mr. ASHLEY. That is right.

Mr. MILLER of Ohio. In 1982, if one has an automobile that then only received 20.5—.6 mile increase—one would have to pay no tax, but would be home free.

Mr. ASHLEY. What is the gentleman's problem? The idea is, under the EPCA standards, the efficiency of the fleets produced by the various automobile makers must improve year by year.

Mr. MILLER of Ohio. And the schedule says they will improve year by year, but we get 1 year where the change is made and we only have to have ½-mile-per-gallon increase, whereas in all the other years we must have an increase of 1.5 miles per gallon.

Mr. ASHLEY. It certainly is a fact that if the efficiency of a fleet increases from one year to the next, that the tax will apply to automobiles from one year to the next that did not apply before. There is nothing mysterious about that.

Mr. MILLER of Ohio. It applies on all of the years prior in the tax table and all of the years after, but that one year is different from all the rest. That is the purpose of my question.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. ASHLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Let me say, if I can help clarify it, that we have an anomaly that exists in terms of the 1-year bulge. I think there were two factors that entered into the decisions of the Commit-

tee on Ways and Means deliberations on this issue. One is that we were trying to track EPCA standards. But, the gentleman knows the EPCA standards ended in 1980 in terms of what we knew at the time.

Between 1981 and 1984, they were to be set administratively by the Department of Transportation. When we did our work, we did not know what those standards were going to be because the Secretary had not announced them. So, we were, in effect, guesstimating as to what we thought the standards would be, and that is one of the reasons why this happened.

Second, I think it is important also to keep in mind this factor with the issue of the gas guzzler tax: We do not want to have one company, General Motors, have an inordinate advantage over the other three automobile manufacturers. Thus, as we modified the administration's proposals, we lopped off, if my memory is correct—and the staff on both sides can correct me—we were lopping off about 3 miles per gallon from the EPCA standard to the tax in order to minimize the advantage that otherwise General Motors would receive, because they have more capital and more cash. So, the gentleman from Ohio has read this better than most Members in reading it, and he finds us in a position where we have this small bulge, but I think it is those two factors that gives us that result.

Mr. ASHLEY. Mr. Chairman, let me say to the gentleman from Wisconsin (Mr. STEIGER) that the gentleman from Ohio is very grateful for his explanation.

Mr. MILLER of Ohio. If the gentleman will yield, if I might say so, it appears that 1983 will be a good year for automobile sales.

Mr. ASHLEY. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, it is hardly possible to discuss a bill of this magnitude in 3 minutes. Therefore, I have to limit myself to generalities. However, let me say that I, for one, have been pleasantly surprised that 100 days after the President's message we find ourselves in a position this week to vote on an energy package which, while not perfect, certainly represents a substantial step forward.

It would, of course, be a mistake to assume that, with the adoption of this energy bill, which I assume will be adopted, our task is anywhere close to having been fulfilled. It is merely a step in which I perceive to be a continuing effort to meet the energy crisis which, indeed, is with us. There is no way that this House, or any other legislative body, in the final analysis, can meet the responsibility without the cooperation of the American people. As long as we find Members in this well trying to convince the membership, as well as the people that they represent, that we still do not have an energy crisis in this country, this task will be more difficult than ever.

Mr. Chairman, I think this bill, like many legislative efforts—I should say most legislative efforts—does represent a compromise. It represents a compromise in the field of natural gas. Obviously, there are some people who would like to see a total deregulation of natural gas. I for one do not believe that this would be in the best interest of the American consumer.

There are some people who would like to see us impose a much higher tax—and maybe we should—on gasoline. I for one happen to feel that the 5-cent tax which is being contemplated in this legislation is not only regressive, but it is also highly discriminatory to rural dwellers, for reasons which I believe are too obvious to mention here.

However, I will support the legislation. I think the legislation, as I said before, does represent a substantial step forward. I wish we could have come up with a bill that is stronger, that meets the energy crisis more forcefully, but, after all, we should remember that this type of an effort very seldom represents a perfect job. I happen to feel that, with the continuation of the crisis, this body will address itself on a continuing basis to the issues before us, and I happen to have enough confidence in the integrity of this body, in the imagination of this body, in the good will of this body and in the good will of the American people that we will meet this crisis in the years to come.

Mr. KEMP. Mr. Chairman, in his energy address to Congress on April 20, President Carter warned that unless action is taken, we will freeze in the dark. After reading, analyzing, and reflecting on that message and the subsequent energy bill, now before us, I am convinced his warning is true. We will end up freezing in the dark if we adopt the administration's program. It is a disaster to the consumer, the taxpayer and the worker.

Lewis Lapham, the editor of Harpers magazine, has described the Carter energy plan for what it really is. He recently wrote:

> The plan must have been written by people who didn't know what they were talking about.
>
> The plan was conceived either as a transcendent moral vision or as a scheme to raise about $40 billion a year in additional tax revenue.
>
> Although I hold no brief for the merchant class and its habit of blind rapacity, I cannot see how a policy of "zero growth" can do anything but lead to even more savage result.

Mr. Chairman, the administration's energy plan can be summarized thusly. It will:

Put an increasing burden of the energy crisis on the back of the consumers by denying new supplies of energy to the market;

Drive up taxes, at the expense of the already overburdened taxpayer, to the point of around $40 billion in the next 8 years unadjusted for dollar depreciation.

Assure continued dependence on foreign oil and foreign natural gas, mostly from Arab sources;

Further suppress domestic U.S. production of oil and gas and penalize any increase in its use;

Punish the electric utility industry and practically guarantee power shortages in the 1980's;

Slow the pace of economic growth we need so badly to reduce unacceptably high levels of unemployment; and

Assure higher prices and increased regulations with bureaucrats controlling the production and distribution of energy in the United States, the same road traveled by Great Britain.

In no aspect of energy could this be more the case than in natural gas. The administration's energy policy is pursuing a course which will withhold vast quantities of natural gas from the American people, from their businesses and from their homes.

The consequence of this policy is inescapable: The taking of dollars and jobs from the American workers to subsidize the economic growth of other nations. This happens every time we buy a barrel of oil or a cubic foot of natural gas from foreign sources, when we could be producing them here at home from domestic sources.

ADMINISTRATION IS SUPPRESSING INFORMATION CONTRARY TO ITS POLITICAL OBJECTIVES

This administration is guilty of covering up conclusions reached by its own experts—a coverup which will cost the consumers billions—a coverup stemming from the requirement that supposedly objective statistics fit the obviously subjective, highly politicized goals of the administration. It has been a deliberate suppressing of information in order to achieve the subsequent suppression of domestic production.

What is it that the administration has suppressed? It is information showing supplies of oil and natural gas are much more extensive than those revealed in the President's method. It is information showing the way in which deregulation would bring more oil and gas into the market. It is information showing deregulation would save consumers as much as $48 billion by 1990.

The administration has insisted on the maintenance of price controls, with a cap of $1.75 per Mcf. That price assures such a low return on investment as to deter exploration and production. Since supply would then be inadequate in terms of transmission pipeline capacity, the unit cost to the consumer will be driven up without any increased production in return. A price of $2 would bring much more natural gas onto line, and a price of $2.50 would result in decades of supply.

The President refuses to decontrol because of his fear of that $2 or $2.50 price. That is understandable at first blush; no one wants prices to go up. But the question is not one of either $1.75 per Mcf or $2 to $2.50 per Mcf. It is, rather, between $2 to $2.50 per Mcf or $4 to $6 per Mcf. Why? Because unless more domestic production occurs—and it will not occur at $1.75—natural gas suppliers will have to turn to whatever other sources of natural gas are available to meet demands. Those two sources will be imported liquefied natural gas—LNG—most all of which comes from Arab countries, and synthetic natural gas—SNG. The cheapest we can import LNG is $4 per Mcf, and it will rise far beyond that;

and the cheapest we can produce SNG is $6 per Mcf.

When an internal study group in the administration—the acronym for which is MOPPS—showed both these cost comparisons and the supply which would come on line by deregulating domestic production and prices, it was disbanded and the information suppressed. I need not remind my colleagues and the consumers that all of this happened in an administration elected only months earlier on the pledge of returning sunshine, truth, openness, and objectivity to the operations of the Federal Government. It is easier to understand, when you hear this kind of report and find out that it is true, why so many are already saying, "It's just like all the rest."

SUPPRESSING PRODUCTION TOO

The administration policy is moving simultaneously to suppress domestic production.

Let me be more specific.

First, up to half of all the potential oil, and the natural gas byproduct of its production, has now been blocked from further exploration and development.

Second, there are proposals presently pending, exclusive of Alaskan D–2 lands, which would remove another 79 million acres from production.

Third, the administration has cut offshore lease sales from nine to three.

Fourth, 96 percent of all oil and gas lease holds onshore, offshore, and on the Continental Shelf have yet to be sold.

The net effect of these and other actions has been to suppress production. That, in turn, will lead to greater dependence on foreign and exotic sources which cost the consumers more.

ADMINISTRATION PLANS MEAN HIGHER COSTS OR INADEQUATE SUPPLY IN NEW YORK STATE

This point about higher prices or less supply is critical.

I recently examined the relative cost comparisons among the various types of natural gas sources used by two major suppliers in New York State—National Fuel Gas, which services western and upstate New York as well as western Pennsylvania, and Brooklyn Union Gas Co., which services that downstate area.

National Fuel Gas has shown the substantially higher cost to the consumer of the greater reliance on SNG necessitated by inadequate pipeline transmission from the Southwestern States.

In contrast to the $0.964 per Mcf for flowing gas and rates from $1.174 to $1.733 per Mcf—with a 10 cents per Mcf add-on if five or more wells are tied into one meter—for gas acquired from independent producers, National Fuel Gas is having to pay from $3.50 to $4.130 per Mcf for SNG. The independent producer prices range from $1.174 to $1.333 per Mcf in the summer to $1.574 to $1.7333 in the winter.

Why, even under the generally higher intrastate—produced and used inside of New York State—prices, National Fuel Gas is paying $1.22 per Mcf for gas produced from May 1 through October 31, and $1.62 per Mcf for gas produced from November 1 through April 30.

Any of this—all of this—is substantially less under deregulation.

Information from Brooklyn Union Gas Co., our downstate supplier, reflects similarly higher prices for liquefied natural gas and synthetic natural gas.

Because of inadequate domestic production of natural gas, Brooklyn Union has had to rely increasingly on LNG and SNG. It has obtained additional sources of gas supply in the form of an SNG plant using naphtha feedstock and imported LNG to supplement its declining sources of supply from domestic pipelines. The cost of these supplemental supplies exceeds the currently regulated price for new natural gas and the range of prices which could be reasonably anticipated, assuming the deregulation of prices for new natural gas production.

Brooklyn Union has provided me with estimated unit costs of supplemental supplies and deregulated gas both with respect to 1978 and 1980.

This information is as follows:

Estimated unit costs of supplemental supplies versus deregulated gas, $/MCF

	Deregulated gas	Liquefied natural gas	Synthetic natural gas
1978	$2.00	$3.25	$5.75
1980	2.00+	3.75	6.50

Brooklyn Union has also made some important calculations on estimated dollar savings by replacing the supplemental supplies they are now having to rely upon with deregulated natural gas in 1978 and 1980. It proves our point: That deregulated natural gas is less costly than relying on the President's program.

The range of potential dollar savings shows that even if deregulated gas was obtained at prices higher than $2 per Mcf, there would still be substantial savings.

As a matter of fact, it could rise by 50 percent, up to $3 per Mcf, and there would still be substantial savings to the consumers.

The information is charted out, as follows:

Estimated dollars saved by replacing supplemental supply with deregulated natural gas, 1978 and 1980

[In millions]

	Savings to the consumer	
	1978	1980
$2.00/MCF	$38	$61
$2.50/MCF	31	50
$3.00/MCF	24	39

Brooklyn Union has translated these figures into estimated dollars saved by a typical residential heating customer using deregulated gas—in contrast to using gas being supplemented by LNG and SNG. This information shows that the typical residential heating customer would save $97 a year in 1978 and $145 a year in 1980. That is a substantial saving to the users in New York.

WE ARE NOT RUNNING OUT OF NATURAL GAS

The President and his administration spokesmen have spoken repeatedly of their conclusion that we are about to run out of natural gas. Some of their remarks are reminiscent of the doomsday soothsayers who have predicted for nearly a century that we are about to run out of fuel. These observations are an insult to the intelligence of our people.

Our people know that every threat of a depletion of a fuel has brought forth the discoveries which gave us subsequent fuels. When the great forests of Europe could no longer provide the fuels for the ovens of that continent in the closing days of the medieval period, the continent turned to coal. We are not in the midst of the fossil fuel age, and we are far from its end. But at some point, we will run out; it is inevitable. But science and technology will have harnessed new sources. They are already working on some energy sources that will require only sunlight and water, and we seem to have abundant quantities of that.

I want to examine this point more thoroughly though, because it was made a centerpiece of the administration's energy plan—that we are running out. In his April 20 message, the President said we had only about 20 years of natural gas left.

The debate over the supply of natural gas revolves around the effect of price upon production and supply.

On the one hand—that represented by President Carter, Energy Secretary Schelsinger, and a majority within the Democratic Party in Congress—you have the following line of reasoning: Keep the price of natural gas below what the true market price would be. Do not let it rise above $1.75 per thousand cubic feet, even if that artificially low price depresses exploration for new sources. It is better to force conservation because of inadequate supply and to run the risk of further shortages, if those are the consequences of $1.75 per Mcf, than to let the price rise.

On the other hand, you have this approach. Let the price of natural gas rise to the level which will assure adequate supply. It is better to have enough gas at a slightly higher price than not enough. These slight price rises, such as to $2.50 per Mcf, would bring on line another 45 years supply. Because this is the minority opinion here in Washington, it is easy to see how the majority opinion has created the present energy shortage in general and the present natural gas shortage in particular.

Who is right? Which ought to be our policy for the future?

The most convincing way to do this is to examine the alternatives to slightly higher prices.

THE EFFECT OF PRICE UPON SUPPLY

Let us assume the price of domestically produced natural gas rises to $2.50. That's 75 cents per Mcf higher than President Carter's $1.75 per Mcf. That $1.75 will not bring enough new domestic gas onto line. It will, rather, increase our dependence on liquefied natural gas from Arab countries and synthetic natural gas. LNG, by contrast with the $2.50 price, is running as high as $4.00 per Mcf. SNG is expected to run about $5 per Mcf. Thus, the consumer

will have to pay $1.50 per Mcf more for LNG and $2.50 per Mcf more for SNG under the Carter proposal that he would have had to pay for the $2.50 domestic natural gas. Thus, the alternative to the $2.50 per Mcf is $4 and $5 per Mcf.

Comparison of cumulative resource quantity/cost data—Total U.S. conventional gas

[Lower 48 and Alaska, onshore and offshore]

Producer cost	MOPPS I [1]	MOPPS II [2]	MOPPS III [3]
$1.00/MCF	550	330	120
2.00/MCF	800	490	275
3.00/MCF	990	590	465
5.00/MCF	1100	750	622
7.00/MCF	1140	810	700

[1] Estimate 1, April 7, 1977.
[2] Estimate 2, April 7, 1977.
[3] Estimate 3, May 24–26, 1977.

Note: Quantities are in quads representing moderate case estimates corresponding to indicated costs.

Quantities include proved, inferred and undiscovered.

The supply factor here is crucial, since that is what the consumers want. Under President Carter's price formula, we would only have about 280 trillion cubic feet brought on line. Yet, if we went to $2.25, that price could bring on 230 trillion additional cubic feet in what are called inferred reserves, 285 trillion cubic feet from the Devonian shale in the Appalachian region—of tremendous importance to the Northeast and Midwest, another 600 trillion cubic feet from the western tight sands, and from 200 to 300 trillion cubic feet in coal seam methane. If the price rose to $3.00 per Mcf, it could make feasible the recovery of between 20,000 and 30,000 trillion Mcf of natural gas dissolved in onshore and offshore waters at depths of 15,000 feet. Yet, by staying with the President's insisted-upon price of $1.75, we will have enough for only about 20 more years.

You can see, in light of this information, why I am so critical of all the prophets of doom and no growth advocates—those who say the world is running out of fuel and we will all perish. It may give high drama to political speeches, but it both flies in the face of fact and is of no help to the people who have to cooperate to resolve the real problems.

Our colleague, HENSON MOORE of Louisiana, recently analyzed the predictions of impending fuel shortages made during this century. He has chronicled, example by example, how badly these predictions have missed the mark.

His information is worth repeating in the course of today's debate on natural gas. Here are his findings:

1908

Statement: "Maximum future supply of 22.5 billion barrels." (Officials at U.S. Geological Survey)

Fact: 110 billion barrels produced since 1908 with proved and undiscovered resources now estimated at 135 to 223 billion barrels.

1914

Statement: "Total future production only 5.7 billion barrels." (Official at U.S. Bureau of Mines)

Fact: More than 108 billion barrels produced in the U.S. since 1914.

1920

Statement: "U.S. needs foreign oil and synthetics; peak domestic production almost reached." (Director of U.S. Geological Survey)

Fact: Production in 1976 almost 7 times 1920 production.

1931

Statement: "Must import as much foreign oil as possible to save domestic supply." (Secretary of Interior)

Fact: During next 8 years imports were discouraged and 14 billion barrels were found in the U.S.

1939

Statement: "U.S. oil supplies will last only 13 years." (Radio broadcasts by Interior Department)

Fact: New oil found since 1939 exceeds the 13 years supply known at that time. More than 90 billion barrels of crude oil produced in U.S. since 1939.

1947

Statement: "Sufficient oil cannot be found in the U.S." (Chief of Petroleum Division, Department of State)

Fact: 4.3 billion barrels found in 1948, largest volume in history and twice our consumption. 86 billion barrels of new crude oil reserve found in U.S. since 1947.

1949

Statement: "End of U.S. oil supply almost in sight." (Secretary of Interior)

Fact: More than 73 billion barrels of crude oil produced since 1949 with proved and undiscovered resources now estimated at 135 to 223 billion barrels.

NATURAL GAS MEANS JOBS IN NEW YORK STATE

The reason I am so concerned about this issue is that I represent an area of the country—western New York—which is heavily dependent on uninterrupted supplies of natural gas to heat our homes and schools and keep our factories and business running.

The natural gas issue in New York State is the jobs issue—pure and simple.

And I intend to see that the workers and homeowners in New York State do not lose their jobs or their fuel supplies because Government policies prevent them from getting adequate amounts of energy at reasonable prices.

I frankly am sick and tired of my constituents in western New York being told they must bear the burden—and shoulder the shortages—when it is Government that has made all the mistakes. Government makes the mistakes and gets off the hook by telling the people it was their overconsumption that created the problem. That is a lie, and it has to be labeled as such particularly when Government has been artifically holding down prices for years and causing shortages.

It is time to reverse the policy of the past 20 years, a policy which the new administration would lock even more into place, a policy of Government control instead of consumer soverignty. Our time to reverse this policy is now, during this week of debate on this natural gas bill. I intend to support amendments to it, and substitute measures to it. It is time this Congress put economic reality ahead of ideological and partisan politics.

Mr. RHODES. Mr. Chairman, the bill before us today is not a good bill. It is a faltering, tentative step when the challenge demands a bold stride. It is a partial answer to a problem that requires a broad scope solution.

This bill might well have been contrived by Rube Goldberg, who was famous for his laborious, labyrinthian contraptions that had a lot of machinery, but would not work.

This measure does take a positive move toward conservation of energy. That is a worthy goal. The methods being used, however, are self-defeating. Since our Nation runs on oil and gas, they should be our chief immediate concern. This bill does nothing to increase the supply of petroleum or natural gas; in fact, it raises roadblocks to expansion of supplies.

The bill is not a national energy policy. It should be recognized for what it really is, a proposal by a Democrat President to raise revenues by hitting the consumers. I recall the solemn pledge made during the campaign by Mr. Carter that he would never raise taxes on the middle-income American. Yet, this bill will cost American families thousands of dollars. In fact, its costs are estimated at $3 billion the first year, escalating to $56 billion a year by 1985. By passing this bill, Congress will help Mr. Carter shatter his campaign pledge to hold the line on taxes.

The bill seems overly-concerned with making certain that energy companies do not over-profit. The remedy is to create a tax windfall for government. Somehow, this is considered beneficial. The obvious alternative should be to mandate that extra profits be plowed back into research and exploration for more energy.

Although it is apparent that Republican suggestions were ignored by the carefully-stacked special energy committee, we Republicans do have a sound, pragmatic, workable program that would carry forward the twin goals of saving energy and increasing energy. It is a better idea, and would produce more favorable results for our economy than this bill, which will lay the groundwork for an energy recession down the road.

This energy bill we take up today creates a hodge-podge of tax complications, rebates, penalties and disincentives to produce. Our Republican version is more direct, emphasizes the supply side, and avoids the tortuous twists and turns incorporated in the administration measure. Again, Mr. Carter promised to simplify taxes, yet this bill is essentially a tax bill, and will further complicate preparation of tax returns for the American family.

I believe the people should realize that this bill is in reality legislated inflation. Its coal conversion requirements, coupled with stringent EPA mandates, will cost the electric power industry $100 billion. There is but one way to recoup those costs, and that is through power bills paid by the consumers. Gasoline will cost more, gas will cost more, power will cost more, automobiles will cost more, the price of appliances and products that require energy in their manufacture and use energy to operate, all will cost more. Taxing our way out of the energy crisis will not work. It is the wrong way to go.

The gas-guzzler tax feature is a populist approach. Yet, it carefully exempts the biggest gas-guzzlers of all, the huge, expensive motor homes that get single-digit mileage. At the same time, generally the public must buy vehicles that get mileage up into the twenties.

Mr. Carter has labeled our energy challenge the moral equivalent of war. Yet he chooses to go to battle with a pop-gun in areas with huge potential, such as solar, nuclear, and geothermal energy. The measure before us slights development and overemphasizes conservation through taxation. We cannot win the energy war in a skirmish at the gasoline pump.

I want to set the record straight about the genesis of this legislation. The majority has frozen out input by the minority. This is a Democrat administration proposal shaped into legislation to be rammed through by a Democrat majority in Congress. This bill transfers control and responsibility for energy from the private sector to Uncle Sam. It is not a real national energy policy, it is a Federal energy revenue bill.

It is pessimistic, no-growth legislation, that underestimates the capabilities of our technological and productive economy. It fails to encourage our energy industry to progress toward utilization of massive supplies of untapped energy, far larger than known reserves of fossil fuels.

When the lights go out and water turns cold, the American people should reflect on the fact that shortages, economic disruptions, and unemployment are the result of a faulty program proposed by a Democrat President and passed into law by a Democrat Congress.

Mr. BOLAND. Mr. Chairman, I want to take this opportunity to express my support for H.R. 8444—the National Energy Act. I do not contend this is a perfect piece of legislation, nor do I consider this bill the answer to all our energy problems. But I support completely what this bill does represent. The House is now considering a comprehensive national energy program. It is a task that has been a long time coming—and one that we can put off no longer.

There can be no question that this country is facing a crisis. This Nation will someday find itself in a precarious energy situation. The debate, of course, centers on when that crisis will occur—when the ax will fall. By acting today, Mr. Chairman, we are delaying that time. We may well be able to forestall indefinitely the falling of the ax. Indeed, we consider today the energy future of this Nation. By looking ahead, and I mean into the next century as well as into next year, we are preparing this country for a time when oil and gas can no longer be our primary energy supplies, when energy conservation is a way of life, when energy sources not yet developed are responsible for much of the U.S. energy production. We guarantee ourselves that future by making provisions for it today. H.R. 8444 is a prerequisite for that future.

The National Energy Act is a far-reaching piece of legislation. Its provisions range from natural gas pricing and crude oil equalization taxes to recycled materials and appliance efficiency standards. The bill covers a full range of both tax and nontax provisions. The House rarely faces a bill of this complexity. It is a difficult bill, make no mistake about that. But it is a difficult bill because we are dealing with a very difficult problem. H.R. 8444 will demand a great deal of our time and attention. It can be handled no other way. Piecemeal efforts will just not suffice any longer.

Some have attacked this bill—in whole or in part—by saying that it does not do certain things—that it does not answer all the questions. Mr. Chairman, I urge my fellow Members to reread section 3 of the bill. The national energy goals listed there are not meant to be the final answer to the energy questions of the future. A 10-percent reduction in gasoline consumption, a reduction of the compounded average rate of energy growth in this country, an increase in annual coal production, as increase in the use of solar energy—these are not unrealistic goals. These are preliminary steps we must take if we are to meet and master the energy challenges of tomorrow.

This body has considered a great deal of energy legislation since the 1973–74 Arab oil embargo. Mr. Chairman, we must consider a great deal more in the future. This bill, however, is unique. It marks the first real step in a national commitment to meeting the energy demands of a complex and uncertain future. I urge the House to give this step careful review and consideration. More importantly, I urge it to take that absolutely necessary step.

Mr. ARMSTRONG. Mr. Chairman, is Government harassment the only effective means to spark energy conservation among Americans? One college group does not think so, and they are out to prove it.

More than 300 students at Western State College in Gunnison, Colo., set two goals in forming the National Energy Conservation Challenge. First, NECC encourages energy conservation on campus through new and creative voluntary initiatives. Second, NECC challenges any college, business or Government unit to match its energy conservation record between October 1, 1977 and April 30, 1978.

While it remains to be seen whether NECC achieves its goals, the group has already triggered significant accomplishments. Western State this summer has saved about 20 percent over previous summer's electricity consumption. And three colleges, several high schools and retail stores have accepted the college's energy conservation challenge.

I applaud the group's initiative and creativity, and its faith in individual action to meet and solve national problems. NECC's enthusiasm is a great step toward securing our energy independence. This approach is certainly preferable to increasing mandatory Government conservation programs, taxes, subsidies and regulations that never seem to work.

I wish the National Energy Conservation Challenge every success in achieving its goals.

Mr. VANIK. Mr. Chairman, this week we have an opportunity to take our first major step toward a natural energy policy. The road to this work has been a long one. The debate over natural gas pricing for example, has been raging since the Supreme Court extended the Federal Power Commission's authority to regulate wellhead prices in its 1954 Phillips decision. It is important to understand the history behind the many complex provisions in this bill to realize that the bill now before us is not hastily conceived; it is the product of years of debate and consideration.

Let me review some of the major provisions of this legislation.

NATURAL GAS PRICING

The debate on deregulation of natural gas has been smoldering for over 20 years. Soon after the Phillips decision, legislation was introduced to exempt so-called independent producers from price regulation. This bill, sponsored by Representative Oren Harris from Arkansas, passed the House by a vote of 209–203 on July 28, 1955. The legislation passed the Senate but was vetoed by President Eisenhower when it was learned that oil producers had attempted to influence unethically the vote of at least one Senator.

Since that time, the controversy over natural gas pricing has remained essentially unchanged. Economic arguments can be thrown from each side, but the essence of the controversy is a regional political conflict. In testifying before the House Interstate and Foreign Commerce Committee in 1955, I put the matter this way:

> It seems to me that despite all the talk about escalator costs, fair field prices, and favored nations clauses, the issue before us simply boils down to a political decision. Are the people of the Sovereign States of Texas and Oklahoma and the other gas-producing states of the Southwest which produce natural gas, privileged to charge whatever price they see fit on which they find themselves? . . . Are the Northern consumers of natural gas who have no choice about whose gas comes into their homes going to suffer the lack of any effective public regulation on this important natural resource on which they are so dependent?

Mr. Chairman, I support the natural gas pricing proposal of the ad hoc committee because it represents a compromise position. The proposal embodies the view that neither side—in its arguments—is completely right. The proper position lies somewhere in between. As I stated in 1955—

> The struggle which we witness . . . is a struggle between the have and the have-not areas of the country with respect to natural gas. We call ourselves the United States of America: we are united in the Federal form of our Government in the national welfare, but this process of picking away at the very thing that makes America strong will destroy us. We are an economic unit and the interdependence of our section of America upon another will strengthen the land.

I am hopeful that the long, divisive debate over natural gas pricing will be over with this bill. It is time we make compromises and move ahead.

ENERGY TRUST FUND AND GAS TAX

The ad hoc committee proposal includes a gasoline tax of 4 cents per gallon and the establishment of a trust fund for energy research, mass transit, and reimbursement to States. The Rules Committee made in order an amendment to increase the tax to 5 cents per gallon with one-half of the revenues to go to mass transit and the other half to highway repair.

In my judgment, the original ad hoc provision is preferable. In June 1975, the House manifested support of a trust fund for energy research and development. If alternatives to import oil are to be developed, research and development must be provided with vigorous stimulation. The highway repairs contemplated by the substitute should be carried on by the several States which have the capacity to impose additional gasoline taxes on their own. A program of Federal taxes with distribution for State spending does not make for accountability.

In any event, a user charge on gasoline will serve to reduce consumption. The imposition of gasoline taxes for essential conservation purposes is preferable to higher untaxed income for the oil industry which has successfully eluded reasonable taxation—almost from the beginning.

AUTO EXCISE TAX

Only a brief glance at energy statistics leads to the inescapable conclusion that if our Nation is at all serious about conserving energy, we must start with the automobile; 39 percent of our annual petroleum consumption is gasoline, of which 96 percent is for the automobile. Gasoline consumption is a function of two variables: the miles driven, and the efficiency of the automobile. By improving the efficiency of our automotive fleet, we can conserve enormous amounts of energy.

An auto efficiency tax is designed to function at the time a consumer decides which automobile to purchase. By in effect reminding the consumer of the importance of gasoline consumption, the tax will serve to alter consumption patterns away from heavy, fuel-inefficient cars to more fuel efficient models. This approach has long been recommended by economists who have investigated the problem of automobile efficiency.

I proposed the first auto efficiency excise tax in May 1973. Since that time, endorsements of the proposal have multiplied, for example:

A Treasury Department staff study of August 1973 concluded:

This study recommends a fuel economy tax to be levied on automobiles beginning in 1975 . . . [T]hrough inducing manufacturers to produce more efficient cars and reducing automobile purchases of large cars, it would save increasing amounts of gasoline. By 1980, the savings should reach 1 million barrels per day of gasoline. [See remarks of Rep. Vanik, CR, October 24, 1973, E6735]

On December 15, 1973, Business Week magazine stated in an editorial:

The best way to promote fuel economy is simply to set the mileage standards and tax those auto models that fall short . . . Anyone who wanted to buy a muscle car or a big limousine would be at liberty to pay as much as $1,000 annually for the privilege of operating a vehicle that gets 8 miles per gallon. The high cost presumably would deter such waste, and the tax money could fund further energy research.

In January 1974, Fortune magazine, referring to auto efficiency legislation introduced by Representative VANIK in the 93d Congress, stated:

If Congress feels it must do something [to improve fuel economy] no proposal so far makes more sense than that of Charles A. Vanik of Ohio. The Vanik bill would impose progressively steep excise taxes on the basis of gas mileage.

The Committee of Economic Development, an independent research and educational organization of 200 businessmen and educators, in its December 1974 report, "Achieving Energy Independence," stated:

[The CED recommends] that a consistent national policy be developed to apply a higher tax to higher-fuel-consumption motor vehicles.

In commenting on the President's national energy plan the General Accounting Office noted—

In the past we have supported the concept of excise taxes on inefficient cars . . . In March 1975 we developed, in response to a Congressional request, a package of alternative energy proposals which included these measures.

In short, this proposed excise tax represents a needed complement to the fuel efficiency standards developed under the Energy Policy and Conservation Act.

SOLAR INCENTIVES

The issue of financial incentives for solar energy development is another facet of H.R. 8444 which has received a great deal of attention and research. According to the legislative compilation of the Congressional Research Service, the first bill to provide a tax incentive for solar heating and cooling equipment was H.R. 11543, introduced on November 15, 1973. This legislation, which I introduced, was accompanied by a companion by H.R. 11542 which required the use of solar heating and cooling equipment in Federal buildings to the maximum extent such equipment was economical and efficient. Both of these recommendations are contained in the National Energy Act as reported by the ad hoc committee. In addressing this issue on the House floor during consideration of the appropriations for the General Services Administration, I stated on August 1, 1973:

A substantial federal commitment to solar energy in office building construction will do more than test the winds of the marketplace. Important data will also be generated. Significant information on component and systems design and testing will prove invaluable to the future of solar energy in meeting the thermal requirements of buildings. This data will become an indispensable resource on solar energy for architects, design engineers, and builders.

The importance of Federal involvement in this area cannot be overstressed. A broadened commitment by the G.S.A. to implement energy conserving technologies and solar energy to all old and new buildings can serve as a catalyst to a revolution in building design and construction.

Mr. Chairman, although the time is late, we have not missed the opportunity to see a significant contribution from solar energy by the year 2000. This legislation finally begins to recognize the important scope of this new energy resource.

RECYCLING OF WASTE OIL

Finally, Mr. Chairman, I would like to bring the attention of my colleagues to a relatively smaller but important excise tax change proposed in this legislation. Specifically, section 2074 of H.R. 8444 alters the excise tax treatment of rerefined lubricating oil. The effect of the current excise tax treatment of rerefined oil is to impose an additional cost on rerefiners which virgin lube oil manufacturers do not pay. As the result, present law discourages recycling of waste oil.

In 1971, I introduced the National Oil Recycling Act. A portion of this legislation was enacted in the Energy Policy and Conservation Act. The tax aspects of the National Oil Recycling Act are embodied in the National Energy Act now before us. I am gratified that we continue to take steps to improve our Nation's capability to recycle lubricating oil. Each year over a billion gallons of waste oil is generated. Less than 8 percent is recycled. The rest creates a significant pollution problem. Millions of gallons of contaminated oil are burned, dumped down sewers, and poured into waterways. The excise tax change proposed here is a small one, but it removes an important obstacle to more extensive recycling efforts.

Mr. HILLIS. Mr. Chairman, the National Energy Act is intended to help ease the threatened critical energy shortage in this country.

An evaluation of the bill, however, reveals a devastating adverse impact on the development and transmission of electric power.

At a time when electricity should be counted on to replace energy from gas and oil, its ability to do so is severely hampered by this legislation.

Hopefully, an opportunity will be presented during debate on H.R. 8444 to amend those sections which are especially counterproductive to the announced objectives of the act.

Examples of needed amendments are:

Section 511 mandates the time of day and seasonal rates to all classes of customers. This section causes business and industry to subsidize energy for the homeowner. By providing cheap power for the individual, we encourage waste and inefficiency.

Section 512 prohibits utilities from recovering in their rate base any costs for promotional or institutional advertising at a time when the public needs to know why expensive scrubbers are used, why conservation is necessary, and so forth.

Sections 521, 522, and 523 require extensive bookkeeping procedures which were not asked for in the administration bill and which will require an army of Federal bureaucrats to study, interpret, and enforce.

Section 541 requires the interconnection, pooling, wheeling, and central dispatch of electrical power. It gives the FPC, or its successor agency, authority to order the operation of a centrally dispatched power pool and to order a utility to increase its transmission capacity. In other words, a utility may be man-

dated to ignore the needs of its investors and subscribers to fulfill the needs of some other utility that has not managed its affairs in an efficient manner.

One of the most crippling sections of the bill is section 548 which restricts the construction of any bulk power facility until unnecessary antitrust proceedings have taken place. There are cases in Michigan and Alabama, for example, where customers are deprived of much needed power for 7 to 9 years while the potential anticompetitive aspects of a proposed plant are being discussed. One certain way to insure the anticipated power shortages of the mid-1980's is to provide time-consuming and costly delays in the construction of new plants.

Section 546 requires an electric utility to sell energy to, and purchase energy from, any qualifying cogenerator. While the concept is good and while this is being done on a voluntary basis wherever it is economically feasible, it could create a prohibitively expensive mess of meters, records, and bookkeeping procedures where the generation of electricity is too expensive, too infrequent, or too minimal.

In general, H.R. 8444 does not address the most important aspect of the energy problem. It does not stimulate the necessary increase in energy sources to feed our expanding job requirements. H.R. 8444 will significantly increase the cost of available energy, inhibit the efforts of the private sector to solve the problem, delay the installation of much needed energy sources, increase the roll of Federal bureaucrats in the decisionmaking and operation of energy sources, and create stumbling blocks of redtape for those who need help, not hinderance, in doing their job.

Mr. Chairman, I have been asked if I would like the post office to deliver my electricity. My answer—no thanks.

Mr. ASHLEY. Mr. Chairman, I have no additional requests for time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8444) to establish a comprehensive national energy policy, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8444, the National Energy Act.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1935. An act to amend Public Law 95–18, providing for emergency drought relief measures; and

S.J. Res. 79. Joint resolution to amend the Federal Home Loan Bank Act.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 826, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–558) on the resolution (H. Res. 731) waiving certain points of order against the conference report on the Senate bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMENDING THE FEDERAL HOME LOAN BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 79) to amend the Federal Home Loan Bank Act.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Rhode Island (Mr. ST GERMAIN) explain why we have to keep the term of office of this gentleman from expiring again?

Mr. ST GERMAIN. Mr. Speaker, I would be very happy to do so, if the gentleman will yield.

Mr. ROUSSELOT. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, Senate Joint Resolution 79 would extend the term of the expired Board member of the Home Loan Bank Board for an additional 15 days.

The administration has requested passage of this legislation in order that Mr. McKinney, who has just been approved as Chairman of the Home Loan Bank Board by the Senate, can get his private affairs in order, including the establishment of a blind trust for his personal holdings.

Further, without this resolution, there would be just one member of the Home Loan Bank Board until Mr. McKinney took the oath of office. Under this situation, the Home Loan Bank Board would not be in a position to process any applications for new charters or branches, or conduct any other business, since it requires at least two members to be present and voting on any issue which comes before the Board. With only one member on the Board, obviously, any matter which comes before the Board cannot be acted upon.

Finally, this resolution calls for a repealer of this extension on August 15, 1977, by which time Mr. McKinney will be sworn in as Chairman of the Home Loan Bank Board.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, does this gentleman have any good bank stock that he has to sell?

Mr. ST GERMAIN. Mr. Speaker, I have not been made privy to his portfolio, I might say to my good friend and colleague, the gentleman from California. If I receive any advice, I will be glad to inform the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I am very tempted to object just to see if the Government could operate with only one person on the Board. It might be a good idea.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 79

Joint resolution to amend the Federal Home Loan Bank Act

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(a) of the Federal Home Loan Bank Act, 12 U.S.C. 1437, as amended, is amended by adding the following immediately at the end thereof: "Upon the expiration of the term of office of a member of the Federal Home Loan Bank Board, such member shall continue to serve until a successor is appointed and has qualified, but not to exceed forty-five days.".

SEC. 2. The last sentence of section 17(a) of the Federal Home Loan Bank Act is repealed, effective August 15, 1977.

SEC. 3. This resolution shall take effect on July 1, 1977.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, an a motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may be permitted to sit on tomorrow, Tuesday, August 2, 1977, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to us why this request is necessary?

Mr. PRICE. Mr. Speaker, if the gentleman will yield, this request is made as a matter of urgency.

On tomorrow at 10 o'clock a.m., the Committee on Armed Services is scheduled to hear Defense Secretary Brown, whose testimony is vital to our consideration of the fiscal 1977 authorization bill on the cruise missile. We are making every effort to move rapidly on that meas-

ure in order that we may report to the House in early September.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that this request is being made for hearing purposes only?

Mr. PRICE. That is correct.

Mr. ROUSSELOT. The committee is not marking up any bill?

Mr. PRICE. Mr. Speaker, I can give the gentleman that assurance.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's reply, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. on tomorrow, August 2, 1977.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, AUGUST 3, 1977

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House adjourns on tomorrow, Tuesday, August 2, 1977, it adjourn to meet at 10 o'clock a.m. on Wednesday, August 3, 1977.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of this week.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Aging:

WASHINGTON, D.C., *August 1, 1977.*

Hon. THOMAS P. O'NEILL,
Speaker of the House,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby respectfully submit my resignation from the House Select Committee on Aging.

With best wishes.

Sincerely,

BOB WILSON,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints as a member of the Select Committee on Aging the gentleman from Ohio (Mr. REGULA) to fill the existing vacancy.

DISHONORING THE DEAD

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, a story in the Associated Press on Saturday, repeated and elaborated on a lie and canard that Lyndon Johnson lived with throughout his career in the Senate, throughout his service as President, and that followed him like a shadow. Now that he is dead, he is dishonored by a story that repeats the lie, the claim that Lyndon Johnson "stole" an election from Coke Stevenson in 1948.

Now comes a character who swears that as election judge he certified phony votes for Lyndon Johnson. What kind of credibility does this man have? Well, you might say, it is a kind of deathbed confession—the old man wants to clear his conscience. But this man was one of the minions of the most corrupt political machines in Texas, and perhaps anywhere else, the machine of the Parr family. He was what we used to call a pistolero—a man who would not hesitate to do anything for his leader, his boss, his patron. You could not help but observe that this character was a pistol-toter, and is pictured that way in the newspapers. Does he have more to clear his conscience of than perjury? How about theft from the public purse—the specialty of the Parr machine. How about murder?

This AP story claims that Lyndon Johnson called Archer Parr to say that he needed 200 votes to win the election against Coke Stevenson. How did he know? Did Lyndon Johnson know what every ballot box in Texas contained?

The AP story quotes a man named Kellis Dibrell, identifies him as an ex-FBI agent, and says that this man Dibrell looked at the ballot box returns in question. What the story does not say is that Dibrell was not an FBI agent in 1948. He was, in fact, the Bexar County campaign manager for Lyndon Johnson's opponent, and later in life, and today, is a dyed-in-the-wool Republican. The only thing a guy like Dibrell wants in this life is to excuse the loss of the election that he, in part, was responsible for losing. Dibrell and all the other purveyors of the box 13 lie never talk about the fact that Coke Stevenson went into the famous election with a better than 70,000 vote lead over Lyndon Johnson. Did Johnson steal all those votes? No; no one says that he did.

Why should we take the word of an ex-pistolero, and a self-admitted perjurer at that, to substantiate anybody's claim on anything? Why should anyone accept the word of Johnson's opponent? Nobody should be so innocent as to believe, as AP would have us believe, that even a man of Johnson's formidable talent and skill would know, out of thousands, the hundreds of thousands, of votes cast, that 200 would make the critical difference?

But worst of all is the inference in this story that Kellis Dibrell investigated box 13 as an FBI agent, or as some disinterested party, when he was in fact one of the principal managers, maybe the principal manager for Stevenson.

Lyndon Johnson is dead, and the AP story does nothing to establish truth; it only repeats an old, old lie, and it dishonors the memory of a man who surely deserves better. We might expect this kind of story in the sensational weekly tabloids, to exploit and degrade every well-known name in the land—but surely, surely we deserve more from one of the foremost news organizations in the land.

Lyndon Johnson, if he were alive today, would be hurt by this repetition of the lie that dogged his life and blighted his career—but he would laugh and say that in recent years, he only saw the press from the open end of the gun barrel. Sadly for him, the press still is holding the gun on Lyndon Johnson, held this time by an old member of an old and notorious gang, a witness no more credible than any other small time hood, down on his luck, and without a patron now that the old organization is gone.

I do not believe that Lyndon Johnson stole any election, in 1948 or any other time, and I doubt that anyone will ever show that he did. It is long past time to let that lie rest, and let Lyndon Johnson be judged on what we know he did—not on what old opponents and old pistoleros think or allege, but do not know and cannot prove.

SOLID WASTE DISPOSAL ACT NEEDS AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr Speaker, I am introducing today an amendment to the Solid Waste Disposal Act to remedy deficiencies in the existing legislation regarding hazardous waste management. The Congress addressed itself to the hazardous waste problem most recently in the Resource Conservation and Recovery Act of 1976—Public Law 94-580. In that act the Congress provided authority to the Administrator of the U.S. Environmental Protection Agency to develop plans to regulate the management of hazardous wastes in the United States.

Prior to this most recent legislation, the Congress, in the Resource Recovery Act of 1970—Solid Waste Disposal Act, section 212, Public Law 89-272—required that the U.S. Environmental Protection Agency undertake a comprehensive nationwide investigation of the storage and disposal of hazardous wastes, and directed EPA to develop a "plan for the creation of a system of national disposal sites for the storage and disposal of hazardous wastes." Although directed to establish a system of national disposal sites—NDS's—EPA determined that there were several other alternative means to solving the disposal problem of hazardous waste. Although EPA found

that the magnitude of the hazardous waste problem was larger than originally anticipated and that current disposal practices were inadequate, and although citizen opinion favored national regional processing facilities for hazardous wastes, the Environmental Protection Agency ultimately recommended to Congress in 1974—Report to Congress, disposal of hazardous wastes, U S. Environmental Agency, 1974—that "a regulatory approach is best for the achievement of hazardous waste management objectives."

In other words, EPA found that a small private hazardous waste management industry had emerged in the United States, that EPA believed that "the private sector will respond to a regulatory program, and that no governmental actions to limit the uncertainties in private sector response" were appropriate at that time.

Therefore, the approach contained in the 1976 Resource Conservation and Recovery Act established national authority only to regulate hazardous waste disposal and to formulate standards including but not limited to the following areas: Records maintenance, reporting, waste treatment, storage, disposal, design and location is waste facilities, damage contingency plans, and operation maintenance. The Administrator was directed to promulgate guidelines to allow States to develop their own hazardous waste programs pinned primarily upon private enterprise ownership and management of waste disposal facilities.

Although the Administrator will not publish standards until October, 1978, already deficiencies have appeared in the existing legislation. My investigation into this matter stemmed from the events surrounding the location of a private enterprise hazardous waste facility in the 20th Congressional District of Illinois which I represent.

A private company, The Earthline Corp., division of SCA, Inc., developed a waste disposal facility employing the latest state of the art technologies for hazardous waste treatment, storage, and disposal. In some respects, the site approaches the ideal solution for hazardous waste management in the 20th century. Yet, unaccountably, Earthline chose to locate this dangerous hazardous materials disposal site partially within the city limits of Wilsonville, Ill., and on top of an abandoned coal mine. Naturally, the local citizens have objected strenuously. In the controversy which developed over the location of the site, the following deficiencies in the Federal legislation were discovered:

First, there is no assurance that treatment, storage, and disposal of hazardous wastes will comply with the Safe Drinking Water Act.

Second, there is no requirement that the location of hazardous waste disposal sites be safely distant from inhabited areas, especially residential neighborhoods.

Third, there is no specific instruction that the Administrator should require that sites be located on land which is suitable with respect to geologic and soil conditions.

Fourth, there is no specific requirement that proper maintenance and storage of hazardous waste after termination of disposal activities would be assured over an extended period of time.

Fifth, there appears to be no satisfactory requirement insuring that sites used previously for the disposal of hazardous wastes will not be subjected to incompatible land uses.

Sixth, there is no specific requirement that the public be given an opportunity to make their views known to appropriate officials before a decision is made on the location of a hazardous waste management site.

Seventh. There is no specific requirement that, in case a facility is found to be improperly located and in itself hazardous to area residents, its operation be terminated and the contents stored there moved to another location.

Eighth. Last and most important, there is no adequate assurance that sufficient hazardous waste disposal sites will be developed in the areas of the country where they are most needed to handle the ever increasing amounts of hazardous wastes that are now being dumped illicitly.

Again, although the Congress specifically directed that the U.S. Environmental Protection Agency plan for a system of national disposal sites, EPA opted for a regulatory program feeling that adequate private response would occur to provide well managed and sufficient hazardous waste disposal sites.

In the course of my investigation of the problems stemming from the Earthline site at Wilsonville, Ill., I came to the conclusion that the regulatory approach will not work. In fact, in its 1974 report, EPA acknowledged that its option for a regulatory approach could be affected adversely by the lack of private capital flow and problems involving facility location, user charges, and long-term care of the storage site. These problems have now become the major focus of the hazardous waste disposal program nationally, and EPA's regulatory approach has proven to be wholly incapable of solving them.

It is for these reasons that I have drafted legislation to grant to the Administrator of the U.S. Environmental Protection Agency the needed authority:

To select future locations for hazardous material disposal facilities on public lands meeting all appropriate standards—public lands would include those already in existence, lands purchased for the purpose, or those donated to the Government by private operators;

To establish at least one such location in each State; and

To allow the private sector to continue to operate existing appropriately located sites meeting all relevant regulations under appropriate bond, and after the facilities are no longer in use, require that they be donated to the public forever to insure that they will be adequately maintained and that incompatible land uses will not be allowed.

Last, my amendment provides that the free movement of hazardous wastes from State to State will not be impaired. I have included this provision to insure that if disposal problems exist in one State and a suitable disposal facility is in a nearby State, proper transport and disposal can occur unhampered.

This legislation offers practical, effective means to achieve the goal of proper recovery and disposal of hazardous wastes in conformity to the intent of Congress in enacting the 1976 Resource Conservation and Recovery Act. I recommend it to my colleagues for their consideration and support.

ONE HUNDRED FIFTY-FOUR REPRESENTATIVES COSPONSOR THE CONGRESSIONAL PAY RAISE DEFERRAL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, on the first day of this Congress, January 4, the Congressional Pay Raise Deferral Act, H.R. 1365, was introduced. Joining me as original cosponsors were NED PATTISON, DON PEASE, and NEWT STEERS. In the time since then, our legislation has attracted considerable attention in the House and in the news media.

Today we are pleased to reintroduce the Congressional Pay Raise Deferral Act with 58 new cosponsors. This brings to 154 the total number of cosponsors in the House—more than 1 out of every 3 Members.

The legislation simply provides that any increase in congressional salary shall be deferred until the Congress following the one in which it is approved. This means that a general election would fall in the time between approval and receipt of the pay raise.

This simple change in procedure is needed in order to eliminate the conflict of interest that is now present. For it is unquestionably an inherent conflict when we are called upon to make a salary decision that is to our immediate and personal benefit or detriment. Yet, this is the way Congress operates today.

This uncomfortable situation was first noticed in 1789 by James Madison. He described the matter in this way:

> There is seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets; there is seeming indecorum in such power, which leads me to propose a change . . . that no law, varying the compensation shall operate until there is a change in the Legislature; in which case it cannot be for the particular benefit of those concerned in determining the value of the service.

Madison proposed an amendment to the Constitution, providing for deferral of congressional pay until the next session. It was adopted by both Houses of Congress. Although seven States approved the amendment, the ratification process was never completed because of the new Nation's rush to adopt the Bill of Rights.

Today, 37 States have provisions in their constitutions preventing State legislators from raising their salaries during their term of office. One of those States is Georgia. And the former Gov-

ernor of Georgia, Jimmy Carter, is an advocate of the pay-raise deferral concept.

In an article carried by United Press International on February 18, President Carter was quoted as saying that he had only one reservation about the recent salary increases recommended by the Quadrennial Commission. He noted:

In the future we should not ever let any salary increases go into effect until after the next general election.

Several days later, the Boston Globe quoted the President:

In the future any increases should benefit the members of following Congresses.

David Cohen, president of Common Cause, has taken a similar position. While supporting the recent pay raise, he has called for various reforms of the process by which congressional salary is adjusted. He places congressional pay-raise deferral at the head of the list of needed changes.

The Congressional Pay Raise Deferral Act was first introduced in 1975 by then-Congressman Charles Mosher. In 1976 it was passed by the Senate, in the form of an amendment to the Hatch Act reform bill, which ultimately died at the end of the last Congress. No action has yet been taken on congressional pay-raise deferral by the House.

Last February, the House Post Office and Civil Service Subcommittee on Presidential Pay Recommendations held hearings on the broad issue of top-level Federal pay, including that of Congress. According to the subcommittee's report, about 30 Representatives came to the panel and advocated action on the pay raise deferral concept.

The subcommittee, then chaired by BILL FORD, issued its unanimous report the following month. It included this recommendation:

The subcommittee agrees that pay adjustments for Members should be deferred until the Congress next following that in which they are considered. Such a practice would lessen the inherent and inescapable conflict of interest charges which Congress faces with respect to establishing its own rate of pay.

I am pleased to note that the House leadership also appears to have taken an increased interest in this idea.

Admittedly, somewhat at my instigation, there was considerable discussion of the Congressional Pay Raise Deferral Act in late June, during the debate over the legislative appropriation bill. During that debate the majority leader, JIM WRIGHT, said:

It is my understanding that the Committee is prepared to report out (the congressional pay raise deferral) proposal. If I am correct, and if the Committee does report out that proposal, it would be the purpose of the leadership to schedule it. As a matter of fact, the Speaker in his press conference (on June 29) indicated that it was expected that the proposition would come before the House at a later date this session.

Then, in his stirring remarks at the close of the debate, the Speaker, TIP O'NEILL, said:

With regard to the Whalen amendment, I have talked with Chairman Solarz and members of the subcommittee, and we will have that issue on the floor before this session is over.

Now, together with NED PATTISON, DON PEASE, and NEWT STEERS, I again am contacting STEVE SOLARZ, whose subcommittee has jurisdiction over the Congressional Pay Raise Deferral Act. We are hopeful that some action will be taken soon after the August recess, to fulfill the pledge made by the Speaker.

For the benefit of my colleagues, I am listing the cosponsors of the Congressional Pay Raise Deferral Act. Not all of these Members are 100-percent satisfied with the legislation in its present form, but all support the concept of congressional pay raise deferral.

The following are the 154 cosponsors of our bill. They are listed by State. An asterisk appears next to the name of each State which has a provision in its constitution barring State legislators from benefiting from a salary increase during the session in which it is proposed.

LIST OF COSPONSORS

ALABAMA*

Tom Bevill.

ARIZONA*

Eldon Rudd.

ARKANSAS*

Jim Guy Tucker, Jr.

CALIFORNIA*

Clair Burgener, Robert Dornan, Don Edwards, Mark Hannaford, William Ketchum, Robert Lagomarsino, Jim Lloyd, Pete McCloskey, George Miller, Norman Mineta, Leon Panetta, Shirley Pettis, John Rousselot, Lionel Van Deerlin, Bob Wilson.

COLORADO*

Tim Wirth.

CONNECTICUT

Toby Moffett and Ron Sarasin.

FLORIDA

Skip Bafalis, Charles Bennett, Dante Fascell, Lou Frey, Andy Ireland, Richard Kelly, William Lehman, Bill Young.

GEORGIA*

Doug Barnard, Elliott Levitas, and Dawson Mathis.

ILLINOIS*

Tom Corcoran, Henry Hyde, Robert McClory, Morgan Murphy, Marty Russo.

INDIANA*

Adam Benjamin, Jr., Floyd Fithian, Elwood Hillis, Andrew Jacobs, Dan Quayle, Phil Sharp.

IOWA

Berkely Bedell, Mike Blouin, Charles Grassley, Tom Harkin, Jim Leach.

KANSAS

Dan Glickman and Martha Keys.

KENTUCKY*

Romano Mazzoli.

LOUISIANA

John Breaux.

MAINE*

William Cohen and David Emery.

MARYLAND*

Marjorie Holt, Barbara Mikulski, and Newton Steers, Jr.

MASSACHUSETTS

Silvio Conte, Robert Drinan, Michael Harrington, Margret Heckler, Ed Markey, Gerry Studds, Paul Tsongas.

MICHIGAN

Bob Carr and Dale Kildee.
Harold Sawyer and David Stockman.

MINNESOTA*

Don Fraser, Bill Frenzel, Tom Hagedorn, Jim Oberstar, Albert Quie.

MISSISSIPPI*

Trent Lott and Sonny Montgomery.

MISSOURI*

Richard Gephardt.

NEBRASKA*

John Cavannaugh, Virginia Smith, and Charles Thone.

NEVADA*

Jim Santini.

NEW HAMPSHIRE*

James Cleveland and Norman D'Amours.

NEW JERSEY*

Millicent Fenwick, Bill Hughes, Andrew Maguire, Helen Meyner, Robert Roe.

NEW YORK*

Barber Conable, Hamilton Fish, Jr., Frank Horton, John LaFalce, Stan Lundine, Robert McEwen, Matthew McHugh, Richard L. Ottinger, Ned Pattison, Fred Richmond, James Scheuer, William Walsh, Leo Zeferetti.

NORTH CAROLINA*

Jim Martin, Stephen Neal, and Charles Whitley, Sr.

OHIO*

Thomas Ashley, Clarence Brown, Willis Gradison, Jr., Tennyson Guyer, Tom Kindness, Clarence Miller, Ronald Mottl, Mary Rose Oakar, Don Pease, Ralph Regula, J. William Stanton, Charles Whalen, Jr.

OKLAHOMA*

Mickey Edwards.

OREGON

Les AuCoin, Robert Duncan, and Jim Weaver.

PENNSYLVANIA*

Joseph Ammerman, Larry Coughlin, Bob Edgar, Joshua Eilberg, Allen Ertel, Bill Goodling, Doug Walgren, Robert Walker.

SOUTH CAROLINA*

John W. Jenrette, Jr., Jim Mann, and Floyd Spence.

SOUTH DAKOTA

Jim Abdnor.

TENNESSEE*

Clifford Allen, John Duncan, and Marilyn Lloyd.

TEXAS*

Bill Archer, Jim Collins, Jack Hightower, J. J. Pickle.

UTAH*

Dan Marriott.

VERMONT

James Jeffords.

VIRGINIA*

Joseph Fisher, Kenneth J. Robinson, Paul Trible, Jr., G. William Whitehurst.

WASHINGTON*

Joel Pritchard and Don Bonker.

WEST VIRGINIA

Robert Mollohan and Nick Joe Rahall II.

WISCONSIN

Robert Cornell, Robert Kastenmeier, Henry Reuss, William Steiger.

WYOMING*

Teno Roncalio.

GUAM

Antonio Won Pat.

MEAT INSPECTION AND TRUTH IN LABELING ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. KRUEGER) is recognized for 5 minutes.

Mr. KRUEGER, Mr. Speaker, today I introduce legislation which I hope will ultimately equalize imbalances in the meat industry and improve the general health of the population. This legislation, the Meat Inspection and Truth in Labeling Act of 1977, will be of great benefit to both consumer and meat producers, and relies upon free market trade mechanisms for competitive regulation.

This bill will provide that all imported beef sold at the retail level be labeled as such. Furthermore, it requires that inspection standards for imported beef more closely approximate the standard uses for domestic beef, and that costs incurred in administration of the bill be borne by foreign producers rather than the American taxpayer.

The American consumer has a right to know whether or not the meat he purchases is imported. It is the responsibility of a democratic government to supply the people with the information necessary to make a reasonable decision to purchase imported meat. My bill requires that every piece of imported meat sold to an ultimate consumer be labeled as such. The choice, then, is where it should be—with the consumer.

Currently a great deal of imported meat reaches the U.S. consumer without having undergone the same meticulous scrutiny as domestically produced meat, whether in the form of fresh, frozen or processed meat or as live cattle. In the last one-third of 1976 alone, over one-fourth of a million head of Mexican cattle were brought into the United States subject to only minimal inspections.

As the elected Representative of many cattle producers, and as a cattle rancher myself, I find this outrageous. Texas has by far the worst brucellosis problem of any State in the Union, yet there are inadequate safeguards to prevent the further spread of this damaging disease from imported cattle. My bill would require that all live cattle being imported into the United States be tested specifically for brucellosis. The Secretary of Agriculture would be required to conduct a study and report to Congress on the impact the importation of live cattle has on the domestic brucellosis problem.

Besides requiring that foreign meat be subjected to the same inspection standards as domestic meat, this legislation increases to two the mandatory yearly inspections of foreign slaughterhouses. Furthermore, the foreign government is required to certify that the meat has in no way been adulterated, and that the foreign inspectors meet the same criteria as our domestic inspectors. The bill further provides that a minimum of one-fourth of all incoming meat be reinspected upon entry into the United States. This spot checking is designed to both verify the integrity of the importer and to provide a last safety measure for the protection of the American consumer.

Finally, this legislation requires that all costs of inspecting and labeling meats be borne by the foreign producers; no meat products can be released from customs until the fee apportioned by the Secretary of Agriculture has been paid.

The Meat Inspection and Truth in Labeling Act of 1977 will benefit both the domestic consumer and the cattle producer. The consumer is provided with the proper information to choose his product. All costs to the taxpayer for meat inspection are removed while the quality of inspection is improved. For the benefit of all Americans this well-balanced legislation certainly merits expedient consideration by this Congress.

H.R. 8684

A bill to require that meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require that the cost of conducting the inspection and labeling of imported meat and meat food products be borne by the importers of such articles; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following:

"(2)(A) Any carcass, part of a carcass, meat, or meat food product (or package or container thereof) described in paragraph (1) and imported into the United States and any meat food product (or package or container thereof) made in whole or in part of imported meat shall be labeled 'imported' or 'imported in part,' as the case may be. This paragraph shall not apply if the meat or meat food product, or its package or container, is marked and labeled to show the country of origin as required under regulations referred to in paragraph (1).

"(B) If any person other than the ultimate consumer cuts any carcass, part of a carcass, meat, or a meat food product into pieces (or breaks a package or container thereof), and such carcass, part of a carcass, meat, meat food product, package, or container is marked or labeled as required by paragraph (1) or subparagraph (A) of this paragraph, such person shall affix a label to each piece of such carcass, part of carcass, meat, or meat food product (or to each package or container thereof) to provide the information required by subparagraph (A). In applying this paragraph for purposes of this Act, the term 'label' includes 'labeling' as defined in section 1(p).

"(3) No carcass, part of carcass, or meat or meat food product (or package or container thereof) described in paragraph (1) may be imported into the United States unless—

"(A) the animal from which such carcass, part, or meat or meat food product was obtained has been examined and inspected, at the establishment in which such animal was slaughtered, in the same manner as animals are examined and inspected in the United States under this Act;

"(B) the establishment described in subparagraph (A) and the government of the country in which such establishment is located allow the Secretary or inspectors appointed by the Secretary to inspect, at such times as the Secretary may determine but not less than twice per year, the facilities of such establishment in the same manner as establishments in which animals are slaughtered in the United States are inspected under this Act; and

"(C) the government of the country from which such product is being imported has certified to the Secretary that such product has been examined and inspected in accordance with the provisions of this Act and regulations issued by the Secretary under this Act and that such product is not adulterated.

Examinations and inspections required by subparagraph (A) shall be conducted by inspectors appointed for that purpose by the government of the country in which the concerned establishment is located under the same criteria as inspectors are appointed by the Secretary to carry out such purpose in the United States.

"(4) For the purpose of assuring that all carcasses, parts of carcasses, meat, or meat food products described in paragraph (1) are not adulterated, the Secretary shall provide that every fourth such carcass, part of carcass, meat, or meat food product shall be inspected upon entry into the United States by inspectors appointed by the Secretary for that purpose.

"(5) The Secretary, through persons appointed by the Secretary, shall, by all known and effective methods, test for brucellosis all imported cattle which are live at the time of their importation into the United States. Such tests shall be conducted at such places and at such times as the Secretary may designate.

"(6) Within one year after this paragraph becomes effective, the Secretary shall conduct a study of the importation of live cattle into the United States and of the effects of such importation upon the number of cases of brucellosis occurring in the United States and shall prepare and submit a report to the President and both Houses of the Congress on the results of such study. Such report shall include the Secretary's findings and conclusions concerning the relationship, if any, between such importation and brucellosis in the United States and his recommendations, if any, concerning the manner in which the regulation of such importation can be improved in order to provide additional protection for the health of individuals and cattle in the United States.

"(7)(A) No carcass, part of a carcass, meat, or meat food product (or package or container thereof) described in paragraph (1) and imported into the United States shall be released from customs custody unless the importer of record pays to the customs officer concerned an assessment in an amount or at a rate which the Secretary determines is necessary to cover the costs to the Secretary of examining, inspecting, and labeling such carcass, part of a carcass, meat, or food product under this subsection.

"(B) In establishing the level or rate of assessments to be imposed under this paragraph, the Secretary shall take into consideration the volume of imports into the United States, the value thereof, and such other factors as he or she deems appropriate in order to achieve a fair and equitable allocation of such assessments among importers."

AMERICANS MUST SUPPORT CZECHOSLOVAKIAN ASPIRATIONS FOR FREEDOM

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, August 21 marks the ninth anniversary of the unprovoked invasion of Czechoslovakia in 1968. This outrageous act, led by Soviet totalitarian oppressors for the sole purpose of suppressing all of Czechslovakia's moves toward freedom and liberty, repudiated and negated almost every article in the United Nations Declaration of Human Rights.

This act serves as a bitter reminder to the world that there is no place for freedom and human dignity in the distorted ideology of the merciless and bar-

baric Kremlin leadership. Today, Soviet tyranny and brutality still rule in the captive nation of Czechoslovakia and we as Americans must continue to do all we can to support the Czech people in their sincere desire for self-determination and freedom from outside domination. August 21 is a reminder to the freedom-loving people of the world that we must maintain our vigilence and condemn such unconscionable acts on the part of a government which does not even respect its own constitutional guarantees of human freedom.

Mr. Speaker, at this point in the RECORD, I wish to include an appeal by the Czechoslovak National Council of America in commemoration of this tragic day in the history of freedom-loving peoples everywhere:

[From Czechoslovak National Council of America]

FREEDOM IS INDIVISIBLE

On this sad occasion of the ninth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "the withdrawal of Soviet troops from Czechoslovakia."

H.R. 8410—LABOR REFORM ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, on July 18 President Carter transmitted to the Congress his proposal to make our laws which govern labor-management relations work more efficiently, quickly and equitably. These proposals were embodied in H.R. 8410, the Thompson-Williams labor reform bill, which was introduced the very next day.

As a member of the Thompson Labor-Management Relations Subcommittee which is presently conducting hearings on H.R. 8410, and as one who has advocated this type of legislation for several years, I am happy that it has received the President's support, and I commend both the President and my distinguished chairman (Mr. THOMPSON) for efforts on behalf of this badly needed legislation.

Mr. Speaker, one of the major problems addressed by H.R. 8410 is election delays. President Carter, in his message to the Congress said:

Unnecessary delays are the most serious problem. In even the simpler cases, the NLRB typically takes almost two months to hold an election to determine whether workers want union representation. The enforcement of Board decisions is also subject to unnecessary delay: lengthy proceedings before the Board and extended litigation can sometimes delay final action for years.

Mr. Speaker, the large majority of representation elections handled by the National Labor Relations Board every year are dealt with in an enlightened and civilized manner by all parties involved. These "consent" elections run smoothly and are almost without fail held within 45 days of the date of petition for election.

However, many of the elections held in 1976 required a preliminary hearing. In these instances, the time between petition and election increased dramatically. The median time lapse increased to 75 days—a full month more than needed for the most complicated "consent" election. In the cases where a decision from the Labor Board was deemed necessary, the delay increased, even more alarmingly, to a median of over 9 months.

In some of these delay elections there were legitimate issues which required clarification. It was not necessary, however, for the parties involved to be forced to wait from 2½ months to over a year for that clarification. This period of delay is a breeding ground for dissension and bad feeling. Neither labor nor management can be reasonably expected to function normally while an issue as vital as a representation election is held in limbo by unnecessary bureaucratic delay. This delay often functions to foster tension and anxiety, while further separating both management and labor. The detrimental effect this situation can have on productivity, efficiency and labor-management relations is obvious.

Even more anathematic, however, is the all too frequent case of an employer deliberately instigating delay through the bureaucratic processes of the Board for the sole purpose of interfering with his employees' right to organize. These unscrupulous employers have quickly learned the rules of the game. The longer they talk, the longer they waffle, the more time they have to wear down their workers, to divide their ranks and effectively destroy the union's majority status.

The Labor Board, by its actions, has shown itself to be the perfect tool for these employers' tactics. Testimony of the United Mine Workers before the Subcommittee on Labor-Management Relations illustrates how the processes of the NLRB can be used to delay an election:

Delay is most frequently accomplished by requesting a formal hearing once the union has petitioned the NLRB for an election. A formal hearing is scheduled at either party's request, whether substantive issues exist or not. In fact, some employers insist on a hearing and then stipulate to all the facts of the case. Others are more imaginative and dream up issues of no relevance, merely to bog down a record. After a hearing, there is time for the filing of briefs, and, of course, extensions of time freely granted for the filing of briefs. Then the regional director must issue a decision based on the record of the hearing. But even a decision issued a week after briefs are received, which rarely happens, can only result in an election 25 to 30 days after that.

After this process there remains the ability of a time consuming appeal to the Board.

The consequence of these delays is often that the union loses the election. It is during this period of delay when most unfair labor practices occur. This is the period of discriminatory and illegal discharges, illegal selective increases in wages and benefits and other forms of coercive activities engaged in by employers.

The NLRA has, unfortunately, become a tool of unscrupulous employers in their attempts to stop working people from exercising their rights. There is no reason the NLRB should not be able to resolve disputed election issues within 45 or at most 75 days. After more than 40 years experience in this field, there cannot be too many new, novel or unprecedented election issues. Even if such issues do arise, there is no excuse for postponing the rights of both employees and employers to an election for 4, 8, or even 12 months while a decision is made. This situation is unacceptable to anyone with a sense of justice.

Changes to expedite the election process must be made. We must deny the opportunity for conscienceless employers to distort and pervert the National Labor Relations Act into a tool to deny working men and women their rights. The enactment of the Thompson-Williams labor reform bill would bring about the long overdue changes in the labor laws to insure quick and democratic process when workers seek representational elections.

ACTS ADOPTED BY COUNCIL OF DISTRICT OF COLUMBIA

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

Mr. DIGGS. Mr. Speaker, the Council of the District of Columbia has adopted a number of acts since last I reported to the House on June 13, 1977.

The House Committee on the District of Columbia has in its files Council Committee reports and copies of the Council's acts, if Members desire further information.

The material follows:

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA AND TRANSMITTED TO THE SPEAKER JUNE 8, 1977–JULY 31, 1977

Act 2–30—Electrical Code—To update the 1972 Electrical Code and (1) provide practical safeguards for buildings, structures, and the general public from electrical hazards arising from the use of electricity, and (2) establish regulations for installation, maintenance and repairing of electrical wiring and equipment in all but U.S. public buildings and embassies and chanceries. Adopted by the Council May 3, 1977. Signed by the Mayor May 24, 1977. Transmitted to the Speaker July 11, 1977.

Act 2–40—Building Code, Second Amendment—To update the 1972 Building Code and (1) establish regulations governing the construction, alteration and repairing of all buildings, signs, and premises; (2) clarify penalties for violations; (3) ensure continued protection and safety of all buildings and structures; and amend regulations re requirements for smoke detection devices in residential buildings. Adopted by the Council May 3, 1977. Signed by the Mayor May 25, 1977. Transmitted to the Speaker July 11, 1977.

Act 2–44—Charter Amendments Procedures Act of 1977, Initiative, Referendum and Recall—To direct the Board of Elections and Ethics to provide procedures for the conduct of an election in November, 1977, to consider amendments to the Charter of the District of Columbia. Adopted by the Council May 17, 1977. Signed by the Mayor June 8, 1977. Transmited to the Speaker June 30, 1977.

Act 2–48—Tax Amendments—To (1) amend the Income and Franchise Tax Act of 1947 (61 Stat. 331; D.C. Code, Tit. 47, Sec. 1550) to disallow deductions from gross income of deed recordation taxes and motor vehicle registration fees; and (2) amend Section 6 of Title II of the Act of August 17, 1937 (D.C. Code, Tit. 47, Sec. 1806) to require that the 2 percent tax on insurance companies be paid in installments. Adopted by the Council on May 31, 1977. Signed by the Mayor June 21, 1977. Transmitted to the Speaker July 13, 1977.

Act 2–49—Advisory Neighborhood Commissions, Vacancies On—To amend the Advisory Neighborhood Council Act of 1975 (effective Oct. 10, 1975; D.C. Law 1–2) in order to allow for appointment of individuals by the Advisory Neighborhood Commissions (rather than by special elections) to fill vacancies on the Commissions. Adopted by the Council May 31, 1977. Returned by Mayor without approval. Transmitted to the Speaker June 30, 1977.

Act 2–51—Revenue Recovery Act of 1977—To provide for payment of money rewards to informants giving information leading to collection of taxes, penalties, or interest from tax law violators. Adopted by the Council on June 14, 1977. Signed by the Mayor July 5, 1977. Transmitted to the Speaker July 13, 1977.

Act 2–52—Water Conservation Act—To amend the Plumbing Code (Regulation 72–19, enacted August 26, 1972) to require the installation of water conservation devices in all new plumbing fixtures. Adopted by the Council on June 14, 1977. Signed by the Mayor on July 6, 1977. Transmitted to the Speaker July 13, 1977.

Act 2–53—Prevention of Child Abuse and Neglect Act of 1977—To (1) amend the mandatory reporting and other laws re child neglect and abuse, and investigation thereof; (2) establish a central registry of child abuse reports; and (3) establish procedures for terminating parental rights in certain situations. Adopted by the Council on May 31, 1977. Signed by the Mayor July 6, 1977. Transmitted to the Speaker July 13, 1977.

Act 2–54—Soil Erosion and Sedimentation Control Act of 1977—To amend Title 8 of the D.C. Health Regulations to regulate land distributing activities to prevent (1) accelerated soil erosion and sedimentation, and (2) sediment deposit in the Potomac River and its tributaries, including the D.C. sewer system. Adopted by the Council on June 14, 1977. Signed by the Mayor July 11, 1977. Transmitted to the Speaker July 18, 1977.

Act 2–56—Advanced Life Support Act of 1977—To amend the Good Samaritan Act (1) to promote the availability of advanced emergency medical care to needy persons by implementing communications and instructions between physicians at hospitals or clinics and paramedics on the scene, and (2) to establish a program for certifying emergency medical technicians/paramedics. Adopted by the Council on June 28, 1977. Signed by the Mayor July 8, 1977. Transmitted to the Speaker July 18, 1977.

Act 2–59—Health Service Rates Act of 1977—To amend Title IV of the License Fees and Charges Act of 1976 (effective Sept. 14, 1976; D.C. Law 1–82) to increase rates charged for medical care and mental health services provided to patients at D.C. General Hospital, D.C. Village, and Glen Dale Hospital. Adopted by the Council June 14, 1977. Signed by the Mayor July 13, 1977. Transmitted to the Speaker July 18, 1977.

Act 2–60—Poundmaster Fee Act of 1977—To amend the Revenue Act of 1878 (20 Stat. 173; D.C. Code, Tit. 47, Sec. 2001) levying a dog tax, to increase the poundmaster's fee (from $2 to $25) for reclaiming dogs. Adopted by the Council on June 28, 1977. Signed by the Mayor on July 18, 1977. Transmitted to the Speaker July 27, 1977.

THE NEED FOR MENTAL HEALTH INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, during 1973 there were 5,475,000 patient care episodes in mental health facilities, a rate of 2,631 per 100,000 population.

Of the total episodes, 1,697,250, or 31 percent, were inpatient episodes; 3,558,750, or 65 percent, were outpatient episodes; and 164,250, or 3 percent, were day treatment episodes. The largest proportion of the total episodes were accounted for by freestanding outpatient clinics, accounting for 26.1 percent of the total episodes, followed by federally funded community mental health centers—22.9 percent—State and county mental hospitals—18.5 percent—and nonFederal general hospital psychiatric services—18.3 percent (National Institute of Mental Health, 1976).

During 1975 there were 6.9 million patient care episodes, or a rate of 3,316 per 100,000 population. Of the total number of episodes, 1,863,000, or 27 percent, were inpatient episodes; 4,830,000, or 70 percent, were outpatient episodes; and 207,000, or 3 percent, were day treatment episodes (Pollack, 1977).

Since 1955, the bulk of outpatient mental health care has spiraled from 23 percent in 1955 to 70 percent in 1975 (Pollack, 1977). Thus, of those who received mental health care, the majority were paying out of their pockets for mental health care. The very best that can be expected from the above data is that mental health clients are paying for health care on a sliding scale basis. When we consider our poor- and lower-income we are talking about an added hardship to their already existent meager income.

Ten percent of the population is predicted to eventually suffer from severe mental illness. Several mental illness in a family can mean one or more of several conditions.

The latest figures from the National Institute of Mental Health reveal that of all those who received mental health care during that year—3.1 percent were mentally retarded; 5.4 percent had organic brain syndromes; 22.5 percent suffered from schizophrenia; 15 percent from depressive disorders; 8.8 percent from alcoholism; 2.9 percent from drug disorders; 1.5 percent from other psychoses; a whopping 32.4 percent from a category listed as "all others" which includes personality disorders and various neuroses; and a disturbing 8 percent which were undiagnosed.

We, the elected representatives of the American people, owe it to the American people to provide for their health care; and, of course, health care includes both the mental and physical components of the individual. We are long past the point where we can continue to shortchange our constituencies by denying them the right to lead productive lives, but who cannot because they are afflicted by mental or emotional conditions which interfere with such things as getting and keeping a job; or raising children who are not plagued by child abuse and neglect.

That is why, Mr. Speaker, that I continue to reintroduce legislation which would provide comprehensive mental health coverage to all Americans through a program of national health insurance.

There are numerous reasons why a national mental health insurance bill should be passed in this Congress. The following are only a brief review of some of the existing reasons for why we need a national health insurance that includes comprehensive mental health coverage.

In spite of the various community mental health centers and clinics that operate on a sliding-scale fee basis, mental health care remains fairly unattainable for a large number of the American poor. Valde and Fiester (1976) found that of Spanish-speaking, Spanish-surnamed families patronizing a particular community mental health center, the modal annual income was $3,000 to $5,000. Over 50 percent of the families had an income that was less than $5,000 a year.

In addition to the limited income, 63.3 percent of the sample were prescribed some type of medication. So, when we look at the amount of annual income of the families, the fact that these families attend the community mental health center regularly, and the fact that these clients receive prescriptions for medication, and of course must pay for these prescriptions, we are talking about a service that becomes increasingly inaccessible over time because it gets more expensive over time.

Often, even a seemingly small fee of $5 a session is too much for a poor family. The poor tend to be multiple users of services, and therefore are paying more than the $5 a week for such health care services. It is the poor and the middle-income who experience the most difficulty with payments for mental health care services. Of course, if everyone—or even the majority of people—in our country was in the upper-middle or upper income, there would be no financial obligation to appropriate money for a national health insurance. However, this is not the case with the majority of the American people. According to the 1975 census, the mean family income was $10,401 for black Americans; $11,096 for Hispanic origin Americans; and $16,115 for non-Hispanic white Americans.

A national health insurance plan which includes complete mental health coverage would actually reduce the overall cost of national health insurance, because it would provide for coverage of those mental or emotional causes of symptoms such as lower back ache, headaches—which result in brain scans—and stomach problems—which precipitate explorations for ulcers or other stomach conditions. It is necessary for ulcers or other stomach conditions. It is necessary for us to start viewing mental health as an important component of the overall health of the individual.

The single largest category of human disability in our country is represented by mental disorders (Dorken, 1976). Additionally, physical diseases can be caused or aggravated by mental and mental and emotional factors (Dorken, 1976).

It has been found by both Follette and Cummings (1967) and Wamocher (1973) that people experiencing emotional distress are significantly higher users of both inpatient and outpatient medical facilities when compared to average health plan members. Lipsitt (1971) found that "chronic complainers and problem patients" who generally overutilized hospital services were suffering from masked depression. According to a study reported in the Washington Post (July 17, 1977), 15 percent of the adult population between the ages of 17 and 74 may suffer from some form of serious depression and for which they will not receive treatment.

Wiggins (1976) found that among a prepaid group practice plan, 68 percent of the doctor visits of 36 percent (480,000) of its 1.3 million participating members were for complaints for which no organic causes could be found. Goldberg, Krantz, and Locke (1970) similarly found that among a prepaid group practice medical program, patients referred for short-term outpatient psychiatric therapy resulted in an overall reduction in number of patients seen of 13.6 percent for nonpsychiatric services and 15.7 percent for laboratory or X-ray procedures. Therefore, the logical and only conclusion to be drawn from the foregoing is that a failure to treat the mental conditions of the individual results in higher medical costs by increasing the length of hospital stay, the frequency of outpatient visits, and causing medical doctors to order more laboratory tests (Goshen, 1963; 1969; 1970).

Funds for the program would be supplied through a mental health tax, similar to funding under some of the national health insurance program bills. The program I am reintroducing could be supplemental to any national health insurance program bills. The program I am reintroducing could be supplemental to any national health insurance plan or could be instituted as a separate program.

Services provided under the bill will include psychiatric hospital care, psychotherapy, prescription drugs, community health center services, and home therapy. Among innovative services that would be covered in the Federal program are halfway house care, day mental hospital care, and night mental hospital care.

The emphasis behind these services is to treat the person while in contact with the community and his or her family. This would lead to less institutionalization and permit the person to be productive in society.

Halfway house care for those who have been mentally ill is relatively new in this country. Historically there were a few halfway houses for persons who had been in penal institutions, but the use of a halfway house approach for persons who have been treated for mental illness is something which has occurred in recent years. It is a program that is worthy of more emphasis and greater expansion, if administered properly.

Presently, the halfway house program in San Antonio—the district I represent—operates on a combination of private fees, private contributions, and moneys from the Texas Rehabilitation Commission, the United Way, and the Texas Commission for the Blind.

Between 80 and 85 percent of the residents of the halfway house program in San Antonio pay either full or sliding scale fees to the program.

The emphasis of the halfway house program is to rehabilitate and to help those, who might be doomed to a life of institutionalization, to become functioning members of society.

The problem with today's inadequate mental health care services is that many mental patients are never brought to the point that they can become a resident of a halfway house, or if they do come to that point, there is not a halfway house available to them—either because none exists in their communities or the factilities that do exist are overcrowded and unable to accept any more residents.

Mr. Speaker, the best approach to any disease is prevention. One purpose of the bill—if not one of the most important—is to give to all Americans a right to obtain adequate preventive mental health care at a price they can afford.

With so many Americans affected by mental disorders of some form or another, it is time that we recognized mental and emotional illnesses as valid forms of illness that should be treated as such.

We are way behind in meeting this mental health crisis. We have a lot of catcing up to do, and one way to do this would be to start considering mental health insurance as a definite part of our national health insurance package and to get such a bill passed out of this Congress.

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THE NEED FOR AUTOMATIC SPRINKLER SYSTEMS IN NURSING HOMES TO PREVENT MULTIPLE-DEATH FIRES

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, as you know, together with 107 of my colleagues, I have introduced legislation (H.R. 1129 and the equivalent bills, H.R. 5433, H.R. 5434, H.R. 5435, H.R. 7527, H.R. 7528, H.R. 7529, and H.R. 7530) which would require the installation of automatic sprinkler systems in all medicare and medicaid skilled and intermediate nursing homes.

In 1976, after two tragic nursing home fires in Chicago resulted in the deaths of 31 people and injuries to 50 others, I called upon the General Accounting Office to investigate steps that could be taken to prevent future tragedies. As a result of their investigation, GAO concluded that "Federal fire safety requirements do not insure life safety in nursing home fires" and recommended "that the Congress enact legislation requiring all nursing homes to be fully protected with automatic sprinkler systems." These conclusions were echoed in another report, "The Tragedy of Multiple Death Nursing Home Fires," by the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, which I have the privilege of serving as chairman.

I would like to insert in the RECORD for my colleagues' information the address on this issue which was presented by Mr. Alan Zipp of the General Accounting Office before the American Association of Homes for the Aging's Legislative Workshop. Mr. Zipp, who has a well-deserved reputation as an expert in this area, articulately demonstrates the need for legislative changes to end senseless and preventable multiple death nursing home fires.

I call upon my colleagues, Representative DAN ROSTENKOWSKI, chairman of the Ways and Means Committee's Subcommittee on Health, and Representative PAUL ROGERS, chairman of the Interstate and Foreign Commerce Committee's Subcommittee on Health and the Environment, to act on this bill with the urgency it deserves.

The address follows:

NURSING HOME FIRE SAFETY

(By Alan S. Zipp)

FIRE SAFETY STANDARDS DO NOT INSURE LIFE SAFETY

During 1974, GAO made a study of nursing home fire safety and found that many nursing homes did not meet Federal fire safety requirements. In 1976, GAO again studied the problem and concluded that Federal fire safety requirements were not adequate to insure life safety. These are indeed two very bold conclusions.

FIRE IS THE BEST OF ALL SERVANTS: BUT WHAT A MASTER!

Scotch essayist Thomas Carlyle once wrote, "Fire is the best of all servants; but what a master!" Fire is truly a great servant, but nevertheless, each year thousands of people are injured or killed in fire related tragedies. In the case of the young and mobile person, evacuation is the most effective means of avoiding tragedy when fire strikes. Currently, a national campaign is underway to encourage the general public to install smoke detection devices in their homes, which give warning in case of fire, so that prompt evacuation can be accomplished.

But what about our frail, nonambulatory elderly? In many cases elderly people cannot walk, and evacuation may be all but impossible.

PANIC IS A PROBLEM

Another problem is that of panic. In a fire situation even the most stable individual could panic and act in a most irrational manner. Cases have been noted of people running into burning rooms to salvage personal belongings even after they were at places of safety. If stable people could panic, what about the frail, fragile older person who has lapses of memory, who suffers from chronic brain syndrome otherwise called senility, or who has other mental impairments which prevent consistent rational behavior? These people simply may not be able to act rationally in a situation where they can see the possibility of all their worldly possessions being destroyed by fire. This is a very real problem.

A nursing home may be an institution as far as the government is concerned, but to its residents it is their home. That home usually contains all of the things these people own; including: money; clothes; pictures of family, children, loved ones; and other mementos of their lives.

These tangible items are all that some people have left, after 70, 80, or 90 years of life. These items are sacred to them, and their destruction is tantamount to the destruction of the person and his past. When the risk of loss is so great, even a rational person would probably make every effort to prevent such loss.

These are only some of the problems to consider regarding nursing home fire safety. Nursing home residents present a particular problem because of several factors: (1) their advanced age (average 82), (2) their failing health (average four disabilities), (3) their mental condition (55 percent are mentally impaired), (4) their reduced mobility (less than half can walk), (5) their sensory impairment (loss of hearing, vision, or smell), (6) their reduced tolerance to heat, smoke, and gases, and (7) their greater susceptibility to shock.

EVACUATION MAY BE A WASTE OF TIME

Evacuation may be the most effective means of avoiding loss of life for a mobile person; but in the words of a nursing home physician who lived through a tragic nursing home fire, "evacuation of nursing home residents is a waste of time."

The physician testified before a congressional committee that:

"I think it is well to point out that if we were to go right now, to any nursing home, and drag 30 people down from the third floor, we are going to kill a substantial number. I think we have got to remember, and remember throughout the day, that evacuation is really futile. It is a waste of personnel and precious time. This tragedy took place in such a short number of minutes, that we had to limit our efforts to those which would save lives, and evacuation would not."

The physician further clarified the problem:

"To move a patient, without hurting a senile, fragile body, requires two members of the staff over a couple of minutes. When you think of the chaos and the pandemonium that reigned under the circumstances, and remember you are dealing with human elements, you have to remember that people are not functioning quite on the level that they would in a drill."

MANY NURSING HOMES DID NOT MEET FIRE SAFETY STANDARDS

In March 1975, GAO reported that many nursing homes did not meet major fire safety requirements. Specifically, based on a random sample of nursing homes, which were inspected by professional engineers, 72 percent were found to have one or more deficiencies in major Life Safety Code requirements. In the event of fire, every Life Safety Code deficiency noted could contribute to the spread of fire and smoke.

The most frequently observed deficiencies were violations of the requirement for automatic sprinkler protection and 1-hour fire-resistance separation for hazardous areas.

The Code requires complete automatic sprinkler protection in all nursing homes except those of certain fire resistant construction. However, GAO reported that 41 percent of those classified as exempt from the sprinkler requirement were improperly classified with regard to construction type.

According to the law, the automatic sprinkler requirement can be waived if the facility provides adequate protection through other means. HEW established standards which must be met before a sprinkler waiver could be granted. After its review, GAO reported that 79 percent of the waivers issued were improper, as the facilities did not meet the waiver standards.

With regard to the correction of previously identified Life Safety Code deficiencies, GAO reported that 60 percent of the nursing homes inspected for corrections had not made the corrections within the time required. The deficiencies had been identified from 9 to 25 months prior to the GAO visits. The average period of time the deficiencies remained uncorrected at the time of the GAO visits was about 22 months.

GAO recommended that HEW take specific actions to insure compliance with the Life Safety Code and improve fire safety conditions in federally funded nursing homes. In spite of the findings reported by GAO, HEW did not agree that it had not effectively administered and enforced Federal fire safety requirements for nursing homes. HEW recognized that Life Safety Code problems remained to be resolved, but said that its efforts had resulted in safer nursing home environments.

CODE STANDARDS DO NOT INSURE LIFE SAFETY

In February 1976, after two tragic nursing home fires killed 31 people and injured 50 others, Congressman Claude Pepper, Chairman of the Subcommittee on Health and Long-Term Care, House Select Committee on Aging, asked GAO to investigate these fires and recommend appropriate action to avoid similar situations.

In June 1976, GAO reported on the results of the investigation. GAO found that multiple deaths occurred in these, and several other nursing home fires in recent years, even though the buildings were of fire resistive construction and were in substantial compliance with the Federal fire safety requirements. Neither facility was fully protected with an automatic sprinkler system designed to activate an alarm and begin fighting the fire immediately. Although local fire departments responded promptly to both alarms, the fire departments were unable to prevent the deaths which occurred. Experts said that automatic sprinklers would have prevented the deaths in these homes.

AUTOMATIC SPRINKLERS PREVENT MULTIPLE DEATH FIRES

According to official records of the National Fire Protection Association, there has never been a multiple death fire in any nursing home fully protected with an automatic sprinkler system. The National Safety Council and the American Nursing Home Association have stated that:

"Automatic sprinkler systems provide the greatest safety to life feature available in the fire protection field. Not only can they automatically sound an alarm, but they will immediately start fighting the fire when activated. Automatic sprinklers are by far the most reliable and effective means of fire extinguishment. Other forms of protective equipment, as well as automatic alarms, have their special place, but none can ever be an effective substitute for automatic sprinkler systems."

Shortly after the two nursing home fires which resulted in tragedy, another nursing home fire was reported. This fire could have been as serious as the other two, except for one thing: the facility was fully protected with an automatic sprinkler system. The local fire chief attributed the absence of injuries and the prompt control of the fire to the sprinkler system and the quick employee response. The fire activated one of two sprinklers in the room which sprayed water on the fire. The sprinkler extinguished the fire before the firemen arrived, which was shortly after the alarm. Because the fire was promptly controlled, it did not generate sufficient heat to activate the second sprinkler in the room.

GAO RECOMMENDED AUTOMATIC SPRINKLERS

These two tragic nursing home fires demonstrated that deaths do occur because of fire, even in fire resistive buildings that meet the Federal fire safety requirements. GAO concluded that Federal fire safety requirements do not insure life safety in nursing home fires. As a result, GAO recommended that legislation be enacted to require that all federally funded nursing facilities be fully protected by an automatic sprinkler system.

LEGISLATION FOR SPRINKLERS WAS INTRODUCED

In September 1976, the Subcommittee on Health and Long-Term Care issued a report based on its investigation, including joint hearings with the Senate Subcommittee on Long-Term Care, on the subject of nursing home fire safety and the need for a national commitment to safety. Included in the report was a bill, H.R. 14406, introduced by Chairman Claude Pepper, which required all nursing homes to install automatic sprinkler systems, and provides for direct low interest loans to assist in financing the installations. At the close of the 94th Congress, this bill was cosponsored by 89 members of the House of Representatives. It was reintroduced by Congressman Pepper as H.R. 1129, on January 6, 1977, for action during the 95th Congress.

TODAY'S STANDARDS PROVIDE ONLY A LIMITED DEGREE OF SAFETY

The current status of nursing home fire safety is considerably better than it was in 1970. The 1973 edition of the Life Safety Code has replaced the formerly required 1967 edition. Improvements in Code standards and enforcement have been noted. However, the standards today provide only a limited degree of safety, not the maximum degree of safety which should be expected in our nation's nursing homes.

New standards are being considered and tested, particularly with regard to toxic gases resulting from burning carpets and other materials. The National Bureau of Standards is testing flame spread ratings of carpets to establish nationally acceptable standards for institutional facilities. And ongoing research is being done at numerous testing facilities throughout the country on the many phenomena of fire.

HEW REJECTS SPRINKLERS BECAUSE OF COST

The cost of nursing home fire safety has become a significant factor in the acceptance of new standards. Adoption of an automatic sprinkler system requirement has been consistently rejected by HEW officials on the basis that it is too expensive and not cost effective. The cost effectiveness of any proposal is determined by comparing cost to benefits received. If the benefits received are greater than the cost incurred the proposal is considered cost effective.

SPRINKLERS COST PENNIES A DAY

The cost of an automatic sprinkler system has been shown to be from $1.21 to $1.75 per square foot. For a 100-bed nursing home of 25,600 square feet the total cost could range from $31,000 to $43,000. As GAO reported, when the total cost is spread over a loan payment period of 20 years with a 9¼ percent interest rate, the monthly cost of a sprinkler system is $5.57 per bed, or about 19 cents per patient each day.

Considering cost effectiveness, it is hard to conceive that insuring the life safety of nursing home residents against death by fire is not worth 19 cents per day. From the perspective of the nursing home owner, there is minimal out of pocket cost, since under current law Medicare and Medicaid pay nursing homes for operating expenses which include depreciation and interest charges.

FUTURE DIRECTION OF NURSING HOME FIRE SAFETY

The future direction of nursing home fire safety looks very promising. There is little doubt that the Congress will enact legislation requiring automatic sprinkler systems in all nursing homes, and provide either grants or low interest loans for their financing. Also, it appears that flamability and toxic gas standards will be established for carpets and furnishings.

Cost benefit analyses will also be a key factor. Construction trade-offs for existing facilities will become more frequent and acceptable with the requirement for automatic sprinklers. Nursing homes may be granted waivers from costly improvements required by the Code because of the proven effectiveness of automatic sprinklers.

New construction, on the other hand, will face a much more critical analysis. Legislation or regulation may be enacted which will prevent any nursing facility, constructed after a specified date, from being certified for Medicare or Medicaid unless the facility complies with the Federal fire safety standards in every regard and without waivers.

As a result of this direction, national attention can again be focused on the need to upgrade the quality of care in nursing facilities. This will be the case, because the problem of multiple death nursing home fires will be limited to past history, not current events.

THE 19TH OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, despite the efforts of some of dampen the 19th observance of Captive Nations Week, it is plainly evident that the message of this week came across loud and clear. And that message is that a true conviction in human rights must be coupled with both a comprehensive knowledge of the imperio-totalitarian Communist world and a fixed courage to withstand any growl from the Russian Bear. Without the latter, the former stands unsupported.

As the following selected items show, Mr. Speaker, this 19th observance was widely diverse in activity and expression. I commend to the reading of my colleagues: The proclamations by Gov. Joseph P. Teasdale of Missouri and Gov. Richard A. Snelling of Vermont; the New York News report of July 18 "Captive Nations March: The Spirit Is Liberating"; the American Legion foreign relations bulletin on "What's Happened to Captive Nations?"; reports on the week in the July 18 New York Times and the Philadelphia Inquirer; a short address by Dr. Lev E. Dobriansky of Georgetown University on "Human Rights and U.S. Foreign Policy" that appeared prior to the week; and a religious appeal for the week by the Most Reverend Basil H. Losten of Philadelphia:

PROCLAMATION: OFFICE OF THE GOVERNOR, STATE OF MISSOURI

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania Ide-Uran Serbia, Croatia Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of people in these conquered nations constitutes a powerful deterrent to any ambitions of communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities, expressing their sympathy with and support for the just aspirations of captive peoples for freedom and independence:

Now, Therefore, I, Joseph P. Teasdale, Governor of the State of Missouri, do hereby proclaim that the week commencing July 17, 1977, be observed as

Captive Nations Week in Missouri and call upon its citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In testimony whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 29th day of June, 1977.

A PROCLAMATION

Whereas, the imperialistic policies of international communism have led, through direct and indirect aggression, to the subjugation and enslavement of many peoples thrcughout the world; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Richard A. Snelling, Governor of the State of Vermont, do hereby proclaim the week beginning July 17 through July 23, 1977, as Captive Nations Week in Vermont, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From the New York News, July 18, 1977]

CAPTIVE NATIONS MARCH: THE SPIRIT IS LIBERATING

(By Bryant Mason)

Immigrants from 34 countries marked Captive Nation Week yesterday by holding a memorial service at St. Patrick's Cathedral and then marching up Fifth Ave. to the Goldman band shell in Central Park.

Leaders of the march said its purpose was to let the world know that citizens behind the Iron and Bamboo curtains would not be forgotten. Decked out in a national dress, they carried banners and flags from such lands as Estonia, Latvia, Lithuania, Turkestan and Croatia.

Rep. Mario Biaggi (D-Bronx) and Secretary of State Mario Cuomo and Barry Farber, both candidates for mayor, appealed to the 200 marchers at the band shell not to forget their countrymen who are less fortunate.

Nicholas Nazarenko, a former colonel in the Cossacks, was in the demonstration, wearing dress from his old cavalry troop. Nazarenko, 65, said he lost his family in Russian prisons and was forced to flee the country in 1943.

"It's a great day for us that we have been dreaming of—to live in a country where we can demonstrate for the freedom of others, said Nazarenko.

The meaning of the day was summed up by Ivan Docheff, chairman of Captive Nations Week. An escapee from Bulgaria, where he was mayor of Silistra, Docheff said: "It's an important thing to keep the spirit and not let memories of imprisoned countrymen fade. Sooner or later, we'll be able to break the Communist curtain and free these people," he said.

WHAT'S HAPPENED TO CAPTIVE NATIONS

Captive Nations Week is celebrated during the third week of July. Time was when the plight of Captive Nations was well publicized. The general public knew which nations were captive by Communist military power.

In 1977 the vision of "Captive Nations" has become somewhat blurred. Many Americans

don't know who they are or what they are. Many think the Captive Nations have been written off as lost forever or at least for the foreseeable years.

More than one billion people, and this is over 30% of all human beings on this planet, are now among the Captive Nations, enslaved to Communist power and ideology.

Captive Nations Week is dedicated to the commemoration of the fate of the millions of people denied basic human rights by Communist controlled governments. The first group of nations to become enslaved were the Caucasian states of Armenia, Georgia and Azerbaijan, those areas lying between the Black and Caspian Seas. These nations were captured in 1920 immediately following the Bolshevik Revolution. Turkestan in Central Asia was occupied in 1922 and Mongolia in the Far East was captured in 1924. Eventually, the Kremlin's leaders spread the Communist umbrella over 17 nations and these were named the U.S.S.R., Union of Soviet Socialist Republics.

The next big grab came in the early 40s. Soviet military forces occupied the three tiny but fiercely independent Baltic Republics of Estonia, Latvia and Lithuania. Then, beginning in 1943, Red Armies began the occupation of Poland, Hungary, Czechoslovakia, Bulgaria, Romania, East Germany, Albania and Yugoslavia.

To some, this brief recital of history seems so obvious, almost redundant, but President Ford's TV blunder on the enslaved status of Eastern European countries bears eloquent witness to the confusion of Americans regarding the captive nations, and the loss of human rights.

The last official listing of the captive nations appeared in the Congressional Record as follows: country, people, and year of Communist domination:

Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossakia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolia	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Romania	1947
Czechoslovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960
Cambodia	1975
South Vietnam	1975
Laos	1975

Who's next? Angola and Mozambique will most likely be added in 1977 since they are under active communist domination. Ethiopia is said to be in the process of falling now. Somalia is under Soviet influence. Panama is seriously threatened. Then there are those other nations under serious threat: Taiwan, Thailand, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, Lesotho and Swaziland and the list of African nations could balloon to include that entire continent. Meanwhile, there are those who say, "What difference does it make?"

The best answer printed thus far came from the Postmaster Ms. Sophie Snarski of Cavendish, Vermont in writing about the current status of Aleksandr Solzhenitsyn, whose new home utilizes the Cavendish office. Said the Postmaster: "He (Solzhenitsyn) is free to write and that makes him really free". Think what it would be like to be unable to write, to speak, to gather with one's friends, to criticize fearlessly those in authority. That's what the celebration of Captive Nations Week is all about.

[From the Philadelphia Inquirer, July 18, 1977]

GATHERING IS SMALLER AND OLDER FOR CAPTIVE NATIONS WEEK RALLY

A march up Fifth Avenue and a colorful rally in Central Park by 250 demonstrators, mainly middle-aged and elderly Americans of Eastern European descent, marked the opening yesterday of Captive Nations Week.

The annual protest against the domination of 36 smaller nations and ethnic groups by the Soviet Union, China and Yugoslavia began with a Roman Catholic mass at St. Patrick's Cathedral and ended at the Central Park band shell, where two mayoral candidates and a United States Representative praised the protest as important to the struggle for freedom.

A few cyclists, strollers and joggers watched as folk dancers in Eastern European costumes and then a brass band made up of followers of South Korea's Rev. Sun Myung Moon performed for the crowd, many of whom were also wearing brightly colored costumes.

Standing in sweltering heat in full Cossack regalia, including white fur hat, silver sword, and flowing blue robes, Lieut. Col. Nicholas Nazuvenko, a march marshal, explained the purpose of the protest.

"It doesn't matter how many attend," he said. "As long as what we do here gets across the Iron Curtain, it gives encouragement," he said. As he spoke, the band in the background played "The Stars and Stripes Forever."

Other marchers agreed with his sentiments. "It shows we're still here, we still care about them," said Bobban Pylpiw, who is of Ukrainian descent. "It adds a psychological lift. Sure, it's little, but it has importance in the long run."

This year's protest began without the usual declaration from the President making the Captive Nations Week official. A White House spokesman said yesterday that he did not know why President Carter, who was at Camp David for the week-end, had not made the declaration.

But the marchers, whom Representative Mario Biaggi of the Bronx described as the "hard-core" of earlier, larger protests, seemed enthusiastic about the proclamation by Governor Carey making July 17 to 23 Captive Nations Week in New York, and the speeches at the rally predicting the eventual decline of Communist domination.

"More and more people are melting into the pot, getting more Americanized," said Meinhard Joks, a marcher of Armenian descent who carried an American flag. But he said the small size of the march did not deter him.

Mayor Frank L. Rizzo has proclaimed this week "Captive Nations Week in Philadelphia."

The mayor is honorary chairman of the Captive Nations Committee, which represents groups of Armenian, Cossack, Estonian, Hungarian, Latvian, Lithuanian, Ukrainian and Polish origin. The mayor's proclamation said that Americans wanted the people of captive nations to enjoy the same freedoms that the United States won 201 years ago.

[From the Chiana Post, Apr. 25, 1977]

HUMAN RIGHTS AND U.S. FOREIGN POLICY

Discussion in the United States is rapidly growing on human rights as the cornerstone of U.S. foreign policy. Human rights are being projected on a single standard, global basis, and will have inevitable impact on Asia.

Those who have supported the captive nations, especially mainland China and those nations in the Soviet Union, are thrilled by this new development because the captive nations theme always and consistently advanced the human rights denied to over 1 billion people.

President Carter's commitment to this issue is clear and firm. He has stated this time and time again. In his U.N. address, for instance, he made it perfectly clear that the repression of human rights by any member is the concern of all members. The sharp reaction by Brezhnev and Gromyko to this address contain points of argument that can be easily exploded. Brezhnev stressed the principle of non-interference in internal affairs, his right to talk openly about "the world of imperialism," and the non-existence of oppression and exploitation of classes and nationalities in the USSR. Gromyko emphasized the need for "peaceful coexistence."

COLONIAL EMPIRE

The facts are that the USSR itself, founded on subversion, war and conquest, is a colonial empire—an imperium in imperio—that does not qualify under this principle. The biggest political blunder of the Nixon-Kissinger period was to endorse this principle in relation to the USSR in the Moscow pact of 1972. Also, Brezhnev can't have it both ways, to insist on talking about some mythical "world of imperialism" outside the so-called Communist world prevent us from talking about the real imperialism and colonialism managed by Moscow in Eastern Europe and Asia. As to whether classes and nationalities in the USSR are oppressed and exploited, this will come out in the wash as the human rights issue is pressed. In the course of this healthy pressure, the falseness of Moscow's "peaceful coexistence" policy, in which systemic warfare against the free countries is an integral part, will also come out in the open before the court of world opinion.

"At last, on the offensive, the human rights denominator in U.S. foreign policy is a breath of fresh air from the concessive Kissingerism that dominated the past two Doministrations."

"It is erroneous to believe that President Carter's emphasis on human rights came of nowhere and into some void in our American society. Let alone the growing criticism of Kissingerism prior to 1975, from the time of our political defeat in Vietnam the blunders of the Ford Administration, largely dominated by Kissinger, mounted by leaps and bounds and intensified the criticism. The snubbing of Solzhenitsyn, the confusion over the Helsinki conference, the Sonneufeldt doctrine of organic relationship in Central Europe are just a few examples. Even at the Republican National Convention the cry was for morality in our foreign policy."

BLUNDER

"But the most revealing blunder came in the second debate of the Presidential campaign. When Ford insisted that there is "no Soviet domination of Eastern Europe," he disclosed how he and his Secretary of State viewed the condition of Eastern Europe. For me, though a life-long Republican, this was the last straw, and nationally I denounced this view and held this was no slip-of-the-tongue. If it were a slip, Ford could have corrected it that night or the following morning. It took him almost a week to admit his "mistake". Really, a Presidency was lost, because as his Pollster, Robert Teeter, admitted after the election, this unforgettable gaffe "left us dead in the water for about 10 days." The cost of irreplaceable time and the marginal swing of votes in heavily populated ethnic areas of New York, Pennsylvania, and Ohio made the defence in the outcome. The

chief point here is that an appreciation understanding of the captive nations and human rights was lacking in the previous Administration, whose views were largely dominated by Kissinger. If you've read all of Dr. Kissinger's works, you'd find that his comprehension of Russian imperial politics whether Czarist or Soviet, amounts to near-zero."

HUMAN RIGHTS

"Now for the substance of human rights. It was Thomas Paine who about 200 years ago wrote his classic the Rights of Man and said: "He who dares not to offend cannot be honest." On human rights our President dares to offend and has proven his honesty. Indeed, his statements so far have crystallized the human rights ingredients of the unique American tradition, ranging from the Declaration of Dependence, the Constitution, our Bill of Rights to Wilson's principle of national self-determination, Roosevelts' Atlantic Charter and Four Freedoms, and the U.N. Charter and Universal Declaration of Human Rights, to which my country contributed so heavily."

"Our new President's posture on this is special and selective. In the tradition, all of our Presidents have talked about freedom and man's rights. But none, will now, has specially selected the issue of human rights and proposes to make it the center piece, the cornerstone if you will, of our foreign policy. He has stated that this is a firm commitment, that it will be universally applied, and that it will be pursued prudently and with re-born convictions."

"In this truely new stance, emphasizing morality in our foreign policy, human rights become a common denominator for all other issues. It becomes a strong, foundational level even for all the freedoms we have been talking about for so long. In short, it will now be your right to be free, and no longer just wanting or desiring to be free. This is a significant shift in emphasis, with enormous possibilities of politico-economic, legal, cultural and other challenge and change."

BROAD CATEGORIES

"As popular discussion on this issue develops, it will become evident that human rights divide themselves into three broad categories. Below these categories is a metaphysical base, our understanding of and perceptions into man, as a home spiritualis, each a species into himself or herself. The first category or level is personal, rights—the right of the individual person to live, to multiply, to hold property, to develop and express himself, and soon; but always on this level and the others, with no encroachment or coercive effect upon others with similarly endowed rights."

"The second level or category is civil rights which come into play as persons aggregate, mobilize, associate and socialize. On this higher plane of collective expression, civil-rights of group assembly, worship, work, oral and writers speech, opportunities for development, representation and the like emerge."

"But there still is a higher plane of human rights, and that is national rights—rights expressive of a moral organism called a nation with all its attributes of geographical territory, history, language, religion and so forth. These rights encompass the right of national existence, development and growth, the balanced and responsible exercise of which safeguards the expression of personal and civil rights and contributes to international order, law, peace and an expanding community of free and responsible nations in whatever form of chosen state."

"The distinctions on human rights are vitally important if we're to avoid confusion in their applications. For example, dissidents in the USSR are not all of the same cloth of human rights. They differ in spheres and emphasis, though ofter there is over-spill finish dissidents largely seek the exercise of their personal rights to emigrate; Russian dissidents in the main express their civil rights for domestic liberalization and democratization; and non-Russian dissidents, like Lithuanians, national rights."

"The implications of this whole new, reborning development are dynamic and tremendous. Let me enumerate some of them:

(1) With the President's firm commitment to human rights, a new and strong moral U.S. leadership is in the making, a re-born America is emerging;

(2) Legal accountability will be presented on those states that are signatories to treaties and compacts dealing with human rights and yet brazenly repress them. The UN Charter, Universal Declaration of Human Rights, the Genocide Convention, the Helsinki Accords and others would be invoked. The forthcoming Belgrade Conference to evaluate compliance with the Helsinki Accords will be the first real test of the Administration's commitment to human rights;

(3) Since the greatest areas of the repression of human rights are the USSR and mainland China, a new world focus of attention, knowledge and discussion will evolve with respect to these primary areas;

(4) We will begin to cope better with so-called Euro-Communism by testing the Communist Parties in Western Europe as to their stand on the denial of human rights among the captive nations in Central Europe, within the USSR, in Asia and Cuba; and

(5) By way of tactful argument and persistent talk, certainly in tones of Cold War rhetoric, this global process will finally approach and tap the court of world opinion, with indefinable but peaceful results.

"A successful foreign policy requires the efficient combination of values (principles), means (powers of knowledge, will, politics, military, etc.) and strategy. I believe this combination can be achieved by the present Administration. It had better be, or all of us shall find ourselves in perilous trouble in the not too distant future. President Carter's start with the values of human rights is a strong and right one. Human rights, globally applied, that is what America is all about in the community of the human race."

IN OBSERVANCE OF CAPTIVE NATIONS WEEK

(By Basil H. Losten)

(Apostolic Administrator of the Philadelphia Archeparchy)

AN APPEAL TO THE CLERGY AND FAITHFUL OF THE UKRAINIAN PHILADELPHIA ARCHEPARCHY

For the past 18 years, the citizens of the United States of America have appropriately marked the annual observance of the Captive Nations Week, the third week in July in accord with the inspiring proclamation of President Eisenhower who gave the approval to Captive Nations Week on July 17, 1959: "until such time as freedom and independence shall have been achieved for all the captive nations of the world" (Public Law 86–90).

We have a great obligation to aid those people who are oppressed, deprived of fundamental human rights, amongst them the freedom to worship the Creator of Liberty. Recently on national television we witnessed a panel discussion between American and Soviet citizens at Georgetown University. More than anything, it becomes increasingly clearer that the Soviets do fear world opinion. You can help your suffering brothers and sisters in Ukraine and in other captive nations by observing the third week in July as Captive Nations Week. This you can do through local observances in your particular community, through Christian prayer, through the use of your particular talents and skills, and by making your annual contribution on July 17, 1977 through your parish church for the needs of the enslaved people in Ukraine.

RESOLUTION AUTHORIZING PRESIDENT TO CONVENE WHITE HOUSE CONFERENCE ON FAMILIES IN 1979

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, today I am introducing a resolution authorizing the President to convene a White House Conference on Families in 1979.

Last year, MILLICENT FENWICK, JIM BURKE, and I authored a similar resolution in hopes of stimulating a multidisciplinary, broadly based national examination of the Government and the family. Now the White House Conference on Families is a reality—President Carter, with our urging, has decided to initiate a substantive and serious inquiry into the functioning of the family, and the impact of governmental policies thereon, an initiative which must be given national priority.

As President Carter made clear during last year's campaign, the American family is a vital link in the social, religious, and economic fabric of our Nation. But having admitted the continuing central role of the American family, the task of our Government remains in the necessity of closely studying just how government interacts with the family. The American family is just as vital a resource as the precious oil and gas now being studied so intensively. But despite this, the American family remains one of the great unstudied resources of our country. Certain types of "facts" have been trumpeted in the mass media—rising divorce rates, juvenile crime, school problems, the plight of senior citizens on fixed incomes, tax advantages for single people and so forth—but we in government policies affect the American family for "better or for worse."

We have addressed this problem in the past as we have all too many other situations—in a piecemeal, "crisis" mentality which often breeds more long-range problems than the short-range concerns which predominate the discussions at hand.

At previous White House conferences on the economy and the problems of the aging, interested citizens, professionals, and Government experts have all gained insight into the interdependence of their particular points of view, and of the potential progress which mutual understanding can provide. I believe that these same benefits and insights can be gained from the holding of a conference on American families.

Mr. Speaker, the legislation reads as follows:

H.J. RES. 562

Joint resolution to authorize the President to call a White House Conference on Families in 1979, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that families are the foundation whereupon the Nation grows; that there is evidence that public policies in many areas have effects, positive and negative, intended and unintended, direct and indirect, on the welfare of families; that categorical, single-strategy programs, while effective in meeting

some of the needs of many families have failed to provide the support required by many families with multiple needs; and that statistics on divorce rates, rates of child abuse, crime, drug abuse, and increasing segregation by age are indicators of national inattention to the problems confronted by families in a rapidly changing society. It is therefore the policy of Congress to encourage a cooperative effort between the Legislative and Executive Branches, working jointly with citizens, the States, and local governments, to develop recommendations and plans for policy implementation which will provide an environment conducive to family stability. Therefore, it is deemed necessary and desirable that provision be made to facilitate discussion on this topic in an appropriate forum.

WHITE HOUSE CONFERENCE ON FAMILIES

SEC. 2. (a) The President is authorized to call a White House Conference on Families in 1979 (hereinafter referred to as the "Conference"), which will—

(1) increase the knowledge, understanding, and awareness of individuals regarding the problems encountered by families in the United States;

(2) reaffirm the goals and values of family life in a changing society;

(3) acknowledge the diversity and pluralism that characterize American families;

(4) encourage the Federal government, and State and local governments to consider the economic and social impact which any of their actions may have on families;

(5) focus attention on the means by which existing policies and institutions already affect families and examine the problems and opportunities which result therefrom.

(b) The Conference shall be planned and conducted under the direction of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"). The head of any Federal department or agency, shall, upon request of the Secretary, cooperate with, and furnish appropriate assistance to the Secretary.

CONFERENCE REPRESENTATIVES

SEC. 3. The Conference shall bring together representatives of the Federal government, State and local governments, the general public, and professional and other persons involved with families and in the delivery of social services to families.

PREPARATION FOR THE CONFERENCE

SEC. 4. (a) The Secretary shall render necessary assistance to each State to enable each State to organize and conduct conferences on families before the Conference is held. The Secretary shall make available financial assistance to each State with respect to such conferences on families.

(b) The Secretary shall prepare and make available such background materials for the use of the Conference as the Secretary considers appropriate.

ADVISORY COMMITTEE

SEC. 5. (a) The Secretary shall establish an advisory committee to the Conference.

(b) The Advisory Committee shall be composed of 28 members appointed by the Secretary. Members shall be appointed from among persons who are specially qualified to serve on the advisory committee because of their education, training, or experience.

(c) The Advisory Committee shall gather such information as will be of assistance to the Conference in carrying out the activities described in Section 2 (a).

(d) The Secretary shall designate one member of the advisory committee as Chairman.

(e) Members of the advisory committee who are officers or employees of the Federal government shall serve without compensation for their services as such. Any other member of the advisory committee shall receive a per diem allowance in an amount to be determined by the Secretary but not to exceed the rate of basic pay payable for level —— of the Executive Schedule (5 U.S.C. ——).

(f) Any member of the advisory committee who is an officer or employee of the Federal government shall be allowed travel expenses in accordance with section 5702 of title 5, United States Code, and any other member of the advisory committee shall be allowed travel expenses in accordance with section 5703 of such title.

REPORTS

SEC. 6. (a) The Conference shall submit a report to the President no later than 180 days after the calling of the Conference. Such report shall be available to the public and shall contain a detailed statement of the findings, conclusions, and recommendations of the Conference.

(b) Not later than 120 days after the Conference transmits the report required under subsection (a) of this section, the Secretary shall transmit to the President a report containing recommendations for such legislation and administrative or other action as may be necessary to carry out the recommendations of the Conference.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated the sums of $3,000,000 for fiscal year 1978 and $3,000,000 for fiscal year 1979 to carry out the provisions of this joint resolution.

SEC. 8. For purposes of this resolution, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

THE CONGRESSIONAL BLACK CAUCUS "LOVES THE TRUTH" TOO

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. At the President's recent press conference, Mr. Carter chose to characterize Vernon Jordan's criticisms of the administration as "erroneous" and "demogogic." Whatever the President's motivation or emotions that led him to use those terms, I regard them as profoundly unfortunate choices, thoroughly unfounded in the context of Mr. Jordan's address to the National Urban League Convention, and open to interpretations potentially damaging to the President's relationship with his black constituents and their leadership.

As a longtime friend and supporter and admirer of Jimmy Carter, Mr. Jordan tried to convey a constructive message, in a positive voice, to the man that black people, with virtual unanimity, indicated as their choice for President. He said, without any rancor or bitterness, in straightforward and unthreatening language, that black people are "disenchanted with the administration they elected . . . they feel that their hopes and needs have been betrayed." The words were strong, but the truths and facts behind them are even stronger. I unequivocably support Vernon's statement as an accurate and fair assessment of the critical problems afflicting black Americans.

Mr. Speaker, I ask unanimous consent that the Congressional Black Caucus' statement which, unanimously to a man and a woman, affirms and supports Vernon Jordan's message to the National Urban League conference, be included at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The material referred to is as follows:

KEYNOTE ADDRESS BY VERNON E. JORDAN, JR., EXECUTIVE DIRECTOR, NATIONAL URBAN LEAGUE AT 67TH ANNUAL CONFERENCE OF THE NATIONAL URBAN LEAGUE, JULY 24, 1977

Once again we meet in our nation's capital. Once again, the National Urban League Movement convenes to press the just demands of black citizens upon a newly-installed national government.

It is well to recall that our last Annual conference in this City was held while guns and bombs were bringing death and destruction in Vietnam, while high officials were covering up the Watergate scandal, and while a hostile Administration was trying to roll back the gains made by black citizens.

Today, the atmosphere is radically different The guns of war are silent. Corruption, cover-up, and the abuse of power have gone out of style. And a new Administration is openly consulting citizens' groups in policy formulation, while giving new recognition to the sanctity of human rights.

In the White House, we have a President whose devotion to equal opportunity is unquestioned. Long before he became our President, Jimmy Carter was our friend. Long before he was even a candidate for the Presidency, Governor Jimmy Carter of Georgia came to Urban League meetings proudly wearing our equality pin in his lapel. And now, as President of the United States, he will honor us by coming to speak at this National Urban League Annual Conference.

In the short time he has been President, Mr. Carter has impressed us with his personal style. He has helped heal the wounds of a divided nation by deflating the "imperial Presidency," by reaching out to his fellow citizens, and by backing an amnesty program that seeks to put the horrors of Vietnam behind us.

President Carter has touched us deeply by stressing the importance of human rights in a world that commonly flaunts those precious innate rights, and this is a cause that speaks to our hearts with a special significance.

President Carter has won our admiration by pursuing an African policy that, for the first time in our history, treats the aspirations of Black Africa with respect and encouragement.

These, and other accomplishments of the new Administration have won our support. The style of openness and access to decision-makers have breathed new life into our form of government. The symbolic acts of the Administration have put us back in touch with our leaders.

Why then, do we convene in Washington with troubled minds and heavy hearts? Why then, are black people disenchanted with the Administration they elected? And why do so many black people feel that their hopes and their needs have been betrayed?

The sad fact is that the list of what the Administration has not done far exceeds its list of accomplishments. The sad fact is that the Administration is not living up to the First Commandment of politics—to help those who helped you.

The Administration has formulated a new foreign policy, a new defense policy and a new energy policy. But it has *not* adequately addressed itself to a new domestic policy. We have no full employment policy. We have no welfare reform policy. We have no national health policy. We have no urban revitalization policy. We have no aggressive affirmative action policy. We have no na-

tional solutions to the grinding problems of poverty and discrimination.

To paraphrase Winston Churchill, "Never have so many expected so much and received so little."

A limited jobs program is not enough. An enlightened African policy is not enough. An expanded housing policy is not enough. A handful of top black appointments is not enough. An open style without substantive change is not enough. And it is not enough to do better than Nixon or Ford. Black people didn't vote for Nixon and didn't vote for Ford. They voted for President Carter, and it is not enough for President Carter to be just a little better than his predecessors.

Black people, having tasted the sweetness of victory in November, resent the sour taste of disappointment in July. Black people and poor people resent the stress on balanced budgets instead of balanced lives. We resent unfulfilled promises of jobs, compromises to win conservative support, and the continued acceptance of high unemployment.

Our resentment is fueled by impatience. We, who have been patient for so long are finally running out of patience. The cries of pain from impoverished rural areas and urban slums ring out, and cannot be stilled by minor measures. Our longing for true equality will not cease, nor will it be diverted by stylistic flourishes.

In some ways, ours has been a learning experience. Black people are learning the callousness of political reality. We are learning that electing a President is not enough. We are learning that the forces of entrenched power will not easily accommodate our demands for change. We are learning that we must raise our voices and must use our political power with the same determination as do those who oppose us. We are learning that even an Administration sympathetic to our needs and in harmony with our aspirations needs sustained pressure.

We are here in Washington to apply some of that pressure. We are here in Washington to call on this Administration to fulfill its promises. We are here in Washington to recall this Administration to what we feel is its true spirit, the spirit of social reform and racial equality. We are here in Washington to help it escape from the evils of premature political compromise, narrow fiscal conservatism, and indefinite delays in implementing reforms. We are here to file our claim, to collect on the campaign promises made in black churches and black neighborhoods.

We understand that the nature of the political process is such that all of our needs cannot be met at once. But we call on the Administration to start sending signals that indicate it understands our needs and will make them its own.

One such signal should be the immediate withdrawal of the disastrous proposal to abolish the Electoral College in favor of direct popular election of the President. This seemingly democratic change would have undemocratic results. It would weaken the political power of the cities and the poor, and it would unbalance our political system. Do away with the Electoral College, and in 1980 the black vote will not make the difference it did in 1976.

It is unseemly for an Administration that owes its existence to solid black electoral support to propose a new system whose effect would be to sabotage that support by diluting black voting power. And it is outrageous that the Congress has forced the Administration to compromise its plan for a system of universal Election Day registration.

Another signal should be for the Administration to come up with a serious program to save our nation's cities. The so-called urban crisis has become almost a cliche, stripped of meaning by repetition and misunderstanding.

There are those who believe the urban crisis is really just a fiscal crisis, and that shoveling Federal dollars into city treasuries will solve it. But the problem goes far deeper, for the urban crisis has a human face to it. It is a crisis of national morality and of our national willingness to tolerate poverty and despair. And it is the direct result of over two decades of conscious public and private policies designed to de-populate cities and stripe them of their economic capabilities.

Public and private policies moved population and job opportunities to the suburbs, and at the same time restocked the cities with poor people. Now there is general recognition that the process has gone too far. An energy-dependent society is beginning to realize that energy-efficient cities are necessary once more. The suburban dream has become tarnished and middle class people are again looking to the cities, where abandoned housing and cheap land are economically tempting to developers.

Race and economics once more interact to the detriment of the black poor. Black slums have suddenly become targets for "rehabilitation." Speculators reap profits while black homeowners and renters are squeezed by the cycle of high demand, rising land values, and higher property taxes.

If our cities are dying it is not through natural death or even self-inflicted suicide; it is through local policies aimed at killing inner-city neighborhoods that they may be reborn for the benefit of the well-off. HUD's tougher policy ensuring that bloc grants are used, as the law demands, for poor people's housing is a commendable attempt to counter this growing phenomenon.

The process of saving the cities must not be a process of driving out the poor to house the middle class, but a process of helping the poor to become middle income. The ultimate future of our cities and of our nation may depend upon the success of that effort.

We stepped to the edge of the abyss the other day, when the plug was pulled on New York's electricity. The looting that occurred could have happened in any city in our country. All our cities contain large numbers of people who have no stake in this society, who are without jobs or hope, whose despair and anger simmers continually, until it boils over, past the limits of accepted behavior.

They are the victims of a society that willfully destroys its own cities. The destruction they wrought was a more violent mirror image of the destruction of lives and neighborhoods caused by impersonal forces in our society—discrimination, unemployment, poverty. Lawlessness cannot be condoned, but our society must draw the right conclusions from such terrible incidents—people have to be assured of a stake in the society; they must have jobs and decent housing if we want them to act in conformity with society's rules. The resources that will be spent to repair the damages could have been better spent in preventive programs that might have avoided the disaster.

But the tragedy in New York offers the President an opportunity to exercise bold leadership. We ask tonight that President Carter signal to the nation his concern for the cities and for the poor who live in them by going to New York; by speaking with the looters and the looted in the South Bronx, Harlem and Bedford-Stuyvessant. A nation of cities is adrift in confusion and the President of all the people has to show his concern. He has to show he understands the despair and the anger, the hopes and the needs, of the urban poor. Yes, if the President can go to Clinton and to Yazoo City, he can go to New York.

We call on the President and the Congress to formulate a national urban policy that deals with the human problems of people who live in cities. Cities have to be saved, not for those who abandoned them and then changed their minds, but for those who live in them today.

And a national urban policy cannot be restricted to bricks and mortar showpieces, or to further wasteful revenue sharing programs. It must have three major components:

(1) Federally-supported and directed increases in basic social services—health, education, transportation, and youth programs,

(2) Massive creation of housing opportunities for low and moderate income families, within a national housing policy that assures a decent, safe and sanitary home for every family, and

(3) A federal urban economic development program that includes guaranteed jobs for all who can work and an income assistance system.

Finally, the Administration should signal the nation's poor that their interests will be met by meaningful reform of the welfare system that is supposed to provide assistance to those most in need, but does not. Candidate Carter called it a "disgrace," and President Carter has ordered his Administration to come up with a reform proposal.

The basic outlines of the Administration's package have been made public, and they indicate that a real change is not in sight. Although the reform was to result in a system that would be equitable, simple to administer, promote family stability, and help the poor, we are likely to have to fight a plan that is inequitable, an administrative nightmare, promotes family instability and leaves many poor people worse off.

This plan founders on major conceptual flaws. Among them are the mandates to keep a ceiling on costs no greater than present welfare-related programs, categorization of the poor, and a work requirement. Such measures would continue to stigmatize poor people while perpetuating negative myths about the poor. And a bad plan may be made even worse. There was one proposal to eliminate the federal housing subsidy program in order to transfer the money to the welfare program, a step that makes no sense at all. It would have destroyed already under-funded federal housing programs while further distorting welfare reform and like other elements of the welfare reform plan, it would take from some poor people to give to other poor people.

The core of the welfare reform proposal links work to welfare, and thus perpetuates the vicious myth that poor people don't want to work. The fact is that poor people do want to work and do work. The fact is that poor people are as work-oriented as middle class people.

Our purpose tonight is not to further criticize a bad plan but to offer an alternative that would benefit poor people and the nation.

The National Urban League is on record in support of a long-range plan to use a refundable credit income tax as the means of assuring a minimum income level beneath which no family could fall. We continue to support that plan, but recognizing that political reality now prevents its acceptance, we call tonight for an interim plan that would supplement the present welfare system and ease the plight of poor people while putting in place structures for ultimate reform.

Our interim plan includes four major steps:

(1) A massive job-creation program. We should have an expanded federal program of public service jobs, and job-creation incentives to private industry, targeted to high unemployment areas.

(2) Food Stamp expansion. The food stamp program has become a major source of income assistance. By eliminating the cash requirement, simplifying and broadening eligibility, and launching an aggressive outreach program, food stamps can become the vehicle for helping all of the poor and near-poor.

(3) Major improvements in social insurance programs including a national health insurance plan. Extending and improving programs that cushion the effects of unem-

ployment and economic losses due to health problems will reduce the numbers of people forced to resort to welfare assistance.

(4) A refundable tax credit. Ultimately, we envisage this as a means to drastically shrink the welfare rolls, but a start can be made now by using the tax system to provide modified income assistance.

Thus by instituting a refundable tax credit and applying it to grants for low-income families, even a modest grant would remove significant numbers of people from the welfare rolls while providing aid for those whose welfare benefits are inadequate and those who are poor or near-poor and do not receive welfare payments. This proposal would shrink the welfare rolls and would reduce the dependence on the welfare system through a more equitable tax system.

This interim plan would be real reform. By instituting this plan, the Administration can refuse to become part of the institutional retreat from civil rights that is infecting the nation. In almost all sectors of national life we see former friends relaxing into indifference, and former foes back on the attack. National policies of neglect and recession have combined to make many people in the private sector less concerned with fulfilling their responsibilities.

The Congress seems more anxious to ban busing, to limit affirmative action programs and to bar Medicaid funds for abortions than it is to improve the schools, enforce civil rights, or to enable meaningful life after birth. But that same Congress was giving every indication of being willing to pour billions of dollars down the drain on the B–1 bomber before the President's bold and far-sighted decision not to go ahead with production.

The symbol of institutional retreat is the Supreme Court. Once the proud defender of the rights of minorities and the disadvantaged, this Nixon-dominated Court has become a source of denial of equal opportunities. The protector of our rights has slowly slid into the position of becoming the enemy of those rights.

The Court has retreated to the cramped narrow legalisms of supposed neutrality and objectivity. It has formulated the legal doctrine of "intent to discriminate" as a replacement for the more realistic legal requirement of proving discriminatory effects. In its last term, the Court upheld discriminatory zoning laws and discriminatory seniority systems. It denied to poor women the opportunity for abortion available to more affluent women, and it is shocking for the Administration and the Congress to have supported the Court in this callous act.

It is in this Court then, so vastly different from the Warren Court that protected and extended civil rights, that the Bakke case will be decided.

We urge the Administration to recognize the importance of this case and the issues involved by filing an amicus brief asking the Court to uphold the University's admissions program.

By the standards of legality, morality and plain common sense, affirmative action programs are legitimate and necessary. And the intensity of the opposition to affirmative action is yet another example of the painful fact that the national mood still resists accommodation to the just needs of black and minority people. It still resists making necessary changes in our society to provide equal opportunity. The national search for roots is degenerating into mere nostalgia, instead of drawing lessons from the hardships forced upon our forebears and those of other ethnic groups.

And yet, because we hear the true call of our roots, because we draw inspiration from those who came before us and on whose accomplishments we build, we are unshakable in our determination to overcome. While we continue to impress upon the Administration, the Congress, and the public and private sectors, the justice of our cause, we have another job to do.

We must capitalize on the latent strengths of the black community. We must marshal our considerable economic and political power to improve our communities. We must bend every effort to instill in our young people a devotion to excellence and a determination to succeed.

Those of us in leadership positions have a still larger responsibility. We cannot lessen our pressures for constructive change. We cannot allow our personal or political loyalties to deflect us from the task of fighting for our rights. This applies as much to local leadership as it does to the national leadership of black institutions.

It is in this context that we must urge our black brothers and sisters in government to recognize the important role they can play. We are proud of them. Every announcement from the White House of the appointment of a black person to a federal position was met with pride. At long last there are enough black people at the higher echelons of government to form a critical mass capable of exerting a major influence on policy. Most of these black federal executives come from backgrounds of militant activism, and the fervor and passion they brought to the civil rights movement must continue to characterize their actions.

Just as they were on guard for civil rights 24 hours a day, so too must they continue that vigilance in their new jobs. Just as they once prodded the Executive Branch, the Congress, and the courts with ceaseless demands for change, so too must they continue to raise the kinds of issues we have raised tonight.

Black federal executives are uniquely situated to become catalysts of change. They can maximize their strengths by coming together in an informal network of conscious interdependence and shared resources. All of our nation's institutions have run on the wheels of a well-oiled "buddy system" of mutual protection and mutual aid that excluded blacks and other minorities. So the inevitable lesson is that black and minority officials should come together in a similar system of shared support that will increase the influence of black executives and, more importantly, of the policies they are fighting for.

I cannot urge greater mutuality and cooperation among black federal executives without recognizing the need for closer cooperation among national black leadership. With a national mood that ranges from indifference to hostility, with crucial national decisions being made without due consideration of their impact on black people, and with black institutional strength diluted because of lack of unified strategies, it is time for black leadership to come together once again.

Of those occasions when we have coordinated strategies, such as last year's voter registration campaign, we have been successful. It is time now to extend that success to other areas and other issues. It is time now for national black civil rights leadership to come together in a revived leadership group, in structured, planned meetings of heads of national organizations to pool our strengths and strategies.

So I call tonight on my colleagues to join me in a meeting next month to begin the process of coordination on behalf of all of America's black and poor people. Our meetings should be held in private. They should deal with issues and strategies. They should be structured around the concerns of our constituents.

I am confident they will share my belief that it is imperative for black leadership to create a new structure that will enable us to act in unison and to maximize our efforts on behalf of our constituents. For if we don't do it, who will? We can call on the President to push for social changes; we can call on the Congress, we can call on the private sector, but in the last analysis what must be done, we must do ourselves. We need alliances and coalitions but the initiative and the urgency must be ours.

We take our cue from Frederick Douglass, who wisely counseled: "Who would be free, themselves must strike the blow. . . . You know that liberty given is never so precious as liberty sought for and fought for. The man outraged is the man to make the outcry. Depend on it, men will not care much for a people who do not care for themselves."

I am confident that we can succeed, we shall overcome. The path, as always, will be difficult, but it is an American path, and that is why I am confident.

Last year I was in South Africa and two weeks ago I was in Russia. Seeing oppressive dictatorships of the right and the left convinces me that however far America may be from attaining its national goals and ideals, America is fertile soil for human fulfillment.

The plane that brought me home from Russia landed in New York during the blackout. The lights were out all over the city. But despite the inconvenience and the attendant problems, I'd rather be here in the United States with the lights out than behind the Iron Curtain with the lights on. We have many just criticisms to make of our nation, but this speech could not be given in Russia or South Africa, and we could not dissent from national policies or pressure national leadership in Russia or South Africa.

Having visited such countries that are built on vicious denial of human rights, I take heart from our new national policy of worldwide support for the sanctity of human rights. When a Vorster kills young black people in Soweto, when a Brezhnev sends dissenters to prison camps, when an Amin senselessly slaughters his own people, all mankind is diminished. All mankind bleeds on the rack of the torturers, whoever they may be and wherever they may commit their crimes.

But this new American crusade for human rights and decency in the world must not become prey to hypocrisy and to cynicism. Our nation cannot call for respect for human rights while it lacks the moral courage to save its own cities, its own poor, its own minorities whose rights are trampled upon. The real moral equivalent of war in our times is the moral challenge to construct a just and equal society.

So our concern with human rights in the world must be joined by similar concern for basic human rights here at home. As long as our society denies equality of opportunity for its minorities, jobs for all who can work and income security for all who need it, our advocacy of human rights will be met by scorn throughout the world. We cannot preach at others and sin ourselves.

It is the mission of the Urban League Movement to remind our nation of this, and to toil on behalf of black people, of minorities, of all poor people. As we begin this Conference, let us be mindful of that mission. Let us not forget who we are, from whence we came, and why we are here.

Most of us at this Conference are working; our incomes place us in the middle class. We are educated; we are among DuBois' talented tenth, and among us are found many of the black intelligentsia. We are professionals, semi-professionals, blue and white collar workers; we represent business, labor, public and private sectors.

Our forebears were slaves. Our parents struggled to put us where we are. We are the first or second generation of our families to earn degrees. We are just a step ahead of the fathers and mothers, brothers and sisters who helped us. We know our roots. We know the years of toil and sweat; we know the ghettos from which we came, we remember the inferior segregated schools, the

inequitable welfare system, the walls of discrimination in jobs and housing. Yes, we know all of this first-hand and because we know what it means to be black and poor in this society, we are painfully aware that our personal gains are tenuous and insecure. We know we cannot breathe easy while our brothers and sisters are still under the heel of poverty and hardship and discrimination.

We are here at this Conference then, not for ourselves, but for them. We are here on behalf of our brothers and sisters, some of whom don't know who we are or what we're about, but they send us a message, an urgent message, to lead, to produce, to make their futures brighter and more secure. They're depending on us. Who will speak for them? Who will fight for them? In a society that consigns black people to the bottom rung, it is the Urban League and other institutions in the black community that stand by their goals, their interests, their needs.

So we're here in Washington to work for the brothers and the sisters. We're not here to party or to play, but to plan and to pressure. We have to demonstrate that we have not forgotten our blackness, our roots, the poverty of our people. We are a movement with a mission, and as we begin this Conference let us recall James Weldon Johnson's invocation of remembrance of homage to roots sunk deep and true:

"God of our weary years,
God of our silent tears,
Thou who has brought us thus far on our way,
Thou who has by Thy might
Led us into the light,
Keep us forever in the path, we pray;
Lest our feet stray from the places, our God, where we met Thee,
Lest our hearts drunk with the wine of the world, we forget Thee;
Shadowed beneath Thy hand,
May we forever stand,
True to our God, True to our native land."

Mr. CONYERS. Mr. Speaker, Vernon Jordan challenged the administration to live up to the promises articulated by Mr. Carter during the campaign with respect to full employment, urban revitalization, welfare and national health care reform that does not penalize the poor. The challenge stands, notwithstanding the President's defensive response and personal rebuke to Vernon. The President and his advisors were not accused by Vernon of not caring about the poor and minorities. Vernon acknowledged the President's deep concern for the have-nots in America. But Vernon did say, as judged by the President's policies and programs thus far, the administration has misjudged the fundamental nature of the black crisis in America, especially the desperate realities of massive unemployment and subemployment.

Mr. SCHEUER. Mr Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman very much for yielding.

I regret the phraseology used by the President. I think perhaps the words were formulated in a fleeting moment of fatigue and annoyance. I do not believe that the President's statement at the press conference reflects his true feelings about Vernon Jordan or about the frustration of the black community.

I would hope that the President would be tolerant of those of us who feel that the administration has done less than what we hoped to see done. For example, with respect to assistance to our beleagured urban areas, the administration has certainly not behaved up to our admittedly high expectations.

Anyone in New York City has to be depressed as we see our neighborhoods deteriorate month after month and as we desperately hope for some kind of programmatic support, something that will help us rebuild those neighborhoods.

Anyone who has spent time in the black community, as I have, since the unfortunate combined coincidence of the blackout and the sporatic looting and violence that took place which was so ill representative of the minority communities, has to be aware of the deep sense of frustration in the minority communities about the lack of employment opportunities. One has to be cognizant of the painful and tragic impact of structural unemployment in those communities. The desperate desire of young black men and women to participate in our economy, to reflect the work ethic in their lives, to be proud and to have the self esteem that comes from gainful employment, and the independence of moving off the welfare rolls and on to the tax rolls is obvious.

All of us in the cities can hope for and work toward some kind of progress in the area of welfare reform that will produce a fair, equitable, manageable, and cost effective system.

I think that without the slightest criticism of the President's bona fide interest and his deep concern and identification with the problems of all Americans, we can say that as of now we in the cities do have a certain letdown feeling because our expectations and hopes have not been fulfilled. We hope that in the months to come the administration's program in helping revitalize the public service employment programs that provide upward mobility, on-the-job training, and hope for the structurally employed as well as its efforts in the area of welfare reform, will all begin to take shape.

I think President Carter has done a truly magnificent job in his first 7 months of his Presidency. I think he can rightfully take credit for some enormous achievements. But it is inevitable that the costs of the next 3½ years will be great as he strives toward a balanced budget. As we are fighting for an increased share of the pie, those of us who have particular concerns, be it a farm interest or an urban interest or any other interest in our economy, are going to be expressing hope for more progress. This does not reflect any diminution of our enormous admiration and respect for the President and our pride in the job that he has done as a Democratic President. I think his job has been truly remarkable in many, many ways. But I, too, would join the gentleman in saying that I cannot help but say we in the cities hope for more.

Mr. CONYERS. I appreciate my colleague's comments, because I know that he personally knows Vernon Jordan as an urbane and sophisticated and restrained speaker at all times, and that any characterization of Vernon Jordan as being demagogic would have to be very, very far out of character for the Vernon Jordan that we have come to know across the years.

Mr. SCHEUER. And I cannot help but feel that it is also out of character for the President, whom I have come to know and respect, to have made that remark. I just cannot help but assume that it was a remark that he may have made because of fatigue or momentary irritation and annoyance. It simply does not reflect the very thoughtful, very cool, and very kind President that we have all come to know and respect.

Mr. CONYERS. I do not know whether my colleague, the gentleman from New York, has in fact read the speech that Vernon Jordan made—and I will put it in the RECORD as a result of tonight's activities—but he spoke of the New York crisis and in that direction urged that the President come to New York to visit the looted and the looters as well, as a symbol of his understanding of the pervasiveness of the problem in New York to be one beyond the shortage of electricity. I think the gentleman has made that point in his own way in his usual eloquence.

Mr. SCHEUER. Let me just add one more random thought on that incident in New York. I think the press did a very unfortunate job of reporting the looting. I happened to be in New York the night of the blackout, and I traveled all over the city as I did 2 days later with the congressional delegation. The remarkable thing about the blackout is that in Harlem, as well as in the rest of the city, blacks and other minorities were out on the street with their flashlights directing traffic, helping elderly people across the streets, and assisting the elderly and the handicapped up the stairs. Blacks were coming out of their apartments linking arms to protect the streets on their block until the owners of stores could arrive on the scene. It was really a moving sight.

Mr. CONYERS. May I say to my colleague it was quite inadequately reported.

Mr. SCHEUER. It was not only inadequately reported, it was grossly distorted. I think the print media and the television, in reaching for the spectacular, the violent, and the illegal, completely overlooked the overwhelming supoprt of the minority communities in our city for law and order, for preserving the communities, and for protecting the property rights of the store owners who had gone home. It was perfectly clear that the looting threatened their communities and was not a communal activity.

They had been through that whole scene before. They did not want to foul their own nests. Many of the community residents tried with varying degrees of success to save the stores. I think we should be impressed with the job that the overwhelming percentage of the minority community did in helping to cool things off and in containing the violence and the looting.

This is a very important part of the blackout story that was not told by the

press. From my point of view it may have been the finest hour for the overwhelming percentage of the black community, but it certainly was not the finest hour for the electronic and print media.

Mr. CONYERS. Mr. Speaker, New York City's blackout and the looting in its aftermath revealed, not an energy crisis, but a jobs crisis—a crisis of surviving with 80 percent unemployment and subemployment rates. Vernon Jordan noted that—

> The tragedy in New York offers the President an opportunity to exercise bold leadership.

With restrained eloquence Vernon Jordan said:

> We ask tonight that President Carter signal to the Nation his concern for the cities and the poor who live in them by going to New York; by speaking with the looters and the looted in the South Bronx, Harlem, and Bedford-Stuyvesant. A nation of cities is adrift in confusion and the President of all the people has to show his concern.

Mr. Speaker, I appreciate my colleague, the gentleman from New York (Mr. SCHEUER) making this contribution to the special order.

The President's initial response to Vernon Jordan's critical views was to ask for patience in view of the fact that the administration is only 6 months old. The President rightly claimed to have inherited deep-seated economic and social problems affecting blacks—problems of longstanding that obviously could not be remedied quickly. The President stressed that the long-awaited results, especially in terms of jobs, would be forthcoming soon as the predicted fruits of his programs, only recently legislated, could come into being.

I think there are two fundamental aspects about this excuse that we ought to examine. First, since its inception the administration has proceeded piecemeal with legislative and budget proposals, for economic stimulus and job creation, energy, welfare reform, community development aid to cities, and others, but without an overall planning framework. The Congressional Black Caucus has unsuccessfully attempted to meet with the President to urge him to develop his domestic policy reforms within a comprehensive, long-range economic strategy and program, such as the one embodied in the Humphrey-Hawkins bill (H.R. 50). Given our lack of success in arranging a meeting with the President several months ago, the Black Caucus should be faulted, if for anything, for excessive patience, rather than sharing with Vernon Jordan the President's criticism of unreasonable impatience.

Second, I question the administration's so-called full employment strategy. The President has adopted as his central and overriding goal a balanced budget by 1981, at the inevitable expense of social programs, on the premise that his economic programs would result in "full employment." But I know, and have repeatedly stated over the past 6 months, that the administration's economic strategy for the next 3 years is basically faulty. My analysis and conclusions recently have been corroborated by the Congressional Budget Office, the Brookings Institution, the General Accounting Office, and even the Department of Commerce itself.

Worse still, at the heart of the dilemma shared by President Carter, Vernon Jordan and the black community, is the well documented fact that the administration's conception of "full employment," at a level of 4.7 to 5 percent official unemployment but as late as 1981, even if it is achievable, still will leave the majority of black youth without work and as many as 15 percent of black adults without fulltime jobs—in other words, still at depression level unemployment.

Furthermore, Vernon Jordan clearly stated that the challenge of saving the cities is inextricably linked with the fate of black Americans. In the preceding 8 years, the previous administrations turned their back on the cities and the crisis in black urban America.

As a result in the 15 largest metropolitan areas the percentage of poor people who are black has risen from 37 percent to 50 percent over the past 15 years and this is during the period when our gross national product exceeded $1 trillion. The economic and social gulf between black and white Americans increased incredibly and still continues to grow.

I cannot believe that President Carter does not understand at least the broad dimensions of this tragic situation.

I would like to point out as well that the diminution of support that Vernon Jordan referred to which began in November at about 91 or 92 percent recently went down to about 83 percent in April and last month, that is in June, his rating was down to 69-percent approval rating in the black communities of America. I really have no idea what it is going to be for July or August, especially under the present circumstances.

It seems to me that what we need to reinforce is the need for dialog, because together with the Congressional Black Caucus and other leadership organizations and individuals across the country, we have offered to cross this river, as I would look at it, with the President, to share in the burdens and the risks; but this potentially potent partnership requires mutual understanding of the real nature of the problem to be solved, of mutual commitment to meaningful and effective remedies and, not least of all, mutual respect in the long and hard journey that lies ahead for all of us.

Mr. Speaker, I ask unanimous consent to include the keynote address of Vernon Jordan, the executive director of the National Urban League.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, the press release follows:

CONGRESSIONAL BLACK CAUCUS URGES CARTER TO HEED URBAN LEAGUE MESSAGE

WASHINGTON, D.C.—At the President's press conference yesterday morning, President Carter chose to characterize Vernon Jordan's criticisms of the Administration as "erroneous" and "demagogic." Members of the Congressional Black Caucus regard these comments as profoundly unfortunate, thoroughly unfounded in the context of Mr. Jordan's address to the National Urban League Convention, and open to interpretations potentially damaging to the President's relationship with his Black constituents and their leadership.

Our purpose in calling this press conference is to express unequivocal support for the entirety of Vernon Jordan's views as expressed at the National Urban League Convention; to continue the Caucus' effort to have the President recognize the full depth and extent of the critical problems afflicting Black Americans; and to continue efforts to bridge the widening gap between the Black community of this nation and the Administration.

On Sunday evening, Vernon Jordan spoke for Black America. As a long-time friend, supporter and admirer of the President, Jordan tried to convey a constructive message in a positive manner to the President, a man for whom Blacks voted with virtual unanimity. He said in straightforward and unthreatening language without rancor or bitterness that Black people are "disenchanted with the Administration they elected. . . . Black people feel that their hopes and needs have been betrayed." The words were strong, but the truths and facts behind them are even stronger.

Vernon Jordan said publicly what many have said privately. Black leaders have attempted to express these concerns to the President in private. On March 7, the Congressional Black Caucus asked to meet with the President on the nation's most pressing issue, unemployment, and was denied that opportunity.

We had great hope that fundamental change could be made. Instead, we have heard that the goal is a 5 percent unemployment rate, which we know means at least 10 percent for Blacks and much more for Black teenagers. Instead, we have heard that the budget must be balanced, and that in order to do so we will perhaps have to cut health, education and welfare funds. Instead, we have heard proposals from the Office of Management and Budget that money for a reform of the welfare system be taken from other programs to aid the poor.

It is time to reorder national priorities. A fundamental shift from aiding the wealthy through the tax system and the military through the defense budget to aiding the poor can occur.

We believe that the President does recognize that policies have not yet been set in motion to achieve fundamental change. He deserves credit for some of the accomplishments that he lists. But we do not see a vision of the future that includes reducing unemployment to the point that every person desiring work may do so, as provided for in the Hawkins-Humphrey Full Employment Act. Nor do we see a program aimed at revitalizing the cities.

There must be a close working relationship between Black leaders, the Black community and the President. It must begin with increased access to the President and it must continue with actions to achieve shared goals through shared efforts.

Mr. METCALFE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. METCALFE. Mr. Speaker, I appreciate this opportunity to state my support for Vernon Jordan and the views he expressed in his keynote address to the 67th annual conference of the National Urban League.

I think that Vernon Jordan knows what is happening in the urban streets of the Nation and in the black neighborhoods in particular. Jordan has been an

able, accurate, and articulate spokesman for minority aspirations and urban needs. He has tried to tell it like it is to America and to a friendly administration. Indeed, what are friends for if it is not to tell them the truth?

In my own congressional district last week 2,000 people lined a full city block waiting to apply for 300 jobs at a new grocery store opening soon on Chicago's South Side. According to news reports, most were high school graduates and eager for work. This illustrates to me the widespread hunger for jobs in the urban areas of our country.

It is unfortunate that there is criticism of Vernon Jordan for presenting these and other needs of urban and black Americans in a forceful way. But he did not create these needs. He merely brought home the message.

I hope that the outcome of recent events will be a new recognition of the urgency for the administration to address visibly and effectively the critical problems facing Black Americans. I hope for renewed efforts to bridge the widening gap between the black community and the administration.

This administration did not create urban problems either. I know that the President's goal is to revitalize the economy and to deal with minority and urban problems at the same time. He is to be commended for his accomplishments to date. For example, in my view one of President Carter's very vital contributions so far is his genuine, personal relationship with blacks that reflects respect and a true democratic spirit. But I look forward to more substantive action that will justify sustained hope on the part of America's blacks.

Mr. Speaker, I commend the President for his commitment to human rights. But the President must be reminded that one of the most basic of human rights is a right to a job. To speak of human rights without so much as a nod to this basic human right points up an inconsistency in the President's program. I am certain that he will want to move with all dispatch to correct this inconsistency. That, after all, is the purpose of this special order—to have his friends emphasize their concerns to him.

Mr. Speaker, the newspaper article follows:

[From the Washington Star, July 27, 1977]

2,000 CHICAGOANS SCRAMBLE FOR 300 SUPERMARKET JOBS

CHICAGO.—The crowd of 2,000 surged into a new supermarket, hungry for work, not food. There were seven applicants for each job.

"We're desperate," one black woman cried. "Desperate for jobs."

"I need this job bad," Bernard Meeks declared. "I've been out of work for nearly five years."

This was Chicago's South Side on a day when 300 jobs, most of them part-time and paying only $3.05 to $3.90 an hour, became available.

"Tell President Carter that black people here are trying to get a gig," declared one woman. "Gig" is a musician's word for a job.

"These people are just looking for a job," said Police Sgt. Lorenzo Chew. "They aren't breaking any laws. I guess this shows what the unemployment situation is in this community."

While the State says unemployment is only 4.3 percent for the Chicago metropolitan area, for the city itself it is 5.8 percent—and, the mayor's Office of Manpower says, the rate of black unemployment in Chicago is 10 percent.

Dennis McAvoy, research director for the manpower office, adds that the figures don't include those too discouraged to keep on looking for work. If they did, he said, black unemployment here would be more like 20 percent—and even higher among unskilled young black men.

Chicago is also not the only city with such a situation in the inner city.

When it was time to apply for summer jobs in New York City earlier this year, thousands of youngsters lined up the night before—at some spots 15 applicants for each job. In Los Angeles, a handful of civil service openings also drew long lines—and last year, one opening as an elevator mechanic's helper for Los Angeles drew 917 applicants.

In Chicago, an Urban League study of unemployment in black neighborhoods blames much of the trouble on a loss of manufacturing.

"The city's population and work force are increasingly black and Latino. But the metropolitan area is losing employment, and 't is primarily the central city where those jobs are being lost," the study said.

It said the Chicago area did worse during the first half of this decade than the nation as a whole in every kind of industry.

"Within the black ghetto," it said, "some community areas have unemployment rates approaching those of the Great Depression."

I appreciate the gentleman from Michigan yielding to me.

Mr. CONYERS. I appreciate my colleague's comments. I can only observe that had those numbers of jobs been opened in Detroit or Harlem or Los Angeles or Cleveland, that the lines would have been equally as long.

Mr. METCALFE. If the gentleman will yield further, this article I am attaching to the RECORD indicates what has happened in New York and other cities where the number has been as proportionate of applicants for jobs as it was in this one particular incident which happened in Chicago. So, the gentleman in the well is absolutely correct. This is not an isolated incident. This is national in scope, national in importance.

Mr. CONYERS. I thank the gentleman.

Mr. SIMON. Mr. Speaker, I rise to commend my colleague, Representative JOHN CONYERS, and the members of the Black Caucus for their fortright statement.

Unfortunately the media will probably play all of this as a continuing Vernon Jordon versus President Jimmy Carter fight. It is much more than that.

We are discussing the fundamental course of the Nation. Shall we solve our problems of unemployment, to take one example, by timid efforts or by more aggressive action? My guess is that if we came up with the latter answer you would see the stock market suddenly pick up, providing capital for jobs that are needed, providing the Nation a sense of direction, and most important, providing everyone a chance to meaningfully participate in the forward thrust of this Nation and of their families.

This dialog should not quietly die—and must not quietly die—in a chamber in which only a few Members hear the eloquent words of my colleague from Michigan.

This dialog must continue—until we have the good sense to vigorously move on the fundamental problems this Nation faces.

I am confident that if President Carter feels that he has the backing of this Congress and the people of this Nation to move in that direction, we will move.

I for one want to give him that assurance.

Mr. RANGEL. Mr. Speaker, last week Vernon Jordon of the National Urban League rebuted the accomplishments of the Carter administration in reference to the black community. In his remarks, Mr. Jordon delineated the concerns of many of our Nation's black leaders.

As a former chairman of the Congressional Black Caucus and a black elected official, I wholeheartedly concur with Mr. Jordon. For the past 8 months a head of steam has been building up for a confrontation with the President. During this time, the President has failed to develop comprehensive programs to assist the black community, those areas most neglected have been welfare, and full employment.

President Carter has failed to fulfill his obligation to the black voters of America. Since his election he has appointed only 32 blacks to key governmental positions. This number falls far short of his stated commitment to that segment of the national community which has been given credit for his election victory.

I call upon the President to take the initiative and develop those necessary changes that the administration must make to regain the respect of blacks throughout America. This is not the time to issue statements calling truthful, however incisive criticisms "erroneous and demogogic". This is the time for immediate and effective action.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to express my support and concurrence of the views stated by Mr. Vernon Jordan, the executive director of the National Urban League, last week during their national convention.

Fully cognizant of the risk involved, Mr. Jordan expressed the views and concerns of black and poor people across this country. We must understand the frustration that black and poor people experienced during the past 8 years.

During his campaign, Mr. Carter raised the level of the hopes and aspirations of black and poor people to an unprecedented level. It is understandable, therefore, that 6 months later black and poor people are now very apprehensive. They feel that the administration should be more sensitive and responsive to their needs.

In spite of the initiatives President Carter has implemented and notwithstanding those he is proposing, blacks still have an unacceptable rate of unemployment, and scores of other unfulfilled promises. Promises such as equal opportunity, welfare and education reform, and urban revitalization. Crime in the black community continues to increase; most, if not all of the socioeco-

nomic conditions that existed during the past still exist today.

Black and poor people are disappointed to date. They are growing impatient with statements that more time is necessary. Many feel President Carter should practice what he teaches in Sunday school and abroad. They believe there is a great imbalance between Carter's foreign and domestic policies. It is unfair to expect an unemployed, undereducated, black or poor person who lives in the ghetto to fully understand, accept, or appreciate the relevance of President Carter's human rights offensive.

I believe that it is the responsibility of this Congress to remind the President through our action on the floor that we are indeed concerned with the plight of the millions of poor people across the Nation.

It is our duty and moral commitment, in fact, to insure that we have equal opportunity, full employment, welfare and education reform, and urban revitalization.

Mr. Jordan should be commended for his eloquent yet forceful statements. And, at this time, I am doing just that—commending Mr. Jordan for taking the initiative with his statements.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order, and that the gentleman from Illinois (Mr. METCALFE) be permitted to attach an article to his remarks.

The SPEAKER pro tempore (Mr. ECKHARDT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROBLEMS IN SUMMER YOUTH EMPLOYMENT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 60 minutes.

Ms. HOLTZMAN. Mr. Speaker, several months ago I pointed out severe problems of mismanagement and abuse in last summer's youth jobs program in New York City. I asked the General Accounting Office to study the program's operation this summer to determine whether the problems I pointed out had been remedied and the commitments of improved management made by the U.S. Department of Labor and the city of New York had been kept.

Last week GAO reported to me on its early findings in this investigation. As the following memorandum prepared by my office points out, virtually nothing has been done to improve the program.

[Memorandum]

GAO BRIEFING ON NEW YORK CITY'S SUMMER YOUTH EMPLOYMENT PROGRAM

On July 25th, the General Accounting Office, conducting an investigation of New York City's federally funded 1977 Summer Youth Employment Program, briefed me on its "observations as of this time." [1]

GAO characterized the City's administration as "disorganized at best." GAO stated that the City does not have "adequate controls" in place "to see that its own goals are met" or "to control federal monies" being spent.

Certain procedures have been changed in response to my prior criticisms of the program, but according to the GAO there has been little meaningful implementation of most of these changes.

The GAO also felt the Department of Labor was inadequately staffed to assure that the program was run in compliance with federal laws and regulations.

I. NON-MERIT SELECTION OF PROJECT SPONSORS

Despite repeated U.S. Department of Labor (DOL) commitments to the contrary (see appendix), project sponsors that performed poorly in 1976 were not barred from the 1977 program.

a. Sponsors Who Flunked City's Test Allowed Back In

Of last year's 119 job sponsors, 38 (or 32 percent) failed the City's own test for determining satisfactory prior year performance.[2] Yet 31 of these failing sponsors were permitted to participate in this summer's program.[3] These sponsors are responsible for 43 percent of the 1977 program. They received the same number of job slots and the same amount of administrative funds as if they had passed, instead of failed, the City's performance evaluation.

The evaluation procedure was instituted by the City at the request of the Department of Labor as a result of my earlier criticism that nearly 90 percent of the 1976 program was allocated to 1975 sponsors regardless of performance or merit.

Nevertheless, it seems clear that the merit system which the evaluations should have created was never implemented. According to the GAO, "the basic decision as to who was to sponsor the program was made in February" long before the evaluation of past performance was completed.

b. City's Evaluation Procedure Inadequate

GAO criticized the City's evaluation standards because too little emphasis was given to actual program content. Thus, the evaluation permitted a job sponsor to pass despite failing, for the most part, to provide meaningful work.

The Department of Labor approved these evaluation standards.

c. Department of Labor Did Not Oversee City's Evaluation

Despite repeated DOL assurances that it would monitor and participate in the evaluation process (see appendix), DOL did not obtain a copy of the City's evaluations of individual sponsors until June 30th, two working days before the program began. It took no action on the City's inclusion of the 31 sponsors who failed the evaluation test, nor has it reviewed the City's evaluation in depth.

II. INADEQUATE MONITORING OF THE PROGRAM

The City is responsible for monitoring the program to assure that sponsors comply with their contracts and provide youngsters with adequate work experience.

According to GAO, the City has significantly increased its number of monitors. Nevertheless, and despite repeated DOL commitments to assure adequate monitoring (see appendix), the City's monitoring effort has not substantially improved.[4]

a. As of Friday, July 22nd, the City Did Not Know Where All Youngsters Were Assigned to Work or What They Were Supposed To Do.

As of Friday, July 22nd, three weeks after the program started, the City did not have a complete list of the locations at which youngsters were supposed to be working and an adequate description of the work that was supposed to be done. It could not, therefore, conduct a complete monitoring effort.

According to GAO, because some work sponsors failed to list job sites, the City could not compile a complete list even if it wanted to. Also, according to GAO, the City says it does not think such a list is necessary.

b. The City Will Not Monitor All Sites at Which Youngsters Were Supposed to Be Working.

Originally, the City planned to visit each of the anticipated 9,000 work sites at least once during the summer, and allowed for follow up visits to sites which had problems (see appendix). However, during the first week of the program, GAO was told that there was "not too much active monitoring." Because there was no centralized site list and because many of the sponsors' plans were still outstanding the City's Area Managers could only put together monitoring schedules on a week-to-week basis.

By the third week of the program, the City's original monitoring plan was scrapped and a two-tiered system was adopted.[5] One tier, called "regular" monitoring,[6] will be applied to the programs of 134 project sponsors. Instead of visiting each of their work sites once and following up on identified problems, the City will monitor only roughly 25 percent of these project sponsors' sites with "follow-up as needed."

The second tier, called "continuous" monitoring, will apply to a select group of six project sponsors: the four I studied and two additional sponsors which had been selected, at random, by GAO for study this summer. According to the City, "continuous" monitoring means every day monitoring and it is supposed to be more intense. GAO is trying to ascertain the exact meaning of the phrase.

The City's reason for this change, according to GAO, is that the City claims these are the "problem sponsors." While this is certainly true of the four cited by me, the sponsors selected at random by GAO performed better last year, according to the City's evaluation test, than a number of other sponsors. The City's decision closely to monitor these sponsors suggests, therefore, that it is more concerned with what GAO might find, than with assuring that "problem sponsors" perform satisfactorily.

Although it is too early fully to assess the effectiveness of the City's monitoring program, the prospects are not encouraging because (1) the City does not know where, or at what task, the youngsters are working (2) the decision not to monitor all sites and (3) the diversion of monitoring resources to duplicate the work of GAO.

III. PROGRAM BEGAN BEFORE SPONSORS' PLANS WERE REVIEWED

a. The City Conducted No Complete Review of Sponsor POPs.

The City did not begin to review project sponsors' Project Operation Plans (POP)—which describe what work youngsters will be doing and where—until June 6.[7] By the time the program began on July 5, this review had not been completed, and, the City admitted to GAO, half of the 140 project sponsors had not even submitted POPs for review.

GAO was told that this review of sponsors' plans which began on June 6th was a review only for "blatant illegalities and inconsistencies." Only after July 18, when the POPs had been inspected in this preliminary review, did the City begin to give the POPs a "thorough going over." The process has still not been completed although the program is already half over.

According to GAO, the reason the review process began so late is that the City re-

Footnotes at end of article.

turned all POPs to project sponsors in late May. The City claimed this was necessary so that more detailed information could be added to one section and so that the plans would reflect the fact that the sponsor would be supervising additional participants due to a second allocation of funds.[8]

GAO criticized this procedure, believing that requiring project sponsors to submit a contract modification would have accomplished the same goal.

b. DOL Failed to Follow Through On Its Own Review of Sponsors' Proposals.

As the City began receiving POPs in June, copies of the documents were made available to the DOL Regional Office for review. DOL felt many were too general and some contained illegalities and had omissions. DOL's comments were transmitted "informally" to the City. DOL did not follow up on its comments.[9]

IV. CITY'S COORDINATION WITH STATE'S ADMINISTRATION OF THE FOOD PROGRAM HAS BEEN LIMITED AND INEFFECTIVE

According to GAO, the promised coordination between the administration of the food program and the jobs programs (see appendix) has been "limited and ineffective."[10] GAO places the blame on the City.

There was one meeting in May at which my report on fraudulent connections between these programs was discussed by State Education Department (SED) and Department of Employment (DOE) representatives. It was agreed that they would work together and exchange information of mutual interest. On May 20th SED gave DOE a list of approved food program sponsors and vendors and on June 30th DOE sent SED a list of jobs sponsors.

The City has not provided the State Education Department with any list of work sites or work sponsors. Thus, SED cannot verify for the City that job sites which are claimed to be feeding sites actually have a feeding program. Nor can it advise the City when feeding sites which are also job sites have been cancelled.

V. GAO'S REVIEW RESULTS IN CITY'S SUPERSEDING LOWER EAST SIDE COMMUNITY CORPORATION

As a result of problems discovered by GAO in the Lower East Side Community Corporation's program, the City itself took over administration of that program.

GAO, upon visiting a Lower East Side site which was supposed to be a food program site, found:

No food program was in operation;

73 youngsters were assigned to the site but there was no work; and

GAO was refused access to the site's time card records.

City officials subsequently discovered a questionable lease agreement and found that the corporation had represented that it was a food program sponsor when it was not.[11]

The City has superseded the Community Corporation's Executive Director and taken over responsibility for that program.

VI. REGISTRATION PROCESS PLAGUED BY SERIOUS PROBLEMS

Although GAO did not monitor the registration process, DOL observed registration at 40 sites through the City, According to GAO, DOL noted:

Evidence of pre-registration in violation of the regulations' first-come first-served rule;

Frequent certification of family income at exactly the maximum allowable level, indicating probably registration of ineligibles.

According to GAO, DOL has concluded that the registration procedure needs to be revised, but has not decided how to do it.

VII. INADEQUATE OVERSIGHT BY DOL

DOL has a professional staff of two people assigned to the oversight of this program. DOL's professional staff is supplemented by two college interns hired for the summer. GAO feels that this small number of people cannot adequately monitor the City's operation of this $35 million program which supposedly employs 70,000 disadvantaged youngsters nor can it insure that federal monies are spent in accordance with federal law.

FOOTNOTES

[1] After exposing gross mismanagement by the City of New York and the U.S. Department of Labor in connection with the 1976 summer jobs program, I had requested the General Accounting Office to review this year's Summer Youth Employment Program to determine whether promised improvements had been made. The briefing by the GAO was of its findings "as of this time." (i.e. July 25, 1977). The GAO's review of the program will continue for the balance of the summer and a final report will be made.

[2] The City had devised an 100-point system for evaluating 1976 performance. A score of 70 was needed to pass the City's evaluation test. Those sponsors who scored less than 70 were to be excluded from this summer's program unless they submitted an acceptable written plan which would "demonstrate" that they were "capable" of running an adequate program this summer.

The 31 sponsors who failed this test and were permitted to participate in this summer's program never submitted a written plan to demonstrate that they could improve their performance.

[3] GAO has not determined if the 7 sponsors which failed and are not in this summer's program were excluded or simply did not reapply.

[4] The need for improved monitoring was pointed out in my report of March 27, 1977, which noted that many sites were not monitored at all, that the City took no action to remedy problems diclosed by monitoring reports, and that the monitoring form used did not elicit crucial information.

[5] Actually, only the concept of a two-tiered system was then adopted. The mechanism was not scheduled to be fully in place until Friday, July 29th.

[6] "Regular" monitoring consists of: (1) reviewing the project sponsor itself three times during the summer to determine if it is fulfilling all of its contractual obligations and keeping adequate records; (2) visiting ¾ of the work sponsors engaged by the Project Sponsor; (3) monitoring ⅓ of the sites operated by those work sponsors.

[7] Review of the substance of these POPs is important to determine if adequate plans have been made by the sponsors for the participants assigned to them. In addition, the FOPs are only documentary source of data on where the youngsters are assigned to work. Without the POPs the City has no ability to monitor the program.

[8] The City was not taken by surprise by this second allocation. In fact City officials expected it and were planning for it. Their program regulations which are dated March 1977 indicate that additional funding was a possibility and correctly estimated that $6 million more would be forthcoming.

[9] The need for evaluation of these proposals was pointed up in my earlier criticisms of last summer's program in which sponsors were allowed to participate regardless of the merits or weaknesses of their proposals.

[10] The need for such coordination was pointed out by my revelations that the jobs program and food program were used to shield fraudulent activities in each other.

[11] The Corporation was not certified as a sponsor of the food program until June 22nd. It was then clear that its food program could not begin until several weeks into the jobs program. Lower East Side failed to reassign youngsters to sites which would have work for them to do, and allowed them instead to "participate in recreational activities, such as going to the beach and going to parks."

APPENDIX—U.S. DEPARTMENT OF LABOR FAILS TO KEEP COMMITMENT TO UPGRADE THE PROGRAM

In a series of meetings and letters (see attached documents), the U.S. Department of Labor made a number of commitments to improve the operation of the Summer Youth Employment Program in New York City this summer. As a result of the GAO briefing it is apparent that virtually every one of these commitments has been broken, including the following:

1. Project Sponsors' 1976 performance would be evaluated and a Sponsor would be allowed to participate in the 1977 program only if its performance had been found adequate.

2. All 1977 proposals would be fully evaluated before funding with DOL staff involved.

3. City monitoring and management follow-up on findings would be strengthened.

4. Arrangements would be made to coordinate the Summer Youth Employment Program with the Department of Agriculture's Summer Feeding Program.

5. The City would hire one monitor for every 15 job sites and anticipated that each site would be visited at least two times during the summer.

6. The Department of Labor would assure the monitors are properly trained and would conduct training sessions.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, on page 25528 of the CONGRESSIONAL RECORD, I am recorded as voting "aye" on the de la Garza amendment to the agriculture bill, H.R. 7171. I should have been recorded as voting "nay" since I was opposed to the amendment.

THIRD STATUS REPORT PURSUANT TO HOUSE RESOLUTION 252

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. FLYNT) is recognized for 5 minutes.

Mr. FLYNT. Mr. Speaker, I submit for inclusion in the CONGRESSIONAL RECORD the third monthly report on the status of the investigation being conducted by the Committee on Standards of Official Conduct pursuant to House Resolution 252.

That resolution directed the committee to investigate allegations that the Government of South Korea, either directly or through its agents, has attempted to influence congressional action by the bestowal of things of value on Members of Congress.

The current report deals with the committee's activities and those of its special staff during the month of July 1977. Previous reports were published in the CONGRESSIONAL RECORD on June 30, page 21688 and on June 7, page 17726. Additional reports will be made periodically in keeping with the committee's desire to keep the Congress and the public informed on the continuing progress of the investigation, and to assure the Congress and the public that progress has been substantial.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF JULY 31, 1977

This is the third status report of the Committee on Standards of Official Conduct on the status of the investigation ordered by House Resolution 252, adopted by the House on February 9, 1977.

That Resolution directed this Committee to make a full and thorough investigation of allegations that Members of the House of Representatives have been the objects of efforts by certain foreign governments, particularly the Government of the Republic of Korea, or agents thereof, to influence Members' official conduct through gifts of things of value to them directly or indirectly.

This report is made in keeping with the Committee's purpose to keep Congress and the public informed on the progress of this investigation. Prior reports were printed in the Congressional Record of June 7, 1977, and June 30, 1977, and deal with the status of the investigation during the periods prior to these dates. It is the Committee's intention to file such reports frequently until the investigation has been concluded and the final report filed.

Major progress has been made since the filing of the June 30, 1977, report.

The Committee has negotiated an agreement with the Central Intelligence Agency for access to classified material vital to the investigation. It has received helpful cooperation from other agencies including, but not limited to, the Department of State, the Department of Justice, the National Security Agency and the National Security Council.

On July 15, former special counsel transmitted to the Committee a letter of resignation as Special Counsel. On July 20, the Committee by roll-call vote of 9 to 3 defeated a substitute motion that the Committee continue the services of such former special counsel.

On July 21, by roll-call vote of 10 to 0 with one Member voting present and one Member absent, the Committee at the request of the Chairman appointed Leon Jaworski, Esquire, as Special Counsel to direct the investigation and the Special Staff conducting it.

A "Memorandum of Understanding" between the Committee and Mr. Jaworski gives the Special Counsel full and complete independence in the fact-finding process of the investigation and broad authority to pursue the investigation to a successful conclusion. The Committee approved Mr. Jaworski's designation of Peter White to act as Deputy Special Counsel.

During July, the Committee held four meetings, most of which were open to the public except when the Rules of the House and of the Committee required executive sessions. The Committee plans to hold frequent meetings as necessary until the investigation is completed.

During July, 1977, the 18 member Special Staff in charge of the investigative work has stepped up its pace without interruption. No member of the special staff has resigned except former Special Counsel.

The Committee authorized 46 additional personal subpoenas, for a total of 129; and 55 subpoenas for the production of documentary evidence, for a total of 117. In addition, the staff interviewed 82 additional witnesses, some under subpoena and some not under subpoena, bringing the total number of witnesses interviewed to 180. Thousands of documents bearing on the investigation were obtained and reviewed and are being collated.

Responses to questionnaires sent by the Committee to Members and former Members early in June have been excellent and most helpful in the Committee's effort to determine if a pattern of efforts to influence the official conduct of Members existed. The response provided much information and leads are being actively followed up.

Responses have been received from 423 incumbent Members of the House and from 228 of the 279 former Members to whom the questionnaires were sent, thus bringing the total number of individuals from whom statements of some kind have been taken to 831.

The Committee has approved requests for immunity from prosecution for 10 witnesses or potential witneses whose testimony is deemed essential to the investigation. Of these, 3 requests have received United States District Court approval and 7 are presently under consideration.

At the request of Special Counsel, the Committee has declined to set a timetable in which the investigation should be completed. The Special Counsel, Mr. Jaworski, has agreed to provide an estimate of a timetable as expeditiously as possible, including the time that would be appropriate to conduct public hearings. The Committee and Special Counsel are in agreement that to conduct public hearings prematurely would be unwise and could result in unwarranted injury to reputations and might jeopardize the entire investigation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DERRICK (at the request of Mr. WRIGHT), for August 1, 2, and 3, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUDD) and to include extraneous material:)

Mr. FORSYTHE, for 10 minutes, today.
Mr. FINDLEY, for 5 minutes, today.
Mr. WHALEN, for 10 minutes, today.
Mr. KEMP, for 30 minutes, today.

(The following Members (at the request of Mr. CONYERS), to revise and extend their remarks, and to include extraneous matter:)

Mr. KRUEGER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FORD of Michigan, for 5 minutes, today.
Mr. DIGGS, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. PEPPER, for 15 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. CONYERS, for 60 minutes, today.
Ms. HOLTZMAN, for 60 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. FLYNT, for 5 minutes, today.
Mr. HOWARD, for 5 minutes, today.
Mr. KOCH, for 60 minutes, on August 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ARCHER, to revise and extend his remarks immediately following the remarks of Mr. CONABLE during general debate in the Committee of the Whole today.

(The following Members (at the request of Mr. RUDD) and to include extraneous material:)

Mr. FORSYTHE in two instances.
Mr. CRANE in five instances.
Mrs. PETTIS.
Mr. DERWINSKI in three instances.
Mr. BURGENER in two instances.
Mr. MARTIN.
Mr. GUYER.
Mr. DEL CLAWSON.
Mr. ARMSTRONG.
Mr. SHUSTER.
Mr. CONTE.
Mr. FRENZEL in three instances.
Mr. FREY.
Mr. ASHBROOK in two instances.
Mr. BROYHILL.
Mr. RUDD.

(The following Members (at the request of Mr. CONYERS) and to include extraneous matter:)

Mr. FORD of Michigan.
Mr. EILBERG in 10 instances.
Mr. OBEY.
Mr. RAHALL.
Mr. EDGAR.
Mr. JOHNSON of California.
Mr. PATTISON of New York.
Mrs. SCHROEDER.
Mr. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. SISK.
Mrs. LLOYD of Tennessee in five instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. HAMILTON in 10 instances.
Mr. MOORHEAD of Pennsylvania in 10 instances.
Mr. LEHMAN.
Mrs. KEYS.
Mr. DRINAN.
Mr. NEAL.
Mr. DODD.
Mr. TEAGUE.
Mr. SCHEUER.
Mr. LEDERER.
Mr. PATTEN.
Mr. LEVITAS.
Mr. WAXMAN.
Mr. RANGEL.
Mr. JONES of Oklahoma.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 705. An act to amend the Public Health Service Act to revise and strengthen the program under that Act for the regulation of clinical laboratories; to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means; and

S. 1539. An act to authorize appropriations for fiscal year 1978 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. METCALFE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 23 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, August 2, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2041. A letter from the General Counsel, U.S. General Accounting Office, transmitting confirmation of the release of certain budget authority, the rescission of which was proposed by the President but not approved by the Congress; to the Committee on Appropriations.

2042. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on poverty-related research and demonstration projects, covering fiscal year 1976 and the transition quarter, pursuant to section 232(b) of the Economic Opportunity Act of 1964, as amended (81 Stat. 703); to the Committee on Education and Labor.

2043. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing the award of Domestic Mining and Mineral and Mineral Fuel Conservation fellowships, pursuant to section 431(d)(1) of the General Education Provisions Act as amended; to the Committee on Education and Labor.

2044. A letter from the Chairman and Acting Executive Director, Pension Benefit Guaranty Corporation, transmitting the second annual report of the Corporation, pursuant to section 4008 of the Employee Retirement Income Security Act of 1974; to the Committee on Education and Labor.

2045. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Anschutz Coal Corp., Denver, Colo., for a research project entitled "Demonstration of Longwall Mining in a Steeply Dipping Coal Seam," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior an Insular Affairs.

2046. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Booz-Allen and Hamilton, Inc., Cleveland, Ohio, for a research project entitled "An Automated Rail Haulage System," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2047. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with FMC Corp., Santa Clara, Calif., for a research project entitled "Multipurpose Test Chassis," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2048. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with the Bendix Corp., Englewood, Colo., for a research project entitled "One-Inch Flexible Drill for Resin Bolter Module," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2049. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with the Bendix Corp., Englewood, Colo., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2050. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Ingersoll-Rand Research, Inc., Princeton, N.J., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2051. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Iowa State University of Science and Technology, Ames, Iowa, for a research project entitled "Geology of Deep Coal Beds in Iowa," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2052. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Mathtech, Inc., Princeton, N.J., for a research project entitled "Analysis and Development of Operating Guidelines for Dozer/Dragline and Loader/Truck/Dragline Tandem Mining Systems," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2053. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Rapidex, Inc., Gloucester, Mass., for a research project entitled "Experimental Study of the Self Advancing Miner for Coal," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2054. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles to Korea (Transmittal No. 77–49), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2055. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles to Germany (Transmittal No. 77–52), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2056. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Germany (Transmittal No. 77–53), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2057. A letter from the Comptroller General of the United States, transmitting a report that military compensation should be changed to a salary system (FPCD–77–20, Aug. 1, 1977); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 263. Concurrent resolution providing for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education" (Rept. No. 95–550). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 241. Concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws"; with amendment (Rept. No. 95–551). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 205. Concurrent resolution to authorize the printing of a revised edition of "Our American Government" as a House document; with amendment (Rept. No. 95–552). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 204. Concurrent resolution to authorize the printing of a revised edition of "Our Flag" as a House document; with amendment (Rept. No. 95–553). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 490. Resolution to provide for reprinting of House Report 94–1688 and House Report 94–1757 (Rept. No. 95–554). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 608. Resolution providing for the printing of the final report of the American Indian Policy Review Commission (Rept. No. 95–555). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 654. Resolution authorizing the printing, as a House document, of a certain committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs. (Rept. No. 95–556). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 728. Resolution providing for the consideration of H.R. 2176. A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. (Rept. No. 95–557). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 731. Resolution waiving certain points of order against the conference report on S. 826. A bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes. (Rept. No. 95–558). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. ULLMAN:

H.R. 8655. A bill to increase the temporary debt limit, and for other purposes; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 8656. A bill to prohibit the use or expenditures of Federal funds for the publication or dissemination of weather information in terms of the metric systems without a specific authorization by the Congress for

such use or expenditure; to the Committee on Science and Technology.

Mr. FINDLEY:

H.R. 8657. A bill to amend subtitle C of the Solid Waste Disposal Act relating to hazardous waste management to require public ownership of future hazardous waste facilities and of privately owned facilities upon the termination of treatment and disposal operations; to make further requirements with respect to the location and safety of such facilities; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FLORIO (for himself and Mr. EILBERG):

H.R. 8658. A bill to repeal section 3402(q) of the Internal Revenue Code of 1954 which requires, for income purposes, amounts to be withheld from certain gambling winnings; to the Committee on Ways and Means.

By Mr. FLYNT (for himself and Mr. BARNARD):

H.R. 8659. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. GONZALEZ:

H.R. 8660. A bill to provide adequate mental health care and psychiatric care to all Americans; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT (for himself and Mrs. SPELLMAN):

H.R. 8661. A bill to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions; to the Committee on Veterans' Affairs.

By Mr. McKAY:

H.R. 8662. A bill to authorize the Secretary of the Army to convey to Utah State University certain real property in Logan, Utah; to the Committee on Armed Services.

By Mr. NEAL (for himself, Mr. WHALEN, Mr. BRODHEAD, Mr. BURGENER, Mr. CONTE, Mr. DOWNEY, Mr. EILBERG, Mr. ERTEL, Mr. FLORIO, Mr. GUYER, Mr. HAMILTON, Mr. HOWARD, Mr. JENRETTE, Mr. JONES of North Carolina, Ms. KEYS, Mr. LENT, and Mrs. LLOYD of Tennessee):

H.R. 8663. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

By Mr. NEAL (for himself, Mr WHALEN, Mr. LUNDINE, Mr. MINETA, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. TRIBLE, Mr. VENTO, Mr. WHITEHURST, Mr. WHITLEY, and Mr. WINN):

H.R. 8664. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 8665. A bill to provide that, in computing certain Federal payments to local governments based on amounts of Federal public land within their boundaries, certain amounts of such land which heretofore have been excluded shall be included, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. QUIE (for himself and Mr. GOODLING):

H.R. 8666. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in States educational costs; to the Committee on Veterans' Affairs.

By Mr. RAHALL:

H.R. 8667. A bill to extend and improve certain provisions relating to the treatment to be accorded disaster victims in the administration of the supplemental security income program under title XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. SARASIN (for himself, Mr. BEDELL, Mr. BENJAMIN, Mr. BLOUIN, Mr. BUCHANAN, Mr. BUTLER, Mr. CLEVELAND, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. COUGHLIN, Mr. DRINAN, Mr. FAUNTROY, Mr. KINDNESS, Mr. LAFALCE, Mr. LEACH, and Mr. LEHMAN):

H.R. 8668. A bill to amend title XVIII of the Social Security Act with respect to the types of transportation for patients which may be included in the definition of medical and other health services under such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SARASIN (for himself, Mrs. LLOYD of Tennessee, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. O'BRIEN, Mr. OTTINGER, Mr. PEPPER, Mr. ROE, Mr. SIMON, Mrs. SPELLMAN, Mr. STOKES, Mr. TREEN, Mr. VENTO, and Mr. WINN):

H.R. 8669. A bill to amend title XVIII of the Social Security Act with respect to the types of transportation for patients which may be included in the definition of medical and other health services under such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SOLARZ:

H.R. 8670. A bill to amend section 701(j) of the Civil Rights Act of 1964 with respect to accommodation of religious observances or practices of employees in certain cases; to the Committee on Education and Labor.

By Mr. WHALEN (for himself, Mr. PATTISON of New York, Mr. PEASE, Mr. STEERS, Mr. ABDNOR, Mr. ALLEN, Mr. AMMERMAN, Mr. ARCHER, Mr. ASHLEY, Mr. AUCOIN, Mr. BARNARD, Mr. BENJAMIN, Mr. BENNETT, Mr. BEVILL, Mr. BONKER, Mr. CORCORAN of Illinois, Mr. COUGHLIN, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. ERTEL, Mr. FASCELL, Mr. FREY, Mr. GEPHARDT, Mr. GRASSLEY, and Mr. HAGEDORN):

H.R. 8671. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. WHALEN (for himself, Mr. PATTISON of New York, Mr. PEASE, Mr. STEERS, Mr. HARRINGTON, Mrs. HECKLER, Mr. HIGHTOWER, Mr. HORTON, Mr. HYDE, Mr. IRELAND, Mr. JACOBS, Mr. LAFALCE, Mr. LEACH, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MANN, Ms. MIKULSKI, Mr. MOLLOHAN, Mr. MURPHY of Illinois, Ms. OAKAR, Mr. OBERSTAR, Mr. PANETTA, Mrs. PETTIS, and Mr. PICKLE):

H.R. 8672. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. WHALEN (for himself, Mr. PATTISON of New York, Mr. PEASE, Mr. STEERS, Mr. PRITCHARD, Mr. QUAYLE, Mr. RAHALL, Mr. ROBINSON, Mr. ROUSSELOT, Mr. RUDD, Mr. RUSSO, Mr. STOCKMAN, Mr. STUDDS, Mr. TRIBLE, Mr. TUCKER, Mr. VAN DEERLIN, Mr. WALGREN, Mr. WALSH, Mr. WEAVER, Mr. WHITEHURST, and Mr. BOB WILSON of California):

H.R. 8673. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. WINN (for himself, Ms. KEYS, Mr. GLICKMAN, and Mr. SEBELIUS):

H.R. 8674. A bill to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the Absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets numbered 27A, 241, and 289, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WIRTH (for himself, Mr. BROYHILL, Mr. BAUCUS, Mr. MOFFETT, and Mr. OTTINGER):

H.R. 8675. A bill to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mr. DOWNEY, and Mr. WEISS):

H.R. 8676. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself and Mr. KRUEGER):

H.R. 8677. A bill to provide coordinated veterans readjustment training and supportive services, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROYHILL (for himself, Mr. LAFALCE, Mr. VENTO, Mr. GUYER, Mr. WALKER, Mr. MADIGAN, Mr. LAGOMARSINO, Mr. QUIE, Mr. PRITCHARD, Mr. EDWARDS of California, Mrs. HECKLER, Mr. BENJAMIN, Mr. GOODLING, and Mr. JENRETTE):

H.R. 8678. A bill to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CAPUTO:

H.R. 8679. A bill to amend the Internal Revenue Code of 1954 to provide for the issuance of nontaxable bonds for the furnishing of electric energy not produced by petroleum or natural gas; to the Committee on Ways and Means.

By Mr. CAPUTO (for himself, Mr. ZEFERETTI, Mr. SCHEUER, Mr. LENT, Mr. SOLARZ, Mr. FISH, Mr. ADDABBO, Mr. WYDLER, Mr. WOLFF, Mr. GILMAN, Mr. WEISS, Mr. BADILLO, Mr. BINGHAM, and Ms. CHISHOLM):

H.R. 8680. A bill to amend the Internal Revenue Code of 1954 to provide for the issuance of nontaxable bonds for the furnishing of electric energy in a taxpayer's service area no greater than a city and a contiguous county; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 8681. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; to the Committee on Agriculture.

By Mr. JONES of Oklahoma (for himself, Mr. HUCKABY, Mr. SAWYER, and Mr. CONTE):

H.R. 8682. A bill providing that the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 8683. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; jointly, to the Committee on International Relations, and Judiciary.

By Mr. KRUEGER:

H.R. 8684. A bill to require that meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require that the cost of conducting the inspection and labeling of imported meat and meat food products be borne by the importers of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. WOLFF (for himself and Mr. BURKE of Massachusetts):

H.J. Res. 562. Joint resolution to authorize the President to call a White House Conference on Families in 1979, and for other purposes; to the Committee on Education and Labor.

By Mr. NOWAK:

H.J. Res. 563. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service.

By RAHALL (for himself, Mr. BEARD of Rhode Island, Mrs. HECKLER, and Mr. VENTO):

H.J. Res. 564. Joint resolution to authorize National Shut-In Day; to the Committee on Post Office and Civil Service.

By Mr. DORNAN (for himself, Mr. GUYER, Mr. FREY, Mr. BURKE of Florida, Mr. PEPPER, Mr. KEMP, Mr. TRAXLER, Mr. BLANCHARD, Mr. MURPHY of Pennsylvania, Ms. OAKAR, Mr. ROE, Mr. HORTON, Mr. EDWARDS of Oklahoma, Mr. MARKS, Mr. MCCLORY, Mr. PRICE, Mr. KOCH, Mr. MITCHELL of New York, Mr. TREEN, Mr. MCDONALD, Mr. ADDABBO, Mr. OBERSTAR, Mr. WALSH, Mr. CORRADA, and Mr. BAUCUS):

H. Con. Res. 319. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. BOLAND:

H. Res. 729. Resolution to provide funds for the expenses of investigations and studies to be conducted by the House Permanent Select Committee on Intelligence; to the Committee on House Administration.

By Mr. HUGHES:

H. Res. 730. Resolution urging the expeditious completion of the Subcommittee on Communication's review of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

238. The SPEAKER presented a memorial of the Legislature of the State of New Jersey, relative to environmental cancer; to the Committee on Interstate and Foreign Commerce.

EXTENSIONS OF REMARKS

EAST ASIAN PERSPECTIVE

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. FREY. Mr. Speaker, a constituent of mine, Bradley Hahn, recently spent 54 days touring Tahiti, New Zealand, Australia, Singapore, Thailand, Hong Kong, Taiwan, South Korea, and Japan. Mr. Hahn has a background in intelligence and during this tour, which was taken at his own expense, made notations of his personal observations and impressions and has provided me with a summation of his thoughts. I thought that other Members of Congress might, perhaps, be interested in his comments:

EAST ASIAN PERSPECTIVE

(By Bradley Hahn)

1. Contrary to popular belief, the China and Korean questions are very much interrelated and not distinct separate issues. If you take the "view from Peking" (Looking eastward across the western Pacific Ocean), the Korean peninsula and the island of Taiwan form a strategic gateway to the most vulnerable area of mainland China. Korea is now and has been of greater obvious value and strategic consequence in U.S. relationships with Asia (particularly the two principle powers—PRC and Japan) than Vietnam ever was. The PRC today considers Korea and Taiwan as distant provinces of mainland China.

2. Three major wars have been fought because of Korea during the past 80 years—two involved China directly (1894–5; 1950–3); one involved Russia and Japan (1904–5). In addition, World Wars I and II involved China, Korea, Japan, USSR and the U.S. along with a number of Asian and European nations.

3. The PRC and USSR are only using the power of the United States to improve their respective Asian positions. When the U.S. no longer becomes useful for their purposes, either or both will turn against the U.S.

4. Both South Korea and ROC Taiwan are pacing Japan in rapidly developing viable competitive economic systems.

5. Knowledge of non-communist societies with markedly higher standards of living (i.e., Taiwan, South Korea, Singapore) continues to cause dissatisfaction, dissension, and unrest and frequent attempts to escape oppression on mainland China and North Korea.

6. PRC needs to eliminate opposing competitive enterprise systems such as Taiwan, South Korea, Singapore and Japan. In order to influence, pressure and threaten her Asian neighbors, the PRC has embarked upon an extensive maritime development program. In less than 25 years time, the PRC has initiated and expanded an Ocean Merchant Service to at least 8 million deadweight tons. Today this service probably ranks within the top 15 world merchant marines. Concurrently, the PRC has constructed the World's largest "small ship" Navy, which ranks second in numbers of operational anti-ship missile ships and craft along with the third largest ocean going submarine fleet. In January 1974 China for the first time in over 75 years used maritime power to return claimed territory to her possession. Future small scale naval operations may be anticipated in light of the PRC's expanding energy needs. Peking has often claimed extensive offshore mineral and fishing right from the Ryukyus to the Malacca Straits.

7. The fundamentally important question of territorial waters will find the PRC and North Korea along with a number of other small nations attempting to increase contiguous sea bed control. The latest friction issue has already caused the PRC this year to protest to Japan over the recent conclusion of a South Korean-Japan agreement to jointly develop underwater oil resources along their respective coastal approaches. The PRC has indicated its intention of extensive extraction operations in the East China Sea area which overlaps the Korean continental shelf. For many reasons the coming decades will be years of change and uncertainty concerning the use and legal regime of the seas. Absence of national jurisdiction may well prove impossible to sustain in light of modern technology.

8. Both the PRC and USSR, who maintain sizable economic and military aid missions in North Korea, have been instrumental in expanding the North Korean Navy by 500% since 1970. Of particular significance is their two regiment sized amphibious commando assault capability using high speed specially equipped landing craft which have the appearance of PT boats.

9. Supporters of U.S. disengagement in Asia should realize that:

a. The 1950 Korean war resulted from the removal of U.S. Ground Forces from Korea in June 1949 followed by public proclamation that Taiwan and South Korea had been excluded from U.S. defense requirements. Since the end of that war more than 50 American Army, Navy and Air Force personnel h..ve died at the hands of the North Korean military; similarly more than 1,000 North and South Koreans have been known to be killed; at least 5 U.S. Army, Navy and Air Force aircraft have been reported shot down; 35,000 violations of the 1953 Armistice have been recorded, 7,600 of these infringements occurring after North Korea's endorsement of the famous 1972 North-South Communique seeking peaceful unification of the peninsula; some 2,000 shooting incidents have been reported. In addition hundreds of maritime incidents have been caused by the policies and maritime forces of the PRC and North Korea, which include international waters seizures of ships and craft, use of South Korean coastal waters for agent infiltration activities, and general harassment of fishing fleets.

b. Reintroduction of U.S. Ground Troops in a war on the Korean peninsula violates the "Guam Doctrine" of 1969 barring American forces from any further Asian land conflicts.

c. Withdrawal program raises a critical issue of American credibility and resolve.

d. The Japanese Constitution prohibits the use of Japanese armed forces except in self defense if attacked.

e. Withdrawal of American military forces in the immediate future from South Korea and Taiwan would inevitably tip the military and psychological balance in favor of the PRC, North Korea and USSR.

f. Threat of the use of nuclear weapons may not be a deterrent in itself as the PRC, North Korea and USSR have extensive systems of underground shelters, factories, defense installations, storage facilities, key military command and control centers.

g. Aggressive initiatives by the North Korean government would have the tacit approval of either or both the PRC and USSR.

h. Increased defense costs at this time for South Korea and ROC Taiwan could materially affect economic interdependency of Taiwan, South Korea, Singapore and Japan, and renew efforts by Communist elements to escalate internal dissention and disorder,

which in turn would ultimately lead to aggressive actions by the PRC, North Korea and possibly the USSR.

10. The lack of a forceful U.S. defense posture in East Asia may cause the threat of nuclear blackmail to become a real and serious problem for America in the not too distant future. Current administration has twice failed to obtain Communist China and French backing on a world ban on all nuclear testing. The PRC on 19 May 1977 stated its intention to continue test firing nuclear weapons.

11. If China follows the teachings of Sun-Tse, a philosopher who lived about 500 years before Christ, political and psychological subversion may become the cornerstone of the PRC's foreign policy during the last quarter of this century. According to Sun-Tse, there is no higher art than that of destroying the enemy's resistance without a fight on the battlefield. Only such "indirect" tactics can lead to real and lasting "victory". Subvert anything of value in the enemy's country; implicate the emmissaries of major powers in criminal undertakings; undermine their positions and destroy their reputations in other ways as well, and expose them to public ridicule of their fellow citizens.

12. Naval power also provides another "indirect" tactic in the evolution of national doctrine.

13. People from different economic stations of society in Singapore, Thailand, Hong Kong, Taiwan, South Korea, and Japan repeatedly asked, "why does America always hurt her friends to help their enemies?"; "why should we sacrifice ourselves to help America make accommodations with the Communists?"; "what about our human rights to survive with a system of living of our own choice?"

RESOLUTION TO ESTABLISH A CONGRESSIONAL PAGES SCHOOL BOARD

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. PATTISON of New York. Mr. Speaker, I have recently cosponsored a resolution establishing a Congressional Pages School Board. The pages are high school students brought to the Capitol from their homes all over the country for the purpose of serving the Legislative Branch and learning first-hand about some of the processes of Government. They work on the House and Senate floors, in their respective cloakrooms, and in the several office buildings. Previous to their workday in the Capitol, each page is required to go to the special page school, set in the Library of Congress. In practice, the page experience should be the ideal way to learn about Government: Observation of lawmaking on a daily basis coordinated with a comprehensive program of related and unrelated studies. Unfortunately, the page system falls uncomfortably short of all reasonable expectations.

Recently, it has come to the attention of the Congress that there exists grave flaws in the manner in which the page system is supervised. Reports of a poorly administered school, of undisciplined young people throwing wild parties, and of bad working conditions have filtered through to the Congress itself, raising some questions about the validity of the experience. In addition, the pages have contended that educationally, the system is worthless. Last June the House Education and Labor Committee held a series of hearings into the school situation. Its findings supported the complaints of the pages. At this time, however, the committees' report has not been adopted and no definitive action has been taken to improve the problem.

Certain complaints stand out rather conspicuously. There is no correlation between work and school, for instance. The pages claim that there is never any reference to the legislation they see considered daily, nor of "special events" such as a State of the Union message or a speech by a visiting dignitary. Witnessing such an event without really understanding it is next to meaningless.

In addition, the length of classes is inconstant, ranging from 7 minutes to 45, depending on what time the House or Senate convenes. Tests are often postponed until a class period long enough to take them occurs. Needless to say, this disrupts the educational process significantly. The problems are numerous, and extend much further. College counselling is painfully inadequate. The school library is virtually nonexistent, and students do not have access to the Library of Congress stacks which are just below their school. The pages themselves complain of a lack of discipline. They blame the school and its teachers. The administrators of the school name the Congress as the source of difficulties. Where does the buck stop?

As Members of Congress who are ultimately responsible to the pages and their well-being, it is our duty to oversee the page program and make is as educationally beneficial as possible for the students. It is tragic that the system, potentially so terrific, does not function as well as it should. Although the flaws range beyond the school, perhaps beginning at the Capitol Page School is a good way to begin solving problems. The resolution I am cosponsoring sets up a board which will be required to monitor the pages' education and supervise the administration of the Page School. This plan is not an extreme measure, and will not work miraculous changes, but it will increase congressional input into the page system. Hopefully, it will begin the motion providing a permanent solution to the problem.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. LEHMAN. Mr. Speaker, on Thursday, July 28, I missed the vote on the Wolff amendment to H.R. 7171. Had I been present, I would have voted "aye."

CUT DOWN ON GOVERNMENT, JONES' POLL SAYS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. JONES of Oklahoma. Mr. Speaker, we have concluded in my district our first sampling of public opinion during this first session of the 95th Congress.

The people of Oklahoma's 1st Congressional District expressed strong opposition to big Government and its bureaucratic inefficiency. They want reform.

Sunset legislation was favored by 94 percent of the more than 7,000 people who responded to the questionnaire over the past 30 days. The message on reorganization of Government, sunset laws and cutting back on the size of the Federal executive establishment came through loud and clear.

People also expressed strong feelings on the national energy program.

The administration has proposed a tax on crude oil at the wellhead in an effort to reflect its true replacement value, based on the selling price of foreign oil. Eighty percent of the first district opposed this tax.

However, if such a tax were implemented, the poll shows people would favor some of it being returned to producers for exploration and development of new energy sources or having the tax replaced by a gradual decontrol of oil prices.

Eighty-five percent of the people responding do not favor funds from such a crude oil tax going into other Government programs such as highways or welfare reform.

The people do not want to give the President power to raise the tax on gasoline at his discretion. Seventy-eight percent of those answering our questionnaire were opposed to the administration's request for a standby gas tax if gasoline consumption increased over a certain amount in 1978.

Fifty-eight percent of those polled like the President's so-called "gas guzzler" tax on big, fuel-inefficient cars. They do not favor a tax rebate to small car buyers, however. And 78 percent of the people responding thought foreign cars should not be eligible for any rebate.

Most respondents oppose proposals for any social security tax change. Seventy percent were against a larger tax being placed on employers. Sixty percent oppose the use of funds from the U.S. Treasury to help pay the cost of the social security program.

Fifty-four percent of the district, according to the poll, would like to see the Department of Health, Education, and Welfare broken up and a separate Cabinet-level department created for education.

I am very pleased with the response to this questionnaire. Over 7,000 were returned and that's up considerably over

last year. Obviously the people of the first district are active and concerned.

POST OPPOSES PUBLIC FINANCING

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. FRENZEL. Mr. Speaker, on Sunday, July 31, the Washington Post presented me a great birthday gift in the form of its lead editorial, which was a most sensible statement against taxpayer financing of congressional elections.

The Post correctly points out: First, that "the most corrosive kinds of interest group money" have either been illegal for decades, or were curbed by disclosure rules and contribution limits of the 1974 act; and second, that the rule of PACs and big donors would not be necessarily reduced by the bill pending in the Senate.

The Post properly identifies the need for inclusion of primaries, and the implication is clear that a nonprimary bill is either seriously deficient or hypocritically concerned.

Finally, the Post asks the question which other editorialists have not grasped, and proponents have not considered: "To what extent should government regulate political activity?"

I commend this article to all Members as an unusually thoughtful statement. If you read it, you will have trouble escaping the Post's conclusion—that the 1976 experiment was worth repeating in 1980, but that Congress should not pass public financing for congressional elections now.

The article follows:

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contributions limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 296. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts, publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

HOME OF GUIDING HANDS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. BURGENER. Mr. Speaker, the cause of the mentally retarded has always been one which has been dear to me, and in the years I have been involved with helping the mentally retarded help themselves, I have witnessed heartwarming individual and institutional successes in this endeavor, along with troubling individual and institutional failures and shortcomings.

One of the most inspiring efforts throughout my entire involvement with the cause of the mentally retarded has been the birth, growth and eminent success of the Home of Guiding Hands, a private, nonprofit facility in service to the mentally retarded. The home is located in Lakeside, Calif., in the 43d Congressional District, which I am privileged to represent.

The Home of Guiding Hands this year celebrates the 10th year of its founding and its achievements in serving the mentally retarded have paralleled the vast gains in understanding, treatment and integration into society's mainstream of the mentally retarded. This exemplary facility, which serves 400-plus mentally and physically handicapped youngsters, has pioneered forward-looking treatment and rehabilitation programs, and was a forerunner in providing normal home environment and independent living facilities for these youngsters.

The Home's programs have shown the San Diego County community that the biggest handicap of all is the lack of understanding by normal citizens of the somewhat special, yet very real, problems of the mentally retarded, and the Home has served as an inspiration to the communities in which it serves.

In short, Mr. Speaker, on this 10th birthday of the Home of Guiding Hands, I would like to render a very special congressional salute to the Home, its very special residents, and the extraordinary people whose caring makes it one of the best facilities of its kind in the country.

RESCUE SQUAD BILL GAINS MOMENTUM

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. NEAL. Mr. Speaker, today Representative CHARLES WHALEN and I are reintroducing legislation to amend the Public Safety Officers' Benefits Act to provide coverage for rescue squad personnel. We are pleased to add 29 cosponsors to the bill, including Chairman JOSHUA EILBERG of the Subcommittee on Immigration, Citizenship, and International Law to which the bill was referred.

We feel strongly that the men and women in our Nation's rescue squad units, who often serve side by side with firemen and law enforcement officers, deserve the same protection for their families which we provided for their colleagues.

Under the present law, if a rescue squadsman and a police officer both were killed while working together to save a victim's life at the scene of an accident, the police officer's family would receive

the $50,000 payment which the Government has made available, but there would be no such assistance for the family of the rescue squad member. This same inequity would occur in the case of a fireman and rescue squad member who were both killed while working to save a person trapped in a burning building.

We do not think it was the intent of the Congress to create such an inequitable situation. We hope that the subcommittee will take quick and favorable action on our legislation to correct this flaw in the 1976 law.

LACK OF COORDINATION IN ADMINISTRATION HOUSING PROGRAM

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. LEDERER. Mr. Speaker, I want to bring to the attention of my colleagues a problem in the city of Philadelphia which may be happening in other districts as well.

The Department of Housing and Urban Development is developing solutions to the housing shortage and vacant housing overload in Philadelphia. This is an admirable and long overdue action. I am glad the new Carter appointees are acting to solve this problem which plagues not only Philadelphia but other cities across the Nation.

However, in attempting to find solutions, HUD officials are not dealing with or through the existing governmental and community bodies set up to administer and advise on the housing situation.

The mayor has worked hard with his administration on the housing problem. Councilman Janotti of Philadelphia has presented his homesteading plan to revitalize slum neighborhoods. The Philadelphia Community Development Administration which has administered Federal funds along with city needs has also offered to work with HUD to put people into vacant homes and redevelop slum areas. Moreover, there are a number of organized community groups who have been working with the city and Federal Government to represent the interests of the residents in the affected areas. These groups have also worked with State officials such as Senator Herb Arlene who have been trying to solve the problem.

HUD officials have not yet used these government officials and community groups as the resource and administrative body for housing programs in Philadelphia. Instead HUD has proposed arrangements with non-representative community groups in the city which do not speak for the affected communities nor the city.

The effect has been to stir up the resident groups who have been working for relief through regular channels in cooperation with city, State, and Federal authorities. This uncoordinated action by HUD only serves to set back the progress made by all parties to solve the housing needs of our communities.

I hope that the administration will rethink its procedures and approach the problem in a more orderly manner consistent with the needs of all people involved. In this way, we can reach a fair and speedy solution.

SSI DISASTER RELIEF AMENDMENTS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. RAHALL. Mr. Speaker, I have introduced today a bill to protect disaster victims from having their supplemental security income benefits either reduced or terminated.

The Social Security Administration has informed me that my amendments will present no significant administrative problems. But, these measures will provide valuable protection for aged, blind, and disabled recipients who have been adversely affected by a disaster. In many cases these individuals have already suffered substantial losses. To my way of thinking, our Nation should do everything possible to insure that they do not suffer any further hardship.

My bill is designed to achieve this in two ways. First, it would make permanent the protection provided which was enacted into law last year. The effect is that SSI recipients would not have their benefits reduced or terminated because:

They receive Federal disaster assistance; or

They must move into the household of another for up to 18 months while their home is repaired or replaced.

There have been approximately 40 Presidentially declared disasters. Nearly 94,000 persons—many of whom are SSI recipients—have applied for assistance under the Disaster Relief Act.

My proposal would help low-income aged, blind, and disabled SSI recipients by assuring that they would not incur unintended hardships.

Second, my bill would provide further protection for victims of the West Virginia flood disaster and others similarly situated.

The West Virginia disaster victims received financial assistance under legislation I sponsored to compensate them for lost housing and other property damage. However, it will take these persons considerable time to rebuild or repair their housing because of the massive reconstruction in the area.

Under these circumstances, this assistance can become a resource for determining SSI eligibility. Existing law permits SSI recipients to have up to $1,500 in countable assets for a qualifying individual and $2,250 for a couple.

My bill would help to remedy this problem by exempting disaster assistance compensation as a countable resource for 9 months after SSI beneficiaries receive these payments because of a Presidentially declared disaster. The purpose is to allow SSI disaster victims sufficient time to make suitable arrangements to replace or repair damaged property without being penalized. The Secretary of Health, Education, and Welfare would also have authority to provide an extension of time for good cause. Finally, my proposal would exclude as countable income any interest earned on disaster compensation payments for 9 months. Here again, the Secretary would have authority to provide an extension for good cause.

America is a humane Nation. We have repeatedly helped others in time of tragedy, whether they live here in the United States or elsewhere throughout the world. We have compiled a record of which we can be proud.

SSI disaster victims should not be further penalized by having their benefits reduced or terminated.

My bill would provide fair treatment for these individuals, as well as assure that their assistance payments are not diluted when their need may be the greatest.

For these reasons, I urge prompt approval of this legislation.

THE INEQUITY OF VETERANS' BENEFITS

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. PATTEN. Mr. Speaker, last week, an editorial in the Woodbridge, N.J., News Tribune, addressed the problem which New Jersey and other States in the Northeastern United States face with getting less benefits for their veterans than other areas of the country. The editorial points out that because of the high cost of living in New Jersey and the rest of the Northeast, veterans in these jurisdictions cannot afford to use the benefits for which they qualify.

This is a serious problem, because the individuals suffer, and because the program is not serving our veterans equally. I am looking into ways to alleviate these inequities, and want to share my concern, and this editorial with my colleagues:

INEQUITIES IN VETERANS' BENEFITS APPALLING

An inequity in veterans' benefits has been revealed as another example of economic discrimination against the Northeast.

According to a study by the Northeast-Midwest Research Institute—the research arm of a coalition of congressmen—veterans in the Northeast are getting less in benefits than those in the South and the West.

Specifically, the study showed that since 1968, although there were approximately equal numbers of eligible veterans in the three regions, individuals and schools in the Northeast have trailed the other regions in benefits by about $3.6 billion.

For the most part, the disparity was blamed in the study on the government's method of allocating educational aid in flat grant amounts which do not take into account the differences in living and educational costs among the affected regions.

The cost of living in the New York-New Jersey area is higher than it is in most of the

rest of the country, for example. Furthermore, there is more available in the southern and western states by way of low-cost public education than there is in the older Northeast.

The implications of that are that veterans in the Northeast are more likely to pass up their benefits than are their counterparts.

In California, for instance, where there is an extensive low-cost public education system, more than 52 per cent of eligible veterans use their benefits in order to attend college. The corresponding figures in Alabama and North Carolina, as examples, are 39 percent and 38 percent respectively.

Representative Northeast figures, on the other hand, are New Jersey, less than 20 percent; New York, 30 percent; Ohio, 23 percent; and Illinois, 29 percent.

These figures demonstrate an extension of a pattern in which the Northeast is continuously shortchanged in federal programs. It was recently revealed by a New York tax study that New Jerseyans are receiving only a dollar in federal benefits for every $1.30 they pay in federal tax dollars.

When this disparity is as statistically clear as it is in the case of veterans' benefits, the need for remedy is obvious.

What is needed is a review of the method of establishing benefit grants so as to assure veterans in the Northeast that they will not be penalized because of economic conditions in the region.

BERT LANCE'S UNUSUAL LOAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DRINAN. Mr. Speaker, disturbing questions have been raised, and not answered, concerning the financial dealings of Bert Lance, President Carter's very powerful Budget Director.

Although he insists upon a balanced budget for the country, Mr. Lance has been a powerful exponent of going into enormous debt personally. Without prejudicing the ongoing investigation by the Comptroller of the Currency, or prejudicing in any way whether Mr. Lance conformed to the high standards rightly demanded of all public officials, I believe it must be noted that serious questions remain about the propriety of Mr. Lance's $3.4 million personal loan from the First National Bank of Chicago.

I must disagree with my distinguished colleague, Senator RIBICOFF, who said recently that the press wants to "get" Mr. Lance. I think all the press wants to "get" is the truth. The media have acted responsibly in investigating whether Bert Lance used his public position for private gain. I hope the media will continue to pursue this matter as aggressively as they exposed the transgressions of Richard Nixon.

A splendid example of the press' diligence in this case is an editorial published July 28, 1977 in the Worcester, Mass., Telegram. I would like to share that editorial with my colleagues:

BERT LANCE'S UNUSUAL LOAN

Bert Lance found a willing audience in the Senate's Government Affairs Committee Monday. Willing, that is, to believe everything the Georgia banker had to tell them and eager to exonerate President Carter's budget director of conflict of interest charges.

But despite the clean bill of health issued by the committee, serious questions of impropriety remain. And they are not likely to be erased by Sen. Abraham Ribicoff's odd charge that the press is out to "get" Bert Lance.

Ribicoff and the other senators who fawned over Lance at the committee hearing would do well to ponder the full impact of their spectacle. Public confidence in government continues at low levels. It is not likely to be increased by Monday's hearing.

Lance, sometimes dscribed as the second most powerful man in Washington after the President, was called before the committee to discuss his personal finances. He did so in a cordial fashion and managed to escape without fully answering some of the more important questions.

Questions like the propriety of a $3.4 million loan he got from a Chicago bank last December, after it was clear he would wield considerable influence in the new administration. The Comptroller of the Currency, who regulates banks, is still looking into that one as is another Senate committee.

Did Lance use his government position, or the promise of his government appointment, to get that loan, or was he treated like just an average banker? Did he, as New York Times columnist William Safire suggests, use his public job to "line his own pockets?"

Those are disturbing questions. They must be explored. All the smokescreen created by Ribicoff and others about a vicious press out to bring down Carter's right-hand man didn't answer those questions. All the Georgia charm exuded by Lance at the perfunctory hearing didn't answer those questions.

Lance has his hands on the pursestrings of the nation. He is not just another banker. His private financial dealings do have some bearing on his public responsibilities.

It was only two decades ago that the gift of a vicuna coat meant the end of Sherman Adams' career as President Eisenhower's chief of staff. Since then, the nation has struggled through Watergate and been promised a new, tougher set of moral standards for those in public office. President Carter has been particularly insistent on that.

Lance may have done nothing illegal. But the circumstances of his $3.4 million loan do not inspire confidence that a brave new era of rectitude has arrived in Washington.

CONSUMER CONTROVERSIES RESOLUTION ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. BROYHILL. Mr. Speaker, today, I am reintroducing with additional cosponsors H.R. 2965 because I believe that this bill could have a positive impact on consumers in resolving disputes with businesses quickly, inexpensively, and fairly. It is difficult for consumers to adequately resolve disputes with businesses within the formal inflexible confines of today's judicial system without substantial expense, difficulty, and delay. Problems such as crowded court calendars, complicated court procedures, inability to pay for attorneys, difficulty in enforcing a judgment, need to miss a day or more of work; all of these and more plague the consumer as he attempts to seek redress through the courts. All of these factors point to the need for consumer legislation in this area. The bill being introduced today would protect consumers by establishing small claims courts, arbitration programs, and other mechanisms which would resolve consumer disputes more effectively, far quicker and with less expense.

Specifically, this legislation would establish within the Department of Commerce an Office of Consumer Redress which would administer a program for matching grants to the States so that they can develop a comprehensive system at the State level for the resolution of consumer complaints. The grants would be on a 70-percent Federal—30-percent State matching basis. Additional funds in the form of discretionary grants would be available to local governments and private nonprofit organizations and demonstration projects. Enactment of H.R. 2965 would give States for the first time the moneys and the incentive to develop and maintain innovative consumer redress mechanisms to deal with these problems.

IN MEMORIAM—DR. RALPH E. RASOR

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. GUYER. Mr. Speaker, all too many of us are prone to forget that great person in our lives—the family doctor.

I officiated at the funeral service of an outstanding man on July 21 1977. That man was Ralph E. Rasor of my hometown of Findlay, Ohio.

Dr. Rasor was a great American, a dedicated community leader, an outstanding medical doctor, a loyal Christian, and close personal friend.

He represents those wonderful people "with healing in their touch," who serve when life begins, and are at bedside still laboring when life often must answer a higher summons.

The poem appearing herein is one I wrote as a last tribute to one whose memory is a benediction, and whose life is an imperishable flower in the garden of our remembrance.

Our little world is sad today
Since Doctor Rasor slipped away

A silent voice—a vacant chair
A pall of sadness in the air

When I returned to my hometown
I knew that Ralph would be around

It's good to know, in a world of care
Our family doctor would be there

He brought our family through its ills
More by skill and love, than pills

I guess we felt his grandest worth
When he brought Rosie to this earth

His schedule knew no stated hours
His workshop had no scented flowers

Many a night he watched 'til morn
Until that tiny tot was born

He toiled when others were in bed
When life hung by a slender thread

I've heard him cry in a sheltered way
When a patient-friend had slipped away

He gave "for free" his astute knowledge
To serve the teams at Findlay College

He used his HANDS with healing touch
And HEART to those he loved so much

We never know what doctors weigh
Until they too are called away

Like the Great Physician, they are known
Because like HIM, they loved their own

Their work is done—their sure reward
Is life eternal with their Lord

So we who loved him till the end
Now entrust him to his Friend

And may the object of our Love
Find consummation in life above.

ELECTRIC UTILITY RATE REFORM

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. ARMSTRONG. Mr. Speaker, high utility bills are cutting deeply into the pocketbooks of a number of Americans, particularly those living on fixed incomes. There are many in this Congress who seek to reform electric utility rate structures to give Americans a "break" from high energy prices.

This is, of course, a highly emotional issue. But it is important that Congress resolve this issue from a factual perspective. One of the best discussions I have read appeared in a response the general manager of the Mountain View Electric Association wrote to a couple concerned about higher energy prices. I hope my colleagues can take a few minutes to read Mr. A. C. Payne's excellent letter.

MOUNTAIN VIEW
ELECTRIC ASSOCIATION, INC.,
July 7, 1977.

DEAR FRIEND: It is always disturbing to me to hear from our members who express dissatisfaction with the way our rates are established. From what I have heard and read on the subject of rate structures, there are many concepts about rates.

In our recent filing, we hired an outside consulting engineer—Merrick and Company of Denver, Colorado, to make a study of all of our rates and to determine for us whether or not all classes of consumers were paying their fair share of costs. It is our understanding that the Public Utilities Commission would not approve a rate increase for us without such a study.

The rates which we applied for and which were approved by the Public Utilities Commission, after a public hearing, were based directly on our cost of serving each class of consumer, as reflected by the Merrick and Company cost of service study.

I might add that the basic rate structure of MVEA has not changed since we started doing business back in December of 1942, and is the same basic rate structure in effect when you first received service from us in 1955.

Through the years, MVEA has grown from a small cooperative serving slightly over a thousand consumers to one with over thirty-five hundred miles of line and almost nine thousand consumers. In order to serve these consumers, MVEA has had to borrow substantial sums of money. At the end of 1976, we had long-term debt in excess of twelve million dollars and plant in service of over sixteen million dollars.

MVEA has certain fixed costs which it must meet such as:

Depreciation	$421,000
Property tax	143,600
Other tax	20,200
Interest on debt	412,000
Cost of power	1,383,900

In addition to these costs, of course, we have all of the usual expenses associated with maintaining our plant in good condition to render reliable service to you, to bill our consumers, collect our revenue, and to do all other things necessary to operate a successful business.

Except for the cost of power, practically all of these costs continue regardless of whether we sell one-hundred million kilowatts a year, or fifty million kilowatts a year. The same thing reflects in your bill—it costs us (except for the cost of power) no more to sell you 8,000 kwh a month than to sell you 800 kwh a month. This is the real reason you see no substantial reduction in your bill when you conserve because you are, in fact, conserving on the least expensive kilowatts.

There are many changes in rate philosophy taking place today. Some are recommending "Life Line Rates," a rate that would allow a fixed number of kilowatt hours usage at a very low rate on the theory that this would help people on low or fixed incomes. To the best of my knowledge, there are no studies which show that there is necessarily any relationship between the number of kilowatt hours used and a person's income.

This type of rate could very well benefit the most affluent people who happen to own more than one home—such as summer cabins or ski homes. The problem here also is that the remaining consumers would have to make up the losses by even higher rates.

Much has been written about "time of day metering." This means that there would be different rates for use during different times of the day. In a system as small as MVEA, we do not believe that the savings at this time would justify the additional plant investment.

There are numerous other approaches, such as incremental pricing and flattening rates, which have been under study for some time by the National Association of Regulatory Utilities Commissioners, IEE, NRECA, ERDA, and other organizations—but the final results on these approaches are not in.

The Colorado Public Utilities Commission will be holding generic hearings (general) this fall when they will be taking testimony from most of the electric utilities, the general public, and many special interest groups such as the senior citizens, people on welfare, and numerous other groups. If you desire to see a change in utility rate structures, this would be an excellent opportunity for you to participate.

It is our hope that the Legislature, either state or federal, does not become involved in establishing rates. They have already caused us enough problems with "clean air," "environmental controls," "land use," "increased interest rates," "severance taxes," and many others which wind up as additional cost on your monthly power bill. The problem here is that these costs don't show up on your bill for from five to eight years after the action has been taken.

As one who is about to join the fixed income-senior citizen group, I can personally assure you that I am vitally concerned with what is going to happen to the cost of electrical energy in the future. I would, however, be somewhat less than honest if I did not tell you that the cost is going to continue to rise, probably on an annual basis for the foreseeable future.

I am sure that this letter is much too long, but I did want you to know some of the problems MVEA is facing with continued inflation.

Sincerely,

A. C. PAYNE,
General Manager.

NEW ENERGY SOURCES AND THE FUTURE: A REPORT TO CONGRESSMAN EDGAR

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. EDGAR. Mr. Speaker, I formed last April an Energy Advisory Committee, comprised of energy experts in my congressional district, to help me understand the need for various proposals for a national energy policy. Mr. Joseph Woods, an employee of Scott Paper Co., is the chairman of this committee. Subcommittees were formed to examine in detail important components of the President's energy plan, and the impact of these components on the county I represent in Congress.

Yesterday, I met with the committee to share with them the actions which have been taken in the House to advance the energy bill through the legislative process, and to receive the final reports from the subcommittees. I was impressed by the diversity of views represented on this committee, and by the cooperation which had to be necessary to come to a consensus on many controversial issues. The committee members represent a cross-section of opinion, and are representatives of organizations such as Common Cause, the Chamber of Commerce, Sun Co., the Sierra Club, the Delaware County Planning Commission, Philadelphia Electric Co., educational institutions, and the scientific community.

I am pleased to share with my colleagues the report submitted by the subcommittee chaired by Dr. William Eidson, head of the Department of Physics and Atmospheric Science of Drexel University, entitled "New Energy Sources and the Future." As we begin debate today on a comprehensive bill which will be the cornerstone of national energy policy, I believe it is appropriate that we review the report of Dr. Eidson's subcommittee. It provides an excellent perspective of our ability to supply this Nation's energy needs in the future:

NEW ENERGY SOURCES AND THE FUTURE

A subcommittee report prepared for Congressman Robert W Edgar by Francis Davis, Medard Gable, Joseph Krug, Donald Larson, William Eidson, Chairman

THE PROBLEM

Recent studies of accessible U.S. fuel reserves indicate that at current import levels we will run out of oil and natural gas in about 11 years and coal in about 300 years. When oil and gas supplies are depleted a total coal economy would force consumption of the coal at 6 to 7 times the existing rate, and coal reserves would last less than 50 years. The cost of converting to a coal econ-

omy has been estimated to be $400 billion, probably much greater.

The fuel reserves problem has been exacerbated by three factors: (1) population in excess of 200 million; (2) energy consumption rate in excess of 12 kw per capita, which is about 7 times the world average. The product of these two numbers gives a figure of about 2.8×10^{12} watts (2.6 million million watts) for the average U.S. consumption rate, which is about ⅓ of the world total; (3) because of the coupling between GNP and power consumption, a growing economy forces an even more rapid depletion of fuel reserves.

The size of the numbers indicates the staggering size of the problem. But worse, time is ever more critical, since any conversion or new technology will take time to implement on a 10^{12} watt scale. Our home heating, transportation, jobs, food supply, and gross national product (GNP) are totally dependent on fossil fuels which have a finite and short lifetime. A complication arises in that oil and gas, in some cases coal, are so easy to use that replacements often appear more costly and/or inefficient in the short run, so many feel "why bother."

Conservation can help alleviate some of the time problem, but it is not a cure. At best, conservation might add a couple of years to current oil and gas reserves. A better way to look at conservation might be to call it waste elimination, which is indeed the case. There is much waste and inefficiency in our current fuel usage, and making the system waste less implies a more efficient economy, and a stronger position in the world economic market.

We in the United States have spent our energy rapidly, much faster than the world average, from the very beginnings of our country. Our early settlers were busy people. They had much to do and cut down trees for fuel, for boats, for wagons and for homes. Indeed, the availability of readily available energy has already been linked to the GNP, and may be essential to the very fabric of the freedoms we enjoy. "Conservation," taken to the extreme, could impair or curtail some of our freedoms and thus the Committee feels that the theme of "Waste Elimination" be maintained in the "National Energy Plan." Not that "conserving," that is turning down the thermostat, will make the problem go away. Clearly, it will not even if all thermostats are turned off permanently since that would eliminate only 20 percent of our national energy demand.

The committee concludes that it is of paramount importance to the future of our nation and to the freedoms we enjoy that new sources of energy be found and put to work on a large scale. It is critical that timing be folded into the problem, since there could quickly come a time when it would be too late to implement new sources of energy. If the implementation of these new sources is not begun on a 10^{12} watt scale during the early 1980's then (1) it will be too late to change, (2) we will be forced to escalate imported fuels to even higher levels, or (3) convert to an expensive coal-based economy, since conversion to a coal-based economy will also take many years and even more dollars. It is unlikely that coal can more than dent the problem during the next 11 years. It is also unlikely that the oil and gas exporting nations will continue to track our rapidly growing oil needs, and provide all that we need. The recent MIT study showed that foreign oil exporters will not be able to meet our needs by 1981. Note that 50 percent of our energy demand is provided by oil, and 50+ percent of this is currently imported; thus 25 percent of our entire energy demand is based on (unreliable) foreign sources.

CONCLUSION

The committee feels that new sources of energy should be researched and/or put into use on a 10^{12} watt scale with the urgency and national priorities of the "Manhattan Project" of World War II. The alternative appears to be disaster. The primary deterrent is that the public is not really convinced that the problem is real, but rather politically contrived. Public education must be the keystone of any and all national energy plans.

SPECIFIC RECOMMENDATIONS ON NEW ENERGY SOURCES

Solar

1. Solar water-heating for residential and commercial applications is technologically feasible now. It is also cost-effective in comparison to electric water-heating in those areas of the country with high electric power rates. Nevertheless payback periods in excess of 5 years are required under favorable conditions so that Federal incentives will be required to minimize payback periods and consumer education programs will be required to make life-cycle costing more widely acceptable. The present HUD program which provides funding for $400 grants from the State of Pennsylvania to individual homeowners and grants to motel and hotel operators is an excellent program which should be continued on a larger scale throughout the country.

On a practical basis if an individual would spend $1,000 for a solar domestic hot water system, they could expect a savings of $250 a year. Putting $1,000 into an annuity, would give a person a guaranteed lifetime income of about $50 to $60 per year or if a tax-free bond was purchased, this would give an income of about $90 per year.

Therefore, purchase of a solar system really makes sense and all figures we use are at today's rate, tomorrow, should even be better.

Solar water heating systems are relatively simple to design and install and their widespread application will assist in the development of the more complex and expensive spaceheating systems. In order for spaceheating systems to become economically feasible, Federal incentives will be required. The proposed tax credit—40 percent of the first $1,000 and 25 percent of the next $6,400—will provide a boost to the solar energy industry and assist in the implementation of solar energy on a larger scale. In addition to the tax credit more funds should be provided for residential demonstrations. The emphasis should be on cost-effectiveness and more consideration should be directed to conservation practices and passive and hybrid solar energy systems. The larger scale commercial demonstrations should have lower priority as they have generally been too expensive and, therefore, they have not provided the incentive for companies to go ahead with non-federally funded projects.

2. Production of electricity from solar energy is currently available in two ways that are presently technically feasible:

Solar Cells.—10 percent efficient high cost, and the difficulties of storing the produced electricity, indicate many problems in any large scale applications of solar cells to the production of electricity. Cost reduction seems likely from current technological trends, but the problems of efficiency—large land areas—and storage—when the sun doesn't shine—have no tracetable solutions at this time.

The conversion of solar energy to heat—say, 500° C or greater—has been demonstrated as feasible, on a large scale. Heat is easy to store and can be used at any time of day. At 500° C, steam can be produced to run a conventional steam-turbine electric generator with a production efficiency of 30 percent, a 300 percent improvement over solar cells. Solar-thermal-electric would seem to be an idea whose time has come, but so far, has received little, if any, Government support.

The efficiency of conversion of sunlight to plant growth would seem too low—less than 1 percent—to provide any large scale energy source, but research in this area is moving rapidly and should be encouraged and stimulated. This general area, called photosynthesis has only recently been tackled by the quantitative tools of biochemistry and biophysics.

Fusion

Stated simply, fusion is the process of forcing light nuclei together to form heavier nuclei. This technique is exothermic—releases energy—only for the nuclei of light atoms. Since all nuclei are positively charged, they would normally repel each other. In order to overcome this repulsion and obtain a net energy production, one must maintain an environment of high pressure, high temperature and high density until these nuclei can fuse together. This has proved to be a very difficult task and, so far, no solution has been presented in the open literature.

There are three general methods proposed for fusion: magnetic confinement, laser pellet implosion, and heavy ion beam pellet implosion. The magnetic confinement method has received the most attention and effort historically, and has come very close to the needed temperatures and pressures, but some years' development is still needed. The pellet implosion techniques are much more recent. Laser implosion appears intriguingly promising, but higher laser power will be needed. Heating and crushing a pellet with a pulse of heavy ions from several accelerators appears to be the most promising, but the costs—mainly the cost of the accelerators—is currently non-competitive with conventional fuels by a factor of about four.

There have been reports and rumors of major advances in fusion research, but details are difficult to obtain since most of the work is classified. The military significance of fusion power is nil compared to currently available H-bombs. The recent disclosure of the "Neutron Bomb" implies that classified military fusion technology has progressed beyond that which is reported in the open literature. Why this work is classified is unknown but it would be much easier to assess the total energy future if it were not. This is an area in which technical cooperation with the Soviet Union could only be of help to us all.

The National Energy Plan is woefully weak on fusion. Basically, the three paragraphs on page 78 imply that after many years' work, there has been no success and we should not expect any. The only positive statement is that fusion could provide the neutrons to help breed fission fuel. This is consistent with the small Federal funding of fusion and plasma physics over the past several years. The entire federal program this year is funded at about 10 percent of the cost of a single conventional nuclear plant.

Fusion is a much cleaner energy supply than fission, and the fuel is almost limitless and no terrible environmental problems are involved. Fusion research must be pushed and pushed hard, since fusion is one of the few energy alternatives that we have that does not put us at the whim of nature, as do solar, wind, etc.

The lack of support for fusion in the National Energy Plan could be the result of military importance or simply discouragement over the past 25 years of work, or, most likely, poor information. A major program in fusion R. & D. should continue. The technology is too close to give up on this potentially excellent energy source.

Geothermal

In order to estimate the available supply of geothermal energy, let us do a simple calculation. A conservative estimate would be to assume that we could extract the heat from a 10 km thick layer which lies at an

average depth of 40 km below the surface of the earth. Since this rock has been heated by radioactivity in the earth's interior to a temperature of 1000° C, a simple calculation shows that there is about 3×10^{21} kwh of energy in that layer. This is millions of times the current world yearly energy demand.

Clearly geothermal has the potential of providing for our energy needs for millions of years. The problem is getting at this heat and cleaning it so that it can be safely used. Geothermal heat is abundant, but known methods of extraction, such as forcing water down and getting steam in return, bring up enormous quantities of pollutants to the surface of the earth. This is a dangerous pollution level which must be handled carefully.

The difficulties of drilling to depths of 20 to 30 miles is far beyond current technology. This is particularly true for speculated geopressurized resources, such as those along the Gulf Coast, which require deep water, hard-rock drilling down to at least 15,000 feet. While not as deep as the average "hot" layer, they supposedly lie under deep water, are hard rock capped, and present enormous problems of access and control. All non-natural geothermal sources present these enormous technical challenges that will require research, development and time. The National Energy Plan appears to be a bit optimistic, in view of the technical difficulties. This is particularly true of the geopressurized sources in the Gulf whose use is at least as speculative as fusion.

In areas where geothermal sources occur naturally, such as in the Western United States, Iceland, Italy, New Zealand, etc., geothermal heating and electric production is already happening. Pollution is still a problem, but tractable. The tapping of natural geothermal sources should be encouraged, as indicated in the National Energy Plan.

Energy from the wind

There is considerable energy available in the Earth's wind systems. The kinetic energy in the world's wind systems is about 10^{20} watts. This represents stored resources and could not be used beyond the replenishment level of 10^{16} watts.

Nonetheless, moving air provides a practically unlimited source which is constantly being replenished by nature, and controllable pitch propellor air turbines can produce significant power when the wind blows.

A well designed windmill can extract 40 percent of the kinetic energy of the wind. The power depends on the square of the diameter of the rotating blades (D^2) and the cube of the wind speed (V^3). The relationship can be expressed as $P=kD^2V^3$.

Because of variability in natural wind speeds, provision for controlling the pitch of the blades is necessary to provide a steady rotating speed, and some storage facilities would be necessary for periods of low wind speed—below about 7 mph. Storage might be accomplished by (1) compressing air, (2) pumping water to higher levels, (3) super flywheels, (4) batteries or hydrolysis to create hydrogen for fuel.

It is now entirely feasible to construct 1 mw windmill generators. The cost for building and installing 4000 such units would be about $400 to $600 per kw, a cost comparable to that for constructing nuclear or fossil fuel plants. The operating costs of windmill generators would be relatively small.

The environmental impact of windmill generators would be very small. There is no rejected heat to be dissipated, only a very frictional heat conversion. While there is some visual or esthetic pollution, windmill "farms" consisting of 1000 one mw generators could be housed on land whose area is comparable to that required for an equal capacity nuclear or fossil fuel plant. It would be easy to increase the capacity of the farm if the need develops, and breakdowns of individual components would have no great impact on operation.

A recent Gallup poll indicates that the use of wind to produce electrical energy is favored by 60 percent of the people. In that poll only 12 percent were opposed while 28 percent had no opinion.

Wind power is capable of supplying 10 percent of the Nation's electrical energy requirements by the mid 1990's at competitive cost and without any deleterious effects on the envirmonment.

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EVAPORATIVE HYDROELECTRIC

There are many places on Earth where evaporation far exceeds rainfall. This happens in areas of the oceans, for example, the Indian Ocean. If a dam can be placed across or around such an area, then the water level will drop on the arid side, and the imbalance in heights allows for conventional hydroelectric power generation.

The power potential is quite large. For example, one could tunnel Pacific Ocean water to Death Valley, and simply let Death Valley fill to a constant depth of 200 feet below sea level. Because the evaporation rate is so high, the flow of water in and subsequent fall could generate about 200 mw of electric power through conventional hydroelectric techniques, plus providing much needed moisture to the southwest.

This is another form of solar power worth consideration and development.

HYDROGEN

Since there are no known supplies of free hydrogen on earth, hydrogen is not a source of energy but rather provides a means of storing and transmitting large quantities of energy efficiently and over large distances.

Hydrogen is produced by separating it from the oxygen in the water molecule (H_2O). The passage of an electric current will produce hydrogen at an efficiency of about 70 percent—Electrolysis. Some plants and lower animals—such as photosynthetic bacterial—release hydrogen as a consequence of one of the steps of photosynthesis or nitrogen fixation.

Hydrogen can then be stored as a gas, just like methane: natural gas, compresed into a (cold) liquid, run through pipes, shipped, trucked, etc. The energy content is only about ⅓ by weight that of methane, but moves through pipes almost three times more easily due to the lighter weight.

Hydrogen can then be burned, restored, or used directly in a fuel cell to produce electricity. A fuel cell is much like a big battery, except that it does not even run down as long as it has a supply of oxygen and air. In the fuel cell, the hydrogen recombines with oxygen, produces electricity at an efficiency of about 70 percent, with the only byproduct being slightly warm water, just what we started with. The environmental loop is thus completed, and the overall efficiency $0.7\times0.7=0.49$, is about 50 percent.

Several homes on the west coast have been powered totally with hydrogen fuel cells for several years with no problems. A hydrogen based economy is just around the corner and solves the storage and transmission problems envisaged for many of the "new" energy sources.

TIDAL

The motion of the Moon around the Earth causes, by gravitational interaction, a bulge in the Earth's water on both the Moon side and on the opposite side of the Earth. As the Earth turns, the bulges remain in a line—roughly—with the Moon, and thus twice each day, all of the water on the Earth rises and falls. In some areas, such as the Bay of Fundy on the Eastern Canadian coast—near Maine—the motion of the water is restricted and rises a much larger amount than the Earth average.

The drag between the Earth and the water causes the Moon to slow down. The measured slowing is about 0.001 sec. per 100 years. This is small indeed, but predicts that the total tidal energy available is $3x10^{12}$ watts. This is about the same as the current United States power demand, and, since only a small fraction is available, tidal power cannot hope to solve our problem.

However, the Bay of Fundy can easily generate 20,000 mw, enough to provide electricity for all New England, conserving precious oil reserves. Tidal power is a most important addition to our energy arsenal, and needs rapid implementation.

TACTICS

1. Legislative inducements are essential if any new, replenishable sources of energy are to be significantly used. Some possible incentives are listed below.

(a) Tax Credits—one of the best and certainly the simplest to deploy;

(b) Low interest loans;

(c) "Public" utilities are making excessive profits, much of it legislated by law. The utilities must cooperate or be required to cooperate with progressive customers who, for example, produce their own electricity via wind power or other means.

Note: It is felt that in most cases, Federal grant programs do not provide the most efficient approach to encourage widespread use of a "new" energy source. In many cases, tax credits are to be preferred and would be much more economical to implement, since the IRS structure is already there.

2. Existing systems and planned developments should be maximized and matched for thermodynamic efficiency.

3. Local and State zoning codes must reflect energy perspective and concern.

4. All manufactured products should carry an energy label, reflecting, say, the number of kilowatthour needed to make the item, as well as recycling information. From an energy picture, there is a gain of a factor of 25 in using recycled aluminum versus new aluminum. The equivalent factor for copper is 17, for glass, 1.

5. All exploratory programs that seek such knowledge about non-traditional energy sources should, in principle, receive encouragement and funding.

6. There are many innovative tactics not mentioned in the National Energy Plan which should be publicized and explored.

7. International cooperation should be encouraged and may prove necessary. For example:

(1) Tidal power from the Bay of Fundy requires United States and Canada cooperation. There is a significant amount of energy available there, in excess of 20,000 MWe continuous, and this should be used. This is probably the safest, most non-polluting form of energy, and should be used.

(2) Wave power also provides an enormous energy potential, but much of the research has been done in England. Again, international cooperation is the key.

(3) Fusion has been supported for many years for both peaceful and military uses in both the United States and in the Soviet Union. For many areas of the world, fusion offers real hope of improving the lot of the population or reducing dependency on rapidly dwindling oil and gas reserves.

International cooperation on the peaceful generation of power would seem desirable and humane.

8. Many potent energy sources are difficult to reach or to develop without international cooperation, big resources, and long-range planning. An example is the enormous wind power resource of antarctica which could provide electricity-hydrogen-shipping fuel cells for the entire world. In order to facilitate such resources, an International Energy Utility is recommended which would have large resources and natural cooperation.

ENERGY FROM OCEAN WAVES

Waves are a clean, nondepleting energy source of incredible magnitude. One recent British estimate of the wave power potential of just shore-based wave harnessing power plants was put at 40 trillion kwh. Other floating wave power devices for harnessing the waves out at sea would increase this figure much further. So far the only actual utilizations of wave power—that this author knows of—to produce electrical energy have been the 1909 Huntington Beach "Ideal Wave Motor" built by the California Wave Power Company that lit lamps on the wharf—until a storm washed the machine away—and over 300 Japanese buoys that use waves to power 10 watt power units. There are currently at least seven different serious proposals/designs for harnessing the waves for power production. Because of the technological feasiblity and the vast wave power potential of the United States, it is recommended that the United States undertake an expanded research and development program in wave energy, preferably in conjuction with other countries such as Great Britain.

ENERGY FROM THE WIND (SUPPLEMENT)

ERDA is currently contracted to build one 2.5 mw windmill power plant—to be the world's largest windmill—and two somewhat smaller units of 2 mw each. These large systems—300 ft. and 200 ft. diameter blades respectively—will be used by existing utilities to supplement their power production. The mass production—100 units or more—of these size wind systems makes the cost of power from the wind competitive with conventional power plants. These technological and economic feasibilities, coupled with the wind power potential of the United States—estimated at over 3000 trillion kilowatt hours—makes windpower even more attractive than its current level of funding would indicate. It is recommended that funding be increased for both the above-mentioned large-scale wind conversion systems as well as smaller scale—50 kw and less—wind systems that would be useful for the individual home owner.

THE HIDDEN OIL SHORTAGE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. COLLINS of Texas. Mr. Speaker, there are two ways to close the gap between U.S. oil consumption and production, and both have been used. First, crude oil may be imported from abroad and, second, domestic crude oil may be produced faster than the replacement rate, thereby depleting existing reserves and reducing future productive capacity.

The importation of crude oil has received a great deal of attention. It covers what may be called the visible shortage which ran approximately 42 percent of domestic consumption in 1976, up from 37 percent the year before.

Reserve depletion, the hidden shortage, accounted for an additional 27 percent of domestic consumption in 1976. Together, the visible and hidden crude oil shortages amounted to 69 percent of consumption, up from 52 percent in 1974. The drastic increase in total crude oil shortage since 1974, the year that brought both Project Independence and multitiered crude oil price controls, is shown in the following table:

THE CRUDE OIL SHORTAGE UNDER PRICE CONTROLS

[Billions of barrels per year]

	1974	1975	1976
Consumption	6.1	5.9	6.4
Visible shortage:			
Volume	2.2	2.2	2.7
Percent	36	37	42
Hidden shortage:			
Volume	1.0	1.6	1.7
Percent	16	27	27
Total shortage:			
Volume	3.2	3.8	4.4
Percent	52	64	69

The national energy plan now before Congress contains essentially no incentives for arresting, let alone reversing, the current trend towards increased crude oil shortages and greater dependence on foreign sources of energy. Our projected total shortage under the plan is 90 percent in 1985. It is absolutely essential that consideration be given to greater U.S. exploratory efforts, through decontrolled crude oil prices.

NEGATIVE ASPECTS OF AFFIRMATIVE ACTION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. SCHEUER. Mr. Speaker, I have always believed that the Constitution prohibits discrimination on the grounds of race, color, sex, religion, or national origin. The Constitution directs us to judge each other on the basis of individual merit without regard to labels of race, color, or creed. In the past, and to some extent today, some religious, ethnic, and racial groups have been denied their full rights and educational opportunities

The time has long passed for us to recognize that discrimination of any type is abhorrent, no matter who benefits and at whose expense. Our goal must be to insure that every American man and woman has a full and equal opportunity to develop his or her full potential, and not be shackled by either discriminatory policies or inadequate educational opportunities.

Two years ago, my distinguished colleague from California (Mr. WAXMAN) and myself offered an amendment to the Health Manpower Act in the Interstate and Foreign Commerce Committee which would have prohibited preferential admissions policies—based on race, color, sex, religion, or national origin—by health professional schools receiving assistance under the Health Manpower Act. However, at the same time, that amendment affirmed the value of affirmative action programs—so long as they were not based upon race—to provide compensatory education programs to disadvantaged individuals in meeting admission requirements.

Although that amendment was not included in the final language of the Health Manpower Act, the issue is still very much alive today. I commend for my colleagues' attention the following article entitled "The Need for Elite Education: Declining Standards Cheat Students and Society Alike." The article appeared in the June issue of Harper's and was written by John R. Silber, the president of Boston University;

THE NEED FOR ELITE EDUCATION

(By John R. Silber)

The only standard of performance that can sustain a free society is excellence. It is increasingly claimed, however, that excellence is at odds with democracy; increasingly we are urged to offer a dangerous embrace to mere adequacy.

By this I do not mean that our performance is necessarily becoming worse. In the sports in which precise comparison is possible we excel our predecessors with a consistency and regularity that threaten to become monotonous. Athletes have never run so fast, jumped so high, or sunk so many baskets. Even as we recognize what appears to be our prevailing inability to teach most chldren to read and write, we reassure ourselves that educational opportunity has never been greater and that science and mathmetics have never been taught more effectively. Consumer goods have been developed to such a degree of sophistication, low cost, and reliability that one can now buy for a few dollars a tiny device whose capabilities were unavailable forty years ago in any size and at any price: the pocket calculator.

Our flight from excellence is different and apart from this progress. It is profoundly philosophical. Out of a well-intentioned but inept concern with equality of opportunity, we have begun to reject anything that exceeds anyone's grasp. Some might argue that it is our right to engage in this curious flight, and so it is, the right of free men to be fools. But do we have the right as citizens in a free society to reject excellence on behalf of others who may not be so foolish?

Much of the present-day rejection of standards is precisely by people and institutions that act in trust for others. This is flagrantly true of higher education, and especially regrettable because higher education purports to be and has been a repository for the highest standards.

One of the most obvious examples here is the war against grading. While there are many motives and rationales behind the movement to substitute pass/fail or pass/no-entry "grading" for the traditional scales, all begin with the same crucial assumption: that there is no compelling reason to distinguish between excellence and adequacy, and that it is wrong—either educationally or morally—to record evidence of inadequacy or failure. A related phenomenon is grade inflation, whereby teachers behave as if all students are equally gifted and hardworking. Declining standards are also reflected in the relaxed indifference shown by many professors and institutions to the wholesale and retail distribution of plagiarized materials by corporations selling term papers and other academic assignments. In all cases the threat to ex-

cellence is obvious, for our refusal to reject inauthentic work or to identify excellence will eventually render us unable to recognize it or care about it.

Last year the City University of New York abandoned open enrollment. It did not, however, return to its earlier admissions standards, but instead established as the minimum qualification for admission the competence expected of an eighth-grade education. This is less an indictment of the standards of CUNY, which was, after all, seeking rather tentatively to step back from the abyss, than it is of the high schools. For while prospective students at CUNY must now have reached an eighth-grade level, they must also be high-school graduates—so, in theory, they must also have attained a twelfth-grade education. Implicit in the admissions standards of CUNY is a one-third devaluation of the New York high-school diploma.

It is to the credit of the City University that it has introduced very extensive remedial programs to upgrade the competence of incoming freshmen. But should this extensive remedial work, requiring at least one full year to complete, be carried on in the context of a great university? It is hardly higher education, since it is no higher than the work expected of high-school students. Surely this work could be done more economically and appropriately by the high schools or community colleges.

Every day it becomes more obvious that a technologically sophisticated society will need more, not fewer, educated citizens. Postindustrial society will be grim for a functional illiterate, and it will itself be badly disrupted by the presence of large numbers of semiliterates whose skills, if any, are suited to a world that no longer exists. A restoration of excellence is therefore in the interest of society at large and of each of its members.

Some people believe that the pursuit of excellence is essentially antidemocratic. This fallacy is most obvious in the commonly voiced charge that educational institutions with high standards of excellence in admissions and faculty recruitment are "elitist," a term that for most people is redolent of special and unearned privilege and suggests that these institutions are havens for the incompetent offspring of the rich.

Our society is ambivalent about elitism. We refer easily and unself-consciously to Ruth, Gehrig, and Mays as the elite of baseball, to Simpson and Baugh as the elite of football, to Jones, Palmer, and Trevino as the elite of golf, and to Zaharias, Thorpe, and Owens as the elite of athletics itself; but outside of sports we use the word as a reproach. This confusion did not afflict Jefferson or Adams. "That all men are born to equal rights is true," said Adams.

"Every being has a right to his own, as clear, as moral, as sacred, as any other being has. . . . But to teach that all men are born with equal powers and faculties . . . is as gross a fraud, as glaring an imposition on the credulity of people as ever was practiced."

Jefferson recognized a natural aristocracy based on virtue and talents. He contrasted to this aristocracy an artificial one, founded on wealth and birth without regard to virtue or talent. The natural aristocracy, Jefferson believed, was "the most precious gift of nature." He not only acknowledged, but embraced, the idea that people are born with varying degrees of intelligence and talent.

Speaking on the occasion of receiving an Alumnae Award recently at Boston University, Rep. Barbara Jordan pointed out that our confusion has had deleterious effects on the federal government's effort to aid higher education. She said:

"We have been so brainwashed by an erroneous definition of democracy that we have difficulty prescribing any program or formula, or giving any grant which is better or more than some other grant, because we don't want to be accused of being antidemocratic because we recognize that some people are excellent. . . . As members of Congress, we should not be engaged in a leveling process. . . . We ought to enunciate and promote those policies which would lead absolutely, categorically, and without hesitation, to the best this country has to offer."

Calls for the maintenance of standards are often denounced as racist and sexist, but only a sexist or racist could believe that women or members of minorities are in fact inferior to everyone else, and would be unable to compete on an equal basis if judged by performance alone. If our society really did hold and maintain high standards, we would expect up to 51 percent of all partners in Wall Street law firms to be women and 11 percent of all surgeons to be blacks. The extent to which we fall short of these figures shows how far we are from honoring excellence as a criterion. Rejecting excellence in the interest of women and minorities is in effect a condescending adoption of a lower standard for them.

The movement to establish the United States as a bilingual nation provides a striking example of this condescension. Until recently, the United States was unique in the world as a very large nation covering a great land mass that maintained a single national language with dialects that were easily mutually intelligible. It is remarkable that a nation of such ethnic diversity has not been torn apart by intercommunal violence. Our comparative peace and the single language are almost certainly related: unlike Canada, Belgium, and other nations with explosive linguistic problems, the United States has been able to sustain its diverse culture within the context of one official language. Recent attempts to require bilingual ballots erode the position of the national language by assuming that it is possible to be a citizen even if one is literate only in the language of one's ethnic group.

The proposal is designed to exempt one large group of citizens from a requirement that has hitherto been expected of all citizens, the acquisition of some modest competence in the national language. This reduces the standard of performance expected of citizens to a derisory level. It patronizes the Hispanic culture by implying that it cannot survive coexistence with the English language. And it has racist overtones, suggesting that Spanish-speaking American citizens cannot be expected to acquire the same level of competence that was acquired by immigrants from Germany, Italy, Russia, Poland, Greece, and many other countries, and that was until recently expected of Spanish-speaking citizens. (Such an ill-advised motion should not be confused with the thoughtfully established programs of bilingual education which have been designed to induct children into the use of the national language. This process is a burden that obviously ought to be assumed by our society as a logical consequence of having a national language in the first place, and as essential to the provision of equal educational opportunity.)

A similar question arises with regard to the various dialects of English. In 1974 the National Council of Teachers issued a position paper maintaining that students who grow up speaking dialectal variants of English should not be required to learn standard English. On a recent television program an obviously intelligent and educated young black student said it was plain that students who grew up speaking dialects arrived in school ill prepared to function in the standard dialect. He did not think that attempts to require these students to use the standard dialect grew out of "overt racism or elitism. . . . That's the way it's mapped out by society." Recognizing that the good intentions of such attempts precluded their being *overly* racist, he nevertheless left the impression that he considered them part of unconscious societal racism.

Nothing could be farther from racism or elitism than requiring students from the ghetto to learn standard English. For this is to treat them as the equals of the great majority of students.

It is particularly reprehensible for white professors and white middle-class students to encourage black students in the mistaken belief that it does not matter whether they learn to speak and write with educated middle-class proficiency. The black student who speaks only ghetto English is not able to communicate fully. He can communicate effectively only with those who speak his own dialect, but an educated black can converse with anyone in the English-speaking world. White professors and students, already proficient in standard English, retain their monopoly in it and protect themselves from black competition by encouraging blacks to renounce their educational opportunities. Thus blacks may remain tragically isolated from the mainstream of their national culture, and pay the price for the ideological whims of whites.

Lowered expectations are a threat to all our students, since their ability to develop is very largely dependent upon the goals we establish for them. But it is not students alone who need a vision of excellence. Writing in 1830, Alexis de Tocqueville noted that in times of faith, people concern themselves with a distant supreme goal beyond this life. In so doing, "they learn by imperceptible degrees to repress a crowd of petty passing desires in order ultimately to best satisfy the one great permanent longing which obsesses them. When these same men engage in worldly affairs, such habits influence their conduct. . . . That is why religious nations have often accomplished such lasting achievements. For in thinking of the other world, they have found out the great secret of success in this."

But in skeptical ages, Tocqueville continued, the vision of the life to come is lost, a problem that is exacerbated in democracies, where people are set free to compete with each other to improve their situations. In such a combination of circumstances, "the present looms large and hides the future, so that men do not want to think beyond tomorrow." Tocqueville thought it especially important that the philosophers and rulers in skeptical democracies should always "strive to set a distant aim as the object of human efforts; that is their most important business." He did not specify the nature of the goals which need to be set in such ages, but we can hardly doubt that such goals require the best efforts not merely of individuals but of the society as a whole. In a secular age in which few believe in a life to come and in which God is, if not dead, at most indifferent, a vision of excellence—a secular kingdom of God—in which individuals fulfill themselves through education and useful public service may be essential.

A TRIBUTE TO MR. WILLIAM FRAZIER

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. BURGENER. Mr. Speaker, this past June 30, one of my constituents retired from his position of superintendent of schools in Fallbrook, Calif., a posi-

tion in which he had served for 20 years. Both here and abroad, Mr. William Frazier has demonstrated his vigor and dedication to the development of young minds. It is fitting that Congress pay tribute to Mr. Frazier on his retirement, for this marks the end of over 40 years of distinguished service in the field of education—a record not easily matched.

Mr. Frazier began his eminent career as a teacher in Tombstone, Ariz., upon graduation from Arizona State University at Tempe in 1934. His native State, however, called him back, and he returned to California to teach in Riverside from 1937–44. Mr. Frazier's educational career was interrupted by World War II, where he served as an officer in the U.S. Navy. Following the war, he returned to Riverside, this time in the capacity of a school principal. He received his M.A. at Claremont Men's College, where he earned degrees which included teaching and administering credentials in both elementary and secondary education. Mr. Frazier's administrative and educational skills were further broadened in the 6 years he spent in Caracas, Venezuela, as the superintendent of American schools. Returning to California in 1957, the Frazier family settled in Fallbrook, where Mr. Frazier served as superintendent of schools until his recent retirement.

Mr. Frazier's selfless dedication does not end at the schoolroom door; he is one of Fallbrook's prominent civic leaders. He has served as an officer or on the directing board of many community, cultural, service, and professional clubs. The Fallbrook Union School District has lost an outstanding educator, but the community of Fallbrook is retaining the skills and devotion of an unrelenting leader.

TEMPLE UNIVERSITY DOCTORAL CANDIDATE WINS BROADCASTERS' ESSAY CONTEST

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. EILBERG. Mr. Speaker, it gives me pleasure to announce that Ms. Marilyn A. Lashner, a doctoral candidate in communications and theater at Temple University, Philadelphia, Pa., has won first prize in an essay contest sponsored by the National Association of Broadcasters.

Ms. Lashner's essay, entitled "The First Amendment and the Electronic Media," was entered in the NAB's contest to stimulate analysis and discussion of the rights of the public and the responsibility of broadcasters under the first amendment. I am a member of the board at Temple, Mr. Speaker, so I am proud that one of our students won first prize.

Now there are some points in Ms. Lashner's essay with which I do not agree, Mr. Speaker. But one of the wonderful things about America is its diversity, which enriches our democratic process. The right to hold differing points of view, and to respect other people's right to do the same, is an integral part of a true democracy.

It is in that spirit of defending the rights of all to speak out freely, that I extend my congratulations to Ms. Lashner for her victory in this contest, and place in the RECORD the full text of her essay:

BROADCASTING AND THE SEPARATE TRADITIONS OF FIRST AMENDMENT THEORY

The electronic press—while being hailed as equal to the printed press in importance to American society—is saddled with governmental requirements that restrict its freedom in ways consistently upheld as unconstitutional when applied to the printed press. Since 1791 when freedom of speech and press gained constitutional sanction, these guarantees have been revered by Americans as being the indispensable requirements for democratic society. But these guarantees have not been static; in the course of history, the simple words have been interpreted and reinterpreted, defined and redefined, idealized and compromised—each time in the light of contemporary social, psychological, political and economic experience. What we term first amendment theory is the constellation of interpretations, definitions, prescriptions and proscriptions which articulates the American commitment to freedom of expression. This essay will analyze the trends in first amendment theory which have permitted two separate and conflicting traditions of press policy: a laissez-faire policy for print and a restrictive policy for broadcasting. It will address the charge that many aspects of broadcast regulation, though upheld by the courts as consistent with first amendment theory, have in fact compromised the rights of both journalists and the public and thus have served to repress the very freedoms the first amendment was designed to protect.

THE ENIGMA OF THE FIRST AMENDMENT

The first amendment simply states: "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." But the amendment, while guaranteeing freedom of expression, is set forth in language that is at once vague and specific. It specifically names Congress as the addressee of the protection but is vague as to the recipient; it is rigid as to the guarantee but vague as to the substance of the guarantee. This failure to define the major concepts has caused a swell of confusion. Today scholars are still asking: Freedom of the press for whom? From whom? Where? When? To what degree? Which press? What speech? Is the right absolute or qualified? Does it guarantee publisher's autonomy or the people's right to know or the people's right of access? Is it oriented toward issues or toward persons? Is its purpose to free the publisher from the government or to free the people from the publisher? Does it confer special privileges on the press that are not conferred on ordinary citizens? Does it differentiate between expression on public and on private property? And most germaine, does it guarantee different freedoms for broadcasting than it does for the printed press?

TWO TRADITIONS OF FIRST AMENDMENT INTERPRETATION

Broadcasting in the United States has been variously described as "the almost press," "the half-opened media," "distant cousins," and as having second-class status under the first amendment. What is common to these observations is disapproval of public policy which forces broadcasting to straddle two conflicting lines of first amendment interpretation. On the one side is the laissez-faire commitment to free expression where government maintains complete separation from functions of the press. On the other side is the governmentally supervised affirmative approach where government licenses, oversees, evaluates, requires and punishes.

The laissez-faire interpretation—rooted deep in the libertarian philosophy of Milton, Locke, Mill and Supreme Court Justices Holmes, Brandeis, Black and Douglas—gives trust to man's reason and to his ability to seek out truth in the marketplace of ideas. In this context—which we shall call the Journalism Tradition—freedom of the press means editorial autonomy, no governmental restraint prior to dissemination but post-dissemination punishment for transgressions committed. Here is the arena where broadcast journalists march side-by-side with print journalists to fight the battles of prior restraint, subpoenas, gag rules, defamation, invasion of privacy, obscenity, newsman's privilege, contempt citations, and government secrecy.

The printed press functions entirely within this Journalism Tradition, but broadcasting is required additionally to function within a newer affirmative interpretation which sanctions Government involvement. Grounded in fear of the technological revolution, in a less optimistic view of man and society, and in doubts about the efficacy of the libertarian philosophy, this affirmative interpretation reflects the 20th century commitment to social responsibility and a new perspective to first amendment theory that identifies the people's right to know as the paramount guarantee. Under this interpretation, the rights of broadcasters are secondary to those of the public, and the Government asserts its social responsibility to "maintaining and enhancing" free expression by implementing measures designed to neutralize the potentially tyrannizing affects of scarce resources, big business, new technology, depersonalized living and monopoly. Freedom of the press in this context—which we shall refer to as the Regulation Tradition—means government oversight where, in the name of protection, economic and editorial freedoms are compromised by an authoritarian system of rules and regulations enforced by a hierarchy of punitive sanctions.

JOURNALISM TRADITION VS. REGULATION TRADITION

We speak, then, of two traditions under first amendment theory: the Journalism Tradition and the Regulation Tradition—the former governing the affairs of both broadcasting and print, the latter governing only broadcasing, each upheld by the Supreme Court as clearing the barriers of the first amendment. At times the basic assumptions of these traditions coincide. Both profess a commitment to first amendment values of "uninhibited, robust, wide-open" debate on public issues. In ideal, if not in practice, both are rooted in the principle of localism—newspapers by historical accident, broadcasting by design. Both are committed to the profit motive. And both profess commitment to self-regulation and to professionalism.

But there are five major areas where the assumptions of these separate traditions clash, where the values inherent in one tradition deny the values inherent in the other. Essentially grounded in economic theory, these differences are:

(1) Concept of Unlimited Resources vs. Doctrine of Scarcity;

(2) Resource Allocation by Market Controls vs. Resource Allocation by Government Decision;

(3) Laissez-faire vs. Government Licensing;

(4) Private Ownership vs. Public-trustee Principle; and

(5) Journalistic Autonomy vs. Government Management of Information.

It is at these tension points where the assumptions of the Regulation Tradition articulate what amounts to the essence of broadcast public policy in the United States. Consequently, it is here where the widespread criticism and concern as to broadcasting's eroding first amendment rights is focused.

CONCEPT OF UNLIMITED RESOURCES VS. DOCTRINE OF SCARCITY

The essential resource in publishing is paper whereas the essential resource in broadcasting is the electromagnetic spectrum. In economic terms, these essential resources are similar in that each is limited in amount and has potential for scarcity. But spectrum space is obviously and immediately limited and scarce whereas the finiteness of paper is less evident. In an effort to deal with the scarcity issue made abundantly apparent by intolerable interference. Congress in 1925 passed a resolution declaring the ether as "the inalienable possession of the people of the United States" and embarked on a policy of controlling and limiting its use. Though economists criticize the premise that scarcity is a phenomenon unique to spectrum space, and even though in practice there are today more broadcasting stations than newspapers in this country, the Doctrine of Scarcity as the reason for licensing remains the keystone of the Regulation Tradition.

RESOURCE ALLOCATION BY MARKET CONTROLS VS. RESOURCE ALLOCATION BY GOVERNMENT DECISION

Publishing operates according to a free-enterprise system where the ordinary pricing mechanism determines the economic value of essential resources and ultimately resource allocation. On the other hand, Congress has chosen to remove broadcasting from the dynamics of the free market in favor of a system of nonmarket allocation which preserves government ownership of spectrum space while removing true economic value from frequencies. According to public interest standards, the Government administers spectrum assignments at no substantial cost to the user—a system which, according to one economist, tends to promote political influence and windfall profits while denying the usual advantages of free enterprise: precise monetary measures of cost-benefit, flexibility and resource efficiency.

LAISSEZ-FAIRE VS. GOVERNMENT LICENSING

Except for general public interest regulation such as anti-trust and civil rights laws, the laissez-faire assumption of the Journalism Tradition rejects government regulation and oversight whereas the licensing assumption of the Regulation Tradition permits infiltration of Government into most precincts of broadcasting affairs. Federal licensing of radio stations has been practiced in this country since 1912. Whereas the earliest broadcasting legislation was interpreted as doing little more than mandate the issuance of licenses, later legislation granted to the FCC the discretionary power to license against a standard of "public interest, convenience and necessity." Based on this power, regulation has extended over the past two-thirds century to such areas as engineering specifications, network arrangements, multiple and cross-media ownership, business practices, commercial advertising, employment practices, procedures for accountability, and—most important from a first amendment standpoint—program content.

PRIVATE OWNERSHIP VS. PUBLIC-TRUSTEE PRINCIPLE

The public-trustee principle is the heart of the Regulation Tradition. It is an ingenious construct which combines public ownership, private use, government licensing, nonmarket allocation of spectrum space, free expression, and public interest obligations. Publishers, operating in the open-market system, own their enterprise and their resources and, except for anti-trust considerations, are free to use them and to transfer them at will. Such is not the case with broadcasters. On the theory that the public owns the airwaves, the broadcaster is considered a "public-trustee" and as such is permitted private gain from use of public property so long as he uses that property in the public interest. The license is nothing more than a franchise to use the assigned portion of the spectrum for a particular period in a particular way, and transfer procedures are rigid and subject to review.

JOURNALISTIC AUTONOMY VS. GOVERNMENTAL MANAGEMENT OF INFORMATION

In the American experience, journalistic freedom subsumes two parameters: no restraint prior to dissemination and subsequent punishment for unprotected speech. While the economic assumptions of the Journalism Tradition forge a system where predissemination journalistic autonomy is guaranteed, the Regulation Tradition's public-trustee principle—with its emphasis on public interest obligations—invites prior governmental intrusion into program content. Though the Communication Act expressly forbids censorship, proscriptive and prescriptive rulings directed at programing have supported, in fact, a pattern of information management carefully designed to avoid the appearance of blatant censorship. With punitive sanctions as leverage, no prior restraint has given way to a framework of prior standards in which journalistic autonomy has become "journalistic discretion," and FCC definitions of obscenity and other types of unprotected speech are more restrictive than the established Supreme Court definitions. Proscriptive content intrusion has focused on such areas as false and misleading advertising, deceptive program materials, excessive commercial practices, obscenity, indecency, violence, children's programing, and more. However, it is the prescriptive rulings focusing on programing balance, responsiveness to local needs, and fairness in political and public affairs programing which have generated the most severe First Amendment criticism. Of these, section 315 political broadcasting requirements and the Fairness Doctrine, clearly articulated as "the single most important requirement" and as the "sine qua non" for license renewal, have received the most vocal attention. Both require the broadcaster to conform to prescribed standards of content selection, emphasis, orientation, time and cost considerations; and failure to comply has been cause for governmental sanction ranging from fine to refusal to renew the license.

CONCLUSIONS

To function, as do broadcasters, under two separate traditions of first amendment theory is analogous to dual citizenship whereby allegiance is confused and the individual is beleaguered with competing reporting forms, obligations and standards. To the extent that broadcast policy continues to support conflicting traditions, the broadcaster and the public must suffer—as ultimately must our republic. For the first amendment goal of producing an informed electorate requires at the very least the free flow of ideas, an independent press insulated from Government, and respect for the citizen as rational, able and well-motivated. What we now have in broadcasting is an affront to the press, the citizens and to the ideal of free expression. First, we have a managed press where broadcasters in pursuit of self-preservation are forced to compromise and retreat and where blandness, sameness and triviality oft-times become attractive for their safeness from government reprisal. Secondly, in place of trust in citizen's reason, broadcasting today operates in a spirit of paternalism directed toward a naive, inept public which must be protected, carefully briefed and properly exposed to "fair" pictures of reality. If the libertarian ideal sees truth as emanating from the free market of competing ideas, by contrast, the Fairness Doctrine—the functional embodiment of the public-trustee principle—imposes on the public the Government's and the broadcaster's definitions of "controversial issues," "public importance," and "opposing points of view." Thus, in the name of "fairness," an elitist perception of truth and reality substitutes for honest truth—at once homogenizing controversy while limiting the horizons, demeaning the dignity and eroding the rights of the citizenry.

Logic demands a new broadcast policy orientation. Given the Supreme Court's premise "that a free press is a condition of a free society," and given research showing television to be the dominant medium for news information, it follows that a vigorous and free electronic press is a prime requisite for a vigorous republic. To the extent that broadcasting policy mitigates or eliminates the clash points of the discordant first amendment traditions, to the extent that the Regulation Tradition is brought closer to the Journalism Tradition, we can expect a more vigorous, more responsible, more honest press. Habit and an entrenched policy must not continue to deny the American people their basic rights. Over the years, first amendment theory has demonstrated remarkable resilience. The time is ripe for another great challenge.

THE HYBRID VEHICLE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. HUGHES. Mr. Speaker, last year, in response to the growing petroleum shortages, and the need to find private passenger transportation for the Nation's citizens that does not depend upon gasoline, the Congress enacted the Electric Hybrid Vehicle Research Act of 1976. This legislation was enacted notwithstanding the objections of the President.

Many Americans understand the concept of the electric vehicle, which is not at all a new idea. In fact it has been around for years. However, less people are aware of the hybrid electric vehicle, which our legislation of last year also seeks to promote.

A citizen of my congressional district, Mr. Harry Haldeman, has taken an active interest in promoting electric vehicles and hybrid vehicles. I recently had occasion to read a brief article he prepared on this important subject, which is intended to acquaint the average person with the concept of the hybrid electric vehicle. I feel that Mr. Haldeman has prepared an excellent article on the subject, and I wanted to share it with my colleagues:

WHAT IS A HYBRID VEHICLE?

The Congress of the United States believed the energy crisis was real in September 1976 (before Carter) and passed an act over the veto of President Ford. It is now the law and entitled "Electric and Hybrid Vehicle Research Act of 1976," P.L. 94, to reduce our dependence on foreign oil.

In the title of the Act, the word "Hybrid"

stands out. What is a "Hybrid" vehicle? A hybrid is described as a vehicle with a combination of electric and internal combustion power. Two examples came to mind of hybrid vehicles that have been around for years:

1. The submarine—battery powered with diesel generator; and

2. Diesel locomotive—D.C. traction motor with diesel generator.

Would a "Hybrid" auto work? Volkswagen of Germany thinks so. They are the first large auto manufacturer in the world to have a hybrid in production. On a micro-bus chassis, the first one has logged over 25,000 miles in regular taxi service. In Britain, where gasoline costs more than double ours, there are more than 175,000 electric vehicles in operation; 75,000 of them being delivery vans. They have a prototype "Hybrid" with an 8 hp traction motor, and a 3.5 KW generator driven by a 400 cc gasoline engine.

Would a "Hybrid" reduce our dependence on foreign oil? Conventional electric cars won't sell because of their limited range. If you would like to take your wife to visit your mother-in-law 40 miles away in a conventional electric car upon arrival the conversation might go like this—"Mom I don't have enough juice left in my batteries to get home, is it ok if I plug in to recharge."

Mom might reply, "I don't have an extension cord." Upon which you would say, "Mom I brought one with me." As the electric meter spun merrily, mom would probably think, "besides feeding them, now I have to supply juice for their car." She may not invite you back.

The "Hybrid" gives unlimited range. You could drive coast to coast with an occasional stop for gasoline. Since most electric cars produced have less than a 10 hp dc motor, the "Hybrid" would need an on-board 10 hp gas driven generator to keep the batteries charged on a long trip. This should give good gas mileage because the generator would run at a constant speed and load until the batteries are full and then shut off automatically.

For commuting, the present 50 mile range of batteries would be sufficient in most cases. Charger would be plugged in at night during "off-peak" load hours. "High density" storage batteries have been promised for the near future, which would lower the weight of electric vehicles.

Electric autos produced in this country have been made by small companies and individuals with limited capital and engineering. The new law, PL 94–413, will give government support to all manufacturers.

FOOTNOTE ON RHODESIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. CRANE. Mr. Speaker, on October 19, 1973, the 93d Congress passed the Board for International Broadcasting Act of 1973. It was stated in the act that the Congress finds and declares: "(1) That it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom to 'seek, receive, and impart information and ideas through any media and regardless of frontiers,' in accordance with Article 19 of the Universal Declaration of Human Rights; (2) that open communication of information and ideas among the peoples of the world contributes to international peace and stability, and that the promotion of such communication is in the interest of the United States."

I do not recall the Congress either repealing or amending the 1973 act. As we did not repeal or amend the act, I question President Carter's efforts to close down the Rhodesian Information Office and ask if the President's actions in this matter are not outside and above the laws of the United States.

If we are to continue to promote human rights and freedom, including the freedom of speech and information, let us make sure that our own house is in order. I would like to insert an editorial which appeared in the Washington Post last week:

FOOTNOTE ON RHODESIA

With apologies for tardiness, we come forward today in protest against the Carter administration's misguided effort to close down the Rhodesian Information Office in Washington. The effort was undertaken to put pressure on the white-minority government of Ian Smith. But it is an affront to the American belief in the free international flow of information and to the whole idea of fairness, and it conveys to the Third World that the United States shares its conviction that information is properly the servant of politics.

The issue arose late in May when the United States joined a Security Council resolution closing the window by which Rhodesia funds its Washington office (and lesser ones in France and Australia). On Capitol Hill and elsewhere, among critics of Ian Smith as well as among his sympathizers, a clamor arose, but the State Department stuck to its guns. Sens. Clifford Case (R-N.J.) and Dick Clark (D-Iowa) then introduced a resolution saying that "any foreign country should be allowed to maintain an information office in the United States." So Mr. Carter, savvy in tactic if not sound in principle, backed off and decided to suspend putting the U.N. resolution into effect.

Important as is the issue of information, there may be more at stake. The United States is trying to make Mr. Smith form a new democratic government with the black majority of Zimbabwe. But it maintains contact with him only through occasional visits to Salisbury by the American Ambassador to Zambia. Such calculated detachment is appreciated by the other African states, but does it serve the process of diplomatic communication? Just as it is only fair to let the Rhodesian government, and its rivals, offer their views to the American public, so it could be useful to keep the (professionally staffed) Information Office here open and available for diplomatic exchanges.

ENERGY: THINK SMALL

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mrs. KEYS. Mr. Speaker, nowhere in the whole range of thinking about energy do we need more emphasis on thinking small than in the area of energy production. For some reason, the term "energy production" always seems to be used when referring to production of oil, natural gas, coal, or even nuclear power. Have we failed to understand that production of small amounts of energy from renewable sources adds up to the most important answers to our future energy supply? The point is well made in a recent editorial from the Washington Star, which I would like to share with my colleagues.

[From the Washington Star, July 31, 1977]

ENERGY: THINK SMALL

The tendency is to think cosmically about new sources of energy. Like harnessing the sun or the ocean waves, or turning vast stores of coal into oil and gas through exotic and expensive conversion methods.

But when the eye is riveted on the big picture, the little things that can help often get overlooked.

Take those small dams that once served commonly as energy sources, running mills and machinery in 19th Century America. There are thousands of them on old mill runs around the United States, lovely to look at but serving no other purpose. Thousands of more dams are located on recreational reservoirs and other water impoundments.

There are an estimated 48,000 dams that might be put to work generating electricity. According to an article in The Christian Science Monitor, an Army Corps of Engineers report requested by President Carter in his April energy message estimates that these dams, if power-generating turbines were placed on them, would produce seven times more energy than the administration anticipates from solar heating in 1985 and almost the same amount of electricity produced by all the nuclear plants in operation today.

Not only would there be small environmental damage in harnessing these dams, but the cost would be considerably less per kilowatt of output than for coal and nuclear power plants.

Ironically, turbines for the small dams can't be found in the United States, according to the Monitor; one has to shop for them in Europe where they've been thinking small as well as cosmic thoughts for a long time. American manufacturers, it seems, think only in terms of huge turbines to fit the multi-million-dollar dams that congressmen think about when they're porkbarreling.

We assume that President Carter is going to follow through on the Corps of Engineers study. Before long, perhaps small generators will be humming throughout America, and young lovers once again will find inspiration down by the old mill streams.

Who knows? If this thinking small works out, maybe people will rediscover bicycles—and feet—for short travels. And hand-operated can openers, and slicing knives without motors.

This energy business takes some big thinking, of course. But that isn't all of it. Not by a dam site.

PUBLIC WORKS JOBS FIASCO

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. FORSYTHE. Mr. Speaker, I have yet to see the positive results of programs attempting to stimulate a lagging economy by intruding Government into the private marketplace through expensive programs such as the inaptly titled, "Local Public Works Capital Development and Investment Program."

First billed as a quick-cash, one-time stimulus to move us from a recession, the program is now in its second generation, looking toward its third, with $4 billion of the $6 billion still to be distributed and

with few indications that such stimulus is actually having the intended effect. In fact, the economy has already recovered to the extent that the program may have the opposite effect intended by feeding inflation.

In spite of my philosophical reservations about such programs in general, however, I have particularly strong negative criticisms of this specific program due to the way it has been administered by the Economic Development Administration, particularly in round II. This second round of substantially increased funding was supposedly to be distributed in light of what we had learned through the problems and mistakes of round I. As is indicated by the stops and starts, the false hopes, the general lack of information, and the apparent lack of controlling logic, I think we have learned little if anything from either round I or round II of this program except that we are better leaving economic stimulus to more reliable means than the massive involvement of the Federal Government.

An additional problem in the administration of the program perhaps peculiar to certain areas of the country is the failure of the EDA to cope adequately with different types of political jurisdictions. In the case of my State of New Jersey, this confusion resulted in substantial changes in the revised target allocations for round II which were just recently released. In a program supposedly designed around local priorities, the Federal bureaucracy failed to even discover the proper local governments to which the funding should have been directed.

During rounds I and II of the local public works program I have been contacted by almost every local government and many local school districts and other government bodies in my congressional district. I have found much dissatisfaction even on the part of those receiving some funding.

As an indication of the widespread frustration with the administration of this program, I would like to bring to the attention of my colleagues here in the House the following letter from one of the mayors in my district. Keeping in mind the fact that the township/municipality distinction is one that was also a source of confusion in implementing the general revenue sharing program, but a confusion that was successfully cleared up by the Treasury Department in administering that program since 1972, you can well understand the frustration with the heavy-handed, insensitive management of this program by the Economic Development Administration.

The letter follows:

TOWNSHIP OF DELRAN,
Burlington County, N.J., July 18, 1977.

MRS. JUANITA KREPS,
Secretary, Department of Commerce, Washington, D.C.

DEAR MRS. KREPS: I feel it is necessary to bring to your attention the continued unbelievable attitude of the Department of Commerce and all federal agencies when it comes to recommendation of political subdivisions within the State of New Jersey. The problem of the different forms of government came to the attention of all federal agencies when the first federal revenue sharing legislation was enacted.

I think to continue with the excuse that townships are not a recognizable form of government by the federal bureaucracy is unbelievable. There are forty municipalities in Burlington County, and of the forty at least twenty-two are incorporated as townships. Delran Township was incorporated in approximately 1882 and now has a population of approximately 17,000.

For some unknown reason the residents of our township are recognized when it comes to paying federal taxes, but are not recognized when it comes to federal funding. With all the shenanigans that were involved by the Department of Commerce (EDA) in deciding who was eligible and who was not for funds under Phase II of the Public Works Job Program, I cannot believe the fact that so many municipalities were not considered because they are a township.

With all the computer technology that is used by federal agencies, surely there must be a way to program the machine so that townships will receive the same consideration as cities, boroughs, and towns.

I would like to ask that you take immediate action to make sure that this excuse is not used again when another major funding program is enacted by Congress.

Thank you for any consideration you might extend to us.

Sincerely,

(MRS.) LORRAINE SCHMIERER,
Mayor, Delran Township.

CAPTIVE NATIONS WEEK RESOLUTIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DERWINSKI. Mr. Speaker, last week, the Members know, was Captive Nations Week, which was appropriately observed in the Congress even though the President very belatedly issued the proclamation for the week. I direct the attention of the Members to the Captive Nations Week Resolution adopted by the Chicago Captive Nations Week Committee and an emergency resolution adopted by that group dealing specifically with the issue of our continuing relations with the Republic of China on Taiwan. I insert both resolutions into the RECORD:

RESOLUTIONS

Whereas, the Senate and the House of Representatives have authorized the President of the United States of America to proclaim the third week of July as Captive Nations Week, and

Whereas, communist imperialism has already enslaved one third of mankind and is making further inroads in Asia, Southern Europe, Africa and Latin America, and

Whereas, the military strength of the Western Powers is declining relative to the strength of the Soviet Union, making it harder to deal from a position of strength, and

Whereas, Western political and Business leaders, are making further concessions to the Soviets, concessions which only strengthen the power that oppresses tens of millions of Eastern European and Asian people, and which threatens all free countries, and

Whereas, the Soviet Union has failed to live up to the provisions of the Helsinki Conference concerning the basic human rights of individual and Religious Freedom and freedom of movement.

Now, therefore, be it resolved, by the Chicago Captive Nations Week Committee, to urge the United States to assume real and moral leadership in dealing with these problems. We urge the United States to consider beforehand, the effect any of its agreements and policies with the Soviet Union may have on the oppressed people of Eastern Europe, Asia and Cuba. We remind the United States and the Western countries that, agreeing to the Soviet Unions illegal annexations and occupations would set a precedent for accepting international lawlessness.

Be it further resolved, that the restoration of the sacred rights of all nations based on principles of democracy, self-determination, and sovereignty within their respective boundaries, must become the goal of Western and Soviet Policy. Only then will the world have a chance for a just and lasting peace. The United States is deceiving itself if it thinks it can bring peace to Europe as a partner of the Soviet Union while ignoring the wishes of the captive people of Europe.

Be it further resolved, that the United States maintain its strong stand on human rights at the Belgrade conference, dealing with the violations of the Helsinki Agreement as outlined in the House of Representatives, resolution No. 249 and Senate resolution No. Con. 24.

Be it further resolved, that the United States stop selling equipment and technology to the Soviet Union, which enhances the ability of an oppressive Soviet Government to stay in power.

Be it further resolved, that the United States, build up its military power relative to the Soviet Union. The present decline in United States power, if it continues, could prove fatal to the United States.

Be it further resolved, that the United States abstains from giving diplomatic recognition to Cuba and aid its Communist government through trade.

Be it further resolved, that the United States continues its support of a Free Republic of China.

Be it further resolved, that this committee, once again urge the establishment of the permanent Captive Nations Committee (House Resolution 211) and Freedom Academy, which is long overdue.

VIKTORS VIKSNINS,
Chairman, Captive Nations Committee.

AN EMERGENCY RESOLUTION

Urging the President of the United States to maintain diplomatic relations and the mutual defense treaty with the Republic of China based on Taiwan, and do not recognize the regime of Red China.

Whereas, communist imperialism has already enslaved one third of mankind and is making further inroads in Asia, Southern Europe, Africa and Latin America, and

Whereas, the Chinese Communist regime has massacred as many as sixty million chinese people after its usurpation of power on the Chinese mainland. It had directly intervened in the Korean war, actively supported the North Vietnamese in the Vietnam war, and has continuously supported the Communist elements in Southeast Asia, Latin America and Africa purposing to subvert the free and independent government and to advance its cause of world communization; and

Whereas, the Republic of China was a founding member of the United Nations and has always been a law abiding member of the community of nations; and

Whereas, the people of the Republic of China based on Taiwan have built a successful, prosperous, free economy out of the ashes of a half century of revolution, invasion and civil war and now serve as an

important trading partner of the American people; and

Whereas, the Republic of China based on Taiwan is of great strategic importance in the defense of East Asia and the Pacific and had always utilized its military power in the interests of the free World; and

Whereas, the people of the Republic of China based on Taiwan have been among the most trusted friends and allies of the people of the United States since the founding of the Chinese Republic in 1912; and

Whereas, President Jimmy Carter has repeatedly stated that he will pursue an open and just foreign policy, based on morality; and

Whereas, President Jimmy Carter has also repeatedly stated that he will not compromise the freedom and security of the people of the Republic of China on Taiwan, and will stand by the U.S. commitments to that country; and

Captive Nations Committee.

U.S.S. "PHOENIX"—POWER FOR PEACE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. RUDD. Mr. Speaker, I was most privileged last Saturday to participate in ceremonies marking the keel-laying of the U.S.S. *Phoenix*, to be the Navy's newest nuclear-powered attack submarine.

This was an honor, indeed, because the principal speaker at that august ceremony, representing the city of Phoenix and our great State of Arizona, was our distinguished Minority Leader, the Honorable John J. Rhodes.

The keel initialer of the U.S.S. *Phoenix* was Mrs. Betty Rhodes, wife of the distinguished Minority Leader, who was introduced by Adm. Hyman G. Rickover, a great Naval commander in the annals of naval history and the father of America's nuclear fleet.

Mr. Speaker, it was a proud moment at Groton, Conn., to witness this keel-laying event. The U.S.S. *Phoenix* will be the Nation's 15th Los Angeles Class nuclear-powered attack submarine, joining 41 nuclear-powered ballistic-missile submarines, as well as 4 aircraft carriers and 9 guided-missile cruisers in our impressive surface nuclear fleet.

The U.S.S. *Phoenix*, along with the other attack submarines of its class, will have a higher speed capability than its predecessors. It will also have the most advanced antisubmarine warfare capabilities.

The plaque marking the keel-laying of the U.S.S. *Phoenix* states so truly the vital importance of this vessel, named after Arizona's capital and most populous city:

"This ship symbolizes our awareness that the oceans are our first line of defense. It accentuates our determination to negotiate from strength in our quest for peace and protection of freedom around the world. May the U.S.S. *Phoenix* be successful in all her missions."

Mr. Speaker, the remarks at the keel-laying ceremony by John Rhodes clearly and proudly stated my sentiments—and the sentiments I am sure of all Arizonans—as construction begins on this ship.

It was a privilege to hear these sound and articulate words by a great leader in American public life. In order that all Members of Congress and the American public might benefit from these good views, I would like to include the full text of John Rhodes' speech at this point in the RECORD:

THE USS PHOENIX: POWER FOR PEACE

My wife Betty and I are honored deeply to represent the city of Phoenix—and our great sunny State of Arizona at this keel-laying ceremony for the latest vessel in Uncle Sam's fleet of nuclear submarines.

The Phoenix name has a long and honorable link with the U.S. Navy—and our Nation's history. In 1778 a packet bore that name—and in 1811 a Navy schooner. The city itself was first honored by the light cruiser *Phoenix* built in 1938. It saw service in World War II—was decommissioned and now is a part of the Argentine Navy.

Today we take part in an event with far more significance than just the start of construction on another undersea ship. It represents affirmation of the need for a modern navy. It is, in fact, a peacetime departure from our historical past. It signals determination by our Government that we intend to maintain our military strength on and under the oceans of the world.

Coming from Arizona, I am perhaps, more keenly aware than many others in the Congress, of the mistakes in military policy we made in the past—errors in judgment repeated too often in this last half century. Again and again we have allowed our preparedness to go by the boards, in the vain hope that aggression would not break out among nations of the world.

There was another great naval ship which honored our State. On December 7, 1941, it was bombed and sent to the bottom at Pearl Harbor. Today, the battleship *Arizona* is a national monument—a shrine which honors all those who gave their lives in service at sea during World War II. It is, at the same time, a grim reminder of the heavy cost we paid because we failed to maintain our defenses. Our leaders then were certain that no country would dare attack the mighty United States. They were wrong.

Yet, despite the lessons of the past, today in Congress—in some of the decisions made by the executive branch—and views held by many naive people across the land—we hear the echo of the same siren song. After a few years of peace, too many yield to the temptation to let down our guard. We hear voices that say, "Let us take those defense dollars, distribute them among our people and create a utopia here in the United States." They argue that war is unthinkable in the era of the hydrogen bomb. They claim we can negotiate our way to peace in perpetuity and beat our swords into plowshares. No one wishes more devoutly than I that this were true. It is not.

We live in a perilous world. We do not wish it that way. We have not sought to be the leaders of the Free World. The unrivaled success of our system has bestowed that role upon us. It has incited the envy—and incurred the enmity of nations whose progress is burdened by the strictures of statist totalitarianism.

Currently we are engaged in preliminary talks aimed at eventual disarmament. We all pray for their success. We would, at the same time, be foolish to ignore the steady buildup of military capability by the Soviet Union even as they sit across the bargaining table.

We cannot brush aside as of no consequence their increase in forces, development of weapons, and construction of vast numbers of ships, tanks, and aircraft.

It is ominous that they are working feverishly on civil defense. They have ambitious projects to move productive facilities underground and provide massive shelters for the populace.

Are they thinking the unthinkable? Are they calculating the odds on a nuclear showdown? Or is this another facet of psychological warfare aimed at stampeding us into various concessions as the price of peace? We do not know. But we cannot afford to underestimate their intentions nor to take steps to protect our own people.

If we listen to those who want to cut back our defenses, we could face future nuclear blackmail. A fully prepared adversary could issue an ultimatum—a bluff of one sort or another—and we would be in no position to call it.

We hear also the idea that we can build a bristling defense of our shores, sit safe and secure in fortress America, and let the rest of the world go by. This myth is born of wishful thinking but defies actuality.

Our tremendously productive industrial economy imports the major share of the raw material we turn into a cornucopia of products. We import from everywhere. We thus have a vested interest in other countries for we depend on them for our own economic vitality. In addition, we have developed vast export markets for our goods. Our fertile farms provide tons of food and fiber for export to feed and clothe a world of burgeoning population and growing demands.

Clearly—we are in the world and of the world. We have a great stake in keeping the sealanes open. They are our economic lifelines and channels of supply and trade that keep our economy going.

Construction of this ship—nuclear powered and armed—will help maintain our muscle and assert our determination to keep free the pathways of commerce—not to be interfered with by unfriendly powers. Long ago the Soviet Union recognized the crucial role of the oceans in global affairs. They have launched an intensive shipbuilding program, expanded their fishing fleet, and beefed up their military seapower.

Our answer to this potential threat is submarines such as the *Phoenix*. They can range the globe, carry various kinds of missiles. They have mobility and great striking power. We all can feel a bit safer knowing that our Navy has these advanced weapons. They are our front line deterrent against miscalculation of our capability and will to preserve freedom and peace. As long as I am in the Congress, I will fight for the very best defenses in the world for the United States.

We should have learned by now that in the realm of international affairs—being a second best military power is not enough. It has been likened to holding the second-best hand in a poker game. It costs you lots of money but cannot win you anything.

It is a pleasure for Betty and me to have had this opportunity to visit this fabulous construction facility here in Groton and to lend the name of our city of Phoenix to the submarine being built here.

This keel-laying is a proud moment for us—for Phoenix—for Arizona, and for the United States Navy.

May the U.S.S. *Phoenix* be successful in all her missions.

CONGRESSMAN HOWARD INTRODUCES H.R. 8648—THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1977

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. HOWARD. Mr. Speaker, on Friday, July 29, 1977, I introduced H.R. 8648, the Surface Transportation Assistance Act of 1977.

This legislation is a fundamental approach to some of the basic problems which confront us today in two of our major areas of transportation—public transportation and highways. It runs the gamut from capital construction to highway safety and from offsystem roads in rural areas to operating subsidies under the public transportation program. It has been introduced as a result of extensive hearings that have already been held by the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation. Further hearings are contemplated in September and all those who are interested and wish to testify on these programs which are vital to our Nation's development will have an opportunity then to express their views.

Under leave to extend my remarks and for the information of my colleagues, I include herewith a copy of the introduced bill.

H.R. 8648

A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1977".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1977".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,600,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1981, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1982, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1991, and the additional sum of $1,850,000,000 for the fiscal year ending September 30, 1992.".

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95—of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $2,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982 For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $650,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000, per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) For authorized landscaping, including, but not limited to, the planting of flowers and shrubs indigenous to the area, and for litter removal, an additional $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(14) For the Great River Road, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(15) For control of outdoor advertising under section 131 of title 23, United States Code, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(16) For control of junkyards under section 136 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(17) For safer off-system roads under section 219 of title 23, United States Code, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(19) For traffic control signalization under section 146 of title 23, United States Code, out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(20) Nothing in the first ten paragraphs or in paragraph (12), (13), (14), (17), (18), or (19) of this section shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or chapter 4 of title 23, United States Code.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportion-

ment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be transferred to and added to the amounts last apportioned to such State under paragraphs (1), (2), and (6) of section 104(b) in the ratio which these respective amounts bear to each other in that State, and shall thereafter be available for expenditure in the same manner and to the same extent as the amounts to which they are added. In order to carry out this subsection, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

(2) In addition to funds otherwise authorized, $75,000,000 out of the Highway Trust Fund, is hereby authorized for the purpose of completing projects approved under the urban high density traffic program prior to the date of enactment of this paragraph. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $75,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section, shall not be apportioned. Such $75,000,000 of each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $75,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost which require long periods of time for their construction. Any part of such $75,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for such routes, and available for obligation for the same period as such apportionment.

(d)(1) Thirty six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Thirty six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized for the Interstate System, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983. Such sums shall be obligated only for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not on toll roads.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 106. (a) Subsection (m) of section 163 of the Federal-aid Highway Act of 1973 (Public Law 93-87) is amended to read as follows:

"(m) The Federal share payable on account of such projects shall be 95 per centum of the cost.".

(b) Subsection (o) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: "$51,400,000 for the fiscal year ening September 30, 1978, $90,000,000 for the fiscal year ending September 30, 1979, and $110,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, except that".

TOLL ROADS

SEC. 107. Subsection (c) of section 129, United States Code, is amended to read as follows:

"(c) Funds authorized for expenditure on any of the Federal-aid systems, other than the Interstate System, shall be available for expenditure on projects approaching any toll road, bridge, or tunnel to a point where such project will have some use irrespective of its use for such toll road, bridge, or tunnel. Funds authorized for expenditure on the Interstate System shall be available for expenditure on projects approaching any toll road, bridge, or tunnel.".

TRAFFIC CONTROL SIGNALIZATION

SEC. 108. (a) Chapter 1 of title 23, United States Code, is amended by inserting immediately after section 145 the following new section:

"§ 146. Traffic control signalization program

"(a) The Secretary is authorized to make grants to States for traffic control signalization projects that are designed to conserve motor vehicle fuel, decrease traffic congestion, increase the capacity of existing highways, improve air and noise quality, and improve highway safety on any toll-free highway which is under the jurisdiction of and maintained by a public authority and open to public travel. Projects shall be selected by each State highway department in consultation with appropriate local officials. Priority shall be given to projects which provide coordinated signalization of two or more intersections.

"(b) The Federal share payable on account of any project under this section shall be the same as that provided in section 120(c) of this title.

"(c) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section for that fiscal year among the several States in the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all of the States as shown by the latest available Federal census, except that no State shall receive less than one-half of 1 per centum of each year's apportionment. Sums apportioned under this section shall be available for obligation and expenditure in the same manner and for the same period as if such sums were apportioned for the Federal-aid primary system under this chapter.

"(d) In any State where the State highway department does not have legal authority to construct or maintain a project under this section, such State highway department shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located. The requirements of section 116 of this title that the State highway department maintain, or cause to be maintained, any project constructed under this section shall include the duty to operate such project, and the State's duty to maintain, or cause to be maintained (including the operation of) any such project shall exist whether or not the project is part of the Federal-aid system.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out

"146. Repealed."

and by inserting in lieu thereof:

"146. Traffic control signalization.".

(c) Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization, other than a project for which a grant is made under section 146,".

OVERSEAS HIGHWAYS

SEC. 109. Subsection (b) of section 118 of the Federal-aid Highway Amendments of 1974 (Public Law 93-643) is amended to read as follows:

"(b) There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $143,000,000 to carry out such projects.".

FEDERAL SHARE

SEC. 110. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "80 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(d) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(e) Subsection (i) of section 136 of title 23, United States Code, is amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(f) Subsection (d) of section 144 of title 23, United States Code, is amended by striking out "75 per centum" and inserting in lieu thereof "90 per centum".

(g) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(h) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(i) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(j) Subsection (a) of section 118 of the Federal-aid Highway Amendments of 1974 (Public Law 93-643) is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(k)(1) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting "provisions relating to the Federal share," immediately after "other than".

(2) Subsection (d) of such section 402 is amended by inserting immediately after the first sentence thereof the following new sentence: "The Federal share payable to implement highway safety programs under this section shall be 90 per centum of the cost thereof.".

(l) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not

exceed 70 per centum" and inserting in lieu thereof "section shall not exceed 90 per centum".

(m) The amendments made by subsections (a) through (l) of this section shall take effect with respect to authorizations for appropriations for fiscal years beginning after September 30, 1978.

PAVEMENT MARKING

SEC. 111. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of each fiscal year the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

SEC. 112. If a State has not expanded or otherwise obligated any of the funds apportioned to it for the Interstate System for any fiscal year which begins on or after October 1, 1978, before the first day of the fiscal year for which such funds are authorized, then all funds authorized to be apportioned to such State for the Interstate System for the next fiscal year shall be immediately available for obligation in any State which has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval. The amount of the apportionment made for the next succeeding fiscal year to such State for the Interstate System shall be reduced by the amount obligated under this section in the preceding fiscal year by such State, and a State whose apportionment for the preceding fiscal year was made available for obligation by another State shall receive an apportionment for such preceding fiscal year in an amount equal to the amount so made available. No State shall have made available to it in any fiscal year for obligation under the first sentence of this section an amount in excess of the amount which the Secretary determines may be apportioned to such State in the next succeeding fiscal year.

COMPENSATION OF INTERSTATE SYSTEM

SEC. 113. Paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended by inserting a period after "five hundred miles" and by striking out the remainder of such paragraph and inserting in lieu thereof the following: "Every route on the Interstate System which is in a rural area, as such route is identified in Committee Print 95–18 of the Committee on Public Works and Tranpsortation of the House of Representatives and in the fiscal year 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation shall be constructed, and paragraph (4) of this subsection shall not apply to such a route. Every route on the Interstate System which is in an urban area, as such route is identified in Committee Print 95–18 of the Committee on Public Works and Transportation of the House of Representatives and in the fiscal year 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation and which is classified as an essential gap in such committee print, shall be constructed and paragraph (4) of this subsection shall not apply to such a route. Every other route on the Interstate System which is in an urban area, as such route is identified in Committee Print 95–18 of the Committee of Public Works and Transportation of the House of Representatives and in the fiscal year 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation shall be constructed and paragraph (4) of this subsection shall not apply to such a route unless the Secretary withdraws approval for such a route in accordance with such paragraph (4) before July 1, 1979. Every route approved by the Secretary as part of the Interstate System on or after January 1, 1976, shall be constructed and paragraph (4) of this subsection shall not apply to such a route.".

APPALACHIAN DEVELOPMENT HIGHWAYS

SEC. 114. Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read follows:

"(f) Federal assistance to any construction project under this section shall be 90 per centum of the costs of such project.".

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 115. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are on the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of five States.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund not to exceed $50,000,000 for the four fiscal year period ending September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) No project shall be carried out under this section in any State which will not pay 20 per centum of the cost of acquiring land and rights of access. All other costs of such projects shall be borne by the United States.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1977".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out section 154 of title 23, United States Code (relating to the national maximum speed limit), out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of the Highway Trust Fund, $2,000,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982.

(8) For projects of high-hazard locations under section 152 of title 23, United States Code, and for the elimination of roadside obstacles under section 153 of title 23, United States Code, out of the Highway Trust Fund, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(9) For carrying out subsection (j)(2) of section 402 of title 23, United States Code (relating to incentives for the reduction of the rate of traffic fatalities), out of the Highway Trust Fund, $7,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out subsection (j)(3) of section 402 of title 23 United States Code (relating to incentives for reduction of actual traffic fatalities), out of the Highway Trust Fund, $7,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $7,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) The first sentence of paragraph (1) of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93–87) is amended by striking out "and $125,000,000" and inserting in lieu thereof "$125,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The first sentence of subsection (c) of section 203 of the Highway Safety Act of 1973 is amended by striking out "and $75,000,000" and inserting in lieu thereof "$75,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

SEC. 204. The sixth sentence of subsection (c) of section 402 of title 23, United States Code, is amended by striking out ", except

that" and all that follows down through the period at the end thereof and inserting in lieu thereof a period.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Urban Mass Transportation Act Amendments of 1977".

FEDERAL FINANCING ASSISTANCE AUTHORIZATIONS

SEC. 302. Subsection (c) of section 4 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, no part of the authorizations contained in paragraph (1) of this subsection shall be obligated after September 30, 1978.

"(3) There are authorized to be appropriated for grants and loans under sections 3 and 9 of this Act, per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, the following amounts for the following purposes:

"(A) $150,000,000 for assistance (including construction and operating expenses) in rural areas and those urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined for the purposes of section 5 of this Act. In making any grant from such $150,000,000 for the payment of subsidies for operating expenses, preference shall be given to a private bus operator who lawfully has provided transportation to such a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which such financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(B) $60,000,000 for grants under section 9.

"(C) $600,000,000 for the purchase of buses.

"(D) $500,000,000 for the purchase of rolling stock for fixed rail.

"(E) $500,000,000 for modernization, rehabilitation, and expansion of existing public mass transit systems, other than the purchase of buses and rolling stock for fixed rail.

"(F) $600,000,000 for fixed guideway public mass transit systems construction of which was begun after October 15, 1970.".

URBAN MASS TRANSIT PROGRAM AUTHORIZATION

SEC. 303. Subsection (c) of section 5 of the Urban Mass Transportation Act of 1964 is amended by renumbering paragraph (2) of such subsection as paragraph (4) and by inserting immediately after the period at the end of paragraph (1), the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, no part of the authorizations contained in paragraph (1) of this subsection shall be obligated after September 30, 1978.

"(3) There is authorized to be appropriated for grants under this section $1,000,000,000, per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

GENERAL AUTHORIZATION

SEC. 304. Subsection (d) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There is authorized to be appropriated to carry out this Act, other than sections 3, 5, 9, 16, and 17, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

EMERGENCY OPERATING ASSISTANCE

SEC. 305. (a) Subsection (d) of section 17 of the Urban Mass Transportation Act of 1964 is amended by striking out "(4)" and all that follows down through and including the period at the end of such subsection and inserting in lieu thereof the following:

"(4) 80 percent thereafter.".

(b) Subsection (f) of section 17 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to finance assistance under this section $40,000,000 per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

SUBSTITUTE PUBLIC MASS TRANSIT PROJECTS

SEC. 306. (a) There is authorized to be appropriated for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under section 103(e)(4) of title 23, United States Code, $600,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(b) Notwithstanding the seventh sentence of section 103(e)(4) of title 23, United States Code, the authorization contained in subsection (a) of this section shall be the only authority for appropriations for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under such section 103(e)(4) of title 23, United States Code.

LONG-TERM AUTHORIZATIONS

SEC. 307. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"AUTHORIZATIONS

"SEC. 18. There is authorized to be appropriated to carry out this Act and section 306 of the Urban Mass Transportation Act Amendments of 1977, $4,200,000,000 per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.".

SALE OF F-15 FIGHTERS ADDS TO THE "ARMS PILE"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. EILBERG. Mr. Speaker, recent news reports have indicated the concern of many Members of the House and Senate about the proposed sale of F-15 fighter planes to Saudi Arabia.

I share this concern, because I believe the sale of such sophisticated arms to Saudi Arabia could upset the delicate balance of power in the Middle East, and the equally delicate discussions which hopefully will lead to peace talks.

I commend to the attention of my colleagues an editorial on this subject from the Philadelphia Inquirer of July 28, 1977. The editorial points to the efforts of Senators HUMPHREY and CASE on the issue, and the danger inherent in the plan to sell the F-15 fighter planes to Saudi Arabia:

IS NEW ARMS SALE POLICY SO AT VARIANCE WITH OLD?

In a joint letter to Secretary of State Cyrus Vance, Sen. Clifford Case (R., N.J.) and Sen. Hubert Humphrey (D., Minn.), have raised pertinent questions about the proposed sale of 60 F-15 supersonic fighter planes to Saudi Arabia, at a price in the neighborhood of $1 billion.

Among other things, the two influential members of the Senate Foreign Relations Committee would like to know when the offer to sell the planes was made, by whom, under what commitment if any, and why, and how if at all the Congress has been consulted on the deal. Is the Administration carrying out a commitment made by its predecessor? Or is it making a new commitment?

Like the decision to sell the Shah of Iran seven highly complex airborne radar systems, at a price of $1.23 billion, the proposed deal raises other questions. Do the Saudis need the plane, and for what purpose? Or is it that the U.S. Air Force needs, or thinks it needs, to sell them the plane in order to reduced unit costs on the F-15s it is buying for itself?

All of which raises the central question, which is simply this:

How does the Carter Administration's new policy of curbing sales of U.S. weapons abroad differ in practice from the old policy of its predecessors—a policy Mr. Carter derided as "moral bankruptcy"?

In principle, of course, the differences are vast. Under the former policy, U.S. arms manufacturers were encouraged to compete for sales abroad, and the armed services competed with each other to encourage such sales.

Under the new policy, which Mr. Carter enunciated last May, the U.S. "will remain faithful to treaty obligations, and will honor historic responsibilities to assure the security of the state of Israel." Where other nations are concerned, however, arms transfers are to be viewed "as an exceptional foreign policy instrument," with "the burden of persuasion" to be "on those who favor a particular arms sale rather than those who oppose it."

What, then, is "exceptional" about the proposed sale of F-15s to Saudi Arabia? Mainly, an exceptional irony. In his statement last May, Mr. Carter also said that the U.S. would sell major arms to other nations "where I determine that countries friendly to the United States"—which both Saudi Arabia and Iran are—"must depend on advanced weaponry to offset qualitative and other disadvantages to maintain a regional balance."

The irony is that the advanced weaponry to be sent to Iran, Saudi Arabia's rival for influence in the Persian Gulf, upsets the regional balance, which then can be rectified Saudi Arabia. And so the arms pile up in that volatile area. Who knows whom they might be used against or how the U.S. might become involved, as an ally or even as target?

It is true, as the administration warned Congress in an official report a few days ago, that curbing the international arms traffic is not easy: "The prospect that other countries will voluntarily and spontaneously follow our model of restraint is unlikely." What is still not clear, however, is whether that model of restraint is being followed by the administration itself.

DROUGHT SPARKS NEED FOR AUBURN DAM

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. JOHNSON of California. Mr. Speaker, throughout my career in Government, at the local, State, and Federal level, I have supported development of

the water resources of the Central Valley in California.

I have found that although the investment is large, the benefit to all the American people is great.

Today California, and much of the West, is caught in the grip of a 2-year drought. Because our water resources have been developed to the extent they have, we have been able to continue our normal activities with a minimal sacrifice.

I would like to include an article from the July issue of California Constructor which carefully describes the benefits of the Central Valley project.

DROUGHT SPARKS NEED FOR AUBURN DAM

While the safety question on construction of the $710 million Auburn Dam project is still under study by Federal and State consultants, one question seemingly overlooked by some people remains unanswered. Where would Californians be today if they didn't have the present water storage capacity in the Central Valley Project?

The answer might appear obvious as we sit smack dab in the middle of the second year of a drought that has all the makings of being the worst two-year period in history. This year already is the worst on record. The second driest year was 1924. The third driest? 1976. In 1976 and 1977, State, Federal and locally-built reservoirs were and are "life-savers" to much of California's economy.

Still, there have been public statements to the effect that "the policy of building dams is bankrupt as witness conditions in California in this drought year" and "new reservoirs aren't needed—if they're built, new demands will grow and in a drought everyone will be just as bad off."

The above quotes were attributed to Secretary of Interior Cecil Andrus and John Bryson, Chairman of the State Water Resources Control Board. Undoubtedly neither of them is fully aware that the economic impact of the Central Valley Project (CVP) is overwhelming as is demonstrated by its past accomplishments.

Most major Central Valley dams were designed to "carry-over" water through a drought like the seven-year dry spell—worst in history (unless the current drought continues past 1977)—between 1928 and 1934. However, many people seem to forget dams aren't built solely to protect the population against the occurrence of dry years. They are constructed to be used every year to store winter flows for regulated release later to produce hydroelectric power, control floods, deliver water for irrigation and municipal-industrial use, fish and wildlife enhancement and, to provide recreation opportunities through sustained river flows and maintenance of surfaces for boating.

What do these benefits mean in dollars and cents?

The California Constructor set out to uncover the economic facts by studying past U.S. Bureau of Reclamation records on the CVP and by talking with water experts, attorneys and consulting civil engineers.

Before delving into the statistical data, first we must acquaint ourselves with the Central Valley Project. The Project consists of a series of dams, canals, power plants and related facilities designed primarily as an irrigation program but serving many other purposes. Almost all of the operating and maintenance costs are paid by irrigation, power and municipal water beneficiaries. Ninety percent of the capitol cost of constructing the various dams and canals are returned to the Federal Treasury over differing periods of time depending on the law at the time the projects were authorized. The other 10 percent of the capital costs represent flood control, navigation and fish and wildlife activities that are non-reimbursable under long standing National policies.

The CVP extends from north of Redding (the Trinity/Shasta area to south of Bakersfield—nearly 500 miles.) It covers much of the Central Valley basin which is almost 120 miles wide and contains more than one-third of the land in California.

Leading the list of "products" received from the CVP is the water delivered. According to Bureau records, since 1949 there has been a total of 74.9 million acre feet of water delivered to farms, municipalities and industries served by the CVP. The largest annual total was in 1975 when 6.5 million acre feet were delivered. Even though 1976 was the third driest year in the state history, the CVP, while providing more outflow from the Delta than it was designed to furnish, was still able to deliver 5.6 million acre feet. How impressive is this amount? To put it into perspective, consider, if you will, the total annual water consumption of Los Angeles is 600,000 acre feet.

Where does the water go? About 96 percent of the water delivered by the CVP in the 1949–76 period went to agriculture users. The remainder was delivered to municipal and industrial users.

The San Joaquin Valley is the biggest, richest agriculture producing area in the world. In fact the irrigated land in the valley constitutes more than one-sixth of all irrigated land in the United States. Fresno, Tulare and Kern Counties are the leading counties in the nation in value of farm products sold.

According to the Bureau, the gross value of crops produced on land receiving CVP water since 1947 totals $12.9 billion. Still, even in a drought year like 1976, the crops produced were valued at $1.4 billion. Over the past 30 years the average annual gross crop value has been nearly $430 million. But, bear in mind this figure is equated to the dollars of the time. If rated on present day inflated dollars that annual gross crop value would easily triple.

Over the past 30 years the CVP has delivered full or partial supplies of water to a total of 31.5 million acres of land. Since 1973, and for each of the past four years, this averages out to almost two million acres irrigated annually. Although California's population has grown dramatically, the increase in CVP service area has been even more dramatic. For example, in 1950, the state population was 10 million and the acres irrigated with full or partial CVP supplies 473,662. Today the population is doubled and the acres being irrigated by CVP have nearly quadrupled. And this is only a start.

Over the next 20 years plans call for one and one-half to two million additional acres need to be irrigated in order to compensate for the population figure for the year 2000 which is projected at 35 million people. Yes, water looms important in order that agriculture can feed these additional people (as well as those in many other states and in foreign markets) and it is also necessary for industry which will be providing jobs for the increasing population.

Along with water, energy is also needed by farms, industry and the public. Much of the CVP service area also is furnished water by pumping groundwater and this takes energy. Since 1944, the gross power generated by the CVP totals nearly 120 million kilowatt hours. Translated into laymen's terms the hydroelectric power being generated over this 34-year period represents a saving of about 190 million barrels of fuel oil that did not have to be imported. At today's prices of up to $17 a barrel, those dollars quickly add up. Approximately 85 percent of the CVP-generated energy is sold commercially. For example, the Sacramento Municipal Utility District consumes nearly two billion hours annually in providing energy for our State Capitol City and its surrounding urban and farming areas. Among other customers are the cities of Redding, Roseville, Palo Alto and Santa Clara and Pacific Gas and Electric Company.

And still there are other benefits to spell out the year-in, year-out value of the Central Valley Project. According to Corps of Engineers records, since 1950 the estimated savings due to prevention of flood damages attributed to CVP reservoirs is $339.7 million. In drought-years, of course, there are no floods, but the Corps estimates the damages prevented amounted to $88.9 million in 1965, $56 million in 1955 and $59 million in 1974. The 28-year average amounts to $12.5 million annually in preventing flood damages.

As one water expert states "There is nothing as unexciting as a flood that doesn't occur." Yet few people realize that the Folsom Dam wasn't even finished in 1955 when it caught the largest flood of record up to that time and managed to tame it. Folsom tamed an even larger flood in 1964. Neither do people consider the fact that if Oroville Dam had been in place in December, 1955 flood damages which occurred because of the Yuba City levee break would never have happened.

Finally, the economic value of recreation benefits attributed to the CVP is hard to translate into dollars. Bureau records show that since 1959 a total of 100,318,362 visitor-days were recorded in all Central Valley Project facilities (A visitor-day is one person spending part or all of one day at a facility). An easier way to relate to this figure is to note that for the past 17 years daily visitation was equivalent to an average of 5.9 million people staying one day at the CVP reservoirs each year. Putting a two dollar economic value on each visitor-day adds up to 11.8 million in benefits.

Yes, where would California be today if it didn't have the CVP and its series of dams and canals designed to regulate and deliver water each year and to carry water over the wet years to succeeding dry years? The economic impacts quoted above spells out that while a dry year (or two years back to back that we are presently experiencing) is dramatic, the plain fact of the matter is the benefits of the dams and reservoirs are on an every-year basis adding up to dollars, jobs and just plain existence. As one expert pointed out, without water supplies and water quality improvement by the CVP, industries in the north coast of Contra Costa County wouldn't exist in their present form. Nor would the communities of Antioch, Pittsburg, Concord and Walnut Creek.

Are Auburn and New Melones needed? Consider the following:

The two dams would provide nearly 700,000 acre feet of water for irrigation, water quality and fishery purposes.

Together the dams would generate an additional one billion kilowatt hours of clean hydroelectric energy.

Auburn will add needed flood protection to Metropolitan Sacramento and New Melones will do the same for the Lower Stanislaus and San Joaquin Rivers.

Auburn and New Melones lakes will create new recreational opportunities.

Auburn will enhance the present attractions of Folsom Reservoir, one of the most heavily visited lakes in California.

Economically speaking, the reservoirs are being built to meet the needs of the people in one of the fastest growing states. In terms of agriculture and industrial needs, will the two dams provide the solution?

You be the judge. The facts speak for themselves.

THE WEST NEW JERSEY CONCESSIONS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. FORSYTHE. Mr. Speaker, during the week of July 4, I had the extremely pleasurable experience of participating in a celebration in Camden, N.J., honoring the tricentennial of a unique historical document, the New Jersey Concessions.

Officially referred to as the "Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West New Jersey in America," the Concessions is a document not widely known outside the present-day New Jersey, but is one of those seminal documents in the history of human freedom which have far-reaching impact.

West New Jersey no longer exists on a map, but the foundation laid by the document established a climate of respect for human rights and civil liberties which eventually was responsible for the freedoms which I enjoy today as a citizen of New Jersey and of this great country. As Edward Mauger, assistant dean of the Rutgers University Camden College of Arts and Sciences, has stated:

This noble document put New Jersey firmly on record as a supporter of the most honorable political principles.

I would like to bring this document to the attention of my colleagues here in the House, those who are now the guardians of those "honorable political principles," by inserting in the RECORD of these proceedings an article from the New York Times which provides a good overview of the Concessions and their place in history:

1677 "CONCESSIONS": PRELUDE TO CONSTITUTION

(By Donald Janson)

CAMDEN, July 6—Last year the nation celebrated its Bicentennial and the 200th anniversary of the Declaration of Independence. Today academicians, students and the general public gathered on the Camden campus of Rutgers University to celebrate the tricentennial of another remarkable document dedicated to democracy.

The document, Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West New Jersey in America, formed the basis for the first government in New Jersey and is considered by historians to be an embodiment of Magna Carta and a forerunner of the United States Constitution.

"No inhabitants of the said province of West New Jersey shall be deprived or condemned of life, limb, liberty, estate, property or any ways hurt . . . without a due tryall," Chapter 17 of Concessions asserts.

Almost two centuries later, the 14th Amendment of the Constitution declared that no person shall be deprived "of life, liberty or property without due process of law."

This is but one of a number of striking similarities in the two documents, one document familiar to most American citizens and the other to few.

Historians spoke today, but the star of the gathering was the original handwritten, leather-bound copy of the 300-year-old document itself, still in excellent condition because it so rarely leaves the vault in Burlington, where the Council of Proprietors of West Jersey zealously guards it.

Concessions and Agreements was written in England by the New Quaker Proprietors of West New Jersey in 1676 and brought to New Jersey by Quaker settlers in 1677.

PENN SIGNED CONCESSIONS

Most prominent of the proprietors, and signers of the document, was William Penn. There is no record to prove which of the signers granted the Concessions, but many historians say it was Penn.

Harry Emerson Wildes, who spoke here today, says in his biography of Penn that "this remarkable document was the embodiment in constitutional form of the lessons drawn by Penn from his bitter experience in the English courtroom six years before."

Dr. Wildes noted that Penn was a Jerseyan, as a proprietor in England gave years before the King of England gave him Pennsylvania and he assumed his well-known role as founder of Pennsylvania.

In an interview, Dr. Wildes described how Penn and his associates in the persecuted Society of Friends bought out John Lord Berkeley's interest in New Jersey in 1674 for 1,000 pounds. Edward Byllynge, a London brewer and signer of the Concessions, is the Quaker credited with handing over the cash.

When Byllynge developed financial difficulties, Penn and two other Quakers were named trustees for the West Jersey proprietorship, though Byllynge became the first Governor of West New Jersey.

In 1676, Penn persuaded Sir George Carteret, who with Lord Berkeley had been given the New Jersey peninsula in 1664 by King Charles II, to divide the province into East and West Jersey.

COUNCIL STILL IN EXISTENCE

The line runs roughly from Tuckerton on Little Egg Harbor on the Atlantic Ocean through the Princeton area to the Delaware River in lower Sussex County.

The Council of Proprietors of West Jersey was established in 1687 to handle land transactions as land of the original proprietors was bought and sold over the years. The council is still in existence, although now it is primarily a keeper of old deeds and documents. Its headquarters remains in Burlington, which was settled by the Quaker proprietors 300 years ago as the West Jersey capital.

Former State Senator Henry S. Haines, a Burlington real-estate man, is president of the council now. He brought the Concessions with him today, gave everybody a good look, then took the big book back to the vault in Burlington.

The Concessions were never used in West Jersey as a constitution, although they formed the basis for government, human rights and civil liberties until all of New Jersey was merged into a Crown colony in 1702.

The Quaker colonizers said of the Concessions:

"There we lay a foundation for after ages that they may not be brought in bondage but by their own consent, for we put the power in the people."

No 17th-century charter, according to Richard P. McCormick, a Rutgers professor of history, was more advanced in its provisions for a democratic government and guarantees of personal freedom.

So all inhabitants might understand their privileges, the Concessions were ordered "writt in fair tables" in every court in the province and read aloud "in a solemn manner" four times a year by magistrates.

"No men nor number of men on earth hath power or authority to rule over men's consciences in religious matters," the document said, guaranteeing full freedom of religion and separation of church and state.

The document also did the following:

Vested almost unlimited power in an Assembly elected not only by proprietors but also by freeholders and "inhabitants."

Prescribed elections by secret ballot.

Specified that no property or religious requirements restrict suffrage.

Disqualified for life public officials found guilty of fraud.

Ordered trials held in public so nothing could be done "in a corner nor in any covert manner."

Prohibited taxation except by the elected Assembly.

Ordered that Indians accused of crime be tried by a jury of six Indians and six whites.

Burlington, now a quiet town of 12,000 rather than the major river port it was in Colonial days, also will honor the Concessions this year. The little city will sponsor a seminar of historians Sept. 24 on the Concessions as part of the city's own tricentennial.

SUPPORT FOR THE AGENCY FOR CONSUMER PROTECTION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. WAXMAN. Mr. Chairman, a 95-member coalition of consumer and labor groups has launched what they call "The Nickel Campaign" in support of the creation of the Agency for Consumer Protection. Because it will cost the average American just 5 cents to create this much needed agency, the coalition is encouraging thousands of consumers to send nickels and letters to undecided Members of Congress. Their goal is to demonstrate a level of local support that will encourage Members to vote for H.R. 6805.

Their effort, in my view, is a model of what democratic organizing and petitioning under the first amendment is all about. Their chosen symbol—the nickel—effectively makes the point that this controversial agency is indeed small, no matter how much big business opponents exaggerate its size, and that consumer nickels can out-lobby the big-business dollars now being spent.

The nickel campaign was officially started in late June and is scheduled to conclude in early August. The campaign has focused on 84 Representatives. Since many of us who are not on their "swing list" are accidently and randomly getting a few nickels from an ever-eager public, I would like to insert in the RECORD a list of those Members who, in fact, are subjects of this campaign's attention. Unlike some other lobbying groups, the consumer lobby has chosen to openly disclose their lobbying tactics.

I am also submitting a useful article from Congressional Quarterly which summarizes the purpose and scope of this consumer campaign.

The list and article follows:

LIST OF TARGETED DISTRICTS AND REPRESENTATIVES

Alabama, fifth, Flippo.

Arkansas, first, Alexander; fourth, Thornton.

California, 11th, Ryan; 12th, McCloskey; 14th, McFall; 17th, Krebs; 42d, Van Deerlin.
Colorado, first, Schroeder; second, Wirth; third, Evans.
Delaware, AL. Evans,
Georgia, fifth, Fowler.
Illinois, second, Murphy; 16th, Anderson.
Indiana, first, Benjamin; eighth, Cornwell; ninth, Hamilton.
Iowa, first, Leach; second, Blouin.
Kansas, second, Keys; fourth, Glickman.
Kentucky, third, Mazzoli; seventh, Perkins; first, Hubbard; second, Natcher.
Louisiana, fifth, Huckaby.
Maine, second, Cohen.
Maryland, sixth, Byron.
Massachusetts, first, Conte; 10th, Heckler.
Michigan, second, Pursell; 19th, Broomfield; fifth, Sawyer.
Missouri, third, Gephardt; fourth, Skelton; sixth, Coleman; ninth, Volkmer; 10th, Burlison.
Montana, first, Baucus.
Nevada, AL, Santini.
New Hampshire, first, D'Amours; second, Cleveland.
New Jersey, ninth, Hollenbeck; 14th, Le Fante, second, Hughes; fifth, Fenwick.
New York, 23rd, Caputo; 25th, Fish; 28th, Stratton; 32d, Hanley; 36th, Lafalce; 37th, Nowak; 39th, Lundine; 26th, Gilman; 17th, Murphy; fourth, Lent.
Oklahoma, fourth, Steed.
Oregon, third, Duncan.
Pennsylvania, first, Myers; third, Lederer; sixth, Yatron; 11th, Flood; 13th, Coughlin; 15th, Rooney; 24th, Marks; 18th, Walgren; 17th, Ertel.
South Carolina, sixth, Jenrette.
Texas, 10th, Pickle; 14th, Young, 20th, Gonzalez; 22d, Gammage.
Virginia, 10th, Fisher.
Washington, sixth, Dicks.
West Virginia, first, Mollohan; fourth, Rahall; third, Slack.
Tennessee, third, Lloyd; fourth, Gore.
Hawaii, first, Heftel.
North Carolina, 11th, Gudger.
Ohio, 13th, Pease; 18th, Applegate.

[From the Congressional Quarterly, July 9, 1977]

78 Members "Nickeled" in Lobbying Campaign for Consumer Agency

All members of Congress are constantly lobbied. Most are, on occasion, pressured. An unfortunate few have been physically assaulted.

And now, courtesy of the interest groups struggling for the creation of a new federal Consumer Protection Agency, a new verb has been coined. Seventy-eight selected representatives from 33 states are being nickeled.

The word originated, in this context, with the June 29 announcement of a campaign to shower Congress with nickels and letters supporting the bill to establish the agency (HR 6805).

The nickels symbolize the argument of consumerists that the agency would cost the average American only 5 cents to get started. This is in contrast, said Ralph Nader, a leader of the drive, to the millions of dollars "big business" is spending on "massive lobbying and full-page ads."

After the announcement of the nickel campaign, representatives of the 95 sponsoring organizations set up shop in the 78 congressional districts. At shopping centers and bus stops—and in at least one movie line—they collared passersby and asked for their help. Special envelopes containing a pocket for a nickel were sometimes provided.

The campaign was in full swing during the Fourth of July recess, when members of Congress were in their home district. The first measurements of its effectiveness would not be known until Congress reconvened July 11.

But spokesmen for the coalition of consumer groups, labor unions and other organizations supporting the agency bill said they were pleased with the initial response. "The momentum is really contagious," said Kathleen F. O'Reilly, executive director of the Consumer Federation of America, in a telephone interview from Detroit. "It's a tremendously exciting signal that the grass-roots consumer movement is effective."

O'Reilly held a news conference in Philadelphia June 29 to announce the campaign. Then she traveled through target districts in Pennsylvania and Michigan, handing out pamphlets and buttons. The campaign was launched the same day at news conferences in Washington, D.C., New York City, Chicago, Louisville and St. Louis.

Its targets were the constituents of the 78 House members deemed to be "wavering" on HR 6805, to use Nader's words. Their votes, the coalition believes, will determine what happens to the bill.

Before the nickel campaign began, even the supporters of the proposed agency conceded that the bill was in trouble. Despite the personal intervention of President Carter, they were saying in June that the bill would be defeated by 20 to 30 votes if the House were to take it up at that time. The picture was somewhat brighter in the Senate, although opponents promised a filibuster. (*Weekly Report p. 1147*)

House Democratic leaders, expecting defeat for the administration-backed bill, have been reluctant to take it up. Senate leaders prefer House action before they move on it.

As a result of the nickel campaign, supporters hope to see enough evidence of a shift to convince Speaker Thomas P. O'Neill Jr. (D Mass.) to bring the bill to the floor. Although they would like a House vote before the August recess, a knowledgeable staff man on Capitol Hill said a vote would be unlikely that soon.

Of all the persons interviewed by Congressional Quarterly, O'Reilly was the most confident that the vote, when it was taken, would go her way. "I was 80 percent certain before I started the campaign," she said, "and now I'm 98 percent certain."

Everyone else on the consumer side was more guarded in his or her assessment, even though the proponents of H.R. 6805 were encouraged by the early readings from the nickel campaign.

Their reasons for caution are well grounded. Vigorous lobbying, much of it at the grass-roots level, has been conducted by business interests that have opposed the idea of a consumer protection agency since its inception eight years ago. They have been an important factor in thwarting the formation of the agency. But not until this year have they been up against a President who strongly advocates the idea.

The bill's opponents downgrade the effectiveness of the nickel campaign. The whole campaign, said Jeffrey H. Joseph, director of government and consumer affairs for the U.S. Chamber of Commerce, is "symbolic of Nader economics." To send a nickel to Washington, he explained, costs 18 cents—the coin and a 13-cent stamp. "That's the whole problem in a nutshell," said Joseph. The national Chamber and its local affiliates have been among the most active lobbyists against H.R. 6805.

Also in the forefront of the lobbying against the consumer agency has been the National Federation of Independent Business. Washington counsel for the federation is James D. (Mike) McKevitt, a one-term (1971–73) Republican representative from Colorado.

McKevitt refuses to concede that the nickel campaign has made inroads in the early advantage built up in Congress by the flood of mail inspired by business groups. "We feel we're in the fifth quarter of a football game with the score 21–14 in our favor, but nobody blew the whistle yet," he said. "I don't want to be overconfident, but at this point we've got it whipped." McKevitt added later that "nothing's in the bag until the final vote."

He criticized the approach of the consumerists. "Nader by his tactics is losing friends," said McKevitt in reference to a threat Nader made in launching the nickel campaign.

"The 'Nickel Brigade' will make members understand that if they vote pro-consumer here, we'll applaud them," said Nader in his announcement. "But if they vote anticonsumer, consumers won't forget them at election time."

Mark Green, director of Nader's Congress Watch, defended the nickel campaign and claimed it was capturing the attention of the targeted representatives. "The nickel campaign has gotten them off the dime," he said. "The bill now turns on the success of the nickel campaign."

The campaign, Green explained, is employing the same kinds of techniques used in election campaigns. Buttons and brochures are being distributed. Local volunteers are setting up booths in crowded locations, with posters bearing messages such as this: "Help Jimmy Carter and Ralph Nader get a consumer champion in Washington." Sponsors of the campaign describe as being "nickeled" the undecided members whose votes are sought.

Although the impact of the campaign is unknown, it is starting to be felt on Capitol Hill. Mike Podhorzer of the Consumer Federation said he knew of one congressional district from which more than 1,000 nickels were sent in. Many others had sent in between 200 and 500, he said.

The pro-agency forces make much of their limited financing, as contrasted with the far greater resources of the business lobbyists. "We're going to depend on people power, not money power," said Mark Green. The total cost of the nickel campaign—about $15,000—roughly equals the cost of one full-page newspaper ad that the bill's opponents have run, he said.

Jeffrey Joseph of the Chamber denies the consumerists' charges that the anti-agency mail has been a product of business manipulation. On the contrary, he and McKevitt contend, the outpouring has resulted from honest disgust over governmental growth.

"Nader and Co. still need to hold it up to the big, bad guy," said Joseph. "It's the world against Ralph Nader, and they just don't want to admit that." The target list of 78 districts reflects a loss of ground since the last Congress, "and it's Democratic ground," he said.

"Hogwash" is the world McKevitt used to describe the assertion of the agency's supporters that their bill would create a small, inexpensive, non-regulatory operation, an independent consumer advocate within the federal government. "It'll grow in numbers, in budget and in power," he said. "And people are sick of government."

His organization is now concentrating on assuring the votes of 20 to 30 members, McKevitt said. He would not disclose their names. "I don't think it's good strategy," he said.

Supporters of the agency admit that they are playing catch-up against the vote-swaying letters of the opponents. One business lobbyist cited the number of negative House committee chairmen as evidence of the success of the opponents.

One chairman who has switched from support to opposition is Thomas S. Foley (D Wash.) of the Agriculture Committee. "The consumer interests are not defined in the bill," he said in a news release issued by his office. "This opens the way for new bureaucracy to establish a whole new set of nitpicking rules and standards."

But another chairman, Al Ullman (D Ore.) of Ways and Means, might respond to the nickel campaign, an aide said. He has yet to take an official position.

"When your mail is 300-to-1 against, what are you going to do?" said the aide to Ullman, who reported that the first effects of the nickel campaign were being felt. "Three weeks ago, I would have said he was definitely against. But it may be a different ball game now."

HATCH ACT SHOULD NOT BE REPEALED

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DERWINSKI. Mr. Speaker, one of the journalists who is truly knowledgeable on the functioning of our Federal Government is Mr. Herman J. Obermayer, editor and publisher of the Northern Virginia Sun. His publication is read by many Federal employees, serving as it does the Arlington, Fairfax, Falls Church, McLean, and Vienna, Va., areas.

In a front page editorial on July 15, Mr. Obermayer makes a strong case for maintaining the present Hatch Act. The editorial follows:

HATCH ACT SHOULD NOT BE REPEALED

Admitting judgment errors is always unpleasant. Retracting a one-shot editorial is difficult. But confessing to a continuing campaign's unsoundness is downright painful.

This newspaper has consistently supported Hatch Act repeal or modification. I am now convinced we were wrong.

The Hatch Act prohibits partisan political activity by federal employees. It protects civil servants from political intimidation, while limiting an incumbent administration's ability to manipulate the bureaucracy.

We lamented the civil servants' predicament. Although they have the same stake as their neighbors in tax assessments, school budgets, police efficiency and zoning restrictions, they cannot campaign, contribute or hold office. They can vote on election day. That is all.

With the passage of time the Hatch Act's province grew. Today, it also protects elected officials from coercive pressure by government employees.

Both functions are important. Repeal would not mean the end of the civil service system, but it could make Congress a captive of the bureaucracy.

Repeal will sooner or later result in the politicizing of the bureaucracy. If a unionized bureaucracy can force legislators to increase wages, benefits and administrative prerogatives, the structure of American democracy will have been significantly altered.

BUREAUCRATIC CLOUT

Without legal restraints, the bureacracy could become the single most important political force in the country. It is hard to envision a highly educated, goal oriented, well paid, professionally directed and strategically placed government worker group failing to achieve most of its objectives over the long pull.

The intent of the Civil Service Act of 1881 was to make the administration of the law fair, impartial and non-political. Hatch Act repeal will re-politicize it.

The Hatch Act became law just before FDR's third-term campaign. Congressional leaders feared partisan exploitation of the New Deal's burgeoning bureaucracy. They feared the Civil Service Act's reforms might be undone.

In the past 40 years, federal payrolls have grown eight fold. The docile, low-profile public employee unions have become aggressive, belligerent and highly political. They have the capacity to bring all government to a standstill.

PRESSURE POINT

Elected officials respond to public pressure far more quickly than businessmen. It is difficult to imagine politicians turning down pay demands by government worker unions with Hatch Act roadblocks out of the way.

Civil service raises always follow a pattern with everybody getting a piece of the action from top to bottom. High-level bureaucrats have little to gain by standing alone.

Most big cities do not have local Hatch Acts. Many of their economic problems are attributable to the political muscle and ruthless drive of municipal worker unions.

Swollen payrolls, low productivity, archaic work rules and legally permitted featherbedding have more to do with New York's problems than generous welfare programs. Pension contributions cost New York City more than twice as much as welfare.

Although federal employees' political freedom is presently restricted, there is an offsetting freedom from political coercion by either superiors or co-workers. These safeguards will be weakened by repeal.

There are times when a few must sacrifice for the majority's good. Everybody will lose if the bureaucracy becomes the dominant political force in America. Without the Hatch Act, that threat would be real.

WHAT ABOUT CASTRO'S PRISONERS?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. CRANE. Mr. Speaker, the present administration's verbal commitment to the promotion of human rights is certainly commendable. Unfortunately, the application of this commitment in practice has been highly selective, often overlooking substantial violations in Communist countries. A prime example of this blind spot is in Cuba, which today stands as one of the world's most oppressive regimes.

In light of President Carter's moves toward a "normalization" of relations with Cuba, while certain non-Communist countries with fewer violations have had to suffer strained relations with the United States, I would like to insert an article entitled "What About Castro's Prisoners?"

ALLAN C. BROWNFELD—WHAT ABOUT CASTRO'S PRISONERS?

The Carter administration has, unfortunately, been highly selective in its application of "human rights" standards to the nations of the world. Chile, Argentina, South Africa, South Korea and other friends of the United States have been held to a stringent standard. Communist China, Communist Cambodia, North Korea, Cuba and other states unfriendly to the United States have been overlooked. Sen. Mark Hatfield (R-Ore.) recently noted that, "We have a President who has made a lot of speeches about human rights. Well speeches are one thing, but action is another. I have observed that this same President has been very selective in his application of the doctrine of human rights."

In the case of Cuba, what we are overlooking is a brutal regime which has imprisoned thousands for political reasons and treated them in a brutal manner.

2,000 OR 20,000?

In an interview on U.S. television, Fidel Castro admitted that Cuba had between "2,000 and 3,000 political prisoners." State Department estimates put the number at between 15,000 and 20,000. Professor Edward Gonzalez of U.C.L.A., after visiting Cuba, wrote in 1974 that Castro's jails held between 25,000 and 80,000 political prisoners. Soviet dissident Andrei Sakharov estimates that Russia, with a population of 250 million to Cuba's 9.5 million, has about 10,000 political prisoners.

Havana itself has acknowledged that it has 56 prisons and jails, 23 work camps and 108 penal farms. If Castro's estimate of 2,000 to 3,000 prisoners were true, this would mean that each institution would hold only 10 to 15 prisoners.

In a pamphlet entitled "Cuba: Island of Terror" (Published by America's Future, 542 Main St., New Rochelle, N.Y.), Philip C. Clarke, at one time Associated Press Caribbean bureau chief in Havana and a veteran of 35 years in journalism, describes the manner in which a totalitarian state enslaves the Cuban people. He writes that, "Castro boasts of having nearly three and a half million members in so-called Committees for the Defense of the Revolution, or CDR. They act as informers or 'chivatos' who watch their neighbors in every city block and every village neighborhood, and denounce any suspicious act or utterance. Castro counts more than a quarter of a million men and women in his armed forces—the largest in all Latin America. The National Federation of Cuban Pioneers, embracing 1.2 million children of school age, handles indoctrination from kindergarten up . . . In all, there are more than 7 million Cubans who are now watching the remaining 2 million . . ."

In a publication entitled Of Human Rights, a small group of exiled Cuban intellectuals at Georgetown University documents evidence of executions and torture in Cuban prisons. The evidence was gathered by such groups as the International Rescue Rights of Man, Amnesty International and Committee, the International League for the the Inter-American Commission on Human Rights. The latter Commission reported to the Organization of American States on what it called the "inhuman treatment" of prisoners in Cuba during the past five years. Instead of softening its treatment of these prisoners, says the report, the Castro regime continues "to reveal a complete disdain for the dignity of the human beings."

TORTURE AND EXPERIMENTS

The Commission's 83-page report cites evidence of numerous instances of death by torture or through denial of medical attention. In a letter smuggled out of one Cuban prison and delivered to the Commission, a group of prisoners told of being experimented on by Russian, Czech and Cuban doctors. "They come to the cells to weigh us," said the letter. "They observe us, they evaluate our reactions, they alter our metabolism with unknown substances incorporated in the food. We are not men, we are spectres, skeletons covered with skin, human rags. . . ."

Of Human Rights, in its first issue, reprints a letter smuggled from La Cabana prison by Major Huber Matos, a one-time officer in Castro's revolutionary army. In December 1959, he was sentenced by a revolutionary court to 20 years imprisonment after he resigned from the army in protest against Communist infiltration of the Castro government. Matos, who had been a school teacher, is now half-blind and desperately weak in body—but not in spirit. He writes that, "After more than 15 years of harsh imprisonment, the bars and their shadows do not in-

timidate me . . . we belong to another world . . . we are buried in the bowels of the earth."

Matos' son, 33-year-old Huber Matos Jr., conducted a campaign for his father's release—in December 1976 he was ambushed and wounded by a carfull of unidentified gunmen as he entered his apartment in San Jose, Costa Rica. Police blamed the assassination attempt on Castro agents trying to silence him.

Philip Clarke expresses the view that, "Americans could be excused, perhaps, for once having swallowed the myth of Castro the 'agrarian reformer' . . . but such delusions are badly out of place in today's infinitely more dangerous world. Reality has shown Castro to be a savage tyrant capable of carrying out everything in the Communist book from deception to mass murder—and of writing some new chapters of his own."

Yet, in the face of Castro's barbarity, members of the U.S. Senate—such as South Dakotans McGovern and Abourezk—visit him and urge recognition of his government. And President Carter's "human rights" campaign overlooks him as the Carter administration moves, in spite of Castro's aggression in Africa, toward "normalization." Why such a strange double standard exists is something about which Americans should begin to ask serious questions.

H.R. 336

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DODD. Mr. Speaker, I recently had the pleasure of appearing before the Ways and Means Subcommittee on Social Security on a matter of great concern to me.

I would like to call the attention of my colleagues to the problems with the conditions governing the eligibility of blind persons to receive disability insurance benefits and request that my testimony be inserted in the RECORD.

The text of my statement follows:

TESTIMONY OF MR. DODD BEFORE THE WAYS AND MEANS SUBCOMMITTEE ON SOCIAL SECURITY, REGARDING H.R. 336.

Mr. Chairman, I would like to thank you for the opportunity to appear before your committee today to discuss with you and your colleagues the conditions governing the eligibility of the blind for disability benefits.

My foremost reason for being here today is to express my support of the efforts of this Congress and this administration to join with the blind and all of the handicapped to establish once and for all their rightful claim to the status of first class citizens and, likewise, to help them eliminate all forms of discrimination with their attendent barriers—whether they be physical barriers, employment barriers, or financial barriers in general.

In this regard, I might add, this legislation—passed in the Senate on several occasions—which deals with the blind, may raise questions about the impact of the social security disability benefits system on other handicapped groups. It may be that their employment potential has also been adversely affected, and I feel that we should be open to the consideration of this larger situation at a future point in time.

It is for these reasons, then, that I bring to your attention my shared concern with the members of the blind population that the present law fails to adequately respond to the financial disadvantages which confront the blind.

I submit that while the present law endeavors to compensate the blind for loss of earnings, due to their disability, it discourages, at the same time, the gainful employment and, ultimately, the financial independence of this population.

It is my opinion, Mr. Chairman, that we have a responsibility to promote such employment as well as financial security to the degree possible and to eliminate those aspects of the law which act as negative incentives to gainful employment of the blind—otherwise, we do a great disservice to this population and to us all.

I would like to stress that I am aware that it is not the intent of this Congress, nor of this law, in theory, to in any way encourage an individual's subsisting at the poverty level or his remaining unemployed rather than sacrifice the financial security provided by his disability benefits.

However, I would like to bring to your attention my dissatisfaction with the present requirement that limits the income of the blind to $200 per month in most cases, and as little as $140, in some cases, in addition to their disability benefits.

I am further distressed to know that the present law makes no allowances for the individual who establishes himself as a working, tax-paying member of society but who is limited by his disability to a relatively low-paying position or who, as a result of his disability, is forced to take a considerable cut in pay.

This individual is exempt from consideration for disability benefits for his loss of income, and I believe that we have the opportunity here to rectify such situations.

An illustration of such cases is an individual who wants to work and who is offered a job which pays $300 per month, for example. First of all, this will be taxed money. Were he not to take this job, he could remain unemployed and collect in the neighborhood of $262 per month, tax free. I might add that this figure is based on the social security estimate of the average disability benefits payment.

On the other hand, this individual could decide—rather than take the job—to supplement his benefits with a part-time job with earnings of anywhere from $130 to $200 per month, depending on the particular circumstances of his case. This would bring his monthly income in the range of $392 to $462. The majority of which is tax free. There is no incentive here for this person to accept the initial job offer.

The most striking aspect of this kind of speculation is that in the case of a disabled individual who is limited to earnings in the range of $130 to $200 because of limited skills or his disability, the prospect of a salary increase of a minimal amount would potentially disqualify him from continued benefits and, in effect, reduce his income by more than half.

It is not surprising, in my estimation, that an individual would choose to by-pass such employment opportunities, whether it be a raise or a position advancement, if it were to severely reduce his income. I think it is clear that the present system for qualifying for benefits on what is largely an all or nothing basis is unrealistic and counterproductive.

A more reasonable alternative to this situation would be to offer a reduced benefit payment to the individual who has the opportunity to advance his position and his earning potential.

I would like to emphasize to the committee, Mr. Chairman, the fact that I am not convinced that a proposal to extend benefits to those who are ineligible under the present requirements should have to provide across the board benefit payments of like amounts for the unemployed, the low income, the middle income and the high income blind population.

Rather, I would like to ask that the committee consider, in its review of the proposed amendment to title II, the possibility of incorporating a graduated scale of payments, which would have a designated ceiling at which point payments would be superfluous and cease.

In this way, Mr. Chairman, I think that we would eliminate the implicit and explicit barriers to the gainful employment of the blind, while retaining the necessary financial security and providing an incentive to the blind to improve their employment possibilities and promote their personal, financial independence.

THE OSHA ALBATROSS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. BAUMAN. Mr. Speaker, one of the fruits of Congress passion for establishing regulatory bureaucracies to handle every conceivable aspect of American life is the throttling of small businesses by the Occupational Safety and Health Administration. Since Congress established OSHA, the horror stories of nitpicking and useless rulings against small businesses by the agency have made headlines across the Nation's press.

Secretary of Labor Marshall's recent announcement that small businesses employing 10 or less people will now be exempt from part of OSHA's paperwork requirement is one small step in the direction of sanity. The Star-Democrat, of Easton, Md., one of my district's leading newspapers, recently commented on this issue. The editorial summarized the issue in the commonsense fashion the people of the First District would like very much to see more in evidence on this illustrious floor. I commend the editorial to the attention of my colleagues:

THE OSHA ALBATROSS

The paperwork mountain constructed by the federal bureaucracy is finally being scaled—down, that is.

It could do much to revive small business enterprise in this nation.

Two months ago, the U.S. Labor Department ordered the Occupational Safety and Health Administration (OSHA) to stop its nitpicking and concentrate on serious health and safety hazards in business and industrial plants.

Small business had lamented many of OSHA's regulations which were sometimes so costly to implement as to gobble up a small firm's profits.

On Tuesday, the Labor Department went one step further, again taking OSHA to task.

Labor Secretary Ray Marshall announced that the nation's 3.4 million firms with 10 or fewer employees would be exempt, starting next year, from filling out OSHA's complicated and time-consuming health and safety forms.

Marshall also called for public comment on a similar plan to halve the paperwork burden for an additional 1.5 million businesses with more than 10 employes. The two moves together could save business $100 a million a year, Marshall estimated.

The impact of Marshall's orders, particularly on small business, could be immense, economically. OSHA, in its zeal, imposed health and safety requirements with bureaucratic abandon, many of which were impractical and-or ridiculous.

Under the Labor Department's new orders, small businesses, theoretically, will have to continue to comply with the job safety and health regulations, but they won't have to maintain the records detailing their compliance.

Large firms have hired safety inspectors and additional office personnel to assure compliance with OSHA regulations and to maintain the necessary records. Small businessmen simply can't expand payroll for nonrevenue producing personnel and we have known some who, under the OSHA burden, have simply thrown in the towel and called it quits.

The removal of the OSHA albatross from the neck of small business could provide a significant stimulus to that segment of the nation's commerce.

And as small business goes in the United States, so do we all.

VICTOR LASKY PUTS IT IN PERSPECTIVE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. ASHBROOK. Mr. Speaker, Victor Lasky's best selling masterpiece, "It Didn't Start With Watergate," is again given sharp focus in an important book review. Despite the efforts of the New York Times, the Washington Post, and their ilk to downplay the important message of this nonfiction analysis of "other" Presidents, the American people have taken it with the seriousness it deserves, rewarding author Lasky with the honor of being one of the Nation's best known and admired authors.

Mr. Lasky has traveled the United States with his gracious wife, Patty, to promote the book and, more important, to promote the honesty of its message in bringing some balance to the feverish attack of the media against former President Nixon. Just this past weekend out of the mouth of a Texan who evidently wants to meet his Maker without the taint of L. B. J.'s big scandal on his heart comes one more vindication of the pages of "It Didn't Start With Watergate." The Lasky book told all about the infamous Coke Stevenson campaign that launched that other President the press treated differently.

Barron's, the national business and financial weekly, had an execllent review of the Lasky book in its June 27 edition. I include it at this point with these remarks:

WATERGATE: VICTOR LASKY PUTS IT IN PERSPECTIVE

(Reviewed by John Chamberlain)

What was Watergate all about? Victor Lasky accepts the verdict of Nicholas Von Hoffman, who, though he bears no love for Richard Nixon, has laughed it off as "a third-rate cover-up of a third-rate burglarly attempt." The mystery is that it convulsed the country, even though nothing happened at Watergate that had not previously happened in spades under every 20th Century President from Franklin Roosevelt on down to Lyndon Johnson.

Victor Lasky's conclusion, based on most voluminous documentation, is that Richard Nixon was clobbered for what had, unfortunately, become standard operating procedure under "strong" presidencies. This does not absolve Nixon; it merely puts a lamentable business into perspective. And what a lurid perspective, as Lasky develops it, it is.

In the circumstances that had prevailed during earlier "imperial" presidencies, the anti-Castro Cubans who staged the original 1972 break-in at Democratic National Committee headquarters would have been let off with minimal fines, if they had been pursued at all. The Cubans were seeking evidence that Fidel Castro was interfering in U.S. politics. No doubt the Watergate "higher-ups," such as Howard Hunt and Gordon Liddy, deserved punishment for manipulating the Cubans, but what was Watergate to justify turning the nation upside down for two critical years? Was it worth the loss of the war to the Communists in Southeast Asia? Was it worth the death of a million Cambodians?

Victor Lasky would admit that Nixon was technically guilty of an impeachable offense in trying to protect his "jackass" friends in the White House. But the Nixon lies, as they were exposed by the tapes, were those of a rattled man trying to be loyal to dummies. As Lasky says, other Presidents before Nixon had lied. Johnson lied about Vietnam, Franklin D. Roosevelt lied about not getting involved in foreign wars, Eisenhower lied about the U–2 flight, and Kennedy lied about the Bay of Pigs. In each of these cases, far more was at stake than at Watergate, where, as Lasky observes, nobody died.

In choosing Nixon over McGovern in November of 1972, despite the Watergate break-in, the voters had spoken. What puzzles Victor Lasky is the excess of zeal with which a vindictive Washington press corps, in league with a few Democratic politicos, worked overtime to reverse a landslide election result. The same press corps and the same politicos had accepted, with great complaisance, far worse White House invasions of the peoples' civil liberties throughout the Kennedy and Johnson Administrations. Indeed, as Lasky has put it pithily, "it didn't start with Watergate."

BEGAN WITH FDR

When did it start? The business of phone tapping, Lasky tells us, began with Franklin Roosevelt and Secretary of the Interior Harold Ickes. As with Watergate, the bugging was not always successful: in 1936, a GOP security expert uncovered a phone tape in the office of the Republican campaign chairman, John Hamilton. Roosevelt bugged as he pleased, authorizing taps on the home phones of his own advisers, Harry Hopkins and Tommy ("the Cork") Corcoran. It was not that Roosevelt distrusted his lieutenants. What concerned him was their wives' propensity to gossip.

Harry Truman was bored with a transcript that had Mrs. Corcoran making appointments with her hairdresser, but he did not cut off the Corcoran tap. More than 175 reports overheard on this tap were delivered to the White House prior to 1948.

The dirty business of phone tapping flourished in the Kennedy and Johnson years. Martin Luther King was pursued by electronic buggers even to his hotel rooms. Goldwater was bugged in 1964 by a Johnson Administration that managed to get copies of his speeches before they were delivered to Goldwater himself. Anna Chennault, widow of Flying Tiger General Claire Chennault, had her phone tapped when she was raising money for the 1968 Nixon campaign. And Senator Kenneth Keating, when he was annoying John F. Kennedy with attempts to prove that the Soviets were moving atomic weapons into Cuba, didn't dare talk in his own office for fear that an electronic spy was at work on the premises.

Victor Lasky pushes his investigations far beyond the business of electronic surveillance. "Imperial presidents" before Nixon used the Internal Revenue Service to harass political opponents. Roosevelt tried to "get" Charles Lindbergh by setting the IRS on his trail, but Lindbergh, who always spent weeks on his own tax reports, proved that he had overpaid his taxes as a matter of generosity to a country which he loved.

Lasky wonders about the hypocrisy of Democrats on the Ervin committee who were so incensed at the Nixon cover-up of Watergate. After all, they had sat mum in the Senate when efforts were made to push a real investigation of the Bobby Baker case. Republicans such as Connecticut's Senator Lowell Weicker might have tried to broaden the scope of the Watergate investigation to include all phases of the "imperial" presidency. But they muffed the chance. They let their man in the White House go down in disgrace for doing what had been commonplace in Democratic Administrations.

Lasky mentions Franklin Roosevelt's far from neutral behavior in the days before Pearl Harbor plunged us into a war that Roosevelt wanted. But, though Lasky cites William Stevenson's recent "A Man Called Intrepid" in a footnote, he neglects a story from that book that Nixon might have used to show that Presidents, in times of acute stress, broke the law in the national interest. When the German battleship Bismarck was loose in the Atlantic, threatening to cut the British lifeline in 1941, Roosevelt put U.S. Navy planes and personnel at the disposal of Churchill in hunting for the Bismarck's whereabouts. It was a U.S. Navy ensign, Leonard Smith, who spotted the Bismarck and signaled her position to the British Admiralty. We were not then at war with Germany. But Roosevelt got away with his impeachable act. Nixon was not so lucky.

A CITIZEN'S PLAN TO RESTORE CHECKS AND BALANCES TO THE FOURTH BRANCH OF GOVERNMENT

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. LEVITAS. Mr. Speaker, much has been said about the growth of the fourth branch of Government, the regulatory agencies made up of civil servants not responsible to the electorate and in some cases responsible to no one. A concerned citizen, McNeill Stokes, has proposed a plan to establish a system of checks and balances for this fourth branch of Government and thereby insure greater accountability by these agencies to the public and to the other branches of Government.

Mr. Stokes, an attorney from Atlanta, Ga., brings to this study his perspective of dealing with the regulatory agencies for many years. Most recently, he argued the case of Irey against OSHA before the Supreme Court which questioned the constitutionality of OSHA on the basis of the seventh amendment right of judicial review with jury trial.

In his proposal, "A Citizen's Plan to Restore Checks and Balances to the Fourth Branch of Government," Mr. Stokes outlines a seven-point plan, three of which I have excerpted for the review of my colleagues. His other recommendations include a check on agencies' attempts at unlimited search warrant powers, independent administrative law judges, simple uniform rules of practice for all agencies, and education programs to be conducted by the agencies to help citizens understand their rules and regulations.

I commend this study to the attention of my colleagues for their serious consideration:

A CITIZEN'S PLAN TO RESTORE CHECKS AND BALANCES TO THE FOURTH BRANCH OF GOVERNMENT

INTRODUCTION

The Founding Fathers viewed government as the enemy of freedom and they restricted the scope and power of government. Jefferson said, "That government is best which governs least." When they had won their freedom from England, they formed a government of limited powers. They drew constitutional lines that instituted checks and balances to prevent the President, Congress or the courts from assuming all power. This separation of federal powers was further strengthened by the division of powers between the states and federal government.

Nearly all of the Founding Fathers knew that there is more to fear from government oppression than from the excesses of the private sector. As Thomas Jefferson said, "The natural progress of things is for liberty to yield and government to gain ground." Perhaps their vision was especially clear because they had just freed themselves from the same kind of bureaucratic burden we now carry.

In order to act affirmatively and to carry out innumerable social action programs, it has become necessary to create a bureaucracy, a fourth branch of government made up of servants not responsible to the electorate and in some cases responsible to no one. This is a new threat to freedom brought on by social action which it was designed originally to promote. There are no checks and balances on the bureaucracy which has become a dominant force in the federal government. While only about 400 laws were passed by Congress last year, over 60,000 pages of regulations which have the force of law were promulgated by the bureaucracy. We have slipped under a Napoleonic Code which is published daily in the Federal Register.

In our highly interdependent society there cannot be complete freedom from government, but we must preserve freedom under government. Few could seriously contend in our modern technological society that the government should not provide for reasonable protection against securities fraud, or guard against price-fixing and unreasonable restraints of trade. Nor could the government abandon machinery for the orderly process of collective bargaining. We must, however, shift emphasis of the bureaucracy from penalizing and stifling citizens to aiding citizens.

It is obvious that our society has achieved a new stage of maturity. It is no longer young. It is middle-aged. We are in an age of transition moving toward greater interdependence and a more industrialized and urbanized pattern of life. There is no need to bemoan our fate. There is no turning the clock back. The question is how our ancient virtues can be inculcated in people on a new stage, under different circumstances, in a new setting. We must understand the issues and continue to draw the line between government interference and personal freedom.

The line must now be drawn by our generation. It may well be that the value of freedom is only truly appreciated after it is lost. I hope not. I hope that we appreciate freedom before we lose it and that we struggle courageously to protect it at every turn. The challenge before us now is to make the transition to freedom under government. We have inherited freedom from previous generations and it is our heritage and obligation to leave a basic freedom to future generations.

One basic concept of our constitutional form of government which has been ignored in the past in setting up administrative agencies has been the concept of checks and balances which restrain the power of the other three branches of government. Too often, agencies combine the roles of legislator, policeman, prosecutor, judge and jury. Administrative agencies are not subject in a meaningful way to the checks and balances of the three constitutional branches. The concentration of the various forms of power in one agency is a dangerous experiment in a democratic society. History has shown quite clearly the abuses that can result from such a concentration of the executive, legislative and judicial functions. If one agency of government can be the legislature, policeman, prosecutor, judge and jury in determining penalties against its citizens, then much of the checks and balances of the Republic will have been lost.

In the implementation of agency policy, we need to restructure basic legislation undergirding many legislative schemes which emphasize penalizing citizens rather than aiding citizens to comply with the law and its policy. Unless some remedial action is taken, the trend apparently is to adopt more and more schemes of implementation which are tied closely to the penal factor. With the low reputation of bureaucrats in general, and Washington bureaucrats in particular, held among our current society any spirit of cooperation or good will is totally destroyed by the penalizing attitude prevalent among many agencies. Surely this is not the most effective or efficient way for the government to educate or encourage efforts by citizens for the betterment of society.

I believe that the final end of government is not to penalize citizens, but to do good. The following are some suggestions as to how we can reform the bureaucracy and restore the principles upon which our government was established.

THERE MUST BE LEGISLATIVE REVIEW BY ELECTED OFFICIALS OF AGENCY RULEMAKING

The pattern is often repeated in which Congress passes a law aimed at a problem, sets up an agency to deal with the problem, funds the agency with large amounts of money and then delegates the head of the agency the "power to promulgate such rules and regulations to effectuate the purposes of this Act." With those words and its unlimited delegation, the checks and balances of the legislative branch are lost because the elected officials have delegated the making of the law of the land to some faceless bureaucrat who is responsible to no one.

Under formal rulemaking a citizen can present the agency his views. But he is often ignored and there is no meaningful way for a citizen to check the bureaucracy's determination even if that citizen is a member of Congress. And the problem is compounded because the bureaucracy knows it. If a citizen wishes to change a rule, the normal tendency is to contact his congressman or senator. The citizen usually gets back a reply in which the congressman may agree or disagree, but the congressman normally says that the regulations were made by an independent agency and not within his power to change. If Congress did have a practical ability to change an agency's regulations, then the bureaucracy would be much more responsive to the individual's needs, and the elected representatives could not pass the buck and say there is nothing they can do.

We must provide for meaningful legislative review of agency rulemaking authority. The present format of providing for judicial review of rulemaking is meaningless. The courts are simply not set up reflect the public judgments. Courts are basically set up to handle and review disputes. The courts may determine if the agency followed its procedure but the courts cannot function like the legislature and dictate public opinion. Nor does the congressional oversight process provide a meaningful way to influence agency action. Oversight hearings simply impose a distasteful day during which the agency head must testify before Congress and then he goes back to running the agency the way he did before the hearing.

One of the key changes necessary in agency rulemaking is to give the Congress ultimate control of agency rules and regulations. This ultimate control could be provided by the congressional veto contained in the Administrative Rulemaking Control Act introduced in the last two sessions of Congress by Congressman Elliott Levitas of Georgia, as well as others. This concept, which has found great favor in Congress, envisions putting the representatives elected by the people back in legitimate control of making all of the law, including administrative regulations and rules which have the force of law. While the magnitude of administrative rulemaking is obviously too great to expect Congress to be actively involved in the making of all regulations, and indeed this would contradict the concept behind delegating rulemaking to the agencies, an ultimate veto over agency rulemaking would mitigate against unchecked bureaucratic arrogance. It would encourage more deliberate consideration by the agency of their rules before they are proposed and adopted. While the details of this plan could be fashioned in many different manners, and there is considerable controversy about setting up of such a veto scheme, the need to restore the legislative checks and control on rulemaking should be pursued as a primary goal for the future.

Another control on rulemaking which desperately needs to be adopted in more permanent form is a requirement of an economic impact statement before the adoption of new regulations. Just as Congress must keep in mind fiscal restraints of its actions, so must agencies be aware of the economic effects of their actions on the government and citizens. This requirement which has existed on a temporary basis for the last few years would add much less of a burden to the rulemaking process than the burden currently imposed on American citizens by the many regulations which are hastily adopted without any knowledge of their economic considerations. This concept needs to be expressed in legislation applicable to all agencies, rather than applied on a hit and miss basis under an executive order, as is presently the case.

THERE MUST BE JUDICIAL REVIEW OF AGENCY ENFORCEMENT

The ultimate restraint on agency enforcement action is effective judicial review of agency action. While some enabling statutes provide for judicial review of agency rulemaking and adjudicatory decisions, the judicial review requirements are haphazard at best. However, under the current state of the law, that is virtually the only authority upon which reliance can be placed for judicial review, since the Supreme Court in Califano v. Sanders, 45 U.S.L.W. 4209 (1977), ruled that Section Ten of the Administrative

Procedure Act, does not afford an independent grant of jurisdiction to federal district courts.

In the Third Circuit Court of Appeals case of Frank Irey, Jr. v. OSHRC, 519 F.2d 1200 (3rd Cir. 1975), the issue was the right to judicial review with jury trial under the Seventh Amendment. Although that issue was lost in the Supreme Court, the majority opinion on the en banc Third District Court of Appeals was very instructive on the need for judicial review by agencies:

While the prospect of burdening the courts with large numbers of appeals is a matter of concern from the standpoint of efficient judicial administration, we think experience demonstrates rather conclusively that in cases of this nature de novo review is seldom requested. It is the availability of the remedy, not its infrequent utilization, which is important to the cause of justice. The mere existence of a local fire department is a source of satisfaction to a citizen, even though he would hope that he would never be forced to seek its assistance.

We perceive no overriding consideration which favors the congressional policy of recent years to insulate administrative adjudication from the open and searching examination that full judicial review provides. The necessity for an administrative agency on occasion to submit its determination to the scrutiny of a jury of citizens would be a healthful and discipling experience.

A VINDICATED CITIZEN SHOULD BE REIMBURSED ATTORNEY'S FEES

A restraint that is desperately needed to discourage harassment and vindictive prosecutions by agencies vested with the sole discretion on how and when to prosecute violations and regulations, is the award of attorney's fees and costs to citizens who are successful in resisting an agency prosecution where the citizen is involuntarily dragged into court or an agency proceeding. As an example, the Privacy Act and Freedom of Information Act provide for attorney's fees to be reimbursed where the citizen substantially prevails in a suit brought against the agency for violation of those Acts. If attorney's fees for an offensive suit by the citizen are justifiable, then reimbursement of attorney's fees are even more justifiable to a citizen who is hauled into a proceeding by an agency, subject only to that agency's sole discretion.

The plight of a litigant against an agency is pointed out in a case of Beall Construction Company of Lincoln, Nebraska, in which I was involved. The company received a $244 penalty for an alleged violation of the Occupational Safety and Health Act. Mr. John Beall did not contest the fine because he felt that it was not economically practical for him to hire a lawyer to appeal the citation and proposed penalty through expensive and burdensome appeals. Because he did not contest the citation, basic fine and abatement order set by the inspector in the field, it became a final adjudication and was not subject to further review by an agency or court. Mr. John Beall then wrote a letter to Senator Carl T. Curtis (Nebraska) supporting his proposed amendments to the Occupational Safety and Health Act.

Several months later, the Area Director of the Occupational Safety and Health Administration in Omaha, Nebraska, spoke on the telephone to Mr. Hugh Beall, also of Beall Construction Company, and Mr. John Beall's brother, accusing him of writing a letter to Senator Curtis criticizing the Act. Approximately three days later, federal inspectors reinspected the work site and alleged that Beall had not abated the safety violations. Beall was fined $750 per day for each day the safety violation had not been corrected, which amounted to $31,744. This is a high price to pay for exercising a citizen's constitutional right to communicate with his elected representatives. Mr. Beall had to take the offense to prove himself innocent and contest the daily penalties, which as a small businessman, he found depressing, since the fine was more than double his annual income.

In a dissent by the Chairman of the Occupational Safety and Health Review Commission, Robert Moran, he found that Beall had been so wronged by the government overreaction, that the citizen should be entitled to attorney's fees. Chairman Moran labelled the government's announcement of its proposed penalty by press release "extraordinary and deserving of comment." Noting that Beall had been subjected to "personal embarrassment and loss of business reputation as a consequence of complainant's publication of the unjustified charge", Moran thought it only just that the "Commission should not close its eyes to such abuses", but should order OSHA to pay Beall's attorney's fees and other expenses connected with its defense. The issue was then taken to the Eighth Circuit Court of Appeals and the Court held that without statutory authority, attorney's fees could not be awarded, even to this citizen who had been so grossly wronged.

There simply must be remedial legislation passed, similar to legislation that has been passed in recent years in the Privacy Act and the Freedom of Information Act to provide for attorney's fees for a vindicated citizen who successfully defends against all the might and power of an agency of the United States Government.

CONCLUSION

Action must be taken now to revitalize and restore the principles of government long ago established in the Constitution. Although system of checks and balances still governs the daily acts of the judiciary, the Congress, and the President, our government is clearly threatened by the unparalleled growth of the bureaucratic fourth branch of government to which the other constitutional branches of government have willingly ceded sweeping powers.

The Supreme Court's recent decision in the Irey case that agencies may exercise the judicial power without providing judicial review and trials by jury, foreshadows a day when other basic rights of liberty from government oppression may be lost to this fourth branch, unless action is taken now to stem the tide of bureaucratic power.

Normally, law abiding citizens are incensed at the idea of having to expend large sums of money to comply with ridiculous and meaningless regulations, and they are frustrated by the enforcement procedures which far outweigh a citizen's opportunity to contest, and which go far to break his will to contest.

The stakes are higher in this challenge to restore the checks and balances to the fourth branch of government. Our action will either set the highwater mark beyond which the police powers of the executive branch of government cannot go without providing the constitutional guarantees, or our inaction will be the breach in the dike and set off a virtual tidal wave of unchecked agency rulemaking and enforcement procedures which force a citizen to surrender cheaply rather than fight dearly.

Respectfully submitted.

McNEILL STOKES.

VIETNAM, THE U.N. AND CHINA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DERWINSKI. Mr. Speaker, as the Members know, I am a supporter of the United Nations, but I recognize that there are imperfections in that body. The administration's Asian policy is, in my judgment, in total disarray. Among the glaring misdirections are moves to placate Vietnam and the continuing moves to placate the dictatorship of the People's Republic of China.

The Chicago Tribune addressed this subject in their lead editorial of July 27, and I insert it in the RECORD at this point:

VIETNAM, THE UN, AND CHINA

Having duly flunked the major qualifications for membership in the United Nations, Vietnam will be elected at the fall session of the General Assembly.

This would be a shocking travesty of the purposes of the UN if one were still capable of being shocked by anything the UN did. According to its charter, membership is open to "peace-loving states which accept the obligations contained in the present charter." The charter is based on "faith in fundamental human rights" and on "the dignity and worth of the human person." The Carter administration has adopted human rights as a key criterion of its foreign policy. Viet Nam is a country created by an aggressive war and maintained by the wholesale violation of human rights in what was formerly South Viet Nam.

Yet absurdity is so normal at the UN that scarcely an eyebrow was raised when the Carter administration dropped American opposition to Viet Nam's membership and the Security Council recommended it.

In practice, the standards for admission to the UN are about as stringent as those for admission to the State Street subway. It contains such peace-loving countries as Libya, a notorious troublemaker, and such champions of human rights as Uganda, Cambodia, Albania, and Ethiopia.

So we may as well accept the UN for what it has become in practice—a forum in which every country has a voice regardless of principle; a place where a two-bit dictator can make a speech and have it translated simultaneously into five languages on the theory that having had his moment of glory he will forego any aggressive tendencies he may have.

Fair enough. If the UN is to serve only as an amoral escape valve for world tensions, then it is probably reasonable enough to accommodate the sinners along with the saints.

Which brings us to Taiwan, a country of 17 million inhabitants [bigger than most UN members]—a country that has never conquered anybody, has a thriving free economy, and demonstrates a good deal more respect for human rights than most UN members. Taiwan was thrown out of the UN in order to turn China's seat over to the mainland government in Peking, the principle being that a country is entitled to only one seat and that Taiwanese membership would conflict with Peking's claim to sovereignty over all of China.

Which, in turn, brings us to Byelorussia and the Ukraine, which are full-fledged charter members of the UN even though the Soviet Union [and everybody else] considers them part of it. Moscow has certainly never felt that their membership conflicted with its sovereignty; in fact, they were admitted at its insistence.

What is the difference in principle between Taiwan's membership and the Ukraine's? Or is it just that the Ukrainian delegate happens to vote the way Moscow tells him to and a Taiwanese delegate would not listen to Peking?

But here we are wasting time trying to judge the UN on the basis of logic and fairness. We should have known better.

CONGRESSIONAL SALARIES, BENEFITS, ALLOWANCES, EXPENSES

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. ARMSTRONG. Mr. Speaker, during the past several months the House has taken several actions to make more information available regarding the operation and cost of House committees and the offices of individual Members. However, as a practical matter, the actual amount of congressional salaries and allowances is still a mysterious and controversial matter to most of the general public.

From time to time, my constituents ask for information on this subject. I have, therefore, prepared the following report on the costs of running my office:

SALARIES AND BENEFITS

Members of Congress are paid an annual salary of $57,500, an increase from the prior level of $44,600. For reasons which I have previously made clear, I disapprove the increase. It is unjustified and untimely; the backdoor means by which it was initially granted, without a vote of the Congress, is improper, in my opinion. I particularly object to raising congressional salaries during the current term of office. Members should forego the raise until after the next election. In my own case, I have decided to donate the amount of the raise to worthwhile private charitable causes for the balance of my current term of office.

Group life insurance coverage is automatically provided—monthly payroll deduction of $46.14—unless declined. Members are eligible to participate in the Civil Service Retirement System—payroll deduction of eight percent. Limited medical services are provided without cost in the Capitol while health insurance coverage is available on a voluntary basis. I participate in group life and retirement coverage, decline health insurance.

FACILITIES

Each Member is furnished space—usually three rooms—in one of the House office buildings in Washington and is entitled to one or more offices in his home district. I maintain two such offices: one in Aurora, the other in Colorado Springs. Office furnishings, decoration, plants and various services—research, maintenance, folding, radio-television and so forth—are also provided. Parking facilities are furnished to each Member and some staff.

In Washington, each office is permitted to have $9,000 of electrical and mechanical equipment such as typewriters, dictating equipment, etc. Each district office is entitled to lesser amounts of equipment.

STAFF ALLOWANCE

During 1976 the staff allowance available to each Member of the House was $243,724.00. Of this amount I authorized spending $179,693.09 to employ staff in Washington and Colorado; $64,030.91 remained unspent.

MAILING

Members of Congress are permitted to mail under frank—that is, under their own signature—and, in addition, are supplied some regular postage stamps. During 1976 my office did not receive any such postage.

TELEPHONE

Each office was permitted to use up to 125,000 units of long distance telephone service—each minute of long distance service equals 4 units—per Congress. During 1976, my office used 107,673 units. Each office was also given access to a Federal Tele-Communications System line, without charge against the unit allowance, for long distance telephoning before 9 a.m. and after 5 p.m. on weekdays. District office telephone service consists of fulltime FTS service and commercial telephone.

TRAVEL

Members of Congress received reimbursement for one round trip between the Member's home district and Washington at the beginning of each session. During each Congress, Members were permitted reimbursement for up to 26 additional round trips. Each office was also allowed a maximum of 6 round trips for staff travel.

OTHER ALLOWANCES

Each Member was given $6,500 per regular session to cover the cost of stationery and office supplies and $500 per quarter for district office expenses. These allowances were taxable income but Members were permitted to deduct the actual cost of expenses incurred whether more or less than the allowances. The following is a summary of allowances and expenses in my office during 1976:

Allowances:	
Travel	$9,105.52
Stationery	6,500.00
District office	2,000.00
Miscellaneous	4,246.91
Total	21,852.43
Expenses:	
Travel	$6,366.26
Office supplies and miscellaneous	9,399.10
Dues, subscriptions	1,689.06
District office	776.73
Entertainment	924.81
Miscellaneous	691.71
Total	19,847.67

CONCLUSIONS

Although I do not think Members of Congress can or should be preoccupied with the administrative details of their office operation, we have a duty to hold the cost of our own operations to a reasonable level and to set an example of cost-consciousness for other agencies of Government. It is for this reason that I have prepared the foregoing report.

DEMOCRATS TREAT ETHICS AS A PARTISAN MATTER

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. McCLORY. Mr. Speaker, the danger of a lopsided majority in the Congress of the same party as the President of the United States appears clearly in the manner in which charges against the Director of the Office of Management and Budget have been handled.

Mr. Speaker, the contrast between this obvious "appearance of impropriety"—even impropriety itself—and the unfair and purely partisan criticism directed to our former colleague and former Secretary of the Army Howard "Bo" Callaway is illustrated clearly in the editorial which appeared Saturday July 30, in the Daily Courier-News published in my congressional district in Elgin, Ill.

Mr. Speaker, I am attaching copy of that editorial for the edification of my colleagues and in the hope that greater objectivity and less partisanship will characterize any future similar incidents of this administration:

AS WE SEE IT—QUESTION OF ETHICS AND PARTISANSHIP

"I'm not sure I agree that the appearance of impropriety should be enough to convict government officials of wrongdoing. But it is."—Jim Polk, NBC.

Well, it is and it isn't. If, in this post-Watergate era, the appearance of impropriety were enough to convict a public official, budget director Bert Lance would be well on his way home to Georgia, or at least in boiling hot water with the Senate Governmental Affairs Committee.

But Mr. Lance, despite all sorts of appearances of impropriety, has just been given the committee's okay and the sympathy of its chairman, Senator Abraham Ribicoff. If one suspects that something other than the appearance of impropriety is necessary to convict, one suspects rightly. And that something happens to be partisan politics.

Mr. Polk whom we quote above, was the NBC reporter who in 1976 unearthed the fact that President Ford's campaign manager Howard "Bo" Callaway, while Secretary of the Army met with agriculture department officials to discuss a forest service decision concerning Snodgrass mountain in Colorado, which Mr. Callaway in partnership with others wished to develop.

Two months later Senate testimony unanimously confirmed that in no way did Mr. Callaway "offer . . . anything of value or threaten or pressure" any one in regard to any decision affecting Snodgrass mountain. But so much for official testimony, which came too late to help Mr. Callaway, who had by then not only resigned from Mr. Ford's campaign but also retired from politics, his reputation ruined. All this because Mr. Polk presented a fact—that Mr. Callaway once met with agriculture department officials to talk about his Colorado property—in a political atmosphere that induced everyone to believe the worst of Mr. Callaway.

As Jim Houghan illustrates in the current issue of Harper's magazine, this atmosphere was created by certain citizens around Snodgrass mountain with the help of Colorado Senator Floyd Haskell, who happened to chair a subcommittee with jurisdiction over the area.

The subcommittee's report, though full of the facts exonerating Mr. Callaway, nevertheless criticized Mr. Callaway's "behavior" and called the whole incident "a sorry history of partiality and favoritism," The report was approved 5 to 4—5 Democrats for; the four Republicans against So did partisan politics finish the job on Mr. Callaway that the "appearance of impropriety" had started.

It is a commentary on the state of affairs in Washington that Mr. Lance, guilty of the new political sin of "appearance of impropriety," will not suffer the fate of Mr. Callaway. Mr. Lance and his National Bank of Georgia "appears" to have benefited from one, perhaps two "sweetheart" loans. Mr. Lance "appears" to have profited unusually by the Teamsters' Central States Pension Fund, a fund still under labor department investigation. And Mr. Lance "appears" to have used his cabinet office to benefit old banking contacts.

Mr. Lance should be grateful that he is a Democrat and that Democrats these days occupy all the high places. And that, despite the tortuous moralizings of his boss, the President, ethics is still a matter of politics.

REPENT AT LEISURE

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. DEL CLAWSON. Mr. Speaker, leisurely repentance by the House of Rep-

resentatives is a luxury the American people can ill afford in the opinion of some of us in the House. It is a point we may have seemed to belabor recently, and, therefore, it is good to note outside support for that point of view in an editorial appearing in today's issue of the Wall Street Journal. The column is included at this point in the CONGRESSIONAL RECORD with strong endorsement for its central theme:

REPENT AT LEISURE

Speaker Tip O'Neill intends to get the Carter energy package passed this week even if it means keeping the House in session 10 hours every day. No wonder he is in a hurry. Congress begins its August vacation Friday and if the House postpones the vote and takes a month for sober reflection, it surely will kill the energy scheme.

Seldom has such a legislative mishmash gone so far. It is not overly pessimistic to estimate that it will inflict a half trillion dollars in unnecessary costs and taxes on Americans over the next eight years. It will certainly increase, rather than decrease, U.S. dependence on imported fuels. It will throw the electric utility industry into such a state as to practically guarantee frequent power shortages in the 1980s.

And yet Tip O'Neill wants the House to hurry. But lest we seem too harsh on the Speaker, it should be noted that speed at the expense of sanity has characterized the energy program from the start. A White House energy team, employing a dubious set of economic theories, threw it together in a scant 90 days. The resulting confusion was such that administration officials initially quoted widely varying figures on how much tax they planned to levy on industry and how much oil and gas they hoped to save as part of the program to convert industry and electric utilities to coal.

No one asked whether it was humanly possible to get an extra 600 million tons of coal in the time allotted. Or how much it will really cost to equip the coal-burning utilities with scrubbers. Or what you do with all the sludge and how you get all the limestone for scrubbing?

The proposed $1.75 per thousand cubic feet price ceiling that now will apply to both intrastate and interstate sales of gas was plucked out of thin air. Only later was an unconvincing rationale offered. Gas men say that since it is at least 25 cents under the present marginal price for gas, it will mean less, not more natural gas production.

The House has done little better. Ways and Means voted to apply the "gas guzzler" tax on big cars to "retiring" the national debt, not bothering to explain how you start retiring a debt before it stops growing. The master work in terms of speed was Tip O'Neill's hand-picked ad hoc Energy Committee. He loaded it with the likes of Henry Reuss and John MOSS, who adore the kind of political manipulation of economic resources the package so richly embodies. The committee didn't lay a finger on all the absurdities. In the best tradition of South Boston politics the Speaker truly "delivered."

Almost anyone could make a rough calculation of the costs this slipshod work will inflict on an already wavering economy. But for a detailed analysis we turn to Milton R. Copulos of the Heritage Foundation. His cost figures are in billions, for the first eight years 1978 through 1985, unadjusted for depreciation of the dollar:

Tax on oil, less rebate	$56.1
Taxes of natural gas	44.2
Gasoline taxes (new 4-cent tax plus extension of present 4-cent tax)	58.8
Gas guzzler tax	10.0
Coal taxes	1.81
Added cost of imported oil	57.8
Added federal income taxes caused by energy cost inflation	98.0
Utility coal conversion costs	50.6
Total	377.31

It is possible to quibble with some of these numbers. The existing gasoline tax, although due to expire, is not an added cost. It may be reaching a bit to include a number that represents added personal income taxes as taxpayers move into higher brackets because of inflation attributable to the energy package. And if utilities and industrial plants convert to coal quickly enough they will escape some tax penalties.

But the numbers are probably conservative, particularly since they make no allowances for generalized inflation. There also is no allowance for the amounts consumers could save, mainly through not having to switch to more expensive fuels, if Congress deregulated natural gas prices. Half a trillion dollars as the cost of the energy package is not unreasonable.

What will all that money buy? Maybe some aid for troubled federal welfare and Social Security programs. A little help for mass transit, although judging from the fantastic costs of the recent mass transit projects, that's no bargain. A bonanza certainly for folks who make scrubbers or sell coal or limestone. Additional contentment for the Arabs.

It will also buy a greatly expanded energy bureaucracy and just quite possibly, a whopping big recession that will sweep Mr. Carter and his fellow Democrats out of office. Tip O'Neill has every reason to be worried about the possibility Congress will give the package more thought than it has so far.

PAYMENTS IN LIEU OF TAXES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. OBEY. Mr. Speaker, I am today introducing a very simple bill to correct a serious inequity in the Payments in Lieu of Taxes Act (P.L. 94-565). This law was passed a year ago to authorize annual Federal payments to local governments to compensate them for tax revenues lost because of the tax-exempt status of Federal lands within their boundaries. Payments were to be made on the basis of a formula which took into account the number of acres of Federal land and the amount of current receipts returned to the State or local areas. However, a last minute amendment to the bill excluded certain lands from being counted for purposes of computing the long overdue Federal payments. The effect of this provision in the law is that many areas, including several counties in my district, will not be compensated adequately for the services that local governments must provide to maintain and protect these Federal lands and the people who use them.

The bill that I am introducing eliminates the exclusion of Federal lands that were tax-exempt prior to the time the Federal Government took them over. The effect of my bill would be to count all existing Federal land located within the boundaries of local governments as eligible for payments in lieu of taxes. It will restore the original intent of the payments program and recognize that Federal compensation should be provided regardless of their prior status of lands which the Federal Government now owns.

I think that it is fair to say that the amendment which my bill seeks to repeal was not subject to an extensive debate. While it appeared to be harmless at the time it was proposed, the fact is that its effect is to deny just compensation to local governments for up to 40 percent of the Federal lands that fall within their boundaries.

The basic issue comes down to a question of equity. If local governments must supply such services as road maintenance, fire protection, law enforcement, health facilities and rescue operations to federally owned lands, there should be some compensation provided by the Federal Government. That is the principle embodied in the Payments in Lieu of Taxes Act.

It makes no sense to draw a distinction between lands that were on tax rolls before the Federal Government took them over and lands that States or local jurisdictions held as a result of private tax delinquencies. The Federal Government received these lands for national forests, national parks, wilderness areas, and other public purposes without regard to their prior tax staus. In my district, most of these lands that were so-called tax-exempt were actually held by local governments for a brief period during the depression years of the 1930's when people who owned them could no longer afford to pay property taxes. Local officials had to assume the lands. They had no choice in most cases. And instead of reselling them to private interests, local officials transferred the lands to the Federal Government so that the natural resources could be developed for public purposes.

Today those lands, regardless of prior tax status, are maintained in part by local tax dollars. The financial burden on local governments has been a difficult one to bear. Local taxpayers have had to shoulder the expense of services on lands that do not produce tax income on their own. But the Congress recognized the problem last year and designed a program to help. I want to simply insure that the program works properly and equitably.

That is what my bill seeks to do. It will amend the law to allow all otherwise eligible Federal lands to be counted for payment purposes. The bill does not change any other provision of the law as enacted last year. But it will make a big difference in the assistance it provides to local governments. In addition, it will relieve much of the administrative confusion and paperwork that have been generated by the existing exclusion in the law.

I hope that this measure will get an early hearing and can be brought to the House floor as soon as possible. I urge my colleagues to join me in support of it.

Thank you.

NO FORWARDING ADDRESS FOR FORD/MITRE STUDY GROUP

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. TEAGUE. Mr. Speaker, the Ford/Mitre study entitled "Nuclear Power: Issues and Choices," released in March of this year has been frequently quoted and been used as the basis of much new energy policy.

In March of this year the Committee on Science and Technology's Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration invited members of the Ford/Mitre study group to testify at a hearing in an effort to explore the conclusions reached by the group.

After the hearing, the staff of the subcommittee mailed 14 pages of questions related to the information contained in the report, "Nuclear Power: Issues and Choices," to the study group for further elucidation. No answers to the questions have been received by the subcommittee and none can be expected in the future because the study group has disbanded. No provisions were made for responsible reply to questions or to substantiation of data included in the report.

The subcommittee questions encompassed the areas of resource—supply—international/proliferation, timing for breeder technology, reprocessing, demand, import policy, coal mining and transportation, and environment, health and safety.

A complete set of the subcommittee's questions is contained at the back of the Committee on Science and Technology's print entitled "ERDA Authorization Hearings for Fiscal Year 1978 on Nuclear Power: Issues and Choices."

These queries are extremely relevant to the upcoming vote on the Clinch River breeder reactor because they intensively question the basis upon which a deferral of the CRBR was recommended.

An example of the kinds of questions which the subcommittee staff sought to have answered are included below:

You state that the Clinch River Demonstration Plant is not necessary in a restructured program and "could be cancelled without harm to the long term prospects of breeders." Yet you also state that the restructured program should emphasize base technology. Have you investigated, and with whom, the relationship between a base technology program and a demonstration plant which embodies the base technology? Do you believe that an effective base technology program can be carried on indefinitely without integral demonstration of the technology?

You write that a premature demonstration of a non-competitive breeder could be detrimental to its ultimate prospects. This implies that it will some day be possible to build a fast breeder demonstration plant which will be competitive when built. Do you believe that? Does the idea of looking at many different breeder cycles but not putting any of them into demonstration plants leave one on solid ground relative to deployment?

If, despite domestic banning of plutonium, other nations proceed to use plutonium as a fuel, how much different will the risk of terrorist use of plutonium within the United States be than if plutonium were permitted to be used in the United States?

Mr. Speaker, I seriously question the conclusions of the Ford/Mitre study because in the summary that the study group presented before the Fossil and Nuclear Energy Subcommittee they stated:

The report does not deal with the immediate problems of petroleum and natural gas supplies, but taking a longer view of the energy economy emphasizes that the world is not running out of energy.

There will probably prove to be considerably more uranium available at competitive costs in the future than presently is estimated.

The report further concludes that these anticipated long-term increases in energy costs will not have a fundamental effect on economic growth and need not affect basic lifestyle.

These are very lofty assumptions on which to base the indefinite deferral of nuclear fuel reprocessing and the construction of the demonstration breeder at Clinch River.

The Ford/Mitre conclusions were given substantial credibility in the development of the administration's new energy proposal. Without the benefit of having members of the study group available to substantiate their recommendations with further information, I ask all of my colleagues to consider the upcoming decision on the Clinch River breeder reactor in a more realistic framework.

TAXPAYERS SHOULD NOT BE FORCED TO SUBSIDIZE THE PERFORMING ARTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. CRANE. Mr. Speaker, a new special interest is gathering its forces together to lobby for its chunk of the Federal pie: the American performing arts. Various proposals have been put forward including the addition of a new check-off box on the Federal income tax form for funding of the arts.

While the arts in America are a deserving cause worthy of support and encouragement, Federal subsidization is not the answer. Patrick Buchanan, in his Los Angeles Times column of July 24, 1977, argues persuasively against Federal funding for the arts. His premise—that those who enjoy should underwrite—while somewhat optimistic, is one which should be considered with care before we act on this issue.

The article follows:

TAXPAYERS SHOULD NOT BE FORCED TO SUBSIDIZE THE PERFORMING ARTS

(By Patrick J. Buchanan)

WASHINGTON.—Buffeted by rising prices and reduced private giving, the performing arts are in uncharted and perilous seas. So writes Robert Brustein, dean of the Yale School of Drama.

"Almost all of the people I talked to expect a serious depletion in the ranks of symphony orchestras, opera companies, resident theaters, dance companies and ballet groups over the next few years," laments the dean in The Sunday Times.

But this tale of woe is not a tale of suspense. The outcome is never in doubt—an anguished cry for federal funds. Joseph Papp, formerly of Lincoln Center and of the Vivian Beaumont Theater, is used as Brustein's barker.

"Papp is convinced that the only answer to his and others' problems lies in massive infusions of federal funds—sums not just in the millions but in the billions."

Citing the "indignity of raising cash," Papp rages, "It's a disgrace for us . . . to have to go begging for money."

Apparently judging himself something of a national treasure like, say, the Gettysburg battlefield, Papp fires a shot across the President's bow: "In the same way he's conserving fuel, he must conserve these resources." And if Mr. Carter is not cowed? "I'm going to abandon my operation at the Beaumont and I wouldn't be surprised if some of the other performing institutions join me. Imagine what this country would be like without its cultural institutions."

In short, unless the feds get together the scratch pronto, Joe just might lead the ballerinas and sopranos in a general strike—ultimate weapon of the proletaria. (Cellists of the world, unite!)

Papp needs reminding of De Gaulle's observation that the graveyards are full of indispensable men. Should he run off tomorrow in pique and join a Trappist monastery, one imagines the Republic would survive.

And yet, Brustein details a disheartening situation, and raises a serious question. Should taxpayers bail out the performing arts?

My answer is no. Given its financial crunch, there may be a weeding out process in the performing arts. But that might be healthy. They are not going to perish. There are too many people with too much money who have an ongoing interest.

A federal bailout would also be inequitable. After all, two weeks back a revered institution, The National Observer, sank beneath the waves with half a million aboard—and there were no life preservers thrown from Washington. In years past, the cultural institutions of the middle class in this city, ancient book stores, old movie houses, small theaters, have gone under without a parting blessing from Uncle Sam.

This is not to demean the performing arts, which add appreciably to the quality of life. It is to raise a counter question. Why should the working class underwrite with tax dollars the entertainment favored by an educated, affluent elite? How many middle class families with four children in Queens, for example, can afford $135 for an evening at the Metropolitan Opera?

Would the loss of Papp and his crowd to New York be mourned more than the departure of "The Boys of Summer"—the Brooklyn Dodgers? If New Yorkers were made to choose at the ballot box which should be subsidized and survive—would it be the Met or the Mets?

In an age of cable television, tapes and cassettes, families will soon have Shakespeare and Shaw in the living room. Already, at $1.95 a paperback, you can have shelves full of Hemingway, Faulkner and Fitzgerald. For a few dollars at the local record store one can find an album with a half-hour of Beethoven or the Boston Pops.

In saving the performing arts, Pope Leo XIII's principle of subsidiarity should apply. Let the arts turn first to those who benefit most—their customers. Next, let them turn to private foundations and public corpora-

tions. Then to local governments—lastly to state government.

But if Joe Papp cannot find salvation there he has no claim to be subsidized in his current calling by dunning the working people of Peoria and Yazoo City.

CONCERNING HUMAN RIGHTS IN EL SALVADOR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. CONTE. Mr. Speaker, a number of my colleagues and I have been concerned about recent reports of threats made by a rightist terrorist group against Jesuits in El Salvador.

As a result of the concerns expressed to our State Department by myself, the gentleman from Massachusetts (Mr. DRINAN), and others of our colleagues, our Government has officially expressed its concern for the safety of these Jesuits to the Government of El Salvador. I am pleased that the Government of El Salvador has taken precautions on behalf of the Jesuits, and has assured our State Department that nothing will happen to these people that is within the power of that government to prevent.

I know that we are all grateful for this assurance, and will be counting on our Government to continue to monitor the situation in El Salvador.

At this time, Mr. Speaker, I would like to insert in the RECORD copies of correspondence between Secretary of State Vance and Father James Connor, S.J., the president of the Jesuit Conference, concerning this issue:

THE SECRETARY OF STATE,
Washington, D.C., July 21, 1977.

Rev. JAMES L. CONNOR, S.J.,
President, Jesuit Conference,
Massachusetts Avenue NW., Washington, D.C.

DEAR FATHER CONNOR: I was glad we had an opportunity to meet on July 8 to discuss the threat made by a rightist terrorist group against Jesuits in El Salvador and other human rights problems in that country. As you recall, we mentioned initiatives already taken both in Washington and in El Salvador. We also affirmed that such demarches would be made again and that a special mission to discuss these issues with the President of El Salvador would be made by Deputy Assistant Secretary Richard Arellano from our Bureau of Inter-American Affairs.

Immediately after our meeting, Assistant Secretary Todman called in the Salvadoran Charge to state the strong reaction of the United States Government and people to the White Warriors Union's ultimatum and our hope that the Government of El Salvador would make a clear statement denouncing the threat to the Jesuits' lives. The Charge promised to convey the gravity of our concern to his Government.

Deputy Assistant Secretary Arellano flew to El Salvador early last week to speak directly with President Romero on this subject and on human rights issues, generally. He stressed that the United States is deeply disturbed by the threat to the Jesuits and the striking absence of a public statement by the Government of El Salvador repudiating the threat.

He also inquired about actions taken to protect the Jesuits. He was informed that the Government of El Salvador had taken precautions on behalf of the Jesuits and was given assurances that nothing would happen to them that is within the power of that Government to prevent. In addition to regular patrols, the Jesuit High School, at President Romero's suggestion, has employed private guards. (He felt that Government forces might be blamed should any incident occur while they were used to protect the clergymen.) We were also told that a roving patrol had been ordered to provide protection for the Catholic University. President Romero stated that these actions were discussed with the Provincial Head of the Jesuit Order, who is satisfied that adequate protective measures have been taken.

With respect to the expulsion of foreign priests, President Romero said that he has made it known that Church vacancies can be filled with foreign priests so long as the Government is able to clear the names beforehand. He added that expelled foreign priests could not return to El Salvador, but Salvadorans in general, including priests who voluntarily went into exile, such as the Alas brothers, can return at any time.

As evidence of his general perspective, President Romero pointed out statements in his inaugural address which he said reflected his intention and commitment to improve the socio-economic conditions of the Salvadoran people. He said he would speak frankly to any press correspondent inquiring about the Government of El Salvador's actions to protect the Jesuits. We are hoping that such an interview will take place soon, to air publicly Government dissociation from the threat to the Jesuits.

In light of these actions, we believe that the Department and Embassy have made strong representation regarding the specific threat to the Jesuits and respect for human rights in general in El Salvador, even when Americans are not involved. You recommended that an Ambassador not to be appointed to El Salvador until the human rights situation improves in that country. As I indicated in our discussion, we recognize that such a decision might have some short-run, symbolic value. However, we feel that the greater the complexity of our relationship with a country, the more important it is that we have high-level, highly responsible representation to its government. Since we seek to have an effective influence on developments in El Salvador, we wish to have strong representation for doing so.

Please be assured that the Department will continue to monitor events in El Salvador as closely as possible and seek to continue to exert a positive influence on the developments there.

Sincerely,

CYRUS VANCE.

JESUIT CONFERENCE,
Washington, D.C., July 23, 1977.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In the name of all the religious and lay leaders who have been associated with me in concern for the situation in El Salvador, I write to express profound gratitude for the actions you have taken, as described in your letter of July 21, 1977.

As recently as yesterday, a telephone conversation with a key Jesuit in El Salvador assured us that the government has, in fact, taken extensive measures to guarantee the safety of the Jesuits. Regular patrols are heavily deployed in the area of the University, the high school, and the Jesuit residence.

I am especially grateful for the final paragraph of your letter, in which you say that "the Department will continue to monitor events in El Salvador as closely as possible and seek to continue to exert a positive influence on the developments there." This answers to a current apprehension, namely, that once the spotlight of public attention dims groups like the "White Warriors" will attempt to have their way.

The long-term good for El Salvador, of course, is a social, economic, and political order wherein all members of that society can live and work with freedom, justice, and equality of opportunity. It is to this goal that the Churches and Jesuits in El Salvador are committed. Jesuits and other Churchmen in this country will be working to assist this long-term Salvadoran effort of reorganization.

As the State Department continues its efforts to promote the selfsame ideals for Salvadorans, please be assured of our most willing cooperation.

Gratefully,

(Rev.) JAMES L. CONNOR, S.J.,
President.

AIRBAG CHEMICAL IS A POISONOUS, HIGHLY FLAMMABLE "HAZARDOUS MATERIAL"

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. SHUSTER. Mr. Speaker, if the mandatory airbag/passive restraint order stands, millions of cars could be traveling American roads with a canister containing 1¼ pounds of sodium azide, a poison so deadly that if inhaled or exposed to cuts, can cause convulsions and death according to the Library of Congress and the Office of Hazardous Materials. (Attachment 1.)

Sodium azide is a chemical compound (NaN3) used to inflate the airbag. In a frontal crash a tube from the airbag canister is broken, causing sodium azide to be mixed with a metal oxide which, in turn, causes a harmless explosion that inflates the airbag.

Sodium azide is designated as a Class B poison and is, therefore, a "hazardous material" under title 49, Code of Federal Regulations. It is described in the Condensed Chemical Dictionary as "highly toxic; severe explosion risk when shocked or heated."

I want to emphasize that according to the Library of Congress and the Office of Hazardous Materials, sodium azide does not appear to present a danger when enclosed inside the airbag canister and when properly activated to inflate the airbag.

However, it presents a serious danger if the canister is opened, broken or leaks, and someone comes in contact with sodium azide.

If, for example, a mechanic gets sodium azide in a cut on his hand, or transmits the material to food, or breathes the dust, he can be poisoned. According to the Library of Congress, one part sodium azide per million in air has produced a toxic response in animals, that is, a rapid change in blood pressure, followed by convulsions, followed by death.

DOT's Office of Hazardous Materials has cautioned that a cigarette, or spark, or match, could ignite the sodium azide and produce a fire that burns faster and with greater intensity than gasoline. They said that when mixed with an oxidizing agent, sodium azide produces

a rapidly burning material approaching black powder in intensity.

The environmental impact statement submitted by NHTSA on the airbag states on page 27:

Use of this substance complicates the problem of disposal of vehicles. Under no circumstances should the live (nonfired generator be scrapped with the rest of the body. If left in contact with lead or copper, the azide may react with these metals forming lead or copper azide. The National Institute of Occupational Safety and Health has warned that 'lead azide is a more sensitive primary explosive than nitroglycerine and a more effective detonating agency than mercury fulminate; in comparison with lead azide, copper azide is even more explosive and too sensitive to be used commercially."

Copper wiring under the dashboard and lead components in the steering column are both close to the canister.

The real danger exists, therefore, with people tinkering with cars, with the 8.5 million cars that are junked each year, and the 1.5 million cars abandoned each year. NHTSA acknowledges on page 45 of its final ruling that one of the "most significant consequences" of its mandate is "the use of large amounts of sodium azide as the generator of gas for airbags." It even admits in its environmental impact statement:

. . . abandoned vehicles with active inflator systems may present a safety problem to youths, vandals, and persons seeking replacement parts for their vehicles.

NHTSA lightly passes over the problem by saying "The Department will work with the Environmental Protection Agency to develop appropriate controls for the disposal of airbag systems employing sodium azide." But how do you control a dangerous material in millions of cars?

This problem was called to my attention in a letter from Mr. J. N. Beckley, an independent consulting engineer from Warren, N.J. We checked Mr. Beckley's credentials and found him to be a highly regarded professional who designs drug and chemical research laboratories.

He wrote:

The airbag is not an airbag. It's a bomb! It contains one and one-quarter pounds of high explosive which will be available to any kid in every abandoned car.

It was Mr. Beckley's prodding that caused us to turn to the Office of Hazardous Materials, the Library of Congress and others for more information on the dangers of sodium azide in airbags. While I believe the canister provides substantial protection against misuse of the chemical, the danger cannot be completely dismissed. Allied Chemical Company has informed me that they will not produce a sodium azide canister because there are "too many risks." I understand that there might be alternatives developed but they must be thoroughly tested in real-world experience.

NHTSA's handling of this matter adds fuel to the suspicion that, despite any evidence to the contrary, the NHTSA policymakers came to their jobs determined to mandate the airbag/passive restraint system.

I must object to the mandatory order on additional grounds today. Sodium azide, the chemical compound contemplated for use in the airbag presents a risk to the American people which has not been adequately addressed.

[Attachment 1]

CONGRESS OF THE UNITED STATES,
Washington, D.C., July 28 1977.

Hon. BUD SHUSTER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SHUSTER: The following confirms and summarizes the major points of the discussion we had on the potential dangers of sodium azide as it is used in the production of air bag automotive restraint units with Dr. C. Hugh Thompson, Chief, Regulation Division, Office of Hazardous Materials Operations, Materials Transportation Bureau, U.S. Department of Transportation, and Charles Schultz, Chemical Engineer with the same office. This discussion took place on Tuesday, July 26, 1977.

1. Sodium azide is classified as a Class B poison by the Materials Transportation Bureau; as such, it is a "hazardous material" under Title 49, CFR, Parts 100–199.

2. The Materials Transportation Bureau believes that "definite controls should be exercized on this hazardous material."

3. The disposal of sodium azide is a very serious problem which would come under the jurisdiction of the Environmental Protection Agency in accordance with the Resource Recovery and Conservation Act. However, since the EPA has not yet identified hazardous wastes, the control that could be exercised over disposal programs is questionable.

4. The hazards associated with sodium azide fall into two general categories:

a. It is a highly toxic substance. Ingestion could be fatal. Sodium azide dust that might settle on the ground or machinery could be toxic if breathed. Additionally, such dust, if transmitted to a worker in the area, could be fatal if such dust were transmitted to food consumed by the worker. If introduced into the blood stream through a cut or break in the skin, similar toxic symptoms could result.

b. It can create a very serious fire hazard. When sodium azide is mixed with an oxidizing agent, it produces a rapidly burning material approaching the intensity of black powder. It is much faster burning and more dangerous than burning gasoline. Thus, the introduction of a burning cigarette, match, spark or other igniting agent could produce devastating results.

5. In addition to the disposal problems mentioned above, the transportation of junked cars by trash haulers presents a regulation problem in that many small trash and waste haulers are not registered to transport hazardous materials. Thus, the potential exists for millions of automobiles, containing sodium azide, to be transported in non-compliance with federal regulatory procedures.

6. Sodium azide, when mixed with battery acid, produces hydrazoic acid, a very toxic, highly explosive material.

7. The cannister containing the sodium azide, itself, is classified as either a Class B or Class C explosive. Defective cannisters, permitting a leak of sodium azide, could produce a serious explosion.

Sincerely,

RONALD K. ENCE,
Minority Professional Staff Member.

THE FLIGHT FROM EXCELLENCE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. O'NEILL. Mr. Speaker, I would like to submit for the RECORD the commencement address of Dr. John R. Silber, president of Boston University. Boston University is one of several universities located in the Eighth Congressional District of Massachusetts. I am extremely proud to represent BU and I ask my colleagues to read the timely and insightful remarks of Dr. Silber:

THE FLIGHT FROM EXCELLENCE

Excellence and the visibility of excellence at Boston University are matters of great pride to all of us. We pursue our policy of excellence not casually, as a temporary exercise, but with commitment, as an expression of fixed policy. No independent university with limited endowment will survive the coming decade of demographic decline unless it is both excellent and perceived to be excellent.

But it is not only or even primarily our concern for the survival of Boston University that explains our commitment to excellence. The pursuit of excellence is also essential to our national survival.

Excellence is the only standard that can sustain a free society. It has become necessary to defend excellence because in several crucial areas our society has entered into the dangerous embrace of mere adequacy. We are engaged in a headlong flight from the best.

By this I do not mean that our performance is necessarily becoming worse. In the sports in which a precise comparison is possible—notably field and track—we excel our predecessors with a consistency and regularity that threatens to become monotonous. Men and women have never run so fast, jumped so high, shot so many baskets in a single game. And the excellence of our age is not confined to sports alone. At the same time we recognize what appears to be our prevailing incompetence to teach most children to read and write, we can take comfort in the fact that science and mathematics have never been taught more effectively than today.

Our flight from excellence is not a failure in our general ability to perform, nor is it the consequence of a general desire to accept the mediocre. It is something different and strange. It is profoundly philosophical: we have begun to reject the very notion of excellence as a social ideal. Out of a well-intentioned but inept concern with the equality of opportunity, we tend to reject anything if it exceeds the grasp of anyone. Some might argue that it is our right to engage in this curious flight, and so it is, as individuals and as it concerns only ourselves. The rejection of excellence is undoubtedly a piece of folly, but it is undoubtedly the right of free men to be fools. But do we have the right as citizens in a free society to reject excellence on behalf of others who may not be so foolish? Alarmingly, many of those people and institutions that reject high standards do so in trust for others.

This is flagrantly the case in higher education, and this is especially unfortunate because higher education is popularly and properly thought to be uniquely a repository for high standards.

One of the best known examples of the flight from excellence in higher education is the war against grading. While there are many motives and rationales behind the movement to substitute pass/fail or pass/no entry "grading" for the traditional scales, all begin with the same crucial assumption: that there is no compelling reason to distinguish between excellence and mere adequacy, and that it is wrong—either educationally or morally—to record evidence of inadequacy or failure. A related error is evidenced in the phenomenon of grade inflation, whereby teachers behave as if all students are equally gifted and equally hard-working. It is also reflected in the relaxed indifference shown by so many professors and institutions to the wholesale and retail

distribution of plagiarized materials by corporations selling term papers. In all cases the threat to excellence is obvious, for our refusal to identify excellence will at length render us unable to recognize it or to care about it.

Another example occurred last year, when the City University of New York abandoned open enrollment. It did not return to its earlier admissions standards, but rather established as the minimum qualification for admission the competence expected from an eighth-grade education. This is less an indictment of the standards of CUNY, which was, after all, seeking rather tentatively to step back from the abyss of open enrollment, than an indictment of the high schools. For it should be realized that while prospective students at CUNY must all be high-school graduates and thus have attained a twelfth-grade education, they are admitted even if their competence does not exceed a level appropriate to the eighth grade. Thus, implicit in the admission standards of CUNY is a 33⅓ percent devaluation of the New York high school diploma.

It is to the credit of the City University that it has introduced very extensive remedial programs to upgrade the competence of incoming freshmen. But we may wonder if this extensive remedial work, requiring at least one full year to complete, should be carried on in the context of a great university. It is not higher education, since it is not higher than the work expected of high school students. This work could probably be done more economically and certainly could be done more appropriately by the high schools or community colleges.

It is increasingly obvious that a technologically sophisticated society will need more, not fewer, educated citizens. Post-industrial society will be grim for a functional illiterate, and it will itself be badly disrupted by the presence of large numbers of semi-literates whose skills, if any, are adapted to a world that no longer exists. A restoration of excellence is therefore in the interest of society at large and of each of its members as well.

But it is possible to misuse the concept of excellence in ways that harm society and its members. Simplistically defined, excellence can be a deleterious idea, for it is a remarkably complex phenomenon that is almost certain to be destroyed by reductionistic formulations. The most common type of these formulations is that in which one of the many essential components of an excellence is mistaken for the excellence itself. No one can doubt that an excellent attorney is skilled at the rapid and lucid analysis of cases. But legal education is too often conducted as if this ability were the whole of the law, and the comparatively low level of trial advocacy in the courts is a scandal that has finally begun to attract notice and remedy.

In college admissions, the correlation between success on the SAT and success as a student is too consistent and widespread for us to ignore. But we should never make the error of assuming that someone who can make an excellent score on the SAT will ipso facto be an excellent student, nor that someone who makes a low score will not be. Human ability is far too complex and complicated to be dealt with in this fashion, and we mock all sensible standards when we do.

In determining admission to medical and law schools, we too often fall back on mindless numerology. Scores on the Law School Admissions Test and the Medical College Admissions Test are frequently taken as an adequate measure of a student's ability to succeed as a professional in law or medicine, and as a fair substitute for a careful examination of the applicant's academic record, sense of values, and personal dedication.

But our recognition of the difficulties inherent in the assessment of excellence should not lead us to abandon it. Because tests do not deliver an infallible or even adequate judgment of the ability or potentiality of individuals, we should not conclude that they tell us nothing. Even more important, our difficulties in assessing ability should not lead us to the absurd conclusion that there are no fundamental differences in abilities or potentialities. While rejecting simplistic definitions of excellence, we should not, we must not, reject excellence itself.

Perhaps the most dangerous mistake we make in our present treatment of excellence is to behave as if it were hostile to democracy. This fallacy is most obvious in the commonly voiced charge that educational institutions with high standards of excellence in admissions, instruction, and faculty recruitment are "elitist," a term that for most people is redolent of special and unearned privilege and suggests that these institutions are havens for the probably incompetent offspring of the rich.

Our society is ambivalent about the term "elitism." Outside of sports, elitism is almost always a term of reproach. If by elitism, one means a practice in which a small group are given power over society because of such irrelevant qualifications as birth, riches, race or sex, then it is properly a term of great reproach. But so used it obviously has nothing to do with excellence: in fact, it negates excellence by its substitution of other criteria. The fact that the incompetent members of an unjustly established elite may believe that their presence at the top proves them excellent does not, of course, make them so. Nor does the fact that some people mistakenly believe themselves excellent vitiate the importance of excellence itself.

Our mistrust of excellence as an anti-democratic value stems from certain paradoxes of the democratic condition. We refuse to be governed by an hereditary or oligarchical elite. We rightly believe that our ultimate protection from tyranny is our refusal to be governed except by leaders of our own choosing; moreover, in choosing leaders, we hold that each citizen's vote must be equally valid; even though we do not believe that each citizen's vote is equally astute. In a democracy, we are also committed to the proposition that all citizens have a right to their own opinion, but we must not confuse this principle with the absurd assumption that because all citizens have a right to their opinion each of their opinions is equally valid.

Out of some confused and sentimental perversion of democracy, we sometimes even argue the absurd proposition that people are of equal ability—mentally, physically, or any other way. This nonsense is dispelled by the facts: some people are taller than others, some stronger, some, as Dizzy Dean claimed for himself, have strong backs and weak minds, others, such as Charles P. Steinmetz, have weak backs and strong minds. These variations exist, and the rain falls on the just and the unjust.

To attempt under the banner of equality to level these differences by bringing everyone down would be to embark on a program of indescribable sadism. And to do it by levelling up is patently impossible without God-like powers. An essential part of our heritage is our belief in equal opportunity. But only political demagoguery, sentimental nonsense, or delusions of grandeur could justify a belief in equality of achievement.

There is no doubt that we should do all we can to ameliorate the human condition, but we must do so in acceptance of the fact that that condition is and always will be various.

Democracy is threatened by two contradictory forces. One, from which we have been totally delivered, is the hereditary principle, holding that the best are the children of the best. We have also been largely freed from the related false belief that the best are the rich. Even though our methods for financing campaigns for elective office favor the rich, the poor still achieve high office, both elective and appointive, and millionaires aspiring to high office are at pains to disguise, rather than capitalize on, the impression made by their riches.

The other force, one that poses a direct threat to our achievement of democracy, is a counterfeit and ultimately destructive egalitarianism that considers almost anyone fit for government office. The dangerous folly of this position should be apparent. The persons to be elected to office ought to be better than the average. They ought, ideally, to be the person best qualified. They ought to be better in their moral and intellectual capacities and in their commitment to hard work. This does not mean that they should necessarily be male, college graduates, middle class, white, or indeed members of any specific group. But since lawmakers really are servants of the people, it follows that for the people nothing can be too good.

This eminently populist sentiment is constantly mocked by the establishment of *minimum* qualifications for government office. Mr. Nixon, exhibiting a failing common to presidents of both parties, proposed for the Supreme Court a candidate he could not plausibly claim met more than minimum standards. Senator Hruska helpfully spelled out what this minimum was—the attainment of mediocrity. We are probably in Senator Hruska's debt for this: the disciples of mediocrity are not usually so candid, and the national laughter that greeted the Senator's candor has perhaps been instructive.

The Senator's standards are a hangover from the day when it was overtly understood that public offices were the spoils of the political wars. But it can be continued only on the dangerous assumption that it does not really matter how well the public business is carried on. No one really believes this, of course, and it is never baldly asserted as a principle. But its implicit, even unknowing, acceptance is dangerous nevertheless.

Our inadvertent acceptance of this principle sometimes leads us into peculiar snobberies. We assume that excellence can be more easily found in Hyde Park, New York, than in Independence, Missouri. We consider Harry S Truman as an ordinary man who somehow succeeded in a difficult job. Elegant of manner though he was, Dean Acheson did not fall into this foolish error. His estimate of Harry Truman was that he was "the most extraordinary man I have ever known."

We should, however, be clear that the need to select the best qualified to govern must never be advanced as a pretext for substituting some other form of government on the promise of better performance. Even if one conceded that tyranny could be efficient in any beneficial way, the most inefficient democracy is to be preferred to tyranny of any sort, a judgment most recently confirmed by the people of India in their dismissal of Mrs. Gandhi, and by Mrs. Gandhi herself in her acceptance of their verdict.

But we must not forget that democracy is a form of government, and that it is therefore flawed. Its virtue is merely that it is flawed less seriously than any other form of government. It is a necessary way of organizing the one truly involuntary organization—the state. The necessity of democracy for this purpose does not argue that it is also necessary for organizing the voluntary organizations that make up the rest of society.

In fact, most institutions within a democracy ought to be organized around the principle of excellence. That is, decisions within them ought to be made by those most qualified to make them. Positions ought to be filled by the qualified rather than the un-

qualified. This ought to be a truism that one would be embarrassed to state publicly. Regrettably, it has become a controversial position, especially in higher education, where it is seen as opposed to other, putatively more democratic principles, namely, that decisions ought to be made either by the majority or by those who will be affected by them.

It is easy to see the fallacy of these principles in certain situations. No one is more directly affected by a surgical operation than the patient (who ought, it must be understood, make the choice of whether or not to have it). But only a foolish patient would insist that his centrality to the operation qualified him to direct it. And only a foolish patient would allow his surgery to proceed by means of series of referenda conducted among all those present in the operating room.

As long as intelligence is better than stupidity, and knowledge than ignorance, no university can accept egalitarianism as a substitute for excellence. A university that strives for the commonplace and is content with mediocrity is roughly comparable to a Supreme Court on which seats were reserved for the mediocre. Thus handicapped, these institutions could not fulfill their missions in society.

Speaking on the occasion of receiving an Alumnae Award here at the University, Representative Barbara Jordan pointed out that our confusion has had deleterious effects on the federal government's efforts to aid higher education. She said:

"We have been so brainwashed by an erroneous definition of democracy that we have difficulty in prescribing any program or formula, or giving any grant which is better or more than some other grant, because we don't want to be accused of being antidemocratic by recognizing that some people are excellent. . . . As members of Congress, we should not be engaged in a levelling process. . . We ought to enunciate and promote those policies which would lead absolutely, categorically, and without hesitation, to the best this country has to offer: in vision, in attitude, and achievement."

It is a scandal of our society that we do not organize most of our institutions around excellence. If we did, we should expect that a far higher percentage of the partners in Wall Street law firms would be women, and that approximately 11 percent of our surgeons would be black. It is not uncommon to hear calls for the maintenance of high standards misrepresented as racist and sexist. But it should be obvious that any objection to the maintenance of high standards for women and minorities must itself rest on a patently racist or sexist belief that women or members of minorities are in fact inferior to everyone else, and would be unable to compete successfully if performance were the only criterion at every appropriate stage of development.

It is curious, then, that this objection is most often made by people who would otherwise indignantly reject racism and sexism alike. A rejection of excellence in the interest of women and minorities applies, in effect, a condescending lesser standard to them, and hence is itself racist and sexist.

One striking example of this is in the movement to establish the United States as a multilingual nation. Until fairly recently, the United States was unique in the world as a very large nation covering a great land mass that maintained a single national language with dialects that are easily mutually intelligible. It is remarkable that a nation of such ethnic diversity has not been torn apart by intercommunal violence. Our comparative peace and our single language are almost certainly related: unlike Canada, Belgium and other nations with explosive linguistic problems, the United States has been able to sustain a diverse culture within the context of one official language. Recent attempts to require bilingual ballots strike at this notion of a national language by assuming that it is possible to be a citizen without being able to read the national language as long as one is literate in the language of one's ethnic group. This argument cannot be founded in any theory of right, for if that were the case, each citizen would have the right to have a ballot printed in whatever language he was literate in, no matter how obscure it might be. But no one proposes to require elaborately multi-lingual ballots set forth in all the languages that are native to American citizens. What is being proposed is to exempt one large group of citizens from a requirement that has hitherto been expected of all citizens—the acquisition of some modest competence in the national language. This is to reduce the standard of performance expected of the citizen to a derisory level. It is also to patronize the Hispanic culture by implying that it cannot survive co-existence with the English language.

It also has racist overtones, suggesting that Spanish-speaking American citizens cannot be expected to acquire the same level of competence that was acquired by immigrants from Germany, Italy, Poland, Greece, Russia, and many other countries, and was until recently acquired by all Spanish-speaking citizens.

A similar question arises with regard to the various dialects of English. In 1974, the National Council for the Teaching of English issued a position paper maintaining that students who grow up speaking dialectal variants of English should not be required to learn standard English. Recently a program on public television showed an intelligent and educated young black student who said that it was obvious that students who grew up speaking dialects arrived in school ill-prepared to function in the standard dialect. He did not think that attempts to require these students to use the standard dialect grew out of "overt racism or elitism . . . that's the way it's mapped out by society." Recognizing that the good intentions of such attempts precluded their being overtly racist, he nevertheless left the impression that he considered them part of unconscious societal racism.

Nothing could be farther from racism than requiring students from the ghetto to learn standard English. For this is to treat them as the equals of the great majority of students.

My own experience is perhaps instructive here. Like all native Texans, I had to learn English as a foreign language when I started to school. Later, when I was an instructor at Yale, I insisted on standard English from all my students. I did not exempt recent immigrants to Connecticut from Lithuania, Atlanta, or Pearsall, Texas. None of these spoke or wrote standard English at the beginning of their freshman year, but all them ignernt boys done right good by the time they wuz thew. Later, as a professor in Texas, it never occurred to me to exempt any student, white, black, or Chicano, from the requirement of standard English.

That teacher is a racist who condones the substitution of ghetto English for standard educated English, expecting less of black or Chicano students than of whites. This is a condescension that can have good results in neither the short nor the long term. It is especially disturbing to hear a minority student talking in these terms, for by doing so he greatly weakens his ability to oppose racism. He cannot plausibly use his race as a basis for claiming supposed privileges without provoking others to use the same basis for denying him genuine rights.

It is particularly reprehensible when white professors and white middle-class students encourage black students in the mistaken belief that it does not matter whether they learn to speak and write with educated middle-class proficiency. The white professors and students are shielded by their upbringing from ever having to put their convictions to the test. The minorities will risk remaining partially isolated from the mainstream of their national culture. And they alone will pay the price for the ideological whims of the whites.

Lowered expectations are a threat not only to minorities, but to all our students, since their ability to develop is very largely dependent on the goals we establish for them. They do this by discouraging students from pursuing their educational development as far as they are able. Surely one of the most obvious requirements of a democratic society is that all its members shall have the opportunity fully to develop themselves through education. Some may naively believe that children are naturally imbued with a passion for learning so that as long as they reach the well of knowledge, they will drink as deep as they should, no matter how much we discourage them. All the evidence is to the contrary. Although exceptional children, like exceptional adults, may perform to a higher standard than any set for them by others, normally if we tell children that learning is unimportant, or that it is beyond them, they will almost certainly believe us and proceed to do something else. That something else may be little more than nothing. The ability of our children to achieve self-realization is thus very largely dependent upon the goals we establish for them. Minimum expectations are likely to result in minimum achievement.

But it is not the young alone who need a vision of excellence as a guide to performance. Writing in 1830, Alexis de Tocqueville noted that in ages of faith, people concerned themselves always with a distant supreme goal beyond this life. In doing so, they learn by imperceptible degrees to repress a crowd of petty passing desires in order ultimately to best satisfy the one great permanent longing which obsesses them. When these same men engage in worldly affairs, such habits influence their conduct. . . . That is why religious nations have often accomplished such lasting achievements. For in thinking of the other world, they have found out the great secret of success in this.

But in skeptical ages, Tocqueville continued, the vision of the life to come is lost, a problem that is exacerbated in democracies, where people are set free to compete with each other to improve their situations. In such a combination of circumstances, the present looms large and hides the future, so that men do not want to think beyond tomorrow.

Tocqueville thought it especially important that the philosophers and rulers in skeptical democracies should always strive to set a distant aim as the object of human efforts; that is their most important business.

Tocqueville did not specify the nature of the goals which need to be set in such ages, but we can hardly doubt that such goals, if they are to have sufficient transcendence to give direction and meaning to life, must presuppose excellence and require the best efforts not merely of individuals but of the society as a whole. Lesser objectives would by their immediacy and triviality leave individuals so preoccupied with day-to-day affairs that they would fail to take note of the general direction and conditions on which their future and their children's future depend. That is, in a secular age in which few believe in a life to come, and in which for many God is, if not dead, at best indifferent, a vision of excellence—a secular kingdom of God—in which individuals fulfill themselves through education and useful public service, may be essential.

Tocqueville wrote in an age when philosophers were still occasionally listened to, and in which television advertisers had not replaced both philosophers and rulers as the

most important source of moral law and societal aspiration. It would be over-optimistic to rely on his advice without adapting it to the times. The evidence accumulates that the academy has given up any very serious vocation as a setter and maintainer of standards, and we cannot now easily foresee a time when government recovers from its disastrously low place in the affections and esteem of our people. The time has come for the people themselves to regain the initiative and to call the leaders and the educators back to a vision of excellence.

In my experience it is among those families in which higher education is a recent experience that one finds the greatest demand for excellence in colleges and universities. The cab driver whose son is the first in his family to go to college understands the value of education and abhors its dilution in conformity with the winds of educational doctrine. It is in those who have not yet been corrupted by the educational affluence of our time that aspiration is most apparent and the war against excellence least in evidence.

A rededication to excellence on the part of all our people and our institutions—especially on the part of our universities—is essential. And is especially the responsibility of our universities to evoke that vision of excellence in succeeding generations of students.

PERSONNEL AT THE DEPARTMENT OF ENERGY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mrs. SCHROEDER. Mr. Speaker, as a conferee from the Post Office and Civil Service Committee, I want to commend the able leadership of the gentleman from Texas (Mr. BROOKS) in guiding the conference.

I am happy to say that the Senate accepted completely five of the six amendments dealing with personnel at the Department of Energy which were offered by the Post Office and Civil Service Committee.

The sixth amendment, regarding section 614 of the conference language, is a compromise between a Senate provision, which gave the Department a special pool of 150 civil service supergrades and another permanent pool of 600 supergrades exempt from civil service standards, and the House language which would have placed all Department of Energy supergrades under civil service standards, with a phase-in to the system of those ERDA supergrades who are not now subject to such standards. Section 614 of the conference report authorizes the Department of Energy 178 regular supergrades to be taken from the pool of positions controlled by the Civil Service Commission. It also authorizes 311 supergrade positions at the Department of Energy which will be exempted from civil service standards for a period of 4 years, after which time the Department of Energy, like any other department, will have to justify their need for the positions. I agree with both these compromises; they are quite similar in their intentions to the House passed bill.

I am disturbed, and have noted my reservation in signing the conference report, regarding the third part of the compromise on supergrade personnel. This agreement permanently exempts 200 supergrade positions at the Department from all standards.

This permanent exemption goes far beyond any need the department might claim for flexibility in hiring its top managers and scientists. It is a thrust at the heart of the merit system; and in a department which like all other departments in the Federal Government will have its employees predominantly under the merit system of civil service, will establish a system in which nearly one-fourth of the top ranking employees will be beholden to no person but their employing authority—the Secretary of Energy—and subject to no review of their qualifications—if, indeed, they have any—for these high paying jobs.

The permanent exemption, thus, is hardly the road to accountability in Government. And although I cast no aspersions at any expected Secretary of this department, henceforth we will have to bear in mind the authoirty we have given up to some future Secretary of Energy to staff his agency with up to 200 political cronies or, for that matter, a 200-member children's choir, and pay each of them $47,500 per year.

I think this exemption will be a disaster in practice and is a bad precedent which other agency and department heads may try to propose for their own fiefdoms. It cannot but reflect upon the morale of all other civil service personnel—especially those in the supergrade ranks—who are subject to rigorous job standards and periodic civil service review to see that their jobs merit continuance. I want to assure my colleagues that, as far as the jurisdiction of the Subcommittee on Employee Ethics and Utilization extends to it, this compromise will be a one-shot deal.

TRIBUTE TO REV. JAMES OTIS STALLINGS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1977

Mr. STOKES. Mr. Speaker, I rise on this occasion to pay tribute to Rev. James Otis Stallings of Cleveland, Ohio, who is one of the outstanding leaders in our city. Reverend Stallings has recently resigned his post as executive director of the Cleveland branch of the National Association for the Advancement of Colored People. In this position, Reverend Stallings has stood at the forefront of the battle for civil, economic, and human rights for the black citizens of Cleveland. Mr. Speaker, I am sure that you and my colleagues are aware that Cleveland is currently under a court order to desegregate its public school system. Throughout the NAACP's long and harrowing legal battle with the school system, Reverend Stallings has provided exemplary guidance and leadership.

Mr. Speaker, so that my colleagues in the U.S. House of Representatives can acquaint themselves with Reverend Stallings' notable career, I would like to submit to the RECORD an article which appeared in the Monday, July 25, 1977, Cleveland Press newspaper. I am certain that my colleagues will be impressed by Reverend Stallings' sharp analysis of civil rights issues:

REV. STALLINGS MOVING ON—"BLACK FOLK MUST SEIZE POLITICAL POWER"

(By Emanuel Hughley, Jr.)

The air conditioner hummed, clicking and squeaking occasionally. It did little to cool the small, muggy office.

Boxes of varying sizes were stacked at one end of the room, partially filled with papers, books, photographs and news clippings accumulated through the years.

On the desk lay a clue to the reason for the disarray—a letter from the Howard University theology school, addressed to Rev. James O. Stallings.

The 32-year-old Baptist minister is leaving as executive secretary of the Cleveland branch of the NAACP at the end of the month to do graduate study at the Washington school.

Stallings displayed the weariness of a victorious long-distance runner as he recounted the five years he has spent leading the local NAACP chapter.

He talked of the institutional racism he saw prevalent in Cleveland schools and the desegregation suit that had been filed to end it.

He recalled the Shield Club suit against the Cleveland Police Department which resulted in a federal court order requiring the city to hire and promote minorities. He recalled the commitment the NAACP secured from Kraft Corp., the dairy products company, to deposit $1 million in the city's first black-owned bank, First Bank National Assn.

He spoke of the need for the NAACP's involvement in fostering economic development of blacks and of the need to increase involvement of young blacks in the NAACP.

"I think that black folk ideologically have made a commitment that they will use certain channels in order to fight injustices in the quest for full equality," Stallings said.

"Within those channels, I think black folk are going to have to seize power politically and economically from a style that is unique to them. I think the black community is going to have to become politically more independent and economically more flexible."

The NAACP asserts that one of the keys to obtaining political independence and economic flexibility is quality education.

"If one has a good education, his chances of operating in other fields are much better; his chances at economic flexibility are much greater," Stallings said. "Education for poor people and blacks has been the key that has unlocked other doors."

In the Cleveland school dsegregation case, Stallings said, the NAACP contended that black students have not recevied an education that equals the education received by white students because of racist practices by the School Board.

These practices, Stallings said, so poorly educate black students that many cannot fill out job applications. The practices deny black students adequate math and communications skills that will enable them to pass entrance examinations for building trade union apprenticeship programs.

Though the NAACP has traditionally been viewed as a black middle class organization, its involvement in school desegregation cases has been in behalf of poor inner city blacks.

"The school desegregation issue is not important to middle class black folk because most of them do not have their children in segregated schools," Stallings said. "Most of

them live in the suburbs and their children attend integrated schools or they have children in private schools.

"The vast majority of black folk who are in segregated school systems in our major cities are poor—those blacks who lack the financial mobility to move to the suburbs and have no effective representative or spokesman."

Stallings charged that the School Board assumes black children "cannot and will not" learn and therefore tolerates high absenteeism, and relaxed discipline in the city's mostly black schools.

"The administration on Sixth Street shows that it is racist in the fact that it will tolerate that kind of stuff in a black school when it will not tolerate it in a white school," said Stallings. "Have you ever been to South High School? You'll notice there is a difference in the way South High is operated and the way the black schools on the East Side are operated."

So what does this mean? For the NAACP it means that the only way to insure black children will get quality education is to put them in the same classroom with white children.

"White folks do not give us the same things they give themselves anywhere in this society," Stallings exclaimed.

"The president of the School Board has gone the length and breadth of the city saying the quality of education in the schools is the same. He was asked by the special master (Daniel R. McCarthy) how much is spent per pupil educating children in this system, and he could not answer the question.

"My God, if he cannot answer the question of how much is being spent her pupil, he cannot claim the same amount is being spent for black students as is being spent for white students!"

Though the school desegregation fight has diverted much of the NAACP's energy, Stallings sees the need for future involvement by the 68-year-old civil rights organization in developing economic stability among blacks.

He suggests cooperatively-owned ventures similar to efforts of Rev. Leon Sullivan, a black Philadelphia Baptist minister who organized a nonprofit corporation from members of his church to build a $1.7 million black-owned-and-operated shopping center in Philadelphia's black community.

Stallings also sees the need to increase NAACP membership and involvement among young blacks between the ages of 27 and 35. Though membership in the local chapter has increased during his tenure, Stallings admitted it is weakest among young blacks. The same is true nationally, he added.

"We lost a whole generation of blacks in the Association in the 60's," Stallings said. "You do not find a fantastic number of young blacks involved in the decision making process. We're going to have to reach out and get those folk and bring them back, but they're going to have to do some reaching also."

Mr. Speaker, I would also like to take this opportunity to relate to you some other aspects of Reverend Stallings life.

James Otis Stallings was born January 31, 1945, in Crawford Miss., the son of Mr. and Mrs. John T. Stallings. Educated in the Mississippi public school system, he later traveled to Atlanta, Ga. to attend Morehouse College. While an undergraduate at Morehouse, young James served as chief marshal at the funeral of the late Rev. Dr. Martin Luther King, Jr., in 1968. An excellent student, he received the Benjamin E. Mays debating award and the J. J. Webb oratorical prize upon graduation.

From June 1968 to March 1969, Mr. Stallings was an intern with Friendship Baptist Church in Atlanta. He was also a management trainee with Miles Laboratories, Inc. for more than a year. In April of 1970, he joined the staff of Antioch Baptist Church in Cleveland as associate minister, and in March of 1972, he was appointed executive director of the Cleveland NAACP.

Mr. Speaker, the young and dynamic reverend has been extremely active in religious, social, and educational concerns in the black community. He was the chairman of the Outreach Study Group, Community Advisory Council of the Mental Development Center of Case-Western Reserve University; former member of the board of trustees of the Urban League of Greater Cleveland; member of the board of managers of the University Christian Movement; member of the board of trustees of the Fairfax Foundation; member of the Association for the Advancement of Applied Behavioral Science in Religion; member of the Association for the Study of African/American Life and History; member of the Task Force on Church and Society; member of the Greater Cleveland Inter-Church Council; life member of the NAACP, and member of the Antioch Baptist Church.

Mr. Speaker, at this time I would like to call upon my colleagues to join with me in thanking Reverend Stallings for his unselfish devotion to the citizens of Cleveland. As a young man, he has many more mountains to climb and challenges to meet. He has made an indelible mark on our city.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extension of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 2, 1977, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:00 a.m.

Armed Services

Manpower and Reserve Affairs Subcommittee

To hold hearings on NATO posture.

1114 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold joint hearings with the Select Committee on Intelligence on drug testing by the CIA.

1202 Dirksen Building

Human Resources

Labor Subcommittee

To continue hearings on S. 1871, to increase the Federal minimum wage.

4232 Dirksen Building

9:30 a.m.

Environment and Public Works

Resource Protection Subcommittee

To hold hearings on S. 1140, to encourage and assist States to develop improved programs for the conservation of nongame species of native fish and wildlife.

4200 Dirksen Building

Finance

To continue consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and other committee business.

2221 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue markup of S. 1873, to amend in several regards the law as it pertains to Federal regulations of financial institutions.

5302 Dirksen Building

Energy and Natural Resources

To continue consideration of S. 1469, the proposed National Energy Policy Act.

3110 Dirksen Building

Foreign Relations

Arms Control, Oceans and International Environment Subcommittee

To hold a closed, followed by an open session on the proposed Threshold Test Ban and Peaceful Nuclear Explosions Treaties with the U.S.S.R. (Exec. N., 94th Cong., 2nd sess.).

4221 Dirksen Building

Governmental Affairs

To hold a hearing on the subject of handling employment discrimination complaints in the Senate.

3302 Dirksen Building

Judiciary

To hold hearings on the nomination of Earl E. Veron, to be U.S. District Judge for the Western District of Louisiana.

2228 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the Bureau of Indian Affairs budget process.

457 Russell Building

Joint Economic

Economic Growth and Stabilization, and Fiscal and Intergovernmental Policy Subcommittees

To resume joint hearings on the current fiscal condition of cities.

6226 Dirksen Building

AUGUST 4

8:00 a.m.

Energy and Natural Resources

Energy Conservation and Regulation Subcommittee

To receive testimony from FEA Administrator John F. O'Leary on his agency's implementation of crude oil pricing policy.

3110 Dirksen Building

9:00 a.m.

Human Resources

Labor Subcommittee

To continue hearings on S. 1871, to increase the Federal minimum wage.

4232 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To continue hearings on S. 1280 and S. 1616, bills to preserve, protect, and enhance the Nation's soil and water resource base.
322 Russell Building

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Lawrence Connell, Jr., of Connecticut, to be Administrator of the National Credit Union Administration.
5302 Dirksen Building

Finance
To continue consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and other committee business.
2221 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings on S. 1927, to promote competiting in the energy industry.
2228 Dirksen Building

10.00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 1542, to extend to September 30, 1979, the Council on Wage and Price Stability, and S. 1724, to establish a Neighborhood Reinvestment Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Energy and Natural Resources
To continue mark up of S. 1469, proposed National Energy Policy Act, and other pending calendar business.
3110 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on S. 1771, to authorize a 4-year extension of the investment insurance and finance programs operated by the Overseas Private Investment Corporation and to make certain changes in its existing programs and policies.
4221 Dirksen Building

Select Indian Affairs
To hold hearings on S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes, and S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico.
457 Russell Building

10:30 a.m.
Judiciary
To hold a business meeting.
2228 Dirksen Building

AUGUST 5

9:00 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1871, to increase the Federal minimum wage.
4232 Dirksen Building

9:30 a.m.
Finance
To continue consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and other committee business.
2221 Dirksen Building

10:00 a.m.
Energy and Natural Resources
To continue markup of S. 1469, proposed National Energy Policy Act, and other pending calendar business.
3310 Dirksen Building

Judiciary
To hold hearings on the nomination of John H. Shenefield, of Virginia, to be an Assistant Attorney General.
2228 Dirksen Building

AUGUST 29

10:00 a.m
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on the dimension of national debts and payments deficits, and the outlook for the future.
5302 Dirksen Building

AUGUST 30

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on the dimension of national debts and payments deficits, and the outlook for the future.
5302 Dirksen Building

SEPTEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommitee
To hold hearings on automatic auto crash protection devices.
5110 Dirksen Building

10:00 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on S. 1874, to allow recovery for damages by direct or indirect purchasers of goods.
2228 Dirksen Building

Select on Indian Affairs
To hold hearings on Federal Indian Domestic Assistance programs.
Room to be announced

SEPTEMBER 9

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on automatic auto crash protection devices.
5110 Dirksen Building

10:00 a.m.
Judiciary
Antitrust and Monopoly Subcommitee
To continue hearings on S. 1874, to allow recovery for damages by direct or indirect purchasers of goods.
2228 Dirksen Building

SEPTEMBER 12

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

SEPTEMBER 13

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board.

SEPTEMBER 14

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

10:00 a.m.
Select Committee on Indian Affairs
To hold hearings on the concept of creating an independent Indian Agency.
Room to be announced

SEPTEMBER 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act.
5302 Dirksen Building

SEPTEMBER 20

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on H.R. 7792, to establish certain limitations on the use of franking privileges, and on simplifying mailing procedures.
6226 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 364, Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. Room to be announced

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvement Act of 1977.
2228 Dirksen Building

SEPTEMBER 22

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvement Act of 1977.
2228 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

SENATE—*Tuesday, August 2, 1977*

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Whatsoever ye do, do all to the glory of God.—I Corinthians 10:31.

Let us pray.

"O Master, let me walk with Thee
In lowly paths of service free;
Tell me Thy secret; help me bear
The strain of toil, the fret of care.
"Teach me Thy patience; still with Thee
In closer, dearer company
In work that keeps faith sweet and strong,
In trust that triumphs over wrong."
—WASHINGTON GLADDEN, 1879.

In positions high and low, in duties great and small, may this be the longing

of our hearts and the response of our actions, that we may more worthily emulate Him who worked as a carpenter, washed other men's feet, and as servant of all went about doing good, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 2, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, August 1, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, as I advised the majority leader, we have no objection to proceeding to executive session and consideration of all of the nominations as they appear on the Executive Calendar today.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Wesley David Lane, of Minnesota, to be U.S. Marshal for the district of Minnesota.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF THE TREASURY

The legislative clerk read the nomination of Azie Taylor Morton, of Virginia, to be Treasurer of the United States.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The legislative clerk read the nomination of Robert H. Mundheim, of Pennsylvania, to be General Counsel for the Department of the Treasury.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Blandina Cardenas, of Texas, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL MARITIME COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I have in my hand the nomination that was reported to the Senate today by the Committee on Commerce, Science, and Transportation. I understand that it has been cleared on the other side of the aisle. I have been requested by the chairman of the committee (Mr. MAGNUSON) to seek consideration to proceed with its immediate consideration today, and I do so.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It is clear on this side. I understand there is no report on the nomination and there is no objection to its immediate consideration.

The assistant legislative clerk read the nomination of Richard J. Daschbach, of New Hampshire, to be a Federal Maritime Commissioner.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders 338 and 334, both of which, I understand, have been cleared all around.

Mr. BAKER. Will the Senator yield briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Both calendar orders are clear. I ask unanimous consent that the distinguished junior Senator from Kansas (Mr. DOLE) may include a statement in support of this measure at this point in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk proceeded to read the bill by title.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request. I understand there are budget waiver resolutions that will apply to both those measures.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The request is vitiated.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I understand that Nos. 338, 343 and 345 are cleared for action by unanimous consent. I ask that the clerk transfer those three measures to the Unanimous Consent Calendar.

The ACTING PRESIDENT pro tempore. The measures will be so transferred.

U.S. POLICY IN PACIFIC AREA

Mr. BAKER. Mr. President, Secretary of State Vance recently addressed the Asia Society in New York. His remarks constituted the most detailed outline to date of the intentions of the Carter administration for Asia and the Pacific.

Secretary Vance stated that—

> We are and will remain a Pacific nation, by virtue of our geography, our history, our commerce, and our interests.

This is a broad commitment that all Americans should embrace. The specifics of our Asian and Pacific policy are more difficult.

These are two related policy decisions facing the Carter administration which I believe, when made, will add flesh to the bare bones of Secretary Vance's Asian speech and which will determine whether or not we will, in fact, honor the Secretary's commitment to remain a Pacific power.

First, what should our policy be in Korea? Clearly the consequences of a

misstep are severe. As I analyze the administration's policy for Korea I am concerned over the lack of a conceptual foundation for the suggested troop reduction. It was this concern which prompted me to ask Joint Chiefs of Staff Chairman General Brown why if withdrawing our troops from Korea is a sound policy, the administration is not also in favor of withdrawing troops from Europe. At a time when the United States is stepping down its military presence across the board in Pacific Asia, the free countries of that region, and indeed those that are not free, are searching each U.S. pronouncement for the conceptual basis of our policies. If the administration can provide an answer to the question I posed to General Brown which is in harmony with our historic responsibilities in Asia as reaffirmed by Secretary Vance, they will have done much to satisfy Asian concerns over whether the United States will continue as an Asian power; fulfilling its leadership and peacekeeping responsibilities.

Secretary Vance touched generally upon the second major policy issue facing the administration in this region. What should our policy be for the two Chinas? He stated:

> Our policy toward China will continue to be guided by the principles of the Shanghai Communique, and on that basis we shall seek to move toward full normalization of relations. We acknowledge the view expressed in the Shanghai Communique that there is but one China. We also place importance on the peaceful settlement of the Taiwan question by the Chinese themselves.

I think it is clear from the Secretary's statement that administration policy on this issue is in a formative stage. I would like to contribute to that process by briefly stating my views and by recommending the views of others on this issue. First, I have supported the efforts of the Nixon and Ford administrations to normalize relations with the People's Republic of China. Second, I do not interpret the Shanghai communique as requiring us to break diplomatic relations with the Republic of China. Third, I am opposed to breaking diplomatic relations with Taiwan.

Two distinguished scholars have recently contributed to the public debate over United States-China policy. Ray S. Cline, executive director of Georgetown's Center for Strategic and International Studies and Edward N. Luttwak, adjunct professor at Johns Hopkins University, in the Washington Post and New York Times, respectively, address the "two Chinas" question from different perspectives, but they come to the same basic conclusion that a break with Taiwan to satisfy Peking is detrimental to U.S. long-term interests.

As China policy is reviewed I hope that the administration will heed the sound advice conveyed in these two columns. I ask at this point unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

A DOUBLE STANDARD FOR TWO CHINAS

(By Ray S. Cline)

A MIG–19 pilot recently defected from the People's Republic of China by flying his plane to the Republic of China (Taiwan). He says he was motivated to make the daring break by President Carter's call for respect for human rights, pointing out there is in neither principle nor practice any regard in the People's Republic for the rights of individuals.

The irony is that the Carter administration only a few days earlier made a public commitment to improve its relations with the mainland, despite Peking's insistence that the United States break diplomatic ties and abrogate its mutual-defense treaty with Taiwan—where the pilot fled for freedom.

Secretary of State Cyrus Vance's June 30 speech on China and President Carter's remarks on it at his press conference the following day said nothing meaningful about the U.S. commitment to Taiwan. This ambivalent style in policy pronouncements presents Washington pundits as well as foreign observers with a now-familiar puzzlement over what the administration actually intends in practical terms.

The standard method is to enunciate a high-minded policy of great simplicity and moral rigor, and then to shade or obscure what these high principles mean in practice. The impression is spreading that the young ideologues carried over from the Carter campaign staff enunciate popular concepts for the domestic audience while older, wiser heads like Vance modify them to adjust to political realities in the international arena. After all, Carter can understand that an abstract moral position that unrealistically works against the security of U.S. allies and disturbs friendly U.S. relations with other nations is really neither moral nor wise.

Examples of this kind of ambivalent policy-making are the arms-control package Vance took to Moscow, subsequently watered down at Geneva; the Mideast negotiations pattern that has so far produced no movement toward Arab-Israeli peace; and—most confusing—the rhetorically fervid endorsement of human rights accompanied by a drive for closer relations with the world's most oppressive regimes: Havana, Hanoi and Peking.

The Carter administration says its position is based on the 1972 Shanghai Communique, which they interpret to be a promise to break diplomatic relations with Taiwan and abandon the mutual-defense treaty guaranteeing the security of Taiwan. Actually the Shanghai Communique is a masterpiece of diplomatic ambiguity, and both Richard Nixon and Henry Kissinger have recently said they did not explicitly promise to change our present relationship with Taipei. In fact, the only official elucidation of the Shanghai Communique, given by Kissinger in 1972, specifically stated that the U.S. mutual-defense treaty with Taiwan "will be maintained" along with "our friendship" and "our diplomatic ties."

Of course, Peking would like to have the plum of Taiwan dropped into its hands. Taiwan is the most modern, economically advanced part of China, having a standard of living three times higher than that of the People's Republic. Its 16 million Chinese conduct a larger foreign trade than all of the mainland's 950 million people. The catch is that none of these Chinese want to be incorporated in a Communist one-party dictatorship with a stagnant, command-type economy and an oppressive internal-security system modeled on the Stalin era in the U.S.S.R.

While political democracy in Taiwan is flawed by the continuation of a (largely theoretical) state of war with the mainland and occasional recourse to martial-law court procedures in trying internal-security cases, there is an open, pluralist society in Taiwan, and the goal toward which Taiwan is consciously and steadily moving in accordance with the Constitution of the Republic of China is representative government with firm guarantees of human rights. To consign a U.S.-oriented, pluralist Chinese society with a free-enterprise trading economy to dictatorial Communist Party control from Peking is not merely amoral—it is immoral.

The Carter-administration ideologues cop out on this moral dilemma by saying that somehow the United States will assure Asians of its intent to protect Taiwan's security despite cancellation of our formal treaty guaranteeing its defense. This will be the neatest trick of the year. The Japanese, the Koreans and the Chinese will never believe such a policy. Since the "peaceful life of the Taiwanese, the Republic of China" has been repeatedly guaranteed by Carter himself, only a superficial gimmickry of tacit assurances from Peking would permit moving ahead on Peking's terms. Such gimmickry cannot really protect the right to exist of the Western-oriented society in Taiwan, which is not only a longtime loyal U.S. ally but also the 40th largest independent nation in the world.

Accepting Peking's terms for full normalization would upset the strategic applecart in all Northeast Asia. The question is whether the wiser heads in the government who know these things will prevail over the pro-Peking ideologues when final decision-making reaches the presidential level. Only then will we know whether the MIG–19 pilot found freedom in Taiwan or whether he will in due time be delivered back to totalitarian control by U.S. China-policy officials.

[From the New York Times]

U.S. POLICY: BETWEEN THE TWO CHINAS

(By Edward N. Nuttwak)

WASHINGTON.—There is now a renewed pressure on the Carter Administration to accept Peking's conditions for the establishment of full diplomatic relations. In essence, these are that we abandon all diplomatic ties with the Government in Taiwan, and that we repudiate the defense treaty that remains the island's guarantee against an invasion from the mainland. The euphemistic code word is "normalization."

It seems that most of the Administration's China specialists have lost their earlier enthusiasm for "normalization." But now the pressure comes from a different direction, from those who are hawkish on United States-Soviet relations. Their argument is that we msut "activate" our China connection in order to put pressure on Moscow to reach a more accommodating stance across-the-board, and in the arms-limitation talks in particular. The claim is that Moscow can be forced to accept détente on American terms under the compulsion of the implied threat that otherwise we would begin arming Peking with all that our weapons technology has to offer.

This gambit appeals to the strategic instincts of many. But if we are to play *Realpolitik* for real, we had better first rearm in a fairly big way to cope with Moscow's obvious countermoves. Even so, we might lose more than we gain. For example, the Russians might react by sponsoring a North Korean attack against the South. This would not only punish us directly but it might also outmaneuver our own move, if Peking found itself compelled to compete with Moscow in supporting the North against the South, and ourselves. Whatever the war's outcome, United States cooperation with Peking would be unlikely to survive the strain.

But in treating Taiwan's 17 million people as expendable in a strategic chess game, we would lose more than we gained, even if we kept the arms salesmen out of Peking. For our relations with Taiwan have acquired a new significance in non-Communist East Asia as a whole.

Virtually every government in the area, and Japan's most of all, has gone out of its way to tell us that our conduct toward Taiwan is a key test of our long-term intentions in Asia. Abandoning Taiwan would be a clear signal that, under the aegis of "Eurocentrism," our Asian interests are merely contingent, and that only our European interests are permanent.

It is already being suggested in the Japanese press that our policy is essentially racist, and that that is why we complain of the brutalities of Moscow's policemen but not of Peking's.

For the leaders of the hundreds of millions in non-Communist East Asia, this is the moment of truth: Does the United States define its interests there in *substantive* terms—economic, social and cultural—or does it focus on the strategic payoff alone? Hence, the validity of Taiwan as a test case.

For Taiwan is the most successful of all developing societies, having managed to combine very high growth rates with a remarkably egalitarian distribution of wealth. This is the one high-growth country where there is no fault-line of development at the city limits of the capital. There is much the same standard of living in towns large and small, and in the countryside as well, as a result of land reform that actually worked.

To one who has visited the People's Republic, Taiwan presents a startling contrast. Both are nondemocratic, but Peking's totalitarian control reaches into every sphere of life, while Taiwan's rulers monopolize only political power itself, giving free play to economic, cultural and intellectual life. (Taiwan's press is rated as "semi-free" by the authoritative experts of Freedom House, in New York City.) In Taiwan one sees what Chinese free of dogma can achieve from pretty clothes to open discourse.

We should certainly have full diplomatic relations with Peking, but not if this means that we have to cut our ties with the largest group of Chinese in the world with whom we can freely trade and communicate. Still less can we abrogate a treaty that has long preserved the peace across the Formosa Strait.

The Soviet military divisions on China's border were sent there before we had any ties at all with Peking. They will remain there while we wait for Peking to waive its demands. The Russo-Chinese conflict is territorial, organic and permanent; abandoning Taiwan to change the nameplate of our liaison office into "Embassy" will not make that conflict any more useful for us, while prejudicing our repute for constancy all over the world.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for time.

Mr. BAKER. Mr. President, I yield back the remainder of my time under the standing order.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

The Senator from Virginia.

THE 1976 TAX LAW AND ITS EFFECT UPON GIFTS AND ESTATES

Mr. HARRY F. BYRD, JR. Mr. President, in 1976, Congress passed legislation which affected every taxpayer.

Although the official title of the law is the "Tax Reform Act of 1976," many of the changes are proving to be detrimental to many taxpayers.

As the chairman of the Subcommittee on Taxation of the Finance Committee, I had hearings on July 25 which dealt with the consequences of the estate and gift tax provisions of the 1976 law.

The principal purpose of the 1976 law in the estate field was to reduce the tax burden upon small and medium size estates and to address the needs of farmers and small business owners who wish to pass their farm or business from one generation to the next.

A panel of four lawyers, each of whom is highly knowledgeable about the practical effects of the 1976 law, testified that the estate and gift tax provisions of the law are doing the exact opposite of what they were intended.

The 1976 estate and gift tax provisions have created an administrative nightmare and added to the complexity and cost of handling the affairs of a decedent.

The law as it now stands will have a disastrous effect over a period of years on small businesses and will aggravate the problem of the ever-increasing concentration of economic wealth and power in a few large corporations.

My colleagues in the Senate may ask, "How did this happen?" A close look at the legislative history of these provisions is instructive.

House consideration of tax reform first began in 1974, in the 93d Congress. In the next Congress, in December of 1975, a tax reform measure passed the House.

The House bill, H.R. 10612, was referred to the Senate Finance Committee on December 5, 1975, and contained no revisions to the estate and gift tax law.

In June of 1976, the bill was reported to the floor of the Senate by the Finance Committee. Again, no changes were made in the gift and estate tax law. However, during July, additional hearings were held in the Finance Committee and it adopted several committee amendments, which dealt in part with revisions of the estate tax law.

The objective of these amendments was to provide needed tax relief for small- and medium-size estates and farmers. Neither the hearings before the Senate Finance Committee nor the committee amendments focused on the subject of carryover basis.

When the Senate voted for final passage of the tax legislation in early August of 1976, the Finance Committee amendments were the only estate tax provisions in the bill.

These amendments raised the estate tax exemption, increased the marital deduction, and changed the valuation rules for farms.

The bill then went to a committee of conference between the House and Senate and it was there that significant changes were made.

In August of 1976, the House Ways and Means Committee reported to the House H.R. 14844, the Estate and Gift Tax Reform Act. This measure made a comprehensive change in the estate and gift tax laws, but was never taken to the House floor.

It was, however, with some modifications, presented to the conferees on H.R. 10612 as the House alternative to the Senate estate tax provisions.

The House Ways and Means Committee proposal was accepted by the conferees. Therefore, when the Senate voted on the conference report, it voted upon broad, far-reaching changes which it had never considered either in the Finance Committee or on the floor of the Senate. Likewise, the House had never considered such provisions.

The adverse effects of the lack of adequate consideration by either the Senate or the House of estate and gift tax changes are evident.

The problems associated with the new estate and gift tax law are numerous. Many of these problems relate to the carryover basis rule.

Under the estate tax laws, prior to 1976, the basis of assets owned by a decedent was stepped-up to their value at the time of their owner's death. Under the 1976 law, the decedent's assets are subject not only to an estate tax but to a sharply increased capital gains tax as a result of the carryover basis rule.

For individuals, the law adds a high degree of complexity which will be translated into increased professional and administrative costs.

It has been conservatively estimated that complexity doubled overnight due to the new law. It negated a trend toward simplification of the laws governing administration of decedents' estates.

To arrive at the appropriate carryover basis which the heir to the property will report upon the sale of the property, four different sets of calculations are now necessary. These calculations must be done for each asset in an estate.

It has been suggested that the most efficient way to perform these calculations may be by use of a computer, and a computer data bank may eventually be needed to handle even a modest estate.

Uncertainty is now a way of life under the new law. The cost basis for personal effects such as a dining room table or a family antique may have to be determined.

Records indicating the cost of these items, which may have been accumulated over a lifetime, are the exception rather than the rule. Yet without these records, the possibilities for disputes and litigation between the taxpayers and the Government are open ended.

Under pre-1976 law, death, because of the step-up in basis, operated as a statute of limitations upon the lack of adequate records.

This no longer exists, and now the Government can question transactions which occurred many years in the past. This is at a time when the person most intimately familiar with the transaction will no longer be available to explain what happened.

For small businesses, the new law has made the income tax, in addition to the estate tax, a significant consideration when the business' owner dies.

Under the old law, a widow who inherited a business from her husband was not too concerned with income tax problems because of the step-up in basis.

Now, the basis is the original cost of the asset to the owner, with some provision for a so-called fresh start.

Because a widow often wants to turn business decisions over to someone else, business assets are often converted to other income-producing property. The 1976 law now imposes upon her a large capital gains tax, in addition to the estate tax, and much of the capital gains tax arises from appreciation due to inflation.

What has happened is that, instead of reducing the estate tax burden upon small- and medium-size estates, the 1976 Tax Act actually increases taxes for many estates and vastly complicates the process.

The sale of the family business, even to a family member, has been made more costly and therefore less attractive.

There is, however, an alternative which the widow can follow. This is to merge the business with a larger publicly held company. In this way, she can receive the income-producing stock of the larger company, tax free.

The way in which the 1976 law encourages mergers between small businesses and larger companies can be further illustrated by looking at the typical growth pattern of a small business.

Many small businesses have their greatest growth in their early years. In later years, growth of the company levels off, and in some cases, growth may decline. This process corresponds with aging of the company's founder.

The "fresh-start" rule values the basis of the company's stock, for purposes of determining carryover basis, as of December 31, 1976. Under this rule to determine a fresh-start basis for unlisted securities, which encompasses nearly all small businesses, the growth in value of a company is arbitrarily prorated over the period covering the value at the date the company first began to the value at the date of death of the owner of the company.

With December 31, 1976, now behind us if the rapid appreciation in value of an older business slows down, the longer the owner-founder keeps his small business, the greater the amount of the total value of the business which will be subject to a capital gains tax.

Thus, the owner benefits by getting rid of his business; and instead of selling for cash and incurring a capital gains tax on the entire gain, the owner's best approach is to effect a tax-free merger with a large company

The new law, therefore, fails to deal with the real world growth pattern of small businesses and utilizes a formula which has detrimental tax consequences. The effect of the new law is to favor big business at the expense of small business.

Instead of encouraging the independence and continuation of small businesses, the 1976 law discourages their continued development and growth. The trend toward concentration of business activity in large entities is thereby accelerated, and the entrepreneurial skills and vitality which small businesses so uniquely contribute to our economic growth are lost.

For farmers, the 1976 law is a cruel hoax. It purports to give farmers relief but the relief it offers fails to encompass the real world problems which farmers and their families face.

Valuation rules which value a farm at the property's value as a farm rather than its highest and best use could be a potential benefit for many farmers. However, the 1976 law restricts the rules scope so that many deserving parties fail to qualify for it. Several letters which I will be inserting in the RECORD with my statement deal with this point in some detail.

These are just some of the examples of the problems in the 1976 law in the estate tax area. The consensus of the panel who testified before the Subcommittee on Taxation and Debt Management and of the constituents, with whom I have talked, is that we would be better off if we had never changed the law and the old law were still in effect.

This dramatizes what can happen when far-reaching legislation is never adequately considered by the House or Senate. The estate tax provisions were inserted by the committee of conference without consideration of their implications.

It is vitally important that Congress give attention to the practical results of the 1976 law and seek to mitigate its harmful effects. The carryover basis concept in the 1976 law must be revised and a simpler and more equitable approach developed in its place.

There are some solutions that might be offered which would make the new law more workable.

The 1976 law gives assets in an estate a fresh-start basis as of the end of December 1976. The computations involved in calculating this 1976 basis are a great source of complexity in the law. Permitting assets owned by a decedent prior to 1976 to fall within the provisions of the old law would be a great step toward alleviating some of the hardship caused by the new law.

A less desirable alternative which would still be better than the 1976 law would be to give taxpayers the option of either using the fresh-start formula or establishing a value independent of the formula. This would provide a taxpayer with the opportunity to adopt an approach which is simpler—and more fair—than the method employed in the 1976 law.

On this point, at the conclusion of my remarks, I shall place in the RECORD a statement by Erwin Griswold, former Solicitor General of the United States and former dean of the Harvard Law School. Dean Griswold is a tax law authority. His statement is an eloquent recital of the unforeseen consequences of our actions, particularly with regard to the carryover basis part of the law.

There are other changes which would reduce the problems for small businesses and farmers associated with the 1976 law.

Often, the primary source for a small businessman for the payment of estate taxes is the business itself. This is accomplished through a redemption by the small business of the former owner's stock, thereby giving the owner's estate cash upon which to pay estate taxes and to distribute to the heirs.

Section 303 of the income tax law sets forth requirements whereby such a redemption will qualify for capital gains rather than ordinary income treatment. The 1976 act placed stricter requirements upon the use of section 303. Relaxation of these requirements for qualification would be of great assistance to the small businessman.

Also, in connection with redemptions, establishing that the redemption of section 306 stock would lead to capital gains rather than ordinary income would clarify current uncertainty and continue methods for the sale of closely held businesses established before the 1976 law.

The 1976 Tax Act in the estate area was a triumph for those theorists who felt that the step-up in basis provision in our tax law was a major tax loophole because it afforded a taxpayer a means of avoiding payment of income tax upon the unrealized appreciation inherent in an asset by simply holding the asset until death.

I can only wonder how large such a loophole is when an individual must die to get the benefit of the loophole.

To me, a loophole is a special tax section which gives unfair advantage to one who has advantages already. It is very hard for me to understand why a man's death gives the individual such an unfair advantage.

The 1976 act seems to be a triumph of theory at the expense of practicality.

For whatever additional revenues the Government may gain, the price of these gains is uncertainty, complexity, and additional professional administrative costs for the taxpayer.

The Government has in effect told the small businessman and the farmer that it does not care about their problems and that it wants to see their life's work dismantled at death.

There is an old adage that nothing is more certain than death and taxes. I think that this should be amended to read that, after the 1976 Tax Act, there is nothing more certain than death and taxes and lawyers' and accountants' fees.

I agree with Mr. Justice Holmes' assertion that "taxes are what I pay for civilization." But has not the Congress gone too far in applying both a death tax and income—capital gain—tax on the same property?

Mr. President, I ask unanimous consent that certain statements and letters which I have received on the subject of the 1976 tax law be included in the RECORD as part of my statement. These documents are:

First, a statement presented to the Subcommittee on Taxation and Debt Management of the Committee on Finance by Erwin Griswold, former Solicitor General of the United States and former dean of the Harvard Law School and a tax law authority;

Second, a letter from Barring Coughlin, of Thompson, Hine & Flory, Cleveland, Ohio; and

Third, a letter by Bruce F. Snyder, vice president, Commercial National Bank of Peoria, Ill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT PRESENTED TO THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE SENATE FINANCE COMMITTEE WITH RESPECT TO THE CARRY-OVER BASIS PROVISION OF THE TAX REFORM ACT OF 1976

My name is Erwin N. Griswold. I am domiciled in Belmont, Massachusetts, but for the past ten years have been resident in Washington, D.C., where I am now practicing law.

From 1929 to 1934, I worked for the Federal Government, in the Solicitor General's office From 1934 until 1937, I was a member of the faculty of the Harvard Law School, and was Dean of that school from 1946 until 1967. In 1967, by appointment of President Johnson, I became Solicitor General of the United States. I held that office until June, 1973, when I retired.

Early in 1913, at the age of eight, I spent a period in the hospital when my appendix was removed. People brought me stamps and it was then that I began to collect stamps. At first it was simply a boyhood hobby. As I became older, though, I followed the stamp market closely, and was impressed with the fact that stamps can be a sound investment. I became well acquainted with the factors which make some stamps good investments, while others are not. I bought stamps from dealers and at auctions. This continued for a number of years, in a modest way, until there was an important change in the circumstances of my life.

In 1939, thirty-eight years ago, my wife had a serious case of infantile paralysis. She is completely paralyzed from the waist down. She is able to get about with crutches and braces, and with the use of a wheelchair. She does remarkably well, but she is severely handicapped. At the time of her illness, I was thirty-five and she was thirty-four, and we had two small children. I had heavy medical expenses, far exceeding my salary at the Harvard Law School. (As a matter of fact, it was my wife's case which led Randolph E. Paul, then General Counsel of the Treasury, to recommend to the Congress the adoption of the deduction for extraordinary medical expenses, now found in § 213 of the 1954 Code. I have never received any benefit from that deduction, since my wife's major medical expenses preceded the adoption of that provision.)

After my wife came home, my great concern was that there should be adequate provision to see that she was taken care of in the event that I was no longer here. I took out additional life insurance, and I tried to save and to make productive investments. Over the years, I invested more and more in stamps. There were two special reasons for this, apart from their investment potential: (1) they do not produce current income, and (2) they present almost no problem of conflict of interest.

Even as a law professor, I was concerned about possible conflicts of interest. This became even more important in later years when I was in Government service. In 1961, I was appointed a member of the United States Commission on Civil Rights by President Kennedy. I resigned this office in 1967, but then held the office of Solicitor General for nearly six years. Thus, I held federal office from 1961 to 1973, a period of twelve consecutive years. Particularly while I was Solicitor General, the ownership of shares in corporations, or, indeed, the ownership of investment real estate, could frequently have raised conflict of interest questions.

Consequently, I invested more and more in stamps. This had long since ceased to be a hobby. The stamps were kept in a safe deposit box. They have continued to be good investments, even when the market for securities has declined. Making adequate provision for my wife remained a primary concern for me, but as I was able to accumulate more and more, the pressure I felt about seeing that my wife would be properly cared for was slowly reduced.

No one in my family is interested in stamps. It was always my expectation that my executor would sell the stamps, and I have left instructions with him about dealers who might be used for that purpose. I fully understood that the value of the stamps would be included in my gross estate at the time of my death, and that was all right with me. I figured that there would be no problem about valuing them, because they would be sold shortly after my death.

One of the things that has given me great concern in connection with my efforts to provide for my wife has been ever-increasing inflation. Anything else that I have done has suffered from inflation. The insurance that I took out forty years and more ago served well for a while, but its purchasing power now is considerably reduced. Some municipal bonds which I purchased, as a part of the plan to avoid conflicts of interest, are worth less now than I paid for them. It is, of course, wholly appropriate that there should be an estate tax on the value of the stamps. But is it not really, as a practical matter, double taxation to add an income tax, too, when the increment in value is, to a considerable extent, simply a reflection of the inflation which has occurred over the past twenty or twenty-five years?

In the fall of 1976, with little warning, and no public hearings on this matter, the estate tax provisions of the Tax Reform Act of 1976 were enacted, including the provision for carry-over basis. With respect to securities, this provided a new start on January 1, 1977. With respect to other property, though, it becomes necessary to determine the cost, and there is a complicated allocation of the increment over cost. I have made no count, but in my case, I would guess at least ten thousand items, probably more, will be involved in this process, bought at different times for various prices, some times as single items, but often in groups for an unallocated lump sum, with the groups often broken up and re-arranged.

Moreover, for the most part, I have few, if any, records. Some of these stamps were bought as long as sixty years ago. (Part of the money which I earned as a pageboy in the East Cleveland Public Library while I was in high school was used to buy stamps.) These early purchases do not aggregate a great deal, but beginning in the 1930s, I bought more actively. I kept no detailed record of these purchases. I did not think it was necessary, since I had no expectation of selling the stamps while I lived, and thought that the date of death value would be the relevant figure if they were sold after I died. To some extent, I suppose that I can reconstruct the cost of some of the items by using figures on my checkstubs, if I can find my checkstubs back over a period of thirty or forty years. That will be very difficult for me to do, and it could, at best, cover only a portion of the items.

Even if the records could be put together, the computations would be extraordinarily complicated. For each item, a cost and a date would have to be determined, then a sale price, which may require an allocation if all the stamps should be sold in a single lot, or in several lots. That allocation would require valuing each item, so as to determine the portion of the sale price allocable to each item. Then a gain would have to be determined for each item, and the resulting gain would have to be allocated over the period from the date of acquisition to the date of death. As I have said, there are at least ten thousand items, probably more. It would be very difficult for me to do this. It will be virtually impossible for my executor to do it.

I have worked in the field of taxation most of my life. I have argued many federal taxation cases for the Government before the Supreme Court. I fully understand what Justice Holmes meant when he said that "Taxes are what I pay for civilization." And I have no objection to paying my proper taxes. Somehow or other, though, I have not been able to escape the feeling that I have been caught rather badly, and that the effect of the change of the law in 1976, as applied to me, may be unfair, and beyond the contemplation of Congress when the carry-over basis provision was so hastily enacted.

Like many others, my basic purpose has been to see that my wife is properly provided for. This is not altogether easy in her case. She is already considerably handicapped, and her condition may become worse in later years. From some experience I have had, I know that if she should require around-the-clock attendants, it will be hard to keep the cost below $50,000 a year. If that should last for ten or twelve years, or more, the aggregate could be considerable.

My basic objective was to provide for my wife. I thought I had found a way to do this, and at the same time minimize conflicts of interest in my academic and government work. This was seeming to work out well until the fall of 1976. Now, the practical problem confronting me is a very serious one.

Could the carry-over basis, if it is to be used, be made applicable to property *acquired* after the enactment of the 1976 Act? Gain on property previously acquired would still be subject to income taxation when sold by living owners. And there would be notice so that adequate records could be kept for use where the sale was eventually made by an estate. I know of the proposal that there be an optional valuation method which uses a percentage figure for determining increase in value after January 1, 1977. But the percentage suggested is too high. And this method is unfair as to property held for a long time before 1977. Thus, the figure mentioned is eight percent, which is to be compounded. That would mean that if death occurs ten years after January 1, 1977, virtually the whole increment would be treated as having occurred after January 1, 1977. This is unrealistic when it is clear that much of the gain arose prior to that date. Surely a lower percentage should be used, and some way should be worked out to apply it in such a way that all of the pre-1977 gain will not soon be wiped out.

There is an appeal, I know, in the carry-over basis idea. But, it may be a matter of carrying things to a dryly logical extreme. In view of the persistent inflation, it may be that the Federal Government gets its appropriate share when it takes an estate tax from a decedent's estate. To apply an income tax, too, on the gain which passes with the property and as a part of the property at the time of death, may be more than is appropriate. And the difficulties are especially great in a situation where there is no feasible way to establish the cost basis of much of the property involved.

Though these facts are necssarily highly personal, I present them for consideration by the Committee in the hope that they will show a concrete example of unforeseen consequences of the legislation enacted in 1976, and may lead the Committee to develop amending legislation which is more workable and more fair as a part of the over-all system of federal taxation.

THOMPSON, HINE AND FLORY,
Cleveland, Ohio, July 21, 1977.

HON. HARRY BYRD, JR.,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: I note that you are conducting a hearing next week on estate and gift tax problems arising from the 1976 Tax Reform Act. From advance comment on the matter, I assume that you will be concerned also with the carryover cost basis for income tax under the Tax Reform Act.

I appreciate that the effect of the carryover basis provisions will not be very great in the immediate future. It will increase in time,

however, and over a period of years it is likely to produce such a disastrous effect on small business that it will seriously aggravate many of the social problems that have recently confronted this country. Three problems particularly impress me:

1. The carryover basis provisions make the tax burden at death fall most heavily on the owners of small businesses. The estate tax on some estates subject to that tax is actually somewhat reduced by the new law. However, the smaller estate is frequently required to sell assets for the support of survivors. If, for example, an estate consists of a small business worth $100,000, founded by the decedent, the widow will probably conclude that she must sell the asset in order to support herself, particularly in that a business of this size cannot usually afford to hire the necessary executives to succeed the owner-manager and still leave anything for the widow. So a business is sold which probably has a very small cost basis. A large capital gains tax (and the capital gains rate seems to steadily increase) will have to be paid. Of course there is no estate tax, but there would have been no estate tax under the old law. Thus the entire capital gains tax represents a great increase in the tax burden imposed on the widow, and it surely will not be contended that we are dealing here with a wealthy widow. Indeed, the income what is left of $100,000 will leave the widow somewhere in what is now considered the poverty class.

If the estate is large enough to be liable for estate taxes, there is a slight decrease under the Tax Reform Act in the amount of that tax, but it is much more than offset by the capital gains tax if the widow is compelled to sell. And she will be compelled to sell, in all probability, if the value of the business is much below $1,000,000. Above that figure, we begin to get into a range where she will probably be able to hire competent management and obtain dividends which will support her. At this point there is a small saving in estate tax and the capital gains tax can be postponed to a later generation. The shocking conclusion is that the 1976 amendments grossly increase the tax burden of the widow who is left in poverty or in modest circumstances while providing at least some decrease in tax burden for the widow who is left in wealth.

2. The carryover basis provisions tend to prevent the transfer of small business to younger executives. A favorite plan of small businesses, many of which are owned by those who work for them and make them succeed, is the buy-sell agreement under which, if any of the officer-owners dies, his interest in the corporation is redeemed by the corporation or sold to the surviving executives, who will in their turn make similar arrangements with younger men who will succeed to ownership positions. Even in the absence of a pre-existing agreement, a widow often sells her late husband's interest in a business to the younger executives. Obviously this is a socially desirable arrangement in preserving small businesses and in giving young men the hope of becoming owners of them.

Unfortunately, the arrangements, since the Tax Reform Act, result in capital gains. One method of escaping this problem is to get rid of the buy-sell agreement and permit the widow of the deceased executive to continue to hold the stock if the company is successful enough to be able to support her when she provides no services. This is not a desirable arrangement for a small business nor is it one which will make its continued success more probable. Another solution which the widow will think of to avoid the problem discussed in section 1 above is to cause the company to be merged into a publicly held company.

Under the old law, she could have sold out for cash, paid no capital gains tax and invested in diversified listed securities, suitable for providing security for her. Under the new law, she can produce an equivalent result only by causing the company to be merged into a listed company, preferably a conglomerate, so that she can obtain diversification of her investments by this means. Thus the new law tends to force small businesses into large businesses instead of encouraging their continued existence.

3. The December 31, 1976 valuation date also discriminates against small business. As you know, the basis of corporate stock held by a decedent is the quoted price on December 31, 1976 if the stock was publicly traded, while for securities for which there is no public market, the value on December 31, 1976 is arbitrarily deemed to be a value determined by proration from its acquisition to the value at the date of death. Unfortunately, many small companies have their greatest growth during their early years, the rate of increase in value tending to level off as companies approach their maximum potential, and as founders age. In some cases, values may in fact decline slightly as the owner ages and potential purchasers are less likely to want to buy knowing that new executives will soon be needed. This means, now that the critical date is behind us, that the longer the founder-owner keeps his business, the greater the proportion of its value that will be subject to capital gains tax. He will be well advised, therefore, to get rid of the business at the earliest possible date. If he sells it for cash, his entire gain is taxed. His only solution, therefore, is to merge.

There are two undesirable results of this provision: the discrimination against unlisted securities (usually those of smaller businesses) and the encouragement of mergers, which usually means that the acquiring corporation is a larger one. As you know, the new law has already forced the sale of a fine old New York newspaper to a chain.

The three evils of this law, the imposition of the heaviest tax burden on the middle class, the creation of difficulties in the way of younger executives who would like to acquire ownership of the business which employs them, and the discrimination against closely held and unlisted companies are all calculated to favor big business at the expense of small business. Tax rates at present levels inevitably have social effects, good or bad. Our federal tax structure has in many ways long favored the development of large and more impersonal institutions at the expense of smaller ones. The carryover basis provision is in this respect, at least, so unmitigated an evil that I find it hard to believe that the harm it will do was unintended by those who drafted it.

Very truly yours,

BARRING COUGHLIN.

COMMERCIAL NATIONAL BANK OF PEORIA,

Peoria, Ill., July 22, 1977.

Senator HARRY F. BYRD,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR BYRD: It is my understanding that you are conducting hearings in your Senate Finance Subcommittee on the problems arising from the Tax Reform Act of 1976. We are particularly pleased that you have seen fit to conduct this series of hearings, as we are quite concerned with a number of aspects of the legislation. Our particular concern at this time involves the new carry-over basis rules and the inequities created in the new farmland valuation rules in Section 2032(A).

I am attaching an exhibit of an actual estate for which we are executor, of a person who passed away January 17, 1977. In total, the decedent's estate amounted to approximately $1,030,000. The assets in the estate are quite varied and present many of the problems which we are now encountering in most of our estates because of the new carry-over basis rules.

The decedent in question did not have children and her property passes primarily to nieces and nephews who were not very conversant with the decedent's financial affairs. Although she had excellent records with respect to a number of the bond holdings which she had, the stock holdings are quite another story. As you will note, we do not have any information at all concerning the decedent's costs on the common stocks or her acquisition dates. As an example, she owned a total of 336 shares of A.T.&T. common stock represented by 13 different certificates with dates ranging from 1951 through 1964. We have no information as to whether or not certain of these securities were inherited or whether they were actually purchased by her. The burden of research in this matter rests squarely on the shoulders of the executor, who must provide beneficiaries with specific information concerning costs and acquisition dates of a decedent. It may or may not be possible to obtain information which would give some clue as to possible acquisition costs by getting transcripts of the stockholder's records from a stock transfer agent. However, such information would still not be accurate and would not provide any certainty as to whether or not an initial certificate date represented securities acquired by purchase, as it might have been transferred by gift or acquired in some other fashion.

Inasmuch as we must endeavor to uncover such information, the time and expense involved in developing approximate data will be substantial, with the ultimate cost of such research being borne by the estate and the ultimate inheritors.

If you will, this additional expense may be considered an additional hidden inheritance tax imposed by the Tax Reform Act of 1976.

You will note that the decedent owned a farm, and the farm was held in her family for a great many years. She managed the farm herself and employed an excellent tenant to do the actual farming. Inasmuch as the Internal Revenue Service regulations concerning material participation for income tax purposes did not require such an individual to pay self-employment taxes, our decedent did not pay any such taxes. On a very preliminary basis, we have tentatively placed a value on the farmland of $495,000, which is nearly half of the decendent's gross estate. We are confident that once a full appraisal of the property is made, the value will exceed half of the estate, which would qualify the property for the special valuation rules which would allow a substantial reduction in estate taxes. However, because of the terribly inequitable requirement for material participation, it appears to us that relief as provided under Section 2032(A) will not be available to this estate. Had the decedent gratuitously paid self-employment taxes for the five years preceding her death, the property probably would qualify. I will discuss another specific situation which we have involving a similar circumstance later in this letter.

You will also note that there are a few valuable antiques for which we have no information as to basis, and I would be willing to suggest that few people in the country have any such records. The same sort of comments may be applied to most valuable family artifacts, paintings, stamp collections, and other items which most people have and for which they have no records at all.

I should like to comment again on two specific instances involving the special farmland valuation rules provided in Section 2032 (A). We have an elderly widower who has a moderate investment in farmland and has actively managed the property for nearly forty years. The property will represent more than 50% of his adjusted gross estate. He was able to quickly pay self-employment taxes for 1976 and will pay them in 1977.

Under the terms of his Will, the property is left in trust for a period of years to protect certain of his heirs.

It appears to us that if he survives three more years and pays self-employment tax on his farmland and if he amends his Will with some special language provisions, his estate and his heirs will receive a substantial reduction in federal estate taxes.

We also have a widow for whom we became conservator in December of last year. This lady's assets are quite similar to those of the widower discussed above, as she has a substantial farmland investment which has been in her family for three generations. The property is to be held in trust for the benefit of an incompetent son, and a daughter. Because of the widow's legal incompetence, it is impossible to amend her existing Will to insert language which would otherwise qualify the property for the special exemptions in Section 2032(A). Further, because of her incompetence, there is no opportunity to pay self-employment taxes on her farm income to meet the material participation test required by the law. As a consequence, her estate and her heirs will pay a substantially higher federal estate tax than our widower's estate. I wish to emphasize that the circumstances of each of these two persons are nearly identical, but the ultimate outcome in terms of federal estate tax will be far different and grossly inequitable.

In summary, we urge consideration of technical amendments which will eliminate the great administrative problems created by the carry-over basis rules and the gross inequities imposed by the material participation requirements of Section 2032(A).

Very truly yours,

B. F. SNYDER,
Vice President.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired.

Mr. HANSEN. Mr. President, I would be happy to yield such time to the Senator from Virginia as he wishes. I think what he is saying is extremely important.

Mr. HARRY F. BYRD, JR. I thank my dear friend from Wyoming. At the end of the Senator from Wyoming's speech, I would like to make a few comments.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. HANSEN) is recognized for not to exceed 15 minutes.

ESTATE TAX REFORMS

Mr. HANSEN. Mr. President, first of all, let me express my gratitude and the appreciation of Members who will yet have the opportunity to read what Senator BYRD has addressed this afternoon. I think he has made a very significant contribution toward the understanding and possible solution or mitigation of a very real problem.

I also would like to thank the distinguished chairman of the subcommittee for holding hearings on the administrative problems of the estate tax reforms.

This is an area that does not generate necessarily a lot of interest because it is not the sort of issue that grabs headlines in the newspapers. Yet what the average American fails to understand today is that sooner or later he is or his heirs are going to learn firsthand about this carryover basis. I do not think the average American has any idea at all of what we did, the members of the Committee on Finance, and the members of the Committee on Ways and Means, last year in passing the bill to which the Senator from Virginia has alluded.

Mr. President, one of the attorneys on my staff tells me that when she was in law school, the highest grade that was ever awarded was scored in a tax class by a fellow who majored in Chinese. The professor of the class assured the students that there was a very high correlation between the fellow's ability to read Chinese and his ability to understand the Internal Revenue Code. I can appreciate that professor's observations.

Mr. President, I do not pretend to be a skilled technician in tax matters. I do believe, however, that over the years that I have served on the Finance Committee I have come to understand some theories of tax policy. Today, I should like to address an area of the tax law where it appears to me that the technicians and theoreticians have so skewed the tax law as to undermine the very credibility of the system. I refer to the so-called reforms of the estate tax law brought about in the Tax Reform Act of 1976.

As an historical matter, the estate tax has not been an important source of Government revenues. Since World War II, the Federal Government has collected $40 to $188 billion annually. Of this amount, estate and gift taxes have yielded only between $0.5 and $3.5 billion a year. Some tax experts estimate that even a plain escheat measure would only yield about 5–8 percent of Federal revenues. That is if the Government took it all they would get insofar as Government financing only from 5 to 8 percent of the amount of money that goes into Federal tax revenues.

But the theorists have nonetheless insisted that we have an estate and gift tax. Some of those theorists have been politicians. In a 1906 message to Congress, advocating a progressive inheritance tax, President Theodore Roosevelt said:

[T]he prime object should be to put a constantly increasing burden on the inheritance of those swollen fortunes which it is certainly of no benefit to this country to perpetuate.

A little earlier, in a speech on the occasion of laying the cornerstone of the House of Representatives office building, he had been a bit more detailed:

I feel that we shall ultimately have to consider the adoption of some such scheme as that of a progressive tax on all fortunes, beyond a certain amount, either given in life or devised or bequeathed upon death to any individual—a tax so framed as to put it out of the power of the owner of one of these normous fortunes to hand on more than a certain amount to any one individual; the tax, of course, to be imposed by the National and not the State Government. Such taxation should, of course, be aimed merely at the inheritance or transmission in their entirety of those fortunes swollen beyond all healthy limits.

Others have been the very people who amassed the great fortunes of America. Andrew Carnegie said:

The growing disposition to tax more and more heavily large estates left at death is a cheering indication of the growth of a salutary change in public opinion. . . . Of all forms of taxation this seems the wisest. Men who continue hoarding great sums all their lives, the proper use of which for public ends would work good to the community from which it chiefly came, should be made to feel that the community, in the form of the State, cannot thus be deprived of its proper share. By taxing estates heavily at death the State marks its condemnation of the selfish millionaire's unworthy life. . . . This policy (of taxation) would work powerfully to induce the rich man to attend to the administration of wealth during his life, which is the end that society should always have in view, as being by far the most fruitful for the people. Nor need it be feared that this policy would sap the root of enterprise and render men less anxious to accumulate, for, to the class whose ambition is to leave great fortunes and be talked about after their death, it will attract even more attention, and, indeed, be a somewhat nobler ambition, to have enormous sums paid over to the State from their fortunes.

I ask that Senators mark the rhetoric these men used. They talk about swollen fortunes and selfish millionaires and healthy limits on fortunes. They were not talking about the modest accumulations of many Americans, which are often swollen more by inflation than by greed.

Against this theoretical background of an estate tax designed to break up enormous fortunes, we have put in place a system of taxation which reaches far beyond the original goal of deterring the robber barons from pillaging the workers in our country and to keep those same industrialists from amassing monopolistic cartels. What we have now cuts far deeper than that. The estate tax cuts deeply into the economic life of middle America, and hits our farmers and small businessmen, whose fortunes, if they may indeed be called fortunes, have been amassed by hard work and personal independence, and swollen as much by inflation as by diligence.

At the same time that the theoretical basis of the estate tax has changed, making the tax more widespread, the tax has become technically unmanageable. Now, as I said earlier, I am not a technician in tax matters. However, I could not help but be impressed, and perhaps a little depressed, too, at the testimony the Finance Committee received on July 25 from four tax practitioners, telling us of the nightmares they and their clients have in trying to plan for the future in a meaningful way. One of the attorneys went so far as to say that contempt for the new estate tax rivals even the disdain for OSHA.

Why do citizens so loathe the new reform? They loathe it not because they are required to pay the tax. Americans are remarkable in their willingness to do their duty in paying taxes. They loathe the new tax because all of the academic theorists tell them and their heirs that death is a loophole, and that no one has a right to take advantage of a loophole by the mere fortuity of dying. So those same academics brought us a concept called carryover basis to close the loophole of dying.

In testimony before the Finance Committee, Ms. Doris Blazek cited many of the evils of the carryover basis. She noted the concept provides for four possible adjustments to basis which are to be effected by a series of incredibly complicated calculations, which can probably be handled effectively and efficiently only by large computer operations. Moreover, the reporting requirements apply to all

recipients of property of a decedent if no executor is qualified and there are severe penalties in instances where it will be impossible to comply with the requirements of the law. The beneficiaries do not appear to be bound by the basis determination made by the executor. Accordingly, basis issues may remain unresolved for several generations.

She also cited serious economic impacts. Small estates may pay more in tax under the Tax Reform Act with carryover basis than under prior law contrary to the policy implicit in the unified credit and new marital deduction to relieve small estates from tax burdens at death. The cumulative tax rates on medium and large estates will be so great that they will impede equity investments and the incentive to build an estate. Carryover basis as written will not accomplish the presumed objective of placing the taxpayer whose estate sells after death in the same position as the taxpayer would have been had he sold prior to death. Finally, carryover basis pits beneficiary against beneficiary on standard issues arising in estate administration, and litigation will be fostered.

The situation of pitting beneficiary against beneficiary is a problem which causes me special concern, largely because out in my own State of Wyoming, a large portion of estates is represented by family businesses and ranches. Now supposedly, the Tax Reform Act gave special treatment for the valuation of those ranches and businesses. The act provides that, if certain conditions are met, the executor may elect to value real property included in the decedent's estate which is devoted to farming or closely held business use on the basis of that property's value as a farm or in the closely held business, rather than its fair market value determined on the basis of its highest and best use. However, this special use valuation cannot reduce the decedent's gross estate by more than $500,000. That limitation is artificially low.

But, Mr. President there is a catch to this so-called benefit. The act provides that if, within 15 years after the death of the decedent, the property is disposed of to nonfamily members or ceases to be used for farming or other closely held business purposes, all or a portion of the Federal estate tax benefits obtained by virtue of the reduced valuation are to be recaptured. This recapture provision is to apply not only where the qualified real property is sold to nonfamily members, but also where the property is disposed of to nonfamily members in a tax-free exchange or where the property is disposed of under an involuntary conversion, rollover, or similar transaction. I would suggest, Mr. President, that this 15-year limitation is a long, long time.

Mr. Lewis Costello, in his testimony before the Finance Committee made the point succinctly. I quote now from his testimony:

Farming today is a low profit, high volume, capital intensive business. A typical 200-acre farm in my area now will cost for land $200,000 to $350,000 and require extensive additional investment otherwise. Financing is a continuous process. No farmer starting out, nor any heir, of even the oldest and most skilled farming family will get by without financing.

The Tax Reform Act of 1976 was built by theoreticians in an "other world" concept without adequate comprehension of real world problems.

A 15-year payment period for taxes will not really benefit farmers much. No lender will advance funds to an heir without this tax being paid, and virtually no farming operations with which I am familiar have gone 15 years without refinancing. This provision without the ability to refinance the tax lien will not help a great deal in the practical world.

The problem of a minor beneficiary, without the legal capacity to consent, and the duty of the Executor to get approval and file necessary elections for special use valuations is likewise a substantial impairment. Elections will not be available in many cases where needed most.

Elections even if available theoretically will be of limited use. The farm family most often has more than one child, and the children are to be treated equally. One child will normally have to buy out his brothers and sisters. Where the purchase is made from the estate under will provisions permitting such a purchase by one or more of the heirs, the qualification for deferred treatment may be jeopardized, and use valuation will be lost, since the property would neither be "acquired from" nor "pass from the decedent" and the additional income tax and estate tax triggered.

The disqualification of leased lands may force older parents to dispose of the family farm since the lease, even to a family member does not appear to qualify. The loss of the independence of property ownership by the older generations is a questionable virtue.

The existence of a valuation trap will mitigate against the use of special valuation. The triggering by disposition apparently results in a recapture of estate tax, a loss of special valuation, and a capital gains tax without any step up in basis that would otherwise occur if the higher valuation was used originally.

Finally, Mr. President, I note that for small businessmen and ranchers, we have further complicated the issue by taxing so heavily the gains from the sale of an asset held for a lifetime. Let me read part of a letter from constituents of mine:

My husband and I are very much concerned and disturbed about the retroactive tax imposed September, 1976, made retroactive to January, 1976.

We spent 50 years hard labor putting a small ranch together. We were forced to sell caused by my husband loosing a leg. We built our own retirement.

We sold the ranch after consulting legal advice and did what we were advised to do. We paid an extra $11,000 tax doing it this way which we thought best, then to have such a law go into effect retroactive and cost us so much more tax. This was under sale contract in 1975. We took 29 percent down in 1975. Our big payment of 71 percent came in 1976, 71 percent January 10, 1976. We feel the minimum tax was very unfair to us and to others in similar circumstances.

We were not able to change our plan after the surprise attack.

This is a tough blow to people that have planned ahead in life so they can support themselves and not be a burden to the public.

A sliding scale capital gains tax would help solve this problem. Yet, in the face of this honest attempt hard-working people have made to plan sensibly and honestly for the future and for their families, we hear more and more about closing loopholes. It just does not make sense.

Mr. President, we must take responsibility for the low esteem in which many hold us. We rely on the good faith of the people to do their duty, and we reward their faith in us by passing legislation which even professionals cannot fully understand. Mr. President, I intend in the future, as we debate about true tax reform, to take those steps which will show Americans that we in Congress do live in the real world and that we have a genuine interest in honoring families and their integrity as they plan for their futures. If we must choose between perfection of theory and decency in practice I shall choose decency in practice.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that a statement by the Senator from Kansas (Mr. DOLE) be printed in the RECORD at this point. I do this at his request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR DOLE

The Tax Reform Act of 1976 made significant changes in the taxation of estates and gifts. These changes especially the carryover basis provisions affect almost everyone in this country.

RELIEF TO SMALL BUSINESS

There seemed to be agreement in Congress last year that some estate tax relief should be given to farmers and small businessmen. The Congress increased the martial deduction, enacted a unified credit in lieu of prior gift and estate exemptions and a special use valuation for real property. However, many of the benefits sought to be accomplished have been either eliminated or at least reduced by the enactment of the carryover basis provision.

Under prior law, the cost or other basis of the property acquired from a decedent was "stepped-up" to its fair market value at the date of death. Section 2005 of the Tax Reform Act of 1976 added section 1023 to the Internal Revenue Code. Simply stated, that section provides that with certain modifications, a decedents' predeath Federal income tax basis will now carryover to his estate and ultimately to the beneficiary irrespective of the value reflected in his Federal income tax return.

KANSAS SURVEY

This provision is riddled with a number of transitional rules. It is complicated and very difficult to administer. Recently, I sent a letter to Kansas attorneys and certified public accountants requesting their opinions and insights on a number of tax matters. There is almost complete agreement among the respondents that the carryover basis provisions are arbitrary, inequitable, and that compliance is expensive.

Recently the Subcommittee on Taxation and Debt Management chaired by Senator Byrd, held hearings on carryover basis problems. I commended the distinguished Senator from Virginia for calling public attention to this issue.

Even though the new unified credit will eliminate all Federal estate tax filing requirements for about 90 percent of the estates, the remaining percentage results in a number of affected estates which is large in any absolute term and includes an extremely large proportion of the small business, agriculture, executive and entrepreneurial population.

CURRENT LAW COMPLICATED

Unfortunately, the population affected by this provision, in many instances cannot afford the legal specialists to interpret the law. In some cases it can take hours of research and calculations to determine the basis of a single asset

The calculations to be made are incredible. Even after the basis is established the new law provides for four possible adjustments to basis. Each adjustment turns on calculations made in the preceding adjustment.

The adjustments must be made with respect to each asset. Even a modest estate will have a number of different assets. Moreover, there may not be one but several bases for a single asset since the adjustments in value are made only for the purpose of determining gain, not loss.

CONGRESSIONAL REVIEW NEEDED

Ironically the estate tax provisions that were designed to help the American farmer have turned out to be illusory. Farmer families are now faced with a burdensome tax on appreciation largely caused by inflation.

I believe it is time for the Congress to take another look at this problem. Many of the estate provisions enacted last year did not receive the proper attention. The Senator from Kansas looks forward to working with Senator Byrd and other members of the Finance Committee in easing the hardships caused by this provision.

PUBLIC FINANCING OF SENATE ELECTIONS

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the consideration of the pending business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, as each day of debate has passed, more and more deficiencies in Senate bill 926 have surfaced in this Chamber. Again, I rise to bring a further drawback to the attention of the Senate and the American people.

I address specifically section 502(c) of this bill. In part, that section states the following:

(c) To be eligible to receive any payments under section 506 in connection with his general election campaign, a candidate must certify to the Commission that—

(1) He is the nominee of a major party for election to the United States Senate; or

(2) He is not the nominee of a political party, and

(A) Received, in the preceding general election for the same Senate seat, 25 percent or more of the total number of votes cast in that election for all candidates for that seat, and was not the nominee of a political party in that election, or

(B) Was not a candidate in the preceding general election for the same Senate seat, but received, in the preceding general election for the other Senate seat from the same State, 25 percent or more of the total number of votes cast in that election for all candidates for that seat, and was not the nominee of a political party in that election.

Mr. President, translated into layman's language, this section will discourage political realinement by Senators who might want to leave their political party and run for reelection as an independent. If they did so, they would not be eligible to receive the 25-percent public financing block grant available in this bill to major party candidates. In fact, they would not be eligible for any public financing funds at all, unless they were to qualify by meeting the threshold requirement imposed by S. 926 on third-party and independent candidates.

Mr. President, there is an interesting twist to all of this. If the incumbent's principal opponent had run as an Independent for a Senate seat in the preceding general election and received 25 percent or more of the vote, that independent candidate becomes eligible for a block grant under this bill. It is, therefore, conceivable that an incumbent who determines to run as a minor party or Independent candidate could be confronted with two or three opponents, benefiting from the block grant, while he would be ineligible to receive such funds.

This provision of S. 926 will disable minor parties from attracting to their ranks known political figures. It becomes increasingly apparent that S. 926 will preserve the status quo and discourage defections from the major political parties.

Let me illustrate the point by an actual example. If S. 926 had been law back in 1970, our esteemed colleague from Virginia (Mr. HARRY F. BYRD, JR.), who decided at that time to run for reelection as an Independent, would not have qualified for the block grant, even though his opponents from the Republican and Democratic Parties would have received these funds. Senator BYRD, a proven votegetter would have been placed in a precarious financial position by reason of the Federal law. His less popular opponents would have enjoyed an immediate and undeserved funding advantage over him. Such a result is absurd on its face, but is wholly predictable if this bill is enacted. While I do not believe party defections should necessarily be encouraged, we must not place impediments to those defections by the unfair allocation of public funds.

Mr. President, such an encumbrance on the free flow of political candidates and issues should not be tolerated. This provision is yet another reason why the Senate should reject any attempt to invoke cloture on S. 926 at this time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield at that point.

Mr. HATFIELD. I am happy to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. May I ask the Chair the time situation?

The ACTING PRESIDENT pro tempore. The time is not under control. At 4 o'clock, there will be a live quorum call.

Mr. HARRY F. BYRD, JR. Mr. President, I would like to pursue in some detail the points raised by the able Senator from Oregon. Because under a previous agreement a live quorum will be sought at 4 o'clock and the vote on cloture taken thereafter, there is only about 8 or 9 minutes available between now and 4 o'clock, which it seems to me will be totally inadequate to covert the subject raised by the Senator from Oregon.

For that reason, I shall delay until a later time, and, hopefully, the Senator from Oregon and the Senator from Virginia could discuss this in a little more detail.

The point raised by the Senator from Oregon is a very important one, a very valid one, and one which, as he indicated in his remarks, should be considered before the Senate concludes to invoke cloture on this vitally important bill which, in the long run, will be so very expensive to the taxpayers of our Nation.

Mr. HATFIELD. Mr. President, I heartily agree with the Senator from Virginia, that this does raise, I believe, a very significant issue in relation to this bill. I would be happy to engage in a colloquy with the Senator from Virginia at a time when we could complete the colloquy in a series of questions, if that is the way the Senator would like to pursue it.

I used the Senator as an example in raising this issue today, being very conscious of the fact that I could have raised the issue as it related to a Senator from Oregon, the late Senator Wayne Morse, and as it might relate to other Senators in the past or in the future.

As the Senator from Virginia knows, Senator Wayne Morse was elected as a Republican Senator from the State of Oregon, then changed his party affiliation to Independent, and then to Democrat in that sequence. Naturally, as a member of the Republican Party, and one who had been a loyal and long supporter of Senator Wayne Morse, I was very disappointed that he saw fit to leave my party. But that, nevertheless, was his right, and I would defend it. I did defend his right to leave the Republican Party as he felt he must do under his convictions.

I am aware that this has occurred not too frequently in our political history. To change is one of the freedoms people have. It is as much a freedom as the individual voter enjoys when he goes to the polling place and may vote despite his party registration for any candidate in the race.

I would like to feel that we are not encumbering that freedom or inhibiting that right in this bill.

There are hopes on the part of some of us that some day we can persuade the Senator from Virginia to take the next step as the late Senator from Oregon did in his party transition. But that is not the issue at the moment. The issue is strictly that of the right of any Senator, any Congressman, any person in this country to make his party affiliation not a life-long commitment. If he decides that it no longer represents his basic political philosophy he certainly has that right to change and to continue his public service, if that be the desire of his constitutents, under a different party label.

That is the freedom, that is the right, which I think is encumbered in the bill and why I raise the issue.

I would like to go into it in more specific detail with the Senator from Virginia, probably if not today then later in some succeeding session.

I just want to emphasize again that this particular provision penalizes and

encumbers that right—it does not destroy the right but it certainly encumbers it—and makes inequitable the standing of candidates who have reached thresholds, who have qualified under the election procedures in their States. It does penalize and discriminates in those instances.

I suppose as one who has followed somewhat of an independent political course in my own 27 years in political office, to the extent that my own State party chairman publicly invited me to change my registration to Democrat. I like to protect that independent role for any Senator, whether he be Republican or Democrat.

Mr. HARRY F. BYRD, JR. I might say to the Senator from Oregon the example he used, namely the late Senator Wayne Morse of Oregon. is a somewhat different situation in that he was elected as a Republican and after being elected he became an independent. But before running for office again, he became a Democrat.

As the Senator from Oregon indicated, it is undesirable to put additional burdens, unfair burdens. or burdens not shared by other candidates. on an independent. An independent has a difficult enough role under the best of conditions.

As evidence of that. I point out that only twice in the history of the Senate has anyone been elected as an independent, the first being the Senator from Nebraska, Senator George W. Norris.

Senator Norris was a Republican. He thought the Republican Party was too conservative. In 1936 he wished to support President Roosevelt for reelection. In order to do so. he become a candidate for reelection to the Senate as an independent.

The Senator from Virginia had a somewhat different situation. The Senator from Virginia had been elected to the Senate in 1966 as a Democrat. In 1970, the State central committee attempted to impose an obligation on the Senator from Virginia, to require the Senator from Virginia to take an oath which the Senator from Virginia thought was an improper one, and one which the Senator from Virginia would not take. As a result, the Senator from Virginia sought reelection as an independent.

It is a very difficult way to run. All the party machinery of both political parties is in opposition. In seeking today to improve the pending legislature in so far as independents are concerned. I am not acting from a personal point of view. For myself, if I could survive 1970, with the newly elected Republican Governor campaigning full time against me and every Democratic statewide elected official in opposition to me—if I could survive 1970—I think I can survive whatever this bill might do. So I am not concerned, personally. But I do think it is unwise to put unreasonable obstacles in the way of independent candidates.

The two great major political parties are here to stay—and the advantages lie with the candidate of those parties. But every once in a while there are valid reasons why a person would seek office as an independent—and that person should not be frozen out of the electoral process.

I thank the Senator from Oregon for bringing up this particular point. At a later date I would like to go into it more fully.

Mr. HATFIELD. I thank the Senator from Virginia for his observations. I might say I have already introduced an amendment relating to the third parties and independent candidates in order to try to remove this particular discrimination, and other biases which this bill incorporates as it relates to third parties and minor parties.

Mr. ALLEN. Will the Senator yield 2 minutes?

Mr. HATFIELD. I would be happy to yield the floor and turn the floor over to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator.

This has been called a Republican filibuster. I submit if all the Republicans voted against cloture, and if there had not been a small group, a very effective group, of Democrats led by the distinguished Senator from Louisiana (Mr. LONG), who has been called the father of the checkoff, cloture would have been invoked long ago.

I am hoping that this bill will be brought down after the cloture vote today. I hope we will have an opportunity to knock out part 1 and leave part 2, because part 2 is a very important provision.

The PRESIDING OFFICER (Mr. MOYNIHAN). The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator may proceed for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I thank the distinguished Senator. The majority leader is always accommodating.

The history of this bill is that there were two bills in the Committee on Rules, one providing for public financing, one making some necessary reforms based on experience we have already had in political campaigns under the Federal election campaign law. I am hopeful that we shall drop part 1 and adopt part 2, because this is very necessary.

AMENDMENT NO. 635

Mr. ALLEN. I am sending an amendment to the desk at this time, not expecting a vote now, but so that it will be the pending business after the next cloture vote. I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment No. 635

On page 19, strike all starting with line 16 through page 41, line 4 (all of part I).

Mr. CANNON. Mr. President, I send an amendment to the desk to part II of S. 926 and ask that it be stated.

The PRESIDING OFFICER. There is a pending amendment.

Mr. ALLEN. I sent up an amendment knocking out public financing but leaving the reform legislation.

Mr. CANNON. Mr. President, I ask unanimous consent that it be in order for Senator ALLEN'S amendment to be temporarily laid aside in order that I may report my amendment under the rule in the event there is cloture.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I believe the Senator has until the end of the cloture vote to file an amendment but I have no objection.

UP AMENDMENT NO. 707

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes unprinted amendment No. 707.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, between lines 16 and 17, insert the following:

VOTING SYSTEM STUDY

SEC. 302. The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program).

Mr. CANNON. I thank the Senator for allowing me to present this amendment.

I now ask unanimous consent that the Senator's amendment be laid down as the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 4 p.m. having arrived and 1 hour having passed since the Senate convened, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon S. 926, a bill to provide for the public financing of primary and general elections for the U.S. Senate.

Robert C. Byrd, Dick Clark, Alan Cranston, Edward M. Kennedy, Gary Hart, Mike Gravel, Adlai E. Stevenson, John A. Durkin, Spark M. Matsunaga, Wendell R. Anderson, James Abourezk, Joseph R. Biden, Jr., Howard M. Metzenbaum, Claiborne Pell, Patrick J. Leahy, Harrison A. Williams, Jr., John Glenn, Gaylord Nelson, Walter D. Huddleston, William Proxmire.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the

clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 22 Leg.]

Abourezk	Glenn	Metzenbaum
Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd,	Helms	Riegle
Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Wallop
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Young
Garn	Metcalf	Zorinsky

The PRESIDING OFFICER. A quorum is present.

ADDITIONAL STATEMENTS SUBMITTED

Mr. LAXALT. Mr. President, as many of my colleagues are aware, I was an active participant in one of last year's major presidential campaigns. As the national chairman of Citizens for Reagan, I had a first-hand view of the operations of public financing at the presidential level and that experience alone was more than sufficient for me to oppose strongly its extension to congressional elections as proposed by S. 926.

Not only was the Federal Election Campaign Act of 1974 emminently subject to constitutional challenge, but parts of it were, in fact, successfully challenged in Buckley against Valeo. Despite valiant efforts by all concerned to avoid having the court challenge disrupt the conduct of the 1976 primary campaigns, this challenge consumed over 13 months. What is more, I can personally attest to the fact that the Reagan campaign was seriously disrupted in a way which, in view of the ultimate closeness of the outcome, could have proven decisive.

Along with certain expenditure limitations, Buckley against Valeo struck down the composition of the Federal Election Commission but left standing limitations on contributions. The effect of this action was to cut off Federal subsidies during the most critical part of the primary campaign while leaving in tact limits on contributions. Thus, the Reagan campaign during three decisive months found itself hamstrung while Congress labored to pass a new law which would provide an Election Commission more in accord with article II of the Constitution.

During that time, contribution limitations were in force but Federal monies not forthcoming and potentially decisive opportunities were lost to the Reagan campaign in States such as Ohio and New Jersey for want of adequate funding. Indeed, in 1976 the Reagan campaign was without Federal money for over 90 percent of the primaries, everything after Illinois.

My point is this historical degression is a simple one. Congress in 1974 under political pressure hurriedly passed a constitutionally questionable law and presidential candidates in 1976 paid for it when a significant portion of that law was struck down and the rules of the game suddenly changed. If S. 926 passes, Senate candidates in 1978 could suffer a similar fate.

S. 926 is certainly subject to constitutional challenge on a number of grounds. In Buckley against Valeo, the court explicitly struck down limits on so-called "independent" expenditures as violating first Amendment rights to free speech. But what about the discriminatory effects of expenditure ceilings applied to two candidates one of whom benefits substantially from independent expenditures and the other of whom receives none at all?

What about the discriminatory effects on third parties of differing qualification thresholds? And what about the constitutional validity of forcing citizens to fund with their tax dollars candidates with whom they disagree? What is legitimate under the general spending power may be something else when applied to a single State.

My point is not to suggest that these are the only areas of potential constitutional challenge to S. 926, but rather that there is no shortage of such areas and that serious court challenges are likely to ensue which make the 1978 effective date for S. 926 particularly inappropriate. Were I running in 1978, I would be very concerned about a repetition of the problems of 1976. If we must pass S. 926, we should at least postpone the effective date in such a way as to avoid disrupting the 1978 Senate campaigns.

Another problem with S. 926 concerns its major objective which presumably is to eliminate undue influence of so-called "special interests" on our elections. Although no one can quarrel with this as its goal, the bill itself will have precisely the opposite effect. In fact, S. 926 will sharpen and improve the effectiveness of "special interests."

In Buckley against Valeo, the Supreme Court made clear that expenditures on behalf of a candidate, so-called "independent expenditures," were perfectely valid expressions of first amendment rights. Thus, no public financing measure can ever remove special interests from politics and S. 926 merely injects taxpayers' dollars, a huge new Federal bureaucracy and a host of constitutional questions into Senate campaigns with no reforming effect on special interest involvement whatever.

Presently, candidates structure campaigns in a general way to appeal to the mass of statewide voters. But, special interests are increasingly effective in a targeted way, offering specific messages tailored to particular groups. If S. 926 passes, special interests will become even stronger. By virtue of their ability to focus, the special interests already achieve a greater cost effectiveness per dollar spent. Under S. 926, they will face no restriction on the number of available dollars. The expenditure ceilings and contribution limitations in S. 926, then, will have the effect of leaving a good portion of the political field to the special interests.

The specific areas in which special interests excel are communication with members, registration and voter participation campaigns. In the last presidential election the AFL–CIO's Committee on Political Education—COPE—and the UAW each spent $3 million on registration and get-out-the-vote drives. This means that the Nation's two most active union groups spent more to register voters and get them to the polls than the two major political parties combined. The total spent by COPE, UAW, and NEA was $8.5 million, a good part of which was a direct benefit to the Carter-Mondale ticket.

In short, in 1976, under public financing at the presidential level, special interests had an immense influence. It does not make much sense to think that a candidate will be influenced by someone giving him a large campaign contribution and not by others who are willing to spend a large amount of money on his behalf, although this is an implied premise in many of the proponents' arguments.

An additional possibility is that special interest organizations may evolve into virtual, if unacknowledged, appendages of campaign organizations. The beginnings of this trend could be glimpsed in 1976 when AFL–CIO research director, Mary Zon, was paid by the Carter campaign to serve three days a week as the Democratic National Committee's liaison with labor groups. Also in this last election the Democratic National Committee's campaign steering committee included COPE national director, Alexander Barkan; International Association of Machinists and Aerospace Workers president, Floyd Smith; and UAW president, Leonard Woodcock.

Presently, labor is more active in the independent expenditure area. But business and nonprofit organizations are increasingly involved. The result is that special interest moneys being collected and spent outside the campaign committee by outside groups could become even more decisive in the election of a candidate than his own efforts or those of his party. As farfetched as it may seem, special interests, if S. 926 passes, could take the responsibility for such major areas of campaigning as billboards, television, and fliers. This to me is a rather curious kind of campaign reform.

I am also rather amused by the logic of proponents of S. 926 who claim that this election reform is demanded by the times we live in. If I understand this reasoning correctly, their belief is that Americans have become so disillusioned by recent political scandals that a purification of the process if urgently required and public financing will help provide that cleansing.

Can it really be that so many of my colleagues have misread the mood of the people? I find that very hard to believe since a great majority of this bill's supporters come from the same party as our President. And he was elected in large

part because his campaign sensed the mood of the country and ran against bureaucratic intrusion.

Certainly people have been sickened by various activities in Washington of late, but this turned them to an "outsider" for President. That should tell us something. And frankly, I think it does, but S. 926's proponents seem unaware of the widespread longing in this country for less oppressive government.

The direction Americans would like to see their government move towards is the exact opposite of where this bill would take us. The public financing proposal injects bureaucracy into yet another private activity. And this particular activity—elections—is the centerpiece of our process. It is the one which the people should use to control the bureaucracy rather than vice versa.

So, having built a labyrinthian maze of government agencies, departments and bureaus these past number of decades which the public wrestles with in their business and private lives, we now propose in the name of reform to construct yet another one by grafting a Federal election bureaucracy appendage to the body politic.

If anyone doubts the detrimental effect this additional Federal weight could have on the functioning of the electoral system, I ask you to consider the following brief and by no means complete list of consequences public financing could have. First, have you tried to read the legislation? Imagine what confusion that mass of bureaucratese is going to cause the hundreds of candidates running in next year's Senate races. Imagine the interpretations and interpretations of interpretations which would be forthcoming to explain the regulations. The complexion of the law would undoubtedly begin to change as have so many others Congress has passed in recent years. The bureaucrats have developed a habit of putting their stamp on the mandates we hand them and there is no reason to think a Federal elections bureaucracy would differ very much from other bureaucracies in this regard.

It is contended, with good reason, that because of the many new campaign laws already in effect, the first thing a candidate needs to run for office is not a manager but a good lawyer and accountant. And what that indicates is that with the added complications of public financing, a candidate and his staff will be spending more time meeting the demands of election reporting redtape than meeting with the voter. In the 1976 elections, without the expansion of the public financing law proposed in S. 926, 1 million pages of disclosure forms containing 20 million pieces of information had to be processed. This bill will further complicate all of that paperwork.

Large amounts of public funds will be expended to pay lawyers and accountants just to keep up with demands from the Federal Election Commission. Ironically, this places Government in the position of dispensing public funds to candidates who in turn would be using these moneys to cover costs inflicted on them by Washington.

We have heard a lot of impassioned pleading and seen quite a bit of vigorous arm-waving by Senators intent on lessening the influences of special interests. Unfortunately, the logic of their arguments does not carry them to the obvious conclusion that with this bill the Senate will create a new special interest of its own which all candidates will have to cater to during their campaigns. With public financing will come an obeisance to Uncle Sam. Energies, attention, and time will be expended to keep the Federal moneymen satisfied.

The supposed callousness and insensitivity practiced by special interests is an argument used to point up the need to transfer election funding responsibilities to Washington. But, why place confidence in the Federal bureaucracy? Ask the small businessman just how fair and sensitive the OSHA inspector is. And other Federal programs have not exactly been smashing successes. Why place our trust in a Federal bureaucracy for something as enormously sensitive as our electoral process?

Consider also that campaigns will have to begin scheduling around the operations of the election bureaucracy certain to mushroom in Washington. Should the Senate accept public financing, candidates will be at the mercy of the Federal election bureaucrat. Paperwork, delays in delivering funds and the like will occur and as I have noted they are sure to disrupt the finely tuned engine of our political process as we know it today.

There is an analogy I would like to offer which may explain and better illustrate for the supporters of S. 926 the havoc public financing of congressional elections could wreak on our system. When we talk about this democratic system and the way it functions, we are dealing with many intangibles. The will of the people, judgment, leadership, representation and more are all intertwined and related in a way to give us the Government we have. It is a delicate fabric of threads which have been refined through history.

This very fragile process is not unlike the balance of nature one finds in the environment. In our environment each link is connected forming a complete circle of life. Each connection in that circle is sustained and sustains.

Man has on occasion disrupted the ecosystem with disastrous results. It is recognized that if the chain is broken, our environment will be damaged in ways we cannot even contemplate.

Now our own political system has its relationships which are similarly interdependent. Today the Senate is proposing to inject the heavy hand of a bureaucracy along with its myriad and confusing rules and regulations. Does anyone have serious doubts about how this could alter the face of our process? I think it is a given that things would never again be the same, but the frightening part is we will accomplish nothing positive and quite a lot that is negative.

Mr. President, we do not need public financing. There is a highly desirable alternative to injecting the Federal bureaucracy into campaigning available to us. In my opinion, Senator PACKWOOD's bill, S. 1471, allows us to effectuate the desirable goals of S. 926, while avoiding the problems of constitutionality, bureaucratic redtape and special interest influence mentioned above. But, as importantly, S. 1471 is a constructive effort toward enhancing citizen participation in politics, something we all agree to be not only desirable but also absolutely vital to the future health and vitality of our political system.

John Bolton, the attorney for the plaintiff in Buckley against Valeo, has testified that S. 1471 has no problems constitutionally. There are no expenditure limits set, nor is there any discrimination against independent candiates.

Bureaucratic "redtape" is also done away with by the Packwood bill. Already contained in existing laws are provisions for deductions for political contributions up to $100 and a tax credit of 50 percent for any political contributions with $25 being the maximum credit allowable. S. 1471 would increase the 50 percent credit limit to 75 percent with the maximum credit increased from $25 to $100 for single returns. The bill would also deny the present procedure of allowing tax deductions as an alternative to tax credit.

Mr. President, tax credits are familiar to the American public and require no great bureaucracy to administer. Furthermore, an extensive record in the Finance Committee attests to the ease of administration inherent in the tax credit approach.

However, citizen participation is probably the greatest virtue of the Packwood bill. S. 1471 encourages candidates to seek out large numbers of contributors instead of relying upon matching funds. Under S. 1471, the candidate must seek contributions from all constituents, since he will not be able to feed his campaign from public moneys.

In the 1976 Presidential elections, Ronald Reagan received contributions from twice as many people as Gerald Ford. However, due to the mechanisms devised for receiving matching funds, Ronald Reagan received only 9 percent more funds from the Treasury than did Gerald Ford. Under the tax credit plan, had it been a Senate race, Gerald Ford would have had more incentive to seek out a larger number of contributions rather than rely on matching funds. Furthermore, under the tax incentive plan "special interest" groups decrease in influence in the candidate's eyes as the lower and middle income voters' influence increases. With the maximum tax credit limitation of $100, contributions are rendered more equal in the eyes of the candidate.

Also, under S. 1471, citizen participation is greatly enhanced. Individual participation in American politics is an old and valued tradition, whether that participation is financial or takes the form of volunteered time or services. S. 1471, by providing a mechanism for channeling citizen involvement, would be a healthy addition to our political system. What is more, to seek out available contributions, under S. 1471 candidates would be required to travel the campaign trail. In the process, he would learn of his constituents' needs and then be better able to represent those needs in Washington. The candidate would not

be able to conduct a campaign behind a television camera, resting on the security of matching money.

Mr. President, S. 1471 does not require the establishment of a new bureaucracy; it preserves the citizens' control of the election system. Through the tax credit program, the voter increases his influence, the candidates are more apprised of voter needs, and "special interest" influence in political campaigns is diminished. S. 1471 represents no problems of constitutionality to bureaucratic redtape. In my opinion, the facts plainly show that it is superior in every way to S. 926 and I urge my colleagues to accept it as a substitute.

Mr. ROTH. Mr. President, last week I introduced two amendments to S. 926, the "Public Financing of Senate General Elections Act of 1977," which is now being considered. Before explaining these, I would like to state my general views on campaign reform, as well as the deficiencies of S. 926.

Without a doubt, today's campaigns are too long and too expensive. They force potential candidates to raise large amounts of money so they can purchase television time, support mass mailings, or travel throughout the State or district. But the bill now under consideration, S. 926, may create more problems than it solves.

This is not just my view, but that of both the Washington Post and former Senator Sam Ervin as well. In addition on July 31, the Post questioned the wisdom and desirability of S. 926, while former Senator Ervin wrote in the August 2 issue of the New York Times that this bill might damage the election system itself. He said the following of the supporters of this approach to financing:

> What they may fail to recognize, however, in their zeal to remove any taint of special-interest money, is not only the potentially terrible financial burden they may be laying on the taxpayer's shoulders but the damage they may be doing to the election system itself.

The Post warned that public financing is an experiment which in its maiden year "produced not just administrative burdens and snarls, but also a worrisome degree of official involvement in the details of political practices." What the Post then added should be set in bold type and laid before every Member of this Senate, because it summarizes the grievous error which well-intentioned Senators could bring about in an excess of zeal:

> . . . . Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

I am including this editorial as well as the statement by Senator Ervin at the conclusion of my remarks.

Mr. President, I would like to explain my reservations concerning S. 926 in more detail.

DEFECTS OF S. 926

The proponents of S. 926 argue that it will remove money as a possible corrupting influence in campaigns. But S. 926 does not eliminate the role which money plays. On the contrary, in many ways S. 926 heightens the importance of money. Moreover, the bill drastically increases the comparative influence which some special interest groups can wield—and bargain with—by virtue of their special ability to provide "services" such as low-cost mailings, telephone banks, and get-out-the-vote campaigns.

Mr. President, I would like to summarize some of the specific problems I have with S. 926.

First. If the bill is designed to "clean up" the entire electoral process, why are primary elections excluded from coverage?

A major argument advanced by proponents of S. 926 is that it is necessary to provide public financing in congressional elections because, with the advent of public financing in Presidential elections in 1976, congressional candidates increasingly were the recipients of large numbers of contributions from interest groups. Senator KENNEDY, a sponsor of S. 926, pointed this out in the 1977 hearings, as follows (p. 187):

> . . . the very success of public financing in Presidential elections has made the problem of campaign financing worse for elections to the House and Senate. The special interest groups are all dressed up with nowhere to go—except to Congressional elections. With their massive warchests of campaign funds for favored candidates, they have great and growing power to tilt the issues in their favor, against the public interest.
>
> Already, Congress is awash in a sea of special interest giving. The figures published by Common Cause on the 1976 election reveal the urgency of the problem.
>
> Special interest contributions—often at $5,000 a clip—soared to over $20 million for Senate and House candidates in 1976, nearly double the level in 1974.

But S. 926 does not limit the role of money in campaigns, only the role of money in general elections. Primaries remain untouched, the amount which can be spent in a primary is unlimited. If Senator KENNEDY is correct in his charge that the special interests "were all dressed up with nowhere to go" after campaign financing for Presidential elections, they certainly know where to go if S. 926 is enacted: straight to the primary campaigns.

As I understand Federal election law, a candidate running unopposed is nevertheless engaged in a primary. So if I were running for office next year, it would be a simple matter to stay within my spending limits for the general election by simply shifting any surplus into the primary. And mark my words, if something like that can be done, it will be done.

Second. Is one man's "special interest" another man's "public interest"?

Proponents of this legislation would have the American public believe that public financing of presidential elections drove the moneychangers from the temple, when all it really did was drive out some of the moneychangers.

If there is no objection, I would like to have reprinted in the RECORD following my remarks an article by Michael Malbin which appeared in the March 19, 1977 National Journal. His analysis of the effects of Presidential campaign financing law is lengthy, but it can be summarized by a two-paragraph quotation:

> The net result has been that a law that appeared to be even-handed in theory has proven to be uneven in practice. With the virtual extinction of the individual big giver, a number of different groups appear to be the gainers in terms of political influence. But when the relative positions of these groups are assessed, labor comes out well ahead of the rest.
>
> Labor, not surprisingly, supported the 1974 and 1976 amendments to the campaign finance law. For the future, it supports an extension of public financing to congressional elections and favors universal voter registration. Public financing could leave labor in as dominant a position on congressional elections as it was in 1976 on the presidential. Universal registration would permit labor to divert the resources it now applies to registration to such purposes as beefing up its communications and voter participation programs.

Third. If the S. 926 is designed to eliminate reliance on private money and interest group funds, why are matching funds a major feature of the bill?

If the S. 926 is designed to make elections more equitable, why utilize a matching funds approach which will make elections even more equitable?

Many sponsors of S. 926 previously supported full funding of congressional elections rather than a mixed, matching grants, approach. For example, on September 10, 1973, Senators CRANSTON, MATHIAS, and KENNEDY, among others, were cosigners of the "Dear Colleague" letter urging an "extension of the Presidential checkoff concept adopted in 1971 to provide Treasury financing of qualified candidates for President and Congress in general elections." The letter supported "full funding for major party candidates." Similarly, Senators CRANSTON, MATHIAS, and KENNEDY, in introducing public financing legislation in 1975, pointed out that their bill provided "full public funding for candidates of major parties in general elections for the Senate and House of Representatives" and that, in their view, "the time has come for full public financing of all elections to Federal office." But S. 926 is a compromise which aggravates the present system's deficiencies, rather than solving them.

A matching funds system does not promote the equality of candidates. George Agree, who has been active in many campaigns and has written extensively in the field of campaign finance—and who has testified in favor of public financing (1973 hearings)—observed that the matching funds system operative in the 1976 Presidential primaries, produced an effect such that "tax money—public funds—did not flow to candidates according to the number of Americans supporting them, but in proportion to the wealth of their contributors." Moreover, "money became more important than before" (Washington Post, July 11, 1977, p. A–23.)

What S. 926 leaves us with is not a system which eliminates the importance of large contributors, but one which enhances it. For every special interest dollar received a candidate can demand another tax dollar. The role of small contributors is suppressed for the sake of certain groups of large contributors. The average taxpayer would win only the dubious privilege of seeing his tax

money used to distort the political system which is already stacked against him.

Fourth. What will happen to candidates who fraudently obtain matched funds? How quickly can such a situation be identified? What if such a candidate should win, take his seat, and serve in the Senate for 1 year or even longer?

In the 1976 Presidential primary elections the only instance of federally matched funds in the United States to date, it took the Federal Election Commission 14 months from the date of one candidate's withdrawal to determine that his matching funds had been fraudulently and illegally obtained. This was in an election with only 15 candidates receiving matching funds. If the matching funds concept were extended to Senate and House races, one might expect there to be 1,000 or more candidates every 2 years. Since the reimbursement period would be shorter than in the Presidential primary period, would candidates be able to receive their matching funds in time to make use of them? What if candidates who obtained funds fraudulently should win, take their seat, and serve in Congress for 1 year or longer?

These are not frivolous objections, but legitimate practical obstacles to the system proposed by S. 926. It is a system which could open the door to confusion or outright fraud at a time when the public already views it with a deep distrust and cynicism. If the average set so far of 1 mistake for every 15 candidates were to hold up, we would be faced with errors in 66 House and Senate races, enough votes to turn the tide on nearly every crucial question facing the Congress.

Fifth. Will S. 926 (a) encourage and (b) perpetuate minor, one-issue parties?

In the 1976 Presidential primary elections, it was generally acknowledged that Ellen McCormack would almost certainly not win the Democratic nomination.

Yet she qualified for, and received, $244,125 in Federal matching funds. She ran essentially as a one-issue—anti-abortion—candidate. The provisions of S. 926 authorize minor party candidates Federal funds upon raising the lesser of 10 percent of the State's expenditure limitation or $100,000 in contributions of $100 or less. Whether or not this would produce a proliferation of minor party candidates is debatable, but judging from the experience in the 1976 Presidential primaries, it very well could. Also, S. 926 allows "a candidate who ran as an independent in a prior election for a Senate seat and received over 25 percent of the votes cast" to be "treated as the equivalent of a major party nominee if he or she is not the candidates of a party in the current election"—page 7, Senate Report 95-300. Thus, a single issue candidate could continue to run and receive Federal subsidies as long as he or she continued to receive at least 25 percent of the vote; he or she would be treated the same as a major party candidate for the purposes of receiving public funds.

The unfortunate result of these is that tax funds would be used to perpetuate the views of narrow special interest groups. The purpose of candidates such as Ellen McCormack is to affect decisions being made on a narrow range of issues. In effect, by providing campaign funds to single-interest candidates we are subsidizing their lobbying efforts, not furthering the cause of general interest parties. Frankly, I see no reason why the money of taxpayers should be used to help one special interest group lobby the public. Indeed, for some classes of candidates—those who represent religious views for example—such a system would arguably be unconstitutional.

Six. Does public funding have extensive popular support? Will there, in fact, be enough money in the check-off fund?

Since, "nearly three quarters of the money in the Presidential Election Campaign Fund was disbursed in the 1976 elections—$72 million of a collected $95.8 million—"according to the Federal Election Commission—FEC Record, April 1977, page 1—it is doubtful that there will be sufficient money in the check-off fund to finance Senate and House elections. House and Senate public financing would cost approximately $20 million each every 2 years, or $80 million on a 4-year cycle. Although public opinion polls generally show support for some form of public financing, only 27.1 percent of all taxpayers participated in the check-off in 1976, a very small increase from 1975—25.8 percent—and 1974—24.2 percent. One might conclude that only approximately one quarter of all American taxpayers favor the check-off plan—not enough to fund House and Senate elections adequately.

Seven. In addition to the public funds for candidates, what funds will be necessary for the administration, including auditing, of this bill should it be enacted?

In hearings on S. 926, spokespersons for the Federal Election Commission estimated that nearly $1 million per year —$906,000—in fiscal year 1978 and $896,000 in fiscal year 1979—would be necessary for administrative costs for Senate general elections only—page 31. However, if the House also adopts a public financing system, these estimates would skyrocket, since there are over 10 times the number of elections to monitor. Even regarding Senate costs, the FEC recommended that "if S. 926 is adopted a 'such sums' authorization for the FEC be included" since unanticipated problems might well arise—page 424.

What such a system leaves the door open to is an open-ended raid on the Federal Treasury. The Congress is being asked to approve a program, when even the costs of administering it cannot be accurately predicted. I have seen this kind of sloppy law-making in the past, and it leads to nothing but trouble.

Eight. When candidates save contributions to be matched in the general election, but then lose in the primary election, what becomes of the funds saved?

S. 926 sets the following requirements for candidates seeking to receive matching funds—pages 7-8, Senate Report 95-300 to accompany S. 926:

> . . . contributions which are eligible for matching funds may not be accepted until September 1 of the year preceding the election, and must be maintained in a separate account until the date such candidate qualifies under the law of the state for election to the Senate.
>
> These funds may not therefore be expended or used as collateral to raise funds to finance a primary election.

The question must be raised—what happens to these accounts in the case of a losing candidate in the primary election? There were 43 serious candidates—receiving greater than 15 percent of the vote—in Senate primary elections who did not qualify to run in the general elections.

This objection is somewhat more technical than the policy matters which I raised. Nevertheless, it is a serious enough defect to create major problems in administering the programs which S. 926 proposes, a program which is already burdened with major flaws.

Mr. President, what I have proposed is a partial alternative to S. 926. As I see it, we should be occupied by two concerns:

One. We should be attempting to minimize the role which special interests play in campaigns, thereby eliminating the possibility that these groups can influence—or appear to influence—later votes. In most cases, we can minimize the role of special interest groups by controlling the role of money in a campaign. But money is never an end in itself: it is merely a means of purchasing services, ranging from a campaign staff to radio or television time. If, therefore, we focus on services we can minimize the role of both money and those special interest groups which enjoy an advantage in furnishing these services.

Two. We should be attempting to equalize the positions of incumbents and challengers.

Mr. President, I have introduced two amendments which should go a long way toward achieving these two goals. My first is a comprehensive proposal to accomplish the following:

One. Reduce the expenses of campaigns by focusing on the two services which are most expensive: radio and television time; and, mass mailings. Under my proposal candidates would be provided free radio and television time, but prohibited from purchasing any TV time in excess of that provided. Since these two services are among the most expensive—radio and television time accounts for roughly one-half the cost of most campaigns—the role of the moneyed special interest groups would be minimized. In addition, the free mass mailings would minimize the role of special interest groups which provide mailings instead of money.

Second. Limit the advantage which incumbents have over challengers by prohibiting mass mailings of franked mail within 120 days of the election. The frank is the principal advantage which the congressional office-holder has over his rival, so limiting use of the frank should go a long way toward evening the battle between candidates.

If it were not for the constitutional prohibition against taxing measures arising in the Senate, I would include within my amendment a proposal for tax credits for political contributions. The tax credit approach has been en-

dorsed by Senators of such widely differing philosophies as the late Robert Kennedy and former Delaware Senator, John Williams. Despite its merit, however a tax credit amendment is not possible in the context of this bill.

Nevertheless, I am convinced that if Congress were to adopt the approach which I have offered, abuses which have occurred in the past would be prevented from recurring in the future. Certainly, no single law will eliminate the possibility that illegal behavior may occur in the financing and conduct of political campaigns. The Congress simply cannot legislate morality. But the Congress can adopt a reasoned and rational approach to curbing campaign abuses, and I hope it will choose to do so.

Mr. President, I ask unanimous consent that the editorial and the statement of Senator Ervin be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1977]

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contributions limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominees less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts, publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents; nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

No

(By Sam J. Ervin Jr.)

MORGANTON, N.C.—I fear that my former colleagues in the United States Congress, eager to rid politics of the last remnants of Watergate-type scandals, may be close to damaging the very institution they hope to strengthen.

Several proposals have been introduced in both the House of Representatives and the Senate that would provide for taxpayer financing of Congressional campaigns in much the same manner as the Presidential campaigns are financed.

What they may fail to recognize, however, in their zeal to remove any faint of special-interest money, is not only the potentially terrible financial burden they may be laying on the taxpayers' shoulders but the damage they may be doing to the election system itself.

Under many of the proposals being considered, only minimal requirements are established before Federal funds are made available to Congressional candidates. One proposal in the House even extends the concept beyond the general election to include primaries as well. Thus, one net effect of the bills, if they become law, would be the proliferation of splinter candidates or one-issue candidates, much as we saw in the early days of the Presidential campaign last year.

This proliferation of campaigns and individual candidacies would have two detrimental effects on the electoral system. First, it would tend to drain the Federal funds early in the primary season, with a large number of candidates drawing from the Federal till. And, second, it would tend to accelerate the demise of the two-party system on the national level, leading us down the coalition road already traveled by many Western allies.

One of the most compelling arguments against taxpayer financing of Congressional campaigns is that, according to the Internal Revenue Service, only about 25 percent of the United States taxpayers have gone along with the dollar checkoff for Presidential elections on their income-tax returns. Thus, if the process is expanded to include Congressional campaigns without a parallel expansion of public interest and participation, the United States Treasury might be forced to underwrite political campaigns out of tax monies pledged for other, more worthwhile projects.

Administratively the proposals would cause outrageous havoc. In testimony before the House Administration Committee recently, Ralph K. Winter, professor of law at Yale University said: "It has been estimated that the auditing of 15 Presidential candidates consumed 35 person-years of labor by the Federal Election Commission in 1976." He rightly concludes that a proposed expansion from those 15 Presidential candidates to possibly more than 1,000 Congressional candidates refutes itself.

Further, public funding would place in one executive-branch agency, the Federal Election Commission large-scale discretionary enforcement power that could increase the potential for election-year mischief similar to what we saw exposed a few years ago.

Delays in processing the required forms could leave candidates without any funds during critical periods in the campaign and it would be virtually impossible to determine later whether those delays were bureaucratic or political.

My former colleagues should consider measures looking to taxpayer financing of Congressional campaigns by amendments to the income-tax laws giving taxpayers increased tax credits or deductions for political contributions to Congressional candidates. This would tend to stimulate more open political debate in Congressional campaigns for it would require Congressional candidates to appeal directly to taxpayers for financial assistance.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a letter to our colleague, Senator PACKWOOD, reflecting the position of the American Civil Liberties Union, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., July 26, 1977.

Senator ROBERT PACKWOOD,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR PACKWOOD: We are writing to express to you our strong opposition to S. 926, the public financing bill which the Senate is taking up this week.

Over the last five years, the ACLU has been centrally involved in litigation designed to insure that reform of our political process does not come at the expense of the First Amendment's values of freedom of speech, press and association. We represented the plaintiffs in *Buckley* v. *Valeo*, because of our general opposition to limitations on expenditures which are made for the purpose of advocating causes or candidates in the public forum. In that case we succeeded in per-

suading the Supreme Court to rule that the Congress, in placing expenditure limits on campaigns, had violated the very core purpose of the First Amendment, namely, to insure that speech about politics and public affairs should be "uninhibited, robust, and wide-open." In S. 926, another attempt is made to violate that principle.

The ACLU is not opposed to the concept of public financing. But in our view, any valid public financing scheme must at least square with the following two principles:

(1) It must insure that minor party and independent candidates have a full and fair opportunity to qualify for such subsidies, and

(2) it must not condition the receipt of campaign subsidies on an agreement to abide by otherwise unconstitutional spending limits.

The first principle is based on our concern that public financing schemes will simply continue to perpetuate the power of the two major parties at the expense of the presentation of controversial and dissident viewpoints by minor party and independent candidates. The second principle is based on our belief that attempts to achieve supposedly fair and even-handed limitations on political communications will inevitably turn out to be unfair, unworkable and unconstitutional.

It is clear to us that S. 926 violates both of those principles. It once again perpetuates the invidious distinction between major party candidates and all others, making access to public funds far easier for Democratic and Republican candidates than for everyone else. And it once again contains mechanisms designed to limit the amount of funds that can be spent to communicate a candidate's case to the electorate.

Consider, for example, the effect of the bill on a challenger of moderate personal means seeking to wage a campaign against an incumbent. If the challenger accepts public funds, then he or she must submit to the limits attached as condition to the receipt of those funds, and must then face the almost impossible task of beating an incumbent, who possesses all the advantages of office, without being able to outspend that incumbent. If the challenger declines public funds in order to avoid the spending limitations, then not only must the challenger raise all campaign funds privately, but if the challenger does raise more money than the limits, the incumbent is then likewise freed from those limits, can raise private funds on top of the public subsidies, and can still deny the challenger the ability to compensate for all the advantages of incumbency.

Either way, fairness and free speech are the losers.

Finally, it is particularly inappropriate for the Senate to consider such incumbent-serving and unconstitutional schemes when other alternatives are available to facilitate raising campaign funds. One such approach—liberalizing the tax credits or deductions for small contributors—is contained in your own proposal and has a great deal to commend it.

But for the Senate to be considering schemes which are the most unfair and unconstitutional raises the gravest doubts about whether the goal is reform of the political process or perpetuation of power of those who currently control that process.

Sincerely yours,

ARYEH NEIER,
Executive Director.

Mr. CHURCH. Mr. President, as one who has consistently supported public financing for election campaigns in the past, I have voted for the motions to invoke cloture so that the Senate might vote on the pending legislation extending public financing to congressional elections.

It was in 1968 when the late President Dwight Eisenhower said:

We have put a dollar sign on public service, and today many capable men who would like to run for office simply can't afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet, the fact that we may be approaching that state of affairs is a sad reflection on our election system.

In the nearly 10 short years since this prophetic statement, public financing of congressional elections begins to look like an idea whose time has come. The success of the 1976 Presidential election showed that the principle of public financing is both sound and workable. And recent polls have indicated that the public supports, by wide margins, the financing of congressional elections through the income tax checkoff system. This support has also been indicated to me in a number of letters and communications from Idahoans urging my support for the pending legislation.

Mr. President, I ask unanimous consent that several representative letters and a recent editorial from the Washington Star, which encapsulates the issues and arguments presented in this bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 29, 1977]

CONGRESSIONAL CAMPAIGNING

The basic question involved in the current debate on campaign financing is this: Should congressional campaigns be financed largely by $1 contributions from American taxpayers or by contributions from special interests?

Stated another way: Should members of Congress be beholden to the American public or to business and union interests that are able to contribute large amounts of cash to campaigns?

The answer is easy: Pulic officials should be indebted and answerable to the public, not to special interests that finance their campaigns.

That isn't the question raised, though, by Senate opponents of legislation that would provide public financing for congressional campaigns. Led by Minority Leader Howard Baker, they are raising the smokescreen charge that the legislation is designed to perpetuate incumbents in office. They would have everyone believe that if incumbents had access to the federal treasury for campaign funds, it would take blasting powder to get them out of office.

The answer we like best to that argument is one used some time ago by John Gardner, founder of Common Cause: "If it (public financing) really favored incumbent, Congress would have passed it years ago."

No, public financing wouldn't be an incumbents' protective system. That label could more appropriately be attached to the present system of private financing, under which the special interests—the lobbyists, the fat cats—beat a path to incumbents' doors, carrying campaign contributions and expecting or hoping for favors in return.

Except in a few cases, notably candidates with large personal fortunes, it is considerably easier for incumbents to raise campaign money than it is for opponents. More than anything else, what has kept public financing of congressional campaigns from being enacted has been incumbents' fear of giving opponents access to the federal treasury.

If direct evidence is needed to counter the claim that public financing is incumbents' protective legislation, one need look no farther than last year's presidential race. For the first time, public money was made available to presidential candidates. Who won? Not the incumbent, Gerald Ford, but the challenger, Jimmy Carter.

But the important point about the financing of the 1976 presidential campaign is that the candidates no longer had to depend on contributions from special interests and fat-cats. Mr. Carter came to office less beholden to special interests than any president of recent times.

It is not stretching things much to say, as Mr. Gardner and others have, that when special interests found that they couldn't buy a president they tried to buy a Congress. A study by Common Cause showed that special interests contributed more than $22 million to House and Senate campaigns in 1976, twice as much as in 1974.

President Carter put in a timely plug yesterday for extending public financing to congressional campaigns. We hope his support will be enough to swing today's Senate vote against the filibusters who are trying to talk this important reform to death.

NORTH WIND RANCH,
Harrison, Idaho, June 28, 1977.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: For some time I've been greatly concerned over the steady erosion of public confidence in both the office of the Presidency and of the Congress as well. The feeling is all too pervasive and frequently expressed that big money elects all of our government officials.

For this reason I was overjoyed that the office of the presidency should be open to people of smaller means through the public financing of campaigns.

Now that the same sort of support for congressmen seeking office is in the works I'm very concerned that we give our support to it. I urge you to strongly support S. 926.

Unless the influence of special interests in electing our congressmen can be curbed our democratic electoral process can amount to little. Moreover, our offices should be reachable by people who are not wealthy and out of touch with the problems of the ordinary citizen.

Very truly yours,

BERT AND MARIE RUSSELL.

BUHL, IDAHO, *June 30, 1977.*

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: It is my understanding that the Senate will soon be voting on S. 926, the Senate public financing bill. I know that you have supported public financing in the past and I feel it is important again that we have public financing for congressional campaigns. If for no other reason than to prevent the wealthy candidate from having an unfair advantage over a non-wealthy candidate.

I hope you will support and vote for Senate bill 926.

Thank you.

Sincerely,

KATHERINE HEIDEL.

BOISE, IDAHO, *July 1, 1977.*

DEAR SENATOR CHURCH: I am much concerned about the manner in which campaigns for election to the Congress must be financed. Too often the candidates must depend on contributions from special interests, who thus can achieve undue influence on Congressional decision-making.

Consequently, I recommend that you support S. 926, which provides for public financing of Congressional races. This method has its problems, no doubt, but I think it would move us closer to true democratic action and enable our Congressional delegates to exercise their best judgment in voting on

the numerous important issues that face our nation today.

Sincerely,

LIVEN A. PETERSON, Jr.

THE LEAGUE OF WOMEN VOTERS,
Idaho Falls, Idaho, July 14, 1977.

SENATOR FRANK CHURCH,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: On behalf of the League of Women Voters of Idaho Falls, I would like to urge you to support S. 926 the Public Financing of Senate Elections Act of 1977.

In 1974 the League took a position on campaign financing, believing that changes must be made in the methods of financing political campaigns in order to make our government more accountable, more representative and more responsive to all of our citizens.

The League position favors a system of combined private and public funding for all federal campaigns—congressional as well as presidential; primaries as well as general elections. We support measures which would encourage broad-based contributions from the general public and the use of tax credits and deductions; we also support measures which would provide public financing, including income tax checkoff and supplemental government appropriations.

We believe that passage of S. 926 would help make the campaign process more competitive, preventing the wealthy candidate from having an undue advantage over a poorer opponent. We also believe that this bill would reduce the influence of special interest givers on congressional decision making, and would help restore public confidence in the integrity of Congress. Therefore we urge your support of S. 926.

Sincerely yours,

KAREN W. HOBBINS,
First Vice President, Idaho Falls League of Women Voters.

Mr. TALMADGE. Mr. President, if the Senate passes this bill it will perpetuate a fraud on the American people.

This bill is a sham. It promises one thing and does another. It falsely holds out hope to deliver something that it cannot deliver.

It is illusory. It is deceptive. It is inherently fraudulent and, moreover, it poses a severe threat to the most sacred of all American institutions, our system of free elections and freedom of choice by the voter.

Yet, this bill comes to us wrapped in a sanctimonious cloak of respectability. Proponents of public campaign financing would have us, and the American public, believe that this will make elections as clean and as pure as the driven snow.

They would have us believe, by inference, that private contributions—the bedrock of the American political system for as long as anyone can remember—automatically lead to corruption. This bill is supposed to sweep away, in one fell swoop, undue pressure and influence by special interest groups.

This bill is supposed to promote citizen participation in politics and the elective process, and encourage the candidacy of more qualified people for public office.

Were this bill to achieve all these praiseworthy goals, we could truly rejoice in the arrival of the millennium. This is where the falsity and the fraudulence of this bill becomes apparent.

It promises all these marvelous things. It has the endorsement of virtually every so-called do-gooder organization in the United States. It has been so elaborately packaged, so devoutly pushed, and so adroitly foisted upon the American public that to oppose it is about like being opposed to God, mother, or apple pie.

This bill will no more insure clean elections in every instance than Congress can pass a law that will automatically make everyone healthy, wealthy, and wise.

There will be election abuse, either intended or unintended, as long as human beings are fallible. And, financing elections from the public treasury will never make it otherwise.

Where there is abuse or wrongdoing in elections, prosecution and punishment ought to be swift and severe. Present law is adequate to take care of anyone who would subvert the election process.

The fact is, Mr. President, this bill will open the door to potential fraud and abuse that would be so wrapped in bureaucratic redtape that detection would be virtually impossible.

Fifteen candiates in the most recent Presidential election qualified for Federal subsidies under public financing. One case involving mismanagement and questionable fundraising activities already has been revealed. I do not mean to imply that there are more, but the situation does indicate what can happen.

That was in a race for a single office. Imagine the cost, imagine the potential for abuse, in congressional races for the Senate or House when there could be hundreds, even thousands, who qualify for Federal subsidies and who get on the public gravy train.

It would take a whole new army of bureaucrats in the executive branch to even attempt to maintain order or adequately police such a monumental situation.

Also, I, for one, refuse to subscribe to the insulting notion that contributions from private sources, whether they be large or small, are inherently corrupting.

This is an insult to the American citizen, rich and poor alike, who view political participation as their right and duty—which it is—and who demonstrate freedom of political expression by supporting candidates of their choice through their contributions.

It is also an affront to the integrity of the Congress of the United States, and to each and every Member of the Senate and House, to try to make it appear as though we can be bought and sold like cattle at auction.

This bill will not bring more citizens into active participation in politics and Government. It will not encourage more qualified people to offer for public office.

It will drive them away. It will widen the already dangerous gap between the people and Congress. It will further undermine public confidence in Government.

If we have public financing in the election of the President, if we have public financing in the election of Members of Congress, how long will it be before there are demands that there be public financing of Governors and mayors and county commissioners and sheriffs?

The further bureaucratic institutionalization of the election process can only turn people off about their Government even more, and even further dull their interest in elections.

I submit that we are in the process of taking away from the American people one of the few most sacred rights that they still have left—freedom of choice in the electoral process.

Furthermore, based on what I have read and heard, the American people want less, not more, Government. They want more, not less, control over the kind of Government they have. They want less, not more, regulation over their lives and well being.

That being the case, Mr. President, they most assuredly would not want this law if they were fully aware of what it does.

The people need to be told that this bill does nothing to strengthen the election system. It adds nothing substantive to the law that is not already required of candidates and contributors.

It does create more bureaucracy. It does put an additional burden on the taxpayers. It does attack the electoral process. It does constitute a threat to the legislative branch of Government, which is and ought to be chosen by and responsive to the American people. It does drive a wedge between the people and their candidates for office.

This bill is, on the one hand, a form of political suppression. It restricts the right of people to support candidates of their choice to the extent they may desire.

This bill, on the other hand, is a form of political coercion.

It makes people, through their tax dollars, support candidates who may be totally repugnant to them.

I do not know why it is so difficult to get this point across. Personally speaking, it is inconceivable to me that public funds, my tax dollars in part, would be given to support a candidate whose political views are diametrically opposed to my own.

It is inconceivable to me that we would pick the pockets of the public to support every candidate who comes down the pike, regardless of his ideology or worthiness.

Candidates should have to go to the people for approval and support—not Government.

The right to vote is the most fundamental of all American rights. It is amply protected by the Constitution and by statutes. Just as sacred to the American people and necessary under our republican form of Government is the right of the people to participate in politics, and to become actively involved in support of candidates.

This is more than a right. It is a responsibility of good citizenship.

No less important is the right of people not to support candidates, not to become involved in their campaigns, and not to promote their election in any way whatsoever.

This is freedom of choice in elections. When this freedom is gone so will all the other rights of the American people be gone.

There are many ways to become involved in the election of this or that

candidate. One can volunteer his time and contribute man hours in the campaign organization, in one capacity or another.

But, as we all know, one of the most important ways in which citizens can support a candidate is through a contribution of money to his campaign efforts.

By the same token, a citizen can demonstrate nonsupport of a candidate by withholding financial support.

I hope the time never comes in the United States when rank and file Americans will have to support any candidate for public office against their wishes. Yet, this is what public financing would demand.

It would deny the people of their right to freely express themselves in elections. It would dictate to the people whom they must support.

The stated purpose of this bill is to improve election law. You do not improve elections by forcing people to prop up candidates not of their choice with their tax dollars.

Moreover, it is also a stated goal of this legislation to control special interest groups and their influence in elections. It fails in this regard as well.

The sponsors of this bill maintain that by placing a ceiling on expenditures and by publicly subsidizing elections, undue pressure group influence will be greatly reduced.

S. 926 will not do this. If anything, it only makes matters worse.

The most reasonable and effective steps possible already have been taken to guard against an individual or an organization buying an election or contributing outrageous sums of money. The individual is limited to a $1,000 contribution. A political action organization is limited to a $5,000 contribution. All contributions and expenditures must be fully disclosed and publicly reported. Period.

Those two conditions do more to stem the big spenders and special interest groups than this bill could ever hope to do.

Under S. 926, a spending ceiling would be established. The Federal Government would provide an initial sum of money and matching funds for contributions solicited.

By doing this, it is alleged that influence of special interest groups will somehow be muted. The average voter will now have a greater say in the election of public officials. Participation will increase. More talented individuals will seek office. Congress will be more effective, and, indeed the country will be saved. Or, so the fable goes.

Well, now that the country has been spared and the special interest groups have been run out of town. I would like the Senate to consider a point or two.

Once we set this ceiling, with the matching funds and all, a candidate will only have to raise a certain amount of money.

The remainder will be provided by the Government.

Now, where is the candidate going to get the money he raises?

Some from special interest groups? Some from small contributors?

About the same percentage from each as before?

My bet is that there will be an increase in the percentage of special interest contributions over that of the average voter.

The bulk of the money that is not provided by the Federal Government will come from large contributors, not small ones.

After all, special interest groups will still be in business to promote their particular cause.

They will still be able to contribute until the limit is reached. All this proposal does is keep these groups on their toes. They will now have to get their money in quickly before the ceiling is reached.

When that happens, the average guy, who might want to give $15 or $20 to a candidate of his choice would not be able to.

The candidate's limit will have been reached.

So what do we have here? This average guy is being denied the right to support the candidate of his choice.

At the same time, he is being forced, through his tax dollars, to support a candidate he may despise, and for whom he has no intention of voting.

So, tell me, whose influence has been increased? To whom has the candidate become more beholden?

The average man? No way. All this bill would do is reduce the common denominator for the amount of campaign contributions, and in the process squeeze the small contributor out of the picture.

You do not improve Government that way. It would not become more responsive that way. You do not get more people involved in elections that way. You would not see candidates going to the people any more. The candidate would not have to sell himself and his ideas to potential supporters.

He will be removed that much further from the electorate, and that much closer to the special interest groups.

Also, suppose the spending limit for a candidate is $400,000. Automatically, the candidate receives $100,000.

The Government will then match, dollar for dollar, everything the candidate raises until the $400,000 limit is reached. The candidate raises $150,000. the Government matches with $150,000.

So what happens to the special interest dollar? It now becomes worth $2. The Government will now have gone into the business of subsidizing special interest groups. It will support, even encourage, what it seeks to prevent. A special interest group gives $100 to a candidate. The Government will match it.

Their $100 is now worth $200. Furthermore, Buckley against Valeo makes it clear that an individual or organization can spend as much as they like on a candidate as long as they do so independent of the candidate's campaign committee.

They can spend millions of dollars if they so desire.

They can hire thousands of workers. They can send out millions of letters.

They can buy TV and radio time. If they wish, they can buy up every billboard in the country.

It has been conclusively documented that millions and millions of special interest dollars were spent independently in the Presidential election of 1976. What is worse, money spent in this manner need not be reported. Proponents of this bill, who so piously protest special interest influence, do absolutely nothing to remedy the situation.

They would make it worse. Suppose a particular interest group was intent upon defeating a Senate candidate who refused to support its cause. That group could spend a fortune if it wanted. Yet, the candidate himself would be limited in the funds he could spend and, therefore, virtually powerless to counteract.

Mr. President, in the final analysis, special interest group participation in elections will never be eliminated.

It should not be. As with any citizen, organizations have a right to back candidates they support and ideas they believe in. But I do not believe any group or organization ought to have an undue or excessive impact on the outcome of an election, or influence over an elected official.

We all agree on that. But it is an outrage and an insult to anyone's intelligence to pass the bill off as a safeguard against special interest influence. It is not. There is no way on Earth that such a claim can be substantiated.

The opposite is the case.

As I have pointed out, we have already taken what I consider to be appropriate steps to control the influence of special interest outfits. We have limited the amount they can contribute. we have made it mandatory that all contributions and expenditures be reported.

This is a proper course of action in controlling special interest influence. S. 926 is not.

I fully support the substitute offer by Senator PACKWOOD, myself, and other Senators which would provide increased tax credits for political contributions.

It would allow taxpayers a credit of 75 percent of their political contribution in a calendar year up to $100 on an individual return, and $200 on joint returns.

I hope the Senate will adopt this substitution, and reject public financing.

By doing so, we will relieve taxpayers of yet another burden. We will not add another layer on the bureaucracy. We will not open new doors to Federal regulation. We will not increase opportunities for election abuse.

We will, on the other hand, preserve freedom of choice in elections in the United States.

Mr. THURMOND. Mr. President, on many previous occasions. I have stated my opposition to S. 926, the bill to provide for public financing of congressional elections.

I seriously question in both a philosophical and a practical sense whether taxpayer funds should be used as subsidies to pay the bills of candidates who want to run for public office.

Briefly, Mr. President, I shall now review several of the points discussed in the hearings which highlight some of the philosophical and practical problems I have with the concept of public financing.

Arguments have been advanced to the effect that public financing will remove the evil of special interests from the po-

litical process. I contend the opposite will occur.

After the Watergate situation, the cry for public financing on the part of some proponents became more vocal, and public financing was labeled by some as the remedy to prevent future "Watergates." Former Senator Eugene McCarthy has very effectively disposed of the arguments that Watergate involved the corruption of money and that public financing is a cure-all for future political scandals. In his testimony before the Rules Committee, Senator McCarthy succinctly addressed this point, and I believe the Senate will benefit from his views which follow:

. . . Rather, they involved the corruption of power and the use of government power to punish the Administration's political enemies. Instead of limiting that power, the FECA has increased it—by giving to incumbents the right to appoint and control the Federal Election Commission and by giving to the Commission what amounts to the power of life and death over political campaigns.

One of the pending bills, S. 926, would extend to Senate candidates those controls of the FECA which they have not experienced already.

It would subject them to limits on campaign spending—limits which would infringe seriously upon their freedom of speech, and limits which would take no account of differences of geography, travel expenses and media markets among the various states.

It would subject their campaigns to regulate audits by the Federal Election Commission. In return for federal subsidies, they would be required to keep their books as the Commission requires and to furnish upon request any type of information the Commission demands. In effect, they would be required to give up their right of privacy in exchange for federal funds.

S. 926 would give Senate candidates virtually no choice as to whether to accept public subsidies. Our experience with existing provisions for presidential subsidies indicates that they offer no real choice; because the contributions limits, which apply to all candidates, make it impossible for a nonsubsidized candidate to compete with those who are subsidized. The alleged choice offered in S. 926 is another effort to appear to offer freedom of choice, while, in fact, offering no choice at all. If a candidate foregoes the subsidy and raises enough money to exceed the spending limits to which his/her subsidized opponent is held, the opponent is then free to exceed the spending limits which are supposed to be a condition of the subsidy. The subsidized candidate can have it both ways. For the candidate who prefers to refuse the federal subsidy—and the elaborate controls that go with it—this is a heads-you-win-tails-I-lose proposition. To offer such an alternative as a genuine choice is unworthy of the Congress of the United States.

The whole concept of public subsidies for political campaigns is alien to American constitutional philosophy and to our traditions. The founding fathers, who were concerned about shielding the people and the political process from the government, would have been appalled by the concept of public funding. Had anyone raised the issue at the Constitutional Convention, he would have been reminded that King George III did not say to the colonists, "You gentleman raise a few thousand pounds; we will match it; and you can have a minor revolution." Having the government control the process by which the government itself is chosen goes against common sense and against every tradition of democracy.

Mr. Chairman, this Committee should not endorse the extension of public subsidies to Senate candidates. Rather it should endorse the elimination of public subsidies for presidential candidates. Beyond that, it should work to end all of the repressive features of the Federal Election Campaign Act.

Edmund Burke, in speaking of an anti-Catholic penal statute passed by the English parliament in 1699, declared: "Gentlemen, bad laws are the worst sort of tyranny. In such a country as this, they are of all bad things and worst, worse by far than anywhere else; and they derive a particular malignity even from the wisdom and soundness of the rest of our institutions."

The remedy Burke suggested for the penal act is the same I recommend for the federal election act. It should not be extended, not altered, not amended. It should be repealed. Only by repeal can the Congress sustain "the wisdom and soundness of the rest of our institutions."

Mr. President, I strongly urge my colleagues to pay attention to the wisdom of our former colleague. Often, when we served together, Gene McCarthy and I were on opposite sides of the issue. On this question, though, Mr. President, I have heard no more eloquent spokesman than he in opposition to the bill. I commend him for the foresight and courage with which he has spoken out on this issue. Again let me emphasize the words of our former colleague:

Having the government control the process by which the government itself is chosen goes against common sense and against every tradition of democracy.

Additionally, Mr. President, I would call to the attention of the Senate, recommendation No. 7 contained in the Report of the Select Committee on Presidential Campaign Activities, which urges the Senate not to adopt any form of public financing. The committee position reads as follows:

The Committee recommends against the adoption of any form of public financing in which tax monies are collected and allocated to political candidates by the federal government. The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for federal office. While recognizing the basis of support for the concepts of public financing, and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the Committee takes issue with the contention that public financing affords either an effective or appropriate solution.

Thomas Jefferson believed, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical."

The Comimttee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically, as guaranteed by the First Amendment.

Futhermore, we find inherent dangers in authorizing the federal bureaucracy to fund and excessively regulate political campaigns.

Mr. President, I would call to the attention of the Senate the strong opposition to public financing expressed by the majority of the Watergate Committee. No doubt, Mr. President, men of the caliber of Sam Ervin, HOWARD BAKER, LOWELL WEICKER, and HERMAN TALMADGE would have endorsed it as a remedy in the final report if they had thought it would prevent future corruption in the Government. Let the record speak for itself; these were the men who have opposed public financing as a remedy for Government corruption.

Another aspect of the bill troubles me greatly, Mr. President. It is the fact that people, the essence of the body politic, are further removed from campaign financing, which is at the core of any political campaigns.

As distasteful as I find campaign fundraising—and I think every candidate for office does find it distasteful—private contributions show that people believe in a candidate, and by virtue of their financial support, they help him to build a political base.

Mr. President, the American people are already distrustful and feel alienated from Government. Public financing gives the Congress and the Federal Election Commission control over an integral part of political campaigns and removes the people from the financing process.

Our distinguished and eloquent colleague from Connecticut (Senator WEICKER) has appropriately analyzed this aspect of public financing as follows:

One measure of a candidate is his or her ability to generate contributions for public office. Candidates should sell their ideas to win, not just be a warm body and rely on the Federal dole. . . . Once we hand the Congress the political purse strings, the people will no longer have the final say. Instead, politicians will be monitoring politicians—and that is not a healthy situation.

Senator McCarthy made the same point in a different way in his testimony before the Rules Committee. He said:

Particularly with reference to the congressional race, to have Congress sitting in judgment upon the political process, while someone is challenging an incumbent, it seems to me it sets up a relationship which is really not to be defended.

Mr. President, proponents claim this bill will reduce special interest money. On close analysis, however, it does not reduce certain special interest "in kind" contributions such as partisan communications, get-out-the-vote campaigns, and voter registration drives.

In an excellent article by Michael Malbin in the March 1977 National Journal, he brought into sharp focus the disequilibrium with which the campaign financing law treats organized labor and other groups. He wrote:

When Congress amended the campaign finance law in 1974 and 1976, the bill's supporters said they would bring an end to the days when special interests could have undue influence over elections.

It hasn't worked out that way.

The new law has eliminated some of the ways that money can influence politics. But the net result of limiting some contributors has been to increase the power of other big spenders who were permitted to operate as they always did.

The biggest winner was organized labor. The magnitude and sophistication of labor's efforts last year are even more impressive when stacked up against what others could do, particularly on the presidential level. Public financing for the general elections shut off private contributions to the two major presidential candidates. Contributions to the national party committees were permitted, but even this was limited. In contrast, labor was able to spend as much as it wanted to in communicating with union members and their families, registering them to vote and getting them to the polls.

Labor, not surprisingly supported the 1974 and 1976 amendments to the campaign finance law. For the future it supports an extension of public financing to congressional elections. Public financing could leave labor in as dominant a position on congressional elections as it was in 1976 on the presidential.

Further, Mr. President, I am concerned about the problem of targeted campaigns and the inability of candidates to counter an offensive mounted by membership organizations in the closing days of a campaign because of the respective expenditure limits on candidates and no limits on independent expenditures:

Our colleague, Senator PACKWOOD, cautioned against this possibility as follows in hearings before the Rules Committee:

What labor learned in 1976 will soon be discovered by other large membership organizations. Woe be to the candidate who votes for gun registration and earns the wrath of the National Rifle Association. Say goodbye to the candidate who votes for legal abortion and draws the wrath of Right to Life organizations.

The amount of money that a candidate could spend under public financing would be dwarfed by the narrowly targeted massive spending of organizations dedicated to the defeat of a candidate whose sole sin was to vote his conscience, and in so doing, crossed the passions of a particularly massive and wealthy special interest group.

These independent and wealthy organizations are also independent of accountability to the voters which is a very critical element in our political system.

What happens to the competition of ideas when powerful one-viewpoint organizations can use their resources to subvert the electoral process?

These are vital questions, and in framing answers we must remember that campaigns are waged to give voters a choice about their representation, not merely for the benefit of the candidates, the political parties, labor unions, the rich, or special interest groups.

Later in the same hearing, in a colloquy with Senator ALLEN, Senator PACKWOOD further underscored the problem:

Senator ALLEN. Well, can they spend in communicating only with their members or with the public generally?

Senator PACKWOOD. Both under the law, unions and businesses are allowed to use union dues or corporate treasury money to communicate with their members, but they are perfectly free to set up political action funds, and this is what the Buckley case held for groups as well as individuals, political action funds, voluntary contributions, and they can spend it for television to communicate with the general public, with any kind of mailings, with any kind of radio time.

I can picture, Senator, a group with $400,000 or $500,000, using about $150,000 of it to produce an excellent television documentary, and the other $350,000 to run it for the last week of a campaign, and it would be dynamite. And there would be no way you could counter it.

Mr. President, it is my contention that this bill gives a new weapon to the political fringe groups, extremists, special interest groups, moneyed groups, and labor organizations who may decide to target a particular candidate. Its victims will not be predominantly Democrats or Republicans, incumbents or nonincumbents, but the American voter, who finds that campaigns will be distorted by special moneyed groups outside the ambit of this law.

To the proponents, let it not be said that they were not warned about the great distortion this bill invites.

S. 926 unwisely increases the Federal power over the election process at the expense of individual freedom. It further removes the electorate from a fundamental aspect of political campaigns and vests the regulatory power in the Federal bureaucracy. Instead of reducing the role of special interest groups, it enhances this role and distorts the political process.

Mr. President, after my colleagues have analyzed this bill, I hope they will agree with me that it is legislation which the Senate should reject. It will harm the Republican Party. It will harm the Democratic Party as well. Most important, however, it will do grave harm to the body politic.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on S. 926, a bill to provide for the public financing of primary and general elections for the United States Senate, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) is necessarily absent.

I further announce that, if present and voting the Senator from Arkansas (Mr. MCCLELLAN) would vote "Nay."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—52

Abourezk	Glenn	Moynihan
Anderson	Gravel	Muskie
Bayh	Hart	Nelson
Biden	Haskell	Pearson
Brooke	Huddleston	Pell
Bumpers	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Kennedy	Riegle
Chiles	Leahy	Sarbanes
Church	Magnuson	Sasser
Clark	Mathias	Stafford
Cranston	Matsunaga	Stevenson
Culver	McGovern	Stone
DeConcini	McIntyre	Williams
Durkin	Melcher	Zorinsky
Eagleton	Metcalf	
Ford	Metzenbaum	

NAYS—46

Allen	Griffin	Nunn
Baker	Hansen	Packwood
Bartlett	Hatch	Roth
Bellmon	Hatfield	Schmitt
Bentsen	Hathaway	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Hollings	Stevens
Curtis	Javits	Talmadge
Danforth	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Eastland	Lugar	Weicker
Garn	McClure	Young
Goldwater	Morgan	

NOT VOTING—2

McClellan	Percy

The PRESIDING OFFICER. On this vote the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

AMENDMENT NO. 635

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN).

Mr. CANNON. Mr. President, I ask for the yeas and nays on the amendment of the Senator from Alabama.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Geoff Garin, of Senator HEINZ' staff, be permitted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senators please be in order and show courtesy to their colleagues.

Mr. ROBERT C. BYRD. Mr. President, will the Chair persist in his attempt to get order?

The PRESIDING OFFICER. The Senator is correct. Will the Senators take their seats. Those Senators wishing to converse please retire to the cloakroom. The Senate will be in order. The Senators will take their seats.

Mr. ROBERT C. BYRD. Mr. President, the amendment by Mr. ALLEN would strike part I from the bill; am I correct?

The PRESIDING OFFICER. The Chair will not interpret the amendment. The clerk will report the amendment.

The legislative clerk read as follows:

On page 19, strike all starting with line 16 through page 41, line 4 (all of part I).

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, that is the public financing section of the bill. We are ready for a vote. The yeas and nays are ordered.

Mr. HATFIELD. Mr. President, I am ready for a vote on this amendment.

Mr. ROBERT C. BYRD. Vote. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—58

Allen	Cranston	Hatch
Baker	Curtis	Hatfield
Bartlett	Danforth	Hathaway
Bellmon	DeConcini	Hayakawa
Bentsen	Dole	Helms
Bumpers	Domenici	Hollings
Byrd, Harry F., Jr.	Eagleton	Humphrey
	Eastland	Inouye
Byrd, Robert C.	Garn	Johnston
Cannon	Goldwater	Lavalt
Chiles	Griffin	Long
Clark	Hansen	Lugar

McClure	Randolph	Talmadge
McGovern	Roth	Thurmond
McIntyre	Schmitt	Tower
Morgan	Scott	Wallop
Muskie	Sparkman	Weicker
Nunn	Stennis	Young
Packwood	Stevens	Zorinsky
Proxmire	Stevenson	

NAYS—39

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Moynihan
Bayh	Heinz	Nelson
Biden	Huddleston	Pearson
Brooke	Jackson	Pell
Burdick	Javits	Ribicoff
Case	Kennedy	Riegle
Chafee	Leahy	Sarbanes
Church	Magnuson	Sasser
Culver	Mathias	Schweiker
Durkin	Matsunaga	Stafford
Ford	Melcher	Stone
Glenn	Metcalf	Williams

NOT VOTING—3

Gravel	McClellan	Percy

So Mr. ALLEN's amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Nevada.

Mr. CANNON. Mr. President, I ask unanimous consent that I be permitted to yield to the majority leader without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to see if it will be possible to get a time limitation agreement on the bill, amendments thereto, and motions in relation to the same, so that the Senate may complete action on this bill today.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I, too, would like to know how we can proceed next. It has come to my attention that there are amendments on this side which I think still will be offered. If the majority leader will permit me to do so, I would like to inquire on this side what amendments that remain with which we are still confronted.

Mr. PACKWOOD. Mr. President, I have an amendment to offer which would provide for an increase in the tax credit for political contributions.

Mr. BAKER. Would the distinguished Senator from Oregon care to give some estimate of the time he would require?

Mr. PACKWOOD. Oh, I would think a total of 40 minutes.

Mr. BELLMON. Mr. President, I have four amendments which I would be glad to have considered en bloc, I would be satisfied with a 30-minute time limitation.

Mr. BAKER. For all of them together?

Mr. BELLMON. Yes, for all of them.

Mr. HEINZ. Mr. President, I have one amendment to section 301, on which I think I would be happy with a 15-minute limitation.

Mr. ROBERT C. BYRD. Mr. President, are there other Senators on this side who have amendments?

Mr. CANNON. I have the pending amendment and three additional amendments, Mr. President. I would be willing to agree to 10 minutes on a side.

Mr. BAKER. Mr. President, will the majority leader yield to me for one moment?

Mr. ROBERT C. BYRD. The Senator from Nevada has the floor. Will he yield to the minority leader?

Mr. CANNON. I do so provided I do not lose my right to the floor.

Mr. BAKER. Mr. President, I have a number of Senators on this side who have indicated they either have amendments or matters they wish to discuss. Could we have a brief quorum call while we try to get our thoughts together?

Mr. ROBERT C. BYRD. With the understanding that the Senator from Nevada does not lose his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that a member of my staff, Walker Nolan, have floor privileges during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members of the Governmental Affairs Committee be permitted the floor privileges during the consideration of the Department of Energy conference report and the proceedings now pending on the floor: Dick Wegman, Ellen Miller, Paul Hoff, and Claude Barfield.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that two staff members of the Joint Committee on Taxation, Mr. Lawrence Browne and Herbert Chabot, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I have the same request with respect to Hank Chesborough and Bill Dahling.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that a member of my staff, Mr. Ken Wolgamott, be granted the privileges of the floor during the debate and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Charles Trabandt, of the Energy and Natural Resources Committee staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Deborah Merrick and Dan Dreyfus of my staff, the Energy and Natural Resources Committee, be granted privilege of the floor for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be recognized without prejudice to the distinguished Senator from Nevada who is entitled to be recognized under the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, after conferring with the distinguished minority leader and other Senators on that side of the aisle, and with the distinguished Senator from Nevada (Mr. CANNON) and the equally distinguished Senators from Iowa and California (Mr. CLARK and Mr. CRANSTON), and others on this side of the aisle, that with respect to the pending measure there be a two-hour limitation on S. 926, the time to be equally divided between Mr. CANNON and Mr. HATFIELD; that there be a time limitation on one amendment by Mr. TOWER of 60 minutes; that there be a time limitation on one amendment by Mr. HELMS of 60 minutes; that there be a time limitation of 20 minutes on an amendment by Mr. BAKER; that there be a time limitation of 45 minutes on an amendment by Mr. DOMENICI; that there be a time limitation of 60 minutes on an amendment by Mr. BELLMON; that there be a time limitation on an amendment by Mr. PACKWOOD of 40 minutes, with the understanding that no point of order concerning germaneness may be raised against that amendment; provided, further, that there be a time limitation on any other amendment of not to exceed 30 minutes; that there be a time limitation on amendments in the second degree, motions, appeals, points of order, if such are submitted by the Chair to the body for its decision, or should the Chair entertain debate on such, the time limit not to exceed 20 minutes; that no amendment pertaining to public financing be in order; and that

the agreement be in the usual form in every respect.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the only reservation I have is this: It is now my understanding that the request for the enumerated amendments and the times should be two amendments by the distinguished senior Senator from Texas (Mr. TOWER), with an allowance of 1 hour on each.

Mr. ROBERT C. BYRD. I so modify my request.

I also include four amendments by Mr. CANNON, on which there be a time limit of 20 minutes each.

Mr. PACKWOOD. Mr. President, reserving the right to object, in addition, my amendment will not be subject to a point of order as being public financing. Is that correct?

Mr. ROBERT C. BYRD. There will be no point of order against the Senator's amendment as to germaneness.

Mr. BAKER. Mr. President, reserving the right to object, I thought it was understood that the Packwood amendment, which is a tax credit amendment——

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER (continuing). Would not be prohibited by that part of this agreement which prohibits——

Mr. ROBERT C. BYRD. Nongermane amendments.

Mr. BAKER (continuing). Which prohibits amendments dealing with public financing.

Mr. ROBERT C. BYRD. The answer to the question is that no point of order will lie against his amendment with respect to germaneness.

Mr. PACKWOOD. I object.

Mr. ROBERT C. BYRD. A constitutional point of order would lie, the Senator understands——

Mr. BAKER. Mr. President, reserving the right to object, I do not doubt for one moment that a constitutional point of order might be raised against the amendment. But I wanted to make sure that this unanimous-consent agreement, which prohibits other amendments offering a plan of public financing, does not prohibit the tax credit amendment by the distinguished Senator from Oregon.

Mr. ROBERT C. BYRD. It would not.

Mr. PACKWOOD. One further question. What was the time limit on the debate on points of order?

Mr. ROBERT C. BYRD. Twenty minutes.

The PRESIDING OFFICER. Twenty minutes.

Mr. PACKWOOD. The constitutional point of order that will be raised to my amendment is of some significance to the Senate and the procedures it has followed in the past and may want to follow in the future, and I may object to a time limitation on a constitutional point of order.

Mr. ROBERT C. BYRD. Let us increase the time limitation on the point of order.

The PRESIDING OFFICER. The Senator would have his time on the amendment, in any event.

Mr. PACKWOOD. Yes, but a constitutional point of order is going to be raised to it, which is of significant moment to the Senate; and I would not want to be limited to a 20-minute debate on the point of order that will be raised to the amendment.

Mr. BAKER. Let us increase it. What does the Senator want—30 minutes to a side?

Mr. ROBERT C. BYRD. Mr. President, I modify the request to provide that there be a time limit of not to exceed 1 hour on a constitutional point of order, if raised, as I am sure it will be raised, in connection with the amendment by Mr. PACKWOOD.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that has been stated by the majority leader? The Chair hears none, and the unanimous-consent request is granted.

(Subsequently the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent with respect to S. 926, that Mr. STEVENSON be allowed 1 hour to be equally divided on each of two amendments which he may call up and offer to that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the further consideration of S. 926 (Order No. 277), a bill to provide for the public financing of primary and general elections for the U.S. Senate, debate on any amendment in the first degree (except 4 amendments by the Senator from Nevada (Mr. CANNON), on each of which there shall be 20 minutes; 2 amendments by the Senator from Texas (Mr. TOWER), on each of which there shall be 1 hour; an amendment by the Senator from North Carolina (Mr. HELMS), on which there shall be 1 hour; an amendment by the Senator from Tennessee (Mr. BAKER), on which there shall be 20 minutes; an amendment by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 45 minutes; 4 amendments by the Senator from Oklahoma (Mr. BELLMON), on which there shall be a total of 1 hour; two amendments by the Senator from Illinois (Mr. STEVENSON), on each of which there shall be 1 hour; and an amendment by the Senator from Oregon (Mr. PACKWOOD), on which there shall be 40 minutes, with no point of order on germaneness being in order thereon) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate (except a constitutional point of order on the Packwood amendment, on which there shall be 1 hour, if made) shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received and no amendment relative to public financing shall be in order.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. HATFIELD): *Provided,* That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

(The following proceedings occurred later in the day and are printed at this point in the RECORD by unanimous consent.)

Mr. CLARK. Mr. President, I should like to take 2 or 3 minutes to explain what, from my point of view, has occurred on the floor the last 2 weeks and most particularly today.

I voted for Senator ALLEN'S amendment that was pending after the cloture vote because it seemed to me quite clear that it would be impossible to get cloture in this body on public financing. We had three cloture votes, and the votes were very clear in terms of the intention of the majority of the Members of the Senate to support public financing. It seemed to me the Allen amendment, which struck public financing, did at least leave in place some minor but nevertheless correct adjustments and changes in existing law.

Now, the interesting thing that has happened, I think, these last 2 weeks is that we were never able to substantially receive any Republican support for this legislation. We received about 80 percent of the Democratic votes, I think all but about 11 or 12.

Indeed, interestingly enough, ultimately we received the votes of every single Democrat in this body outside of the South, except for one.

That is a very significant figure, it seems to me, and I want to come back to it in just a moment. But only one of the five Republican sponsors of this legislation, Senator MATHIAS, ever voted in any of the three cloture votes to shut off debate, to even allow us to have a vote on the merits of public financing.

Now, that is the fact of the matter. The people who were publicly committed to this kind of legislation, people who put their names on it as sponsors—in one case a major author of the bill—never would allow us to even come to a vote on that legislation.

As I said here yesterday, frankly, it does not surprise me that the Democratic Senators who do not believe in public financing should not vote for cloture. Why should they? It does not surprise me that Republican Senators who are opposed to public financing should not vote for closure. Why should they? The Democrats who were committed to this legislation voted for cloture.

The fact is, and the irony of this is, that those people who are on record in questionnaires, in their mail to their constituents, and in their public statements in favor of public financing refused to allow a vote on public financing. That is the interesting thing to me, not that people who are opposed to it would oppose cloture on the Democratic or the Republican side.

Indeed, I must say from a self-interest point of view it would be very difficult to see a Southern Democrat vote for this

legislation because it would have given a grant of money and matching funds to Republican candidates in every State in the South, where many times Democrats have not had any serious opposition.

I do not see this, frankly—and the Republican Party can interpret its own interests—but I must say I do not know how that could have been a party vote against the interests of the Republican Party.

Let me just say, in conclusion, Mr. President, we did not bring this bill to the floor with the hope that we were going to get 60 votes at some future period. The fact is that the day this bill was brought to the floor we had 60 votes for cloture. We had 60 votes, including 11 Republicans. What happened in the meantime? What happened? Well, I think it is quite clear. People began to put partisanship ahead of their own public statements, and ahead of their own personal commitments, that are clear for anybody to read. I think that is what happened.

People really succumbed to the idea of partisan pressure and partisan views over and above their stated positions. I think that is the fact of the matter.

We did not start out in the hope that we would somehow pick up 8 or 10 Republican votes. We had them and lost them despite their commitments, and I think that is the fact of the matter.

I had hoped, because of the fact that we had offered compromises of various kinds, to try to satisfy the opposition to public financing, by making changes that addressed the major points of criticism; in fact, none of those compromises were ever acceptable. They were not acceptable, as I had hoped, to Senators who are publicly committed to public financing, not those who oppose it. As for those who are publicly committed to public financing who would not even vote for cloture so the Senate would have a chance to vote on the issue, I hope they can face up both to their own consciences and their constituencies.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

(At this point, Mr. RIBICOFF had asked unanimous consent to have a summary of the provisions of a conference report printed in the RECORD.)

Mr. HEINZ. Reserving the right to object—and I hope I do not have to object—I must reserve my rights not because of anything the Senator from Connecticut is doing but because there has just been a speech on the floor entered into by unanimous consent, of which I was not a party. I did not know it was coming up, but that is my fault. My concern bears on the matter we just voted on, namely the striking of title I of S. 926.

The PRESIDING OFFICER. Does the Senator from Pennsylvania object to the unanimous-consent request?

Mr. HEINZ. I would like to ask unanimous consent that when the Senator from Connecticut has finished his presentation—I do not know how long it will be—that I might proceed for not to exceed 5 minutes on the same subject as the Senator from Iowa.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, managers on each side of the aisle may yield time to Senators, and the subject matter does not have to be germane to the conference report.

Mr. HEINZ. I understand that, but I would like to settle this now, if I may.

Mr. RIBICOFF. The other side has 1 hour. I have a half hour. However, if the Republican side of the aisle will not yield 5 minutes, I will yield 5 minutes out of my half hour.

Mr. HEINZ. I appreciate the Senator from Connecticut's doing that. I do not think the Republican manager of the bill is here right now.

Mr. RIBICOFF. I will yield 5 minutes.

Mr. HEINZ. I appreciate that, and I thank the Senator and I apologize for interrupting his presentation.

Mr. RIBICOFF. I will yield the Senator 5 minutes.

I ask unanimous consent that I be allowed to proceed and that the statement of the Senator from Pennsylvania will be printed in the RECORD following the statement of the Senator from Iowa.

Mr. HEINZ. I thank the Senator for that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HEINZ. Mr. President, I hope the Senator from Iowa (Mr. CLARK) will return from the gallery.

Mr. JAVITS. Mr. President, I yield 5 minutes.

Mr. HEINZ. I thank the Senator from New York.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. HEINZ. Mr. President, I hope the Senator from Iowa (Mr. CLARK) will return to the Senate floor because I want him to be a part of this discussion. I would very much appreciate the courtesy of his indulgence in that request.

I did not hear everything the Senator from Iowa (Mr. CLARK) had to say. My understanding is that he indicated that there were a number of Senators of my party, the Republican Party, who were cosponsors of the bill, as indeed I am, who for partisan reasons threw a monkeywrench into the consideration of the election reform bill, S. 926.

I want to make it very clear that this Senator—and I think there are many other Republicans for whom I speak—continues to endorse the basic principle that title I represented. I regret that the public financing title was stricken and I showed so with my vote on the Allen amendment. If there were any partisan considerations involved in striking that title, I think they were on the part of the Democrats. That amendment was offered by our distinguished colleague, Senator ALLEN. He is a Democrat. It was supported by the Democratic leadership.

There have been many partisan considerations which I think are evident by the course this bill has taken. The Democratic majority was unwilling to include public financing of primaries because that threatened Democrats, particularly in the eight Southern States. There was a lot of legitimate concern expressed in the press and elsewhere as to whether this bill worked against independents and minority party candidates. The way the bill was reported by the Rules Committee that concern was justified. There was concern that because the spending limits were too low it was an incumbents' bill, and it was. But these problems should not have prevented people of goodwill from sitting down together and solving them. I know I was willing to do so. I know many other Republicans who were also willing to work these problems out.

So when the Senator from Iowa, Senator CLARK, says that we Republicans are to blame, the Senator from Iowa should know that simply is not the case.

There was absolutely no consultation on the decision to throw the towel in on the part of the Senator from Iowa, or anybody else speaking for him, with me or with Senator JAVITS, for example, as far as I know. Several sympathetic Republicans had a meeting just before the cloture vote and there was no sign, no information whatsoever, that the leadership or that Senator CLARK was going to support the Allen amendment.

It was a rabbit out of the hat. It was a trick. It was gimmickry. The public is the loser, and that is why I regret to see the Democratic majority voting to gut this bill.

I fear that the conclusion the country can and should draw is that the majority wished us to choose between an incumbent's bill or no public financing. They wanted to restrict our choice to a partisan bill favoring Democrats while discriminating against independents or minorities or Republicans—and sometimes Republicans are minorities—or no bill at all.

Now, in effect, the Allen amendment does guarantee us no bill at all. I very much regret that because that means people of enormous talent, ability, dedication, and commitment but who do not happen to be a part of a one-party machine in some State or who do not happen to be part of the majority party, the overwhelming majority party in another State, or who are independently minded people and who do not go along to get along, all these people and many more are going to be shut out of the political process, just the way the Republicans were shut out of the process of consultation on this bill. And I say to my colleagues that it is a mistake that my good friends on the Democratic side of the aisle have made and that they have not played fair either with the minority or with the American people.

I think it is the American people who will suffer.

I wish Senator CLARK were here because he knows very well that he never tried to contact me, although I was trying to sit down and talk to him. So it is wrong for Senator CLARK to say, as he did say, that there were five Republicans who were cosponsors of the bill who did not seek to help. I think he is in error, he has made a mistake, and I wish he were here to straighten the record out because the record he has made today is wrong and inaccurate.

Mr. President, I hope that the Senate will not take the affront that has been

made to it today lying down. I hope we will not let genuine public financing die.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HEINZ. I ask unanimous consent for 1 additional minute.

Mr. ROBERT C. BYRD. Mr. President, the Senator has control of the time.

Mr. JAVITS. I yield 1 additional minute.

The PRESIDING OFFICER. The Senator from New York yields additional time.

The Senator from Pennsylvania.

Mr. HEINZ. The very integrity and openness of our political process is at stake, and for us to have closed the door with a behind-the-scenes, closed-door deal of some kind that was made only moments before the vote, smacks to me of the worse kind of politics that this country could ever want to see perpetuated. I hope the leadership, both the Republicans and Democrats, will try to work to right this wrong.

Thank you, Mr. President.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Oregon with the same stipulation.

Mr. ALLEN. I wonder if the Senator will yield to me at this time inasmuch as the distinguished Senator from Pennsylvania referred to the Senator from Alabama.

Mr. JAVITS. Certainly. Is that all right with Senator PACKWOOD?

Mr. PACKWOOD. That is all right. I will wait for the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. ALLEN. Mr. President, I was somewhat amused and also perplexed by the nature of the argument of the distinguished Senator from Pennsylvania (Mr. HEINZ). He spoke of an amendment which the Senator from Alabama offered as being gimmickry.

The amendment has been on all Senators' desks for all of this week signifying that the Senator from Alabama at the appropriate time planned to offer the amendment.

I am somewhat perplexed, also, by the distinguished Senator from Pennsylvania bemoaning the death of public financing when by his votes, as I recall, and I just checked at the desk, he has been voting against cloture. So it is rather strange that this distinguished Senator, such a champion of public financing, would have been voting against the debate on the bill being brought to a close. The position of the Senator from Alabama, on the other hand, was well known at all times.

I was opposed to public financing. I voted against cloture each and every time. I offered amendments at the desk, and they were printed and on every Senator's desk. The Senator from Alabama has been entirely straightforward in his attitude of opposition.

But I am still perplexed by the actions of the distinguished Senator from Pennsylvania, as contrasted with the words of the distinguished Senator from Pennsylvania as he now advocates the bill which he has been, by his votes, seeking to kill all of these days that we have had votes. I am somewhat perplexed by his action; but I am delighted that the Senate has seen fit to knock out the public financing provision. I would think that would be something that the distinguished Senator from Pennsylvania would approve of, inasmuch as he has been voting against cloture, that is, against the bill coming to a final vote.

The position of the Senator from Alabama has been known at all times, but it seems that the true position of the distinguished Senator from Pennsylvania has not been known up until right now, as compared with his votes against cloture. I am delighted that he did vote against cloture, but if he has been so strong for the bill, why did he not vote for cloture?

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MATSUNAGA). Who yields time?

Mr. JAVITS. I yield 3 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. PACKWOOD. Mr. President, I, too, was offended by the remarks of the Senator from Iowa. I was one of those he met with, in attempting to reach a compromise. The Senator from California (Mr. CRANSTON) and Senator CLARK came to my office last Friday afternoon, and I tried in good faith to work out a compromise with them. I talked with the Republican leadership and a number of Republicans. We tried to find out if there was a way that minority parties could be accommodated, or any way that the unconstitutional spending ceiling could be altered. The upshot of it was that the negotiations fell through.

They were not entered into in bad faith on this side, but time after time, in the Rules Committee, we had seen Republicans offer amendments to this bill, trying to make it a good campaign spending bill, because the Republican Party is not unanimous in its opposition to public financing of campaigns. But in every vote in the Rules Committee of any consequence, the Republicans were defeated.

The problem with the bill we had before us was that it never was designed to achieve its purpose. It did not stop special interest spending. It could not stop special interest spending; it would be unconstitutional to stop it. The bill could not do that.

Gradually, as this debate went on, that point sunk into the news media in this country, and we began to see editorials against the bill.

In short, Mr. President, this bill is a miserable piece of drafting. It is a miserable piece of work, and does not accomplish anything its proponents say it would accomplish. For the sponsors now to come on the floor and accuse the Republicans of bad faith and double talk, to my mind, simply does not do justice to the legislative process. What we saw in the last 10 days was the legislative process at its best. The flaws in this bill, the foibles in this bill, the weaknesses in this bill were shown for what they are. This bill was proved to be ineffective, wrong, unconstitutional, and immoral. To accuse some of those who at one time said, "I am for public financing," if they did not support this piece of trash and say they have double-crossed their commitment and their promises, their pledges to public financing, is the kind of comment that deserves an apology.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from New York for yielding. I just wish to agree with one thing my good friend from Alabama has said. Yes, I have voted on 3 successive legislative days against cloture.

I voted against cloture because I do not want to see this bill rushed through and simply have the tyranny of the majority be the rule of the Senate. The Senator from Alabama and I apparently agree that this bill is imperfect. I may not totally agree with my good friend and colleague from Oregon that it is as bad as he says, but, yes, I voted against cloture because I wanted to see the bill improved.

Where the Senator from Alabama and I parted company was on the vote on the Allen amendment, which I assume the Democratic leadership supported and I voted against. I voted against it because I did not think we should give up the effort of working and trying to compromise our differences.

I am proud that I voted against cloture three times, because when we go in at 2 or 3 o'clock in the afternoon and come out of here by 5, that is not my idea of a lengthy legislative day, and I am trying——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield at that point?

Mr. HEINZ. I do not have much time.

Mr. JAVITS. I yield the Senator another minute.

Mr. ROBERT C. BYRD. I merely wanted to point out that the reason we went out, the point the Senator raises, was that there were no Senators who wanted to speak further. Had there been such, we would have stayed in longer.

Mr. HEINZ. Mr. President, I do not want to get into a lengthy, scheduling discussion, but we did not go in, as well, until fairly late today and yesterday.

Mr. ROBERT C. BYRD. Yes.

Mr. HEINZ. We have had concern raised about why we go in so late and stick around until very odd hours in the evening. I would say to my friend the distinguished majority leader that there are some of us who have family responsibilities once in a while, and I think if we would go in earlier and debate and vote during the day, rather than at night, and have nothing going on during the day, despite the fact that I do understand the problems of the committees, and how the majority leader is trying to rationalize the situation around here, I personally think we would be better off.

I am not in any way being critical of the majority leader. All I am trying to point out is that we have had very little in the way of amendments, and in particular it has been very difficult to get agreements from the managers of this

bill to take up the Packwood amendment or the Chafee amendment; and until we could get agreements, I was going to be very reluctant to vote for cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 additional minute.

Mr. HEINZ. I do not think that will be necessary, but I thank the Senator from New York for yielding.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Connecticut yield me 1 minute?

Mr. RIBICOFF. I yield 1 minute to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I do not take any umbrage at the Senator's reference to the Senate coming in at 3 o'clock and going out at 5, but the reason we came in at 3 o'clock yesterday and today was for the purposes of negotiations I thought were going forward. I was trying to provide some time for those negotiations in respect to the public financing bill to be completed.

The reason why we went out is demonstrated by the following colloquy which occurred yesterday at the close of the day:

Mr. ROBERT C. BYRD. Mr. President, I inquire whether or not there are any Senators who wish to speak further today on the pending matter.

Does the distinguished acting minority leader know of anybody on his side?

Mr. TOWER. I know of nobody on our side.

(This concludes proceedings which occurred subsequently and which were printed earlier in the RECORD, by unanimous consent.)

TIME LIMITATION AGREEMENT—CONFERENCE REPORT ON S. 826

Mr. ROBERT C. BYRD. Mr. Prseident, if I may have the floor further at the moment, without prejudice to Mr. CANNON, I wonder whether we could obtain a time agreement now on the Department of Energy conference report, which we will call up because it is a privileged matter.

Mr. BAKER. Mr. President, will the Senator yield, briefly?

Mr. ROBERT C. BYRD. Yes.

I ask unanimous consent that the time now not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I advise the distinguished majority leader that an inventory of requirements on this side in respect to the Department of Energy conference report indicates that an hour on this side would be adequate and that we have a request on this side for a rollcall vote.

I can give the distinguished majority leader those times, and the allocation of them will total about an hour.

Mr. ROBERT C. BYRD. If it is agreeable with the distinguished Senator from Connecticut, we could allot 1 hour to the manager of the bill on that side of the aisle.

Mr. BAKER. That is satisfactory.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I have cleared this with the distinguished Senator from Connecticut; we discussed it earlier—that there be a time limitation on the Department of Energy conference report of not to exceed 2 hours; that the time be equally divided between Mr. JAVITS and Mr. RIBICOFF.

Mr. RIBICOFF. I could do with less, so far as I am concerned. I will not take an hour.

Mr. ROBERT C. BYRD. I thank the Senator.

So that Senators might have a better idea as to when a rollcall vote will occur, I ask unanimous consent that the time allotted to Mr. RIBICOFF be limited to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate then proceed to the consideration of the conference report, with the understanding that there will be no further consideration of S. 926 today.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. Mr. President, reserving the right to object, I understand that we will now have 5 minutes on S. 926—I propose to yield from my time on my pending amendment 5 minutes to the Senator from Iowa; that we would then proceed to the energy bill; and that no further action would take place today on S. 926.

Mr. ROBERT C. BYRD. No further action—no further votes, no further motions or amendments of any kind.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a minute, without the time being charged against either side?

Mr. CANNON. The time can be charged against my side on the pending amendment.

Mr. ROBERT C. BYRD. Mr. President, I will let the Senator proceed, for the moment.

Mr. CANNON. Mr. President, I yield, pursuant to the previous request, 5 minutes to the distinguished Senator from Iowa, the time to be charged to my pending amendment on S. 926.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask that the cloakrooms inform our colleagues on both sides of the aisle that there will be a rollcall vote on the adoption of the conference report on the Department of Energy bill today, because the distinguished minority leader, I believe, indicated that someone on his side of the aisle would ask for the yeas and nays.

Am I correct?

Mr. BAKER. Mr. President, the majority leader is correct. There will be a request for the yeas and nays on agreeing to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

DEPARTMENT OF ENERGY—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report to the committee of conference on S. 826 and ask for its immediate consideration.

Mr. PACKWOOD. Mr. President, was there any time——

The PRESIDING OFFICER. The report will be stated.

Under the previous unanimous consent request, the Senator from Iowa was yielded 5 minutes by the Senator from Nevada which, under the request, the Senate was then to proceed to the consideration of the conference report which is now at the desk.

Mr. PACKWOOD. Mr. President, point of information.

The PRESIDING OFFICER. The clerk will report the conference report.

Mr. PACKWOOD addressed the chair.

(Proceedings which occurred at this point on S. 926 are printed earlier in today's RECORD.)

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 26, 1977.)

Mr. RIBICOFF. Mr. President, I am pleased, as chairman of the Senate conference on S. 826, the Department of Energy Organization Act, to present the conference report to the Senate. The conferees worked long and hard in resolving the differences in the House and Senate versions of this bill. We have a conference report which preserves the best of both bills.

The conference report preserves the Senate's decision that an independent board within the Department should play the major role in energy pricing matters.

Major pricing decisions in the oil area, as well as the natural gas and electricity areas, will be the responsibility of a five-member Federal Energy Regulatory Commission created within the Department. As the Senate bill also provided, however, the act preserves an important

role for the Secretary in these pricing decisions.

The provisions in the bill passed by the House for a legislative veto over all rules proposed by the Department have been deleted so as not to unduly hinder the ability of the Secretary and the Department to do the job that needs to be done. A House provision that would have terminated the existence of the Department at the end of 5 years unless both Houses of Congress passed new legislation has also been eliminated.

A large number of other differences of lesser importance have also been reconciled in a manner that I believe is entirely consistent with the general thinking of the Senate when it passed S. 826.

I ask unanimous consent that a summary of the major provisions of the act as agreed upon by the conferees be inserted at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, the conference report was unanimously agreed to by the Senate conferees.

Mr. President, the reorganization of our Federal energy bureaucracy which this bill accomplishes is long overdue. Probably in no other area of Federal Government responsibility, has development and implementation of policy been so hampered by organizational problems resulting from fragmentation of responsibilities. The Federal Government has been severely weakened by the duplication, the overlapping jurisdictions, and the fragmentation of responsibility which have been the hallmark of our Government's structure for energy programs. As a result, development and implementation of a coordinated and coherent national energy policy have been impossible.

This act meets these problems by transferring to a single department energy functions now exercised by eight different agencies or departments.

These are some of the problems which this act can and must solve if we are going to begin to solve our energy problem:

There have been 100 energy data programs in the 4 agencies which are being folded in the Department. The Department of Energy will assure—through the Energy Information Administration—the centralization of these responsibilities, the availability of energy information to the public, the reliability of such information, and the independent collection of energy information.

Five Federal agencies and departments now share responsibility for energy conservation. The Department of Energy will assure, by the consolidation of these programs, a lead agency with a scope of authority broad enough to initiate and follow through on conservation programs—programs critical to reducing our dependence on foreign oil supplies.

Too often energy research and development goals and allocation of resources among research and development programs were undertaken independent of national energy priorities. The Department of Energy will insure, by the merger of these programs with other programs of national energy policy, that this Nation's research and development efforts will be more closely tied to our overall policy.

Currently there are spread among almost all of the Government's energy agencies activities relating to the development and supply of known domestic resources, including coal, oil, natural gas, uranium, geothermal, and solar. The Department will assure, by consolidation of these programs, the establishment of priorities, more efficient management of domestically owned resources, and more efficient commercialization processes.

The creation of this Department will have wide-ranging benefits for both the executive branch and the American people by insuring a more stabilized energy policy framework, by providing a comprehensive overview of and national perspective on energy matters, and by providing a clear focus within the executive branch for energy policy and programs.

The creation of the Department of Energy does not provide all the answers to this Nation's energy problems. But it represents the first essential step.

Finally, Mr. President, I want to pay special thanks to Ellen Miller, Paul Hoff, and Claude Barfield of the staff of Governmental Affairs for their work on this legislation. These staff members played a major role in shaping and refining this legislation, and they deserve great praise for their outstanding work. I also wish to express my gratitude to staff of other Senators who worked with us on the Department of Energy. My thanks to Dan Dreyfus, Deborah Merrick, John Childers, Chris Palmer, Gary Klein, Leonard Bickwit, Winfield Turner, Curtis Moore, Charles Trehandt, and David Johnson.

I urge the Senate to approve the conference report.

I yield.

EXHIBIT 1

SUMMARY OF THE LEGISLATION

MAJOR COMPONENTS OF THE DEPARTMENT

The Conference Substitute proposes the creation of a Department of Energy my merging the following major components:

The Federal Energy Administration;

The Energy Research and Development Administration;

The Federal Power Commission;

Certain programs from the Department of Interior: The four Regional Power Marketing Administrations (Bonneville, Alaska, Southwest, and Southeast); and the power marketing functions of the Bureau of Reclamation including the construction, operation, and maintenance of transmission lines and attendant facilities;

Certain responsibilities relating to leasing of energy minerals onshore and offshore;

Statutory authority for the development and promulgation of new building energy conservation standards and authority to undertake a national energy conservation demonstration program now vested in the Secretary of HUD;

Commerce Department programs to promote voluntary industrial energy conservation;

Jurisdiction over the administration of the three naval petroleum reserves in California and Wyoming, and three naval oil shale reserves in Colorado and Utah, currently administered by the Defense Department; and,

Authority currently vested in the ICC to regulate oil pipelines, including functions of valuation and ratemaking.

INTERNAL STRUCTURE OF THE DEPARTMENT

The Conference Substitute establishes the following as Presidentially appointed officers, subject to the advice and consent of the Senate: a Secretary, a Deputy Secretary, an Under Secretary, eight Assistant Secretaries. As in the Senate bill, the Secretary is left considerable leeway in deciding how to divide responsibility for the Department's work, among these eight Assistant Secretaries. The bill creates an Economic Regulatory Administration, an Energy Information Administration, and a Federal Energy Regulatory Commission, all headed by Presidential appointees subject to Senate advice and consent.

REGULATORY FUNCTIONS

The Conference Report creates a five-member Federal Energy Regulatory Commission, with members appointed by the President for four year staggered terms, subject to Senate confirmation and removable only for cause.

The Federal Energy Regulatory Commission will be primarily responsible for actions which establish rates and charges under the Natural Gas Act and the Federal Power Act, including the wellhead pricing for natural gas rates and charges for the transmission or sale of electrical energy and pipeline transmission charges.

It will also be responsible for the issuance of certificates of public convenience and necessity of natural gas pipelines, the establishment of related accounting rules, (including construction work in progress), for certain matters relating to curtailments, for certain matters relating to securities and mergers, and for certain matters relating to electrical interconnections.

In addition to the functions transferred to the Commission under the Federal Power Act and the Natural Gas Act, the Commission will be responsible for the functions transferred from the Interstate Commerce Commission relating to rates and charges for the transportation of oil by pipeline and valuation of any such pipeline; for responsibilities (shared with the Secretary) under the Emergency Petroleum Allocation Act of 1973 for major energy pricing and allocation decisions known as energy actions; for any matters which involve any agency determination required by law to be made on the record after an opportunity for an agency hearing; and any matters which the Secretary determines shall be made on the record after an opportunity for an agency hearing.

In addition, the Act gives the Commission the right to consider and make initial divisions on rules proposed by the Secretary where the rule significantly affects functions transferred to the Commission from the FPC, FEA, or ICC, even if they do not involve matters which are exclusively within the Commission's jurisdiction. In this area of shared jurisdiction, the Secretary must approve the Commission's action before it may become effective.

The bill gives the Secretary a major role in Commission matters in other ways as well. The Secretary may propose a rule or regulation either of general or specific applicability, as well as statements of policy of general applicability even though they involve matters for which the Commission has exclusive responsibility to make the final decision. (Section 403). When the Secretary proposes such a rule, the Commission must take final agency action on the rule in an expeditious manner. In the area of Commission jurisdiction over pricing actions under the Emergency Petroleum Allocation Act, the Commission's decisions will not be effective unless the Secretary approves them.

Conference substitute also creates an Economic Regulatory Administration which will be responsible for policy analysis, for

the assessment of the economic impact of energy regulation, and for the administration of most regulatory responsibilities not residing in the Commission.

PUBLIC LANDS LEASING

An arrangement between the Department of Energy and the Department of the Interior is established in the Conference substitute to facilitate the extraction of energy from public lands, while assuring protection of the environment and of multiple use concepts. Under this arrangement, the actual leasing of resources will remain in the Interior Department, but control over economic terms and conditions of leasing will reside in the Energy Department.

DATA-GATHERING AUTHORITIES

The Conference substitute strengthens existing data-gathering authorities and insulates the data-gathering and analysis activities within the Department. The Conference substitlte requires an annual financial profile of the energy industry which will include cost, revenues, and investments related to energy-related matters.

CONFLICT OF INTEREST PROVISIONS

The Conference substitute contains a number of measures to ensure public accountability. These include: requirement of strict divestiture of any energy-related holdings for all supervisory employees of the Department; disclosure of energy assets to the Secretary; a report on prior and post employment; and certain post employment prohibitions, including a prohibition on contacts by former Department officials for one year after leaving the Department.

CONSERVATION OFFICERS

The Conference substitute contains a requirement that other cabinet level departments designate a high-level official to become the principal energy conservation officer in that Department.

NATIONAL ENERGY POLICY PLAN

The Conference substitute contains a provision which requires the biannual preparation by the President of a proposed national energy policy plan.

Mr. JACKSON. Mr. President, the creation of a cabinet-level Department of Energy will at long last give life to a concept which I have supported for many years. The consolidation of the functions of two energy agencies, one regulatory commission, and several programs from other agencies and departments, is a significant achievement in Government reorganization and will, I believe, substantially improve the Federal capability to tackle the energy crisis.

The compromise bill worked out between the House and Senate conferees is, on the whole, fair and workable. The conference report sets out guidelines for the internal organization of the new department by listing 11 key functions which must be assigned to 1 of 8 assistant secretaries by the Secretary of Energy. In addition, the bill establishes several organizational units within the Department, including an Energy Information Administration. The Federal Government can no longer afford to be dependent upon industry data for its energy planning, Mr. President, and I am pleased that this department will have a technically and professionally qualified Information Administrator with politically independent responsibilities and a strong congressional charge to carry out a comprehensive energy data and information program.

Mr. President, there has been a great deal of public discussion about the size of this new Department and the powers of its Secretary. But I submit we have not created an empire for an energy czar. In fact, it is my personal view that the Secretary of Energy should have been given sole jurisdiction over oil pricing, as the Administrator of FEA now has, and more responsibility for the policy-making aspects of gas pricing. Undue fragmentation of these important energy policy decisions has hindered the Nation's response to past and present energy problems. However, I agree with my colleagues that a reorganization cannot be accomplished with one sweeping gesture. The merger of the independent Federal Power Commission into an executive branch department is legally and technically complex and the due process rights of affected parties must be protected during the transitional stages. I am therefore generally satisfied with the balance struck by the conferees between the powers of the Secretary and new Federal Energy Regulatory Commission regarding the functions transferred from the Federal Power Commission.

I am also pleased that the bill establishes a formal policy relationship between the Secretary of the Interior and the Secretary of Energy, aided by a statutory Leasing Liaison Committee, regarding the development of federally-owned energy resources. As you know, Mr. President, in the past I have promoted and still prefer, a combined Department of Energy and Natural Resources. The issues surrounding energy and the environment are not easily severed and they will have to be considered together as Congress and the executive branch face the challenges ahead. However, the Department of Energy bill certainly takes a step in the right direction in its treatment of Federal leasing functions.

The distinguished chairman of the conference, JACK BROOKS of the House Government Operations Committee, and my esteemed colleague chairman of the Senate Governmental Affairs Committee, ABE RIBICOFF, deserve high marks for their diligent efforts and fine leadership throughout the conference on S. 826. I commend their work to the Senate and urge the adoption of this conference report.

Mr. PERCY. Mr. President, it is a privilege for me today to urge the Senate to accept the conference report on the Department of Energy Organization Act, S. 826. This is landmark legislation and I congratulate Senator RIBICOFF on the outstanding leadership role he has played over the past several months in getting the bill this far.

Comprehensive energy reorganization proposals go back as far as 1971, when former President Nixon proposed the creation of a Department of Natural Resources. The energy crisis of 1973 gave birth to the Federal Energy Administration, and precipitated the reorganization of energy research and development. But not until 1977 have the administration and Congress addressed energy organization as comprehensively as we have in the bill before us today.

The deteriorating energy situation establishes an urgent need for this new Cabinet-level Department, which is designed to oversee and coordinate the Nation's energy programs and implement its policies.

Mr. President, the distinguished Senator from Connecticut has described in detail this legislation. It combines ERDA, FEA, and FPC, as well as absorbing certain functions of seven departments and commissions. Let me discuss very briefly just a few of the key issues which the conference committee resolved.

Reduction of energy waste must be the prime focus of our national energy policy. This conference report insures that conservation will receive top priority in DOE. It establishes an Under Secretary who will have primary responsibility for energy conservation. In addition, the Departments of Defense, HUD, Commerce, Transportation, Agriculture and Interior, plus the Postal Service and the GSA, will each have an Assistant Secretary or Assistant Administrator responsible for conservation.

Authority for setting oil and gas prices was, perhaps, the most controversial issue which was resolved in conference. Many were worried by the administration proposal to place all pricing authority in the hands of the Secretary of Energy. At the same time it was necessary that pricing issues be resolved expeditiously and with some input from the Secretary so that pricing policy is consistent with other energy policies.

This legislation accomplishes both ends. It establishes an independent 5-member Federal Energy Regulatory Commission to oversee all pricing decisions. It also allows the Secretary of Energy, a political appointee, to initiate pricing actions and to participate in Commission proceedings where appropriate.

Finally, Mr. President, today's glut of overlapping energy jurisdictions provides evidence of what happens when agencies are created for indefinite periods of time. The Department of Energy bill requires a Presidential review of all functions of this Department within 5 years. The Congress will thus have guidance in reorganizing and terminating sections of this Department before fiscal year 1983.

Mr. President, the Department of Energy will give cohesion and coherence to today's tangle of energy-related agencies. I urge the Senate to accept this conference report.

Mr. HANSEN. Mr. President, I would like to engage the distinguished chairman of the committee, majority floor manager of this bill, Senator RIBICOFF, in a colloquy regarding the transfer to the new Department of Energy from the Interstate Commerce Commission of the authorities and functions related to the regulation of the transportation of oil by pipeline. In doing so, I want to state my sincere appreciation to the chairman for his strong support and assistance in attempting to clarify the procedures for this important transfer, and thereby to insure that the regulation of oil pipelines proceeds in the new Department with maximum consistency and continuity, and with minimum disruption and dislocation for all concerned parties.

Mr. RIBICOFF. I thank the Senator and I would be pleased to discuss this

subject with the distinguished Senator from Wyoming, Senator HANSEN, who was the ranking Republican conferee from the Committee on Energy and Natural Resources in the conference on S. 826. And, I want to commend the Senator for his diligent efforts throughout the conference to perfect the procedures for the oil pipeline transfer, as well as other provisions of particular concern to the Energy and Natural Resources Committee.

Mr. HANSEN. I thank the Senator for his kind words and, turning to the conference report, invite the Senator's attention to section 402(b) of the statutory language, at page 23 of the report—House Report No .95–529—I think it is important legislative history that the original version of this language for this subsection 402(b), proposed as a compromise by the House conferees, included the phrase, "where the regulatory function 'directly' establishes rates or charges for the transportation of oil by pipeline or 'directly' establishes the valuation of any such pipeline." The conferees, at the suggestion of the distinguished majority floor manager, struck the word "directly" in the phrase. Would the Senator agree that our action was intended to make it clear that the new Federal Energy Regulatory Commission, and not the Secretary, shall have direct and sole jurisdiction under subsection 402(b) for all such functions and authorities which regulate the rates and charges for oil pipeline transportation and which regulate the valuation of oil pipelines, or which relate to such regulation of rates and charges and valuations?

Mr. RIBICOFF. The Senator is correct. Our clear intention was to insure that the Commission would have the sole jurisdiction under that subsection for all functions and authorities which relate to the regulation of such rates and charges or such valuations. We clearly intend that the broad mandates for such regulation under the Interstate Commerce Act, including the "just and reasonable" standards for such rates and charges and such valuations, will continue to be vested in the collegial Commission, and not in the Secretary.

Mr. HANSEN. Subsection 402(b) uses the phrases "establishes rates or charges" and "establish the valuation." I understand our intent is that the use of the verb "establishes" and "establish" is intended to be broadly construed as covering any regulatory action or determination of any rate or charge of any valuation, and certainly is not intended to suggest only the narrow instance when the Commission might set or "establish" a first rate, charge, or valuation. For example, we clearly intend that 402(b) would vest in the Commission the current ICC practices of reviewing tariffs filed by pipelines and setting valuations of pipelines, as well as any future procedures where the Commission sets initial general rates and charges or valuations. Is that an accurate restatement of our intent?

Mr. RIBICOFF. The Senator has accurately restated our intent.

Mr. HANSEN. In that regard, the statement of the managers, at pages 69 and 70 of the report, in discussing section 306, the general transfer provision for these ICC functions, lists 10 current ICC oil pipeline functions under the Interstate Commerce Act, which are to be transferred to the Department. First, it is my understanding that this discussion is not intended in any way to suggest that these 10 functions are vested in the Secretary, and not the Commission, but rather that this is the scope of functions transferred to the entire Department, including both those vested in the Secretary and those vested in the Commission.

Mr. RIBICOFF. The Senator is exactly correct. The list of 10 functions, as is stated in the text on page 69, "transferred to the Department," clearly covers the functions of the ICC we identified, with the help of the Senator from Wyoming, which will be transferred to the Department, which, of course, includes the Commission and not just the Secretary.

Mr. HANSEN. Second, would the Senator agree that, of the 10 listed functions on pages 69 and 70, at least numbers (1) through (5), the authority to prescribe rates of depreciation as described in number (8), and number (10) should be considered as functions which under section 402(b) we intend to vest in the Commission, since each of those functions relates to the regulation of rates and charges and valuations of pipelines? Also, any related investigative function and authority required to carry out those numbered functions should be directly available to the Commission, such as the authority to prescribe a uniform system of accounts, or to issue rules establishing procedures for Commission proceedings. Of course, other numbered functions may similarly relate to rates and charges or valuations and would also be in the Commission.

Mr. RIBICOFF. I would agree that at least the numbered functions and the related authorities stated by the Senator should vest in the Commission. The Secretary will have responsibility for other important transferred functions now administered by the ICC, including any authorities under the functions listed above which are not related to such rates, charges or valuations

Mr. HANSEN. Continuing in that regard, would the Senator agree, for example, that the pending ICC proceedings, ex parte No. 308 "Valuation of Common Carrier Pipelines," and ex parte No. 308 (Sub-No. 1), "Investigation of Common Carrier Pipelines," both of which will establish procedural rules for valuation proceedings, and thus relate to present and future rates and charges and valuations, will vest in the Commission under subsection 402(b)?

Mr. RIBICOFF. My own understanding is that these proceedings would be a matter within the exclusive jurisdiction of the Commission under section 402(b).

Mr. HANSEN. Turning to section 401 (F) in the statutory language, at page 21 of the report, I understand that this provision clearly intends that, among others, the current ICC practices and procedures administering its authorities under the Interstate Commerce Act, and related laws, for regulating oil pipelines will continue in effect until changed. Would the Senator agree, therefore, that the current practice, among many others, of the ICC in having pipelines file a tariff, and then reviewing it and either allowing it to continue or suspending it and setting a "just and reasonable" rate, under the authority of section 6 and 15 of the Interstate Commerce Act, would continue in effect, until changed by the Commission pursuant to subsection 401(F)?

Mr. RIBICOFF. The Senator is correct that such practices, among others, would continue in effect until changed. In fact, the statement of the managers on subsection 401(F), in the second paragraph on page 74 of the report, clearly sets out the requirement for continuation, until changed, of such ICC procedures.

Mr. HANSEN. Section 404 establishes procedures for the Commission to review certain rules proposed by the Secretary that may significantly affect the Commission's functions. The second sentence in the section incorporates the new Commission's oil pipeline regulation functions, by reference to subsection 402(b), as part of the functions for which the Commission shall have the right to review any Secretary-proposed rules which could have a significant impact. Would the Senator agree that the clear intent of subsection 404(a) is that the Secretary would give the Commission notice of any proposed rules, regulation, and statement of policy of general applicability which the Secretary proposed under his separate jurisdiction under section 306? And, am I right that the Commission can exercise its right of review under subsection 404(a), if such rule may have a significant impact on the Commission's functions under section 402(b)?

Mr. RIBICOFF. The Senator's interpretation is correct. We do intend that the Secretary notify the Commission of any such proposed rule, regulation, and statement, so the Commission can exercise its right to consider the proposal.

Mr. HANSEN. Finally Mr. Chairman, I am greatly concerned that we are placing responsibilities and authorities in this Commission for which there will not be initially a full capability to discharge them, because much of the expertise, background analyses, and understanding of this oil pipeline regulation will necessarily remain at the ICC. Would the Senator agree that the ICC and its staff should provide the assistance that the Commission may require and request, on a reimbursable basis and pursuant to such agreement as the two Commissions may enter into, as necessary to insure that during the transition period the new Commission has available all of the requisite expertise, background files and analyses, investigatory capability, legal support and other assistance from the ICC that the new Commission needs to assure continuity and consistency in the administration of the transferred function?

Mr. RIBICOFF. I agree with the Senator completely. Certainly, it is our clear intention that the transferred ICC regulatory functions, as well as all others, will be fully and competently exercised by the new Commission with a maximum degree of continuity and consistency.

Mr. HANSEN. I sincerely thank the distinguished Senator for his remarks and I want to express my great pleasure in having this opportunity to work closely with the Senator from Connecticut in fashioning this legislative history on this issue. I would hope that this colloquy will provide clear guidance for the establishment of the Department and the new Commission, and for any reviewing court, regarding the intent of this report for the future regulation of the transportation of oil by pipeline. I also would like to acknowledge the excellent work on this bill and this issue by the thoroughly able, competent, and professional staff of the Governmental Affairs Committee. I am very proud and grateful that this body has the support of such abilities, competence, and professionalism. We would be in dire straits without it. Thank you, Mr. President.

Mr. JAVITS. Mr. President, in the rush of events to bring this conference report to the floor in time to permit President Carter to sign it into law before the start of the August recess, I believe the conferees have unintentionally adopted a provision included in the House amendment and not in the Senate bill. The conferees believed this provision was purely technical in nature, but in fact it may have important substantive effects. It would repeal a provision enacted just last year in the Energy Conservation and Production Act—the FEA Extension Act—which, I believe, we in the Senate had no intention of repealing.

The provision that has been repealed limited the FEA's authority to retroactively impose rules changes on petroleum product marketers in its enforcement program. The provision, which was incorporated as section 7(k) of the Federal Energy Administration Act, states:

(k) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rule or regulation if—

(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

(2) such person relied in good faith upon rules, regulations, or rulings interpreting such rules or regulations, in effect on the date of the violation."

Mr. President, this provision was passed by both the Senate and the House in 1976, and was included in the Conference Report on ECPA in this form. The Statement of Managers to that Conference Report explained the provision as follows:

It is the intent of this provision to provide relief to businesses which have been subjected to seemingly endless changes in rules and regulations by the FEA and to penalties arising from those changes made after the original effective date of such rules and regulations. Many firms, especially smaller marketers, have attempted in good faith to rely on FEA rules and regulations, but have been confronted by subsequent amendments to those rules applied retroactively. This has presented a difficult situation and has frequently subjected small marketers to severe hardships. By adopting this language the conferees intend to relieve small marketers from an unnecessary burden. They do not intend to restrict the FEA from perfecting its rules and regulations, indeed, the conferees encourage this. However, they do not believe that such a periodic updating should cause unjust penalties to small businessmen.

The conferees do not mean for this subsection to provide marketers with the means to challenge all enforcement actions based upon arguably ambiguous rules, regulations or rulings or upon clarifying amendments thereto. It is intended to apply where the agency has officially taken one position then changes its mind and takes another. Further the conferees do not intend for this provision to limit argument or defense by any other person who may similarly be negatively affected with respect to a retroactive ruling or interpretation by the agency. The conferees do not intend for this provision to encourage the retroactive applications of rules and regulations to every other class or person not similarly protected.

Mr. Chairman, I would like to ask whether it was the intent of the conferees to repeal this important provision of ECPA, and what action can be taken to minimize the adverse effects resulting from a repeal if, in fact, the repeal was not intended?

Mr. RIBICOFF. The Senator from New York raises an important question and I thank him for bringing it to the attention of the Senate.

The provision you mention was a substantive change to the FEA enforcement program which was enacted last year as an amendment to the Federal Energy Administration Act of 1974. In conforming the Federal Energy Administration Act to the new organizational scheme established by this act, the conferees deleted most provisions of section 7 of the 1974 act since it largely contains administrative provisions which are superseded by provisions in this act. The repeal of subsection (k) of section 7 was included in the House amendment to S. 826, but was not a part of the Senate-passed bill. No intent to change substantive law should be attached to the fact that this act's technical amendments affected section 7(k) of the FEA act.

Section 7(k) expresses an important due process principle which the new Department as a matter of basic fairness must be expected to follow in any event.

Dr. Schlesinger also believes that this is an important substantive provision and, even though formally repealed by the Department of Energy legislation, it will continue to be a part of the Department's enforcement program as if it were still in force and had not been repealed. That is, the repeal will not cause the Department to impose such retroactive rules changes on petroleum marketers, or impose retroactive interpretations of rules on such marketers. In a letter received today from Dr. Schlesinger, he indicates that the Department will continue to honor the purpose and spirit of this provision. This assurance will protect the petroleum marketer from retroactive modifications and clarifications that have been imposed on them in the past by FEA which this provision was intended to eliminate. I ask unanimous consent that the letter Dr. Schlesinger has written expressing his views on this matter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 2, 1977.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, 3306 Dirksen Senate office Building, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN RIBICOFF: it has come to my attention that a provision of the Department of Energy Organization Act repeals section 7(k) of the Federal Energy Administration Act. This subsection limits enforcement actions against independent marketers based on changes in rules or regulations, or interpretations thereof, applied retroactively.

It is the full intention of the Administration and of the Department of Energy to carry out its regulatory responsibilities as they relate to the subject matter of section 7(k) of the Federal Energy Administration Act as if that subsection were still in force and had not been repealed. In this regard, it is our intent to assure procedural fairness to independent marketers by carrying out a Department of Energy enforcement program consistent with section 7(k) of the FEA Act.

Thank you for bringing this matter to my attention.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. HANSEN. Mr. President, I rise in support of the conference report on S. 826, the Department of Energy Organization Act. It is interesting to reflect back for a moment, Mr. President, to the Senate's consideration of this bill on May 18, 1977. On that date, in a single day, the Senate considered the bill, S. 826, as reported by our Committee on Government Affairs. I voted against S. 826 on that day, and spoke against it for several reasons. I was very concerned that the bill placed an inordinate amount of power over the pricing of all energy in one agency. I also was concerned about the consolidation of all energy information and assessment in a single agency. The planning process contained in the bill worried me a great deal, because of my concerns that it was to be a first step toward an entirely federally planned economy. I also was seriously disturbed by the energy industry profile mandated by this bill and its potential misuse for divestiture of the energy industries. Finally, I was worried that the Presidential veto over energy pricing contained in this bill and the new arrangements for Federal leasing between the Energy Department and Interior Department, respectively, would effectively void our current statutory authorities for these two critical areas.

I was quite pleased that after Senate consideration of this bill the House, by its actions, demonstrated grave concern with regard to some of the very same items that I had mentioned in my statement on May 18. Amendments passed by the House significantly altered the reported bill so as to materially increase the procedural safeguards associated with the authorities transferred into this Department from the Federal Power Commission. It is particularly noteworthy that many of the transferred authorities, which originally were enacted with the establishment of a collegial body, incorporated broad mandates and standards for the regulation of underlying economic and energy activities. They include, for instance, the standard of "just and rea-

sonable" for rates, charges, and prices, and the standard of "public convenience and necessity" for any licensing required by the act. Amendments passed by the House also made other substantive changes in the assignment of responsibility between the Secretary and the collegial body established by the bill to better insure that the Secretary's power is closely controlled, whenever the regulation of energy prices is involved.

Since final passage by the Senate and House, this bill has been the subject of lengthy conference negotiations resulting in the report before us today. I was privileged, along with Senators HATFIELD and CHURCH, to represent the Committee on Energy and Natural Resources in that conference in the areas of substantive jurisdiction of the committee. The areas on which the Energy Committee conferees focused their greatest attention were Federal leasing, energy regulation, and energy information. We also participated meaningfully in some of the organizational and programmatic deliberations of the conference, where we felt that substantive decisions of significance were being considered.

The conference results, which are a meaningful middle ground between the House and Senate bills, are generally satisfactory in almost every area of difference. I am particularly pleased with our success, with the help of Senator RIBICOFF and the Governmental Affairs conferees, in perfecting the transfer of Interstate Commerce Commission jurisdiction over the regulation of the transportation of oil by pipeline. Neither the House nor the Senate bill adequately addressed the ICC transfer issue. It was only after great diligence that the conference finally focused on this issue and was able to resolve it in a way which generally protects all parties interested in the regulation of oil pipelines. My separate colloquy with Senator RIBICOFF during this debate addresses the ICC issue in detail.

On balance, as in the ICC issue, I believe that the conferees have fashioned a Department of Energy in which we can have a fair degree of confidence that the rights of all individuals will be protected. I also believe that we have struck a reasonable balance in terms of the power and authorities of the Secretary and the powers and authorities of the Commission. The United States must be better organized to deal with the continuing energy difficulties and problems which we will face in the future, but at the same time our organization cannot and must not be at the expense of individual rights. The conference bill, I believe, protects those rights.

As in any conference there are going to be items on which any Conferee may disagree. That is the case with the report before us. I disagree with several of the conference decisions and, while I support the bill on balance, I believe there are areas which ultimately we will find must be reviewed and readdressed in subsequent amending legislation.

Briefly, I will outline these items as a checklist for our future action.

I would have gone all the way in putting all ICC regulatory functions for oil pipelines in the Federal Energy Regulatory Commission. I proposed this in the conference, but unfortunately the House conferees stood by the recommendation of the administration to preserve some authorities in the Secretary. I believe that the basic test for the new Department's organization should be the collegial aspect of the underlying statutory authorities. Application of that test in this case would have resulted in the placement of all ICC functions directly in the Commission. I hope that the report before us, as discussed in the colloquy with Senator RIBICOFF, will be interpreted to achieve as closely as possible that result. I state now my intention, in subsequent legislation, to deal immediately with any deviation from this stated intent of the conferees.

I am greatly troubled by the energy industry profile, which originally was passed by the Senate, and was retained in this bill. I hope that I am dead wrong in my conviction that this is the first step, the necessary information gathering step, towards an ultimate horizontal or vertical divestiture of our energy industry. I can find no responsible reason or support for the lengthy and extremely detailed financial and commercial information requirements which are contained within this provision of the bill, other than the potential goal of the drafters to achieve an eventual divestiture. I also strongly believe that this new information requirement is a direct and conscious violation of the jurisdiction of the Energy Committee over the substantive matters in the energy policy and program under the Senate rules. I would hope that the Committee on Energy and Natural Resources in fashioning a national energy plan and policy will be most attentive to my concerns in this regard.

The Senate-passed energy planning title, which was the subject of some controversy and amendment on this floor on May 18, was cut back even further in the conference. The mandatory congressional review, amendment and approval procedures for a national energy plan were removed at the insistence of the House conferees. I still believe that there is the potential, and probably the latent intent of the drafters, for eventual movement to a "Humphrey-Hawkins" type of national energy planning, and ultimately national economic planning, with the Federal Government as the true "economic big brother." Provisions struck on the Senate floor left little doubt that that was the intent of the drafters. I would hope that the administration in carrying out this authority will be most careful not to assist in any way in the movement in that direction.

In the Federal leasing area, this bill gives the Interior Department the statutory authority to act as a lead agency for virtually any major Federal action in the leasing of Federal lands, for purposes of the National Environmental Policy Act. I opposed the granting of that statutory authority to the Department of Interior. I am greatly concerned that this authority will be misused, because, as we all know, the environmental impact statements—EIS's—for our Federal leasing programs are the so-called pacing or critical path items. As we have already seen, there have been instances in this administration where the power over an environmental impact statement and the related, required analyses, has been used or misused by the Interior Department to delay or frustrate our desperate need to proceed with all deliberate speed in the Federal leasing of our national energy resources, such as our Outer Continental Shelf oil and gas resources. I would hope that this is another area where the Congress will pay close attention to the implementation under this act and will insure that any movement in that direction under the auspices of the Interior Department with this new authority will be quickly nullified. I encourage the eventual Secretary of Energy, apparently Dr. Schlesinger, to insure that he pays close attention to any movement by the Interior Department in that direction and alerts Congress to such movement. If the environmental impact statement process becomes a tool for continued delay and frustration of our stated goals for the Federal leasing of our energy resource land, Congress must and will act to directly alter the authorities of the Secretary of the Interior under this act.

Generally, though, I feel that the bill before us is as good a balance as could be expected in this Congress for establishing a Department of Energy. It is inevitable that this Congress will establish such a department, and therefore, realistically we must proceed to do so. Given that eventuality, I believe we have done as responsible a job, on balance, as could be expected from any conference committee. On behalf of those of us from the Committee on Energy and Natural Resources, I wish to thank the distinguished chairman of the Government Affairs Committee and his thoroughly professional staff for their assistance and support during this conference. Mr. President, I urge the support of the Members of this body for this legislation.

Mr. President, I understand that the distinguished floor managers for this conference report, Senator RIBICOFF and Senator JAVITS, are addressing the issue of the repeal of section 7(k) of the Federal Energy Administration Act by the conference report. I would like to engage the distinguished chairman of the Energy and Natural Resources Committee in a brief colloquy to discuss the repeal of that section. Would the Senator agree that the section provides a desirable protection against retroactive application and interpretation of regulations under the authorities of the Act.

Mr. JACKSON. The Senator is exactly correct. In fact, it was our understanding that this conference report only made technical and conforming amendments to that act, by including the House-passed provisions. We were surprised to find that the protections of section 7(k) had been repealed. Certainly, we had no intent in the conference to alter or repeal the policy contained in that section.

Mr. HANSEN. Would the Senator further agree that it is the intent of the conferees, and of this body, that the new Department shall continue to administer its regulations in a manner which conforms to the intent and procedures of section 7(k), despite the inadvertent repeal in the conference report.

Mr. JACKSON. Again, I agree with the Senator. I am pleased that Dr. Schlesinger, on behalf of the administration, has indicated that the administration similarly intends that the new Department proceed in that manner, and has pledged himself to insure that result.

Mr. HANSEN. Would the distinguished chairman agree that our Energy and Natural Resources Committee should consider the necessity of reenacting the provisions of section 7(k) as an amendment to our pending National Energy Act?

Mr. JACKSON. I agree that we should further review this situation, taking into account the administration's statements and the new Department's regulations, and, if we find it necessary, reenact the provisions of section 7(k). Certainly, our intent is for the new Department to proceed administratively as if it was still in law, and, if necessary, we will act to put it back in law.

Mr. HANSEN. I thank our distinguished chairman for his agreement and his assurances in this important matter. Thank you, Mr. President.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, we are back on the conference report now; may the RECORD show accordingly.

Mr. President, the conference report on which we are about to vote I commend to the Senate. I was one of the conferees who signed the report, and I believe it deserves the approval of the Senate.

Mr. President, we have an enormous problem with our national energy program, and obviously we are taking the first step in this report. Before any national energy plan can be put into effect, we need a functional mechanism or an institutional mechanism, in order to run it. We have all decided that we need a new Government department for that purpose, and the size and consequence of the problem at stake certainly deserves it.

Therefore, Mr. President, first and foremost, we know we have to enact a bill of this kind. I am very pleased that we are able to bring this conference report to the floor well enough in advance of the major substantive energy proposals which are now going through the first legislative test in the other body, and yet at the same time to have thoroughly considered, in the light of our present circumstances and of the future energy plan which we want, the attributes of this Department.

Therefore, we will have a functional agency, ready to serve, as soon as any new energy regulatory programs are enacted, and we will have consolidated in that Department of Energy the functions of other departments, groups, and agencies which can be so consolidated for the purpose of the greatest efficiency and the greatest effectiveness.

Mr. President, this Department will be with us probably for much longer than the crisis of energy in which we are engaged now. Therefore, it should be judged as a neutral and flexible structure which could be adapted not only to the present crisis but to the energy needs of our country perhaps for generations to come.

The Department will start with a strong Secretary, and that is very good. It is generally thought that Mr. Schlesinger will be its first Secretary. He will have the resources and authorities of the Federal Energy Administration and the Energy Research and Development Administration, major portions of the authority of the Federal Power Commission, and some of the functions of the Interior Department.

The Department of Energy will also have great influence on the Department of Transportation's fuel economy program, the Housing and Urban Development's national building conservation standards program, and the Interstate Commerce Commission's oil pipeline licensing jurisdiction.

Mr. President, the key point is not where the central power lies; the key point is how well will the public be served. The conferees have placed great authority in a five-member politically balanced and independent commission, the Federal Energy Regulatory Commission. When decisions regarding the fair and reasonable price to be charged consumers is in issue, these decisions will be made without regard to political pressures. These decisions will be made as a result of public hearings with all parties represented.

This balance is essential to insure that the functions of the Department, other than its regulatory functions, will not interfere with the quasi-judicial, regulatory function. We have, in that respect, I believe, tread successfully the fine line between the interests of producers and the needs of consumers.

A further point I wish to add relates to a provision of the bill with which I was much concerned in partnership, with the Senator from Ohio (Mr. GLENN). That is energy planning, title VIII of the bill and of the conference report.

We have provided that the President will thoroughly review our energy needs and objectives every 2 years, with a view toward insured that we are prepared in both 5- and 10-year timeframes to meet our energy needs. This requirement for a continuing assessment will, I believe, Mr. President, significantly help us to avoid, one, the great mistakes we have made in the past—we have had notice of a coming energy crisis for well over 20 years—and, two, will enable us to avoid the thorough dependence upon foreign sources which may prove to be insecure, or upon foreign prices which may prove to be dictatorial.

A revised national energy policy plan will be submitted to the Congress biennially, beginning in 1979, for congressional consideration.

Mr. President, I close as follows:

Although we have only required this periodic assessment of the President, I hope very much the Congress will not let this concept of national energy planning escape its actions or be underestimated in its importance, but that the Congress will fully perform its responsibility so that the legislative actions may meet the people's needs in respect to this particular situation.

We cannot control, obviously, future Congresses, but I believe that in title VIII of the conference report, the energy planning title, we have provided future Congresses with a means to shape our energy policies in accordance with our near and longer term needs, and to avoid the grave peril in which our Nation has been placed by the fact that despite considerable notice for 20 years we neglected to do what we are beginning to do now in respect of the National Energy Department and the national energy planning function.

Mr. President, I urge the Senate to approve the conference report.

Mr. President, I now yield such time as he may desire to the distinguished Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. The Senator from Alaska is recognized for how many minutes?

Mr. JAVITS. Such time as he may desire. I hope the Chair will advise me when he has used 15 minutes.

Mr. STEVENS. I thank the Senator from New York. I understand the time frame consequences.

Mr. President, let me first thank the distinguished Senator from Connecticut, the chairman of our committee, for his indulgence in permitting me to appear before the conference committee and present my views on several different portions of this bill.

I am deeply concerned about this bill. I voted for it when it passed the Senate, because of provisions which were in the bill that I felt adequately protected the functions of the Bureau of Mines, the Federal Power Commission, and the ICC.

There have been substantial changes made in the conference in those provisions.

I did, with the assistance of the Senator from Connecticut and because of his kindness, present the viewpoints of my State with regard to these provisions. They were viewpoints which I felt should have been more adequately supported by the conference committee because of the role my State must play in the future development of the oil and gas resources of this country.

We, the State of Alaska, will, in a very short period of time, be in a position to supply 10 percent of our Nation's daily consumption of oil. By 1985 I would estimate we will be producing a good 40 percent of the Nation's domestic oil production. Most of our oil will be transported at least a portion of the way by pipeline.

We have great reliance in Alaska on the Bureau of Mines. As one who has spent a great deal of time, over 4 years, in the Department of the Interior, I feel I know that agency as well as any Senator, and I have great respect for it.

In our committee, before the bill was reported to the floor, I first tried to prevent any transfer of any of the functions of the Bureau of Mines to the Department of Energy. A compromise was worked out by which the fuel supply and demand analysis and the data gathering related thereto from the Bureau of Mines would be transferred to the new Department of Energy. There was also a specific provision concerning the Federal Nonnuclear Energy Research and Development Act of 1974.

Our Senate version kept the Bureau of Mines research stations intact under the Department of the Interior. Unfortunately, the conference version splits the

research stations. This means the hard rock research will remain with the Department of Interior and the solid fuels minerals research will go to the Department of Energy. Those research stations will actually be under the control of two separate departments.

I do not support the provisions of the conference report which deal with the Bureau of Mines.

With regard to the ICC, the Senate version transferred ICC authorities related to the transportation of oil by pipeline to the Secretary of Energy, but, again in the compromise provision which came out of our committee, required the Secretary of Energy to promulgate the rules and regulations which would affect the rate of transfer and set forth procedures governing proceedings under the ICC Act as it would relate to the transportation of oil by pipeline prior to the actual transfer of ICC to the Department of Energy.

The conference version transfers these authorities to the Secretary of Energy. However, it does not provide for congressional review as provided for in the House and Senate passed versions.

Although both the House version and the Senate version provided for one house veto of these regulations, the conference version does not do so, and the conference version does not specify how the transfer will be effectuated.

It is my understanding that the Senator from Connecticut and the Senator from Wyoming have entered into a colloquy which will create some legislative history on this matter. I express my gratitude to the Senator from Connecticut and the Senator from Wyoming for this effort. I hope that the administration, if they get involved, will give great weight to the words of the Senator from Connecticut.

Mr. RIBICOFF. If the Senator will yield, a colloquy has been entered into and is duly part of the record. I assume, without question, that the legislative history is contained in that colloquy and the administration of the act will be undertaken accordingly.

Mr. STEVENS. I thank the Senator from Connecticut. Again, I say he has been very patient with me. I sometimes wonder if Alaskans are not overly sensitive about our position in terms of the oil and gas industry, trying to develop an industry at the time of the most intensive possible regulation, as compared to our counterparts in Louisiana, Texas, Oklahoma, and other States, that developed theirs prior to any regulation. It is a very difficult period.

One of the things we fear most is the potential for litigation that may arise from the transfers that are taking place, during the period of evaluation of the Alaskan pipeline. That is right during the period of the determination of the tariffs applied to the pipeline, and just before the construction of our new natural gas pipeline.

With regard to the FPC jurisdiction, the Senate version gave the Commission, created by this new bill, authority over natural gas and wholesale electric pricing and licensing, including routing of gaslines and abandonment. It also gave the Commission authority for pricing and allocation regulations and required congressional review

This Senate version gave the Commission the ICC authority relating to transportation of oil by pipeline. The conference version now specifies the FPC functions and authorities that are transferred to the Commission, but everything not mentioned goes to the Secretary.

The conference adopted a more detailed approach with regard to the FPC than is contained in the Senate bill, specifically listing those functions transferred to the Commission. It also significantly broadened the list of the Commission's functions from those specified in the Senate bill in order to give the Commission additional jurisdiction.

These include the issuance of hydroelectric licenses, the determination of construction work in progress, the regulation of mergers and securities acquisition, curtailments—other than the establishment of review of priorities—and electrical connections.

I believe that what we have done or what we are about to do is to create a Pentagon of the Energy. I am hopeful that the people who are on the Senate floor 20 or 30 years from now will believe that we have done a better job than we did when we created the military Pentagon.

Mr. President, I ask unanimous consent that my staff members working on this matter—Tim McKeever, Steve Perles, Steven Silver, and Chip Wagoner—may have the privilege of the floor during my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The impact of what I am saying, and I hope that it does not disturb my good friend from Connecticut, is that at a time when the country is worried—at least at a time when I am worried—about the impact of over 20 years of regulation of the wellhead price of gas, that this bill sets the stage by empowering a commission within a new department to act both in the natural gas and oil areas, together with the authorities given to the Secretary of Energy, in a fashion that will have total control—not only wellhead price control, but transportation control, and destined-market price control—over both oil and gas.

I have great fear that the combination of all of these authorities in one place, as I said, is going to lead to excessive litigation and that, unfortunately, my State will be embroiled in that litigation endlessly.

We are already involved in litigation involving the valuation of the oil pipeline, and in litigation involving the tariffs with regard to the pipelines. I see the complications coming from this bill as being horrendous as far as litigation and delaying the final establishment of pricing, the final establishment of tariffs, and the final establishment of valuations, as regard our pipeline.

Mr. President, it is unfortunate, in my opinion, that we cannot establish an energy department which deals with policy and recognize that Congress still needs the independent, quasi-judicial agencies such as the ICC and the FPC to deal with the specific issues which have been within their competence for some years. Also, I think it is unfortunate that, at this time, we are fractionating one of the greatest agencies of the Federal Government, the Bureau of Mines, which will now lose a substantial portion of its research capacity that is related to energy. It still remains, as far as the public is concerned, the Bureau related to mineral activity in the United States. I am hopeful that the new Secretary of Energy will recognize the problems that are created by this bill, and I think we are creating problems. We are solving some but we are creating some.

I commend the President for having indicated that Mr. Schlesinger will be the first Secretary of Energy. If there is anyone who has the confidence of the people in Congress, so far as I am concerned, in this field, it is Jim Schlesinger. We know that he is cautious in terms of the exercise of power, but the power that he will have will be tremendous. He will have the power, Mr. President, to control the market price of oil and gas, to control the transportation costs of oil and gas, to control the wellhead price of oil and gas; in effect, he will have the power to determine whether or not all future frontier activity in my State is strangled or whether there is some incentive to be given to it to start in and develop, as the industry should develop, the great resources of Alaska. I feel we should have developed the energy policy first and then implemented the Government reorganization second. Unfortunately, we have determined to have the Government reorganization from a structure point of view first and the policy will come later. That we shall debate in September, and I am sure there will be differences here on the floor.

I want the record to show that, as far as this Senator is concerned, the organizational structure that relates to the Bureau of Mines, the ICC, and the FPC is contrary to what I think is in the best interest of the country. I have done my best to articulate our reasons for opposing what is done by the conference committee version, and I hope that the Senator from Connecticut will accept, again, my thanks for his having gone as far as he has to meet some of the problems that we have attempted to articulate in the course of the consideration of this bill.

Mr. RIBICOFF. Will the Senator yield?

Mr. STEVENS. I do.

Mr. RIBICOFF. I should say that no State could have a more ardent spokesman than the State of Alaska has in the Senator from Alaska. Throughout the hearings on this bill, the markup, and the conference, he was always concerned to insure that Alaska's interest would be taken into account and consideration. We have tried our best to have a bill that is fair to the entire Nation and to Alaska. There is much in this bill that has the thumbprints of the Senator from Alaska. I am sure the people of Alaska appreciate him.

Mr. STEVENS. I thank the Senator for his comments.

The PRESIDING OFFICER. The Senator has consumed 15 minutes.

Mr. JAVITS. Mr. President, how much more time do we have on this side?

The PRESIDING OFFICER. The Senator has 23 minutes left.

Mr. JAVITS. I yield 3 additional minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I seek no additional time. I thank the Senator from New York and the Senator from Connecticut.

Mr. JAVITS. Mr. President, I know of no additional speakers. None has applied to me.

Mr. RIBICOFF. I am willing to yield back the remainder of my time.

Mr. JAVITS. Mr. President, does the Senator from Idaho want any time?

Mr. McCLURE. Will the Senator yield me 5 minutes?

Mr. JAVITS. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I do not want to speak at this time particularly in regard to the merits of the bill, but to raise two or three issues that deal primarily with procedural matters in the consideration of the legislation.

The Senate bill had a one-House veto on one portion of the regulation. The House measure had a veto on all the regulations issued in one area.

The items were not identical. They dealt with slightly differing matters and the conference in its wisdom has removed both of the veto provisions. Because the items were not identical, they were properly before the conference for change.

Looking at that question of whether or not the conference had gone outside the balance, the conference ran across the limitations, which are more familiar to Members of this body who have been here longer than I, on the limitation of the right to raise a point of order against a conference report which changes very dramatically the format of the legislation in ways which were not before either of the Houses of the Congress.

I find that, as a matter of fact, under the precedents of this body, points of order are very severely strained if, as a matter of fact, all after the enacting clause was stricken and a new bill was written, and the conference, under those circumstances, is given almost carte blanche to write a new bill.

It seems to me that the point of order, the requirement that the bill be within the bounds of the legislation in one body or the other, or lying between them, is a legitimate consideration founded on the principle that the Members of the body must have the opportunity to debate the questions that are in the bill, and they will have notice and opportunity to debate it, opportunity to amend those provisions, and have the full range of options for each of the respective bodies of the Congress to work their will on those provisions.

When, however, it is beyond a point of order and, in effect, the conference can write a new piece of legislation not subject to a point of order, then the Members of both bodies are denied the opportunities of individual Members to look at that new piece of legislation as they would a piece of legislation emerging from committee, or to offer amendments in any meaningful manner to affect that new piece of legislation that comes before the body.

In looking at this piece, I am satisfied, as the staff is satisfied, that this legislation is not subject to a point of order within the rules of the Senate. But it seems to me that maybe we should look at the rules of the Senate with respect to the proceedings on a conference report where, as a matter of fact, the conference report is new legislation, rather than simply a compromising of the views between two bills, one in this body and one in the other.

I am not going to attempt anything at this time other than to raise the issue that there may need to be a protection for the Members of this body by changes in the procedural rules of the Senate guaranteeing the full and open discussion, including the right to amend original legislation that emerges from the conference without attempting to change the proceedings and the rules where the legislation, by way of conference reports, is not original legislation.

I recognize that is a difficult and sometimes imponderable decision to try to make. The question of the one-house veto is obviously one of some concern to people within this body and also to various people within the administration.

It is a matter that has been debated at length, both as a matter of philosophy, as a matter of practical procedural problem, as a matter of the constitutional prerogatives of the different branches of Government.

It seems to me that when we have felt it necessary in both Houses to have had at least some portion of the one-House veto over some portion of the activities of the Department of Energy, that some part of that one-House veto would have survived the conference.

I think that in this instance, as in many others, the conferees worked their will on a piece of legislation in a way which was somewhat different from that will expressed first by the House in one regard and by the Senate in another regard.

So, Mr. President, I am not going to attempt raising that point of order. I know it would not lie. But I am raising the issue of the question and hope that perhaps sometime in the future we can take a look at our procedural rules in a way that will guarantee to the Members of this body the opportunity to look at a conference report with the opportunity to amend which is denied to us in this instance.

I think if, as a matter of fact, this conference report were subjected to that kind of a procedure and that kind of a scrutiny, there would be a number of amendments offered.

I know the Senator from Alaska has very strong feelings concerning some provisions of this bill. But, as a practical matter, there is no way in which we can offer any kind of amendment. There is no practical opportunity to change the results of the conferees once the conference has ended, sitting on a conference as can give the opportunity to free legislation that never would have passed in either body under any other circumstance. This may be one such instance.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I would like to clarify one issue as regards the functional statements of the Assistant Secretaries contained in title II, section 203(a). As Senators are aware, the current ERDA fossil energy program, including the five Energy Research Centers, is funded by my Appropriations Subcommittee. During the past 3 years, I have worked with ERDA so that today the fossil energy research program is a well-defined, integrated program that has eliminated redundant efforts. A critical part of the fossil energy program is the research and development work performed in the five Energy Research Centers, one of which is located at Morgantown, W. Va.

I am concerned that in creating the Department of Energy we do not destroy the integrated fossil energy program and set back coal research. Therefore, it is your understanding that the fossil energy program, including the five Energy Research Centers, would be transferred as an integrated unit to the Assistant Secretary who has the research and development functions outlined in title II, section 203(a)(2)?

Mr. RIBICOFF. The Senator from West Virginia is absolutely correct.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I have no request for time.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

Mr. President, I expect another speaker, the Senator from Oklahoma (Mr. BARTLETT).

In view of that, is it agreeable to have a quorum without charging the time?

Mr. RIBICOFF. Yes.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. JAVITS. I yield 15 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. BARTLETT. Mr. President, may I amend that to 10 minutes?

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BARTLETT. I thank the distinguished Senator from New York.

Mr. President, today I speak against the conference report on S. 826, a bill to create a Cabinet Department of Energy.

I agree with the advocates of this measure that our national energy emergency desperately demands a compre-

hensive and workable energy policy. However, I am not convinced that this legislation represents a step toward such a policy.

S. 826 suggests that we respond to America's energy emergency not only by concentrating the energy-related functions of the Federal Government in one agency but also by sharply expanding Federal involvement in the energy industry.

Under this legislation, a new Department of Energy would have the authority to pursue economic planning activities designed to influence major sectors of the private economy in order to achieve its energy objectives.

The private energy industry would likely be subject to further Federal intervention in a variety of forms, including continued control over pricing and mandatory disclosure of private information by energy companies—actions which can only discourage competition within the industry.

Hasty consideration of this measure by Congress has also left unresolved serious questions regarding other areas of the new Department's authority. For example, the propriety of having regulatory authority vested in a policymaking agency, and the feasibility of dividing leasing authority between the new Department and the Department of Interior remain in question.

I believe the creation of a single Department of Energy should involve a streamlining of Federal energy activities with increased reliance on the ability of free market forces to solve our energy emergency. Instead, S. 826 constructs a huge new bureaucracy, intent on expanding Federal manipulation of the energy industry.

DEPARTMENT OF ENERGY (DOE)

The argument can be made for concentrating the many Government agencies into one Department. Some imply this will ipso facto, presto-changeo solve the energy crisis. That is a lot of hogwash.

The majority of Congress know that the free market is the basic solution to the energy shortage—one that does not require any modifications.

The acronym DOE for the Department of Energy is most appropriate—DOE will cost approximately $10.6 billion, and emplov 20,000 people. $10.6 billion for controlling 10,600 producing companies in the United States, that is $1 million per company per year. For what purpose?

To increase production? No.

To reduce imports? No.

To decrease costs to the consumer? No.

This is so notwithstanding the fact that the administration supports price controls which are normally designed for the purpose of reducing costs. Despite the recommendation for the extension of price controls to the intrastate market, the costs will still go up for both gas and oil.

To strengthen the economy? No.

To increase jobs in the private sector? No.

To increase jobs in the public sector? Yes; 20,000 jobs—that means two Federal employees to watch each private oil company and to see that it obeys increasingly restrictive Federal regulations.

The sum of $10.6 billion is a lot of money; $3 billion is the amount Saudi Arabia the largest oil producing nation in the world—spent last year on oil and gas; $3.5 billion is the amount the entire Canadian oil and gas industry will spend in 1977.

In 1977 all companies will spend only $10.2 billion on all drilling and exploration in the United States.

That is $400 million less than the $10.6 billion for DOE, Department of Energy.

The total estimated capital and exploration expenditure in the United States by the entire industry this year is $28.45 billion. DOE's budget is 37 percent of the industry's total outlay.

The capital outlay of $28.45 billion needed to find, drill for, produce, transport, and process oil and gas will cost the consumer about $4.50 per barrel of oil equivalent.

The Congress today will be voting for an additional charge of $1.65 per barrel that the consumer will pay in dough for the DOE (the Department of Energy).

Just think, if the $10.2 billion that is spent by oil companies on drilling and exploration were supplemented by DOE's $10.6 billion, how much more oil and gas would be found in this country and how much further down the road would we be toward self-sufficiency? Instead we are spending it to restrict an industry, making it impossible to have a free market system, where the market can determine what the price will be and what the inflow of capital would be for the energy industry.

The President called new natural gas deregulation a ripoff of the American consumer. This false claim has been repudiated by reliable sources which show deregulation to be cheaper than continuation of controls.

Mr. President, $10.6 billion is a lot of dough. It is also a lot of DOE, Department of Energy. I wonder what kind of ripoff to the consumer the President calls DOE?

Mr. President, I urge my colleagues to vote against the conference report. I yield the floor.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. BARTLETT. Yes.

Mr. CURTIS. I want to commend the distinguished Senator on his statement, which is clear and to the point. It emphasizes the fact that our problem is that we need more production, and we will not get more production by more restriction.

I commend the Senator and I thank him for his good statement.

Mr. BARTLETT. I thank the distinguished Senator from Nebraska and for his comments.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. BARTLETT. I thank the Chair.

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The Senator from Texas is recognized for 4 minutes.

Mr. TOWER. Mr. President, Government reorganization is usually justified as a means of reducing wasteful Government spending. This proposal, however, to establish a Department of Energy, has been justified primarily on the basis of improved energy policy coordination. Unfortunately, in our debate on the creation of this new Department, the Senate has been noticeably silent about its costs to the taxpayer. In doing so, I believe we are doing a great disservice to the American people.

The public should know what this new Agency is going to cost them and what they are likely to get in return for their investment. Although improved coordination of national energy policy is a laudable goal, I suspect that the American people will be astonished when they learn of the burden being imposed on them by the action of this Congress and the administration in creating the Department of Energy. Since President Carter has emphasized his concern for the growing bureaucracy and its burden on the taxpayers, let us put in some perspective the cost of this newest addition to the expanding Federal bureaucracy.

I, perhaps, am repeating some figures here that have already been articulated by my good friend from Oklahoma, but I think they bear repetition.

The Department of Energy is expected to cost taxpayers $10.6 billion during its first year of operation. If experience with our other Federal agencies is any guide, this will certainly increase to staggering levels in future years. Considering the likely return for the money to be expended, I think the cost is excessive.

Let us make some comparisons. In 1975, the petroleum industry spent over $6.6 billion in the drilling and equipping of all the crude oil, natural gas, and dry wells in the United States. That represents $4 billion less than the cost of this new Department during its first year of operation.

The Trans-Alaska pipeline, which has been characterized as the largest private undertaking in the history of the Republic, cost $7.5 billion. That is a little over $3 billion less than 1 year of this new Agency.

Some of the more enthusiastic proponents of this new Government giant have been known on occasion to jump at the opportunity to condemn oil company profits, but the 1976 net profits of the five largest U.S. oil companies, from all of their operations all over the world, amounted to only $6.6 billion. That is exactly $4 billion less than the first year of this new Government department.

Many in the administration and in Congress, in their emotional appeal to continue Government price controls on the oil industry while blaming that industry for oil and gas shortages, make the outrageous claim that an energy policy of price deregulation would result in a massive rip-off of consumers. This "rip-off" would result, they say, because deregulation would cause a massive shift of resources from energy consumers to energy producers, while resulting in only marginal or insignificant increases in petroleum supplies.

I submit that the real consumer "ripoff" is in the continuation of these counterproductive Government regulations and in the establishment and continua-

tion of a massive Federal bureaucracy. Much as I sympathize with energy agency reorganization, I see in this new Department of Energy and in the Government regulations on which it will feed, the exemplification of this kind of "ripoff" by Government. Almost $11 billion for 1 year of one Government department—this is truly a massive shift of resources, not to private industry, but into the hands of the nonproductive bureaucracy of the Federal Government.

What will the taxpaying public gain in return for its $10 billion investment? Do any of us believe that this expenditure will facilitate the exploration and development of additional, needed supplies of oil and natural gas? I predict that it will have the opposite result.

Mr. President, an energy policy that begins by taking billions of dollars from the public in order to institutionalize the regulation and control of private energy producing companies is an energy policy which is going in the wrong direction. The quickest, most efficient way for us to solve our energy supply problems is to adopt sensible, far-sighted Government policies which place primary reliance, not on Government decisionmaking, but on the operation of the competitive marketplace.

If we adopt such policies and work toward the removal of the excessive regulatory burden imposed on energy production, then much of this new Department will be unnecessary. One big step in that direction would be to remove Federal price controls on oil and gas. That would be the best way to solve our energy problems, and if it were done gradually, as decontrol proponents suggest, it would also be the least painful of all solutions. Thus, Mr. President, I suggest that, now that we have created this new Agency, we must begin immediately to dismantle it by removing its reason for existence.

Mr. JAVITS. Mr. President, how much more time do I have?

The PRESIDING OFFICER. The Senator from New York has 6 minutes remaining.

Mr. JAVITS. I yield 3 minutes to the Senator from Idaho (Mr. McCLURE).

Mr. McCLURE. Mr. President, I ask unanimous consent that we have a quorum call without the time being charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I want the Senator to withhold his request just briefly.

Mr. McCLURE. Surely.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may proceed for 3 minutes without the time being charged to either side on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AUGUST ADJOURNMENT RESOLUTION—HOUSE CONCURRENT RESOLUTION 317

Mr. ROBERT C. BYRD. Mr. President, on last Friday the Senate adopted a resolution providing for adjournment through the month of August. It is very important that action be taken with respect to the clean air measure which is now tied up in conference. The conferees on both sides have been working early and late on that conference.

I have discussed the matter a number of times with Senator MUSKIE and Senator RANDOLPH, and I know that the Senate conferees are acting with the utmost diligence and dedication in an effort to resolve the problems that are involved in that matter.

I am very concerned lest Congress go out before the matter is resolved in such a way that it will not create a serious unemployment problem in the country. In that event the President would, of course, be constrained to call Congress back in session. I do not want to see that happen. If we have not completed the work in such a way as the problem will be resolved to avoid work slowdown, closedown of the factories, and throwing of people out of work temporarily, I think we should face up to that situation here and make the decision ourselves to stay in session.

On Friday we agreed to that resolution. Today is the second day following adoption of that resolution. It is the only day in which a motion to reconsider the vote on that resolution can be entered under the rules.

Therefore, I enter a motion to reconsider the vote by which House Concurrent Resolution 317 was agreed to.

I move that the Secretary of the Senate be directed to request the House of Representatives to return to the Senate House Concurrent Resolution 317.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished minority leader may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. BAKER. I thank the majority leader.

We discussed this matter earlier, and the completion of the conference report on clean air is a matter of vital importance.

It is my understanding that the conferees are going to meet tonight. It is my hope and I would even speculate that they may be able to work something out tonight. But as I understand the steps now taken by the majority leader, he has entered a motion to reconsider and he has moved that the House of Representatives be requested to return our resolution. Is that a correct statement?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. Mr. President, would it be the intention of the majority leader to ask for a vote on the motion but not on the motion to reconsider?

Mr. ROBERT C. BYRD. Not on the motion to reconsider. But we would first have to adopt the motion to ask the House of Representatives to return the measure. The motion to reconsider will come later, but we first need to get the papers back.

Mr. BAKER. Mr. President, the motion to reconsider need not be voted on today.

Mr. ROBERT C. BYRD. No.

Mr. BAKER. Mr. President, I have no objection to the motion to request that the House of Representatives return our resolution. I hope that we do not vote on the motion to reconsider until the conference has time to meet tonight and we see the result of that conference.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may proceed for another 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May I say it is not the intention to move to reconsider today but under the rule I have, of course, the right to enter the motion to reconsider. I voted with the prevailing side and, in view of the fact that the papers have gone out of the possession of the Senate, it is necessary under the rule that a motion be immediately voted on, and it is not debatable, asking the House of Representatives to return the papers.

If at some later point those papers are returned and I move to reconsider, that motion is not debatable either. But we are not at this point.

Mr. BAKER. Mr. President, I do not object to that. I think the majority leader is acting wisely, and I support that motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

DEPARTMENT OF ENERGY—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on S. 826.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call just for a minute without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 24 minutes and the Senator from New York has 6.

Mr. CHILES. I thank the Chair.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call without its being charged to either side.

Mr. CHILES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. The Senator has plenty of time.

Mr. JAVITS. I called it off and I allowed the Senator to do it.

Mr. CHILES. I did not object when the Senator put it in.

Mr. JAVITS. The Senator was not here.

Mr. CHILES. I was here.

Mr. JAVITS. We are trying to work something out with the Parliamentarian.

Mr. CHILES. The Senator has 24 minutes plus so much other time. Why can it not be done on that time?

I withdraw my objection.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislature clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, the House bill treated the question of the limitation on supergrade employees under this bill in one fashion, and the Senate bill treated the limitation on supergrades in another fashion. The conference report came back with the subject treated in yet a third manner, in which the ceiling on numbers of supergrades as provided in the United States Code, under the conference report, exceeds the ceiling under either the House bill or the Senate bill.

My parliamentary inquiry is whether or not numercial limitations in legislation that are exceeded by the conference action, so that the number limitations are outside the numbers used by either the House or the Senate, would subject the report to a point of order under the rules of the Senate.

The PRESIDING OFFICER. If the figures that the conferees reported were outside the figures in the bill of either House, then the Chair would be inclined to agree with the Senator. In this case, however, the figures are based on a series of rather complex formulas, so the Chair would rather not indulge the decision as to whether or not those figures are, in effect, outside.

Mr. McCLURE. I thank the Chair. I think the opinion of the Chair that if it were clearly outside the numbers involved it would perhaps be subject to a point of order is perhaps a correct ruling. I also agree with the Chair that in view of the complexity between the House and the Senate and in the conference, that that might be a point of order on this legislation. I thank the Chair and I thank the Senator from New York for yielding. I will not raise the point of order.

Mr. JAVITS. I thank the Senator from Idaho. Mr. President, I have no further requests and I am ready to yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—76

Allen	Ford	Moynihan
Anderson	Glenn	Muskie
Baker	Gravel	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Heinz	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Riegle
	Inouye	Roth
Byrd, Robert C.	Jackson	Sarbanes
Cannon	Javits	Sasser
Case	Johnston	Schweiker
Chiles	Leahy	Sparkman
Church	Long	Stafford
Clark	Magnuson	Stennis
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Danforth	McGovern	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Melcher	Weicker
Domenici	Metcalf	Williams
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	

NAYS—14

Bartlett	Hayakawa	Scott
Curtis	Helms	Stevens
Durkin	Lugar	Tower
Garn	McClure	Wallop
Hatch	Schmitt	

NOT VOTING—10

Abourezk	Huddleston	Percy
Chafee	Kennedy	Young
Goldwater	Laxalt	
Griffin	McClellan	

So the conference report was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the conferees on the Department of Energy measure and to commend them for the fine work they have done in bringing this measure now to its final enactment in the Senate.

Mr. RIBICOFF is to be highly commended. Mr. PERCY and Mr. JAVITS, and others on both sides of the aisle who participated in the conference, are to be thanked. I am extremely grateful for their good work. This will now pave the way for the President to send a nomination to the Senate and, hopefully, that nomination can be confirmed before the August recess.

CORRECTIONS IN ENROLLMENT OF S. 826

Mr. RIBICOFF. Mr. President, there is a House Concurrent Resolution No. 320 at the desk making technical and clerical changes in the conference report to S. 826.

Mr. President, I ask the Chair to lay before the Senate a message from the House Concurrent Resolution No. 320 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate House Concurrent Resolution 320, directing the Secretary of the Senate to make certain corrections in the enrollment of the bill S. 826.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being on objection, the concurrent resolution was considered and agreed to.

REFERRAL OF S. 897

Mr. RIBICOFF. Mr. President, I ask unanimous consent to amend the referral of S. 897 to provide that the bill be jointly referred to the Committee on Governmental Affairs, the Committee on Foreign Relations, and the Committee on Energy and Natural Resources, with the proviso that the Energy and Natural Resources Committee shall be limited in its consideration to sections 102, 103, 104, 105, 202, 501, 502, and 503 of the bill as amended by the Committee on Governmental Affairs, and that the Committee on Energy and Natural Resources shall report its recommendations on such sections to the Senate not later than September 20, 1977, and further that the Committee on Governmental Affairs and the Committee on Foreign Relations shall report the legislation not later than September 23, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE CLOTURE MOTION ENTERED ON S. 926

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the motion to invoke cloture which I entered on yesterday on S. 926 be vitiated so that there will not be a vote tomorrow on that motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today?

The PRESIDING OFFICER. There has not been morning business.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE PROBLEM OF DRUG ABUSE IN AMERICA—PM 103

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States.

To the Congress of the United States:

Drug abuse continues to be a serious social problem in America. The lives of hundreds of thousands of people are blighted by their dependence on drugs. Many communities remain unsafe because of drug-related street crime, and the immense profits made in the illicit drug traffic help support the power and influence of organized crime. Among young American men aged 18–24 years, drugs are the fourth most common cause of death: only automobile accidents, homicides, and suicides rank higher. The estimated cost of drug abuse in America exceeds 15 billion dollars each year. Among some minority groups, the incidence of addiction and the harm it inflicts are disproportionate.

Drug addiction, which in recent years was viewed as a problem peculiar to America, now affects people throughout the world. We can no longer concern ourselves merely with keeping illicit drugs out of the United States, but we must join with other nations to deal with this global problem by combating drug traffickers and sharing our knowledge and resources to help treat addiction wherever it occurs. We must set realistic objectives, giving our foremost attention domestically to those drugs that pose the greatest threat to health, and to our ability to reduce crime. Since heroin, barbiturates and other sedative/hypnotic drugs account for 90 percent of the deaths from drug abuse, they should receive our principal emphasis.

My goals are to discourage all drug abuse in America—and also discourage the excessive use of alcohol and tobacco—and to reduce to a minimum the harm drug abuse causes when it does occur. To achieve these goals with the resources available, effective management and direction are essential. Because the Federal effort is currently divided among more than 20 different, and often competing, agencies, I have directed my staff to coordinate Federal action and to formulate a comprehensive national policy. This will end the long-standing fragmentation among our international programs, drug law enforcement, treatment and rehabilitation, prevention, and regulatory activities. I will also seek the counsel and active involvement of members of the Cabinet and heads of major independent agencies on all drug abuse policy questions, through a revitalized Strategy Council on Drug Abuse. My staff will examine the functions of the various agencies involved in this field and will recommend to me whatever organizational changes are appropriate.

INTERNATIONAL COOPERATION

For certain drugs originally derived from plant sources outside the United States, especially heroin and cocaine, diplomatic agreements against cultivation and trafficking are indispensible. Turkey—once virtually the sole source of heroin supply in this country—is now gone from the illicit market as the result of such an agreement. The enormous profits generated by the illicit drug traffic distort the economies of many smaller countries, aggravating inflation and draining tax revenues; they also engender corruption and corrode political stability. We must work closely with other governments to assist them in their efforts to eradicate the cultivation of drugs, and to develop legitimate alternative sources of income for the impoverished farmers who have for generations raised and sold crops such as opium.

We have made significant progress in the last few months. In February, I discussed with President Lopez-Portillo of Mexico my deep concern about the illegal cultivation of opium in his country. Under his strong leadership, the eradication program has been intensified and is producing dramatic results, significantly reducing the availability of heroin in many American cities. In addition, President Ne Win of Burma and Prime Minister Thanin of Thailand have shown a resolute determination to control drug cultivation and trafficking in their countries. Most recently I have received strong assurances from President Lopez-Michelsen of Colombia that he plans to give the problem of drug trafficking his highest priority. We are establishing a commission made up of government officials from our two countries to coordinate a stepped up effort to deal with the major international trafficking of cocaine and marihuana between our two countries, and the devastating economic impact of that traffic.

As a result of these efforts and those of the Drug Enforcement Administration, the purity of heroin in our country has dropped in the last 6 months to 4.9 percent, the lowest level in 4 years.

There is, however, more that we can do:

(1) I am directing the Secretary of State to give greater emphasis to the international narcotics control program and to reiterate to foreign governments our strong desire to curtail production of, and traffic in, illicit drugs.

(2) To this end, I am directing the Administrator of the Agency for International Development to include such measures as crop and income substitution in its development programs for those countries where drugs are grown illicitly. I expect the Secretary of State to continue to call on other agencies and departments, such as the Drug Enforcement Administration, the U.S. Customs Service, the U.S. Department of Agriculture, and the National Institute on Drug Abuse, to assist in the international narcotics control program according to the special expertise of each.

(3) I am directing the intelligence community to emphasize the collection and analysis of information relating to international drug trafficking.

(4) I strongly support the work of the United Nations Fund for Drug Abuse Control (UNFDAC), the United Nations Commission on Narcotic Drugs, the International Narcotics Control Board, the World Health Organization, and other organizations working within the framework of the United Nations in their efforts to help drug-producing countries find alternate crops, improve drug control measures, and make treatment resources available.

(5) I am instructing the United States representatives to the loan committee of the Regional Development Banks and other international financial institutions to use their votes and influence to encourage well designed rural development and income substitution projects in countries which now produce dangerous drugs, and to ensure that assistance is not used to foster the growth of crops like opium and coca.

(6) Because of the need to improve international controls over dangerous drugs which have legitimate medical uses, like barbiturates and amphetamines, I urge the Congress to adopt legislation implementing the Convention on Psychotropic Substances, and I urge the Senate to ratify this treaty promptly.

(7) In my communications with foreign leaders, I will emphasize international cooperation among drug law enforcement agencies, so that intelligence and technical expertise can be shared. I will encourage them to send law enforcement officials to work with us to stop the flow of drugs through other countries. This kind of cooperation has already begun in Bangkok among French, German, British, Dutch, American and Thai officials.

I will, in addition, promote the international sharing of knowledge and expertise in the treatment of drug abuse. We will make a special effort to share our experience, especially with those nations which have serious drug problems and which are working with us in the effort to control drug sources and prevent drug abuse. Our program will encompass training, research and technical assistance projects, including providing American experts as consultants.

LAW ENFORCEMENT

We must vigorously enforce our laws against those who traffic in drugs, so that the attraction of large profits is outweighed by the risk of detection and the likelihood of conviction. The Federal Government's job is to deter, and where possible prevent entirely, illegal importation and major trafficking of controlled substances. Often large-scale financiers of the illegal drug trade never come into direct contact with drugs. Through the cooperative efforts of the various agencies involved, we will attack the financial resources of these traffickers who provide the capital needed to support the smuggling of drugs into the country. Drug traffickers must understand that they face swift, certain, and severe punishment; and our law enforcement and judicial systems must have the resources to make this prospect a very real threat. We must allocate our resources intelligently, revise our penalty structure where necessary to concen-

trate on the actions (and the drugs) that are most dangerous, and improve the administration of justice.

Therefore:

I am directing the Attorney General to intensify investigations of the link between organized crime and the drug traffic, and to recommend appropriate measures to be taken against these organizations.

I am directing the Department of Justice in conjunction with the Departments of State and Treasury to study arrangements with other countries, consistent with Constitutional principles, to revoke the passports of known major traffickers, and to freeze assets accumulated in the illegal drug traffic.

To ease the burden on the United States District Courts, which must hear major drug cases, I support legislation widening the jurisdiction of U.S. Magistrates under certain circumstances to include misdemeanor offenses which carry sentences of up to one year.

In 18 United States Attorneys' Offices, special units devoted to the prosecution of major drug traffickers exist. The Department of Justice is now expanding this program to include additional units.

I support legislation raising from $2,500 to $10,000 the value of property which can be seized and forfeited from drug violators by administrative action, including cash within the definition of seizable property. Amounts above this figure will continue to require court proceedings.

I am directing my staff to recommend to me the appropriate Federal drug law enforcement role in the light of currently available resources—state, local and Federal. For nearly a decade, Federal support of state and local enforcement activity has steadily expanded. The time is ripe to evaluate the result of this effort, to determine whether Federal participation should be altered, and to determine the proper division of responsibility between Federal and local officials. The Office of Drug Abuse Policy has already begun the first phase of this review, which includes consideration of border security and drug trafficking intelligence.

I am directing the Attorney General to study the necessity for and constitutionality of proposals which would deny pretrial release to certain persons charged with trafficking in drugs posing the greatest threat to health. and to give me his recommendations within 90 days. At the present time, some persons charged with major drug offenses can use their immense wealth to post bail and escape justice. If enactment of such proposals appears to be necessary and constitutional, their application should be tightly restricted and they should include a provision granting the accused an expedited trial.

I am directing the Attorney General to review the adequacy of the penalties for major trafficking offenses and to give me his recommendations within 90 days.

I also have considered requesting changes in the Tax Reform Act of 1976. Some of its provisions—such as those for disclosure and summonsing—were designed to protect the privacy of citizens but may also impede unnecessarily the investigation of narcotics trafficking cases. I am asking the appropriate Federal agencies to determine the difficulties these provisions present to effective law enforcement. If it appears they can be amended to improve law enforcement without infringing upon legitimate privacy interests, I will submit legislation to the Congress.

MARIHUANA

Marihuana continues to be an emotional and controversial issue. After four decades, efforts to discourage its use with stringent laws have still not been successful. More than 45 million Americans have tried marihuana and an estimated 11 million are regular users.

Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marihuana in private for personal use. We can, and should, continue to discourage the use of marihuana, but this can be done without defining the smoker as a criminal. States which have already removed criminal penalties for marihuana use, like Oregon and California, have not noted any significant increase in marihuana smoking. The National Commission on Marihuana and Drug Abuse concluded 5 years ago that marihuana use should be decriminalized, and I believe it is time to implement those basic recommendations.

Therefore, I support legislation amending Federal law to eliminate all Federal criminal penalties for the possession of up to 1 ounce of marihuana. This decriminalization is not legalization. It means only that the Federal penalty for possession would be reduced and a person would receive a fine rather than a criminal penalty. Federal penalties for trafficking would remain in force and the States would remain free to adopt whatever laws they wish concerning the marihuana smoker.

I am especially concerned about the increasing levels of marihuana use, which may be particularly destructive to our youth. While there is certain evidence to date showing that the medical damage from marihuana use may be limited, we should be concerned that chronic intoxication with marihuana or any other drug may deplete productivity, causing people to lose interest in their social environment, their future, and other more constructive ways of filling their free time. In addition, driving while under the influence of marihuana can be very hazardous. I am, therefore, directing the Department of Transportation to expedite its study of the effects of marihuana use on the coordination and reflexes needed for safe driving.

DRUG TREATMENT

My immediate objective will be to widen the scope and improve the effectiveness of Federal drug treatment programs. In conception and in practice, they have been too narrow. Drug addiction can be cured; but we must not only treat the immediate effects of the drugs, we must also provide adequate rehabilitation, including job training, to help the addict regain a productive role in society. In the past, Federal programs have given disproportionate attention to the heroin addict while neglecting those who are dependent on other drugs.

To improve the quality of Federal drug treatment, I am recommending these steps:

In recognition of the devastating effects that certain nonopiate drugs can have if abused, I am directing the Secretary of Health, Education, and Welfare to expand resources devoted to care for abusers of barbiturates, amphetamines, and multiple drugs used in combination, including alcohol.

To help drug abusers return to productive lives, I am directing the Secretary of Labor to identify all Federal employment assistance programs which can help former drug abusers and to give me, within 120 days, his recommendations for increasing the access of drug abusers to them.

A sustained effort must be made to identify the reasons that people turn to drugs, including alcohol and cigarettes. We should seek more effective ways to make people aware of the health problems associated with such substances (particularly cigarettes and alcohol) and to respond in more constructive ways to the human and psychological needs they satisfy.

DRUG RESEARCH

In the past, there has been no serious attempt to coordinate Federal research on opiates and alcohol despite the many similarities in the effects of these two drugs. A joint Federal research center might not only save money, but also lead to greater scientific understanding of addiction problems. Therefore I am directing the Secretary of Health, Education, and Welfare to study the feasibility of making the Addiction Research Center responsible for coordinated research on a variety of drugs, including opiates, alcohol, and tobacco.

ADMINISTRATIVE ACTION

Improved treatment and prevention programs should be accompanied by appropriate changes in Federal regulations, administrative practices, and enforcement, among which are these:

First, I am recommending a conscious and deliberate increase in attention throughout the Federal Government to the problems related to the abuse of drugs that come originally from legitimate medical sources. Of particular concern are barbiturates, which despite their recognized medical use, are responsible for many deaths and are frequently used in suicide attempts. The withdrawal reaction of patients addicted to barbiturates can be more difficult and more dangerous than that associated with heroin withdrawal. They are frequently oversold, overprescribed, and overused. Therefore, I will:

—Instruct the Secretary of Health, Education, and Welfare to undertake a study of barbiturates and other sedative/hypnotic drugs to determine the conditions under which they can be most safely used.

—Instruct the Secretary of Defense, the Secretary of Health, Education, and Welfare, and the Administrator of Veterans' Affairs to review the

prescribing practices of physicians under their jurisdiction, and to discourage the medical use of barbiturates and sedative/hypnotics except in cases where it is unmistakably justified.

—Continue the program, already begun at my direction, by which the Drug Enforcement Administration has instructed its regional offices and regulatory task forces to give priority attention to barbiturate cases. DEA has also begun to investigate the "street" market in order to determine the source of illegal supplies so that suitable Federal action may be taken. In the near future, DEA will conduct a special accelerated audit of the 120 companies lawfully manufacturing barbiturates in this country and will also notify foreign governments of our desire to see them control their barbiturate exports strictly.

Second, I am directing the Secretary of Health, Education, and Welfare to review those sedative/hypnotic drugs particularly subject to abuse to determine whether any should be removed from the market, taking into consideration not only their safety to the individual but also the dangers they pose to the public at large.

Third, I support legislation giving the Food & Drug Administration the authority to apply standards of safety and efficacy to all drugs, by repealing those laws which exempt a variety of drugs because they were placed on the market before a certain date. A number of barbiturates fit into this category.

Fourth, Some physicians still knowingly overprescribe a wide variety of drugs. Although, as a result of careful education, physicians have voluntarily reduced their prescriptions for barbiturates by 73 percent during the last five years, a few are continuing to misprescribe these and other drugs deliberately. I am directing the Attorney General, in full cooperation with State officials, to begin a concerted drive to identify and prosecute these violators.

No government can completely protect its citizens from all harm—not by legislation, or by regulation, or by medicine, or by advice. Drugs cannot be forced out of existence; they will be with us for as long as people find in them the relief or satisfaction they desire. But the harm caused by drug abuse can be reduced. We cannot talk in absolutes—that drug abuse will cease, that no more illegal drugs will cross our borders—because if we are honest with ourselves we know that is beyond our power. But we can bring together the resources of the Federal Government intelligently to protect our society and help those who suffer. The sufferers include the overwhelming majority of the public who never abuse drugs but for whom drug abuse poses the threat of broken families, a lost child or fear to walk the streets at night. Beyond that, we must understand why people seek the experience of drugs, and address ourselves to those reasons. For it is ultimately the strength of the American people, of our values and our society, that will determine whether we can put an end to drug abuse.

JIMMY CARTER.

THE WHITE HOUSE, *August 2, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States on drug abuse, which was received today, be jointly referred to the Committees on Foreign Relations, Human Resources, and the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 3:04 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the joint resolution (S.J. Res. 79) to amend the Federal Home Loan Bank Act.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

The House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada.

The House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 182. A concurrent resolution providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress";

H. Con. Res. 190. A concurrent resolution to provide for the printing of the brochure entitled "How Our Laws Are Made";

H. Con. Res. 217. A concurrent resolution to provide for the printing of a revised edition of "The Constitution of the United States of America";

H. Con. Res. 222. A concurrent resolution to authorize the printing of a revised edition of "The Capitol" as a House document; and

H. Con. Res. 320. A concurrent resolution directing the Secretary of the Senate to make certain corrections in the enrollment of the bill S. 826.

JOINT RESOLUTION ENROLLED SIGNED

The Speaker has signed the enrolled joint resolution (S.J. Res. 79) to amend the Federal Home Loan Bank Act.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications which were referred as indicated:

EC–1757. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report of a deferral of Energy Research and Development Administration budget authority that should have been, but was not, reported to the Congress by the President pursuant to the Impoundment Control Act of 1974 concerning the Intense Neutron Source Facility project; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Energy and Natural Resources.

EC–1758. A letter from the General Counsel of the General Accounting Office transmitting, pursuant to law, a report on the status of budget authority that was proposed, but rejected, for rescission concerning the Patrol Hydrofoil Missile Program; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Armed Services.

EC–1759. A letter from the Secretary of the Navy transmitting a draft of proposed legislation to amend chapter 3 of title 37, United States Code, to provide a subsistence allowance for members of the armed forces enrolled in certain officer candidate programs and for other purposes (with accompanying papers); to the Committee on Armed Services.

EC–1760. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Booz-Allen and Hamilton, Inc., Cleveland, Ohio, for a research project entitled "An Automated Rail Haulage System" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1761. A letter from the Administrator of the Environmental Protection Agency transmitting, for the information of the Senate, changes in the estimates for three States in the report of February 10, 1977 estimating the costs of construction of publicly owned wastewater treatment facilities needed to carry out the provisions of the Federal Water Pollution Control Act (with an accompanying report); to the Committee on Environment and Public Works.

EC–1762. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–1763. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Military Compensation Should be Changed to Salary System" (FPCD–77–20) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1764. A letter from the Assistant Secretary for Administration of the Department of Commerce transmitting, pursuant to law, a proposal to adopt a system of records in addition to those previously noticed in the Federal Register, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–1765. A letter from the Secretary of Labor transmitting, pursuant to law, a report entitled "Groups with Historically High Incidences of Unemployment" (with an accompanying report); to the Committee on Human Resources.

EC–1766. A letter from the Chairman, Board of Directors, and the Acting Executive Director of the Pension Benefit Guaranty Corportion transmitting, pursuant to law, the second annual report of the Pension Benefit Guaranty corporation reviewing the progress of the Corporation during fiscal year 1976 (with an accompanying report); to the Committee on Human Resources.

EC–1767. A communication from the President of the United States transmitting, pursuant to law, an amendment to the request for appropriations for the fiscal year 1978 in the amount of $2,500,000 for foreign assistance (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

A report entitled "Report on the Oversight Hearings on the Federal Reserve System's Budget for the Calendar Year 1977" (Rept. No. 95–381).

By Mr. RIEGLE, from the Committee on Banking, Housing and Urban Affairs:

With an amendment:

H.R. 5294. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors (Rept. No. 95–382).

By Mr. EASTLAND, from the Committee on the Judiciary:

With an amendment:

S. 911. A bill for the relief of Mr. and Mrs. Brian Logan (title amendment) (Rept. No. 95–383).

S. 948. A bill for the relief of Chin-Ah-Park and Chin-Suk-Park (title amendment) (Rept. No. 95–384).

S. 1003. A bill for the relief of Me Young Lee (Rept. No. 95–385).

By Mr. HATFIELD (for Mr. ABOUREZK), from the Select Committee on Indian Affairs:

With amendments:

S. 1560. A bill to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and is members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes (Rept. No. 95–386).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce, Science, and Transportation:

Richard J. Daschbach, of New Hampshire, to be a Federal Maritime Commissioner.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

John Maxwell Ferren, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals.

By Mr. WILLIAMS, from the Committee on Human Resources:

Patricia Albjerg Graham, of Massachusetts, to be Director of the National Institute of Education.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Peter Amory Bradford, of Maine, to be a member of the Nuclear Regulatory Commission.

William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

Robert Oberndoefer Harris, of the District of Columbia, to be a member of the National Mediation Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Benjamin H. Read, of the District of Columbia, to be Deputy Under Secretary of State.

William Bowdoin Jones, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Andrew Ivy Killgore, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Rodney O'Gliasain Kennedy-Minott, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

Peter R. Rosenblatt, of New York, for the rank of Ambassador during the tenure of his service as Personal Representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calender year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William B. Jones.

Post: Haiti.

Contributions, amount, and date:

1. Self, William B. Jones, none.

2. Spouse, Joanne G. Jones, none.

3. Children and Spouses, Lisa, Stephanie, Walter, none.

4. Parents, William T. Jones, La Velle Jones, none.

5. Grandparents, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM B. JONES.

POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Andrew Ivy Killgore.

Post: Doha, Qatar.

Contributions, amount, and date:

1. Self, None.

2. Spouse, $100, April 1976, retired FSO Eugene Bird who was working for Oregon Democrats.

3. Children and spouses, Mr. and Mrs. Paul E. Krieger—none to my best belief. Mr. and Mrs. Andrew N. Killgore—none to my best belief. Miss Roberta M. Killgore—none to my best belief. Miss Jane Grace Killgore, M.D.—none to my best belief.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, Robert M. Killgore, Jr.—none to my best belief.

7. Sisters and spouses, Mr. and Mrs. John H. Perolio—none to my best belief. Mr. and Mrs. A. Bomar Harrison—none to my best belief.

POLITICAL CONTRIBUTIONS

Nominee: Rodney O'G. Kennedy-Minott.

Post: Ambassador to Sweden.

Nominated: March 23, 1977.

1977

Contributions, amount, and date:

1. Self, Spouse, No contributions made or to be made.

1976

Contributions, amount, and date:

1. Self, Rodney Kennedy-Minott:

$225.00, 1976, US Sen. John V. Tunney Campaign.

$265.00, 1976, Dem. Nat.'l Comm. for Delegate expenses to the Nat.'l Convention.

$100.00, 1976, Demo. National Committee Victory Fund.

$50.00, 1976, US Cong. Leo Ryan Campaign.

$50.00, 1976, David Harris US Cong.'l Race.

$25.00, 1976, Gary Familian US Cong.'l Race.

$10.00, 1976, US Cong. Les AuCoin Campaign.

Polly Kennedy-Minott (wife):

$100, 1976, Dem. Nat.'l Comm. Victory Fund.

$50, 1976, US Sen. John V. Tunney Campaign.

$35, 1976, David Harris US Cong.'l Campaign.

Katharine P. Minott (daughter), $10, 1976, David Harris US Cong.'l Campaign.

7. Sisters and spouses Frederick G. Wessinger (brother-in-law), $50.00, 1976, US Cong. Robert Duncan Campaign. $100.00, 1976, Gerald Ford Pres.'l Campaign Committee.

1975

Contributions, amount, and date:

1. Self, Rodney Kennedy-Minott, $1,000, 1975, Jimmy Carter Presidential Campaign.

2. Spouse, Polly Kennedy-Minott, $1,000, 1975, Jimmy Carter Presidential Campaign.

Katharine H. Kennedy (mother-in-law), $10, 1975, Republican National Committee.

7. Sisters and spouses, Frederick G. Wessinger (bros.-in-law), $100, 1975, Pres. Gerald Ford Dinner.

1974

Contributions, amount, and date:

1. Self, Rodney Kennedy-Minott—

$380.00, 1974, US Sen. Alan Cranston Camp.

$50.00, 1974, US Cong. John Burton Camp.

$25.00, 1974, US Cong.'l Campaign of Herbert Rhodes.

7. Sisters and spouses, Frederick G. Wessinger (bros-in-law), $50.00, 1974, US Cong. Robert Duncan Campaign. $200.00, 1974, Piancentini Cong.'l Race.

1973

Contributions, amounts, and date:

1. Self, Rodney Kennedy-Minott, $50.00, 1973, Democratic Nat.'l Committee.

No other contributions to report.

1972

Contributions, amount, and date:

1. Self, R. Kennedy-Minott—

$2,939.75, 1972, McGovern Demo. Pres.'l Campaign.

$907.44, 1972, McCloskey Repub. Pres.'l Campaign.

$100.00, 1972, McCloskey US Congressional Campaign.

$80.00, 1972, Jim Stewart US Cong.'l Campaign.

$216.00, 1972, McGovern Demo. Pres.'l Campaign.

4. Parents, Joseph A. Minott (father), $100.00, 1972, McCloskey Repub. Pres.'l Campaign.

7. Sisters and spouses, Frederick G. Wessinger (bros.-in-law), $100.00 Richard Nixon Pres.'l Campaign.

Gainor O. Minott (sister), $50.00, 1972, McCloskey Repub. Pres.'l Campaign.

Elizabeth Minott Wessinger, $50.00, 1972, McCloskey Repub. Pres.'l Campaign.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

RODNEY O'G. KENNEDY-MINOTT.

POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Peter R. Rosenblatt.

Post: Personal Representative of President to negotiate on the status of the Micronesia Trust Territory.

Contributions, amount, and date:

1. Self, spouse, (see list attached as Rider No. 1.)

3. Children and spouses, none.

4. Parents, none.

5. Grandparents, none.

6. Brothers and spouses, Richard D. and Lois S. Rosenblatt—Approximate aggregate of $5,000 to the Democrat National Committee during the 4-year period.

Robert W. and Helen S. Rosenblatt—less than $100 per year aggregate.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

PETER R. ROSENBLATT.

RIDER NO. 1

Questions 1 and 2; contributions to candidate for nomination or election to Federal positions by my wife and me:

Amount, date, and donee:

$25, 1976, Norm Dicks.

$50, 1976, Friends of Les Aspin.

$118, 1976, Virginians for Zumwalt.

$25, 1976, O'Hara for U.S. Senate.

$100, 1976, Moynihan for U.S. Senate Committee.

$50, 1976, Committee for Fauntroy '76.

$50, 1976, James R. Jones Campaign.

$125, 1975, Jackson Dinner Committee.

$25, 1974, Friends of Les Aspin.

$50, 1974, "Doc" Morgan Reception Committee.

Mr. SPARKMAN. Mr. President, as in executive session, I report favorably from the Committee on Foreign Relations sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 21, 1977, at the end of the Senate proceedings.)

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, August 2, 1977, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 79) to amend the Federal Home Loan Bank Act.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 182. A concurrent resolution providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress";

H. Con. Res. 190. A concurrent resolution to provide for the printing of the brochure entitled "How Our Laws Are Made";

H. Con. Res. 217. A concurrent resolution to provide for the printing of a revised edition of "The Constitution of the United States of America"; and

H. Con. Res. 222. A concurrent resolution to authorize the printing of a revised edition of "The Capitol" as a House document.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Energy and Natural Resources:

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself, Mr. CASE and Mr. WILLIAMS):

S. 1977. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance; to the Committee on Finance.

By Mr. GRAVEL:

S. 1978. A bill to amend the Internal Revenue Code of 1954 to provide an increased zero bracket amount and personal exemption deduction amount for individuals residing in Alaska and Hawaii; to the Committee on Finance.

By Mr. CHILES:

S. 1979. A bill to waive the statute of limitations with regard to the tort claim of David E. Janney against the United States; to the Committee on the Judiciary.

By Mr. PEARSON (for himself, Mr. SCHMITT, and Mr. GOLDWATER):

S. 1980. A bill to provide for a comprehensive and coordinated national climate program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE:

S. 1981. A bill to provide for automatic adjustment of deduction to individual retirement accounts, et cetera, and for other purposes; to the Committee on Finance.

By Mr. TOWER:

S. 1982. A bill for the relief of John P. Hesch; to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 1983. A bill to amend the National Labor Relations Act, the Labor-Management Relations Act, 1947, the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes; to the Committee on Human Resources.

By Mr. METZENBAUM (for himself, Mr. ALLEN, Mr. SPARKMAN, and Mr. GLENN):

S. 1984. A bill to amend the Appalachian Regional Development Act of 1965 in order to continue certain assistance to child development centers; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 1985. A bill to expedite action on certain permits by the Secretary of the Army; to the Committee on Environment and Public Works.

By Mr. McCLURE (for himself and Mr. GARN):

S. 1986. A bill to provide for the transportation within the United States of passengers in foreign-built inflatable rafts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 1987. A bill to provide for increased employee ownership of business and accelerated capital formation; to the Committee on Finance.

By Mr. HUMPHREY:

S. 1988. A bill for the relief of Mr. Arthur Lardizabal Adiarte; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. CASE, and Mr. WILLIAMS):

S. 1977. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance; to the Committee on Finance.

Mr. JAVITS. Mr. President, for myself, Senator CASE and Senator WILLIAMS, I send to the desk for appropriate reference a bill to amend the Social Security Act to increase the Federal share of payments to States for medical assistance and aid to families with dependent children.

This bill is an important first step toward welfare reform, for it provides vital fiscal relief to the cities and States of our Nation that are being almost literally crushed by the burden of welfare payments.

By mandating a flat 75-percent reimbursement to States, this bill goes a long way toward eliminating inequities in the treatment of States by the Federal Government. Under present law the Federal share—which ranges from 50 percent to approximately 80 percent—results from a formula that relies heavily on the per capita income in each State. This formula is based on the erroneous belief that States with high per capita income are best able to meet their welfare costs. The formula is discriminatory because among the 12 States and the District of Columbia that presently receive the minimum 50 percent Federal reimbursement are those very States which currently face the severest fiscal crises due in large measure to welfare costs. And, these same States have the heaviest welfare caseloads—far out of proportion to the Nation as a whole. This is due mainly to the demographic fact of large migration of unskilled persons from the rural areas of the country to these industrialized States in the last two decades. Because the problem is a national one—every American has a right to lo-

cate where he or she will—it is unfar to penalize financially those States and localities that bear the greatest welfare caseload burdens.

The need for fiscal relief of welfare costs is too pressing a problem to wait for comprehensive programmatic welfare reform—desirable and essential as it is. Given the complexity and emotions surrounding the welfare problem, a major overhaul of the system could take some time. Badly hit State and local governments cannot wait for relief until then. Their need exists now, they are in financial jeopardy now, and the time for action is now.

This bill was introduced in the Senate by me in the last Congress and by Representative ABZUG in the other body. In this Congress the bill was introduced in the House by Representative HOLTZMAN and a group of cosponsors. Senators CASE, WILLIAMS and I intend to cooperate closely with Representative HOLTZMAN and the other House Members in this effort.

By Mr. GRAVEL:

S. 1978. A bill to amend the Internal Revenue Code of 1954 to provide an increased zero bracket amount and personal exemption deduction amount for individuals residing in Alaska and Hawaii; to the Committee on Finance.

Mr. GRAVEL. Mr. President, the legislation I am introducing today is designed to correct a basic flaw in our tax system that clearly discriminates against lower income persons in the non-contiguous States of Alaska and Hawaii.

Congress has followed the principle, since 1964, that poverty level income should be free from taxation. The report of the Ways and Means Committee of the House of Representatives on the Tax Reduction and Simplification Act of 1977 contained the following paragraph:

In the past, the Congress has used the minimum standard deduction . . . to establish, in conjunction with other provisions, the tax-free income level approximating the poverty level. This policy started with the Revenue Act of 1964. The Committee now believes that a higher floor is now needed to increase the income level at which people begin to pay income tax (the tax threshold) to offset its erosion by inflation.

The Senate Finance Committee report on this legislation contains a similiar statement.

While this policy has offered relief from taxes for wage earners at the poverty level, it has not been consistently applied with respect to Alaska and Hawaii. The Office of Management and Budget defines poverty level income for the purposes of eligibility for Community Services Administration programs. I ask unanimous consent that the poverty guidelines be printed in the RECORD.

The table indicates that Alaska and Hawaii receive an adjustment in the poverty level in recognition of the high cost of living in those non-contiguous States. However, the tax laws do not provide for a similar adjustment in the principle articulated above. In effect, persons at the poverty level in the continental United States escape tax liability. Poverty level families in Alaska and Hawaii do not.

This legislation provides for a 25-percent adjustment in the standard deduction and personal exemption for taxpayers in Alaska and a 15-percent adjustment for taxpayers in Hawaii. I ask unanimous consent that a table showing the effect of this measure be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CSA POVERTY GUIDELINES

Family size	Nonfarm family	Farm family
Contiguous States:		
1	$2,970	$2,550
2	3,930	3,360
3	4,890	4,170
4	5,850	4,980
5	6,810	5,790
6	7,770	6,600
Noncontiguous States:		
Alaska (25 percent adjustment):		
1	3,720	3,200
2	4,920	4,210
3	6,120	5,220
4	7,320	6,230
5	8,520	7,240
6	9,720	8,250
Hawaii (15 percent adjustment):		
1	3,430	2,940
2	4,530	3,870
3	5,630	4,800
4	6,730	5,730
5	7,830	6,660
6	8,930	7,590

Note: Federal Register, vol. 42, No. 79, Monday, Apr. 25, 1977, p. 21109.

Family size	Standard deduction and personal exemption	Taxable income	Poverty
Contiguous States:			
1	$2,200+ $750	$2,950	$2,970
4	$3,200+$3,000	6,200	5,850
Alaska (25 percent adjustment):			
1	$2,750+ $950	3,600	3,720
4	$4,000+$3,800	7,800	7,320
Hawaii (15 percent adjustment):			
1	$2,550+ $850	3,400	3,430
4	$3,700+$3,400	7,100	6,730

Mr. GRAVEL. I am well aware that other areas of the United States experience high costs of living and I would favor similar relief for taxpayers nationwide. However, the Department of Health, Education, and Welfare has indicated that an accurate measure of cost-of-lving differentials across the United States would require an expenditure of $50 million to develop. Studies also indicate that the cost-of-living differential between any two points in the Lower 48 is small in magnitude compared to the differential between the Lower 48 and Alaska and Hawaii.

Since OMB already recognizes a different poverty level for these two States, I believe it is important that Congress provide equity in taxation for the taxpayers in these States. I urge the Finance Committee to act quickly on this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1978

A bill to amend the Internal Revenue Code of 1954 to provide an increased zero bracket amount and personal exemption deduction amount for individuals residing in Alaska and Hawaii

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 63 of the Internal Revenue Code of 1954 (relating to taxable income defined) is amended by adding at the end thereof the following new subsection:

"(i) Special Rules for Alaska and Hawaii.—

"(1) Alaska.—In the case of an individual who is a resident of Alaska and who is physically present in Alaska for more than 180 days during the taxable year, subsection (d) shall be applied by substituting—

"(A) '$4,000' for '$3,200',

"(B) '$2,750' for '$2,200', and

"(C) '$2,000' for '$1,600'.

"(2) Hawaii.—In the case of an individual who is a resident of Hawaii and who is physically present in Hawaii for more than 180 days during the taxable year, subsection (d) shall be applied by substituting—

"(A) '$3,700' for '$3,200',

"(B) '$2,550' for '$2,200', and

"(C) '$1,850' for '$1,600'.

(b) Section 151 of such Code (relating to allowance of deduction for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Special Rule for Alaska and Hawaii.—In the case of an individual who is a resident of Alaska and who is physically present in Alaska for more than 180 days during the taxable year, this section shall be applied by substituting '$950' for '$750' each place it appears. In the case of an individual who is a resident of Hawaii and who is physically present in Hawaii for more than 180 days during the taxable year, this section shall be applied by substituting '$850' for '$750' each place it appears.".

(c)(1) Section 3402(a) of such Code (relating to requirement of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall prescribe special tables for use in withholding on wages paid to individuals for whom the amount of a withholding exemption is determined under section 151(f).".

(2) Section 6012 of such Code (relating to persons required to make returns of income) is amended by redesignating subsection (d) as (e) aad by inserting after subsection (c) the following new subsection:

"(d) Special Rules for Alaska and Hawaii.—In the case of an individual whose bracket amount is determined under section 63(i)(1), this section shall be applied by substituting '$950' for '$750' each place it appears, '$3,700' for '$2,950', '$4,950' for '$3,950', and '$5,900' for '$4,700'. In the case of an individual whose zero bracket amount is determined under section 63(i)(2), this section shall be appleid by substituting '$850' for '$750' each place it appears, '$3,400' for '$2,950', '$4,500', for '$3,960', and '$5,400' for '$4,700'.".

SEC. 2. The amendments made by this Act apply with respect to taxable years beginning after December 31, 1977.

By Mr. PEARSON (for himself, Mr. SCHMITT, and Mr. GOLDWATER):

S. 1980. A bill to provide for a comprehensive and coordinated national climate program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PEARSON. Mr. President, today I am introducing for myself, Senator SCHMITT, and Senator GOLDWATER, a bill that would establish a national climate program and a National Climate Program Office in the Department of Commerce.

This bill is based upon S. 421, a bill

that I introduced on January 25, 1977, and which was the subject of 6 days of hearings conducted by the Science, Technology, and Space Subcommittee. The excellent testimony and recommendations received during those hearings highlighted the great importance of a national climate program and the need for legislation creating such a program. I have made several important changes in this bill as a result of the hearings on S. 421. These changes include:

First, designating the Director of the Office of Science and Technology Policy as the Federal official responsible for establishing both overall policies and priorities for the national climate program and respective Federal agency involvement in the program;

Second, mandating the establishment of a National Climate Program Interagency Advisory Committee to advise the Director on the establishment of program policies and priorities;

Third, requiring the establishment of a National Climate Program Office within the Department of Commerce;

Fourth, the creation of State climate programs that serve as the State level focus of the national climate program.

Many witnesses at the hearings on S. 421 emphasized the complex interdisciplinary aspects of climate research activities and the interrelationships that exist between climate and other key national issues such as energy, food production, water resources, and transportation. This relationship was further emphasized by a report entitled "Energy and Climate" that was released last week by the National Academy of Sciences. That reported highlighted the far-reaching effects national decisions on energy policy would have on the Earth's climate and on man's activities. This bill recognizes both the interdisciplinary aspect of climate research and that factors dealing with the effects of climate on man's activities, and vice versa, must be evaluated in making decisions concerning a wide variety of key national issues. Thus, the Director of the Office of Science and Technology Policy, is called upon to establish the policies and priorities of the national climate program. This high level attention and focus on climate-related issues will help insure that such decisions are made only after the full range of alternatives have been explored, that the costs and benefits associated with each alternative have been fully evaluated, and that the directions chosen best serve the national interest.

A National Climate Program Office, within the Department of Commerce, would also be established by this bill. This Office would serve as the operational and administrative nucleus of the national climate program.

The State climate program addition to the bill reflects the views of many witnesses, that user group climate services have declined in recent years and are insufficient to meet the growing demand for climate-related information. Such services are particularly deficient in the agricultural sector. The State climate program established in this bill is a joint Federal-State effort that is designed to assist user groups throughout the Nation and provide the incentive to States to develop a climate program compatable with the national climate program.

Mr. President, the development and implementation of a national climate program is far overdue and would provide great benefits to the Nation. I am hopeful that the Commerce Committee and the Senate will take expeditious and positive action on this bill.

Mr. President, I ask unanimous consent that the text of my bill, together with a section-by-section summary of its provisions, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1980

A bill to provide for a comprehensive and coordinated national climate program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Climate Program Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

(a) FINDINGS.—The Congress finds and declares the following:

(1) The present ability to anticipate and explain either natural fluctuations or man-induced changes of climate is insufficient to provide meaningful contributions to policy formulation concerning agriculture, energy, transportation, and other critical sectors of the economy.

(2) Climatic variability or change, even if sustained for short periods of time or if only of small magnitude, could pose serious problems for a world increasingly sensitive to climate. Climate change can significantly alter land and water use patterns, energy consumption levels and use patterns, population distribution, and world food production and have far-reaching consequences to our national economy, security, and well-being.

(3) The prospect for providing accurate monthly and seasonal forecasts is scientifically promising provided an accelerated program of basic and applied research is established and adequately funded. Such forecasts would yield enormous benefits to virtually all sectors of the economy.

(4) Large spatial gaps exist in the global climate monitoring system, particularly in less-developed countries and in the 70 percent of the Earth's surface covered by the oceans. Particular emphasis needs to be given to developing improved data gathering systems and increasing international cooperation in the collection, distribution and analysis of climatic data.

(5) There is a need for additional highly qualified individuals trained and educated in disciplines relating to eliminate research, analysis, data management and dissemination, and risk analysis and assessment.

(6) The effect of man's activities on the world's climate are little understood and represent a potentially significant variable in determining climatic conditions. Such activities may greatly influence and effect future climatic conditions. Much additional research, on a high priority basis, needs to be done on this issue.

(7) Existing effort dealing with climate research, monitoring, analysis and the dissemination of climate information are inadequate to meet existing and future needs of the Nation.

(8) The development and operation of a comprehensive and coordinated national program of climate research, monitoring, analysis, and information dissemination is needed. Potentially high benefits could derive to the Nation as a result of the implementation of such a program.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act to establish a comprehensive and coordinated National Climate Program that will enable the Nation to—

(1) better understand natural and man-induced climatic processes;

(2) relate climatic information to its implications and effects on man and his welfare; and

(3) effectively respond to climate-induced problems.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Committee" means the National Climate Program Interagency Advisory Committee.

(2) The term "Director" means the Director of the Office of Science and Technology Policy.

(3) The term "Office" means the National Climate Program Office.

(4) The term "Program" means the National Climate Program.

(5) The term "Secretary" means the Secretary of Commerce.

SEC. 4. ESTABLISHMENT OF THE NATIONAL CLIMATE PROGRAM.

The President shall establish a comprehensive National Climate Program to be administered by the National Climate Program Office established pursuant to section 5 of this Act. The Program shall include, but not be limited to, the following elements:

(1) Development and operation of a comprehensive and coordinated climate research, monitoring, analysis, and data management program designed to obtain a thorough understanding of the climate, its variations, its effects of man's activities on the climate, and to enable the Nation to effectively prepare for and react to climate-induced problems. Such a program shall include, in addition to basic applied research in the fields of climatology, meteorology, oceanography, agronomy, and other related disciplines, research and analysis to improve our understanding of the relationship between geologic, solar, atmospheric and oceanographic processes and climate.

(2) Improvement in the reliability of predictive capability, with particular emphasis placed on the effects climate would have on food production, water resources, energy, and other critical sectors of the economy.

(3) Improvement in the dissemination of climatological data and information in a relevant format on a timely basis to users, particularly those concerned with food production, energy, or water resources.

(4) Timely and widespread dissemination of alerts and assessments of (a) the risks and benefits, both actual and potential, to man and his activities and to the environment, resulting from climatic variables, and (b) the effect of man's activities, both actual and potential, on the world's climate.

(5) Development and operation of a global climate monitoring system, including the adoption of policies designed to increase international cooperative efforts in climate research, analysis, monitoring, and data dissemination.

SEC. 5. NATIONAL CLIMATE PROGRAM.

(a) COORDINATION AND POLICY FORMULATION.—Operation of the National Climate Program and shall be responsible for establishing overall Program policies, priorities, and respective Federal agency involvement in the Program.

(2) To insure diverse and meaningful Federal agency involvement in the Program, the Director shall establish a National Climate Program Interagency Advisory Committee to advise him regarding the establishment of Program policies and priorities. The Committee shall include representatives of Fed-

eral agencies conducting activities relating to the Program, including representatives of the Departments of Agriculture, Commerce, Defense, the Interior, State, and Transportation; Energy Research and Development Administration; Environmental Protection Agency; Federal Energy Agency; National Aeronautics and Space Administration; Council on Environmental Quality; National Science Foundation; and Office of Management and Budget.

(3) The Director shall establish and maintain such other advisory committees as he deems necessary or appropriate to assist him in carrying out his responsibilities under this Act. Members of such committees who are not employed by the Federal Government may receive compensation at the daily rate for GS–16 of the General Schedule when engaged in the actual performance of duties for the committee and while so serving away from their homes or regular place of business may be allowed travel expenses, including per diem in lieu of subsistence.

(b) NATIONAL CLIMATE PROGRAM OFFICE.—The Secretary shall establish within the Department of Commerce a National Climate Program Office. The Office shall be responsible for administering the Program in accordance with the provisions of this Act and the policies and priorities established by the Director. The head of the Office shall be appointed by the President by and with the advice and consent of the Senate.

SEC. 6. STATE CLIMATE PROGRAMS.

(a) AUTHORIZATION.—The Secretary is authorized to make annual grants to any State or State institution for not more than 66⅔ percent of the costs of administering the State's climate program in any one year. Federal funds received from other sources shall not be used to pay the State's share of the cost of the program.

(b) STATE CLIMATE PROGRAM.—The State Climate Program shall serve as the State level focus of the National Climate Program and shall provide, among others, the following services and functions:

(1) conduct research and provide analyses of climatic effects on State and local agriculture, water resources, and other critical sectors of the State economy,

(2) collect and monitor atmospheric data on a State-wide basis.

(3) provide advice to State and local government agencies regarding climate-related issues of concern to such agencies.

(4) provide information regarding climate and climatic effects to users within the State upon request,

(5) provide information to the Secretary regarding user needs within the State for climate services and data provided by the Federal Government,

(6) provide assistance to Federal agencies regarding State level climate-related information,

(7) conduct applied climate research in support of Federal climate predictive responsibilities, and

(8) conduct research on long-term climate-related issues and long-term planning for climate-sensitive activities within the State.

(c) PROGRAM REQUIREMENTS.—Prior to granting final approval of a State Climate Program submitted to the Secretary for approval, the Secretary shall find that:

(1) The State has developed and adopted a State Climate Program in accordance with the provisions of this Act and rules and regulations promulgated by the Secretary, and

(2) The State has—

(A) coordinated its climate program with the Program established pursuant to this Act, and

(B) established an effective mechanism for continuing consultation and coordination on climate related issues with Federal and local government officials and users within the State.—

The Secretary may grant interim approval of a State Climate Program for a period not exceeding 2 years. During this period, the State would be eligible to receive Federal grants as authorized in subsection (a) for the purpose of developing a State Climate Program consistent with the provisions of this Act and with rules and regulations developed by the Secretary.

SEC. 7. INTERNATIONAL COORDINATION AND COOPERATION.

The Director and the Secretary shall cooperate with the Secretary of State in (a) providing representation at all climate-related international meetings and conferences in which the United States participates, and (b) coordinating the activities of the Program with the climate programs of other nations and international agencies and organizations, including the World Meteorological Organization, the International Council of Scientific Unions, the United National Environment Program, and the Intergovernmental Oceanographic Commission.

SEC. 8. PREPARATION OF ANNUAL PLAN AND REVIEW OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) The Director, in conjunction with the Secretary and all other Federal agencies responsible for Program activities shall prepare and submit each year to the Office of Management and Budget, on or before the date of submission of departmental requests for appropriations to the Office, an annual plan and request for appropriations for the Program for the subsequent fiscal period. In preparing the budget. the Office of Management and Budget shall review the plan and the request for appropriations as a coherent, multiple-agency request.

(b) Section 304 of the Act of October 18, 1962 (76 Stat. 1097), is amended—

(1) by striking out "for fiscal year 1964 and each succeeding year" and inserting in lieu thereof "for the fiscal period beginning October 1, 1976, and ending September 30, 1977, and each succeeding fiscal year";

(2) by adding "and of the National Climate Program established under the National Climate Program Act" after "meteorology"; and

(3) by striking out "program" and inserting in lieu thereof "programs".

SEC. 9. ANNUAL REPORT.

The Secretary shall prepare and submit to the President and the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act during the preceding fiscal year. The report shall include, but not be restricted to, the following:

(a) a summary of the achievements of the Program during the previous fiscal year;

(b) a review and analysis of the progress made toward achieving the objectives of the Program;

(c) a review and analysis of the activities conducted under the constituent elements of the Program;

(d) a summary and evaluation of difficulties encountered in administering this Act;

(e) a summary of the plan and request for appropriations submitted for the upcoming fiscal year to the Office of Management and Budget pursuant to section 8 of this Act; and

(f) any recommendations for additional legislation which may be required to assist in achieving the objectives and carrying out the elements of the Program.

SEC. 10. AUTHORIZATION FOR APPROPRIATIONS.

(a) In addition to any other funds otherwise authorized to be appropriated for the purpose of conducting programs related to climate, there are authorized to be appropriated to the Secretary, and other Federal departments and agencies participating in the Program, for the purpose of carrying out the provisions of this Act, sums not to exceed $15,000,000 for the fiscal year ending September 30, 1978; not to exceed $35,000,000 for the fiscal year ending September 30, 1979; and not to exceed $55,000,000 for the fiscal year ending September 30, 1980.

(b) There are authorized to be appropriated to the Secretary sums net to exceed $12,000,000 for the fiscal year ending September 30, 1978; not to exceed $16,000,000 for the fiscal year ending September 30, 1979; and not to exceed $20,000,000 for the fiscal year ending September 30, 1980, as may be necessary for grants under section 6 of this Act to remain available until expended.

SECTION-BY-SECTION SUMMARY OF S. 1980

The National Climate Program Act would—

Section 2(a)—make Congressional findings that the present ability to anticipate and explain changes in climate is insufficient to provide meaningful contributions to policy formulation; climate change can have far-reaching conseqeunces to our national economy, society, and well-being; there is a need for additional individuals trained and educated in climate-related disciplines; existing Federal efforts dealing with climate research, monitoring, analysis, and information dissemination are inadequate to meet existing and future needs of the Nation; and the development and operation of a comprehensive and coordinated national program of climate research, monitoring, analysis, and information dissemination is needed.

Section 2(b)—declare that the purpose of Congress in this Act is to establish a comprehensive and coordinated National Climate Program.

Section 3—define the terms Committee, Director, Office, Program and Secretary for the purposes of this Act.

Section 4—require the President to establish a National Climate Program which shall include, but not be limited to, development and operation of a comprehensive and coordinated climate research, monitoring, analysis, and data management program; improvement in the reliability of predictive capability; improvement in the dissemination of climatological data; timely and widespread dissemination of climatic alerts and assessments; and development and operation of a global climate monitoring system.

Section 5(a)—require the Director of the Office of Science and Technology Policy to coordinate the establishment and operation of the Program policies, priorities, and Federal agency involvement; to establish a National Climate Prorgam Interagency Advisory Committee to advise him regarding program policies and priorities; and to establish such other advisory committees as he deems necessary.

Section 5(b)—require the Secretary of Commerce to establish a National Climate Program Office within the Department of Commerce to administer the Program.

Section 6(a)—authorize the Secretary of Commerce to make grants to States or State institutions for not more than two-thirds of the cost of administering a State Climate Program.

Section 6(b)—provide for the State Climate Program to serve as the State level focus of the National Climate Program for the purposes of conducting research and analyses of climatic effects on critical sectors of the State economy, collecting and monitoring statewide atmospheric data, providing advice to State and local governments, providing climatic information to users within the State, providing information to the Secretary of Commerce as to users' needs for climate services and data, providing State climatic information to Federal agencies, conducting climate research in support of Federal predictive responsibilities, and conducting research on long-term climate-related issues.

Section 6(c)—permit the Secretary of Commerce to grant interim approval of a

State Climate Program for a period not to exceed 2 years. Prior to granting final approval of a State Climate Program the Secretary of Commerce must find that the program submitted for approval is in accordance with the provisions of the Act and the rules and regulations promulgated by the Secretary, that the State has coordinated its climate program with the National Climate Program, and that the State has established an effective mechanism for continuing consultation and coordinaton with Federal and local government officials and users within the State.

Section 7—require the Director of the Office of Science and Technology Policy and the Secretary of Commerce to both cooperate with the Secretary of State in providing representation at all climate-related international meetings and conferences in which the U.S. participates and to coordinate the activities of the National Climate Program with the climate programs of other nations and of international agencies and organizations.

Section 8—require the Director of the Office of Science and Technology Policy, in conjunction with the Secretary of Commerce and all other Federal agencies responsible for constituent programs of the National Climate Program, to submit each year to OMB an annual plan and request for appropriations for the National Climate Program. OMB shall review the plan and request as a coherent, multiple agency request.

Section 9—require the Secretary of Commerce to prepare and submit to the President and the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act.

Section 10(a)—authorize to be appropriated, in addition to any other funds otherwise authorized for climate-related programs, to the Secretary of Commerce and other Federal departments and agencies participating in the National Climate Program for the purpose of carrying out the provisions of this Act sums not to exceed $15,000,000 for the fiscal year ending September 30, 1978; $35,000,000 for the fiscal year ending September 30, 1979; and $55,000,000 for the fiscal year ending September 30, 1980.

Section 10(b)—authorize to be appropriated to the Secretary of Commerce sums not to exceed $12,000,000 for the fiscal year ending September 30, 1978; $16,000,000 for the fiscal year ending September 30, 1979; and $20,000,000 for fiscal year ending September 3, 1980, as may be necessary for grants under section 6.

By Mr. DOLE:

S. 1981. A bill to provide for automatic adjustment of deduction to individual retirement accounts, et cetera, and for other purposes; to the Committee on Finance.

Mr. DOLE. Mr. President, I send to the desk a bill to protect the retirement benefits of millions of Americans.

Under the Employee Retirement Security Act of 1974, a taxpayer who is not an active participant in a qualified pension plan, may establish an individual retirement account. The participant can contribute a maximum of $1,500 per year for himself and in some instances $250 for a nonworking spouse. This fund is available to the individual at retirement.

EFFECT OF INFLATION

Since the enactment of ERISA in October of 1974, the Consumer Price Index has increased 21.5 percent. Unfortunately, it appears that we will continue to experience a rise in prices probably for the remainder of the decade. Although the taxpayer gets a tax deferred build-up of earnings from an IRA, the principal is constantly being eroded by inflation. My bill would make annual cost-of-living adjustments in the amount eligible for contributions. This would enable a taxpayer to keep up with inflation and preserve the purchasing power of the fund.

TAX REFORM ACT

Mr. President, the Tax Reform Act of 1976 expanded IRA rules to include a nonworking spouse. Consequently a spouse who does not have income from employment or self-employment has some access to a tax deferred retirement program.

While the change is well received the Senator from Kansas believes we need to take further steps to provide and protect retirement benefits.

MILLIONS DEPEND ON IRA

Mr. President, it is of utmost importance that the Congress assure individuals who have spent their careers in useful and productive work will have adequate incomes to meet their needs when they retire. The purpose of the cost-of-living adjustment is to prevent the erosion of the value of an employee's retirement due to inflation. Millions of Americans are depending on individual retirement accounts to provide security at retirement. Unless we can nullify the effects of inflation, retirement benefits will continue to decline.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) DEDUCTION ADJUSTMENT—(1) Section 219(b) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(7) COST-OF-LIVING ADJUSTMENT—The Secretary shall adjust annually the $1,500 amount in paragraph (1) to the nearest multiple of $50 for increases in the cost of living in accordance with regulations prescribed by the Secretary. Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under section 215(1)(2)(A) of the Social Security Act. For purposes of this paragraph, the base period to be taken into account is the calendar quarter beginning October 1, 1976".

(2) Section 220(b) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(8) COST-OF-LIVING ADJUSTMENT—The Secretary shall adjust annually the $1,750 amount in paragraph (1)(C) to the nearest multiple of $50 for increases in the cost of living in accordance with the regulations prescribed by the Secretary under section 219(b)(7).".

(b) CONFORMING AMENDMENTS—(1) Section 408(a)(1) of the Internal Revenue Code of 1954 is amended by—

(A) inserting "the maximum dollar amount" in lieu of "$1,500", and

(B) inserting at the end thereof the following new sentence: "For purposes of this paragraph, the term 'maximum dollar amount' means $1,500 as adjusted in accordance with section 219(b)(7) and in effect as of the first day of the taxable year."

(2) Section 408(b) of the Internal Revenue Code of 1954 is amended by—

(A) inserting "maximum dollar amount" in lieu of "$1,500" each place it appears, and

(B) inserting at the end thereof the following new sentence: "For purposes of this subsection, the term 'maximum dollar amount' means $1,500 as adjusted in accordance with section 219(b)(7) and in effect as of the first day of the taxable year of the owner."

(3) Section 409(a)(4) of the Internal Revenue Code of 1954 is amended by inserting "maximum dollar amount (as defined in section 408(a)(1))" in lieu of "$1,500".

(c) EFFECTIVE DATE—The amendments made by this Act shall be effective for taxable years beginning after December 31, 1977.

By Mr. GRIFFIN:

S. 1983. A bill to amend the National Labor Relations Act, the Labor-Management Relations Act, 1947, the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes; to the Committee on Human Resources.

LABOR MANAGEMENT REFORM AMENDMENTS OF 1977

Mr. GRIFFIN. Mr. President, on July 18, 1977, President Carter transmitted to Congress a message on labor law reform which set out the following goals:

To make the NLRB procedures fairer, prompter, and more predictable.

To protect the rights of labor and management by strengthening NLRB sanctions against those who break the law.

To preserve the integrity of the Federal contracting process by withholding Federal contracts from firms that willfully violate orders from the NLRB and the courts.

To achieve those goals, the President recommended certain changes in the procedures and remedies available under the National Labor Relations Act as amended.

On July 19, 1977, legislation to implement those recommendations was introduced by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS). Their bill (S. 1883) includes several proposed changes which were not mentioned by the President—changes which have long been sought by organized labor. Subsequently, Secretary Marshall indicated that the additional proposals also have White House endorsement.

Certainly, the goals of making NLRB procedures fairer, prompter, and more predictable—and of protecting the rights of both organized labor and management by strengthening NLRB sanctions against those who break the law are worthy objectives. I have been pressing for such goals for nearly 20 years.

However, I think it is noteworthy—and of concern to me—that the President omitted reference to a fundamental goal which should be most important of all: I refer to the need to strengthen individual worker rights as against abuses by either management or organized labor.

In an effort to be constructive as well as critical, today I am introducing a bill. It focuses primarily on workers' rights.

My bill would not only strengthen guarantees for individual workers, it would also buttress protection for the public, which is generally caught in the middle of disputes between labor and management.

The provisions of my bill are explained in a section-by-section analysis that will follow my statement in the RECORD. However, several points deserve particular emphasis.

In some respects, the President's message calls for a change in the underlying philosophy of the National Labor Relations Act—to make the statute punitive instead of remedial. Whether such a shift in basic approach makes sense could well be the subject of a separate debate. But, in any event, if Mr. Carter seeks to impose penalties upon those who violate NLRB orders, I wish he would do so in a way that would not "throw the baby out with the bathwater." I refer to the proposed sanction of debarring a company from Federal contracts.

As Louis P. Poulton, associate general counsel of the International Association of Machinists, AFL–CIO, told the House committee last year:

(Debarment) is directed at flagrant violators of the act . . . (T)his procedure could, in our opinion, adversely affect the employees that we are attempting to protect. For example, if an employer flagrantly violates the act and has one contract, that being with the U.S. Government, the loss of that contract would penalize the employees rather than help them. It would mean that the employer would have to shut his doors and terminate his employees. How this remedy helps under these circumstances we cannot comprehend.

Of course, when a worker is illegally discharged for union activities he should be fully protected. His job should be restored and he should be made whole for lost wages. But how can the job of an employee be restored to him if it no longer exists because Government contracts have been cut off?

I agree with President Carter that flagrant violators should be dealt with in a firmer fashion than is often the case today. However, a more sensible way to do that is proposed in my bill.

Instead of debarring a company—and its workers—from further Government contracts in the case of a flagrant employer violation, my bill would utilize the contempt power of the Federal courts to compel compliance with the law. At present, only the NLRB can bring an action for contempt of court to compel compliance with a Board order. Under my bill, the party who filed the unfair labor practice—usually a union—would be able to institute an action for contempt of a court. This change would place enforcement initiative in the hands of the charging party—not just the Board—in order to deal with a flagrant violator.

In addition, in order to meet the need for temporary relief prior to issuance of a court decree, in the case of a flagrant violation, my bill would also give the charging party the right to seek a section 10(j) injunction. Under present law, only the Board can ask for such an injunction. In connection with this proposed change, safeguards would be included to make sure that injunctive power would not be used as a tactical device to harass unions or small employers, and to minimize the increase in burden that such a change would place upon the courts. Such safeguards would include a heavier burden of proof for the private litigant who seeks a 10(j) injunction and a requirement that bond be posted to compensate a party for losses incurred if such an injunction is erroneously issued.

In the administration-backed bill there are also provisions which are supposed to speed up the handling of cases by the NLRB. On the surface, of course, this appears to be a worthy goal.

The legislation I am introducing also contains provisions to speed up the decisionmaking process. My bill would not add more members, but it would require that the Board sit in panels of three to decide all cases. It would also eliminate the present practice of requiring a "sign off" by each Board member in all cases. These simple changes would go a long way toward eliminating delays now experienced at the Board-member level.

With respect to representation elections, the administration proposes in its bill to set fixed deadlines—15 days in some instances—for the conduct of elections by the Board. This proposal could be a disadvantage for employees who want a reasonable length of time to hear and evaluatue arguments advanced by union organizers and employer spokesmen during the course of an organizing campaign. Such evaluation by workers may be particularly important in situations where the real decision is not whether a union is to be installed, but which of several competing unions should be selected.

Among other provisions, my bill would also guarantee that questions of union representation be decided by secret ballot. In all the years I have been dealing with our labor laws I have never been able to understand how some Members of Congress who zealously guard their own right to be elected by secret ballot could support efforts which are designed to take away or weaken the right of workers to decide by secret ballot whether they want a union—and which union they want—to represent them.

Needless to say, I have participated for many years in the congressional effort to develop principles that will promote peace between labor and management. In general, our labor laws have worked quite well. However, if we are to make wholesale changes in the complex fabric of our labor laws now, I feel strongly that some issues need to be addressed that are more fundamental and important than most of those contained in the recommendations from the administration. For example, we are in the process of formulating a national energy policy that would place greater reliance on coal as a primary energy source. Yet, the administration's proposals ignore the specter of stranger picketing that now stalks our Nation's coalfields and has caused drastic reductions in coal output.

I believe we ought to provide protection for employees and the public from violence committed during labor disputes. And I think it is essential that union members be safeguarded from fines and other penalties imposed by union officers for merely exercising rights that union members are supposed to be guaranteed by the law.

Furthermore, as in some other areas of the law, I believe that attorney fees ought to be available to employees who successfully seek relief under the "bill of rights" set forth in title I of the Landrum-Griffin Act.

In addition, I believe it is necessary to insist upon more effective enforcement of title IV of the Landrum-Griffin Act relating to internal union elections. With that in mind, my bill would transfer certain enforcement powers from the Labor Department to the Justice Department.

The legislation I introduce addresses these and other issues which are critical to any serious consideration of labor law reform. These measures are further discussed in the section-by-section analysis which follows:

It is obvious that I do not believe a debate about labor law reform should focus only on efforts by some to facilitate the work of union organizers. Rather, it should constitute a reexamination of the statutory framework that has been created to achieve the objectives set out in the preambles of the National Labor Relations Act of 1935, the Labor-Management Relations Act of 1974, and the Labor-Management Reporting and Disclosure Act of 1959. Those objectives include the establishment of "industrial peace," the friendly resolution of disputes in the workplace through recognition of rights and responsibilities on the part of employees, employers and union officials; and through the elimination of unfair labor practices.

As will be seen from the section-by-section analysis of my bill, with one minor exception, the first nine sections of my bill are similar to provisions already contained in a bill (S. 1855) introduced by Senator HATCH and Senator TOWER. I have included them in my bill to indicate my support for, and cosponsorship of, those provisions. However, I believe the additional proposals set forth in my bill should also be considered and adopted if meaningful reform of our labor laws is to be achieved.

Mr. President, I ask that the text of the bill be printed in the RECORD followed by the section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1983

A bill to amend the National Labor Relations Act, the Labor-Management Relations Act, 1947, the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Labor-Management Reform Amendments of 1977."

TITLE I—AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT

PREAMBLE

SEC. 101. Section 1 of the National Labor Relations Act (29 U.S.C. 151) is amended to read as follows:

"FINDINGS AND POLICIES"

"SECTION 1. The denial of, or interference with, the right of employees to organize, form, join, or assist labor organizations, to bargain collectively, and to engage in other concerted activities, or interference with or denial of their right to refrain from any or

all of such activities leads to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"Inequality of bargaining power between labor organizations and employers substantially burdens the process of collective bargaining and affects the flow of commerce.

"Experience has proved that protection by law of the right of employees, to determine whether they wish to organize and bargain collectively encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions.

"Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities that impair the interest of the public in the free flow of such commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by protecting the right of employees to exercise full freedom of choice in determining whether they wish to designate collective-bargaining representatives and, when such representatives have been designated, by encouraging the settlement of industrial disputes through free collective bargaining."

SECRET BALLOT ELECTIONS

SEC. 102(a). Section 8(a)(5) of the National Labor Relations Act is amended to read as follows:

"(5) to refuse to bargain collectively with the representatives of his employes: *Provided,* That nothing in this Act shall be construed as requiring an employer to bargain collectively until a representative of his employees has been determined by means of a secret ballot election conducted in accordance with the provisions of section 9."

(b) Section 9(a) of such Act is amended—

(1) by striking out "designated or" immediately before "selected for the purposes of collective bargaining"; and

(2) by inserting between "selected" and "for the purposes of collective bargaining" the following: "by a secret ballot election."

UNION FINES

SEC. 103. Section 8(b)(1) of the National Labor Relations Act is amended to read as follows: "to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: *Provided,* That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein: *Provided further,* That it shall be an unfair labor practice under this section for a labor organization to threaten or impose any fine or other economic sanction against any person in the exercise of rights under this Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board); or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;".

TO PROVIDE FOR STRIKE VOTES

SEC. 104. Section 8(b) of the National Labor Relations Act is amended by adding at the end thereof the following new subsection:

"(8) to call, maintain, continue or resume a strike in any bargaining unit after:

"(A) a majority of the employees voting on the question have voted in a secret ballot referendum conducted by the Board, or by any other person or organization selected by the parties or designated by the Board, to conduct such referendum among the employees in such bargaining unit, not to strike or continue to strike; or

"(B) such referendum has been requested before a strike begins and the result thereof has not been certified.

"Any such referendum may be requested by (i) any labor organization which is a certified or recognized collective bargaining representative of employees in any bargaining unit whose members, in whole or in part, have an interest in the outcome of the controversy giving rise to the strike or potential strike, (ii) the employer, or (iii) 10 percent or more of the members of such bargaining unit. Such request may be made in writing at any time when the employees in such unit are contractually free to strike, or within not more than five days prior thereto, provided no such referendum may be held until at least thirty days have elapsed following any prior referendum among employees in the same bargaining unit.

"Any referendum pursuant to this subsection shall be conducted as expeditiously as possible and shall take precedence over elections pursuant to Section 9(c)(1).

"Any employee who participates in a strike after a majority of the employees in the same bargaining unit voting in a referendum conducted pursuant to this subsection have voted not to strike or not to continue a strike, shall not, during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of this Act;".

PROTECTION OF FREE SPEECH

SEC. 105. Section 8(c) of the National Labor Relations Act is amended to read as follows:

"(c) The expressing of any views, arguments, opinion or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lock out, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, shall not (i) constitute or be evidence of an unfair practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

TO PROVIDE FOR ELECTION OF REMEDIES AND NLRB DEFERRAL TO ARBITRATION

SEC. 106. Section 10(a) of the National Labor Relations Act is amended by inserting immediately before the period the following: ": *Provided further,* That if an employer, or a labor organization on its own behalf or on behalf of employees, or employees on their own behalf or on behalf of other employees, could submit a dispute to binding arbitration under the terms of an existing collective bargaining agreement, or have agreed to submit a dispute to binding arbitration, or have submitted a dispute to binding arbitration, then such arbitration shall be the exclusive forum and such party or any person on whose behalf such action has or could be taken, shall only have the right to institute or maintain an unfair labor practice proceeding before the Board involving the same incident or subject matter when determinations of such arbitration are inconsistent with the rights granted by this Act: *Provided further,* That nothing herein shall deprive any party to a proceeding before an arbitrator, the Board, or the courts, from exercising any right of judicial review or appeal that he may possess under existing law."

POLITICAL CONTRIBUTIONS AND EMPLOYEE FREE CHOICE

SEC. 107. (a) Section 441(b)(5) of title 2, United States Code, is amended to read as follows:

"(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stock holders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members: *Provided,* That no method, procedure or system by which union dues and other assessments are deducted from an employee's wages by an employer, either automatically or on specific authorization from an employee, may be utilized in the solicitation of contributions to such separate segregated fund."

(b) Section 8(b) of the National Labor Relations Act (29 U.S.C. 151) is amended by adding at the end thereof the following new paragraph:

"(9) to use, directly or indirectly, any part of the dues, assessments, or other moneys collected from any individual covered by an agreement authorized under subsection (a)(3) for any political purpose whatsoever or for any other purpose not directly related to those purposes specified in section 9(a) for which a labor organization is authorized to act as the exclusive representative of all employees in a bargaining unit: *Provided,* That nothing in this subsection (9) shall preclude a labor organization, if otherwise authorized, from expending moneys for lobbying or other activities to promote enactment or defeat of legislation directly related to the purposes specified in section 9(a): *Provided further,* That nothing in this subsection (9) shall preclude a labor organization from establishing and administering a separate contributory fund for political purposes or for any other purpose if all contributions to such fund are collected separately and paid voluntarily by individuals.

INDIVIDUALS WITH RELIGIOUS CONVICTIONS

SEC. 108. Section 19 of the National Labor Relations Act is amended to read as follows:

"Any employee [of a health care institution] who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a contract between such institution and a labor organization, or if the contract fails to designate such funds, then to any such fund chosen by the employee."

PROTECTION AGAINST VIOLENCE

SEC. 109. (a) Section 8 of the National Labor Relations Act is amended by adding at the end thereof the following new subsection:

"(h) It shall be unlawful for any person to instigate, engage in, support, or condone

any violence, mass picketing, or other coercive conduct, at or about the premises of any person engaged or employed in commerce or in any industry affecting commerce."

(b) Section 10(l) of the National Labor Relations Act is amended by inserting between "or section 8(b)(7)," and "the preliminary investigation" the following: "or section 8(h),".

(c) Section 303(a) of the National Labor Relations Act is amended by inserting between "section 8(b)(4)" and "of the National Labor Relations Act" the following: "or section 8(h)".

JUDICIAL ENFORCEMENT OF CONTRACTS

SEC. 110. Section 301(a) of the Labor-Management Relations Act is amended by adding at the end thereof the following new sentences:

"Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lock out, the court shall have jurisdiction to issue such temporary or permanent injunctive relief as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lock out, and its jurisdiction to grant such relief shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (U.S.C., Title 29, sctions 101–115)."

PROTECTION AGAINST PRODUCT BOYCOTTS

SEC. 111. (a) Section 8(b)(4)(i) of the National Labor Relations Act is amended to read as follows:

"(4)(i) to engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services; or (ii) directly or indirectly, to threaten, coerce, restrain, or picket any person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is:"

(b) Section 8(b)(4)(ii)(B) of such Act is amended to read as follows:

"(B) forcing or requiring any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 9: Provided, That nothing contained in this clause (B) shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing: *Provided further*, That any strike, picketing, or refusal to perform services or any inducement or threat thereof, causing or intended to cause any employer to cease or refrain from using, installing, handling, purchasing, leasing, or selling materials, machinery, products or services from other persons, or to impose, or refrain from imposing, upon customers, shippers, or suppliers particular methods of delivery or distribution, shall not constitute in any circumstances a primary strike or primary picketing, irrespective of any collective bargaining agreement or asserted work jurisdiction claims, but shall constitute a violation of this subsection;".

PRIVATE RIGHT TO SEEK CONTEMPT AND ELIMINATION OF FORUM SHOPPING

SEC. 112. (a) Section 10(e) of the National Labor Relations Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Both the Board and any charging party shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred [or wherein such person resides or transacts business], for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of Title 28, United States Code."

(2) by adding at the end thereof the following new sentence: "Both the Board and any charging party shall have the right to initiate appropriate contempt proceedings in the event of a failure to comply with any order of the court made pursuant to this section."

(b) The first sentence of section 10(f) of the National Labor Relations Act is amended to read as follows: "Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in [or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia,] by filing in such court a written petition praying that the order of the Board be modified or set aside."

ADDITIONAL INJUNCTIVE RELIEF

SEC. 113. Section 10(j) of the National Labor Relations Act is amended to read as follows:

"(j) The Board *or the charging party* shall have power, upon issuance of a compliant as provided in subsection (b) charging that any person has engaged in or is engaging in an unfair labor practice, to petition any district court of the United States (including the District Court of the United States for the District of Columbia), within any district wherein the unfair labor practice in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board or the charging party such temporary relief or restraining order as it deems just and proper: *"Provided*, That no temporary relief or restraining order shall be granted to a charging party unless such petition is supported by evidence beyond a reasonable doubt: And provided further, That no temporary relief or restraining order shall be granted to a charging party except on condition that such charging party shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs (together with a reasonable attorney's fee), and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court."

BOARD PROCEDURE

SEC. 114. The first sentence of section 3(b) of the National Labor Relations Act is amended to read as follows: "The Board shall delegate to any group of three or more members any or all of the powers which it may itself exercise."

TITLE II—ENFORCEMENT

ATTORNEY'S FEES

SEC. 201. Section 102 of the Labor-Management Reporting and Disclosure Act (29 U.S.C. § 401 *et seq.*) is amended by adding at the end thereof the following new sentence: "The court in such action shall, in addition to any relief granted to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.".

TRANSFER ENFORCEMENT OF TITLE IV (TERMS OF OFFICE: ELECTION PROCEDURES) FROM THE LABOR DEPARTMENT TO THE JUSTICE DEPARTMENT

SEC. 202. (a) Section 401 (h) and (i) of the Labor-Management Reporting and Disclosure Act is amended by striking out "Secretary" wherever it appears and inserting in lieu thereof "Attorney General".

(b) Section 402(a)–(c) of the Labor-Management Reporting and Disclosure Act is amended by striking out "Secretary" wherever it appears and inserting in lieu thereof "Attorney General".

(c) Title IV of the Labor-Management Reporting and Disclosure Act is amended by adding at the end therof the following new section:

"DELEGATION"

"SEC. 405. The Attorney General may delegate to the Secretary, either in whole or in part, the authority to conduct any election, hearing or other proceeding, or to promulgate rules and regulations, as provided by this title.".

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT

Section 101—Findings and policies

This section amends the Preamble of the National Labor Relations Act to reflect contemporary labor policy. The Preamble in its present form places primary emphasis on federal encouragement of collective bargaining. As the thrust of the Taft-Hartley and Landrum-Griffin amendments was to provide a climate within which employees are provided the utmost freedom in choosing whether to engage in or refrain from union activities, the amendment is needed to harmonize the operative sections of the Act with its stated purpose. Accordingly, the amendments make clear that present labor policy guarantees employees the right both to join or to refrain from joining unions and to bargain collectively.

Section 102—Secret ballot elections

This section assures that employees will not be deprived of their right to a secret ballot election. Under existing law, an employee becomes a member of a union for purposes of collective bargaining when it is determined that a majority in an appropriate bargaining unit wish the union to be their exclusive representative. Of great concern is the fact that the Act does not expressly require that the will of the majority of employees be determined in a secret ballot election. As a result, the Board and the courts have interpreted the Act to permit the majority will to be determined by methods other than secret ballot elections.

For example, under the Supreme Court's 1969 decision in *N.L.R.B.* v. *Gissel Packing Company*, 395 U.S. 575, and related cases, union representation can now be imposed on units of employees who have never had the opportunity to vote on the matter in a secret ballot election, or even units that have voted against union representation in some instances. *E.g.*, *N.L.R.B.* v. *L. B. Foster Co.*, 418 F. 2d 1 (9th Cir. 1969), *cert. denied*, 397 U.S. 990 (1970); *Northwest Engineering Co.*, 158 NLRB 624 (1966), enf'd, 376 F. 2d 770

(D.C. Cir. 1967), *cert. denied*, 389 U.S. 932 (1967). The *Gissel* decision allows the NLRB to decide whether the employees in a particular unit are capable of making their own free choice in an election. If it finds they are not, then the agency can impose the choice on them, forcing them to accept a union, simply because at some point during the organizing period the union was able to obtain signatures of a majority on authorization cards. Practically everyone familiar with the use of authorization cards has agreed that they are not a reliable indicator of the employees' wishes. Indeed, a federal appeals court prior to *Gissel* called them "notoriously unreliable." *N.L.R.B.* v. *Flomatic Corporation*, 347 F. 2d 74, 78 (2d Cir. 1965).

Our national labor policy is founded upon majority rule, and the Board's decision regarding representation is binding not only on the employer, but also on any nonconsenting portion of the employees within the bargaining unit. Thus, it is vitally important that the process through which the majority makes its selection be fair, effective and reliable. Section 102, therefore, modifies the *Gissel* decision to assure that employees are given the opportunity to accept or reject union representation with the least interference by requiring secret ballot elections in all cases.

Strict use of the secret ballot would also help to overcome the Board's occasional problems of delayed decision-making for exclusive reliance on secret ballot elections provides the most expeditious, as well as the fairest, means of settling questions of representation. As one observer has commented.

"The utility of elections lies in final, definitive and unchallenged results; elections become useless when the results are challenged, uncertain, or rejected. Elections are intended to establish and stabilize representation, not leave it unsettled and in dispute. Samoff, *NLRB Elections: Uncertainity and Certainty*, 117 U. Pa. L. Rev. 228 (1968)." However, where the union's majority status is sought to be determined by authorization cards, litigation often arises because of the inherently unreliable nature of authorization cards. Because of the nature of such litigation, it is particularly time-consuming and results in needless delay of the Board's processes.

Section 103—Union fines

This section amends Section 8(b)(1) of the National Labor Relations Act to allow employees the full exercise of their rights under the Act and to enable union members to engage in any activity not prohibited by their applicable collective bargaining agreement without being subjected to union-imposed fines or penalties.

Under Section 7 of the Act, employees have the right to engage in concerted activities as well as the right to refrain from such activities. Thus, for example, Section 7 would protect a union member who exceeds production quotas unilaterally established and prescribed by the union or who crosses a picket line to report for work. Any attempt by the union to restrain or coerce the employee in the exercise of these guaranteed rights would constitute an unfair labor practice under Section 8(b)(1)(A). Similarly, a union's attempt to have the employer discharge or otherwise discriminate against an employee for engaging in such conduct would be violative of Section 8(b)(2) of the Act, and if the employer were to acquiesce to the union's demand, it would commit an unfair labor practice under Section 8(a)(1) and (3).

Despite these broad statutory protections, a series of NLRB and court decisions have construed the present law to permit unions to levy fines and other penalties against employees who have done nothing more than exercise rights guaranteed to them by law. In *N.L.R.B. v. Allis-Chalmers Manufacturing Co*, 388 U.S 175 (1967), the Supreme Court held it was not an unfair labor practice for a union to fine employees for crossing a picket line or to take the employees to court to enforce payment of such fines. Other decisions have upheld union discipline which penalized employees for petitioning the NLRB to conduct an election to determine whether the majority in the unit still desired union representation (*Tawas Tube Products, Inc.*, 151 NLRB 692 (1965), *aff'd*, 373 F.2d 443 (9th Cir. 1967), *cert. denied*, 392 U.S. 904 (1968)). Also, the Supreme Court has held that the present Act does not prevent unions from fining employees who exceed union-established production quotas. *Scofield v. N.L.R.B.*, 394 U.S. 423 (1969). Most recently, the Supreme Court held that the NLRB has no jurisdiction to inquire into the reasonableness of any union-imposed fine, thus opening the door to fine in any amount no matter how punitive or exorbitant. *N.L.R.B. v. The Boeing Company*, 412 U.S. 67 (1973). Section 103 would reverse these decisions by declaring it an unfair labor practice for a union to fine or threaten to fine individuals for exercising rights guaranteed to them under the NLRA or an applicable collective bargaining agreement.

Section 104—Strike votes

This section assures that employees in any unit involved in a strike or potential strike are given the opportunity during a strike, as well as prior to it, to vote by secret ballot on whether or not to strike or continue to strike. Under the present law, there is no obligation imposed on union officials to give rank and file members a voice in such decisions. This is not consistent with the concept of majority rule embodied in Sections 7 and 9(a) of the Act. Those provisions were included not only to insure the effective functioning of collective bargaining, but also to preserve the philosophy of democratic institutions. See H.R. Rep. No. 972, 74th Cong., 1st Sess. 18–20 (1935); S. Rep. No. 573, 74th Cong., 1st Sess. 13–14 (1935). If the NLRA is truly to reflect Congressional intent, the concept of majority rule should be extended to a decision which is of major concern to every rank and file member. Strikes should not occur or continue when a majority of the employees voting on the question in a bargaining unit object. A secret ballot vote is the only reliable method of determining employee preference in the highly charged atmosphere that prevails immediately preceding or during a strike.

The amendment, therefore, would guarantee union members the right to have their views as to whether to engage in strike activity clearly registered with union officials. Pursuant to the proposed amendment a percentage of the affected employees, the union, or the employer could insist on a strike vote. Failure of the union to abide by the majority view of its members as to whether to strike or continue striking would constitute an unfair labor practice.

Section 105—Protection of free speech

This section preserves the First Amendment rights of parties engaged in labor disputes. Section 8(c) of the Act provides that the expressing of "any views, argument, or opinion in written, printed, graphic, or visual form shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act if such expression contains no threat of reprisal or force or promise of benefit." Although Congress added Section 8(c) in 1947 to protect the free speech rights of all parties involved in labor disputes, subsequent NLRB and court decisions have seriously eroded this protection. The decisions have had the regrettable effect of intensifying the regulation of *both* employer and union campaign activities.

In *General Shoe Corporation*, 77 NLRB 124 (1948), the Board held that Section 8(c)'s protection is not available in representation proceedings. Rather, the Board concluded that it may set aside the results of a secret ballot election if one of the parties has made a campaign statement which, in the Board's view, tainted the "laboratory atmosphere" in which elections should take place. In exercising this self-proclaimed power, the Board has rather openly held employers to a higher standard than unions. *E.g., Oak Manufacturing Co.*, 141 NLRB 1323, 1325 (1963); *Primco Casting Corp.*, 174 NLRB 244 (1969). On the other hand, the appellate courts have tended to respond by applying stricter standards to union statements in an effort to insure evenhandedness.

For example, in *Celanese Corp.* v. *N.L.R.B.*, 279 F. 2d 204 (7th Cir. 1960), the court invalidated an election because a union had issued a campaign letter claiming credit for "Celanese fringes, as well as other plant conditions." The court said this propaganda tainted the laboratory atmosphere because it might be interpreted to mean the union was responsible for *all* such benefits, while in reality only *some* were won through the union's efforts. The same court held in another case that an election must be set aside even though the Board found the union's propaganda was "virtually accurate." The court said, "There cannot be 'virtually' the truth any more than there can be 'virtually' a virgin." *Allis-Chalmers Mfg. Co.* v. *N.L.R.B.*, 261 F. 2d 613 (7th Cir. 1958).

Holdings such as these subvert the purpose of Section 8(c), which is to insure that employees have the necessary information to make an informed decision concerning representation. Another way in which that purpose is undermined is through decisions holding that non-coercive expressions of opinion by employers, even though protected in themselves under Section 8(c), may be used as "evidence" to show that other conduct by the employer had an illegal motive. *E.g., General Electric Company*, 150 NLRB 192 (1964), enf'd, 418 F.2d 736 (2nd Cir-1969), *cert. denied*, 397 U.S. 965 (1970). The ironic effect of decisions such as those cited above has been that neither unions nor employers may exercise as much freedom today in campaigning for employees' votes as they could before Congress acted to guarantee their rights of "free speech."

Section 105 would rectify this situation and reaffirm the original intention of the Act to protect freedom of expression which does not contain a threat or a promise of benefit. It would eliminate the Board's sanction of setting aside elections solely on the basis of non-coercive communications. At the same time, the Board would still be allowed to set aside an election if the communication was in fact coercive, the test being whether the expression contained a threat of reprisal or force or promise of benefits.

The amendment would also have the effect of making the Board's case handling process more efficient. One comprehensive study of the NLRB election process has found that the Board's readiness to intervene and set aside elections: "has led to the expenditure of large and increasing amounts of the agency's time and resources in dealing with postelection questions in a period in which the Board's members as well as its critics have been protesting its inability to cope adequately with an ever-expanding caseload. Williams, Janus & Huhn, *NLRB Regulation of Election Conduct*, 438, (Univ. of Pa. Pub., Labor Relations and Public Policy Series 1974), citing Miller, *Toward an Improved Labor Judiciary*, 80 Lab. Rel. Rep. 143 (1972); Fanning, *The Viability of NLRB Regulation in the Future*, in *Collective Bargaining: Survival in the '70's?* 36–38 (1972)."

The study concludes that caseload pressures and their attendant delays have had

a destructive impact on the handling of representation questions, where prompt resolution demands high priority. Thus, for the Board to intervene and invalidate elections unnecessarily not only has an adverse effect on the interests of the parties immediately involved; it also diminishes the overall ability of the Board to provide effective regulation of the election process where it is needed.

Section 106—Election of remedies and deferral to arbitration

This section reflects the fundamental thrust of national labor policy to encourage the voluntary settlement of disputes by the parties involved and would have the additional effect of helping the Board reduce its caseload. Essentially, the amendment would further the policy first established by the Board in its landmark decision in *Collyer Insulated Wire*, 192 NLRB 837, 77 LRRM 1931 (1971). There, a union's § 8(a)(5) charge alleging unilateral changes in a collective bargaining agreement was deferred to arbitration for an initial decision. Since the *Collyer* decision, many unfair labor practice cases which otherwise would have initially come before the Board have been disposed of through arbitration. *Collyer* also prevents situations in which the same case is heard simultaneously in unfair labor practice and arbitration proceedings. Satisfactory results have been reached promptly at less expense to the parties and none to the government.

Under *Collyer* the Board will defer to arbitration, but retain jurisdiction to review arbitration awards in accordance with the standards enunciated in *Spielberg Mfg. Co.*, 112 NLRB 1080, 36 LRRM 1152 (1955). However, as the standards are rather vague, the Board is left with a great deal of discretion in overturning an arbitration award that does not comply with its particular view of fairness. See *Star Expansion Industrial Corp.*, 164 NLRB 563, 65 LRRM 1127 (1967); *D.C. Int'l Inc.*, 162 NLRB 1383, 64 LRRM 1179 (1967). A further weakness in the *Spielberg* doctrine is the Board's failure to adhere to its own standards. *See, e.g., N.L.R.B. v. Auburn Rubber Co.*, 384 F.2d 1, 66 LRRM 2129 (10th Cir. 1967). Most importantly, the Board's retention of jurisdiction effectively deprives the arbitrator's decision of any finality and undermines the policy of discouraging needless litigation.

The amendment would eliminate these problems by providing that once a party has elected its remedy, the tribunal's decision on the merits is binding. The Board's current practice of retaining jurisdiction over disputes deferred to arbitration encourages dissatisfied party to ignore the arbitrator's decision, lapse into noncompliance, and look to the Board for a more favorable resolution of the issue. In addition to creating needless and wasteful litigation, the present practice clashes with the federal policy of honoring contractual obligations and agreed-upon procedures for private dispute settlement.

Section 107—Political contributions and employee free choice

This section is intended (1) to assure union members that they will not be subjected to coercion in the solicitation of contributions for political purposes, and (2) to assure union members that their union dues will not be used for purposes foreign to a union's function as a collective bargaining agent. Existing federal law prohibits corporations and unions from making contributions or expenditures in connection with campaigns for federal offices. However, such entities are entitled to establish separate, segregated funds for such purposes and to expend monies to solicit strictly voluntary contributions to such funds. Although this statutory scheme appears on its face to be a fair and even-handed approach to union and corporation-sponsored political activities, the use of union checkoff procedures to assist in solicitation for union political action committees necessarily results in a degree of employee coercion. This amendment removes this potential for abuse in the present statute. Unions, like corporations, should be required to solicit political contributions through separate segregated funds independent of institutional crutches that frustrate the spirit and intent of the law.

Subsection (b) would reinforce Section 9(a) of the National Labor Relations Act which provides that a labor organization selected by a *majority* of the employees "shall be the exclusive representative of *all* the employees in such unit." Section 9(a) goes on to define the scope of the representative's duty which is to represent all the employees "for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment." The need for the amendment was well stated by Mr. Justice Douglas in *International Machinists v. Street*, 376 U.S. 740, when he said:

"The collection of dues for paying the costs of collective bargaining of which a member is a beneficiary is one thing. If, however, dues are used, or assessments are made, to promote or oppose birth control, to repeal or increase the taxes on cosmetics, to promote or oppose the admission of Red China into the United Nations, and the like, then the group compels an individual to support with his money causes beyond what gave rise to the need for group action."

And Mr. Justice Douglas went on to say:

"I think the same must be said when union dues or assessments are used to elect a Governor, a Congressmen, a Senator or a President. It may be said that the election of a Franklin D. Roosevelt rather than a Calvin Coolidge might be the best possible way to serve the cause of collective bargaining. But even such a selective use of union funds for political purposes subordinates the individual's First Amendment rights to the views of the majority. I do not see how that can be done, even though the objector retains his rights to campaign, to speak, to vote as he chooses. For when union funds are used for that purpose, the individual is required to finance political projects against which he may be in rebellion."

Thus, subsection (b) would make it an unfair labor practice for a union to use union dues for political or other purposes not related to the union's statutory function as a bargaining agent.

Section 108—Individuals with religious convictions

As the law now stands, only employees of health care institutions are entitled to withhold financial support of a labor organization if such support is in conflict with their religious beliefs. This amendment would extend such protection to all employees under the Act.

Section 109—Protection against violence

This section is addressed to the inadequacy of present remedies against persons that engage in violent activity during labor disputes. A law whose purpose is to promote industrial peace cannot function by blinding itself to the effect of violent conduct by either employers or union members on collective bargaining. Although violent conduct may result in an unfair labor practice under Section 8(a)(1) or 8(b)(1) of the Act, the only remedy available from the NLRB is a cease-and-desist order. The Board will not authorize even backpay for employees unable to work because of violent conduct by others during a labor dispute. In essence, it is only the on-going, continuing acts of violence or coercion for which the Act affords any relief, as a cease-and-desist order offers no consolation to a victim injured by a one-time violent occurrence. Further, even in those situations in which there are continuous acts of violence, the Board, the General Counsel, and the courts, have demonstrated great reluctance to take aggressive action to halt such conduct.

Violent activity which causes harm or damage to persons or property is not a federal crime so long as it occurs in conjunction with a legitimate labor goal. Nor is there any federal law which provides relief to persons injured by acts of violence where a labor organization is acting in pursuance of legitimate union objectives. For example, in *U.S.* v. *Enmons*, 410 U.S. 396 (1973), the Supreme Court held that "five acts of violence involving the shooting and sabotage of the employer's transformer and the blowing up of a company transformer substation" were not in violation of federal law because the activities were undertaken in order to obtain higher wages and other benefits for union members.

The amendment would correct this deficiency by making violent conduct an unfair labor practice warranting mandatory injunctive relief and providing the injured party compensation for any loss suffered as a result of such conduct. The amendment does not invade the legitimate rights of labor or management. But it does assure that those provisions of the NLRA which were meant to encourage unions and employers to pursue their own interests actively and vigorously do not also immunize the parties in a labor dispute from punishment when the welfare and property of the public are harmed.

Section 110—Judicial enforcement of contracts

This section, as does Section 106, further promotes the goal of industrial peace by buttressing "the strong congressional preference for the private dispute settlement mechanisms agreed upon by the parties" as described by the Supreme Court in *Buffalo Forge Co. v. Steelworkers*, 428 U.S. 397, 401 (1976). Clearly, when a union and an employer have agreed not to engage in strikes or lockouts, public policy dictates that they should be held to their agreement. However, under present law agreements by unions and employers not to strike or lockout are specifically enforceable only where the underlying dispute is subject to compulsory arbitration under an applicable collective bargaining agreement. See *Boys Market v. Retail Clerks Union Local 770*, 398 U.S. 235 (1970). The Court's decision in *Boys Markets* has been limited further by its more recent holding in *Buffalo Forge*. Even though the parties involved in the labor dispute in the latter case were bound by a collective bargaining contract containing a no-strike/no-lockout provision, the Court ruled that the union was still free to engage in a sympathy strike.

The amendment seeks to reaffirm the more reasonable approach of encouraging, not hindering, the peaceful settlement of contract disputes by resolving differences privately through methods other than work stoppages. This is done by making clear that Federal courts have power to enjoin breach of contract strikes by amending Section 301(a) of the Labor Management Relations Act to provide for specific enforcement of a no-strike/no-lockout clause irrespective of the wording of an arbitration clause that might also be included in the contract.

The amendment is also necessary if the President's goals concerning the development of a national energy policy are to be achieved. Congress and the Administration are in the throes of hammering out an energy policy that, among other things, would require new and existing electric power plants and major fuel-burning installations to use coal as their primary energy source. However, an energy policy forcing

greater reliance on coal that fails to deal with the obstacles to its continued production would clearly not be in the best interests of the American public. One such obstacle is the disturbing trend of "stranger picketing" that now permeates our nation's coal fields. Persons who bear no relationship to members of the bargaining unit will appear in front of entrances to coal mines and begin to picket.

Despite the fact that the United Mine Workers has a no-strike/no-lockout provision in its contract, the mine workers, who traditionally will not cross another's picket line, go out on strike in support of the stranger pickets. Such wildcat strikes are a contributing factor to the alarming decrease in the rate of coal production during the past year. Man days lost to wildcat strikes in the coal industry were up 92 percent and production down 89 percent compared with last year's figures. It should also be emphasized that the decreased production has resulted in the loss of the completely cost-free medical and hospital coverage for some 821,000 active and retired miners and their families. As revenues for the United Mine Workers' health fund are derived almost entirely from royalties paid on coal production, the drop in production has eroded the financial reserves of the fund. Section 110 would reverse this unhealthy trend by empowering district courts to enjoin such stranger picketing.

Section 111—Protection against product boycotts

This section adds a new proviso to Section 8(b)(4)(B) of the Act that would make product boycotts illegal. Under the amendment, a union would be barred from refusing to handle prefabricated materials regardless of whether the object of the boycott was to protect work jurisdiction or whether an agreement was purported to exist that established work jurisdiction under Section 8(e) of the Act. The effect of such a law would be to remove work practices that restrict the introduction of modern equipment and technology and to promote more economic work practices in the purchase, display and marketing of products. It should be noted that during consideration of bills to allow common situs picketing on construction sites in recent years, both the House and the Senate approved amendments endorsing the prohibition of product boycotts, the Senate doing so by a vote of 93–0.

Product boycotts most often occur when a union strikes to force prefabricated building materials off jobsites. Most product boycotts are prohibited under present law; however, a major exception was created by the U.S. Supreme Court's decision in *National Woodwork Manufacturer Ass'n v. N.L.R.B.*, 386 U.S. 612 (1967). That decision permits construction site employees to exert pressure against their employer to force or persuade him not to use prefabricated products which would eliminate work that the employees traditionally have performed on the jobsite. The result of the decision has been to slow technological progress necessary to hold down building costs in the construction industry. Although many commonly used building techniques have become outmoded, the *National Woodwork* decision has prevented builders from using prefabricated or factory assembled products on construction sites which, in turn, has smothered the growth of an industry needed to build and supply such products.

Several studies have indicated that the greatest potential opportunity for increasing productivity in the construction industry lies in the use of prefabrication techniques and large-scale industrialized production. The home building industry in the United States has not industrialized as have most other industries, and one study commission has reported that "more than almost any industry it produces under conditions similar to those a half century ago."

A prime cause for failure to utilize the advantages of prefabrication has been restrictive building practices negotiated by unions together with general opposition by building trades unions to techniques which might reduce the amount of construction-site labor required.

The effect of *National Woodwork* and pressure from the building trades has been pervasive. Contractors, given a choice of materials, are reluctant to utilize prefabricated components which might cause trouble leading to a costly shutdown of the job. Architects and engineers are reluctant to specify such products, fearing that union action might, in the end, result in an actual increase in job costs. And the ultimate result has been that industry has been unwilling to expend the large sums required to tool up for industrialized building because of the well-justified fear that union pressures will deny them a market for the product when developed.

Section 112—Private right to seek contempt and elimination of forum shopping

This section is directed towards improving the procedures of the National Labor Relations Act in order to aid those persons adversely affected by Board delays in the enforcement of its decisions. It would help in particular those parties who have been harmed by flagrant violators of the Act. Clearly, no person subject to the provisions of the Act should be allowed to conduct himself in violation of Board orders. These amendments would insure that relief obtained through judicial proceedings is not continuously postponed by inaction on the part of the Board.

Subdivision (1) of subsection (a) gives a charging party the right to petition the courts for enforcement of a Board order. Subdivision (2) of subsection (a) gives a charging party the right to institute contempt of court proceedings to compel compliance with court enforced Board orders. The deletions from Sections 10(e) and 10(f) provided in subsections (a)(1) and (b) of the legislation effectively remove the temptation to go "forum shopping" by (1) eliminating the various venue options, and giving the circuit in which the unfair labor practice occurred exclusive jurisdiction over petitions for review; and (2) placing the same limitation upon the Board and a charging party in applying to courts of appeals for enforcement of Board orders.

Section 113—Additional injunctive relief

This section speeds up the handling of cases by amending Section 10(j) to give a charging party a right to seek temporary injunctive relief while unfair labor practice complaints are being litigated. The Board currently has the power to seek such relief, but it has been rarely used and, when invoked, often only after long delays. In making this power available to charging parties, however, it is essential that safeguards be provided to prevent its being used to harass small employers and small unions. This is done by providing that the petition presented to the court, in support of such relief, must contain evidence beyond a reasonable doubt that the Act has been violated and by requiring that the charging party furnish an adequate bond to compensate for losses incurred if an injunction is improperly granted.

Section 114—Board procedure

This section is designed to eliminate delay on the part of the Board in disposing of its caseload by requiring that the Board sit in panels of three to decide all cases brought before it.

TITLE II—ENFORCEMENT

Section 201—Attorney's fees

This section amends Title I of the Labor-Management Reporting and Disclosure Act in order to encourage enforcement of the Bill of Rights of Members of Labor Organizations. Under the present law, a union member whose Title I rights have been violated must bear the entire cost of bringing suit for relief. The amendment would allow the court in such case to award attorney's fees to a successful plaintiff.

Section 202—Transfer enforcement of title IV (terms of office: election procedures) from the Labor Department to the Justice Department

This section is intended to shift enforcement of Title IV of the Labor-Management Reporting and Disclosure Act from the Labor Department to the Justice Department. Since passage of the Act in 1959, it is clear that the Labor Department has failed to enforce vigorously the procedures provided by the LMRDA which govern the elections of officers to local, national and international labor organizations. Shifting the enforcement authority as provided would insure that the agency enforcing the Act would not have any affiliation or inclination towards either business or labor.

By Mr. METZENBAUM (for himself, Mr. ALLEN, Mr. SPARKMAN, and Mr. GLENN):

S. 1984. A bill to amend the Appalachian Regional Development Act of 1965 in order to continue certain assistance to child development centers; to the Committee on Environment and Public Works.

Mr. METZENBAUM. Mr. President, I am today introducing a bill with Senators ALLEN, SPARKMAN, and GLENN to authorize continued funding for the more than 325 child development centers supported by the Appalachian Regional Commission in the 13-State Appalachian region.

The child development program was created in 1969 to provide Appalachian families with improved health, nutritional, and educational services. The program has been responsible for immunizing thousands of young children. It has made pre- and post-natal care available to mothers. Day care facilities established under the program have allowed over 9,000 parents to enter the work force. Infant mortality has declined sharply in the region, and, for the first time, large numbers of poor children in Appalachia have access to preprimary education. All of this has been accomplished at an annual cost to the Federal Governmert of $119 for each person assisted.

The child development program is an example of a Government project that works. It has provided tangible benefits to over 200,000 people in an economically depressed region at modest cost. In the long run, the human investments we have made in the children of Appalachia promise to pay back enormous dividends to the region and to the Nation as a whole.

Unfortunately, Mr. President, these valuable centers will face severe financial difficulties in the near future unless the Congress acts to maintain Federal assist-

ance at current levels. Without help, some will close.

This is so because under current law, the Appalachian Regional Commission can fund each center for no longer than 5 years. At the end of that period, centers are expected to be financially self-supporting.

The 5-year requirement was established in 1969 and may have been quite reasonable at the time. Since 1969, however, inflation, high unemployment, soaring energy costs, and a host of other problems have placed great strain on local funds that might otherwise be available to support the centers. If the centers are permitted to close because ARC assistance cannot continue, the people of the region will be reduced to the inadequate levels of service they experienced before the program started.

My bill would provide a period of grace for the centers by extending current funding levels for 2 years. It would also direct the Appalachian Regional Commission to investigate the difficulties these centers have encountered in finding alternative sources of support and to report back to the Congress on this matter within 18 months.

Mr. President, some centers have been able to attain financial self-sufficiency within the prescribed period of time, but many have not. I submit that it would be better to find out why so many centers cannot yet phase out their ARC support than to force struggling centers to close their doors The best estimates I have seen indicate that we can provide this breathing space for approximately $8 million over currently authorized expenditure levels.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1984

A bill to amend the Appalachian Regional Development Act of 1965 in order to continue certain assistance to child development centers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) the Congress hereby finds that—

(1) an urgent need exists to maintain support for the Appalachian Comprehensive Child Development Programs; and

(2) the Appalachian Child Development Programs have made great strides in decreasing the infant mortality rate, increasing the number of healthy, well-nourished children through a sound program of pre-natal care immunization schedules, and nutritional guidance, while at the same time providing the opportunity for thousands of parents to enter the labor force; and

(3) the procedures for securing financial support from other sources by which these programs can become self-sufficient are prohibitively complicated and cannot meet the caliber and diversity of services now available.

(b) It is the purpose of this Act—

(1) to charge the Appalachian Regional Commission with the task of investigating the existing difficulties in turning over complete sponsorship of such child development programs to State or private agencies, and of reporting their findings and recommendations to the Congress; and

(2) to charge the Appalachian Regional Commission to provide transitional funds, as necessary, to maintain the Child Development Programs; and

(3) to encourage and promote even further the existing concerted regional effort of innovation and cooperation towards meeting the needs of children.

Sec. 2. The Appalachian Regional Development Act of 1965 is amended by inserting after section 214 the following new section:

CHILD DEVELOPMENT PROGRAMS

"SEC. 215. (a) In recognition of the importance to the regicn of assistance under this Act to child development programs the Commission shall—

"(1) continue such assistance at the current level through September 30, 1979; and

"(2) make a full and complete investigation and study of the child development programs being so assisted for the purpose of determining any problems with special regard to phasing out of ARC support in such programs, recommended solution to such problems, and a procedure under which complete sponsorship of such programs could be turned over to State or private agencies, or both.

"(b) The Commission shall make a report to the Congress of its findings and recommendations under subsection (a)(2) not later than one year after the date of enactment of this section.

"(c) Notwithstanding any other provisions of this Act, there are authorized to be appropriated such amounts as are necessary to carry out the provisions of this section."

Mr. GLENN. Mr. President, child development programs under the Appalachian Regional Development Act have been very successful in Ohio and other parts of Appalachia. Pursuant to the Appalachian Regional Development Act, these efforts were intended to be 5-year demonstration programs, with responsibility being assumed at the end of that time by State, local, or private agencies.

Many of these programs are now in their fifth year and will expire soon. Unfortunately, we see that State, local, and private agencies do not have the capacity to carry on these programs in the manner envisioned when the act was passed. I have spoken with representatives of these agencies, as well as with people of the region currently served by the programs. I find the programs are among the most popular, effective, and well-run Federal efforts in Ohio and sincerely believe their continuation is needed. We cannot allow these vital programs in economically depressed areas to lapse.

For these reasons, I wrote to Senator MCCLELLAN, chairman of the Appropriation Committee, and Secretary Califano of HEW last June 14 to determine if other existing funds could be used for the activities previously funded under the Appalachian Regional Development Act. I was specifically interested in Head Start funds available through the Office of Child Development of HEW.

I was able to determine that Head Start funds may be available to continue previously funded Appalachian Regional Development Act programs, and was advised by Senator MCCLELLAN that such an approach would be entirely consistent with existing appropriations. I am now pleased to report that Secretary Califano has responded by indicating his willingness to consider the use of additional Head Start funds for this purpose, and I look forward to his cooperation.

My colleague, Mr. METZENBAUM, today introduced legislation to extend funding under the Appalachian Regional Development Act, which I was happy to cosponsor. I commend him for this effort, and I believe it signifies the importance we all place on the ARC child development programs. The legislative approach, when combined with the administrative efforts I have undertaken, provides a two-track approach to the problem. Hopefully, one of these approaches will result in the children and families living in Appalachia Ohio continuing to receive the benefits that have heretofore been so helpful to them.

In addition, I commend the local Ohio social service agencies administering the ARC child development programs. Through their efforts the infant mortality rate has been reduced by over 50 percent in the last 5 years, mothers are receiving much needed prenatal and postnatal care, preschool children are receiving psychoeducational screenings in attempts to remedy any developmental disability, and mothers are being counseled about nutrition and home economics. These and the many more services being provided by the Ohio agencies must continue.

By Mr. MATHIAS:

S. 1985. A bill to expedite action on certain permits by the Secretary of the Army; to the Committee on Environment and Public Works.

FACILITATING COMMERCE IN OUR NATION'S HARBORS AND PORTS

Mr. MATHIAS. Mr. President, harbor dredging and filling activities are essential to maintain the flow of commerce into and out of our Nation's ports. A major problem facing the Maryland Port Administration and other port agencies around the country is the long delay they experience in securing U.S. Army Corps of Engineers permits for these vital harbor activities.

For example, Baltimore Harbor recently suffered through a delay of 3 years to gain a permit for a minor 5-acre filling project. And it took 5 years to obtain a permit for a diked disposal area vital to maintenance and new dredging activities in Baltimore Harbor.

The lengthy permit process resulted in higher dredging and construction costs to both the State and Federal Governments.

The problem of long delays experienced in securing dredging and filling permits was recently discussed in a publication of the U.S. Department of Commerce entitled "Untangling Dredging Regulations." The Department of Commerce concluded that "shortening the time required for permit approval is the most beneficial of dredging regulation reforms."

Unquestionably, a certain amount of time is necessary to prepare environmental analyses, conduct public hearings, and complete technical work on major dredge and fill applications. My bill would not shorten the time required for these important steps. Rather, it would merely put a time limit on appli-

cations which are "bucked upstairs" in the bureaucracy.

A look at the way this "bucking" process works illustrates the need for this bill. For example, if another Government agency objects to an application, the Corps of Engineers sends the application from the district level office to the divisional office; then to the Chief of Army Engineers, and ultimately to the Secretary of the Army. The Department of Commerce study indicates that this process gives the objecting agency an indirect "veto power" because of the very long delays that occur when a proposed project must go to the Secretary of the Army for approval.

The Corps of Engineers Division Office, the Chief Engineer's Office, and the Secretary of the Army only decide one way or another on a permit application which has received adverse comment. No additional environmental analysis is undertaken, nor is any other substantive technical work performed. Yet, months and even years of delay can occur while a decision is debated at higher levels. This potential for delay simply exists because there is no time limit for a final decision. My bill would put a stop to such delays.

The approach is similar to that of the Deepwater Port Act, which requires the Secretary of Transportation to approve or disapprove a proposed deepwater port site within 90 days after the last public hearing.

My bill places a deadline of 90 days for a decision by the Secretary of the Army after public hearings are held on such applications under the Refuse Act of 1899. It provides the same 90 day time frame for decisions pursuant to section 404(a) of the Federal Water Pollution Control Act and section 103(a) of the Maritime Protection Research and Sanctuaries Act of 1872.

While this legislation does not deal with other issues noted in the Commerce Department report, such as the need for well-defined policies, the lack of guidelines for decisionmaking, and the need for improved coordination among the agencies, it nevertheless would remove a major cause for delay in the present permit process. In doing so, my bill will go far toward helping our Nation's ports contribute to our economy and our world trade position.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1985

A bill to expedite action on certain permits by the Secretary of the Army

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Act of March 3, 1899, known as the Refuse Act of 1899 (33 U.S.C. 403), is amended by inserting at the end thereof the following: "The Secretary shall approve or deny any application for a permit under this section or section 13 of this Act within ninety days after the receipt of such application.".

SEC. 2. Section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a)) is amended by inserting at the end thereof the following: "The Secretary shall approve or deny any application for a permit under this section within ninety days after the receipt of such application.".

SEC. 3. Section 103(a) of the Marine Protection, Research, and Sanctuaries Act of 1872 (33 U.S.C. 1413(a)) is amended by inserting at the end thereof the following: "The Secretary shall approve or deny any application for a permit under this section within ninety days after the receipt of such application.".

By Mr. McCLURE (for himself and Mr. GARN):

S. 1986. A bill to provide for the transportation within the United States of passengers in foreign-built inflatable rafts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXEMPTING WHITE WATER RAFTING INDUSTRY FROM COAST GUARD REGULATIONS

Mr. McCLURE. Mr. President, I am joining with my colleague, Mr. GARN, in introducing a bill which would exempt the white water rafting industry from becoming needlessly regulated under the Vessels, Passenger, Inspection and Certification Act of 1956 and the Jones Act. The Inspection Act of 1956, administered by the U.S. Coast Guard, is designed to regulate coastwise shipping and requires that certain safety standards be met by commercial passenger vessels. While the act was never intended to apply to inland, recreational waters, the Coast Guard is beginning to take steps to add jurisdiction of the act to navigable waters of the United States and thus the white water rafting industry. My bill simply exempts inflatable rafts used in river running from regulations under the Inspection Act of 1956. The Jones Act is an additional problem as it prohibits foreign-made vessels from going between U.S. ports. Because the majority of rubber rafts used in the white water industry are made in France and Britain, an extension of the Jones Act would limit the number of rafts available and severely affect the industry. This bill exempts the white water industry from the Jones Act also.

Senator GARN and I have previously introduced a bill which would exempt the industry from the Jones Act. This bill will take care of both the Coast Guard and Jones Act problems at the same time. I feel this legislation will allow the boating public to be heard on the matter through the formal hearing process, and many Government and public agencies involved will also have the opportunity to comment.

At the present time, river runners are regulated by the Federal land manager through which the river runs. Thus some rivers are managed by the Bureau of Land Management, the Bureau of Outdoor Recreation, and the Forest Service. Safety standards for commercial boaters are established by the respective agencies and the outfitters and guides associations in each State also have certain safety standards that are met by their members. The Coast Guard regulations are not needed.

I wish that this legislation was not necessary but once again, I find myself trying to protect a segment of the American public from drowning in rules and regulations that are ridiculous. In this case, an important industry in the State of Idaho and throughout the country is being threatened by needless regulations.

Mr. GARN. Mr. President, a few months ago, I introduced legislation to except from the provisions of the Jones Act inflatable rubber rafts used in river running. It seemed to me inconceivable that provisions of law designed to regulate shipping between major ports of the United States, whatever their justification, could be used to prevent a river rat running between Craig, Colo. and Cisco, Utah from using a raft made in England or Taiwan.

The Jones Act has been on the books for years, of course, and no one dreamed of applying it to river rafts. The problem came following the passage of the Small Passenger Vessel Inspection Act in 1956. Of course that act was not aimed at river runners either. Its proximate cause was a tragic accident on a headboat out of one of the coastal towns in which a number of people were killed. As a result, the act was passed, to make certain that fishing parties on the bays and sounds of the Nation were safe.

That act has never been applied to river runners. However, there have been rumblings in recent years that the Coast Guard thinks it ought to apply it to river runners. Under the act, the Coast Guard certificates boats, following inspection and training. Part of the certification requires that the boats used comply with the Jones Act, that is, that they be of domestic manufacture.

The intricacy of the regulatory situation has taken some time to penetrate. It is now clear to me that exempting river rafts from the Jones Act would not remove the threat of regulation by the Coast Guard under the 1956 act.

However, it is even clearer to me that regulation by the Coast Guard is highly undesirable. River runners are already regulated by the States in which they operate, and by the Federal land managers in cases where the rivers run through Federal land. The Coast Guard has no expertise in this area, has regulatory responsibilities properly given to it by Congress, and has no need to step into the river trade. Indeed, the primary reason why the Coast Guard has taken so long to getting around to the river runners is that it knows full well that it is, so to speak, over its head.

Following my introduction of the earlier bill, I have discussed this matter at length with Senator McCLURE, and my staff has had extensive contacts with Congressman MICHAEL HARRINGTON'S staff. Congressman HARRINGTON has introduced an identical bill on the House side, and I am pleased to join with Senator McCLURE in this action today.

The people of this Nation have no desire to see bureaucracies expand their jurisdiction without congressional authorization. This bill gives us an ideal opportunity to remind the Coast Guard of the limits of its authority. Its passage will have no effect on the safety of river traffic, only on the regulatory burden on the runners.

By Mr. HELMS:

S. 1987. A bill to provide for increased employee ownership of business and accelerated capital formation; to the Committee on Finance.

THE EMPLOYEE BUSINESS OWNERSHIP AND CAPITAL FORMATION ACT OF 1977

Mr. HELMS. Mr. President, last year the Senate adopted legislation which extended the tax advantages for employee stock ownership plans—ESOPs—an overdue tax incentive which will encourage more business firms to adopt programs which would lead to a greater degree of ownership of companies by their employees—that employees will be able to have "a piece of the action."

The 1976 law extended until 1980 the tax advantage of an additional 1-percent investment tax credit—11 percent rather than 10 percent—when that 1 percent is contributed in stocks to an ESOP. In addition, one-half an added percentage investment credit is allowed—11½ percent rather than 11 percent—for contributions made to the ESOP as long as they are matched by contributions made by employees to the plan.

The net effect of these changes in the Tax Code is to provide added incentives to companies to provide employee stock ownership plans for their workers. However, since these particular provisions are tied to the investment tax credit, they tend to favor those companies which are capital intensive, rather than labor intensive. The firms which have the most to gain under present tax advantages are firms like Mobil Oil, Union Oil, Rockwell International, and other heavily capitalized firms.

According to Everell Allen, vice president of Towers, Perrin, Foster, & Crosby, a consulting firm, a labor intensive company like major retailers would find the benefits of present tax advantages give benefits in "ridiculously small amounts."

My bill would amend tax advantages to all firms and would not give an advantage to any one type of firm.

The need for this type of bill is great indeed. The average worker has been "turned off" on business because of a number of factors. Inflation, for example, is blamed in the popular press on businesses trying to raise prices faster than labor increases wages. This, of course, is an excuse to hide the real cause of inflation—Government deficits.

Inflation increases pressure that labor groups place on management in order to obtain pay increases commensurate with increases in the cost of living, and this does not help labor/management relations.

The purpose of the legislation is twofold: First, it provides a mechanism to encourage corporations to give stock in the company to employees, without discrimination in favor of management or any other class. It is predicated upon the belief that if our traditional American free enterprise system is to continue to work, and work well, a greater portion of the labor force must have a "piece of the action." By allowing all employees of a company to share in its ownership and its profits, we will be encouraging individual dignity of the average worker.

Second, this legislation, through the creation of tax deductions for gifts of stock to employees, will generate capital funds for the company. These funds will provide the vitally necessary capital for plant expansion, pollution abatement equipment, compliance with the occupational safety and health regulations, the installation of more energy-efficient equipment, and any of the host of capital needs. Of course, as these capital expenditures are made, as existing plants are expanded and new ones constructed, jobs will be created. As pollution abatement is installed, the impact of industrialization on the environment will be minimized. As more companies come in to full compliance with the OSHA regulations, the safety and health of the working people of this country will greatly improve. And, as industry begins to use energy in a more efficient manner, our national dependence upon foreign countries will be lessened.

The achievement of these important goals is not easy, and it certainly is not free. It requires capital investment. Where will the necessary funds come from?

We are told that at present our economy is suffering from a serious shortage of capital funds. Even as electric rates soar, plans to construct new generating plants are being cancelled for lack of funds. The high cost of energy is depriving industry of the capital it needs to purchase more energy-efficient equipment, and at present the costs created by the environmental protection and OSHA regulations are contributing to the inflationary spiral and to unemployment. If we as Americans are to enjoy the better life that we are all seeking for ourselves and our children, we must find the vitally necessary money to pay for it.

This Senator from North Carolina is not alone in his concern about the critical shortage of capital funds. Informed commentaries on the seriousness of the situation are being presented at every turn.

The economists at the New York Stock Exchange in their "most likely" scenario, envision a $500 billion gap between business investment demand and the supply of savings—capital funds—over the period from 1974 to 1985.

A Brookings Institution study calculated that—

Adding up all the capital necessary for all the projects that either promise a profitable private return or appear high on someone's list of social priorities for the rest of the seventies, yields a total of $2 trillion.

Another study projected needs to 1985 which range from $4 to $4.5 trillion. Obviously, unless business can come up with the necessary funds, we will not be able to meet pressing demands for energy, environmental protection, and other high priority needs.

To understand the seriousness of the situation not only for the decade ahead but for the present as well, compare the standing of the United States to other industrialized countries of the world. The U.S. Treasury Department reported that—

The United States ranking in real economic growth is among the lowest of the industrialized countries because a relatively low share of its output is being allocated to investment.

For example, during the period 1960 through 1973, the Treasury Department reported that the total share of our national output devoted to fixed investment averaged 17.5 percent compared to 35 percent for Japan, 25.8 percent for West Germany, 24.5 percent for France, 18.5 percent for the United Kingdom, and 20.5 percent for Italy. Indeed, the Treasury Department reported that—

The U.S. share of total national output devoted to . . . fixed investment . . . was lower than in any of the 11 major industrialized nations . . . studied.

What is more according to the Treasury report:

This lag in U.S. investment over the past 13 years has contributed to relative lower rates of advance of productivity and national output.

The report noted that—

This disparity in investment effectively lowered rates of advance in living standards of the average consumer in the United States, created shortages in basic materials industries during periods of economic expansion and added substantially to the inflationary consequences of high employment in recent years.

The Treasury Department further pointed out that—

The falling share of U.S. resources allocated to investment has limited job opportunities because had the growth of plant and equipment exceeded that of the labor force, more jobs would have been required to utilize that increased capacity.

Finally, the report concluded that—

The policy implications for the U.S. point towards encouragement of capital formation by minimizing tax disincentives, use of accounting methods which adjust earnings for replacement cost of capital and elimination of tax barriers to the flow of capital into productive uses.

And, as every Member of Congress is aware, simply from viewing recently enacted legislation, in addition to our requirements for capital investment for economic recovery, we must find the money to finance a multitude of economic and social programs in both the public and private sectors. Whether one agrees with these programs or not, whether one voted for or against them, they are now on the law books. They will have to be paid for, and that will claim an increasingly large share of capital investment.

In short, we in the United States are continuing, year after year, to demand more of everything. We want a cleaner environment, a greater level of energy independence, better transit facilities, improved housing, safer working conditions, more advanced health care, new consumer goods, and income security for our retirement years. We in America are demanding a better life, not for a select few but for every citizen of every background and station. The haunting question remains: How in heaven's name are we going to pay for it?

Amid all the gloom and prophesies of doom, there is a solution. And, in a very real sense that solution is a product of the kind of imagination and ingenuity

that has made America the great Nation that it is. This solution is evolved out of the principles associated with the Kelso plan and the employee stockownership plans—ESOP's. And, not surprisingly, an increasingly large segment of both the public and private sectors believe that the answer to the dilemma resulting from this intensifying capital crunch is to be found in a program that encourages increased employee ownership of corporate businesses through providing tax incentives to stimulate that ownership. Of course, the important byproduct of the corporate tax deductions used to encourage the employee business ownership is what accountants call retained earnings—but for our purposes we should call it capital for investment.

At present, there are three basic sources of private savings capital available to corporate enterprises. They are: First, retained earnings, where the corporation saves part of its profits instead of paying it out to stockholders in dividends; second, selling additional stock in the corporation; and third, long-term borrowing from lenders, either by selling bonds or obtaining more conventional loans.

The Employee Business Ownership and Capital Formation Act that I am today introducing stimulates job creation and capital formation by making it feasible to expand the first two sources of capital savings: retained earnings and issuance of additional stock, in a new and unique way. Expanding on the Kelso and ESOP concepts, it addresses our serious need for capital funds while providing a strong incentive to corporate America to bring the previously disenfranchised worker into the firm as a stockholder, who will receive tax-free dividends and thereby share in the profits that result from his labor.

This bill adds a new section to the Internal Revenue Code allowing corporations to give their employees stock in the corporation each year in an amount equal to 25 percent of the employee's salary or $25,000, whichever is the lesser. The maximum amount that can be given to an employee during his entire life with the corporation is $500,000, or an amount equal to 5 percent of the outstanding securities of the corporation, whichever is the lesser.

In order to encourage the employees to hold the stock and therefore to retain an ownership interest in the company, all dividends paid on the stock will be excluded from taxation as long as the employee or his spouse—in the event of the employee's death—continues to own the stock. However, if the employee wishes to sell the stock, he is free to do so although the tax exemption on dividends does not pass on with the sale.

No income tax would result to the employee at the time of the gift of the stock; but when it is sold, so much of the gain realized on the sale of the stock as is equal to the value when given to the employee would be includable in the employee's gross income. Any value of the stock in excess of the amount of the value when given would be taxed to the employee as a capital gain. There is no recapture provision respecting dividends paid to the employee or his spouse on such stock. Rather, such dividends are entirely free from taxation.

Of course, if the employee owned the stock at the time of his death, it would be included in his estate, and under the present Federal estate tax law, a new tax base would be created for the stock at that time. If the employee made someone a gift of the stock, applying present tax law, the recipient of the gift would take the stock at the employee's tax base. And, if the stock were sold by the recipient, the proceeds would be subject to the recapture provisions mentioned with respect to the employee.

It should be pointed out that the bill contains the same minimum participation standards and the same prohibition against discrimination that favors executives and high-salaried employees that was written into the Employee Retirement Income Security Act of 1974. This double safeguard will insure that all of the employees of a company benefit from this employee business ownership plan, not just management.

Any such gifts of stock to employees will be tax deductible to the corporation, subject to the limitations contained in section 404(a)(3) of the Internal Revenue Code. That is to say, the total deduction to the corporation shall not exceed 15 percent of the compensation otherwise paid during the taxable year to all employees under the plan.

If a company purchases the stock from the employee, that portion of the purchase price that is in excess of the value of the stock when given is deductible. This provides an incentive for smaller corporations, whose stock has a limited market, to purchase it from the employee, if the employee wishes to sell and cannot find a buyer. Under no circumstances would the employee be required to sell his stock.

The bill applies to the common stock of the corporation. But if the corporation has more than one class of common stock outstanding, the bill insures that the securities are distributed from the common stock possessing the greatest percentage of the voting power of all stock entitled to vote; or from stock issued by the corporation which is convertible into such a class no later than 1 year, after the termination of the recipient's employment.

Additionally, the bill amends the Employee Retirement Income Security Act of 1974 to exclude qualifying employee business ownership plans from the requirements of the labor provisions of the act—other than the reporting and disclosure rules—since those provisions are either not applicable to such plans or a plan which is created under this bill must by definition satisfy those requirements.

Since stock issuances under employee ownership plans are tantamount to a gift as opposed to a sale, the staff of the Securities and Exchange Commission has taken the position that they are exempt from the registration provisions of the Securities Act of 1933. However, since the position of the staff is not binding upon the Commission, the bill adds a securities exemption favoring the issuance of securities pursuant to this act, if the issuer is a reporting company and if issuances are limited to 1 percent of the outstanding securities during any 12-month period. Similarly, a provision is added permitting the resale of the stock by the employee or a remote purchaser of the employee stock. Otherwise, of course, the stock would be of limited value to the employee.

Finally, a conforming amendment is made to the Securities Exchange Act of 1934 permitting the issuing company to repurchase employee stock. As stated, this is to encourage smaller companies to insure that there will be a market for the stock if the employee wishes to sell it.

So, Mr. President, that is the technical explanation of this very simple, yet very important legislation. It offers corporations tax deductions for stock which they give to employees on a nondiscriminatory basis. This is stock which the employee owns immediately. It is not held in trust or otherwise encumbered with restrictions. The employee may sell the stock the day he receives it. Or, he may hold it and receive tax-free dividdends. When he dies, he may leave it to his spouse, so that for the rest of her life she may also receive tax-free dividends.

On the corporate side of the ledger, the corporation will be able to generage tax deductions which will provide the needed capital for plant expansion, pollution abatement equipment, compliance with OSHA regulations, energy conservation programs, and a host of other capital needs. In short, it will permit corporations to have more money to invest. This investment will in turn create more jobs to be filled by more employees, who will be able to receive more gifts of stock under this employee business ownership plan, so that they too will have a "piece of the action," an investment in the future of America.

Mr. President, I ask unanimous consent that a technical explanation of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF THE EMPLOYEE BUSINESS OWNERSHIP AND CAPITAL FORMATION OF 1977

AMENDMENT OF INTERNAL REVENUE CODE

The bill provides for the addition of a new section to the Internal Revenue Code of 1954, designated as section 416.

Subsection (a) sets forth the general requirements for qualification as an "employee business ownership plan", which include many of the requirements applicable to qualified pension and profit-sharing plans under section 401. These requirements of section 401 which are incorporated by reference include the minimum participation standards of section 410 and the prohibition against discrimination in favor of executives and high salaried employees. Certain other requirements applicable to qualified pension plans were not included, since those requirements are either inapplicable to the type of plan contemplated by new section 416 or section 416 itself imposes more stringent requirements. For example, subsection (a)(2) requires the distribution directly to employees of the employer securities and, thus, the vesting rules contained in section 411 are unnecessary. Subsections (a)(3) and (a)(4) contain limitations on the amount

which can be contributed under the plan for the benefit of any one employee both during the entire period the plan is maintained and during any one year. The limitation with respect to the amount of employer securities which can be distributed to any one participant in any year parallels the limitation in section 415 for defined contribution plans.

Subsection (b) of new section 416 contains the rules with respect to the income tax treatment by an employee upon the receipt of employer securities distributed pursuant to a qualifying plan. These provisions will have the effect of excluding from the gross income the amount distributed to each employee under the plan. The employee will be subject to federal income tax at the time of his disposition of such securities, and since no income was realized by the employee upon the receipt of the employer securities pursuant to the plan, it is appropriate that to the extent of the gain on the subsequent disposition of such employer securities the amount previously excluded from gross income be included as ordinary income at such time. Any excess of the amount realized upon disposition over the amount included as ordinary income (since the person to whom this section is applicable will not have any tax basis in such securities) is treated as gain from the sale or exchange of such employer securities.

The use of the phrase "sale or exchange" is intended to permit such securities to be eligible for capital gain treatment when repurchased by the employer, irrespective of whether such repurchase can meet the requirements of paragraphs (1), (2), (3), or (4) of subsection (b) of section 302 (dealings with redemptions).

Under Subsection (c) the distribution by an employer or employer securities is deductible in a manner comparable to employer contributions to stock bonus or profit sharing plans, except that the limitations with respect to the amount which can be contributed to such plans is determined separately. Thus, the employer can maintain both a profit sharing and an employee business ownership plan and would be permitted a deduction of up to 30% of the compensation of participants in such plans. Furthermore, to encourage small employers to provide a market for their stock, the bill treats the amount includable in the employee's income as a capital gain upon the repurchase by an employer of employer securities as additional distributions of employer securities under the plan, thus permitting a deduction by the employer for those amounts.

Under subsection (d) the term "employer securities" is defined in a manner comparable to the definition in section 301(d) of the Tax Reduction Act of 1975, except that where an employer has more than one class of common stock outstanding he is required to distribute the common stock possessing the greatest percentage of the voting power of the distributing corporation. Furthermore, while securities, such as non-voting stock, which are convertible into such common stock may be distributed in lieu of such common stock, the bill requires that such securities be convertible into such common stock no later than one year after the termination of the participant's employment.

AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Section 3 of the bill amends the Employee Retirement Income Security Act of 1974 to exclude qualifying employee business ownership plans from the requirements of the labor provisions of the Act (other than the reporting and disclosure rules), since those rules are either not applicable to such plans or a plan which is described in section 416 of the Internal Revenue Code must by definition satisfy those requirements.

AMENDMENT OF SECURITIES ACT OF 1933

Section 5 of the Securities Act of 1933 requires a registration statement to be in effect in connection with the sale of a security if directly or indirectly the mail or other instruments of transportation or communication in interstate commerce are to be used. Paragraph (3) of Section 2 of that Act defines sale to include every attempt or offer to dispose of or solicit an offer to buy a security or interest in a security.

Section 3 of the Securities Act lists securities, the issuance of which are exempt from the registration provisions of the Act. Section 4 lists transactions exempt from the registration provisions of the Act. The staff of the Securities and Exchange Commission has taken the position that issuance pursuant to employee plans are exempt from the registration provisions of the Securities Act of 1933 where such issuances are tantamount to a gift, on the theory that no "sale" takes place. The position of the staff, however, is not binding upon the Commission.

Therefore, to insure that distributions pursuant to new section 416 of the Internal Revenue Code do not violate the Act a securities exemption has been added to section 3 which provides that the issuance of securities pursuant to section 416 of the Internal Revenue Code is exempt from registration under the Securities Act of 1933 if the issuer is a reporting company and if issuances are limited to 1 percent of the outstanding securities during any twelve-month period.

Similarly, to permit resales of securities issued pursuant to new section 3(12) without registration, a new paragraph (6) has been added to section 4 permitting such resales as long as the person holding such securities is not an underwriter, dealer or the issuer.

AMENDMENT OF SECURITIES EXCHANGE ACT OF 1934

Section 13(e) of the Securities and Exchange Act of 1934 is designed to give the Securities and Exchange Commission the power to promulgate rules prohibiting the purchase of securities by an issuer if the Commission believes that such purchases would not be in the public interest or for the protection of investors. On December 6, 1973, the Commission published proposed Rule 13(e)(2) which would limit the manner and amount of securities that could be purchased by the issuer thereof. Although the proposed rule has never been adopted, the Commission has followed and applied the rule in everyday practice. To insure that proposed Rule 13(e)(2) if adopted would not prohibit issuer repurchases of securities issued under section 416 of the Internal Revenue Code, Section 13(e)(3) would be added which would deem repurchases of securities being issued pursuant to section 416 not to be a "purchase" under the provisions of section 13 of the Securities Exchange Act of 1934.

ADDITIONAL COSPONSORS

S. 77

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 77, to amend the Social Security Act.

S. 256

At the request of Mr. PEARSON, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 256, the Natural Gas Act Amendments of 1977.

S. 991

At the request of Mr. RIBICOFF, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 991, to establish a Department of Education.

S. 1313

At the request of Mr. PROXMIRE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1313, relating to the expenditure of funds on major military or civil acquisitions.

S. 1393

At the request of Mr. BAYH, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1393, relating to constitutional rights of institutionalized persons.

S. 1503

At the request of Mr. THURMOND, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1503, relating to the ban on the use of the chemical Tris.

S. 1610

At the request of Mr. ALLEN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1610, The Taxpayer's Attorney Fee Award Act of 1977.

S. 1736 AND S. 1737

At the request of Mr. LEAHY, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 1736 and S. 1737, relating to the use of solar energy in homes.

S. 1738

At the request of Mr. LEAHY, the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 1738, relating to the use of solar energy in residential structures on family farms.

S. 1773

At the request of Mr. JAVITS, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 1773, the age discrimination in employment bill.

S. 1787

At the request of Mr. STEVENS, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 1787, relating to the classification of certain lands in Alaska.

S. 1899

At the request of Mr. JAVITS, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1899, the GI bill tuition equalizer measure.

S. 1921

At the request of Mr. DOLE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1921, to amend the Internal Revenue Code.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Vermont (Mr. LEAHY) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Joint Resolution 65, relating to representation in Congress of the District of Columbia.

AMENDMENTS SUBMITTED FOR PRINTING

PUBLIC FINANCING OF ELECTIONS—S. 926

AMENDMENT NO. 751

(Ordered to be printed and to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (S. 926) to provide for the public financing of primary and general elections for the U.S. Senate.

AMENDMENT NO. 752

(Ordered to be printed and to lie on the table.)

Mr. BAKER submitted an amendment intended to be proposed by him to the bill (S. 926), supra.

AMENDMENT NO. 755

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 926), supra.

AMENDMENT NO. 756

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (S. 926), supra.

FEDERAL WATER POLLUTION CONTROL—S. 1952

AMENDMENT NO. 753

(Ordered to be printed and to lie on the table.)

Mr. DOLE. Mr. President, today I am submitting an amendment for printing on S. 1952, Federal Water Pollution Control Act Amendments of 1977. The amendment relates to the "Buy America" provision originally in H.R. 3199.

HOUSE ADOPTED THE AMENDMENT

H.R. 3199 contained a provision adding a new section to the Federal Water Pollution Control Act. The new section 216, of the Clean Water Act, would provide that no grant may be made by the EPA for treatment works unless all manufactured and unmanufactured articles, materials, and supplies involved in the project are mined, produced, or manufactured in the United States. This restriction would not apply if the EPA determines the cost would be unreasonable, the materials are not readily available, or such a purchase would be inconsistent with the public purpose.

CONGRESS CREATED THE PROBLEM

I share the reluctance of most Members of Congress to take actions which may be interpreted as unfair protectionism for American manufacturers. Yet, in this case, a legislative answer is required because prior legislative action created the problem. American firms engaged in the production of pollution and water treatment equipment have been hurt and disadvantaged by two separate actions of Congress.

First, in carrying out its legislative mandate, the EPA has issued numerous regulations which have forced American manufacturers to invest large sums of money to clean up their air and/or water emissions. These costs become part of the manufacturer's total cost and inevitably must be reflected in his selling price.

Second, for water pollution control projects funded by EPA under Public Law 92–500, the municipalities must accept the lowest priced equipment offered by anyone who meets the technical specification. No other factors may be considered.

COMPETITION IS NOT EQUAL

This is fair and appropriate as long as all manufacturers are treated equally and each competing company has to meet the same standards. However, it ceases to be fair when the same EPA, in the administration of its programs, allows foreign manufacturers not covered by EPA emission standards to undercut regulated U.S. manufacturers in bidding on equipment for publicly funded water pollution control projects.

As foreign-made products enter the market the business obtained by U.S. producers drops. Then the largely fixed cost associated with their emission control equipment must be spread over a smaller base making them even less competitive. An underserved downward spiral results for the U.S. manufacturer.

In the private sector a purchaser considers many factors in making his buying decision. Price is important—but he also looks at the reputation of the manufacturer, his experience, local service capability, repair parts availability, and a variety of other factors. When a foreign supplier comes out on top of such an evaluation, he has earned the business.

JOBS ARE NEEDED AT HOME

It would seem wise to spend U.S. taxpayers' money where some of it will be recouped in future taxes paid. That occurs when pollution control equipment produced in the United States is purchased for projects funded by the EPA under Public Law 92–500. The U.S. manufacturer employs American workers who pay personal income taxes on the wages received. Assuming the manufacturer makes a profit, he also pays corporate income taxes. These personal and corporate taxes paid into the Federal Treasury produce an offset to the money originally paid out for the equipment.

When Public Law 92–500 construction grant funds are used to purchase foreign manufactured products, the above offset does not occur. Money originating from U.S. taxpayers flows to foreign workers and governments.

Further, equipment purchased from foreign manufacturers creates jobs in the foreign country at the expense of jobs at home. At times of high unemployment it means that U.S. taxpayer money is keeping some foreign workers employed, and at the same time, additional taxpayer money must be used to pay unemployment benefits to the idled American workers.

This makes no sense. Clearly U.S. taxpayer money should be spent, if possible, in the United States where it will help reduce unemployment costs and attendant personal hardships while increasing tax revenues.

I intend to bring this amendment up for consideration when the Senate debates S. 1952. Until that time, I ask that each Member of the Senate consider the equities of this amendment. American businessmen have proved for many years that they can compete in international markets if given a fair chance. I believe that U.S. firms should have that same fair chance in the United States and this amendment would insure that result.

RECOMBINANT DNA ACT—S. 1217

AMENDMENT NO. 754

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, on behalf of the Senator from New York (Mr. MOYNIHAN) and myself, I am today introducing an amendment in the nature of a substitute to S. 1217, a bill to regulate activities involving recombinant deoxyribonucleic acid (DNA) research.

S. 1217 has generated much new information and commentary since its introduction April 1, 1977.

The substitute proposal reflects new information and views, and differs from both the Senate bill (S. 1217) and from H.R. 7897, a bill pending before the House Interstate and Foreign Commerce Committee, with respect to a number of major issues: the nature and the extent of regulation necessary to combat potential risks from DNA research activities; the definition of recombinant DNA activities to be regulated; penalties for compliance; the authority of the Federal Government to preempt State and local regulations. The proposal reflects concerns expressed in supplemental views filed with the report (No. 95–359) of the Human Resources Committee on S. 1217.

We are interested in the views of all interested parties on this important legislation.

I ask unanimous consent that the amendment be printed in the RECORD following these remarks, along with supplemental views on S. 1217, and an article in the New York Times, July 31, 1977, by Walter Sullivan, science editor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 754

Strike out all after the enacting clause and substitute the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Recombinant DNA Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) research and other activities involving recombinant DNA will improve the understanding of fundamental biological processes;

(2) the knowledge gained from such research and other activities may be of great benefit to medicine and agriculture and may provide many other benefits to society;

(3) there exist, however, uncertainties regarding the extent to which recombinant DNA or organisms or viruses containing recombinant DNA and activities involving recombinant DNA may present a risk of injury to health or the environment, and there is a risk that such organisms and

viruses may spread quickly and without warning to persons, agricultural plants and products, and other items in or affecting commerce;

(4) the public interest requires that the health and welfare of the population of the United States be protected from such risk, and commerce in the United States is dependent upon such protection being provided; and

(5) to effectively accomplish such protection and consequently to effectively regulate commerce requires that the possession of recombinant DNA and any activity engaged in for its production (whether a research or commercial activity) be subject to control.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. Title IV of the Public Health Service Act is amended (1) by redesignating part I as part J, (2) by redesignating sections 471 through 476 (and all references to such sections) as section 486 through 491, respectively, and (3) by inserting after part H the following new part:

"PART I—RECOMBINANT DNA

"DEFINITIONS

"SEC. 471. For purposes of this part:

"(1) The term 'DNA' means deoxyribonucleic acid.

"(2) The term 'recombinant DNA' means DNA molecules consisting of segments of DNA from different genomes which have been joined together outside of living cells and which have the capacity to infect some host cell and be maintained therein and which are novel. 'Novel' means, molecules that consist of segments of any DNA from different species that are not known to exchange chromosomal DNA by natural physiological processes. The Secretary shall prepare a list of DNA combinations (viral, extrachromosomal, or chromosomal) which are not novel. Recombinant DNA molecules formed from any combination of DNA's will not be considered novel when all of the components are derived from genomes known to replicate naturally within the organism used to propagate the recombinant DNA.

"(3) The term 'local biohazards committee' means a local biohazards committee established in accordance with section 476, and the term 'Advisory Committee' means the Recombinant DNA Advisory Committee established under section 481.

"(4) The possession in a State of recombinant DNA by any individual or public or private entity and any activity (including research and transportation) undertaken in a State by any individual or public or private entity for the production of recombinant DNA are collectively referred to as 'recombinant DNA activities'. The term 'public entity' includes any Federal, State, or local governmental entity.

"(5) The term 'Secretary' means the Secretary of Health, Education and Welfare.

"INTERIM CONTROL

"SEC. 472. (a)(1) During the period beginning on the tenth day after the date of the enactment of this part and ending—

"(A) eighteen months after such date, or

"(B) on the date the regulations required by section 475 take effect,

whichever occurs first, all recombinant DNA activities shall be carried out in accordance with the physical and biological containment requirements described in paragraph (2).

"(2) The physical and biological containment requirements referred to in paragraph (1) are the physical and biological containment requirements—

"(A) as contained in the recombinant DNA research guidelines of the Department of Health, Education and Welfare published in part II of the Federal Register for July 7, 1976,

"(B) if revised between July 7, 1976, and the tenth day after the date of the enactment of this part, as so revised, or

"(C) if revised under subsection (c), as so revised.

"(3) Before the expiration of the ten-day period beginning on the date of the enactment of this part, the Secretary shall take such action as may be necessary to publicize and make available the requirements described in paragraph (2), including the publication of such requirements in the Federal Register.

"(b) From the date of the enactment of this part until the expiration of the period described in subsection (a), all the requirements of the recombinant DNA research guidelines of the Department of Health, Education, and Welfare—

"(1) as published in part II of the Federal Register for July 7, 1976,

"(2) if revised between July 7, 1976, and the tenth day after the date of the enactment of this part, as so revised, or

"(3) if revised under subsection (c), as so revised, shall continue to apply as specified in such guidelines.

"(c) The physical and biological containment requirements of the guidelines described in subsection (a) which are in effect on the tenth day after the date of the enactment of this part may be revised only by regulations promulgated by the Secretary in accordance with section 553 of title 5, United States Code.

"(d)(1) Each individual or entity which, on the date of the enactment of this part, is responsible for the conduct of any recombinant DNA activity shall, in accordance with regulations promulgated under subsection (e) and before the expiration of ninety days from the date of the enactment of this part, report in writing to the Secretary—

"(A) such individual's or entity's name, and

"(B) a description of such activity and an identification of the place or places in which it is being conducted.

"(2) Each individual or entity which is to be responsible for a recombinant DNA activity to be commenced during the period described in subsection (a) shall upon the commencement of such activity report in writing to the Secretary such individual's or entity's name, a description of such activity, and an identification of the place or places in which such activity is to be conducted.

"(e) Before the expiration of the forty-five day period beginning on the date of the enactment of this part, the Secretary shall, without regard to subsections (c) and (d) of section 553 of title 5, United States Code, promulgate such regulations as may be necessary for the administration of the requirements of this section.

"(f) The regulations described in this section and in section 476 may be promulgated without regard to section 102(2)(C) of the National Environmental Policy Act of 1969.

"GENERAL REQUIREMENTS

"SEC. 473. (a) Except as provided under subsection (b), the following requirements apply under this part with respect to recombinant DNA activities:

"(1) Each facility in which a recombinant DNA activity is to be conducted shall be licensed in accordance with section 475.

"(2) The transportation of recombinant DNA and any other recombinant DNA activity (including an agricultural activity) which is not conducted in a facility shall be carried out in accordance with regulations promulgated by the Secretary under section 474.

"(b) The Secretary may, by regulation, exempt from the requirements of this part any recombinant DNA activity which the Secretary finds does not present a significant risk to health or the environment.

"CONTROL OF NONFACILITY RECOMBINANT DNA ACTIVITIES

"SEC. 474. (a) The Secretary shall promulgate regulations to control the conduct of recombinant DNA activities described in section 473(a)(2). Such regulations shall—

"(1) prescribe physical and biological containment requirements for the conduct of such activities;

"(2) apply as appropriate, to the conduct of such activities, the personnel safety requirements prescribed under section 475;

"(3) include such special requirements as the Secretary determines necessary for the conduct of recombinant DNA activities involving more than ten liters of cell cultures containing recombinant DNA and for the conduct of any commercial recombinant DNA activity which the Secretary determines may present a significant risk to health or the environment; and

"(4) include such other provisions as the Secretary determines to be necessary for the protection of health or the environment.

"(b) The Secretary shall consult with the Advisory Committee respecting the promulgation of the regulations required by subsection (a) (including the promulgation of amendments to such regulations other than amendments to make clerical or technical changes), and any notice of proposed rulemaking issued by the Secretary respecting such regulations shall contain any comments submitted respecting such regulations.

"(c) The regulations required by subsection (a) shall be initially promulgated within one year of the date of the enactment of this part and shall take effect upon the expiration of one hundred and eighty-days from the date of their promulgation.

"(d) The Secretary shall provide for an annual review of the regulations required by subsection (a) to determine if their requirements continue to protect health and the environment.

"(e) If the Secretary receives a petition for the promulgation of a regulation to prescribe an additional requirement under subsection (a) or to revise or repeal a requirement contained in a regulation promulgated under that subsection, the Secretary shall either approve or deny the petition within one hundred and twenty days after the date the petition is received by the Secretary. If the Secretary approves such a petition, the Secretary shall, as soon as practicable after the date the petition is approved, commence a proceeding as requested by the petition. If the Secretary denies such a petition, he shall notify the petitioner of the denial and the reasons therefor and shall publish such reasons in the Federal Register.

"LICENSES

"SEC. 475. (a)(1) Licenses for facilities in which recombinant DNA activities are to be conducted shall be issued, amended, and renewed in accordance with this section.

"(2) A license under this section is the authority for the conduct of recombinant DNA activities in the facility or facilities for which the license is issued. The Secretary shall prescribe guidelines respecting—

"(A) the types and number of facilities that may be covered by a single license, and

"(B) the types of recombinant DNA activities that may be authorized by a single license.

"(3)(A) The Secretary shall promulgate regulations to implement the administration of this section. Such regulations shall—

"(i) prescribe physical and biological containment for recombinant DNA activities authorized to be conducted under licenses issued under this section;

"(ii) prescribe requirements for—

"(I) laboratory safety training to be given to, and safety techniques to be followed by, personnel to be involved in such activities,

"(II) monitoring systems to protect against accidental exposure and other hazards to the health of such personnel while engaged in such activities,

"(III) the type and form of information to be given such personnel concerning the nature of the health risks presented by such activities and the frequency and manner of giving them such information, and

"(IV) the type and frequency of medical examinations to be given such personnel while engaged in such activities;

"(iii) prescribe requirements respecting reports to be made and records to be maintained by the holders of licenses issued under this section;

"(iv) include such special requirements as the Secretary determines necessary for the conduct of recombinant DNA activities involving more than ten liters of cell cultures containing recombinant DNA and for the conduct of any commercial recombinant DNA activity which the Secretary determines may present a significant risk to health or the environment; and

"(v) include such other provisions as the Secretary determines necessary for the effective administration of the requirements of this section.

"(B) Regulations required by subparagraph (A) shall be initially promulgated within one year of the date of the enactment of this part and shall take effect upon the expiration of one hundred and eighty days from the date of their promulgation.

"(C) The Secretary shall consult with the Advisory Committee respecting the promulgation of the regulations required by subparagraph (A) (including the promulgation of amendments to such regulations other than amendments to make clerical or technical changes), and any notice of proposed rulemaking issued by the Secretary respecting such regulations shall contain any comments submitted to the Secretary by the Advisory Committee respecting such regulations.

"(D) The Secretary shall provide for an annual review of the regulations required by subparagraph (A) to determine if their requirements continue to protect the public health and safety and the environment.

"(E) If the Secretary receives a petition for the promulgation of a regulation to prescribe an additional requirement under subparagraph (A) or to revise or repeal a requirement contained in a regulation promulgated under that subparagraph, the Secretary shall either approve or deny the petition within one hundred and twenty days after the date the petition is received by the Secretary. If the Secretary approves such a petition, the Secretary shall, as soon as practicable after the date the petition is approved, commence a proceeding as requested by the petition. If the Secretary denies such a petition, he shall notify the petitioner of the denial and the reasons therefor and shall publish such reasons in the Federal Register.

"(4)(A) A license to authorize the conduct in a facility of any recombinant DNA activity which under the applicable physical containment requirements promulgated under paragraph (3)(A)(i) requires physical containment at the equivalent of the P–4 level prescribed by the guidelines referred to in section 472 (a)(2), may only be issued, amended, or renewed by the Secretary. Any comments of the Advisory Committee and the local biohazards committee with jurisdiction over such facility shall be published in the Federal Register.

"(B) A license to authorize the conduct in a facility of any recombinant DNA activity which under the applicable physical containment requirements promulgated under paragraph (3)(A)(i) requires physical containment at the equivalent of the P–3 level prescribed by the guidelines referred to in section 472 (a)(2), may be issued, amended, and renewed by a local biohazards committee in accordance with this subparagraph. If the committee proposes to approve an application for the issuance, amendment, or renewal of such a license, such committee shall submit to the Secretary—

"(i) the application for such action together with any materials submitted to the committee respecting the application, and

"(ii) a statement of any conditions proposed to be imposed by the committee on the approval of the application to assure that requirements under this part applicable to recombinant DNA activities which would be conducted under the license are complied with,

and, within thirty days of the submittal of such application and statement, the Secretary shall review the application to determine if its approval would be in accordance with the requirements of this part. The local biohazards committee may approve the application unless within the applicable review period the Secretary determines that it may not be approved. The Secretary shall, subject to section 480, publish in the Federal Register the results of any application review conducted under this subparagraph, and the comments of the Advisory Committee on such application.

"(C) A license to authorize the conduct in a facility of any recombinant DNA activity not described in subparagraph (A) or (B) may be issued, amended, and renewed by a local biohazards committee. Upon the issuance, amendment, or renewal of a license by a local biohazards committee, such committee shall submit to the Secretary (i) the application for such action together with any materials submitted to the committee respecting the application, and (ii) a statement of any conditions imposed by the committee on the approval of the application to assure compliance with requirements under this part applicable to recombinant DNA activities which are to be conducted under the license.

"(D) If the holder of a license under this section proposes—

"(i) to conduct a recombinant DNA activity which is not authorized by such license, such activity may not be conducted under such license before it is amended to authorize such activity; or

"(ii) to alter or expand a facility licensed by such license, no recombinant DNA activity may be conducted in such facility before the license is amended to cover such facility as so altered or expanded.

The Secretary shall prescribe procedures, as appropriate, for the expeditious handling of applications for amendments of licenses.

"(E) If the Secretary determines that the issuance, amendment, or renewal of a license by a local biohazards committee under subparagraph (B) or (C) was not in accordance with the requirements of this part, or was not in the best interests of the public, the Secretary may take such action with respect to the license as he determines is necessary, including revoking, suspending, or limiting the license.

"(F) The issuance, amendment, and renewal of a single license to authorize the conduct of any combination of recombinant DNA activities described in subparagraphs (A), (B), and (C) shall be carried out jointly by the Secretary and the local biohazards committee involved in accordance with guidelines prescribed by the Secretary.

"(b) Any individual or public or private entity may apply for the issuance of a license under this section, and the holder of a license may apply for its amendment or renewal.

An application for the issuance or renewal or a license shall be made in such form and manner as the Secretary shall prescribe and shall contain—

"(1) a description of each recombinant DNA activity to be conducted under the license (including applicable research hypotheses, designs, and protocols), identification of the primary professional personnel to be engaged in each such activity and their qualifications, and a description of the facilities and materials to be used in each such activity;

"(2) assurances satisfactory to the issuer of the license that each recombinant DNA activity to be conducted under the license will be conducted in accordance with applicable physical and biological containment requirements prescribed under subsection (a)(3)(A)(i);

"(3) assurances satisfactory to the issuer of the license that in that conduct of each such activity there will be compliance with applicable personnel safety requirements prescribed under subsection (a)(3(A)(ii);

"(4) asssurances satisfactory to the issuer of the license that the holder of the license shall make such reports, and shall maintain such records, respecting each such activity (including reports, and records of any significant or recurring illness, serious injury, or death of any personnel engaged in such activity and of the health care provided such personnel while engaged in such activity) as are required under subsection (a)(3)(A)(iii);

"(5) a statement of the results of any evaluation made by or known to the applicant of the risks to health or the environment which may be presented by any recombinant DNA activity to be conducted under the license; and

"(6) such additional information as the Secretary may prescribe.

Applications for the amendment of a license shall contain the information required by the preceding sentence as the Secretary determines is necessary.

"(c) A license issued under this section shall be valid for such period (but not in excess of thirty-six months) as the Secretary may prescribe. Such a license shall contain such terms and conditions as the Secretary finds are necessary and appropriate to carry out the requirements of this section and shall identify each recombinant DNA activity which may be conducted under the license and the facility in which it is to be conducted.

"(d) The Secretary may revoke, suspend, or limit a license if he finds, after reasonable notice and opportunity for a hearing to the holder of the license, that the holder of the license, any employee or agent of the holder, or any person engaged in a recombinant DNA activity in such facility—

"(1) misrepresented any material fact in obtaining the license,

"(2) has engaged in or attempted to engage in, or represented himself as entitled to perform, any recombinant DNA activity not authorized by the license,

"(3) has failed to comply with any of the terms or conditions of the license,

"(4) has failed to comply with a request of the Secretary for any information or materials the Secretary finds necessary to determine the continued eligibility for the license or to evaluate the possible effects on health or the environment of the recombinant DNA activities conducted in the facility.

"(5) has failed to comply with a request of the Secretary to inspect any portion of the facility, its operations, or its records, which are related to recombinant DNA activities, or

"(6) has violated or aided and abetted in the violation of any requirement established under this part.

"(e) The Secretary shall, within one year after the regulations initially promulgated under subsection (a)(3) take effect, prepare a summary of the recombinant DNA activities authorized to be conducted under licenses issued under this section and shall, subject to section 480, make such summary

available for inspection by the public at reasonable times and places. Such summary shall be kept current by the Secretary.

"LOCAL BIOHAZARDS COMMITTEES

"SEC. 476. (a) No facility may be licensed under section 475 unless a local biohazards committee has been established in accordance with this section with jurisdiction over such facility. The Secretary shall prescribe the number and type of facilities which may be within the jurisdiction of a single local biohazards committee.

"(b) Each local biohazards committee (hereinafter in this section referred to as a 'committee') shall be established and operate in the manner prescribed by this section and regulations of the Secretary under this section. Such regulations shall be initially promulgated within one hundred and eighty days of the date of the enactment of this part, and shall provide that a committee may not exercise the functions prescribed by subsection (c) unless the Secretary has authorized its establishment for purposes of this part.

"(c)(1) Each committee shall have the authority prescribed by section 475 with respect to the issuance, amendment, and renewal of licenses under that section. A committee shall receive and consider license applications in accordance with such procedures as the Secretary shall prescribe. A committee may not approve an application for the issuance, amendment, or renewal of a license unless at least three-fourths of the members of the committee vote to approve the application. Upon the written request of any member of a committee for review by the Secretary of any decision of the committee respecting the issuance, amendment, or renewal of a license, the Secretary shall conduct such review and report the results of this review to the committee. Such a detailed statement of the reasons for requesting review by the Secretary.

"(2) A committee shall, with respect to a facility licensed under section 475, be responsible for such inspections (in accordance with section 477) and monitoring activities as the Secretary may require to assure that the recombinant DNA activities conducted in such facility are conducted in accordance with the requirements of this part and of the license of the facility. No person who is a member of a committee and who is engaged in or has a financial interest in any recombinant DNA activity may participate in any function of the committee with respect to such activity.

"(d)(1) Each committee shall have not less than seven or more than thirteen voting members. The members of a committee shall be individuals who by virtue of their training or experience are qualified to participate in the functions of the committee. At least one member of a committee shall represent the interests of nonprofessionals engaged in recombinant DNA activities and one shall represent a local public health authority within the jurisdiction of the committee; and there shall be two nonvoting members, one of whom shall represent a local government within such jurisdiction, and one shall be representative of the interests of a community within such jurisdiction. At least one-third of the voting members of any committee shall be individuals who are not employees of, and who do not have a financial interest in, any applicant for a license under section 475.

"(2) The Secretary may require a committee to use a biological safety officer to carry out the monitoring and inspection functions of the committee with respect to recombinant DNA activities described in subparagraphs (A) and (B) of section 475(a)(4). Such an officer shall have such public health, microbiological, and other appropriate training as the Secretary shall prescribe.

"INSPECTIONS

"SEC. 477. (a)(1) For purposes of enforcement of the licensing requirements of this part and the requirements of section 472 applicable to facilities, individuals (including employees and agents of local biohazards committees) designated as inspectors by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge and after clearly informing him of their authority, are authorized to enter and inspect any facility in a State in which a recombinant DNA activity is being conducted or in the case of individuals conducting an inspection for a local biohazards committee, any facility under the jurisdiction of such committee in which a recombinant DNA activity is being conducted. A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Such an inspection (A) shall be made during the normal business hours of the facility being inspected and in a reasonable manner, and (B) may extend to relevant equipment, materials, containers, records, files, papers, processes, controls, facilities, and all other things in the facility bearing on whether the recombinant DNA activity is being conducted in accordance with the licensing requirements of this part or the applicable requirements of section 472.

"(2) Upon completion of any inspection of a facility authorized by paragraph (1) and prior to leaving the facility, the individual making the inspection shall give to the owner, operator, or agent in charge a preliminary report which summarizes any condition or practice observed by such individual which, in his judgment, indicates a violation of the licensing requirements of this part. He shall also prepare a written final report of his findings and send it to such owner, operator, or agent within thirty days of the completion of the inspection.

"(b)(1) For purposes of enforcement of the requirements prescribed by or under sections 472 and 474, individuals (including employees and agents of local biohazards committees) designated as inspectors by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent (if any of these be present) in charge of—

"(A) a vehicle or other conveyance which may be used in the transportation of recombinant DNA and in which the inspector has reasonable grounds to believe that recombinant DNA is present, or

"(B) any real property which is not subject to inspection under subsection (a) and in which the inspector has reasonable grounds to believe recombinant DNA is present,

and after clearly informing him of their authority under this paragraph, may enter such conveyance or real property at reasonable times, and inspect, at reasonable times and in a reasonable manner, such conveyance or real property and all things in that conveyance or real property which he has reasonable grounds to believe bear on whether a recombinant DNA activity is being conducted in accordance with the applicable requirements of section 472 or 474.

"(2) Upon completion of any inspection of a conveyance or real property authorized by paragraph (1) and prior to leaving it, the individual making the inspection shall give to the owner, operator, or agent in charge a preliminary report which summarizes any condition or practice observed by such individual which, in his judgment, indicates a violation of the requirements of section 472 or 474. He shall also prepare a written final report of his findings and send it to such, owner, operator, or agent within thirty days of the completion of the inspection.

"(c) At the request of an inspector conducting an inspection under subsection (a) or (b) of a facility, conveyance, or real property, the person in charge of such facility, conveyance, or property shall provide such samples of—

"(1) recombinant DNA in such facility, conveyance, or property, or

"(2) materials used in or produced by any recombinant DNA activity conducted in such facility or property, as the inspector may require to determine if the applicable requirements of sections 472, 474, and 475 are being complied with.

"(d) If during an inspection of a facility, conveyance, or real property conducted under subsection (a) or (b), recombinant DNA or any material used in or produced by a recombinant DNA activity which the inspector making the inspection has reason to believe presents a significant risk to health or the environment is found in such facility, conveyance, or property, such inspector may order the recombinant DNA or material detained (in accordance with regulations promulgated by the Secretary) for a reasonable period which may not exceed twenty days unless the Secretary determines that a period of detention greater than twenty days is required to institute an action under section 479(b), in which case the Secretary may authorize a detention period of not to exceed an additional thirty days. Any recombinant DNA or material subject to a detention order issued under this subsection shall not be moved by any person from the place at which it is ordered detained until—

"(1) released by the Secretary, or

"(2) the expiration of the detention period applicable to such order,

whichever occurs first.

"(e) No individual designatd by the Secretary to conduct an inspection under subsection (a) or (b) shall be required to obtain a search or inspection warrant from any judical officer before entering any facility, conveyance, or real property to conduct such inspection.

"(f) No individual who is engaged in or has a direct financial interest in any recombinant DNA activity may be designated by the Secretary to conduct an inspection under subsection (a) of the facility in which such activity is being conducted, and no individual who is engaged in or has a direct financial interest in any recombinant DNA activity subject to regulation under section 472 or 474 may be designated by the Secretary to conduct an inspection under subsection (b) with respect to the activity in which he is engaged.

"PROHIBITED ACTS AND PENALTIES

"SEC. 478. (a) No person may violate the provisions of this part or any regulation promulgated under this part.

"(b)(1) Any person who violates subsection (a) may have their license revoked, suspended, or limited by the Secretary in accordance with section 475(d).

"(c) Any person who knowingly or willfully violates subsection (a) shall be subject, upon conviction, to a fine of not more than $2,000. Each day a violation of subsection (a) continues shall constitute a separate violation for purposes of this subsection.

"(d) For a period of time to be determined by the court, no grant, contract, or other form of financial assistance for any purpose related to recombinant DNA may be provided under this Act to any person convicted under subsection (c) of a violation of subsection (a).

"INJUNCTION AUTHORITY; EMERGENCY PROCEDURE

"SEC. 479. (a) The district courts of the United States shall have jurisdiction over civil actions to restrain any violation of section 478 (a). Such a civil action may be brought in the United States district court

for the judicial district wherein any act, omission, or transaction constituting a violation of section 478 (a) occurred or wherein the defendant is found or transacts business. In any such civil action, process may be served on a defendant in any judicial district in which the defendant resides or may be found. Subpenas requiring attendance of witnesses in any such action may be served in any judicial district.

"(b) The district courts of the United States shall have jurisdiction over any civil action brought (1) for the seizure or destruction of any recombinant DNA, or any material used in or produced by a recombinant DNA activity, which recombinant DNA or material presents or may present a significant risk of health or the environment or (2) for other appropriate relief to prevent its production or movement. Such civil action shall be brought in the district court of the United States within the jurisdiction in which such recombinant DNA or material is found.

"DISCLOSURE OF DATA

"SEC. 480. (a) (1) Any information reported to, or otherwise obtained by, the Secretary (or any representative of the Secretary) or any local biohazards committee under this part, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section, shall not be disclosed, except that such information—

"(A) shall be disclosed by the Secretary to any officer or employee of the United States—

"(i) in connection with the official duties of such officer or employee under any law for the protection of health or the environment, or

"(ii) for specific law enforcement purposes;

"(B) shall be disclosed by the Secretary if the Secretary determines it necessary to protect health or the environment against an unreasonable risk of injury; or

"(C) may be disclosed by the Secretary when relevant in any proceeding under this part, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

A research hypothesis, design, or protocol shall, for purposes of this paragraph, be considered to be information which is exempt from disclosure pursuant to subsection (a) of setcion 552 of title 5, United States Code, by reason of subsection (b) (4) of such section.

"(2) In any proceeding under subsection (a) of section 552 of title 5, United States Code, to obtain information the disclosure of which has been denied because of the provisions of paragraph (1) of this subsection, the Secretary or a local biohazards committee may not rely on subsection (b) (3) of such section 552 to sustain the Secretary's or committee's action.

"(b) Subsection (a) (1) does not prohibit the disclosure of any statement of an evaluation of risks submitted under section 475 (b) (5).

"(c) (1) In submitting data under this part, the individual or entity submitting the data may (A) designate the data which such individual or entity believes is entitled to confidential treatment under subsection (a) (1), and (B) submit each designated data separately from other data submitted under this part. A designation under this paragraph shall be made in writing and in such manner as the Secretary may prescribe.

"(2) (A) Except as provided in subparagraph (B), if the Secretary or a local biohazards committee proposes to release for inspection data which has been designated under paragraph (1) (A), the Secretary or committee shall notify, in writing and by certified mail, the individual or entity which submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Secretary or committee. The Secretary or committee may not release such data until the expiration of thirty days after the individual or entity submitting such data has received the notice required by this subparagraph.

(B) Subparagraph (A) shall not apply to the release of information under subparagraph (A), (B), or (C) of paragraph (1) of subsection (a), except that the Secretary may not release data under subparagraph (B) of such paragraph (1) unless the Secretary has notified each individual or entity who submitted such data of such release. Such notice shall be made in writing by certified mail at least fifteen days before the release of such data, except that if the Secretary determines that the release of such data is necessary to protect against an imminent, unreasonable risk of injury to health or the environment, such notice may be made by such means as the Secretary determines will provide notice at least twenty-four hours before such release is made.

(d) Any officer or employee of the United States (including any member or employee of the Advisory Committee) or member or employee of a local biohazards committee or former officer or employee of the United States or former member or employee of such a committee, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a), and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to publishing, divulging, disclosing, making known, or making available information reported or otherwise obtained under this part.

(e) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Secretary (or any representative of the Secretary) or by any local biohazards committee under this part shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

"(f) Each local biohazards committee shall be considered an agency for purposes of section 552 of title 5, United States Code.

"ADVISORY COMMITTEE

"SEC. 481. (a) There is established the Recombinant DNA Advisory Committee which shall advise the Secretary and make recommendations to the Secretary for the effective administration of this part.

"(b) The Advisory Committee shall consist of seventeen members appointed by the Secretary from individuals who by virtue of their training or experience are qualified to participate in the functions of the Advisory Committee. Of the individuals appointed as members of the Advisory Committee (1) one shall be representative of the interests of nonprofessional personnel engaged in recombinant DNA activities; (2) one shall be representative of the interests of entities engaged in such activities for commercial purposes; and (3) at least nine shall be individuals who are not actively engaged in any recombinant DNA activity and do not have a direct financial interest in such an activity. Of those nine individuals, at least four shall be scientists who are knowledgeable in the various scientific and medical disciplines necessary for an evaluation of the potential risks to health and the environment presented by recombinant DNA activities.

Receipt of a salary from an institution that sponsors recombinant DNA activity shall not qualify as a direct financial interest. One member of the Advisory Committee shall be a specialist in public health, one shall have background in the ethical concerns involved in biomedical research, and three shall represent the interests of the general public. The term of office of a member of the Advisory Committee shall be three years, except that of the members first appointed to the Advisory Committee, six shall be appointed for a term of one year and six shall be appointed for a term of two years, as designated by the Secretary at the time of appointment. Section 14 of the Federal Advisory Committee Act shall not apply with respect to the duration of the Advisory Committee.

"(c) Members of the Advisory Committee (other than officers or employees of the United States), while attending meetings or conferences of the Advisory Committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not at rates exceeding the daily equivalent of the rate in effect for grade GS–18 of the General Schedule, for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business each member may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"EMPLOYEE PROTECTION

"SEC. 482. (a) No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this part,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to enforce any requirement of this part.

"(b) (1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alledged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of this investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If in response to a complaint filed

under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, and (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

"(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief. Civil actions brought under this subsection shall be heard and decided expeditiously.

"(e) Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this part.

"RELATIONSHIP TO OTHER FEDERAL LAWS

"Sec. 483. (a) Except as provided in subsection (b), notwithstanding any other provision of law, this section shall limit the authority of any Federal agency to regulate or to make any requirements applicable to recombinant DNA activities.

"(b)(1) Upon application by a Federal agency, and after consultation with such agency, the Secretary may exempt such agency from subsection (a).

"(2) An application for an exemption shall be accompanied by the proposed requirement and the reasons therefor.

"(3) If the Secretary grants an exemption, the proposed requirement shall be promulgated in accordance with section 553 of title 5 of the United States Code.

"(4) The Secretary may limit, alter, or withdraw such exemption.

"EFFECT ON STATE AND LOCAL REQUIREMENTS

"Sec. 484. (a) Except as provided in subsection (b), no State or political subdivision of a State may establish or continue in effect any requirement for the regulation of recombinant DNA activities.

"(b) Upon application of a State or political subdivision of a State, the Secretary may allow, by order promulgated after providing (in accordance with this subsection) notice and opportunity for an oral hearing on such application and after considering local conditions, exempt from subsection (a), under such conditions as may be prescribed in such order, a requirement of such State or political subdivision applicable to recombinant DNA activities if—

"(1) the requirement is more stringent than a requirement under this part which would be applicable to such activities if an exemption were not in effect under this subsection; and

"(2) the requirement is necessary to protect health or the environment and is required by compelling local conditions.

A State or political subdivision which submits an application under this subsection shall be given an opportunity for an oral hearing on such application to be commenced not later than sixty days from the date the application is submitted. The presiding officer at such a hearing shall upon conclusion of the hearing make a written recommendation to the Secretary respecting approval of the application upon which the hearing was held.

"(c) Within—

"(1) sixty days of the conclusion of a hearing held on an application submitted under subsection (b), or

"(2) one hundred and twenty days of the date the application was submitted,

whichever occurs later, the Secretary shall either approve or disapprove such application. The decision of the Secretary shall be in writing, shall, if a hearing was held on the application, contain the recommendation made by the presiding officer at such hearing, and shall include a statement of the reasons for the decision of the Secretary.

"TRAINING AND STUDIES

"Sec. 485. (a) The Secretary may conduct and support training in the safe handling of recombinant DNA.

"(b) The Secretary shall conduct or support on a continuing basis studies designed to assess the risks to health and the environment which may be presented by recombinant DNA activities.".

EXPIRATION OF ACT

Sec. 4. This Act expires five years after its enactment.

XI Supplemental Views of Senator Nelson

S. 1217, a bill to regulate deoxyribonucleic acid (DNA) activities has a laudable goal: the protection of public health and safety by requiring that uniform national guidelines be met by scientists conducting recombinant DNA research, both in publicly supported and private industry research laboratories.

However, I am concerned that S. 1217 is unnecessarily burdensome and detrimental to the future of this important biomedical research.

Scientists all agree that the joining together of different segments of deoxyribonucleic acid (DNA) is a potent tool for the conquest of disease and other beneficial scientific advances. The recently announced discovery that recombined genes facilitate the production of insulin by bacteria is an example of such an important breakthrough. Recombining fragments of DNA occurs continually in nature. Four years ago, however, at a 1973 Gordon Conference on Nucleic Acids, scientists involved in developing recombinant DNA research drew attention to the possible hazards of manmade recombinants.

Because scientists and laboratory technicians are at greatest risk of direct contact with the organisms involved, they have been most concerned with clearly defining the hazards. To date, despite many thousands of recombinant DNA experiments, no known hazards have occurred.

Nevertheless, as a result of concerns expressed in the 1973 Gordon Conference, and a 1975 Asilomar Conference, guidelines were promulgated by the National Institutes of Health (NIH) in 1976, which are required to be met by any researchers having Federal financial support. The guidelines, however, cannot be enforced in the private sector without enabling legislation.

Therefore, legislation to simply extend the NIH Guidelines to all sectors engaged in recombinant DNA activities seems appropriate.

NIH guidelines

The NIH guidelines prohibit certain kinds of recombinant DNA experiments and the release of recombinant molecules into the environment. Permissible experiments are outlined and are assigned both a physical and biological containment level, depending on assessment of potential biohazards.

Physical containment refers to methods used to prevent release of organisms containing recombinant DNA molecules from the lab. Relying on proven methods that have been developed for handling known pathogenic organisms in clinical and research laboratories, physical containment is approached in two ways: (1) standard microbiological practices and training are prescribed by the guidelines; (2) special kinds of equipment and facilities are used. Four levels of physical containment are described, progressing from least to most strict; P–1, P–2, P–3, P–4.

Biological containment refers to methods whereby organisms are weakened, so that, in the event of their escape from the laboratory, their survival is extremely improbable. The guidelines characterize three levels of impairment of a weakened laboratory strain known as E-coli K–12.

The guidelines also provide an administrative framework for their implementation and a compendium of safety information.

The guidelines require establishment of institutional bio-hazard committees for local review of recombinant DNA activities.

A Recombinant DNA Advisory Committee, under the auspices of the National Institutes of Health, meets regularly to review and update the guidelines. At their May 15, 1977, meeting, the Advisory Committee issued the following statement:

During this period the committee has become better informed about the general ecology and epidemiology of infectious microorganisms. Experiments have been reported showing that the incorporation of foreign DNA does not increase but rather tends to decrease the growth rate of microorganisms, and this further contributes to the unlikelihood that cells carrying recombinant DNA will survive in nature and produce harmful effects. Indeed, everything that we have learned has tended to diminish our estimate of risk. Nevertheless, the revised guidelines continue to represent a deliberately conservative approach, with the intent of erring on the side of caution.

Uniform guidelines

The Federal Inter-Agency Committee Recombinant DNA Research in 1976 proposed that a single set of national standards be applied to all recombinant DNA activities.

HEW and representatives of private industry testified before the Health Subcommittee that all laboratories receiving Federal grants now comply with the NIH guidelines, and private laboratories voluntarily impose the same guidelines on themselves. However, the extent to which the guidelines are enforced in the private sector, cannot be determined without Federal law.

Therefore, the administration proposed a bill, largely based on the committee's recommendations, which provided HEW with the responsibility for regulation and specified that the NIH guidelines be promulgated as initial standards. The scope of the regulation was directed to the use and production of recombinant DNA molecules. The Department was to exercise its regulatory authority

in close consultation with other appropriate agencies.

Scientists' concerns

A 1977 Gordon Research Conference on Nucleic Acids expressed serious reservations about pending legislation. An open letter to Congress, June 18, 1977, signed by 137 members of the conference states:

We are concerned that the benefits of recombinant DNA research will be denied to society by unnecessarily restrictive legislation.

Four years ago, the members of the 1973 Gordon Conference on Nucleic Acids were the first to draw public attention to possible hazards of recombinant DNA research. The discussions which started at that meeting resulted in the issuance in 1976 of the NIH guidelines for the conduct of this research.

We, members of the 1977 Gordon Research Conference on Nucleic Acids, are now concerned that legislative measures now under consideration by congressional, State and local authorities will set up additional regulatory machinery so unwieldy and unpredictable as to inhibit severely the further development of this field of research. We feel that much of the stimulus for this legislative activity derives from exaggerations of the hypothetical hazards of recombinant DNA research that go far beyond any reasoned assessment.

This meeting made apparent the dramatic emergence of new fundamental knowledge as a result of application of recombinant DNA methods. On the other hand, the experience of the last 4 years has not given any indication of actual hazard. Under these circumstances, an unprecedented introduction of prior restraints on scientific inquiry seems unwarranted.

We urge that Congress consider these views. Should legislation nevertheless be deemed necessary, it ought to prescribe uniform standards throughout the country and be carefully framed so as not to impede scientific progress.

The 137 undersigned are members of the 1977 Nucleic Acids Gordon Conference.

In addition, a number of other scientists and scientific organizations have expressed similar concerns, including the Inter-Society Council for Biology and Medicine, comprising officers of seven professional organizations; the American Institute of Biological Sciences, the American Society for Medical Technology, the American Society for Microbiology, the American Society of Allied Health Professions, the Association of American Medical Colleges, the Federation of American Societies for Experimental Biology and the National Society for Medical Research.

Thirteen members of the National Academy of Sciences signed a resolution as follows:

RESOLUTION OF THE NATIONAL ACADEMY OF SCIENCES, APRIL 26, 1927

Three years ago the National Academy of Sciences played an important role in initiating responsible and informed discussion on the need for controls and recombinant DNA research. The subsequent debate, both inside and outside the scientific community, resulted in a set of guidelines formulated under the sponsorship of the National Institutes of Health. Now the Congress is considering several drafts of detailed and far reaching legislation dealing with the regulation of recombinant DNA research.

The NIH guidelines are the result of careful deliberation and we favor their simple conversion into a uniform national set of regulations. However, much of the proposed legislation now before Congress would allow local communities or states to set their own stricter regulations, including even a complete ban on this type of research. It is reasonable for the local community to participate in supervising adherence to regulations. But the question concerns speculative rather than known dangers and these would not vary from one locality to another.

The research institutions of the country constitute an important national resource, and differing local options could subject that resource to arbitrary regulations. Overly restricting this type of research would severely degrade the capability of biomedical research and limit its contribution to the public welfare. In essence, it would allow a local community to affect a critical component of national policy. Above all, local option would set a dangerous pattern for the regulation of basic research in a manner that might deprive society of substantial future benefits.

Some of the legislation proposes to establish a national regulatory commission expressly to govern recombinant DNA research. Its broad powers for controlling basic research represent a wholly new and unfortunate departure. We are also concerned that it would set a precedent for the regulation of other areas of science. A much simpler and more flexible mechanism allowing for public participation could carry out those functions that may be needed.

Therefore, be it resolved that we voice concern about legislative developments in this area and ask the president of the National Academy of Sciences to relay these concerns to appropriate officials in the government.

D. Baltimore, B. D. Davis, H. Eagle, J. T. Edsall, C. Grobstein, D. M. Horstmann, R. Hotchkiss, R. J. Huebner, A. Rich, W. A. Rosenblith, F. N. Ruddle, R. L. Sinsheimer, E. L. Smith.

Thus, while I agree with the intent of S. 1217, I have serious reservations about its approach, based on scientists' concerns that it will impose unnecessarily burdensome controls on scientific research. My concerns are as follows:

(1) *Commission.*—The bill will create a new and expensive bureaucracy that is unwarranted.

Section 1801 of S. 1217 establishes an independent Commission to license, regulate and make policy decisions regarding recombinant DNA activities. Members would be appointed by the President, with Senate approval for the Commission Chairman. A majority of the members would be public, nonscientists. Section 1801(b) prohibits a majority of members on the Commission who are or have been engaged in recombinant DNA research. This would severely limit the expertise of a Commission whose major purpose is to protect health and safety from untoward effects of such research.

Furthermore, all members would have other primary responsibilities besides their Commission activities. Given the number and the highly technical nature of the assigned tasks, such a part-time Commission would be unworkable, in my view. Section 1816(e) permits the Commission to delegate technical matters to its staff or to ad hoc working groups; however, I do not believe it is our intent to delegate these important duties to staff. An important question also arises as to who actually would be accountable for the regulatory activities of such a free-standing Commission.

Section 361 of the Public Health Service Act already provides HEW with the following broad authority to regulate laboratory work with disease-producing microorganisms:

"The Surgeon General with the approval of the Secretary is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the states or possessions or from one state or possession into any other state or possession."

Under this statute, the Center for Disease Control has established regulations for containment and requirements for working with different classes of organisms, including total prohibition on work with a few lethal microorganisms. As a result, there have been very few cases of laboratory-associated infection in the history of the United States and none that have spread to the community.

Existing law also provides HEW with authority to regulate private and public interstate clinical laboratories (Clinical Laboratories Improvement Act of 1967, Public Law 90–174) and legislation is being considered to broaden HEW's regulatory authority to intrastate clinical laboratories. This authority will not cover biomedical research nor is it my intent that it should, but as with the above-mentioned authority to regulate laboratory work with disease-producing organisms, it can provide an alternative mechanism in place for monitoring compliance with the guidelines for recombinant DNA activities.

Finally, the NIH has an administrative mechanism in place to implement its guidelines on recombinant DNA activities.

Therefore, a simple extension of HEW's authority to allow for enforcement of DNA guidelines in the private sector would accomplish the objective of establishing uniform national guidelines for recombinant DNA activities.

(2) *Penalties.*—Section 1809 establishes penalties for noncompliance, for "any person who knowingly, willfully or negligently" violates a provision of section 1803, general requirements and section 1808, prohibited acts. It authorizes a penalty of $10,000 for each violation with each day constituting a separate violation.

The term "negligence" is not clearly defined. Such a penalty also appears to be excessive and disproportionate. License revocation in itself is an effective penalty. Furthermore a dollar penalty would not deter those who wish to willfully disregard regulations. In short, we run the risk of enacting legislation which will obstruct the law-abiding while not effectively deterring the lawbreaker.

(3) *Seizure and destruction of research material.*—Section 1810 gives inspectors authority to seize and destroy "a hazardous product of recombinant DNA activities" with the approval of the Commission Chairman or his designee. A better procedure would be to seize and hold material pending a judicial hearing.

(4) *Preemption.*—On the whole, I support Section 1813, which expresses Congressional intent that Federal Guidelines supersede any and all laws regarding recombinant DNA activities of States and of political subdivisions. I believe, however, that the granting of exemptions should take into account the national interest. The purpose of legislation should be to establish uniform national standards to regulate recombinant DNA activities; otherwise, legislation is not necessary. Since microbes do not respect Federal, State, or community boundaries, the most effective standards will be those adopted internationally. If we are to negotiate for international standards, we must have good uniform national standards, not a potpourri of domestic standards.

Citizens should have input into decisions regarding protection of the health and environment of their local communities. However, the authority to grant exemptions should be at the Secretary's discretion, based on clear demonstration that the public health and environment is endangered. If a locality proposes more stringent requirements for DNA research as necessary to protect health and environment, it is likely that other communities would require it; thus, the Secretary should evaluate the need for inclusion of more stringent requirements in the general Federal guidelines, rather than grant individual exemptions from them.

(5) *Disclosure of research details.*—Detailed descriptions of recombinant DNA projects are required to be reported at three places in the bill: General requirements and licensure (secs. 1803(b)(1)(C) and 1803(b)(2)(A)(ii)), and registration of DNA projects (sec. 1818(a)). Such detailed descriptions of research protocols would thus be given to local biohazard committees; to the Commission for licensure; and to the Commission for purposes of registering each research project. Section 1803(c) requires the Commission to publish such information in the Federal Register with each license application.

The requirements impose enormous paperwork burdens on researchers. In addition, although Section 1817 contains certain exemptions from disclosure, it is not clear that it will protect the research protocols, designs, and hypotheses of academic and industry researchers. In a recent court ruling relating to subsection (a) of section 552 of title 5, United States Code (b)(4) (Freedom of Information Act), HEW was ordered to release research protocols on grounds they were not trade secrets (*Washington Research Project, Inc.* v. *DHEW*). A statute affording positive protection, therefore, for intellectual property rights associated with recombinant DNA activities should be developed in accordance with subsection (b)(3) of the Freedom of Information Act (FOIA).

(6) *"Sunset" provision.*—There should be a "sunset" provision that requires review of the need for the legislation after a reasonable time period.

(7) *Impact on small business.*—The paperwork and compliance requirements of the legislation will be particularly difficult for small companies to meet, putting them at competitive disadvantages with large industries. Compliance with the NIH Guidelines already has imposed administrative burdens on small laboratories, although they are able to meet the requirements.

In summary, I must dissent from the decision of the Committee to recommend passage of S. 1217 as reported. Appropriate legislation to allow the application of uniform Guidelines by HEW to all sectors will enable the United States to negotiate for international guidelines for recombinant DNA activities.

S. 1217, however, sets a bad precedent for future restrictive regulation of biomedical research in general. The compliance provisions and paperwork are excessive, possibly unworkable, and particularly burdensome for small businesses. The potential for obstructing research and impeding progress in conquering diseases appears to be much greater than the benefits accruing to the public through the provisions of this legislation.

[From the New York Times, July 31, 1977]

LEGISLATING THE LABORATORIES

(By Walter Sullivan)

One of the tragedies of modern science was the destruction of Soviet genetics during the 1930's and 1940's, in effect by government decree. It was decided by the leaders of the Communist Party that Trofim D. Lysenko was right and that classical Russian geneticists were reactionary and disloyal. Nikolai I. Vavilov, widely recognized as one of the world's leading plant geneticists, and many others were exiled. Vavilov apparently died in the labor camp at Magadan on the Sea of Okhotsh. Lysenko's ideas were applied to agriculture, resulting in near disaster.

Now it is being argued that in the United States steps are about to be taken toward similar suppression of genetic research, though the motives differ. The concern is for legislation pending both in Albany and Washington that would establish elaborate—some researchers say stifling—controls over research involving manipulation of the key molecules in genetics: those of DNA (deoxyribonucleic acid). Such altered molecules are known as recombinant DNA.

Ironically the legislation is moving toward enactment at a time when a number of those who first sounded the alarm on such research have become convinced by new findings that it can be done in absolute safety. The result is an intensive effort by such scientists to head off the most stringent provisions, particularly those in a Senate bill introduced by Senator Edward Kennedy.

There is also deep concern that Federal legislation will allow local and state governments to impose even more severe limits, or ban such research entirely.

Recombinant DNA molecules, as defined in the Senate bill, "consist of different segments of DNA which have been joined together in a cell-free system, and have the potential for entering and propagating in a particular host cell, either autonomously or as an integral part of that cell's genome." The genome is the cell's storehouse of information, coded into DNA, that controls its development, function and reproduction.

Among the goals of producing such molecules is the introduction of new capabilities into organisms, such as food crops, or the alteration of viruses and bacteria in the war against disease. Both the House and Senate bills, in their preambles, recognize these potential benefits, as well as certain health and environmental hazards.

The favorite tool for genetic research is a group of intestinal bacteria known as Escherichia coli. They occur in thousands of varieties. Most are harmless, even beneficial, inhabitants of the intestinal tracts of human beings and other warm-blooded animals. Some cause diarrhea, notably among tourists exposed to unfamiliar strains.

When recombinant DNA is allowed to enter a culture of such bacteria (known for short as E. coli) it proliferates there, making the bacteria an ideal "nursery." The fear has been that a bacterial culture with an "unnatural" load of genetic material might escape the laboratory and create an epidemic against which there was little or no resistance.

When biologists from many parts of the world met in Asilomar, Calif., in 1975 to consider a voluntary moratorium on some aspects of DNA research, pending assessment of possible hazards. Dr. Roy Curtiss 3d of the University of Alabama proposed that the K12 strain of E. coli could be made so helpless than it could multiply only under special laboratory conditions. There would then be no danger of its spreading.

Now, in a detailed report to Dr. Donald Frederickson, director of the National Institutes of Health, he has, in effect, reported success in this effort.

In recent weeks 277 participants in two of the Gordon Research Conferences in New Hampshire have signed protests against the proposed legislation. The conferences, each summer, bring together top-ranking researchers in a variety of fields.

One document was signed by 137 specialists in research on nucleic acids including DNA. The second was signed by 140 of 164 biologists at a five-day meeting on biological regulatory mechanism. It said "no indication of actual danger has been uncovered," and termed the proposed regulations unprecedented "prior restraint" that could "deprive society of needed improvements in public health, agriculture, industry and environmental protection." Lest the foundation supporting the conferences lose its tax-exempt status it was emphasized that the organization was in no way associated with the appeals.

Then, on July 14, Dr. Sherwood L. Gorbach of Tufts University Medical School reported to Dr. Frederickson on a workshop held at Falmouth, Mass., under sponsorship of two units of Dr. Frederickson's National Institutes of Health. The participants, some 50 in number, he said, "arrived at unanimous agreement that E. coli K12 cannot be converted into an epidemic pathogen by laboratory manipulations with DNA inserts."

During the workshop, researchers from American laboratories and the Public Health Laboratory Service in London told of tests with human volunteers supporting the belief that such bacteria cannot colonize outside the laboratory.

While the proposed supervision, inspection and accounting are not a complete novelty—they have features in common, for example, with those applied to private nuclear power plants—they have evoked vehement responses. Americans for Democratic Action, a liberal offshoot of the Democratic Party, stated in part: "It should be remembered that strict societal control of the activities of scientists has been a step in the establishment of totalitarian states." This, it added, led to "inhuman" experiments in Nazi Germany and to Lysenkoism in Russia.

The parallel with Lysenkoism, however, seems questionable. The purpose here is not to decree what is true but what is safe. The concern of those who first sounded the alarm—and now almost wish they had not—is that control over research will come into the hands of political appointees incapable even of understanding the issues.

The Senate bill provides for an 11-member National Recombinant DNA Regulation Commission to be appointed by the President. It specifies that six members be chosen "who are not and have never been professionally engaged in biological research." The other five would be specialists in such research but with no financial interest in recombinant DNA activities. The commission would be empowered to regulate and license the research and send inspectors to insure compliance.

The House bill is lower key. The Secretary of Health, Education and Welfare would promulgate the regulations, subject to "recommendations" by a Recombinant DNA Advisory Committee. Of the 17 members of that committee a majority would not be engaged in DNA research, but some in that majority could be biologists. Details of licensing procedures are left to the government. Local biohazards committees could do the inspections under government auspices. In cases of violation one bill provides for fines up to $10,000 per day. The other allows fines as large as $50,000.

The prospect of ill-informed regulation by local governments seems to have convinced many DNA researchers that the best they can hope for is a bill like that before the House, which leaves regulation in the hands of government. Guidelines for DNA research have already been set forth by the National Institutes of Health providing, in the most extreme cases, for safety measures as stringent as those used when biological warfare agents were being developed. These guidelines are widely accepted by the researchers as reasonable and prudent. They would presumably form the basis for more formal regulations.

Among those who signed the original 1974 appeal for a temporary moratorium was Dr. James D. Watson who shared a Nobel Prize for his work on the structure of DNA. Now he feels the call for caution has almost resulted in panic.

"The vision of the hysterics has so peopled biological laboratories with monsters and super bugs," he wrote recently, "that I often feel the discussion has descended to the realm of a surrealistic nightmare."

ENERGY POLICY ACT—S. 977

AMENDMENTS NOS. 757 AND 758

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted two amendments intended to be proposed by him to

the bill (S. 977) to require that new and, to the extent practicable, existing electric powerplants and major fuel-burning installations, in categories to be determined, utilize other than natural gas or petroleum as their primary energy source in compliance with applicable environmental requirements, and for other purposes.

AMENDMENT NO. 770

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. JACKSON, Mr. MAGNUSON, Mr. RANDOLPH, Mr. HASKELL, Mr. FORD, Mr. MATSUNAGA, Mr. ABOUREZK, Mr. HATHAWAY, Mr. WEICKER, and Mr. MCINTYRE) submitted an amendment intended to be proposed by them jointly to the bill (S. 977), supra.

ATTORNEYS' FEES—S. 270

AMENDMENTS NOS. 759 THROUGH 763

(Ordered to be printed and referred to the Committees on Governmental Affairs and the Judiciary, jointly.)

Mr. ALLEN submitted 10 amendments intended to be proposed by him to the bill (S. 270) to amend chapter 5 of title 5, United States Code—commonly known as the Administrative Procedure Act—to permit awards of reasonable attorneys' fees and other expenses for public participation in Federal agency proceedings, and for other purposes.

NOTICE OF HEARINGS

WELFARE REFORM AND HOUSING PROGRAMS

Mr. PROXMIRE. Mr. President, I should like to announce that the Committee on Banking, Housing and Urban Affairs will hold a hearing on Monday, August 8, 1977, on the relationships between welfare reform and housing programs.

The hearing will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

The committee would welcome statements for inclusion in the hearing record.

ADDITIONAL STATEMENTS

AMERICA'S PRIORITIES FOR THE NEXT DECADE

Mr. STEVENS. Mr. President, recently The Atlanta Constitution published excerpts from interviews by "People and Opinion" with six prominent Americans in the arts, religion, science, environment, business and public affairs. These outstanding men and women were asked to list their priorities for America's next decade. I have a great deal of admiration for one of these men in particular, and have often been guided by his wisdom and foresight. I believe that his comments will be of interest and benefit to all of my colleagues. This man is Walter J. Hickel, former U.S. Secretary of the Interior and former governor of my State of Alaska. I ask unanimous consent that the interview be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ISSUE: PRIORITIES FOR AMERICA'S NEXT DECADE

1. Equality of opportunity, the thrust of the country all during the 1960s and of the great equal rights laws of '64, '65, and is now pretty much the basis upon which the rest of the world sees us, has got to be a theme for America, because you . . . have to keep working at it.

2. Quality of life in general. If you don't have equality of opportunity it brings down the quality of life.

3. Family life. I think the country should start recognizing that we're looking at a very serious deterioration of family life. We had over 1 million divorces in this country last year and that's 1 million really tough failures on the part of young people. There were over 1 million abortions in this country last year and I think that says a great deal about the serious problems we're facing.

4. We need somehow to build a bridge between affluence and poverty. I think that if we all got together and did twice as much as we're doing now, and I mean countries like Japan, Europe and the socialist countries, we could wipe out deep, grinding poverty by the year 2000.

5. Peace on earth. If the world is ever blown up, we'll do it, we or the Russians. I don't have any easy answers. If you don't think this is a problem, consider that we're spending $300 billion on armaments this coming year.

Nancy Hanks, chairman of the National Endowment for the Arts.

Five areas this nation must address itself to in the next decade are energy, unemployment, revitalization of our cities, opportunities for the handicapped and elderly and international relations.

In all of these areas, the arts are actively involved and working to find solutions.

The arts are very much aware of the energy crunch. It is necessary that all levels of government, federal, state and local, work together to promote the use of alternative sources of energy in museums, theaters, concert halls and community arts centers. Arts administrators and public officials must realize the importance of both fuel economy and a revitalization of the inner city through the adaptation of existing buildings for performances and exhibits.

By stressing energy economy and downtown use, the arts promote accessibility to culture for our handicapped and senior citizens.

The arts also promote international good will and a better understanding of our world through the exchange of individual artists, performing companies and exhibits. And for all these reasons, the arts are helping reduce unemployment by creating an environment in which artists can enhance the quality of life for all.

Dr. Edward E. David, director of the federal Office of Science and Technology.

At first, national priorities seemed clear enough: Economic growth, employment, food, education, defense, health care, energy and environment. But how do we achieve them? The answer reveals deeper priorities.

Lasting progress toward our goals is traditionally hinged on individual ingenuity and initiative. These in turn stem from millions of individual decisions made each day. Any priorities must maintain this individuality while marshalling massive financial and human resources required for progress. Our system for technological innovation can show the way, for out of that system has come most good things in life and possibilities for aiding others. This innovation system accommodates belligerently independent scientists, ingenious engineers and practitioners, entrepreneurial zealots and imaginative marketers, most within conservative institutions. Barriers to continued wider use of such a diverse coalition arise from the tendency of governments to regulate and manage it all down to its roots according to some master plan which is politically comprehensible. Scientists and engineers have seen how this approach can stifle individuality and creativity.

Thus, our fundamental priorities should be to avoid (such) constraints, to foster an adventurous spirit, to increase the national appetite from new knowledge from science, to sharpen enthusiasm for technological change and to assure upward social mobility for individuals based on their abilities.

Richard L. Lesher, president of the Chamber of Commerce of the United States.

1. Halt inflation. This step is essential to the future health of our economy. We must have a healthy economy to provide the resources for all other desirable programs, whether social, environmental or defense.

2. Government reform/reorganization. Americans want more government services and lower taxes. The only way to enjoy that combination is to make the government operate more efficiently.

3. End the energy "crisis." A free market is the fairest and most efficient mechanism available for stimulating both maximum production and intelligent conservation of energy resources.

4. Improve economic education. Economic literacy has become an essential prerequisite to the responsible exercise of the obligation of citizenship.

5. Regain our confidence and trust. We have recently plumbed the depths of a national mood of negativism and nihilism. Our leaders from all walks of life have a very important responsibility to help restore trust in our basic institutions by conducting their affairs in accord with the highest standards of ethical and moral behavior.

Billy Graham, a noted evangelist whose crusades have gained him an international audience.

1. America should seek and welcome any increase in knowledge of and trust in the living God and Christ the Son. There is everlasting truth in the scripture, "except the Lord keep the City (the civilization), the watchman waketh but in vain."

2. America will be blessed to the degree that we learn to respect authorities, beginning with our parents. "Honor thy father and thy mother . . ." but, authorities should not be gods to whom we turn to solve all our problems. They are to assist us in bearing our own burdens and in doing good to one another.

3. Then, America should repent for every indication of unfairness or injustice to any segment of society. "Righteousness exalts a nation." That includes not reacting to injustices in vengeance.

4. Finally, give God thanks for what we have rather than complaining about what we may feel we want, especially material things, pleasures and power.

Walter J. Hickel, former U.S. Secretary of the Interior.

1. Get America back to work. If the Russians ever bury us, as Khrushchev said they would, it will not be because of ideologies or military might, it will be because they outwork us.

2. Redefine the environment. The environment is not a fad, and it will not fade. But the color of the environment is not just green. The color of the environment is real. A man who is cold, hungry and unemployed, is in an ugly environment. We must start to care about the total environment . . . people, people's needs and nature. We must never (forget) people are the most precious things on earth.

3. Solve the immediate energy problem with production. Conservation, alternate energy sources, and ultimately, fusion, are all part of the long range energy solution. But our immediate crisis can only be met by production, whether that's oil, gas, coal, or nuclear.

4. Free our people from the fear of using resources. We will find that the earth is inexhaustible, because God made man's mind inexhaustible.

5. Become less wasteful and more productive. It's the philosophy of many to redistribute wealth, but all they can do is distribute money. When that's gone all that's left is poverty. In any currency, the only wealth comes from production.

6. Keep America's conscience strong. Whether we like it or not, we're the only conscience the world has. If others falter, we come to their aid. But make no mistake, if America falters no other nation will be able to save us.

PASSIVE RESTRAINTS

Mr. RIEGLE. Mr. President, on June 30, Secretary of Transportation Brock Adams announced his decision on the required installation in new automobiles of passive occupant restraint systems.

According to that decision, passive restraint systems must be incorporated in new automobiles over a 3-year period beginning in model year 1982.

I believe Secretary Adams' decision is a reasonable one. I am impressed by the tremendous lifesaving qualities of passive restraints, estimated to be between 9,000 to 12,000 lives per year, and the ability to prevent from 100,000 to 200,000 severe injuries per year as well. Another reason for my endorsement of Secretary Adams' decision is that it provides the auto industry with realistic leadtime for implementation.

It is important to note the broad base of support the Secretary's decision has received thus far. A coalition has been formed, the National Committee for Automobile Crash Protection, to support the Secretary's decision. This group has an extremely broad base, including the insurance industry, organized labor, public interest groups, and health care organizations.

Under the terms of the National Traffic and Motor Vehicle Safety Act, Congress has an opportunity to review the Secretary's decision for a period of 60 calendar days, excluding recesses of more than 3 days. It is critical that Members of Congress be well informed about the benefits, cost, and feasibility of this safety decision.

Two important articles appeared in the press recently which deserve reprinting in the RECORD. One is by George Will, the noted syndicated columnist, and it deals with the issue of "freedom of choice"—a matter all Members should ponder in conjunction with the fact that we know that air bag technology is proven and available. The other was printed in the Wall Street Journal, June 29, 1977, and presents a balanced endorsement of air bags.

Both of these articles emphasize that air bag technology can be used to begin reducing the tragic suffering, grief, and economic loss that thousands of American families bear each year.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DRIVING WITHOUT RESTRAINT

(By George F. Will)

CHEVY CHASE VILLAGE.—Thinking he heard thunder, my neighbor went to close his car windows. Actually he had heard a commonplace tragedy, the making of a statistic. A woman died and a man nearly did in an occurrence shocking but routine: an automobile accident.

The car veered out of control on Connecticut Avenue, hit trees, fragmented, broke in half. Three of us arrived immediately. Emergency equipment arrived quickly. Cleaning up took hours.

In 1900, this "village," six miles from the White House, was where Washingtonians came for country breezes. Today, it is a small incorporated area near the center of a sprawling metropolis. It is divided by Connecticut Avenue, which passes around a traffic circle as it enters Maryland. Trees on the circle are heavily scarred. Crumpling steel and crying sirens are common sounds here as on many urban thoroughfares.

Increasingly, American driving reflects, I think, the sublimated fury of persons heading for infuriating jobs, the animal spirits of persons whose lives allow little scope for such spirits. As Daniel Moynihan wrote years ago, the automobile is "both a symbol of aggression and a vehicle thereof. . . . It is a prime agent of risk-taking in a society that still values risk-taking, but does not provide many outlets."

The endless epidemic of accidents is one of the nation's gravest public health problems. Automobile deaths and injuries have costs beyond counting, and are a special plague to the young. Of every 100,000 males at age 15, about 1,100 will die in accidents, most involving automobiles, before age 25—a death rate 20 times worse than polio inflicted at its worst.

As Moynihan notes, the social life of most Americans "now primarily takes the form of driving to a place where alcohol is consumed." And because traffic laws are widely ignored, almost everyone is a lawbreaker, and the incidence of arrest in America may be the highest of any nation in history. Repairing and replacing wrecked cars may provide 20 per cent of the business for the automobile industry, the nation's most important.

Such statistics are as lifeless as the woman who lay beneath blankets on the Connecticut Avenue median strip. But they describe a river of sorrow flowing from monstrously irrational behavior.

Most drivers frequently exceed speed limits, only 25 per cent use seatbelts, only four per cent use harnesses. Because slaughter behind the wheel is deeply rooted in aggression and other irrationality, it is very difficult to substantially reduce accidents by reforming drivers. So government has tried to reduce the severity of injuries received in accidents.

The public disliked, and the government quickly disconnected, the ignition "interlock" system that prevented cars from starting when safety belts were unfastened. Today, new cars just make a brief buzz of disapproval.

Government may yet require "passive restraints"—air bags that instantly inflate to cushion passengers in collisions. There is evidence that they would save many thousands of lives annually and may be one answer to what Moynihan has called "the seeming incompatibility of safe driving and mass driving." That is a considerable problem in a nation where more people drive than pay taxes or vote.

Air bags require no forethought by drivers, so they are suited to the American driving public. The air bags would probably cost manufacturers less than $100, a fraction of what car buyers exuberantly spend when loading their cars with snappy wheel covers and other options.

Long before the most recent Connecticut Avenue death, I regretted having once argued that government has no business requiring drivers to buy and use inexpensive devices that might save them from self-destruction. There is a pitiless abstractness, and disrespect for life, in such dogmatic respect for the right of consenting adults to behave in ways disastrous to themselves. Besides, too many children passengers are sacrificed on that altar. And a large part of the bill for the irrationality of individual drivers is paid by society.

Most important, society desensitizes itself by passively accepting so much carnage.

On Connecticut Avenue that evening, the police operated with the weary patience normal to those who are paid to look unblinkingly at what people do to themselves. "Go home," a policeman finally said, with barely noticeable disgust, to people standing around the debris. "Go home and watch television." After a while, we did.

THE PUBLIC HEALTH AND AIR BAGS: TIME FOR DECISION

(By Albert R. Karr)

(The health of the people is extremely important to the community, so that it cannot be left to the uncertainly of individual initiative, which the high incidence of curable disease shows to be inadequate.—John Bellers, Quaker cloth merchant and philanthropist, in a 1714 essay, paraphrased by George Rosen in a history of public health, 1958.)

WASHINGTON.—One disease that's been rampant in the U.S. for over 50 years has become the nation's third leading cause of death, yet much of it is curable right now.

This malady is the danger of injury and death from highway accidents. Heart ailments and cancer kill many more, but road fatalities amount to 40,000 or more a year and they're especially cruel in stealing the lives of many young people. Attempts to get Americans to buckle their seat belts have been largely fruitless. After years of observing the debate over auto safety, this reporter finds that a good case can be made for a more reliable way to protect car occupants.

That's to equip cars with air bags, which inflate automatically in a crash and cushion driver and passengers against the impact. The air bag is an effective and relatively inexpensive vaccine against death and serious injury on the road, backers say. It could have 9,000 to 14,000 lives annually out of 27,000 currently being lost in accident deaths inside cars, according to government and insurance-industry estimates. These so-called passive restraints offer "very great" safety benefits, declares Democratic Rep. John Moss of California.

The air bag's life-saving promise could become reality. Transportation Secretary Brock Adams plans to announce tomorrow whether he'll require air bags in future cars, subject to congressional approval. If he so decides, reversing a decision by his predecessor, William Coleman, he'd be following a longtime public-health tradition: Government officials are supposed to make decisions that protect the populace against disease and safety hazards when people can't do that for themselves.

When asked in public-opinion polls, Americans have consistently said that the experts should make these technical safety decisions. A 1974 Louis Harris poll showed three-fourths of those queried wanting the government to develop more auto-safety standards. In a survey by the Roper Organization in March of this year, 61% of the respondents said some group, presumably the government, should decide for them what safety features should be required.

Such views are crucial to the air-bag decision. After finding this device practical and effective, Mr. Coleman still ruled against requiring it because he feared the public mightn't accept it; instead, he tried to stimulate a test sales program by the auto makers. But health-and-safety advocates say his fear of public resistance was groundless and they add that officials must act anyway to protect lives.

Any "overt decision to allow high daily

losses of life on the American highways to continue, when technology is available to significantly reduce thoses losses, would be unacceptable," says Webster Todd, chairman of the National Transportation Safety Board, a government investigative agency. "Public acceptance will follow a decision for passive restraint," he says. "Public doubts can be overcome" by forceful government leadership, says Rep. Moss.

Misgivings about public acceptance of the air bag have not, of course, been the only point made against it. Auto manufacturers have questioned its reliability and have suggested that seat belts are more effective. The industry has also criticized the air bag as a costly extra that would drive auto prices still higher and tend to scare buyers away. But its advocates offer evidence to scotch these objections.

On the road, the air bag has worked when it's supposed to and has almost never inflated when it's not supposed to. Reports of lives saved by the air bag continue to mount. The death rate of riders in air-bag-equipped cars is far below that in other cars. The few people who have died in crashes in air-bag cars—four out of more than 200 total occupants—couldn't have been saved by either an air bag or a buckled belt, safety analysts say. Seat belts can't be expected to save many lives, they add, since only 20% of all car occupants are buckling their belts.

In its criticism of the air bag, the auto industry has warned of a cost in the $200-$300 range. But Mr. Coleman effectively undercut that argument, showing that the companies were using unusual accounting methods; he said $100 was a realistic figure.

It's also worth noting that the government has required many passive safety features in cars over the past decade—padded dashboards, energy-absorbing steering wheels, shatterproof windshields, fixed head restraints and the like—at a combined cost to motorists of about $350, and without handwringing over "public acceptance" questions. A poll sponsored by the Insurance Institute for Highway Safety showed most respondents being willing to pay for passive-type safety protection in their cars.

For one reason or another, some foes of the air bag have become friends. George Will, a conservative newspaper columnist, wrote in April that he regretted "having once argued that government has no business requiring drivers to buy and use inexpensive devices (like the air bag) that might save them from self-destruction. There is a pitiless abstractness, and disrespect for life, in such dogmatic respect for the right of consenting adults to behave in ways disastrous to themselves. Besides, too many children passengers are sacrificed on that altar. And a large part of the bill for the irrationality of individual drivers is paid by society."

The John Bellers argument in 1714 that people's health is too important to be left to the vagaries of individual initiatives "should . . . be reflected to the greatest extent technologically possible in federal standards requiring passive protection for motor-vehicle occupants," says Susan Baker, associate professor at the Johns Hopkins School of Public Health and an injury-control specialist.

One can only hope, Mrs. Baker says, that Secretary Adams has the courage of Coleman's convictions.'

THE DEATH OF DORCEY K. LYBRAND

Mr. THURMOND. Mr. President, on Wednesday, July 21, my home town of Aiken, S.C., was shocked and saddened by the death of one of its most eminent and respected citizens. In his 70 years, Dorcey K. Lybrand won distinction in so many ways that an exhaustive list of his virtues and accomplishments would be impossible to compile. He was an heroic naval officer, an outstanding lawyer, a conscientious citizen, an exemplary public servant, and a devoted husband and father. He was also my good friend and former law partner, and I cannot let him take leave of this world without a few affectionate words of tribute and farewell.

Dorcey Lybrand had unquestionably one of the finest legal minds of his generation. Having graduated from the University of South Carolina Law School in 1930, he set up his practice in Aiken. It was not long before he was one of the busiest lawyers in the area. People were drawn to him not only by his legal expertise, but by his sympathetic and kindly manner. He was the kind of man who could not say no to a fellow man in need, and many of his cases brought him little or no remuneration other than the lasting friendship and gratitude of his client.

His legal career was interrupted by World War II. A true patriot, he served in the U.S. Navy for 4 years. During this period, he participated in an episode which, although tragic, has for us the merit of letting us see in dramatic form his strength, resourcefulness, and leadership ability.

His ship had been sunk in the Atlantic. He and 46 crewmates huddled in a lifeboat in the middle of the ocean. For 33 days, 15 of them without food and water, they drifted. When they finally reached a small island in the middle of the Caribbean, the story of their grueling ordeal and amazing survival lifted the spirits of the whole Nation. His crewmates were lavish in their praise of Lt. Dorcey Lybrand, and his level-headed and calming demeanor.

After the war, Dorcey Lybrand resumed his law practice. Since by that time he had won the confidence of his fellow citizens so thoroughly, and since he so enjoyed the opportunity to serve them, it was only natural for him to involve himself in politics. This he did, and he won election to the State senate in 1949. He served two terms there, winning a reputation for rare integrity and dedication.

It was in 1951, after my term as Governor of South Carolina, that I had the privilege of becoming his professional associate. He, Charles Simons—now U.S. District Judge Simons—and I formed the partnership of Thurmond, Lybrand & Simons. The 4 years that we worked together were among the most gratifying of my life. It is hard to say which I admired more—his legal skills or his character. We remained close friends after I came to the Senate in 1954, and he was always ready with good advice and loyal assistance when I would seek it from him. He was serving as president of the Strom Thurmond Foundation at the time of his death.

The last two decades of his life saw him as tireless as ever in the performance of professional and civic responsibilities.

His legal practice continued undiminished, and he was active in the Aiken Rotary Club, Businessmen's Club, Chamber of Commerce, Bar Association, and United Way. He served the State as a member of the grievance committee of the South Carolina Bar Association and, only recently, as a member of the Commission for the Reorganization of the South Carolina State Government. Although he officially retired in 1973, and perhaps played a little more golf thereafter, friends and associates knew that his schedule remained fully. He simply derived too much satisfaction from his work to yield to the demands of age and health.

Dorcey Lybrand married twice and had the acute sadness of losing both his wives. A zealous family man, he sought consolation in caring for his children. He had no children by his first wife. By his second wife, he had one daughter—Miss Christine Lybrand of Aiken—and also had seven stepchildren—Mrs. Beverly Britton of Columbia, Miss Catherine Peterson of Columbia, Miss Gabrielle Peterson of Aiken, Daniel Peterson of San Antonio, Tex., David Peterson of Austin, Tex., Richard Peterson of Columbia, and Dominic Peterson of Aiken. He treated all of his children with unfailing love and generosity. I extend my sincere condolences to all of them, as well as to his sister, Mrs. John Raffield of Dalzell, and his brother, W. A. Lybrand of Wagener, his hometown.

To judge by my own feelings, I know what a gap is left in their affections by the death of Dorcey Lybrand. He shall be missed for years to come. Nevertheless, it somehow seems wrong to mourn too loudly when a life has been lived so fully and so well. Dorcey Lybrand was a lifelong and devout Methodist, and he died in Christian hope and confidence. He had good reason to harbor these feelings. His work in this life surely deserves the richest rewards of the next.

Mr. President, at the time of the death of Dorcey Lybrand a number of articles about him appeared in various South Carolina newspapers. In order that my colleagues may have convenient access to them and the additional information which they contain, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Aiken (S.C.) Standard, July 20, 1977]

DORCEY LYBRAND, 70, DIES

Dorcey Lybrand, former Aiken state senator and civic leader, died of a heart attack at 5:30 a.m. today at Aiken Community Hospital. He was 70.

Mr. Lybrand fell ill over the weekend while playing golf and was taken to Aiken Community Hospital where it was thought his condition was improving.

Funeral arrangements for Mr. Lybrand will be announced by George Funeral Home.

Lybrand had retired from law practice in 1973 and was a partner in Dexter Arms Apartments at the time of his death.

He served in the state Senate for two terms, from 1949–1952 and from 1957–1960. He was a native of Wagener and was a former senior partner in the law firm, Lybrand, Rich and Cain. He was a graduate of the

University of South Carolina Law School and a World War II Navy veteran.

Lybrand was a member and past president of the Aiken Rotary Club, Business Men's Club, Chamber of Commerce, and Aiken County Bar Association. He helped found the United Fund in Aiken County in 1951.

He was a member of St. John's United Methodist Church.

Sen. Strom Thurmond issued this statement this morning; "I am deeply saddened by the death of Dorsey Lybrand. He was my friend and former law partner and I never knew a finer man. A person of true character and unquestioned integrity, he also had great ability in his chosen profession of the law. He not only had served the public faithfully and well as a state senator and in other positions but also individually. He unselfishly provided legal and community services based on need rather than reward and was profoundly concerned with the well-being of those around him. His death is a great loss to his many friends and the community and state he served so well.

Surviving are: a daughter, Miss Christian Lybrand, Aiken, a brother, W. A. Lybrand, Wagener; and a sister, Mrs. John Raffield, Dalzell.

[From the Aiken (S.C.) Standard, July 21, 1977]

DORSEY LYBRAND

It was a common thing for individuals planning a civic project or business venture to seek out Dorcey Lybrand for his advice. With a great deal of wisdom and common sense, Mr. Lybrand dispensed such advice on many occasions. Undertakings that enjoyed his support were virtually assured of success.

Mr. Lybrand died early Wednesday after a short illness. He retired four years ago from an eminently successful career as a lawyer, and had since devoted considerable time to a favorite pastime—golf. But his law practice continued to have a hold on him; he found it difficult to say no to a client or friend of long standing.

Through the years Mr. Lybrand's clients often were persons of little means, and the payment, if any, might be in produce from a farm or vegetable garden. His friends were from every walk of life, and he chose them without regard for their station in life or income level.

Few men in Aiken County in this generation have held the influence that Mr. Lybrand possessed. And although he had achieved success in both politics and in his career, his influence was based not on political power or wealth but on his compassion and understanding of fellow human beings. He was at his best working quietly behind the scenes with responsible community leaders to bring about a needed reform or improvement.

Mr. Lybrand was generous with his means, and was a faithful member of St. John's United Methodist Church, where he had been a member of the Board of Stewards. He also donated one of the first personal scholarships awarded annually to a worthy student at USCA.

His civic activities were numerous, he had been president of the Aiken Rotary Club, the Business Men's Club, the South Carolina Easter Seal Board, the Hitchcock Rehabilitation Center, the Chamber of Commerce and the Aiken County United Fund, writing the constitution and bylaws still used by that agency.

He served on the grievance committee for the South Carolina Bar Assn. and at the time of his death was a member of a commission studying the reorganization of state government. Residents of Aiken and surrounding areas will long be indebted to him for his role in the establishment of the University of South Carolina's Aiken campus.

From his long career in the practice of law, the experience of having served in the State Senate on two occasions, and his wealth of friends of all ages and stations, he was a delightful conversationalist. Seldom, however, did he refer to a wartime experience in which he displayed rare heroism and unbelievable stamina.

He was a Navy officer aboard a ship that was torpedoed in mid-Atlantic in the summer of 1942. With 46 other survivors, he spent 32 days in a lifeboat before reaching a small island in the Caribbean. Meager supplies of food and water were consumed 15 days before land was sighted.

The starving crewmen were found on the island by the British speedboat enthusiast Betty Carstairs and taken to Nassau, where they were entertained by the Duke of Windsor, wartime governor of that island, and his duchess.

The episode was described in news accounts as "one of the most stirring stories of heroism of the war at sea," and Mr. Lybrand, then a lieutenant, was commended for the manner in which he calmed the men under his command in the lifeboat.

It was a trait he continued to demonstrate throughout his most useful life.

[From the Columbia (S.C.) State, July 21, 1977]

FORMER LEGISLATOR, D. K. LYBRAND, DIES

AIKEN.—Dorsey K. Lybrand, 70, a retired attorney, civic leader and former state senator, died Wednesday at Aiken Community Hospital after suffering a heart attack during the weekend.

Mr. Lybrand was born in Wagener, a son of the late C. K. and Callie Busbee Lybrand.

He retired in 1973 from the law firm of Lybrand, Rich and Cain, where he was senior partner.

Mr. Lybrand was a former law partner of U.S. Sen. Strom Thurmond, R–S.C. and U.S. District Judge Charles Simons Jr.

At the time of his death he was a member of the Commission for the Reorganization of the S.C. State Government.

Thurmond said Wednesday that Mr. Lybrand's death was "a great loss to his many friends and to the community and state he served so well. He described Mr. Lybrand as a "person of true character and unquestioned integrity."

Mr. Lybrand graduated from the University of South Carolina in 1928 and was a 1930 graduate of the university's law school.

His first senate term was from 1949 to 1952 and he returned to the upper house in 1957.

During World War II he served in the Navy for four years, attaining the rank of Lt. Commander.

In the early 1960s, he was instrumental in the establishment of the University of South Carolina's Aiken campus.

When he died, Mr. Lybrand was also president of the Strom Thurmond Foundation, which annually provides scholarships for worthy students.

Mr. Lybrand was a member and past president of the Aiken Rotary Club, the Businessmen's Club, the Aiken Chamber of Commerce and the Aiken County Bar Association.

In 1951 he assisted in founding the Aiken County United Fund, writing a constitution and bylaws still used by that agency.

Before his retirement, Mr. Lybrand was active in the S.C. Bar Association, serving on its grievance committee. He was a former director of the Palmetto Federal Savings and Loan Association and served on the advisory board of Bankers Trust.

Surviving are a daughter, Miss Christina Lybrand of Aiken; a sister, Mrs. John Raffield of Dalzell; a brother, W. A. Lybrand of Wagener; three stepdaughters, Mrs. Beverley Britton of Columbia, Miss Catherine Peterson of Columbia and Miss Gabrielle Peterson of Aiken; four stepsons, Daniel Peterson of San Antonio, Tex., David Peterson of Austin, Tex., Richard Peterson of Columbia and Dominic Peterson of Aiken.

Services will be 5 p.m. today at St. John's United Methodist Church. Burial will be in Aiken Memorial Park.

The family suggests that those who wish may make memorials to the Hitchcock Rehabilitation Center or a charity.

George Funeral Home is in charge.

[From the Augusta Chronicle, July 21, 1977]

DORCEY K. LYBRAND DIES; FORMER S.C. STATE SENATOR

AIKEN.—Dorcey K. Lybrand, 70, former South Carolina state senator, of 531 Highland Park Terrace died Wednesday in an Aiken hospital.

The funeral will be held at 5 p.m. today at St. John's United Methodist Church with the Revs. Robert E. James and Ben Hudnall officiating. Burial will be in Aiken Memorial Park cemetery.

Mr. Lybrand, of the law firm, Lybrand-Rich-Cain & Simons in Aiken, was a native of Wagener, S.C., and graduate of the University of South Carolina in 1928. He graduated from the university's law school in 1930 and was admitted to the state bar.

He began law practice in Aiken in 1931 and later formed a partnership with Charles E. Simons Jr., now U.S. District judge. He was a former law partner with Strom Thurmond. Mr. Lybrand served as magistrate in Aiken County from 1934 to 1942. He joined the U.S. Navy during World War II and was on active duty 45 months. During the early days of the war, his ship was torpedoed in the Atlantic and he spent 32 days adrift on a life raft. He was a lieutenant commander when he was discharged.

In 1948 Mr. Lybrand was elected to the South Carolina Senate and served until 1956. He was a member and past president of the Aiken Rotary Club, and member of the Aiken Businessman's Club, the Greater Aiken Chamber of Commerce and the Aiken County United Fund.

He was a board member of the Aiken County Easter Seal Society and the South Carolina Easter Seal Society. He was a member of St. John's United Methodist Church.

Mr. Lybrand was a member of the Aiken Bar Association and American Bar Association. On the state level, he served on the committee of professional responsibility and the committee of professional standards.

Survivors include one daughter, Miss Mary Christina Lybrand, Aiken; three stepdaughters, Mrs. Beverly Britton, and Miss Katherine Peterson, Columbia, and Miss Gabrielle Peterson, Aiken; four stepsons, Daniel Peterson, San Antonio, Tex., David Peterson, Austin, Tex., Richard Peterson, Columbia, and Dominic Petersen, Aiken; one sister, Mrs. John Raffied, Dalzell, S.C.; and one brother, W. A. Lybrand, Wagener.

Pallbearers will be Sen. Thurmond, Judge Simons, Arthur D. Rich, Warren Abernathy, Marshall Cain and Robert E. Penland.

Honorary pallbearers will be members of the Aiken Bar Association.

Memorial contributions may be made to charity.

Friends may call at the residence or George Funeral Home, Aiken.

[From the Augusta Chronicle, July 22, 1977]

DORCEY K. LYBRAND

When death came Wednesday to Dorcey K. Lybrand, at age 70, it brought to an end the life of an Aiken Countian whose wide range of public service and civic activities served to inspire many who felt his influence.

Concern for good government spurred the Wagener native to run in 1948 for the South Carolina Senate. He won, and served with distinction until 1956. Prior to that, he began an Aiken law practice in 1931 and later formed a law partnership with Charles

E. Simons, Jr., now a U.S. district judge. Mr. Lybrand was also a former law partner with Sen. Strom Thurmond.

Always sensitive to the needs of others, Mr. Lybrand gave without stint of his time and talent, working as a member and past president of the Aiken Rotary Club, a member of the Aiken Businessman's Club, the Greater Aiken Chamber of Commerce and the Aiken County United Fund.

His service in World War II included a naval stint. In fact, he came close to having his life snuffed out during the conflict in the Atlantic theater when his ship was torpedoed and he was forced to spend 32 days adrift in a life raft.

The leadership which Dorcey Lybrand displayed in the Navy, in civic groups, in his profession and in the state legislature mark him as one whose influence for the good will long remain with us. We join in extending sympathy to his family and the many others who mourn his departure.

CLEAN WATER ACT OF 1977

Mr. ANDERSON. Mr. President, the Environment and Public Works Committee on July 23, 1977, approved the Clean Water Act of 1977 after 2 weeks of intensive markup sessions and 15 days of public hearings on the Federal water pollution control program that began on June 1, 1977.

I strongly endorse the Clean Water Act of 1977 as reported by the Environment and Public Works Committee.

The committee bill is an affirmation of the commitment made by the Congress to the American people in 1972 with the passage of Public Law 92–500. While clearly placing the Senate Environment and Public Works Committee on record for restoring and preserving our Nation's water resources, this legislation reflects the 5 years of experience of the Congress, executive branch, permittees, and the public with the Federal Water Pollution Control Act. Deadlines are extended in some cases. Responsibilities of the States are expanded. Some sections of this complicated, detailed statute of 89 pages are rewritten. New programs are initiated. Nearly $30 billion is authorized. In total, the committee has made limited adjustments, refinements, and accommodations to the realities of administering a complex statute, without altering the basic goals and objectives of the 1972 act and the Federal Government's commitment to protect the water resources we are blessed with in these United States.

My interest in the Clean Water Act of 1977 is motivated, apart from my own personal commitment to protecting our natural resources, by the important role water resources have played in the development of the State of Minnesota and by the priority my gubernatorial administration placed on the protection of Minnesota's abundant water resources.

It was the Dakota Indians who so aptly named my State "Minnesota," for in Dakota Indian language "Minnie" means water and "sota" means white. In the 17th century, French explorers came by water from Montreal in their canoes westward along the northern shore of mighty Lake Superior, the greatest of the Great Lakes and the world's largest freshwater lake. These French voyageurs portaged over the towering forest-covered cliffs of the north shore of Lake Superior and were greeted by lakes—thousands of them.

The lake area that greeted the voyageurs now comprises the 1-million-acre Boundary Waters Canoe Area, the last remaining true wilderness area of its type in the United States, and a water-rich land of crystal clear lakes. Nearby the BWCA, another prized Minnesota resource, the Kabetogama Peninsula and surrounding Kabetogama, Rainy, and Namakan Lakes were set aside by the Congress in 1971 as the Nation's 33d and perhaps most unique national park, Voyageur's National Park—164,000 acres, of which about 60,000 acres are water and a park that is essentially only accessible by water.

Lake Superior, the Boundary Waters Canoe Area, and Voyageur's National Park—three of Minnesota's most important water resources, are by no means all of the water wealth of the North Star State. Minnesota, at the headwaters of three of North America's most important watersheds, the Lake Superior, Hudson Bay, and Mississippi River basins, is blessed with more than 4,000 square miles of inland waters, 15,291 lakes of 5 acres or more, and more than 25,000 miles of rivers and streams.

Minnesota's water wealth includes the mighty Mississippi River which winds its scenic and historic way along the State's eastern border and has its source at Itasca State Park. But the Father of Waters is not alone as a major riverway in our State. The breathtaking and scenic St. Croix River, now protected for generations to come as part of the National Scenic Rivers System, forms the eastern border of the State with Wisconsin. The St. Croix provides recreational opportunities for over 2 million people in the Twin Cities area, most of whom are only 30 minutes away from its clean and fast flowing waters. A score of other rivers wind through the State.

The lakes, rivers, and streams of Minnesota, are not the State's entire water resource for these surface waters are complemented by vast, pure groundwater resources that lie beneath large portions of Minnesota. It is estimated that the groundwater aquifers underneath Minnesota encompass 300 cubic miles.

Minnesotans, like their counterparts in all parts of our country, depend on these surface and groundwater resources for their livelihood, drinking water, and recreation. The cities of Minneapolis and St. Paul grew up on the banks of the Mississippi River where the water power of the Mississippi powered the flour milling industry. The Mississippi and Minnesota Rivers are major channels of waterborne commerce, moving agricultural and energy products and supplies to and from the State and region. The Port of Duluth is today a world port for interstate and international commerce moving on the Great Lakes. The iron ore and taconite from Minnesota's Iron Range have fueled the steel industry for a century as a result of ore boats moving steadily across Lake Superior bringing raw materials for the blast furnaces in Ohio and Indiana.

This same bounty of water in Minnesota forms the springboard for Minnesota's tourist industry. Five million out-of-state visitors annually trek to the North Star State and produce a tourist trade estimated at close to $1 billion. The lures to our State provided by these water resources are many and varied: fishing with 2 million licensed anglers; boating with 500,000 licensed watercraft; and a host of other recreational opportunities, in summer and winter.

Minnesota water resources are not only located and enjoyed in nonurban areas. Minneapolis, the City of Lakes, is known for its chain of lakes in the heart of the city and its annual "Aquatennial" celebration. St. Paul's several urban lakes likewise provide a variety of recreational opportunities for its residents.

A State as dependent on water as Minnesota knows all too well the consequences of unwise management of surface and groundwater resources. The continuing public support for restoring and preserving water resources in Minnesota is based not only on a historical stewardship of natural resources by our citizens but also from instances all too etched in the experiences of Minnesotans, where our water resources have been carelessly and thoughtlessly degraded.

The most difficult issue I faced as Governor of Minnesota for 6 years was the continuing pollution of Lake Superior at Silver Bay by Reserve Mining Co. Since 1955, nearly 200 million tons of taconite tailings have been disposed of in Lake Superior by this taconite company. Minnesotans are not proud of this misuse of the world's greatest freshwater lake. The long-sought and pending settlement of this insult to Lake Superior will be as much an emotional relief for our citizens as it will be a biological victory for Lake Superior.

The Reserve Mining Co. controversy, while commanding the attention of Minnesotans the past decade, is unfortunately not the only example of abuse and misuse of the water resources of the State. Industrial discharges to the St. Louis River deteriorated water quality in that northern Minnesota river and in St. Louis Bay of Lake Superior. The Mississippi and Rainy Rivers were subjected for decades to improperly treated paper industry effluent. Dredging by the Corps of Engineers in the Duluth Harbor and in the Mississippi River has been the source of the resuspension of tons of bottom sediments and pollutants.

While the State is ahead of most States in upgrading municipal wastewater treatment plants, downstream interests remain concerned today with noncomplying municipal discharges in St. Paul, Bemidji, and on the St. Croix River, south of a planned expansion of a treatment plant in St. Croix Falls—Dresser, Wis.

The clean lakes section of the 1972 act was prompted essentially by the concerns in Minnesota about the deteriorating condition of recreational lakes. Senator WALTER F. MONDALE developed the clean lakes program in response to problems he saw around the State where agricultural runoff, municipal and in-

dustrial discharges, and extensive sedimentation were ruining the recreational value of many lakes.

Minnesota has experienced pollution not only of surface water resources, but of its groundwater as well. Spills of chemical and hazardous wastes have threatened the States' vast, but fragile groundwater resources. The drought in Minnesota the past several years has dangerously depleted Minnesota's groundwater resources, as farmers and other water users have increased groundwater withdrawals since precipitation and surface water sources of water for agriculture have declined. Irrigation permit requests to the Minnesota Department of Natural Resources have increased 200 percent in the past year. The drought has also made Minnesota think carefully about their use of water as reservoirs have been drawn down around the State, wells gone dry, and the Mississippi River, the principal source of water for the Twin Cities, now flows at 60 percent below normal, after an all-time recorded low flow in August 1976.

In the western part of the State, concern over potential water quality impacts on municipal and industrial users of the Red River of the North as a result of irrigation return flows from the Garrison diversion unit, has prompted the administrative and legal involvement of the Minnesota Pollution Control Agency.

Consequently, Minnesota, by definition, throughout its history, and in present day life, is particularly dependent on her rich and varied water resources. And, Minnesotans, have seen their share of the careless and callous abuse of their water resources.

I became chief executive of Minnesota's State government in 1971. The State of Minnesota had, prior to that time, made good progress to protect and enhance the water resources of the State. When I now reflect on my 6 years as Governor of Minnesota, I believe there was no other subject area where more substantive, comprehensive progress was made than in the protection of Minnesota's air, land, and water resources. In my judgment, no State enacted a more comprehensive program of legislation to restore and preserve the environment than did Minnesota in those years. I would match my State's environmental record in this decade against any other.

A simple listing of the legislative and administrative actions taken in Minnesota since 1970 to protect its water resources is evidence enough of what one State has done to see that clean water can be enjoyed by the children and grandchildren of its residents: State siting of power plants, transmission lines, and other energy facilities. The Critical Areas Act to freeze development in areas of unique cultural, historical, or recreational value; $150 million in State matching dollars to supplement the Federal wastewater treatment construction grants program. Establishment of Voyageur's National Park. The Minnesota Environmental Policy Act as a State counterpart to NEPA. Regulation of the phosphate content of detergents. Regulation of the land disposal of chemical and hazardous wastes. A fivefold increase in the staff resources of the Minnesota Pollution Control Agency. The Minnesota Wild and Scenic Rivers Act. State funds for local land use planning. Controls over marine sanitation devices. Special protections for the St. Croix River. Comprehensive amendments to State water resource and drainage statutes. A floodplain management program. Civil penalties for the violation of State water pollution standards. Shoreland management legislation. A dam inspection and maintenance program. The Mineland Reclamation Act. Establishment of lake improvement districts. A statewide water information system. Land use and development controls for the Twin Cities metropolitan area. Prohibitions against the manufacture, sale and disposal of products containing PCB's. A regional environmental analysis of the potential water and other resource impacts from a copper-nickel mining industry. State controls of mining in the Boundary Waters Canoe Area. A groundwater resources inventory. A State environmental quality council charged with assessing long-term impacts on Minnesota's environment of further development in the State. A certificate of need process for all power plants and other energy supply and transportation facilities. Regulations to control the siting and operation of individual wastewater treatment systems.

This list is long and represents a great deal of effort. It indicates both a priority and practice in the State of Minnesota of protecting natural resources, particularly water resources.

The Federal Government, through Public Law 92–500, has also had a significant impact on the State of Minnesota. The Minnesota Legislature in 1973, following enactment of Public Law 92–500, moved expeditiously to grant the Minnesota Pollution Control Agency the necessary authority to impose civil and criminal penalties and provide additional staff resources, so as to enable the MPCA to be in the first group of States to receive delegation of the NPDES permit program. Minnesota has consistently obligated its entire share of construction grant funds. In fact, the State of Minnesota was a plaintiff in the successful litigation that forced the release of construction grant funds impounded by the Nixon Administration.

Throughout the State, both municipalities and industries are ahead of the national pace to construct facilities to comply with the 1977 secondary treatment and BPT deadlines. Only one major industry has not initiated construction of facilities to meet the 1977 BPT deadline. The Mississippi River is gradually being restored as municipal and industrial discharges to the State's largest receiving water come into compliance. Lake Minnetonka, west of the Twin Cities and an important recreational resource, was degraded by septic tank infiltrations that spawned algae blooms. Following the installation of a sewer system, that lake has seen a tremendous improvement in water quality.

The Duluth-Superior harbor has traditionally been listed as an area not in compliance with the Great Lakes Water Quality Agreement. In 1979, that area will see the end of the inadequate treatment of municipal and industrial discharges when a tertiary treatment facility is in operation to treat all municipal wastes from Duluth and surrounding towns and municipalities, and all industries that have for decades discharged into either the St. Louis River or St. Louis Bay.

Farther up the north shore of Lake Superior at Silver Bay construction at long last has begun on an onland tailings disposal system for the taconite wastes of Reserve Mining Co. If the construction schedule is met, the present 67,000 tons of taconite wastes that daily enter Lake Superior will be deposited on land in 1980.

West of Silver Bay at Ely, the operation of an advanced wastewater plant has successfully restored Lake Shagawa, part of the BWCA watershed, and for years degraded with heavy phosphorus loadings. Farther north, on the border with Ontario at International Falls, Boise Cascade Co. has made a significant investment in pollution abatement facilities to control discharges of pulp and paper wastes to the Rainy River. The improved effluent will resolve a sensitive issue between the two nations.

Across the State, hundreds of Minnesota's lakes that have for decades been the receiving waters for municipal discharges are gradually being protected by the construction of modern treatment works. With an appropriation recently made by the 1977 Minnesota Legislature, $150 million in State funds have been made available to match Federal funds.

Recreational lakes are also being protected by the growing interest of lakeshore owners in lake improvement projects. Minnesota was the birthplace of the clean lakes program and has received project grants to date for five lakes under this program. The Minnesota Legislature in 1977 expanded a State program to complement the clean lakes section and appropriated State matching funds for this purpose.

The State of Minnesota has also recognized the absolute necessity of the proper location and operation of septic tanks and other individual waste treatment systems. Comprehensive State regulations on individual systems will be soon promulgated by the MPCA and will be a model for other States on the regulation of individual systems.

Finally, in Minnesota the control of municipal and industrial point sources and the regulation of individual waste treatment systems, is being implemented with equal attention to the importance of nonpoint source controls. Minnesota has initiated a comprehensive section 208 program, both for the Twin Cities and for out-State Minnesota. Regional development commissions throughout the State are assisting the MPCA in the preparation of areawide water quality management plans to identify and recommend management strategies for nonpoint water pollution, particularly from agricultural activities.

I approached consideration by the Environment and Public Works of the Clean Water Act of 1977 with this Minnesota background.

I chaired three of the eight field hearings and attended all seven Washington, D.C., hearings of the committee on this legislation because of my interest in this program and my desire to hear from as many people as possible on how the Federal Government's efforts to clean up the Nation's waters were working and what adjustments, if any, should be made to the 1972 act.

Because of the widespread interest in Minnesota in water quality issues, Chairman RANDOLPH graciously granted my request that two field hearings and several field inspections be scheduled for Minnesota as part of the committee's field hearing schedule.

The two Minnesota field hearings were important to me so that Minnesotans—whether representing local or State governments, environment and citizens groups, farm or labor organizations, industries, or just themselves, would have an opportunity to be heard on this program outside of Washington, D.C. In congressional deliberations on the 1972 act, neither House nor Senate Public Works Committee had any field hearings in our State and to my knowledge, no field hearing on any environmental subject had been held in previous years by the Senate Environment and Public Works Committee in Minnesota.

At the Duluth and Alexandria hearings, 60 witnesses presented statements, either by invitation or on their own initiative, on a variety of aspects of the Federal water pollution control program. Many other individuals and interest groups have submitted written statements for the hearing record. My colleagues need only review the record from the Duluth and Alexandria hearings to see the important and wide-ranging recommendations that the Senate received in those 2 days.

There is no question that Minnesotans were given the opportunity to provide more input to the Senate Environment and Public Works Committee on water pollution than any other State. For that I am grateful to Senator RANDOLPH, Senator MUSKIE, and the subcommittee staff, and, to the many Minnesotans who attended the hearings in Duluth and Alexandria to demonstrate their concern for clean water. At the end of this statement is a listing of all witnesses who testified at Duluth on June 2 and Alexandria on June 3. I believe my colleagues will find this list both impressive in length and in the variety of interest groups represented. Nearly an equal number of individuals have since submitted written statements to the committee for the hearing record.

The Duluth and Alexandria hearings produced a wide variety of recommendations and suggestions to amend the Federal Water Pollution Control Act. Panel discussions were held on several issues including the 1977 and 1983 industrial deadlines, the control of toxic chemicals, the operations of large municipal systems, the problems of small communities, the use of alternative treatment systems, the clean lakes program, and sections 208 and 404. In addition, the subcommittee staff and I were able to see several municipal treatment works in Duluth, Ely, St. Cloud, and Alexandria that have been constructed with Federal funds.

During markup of the Clean Water Act of 1977 I offered a number of amendments, and supported many others, based on testimony from the Minnesota field hearings, the Seattle, Wash., field hearing that I chaired, and the Washington, D.C., hearings.

These amendments relate to various sections of the Federal Water Pollution Control Act and are described in the committee report:

First. Section 105—Authorizes the EPA to assist in the operation and maintenance costs of research or demonstration treatment works.

Second. Section 109—Expands the use of construction grant funds for the training of municipal treatment works operators.

Third. Section 203—Permits the EPA or State agency to be a party to a contract between a consulting or engineering firm and a municipality for enforcement purposes.

Fourth. Section 204—Amends the industrial cost recovery system to allow the reduction in ICR payments of users that implement flow conservation practices, to allow municipalities to use a portion of ICR payments for administrative costs, and to exempt small users from ICR, under certain conditions.

Fifth. Section 312—amends the marine sanitation device section to require a minimum of secondary treatment of wastes from commercial vessels on the Great Lakes and other navigable waters, and other provisions.

Sixth. Section 314—Amends the clean lakes section to require EPA support of State lake restoration surveys, authorizes an additional $450 million for the clean lakes program, and includes report language expressing dissatisfaction with the administration of the clean lakes program by the EPA.

Seventh. Section 404—Mandates that all dredging activities of the U.S. Army Corps of Engineers be conducted in compliance with applicable State water quality standards, and all other State substantive and procedural requirements.

Eighth. Section 516—Requires EPA to analyze the problem of municipal combined sewer overflows.

Ninth. Section 516—Requires EPA to analyze the status and potential of projects that utilize municipal wastewater and sludge for a productive purpose.

I supported several other amendments in committee on the control of toxics, the use of alternative systems, the delegation of authority to State agencies, the protection of wetlands, and the control of agricultural nonpoint water pollution.

I will indicate to my colleagues my interest in these subjects during floor consideration of this legislation.

While I support the Clean Water Act of 1977, on the subject of authorizations for the construction grants program, I believe the committee should have increased the annual figure for this program above the administration's recommendation.

The administration's recommendation of a 10-year authorization for the construction grants program of $4.5 billion annually is based on the remaining Federal share of the construction of eligible treatment works nationwide. This figure assumed, however, that the Congress accepts the recommendations of the administration to eliminate several eligible categories. The committee, while eliminating major sewer rehabilitation projects and the control of discharges from separate storm sewers from eligibility, did not exclude collector sewers as the administration also recommended. Depending on the method of application of the collector sewer eligibility criteria that were adopted, up to $11.9 billion of collector sewer projects remain eligible for Federal funds. Consequently, the basis for the $4.5 billion annual authorization no longer is completely valid.

The committee also adopted several amendments to the construction grants program that will increase the ability of the States to obligate construction grant funds. The result should be an accelerated pace of treatment works construction to correct water quality problems. I recently requested the Congressional Research Service to study the obligation capability of selected States for municipal wastewater treatment grant funds. The CRS concluded that an annual obligation in excess of $4.5 billion is possible, if current legislative and administrative constraints in the construction grants program are removed.

The committee adopted in this legislation several amendments to increase the obligation capability of the States:

First, the 5-year construction grants program authorization assists those States that have been fearful of increasing staff resources, so as to handle a large number of projects, without a multiyear commitment from the Congress that these personnel will be used productively.

Second, the State certification amendment, that permits the Administrator to allot 2 percent of a State's annual appropriation for the management of the construction grant program, will assist the States in speeding the flow of dollars to municipalities, engineers, and contractors.

Third, the combined step 2 and step 3 grants will reduce the processing time for many projects.

Finally, the restoration of previous EPA staff cutbacks in the fiscal year 1978 budget and the language in this report urging the administration to provide EPA with additional personnel for the construction grants program, will, if implemented, increase the efficiency of EPA in processing annually the thousands of construction grant project applications.

Consequently, the basis for an annual multiyear authorization of $4.5 billion is no longer valid. Further, the other rationale cited to keep the authorized level to that figure, the inability of the administrative system to obligate a larger figure, is called into question by several amendments the committee has adopted in this legislation.

I believe an annual authorization of $5 billion or even $6 billion is justified for the construction grants program, if not

for fiscal year 1978 because of phase-in problems, certainly for the remaining 4 years of the authorization period. I consider the construction grants program both crucial Federal assistance for the improvement of the quality of our Nation's waters and a public works program far more productive than many other present uses of public works dollars.

It seems to me that these two good public policy purposes could be better served if additional Federal dollars were authorized for the construction grants program. In addition, since inflation costs for the construction of municipal treatment works exceeds the national average, additional funds in the near term will result in the construction of more treatment works.

Accordingly, it is my judgment that the annual authorization for the construction grants program should be increased. I did accept the judgment of Senator MUSKIE in markup that in this bill, the figure of $4.5 billion be retained. I urge my colleagues on the Environment and Public Works Committee to analyze the impact of the final version of the Clean Water Act of 1977 on the construction grant authorization level and determine, for the fiscal year 1979 budget, whether a higher level is justified. I also will urge the Carter administration, in light of this committee's action on eligible categories and the other amendments I have mentioned, to reassess its recommendation of $4.5 billion.

In December 1971, I testified before the House Public Works Committee on amendments to the Federal Water Pollution Control Act. In reading through that testimony it is interesting to see what issues of concern to a Governor in 1971 were enacted in Public Law 92–500.

I concluded that testimony before then Chairman John Blatnik, from Minnesota's Eighth Congressional District, as follows:

> We must act now to reshape priorities so that both clean water and productive capacity are achieved. If we do not act, rivers like the Buffalo, Rouge, and Cuyahoga will continue to catch fire because of the pollution in them. And nobody sets his house on fire just to keep temporarily warm. When that glow is gone, all we are left with is ashes. Our people deserve a better legacy.

National priorities were reshaped by Public Law 92–500. Much has been accomplished since passage of the 1972 act to insure that our waters are cleaner for our children and grandchildren than they are today.

This legislation continues the Federal commitment to clean water. It deserves prompt consideration and enactment by the Senate. Implicit in the Clean Water Act of 1977 is that the Nation's glass of clean water is now half full. The severe pollution in the Buffalo, Rouge, and Cuyahoga Rivers, that caught the attention of the public and the Congress in earlier years and gave impetus to the 1972 act, are now only memories.

But the burning rivers of the past are now replaced by Kepone in the James River, and PCB's in the Great Lakes and Mississippi River. Seven out of 10 municipalities still are not discharging adequately treated effluent. Nonpoint source pollution has not been confronted. One hundred and twelve chemicals have been found in the drinking water of New Orleans. Contaminated fish in Florida's Biscayne Bay are not suitable to eat.

Cancer mortality is increasing and what we drink is increasingly suspect as the cause. Wetlands continue to be threatened. Treated municipal effluent and sludge is in most cases merely discharged, incinerated, or land-filled, instead of being used, as in many other countries, for its water content or nutrient value. Chlorination of water is suspect because of the potentially harmful chemical compounds that are formed in the chlorination process. And the use of pesticides will increase by 50 percent by 1984 with potentially serious consequences of pesticide runoffs to the waters of the Nation.

The challenge of clean water for all Americans remains. The Clean Water Act of 1977 continues the commitment of the Congress in Public Law 92–500, to restore and maintain the ecological health of our Nation's water.

Mr. President, I ask unanimous consent that a list of witnesses at the hearings on June 2, 1977, and June 3, 1977, in Duluth, Minn., and Alexandria, Minn., be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WITNESS LIST—DULUTH, MINN.
JUNE 2, 1977

Sandra S. Gardebring, Executive Director, Minnesota Pollution Control Agency.
Dr. Alden Lind, Save Lake Superior Association.
Representative Arlene Lehto, Minnesota House of Representatives.
Joseph Foran, Minnesota Public Interest Research Group.
Ken Carlson, Minnesota Power and Light Company.
Richard Nachbar, Boise-Cascade Corp.
Russell Susag, 3M Co. (representing Dr. Joseph Ling).
Gary Welk, Northern States Power Co.
Dr. Steve Chapman, Clear Air-Clear Water Unlimited and Minnesota Environmental Control Citizens Association.
Mayor Robert Beaudin, City of Duluth.
Jim Hoolihan, City of St. Cloud (representing Mayor Al Loehr).
Richard Dougherty, Metropolitan Waste Control Commission.
Cliff Grinde, Western Lake Superior Sanitary District.
Ben Boo, Western Lake Superior Sanitary District.
Milt Knoll, Hoerner-Waldorf-Champion International.
David Zentner, President, Izaak Walton League of America and member, Minnesota Pollution Control Agency.
Jerry Seck, Leech Lake Reservation Business Committee.
William Marks, Michigan Department of Natural Resources.
Walter Sherman, Flambeau Paper Co.
Thomas Smrekar, Potlatch Corp.
Gretchen Van Hauer, Duluth Chapter, National Audubon Society.
Fern Arpi, Virginia, Minn.
Karen Carlson, Save Lake Superior Association.
Gloria Hamman, Duluth League of Women Voters.
Betty Hetzel, Superior, Wisconsin League of Women Voters.
Bethel Anderson, Society Concerned About a Ravaged Environment.
Charles Walbridge.
Robert Charleston, Black River Falls, Wis.
Don Eckstrom, Clear Air-Clear Water Unlimited.
Marjory Christenson, Minnesota Environmental Control Citizens Asosciation.
Alderman Freeman Johansen, City of Cloquet.
Charles Stoddard, Northern Environmental Council.
Milton Mattson, Save Lake Superior Association.
Glen Merdelson.
Gail Merland.

WITNESS LIST—ALEXANDRIA, MINN.
JUNE 3, 1977

Duke Addicks, Minnesota League of Cities.
Mayor Morris Sheppard, City of Madison Lake.
Roger Machmeier, Citizens Advisory Committee on Individual Sewage Treatment Systems.
John Sullivan, Alexandria Lake Area Sanitary District.
Richard Neises, Minnesota Green, Mississippi Clean, Inc.
Bud Anderson, Minnesota Conservation Federation.
Paul Davis, Minnesota Pollution Control Agency.
Vern Reinert, Minnesota State Soil and Water Conservation Board.
Mattie Peterson, Izaak Walton League of Minnesota.
Cy Carpenter, President, Minnesota Farmers Union.
Russ Schwandt, President, Minnesota Agri-Growth Council.
Ted Shields, Minnesota Association of Commerce and Industry.
Joe Schilling, Minnesota Pollution Control Agency.
George Dimke, Rice Creek Watershed District.
John Elwell, City of Albert Lea.
Perry Smith, City of Minneapolis.
Dr. Joseph Shapiro, University of Minnesota.
Senator Myrton Wegener, Minnesota State Senate.
Sandy Dibrito, City of Perham.
Hal Haugejorde, Green Lake-New London-Spicer Sanitary District.
Dwayne Osland, Green Lake-New London-Spicer Sanitary District.
Williard Pearson, President, Minnesota Association of Watershed Districts.
Robert Wetherbee, Wilkin Soil and Water Conservation District.
Merritt Bartlett, Clearwater River Watershed District.
Tony Haasser, Office of Congressman Arlan Stangeland.
Archie Zeithamer, Alexandria, Minn.
Lloyd Melvie, Dassel Area Environmental Association.
Gary Martens, Minnesota Association of Farmer Elected A.S.C.S. Committeemen.
Larry Schultz, Osakis, Minn.
Ruth Ray, Upper Minnesota River Valley Regional Development Commission.
Leo Rust, North Dakota Farm Bureau.
Ed Grady, Minnesota Farm Bureau Federation.
Alderman Robert Larson, City of Rochester.
Verlyn Marth, Herman, Minn.
Helen Von Lorenz.
Jim Von Lorenz.

SENATORIAL CRITICISM

Mr. SASSER. Mr. President, Sunday's Washington Star carried an article written by former Senator Eugene J. McCarthy. It bore the intriguing title of "How Not To Criticize a Senator."

The article described the attempts, by White House personnel, to portray the able and experienced chairman of the Senate Subcommittee on Energy Research and Development as having developed an "unwitting" position on the question of whether the United States should construct a prototype liquid metal fast breeder reactor at Clinch River, Tenn.

This issue is one about which good and decent men and women hold deeply different views. Our Founding Fathers designed our political structures to permit the freest possible exchange of differing ideas about matters which affect our entire community.

I sincerely believe debate over public questions ought not sink to the level of accusing U.S. Senators of taking positions for mean and base reasons. Separation of powers and comity between the branches of Government demand a higher plane of debate than would appear to have taken place in this case.

I ask unanimous consent that the full text of his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 31, 1977]

HOW NOT TO CRITICIZE A SENATOR

(By Eugene J. McCarthy)

Frank Church is a U.S. senator from the state of Idaho. He is also the chairman of the Senate's Energy Research and Development subcommittee. For ten years he has studied the problem of nuclear energy. For ten years he has supported experimentation with the fast breeder process and, as part of that, the building and operation of the test reactor at Clinch River, Tenn.

On May 2nd of this year, Sen. Church spoke on "Arms, Energy and the Atom" at the Massachusetts Institute of Technology. In his speech, the senator advocated completion of the fast breeder. He said that the Carter administration in deferring nuclear fuel reprocessing and the introduction of the fast breeder program, is trying to avoid entering the plutonium stage of nuclear energy development. The Carter policy, he said, is the equivalent of "nuclear isolationism" and will, if carried out, reduce rather than enhance U.S. influence on worldwide nuclear development.

Church gave three major arguments in support of his position. First, he said that the energy-deficit countries, stricken by a 600 per cent rise in oil prices since 1973, know that the breeder process is the one technology now offering some relief from their dependence on expensive foreign oil. Second, he noted that the administration, while opposing development of the fast breeder, offers no satisfactory substitute for oil. The United States is like the man on shore who advises the drowning man to take deep breaths of fresh air if he wants to survive.

Church's third argument is a rebuttal of those who assert that the breeder reactor will cause a great proliferation of nuclear weapons. He points out that building a breeder plant as a way of getting material for bombs is most expensive, and would delay production of such bombs for at least the time during which the reactor is being tested. It is anticipated that breeder technology will not be ready for marketing until 1990. Building plants will take another ten years. (This is a better postponement than we are likely to get from the SALT talks.) In the meantime, countries which have uranium, trained personnel, and the proper facilities can—as India did—produce bombs with no help from a breeder plant.

This is the record. Now for the political response.

Sen. Church's facts were not challenged. But the administration tried to make him out to be an "unwitting victim" of industry lobbying. (Administration spokesmen evidently are men of sound judgment, wittingly responding to Adm. H. G. Rickover.) Being called unwitting, like being called a dupe of the Communists, is an ultimate insult to a member of the U.S. Senate. Better to be called corrupt or malicious than to be called "unwitting" by nameless members of the administration.

Sen. Church was labeled the "liberal champion of the Clinch River facility," as though libera's on faith should be against the facility. The implication was that the senator had defected or become a heretic.

Opposition to the breeder reactor is a new condition for liberal qualification, despite the fact tht liberals took the lead in bringing nuclear power under civilian control. Liberals have been in the forefront of efforts to control the building and dispersion of nuclear weapons. Libera's have been strong supporters of the International Atomic Energy Agency, and of the Non-Proliferation Treaty.

Liberals, I have always thought, believe in a rational order. They believe that man can, by reason and moral commitment, give some direction to political order. They have never held that new technology should be buried because there is danger in it, or that new knowledge should be suppressed. They were for electricity. They were for studies of radioactivity. They supported the risky experiments with vaccinations, and now support experiments in nuclear biology.

The White House also suggested that Sen. Church is under a Rasputin-like influence from Orval Hansen, a former Republican congressman from Idaho, now a lawyer representing some members of the nuclear industry. Yet there is no evidence of undue influence on Church by Hansen or anyone else.

Finally it was suggested that the senator supports the Clinch River project because of its possibility for jobs in Idaho. (It is estimated that there might be 200 new jobs in Idaho if Clinch River is continued.) There is no evidence that Sen. Church would surrender principle for jobs in his home state or for political advantage. He was, for example, an opponent of the war in Vietnam when the anti-war position was far from popular. He showed no concern for the military procurement or the new jobs that the war might provide for Idaho.

There are four things which an administration should not do when it finds itself in disagreement with a member of the U.S. Senate.

First, it should not say that a senator is "unwitting."

Second, it should not suggest that he should have voted otherwise than he did because of some political label that has been attached to him.

Third, it should not even hint that the senator is under the influence of some outside person, guru, wife or husband, secretary, administrative assistant, chairman of his committee or even a wise old friend.

Fourth, it should not on an issue of principle or of serious moral significance charge him with having taken a position in order to serve baser political motives affecting his constituency.

Faced with opposition from Sen. Church on the issue of the nuclear breeder reactor, the Carter administration violated all four of these rules.

MEDICAL HELP FOR THE ESKIMO PEOPLE IN CANADA'S FAR NORTH

Mr. ANDERSON. Mr. President, in this day of inflationary prices and rising medical fees, I was very pleased to read an article concerning the outstanding efforts of Dr. Earl Krebs, a dental surgeon from Minnesota.

He volunteers 4 weeks of his valuable time each year to giving much-needed medical service to the Eskimo people in Canada's far north.

I am proud to acknowledge Dr. Krebs as a fellow Minnesotan, and wish to have his commendable service recognized. I ask unanimous consent that the following article from the June 29, 1977, issue of the Guardian of Charlottetown, Prince Edward Island, Canada, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN DENTAL SURGEON OFFERS HELP TO JAMBOREE

(By Allison MacKinnon)

CABOT PARK.—A dental surgeon from Minnesota who travels into Canada's far north for four weeks every year to give voluntary service to the Eskimo people is among the staff who are attending the 4th Canadian Scout Jamboree at Cabot Park.

Dr. Earl Krebs, wife, Jean, and their teen age daughter are travelling with him and working as volunteers during the 10 day event which begins July 1.

When asked why he gave this service at great personal cost, Dr. Krebs was quick with his answer, "God has been good to me. I am so lucky; I have a wonderful wife and six children; I can afford to give because nothing has been taken from me".

These annual sorties into Canada's north all began when Dr. Krebs attended a scout jamboree at Fort Churchill in 1970. It was the second such event held for the natives of Canada's north. His first actual experience in dental surgery came a year after, and he has been making annual treks ever since.

GETS ADVICE

The motivating factor came from one of the nurses who after seeing the doctor teaching the native boys certain crafts and athletic skills said, "why are you spending your time teaching them leather crafts and tossing the cabre. Have you ever looked at these children's teeth" . . . That was it. The doctor saw what the nurse meant. When he started the next year he set his office hours from 8 a.m. to 1 a.m., the next day.

Sometimes the only thing that could be done for the health of the children would be to extract all of their teeth to prevent infection to the whole system. The adults were cared for after the children's bedtime.

Dr. Krebs said he was fortunate that his wife, Jean, allowed him to get away.

"As a matter of fact, it was she who saw the need first", he added. The American dentist said he has developed a great respect for the Eskimos. "We have developed a kinship which is close to a blood-brother."

SPIRITUAL

He observed that the Eskimo is essentially a spiritual person, and to expand on this thought, took the instance of complimenting a man on a piece of his stone carving. The Eskimo replied, "oh, it was not I who made that image, it was in the stone all the time. I just let it out".

"An Eskimo loves his family", Dr. Krebs continued." They share with each other as well as with their neighbors. Wife beating was never known in an Eskimo family—that is until very recent years."

SENATOR HUBERT HUMPHREY

Mr. MUSKIE. Mr. President, Marquis Childs comments in the Washington Post

this morning that HUBERT HUMPHREY has renounced ambition. That is not precisely correct. As long as I have known my dear friend from Minnesota, I have also known that his overriding ambition was not for office of favors, power, prestige or position. No, his guiding ambition has been to help people—his constituents, his countrymen and his world.

In that ambition, he has succeeded as few men have. I will leave further judgments to the history books, for HUBERT will surely be in them. For now, we are all grateful that he is still driven by his true ambition.

Mr. President, I ask unanimous consent that Marquis Child's column from the August 2, 1977, Washington Post be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

KUDOS FOR HUMPHREY

(By Marquis Childs)

If there's one man around this town who can be called an optimist it is Hubert Horatio Humphrey. This is all the more remarkable in view of the blows he has taken over the years of his experience in riding the political roller coaster. On top of it was a major cancer operation with a follow-up of chemotherapy, which he cheerfully describes as his bi-weekly dose of poison.

Being Lyndon Johnson's vice president was like being chained to the Loch Ness monster. Then came the 1968 election when, with Johnson glowering in his retreat in Texas, Humphrey failed until too late to disavow the Vietnam war The victory by Richard Nixon was by such a squeak that with it went all the sad might-have-beens for Humphrey.

The presidential virus is all but incurable and in 1976 Humphrey toyed with the idea of running again. He had the good sense, however, to stay out of the primaries. Today, his past ambition is behind him, and it is no exaggeration to say that he is devoting himself with all the intensity of the Humphrey temperament to working for the success of his President and his country.

I had a talk with him the other day between long and arduous stints on the Senate floor. He spent three consecutive days shepherding the foreign-aid bill to passage, with sessions running until 9 p.m. or even later. Humphrey is one of four senators who have regular, weekly meetings with Carter, along with five House leaders.

"On balance I would say he is doing all right," Humphrey said after speaking of certain differences between the Congress and the White House. "I am not trying to protect him. I was not on the bleachers for him, but every time I work with him I feel a little better.

"I have been at a lot of meetings with President Kennedy, President Johnson, and a few other Presidents. But these are the most candid, open and frank discussions I have ever experienced. I think he does realize that the relationship got off to a bad start. He has been told so in so many words by Bobby Byrd [Senate majority leader], Tip O'Neill [Speaker of the House], and the rest of us chirp in and let him know:

" 'Mr. President, it is one thing to cancel our projects, but it is another how you do it. It is one thing to send messages up here, but it is another how you follow up. And I suppose that if there is any weakness in the administration it is that they are trying to do too much too soon.' "

Humphrey contested with Byrd for the leadership post and came out second best. His first move was to go to Byrd to say, "Bob, I want you to be a great leader; I want to help you. I don't know how much time I've got around here but I want to help you." They have had a close and friendly partnership ever since.

The President has taken a long time, in Humphrey's view, to realize what a hold Congress' new budgeting procedure has over federal spending. The spending guidelines laid down by the Congressional Budgeting Office, under the direction of Sen. Edmund Muskie (D-Maine), are jealously guarded, taking precedence over the executive budget.

"So he is experiencing what I would call a very normal, healthy, competitive relationship between the executive and the Congress on the separation of powers, considering that the Congress today doesn't roll over like it used to. It really is a different Congress since Vietnam and Watergate. It's very assertive."

And Humphrey thinks that is a good thing. He is not afraid to ask the tough questions. When he had Chairman Arthur Burns of the Federal Reserve System before the Joint Economic Committee, he "blew the whistle on him" with respect to the loans advanced by New York banks to developing nations. "And the banking fraternity up in New York went crazy." Burns' response to the banks was, "Get your house in order."

Humphrey gives him credit for that, although he believes the power the chairman wields is too great, particularly when the chairmanship is a holdover from a previous administration. Although he is for the independence of the Fed, he thinks the chairman and the President should have coinciding views on fiscal policy. "Otherwise you can reduce taxes here $50 billion and Arthur Burns can raise the discount rate one-half of one per cent and, hell, it is all gone."

Having renounced ambition, Humphrey is as free as a bird. In the past his weakness was his trust of associates who were undeserving of that trust. A man of compassion and an exceptionally keen mind, his mistakes were those of the heart rather than the head. Now, as an independent agent, he is following his own course, and that course is winning him kudos as never before.

APPRECIATION AWARD

Mr. CHILES. Mr. President, it is with pride that I would like to bring to the attention of my colleagues an honor which has been bestowed upon a fine citizen of the State of Florida.

Mrs. Howard P. Winton of Melbourne, Fla., was recently selected by the Auxiliary to the American Optometric Association, as the recipient of the organization's 1977 Appreciation Award. Each year, the appreciation award is bestowed upon an individual member who has made outstanding contributions beyond customary expectations toward advancing the objectives of the auxiliary.

With so many members across the Nation working through their optometric auxiliaries toward the health and welfare of the public, it was indeed a singular honor for a Florida citizen to be chosen for this award.

WHERE DO THE DEPARTMENT OF DEFENSE PROCUREMENT DOLLARS GO?

Mr. BAYH. Mr. President, last week the Senate adopted an amendment to the Department of Defense appropriations bill which I cosponsored that would require all prime contractors receiving contract awards of $10,000 or more to file an annual report with the Department of Defense showing the amount of defense work performed by their subcontractors by State. This amendment also provides that the Secretary of Defense shall submit an annual report to Congress showing on a State-by-State basis, the total amount of DOD funds paid to subcontractors. Mr. President, I want to first of all commend my distinguished friend and able colleague, the Senator from Ohio, Mr. METZENBAUM, for his initiative in providing this vehicle with which we can know where some $20 million in the Federal funds are going every year. It is important for those of us representing the Midwest and Northeast regions of the country because it is no secret that investment of the defense dollar has a healthy economic impact. This is not to say that we should rely on the DOD budget to generate jobs when, in many instances, spending in other areas is a more efficient creator of employment. But precisely because DOD is the Government's largest single procurement agency—some $44.9 billion annually accounting for 75 percent of the total for all Federal agencies combined—we ought to know where these dollars are going.

The $20 billion I mentioned above is an estimate of funds derived from subcontracts awarded by DOD prime contractors. The problem arises in connection with this figure because present Defense Department accounting methods do not provide an accurate picture of where these dollars are spent. This feature of tracking DOD funds are pointedly criticized in a study of the Northeast-Midwest Research Institute called "Defense Subcontracts: Which Companies Get Them and Why Doesn't the Pentagon Know Their Names?" That study noted:

The failure of the Defense Department to track the secondary distribution of its expenditures may result in a systematic overcounting of the money flowing into other states. When many of the firms that contracted for defense production were first established, their headquarters tended to be located in the urban centers of the Northeast and industrialized Midwest. More recently, however, many firms are locating production lines in the south and west where labor and energy costs are thought to be less than in other regions of the country, while continuing to maintain headquarters in urban centers. DoD, however, reports its expenditures by the state where the prime contractor's headquarters is located. Thus, while it may appear, by reviewing DoD contract awards, that the Northeast and Midwest are receiving their "fair share" of defense dollars, this may not be the case.

Mr. President, I believe that the Metzenbaum amendment will provide us with a system that will help us determine if States and regions are receiving their "fair share" of Federal dollars. This does not mean setting up some arbitrary formula whereby the region with 25 percent of the population would receive 25 percent of the DOD procurement dollar. Still, when we realize that over the 1960–75 manufacturing employment for the Great Lakes States grew by only 3.2 percent while regions such as the Southeast and Southwest increased by 43.3 percent and 67 percent respectively, it is clear that imbalance exists where this policy is concerned.

The July 2, 1977 issue of the National

Journal underlines the potential for confusion here. In terms of Defense contracts awarded it appears that Indiana fared not too badly in fiscal year 1976 with $161 million in Defense contracts awarded, more than any of the other Great Lakes States. However, without knowing how much of this money was actually spent in the State in the award of subcontracts, it is difficult to judge the extent of real economic benefit accruing to localities. In plain English, we just do not know and we will not know until the Metzenbaum amendment becomes law and DOD is required to resume the practice it dispensed with in 1973 which will accurately track the procurement dollar.

Certainly, this is not the only issue that merits consideration and action with regard to Department of Defense procurement policies. It is, however, one we must address if we are to move intelligently and constructively review further defense construction and procurement decisions which can have such a pronounced impact on communities throughout the country.

GENOCIDE CONVENTION UNSIGNED AS ATROCITIES CONTINUE

Mr. PROXMIRE. Mr. President, recent reports from Cambodia indicate that Communist rulers in that country have turned against the people with vengeance. Human rights are being sacrificed left and right.

Wholesale slaughter of the civilian population began, Jack Anderson and others have reported, within hours after Khmer Rouge soldiers swarmed over Phnom Penh on April 17, 1975. These killings have since been recognized as the first part of a deliberate campaign to remake society.

Civilians were ordered out of the city, herded into death marches, forced to struggle into the countryside without food or water.

At the end of the marches, the harassed people were put to work planting rice and building dikes. Families were separated and marriages forbidden.

By the thousands, Cambodians were dragged out of their villages to be shot or bulldozed alive into mass graves. Anyone with an education was executed.

The number of executions has fallen off some in recent months but the loss of civil rights continues. Marriages are now permitted, but a love affair can be a capital offense. There are no newspapers; three short propaganda messages are broadcast daily.

Mr. President, mass killings did not stop with the death of Adolf Hitler. Jack Anderson, in fact, recently characterized the Communist rulers of Cambodia as more oppressive than "Adolf Hitler at his worst."

The Senate has an opportunity to help stop the atrocities associated with genocide. It can ratify the Genocide Convention. Admittedly, genocide is only one manifestation of the disregard for human rights. But it is by far the worst, and perhaps the most forgotten.

HYDROPOWER FROM SMALL DAMS

Mr. ANDERSON. Mr. President, several months ago President Carter requested a 90-day survey by the U.S. Corps of Engineers of the potential hydroelectric capacity of the 48,000 small dams presently used only for flood control or water resource related uses. The results of this study are expected shortly and may offer details of an additional energy source which has not received a great deal of attention.

In a recent article in the Christian Science Monitor it was reported that almost 30 million kilowatts in electrical capacity are potentially available at existing small dams. Richard Dunham, Chairman of the Federal Power Commission estimates that small hydrodevelopment costs would range from $500 to $1,000 per kilowatt compared to $800 to $1,200 for coal and nuclear power plants. Hydropower's environmental impact would be less significant than either of these two sources.

Making the most use of our renewable resources to generate our ever-increasing need for electricity makes sense to me.

In order that others may learn more about this as yet untapped source of power, I ask unanimous consent that the text of the Christian Science Monitor article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMALL DAMS—ENOUGH POWER FOR NEW YORK CITY

(By Clayton Jones)

WASHINGTON.—President Carter and Congress are about to open the floodgates, literally, of an energy source once common in 19th-century America—small dams.

Thousands of existing small dams, including some that once ran old flour mills, could become pint-sized plants, almost doubling U.S. hydroelectric power and slashing electric bills for many Americans, according to a still-unveiled report ordered by President Carter.

Harnessed simply by adding turbines, in-place dams would generate seven times more energy than what the administration anticipates from new solar heating in 1985 and almost the same amount of electricity produced today by nuclear plants, say U.S. energy planners.

In his April energy message President Carter requested a 90-day survey by the U.S. Army Corps of Engineers of potential electrical capacity at some 48,000 untapped dam sites. The Corps of Engineers report, still to reach the President's desk, doubles original estimates of electric power available from such dams.

"The deeper we investigate small dams, the more watts we find," says a staff aide to U.S. energy chief James R. Schlesinger.

Almost 30 million kilowatts in electrical capacity are potentially available at small dams, according to the study, with an additional 21 million kilowatts possible by rehabilitating and expanding present hydroelectric dams. That combined new generating capacity would satisfy the electrical needs of New York City, or 9 million people, calculates Federal Power Commission official Ronald A. Corso.

To spur conversion of now-idle dams, U.S. lawmakers are planning to add a $300-million, three-year program onto the President's energy package, which now is working its way through Congress. A House vote is expected in early August, and the Senate takes up the idea in early fall.

The program, sponsored by Rep. Richard L. Ottinger (D) of New York, would provide up to 75 percent of the funds needed for demonstration projects of small hydroelectric dams, built by either public utilities, private companies, or individuals. Time needed to obtain licenses and permits would be shortened to less than nine months.

Costs of the new hydroelectric projects would be far below fossil fuel plants—and must less damaging to the environment, say U.S. officials. Richard Dunham, power commission chairman, told Congress that small hydro development costs would range from $500 to $1,000 per kilowatt compared with $800 to $1,200 for coal and nuclear power plants.

Already, a handful of utilities are planning to use abandoned or nonhydroelectric dam sites as alternatives to investing in large nuclear or coal-fired plants. The corps report found 16,639 recreation reservoir dams, 7,776 flood-control dams, 7,279 water-supply dams, and 6,329 irrigation dams that potentially could be harnessed with turbines.

In Springfield, Vermont, for instance, the town selectmen plan to use seven old mill dams dating back to the turn of the century to supply the electrical needs of the town's 10,000 residents.

But they will have to look to European manufacturers to buy turbines because American companies make only giant models for large dams. When installed, the small hydroplants will cut the town's electric bill in half, says selectman Chester Scott. "And when it's paid for, we'll be sending dividends to every home instead of a bill," he adds.

In New England, especially, the move to use old dam sites will help out an energy-pressed economy. Tapping 10 percent of the estimated 3,000 sites in New England could theoretically supply Boston with all its electrical needs. The corps study finds the greatest potential in that old mill region, followed by the Mississippi Valley and the upper Northwest.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Juan G. Blas, of Guam, to be U.S. marshal for the district of Guam for the term of 4 years vice John T. San Agustin.

Hugh Salter, of North Carolina, to be U.S. marshal for the eastern district of North Carolina for the term of 4 years vice James R. Durham.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, August 9, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

MINNESOTA FACING CONTINUED NATURAL GAS SHORTAGE

Mr. HUMPHREY. Mr. President, our country is facing a very serious natural gas shortage. Last winter, over 21 percent of the amount of gas required to be delivered under contract was curtailed.

Now the Federal Power Commission projects curtailments of over 23 percent of the gas under contract for the coming winter.

The FPC predicts that interstate pipelines will have 169.9 billion cubic feet of gas less than last winter. At least 29 pipelines may have difficulty in maintaining their required service levels.

Mr President, in Minnesota the customers of Northern Natural Gas Co. can expect natural gas curtailments this winter to be as severe as last winter—if not worse.

Minnesota feels this interstate gas shortage most acutely. Last winter, medium-sized commercial and industrial users of natural gas—priority "2–C" on the FPC curtailment schedule—were without gas for 45 days. Based on a survey taken in mid-June, the FPC now estimates that the same users may be curtailed as many as 88 days if we have a normal winter this year. The curtailment will be longer if it is a colder than normal winter.

Natural gas shortages are becoming an annual crisis in Minnesota. Our schools and businesses, our farms and industries are being threatened with closure each winter because utilities serving Minnesota cannot get enough natural gas.

Minnesota has no significant in-State reserves of natural gas. Last winter, Minnesota's major natural gas supplier —Northern Natural Gas—purchased and transported up to 176 million cubic feet per day of gas under the emergency provisions of the Natural Gas Act. Without these emergency gas purchases, authorized by congressional action, the curtailments would have been even more severe. Similar purchases are our only hope for getting through the next year without severe shortages Continued gas shortages like this are a serious challenge to both our industrial and agricultural economies in Minnesota. Natural gas not only powers our factories and heats our offices, schools and homes, but it is also the vitally important ingredient for making fertilizer, herbicides and pesticides.

But, in the long run, we must look to other energy sources, such as solar and geothermal, for our growing agricultural and industrial energy needs. Conservation of energy also is essential. But over the next 5 to 10 years, in order to maintain the vitality of our national economy, in order to keep schools open, homes warm, and businesses operating, it is absolutely imperative that quick and decisive action be taken to assure Minnesota of an adequate supply of natural gas.

Congress is considering the President's proposal to reregulate natural gas. It is important that we remove the price distinction between interstate and intrastate natural gas in order to provide Minnesota with more gas. The President's proposal would accomplish this. And, although it may mean somewhat higher prices to some Minnesota customers, passage of this measure can play a crucial role in easing natural gas curtailments.

One of our greatest benefactors in providing us with natural gas has been our neighbor to the north. Canada deserves our gratitude for her emergency gas exports this past winter. And we must continue to work cooperatively with her to produce, transport, and utilize efficiently the vast natural gas resources we share in Alaska and the northern Yukon.

There is enough gas in Alaska to supply this country with 5 percent of our natural gas needs for 25 years. These reserves could reduce the bite of our current shortages considerably. But in order to do so, it is crucial that those areas which have the greatest shortages be the first to receive these supplies. Whether we in Minnesota have access to that gas is an important decision that will have to be made in the next 2 or 3 months. There is no doubt that we certainly need it.

At present, we import natural gas from Canada at a faster rate than we can ever expect to receive it from Alaska. However, unless Canada is able to get access to her gas reserves in the northern Yukon—a project that is not now economically attractive—the Canadian Government may have to begin curtailing gas exports to the United States by the time we begin receiving Alaskan gas.

Of the three proposals being considered for transporting Alaskan gas to the lower 48 States, only the overland routes would help Canada gain access to the northern Yukon reserves. An overland route would thus insure continued imports of Canadian natural gas.

The Arctic gas proposal would pipe Alaskan gas across Canada to the Midwest, but so far it has not met the approval of the Canadian Government. In fact, supporters of Arctic have now joined the Alcan consortium. The Alcan proposal has been appraised more favorably—particularly in terms of its cost and environmental impact. The third proposal would bring Alaskan gas to California via oceangoing tankers, and would not assist in assessing the northern Yukon reserves.

It is clearly in Minnesota's interest to support an overland pipeline. This will assure us of continued gas imports from Canada as well as from Alaska.

I fully intend to continue to work with other members of our congressional delegation in making this view known to the President.

NINTH ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

Mr. PELL. Mr. President, August 20–21, which falls during the congressional recess, will be the ninth anniversary of what has appropriately come to be known as the Soviet Day of Shame—the brutal invasion of Czechoslovakia in 1968 by 600,000 Soviet and other Warsaw Pact troops. It is lamentable that in the current atmosphere in the United States of skepticism—and even cynicism—about the course of East-West détente our memory of what the peoples of the small and peace-loving country of Czechoslovakia tried to do 9 years ago seems to have dimmed.

In the spring and summer of 1968, the Czech and Slovak peoples, acting in accordance with the U.N. Charter's principle of "the sovereign equality" of all U.N. members, tried to humanize the Communist system under which they had lived for 20 years. This was a purely internal matter which threatened no other nation; yet the Soviet Union, apparently believing that some sovereign U.N. members are more equal than others, violated article 2 (4) of the U.N. Charter which states that—"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."

I have long had an interest in and personal acquaintance with Czechoslovakia. It seems only a short time ago when, as a young Foreign Service officer, I established the American Consulate General in Bratislava at the time of the Communist putsch of February 25, 1948. Through the years since then, I have sought to visit Czechoslovakia as often as I could and to stay in touch with conditions in that country. I was there just prior to and just following the Soviet invasion of 1968. I observed at the time that the fact that the Soviet Union did not have to use force directly to make Czechoslovakia a Communist country but had to employ a major military force 20 years later in order to keep it Communist says something dramatic about the appeal of communism after two decades of exposure to it.

Mr. President, on August 1, 1975, the 35 participants in the Conference on Security and Cooperation in Europe signed a final act in Helsinki relating to security in Europe, and economic and humanitarian cooperation. I was encouraged at the time by the fact that among the principles to which the participants, including the Soviet Union, subscribed, was one which stated that "no consideration may be invoked to serve to warrant resort to the threat or use of force" against the territorial integrity or political independence of any state. My colleagues may recall that in 1968, the Soviets justified their invasion in the name of "proletarian internationalism"—also known as the Brezhnev doctrine.

The fact remains, however, that some 50,000 to 70,000 Soviet forces remain in Czechoslovakia with the principal mission of insuring that no more Prague springs occur. Until the Soviet occupation of Czechoslovakia ends, there is no realistic prospect for the Czechs and Slovaks to exercise their sovereign rights as set forth in the U.N. Charter and reiterated in the Helsinki Final Act.

The Commission on Security and Cooperation in Europe was set up by an act of Congress in June of 1976 and signed by President Ford, to monitor compliance with the Helsinki Final Act. That Commission, of which I am proud to serve as co-chairman along with Congressman DANTE FASCELL of Florida, will play an important role in the U.S. Government's effort to insure that the principles agreed to at Helsinki—including the nonuse or threat of force—will mean something to the peoples of both East and West.

While there is hope—and it is only that for now—that Soviet aggression in

Eastern Europe may be a thing of the past, we must not forget what happened in 1968 nor allow the Soviet Union to forget that its invasion and continued occupation of a neighboring country is in contravention of solemn obligations.

Mr. President, I ask unanimous consent that a statement prepared by the Czechoslovak National Council of America and issued each year beginning in 1971 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FREEDOM IS INDIVISIBLE

On this sad occasion of the Ninth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a "Day of Soviet Shame" in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "The withdrawal of Soviet Troops from Czechoslovakia."

IN PRAISE OF THE FRATERNAL ORDER OF EAGLES

Mr. HUMPHREY. Mr. President, on Friday, July 29, I was invited to address my fellow members of the Fraternal Order of Eagles at their 79th annual international convention in Minneapolis.

Each of you is probably familiar with some aspect of the work of this remarkable organization that has made important contributions to communities throughout America.

Founded in 1898 by vaudeville troupers to promote peace, prosperity, gladness and hope, the order has flourished and expanded to the great benefit of the communities and countries it serves.

Although dubbed the Fraternity of the Common Man, Eagle history is a record of outstanding members and uncommon achievements. Six Presidents of the United States have been Eagles: Theodore Roosevelt, Warren G. Harding, Franklin D. Roosevelt, Harry S. Truman, John F. Kennedy, and Jimmy Carter. A typical cross-section of America, Eagles include the famous and obscure, mighty and humble, great and small.

The Eagles won the nickname, "the Fighting Fraternity," through vigorous support of social legislation. From 1910 to 1940, the order was in the vanguard of social legislative progress.

Here are a few highlights from the history of this order since its founding in 1898:

In 1911, in Missouri, the order sponsored the first Mother's Pension Act and, a year later, was instrumental in enacting in Wisconsin the first Women's Compensation Act.

A few years later, the Eagles began to demand elimination of the poorhouse. In 1923, the Montana Legislature passed the first old age pension law of the Nation, sponsored by a prominent Eagle legislator. Eagles continued the campaign for social legislation at the State level, while campaigning for a national Social Security Act.

At the signing ceremony for the Social Security Act, President Roosevelt presented a pen to the order as a symbol of his approval of the "Fraternity's vision and courage."

Eagle civic and benevolent contributions have been generous in meeting community service and program needs.

In the decade of the 1950's, the Eagles raised over $1 million for the Damon Runyon Cancer Fund; in the 1960's, the Eagles founded the Max Bear Heart Fund, which has donated over $2 million for heart research. The Eagles have now founded the Eagles Cancer Fund, which has raised over $2 million in addition to the Damon Runyon Cancer Fund. Most recently, the Jimmy Durante Children's Fund was founded to support research into the catastrophic diseases of childhood.

Now, the Eagles are leading spokesmen for the welfare of older Americans.

They support legislation which permits the aged to live in dignity and self-respect, including legislation to prohibit discrimination against the over-40 worker. They have created within 3,200 local Eagles units retired Eagles activities clubs and a Golden Eagle Fund to raise and distribute funds for gerontological research.

I was proud to have the opportunity to praise and encourage this public-spirited organization, and to discuss with them the continued need for enlightened social policy. I ask unanimous consent that my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY, 79TH ANNUAL CONVENTION OF THE FRATERNAL ORDER OF EAGLES

What a privilege it is to be among my friends and fellow members of the Fraternal Order of Eagles and to share in your annual celebration of peace, prosperity, gladness and hope.

I can't think of a better motto, nor one that is more typically American. Since its founding almost 80 years ago, the Order has undertaken a wide range of civil and benevolent works and programs in communities throughout this nation.

Many charters of government have spoken in solemn tones of peace and prosperity, of life and liberty. But happiness and gladness and hope bespeak an optimism that is distinctly American.

Civic responsibility is another American tradition. In America's frontier experience, communities preceded governments, and created their own rules to meet public needs and to enforce public duties. The new world fostered a continuing creative tension between individualism and the urge to join and to organize, a legacy still very much alive.

A third thread that recurs in the fabric of our culture is activism. We demand much from our government because we elect it and direct it.

If the American people want strong government, they want it to be competent, fair and compassionate as well.

Today I want to mention several areas in which government has provided successful leadership.

One of our great social advances was passage of the Social Security Act. Eagles can recall with particular pride their instrumental role in this move to increase the security, dignity and well being of older Americans. The great system they helped establish underpins our economic stability. Its role grows more crucial in the context of dramatic social and demographic changes.

These changes include the weakening of the close, extended family. Together with an unprecedented mobility, this trend has left many elderly Americans stranded in isolation and poverty without the aid and comfort of relatives.

At the same time, the number of older Americans is rising. Life expectancy moved from an average of 47 years in 1900 to 76 today. In 1900, one in every 25 Americans was 65 years of age or older. Today, that number is one in 18. Yet society remains geared to the needs and desires of the young.

Social and demographic changes are intensified by inflation that erodes the small, fixed income of the elderly. As a group, they are the poorest Americans. Nearly 60 percent receive less than $3,000 a year in income, and at least three million live in dire poverty. Yet their health needs are the greatest.

The Social Security Act, with all its limitations, is a basic social policy that affects the life of virtually every American family.

Thirty-three million persons receive benefits under Social Security. One hundred seven million people pay taxes to support the trust funds. It has become one of the nation's most important and enduring institutions, outstripping the expectations of even its most visionary supporters.

To continue to perform its vital function, the Social Security system must keep pace with changing realities.

Almost every Congress has seen improvements in benefits and coverage. Now there is a good case for reexamining some of the premises and restrictions which made sense when the Social Security Act was created but have less validity in a new social and economic climate.

Social Security was conceived as an insurance program to replace wages lost by retirement and disability. An outgrowth of the depression, it was designed not only to re-

place lost earnings, but also to encourage older workers to leave their jobs and make room for the unemployed. It reassured an infant labor union movement that wages would not be depressed by the willingness of the elderly to work for low pay.

But today our goals should be an economy dynamic enough to create jobs for all Americans who wish to work, from teenagers to the aged.

To permit those elderly persons who wish to work to remain in the labor force would increase our gross national product and decrease public assistance payments.

I believe it would do a great deal for the mental and physical health of Americans who prefer productive labor to idleness, who want wages instead of poverty, and who want to work with others rather than exist in isolation.

I consistently have supported legislation to liberalize the so-called retirement test, or limitation on earnings, to permit older Americans to achieve a better standard of living.

But a major overhaul in benefits requires that we act now to address weaknesses in the financial base. Congress is working on proposals by the Administration to prevent a shortage in trust funds created by a long period of simultaneous inflation and high unemployment, a miscalculation by Congress that over-adjusted for inflation, and the increasing proportion of elderly in the population.

We must restore a financially stable Social Security system—this must be a priority in the 95th Congress.

As a parallel to the income security established 40 years ago by Social Security, the time has come to make health care accessible to every American.

One of my first legislative proposals as a freshman Senator in 1949 was to establish a national program of health insurance. In 1965, Congress passed Medicare as a dramatic commitment to the health of this nation's elderly. Although its value has been seriously eroded by inflation, not one of us would be willing to withdraw this basic protection from elderly Americans.

Americans spend more per capita than any other nation for health care. And health care costs double every five years. Medicare and Medicaid, which together absorb 60 percent of health spending by the Department of Health, Education and Welfare, will jump 23 percent next year.

The health care cost this year is $160 billion or almost 9 percent of our total gross national product. Yet millions of people lack adequate care. Forty million Americans are without hospital or surgical insurance and 18 million have no public or private insurance whatsoever. Millions live in seriously underserved geographic areas.

We have more information on how to provide better care than ever before in our history.

If we do not improve the health of all Americans dramatically, it is because we have not brought to the solution of this problem America's special brand of know-how, determination and pragmatism.

There are those who contend that health care is entirely the province of private enterprise. This philosophy maintains that health care should be available to those who are willing and able to pay for it, and not necessarily to those who want and need it.

I reject this viewpoint. Health care is a basic right, not the expensive privilege of a few. And government has a creative tradition of planning, regulating, financing and delivering health care for vulnerable groups, and whenever resources must be mobilized on a national scale.

At the National Institutes of Health, Federal tax dollars have built the world's greatest medical research institution to stimulate and sustain a network of research by universities and individuals. I am most familiar with the work of the National Cancer Institute which directs the National Cancer Program, a systematic all-out attack on the disease most feared by the majority of Americans.

Not measured by our hopes or impatience, but by achievements alone, the National Cancer Program has made enormous strides in both basic research and improved clinical care.

In the 1930's, less than one cancer victim in five lived five years after treatment.

Today, the ratio is one in three. Treatment could save 345,000 lives or half of the persons who get cancer each year.

Retinoids, a combination of natural and synthetic Vitamin A, offer new hope for cancer prevention. New methods such as combined drug treatments, blood transfusion, immuno-therapy, CAT scanning and ultrasound detection of tumors have been developed and disseminated. Modern surgery gets better results with less radical operations; radiation therapy has fewer side effects; and chemotherapy attacks some advanced cancers and prevents some tumor recurrence.

For others, the key to hope is basic research which is unlocking the mystery of the chemistry, structure and behavior of cells, and the immune defense system.

We have only begun to reap the benefits of the groundwork laid by the world's most intense, professional and coordinated attack on cancer. The generous support of private organizations such as the Eagles brings us even closer to victory.

Increasingly, clues point to environmental causes and life style as mechanisms which trigger disease. Efforts to identify and eliminate environmental hazards have been expanded greatly. Although nutrition has long been recognized as essential to good health, research into the relation between nutrition and disease is in its infancy.

Physicians and medical schools have given the subject only peripheral attention and quacks and faddists too frequently have moved in to fill the void of scientific knowledge.

Neglect of nutrition reflects a bias toward acute care which permeates the health care system—while preventive health care goes relatively unnoticed. The emphasis on sick care instead of health care means we have not even scratched the surface of preventive medicine as an element in both good health and cost control.

Better safeguards against industrial and environmental hazards, and the application of principles of good nutrition, could reduce vulnerability to cancer and other diseases. We can reduce the debilitation of illness and the side effects of treatment by careful nutrition control.

Increasingly reliable evidence suggests that diet has treatment potential as well.

There is some evidence that tumor growth may be influenced by limiting the concentration of amino acids, or that special diets to reverse the loss of weight and appetite that often accompany cancer may strengthen the body's immune system.

I have spoken today of the government's role and achievements in some very basic aspects of human welfare. This role is and should be one of leadership. But in America each individual, and individuals working together in groups, ultimately decide the values their government will protect and the services it will provide.

It is fashionable to be cynical about government as an expression of the will of the people. But I'm old-fashioned.

I believe that the average American still has a deep-rooted trust in government as an instrument to shape a better society and to promote those common goals of health, prosperity, peace, happiness and hope.

We are not suffering from an excess of activism. What we need is wider participation in this activism.

Ours is a huge, disparate nation with pluralistic institutions. Washington has no monopoly on knowledge. There are many functions that can be improved by an injection of common sense and a sensitivity to local needs. We need an intelligent division of responsibilities, and an active collaboration between public and private sectors and among local, state and national governments.

The climate is ideal for a new partnership between individuals and their government. Our president was elected with a mandate to streamline the Federal Government to make it more ethical, responsive and efficient. President Carter's town meetings and press conferences are more than symbols. They are a sincere effort to keep government close enough to the people to hear their ideas and enlist their support.

This is a clear trend in Congress as well. We have adopted a strong code of ethics. Right now, we are debating a system of mixed public and private financing for Senate elections to encourage small individual contributions and to limit attempts at influence-buying.

Citizens have new rights of access to government information and to decision-making processes. Sunset legislation now before Congress sets up a strict schedule of review to eliminate government programs that fail to perform their mission.

Regulation and paperwork are under scrutiny. We are trying to reduce delays and paperwork and to insure that regulatory agencies serve the consumer.

It is estimated that the Federal Government spends $20 billion annually to print, process and store its own forms, while it costs the public another $20 billion to fill them out. New laws and new information requirements will continue to originate paperwork. But we can do a great deal to simplify, to reduce the overlap, and to drop requirements that are obsolete or unnecessary.

The Fraternal Order of Eagles has demonstrated its high sense of personal and community responsibility. It has played an active role in communities across America as a proven friend of youth, of the elderly, of veterans and of our needy neighbors. It has mounted campaigns against cancer, heart disease and catastrophic childhood disease. It has been in the vanguard of major social legislation at the state and national level.

My purpose today has been to endorse and praise this civic eagerness and stress its important role in national priorities and programs. The community concern and participation fostered by civic organizations at the local level is the lifeblood of representative and decent government.

You have done a great job, and we will count on you to continue.

WALTER "SALTY" BRINE—A MAN WHO CARES BOTH ON AND OFF THE AIR

Mr. PELL. Mr. President, Walter "Salty" Brine, during more than 30 years as morning man at WPRO–radio has become a Rhode Island institution. His sincerity and the knowledge that he cares about them, both on and off the air, has swelled the ranks of his listeners to the point where he has established himself as the premier morning man of Rhode Island radio.

Many police and motorists report that when "Salty," as he is known to his listeners, warns of an accident on the road ahead of them, the traffic slows down as soon as he warns his listeners.

In his private life, he also cares deeply about helping others and has devoted years to community work. He has been actively involved in fund raising efforts for handicapped and retarded children since 1959 and has helped with numerous additional charitable causes.

Two Rhode Island newspapers have published articles about Walter "Salty" Brine this year. One is in the Rhode Islander magazine in the Providence Sunday Journal of July 31. The other is in the April 14 issue of the East Side newspaper.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the East Side, Apr. 14, 1977]

SALTY BRINE JUST KEEPS ROLLING ALONG

(By Joyce Holdsworth Warrick)

He has been the morning man at WPRO for 35 years and is still number one in the ratings. What is the secret of Salty Brine's success?

"He's always new, fresh and unpredictable," says newsman Bud Toevs who has worked with Brine for 22 years.

According to Sherm Strickhouser, "he's a habit . . . no, it's more than that—Salty's got . . . class!"

Brine, himself, doesn't know the answer but he does have a philosophy about announcers and radio personalities.

"You can't just be a nine-to-five man. You must want to be something to yourself and to feel you're doing something for the community," says Brine seriously.

An example of his own beliefs, Brine has devoted years to community work. Since 1959 he has been consistently and actively involved in fundraising efforts for handicapped and retarded children.

The seed idea of helping the handicapped generated from a "noon meeting" at Galilee one summer in the late 50's. The four men involved were Brine, former Congressman John Fogarty, the late Arthur Trudeau and Roger (Cap) Wheeler who died in 1969 and for whom Sand Hill Cove has been renamed.

From this meeting came the Salty Brine Fund Days, an effort that would lead, ultimately, to the founding and construction of the Trudeau Memorial Center in Warwick.

"The retarded would not be where they are, in this state, if it hadn't been for Trudeau. He literally gave his life for them," Brine recalled.

Brine has recently participated in the Meeting Street School benefit on Channel 12 and will appear again, in September, on the Jerry Lewis Muscular Dystrophy Telethon.

There is no fund raising involved in the Salty Brine Trips but these excursions, begun as a station promotion, have turned into yearly economical group vacations for many New Englanders. For Brine these trips have been a source of "deep and lasting" friendships.

Perhaps the least publicized yet most self-gratifying of Brine's community work stems from a tragic childhood experience.

At ten he lost his leg in an attempt to hop a freight train.

"Whenever I hear about someone who has lost a leg, I immediately go to see him because of what I went through. Nobody came to see me when it happened and told me I would be able to walk again. It never is easy when you lose a leg but I walk for them . . . I show them my leg and tell them they will be able to get on their feet and walk," says Brine, adding "their gratitude is enough reward for me."

Walter (Salty) Brine, the son of a carpenter, was born in Boston in 1918. He graduated from Staley College in Brookline in 1941 with a bachelor of arts in Oratory. His first job, a part-time one, was at WNAC in Boston where he was nicknamed 'Salty.'

"We did the news in dramatic form in what you might call first person with Francis Cronin at the organ. It was for Sunshine Crispy Crackers . . . my first sponsor," Brine recalled with a nostalgic smile.

He came to Rhode Island and WPRO in 1942.

His morning show was called the TNT review. "It was Time, News and Temperature but the war was on so we changed the last T to Tunes." He hummed a few bars of the theme song. "That's a tune I'll never forget," he laughed.

Television arrived in the 1950's and Brine, while continuing with his radio shift, became the first live personality on Channel 12.

His TV show, 'Salty's Shack,' ran for almost 12 years with Brine and collies Jeff (Jeff I died and was replaced by Jeff II) as hosts, featuring an assortment of guests, cartoons and children's films.

Brine and his wife live in Narragansett. Their seaside home has become a landmark, pointed out by guides on sightseeing tours. They have one son, Wally, 28, who beamed Brine proudly "is the top man at WJBQ in Portland, Maine. Boy, he's really something!"

Time has been kind to the tall, still handsome announcer. His hair is silver now but his unlined face and bright brown eyes radiate vitality and enthusiasm.

Admittedly he is "himself" on the air and he's sincere, genteel and refreshing. It may be that those qualities are reminiscent of an era when life was a little less complex and seemingly gentler to us.

[From the Providence Sunday Journal, July 31, 1977]

WHY IS SALTY BRINE?

(By Anthony L. DiBiasio)

Why is Salty Brine?

Wait a minute. Everyone knows who Salty Brine is—unless you've been dead for the past three decades. But why he is is another matter.

Starting with biographical facts doesn't help much. Born in Boston in 1918 to a working class family, Salty, or rather, Walter Brine, was graduated from Staley College in 1941 with a BA in "Oratory." He picked up his first job (and the nickname Salty) at what is now WNAC, Boston. His first show in Rhode Island was in 1942, a program called the TNT Review (Time, News and Temperature). He and his wife lived in Cranston for many years and now make their home in Narragansett (where his seaside domicile is often pointed out to the tourists) and are communicants of St. Mary's Church there, where Salty sings and plays the organ on Sundays. ("It's usually a full crowd when people know Salty will be in attendance," says one parishioner.) His son Walter is a DJ in Portland, Maine.

Doesn't help much, does it? Okay, more to come.

For more than 30 years Salty Brine has been the morning man (as radio folks call it) at WPRO and nobody, and I mean nobody, on any of the other stations has been able to top him over the stretch in ratings.

Oh, there are other radio personalities who are more professional, and some who are wittier, and some who are more sophisticated, and more intellectual, and have better voices and deliveries, and, well, better everything. Salty Brine is not tops in any of those requisites normally attributed to radio stars. So, why is Salty Brine a Rhode Island institution? First, words from the friendly side:

Dick Rakovan, general manager for WPRO, says he can sum up Brine in one word: "Believable." Said Rakovan, "He's truly a unique human being." But the manager did not always think so. When Rakovan first came to Rhode Island and to WPRO his first reaction on hearing Salty's show was: "My God, what have I been saddled with?" If Brine were to take a tape recording of his show out of town, said Rakovan, "he would be laughed at." Then Rakovan went on to say that what Salty has is "an indefinable unique quality." Back to square one. Why is Salty Brine?

"Well," said Rakovan, "for one thing you don't have to be hip to listen to him." He has even heard people say they could not stomach the star of morning radio (yes, there are heretics amongst us) and some who say Salty is trite. "So, okay," said Rakovan, "it might not be chic to listen to Salty, but obviously thousands of people listen to him anyway but many won't admit it." Closet Salty freaks?

Mr. Rakovan claims Salty Brine is "a common man, an ordinary man, lovable," and that he is "right up there with baseball, apple pie, ice cream, and Chevrolet."

There is more to this solicited panegyric but first, these words from the opposition:

A high level executive from another station (i.e., a competitor) who shall remain nameless, thinks Salty is "a nice guy; you can't find anyone who knows anything bad about him—sort of like Joe Garrahy." And then, warming up to his subject, he said the concept of the Brine phenomenon is "ridiculous." While he admitted to a unique combination of factors he said, "Look, if I were to put a 60-year-old guy on the air and have him play rock music people would think I'd gone bananas. But he, Salty, gets away with it."

"People from out of town think he's awful," the executive went on to say, "but he has believability—hey, he's a personality, not a DJ. And he produces results for his clients, the advertisers."

The advertisers? They love Salty.

"Generations of Rhode Islanders have grown up with Salty," said Jim Duffy of Media Services, Inc., an agency which, among other things, arranges air time for its clients. "The rapport he's developed with his audience is incredible—and it's a huge audience, too." That fact is borne out by the Neilson ratings of radio, something called Arbitron. From its listener surveys a confusing-looking maze of figures is computer printed, showing audience levels for several time slots. To make it easy for me, Jim Duffy quoted one representative set of figures which showed that Salty had more than 44,000 listeners while his nearest competitor had fewer than 37,000. But most dramatically pointing to Salty's personal pull, the figures for WPRO drop to around 21,000 right after Salty is off the air at 10 a.m.

And that's one reason, said Duffy, why WPRO is able to charge twice as much (when Salty is on) as other stations can for a commercial minute: $70. And apparently Salty is worth the extra charge, for Duffy claimed many advertisers ask for him directly. "You gotta buy Salty," they plead. "We want him to do our spot."

There is a saying among media people that in order to have something go over well in Rhode Island it has to be "folks." Duffy said, "Salty appeals to Rhode Islanders; they trust him because he is just plain folks himself. In fact he is King of Folks."

It's hard to believe but Salty's reign as King of Folks has been in jeopardy from time to time, albeit infrequently, and even then only slightly so. There is a story which continues (despite denials) to make the rounds, that around two years ago, when Salty's ratings had dropped to where he was, horror-of-horrors, only number two (though by a very slight margin) someone at WPRO

suggested the problem was Salty's need of a more youthful appearance. And, so the story goes, Salty, a man who never even had his hair styled, went out and had his hair styled. And dyed. Red. And bought a leisure suit to wear. And then was seen by his Public. And the public reaction was not nice. It was not the good ol' Salty people had grown up with. And Salty unstyled his hair, discarded his leisure suit and washed out the red. And, as one ad man put it, "The whole damn thing (ratings)' came back again."

Dick Rakovan says the story is "plain bull." Salty says it isn't important enough to really discuss. (He also said that about his salary, which is alleged to be more than $60,000 per year.)

Bud Toevs, WPRO newsman, explains the Salty phenomenon by saying his co-worker of almost 25 years is "reachable." No need to go through secretaries; just pick up the phone, dial, and Salty will answer in person. "He's like Jimmy Carter," said Toevs. "People have the same feeling of elation when they talk with him. People are able to tell their troubles to Salty and he'll listen."

Toevs, as did many others, told of Brine's quite giving of his time to the sick and the handicapped and disadvantaged. "And without fanfare," said Toevs. "He'll just show up at a hospital and talk with kids and never take any credit for anything like that, and that's the way it's been for years."

Amplifying on the why of Salty Brine, Toevs recounted a story of just how well known and liked is Salty Brine. Toevs' son was to make his confirmation and Salty, the boy's godfather, was to witness. Everyone was inside St. Elizabeth's Church in Bristol waiting for the only two people who were late: Salty and the (then) Bishop. Well, Salty arrived and, said Toevs, "You could hear people, beginning at the rear of the church, whispering 'Salty's coming, Salty's coming,' like a low rumble growing in intensity as Salty came down the aisle, until, when he arrived at his seat, he was given a standing ovation." When the Bishop arrived a few minutes later only silence greeted him. "Imagine that!" said Toevs. "A standing ovation for Salty and nothing for the Bishop!"

Everyone, it seems, knows of Salty Brine and has an opinion about him. Teenagers with whom I spoke said they listened to him because he always gives the "school out" reports and, as one 14-year-old put it, "Besides, my mom would kill me if I tried to change the station."

A 70-year-old Providence woman, speaking with an Italian accent, said she always listens to Salty Brine. "I like him," she said, "because you can understand everything what he says." And, she continued. "He makes you laugh, he talks so funny."

A middle-aged Greenville housewife said she really can't stand Salty, and listens to "Sherm" instead. (Most Rhode Islanders seem to be on a first name basis with their radio stars.) "I'll tell you one thing, though," she said. "If you say anything nasty about Salty Brine you're going to get clobbered by thousands of people."

At a rural ginmill I posed the question of *why* is Salty Brine to a table crowded with revelers. "I have him set on my clock radio," said a woman as she quaffed a beer. "I dislike his voice so much I know I've got to get out of bed to turn him off—it's the only way I can get up in the morning."

Her friend disagreed. "He's an institution," she said. "He's been around so long I can never remember being without him—I've been with Salty longer than I've been with my husband." To which her low-seniority husband added, "Salty is popular because he gives the news and stuff."

"Salty Brine is like a woman," offered another drinker, "always jabbering about nothing in particular." And another said Salty was great because he gives the time "more concisely."

"He's so deeply good," said another woman, staring into her drink. But she confessed she didn't listen to him any more and has switched to another station because she doesn't like WPRO's music. "Quite frankly, though," she sighed, "I feel disloyal because Salty woke me up for 20 years; he was my friend. Now I feel guilty."

And so it went, closer now to finding out the why of Salty but not there yet. So, let's visit with the man himself as he performs his magic. And now, heeeeerrrrressss Salty!

Walter Salty Brine, star of morning radio and King of Folks, does not sit in a chair at the radio station console. He stands there, feet spread apart, hands manipulating controls, much like a sea captain at the wheel on his bridge. He is dressed in white loafers, red-and-white-check pants, blue shirt with sleeves rolled halfway up his arms, and a red tie. Around his neck hangs a light-weight plastic earphone (hands cupped to the ear exist only in memory). And protruding from the console is a long boom microphone into which Salty is speaking, much like, well, like a ship's captain giving a now-hear-this into an intercom tube.

He deftly slides a cassette tape commercial into a slot and pushes a button, and a jingle for Pearl Bailey auto sales blasts across the airways on the station that reaches the beaches. Turning down one of the knobs Salty does a voice-over with the music: "Have you visited my friend Paul?" he asks his audience, and then launches into a reading of the prepared commercial script. But he doesn't just read what's printed about the cars he's pitching, he ad-libs—reverently.

"Ohhh," he says, voice filled with awe, "I just saw a niiice Cordoba yesterday at Paul's and it is (whispering now) beautiful. See him today!" And the jingle comes up and Salty taps his foot a bit.

Effortlessly Salty patches into out-of-state weatherman Elliot Abrams and both men carry on their conversation live, over Radio 63. "Hello Elliot!" says Salty, his head pointing north, shoulders hunched south, elbows flapping east and west. "How are you on this beautiful day?" he asks as veins in his neck bulge, his teeth flash and his eyes widen, just as in his television commercials.

He and Abrams chat about the weather and more ("How about those Red Sox? ohhhh-ho!") and then, so smoothly that it's really painless, Salty works in a commercial. "Say Elliot? Do you know who brought your broadcast to the public?" And answering his shill, "It was IN-Bank, ohhh, yes. Several convenient locations!"

Salty's headquarters are a 10-by-10 room on the second floor of the new WPRO building on the Wampanoag Trail. From the lone window in the room Salty can watch as his listeners commute to Providence. "I'm captain of the ship in here," he says. "I have the authority to put people out of this room," he tells me (although I'm not quite sure why), "and I've had occasion to do it in the past."

He points to an array of very official-looking licenses tacked to a back wall. "You need one of those to do this," he says, defining "this" with a sweep of his hand to the console. A close look at the licenses shows that one Walter Brine is the holder of an FCC "restricted radio telephone permit" (the same kind radio-dispatched cabbies and oil truck drivers have).

The music (which is selected by the program director and not the on-air personalities) is mostly on tape cassettes which are stacked in holders, each row color-coded for such categories as up-tempo, slow, oldie, new, hard, etc. "Modern radio is strange," says Salty smiling down at me as I prop myself on a cold metal chair (the room is air conditioned to the temperature of rigid Cool Whip). "It's a curious thing to me that we have people in their 50s and 60s who listen to rock," he says smiling. "Is it because we give so much info with the music?" I suggest, smiling in return, maybe they listen because it's the Salty Brine. He smiles an "aw shucks" smile.

(A digression: Salty Brine has one of the nicest smiles I've ever had sent my way. Even a misanthrope like me could feel the warmth of it. But it was downright dangerous to be so close to that smile. I could feel myself weakening, my innate surliness being melted away in all that warmth. Superman's reaction to Kryptonite could not have been more deleterious. It's almost enough to make one forget the bumpkin TV commercials Salty does for WPRO-sponsored trips to Disneyland and other exotic places.)

Like a statewide multiple-listing Welcome Wagon, he takes calls over the phone and makes notes of birthdays, anniversaries and other special occasions and then broadcasts them over the airwaves of the people for the people.

The pace of his show is brisk as he sets up a commercial here, grabs a music tape there, banters with news and weathermen, takes phone calls. "Who's going to retire!" he fairly shouts into the phone, laughing at the same time. "I'm going to die on this job—my wife won't let me retire!" As he talks, his hands, when they aren't pushing buttons and switches, are stuffed into his back pockets, and his head bobs up and down like a mooring in rough seas—and, always, he smiles.

But at one moment, when he got word of a commuter-hour car accident, he frowned and shouted into the microphone to his driver listeners: "You people out there better be careful! There's an accident on the road. Slow it down!" I swear that I could see the traffic on Route 114 slow perceptibly.

"We've got a family out there," Salty says of his audience, "and we've got to keep them alive and happy." By 10 a.m. Salty's tour of duty at the station is over and he packs up his notes and newspapers (the Journal and the Visitor, a couple of weeklies and the National Enquirer) and turns over his audience—or at least half of it—to the next "personality."

If we analyze the minutes of each hour of the show the question comes up as to whose show it is. Surely, it can't be only Salty's voice that people tune in for. For example:

A sample hour:

News: 14 minutes.

Weather: 3 minutes.

Commercials: 13 minutes.

Music: 13 minutes.

Total: 43 minutes . . . and that leaves 17 minutes for Salty to work his magic.

It can't really be answered, this question of why is Salty Brine, probably because there is no one answer. Everyone is right, of course: those who say he's a cornpone, those who say he is a sincere human being, those who say he isn't professional, those who say he's warm and honest, those who say he couldn't make it anywhere else, those who say he's an institution.

The correct answer, if there must be one, is all of the above. Or maybe none of the above. Maybe, because he gets so much public exposure, his million-watt smile is the why of Salty Brine.

Only one thing is for sure, and on this almost everyone agrees. It was put best by Jim Duffy of Media Services: "Salty Brine will never happen again. He's one of a kind."

NATIONAL FILM DAY

Mr. HUMPHREY. Mr. President, Monday, August 22, is a good day to go out to a movie. On that day the motion picture industry will celebrate National

Film Day to recognize the important role which film has played in the cultural heritage of America. Film companies and theaters in every State will donate a portion of their box office revenues on National Film Day to the American Film Institute.

The film industry has organized and sponsored National Film Day to help support AFI activities in preserving America's film heritage and assuring the growth of our Nation's film culture. Motion pictures are one of America's few indigenous art forms—a source of entertainment as well as education, ideas and information.

The American Film Instiute, which is celebrating its 10th anniversary this year, was created by the National Endowment for the Arts to preserve our Nation's film history and to encourage film training and new talent. In its first decade of existence, AFI has preserved nearly 14,000 films which otherwise might have been lost forever to chemical deterioration. Among these films were important classics which are part of the American fiber of the first half of this century.

AFI also conducts several important programs to encourage the development of new filmmakers. It operates the Nation's leading independent film conservatory, where each year scores of young filmmaking students are trained in the art of film and are supervised and guided by the Nation's finest film talent.

On behalf of the National Endowment for the Arts, AFI administers a national program which has since 1968 awarded more than 200 grants totaling upward of $1.5 million to underwrite the production of experimental and innovative independent films. During the past 2 years, AFI has also created a program to encourage women to become film directors. AFI has also coordinated a national effort to enhance film education programs and to help colleges and universities develop such programs—which are highly sought by students who recognize film as a creative and provocative medium. A recent AFI survey found that film education is a "growth" area, with 100,000 college students in film or television courses each semester.

With all these activities, and despite the fact that AFI was created by the Federal Government, less than half of the Institute's budget comes from Federal funds. The balance is private funds which match in part the assistance AFI receives from the National Endowment for the Arts. National Film Day is one of the sources for these private funds.

Yet another symbol of AFI's growing support from the private sector is the remarkable surge of its national membership which has grown fivefold since its 1974 levels. Much of this growth can be traced to the introduction 2 years ago of American Film, a lively journal.

Through these and other activities AFI has raised well over $10 million in private funds to support its activities during the past 8 years.

The American motion picture industry is to be commended for its support of AFI and for its organization of National Film Day. The American Film Institute needs and deserves support as it fulfills its mission of maintaining and enhancing the one unique American art form, the movies.

The American public can show its support of the American Film Institute and its work by the appropriate means of going to a movie theater on National Film Day. A sizable portion of the ticket price on that day will go directly to the American Film Institute and its projects, and that is a worthwhile activity.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification from the Department of Defense of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the three notifications I have just received.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

TRANSMITTAL NO. 77-49—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value:

Major Defense Equipment (as included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR)), $60.5 million. Other, $8.7 million. Total, $69.2 million.

(iii) Description of Articles or Services Offered: Fourteen (14) F-5F aircraft, associated with equipment and spare parts.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 1, 1977.

TRANSMITTAL NO. 77-52—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Germany (FRG).

(ii) Total Estimated Value:

Major Defense Equipment (as included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR)), $24.8 million. Other, 1.6 million. Total, $26.4 million.

(iii) Description of Articles or Services Offered: Sixteen (16) warhead sections, nine (9) guidance and control sections, seventeen (17) first and second stage sections and sixteen (16) flight instrumentation sets for the Pershing missile.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 1, 1977.

TRANSMITTAL NO. 77-53—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Germany (FRG).

(ii) Total Estimated Value:

Major Defense Equipment (as included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR)), $12.9 million. Other, $6.2 million. Total, $19.1 million.

(iii) Description of Articles or Services Offered: Three (3) complete MK 86 Naval Gunfire Control Systems, system support and spare parts.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 1, 1977.

GERMAN MARSHALL FUND: PARTNERSHIP IN ADDRESSING PROBLEMS OF INDUSTRIAL SOCIETIES

Mr. HUMPHREY. Mr. President, June 5, 1977, marked the 30th anniversary of the Marshall plan, which brought Europeans and Americans together in an unprecedented common effort to rebuild war-ravaged Europe. That date also marked the fifth anniversary of the German Marshall Fund of the United States: A memorial to the Marshall plan. The fund, an independent American foundation in Washington, is based on a uniquely generous action by the Federal Government of Germany in appreciation of postwar U.S. assistance: a gift of 150 million deutschemarks—about $65 million at current exchange rates—in 15 installments voted annually by the German parliament, the Bundestag. The foundation is dedicated to promoting understanding of problems common to industrial societies.

On the anniversary occasion last month President Carter sent a message of appreciation to the President of the German Parliament, pointing out how much our industrial societies have to learn from each other and observing that the Marshall plan could have no finer memorial than the German Marshall Fund which makes it possible for new generations of Europeans and Americans to exchange ideas and experiences in surmounting common problems.

Since beginning full operations in January of 1974, the German Marshall Fund has made grants for over 100 projects in basic areas chosen by the trustees, such as urban affairs, labor-management relations, employment policies, problems of working women, land use and criminal justice. Significant transfers of practical experience across the Atlantic have resulted. In its international problems program the fund has concentrated its efforts in fields such as the international coordination of domestic economic policies, problems of international trade, and international management of resources and the environment.

Under its president, Benjamin H. Read, and an outstanding board of trustees chaired by Prof. Harvey Brooks, Benjamin Peirce, Professor of Technology and Public Policy at Harvard University, the fund has begun to realize the

promise which this magnanimous German gift has made possible. Few private foundations in the United States are giving greater support to international activities.

The programs of the German Marshall Fund are well described in an article by Mr. Robert Roth in the Philadelphia Evening and Sunday Bulletin of June 9, 1977, and in recent statements by the fund's chairman, and its president. Mr. President, I ask unanimous consent that these materials, along with President Carter's message, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 2, 1977.

MESSAGE FROM PRESIDENT JIMMY CARTER

On the thirtieth anniversary of the European Recovery Program, I wish to express the appreciation of the American people for the Federal Republic's magnanimous gift five years ago which provides the financial basis for the German Marshall Fund of the United States.

Three decades ago the Marshall Plan enabled Europeans and Americans to work together to meet essential human needs in the difficult post-war years, to rebuild cities and to create the means of employment. Today the social, economic, and political issues that trouble Europe and America and other regions are less visible and dramatic. But they are more complex and deep-rooted and will require a cooperative effort as great as that of the Marshall Plan.

Governments and international organizations cannot master these problems by themselves. We need the help of private institutions like the Fund which are dedicated to assisting Americans and Europeans to work together toward a solution of our common problems.

Our industrial societies have much to learn from each other and from the other nations of the world. The unique gift of the German people is making it possible for new generations of Europeans and Americans to exchange ideas and experiences in surmounting the problems which confront our peoples. The Marshall Plan could have no finer memorial.

UNITED STATES, EUROPE TRADE USEFUL IDEAS

(By Robert Roth)

WASHINGTON.—The complaint most frequently voiced against the news media is that they print or broadcast only the bad news, that they have neither time nor space for the good things that happen. Well, something good happened in Washington this week and this column will be devoted to it.

The good news was the arrival in Washington of 12 members of the British, Norwegian and West Germany parliaments who have come to study how the American Congress works. That hardly seems worth throwing one's hat in the air for, but it is part of something very much worth cheering about. It is part of a unique exercise in international good will known as the German Marshall Fund of the United States. The fund paid to bring these European parliamentarians here. Next year it will finance a reciprocal flight of members of Congress to European capitals.

If that still seems like nothing much to get excited about, consider some of the other things the fund is doing. It is sponsoring a continuing effort to help Europeans and Americans solve the problems of industrial societies. It has initiated and financed 85 projects, involving the United States and Canada and European countries in such areas as coordination of public services in metropolitan areas, rehabilitation of substandard housing, mass transportation planning, waste disposal, rent control, day care for children, labor conditions, labor-management relations, collective bargaining by public employes, land use, criminal justice—the list is long and keeps growing for the fund itself is designed to keep going.

Typically the fund promotes the interchange of officials, scholars and industrial experts among the cities, counties and other governmental units of North America, Europe and Japan. Typically it involves exchanges between Boston and Grenoble, France, between New York and Hamburg, between Atlanta and Copenhagen.

The fund, an outright gift of $50 million, was established on June 15, 1972, the 25th anniversary of the Marshall Plan, as a gesture of appreciation by West Germany for what the United States did through the Marshall Plan to lift up its fallen enemy. The Bundestag of the Federal Republic of Germany voted the money unanimously, with the active support of all four German political parties. The fund is administered by an American board of trustees, chosen by Americans without German intervention. The board selects the projects to be undertaken.

"Industrial societies have much to learn from each other in both domestic and international affairs," said Benjamin H. Read, president of the trustees, in discussing the underlying purpose of the fund. "Despite political, social and cultural differences, which often make difficult the transefer of knowledge and practice across national frontiers, many of the most pressing problems confronting industrial societies are increasingly similar. And yet there are few resources or institutions to facilitate sharing of information and experience. Solutions found satisfactory in one country are often unknown in another."

The fund is dedicated to supplying that lack.

"And thus we follow up on the bill for common effort that characterized the Marshall Plan program," said Chancellor Willy Brandt in announcing the formation of the German Marshall Fund. "Let the memory of the past become our mission for the future."

Or, he might have said, bread cast upon the waters has a way of coming back. That is gospel, which by definition is good news.

THE GERMAN MARSHALL FUND OF THE UNITED STATES

(Report, 1972–77—A Memorial to the Marshall Plan)

CHAIRMAN'S LETTER

"And thus we follow up on the will for common effort that characterized the Marshall Plan program," Chancellor Brandt stated after announcing in June of 1972 the commemorative gift which provides the financial base for the German Marshall Fund of the United States. "Let the memory of the past become our mission for the future."

The mission of the Fund, as spelled out in the deed of gift which I received from the Chancellor on that occasion five years ago, is to provide new opportunities for Americans and Europeans to work together in resolving the common problems of industrial societies.

The German act of commemoration represented an expression of political imagination fully matching the American initiative of a quarter century earlier. The similarities between that period and the present are substantial though the issues, of course, have changed. Then, as now, societies on both sides of the Atlantic face common external problems. Then, as now, there is a community of shared values in both regions. Then, as now, progress on many common problems requires pooling of knowledge and efforts. Since the achievement of postwar reconstruction and recovery, however, the commonalities among today's problems are not always recognized.

People, goods, and ideas cross national boundaries with increasing ease and frequency, but the flow is highly uneven. In the basic sciences there exists a worldwide community in which such boundaries are fading in importance. The growth of multinational corporations has accelerated the process in the world of industry. But significant practical knowledge and experience, much of it related to the day-to-day conduct of domestic affairs, scarcely moves from its point of origin. Much of this knowledge is highly localized in application, including such matters as urban governance, the organization of work, the control of land use, and the administration of justice.

In charting the programs of the German Marshall Fund, the original trustees and the colleagues who have subsequently joined our ranks have given first attention to efforts to let Americans and Europeans learn from each other about the day-to-day management of domestic affairs. We are convinced that many domestic problems have common features and perhaps common solutions in different industrial countries and that efforts to discover and exploit these commonalities warrant support by the Fund. In addition, we have given increasing emphasis to economic, resource, and environmental aspects of international common problems and developed projects which bring together European and American officials and private experts to develop new understanding and alternative policy solutions to such issues.

The domain in which we are operating is far broader than can be covered by any one program or foundation. With its modest resources, the Fund has sought to identify areas of high leverage where a small commitment can have large multiplier effects. After five years we take some pride in the number of talented persons in North America, Europe, and elsewhere who have been helped to learn from each other as a result of Fund support.

The quest for new approaches to common problems and men and women of talent to carry out needed work is an unending one, and we solicit and welcome suggestions from concerned persons everywhere.

The trustees are keenly aware of the responsibility and privilege to expend wisely, for the mutual benefit of Europeans and Americans, the resources which have been entrusted to our direction. We pledge the continuation of our best efforts to carry out this trust—HARVEY BROOKS.

Spring, 1977.

STATEMENT BY PRESIDENT

Astonishment and pleasure are the usual reactions of Americans upon learning about the generous gift of the German people five years ago which established the German Marshall Fund of the United States—A Memorial to the Marshall Plan. And no wonder, for there are no precedents for the act of commemoration announced by Chancellor Willy Brandt on June 5, 1972, the twenty-fifth anniversary of the address by Secretary of State George C. Marshall heralding the European recovery program.

With the unanimous consent of the Bundestag and all four political parties represented there, the Federal Republic of Germany, "in expression of special appreciation" for American post-war assistance, pledged to provide 147 million Deutsche Mark in fifteen yearly installments to make possible the Fund's formation as an independent U.S. tax-exempt foundation.

The German Marshall Fund is dedicated to helping Americans and Europeans to learn from each other and from others to better understand and resolve "common problems of industrial societies, both domestic and international." It is administered without influence by German authorities by an American Board of Trustees selected by Americans.

This report sets forth the record of the Fund during its first five years covering program commitments of $6.5 million for eighty-five projects, some constituting multiple ongoing activities. In this introductory section, I discuss (I) the goals, resources, and policies that govern Fund actions, and (II) progress under each of our programs. Later sections include summaries of all projects sponsored from the beginning of operations in January 1974 until early 1977, with commentaries about areas of priority interest, listings of publications and other products, financial statements, and information about trustees, officers, staff, and consultants. An earlier special report described the history of the gift and subsequent planning period.

Industrial societies have much to learn from each other in both domestic and international affairs. Despite political, social, and cultural differences, which often make difficult the transfer or adaptation of knowledge and practice across national frontiers, many of the most pressing problems confronting industrial societies are increasingly similar. And yet there are few public or private resources or institutions available to facilitate systematic transfer and sharing of information and experience. Existing literature, particularly where translations are required, seldom records the successes and failures of any society in meeting such problems in a manner useful to those responsible for coping with like problems elsewhere. Solutions found satisfactory in one country are often unknown in another.

The key phrase in the charter of the German Marshall Fund directing its activities towards the "common problems of industrial societies" could not have been more happily chosen and opens up numerous opportunities for useful work. Trustees have had to delimit program development with careful attention to long-term budget goals.

Since the Fund is intended as a "permanent memorial" to the Marshall Plan, trustees have set aside and invested substantial portions of the early installments to accumulate residual assets sufficient to sustain activities at a meaningful level after 1988, when the entire gift will have been received. In dollar values at dates of transfer, the first five yearly installments have totalled $18 million. The Board has allowed annual commitments to expand gradually to a rate of almost $3 million during the fiscal year June 1, 1976–May 31, 1977. By the latter date, as a result of investment growth, the uncommitted residual assets are expected to amount to more than $12 million.

Due regard for resource constraints and the breadth of stated purposes of the Fund required difficult decisions about priorities. Trustees decided to select a limited number of "common problems" on which to concentrate most resources and directed the staff to develop projects for support within these priority areas rather than to rely mainly on random external initiatives. Several questions were asked in setting priorities. Are the problems of central and widespread concern to individuals in many industrial societies? Are the problems similar enough to warrant efforts to share information and experiences about alternative approaches? Is there receptivity to change in the way such problems are handled? Are the problems being addressed adequately by others in public or private life?

Applying these tests, the Board of Trustees decided that activities under the Fund's programs on domestic and international common problems should concentrate on selected aspects of urban affairs, employment and conditions of work, land use, criminal justice, international economic and resource issues, and related communications and media activities. The Fund intends to remain active in these priority areas for a sufficient time to test original hypotheses about accomplishing useful results, or until others are in a position to carry on needed work, but priorities will change and new ones will be designated from time to time.

Two other general policies, relating to the participation of practitioners and the involvement of European as well as American individuals or issues in sponsored projects, were established to govern Fund actions.

Practitioners and Experts. Progress on any one of the complex problems chosen requires efforts by persons drawn from the world of action as well as the world of thought, and from many disciplines and occupations.

Primary Fund support goes to individuals and organizations in different societies with similar responsibilities, interests, and practical experience in handling like problems. Emphasis is placed on developing sustained working relationships between practitioners and experts from public as well as private life, on applying existing knowledge and experience, on staffing positions essential to carry out needed information and exchange work, and on disseminating findings and recommendations to both specialized audiences and the public.

Mayors and city managers as well as urban specialists from universities and research centers, union leaders and members as well as labor-management relations experts, lawyers and judges as well as professors of law have participated in Fund projects. Wherever possible, individuals charged with responsibilities for conducting public affairs as well as those who think and write about such problems, have been involved.

European-American and Other Involvement. Activities to enable Europeans and Americans to learn more from and about each other are the primary focus of the Fund. But the terms of the gift recognize that industrial societies exist in all regions and that an increasing number of problems are common to all countries. By Board decision, all projects supported by the Fund must involve directly or indirectly both United States and European (Western or Eastern) participants or issues, but additional industrial and developing country interests may be included as appropriate and feasible. U.S. and non-U.S. persons and organizations are equally eligible for support, without regard to which persons or groups have more to contribute to or learn from a given project.

Thus the United States and one or more European countries have been involved in all eight-five projects in this report by direct participation of nationals or as a principal focus of activity. In this sense, the Federal Republic of Germany, France, and the U.K. have each been involved in more than half of all projects; Italy and Sweden in more than twenty; Belgium, Canada, Denmark, Japan, Netherlands, Norway, and Switzerland in more than ten; and more than sixty other countries in one or more projects. As indicated by these numbers, several countries have been involved in most Fund projects. Only a few have been bilateral in nature.

Initiatives from Americans have accounted for all but a dozen projects to date, doubtless reflecting the location of the Fund in the United States and the greater experience of Americans in dealing with foundations. In 1976, the Fund retained European representatives in Bonn and Paris to help develop more European-initiated projects.

In accoradnce with its mandate, the German Marshall Fund sponsors programs on both domestic and international problems common to industrial societies and on European American studies.

From the outset, the Fund has given highest priority to its program on domestic common problems—i.e., problems for which private or public persons and organizations at local leve's within one country have essential policy or implementation responsibilities, and those which are similar to problems in other countries. Experience has amply borne out the wisdom of the choice. In the problem areas stressed by the Fund—cities, employment, land use, criminal justice—concerns throughout the industrial world are strikingly similar: traffic congestion, urban blight and sprawl, unemployment and underemployment (especially among the young, women, and minorities), and overburdened or outmoded judicial systems.

In these areas, the Fund has found that it is able to fill a needed role not presently performed by others. National official representatives stationed in foreign countries are almost exclusively concerned with traditional international relations and commercial matters, and are neither trained nor expected to monitor domestic problems. On the other hand, private persons and local officials who may be interested in establishing contacts with counterparts in other countries and learning from their experiences face serious obstacles. For reasons noted, they can seldom rely on their own country's embassies abroad. Other institutions dedicated to facilitating international working relations on domestic matters are virtually non-existent. Substantive contacts and communications tend to be scant, intermittent, and generalized—based on occasional trips, journal articles, or professional association meetings. International travel is increasingly expensive and sometimes risks charges of "junketeering." Identification of specific potential gains from establishing ties with foreign counterparts is usually difficult. The principal advantages are often intangible—ideas about alternative approaches to problems applicable to like situations elsewhere only with adaption.

But there are real and demonstrable benefits to be obtained from international activities on domestic common problems, as can be illustrated by a number of projects supported by the Fund. American city managers are working to transfer and develop a range of urban systems and technologies observed in England, Germany, and the Netherlands. French and German authorities have monitored innovative practices in the administration of justice in New York City that appear to warrant experimentation in Paris, Hamburg, and elsewhere. Young American experts have helped British government hosts to effect reforms in matters of pre-trial detention and employment of former offenders. Manpower experts from the United States have learned much from contacts with European counterparts about measures used to combat unemployment during recession. American newspaper editors in all parts of the country have found that their readers are interested in regular articles by European and Japanese journalists on the approaches and perspectives of other countries about diverse common domestic problems. Land use experts have found that practices in many other industrial democracies have evolved in high-density situations environmental amenities which hold useful lessons for U.S. jurisdictions.

The early activities of the Fund in priority areas represent beginnings only, but definite headway has been made. In the urban field, new efforts have been institutionalized to coordinate the previously fragmented international activities of U.S. and Canadian local government and professional groups, to facilitate U.S.-European urban technology exchange, and to provide American practitioners with regular reports about important urban innovation abroad and occasional opportunities for first-hand observations. Priority attention to selected issues of employment and conditions of work has resulted in Fund support for Europeans and Americans interested in changing patterns of labor-management-government relations in both areas and ways to establish better communications, with emphasis on job creation, work improvement, and the special

problems of women in the workforce. A major project on comparative land use practices in eight industrial countries is expected to yield important findings and recommendations in 1977. In the area most recently designated for Fund priority attention, American experts have been helped to undertake long-term collaborative work with British and French officials to improve the machinery of justice. Like projects are under active exploration with German authorities. In the United States and to a lesser extent in Europe, persons and groups with serious international concerns in these fields are turning with increasing frequency to the Fund.

It has been harder to define an appropriate and distinctive program for the Fund in the second area of its mandate: international common problems. Modern societies face evergrowing numbers of such problems which will be resolved, if at all, only by more enlightened and coordinated policies and actions by governments. The traditional agenda of diplomatic, military, and arms control problems has been lengthened by a long list of predominantly economic and resource problems, which have an immediate and often urgent impact on most industrial societies. It is these so-called interdependence issues on which the Fund has focused its international problems program.

National decisions about inflation, taxes, fiscal and monetary matters, trade, capital and labor, and environmental standards often have both direct and indirect consequences in other countries. Although governments, international organizations, and foreign affairs specialists and others in private life are giving such matters increasing attention, many of these new international relationships are only beginning to be understood. All too frequently known or predictable international consequences of national actions are ignored or addressed without sufficient consideration of the mutual or conflicting interests of other countries. No two industrial democracies have, for example, yet evolved fully coordinated policies to combat unemployment, inflation, and other major economic problems, despite shared values and close economic connections.

Obviously the potential role of a private organization in such matters where government interests dominate is highly circumscribed. Anyone with substantial international experience, however, knows how difficult it is for national governments to deal effectively with complex modern international economic and resource issues, which require new forms of accommodation and joint efforts by diverse governmental, intergovernmental, and private interests. All too often, official attention is concentrated on gaining short-run national advantages rather than on developing durable forms of cooperation with other countries.

Under this program the Fund has concentrated its support on selected international economic, resource, and environmental issues, seeking not to duplicate efforts by governments and others commanding far greater resources. It has supported projects to bring together American, European, Japanese, and other officials and private experts interested in developing new understandings and alternative policy solutions to problems of international trade and industrial subsidies, inflation, the coordination of major economic decisions of leading industrial countries, and long-range energy policies. Issues of this kind are also the focus of Fund-supported exchanges of leading younger European and American parliamentarians.

The trustees have authorized projects to improve public and private understanding in the United States and Europe of situations of rapid political and economic change. Thus, in 1976, the Fund cosponsored a three-day conference in Lisbon at which U.S., Portuguese, and other European economists examined the current problems of Portugal's economy and its economic relations with the rest of Europe and America. Similar projects are under consideration for 1977 and future years.

The Fund is also exploring the feasibility of future activities concerned with the response of industrial societies to the needs of developing countries, the design of improved institutional machinery to deal with certain international economic, resource, and environmental issues, and new facets of East-West economic relations.

The purpose of all Fund projects and plans under the international problems program is to assist others in developing joint U.S.-European and wider appraisals and policy options for the new agenda of common economic and related issues facing the industrial countries.

Communications and media activities have been stressed by the Fund under both domestic and international common problems programs. The objectives here have been twofold:

—to disseminate comparative international experience in areas of priority interest—cities, work, land use, criminal justice—to the American public and to specialized audiences, both as part of all regular projects and in separately commissioned writings and media programs; and

—to increase general U.S. public awareness of the approaches and perspectives of other industrial societies towards a broad range of common problems, both domestic and international.

As a result of Fund projects, twice-weekly articles about such problems by outstanding European and Japanese journalists are now appearing in dozens of newspapers across America as part of the International Writers Service edited by Stanley Karnow; European commentators can be heard in most major U.S. cities on the regular weekly half-hour public service "Atlantic Dateline" program anchored and produced by Edward P. Morgan and John O'Toole; and public television network series and special public affairs programs by Bill Moyers, Martin Agronsky, and others have included European views and film.

The third Fund mandate is to support European-American studies. U.S. scholarly interest in comparative study of European and U.S. issues has been greater than resources available to support adequate training and research, particularly in recent years, as support from both foundations and government agencies has declined. Few European scholars have been involved in research on contemporary U.S. developments, and support for research in the U.S. has been scarce in most European countries. The European-American studies programs support research and contact among scholars in the social and policy sciences.

The German Marshall Fund Fellowship program provides individual support to advanced U.S. and European scholars doing comparative research on domestic and international issues of importance to industrial societies. Awards are made to persons whose research projects promise to contribute to a better understanding and resolution of significant contemporary and emerging issues, particularly their economic, social, and political aspects. All fellowship projects sponsored by the Fund have both a U.S. and a European dimension. Projects focus on a broad range of significant contemporary problems, in addition to the issues of priority interest to the Fund in its other programs.

Awards totalling approximately $750,000 have been made to more than thirty U.S. and European scholars in the first three years of the fellowship program. The grants have been made to scholars working on such issues as economic policies of governments towards their own less developed regions, and comparative employment, housing, and energy policies.

Scholars tend to be isolated from one another by language, geography, disciplines, and other factors. The Fund has encouraged activities designed to diminish this isolation through assistance to two networks of scholars established to strengthen cooperation and communication with peers in different countries and disciplines. The Council for European Studies, a consortium of some three dozen U.S. universities with graduate programs focused on Europe, helps to establish contact among interested scholars in Europe and the United States through its newsletter, its support for research planning groups, and other activities. The Joint Committee on Western Europe of the Social Science Research Council and the American Council of Learned Societies includes social scientists from different countries working together to develop new perspectives on issues of common interest.

The early development of the Fund's programs has been made possible by the understanding and support of many friends in the United States, Germany, and elsewhere. No organization could have had a more thoughtful and constructive governing body. I would like to express thanks to my colleagues on the Board of Trustees who have given so generously of their time and counsel without compensation, and particularly to our Chairman, Harvey Brooks, whose wise and dedicated leadership has been the greatest single source of strength for all of us. Many talented consultants have helped us on a part-time basis to develop programs and projects, and such help has permitted us to avoid building a large administrative structure. Finally, I extend most special thanks to those who share with me the full-time responsibilities and rewards of conducting the Fund's affairs: R. Gerald Livingston, Peter R. Weitz, Marianne Santone, Brenda Appleby, Doris Washington, Denie Weil, Christina Graf, Nancy Palmer, and our European associates, Marion Bieber in Paris and Gebhard Schweigler ih Bonn.

Three decades ago, the Marshall Plan enabled a generation of Americans and Europeans to work closely together in resolving post-war recovery problems of greatest immediacy. The return of relative material well-being, normal commercial competition, and many other preoccupations have tended to obscure the long current agenda of complex and urgent common problems.

Those of us entrusted with the governance of the Fund have been given an unparalleled opportunity to design and to support new initiatives by Americans, Europeans, and others to address contemporary common problems. We have found that there are no shortages of ideas or of men and women of talent, vision, and dedication needed to improve understanding and to suggest new means of resolving the problems which we have chosen as our priorities.

Those priorities will, of course, change in the years ahead to reflect new and emerging issues. The acceleration of social and technological change is evident in all industrial societies—in growing demands for participation in the conduct of public affairs, and in stresses on institutions as familiar but diverse as our families, our courts, our newspapers, and our places of employment. We are determined that the Fund remain responsive to change. We invite new program suggestions from concerned persons everywhere.

The experiences of the German Marshall Fund during its first five years as recorded in the main body of this report permit only interim judgments, but we are increasingly confident of the Fund's ability to accomplish needed ends that are in keeping both with the spirit of the gift and the Marshall Plan.

—BENJAMIN H. READ.

Spring 1977.

MARY E. KING DELIVERS A THOUGHTFUL SPEECH ON THE IMPORTANCE OF VOLUNTEERS IN ACTION IN IMPROVING HEALTH CARE

Mr. PELL. Mr. President, Mary King, the Deputy Director of ACTION, delivered a thoughtful and meaningful statement and the condition of health care in the United States and around the world and on the contributions of ACTION volunteers in the health field when she spoke to the national convention of the American Medical Association.

Ms. King, who has deep personal experience and interest in the health area, made a forceful case for the importance and effectiveness of volunteer efforts in improving health care. ACTION's programs, including the Peace Corps, VISTA, and the foster grandparents retired senior volunteer program—RSVP—have already targeted several initial areas for increased involvement. Domestically, RSVP and VISTA are working to stem and reverse the recent frightening trend of nonimmunization of children against childhood diseases, such as polio, measles, rubella, diptheria, and mumps. In other nations Peace Corps volunteers have led the way in working to introduce preventative care, emergency care systems, and nutrition and public sanitation planning to every village and region where they were assigned.

This is an extremely impressive record. I am privileged to serve on both Senate Committees, Human Resources and Foreign Relations and in particular on the Health Subcommittee which have authorizing responsibility for ACTION's programs, and I am delighted at the focus on planning, prevention, and volunteer efforts which Ms. King has so eloquently enunciated. The continuing problems of health care are startling, both at home and abroad, and volunteer efforts must be fully utilized to solve these problems. I am confident that with Ms. King's involvement and goals, as enunciated in her speech, ACTION will be in the forefront of that movement, where it belongs and where it brings great and deserved credit to all of its volunteers and to our country.

Mr. President, I believe that all of us would greatly benefit from reading Ms. King's words and ask unanimous consent that her full remarks be printed at this time in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Remarks by Mary E. King

Good morning. It is a privilege to have the opportunity to talk with you. As part of my responsibilities for VISTA, the Peace Corps and several federal programs for the aging, I am concerned with the level of health care received by some of this nation's—and the world's—neediest people.

We are all aware and proud of the remarkable advances achieved in the science and technology of medicine during the last 40 years. The mechanical pacemaker, the EEG and kidney dialysis provide daily miracles many of us casually take for granted. Yet, during the last ten years a situation has developed which now calls into question the attainability of adequate, affordable health care for all Americans. Recent statistics reveal the scope of the problem.

In 1965, Americans spent $39 billion, less than six percent of Gross National Product (GNP) for health services. By 1976, the per capita yearly figure for health care had topped the $600 mark. Physicians' fees rose from $44.21 per capita in 1965 to $96.09 in 1974.

Hospital costs recently have been rising at an annual rate of 14 or 15 percent, which is more than twice as fast as the rise in the consumer price index. Today, more than 40 cents of every health dollar is consumed in hospital costs.

However, recent rises in both family and national expenditures for health care have not necessarily meant corresponding improvements in health status. The United States, for instance, continues to lag behind many other countries in terms of overall health status. In a country which boasts a physician-to-population ratio of approximately one to 700—when the world ratio is one to 50,000—we are tied for sixteenth among developed nations in the infant mortality rate. Our average life expectancy is lower than that in 14 other countries.

For the residents of the District of Columbia, for example, the startling fact is that life expectancy is actually lower than that for people in Sri Lanka, a country with a per capita income of $198 per year.

But the picture is not entirely bleak. We have made dramatic progress in certain areas In the last 15 years especially, we have improved the availability of physician services and largely eliminated the gap between visits made by rich and poor, black and white, through the increased access provided by the Medicare and Medicaid programs. In addition to somewhat better organized care programs, the number and kinds of health professionals who provide such care have been greatly expanded.

Our medical schools increased the number of physicians in training by 50 percent during the period 1970 to 1976. During this period, the ratio of female to male medical students increased, as did the proportion of minority groups and low income students. Nursing schools have also increased their enrollments by an impressive 52 percent and the clinical training of nurse graduates has been broadened and upgraded to give them larger and more direct patient care responsibilities. New kinds of health workers, notably physician assistants, have also been entering the field in rapidly increasing numbers.

There has been an encouraging trend toward family practice residencies as well, and an increased interest in the development of rural health care systems. Two other noteworthy developments have been the establishment of community medicine departments in medical schools and the trend toward decentralization of services from large city hospital outpatient departments into the community.

Nevertheless, it is obvious that something fundamental has gone wrong with our system of health care. Yesterday's all-purpose family doctor has become today's medical specialist, a technician who concentrates on organs, rather than on the whole person. Consequently there is no central figure responsible for coordinating the entire care a patient should receive. The patient is often confused by a maze of fragmented, uncoordinated services and the multiple medical records generated by them. No single medical care provider is aware of all the patient's problems, diagnoses, or treatment.

At the same time, the use of sophisticated, expensive technology, most recently epitomized by the controversial CT scanner, is being introduced without clear indications of its possible value or potential harm. Since the Second World War, our thinking, our energies, and our resources in the field of medical care have emphasized the dramatic breakthroughs achieved in curative medicine. Preventive care has largely been ignored. As a result, much needs to be done to reduce and eliminate risks to good health.

Our recent record in childhood immunization points up the work that needs to be done in prevention. There are 52 million children between the ages of one and 14 in the United States.

Approximately 19 million have not been completely immunized against polio, 14 million are not protected from measles and rubella, 13 million are inadequately immunized for diptheria-pertussis-tetanus and 25 million have not been immunized against mumps. Under the able leadership of HEW Secretary Califano and Ms. Betty Bumpers, a project is being designed to address these extensive problems of under-immunization. A large part of the organizational effort of the program will be accomplished by volunteers, including ACTION-related volunteers from VISTA and the Retired Senior Volunteer Program (RSVP).

In addition to programs like this, we need massive health education programs for adults so they can assume individual responsibility for their own health and understand the multiple causes of disease as well as the genetic, environmental and behavioral factors which contribute to health. With necessary information at hand, they will be able to make adjustments in lifestyles which contribute to overall good health.

If this and more is going to happen in the area of prevention and control, we need to change our health care spending habits. Currently, only three cents of every health dollar goes for disease prevention. Less than half a cent is spent on health education. A miniscule quarter of one cent is expended on environmental health.

Our medical care is disease-oriented and the hospital is the first line of defense, instead of the last. Millions and millions of Americans now rely on the emergency room for their health care requirements. There needs to be a fundamental shift in emphasis to primary and preventive health care so that the highly technical and expensive resources of the hospital are not overused and abused.

Ironically, the emergency room and the hospital are also the entry point for health care in most of the developing nations of the world. On recent visits with Peace Corps volunteers overseas, I have seen that just as we have done in the last 30 years, many developing nations spend three-quarters of their health dollars on curative, institutionalized health services. They have established large, sophisticated hospitals in their capital cities. Stocked with modern equipment and often staffed with people trained in Europe and America, these facilities may serve perhaps 15 percent of the population. Their services are inaccessible and prohibitively expensive to those living in teeming slums, outlying district towns and isolated rural valleys and villages.

Sadly, the same is true for many segments of our society, too. Particularly for rural residents and the low-income elderly, there has been a significant reduction in the availability of service. For children under five in low-income families, conditions of service availability have not improved substantially during the last five years.

With the establishment of the National Health Service Corps, the AMA's own Rural Health Division, and such innovative programs as the University of Arizona's rural health residency project, the problems peculiar to rural health delivery are beginning to receive the kind of organized attention that may lead to balance between urban and rural health care.

According to the U.S. Public Health Serv-

ice, approximately one out of every two rural residents—more than 31 million people—live in areas designated as medically underserved. Obviously there is a need to create a process for attracting individuals from these areas into training, and providing incentives for them to return and stay. Perhaps this could be done through consolidation of services in one location with a coordinated transportation system to link patients with physicians. Or through a community-run facility which would remain in place despite a shifting group of physician providers. Or by amending state and federal laws to provide more equitable reimbursement for physician services in rural areas vis-a-vis urban areas.

During the last 50 years, many rural regions have gone from a high point of relative prosperity to bleak poverty as the bulk of their populations—drawn by the economic magnets of large regional and urban population centers—have migrated outward and fragile economies have subsequently shattered. In varying degrees, these rural communities have been left with the conditions that widespread poverty breeds: high rates of infant mortality, poor diets and malnutrition, lack of potable water and private sanitation, high incidences of both childhood and adult disease, illiteracy, and ignorance.

Because our modern system of health care delivery is so centralized and so dependent on its sophisticated technology, it cannot adequately deal with such basic, widespread human problems. The curative approach alone just doesn't work. It is too mechanistic; too specialized.

To deal with such problems effectively, we must develop rational regional health planning which is built from the ground up, and not from the top down. The Health Planning Act of 1974 (P.L. 93-641), in which many of you are involved as members of Health Systems Agency Boards, is an important part of our national effort to plan rationally to meet the health needs of every American.

Physicians can and should play a central role in the return to sound preventive practices. You have the technical capability to eradicate certain diseases and thereby change our health status indicators. In view of this, physicians should take on the responsibility of assuring that no patient goes without an immunization check. Preventive services, such as a simple blood pressure check, should also become part of the routine, as should consultations with patients about the health risks they take due to their particular lifestyles.

Building on the success of the worldwide smallpox eradication campaign, the 150 member states of the World Health Organization (WHO) have committeed themselves to the goal of immunizing all children in the world against polio, measles, diphtheria, tetanus and whooping cough by 1990. As I listened to discussions at the recent World Health Assembly in Geneva, it was evident that unless the childhood immunization program is effectively carried out in this country, the United States may fail in accomplishing a goal to which vastly poorer nations are committed.

In addition to this world immunization goal, American physicians should be aware of a second important WHO goal: to provide an adequate level of health care for all people in the world by the year 2000. These two goals were established through skillful leadership by the director, the Danish physician, Dr. Halfden Mahler, and his Nigerian Deputy, Dr. T. A. Lambo.

Physician participation in special programs is certainly not new, nor is it extraordinary. In Sodus, N.Y., for instance, in a project sponsored by the University of Rochester, a physician group pledged itself to maintain measles immunization checks on all patients. The program consumed little time and less money. Its rewards were substantial. If we apply the same kind of conscientiousness to the WHO goals, the payoffs will outweigh any of the costs involved.

As far as the ACTION Agency is concerned, we will do all in our power to develop to the fullest our participation in health education and other appropriate health service programs with our almost a quarter of a million volunteers. As an example of what we can do, I would like to highlight a program in Hawaii to which VISTA volunteers have made great contributions.

There, bilingual volunteers are serving newly-arrived Filipino, Samoan and Korean immigrants in a statewide project sponsored by the Hawaii Department of Health. Both urban and rural in its outreach, the project encourages immigrants to have tests for tuberculosis and other communicable diseases. VISTA volunteers have contacted over 10,000 people so far and have assisted 8,000 of these in taking advantage of Public Health Service facilities. In addition to health service referrals, the volunteers have helped the immigrants get assistance from state agencies concerned with employment, welfare, and food stamps.

Another good example of an effective approach to our medically underserved areas is the Beaufort-Jasper Comprehensive Health Services, Inc., a broad-based community agency set up in 1970 by the U.S. Office of Economic Opportunity with the leadership and assistance of Senator Ernest Hollings.

Beaufort and Jasper counties occupy the southeastern tip of South Carolina. They lie along the coast just north of Savannah, Georgia, and include within their jurisdiction impoverished and isolated sea islands as well as the posh resorts of Hilton Head. At the start of the Health Services program, county residents suffered from skin diseases, rotting teeth, malnutrition, uncorrected vision problems, sores and a variety of other infections. A startling two-thirds of the children in the two counties had intestinal parasites.

In the seven years since it began operation, Beaufort-Jasper has had dramatic success. Infant deaths, for example, have declined from 32 per 1,000 in 1965 to 22 per 1,000 in 1975; fetal deaths fell from 39 per 1,000 to 10 per 1,000 in the same period. Wells and proper sanitation have been installed for 1,600 families. Hypertension is markedly reduced. Parasite infestation has almost disappeared. Projects like this illustrate the integral role organized health services can play within a community. They show us that health care cannot and should not be taken out of its overall human context. The laboratory approach to disease is necessary for research and development of vaccines, and for new medical technologies. But for these two counties, and hundreds like them, the isolated clinical approach is not appropriate.

Appropriate health services delivery systems are a vital piece in the puzzle of overall human development. As the South Carolina example has proven so well, a health care system based in the community and sensitive to its total needs can serve as the focal point for a comprehensive development effort.

In view of this, we must ask: Why is it that we are alarmed by the thought of lagging behind the Soviet Union in armaments, but seem unconcerned to remain behind the rest of the world in access to primary health care?

Some of the developing nations are now beginning to turn their emphasis from centralized facilities specializing in institutional curative medicine to a broad-based preventive approach. They are beginning to expend their limited financial and human resources according to national plans for development which fully integrate health needs with those for agriculture, industry and education. These nations are increasingly sophisticated in their analysis of the limitations of institutionalized approaches to their problems.

In Niger, for example, an intriguing alternative to Western health models is being implemented with Peace Corps assistance. Villagers, chosen by their villages, are being trained to provide primary health care services to their communities. Each village team consists of a health care worker responsible for delivering treatment and developing hygiene, as well as a traditional birth attendant trained in comprehensive midwifery. Rural medical officers provide the necessary link between these primary health workers and the curative resources of Niger's regional and national hospitals. This tri-level amalgam will provide effective outreach which ensures a successful, integrated system of health care. A significant feature is the participation in the system by the villagers themselves. Peace Corps volunteers who are assisting in Niger's national program are deeply impressed by its effectiveness.

In Honduras, the second poorest nation in this hemisphere, Peace Corps has joined in a government program designed to reduce the incidence of Grades II and III malnutrition among children under five from 70 to 40 percent in five years. With limited resources at its command, the Honduran National Social Welfare Board is concentrating its effort in four of the country's eight administrative regions.

Twenty Peace Corps volunteers, 15 of them nutritionists, are working with Honduran counterparts in several regional community centers operated by the Board. Mothers and children participate in a comprehensive nutrition program. While the children eat balanced meals, volunteers and their Honduran counterparts teach the basics in food preparation, household sanitation and nutrition to the mothers. As limited as the program may be, its results will go far to implement an overall national plan for development.

Although the Health Planning Act is a step in the right direction, the concept of national planning of any sort has never fared well in the United States. We need to organize and rationalize our efforts in order to conserve and spend our resources wisely and to the best effect. Our 302 different federal health programs suffer from a lack of cooperation, coordination and careful planning. There is endless overlapping, duplication and waste. We lag behind many of the developing nations of the Third World in a comprehensive overall approach.

For more than eight years, Senator Edward Kennedy and Congressman Paul Rogers have led the fight for comprehensive health reform to improve our ability to provide adequate health care for all Americans. And now President Carter's proposed new policies in health, if established, will direct needed changes that will ensure every American receives adequate, affordable care.

The President's call for national health insurance, hospital cost containment and child health assessment may seem too radical for some. But for those 38 million Americans without insurance coverage; for those hospital patients facing mountainous bills; and for those millions of poor children who do not receive good, regular health care, the President's proposals are responsive and responsible.

There is a great deal of concern and confusion in our country about what ought to be done about health care. The problems will not be resolved overnight. But the overriding point of the matter is that health is essential to a society's development and that we must constantly strive to provide adequate health care for all.

I am confident that we can overcome the challenges facing us.

Thank you very much.

DR. MARY EDWARDS WALKER

Mr. MATHIAS. Mr. President, a grave injustice was righted recently when the Department of the Army restored the Congressional Medal of Honor to Dr. Mary Edwards Walker, the first and only woman ever to have received this high honor.

Dr. Walker has finally been vindicated. Her courageous service as a U.S. Army surgeon during the Civil War is at last properly recognized.

Dr. Walker was an extraordinary and courageous lady who did her duty at great personal risk and sacrifice. Even after being captured and taken prisoner by the Confederate forces in Richmond, Va., she continued to treat her fellow prisoners, begging her captors for medical supplies.

She was first awarded the Congressional Medal of Honor on November 11, 1865, by President Andrew Johnson. The original citation for the medal had been written by President Abraham Lincoln—characteristically on the back of an envelope.

Unfortunately, a technicality got in the way of Dr. Walker's recognition because she was a contract physician and on June 3, 1917, her medal was revoked by the Army. This action was a cruel insult to the devoted woman doctor who gave of her talents far above and beyond the call of duty.

But Dr. Walker was not one to submit meekly to such an affront. Dr. Walker simply refused to give up the medal and wore it until her death in 1919. She also fought to the end to have the revocation order rescinded.

In fact, her death resulted, in part, from a fall on the Capitol steps where she had come to petition Congress to restore the Congressional Medal to her.

Happily, "Dr. Mary's" heirs and friends kept up the fight for this unique feminist. And at long last—60 years later—justice had been done. The Medal of Honor has been restored to the only woman ever so honored—Dr. Mary Edwards Walker.

I am confident that all my colleagues are as gratified as I am that right and justice have finally prevailed. Dr. Walker was truly an outstanding American and her life can serve as an example of dedication and tenacity to all of us.

Mr. President, I ask that the Medal of Honor citation by President Andrew Johnson be printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE.

Whereas, it appears from Official Reports that Doctor Mary E. Walker, a graduate of Medicine of the Medical School at Syracuse, New York "has rendered valuable service to the Government, and her efforts have been earnest and untiring in a variety of ways," and that she was assigned to duty and served as an Assistant Surgeon in charge of female prisoners at Louisville, Kentucky, upon the recommendation of Major-Generals Sherman and Thomas, and faithfully served as a contract Surgeon in the service of the United States, and has devoted herself with patriotic zeal to the relief of our sick and wounded soldiers, both in the field and hospital, to the detriment of her own health, and has also endured hardships as a prisoner of war four months in a Southern prison while acting as a contract Surgeon, and

Whereas, by reason of her not being a commissioned officer in the military service, a brevet or honorary rank cannot under existing laws be conferred upon her; and

Whereas, in the opinion of the President, an honorable recognition of her services and sufferings should be made, it is ordered

That a testimonial thereof shall be hereby made and given to the said Doctor Mary E. Walker, and that the usual medal of honor for meritorious services be given her.

Given under my hand, in the City of Washington, D.C., this eleventh day of November, A.D. 1865.

ANDREW JOHNSON, *President.*

By the President:

EDWIN M. STANTON,
Secretary of War.

FTC COMMISSIONER DOLE AND SENATOR DOLE ON THE NEED FOR AN AGENCY FOR CONSUMER PROTECTION

Mr. PERCY. Mr. President, recently Senator DOLE and his wife, Federal Trade Commissioner Elizabeth Hanford Dole, spoke on opposite sides of the Consumer Protection Agency issue before the American Advertising Federation. Commissioner Dole and a majority of the members of the Federal Trade Commission went on record not long ago in support of the legislation.

In her remarks, Commissioner Dole observed that, under the current system, consumers lack the same voice as businesses when issues affecting them are considered in government:

I can tell you from personal experience—both at the FTC and as Deputy Director of the White House Office of Consumer Affairs—that I have seen, first hand, the type of "clout" which an industry can bring to bear for or against government actions which may affect it. Certainly business' voice should be heard, but the strength and volume of that voice exceeds by a long shot, anything I have ever seen on the consumer side. . . . The truth is that on many issues, consumerists are firing popguns compared to some of the big howitzers that business rolls into Washington.

Commissioner Dole underlined the urgency for the proposed Agency by pointing out that the Federal Government decides how to spend more than 1 dollar of every 3 in the United States. Where Federal spending amounts to such a large share of the gross national product, it is essential that everyone—businessman, worker, and consumer—be given equal influence in the way decisions are made.

In response to his wife's remarks, Senator DOLE cautioned against creating additional layers of bureaucracy to insure that the existing ones are doing their jobs. DOLE contended:

The old ostrich approach of funding a new bureaucracy to solve a particular problem is a practice whose time has come and, to the relief of most Americans, gone.

I have occasionally heard Senator DOLE's argument that the proposed Agency might counter our effort to streamline much of our bureaucratic machinery. As Commissioner Dole aptly points out, however, establishment of an Agency for Consumer Protection could well serve to reduce the amount of unwanted, ineffective, and inefficient regulation under which consumers and businessmen alike chafe. She noted:

Not more, but less regulation could thus be one of the fruits of an Agency for Consumer Protection, and new regulations would evolve in a much more enlightened environment.

In his talk, the good Senator from Kansas as usual is crisp in articulating his reasons for opposing the Agency. But while clear, I believe he is clearly wrong. As many times as I have found myself in agreement with him on issues in the past, in this instance I must concur in the wisdom and logic of his wife.

As Government insiders who have dealt extensively with businesses and consumers, both Commissioner Dole and Senator DOLE are exceptionally well-qualified to speak on these issues. I ask unanimous consent to have their remarks printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE AGENCY FOR CONSUMER PROTECTION: A FEDERAL TRADE COMMISSIONER'S VIEW

(By Elizabeth Hanford Dole)

Mr. Chairman, Distinguished Members of the American Advertising Federation, and Senator Dole:

I appreciate the opportunity to appear before you this morning. Someone told me that to come over here and give a speech supporting the Agency for Consumer Protection was like a Christian volunteering for duty in the lion's den.

But I'm more hopeful than that. I'm counting on you for a fair hearing, and I would also like to think that we could discuss the Consumer Protection Agency more dispassionately than some have in the past. Unfortunately, it has become too much of a symbol, for some now look on the agency as a make or break issue. This is really not a test of virility to see who has the loudest voice in the jungle. What we need today, as the Congress nears a vote on the Consumer Protection Agency, is a little more light and a little less heat.

I would suggest that there is really only one central issue in this debate: will the consumer be given an effective voice within the vast catacombs of the federal government?

I and a majority of the members of the Federal Trade Commission about a month ago went on record in support of this legislation. We indicated that the resolution of competing visions of the public interest openly and forcefully presented produces decisions which best serve the public interest. In keeping with this principle of open advocacy, my husband, who recently went on record opposing the agency, will tell you why he is no longer able to support it. I'll let him have the last word here, and hope that others have the last word when the final votes are tallied.

Opponents of the agency tell you that we already have a multitude of agencies to look after the consumer's interest. As a member of the FTC. I am proud of the work we are doing at our agency to protect consumers' rights, but I can tell you from personal experience—both at the FTC and as Deputy Director of the White House Office of Consumer Affairs—that I have seen, first hand, the type of "clout" which an industry can bring to bear for or against government actions which may affect it. Certainly, business' voice should be heard, but the strength and volume of that voice exceeds, by a long shot, anything I have ever seen on the consumer side. At the Federal Trade Commission, we are blessed by what I consider to be

the most talented staff in Washington, but there are times when staff cannot, on its limited budget, come anywhere close to matching the resources and sheer manpower commitment which many private firms and industry associations can muster.

It is a gross distortion of reality to argue that the consumer is an effective participant in the decisions of government today or has representation equal to that of the businessman.

Many consumers feel that major decisions are made at the highest echelons of government without so much as a "how-do-you-do" to consumer interests. But you say, what about Ralph Nader and the army he has organized along the banks of the Potomac? Aren't they enough for the consumer? The truth is that on many issues, consumerists are firing popguns compared to some of the big howitzers that business rolls into Washington. That's why sincere efforts are being made by people like Esther Peterson, Special Assistant to the President for Consumer Affairs, and consumer groups ad some business leaders to win support for the agency. Yet the average consumer may once again find that he has been out-gunned and outmanned.

You know yourself how important federal decisions have become in our daily lives. How often have you been to business luncheons where the speaker complains that federal spending now accounts for almost 35 percent of our GNP? Probably more times than your stomach cares to remember. But the point is that if the federal government is going to decide how to spend one dollar out of every three in our society, if the federal government is going to regulate or tax almost every living creature, big or small, then it is absolutely essential that each of us—businessman, worker, farmer, consumer—have equal influence on the way those decisions are made. Until we have a Consumer Protection Agency, or its equivalent, the consumer will always be on the outside looking in.

But, say the opponents, this agency will just add another layer of government—more regulations, more bureaucrats, more red tape, more wasted spending. Those who say the agency entails more big government should take a harder look at what's being proposed. I share the frustration with big government; but getting down to specifics, I also think those who diagnose an adverse public response to this agency are wrong. They have their fingers on the wrong pulse. According to the recent Lou Harris Survey, a majority of the people surveyed favored the creation of the agency—52 percent to 34 percent opposed. Only among senior business managers and business consumer affairs leaders did a majority oppose it. Therefore, in our zeal to make government leaner and more effective, let's not sweep aside good and bad programs alike without distinction. We should not instinctively reject all new initiatives, even those aimed at providing better government. In the area of regulation, when decisionmakers have good information, government is better. I believe the Consumer Agency would strike a blow for good government. It is a step in the right direction toward restoring consumer confidence that someone in Washington is listening.

I don't intend to dot every "I" and cross every "T" on the specifics of the pending bills, but I should point out that the agency would have no regulatory powers; no authority to set rates, routes, or standards; no mandate to issue licenses, rules, or orders; no inspectors to slap you with fines. This agency would not be more of the same old stuff. It would have only the power to present a consumer viewpoint before other agencies and the power to seek court review of an adverse ruling.

Moreover, its ability to gather information—to generate more paperwork—would be strictly limited. Before contacting business, it would have to try to get its information from existing government agencies or other sources. Except in extraordinary circumstances, it may not seek information from small business, or for that matter from anyone else until the Office of Management and Budget has reviewed its request. Even then, if the request is burdensome or duplicative, a court may set it aside. These limitations go a long way toward meeting business concerns about burdensome information gathering.

In short, the agency could only obtain enough information to ensure that it could play a meaningful role in Washington. In this respect, many consumers astutely perceive this agency not as more bureaucracy at its worst, but government at its best. It might just wind up surprising a few of you as well, because in many areas, the agency is likely to be a friend—not a foe. When regulations cost consumers millions or even billions of dollars but reap few benefits, all of us have a mutual interest in their elimination. Not more, but less regulation could thus be one of the fruits of an Agency for Consumer Protection, and new regulations would evolve in a much more enlightened environment.

Right now consumer programs are scattered everywhere. We need an agency with an overview to set priorities, get the information, and then be free to talk about the issues. The Consumer Agency fills this bill.

In addition to being a consumer advocate, it would also serve as a consultant to various agencies on consumer issues. It would be a clearinghouse for consumer complaints; an office in government to guide consumers through the federal maze of agencies, bureaus, divisions, departments, and administrations.

In an environment of big government, fragmentation of functions rewards those with great resources and savvy who "know their way around" a complex bureaucracy. The average consumer doesn't have the funds to buy "Washington" expertise.

Even well organized consumer groups are hard pressed just to keep track of the matters which interest them all over government. Add to that the cost of preparing to present a case and the further cost of presenting it, and it is obvious that these groups cannot be expected to undertake the task. For one thing, they're too thinly capitalized.

It is sound domestic policy, in my view, to have a government forum constantly in tune with what consumers are saying about the markets in which they shop. And it seems especially sound when government's own hand adds dead weight in some areas and no weight in others where a need exists.

Another criticism lodged against this agency is that it cannot possibly speak with a single voice for people with interests as diverse as consumers. I suggest to you that if you just ask the consumers, they won't be in the least troubled by the idea of being represented by a single agency.

No one dismisses the Department of Agriculture when the interests of small farmers and agribusiness diverge on farm policy. I haven't heard many businessmen, big or small, asking that we dismantle the Commerce Department. And for that matter, the American Advertising Federation, as an organization, opposes the agency, while some of its members support it. No one would argue that any of these organizations are ineffective or unnecessary simply because unanimous support cannot be rallied for any *single* position. As I said, consumers are just asking for a fair shake.

Even if all consumers don't see every issue eye to eye, they still have an interest in being heard. This agency would detect those majority of instances in which a common consumer interest is clear and strong, such as ensuring that laws are being enforced and in combating fraud and monopolization. And it would be uniquely equipped to distill and then present more than one consumer interest which may have an important bearing on the outcome of a case.

Let me make one final point. As leaders of the business community, all of you are keenly aware that public confidence in our major institutions has badly slipped in recent years.

Nowhere has that decline been more precipitous or more threatening than with regard to business, and I know that many of you are asking each other how you can restore public confidence in business and in the principles of free enterprise. Let me suggest that you will not be advancing your cause if business lobbyists succeed in killing the legislation establishing this infant agency. Indeed, you run a considerable risk of inviting another public backlash.

If this were just another regulatory agency that was going to impose more paperwork and more cumbersome rules upon business, I could understand the vehemence of the opposition. But obviously that is not the case.

Too many people today distrust government as well as business. They feel these are mammoth institutions making important decisions that will shape their daily lives, but they—the general public are being pushed aside, mere spectators. Perhaps this is why so many consumers feel that government as well as business is unresponsive and insensitive to their needs. In a nation which values its free institutions—free government and free enterprise—this is not a healthy state of affairs. Thus, in a very real and meaningful sense, you and I—government and business—both share an interest in bringing the consumer in out of the cold.

As a Federal Trade Commissioner, I believe that this new agency would be a strong ally in government. Sure, we might lock horns with each other from time to time, but as I read its proposed mandate, our objectives would be the same—to encourage free markets in which the consumer is sovereign. The key difference is that the FTC makes sure that business complies with consumer protection law, while this new agency would encourage government agencies to consider the consumer when making decisions.

In the past few years, the consumer movement has matured in America. It is no longer willing to accept paternalism, but wants equal representation. It says that consumers deserve an effective voice in the affairs of government. Like unions, farmers, and other interest groups that have marched down this road before, the American consumer movement no longer wants to be patted on the head and shunted aside. No longer are consumers willing to scrounge for crumbs that fall to the floor. The Agency for Consumer Protection would give them their own place at the table, as equals. And that, I believe, is where they belong.

Sometime when you're mulling over this issue again, you might remember a few years ago when General Douglas MacArthur was marking his 84th birthday. He walked out of the Waldorf Astoria, and newsmen asked him what he thought was the central issue of our time. MacArthur replied: "It's the age-old struggle: the roar of the crowd on one side and the voice of your conscience on the other."

Ladies and gentlemen, in the days ahead, I hope that you will listen to the voice of your conscience.

Thank you.

REMARKS OF SENATOR BOB DOLE

Mr. Chairman, distinguished officers and members of the American Advertising Federation and Madam Commissioner:

We live in a time of full disclosure. Therefore, let me confess that part of my opposition to the Consumer Protection Act, as it is humbly entitled by its sponsors, arises from

personal considerations. The principal advocate of the Act, Mr. Ralph Nader, described the bill in dramatic terms early in its troubled history on Capitol Hill. He said that it would create a "strike agency" to "revolutionize" the government and to "reform its entire apparatus". I want no such thing to happen to our previous speaker.

Before I turn to the other reasons why I oppose the legislation, let me disclose also that I am shamelessly biased in favor of Commissioner Dole, who is a distinguished member of the Federal Trade Commission and the very best advocate that any consumer could want in Washington. She is, I submit, living refutation of her own belief that consumers are unrepresented in our government.

SUPPORTED LAST YEAR'S BILL

My final disclosure is that I am a convert. I voted for and actively supported the Consumer Protection Act in 1970, 1974, and 1975, for some of the reasons that our prior speaker has just addressed. You may be interested to know why I have changed my mind.

The tired argument that the consumer is unrepresented has been the bill's shibboleth since the time, many years ago, when it was a mere gleam in Mr. Nader's eye. I have come to believe that this is not the case—a view shared by the General Federation of Women's Clubs, the largest women's organization in the world, when they adopted a resolution last Wednesday opposing the establishment of the Consumer Protection Agency as currently proposed.

COST OF EXISTING AGENCIES: $1.2 BILLION

We rely in this country on the marketplace as the principal consumer advocate, and we have the antitrust division of the Justice Department and the Federal Trade Commission to make certain that markets operate fairly and efficiently. And there is a cluster of other consumer protection agencies in our bureaucratic galaxy, most of which have been created within the past decade, whose powers now extend to practically every commercial activity in the United States. They include the Consumer Product Safety Commission, the Food and Drug Administration, the Environmental Protection Agency, the Federal Energy Administration, the Occupational Safety and Health Administration, the National Highway Traffic Safety Administration and the Nuclear Regulatory Commission, among others. Why not increase the effectiveness of these existing agencies rather than superimpose on them a further level of federal bureaucracy. Did you know that these agencies alone will cost us an estimated $1.2 billion in fiscal year 1978.

Another reason why I have changed my mind is my decision to take the President of the United States at his word. He campaigned hard on several themes; and it seems to me that practically every one of them is contradicted by the creation of a new independent agency to tie up the Executive Branch in litigation whenever that agency, not President Carter, feels that consumer interests need to be protected.

Candidate Carter challenged Mr. Nader as the nation's high priest of consumer advocacy. He said that he personally would be the number one consumer advocate, and he has taken steps to vindicate this promise by plucking many of the most ardent consumerists in the land from their private domain and placing them in high positions throughout the government. In fact, it's been said there would be no one left to run the new agency. He cannot be the nation's top consumerist by creating a Nader-inspired litigation strike force that will operate beyond his control. They will outdo him every time.

Candidate Carter said, and President Carter continues to say, that he is pledged to cut down on government spending, to reorganize the government more efficiently, to reduce bureaucratic harassment of business, and to control inflation. If these pledges are sincere, and I hope and believe that they are, it is an odd time indeed to create a new agency of the kind now urged upon us. It isn't enough to say, as he did on August 9, 1976, while addressing a group of consumerists from the "Public Citizen Forum" that, "This agency is different."

The new agency will cause a direct increase in government spending of $15 million during its first year of existence. After that, as is the case with any government agency, the sky is the limit. For example, you all know about OSHA—its first full year's authorization was $376,000, and OSHA's budget for this year is $133,300,000. And the Environmental Protection Agency's authorization for its first full year was $679 million, but EPA's total budget for this year is $6 billion. The CAB's original authorization was $14,026,480, and its present budget calls for $92,812,000.

What about government reorganization that we hear so much about and that we on Capitol Hill have been doing something about by creating, for example, a new Department of Energy? If reorganization to make government more responsive and efficient is a sincere concept, why then do we need a super-agency to police that government? I find the two concepts utterly inconsistent, and I find the reorganization course far more appealing. We should follow the President's lead in putting our governmental house in order before we create an independent agency to do it for us.

GOOD GUYS AND BAD GUYS

I have welcomed President Carter's assurances that governmental harassment of business and government-inspired inflation will be controlled by his Administration. But I see none of that in the consumer protection bill.

The premise of the bill—an unfortunate one I believe—is that there are good guys and bad guys in this world of ours. The bad guys are businessmen who captivate the government and line their pockets with gold at the expense of the good-guy consumers. Now the good guys will have their own super good guy in government.

I won't bore you with my views on the ancient debate over who wears the white and who wears the black hat. It will suffice to say that the Consumer Protection Act is anti-business. The new agency can use compulsory process to impose burdensome information demands upon businessmen: it can tie up expeditous government decisionmaking on which businessmen rely by intervention and litigation, and it can generally increase the climate of suspicion and distrust of business.

PRICE TAG FOR MORE GOVERNMENT

Nor will the President's wish to control inflation be served by consumer advocates. There is a price tag for more government, and it is a vast mistake to assume that business pays that price. Costs incurred by government intervention are passed on to consumers in the form of higher prices for goods and services. More bureaucracy will not serve President Carter's expressed desire to limit inflation.

So the basis for my new opposition is founded largely in the hope that our new President will succeed as the nation's premier consumer advocate, that government reorganization will trim away the fat and make our bureaucratic complex more responsive, that businessmen will be less harassed, and that inflation can be controlled. The Consumer Protection Act will work directly against the President in these efforts.

We hear a lot about "consumers" these days, and I am all for them. Everyone is a consumer, so perhaps the new agency should be called the Agency for Everyone's Advocacy.

But if you think of it in those terms, you come to realize that we already have such an agency in Washington. We call it the Congress, and just in recent years we have enacted a host of consumer-oriented legislation. For example: the Toxic Substances Control Act; Consumer Product Safety Act; Magnuson-Moss Warranty Federal Trade Commission Improvements; the Anti-Trust Improvements Act; Meat, Egg and Poultry Inspection Acts; Truth in Lending Act; Fair Credit Billing Act; the Equal Credit Opportunity Act; and a host of related consumer laws. I was informed as recently as yesterday by the Library of Congress that in this Congress alone some 531 bills touching on consumer concerns have been introduced; and in the 94th Congress, some 831 bills were introduced.

If we pass this bill, we are saying in effect that Congress, and indeed the President, are incapable of making certain that the government represents the interest of the people. I am unprepared to make that statement.

If the Federal Trade Commission or the Consumer Product Safety Commission or any other entity of this government is not performing its mandate to serve the Public Interest, then Congress and the President should do something about it. The Congress can and does exert enormous influence by virtue of its oversight authority. In the past several years the President has installed vigorous consumer representation offices within every major department of the Executive Branch. The great attention given to consumer problems by both branches over the past several years is additional evidence that now persuades me that there is no need for a new independent agency.

CREATE NEW AGENCY TO POLICE THE OLD ONES?

The old ostrich approach of funding a new bureaucracy to solve a particular problem is a practice whose time has come and, to the relief of most Americans, gone. Consider first the illogic of creating a new agency to police the old ones. I find little comfort in the concept that more bureaucracy is the answer to problems created for the most part by too much bureaucracy.

Moreover, an independent super-agency is not the proper solution to the ancient dilemma of who shall guard the guards themselves. The Constitution, as I understand it, places that burden elsewhere. Congress and the President serve that function as the only elected officials in our federal system. It is our job to assure that every agency of this government serves the best interest of all the people all the time. If the job is not being done, it is our fault. The creation of a new ship of state flying the flag of consumerism does not relieve us of the burden.

Getting back to the question of identifying who "consumers" are, the promoters of the consumer protection legislation have contrived a neat way to get around the fact that a consumer is no different than a person. One can also ask what is a "consumer interest". The advocates define a particular "consumer interest", and they say that this "consumer interest" is unique and separable from our other interests.

CONSUMERS NOT ALL THE SAME

This, I have concluded, makes no sense. There is no palpable consumer interest that one designated bureaucrat can or should represent. What is your interest in foreign grain sales? Well, this depends very much on who you are, does it not? Are you a farmer? A city-dweller? A baker? A foreign consumer? A taxpayer? What about balance of payments, international agreements, or foreign relations generally? When the new consumer advocate rushes headlong into this terribly

complex issue, whose interest will be advocated? What role would such an agency play in a saccharin ban?

The point is that you can't put on blinders and vigorously advocate what may be the interest of one consumer without doing violence to the interests of others. And you can't single-mindedly run the government for the benefit of the "consumer interest", even if there were such a thing. We have enough polarization institutionalized in our government now. The broad public interest, as defined and addressed by the Congress and the President, is the only interest that government has any business representing.

All of this brings me to a crucial point—the new consumer agency will have too much power. It is simply naive to accept, as some apparently do, that it will always be a small agency, that it will have no direct regulatory authority, and that it cannot impose its will on anycne.

BUREAUCRATIC GROWTH

That it will be a small agency is refuted by history. I can see it now. Fifteen million in the first year, twenty million in the second year, and twenty-five million in the third year as authorized in the bill, will be woefully inadequate, they will tell us. The Agency will have only scratched the surface of regulatory abuse, they will tell us. A few million more next year and the next year and the next is very necessary, they will tell us. What disturbs me even more is that we on Capitol Hill hardly blink at millions anymore.

And remember, this will be the representative of the American consumer speaking. By clothing the consumer advocate with the apparent authority of the people, we will have created a very potent political force.

By the same token, the lack of direct regulatory authority should be no problem for the new agency. The power of compulsory process, the power to intervene, and the power to sue—all on behalf of the American people—will afford immense leverage to the consumer advocate. These powers, even the threat of their use, will be sufficient to make the best established government official wither.

PRESIDENTIAL AUTHORITY

With all this power, whether legal or political, it would seem that there should be substantial accountability at the very least to the President. Try as I might, I see no practical controls on the agency. Although the legislation places it technically in the Executive Branch, it can sue the Executive Branch. The Courts have said that you cannot sue yourself, even if you are the President of the United States. The power to sue is the crux of the bill; so there is no way that the consumer advocate can be controlled by the President. He or she will be a free agent, roaming in the pastures of high government policy, speaking loudly and carrying a big legal and political stick.

Let me turn briefly to some specific areas of concern. Energy is one that is on everyone's mind. Less than one week after the President called upon a confused, skeptical nation to face the energy crisis, the Consumer Agency's principal advocate questioned the President's conclusion that this nation faced a critical shortage of energy resources. Now suppose that this were the officially-designated consumer representative speaking. Can you imagine the frustration, confounding effect of such a statement and its potential for deterioration of the national will?

FOOLHARDY AND IRONIC VENTURE

Take grain sales, which I mentioned earlier. The President made numerous campaign commitments against future grain embargoes, which he may or may not find himself able to keep. But the point is that decisions on issues of this magnitude should be arrived at by the President and the Congress. The enabling of a collection of lawyers with a narrow view to tie up these decisions by lawsuits, public statements, or any other means is a foolhardy venture at best.

There are still many unanswered and unanswerable questions about the scope and responsibilities of a Consumer Protection Agency: How will the Consumer Protection Agency decide what is a "consumer interest"? Will the agency be permitted to intervene in informal activities as well as formal proceedings of other agencies? Should the Agency be allowed to petition for or intervene in judicial review of other agency actions?

Should the Agency be given the right to directly subpoena trade secrets and other confidential information from business and industry? What will be the extent of exemptions? This latter area of concern is particularly controversial.

There has been no argument over the issue that national security agencies, such as the FBI and the CIA, should be completely exempt from the new agency's activities.

There is great irony in the legislation as it now stands. Labor supports the bill, because labor is exempt. Others would support the legislation if they were exempt. Everyone would support the legislation if everyone were exempt.

What consumers need now is protection from this agency. I shall continue to vote to protect the consumer—by voting against the so-called Consumer Protection Act of 1977.

MARYLAND'S YOUTHFUL POETS DEMONSTRATE THE BEAUTY AND POWER OF THE ENGLISH LANGUAGE

Mr. MATHIAS. Mr. President, for the past 4 years an amazing poetry program has been going on in Maryland schools. The statewide program, sponsored by the Arts Council of Maryland's Department of Economic and Community Development, has brought distinguished Maryland poets into the classroom to conduct poetry writing workshops. This poets-in-schools program is supported by grants from the National Endowment for the Arts and the artists in schools program and is designed to heighten students' awareness of the scope, beauty, and power of language. It has done that remarkably well. But is done far more than that.

The results of the program have astounded even the experts. Three anthologies of poems, covering 4 years and written by students from elementary school through high school, have been published. This year's anthology, "The Bird's Wings," has been described by poet-critics as "an amazing demonstration that creativity and imagination know no age limit." Carol Faulkner Peck, poet and editor of "The Bird's Wings," describes the student-poets as "impressive in their spirit and energy, their willingness to try new ideas, and above all their sheer delight in language that shines through at all grade levels."

The poetry-writing workshops, which consist of 5-day classroom sequences plus a day devoted to working with teachers in orientation and follow-up sessions, have paid at least one unexpected dividend. They have stimulated students to read more. One of the poets, who participated in the program, suggests that the general increase in student reading may have been a "natural consequence of their urge to read their own poems aloud in class. It was infectious. The students expanded their reading and vocabulary in fascinating and painless ways."

This year's student anthology includes the work of 130 young poets in 16 counties and 51 schools. It is available from the Maryland Arts Council, 15 W. Mulberry Street, Baltimore, Md., 21201, or the department of economic and community Development, 2525 Riva Road, Annapolis, Md. 21401.

The poets-in-schools program has proved to be just as rewarding an experience for the poets who have participated in it as it has been for the students themselves.

"The children left me bruised, battered, bloodied and bowed—mentally" Eastern Shore Poet Mary Wood commented, "but then, at the end of the five sessions—there were those glorious poems."

Most of the poets confessed surprise at the quality of the verses of the students and acknowledged that the program had had considerable impact on their own work.

Linda Vlasak, project director for the Maryland Arts Council, said that the first sampling of poems by the students "did not prepare us for the embarrassment of poetic riches that was to follow."

"Many hundreds of poems were written," she said, "in the course of each semester, some very good, some fair, some outstanding—all of them brimming with life and the freshness of youth." Mrs. Vlasak believes that working with the young poets had a freeing effect on her own work. "I trust more. I dare more," she says.

This year in addition to the anthology of student verse, the Maryland Arts Council has also published an anthology of 60 of the poets' work, entitled "A Sampling of Poems." It is edited by Eric Cheyfitz, Baltimore poet, writer, teacher, and musician and himself one of the poets-in-schools participants.

Other poets-in-the-schools were:

LIST OF POETS

Donald Cook, young poet from Western Maryland who now lives in Annapolis.

Alan Britt of Owing Mills, Md., who teaches at Eastern Shore Community College.

David Lewis Bergman, a teacher at Towson State University, who has received many awards including the coveted Robert Frost Prize in 1971.

Mary Azrael, a Baltimore poet who teaches English at the Peabody Institute. She is coauthor of "A Child's World of Music".

Roderick Jellema of Silver Spring, professor at the University of Maryland, codirector of the National Poetry Center and recipient of a prize awarded by the National Endowment for the Arts.

Alice Moser, who recently moved from the Eastern Shore to Chalmette, La., and is active as editor and consultant for several literary publications.

Robert Day, novelist and Assistant Professor of English at Washington College in Chestertown, Md.

Daniel Mark Epstein of Baltimore who has won the Robert Frost and Stephen Vincent Benet awards, as well as an award from the National Endowment for the Arts fellowship for creative writers and the 1977 Prix de Rome.

Rodgers Kamenetz, of Baltimore, co-founder of special program for teaching poetry to rural school children.

Lena Dale Matthews, of Baltimore, who helped start a poetry program in schools of Samson County, North Carolina.

Sister Maura, SND, past chairman and Professor of English at the College of Notre Dame of Maryland, Baltimore, widely published, recipient of many awards for distinguished teaching. Sister Maura has conducted writing workshops for the poet-teachers in the poets-in-the-schools program.

Nancy Protho, of Silver Spring, a poet and teacher.

Gary Sange who has taught creative writing courses in Maryland and now lives in Richmond, Va.

William Joseph Sullivan, Jr., a Baltimore poet, who has published many poems and short stories.

Robert Wickless, Maryland poet and teacher, resident of Frederick, Md.

Susan Yaruta, recent graduate of the College of Notre Dame and won first prize for poetry in contest sponsored by the Atlantic Monthly.

So that my colleagues may judge the caliber of our Maryland student-poets and of their poet-mentors, I ask unanimous consent to have printed in the RECORD several poems from "The Bird's Wing," and from "A Sampling of Poems."

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

"THE BIRD'S WING"

A poem is not the sun
But the sunlight,
A poem is not the bird
But the bird's wing
that flows in the air.

By Sue Ann Zeniel, Grade 5/6, Yorkwood Elementary, Baltimore City.

People
are a living thing
a something not dumb.

By Brian Vandegrift, Fort Smallwood Elementary, Anne Arundel County.

I am me! Can't you see that
I am me! Trees are not me!
Cats are not me! I am a
person with high feelings!
Different things I think!
You know it's fun being me!

By Jody Bowman, Grade 4, Randallstown Elementary, Baltimore County.

"A SAMPLING OF POEMS"

THE FALL OF A HOUSE

(By Alice Moser Claudel)

It seems so strange
To see a house brought down
Like a hunted creature,
Buckling at the knees;
The geometric pattern broken
And rooms once vital,
Harried by the breeze.
Silent . . . the cats come home
And no one knows,
Seeing their troubled eyes,
What of their old world
In these battered bricks
They still surmise.

FAIRLEE CREEK

(By Robert Day)

Exploring, we have driven our open jeep
Along the bank, following Fairlee Creek to the Bay.
It is cold for April. Ahead.
A knot of fishermen are hunkering
Among their shacks, fixing lines.
Nets hang from trees like winter vines.
Bateaux,
Like Caleb Bingham's boat, sit on still water.
It is deep here.
We stop. Like spooked cats the fishermen stare.
We could film them, paint them, catch
Silhouettes with quaint techniques, trap
Mood with lighting. They stare.
We hear our engine idling
We should have come by water.

THE SECRET

(By Daniel Mark Epstein)

She would not pick up stones
even the most beautiful ones
or keep them, let alone
keep them, they never look
the same on the windowsill, or in
a bowl as in the brook,
she would not
pick flowers either
and they grow
so much faster than stones.

A STATE JUDGE'S VIEW OF FEDERAL AND STATE COURTS

Mr. DECONCINI. Mr. President, recently the chief justice of the Supreme Court of Minnesota, Robert J. Sheran, testified before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. Chief Justice Sheran presented a comprehensive analysis of the judicial needs of the citizens of this country and he offered several suggestions as to how the Federal Government can cooperate with State governments to improve our Nation's dual court system. Among other matters, he pointed out that the LEAA program has been of great assistance in stimulating improvements in the court systems of most of the States. However, he also emphasized that it was imperative that Federal programs to aid State court systems should not diminish the independence of the State courts.

So all Members of the Senate may have the opportunity to read Justice Sheran's remarks, I ask unanimous consent that his prepared testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

THE STATE OF THE JUDICIARY AND ACCESS TO JUSTICE

(Statement of Robert J. Sheran, Chief Justice of the Supreme Court, State of Minnesota, and Chairman of the Federal-State Relations Committee of the Conference of Chief Justices)

Mr. Chairman and Members of the Subcommittee: As Chief Justice of the State of Minnesota and Chairman of the Federal-State Judiciary Committee of the Conference of Chief Justices, I consider it a privilege to appear before this subcommittee of the House Judiciary Committee to express the views of a state court judge on the subject: "The State of the Judiciary and Access to Justice."

I speak from the viewpoint of a state judge. My views are conditioned by commitment to this provision of the Constitution of the State of Minnesota (art. 1, § 8):

"Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws."

From the perspective of those who supply judicial services, we have in this country two separate and independent systems—the one federal, the other state. The members of this committee are acutely aware that the primary responsibility for the support and development of the federal judicial system rests with the United States Congress. As the chief justice of a state court system, I know that the comparable responsibility for the support and development of the state courts falls upon the legislatures of the respective states.

But from the standpoint of the citizen-user, the distinction between federal and state courts carries no real meaning. He knows that he has a legal problem which must be solved, sometimes by proceedings in court. Whether access to justice is by way of a federal court or a state court is, to him, immaterial. If he is a defendant in a criminal case, he is entitled to and expects a fair and speedy trial in one court system or the other. To an individual who sues or is sued for damages or other civil relief, it is important that a judicial tribunal be available where his problem can receive expeditious and skilled attention. Whether such a court is supervised by a federal judge or a state judge makes no difference to the litigants.

It is axiomatic that access to the courts is sometimes made difficult by the congestion caused by ever-increasing demands for assistance in the resolution of disputes. We know that the business of the courts has greatly increased as a result of changes in our national life. Two hundred years ago the United States was made up of 13 colonies with about 3 million people engaged in an essentially agrarian economy. Today, our population is well in excess of 213 million, and the increasing complexities of an industrial society have brought more than a corresponding increase in the number of conflicts and controversies which our courts are called upon to decide. Especially during the last 20 or 30 years, citizens have become alert to and insistent upon asserting the conviction that the Declaration of Independence meant what it said in declaring that all men are created equal and endowed equally with the inalienable rights of life, liberty, and the pursuit of happiness.

In my judgment, these changes constitute progress and are all to the good. But we must deal effectively with the mass of litigation now reaching the courts. If we do not provide a forum for the rational solution of these controversies, alternative methods of dispute resolution may be found. And the most tempting alternatives—self-help or a more authoritarian system—are unacceptable in a civilized and democratic society.

The increasing caseload problem is particularly acute in the federal system. Federal district court filings have increased over 100 percent since 1960. The increase in appealed cases in the federal system has been even more dramatic. The statistics and personal observations have convinced me that the federal courts desperately need relief.

The trends and circumstances which produced a doubling of the federal caseload in 15 years persist and may accelerate. For example, federal-question cases now represent about 45 percent of the total civil filings in the federal district courts. Every year, many new federal laws and regulations are enacted, and justifiably so, at least to the extent that the problems addressed can more effectively be dealt with on a national rather than a local basis. But new federal law generates more federal-question litigation. The truth of this statement finds support in these statistics: In 1960 there were some 13,000 federal-question cases; by 1975, the number

had reached 52,000. This is a trend which will continue for the foreseeable future, I believe, notwithstanding the legitimate concerns and prudent admonitions which have been expressed on the subject.

Although antitrust litigation accounts for only 1.2 percent of the civil filings, the complexity of these cases adds greatly to the over-all burden. Because there is a broad public consensus that competition serves the public interest and should be stimulated, the likelihood is that antitrust litigation will increase rather than decrease in the years ahead. The same considerations apply to the environmental cases now reaching the federal courts in increasing numbers.

Civil rights cases and prisoners' petitions together account for about 25 percent of the federal filings. Of these, almost half are habeas corpus proceedings following criminal convictions in the state courts. Because the decisions of the United States Supreme Court upon which these petitions are based have become to be accepted as sound in principle, it is unlikely that such appeals for postconviction relief will diminish.

Federal diversity-jurisdicton cases account for 26 percent of the civil filings in federal district court. Since the free and extensive movement of goods, services, and people among the states is a fact of life in the 20th century, we must anticipate that cases pitting citizens of one state against citizens of another will continue, and perhaps multiply.

II.

One "logical" solution to the problem would be to increase the number of federal judges to make it possible for them to handle the work coming into the courts. Legislation is making its way through Congress which represents movement in this direction. But even when enacted, this legislation may not provide a sufficient number of additional judges to enable the federal courts to deal with their present and projected caseload problem.

If the logical solution to the federal caseload problem is not fully attainable, other measures must be taken if our citizens are to have adequate access to our courts.

III.

An alternative or complement to increased judicial manpower is the diversion of cases to forums other than the federal courts. Diverted cases might be resolved by judicial or nonjudicial means. Arbitration, mediation, and conciliation, for example, are nonjudicial methods of dispute resolution which have enjoyed greatly increased usage in recent years. This is a trend which should be encouraged in appropriate types of cases. But we cannot realistically expect nonjudicial methods of dispute resolution to siphon off more than a small percentage of the cases which will reach federal courts. If substantial assistance is to be provided, it probably must come from the state courts.

IV.

To what extent are the state courts to be in a position to help? State courts, too, have experienced increasing demands upon their facilities. The rate of caseload growth in the federal courts over the last 15 years figures out to about a 7 percent annual increase. The rate of increase seems, however, to be progressive. The comparable rate of growth in the state courts of Minnesota, Kansas, and Iowa figures to 3 to 4 percent annually. But in more populated and industrial states, such as Ohio and Michigan, the average annual rate of growth has been 7 to 8 percent.

These statistics give us reason to pause, but I nonetheless believe that the state court system could satisfactorily assimilate and handle a fairly large proportion of the cases now heard in federal district court. The number of state court judges of general jurisdiction available to assume the additional work amounts to a sizable figure. In Minnesota, for example, we have four federal district court judges and one senior federal district judge available for the trial of cases. But there are 72 state district court judges, 31 of whom sit in the Minneapolis-St. Paul area. And under the Minnesota Reorganization Act of 1977, it will be possible to employ the services of an additional 100 or more county court and municipal court judges to handle trial work in courts of general jurisdiction.

My conviction is this: If there is litigation now being handled in the federal courts which could be handled as well, or almost as well, in the state court system, then it would be better in the long run for the state judges to hear the cases. For the first 100 years of our national history, state courts heard cases involving questions of federal law. It was not until 1876 that this category of cases was moved to the federal system. Federal-question cases could be moved back to the state courts again, in whole or in part.

Diversity jurisdiction, on the other hand, has always been exercised by the federal courts, on the premise, originally true, that the state courts might not deal fairly with the parties who were "foreigners." Whatever the historical reasons for the rule, exclusive federal diversity jurisdiction is not currently justified by either pragmatic or logical reasons. These cases should be left to the states. The state courts would be as able to handle cases where diversity exists as they are able to handle the many cases now coming before them where the subject matter is almost identical but where the cases are not eligible for federal court treatment on diversity grounds. The assumption that state court systems are prejudiced and provincial and that federal courts are needed to protect nonresidents from unfair treatment cannot be justified generally. The extension of the jurisdiction of state courts over nonresidents resulting from state and federal interpretation of state long-arm statutes has already brought a significant number of diversity cases to the state court systems where the amount involved is less than $10,000; and the litigants are being treated fairly without regard to whether they are or are not residents of the forum state.

It has been suggested that the shift of diversity cases from federal to state court should be limited to situations where the plaintiff is a resident of the formum state, and that the minimum amount in controversy should be increased from $10,000 to $25,000. To my mind, the reasons which support this modification of federal diversity jurisdiction support with equal validity the transfer of all federal diversity jurisdiction to state courts.

Diversity jurisdiction now entertained by the federal courts where the amount in controversy exceeds $10,000 should be returned to the states, as recommended by such authorities on judicial administration as Chief Justice Warren E. Burger, who, in his 1977 report to the American Bar Association at Seattle, said:

"* * * I would strongly urge that Congress totally eliminate diversity of citizenship cases from the federal courts. * * * I urge you to give full support to the elimination of diversity jurisdiction from the federal courts without further delay."

The change recommended by Chief Justice Burger would transfer nearly one-fourth of the filings from the four federal district judges in Minnesota and spread them among about 200 state judges. I believe that the trial courts of Minnesota are prepared to accept responsibility for this litigation which is naturally within the area of their competence, and join in urging that diversity jurisdiction be transferred to the state courts. I believe other states are similarly situated.

In the other areas where the burdens of our federal courts are increasing, the possibility of assistance from the state courts may be more limited. It is doubtful that the state courts are as capable as are the federal courts in dealing with complicated antitrust and environmental litigation having multistate impact. Federal judges, appointed for life, are probably best able to deal with civil rights problems, particularly in cases where the constitutional right asserted is one for which there is little or no local sympathy. However, in the last few years, decisions of the final appellate courts in many of our states have given proof of a willingness to accept political risk in defense of the rights of the individual. The national implications of many labor disputes, likewise, seem to justify federal preemption in this area.

Finally, the federal caseload problem could be significantly improved if federal district court habeas corpus review of state court convictions could be made unnecessary. I do not mean to suggest that we turn back the clock to a pre-Gideon v. Wainwright era. On the contrary, I applaud the Gideon decision and Fay v. Noia and the other United States Supreme Court decisions which have broadened the scope of the due process clause of the Fourteenth Amendment so as to extend the protections of the Federal Bill of Rights to persons accused of crimes in state court proceedings.

Nonetheless, federal district court habeas corpus review of state court convictions is a high-volume, time-consuming and essentially duplicative endeavor which could be made unnecessary. The best way to eliminate this duplication of effort is to establish in the states criminal procedures which satisfy fully all federal constitutional requirements. Appellate and postconviction review of these cases can then be handled at the state level, permitting the federal courts to accept the state court dispositions without repetition of the process of review. Such is the present state of affairs in Minnesota, and similar results can be achieved in all other state jurisdictions.

The suggestion has been made in testimony before this subcommittee that state courts are not as alert to the necessity of protecting the constitutional rights of defendants in criminal cases as are the federal courts. Our experience in Minnesota is to the contrary. The federal district courts in our state and our circuit court of appeals have, for practical purposes, no occasion to review the trial of criminal cases in our state courts. The reason for this is that from the time the March 18, 1963, decisions of the United States Supreme Court were announced we have made it our business to assure that the constitutional rights, both state and federal, of defendants tried in our criminal court system are fully protected.

The specific methods employed to assure the soundness of our convictions in criminal cases include these:

(1) Statutory provision for counsel in all criminal cases involving imprisonment, regardless of demand or waiver;

(2) A routine pretrial hearing, actively directed by the trial judge, the purpose of which is to surface all claims of constitutional infringement;

(3) A transcript of the trial court proceedings at public expense, without technical requirements to prove indigency;

(4) Automatic postconviction review, unimpeded by time limitations or procedural niceties;

(5) Routine review of all criminal convictions, where the defendant has been sentenced to imprisonment, by the Supreme Court of Minnesota, with remand readily available where claims of constitutional infringement are made on appeal but were not presented to or considered by the trial court.

Our experience has told us that a state court system which is determined to avoid infringement of federally protected constitu-

tional rights can accomplish this objective without imposing upon the federal court system for help.

V.

The relief which will thus be given to the federal courts will, to be sure, increase the burdens of our state courts. But additional expenses incurred as a result should be, and I think will be, shared by the federal government. The method by which this objective is to be accomplished is now being carefully analyzed by both federal and state entities for ultimate decision. These comments on current developments in this area:

VI.

It is imperative that the state court systems maintain their identity and independence. I am confident that our state courts and our state court judges will do everything feasible to make the judicial system as a whole acceptable to as many of our citizens as possible and will be willing to integrate their efforts in any reasonable way with that of the federal court system. But this assumes allocation of responsibility on terms which are neither demeaning nor intrusive. Federal funding or revenue sharing must be looked upon as a means of adding strength to the state judicial systems and not as a method for extending federal authority to areas better managed on a state or local basis. The preservation of the independence of the state judicial systems is, I believe, the imperative which must undergird all joint efforts to deal with common problems relating to access to the courts.

VII.

If it can be assumed that the employment of federal funds for the improvement of judicial services in the states can be accomplished without impingement upon the independence of the state judiciary, the question becomes one of the form and method by which this is to be accomplished.

In analyzing the problem it is important to keep in mind that the funding requirements of the state court systems fall into two general categories:

(1) The support and maintenance of institutions, such as the National Center for State Courts and the National College of the State Judiciary, which operate on a national level in providing service and assistance to the court systems of the several states; and

(2) The funding of activities directed by the several state court systems, either statewide or in localized areas.

As of now, the principal source of federal funding for the needs of state courts is the Law Enforcement Assistance Administration. The state court systems have been strengthened by block and discretionary grants received through the LEAA, particularly in the development of improved methods of court administration. Prior to 1976, the judicial systems of many of the states felt handicapped in applying for LEAA funds by being placed in competition with the apprehension and corrections agencies in their respective states. The restraints upon the judiciary, both traditional and ethical, make it difficult for judges to engage freely in this kind of competition. The result was that in many of the states the share of LEAA funds employed for the improvement of the judiciary was insignificant or disproportionate. Amendments to the Safe Streets Act adopted in 1976 by the Congress seek to alleviate this situation by establishing a priority for funding of judicial branch programs; for judicial participation on state planning agencies; and for the establishment of judicial planning agencies whose recommendation for the disbursement of funds allocated to the judiciary were to be, except in rare instances, binding on the planning agencies in the several states. These reassuring steps taken by the Congress in 1976, however, seem to be jeopardized currently by reductions in the budget of the LEAA for 1977–78 which may fall more heavily on the judiciary than on any other of the elements involved in law enforcement.

A further limitation upon the effectiveness of LEAA funding so far as the state court systems are concerned is the limitation which has been placed upon the use of such funds within the states by the requirement that the funds be employed for the improvement of "criminal justice." Justice—including criminal justice—in the state court systems can be best achieved if the entire system is strengthened, including the components which are employed in the trial of criminal cases.

Even more important, the funds made available through LEAA for national projects affecting state court programs—such as the National Center for State Courts—should continue until some adequate substitute provisions for support of these institutions has been achieved. The National Center for State Courts, soon to be centered at Williamsburg, Virginia and the National College of the State Judiciary in Reno, Nevada, have provided the perspective and much of the initiative which has made the dramatic improvement in our state court systems in recent years possible. This could not have been accomplished without federal funding through the LEAA; and the preservation of these institutions with the assistance of federal funding is of paramount importance to the state court systems, which have benefited so significantly from their existence.

We are informed that changes in the structure of the LEAA are in the making. This being the case, there are certain principles or approaches which, it seems to me, are of the utmost importance from the standpoint of our state judicial systems:

(1) The National Center for State Courts and the National College of the State Judiciary should receive priority attention, at least until the states are able to assume financial responsibility for these essential undertakings;

(2) Whether in the form of block grants or revenue sharing, federal financial support for state judicial systems should be assured;

(3) The deployment of federal funds for the improvement of state judicial systems on a statewide or local-area basis should be determined entirely or in significant part by those charged with the responsibility for the operation of the judicial system in each of the several states;

(4) The employment of a national entity such as the National Institute of Justice to direct and monitor the allocation and use of federal funds by state court systems should be structured in such a way that the state judicial systems will have a participating voice in the formulation of plans and policies.

VIII.

While the employment of federal funds to assist in the improvement of state judicial systems is important, it is but one of many facets of the problems of coordinating the state and federal judicial systems to increase the accessibility of justice in our courts. Other illustrations are: The efforts which are currently underway to coordinate federal and state rules of criminal procedure; the Consumers Controversies Resolution Act; federal programs with respect to the treatment of juveniles; the employment of federal resources to control the use and traffic in drugs; the employment of the services of expert mediators for complicated disputes—these are matters which are and in the future will increasingly become matters of joint concern to the federal government and the judicial systems of the several states. The belief is that the state court systems through the Conference of Chief Justices should establish communication with the significant committees of Congress so that you will have access to our views in formulating federal legislation which has impact on the operation of the state court systems. The fact that you have invited me to be here today on behalf of the Conference of Chief Justices is an appreciated step forward in achieving this goal. My hope is that we will be able to continue these methods of communication on a regular and well-defined basis in the future.

IX.

In summary, I believe:

(1) Every citizen should have access to our court system as the ultimate forum for the resolution of unavoidable disputes and the protector of his constitutional rights.

(2) The demand for access to our court systems in this country can be expected to increase significantly in the years ahead—a demand which will be implemented by plans for prepaid legal insurance and other methods of making legal services more generally available.

(3) Efforts to divert, where appropriate, the processes of dispute resolution from the federal and state court systems are to be encouraged and accelerated, but such diversion is only a partial answer to the problem.

(4) Notwithstanding reasonable expectations of dispute diversion, it can be expected that our federal court system will continue to be overburdened unless a significant part of the jurisdiction presently exercised by the federal courts is assigned to our state court systems.

(5) Our state court systems are able and, I hope, willing to provide needed relief to the federal court system in such areas as

(a) More complete review of state court criminal proceedings to assure that federally defined constitutional rights have been fully protected;

(b) Increased participation in the resolution of federal-question cases;

(c) The assumption of all or part of the diversity jurisdiction presently exercised by the federal courts.

(6) The state court systems will be able to carry an increased share of the judicial burden, to the extent that their progress is adequately funded in part from federal resources.

(7) Increased communication between congressional commitees considering legislation affecting state courts and such entities as the Conference of Chief Justices will be useful.

(8) The constitutional structures and procedures by which federal funds can appropriately be used to achieve national goals in the delivery of justice while respecting the independence of the state judicial system require further study, but difference of opinion as to the method of achievement of the goals should not obscure the importance and necessity of federal-state cooperation in improving the administration of justice in all of our courts.

THE EXTRAORDINARY MRS. BARKER CELEBRATES A LIFETIME OF SERVICE TO GOD, COUNTRY, AND HUMANITY

Mr. MATHIAS. Mr. President, this coming Monday—August 8—a very remarkable Marylander will celebrate her 102d birthday. Ada Moyer Barker was born on August 8, 1874, in a little town near Lake Ontario in Canada. But, she has lived for many years in Wheaton, Md., and we are proud to claim her as a Marylander.

Today I would like to share with my colleagues some of the details of Mrs. Barker's extraordinary life.

When she was 9, Ada Moyer determined to dedicate herself to Christian service and at the age of 18, while attending a meeting of the Christian Missionary Alliance, she was so struck by the hymn "The Story Must Be Told" that she resolved to become a missionary. As she recalls now "the bass came strong repeating 'it must be told, it must be told.'"

Her resolve prompted Ada Moyer to enroll in the Bible Training School in Toronto, now the Ontario Bible School, and later took her to Turkey and Armenia as a missionary.

In the summer of 1899 shortly before leaving for Turkey, Ada Moyer met Ford Barker, the man who later was to become her husband. When he learned she was about to leave for Armenia, he went to Toronto to visit her. Together they vowed that if their paths should cross again they would marry.

Miss Ada Moyer set out by train from Vineland, Ontario, for New York City in November 1899. There she met Miss Fredericka Honk and the two women in deaconess uniforms sailed for Turkey, a 6-week trip in those days. On New Year's morning in the year 1900, three intrepid young women mounted horses and donkeys to begin the 4½ days' journey over rough mountain paths to Hadjin, Turkey. Ada Moyer and Fredericka Honk had been met at the coast by Miss Rose Lambert, the first missionary to Armenia. Before beginning this last leg of their journey, the women had traveled by train to Adana passing through Tarsus, St. Paul's birthplace.

It was soon discovered that the mission in Hadjin needed the help of a man and a year and a half later, Ford Barker arrived from Canada, having been ordained before leaving. True to their vow, as soon as they were reunited, Ada Moyer and Ford Barker were married. To arrange the ceremony they had to travel 3 days on horseback and 2 days by steamer and train to Smyrna where a British counsel general performed the civil ceremony. They were then married by a minister as well. While in Smyrna they were the guests of American missionaries who, as Mrs. Barker recalls, enjoyed having a wedding.

For the next 15 years the Barkers worked together at the boys' orphanage in Hadjin and then at Everek. During those 15 eventful years the Barkers sustained many hardships but their faith never wavered.

When World War I broke out, Mr. Barker was in North America seeking funds to improve the mission. Mrs. Barker, as the oldest of the missionaries left in Armenia, took charge. They were determined to remain with the orphans although the war had tied up the funds for the mission. But they were ordered to leave. For 3 days they were prisoners of war as they traveled by covered wagon to the coast. Throughout, Mrs. Barker was confident that she would be able to return to the mission, that the war would soon be settled, but this was not to be. Instead they were put on ships and sent home.

Mr. Barker was serving in Hamilton, Ontario, when the troubles in Smyrna took place. On that occasion, Canada agreed to take in 100 children survivors from Smyrna. But problems developed when 50 of the children arrived in Toronto with no knowledge of English and Mrs. Barker stepped into the breach to take charge until things settled down.

In the final years of Mr. Barker's life, the family lived in Bradenton, Fla., and when Mr. Barker died the Armenian boys in America, whom they had helped, erected a monument in the cemetery at Bradenton to the "Father of Orphans, Messenger of God, Devoted Evangelist and Fisher of Men."

Mrs. Barker, who lives in Wheaton with her daughter, Grace, still spends her winters in Florida. As she looks back over her long, eventful life, Mrs. Barker marvels at how the Lord has taken care of her for 102 years. I think we too can marvel at the life of this unusual woman. And we can rejoice with her on the great contribution she has made to humanity throughout her life.

I ask that my colleagues join me in saluting Mrs. Barker and wishing her a very happy birthday.

CHICAGO'S MIDWAY AIRPORT

Mr. KENNEDY. Mr. President, the people of Chicago stand to benefit substantially if legislation passes to reduce Federal economic regulation of commercial air transportation. In a hearing held in Chicago this past Saturday, the House Aviation Subcommittee explored the impact of airline regulation on the city of Chicago and specifically on Chicago's Midway Airport. The hearing revealed how Federal regulation is blocking and thwarting the inauguration of low-fare scheduled air service from Chicago's Midway Airport to 14 other cities within 500 miles of Chicago. The regulatory obstacles are harming travelers, shippers, employment, and the development of economical air travel. Senator CHARLES PERCY testified at these hearings, Mr. President, and presented a compelling case for legislative change.

I am pleased that Senator PERCY is an important and active cosponsor of S. 689, the Cannon-Kennedy bill, which is now before the Commerce, Science, and Transportation Committee in the final stages of consideration. I am hopeful that under the able leadership of Senator HOWARD CANNON, who is managing the bill in the committee, and the help of Senator PERCY and other sponsors, aviation regulatory reform legislation will reach the Senate floor after the August recess.

Mr. President, I ask unanimous consent that Senator PERCY's testimony of July 30 be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CHARLES H. PERCY BEFORE THE AVIATION SUBCOMMITTEE OF THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, JULY 30, 1977

I welcome the interest of this Subcommittee in the revitalization of Midway Airport, and in the larger issue of airline regulatory reform.

Fulfilling the transportation needs of residents of the South Side, Southwest Side, and surrounding suburbs is an important personal goal of mine. I have a special interest in the South Side: my mother was born at 35th Street and Cottage Grove Avenue; I was a student at the University of Chicago; and I have conducted numerous meetings with constituents on the vital needs of this area in the almost eleven years that I have been a United States Senator.

I know how much a revitalized Midway would mean to so many of the people in this area—not only in terms of creating new jobs, increasing residential and commercial property values, and renewing whole neighborhoods, but in terms of genuine pride in their community. If New York City, Los Angeles, Washington, D.C. and the San Francisco Bay area can have more than one airport, why is virtually every flight into Chicago stuffed into O'Hare Field? As a result, carriers lost $44 million in additional fuel costs in 1976 because of air traffic and taxiing delays at O'Hare.

Right now you are sitting in a $12 million terminal building that is devoid of the sounds of travelers; there is hardly any commercial traffic at Midway. But just close your eyes for a moment and pretend that we did not have a federal Civil Aeronautics Board.

Instead of stone silence, you probably would be hearing the humming of jet engines, attached to Boeing 737's or DC–9's bringing in passengers from Detroit, Indianapolis, St. Louis, Buffalo, Omaha, Memphis, Cincinnati, Cleveland, Columbus, Dayton, Des Moines, Kansas City, Louisville, Minneapolis, Pittsburgh, and other cities as well.

There would be passengers rushing to grab taxicabs and limousines to spend the weekend in Chicago touring the King Tut exhibit or sightseeing along Lake Michigan or dining in a Hyde Park or New Town restaurant. Conversely, residents from the Metropolitan area, as far away as Waukegan and Kankakee, would be arriving at Midway to board flights at up to a 53 per cent discount under the fares currently offered by the airlines at O'Hare to visit friends or relatives in distant cities. These would not be the well-dressed executives you see at O'Hare traveling on expense accounts. Rather, they would be South Chicago steel workers, Maywood construction workers, students from DePaul, Loyola or Wheaton College—travelers who previously stayed at home or wasted energy by driving.

United Airlines estimates that on its flights of an hour or more, the average household income of the pleasure traveler is $25,400 and the average household income of the business traveler is $33,660. Contrast that with an average family income in this country of $15,000.

A 1974 Gallup poll showed that 76 per cent of the population had not flown in the previous year and that 45 per cent had never flown at all. It is small wonder that 85 per cent of all intercity travel is by private automobiles.

That is why I was excited to hear last October that an enterprising firm had applied for air service from Midway Airport with reduced fares of up to 53 per cent below those charged by other airlines. Such fares would, if approved, make it possible for untold numbers of lower and middle-income citizens to afford to fly. They could simply go out to the airport and fly with fare reductions three times larger than those offered by the established airlines.

Several other firms soon followed suit, one offering service to as many as 14 cities. Even the CAB-certificated airlines at O'Hare suddenly became interested in serving Midway Airport.

We had hoped that the CAB would act quickly on these applications. But for nine months, we waited for a definite Board decision on how it would handle this case. Then, just last Thursday, the Board agreed upon a

one-year deadline to process the applications for low-fare service.

A time certain for rendering a decision is precisely what I had been seeking from the Board ever since it established the ground rules for this case back in May. At that time, it appeared that, unless drastic action was taken by the Board, it could well take two to three years or more to process this case. In speeches on the Senate floor and in public forums, I strongly urged the Board to set a tight deadline for itself.

The deadline means a decision by August 1, 1978 with operating certificates being issued by October or November 1978. A start-up of service by May 1979 is therefore possible.

The Board was only able to act after setting aside its own rules and adopting, what it termed "extraordinary procedures."

I commend Alfred Kahn, the newly-appointed CAB Chairman, for having the courage to break precedent and bureaucratic procedures to expedite the processing of these applications. However, there is still one part of the Board's action which I believe should be reversed. It intends only to process applications for the six largest markets served from Chicago — Minneapolis, Detroit, St. Louis, Kansas City, Cleveland and Pittsburgh.

The Board ignored an additional nine cities that several applicants had proposed to serve from Midway. These nine cities are Indianapolis, Cincinnati, Dayton, Columbus, Buffalo, Memphis, Des Moines, Omaha, and Louisville. The Board said that it would take until 1979 or 1980 to process these applications and that it did not want to further delay the case by hearing arguments for the larger six markets and the smaller nine markets at the same time.

I wish to explain why I consider that to be a flawed decision. It is not a faulty decision because it would appear to favor Midway Airlines, which applied for the six cities, over Midway (Southwest) Airway, which applied for 14 cities, and Wright Air Lines which applied for one. Frankly, it doesn't matter to me which of the applicants receives approval. In fact, I hope they all gain approval, and compete among themselves through quality, low-cost service. All the applicants are superbly qualified. Salomon Brothers, a conservative and highly respected Chicago financial house, would not have pledged substantial sums of money to Midway Airlines if it did not believe that it could be successful. Lamar Muse, who earns a 37 per cent return on equity at Southwest Airlines (compared with 3.6 per cent for the CAB regulated carriers), would not have applied for the Midway service if he did not feel he could make a go of it.

But the CAB action to date was flawed because it ignored the success of low-fare intrastate airlines in California, Texas, and Florida in developing new markets. For instance, when a low-fare intrastate airline began service between the lower Rio Grande Valley of Texas and Houston, traffic went up 43 per cent after the fare was slashed. Many of the new travelers are lower-income Mexican-Americans who could not previously afford to fly. This decision limiting the nine cities could mean potential markets of 3 million people will be denied service.

Consider the application of one carrier to fly between Chicago and Louisville where 122,280 passengers traveled by air in 1975. Frank Borman, President of Eastern Airlines, which abandoned its certificated service between Chicago and Louisville several years ago, told the Senate Aviation Subcommittee on March 29, 1977, that: "No one wants to fly between Chicago and Louisville." He is right, none of the CAB-certificated carriers except Delta provide nonstop service between those two points. Absent competition, is it mere coincidence there are no 20 per cent off night-coach flights between these two cities, even though Delta has night coaches to virtually every city in the South where it faces competition?

Hopefully, the Bureaus of Economics and Operating Rights will revise their original request for large doses of irrelevant information from the applicants. Preparation of these exhibits drains the applicants before they have a chance to fuel-up their first plane. For example, quoting from their original request for exhibits, why in the world do they want to know:

"What is the daily volume of telephone calls between the two cities?

"1. During hours when full rates are in effect.

"2. During hours when reduced rates are in effect." (Section III, F, Information Responses of the Board Order.)

Do the Bureaus mean that they want long distance telephone data for just the six nonstop city-pairs at issue, or for all the potential connecting markets such as St. Louis to Cleveland via Midway? Do the Bureaus really mean just telephone calls made from the cities at issue or the metropolitan areas? Some of the airports involved are located in the suburbs, as in Detroit and St. Louis. Do the Bureaus want the suburban telephone calls included too? How about WATS line calls, used by many businesses, and collect and third-number billings? I am sure that it will take the bureaucrats months to straighten out these issues while puzzled Illinois Bell officials, who may be called upon to provide this data, try to figure out what the number of long distance telephone calls has to do with the redevelopment of an airport. I am puzzled too.

Here is another request:

"What is the annual volume of passenger surface origin-destination traffic between Chicago and the given city, by direction, for each of the following modes?

"1. Private automobile.

"2. Bus.

"3. Rail.

"Give the data for the most recent year available. If origin-destination data are not available, give the total passenger travel for each mode.

"What is the passenger travel time from city center to center for each mode? (over the most commonly used routing where alternate routings exist.) Show the daily schedules for bus and rail.

"What is the cost per passenger trip for each mode?

"What is the distribution of automobile trips, by number of passengers per automobile, between the two cities?

"Where toll roads or toll bridges form part of the most widely used route, what is the total amount of such tolls for a one-way trip?" (Section III, A–E, Information Responses of Board Order.)

Now that is a tall order. I hope the Transportation Center at Northwestern University has been alerted.

The applicants, here, too, may have to go back to the Bureaus for clarification. For instance, the Bureaus asked for the passenger travel time from city center to the center for each mode. Those of you who have driven between Chicago and Detroit know that the driving time can vary sharply based on the time of day and the route. Do the Bureaus, for instance, want the time to Detroit from downtown clocked via the Dan Ryan Expressway and the Chicago Skyway or via the Dan Ryan and the Calumet Expressways and Interstate 80? Each is quite popular and it could make a difference in the running time.

The Bureaus also requested information about toll roads and toll bridges. Again, why? What do the Bureaus mean? Quite a few motorists prefer to drive on Interstate 94 all the way to Minneapolis, avoiding the Northwest Tollway. But, some who take Interstate 94 perfer to drive on the Edens Expressway to the Tri-State Tollway to the Wisconsin State line while others prefer toll-free U.S. 41. What do the Bureaus want? Maybe these Bureaus really wish to take over the job of the Federal Highway Administration.

These esoteric requests go on and on. But what clearly emerges is the picture of a Civil Aeronautics Board that is hopelessly mired down in trivia.

I hope that Chairman Kahn tells these zealous nit-pickers that work in his agency to focus on Midway, not on telephone or toll-road traffic, when they make their revised requests for information from the applicants.

A reasonable and prudent person might logically ask for an explanation of why the CAB had to adopt "extraordinary procedures" to hear these low-fare applications and why it has excluded nine cities from future Midway schedules.

One need go no further than the 1938 law which established government regulation of the airlines. It was a law primarily designed to protect a fledgling airline industry from competition. In a sense, the law served its purpose. Most of the airlines, under a protected environment, have grown and prospered as competitors were frozen out.

No application by an entrepreneur to start up a trunk carrier has been approved in the Board's 40-year history. Eighty applications have been rejected between 1950 and 1974. The Midway applicants are seeking precisely such interstate trunk authority. They are asking the Board to allow them into "the Club." But prior to opening the door wide, the Board is asking hundreds of questions that only serve to impede entry.

That procedure must be changed. CAB Chairman Alfred Kahn, who is directly responsible for Thursday's Board action, has said that he needs "a new set of instructions from Congress." That is precisely why I cosponsored legislation this year to reform the airline industry. This bill, now being marked up by the Senate Aviation Subcommittee, combines the best features of the Cannon-Kennedy and Pearson-Baker bills. It is supported by President Carter, former President Ford, Chairman Kahn, and former CAB Chairman John Robson. It is supported by Sears, Roebuck & Co., the National Association of Manufacturers, Ralph Nader, Common Cause, the National Taxpayers Union, the American Association of Retired Persons, the National Association of State Aviation Officials, the National Association of Counties, the National Consumer's Congress, and others.

It is supported by Chicago-based United Airlines, the nation's largest carrier, Pan American World Airways, Hughes Airwest, and Frontier Airlines (which will resume service into Chicago this September with nonstop service from Lincoln, Nebraska).

This bill is important to this nation and it is important to Midway for these reasons:

It establishes strict procedural deadlines for processing applications for new service. It allows the Board 10 months to make these types of decisions, instead of years. If this new law would have been in effect last year, the Board would have had to hand down a decision on the Midway case in August, instead of a year from now.

It firmly establishes a policy that low-fare innovative service should be an important element of the national air transportation network. Under such a policy, it would be difficult to place the Midway applicants on the defensive, as the Board has done in this case. The Board would be forced to rule on low-fare service from Midway to all 15 cities.

The Board could not stop fare reductions of up to 35 per cent during the day and 55

per cent at night, which dovetails perfectly with proposals by the Midway applicants.

Cargo airlines could expand more easily and cargo rates would be deregulated. Midway, with its proximity to the industrial heartland of Cook County and northwestern Indiana, could very well expand into a major freight center, especially in view of its nearness to the Stevenson Expressway and the proposed Burnham Corridor.

The passage of this bill will not only result in a revival of Midway Airport, but it is likely to mean more jobs. The reasons for this are clear:

First, at least one of the Midway applicants plans to hire 1,200 employees, all based at Midway. Its annual payroll is estimated at $16 million, with a ripple effect in the community of at least another $20 million. Another applicant reports receiving 300 employment inquiries from well-qualified former airline employees, many furloughed by the certificated carriers.

Second, Federal Express, an air freight carrier of small packages, has indicated to my office that it plans to locate a major air freight center either at Midway or Rockford. It reportedly expects to employ 500 to 700 persons at an annual payroll of $5 million, and would spend an additional $5 million to $7 million in start-up costs, including new construction. These figures do not include contracts with vendors to supply goods and services. Company "hub" facilities would be built in either Denver or Colorado Springs and in the New York metropolitan area. The company currently has small facilities at both Midway and O'Hara where 96 people are employed. It plans to expand service to Bloomington-Normal, Champaign-Urbana, Rantoul, Danville, Kankakee, Decatur, Quincy and Rockford. And, if Federal Express does not choose Midway, I am confident that other air freight forwarders will.

In recent years Federal Express has prospered largely because it is outside the purview of federal regulations. Since it uses smaller planes, it is exempt from federal regulations that mandate rates, routes, where air freight forwarders can fly, and how much they can charge. On its first night of operations in 1973, the company flew 18 packages on 10 aircraft to 22 cities with 200 employees. Four ye rs later, it carried about an average of 25,000 packages every night on 40 aircraft to 75 airports, while employing 2,500 persons.

It is clear that the CAB-certificated carriers do not wish to service Midway. The CAB met with certificated airlines on 15 different occasions between April 8, 1970, and June 28, 1976, in an attempt to get certificated service back into Midway.

The airlines returned briefly to Midway in the early 1970's but pulled out because of major losses and the 1973 fuel crisis.

On January 21, 1976, the City of Chicago and the certificated carriers resumed discussions to revitalize Midway. United Airlines obtained discussion authority from the Board. Subcommittees were appointed and studies were ordered. In the end, on February 22, 1977, the airlines advised the Board that they would not reinstitute service at Midway. Currently, only Delta provides Midway service.

The government, even with its broad powers, could not force the certificated airlines, heavily dependent upon connecting traffic at O'Hara, to operate what they concluded would be money-losing flights out of Midway.

Now we find the same CAB that failed to bring about service into Midway expediting the processing of applications of service to six cities, but ignoring the need for comparable service to an additional nine cities. The Board needs more flexibility to permit firms that are willing to risk their capital in what they have concluded would be profitable service to go ahead and provide that service.

Some might argue that Thursday's decision means there is no need to change the current law. But, in reality, the Board acted because it had a far-thinking chairman who was willing to bend the rules and established procedures. The next chairman might not be so inclined. Reform must be firmly written into the law. It should not depend on whether we have a "good guy" sitting as CAB chairman.

I would recommend at this time that the Board immediately begin to process applications for service to the additional nine cities and set a decision deadline date—perhaps February 1, 1979.

Looking to the interests of homeowners in the Midway area, I believe the prospect of a stabilized neighborhood and increased property values outweigh the possible nuisance of increased noise. However, to minimize that concern, I urge that the Federal Aviation Administration work together with the airlines and community leaders to sharply limit or curtail Midway flights between the hours of 10:00 p.m. and 7:00 a.m. This is now being done in Washington, D.C. and San Diego.

In conclusion, this proposed law would be the best possible vehicle to revitalize Midway because it will open the doors wide to competition on the basis of price. A great deal more attention will be given to the benefits of and need for low-fare service.

I am convinced that regulatory reform must be a top priority for Congress. Toward that end, I am concentrating on a two-pronged effort.

The first prong is to seek passage of the Regulatory Reform Act of 1977 (S. 600), which has been co-introduced by myself, Majority Leader Byrd, and Senator Ribicoff. Forty-one of our colleagues in the Senate are co-sponsoring the legislation. It evolves from the belief that we must identify those instances in which the costs of regulation have begun to outweigh the benefits and make the legislative changes necessary to correct these imbalances. A unique feature of this bill is that it would require the President and the Congress to clearly define and analyze our long-unexamined assumptions about the nature of, and the need for, federal regulation of industry and commerce. If enacted, it would compel the executive and legislative branches to subject the arguments in favor of continued regulation to painstaking critical scrutiny according to a systematic timetable, agenda, and discipline.

The second prong is to make certain that a strong airline reform bill is approved by the Senate this fall. The law which permitted the CAB to delay this case and then to reduce the levels of projected service from Midway must be changed for the sake of the nation and for the sake of the citizens of metropolitan Chicago.

THANKS TO THE LIBRARY OF CONGRESS

Mr. DECONCINI. Mr. President, we are all aware of the many services offered by the Library of Congress to congressional Members and their staffs. In terms of background and in-depth research, the staff of the Library is an invaluable aid to all of us.

However, we are not always aware of the many and valuable services provided by the Library of Congress to private citizens. One of my constituents, Mr. R. A. Nellis of Prescott, recently sent to me a copy of his letter of thanks to the reference department of the Library of Congress. The actions taken by the Library in Mr. Nellis' case are especially heartening since he is blind and has little access to sources of information.

Mr. President, I would like to insert Mr. Nellis' letter into the RECORD and extend my own thanks to the Library for their continued willingness to assist and be of service to all members of the American community. Their actions are remarkable and encouraging in a time where the perceived responsiveness of the Federal Government is at an all time low. This letter is truly a tribute to the hard work and devotion of the Library of Congress staff.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 24, 1977.

The LIBRARY OF CONGRESS,
Reference Department, Reference and Biographical Division, Washington, D.C.

GENTLEMEN: I recently received from you the answers to three rather incidental questions, but questions which had been hounding me and I had been unable to answer locally. One dealt with the correct spelling of a word, one dealt with the Office of the President pro tem of the U.S. Senate and finally one asked for a biographical sketch of a U.S. Representative to Congress from a state other than Arizona.

I sent these questions to you with little expectation of receiving a response to such incidental subjects. Much to my surprise, within a few weeks I had, not only answers, but complete, thorough answers with further references to my three questions. My questions were sent to you in long hand because at the time I did not have a secretary. In my long hand letter, written by a hospital volunteer, I mentioned my disabilities, but you had no reason to believe me or assume that because of those disabilities I deserved any special attention. Anybody could have said what I did, even though what I did say was true.

This kind of response from what we all recognize as a Washington mass of confusion, chaos, and inefficiency is certainly refreshing.

I am a subscriber to the Library of Congress, Division for the Blind and Physically Handicap's, "Talking Book" Program and have often written to them expressing my gratitude and regard for their extraordinary efficiency. They are efficient as part of the U.S. Government, which is remarkable, but if they were a private profit oriented operation they could not be more efficient. I now have the same opinion of your division.

The Library of Congress never ceases to amaze me.

Thank you for your courteous and thorough response and you will probably be hearing from me in the future. By copy of this letter to my two Senators and one Representative in Congress I am asking that they read into the "Congressional Record" a statement to the effect that one average citizen from their state, who deserved no special attention, received rather remarkable special attention to rather incidental questions.

Thank you for your courtesy and fast response.

Sincerely,

R. A. NELLIS,
Veterans' Administration.

YOUTH UNEMPLOYMENT—A WORLDWIDE PROBLEM

Mr. HUMPHREY. Mr. President, a recent article written by Mr. Jean Ross-Skinner in the July issue of Dun's Review outlines the horrifying magnitude and permanence of the youth unemployment crisis in Western Europe. Is high youth unemployment here to stay? Mr. Ross-Skinner's article suggests the answer is yes—unless the governments of Western Europe radically improve their jobs programs for youths.

There is no doubt that the prospect of 2 million or more of the next generation of workers remaining permanently jobless is beginning to frighten our European allies. I suggest that we Americans also take notice of the European dilemma—for the United States suffers from many of the same ailments that have caused this lost generation of European youth.

In the United States, 18.6 percent of teenage workers were jobless in April of this year, more than double the 7.1 percent rate for the work force as a whole. As Mr. Ross-Skinner points out, in the long run, perhaps most disturbing is that industry's capital investment is being directed less at adding to existing productive capacity than to replacing it with more capital-intensive, labor saving plants.

Necessity, however, has been the mother of invention, and the Europeans are way ahead of us in devising job programs targeted at the young unemployed. Mr. Ross-Skinner briefly outlines the kind of government help the Western European countries are planning.

I suggest that all my colleagues read this article and find out about these European job promoting measures. Youth unemployment is one problem that will be looking us straight in the eye for quite a while. We can learn from our European friends' attempts to solve this problem.

As Mr. Ross-Skinner suggests, these idle hands are no idle threat. We must not allow youth unemployment to swallow the productive drive and creativity of an entire generation. We must learn from the European experience. I exhort my colleagues to read this article.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EUROPE'S JOBLESS: NO END IN SIGHT?

(By Jean Ross-Skinner)

With unemployment expected to keep rising, the EEC is now looking hard at long-range programs to create more jobs.

Is high unemployment here to stay? This is the question that anxious Europeans are beginning to ask. Until recently it was widely assumed that economic revival, as in previous times, would bring back the jobs—if not to the high levels of the preoil-crisis world, at least to manageable unemployment levels. Only this time it has not happened. Indeed, the evidence is piling up that Western Europe may be suffering from serious structural unemployment that can be cured only by long-range programs to create jobs.

The unemployment figures tell the story. Back in late 1973, the seasonally adjusted unemployment rate throughout the European Economic Community was a low 2.7 percent. By the pit of recession in late 1975, it had soared to 5.2 percent. The cautious economic recovery in 1976 brought no improvement. On the contrary, unemployment worsened slightly to 5.3 percent—or 5.5 million—by years' end. The unemployment rate has crept up even further since January, and the Organization for Economic Cooperation and Development forecasts that EEC unemployment will reach 6 million by the end of this year, even though economic growth is expected to continue. European unemployment is probably higher than the current 7 percent in the U.S., since European statistics include only people who have registered as being unemployed.

French unemployment is at a post-World War II high of 4.7 percent, even with a 9 percent rise in industrial output last year; Britain, with 5.6 percent jobless, is close to its record high; Belgium suffers 7.1 percent unemployment; even prosperous Germany—which only a few years ago was importing workers to make up for labor shortages—reports a 4.2 percent rate; and Italy's official 3.9 percent rate cloaks the worst plight of all, with countless unemployed who have dropped out of the search of jobs altogether. "It has been clear for over a year now that recovery isn't creating the necessary jobs," says economist Peter Melvyn of the Geneva-based International Labour Office.

UNEMPLOYED YOUTH

As in the U.S., Europeans are worried most of all about the high unemployment rate among the young. For the failure of industry to generate new jobs has coincided with a big increase in the work force stemming from the European "baby boom" of the 1960s. In the nine Common Market countries, the number of teenagers and young adults entering the job market every year has increased around 14% since 1971, and the yearly tally will continue to climb well into the 1980s. In the U.S., on the other hand, the number of young job seekers is expected to start declining soon. Currently, around 40%—or 2 million—of the Common Market's total unemployed are under 25 years old, and the length of time they are out of work has risen sharply.

Making matters worse is the substantial imbalance between available jobs and skills. It is partly a sectoral and regional phenomenon; for example, the decline of such industries as construction, shipbuilding and textiles has boosted the jobless rate in Britain's northwest (textiles) and France's big ship-building cities. Primarily, though, the mismatch is due to European educational systems. Geared to academic learning, Europe's schools currently launch one-in-three graduates without any vocational training or even a glimmering of how industry works. When youngsters do have skills, they are often the wrong ones. Many skilled German youths, for example, are being retrained without ever having found jobs in their original fields.

This lack of job preparation applies to the college-educated as well as to teenagers, and there is serious unemployment among university graduates. In Italy, where youth unemployment is most serious, nearly half of next year's graduates are expected to remain jobless.

The boom times of the 1960s and early 1970s also fostered high job expectations among the young that are unrealistic today. Finding only openings that offer less than the expected job satisfaction and pay, many young people are rejecting them and waiting for something better. They are extending their studies or living off unemployment benefits or their parents. As more and more of these educated young people stop looking for work, they are creating a whole new class of unemployed.

Increasingly, too, industry is passing over young applicants to hire experienced workers. For one thing, the latter are now readily available. For another, most European countries have enacted strict minimum-wage limits, which have boosted the cost of hiring young workers and wiped out their former attractiveness as trainees.

In the long run, perhaps most disturbing of all for Western Europe's employment outlook is that industry's capital investment is being directed less at adding to existing productive capacity than to replacing it with more capital-intensive, labor-saving plant. This trend, which began in the late 1960s, is due in part to industry's continuing pessimism about future growth, but mostly to the high cost of labor. Labor costs have soared even faster than prices and have been swelled further by big increases in social-benefit contributions. And a recent flurry of legislation has made it far harder for companies to fire workers, which forces them to regard labor increasingly as a fixed rather than a variable cost. In Germany, for instance, while domestic capital investment has increased 45 percent since 1969, stepped-up automation has boosted the amount of capital invested per worker by 55 percent, and the total number of jobs over the period has dropped 6.4 percent.

Service industries, traditionally big youth employers, have also been hit by high labor costs. So jobs have disappeared here too. Meanwhile, inflation fears have prevented governments from boosting spending to create jobs.

GOVERNMENT HELP

To be sure, the Common Market countries are pushing ahead with a number of national plans to boost jobs. Many are designed to improve and expand training. France, for example, will soon introduce a program that guarantees 90 percent of the minimum wage to youngsters out of school who are willing to take vocational-training courses. In Britain, the government is paying grants to companies for each long-term trainee taken on in addition to their normal hiring. Nearly all EEC countries are expanding state training establishments.

Other programs are aimed at saving or creating jobs. Britain has a Temporary Employment Subsidy program, which pays a flat sum each week for up to a year to companies that keep ten or more workers they would otherwise have fired; in less than a year, the program is estimated to have saved over 200,000 jobs. In France, the government is readying a plan whereby any company hiring youngsters within a year of school or university will be exempted from paying their Social Security contributions, which are around one-third of the total cost per worker. The Dutch government pays employers a premium for each youngster taken on who has been jobless for more than six months.

The Dutch and British lead the way in state subsidization of noncommercial job projects, such as clearing canals, conservation work, assistance to the handicapped, research, and so on. The British have also started a Work Experience Program, in which the government underwrites a low, tax-free salary for youngsters under nineteen who are taken on by industry. The work does not displace existing jobs.

But such palliatives, however effective, are unlikely to prove enough. More and more, Europe's economists, politicians and unionists are becoming convinced that they face a chronic, long-term job famine that could last until the mid-1980s. British economist Michael Shanks believes the number of unemployed in the EEC could almost double by 1982.

Shanks, former EEC director general of social affairs and currently serving on the Confederation of British Industry's employment committee, points out that as a result of capital-intensive investment, productivity in the EEC has increased at an accelerating rate to around 4 percent a year currently. "Therefore, economic growth substantially higher than 4 percent a year would be needed to reduce the present high level of unemployed and find jobs for new workers coming into the marketplace," he says.

Indeed, a major EEC study last year calculated that to cut Common Market unemployment as a whole to 3 percent by 1980 would require an average annual economic growth of close to 6 percent. But that kind of growth is not feasible, the study warned, since it would be inflationary and would cause balance-of-payments problems. Nor are such levels of growth anywhere evident. The EEC's overall Gross Domestic Product expanded 4.3 percent last year, and a rate of only 3.5 percent is forecast for this year. Germany has just revised its official growth rate forecast for 1977 downward from 5 percent to 4.7 percent, but the more skeptical OECD believes 4 percent is the most Germany can hope for. And French industry ridicules the government forecasts of 4.1 percent growth this year; 3.2 percent is nearer the mark, the Paris Chamber of Commerce insists.

So poor is the outlook, there is a growing acceptance that, as a new OECD study puts it, "Job creation may become a major policy instrument." Actually, the trend to long-range job-creating programs has already started. In April, Germany announced a massive four-year, $6.7 billion plan to cut unemployment by attacking structural imbalances in the economy. And Britain is expected to set up a $350-million-a-year program that will draw together and make permanent the dozen or so temporary programs that exist today.

Not surprisingly, the belief that Western Europe must find ways of parceling out the available work more evenly is moving to center stage. The idea of shortening the work week is getting a big play, particularly from labor leaders. In April, the European Trade Union Confederation launched a concerted drive to cut the work week from 40 hours to 35 hours. It is also recommending six-week vacations, voluntary early retirement at age 60 (it is currently 65 for men) and shorter, more flexible hours for older workers. General Secretary Jack Jones of Britain's big Transport and General Workers Union is pressing hard for a 35-hour week. Heinz-Oskar Vetter, chairman of Germany's Trade Union Confederation, also believes that a shorter work week may be the only answer. Vetter says: "I am convinced economic growth on its own is not enough to beat unemployment. At some point or other, working hours will have to be cut."

Economist Michael Shanks suggests that the most realistic way of introducing the shorter work week would be for all the EEC countries, perhaps in tandem with the U.S., to phase it in over several years so that no country would weaken itself by acting alone. The shorter week is certainly the toughest nut to crack. Workers would hardly be willing to accept lower pay—and less work for the same pay would be inflationary and hurt production.

RETIREMENT AND VACATIONS

In fact, what the Europeans call work-sharing is already implicit in many ongoing programs. Early retirement, the easiest method, is spreading fast. Belgium and Britain now both offer plans whereby if a worker retires early and the company takes on a jobless young worker as a replacement, the government will fund the retiree until his regular pension starts.

There is already a trend to longer vacations. Germans, for instance, work one week less each year than they did in 1970, with an average of almost five weeks of vacation days. Meanwhile, the Dutch have pioneered a radical job-sharing plan called "duo-job." Two workers (they could be husband and wife) share one job, splitting the salary and the unemployment pay rights. Launched last year, the plan was halted by technical problems but may be started up again next year.

There is no doubt that the prospect of 2 million or more of the next generation of workers remaining perhaps permanently jobless is beginning to frighten Europeans. They already see a rising tide of rioting and crime, as more and more alienated youngsters who despair of finding work drop out of the system. They know it could get worse. The alternative to a crash drive to create jobs, they fear, could well be an era of escalating social turmoil throughout Western Europe.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF MEASURE TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is a measure on the calendar which has been cleared for action by unanimous consent, Calendar Order 337. I ask that the clerk transfer that measure to the Consent Calendar.

The PRESIDING OFFICER. The measure will be so transferred.

AUTHORIZATION FOR RECEIPT OF MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives during the recess of the Senate over until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President of the United States, the President of the Senate pro tempore, the Acting President pro tempore, and the Deputy President pro tempore be authorized to sign all duly enrolled bills and joint resolutions during the recess of the Senate overnight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. JAVITS be recognized for not to exceed 15 minutes on Thursday of this week, after the two leaders have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators tomorrow?

THE PRESIDING OFFICER. There are not.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR CONSIDERATION OF TREATY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the Senate go into executive session to consider the treaty on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 9:30.

After the two leaders or their designees have been recognized under the standing order, the Senate will go into executive session to consider the treaty, the agreement with Canada concerning transit pipelines. There is a time limitation on that treaty.

Upon the disposition of the treaty, the Senate will resume legislative session, and at that time the Senate will resume, by unanimous consent, the consideration of S. 926.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There will be rollcall votes throughout the day on amendments and motions and points of order in relation to S. 926. It is very likely to be a long day tomorrow. Tomorrow is Wednesday, and it is hoped that the Senate will complete action on S. 926 tomorrow.

So I hope that all Senators will be duly apprised of the intention of the leadership to finish action on S. 926 tomorrow, if at all possible. It may be a late day, and votes can run into the evening.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:50 p.m. the Senate recessed until tomorrow, Wednesday, August 3, 1977, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1977:

DEPARTMENT OF STATE

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Joseph D. Duffey, of the District of Columbia, to be Chairman of the National Endowment for the Humanities for a term of 4 years, vice Ronald S. Berman, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 2, 1977:

DEPARTMENT OF JUSTICE

Wesley David Lane, of Minnesota, to be U.S. marshal for the district of Minnesota for the term of 4 years.

DEPARTMENT OF THE TREASURY

Azie Taylor Morton, of Virginia, to be Treasurer of the United States.

Robert H. Mundheim, of Pennsylvania, to be General Counsel for the Department of the Treasury.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Blandina Cardenas, of Texas, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare.

FEDERAL MARITIME COMMISSION

Richard J. Daschbach, of New Hampshire, to be a Federal Maritime Commissioner for the term expiring June 30, 1982.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, August 2, 1977*

The House met at 10 o'clock a.m.

The Reverend Gregory J. Wismar, pastor, St. Paul's Lutheran Church, Naugatuck, Conn., offered the following prayer:

This is the day which the Lord has made; let us rejoice and be glad in it.—Psalms 118: 24.

Heavenly Father, as we praise Thee for having brought us this singular morning, with all its promise and possibilities, we ask that Thou wouldst be present not only in this moment of reflection and prayer, but throughout the day.

May we show our humble gratitude for the abilities and responsibilities Thou hast given us by thoughtfully attending to the demands of our callings, keeping intact both our honor and our credibility. May all involved with the directing of our Nation manifest wisdom and understanding, that our Nation may be ruled with quiet grace. And may each of us be glad, when this evening comes, that we have spoken words and done deeds befitting Thy children. We ask this in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 6415) entitled "An act to extend and amend the Export-Import Bank Act of 1945," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. STEVENSON, and Mr. HEINZ to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1678. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

REV. GREGORY J. WISMAR

(Mr. SARASIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARASIN. Mr. Speaker, I am very proud and honored that our prayer at the beginning of today's House session was offered by the Reverend Gregory Just Wismar, a pastor from Naugatuck, Conn. Reverend Wismar serves the congregation of St. Paul's Lutheran Church as their spiritual leader, as well as their counselor and friend.

His service to his congregation is only part of his overall contribution to his community. Reverend Wismar is a tutor for the special education department of the Naugatuck public school system. He serves on Naugatuck's charter revision committee and is also the institutional representative of troop 115 of the Boy Scouts of America. He is of invaluable assistance to me as a community representative to my bipartisan Fifth District advisory board.

In addition to the respect he commands from his congregants, Reverend Wismar is also a leader among his fellow clergy. He is a member of the National Convention Format Committee for the Lutheran Church Missouri Synod Youth Board.

Reverend Wismar was born in Jersey City, N.J., and graduated cum laude from Concordia Senior College in Fort Wayne, Ind. He received his master of divinity from Concordia Seminary in St. Louis, Mo., and his master of education from Southern Connecticut State College. He is married to the former Priscilla Ames of Akron, Ohio, and they have three children; Eric, Sarah, and Elizabeth.

Reverend Wismar is a former jazz musician, a nationally published composer of church music, and a member of the Connecticut Association for the Gifted. It is indeed an honor, Mr. Speaker, to have such an accomplished and distinguished member of the clergy here with us today.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CHRISTOPHER ROBERT WEST

The Clerk called the bill (H.R. 2662) for the relief of Christopher Robert West.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Grosso-Padilla.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MEDA ABILAY FLORIN

The Clerk called the bill (H.R. 1939) for the relief of Meda Abilay Florin.

There being no objection, the Clerk read the bill as follows:

H.R. 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Meda Abilay Florin may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Aurora A. and Jose R. Florin, permanent resident aliens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 5, strike out "section 101(b)(1)(F)" and substitute in lieu thereof "section 101(b)(1)(E)".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARMEN PRUDENCE HERNANDEZ

The clerk called the bill (H.R. 2758) for the relief of Carmen Prudence Hernandez.

There being no objection, the Clerk read the bill, as follows:

H.R. 2758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Carmen Prudence Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Carmine Hernandez, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the name "Carmine" and substitute in lieu thereof the name "Carmen".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SEALIE VON KLEIST HERNANDEZ

The Clerk called the bill (H.R. 2759) for the relief of Sealie Von Kleist Hernandez.

There being no objection, the Clerk read the bill as follows:

H.R. 2759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sealie Von Kleist Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Carmine Hernandez, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the name "Carmine" and substitute the name "Carmen".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADELIDA REA BERRY

The Clerk called the bill (H.R. 5555) for the relief of Adelida Rea Berry.

There being no objection, the Clerk read the bill, as follows:

H.R. 5555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Adelida Rea Berry may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Raymond Berry, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARTHA CASTRO FITZ MAURICE

The Clerk called the bill (H.R. 3618) for the relief of Martha Castro Fitz Maurice.

There being no objection, the Clerk read the bill, as follows:

H.R. 3618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Martha Castro Maurice may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. W. A. Fitz Maurice, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MISS CORALIA RAPOSO

The Clerk called the bill (H.R. 5928) for the relief of Miss Coralia Raposo.

There being no objection, the Clerk read the bill, as follows:

H.R. 5928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Coralia Maria Pimentel Raposo shall be held and considered to be the natural born alien daughter of Mr. and Mrs. Richard G. Carnright, citizens of the United States: *Provided, however,* That the natural parents or brothers or sisters of the beneficiary of this Act shall not, by virtue of their relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, after *"Provided,"* strike out *"however,"*.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEOFFREY PARNHAM

The Clerk called the bill (H.R. 1449) for the relief of Geoffrey Parnham.

There being no objection, the Clerk read the bill, as follows:

H.R. 1449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Geoffrey Parnham may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DR. LAWRENCE C. B. CHAN

The Clerk called the bill (H.R. 1934) for the relief of Dr. Lawrence C. B. Chan.

There being no objection, the Clerk read the bill as follows:

H.R. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Lawrence C. B. Chan

shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 4401) for the relief of Kwi Sok Buckingham (nee Kim).

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the House dispense with the further call of the Private Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEMOCRATS LOSE TO REPUBLICANS, 7–6

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, it is with deep regret that I take this moment to announce that last night, before a standing-room-only crowd at Langley High School Field, McLean, Va., the fog rolled in, just as it would in a mystery, and today it remains a mystery as to how the Republicans won the ball game, but they did, 7 to 6.

Mr. Speaker, we from the Democratic side apologize for not having brought home the trophy for the third consecutive year, but we do appreciate the cooperation of the leadership in helping us arrange this game after it was rained out.

It was a close game, as shown by the score of 7 to 6, and maybe the other side just "won one for The Gipper," because Coach CONTE announced his retirement last night.

There were several outstanding players, and the most valuable players from the two sides were Representative MCCLOSKEY for the Republicans and Representative DOWNEY of New York for the Democrats.

Mr. Speaker, maybe what happened again foretells the future of the elections. In the past we used to lose the ball games and win the elections, and at least as it applies to the elections, perhaps we will continue on that note in the future.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, the gentleman from South Carolina (Mr. DAVIS) is not saying that the gentleman from Massachusetts (Mr. CONTE) is going to retire, is he?

Mr. DAVIS. He has retired as a baseball coach.

Mr. ASHBROOK. Mr. Speaker, tell us it is not so.

Mr. DAVIS. Mr. Speaker, I yield back the balance of my time.

PERMISSION FOR THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON H.R. 1037 UNDER 5-MINUTE RULE TODAY

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit for consideration of the bill H.R. 1037 during amendments under the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, does the gentleman know whether there will be a markup of a bill? Does he assure us that there will only be a hearing?

Mr. DE LA GARZA. If the gentleman will yield, Mr. Speaker, the hearing will be today. Most of the witnesses have been heard, but there is a possibility that the committee will continue into markup.

Mr. ROUSSELOT. The gentleman cannot give us an assurance that there will be no markup; is that correct?

The reason I ask is that, as the gentleman knows, there are a lot of amendments on the "crucial" energy legislation before us, as the President calls it.

Mr. DE LA GARZA. I understand that. This bill is an energy bill also. The problem is that in adhering to the 7-day notice, the hearing was set for 10 o'clock this morning before we knew what the schedule would be this week, and it has put us in a situation where it would be difficult not to continue.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, does the gentleman know of the many Members from his own side of the aisle who come to us all the time and say that we should not be having these meetings while there is important legislation before us?

Can the gentleman assure us that there will be no markup of the bill?

Mr. DE LA GARZA. No, I cannot.

Mr. ROUSSELOT. Mr. Speaker, I am constrained to object.

The SPEAKER. The gentleman from California (Mr. ROUSSELOT) objects.

Are there other Members who wish to object?

The required amount has not risen. Therefore, the objection is not sustained and the request of the gentleman from Texas is granted.

GRANTING THE GENTLEMAN FROM MASSACHUSETTS, MR. CONTE, A 1-YEAR EXTENSION AS BASEBALL COACH

(Mr. CEDERBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CEDERBERG. Mr. Speaker, as president of the Republican Baseball Club, I am happy to announce that we have had a meeting of the board of directors and we have decided to grant our manager, the gentleman from Massachusetts (Mr. CONTE), a 1-year extension on his contract.

I have to confess that he has been on probation, and we had warned him that unless we had received better results, we were going to have to take some action.

Mr. Speaker, I wanted to make the contract a multiyear contract. However, the board decided that would not be a good idea. Therefore, we have just made it a 1-year extension of the gentleman's current contract.

I also felt that we should double the gentleman's salary. However, the board of directors concluded that doubling nothing would still be nothing, so we decided we would do nothing in the salary area.

Nevertheless, Mr. Speaker, we are delighted that the Republicans did win last night's baseball game and that, as a result of that, we have been able to extend the contract of our manager for 1 more year.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. 826, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 731 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 731

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, said conference report shall be considered as having been read, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, there was no controversy over this matter in the Committee on Rules yesterday.

The chairman of the House conferees, the gentleman from Texas (Mr. BROOKS), and the ranking minority Member, the gentleman from New York (Mr. HORTON), appeared. They agreed on the request for this rule. There was no opposition to it in the Committee on Rules, and the Committee on Rules granted the rule unanimously.

It provides that the conference report shall be considered as read and all points of order against the rule that deals with scope be waived.

I see no reason for me to pursue the matter further at this time and I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule waives points of order against the conference report to accompany S. 826, the Department of Energy Organization Act, for failure to comply with clause 3 of rule XXVIII. The waiver is necessary because title X is a variation of the House sunset provision for which the Senate had no comparable language.

The House version states that the act will expire on December 31, 1982. The Senate version is silent on this matter. So the conferees substituted a requirement that the President submit to Congress a comprehensive review of each program in the Department by January 15, 1982. This report is to be made available to the House and Senate committees having jurisdiction over annual authorizations for such programs for fiscal year 1983.

Since there is no similar Senate provision and since the House's version is different, title X of the conference report appears to be beyond the scope of the conference. Hence, the waiver of rule XXVIII, clause 3.

No objection was raised by the minority to the granting of this rule in the Rules Committee.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I think it is highly unfortunate that there was no controversy regarding this rule because the conference report, which it makes in order and waives points of order against, would have been subjected to at least one or perhaps more valid points of order.

I think it is worth noting for the record how these things are done around here.

This particular conference report exceeds in its final terms the scope of both the other body's provision and the provision of the House regarding supergrade civil service positions in the new Department of Energy.

Mr. Speaker, we hear all of these complaints about larding the Government with highly paid officials who are unneeded. Yet if you vote for this rule you will allow the conferees to disregard the positions of both Houses of the Congress and go beyond that to create more than 600 possible supergrades, more than 1 for every 10 employees.

Mr. Speaker, S. 826, as approved by this House on June 13, effectively authorized 350 supergrade positions for the proposed Department of Energy. The House passed substitute authorizes the supergrade positions in question by raising the allotted number of such positions under section 5108 of title 5, United States Code, from "an aggregate of 2,754" to "an aggregate of 3,104". The corresponding provision passed by the other body on May 18 authorized no more than 150 positions in the supergrades to carry out the functions of the Department of Energy. The conference report modified this in section 714(a), by raising the allotment of supergrade positions from "an aggregate of 2,754" to "an aggregate of 3,243", or an effective increase of 489 supergrade positions. This certainly is beyond the scope of the specific disagreement of either House. I think it is a shame that no one did complain from either the minority or from the majority side regarding waiving points of order against this provision. I think it is typical of many of the times when our rights are not protected and it is very unfortunate for the taxpayers. I see no reason why this department should not exercise the same restraints as all other departments in the creation of top grade positions which I believe are totally unnecessary. The rule should be defeated.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield 5 minutes to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, let me say that three representatives of the House Committee on Post Office and Civil Service, participated in the conference.

The gentleman from Maryland (Mr. BAUMAN) has used some figures that I do not believe accurately reflect the facts. The number of supergrades provided in the report is the same number of supergrades as are now authorized for the agencies transferred.

We finally agreed in the conference that 689 would be authorized. That is less than the Senate, because the Senate had authorized about 150 extra to bring it up to 750. The House passed bill authorized 550. The total number that we agreed on was 689. Of those, 178 would be under civil service; 311 would be under civil service in 4 years; and the rest, 200 would be totally exempt. My understanding is that there is no increase in supergrades as far as the Department force is concerned.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman some questions, if he would respond at this time. I am curious about this rule. I had no idea that the committee had gone to the Committee on Rules to request a rule waiving all points of order on this particular conference report. As many Members know, I have had a considerable interest in this legislation because the amendment that apparently is in some controversy is the amendment that I offered on the floor of the House. The amendment carried by a considerable margin. At a later time I offered a motion which would instruct the conferees to insist upon this amendment which has come to be called the sunset provisions in the bill.

Now to my surprise I see that the committee has gone to the Committee on Rules to get a rule to waive points of order that might lie on this particular amendment as it has come out of the conference committee.

The question I ask is exactly what are the points of order that might lie on the conference report if the rule were not passed?

Mr. LOTT. In the statement by the chairman of the committee, the gentleman from Texas (Mr. BROOKS), it was stated that in his view nothing in the conference report beyond the scope of matters committed to conference, except for this one section, title X, the sunset provision terminating the Department of Energy in 5 years. That was the only point that was discussed in the Committee on Rules with regard to the conference report. If it goes beyond that, that was not the discussion in the Committee on Rules.

Mr. BROYHILL. I regret that I was not notified that the committee was going to the Committee on Rules about this particular matter so that I could have been heard before the Committee on Rules at the time. I have been tied up, as the gentleman knows, in a conference with the Senate on the Clean Air Act which we must get out of here before we adjourn on Friday night. But I very much regret—I will put it that way—that the conference committee has seen fit to drop my amendment, which I think is very important. With all of the words that we hear from back home about the number of agencies that are being created up here, and we do a good job of creating agencies, but do a very poor job of exercising congressional oversight, I think it makes it more important that we have a sunset provision in legislation creating this particular new department. This is a department that will start out with a budget of some $10 billion and that will start out with over 20,000 employees. If there is any department that I know of that should be looked at carefully and have its actions checked almost on a day-to-day basis, it is this one.

I very much regret that the conference has dropped my sunset provision. It is my understanding also that the conference has dropped another amendment that has been offered by the gentleman from Georgia (Mr. LEVITAS). He, of course, may want to speak on that, but it is another amendment that I had some considerable interest in. These agencies and departments are writing rules and regulations in the thousands. The rules and regulations have the force and effect of law. The people back home are not necessarily living under the laws that we write, but under the rules and regulations that are issued by these departments and agencies.

It is only right that Congress should have some procedure to review those rules and regulations which have the force and effect of law. I very much regret that amendment was rejected.

Another question I would like to ask is this. It is my understanding that the resolution that we are bringing to the floor would waive the actual reading of the conference report itself. Is that correct?

Mr. LOTT. It is that the conference report shall be considered as having been read. That is correct.

Mr. BROYHILL. I would like to ask the gentleman from Mississippi or the gentleman from Missouri if there will be any opportunity at all for some debate on the conference report itself or shall we have to find some time here during consideration of this rule for any debate on the conference report? It is my un-

derstanding that the managers on the part of the House on both sides were opposed to these two amendments and I am not sure we will have any opportunity to debate this conference report.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I will be the manager of the bill for the minority and I will be glad to give the gentleman an opportunity to be heard. The time will be under the control of the gentleman from Texas (Mr. BROOKS) and I am sure he, too, will be glad to yield time to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, all the time in the world will not give us an opportunity to change the way the rules have been waived. The managers have been very slick in bringing this to the floor in this manner and making it very difficult for any Member to question items on which points of order could be made.

We have had all this great conversation from downtown about how we want to keep Government limited and reserved. This bill does just the opposite.

Mr. Speaker, if the gentleman will yield further, not only are we denied full discussion of the sunset provisions but also a review of the new level of supergrades which are substantial.

This is going to be just another gigantic agency with lots of supergrade bureaucrats running around interfering necessarily in the distribution of energy supplies.

I think the point of the gentleman from North Carolina is well taken and the remarks of my colleague, the gentleman from New York, that we will have all the time in the world to debate this means not very much. There is no time to correct what was done in the Rules Committee. I must say to the advocates of this bill a slick job was done in preventing this House from addressing several deleted important elements.

Mr. BROYHILL. They also dropped the amendment offered by the gentleman from Georgia (Mr. LEVITAS) which provides for review and possible veto of rules and regulations which come from this agency.

Mr. ROUSSELOT. Yes, I know. The point is they do not want review of this agency. They want lots of supergrade bureaucrats. It is totally opposite to what is being said downtown by the President and others. This very limited rule should be voted down.

Mr. LOTT. Mr. Speaker, I yield myself additional time to comment on the remarks by the gentleman from North Carolina.

First of all I think he is very much aware that I do support the sunset provisions, but I want to point out to him this rule waives points of order against the conference report "for failure to comply with the provisions of clause 3, rule XXVIII," which is the scope.

It is my understanding that the supergrade provision is within the scope of the conference report and it does not deal with the facet that the gentleman from Georgia (Mr. LEVITAS) is concerned about.

The Rules Committee did have notice that we were going to have this meeting yesterday at 2 o'clock. We did have a representative from the majority and the minority. I regret that the gentleman from North Carolina was not also given notice because I know of his interest, but it was done strictly within all the rules regarding compliance with notice.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I would like to point out that during the conference the gentleman from Arizona (Mr. UDALL) and the gentlewoman from Colorado (Mrs. SCHROEDER) and myself did raise objections to that portion of the report that dealt with the appointment of supergrades, section 608. Our reservations are set forth on page 93 of the conference report, in that we felt that the creation of this new department was one of the first steps of reorganization in the Government and that the administration was not adhering to our civil service laws and was abrogating our civil service laws by requesting permanent exemption of these additional 200 supergrades. I point out to my colleagues that the total number of supergrades under this bill amounts to approximately 1 supergrade position for every 10 employees.

Mr. Speaker, I object to any limited rule on this measure.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Missouri for yielding me this opportunity to address this rule.

I think one of the reasons there was no more discussion of it before the Committee on Rules is that some of us who did have objections or points of order to raise were unaware that a rule was being sought.

Let me explain to some of the Members of the House just exactly what the rule is that we are waiving. I realize that rules are made to be broken, but let us talk about this particular rule. Clause 3 of this rule provides that a conference committee cannot go beyond the scope of the provisions put in the legislation by the House or by the other body. In this case, obviously, that was done, or else there would not be a rule coming before us today in order to waive this particular provision.

I had a point of order which I had intended to offer on the basis of violation of this rule relating to the rulemaking or legislative veto provision.

This House by a recorded vote adopted a provision giving the Congress the right to review and veto rules and regulations of this new agency. The other body put in a provision providing for a limited rulemaking veto relative to the Interstate Commerce Commission transfers; so to that extent, the two bodies were not in conflict, and yet what happened in the conference committee is that all provisions relating to administrative rulemaking review and veto were dropped and that, I submit, was beyond the scope of the conference.

I hope there will be an opportunity for discussing this matter and that the gentleman from Texas, the distinguished chairman of the committee, who has worked as hard as I know the gentleman has worked in bringing this conference to the floor will permit Members to have an opportunity to discuss this matter and contemplate that a motion to recommit will be offered that will permit this report to be sent back to the conference committee to provide for a sunset provision and provide for a legislative veto.

Mr. Speaker, I would like to inquire of the gentleman from Texas if there would be any opportunity for us to discuss this matter when the conference report is being considered?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, surely, the gentleman will have the time.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Texas for affording us that opportunity.

Mr. Speaker, I ask the gentleman from Missouri if the gentleman will yield for the purpose of my making a parliamentary inquiry.

Mr. BOLLING. Certainly.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. LEVITAS. Mr. Speaker, will it be in order, since the rule waives a reading of the conference report, will it be in order to offer a motion to recommit and, if so, at what point would it be in order?

The SPEAKER. It would be in order after the debate on the conference report. A motion to recommit is in order after the previous question is ordered.

Mr. LEVITAS. Mr. Speaker, I thank the Chair.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I am delighted to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I did not hear the response of the chairman of the committee in answer to whether the gentleman would yield some time during consideration of the conference report and how much time is the gentleman talking about yielding?

Mr. BOLLING. Mr. Speaker, I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I did not discuss the amount of time. I said to the gentleman from Georgia (Mr. LEVITAS) that the gentleman would be recognized to discuss the so-called self-destruct provision, which the gentleman calls the sunset provision.

Mr. BROOKS. Mr. Speaker, I want to express my appreciation to the Rules Committee for their expeditious action on granting a rule to clear the way for the House to proceed with the consideration of the conference report on the Department of Energy Organization Act without any procedural delays. We requested that a rule be granted waiving points of order with regard to clause 3, rule XXVIII, in an effort to assure that this bill can be acted upon before the Congress recesses at the end of this week.

In my view, there is nothing in the conference report beyond the scope of the matters committed to the conference. However, in attempting to include in the conference report a provision that was acceptable to the Senate conferees, that will accomplish much of what the sunset termination provision of the House bill was intended to accomplish, we provided for a report that was not technically required by either the House or the Senate bills. The sunset provision in the conference report is clearly somewhere between the self-destruct provision of the House and the Senate's silence on the sunset issue. The conference report requires a comprehensive sunset-type review of every program of the Department prior to January 15, 1982. This, coupled with the annual authorization required in the conference report, should go a long way toward meeting the objectives of the sunset provision. The rule waiving points of order was requested to avoid the technical problem of requiring a new report being used as a means of delaying expeditious consideration of the substance of the conference report.

Mr. BOLLING. Mr. Speaker, does the gentleman from Mississippi have further requests?

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, notice was given of this meeting on Friday. The gentleman from Georgia made a statement that I do not think is necessarily accurate.

He said the fact that the rule was granted proves that the conference report goes beyond the scope of the conferees. My understanding is that the request was made despite the fact that the chairman of the committee does not think it goes beyond the scope at all, but to assure that it would not be possible to knock this very important matter off the floor by a point of order as the House proceeds toward a recess. I have no opinion on that. I have not studied it, but it seems to me that the rule is not the least bit unusual, and should be supported.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 294, nays 115, answered "present" 1, not voting 23, as follows:

[Roll No. 488]

YEAS—294

Addabbo	Applegate	Bedell
Akaka	Ashley	Benjamin
Alexander	Aspin	Bennett
Allen	AuCoin	Bevill
Ammerman	Baldus	Biaggi
Anderson, Ill.	Barnard	Bingham
Andrews, N.C.	Baucus	Blanchard
Annunzio	Beard, R.I.	Blouin
Boggs	Hawkins	Patten
Boland	Heckler	Patterson
Bolling	Hefner	Pattison
Bonior	Heftel	Pease
Bonker	Hightower	Pepper
Bowen	Holland	Perkins
Brademas	Hollenbeck	Pettis
Breaux	Holtzman	Pickle
Breckinridge	Horton	Pike
Brodhead	Howard	Preyer
Brooks	Hubbard	Price
Broomfield	Huckaby	Pritchard
Brown, Calif.	Hughes	Pursell
Buchanan	Ireland	Quie
Burke, Calif.	Jenkins	Quillen
Burton, John	Jenrette	Rahall
Burton, Phillip	Johnson, Calif.	Railsback
Byron	Johnson, Colo.	Rangel
Carney	Jones, N.C.	Regula
Carr	Jones, Okla.	Reuss
Cavanaugh	Jones, Tenn.	Richmond
Chappell	Jordan	Rinaldo
Chisholm	Kastenmeier	Risenhoover
Clay	Kazen	Roberts
Cohen	Keys	Rodino
Collins, Ill.	Kildee	Roe
Conte	Kostmayer	Rogers
Conyers	Krebs	Roncalio
Corcoran	LaFalce	Rooney
Corman	Le Fante	Rose
Cornell	Leach	Rosenthal
Cotter	Lederer	Rostenkowski
D'Amours	Leggett	Roybal
Daniel, Dan	Lehman	Russo
Danielson	Lloyd, Calif.	Ryan
Davis	Lloyd, Tenn.	Santini
de la Garza	Long, La.	Sarasin
Delaney	Long, Md.	Scheuer
Dellums	Lott	Schroeder
Dickinson	Lujan	Seiberling
Dicks	Luken	Sharp
Diggs	Lundine	Shipley
Dingell	McClory	Sikes
Dodd	McCloskey	Simon
Downey	McCormack	Sisk
Drinan	McDade	Slack
Duncan, Oreg.	McFall	Smith, Iowa
Early	McHugh	Solarz
Edgar	McKay	Spellman
Edwards, Calif.	Maguire	St Germain
Eilberg	Mahon	Staggers
Emery	Mann	Stanton
English	Markey	Stark
Erlenborn	Marks	Steed
Ertel	Marlenee	Steers
Evans, Colo.	Mathis	Stokes
Evans, Del.	Mattox	Stratton
Evans, Ga.	Mazzoli	Studds
Fary	Meeds	Thompson
Fascell	Metcalfe	Thornton
Fenwick	Meyner	Traxler
Findley	Mikulski	Tsongas
Fisher	Miller, Calif.	Tucker
Fithian	Mineta	Ullman
Flood	Minish	Van Deerlin
Florio	Mitchell, Md.	Vanik
Flowers	Mitchell, N.Y.	Vento
Flynt	Moakley	Volkmer
Foley	Moffett	Walgren
Ford, Mich.	Mollohan	Walsh
Ford, Tenn.	Montgomery	Watkins
Fountain	Moorhead, Pa.	Waxman
Fraser	Moss	Weaver
Fuqua	Mottl	Weiss
Gammage	Murphy, Ill.	Whalen
Gaydos	Murphy, N.Y.	White
Gephardt	Murphy, Pa.	Whitley
Gibbons	Myers, Gary	Whitten
Ginn	Myers, Michael	Wiggins
Glickman	Natcher	Wilson, C. H.
Gore	Neal	Winn
Gudger	Nedzi	Wirth
Guyer	Nichols	Wolff
Hamilton	Nix	Wright
Hanley	Nolan	Wylie
Hannaford	Nowak	Yates
Harkin	Oberstar	Yatron
Harrington	Obey	Young, Mo.
Harris	Ottinger	Zablocki
Harsha	Panetta	Zeferetti

NAYS—115

Abdnor	Brown, Mich.	Cochran
Anderson, Calif.	Brown, Ohio	Coleman
Andrews, N. Dak.	Broyhill	Collins, Tex.
Archer	Burgener	Conable
Armstrong	Burke, Fla.	Coughlin
Ashbrook	Burleson, Tex.	Crane
Badham	Butler	Cunningham
Bafalis	Caputo	Daniel, R. W.
Bauman	Carter	Derwinski
Beard, Tenn.	Cederberg	Devine
Brinkley	Clausen, Don H.	Dornan
	Clawson, Del	Duncan, Tenn.
		Edwards, Ala.
Edwards, Okla.	Kindness	Sawyer
Evans, Ind.	Krueger	Schulze
Fish	Lagomarsino	Sebelius
Forsythe	Latta	Shuster
Fowler	Lent	Skelton
Frenzel	Levitas	Skubitz
Frey	McDonald	Smith, Nebr.
Gilman	McEwen	Snyder
Goldwater	Marriott	Spence
Goodling	Martin	Stangeland
Gradison	Michel	Steiger
Grassley	Milford	Stockman
Hagedorn	Miller, Ohio	Stump
Hall	Moore	Symms
Hammer-schmidt	Moorhead, Calif.	Taylor
		Thone
Hansen	Myers, John	Treen
Hillis	Oakar	Trible
Holt	Poage	Vander Jagt
Hyde	Pressler	Waggonner
Ichord	Quayle	Walker
Jacobs	Rhodes	Wampler
Jeffords	Robinson	Whitehurst
Kasten	Rousselot	Wilson, Bob
Kelly	Rudd	Wydler
Kemp	Runnels	Young, Alaska
Ketchum	Satterfield	Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—23

Ambro	Derrick	Murtha
Badillo	Eckhardt	O'Brien
Beilenson	Flippo	Ruppe
Burke, Mass.	Giaimo	Teague
Burlison, Mo.	Koch	Udall
Cleveland	McKinney	Wilson, Tex.
Cornwell	Madigan	Young, Tex.
Dent	Mikva	

The Clerk announced the following pairs:

Mr. Burke of Massachusetts with Mr. Teague.

Mr. Murtha with Mr. Flippo.

Mr. Ambro with Mr. Charles Wilson of Texas.

Mr. Dent with Mr. Badillo.

Mr. Mikva with Mr. Koch.

Mr. Giaimo with Mr. Cornwell.

Mr. Burlison of Missouri with Mr. Derrick.

Mr. Eckhardt with Mr. Udall.

Mr. RHODES and Mr. HILLIS changed their vote from "yea" to "nay."

Mr. EMERY and Mr. FOUNTAIN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON SPECIAL SMALL BUSINESS PROBLEMS OF COMMITTEE ON SMALL BUSINESS TO SIT DURING 5-MINUTE RULE ON TOMORROW

Mr. RUSSO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Special Small Business Problems of the full Committee on Small Business be permitted to sit on tomorrow, August 3, 1977, during the 5-minute rule. The purpose is for hearings and no legislative business will be taken up.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Illinois assure us that there will be absolutely no markup on any bill?

Mr. RUSSO. That is correct.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to

the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON S. 826, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to House Resolution 731, the conference report is considered as having been read.

The gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes each.

The Chair now recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before the House represents a carefully constructed effort worked out between the two Houses to establish a Department of Energy that will enable us to deal in an efficient and unified manner with the energy problems of this Nation.

Transferred to the Department of Energy will be all functions of the Energy Research and Development Administration, the Federal Energy Administration, and the Federal Power Commission. The Department will also be given jurisdiction over the economic aspects of Federal mineral leasing and power marketing functions of the Department of the Interior, certain informational, and research and development functions from the Bureau of Mines, the regulation of oil pipeline transportation from the ICC, authority to develop and promulgate energy conservation standards for new buildings from HUD, authority over industrial energy conservation programs from the Commerce Department, and, finally, jurisdiction over petroleum, and oil shale reserves from the Navy.

The conference report also creates the Federal Energy Regulatory Commission to handle most of the regulatory activities transferred to the Department, particularly those from the Federal Power Commission and the ICC. The Commission created by the conference report closely parallels that contained in the House bill.

Of particular importance, the Commission would have jurisdiction over setting rates and charges for the transportation and sale of natural gas, sale and transmission of electrical energy, the issuance of hydroelectric licenses and permits including projects in public lands and reservations, establishment of rates and charges for transportation of oil by pipeline, certain oil pricing provisions, and other matters.

The Secretary will have responsibility for general management of the Department, including the vast energy research and development efforts assumed from ERDA and FEA.

The conference report represents a reasonable split in the functions between the Secretary and the Commission that should give the Secretary adequate powers to carry out his responsibilities while keeping most adjudicatory and ratemaking activities in a multimember, independent body within the Department.

In establishing the above structure, the conferees also endeavored to construct necessary procedural safeguards and protections relating to operations by the Commission and the Secretary. Since both will be dealing with many important individual rights of persons and businesses, we have built into the bill detailed rights concerning such matters as hearings, right of appearance, trade secret protections, and judicial review.

The conferees also preserved exacting conflict-of-interest provisions regarding departmental employees.

The conferees further preserved the House requirement that all DOE programs and activities be subject to annual authorization and that all contracts must be supported by appropriations enacted in advance. Finally, the conferees retained the House provision establishing an Inspector General of DOE who is charged with auditing and investigating DOE activities in order to prevent fraud and abuse and to promote efficiency.

This brings me, Mr. Speaker, to the sunset provision. As Members will recall, the House provided that DOE would terminate in 5 years unless renewed. The Senate conferees adamantly refused to agree to this provision, including some leading proponents of sunset legislation. The Senate conferees based their refusal on the fact that the sunset provision could impair the effectiveness of DOE before it ever got off the ground.

DOE will assume major long-term research and development programs. It will administer several large contractor-operated nuclear energy plants—some for national security purposes. It must engage the services of competent personnel. Yet, any contract entered into which might extend beyond the fifth year of DOE life could be void. There was also concern about where any activity or program that extended beyond the fifth year would revert if the DOE terminated.

In short, the Senate conferees found the sunset provision to be unacceptable in this form.

In its place, the conferees have sought to fashion an effective sunset package. In addition to requiring authorization and appropriations on an annual basis, the President is directed to submit to Congress no later than January 15, 1982, a comprehensive review of each DOE program. An examination of the conference report will show that the detailed requirements of that report—coupled with the other protections cited above—will provide adequate sunset action without creating the legal problems of the self-destruct mechanism.

Mr. Speaker, the House conferees preserved the House's interests; they have brought back a good bill. I urge adoption of the conference report.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Speaker, the conference report on the bill to establish the Department of Energy contains a well-hidden and never-discussed but very important provision which repeals the only protection small petroleum marketers have against the Federal Energy Administration's pernicious practice of applying its rules retroactively and fining these small businessmen for practices which were not regarded as improper at the time of the transaction. The portion of the law which is being repealed today is so simple and fair that it defies credulity that anyone would want to strike it from the statute books. Identified as section 7(k) of the FEA Act, and originally offered as an amendment by myself, it reads:

(k) the Administrator or any officer or employee of the Federal Energy Administration may not exercise his discretion to maintain a civil action or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rules or regulations if—

(1) such civil action or order is based upon such rules, regulations or rulings interpreing such rules or regulations which are being applied retroactively; and

(2) the Administrator determines that such persons relied in good faith upon rules, regulations or rulings interpreting such rules or regulations in effect on the date of the alleged violation.

I have been assured by the chairman of the committee that elimination of section 7(k) was not intentional and that it continues to be the policy of the Congress. Moreover, I understand that Mr. Schlesinger has also agreed to continue enforcement of section 7(k) as if it were still in the law.

Mr. BROOKS. Let me respond. I am concerned about the matter which the gentleman brought to my attention. I supported the Findley amendment, and the House supported it. It was not by any special intent that it was omitted from the conference report but it was by special intent that we have tried to work out a solution. I have been in touch with the administration. Mr. James Schlesinger has written me a letter dated August 2 from the White House that says, and I will read it:

DEAR CHAIRMAN BROOKS: It has come to my attention that a provision of the Department of Energy Organization Act repeals section 7(k) of the Federal Energy Administration Act. This subsection limits enforcement actions against independent marketers based on changes in rules or regulations, or interpretations thereof, applied retroactively.

It is the full intention of the Administration and of the Department of Energy to carry out its regulatory responsibilities as they relate to the subject matter of section 7(k) of the Federal Energy Administration Act as if that subsection were still in force and had not been repealed. In this regard, it is our intent to assure procedural fairness to independent marketers by carrying out a Department of Energy enforcement program consistent with section 7(k) of the FEA Act.

Thank you for bringing this matter to my attention.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. FINDLEY. I thank the gentleman for that assurance. I want the gentleman, and the entire House to know just how far the Federal Energy Administration has gone in trying to subvert section 7(k). Ever since my amendment was made a part of the law, FEA has studiously ignored it. On more than one occasion, I have pointed out to FEA that certain of its employees are violating the spirit and letter of my amendment. A typical response is, "No Congressman FINDLEY, we are not violating your amendment, we do not enforce our regulations retroactively." The facts, however, are otherwise.

For example, Mr. Speaker, earlier this year I wrote to Administrator O'Leary pointing out that FEA's Deputy Administrator, Charles Owens, in a press conference on December 31, 1973, publicly stated for the record:

I am not saying that the retailer, the independent businessman who is a retailer, has to provide cost justification in order to put this penny for nonproduct costs through.

The impact of that statement, widely reported in the trade publications, was that independent businessmen did not feel required to keep records to prove their added costs which justified the penny increase allowed by FEA. However, on September 4, 1975, FEA changed its mind and decided that small businessmen must indeed prove their nonproduct increases. Moreover, FEA decided to apply that requirement retroactive to November of 1973, raising the spectre of tremendous fines and penalties for those who followed Deputy Administrator Owens' advice.

When I asked FEA if this, at least, was not a clear violation of my amendment, Deputy Administrator Gorman Smith replied on June 3, 1977:

The statement to which you referred in your letter made by Charles Owens at a press conference is not an official position taken by FEA on a rule, regulation or ruling upon which a marketer could in good faith rely.

This is an absolutely ludicrous reply. It just goes to show how power hungry this agency has become and how callously it has elected to treat some of our most basic constitutional rights. There are other examples of FEA's imperiousness, and I ask that the full text of my exchange of letters be printed at the conclusion of my remarks. Suffice it to say, Mr. Speaker, I am convinced that so long as the Federal Energy Administration is in charge of the Nation's energy crisis, the energy crisis will always be with us. But the crisis will be of FEA's making.

Text of letters follows:

MAY 13, 1977.

Hon. JOHN O'LEARY,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. O'LEARY: The Federal Energy Administration is engaging in a practice which seems to be directly contrary to the mandate of the amendment I offered to the authorization act for FEA, now section 7(k). By this amendment, FEA may not apply a ruling retroactively to hold a marketer in violation of the regulations if the marketer in good faith relied on agency decisions applicable at the time. Despite this mandate, FEA is now applying a ruling it issued on September 4, 1975, retroactively to transactions which occurred prior to that time as far back as November 1, 1973.

The ruling, 1975–14, states that marketers may take only that part of the nonproduct cost allowance allowed by the regulations in section 212.93(b) that they can show they have incurred since May 15, 1973. The allowance provided by the regulations is thus made into a ceiling, not a right. Whatever may be said concerning the validity of this ruling on the date it was issued, it is a complete change from the practice and understanding of all interested parties, including FEA officials, until the date it appeared. Prior to its publication, all marketers and auditors of FEA assumed that the nonproduct cost allowance could be taken whether it could be justified or not. Indeed, this assumption was based on the official position of the Federal Energy Office itself.

When the first nonproduct cost allowance was announced, it was discussed in a press conference held on December 31, 1973, by Charles Owens, Deputy Administrator for Pricing and Taxation of the FEO. In the course of that conference, in response to a question, Mr. Owens stated:

"I think we have a little confusion. I am not saying that the retailer, the independent businessman who is a retailer, has to provide cost justification in order to put this penny (nonproduct cost allowance for retail sales of gasoline and No. 2 oils) through. Only the refiner who owns and operates valid retail and wholesale operations will have to prenotify (showing its nonproduct costs have risen)."

What Mr. Owens says of the penny allowed for retail sales would presumably apply to the half-penny allowed at the same time for wholesale sales. Enclosed is a copy of the actual transcription of Mr. Owens' statement.

Similarly, the preamble to the regulations allowing an additional two cents for the retail sales of gasoline, 212.93(b)(1)(ii)(A), reveals a like understanding. In one paragraph it states that retailers may take the two-cent increase; in the next paragraph it states that refiners may take it only if they can justify it (prenotify). The absence of the express requirement for resellers adjoining the express statement of such a requirement for refiners can only be interpreted to mean that Mr. Owens' statement regarding the first penny applies to the additional two cents as well—reseller-retailers were not to be required to justify this allowance either. Indeed at no time in a preamble or any other way did the FEO or FEA contradict what Mr. Owens stated on December 31, 1973, with regard to any other nonproduct cost allowance—until the appearance of Ruling 1975–14. Enclosed is a copy of the preamble with which I assume you are familiar.

Despite this overwhelming and conclusive evidence to the contrary, in applying the new ruling FEA's auditors have been allowing marketers only the nonproduct costs they can justify for the period before September 1, 1975. This is especially true of Region IX, which includes the states of California, Nevada, Arizona and Hawaii. This practice by the auditors is the most flagrant contravention of my amendment. It plainly contravenes even the FEA's own narrow interpretation of this amendment. In a letter to me dated January 18, 1977, the General Counsel of FEA stated that in his view the amendment barred retroactive application of a ruling when the ruling "clearly and significantly changes on a retroactive basis a preexisting official ruling or regulation . . ." Ruling 1975–14 has been interpreted to do just this—retroactively change the regulation concerning nonproduct costs allowances as that regulation had been officially understood by FEA itself. Indeed, even Region IX had formerly understood the nonproduct cost allowance this way. In a form it distributed to retail gasoline dealers before September 4, 1975, to inform them how to calculate their maximum allowance selling prices, Region IX printed in the 3-cent nonproduct cost allowance for them to show that that allowance was automatically theirs and need not be justified. Enclosed is a copy of that form with the "0.3" printed in.

It seems abundantly clear that at least some FEA auditors are applying this particular ruling retroactively in derogation of my amendment and I am certain that you will wish to so inform them immediately.

Beyond this, the fact that it is occurring makes me wonder whether FEA's auditors nationwide have been informed of the important substantive change in the law brought about by my amendment. I had assumed that this had been done by means of some official notice from your office to each of your regions directing that each auditor be made aware of the specific language of my amendment. If that has been done, please send me a copy of the memorandum or other document which orders the regions to so notify their auditors. If on the other hand, the auditors have not been so notified, it would seem that the specific example of misunderstanding and misapplication of the law which I have cited in this letter proves the urgent need for explaining my amendment to your auditors nationwide. Unless this step is taken, this ruling and others will no doubt continue to be misapplied so as to deny some of the basic tenets which underpin our system of government.

I shall look forward to your early response.

Sincerely,

PAUL FINDLEY,
Representative in Congress.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., June 3, 1977.

Hon. PAUL FINDLEY,
House of Representatives,
Washington, D.C.

DEAR MR. FINDLEY: On May 13, 1977, you forwarded a letter to the Administrator of the Federal Energy Administration (FEA) concerning Ruling 1975–14 in which FEA clarified Section 212.93(b) of its regulations. In that Ruling, FEA made it clear that resellers, resellers-retailers and retailers cannot pass through to their customers increases in non-product costs unless these increased costs are actually incurred. Your letter expresses concern that FEA auditors are applying this Ruling retroactively in apparent contradiction to the amendment you introduced which is incorporated into Section 7(k) of the FEA Act.

Section 7(k) of the FEA Act prohibits FEA from issuing a remedial order or maintaining a civil action against a marketer of petroleum products for a violation of a rule or regulation if:

(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

(2) such person relied in good faith upon rules, regulations, or rulings interpreting such rules or regulations, in effect on the date of the violation.

The conference report accompanying the amendment further clarifies the application of Section 7(k):

The conferees do not mean for this subsection to provide marketers with the means to challenge all enforcement actions based upon arguably ambiguous rules, regulations or rulings or upon clarifying amendments thereto. It is intended to apply where the agency has officially taken one position then changes its mind and takes another.

Section 7(k) and the conference report cited above clearly bar FEA from issuing a

remedial order or maintaining a civil action against a marketer in those cases where the marketer in good faith relied upon an official position stated by the FEA in a rule, regulation or ruling, which position is subsequently changed by the agency. This provision reflects the reasonable notion that a marketer be required to comply only with rules, regulations or rulings that were in existence at the time specific action was taken. To the extent that FEA amends or otherwise changes its rules, regulations or rulings, it should not be permitted to enforce such an amendment retroactively. However, nothing in Section 7(k) or in the conference report prohibits FEA from taking enforcement action against a marketer based upon a clarification of a previously ambiguous rule, regulation, or ruling. Indeed, the conference report specifically encourages FEA to perfect its rules and regulations.

It was precisely such an ambiguity in the regulations that prompted FEA to issue Ruling 1975–14 in September, 1975. Since refiners were originally required to prenotify, it was clear that a refiner had to justify non-product cost increase. Resellers, reseller-retailers and retailers, on the other hand, were permitted under 10 C.F.R. § 212.93(b) to pass through specified per unit amounts "to deflect non-product cost increases which the seller incurred after May 15, 1973. . . ." Although the language in Section 212.93(b) requiries that non-product cost increases be "incurred," the fixed per unit increment set forth in that section may possibly have suggested to some marketers that cost justification of non-product cost increases was unnecessary. Thus, to clarify that marketers, life refiners, may pass through only those increased non-product costs actually incurred, FEA issued Ruling 1975–14.

The Ruling, therefore, clarifies the arguably ambiguous language of Section 212.93(b). It is not an instance where FEA changed a previously formulated official agency position. As indicated in Section 7(k)(2), a marketer is protected from retroactive application of a ruling if he in good faith relied upon prior rules, regulations or rulings in effect on the date of the violation. At no time prior to September 1975 when Ruling 1975–14 was issued (nor at any time since that date) has FEA taken an official position in a rule, regulation or ruling which is contradictory to Section 212.93(b) as it existed in the months preceding September 1975. The statement to which you referred in your letter made by Charles Owens at a press conference is not an official position taken by FEA on a rule, regulation or ruling upon which a marketer could in good faith rely. Therefore, FEA believes that it is not inconsistent with Section 7(k) of the FEA Act to require marketers (both prior to and after Ruling 1975–14) to pass through only those non-product costs actually incurred up to the per unit amounts specified in 10 C.F.R. § 212.93(b).

As Mr. Owens indicated, however, FEA would probably not issue a remedial order or maintain civil action against a small marketer for failure to cost justify non-product costs. Mr. Owens indicated during the press conference that the independent businessman who is a retailer would not be required to provide cost justification of his non-product costs. That position was carried forward in Ruling 1975–14 in which FEA noted the following:

"The FEA is also aware that many of the hundreds of thousands of small retail firms subject to Subpart F do not have elaborate accounting procedures capable of yielding precise non-product cost figures, and the increments permitted to be added to selling prices to reflect increased non-product costs pursuant to § 212.93(b) were adopted by FEA with a view toward approximating the average actual non-product cost increases being experienced by the various segments of the petroleum industry concerned. For the most part, the FEA believes, based on information submitted in various rulemaking proceedings that have been held to consider revising § 212.93(b), that the maximum non-product cost increments set forth in § 212.93(b) generally are representative of the relevant overall non-product cost increases that have been experienced in the industry. . . .

"Accordingly, the FEA does not anticipate that this ruling will have any wide-spread effects with respect to the majority of firms subject to Subpart F, even if they might erroneously have regarded the price increments specified by § 212.93(b) as not having to be justified by actual non-product cost increases, since most firms have in fact incurred non-product cost increases equal to, if not more than, those specified in § 212.93(b)."

In a memorandum sent to the Regional Administrators on October 25, 1975 (a copy of which is enclosed), FEA articulated an enforcement policy consistent with Ruling 1975–14. That memorandum advised that there is a rebuttable assumption that non-product costs increments provided by Section 212.93(b) have been incurred:

"In those cases where the firm involved is relatively small and is in the category of firms taken into account in formulating the non-product cost rules, the presumption shall in most instances be virtually conclusive. With respect to certain other types of firms, however, particularly those that are relatively large and—most importantly—that sell in such large volumes and provide so few services that increases in per-unit non-product costs of the same magnitudes experienced by smaller sellers and highly unlikely, the presumption that non-product cost increases were as high as the amounts provided for in § 212.93(b) can and should be rebutted by the FEA."

In view of this policy, it is unlikely as a practical matter that FEA would actually issue a remedial order or maintain a civil action against a small retailer who is unable to demonstrate that it actually incurred the non-product cost increases it passed through to its customers. FEA will, however, continue to audit marketers, both large and small, to determine if a firm's prices reflect non-product cost increases that are in excess of the maximum amounts allowed by Section 212.93(b) as clarified by Ruling 1975–14. Your amendment in no way bars FEA from conducting such audits. As noted above, it only bars FEA from issuing remedial orders or maintaining civil actions based upon a rule, regulation, or ruling that changes a prior official agency position. Thus, FEA believes that its audits, including those in Region IX to which you referred in your letter, do not in any way contravene Section 7(k) of the FEA Act. If an audit should disclose that a particular marketer, acting in good faith, actually relied upon a prior position, taken by FEA in a rule, regulation or ruling, which position differed from that now adopted by the agency, FEA would decline to take any enforcement action against that marketer, as required by your amendment.

I trust that the explanation above will clarify FEA's position regarding the application of Section 7(k) of the FEA Act to our compliance efforts. The Regional Administrators and the Directors of Compliance have been informed of the contents of your amendment (see enclosed memorandum), and are sensitive to the responsibilities imposed by Section 7(k) of the FEA Act. We appreciate your concern with respect to Ruling 1975–14 and assure you that FEA will determine on a case-by-case basis whether a particular enforcement action can be taken in a manner consistent with the requirements of the amendment which you sponsored.

Please let me know if I may be of further assistance in this matter.

Sincerely,

GORMAN C. SMITH,
Acting Deputy Administrator.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on S. 826, a bill to create a Department of Energy. When this legislation was before the House of Representatives in June, I expressed the belief that we were at a critical juncture in our deliberations about the future of the energy policy of this country. Recent history has shown us that embargoes, congressional inaction, and uncontrollable weather can devastate the economy and well-being of this Nation.

The Department of Energy established by this conference report is a beginning of the long process of providing both the structure and the policy direction to make the United States energy self-sufficient in the future.

The conference report seeks to provide administrative unity to 261 programs administered by more than 40 executive departments.

The report establishes a Secretary, a Deputy Secretary, an Under Secretary, eight Assistant Secretaries, an Energy Information, Administration, and an Office of Energy Research.

Functions from the Federal Energy Administration; the Energy Research and Development Administration; the Federal Power Commission and the Department of Interior are the major sources of authority for the new Department.

Activities from HUD, the Interstate Commerce Commission, the Department of Navy and the Department of Commerce complete the transfer of authority.

During House consideration of this legislation, no other issue received more attention than the question of what office or agency would have regulatory authority vested in it. The conferees adopted almost the entire House provision. Virtually all authority presently vested in the Federal Power Commission will be transferred to the new Commission. The Secretary receives the authority which the Moss-Brown amendment delegated to that position. That includes regulation of the import and export of natural gas; the import and export of electricity; emergency interconnections; and the right to set priorities on curtailments.

The Secretary is also given residual power not specifically delegated to the Commission.

However, given the nature of the definition of the Commission's authority, there is very little, if any, new power in the Secretary which is not specifically outlined in the conference report.

Mr. Speaker, when this House considered the Department of Energy legislation in June, a sunset provision was added to it. A substantial majority of the House voted for the provision.

Prior to going into conference, the gentleman from North Carolina (Mr. BROYHILL) succeeded in a motion to instruct the conferees to keep the provision.

Because of the obvious sentiment of the House on this matter, we endeavored to work within the limits which these two votes placed on us.

However, the original sunset provision appended to the Department of Energy legislation was faulty in the manner in which it was drafted. Because it could have conceivably terminated the Department, legal experts informed the conferees that this would place extremely heavy burdens on the ability of the new Department to contract for any long term research and development work. As we are all aware, the Energy Research and Development Administration will become a part of this Department.

As a consequence of that recommendation from the American Law Division of the Library of Congress, the conference sought to reach agreement on a sunset provision which would provide the necessary congressional oversight of its operations, but at the same time not so restrict the agency that it could not perform its very vital mission.

I would submit to my colleagues who supported the original sunset provision, that such amendments should be the means by which the Congress establishes tighter oversight on the agencies and programs of the executive branch. Sunset provisions, if they have any merit whatsoever, should help to improve the performance of the executive branch, not impede it.

The provision which the conference recommends would provide the type of congressional review which the supporters of sunset are seeking. Under title X of the conference report, the President must submit to the Congress no later than January 15, 1982, a comprehensive review of each program of the Department.

The evaluation of those programs should be based on the 15 elements defined in title X. When that report is submitted, it will provide the basis for the most comprehensive review of a department's operations that has ever been undertaken.

If programs should be eliminated, the report will provide the impetus for demonstrating that.

If certain operations should be continued, then the report should indicate that.

I believe that title X of the conference report is a sound provision and should be the basis of support for those who have made sunset legislation their cause.

To insist on the original House provision will only lay the foundation for a self-fulfilling prophecy and doom the Department to failure.

Mr. Speaker, many people have referred to this legislation as creating an energy czar. I did not think the original committee bill established such an office and I assure the Members of this House, that the conference report takes many steps to insure that the leadership of the Department of Energy will not operate in an unbridled fashion.

During the conference, Senator JOHN GLENN provided the conferees with a list which outlined the extent of the authority given to the Secretary for various functions. What is most illuminating about that listing, is the authority not given to the Secretary.

For example, this administration is placing great emphasis on the future development of coal as an alternative source of energy. But under this proposal, the Secretary of Energy will have no authority over stationary source pollution from coal; no authority over coal slurry pipelines; and no authority over rail transport of coal.

Another example is since most of the pricing mechanisms are in the commission, the Secretary will have only limited opportunity to impact on the vital questions of costs of basic energy resources.

Despite these limitations, the new Department of Energy will improve the implementation of policy if for no other reason than the Department will be the focus of all energy matters.

Through this conference report, we have attempted to create a viable new Department to meet one of our most crucial domestic needs. It is a step in the right direction.

I am confident the Congress will cooperate with the administration in attempting to improve the effectiveness of this agency. I urge my colleagues to demonstrate their concern for the energy problem by casting an affirmative vote for the report.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I want to rise in support of this conference report and to commend the gentleman from Texas, the chairman of the committee, and the gentleman from New York, the ranking minority member, for the fine work that they did in bringing this about.

I think with the complexity of the situation and the enormous magnitude of the bill that the conferees met in a very amicable situation and came up with a good conference report. I am sure there is not everything in this bill that I wanted. We named in the House bill the Assistant Secretaries and spelled out their functions. This part was modified in the conference.

There are several other provisions that were not workable, such as the sunset provision offered by the gentleman from North Carolina (Mr. BROYHILL), that I supported on the floor; but we realized it was not possible to have a department that had a destruct date to enter into contracts beyond that date; so it presented some very extreme difficulties; but I think we worked out a compromise.

The gentleman from Georgia offered a veto provision which I supported, but it left some questions on what would happen if Congress went on a recess and that had to be made and should Congress be called back into special session just to act or not act on the provisions they had acted on.

Mr. Speaker, at this time I would like to engage the chairman of the committee, if I could have the attention of the gentleman from Texas, in a brief colloquy concerning the functions of the Assistant Secretaries of the new Department of Energy. As the chairman knows, the Committee on Government Operations report—report No. 95-346, part 1—set forth in the discussion of the Energy Department's organization a clear, yet brief, description of the concept of demonstration.

In the House bill, the functions of the Assistant Secretaries were written in and it was clear where the responsibility for research and development, including demonstration, was placed. I think it is important today to be equally clear about the way we think demonstrations should be considered in the new responsibilities of the Assistant Secretaries which are set forth in the conference report that accompanies H.R. 6804.

Is it the opinion of the chairman that the term "research and development" includes the demonstration of technologies?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I would say yes. My understanding of research and development includes demonstration.

As the gentleman is well aware, there are several studies which include the phrase "research and development and demonstration." Some of these programs refer to commercial demonstrations which may be closely alined with research and development.

I would add, it was quite clear that demonstrations overcoming technological risks can be associated with research and development.

It was the intention of the conferees to permit the Secretary a measure of flexibility in this area and the term "demonstration" is not to be the exclusive property of any one segment of the Department.

Mr. FUQUA. Mr. Speaker, I thank the gentleman.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, on Friday, May 6, when the Department of Energy Organization Act was favorably reported by the Government Operations Committee, I cast one of only two dissenting votes in the committee. I cast that vote because I felt the bill as reported gave inordinate powers to the Secretary of the new Department with respect to pricing of natural gas and the interconnection of power generating and transmission facilities.

Fortunately, an amendment sponsored by Congressman Moss and myself was adopted when this legislation was before the full House. Our amendment gave the Federal Energy Regulatory Commission, the independent regulatory body within the Department of Energy, the authority to set natural gas prices and authority with regard to the interconnection of power generating and transmission facilities. With the adoption of that amendment, I was able to support final passage of the bill. I am pleased to report to you that the House substantially prevailed in the conference committee.

The conferees decided that pricing and licensing matters should be determined by a five-member independent regulatory commission whose members would be appointed for a fixed term. I feel this provision is necessary if we are to establish the public credibility of the new Department.

The decreasing availability of natural gas coupled with increasing demand for this premium fuel, has created serious

localized shortages in the past few years. These shortages and the allegations surrounding them have made natural gas pricing into one of the most hotly debated policy issues Congress has considered in recent years. We will be hearing more on that issue later today. It is particularly important that natural gas pricing decisions be made in an environment well insulated from this political debate and free from the unbalanced influence of special interests.

The same independence is necessary in areas relating to electric power and other energy matters under Federal jurisdiction. Consideration of all the facts and all the arguments and all the views must be assured. A five-member independent commission whose members serve fixed and staggered terms is a far better method of obtaining this assurance of diverse consideration of views than would have been the case by giving all this authority to a single political appointee, the Secretary. Although I am aware that there has been criticism directed toward the alleged lack of Federal Power Commission independence in the past, I feel strongly that a commission is much more likely to retain its objectivity and independence than is a single Secretary or his delegate.

While title III of the conference report gives the Secretary any authority not specifically delegated to the Commission, the provisions of title IV carefully preserve for the Commission all the responsibilities and duties that are currently within the jurisdiction of the FPC. Additionally, there is a provision which would keep in effect the administrative procedures of the Federal Power Commission for those matters in dispute which are within the FPC's present jurisdiction and which are transferred to the Federal Energy Regulatory Commission.

Another provision which caused me concern related to the confusing arrangement between the Secretary of the Interior and the Secretary of Energy over the question of Federal leasing policy. The conference report addresses this problem by creating a Leasing Liaison Committee between the Department of Energy and the Department of Interior. The committee will be composed of an equal number of representatives of the two Departments and its responsibilities will be determined by the two Secretaries involved.

Mr. Speaker, while this legislation is not in the form that it would have been had I been privileged to write it singlehandedly, few of us, especially those of us in the minority, ever have that luxury. However, I am satisfied on those issues that I felt most important, that is, the authority of an independent Commission to set natural gas prices and order interconnections, the retention of just and fair FPC administrative procedures within the new Federal Energy Regulatory Commission, and the establishment of a reasonable mechanism to better coordinate and establish Federal leasing policies.

While I am disappointed that Mr. BROYHILL's sunset provision was unduly modified, I sympathize with the contracting problem, so I support the conference report now before us and urge my colleagues to do likewise.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I first of all want to compliment the chairman, the gentleman from Texas (Mr. BROOKS), who has done such a marvelous job of trying to put together all of the varying differences between the House and the Senate. I must say, as a member of the Committee on Post Office and Civil Service, that the gentleman did a marvelous job of holding to our committee's position, especially on two points. The first point was that we retained the House position and there will be no more new supergrades in the new agency than there are in all agencies that are consolidated into the Department of Energy. I think that is very good, and it was very hard to get the Senate to yield to the House position of no new additional supergrades. So I again want to compliment the gentleman from Texas for being so firm on that point.

The other part which was very, very important was that under the original bill the administrative hearing officers were not coming out of the civil service administrative hearing officer pool but were, rather, coming under the Department of Energy pool. If the hearing officers were under the Secretary of Energy there would be great questions, under the Administrative Procedures Act, as to whether or not these hearing officers would truly be independent. We were able to hold the House position and insist that all of the hearing officers stay under the civil service pool, therefore remaining much more independent than if they were all answerable to the Secretary of Energy. I think that is very good, and I commend the House conferees for sticking with our position.

The only portion where we had some disagreement was where the Senate insisted upon exempting 200 supergrades from all qualifications whatsoever. The House position had been that at least the Secretary of Energy had to report for them under the scientific exclusion set out in section 3313 of title 5. Under that section the Secretary would have to put down the different grades and the different requirements that they were to have to obtain the job. The problem was that we all understand there was a great need for the Secretary to have flexibility in selecting the people who would be running these very complex programs, and the Senate insisted that they have absolute total flexibility whereas the House position was they should be exempt from the civil service system but have some accountability by having the Secretary report under section 3313. Even though we did not believe this Secretary would do it, there would be the possibility of any future secretary, if he wanted, to hire 3-year-olds and say they were competent. We now wind up with about one-fourth of the supergrades being accountable to the Secretary and only the Secretary. I am sorry we were not able to get the Senate to agree with the House on the point of accountability, but, as I say, the other two points were probably even more important than this, and the Senate absolutely refused to yield to our House provision.

So again, Mr. Speaker, I compliment the gentleman from Texas (Mr. BROOKS) and the conferees. I hope that the House will consider this very, very important piece of energy legislation, because I think we need to get the Department in operation and at least have a consolidated profit.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise to commend the very able chairman of the House Government Operations Committee, Mr. BROOKS, for his diligence and the manner in which he chaired the conference committee, as well as the splendid effort by the ranking member of the House Government Operations Committee, Mr. HORTON, and of all conferees in reaching on balance an acceptable conference report to accompany S. 826, the Department of Energy Organization Act.

While I signed the conference report, as noted on page 93 of House Report No. 93–539, I joined with my colleagues, Mrs. SCHROEDER and Mr. UDALL, members of the House Post Office and Civil Service Committee, to strenuously object to section 621 which authorizes a permanent exemption of 200 supergrade employees within the Department of Energy from civil service law and regulations.

For those Members who may not have had the opportunity to read our reservation on section 621, I quote from page 93 of the conference report:

They—

Meaning Representatives SCHROEDER, UDALL, and myself—

believe that such an exemption, with the unimpeded power it gives the Secretary, goes far beyond any need for flexibility in employment of personnel the Department might require, and that ample flexibility with appropriate accountability, is available within existing Civil Service laws.

The conferees appointed from the House Post Office and Civil Service Committee initially sought and were given assurance that the House conferees would stand by the House position on section 621. The House position on that particular section, as you may recall, authorized the Secretary of Energy to appoint and fix the compensation of 423 supergrade employees in accordance with civil service laws. Additionally, the Secretary was authorized to appoint 200 Public Law 313 positions—scientific and technical personnel—to supergrade positions, subject only to the Civil Service Commission's approval of the salary and qualifications of the appointees. Turnaround time for such CSC approval is generally 3 days.

When the Senate conferees refused to recede from the Senate position, the House conferees agreed to a compromise, increasing the authorization for supergrade positions to 689, which represents the same number of positions as are presently authorized for functions to be transferred to the new Department of Energy. Of this number, 178 will be new "quota" positions—from the civil serv-

ice pool; 311 positions will be excepted for a period of 4 years, then revert back to the civil service pool of supergrades; and the remaining 200 scientific and technical personnel would be exempted from the civil service laws and regulations forever.

The disagreement pertains, as previously stated, to those remaining 200 scientific and technical personnel positions. I believe that it is ominous to say the least that the very first reorganization plan submitted to the Congress should sanction to the degree that is has exemptions from the accountability that our merit system laws were meant to ensure.

If the goal of reorganization is truly to be increased efficiency and accountability, then how can the administration in good conscience request, and we approve without qualms, such a perversion of our civil service law and regulations?

By accepting the language of section 621, we are granting the first Secretary of Energy, as well as future Secretaries, carte blanche to appoint whomever he pleases to these 200 positions. For those of my colleagues who fear wholesale politicalization of the executive branch, consider what we will have wrought today if we accept the conference report without dissent. What, may I ask, prevents the Secretary of Energy, if S. 826 is enacted, from naming 200 friends or politicos to those slots authorized by section 621?

Mr. Speaker, I most strenuously urge my colleagues to reject the language of section 621 and demand that the House refuse to recede from its position on that section.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, first of all, I would like to express my gratitude to the gentleman from Texas (Mr. BROOKS), the distinguished chairman of our committee, for yielding this time to me.

I would like to join with my colleagues in praising the work of the conference committee under the leadership of the chairman of the committee, the gentleman from Texas. The establishment of the Department of Energy is one of the most important actions which we will take during this Congress. It is essential that we have a coordinated single agency dealing with the energy needs of this Nation now and into the future. This undertaking is an extremely complex and difficult problem on which the chairman of the committee and the other conferees have worked hard, and they have for the most part come up with an excellent result.

It is my intention to support the conference report at the proper time and to urge my colleagues to do likewise because I think we must do that.

However, I would urge that prior to taking final action on this conference report, the House adopt a motion to recommit with instructions and return this report of the committee of conference with three instructional provisions:

First, the reestablishment of the legislative veto over rules and regulations; second, the sunset provision; and, third, the provision relating to supergrades, as discussed by the gentleman from New York (Mr. GILMAN).

Mr. Speaker, I will primarily discuss the matter of legislative veto. This House, by a recorded vote, overwhelmingly put that provision in the bill. What does that provision do? It simply says that when this new agency, with all of its vast powers, issues rules and regulations which will affect the lives of every American, those of us elected by and responsible to the American people would have the opportunity to say yes or no on these rules or regulations.

Mr. Speaker, is it too much to ask that elected representatives rather than unelected bureaucrats make these decisions that will affect all of our lives? I think not. That is not asking too much.

There are a lot of Members of this House on both sides of the aisle who have talked loud and often about regaining control over the bureaucracy and restoring to the public their right to govern themselves.

Mr. Speaker, I say to the Members, "This is your opportunity; this is an opportunity to put your vote where your rhetoric is."

I say that this is our opportunity, Mr. Speaker, to say that if we create this all-powerful new agency, we will retain to the people, through their elected representatives, the decisionmaking process. The vote that the Members cast on this motion to recommit will be a test of whether we are willing today to begin in earnest in regaining control over the bureaucracy and putting control into the hands of elected officials and making them accountable to the people of America. We will decide today whether we want responsive government, or whether we want to perpetuate bigger government and less responsive government and the type of bureaucratic government problems we have had in the past.

Mr. Speaker, I urge the Members to support the motion to recommit.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I want to congratulate the gentleman from Georgia (Mr. LEVITAS).

In the years I have been on the floor, I do not think I have ever heard a more succinct, profound statement of the problem before us than that which the gentleman from Georgia has just delivered.

I certainly thank him for his alertness and for the way he delivered that statement to us.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for his generous comments and congratulate him on his leadership in this area.

The vote we cast on this motion to recommit will not be a vote against the conference report or against the Department of Energy, which I intend to support; but this vote will allow this House to go on record as saying that we believe in the United States of America, and in the fact that the people of this country, through their elected representatives, shall make the laws, and that as we establish this great new agency, we will start off on the right foot and make it accountable to the American people and thereby restore public confidence in our entire governmental process.

Mr. HORTON. Mr. Speaker, I thank the gentleman for his remarks.

I want to indicate to the gentleman that when his amendment was offered on the floor, I voted for that amendment.

I am very much concerned about the numerous rules and regulations that are issued and now they affect the general public.

I happen to serve as the Chairman of the Paperwork Commission, and am aware that most of the paperwork that is generated by the Federal Government, other than with respect to the tax structure, is the rules and regulations that are issued.

The SPEAKER pro tempore (Mr. TRAXLER). The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. HORTON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. Speaker, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. HORTON. To continue, Mr. Speaker, I speak from the standpoint of one who is very much interested in trying to eliminate these unnecessary rules and regulations.

The gentleman's amendment, I think, is one way of attempting to limit the number of rules and regulations. However, I was convinced in conference, after having conferred with the staff who did a lot of work on this and after conferring with other conferees in addition to doing my own independent research, that it was really impractical to require that all the rules and regulations be acted upon by the Congress in this fashion.

I do not want to take the time of the gentleman from Georgia (Mr. LEVITAS) nor the time of the House to go into all of the details, but we are so busy here, now, with all of the work that we have to do that we just cannot perform the oversight functions that we should. I think we ought to have one session of this Congress where we do not pass any new laws but only perform our oversight functions. But we cannot, in my judgment, require this new department to submit all of its rules and regulations to the House and to the Senate and have them passed on before they are issued. I thank the gentleman from Georgia for presenting his amendment, and I believe by this colloquy we are indicating to the department, and to the executive branch that we want to cut down on rules and regulations and we want to make them clear so that the people can understand them. We really want to stop this strangulation by regulation. I agree with the gentleman on that, but I would have to oppose what the gentleman is trying to do now because I think it would make it extremely difficult for this department to operate. I say that with the greatest respect for the gentleman from Georgia (Mr. LEVITAS), for whom I have the greatest personal regard. I know the gentleman is trying to cut back on paperwork.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from New York (Mr. HOR-

TON) for his comments and, if I may, I would like to make one or two observations. I know of the leadership of the gentleman from New York concerning excessive paperwork and overburdening the public as well as the Government with such paperwork and aggressive regulations.

The SPEAKER. The time of the gentleman has expired.

Mr. HORTON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding me the additional time.

Mr. Speaker, what concerns me is that we always seem to be talking about this, and about what we are going to do, but we do not seem to be able to do it. This is an opportunity for us to do something. I know the gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) have worked very hard to impress the conferees from the other body with the position of the House on this matter. I think the adoption of a motion to recommit with instructions is the way we will be able to convince the Members in the other body that we mean to get a hold on Government by regulation and that it is time for the other body to come around. It is not an impractical approach. There are around approximately 125 similar provisions in the law right now.

The gentleman says we have too much work to do now, and that may be so, but when we are talking about regulations which affect the personal lives and business of the American public, when we are talking about regulations that can cause people to go to jail if they violate them, it can be very far reaching, then I believe we have a responsibility to deal with this enormous power. We just cannot simply pass the buck downtown and say it was their responsibility and not ours.

Of course we are not going to deal with every rule and regulation, just as we do not deal with every bill that is introduced in Congress, but where it is something that will affect the life and livelihood and the opportunities of the people of this country, then I do not think it is right for the Congress to say that we do not have time because that is what we are here for, to protect the citizens of the United States.

So, Mr. Speaker, I say with all due respect to the gentleman from New York (Mr. HORTON) that this is the way we can do it, this is the way to back up with the power we need, the rhetoric which we have otherwise delivered.

Mr. HORTON. Mr. Speaker, if the gentleman will yield, I would just add this one further comment, and that is that I am sure that if the gentleman from Georgia (Mr. LEVITAS) had been a member of this conference that he would have come to the same conclusion that I came to. I do not think that, given the same information that the conferees had and with the gentleman's knowledge of the functions of government and the inability of the House and the Senate to deal with all minutiae that come before us that the gentleman would have done any differently than we did.

I hope the gentleman will not pursue the matter in the way he indicates.

The SPEAKER. The time of the gentleman has again expired.

Mr. HORTON. I yield 1 additional minute to the gentleman from Georgia.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I appreciate the remarks of the gentleman from Georgia (Mr. LEVITAS) very much because—and I do not know if the gentleman was on the floor yesterday, or not, but I pointed out, in going through the energy bill that we will be considering later on today, we have found over 100 areas where very broad discretion is given to either the FEA, or another agency, whose functions will be merged into the Department of Energy. So I would state to the gentleman from Georgia that I think we are making the Secretary of Energy really a czar of energy. And that if we are going to be so liberal and so generous in granting this discretion to these officials, we ought to at least retain some supervisory control so that we can have the opportunity to say halt.

Mr. LEVITAS. Mr. Speaker, I think the gentleman from Michigan (Mr. BROWN) is absolutely right. I will say to the Members of this House that we will rue the day we created that ball game without some control over those rules because, just as the Magna Carta that sat out there in the Rotunda of this Capitol was all about, limited Government, that is what we are talking about.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in support of the July 26, 1977 Conference Report on the Department of Energy bill (H. Rept. 95–539). I particularly want to commend the able and distinguished chairman of the conference, JACK BROOKS, for his leadership in bringing the idea of a Cabinet-level Energy Department into fruition. I know it was a long and difficult conference.

I am particularly pleased that the conferees adopted, with very few modifications, the House provisions calling for an independent, multimember Commission, and giving the Commission nearly all of the functions of the Federal Power and Natural Gas Acts.

Mr. Speaker, I am also pleased to see that the Senate would not agree to the legislative veto provisions and the sunset provisions adopted in the House. Both of these provisions would frustrate the Nation's efforts to establish and maintain a wise and effective national energy policy. Indeed, our energy programs would soon be in chaos if these provisions were adopted.

The provision known as the sunset provision is quite onerous. It does not attempt to deal with the problems of what happens to programs established by Congress at the time of the sunset. For example, the Emergency Petroleum Allocation Act, the appliance program of FEA, the Natural Gas Act and the Federal Power Act all are going to be vested and delegated to the Secretary of the Department of Energy. Under this sunset provision, those statutes and programs would terminate at the same time that the Department terminates. No provision is made for them to be continued to be administered by someone—even the President. Are we ready in Congress to do away with these statutes at this time in such a broad and sweeping effort? I think not. The conferees were wise in their decision to deal with this matter in the way they have.

In the case of the provisions relating to legislative veto, I can assure you that there are thousands of regulations issued each year by the agencies that would be affected by this bill. Many of those regulations are purely technical in nature. If they were to be reviewed by the Congress, we would have to increase our committee staff manyfold at great cost to the taxpayer. If we fail to review and act on each regulation, Congress would be giving, by its inaction, assent to some very crucial regulations that we decided at the time did not need our full review and formal action. Clearly, I, as a Member of Congress, do not want to be charged with having approved something by inaction. I am sure that most Members share that same view.

I urge the Members to support the DOE bill and to adopt the conference report at this present moment, today.

Again, I want to commend Chairman BROOKS and the House and Senate conferees, They had a difficult task.

I particularly want to commend Congressman JOHN MOSS and Senator LEE METCALF for their leadership and support in making the new Commission independent and effective and giving it the broad powers and functions it needs. I am sure they share my view that President Carter now has an important opportunity to appoint able and competent people as Commissioners. Suggestions that he retain the current Federal Power Commission Commissioners or some of them merely means a continuation of the status quo and this I would consider to be entirely unacceptable. Clearly, a clean sweep at the FPC is needed.

Over the past several months, I expressed concern in testimony before, and correspondence with, the House Committee on Government Operations about this legislation. I also wrote to the conferees about it. I felt that if the Federal Power Commission was to be abolished, a new and truly independent Commission must be established to take over the functions of the FPC. Most importantly, I urge that the conferees avoid making substantive changes in existing law. In short, I urged adoption of the House-passed bill, H.R. 6804. Indeed, in a July 22, 1977 letter to Chairman BROOKS, I said:

> The proposals by the Senate Conferees to vest in the Secretary large blocks of defined and undefined authority under the Federal Power and Natural Gas Acts is not, in any way, consistent with the House bill, as amended by Moss-Brown by an overwhelming margin. Our Committee has just reported the National Energy Bill which amends both of these Acts and specifically, vests all of this authority in a multi-member Commission, not in the Secretary. The Senate proposal would affect the recent actions by our

Committee and place even this amended authority in the Secretary. This is unacceptable to our Committee.

The Senate proposal (Sec. 402) lists several functions to be vested in the Commission, but they are vaguely drafted and, in some cases, qualified by the word "directly" or "direct" which leaves uncertainty and future litigation as to what, in fact, is vested in the Commission. Moreover, the Senate proposal does not appear to vest in the Commission matters relating to interconnection, construction work in progress, interlocking directorates, mergers, securities, and curtailments (other than the priorities for curtailments). The law must be clear and include these matters, as a minimum.

Mr. Speaker, Chairman BROOKS and the House conferees were also similarly concerned and obtained agreement with the Senate on adoption of the House approach in most of the significant areas of this legislation. The conference report:

Establishes a five-member Commission within the DOE;

Specifies that this new Commission shall be independent of the Secretary and other DOE officials;

Gives the Commission complete authority to hire and fire personnel, including authority to retain all persons now working at the FPC who are qualified and competent and to retain the structure of the FPC if it deems it appropriate;

Gives the new Commission control over the preparation of any request for authorization and appropriation of funds and insures that changes therein by the Secretary and OMB will be made known to Congress; and

Transfers to the new Commission nearly all of the functions of the Federal Power Commission under the Federal Power and Natural Gas Acts, including all authority over electric rates and charges, interconnection, construction work in progress, accounting and related procedures, natural gas pricing, curtailments, except the establishment and review of priorities for curtailments, securities and mergers, the licensing and approval of hydroelectric power and water resources projects located on public lands, reservations, and navigable waterways, and authority to issue rules, regulations, and statements of policy of general applicability. Most importantly, the word "directly" was deleted from these functions, as I urged—see statement of managers, pages 75 and 76.

I commend the House conferees for their effective efforts in this regard.

I think it important to stress that the conference report also vests in the Secretary some authority under these two laws. In some matters, there may be some overlap of functions between the Secretary and the Commission. As chairman of the House Energy and Power Subcommittee, I intend to insure that this overlap be minimized and that there be no disputes between the Secretary and the Commission over their respective functions.

There remain some areas of concern, such as the actions taken in connection with the Emergency Petroleum Allocation Act of 1973. My subcommittee will want to examine these areas in the very near future. I am particularly concerned that there is no provision for resolving a stalemate between the Secretary and the Commission, unless an emergency exists, in the issuance of amendments to the regulations under the EPAA.

Another area of concern to me is the conflict-of-interest provisions of the conference report. During the conference, I wrote to Dr. Schlesinger—on July 8, 1977—about these provisions in both bills; I observed that I thought that they went too far and felt that the administration should comment on them. The administration's July 12 reply agreed with me. As a result, the conferees made some important modifications in the two areas I commented on to Dr. Schlesinger. But there are still some conflict-of-interest provisions that concern me.

I strongly believe in disclosure. Indeed, several recent laws administered by the Interior Department, FEA, EPA, and ERDA include broad financial disclosure provisions sponsored by myself and our former colleague, Representative, Ken Hechler of West Virginia. I also support restrictions on financial holdings by Federal policymakers and regulators.

However, the conference report contains requirements: First, for reporting one's relationship and duties with an energy concern prior to working for the new Department; second, prohibiting a person hired by the DOE from working for 1 year on matters pending before the DOE in which his former employee was involved; third, after terminating employment with the DOE, filing reports for 2 years about a person's employment with an energy concern; and fourth, prohibiting postemployment participation in any matter before the DOE, even a matter in which the former employee never participated while a DOE employee. I think these provisions may go too far. They appear onerous. They may even be of questionable legality if they are construed as infringing on a person's constitutional rights, such as the right "to petition the Government for a redress of grievances."

I am also concerned about the definitions of a "supervisory employee" which includes "experts or consultants employed" for more than 90 days, as well as many other individuals at the lower end of the pay scale. This may result in the DOE being unable to hire experts or consultants for more than 90 days. While this might be a blessing, it may also result in adversely affecting our energy effort and increasing substantially the number of Federal employees. It is potentially onerous on people who are not supergrades or above.

Actually, the term "supervisory employee" is misleading. Many who may be included in the definition do not supervise anyone.

The definition of an "energy concern" is also quite sweeping and may be difficult to apply because it is somewhat vague.

These definitions may be appropriate insofar as they apply only to reporting requirements. But they are not so limited. They apply to the divestiture provisions, postemployment, and participation provisions and violations could result in significant penalties.

Because many of these provisions were quite similar in both versions, the conferees, unfortunately, could not overcome many of these problems. I know they tried.

Our subcommittee intends to review these provisions and their administration with the new Secretary, the Attorney General and others in the very near future.

The correspondence to which I referred follows:

SUBCOMMITTEE ON ENERGY
AND POWER,
Washington, D.C., July 8, 1977.

Hon. JAMES R. SCHLESINGER,
Assistant to the President,
The White House,
Washington, D.C.

DEAR JIM: Several days ago, Representative John E. Moss gave me a copy of a June 28, 1977 letter from Mr. Stanley Sporkin who chairs an FEA task force on compliance and enforcement. In that letter, Mr. Sporkin expressed concern about the DOE legislation, particularly the so-called conflict of interest provisions.

Since then, I have reviewed these provisions. I share his concern, particularly since I find no evidence that the Administration has expressed any official comment on these provisions. I believe that some of these provisions will have a chilling effect on the new Department and may even result in a significant number of highly qualified people leaving the FPC, FEA, and ERDA prior to the DOE establishment. I am concerned about that possibility and the effect it might have on programs under our Subcommittee's jurisdiction.

I request that you and the Attorney General review these provisions and provide to me, as well as Chairman Jack Brooks and Congressman Moss, the Administration's views thereon by noon on Wednesday, July 13, 1977. That is a short time, but I believe the Administration is, by now, fully cognizant of these provisions in the Senate and House bills and should be able to respond quickly. In particular, I request your response to the following:

1. *Reporting:* Section 602 of the House bill requires every officer and employee of the DOE to file annual statements of known financial interest, as defined by the Secretary, unless such persons are in nonregulatory or nonpolicymaking positions. The pay scale of the official or employee is not the determining factor. The duties and responsibilities are. This provision is identical to one recommended by the Administration in its original DOE bill. It also is identical to existing provisions of law applicable to FEA, Interior, and ERDA.

Section 603 of the Senate bill, however, is a weaker provision in that it only applies to GS–13 to 18 employees and not to executive pay level employees. It also requires that the individual make reports in accordance with House and Senate rules on the listing of income or holdings of a spouse or dependent without any reference to the specific rules it expects the employee to follow. It is possible that some of those rules may not be appropriate in the Executive Branch.

The Senate version does not repeal the provisions in existing law cited above. Thus, these people would be required to file two reports.

(a) Does the Administration continue to support the House version which follows existing law and which was enacted after several investigations by the GAO at the request of Representative Moss (which showed that the GS–13 threshold is not adequate) or does the Administration support the weaker Senate version?

I note that Section 602 of the Senate bill requires "supervisory employees" to file a Public Financial Disclosure Report disclosing the information "required to be dis-

closed by Members or employees of Congress", pursuant to House or Senate rules. These employees are not required to file the report referred to in Section 603 which means there will not be uniformity in reporting. It also provides for GAO audit of 602 reports but not 603 reports under regulations issued by GAO, but the regulations must be approved by the Secretary.

(b) Under the broad definition of "supervisory employee", is it not likely that those, at FEA, FPC and ERDA, who are at a GS–13 to 18 pay scale would be covered by Section 602? If so, why are both provisions needed?

(c) Is it desirable to have two different reporting systems? Why?

(d) Are the House and Senate disclosure rules identical? If not, which rules apply? Can the supervisory employee make this choice or does the Secretary do it and, if so, under what criteria?

(e) The GAO is an arm of Congress. It has adequate authority to review all financial disclosure reports or statements.

(i) Why should the statute require a GAO review?

(ii) Does this provision, in effect, relieve the Secretary of that duty?

(iii) If the Secretary does not approve the GAO regulations, does this mean that the GAO cannot review these reports?

Why should Interior have, in effect, a veto over GAO audit regulations?

(iv) What is the logic of a GAO review of 602 reports, but not 603 reports?

(v) What is the cost of this permanent provision for GAO audit?

2. Postemployment Contact: Section 601 (d) (2) of the House bill prohibits any supervisory employee of the DOE, for a period of two years after ceasing to be a DOE employee, from appearing before or making any oral or written communication in any professional capacity for anyone other than the United States, to the DOE "in connection with any Department proceeding". For a period of five years, such employee may not appear before, or make any oral or written communication to, the DOE "in connection with any Department proceeding in which he participated substantially or personally while a supervisory employee".

Section 604 of the Senate bill prohibits such employee from appearing before or making any oral or written communication to, the DOE for one year after DOE employment "if such appearance or communication relates to the affairs of the Department".

In commenting on the House version, Mr. Sporkin said:

"These provisions reflect a deep concern with the integrity, in fact and appearance, of the Department's proceedings, and with the nature of public service. I share these concerns. But I have an additional concern as well. I believe that the government is best served by officers and employees who do not feel bound to the government; by men and women who manage to retain at one and the same time a sense of independence from bureaucracy and a commitment to its public purposes. It is from such people that the government is most likely to receive the benefit of judgments and decisions not affected by career considerations. It is my best judgment that such independence requires a belief that the option of leaving the government is a real option, available at considerable but tolerable personal and professional cost.

"On balance, I believe that Section 601(d) (2) (A) of the House amendment, with its apparent two-year prohibition on any communications in connection with any Department proceeding, may well make the cost of leaving too high for a sufficient sense of independence to be maintained."

I share Mr. Sporkin's concern. Both versions affect not only the career public official who might leave in mid-career, but also those who retire after 20 to 30 years and who still would like to work on a part-time basis in the only field in which they have a training, background, and expertise. It applies to persons who leave Government to work, not only for the energy industry, but for consumer or environmental groups, such as the League of Women Voters, or for a college or university. It affects Cabinet and sub-Cabinet officials whose term is coterminous with that of the President and who will likely return to the private sector when the President leaves office.

I, too, am concerned about the so-called "revolving door" problem, particularly when I read that an EPA official heading up the kepone investigation reportedly is leaving EPA to work for Allied Chemical which is one of the subjects of the inquiry. But I am also concerned that the DOE not be populated solely by political appointees and persons who are not highly qualified or who do not exercise "a sense of independence from bureaucracy and a commitment to its public purposes". I fear that if the option to leave government becomes financially intolerable to a person like Mr. Ernest Fitzgerald, the "whistle blowers" will become scarce and the concept of open government will diminish.

These provisions in the DOE bill must be carefully crafted to avoid these onerous consequences, while reaching specifically at the problem. If that is not possible, then the Administration and Congress should have the political courage to admit this and abandon them until a later date.

Let me point out some of my problems:

SENATE VERSION

(a) Article I of the Constitution guarantees everyone the right "to petition the Government for a redress of grievances". That right extends to the entire Government, not just part of it. To the extent that Section 604 of the Senate bill applies to an individual, it appears to restrict this constitutional right, particularly since it applies to any matter within the broad purview of the DOE. Do you agree?

(b) It appears to prevent such employee from objecting to any action of the DOE which may affect the employee or his or her family directly. Do you agree?

(c) It appears to go beyond 18 U.S.C. 207 (b), which applies only when the employee acts "as an agent or attorney" for someone else in a matter "which was under his official responsibility". Do you agree?

(d) The prohibition against any communication which "relates to the affairs of the Department" would apply even to gossip that is unrelated to any application or proceeding. Do you agree?

HOUSE VERSION

(a) The two and five year prohibition on communication "in any professional capacity" fails to define this term. Does it apply only when that person represents someone else, or does it include the individual also? Does the term "professional" refer to the individual's occupation while a DOE employee or his subsequent occupation? For example, a supervisory employee who awards contracts may hold a DOE position as a contracting officer and may also be a lawyer or scientist. When he leaves the DOE he may never deal in contracts but open an office as a scientist or lawyer.

(b) The two-year prohibition "in connection with any Department proceeding" goes beyond 18 U.S.C. 207(b) which is for one year as to a matter "under his official responsibility." Does this provision make Section 207(b) moot as to DOE? What is the rationale for two years?

(c) The words "substantially *or* personally" in Section 601(2)(A) seem inappropriate. It is hard to imagine how a person could be substantially involved in a matter without being personally involved. In 18 U.S.C. 207(a), the term is "personally and substantially." Which is correct?

(d) Is not the five-year period a weakening of 18 U.S.C. 207(a), which is a perpetual prohibition?

BOTH BILLS

(a) Both Senate and House versions apply only to "supervisory employees" whereas 18 U.S.C. 207 applies to any employee. Hence, they are less comprehensive than existing law. The House bill, unlike the Senate bill, contains a disclaimer that it does not "limit the operation of Section 207 or 208" of Title 18. But is the disclaimer really adequate, since, in fact, these specific provisions for the DOE are different than Sections 207 and 208? Could these specific provisions make it more difficult for the Attorney General to prosecute violations of Section 207 if the employee complies fully with either the House or Senate provisions?

(b) Both bills appear also to be inconsistent with President Carter's proposal of May 3, 1977 to amend Section 18 U.S.C. 207. Does the Administration support such inconsistent provisions?

With every good wish,

Very truly yours,

JOHN D. DINGELL,
Chairman.

THE WHITE HOUSE,
Washington, July 12, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR JOHN: Thank you for your letter of July 8 regarding the conflict of interest provisions of the Department of Energy Organization Act now being considered by House and Senate conferees.

I share many of the concerns suggested by your letter that the provisions governing employees of the Department of Energy in this regard be effective, yet fair. As the President has indicated, I believe we should assure to the maximum extent possible that public employees in responsible positions are free from the appearance or reality of conflicts of interest. At the same time, of course, we must be concerned that employees can be attracted to Federal service under terms that will not discourage either the retention of outstanding present employees or the recruitment of new personnel capable of contributing to the solution of our nation's energy problems.

Your questions relate specifically to two major sections of the DoE bill, those dealing with financial reporting requirements of Departmental employees and post-employment activities of such employees.

Reporting: Your specific concern in the area of reporting requirements was the presence of a House provision applying reporting of energy assets by all Departmental employees whose responsibilities involve regulatory or policymaking functions. The Administration has no objection to applying to all such employees the type of reporting requirement currently contained in section 602 of the House bill, as is the case in current law. With regard to broader disclosure of the type required by section 602 of the Senate bill, we believe that these provisions should conform to the spirit and intent of the President's proposals of May 3. It is our understanding that a staff proposal in this regard is now being developed.

It should be noted, of course, that the Senate has passed government-wide reporting requirements applicable to employees in grades GS–16 and above as part of S. 555. Should such legislation be enacted by the Congress, we would hope and expect that any interim system now applied to the Department of Energy would then be supplanted by the government-wide provisions.

The problems which you raise in questions 1(b) and (c) regarding use of the House and Senate disclosure rules and the provisions regarding GAO audits are of concern to us as well. Again, it is our understanding that

a staff revision of these provisions is in process which makes clearer the criteria for disclosure for senior supervisory personnel, and modifies the audit requirements to remove many of the reservations which we share.

Post-employment Contact: On the question of a blanket post-employment contact bar, the Administration supports the provision contained in Title V of S. 555, as passed by the Senate, which requires a one-year ban on contact with the agency of former employment, but does provide an exemption relating to matters of personal nature.

I believe that this exemption likely would apply to many types of Departmental actions which may affect the employee or his family directly, the issue about which you are concerned in question 2(b) relating to the Senate bill. The provision does go beyond the present constraints of 18 U.S.C. 207(b), but the President believes that broadening this provision is necessary to provide the proper balancing of interests when dealing with this question. The Administration, however, would strongly oppose making this particular ban apply for more than one year, and believes that the problems of the type you raise in question 2(d) relating to the Senate bill can be resolved by following the more precise language of S. 555 dealing with "intent to influence" a "particular matter which is pending before" the Department.

We further believe that inclusion of this type of provision, in conjunction with 18 U.S.C. 207 in existing law would, provide sufficient protection against conflicts of interest in the post-employment context pending Congressional action on government-wide legislation. Accordingly, we are in agreement with you in the reservations with respect to provisions of the current House bill suggested in questions 2(a) through (d) of your letter.

In sum, the Administration believes that the provisions relating to reporting and post-employment activities should not impair the ability of the Department to attract capable, highly-motivated individuals, while at the same time preventing either the appearance or the fact of a conflict of interest.

I hope these comments are of help to you, and I thank you for your interest in these important provisions of this legislation.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. Speaker, section 403(c) of the conference report specifies that the Commission in its discretion may use rulemaking procedures in establishing rates and charges under the Federal Power and the Natural Gas Acts. Except in the case of wellhead pricing, this provision requires that such procedures "assure full consideration of the issues" and an opportunity for nearly anyone to present their views. The exception is made because section 403(d) authorizes the Commission, in its discretion, to permit nearly anyone to submit written interrogatories concerning any disputed issues of facts to others who may be participants in these proceedings. The idea being that such interrogatories will assure "full consideration of the issues" and an opportunity to present one's views. But, of course, if interrogatories are not utilized, this admonition in the second sentence of section 403(c) is intended to apply to wellhead pricing matters as well.

Part E of the national energy bill now pending on the House floor today provides that ratemaking and related matters under the Federal Power Act shall be by an evidentiary proceeding. Thus, I would caution the new Commission to use the section 403(c) authority with some care. It obviously is not available where the law requires more than a 5 U.S.C. 533 procedure. Indeed, the establishment of rates and charges under either Act is a very important function that affects many, many consumers, including industrial and commercial consumers, as well as individuals and families. Simple rulemaking may be useful from the standpoint of serving a policy objective of seeking higher prices to encourage production of gas or aid a utility, but it may also fail to produce an adequate record to show that such rates and charges are in accord with the law and will not play havoc on consumers. The Commission should not be hasty in exercising this authority.

Mr. Speaker, the conferees also adopted the Dingell-Brown amendment to title V of the House bill. This title establishes uniform administrative procedures and judicial review for the DOE other than the Commission. I am particularly pleased to see that the conferees retained the last sentence of section 501(a)(1) of the bill regarding procedures established in other laws, such as EPCA. In the national energy bill, we have specified that the procedures established in that bill, which include many safeguards, shall apply, rather than those in title V of the DOE conference report. We intend to continue to so specify in that bill.

The conferees did not limit the title V procedures to two years as the House proposed, but the title does require a study which will insure a further review of these procedures in a short period of time.

In a July 8, 1977 letter to Chairman BROOKS on the conference, I provided a copy of a letter Congressman JOHN MOSS received from the FEA and provided to me concerning provisions in both bills relative to FEA's enforcement proceedings. The letter, signed by Mr. Stanley Sporkin, said:

I am concerned about the provisions of the pending legislation which may be read to require a much more formal hearing procedure than is presently required for administrative appeals of remedial orders. If these provisions are interpreted to apply to cases in which a Notice of Probable Violation has been issued on the effective date of the legislation, it will impede the ability of the agency to deal with the current backlog of enforcement cases. Section 804(b) of the Senate bill (Section 708(a) of the House bill) provides that the bill will not affect proceedings pending on the effective date of the FEA transfers to the Department. I would recommend that the Statement of Managers make it clear that this provision is intended to make these new procedures inapplicable to any case in which a Notice of Probable Violation has been issued before the effective date of transfers.

Since then, Mr. Sporkin's task force has issued its report which shows that this backlog represents nearly $2 billion in overcharges, etc. I am pleased to note that the conferees adopted Mr. Sporkin's recommendations which I believe were sound.

Clearly, this backlog of cases which includes some overcharges by major oil companies, as well as independents and retailers, must be eliminated rapidly. Changing the procedures for any case where a notice of probable violation is issued before the effective date of this bill would not be in the public interest. Our committee has urged that the FEA move more quickly on this backlog and issue these notices. The Sporkin report gives added impetus to this matter and I expect that more of these notices will be issued prior to establishment of the DOE.

I note functions of the Department in the conference report do not include provisions concerning the commercialization of technology that were in the Senate bill. This is proper because the DOE does not have any specific commercialization authority, although it has clear authority to conduct demonstrations of technology leading to commercialization of that technology.

I urge adoption of the conference report.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I want to join with the others who have spoken here in this well and expressed dissatisfaction with the way this conference report has come to us, and to state that these disagreements in no way are a reflection on the good work and the abilities of the gentleman from Texas and the gentleman from New York and other members of the conference.

I have supported the creation of this new Department, but I do feel that we need to put some safeguards into this bill to make sure that this new agency, this new Department, is responsive to what we in the Congress feel should be a proper administration of the programs over which they have some control.

In recent years we have seen a tremendous proliferation in Government agencies and programs, and along with this proliferation a growing public disenchantment with the lack of responsiveness even the administrative ability and expense of Government at all levels. This new Department is going to start out with a $10 billion budget and 20,000 employees. It will have awesome new powers over the production, pricing, and supply of energy. If any department needs built-in safeguards, this one does.

The tremendous growth in new programs has prompted widespread interest in improving legislative oversight in an effort to increase Government accountability and increase economy in Government.

One of the procedures that has been brought forward in recent years is the sunset concept, a concept whereby programs and agenieces would automatically terminate on a periodic basis unless they are renewed by law.

Legislative oversight is not new. It has been mandated by statutes that have been passed by this Congress, but the actual performance has fallen far short of expectations. The Legislative Reorganization Act of 1946 directed the congressional committees to exercise continuous watchfulness over agencies. The Budget and Impoundment Control Act of 1974, which has been the most comprehensive congressional mandate in recent years, requires the overview of the total budget and requires the committees to choose between and among competing priorities.

Nevertheless, these mechanisms have not been thoroughly effective in review-

ing and analyzing the proficiency of Government programs or agencies. The authorization process has not really afforded the Congress with a basic framework or guidelines for systematic review and evaluation of past performance. This is a key component to sunset and one which is not incorporated into the conference language.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I would just like to say this to the gentleman. I understand the gentleman's concern and the gentleman's interest in the sunset provisions. As members of the conference we were confronted with a problem of the legality of this agency to enter into contracts over a long term when there was existing a law that said it would go out of existence on a certain date.

When the gentleman presented his amendment originally back in June he indicated what he wanted to do was to have an oversight of the program. I do not think that the gentleman intended that the agency would go out of existence. I think his initial remarks were that he did not intend the agency to go out of existence. He merely wanted to look at the program.

That is what we tried to do. To satisfy the gentleman, this amendment or compromise that we adopted as far as I know has never been done as far as the Federal Government is concerned. This compromise says that this agency in January 1982 has got to submit all of its programs for a review by the Congress. There is no other agency so far as I know that has that same mandate, so the gentleman has succeeded in what he proposed to do; namely, to have sunset as far as the programs of this agency are concerned.

Mr. BROYHILL. Mr. Speaker, I must most respectfully disagree with the gentleman from New York. My reading of what they have included in the conference report is that any committee chairman that has jurisdiction over the department itself or any programs administered by the department can call up the secretary or assistant secretaries and get this information almost any day of the week.

Mr. HORTON. But if the gentleman will read further, it is not required by statute setting up any other agency that it be done.

We also included, which was argued during the debate, that there be annual authorizations and annual appropriations so that this department would come before the Congress annually.

Mr. BROYHILL. Let me respond to that. I see this happening every week around here. Just in the past few weeks we passed appropriation bills without first acting on the appropriate authorization measures. They are either passed in the other body or they are continued through what is called the continuing resolutions. In my view, this is not responsible congressional oversight.

Mr. Speaker, over 50 versions of sunset legislation with almost 200 cosponsors have been introduced in the 95th Congress. In the Senate over half the Members have cosponsored sunset bills. The purpose of this legislation, and my sunset amendment, is to strengthen the congressional capacity for comprehensive policymaking by requiring the Congress to assess the desirability of the continuation of this department or any other agency, and thereby to assure more efficient administration of certain programs. There is increasing concern on the part of the American public to insure that Government is more responsive to public needs. The only way we can do that is to insure better congressional oversight. I believe this can be achieved only through the adoption of my amendment.

As I have stated, I support the creation of this department. I think that it should include these amendments, the sunset amendment, and the provision for congressional veto as well as the insistence of the House amendment on supergrades. There will be a motion to recommit to insist on these provisions, and I urge my colleagues to support that motion.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman yielding.

I would just like to answer and respond to my good friend, the gentleman from North Carolina.

Let me say, I voted for the gentleman's amendment. I think the concept is sound. I hope we get some type of sunset legislation enacted in this Congress, and it will be broad and comprehensive, but when we have a destruct system for a Department, in the Organic Act, it does create certain problems, as already mentioned by the gentleman from New York. The Department cannot enter into long-term contracts and many times they enter into contracts extending for several years. This would go to the legality of those contracts.

We took the gentleman's position seriously in the conference. We tried to come up with an alternative. We have enumerated some 14 specific items that must be reported back in January of 1982, the justification for certain programs, who is benefiting from these programs, how does it affect the economy, how does it affect the health and welfare of the people; in all these things we tried to accommodate the gentleman's fears.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I want to commend the gentleman from North Carolina (Mr. BROYHILL) for having pursued the sunset issue as diligently as the gentleman has.

I reluctantly oppose, or will oppose, a motion to recommit, because I think what has already been accomplished along the lines of sunset is significant. This conference committee, of which I am not a member, brought back a comprehensive review mechanism. The only thing missing in it is a termination clause to force the review, although the law will require the review if enacted. Fourteen different review criteria are required for each program administered by the new Department of Energy. This is a major step.

I introduced in July of 1975 and later in February 1976, along with Senator MUSKIE, the first sunset bill here in Congress. We conceived it as a mechanism, using termination as a trigger, to force a comprehensive review of each and every Federal spending program. A timetable for review of each Federal spending program is set forth. Programs in related functional categories are required to be reviewed at the same time. A termination clause is put on each program to force that review. I am concerned when we simply slap a termination clause on a whole Department. We lose credibility on the sunset issue. First of all, I do not think we would put a termination clause on the Defense Department or the Justice Department or the State Department. Why should we do it on the Energy Department? I do, however, believe we ought to put termination clauses on spending programs. Unfortunately, the language in the original House bill does not do that. A comprehensive review program for all spending categories with a termination clause to force that review is the way to apply sunset. The conference report therefore is a good step in the right direction. It, at least, requires a comprehensive review on all programs within the domain of the new Department of Energy.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. BROOKS. Mr. Speaker, I yield 1 additional minute to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Speaker, I think it is really unrealistic to put a termination clause on a major Department. Everyone knows we will not use it.

We also lose credibility in the sunset movement to stick a flat-out termination clause on a Department. This may be a question of tactics, but it is important to treat sunset as a serious structural reform and not a superficial gimmick. As a gimmick, it defeats the purpose of this bill, which is energy reorganization. If we were dealing with a Federal advisory commission on automobile bumpers or a soybean commission, I would agree with the termination clause; but I do not see it as advancing the whole concept of sunset here. I know on my particular bills, H.R. 85 and H.R. 1756 and other numbered but identical versions, we have 150 Members here as cosponsors. We expect hearings on that bill this year. I see the new provision by the conferees as going a long way in advancing the cause of sunset. I think it ought to be approved. Mr. BROYHILL ought to be commended for bringing this improvement about and the conferees applauded for their work in accommodating us on this most important issue.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, assuming the passage of the energy bill that is before us this week and assuming passage of this conference report, does President Carter know that he will have to go hat in hand to the czar or Secretary of Energy, if he should de-

cide to take Air Force I to Yazoo, Miss., again?

Mr. HORTON. Mr. Speaker, we did not work that out in conference.

I thank the gentleman for his contribution.

Mr. Speaker, I would like to address myself to the questions which have been raised with regard to the supergrades and personnel authorized. Very quickly, this conference report does not increase the number of supergrades that are now in existence. It does not increase the number of personnel. As a matter of fact, what we did when we got to the conference was to determine that there are now 689 authorized supergrades. Not all of these positions were filled when the House considered this legislation.

For all practical purposes, those supergrades are now exempt from civil service coverage. What we did do, acting upon the suggestions of the conferees who are on the Post Office and Civil Service Committee, was to make some of these subject to civil service.

We provided that 178 supergrades would be subject to civil service; that 311 would be subject to civil service in 4 years, and that the 200 which we had agreed to would continue to be exempt.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in strong support of the conference report and commend both the chairman and the ranking minority member for the bipartisan way in which they attempted to uphold the House position.

Mr. Speaker, enactment of this legislation, adoption of this conference report, is an essential part of any solution of our energy crisis. I do not mean that alone it will solve our energy problems, but without the department there is no hope for a solution. So, I strongly urge the adoption of the conference report.

I also rise, Mr. Speaker, in opposition to the proposed motion to recommit, and particularly direct my remarks to the matter of sunset. There seems to be a feeling that there is no sunset provision in the conference report. I would direct the Members' attention to page 53 of the conference report, in which there is a page and a quarter dealing with this subject.

But, what does it do? Instead of having departmental destruction, it has sunset programmatically. This is what we should do. Imagine what would happen if we applied sunset to the Department of Defense. It would make it impossible for DOD to enter into long-term, lead-time contracts, and the defense of this Nation would be impaired. The solution of energy requires just that kind of long-term contracting.

Let us take some of the other departments. If we applied sunset to the Department of Agriculture, it would mean no future certainty for farmers. Now, I believe that in the Department of Agriculture, for example, we should have programmatic sunset.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. BROOKS. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Take the Department of Housing and Urban Development. I am on the Housing Subcommittee. I do not believe we should have sunset for the entire Department, but any one of those programs that this Congress has enacted and that the Department is carrying out, I think we can have sunset programmatically. The conference report, page 53, is a programmatic sunset provision.

I urge the defeat of the motion to recommit and then adoption of the conference report.

Mr. BROOKS. Mr. Speaker, the sunset provision in the House bill was one of the most difficult issues the House conferees had to deal with. It had been adopted by the House by a rather substantial margin, but the Senate conferees were adamantly opposed to it.

During the discussion it was established that a sunset provision would cause serious problems for the Department of Energy in entering into long-term contracts. A number of legal experts advised that any contract that might extend beyond the termination date set by the sunset provision, which was December 31, 1982 could be void.

The Department of Energy, particularly in its research and development activities, will rely heavily on long-term contracts. But after 2 or 3 years, as that termination date approached, for all practical purposes, it would be precluded from entering into necessary contracts. This could have a crippling effect on the Department, and it proved to be a compelling argument with the Senate conferees, who absolutely refused to accept a termination date in the legislation.

But the House conferees did not want simply to abandon the issue, and after a lot more discussion and persuasion, we succeeded in getting the Senate to agree to a provision that I think preserves the intent of the sunset provision.

The conference report now provides that not later than January 15, 1982, which is nearly a year earlier than the termination date set by the sunset provision, the President must submit to Congress a comprehensive review of each program of the Department of Energy.

The conference report spells out in detail just what this review must include. It is in title X, and as you can see, it is comprehensive. There are 14 specific points of information that must be provided for each program, including an identification of its goals, an assessment of whether those goals have been reached, a justification of any new budget authority, and a determination that there are no conflicts or duplications between programs.

This is exactly the kind of a review that would be required under a sunset provision in order to have a department or program continued, and we have preserved it in the conference report.

In addition, the conference report provides for annual authorizations for the Department of Energy, as well as annual appropriations. So there are two more opportunities for Congress to assure itself that the Department is functioning in accordance with the intent of Congress.

We do not like to give up any House provision when we go into conference, and we fought hard to retain the sunset provision. But it came down to a choice between no provision and the one we have brought back to the House, and I hope the conference report will be accepted.

Mr. MOSS. Mr. Speaker, I rise to address the many Members who supported my amendments to the bill H.R. 6804 redesignated S. 826, the Department of Energy Organization Act. As Members may recall, I offered two principal amendments to that legislation. One created an Office of Energy Research to coordinate the research responsibilities of the new Department. The other provided that the major regulatory functions now vested in the Federal Power Commission would continue to be exercised within the protective structure of an independent, collegial body.

I am very pleased to report to my colleagues that under the able leadership of Chairman BROOKS the House position on these two issues was effectively preserved. His actions in concert with those of Chairman RIBICOFF and Senators JACKSON and METCALF will help assure that the Department effectively and responsibly carries out its important mission.

With respect to the Office of Energy Research, the conferees are reporting a bill which largely incorporates the amendment which was approved by the House. As so clearly stated by Mr. HORTON and Mr. PICKLE, strong supporters of this proposal in debate, such an office will insure that the Secretary of Energy receives the best possible advice on the most effective ways to address our complex energy-related research problems. Headed by a person of high scientific stature and demonstrated managerial ability, this office will assure a balanced coordinated research effort.

As agreed upon by the conference, the Office of Energy Research will have the following specific functions:

First, the director will advise the Secretary with regard to the administration of the very important physical research program, which until now has been administrated by ERDA. While the Office is not assigned administrative responsibility for the physical research program, as the House bill provided, the conferees intend the Office to monitor closely the development of the program and to advise the Secretary on the nature and scope of that vital basic and applied research activity.

Second, the Office will monitor the Department's R. & D. programs to assure that undesirable duplication or gaps in programs are identified and minimized. Our scarce resources require that all of the Department's research programs be well coordinated. By reviewing and commenting upon budget and other management information related to such programs, I expect this office to not only help weed out duplication but assure that necessary research projects are not overlooked. This latter function is particularly important with respect to fundamental, basic research.

Third, the new Department will receive several multipurpose national lab-

oratories. The Office will advise the Secretary with respect to the proper maintenance of these important assets. The division of missions among these laboratories, industrial laboratories and universities is a policy question of high significance which the Office will need to address.

Fourth, the Office will consider and advise the Secretary with respect to the full range of approaches toward meeting energy-related manpower objectives. Such reviews should take into account the need for adequate student support, new and improved curricula, organizational structures and innovation in undergraduate and graduate programs, and to professional retraining activities.

Fifth, the Office will advise the Secretary with respect to the award of financial assistance to carry out basic and applied research activities. The kind of mechanisms chosen to provide short- and long-term research support can have important effects on the quality and productivity of the research program. The Office will advise the Secretary with respect to the proper balance and use of such varied funding arrangements.

Finally, the Office has broad authority to carry out such additional research duties as may be desired by the Secretary. These include the supervision and support of research activities carried out by any of the assistant secretaries. For example, it may be desirable for the Secretary to require the Office to provide seed money for selected kinds of research generally assigned to one or more assistant secretaries. The Office also should stimulate research projects which cut across the functional responsibilities of two or more assistant secretaries. By coordinating, stimulating, and providing support for the full range of research activities the Office will insure balanced, coordinated growth throughout the Department's research program. Together these activities will provide a base of strong, healthy scientific advice on which the Secretary will have to rely.

With respect to the jurisdiction of the independent regulatory commission within the Department over regulatory functions now exercised by the Federal Power Commission, the House position also largely prevailed. Under the language reported by the conferees, the Federal Energy Regulatory Commission will exercise all but a very small portion of the functions now vested in the Federal Power Commission. These include the principal economic regulatory authorities arising from the Natural Gas and Federal Power Acts. Among the responsibilities of the Federal Energy Regulatory Commission shall be:

The issuance of licenses and the granting of permits under Part I of the Federal Power Act (including the regulation of facilities on public lands and reservations);

The establishment of rates and charges for the transmission or sale of electricity (including indirect determinations of such rates through rules with respect to construction work in progress);

The regulation of nonemergency interconnections;

The establishment of rates and charges for the production and transportation of natural gas;

The issuance of certificates of public convenience and necessity;

The establishment and enforcement of curtailments (other than the establishment of priorities for such curtailments); and

The regulation of mergers and securities acquisition.

While the Commission has final responsibility for these functions, the Secretary is assured a major role in the policy formulation process through his opportunity to propose rules with respect to these issues and his right to intervene in Commission proceedings. The public is guaranteed that if the Secretary seeks to overstep the bounds of his authority at some future time, the Commission may consider and ultimately veto a proposed secretarial rule which significantly affects any function within its jurisdiction.

This resolution of the differences between the House and the Senate effectively addresses the concerns of those of us who felt that major economic regulatory authorities under the present Federal Power and Natural Gas Acts should not be exercised by an individual Secretary of Energy, no matter what his or her party affiliation. This resolution approximates what Mr. BROWN of Ohio and I were seeking when we offered our amendment. This also meets the concerns of those like Mr. DINGELL of Michigan who vigorously and artfully advocated this cause.

In addition to these matters, there are several provisions of the conference report that I want to comment on.

The report establishes the Secretary, and Under Secretary and Deputy Secretary and eight Assistant Secretaries. As noted, in the managers' statement, the conferees decided not to designate the areas of responsibilities for each Assistant Secretary, but listed a number of functional areas that one or more of these Assistant Secretaries would carry out.

The 11 listed functions are not intended to provide any additional authority or responsibility to the DOE or these Assistant Secretaries, nor are these functions to be construed as a directive by Congress to perform one or all of them. They are merely a statement of the board program areas that should be carried out by these Assistant Secretaries "in accordance with applicable law".

These lists of functions stemmed from the Senate bill. Some revisions were made in them by the Conferees. For example, the first and seventh functions of the Senate bill were as follows:

(1) Energy resource applications, including functions dealing with management of all forms of energy production and utilization, such as the fuel allocation and distribution functions, energy technology demonstration and commercialization programs, and management of energy resource leasing procedures on Federal lands.

(7) Competition and consumer affairs responsibilities for the promotion of competition in the energy industry and for the protection of the consuming public in the energy regulatory and policymaking process, including but not limited to assisting the Secretary in the formulation and review of policies, rules, regulations, leases and enforcement actions, acquiring, analyzing and disseminating information relating to competition and consumer affairs.

As one can readily see, some changes were made by the Conferees in there provisions in recognition of the fact that the Economic Regulatory Administration and the Federal Energy Regulatory Commission established by the bill, and not the Assistant Secretaries will be responsible for carrying out fuel allocation and distribution and enforcement actions. The ERA reports directly to the Secretary under the chart shown Congress by the White House when the President proposed this legislation. The Assistant Secretaries should have input, but the responsibility is the ERA's. The Commission is independent of the Assistant Secretaries.

This bill establishes the ERA. It is our understanding that all of the regulatory and enforcement functions now carried out by the Federal Energy Administration would be transferred to, and vested in, the ERA.

The bill further includes the Moss-Brooks amendment adopted in the House Committee on Government Operations that the Secretary shall "by rule provide for a separation of regulatory and enforcement functions" of the ERA. This provision carries out a similar recommendation by the House Committee on Interstate and Foreign Commerce in its May 16, 1977, report (H. Rept. 95–323) on H.R. 6794 (p. 9). This recommendation was made after extensive investigation by its Subcommittee on Energy and Power and a subcommittee I chair.

It is also important to note that the conferees expect the ERA to have its own legal staff to carry out its enforcement functions. The bill establishes a General Counsel in DOE. But the General Counsel should not supervise lawyers in the ERA involved in the enforcement process.

On July 14, 1976, the Chairman of an FEA Task Force on Compliance and Enforcement stated in his report to the FEA Administrator as follows:

Organizational problems have been further aggravated by an inappropriate definition of the role of counsel in the enforcement process. Rather than entering an enforcement matter at an early stage, counsel often first sees results of an audit after a Notice of Probable Violation has been drafted. Attorneys generally perceive their role as that of impartial evaluators of the legal sufficiency of the case.

No realistic time limits are set for counsel's review or, where deadlines have been established they often cannot be met. On those occasions where counsel feels pressed because a matter has lingered too long in his office, files are often returned to the auditors with a request that supplemental information be supplied. While this temporarily relieves counsel of responsibility for the matter, and the Agency's case tracking records show prompt turnaround times, effective law enforcement is no longer the objective. Auditors too have learned the game well—when the additional information requested is obtained, the case is once again sent to counsel who may, in turn, return it to the auditors for yet another round of review. This exercise in administrative "ping pong" ultimately paralyzes not only the enforcement process but also those who are charged with its administration.

To make the enforcement program effective, counsel must abandon its detached role

and be afforded an opportunity to participate in the creative pride associated with developing and presenting a case. This can be best accomplished by having attorneys play integral roles in the development of individual enforcement actions at their incipient stages.

I strongly urge that qualified investigative and litigative attorneys, hired under Schedule A appointing authority of the Civil Service Commission, be immediately assigned to, and placed under the supervision of, the Compliance Office at the National and Regional levels. General Counsel and its counterpart in the Regions should continue to serve as the legal adviser to the Administrator on the enforcement program and have a full opportunity to review all enforcement actions on a timely basis on behalf of the Administrator.

This recommendation appears sound. It is consistent with the comments expressed by the House Committee on Interstate and Foreign Commerce. It should be carried out.

The statement of the managers in commenting on the liaison committee states:

The conference substitute establishes a Leasing Liaison Committee composed of an equal number of members from among the relevant employees of the Department of Energy and the Department of the Interior. The conference substitute deletes the rest of the Senate language which specifies the purposes and responsibilities of the committee. The deletion resulted from recognition by the conferees that many avenues exist for coordination and cooperation between the Secretaries of Energy and Interior and that inclusion of specific purposes and responsibilities could be too limiting in nature. On the other hand, the conferees recognized that separation of responsibilities over energy mineral leasing is somewhat unique and determined that it would be helpful to provide the Departments with an institutional coordinating mechanism to supplement and to assist in alternative interdepartmental coordination efforts. Among the activities which may take place under the committee are consultants on leasing matters, establishment of long-term energy leasing goals, energy resources on the public lands, and other information relevant to leasing decisions and procedures.

Many in the House have doubts about the wisdom of this committee and about the workability of splitting the leasing functions between two departments. Clearly, this committee should not be assigned any actual leasing functions.

The committee should be advisory only. It should draw what staff support it needs from the departments and not build up its own independent staff. The members of this committee should have clear policymaking roles. They should attend all meetings of the committee and not delegate this responsibility.

Most importantly, there must be advance notice of each committee meeting and its agenda. Each meeting should be open to the public, even if not required by law. Frankly, I can foresee no circumstance where closed-door meetings would be warranted, because it is not intended that this committee consider particular lease sales or leases. Openness should be the clear policy.

The bill abolishes the Federal Power Commission. Many in Congress believe such abolishment is a mistake. Clearly, the FPC needs revision, starting with a clean out of the Commissioners and top personnel who appear to bow too low to those they are supposed to regulate, but we questioned the wisdom of this drastic action of abolishment.

The administration proposed to establish a three-member Board within the DOE that would have little independence. Indeed, the Board's functions would have been determined by the Secretary, not Congress. The Natural Gas and Federal Power Acts which are longstanding FPC authorities would have been entirely vested in the Secretary, not the Board. Also, under that proposal, the Board would not have clear and complete authority to hire and fire its personnel.

For these reasons, the Moss-Brooks amendment was adopted in the House Committee on Government Operations which established a five-member, independent regulatory Commission within the DOE, with all powers and responsibilities necessary to make it completely and unequivocally independent of the Secretary. The FPC would be abolished as proposed, but a new Commission, identical in all respects with the FPC insofar as independence is concerned, was established in its place.

Later, this amendment was further strengthened on the House floor, by the Moss-Brown-Dingell amendment adopted by an overwhelming majority. The conference report states:

In light of the high importance, great sensitivity, and large volume of work the body will be responsible for, the House provisions on the size and independence of the Commission was agreed upon.

The new Commission has complete authority to hire and fire its employees, including the retention of all persons now at the FPC whom it considers to be qualified and competent, and there are many.

A recent rumor, heard by this Congressman, is that some FPC Commissioner reportedly said that the staff of FPC was all going to the Secretary and that the new Commission would have but a few people—that is, 50 people. That is not the intention of the conferees. The FPC staff are not transferred to the Secretary, although some may voluntarily transfer to him. The new Commission must have a complete and competent staff to carry out all its functions effectively and expeditiously.

In addition, the conference-reported bill, like the Moss-Brooks amendment, as amended on the House floor, makes it abundantly clear that:

In the performance of their functions, the members, employees, or other personnel of the Commission shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department.

The chairman of the new Commission is responsible for the selection, et cetera of personnel and many other functions. But, of course, he must do so with some guidance by the other members of the Commission. It should, however, be emphasized that the use and expenditure of funds appropriated or made available to the new Commission is a matter that is to be decided by the Commission, and not just the Chairman.

The new Commission will also have control over the preparation and submission to Congress of its budget and over legislation affecting the Commission. The conferees, in adopting this House provision said:

The Conferees agreed to the House amendment. For the Commission to play the effective role intended for it, it must receive all the budgetary resources it needs to carry out its responsibilities. This provision will assure Congress an opportunity to obtain the Commission's own assessment of its budgetary needs. At the same time, the procedure provided will assure the Secretary and the President an adequate time to evaluate the Commission's request and to place it in the context of the Department's overall budgetary needs before forwarding the Department's entire proposed budget, along with the Commission's original request, to Congress.

I want to emphasize again that, under this provision, the Commission, not the Secretary, prepares its budget authorization and appropriation requests, including support data and justifications. As noted by the conference report, the Commission's budget is subject to secretarial and OMB review, but any changes made in the Department or OMB must be provided to the Congress for evaluation.

Similarly, the conferees adopted the House provision relating to legislation affecting the Commission. The conferees said:

The House amendment also contained an additional sentence providing that whenever the Commission submits any legislative recommendations or testimony or comments on legislation to the Secretary, the President or OMB, the Commission shall at the same time provide appropriate Members of Congress with the comments or testimony.

The Senate Conferees receded with an amendment to provide that the provision is only applicable to such legislative recommendations, testimony or comments that are actually prepared for submission to Congress. If the Secretary requests advice from the Commission on a legislative question for his own use, the advice the Commission provides in response would not actually be prepared for submission to Congress and would not be subject to this section. However, if Congress asks the Commission directly for such legislative recommendations, comments, or testimony, or if the Commission prepares such material on its initiative, the provision applies. It would apply when the document is submitted to the Secretary, the President or the OMB even if it is not the actual final document which the Commission intends to submit to Congress.

I think it important to stress that section 552(c) of the Freedom of Information Act applies also whereby the Congress and its committees and subcommittees are entitled even to data exempted by section 552(b) of the FOIA.

The conference report and the statement of the managers make it clear that the FPC's current rules of procedure will continue to apply to the Commission until changed by it, including the various interpretations of law adopted by the courts and the FPC over time. In short, the precedents and custom of the FPC will carry over to the new Commission.

Section 402(a) of the conference report is extremely important. It establishes a very broad jurisdictional basis for the Commission. It fully carries out, and is intended to conform with, the action taken by the House in adopting the Moss-Brown-Dingell amendment earlier this year to what was then sec-

tion 301(b) of H.R. 6804. As the conferees note, the conference report seeks to delineate functions in the manner suggested by the Senate, but this delineation of Commission authority was not, as the conference report states, an attempt to reduce or modify the Commission's jurisdiction to any lesser degree or scope than was provided in the House bill. Thus, it is clear, for example, that the Commission continues to have all the authority the FPC has today under part I of the Federal Power Act concerning the regulation of the development of water power and resources (16 U.S.C. 797–822), including projects located on public lands and reservations. The conferees intend that the Commission clearly has under the conference report the exclusive jurisdiction of all functions under the Federal Power Act relating to the "establishment, review, and enforcement" of rates and charges for the sale and transmission of electric energy, including the very important function of accounting and depreciation and "construction work in progress" under subpart II of the act (16 U.S.C. 824, 824b, 824d to 824h); under section 202(b) of the Federal Power Act relating to interconnection, other than emergency interconnection (16 U.S.C. 824a(b)); and under the Federal Power Act relating to securities and mergers.

Thus, just as the House bill provided, the Secretary will carry out functions concerning emergency interconnections, the exportation of electric energy to a foreign country—subject to rates and charges jurisdiction of the Commission—the establishment of regional districts, and matters relating to interlocking directorates, under the act (16 U.S.C. 824a (a), (c), (d) and (e)).

I think it important to stress here and now that we do not want to see constant squabbling or "turf fights" between the Secretary and the Commission over jurisdiction, nor do we want to see litigation arising because they cannot work out their differences. Clearly, I believe that all functions should be vested in the Commission. But others did not share my view and wanted to give some functions to the Secretary. But all want to see the law work effectively. A delineation of each provision of the law as a means of trying to settle potential differences now is not practicable or desirable. Any such delineation would undoubtedly result in some mistakes. Thus, we devised a general statement of the functions in section 402(a) with the admonition that it is not intended by the conferees to be limiting.

In the case of the Natural Gas Act, the conference report provides that the new Commission will have broad authority under the Natural Gas Act to establish, review, and enforce rates and charges, including wellhead prices—which are made, demanded or received by any natural gas company as defined in the Natural Gas Act—relating to the transportation and sale of natural gas in interstate commerce. The new Commission will also issue and enforce certificates of public convenience and necessity, including any exemption or exemption therefrom, required by the act; establishing, review, and enforce curtailments (other than priorities for curtailment); and regulate mergers and securities.

In commenting on these provisions, the managers' statement provides:

In addition, section 402(a) is worded to make it clear that the Commission will have exclusive jurisdiction over related matters necessary to carry out the Commission's responsibilities, even where they are not referred to specifically in the section.

For example, section 402(a)(1)(B) and, (C) gives the Commission jurisdiction over the establishment of rates and charges for natural gas and wholesale electricity. The Conferees intentionally deleted the wording contained in the Senate bill, giving the Commission jurisdiction in the area of rates and charges only where the Commission action *directly* established the rates or charges. At the same time it specified that the Commission should have jurisdiction over rules governing construction work in progress, as well as the powers to enforce and review rates and charges established by it. *The proposed action, therefore, need not directly establish rates or charges, or directly issue permits or licenses, to be within the exclusive jurisdiction of the Board.* Emphasis supplied.

I cannot emphasize too strongly the importance of this change to insure that the Commission has the broad authority I have mentioned. In addition, that statement comments on a number of other provisions of the Natural Gas and Federal Power Acts as follows:

Similarly, section 402(a)(2) provides a broad list of authorities contained in the Natural Gas Act or the Federal Power Act which the Commission may rely upon in carrying out the Natural Gas Act and Federal Power Act functions within the Commission's exclusive jurisdiction. It is the intent of the Conference that this provision confer upon the Commission the rights to take on its own, without review by the Secretary, rulemaking or other actions under these authorities, even though not specifically referred to in Section 402(a)(1), where the Commission determines such action should be taken in order to carry out the Commission's responsibility over the licensing and pricing and other regulatory matters described in Section 402(a)(1).

As a result, the Commission, under Section 402, will perform the functions now carried out by the FPC in establishing, reviewing and enforcing rates and charges for the transmission or sale of electric energy. The Commission's authority will include but not be limited to suspending rate changes, initiating investigations of rates and charges, including conducting audits of utilities and establishing accounting procedures, holding hearings, and establishing rates after hearing. All rates and charges will be filed with the Commission.

As noted in the managers' statement, the Secretary must also use these functions.

Section 402(f) of the conference report makes it clear that the regulation of exports and imports of natural gas or electricity will be carried out by the Secretary. While the Secretary is authorized to regulate the importation of natural gas, his authority would not preclude the Commission under sections 4, 5, and 7 from refusing to permit a full pass through of an excessive purchase price by an interstate pipeline. With respect to exports, the authority of the Secretary does not include authority to provide an exemption or exception for the seller of exported gas from application of Commission-established wellhead ceiling prices or Commission-approved transportation charges. Because the export sale is a sale in interstate commerce for resale—although the resale will be outside of interstate commerce—the jurisdiction of the Commission under the Natural Gas Act regarding price of this sale is in no way affected by the Secretary's approval of the export.

There are many other matters in this very complex legislation that deserve additional comment, but time does not permit. I think the conferees have done an excellent job in devising a workable division of responsibility between the Commission and the Secretary. I commend my colleagues.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. TRAXLER). Is the gentleman opposed to the conference report?

Mr. KINDNESS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KINDNESS moves to recommit the conference report to accompany the Senate bill S. 826 to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 157, nays 257, answered "present" 1, not voting 18, as follows:

[Roll No. 489]

YEAS—157

Abdnor	Burke, Fla.	English
Anderson, Calif.	Burleson, Tex.	Evans, Del.
Anderson, Ill.	Butler	Evans, Ga.
Andrews, N. Dak.	Caputo	Evans, Ind.
Archer	Cederberg	Fish
Armstrong	Chappell	Flowers
Ashbrook	Clausen, Don H.	Flynt
Badham	Clawson, Del	Fowler
Bafalis	Cleveland	Frey
Barnard	Cochran	Gammage
Bauman	Coleman	Gephardt
Beard, Tenn.	Collins, Tex.	Gilman
Benjamin	Crane	Glickman
Bevill	Cunningham	Goldwater
Bowen	Daniel, Dan	Goodling
Breaux	Daniel, R. W.	Gradison
Breckinridge	de la Garza	Grassley
Brinkley	Derwinski	Guyer
Broomfield	Devine	Hagedorn
Brown, Mich.	Dickinson	Hall
Broyhill	Duncan, Tenn.	Hammer-schmidt
Buchanan	Early	Hannaford
Burgener	Edwards, Ala.	Hansen
	Edwards, Okla.	Hefner

Hightower
Hillis
Holt
Huckaby
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Luken
McClory
McCloskey
McDonald
Mahon
Mann
Marlenee
Marriott
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, John
Nichols
Poage
Pressler
Quayle
Quie
Railsback
Risenhoover
Robinson
Rousselot
Rudd
Runnels
Russo
Ryan
Santini
Satterfield
Schulze
Sebelius
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Stockman
Stump
Symms
Taylor
Treen
Trible
Vander Jagt
Volkmer
Waggonner
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Winn
Wydler
Young, Fla.
Young, Mo.

NAYS—257

Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Bedell
Beilenson
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
Delaney
Dellums
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gibbons
Ginn
Gore
Gudger
Hamilton
Hanley
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kostmayer
Krebs
Le Fante
Leach
Lederer
Leggett
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walsh
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—18

Badillo
Beard, R.I.
Burke, Mass.
Carter
Dent
Derrick
Diggs
Dornan
Flippo
Giaimo
Koch
McKinney
Mikva
Murtha
Ruppe
Teague
Thone
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Until further notice:

Mr. Dent with Mr. Carter.
Mr. Giaimo with Mr. Derrick.
Mr. Murtha with Mr. Diggs.
Mr. Badillo with Mr. Thone.
Mr. Koch with Mr. Ruppe.
Mr. Beard of Rhode Island with Mr. Dornan.
Mr. Mikva with Mr. McKinney.
Mr. Young of Alaska with Mr. Flippo.

Mrs. BOGGS and Mr. JOHN L. BURTON changed their vote from "yea" to "nay."

Mr. DE LA GARZA and Mr. ABDNOR changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 353, nays 57, answered "present" 1, not voting 22, as follows:

[Roll No. 490]

YEAS—353

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Daniel, Dan
Danielson
Davis
Delaney
Dellums
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jordan
Kasten
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Lujan
Luken
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—57

Archer
Armstrong
Ashbrook
Badham
Bauman
Breaux
Broyhill
Burke, Fla.
Burleson, Tex.
Caputo
Clawson, Del
Collins, Tex.
Crane
Cunningham
Daniel, R. W.
de la Garza
Devine
Dickinson
Dornan
Edwards, Okla.
Gammage
Grassley
Hall
Hansen
Holt
Hyde
Jacobs
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
McDonald
Milford
Moore
Moorhead, Calif.

Myers, John	Runnels	Waggonner
Poage	Satterfield	Wampler
Risenhoover	Sebelius	Watkins
Roberts	Stump	Wydler
Robinson	Symms	Young, Alaska
Rousselot	Taylor	
Rudd	Treen	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—22

Badillo	Ford, Mich.	Minish
Burke, Mass.	Giaimo	Rhodes
Carter	Jones, Okla.	Ruppe
Corman	Jones, Tenn.	Stockman
Dent	Koch	Teague
Derrick	Long, Md.	Wilson, C. H.
Diggs	McKinney	
Flippo	Mikva	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Until further notice:

Mr. Dent with Mr. Ruppe.
Mr. Minish with Mr. McKinney.
Mr. Giaimo with Mr. Flippo.
Mr. Badillo with Mr. Carter.
Mr. Mikva with Mr. Diggs.
Mr. Derrick with Mr. Jones of Oklahoma.
Mr. Jones of Tennessee with Mr. Stockman.
Mr. Koch with Mr. Charles H. Wilson of California.
Mr. Ford of Michigan with Mr. Long of Maryland.
Mr. Corman with Mr. Rhodes.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 826, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 320) authorizing the Secretary of the Senate to make corrections in the enrollment of the Senate bill (S. 826), to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 320

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 826), to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In the table of contents of such bill make necessary technical and conforming changes to conform such table to the text of the bill.

(2) In section 102(2) of the bill strike out "jurisdiction" and insert in lieu thereof "jurisdictions".

(3) In section 102(7) of the bill insert "a" immediately before "central".

(4) In section 203(a)(8) of the bill strike out "additional powers" and insert in lieu thereof "additional functions".

(5) In section 204 of the bill strike out "experience, individuals who" and insert in lieu thereof "experience,".

(6) In section 208(g)(3) of the bill, strike out "and responsibilities".

(7) In section 209 of the bill (A) strike out "nuclear weapon" in subsection (b)(3) and insert in lieu thereof "nuclear weapons"; and (B) strike out "202" in subsection (b)(6) and insert in lieu thereof "203".

(8) In section 302(a)(2) of the bill strike out "paragraphs (1)(A), (1)(B), (1)(C), and (1)(C)" and insert in lieu thereof "by paragraphs (1)(A), (1)(B), (1)(C), and (1)(D)".

(9) In section 302(a)(3) of the bill strike out "and authority".

(10) In section 302(b) of the bill strike out "prescribe" and insert in lieu thereof "promulgate".

(11) In section 302(d) of the bill strike out "mining, which shall remain in the Department of the Intrior" and insert in lieu thereof "mining (which shall remain in the Department of the Interior)".

(12) In section 303 of the bill (A) strike out "issued" in subsection (a) and insert in lieu thereof "promulgated"; and (B) strike out "issue" in subsections (b) and (c) and insert in lieu thereof "promulgate".

(13) In section 401 of the bill (A) strike out "this term" in subsection (b) and insert in lieu thereof "his term"; and (B) insert "Act" immediately after "pursuant to this" in subsection (i).

(14) In section 402 of the bill (A) strike out "any regulation" in subsection (c)(1) and insert in lieu thereof "the regulation"; and (B) insert "policy of" immediately after "statements of" in subsection (h).

(15) In section 403(a) of the bill insert "policy of" immediately after "statements of".

(16) In section 405 of the bill (A) strike out "actively" and insert in lieu thereof "activity"; and (B) strike out "intervening or participation" and insert in lieu thereof "intervening or participating".

(17) In section 501 of the bill (A) strike out "403(e)" in subsection (a)(2) and insert in lieu thereof "402(e)"; (B) strike out "the proposed rule" in subsection (c)(1) and insert in lieu thereof "such proposed rule"; and (C) strike out "the rule" in subsection (e) and insert in lieu thereof "such rule".

(18) In section 502(a) of the bill strike out "resting" and insert in lieu thereof "vesting".

(19) In the heading of part A of title VI of the bill strike out "Provision" and insert in lieu thereof "Provisions".

(20) In section 601(a)(2) of the bill strike out "609" and insert in lieu thereof "650".

(21) In section 648(c) of the bill strike out "laws" and insert in lieu thereof "law".

(22) In section 649(b) of the bill strike out "as amended".

(23) In section 709 of the bill (A) redesignate the subsections following subsection (c) as subsections (d), (e), (f), and (g), respectively; and (B) in the matter designated as subsection (d) strike out "(c)(1), (c)(6)," and insert in lieu thereof "(c)(6)".

(24) In section 710 of the bill redesignate subsections (c) through (h) as subsections (b) through (g), respectively.

(25) In section 801(b)(2) of the bill insert a comma after "objectives".

(26) In section 1001 of the bill strike out "623" and insert in lieu thereof "660".

(27) In section 307(6) of the bill strike out "1974" and insert in lieu thereof "1924".

(28) In section 404(a) of the bill strike out "section 301" and insert in lieu thereof "section 301 or 306".

(29) In section 601 (d) of the bill strike out "606 (a)" and insert in lieu thereof "606".

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what this does?

Mr. BROOKS. Yes. I will say to my distinguished friend that these are the technical amendments worked out to correct such things as typographical errors in the conference report.

Mr. ROUSSELOT. What kind of technical amendments?

Mr. BROOKS. Typographical.

Mr. ROUSSELOT. Do they change the substance of the bill?

Mr. BROOKS. No substantive change whatsoever, absolutely none. It just does such things as change the section numbers to make the numbers all correspond.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill S. 826.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that we will not have any substantive legislation other than the energy bill and conference reports?

Mr. WRIGHT. It is not the intention of the leadership to bring up additional major legislation. There are, however, quite a number of bills pending such as the Earthquake Hazards Act and a bill to create a Committee on Population.

In addition, there are conference reports, and if time permits it will be hoped that we might bring up some of them.

Mr. ROUSSELOT. The Committee on World Population, is that major legislation?

Mr. WRIGHT. Major only in the sense, I think, that it has a long range importance. I do not perceive creation of this committee to be a very controversial matter.

Mr. ROUSSELOT. It is controversial, I can assure the gentleman.

Mr. WRIGHT. Well, it is not the intention of the leadership to bring up any additional major legislation.

Mr. ROUSSELOT. I thank the gentleman for his substantial assurances, and withdraw my reservation of objection.

Mr. WRIGHT. The gentleman understands, of course, that conference committee reports, if they become ready for action by the House, would be considered if there is time.

Mr. ROUSSELOT. And require no special rules?

Mr. WRIGHT. That is correct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow, Wednesday, August 3, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NATIONAL ENERGY ACT

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8444) to establish a comprehensive national energy policy.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8444, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, August 1, 1977, all time for general debate had expired.

Pursuant to the rule, the bill is considered by parts and each part is considered as having been read for amendment. No amendment shall be in order except pro forma amendments and amendments made in order pursuant to House Resolution 727, which will not be subject to amendment, except amendments recommended by the ad hoc Committee on Energy and amendments made in order under House Resolution 727.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that the Committee amendments to the table of contents and the table of contents be passed over and considered after all other amendments have been considered, in order that they can be correctly disposed of.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will designate the part of the bill now pending for consideration.

The Clerk read as follows:

Page 9, line 1, section 2. (Section 2 reads as follows:)

SEC. 2. FINDINGS AND STATEMENT OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs;

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for exhaustible energy resources of oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources; and

(4) consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are—

(1) to reduce the growth in demand for energy in the United States through carefully considered institutional and technological changes to conserve exhaustible energy resources produced in this Nation and elsewhere, while not significantly inhibiting beneficial economic growth;

(2) to reduce significantly this Nation's demand for oil (particularly imported oil) and natural gas, to discourage the use of oil and natural gas while assuring, to the greatest extent possible, that such fuels will be available for essential needs, and to encourage the use of coal and other fuels and renewable energy sources to the greatest extent possible, for the benefit of present and future generations;

(3) to establish, through regulation of interstate commerce, taxation, reform of electric utility rate structure, and other measures, a comprehensive energy conservation program applicable to all persons, including Federal and State agencies and local governments, and a program to develop this Nation's indigenous energy resources to achieve the national energy goals established by this Act;

(4) to ensure that all actions taken under or pursuant to this Act are carried out in accordance with applicable environmental requirements;

(5) to ensure that all Federal agencies fully utilize their authorities in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and oil as a primary energy source and by maximizing the efficient use of energy and conserve natural gas and petroleum of all forms in programs funded or administered by such agencies;

(6) to educate all users of energy to insist that all goods and services are energy efficient and to consider lifetime costs in purchasing decisions respecting goods and services of every kind and description;

(7) to prevent unemployment due to temporary or long-term shortages in supplies of natural gas and oil; and

(8) to protect the security of the United States.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line number of the first ad hoc committee amendment.

The Clerk read as follows:

Ad hoc committee amendment: Page 12, strike line 9, and insert the matter printed on lines 11 through 14. (The ad hoc committee amendment reads as follows:)

and

(9) to provide incentives to increase the amount of domestically produced energy in the United States for the benefit and security of present and future generations.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment simply adds an additional purpose to the statement of purposes of the bill before us, H.R. 8444. Specifically, the new purpose is as follows: To provide an incentive to increase the amount of domestically produced energy in the United States for the benefit and security of present and future generations.

Mr. Chairman, this purpose was intended to be covered by the bill, and explicit inclusion of this purpose in the statement of purposes was supported by the ad hoc committee as a conforming amendment. My impression, Mr. Chairman, is that there is no controversy over this amendment, which was offered by the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, the amendment does, I think, express very well one of the purposes that the members of the ad hoc committee on both sides of the aisle supported. The amendment was offered by myself and includes an amendment to it offered by the gentleman from Michigan (Mr. DINGELL). I thank the gentleman for his support of it.

Mr. ASHLEY. Mr. Chairman, it is a good amendment.

The ad hoc committee amendment was agreed to.

The CHAIRMAN. The Clerk will designate the next part for consideration.

The Clerk read as follows:

Page 12, line 15, section 3. (Section 3 reads as follows:)

SEC. 3. NATIONAL ENERGY GOALS.

The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6, Use of solar energy in more than 2½ million homes.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment blends the provisions of the Committee on Interstate and Foreign Commerce reported version of the bill with that of the Committee on Banking, Finance and Urban Affairs version, with respect to the utility program for existing residential buildings.

Specifically, Mr. Chairman, this amendment provides that the Governor of a State prepare a list of contractors, lending institutions and utilities, and inform customers, those persons on this list, to the extent that the Governor determines practicable.

The amendment provides that beginning 2 years after the date of the enactment, the utility could be prohibited from making loans if, after notice and an opportunity for a hearing, the administrator determined that the rates, terms and conditions of such terms are unreasonable, or the financing of that utility has a substantial adverse effect on competition.

I might just add, Mr. Chairman, that this amendment reflects a compromise that was arrived at between the Committee on Interstate and Foreign Commerce and the Committee on Banking, Finance and Urban Affairs.

The role of utilities with respect to residential weatherization was jointly referred to these two committees. The amendment, as I say, does reflect an accommodation between the positions of these two committees, which were not really in wide disagreement on the purpose, although it was necessary to have a reconciliation of the provisions.

What is called for here is a striking of the various provisions of the version of the Committee on Banking, Finance and Urban Affairs, as reflected in the amendment.

Mr. Chairman, I will be happy to yield at this juncture to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I believe that we are addressing the amendment which was offered jointly by my good friend, the gentleman from Ohio (Mr. ASHLEY), and myself, which is an amendment in two parts. The first part concerns information sent to residential customers concerning suppliers, contractors, and financing arrangements for the purchase and installation of residential energy conservation items.

The CHAIRMAN. The Chair will inform the gentleman from Michigan (Mr. DINGELL) that the Clerk has not read that title.

Mr. DINGELL. Then, Mr. Chairman, I shall await the pleasure of the Chair on that particular point and will address the Chair on that matter later.

The CHAIRMAN. The Clerk will designate the next part of the bill for consideration.

The Clerk read as follows:

Page 13, line 6, section 4, (section 4 reads as follows:)

SEC. 4. REFERENCES TO FEDERAL POWER COMMISSION AND FEDERAL ENERGY ADMINISTRATION.

If the Federal Power Commission or the Federal Energy Administration is terminated, any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of such Commission or Administration (as the case may be) are vested, transferred, or delegated pursuant to law.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ANDERSON of Illinois. Mr. Chairman, I am uncertain as to why we have just had the Clerk read another section of the bill.

Are we not still dealing with the second committee amendment that was offered by the chairman of the committee, the gentleman from Ohio (Mr. ASHLEY)?

The CHAIRMAN. The Chair will inform the gentleman that the part now pending is section 4 on page 13 of the bill.

Does the gentleman wish to debate that part at this time?

Mr. ANDERSON of Illinois. Mr. Chairman, I merely want to protect my right to rise in opposition to this particular committee amendment, and I am concerned that in the reading of the next part I may not be accorded that right.

The CHAIRMAN. The Chair will inform the gentleman there is no amendment now pending.

Mr. ANDERSON of Illinois. I am sorry, but I did not hear the Chair's statement.

The CHAIRMAN. The Chair will inform the gentleman that there is not now pending a committee amendment.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Chairman, so I will know how we are going to proceed, are we going to go through the bill section by section, with the reading of each section?

The CHAIRMAN. The Chair will inform the gentleman that the bill will be considered part by part with each part considered as read. The bill will not be read section by section.

Mr. VOLKMER. So we will continue, Mr. Chairman, with the reading of each section or part, then, and the title of the section?

The CHAIRMAN. The Chair will further inform the gentleman that section 4 precedes part I, and after that section has been disposed of, we will move to part I of the bill. We have been considering the preliminary four sections as separate parts.

Mr. VOLKMER. I thank the Chair.

The CHAIRMAN. The Clerk will designate the next part of the bill for consideration.

The Clerk read as follows:

Page 13, line 16, Title I, Part 1 (Title I, Part 1 reads as follows):

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart A—Utility Program

SEC. 101. DEFINITIONS.

As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(3) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for purposes other than resale.

(4) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(5) The term "nonregulated utility" means a public utility which is not a regulated utility.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "residential building" means any building used for residential occupancy which is not a new building to which the final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a mechanical or electrical system for heating or cooling, or both.

(9) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(10) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;

(B) furnance efficiency modifications including—

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed windows and doors;

(G) replacement furnaces which exceed the energy efficiency standards promulgated under section 325 of the Energy Policy and Conservation Act by not less than an amount determined by the Administrator to provide substantial energy conservation benefits;

(H) devices associated with load management techniques as defined in section 521 (b);

(I) devices to utilize solar energy or windpower for any residential energy conservation purpose, including (but not limited to) heating of water, space heating or cooling; and

(J) such other measures as the Administrator may by rule identify for purposes of this subpart.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this subpart unless such measure is warranted to meet a specified level of performance over a period of not less than three years.

(11) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 103(c) which is developed by a State regulatory authority or by a nonregulated utility.

(12) The term "State" means a State, the District of Columbia, and, at the discretion of the Administrator, Puerto Rico.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority such term means the Tennessee Valley Authority.

(14) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 103(a), determines to be appropriate for the location and the category of residential buildings which includes such building.

(16) The term "utility program" means a program meeting the requirements of section 104 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a state regulatory authority;

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued under section 106.

SEC. 102. COVERAGE.

This subpart shall apply in any calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility exceeded 10 billion cubic feet or (2) sales of electric energy by such utility for purposes other than resale exceeded 200 million kilowatt hours.

SEC. 103. RESIDENTIAL ENERGY CONSERVATION PLANS.

(a) PROMULGATION OF RULES BY ADMINISTRATOR.—The Administrator shall, not later than 120 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, acting through the National Bureau of Standards, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Administrator shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Administrator shall afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards for the programs and procedures required under subsections (d)(4) and (e)(3) and standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsection (d)(2) and (e)(2); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1) Not later than 180 days after promulgation of rules under subsection (a), each State regulatory authority may submit, and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or nonregulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) In the case of a State which is receiving funds under part C of title III of the Energy Policy and Conservation Act for purposes of carrying out a State energy conservation plan under such part, if the Governor of such State notifies the Administrator and the State regulatory authority not later than 30 days after promulgation of rules under subsection (a), the department or agency of such State may, in lieu of the State regulatory authority, submit a proposed residential energy conservation plan to the Administrator for the utilities regulated by such State regulatory authority. In any case where such plan has been submitted by such department or agency, the references in this subpart (other than in section 101(13)) to the State regulatory authority shall be treated as references to such department or agency, with respect to each utility over which such State regulatory authority exercises ratemaking authority.

(d) REQUIREMENTS FOR PLANS FOR REGULATED UTILITIES.—No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program which meets the requirements of section 104;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State, including—

(A) provisions to assure that the lists required to be prepared and sent to residential customers under such program are prepared in a fair, open, and nondiscriminatory manner,

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the State regulatory authority or an appropriate State agency designated by such authority, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that each regulated utility will carry out such utility program;

(4) contains adequate procedures to assure that each regulated utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located; and

(5) is adopted after notice and public hearing; and

(6) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 104;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program including—

(A) provisions to assure that the lists required to be prepared and sent to residential customers under such program are pre-

pared in a fair, open, and nondiscriminatory manner,

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the Administrator or an appropriate agency or authority designated by the Administrator, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that such utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

SEC. 104. UTILITY PROGRAMS.

(a) REQUIREMENTS FOR UTILITY PROGRAMS.—(1) Except as provided in subsection (b) and section 105, each utility program shall include—

(A) procedures designed to inform, no later than January 1, 1980, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(i) the suggested measures for the category of buildings which includes such residential building;

(ii) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(iii) the availability of the arrangements described in subparagraph (B), the inspectors, suppliers, and contractors described in subparagraph (C), and the public and private lending institutions described in subparagraph (D);

(B) procedures whereby the public utility, no later than January 1, 1980, will, for each such residential customer, offer to—

(i) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure and keep a copy of the inspection report on file which shall be available to any subsequent owner without charge, except that a utility shall be required to make only one inspection of a residence unless a new owner requests and offers to pay for a subsequent inspection;

(ii) have the suggested measures (other than replacement furnaces described in section 101(10)(G)) installed if this clause applies as provided in subsection (b);

(iii) assist such residential customer in securing a loan to finance the purchase and installation costs of suggested measures;

(C) procedures whereby the public utility prepares and sends to each of its residential customers a list of suppliers and contractors in its service area who sell and install residential energy conservation measures and are willing to perform a residential inspection and give an estimate of costs, which procedures are designed to encourage participation by such contractors and suppliers in a nondiscriminatory manner in the activities to be carried out under subparagraph (B);

(D) procedures whereby the public utility prepares and sends to each of its residential customers a list of banks, savings and loan associations, credit unions, and other public and private lending institutions in its service area which offer loans for the purchase and installation of residential energy conservation measures; and

(E) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 106) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not charged to customers of the utility as part of any rate charged for electric power or natural gas, except that any amounts expended by the utility to provide information under provisions referred to in subparagraph (A) shall be treated for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(2) The costs of carrying out any activity as part of a utility program under this section (other than the costs of providing information under the provisions referred to in paragraph (1)) shall be charged to the person for whom such activity is performed. Such costs shall be stated separately from the cost of providing utility service on any billing submitted by the utility to such person.

(3) In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980, and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subparagraph (A) of paragraph (1) and offer such person the opportunity to enter into arrangements referred to in subparagraph (B) of paragraph (1).

(b) SUPPLY AND INSTALLATIONS BY UTILITIES.—(1) After the date 2 years after the date of enactment of this Act, any public utility which directly or indirectly supplies or installs any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) shall be treated for purposes of this subpart as supplying or installing such measure under a program under this section. After such date 2 years after the date of enactment of this Act, the provisions of subsection (a)(1)(B)(ii) shall apply and public utilities shall be required to offer to have suggested measures installed under programs under such provisions, if the Administrator determines that—

(A) the supplying or installing of such measures by utilities would not have a substantial anticompetitive effect, and—

(B) the supplying or installing of such measures would result in a substantial increase in the number of residential customers likely to install suggested measures, and would not result in excessive prices for residential conservation measures by reason of increased demand for such measures.

Before making his determination under subparagraph (A), the Administrator shall take into account a report by the Federal Trade Commission respecting such determination. Such report shall be undertaken by the Federal Trade Commission and submitted to the Administrator within 18 months after the date of enactment of this Act and shall include a study of the effect on competition of requiring utilities to supply or install such measures under the program under this subpart.

(2) Subsection (a)(1)(B)(ii) shall not apply and a public utility may not directly or indirectly supply or install any residential energy conservation measure after the date 2 years after the date of the enactment of this Act if—

(A) the State regulatory authority or the Administrator determines that there are available sufficient numbers of suppliers or installers of suggested measures in the area to be served by the utility,

(B) the State regulatory authority, the Administrator, or the Federal Trade Commission determines that the supplying or installing of such measures by such utility would have a substantial anticompetitive effect, or

(C) the State regulatory authority or the Administrator determines that prohibiting utilities from supplying or installing such measures will not result in a substantial reduction of the number of residential customers likely to install suggested measures.

(3) Subparagraphs (A) and (C) of paragraph (2) shall not apply to any public utility which directly or indirectly supplied or installed any such measure during the period from April 20, 1974, to and including April 20, 1977.

(4) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

(c) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) LOANS BY UTILITIES.—Nothing in this section shall be construed as prohibiting any public utility from making loans to residential customers for the purpose of financing the purchase and installation of residential energy conservation measures. In the case of any such loan made by a public utility to a residential customer for such purpose, the public utility shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he otherwise elects) except that—

(1) a lump sum payment of outstanding principal and interest may be required upon default in payment by the residential customer (other than a late payment by such customer), and

(2) no penalty shall be imposed for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

SEC. 105. TEMPORARY PROGRAMS.

Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 103. A temporary exemption may be granted from the requirements of section 104 for a period not to exceed 3 years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential

customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings in its service area.

SEC. 106. FEDERAL STANDBY AUTHORITY.

(a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State regulatory authority does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 103(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 103 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 104.

(b) NONREGULATED UTILITIES.—If a nonregulated utility does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a) or within such additional period as the Administrator may allow pursuant to section 103(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which meets the requirement specified in subsection (e) of section 103.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2) A civil penalty under this subsection shall be assessed by an order of the Administrator made on the record after notice and opportunity for a hearing.

(3) Any person who requested a hearing in accordance with paragraph (2) regarding the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the appropriate United States Court of Appeals. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after the court in an action brought under paragraph (3) has entered a final judgment requiring such payment,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in such court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) STATE AND LOCAL LAW.—Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this subpart.

(b) LAWS RELATING TO UNFAIR COMPENSATION AND DECEPTIVE ACTS.—Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

(d) PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—No loan made by a utility under a utility program under this subpart shall be treated as the acquisition of any security, asset, or other interest in any business for purposes of section 9 of the Public Utility Holding Company Act of 1935.

SEC. 108. CONTRACT PROVISIONS.

No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

SEC. 109. RULES.

The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

SEC. 110. PRODUCT STANDARDS.

The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of in suring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Administrator for each of the first three fiscal yaers beginning after the date of the enactment of this Act $5,000,000 to carry out his responsibilities under this subpart.

SEC. 112. STUDY RESPECTING ENERGY EFFICIENCY STANDARDS.

(a) STUDY (1) The Administrator shall undertake a study and submit recommendations (including recommendations for legislative action) to the President and Congress respecting the application of energy conservation standards to existing residential buildings. Such study shall include an analysis of, and recommendations respecting

(A) the type and coverage of residential energy conservation standards, if any, which are necessary and desirable to carry out the purposes of this Act, and

(B) any measures necessary to insure compliance with such standards.

(2) The study and recommendations referred to in paragraph (1) shall include an analysis of

(A) whether or not Federal financial assistance (within the meaning of title III of the Energy Conservation and Production Act) should be withheld or conditioned in the case of existing residential buildings which do not meet energy conservation standards and whether or not some other means of insuring compliance with such standards should be implemented, and

(B) the classes or categories of existing residential buildings and building owners which should be exempted from any mandatory program which may be recommended under paragraph (1).

(b) CONSULTATION.—In carrying out his functions under subsection (a), the Administrator shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Administrator shall, to the extent practicable, make use of the National Institute of Building Sciences.

(c) CONSIDERATION OF FACTORS.—In making any recommendations under subsection (a) of this section, the Administrator shall consider—

(1) the economic imoact of the measures recommended on the property owners,

(2) the savings in energy costs resulting from measures recommended throughout the estimated remaining useful life of the existing residential buildings to which such recommendation applies,

(3) the cost of complying with such measures,

(4) the cost of administering any such measures recommended under subsection (a)(1)(B),

(5) the total cost, per Btu, in obtaining the energy savings likely to result from such recommended measures, computed for each class of existing residential building to which such recommendation applies, and

(6) any other factors the Administrator considers relevant.

(b) SUBMISSION.—The recommendations developed by the Administrator under subsection (a) shall be submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act.

SEC. 101B. SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.

(a) Section 367 of the Energy Policy and Conservation Act is amended to read as follows:

"SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

"SEC. 367. (a)(1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines may include the provisions of one or more model supplemental State energy conservation plans with respect to any requirements of this section.

"(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

"(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

"(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

"(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

"(B) such plan under this section may be administered;

as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

"(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

"(6) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Administrator pursuant to this section.

"(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

"(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

"(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable resource energy measures;

"(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable resource energy measures; and

"(iii) in support of utility programs being carried out pursuant to section 368, convenient sources of comprehensive information concerning materials, contractors, financing, and consumer protection resources;

"(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration, and any utilities program carried out by the Farmers Home Administration and the Rural Electrification Administration;

"(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State, in accordance with and supplementary to energy audies carried out under section 368;

"(D) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures, residential energy conservation measures, and renewable resource energy measures, and may include procedures (by use of inspection or other techniques) to determine the quality of materials and installation techniques being employed with respect to such measures; and

"(E) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

"(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

"(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B) (C) and (D) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

"(B) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures;

"(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act.

"(c) Any State receiving assistance under this section shall, in such form and on such date as specified by the Administrator, make annual reports to the Administrator with respect to activities conducted (in the year preceding the one in which the report is submitted) wihin such State pursuant to the plan developed, implemented, or modified with such assistance.

"(d) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) The Administrator of the Federal Energy Administration shall, within 6 months after the date of enactment of this Act, prescribe amended guidelines for the purpose of carrying out the changes in section 367 of the Energy Policy and Conservation Act which result from the amendment made by subsection (a) of this section. At least 60 days prior to the date of publication of final amended guidelines, the Administrator shall publish proposed amended guidelines in the Federal Register and invite public comments thereon.

SEC. 102B. UTILITY PROGRAMS.

(a) Part C of title III of the Energy Policy and Conservation Act is amended by adding the following new section at the end thereof:

"UTILITY PROGRAMS

"SEC. 368. (a) The Administrator shall, not later than 120 days after the date of enactment of this section and after consultation with the Secretary of Housing and Urban Development, the Administrator of the Farmers' Home Administration, and the heads of such other agencies as the Administrator deems appropriate, promulgate rules for the content and implementation of residential energy conservation plans. The rules prescribed pursuant to this subsection shall identify the approved measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate; and may include standards for general safety for the protection of health and on the effectiveness of any approved measure; standards for installation of any residential energy conservation measure; and such other requirements as the Administrator may determine to be necessary to carry out this section.

"(b) Not later than 180 days after promulgation of the rules described in subsection (a), the Governor of a State or his designee may submit for regulated and nonregulated utilities in the State a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a Governor of a State or his designee, extend the time period for submission of a plan. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the Governor of a State or his designee may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a Governor of a State or his designee may submit an amended plan with the consent of the Administrator.

"(c) No residential energy conservation plan submitted by the Governor of a State or his designee shall be aproved by the Administrator unless such plan, (1) requires each regulated utility to implement a utility program described in subsection (d); (2) provides for the implementation by nonregulated utilities of a utility program described in subsection (d); (3) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within the State; (4) contains adequate procedures to assure that each regulated utility will carry out a utility program; (5) contains procedures pursuant to which each nonregulated utility will submit a written report to the Administrator through the State, not later than one year after approval of such plan and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated pursuant to subsection (a); (6) is certified by the Governor of the State to be consistent with any plan submitted under section 362 or 367 of this Act; and (7) meets such other requirements as may be prescribed in the rules promulgated pursuant to subsection (a).

"(d) Each utility program shall include procedures designed to inform, no later than January 1, 1980, each of its residential customers who owns or occupies a residential building of (1) the approved measures for the category of buildings which includes such residential building; (2) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; (3) the availability of procedures whereby the public utility will offer each such residential customer the opportunity to enter into arrangements with the public utility under which the public utility, directly or through one or more contractors, will, at the cost of the customer, inspect the residential building for purposes of conducting an energy audit and determin-

ing and apprising the residential customer of the estimated cost and savings of purchasing and installing appropriate approved energy conservation measures; and (4) sources for information concerning materials, contractors, financing, and consumer protection resources by furnishing to residential customers such publications as have been provided pursuant to section 367(b)(1)(A)(iii) of this Act.

"(c)(1) Except for utilities established pursuant to the Rural Electrification Act, no utility may, except pursuant to the procedures established by this subsection—

"(A) offer to have approved residential energy conservation measures installed, or

"(B) make, or arrange for another lender to make, a loan to any residential customer to finance the purchase and installation costs of approved measures purchased from or installed by the public utility, the public utility and one or more contractors, or one or more contractors.

"(2) Prior to January 1, 1980, the prohibitions contained in paragraph (1) of this subsection shall not apply to the continuation by a utility of activities described in subparagraphs (A) and (B) of paragraph (1) which were being conducted by that utility on October 31, 1977.

"(3) The Administrator may, upon petition of a public utility, supported in the case of a regulated utility by the State regulatory authority, waive in whole or in part the prohibitions contained in paragraph (1) of this subsection with respect to the utility program of such utility if such utility demonstrates to the satisfaction of the Administrator that, in carrying out such activities fair and reasonable prices and rates of interest would be charged and the Administrator finds, after consultation with the Federal Trade Commission, that such activities would not be inconsistent with respect to the prevention of unfair methods of competition and unfair or deceptive acts or practices.

"(f) If a Governor of a State or his designee has not had a plan approved under subsection (b) within 270 days after promulgation of rules under subsection (a), or within such additional period as the Administrator has allowed pursuant to subsection (b), or if the Administrator determines that such Governor of a State or his designee has not adequately implemented an approved plan, or if the Administrator determines that a nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require each regulated utility in the State or such nonregulated utility to offer its customers a utility program which meets the requirements specified in subsections (c) and (d). If the Administrator determines that any public utility to which an order has been issued pursuant to this subsection has failed to comply with such order, he may petition the district courts of the United States to enjoin such utility from violating an order issued pursuant to this subsection. Any public utility which violates an order under this subsection shall be subject to a civil penalty of not more than $1,000 for each violation. Each day that such violation continues shall be considered a separate violation, and any penalty paid pursuant to this subsection may not be, directly or indirectly, charged to or collected from residential customers of such utility.

"(g) The Administrator may, by order upon petition by a public utility and for good cause, supersede any law or regulation of any State or political subdivision thereof to the extent that such law or regulation prohibits a public utility from taking any action required to be taken under this section.

"(h) Nothing in this Act shall be construed as restricting the jurisdiction of the Federal Trade Commission under any provision of law, including this Act, to prevent unfair or deceptive acts or practices by public utilities in connection with utility programs under this section, including jurisdiction to enforce all applicable trade regulation rules issued under the Federal Trade Commission Act and all applicable provisions of the Consumer Credit Protection Act.

"(i) Nothing contained in section 104(4) of the Truth in Lending Act, Public Law 90–321 or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this section.

"(j) The Administrator is authorized to promulgate such rules as may be necessary to carry out this section.

"(k) For purposes of this section and, in the case of the term defined in paragraph (9), section 367:

"(1) The term 'Administrator' means the Administrator of the Federal Energy Administration.

"(2) The term 'nonregulated utility' means a public utility which is not a regulated utility.

"(3) The term 'public utility' means any person, Federal agency, State agency, and any agency of any political subdivision of a State which is engaged in the business of selling natural gas or electric energy for purposes other than resale: except that such term shall be deemed not to include any such person or agency in any calendar year unless during the second preceding calendar year either (A) sales of natural gas by such person or agency exceeded ten billion cubic feet, or (B) sales of electric energy by such person or agency exceeded two hundred million kilowatt-hours.

(4) The term 'rate' means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

"(5) The term 'ratemaking authority' means authority to fix, modify, approve, or disapprove rates.

"(6) The term 'regulated utility' means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

"(7) The term 'residential building' means any building developed for residential occupancy, which has a mechanical or electrical system for heating or cooling, or both, and which contains no more than four dwelling units.

"(8) The term 'residential customer' means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

"(9) The term 'residential energy conservation measure' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) hot water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.

"(10) The term 'residential energy conservation plan' means a plan approved by the Administrator pursuant to this section which is developed by the Governor of a State or his designee.

"(11) The term 'State' means a State, the District of Columbia, Puerto Rico, and, at the discretion of the Administrator, any territory or possession of the United States.

"(12) The term 'State regulatory authority' means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency).

"(13) The term 'approved measures' means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to this section, determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be designated as approved measures, the Administrator shall consider the resulting cost of the energy audit to be conducted and its effect on the willingness of residential customers to participate in the utility program.

"(14) The term 'utility program' means a program meeting the requirements of this section carried out by—

"(A) a regulated or nonregulated utility pursuant to a residential energy conservation plan developed by the Governor of a State or his designee; or

"(B) a regulated or nonregulated utility pursuant to an order of the Administrator issued pursuant to this section.".

(b) Section 366(3)(B)(ii) of such Act is amended by inserting the following before the period: ", or in the case of a utility program described in section 368".

Subpart B—Weatherization Grants for the Benefit of Low-Income Families

SEC. 121. FEDERAL ENERGY ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a)(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting the following after "Budget,": "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b)(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall

include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504 (c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendments and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of all exterior doors and windows:

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) hot water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat, absorbing or heat-reflective windows and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) Section 415 of such Act is amended—

(1) by striking out "weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not to exceed 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414 (b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

(d) Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 122. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a) Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Administrator of the Federal Energy Administration for the purpose of coordinating the weatherization programs under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit, the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that not more than $800 of any grant made under this section be expended, with respect to any dwelling unit, on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified superivsors.

"(4) For purposes for this subsection, the terms 'elderly', 'handicapped', 'low income' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of such amount is authorized to be appropriated for making grants pursuant to section 504(c)".

SEC. 123. AVAILABILITY OF LABOR.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504(c) of the Housing Act of 1949:

(1) First, the Administrator of the Federal Energy Administration (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

Subpart C—Secondary Financing and Loan Insurance for Energy Conserving Improvements

SEC. 141. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

"SEC. 314. (a) As soon as practicable after the date of enactment of the National Energy Act, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or

advance of credit at any time before the term of repayment expires:

"(2) such loan or advance of credit involves an interest rate which the Secretary establishes (after consulting with the Secretary of Agriculture and the Administrator of the Federal Energy Administration), taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below that which the Association is required to pay under subsection (d); and

"(3) the amount of any such loan or advance of credit does not exceed $2,200.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, at the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes of which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $2,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 90 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

SEC. 142. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

Subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(2) the term 'energy conserving improvements' shall mean the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and".

SEC. 143. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF NATIONAL HOUSING ACT.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act) and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage insured under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment."

SEC. 144. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act), the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever he or she determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I or section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now hereafter in force, and the

purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amount exceed $3,000,000,000 at any one time.".

Subpart D—Miscellaneous

SEC. 161. ENERGY-CONSERVING IMPROVEMENTS FOR PUBLIC HOUSING.

Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to the approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

SEC. 162. ENERGY-CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Energy Act.".

(b) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"SEC. 528. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SEC. 163. SOLAR ENERGY SYSTEMS.

(a) Subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar, wind, or other solar-derived energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration.".

(b) Section 203(b)(2) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(c) Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(d) Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this Act for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

SEC. 164. STUDIES.

(a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) in conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the difficulties of administering such a requirement and the sanctions required to make such a requirement effective;

(5) the likely problems and disruptions for sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Department of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973;

(6) the extent to which the available supply of residential dwellings could be reduced at the time of application of such mandatory Federal actions, and the resulting effect on the price of those remaining dwelling units eligible for sale; and

(7) the impact on major housing rehabilitation efforts and voluntary efforts for energy conservation, during the period of the development of the standards, as a result of the uncertainty with respect to what standards might be imposed.

(c) The Secretary shall report, no later than 1 year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

(d) In addition to the study described in subsections (a) through (c), the Secretary shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a preliminary report at the end of the first year after the date of enactment of this Act and a final report no later than 3 years after such date to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations made for legislative purposes which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 165. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

SEC. 166. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof a new sentence, to read as follows: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security.".

SEC. 167. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National

Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

SEC. 168. WEATHERIZATION STUDY.

The Administrator of the Federal Energy Administration, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of the Community Services Administration shall conduct a joint study which shall monitor, in a coordinated manner, the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken independently of this Act and such amendments. Such officials shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby, and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line number of the ad hoc committee amendment to title 1, part 1, of the bill.

The Clerk read as follows:

Ad hoc committee amendment: Page 13, line 20, strike out the matter beginning on page 13, line 20, through page 58, line 18, and insert the matter beginning on page 58, line 19, through page 88, line 9 (the ad hoc committee amendment reads as follows:

Subpart A—Utility Program

SEC. 101. DEFINITIONS.

As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(3) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for purposes other than resale.

(4) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(5) The term "nonregulated utility" means a public utility which is not a regulated utility.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "residential building" means any building used for residential occupancy which is not a new building to which the final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a mechanical or electrical system for heating or cooling, or both.

(9) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(10) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed windows and doors;

(G) replacement furnaces which exceed the energy efficiency standards promulgated under section 325 of the Energy Policy and Conservation Act by not less than an amount determined by the Administrator to provide substantial energy conservation benefits;

(H) devices associated with load management techniques as defined in section 521 (b);

(I) devices to utilize solar energy or windpower for any residential energy conservation purpose, including (but not limited to) heating of water, space heating or cooling; and

(J) such other measures as the Administrator may by rule identify for purposes of this subpart.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this subpart unless such measure is warranted to meet a specified level of performance over a period of not less than three years.

(11) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 103 (c) which is developed by a State regulatory authority or by a nonregulated utility.

(12) The term "State" means a State, the District of Columbia, and, at the discretion of the Administrator, Puerto Rico.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority such term means the Tennessee Valley Authority.

(14) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 103 (a), determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Administrator shall consider the resulting cost of the inspection required to be conducted under section 104 (a)(1)(B)(i) and its effect on the willingness of residential customers to participate in the utility program.

(16) The term "utility program" means a program meeting the requirements of section 104 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority;

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued under section 106.

SEC 102. COVERAGE.

This subpart shall apply in any calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet or (2) sales of electric energy by such utility for purposes other than resale exceeded 200 million kilowatt-hours.

SEC. 103. RESIDENTIAL ENERGY CONSERVATION PLANS.

(a) PROMULGATION OF RULES BY ADMINISTRATOR.—The Administrator shall, not later than 120 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans. No later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, acting through the National Bureau of Standards, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Administrator shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Administrator shall afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards for the programs and procedures required under subsections (d)(4) and (e)(3) and standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d)(2) and (e)(2); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1) Not later than 180 days after promulgation of rules under subsection (a), each State regulatory authority may submit and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or nonregulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such

plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) If the Governor of any State notifies the Administrator and the State regulatory authority not later than 30 days after promulgation of rules under subsection (a), the department or agency of such State, which is receiving funds under part C of title III of the Energy Policy and Conservation Act for purposes of carrying out a State energy conservation plan under such part, may (in lieu of the State regulatory authority) submit a proposed residential energy conservation plan to the Administrator for the utilities regulated by such State regulatory authority. In any case where such plan has been submitted by such department or agency, the references in this subpart (other than in section 101(13)) to the State regulatory authority shall be treated as references to such department or agency, with respect to each utility over which such State regulatory authority exercises ratemaking authority. Any such plan may, in the discretion of the Governor, apply to nonregulated utilities in the State in the same manner as to regulated utilities. In any such case references in this subpart to regulated utilities (including references to regulated utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references to nonregulated utilities shall not apply.

(3) Paragraph (2) shall not apply in the case of the Tennessee Valley Authority or to any public utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(3)(A) The Governor of each State (or his designee) shall, not later than 270 days after the date of the enactment of this Act, prepare with respect to the service area of each utility in such State—

(i) a list of suppliers and contractors who sell and install residential energy conservation measures, and

(ii) a list of banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

The Governor (or his designee) shall make such lists available to the utilities in such State and to other persons. In the case of any utility's service area for which the Governor or his designee has not prepared and made available any such list within such 270-day period, the Administrator shall prepare and make available such list, as soon as practicable after such period.

(B) The lists required under subparagraph (A) shall be prepared in a fair, open, and nondiscriminatory manner, and in preparing and making available such lists, the Governor or his designee (or the Administrator) shall take such steps as may be necessary to—

(i) prevent unfair, deceptive, or anticompetitive acts or practices by persons selling or installing residential energy conservation measures and institutions offering loans for the purchase and installation of such measures, and

(ii) assure that any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor or his designee (or the Administrator).

(d) REQUIREMENTS FOR PLANS FOR REGULATED UTILITIES.—No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program which meets the requirements of section 104;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State, including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measuers, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the State regulatory authority or an appropriate State agency designated by such authority, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that each regulated utility will carry out such utility program;

(4) contains adequate procedures to assure that each regulated utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located; and

(5) is adopted after notice and public hearing; and

(6) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 104;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the Administrator or an appropriate agency or authority designated by the Administrator, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that such utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

SEC. 104. UTILITY PROGRAMS.

(a) REQUIREMENTS FOR UTILITY PROGRAMS.—(1) Except as provided in subsection (b) and section 105, each utility program shall include—

(A) procedures designed to inform, no later than January 1, 1980, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(i) the suggested measures for the category of buildings which includes such residential building;

(ii) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(iii) the availability of the arrangements described in subparagraph (B) and the lists made available under section 103(c)(3);

(iv) suggestions of energy conservation techniques, developed by the Administrator, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the potential savings in energy costs that are likely to result from the adoption of the Administrator's suggestions);

(B) procedures whereby the public utility, no later than January 1, 1980, will, for each residential customer, offer to—

(i) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure and keep a copy of the inspection report on file which shall be available to any subsequent owner without charge, except that a utility shall be required to make only one inspection of a residence unless a new owner requests and offers to pay for a subsequent inspection;

(ii) have the suggested measures (other than replacement furnaces described in section 101(10)(G)) installed if this clause applies as provided in subsection (b);

(iii) assist such residential customer in securing a loan to finance the purchase and installation costs of suggested measures;

(C) procedures whereby the public utility prepares and sends to each of its residential customers the lists made available pursuant to section 103(c)(3) to the extent that the sending of such lists is practicable, as determined by the Governor or his designee (or the Administrator in any case in which the Administrator prepared such list); and

(D) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 106) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not charged to customers of the utility as part of any rate charged for electric power or natural gas, except that any amounts expended by the utility to provide information under provisions referred to in subparagraph (A) shall be treated for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(2) The costs of carrying out any activity as part of a utility program under this section (other than the costs of providing information under the provisions referred to in paragraph (1)(A)) shall be charged to the person for whom such activity is performed. Such costs shall be stated separately from the cost of providing utility service on any billing submitted by the utility to such person.

(3) In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980, and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subparagraph (A) of paragraph (1) and offer such person the opportunity to enter into arrangements referred to in subparagraph (B) of paragraph (1).

(b) SUPPLY AND INSTALLATION BY UTILITIES.—(1) After the date 2 years after the date of enactment of this Act, any public utility which directly or indirectly supplies or installs any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) shall be treated for purposes of this subpart as supplying or installing such measure under a program under this section. After such date 2 years after the date of enactment of this Act, the provisions of subsection (a)(1)(B)(ii) shall apply and public utilities shall be required to offer to have suggested measures installed under programs under such provisions, if the Administrator determines that—

(A) the supplying or installing of such measures by utilities would not have a substantial anticompetitive effect, and

(B) the supplying or installing of such measures would result in a substantial increase in the number of residential customers likely to install suggested measures, and would not result in excessive prices for residential energy conservation measures.

Before making his determination under subparagraph (A), the Administrator shall take into account a report by the Federal Trade Commission respecting such determination. Such report shall be undertaken by the Federal Trade Commission and submitted to the Administrator within 18 months after the date of enactment of this Act and shall include a study of the effect on competition of requiring utilities to supply or install such measures under the program under this subpart.

(2) Subsection (a)(1)(B)(ii) shall not apply and a public utility may not directly or indirectly supply or install any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) after the date 2 years after the date of the enactment of this Act if—

(A) the State regulatory authority or the Administrator determines that there are available sufficient numbers of suppliers or installers of suggested measures in the area to be served by the utility.

(B) the State regulatory authority, the Administrator, or the Federal Trade Commission determines that the supplying or installing of such measures by such utility would have a substantial anticompetitive effect, or

(C) the State regulatory authority or the Administrator determines that prohibiting utilities from supplying or installing such measures will not result in a substantial reduction of residential customers likely to install suggested measures.

(3) Subparagraphs (A) and (C) of paragraph (2) shall not apply to any public utility which directly or indirectly supplied or installed any such measure prior to April 20, 1977.

(4) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

(c) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) LOANS BY UTILITIES.—(1) Except as provided in paragraph (2), nothing in this section shall be construed as prohibiting any public utility from making loans to residential customers for the purpose of financing the purchase and installation of residential energy conservation measures. In the case of any such loan made by a public utility to a residential customer for such purpose, the public utility shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he otherwise elects) except that—

(A) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer (other than a late payment by such customer), and

(B) no penalty shall be imposed for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(2) After the date 2 years after the date of the enactment of this Act, no public utility subject to a plan under this subpart may make any loan to finance the purchase or installation of any residential energy conservation measure if the Administrator has determined, after notice and opportunity for public hearing, that—

(A) such loans are being made by such utility at unreasonable rates or on unreasonable terms and conditions, or

(B) such loans made by such utility have a substantial adverse effect upon competition.

(3) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

SEC. 105. TEMPORARY PROGRAMS.

Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 103. A temporary exemption may be granted from the requirements of section 104 for a period not to exceed 3 years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings in its service area.

SEC. 106. FEDERAL STANDBY AUTHORITY.

(a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State regulatory authority does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 103(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 103 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 104.

(b) NONREGULATED UTILITIES.—If a nonregulated utility does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a) or within such additional period as the Administrator may allow pursuant to section 103(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which meets the requirements specified in subsection (e) of section 103.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2) A civil penalty under this subsection shall be assessed by an order of the Administrator made on the record after notice and opportunity of a hearing.

(3) Any person who requested a hearing in accordance with paragraph (2) regarding the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the appropriate United States

Court of Appeals. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after the court in an action brought under paragraph (3) has entered a final judgment requiring such payment,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment as the case may be) in an action brought in such court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) STATE AND LOCAL LAW.—Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this subpart.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

(d) PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—No loan made by a utility under a utility program under this subpart shall be treated as the acquisition of any security, asset, or other interest in any business for purposes of section 9 of the Public Utility Holding Company Act of 1935.

SEC. 108. CONTRACT PROVISIONS.

No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

SEC. 110. PRODUCT STANDARDS.

The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Administrator for each of the first three fiscal years beginning after the date of the enactment of this Act $5,000,000 to carry out his responsibilities under this subpart.

SEC. 112. STUDY RESPECTING ENERGY EFFICIENCY STANDARDS.

(a) STUDY.—(1) The Administrator shall undertake a study and submit recommendations (including recommendations for legislative action) to the President and Congress respecting the application of energy conservation standards to existing residential buildings. Such study shall include an analysis of, and recommendations respecting—

(A) the type and coverage of residential energy conservation standards, if any, which are necessary and desirable to carry out the purposes of this Act, and

(B) any measures necessary to insure compliance with such standards.

(2) The study and recommendations referred to in paragraph (1) shall include an analysis of—

(A) whether or not Federal financial assistance (within the meaning of title III of the Energy Conservation and Production Act) should be withheld or conditioned in the case of existing residential buildings which do not meet energy conservation standards and whether or not some other means of insuring compliance with such standards should be implemented, and

(B) the classes or categories of existing residential buildings and building owners which should be exempted from any mandatory program which may be recommended under paragraph (1).

SEC. 109. RULES.

The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

(b) CONSULTATION.—In carrying out his functions under subsection (a), the Administrator shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Administrator shall, to the extent practicable, make use of the National Institute of Building Sciences.

(c) CONSIDERATION OF FACTORS.—In making any recommendations under subsection (a) of this section, the Administrator shall consider—

(1) the economic impact of the measures recommended on the property owners,

(2) the savings in energy costs resulting from measures recommended throughout the estimated remaining useful life of the existing residential buildings to which such recommendation applies,

(3) the cost of complying with such measures,

(4) the cost of administering any such measures recommended under subsection (a)(1)(B),

(5) the total cost, per Btu, in obtaining the energy savings likely to result from such recommended measures, computed for each class of existing residential building to which such recommendation applies, and

(6) any other factors the Administrator considers relevant.

(d) SUBMISSION.—The recommendations developed by the Administrator under subsection (a) shall be submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHLEY) is recognized for 5 minutes.

Mr. ASHLEY. Mr. Chairman, this procedure is somewhat unusual, and I think that is the reason that there has been some monetary confusion.

The explanation which I offered a few moments ago with respect to this amendment does apply at this time, which is to say that the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce and the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, to which were referred jointly the subject matter relating to residential insulation, have pursued somewhat different courses.

Their amendment was adopted by the ad hoc committee which sought and succeeded, I believe, in reconciling these differences.

At this juncture, Mr. Chairman, I would yield to the gentleman from Michigan (Mr. DINGELL), the distinguished chairman of the subcommittee, for a more detailed explanation.

Mr. DINGELL. Mr. Chairman, I thank my good friend, the gentleman from Ohio (Mr. ASHLEY), for yielding to me.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Michigan. Mr. Chairman, I do not have the rule in front of me, but does the rule waive the reading of amendments? I understand that each part is considered as having been read for amendment.

The CHAIRMAN. The Chair will state that the rule waives the reading of ad hoc committee amendments.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank my good friend, the gentleman from Ohio (Mr. ASHLEY), the chairman of the ad hoc committee, for yielding to me.

This is an amendment which was worked out between the chairman of the Committee on Banking, Finance and Urban Affairs, the Committee on Interstate and Foreign Commerce, and the Subcommittee on Energy and Power of the Commtitee on Interstate and Foreign Commerce.

The amendment represents a compromise of the difference between the two committees with regard to insulation and how that should be accomplished under the purposes of the bill.

Originally there were two conflicting sections. This resulted in the action taken by my distinguished friend, the gentleman from Ohio (Mr. ASHLEY), and I want to commend him for that. The compromises which we have worked out result in being able to bring to the House one single proposal under which the two committees are in substantial agreement.

The amendment is of two parts. The first contains the information to be sent to the residential customers concerning suppliers, contractors, and financing arrangements for the purchase and installation of residential energy conservation measures. The language provides that the Governor or his designee shall draw up a list of suppliers, contractors,

and lenders within 270 days after rules are promulgated. This will permit input by the appropriate State agencies charged with regulating these businesses.

The lists must be drawn in a fair, open, and nondiscriminatory manner so as to provide customer protection, insuring the customer against any violation of the provision.

If the State agency fails to do this, the FEA shall then do so. The public utilities will send this information to their residential customers so far as is practicable. If the lists are too long to be sent through the mail, then the customer will be advised where the list can be obtained.

The second part of the amendment concerns the financing and purchase and installation of the residential energy conservation measures by the public utility.

The compromise maintains the voluntary aspect of utility financing as contained in the bill ordered reported by the Committee on Interstate and Foreign Commerce.

However, the compromise provides that the utility may be prohibited from financing if the administrator determines, after notice and an opportunity for a hearing, that utility financing would have an adverse effect upon competition or that utility loans are being made at unreasonable rates or on unreasonable terms and conditions.

Mr. Chairman, the amendment is a fair one. It harmonizes the previously conflicting provisions of the two committee actions.

Again, I want to commend and congratulate my good friend and colleague, the gentleman from Ohio (Mr. ASHLEY), for his fine cooperation in this matter; and I urge that the House adopt the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the last word, and I rise in opposition to the committee amendment.

Mr. Chairman, we have heard repeatedly from both the distinguished chairman of the committee, the gentleman from Ohio (Mr. ASHLEY), and from the gentleman from Michigan (Mr. DINGELL), that this committee amendment represents a compromise on the conflicting views that have been offered on this particular point by the Committee on Banking, Finance and Urban Affairs and by the Committee on Interstate and Foreign Commerce. I think it should be made very clear to all members of the committee that this was a "compromise" that was arrived at in a partisan majority party caucus which met behind closed doors. It was not a compromise that was arrived at in cooperation with or in consultation with the minority. The minority happens to believe that the version of the Committee on Banking, Finance and Urban Affairs which incidentally and importantly was arrived at when hearings were held before that committee and was drafted subsequent to the action that had been taken in the Committee on Interstate and Foreign Commerce.

Let me point out why I personally think this is a faulty provision.

Mr. Chairman, it provides that within 270 days the Governor or his designee shall prepare lists of suppliers and contractors who are qualified installers of insulation material for residential energy conservation measures. This is being peddled to the Congress as a consumer protection measure and that somehow we need big brother in the form of the Governor of a State to tell individual private property owners and utilities that here is an approved list of suppliers and contractors.

Can you see the abuse? I repeat, can you see the abuses? This is not just implicit but explicit. By a provision of this kind can we not but wonder how many dinner ticket contributors are going to and will be appearing on the selected list of contractors and suppliers that would be provided by this provision?

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I think the gentleman from Illinois (Mr. ANDERSON) raises a point that has to disturb every Member of the House from the State of Maryland. I can imagine what would happen if the Governor of the State of Maryland ever got his hands on this kind of a provision.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman from Maryland (Mr. BAUMAN) for his usually very cogent contribution and observation. In his case I can see why he might have even more concern than some of the rest of us. But, Mr. Chairman, it is a bad provision. The provision provided by the Committee on Banking, Finance and Urban Affairs provides that the utility will make available to the customer or the user the specification on insulation materials and supplies, and a general list of information, a general source of information, about where it can be obtained, and so forth. There is not any reason why we have to take the customer hand in hand and lead him down the primrose path to a particular supplier who happens to be or who has been approved by the Governor of his State.

Incidentally, you should also note from this provision that if the Governor fails within the 270-day period that is provided for to prepare the list either in a timely fashion or in a manner that is fair and equitable, then you have a Washington bureaucrat from the Federal Energy Administration preparing a list of contractors and suppliers who are ready, willing, and able to furnish insulation services.

Mr. Chairman, I repeat that the committee amendment should be defeated. We should go back to the version provided by the Committee on Banking, Finance and Urban Affairs which is, I believe, far preferable.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Of course I yield to the chairman.

Mr. ASHLEY. Mr. Chairman, I believe that in both the Committee on Banking, Finance and Urban Affairs and the Committee on Interstate and Foreign Commerce versions there was the understanding that there was need for protection of the public from unscrupulous, fly-by-night types of contractors that would beset us, and beset the consumers year in and year out.

The gentleman knows that from experience in his own district that aluminum siding contractors, and other examples, could be cited. This is not a unique approach, that is to say that States have been taking an interest in protecting the consumers from these kind of unscrupulous operations. The State of California, I believe, and perhaps the gentleman from California (Mr. ROUSSELOT) could correct me on this—and there are a number of other States, that already compile such lists. They license as a matter of fact contractors of all types including insulation contractors, such as in California and in a number of other States.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ASHLEY, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. We know that plumbers are licensed. We know that electricians are licensed. This is in the public interest. That is why we should engage in this activity. All I am trying to suggest to the gentleman is that we are not really on divergent courses here. We have a common goal I am sure on that. It is a question of how to get there. We have a common goal, I am sure. The question is how to get there.

Mr. ANDERSON of Illinois. If the gentleman will yield further, certainly I share the notion expressed by the gentleman from Ohio that there ought to be adequate protection for the consumer. Of course, I think in his statement he is accepting the idea—and I believe it is a fallacious notion—that there are no protections already available under State law.

I am a former prosecuting attorney. I used to take into court some of those unscrupulous siding dealers to whom the gentleman refers. I am sure any good, competent local law-enforcement official is going to be prepared to enforce the antifraud statutes of a jurisdiction in a locality against those kinds of profiteers under this section.

Mr. ASHLEY. I will say to the gentleman from Illinois that is after the fact, and certainly he knows from his experience as a prosecuting attorney that for everybody who was called before him, there were 10 who fled the State and who simply were not available for prosecution. What we are trying to do is protect the consumer and make it such that this type of criminal—and if not criminal, civil—misbehavior simply will not take place. That is how we protect the consumer.

Mr. ANDERSON of Illinois. If the gentleman will yield further, it just seems to me that to put the Governor of a State in the role of licensing and in effect qualifying those who are going to be eligible to provide services of this kind is going far beyond my concept of what is needed to protect the consumer. I think, and I repeat, there is room for abuse of an entirely different and pat-

ently particular character implicit in this kind of provision.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

With all due respect for my good friend, the gentleman from Illinois, who rises in opposition and asserts great concerns about the amendment, it strikes me that he has overlooked a number of things which are present in the amendment which meet all of the complaints which he has set forth. The first point is that the program must be conducted in a fair and nondiscriminatory manner with full due care and attention for the requirements and the principles of the antitrust laws. There, furthermore, is a requirement for a continuing presence and supervision with regard to these practices by the Administrator of FEA. The list which is compiled by the governor under the amendment must be compiled in a fair, open, and nondiscriminatory manner, and this last must provide protections for consumers in the fashion that it is crafted and in the fashion that the State program is crafted to insure that consumers are protected against monopolistic practices and things of this kind.

The principles of the antitrust laws with regard to restraints and monopolies are very clearly applied because, I will say to my good friend, the gentleman from Illinois, some years ago I chaired a subcommittee that investigated exactly the kind of practices that cause the gentleman apprehension, and we have written substantively into the legislation prohibitions against those kinds of practices and requirements, and that the Administrator of FEA shall give careful attention to seeing to it that those abuses no longer obtain. Those are important points and important points of difference. Furthermore, we give only a limited grandfather clause to permit up to 3 years programs by utilities which are now engaged in this practice. We require that they may be removed by action of either the Administrator of FEA or the State regulatory agency, when they find that there is misbehavior by these people in terms of either making the loans or in terms of carrying forward the program of insulation or retrofit of homes for the purpose of saving energy, a highly desirable goal which I share with my good friend, the gentleman from Illinois.

As a result, I would point out that even though I have great respect for my friend, the gentleman from Illinois, I think he sees something here which in fact is not here. His concerns have well been met, and I do not want the legislative history on the matters in which we are now engaged to reflect that there is any reality, any substance to the concern the gentleman is expressing, because it was my goal that these precise evils about which the gentleman complains should be protected against.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague, the gentleman from Michigan, for yielding.

I know about the problems caused by some who install siding. As consumer director I became conversant with them. But there should be some provision here that those who wish to be entered on that list shall be listed unless there is some reason for not doing so.

Mr. DINGELL. The gentlewoman makes an excellent point. The list is to be made in a fair, open, and nondiscriminatory manner. Let me read the language of the bill.

Mrs. FENWICK. I read that.

Mr. DINGELL. It says:

. . . in preparing and making available such lists, the Governor or his designee (or the Administrator) shall take such steps as may be necessary to—

(i) prevent unfair, deceptive, or anticompetitive acts or practices by persons selling or installing residential energy conservation measures and institutions offering loans for the purchase and installation of such measures, . . .

Let me read line 8, because this is what the gentlewoman is concerned about.

Mrs. FENWICK. I read that.

Mr. DINGELL. It says:

(ii) assure that any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor or his designee (or the Administrator).

Mrs. FENWICK. I read the bill. I am trying to say I read the bill.

Mr. DINGELL. I want to yield to the gentlewoman, Mr. Chairman, but may we have order please.

Now in order to have it clear, the minute these requirements are not met, that is something else.

Mrs. FENWICK. They do not cover what I am talking about.

Mr. DINGELL. But they most assuredly do.

Mrs. FENWICK. No, because what we are going to find is the small installer, the little businessman, will not get on that list, and there is nothing to say that the Governor shall list those who apply.

Mr. DINGELL. In this the gentlewoman is totally in error. I have tried to read the language which rebuts the point the gentlewoman made. I am the last man in this Chamber and maybe the gentlewoman is the last woman in this Chamber who would wish to have difficulty over that language we have discussed.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. BROWN of Michigan, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, does the gentleman say that the language establishes qualifications for getting one's name on the list, whether he be a supplier, contractor, or lending institution?

Mr. DINGELL. Obviously State law governs on that as to whether or not a person is qualified. But what this does is assure access to the list shall be in a fair and not an arbitrary fashion.

Mr. BROWN of Michigan. The gentleman has not answered my question. Where in the bill does it establish qualifications for a person getting on the list?

Mr. DINGELL. The answer is that it is done under State law.

Mr. BROWN of Michigan. Where does it say State law in this act?

Mr. DINGELL. It is to assure this works fairly and in a nondiscriminatory fashion.

Mr. BROWN of Michigan. It says the Governor may pick and choose.

Mr. DINGELL. On the contrary I make no such statement and there is nothing in the legislation to allow the Governor to pick and choose.

Mr. BROWN of Michigan. What determines who gets on the list?

Mr. DINGELL. I have read to the gentleman and to the gentlewoman the language.

Mr. BROWN of Michigan. The amendment does not say what the gentleman is stating here on the floor.

Mr. DINGELL. I have read the language in some detail. I am sorry the gentleman was not giving me his full attention when I read it.

Mr. BROWN of Michigan. I have read the language time after time, and what the gentleman says and what the language of the bill says are not the same thing.

Mr. DINGELL. Either the gentleman does not understand or is quite determined not to understand.

Mr. BROWN of Michigan. The gentleman would like to understand. However what the gentleman is saying is not understandable when we look at the language of the bill.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. BROWN of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, in the language of the committee amendment beginning on line 8 on page 68 it says:

. . . Any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor . . .

In other words, a person who is not on the list and is injured as a result goes to the Governor and the Governor thereby establishes procedure whereby he is to be made whole for a violation of his rights?

If that makes sense as a procedure, prove it to me.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for those comments.

Mr. Chairman, the gentleman from Ohio (Mr. ASHLEY) said that the ad hoc committee amendment is an accommodation. An accommodation it is, but not an accommodation of substance, but rather an accommodation of those who are involved in working in the Energy Committee, despite substance.

Mr. Chairman, I think it is absolutely ludicrous that the Committee on Rules did not see fit to at least permit this body to have an opportunity to select the original Commerce Committee provision, the original Banking Committee provision, or the ad hoc committee amendment. By not permitting a motion to strike either the Commerce Committee language or a motion to strike the Banking Committee language, should the ad hoc committee amendment fail, we have, in effect, diametrically opposed programs in this legislation.

Now, the gentleman from Michigan (Mr. DINGELL) has continually referred to and likes to remain ambiguous about what kind of list this will be, whether it will be a list of qualified contractors, suppliers and lending institutions, or whether anyone will have an opportunity who holds himself out to do this business to be on the list. Obviously, someone that is under sanctions by a State that has a licensure program would not be on the list, because he would not be authorized to do business; but what about all others? If all others can be on the list, why not merely furnish the yellow pages and tell customers where the yellow pages can be found?

The gentleman from Michigan (Mr. DINGELL) says, "Well, if the list is too long and it is impractical to send it out, why, then, we can tell them where the list is."

Like I suppose we could tell all those in the upper peninsula in Michigan that they can find the list in Lansing, and that is going to be one whale of a lot of help.

Rather, the Banking Committee provision basically provided that the consumer had to be provided with information relative to suppliers, to contractors, to lending institutions, that either do work or furnish financing in their area; where those people can be found, what they can expect in the way of consumer information; and, provide information relative to consumer protection.

I am just saying that the Banking Committee provision in this regard is so much better than the Commerce Committee provision or the ad hoc committee provision, that the ad hoc committee amendment should be defeated.

We will not be in great shape after that, but it will be better to send over the two diametrically opposed amendments than to send over the ad hoc committee amendment that is supposed to be an accommodation, an accommodation in form, but not in substance.

Not only are the lists a problem with this ad hoc committee amendment, but the ad hoc committee amendment continues the ridiculous provision of the Commerce Committee proposal that provides for the Administrator of the Federal Energy Administration to assess $25,000 in civil penalties against a public utility for violation of his rules or regulations, each day in violation, being a separate violation, otherwise $25,000 per day for the period of time in which the violation occurs, regardless of the extent and substance of that violation, with the discretion to assess or not assess being solely that of the FEA Administrator.

The language then provides that the person so charged by the Administrator has 30 days in which to go to the Federal Court of Appeals and seek to prove his innocence.

I respectfully suggest that this method of assessment does not provide as much due process or administrative procedure as does the procedure when the violation only amounts to a traffic violation.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. TSONGAS, and by unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. Mr. Chairman, before I yield, may I make one other point.

The lists do not have to be furnished, for all intents and purposes under this legislation; they can be made available some place. That is the way the legislative history reads now as established in his remarks by the gentleman from Michigan (Mr. DINGELL).

For the reasons I have stated, reasons, if no others, I would urge my colleagues to defeat the amendment.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, is it not true there is nothing in the bill that would affect a homeowner who desires to contract with a local neighborhood installer?

Mr. BROWN of Michigan. No, there is nothing that prevents him.

Mr. TSONGAS. Is there anything that prevents a homeowner who wants to consult the yellow pages or a newspaper ad to obtain this help?

Mr. BROWN of Michigan. Nothing.

Mr. TSONGAS. Is there anything to prevent a chamber of commerce?

Mr. BROWN of Michigan. No.

Mr. TSONGAS. Or a better business bureau?

Mr. BROWN of Michigan. No; all those things are better provided for in the program reported out of the Banking Committee, than in the Commerce Committee proposal or even the ad hoc committee amendment.

Mr. TSONGAS. So to put it in perspective, the only person to whom the legislation would be relative would be a person that has a complaint of fraud and wants outside guidance, or the other things I have enumerated; is that true?

Mr. BROWN of Michigan. I would say the lists for those people would not be necessary, because the banking bill provides for sources of information to be furnished; and, consumer protection information must be provided under the Banking and Currency Committee proposal.

If I may respond to the gentleman's question with a question, does the gentleman know of anybody who is not in an area where he may know the contractor, the chamber of commerce or the lending institution, where putting those in a list and giving it to him is beneficial?

Mr. TSONGAS. That is my point. The percentage of people that will be affected by the concerns the gentleman is expressing is very small. It seems to me to make sense to have a list available to those people as well.

Mr. BROWN of Michigan. So, is the gentleman suggesting that since none of this is necessary, nevertheless it ought to go out and we ought to go to the expense, with Federal Government financing, go to the expense of making all these lists, all these directories, all these things, when they are really not needed? Is that the gentleman's point? If it is, I think he has made it.

Mr. TSONGAS. If I can respond, only to that part of the population which does not know how to consult the other sources and wishes to have a separate list. That would enforce the very real possibility of fraud that has taken place in many home improvement areas.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. I would just point out to the gentleman from Massachusetts that the law provides that the list must be sent to every consumer, whether he needs it or not. The gentleman says there are very few who will need it, but it must be sent to everyone unless it is determined to be impracticable. I would predict that either a list will be sent out to all customers or no list will be sent to anyone, because how are we going to determine whether Joe needs to get a list and Sam does not, or neither does?

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think we are overlooking one other thing in this law; that is, a lot of the people who get that list and are going to have this work done may be thinking in terms of the Federal Government giving them an income tax credit for having the work done. When we combine the prospect of an income tax credit and an official list from the Governor of a State of those tradesmen who are approved for the work, and the bank that is approved for the financing, it occurs to me that the list from the Governor takes on a sort of additional aura of respectability, if you will, wherein the citizen may think, "Well now, wait a minute, if I don't use that list provided by the Governor and if I don't go to the bank that he says is okay to get my financing, will the Federal Government in fact honor my request for a tax credit?" I think we are being terribly destructive of the little businessman or the financial institution that may not qualify for the list. I happen to be interested in the territory of my State where a metropolitan community in another State serves the smaller community. Now, who qualifies on the Governor's list? Will he come up with somebody from the other State?

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. BROWN of Ohio and by unanimous consent Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Will the Governor include those contractors from other States, whether or not they give to his campaign chest?

Mr. BROWN of Michigan. I appreciate the gentleman's comments, but taking the program the way that some would have it taken, that is, that there is some kind of determination of qualification for one to get his name on the list, does the Governor of Virginia know the licensed contractors in the District of Columbia who are eligible and qualified and not under investigation? Does he know those in Maryland? Probably not, so I guess he can only put Virginia contractors and suppliers and financers on his list, even though probably contractors, financers, and suppliers are much more accessible from Maryland or the District of Columbia, or any kind of combination of jurisdictions we want to fix.

Mr. BROWN of Ohio. If the gentleman will yield further, could I ask the gentleman who is on the Banking and Currency Committee or perhaps I should ask the chairman of the ad hoc committee, this question:

The proposals which came out of the Committee on Banking, Finance and Urban Affairs, which did not include these rather specific lists from the Governor but, rather, general consumer advice, how were those proposals of the Committee on Banking, Finance and Urban Affairs passed out of that committee? Was it a close vote? What was the vote on the Banking, Finance and Urban Affairs Committee provisions of this section of the bill?

Mr. BROWN of Michigan. Mr. Chairman, I am happy to respond to the gentleman.

We acted after the subcommittee, the Commerce Subcommittee, had already put together its plan. We had the advantage of looking at the plan. We had the advantage of testimony from people who had looked at the commerce committee plan and who found objections and problems with it. We then acted upon our bill correcting all of the defects and omissions that were in the commerce proposal and passed it out of the subcommittee unanimously and I think from the full committee on a vote of 38 to 1.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BROWN) has expired.

(On request of Mr. ALLEN and by unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ALLEN. Mr. Chairman, would the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

In the opinion of the gentleman, would not a list coming from an official agency, or from the Governor, indicate to the recipients that those are the firms which are approved to do the work. Furthermore if a firm is not on that list, would it not imply that such firm was not approved?

Mr. BROWN of Michigan. Absolutely.

Mr. ALLEN. And could this not be made into a political boondoggle by any Governor?

Mr. BROWN of Michigan. The gentleman said it, and I agree with him.

Mr. ALLEN. And would it not be well for any contractor to stay in the good graces of the Governor?

Mr. BROWN of Michigan. Yes. Political contributions would help, I am sure.

Mr. ALLEN. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

What happens to a new contractor, somebody who starts a business after this Governor's approved list goes out?

Mr. BROWN of Michigan. One of two things. Either you call the list back and revise it, or else he does not get on it, I would presume.

Mr. BROWN of Ohio. Of course, I guess under the provisions of the law he can always take some kind of legal action to get on the list if he wants to get the promotional value of being insulator to the crown, or whatever the title is going to be of these people who are on the list.

Mr. BROWN of Michigan. If he gets on the list he will not be isolated from the crown, the gentleman can be sure of that.

Mr. BROWN of Ohio. Insulator to the Governor, I guess.

Mr. BROWN of Michigan. Mr. Chairman, I urge my colleagues to defeat the ad hoc committee amendment.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to have a colloquy on the language which is found on page 75, on furnishing a list by utilities. It would be understood by the Governor's office and also by the utilities that, where feasible, where we have more than one utility, where within an area we have not only an electric utility but a gas utility, in some areas—in our State, we also have water utilities—that not all three of them be required to send out the list, but I am sure it is the intent of the committee that the Governor would have the authority to provide only one list be sent out and to designate the one utility which would have to do it or would do it, rather than have duplication of the various utilities sending the list out?

Mr. ASHLEY. I think it is quite clear that the Governor would have the discretion.

Mr. VOLKMER. He would have this authority or discretion?

Mr. ASHLEY. Yes. He would determine the practicality, and it would be abundantly clear that we would not have the kind of duplication that the gentleman suggested.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman.

Mr. ASHLEY. Mr. Chairman, if I might conclude, I would like to do so on this basis: that perhaps we have lost our sense of perspective a little bit with regard to the section with which we are concerned.

The President some months ago articulated a goal with which, to the best of my knowledge, all of us agree, and that is to say that by the year 1985, 90 percent of our homes should be insulated and retrofitted to a thermal standard that will be conducive to energy savings.

In order to achieve this goal, a number of strategies have been put in place in the legislation before us. For those families, some 14 million of them, who are at or about the poverty level—that is to say, those whose incomes are less than 125 percent of the poverty level—we put in place a weatherization program whereby the cost of the insulation will be provided directly by the Federal Government so that the homes of these families can be insulated and so that they can, as well as others, benefit from energy savings that are implicit in the weatherization program.

For families of higher than 125 percent of the poverty level in a given area, up to 90 percent of median income, there is a low-interest-rate program so that these families can secure the credit that is necessary in order to undertake the weatherization and insulation services and activities that are obviously in their best interests.

For families above median income there is a standby program whereby the Secretary of HUD, upon a finding of insufficient credit for the financing of insulation services for these families, can trigger in a GNMA program so that those loans can be purchased from the lending institutions, providing those institutions with a liquidity that would otherwise not be available.

Then from another committee, Mr. Chairman, we have the provisions which make available a tax credit of up to 20 percent of the first $2,000 spent for the various forms and activities connected with weatherization.

So what we are talking about, Mr. Chairman, is a broadly faceted program, and the various parts do, of course, really fit well together. This is a broad overview of what has been achieved, and it is something about which we have heard nothing thus far in the debate because there is really no controversy with respect to these components.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. Mr. Chairman, what we have been focusing on, instead, is the limited role of utilities in this insulation effort, and it was generally agreed between both committees that this should be a very limited role. Further, what we have been concentrating on is the informational service that both committees agree should be provided by the utilities.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I appreciate the gentleman's yielding.

These are fine programs; they are new programs. As far as the weatherization program, the new revised program, and the new secondary mortgage programs are concerned, those are all new programs. I am sure the gentleman agrees.

Let me ask the gentleman this: Who had the jurisdiction over these proposals? Who had real jurisdiction over all this subject matter?

Mr. ASHLEY. It was the Committee on Banking, Finance and Urban Affairs.

Mr. BROWN of Michigan. Yes, the Committee on Banking, Finance and Urban Affairs, that is correct, and that is, of course, why the banking provision is a good provision, because we were the most proper forum and the committee with the jurisdiction to come out with such a program. It is only because of the contributions of the Committee on Interstate and Foreign Commerce that we have the problems.

I completely concur with the gentleman when he says that we did wonderful work in the Committee on Banking, Finance and Urban Affairs. All these things are good.

Mr. Chairman, let me ask the gentleman this: Did the President ask for a $25,000 civilly administered, assessable penalty?

Mr. ASHLEY Mr. Chairman, if the gentleman from Michigan (Mr. BROWN) will allow me, I will address myself first to another point.

Mr. BROWN of Michigan. I will ask the gentleman, can he answer that question?

Mr. ASHLEY. Mr. Chairman, I am first going to respond to the gentleman's previous question because I did not have time to expound on that fully.

It is quite true that we had the lead jurisdiction with respect to the loans and with respect to the weatherization program. That is absolutely true.

We did what we think was a fine job.

My question to the gentleman from Michigan (Mr. BROWN) is this: Who really has the lead jurisdiction with respect to utilities? Is it the Committee on Banking, Finance and Urban Affairs or is it the Committee on Interstate and Foreign Commerce?

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield, I would respectfully suggest that, comparatively speaking, the Committee on Interstate and Foreign Commerce has negligible jurisdiction and to that the Banking Committee possesses.

Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I wonder whether some of the members of the committee are not a little bemused at the ferocity of the argument that is raging over this question of lists.

Some of the Members may be asking themselves, What is all the fuss about? How important is it really, and why are all these Republican minority members objecting to lists?

Listen to what the parameters of this insulation program are because I jotted down a few figures as the debate has been raging here on this proposition this afternoon.

There are about 75 million homes and dwellings in the United States. The administration has backed down from the 90-percent figure. It says, "Our aim now is to insulate 60 percent of these homes."

All right. That makes 45 million homes. The average insulation cost is about $500. It is $300 for an attic alone, so $500 is not an unreasonable figure as the cost for insulating a home. If we take 45 million homes at that rate, we have a total figure of $22 billion. We have not even mentioned storm doors and windows, costing about $1,000 a dwelling. Consequently, we have another $45 billion for storm doors and windows. With this, we are up to $77 billion.

Mr. Chairman, this is a pretty good sized pie that is going to be cut up here; and the people who are going to have the power to draw up and to send out lists of those who are eligible to share in the cutting up of that $77 billion pie are going to have something very, very valuable at their disposal.

Mr. Chairman, I thank the gentleman from Maryland for yielding.

Mr. BAUMAN. Mr. Chairman, it is precisely these kinds of multibillion-dollar statistics which should give pause to any Member of Congress from Maryland, because we know very well in our own State how matters of gubernatorial discretion are handled.

It is not only Maryland which has suffered from this kind of corruption in the past. If this amendment is adopted such veniality may become epidemic. Mr. Chairman, all across this country, the potential for graft, corruption, and fraud is immense in this amendment.

Mr. Chairman, I would like the Members to read page 67. It says the State governor can compile "* * * lists of suppliers and contractors who sell and install residential energy conservation measures."

Mr. Chairman, that covers virtually every plumber, insulation company, building contractor, aluminum-siding salesman, or nearly anyone.

That means that we are going to have in each State "the governor's seal of approval," similar to that of General Hugh Johnson and the NRA in the days of the old Blue Eagle. If you had the Blue Eagle on your door, you were patriotic. Those small businesses who do not get the governor's approval will be left out.

This gives political leverage to a State executive to exact tribute from businesses and many will not hesitate to do so. The contribution and the kickback will become the rule in order to obtain the governor's approbation. And this section also allows the governor to compile lists of approved banks and savings and loans who he says should finance these energy improvements.

Mr. Chairman, the gentleman from Ohio (Mr. ASHLEY), a moment ago said that this is a comprehensive energy bill, the component parts of which fit together well. That language also would describe a tinker toy set project built by a 5-year-old. This bill has just about the same degree of stability.

Mr. Chairman, we are only up to page 67 out of 580 pages of this bill. However, for the benefit of the American people, we should take each one of these propositions, one by one, and reshape or reject. This is one that should be rejected.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) has mentioned electricians, plumbers, et cetera. Are we also going to list every drugstore or supermarket which sells caulking and weatherstripping?

Mr. BAUMAN. If it is left to the devices of the chief executive that we have in our State, I am sure the Governor's power will be extended down to the level of anyone who sells newspapers which one can stuff in a crack against the cold night air.

Mr. BROWN of Michigan. All I would say is that that would make the contribution that much larger.

Mr. BAUMAN. Mr. Chairman, we have been told no Governor will abuse his power under this section; that he will exercise his listmaking in a fair, open, and nondiscriminatory matter. If we believe that such language is truly any protection, you probably believe we can pass a bill to repeal the energy crisis.

This is a collection of very well placed words, but they would do nothing to improve conditions which are prevalent in Maryland. They would give added authority to a great many people who serve as chief executives of various States at the expense of small businesses and consumers.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the committee amendment.

Mr. Chairman, I rise in support of the ad hoc committee language. I think that what the gentlemen on the other side are doing is really engaging in some relatively picayune nitpicking on the provision.

The fact of the matter is that we are in a very serious situation indeed with regard to oil imports. I believe that this residential conservation, indeed this legislation as a whole, represents a first step and a good first step toward eliminating our dangerous dependence on oil imports.

At the present time we are importing almost half our supply of oil. That represents a grave national security risk.

We will be paying out this year some $43 billion to the OPEC countries on top of $150 billion previously transferred.

This is undermining our own financial institutions and the international financial institutions. It is resulting in treacherous balance of trade and payments deficits and is undermining the value of the dollar.

We simply have to get about ending the waste of energy resources in this country. Some of the measures that we will have to adopt will have to go much further than the provisions in this legislation.

One of our biggest users of energy, and one of the biggest areas in which we find waste, is in our buildings. We simply must end this waste by insulation and through the use of certain conservation devices which are already on the market. This legislation just makes available information and assistance to homeowners and to businesses, to voluntarilly take the needed conservation steps.

In my opinion the legislation does not go far enough. In the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce I supported a mandatory requirement providing that a person could not sell his home unless it was brought up to the full conservation standards. I think we are going to have go to that kind of measure in the future. We will have to require every building in the country to be adequately insulated in order to be able to combat the oil import threat that confronts us.

The provision in this bill under consideration certainly is a mild step to assure help, and allow the utilities to help, in getting homeowners and businesses to insulate and install conservation devices in their buildings. It is a small start at getting on with the job of saving critical energy resources. I believe it should be strongly supported by the committee.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the committee amendment of the ad hoc committee.

Mr. Chairman, I would like to raise a point that has not been raised and which I believe has some signficance. One of the problems still remaining in this ad hoc committee proposal and in the proposal of the Committee on Interstate and Foreign Commerce is the question of installing and financing energy conservation measures.

As the bill is currently drafted, utilities are permitted to install energy conservation measures so long as certain tests have been met, that there are insufficient suppliers in the area served by the utility and that there are not any anticompetitive impacts of utilities being in the business of installing insulation.

One of the areas where a utility is now in the business of installing insulation is the Washington area. I am sure that some of you who try to get tradesmen feel that there are not sufficient people in the insulation business but, on the other hand, I doubt that in very many metropolitan areas the size of Washington there are insufficient installers and purveyors of materials for helping us insulate our homes.

Under the ad hoc bill, utilities are still permitted to get into the business of installing energy conservation measures and stay in the business as long as the general tests have been met.

In the Public Utility Holding Company Act passed back in the 1930's, they absolutely prohibited utilities from being in any business except the supplying of energy. It seems to me that that works pretty well. Each utility has a monopoly on trade in its service area.

For a utility to be in the business of putting in insulation or financing it, is adverse to the interests of the small business people in any community, and certainly it is adverse to the interests of the financial institutions. Under the Banking, Finance, and Urban Affairs bill, and the Republican substitute, I might add, no utility may offer to install approved energy conservation measures unless FEA grants a special exception to those requesting it. I would hope that FEA would never make that approval. This is a far preferable approach which will protect the small suppliers and contractors of energy conservation measures from competition by monopolistic utilities. The same thing would apply to the financing of home improvements. Why in the world should we get the public utilities in the business of financing insulation and other energy conservation measures in private homes? There are banks, savings and loans, credit unions, cooperative groups aplenty to provide the financing. Why do we want to give special opportunities to public utilities in this area? I, for one, do not, and under the law of Ohio there would be a conflict here in which the Congress would seem to be on the side of saying, "Let the public utilities get the business."

I raised this question all during the consideration of the issue in the Commerce Committee and was assured there would be no conflict with any Federal laws. Then later on we had to have an amendment in the full committee, which I voted against, offered by one of my colleagues on the other side of the aisle saying that where Federal law or State law would prohibit the utilities from being in the financing business of home improvements or in the actual business of doing the home improvement, we would abrogate those existing Federal or State laws.

Mr. Chairman, I would submit that those laws were put on the books for a very good reason and that we do not want the utility businesses of this country extending their operations into financing, into home improvements, into the other things that a monopoly can get into the home and say to the homeowner, "Now, I am your friendly neighborhood utility, and you ought to have this work done. We will do it for you. We will finance it for you, and if you do not do this, your utility bill will probably be higher. Therefore, we think that you certainly ought to listen to our advice."

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

I just want to take this opportunity to tell my colleagues that insofar as I know, the minority members who have criticized the ad hoc committee amendment are just as interested in energy conservation and energy-saving measures as is the gentleman from New York, or anyone on that side of the aisle. Our position basically is: Why accept an inferior program? We have a good program in the Banking Committees' provisions in H.R. 8444. It is here on the floor. Let us adopt it.

Mr. BROWN of Ohio. Mr. Chairman, I just say in conclusion let us let the utilities provide the energy. Let us let the individuals make their own decisions, but let us not let the Governor try to tell them who is to make the installation of insulation and other conservation materials, and who is approved as the financial lending institutions for financing such improvements.

Mr. CORCORAN of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to strike the requisite number of words in order to ask a few questions of the distinguished gentleman from Michigan, the chairman of the Interstate and Foreign Commerce Subcommittee which was involved in the development of this legislation, H.R. 8444. Already in the debate this afternoon, as well as from previous reports, I think there is some confusion as to what is provided under title I, part I, subpart A, section 104, which deals with the public utility gas and electric programs which would be permitted to grant interest-free loans to finance the installation of insulation and furnace and flue devices in order to reduce consumption.

I might say, Mr. Chairman, that this was brought to my attention initially by the Honorable Wayne C. Wells, village president of Montgomery, Ill., which is in my district. As a matter of fact, the village has recently gone on record in support of these programs. The mayor tells me about a program that a utility company, which incidentally is in the State of the distinguished chairman of the Commerce Subcommittee, has tested and placed in operation for its customers. I am informed that this program could reduce natural gas consumption by as much as 45 percent. It involves simple devices that are attached to the furnaces. To quote a distinguished columnist from the Chicago Tribune, Jack Mabley:

> . . . it makes so much sense it's hard to believe it is happening.

So therefore I ask my first question: Will this bill as amended by the amendment now pending before the full committee encourage such programs by the gas and electric utility companies in this country?

Mr. DINGELL. The answer to the question is that the bill as amended will permit such programs by electric utilities and by gas utilities in this country subject to the 3-year temporary exemption which is set out in the legislation.

Mr. CORCORAN of Illinois. It is also my understanding, if the gentleman will yield further, that the Michigan Consol-

idated Gas Co. gives interest-free loans to its customers. Would such interest-free loans be permitted under this legislation as amended?

Mr. DINGELL. Again, if the gentleman will yield, the answer to the question is, yes, for the period of the 3-year exemption before the regulatory program goes into effect, with respect to those utilities now grandfathered in under this legislation.

Mr. CORCORAN of Illinois. My final question is: Would such programs be mandated under this legislation or would they be optional?

Mr. DINGELL. The answer to the question is they would be optional. The program is permissive and is not mandatory in character.

Mr. CORCORAN of Illinois. I thank the gentleman.

Mr. ALLEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to make one thing clear. I am for the weatherization and insulation program that has been advocated by President Carter. I am for the much better program that was carefully studied and promulgated by the committee of which I am a member. That is the Banking, Finance and Urban Affairs Committee.

I think the point that has been made in this debate cannot be overlooked. Indeed the fact sheet given us by the Democratic Study Group has as one of the arguments it says can be made against the ad hoc committee about the listing of lending card contractors. That is, these lists that would be sent out—those that a homeowner can borrow money from, or get to do the work. These lists would suggest that those firms on it were "Government approved." The list could be abused for the purpose of dispensing favors to various interests in the State.

This comes not from the Republican side. It comes from our own Democratic study group. It is the argument they indicate could be made against it. It is an argument that I think is a valid argument. I think that what we need to do is to stand by the energy conservation program recommended by the Committee on Banking, Finance and Urban Affairs.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I am sure the gentleman did not mean to suggest that the Democratic study group took a position on this amendment. They were simply summarizing the arguments pro and con on the amendment, and the gentleman was simply quoting from the arguments on it.

Mr. ALLEN. What I am indicating is that the Democratic study group perceived this as a valid argument. It places a tremendous political burden on State governments. That is one of the arguments it says the opponents could make against it; and it has been made against it.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr Chairman, I simply wanted to point out that what the gentleman is reading from also contains the arguments of the other side. The Democratic Study Group does not take a position on this matter.

Mr. ALLEN. I did not say it did. I said these are some arguments it indicates that could validly be made against this amendment. It is an argument that I adopt as a sound argument.

Mr. BROWN of Michigan. Mr Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

I do not care what the Democratic Study Group does or does not do; but since when has the Banking Committee been a Republican committee? In fact, the only vote against the proposal in the Banking Committee was a Repubican vote. The Democrats that voted, voted unanimously for it.

Mr CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the ad hoc committee's recommended amendment to part I of title I of the National Energy Act which incorporates the commendable features of both the Commerce Committee's and Banking Committee's bills. The amendment would mandate that all State Governors compile a list of suppliers, contractors, and lenders of approved and qualified energy conservation materials. This list would then be distributed by the utilities to their customers. Mr. Chairman, I believe that this amendment, if adopted, will assist our small businesses engaged in contracting and subcontracting work on energy conservation measures. The competitive features of this amendment assure the utility consumer every opportunity to obtain the desired residential energy conservation measures and equipment at a reasonable cost. Through the provisions affecting the distribution by qualified suppliers and contractors, and assistance by qualified financial institutions to the resident in the purchase and installation, both the resident and the appropriate small business concern stand to benefit. Since this list will be compiled by either the Governor or the Administrator, in a fair and open manner, I am confident that all qualified small businesses will be included. The resident is further protected from unscrupulous business advice, since the public utility will be required to inform its residential customer of conservation measures which will result in a saving in total energy consumption and costs. Additionally, the utility is directed to offer the consumer the opportunity to have a representative of the utility company inspect the home and determine the type of conservation measures required and the cost of purchasing and installing them. Two years after the date of enactment, the public utility will also be required to offer to install the suggested measures, if the Administrator determines that this will not have a substantial anticompetitive effect. This will assure every locality in the country of the availability and installation of these energy saving measures.

The amendment allows the utility to choose whether to make loans itself to residential customers to finance the purchase and installaion of residential energy conservation measures.

Mr. Chairman, there are three additional parts of this attractive amendment which will benefit the consumer. First, the amendment directs the Administrator of the Federal Energy Administration to develop a list of suggestions for energy conservation techniques to be distributed by the public utilities. Second, the amendment directs the Administrator to maintain reasonable costs for utility inspections. It is estimated that the cost of such inspections will range from $40 to $60, charged to the customer. The third provision of this amendment will allow the continuation of ongoing utility installation programs. To date, these programs have benefited consumers who they serve. They should not be penalized.

Mr. Chairman, it is estimated that the current consumption for heating and cooling our residences amounts to 20 percent of our total energy consumption. Such programs as the one now before us aided by the committee amendment will assure the public of the availability of adequate energy conservation measures to reduce energy costs and assist in reducing national energy consumption rates. Finally, I commend the members of the committees involved for assuring the small business sector of its continued and increased participation in this illustrious and worthy program.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part I, title I.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANDERSON of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 205, not voting 11, as follows:

[Roll No. 491]

AYES—217

Addabbo	Brademas	Downey
Akaka	Brodhead	Drinan
Alexander	Brooks	Duncan, Oreg.
Ambro	Brown, Calif.	Early
Ammerman	Burke, Calif.	Eckhardt
Anderson, Calif.	Burlison, Mo.	Edgar
	Burton, John	Edwards, Calif.
Andrews, N.C.	Burton, Phillip	Eilberg
Annunzio	Byron	Evans, Ga.
Ashley	Carney	Fary
Aspin	Carr	Fisher
Badillo	Cavanaugh	Fithian
Baldus	Chappell	Flood
Baucus	Chisholm	Florio
Beard, R.I.	Clay	Flowers
Bedell	Collins, Ill.	Foley
Beilenson	Conte	Ford, Mich.
Bennett	Conyers	Ford, Tenn.
Bevill	Corman	Fountain
Biaggi	Cornell	Fowler
Bingham	Cornwell	Fraser
Blanchard	Cotter	Gaydos
Blouin	Danielson	Gephardt
Boggs	Delaney	Gibbons
Boland	Dicks	Glickman
Bolling	Diggs	Gonzalez
Bonior	Dingell	Gore
Bonker	Dodd	Gudger

Hamilton	Mineta	Scheuer
Hanley	Minish	Schroeder
Hannaford	Mitchell, Md.	Seiberling
Harkin	Moakley	Sharp
Harrington	Moffett	Shipley
Harris	Mollohan	Simon
Hawkins	Moorhead, Pa.	Sisk
Heckler	Mottl	Skelton
Heftel	Murphy, Ill.	Slack
Holland	Murphy, N.Y.	Smith, Iowa
Holtzman	Murphy, Pa.	Solarz
Howard	Murtha	Spellman
Jacobs	Myers, Michael	St Germain
Jeffords	Neal	Staggers
Jenrette	Nichols	Stark
Johnson, Calif.	Nix	Steed
Jones, N.C.	Nolan	Steers
Jones, Tenn.	Nowak	Stokes
Jordan	Oakar	Stratton
Kastenmeier	Oberstar	Studds
Keys	Obey	Thompson
Kildee	Ottinger	Thornton
Kostmayer	Patten	Traxler
Krebs	Patterson	Tsongas
Le Fante	Pattison	Udall
Lederer	Pepper	Ullman
Leggett	Perkins	Van Deerlin
Lehman	Pike	Vanik
Long, La.	Preyer	Vento
Long, Md.	Price	Volkmer
Lundine	Rahall	Walgren
McCloskey	Rangel	Waxman
McCormack	Reuss	Weiss
McFall	Richmond	Whalen
McHugh	Rodino	Whitley
McKay	Roe	Wilson, C. H.
Maguire	Rogers	Wilson, Tex.
Markey	Roncalio	Wirth
Mathis	Rooney	Wolff
Mattox	Rose	Wright
Mazzoli	Rosenthal	Yates
Meeds	Rostenkowski	Yatron
Metcalfe	Roybal	Zablocki
Meyner	Russo	Zeferetti
Mikulski	Santini	

NOES—205

Abdnor	Emery	Levitas
Allen	English	Lloyd, Calif.
Anderson, Ill.	Erlenborn	Lloyd, Tenn.
Andrews, N. Dak.	Ertel	Lott
	Evans, Colo.	Lujan
Applegate	Evans, Del.	Luken
Archer	Evans, Ind.	McClory
Armstrong	Fascell	McDade
Ashbrook	Fenwick	McDonald
Badham	Findley	McEwen
Bafalis	Fish	Madigan
Barnard	Flynt	Mahon
Bauman	Forsythe	Mann
Beard, Tenn.	Frenzel	Marks
Benjamin	Frey	Marlenee
Bowen	Fuqua	Marriott
Breaux	Gammage	Martin
Breckinridge	Gilman	Michel
Brinkley	Ginn	Milford
Broomfield	Goldwater	Miller, Calif.
Brown, Mich.	Goodling	Miller, Ohio
Brown, Ohio	Gradison	Mitchell, N.Y.
Broyhill	Grassley	Montgomery
Buchanan	Guyer	Moore
Burgener	Hagedorn	Moorhead, Calif.
Burke, Fla.	Hall	
Burleson, Tex.	Hammer-schmidt	Moss
Butler		Myers, Gary
Caputo	Hansen	Myers, John
Carter	Harsha	Natcher
Cederberg	Hefner	Nedzi
Clausen, Don H.	Hightower	O'Brien
	Hillis	Panetta
Clawson, Del	Hollenbeck	Pease
Cleveland	Holt	Pettis
Cochran	Horton	Pickle
Cohen	Hubbard	Poage
Coleman	Huckaby	Pressler
Collins, Tex.	Hughes	Pritchard
Conable	Hyde	Pursell
Corcoran	Ichord	Quayle
Coughlin	Ireland	Quie
Crane	Jenkins	Quillen
Cunningham	Johnson, Colo.	Railsback
D'Amours	Jones, Okla.	Regula
Daniel, Dan	Kasten	Rhodes
Daniel, R. W.	Kazen	Rinaldo
Davis	Kelly	Risenhoover
de la Garza	Kemp	Roberts
Dellums	Ketchum	Robinson
Derwinski	Kindness	Rousselot
Devine	Krueger	Rudd
Dickinson	LaFalce	Runnels
Dornan	Lagomarsino	Ruppe
Duncan, Tenn.	Latta	Ryan
Edwards, Ala.	Leach	Sarasin
Edwards, Okla.	Lent	Satterfield

Sawyer	Stump	White
Schulze	Symms	Whitehurst
Sebelius	Taylor	Whitten
Shuster	Thone	Wiggins
Sikes	Treen	Wilson, Bob
Skubitz	Trible	Winn
Smith, Nebr.	Tucker	Wydler
Snyder	Vander Jagt	Wylie
Spence	Waggonner	Young, Alaska
Stangeland	Walker	Young, Fla.
Stanton	Walsh	Young, Mo.
Steiger	Wampler	Young, Tex.
Stockman	Watkins	

NOT VOTING—11

AuCoin	Flippo	Mikva
Burke, Mass.	Giaimo	Teague
Dent	Koch	Weaver
Derrick	McKinney	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Mr. Koch for, with Mr. McKinney against.

Messrs. GILMAN, CAPUTO, HOLLENBECK, and HUGHES changed their vote from "aye" to "no."

Mrs. HECKLER changed her vote from "no" to "aye."

So the ad hoc committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate the part of the bill now under consideration.

The Clerk read as follows:

Page 117, line 1, insert part II. (Part II of title I reads as follows:)

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

Subpart A—Energy Efficiency Standards for Consumer Products Other Than Automobiles

SEC. 201. TEST PROCEDURES.

(a) PUBLICATION OF TEST PROCEDURES.—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (6), such proposed test procedures shall be published not later than August 31, 1977.".

(b) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of such Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than December 30, 1977."; and

(3) by striking out subparagraph (B).

(c) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6) The Administrator may delay the publication of proposed test procedures under paragraph (3) or the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall publish such proposed test procedures or prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (3) or (4), as the case may be.".

(d) REEVALUATIONS OF TEST PROCEDURES.—Section 323(a) (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) Not later than 3 years after prescribing a test procedure under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such procedure should be amended, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered product involved.

"(B) If the Administrator determines under subparagraph (A) that a test procedure should be amended, he shall promptly publish proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

SEC. 202. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1)(A) The Administrator shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered product specified in paragraphs (1) through (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type (or class) of covered products of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(i) the average per household energy use within the United States by products of such type (or class) exceeds 150 kilowatt-hours per year for any 12-calendar-month period ending before such determination;

"(ii) the aggregate household energy use within the United States by products of such type (or class) exceeds 4,200,000,000 kilowatt-hours per year for any such 12-calendar-month period;

"(iii) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(iv) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible to attain and is economically justified.

In the case of any type (or class) of covered product which uses a fuel other than electricity, the standards to be applied in clauses (i) and (ii) shall be the amount of Btu's of such fuel necessary to generate the kilowatt-hours of electricity referred to in clauses (i) and (ii), respectively.

"(C) Not later than 2 years after the date of the enactment of this subparagraph, the Administrator shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under paragraph (B). The Administrator may revise such list from time to time thereafter.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) if—

"(A) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of product, or

"(B) the Administrator determines, by rule, that the establishment of such standard will not result in significant conservation of energy.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered product shall have the same effect as a standard prescribed for such type (or class) under this section.

"(3) Energy efficiency standards for each type (or class) of covered product prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 3 years, through the establishment of intermediate standards, as determined by the Administrator.

"(4) In determining whether a standard is economically justified under paragraph (3), the Administrator shall consider, after receiving any views and comments furnished with respect to the proposed standard under section 336—

"(A) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(B) the savings in operating costs throughout the estimated average life of covered products in the type (or class) subject to such standard which are likely to result from the imposition of such standard,

"(C) the total energy savings likely to result directly from the imposition of the standard,

"(D) any increase in the initial charge for, and the expenses of maintenance, repair, or use of, such covered products which is likely to result from the imposition of the standard,

"(E) the total cost, per Btu, in obtaining the energy savings likely to result from imposing the standard, computed for such type (or class) of covered product by dividing the average charges and expenses referred to in subparagraph (D) by the energy savings (expressed in Btu's) referred to in subparagraph (C),

"(F) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

"(G) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard, and

"(H) any other factors the Administrator considers relevant.

For purposes of subparagraph (G), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Administrator, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(5)(A) Subject to subparagraph (B), the Administrator may, on application of any manufacturer, exempt such manufacturer from the application of all or part of the requirements of any rule prescribing an energy efficiency standard under this subsection for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Administrator finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Administrator shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(B) The Administrator may not exercise the authority granted under subparagraph (A) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow such exemptions of manufacturers under subparagraph (A) would likely result in a substantial lessening of competition.

"(6)(A) A rule prescribing an energy efficiency standard for a type of covered product (or class) shall specify a level of energy efficiency higher or lower than that which otherwise applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Administrator, in his discretion, determines that products within such group—

"(i) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(ii) have a performance-related feature which is not part of other products within such type (or class), justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this subparagraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Administrator shall consider such factors as the utility to the consumer of such a feature, the capacity of the product resulting from, or which constitutes, such feature, and may consider such other factors as he deems appropriate.

"(B) Any rule prescribing a higher or lower level of energy efficiency under subparagraph (A) shall include an explanation of the basis on which such higher or lower level was established.

"(7) In prescribing energy efficiency standards under this subsection, the Administrator shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a).

"(8)(A) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered product involved, and the economic impact of the standard.

"(B) If the Administrator determines under subparagraph (A) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule will apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Administrator—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered product (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (4), (7), (8), (10), and (11) of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered product has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Administrator shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Administrator shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Administrator shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Administrator must consider under subsection (a)(4)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescribe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

"(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 203. EFFECT OF STANDARDS ON OTHER LAW.

Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed on or before the date of the enactment of the National Energy Act which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) of a covered product and which is not superseded by subsection (a)(2), then any person subject to such regulation may file a petition with the Administrator requesting that the Administrator prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Administrator finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after such date of enactment which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) of covered product and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Administrator requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulation; except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or similar requirement respecting energy use or energy efficiency for such type (or class) of a covered product may file a petition with the Administrator requesting a rule that such regulation not be superseded. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Administrator shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Administrator, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Administrator may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Administrator shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of the first sentence of paragraph (2) shall not continue in effect—

"(A) after 3 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (1), (2), (5), (6), (9), (12), or (13) of section 322(a), and

"(B) after 5 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (3), (4), (7), (8), (10), or (11) of section 322(a).".

SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO SECTION 324(a).—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(b) AMENDMENTS TO SECTION 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(c) AMENDMENT TO SECTION 326.—Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out his responsibilities under this section, the Administrator may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Administrator with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Administrator determines may be necessary to establish and revise test procedures and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.".

(d) AMENDMENT TO SECTION 333.—(1) Section 333 of such Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d) Before assessing against any person any civil penalty under this section, the Administrator or the Commission, as the case may be, shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order assessing such penalty shall state the findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator or the Commission, as the case may be, shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be promptly sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such order is filed the Administrator or the Commission, as the case may be, shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such order or the court may remand the proceeding for such further action as the court may direct.".

(2) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)".

(e) AMENDMENTS TO SECTION 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(A) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(B) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(f) AMENDMENTS TO SECTION 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended by striking out paragraph (2).

(4) Sections 336(b) (1) and (2) of such Act (42 U.S.C. 6306(b) (1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(g) AMENDMENT TO SECTION 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Administrator in carrying out this part during the period covered by such report and those actions which the Administrator was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 205. APPROPRIATIONS AUTHORIZATION.

Section 339(a)(3) of such Act is amended to read as follows:

"(3) in addition to amounts authorized for such purposes under section 29(a) of the Federal Energy Administration Act of 1974, $3,300,000 for fiscal year 1978.".

SEC. 206. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 and following) shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part (or provisions of law cited therein), or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to such part, and declaring that such provision supersedes the provisions of such part.

Subpart B—Disclosure of Automobile Fuel Inefficiency Tax

SEC. 221. DISCLOSURE IN LABELING.

(a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph

(C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile the sale of which is subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

SEC. 222. DISCLOSURE IN ADVERTISING.

(a) DISCLOSURE.—The Federal Trade Commission may prescribe rules requiring disclosure of any tax imposed by section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics.

(b) ENFORCEMENT.—A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice in or affecting commerce, for purposes of the Federal Trade Commission Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

Subpart C—Use of Recovered Materials

SEC. 241. USE OF RECOVERED MATERIALS.

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this section are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part D of title III of the Energy Policy and Conservation Act is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of enactment of this section, the Administrator shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: The metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Administrator shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken on which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Administrator—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Administrator shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1978, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Administrator under section 375, or if section 376(g) applies, prepare and transmit a report which includes a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1979, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Administrator for its industry. Such reports shall contain such information as the Administrator determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Administrator shall include in his annual report under section 375(c) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Administrator under this section; and

"(2) a summary of the programs made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—Section 376 of such Act is amended by—

(1) inserting "or 374A" after "section 372" in subsection (b), and

(2) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

Subpart D—Off-Highway Motor Vehicles and Bicycles

SEC. 261. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than one year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study. Such report shall contain recommendations respecting the desirability and practicability of applying fuel efficiency standards or taxes on fuel use (or both) to such vehicles."

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part E the following:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-highway motor vehicle conservation study."

SEC. 262. BICYCLE STUDY.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line number of the first ad hoc committee amendment to this part.

The Clerk read as follows:

Ad hoc committee amendment: Page 132, line 21, insert: "of section 322(a).".

The ad hoc committee amendment was agreed to.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line number of the next ad hoc committee amendment.

The Clerk read as follows:

Ad hoc committee amendment: Page 144, line 9, insert the matter printed on page 144, line 9, through page 145, line 3. (The ad hoc committee amendment reads as follows:)

Subpart D—Off-Highway Motor Vehicles and Bicycles

SEC. 261. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than one year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study. Such report shall contain recommendations respecting the desirability and practicability of applying fuel efficiency standards or taxes on fuel use (or both) to such vehicles.

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part E the following:

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHLEY) is recognized for 5 minutes.

Mr. ASHLEY. Mr. Chairman, I rise in support of this amendment, which provides that the Secretary of Transportation be required to report within 1 year on the energy conservation potential of off-highway recreational motor vehicles, including aircraft, motorboats, and motor vehicles designed for recreational use, including recommendations with respect to the practicability of applying fuel-efficient standards for the use of fuel in these vehicles. This is simply a study, Mr. Chairman.

The purpose of the amendment speaks for itself. The effort, of course, is to bring about conservation of gasoline; that is to say, a reduction in overall consumption of gasoline by 1985 of some 10 percent.

What this study would do would be to provide for the Congress a better assessment of potential savings with respect to aircraft, motorboats, and other off-highway recreational motor vehicles.

During the deliberations of the ad hoc committee, Mr. Chairman, this was discussed; and my recollection is that it was agreed to without great controversy.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

There was some controversy may I say to the distinguished chairman of the ad hoc committee. With respect to that, I must say that I do not think this adds very much to our energy policy. I think it lacks substance; and worse than that, it gives more power to the Secretary of Transportation to work in conjunction with the Secretary of the Interior probably to prohibit off-highway vehicles, and that is one of my fears with regard to where all of this goes.

However, I would like to ask a question of the distinguished and able gentleman from Ohio (Mr. ASHLEY). With respect to the next section, the bicycle study, when the ad hoc committe voted on it, it was offered as title III to the bill. How did it get from title III of the bill to part F and section 262?

Mr. ASHLEY. Mr. Chairman, let me state that the chair was given implicit authority to make conforming and technical changes.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the chair had achieved, by motion within the ad hoc committee, authority to make technical and conforming changes. It was pursuant to that motion that this change was made.

Mr. ASHLEY. That is what the response of the gentleman was.

Mr STEIGER. Mr. Chairman, I just find it difficult to understand. It seems to me that, potentially, it is something far more than just a technical change. A point of order was lodged against the amendment.

Mr. ASHLEY. Mr. Chairman, I am sorry, but I cannot hear the gentleman.

Mr. STEIGER. This is somewhat more than just a technical amendment, it would seem to me. The amendment was offered and a point of order was made against the amendment and the point of order was sustained by the chair against the amendment. Then it was offered as title III to escape the point of order. Now we find it is, despite this opposition, in this title. I think this raises, with all due respect, a serious question.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. The fact of the matter is that the original amendment we are offering now—section 262—was offered to title II, which was a tax provision section. It is now included in title I.

Mr. BROWN of Michigan. That does not cure a thing. It was nongermane, and we brought a point of order under title I. It would not have been eligible for consideration of the ad hoc committee. Now they are taking the position that is mighty confusing, putting it back in title I.

Mr. DINGELL. We are discussing here the amendment relating to off-highway motor vehicles. This is not the bicycle study amendment.

Mr. BROWN of Michigan. I started to say that they tried to correct the defect in the ad hoc committee by having a separate title. It was a combining of the studies together so as not to have this title standing out there by itself. It almost came to a vote when it was obvious there were all kinds of problems over it and the gentleman withdrew his amendment. I think for us to do this under a so-called pro forma amendment is ridiculous and an outrage.

Mr. TSONGAS. As a matter of fact that is not correct. The amendment was passed as a separate title first. The gentleman is given the impression that somehow the amendment was withdrawn.

Mr. STEIGER. The point the gentleman from Massachusetts (Mr. TSONGAS) is making is that that was first as to title III.

I did not mean to provoke this controversy about it.

Mr. TSONGAS. Nor did I.

Mr. STEIGER. I simply was "dumbstruck" as to how it got suddenly from where it was to somewhere else other than where it was when we adopted it.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that the amendment, as the gentleman knows, relates to an off-highway motor vehicle study. It seemed to us that that properly fell, under the table of contents, under title I, part II, energy efficiency of certain products; use of recovered materials. The former part of that, energy efficiency of certain products, it appeared to us, without any mystery about it at all, that it was appropriate for us at this point in the bill, and I exercised the discretion that was vested in me by virtue of the motion regarding technical and conforming changes, to have it inserted at this juncture.

Mr. STEIGER. I appreciate the problems with which my chairman has had to deal, Mr. Chairman, but I do not think a study makes an awful lot of sense.

I yield back the remainder of my time.

Mr. TSONGAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this is a relatively simple amendment. What it says basically is that as we seek to achieve some equity in the energy bill, we have got to think also of mandating efficiencies and providing taxes on vehicles, vehicles that are used to get to work, vehicles that are used to shop, and so forth. What the amendment does is say we want to extend that concern for conservation to vehicles that are used solely for pleasure. That is all the amendment does. If we are going to look at automobiles, we should also take a look at those consumers of gasoline whose only function is pleasure and ask the Secretary of Transportation to come back in a year with recommendations therefor. That is the amendment. I think it is simple; I think it is equitable; and I think it should be passed.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Will the gentleman explain whether the amendment applies only to those vehicles and boats used solely for pleasure? I notice on page 144, line 20, it talks about motor boats designed for recreational use.

A great many fishermen, or watermen as we call them in Maryland, quite often have boats used for charter fishing parties in the summer, but for the balance of the year they are used as work boats, either oystering, clamming, crabbing, or fishing. Is there any contemplation that there is going to be imposed a tax on boats that could be used for both purposes? Is that implicit in the language?

Mr. TSONGAS. No, it is not. It is to

get at vehicles whose sole purpose is pleasure.

Mr. BAUMAN. Does the gentleman have any information about the amount of gasoline or oil consumed by vehicles and boats that would fall in this category? To my knowledge, it is one-tenth of 1 percent of all the energy consumed in the United States. Even if savings are effected, the savings would be like a sneeze in a hurricane.

Mr. TSONGAS. I do not understand the gentleman's concern.

Mr. BAUMAN. My question is, does the gentleman have any statistics about the amount of fossil fuels now used by the types of vehicles proposed to be covered by this study?

Mr. TSONGAS. The point I am trying to make is that if there is excess use of gasoline in a field solely related to pleasure—and I do not understand the gentleman's concern—we should have a study to try to deal with that problem.

Mr. BAUMAN. It seems to me if we are dealing with only one-tenth of 1 percent of the total usage of gasoline and oil in this country it is a waste of money to spend $100,000 or a million dollars on a needless study. We ought to be looking elsewhere for energy savings instead of trying to tax boaters and watermen—many of whom make their livelihood from the water.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hesitate to take the floor since I am one of the many Members who did not serve on the ad hoc committee and, therefore, is not expected to be knowledgeable about the details of this bill. We are in the situation where those of us who have been gagged by the rule and gagged by the procedure, and by the use of special committees, are just supposed to stand around and vote like sheep according to the dictates of our leaders, if we have any.

I would just like to point out to the Members that this is an interesting section. For example, it provides for a study for 1 year of the energy conservation potential of recreational motor vehicles, et cetera. Then if one reads on, it says:

> Such report shall contain recommendations respecting the desirability and practicality of applying fuel-efficiency standards or taxes on fuel use, or both, to such vehicles.

I read this to mean that this Commission is already mandated to recommend either fuel-efficiency standards or taxes, or both. In other words—the proponents of this amendment agree—with the end result of the year study as dictated. If someone is to be consistent—for example, I will assume the gentleman from Massachusetts to be consistent in his belief that we have to discipline nonessential users, then certainly aircraft, pleasure vehicles, and snowmobiles fall into that category.

What about the baseball fans in Boston who are using their autos to drive to the ballpark because there is a pennant race? Should we not have a restriction on fans using their vehicles for something so ridiculous as 40,000 flocking to the ball park in 20,000 cars?

If we are going to be logical and turn the bureaucrats loose to control every element of society, why not rule on precise limitations as to what the public will be allowed to use their cars for? When I think of 60,000 people who may drive to the Dodger stadium this fall to watch the Chicago White Sox beat the Dodgers, they should stay home or use public transportation and not their private cars, because if the "Great White Father" is going to rule on their vehicles and tax them and then restrict their use, why not apply it, logically, all across the country for all purposes?

I see this as another Pandora's box, as another great step toward paternalism in this country and as the kind of legislation we should not enact.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I would remind the gentleman the Dodgers come from Los Angeles.

Mr. DERWINSKI. That is one of the better exchanges of the day.

Mr. LLOYD of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would ask the gentleman from Massachusetts (Mr. TSONGAS) if he could give us some estimate as to the cost of this study.

Mr. TSONGAS. Mr. Chairman, in relation to both this study and the next section, section 262, most of the information in terms of the fuel efficiency standards, et cetera, have already been done and the studies go back for many years. The Secretary of Transportation would simply bring these together, sift through them, and then come up with recommendations to the Congress. It is not going back to ground zero and beginning to do the research, which I think the gentleman is worried about.

Mr. LLOYD of California. That is well and good, but would the gentleman give us an estimate? I have an estimate.

Mr. TSONGAS. I would like to hear the estimate the gentleman has.

Mr. LLOYD of California. This is from the Office of Transportation and Technology, a division of the Department of Transportation. I asked for this cost and they made an estimate that it would be a minimum of $800,000 to $1.2 million. The gentleman can argue the cost, I am sure, but that is what they gave me.

Mr. TSONGAS. Where did the gentleman get that?

Mr. LLOYD of California. These cost figures were arrived at by computing the amount of money needed to provide sufficient man-hours of work for a 1-year study. The figure I have given you does not include the cost to print the study for use by Congress and the President. Furthermore the cost does not include the amounts needed to coordinate the study throughout the various branches of Government that deal with aviation and motorboats. This amendment specifically includes both aircraft and motorboats, and thereby necessitates substantial increases in the cost of this study.

Mr. TSONGAS. The study would have to be both authorized and appropriate. Supposing we have some control over the data. The gentleman is quite correct. If we go into areas of yachts and airplanes and things of that nature, there is a serious consumption pattern there which has to be addressed. What happens to them? An individual feels he is restricted in terms of the gasoline and he sees someone in a high income bracket who can go in pleasure aircraft or pleasure watercraft without restriction whatsoever. Is there not some inequity there?

Mr. LLOYD of California. Let me ask the gentleman this question. Is the gentleman under the assumption that aircraft are necessarily automatically pleasure vehicles or does he see them as a mode of transportation, a viable mode of transportation, and I am talking about general aviation aircraft at this point?

Mr. TSONGAS. If the gentleman asks in terms of his district, most of them are used for pleasure.

Mr. LLOYD of California. That is not true.

Mr TSONGAS. If the gentleman will yield, I was referring to my own district.

Mr. LLOYD of California. The gentleman was responding; after I point out what I believe an error of assumption I will let the gentleman go forward. In the State of California approximately 50 percent of the travel done by air is done by general aviation and that is not inclusive of pleasure. Maybe it is pleasure when they go from point to point or get on a commercial aircraft to go to Los Angeles or Las Vegas or wherever, maybe that is what the gentleman on the other side was talking about.

Mr. TSONGAS. That kind of travel, not for pleasure, is not included in the study.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, what has concerned me about this and the gentleman from Illinois and the gentleman from California both have hit on it, by the time we are through looking at the way this bill has developed, we are going to have a tax on gas guzzlers, we are going to raise the price to producers directly through a 4- or 5-cent gas tax or 7 cents indirectly by a wellhead tax and my constituent in Fond du Lac, Wis., who has a family of six or seven kids and who uses a motorboat for recreation is going to find himself paying, if the amendment goes through as is and if the study comes out where I think we already know it is going to come out, we are not only going to clobber him in terms of getting to work and clobber him in terms of heating his house and all of a sudden the only thing he has left to catch fish at Lake Winnebago, we are going to clobber him with a motorboat tax.

I do not know why we should disrupt everybody's fun. I could care less about

the yacht owners. I have no problem there; but I do care about that person who works in Fond du Lac or Sheboygan, who uses his boat or snowmobile to escape from the labors of work.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have the Johnson Outboard Motor Co. in my district. I recall during the embargo and following the period when the Arab embargo on oil products was imposed that there was an effort then made to bar the use of gasoline for use in motorboats and so-called recreational vehicles. That effort caused quite a reaction.

As a matter of fact, we are talking about a great many employees, a great many people who are engaged in the business of producing, marketing, and retailing watercraft, outboard motors and inboard-outboard motors, and so on.

Also, with respect to the use of motorboats, to which my colleague, the gentleman from Wisconsin (Mr. STEIGER) made reference, motorboats are used to a large extent for essential transportation purposes, too—in addition to purely recreational purposes.

I think it is extremely difficult to determine whether or not motorboats or other so-called recreational vehicles are used for pleasure, whether they are used for multiple purposes, for useful, healthful recreation, and other appropriate physical activities, or for essential and legitimate transportation.

I do not think this kind of study is essential at all. Everything about this subject is already known.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I think we ought to consider the figures that have been rendered in this debate. It has been admitted the study will deal with less than one-tenth of 1 percent of all consumption of gasoline and oil. The gentleman from California has gathered the information from the people who will do this study that it will cost from $800,000 to $1.2 million. At some point the law of diminishing returns applies, even to studies made by this Congress.

Mr. McCLORY. Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) is quite correct. Also, I agree with the gentleman from Illinois (Mr. DERWINSKI) who has pointed out the mischievous effect of this amendment in mandating action against the motorboat industry and, in my case, I would say specifically against the outboard motor industry.

Mr. Chairman, I hope the amendment will be defeated.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, those in the gallery, if not those of us on the floor, must begin to wonder when such debate is generated over a provision that calls for a study with respect to the energy conservation potential of various vehicles. I must say that I begin to wonder, because when I look back at the vote that occurred on this proposed study in the ad hoc committee, what I find is that my friend, the gentleman from Wisconsin, who has been very eloquent in his opposition to it this afternoon, was recorded as being in favor of it on a rollcall vote.

The gentleman from Illinois (Mr. ANDERSON), my counterpart on that committee, voted aye on this study. One begins to wonder what is happening on the floor today.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. Indeed I will yield.

Mr. ANDERSON of Illinois. It is true that I did not oppose this amendment for a so-called study in the committee, and I have not said a word in opposition to it today. I would, however, offer to the gentleman from Ohio some word of explanation. He is, he says, concerned and maybe even, to some extent, confused about the fact that it has aroused some opposition. My own belief is that much of the opposition is probably simply generated by the fact that we have had so many studies on so many subjects, not only in this Congress but in past Congresses, all of which have really failed to generate any recommendations of particular value. I would assume that when somebody talks about a study that is going to cost $800,000 or, as the gentleman from California said, as much as $1,100,000, it is going to excite some opposition.

But, I did not oppose the amendment in committee, true, I think there is an explanation that can be suggested as to why we hear some of the sentiments expressed, as they are today, on the floor.

Mr. ASHLEY. I appreciate the gentleman's remarks.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, I would like to speak just briefly in support of the amendment. I think I probably represent as many boat owners as anybody in the country in this Chamber, and I take with a very large grain of salt all these allegations about how the boats and the planes are used for business purposes. Of course, they allege that they are used for business purposes because that is how they get to write them off as tax deductions. So, when we hear that all this use of these recreational vehicles is for business purposes, take it with a grain of salt.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding to me. I would simply ask my chairman to please read pages 219 and 220, in which my opposition to the amendment during the committee's deliberations is expressed. I am afraid our chief clerk did not understand my name correctly on the rollcall, but that is neither here nor there. I voted against the amendment, argued against the amendment, and I still think the amendment is a bad idea. I hope it is not adopted.

Mr. ASHLEY. If the gentleman will yield further, I think the gentleman would agree with me that this issue, which has really boggled the minds with its complexity, has been reasonably discussed, and I would hope we could vote on it.

Mr. OTTINGER. I would just like to say that if we are serious about saving fuel, certainly one area that has to be looked at is the use of purely recreational vehicles. That is all this amendment addresses itself to. I cannot understand the opposition.

Mr. STEIGER. I would hope the chairman could tell the committee how he had voted when this amendment was offered in the committee.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part II, title I.

The question was taken; and on a division (demanded by Mr. TSONGAS) there were—ayes 59; noes 44.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 210, not voting 11, as follows:

[Roll No. 492]

AYES—212

Addabbo	Davis	Johnson, Calif.
Allen	de la Garza	Kastenmeier
Ambro	Delaney	Keys
Ammerman	Dellums	Kildee
Anderson, Calif.	Diggs	LaFalce
	Dingell	Le Fante
Anderson, Ill.	Dodd	Lederer
Andrews, N.C.	Downey	Lehman
Annunzio	Drinan	Levitas
Applegate	Duncan, Oreg.	Lloyd, Tenn.
Ashley	Early	Long, La.
Aspin	Eckhardt	Long, Md.
AuCoin	Edgar	Lundine
Badillo	Edwards, Calif.	McFall
Baldus	Eilberg	McHugh
Barnard	Ertel	Maguire
Baucus	Evans, Colo.	Mann
Beard, R.I.	Evans, Ga.	Markey
Bedell	Evans, Ind.	Mathis
Beilenson	Fary	Mattox
Benjamin	Fenwick	Meeds
Bennett	Fisher	Metcalfe
Bevill	Fithian	Meyner
Biaggi	Flood	Mikulski
Bingham	Florio	Mineta
Blanchard	Flowers	Minish
Boland	Foley	Mitchell, Md.
Bolling	Ford, Mich.	Moakley
Bonior	Ford, Tenn.	Moffett
Bonker	Fountain	Moore
Brademas	Fowler	Moorhead, Pa.
Breaux	Fraser	Moss
Brinkley	Gephardt	Mottl
Brodhead	Gibbons	Murphy, Ill.
Brown, Calif.	Ginn	Murphy, N.Y.
Burke, Calif.	Gonzalez	Murphy, Pa.
Burlison, Mo.	Gore	Myers, Gary
Burton, Phillip	Gudger	Natcher
Caputo	Hamilton	Neal
Carney	Hanley	Nedzi
Carr	Harkin	Nichols
Cavanaugh	Harrington	Nix
Chisholm	Harris	Nolan
Clay	Hawkins	Nowak
Coleman	Hefner	Oakar
Collins, Ill.	Holland	Obey
Conte	Hollenbeck	Ottinger
Conyers	Holtzman	Pattison
Corcoran	Howard	Pease
Corman	Hubbard	Pepper
Cornell	Huckaby	Perkins
Cornwell	Hughes	Pike
Cotter	Jacobs	Preyer
Danielson	Jenkins	Price

Rangel	Sharp	Udall
Reuss	Sikes	Ullman
Richmond	Simon	Van Deerlin
Roberts	Skelton	Vanik
Roe	Solarz	Vento
Rodino	Spellman	Waggonner
Rogers	St Germain	Waxman
Rooney	Staggers	Weaver
Rose	Stark	Weiss
Rosenthal	Stokes	Whalen
Rostenkowski	Stratton	Wilson, Tex.
Roybal	Studds	Wolff
Russo	Thompson	Wright
Ryan	Traxler	Yates
Satterfield	Treen	Yatron
Scheuer	Tsongas	Zablocki
Seiberling	Tucker	Zeferetti

NOES—210

Abdnor	Guyer	Pettis
Akaka	Hagedorn	Pickle
Alexander	Hall	Poage
Andrews, N. Dak.	Hammer-schmidt	Pressler
Archer	Hannaford	Pritchard
Armstrong	Hansen	Pursell
Ashbrook	Harsha	Quayle
Badham	Heckler	Quie
Bafalis	Hightower	Quillen
Bauman	Hillis	Rahall
Beard, Tenn.	Holt	Railsback
Blouin	Horton	Regula
Boggs	Hyde	Rhodes
Bowen	Ichord	Rinaldo
Breckinridge	Ireland	Risenhoover
Brooks	Jeffords	Robinson
Broomfield	Jenrette	Roncalio
Brown, Mich.	Johnson, Colo.	Rousselot
Brown, Ohio	Jones, N.C.	Rudd
Broyhill	Jones, Okla.	Runnels
Buchanan	Jones, Tenn.	Ruppe
Burgener	Jordan	Santini
Burke, Fla.	Kasten	Sarasin
Burleson, Tex.	Kazen	Sawyer
Butler	Kelly	Schroeder
Byron	Kemp	Schulze
Carter	Ketchum	Sebelius
Cederberg	Kindness	Shipley
Chappell	Kostmayer	Shuster
Clausen, Don H.	Krebs	Sisk
Clawson, Del	Krueger	Skubitz
Cleveland	Lagomarsino	Slack
Cochran	Latta	Smith, Iowa
Cohen	Leach	Smith, Nebr.
Collins, Tex.	Leggett	Snyder
Conable	Lent	Spence
Coughlin	Lloyd, Calif.	Stangeland
Crane	Lott	Stanton
Cunningham	Lujan	Steed
D'Amours	Luken	Steers
Daniel, Dan	McClory	Steiger
Daniel, R. W.	McCloskey	Stockman
Derwinski	McCormack	Stump
Devine	McDade	Symms
Dickinson	McDonald	Taylor
Dicks	McEwen	Thone
Dornan	McKay	Thornton
Duncan, Tenn.	Madigan	Trible
Edwards, Ala.	Mahon	Vander Jagt
Edwards, Okla.	Marks	Volkmer
Emery	Marlenee	Walgren
English	Marriott	Walker
Erlenborn	Martin	Walsh
Evans, Del.	Mazzoli	Wampler
Fascell	Michel	Watkins
Findley	Milford	White
Fish	Miller, Calif.	Whitehurst
Flynt	Miller, Ohio	Whitley
Forsythe	Mitchell, N.Y.	Whitten
Frenzel	Mollohan	Wiggins
Frey	Montgomery	Wilson, Bob
Fuqua	Moorhead, Calif.	Wilson, C. H.
Gammage	Murtha	Winn
Gaydos	Myers, John	Wirth
Gilman	Myers, Michael	Wydler
Glickman	O'Brien	Wylie
Goldwater	Oberstar	Young, Alaska
Goodling	Panetta	Young, Fla.
Gradison	Patten	Young, Mo.
Grassley	Patterson	Young, Tex.

NOT VOTING—11

Burke, Mass.	Flippo	McKinney
Burton, John	Giaimo	Mikva
Dent	Heftel	Teague
Derrick	Koch	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Mr. Koch for, with Mr. McKinney against.

Mr. McDADE changed his vote from "aye" to "no."

So the ad hoc committee amendment was agreed to.

The result of the vote was announced as above recorded.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line number of the next ad hoc committee amendment.

The Clerk read as follows:

Ad hoc committee amendment: Page 145, insert the matter printed on page 145, lines 4 through 23. (The ad hoc committee amendment reads as follows:)

SEC. 262. BICYCLE STUDY.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a couple of moments ago the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY) urged that we get on with the business at hand and vote on the recreational vehicle amendment so we could get to the important matters that lie before us.

Well, "LUD," here it is, here is the important matter before us.

Mr. Chairman, I served on the ad hoc committee and during my service on that committee I offered a simple amendment to assert that it is one of our goals to increase the domestic production of oil and gas. The committee rejected that amendment, but it did vote for a study on bicycles.

Mr. Chairman, I suggest that if we pass this amendment, our constituents are going to regard it in much the same manner as Federal studies of frisbees and the mating calls of toads.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. As soon as I flinish my statement I will be glad to yield to the gentleman.

Mr. Chairman, the rule provides that the amendments before us are not to be read, but I think it might be interesting to the Members of this body to understand what we are voting on.

The amendment reads:

The Congress recognizes that bicycles are the most efficient means of transportation, . . .

That is an obvious slight to the manufacturers of roller skates and skateboards.

They offer mobility at speeds as fast as those of cars in urban areas and represent a viable commuting alternative for many people.

In our attempt to resolve the serious energy crisis that is before us with serious legislation, we have brought forth a bill that does not express a desire to increase energy production but does call for a study of the energy conservation potential of bicycle transportation to establish, mind you, a target, a Federal target, a national target for bicycle use in commuting, and to develop a comprehensive program to meet these goals, to be supported by educational programs, Federal demonstrations, planning grants, and construction grants.

Mr. Chairman, I fear that what we have come up with here is the Great Bicycle Act of 1977, and I strongly recommend that to save face back home we reject this amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned that we are taking an approach to an important issue in this bill, this issue of bicycle use, which will belittle its potential and hold up to ridicule those who use bicycles as a mode of personal transportation.

Those who have studied the history of transportation in this country are well aware of the fact that the first road system in this country was developed for bicycles. As a matter of fact, the Bureau of Roads was established and received its first appropriation as a result of political pressure from bicycle riders in the late 1880's. Today bicycle riders look askance at that monstrosity which they helped to create more than three-quarters of a century ago. It would not be so bad if we had merely developed roads for automobiles, but what we have done in effect is to allow automobiles to monopolize all of the public spaces of this society and to preclude the use of other means of transportation such as bicycles, or even walking, to say nothing of other kinds of vehicular traffic or mass transit.

Mr. Chairman, I rise in support of the amendment calling for a study of the conservation potential of bicycles. Contrary to what some may think, bicycles can be an effective, efficient alternative to automobiles. They require little energy and few materials to produce and need only a small amount of prepared surface, if any, to operate.

Perhaps this is why some do not take bicycles seriously. If we could manufacture a 3,000 pound bicycle that consumed resources and needed tremendous construction effort in order to provide right-of-ways, then there would be no question of the need for this study. But bicycles silently slip around our modern transportation devices and attendant technology and remain a novelty to legislators and planners.

There are many who believe in using bicycles to save transportation costs, to keep air quality from degrading more than it has, and to keep themselves

physically fit. Nearly 50 percent of my office staff use bicycles as a primary means of commuting and together they log nearly 10,000 miles a year. To these people and the millions of others who criss-cross this country pedaling to work, to the store, and for recreation, the bicycle is not a novelty but a viable alternative to automobiles and buses.

The study of bicycles is germane to and necessary for any comprehensive evaluation of our energy problem and possible solutions. Bicycles are obviously energy efficient in their manufacture and use. Twenty to thirty pounds of steel, a narrow ribbon of space, and the bicycle becomes independent of oil cartels, parking problems, and fixed transit routes. One out of every two Americans owns a bicycle. If we can find ways to encourage and facilitate increased bicycle use, the energy saving potential is substantial. Is it energy efficient to use a 3,000 pound tangle of metal and plastic to transport a 150 pound person to a nearby supermarket for a sack of flour or can of soup?

A 1974 energy study done at Oak Ridge National Laboratories estimated the total energy use for bicycling—food, manufacture, repair, bikeway construction—at 1,300 Btu/mile or 100 miles per gallon. An automobile uses 11,000 Btu/mile or 11.4 miles per gallon. This study estimates that by substituting bicycle use for automobile use in 6 percent of trips of 0 to 5 miles the annual fuel savings would be 827 million gallons.

Bicycles are an untapped energy saving resource already available to over 100 million Americans. We need to develop this resource as vigorously as we develop other alternative energy sources.

Bicycles in urban areas can travel with the traffic flow, averaging 15 miles per hour or better, providing as swift a means of transportation as an automobile or bus. A case-in-point, one of the members of my staff who used to spend 45 minutes commuting from Virginia on a bus now spends 35 minutes commuting by bicycle. The same Oak Ridge study I just mentioned estimates that for trips shorter than 1 mile in urban areas the bicycle is faster than a car. Even with 5 mile trips, the average time penalty for bicycles is only 6 minutes.

The California Energy Resources Conservation and Development Commission in 1976 passed a resolution supporting efforts to encourage bicycle use for transportation and recreation given its energy efficiency, lack of air or noise pollution, and positive health benefits. They recognize what we need to recognize in our discussion of this issue. Bicycles can provide a way to reduce energy use, urban congestion,, and transportation costs. If this seems radical or novel or even whimsical to some of my colleagues, I encourage them to look at the positive results to be found in Europe and Asia.

This study will examine the legal, physical, and personal obstacles to be overcome in increasing bicycle use. Bicycles are simple devices that call for simple solutions in order to increase their use. There are over 6,000 miles of abandoned railroad rights-of-way that can be used for a system of bikepaths. Bikeways can be laid alongside highways during repair or reconstruction. Mass transit systems can set up more pedal and park facilities, such as the one Metro has, to expand their service areas. Transportation planners can be encouraged to recognize the needs of bicyclists and cut the Gordian knot of superhighways and cloverleafs that block access to cities from outlying areas. The possibilities are endless but need to be addressed in a comprehensive manner.

We become enamored with complex technological solutions to our problems, and tend to dismiss simple alternatives. Bicycles will not replace autos and buses, will not completely solve our energy problem. But their increased use will help work toward a savings of 827 million gallons of gas a year, a significant savings. Bicycles have a serious part to play in this comprehensive energy bill and I urge support of this amendment.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. BEARD of Tennessee, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 4 additional minutes.)

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, I thank the gentleman for yielding.

It states in the bill:

> In developing the program, consideration should be given to educational programs, . . .

I am not sure what educational programs are given to bicycling. What I would like to know is if by all these different little programs, and we are talking about construction grants, and planning grants, and Federal demonstration and educational programs, what kind of price tag are we talking about? What is the price the committee came up with in studying this to present a request for an educational program?

Mr. BROWN of California. I was not a member of the ad hoc committee. I am not privy to that information. I would be glad to yield to a member of the committee who might have the information.

Mr. SIMON. Mr. Chairman, if the gentleman will yield, I am not a member of that committee either but if we spend for the bicycle paths 1 percent of what we spend on roads we would be a healthier nation and consume less energy.

Mr. BEARD of Tennessee. But that is not answering my question. I am asking as a responsible legislator how much money we are talking about. I am sure someone on the committee has studied this and not just come and asked for an open-ended account. How much are we talking about?

Mr. TSONGAS. Will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Let me respond to both points. Studies have shown a good number of fatalities caused by the use of bicycles have been because of the lack of education for commuters, and so forth, on the various regulations, and so forth, involved with travel on the roads. That is why that particular section was included.

I indicated earlier on the question of cost that the Department of Transportation and the District of Columbia and the EPA all have done studies on the issue of bicycles and potential savings and so forth, and the Secretary will pull all that information together. All this was to do was to have it brought together by the Secretary of Transportation and have it brought to the Congress.

Mr. BEARD of Tennessee. Mr. Chairman, if the gentleman will yield further, I am sorry to have to pursue this point, but the gentleman made some points about these studies, and so forth, but the gentleman did not tell me, and I am sure the Members of this body would like to have it, some estimate as to the cost I think it is an insult to come here and request something like this if we do not have any kind of ballpark figure. I am amazed and shocked if that is the case. Is there anybody in this body that has any idea whether it will be $1 million or $1 billion or what?

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield to the gentleman if he can provide a figure. If not, I will provide a guess.

Mr. TSONGAS. We appropriate the money for the studies and the Secretary comes back with the estimate and then we would go ahead and program something.

Mr. BEARD of Tennessee. Mr. Chairman, if the gentleman will yield further, what is the gentleman's guess?

Mr. BROWN of California. I would guess under a million dollars.

Mr. BEARD of Tennessee. That is the gentleman's guess?

Mr. BROWN of California. Yes.

Mr. BEARD of Tennessee. Does the gentleman have any kind of track record of guesses? I look at Congress guesses and I get somewhat skeptical.

I would like to say, I think it is kind of a sad state of affairs, we are asking Members of this body to vote and not having any idea what the cost will be.

Mr. TSONGAS. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in favor of the amendment.

Mr. Chairman, I really regret that this issue has been treated the way it has been. In response to the gentleman from Oklahoma (Mr. EDWARDS) comment as to the ad hoc committee, it is, indeed, true that the gentleman voted against it; but seven or eight other Members of the minority voted in favor of it.

I might add, it was one of the few amendments that had support, one of the few Democratic initiated amendments, that had support on the other side of the aisle.

The second point is that I admit this amendment lends itself to humor, but it is only humor in the company of those who have taken advantage of the congressional system to go to China or other

places in Europe. As they can recall, bicycles are in great use. In fact, we are the only country in the world that finds the use of bicycles to be humorous. We are the only country in the world that last month had a trade deficit of $2.8 billion, most of it because of imports of oil. We are the only country that will be brought to its knees by another embargo or a shortage that we envision in the 1980's.

Let me give some real figures for the potential. There was a study done in the District of Columbia that said if appropriate measures were taken by 1978, there would be something like 7,500 persons using bicycles as a primary mode of transportation in commuting. By 1985, if these measures were taken, there would be 14,000 people commuting to the city and the environs by the use of bicycles; that something like 12,000 people that are now using gasoline to get into the city would not be doing so.

I wonder if that is a humorous step in terms of this country's energy situation.

The final point is that those people who desire when they commute to use no gasoline, not to pollute the air, not to do something that is heavily dependent on natural resources, use a bicycle to go to work, undertake a mode of transportation that is three times more dangerous because of the way we have structured our transportation system. I think they have a right to commute in a safe mode.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, as one who rides a bicycle regularly to work, I could point out some of the things that could be done to facilitate such activity. We could work out means by which a person could cross a bridge, a means by which one could go downtown to park a bicycle in safety. I have been run off from the front of hotels because they had no place to park. We could work it out so one could park in front of the Rayburn Building on an equal basis with a limousine. We could work out a system of traveling in a bus lane to have equal rights to travel along the curb lane, as a bus.

There are dozens of things that could be studied cheaply and a simple solution would cost virtually nothing and save a tremendous amount of energy.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, in many respects this proposal comes up as a regular practice in terms of saving energy.

Could the gentleman give us some idea if it were implemented on a national basis how many jobs this would result in for the economy?

Mr. TSONGAS. In which respect, people working in hospitals in cardiac or respiratory units?

I am thinking in terms of, if there are 14,000 commuters here in the city of Washington, we would want to multiply that by at least four or five times in my hometown of Chicago, and we could do that around the country, obviously, in any conversion from present modes of transportation. This obviously is going to cost us jobs in our economy. I wonder if the gentleman could give any estimate or approximation as to how many jobs will be lost to the economy.

Mr. TSONGAS. Probably the same number of jobs gained by the moneys that do not go to OPEC, but will be reinvested into our economy.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from New York.

Mr. PATTISON of New York. I want to congratulate the gentleman on his statement. As another Member of this body who rides his bike to work every day, I find what the gentleman from Texas (Mr. ECKHARDT) said to be exactly true. It is almost impossible to park one's bicycle in many places. I can ride over to the White House because they will take care of me, but I cannot ride to Hecht's because there is no place to park there, and in other places.

So, I think the only dangerous thing I do when out riding a bike is to breathe the air caused by automobiles other people are driving. This is a serious thing. Bicycles are not just toys; they are a darn good means of commuting. All of us would be better off if we rode them.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I opposed the amendment in committee; opposed it on a voice vote; opposed it on a rollcall vote. I want to discuss with you why I opposed it.

We have before us today the most serious issue that we have had confronting us in this session of Congress. It is this matter of energy, and what America is going to do about energy. In the course of evaluating this situation, we cannot cover everything in spite of the fact that this bill is a 580-page book. We have 10 different bills here. We already have more than we can take care of, and to stretch it to the point of going into bicycles is just going beyond the realm of reality.

I want to repeat again what this bicycle section says, because it overstates the case. Under the term "Findings" it says:

> The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas . . .

Have the Members ever seen those cartoons of Superman which say, "He travels with the speed of a bullet"?

> . . . the Secretary of Transportation shall complete a study of energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals.

Now, when we talked about this bicycle study, the first thing that came to my mind was where was America 100 years ago. That is right, I will tell my friend, the gentleman from New Jersey, and I want to outline the history. One hundred years ago, only 1 percent of the energy in this country consisted of what we would call the raw minerals of oil or gas. Ninety-nine percent of the energy in America 100 years ago was either manpower energy or horses or mules, and perhaps they used some bicycles.

Now, the question is, is America ready to go back to that era of moving by the horses and mules and bicycles, or human muscle? The first thing that came to mind was, do we want to turn out the lights? Do we want to turn off television? Do we want to park our automobiles permanently? Do we want to close up the factories? I do not know whether the Members realize this or not, but 50 percent of the natural gas produced goes to keep factories running.

Do we want to turn off air-conditioning and heat? That is 20 percent of it of natural gas use. The whole question is, are we going to concentrate and come up with a real solution on energy for America, or are we going off on this sidetrack about a study of bicycles and have Americans all move back to the farm? I do not know how it is in your areas, but we are not quite ready to go back to the farm and move the clock back 100 years.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. OTTINGER. I was just speaking to the author of the amendment, and he tells me that it includes oil-run motor bicyles. That may make the gentleman feel better about the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for his statement.

I would like to reiterate what I said at the beginning, without the humor. Here we have come up with a bill, and we are talking about a very serious energy problem. It is ludicrous to present a bill which does not address itself to increasing energy production but does address itself to bicycles.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

Do they have bicyles in Texas and Oklahoma?

Mr. COLLINS of Texas. We have two bicycles in my backyard. I will tell the gentleman that bicycling is recreation. What we have before us today is a 580-page book on the most serious problem in America. I think we ought to save bicycle studies for another time, and concentrate on this subject of industrial and residential energy for our country. Let us fully realize that today we live in the 20th century.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part II, title I.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 166, not voting 15, as follows:

[Roll No. 493]

AYES—252

Addabbo	Fisher	Oakar
Akaka	Fithian	Oberstar
Alexander	Florio	Obey
Allen	Flowers	Ottinger
Ambro	Foley	Patten
Ammerman	Ford, Mich.	Patterson
Anderson, Calif.	Ford, Tenn.	Pattison
	Fraser	Pease
Anderson, Ill.	Fuqua	Pepper
Andrews, N.C.	Gibbons	Perkins
Annunzio	Gilman	Pike
Applegate	Gonzalez	Preyer
Ashley	Hagedorn	Price
Aspin	Hamilton	Pritchard
AuCoin	Hanley	Pursell
Badham	Hannaford	Quayle
Badillo	Harkin	Quie
Baldus	Harrington	Quillen
Barnard	Harris	Railsback
Beard, R.I.	Harsha	Rangel
Bedell	Hawkins	Regula
Beilenson	Heckler	Reuss
Bennett	Heftel	Richmond
Bevill	Hollenbeck	Rinaldo
Biaggi	Holt	Risenhoover
Bingham	Holtzman	Rodino
Blanchard	Howard	Roe
Blouin	Hubbard	Rogers
Boggs	Hughes	Roncalio
Boland	Jeffords	Rooney
Bolling	Jenrette	Rose
Bonior	Johnson, Calif.	Rosenthal
Bonker	Jones, Okla.	Rostenkowski
Brademas	Kastenmeier	Roybal
Brinkley	Keys	Ruppe
Brodhead	Kildee	Russo
Broomfield	Koch	Ryan
Brown, Calif.	Krueger	Sarasin
Brown, Mich.	LaFalce	Sawyer
Brown, Ohio	Le Fante	Scheuer
Buchanan	Leach	Schroeder
Burke, Calif.	Lederer	Schulze
Burlison, Mo.	Leggett	Sebelius
Burton, John	Lehman	Selberling
Burton, Phillip	Levitas	Sharp
Byron	Lloyd, Calif.	Shipley
Caputo	Long, Md.	Shuster
Carney	Lundine	Sikes
Carr	McCloskey	Simon
Chisholm	McDade	Skelton
Clay	McFall	Skubitz
Cleveland	McHugh	Solarz
Cohen	McKay	Spellman
Conte	Madigan	St Germain
Conyers	Maguire	Stark
Corcoran	Mahon	Steers
Corman	Mann	Steiger
Cornell	Markey	Stokes
Cornwell	Mazzoli	Stratton
Cotter	Meeds	Studds
Coughlin	Metcalfe	Thompson
D'Amours	Meyner	Thornton
Danielson	Mikulski	Traxler
Davis	Miller, Calif.	Tsongas
Delaney	Mineta	Tucker
Dellums	Minish	Udall
Dicks	Mitchell, Md.	Ullman
Dingell	Mitchell, N.Y.	Van Deerlin
Downey	Moffett	Vanik
Drinan	Moore	Vento
Duncan, Oreg.	Moorhead, Pa.	Walgren
Early	Mottl	Walker
Eckhardt	Murphy, Ill.	Walsh
Edgar	Murphy, N.Y.	Waxman
Edwards, Ala.	Murphy, Pa.	Weaver
Edwards, Calif.	Murtha	Weiss
Eilberg	Myers, Gary	Whalen
Emery	Myers, Michael	White
Erlenborn	Natcher	Wilson, Tex.
Ertel	Neal	Wirth
Evans, Del.	Nedzi	Wolff
Fary	Nichols	Wright
Fascell	Nix	Zablocki
Fenwick	Nolan	
Fish	Nowak	

NOES—166

Abdnor	Bowen	Cavanaugh
Andrews, N. Dak.	Breaux	Cederberg
	Breckinridge	Chappell
Archer	Broyhill	Clausen, Don H.
Armstrong	Burgener	
Ashbrook	Burke, Fla.	Clawson, Del
Bafalis	Burleson, Tex.	Cochran
Bauman	Butler	Coleman
Beard, Tenn.	Carter	Collins, Ill.
Collins, Tex.	Ichord	Pressler
Conable	Ireland	Rahall
Crane	Jacobs	Rhodes
Cunningham	Jenkins	Roberts
Daniel, Dan	Johnson, Colo.	Robinson
Daniel, R. W.	Jones, N.C.	Rousselot
de la Garza	Jones, Tenn.	Rudd
Derwinski	Jordan	Runnels
Devine	Kasten	Santini
Dickinson	Kazen	Satterfield
Dodd	Kelly	Sisk
Dornan	Kemp	Slack
Duncan, Tenn.	Ketchum	Smith, Iowa
Edwards, Okla.	Kindness	Smith, Nebr.
English	Kostmayer	Snyder
Evans, Colo.	Krebs	Spence
Evans, Ga.	Lagomarsino	Staggers
Evans, Ind.	Latta	Stangeland
Findley	Lent	Stanton
Flynt	Lloyd, Tenn.	Steed
Forsythe	Long, La.	Stump
Fountain	Lott	Symms
Fowler	Lujan	Taylor
Frenzel	Luken	Thone
Frey	McClory	Treen
Gammage	McCormack	Trible
Gaydos	McDonald	Vander Jagt
Gephardt	McEwen	Volkmer
Ginn	Marks	Waggonner
Glickman	Marlenee	Wampler
Goldwater	Marriott	Watkins
Goodling	Martin	Whitehurst
Gore	Mathis	Whitley
Gradison	Mattox	Whitten
Grassley	Michel	Wiggins
Gudger	Milford	Wilson, Bob
Guyer	Miller, Ohio	Wilson, C. H.
Hall	Mollohan	Winn
Hammer-schmidt	Montgomery	Wydler
	Moorhead, Calif.	Wylie
Hansen		Yates
Hefner	Moss	Yatron
Hightower	Myers, John	Young, Alaska
Hillis	O'Brien	Young, Fla.
Holland	Panetta	Young, Mo.
Horton	Pettis	Young, Tex.
Huckaby	Pickle	Zeferetti
Hyde	Poage	

NOT VOTING—15

Baucus	Derrick	McKinney
Benjamin	Diggs	Mikva
Brooks	Flippo	Moakley
Burke, Mass.	Flood	Stockman
Dent	Giaimo	Teague

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Mr. ROBERTS and Mr. GEPHARDT changed their vote from "aye" to "no."

So the ad hoc committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will now designate the part of the bill now under consideration.

The Clerk read as follows: Page 146, line 1:

[Part III reads as follows:]

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Subpart A—Schools and Health Care Facilities

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and health care facilities are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and health care facilities through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and health care facilities in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and health care facilities to assist in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and health care facilities.

SEC. 302. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES

"DEFINITIONS

"SEC. 391. For the purposes of this part—

"(1) The term 'building' means any structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source, including, but not limited to—

"(A) insulation of mechanical systems and the building structure;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems modifications, including replacement of standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) lighting fixture retrofits, to the extent that such retrofit reduces the watts per square foot level for illumination and conserves energy;

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use primarily within a building or a complex of buildings owned by a school or health care facility and which meet such fuel efficiency requirements as the Administrator may by rule prescribe; and

"(L) such measures as have been identified by an energy audit, carried out in accordance with rules promulgated by the Administrator under section 365(e)(2), for which it is shown that a substantial amount of energy will be saved, and such other energy conservation measures as the Administrator may determine appropriate under section 365(e)(1).

No lighting fixture retrofit which increases the general illumination level of a facility shall be treated as an energy conservation measure under this paragraph unless the Administrator finds that such increase is necessary to conform to any applicable State or local building code, or, if no such Code applies, such increase is deemed desirable by the Administrator.

"(3) The term 'health care facility' means a public or nonprofit institution which is a medical facility as defined in section 1633 of the Public Health Service Act, as in effect on the date of the enactment of this part.

"(4) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"(5) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

"(D) is a residential child care institution.

"(6) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(7) The term 'State' means a State, the District of Columbia, Puerto Rico and, at the discretion of the Administrator, any territory or possession of the United States.

"(8) The term 'State energy agency' means the State agency responsible for developing State energy plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under section 394 of this part.

"(9) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, private nonprofit institutions of higher education, public elementary and secondary schools, private nonprofit elementary and secondary schools, public residential child care institutions and private nonprofit residential child care institutions, public vocational educational institutions, private nonprofit vocational institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(10) The term 'State health care facilities agency' means an existing agency which is broadly representative of the public hospitals, the private nonprofit hospitals, public facilities for long-term care, and private nonprofit facilities for long-term care in a State, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(11) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures, and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

except that for the purposes of section 393(a)(1), such term shall mean a survey which identifies the type, size, and energy use level of such building and the major energy-using systems of such building.

"(12) The term 'energy conservation project' means an undertaking to acquire and to install one or more energy conservation measures in a building which is a school or health care facility.

"(13) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures.

"(14) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to schools and health care facilities—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or as a result of the acquisition and installation of one or more specified energy conservation measures in such building, or as a result of both, and

"(B) the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(15) The term 'technical assistance program costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for a technical assistance program.

"(16) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"GRANT AUTHORIZATION

"SEC. 392. (a) The Administrator is authorized to make grants to—

"(1) States to assist in conducting preliminary energy audits pursuant to section 393,

"(2) States, schools, and health care facilities in payment of technical assistance program costs, and

"(3) schools and health care facilities in payment of energy conservation project costs incurred in connection with energy conservation projects.

"(b)(1) Except as provided in paragraph (2), the Federal share of the costs incurred in connection with any preliminary energy audit, any technical assistance program, or any energy conservation project shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"(2) Funds available to the Administrator under section 396(a)(3) may be used to pay up to 90 percent of the program or project costs for technical assistance programs or energy conservation projects if the Administrator determines that such programs or projects meet the criteria of a class of severe hardship as such class is determined, by rule, by the Administrator, taking into account climate, fuel costs, or fuel availability, ability to provide the required matching non-Federal funds, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS

"SEC. 393. (a) The Administrator shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits required for the development of State energy plans, including a description of the type, number, and distribution of preliminary energy audits of schools and health care facilities that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State,

"(2) prescribe guidelines for the conduct of preliminary energy audits that may be required in determining which schools and health care facilities qualify for grants for technical assistance programs and energy conservation projects under a State plan, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits, taking into account the population and climate of such States and such other factors as he may deem appropriate.

In the case of States which, without the use of financial assistance under this part, conduct preliminary energy audits which fulfill the terms of the guidelines issued by the Administrator and which are approved by the Administrator as a part of the State energy plan of such State pursuant to section 394(c), the funds allocated for purposes of this subsection shall be added to the funds available for technical assistance programs or energy conservation projects for such State and shall be in addition to amounts otherwise available under the allocation for such purposes pursuant to paragraph (1) of section 396(a).

"(b) In any case in which a State does not conduct the preliminary energy audits required under subsection (a)(1) of this section within two years after the date of the enactment of this part, the Administrator may conduct such audits within such State.

"STATE PLANS

"SEC. 394. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for, and the implementation of energy conservation projects in, schools and health care facilities in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs and energy conservation projects will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals,

"(2) a description of the criteria to be used in establishing a State program to identify persons qualified to conduct preliminary energy audits, and carry out technical assistance programs and implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to section 394(a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a statistical survey of schools and health care facilities identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in such facilities,

"(2) a description of the number and type of school and health care facilities in such State that may qualify for financial assistance for technical assistance programs and energy conservation projects under the Administrator's guidelines,

"(3) a description of the energy conservation needs of the schools and health care facilities of such State,

"(4) a recommendation as to the types of technical assistance programs and energy conservation measures considered appropriate for schools and health care facilities in such State, together with an estimate of the costs of carrying out such programs and acquiring and installing such measures in each year for which funds are appropriated,

"(5) a program for identifying persons qualified to conduct preliminary energy audits, carry out technical assistance programs, and install energy conservation projects,

"(6) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs and energy conservation projects within such State, including recommendations as to how priorities should be established between schools and health care facilities, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings (except that schools in any State shall not be allocated less than 30 percent of the funds for technical assistance programs and for energy conservation projects within such State and health care facilities in any State shall not be allocated less than 30 percent of such funds within such State),

"(7) a description of procedures for assuring that certifications will be obtained from the appropriate State health facilities agency and State school facilities agency, respectively, that the proposed State plan is consistent with existing programs for health and education facilities, respectively, in such State pursuant to subsection (b) of section 395, and

"(8) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"(d)(1) If a State plan has not been approved under this section within two years and ninety days after the enactment of this part, or within ninety days after completion of the preliminary audits under section 393(a)(1), whichever is later, the Administrator may take such action as necessary to develop and implemented without regard to subsection (b)(7), such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, in order that the energy conservation program for schools and health care facilities may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. Such plan shall be reviewed by the Administrator and approved or disapproved not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b) and is not inconsistent with any plan developed and implemented by the Administrator under paragraph (1), the Administrator shall approve the plan and withdraw any such plan developed and implemented by the Administrator.

"CONFORMANCE WITH STATE PROGRAMS

"SEC. 395. (a) Applications of States, schools, and health care facilities and State plans pursuant to this part shall be consistent with—

"(1) related State programs for educational facilities in such State, and

"(2) State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

"(b) No application of a State, school, or health care facility under this part shall be approved by the Administrator unless the appropriate State health facilities agency or the State school facilities agency, respectively, for such State shall have certified that it conforms to the requirement of this section.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 396. (a) The Administrator shall provide grants for carrying out technical assistance programs and energy conservation projects from the sums appropriated for any fiscal year under section 398 (b) and (c) only upon annual application and shall allocate the sums appropriated for that fiscal year in the following manner:

"(1) eighty percent among school and health care facilities in the several States in accordance with a formula to be determined by the Administrator, by rule, taking into account population and climate of each State, and such other factors as the Administrator may deem appropriate;

"(2) ten percent among schools and health care facilities in the several States, as the Administrator shall determine, after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and health facilities in the several States, and such other factors as the Administrator may deem appropriate; and

"(3) ten percent for making grants in excess of fifty percent of program or project costs as authorized by section 392(b).

"(b) Funds allocated to projects and programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under subsection (a) of this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year to schools and health care facilities in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 397. (a) Applications of States, schools, and health care facilities for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Application for technical assistance programs and energy conservation projects shall be accompanied by a listing and description of technical assistance programs and energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance to States, schools, or health care facilities for technical assistance programs or energy conservation projects unless the application for a grant for such program or project has been submitted through, and been approved by the appropriate State health care facilities agency or State school facilities agency, respectively, and has been approved by the State energy agency.

"(d) The Administrator shall not provide financial assistance under paragraph (2) or (3) of section 392(a) unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established procedures for implementation of energy conserving maintenance and operating procedures in those facilities for which projects and programs are proposed;

"(5) implemented a program to identify persons qualified to conduct audits, to carry out technical assistance programs, and implement energy conservation projects;

"(6) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(7) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports; and

"(8) established procedures to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 398. (a) For the purpose of making grants to States to conduct preliminary energy audits pursuant to sections 392(a)(1) and 393, there is hereby authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending Septem-

ber 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants to States, schools, and health care facilities pursuant to section 392(a)(2), there is thereby authorized to be appropriated not to exceed $60,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(c) For the purpose of making energy conservation project grants to schools and health care facilities pursuant to section 392(a)(3), there is hereby authorized to be appropriated not to exceed $220,000,000 for the fiscal year ending September 30, 1978, $250,000,000 for the fiscal year ending September 30, 1979, and $280,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(d) For the expenses of the Administrator in administering the provisions of this part, there are thereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 399. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures utilized and not utilized, with funds allocated, and an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

"(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part G—Energy Conservation Program for Schools and Health Care Facilities

"Sec. 391. Definitions.
"Sec. 392. Grant authorization.
"Sec. 393. Preliminary energy audits.
"Sec. 394. State plans.
"Sec. 395. Conformance with State programs.
"Sec. 396. Allocation of financial assistance.
"Sec. 397. Applications.
"Sec. 398. Authorization of appropriations.
"Sec. 399. Annual report.
"Sec. 400. Administration.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) SECTION 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) SECTION 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) SECTION 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and the line number of the ad hoc committee amendment to part III.

The Clerk read as follows:

Ad hoc committee amendment: Page 146, insert the matter in italics on lines 2 through 5, and on page 169, insert the matter on page 169, line 3 through page 180, line 7.

[The ad hoc committee amendment reads as follows:]

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Subpart A—Schools and Health Care Facilities

Subpart B—Buildings Owned by Units of Local Government

SEC. 321. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

(5) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

SEC. 322. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"DEFINITIONS

"SEC. 400A. For the purpose of this part—

"(1) The terms 'building', 'health care facility', 'school', 'State energy agency', technical assistance program costs', and 'energy conservation maintenance and operating procedure' have the meanings provided by section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(3) The term 'building owned by a unit of local government' means any building, other than a building utilized primarily by a school or health care facility, which is owned by one or more units of local government, and which is—

"(A) primarily occupied by the offices or agencies of such unit or units, and which is

"(B) not intended for seasonal use by such offices or agencies.

"(4) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

"(5) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

"(A) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building,

"(B) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, and

"(C) in such other planning as the Administrator may deem appropriate.

"GRANT AUTHORIZATION

"SEC. 400B. (a) The Administrator is authorized to make grants to—

"(1) States and units of local government to assist in conducting preliminary energy audits for buildings owned by units of local government, and

"(2) States and units of local government in payment of technical assistance program costs for technical assistance programs for buildings owned by units of local government.

"(b) The Federal share of the costs incurred in connection with any preliminary energy audit or any technical assistance program, shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"PRELIMINARY ENERGY AUDITS

"SEC. 400C. (a) The Administrator shall, by rule, not later than sixty days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government by State energy agencies, including a description of the type, number, and distribution of preliminary energy audits of such buildings that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State.

"(2) prescribe guidelines for the conduct of preliminary energy audits by State energy agencies or by units of local government, or both, that may be required in determining which buildings of units of local government qualify for grants for technical assistance programs, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits for buildings owned by units of local government, taking into account the population and climate of such States and such other factors as he may deem appropriate.

"STATE PLANS

"SEC. 400D. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for buildings owned by units of local government in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals, and

"(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to subsection (a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a description of the energy conservation needs of the buildings owned by units of local government of such State;

"(2) a description of the number and type of buildings owned by units of local government in such State that may qualify for financial assistance for technical assistance programs under the Administrator's guidelines;

"(3) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government in such State, together with an estimate of the costs of carrying out such programs;

"(4) a statistical survey of buildings owned by units of local government identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in such buildings;

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs within such State, including recommendations as to how priorities should be established between buildings owned by units of local government, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings; and

"(6) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 400E. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

"(b) Funds allocated to programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 400F. (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs shall be accompanied by a listing and description of technical assistance programs proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance for technical assistance programs under this part unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part; and

"(5) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"AUTHORIZATION OF APPROPRIATION

"SEC. 400G. (a) For the purpose of making grants to States or units of local government, or both, to conduct preliminary energy audits under this part there is hereby authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $25,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 400H. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400I. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part H—Energy Conservation Program for Buildings Owned by Units of Local Government
"Sec. 400A. Definitions.
"Sec. 400B. Grant authorization.
"Sec. 400C. Preliminary energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Allocation of financial assistance.
"Sec. 400F. Applications.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Annual report.
"Sec. 400I. Administration.".

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose of this amendment is to authorize grants to States and units of local government to develop an accurate statistical evaluation of the energy conservation needs of buildings owned by units of local government. The amendment would assist in identifying and implementing energy conservation and maintenance and operative procedures to reduce the energy use and anticipated energy costs of such buildings. Under the amendment the Administrator is authorized to make grants to States and to units of local government, first of all, to conduct preliminary energy audits for buildings owned by units of local government; and, second, to pay for technical assistance program costs for these buildings.

In fiscal years 1978 and 1979, $7.5 million in each year is authorized to conduct preliminary energy audits, and $25 million in each year for technical assistance grants, for a total authorization of $65 million for this program.

Mr. Chairman, the gentlewoman from Maryland (Ms. MIKULSKI) is really to be congratulated for evolving this amendment in concert with the district that she represents and other units of local government who have made a strong case for this kind of assistance so that they, too, can contribute meaningfully in the effort to conserve energy.

At this time, Mr. Chairman, I would be pleased to yield to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I would like to thank the chairman and the ad hoc committee for his crisp and cogent description of what this amendment does. In effect what it does is provide $65 million over a 2-year period to local governments to be able to do their own energy audits, to figure out what their energy needs are in order to be able to conserve energy, and to provide technical assistance so that they may understand the methodology by doing so.

Mr. Chairman, I would like to amplify the need for this amendment. Most of us come from local government, home towns, whether these are big cities or small towns. The function of a local government is really to provide service. I think when we think about our town or our home town, we think of the library

on the corner or the firehouse that is so familiar to us. One of the problems that we look at in this energy package is that there has been very little attention paid to to the impact that this energy package will have on the cost of running a local government.

Mr. Chairman, before I proceed, I would like to bring to the attention of the House that the House is not in order, and I would like it to be so while I am addressing it.

The CHAIRMAN. The gentlewoman will suspend.

The House will be in order.

Ms. MIKULSKI. As a result of this energy package, the cost of energy will rise, and local governments, be they small towns or big cities, are faced with either charters or constitutions that mandate that they have a balanced budget. As the cost of running the government increases, they will be faced with either the problem of raising taxes or cutting services.

A third alternative would be to give them the resources/technical recommendation and other tools by which they could conserve energy, thereby saving money and thus being able to maintain their level of services.

I have found that in consultation with local government officials they would do so if they had the resources to do the energy audits and perform this technical assistance. Therefore, what my amendment will do is give the opportunity for a small town or a big city to take a look at its buildings to see what it needs to do to conserve energy in those buildings, and to have the resource and the advice, both managerially and architecturally to conserve energy. There is a will to do this if we provide them with the financial assistance to do so.

This amendment has the support of the League of Cities, the National Association of Counties, and so on. Therefore, I would urge the adoption of this amendment because it will, No. 1, help local communities to maintain their level of service with energy costs, and also accomplish the major objective of national energy conservation.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when this amendment was offered in the ad hoc committee by the distinguished gentlewoman from Maryland (Ms. MIKULSKI) I think it was generally recognized that it was appropriate in view of the fact that there are provisions in the legislation dealing with Federal buildings and Federal installations, and that it was appropriate that we make some provision to enable State and local governments to conduct the kinds of energy audits and to institute the kinds of energy conservation programs that are contemplated under the technical assistance grants that would be provided for in the amendment.

It is not a large program, as the gentlewoman from Maryland has indicated. I think a total of $65 million is involved over the next 2 fiscal years, and yet it could be a very vital and important program in contributing to the goals of this bill insofar as they relate to the conservation of energy. And even though the minority has some very distinct and substantial differences with the majority on some parts of the bill, we certainly subscribe to the overall goals of conservation as they are enunciated in the bill, and therefore we support the amendment offered by the gentlewoman from Maryland.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I would like to support the amendment. I think $65 million is a lot of money. I hope the Administrator will not spend it if he does not have to, because there are many known ways to save. Stevens Institute of Technology has a special energy task force to show what hospitals can do to conserve; one school saved $125,000 of a $60,000 energy bill. We know how to do it. People know how. The Prudential Insurance Co. has put up one building which saved, by recirculating air and an other ways, enough energy to heat 30 homes over the whole winter.

These plans exist. We do not need enormous studies and long delays. What the administration should do is call in the Governors of every State, and ask them what is being done in each State and tell them what can be done. We do not need to study. We need to save energy next winter.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, how is this money going to be distributed to these thousands of governmental units?

Mr. ANDERSON of Illinois. If the gentleman will refer to the report on the legislation and more specifically to page 40 of that report, he will find under the terms of that authorization that the Administrator is required to provide grants for carrying out technical assistance programs. The total of grants made in any year in any one State shall not exceed 12.5 percent of the total appropriated for such grants in that year. State energy agencies must submit applications of States and units of local government annually. So it will be incumbent on those who desire assistance under these programs to make applications for grants to the Federal Administrator, and then, subject to the limitation that not more than 12.5 percent of the total amount authorized goes to any one State, those grants will be acted on.

Mr. KAZEN. Does the gentleman think that this amount of money will be adequate for all the cities that wish to participate in this program?

Mr. ANDERSON of Illinois. We have just heard an expression from the gentlewoman from New Jersey that this is a lot of money. There are others who perhaps, given the fact that we have literally thousands and thousands of local governmental units across the country, think that perhaps it will not be enough. I assume only time will tell.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentlewoman from Maryland, the author of the amendment.

Ms. MIKULSKI. Mr. Chairman, there are approximately 110,000 buildings that would be affected by this and they could very well provide $100 per building to do such a study. Also, the allocation would be based on population and climate, and so it will be done as fairly and equitably as possible.

Another thing is, it is voluntary. There is nothing mandatory to make a local government apply for these resources if they do not need them.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN TO THE AD HOC COMMITTEE AMENDMENT

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment to the ad hoc committee amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan to the ad hoc committee amendment: At the end of the committee amendment on page 180, insert the following new section:

"SEC. 5. Application of Davis-Bacon Act.

"The Federal employee or officer primarily responsible for administering any program established under any provision of, or amendment made by, title I of this Act which provides for Federal funding shall take such steps as are necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)."

Mr. STEIGER. Mr. Chairman, did we adopt the ad hoc amendment which is known as the Mikulski amendment?

The CHAIRMAN. This is an amendment to the ad hoc amendment, the Chair will advise the gentleman.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ANDERSON of Illinois. Mr. Chairman, it was my understanding under the rule previously adopted that we would proceed to a consideration of all 23 of the amendments adopted in the ad hoc committee and that any other amendments would be subsequent to that.

Can the Chair enlighten us as to what the procedure will be?

The CHAIRMAN. We are only treating the ad hoc committee amendments to the pending part of the bill under the rule, which makes the amendment of the gentleman from Michigan (Mr. FORD) in order to the pending committee amendment.

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, is the gentleman's amendment an amendment to the Mikulski amendment or an amendment to the committee amendment?

The CHAIRMAN. The gentleman's amendment is an amendment to the committee amendment, the so-called Mikulski amendment.

Mr. OTTINGER. Is that in order?

The CHAIRMAN. That amendment is in order under the rule.

Mr. OTTINGER. To the Mikulski amendment?

The CHAIRMAN. The gentleman from Michigan offered an amendment to the committee amendment, the ad hoc committee amendment. That amendment is the so-called Mikulski amendment and the amendment of the gentleman from Michigan is in order under the rule.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, I was under the impression that the order in which we would proceed was that all the ad hoc committee amendments would first be voted on before any other amendments to that part would be undertaken.

Now, is that understanding in error?

The CHAIRMAN. The gentleman is correct, except as specified in the rule, and this amendment is an exception to the statement that the gentleman from Ohio is making.

Mr. BROWN of Ohio. Mr. Chairman, it is then specifically outlined in the rule that the Ford amendment is an amendment to the Mikulski amendment, or is an amendment to this part of the bill?

The CHAIRMAN. It is an amendment to the ad hoc committee amendment, which in reality is the Mikulski amendment.

Mr. BROWN of Ohio. And the ad hoc committee amendment is to what?

The CHAIRMAN. The ad hoc committee amendment begins on page 169 to page 180.

Mr. BROWN of Ohio. Is this amendment then an amendment to all of the part addressed by the ad hoc committee amendment? That is what I am trying to inquire.

The CHAIRMAN. The Ford amendment adds a new section at the end of the ad hoc committee amendment on page 180.

Mr. BROWN of Ohio. Mr. Chairman, could the Chair perhaps with specificity indicate to me what the Ford amendment, if adopted, will amend; what language will it amend? Will it amend the language currently in the bill and in the Mikulski amendment or will it amend the Mikulski amendment only and that, if adopted, will amend the bill?

The CHAIRMAN. The Chairman cannot construe the effect of the amendment. The Chair can only indicate where the amendment comes and the amendment comes at the end of the committee amendment, adding a new section to the ad hoc committee amendment.

Mr. BROWN of Ohio. I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, would it be in order to ask unanimous consent that the Ford amendment be considered separately, since it has nothing to do with the Mikulski amendment?

The CHAIRMAN. The Chair will state to the gentleman from New York that the Ford amendment is in order only under the rule and the rule cannot be changed.

Mr. OTTINGER. And it cannot be changed by unanimous consent?

The CHAIRMAN. The Committee of the Whole cannot directly change House Resolution 727, the special rule adopted by the House, even by unanimous consent.

The gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Chairman, the amendment that I propose is at page 3 of the Rules Committee print relating to amendments on H.R. 8444, dated August 1, 1977. I would say to those who seem somehow distressed by having this amendment introduced at this time that it was not my choice to get it mixed up with any other issue. It is absolutely necessary that I offer it at this time because of the way in which the rule from the Rules Committee is written, and it is my understanding from the Parliamentarian that it is now or never.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I will if the gentleman will leave me some time.

Mr. BROWN of Ohio. I would be delighted to, and would be delighted to ask for additional time for the gentleman.

I am merely trying to understand the impact of the amendment offered by the gentleman in the well.

Mr. FORD of Michigan. I would hope to explain that to the gentleman if I ever get a chance.

Mr. BROWN of Ohio. Is the amendment to all of title I?

Mr. FORD of Michigan. The amendment is intended primarily to reach the programs of part III of title I, which is the schools and hospitals and public buildings.

Mr. BROWN of Ohio. I thank the gentleman.

Mr. FORD of Michigan. The reason for the amendment is that, while this particular section of the bill was considered by other committees, it was not referred to the Committee on Education and Labor, which has general jurisdiction over the Davis-Bacon Act, and the application of the Davis-Bacon Act. For that reason, we discovered after the committee had acted that the committee had overlooked what would normally, in this type of legislation, be boilerplate-type language applying the provisions of the Davis-Bacon Act to the construction contracts financed with Federal funds under this legislation.

Now, as a matter of fact, in the other body they have enacted this part of the legislation as a separate piece of legislation, S. 701, the Education and Health Care Facilities Energy Efficiency Act of 1977, having the same or similar language to that which is in the committee bill with respect to education and health care facilities; that bill having been passed by the Senate, is now at the Speaker's desk and it is not subject to amendment at this point.

There is some suggestion that the way in which this amendment now offered by me is worded may cause some people concern, because it is too broad in its application. The language of the amendment is only confusing when we try to relate it to the several pieces of legislation that were brought together, and if we bear in mind that it is not the intent of this amendment to affect such things as the weatherization grant program for low income families in title I, part I, subparagraph B, and furthermore it should not affect those provisions. We do not want it to affect those provisions.

It must be borne in mind that these grants are not reached by Davis-Bacon even if we tried to reach them without amending the act itself, because they are limited to no more than $800, and no contract is reached by Davis-Bacon until it gets to $2,000. So, contracts under $2,000 not being covered, certainly grants under $800 would not be covered.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield.

Mr. STEIGER. I appreciate the gentleman yielding to me. This gets to one of the concerns that I think the committee has to have. The language of the gentleman's amendment is, as I understand it, that, "for administering any program established under any provision of or amendment made by title I of this Act."

Mr. FORD of Michigan. If the gentleman will let me retain my time, I can, with the legislative history, clear up the problem. If I do not get a chance to do it, it will stay a problem.

It is clear, and as the author of the amendment, I am indicating that there is no way Davis-Bacon could reach the section of the bill that the gentleman and members of the staff of the Banking and Currency Committee have expressed a concern over, because Davis-Bacon is never triggered for a contract less than $2,000, and there are no Federal grants over $800 in the section we are talking about.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. STEIGER and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 4 additional minutes.)

Mr. STEIGER. Mr. Chairman, will my colleague yield?

Mr. FORD of Michigan. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Let me ask, under the weatherization program, for example, if we have a grant made under that program to the Community Action Agency that covers Fond du Lac and Winnebago Counties, of $100,000, would that then fall under the $2,000, or fall over—however one says that—that $2,000 limit of Davis-Bacon?

Mr. FORD of Michigan. It is not my understanding that we can accumulate the grants and then substitute a different grantee for the grant.

Is it the gentleman's understanding that we can take this language, which merely says no grant shall be in excess of $800, and just count X number of people and give it all to one grantee?

Mr. STEIGER. That is my understanding. And we have the banking people here.

Mr. FORD of Michigan. It is not my understanding of how the program would work. There are individual grants to individual situations, ranging from $200 to $800, and I would expect that the gentleman's problem would not arise for that reason.

Mr. STEIGER. I thank the gentleman for yielding and for our colloquy.

Mr. FORD of Michigan. Further, it is not our intention to interfere with low interest loans for low or moderate income families for energy conservation improvements contained in title I, part I, subpart C. Therefore, even if this amendment at first appears to be overly broad and there is misunderstanding, that is easy for me to understand when people look at it for the first time. We need to adopt it as a part of H.R. 8444 at this time to assure that the provisions of the Davis-Bacon Act will apply to the appropriate projects. We can adopt it with the understanding that the questions, if any that exist in the minds of people who see conflicts with other provisions of title I, can be narrowed down or corrected in conference.

In fact, as we look at it now, we could have changed two words in the way the introductory language of this amendment was written and there would be no question in anybody's mind. It is a question of the semantic approach of people who are familiar with dealing with Davis-Bacon language and people who are not familiar with dealing with it and coming at it from two different directions. One reaches out and feels a horse and one reaches out and feels a cow. They are both wrong. It is quite something else again.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have several problems with the amendment. I first have the problem which I believe was discussed earlier, and that is that the amendment is to the Mikulski amendment, and the Mikulski amendment does not in any way involve construction, as I understand it. The Mikulski amendment provides for Federal grants for technical assistance and planning. So, therefore, Davis-Bacon would have no application, because I do not think the gentleman from Michigan (Mr. FORD) would contend that Davis-Bacon applies to technical assistance and planning. That is the first problem.

The second problem the gentleman from Michigan (Mr. FORD) has attempted to address, and that is what is the full scope and what are the ramifications of the amendment. This amendment is very broadly written and covers any program established under title I which would be utilizing Federal funding for construction.

I would like to direct several questions to the sponsor of the amendment and the chairman of the ad hoc committee.

First, what is meant by new programs established under title I? Does this include programs which are revised and can be considered to be new programs by the provisions of title I, or only totally new programs not in existence prior to the enactment?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Michigan (Mr. BROWN) is an old and dear friend. He knows the high regard I have for him, after many years serving in legislative bodies. However, in light of what I have just heard, I would have to say that today he reminds me of the gentleman standing on the corner clapping his hands trying to keep the elephants away.

If we read the instructions on which we have to determine the applications of the Davis-Bacon Act, can we find any section or any part of title I that is in fact reached by Davis-Bacon except the construction of schools, hospitals, and public buildings?

Mr. BROWN of Michigan. Yes, we can.

Mr. FORD of Michigan. The answer to that is no.

Now, if it makes us more comfortable to have the language narrowed down so we do not have to go by the process of elimination in reading the Davis-Bacon Act limitations, that can be done in the conference, but that will not have a legal effect on my amendment. It will simply make it easier for some people who do not now understand the act to understand it.

Mr. BROWN of Michigan. Mr. Chairman, I beg to differ with the gentleman.

There are programs in part I that would possibly come under Davis-Bacon. There are multifamily units where we have a new program as part of the solar energy program for FHA mortgages which significantly extends the maximum amount of mortgages available under FHA. That is a new program, and it is established under part I in accordance with the gentleman's exact language.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will allow me to continue, I can explain this.

Mr. BROWN of Michigan. Mr. Chairman, I will not yield now. I will yield to the gentleman at an appropriate time.

There are other programs that are in excess of $2,000. For instance, the 90-percent median income subsidized loan program authorizes loans up to $2,200 or above. So there are those new programs.

If the gentleman is willing to say that his amendment applies only to schools and hospitals that otherwise would be covered by Davis-Bacon, I will accept that.

This now exempts municipally owned installations in many cases where work is done by municipal employees who are on a salary basis. For example, work done in-house on municipal buildings under the community development block grant program, are not covered by Davis-Bacon. Yet, similar work done under a public works grant from EDA would be covered. If the gentleman will limit it only to those structures that were heretofore covered by Davis-Bacon, then we can eliminate the necessity for this colloquy.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I thought I had made it clear. The intention of the amendment is to apply basically to part III of title I, which covers educational institutions and health care institutions, and I am perfectly in agreement with saying it the way the gentleman wants me to say it. In fact, that is what I thought I had been saying all along. That is all I intend to cover, and, in fact, if the Members will read the amendment carefully, they will find that is all we do cover in the amendment.

Davis-Bacon does not cover Federal loans to anyone; it only covers Federal grants. It is the expenditure of Federal money for construction that is reduced by Davis-Bacon, not the expenditure of money that is loaned to someone else.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for his explanation.

Would the gentleman, then, give me a yes or no answer to the question I asked? And that is, does he intend to expand the coverage of Davis-Bacon under this law to any projects, the construction or retrofitting of which was not covered by Davis-Bacon in the past?

Mr. FORD of Michigan. I do not know whether I can say that or not.

Mr. BROWN of Michigan. I thought that is what the gentleman had been saying before.

Mr. FORD of Michigan. I am talking about categories of structures. The category of structure reached by this legislation under part III of title I is what we are trying to reach.

Now, if the gentleman characterizes that as something he recognizes as structures previously reached by Davis-Bacon and we limit it to his understanding of Davis-Bacon, I will agree to that and say, "Yes." But I want the legislative history to indicate that that limitation goes on my "Yes" answer.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Michigan (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, I thought the purpose of the gentleman's discussion in the well in explaining his amendment was to limit it and assure us that he was not attempting to expand Davis-Bacon. If he is going to say he is attempting to expand Davis-Bacon, I have a problem. If he is limiting it to the present coverage of Davis-Bacon, then I have no problem.

Do I get a yes or no answer to my question? Does the gentleman wish to respond with an answer, preferably yes or no?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will assist me, as I know he is trying to assist me, I would be very happy to ask unanimous consent to add, before the words, "title I," on line 17, the words, "part III of."

In that way we can say legislatively what the gentleman is asking me to say. That is the way I believe it reads, with or without the added language.

Mr. BROWN of Michigan. Mr. Chairman, it is my understanding that the Chair has ruled that even by unanimous consent the gentleman could not amend his amendment. All I am trying to do in this colloquy is establish the legislative understanding.

Mr. FORD of Michigan. I do not understand that there would be a ruling that by unanimous consent I cannot modify my amendment.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The Chair will state that the Chair merely stated that the rule cannot be amended by unanimous consent. The Chair did not state that the amendment could not be amended by unanimous consent.

Mr. FORD of Michigan. Then, Mr. Chairman, to meet the objection raised by the gentleman from Michigan (Mr. BROWN), I ask unanimous consent that in the first sentence of my amendment, after the word, "by," I be allowed to insert the words, "part III of", before the words, "title I".

We would leave the comma there and insert "part III of," so it is clear we are only talking about applying the amendment to part III of title I, which is that section dealing with schools and hospitals.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I wonder whether either of the gentlemen from Michigan could restate their understanding of what the position will be if this amendment is adopted.

Mr. BROWN of Michigan. If the gentleman will yield, Mr. Chairman, very frankly, I do not pretend to be the expert on Davis-Bacon, as the gentleman from Michigan (Mr. FORD) presumes to be.

It seems to me that it would be rather simple to just agree—and if we leave the statutory language in, fine—that the gentleman does not intend that Davis-Bacon apply to projects or construction other than those projects or construction that are presently covered. It seems to me that if we agree to that, we have no problem; and I do not think the amendment to the language necessarily changes that matter.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words.

First, Mr. Chairman, if I could have the attention of the author of the amendment, the gentleman from Michigan (Mr. FORD), I want to ask him this question: Would this amendment apply only to hospitals or schools now, as just indicated, or would any municipal building which receives a grant in excess of $2,000 have to comply with the Davis-Bacon standards?

Mr. FORD of Michigan. If the gentleman will yield, Mr. Chairman, the effect of the language makes it very clear that the amendment would now apply to grants under part III on page 146 of the bill, energy conservation program for schools and health care facilities and buildings owned by units of local government.

Mr. HAGEDORN. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Michigan (Mr. FORD). In presenting his energy plan to Congress earlier this year, President Carter stated that "fairness has to be one of its fundamental principles." He declared that "Our solutions must ask equal sacrifice from every region, every class of people, every interest group."

This amendment is certainly not the most important one that will be considered by this body during this week. The future course of energy policy in this country will not rest on its resolution. It is symbolic, however, of the same old brand of special interest politics that must be avoided, above all, on a bill of this magnitude.

The Davis-Bacon Act is an archaic and proto-typical example of special interest legislation. It subsidizes a select group of individuals, already earning incomes far above the average, at the expense of both the taxpayer, and of the intended recipient of public expenditures. According to estimates by the General Accounting Office, the Davis-Bacon Act increases labor costs on public construction projects by at least 5 to 15 percent.

This means, quite simply, that passage of the gentleman's amendment will insure that States, local communities, schools, day-care centers, and health care facilities all receive less funds with which to apply to energy conservation. Fewer funds will, effectively, be available for weatherization purposes, and less money will be devoted to the construction of small hydroelectric projects. Based upon GAO estimates, the total cost of this amendment to the taxpayer, and the total amount by which it will detract from energy conservation efforts will be as much as $100 million.

Mr. Chairman, if we are going to indulge in special interest games on this bill, probably the most important one that will be before this Congress, we are going to undermine any principles of "fairness" that purport to lie behind it insure that energy policy determinations become nothing more than simple power politics. I urge that this amendment be defeated.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Minnesota (Mr. HAGEDORN), in opposition to the amendment.

Mr. Chairman, I rise in opposition to the pending amendment which would subject programs set up pursuant to title I of this bill to the Davis-Bacon Act and would like to associate myself with the remarks of my colleague from Minnesota (Mr. HAGEDORN).

A number of worthwhile energy conservation programs are contained within this title. Installation of insulation, as well as structural changes to reduce the loss of heat and waste of energy, will cost money. All that the pending amendment does is insure that such construction projects will cost from 10 to 15 percent more. In other words, to stop the waste of energy we would, by adopting this amendment, legislatively mandate the waste of money.

The Davis-Bacon Act as amended has cost the American taxpayer untold billions of dollars since it was first enacted ir. 1931. The way that this comes about is that Davis-Bacon requires that contractors adhere to wage scales which the Department of Labor has, in its ultimate wisdom, determined are prevailing in the areas in which the work in question is being performed. Suffice it to say that the evidence suggests that the Department's determinations are, more often than not, on the high side. Many times there is little if any correlation with reality. One reason for this is that the Department of Labor has adopted as its yardstick the union wage scale of the closest large city to the project. This could be 50 or even 100 miles.

Let us not clutter up this legislation with language such as that before us now. We ought to consider this whole matter at a later time when we could carefully examine the workings and effect of the Davis-Bacon Act over the past 46 years.

In summary I would urge my colleagues not to make a bill, with a price tag already considered too high by many, even more expensive. Commonsense, not to mention the facts and evidence at hand, mandate a "no" vote on the amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word and I rise in favor of the ad hoc amendment and in favor of the amendment to the ad hoc amendment offered by the gentleman from Michigan (Mr. FORD). I think it is an improvement on that very good amendment that the gentlewoman from Maryland (Ms. MIKULSKI), has introduced and had adopted in the ad hoc committee. I am further authorized to say for the chairman of the subcommittee of the Committee on Interstate and Foreign Commerce that handled this portion of the bill that he too is in favor of both the Mikulski amendment, that is the ad hoc amendment, and the Ford of Michigan amendment thereto.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand the explanation of the amendment given by the gentleman from Michigan (Mr. FORD) is would apply only to the hospitals and schools and municipal and

public buildings that are now covered under the Davis-Bacon Act.

In the Committee on Education and Labor, on which both of us serve, a number of times we have included Davis-Bacon coverage under legislation in which normally the construction would not have been covered. I mention specifically the construction of buildings under loans in colleges and universities, income producing buildings, as an example, that comes out of another committee, and there we specifically said that the Davis-Bacon Act would apply.

But after reading the amendment it would not automatically include the buildings which, under law, we included under the Davis-Bacon Act but only the buildings which the act of March 3, 1931, that he specifies it would relate to.

I yield to the gentleman from Michigan to see if my understanding is correct.

Mr. FORD of Michigan. Mr. Chairman, that would be my understanding. Frankly I think that, as I indicated to the gentleman from Minnesota (Mr. QUIE) in private conversation we should consider the possibility of amending the Davis-Bacon Act to take care of, on an automatic basis, the kind of situation we have here now so that we do not have to rewrite and reenact and reenact an act that has been on the books since 1931.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, could I ask the gentleman from Michigan, through the gentleman from Minnesota, whether this amendment is necessary at all in the way it has been limited?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I believe it is. I think the one thing we all agree on is that this type of grant, because of the practice that has grown up over the years of applying it piecemeal, it might apply to some, as a matter of fact, of the projects but probably not and it invites a legal question without amendment.

Mr. STEIGER. May I also ask a question of the author of the amendment, it says, on line 21 that:

> . . . on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 . . .

Do I misread something? If you say it that way rather than "will be paid pursuant to Davis-Bacon" are you excluding the exemptions in Davis-Bacon?

Mr. FORD of Michigan. I do not understand the gentleman's question.

Mr. STEIGER. In using Davis-Bacon if it is less than $2,000, Davis-Bacon is not applicable. When you say it the way that you read it, do you mean to say it in a way that means there are no exclusions as there are presently with Davis-Bacon?

Mr. FORD of Michigan. No, I did not.

Mr. QUIE. That is what I understood the gentleman to say earlier that all the exclusions would still apply and your amendment would apply only to part III in title I. I do not see why there should be any objection to this because if there was any other application of Federal moneys for grants for municipal buildings, schools, and hospitals the Davis-Bacon Act would undoubtedly apply.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

I wonder if the gentleman from Michigan (Mr. FORD), the author of the amendment, would be willing to answer a question that has occurred to me. I would just like to propound a question to the gentleman from Michigan (Mr. FORD). I can understand the gentleman's concern and belief that Davis-Bacon ought to apply to the schools and health care facilities program that is outlined in subpart A of part III of title I of the bill, because in reading the definitions in section 391, it clearly covers a great many items that deal with actual construction. And I will not go on to list all of the items that are specifically set forth in that section on pages 147, 148, and 149. But then I go from that particular part of the bill, subpart A of part III, to the amendment offered by the gentlewoman from Maryland (Ms. MIKULSKI) which deals with energy conservation programs for buildings owned by units of local government.

As I understand the amendment, and, of course, I support and spoke in favor of it, it deals with technical assistance programs, and they are further defined in subparagraph (A) of paragraph 5 on page 171 of the bill, (A) in conducting specialized studies, or (B) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects, or (C) in such other planning as the administrator may deem appropriate.

My question, then, is are there any other instances where the Congress has applied the provisions of Davis-Bacon to technical assistance programs that do not contemplate or embrace actual construction activity but as these definitions clearly indicate, merely the conduct of studies and planning activities?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

I do not have the act in front of me. My recollection of the definition of the kind of work includes not only construction but renovation, including painting and decorating. Frankly, I do not know about planning expenditures not part of the total cost of doing something. If, included in the contract for doing construction on the project was also the architectural work and planning, and so on, obviously that is a part of the total.

Mr. ANDERSON of Illinois. But it seems to me, as I understand the Mikulski amendment, that what it contemplates are technical assistance programs and planning that may be done by employees pursuant to guidelines laid down by the administrator not actually a part of the overall construction project that actually calls for renovation, repainting, reconstruction, or anything of that kind. My difficulty in understanding the application of the gentleman's amendment to this particular amendment is does it represent a broadening with Davis-Bacon into something that has not heretofore been covered by that act?

Mr. FORD of Michigan. If the gentleman will yield further, yes. I would not expect it to expand Davis-Bacon. I might call to the gentleman's attention the language on line 21 of my amendment on page 3, which says starting on line 20:

"In the performance of work on any construction utilizing such funds," which would narrow it even further than the gentleman has suggested.

Mr. ANDERSON of Illinois. I thank the gentleman for what seems to be the assurance that we are not expanding the definition of that.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, in a way I am glad the distinguished gentleman from Michigan (Mr. FORD) has offered this amendment, although I doubt he will appreciate my views on the subject. On the one hand, he would have us expand the scope of this legislation while, on the other hand, I see this as an opportunity to explore the question of whether or not the scope of the Davis-Bacon Act is too broad already.

Mr. Chairman, if the gentleman's amendment were to be adopted not only would five new categories of projects be covered, but it would seem that, for the first time, we would be extending coverage to individual entrepreneurs, such as farmers. Perhaps this is an inaccurate interpretation, and if so clarification would be appreciated, but when coverage is extended to FEA low-income weatherization grants and farmers home rural weatherization grants, it would certainly appear that such is the case.

If that were not enough, this amendment will also apply to small hydroelectric power projects, to energy construction grants to States, schools and health care facilities and, depending on the eventual outcome of the related ad hoc committee amendment, to grants to local governments for conserving energy in buildings they own. The total cost of all these projects, which would be covered by Davis-Bacon if this amendment were to pass, comes to roughly $1.6 billion.

Based on the 1971 estimate by the General Accounting Office to the effect that Davis-Bacon increases construction costs on federally assisted projects by 5 to 15 percent, it can be surmised that the cost of this amendment—to the American taxpayer—will come to somewhere between $80 million and $240 million. More ironic yet, these costs will act as a disincentive to the very same energy conservation ethic that the rest of this bill purports to encourage.

Beyond that, there is a definite constitutional question involved here. And that is, does the Federal Government have the right to dictate to the States what wage rates they should have to pay on projects affecting their schools and health care facilities? In National League of Cities against Usery, the Supreme Court ruled that it was a violation of the 10th amendment for the Federal Government to dictate wages and working conditions

to State and local employees via the Fair Labor Stadards Act. If that be the case, the same legal logic should apply to people working on these energy projects for State and local government—the Davis-Bacon Act notwithstanding.

I could go on but I think the key point here is not only is this amendment counterproductive in terms of cost and the ultimate objective but, for many of the same reasons, the Davis-Bacon Act is equally counterproductive when applied in other instances. If anything, what we ought to be considering today is eliminating the applicability of Davis-Bacon to other parts of this bill, not expanding it, and at the very least we ought to commit ourselves, here and now, to a full review of Davis-Bacon in the near future.

Mr. Chairman, I urge the defeat of this amendment and urge my colleagues to call for hearings on Davis-Bacon at the earliest possible date.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment. I want to say to the House that it is exceedingly mystifying to me that we approach one of the most important, complex, and far-reaching legislative enactments of this decade under such a restrictive parliamentary arrangement that the House cannot even work its will on some of the central issues involved in the energy area, but we still vote for bicycles and for building trades boilerplate—and that is exactly what this amendment is.

I need not remind the Members that at the heart of the energy problem we face is oil and the declining domestic production of oil, and we cannot even reach the question of domestic oil pricing policy in the program before us.

I need not remind the House that one of the cornerstones of the whole administration plan before us is the coal conversion program and in its present form all kinds of unresolved problems of cost and environmental impact are involved, and the coal conversion problem comes to the floor under a closed rule.

I need not remind the House that one of the essential elements of the plan before us is the novel idea that through a crude oil equalization tax we can tax the users up to the world price, and then can rebate the proceeds to the consumers who are paying higher prices and expect consumption to decline. I would suggest there is no economic evidence for that at all.

So after being precluded from addressing any of these central issues, we now find ourselves wasting our time and wasting the money of the taxpayers of this country to insure that one special interest group, the organized building trades, gets its gravy from this national energy plan. I find it ironic indeed to find that a program premised on a high national purpose and on the President's call for mutual sacrifice on the part of all Americans should be littered at this time with a parochial self-serving amendment that is designed to give the organized building trades a fatter slice or piece of the wage pie than they are getting already.

I think it is time to ask the question in this House as to just how much the building trades in this country want. They have already a wage rate, I would remind the Members, that is more than double the average manufacturing wage rates in this country. Ten dollars an hour is the basic rate as opposed to $5 for manufacturing generally, and that does not include all the indirect compensation that comes in the form of mandatory overtime, restrictive work rules, et cetera.

I would also remind the House the building trades already have $55 billion worth of Federally-financed construction that is under the Davis-Bacon Act and its artificially supported wage rates. Already this year the taxpayers have gone to the well, and coughed-up $6 billion in the form of a building trades bailout program in the Local Public Works Act we passed earlier this year, which was fully blanketed in by the Davis-Bacon.

So I would suggest it is time to consider the evidence as to what the real impact of the Davis-Bacon Act is not only on this program but also on all the Federal construction programs it blankets in. We know from 29 different General Accounting Office studies over the last 15 years it raises the basic wage rate by 5 to 15 percent. We know it props up the entire union wage scale in the entire construction economy because Davis-Bacon covers 36 percent of total construction in this country.

We also know it reduces competition for Government construction contracts because many nonunion employers and contractors do not even apply or bid for these contracts because of the effect it has on their private construction.

Even more than that we know it prevents the entry on the part of young people and particularly on the part of minorities into the building trades because under the Davis-Bacon Act employers cannot pay an apprentice rate or a helper's rate. Everyone has to get the journeyman's rate. That means that in 36 percent of all construction jobs in this country there are no apprenticeship jobs and no opportunity to enter the trades.

We know it magnifies costs far beyond the simple increase in the basic wage rate it causes. I would like to give one example on a project in the State of Michigan which originally was bid on with State and local money. The Davis-Bacon Act was not involved, and the impact, when that project was put under Federal financing and Davis-Bacon had to be determined, was dramatic. This was a courthouse, a public building.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 3 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, this project was a courthouse and it involved the central heating and air-conditioning system for that courthouse, very much similar to the kind of construction work that will be affected under this part. The original bid was not covered by Davis-Bacon and the contractor indicated he would pay $7 an hour, which is not too bad a wage, to the journeyman on the project and $5.50 an hour to the helpers.

But when the Davis-Bacon determination was made, he was required to pay $9 to the journeyman, a $2 increase; but even more important, 50 percent of the man-hours on this project were to be done by helpers or apprentices under the original bid, and had to be done at the rate of the journeyman level of $9 an hour under the Davis-Bacon determination. And that meant a 73-percent increase in wage costs for those helpers, who suddenly become transformed into journeymen when the Davis-Bacon Act was applied.

Now, overall, the construction wage cost for that project, increased by 60 percent; and that is just for the basic wage rate which went from $5 and $7 for journeymen and helpers, respectively, to $9.50 an hour across the board.

Even more than that, that was just the beginning, because when the basic rate went up to the Davis-Bacon level all the indirect costs of fringe benefits, workmen's compensation, pension contributions, health and welfare and so on, went up as well; that is because they are based on the gross hourly wage and when the Davis-Bacon Act forces the basic rate up, all the other costs go up. In this case it led to a 50-percent increase in the fringe-benefit cost. Thus, the overall labor cost in that simple little courthouse project in that small town was increased by 62 percent as a result of the imposition of Davis-Bacon Act; it rose by more than $30,000 above the original cost of $50,000.

I would suggest the same thing will happen on all the projects we fund under this act, because this is a labor intensive program. It is a retrofit. This money is not going to steel or cement. It is going to the workers to rip things out and put new things in.

I would suggest on the basis of the evidence available in terms of its impact on the basic rate and all the associated costs, that this amendment will reduce the purchasing power for conservation purposes for hospitals and schools and for the local units of government by $50 million to $80 million over the course of the program.

It seems to me that a program that is based on a call for sacrifice and a program that is based on high national purpose, in such a program we ought not to apply Davis-Bacon. We ought to allow the local units of government to stretch these grant dollars as far as possible to reduce their heating costs and mitigate the impact of rising energy prices on local taxpayers, and ask the building trades in the very protected and very strong position they are in already to make this one small sacrifice on behalf of the taxpayers of the country.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to commend the gentleman from Michigan for bringing the facts and figures to this body. I think we have a chance in this body to end the rip-off in this program by eliminating Davis-Bacon from these very complicated retrofitted projects that will take place in the small communities of the Nation.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

Mr. FORD of Michigan. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ST GERMAIN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment. I think it has been well explained, certainly by the gentleman from Ohio (Mr. BROWN) and the gentleman from Illinois (Mr. ANDERSON) and the others who engaged in colloquy. The effort has been to work out an understanding with respect to the application and that has been done.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I join in support for the amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified. offered by the gentleman from Michigan (Mr. FORD) to the ad hoc committee amendment.

The question was taken: and on a division (demanded by Mr. HAGEDORN) there were—ayes 44, noes 39.

RECORDED VOTE

Mr. HAGEDORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 161, not voting 7, as follows:

[Roll No. 494]

AYES—265

Addabbo	Bonior	Cotter
Akaka	Bonker	Cunningham
Alexander	Brademas	D'Amours
Allen	Breckinridge	Danielson
Ambro	Brodhead	Davis
Ammerman	Brooks	de la Garza
Anderson, Calif.	Brown, Calif.	Delaney
	Burke, Calif.	Dellums
Annunzio	Burlison, Mo.	Dicks
Applegate	Burton, John	Diggs
Ashley	Burton, Phillip	Dingell
Aspin	Caputo	Dodd
AuCoin	Carney	Downey
Badillo	Carr	Duncan, Oreg.
Baldus	Carter	Early
Baucus	Cavanaugh	Eckhardt
Beard, R.I.	Chappell	Edgar
Bedell	Chisholm	Edwards, Calif.
Beilenson	Clausen, Don H.	Eilberg
Benjamin		Ertel
Bennett	Clay	Evans, Colo.
Bevill	Cleveland	Evans, Ind.
Biaggi	Cohen	Fary
Bingham	Collins, Ill.	Fascell
Blanchard	Conte	Fish
Blouin	Conyers	Fisher
Boggs	Corman	Fithian
Boland	Cornell	Flood
Bolling	Cornwell	Florio
Flowers	Madigan	Rogers
Foley	Markey	Rooney
Ford, Mich.	Marks	Rosenthal
Ford, Tenn.	Mattox	Rostenkowski
Fraser	Mazzoli	Roybal
Fuqua	Meeds	Ruppe
Gammage	Metcalfe	Russo
Gaydos	Meyner	Ryan
Gephardt	Mikulski	Santini
Gibbons	Miller, Calif.	Sarasin
Gilman	Mineta	Scheuer
Glickman	Minish	Schroeder
Gonzalez	Mitchell, Md.	Seiberling
Gore	Mitchell, N.Y.	Sharp
Gradison	Moakley	Shipley
Hamilton	Moffett	Simon
Hanley	Mollohan	Sisk
Hannaford	Moorhead, Pa.	Skelton
Harkin	Moss	Slack
Harrington	Mottl	Smith, Iowa
Harris	Murphy, Ill.	Solarz
Harsha	Murphy, N.Y.	Spellman
Hawkins	Murphy, Pa.	St Germain
Heftel	Murtha	Staggers
Hillis	Myers, John	Stanton
Hollenbeck	Myers, Michael	Stark
Holtzman	Natcher	Steed
Horton	Nedzi	Stokes
Howard	Nichols	Stratton
Hubbard	Nix	Studds
Hughes	Nolan	Thompson
Jacobs	Nowak	Thornton
Jeffords	O'Brien	Traxler
Johnson, Calif.	Oakar	Tsongas
Jones, Tenn.	Oberstar	Tucker
Jordan	Obey	Udall
Kastenmeier	Ottinger	Ullman
Kazen	Panetta	Van Deerlin
Keys	Patten	Vanik
Kildee	Patterson	Vento
Koch	Pattison	Volkmer
Kostmayer	Pease	Walgren
Krebs	Pepper	Walsh
Krueger	Perkins	Waxman
LaFalce	Pickle	Weaver
Le Fante	Pike	Weiss
Lederer	Price	Whalen
Leggett	Pritchard	White
Lehman	Pursell	Wilson, C. H.
Lloyd, Calif.	Quie	Wilson, Tex.
Lloyd, Tenn.	Rahall	Wirth
Long, La.	Railsback	Wolff
Luken	Rangel	Wright
Lundine	Regula	Wydler
McCloskey	Reuss	Yates
McCormack	Richmond	Yatron
McDade	Rinaldo	Young, Mo.
McFall	Risenhoover	Young, Tex.
McHugh	Rodino	Zablocki
McKay	Roe	Zeferetti

NOES—161

Abdnor	Duncan, Tenn.	Kelly
Anderson, Ill.	Edwards, Ala.	Kemp
Andrews, N.C.	Edwards, Okla.	Ketchum
Andrews, N. Dak.	Emery	Kindness
	English	Lagomarsino
Archer	Erlenborn	Latta
Armstrong	Evans, Del.	Leach
Ashbrook	Evans, Ga.	Lent
Badham	Fenwick	Levitas
Bafalis	Findley	Long, Md.
Barnard	Flynt	Lott
Bauman	Forsythe	Lujan
Beard, Tenn.	Fountain	McClory
Bowen	Fowler	McDonald
Breaux	Frenzel	McEwen
Brinkley	Frey	Maguire
Broomfield	Ginn	Mahon
Brown, Mich.	Goldwater	Mann
Brown, Ohio	Goodling	Marlenee
Broyhill	Grassley	Marriott
Buchanan	Gudger	Martin
Burgener	Guyer	Mathis
Burke, Fla.	Hagedorn	Michel
Burleson, Tex.	Hall	Mikva
Butler	Hammer-schmidt	Milford
Byron		Miller, Ohio
Cederberg	Hansen	Montgomery
Clawson, Del	Heckler	Moore
Cochran	Hefner	Moorhead, Calif.
Coleman	Hightower	
Collins, Tex.	Holland	Myers, Gary
Conable	Holt	Neal
Corcoran	Huckaby	Pettis
Coughlin	Hyde	Poage
Crane	Ichord	Pressler
Daniel, Dan	Ireland	Preyer
Daniel, R. W.	Jenkins	Quayle
Derwinski	Jenrette	Quillen
Devine	Johnson, Colo.	Rhodes
Dickinson	Jones, N.C.	Roberts
Dornan	Jones, Okla.	Robinson
Drinan	Kasten	Roncalio
Rose	Spence	Walker
Rousselot	Stangeland	Wampler
Rudd	Steers	Watkins
Runnels	Steiger	Whitehurst
Satterfield	Stockman	Whitley
Sawyer	Stump	Whitten
Schulze	Symms	Wiggins
Sebelius	Taylor	Wilson, Bob
Shuster	Thone	Winn
Sikes	Treen	Wylie
Skubitz	Trible	Young, Alaska
Smith, Nebr.	Vander Jagt	Young, Fla.
Snyder	Waggonner	

NOT VOTING—7

Burke, Mass.	Flippo	Teague
Dent	Giaimo	
Derrick	McKinney	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Mr. PREYER changed his vote from "aye" to "no."

So the amendment, as modified, to the ad hoc committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the ad hoc committee amendment, as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 317, noes 105, not voting 11, as follows:

[Roll No. 495]

AYES—317

Addabbo	Byron	Fary
Akaka	Caputo	Findley
Alexander	Carney	Fish
Allen	Carr	Fisher
Ambro	Carter	Fithian
Ammerman	Cederberg	Flood
Anderson, Calif.	Chappell	Florio
	Chisholm	Flowers
Anderson, Ill.	Clausen, Don H.	Foley
Andrews, N. Dak.		Ford, Mich.
	Clay	Ford, Tenn.
Annunzio	Cleveland	Forsythe
Applegate	Cohen	Fowler
Ashley	Coleman	Fraser
Aspin	Collins, Ill.	Frey
Badillo	Conte	Fuqua
Barnard	Conyers	Gammage
Baucus	Corcoran	Gaydos
Beard, R.I.	Corman	Gephardt
Bedell	Cornwell	Gibbons
Benjamin	Cotter	Gilman
Bennett	Coughlin	Ginn
Bevill	D'Amours	Glickman
Biaggi	Danielson	Goodling
Bingham	Davis	Gore
Blanchard	de la Garza	Gradison
Blouin	Delaney	Grassley
Boggs	Dellums	Guyer
Boland	Dicks	Hamilton
Bolling	Diggs	Hanley
Bonior	Dingell	Hannaford
Bonker	Dodd	Harkin
Brademas	Downey	Harrington
Breckinridge	Drinan	Harris
Brinkley	Duncan, Oreg.	Harsha
Brodhead	Duncan, Tenn.	Hawkins
Brooks	Early	Heckler
Broomfield	Eckhardt	Hefner
Brown, Calif.	Edgar	Heftel
Brown, Mich.	Edwards, Ala.	Hillis
Brown, Ohio	Edwards, Calif.	Holland
Buchanan	Eilberg	Hollenbeck
Burgener	Emery	Holtzman
Burke, Calif.	Evans, Colo.	Horton
Burlison, Mo.	Evans, Del.	Howard
Burton, John	Evans, Ga.	Hubbard
Burton, Phillip	Evans, Ind.	Huckaby

Hughes	Motti	Shipley
Hyde	Murphy, Ill.	Sikes
Ireland	Murphy, N.Y.	Simon
Jeffords	Murphy, Pa.	Sisk
Jenrette	Murtha	Skelton
Johnson, Calif.	Myers, John	Slack
Jones, N.C.	Myers, Michael	Smith, Iowa
Jones, Tenn.	Natcher	Smith, Nebr.
Jordan	Nedzi	Solarz
Kasten	Nichols	Spellman
Kastenmeier	Nix	St Germain
Kazen	Nolan	Staggers
Keys	Nowak	Stanton
Kildee	O'Brien	Stark
Koch	Oakar	Steed
Krebs	Oberstar	Steers
Krueger	Obey	Steiger
LaFalce	Ottinger	Stokes
Lagomarsino	Panetta	Stratton
Le Fante	Patten	Studds
Leach	Patterson	Thompson
Lederer	Pattison	Thone
Leggett	Pepper	Thornton
Lehman	Perkins	Traxler
Lent	Pettis	Treen
Levitas	Pickle	Trible
Lloyd, Calif.	Pike	Tsongas
Lloyd, Tenn.	Pressler	Tucker
Long, La.	Preyer	Udall
Long, Md.	Price	Ullman
Lundine	Pritchard	Van Deerlin
McClory	Quayle	Vander Jagt
McCloskey	Quillen	Vanik
McCormack	Rahall	Vento
McDade	Railsback	Volkmer
McFall	Rangel	Walgren
Madigan	Regula	Walker
Maguire	Reuss	Walsh
Markey	Rhodes	Wampler
Marks	Richmond	Waxman
Marlenee	Rinaldo	Weaver
Mathis	Risenhoover	Weiss
Mattox	Rodino	Whalen
Mazzoli	Roe	White
Meeds	Rogers	Whitehurst
Metcalfe	Rooney	Wilson, Bob
Meyner	Rose	Wilson, C. H.
Michel	Rosenthal	Wilson, Tex.
Mikulski	Rostenkowski	Winn
Mikva	Roybal	Wirth
Miller, Calif.	Ruppe	Wolff
Mineta	Russo	Wright
Minish	Ryan	Wydler
Mitchell, Md.	Santini	Wylie
Mitchell, N.Y.	Sarasin	Yatron
Moakley	Sawyer	Young, Mo.
Moffett	Scheuer	Young, Tex.
Mollohan	Schroeder	Zablocki
Moore	Seiberling	Zeferetti
Moorhead, Pa.	Sharp	

NOES—105

Abdnor	Flynt	Miller, Ohio
Andrews, N.C.	Fountain	Montgomery
Archer	Frenzel	Moorhead, Calif.
Armstrong	Goldwater	Moss
Ashbrook	Gonzalez	Myers, Gary
Badham	Gudger	Neal
Bafalis	Hagedorn	Pease
Baldus	Hall	Poage
Bauman	Hammer-schmidt	Pursell
Beard, Tenn.	Hansen	Quie
Bellenson	Hightower	Roberts
Bowen	Holt	Robinson
Breaux	Ichord	Roncalio
Broyhill	Jacobs	Rousselot
Burke, Fla.	Jenkins	Rudd
Burleson, Tex.	Johnson, Colo.	Runnels
Butler	Jones, Okla.	Satterfield
Cavanaugh	Kelly	Schulze
Clawson, Del	Kemp	Sebelius
Collins, Tex.	Ketchum	Shuster
Conable	Kindness	Skubitz
Cornell	Kostmayer	Snyder
Crane	Latta	Spence
Cunningham	Lott	Stangeland
Daniel, Dan	Lujan	Stump
Daniel, R. W.	Luken	Symms
Derwinski	McDonald	Taylor
Devine	McEwen	Waggonner
Dickinson	McHugh	Watkins
Dornan	McKay	Whitley
Edwards, Okla.	Mahon	Whitten
English	Mann	Yates
Erlenborn	Marriott	Young, Alaska
Ertel	Martin	Young, Fla.
Fascell	Milford	
Fenwick		

NOT VOTING—11

AuCoin	Derrick	Stockman
Burke, Mass.	Flippo	Teague
Cochran	Giaimo	Wiggins
Dent	McKinney	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Messrs. MARTIN, PURSELL, and KEMP changed their vote from "aye" to "no."

Mr. BRINKLEY and Mr. MIKVA changed their vote from "no" to "aye."

So the ad hoc committee amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, earlier today when the gentleman from Massachusetts occupied the chair, a question was put to the Chair whether or not by unanimous consent amendments could be offered to the bill.

The resolution under which this bill is being considered says on page 2:

No amendment to the bill shall be in order except pro forma amendments for the purpose of debate and except the following amendments, which shall be in order without the intervention of any point of order, which shall not be subject to amendment except for amendments recommended by the Ad Hoc Committee on Energy.

Then those amendments are listed.

Now, subsequent to the Chair's ruling, with the gentleman from Colorado in the chair, in response to a question when the gentleman from Michigan (Mr. FORD) offered a unanimous consent request, said that the unanimous-consent request would be in order.

My question to the Chair is, what is the ruling on unanimous consent amendments to this bill or to the bill henceforth?

The CHAIRMAN. The Chair will respond by indicating that the Chair at the time understood the unanimous-consent request by the gentleman from New York was to change the rule adopted by the House.

The Chair would agree that by unanimous consent modification of a pending amendment is permissible in Committee of the Whole.

Mr. BAUMAN. Mr. Chairman, so any pending amendment can be modified by unanimous consent?

The CHAIRMAN. The gentleman is correct.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to the gentleman from Washington, who had a question in the ad hoc committee.

Mr. MEEDS. Mr. Chairman, I appreciate the gentleman's yielding and working with me to clarify the definition.

Mr. Chairman, I am concerned that the definition of "school" in part III may not be construed to cover colleges with open admissions policies which admit as students persons who have not graduated from high school and who do not have high school equivalency certificates.

I am referring to the language in section 391(5)(B)(ii) which specifies that one criterion of eligibility is that the institution "admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate." As you know, a number of community colleges throughout the Nation admit as students persons without high school credentials. Some do this as a result of institutional commitment to equal educational opportunity and others under requirements of State law.

My question is: Is it the intention of the committee to exclude such open admissions institutions from eligibility for aid under this bill and should the section be so construed?

Mr. DINGELL. I thank the gentleman for raising this very important point. It was not the intention of the committee to exclude such institutions and it is not the belief of the committee that the definition can be so construed.

For the purposes of this legislation it is the intention of the committee that the words "recognized equivalent" in section 391(5)(B)(ii) be construed to include whatever entrance requirements short of a high school certificate an institution otherwise qualified under this legislation chooses to impose for admission.

Specifically in answer to the gentleman's question, institutions following open admission policies are eligible to receive aid under the program established in part III if they meet the other applicable criteria of part III.

I thank the gentleman for asking this question. It creates the proper legislative history.

Mr. MEEDS. I thank the gentleman.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield for a question?

Mr. DINGELL. I will be happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, it has come to my attention that the natural gas pricing provisions of title IV may have an unintended adverse impact on the State of Alaska's ability to sell royalty gas from Prudhoe Bay. It is obviously too late to correct the problem with amendatory language but I believe that a clear statement of legislative intent may rectify the matter.

Early this year the State of Alaska signed a contract with El Paso, Tenneco, and Southern Natural Gas for the sale of Alaska's royalty gas from the Prudhoe Bay field. This contract was executed due in part to Federal Power Commission urgings; the FPC wanted some of the North Slope gas under contract to help clarify the situation regarding Alaskan gas pipeline financing.

Most, if not all of this royalty gas is not "new natural gas." If this gas were "new gas" no problem would exist since the $1.75 Btu related price would apply. Under section 405, old gas sold under existing contracts is ceiling priced by reference to the contract price applicable on April 20, 1977.

These contracts do not contain a specific price term; instead the price is to be determined by reference to the price

established under other sales contracts. However, section 414 would appear to prevent the operation of this clause.

The question, therefore, is whether section 405 applies to these contracts, and, if so, what would be the maximum lawful price?

Mr. DINGELL. Mr. Chairman, I would answer the gentleman first by saying that, although we are not in the natural gas sections yet, I am delighted to respond to the question raised by the gentleman, and I believe it is an important one.

Section 414 does apply to these contracts. If, by application of this section, no price is applicable to the contract, the contract would contain no enforceable price term. Under those circumstances, these agreements would not constitute a binding, enforceable contract. Therefore, section 405 would not apply. Instead the sale of this gas would be covered by section 406, sales of old gas under new contracts, and the price ceiling would be $1.45 per Mcf. In addition a higher price might be established by the FPC under section 409 in order to establish incentives to encourage development of high-cost Alaskan natural gas production.

Mr. YOUNG of Alaska. I want to thank my good friend for responding to my question.

Mr. DINGELL. It does create the legislative history that causes the gentleman apprehension.

Mr. YOUNG of Alaska. I thank the gentleman.

The CHAIRMAN. The Clerk will designate the heading of the part now under consideration.

The Clerk read as follows:

Page 180, line 8, "PART IV OF TITLE II—NATURAL GAS." (Part IV reads as follows:)

PART IV—NATURAL GAS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) the natural gas market changed dramatically through the course of the last 40 years as a national distribution system was built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas within the same State in which it was produced, to a regulatory standard based upon a determination of historic production costs;

(5) since 1973, the differential between the price of natural gas and the price of crude oil on a Btu basis has widened with the continuation of cost-based regulation of natural gas and with a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) at the same time as proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in growing critical shortages in the interstate market of the fuel which provides 30 percent of the Nation's energy; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas and to reflect the costs and risks associated with finding new supplies of natural gas, as well as the costs associated with reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) PURPOSES.—The purposes of this part are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas which provides fair and equitable producer revenues and protects consumers;

(2) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(3) to provide for the conservation of natural gas by pricing natural gas to low-priority users at a level which will provide incentives for conservation and conversion to other, more plentiful, fuels.

SEC. 402. DEFINITIONS.

As used in this part—

(1) The term "Commission" means the Federal Power Commission.

(2) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(3) The term "natural gas" has the same meaning as such term has under section 2(5) of the Natural Gas Act.

(4) The term "old natural gas" means natural gas other than new natural gas.

(5) The term "new natural gas" means natural gas—

(A) which is produced from a new lease on the Outer Continental Shelf; or

(B) which is produced (other than from the Outer Continental Shelf)—

(i) from a new well—

(I) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(II) the completion location of which is in a newly discovered reservoir; or

(ii) from a new well the completion location of which—

(I) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well, and

(II) is in a newly discovered reservoir.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(7) The term "new lease" means a lease, entered into on or after April 20, 1977, of submerged acreage—

(A) which was not leased before April 20, 1977; or

(B) which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(8) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(9) The term "old well" means any well other than a new well.

(10) The term "completion location" means the subsurface location from which crude oil or natural gas is or has been produced from a reservoir.

(11) The term "horizontal distance", with regard to an old well and a new well, means the distance, measured horizontally and without regard to topography, between—

(A) the surface location of the old well, and

(B) the closest point of the completion location of the new well vertically projected to the same elevation as the surface location of the old well.

(12) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(13) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(14) The term "new contract" means any contract, entered into after April 20, 1977, for the sale of natural gas which was not previously subject to an existing contract.

(15) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(16) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(17) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 403.

(18) The term "inflation adjustment" means, with respect to any calendar quarter, the amount determined by dividing—

(A) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(B) the implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(19) The term "Mcf" means, with respect to natural gas, 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and a temperature of 60° Fahrenheit.

(20) The term "Btu" means British thermal unit.

(21) The term "United States" includes the Outer Continental Shelf.

(22) The term "State" means each of the several States and the District of Columbia.

SEC. 403. CALCULATION OF THE CURRENT BTU RELATED PRICE.

(a) CURRENT BTU RELATED PRICE.—Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months, by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(b) COMPUTATION OF DOMESTIC REFINER COST OF CRUDE OIL.—For purposes of paragraph (1) of subsection (a), the average per barrel domestic refiner cost of acquiring crude oil shall be computed without regard to—

(1) costs associated with the purchase of entitlements under the regulation issued under section 4 of the Emergency Petroleum Allocation Act of 1973,

(2) the tax imposed by section 4986 of the Internal Revenue Code of 1954 or any credit or payment allowable under such Code in connection with such tax, or

(3) the cost of crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973).

SEC. 404. SALES OF NEW NATURAL GAS.

Except as provided in sections 409 and 413, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SEC. 405. SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS.

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(1)(A) in the case of any such first sale subject to the jurisdiction of the Commission under the Natural Gas Act, the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to any appeal of such price determination pending on April 20, 1977), or

(B) in the case of any other such first sale, the price applicable on April 20, 1977, under such existing contract: by

(2) the inflation adjustment.

SEC. 406. SALES OF OLD NATURAL GAS UNDER NEW CONTRACTS.

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SEC. 407. SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS.

(a) MAXIMUM LAWFUL PRICE RULE.—Except as provided in sections 409 and 413 (e)(4), and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b) LIMITATIONS.—(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribtd by the Commission under this section may exceed the maximum price permitted under a previous existing contract to the extent that such price is necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum prices permitted under a previous contract to the extent that such price is necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) the product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) the current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) COMMITTED OR DEDICATED TO INTERSTATE COMMERCE.—For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

SEC. 408. EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES.

The Commission shall promulgate and make effective rules required to be prescribed under section 407 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 407 applies and which occur on or after such date of enactment.

SEC. 409. SPECIAL PRICING PROVISIONS.

(a) GENERAL RULE.—The Commission may, by rule, prescribe a maximum lawful special price, applicable to the first sale of high cost natural gas produced in the United States. Such special price may exceed the applicable maximum lawful price established by sections 404, 405, 406, or 407 to the extent that such special price is necessary to provide reasonable incentives for the production of high cost natural gas.

(b) HIGH COST NATURAL GAS.—For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) ADJUSTMENTS.—In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of gathering, processing, liquefaction, or transportation of such natural gas, the Commission may, by rule, provide for an adjustment to the maximum lawful price established by sections 404, 405, 406, or 407, or prescribed under subsection (a) of this section or section 413(e)(4), to reflect such cost borne by such seller.

SEC. 410. INCREMENTAL PRICING OF NATURAL GAS.

(a) GENERAL RULE.—(1) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after such date of enactment to any pipeline company exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline company, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

until the rates or charges applicable to such low-priority users, served by such pipeline company or such local distribution company, equal the reasonable cost of substitute fuels (as determined by the Commission) to such low-priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low-priority users.

(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "low-priority user" means any user other than a high-priority user.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

SEC. 411. ESSENTIAL AGRICULTURAL USES.

(a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES.—Notwithstanding any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) IDENTIFICATION OF USES AND DETERMINATION OF REQUIREMENTS.—The Secretary of Agriculture shall, by rule—

(1) not later than 60 days after the date of the enactment of this Act, identify those agricultural uses for which an assured supply of natural gas is essential and with respect to which alternative fuels are not economically practicable or reasonably available, as determined by the Commission, and

(2) not later than 120 days after such date of enactment, determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production and processing and to otherwise preserve public health, safety, and welfare.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "agricultural use" means, when used with respect to natural gas, an agricultural or food processing use of natural gas, including the use of natural gas—

(A) for irrigation pumping,

(B) for crop drying, or

(C) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, or food.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence,

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day, or

(C) uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gs for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

SEC. 412. NATURAL GAS STORAGE FACILITIES.

(a) GENERAL RULE.—Not later than 60 days after the date of the enactment of this Act, the Commission shall, by rule, require that the injections to, and withdrawals from, storage facilities of any interstate pipeline company are made at such times and to such extent as will ensure that the needs of low-priority users served by such interstate pipeline company will not be satisfied to the detriment of high-priority users served by such interstate pipeline company. Such requirements may include—

(1) schedules of minimum net rates of injection of natural gas into such storage facilities during periods immediately preceding peak demand periods of high-priority users;

(2) prohibitions on the withdrawal of natural gas from such storage facilities for purposes of satisfying needs of low-priority uers;

(3) provisions requiring that, if such interstate pipeline company fails to comply with any requirements of such rule and such failure results in the purchase of natural gas by such interstate pipeline company to satisfy needs of high-priority users at an average cost which exceeds the average cost of the natural gas which would have been available to high-priority users if the requirements of such rule had not been violated, such excess cost shall not be borne by high-priority users; and

(4) such other measures as the Commission determines appropriate to carry out the purposes of this section.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "high-priority user" means any person who—

(A) uses natural gas in a residence,

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day,

(C) uses natural gas as a process fuel of feedstock for which alternative fuels are not available,

(D) uses natural gas in any use identified by the Secretary of Agriculture under section 411(b)(1), but only to the extent of the use requirement established under section 411(b)(2), or

(E) uses natural gas in any other use the curtailment of which the Commission determines, by rule, would endanger life, health, or maintenance of physical property.

(2) The term "low-priority user" means any person other than a high-priority user.

(3) The term "interstate pipeline company" means any person engaged in the transportation of natural gas who is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

SEC. 413. ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE PROCEDURE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order issued under this part having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and before the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment before the effective date of the rule may be waived if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in the Federal Register at the time of the publication of such proposed rule or order.

(3) To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in paragraph (1). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 10 days after such date in the case of a waiver of the entire comment period under paragraph (2) and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by such officer or agency establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recession of, exception to, or exemption from, such rules, regulations, or orders. If any such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any person aggrieved or adversely affected by any rule prescribed, or order issued, by the Commission under this part may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c) ENFORCEMENT.—(1) It shall be unlawful for any person—

(A) to violate any provision of this part; or

(B) to violate any rule prescribed, or any order issued, under this part.

(2)(A) Whoever violates any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to a civil penalty, which may be assessed by the Commission—

(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) in the case of any violation not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. The determination to assess such penalty shall be made on the record after opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order of the Commission assessing such penalty shall state the Commission's findings and the basis for such assessment. If the person, against whom a civil penalty is assessed, fails to pay the penalty within the period prescribed in such order, the Commission shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Commission shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Commission, or the court may remand the proceeding to the Commission for such further action as the court may direct.

(3) Whoever willfully violates any provision of this part or any provision of any rule prescribed, or order issued, under this part—

(A) shall be imprisoned not more than one year for each violation; or—

(B) shall be fined—

(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, not more than $40,000 for each violation, or

(ii) in the case of any violation not referred to in clause (i) of this subparagraph, not more than $10,000 for each violation; or

(C) shall be both so imprisoned and so fined.

(4) For purposes of this subsection each day of violation shall be treated as a separate offense.

(5) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2) or (3), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3) unless he also had knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the Commission.

(d) INFORMATION.—(1) In order to obtain information to carry out its authority under this part and to enforce compliance with the requirements of this part, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal

agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(3) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under this subsection, the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(e) GENERAL RULEMAKING AUTHORITY.—(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this part and rules prescribed and orders issued under this part.

(2) The Commission shall have power to further define terms used in this part consistent with the definitions set forth in, and the purpose of, this part.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 404, 406, 407, or 409 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(4) (A) Except as provided in subparagraph (B), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 404, 405, 406, 407, and 409 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(B) Subparagraph (A) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

SEC. 414. UNENFORCEABLE CONTRACT PROVISIONS.

(a) MOST FAVORED PRODUCER CLAUSES.—No natural gas price determined under this part may be taken into account for purposes applying any provision of a contract which determines, or permits renegotiation of, the price of any natural gas or terminates such contract on the basis of any sale of natural gas not sold under such contract, any sale of crude oil, or any sale of any refined petroleum product.

(b) CLAUSES PROHIBITING COMMINGLING.—Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to the first sale of any natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) apply.

SEC. 415. RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977.

Nothing in sections 404 through 407 and sections 409 and 413(e)(4) shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

SEC. 416. JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT.

(a) DEREGULATION OF CERTAIN FIRST SALES.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply; or

"(F) to any person to the extent to which such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply."

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply."

(b) COMMISSION JURISDICTION OVER SYNTHETIC NATURAL GAS.—Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned and operated by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption.

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline-quality gas, and

"(iii) any natural-gas company affiliate engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the production of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the tranportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' means a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) which is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

SEC. 417. CONFORMING AMENDMENTS TO THE NATURAL GAS ACT.

(a) AMENDMENTS TO SECTION 4.—Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(b) AMENDMENT TO SECTION 5.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(c) AMENDMENT TO SECTION 5.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

SEC 418. AMENDMENTS TO THE EMERGENCY NATURAL GAS ACT OF 1977.

The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipelines, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable," and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 4(f)(2)(B), by striking out "interstate" both places it appears;

(11) in section 7, by striking out "an interstate pipeline" both places it appears and inserting in lieu thereof "a pipeline" and by striking out "such interstate" and inserting in lieu thereof "such";

(12) in section 9(c), by striking out "August 1, 1977," and inserting in lieu thereof "April 30, 1979,"; and

(13) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

AD HOC COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will designate the page and line number of the ad hoc committee amendments, the first group of the amendments recommended by the ad hoc committee to be considered en bloc.

The Clerk read as follows:

Page 183, line 11 through page 184, line 19, on page 185, line 8 through line 14, on page 186, line 7 through line 14, on page 189, line 10 through line 12, on page 207, line 14 through line 15, and on page 208, line 4 through page 209, line 2, and an amendment inserting on page 188, line 11, the word "domestic" before the word "crude";

(The ad hoc amendments considered in bloc read as follows:)

Page 183, line 11, strike:

(5) The term "new natural gas" means natural gas—

(A) which is produced from a new lease on the Outer Continental Shelf; or

(B) which is produced (other than from the Outer Continental Shelf)

(i) from a new well—

(I) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(II) the completion location of which is in a newly discovered reservoir; or

(ii) from a new well the completion location of which—

(I) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well, and

(II) is in a newly discovered reservoir.

And insert:

(5) The term "new natural gas" means natural gas—

(A) produced from a new lease on the Outer Continental Shelf; or

(B) produced (other than from the Outer Continental Shelf) from a new well the completion location of which—

(i) is 2.5 statute miles or more (horizontal distance) from any old well;

(ii) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well; or

(iii) is in a newly discovered reservoir.

Page 185, line 8, strike:

(9) The term "old well" means any well other than a new well.

And insert:

(9) The term "old well" means any well which—

(A) produced crude oil, natural gas, or both, on or before April 20, 1977; or

(B) was capable of producing crude oil, natural gas, or both, on April 20, 1977.

Page 186, line 7, strike:

(13) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

And insert:

(13) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas.

Page 189, line 10, strike: "of this Act shall be the current Btu related price" and insert: "shall be the higher of $1.75 per million Btu's or the current Btu related price".

Page 207, line 14 following the word "apply," insert: "or to any sale to which paragraph (4) applies,".

Page 208, following line 3, insert:

(5)(A) On the request of any State agency having regulatory authority over the drilling of natural gas wells or the production of such wells, the Commission shall delegate to such State agency the authority to determine whether the requirements of section 402(5)(B)(iii) (relating to the definition of new natural gas) have been satisfied for purposes of applying section 404.

(B) Any such delegation shall be upon terms and conditions prescribed by the Commission. The Commission may rescind any such delegation at any time by notifying the State agency of such rescission. The Commission may review any determination made by any State agency pursuant to the delegation of authority under this paragraph and, within one year after such determination, reverse or modify such determination.

(C) For purposes of subparagraph (B), the one-year limitation of such subparagraph shall not apply in any case—

(i) involving a fraudulent filing with the State agency or the Commission, or

(ii) involving a failure to file information required by the State agency, or by the Commission pursuant to the terms and conditions of the delegation under this paragraph.

Page 188, line 11, following the word "acquiring", insert the word "domestic".

Mr. ASHLEY. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, at the outset of general debate on yesterday I commented that the national energy plan, which is the predicate for the legislation we are considering today, really has three basic cornerstones: conservation; conversion from oil and natural gas to coal, nuclear, and other sources of energy; and, finally, production incentives.

Production incentives, we all acknowledge are manifestly essential if we are to continue to have available the oil and the natural gas which drives the engine of our economy, heats our homes, provides fuel for our tractors, and gasoline for our automobiles.

The amendment that we are considering at this time, Mr. Chairman, goes to the very heart of this third cornerstone. Perhaps it can be best put in perspective by reminding my colleagues that in the national energy plan, as proposed by the administration, the definition of new natural gas is gas at least 2½ miles away from an existing well or, if within the 2½ miles, is 1,000 feet deeper than the deepest completion location of an old well. That was the definition that was sent to the Congress.

The Committee on Interstate and Foreign Commerce changed that, to some extent, by saying that, in order to qualify as new natural gas, not only must that gas be 2½ miles away from the existing well, or 1,000 feet deeper, but it must in fact come from a new reservoir.

The ad hoc committee, wrestling with a definition that would at the same time provide an incentive price and protect the American consumer, came up with a definition which is before us at this time. That definition—and I may say thanks to the majority leader, the gentleman from Texas (Mr. WRIGHT), thanks to the gentleman from Texas (Mr. CHARLES WILSON), thanks to the gentleman from Texas (Mr. ECKHARDT), thanks to the gentleman from Michigan (Mr. DINGELL), and thanks to the others who brought about this agreement—defines new natural gas as natural gas produced from a well more than 2½ miles from an existing well or 1,000 feet deeper than an existing well within 2½ miles—and I stress this because it is important—in addition, it says that any gas that truly is from a new reservoir within the 2½-mile radius or 1,000-foot limitation shall be considered as new gas.

That is a departure. Obviously it is a broader definition of "new gas" than that contained either in the administration proposal or the proposal from the Committee on Interstate and Foreign Commerce. It says that any gas outside the 2½-mile cylinder, if you will, whether it be from a new reservoir or old reservoir, shall be considered as new gas. Again that is a broadening of the definition.

As far as price is concerned, the administration proposed a ceiling at $1.75 per 1,000 cubic feet. This was retained in the Committee on Interstate and Foreign Commerce, and it is retained in the amendment before us.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. ASHLEY. Mr. Chairman, I would like simply to conclude with these remarks:

Our responsibility at this juncture is twofold as we consider the definition and price of new natural gas. We do have a responsibility to the American people, to our generation, and to the generations to come to provide a mechanism and to provide an incentive price so there can be assurance that there will be new production tomorrow, next month, next year, and into the years to come.

There is a secondary and concomitant responsibility on this body, and that is to protect the American consumer from unwarranted high prices and from unjustifiable profits. This, too, it seems to me, Mr. Chairman, is provided for in the amendment before us.

Mr. Chairman, I do not suppose that any amendment has been more thoroughly discussed and deliberated than this amendment, not simply within this chamber or these halls but among the many diverse interest groups of this land. I can only say that I am confident we have struck a balance between the competing objectives which fall on our shoulders at this time.

Mr. Chairman, I want to pay particular tribute and offer congratulations to those whom I have named and to the others who have made possible the amendment that is before us.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I wonder if the gentleman will advise me further as to this amendment that results from this new compromise that was struck, as nearly as I can observe, among the Members on the majority side, since it was not discussed with any of us on the minority side of the ad hoc committee.

Under the definitions that have been set in the ad hoc committee amendments, gas that was previously sold in the intrastate market, flowing in the intrastate market, will be sold at what price?

Under section 406 and definitions in the other parts of the bill, gas subject to section 406 will now sell for $1.45; is that correct?

Mr. ASHLEY. I will say to the gentleman that it depends upon the previous contractual price for that gas.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has again expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman from Ohio yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I believe the question was this—and I hope the other gentleman from Ohio (Mr. BROWN) will give me his attention—what will be the price under a rollover contract of gas flowing under existing contracts in the intrastate markets? Is that the question?

Mr. BROWN of Ohio. No. Mr. Chairman, if the gentleman from Ohio will yield, the question is not "under existing contracts."

The question I asked was this: What would be the price of gas previously flowing in the intrastate market which will be sold under a new contract in the interstate market? What would that price be after the passage of this legislation that the ad hoc committee has recommended?

Mr. DINGELL. The answer to that question is: at most $1.75

Mr. BROWN of Ohio. Mr. Chairman, I think if the gentleman will check further, he will find the price of gas under section 406 of the bill is $1.45.

Mr. ASHLEY. Mr. Chairman, if the gentlemen will allow me to make this observation, I believe I am right in saying that it depends on whether there was an expiring contract. If there is an expiring contract, then it depends on whether the price was less than $1.45 or more than $1.45.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, the gentleman from Ohio (Mr. ASHLEY) is correct. I think we will have to go to section 407, which is entitled, "Sales of Old Natural Gas Under Rollover Contracts."

The way that section works is that if the existing contract price was above $1.45, the price would go to $1.75. I refer the gentleman to pages 190 and 191 of the bill on that particular point, most specifically subsection 407(b)(2).

Mr. BROWN of Ohio. Would the gentleman look at Section 406 and interpret that for me.

It says:

> Except as provided in sections 409 and 413(e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

Mr. DINGELL. If the gentleman from Ohio (Mr. ASHLEY) will yield further, what we have to do is to look at the definition of "new contracts," "existing contracts," and "rollover contracts."

If the gentleman will do that, he will find that my interpretation is correct.

Mr. BROWN of Ohio. Is the gentleman saying that if gas previously sold in the intrastate market, say, in Texas, where the price is now $1.95 to $2——

Mr. DINGELL. If I may interrupt the gentleman, let me read the definitions. The definition of "new contract" reads as follows:

> The term "new contract" means any contract, entered into after April 20, 1977, for the sale of natural gas which was not previously subject to an existing contract.

The definition of "rollover contract," is as follows:

> The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

There we have the definitions of the two, and the gentleman will understand how it works.

If the gentleman will permit me to say something further, in view of these definitions, section 407 is applicable and not section 406.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, may I say to the gentleman that it makes no difference what the destination of the gas is, either to interstate or intrastate markets. It does make a difference from what store the gas originates.

If gas has come from intrastate sources and was under contract at $1.45 or more, the maximum rate goes to $1.75 whether or not that gas flows into interstate markets.

The point I am making here is that we have no discrimination against interstate markets, as the Krueger amendment originally had, in which it was said that gas going from intrastate markets into interstate markets should be controlled at not more than $1.45.

The gentleman from Ohio (Mr. BROWN) took that out of his amendment.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, I thoroughly agree with the gentleman from Texas (Mr. ECKHARDT). His interpretation is correct, and I point out that under the committee bill, which the Eckhardt amendment will soon amend, there is no discrimination against either interstate or intrastate contracts, new or rollover; and that is something which cannot be said about some of the other legislation and the proposals which we have heard.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to be sure, by hearing it from either the gentleman from Texas (Mr. ECKHARDT) or from the gentleman from Michigan (Mr. DINGELL), that we have established what the price will be on gas previously sold in intrastate commerce, now to be sold in interstate commerce under the provisions of the ad hoc committee amendment.

Will it be sold at $1.45 or $1.75?

It seems to me that the interpretation of new contracts and rollover contracts would indicate that there at least is a question that it might be held to $1.45.

Could either gentleman give me assurance that it will not be held down to $1.45 under the amendment that has been presented?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield so I may answer that question?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, as I stated before, it makes no difference whether the gas goes into the interstate or intrastate market, but it does make a difference from whence it came.

Mr. BROWN of Ohio. From whence it came is intrastate commerce.

Mr. ECKHARDT. If it came from intrastate commerce, if it is priced before the rollover contract permitted an increase, at $1.45 or more the maximum price may be $1.75, but that is not automatic.

Mr. BROWN of Ohio. What do you mean, it is not automatic?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, what does the gentleman from Texas (Mr. ECKHARDT) mean it is not automatic?

Mr. ECKHARDT. The $1.75 is the ceiling price that would be applicable in that case.

Mr. BROWN of Ohio. Could the gentleman from Texas (Mr. ECKHARDT) advise me how this would be determined? The $1.75 is a ceiling and the gas could be held to a much lower price under section 407.

Mr. ECKHARDT. If I may continue for a moment, if the gentleman will yield further, if the contract had a price of less than $1.45, then the maximum price is $1.45 but in both instances the price of gas either going into intra or interstate commerce is treated in the same manner because what we are attempting to get at in this bill is to eliminate the discrimination in favor of the higher price in intrastate commerce.

Mr. ANDERSON of Illinois, Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I must respectfully disagree with the statement made a few minutes ago by the distinguished chairman of the committee, the gentleman from Ohio (Mr. ASHLEY), that the ad hoc committee amendment now before us, will help to fulfill our goal of providing us with additional incentives to produce all of the natural gas that is required to meet the energy needs of our country.

I can agree with the gentleman in the statement that he made that we have a responsibility to the American people not only now in the present day but for future generations that lie ahead. But I would suggest that it is a responsibility that goes beyond an attempt to use the narrow approach of this amendment, and it is our responsibility to avoid the kind of disastrous shortages that devastated the American economy in the winter recently passed.

Make no mistake about it, in the amendment now before us we are being asked to take a giant step in the wrong direction in an approach to the national gas pricing policies of this country. What we are being asked in effect to do is to tie the price of new gas to the price of "old" oil, because the composite price of domestically produced oil would be the index that we would use in determining the price of new gas.

I would suggest that that composite price of oil as established in the pricing policies of EPCA has proved to be a disincentive to the further exploration and development of oil in this country.

What sense does it then make to tie the price of new gas to an oil pricing policy that has been bad, a pricing policy that has been more than bad, it has been a disaster?

I would go further, I would suggest that if we adjust this pricing scheme and it fails to work, then in the future we could say that it would have made more sense to have used the cost-based pricing system of the FTC than it would be to adopt the formula that is incorporated in the so-called Eckhardt amendment.

There is not any question that the amendment is going to provide for some increases in the prices of natural gas under that formula. But, there is certainly no question that those increases will have absolutely no relationship to the costs of producing new gas, nor will they have any relationship to the marketplace in which that gas is sold.

I will say that as ineffective and as counterproductive as the present pricing system may be under the cost-based formulas that are used by the Federal Power Commission, it would be in some sense, more logical to continue that system than to retreat to the artificial composite pricing scheme that is recommended in this amendment, and which has not worked on oil in the past.

What the authors of this amendment seem to forget is that in dealing with natural gas we are dealing with our cleanest and most versatile fuel. They forget that we do have large reserves of natural gas in this country. We in this Chamber do not have to resort to the kind of doomsday philosophy that seems to motivate the authors of this amendment. We do not have to force American consumers because there are shortages of natural gas to then go to other forms of energy that are much more expensive. Additional gas produced by deregulation would permit continued service to residential and commercial customers at prices that would be far below the projected prices for the alternative—$14 per million Btu for electricity and nearly $4 per million Btu for middle distillates for No. 2 heating oil. If we fail to get gas, then that is what we are asking the American consumer to pay. I say to the Chairman who professed concern a moment ago for the consumers of this country, What concern does he show when he tells them, "No, you cannot have the gas that you need at the burner tip to heat your homes, or to keep your factories going, or to keep your economy producing and your men employed. No. You will have to go to those sources of energy that will triple or quadruple the cost for their energy supplies compared to that which would be involved in having adequate supplies of natural gas."

With all of the force, with all of the vigor that I can summon to this proposition—and there are the experts who will address you who I think will bring out the fallacy that lies behind this amendment with even greater clarity—I would urge the members of the Committee to reject the pricing scheme embodied in this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CHARLES WILSON of Texas, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 2 additional minutes.)

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman from Texas (Mr. WILSON).

Mr. CHARLES WILSON of Texas. I thank the gentleman for yielding.

I think that much of what the gentleman said is true, but the basic thrust of his amendment is really not in pricing. The basic thrust of the gentleman's amendment is in expanding the definition of new gas.

Mr. ANDERSON of Illinois. Let me reclaim my time. We are considering this amendment en bloc. We are not merely considering an amendment that expands the definition of new gas to include new reservoirs in addition to the other parts of the definition. We are also accepting, if we vote through this amendment, a pricing scheme that will go from a cost base pricing scheme to one where we are trying the price of new natural gas to the average refinery acquisition cost of crude oil produced in this country. Is that not correct?

Mr. CHARLES WILSON of Texas. No; that is not correct. I think that there will be an amendment offered by the gentleman from Ohio and my colleague, the gentleman from Texas (Mr. KRUEGER), which will in fact be a deregulation amendment that will be offered. But that amendment may fail, and if that amendment does fail, then I will ask the gentleman to have a more liberal definition of new gas.

Mr. ANDERSON of Illinois. Let me ask the gentleman, where would we be then if we had adopted the previous Eckhardt amendment, the amendment of the gentleman from Texas with its pricing scheme, and then we went on to consider the amendment that has been offered by my friend, the gentleman from Ohio (Mr. BROWN), which was defeated by only three votes in the full committee? If that amendment were defeated, would we not be left with a new pricing system whereby we would be trying the price of new gas to the average refinery acquisition cost of crude oil produced in this country? That is where we would be.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on that point for me to answer that question?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Here is where we would be. If we do not pass the Wilson-Eckhardt amendment, and we do not pass the Brown amendment, we would be in exactly the position the gentleman is talking about. That is what the gentleman from Texas (Mr. WILSON) was pointing out, that this amendment does nothing but expand the definition of new gas. That is all it does.

Mr. ANDERSON of Illinois. That is absolutely not the case, and a careful reading of the amendment makes that clear.

Mr. WRIGHT. Mr. Chairman, I rise in favor of the amendment.

Henry Clay once pleaded with his colleagues:

> Do not despise compromise. It is the cement that holds the Union together.

I think this is an amendment with which every one of us can live. It is not everything any one of us might desire. More importantly, it is an amendment with which the country can live and can make some progress toward energy sufficiencies.

This amendment does not deregulate natural gas. It does not raise the specter of wildly escalating prices to the consumer. This amendment retains a predictable price at $1.75 until such time as the composite price of domestically produced oil might by the equivalent Btu content slowly raise the price of new natural gas through and above that ceiling.

But the important thing is that while protecting the consumer against the fear of spiraling costs, it does provide an incentive for the explorer, the seeker, the risk taker, the independent who has discovered 75 to 80 percent of the oil and gas reserves in this country, to go out and continue looking. It does this by establishing the price at a level at which that explorer can borrow money from the bank to go look for new reserves, and it does it by expanding the definition of what constitutes new natural gas.

Now obviously if the price were $5 a thousand cubic feet and if a reservoir could not be identified as new natural gas, it would be of no benefit or attractiveness whatever to the individual who wants to take the risk in this extremely venturesome business and without whom we would not have had the petroleum discoveries which have undergirded our society.

So it seems to me that this is a compromise in which all of us, wherever we come from, can find a resting place. It will serve for the moment.

I should like to offer one other thought. This is a solution which treats all sections of the country alike. The oil producing sections have in the past enjoyed an advantage of the availability of natural gas in intrastate commerce by reason of the fact that the price was higher than for interstate markets. But their consumers have been faced with the disadvantage of paying quite considerably

higher prices for the fuel than consumers in the nonproducing States. This equalizes the opportunity, the availability, and the price. So what could be fairer from a national standpoint?

I assure the Members that the people in my State, the average Texans, do not want to disadvantage and cause physical suffering to other Americans in cases of shortage. We are 1 country, not 50 separate countries. Texans know that as well as anyone. There can be no long-term advantage to any region if it is gained at the pain of physical hardship to the citizens of other regions. And I can certainly assure the Members that those very, very few who have facetiously placed on their cars stickers with the invidious slogan, "Let them freeze in the dark," do not—do not—represent the sentiments of the people of my State.

I can assure the Members further that those of us from Texas and from Oklahoma and Louisiana and from other gas-producing areas in Congress represent more consumers than we do producers. It is precisely because of our concern for America's consumers, present and future, that we are determined to do all we can to assure continuing sources of energy supplies for the future. All of us need to recognize that unless we make it possible for people to go out and explore for this precious fuel we are not going to find it. And unless we find more of it, the price inexorably will go up, because a shortage is going to develop and intensify, as we have seen it already developing.

So I think this solution addresses both problems. It provides reasonable protection for the consumer against rapidly rising prices and it provides some protection for the future insofar as it offers an incentive to expand supply.

Conservation is not a whole energy policy. Conservation alone is not enough. Conservation is part of it. It is the first step. But it merely buys us time in which to increase our national supply. If all we did were to conserve—if we should fail to use that time to provide additional supplies—then we simply would be postponing that inevitable day when the national gas tank would be on empty.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. BROWN of Michigan, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I tend to concur with what the gentleman has said, because the Eckhardt amendment establishes as "new gas" that produced from a "newly discovered reservoir," and that is defined in the bill as:

> The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas.

That is the legislative definition.

Then the bill grants to the Commission the authority to delegate to a State agency the determination of whether the reservoir is truly a new reservoir. The amendment also provides that after such delegation, the Commission can decide whether or not to rescind the delegated authority. I presume that means because the State regulatory agency has not pursued its determination in accordance to what the Commission says should be the criteria for such determination.

Now, in effect then, we get three definitions: The one provided in the amendment, the State regulatory agency's and the Commission's.

Would the gentleman not agree that regardless of who makes the determination what we intend by this language, is that if this is truly newly discovered gas, it gets new gas treatment?

Mr. WRIGHT. Mr. Chairman, I do agree, yes.

Mr. BROWN of Michigan. In short, when the Commission sets terms and conditions in delegating the authority to make a determination by the State regulatory agency, the Administrator cannot in those terms and conditions adopt standards that are inconsistent with the generally accepted standards of industry and the State regulatory agency authorities, in the area where the well is located; would the gentleman agree?

Mr. WRIGHT. I would think that the basic definition in the bill would and must prevail. The presumption must lie with the basic wisdom of those State regulatory agencies which are the governmental bodies most intimately familiar with the geological strata and formations that lie within their respective jurisdictions. Presumably, they can make the determination much better than someone sitting off in Washington as to whether, indeed, a discovery is a new reservoir, and therefore new gas.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for those remarks. I completely concur, because it has ramifications for my State of Michigan.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Texas, the majority leader, is an eloquent man. I praise the gentleman for that, but I think the gentleman is just absolutely wrong on this part of the bill. I worry about that, not only from the gentleman's standpoint, but from mine.

The ad hoc committee amendment is not a compromise. It is an admission of failure of the administration's definition of new gas. It is an admission that the administration definition was on its face idiotic. For instance, the first administration definition provided that if you drilled a new well within 2½ miles of a dry hole and found gas, the presumption was that what you found in the new well would be old gas because there had been a well drilled within 2½ miles, even though the first well was a dry hole. How silly.

The ad hoc amendment does not raise the possibility of any new gas in the interstate market because we have been told by everyone who testified before the Commerce Subcommittee on Energy and Power that if the prices were the same in interstate and intrastate markets, the sales would be made to intrastate markets; because producers do not want to have to mess around with good old Uncle Sam and his regulatory agency and regulated prices. So, there is not much hope for those of us in the interstate market.

But, what does raise a specter for the intrastate market is that there will be short gas supplies in the intrastate market because, in fact, what the bill before us amounts to in prices for the intrastate market is a rollback. It means that producers will seek less gas for that market, too. The ad hoc amendment, called a compromise, is a rollback of price in the intrastate market. It is a message to the gas seekers, the 10,000 or so independents that go out and look for gas, that they are going to have regulation forever; that somebody in Washington is going to tell them the price at which the gas they find will be sold, no matter what the cost was that went into finding that gas.

This bill is also a message that Washington will ultimately determine what is a new gas well. Oh, sure, the ad hoc amendment says the local regulatory authority can determine whether it is a new reservoir within that 2½-mile and 1,000-foot cylinder, but then it says that within a year—364 days later—Washington can come in and say, "We are vetoing what the local State regulatory agency decided about that being a new reservoir. The local agency was wrong and your new well is really in an old reservoir, so you get a different, lower price than the price for which you have already sold your gas."

The Texas higher price for natural gas, I hate to say to the majority leader, does not bring tears to my eyes. The fact that you in Texas were obliged to pay higher prices for natural gas at least meant that they had natural gas in Texas last winter. In Ohio, we could not pay that higher price for Texas gas because the Federal Government said that the price was price controlled, and, therefore, nobody could sell us gas above $1.42 and Texas producers would not sell it to us at $1.42 or below.

We had pipelines that were not full, so we had factories that were closed; we had people out of work; we had schools that were closed; we had residences where the homeowner was told where to go when his gas supply diminished altogether, which school would still be warm enough so that he could move his family there and not freeze to death in his own home. My tears do not go out to the Texas folks, who could pay $1.95 or $2 and have all the gas they needed to keep their houses warm, their factories providing jobs and their children in school.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 5 additional minutes.)

Mr. BROWN of Ohio. Our choice in Ohio was to either have closed factories and schools—well, that was not a choice, because they were closed anyway—but rather, to heat our residences we had the choice of paying $4.30 for synthetic gas to try to help fill our pipelines when we could not buy Texas gas, or we could have paid $8 for oil to heat our residences; or, we could have paid $11 for the same Btu equivalency for electric heat.

And many of our homeowners in Ohio have been doing just that since 1972. That is the last year that any homeowner who built a new home in my area could tap into a gas line—1972—that is 5 years ago.

Without being able to pay over $1.42 to buy gas from Texas or Louisiana or Oklahoma, or even to produce it in Ohio and sell it in Ohio because of the federally set price, we do without gas. We must use oil; we must use synthetics; we must use electricity. And we must pay through the nose much more than market-priced gas from Texas would cost us.

I would like to take the Members back to that time last winter a little more in detail, but I do not want to make anybody else weep. There were 1,200,000 people out of work for a period of a couple weeks last winter. The State of Pennsylvania was declared a disaster emergency area. Ohio schools were closed. Incidentally, we did not get calls in our office here in Washington when they closed the factories; we got letters. But we got phone calls when they closed the schools. The city of Columbus, incidentally, had their schools out for 2 or 3 months.

What does the so-called ad hoc committee "compromise" provide? The ad hoc committee amendments, in point of fact, do not significantly change the counterproductive, proven bankrupt policies of past Federal price controls on natural gas. The ad hoc amendments place virtually the identical ceilings on the price of new natural gas that has been the ceiling in the past, except that in some cases they will actually drop ceilings below the previous price. This is what I was trying to establish with the gentleman from Texas (Mr. ECKHARDT). There are circumstances in which intrastate gas can fall to $1.45, if I understand the way that amendment is drawn. Both the Committee on Interstate and Foreign Commerce and the ad hoc committee amendments retain identical authority for the President to place price and allocation controls on intrastate gas. Do the Members know what may happen next winter if we all get this same fixed price in both intrastate and interstate markets? You may just be allocated out of gas in Texas, Louisiana and Oklahoma. Then my guess is that you will understand just how lucky you were when you did not have Federal price controls—but had plenty of gas.

The Interstate and Foreign Commerce Committee bill sets the price of new natural gas at a level equal to the Btu equivalency price of refinery cost of domestic crude oil. Today the average domestic crude oil price of about $9.25 equates with $1.60 per mfc natural gas—$1.60 not $1.75. The ad hoc committee recognized that such price might be too low to get gas produced. And so someone said, in effect, "What we will do is set the price in the bill at the equivalency price of refinery domestic crude oil or $1.75, whichever is higher."

Do the Members know where the $1.75 came from? It came from questions to Mr. Schlesinger asked in the Energy and Power Subcommittee when we asked, "What is the Btu equivalency price?" And he said, "It is $1.75." And somebody looked it up and discovered that was not correct. But, he said, "Well, it will be $1.75 by the beginning of next year, by the time the President's program becomes law."

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield to the author of the amendment to tell where the $1.75 came from?

Mr. BROWN of Ohio. Yes, in time.

Mr. Chairman, Mr. Schlesinger said that he hoped that gas would be selling at that price by then. I hoped it would be at that price by then too. But let me tell the Members that the last time we passed new price controls on energy—and this is a new price control on energy—was the EPCA legislation, when we modified the price controls on oil.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, will the gentleman from Ohio (Mr. BROWN) yield if he is given the 3 additional minutes?

Mr. BROWN of Ohio. Of course I will, I say to the gentleman, at the termination of my comments, if I can. I will ask for the additional time to yield at that time, If I have not done so.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, the last time we set new prices was in the EPCA legislation when we set a composite price for oil.

The bureaucrats—meaning FEA—made a slight error. What happened was that they just misfigured the percentages of old oil and new oil. and the result has been that since EPCA passed in late 1975, the price of new oil in this country has been going down steadily.

Three different downward adjustments were made, and the result is that the production of new oil has been going down steadily. The further result of that has been, as we know, that the importation of foreign oil has gone up and we are paying a higher price for that oil.

We have the same situation with gas. If we cannot get natural gas from our own country, we end up paying a higher price to somebody else for a substitute product. When we cannot get gas from one part of the country such as Texas, we have to pay higher prices to somebody else in order to get energy, whether that energy is oil, electricity, synthetic gas, imported gas, or whatever it is. But any of these will be more costly than market priced Texas gas.

That is what is wrong with the ad hoc amendment. It is no compromise at all. It recognizes the administration's failure in the cylinder definition and it corrects that as it should. It goes to a definition that is very close to what we have in the Krueger-Brown-Wirth amendment. But it still wrongly sets the price at $1.75 or $1.45. It does not allow prices to go beyond that point, except with the GNP deflator, which is, of course, the Cost of Living Index. That means that the price will always be fixed relatively where it is now.

Mr. Chairman, I have looked forward to yielding to the gentleman from Texas (Mr. ECKHARDT), and I do so yield.

Mr. ECKHARDT. Mr. Chairman, the $1.75 price, as far as I am concerned, came from a figure which constitutes approximately the average price of new gas in Texas during the year of 1976. Actually that happens to be one of the highest prices.

Oklahoma, for instance, during the first 3 months of 1977 has had an average price of uncontrolled gas of $1.6362.

Mr. BROWN of Ohio. Mr. Chairman, let us also explain where the $1.42 came from. That is the price that the Federal Power Commission set last July to take effect in January of 1977. It came from figures based on cost data gathered by the FPC in 1974 and 1975. That is the problem with Federal price fixing. It is always well after the realistic fact.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, it takes the FPC members 18 months to gather the information as to what the price was at the beginning of the 18 months; then they announce the price, and then they go through a series of lawsuits to establish the price. By that time they have a price which is 3 or 4 years old, and the result is that we do not get any gas sold in interstate commerce at that old price because it is a 3-year-old price.

I assume that we are doing something along the same lines with the fixed price of $1.75 or $1.45 for natural gas.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, in response to the statement containing the figures that were quoted by the gentleman from Texas (Mr. ECKHARDT) a moment ago, let me state that I have in my hand a news release from the Federal Power Commission which indicates that in Texas, for new gas, during the January-March period of 1977, the average price was $1.94 per thousand cubic feet, and of that contract volume, 33.4 percent, more than a third of it, sold for between $2.01 and $2.50 per thousand cubic feet.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I am glad that the gentleman from Illinois (Mr. ANDERSON) made that statement.

We are in Texas now selling over 1½ trillion cubic feet of gas per year at $1.75 or more. The price at which it has been sold to my city is over $2 per thousand cubic feet, and that has been true for some 4 years.

Some Members from my State are lightly or glibly saying the average price is around $1.75, and that is not true in

my area. I do not think that is a factual statement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman from Texas (Mr. ECKHARDT) wishes me to yield to him, I will do so.

Mr. ECKHARDT. I do not wish the gentleman to yield to me. I will obtain my own time.

Mr. BROWN of Ohio. Mr. Chairman, in conclusion, let me say that this ad hoc committee amendment is not a compromise. This is a deal. This is a deal between the gentleman from Texas (Mr. WRIGHT) and the Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. CHARLES WILSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that there is no one in the Chamber who does not understand that this particular compromise is not all that I would like to have. However, I do think there are some things that should be pointed out.

No. 1, the $1.42 set by the Federal Power Commission went into effect at once at the time it was set and was included in profit and loss statements of all the oil companies at the time.

No. 2, this amendment addresses itself purely and simply and only to a more liberal definition of "new natural gas." This amendment does not touch price, topside or bottom.

No. 3, however, under the pricing system of the bill, in 1978 gas will sell for $1.86; in 1979, for $2.02; in 1980, for $2.20; and in 1981, for $2.39.

Mr. Chairman, some of my colleagues on this side of the aisle, including the gentleman from Connecticut (Mr. MOFFETT), might think that that is a little much.

I would also like to say that as far as industrial fuel is concerned, we in Texas have enjoyed an advantage; but we know that we probably cannot continue to enjoy it. I submit to my colleagues from other parts of the country that we in Texas do not need an advantage. Our industrial base is new. We have a hard-working population. We have a very beneficial tax structure, and there is nothing anyone can do to legislate snow and ice in Lufkin.

Another little thing I would like to point out is that my good friend, the gentleman from Ohio, has talked about the long lines and the unemployment in Ohio. He has talked about having very few tears for Texas because of our high prices for natural gas; but I would like to point out to my good friend, the gentleman from Ohio, that Ohio and Pennsylvania suffered more than any other States in this Union due to the natural gas shortage last winter; and Ohio and Pennsylvania to this day have a law which prohibits drilling for natural gas in Lake Erie.

I have a constituent who has 100 wells on the Canadian side of Lake Erie. They produce gas that has been sold to the State of Ohio. I would suggest that we have a little saying down in Texas, "Drop your bucket where you are."

Finally, Mr. Chairman, I would like to say that I personally have made concessions in this bill that have been like taking castor oil. I have friends in the balcony who figure that I fed them castor oil. I might also say that my colleague, the gentleman from Connecticut (Mr. MOFFETT), had to hold his nose a little bit when he swallowed this, and he has a few friends with consumer groups out in the hall who are just as angry with him as some of my producers are with me.

Mr. Chairman, I entered into this compromise, although it was far short of what I think is wise national policy, because I think it is in the interests of this country to have confidence that this Congress can face a hard problem and come up with a rational solution.

I believe that the administrator, whoever he might be, whoever the Secretary of Energy might be, is going to have the responsibility not to have those lines of unemployment in Ohio. Therefore, I believe he is going to be very liberal in his determinations of what is new natural gas because it is going to be his responsibility if unemployment continues the way it did last winter.

Finally, Mr. Chairman, I say to my Democratic colleagues, when we caucused at the first of the year and I nominated the gentleman from Texas (Mr. WRIGHT) to be majority leader, I said that part of that effort and part of my effort and part of what I hope is all of our effort is some degree of reduction in regionalism in this House and some degree of dedication to the national interest, and that is what this is all about.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Texas (Mr. CHARLES WILSON) has displayed remarkable courage.

I think all of us who come from other areas of the country recognize the remarkable courage demonstrated by the gentleman from Texas (Mr. CHARLES WILSON) and the gentleman from Texas (Mr. WRIGHT) in working together with their good friend and colleague, the gentleman from Texas (Mr. ECKHARDT), who also has demonstrated over the years a remarkable courage in this matter.

I want to commend the gentleman from Texas (Mr. CHARLES WILSON) for the leadership he has given. He has done a difficult task well. He has come to a compromise which has been very difficult for him and even difficult to start.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I think the RECORD ought to show the high respect the gentleman from Texas (Mr. CHARLES WILSON) has earned from his colleagues by the remarkable position he has taken.

I join with the gentleman in believing that this is going to lay to rest some of the regionalism, some of the sectionalism some of the antagonism and will give us a basis of going forward toward a program that will provide fairness and an opportunity to achieve fairness, both for the consuming ends of the pipeline and for the producing ends of the pipeline.

Further than that again I say that I believe the gentleman has earned the respect and admiration of the entire body.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to my friend the gentleman from Ohio (Mr. BROWN) for a less flattering question and for an explanation on why they do not drill in Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman from Texas (Mr. CHARLES WILSON) for yielding to me, and let me say that his concern is wrong. The gentleman from Texas is a very fine gentleman and I am just sorry that he feels he had to take part in this so-called compromise. It is particularly difficult for me to understand his position since reading a volume put out by the Federal Power Commission that shows that 88½ percent of the new wells drilled in Texas in the first quarter of 1977, 88½ percent of them came in at a higher price than $1.75.

In Ohio we have under consideration, currently in the State legislature, legislation to repeal that law about drilling in Lake Erie. But in the meantime we have been drilling like crazy on the land in Ohio where we can do it legally. As a matter of fact, over 1,500 wells came in finding intrastate natural gas last year. Our wells in Ohio, to be sure, are not like those in Texas. The wells tend to be not very long in life, maybe 4 or 5 years, and so their gas comes in at quite a high price by comparison to the conventional wells in Texas. But when you put that $1.75 price restriction on us on intrastate gas in Ohio you have killed that stimulus to drill in Ohio, and I can tell you that we will not have gas from intrastate wells for consumers in Ohio on land or under the water.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. DINGELL, and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman from Texas yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, there is in the legislation before us, I would tell my good friend the gentleman from Ohio, very specific language which permits higher prices for deep wells for purposes of bringing on line wells which are of relatively limited capacity or which require the drilling through obdurate rock and things of that kind. So that there is consideration given to special circumstances of where there are

very deep wells, that are now being driven, or with regard to wells which are offshore in deep water, and things of that kind. Further let me say that it is the full and complete intention of the administration and Dr. Schlesinger has indicated this to the committee on a number of occasions, that he will afford the necessary incentive prices to accomplish this end.

But the gentleman from Ohio (Mr. BROWN) should know that the general premise on which this works is as an incentive bill, to provide an incentive in order to produce, and it does afford specifically the basis for higher prices to bring on line the kind of oil production I have mentioned and the kind that the gentleman from Ohio has been describing.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr Chairman, I would like to address myself to the specific amendment before the House. As the gentleman has stated several times, we are expanding the definition of new natural gas?

Mr. CHARLES WILSON of Texas. That is all it does.

Mr. HUCKABY. But at no point in time has anyone mentioned estimates of what percentage we are expanding the definition of new natural gas. Are we now going to increase it by 5 percent or 50 percent or 90 percent? Could the gentleman give us some ballpark estimate based upon past history of new reservoirs?

Mr. CHARLES WILSON of Texas. Of course, there is visible disagreement on this point. I can only tell the gentleman from Louisiana (Mr. HUCKABY) that the production people estimate that the new definition will probably expand new gas by 15 or 20 percent and the consumers estimate it will expand new gas by between 50 and 60 percent.

Mr. BROWN of Ohio. Mr. Chairman, would the gentleman yield so that I may respond to the gentleman from Michigan (Mr. DINGELL)?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr Chairman, let me state to the gentleman from Michigan (Mr. DINGELL) that I know the provision he mentions is in the legislatior. And I know, as the gentleman does, that it does not work. It has been in the law ever since the Permian decision back in the 1960's, when drillers were permitted to come in and say, "Wait, just a minute, this drilling cost us more than we thought it was going to cost and, dear FPC, please try to make us whole and give us some kind of decision for higher prices by which we can recover." There have been very few cases pushed on that point because early on the drillers discovered that it takes the FPC 3 or 4 or 5 or 6 years, to make a decision on such matters after the fact and by the time you get things settled, it is all moot; the driller is out of business and broke anyway.

Mr. CHARLES WILSON of Texas. If the gentleman will let me reclaim my time, I will say that it is my opinion—and it can only be an opinion in judgment, but it is my opinion—that when one man is the Secretary for Energy—the Secretary for Energy—when it is his responsibility, and when there is unemployment and there are shortages, he is going to be very, very liberal in granting those high prices. Only time will tell.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the last word.

No one on our side of the aisle has risen in support of the amendment. I want to rise in support of it. I have been in complete agreement with the gentleman from Ohio (Mr. BROWN) and our distinguished leader, the gentleman from Illinois (Mr. ANDERSON), in the fight on this subject. I agree with them completely. I think the fight should be made later on full energy when we get to the Brown amendment. When we face up to this issue in its broadest terms of what this Eckhardt amendment before us does, and that is this amendment is an improvement on the bill.

What the gentleman from Texas (Mr. ECKHARDT), the gentleman from Texas (Mr. CHARLES WILSON), and the gentleman from Texas (Mr. WRIGHT) have recommended is just a fundamental gospel truth of a definition that is absolutely essential to the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I just want to say that I agree with the gentleman, it is an improvement on what came out of the conference committee, and it is a vast improvement on what the administration proposed. It is not an answer to the problem, however.

Mr. COLLINS of Texas. I agree with the gentleman completely, and I think the Brown amendment is the answer to the problem.

But we are talking about a current issue. What the Eckhardt amendment does—and I heard the gentleman from Louisiana ask the gentleman from Texas (Mr. CHARLES WILSON) about what this definition of new gas does—is without this definition it would be impossible to determine what new gas is. It is absolutely essential, and the key words—it is in a very small added section—"a newly discovered reservoir." When they added this to the bill, they made it possible for the oilmen, geologists, commissioners, everybody now to know what is new gas. Until they put that in the bill, we just did not have a clear definition.

I hope that on our side of the aisle our leadership will consider this very, very carefully, and that we will not call for a vote on it but will join with the proponents, because everyone who has studied the bill knows that this amendment is an improvement on the bill.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. MILFORD. I thank the gentleman for yielding.

I would like to commend my colleague, the gentleman from Texas. He is making a very important point at this time in the fact that this is definitely an improvement and one that does not take away a person's right later to address the basic problems that are involved.

Mr. COLLINS of Texas. I thank the gentleman.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding.

I want to commend the gentleman for his position. I agree entirely with him on the efficacy of this particular amendment. But as to price, as we go down the line with the Brown amendment, unless we accept the Brown amendment, the definition of new reservoir is not going to make any difference because no one is going to drill for new oil or gas.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

I can substantially concur in what the gentleman has just said. However, he knows—he knows very well—that this amendment did not come before the ad hoc committee as an intellectual compromise, accommodating the data and the facts with the law. Rather this amendment came to the ad hoc committee and is before us today because the proponents of the amendment who oppose deregulation, knew they were going to lose the deregulation battle, and thought by this slight movement toward providing more proper pricing, they might be able to weaken the forces of deregulation, and I hope it will fail.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman from Michigan has disparaged the intent of the authors of the amendment. I want to say right here and now that I proposed a change in the definition of gas to the industry, very much like we finally agreed on, before this matter was acted on by the Committee on Interstate and Foreign Commerce. I believe in this change in definition, not because it is a compromise but because it is a right definition.

Mr. COLLINS of Texas. The gentleman is absolutely right. When the gentleman from Texas (Mr. ECKHARDT) and I agree on anything, these are most unusual circumstances. What he has defined at this time is absolutely right. It is an excellent definition, and it is absolutely essential for the bill in its future administrative determinations.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I do support this amendment which has been recommended by the ad hoc committee. I support this amendment because I do believe that in a very small way it liberalizes the definition of new gas.

Whether or not this amendment is going to sap votes away from the later or yet-to-come deregulation amendment, I do not know. It should not. I wholeheartedly support deregulation.

The definition was provided, the gentleman from Texas (Mr. CHARLES WILSON) said, simply in an effort to liberalize the definition of new gas, and I will agree that this was his intent as well as the intent of the gentleman from Texas (Mr. ECKHARDT), who coauthored the amendment and offered it in the ad hoc committee.

But I do not want to mislead anybody into believing that this is going to accomplish very much, because we are still left with the original cylinder definition provided by the administration, wherein to be classified as new gas production must be from a zone which is vertically 1,000 feet more shallow or deeper or it must be horizontally 2½ miles farther away.

But a definition is provided for a new reservoir. This new definition of a new reservoir offers the potential for producing something in the way of additional new gas.

I am not as optimistic as others are, because first of all where we allow the production, the conventional producing States, Louisiana and Texas, there is not much of the State that we can get 2½ miles away from and find anything in the way of new gas, and probably no more than 10 to 20 percent of either State would fit that definition.

Do not be too enthusiastic about even the definition of a new reservoir because the Federal Government is going to define with whatever geological terms they can agree what constitutes, even beyond the language contained on page 186, a new reservoir, and they are going to pass on—they are going to pass on—to the States, the Governor, or some regulatory commission, the authority to make a determination as to whether or not gas is new.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I think the gentleman in the well is entirely correct. The initial administration of the provision would be by the State but the actual definition and control would be with the Federal Government.

Mr. WAGGONNER. I am glad that the gentleman agrees with me there because that allows me to accent the point that I was going to make.

We do not know yet what that definition is going to be. The Federal Power Commission would be succeeded by the Department of Energy, and its regulatory commission will at some point in the future prescribe those criteria, and they will simply say to the State: "Now here are the ground rules for you to make a determination about what constitutes new gas. Use these criteria. Use these guidelines and allow that gas to be priced as new gas if you conclude, using these guidelines, it is new gas."

But there is yet further jeopardy because this decision is later subject to the audit of the Federal Power Commission or, if we have it then, the Department of Energy at that point in time and by that point in time, they can overrule the State. They can use the State regulatory authority to make those decisions and if they at some further point in time choose, they can usurp that authority. So there is jeopardy for even that decision on the part of the State regulatory commission.

But how much new gas is it going to produce? Now, my colleague and friend, the gentleman from Louisiana (Mr. HUCKABY) asked a question a moment ago of the gentleman from Texas (Mr. CHARLES WILSON) and the gentleman from Texas responded, first, he said some of the producing people think 10 to 20 percent additional gas. The consumer people think maybe 50 or 60 percent.

For once, I would like for this consumer advocacy group to be right.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. WAGGONNER was allowed to proceed for an additional 2 minutes.)

Mr. WAGGONNER. Mr. Chairman, as I say, for once, I would like for that consumer advocacy group to be right, but I do not think they are.

I asked this same question in the ad hoc committee of the gentleman from Texas (Mr. ECKHARDT), how much gas this would produce? The gentleman had a document that the gentleman read from, wherein the gentleman said something less than 1 trillion cubic feet of new gas.

Now, considering the fact that last year we used 19.54 trillion cubic feet of gas in the United States, that is not very much new gas, is it? That certainly is not 10 percent. That is nearer to 5 percent new gas. That is a lot nearer 5 percent new gas; so I am saying that even though it is a little more liberal, it is not very much more liberal.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman in the well and I frequently disagree, but we never kid each other. I think we were together on the facts in the question of the Hinshaw matter.

Mr. WAGGONNER. We certainly were.

Mr. ECKHARDT. The gentleman is correct that, on the basis of prior production, the additional amount of gas that is estimated is about 1 trillion cubic feet; however, that does not take into account the encouragement of the price and the fact that the new definition would apply to a rather broad base.

Mr. WAGGONNER. Oh, I would agree with the gentleman there, except in such circumstances as the gentleman from Ohio (Mr. BROWN) describes in high-cost exploration and production areas that a number of others are concerned about, they still are not going to get much new gas, because they are not going to drill in those new areas.

The gentleman from Louisiana (Mr. HUCKABY) represents one of the largest and oldest gas-producing sections in the Nation and Louisiana is providing 43 percent of all the gas that goes into interstate commerce.

I am going to tell you, the people in Louisiana with this provision are still going to keep whatever new production they can in intrastate commerce. They will be forced to do it to protect their own skirts in this situation.

The people of the gentleman from Ohio (Mr. BROWN) are not going to get much new gas at the intrastate regulated price of $1.75. Those short-lived, low-volume wells are not going to be drilled because they are not going to amortize those wells at $1.75 over that period of time.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, one of our colleagues, a very esteemed colleague, said to me the other day, Members get passionate when their district's vested interests are involved. My district's vested interests are not gas wells, but consumers. We are not going to get intrastate gas at $1.75 and we are not going to get the gentleman's gas from Louisiana at $1.75 sent to Ohio.

Mr. WAGGONNER. The gentleman would not get much new gas under the definition provided by the administration. The gentleman may get a little, but I do not know how much from the definition of new reservoir that the ad hoc committee recommends.

Because it will help some, I am supporting the amendment, because it is better than what we have; but I hope nobody will be led away from voting for deregulation when that time comes.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, there is another point the gentleman raises, that is the question of discovery, because what we have attempted to do in this bill is provide that the new price only goes to those reservoirs producing gas in which gas has not previously been discovered in the formation that ultimately becomes a reservoir.

Mr. WAGGONNER. The gentleman is absolutely correct. That is a real limitation; but the thing to really be concerned about is what sort of bureaucratic bungling geological definition to arrive at a definition of a new reservoir is the Federal Power Commission, or its successor, the Department of Energy, going to make in this particular instance, because the States are not going to have the authority they need.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to my good friend, the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I would like to associate myself with the comments of the distinguished gentleman from Louisiana (Mr. WAGGONNER).

The real issue here is the fact that there is still a lot of gas left in this country, but it is not easy gas to get. All the easy gas has been found. We have got to get at the hard stuff. In my district in the State of Louisiana we are drilling wells, producing wells of 200,000 cubic feet a day. Two years ago, that would have been a dry hole. This gas is only sold at the intrastate market rate.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Louisiana has again expired.

(By unanimous consent Mr. WAGGONNER was allowed to proceed for 1 additional minute.)

Mr. WAGGONNER. I just have one other thing I want to say. That is this:

I commented earlier about my hope that the consumer advocates would be right in this instance. They have contradicted themselves when they suggest that there might be that much new gas, because they are the same people who have been saying in recent months and recent years that price was not related to new gas; that there was not much gas left out there to find. I am happy now to see that they have come down on the other side of the fence, and that they will allow at some later point, at a going price, the exploration for this new gas that they think we are going to get.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to support the Eckhardt amendment. I believe that it accomplishes some litttle bit, though not very much. But I would like to point out to the members of the committee some of the contradictions with which we have been faced during this debate.

We have implicit in the amendment itself and in the statement by the majority leader, the distinguished gentleman from Texas (Mr. WRIGHT), a concession that a higher price produces increased supply; a concession that a higher price for more gas is going to produce increased discovery, according to the gentleman from Texas (Mr. ECKHARDT), who talks about an additional trillion cubic feet of gas. We have this concession, that a higher price produces more gas; and yet, this amendment ignores its very own premise. It ignores its own argument that high price increases production, and continues regulation—setting price ceilings well below the current market price level in Texas.

Then, the majority leader, the gentleman from Texas (Mr. WRIGHT) talks of the great specter of high prices. I hope the Members all noticed, as I did, that he did not talk about higher prices. He talked about the specter of higher prices, being very careful to walk on both sides of that. The majority leader talks of the great specter of higher prices, and then his colleague from Texas, my friend, Mr. ECKHARDT, rises to tell us how low the free market prices are in Oklahoma.

I would only suggest that the purpose of the Eckhardt amendment is not a compromise, not to further more discovery, but is simply an attempt to stop deregulation. Many of the gentlemen who are supporting this amendment are no great advocates of deregulation and have never supported it in the past.

I will support the Eckhardt amendment because it does go in the right direction, but, as my friend from Louisiana, Mr. WAGGONNER, said, this is not the answer. This is not the solution. I will support it, and then I will vote for deregulation, and I hope the Members will do the same.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of Oklahoma. I will be glad to yield to my friend from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I had merely risen to say that I had supported a definition of this type long before the question came up for a compromise, because I think, as the gentleman in the well believes, that the definition of new gas should be broad enough to bring in a very substantial amount of new gas, and I agree with the gentleman in the well that a reasonable increase in price will do it.

The only point is that twice that price will not bring in twice that much gas. The gentleman I think is entirely wrong if he feels that production goes up in a straight line curve with price. It goes in a hyperbolic curve. So that at some point an extremely great increase in price will not bring in much more gas.

Mr. EDWARDS of Oklahoma. I will only point out that the gentleman himself pointed out the figures of my own State of Oklahoma, and I think it is inappropriate to raise the specter of higher prices, talking about $3.50 or $4, because that is not in the ballgame. It is not going to happen.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I would like to point out to the gentleman from Texas that throughout this country and especially the gas producing States there are potentially many gas wells which produce one-quarter of a million cubic feet of gas per day which does not produce the $1.45. There is gas to be gotten at around a $2 level that will yield a return that is not there at $1.45.

Mr. EDWARDS of Oklahoma. That is absolutely correct.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I take the time only to clear the record. I understood the gentleman from Texas (Mr. WILSON) to make a remark twice that this is not a pricing amendment. And yet we have seven amendments being considered now en bloc. The pricing amendment is one that we are considering right now.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Oklahoma. Mr. Chairman, would the gentleman like me to yield to the gentleman from Texas for an answer to his question?

Mr. MILLER of Ohio. Mr. Chairman, it was designated that there were seven amendments in this section en bloc which we are considering right now. One of them is the new gas whereby we would have a cylinder of not more than 2½ miles from the well or 1,000 feet deeper but, by the same token, it does have the pricing amendment which controls the new gas, at $1.75 a thousand cubic feet.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, the time has come to end the stalemate. It was the stalemate that the gentleman from Ohio (Mr. BROWN) was talking about when he was talking about the unemployment lines, the lack of gas over the country, and it is a stalemate created by a tyranny of words. Primarily, the words are "regulation" and "deregulation." Polarization around these words has paralyzed Congress too long and has thus hindered solution of the twin goals: First, to bring on more gas production and, second, to protect the consumer from an inordinate increase in utility costs, not only gas, but electric.

Mr. Chairman, I believe this ad hoc committee amendment offers an opportunity to meet these goals, and it deserves the careful consideration of the Members. When they have given it that, I believe they will support it. Yes, it is a compromise, but it is a compromise that does not move away from either of the twin goals that I have described.

The natural gas pricing measure adopted by the ad hoc committee retains the major natural gas pricing provisions proposed by the Carter administration and the Committee on Interstate and Foreign Commerce. These stem from and are based upon a fundamental proposition that I think has become universally accepted: That there cannot remain a wide spread between that price which natural gas can command in the interstate market and that which the identical resource can command in the intrastate market.

My friends, the gentleman from Texas (Mr. KRUEGER), the gentleman from Colorado (Mr. WIRTH), and the gentleman from Ohio (Mr. BROWN), would, I am sure, agree on this proposition, but, of course, they would take another path to achieve this objective.

On the other hand, my colleague, the gentleman from Texas (Mr. CHARLES WILSON); the chairmen of my committee and of my subcommittee, the gentleman from West Virginia (Mr. STAGGERS), and the gentleman from Michigan (Mr. DINGELL); and the top leadership of this body, including the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), who spoke so well on the point, have all concluded that the ad hoc committee's course, under the leadership of its distinguished chairman, the gentleman from Ohio (Mr. ASHLEY), is a correct one and have proceeded in this direction.

The major thrust of this course is to permit truly newly discovered oil to move to a Btu-related price which begins at $1.75, or such higher Btu-related price as may be in effect under the standards of the bill at the time it goes into effect, and moves up with the advancing price of domestic oil.

Mr. Chairman, it has been said on the other side that this is some kind of a rollback, and the question is asked: Why is it that Texans would support a $1.75 ceiling when for a short period of time in this year and toward the end of last year the price in Texas had been $1.94? And that is a correct price. as the gentleman from Illinois (Mr. ANDERSON) reported.

I will tell the Members why. It is because under this formula and under this proposal, enormously expanded interstate markets would be possible at far higher prices than are now available in those markets. We have to move gas into interstate markets. It will not do any good to continue to go up in intrastate prices in Texas at a time when we are commanded to take gas out from under the boilers in Texas.

The ad hoc committee proposal replaces the "new" gas definition, which did not accurately reflect the relative risks inherent in various ranges of gas exploration. It substitutes a definition which will assure us a continuous and regular pattern of gas exploration and development.

The measure encourages producers to increase step outs from existing wells beyond 2½ miles and below 1,000 feet by assuring the "new natural gas" price for such wells. In addition, the measure provides a higher price for natural gas from newly discovered reservoirs within the 2½-mile radius, 1,000-foot depth, to stimulate increased exploration.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed proceed for 4 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, let me continue with my presentation.

While expanding the "new" gas definition to extend a higher incentive price to truly "risked-for" gas, the ad hoc committee amendment is also carefully drafted to protect consumer interests, First, the amendment excludes "new dedications to interstate commerce" from the category of gas receiving the "new" gas price.

Second, the "newly discovered reservoir" definition is limited to onshore gas. Offshore wells would continue to be governed by the "new lease" definition which limits the incentive price to gas produced from wells on Federal leases granted on or after April 20, 1977. This limitation is extremely significant because approximately one-half of the annual U.S. reserve additions in recent years have come from offshore lands.

Third, the ad hoc committee amendments restrict the definition of "newly discovered reservoirs" to reservoirs discovered after April 20, 1977. This definition is intended to limit the $1.75 price to reservoirs identified after April 20, 1977.

If merely insignificant—in other words minute—quantities of gas were identified prior to April 20, 1977, and the reservoir was subsequently tapped again and found to contain significant quantities of gas, the reservoir would qualify for the higher "new" gas price.

However, the term "discovery" specified in section 402(13) is not intended to adopt industry standards to determine the meaning of such term.

As indicated in the ad hoc committee report, the committee clearly did not intend the time of discovery or the fact of discovery to refer to the time at which a producer files a completion certificate and is ready to produce gas from a reservoir. Rather, the identification of the presence of more than minute quantities of hydrocarbons by mud logs, electric log data, core analysis, wire line bottle tests, drill stem tests or flow tests will be deemed to constitute a "discovery."

Moreover, if a formation is characterized as "producible" in an economic sense subsequent to April 20, 1977, gas produced from that formation, which was identified at an earlier date, such as 1960, would clearly not receive the higher "new" gas price. A discovery does not require the identification of an accumulation of gas which would qualify as a producible formation certainly not an economically producible formation. As the committee report indicates, the term "producible" is meant to refer to a determination of producibility made at the time the definitions are applied for purposes of classifying gas as new natural gas.

Mr. Chairman, I think you will conclude that this amendment has been carefully drawn. It is a proper amendment for the identification of new gas, and I urge a vote in support of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I heard the gentleman from Texas (Mr. ECKHARDT) mention the $1.94 price. It reminded me of something from last winter.

There was a special dispensation given by the Federal Power Commission to the pipelines, serving Ohio to purchase gas at $1.94—from Canada. We got some special relief from Canada at that price.

The thing I do not understand is why we could not have bought Texas gas at $1.94 at that time. That is the part that really agonizes me about the $1.75 or the $1.45 price ceiling. We can buy from abroad, but we cannot by from our fellow Americans at the artificially low fixed prices. It makes no sense.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman from Texas (Mr. ECKHARDT) may be permitted to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RUSSO. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I shall not take the 5 minutes if anybody is concerned about that. However, let me plead guilty to being more resource-oriented than either the bill before use or the President's plan is.

I think we have to move very aggressively in the direction of resource development as well as conserving the use of oil and gas. We have to move in the direction of resource development, and I do not think that the natural gas pricing amendment does enough of that.

Therefore, Mr. Chairman, I intend to support the Brown-Krueger amendment, which will be offered tomorrow.

In any event, Mr. Chairman, let me say this about the so-called ad hoc committee compromise. It is a step in the right direction, and I fully support that, as opposed to the original Committee on Interstate and Foreign Commerce version.

Mr. Chairman, I have the privilege of chairing a subcommittee of the Committee on Science and Technology which is involved with research and development and resource development. We had a meeting on July 12, at which time we had a briefing from the ERDA people involved in something called the market-oriented program planning study, the MOPPS study, as it has been termed.

Specifically on the subject of natural gas and on the effect of price on supply, we had a little exchange with the gentlemen from ERDA.

Let me, if you will, just, very shortly, read the Members this exchange.

First of all, I asked the gentleman. Mr. Johnson, one of the senior officials of ERDA, who had been involved in this study this question:

What if you had in 1985 $3 a thousand cubic feet?

And we were talking about natural gas. Mr. Johnson answered my direct question, and I quote him:

Three dollars? Our analysis would indicate we would have more gas available than anybody could ever use.

Then the gentleman from Colorado (Mr. WIRTH) got into the conversation, being aroused by Mr. Johnson's answer, and he asked:

Would you say that again?

Mr. Johnson replied:

Our analysis would indicate at $3 that we would have more gas available than anybody could ever use.

Then the gentleman from New Mexico (Mr. LUJAN) joined in and said:

Natural gas?

Mr. Johnson said:

Natural gas.

Mr. WIRTH again said:

This is in 1985?

Mr. Johnson said:

Yes.

I would say to my colleagues that it seems to me as if we are in the final analysis talking about a couple of things here, one being, of course, supply and the other price. Unless we have an adequate supply of energy, whether it is in Texas or Massachusetts, then not only are the consumers not going to be happy, but the workers, who are also consumers, and the small business owners who are also consumers, and the American people whom you and I represent are not only going to be unhappy but they are not going to be adequately taken care of.

And we are not talking just about natural gas, we are also talking about the alternative to natural gas whether petroleum or some kind of synthetic gas or something imported from the far off Arabian states. Incidentally, we pay many times what it costs for natural gas to foreign nations, and this affects our balance of payments adversely. Actually, the effect is disastrous in comparison to what it would take to buy natural gas at even an increased price from Americans here in America, putting Americans to work.

It just seems to me that this is a very unwise policy, I would say to my colleagues, to limit the supply by limiting the price of this, perhaps our most valuable natural resource.

I urge, first of all, an affirmative vote for the ad hoc committee amendment, and then give serious consideration on tomorrow when we get into what I think is a more serious issue.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I serve on the same Subcommittee on Fossil Fuels of the Committee on Science and Technology that the gentleman from Alabama (Mr. FLOWERS) serves on as the chairman. I believe that the gentleman from Alabama (Mr. FLOWERS) would also like to convey the indication that was given or was left in that hearing that basically, if deregulation was not adopted, the Brown-Krueger amendment, that not only this country, but for the shortfalls in the North and Northeast, would have several years to go until we move to the free market system so we can level out the price.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ANDERSON of Illinois, and by unanimous consent, Mr. FLOWERS was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. Mr. Chairman, I yield to my friend the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, as I observe the clock, it is now about 1 or 2 minutes to 7. A great many questions are being asked of me by Members on this side of the aisle as to what the minority leadership has in mind for the balance of the evening. At this time, if the gentleman from Alabama would permit, I would ask him to yield to the distinguished chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY) and perhaps he can inform the membership.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Ohio (Mr. ASHLEY) the distinguished chairman of the ad hoc committee, with whom I have had the pleasure of serving.

Mr. ASHLEY. Mr. Chairman, I thank the gentleman and I appreciate that statement.

Mr. Chairman, let me say that the leadership has discussed this with members of the minority and it is felt that because of time commitments all the way around, it would be best if the Committee would rise at 7 o'clock to resume tomorrow morning at 10 o'clock, it being understood that there would be a vote within a very few minutes after meeting on tomorrow morning.

Mr. FLOWERS. Mr. Chairman, in view of all that, I yield back the balance of my time.

Mr. CONTE. Mr. Chairman, I rise to express my opposition to some of the propoals and proposed amendments we will be considering this week during our deliberation on the Energy Act. Unfortunately, many of the provisions currently in the bill will not be brought for a separate up or down vote on retention. Under the rule adopted last week, we will only have the opportunity to vote on selected amendments, a substitute bill, a motion to recommit, and final passage. With this rule having been adopted, I will focus on several provisions I find objectionable.

Mr. Chairman, I would like to convey to this body the facts surrounding the proposed heating oil rebate, currently contained in the bill before us. While this rebate will assist the consumers of New England, it will also substantially benefit several other regions of the country. Without this rebate, every consumer who heats his home with oil will be forced to bear a disproportionate share of the sacrifice inherent in this energy proposal. If this rebate is removed, 19 States, in 4 major regions of the country, will be forced to bear the heavy impact of this tax.

Its cost to the consumer will surpass $1.4 billion by the year 1980. If this rebate is removed, an additional burden will be forced on those consumers who already have borne the burden of excessive fuel costs.

Mr. Chairman, I commended the President when, on April 20, he told this Congress that his plan is built on the cornerstone of fairness to all regions. He demonstrated this with a dollar-for-dollar rebate to the heating oil consumers, who must pay a high price for their fuel. If this rebate is removed, the homeowner heating his home with natural gas will, again, be in a better financial position than consumers of oil, since the cost of that gas, under the ad hoc amendment will be based on the Btu equivalent of oil, without the proposed equalization tax.

I submit to this body that the heating oil consumers throughout the country have carried this heavy cost burden long enough, and that, in the future, the financial burden should be equalized among the sectors of the country. With this proposed rebate, the heating oil consumer will be on an equal footing with the consumers of other, less costly, fuels. I urge my colleagues to consider carefully the impact that the proposed amendments, to be offered by the gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from New York (Mr. CONABLE) will have on these consumers who are presently struggling with the high cost of heating oil. I urge my colleagues to defeat these crippling amendments.

Mr. Chairman, the provisions on the proposed coal conversion program will have a dramatic effect on energy consumption trends throughout the country. The anticipated increase in annual coal production and consumption of 400 million tons over the production in 1976 will greatly assist this country to reduce its dependence on oil and gas. However, I am disturbed with the recommendation of the ad hoc committee that the exemption provided in the bill, as adopted by the Ways and Means Committee, be stricken. This exemption would be granted to electric powerplants and other major fuel burning installations in which conversion would not be economically or environmentally feasible. As I understand the program, the user tax is intended as an incentive to conversion. For a plant which cannot convert for environmental or economic reasons, this tax becomes an additional burden. A burden I might add, which is then passed to the consumer in the form of higher rates. Thus, through our policies, we would be discriminating against a segment of our public who do not possess the alternatives to avoid the tax. I firmly believe that this is blatently unfair, and I urge my colleagues to reject this ad hoc committee recommendation.

Finally, Mr. Chairman, I would like to add my voice to the numerous others heard today in opposition to the proposed increase to the present 4-cent gasoline tax. This additional tax discriminates against those who do not possess an alternative to their continued use of the private automobile: The rural residents of this country who do not have access to forms of public transportation. These vital and optimistic people are, in my opinion, the backbone of our system. They are the individuals who have suffered the most under increasing fuel costs. Regardless of the proposed schemes to allocate the new revenues, this tax would not assist these individuals who are striving to make a living. Instead, this tax would benefit the urban dweller, who in most cases has numerous alternative modes of transportation, and who would benefit from the proposed mass transit allocation which is a part of one amendment we will consider. I urge my colleagues to consider the consequences of this tax on this vital and indispensable segment of our economic existence.

Thank you, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 8444, the National Energy Act. I wish to praise the President and his staff, and the Democratic leadership for their recognition of the importance of this legislation and the need to act rapidly on it. The unusual approach in handling this bill, though the establishment of an ad hoc Committee on Energy, demonstrates the complexity of the issue and the dedication of the leadership, especially the Speaker, in finding a way to handle the President's energy bill in a coherent fashion. If I had any complaints about the process, they would only be to point out that not all aspects of the President's energy program are in the National Energy Act, and not all issues that should be considered in a national energy program have been included in the President's energy program.

One of the most important aspects of the National Energy Act is the fact that it will primarily be administered by a new Department of Energy. In fact, in some ways the legislation establishing a new Department of Energy is more important than the National Energy Act. The reason I say this is because we have passed energy bills in the past few years which have gone unimplemented, partly because the responsibility for implementation was too diffuse. The consolidation of energy responsibilities in one Department, along with a set of comprehensive energy programs for conservation, oil, natural gas, coal, solar, geothermal energy, and research and development of new energy technologies, as well as comprehensive energy outreach

programs, should result in effective policy making and management of a national energy policy.

Some of the issues which are not directly addressed in the energy program are environmental issues, such as the Clean Air Act which is now in conference; antitrust issues which relate to the free market assumptions about energy production and consumption; and research, development and demonstration issues, which will be considered by the House after the August recess in the Energy Research and Development Administration's fiscal year 1978 authorization bill. Other issues, which are not totally peripheral to the National Energy Act are transportation policy, because the transportation sector is where the majority of our oil is consumed; agricultural policy because of the enormous and wasteful use of energy in the agricultural sector; materials policy because of the need to conserve and recycle materials, which in turn conserves energy; and land use policy because our land use patterns either cause many of the energy demands we have, or could be used to reduce those demands in the future.

The bill before us, H.R. 8444, the National Energy Act, contains a variety of approaches to meeting the goals of the act. These include tax incentives and disincentives, regulatory policies, grants and loan support for certain activities, and authorizations for certain Federal programs and demonstrations. Quite clearly one single approach to increasing energy supply, or energy conservation, or shifting to other fuels, or reducing oil imports will not be adequate to meet the needs of the country. In our current complicated system of tax approaches, regulatory approaches, grant and loan approaches, and State, local and private involvement with various aspects of energy, it should be obvious that only reforms of the present system are possible. This is a regrettable situation, because there are many theoretically ideal ways of handling energy supply and demand which are precluded by this approach. It would be useful if the new Secretary of Energy would try to simplify and streamline the numerous laws and regulations that have grown up through the years in energy matters.

There are some aspects of this bill that I like better than others, as can only be expected in such a major piece of legislation. The gas-guzzler tax, although weakened from the President's proposal, is an example of an initiative that is long overdue. Another example is the residential solar and energy conservation tax credits provisions, which should especially help the individual homeowner move toward greater energy independence for themselves.

Other aspects of this bill can only be considered compromises that, while better than the status quo, are not the optimal approach either. Perhaps the best example of this is the coal conversion provisions of this bill. These provisions are entirely too complicated, and perhaps unworkable, to give one confidence in their impact. In addition, the environmental effects are uncertain enough to give me doubts that a massive coal conversion program can be undertaken without better pollution control technologies, such as fluidized bed combustion, being available.

Another provision of the bill, at least a provision expected to be in this bill, is a good idea that may not have the desired impact. I speak of the proposal for a 4-cent or a 5-cent gasoline tax, the revenues from which would be placed in a trust fund. I do not take issue with the need to increase gasoline taxes, especially to encourage energy conservation, but I do not believe an energy trust fund is necessary or wise. Our experience with trust funds in the past should demonstrate that a new trust fund is not necessarily a good idea. The highway trust fund, for example, should be opened up to all transportation needs. Instead, we have proposals to add even more funds to the highway trust fund to build more highways to encourage more automobile travel, which will consume more gasoline, which will work against the goal of the National Energy Act to reduce oil imports. Even if the taxes collected under this proposal were to go exclusively to an energy, rather than a transportation trust fund, the chances are that during part of the existence of the trust fund there would be too little money to accomplish the goals of the trust fund, and at other times there would be too much money to wisely spend on the goals of the trust fund. It would be far wiser to follow the congressional budget process, and allocate the funds necessary, regardless of source, to the energy needs of the Nation. The establishment of new trust funds goes contrary to the intent of the Budget Act.

It is really not clear how much energy the National Energy Act will save, regardless of how sure those who have analyzed it are about this. In a pluralistic society, with a mixture of public and private responsibilities, it is difficult to plan and predict exactly what will happen especially on an issue as complex as energy policy. If the legislation before us is passed, and that which has passed before as well as the National Energy Act are implemented, there could be amazing results. If State and local governments become fully involved, and adopt their own energy saving measures, the efforts of the Federal Government will be multiplied many times over. If private industry voluntarily pitches in and helps, rather than dragging their feet, as we have seen with so many environmental laws, implementation could be relatively easy.

And finally, if the people support the goals of this energy program and take advantage of the opportunities presented by it in the areas of consumer information, tax credits, and other provisions, the adjustment to the demands of this program will be rapid.

The goals of the National Energy Act are, actually, quite modest. They are as follows:

SEC. 3. NATIONAL ENERGY GOALS.

The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6) Use of solar energy in more than 2½ million homes.

The goal for solar energy in homes, for example, is 2½ million homes by 1985. Yet we have reports that Japan already has 1 million homes using solar energy for water and/or space heating. Reports by U.S. investigators have also shown the vast potential of solar energy, a potential which is much larger than 2½ million homes.

The goal to achieve a 10 percent reduction in gasoline consumption from the 1977 level is one that can readily be achieved, through engine improvements, reductions in vehicle miles traveled by encouraging shifts to mass transportation, car pools, bicycles, and walking, and by other mild conservation measures. Much greater reductions can occur if we were determined to do so. For example, a vastly more efficient automobile could be developed. Land use patterns could be encouraged which would maximize energy conservation. A stiff gasoline tax could be added to provide the incentive for gasoline conservation. And transportation control plans, similar to those prepared, but not used, to provide us with better air quality, could be implemented to reduce vehicle miles traveled in a comprehensive manner.

Finally, an energy growth rate of 2 percent per year is actually a very modest goal—much lower growth rates can be achieved without a detrimental effect on the economy. For example, a group at Princeton University has looked at two different scenarios for energy consumption out to the year 2000. One was called a "business as usual" and the other "modest conservation." In the status quo scenario, extremely conservative assumptions are made; first, energy prices remain stable at the 1975 level; and second, no new energy conservation measures are enacted beyond those already on the books. Through a detailed breakdown of energy consumption by end use, they predict a growth rate of only 1.9 percent per year. In the "modest conservation" scenario, energy prices increase and modest conservation initiatives are launched. In this case, they find that total energy consumption will grow only at 0.9 percent per year out to the turn of the century. Further support for these projections come from the preliminary results of a National Academy of Sciences study, which indicates that GNP can double by the year 2010 and energy consumption increase only 40 percent, which is about a 0.9 percent growth rate per year. Members of the President's staff who prepared the National Energy Act has been associated with reports that show we can reach a zero energy growth rate by 1985 without any damage to our economy. While the rate of growth would be zero in this case, the annual consumption of energy would still be quite large, and new energy sources would have to be found to replace the oil imports and the domestic energy sources which we are depleting.

Mr. Chairman, I am pleased to be associated with this act and the Members who have brought it to us. I hope we can approve most of the provisions presented to the House this week, and before this session of Congress is over, I hope we can see the National Energy Act become law.

When we are finished with this bill, I hope we all recognize that we are not finished with national energy issues. Unlike the Farm Act, which we completed action on last week, the National Energy Act will need revisions and additions to it, perhaps as early as next year. Certainly the programs we authorize will require that funds be appropriated. We can also expect the new Department of Energy to recognize gaps in the authorizing legislation under its jurisdiction. In addition, the other related issues I addressed earlier will continue to need our attention such as energy research, development and demonstration issues, and environmental issues, and the need to coordinate them with the energy programs which we enact will remain.

New initiatives may be needed as well, such as in solar energy. There are numerous proposals for encouraging solar energy development before the Congress, but only a few of them are included in this legislation. There are also many other small-scale, decentralized forms of energy production and conservation that are not fully covered by this and previous acts. It is my hope that the new Department of Energy will give this area a very high priority.

In conclusion, Mr. Chairman, this bill is not the beginning nor the end of energy policy, but it is an important and badly needed addition to our Nation's laws.

Mrs. HOLT. Mr. Chairman, H.R. 8444, the National Energy Act, is punitive legislation. Big Government has decided that the American citizen is using too much energy, and big Government intends to apply the whip to correct this moral lapse.

The administration and the Congress have approached this subject with a puritanical fervor as in the old days of witch burning. Oil profits are sinful, the automobile is an instrument of the Devil, the average consumer is a lost soul who must be saved from his wasteful folly.

And here is the legislation by which the administration and Congress hope to impose salvation. With holy zeal, we are supposed to enact legislation that will impose severe new taxes on the people and their industries, increase regulation of the production and use of energy, raise the price of nearly every product in our economy because of the energy cost factor, and vastly expand the energy bureaucracy of the Federal Government.

The emphasis of this legislation is on conservation, not production. The emphasis is on a lower standard of living for the American people, who are supposed to accept their new condition as a moral obligation.

It is true that American consumption of petroleum products has been rising too rapidly, that America is draining her oilfields, that we are increasingly and even dangerously dependent on foreign imports for oil, and that petroleum will never again be cheap and plentiful.

Of course, Government price controls are a large part of the problem. Price controls encourage consumption and discourage production, and this has been the policy of the U.S. Government. A more wrongheaded policy can hardly be imagined.

But now we are offered a new policy, one which emphasizes high prices without production. Conservation is to be achieved by imposing higher taxes which will affect all oil products. The new policy will mean slower economic growth and more unemployment.

This is no solution, except to those whose goal is to expand the power of the Federal Government to control the economic life of our Nation. There is a better way, and it would simultaneously stimulate energy production and induce conservation. Remove price controls and avoid new taxes.

If prices are allowed to rise to reflect the real value of oil and natural gas, this will stimulate investment in exploration, development, and production. We will be paying more, to be sure, but we will also be generating production, notably from offshore and arctic resources.

It is not just oil and natural gas that should concern us. As those prices rise and make other sources of energy competitive, investment would flow into those alternatives. Coal production, coal gasification, shale oil production, geothermal generation of electricity, solar energy research and development, biomass conversion, and nuclear power will require large capital investment.

We do not need Government to make the economic decisions. In fact, when Government makes such decisions, they are commonly the wrong ones. Our future will be far better if we allow a free economic system to work its way.

For the consideration of the House, Mr. Chairman, I offer this excellent analysis of the energy legislation which appeared in today's Wall Street Journal:

REPENT AT LEISURE

Speaker Tip O'Neill intends to get the Carter energy package passed this week even if it means keeping the House in session 10 hours every day. No wonder he is in a hurry. Congress begins its August vacation Friday and if the House postpones the vote and takes a month for sober reflection, it surely will kill the energy scheme.

Seldom has such a legislative mishmash gone so far. It is not overly pessimistic to estimate that it will inflict a half *trillion* dollars in unnecessary costs and taxes on Americans over the next eight years. It will certainly increase, rather than decrease, U.S. dependence on imported fuels. It will throw the electric utility industry into such a state as to practically guarantee frequent power shortages in the 1980s.

And yet Tip O'Neill wants the House to hurry. But lest we seem too harsh on the Speaker, it should be noted that speed at the expense of sanity has characterized the energy program from the start. A White House energy team, employing a dubious set of economic theories, threw it together in a scant 90 days. The resulting confusion was such that administration officials initially quoted widely varying figures on how much tax they planned to levy on industry and how much oil and gas they hoped to save as part of the program to convert industry and electric utilities to coal.

No one asked whether it was humanly possible to get an extra 600 million tons of coal in the time allotted. Or how much it will really cost to equip the coal-burning utilities with scrubbers. Or what you do with all the sludge and how you get all the limestone for scrubbing?

The proposed $1.75 per thousand cubic feet price ceiling that now will apply to both intrastate and interstate sales of gas was plucked out of thin air. Only later was an unconvincing rationale offered. Gas men say that since it is at least 25 cents under the present marginal price for gas, it will mean less, not more, natural gas production.

The House has done little better. Ways and Means voted to apply the "gas guzzler" tax on big cars to "retiring" the national debt, not bothering to explain how you start retiring a debt before it stops growing. The master work in terms of speed was Tip O'Neill's hand-picked ad hoc Energy Committee. He loaded it with the likes of Henry Reuss and John Moss, who adore the kind of political manipulation of economic resources the package so richly embodies. The committee didn't lay a finger on all the absurdities. In the best tradition of South Boston politics, the Speaker truly "delivered."

Almost anyone could make a rough calculation of the costs this slipshod work will inflict on an already wavering economy. But for a detailed analysis we turn to Milton R. Copulos of the Heritage Foundation. His cost figures are in billions, for the eight years 1978 through 1985, unadjusted for depreciation of the dollar:

(In billions)	
Taxes on oil, less rebate	$56.1
Taxes on natural gas	44.2
Gasoline taxes (new 4-cent tax plus extension of present 4-cent tax)	58.8
Gas guzzler tax	10
Coal taxes	1.81
Added cost of imported oil	57.8
Added federal income taxes caused by energy cost inflation	98
Utility coal conversion costs	50.6
Total	377.31

It is possible to quibble with some of these numbers. The existing gasoline tax, although due to expire, is not an added cost. It may be reaching a bit to include a number that represents added personal income taxes as taxpayers move into higher brackets because of inflation attributable to the energy package. And if utilities and industrial plants convert to coal quickly enough they will escape some tax penalties.

But the numbers are probably conservative, particularly since they make no allowance for generalized inflation. There also is no allowance for the amounts consumers could save, mainly through not having to switch to more expensive fuels, if Congress deregulated natural gas prices. Half a trillion dollars as the cost of the energy package is not unreasonable.

What will all that money buy? Maybe some aid for troubled federal welfare and Social Security programs. A little help for mass transit, although judging from the fantastic costs of the recent mass transit projects, that's no bargain. A bonanza certainly for folks who make scrubbers or sell coal or limestone. Additional contentment for the Arabs.

It will also buy a greatly expanded energy bureaucracy and just quite possibly, a whopping big recession that will sweep Mr. Carter and his fellow Democrats out of office. Tip O'Neill has every reason to be worried about the possibility Congress will give the package more thought than it has so far.

Mr. JOHNSON of California. Mr. Chairman, I am pleased to report to the House on sections 721 through 789 of H.R. 8444, the national energy plan, which were reported by the House Public Works and Transportation Committee. These sections are designed to further the application of energy conservation and solar energy systems in Federal buildings.

During the past several years, there has been a growing awareness of the severity of our national energy problem and the urgent need for the widespread adoption of cost-effective measures to conserve energy in all it uses. The Federal Government, as the single largest user of energy in the Nation, has a particularly important responsibility to demonstrate its commitment to resolving the energy crisis by implementing a comprehensive program of energy conservation in all of its facilities and operations. Furthermore, the Federal Government should take the lead in utilizing innovative technologies, such as solar heating and cooling and photovoltaic systems in its own facilities. By taking such actions, the Federal Government will be able to serve as a model to State and local governments and to the private sector in their efforts to conserve energy.

Mr. Chairman, at this time, I would like to compliment the distinguished chairman of the Subcommittee on Public Buildings and Grounds, Congressman MINETA and the ranking minority member of the subcommittee, Congressman WALSH, for their fine work in handling this important piece of legislation. I will briefly explain sections 721 through 789.

Section 721 amends section 381 of the Energy Policy and Conservation Act which directed the President to develop and implement a 10-year plan for energy conservation with respect to buildings owned or leased by the Federal Government.

This section specifies that all executive agencies and the U.S. Postal Service shall be included in the development of the plan, and authorizes to be appropriated $25 million for fiscal year 1978 and $50 million for fiscal year 1979, in addition to funds authorized under other statutes. This program is not a small undertaking.

Although it is difficult to estimate precisely the costs of implementing conservation measures in Federal buildings where such investments are cost justified, administration officials testified the total required investment is likely to be about $2.67 billion, but the resulting energy savings are likely to save more than $4 billion in the utility costs by 1990.

Sections 741 through 746 authorize a 3-year program with funding of up to $100 million through 1980 for the installation of solar energy systems in Federal buildings. A program funded at this level will allow the Government to lead the way in making use of solar energy in its own bildings. In addition, substantial purchases by the Federal Government over the next few years can help lower the costs of production and installation as experience is gained and economies of scale are attained.

The intent of section 761–772 of the bill is to further strengthen the efforts of the executive agencies to conserve energy in new and existing Federal buildings and to promote the development and widespread use of commonly accepted methods to establish and compare the life-cycle costs of buildings. These sections are considered essential to the effective implementation of the energy conservation activities in Federal buildings to be undertaken pursuant to section 721. It is also the purpose of these sections to aim for a reduction of energy use in existing Federal buildings by 20 percent by 1985.

Sections 781 through 789 cited as the Federal Photovoltaic Utilization Act establishes a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic systems for electric production in new and existing Federal facilities, using technologically approved and proved equipment.

There is authorized to be appropriated to the Administrator not to exceed $39 million for the period beginning October 1, 1978, and ending September 30, 1981, for photovoltaic system acquisition.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. BRADEMAS) having assumed the chair, Mr. NATCHER, Chairman pro tempore of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8444) to establish a comprehensive national energy policy, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On July 25, 1977:

H.J. Res. 24. Joint resolution to provide for the designation of a week as "National Lupus Week."

On July 26, 1977:

H.R. 5638. An act to amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada; and

H.R. 7636. An Act making appropriations for the Department of the Interior and related Agencies for the fiscal year ending September 30, 1978, and for other purposes.

On July 27, 1977:

H.R. 186. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972.

On July 30, 1977:

H.R. 2502. An act to extend certain oil and gas leases by a period sufficient to allow the drilling of an ultradeep well;

H.R. 4088. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes;

H.R. 5864. An act to approve with modifications certain proposed amendments to the Federal Rules of Criminal Procedure, to disapprove other such proposed amendments, and for other related purposes; and

H.R. 5970. An act to authorize appropriations during the fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes.

On July 31, 1977:

H.R. 7552. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1978, and for other purposes.

On August 1, 1977:

H.R. 4975. An act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1978, the assistance programs for health services research; health statistics; comprehensive public health services; hypertension programs; migrant health; community health centers; medical libraries; cancer control programs; the National Cancer Institute; heart, blood vessel, lung, and blood disease prevention and control programs; the National Heart, Lung, and Blood Institute; National Research Service Awards; population research and voluntary family planning programs; sudden infant death syndrome; hemophilia; national health planning and development; and health resources development; to amend the Community Mental Health Centers Act to extend it through the fiscal year ending September 30, 1978; to extend the assistance programs for home health services; and for other purposes.

On August 2, 1977:

H.R. 4746. An act to extend certain authorities of the Secretary of the Interior with respect to water resources research and saline water conversion programs, and for other purposes.

CONFERENCE REPORT ON H.R. 7555, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATION ACT, 1978

Mr. FLOOD. Mr. Speaker, I call up the conference report on the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of July 26, 1977.)

Mr. FLOOD (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) is recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before the House today is on the bill H.R. 7555 making appropriations for fiscal year 1978 for the Department of Health, Education, and Welfare; and

several related agencies, such as Action and the Community Services Administration.

If you want to know about Federal programs that help people, then you need to know about this bill. I am certain that most of you are contacted daily by your constituents about these Labor-HEW programs. In one way or another all of the people back home are affected by this bill.

The conference report provides $60,168,561,000 in new budget authority for fiscal year 1978. This amount is $1.165 billion below the House bill and $475 million below the Senate bill. The conference agreement is $425 million below the budget request.

It is very unusual for a conference bill on Labor-HEW programs to be below the President's budget and below the House bill. I want to be sure that Members understand the reason for it.

The Senate made major reductions from the budget and the House bill for public assistance, medicaid, and supplemental security income payments. The Senate cut over $1.5 billion from the House bill for these programs. Now the House bill itself reduced the budget for medicaid by $351 million. So in total the conference bill is $1.9 billion below the budget for these programs.

Of course, Members know that public assistance, medicaid and supplemental security income are mandatory, entitlement programs. Benefits have to be paid to all eligible people. The House conferees examined very carefully the fund requirements for these uncontrollable programs. We checked with the Secretary of HEW and the Congressional Budget Office and it appears that the Senate figures are realistic estimates based on current information from the States. In fact, we know there is an excess of about $1 billion in 1977 appropriations for these programs. The conferees agreed to carry forward these excess funds to offset requirements in 1978. We believe this adjustment should be made in order to reflect the actual fiscal requirements for these programs. It is really a matter of bookkeeping.

Now in total, the conference agreement is $12 billion less than appropriations for fiscal year 1977. These figures are somewhat misleading, because the fiscal year 1977 amount includes the economic stimulus appropriations bill which included large amounts in advance appropriations for fiscal year 1978. Also the 1977 Labor-HEW appropriation bill included $5 billion for advances to the unemployment insurance trust fund, much of which will carry over into 1978. We believe that a fairer comparison would show that this bill represents an increase of about $3.1 billion or 5.5 percent over the comparable appropriation for fiscal year 1977.

The point of all these comparisons is to give Members a clear picture of what this conference bill represents. It represents a compromise between the House and Senate. It differs from the President's budget because it reflects congressional priorities and more realistic funding requirements for Labor-HEW programs. Make no mistake, the conference bill does provide real increases over last year for many of the labor, health, and education programs.

Certainly in a bill of this magnitude, it is not possible to satisfy everyone. Some may feel it is too high. Others may feel it is not high enough to meet the needs of the poor, the minorities, the handicapped, the aged, and the unemployed. I feel the conference bill is a reasonable response to social needs that exist in this country but at the same time is an attempt to exercise some fiscal restraint in meeting those needs. Here are the highlights.

DEPARTMENT OF LABOR

The conference agreement includes $3,377,930,000 for the Comprehensive Employment and Training Act—CETA. The conferees agreed to restore $42,000,000 of the reduction made by the House in national training programs under title III of CETA. The conference agreement includes $693,000,000 for summer youth employment for the summer of 1978, an increase of $98,000,000 over the House bill and the amount appropriated for this summer.

The conferees agreed to provide $190.4 million for community service employment for older Americans under title IX of the Older Americans Act. That is an increase of $40.4 million over the current fiscal year. This will provide 47,500 part-time jobs, an increase of 10,100 jobs over the current year. The conferees agreed to bill language earmarking 80 percent of the funds for national contract organizations, with the remaining 20 percent being distributed among the States by formula.

The conference agreement provides for a continuation of the current staffing level for the employment service—30,000 man-years nationwide. The Senate had proposed an increase of 1,000 man-years, but the House conferees were not persuaded that this was justified.

The conferees agreed to add $2,500,000 over the House bill and the budget request for administration of the black lung program. I continue to be very disturbed by the huge backlog of pending claims in this program. I certainly hope that the new administration will make this a high-priority program and make every effort to administer it in a rational and efficient manner. The conferees have agreed to provide 100 additional permanent positions for the Division of Coal Mine Workers' Compensation in the Employment Standards Administration. It is our understanding that there are currently 170 positions assigned to that Division, so the conference action represents an increase of almost 60 percent. I certainly hope that all of these positions will be filled in a timely manner, and that none of them will be siphoned off for other purposes, as has happened in the past.

For the Occupational Safety and Health Administration, the conferees agreed to reprogram $1,500,000 from State programs to Federal enforcement to finance 100 additional permanent positions. All of these positions are to be used for health compliance activities. The Senate had proposed to add 200 positions by reprograming $3,000,000, but the conferees decided to reduce that by one-half.

There were also two OSHA bill language items in conference. The conferees agreed to delete both of them. The first was a House floor amendment which would have required OSHA to produce economic impact statements on all proposed health and safety regulations. This is currently being done by Executive order for major regulations, but the administration is in the process of reassessing the whole business of impact statements. The conferees did not want to tie the administration's hands on this by writing this requirement into law.

The second OSHA language amendment was added on the Senate floor and would have required OSHA to consult with violators after an inspection on ways to correct the violations. Fines could not have been levied until the employer was given a reasonable time to correct the violations. This seemed reasonable on its face, but it actually would have substantially rewritten the basic law. The conferees did not feel that such a substantial change in the law should be made through the appropriations process.

For the Bureau of Labor Statistics, the conferees agreed to restore $2,000,000 of the reduction made by the House in the prices and cost of living budget activity. The conferees also restored $1,000,000 included in the House bill but deleted by the Senate for a job vacancy survey. That amount includes 52 permanent positions for carrying out the survey.

HEALTH

For the health programs we agreed on a total increase of $213,905,500 over the House level. Of this amount, $87,014,500 was included for health services programs. These are the programs that provide health care to the underserved and disadvantaged, that help to build health services delivery in medically underserved areas, and that provide services to statutorily defined populations—such as American seamen.

I would like to call your attention to a few of the specific program increases in the health services appropriation.

For the maternal and child health programs we agreed to add $17,500,000 for grants to States, $1,284,000 to expand the sudden infant death information program, and $646,000 for research and training.

For family planning we agreed to add $11,385,000—bringing the total program level to $135,000,000 in fiscal 1978.

For the emergency medical services program we agreed to an additional $3,000,000. These additional funds, together with $925,000 in the National Center for Health Services Research, will provide a level of $3,925,000 for EMS research.

Also we agreed to initiate a program in genetic information and counseling at a level of $4,000,000, and we added $35,000,000 for improving the operations of the Public Health Service hospitals and clinics, and $15,000,000 for repairs and improvements of PHS hospitals and clinics.

For preventive health services the conferees agreed to add $5,000,000 for venereal disease project grants, $1,000,000 for immunization programs, and $1,750,000

for lead-base paint poisoning prevention. Along with these increases we agreed to reductions below the House of $2,107,000 for disease surveillance, $2,564,000 for health education, and $1,000,000 for occupational health—direct operations.

For the biomedical research programs of the National Institutes of Health we agreed to add $82,700,000 over the House level. The total amount for NIH under the conference report is $2,825,102,000, which is an 11-percent increase over last year. When you consider the vital work being done at NIH to find ways to fight cancer, heart disease, arthritis, diabetes, neurological disease, and other crippling disorders afflicting adults and children, I certainly would not call an 11-percent increase excessive.

The institutes receiving major increases over the House level are the Cancer Institute, $35.200.000; the Heart, Lung, and Blood Institute, $13 million; and the Arthritis. Metabolism, and Digestive Diseases Institute, $21 million.

With regard to the alcohol, drug abuse, and mental health programs we added $7.862.000 over the House level. Specifically, $3,750.000 of this amount is for alcoholism community project grants and contracts and $4,112,000 is for the community mental health center program.

Under the health resources appropriation, we agreed to an increase of $32,750,000 over the House level. Now, I would like to call your attention to a few of the significant increases under this appropriation:

For health planning we agreed to an additional $5 million over the House level. This money will be used to support the State and local health planning agencies. It is expected that these planning agencies will play an important role in containing the spiraling cost of health care;

For health professions student loans we agreed to add $10 million over the House level. This program provides long term, low-interest loans to students needing financial assistance;

For the National Health Service scholarships we agreed to add $5 million over the House level. This program awards scholarships to medical, dental, osteopathic, and other health professions students in exchange for a specified period of Federal service in the National Health Service Corps for the purpose of providing health services in medically underserved areas. For nursing assistance we agreed to add $2 million for advanced nurse training and $2,500,000 for student loans.

I have one remaining item I would like to call to your attention in the health area and that is new positions. The conferees agreed to provide a total of 513 new positions for the health programs. These positions are to be used exclusively for research, services, and grants and contracts management. The new positions are distributed as follows: Health services, 175 positions; NIH, 294 positions; alcohol, drug abuse, and mental health, 21 positions; health resources, 15 positions; and the Assistant Secretary for Health, 8 positions. I would like to point out that the joint explanatory statement of the committee of conference incorrectly identifies the eight positions with the Assistant Secretary for Education. The eight positions are specifically for the Assistant Secretary for Health.

EDUCATION

For the education programs the conferees agreed to $10,128,638,000, a reduction of $103.5 million from the House bill. Most of the reduction results from revised estimates for basic educational opportunity grants which show that the budget and the House bill overstate the amount required for this program.

For elementary and secondary education programs the conferees agreed to $197.5 million for support and innovation, an increase of $3.5 million over the House bill. We have agreed to a hold harmless provision which guarantees that each State will receive at least the same amount it received last year. The additional funds over the House bill will benefit large States which serve additional numbers of students. An additional $4 million was provided for educational broadcasting facilities to support additional educational TV and radio projects.

The conference agreement provides $310.2 million for emergency school aid. That is $15.5 million over the House bill and relates to increases for magnet schools and other special projects. The magnet schools program was initially funded at $7.5 million in the recent 1977 supplemental appropriation bill. As Members know, magnet schools are those offering educational courses of sufficient quality to attract students of different racial backgrounds. The Senate conferees appear to have strong feelings about this program. We agreed to $12.5 million over the House bill instead of the $22.5 million increase proposed by the Senate. For special projects we agreed to $51,250,000 or $3 million over the House bill. Special projects involve assistance to school districts undergoing court ordered desegregation.

For higher education programs, the conferees agreed to $3,599,503,000 a reduction of $138.5 million below the House bill. As mentioned earlier most of this reduction is in the basic opportunity grants program. The conference agreement is $2.16 billion or $140 million below the House figure. The House had approved the budget amount of $2.3 billion, but HEW later revised the budget estimates. Both the House and Senate agree on the changing eligibility standards to remove some of the present inequities. The conference figure is $468 million over last year's program. Part of that would allow an increase in the maximum grant which is now at $1,400. However, most of the increase would be to expand eligibility.

For college work study we agreed to $435 million. The House already provided an increase of $30 million over last year and we agreed to another $15 million to make it $45 million over last year.

For special programs for the disadvantaged the conferees agreed to $115 million. These programs are Upward Bound, Talent Search, Special Services, and educational opportunity centers. All are designed to help minority and low-income students go to college. The conferees agreed to restore $15 million of the Senate reduction of $25 million.

The conference agreement restores $2 million of the Senate reduction of $5 million for education information centers. This is a new program to provide information and referral services to college students. We have heard a lot about it and think it should get started.

The conferees accepted the House amount of $3,250,000 for minorities in the professions. We think it important to provide graduate training to minorities. This will help overcome some of the problems of underrepresentation of minorities in the professional work force. The conferees restored the Senate reduction of $1 million for law school clinical experience. This program would allow law schools to expand clinical experience for law students. The conferees agreed to the Senate increase of $500,000 for a new program, the Wayne Morse chair of law. This program was authorized last year so we provide the funds for it.

For library resources, the conference agreement provides $253,212,000 a net increase of $6.5 million over the House bill. We agreed to $167.5 million for school libraries an increase of $7.5 million over the House to offset the cost of inflation for library books and materials. For a new program to assist research libraries, the conferees agreed to $5 million which is $2 million over the House bill. We agreed to the Senate reduction of $3 million for guidance and counseling programs because there are other Federal programs available to serve this purpose.

For special projects and training, the conferees agreed to $100,659,000 an increase of $4.1 million over the House bill. Consumer's education would be funded at $4,068,000 or $933,000 more than the House. The new teacher centers program would be funded at $8,250,000 or $3,250,000 over the House. This program is designed to upgrade the skills of classroom teachers.

For the Assistant Secretary for Education, the conferees agreed to $12 million for the fund for the improvement of postsecondary education. This program is designed to help colleges and universities experiment with ways to improve higher education programs. We agreed to restore $820,000 of the Senate reduction of $1,820,000 for the national center for educational statistics. Congress has passed many laws in recent years calling for more studies and surveys in the field of education and we want to provide necessary funds to do the necessary work required of the center.

WELFARE AND OTHER HEW PROGRAMS

The conference agreements provide $20,110,000,000 in new budget authority for those programs previously administered under the Social and Rehabilitation Service. These funds are primarily for cash assistance, medical assistance, and employment and social services for indigent Americans. More than 25 million persons are directly helped through these activities. The amount provided is nearly $1 billion below the amounts originally allocated by the House. The reductions reflect the most current estimates of enrollment and costs submitted by HEW and the Congressional Budget Office. Over one half billion dollars of the reduction results from extended

availability of excess 1977 funds. Since these programs are "entitlements," changes in budget authority do not affect levels of service or actual Federal outlays. They are essentially bookkeeping adjustments to reflect more realistic estimates of costs than were previously available. The conferees have also agreed to delete language included in the Senate bill which would have limited the period of time for States to submit claims under public assistance programs.

For Cuban refugee assistance the conferees have agreed, after lengthy debate, to $71,950,000 to begin a 6-year phaseout of this 15-year-old program. This program has helped more than 700,000 Cubans become assimilated into American life. Most Cubans are now productive, tax-paying residents of the communities in which they live. In addition to extending the phaseout to 6 years, the conferees have agreed to provide an additional allocation of $4,250,000 over the House allowance in order to support 95 percent of costs during the first year of the phaseout instead of the 90 percent originally budgeted. This fiscal year 1978 allocation will also provide sufficient funds to cover an $8 million shortfall in 1977 costs. We feel this is a fair approach to terminating a Federal program which has met its goals.

In addition to the reductions in budget authority for public assistance, the conferees have also agreed to reduce the amount for supplemental security income by $500 million below the original House allowance. This is accounted for entirely by excess 1977 funds for which extended availability has been provided. Again this is essentially a bookkeeping change which does not affect the program level or budget outlays. The final agreements provide a total of $14,172,767,000 in Federal payments to the social security system. In addition to SSI this includes funds for black lung benefits as well as contributions to the regular social security trust fund programs specifically required by law.

For the Office of Human Development, the conference agreement is $2,195,978,000 or about $40 million over the House bill. For Head Start we agreed to a split of the Senate increase of $60 million. That will give a total of $625 million or $150 million over last year. That is a 32 percent increase in one year. There is a practical limit on how much expansion can be done in one year. Head Start is a program for helping preschool children and their families.

For the runaway youth program we agreed to $12 million or $3 million over the House bill. This program provides services and temporary care to runaway youths. The authorization for this program expires this year. A new authorization bill is now in the works and it may result in major changes in the program.

For State agencies on aging we agreed to split the Senate increase of $2 million for a total of $19 million. Because of the increases in programs for the aging, the States have greater responsibilities in administering programs within the States. We agreed to split the Senate increase of $2 million for training persons in programs for the aging. There is a need for more skilled manpower in this field so we agreed to a total of $17 million, or a 20 percent increase over last year. For multipurpose senior citizens the conferees agreed to the House amount of $40 million. That will double this program over last year. We had a lot of testimony supporting the need for facilities to serve the elderly.

For rehabilitation special projects, the conferees agreed to restore funds for two construction projects and provide an additional $500,000 for projects with industry which help the handicapped obtain employment. We also agreed to a split of the $3 million added by the Senate for expanding research to improve vocational rehabilitation programs. This will give a total of $31.5 million, or about 10 percent more than last year.

For the White House Conference on Families the conferees agreed to the Senate amount of $3 million.

RELATED AGENCIES

The conference agreement includes $117,260,000, the same as the House bill, for the domestic programs of Action. The conferees deleted the Senate increase of $1,400,000 for increasing Vista stipends, with the understanding that the funds will be appropriated after the administration submits a formal budget request making the case for a specific increase.

For the Community Services Administration, the conference agreements includes $596,353,000, an increase of $28,500,000 over the House bill. The bill includes $369,000,000 for community action agencies, an increase of $6,000,000 over the House bill and $39,000,000 over the budget request and the current year. The bill provides $3,000,000 for the community food and nutrition program, an increase of $2,500,000 over the House bill, the budget request and the current level. The conferees agreed on $65,000,000 for the energy conservation services program, the amount proposed by the Senate, and an increase of $20,000,000 over the House bill. There was no budget request for this program.

The conference agreement provides $152.000,000 for the Corporation for Public Broadcasting, an increase of $7,000,000 over the House bill. This is an advance appropriation for fiscal year 1980.

GENERAL PROVISIONS

Both the House bill and the Senate bill include a language provision prohibiting the use of funds for the forced busing of students. The conferees had little choice but to accept either the House version or the Senate version. Deletion of section 208 was beyond the scope of our authority. The conferees agreed to accept the Senate language after we learned that the author of the House language Mr. MOTTL, actually preferred the Senate version. The author of the House language sent a letter to the Senate conferees stating his support for the Senate language. The intent of the House and Senate language is basically the same. That is to prevent HEW from requiring busing beyond the school nearest the student's home including situations where merging, pairing, or clustering of schools are involved.

The Senate added a legislative provision barring funds for the purpose of conducting school civil rights surveys for school year 1977–78, providing that whenever the Secretary has reason to believe that a violation of the Civil Rights Act exists in a school system, he may take an appropriate survey of that school system. This provision was added by a floor amendment adopted by a recorded vote 78 to 11. A similar amendment was offered on the House floor but was rejected by a division vote 23 to 44. The language of the House amendment was a straight prohibition on conducting surveys and did not provide any discretion to the Secretary. The conferees agreed to delete the Senate provision from the bill on the condition that it be replaced with strong report language. As far as we know, the Secretary can live with the report language even though it is fairly strong. It will not cripple enforcement of civil rights laws.

The Senate deleted section 211 of the House bill prohibiting the use of funds requiring institutions to meet a hiring or admission quota, ratio, or numerical requirement. The Senate conferees were simply unyielding on their position. The House conferees tried to make a case for keeping the provision in the bill, but the Senate just would not budge.

The Secretary of HEW had written a strong letter urging the conferees to delete the House provision. We were told that the House language would limit severely the enforcement of Executive Order 11246, prohibiting discrimination by Federal contractors. Also it would prohibit the Department from requiring central remedial action by recipients who have been determined to be in violation of title VI of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color, or national origin in federally assisted programs; and title IX of the Education Amendments of 1972, prohibiting discrimination on the basis of sex in federally assisted education programs. According to HEW, the House language would also interfere with the ability of the Department to comply with several court orders—such as Adams against Califano—which require the Department to issue and enforce desegregation guidelines which may require the use of timetables and goals.

In total, there were 89 amendments which had to be resolved by the conferees on this bill. Of course, the House conferees tried very hard to defend the House bill. There was give and take on both sides. Unfortunately there is one amendment which could not be resolved by the conferees. That is amendment No. 82 having to do with funds to pay for abortions.

On amendment, No. 82 relating to abortions, I will offer a motion at the proper time that the House recede and concur in the Senate amendment, with an amendment inserting the same language provision that is contained in the Labor-HEW Appropriation Act for 1977. I believe that is a fair compromise between the House and Senate bills.

Mr. Speaker, I urge adoption of the conference report and the motion which

I shall offer on the amendments reported in disagreement.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a detailed tabulation showing the amounts provided by the conference agreement, together with the appropriate tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(The material referred to follows:)

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978

TITLE I—DEPARTMENT OF LABOR

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMPLOYMENT AND TRAINING ADMINISTRATION									
Program administration:									
Planning, evaluation and research	$5,266,000	$5,715,000	$5,715,000	$5,715,000	$5,715,000	+$449,000			
Comprehensive employment development	38,442,000	49,103,000	49,103,000	49,103,000	49,103,000	+10,661,000			
Trust funds	(2,409,000)	(2,428,000)	(2,428,000)	(2,428,000)	(2,428,000)	(+19,000)			
Apprenticeship services	12,989,000	14,146,000	13,856,000	13,856,000	13,856,000	+867,000	−$290,000		
U.S. employment service	708,000	708,000	708,000	708,000	708,000				
Trust funds	(14,738,000)	(15,161,000)	(15,161,000)	(15,161,000)	(15,161,000)	(+423,000)			
Unemployment insurance service	1,341,000	1,621,000	1,621,000	1,621,000	1,621,000	+280,000			
Trust funds	(10,037,000)	(11,070,000)	(10,890,000)	(10,890,000)	(10,890,000)	(+853,000)	(−180,000)		
Investigation and compliance	751,000	870,000	870,000	870,000	870,000	+119,000			
Trust funds	(1,139,000)	(1,131,000)	(1,131,000)	(1,131,000)	(1,131,000)	(−8,000)			
Executive direction and management	16,725,000	19,324,000	18,959,000	18,959,000	18,959,000	+2,234,000	−365,000		
Trust funds	(3,911,000)	(4,024,000)	(4,024,000)	(4,024,000)	(4,024,000)	(+113,000)			
Subtotal, program administration	108,456,000	125,301,000	124,466,000	124,466,000	124,466,000	+16,010,000	−835,000		
Federal funds	76,222,000	91,487,000	90,832,000	90,832,000	90,832,000	+14,610,000	−655,000		
Trust funds	(32,234,000)	(33,814,000)	(33,634,000)	(33,634,000)	(33,634,000)	(+1,400,000)	(−180,000)		
Employment and training assistance (CETA):									
Title I	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000				
Title II (public employment)	1,540,000,000					−1,540,000,000			
Title III:									
National training programs	1,558,360,000	1,135,060,000	301,060,000	385,060,000	343,060,000	−1,215,300,000	−792,000,000	+$42,000,000	−$42,000,000
Program support	42,370,000	44,870,000	44,870,000	44,870,000	44,870,000	+2,500,000			
Title IV (Job Corps)	274,100,000	487,100,000	417,000,000	417,000,000	417,000,000	+142,900,000	−70,100,000		
Summer youth employment program	595,000,000	525,000,000	595,000,000	893,000,000	693,000,000	+98,000,000	+168,000,000	+98,000,000	−200,000,000
Subtotal, regular program	5,889,830,000	4,072,030,000	3,237,930,000	3,619,930,000	3,377,930,000	−2,511,900,000	−694,100,000	+140,000,000	−242,000,000
Temporary employment assistance (CETA): Title VI	6,847,000,000					−6,847,000,000			
Community service employment for older Americans	150,000,000	200,000,000	180,400,000	200,000,000	190,400,000	+40,400,000	−9,600,000	+10,000,000	−9,600,000
Federal unemployment benefits and allowances:									
Payments to former Federal personnel	440,000,000	560,000,000	560,000,000	560,000,000	560,000,000	+120,000,000			
Trade adjustment assistance	120,000,000	240,000,000	240,000,000	240,000,000	240,000,000	+120,000,000			
Unemployment assistance and payments under other Federal unemployment programs	300,000,000	400,000,000	400,000,000	400,000,000	400,000,000	+100,000,000			
Subtotal, FUBA	860,000,000	1,200,000,000	1,200,000,000	1,200,000,000	1,200,000,000	+340,000,000			
Grants to States for unemployment insurance and employment services:									
Unemployment insurance service	(697,000,000)	(754,600,000)	(771,100,000)	(771,100,000)	(771,100,000)	(+74,100,000	(+16,500,000)		
Employment services:									
Federal	89,100,000	53,600,000	53,600,000	53,600,000	53,600,000	−35,500,000			
Trust	(475,900,000)	(583,500,000)	(583,500,000)	(603,500,000)	(583,500,000)	(+107,600,000)			(−20,000,000)
Subtotal, employment services	565,000,000	637,100,000	637,100,000	657,100,000	637,100,000	+72,100,000			−20,000,000
Contingency fund	(239,800,000)	(174,400,000)	(174,400,000)	(174,400,000)	(174,400,000)	(−65,400,000)			
Subtotal, grants to States	1,501,800,000	1,566,100,000	1,582,600,000	1,602,600,000	1,582,600,000	+80,800,000	+16,500,000		−20,000,000
Federal funds	89,100,000	53,600,000	53,600,000	53,600,000	53,600,000	−35,500,000			
Trust funds	(1,412,700,000)	(1,512,500,000)	(1,529,000,000)	(1,549,000,000)	(1,529,000,000)	(+116,300,000)	(+16,500,000)		(−20,000,000)
Advances to unemployment trust fund and other funds	5,000,000,000					−5,000,000,000			
Subtotal, Employment and Training Administration	20,357,086,000	7,163,431,000	6,325,396,000	6,746,996,000	6,475,396,000	−13,881,690,000	−688,035,000	+150,000,000	−271,600,000
Federal funds	18,912,152,000	5,617,117,000	4,762,762,000	5,164,362,000	4,912,762,000	−13,999,390,000	−704,355,000	+150,000,000	−251,600,000
Trust funds	(1,444,934,000)	(1,546,314,000)	(1,562,634,000)	(1,582,634,000)	(1,562,634,000)	(+117,700,000)	(+16,320,000)		(−20,000,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses:									
Labor-Management relations policy and service	3,208,000	3,518,000	3,280,000	3,280,000	3,280,000	+72,000	−238,000		
Labor-Management standards enforcement	14,430,000	15,926,000	15,026,000	15,026,000	15,026,000	+596,000			
Veterans reemployment rights	2,682,000	2,772,000	2,772,000	2,772,000	2,772,000	+90,000			
Federal labor-management relations	5,034,000	5,897,000	5,897,000	5,897,000	5,897,000	+863,000			
Employee benefits security	21,841,000	25,309,000	25,309,000	25,309,000	25,309,000	+3,468,000			
Executive direction, management and support	3,559,000	3,677,000	3,677,000	3,677,000	3,677,000	+118,000			
Subtotal, LMSA	50,754,000	56,199,000	55,961,000	55,961,000	55,961,000	+5,207,000	−238,000		

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE I—DEPARTMENT OF LABOR—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses:									
Improving and protecting wages	$43,722,000	$47,045,000	$47,045,000	$47,045,000	$47,045,000	+$3,323,000			
Elimination of discrimination in employment	15,472,000	16,317,000	16,317,000	16,317,000	16,317,000	+845,000			
Workers' compensation	27,516,000	32,624,000	32,624,000	36,124,000	35,124,000	+7,608,000	+$2,500,000	+$2,500,000	−$1,000,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(265,000)	(+5,000)			
Program development and administration	12,282,000	13,294,000	12,794,000	12,794,000	12,794,000	+512,000	−500,000		
Subtotal, salaries and expenses	99,252,000	109,545,000	109,045,000	112,545,000	111,545,000	+12,293,000	+2,000,000	+2,500,000	−1,000,000
Federal funds	98,992,000	109,280,000	108,780,000	112,280,000	111,280,000	+12,288,000	+2,000,000	+2,500,000	−1,000,000
Trust funds	(260,000)	(265,000	(265,000)	(265,000)	(265,000)	(+5,000)			
Special benefits:									
Federal Employees Compensation Act benefits	307,407,000	292,325,000	292,325,000	292,325,000	292,325,000	−15,082,000			
Disabled coal miners benefits	27,100,000	24,300,000	24,300,000	24,300,000	24,300,000	−2,800,000			
Longshore and harbor workers' benefits	2,442,000	2,735,000	2,735,000	2,735,000	2,735,000	+293,000			
Subtotal, special benefits	336,949,000	319,360,000	319,360,000	319,360,000	319,360,000	−17,589,000			
Subtotal ESA	436,201,000	428,905,000	428,405,000	431,905,000	430,905,000	−5,296,000	+2,000,000	+2,500,000	−1,000,000
Federal funds	435,941,000	428,640,000	428,140,000	431,640,000	430,640,000	−5,301,000	+2,000,000	+2,500,000	−1,000,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(265,000)	(+5,000)			
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses									
Safety and health standards	8,338,000	8,692,000	8,692,000	8,692,000	8,692,000	+354,000			
Compliance:									
Federal inspections	57,616,000	59,151,000	59,151,000	62,151,000	60,651,000	+3,035,000	+1,500,000	+1,500,000	−1,500,000
State programs	35,605,000	35,605,000	35,605,000	32,605,000	34,105,000	−1,500,000	−1,500,000	−1,500,000	+1,500,000
Education, consultation, and information	18,897,000	19,902,000	21,902,000	21,902,000	21,902,000	+3,005,000	+2,000,000		
Safety and health statistics	6,206,000	6,301,000	6,301,000	6,301,000	6,301,000	+95,000			
Executive direction and administration	3,671,000	4,989,000	4,989,000	4,989,000	4,989,000	+1,318,000			
Subtotal, OSHA	130,333,000	134,640,000	136,640,000	136,640,000	136,640,000	+6,307,000	+2,000,000		
BUREAU OF LABOR STATISTICS									
Salaries and expenses:									
Labor force statistics	27,878,000	32,314,000	33,314,000	32,314,000	33,314,000	+5,436,000	+1,000,000		+1,000,000
Prices and cost of living	15,310,000	21,943,000	17,768,000	21,943,000	19,768,000	+4,458,000	−2,175,000	+2,000,000	−2,175,000
Wages and industrial relations	11,573,000	12,441,000	12,180,000	12,180,000	12,180,000	+607,000	−261,000		
Productivity and technology	2,789,000	3,010,000	2,937,000	2,937,000	2,937,000	+148,000	−73,000		
Economic growth	694,000	731,000	731,000	731,000	731,000	+37,000			
Executive direction and staff services	10,157,000	10,327,000	10,327,000	10,327,000	10,327,000	+170,000			
Revision of the Consumer Price Index	7,216,000	3,600,000	3,600,000	3,600,000	3,600,000	−3,616,000			
Subtotal, Bureau of Labor Statistics	75,617,000	84,366,000	80,857,000	84,032,000	82,857,000	+7,240,000	−1,509,000	+2,000,000	−1,175,000
DEPARTMENTAL MANAGEMENT									
Salaries and expenses:									
Executive direction	10,983,000	9,836,000	9,697,000	9,697,000	9,697,000	−1,286,000	−139,000		
Legal services	19,616,000	22,435,000	22,048,000	22,048,000	22,048,000	+2,432,000	−387,000		
Trust funds	(177,000)	(177,000)	(177,000)	(177,000)	(177,000)				
International labor affairs	5,093,000	5,899,000	5,899,000	5,899,000	5,899,000	+806,000			
Administration and management	14,516,000	17,489,000	16,810,000	16,810,000	16,810,000	+2,294,000	−679,000		
Trust funds	(355,000)	(1,065,000)	(1,065,000)	(1,065,000)	(1,065,000)	(+750,000)			
Adjudication	282,000	4,371,000	4,371,000	4,371,000	4,371,000	+4,089,000			
Trust funds	(820,000)	(320,000)	(320,000)	(320,000)	(320,000)	(−500,000)			
Promoting employment of the handicapped	1,446,000	1,432,000	1,432,000	1,432,000	1,432,000	−14,000			
Subtotal, salaries and expenses	53,248,000	63,024,000	61,819,000	61,819,000	61,819,000	+8,571,000	−1,205,000		
Federal funds	51,936,000	61,462,000	60,257,000	60,257,000	60,257,000	+8,321,000	−1,205,000		
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)			
Special foreign currency program	70,000	70,000	70,000	70,000	70,000				
Subtotal, departmental management	53,318,000	63,094,000	61,889,000	61,889,000	61,889,000	+8,571,000	−1,205,000		
Federal funds	52,006,000	61,532,000	60,327,000	60,327,000	60,327,000	+8,321,000	−1,205,000		
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)			
Total, Labor Department	21,103,309,000	7,930,635,000	7,089,148,000	7,517,423,000	7,243,648,000	−13,859,661,000	−686,987,000	+154,500,000	−273,775,000
Federal funds	19,656,803,000	6,382,494,000	5,524,687,000	5,932,962,000	5,679,187,000	−13,977,616,000	−703,307,000	+154,500,000	−253,775,000
Trust funds	(1,446,506,000)	(1,548,141,000)	(1,564,461,000)	(1,584,461,000)	(1,564,461,000)	(+117,955,000)	(+16,320,000)		(−20,000,000)

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH SERVICES ADMINISTRATION									
Community health services:									
Community health centers	$215,148,000	$229,148,000	$247,000,000	$247,000,000	$247,000,000	+$31,852,000	+$17,852,000	----------	----------
Comprehensive health grants to States	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	----------	----------	----------	----------
Genetic information and counseling	----------	----------	----------	5,000,000	4,000,000	+4,000,000	+4,000,000	+$4,000,000	−$1,000,000
Maternal and child health:									
Grants to States	315,000,000	315,000,000	315,000,000	350,000,000	332,500,000	+17,500,000	+17,500,000	+17,500,000	−17,500,000
Sudden infant death information dissemination	1,716,000	1,716,000	1,716,000	3,650,000	3,000,000	+1,284,000	+1,284,000	+1,284,000	−650,000
Research and training	28,708,000	28,708,000	28,708,000	30,000,000	29,354,000	+646,000	+646,000	+646,000	−646,000
Subtotal, maternal and child health	345,424,000	345,424,000	345,424,000	383,650,000	364,854,000	+19,430,000	+19,430,000	+19,430,000	−18,796,000
Family planning	113,615,000	123,615,000	123,615,000	140,000,000	135,000,000	+21,385,000	+11,385,000	+11,385,000	−5,000,000
Migrant health	30,000,000	30,000,000	34,500,000	34,500,000	34,500,000	+4,500,000	+4,500,000	----------	----------
National Health Service Corps	25,381,000	37,599,000	42,599,000	42,599,000	42,599,000	+17,218,000	+5,000,000	----------	----------
Hemophilia treatment centers	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	----------	----------	----------	----------
Hypertension	9,000,000	9,000,000	10,000,000	12,000,000	11,000,000	+2,000,000	+2,000,000	+1,000,000	−1,000,000
Home health services	3,000,000	3,000,000	8,000,000	5,000,000	6,000,000	+3,000,000	+3,000,000	−2,000,000	+1,000,000
Program support	22,894,000	23,886,000	24,790,500	24,790,000	24,790,000	+1,896,000	+904,000	−500	----------
Subtotal, community health	857,462,000	894,672,000	928,928,500	987,539,000	962,743,000	+105,281,000	+68,071,000	+33,814,500	−24,796,000
Quality assurance:									
Medical care standards	4,215,000	5,665,000	5,665,000	5,665,000	5,665,000	+1,450,000	----------	----------	----------
Professional standards review organizations	61,125,000	72,234,000	72,234,000	72,234,000	72,234,000	+11,109,000	----------	----------	----------
Program support	1,212,000	1,348,000	1,348,000	1,348,000	1,348,000	+136,000	----------	----------	----------
Subtotal, quality assurance	66,552,000	79,247,000	79,247,000	79,247,000	79,247,000	+12,695,000	----------	----------	----------
Health care services and systems:									
Patient care and special health services:									
Hospitals and clinics	130,818,000	135,511,000	135,511,000	210,000,000	170,511,000	+39,693,000	+35,000,000	+35,000,000	−39,489,000
Federal employee health	629,000	641,000	641,000	641,000	641,000	+12,000	----------	----------	----------
Construction and modernization	----------	----------	----------	60,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	−45,000,000
Payment to Hawaii	1,200,000	1,200,000	1,200,000	2,200,000	1,400,000	+200,000	+200,000	+200,000	−800,000
Subtotal	132,647,000	137,352,000	137,352,000	272,841,000	187,552,000	+54,905,000	+50,200,000	+50,220,000	−85,289,000
Health maintenance organizations	18,100,000	18,100,000	21,100,000	21,100,000	21,100,000	+3,000,000	+3,000,000	----------	----------
Emergency medical services	40,125,000	33,625,000	39,625,000	45,000,000	42,625,000	+2,500,000	+9,000,000	+3,000,000	−2,375,000
Program support	9,466,000	9,779,000	9,779,000	9,779,000	9,779,000	+313,000	----------	----------	----------
Subtotal, health care systems	200,338,000	198,856,000	207,856,000	348,720,000	261,056,000	+60,718,000	+62,200,000	+53,200,000	−87,664,000
Program management	5,700,000	6,474,000	6,474,000	6,474,000	6,474,000	+774,000	----------	----------	----------
Less: Trust fund transfer	−40,121,000	−34,934,000	−34,937,000	−34,934,000	−34,934,000	+5,187,000	----------	----------	----------
Subtotal, health services	1,089,931,000	1,144,315,000	1,187,571,500	1,387,046,000	1,274,586,000	+184,655,000	+130,271,000	+87,014,500	−112,460,000
CENTER FOR DISEASE CONTROL									
Disease control:									
Project grants:									
Venereal disease	25,000,000	18,000,000	27,000,000	37,000,000	32,000,000	+7,000,000	+14,000,000	+5,000,000	−5,000,000
Immunization	17,000,000	19,000,000	22,000,000	23,000,000	23,000,000	+6,000,000	+4,000,000	+1,000,000	----------
Rat control	13,000,000	13,000,000	13,000,000	14,000,000	13,000,000	----------	----------	----------	−1,000,000
Lead-based paint poisoning prevention	8,500,000	8,500,000	8,500,000	12,000,000	10,250,000	+1,750,000	+1,750,000	+1,750,000	−1,750,000
Disease surveillance	54,100,000	53,607,000	55,107,000	45,000,000	53,000,000	−1,100,000	−607,000	−2,107,000	+8,000,000
Laboratory improvements	15,803,000	15,490,000	17,490,000	17,490,000	17,490,000	+1,687,000	+2,000,000	----------	----------
Health education	4,564,000	7,064,000	7,064,000	2,500,000	4,500,000	−64,000	−2,564,000	−2,564,000	+2,000,000
Occupational health:									
Grants	8,500,000	4,900,000	10,900,000	10,900,000	10,900,000	+2,400,000	+6,000,000	----------	----------
Direct operations	42,269,000	44,277,000	45,277,000	44,277,000	44,277,000	+2,008,000	----------	−1,000,000	----------
Buildings and facilities	----------	----------	----------	1,000,000	----------	----------	----------	----------	−1,000,000
Program management	3,037,000	3,088,000	3,088,000	3,088,000	3,088,000	+51,000	----------	----------	----------
Subtotal, preventive health	191,773,000	186,926,000	209,426,000	210,255,000	211,505,000	+19,732,000	+24,579,000	+2,079,000	+1,250,000
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	814,936,000	818,936,000	831,936,000	920,000,000	867,136,000	+52,200,000	+48,200,000	+35,200,000	−52,864,000
National Heart, Lung and Blood Institute	396,661,000	403,642,000	432,642,000	456,000,000	445,642,000	+48,981,000	+42,000,000	+13,000,000	−10,358,000
National Institute of Dental Research	55,573,000	57,981,000	58,981,000	63,000,000	60,981,000	+5,408,000	+3,000,000	+2,000,000	−2,019,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	219,600,000	216,961,000	237,461,000	273,000,000	258,461,000	+38,861,000	+41,500,000	+21,000,000	−14,539,000
National Institute of Neurological and Communicative Disorders and Stroke	155,500,000	161,461,000	175,000,000	179,000,000	177,000,000	+21,500,000	+15,539,000	+2,000,000	−2,000,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
NATIONAL INSTITUTES OF HEALTH—Continued									
National Institute of Allergy and Infectious Diseases	$141,000,000	$153,442,000	$157,042,000	$162,000,000	$161,042,000	+$20,042,000	+$7,600,000	+$4,000,000	−$958,000
National Institute of General Medical Sciences	205,000,000	219,896,000	225,396,000	235,000,000	230,396,000	+25,396,000	+10,500,000	+5,000,000	−4,604,000
National Institute of Child Health and Human Development	145,543,000	155,761,000	162,761,000	167,000,000	165,261,000	+19,718,000	+9,500,000	+2,500,000	−1,739,000
National Institute on Aging	30,000,000	34,500,000	39,000,000	35,000,000	37,000,000	+7,000,000	+2,500,000	−2,000,000	+2,000,000
National Eye Institute	64,000,000	64,981,000	85,000,000	74,952,000	85,000,000	+21,000,000	+20,019,000		+10,048,000
National Institute of Environmental Health Sciences	51,141,000	58,100,000	63,600,000	58,000,000	63,600,000	+12,459,000	+5,500,000		+5,600,000
Research resources	137,500,000	102,074,000	144,947,000	144,947,000	144,947,000	+7,447,000	+42,873,000		
John E. Fogarty International Center	7,992,000	8,369,000	8,369,000	8,369,000	8,369,000	+377,000			
Subtotal, biomedical research	2,424,446,000	2,456,104,000	2,622,135,000	2,776,268,000	2,704,835,000	+280,389,000	+248,731,000	+82,700,000	−71,433,000
National Library of Medicine	35,234,000	36,746,000	36,746,000	36,746,000	36,746,000	+1,512,000			
Office of the Director	16,934,000	17,871,000	17,871,000	17,871,000	17,871,000	+937,000			
Buildings and facilities	67,400,000	65,650,000	65,650,000	65,650,000	65,650,000	−1,750,000			
Total, National Institutes of Health	2,544,014,000	2,576,371,000	2,742,402,000	2,896,535,000	2,825,102,000	+281,088,000	+248,731,000	+82,700,000	−71,433,000
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION									
General mental health:									
Research	108,908,000	106,908,000	116,908,000	116,908,000	116,908,000	+8,000,000	+10,000,000		
Training	86,600,000	86,600,000	86,600,000	86,600,000	86,600,000				
Community programs:									
Planning	1,000,000					−1,000,000			
Operations:									
1st year	17,967,000		22,775,000	30,000,000	26,387,000	+8,420,000	+26,387,000	+3,612,000	−3,613,000
Continuation:									
Grants initiated under new law	29,851,000	53,340,000	53,340,000	53,340,000	53,340,000	+23,489,000			
Converted staffing grants	49,914,000	104,754,000	104,754,000	104,754,000	104,754,000	+54,840,000			
Conversion	20,000,000	9,372,000	19,372,000	19,372,000	19,372,000	−628,000	+10,000,000		
Consultation and education	8,000,000	8,245,000	8,245,000	8,245,000	8,245,000	+245,000			
Financial distress	7,000,000	4,988,000	4,988,000	6,988,000	5,488,000	−1,512,000	+500,000	+500,000	−1,500,000
Continuations under old law:									
Staffing	79,806,000	38,247,000	38,247,000	38,247,000	38,247,000	−41,559,000			
Child mental health	18,786,000	13,900,000	13,900,000	13,900,000	13,900,000	−4,886,000			
Subtotal, community programs	232,324,000	232,846,000	265,621,000	274,846,000	269,733,000	+37,409,000	+36,887,000	+4,112,000	−5,113,000
Program support	28,502,000	27,695,000	27,695,000	27,695,000	27,695,000	−807,000			
Subtotal, mental health	456,334,000	454,049,000	496,824,000	506,049,000	500,936,000	+44,602,000	+46,887,000	+4,112,000	−5,113,000
Drug abuse:									
Research	34,000,000	34,000,000	34,000,000	34,000,000	34,000,000				
Training	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Community programs:									
Project grants and contracts	160,000,000	161,500,000	161,500,000	161,500,000	161,500,000	+1,500,000			
Grants to States	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000				
Program support	16,686,000	16,572,000	16,572,000	16,572,000	16,572,000	−114,000			
Subtotal, drug abuse	260,686,000	262,072,000	262,072,000	262,072,000	262,072,000	+1,386,000			
Alcoholism:									
Research	14,808,000	13,179,000	16,179,000	16,179,000	16,179,000	+1,371,000	+3,000,000		
Training	7,200,000	7,200,000	7,200,000	7,200,000	7,200,000				
Community programs:									
Project grants and contracts	73,008,000	68,719,000	75,008,000	82,508,000	78,758,000	+5,750,000	+10,039,000	+3,750,000	−3,750,000
Grants to States	56,800,000	55,500,000	56,800,000	56,800,000	56,800,000		+1,300,000		
Program support	9,538,000	9,468,000	9,468,000	9,468,000	9,468,000	−70,000			
Subtotal, alcoholism	161,354,000	154,066,000	164,655,000	172,155,000	168,405,000	+7,051,000	+14,339,000	+3,750,000	−3,750,000
Buildings and facilities		350,000	350,000	350,000	350,000	+350,000			
Program management	7,197,000	7,119,000	7,119,000	7,119,000	7,119,000	−78,000			
Subtotal, alcohol, drug abuse and mental health	885,571,000	877,656,000	931,020,000	947,745,000	938,882,000	+53,311,000	+61,226,000	+7,862,000	−8,863,000
St. Elizabeths Hospital	64,514,000	68,746,000	68,746,000	68,746,000	68,746,000	+4,232,000			
Construction and renovation (SEH)		810,000	2,010,000	2,010,000	2,010,000	+2,010,000	+1,200,000		
Subtotal, ADAMHA	950,085,000	947,212,000	1,001,776,000	1,018,501,000	1,009,638,000	+59,553,000	+62,426,000	+7,862,000	−8,863,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH RESOURCES ADMINISTRATION									
National health statistics	$29,349,000	$34,778,000	$35,278,000	$33,600,000	$35,278,000	+$5,929,000	+$500,000		+$1,678,000
Health planning and resources development:									
Health planning	130,000,000	125,000,000	140,000,000	150,000,000	145,000,000	+15,000,000	+20,000,000	+$5,000,000	−5,000,000
Special medical facilities	9,000,000			1,750,000	1,750,000	−7,250,000	+1,750,000	+1,750,000	
Program support	11,921,000	11,924,000	11,924,000	11,924,000	11,924,000	+3,000			
Subtotal, planning and resources	150,921,000	136,924,000	151,924,000	163,674,000	158,674,000	+7,753,000	+21,750,000	+6,750,000	−5,000,000
Health services research	30,134,000	30,442,000	33,542,000	32,442,000	33,542,000	+3,408,000	+3,100,000		+1,100,000
Health manpower.									
Health professions institutional assistance:									
Capitation grants	125,000,000	114,500,000	144,000,000	125,000,000	144,000,000	+19,000,000	+29,000,000		+19,000,000
(MOD)	(101,100,000)	(114,500,000)	(120,100,000)	(101,100,000)	(120,100,000)	(+19,000,000)	(+5,600,000)		(+19,000,000)
(VOPP)	(18,000,000)		(18,000,000)	(18,000,000)	(18,000,000)		(+18,000,000)		
(Public health)	(5,900,000)		(5,900,000)	(5,900,000)	(5,900,000)		(+5,900,000)		
Health teaching facilities	26,000,000		5,000,000	8,500,000	8,500,000	−17,500,000	+8,500,000	+3,500,000	
Health professions student assistance:									
Loans	24,000,000		10,000,000	26,000,000	20,000,000	−4,000,000	+20,000,000	+10,000,000	−6,000,000
Loan repayment	2,000,000	1,500,000	1,500,000	1,500,000	1,500,000	−500,000			
National health service scholarships	40,000,000	40,000,000	55,000,000	75,000,000	60,000,000	+20,000,000	+20,000,00	+5,000,000	−15,000,000
Scholarships	1,000,000					−1,000,000			
Exceptional need scholarships		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000			
Shortage area scholarships	400,000					−400,000			
Subtotal, student assistance	67,400,000	46,500,000	71,500,000	107,500,000	86,500,000	+19,100,000	+40,000,000	+15,000,000	−21,000,000
Health professions special educational assistance:									
Family medicine residencies and training	39,000,000	45,000,000	45,000,000	45,000,000	45,000,000	+6,000,000			
Primary care residencies and training	15,000,000	15,000,000	15,000,000	15,000.000	15,000,000				
Project grants—VOPP	5,350,000					−5,350,000			
Interdisciplinary training				5,000,000	3,500,000	+3,500,000	+3,500,000	+3,500,000	−1,500,000
Physicians/dental extenders	10,500,000	11,100,000	11,100,000	11,100,000	11,100,000	+600,000			
Area health education centers	14,000,000	15,500,000	17,000,000	17,000,000	17,000,000	+3,000,000	+1,500,000		
Disadvantaged assistance	10,000,000	8,000,000	14,500,000	14,500,000	14,500,000	+4,500,000	+6,500,000		
Foreign medical graduates	1,000,000	2,000,000	2,000,000	2,000,000	2,000,000	+1,000,000			
Manpower initiatives	10,000,000					−10,000,000			
Project grants (MOD)	14,850,000					−14,850,000			
Emergency medical training	6,000,000		6,000,000	6,000,000	6,000,000		+6,000,000		
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Health profession startup	3,326,000	1,000,000	1,000,000	2,000,000	2,000,000	−1,326,000	+1,000,000	+1,000,000	
Financial distress	3,500,000	2,000,000	2,000,000	4,000,000	3,000,000	−500,000	+1,000,000	+1,000,000	−1,000,000
Supply and distribution reports	1,000,000	2,000,000	2,000,000		1,000,000		−1,000,000	−1,000,000	+1,000,000
Subtotal, special programs	134,526,000	102,600,000	116,600,000	122,600,000	121,100,000	−13,426,000	+18,500,000	+4,500,000	−1,500,000
Dental health education	8,000,000	2,100,000	4,000,000	4,000,000	4,000,000	−4,000,000	+1,900,000		
Nursing institutional assistance:									
Capitation grants	40,000,000		32,000,000	30,000,000	30,000,000	−10,000,000	+30,000,000	−2,000,000	
Advanced nurse training	9,000,000		10,000,000	12,000,000	12,000,000	+3,000,000	+12,000,000	+2,000,000	
Nurse practitioner training	9,000,000	9,000,000	13,000,000	13,000,000	13,000,000	+4,000,000	+4,000,000		
Special projects	15,000,000	6,000,000	15,000,000	15,000,000	15,000,000		+9,000,000		
Subtotal	73,000,000	15,000,000	70,000,000	70,000,000	70,000,000	−3,000,000	+55,000,000		
Nursing student assistance:									
Loans	22,500,000		20,000,000	22,500,000	22,500,000		+22,500,000	+2,500,000	
Scholarships	6,500,000	9,000,000	9,000,000	9,000,000	9,000,000	+2,500,000			
Traineeships	13,000,000		13,000,000	13,000,000	13,000,000		+13,000,000		
Loan repayment	3,000,000		1,500,000	1,500,000	1,500,000	−1,500,000	+1,500,000		
Fellowships	1,000,000		1,000,000	1,000,000	1,000,000		+1,000,000		
Subtotal	46,000,000	9,000,000	44,500,000	47,000,000	47,000,000	+1,000,000	+38,000,000	+2,500,000	
Nursing research	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Subtotal, nursing programs	124,000,000	24,000,000	119,500,000	122,000,000	122,000,000	−2,000,000	+98,000,000	+2,500,000	
District of Columbia medical and dental	8,900,000					−8,900,000			
Allied health (institutional)	24,000,000	8,000,000	20,000,000	20,000,000	20,000,000	−4,000,000	+12,000,000		
Public health:									
Special projects and health administration	5,500,000	5,000,000	5,000,000	5,000,000	5,000,000	−500,000			
Public health traineeships	9,120,000		7,000,000	7,000,000	7,000,000	−2,120,000	+7,000,000		
Health administration graduate programs		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Health administration traineeships			1,000,000	2,000,000	1,500,000	+1,500,000	+1,500,000	+500,000	−500,000
Subtotal, public health	14,620,000	8,000,000	16,000,000	17,000,000	16,500,000	+1,880,000	+8,500,000	+500,000	−500,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH RESOURCES ADMINISTRATION—Con.									
Health teaching facility interest subsidies		$2,000,000	$2,000,000	$2,000,000	$2,000,000	+$2,000,000			
Program support	$22,577,000	23,020,000	23,020,000	23,020,000	23,020,000	+443,000			
Subtotal, health manpower	555,023,000	330,720,000	521,620,000	551,620,000	546,620,000	−7,403,000	+$216,900,000	+$26,000,000	−$4,000,000
Program management	10,947,000	11,755,000	11,755,000	11,755,000	11,755,000	+808,000			
Subtotal, health resources	776,374,000	544,619,000	754,119,000	793,091,000	786,869,000	+10,495,000	+242,250,000	+32,750,000	−6,222,000
Payments of sales insufficiencies	4,000,000	2,592,000	2,592,000	2,592,000	2,592,000	−1,408,000			
Medical facilities guarantee and loan fund	31,000,000	41,000,000	41,000,000	41,000,000	41,000,000	+10,000,000			
Subtotal, Health Resources Administration	811,374,000	588,211,000	797,711,000	836,683,000	830,461,000	+19,087,000	+242,250,000	+32,750,000	−6,222,000
ASSISTANT SECRETARY FOR HEALTH									
Salaries and expenses	23,177,000	23,178,000	23,178,000	23,178,000	23,178,000	+1,000			
Health education and promotion	2,500,000	1,500,000	+1,500,000	+1,500,000	+1,500,000	−1,000,000			
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	56,948,000	56,948,000	56,948,000	+4,596,000			
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	11,387,000	+9,887,000			
Subtotal, Assistant Secretary for Health	77,029,000	91,513,000	91,513,000	94,013,000	93,013,000	+15,984,000	+1,500,000	+1,500,000	−1,000,000
Subtotal, health	5,664,206,000	5,534,548,000	6,030,399,500	6,443,033,000	6,244,305,000	+580,099,000	+709,757,000	+213,905,500	−198,728,000
EDUCATION DIVISION									
Office of Education									
ELEMENTARY AND SECONDARY EDUCATION									
Grants for disadvantaged children (title I)	2,285,000,000	2,635,000,000	2,735,000,000	2,735,000,000	2,735,000,000	+450,000,000	+100,000,000		
Support and innovation grants	194,000,000	194,000,000	194,000,000	201,000,000	197,500,000	+3,500,000	+3,500,000	+3,500,000	−3,500,000
Bilingual education:									
Grants to school districts	74,300,000	81,000,000	81,000,000	81,000,000	81,000,000	+6,700,000			
Training grants	29,700,000	36,975,000	36,975,000	36,975,000	36,975,000	+7,275,000			
Materials	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000			
Grants to State agencies	3,900,000	4,375,000	4,375,000	4,375,000	4,375,000	+475,000			
Advisory council	100,000	150,000	150,000	150,000	150,000	+50,000			
Information clearinghouse	167,000	500,000	500,000	500,000	500,000	+333,000			
Model replication and studies		2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000			
Subtotal, bilingual education	115,167,000	135,000,000	135,000,000	135,000,000	135,000,000	+19,833,000			
Right to Read	26,000,000	26,000,000	27,000,000	27,000,000	27,000,000	+1,000,000	+1,000,000		
Follow Through	59,000,000	59,000,000	59,000,000	59,000,000	59,000,000				
Drug abuse education	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Environmental education	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000				
Educational broadcasting facilities	15,000,000	15,000,000	15,000,000	22,500,000	19,000,000	+4,000,000	+4,000,000	+4,000,000	−3,500,000
Ellender fellowships	750,000	750,000	750,000	750,000	750,000				
Ethnic heritage studies	2,300,000	2,300,000	2,300,000	2,300,000	2,300,000				
State equalization grants	10,500,000				−10,500,000				
Indochinese refugee assistance	18,500,000				−18,500,000				
Subtotal, elementary and secondary education	2,731,717,000	3,072,550,000	3,173,550,000	3,188,050,000	3,181,050,000	+449,333,000	+108,500,000	+7,500,000	−7,000,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS									
Maintenance and operations:									
Payments for A children	271,600,000	295,700,000	298,300,000	298,300,000	298,300,000	+27,600,000	+2,600,000		
Payments for B children	341,550,000		344,900,000	344,900,000	344,900,000	+3,350,000	+344,900,000		
Special provisions	15,350,000	16,600,000	16,600,000	16,600,000	16,600,000	+1,250,000			
Payments to other Federal agencies	52,500,000	57,700,000	57,700,000	57,700,000	57,700,000	+5,200,000			
Savings provisions	87,000,000		52,500,000	52,500,000	52,500,000	−34,500,000	+52,500,000		
Subtotal	768,000,000	370,000,000	770,000,000	770,000,000	770,000,000	+2,000,000	+400,000,000		
Construction	25,000,000	25,000,000	30,000,000	50,000,000	30,000,000	+5,000,000	+5,000,000		−20,000,000
Subtotal	793,000,000	395,000,000	800,000,000	820,000,000	800,000,00	+7,000,000	+405,000,000		20,000,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMERGENCY SCHOOL AID									
National competition projects:									
Bilingual education projects	$8,600,000	$8,600,000	$8,600,000	$8,600,000	$8,600,000	----------	----------	----------	----------
Educational television	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000	----------	----------	----------	----------
Special programs and projects	45,750,000	50,750,000	48,250,000	55,000,000	51,250,000	+$5,500,000	+$500,000	+$3,000,000	−$3,750,000
Evaluation	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	----------	----------	----------	----------
Magnet schools	7,500,000	5,000,000	7,500,000	30,000,000	20,000,000	+12,500,000	+15,000,000	+12,500,000	−10,000,000
State apportioned projects:									
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000	----------	----------	----------	----------
Grants to nonprofit organizations	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000	----------	----------	----------	----------
General grants to school districts	137,600,000	137,600,000	137,600,000	137,600,000	137,600,000	----------	----------	----------	----------
Subtotal, emergency school aid (direct)	257,500,000	260,000,000	260,000,000	289,250,000	275,500,000	+18,000,000	+15,500,000	+15,500,000	−13,750,000
Civil rights advisory services	34,700,000	34,700,000	34,700,000	34,700,000	34,700,000	----------	----------	----------	----------
Subtotal, emergency school aid	292,200,000	294,700,000	294,700,000	323,950,000	310,200,000	+18,000,000	+15,500,000	+15,500,000	−13,750,000
EDUCATION FOR THE HANDICAPPED									
Sate assistance:									
State grant program	315,000,000	365,000,000	465,000,000	485,000,000	465,000,000	+150,000,000	+100,000,000	----------	−20,000,000
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	----------	----------	----------	----------
Preschool incentive grants	12,500,000	12,500,000	12,500,000	15,000,000	15,000,000	+2,500,000	+2,500,000	+2,500,000	----------
Subtotal, State assistance	343,500,000	393,500,000	493,500,000	516,000,000	496,000,000	+152,500,000	+102,500,000	+2,500,000	−20,000,000
Special population programs:									
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	----------	----------	----------	----------
Specific learning disabilities	9,000,000	9,000,000	9,000,000	----------	----------	−9,000,000	−9,000,000	−9,000,000	----------
Early childhood projects	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	----------	----------	----------	----------
Subtotal, special population programs	36,000,000	36,000,000	36,000,000	27,000,000	27,000,000	−9,000,000	−9,000,000	−9,000,000	----------
Regional vocational, adult, and postsecondary programs	2,000,000	2,000,000	2,000,000	3,000,000	2,400,000	+400,000	+400,000	+400,000	−600,000
Innovation and development	11,000,000	11,000,000	11,000,000	20,000,000	20,000,000	+9,000,000	+9,000,000	+9,000,000	----------
Media and resource services:									
Media services and captioned films	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000	----------	----------	----------	----------
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000	9,750,000	----------	----------	----------	----------
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	----------	----------	----------	----------
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000	----------	----------	----------	----------
Special education manpower development	45,375,000	45,375,000	45,375,000	43,375,000	45,375,000	----------	----------	----------	----------
Special studies	1,735,000	2,300,000	2,300,000	2,300,000	2,300,000	+565,000	----------	----------	----------
Subtotal, education for the handicapped	469,360,000	519,925,000	619,925,000	643,425,000	622,825,000	+153,465,000	+102,900,000	+2,900,000	−20,600,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION									
Vocational education grants, academic year 1976–77	(451,246,000)	----------	----------	----------	----------	(−451,246,000)	----------	----------	----------
Vocational education (1977–78 academic year versus 1978–79 academic Year):									
Grants to States for vocational education:									
Basic vocation education program	412,719,000	393,719,000	430,266,000	430,266,000	430,266,000	+17,547,000	+36,547,000	----------	----------
Program improvement supportive services	103,180,000	98,430,000	107,567,000	107,567,000	107,567,000	+4,387,000	+9,137,000	----------	----------
Programs for students with special needs	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	----------	----------	----------	----------
Consumer and homemaking education	40,994,000	40,994,000	40,994,000	40,994,000	40,994,000	----------	----------	----------	----------
State advisory councils	5,066,000	5,066,000	5,066,000	5,066,000	5,066,000	----------	----------	----------	----------
Subtotal, staff grants	581,959,000	558,209,000	603,893,000	603,893,000	603,893,000	+21,934,000	+45,684,000	----------	----------
Programs of national significance	27,153,000	25,903,000	28,307,000	28,307,000	28,307,000	+1,154,000	+2,404,000	----------	----------
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	----------	----------	----------	----------
Subtotal, vocational education 1978–79	551,912,000	586,912,000	635,000,000	635,000,000	635,000,000	+23,088,000	+48,088,000	----------	----------
Adult education	90,750,000	80,500,000	90,750,000	90,750,000	90,750,000	----------	+10,650,000	----------	----------
Subtotal, occupational, vocational and adult education	1,153,908,000	667,412,000	725,750,000	75,750,000	725,7250,000	−428,558,000	+58,338,000	----------	----------

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HIGHER EDUCATION									
Student assistance:									
Basic educational opportunity grants	$1,903,900,000	$2,316,000,000	$2,300,000,000	$2,070,000,000	$2,160,000,000	+$256,100,000	−$156,000,000	−$100,000,000	+$90,000,000
Supplemental educational opportunity grants	250,093,000	240,093,000	270,093,000	270,093,000	270,093,000	+20,000,000	+30,000,000		
Work-study	390,000,000	390,000,000	420,000,000	450,000,000	435,000,000	+45,000,000	+45,000,000	+15,000,000	−15,000,000
Direct loans:									
Federal capital contributions	310,500,000		310,500,000	310,500,000	310,500,000		+310,500,000		
Loans to institutions	800,000		1,000,000			−800,000		−1,000,000	
Teacher cancellations	11,920,000	15,160,000	15,160,000	15,160,000	15,160,000	+3,240,000			
Incentive grants for State scholarships	60,000,000	44,000,000	63,750,000	63,750,000	63,750,000	+3,750,000	+19,750,000		
Subtotal, student assistance	2,927,213,000	3,005,253,000	3,380,503,000	3,179,503,000	3,254,503,000	+327,290,000	+249,250,000	−126,000,000	+75,000,000
Special programs for the disadvantaged	85,000,000	70,331,000	125,000,000	100,000,000	115,000,000	+30,000,000	+44,669,000	−10,000,000	+15,000,000
Educational information centers			5,000,000		2,000,000	+2,000,000	+2,000,000	−3,000,000	+2,000,000
Minorities in the professions		4,000,000	3,250,000		3,250,000	+3,250,000	−750,000		+3,250,000
Institutional assistance:									
Strengthening developing institutions	110,000,000	120,000,000	120,000,000	120,000,000	120,000,000	+10,000,000			
Language training and area studies	17,650,000	16,300,000	18,000,000	18,000,000	18,000,000	+350,000	+1,700,000		
University community services	14,125,000	12,125,000	18,000,000	18,000,000	18,000,000	+3,875,000	+5,875,000		
Aid to land-grant colleges	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000				
State postsecondary education commissions	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000				
Veterans cost of instruction	23,750,000	23,750,000	23,750,000	23,750,000	23,750,000				
Cooperative education	12,250,000	10,750,000	15,000,000	15,000,000	15,000,000	+2,750,000	+4,250,000		
Construction—Annual interest grants		4,000,000	4,000,000	4,000,000	4,000,000	+4,000,000			
Subtotal, Institutional assistance	192,775,000	201,925,000	213,750,000	213,750,000	213,750,000	+20,975,000	+11,825,000		
Personnel development:									
College teacher fellowships	100,000					−100,000			
Local training for disadvantaged (CLEO)	750,000		1,000,000	1,000,000	1,000,000	+250,000	+1,000,000		
Public service fellowships	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Mining fellowships	4,500,000	3,000,000	4,500,000	4,500,000	4,500,000		+1,500,000		
Law school clinical experience			1,000,000		1,000,000	+1,000,000	+1,000,000		+1,000,000
Subtotal, personnel development	9,350,000	7,000,000	10,500,000	9,500,000	10,500,000	+1,150,000	+3,500,000		+1,000,000
Wayne Morse Chair on Law and Politics				500,000	500,000	+500,000	+500,000	+500,000	
Subtotal, higher education	3,214,338,000	3,288,509,000	3,738,003,000	3,503,253,000	3,599,503,000	+385,165,000	+310,994,000	−138,500,000	+96,250,000
LIBRARY RESOURCES									
Public libraries	60,237,000	60,237,000	60,237,000	60,237,000	60,237,000				
School libraries and instructional resources	154,330,000	154,330,000	160,000,000	180,000,000	167,500,000	+13,170,000	+13,170,000	+7,500,000	−12,500,000
College library resources	9,975,000	9,975,000	9,975,000	9,975,000	9,975,000				
Research Libraries			3,000,000	7,000,000	5,000,000	+5,000,000	+5,000,000	+2,000,000	−2,000,000
Training and demonstration	3,000,000	1,500,000	3,000,000	3,000,000	3,000,000		+1,500,000		
Undergraduate instructional equipment	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000				
Guidance, counseling and testing	3,000,000		3,000,000			−3,000,000		−3,000,000	
Subtotal, library resources	238,042,000	233,542,000	246,712,000	267,712,000	253,212,000	+15,170,000	+19,670,000	+6,500,000	−14,500,000
SPECIAL PROJECTS AND TRAINING									
Special projects:									
Metric education projects	2,090,000	2,090,000	2,090,000	2,090,000	2,090,000				
Gifted and talented children	2,560,000	2,560,000	2,560,000	2,560,000	2,560,000				
Community shcools	3,553,000	3,553,000	3,553,000	3,553,000	3,553,000				
Career education	10,135,000	10,135,000	10,135,000	10,135,000	10,135,100				
Consumer education	3,135,000	3,135,000	3,135,000	5,000,000	4,068,000	+933,000	+933,000	+933,000	−932,000
Women's educational equity	7,270,000	8,085,000	8,085,000	8,085,000	8,085,000	+815,000			
Arts in education program	1,750,000	1,750,000	2,000,000	2,000,000	2,000,000	+250,000	+250,000		
Packaging and field testing	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Educational TV programing	7,000,000	7,000,000	5,000,000	5,0000,00	5,000,000	−2,000,000	−2,000,000		
Subtotal	47,493,000	48,308,000	46,558,000	48,423,000	47,491,000	−2,000	−817,000	+933,000	−932,000
Educational personnel training:									
Teacher centers		5,000,000	5,000,000	12,500,000	8,250,000	+8,250,000	+3,250,000	+3,250,000	−4,250,000
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000	37,500,000				
Planning and evaluation	7,085,000	7,200,000	7,085,000	7,085,000	7,085,000		−155,000		
General program dissemination	500,000	500,000				−500,000	−500,000		
Information clearinghouse	333,000	400,000	400,000	333,000	333,000		−67,000	−67,000	
Subtotal, special projects and training	92,911,000	98,908,000	96,543,000	105,841,000	100,659,000	+7,748,000	+1,751,000	+4,116,000	−5,182,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
SPECIAL PROJECTS AND TRAINING—Continued									
Guaranteed student loan program:									
Interest subsidies	$325,000,000	$121,781,000	$121,781,000	$121,781,000	$121,781,000	−$203,219,000			
Student loan insurance fund	32,312,000	133,943,000	133,943,000	133,943,000	133,943,000	+101,631,000			
Contingency borrowing authority (SLIF)		25,000,000	25,000,000	25,000,000	25,000,000	+25,000,000			
Subtotal, guaranteed student loan program	357,312,000	280,724,000	280,724,000	280,724,000	280,724,000	−76,588,000			
Higher education facilities loan and insurance fund	2,119,000	1,847,000	1,847,000	1,847,000	1,847,000	−272,000			
Educational activities overseas: Special foreign currency program	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Salaries and expenses:									
Advisory committees	2,281,000	2,041,000	2,261,000	2,261,000	2,261,000	−20,000	+$220,000		
Program administration	112,976,000	127,018,000	123,128,000	123,128,000	123,128,000	+10,152,000	−3,890,000		
Subtotal, salaries and expenses	115,257,000	129,059,000	125,389,000	125,389,000	125,389,000	+10,132,000	−3,670,000		
Subtotal, Office of Education	9,462,164,000	8,934,176,000	10,105,143,000	9,987,941,000	10,003,159,000	+540,995,000	+1,018,983,000	−$101,984,000	+$15,218,000
NATIONAL INSTITUTE OF EDUCATION									
Research and development	58,300,000	96,000,000	76,600,000	76,600,000	76,600,000	+18,300,000	−19,400,000		
Program administration	12,085,000	13,000,000	13,000,000	13,000,000	13,000,000	+915,000			
Subtotal, National Institute of Education	70,385,000	109,000,000	89,600,000	89,600,000	89,600,000	+19,215,000	−19,400,000		
ASSISTANT SECRETARY FOR EDUCATION									
Improvement of postsecondary education	11,500,000	14,500,000	12,500,000	11,500,000	12,000,000	+500,000	−2,500,000	−500,000	+500,000
Salaries and expenses	9,062,000	10,159,000	9,939,000	9,939,000	9,939,000	+877,000	−220,000		
National Center for Educational Statisics	13,120,000	15,940,000	14,940,000	13,120,000	13,940,000	+820,000	−2,000,000	−1,000,000	+820,000
Subtotal, Assistant Secretary for Education	33,682,000	40,599,000	37,379,000	34,559,000	35,879,000	+2,197,000	−4,720,000	−1,500,000	+1,320,000
Subtotal, Education Division	9,566,231,000	9,133,775,000	10,232,122,000	10,112,100,000	10,128,638,000	+562,407,000	+994,863,000	−103,484,000	+16,538,000
SOCIAL AND REHABILITATION SERVICE									
Public assistance:									
Maintenance assistance	6,306,430,000	6,605,800,000	6,585,800,000	6,300,000,000	6,300,000,000	−6,430,000	−305,800,000	−285,800,000	
Medical assistance	10,229,318,000	11,816,000,000	11,464,400,000	10,750,000,000	10,750,000,000	+520,682,000	−1,066,000,000	−714,400,000	
Social services	2,576,589,000	2,401,300,000	2,401,300,000	2,401,300,000	2,401,300,000	−175,289,000			
State and local training	79,860,000	75,000,000	75,000,000	75,000,000	75,000,000	−4,860,000			
Child welfare services	56,500,000	56,500,000	56,500,000	56,500,000	56,500,000				
Research	9,200,000	9,200,000	9,200,000	9,200,000	9,200,000				
Training projects	8,150,000		8,150,000	10,000,000	8,150,000		+8,150,000		−1,850,000
Subtotal	19,266,047,000	20,963,800,000	20,600,350,000	19,602,000,000	19,600,150,000	+334,103,000	−1,363,650,000	−1,000,200,000	−1,850,000
Work incentives:									
Grants to States	356,995,000	351,995,000	351,995,000	351,995,000	351,995,000	−5,000,000			
Program direction	13,005,000	13,005,000	13,005,000	13,005,000	13,005,000				
Subtotal	370,000,000	365,000,000	365,000,000	365,000,000	365,000,000	−5,000,000			
Cuban refugee program	82,000,000	67,700,000	67,700,000	76,200,000	71,950,000	−10,050,000	+4,250,000	+4,250,000	−4,250,000
Special assistance to refugees Cambodia, Vietnam, and Laos in the United States	50,000,000					−50,000,000			
Program administration	65,751,000	74,535,000	73,000,000	73,000,000	73,000,000	+7,249,000	−1,535,000		
Subtotal	19,833,798,000	21,471,035,000	21,106,050,000	20,116,200,000	20,110,100,000	+276,302,000	−1,360,935,000	−995,950,000	−6,100,000
SOCIAL SECURITY ADMINISTRATION									
Federal Funds									
Payments to the social security trust fund:									
Federal payments for supplementary medical insurance	5,053,000,000	6,383,000,000	6,383,000,000	6,383,000,000	6,383,000,000	+1,330,000,000			
Hospital insurance for the uninsured	803,000,000	687,941,000	687,941,000	687,941,000	687,941,000	−115,059,000			
Military service credits	622,000,000	656,000,000	656,000,000	656,000,000	656,000,000	+34,000,000			
Special payments for certain uninsured persons	235,902,000	228,203,000	228,203,000	228,203,000	628,203,000	−7,699,000			

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
SOCIAL SECURITY ADMINISTRATION—Continued									
Subtotal, payments to social security trust fund	$6,713,902,000	$7,955,144,000	$7,955,144,000	$7,955,144,000	$7,955,144,000	+$1,241,242,000			
(Subtotal, health function 550)	(5,997,000,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(+1,216,941,000)			
Subtotal, income maintenance function 600)	(716,902,000)	(741,203,000)	(741,203,000)	(741,203,000)	(741,203,000)	(+24,301,000)			
Special benefits for disabled coal miners:									
Benefit payments	947,865,000	958,000,000	958,000,000	958,000,000	958,000,000	+10,135,000			
Administration	14,100,000	9,623,000	9,623,000	9,623,000	9,623,000	−4,477,000			
Subtotal, special benefits	961,965,000	967,623,000	967,623,000	967,623,000	967,623,000	+5,658,000			
Supplemental security income program:									
Benefit payments	5,230,000,000	5,000,000,000	5,000,000,000	4,500,000,000	4,500,000,000	−730,000,000	−$500,000,000	−$500,000,000	
State supplementation payments	55,000,000	45,000,000	45,000,000	45,000,000	45,000,000	−10,000,000			
Vocational rehabilitation services	52,770,000	75,180,000	75,180,000	75,180,000	75,180,000	+22,410,000			
Administration	500,352,000	542,958,000	542,958,000	542,958,000	542,958,000	+42,606,000			
Federal fiscal liability	57,000,000	86,862,000	86,862,000	86,862,000	86,862,000	+29,862,000			
Subtotal	5,895,122,000	5,750,000,000	5,750,000,000	5,250,000,000	5,250,000,000	−645,122,000	−500,000,000	−500,000,000	
Limitation on salaries and expenses	(2,597,655,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(+88,296,000)			
Limitations on construction	(14,400,000)	(14,600,000)	(14,600,000)	(14,600,000)	(14,600,000)	(+200,000)			
Subtotal, Social Security Administration	16,183,044,000	17,373,318,000	17,373,318,000	16,873,318,000	16,873,318,000	+690,274,000	−500,000,000	−500,000,000	
Federal funds	13,570,989,000	14,672,767,000	14,672,767,000	14,172,767,000	14,172,767,000	+601,778,000	−500,000,000	−500,000,000	
Trust fund limitation	(2,612,055,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(+88,496,000)			
SPECIAL INSTITUTIONS									
American Printing House for the Blind	3,012,000	3,498,000	3,498,000	3,498,000	3,498,000	+486,000			
National Technical Institute for the Deaf: Academic program	12,675,000	14,630,000	14,630,000	14,630,000	14,630,000	+1,955,000			
Gallaudet College:									
Academic program	15,610,000	17,510,000	17,510,000	17,510,000	17,510,000	+1,900,000			
Model Secondary School for the Deaf	7,343,000	8,343,000	8,343,000	8,343,000	8,343,000	+1,000,000			
Kendall Demonstration Elementary School	3,270,000	3,907,000	3,907,000	3,907,000	3,907,900	+637,000			
Construction	15,575,000	16,216,000	16,216,000	16,216,000	16,216,000	+641,000			
Subtotal, Gallaudet College	41,798,000	45,976,900	45,976,000	45,976,000	45,976,000	+4,178,000			
Howard University:									
Academic program	63,487,900	73,087,000	73,087,000	73,087,900	73,087,000	+9,600,000			
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000				
Construction	2,500,000	3,925,000	3,925,000	3,925,000	3,925,000	+1,425,000			
Subtotal, Howard University	88,093,000	99,118,000	99,118,000	99,118,000	99,118,000	+11,025,000			
Subtotal, special institutions	145,578,000	163,222,000	163,222,000	163,222,000	163,222,000	+17,644,000			
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
Child development:									
Head Start	475,000,000	485,000,000	595,000,000	655,000,000	625,000,000	+150,000,000	+140,000,000	+30,000,000	−$30,000,000
Research, demonstration, and evaluation	14,700,000	16,700,000	14,700,000	14,700,000	14,700,000		−2,000,000		
Child abuse	18,928,000	18,928,000	18,928,000	18,928,000	18,928,000				
Subtotal, child development	508,628,000	520,628,000	628,628,000	688,628,000	658,628,000	+150,000,000	+138,000,000	+30,000,000	−30,000,000
Youth development	9,000,000	9,000,000	9,000,000	16,000,000	12,000,000	+3,000,000	+3,000,000	+3,000,000	−4,000,000
Aging programs:									
Community services (title III):									
State agency activities	17,000,000	17,000,000	18,000,000	20,000,000	19,000,000	+2,000,000	+2,000,000	+1,000,000	−1,000,000
Area planning and social services	122,000,000	122,000,000	153,000,000	153,000,000	153,000,000	+31,000,000	+31,000,000		
Model projects	14,700,000	12,000,000	15,000,000	15,000,000	15,000,000	+300,000	+3,000,000		
Subtotal, community services	153,700,000	151,000,000	186,000,000	188,000,000	187,000,000	+33,300,000	+36,000,000	+1,000,000	−1,000,000
Nutrition (title VII)	203,525,000	225,000,000	250,000,000	250,000,000	250,000,000	+46,475,000	+25,000,000		

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senatebill
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT—Continued									
Research, demonstration, and manpower (title IV):									
Research	$8,500,000	$7,000,000	$8,500,000	$8,500,000	$8,500,000		+$1,500,000		
Training	14,200,000	14,200,000	16,000,000	18,000,000	17,000,000	+$2,800,000	+2,800,000	+$1,000,000	−$1,000,000
Multidisplinary centers on gerontology	3,800,000	3,800,000	3,800,000	3,800,000	3,800,000				
Subtotal, research, development, and manpower	26,500,000	25,000,000	28,300,000	30,300,000	29,300,000	+2,800,000	+4,300,000	+1,000,000	−1,000,000
Federal Council on Aging	575,000	450,000	450,000	450,000	450,000	−125,000			
Multipurpose Senior Center (title V)	20,000,000	20,000,000	40,000,000	30,000,000	40,000,000	+20,000,000	+20,000,000		+10,000,000
National clearinghouse		2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000			
Subtotal, Aging programs	404,300,000	423,450,000	506,750,000	500,750,000	508,750,000	+104,450,000	+85,300,000	+2,000,000	+8,000,000
Rehabilitation Service and Facilities:									
Basic State grants	740,309,000	760,472,050	760,472,050	760,472,000	760,472,000	+20,163,000	−50	−50	
Service projects:									
Innovation and expansion	18,000,000	18,000,000	18,000,000	18,000,000	18,000,000				
Deaf-blind Center	2,100,000	2,500,000	2,500,000	2,500,000	2,500,000	+400,000			
Special projects	17,150,000	14,327,950	19,328,000	17,028,000	19,828,000	+2,678,000	+5,500,050	+500,000	+2,800,000
Training and facilities grants:									
Training services	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Facility improvements	2,400,000	2,400,000	2,400,000	2,400,000	2,400,000				
Subtotal, service projects	44,650,000	42,227,950	47,228,000	44,928,000	47,728,000	+3,078,000	+5,500,050	+500,000	+2,800,000
Research	29,000,000	29,000,000	30,000,000	33,000,000	31,500,000	+2,500,000	+2,500,000	+1,500,000	−1,500,000
Training	30,500,000	20,000,000	30,500,000	30,500,000	30,500,000		+10,500,000		
Subtotal	844,459,000	851,700,000	868,200,050	868,900,000	870,200,000	+25,741,000	+18,500,000	+1,999,950	+1,300,000
Grants for the developmentally disabled:									
State grants	33,058,000	33,058,000	33,058,000	33,058,000	33,058,000				
Service grants	19,617,000	19,567,000	19,567,000	19,567,000	19,567,000	−50,000			
University affiliated facilities	5,250,000	5,500,000	6,500,000	7,500,000	6,500,000	+1,250,000	+1,000,000		−1,000,000
Subtotal	57,925,000	58,125,000	59,125,000	60,125,000	59,125,000	+1,200,000	+1,000,000		−1,000,000
Special programs for native Americans	33,000,000	33,000,000	33,000,000	33,000,000	33,000,000				
White House Conference on Handicapped Individuals	1,436,000					−1,436,000			
White House Conference on Families		3,000,000		3,000,000	3,000,000	+3,000,000		+3,000,000	
Salaries and expenses	49,449,000	51,875,000	51,875,000	51,875,000	51,875,000	+2,426,000			
Less: Trust fund transfer	−600,000	−600,000	−600,000	−600,000	−600,000				
Subtota., human development	1,907,597,000	1,950,178,000	2,155,978,050	2,221,678,000	2,195,978,000	+288,381,000	+245,800,000	+39,999,950	−25,700,000
DEPARTMENTAL MANAGEMENT									
Office for Civil Rights	29,770,000	36,061,000	33,821,000	33,821,000	33,821,000	+4,051,000	−2,240,000		
Less: Trust fund transfer	−919,000	−514,000	−514,000	−514,000	−514,000	+405,000			
Subtotal, Office of Civil Rights, Federal funds	28,851,000	35,547,000	33,307,000	33,307,000	33,307,000	+4,456,000	−2,240,000		
General department management:									
Department direction	45,026,000	51,810,000	49,260,000	49,260,000	49,260,000	+4,234,000	−2,550,000		
Department operations	38,703,000	42,646,000	42,196,000	42,196,000	42,196,000	+3,493,000	−450,000		
Less: Trust fund transfer	−9,443,000	−9,579,000	−9,579,000	−9,579,000	−9,579,000	−136,000			
Subtotal, general department management	74,286,000	84,877,000	81,877,000	81,877,000	81,877,000	+7,591,000	−3,000,000		
Office of the Inspector General	27,453,000	29,633,000	29,633,000	29,633,000	29,633,000	+2,180,000			
Less: Trust fund transfer	−3,905,000	−4,290,000	−4,290,000	−4,290,000	−4,290,000	−385,000			
Subtotal, Inspector General, Federal funds	23,548,000	25,343,000	25,343,000	25,343,000	25,343,000	+1,795,000			
Policy research	20,000,000	22,400,000	40,000,000	22,400,000	30,000,000	+10,000,000	+7,600,000	−10,000,000	+7,600,000
Subtotal, departmental management	146,685,000	168,167,000	180,527,000	162,927,000	170,527,000	+23,842,000	+2,360,000	−10,000,000	+7,300,000
Total, Health, Education, and Welfare	53,502,127,000	55,844,160,000	57,291,533,550	56,142,395,000	55,936,005,000	+2,433,878,000	+91,845,000	−1,355,528,550	−206,390,000
Federal funds	50,835,084,000	53,093,692,000	54,541,065,550	53,391,927,000	53,185,537,000	+2,350,453,000	+91,845,000	−1,355,528,550	−206,390,000
Trust funds	(2,667,043,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(+83,425,000)			

DEPARTMENTS OF LABOR, HEALTH, EDUCATION AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE III—RELATED AGENCIES

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
ACTION (Domestic Programs):									
Volunteers in Service to America (VISTA)	$23,000,000	$25,350,000	$25,350,000	$26,750,000	$25,350,000	+$2,350,000	.....	.....	−$1,400,000
Service learning programs	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	.....	.....	.....	.....
Older Americans volunteer programs:									
Foster Grandparents program	34,000,000	34,900,000	34,900,000	34,900,000	34,900,000	+900,000	.....	.....	.....
Senior Companion Program	3,800,000	6,600,000	7,000,000	7,000,000	7,000,000	+3,200,000	+$400,000	.....	.....
Retired Senior Volunteer Program	19,000,000	20,100,000	20,100,000	20,100,000	20,100,000	+1,100,000	.....	.....	.....
Subtotal, older volunteers	56,800,000	61,600,000	62,000,000	62,000,000	62,000,000	+5,200,000	+400,000	.....	.....
Special volunteer programs	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	.....	.....	.....	.....
Program support	21,310,000	21,910,000	21,910,000	21,910,000	21,910,000	+600,000	.....	.....	.....
Subtotal, ACTION	109,110,000	116,860,000	117,260,000	118,660,000	117,260,000	+8,150,000	+400,000	.....	−1,400,000
Community Services Administration:									
Research and demonstration	5,000,000	.....	6,000,000	6,000,000	6,000,000	+1,000,000	+6,000,000	.....	.....
Community Action operations:									
Local initiative	330,000,000	330,000,000	363,000,000	375,000,000	369,000,000	+39,000,000	+39,000,000	+$6,000,000	−6,000,000
Senior opportunities and service	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	.....	.....	.....	.....
State economic opportunity offices	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	.....	.....	.....	.....
Community food and nutrition	27,500,000	27,500,000	27,500,000	35,000,000	30,000,000	+2,500,000	+2,500,000	+2,500,000	−5,000,000
Emergency energy conservation services	110,000,000	.....	45,000,000	65,000,000	65,000,000	−45,000,000	+65,000,000	+20,000,000	.....
Crisis intervention program (energy)	200,000,000	.....	.....	.....	.....	−200,000,000	.....	.....	.....
National youth sports program	6,000,000	.....	6,000,000	6,000,000	6,000,000	.....	+6,000,000	.....	.....
Summer youth recreation and transportation	17,000,000	.....	17,000,000	17,000,000	17,000,000	.....	+17,000,000	.....	.....
Training and technical assistance	.....	1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000	.....	.....	.....
Migrant program	1,000,000	.....	1,000,000	1,000,000	1,000,000	.....	+1,000,000	.....	.....
Subtotal, Community Action	713,500,000	380,500,000	482,500,000	522,000,000	511,000,000	−202,500,000	+130,500,000	+28,500,000	−11,000,000
Community economic development	48,170,000	30,000,000	48,170,000	48,170,000	48,170,000	.....	+18,170,000	.....	.....
Evaluation	.....	1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000	.....	.....	.....
Program administration	27,883,000	31,000,000	30,183,000	30,183,000	30,183,000	+2,300,000	−817,000	.....	.....
Subtotal, Community Services Administration	794,553,000	442,500,000	567,853,000	607,353,000	596,353,000	−198,200,000	+153,853,000	+28,500,000	−11,000,000
Corporation for Public Broadcasting	103,000,000	.....	.....	.....	.....	−103,000,000	.....	.....	.....
Advance 1978	107,150,000	.....	.....	.....	.....	−107,150,000	.....	.....	.....
Advance 1979	120,200,000	.....	.....	.....	.....	−120,200,000	.....	.....	.....
Advance 1980	.....	120,200,000	145,000,000	155,000,000	152,000,000	+152,000,000	+31,800,000	+7,000,000	−3,000,000
Subtotal, Corporation for Public Broadcasting	330,350,000	120,200,000	145,000,000	155,000,000	152,000,000	[1] −178,350,000	+31,800,000	+7,000,000	−3,000,000
Federal Mediation and Conciliation Service	21,177,000	21,932,000	21,932,000	21,932,000	21,932,000	+755,000	.....	.....	.....
National Commission on Libraries and Information Science	4,007,575	563,000	563,000	563,000	563,000	−3,444,575	.....	.....	.....
National Labor Relations Board	80,908,000	88,520,000	88,520,000	88,520,000	88,520,000	+7,612,000	.....	.....	.....
National Mediation Board	3,660,000	3,703,000	3,703,000	3,703,000	3,703,000	+43,000	.....	.....	.....
Occupational Safety and Health Review Commission	6,607,000	7,150,000	7,150,000	7,150,000	7,150,000	+543,000	.....	.....	.....
Railroad Retirement Board:									
Payment to railroad retirement trust fund	250,000,000	250,000,000	250,000,000	250,000,000	250,000,000	.....	.....	.....	.....
Regional rail transportation protective account	65,000,000	50,000,000	50,000,000	50,000,000	50,000,000	−15,000,000	.....	.....	.....
Limitation on salaries and expenses	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)	.....	.....	.....
Soldier's and Airmen's Home (trust fund appropriation):									
Operation and maintenance	16,099,000	16,356,000	16,356,000	16,356,000	16,356,000	+257,000	.....	.....	.....
Subtotal, related agencies	1,715,194,575	1,151,066,000	1,301,619,000	1,352,519,000	1,337,119,000	−378,075,575	+186,053,000	+35,500,000	−15,400,000
Federal funds	1,681,471,575	1,117,784,000	1,268,337,000	1,319,237,000	1,303,837,000	−377,634,575	+186,053,000	+35,500,000	−15,400,000
Trust funds	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)	.....	.....	.....
Final total, Labor-HEW	76,320,630,575	64,925,861,000	65,682,300,550	65,012,337,000	64,516,772,000	−11,803,858,575	−409,089,000	−1,165,528,550	−495,565,000
Federal funds	72,173,358,575	60,593,970,000	61,334,089,550	60,644,126,000	60,168,561,000	−12,004,797,575	−425,409,000	−1,165,528,550	−475,565,000
Limitation on trust fund transfers	(4,147,272,000)	(4,331,891,000)	(4,348,211,000)	(4,368,211,000)	(4,348,211,000)	(+200,939,000)	(+16,320,000)	.....	(−20,000,000)

[1] This is a 3 year advanced appropriation. The fiscal year 1977 amount was the first year under the advanced system and includes funds for 1977, 1978 and 1979. The fiscal year 1978 appropriation includes funds for 1980 only.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must say in all candor that this is one of the most misleading, if not phony, conference reports we have brought back from an appropriations conference with the Senate in some time so far as total figures are concerned.

The Labor-HEW bill as originally passed in the House was misleading to begin with because of some phony reductions that were cranked into the totals, and the conference report multiplies this deception severalfold.

On the surface, the conference report appears to be $425 million under the Carter budget. In reality, when you strip away postponed funding for youth training and some arbitrary reductions and bookkeeping manipulation in the public assistance field, the report is actually a substantial $2.3 billion over the President's budget. In other words, in the discretionary areas, we are really building that much additional spending into the budget—increases that will multiply in the years ahead and make it that much more difficult for the President to fulfill his promise to balance the budget by 1981. The President of course still has the option to veto the bill, as he suggested he might have to do at one time, but I doubt that he has the stomach for that now.

Just as the comparison of the conference report with the budget is deceiving so is the comparison with the House bill The report, instead of being $1,165,000,000 under the House bill, is actually $335 million over when you eliminate the items I mentioned earlier.

Now, looking specifically at the public assistance manipulation, what we had was a Senate bill that provided for a carryover of $500 million in public assistance funds and $500 million in SSI funds from 1977 to 1978, and a reduction of $500 million in actual allocations for 1978 due supposedly to lower cost estimates. The House conferees readily gave in to the Senate on these items, and it takes little imagination to discern the reasons why.

I do not have any great problem with the carryover of funds per se from one year to the next, although this goes against accepted budgeting procedures. The concern I do have is that this was done for the specific purpose of misleading Congress and the public as to the true size of this bill. When a billion dollars is carried over, it makes it look as though we are spending a billion less than we really are. And of course it makes it very difficult for the President to make a case against the high spending levels in the bill when bookkeeping manipulation results in a bill that on the surface appears to actually be under the President's budget.

Frankly, it seems to me that we ought to have greater respect for the intelligence of the general public than to try to deceive them in a manner such as this. Those Members who want to exceed the President's budget by $2.3 billion owe it to the public to do it openly rather than hide behind the smokescreen of accounting manipulation.

Moving to the issue of revised public assistance estimates, this conference report provides $872 million less than what the budget included for public assistance, ostensibly because the latest estimates from the States indicate a lower rate of projected spending. In all honesty, these estimates this far in advance have not in the past proven very reliable indicators of actual spending. They almost always have been understated. Secretary Califano states that "our experience with State projections of public assistance costs 18 months in the future is that they normally are understated." This has been the case in 4 of the past 6 years for public assistance as a whole, and in 5 of the past 6 years for medicaid.

The result has been that in 24 of the last 27 years, we have had to appropriate supplemental funding for public assistance. Just 3 years ago, this body decided it knew better than the executive branch as to what the public assistance needs would be, and it slashed AFDC and medicaid by $600 million. Then, as now, the real purpose was to hide the excessive amount by which the bill exceeded the budget. What was the result? Well, my friends on the committee do not like to be reminded of it, but we ended up having to provide a nice large supplemental appropriation of $1.7 billion to make up for the shortfall.

I am not saying this is going to happen again this year, but I would not bet against it. History is a pretty good teacher, and when we ignore the lessons of history, it is usually at our peril.

In running down some of the other key items settled in conference, we added $98 million over the House amount for summer youth employment, bringing the total number of jobs funded to 1,165,000.

Under OSHA, both the Dole amendment, which provided for consultation after inspection, and the Rousselot amendment, which required economic impact analyses, were dropped. As a substitute for the Dole amendment, the conference report includes language directing the Secretary of Labor "to develop a detailed plan for providing mandatory consultation services to all small businesses in all States and territories," and to submit the plan by January 1 of next year.

The conferees, after a lengthy argument, accepted $50 million of the $130 million the Senate added for public health service hospitals. There is really no justification for accepting any of those increases at this time, since the Secretary currently has the overall role of these hospitals under study, but when a conferee has one of these hospitals in his State, as does the senior Senator from Washington, commonsense more often than not gives way to parochialism.

For NIH, the conference report includes $2,825,102,000, an increase of $82.7 million over the House level and only $71.4 million under the Senate. Normally we come out of conference with figures for NIH that are closer to the House than to the Senate, because the Senate always loads these items up with the expectation that they will be substantially reduced in conference. It is one of the games they play. This year, however, the majority of House conferees were in a more generous mood, perhaps due to the absence of any significant veto threat.

Of the $82 million increase over the House figure, the largest share, some $35 million, goes to the Cancer Institute, bringing the total for cancer up to $867 million.

The report includes $3,254,503,000 for the various student assistance programs under higher education. Of this, $2,160,000,000 is for basic educational opportunity grants, a decrease of $140 million below the House bill. The House had come in later with a higher figure, based on the original budget estimate, but a later estimate indicated the maximum grant could be increased to $1,600 with $230 million less in funding than originally thought. The Senate went with the lower figure, and the conferees then settled on an amount $90 million higher; $50 million of the increase is earmarked in the report to increase the offset under the family contribution schedule for farm and small business assets, and the other $40 million is intended to be used for increasing the offset for personal assets. Frankly, I think we have the cart before the horse in this regard. We ought to provide the increased funds after we see what specific assets changes are proposed, not before.

We have provided $115 million for the special programs for the disadvantaged, such as Upward Bound, $10 million below the excessively high House figure, but still $15 million over the Senate. For Headstart, $625 million is included, an increase of $30 million over the House and $150 million over the fiscal year 1977 level. The latter represents nearly a 33 percent rise in funding from one year to the next. Headstart is a good program, but I think an increase of this magnitude is a little excessive.

The report allocates $10 million for monthly restrospective income reporting studies, which will seek to determine the viability of an approach that has the potential of saving upwards of a billion dollars in welfare costs. We had included $20 million in the House bill, and while I think a better and more thorough job could have been done with that amount, the $10 million will at least enable a significant effort to be made.

Now, moving to the various language provisions, the conferees accepted the Senate language on busing, and dropped the House language pertaining to ratios and quotas. The Senate language on school civil rights surveys was dropped, but report language was included telling the Department not to conduct any large scale or random surveys during the coming school year, nor to repeat any questions asked during this past year. We are going to have to watch the Secretary of HEW pretty closely to make sure he adheres to this language, because evidence came out during our conference that he is a pretty slippery fellow, bouncing around on all sides of the various issues we were considering, depending on who he was talking to.

On abortion, as you know, no agreement was reached, so we will have an-

other vote here today, and the issue will then likely go back to conference.

I think a word or two is in order on what appears to be a growing practice of attaching legislative provisions to appropriations bills. I have never particularly encouraged this practice, because I believe it diverts attention from the dollar amounts included in these bills, which after all is the essential purpose of an appropriation bill. However, I think we have to recognize why this is occurring. It is taking place because of a lack of action by the responsible authorizing committees. If the authorizing committee are going to continue to ignore problems that are of concern to millions of people, then Members are going to use the most effective device available to them.

In many cases that device is the appropriation bill. Another element is the closed or limited rule under which too many bills in this body are considered. When we deny Members the opportunity to amend authorizing legislation, the appropriations bill is again resorted to as the only other available opportunity.

In closing, I simply want to reiterate that the conference report, despite its surface appearance, is actually well above the original House bill in total dollar terms, and that bill itself was well above the President's budget. I thus urge rejection of the report, and I would suggest to the President that if he is truly committed to responsible spending levels, a veto of the bill is in order. I call to the attention of the President the words of the chairman of our Budget Committee a few days ago, when he said that—

An administration committed to a balanced budget in 1981 cannot continue to talk restraint, yet fail to carry out that commitment during the legislative process. There is a very serious prospect that the administration's credibility will be severely weakened in this area.

I hope the President is listening, and I would suggest that the same also applies to Members of Congress.

Mr. Speaker, I yield such time as he may consume to my fellow cohort on the subcommittee, the gentleman from Massachusetts (Mr. CONTE).

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I rise in support of this conference report on the Labor-HEW appropriations bill for fiscal year 1978. The conference agreement provides for nearly $60.2 billion in new budget authority for the vital employment, health, education, and other human resource programs administered by these departments, an amount which is below both the House and Senate bills.

I might point out, however, that we have been able to come in below both bills and even below the budget request largely by reducing the appropriation for public assistance below the requested amount. Since this is an entitlement program, of course if we have miscalculated then it will be necessary to come up with additional funds in a supplemental. I hope that the economy will improve, and that this will not be necessary—but as the distinguished gentleman from Illinois has indicated, this may in some sense be regarded as a phony cut.

On balance, I believe that we have arrived at a good compromise with the Senate. We all worked hard on this bill, and I think that this bill's responsible approach to the human resource needs of our people is a tribute to the effort which has been expended by our chairman, the gentleman from Pennsylvania; our ranking minority member, the gentleman from Illinois; and the other members of the committee.

I would briefly mention some of the items which were in conference which were of special interest and importance to me.

We have provided $98 million for summer youth employment for the summer of 1978, an amount which will support nearly 1.2 million youth jobs. We have also provided $190 million for community service employment for older Americans. These funds, which deal with the particular employment needs of our youth and our elders, are indicative of our concern for these two vital parts of our population.

Under the Occupational Safety and Health Administration, OSHA, we have included report language expressing our concern and desire that adequate emphasis be given to consultation services with employers, particularly with respect to serious hazards This is particularly important for small businesses, which lack the resources to hire safety consultants and engineers, and which are desperately in need of such consultation services.

In the health area, we provided $4 million for genetic information and counseling, for a new program that is so badly needed in providing services for the victims of genetic diseases like Huntington's disease, sickle cell anemia, cystic fibrosis, and Tay-Sachs disease. We also provided additional funding for maternal and child health programs, family planning, and the emergency medical services program.

For the National Institutes of Health, we provided significant levels of funding to meet our commitment to exploring the frontiers of biomedical research. We provided $876.1 million for the National Cancer Institute, which is not as much as I had proposed but which will permit the maintenance of ongoing programs while permitting a few very promising new areas to be explored.

For the Arthritis Institute, we provided $258.5 million, $21 million above the House-passed bill for research into arthritis, diabetes, and literally dozens of other diseases which fall under the jurisdiction of this umbrella Institute. In particular, I am hopeful that these additional funds will permit increased efforts in research on ileitis, colitis, and other digestive diseases which have often been overly subordinated to the so-called mandated diseases in the past. Other important areas which should receive increased attention include nutrition research and endocrine disorders.

For the National Institute of General Medical Sciences, we have provided $230.4 million These additional funds will help support this Institute's important responsibilities in overseeing recombinant DNA research, and will help fund such new projects as the development of carbon dioxide laser surgery technology.

For the National Institute on Aging, we split the difference and provided $37 million. This Institute has shown great promise in its initial years of operation, and we will all be looking forward to its research successes in future years.

Finally among the institutes of health, we were able to maintain the House position and provide the full $85 million for the National Eye Institute, which will go a long way toward finding cures for eye disease and vision disorders.

Under Health Resources, we provided $17 million for area health education centers. Of that amount, $14 million will be used to maintain existing center projects at last year's operating levels, and $3 million will be used for new projects. In this area, I was pleased that we were able to provide an additional $2 million, for a total of $12 million, for much-needed advanced nurse training.

Under Alcohol, Drug Abuse, and Mental Health, we provided an additional $3.6 million for new starts of community mental health centers, and an additional $3.7 million for alcoholism project grants and contracts. These funds will help alleviate two of the most serious health problems facing society today.

Under Higher Education, we provided $2.16 billion for the basic grants program, providing for a $1,600 maximum grant and for the extension of eligibility under the program.

For the Corporation for Public Broadcasting, we have provided $152 million. This provides a significant challenge to motivate non-Federal fund raising to come up with the matching share, and I am confident that the result can only be more effective public broadcasting facilities and programs.

Mr. Speaker, perhaps the most controversial part of this conference report is amendment No. 82, concerning Federal funds for abortion. I expect that we will be debating this amendment in more detail later this evening. At this point I would simply say that the House and Senate conferees were unable to reach an agreement on this amendment, and that we are proposing a return to the language which we enacted into law in the 1977 Labor-HEW appropriations bill. That language, which prohibits the use of Federal funds for abortions except where the life of the mother would be endangered if the fetus were carried to term, represents a genuine compromise between the House-passed language—allowing no exceptions to the prohibition—and the Senate-passed language—with considerably more exceptions.

Mr. Speaker, I will have more to say when we consider amendment 82 on this subject.

I believe that this conference report is a good compromise, and I urge its adoption.

Mr. MILLER of California. Mr. Speaker, the fiscal 1978 appropriations bill we are passing today, appropriates $250 million for title VII of the Older Americans Act. Title VII is the section within the

Older Americans Act that provides communal dining programs for senior citizens.

I am pleased to support the appropriation of these fiscal 1978 moneys for the elderly nutrition program. Since its inception in 1973, the program has been a huge success. Today more than 400,000 hot meals are served daily through the elderly nutrition program, to senior citizens. This program is particularly important to impoverished elderly Americans, many of whom depend on title VII daily as the sole source of their only hot, nutritional meal.

There are millions of elderly poor who are unable to participate in the elderly nutrition program simply because the program is underfunded and already overcrowded. This is why it is important that fiscal 1978 title VII appropriations be utilized to feed senior citizens as soon as these moneys are available.

I urge the Administration on Aging not to delay in allotting fiscal 1978 title VII appropriations to the States. State offices on aging should be quick in obligating these funds as soon as they are allotted. Local title VII projects should then use these funds immediately for the provision of hot meals to needy senior citizens.

In short, in appropriating $250 million for title VII in fiscal 1978, we intend that these moneys actually be expended in fiscal 1978—expended in a manner that delivers hot nutritious meals to as many needy senior citizens as possible. Fiscal funds should not remain unused for the better part of 1978 while elderly poor line up at local title VII projects only to be turned away because of inadequate funds. Instead these appropriations should go out to the local projects as early in the fiscal year as possible. Only then will the elderly nutrition program live up to its full potential to alleviate the plight of the many undernourished and malnourished senior citizens living in the United States today.

Mr. BIAGGI. Mr. Speaker, I rise in support of the conference report to H.R. 7555, making appropriations for the Departments of Health, Education, and Welfare for the fiscal year 1978. I am especially grateful that the Senate did join with the House in accepting my amendment barring the use of any funds from the Department of Labor from benefitting directly or indirectly illegal aliens.

This amendment takes on additional significance in light of the fact that the President on Thursday will present to the Congress his proposals for controlling the illegal alien problem. This very Congress has seized two important initiatives in one key problem created by illegal aliens—employment. Earlier this year my amendment to the Public Works Employment Act barred any of the estimated 600,000 jobs from going to illegal aliens. Today we are about to approve my amendment which would prohibit CETA funds, unemployment insurance and elderly employment funds from going to illegal aliens. We are continuing on the right track toward better protection of American workers.

Mr. CEDERBERG. Mr. Speaker, we are going to be voting here on a conference report which contains funds for Labor-HEW programs that have enjoyed political popularity down through the years, especially with certain interest groups and their representatives. So I am curious as to why these interest groups have not bombarded us with protests concerning the severe cutbacks in funding provided in this conference report, at least according to the comparisons shown on page 23 of the report.

Why are they not up in arms over the $12 billion cut below last year? Why have we not heard from them about this bill being $425 million below the President's budget, and $1.2 billion below the House bill?

I will tell you why. Because these are phony cuts, and we know it, and they know it. And if the President does not know it, somebody should tell him.

These interest groups know that when one-time funding items are removed from last year's totals, this bill is not $12 billion below fiscal 1977, it is $3 billion above last year.

They also know that when some fancy budget juggling is revealed, this bill is not below the budget, it is $2 billion over the President's request.

And they know the bill is $300 million over the House bill, not $1.2 billion under it.

I was a conferee on this bill, but I could not sign the report because of all this budget juggling. The conferees know full well that we will have to have a big supplemental bill sometime during fiscal 1978 just to take care of the phony cuts which are designed to convince the President to sign this bill.

The President may sign the bill, but I doubt that he will be convinced that it is below his budget when the education programs in the bill are almost a billion dollars over his budget, and health items are $700 million over his budget, and the related agencies are $186 million over his budget, and the summer youth jobs program is $168 million over his budget. If he is convinced, this Nation really is in trouble.

In regard to that so-called cut below last year, I want to point out that the fiscal 1977 Labor-HEW funding included nearly $15 billion in one-time items. That included over $9 billion for CETA public service jobs and training programs, much of which is actually going to be used in fiscal 1978. Is also included a $5 billion payment to the unemployment trust fund, $450 million in "doubling-up" funding to initiate forward funding of the vocational education grants, and that $200 million for the emergency fuel costs assistance program of the Community Services Administration. You remember that one; it was supposed to be for last winter's fuel bills, and now it has an August 31 deadline, and potential applicants are being told they can use the money for current or future fuel costs—including air-conditioning, I presume.

As I mentioned, this conference report is supposed to be $1.2 billion below the House bill. Do not expect much mail on that one. Setting aside the budget juggling, this report is $155 million over the House bill for Department of Labor items, $214 million over the House for health, and $35 million over the House for the related agencies.

So no one should feel guilty for voting for all of these so-called cuts this evening. All we are doing is postponing the funding of medicaid and public assistance entitlement payments until a later date, and carrying over a billion dollars in 1977 funds, which might otherwise have to be left unspent.

But it should at least be pointed out that the real increases in spending provided in this bill will provide the base for additional increases in next year's bill, and the next and the next. And before you know it, we will be in fiscal 1981, the year the President says he will have a balanced budget. There is a big difference between balancing a budget and juggling one, and this conference report is clearly in the latter category.

Memo to: Mr. Cederberg.
From: Jim Fairchild.
Re: FY 1978 Labor-HEW Conference Report Dollar Comparisons.

The conference totals indicate the bill is $12 billion below FY 1977, $425 million below the FY 1978 budget estimates, $1.2 billion below the House bill, and $476 million below the Senate bill. The following points should be noted in regard to those comparisons:

(a) $12 billion below FY 1977—

The FY 1977 total includes nearly $15 billion in one-time items, as follows: $9.3 billion for CETA Titles II and VI to be available through FY 1978; $5 billion for advances to the Unemployment Trust Fund; $451 million for "doubling up" to initiate forward funding of the Vocational Education grants program; $200 million for the emergency winterization program of the Community Services Administration.

Without these one-time items, the FY 1978 bill is $3 billion over FY 1977.

(b) $425 million below FY 1978 estimates—

Strictly budget juggling. Increases over the FY 1978 budget are as follows: Education Division, up $995 million over the budget; Health, up $710 million; Related Agencies, up $186 million; Labor's Summer Youth Jobs, up $168 million.

The "cut" below budget is obtained by a combination of re-estimates of need for Medicaid and Public Assistance, the carryover of $1 billion in FY 1977 funds for Security Supporting Income benefit payments and Public Assistance, and a denial of forward funding for CETA III programs. Committee reports clearly indicate that future funding will be considered for these items.

Without the budget juggling, the bill is $2 billion over the budget estimate.

(c) $1.2 billion below the House bill—

"Cut" is the net of the $1.5 billion reduction in the Conference bill due to re-estimate of need for Public Assistance ($500 million) and the carrying over of $1 billion in FY 1977 funds for Security Supporting Income benefit payments and Public Assistance; and the actual $300 million in increases in the Conference bill over the House bill as follows: Labor, up $155 million; Health, up $214 million; Related Agencies, up $35 million—Total increases: $404 million, partially offset by reductions of $103 million in the Education Division. (Mainly BOG's).

Without the phony cuts, the bill is $300 million over the House bill.

(d) $476 million below the Senate bill—

Reflects conference action on Senate bill increases. Major reductions are $200 million from the Summer Youth Employment program, and $200 million from various Health items. Education is up slightly ($16 million) over the Senate bill.

Summary of appropriations—Labor-HEW appropriations bill, fiscal year 1978, H.R. 7555

Appropriations fiscal year 1977	$72,173,358,575
President's budget request fiscal year 1978	60,593,970,000
House allowance fiscal year 1978	61,334,089,550
House compared to fiscal year 1977	−10,839,269,025
House compared to budget	+740,119,550
Senate allowance fiscal year 1978	60,644,126,000
Senate compared to fiscal year 1977	−11,529,232,575
Senate compared to House	−689,963,550
Senate compared to budget	+50,156,000
Conference allowance fiscal year 1978	60,168,561,000
Conference compared to fiscal year 1977	−12,004,797,575
Conference compared to budget	−425,409,000
Conference compared to House	−1,165,528,550
Conference compared to Senate	−475,565,000
Actual conference compared to fiscal year 1977	+2,947,000,000
Actual conference compared to budget	+2,059,000,000
Actual conference compared to House	+301,000,000
Actual conference compared to Senate	−476,000,000

Mr. FLOOD. Mr. Speaker, I have no further requests for time. I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 82, not voting 14 as follows:

[Rollcall No. 496]

YEAS—337

Abdnor	Benjamin	Burke, Calif.
Addabbo	Bevill	Burke, Fla.
Akaka	Biaggi	Burlison, Mo.
Alexander	Bingham	Burton, John
Allen	Blanchard	Burton, Phillip
Ambro	Blouin	Byron
Ammerman	Boggs	Caputo
Anderson, Calif.	Boland	Carney
	Bolling	Carr
Andrews, N.C.	Bonior	Carter
Andrews, N. Dak.	Bonker	Cavanaugh
	Bowen	Chappell
Annunzio	Brademas	Chisholm
Applegate	Breaux	Clausen, Don H.
Ashley	Breckinridge	
Aspin	Brinkley	Clay
AuCoin	Brodhead	Cleveland
Bafalis	Brooks	Cochran
Baldus	Broomfield	Cohen
Barnard	Brown, Calif.	Collins, Ill.
Baucus	Brown, Mich.	Conte
Beard, R.I.	Brown, Ohio	Conyers
Bedell	Broyhill	Corman
Beilenson	Buchanan	Cornell
Cornwell	Kastenmeier	Pursell
Cotter	Kazen	Quie
Coughlin	Keys	Quillen
D'Amours	Kildee	Rahall
Danielson	Koch	Railsback
Davis	Kostmayer	Rangel
de la Garza	Krebs	Regula
Delaney	Krueger	Reuss
Dellums	LaFalce	Richmond
Dicks	Le Fante	Rinaldo
Diggs	Lederer	Rodino
Dingell	Leggett	Roe
Dodd	Lehman	Rogers
Downey	Lent	Roncalio
Drinan	Levitas	Rooney
Duncan, Oreg.	Lloyd, Calif.	Rosenthal
Duncan, Tenn.	Lloyd, Tenn.	Rostenkowski
Early	Long, La.	Roybal
Eckhardt	Long, Md.	Ruppe
Edgar	Lott	Russo
Edwards, Ala.	Luken	Ryan
Edwards, Calif.	Lundine	Santini
Eilberg	McClory	Sarasin
Emery	McCloskey	Sawyer
Ertel	McCormack	Scheuer
Evans, Colo.	McDade	Schroeder
Evans, Del.	McEwen	Seiberling
Evans, Ga.	McFall	Sharp
Evans, Ind.	McHugh	Shipley
Fary	McKay	Sikes
Fascell	Madigan	Simon
Fenwick	Maguire	Sisk
Findley	Mahon	Skelton
Fish	Mann	Skubitz
Fisher	Markey	Slack
Fithian	Marks	Smith, Iowa
Flood	Marlenee	Smith, Nebr.
Florio	Martin	Solarz
Flowers	Mathis	Spellman
Foley	Mattox	St Germain
Ford, Mich.	Mazzoli	Staggers
Ford, Tenn.	Meeds	Stanton
Fountain	Metcalfe	Stark
Fowler	Meyner	Steed
Fraser	Mikulski	Steers
Frey	Mikva	Stokes
Fuqua	Miller, Calif.	Stratton
Gammage	Mineta	Studds
Gaydos	Minish	Thompson
Gephardt	Mitchell, Md.	Thone
Gibbons	Mitchell, N.Y.	Thornton
Gilman	Moakley	Traxler
Ginn	Moffett	Treible
Glickman	Mollohan	Tsongas
Gonzalez	Moore	Tucker
Goodling	Moorhead, Pa.	Udall
Gore	Moss	Ullman
Gudger	Mottl	Van Deerlin
Guyer	Murphy, Ill.	Vander Jagt
Hamilton	Murphy, N.Y.	Vanik
Hammer-schmidt	Murphy, Pa.	Vento
	Murtha	Volkmer
Hanley	Myers, John	Walgren
Hannaford	Myers, Michael	Walsh
Harkin	Natcher	Wampler
Harrington	Neal	Waxman
Harris	Nedzi	Weaver
Harsha	Nichols	Weiss
Hawkins	Nix	Whalen
Hefner	Nolan	White
Heftel	Nowak	Whitehurst
Hightower	O'Brien	Whitley
Hillis	Oakar	Whitten
Holland	Oberstar	Wilson, Bob
Hollenbeck	Obey	Wilson, C. H.
Holtzman	Ottinger	Wilson, Tex.
Horton	Panetta	Winn
Howard	Patten	Wirth
Hubbard	Patterson	Wolff
Huckaby	Pattison	Wright
Hughes	Pease	Wylie
Hyde	Pepper	Yates
Ireland	Perkins	Yatron
Jacobs	Pettis	Young, Alaska
Jeffords	Pickle	Young, Fla.
Jenkins	Pike	Young, Mo.
Jenrette	Pressler	Young, Tex.
Johnson, Calif.	Preyer	Zablocki
Jones, N.C.	Price	Zeferetti
Jordan	Pritchard	

NAYS—82

Archer	Coleman	Edwards, Okla.
Armstrong	Collins, Tex.	English
Ashbrook	Conable	Erlenborn
Badham	Corcoran	Flynt
Bauman	Crane	Forsythe
Beard, Tenn.	Cunningham	Frenzel
Bennett	Daniel, Dan	Goldwater
Burgener	Daniel, R. W.	Gradison
Burleson, Tex.	Derwinski	Grassley
Butler	Devine	Hagedorn
Cederberg	Dickinson	Hall
Clawson, Del	Dornan	Hansen
Holt	Miller, Ohio	Shuster
Ichord	Montgomery	Snyder
Johnson, Colo.	Moorhead, Calif.	Spence
Jones, Okla.		Stangeland
Kasten	Myers, Gary	Steiger
Kelly	Poage	Stockman
Kemp	Quayle	Stump
Ketchum	Risenhoover	Symms
Kindness	Roberts	Taylor
Lagomarsino	Robinson	Treen
Latta	Rousselot	Waggonner
Lujan	Rudd	Walker
McDonald	Runnels	Watkins
Marriott	Satterfield	Wiggins
Michel	Schulze	Wydler
Milford	Sebelius	

NOT VOTING—14

Anderson, Ill.	Flippo	McKinney
Badillo	Giaimo	Rhodes
Burke, Mass.	Heckler	Rose
Dent	Jones, Tenn.	Teague
Derrick	Leach	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Until further notice:

Mr. Dent with Mr. Anderson of Illinois.
Mr. Jones of Tennessee with Mr. Flippo.
Mr. Giaimo with Mr. McKinney.
Mr. Badillo with Mr. Rhodes.
Mr. Rose with Mrs. Heckler.
Mr. Derrick with Mr. Leach.

Mr. FINDLEY and Mr. MATHIS changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. GIBBONS). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 3, line 4, strike out: "$144,400,000" and insert: "$100,000,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$152,320,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 11, line 5, strike out: "leprosy:" and insert: "leprosy, and $60,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service hospitals and clinics:".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "leprosy, and $15,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service hospitals and clinics:".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 12, line 23, strike out; "$209,426,000" and insert: $210,255,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$211,505,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk wil report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 17, line 25, strike out: "$1,000,000 and insert: $1,750,000".

MOTION OFFERED BY MR. FLOOD

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$2,750,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 18, line 7, strike out: "of title VII" and insert: "and 801: *Provided,* That funds appropriated under this head in Public Law 94–303 for carrying out title IX of the Public Health Service Act shall be available for carrying out the purposes of section 314(b) of the Public Health Service Act under the same terms and conditions as contained in Public Law 94–303".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 18, line 14, insert:

"SEC. . Any payment made pursuant to the paragraph entitled "Health Resources" under chapter VII of the Act entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes", approved May 4, 1977 (Public Law 95–26), to the Tuskegee Institute, Tuskegee, Alabama, for construction assistance for its school of veterinary medicine may be made without regard to the requirements of section 722(a)(1) of the Public Health Service Act, relating to the Federal share of the grants authorized pursuant to section 720(a)(1) of that Act."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 45: Page 24, line 11, strike out: "$619,925,000" and insert: "$643,425,000, of which $3,000,000 shall be available until expended for carrying out the programs of section 625".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "$622,825,000, of which $2,400,000 shall be available until expended for carrying out the programs of section 625".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 26, line 17, after "year" insert ": *Provided further,* That such funds are appropriated notwithstanding the provisions of section 1208(a)(1) of the Higher Education Act: *Provided further,* That amounts appropriated under this head in Public Law 95–26 for supplemental educational opportunity grants shall remain available through September 30, 1978.".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 66: Page 29, line 23, strike out: "$20,600,350,000" and insert "$19,602,000,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$19,600,150,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 68: Page 30, line 17, after "year." insert: "The funds appropriated for carrying out titles IV, XIX, and XX of the Social Security Act for fiscal year 1977 shall remain available for obligation and expenditure during fiscal year 1978.".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 72: Page 34, line 4, strike out all after "That" down to and including "Treasury" in line 7, and insert: "funds appropriated for carrying out title XVI of the Social Security Act for fiscal year 1977 shall remain available for obligation and expenditure during fiscal year 1978.".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further,* That funds appropriated for carrying out title XVI of the Social Security Act for fiscal year 1977 shall remain available for obligation and expenditure during fiscal year 1978."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 37, line 4, after "1973;" insert: "$3,000,000, to remain available until expended, shall be for a White House Conference on Families;".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the State numbered 76 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 42, line 16, strike out "and which offers the courses of study pursued by such student," and insert: "except for a student requiring special education, to the school offering such special education,".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 80: Page 42, line 20, after "1964." insert: "For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing, or clustering. The prohibition described in this section does not include the establishment of magnet schools.".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 43, strike out lines 11 through 13, inclusive, and insert:

SEC. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

PREFERENTIAL MOTION OFFERED BY MR. STOKES

Mr. STOKES. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STOKES moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

Mr. BAUMAN. Mr. Speaker, I demand a division of the question.

The SPEAKER pro tempore. The gentleman from Maryland will be protected in his request for a division.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN, If the question is divided and the motion to recede is in fact adopted, will it then be the right of the gentleman from Pennsylvania (Mr. FLOOD), the chairman of the subcommittee, to offer a motion to concur with an amendment?

The SPEAKER pro tempore. If the House recedes, a motion to concur with an amendment would be a preferential motion.

Mr. BAUMAN. Then the gentleman from Pennsylvania (Mr. FLOOD) would be able to offer that?

The SPEAKER pro tempore. If the gentleman from Pennsylvania sought recognition, he could offer that.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, this is a very difficult parliamentary situation. I direct the special attention of the Members to this. Hear this.

I urge the Members to vote for the motion to recede. If the motion to recede is adopted, I shall immediately offer a preferential motion to concur in the Senate amendment with an amendment. My motion to concur with an amendment will insert the language which I have already offered, the language of the 1977 Appropriation Act, the so-called Conte language. This permits payment for abortions only where necessary to save the life of the mother.

This motion to recede must be adopted before I can offer my motion to concur with an amendment. That is the parliamentary situation.

So I urge the Members to vote "aye," to vote for the motion to recede.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MICHEL) is recognized.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

I take this time to say only that the chairman has very accurately described the parliamentary situation here.

Had the House conferees taken a position of giving nothing in that conference, we would be back here frankly on a motion in disagreement, to insist on the House position. There was a bit of movement on the part of the House conferees to really adjust to what last year's language was, and for that reason I will now yield 2 minutes to the gentleman from Illinois (Mr. HYDE), who is the author of the amendment that causes us to be here to discuss this particular subject.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Illinois for yielding.

I take this time only to say I fully support the motion of the gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL).

Now that the question is divided, the only question before us is whether or not we shall recede from the House position. I suggest and will support the motion to recede because it is the only way we can get to the amendment that originally was offered by me, namely the language that prohibits the use of any funds for abortions except to save the life of the mother. That therapeutic abortion exception ought to be in the amendment, and the way for us to do it is to recede and to adopt the motion the gentleman from Pennsylvania (Mr. FLOOD) will shortly offer.

So I urge my colleagues to join in the motion to recede.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, the language that is now going to be offered after the motion to recede is the identical language that the gentleman in the well was going to offer before the point of order was sustained when the bill was before the House?

Mr. HYDE. Yes, and it is the only language the Supreme Court has had before it.

Mr. KAZEN. I thank the gentleman.

I likewise will support it.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The motion was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. FLOOD moves that the House concur in the amendment of the Senate numbered 82 with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) is recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House and the Senate conferees, I repeat for the purpose of emphasis, had quite a conference, if I may say, and were unable to reach agreement on Senate amendment No. 82 which deals with this very controversial issue of abortion.

Section 209 of the House bill contains the following language, which was adopted in the House by a vote of 201 to 155:

None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

Now, the Senate conferees refused to agree to the House language. The House conferees refused to agree to the Senate language. The Senate conferees refused to offer any kind of compromise, although the House conferees were perfectly willing to agree to compromise language permitting abortions where necessary to save the mother's life.

The language which I now offer is identical to the language which was contained in the fiscal year 1977 Labor-HEW Appropriations Act. It was adopted last year by a vote of 256 to 114 in the House and 47 to 21 in the Senate. It is the law at the present moment. Further comments on the intent of this language were contained in last year's joint explanatory statement of the Committee of Conference.

Now, the language I am offering is also identical to the language in section 209 of the 1978 Labor-HEW Appropriations

bill as it was reported from the Committee on Appropriations on June 2 of this year. Unfortunately, a point of order against the language was sustained and the House did not have an opportunity to vote on this language which permits payments for abortions in cases where the life of the mother would be endangered if the fetus were carried to term; so I strongly urge that we vote for it now, because a large vote for it at this time will send a clear message to the other body. It would expedite the enactment of the $60-billion appropriations bill, which is very important to the welfare of the American people.

Mr. MICHEL. Mr. Speaker, I have a couple requests for time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of the motion of the gentleman from Pennsylvania, our chairman (Mr. FLOOD), to recede and concur with an amendment which inserts last year's language prohibiting the use of Federal funds for abortion except where the life of the mother would be endangered if the fetus were carried to term.

I had not intended to take such an active role on this issue. But last year, when the House and Senate were deadlocked for 2 weeks over their disagreement on this issue, it was my compromise language which finally broke the deadlock and was enacted into law. Since it is the same language which is being proposed here today, it seems appropriate for me to defend it at this time.

Mr. Speaker, when the medicaid program began providing reimbursement for abortions, there were a relatively small number of them being performed. But that number has grown, to the point where we are presently spending about $50 million a year in Federal funds for some 300,000 annual abortions. It may rightly be pointed out that $50 million in a $60 billion-plus bill is not terribly significant. But the important point to make is that 300,000 federally financed abortions a year represents a serious abuse of the medicaid program. It is apparent that a significant number of people are using abortion as a form of birth control at Federal expense, or as a matter of convenience.

When you read the medicaid statute, you do not find any mention of abortions. The provision of Federal financing for abortions arose not out of a conscious legislative policy decision, but out of an administrative interpretation of the medicaid act. In my opinion, the question of Federal funding for abortions should be dealt with legislatively. The medicaid authorization should specifically prohibit or provide for the coverage of abortions. But the authorizing committees have not acted. And out of frustration with their inaction, here we are with this language on an appropriations bill.

Mr. Speaker, as you know, the House conferees have met in conference with the Senate on two occasions in an effort to develop language that will be acceptable to both Houses concerning Federal funding of abortions. During our deliberations, the House conferees voted against several weakening amendments to this year's Hyde language, and finally voted in favor of the language known as the Conte amendment from last year's Labor-HEW bill. The language accepted by the House conferees by a vote of 9 to 3, and which is now before the House, reads as follows:

> Sec. 209. None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Despite this compromise on the part of the House conferees, in adding the life of the mother exception, the Senate conferees voted to reject this language. The House conferees then vote to reject the Senate or so-called Brooke amendment language by a vote of 10 to 1.

What is needed in the House is a firm reaffirmation of our determination to limit the expenditure of Federal funds for abortion. I urge my colleagues to approve the motion of the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I rise to oppose the FLOOD motion, and rise in support of my own motion. The only way my motion can get a vote is for us to defeat the Flood motion.

Mr. Speaker, the purpose of my motion is to have the House recede from its disagreement to the amendment of the Senate and concur in the Senate language. The language passed by the Senate would allow Federal funding to be utilized for abortions only in cases where the life of the mother would be endangered, in cases of rape or incest, or in cases of medical necessity. Although I am certainly not satisfied with the restrictiveness of the Senate language, I believe that this is a question of civil rights and a question of equal access under the law for poor women, I believe that acceptance of the Senate language is the least that the house can do. Under the Senate language we would be sticking to our job which is legislating and allowing the medical profession, that is, the physicians, to treat the individual medical conditions of their patients in accordance with their best medical judgment. For this legislative body to restrict the ability of doctors to treat their patients in terms of delivering what they may have decided is medically necessary in a given circumstance, is unprecedented, and sets a dangerous standard for the future delivery of necessary medical services to those who are underprivileged. It also constitutes an unconscionable intrusion into the privacy of the doctor-patient relationship.

Mr. Speaker, I have heard one argument that the term "medically necessary" is too broad. It is really the only realistic language. There are an extraordinary number of medical conditions that exist which would make a continued pregnancy inadvisable. I want to read from a July 18, 1977 letter from the American College of Obstetricians and Gynecologists from which I quote:

> The most astute medical minds could not possibly devise a predetermined list of conditions completely including each individual patient for whom a procedure is medically necessary and excluding all others. This is because each patient presents a combination of conditions, and degrees of severity, the total weight of which can only be determined by the physician who evaluates that individual patient.

How then can we in Congress justify making a political judgment about serious life and health situations for the women who just happen to be poor and dependent upon the assistance of the Government for decent medical care? It seems to me that we ought not to be playing doctor.

Mr. Speaker, for those who feel abortion should not be allowed to poor women, I also ask, would you force these women to continue pregnancies when they were carrying a diseased or seriously deformed fetus? What about those who are affected with sickle cell or Tay Sachs and other genetic diseases. What about the woman who has taken a drug like thalidomide? Studies now show that women who drink heavily or ingest drugs—such as heroin addicts—have a much higher incidence of giving birth to grossly deformed babies. What about the epidemic of teenage pregnancies which are high risk for the teenager as well as for the baby? Must they be carried to term?

Mr. Speaker, not even the Senate language cures the unconstitutionality of prescribing a different standard for the poor. There is no law restricting middle class or wealthy women to a standard of "medically necessary." It is ironic that those who would not allow poor women to obtain abortions because they felt it was necessary, would allow these same women to subject themselves to self-induced or illegal abortions and risk their life. Those who would not allow these poor women to obtain safe, legal abortions should realize that by HEW's own predications 292,000 women will seek illegal, back-alley abortions each year. Of this number 25,000 will suffer serious injury requiring hospitalization, some 250 of these women will die.

Mr. Speaker, I believe that if there must be a compromise, this is the only humane compromise that can be made, at least a doctor can perform an abortion where medical conditions warrant such a procedure. Several other medical professional organizations besides the American College of Obstetricians-Gynecologists have taken a position supportive of the Senate language, including the American Medical Association, the physicians forum, and the National House Staff Physicians Association. Since we are legislators and not doctors I would hope that we would reject the presumption that we can by adoption of the Conte amendment answer a question of great medical complexity. This is the wrong arena for the intrusion of legal and political pronouncements.

Mr. Speaker, and my distinguished colleagues, the Supreme Court in its majority opinion recently stated that poor

women have no obstacles placed before them in their efforts to obtain an abortion by a withdrawal of funding for nontherapeutic abortions and suggested that they can draw upon the resources of the private sector as before. It is because the poor have not had access to the medical services of the private sector that Congress in 1965 enacted the Medicaid Act. I would strongly urge my colleagues to vote today not on the question of your view on the morality of abortion, but to vote instead upon the right of the poor to obtain abortions when it is deemed medically advisable in the opinion of a physician. The Supreme Court clearly portended that it was the responsibility of Congress to deal with this question of Federal funding. For all those who assumed that the Court would take care of this issue for them and therefore supported the Hyde amendment, I would say to you that we have a responsibility to act in accordance with a sense of fair play in at least making sure that poor women seeking abortions for medical reasons will have the chance to have safe ones. I urge you to support my motion to recede and concur in the Senate language.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all of those present, including those in the gallery, that no demonstrations are allowed in the Chamber.

Mr. FLOOD. Mr. Speaker, I yield 5 minutes for the purpose of debate only to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am in a peculiar position because unlike so many people who seem to believe that they have access to perfect truth on this subject, I honestly do not know what language this amendment ought to contain. As I said on this floor previously, I am a Catholic.

I am opposed to abortion. I think that indiscriminate abortion brutalizes all of us and all of society.

I think that in the main the Government should not pay for abortions. But I do think that there are some extenuating circumstances which we ought to be adult enough to recognize, and I do not believe that the language proposed by the gentleman from Pennsylvania (Mr. FLOOD) goes far enough in that regard.

There are a couple of problems with this language. For instance, it makes no exception whatsoever in the case of rape or incest. It makes no exception in the case of life-shortening diseases, diseases such as renal disease, although we were willing to spell that out in the report last year.

That means, frankly, that if we adopt this language without the kind of clear exception we had or thought we had in the report last year, what we are really saying to a woman is this: "OK, we won't put you in the grave, but we don't mind if we put you in bed for the rest of your life or in a wheelchair for the rest of your life."

As a man, I am simply not willing to make that statement to a woman. I would much rather have a doctor make that choice rather than to have a medically uneducated politician like myself and all the rest of us, except for those Members in this Chamber who are doctors.

So what I am asking the Members to do is to oppose the language of the gentleman from Pennsylvania and the motion offered by the gentleman from Pennsylvania, because the report indicated last year, among other things, that we would make exceptions in the case of life-threatening diseases, such as renal disease, which does not take one's life immediately with pregnancy but threatens it in the long run and certainly shortens it.

We also said in the report last year that "it is not the intent of the conferees to prohibit medical procedures necessary for the termination of an ectopic pregnancy, nor is it the intent to exclude rape or incest, nor is it the intent of the conferees to prohibit the use of drugs or devices to prevent the implantation of the fertilized ovum"—the morning after pill. We also clarified what our intent was as to what could be taught in medical schools.

So, Mr. Speaker, I am simply asking the Members to vote down the motion offered by the gentleman from Pennsylvania so that I can offer an amendment which I have at the desk and which would read as follows:

SEC. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or in cases of rape or incest victims or in cases where the mother is afflicted by potentially life shortening diseases which will be aggravated if the fetus is carried to term. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum, medical procedures necessary for the termination of an ectopic pregnancy, or medical school research into the teaching of abortion procedures for therapeutic purposes.

Mr. Speaker, that is all this language attempts to do. I will admit this is a very imperfect way to include in the bill what was the essential thrust of the language in the report last year. I think, however, we have an obligation at least to be clear in what we do, and we will not be clear if we confine ourselves only to the language proposed by the gentleman from Pennsylvania.

Let me make one additional explanation. In addition to what I have stated this language will do, it would clarify, in light of what the Attorney General said yesterday in his opinion to the Secretary of HEW, that it is our intention in cases of rape or incest to allow an exception. That is essentially what this does. It would allow us to say what we said we meant last year, and it would make clear what our intention is in the case of rape or incest.

Mr. Speaker, I would predict that this is where the conferees will eventually wind up anyway.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, once again we are gathered on the threshold of a momentous decision affecting the right to life of the unborn.

Once again, just as on previous votes, I have no doubt that each of us is clear about how he or she will vote; but before we do vote there are some considerations that I feel ought to be brought to the attention of those who may yet be undecided.

Much has been said during this debate about the disadvantaged and about possible discrimination against the poor, in the funding of abortions. We ought to be very clear that where there is no basic human right there can be no discrimination. There is no basic human right to a federally financed abortion; therefore, to preclude the use of Federal funds for that purpose is not to deny the poor or any other class in society of a so-called right, since no such right exists.

The argument in favor of federally funded abortions completely misses the mark of the real discrimination against the poor in this country: inadequate health care for both parents and children, whether born or unborn. In fact, we could strike a very significant blow for progress and the cause of adequate health care for all Americans if today we would take the money we save by not funding abortions and commit it to programs that will realistically and effectively respond to the health needs of the poor.

Children from poor families have more chronic diseases and are four times more likely to be in poor health than those who are financially better off.

More than one-third of poor children between the ages of 1 and 4 are not protected against polio or measles.

Nearly two out of three or, to be precise, 58 percent of infants under 1 year of age in large central cities have not received DPT shots—the standard preventive care against diphtheria, tetanus and whooping cough.

According to the Children's Fund, the medicaid program for "early and periodic screening, diagnosis and treatment," whose purpose is to give poor children routine health care, is responding to less than a fraction of the number Congress intended it to serve. Only a quarter of the required screenings are actually being done; and of those medical and mental problems diagnosed in 1976 only 40 percent received the care they actually needed—a half million cases went untreated. Situations like this are intolerable.

The argument that poor people need Federal aid to abort their unborn will have a hollow ring until we have adequately provided Federal funds for a wide range of programs that will make it largely unnecessary for poor people or people in any economic class to even consider abortion as an option.

What we ought to do, if we are truly acting out of concern for the needs of poor people, is to take that $53 million spent in 1976 to finance abortions, and spend it instead on:

Liberalized adoption laws;

Adequate maternal and child health care;

Child care services;

Aid to unwed mothers;

Nutrition needs of the expectant mother and her unborn child;

Rape prevention and treatment centers;

Intensified research into birth defects; and

Programs to reduce poverty and eliminate its causes.

When we seriously commit ourselves to these kinds of programs that provide realistic alternatives to abortion, we will then truly be responding to the needs not only of the poor but of all Americans, and we will wisely be using Federal funds to provide for the health and social care of the born, rather than use these funds to deny life to the unborn.

I urge your support for the Hood amendment.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, this is a very difficult subject for me to talk about because it is a very emotional issue.

The only thing I can say in responding to some of the statements that have been made is to get very personal and talk as a woman.

I am the mother of two children, and I have lost two children, so I have had four children all told. I do not have children very well. Perhaps that is one of the reasons I ran for office.

After the birth of my last child I spent 10 days in intensive care. I am not sure whether any doctor would say to me, if I were pregnant again, that I would die; but I am also not sure that I want to put my family through trying to decide whether or not I live. I resent very much my Government's saying to me, if I am poor, that my family would have absolutely no alternative but to either attempt to find the money during a period of time that realistically is less than 5 weeks or that I should gamble and hope that I live through it.

I do not know if any Members have been in intensive care. It is not fun, and it is not a pleasant thing; but that is what we are sentencing women like me to do, unless some doctor wants to go out on a limb and say that it is absolutely certain a matter of life or death, period.

Furthermore, Mr. Speaker, I resent the fact that this government would say that to poor women and I feel very, very strongly about that. I think that when we look at the issue, we will find that we really ought to allow language including something about "medically necessary" in the amendment. If something such as a "medically necessary" provision were in there, it would cover someone like myself if I were unfortunate enough to have to be relying on medicare or medicaid.

With respect to rape or incest, if I had to ask for help because of alleged rape or incest, admittedly I would be sentenced to a form of family violence. Who could go home and say that she had been the victim of alleged incest or rape?

I urge Members to vote down the Flood language so we can consider a much more reasonable and sensible Government policy.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if we conclude this debate in a reasonable period of time, I just think that the record in no way should indicate our indifference, as Members of the House, to the gravity of the issue, the volatile, the emotional issue that is before us.

The point I am making is that the language before us is the very same language we had last year. Except for the new Members who are with us here, every Member has spoken out on this subject or extended his remarks. I do not think there is one of those Members who is going to be changed one bit by what is said here unless he or she is influenced in one way or the other by the most recent Supreme Court decision, which, frankly, in my opinion, buttresses the House's position more this year than was the case last year.

Having said that, Mr. Speaker, I would be happy at this moment to yield 1 minute to our friend, the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I thank the gentleman from Illinois, Mr. MICHEL, for the kind remarks. I did not realize the gentleman carried those kind thoughts toward me.

Mr. Speaker, I will not get into the rhetoric or the arguments on this issue, but I do feel disappointed because of the parliamentary maneuvering which always goes on in a bill, that this House did not have a chance to have an up or down vote on the position of the Senate. I think we would come closer to a resolution as far as we all feel on this issue if we have a chance to have a vote on the Senate position. If that did not carry, then I think it is proper to go ahead the other way. I know we are not going to have that chance but I, for one, am disappointed because I do not think we are going to come out with the position that the majority truly hold on this issue.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MICHEL. Mr. Speaker, before yielding a minute to my friend, the gentlewoman from New Jersey (Mrs. FENWICK), may I make this observation that if the gentleman from Washington (Mr. PRITCHARD), considers that he is being foreclosed from voting on the position of the Senate, let it be clear and understandable that the next vote is really one of either accepting the position of the House or the position of the Senate. If the position of the House prevails, as with the amendment of the chairman of the committee, the gentleman from Pennsylvania (Mr. FLOOD), that, in my opinion, is a clear expression of this House that we turned down the position of the Senate in favor of the position of the House.

I now yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my friend, the gentleman from Illinois (Mr. MICHEL), for yielding to me.

Mr. Speaker, I have an amendment at the desk.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania, Mr. FLOOD, yield for an amendment?

Mr. FLOOD. I do not yield for the purpose of offering amendments, only for the purpose of debate.

Mrs. FENWICK. The gentleman from Pennsylvania (Mr. FLOOD), did not yield to me, the gentleman from Illinois (Mr. MICHEL), yielded to me.

Mr. MICHEL. Mr. Speaker, I did not yield to the gentlewoman from New Jersey (Mrs. FENWICK) for the purpose of offering an amendment.

PARLIAMENTARY INQUIRY

Mrs. FENWICK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. GIBBONS). The gentlewoman from New Jersey will state her parliamentary inquiry.

Mrs. FENWICK. Mr. Speaker, it is my understanding of the parliamentary procedure that unless we are yielded to for the purpose of debate only, and for which I was not yielded, that then one can offer an amendment.

The SPEAKER pro tempore. The Chair will rule that the gentlewoman from New Jersey was recognized for the purpose of debate only.

Mrs. FENWICK. That is not what the gentleman from Illinois (Mr. MICHEL) said when he yielded to me.

The SPEAKER pro tempore. The Chair will state that the gentleman had to yield for the purpose of debate only, he did not have any authority under clause 2(b)(2) rule XXVIII to yield other than for the purpose of debate.

Mr. MICHEL. Mr. Speaker, I now yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN), a member of the subcommittee.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to make one comment, Mr. Speaker, and that is that we have been over this ground many, many times. It is an emotional and a very difficult issue for many of us. I support the Flood position with all my heart, but, recalling that the last vote we had was 201 to 155, with 77 abstaining, that is 433 out of our 435 Members participating, so that I think there has been ample time for every amendment. I think we ought to get on with a vote. No one has changed a single vote.

Mr. MICHEL. Mr. Speaker, I do think, with respect to the author of the amendment, that I should yield whatever time he may consume, for general debate, to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I shall make just a few brief comments. First, on the statement made by the gentleman from Ohio (Mr. STOKES), who said we ought not to play doctor, let me reply that I think we ought not to play God.

I also would like to talk a little bit on the question about cripples and deformed people, because the fact of the matter is that the suicide rate among crippled and deformed people is almost zero. The people that want to destroy their lives are the jaded people who seem to have wealth and affluence, but the crippled and deformed want to live.

Mr. Speaker, there have been two significant developments on this issue since last we debated on the 17th of June. The U.S. Supreme Court has come out and said that a legislative body is not forbidden by the Constitution from denying tax funds to pay for abortions. That even though abortion is legal, there is no constitutional right to have it paid for by public funds.

In addition to that, the New York Times reported on July 29, in collaboration with the Columbia Broadcasting System—no proponents of the prolife position they—that they took a telephone poll from 1,447 interviews from July 20 to July 25, and on page 22 of that paper they say that, "One can say with 95 percent certainty the results, based on the entire sampling, differ by no more than 3 percentage points in either direction from what would have been obtained by interviewing all adult Americans." This survey was most illuminating in telling us what taxpayer attitudes are toward spending tax dollars for poor women.

The poll results which were published in the New York Times show, and the question they asked was this:

"Do you think the Government should help a poor woman with her medical bills when she has a baby?"

Sixty-four percent said, "Yes"; 26 percent said, "No."

The next question was:

"Should the Government help a poor woman with the cost of contraceptives to prevent pregnancy?"

Sixty-three percent said, "Yes"; 29 percent said, "No."

But the next question, Mr. Speaker, was:

"Do you think the Government should help a poor woman with her medical bills if she wants an abortion?"

Thirty-eight percent said, "Yes"; 55 percent said, "No," and 7 percent said they did not know.

What does that mean? The American people are not saying spend less on the poor. The American people are saying, yes, help a poor women with her medical bills when she has a baby; yes, help a poor woman with the cost of contraceptives to prevent pregnancy; no, do not use tax money to pay for abortion.

Those of us who accept the medical, scientific, clinical evidence that a fetus is human life and that abortion kills that human life, and who object to killing as a solution to the problems of poverty, are in the main stream. Some of the media and some militant organizations paint us as cultural lags and as throwbacks to the middle ages. But the New York Times and the CBS poll says most Americans oppose using Federal funds for abortion, so it is we who understand the mood of America. Those of us who oppose Federal funds for abortion respect the consent of the governed.

Yes, there is a double standard. I have heard that, and that is true. There is a double standard, but the real victims of the double standard are the unborn of the rich, because if you are wealthy, and you are rich, and you are unborn, there is not a voice nor a word that can be raised to defend you if your parents want to kill you. But if you are the unborn child of a poor person, you have a fighting chance to survive. That is the double standard. It is the unborn rich who are penalized by that double standard.

The Senate amendment that we heard of here is hollow and empty of any substance. It is barely cosmetic, and it is a gesture very cleverly designed to finesse the issue, but it would accomplish nothing.

Do not take my word. The Washington Post published an interview with Dr. Louis Hellman, late of HEW and now with the Population Reference Bureau—and he is all for medicaid abortions—in which he admitted that 90 percent of the medicaid abortions now being performed could be done under the Senate language.

When we tolerate abortions, when we pay for abortions, we do two things: We kill the unborn child, and we do something to ourselves, something that is the opposite of compassion, something dehumanizing.

The famous words of John Donne say it best:

> ... Any man's death diminishes me, because I am involved in mankind. ..."

The abortionists say: "Any man's birth diminishes me because there ain't enough to go around."

The bottom line of this problem is, what does a caring, humane society do with unwanted people? Whether they are very young, whether they are preborn, whether they are senile, whether they are deformed, or whether they are crippled, what does a caring, humane society do with its unwanted people? Do we kill them? Do we kill them? I pray we do not. Bringing an unwanted child into the world has been termed the ultimate obscenity, but unwanted by whom, and for how long would he be unwanted? To me that is a capitulation to the rankest sort of pessimism.

Why do we not efface the soaring invitation at the base of the Statue of Liberty, rub those words out, and put in our new credo: "Life is only for the planned, for the privileged, and for the perfect."

I think the reverence for life that is implicit in the view that I, and I think a majority of Americans, believe in, the celebration of life, is contained in some words by Anthony Padovano that I thought were so significant. I would like to share them with the Members.

This is what it means to live:

Those tragedies that break our hearts again and again
Are not more numerous than the healing influences that mend them
More impressive than the brokenness of our heart
Is the fact that we have a heart
And it is tender enough to suffer
Even the scar tells us of more than the wound we have sustained
It tells us we have prevailed
All the agony in the world cannot erase the fact that a man is born
And life and thought
Emotion and choice
Love and reason go on inside him.

Please support the Flood motion.

Mr. MICHEL. Mr. Speaker, at this time I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK) with the reminder that with the position I have as a minority member, controlling half the time, it is not my purpose to yield for the purpose of an amendment. That is only for the chairman to decide. I am happy to yield to the gentlewoman at this time.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding me this time.

We are not God, as has been referred to here, but we are legislators. That is the duty we have taken. We have to decide what we think is in the public interest and we cannot leave every decision to the Supreme Court. We have all objected to that problem.

I think the problem is that we do not think enough about human beings. I do not think anyone in this room is cruel. I do not think anyone in this room is unkind. I do not think anybody means to put somebody through hell for nothing. It is just that they do not understand. That is the problem we are dealing with.

I do not know whether the gentleman who has just spoken or the people who vote so easily to deny to the poor what is available and legal for the rich, have ever really sat down in a kitchen in the low-income high rise in some of our central cities or in our rural populations where it is equally pitiful. What does one say to a mother of a 14-year-old child?

If we could stop abortion, if this or any other bill would stop abortion, it would be different. It does not. Nothing does. It never has and probably, sadly, never will. There have been self-induced abortions and bad abortions and back street abortions ever since life began on this earth.

The question is: How do we handle it? We are not going to stop this. We have heard of 300,000 abortions paid for by tax funds. That is because they are listed. Nobody lists the ones done in motels and nobody lists the ones done by filthy and inexpert practitioners. This is why it sounds as though there has been an increase. This goes on anyway.

When I was in Chile 35 percent of the beds in every hospital in that nation was filled with women dying from self-induced abortions. That did not occur in Puerto Rico. Everything there was legal and proper.

But we do not stop it. We merely put it somewhere else. We merely put people through an experience that nobody can imagine until one has talked to the mother of a child or to the young person herself.

I do not know. I have never been a social worker but I have spent an awful lot of time with the poor. I know what they feel. It is just what I feel.

Suppose one of the daughters of a Member was in an accident and was dragged off someplace and a pregnancy resulted from incest or rape. Rape—does the Member mean he would not lift a finger? Of course, he would. But we have money. That child would be taken to a proper place.

Mr. DORNAN. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. Mr. Speaker, I do not yield.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. BURKE) for the purpose of debate only.

Mrs. BURKE of California. Mr. Speaker, for anyone who is under the illusion that you are going to vote today for the same thing we voted on 1 year ago and it will have no different effect, I do think in all honesty it should be clarified. A year ago the language said one thing, but the report said something else. It was possible to say only to save the life of a mother in the bill; but in the report you could say we expect that Federal funds will be used in a case of rape, yes, in rape, incest, and in many other instances and that is what that report provides; but now the Attorney General has said to us yesterday that if this House is to provide assistance to victims of rape, to victims of incest, we are going to have to say what we mean and if we vote and approve this language we will not be doing anything but exactly what this language says. We cannot expand it by the report. So the only way we can be humane is if we do vote down this language and give the House the chance to consider alternatives.

We have heard quotations from polls that have been conducted, but no one asks the question, "Would you be willing to provide Federal assistance to assist a 12-year-old girl who had been the victim of rape?"

I believe the results of that poll would be different.

No one asks the question whether or not you would be willing to allow Federal funds that would prevent a mother from being crippled if she was required to carry a child to term.

These are the questions we cannot simplify in a poll. These are the questions we have to get down to specifically.

The only way we can have any humanity in this bill is to vote down this language and give this House a chance to consider some of the alternatives that we voted on last year, but we voted in a different way.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. HOLTZMAN) for debate only.

Ms. HOLTZMAN. Mr. Speaker, I think we have to recognize what we are doing if we vote for the amendment of the gentleman from Pennsylvania.

We were saying "no" to providing any medicaid funds for abortion in the case of rape.

We are saying "no" to providing any medicaid funds in the case of incest.

We are saying "no" to providing any medicaid funds in cases where the mother's life would be forever marred, where a woman would be maimed or crippled if she had to give birth.

Since the amendment offered by the gentleman from Pennsylvania is a substitute for the amendment offered by the gentleman from Ohio, the amendment would, in effect, preclude this House from offering assistance to poor women in these circumstances.

I cannot imagine that if any Member here searches his conscience, he would wish to condemn any woman in this country just because she is poor to have to go through the trauma of bearing a child as a result of incest or rape. But that is the result of supporting this amendment. I do not think anybody in this House has a single illusion about the fact that by supporting this amendment we are stopping abortions. Instead, we are simply condemning the poor women of this country, and in some cases these are teenagers or very young girls, to the horrors of back alley abortions or self-mutilation.

Mr. Speaker, I hope that the House does not do that.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I rise in support of the position of the gentleman from Pennsylvania.

Mr. MAZZOLI. Mr. Speaker, once again, we find ourselves involved in the highly emotional and controversial debate of the appropriateness of expending taxpayers' money for abortions.

My opinion on this issue is well known: I am unalterably opposed to federally funded abortions or abortion-related activities.

My stance on abortion—though I am fully convinced it is correct—places me in somewhat of an awkward position. I find that many of my colleagues with whom I generally agree are my "opponents" on this issue.

But, the awkwardness of my personal situation—and that of countless others—is of little import. The need to protect the lives of the unborn and insure them their full constitutional safeguards, that is what is important.

As I am convinced that a humane and civilized society cannot condone the taking of life, so am I convinced that a humane society has a serious responsibility to offer viable alternatives to abortion.

And, I have repeatedly supported legislative "alternatives" to abortion—as in the case of funding family planning services; providing counseling services to pregnant, unwed adolescents; adoption subsidies; and the like.

Congress has a responsibility to assist women with the social, medical, and financial problems accompanying pregnancy. It does not, however, have any responsibility whatsoever to provide Federal tax dollars for abortion activities—tax dollars for improving the quality of life, yes, but for the taking of life, no.

I rise in support of the Hyde language prohibiting the use of Federal funds for abortions, except to save the life of the mother. I urge the Senate to adopt this language, as it did last year.

In closing, Mr. Speaker, let me commend my colleagues, Chairman DAN FLOOD, Mr. HENRY HYDE, and the Honorable SILVIO CONTE, who have contributed so much to the smooth handling of an extremely complicated and difficult issue.

Mr. VOLKMER. Mr. Speaker, I personally say I wholeheartedly support the amendment of the gentleman from Pennsylvania. I think it needs to be clarified to some extent from the earlier remarks by the opponents that there is no prohibition in here depriving anyone of the right to an abortion. No person is deprived of that right by this amendment. Any person can still legally receive an abortion; I do not agree with that, but that is the law.

Under this amendment, any doctor can still perform an abortion on any woman.

Under this amendment any clinic can still have abortions performed for any woman.

I would just like to say that we must not only think of the women in this society today, but we must also think of the children that are to be or not to be. I vote for those to be.

Mr. FLOOD. Mr. Speaker, I urge the adoption of the motion.

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STOKES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 238, nays 182, not voting 13, as follows:

[Roll No. 497]

YEAS—238

Abdnor	Cornell	Hightower
Ambro	Cotter	Hillis
Ammerman	Crane	Holt
Andrews, N.C.	Cunningham	Hubbard
Andrews, N. Dak.	D'Amours	Huckaby
Annunzio	Daniel, Dan	Hyde
Applegate	de la Garza	Ichord
Archer	Delaney	Ireland
Armstrong	Derwinski	Jacobs
Ashbrook	Devine	Jenkins
Badham	Dickinson	Kasten
Bafalis	Dornan	Kazen
Baldus	Duncan, Tenn.	Kelly
Barnard	Early	Kemp
Bauman	Edwards, Ala.	Kildee
Beard, R.I.	Edwards, Okla.	Kindness
Beard, Tenn.	Eilberg	LaFalce
Bedell	Emery	Lagomarsino
Benjamin	English	Latta
Bennett	Erlenborn	Leach
Bevill	Ertel	Lederer
Biaggi	Evans, Ga.	Lent
Blouin	Evans, Ind.	Long, La.
Boggs	Fary	Lott
Boland	Fish	Lujan
Bonior	Fithian	Luken
Bonker	Flood	McDade
Breaux	Florio	McDonald
Brinkley	Fountain	McEwen
Broomfield	Frey	McHugh
Brown, Ohio	Fuqua	McKay
Broyhill	Gammage	Madigan
Burgener	Gaydos	Mahon
Burke, Fla.	Gephardt	Markey
Burleson, Tex.	Gibbons	Marks
Burlison, Mo.	Ginn	Marlenee
Byron	Goldwater	Marriott
Caputo	Goodling	Mazzoli
Carney	Gore	Michel
Carter	Gradison	Milford
Cavanaugh	Grassley	Miller, Ohio
Cederberg	Guyer	Minish
Chappell	Hagedorn	Mitchell, N.Y.
Clausen, Don H.	Hall	Moakley
Clawson, Del	Hamilton	Montgomery
Cochran	Hammer-schmidt	Moore
Coleman	Hanley	Moorhead, Calif.
Collins, Tex.	Hansen	Mottl
Conte	Harsha	Murphy, Ill.
Corcoran	Heckler	Murphy, N.Y.
	Hefner	Murphy, Pa.

Myers, Gary	Rostenkowski	Thone
Myers, John	Rousselot	Thornton
Myers, Michael	Rudd	Traxler
Natcher	Runnels	Treen
Nedzi	Ruppe	Trible
Nichols	Russo	Vander Jagt
Nolan	Santini	Vanik
Nowak	Satterfield	Vento
O'Brien	Sawyer	Volkmer
Oakar	Schulze	Waggonner
Oberstar	Sebelius	Walgren
Patten	Sharp	Walker
Perkins	Shipley	Walsh
Pike	Shuster	Wampler
Poage	Sikes	Whalen
Pressler	Skelton	White
Price	Skubitz	Whitehurst
Pursell	Smith, Iowa	Wilson, Bob
Quayle	Smith, Nebr.	Winn
Quie	Snyder	Wydler
Quillen	Spence	Wylie
Rahall	St Germain	Yatron
Regula	Stangeland	Young, Alaska
Rinaldo	Stanton	Young, Fla.
Roberts	Steiger	Young, Mo.
Robinson	Stratton	Young, Tex.
Rodino	Stump	Zablocki
Roe	Symms	Zeferetti
Rooney	Taylor	

NAYS—182

Addabbo	Ford, Tenn.	Moffett
Akaka	Forsythe	Mollohan
Alexander	Fowler	Moorhead, Pa.
Allen	Fraser	Moss
Anderson, Calif.	Frenzel	Neal
	Gilman	Nix
Anderson, Ill.	Glickman	Obey
Ashley	Gonzalez	Ottinger
Aspin	Gudger	Panetta
AuCoin	Hannaford	Patterson
Baucus	Harkin	Pattison
Beilenson	Harrington	Pease
Bingham	Harris	Pepper
Blanchard	Hawkins	Pettis
Bolling	Heftel	Pickle
Bowen	Holland	Preyer
Brademas	Hollenbeck	Pritchard
Breckinridge	Holtzman	Railsback
Brodhead	Horton	Rangel
Brooks	Howard	Reuss
Brown, Calif.	Hughes	Richmond
Brown, Mich.	Jeffords	Risenhoover
Buchanan	Jenrette	Rogers
Burke, Calif.	Johnson, Calif.	Roncalio
Burton, John	Johnson, Colo.	Rosenthal
Burton, Phillip	Jones, N.C.	Roybal
Butler	Jones, Okla.	Sarasin
Carr	Jones, Tenn.	Scheuer
Chisholm	Jordan	Schroeder
Clay	Kastenmeier	Seiberling
Cleveland	Ketchum	Simon
Cohen	Keys	Sisk
Collins, Ill.	Koch	Slack
Conable	Kostmayer	Solarz
Conyers	Krebs	Spellman
Corman	Krueger	Staggers
Cornwell	Le Fante	Stark
Coughlin	Leggett	Steed
Daniel, R. W.	Lehman	Steers
Danielson	Levitas	Stockman
Davis	Lloyd, Calif.	Stokes
Dellums	Lloyd, Tenn.	Studds
Dicks	Long, Md.	Thompson
Diggs	Lundine	Tsongas
Dingell	McClory	Tucker
Dodd	McCloskey	Udall
Downey	McCormack	Ullman
Drinan	McFall	Van Deerlin
Duncan, Oreg.	Maguire	Watkins
Eckhardt	Mann	Waxman
Edgar	Martin	Weaver
Edwards, Calif.	Mathis	Weiss
Evans, Colo.	Mattox	Whitley
Evans, Del.	Meeds	Whitten
Fascell	Metcalfe	Wiggins
Fenwick	Meyner	Wilson, C. H.
Findley	Mikulski	Wilson, Tex.
Fisher	Mikva	Wirth
Flowers	Miller, Calif.	Wolff
Foley	Mineta	Wright
Ford, Mich.	Mitchell, Md.	Yates

NOT VOTING—13

Badillo	Flynt	Rose
Burke, Mass.	Giaimo	Ryan
Dent	McKinney	Teague
Derrick	Murtha	
Flippo	Rhodes	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Badillo against.

Mr. Teague for, with Mr. Rose against.

Mr. Murtha for, with Mr. Ryan against.

Until further notice:

Mr. Dent with Mr. Derrick.

Mr. Flynt with Mr. Giaimo.

Messrs. MILFORD and PIKE changed their vote from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and on the motions on the bill H.R. 7555, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 320. Concurrent resolution directing the Secretary of the Senate to make certain corrections in the enrollment of the bill S. 826.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 826) entitled "An act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes."

RECOMMENDATIONS TO IMPROVE THE QUALITY OF FEDERAL DRUG TREATMENT — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 95–200)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

Drug abuse continues to be a serious social problem in America. The lives of hundreds of thousands of people are blighted by their dependence on drugs. Many communities remain unsafe because of drug-related street crime, and the immense profits made in the illicit drug traffic help support the power and influence of organized crime. Among young American men aged 18–24 years, drugs are the fourth most common cause of death: only automobile accidents, homicides, and suicides rank higher. The estimated cost of drug abuse in America exceeds 15 billion dollars each year. Among some minority groups, the incidence of addiction and the harm it inflicts are disproportionate.

Drug addiction, which in recent years was viewed as a problem peculiar to America, now affects people throughout the world. We can no longer concern ourselves merely with keeping illicit drugs out of the United States, but we must join with other nations to deal with this global problem by combatting drug traffickers and sharing our knowledge and resources to help treat addiction wherever it occurs. We must set realistic objectives, giving our foremost attention domestically to those drugs that pose the greatest threat to health, and to our ability to reduce crime. Since heroin, barbiturates and other sedative/hypnotic drugs account for 90 percent of the deaths from drug abuse, they should receive our principal emphasis.

My goals are to discourage all drug abuse in America—and also discourage the excessive use of alcohol and tobacco—and to reduce to a minimum the harm drug abuse causes when it does occur. To achieve these goals with the resources available, effective management and direction are essential. Because the Federal effort is currently divided among more than 20 different, and often competing, agencies, I have directed my staff to coordinate Federal action and to formulate a comprehensive national policy. This will end the long-standing fragmentation among our international programs, drug law enforcement, treatment and rehabilitation, prevention, and regulatory activities. I will also seek the counsel and active involvement of members of the Cabinet and heads of major independent agencies on all drug abuse policy questions, through a revitalized Strategy Council on Drug Abuse. My staff will examine the functions of the various agencies involved in this field and will recommend to me whatever organizational changes are appropriate.

INTERNATIONAL COOPERATION

For certain drugs originally derived from plant sources outside the United States, especially heroin and cocaine, diplomatic agreements against cultivation and trafficking are indispensable. Turkey—once virtually the sole source of heroin supply in this country—is now gone from the illicit market as the result of such agreement. The enormous profits generated by the illicit drug traffic distort the economies of many smaller countries, aggravating inflation and draining tax revenues; they also engender corruption and corrode political stability. We must work closely with other governments to assist them in their efforts to eradicate the cultivation of drugs, and to develop legitimate alternative sources of income for the impoverished farmers

who have for generations raised and sold crops such as opium.

We have made significant progress in the last few months. In February, I discussed with President Lopez-Portillo of Mexico my deep concern about the illegal cultivation of opium in his country. Under his strong leadership, the eradication program has been intensified and is producing dramatic results, significantly reducing the availability of heroin in many American cities. In addition, President Ne Win of Burma and Prime Minister Thanin of Thailand have shown a resolute determination to control drug cultivation and trafficking in their countries. Most recently I have received strong assurances from President Lopez-Michelsen of Colombia that he plans to give the problem of drug trafficking his highest priority. We are establishing a commission made up of government officials from our two countries to coordinate a stepped up effort to deal with the major international trafficking of cocaine and marihuana between our two countries, and the devastating economic impact of that traffic.

As a result of these efforts and those of the Drug Enforcement Administration, the purity of heroin in our country has dropped in the last six months to 4.9%, the lowest level in 4 years.

There is, however, more that we can do:

(1) I am directing the Secretary of State to give greater emphasis to the international narcotics control program and to reiterate to foreign governments our strong desire to curtail production of, and traffic in, illicit drugs.

(2) To this end, I am directing the Administrator of the Agency for International Development to include such measures as crop and income substitution in its development programs for those countries where drugs are grown illicitly. I expect the Secretary of State to continue to call on other agencies and departments, such as the Drug Enforcement Administration, the U.S. Customs Service, the U.S. Department of Agriculture, and the National Institute on Drug Abuse, to assist in the international narcotics control program according to the special expertise of each.

(3) I am directing the intelligence community to emphasize the collection and analysis of information relating to international drug trafficking.

(4) I strongly support the work of the United Nations Fund for Drug Abuse Control (UNFDAC), the United Nations Commission on Narcotic Drugs, the International Narcotics Control Board, the World Health Organization, and other organizations working within the framework of the United Nations in their efforts to help drug-producing countries find alternate crops, improve drug control measures, and make treatment resources available.

(5) I am instructing the United States representatives to the loan committees of the Regional Development Banks and other international financial institutions to use their votes and influence to encourage well designed rural development and income substitution projects in countries which now produce dangerous drugs, and to ensure that assistance is not used to foster the growth of crops like opium and coca.

(6) Because of the need to improve international controls over dangerous drugs which have legitimate medical uses, like barbiturates and amphetamines, I urge the Congress to adopt legislation implementing the Convention on Psychotropic Substances, and I urge the Senate to ratify this treaty promptly.

(7) In my communications with foreign leaders, I will emphasize international cooperation among drug law enforcement agencies, so that intelligence and technical expertise can be shared. I will encourage them to send law enforcement officials to work with us to stop the gun in Bangkok among French, German, British, Dutch, American and Thai officials.

I will, in addition, promote the international sharing of knowledge and expertise in the treatment of drug abuse. We will make a special effort to share our experience, especially with those nations which have serious drug problems and which are working with us in the effort to control drug sources and prevent drug abuse. Our program will encompass training, research and technical assistance projects, including providing American experts as consultants.

LAW ENFORCEMENT

We must vigorously enforce our laws against those who traffic in drugs, so that the attraction of large profits is outweighed by the risk of detection and the likelihood of conviction. The Federal Government's job is to deter, and where possible prevent entirely, illegal importation and major trafficking of controlled substances. Often large-scale financiers of the illegal drug trade never come into direct contact with drugs. Through the cooperative efforts of the various agencies involved, we will attack the financial resources of these traffickers who provide the capital needed to support the smuggling of drugs into the country. Drug traffickers must understand that they face swift, certain, and severe punishment; and our law enforcement and judicial systems must have the resources to make this prospect a very real threat. We must allocate our resources intelligently, revise our penalty structure where necessary to concentrate on the actions (and the drugs) that are most dangerous, and improve the administration of justice.

Therefore:

I am directing the Attorney General to intensify investigations of the link between organized crime and the drug traffic, and to recommend appropriate measures to be taken against these organizations.

I am directing the Department of Justice in conjunction with the Departments of State and Treasury to study arrangements with other countries, consistent with Constitutional principles, to revoke the passports of known major traffickers, and to freeze assets accumulated in the illegal drug traffic.

To ease the burden on the United States District Courts, which must hear major drug cases, I support legislation widening the jurisdiction of U.S. Magistrates under certain circumstances to include misdemeanor offenses which carry sentences of up to 1 year.

In 18 United States Attorneys' Offices, special units devoted to the prosecution of major drug traffickers exist. The Department of Justice is now expanding this program to include additional units.

I support legislation raising from $2,500 to $10,000 the value of property which can be seized and forfeited from drug violators by administrative action, including cash within the definition of seizable property. Amounts above this figure will continue to require court proceedings.

I am directing my staff to recommend to me the appropriate Federal drug law enforcement role in the light of currently available resources—state, local and Federal. For nearly a decade, Federal support of state and local enforcement activity has steadily expanded. The time is ripe to evaluate the results of this effort, to determine whether federal participation should be altered, and to determine the proper division of responsibility between Federal and local officials. The Office of Drug Abuse Policy has already begun the first phase of this review, which includes consideration of border security and drug trafficking intelligence.

I am directing the Attorney General to study the necessity for and constitutionality of proposals which would deny pretrial release to certain persons charged with trafficking in drugs posing the greatest threat to health, and to give me his recommendations within 90 days. At the present time, some persons charged with major drug offenses can use their immense wealth to post bail and escape justice. If enactment of such proposals appears to be necessary and constitutional, their application should be tightly restricted and should include a provision granting the accused an expedited trial.

I am directing the Attorney General to review the adequacy of the penalties for major trafficking offenses and to give me his recommendations within 90 days.

I also have considered requesting changes in the Tax Reform Act of 1976. Some of its provisions—such as those for disclosure and summonsing—were designed to protect the privacy of citizens but may also impede unnecessarily the investigation of narcotics trafficking cases. I am asking the appropriate Federal agencies to determine the difficulties these provisions present to effective law enforcement. If it appears they can be amended to improve law enforcement without infringing upon legitimate privacy interests, I will submit legislation to the Congress.

MARIHUANA

Marihuana continues to be an emotional and controversial issue. After four decades, efforts to discourage its use with stringent laws have still not been successful. More than 45 million Americans have tried marihuana and an estimated 11 million are regular users.

Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself;

and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marihuana in private for personal use. We can, and should, continue to discourage the use of marihuana, but this can be done without defining the smoker as a criminal. States which have already removed criminal penalties for marihuana use, like Oregon and California, have not noted any significant increase in marihuana smoking. The National Commission on Marihuana and Drug Abuse concluded five years ago that marihuana use should be decriminalized, and I believe it is time to implement those basic recommendations.

Therefore, I support legislation amending Federal law to eliminate all Federal criminal penalties for the possession of up to one ounce of marihuana. This decriminalization is not legalization. It means only that the Federal penalty for possession would be reduced and a person would receive a fine rather than a criminal penalty. Federal penalties for trafficking would remain in force and the States would remain free to adopt whatever laws they wish concerning the marihuana smoker.

I am especially concerned about the increasing levels of marihuana use, which may be particularly destructive to our youth. While there is certain evidence to date showing that the medical damage from marihuana use may be limited, we should be concerned that chronic intoxication with marihuana or any other drug may deplete productivity, causing people to lose interest in their social environment, their future, and other more constructive ways of filling their free time. In addition, driving while under the influence of marihuana can be very hazardous. I am, therefore, directing the Department of Transportation to expedite its study of the effects of marihuana use on the coordination and reflexes needed for safe driving.

DRUG TREATMENT

My immediate objective will be to widen the scope and improve the effectiveness of Federal drug treatment programs. In conception and in practice, they have been too narrow. Drug addiction can be cured; but we must not only treat the immediate effects of the drugs, we must also provide adequate rehabilitation, including job training, to help the addict regain a productive role in society. In the past, Federal programs have given disproportionate attention to the heroin addict while neglecting those who are dependent on other drugs.

To improve the quality of Federal drug treatment, I am recommending these steps:

In recognition of the devastating effects that certain nonopiate drugs can have if abused, I am directing the Secretary of Health, Education, and Welfare to expand resources devoted to care for abusers of barbiturates, amphetamines, and multiple drugs used in combination, including alcohol.

To help drug abusers return to productive lives, I am directing the Secretary of Labor to identify all Federal employment assistance programs which can help former drug abusers and to give me, within 120 days, his recommendations for increasing the access of drug abusers to them.

A sustained effort must be made to identify the reasons that people turn to drugs, including alcohol and cigarettes. We should seek more effective ways to make people aware of the health problems associated with such substances (particularly cigarettes and alcohol) and to respond in more constructive ways to the human and psychological needs they satisfy.

DRUG RESEARCH

In the past, there has been no serious attempt to coordinate Federal research on opiates and alcohol despite the many similarities in the effects of these two drugs. A joint Federal research center might not only save money, but also lead to greater scientific understanding of addiction problems. Therefore I am directing the Secretary of Health, Education, and welfare to study the feasibility of making the Addiction Research Center responsible for coordinated research on a variety of drugs, including opiates, alcohol, and tobacco.

ADMINISTRATIVE ACTION

Improved treatment and prevention programs should be accompanied by appropriate changes in Federal regulations, administrative practices, and enforcement, among which are these:

First, I am recommending a conscious and deliberate increase in attention throughout the Federal Government to the problems related to the abuse of drugs that come originally from legitimate medical sources. Of particular concern are barbiturates, which despite their recognized medical use, are responsible for many deaths and are frequently used in suicide attempts. The withdrawal reaction of patients addicted to barbiturates can be more difficult and more dangerous than that associated with heroin withdrawal. They are frequently oversold, overprescribed, and overused. Therefore, I will:

—Instruct the Secretary of Health, Education, and Welfare to undertake a study of barbiturates and other sedative/hypnotic drugs to determine the conditions under which they can be most safely used.

—Instruct the Secretary of Defense, the Secretary of Health, Education, and Welfare, and the Administrator of Veterans' Affairs to review the prescribing practices of physicians under their jurisdiction, and to discourage the medical use of barbiturates and sedative/hypnotics except in cases where it is unmistakably justified.

—Continue the program, already begun at my direction, by which the Drug Enforcement Administration has instructed its regional offices and regulatory task forces to give priority attention to barbiturate cases. DEA has also begun to investigate the "street" market in order to determine the source of illegal supplies so that suitable Federal action may be taken. In the near future, DEA will conduct a special accelerated audit of the 120 companies lawfully manufacturing barbiturates in this country and will also notify foreign governments of our desire to see them control their barbiturate exports strictly.

Second, I am directing the Secretary of Health, Education, and Welfare to review those sedative/hypnotic drugs particularly subject to abuse to determine whether any should be removed from the market, taking into consideration not only their safety to the individual but also the dangers they pose to the public at large.

Third, I support legislation giving the Food & Drug Administration the authority to apply standards of safety and efficacy to all drugs, by repealing those laws which exempt a variety of drugs because they were placed on the market before a certain date. A number of barbiturates fit into this category.

Fourth, Some physicians still knowingly overprescribe a wide variety of drugs. Although, as a result of careful education, physicians have voluntarily reduced their prescriptions for barbiturates by 73 percent during the last five years, a few are continuing to misprescribe these and other drugs deliberately. I am directing the Attorney General, in full cooperation with State officials, to begin a concerted drive to identify and prosecute these violators.

No government can completely protect its citizens from all harm—not by legislation, or by regulation, or by medicine, or by advice. Drugs cannot be forced out of existence; they will be with us for as long as people find in them the relief or satisfaction they desire. But the harm caused by drug abuse can be reduced. We cannot talk in absolutes—that drug abuse will cease, that no more illegal drugs will cross our borders—because if we are honest with ourselves we know that is beyond our power. But we can bring together the resources of the Federal Government intelligently to protect our society and help those who suffer. The sufferers include the overwhelming majority of the public who never abuse drugs but for whom drug abuse poses the threat of broken families, a lost child or fear to walk the streets at night. Beyond that, we must understand why people seek the experience of drugs, and address ourselves to those reasons. For it is ultimately the strength of the American people, of our values and our society, that will determine whether we can put an end to drug abuse.

JIMMY CARTER.

THE WHITE HOUSE, *August 2, 1977.*

ON FREE EMIGRATION AND HUMAN RIGHTS IN ROMANIA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 60 minutes.

Mr. KOCH. Mr. Speaker, for some time I have been very concerned about the human rights situation in the Socialist Republic of Romania, particularly as it relates to the freedom to emigrate, the treatment of dissidents and the status of national minorities.

This week I expect that the House will adjourn without having acted to dis-

approve the President's recommendation for another year of most-favored-nation treatment for Romania. I concur with the President's recommendation, but I do share the concern of the President and many others that events during the coming year need to show continuing progress in emigration and human rights in Romania. Without such progress, it will be even more difficult next year to agree to another extension for Romania of the most-favored-nation status provided under the terms of the Jackson-Vanik amendment to the Trade Act of 1974. That amendment, as my colleagues know, requires "nonmarket economy" countries such as Romania who receive most-favored-nation treatment to allow a free emigration policy.

In the case of Romania, the President has recommended a waiver of the free emigration requirement for an additional year, because it serves the national interest to do so and because Romania has continued to allow a significant number of persons to emigrate.

As a signatory to the Helsinki agreement and other international covenants protecting human rights, Romania also has an obligation to respect the human rights of those who choose to remain in Romania, including the national minorities of Hungarians and Germans. These national minorities consist of many persons who have no desire to emigrate, but who wish to be able to speak their own language, attend school in their own language, and to practice their own minority culture. I am pleased that in recent letters and testimony President Carter and the State Department have expressed an awareness of and concern about the treatment of Hungarians in Romania and that the State Department has discussed this question with representatives of the Romanian Government.

I have personally asked the Romanian Ambassador to the United States to clarify some of the policies of his government, which, as related to me by Hungarian-Americans here in the United States, appear to discriminate against the Hungarian minority in Romania. I have asked particularly for a written clarification of Decree Law 278, which appears on its face to require a minimum of 36 students to obtain a class taught in a minority language such as Hungarian, while no minimum number of students is required for those who desire a class taught in Romanian. On other matters as well, such as the availability of literature, schools, theater, and newspapers in the Hungarian language, serious questions have also been raised, and there are those who accuse Romania of attempting to repress completely all evidence of the Hungarian culture. I am still waiting for a definitive explanation of Romanian policies, in particular Decree Law 278, relating to educational opportunities for linguistic minorities.

Until these questions are clarified in writing by the Romanian authorities, I am forced to conclude that the allegations of discrimination against the Hungarian minority cannot be refuted. I hope that I will receive some written explanation about Romanian policies in the near future, and when I do, I will be happy to share it with my colleagues.

As for the question of freedom of emigration from Romania, I am pleased that the Romanians have approved a number of families and individuals for emigration to the United States, Israel, and the Federal Republic of Germany during the past year, but there are some areas that cause me concern. I am disappointed that there has been a decline in the number of persons approved for emigration to Israel. The number of those actually leaving Romania for Israel during 1977 has also declined precipitously since last year. Although the Romanian Government argues that the number of persons applying to leave for Israel has been dropping as the Jewish community left in Romania has declined, there are still many obstacles that are placed in the way of anyone who wishes to apply to emigrate. These barriers must be removed, and all those who wish to emigrate should be allowed to do so.

The number of those who have actually left Romania for the United States this year has also declined, but there has been a substantial rise in approvals to emigrate to the United States. I hope that the increase in approvals, many of which have only been made recently, foretells an increase in the number of persons actually coming to the United States later this year. I am pleased that the Romanian Government has agreed to allow these persons to emigrate—in most cases to join family members abroad. In the next year the President, the State Department, and many Members of Congress including myself will be watching very closely the trends in emigration from Romania. Next summer I hope that I will be able to congratulate the Romanians and wholeheartedly endorse continued favorable trade relations between the United States and Romania.

I wish to thank all of my colleagues who are participating in this special order, and I know that their remarks will also help impress on both the Romanian Government and our own that the issues of emigration and human rights continue to be of great interest and concern to a great many Members of Congress. We will be watching not only emigration figures but also the reports on the human rights situation in Romania, and I hope that on both accounts that we will be pleased that Romania is a "most favored" trading partner of the United States.

Mr. SIMON. Mr. Speaker, I rise to join my distinguished colleague from New York (Mr. KOCH), in discussing human rights and emigration procedures in Romania.

The Jackson-Vanik amendment to the Trade Act of 1974 requires "non-market" countries such as Romania to maintain a free emigration policy in order to receive most-favored-nation treatment. It also contains an implied requirement that such countries respect fundamental human rights.

On June 2, the President recommended a 1-year extension of most-favored-nation status to Romania. Those of us who are concerned about Romania's performance in the human rights and emigration fields were pleased at the President's promise to "monitor closely Romanian compliance with the objectives" of the Jackson-Vanik amendment. I want to join my friend Representative KOCH in urging the President to analyze carefully the evidence from Romania during the coming year.

During the past several months, the Commission on Security and Cooperation in Europe, of which I am a member, has held extensive hearings on implementation of the provisions of the Helsinki Final Act. We have heard testimony about Romania's response to the provisions on free emigration and respect for human rights. As indicated in the President's report to the Commission in June, the results have been mixed:

> Romanian performance on family reunification has generally improved since the signing of the Final Act. . . . In recent months, however, Romania's processing rate has not kept up with the increase of new cases, leading to a considerable backlog.

The Commission will be releasing shortly its own comprehensive report on implementation of provisions of the Helsinki Final Act. It will contain a detailed analysis of the Romanian experience.

I the meantime, I would like to insert for my colleagues' perusal a summary statement presented to the Commission describing some of the difficulties facing would-be Romanian emigrees. The testimony was given by Valerie Secu, chairman of the American-Romanian Committee for Family Reunion. It follows:

SUMMARY OF THE TESTIMONY OF VALERIE SECU

The testimony is based on Miss Valerie Secu's personal experience and on testimonies presented to the Committee by recent emigrants from Romania. The testimony is divided in the following chapters:

I. The procedures involved in obtaining exit visas from Romania.

The application forms needed for an exit visa cannot be obtained whenever an applicant chooses. The applicant must obtain written permission which is almost impossible to obtain from the management, syndicate and party organization of his company or school. Recently, new committees have been appointed to increase the harassment of a prospective emigre: Committee for Working People (C.O.M.) to review the applicant within his company; Neighborhood Committee under the auspices of the district Popular Council and local party organization, which then discusses the applicant again.

No application for an exit visa has been considered and approved unless pressure from the U.S. government and international media has been brought to bear on Romania.

II. Steps to be taken by American citizens or residents with relatives in Romania.

III. President Ceausescus's speeches on June 3, 1976 and on February 17, 1977 regarding family reunion and emigration policy.

President Ceausescu does not see family reunion as a humanitarian problem, as he is quoted on page 4. He uses the term of "traitor" for a prospective applicant for emigration.

IV. Provisions of the Romanian law.

Provisions from Romanian law regarding the crossing of Romanian borders and the resulting heavy punishment are quoted from the American Romanian newspaper SOLIA, Detroit, Michigan.

V. Specific cases of Americans with relatives in Romania.

VI. Conclusions.

After July 1975, Romania has changed nothing in her policy regarding people wishing to visit or to emigrate to join a relative abroad.

Mr. CHAIRMAN. The present statement is based on experience I have had with my family presently in Romania, and on testimonies presented to our Committee by recent emigrants from Romania.

I. THE PROCEDURE INVOLVED IN OBTAINING EXIT VISAS FROM ROMANIA

A. Written permission is necessary to obtain the application forms for an exit visa from several organizations. It is impossible for Romanian citizens to apply for an exit visa whenever they choose. Exit visa forms are released only by local militia precincts, and cannot be obtained without written permission from:

1. the management of the company the person is employed with, or from the counselor and department chairman (or principal) for college students or high school students;

2. the syndicate from the person's job or school;

3. the party organization from the person's job, school or college.

To obtain such written permission, the applicant has to forward his written request to the company or school directorship. Many requests are not even considered. If the request is considered, the applicant is often called for interviews with the people involved in the above-mentioned organizations. These interviews are often followed by public meetings involving the applicant, his co-workers, management, and party officials. These people "judge" the applicant and his reasons for traveling abroad to visit relatives or friends, or to emigrate. The applicant is repeatedly questioned about why he wants to travel, especially to a capitalistic country, why he wants to visit a relative in the Western World. If the applicant actually wants to emigrate, matters are even worse. Usually the applicant receives a blunt refusal followed by a severe criticism of his "bourgeois" and "dangerous" attitude. A prospective emigrant is regarded as a traitor.

Every applicant undergoes such harassment and humiliation. The result is almost always a total refusal to grant the applicant written permission which the applicant needs to get the exit visa forms. If the applicant has a strong nature he will apply again. Again, he will be forced to go through a humiliating obstacle course. Conclusion: Nothing has been changed in the above procedures since the Helsinki Conference of July 1975. In fact, things are even worse since an application for emigration is considered an act of treason.

B. During the last year, newly appointed "Neighborhood Committees" have been employed to interview and judge the applicants.

New committees have been appointed under the auspices of the Party organization and Popular Councils of each district or sector for the purpose of discouraging the applicant in his attempt to visit or emigrate abroad. Each applicant must face his "Neighborhood Committee," usually in the area where he works. This ad hoc committee includes a person from the State Security, the communist party secretary of the applicant's company, and a higher communist party secretary from the district-level party organization.

Over and over the same questions are asked: more information about the applicant, his relatives, spouse's relatives, friends, the relative he wants to visit, and the reasons for his trip. The capitalistic world is denounced and if the applicant is seeking to emigrate, such an attempt is condemned as treason. Continuous pressure of this type forces many applicants to renounce their intention to apply for an exit visa.

Those who have the courage to continue are persecuted by losing their jobs or by being offered menial work for very low pay. College students are expelled from their schools when they apply for emigration.

C. Requirements for the prospective emigre who has been promised a passport to leave the country.

While the authorities are processing the application, a prospective emigre must do the following:

1. If he lives in a State-owned apartment, he must clean, paint, repair, and thoroughly renovate the apartment, at his own expense.

2. If he owns an apartment, he must immediately pay to the State the remaining installments in a lump sum, then must proceed to donate his apartment to the Romanian Government.

3. In addition, several taxes are to be paid for every member of the family: needed are five copies of certificates for terminating the electricity contract, gas contract, telephone contract, radio/TV contract, water contract. These taxes amount to over a good month's salary.

4. When the emigrant has liquidated his assets and has his passport, a State inspector comes to check and seal the apartment, so that he has to live in a hotel until the day of departure.

If the cliche "adding insult to injury" accurately describes anything, it certainly describes the outrageous and humiliating procedure whereby a Romanian citizen who applies for emigration not only must pay for his house and donate it to the State, but also must pay high taxes to the State for being so kind and accommodating as to take his assets away from him.

If this Romanian citizen has had the emotional strength and financial resources to overcome all the obstacles mentioned above and is actually leaving the country, he must leave behind all possessions the Government considers "valuable". Such "valuable" items may include children's earrings and family pictures. When he leaves the country, the emigre loses everything he has accumulated by hard work during his lifetime, however small.

D. New criteria employed by the Romanian government for granting exit visas.

No application is processed unless and until the prospective emigrant is legally accepted by the country where his relative lives. For example, the daughter of Mrs. Lucy May of New York has been legally admitted to the United States, but the exit visa from Romania has not yet been granted. The brother of Mr. Nicholas Dima has also been legally admitted, but his exit visa application has not been processed.

During the past year no one was allowed to apply for an exit visa to travel abroad either to visit or emigrate, unless:

1. great pressure was brought to bear on the Romanian Government by U.S. Senators, U.S. Representatives, U.S. State Department Officers.

2. their cases have been publicized in the press, or received radio and television coverage.

3. their relatives abroad resorted to desperate actions such as hunger strikes, permanent vigils, peaceful demonstrations.

Pressure from U.S. officials is effective only at times when Romania is seeking economic concessions from the U.S., such as granting Romania Most-Favored-Nation treatment in 1975, and again in 1976.

Hunger strikes have been organized in various countries to call to the attention of the public the plight of people kept hostage in Romania. People with relatives in Romania went on hunger strikes in Italy, West Germany, Australia, and the U.S. to ask for the release of their spouses and children. In United States alone our committee has sponsored hunger strikes of about 100 people since 1972. The last hunger strike in the United States, which started on May 24, 1976, was organized in New York City in front of the United Nations. Thirty-five people participated by going on a hunger strike lasting from 6 to 24 days, recovering, and starting again. The last week of the strike took place in Washington, D.C. from September 4 to September 9, 1976. Even though the strikers received strong support from U.S. Senators and Representatives and the media, not all of them got their relatives out of Romania. For example, Mr. Walter Graur of New York has his wife and 5-year old daughter in Romania, unable to obtain exit visas, or Mrs. Irina Bebelea, who has two chidlren in Romania, also unable to obtain exit visas.

II. STEPS TO BE TAKEN BY THE AMERICAN CITIZEN OR RESIDENT WITH RELATIVES IN ROMANIA

To be accurate in describing the numerous and increasingly imaginative obstacles built up by the Romanian Government, we have to mention the action which people in the United States with relatives in Romania, must take with the Embassy of the R.S. Romania in Washington, D.C.

The would-be-emigrant or visitor in Romania is told that his exit visa application can not be processed unless the relative in the United States shows up at the Embassy of R.S. Romania to "legalize" his status with the Romanian Government.

Unfortunately, the U.S. State Department advises people in the U.S.A. with relatives in Romania, to comply with this requirement and visit the Romanian Embassy in Washington, D.C. Most of the people refuse, but with no other alternative left, they have to accept being interviewed by the Romanian Embassy in Washington. They have to give a full account of the way they left Romania, what countries they passed through before entering the United States, their status in the United States, their income, assets, etc. Then, they are offered two alternatives by the Embassy representative:

To apply to give up Romanian citizenship, pay the tax of $201 per person, and wait for about two years for the Government approval; then and only then the relative in Romania may apply for exit-visa; or

Apply to stay in the United States with a Romanian passport, as a "Romanian citizen living abroad", and wait from 6 months to one year to get the Government approval. The Romanian Embassy insists on the second alternative, persuading us that this is the fastest way to get a relative out of Romania.

However members of the U.S. Congress are informed differently when they try to contact the Romanian Embassy in behalf of their constituents. I will quote from a letter Representative E. Koch sent to my Committee when trying to reunite Mrs. D. Vircol with her husband: "He (the Romanian Ambassador) further stated that until her status is adjusted, there is no basis under Romanian law for her husband to be permitted to leave, since the premise for exist permissions is predicated on family reunion. And this requires that the person outside of Romania no longer be a Romanian citizen."

The processing of these papers generally takes about six to eight months.

Incidentally the processing of my application to give up my Romanian citizenship by the Romanian Government lasted two and a half years.

Not until April 19, 1974 did the Romanian Embassy in Washington send me a letter to inform me that my application to renounce Romanian citizenship had been approved on September 16, 1973. But my sister and her family are still in Romania. Before September 1976 she had not been allowed to apply for her exit visa.

In support of the above statements I submit the following:

Annex 1: a copy of official reply of the Ministry of Internal Affairs Bucharest, Romania, to Gabriela and Liviu Teodorescu's request for exist visas, in Romanian and English.

Annex 2: a copy of the questionnaire (Romanian text with English translation in small print) a person in the U.S.A. must fill out to "legalize" his status by renouncing his Romanian citizenship or living as a Romanian citizen abroad. Note that the petitioner must list all his relatives in Romania with a complete history of their employment and residence. They must also fill out information about their income, (salary, social security benefits, rents, etc.), their properties and other assets.

Annex 3: a copy of the Romanian original form and its English translation a person in the U.S.A. must fill out with Romanian Embassy, vowing not to engage, after losing his or her Romanian citizenship, in any action likely to cause harm to the interests of the Romanian state or people.

Annex 4: a copy of the letter I mentioned above I received from the Representative Edward Koch regarding his meeting with the Romanian Ambassador at that time, while trying to help a family in the United States to be reunited.

III. PRESIDENT CEAUSECU'S STATEMENT REGARDING FAMILY REUNION AND EMIGRATION POLICY MADE ON JUNE 3, 1976 AND FEBRUARY 17, 1977

President Ceausescu demonstrates the scorn he has for the Western World in his speech published by the Romanian newspaper *Scinteria* on June 3, 1976, exactly one day after President Ford waived Section 402 of the 1974 Trade Act for Romania only:

Regarding the *family reunion* and *emigration problems*, we consider that propaganda created abroad with the purpose of attracting citizens from Romania, has nothing to do with humanitarian principles, but it represents a means to exploit national sentiments for the purpose of satisfying the narrow and egoistic interests of capitalistic monopolies, which only want cheap qualified labor.

On February 17, 1977, Ceausescu delivered a speech at a meeting of communist party secretaries nationally broadcasted denouncing dissidents and would-be emigrants as traitors to Romania. He charged that, "some circles are attempting to use the Helsinki Final Act to interfere in the internal affairs of other nations." He applied the term "traitor" to Romanian citizens seeking to emigrate and to those carrying on propaganda against this country."

IV. PROVISIONS OF THE ROMANIAN LAW REGARDING THE CROSSING OF ROMANIAN BORDERS

At this point we would like to quote from the Penal Code of the Socialist Republic of Romania, concerning people desiring to travel abroad (from the American-Romanian newspaper SOLIA, Detroit, Michigan).

Art. 194.5: The fact that a Romanian citizen on a government or a general interest assignment abroad, refuses to return to the country, constitutes a crime of treason and is punishable with heavy imprisonment from five to fifteen years, loss of civil rights from four to eight years, and the confiscation of all his assets.

"Anyone who omits to denounce any preparatory acts regarding the above crime, before the infractor crosses the border, and before he is discovered by the State officials, is punishable with correctional imprisonment from one to five years and correctional interdictions from one to five years."

Art. 267: "Anyone who enters or leaves the country in other places than those designated, or passes secretly through these designated places, commits the crime of fraudulent passage of borders and is subject to correctional imprisonment from three to ten years. The same punishment is applicable to anyone who has helped the above act."

V. CONCLUSIONS

The facts in this statement have been gathered from personal experiences, and from the cases of other American citizens and residents with relatives in Romania, as well as people in Italy, West Germany, and Australia with relatives in Romania. Details have been supplied by recent immigrants to the U.S. such as Mr. and Mrs. F. Georgescu, of 65—45 Yellowstone Blvd., Forest Hills, N.Y. 11375, Mrs. Maria Manta, of 20–49 Palmetto St., Ridgewood, N.Y. 11227, and her recently emigrated sons in Rome, Italy, Miss Dorothy Zaharescu, of 93 Viale America, Rome, Italy, and many others.

From the testimony of hundreds of people like the above-mentioned, it is apparent that the provisions of the Final Act of August 1, 1975, regarding the right to travel and emigrate to join a relative are not observed by the government of R.S. Romania. In other words, there has been no improvement at all in the right of Romanians to travel abroad. If anything, such rights have been weakened.

As a group of Romanian dissidents including the writer Paul Goma mentioned in their appeal on February 8, 1977 to the 35 participants at the 1975 Conference on Security and Cooperation in Europe, other long-ignored constitutional rights such as Freedom of Assembly, Freedom of the Press, Freedom of Conscience, Inviolability of the Home, Secrecy of Correspondence and Telephone Communications are also flagrantly violated in Romania.

During the last telephone communication the Truth About Romania Committee of N.Y. had with Paul Goma in Bucharest on Friday, March 4, just two hours before the catastrophic earthquake in Bucharest, Mr. Goma informed us that 75 people joined the signatories of this appeal. Even though Paul Goma's apartment building is surrounded by plainclothes policemen, and his telephone conversations are under surveillance, more and more people are joining the group.

The American-Romanian Committee for Family Reunion asks that the Helsinki Commission of the U.S. House of Representatives make these facts known in Belgrade, Yugoslavia, where the East-West Conference on Helsinki Final Act will convene in June 1977.

Mr. HARRIS. Mr. Speaker, my constituents have called my attention to reports which describe certain repressive policies of the Socialist Republic of Romania with regard to the free exercise of fundamental human rights by its citizens. The complaints relate to the curtailment of a wide range of human rights, but are most specific in the area of cultural suppression of the Hungarian ethnic minority. I am most concerned about these complaints and urge our diplomatic representatives in Bucharest to carefully monitor the adherence of the Romanian Government to its obligations under various international human rights agreements, such as the Helsinki Agreement. I wholeheartedly support the President's worldwide initiatives in the realm of human rights and suggest that we make clear our concern that the Bucharest authorities have not made the agreed upon progress toward eliminating repressive measures.

Ms. MIKULSKI. Mr. Speaker, I join my distinguished colleagues today in condemning the injustices that have been continually occurring in Rumania against its many minorities, which include 2.5 million Hungarians, 400,000 Germans, and thousands of Jews, Ukrainians, Armenians, Greeks, and others. Most recently, the number of these minorities who have been allowed to emigrate from this Eastern European country has declined substantially.

One might come to the conclusion that the reason for this reversal is due to an improved situation for these minorities. In reality, the Romanian Government has been denying the applications of these minorities who wish to leave. Even though the numbers of emigrants has been erratic, the overall trend since 1974, when most-favored-nation status was not in effect, is significantly lower than the 3,7000 departures allowed in that year.

Recently I joined several of my colleagues in writing to President Carter urging him to review Romania's emigration record before recommending a waiver to section 402 of the Trade Act of 1974. I am most deeply discouraged by the lack of improvement in the record as to the number of minorities who have been allowed to emigrate within the last year.

I cannot sufficiently stress the importance that the House of Representatives thoroughly review and examine the current situation in Romania before deciding to renew the most-favored-nation status now extended to that country.

It is my hope that not only the Congress but the ongoing Belgrade Conference on the Helsinki Accords will be able to exert sufficient pressure on Romania to bring about a change in its current emigration policies.

Mr. FISH. Mr. Speaker, the alarming situation of human rights in Romania compels me to join my colleagues today in voicing my concern over conditions in that country. President Carter's policy, which affirms that the attitude of the United States toward another country is strongly influenced by the status of human rights in that country, fits the American tradition of upholding freedom and the rights of the oppressed.

I might also add that Congress has been as resolute in upholding the human rights policies than has the President. Since Romania is a recipient of U.S. commercial benefits, there exists the possibility that the President's human rights policies could be taken into consideration in any trade negotiations. Romania's internal oppression, in particular the systematic campaign to forcibly assimilate the 2.5 million member Hungarian minority, will continue to occupy the world's attention in the future. Such measures as the elimination of Hungarian schools and cultural institutions, the confiscation of minority church archives, the falsification of minority population statistics, interference in church activities, the forced dissolution of ethnic communities, and obstruction of contacts between the Hungarians and their friends and relatives abroad, must be reversed. If most-favored-nation status is to be considered for renewal in next year's bilateral trade negotiations, concrete ameliorative steps must be clearly shown to have taken place.

Recently, an article on the Hungarian minority in Romania appeared in the London Sunday Times—April 17, 1977, page 8. I am inserting it in the RECORD as

a brief but revealing indication of the Romanian Government's activity in denying human rights to the enormous Hungarian minority population:

ROMANIA'S OPPRESSED MINORITY

(By George Schopflin)

In the popular mind, the Transylvania region of central Romania is a land of vampires and wolves. But it has suffered in its history more from the claims of rival powers than from the depredations of Dracula. Twice in this century it has been part of both Hungary and Romania and neither side has a good record in its treatment of minorities—40 per cent of Transylvanians are Hungarian.

Now a unique document has reached the West by secret channels, detailing the cultural oppression of Romania's 2 million Hungarians who, concentrated in the Transylvania region, are the largest national minority in Europe.

The 27-page typed document is the first account of how an anti-minorities campaign is being operated in Romania, whose government claims to be Marxist, communist and internationalist, but practises policies that are intensely nationalist. Romania's unstated but unmistakable aim is to become a state without any national minorities.

The evidence of the document, which tallies with other information, is of a campaign to eliminate the Hungarian intelligentsia and skilled working class, which have a strong national consciousness and cultural traditions, and to break up the cohesion of Hungarian districts.

The method used involves a constant granting and withdrawing of concessions to the Hungarians in order to create uncertainty.

Mr. SYMMS. Mr. Speaker, testimony submitted to this House during recent hearings on the extension of most-favored-nation status to the Socialist Republic of Romania has raised serious doubts as to whether the human rights objectives of the Trade Act of 1974 are in fact being met in this particular instance. When our Government first extended MFN to Romania, alone among nonmarket-economy countries, it was done in the belief that this would strengthen that country's apparent attempts to free itself from the rigid Communist discipline imposed on members of the Soviet bloc and thus contribute to greater liberalization in that part of the world.

The evidence, however, supports the view that Romania's independent foreign policy is one more weapon in the arsenal of domestic totalitarian repression, justifying, among others, the current concerted campaign aimed at the forced assimilation of ethnic minorities, and does not in the least contribute to making the life of its much-abused citizens more bearable. One can, therfore, ask if our continued extension of MFN is in fact accomplishing what we set out to do, or if it would not be more to the point to discuss suspension of MFN until the human rights objectives contained in the Jackson-Vanik amendment are satisfied. Among the questions to be analyzed is how well Romania is living up to the guarantees for minority enshrined in its own constitution, such as those pertaining to use of the mother tongue in schooling, publishing and social and cultural activities, as well as how well it is complying with the provisions pertaining to minority rights in the Helsinki Agreements. As to the latter, it would be very important to instruct our delegation to the Belgrade Conference to have the question of human rights, and especially minority rights, in the Socialist Republic of Romania brought up and examined at that forum.

It is not enough to go on record as favoring human rights; we must also be willing to followup and ascertain that the other parties to mutual agreements in which both sides committed themselves to certain behavior are in fact complying.

Mr. AMBRO. Mr. Speaker, a sacrosanct concern for human rights lies at the core of any democratic society's legitimate foreign policy. Economic and strategic objectives are inseparably linked to the paramount goals of human freedom. This is our heritage and will continue to be our destiny.

One area where our concern assumes special importance is Romania—the only East European country which receives most-favored-nation treatment under the terms of the Trade Act of 1974. Historically, Romania—as a country with significant autonomy from the Soviet Union—has had one of the better human rights records among Communist nations. The dominant theme of Romanian foreign policy continues to be a desire to maintain a high degree of independence in both its political and economic relations with other nations.

Because of this tendency, President Carter recommended in June that most-favored-nation treatment for Romania be extended for the year beginning July 3, 1977. In his recommendation to Congress, the President said:

I believe that a further extension of U.S.-Romanian economic relations can help to promote a continuation of such independent policies and . . . expand our present over-all bilateral relationship.

The Congress supported the measure.

The decision may be commendable for several reasons. Enhanced trading opportunities between the two countries, of course, is mutually advantageous. Moreover, most-favored-nation treatment provides a framework for bilateral discussion of other issues besides economics.

At the same time, however, I think Romania should be put on notice that Congress willingness to continue most-favored-nation treatment does not imply a willingness to tolerate the kind of violations alleged to occur in Romania with greater frequency. The recent decline in emigration visas to certain nations approved by Romania, the alleged harassment of emigration applicants, the crackdown on certain dissidents, and the allegations of Romanian minority groups all cast grave doubt on the Romanian Government's good faith.

While many allegations are not fully documented, their sheer volume and distribution indicate that Romania could be much less repressive in its human rights policies. If nothing else, the Romanian regime should cooperate more fully in releasing information on its emigration practices and treatment of dissidents. Only in this way can Romania ever allay the lingering doubts of the United States and all nations that pride themselves on freedom.

In 1977—the beginning of a new era of commitment to human rights in foreign affairs—the Congress should indicate that it will be watching Romania's human rights performance during the coming year with special interest.

If we are to remain faithful to the principles that gave birth to this Nation and if we are to preserve certain freedoms for generations yet to come, then there can be no compromise on human rights. Our commitment to fundamental freedoms—of expression, of thought, of movement, and of choice—is the bedrock of our political institutions. How well we articulate and implement those principles—at home and abroad—is the best measure of how democratic we truly are.

Mr. OTTINGER. Mr. Speaker, in 1 month, a proposed extension of most-favored-nation treatment for Romania will be considered by the President. With this extension, Romania—the only Eastern European country presently receiving nondiscriminatory treatment under the Trade Act of 1974—would be granted special privileges to be applied to its commercial relationship with the United States.

The President has announced his intention to extend MFN for 1 additional year. I recently joined in a letter to the President urging him to permit extension only with a strong expression of concern over the human rights situation in Romania and to convey to the Romanian Government our expectation that its performance in this area will rapidly improve to the point that it is in line with the human rights objectives of the Jackson-Vanik amendment.

I am especially concerned about the emigration situation in Romania, and with its treatment of ethnic minorities. According to a recent report issued by the Trade Subcommittee of the Ways and Means Committee, the number of emigration visas issued by the Romanian Government has decreased during the past year. This trend is particularly evident in the number of denials to those who seek to emigrate to the United States or Israel.

Reports of human rights violations also are terribly disturbing. Several months ago President Ceausescu announced an amnesty program which provided for the release of approximately 19,000 Romanian political prisoners and the reduction of sentences of 9,500 additional prisoners. President Ceausescu's action is heartening; however, there are still many political prisoners being held, so this is a matter of continuing concern.

I hope that the President will get strong commitments from the Government of Romania with respect to human rights and emigration before acting on the extension and will watch the situation in Romania very closely during the upcoming months as part of a concerned effort to assure that its human rights and emigration practices are in keeping with the intention of U.S. trade policy.

Mr. NIX. Mr. Speaker, I rise in support of my colleagues on the matter of

the continuing violation of human rights in Romania.

This is an important matter in that Romania through its commercial relations with this country has created the illusion that it is relatively free of Soviet influence in comparison with the other nations of Eastern Europe.

This matter is an acid test for our commitment to human rights in that in the case of Romania we are dealing with a nation with which our commercial relations are excellent.

The world will watch and see if our interest in human rights is as keen where our money interests have been satisfied.

The Ceausescu regime in Romania has indulged itself in domestic oppression. It suppresses minority races and cultures such as Jews and Hungarians.

Yet this regime was excepted from the provisions of the Jackson-Vanik amendment and accorded most-favored-nation treatment under the Trade Act.

The time has come, I believe, to apply the Jackson-Vanik amendment to Romania, until such time as the persecution of minorities ceases and the provisions of the United Nations Covenant on Civil Rights under section 27 and the terms of the Helsinki final act are observed.

I congratulate our good friend and colleague Congressman EDWARD I. KOCH in obtaining this special order for a discussion of the Romanian question, and I join with him in urging justice for the people of Romania.

Mr. BALDUS. Mr. Speaker, while the question of granting most-favored-nation status to Romania still remains open, I think it is appropriate to express my hope that the Romanian Government will make continued improvements in its compliance with the provisions of the Helsinki Accord, particularly with regard to family reunification and respect for cultural diversity.

Romania's record on human rights is considerably better than that of the Soviet Union, although this does not give us grounds for complacency. For instance, compared with Romania's previous record, its approval rate of permission to emigrate to Israel has been disappointing. In both 1975 and 1976, the number of emigrants amounted to almost 2,000 yearly. This year, the emigration rate is running at just half that number.

Another area in which compliance with the provisions of the Helsinki Accord can be improved is in attempts to eliminate de facto discrimination against the Hungarian ethnic minority living in Romania. Reports of the phasing out of Hungarian publications and classes taught in Hungarian indicate that discrimination against foreign language minorities still exists.

The United States should continue its efforts to improve economic contracts with Romania, but at the same time, I would hope that the Romanian Government will continue to increase its awareness of the rights of its citizens.

Mr. STEERS. Mr. Speaker, as the United States is presently considering the extension of several trade privileges to the country of Romania, it is important that the question of human rights in Romania be considered. Frankly, the Romanian Government appears to be in the process of executing a wide-reaching plan to forcibly assimilate its 3½ million minority citizens, while, at the same time, decreasing the numbers of those allowed to emigrate.

The largest of these Romanian minorities, the Hungarians, comprise the largest minority population of Europe. However, the Romanian Government is attempting to erase the ethnic heritage of the Hungarian Romanians and other Romanian minorities. This is achieved through the elimination of many ethnic schools and universities, the curtailment of cultural opportunities, the confiscation of minority archives, and the harassment of minority churches. Is not this suppression of cultures a crime against humanity, since humanity will be the ultimate victim of these actions?

While the Romanian Government may feel that they must implement this policy to maintain social order, I hope they might learn a lesson from the United States, which has learned that ethnic heterogeneity can strengthen society, not weaken it.

Furthermore, while making life unbearable for many members of Romanian minorities, the Romanian Government has decreased the numbers of those allowed to emigrate from Romania. This is in violation of international agreements signed by Romania, most notably of which is the Helsinki Declaration. This states that emigration will be permitted in several circumstances including the reunification of families. Also, the Romanians are ignoring the Trade Act of 1974, which indicates that the United States will consider the emigration policies of those nations that receive special trade considerations from the United States.

I feel that a close examination of Romania's policy regarding emigration should be accomplished before it is accorded most-favored-nation status regarding trade. In the event that the Romanians receive most-favored-nation status, I hope that they will take into account the long and deep soul-searching we have undertaken here in the Congress.

Mr. KEMP. Mr. Speaker, I wish to thank and commend the efforts of my friend and colleague Representative EDWARD KOCH of New York to focus congressional attention on the ongoing violations of emigration and human rights in Romania. Even though Romania has still not completely complied with the free emigration requirements of section 402 of the Trade Act of 1974, the President, nevertheless, has recommended a 1-year extension of the most favored nation status. These trade benefits were granted in part because Romania, while remaining within the Communist bloc, was allegedly pursuing a foreign policy somewhat independent of the Soviet Union.

Is it not ironic that we have withheld MFN status from the Soviet Union because of the mistreatment of Soviet Jews, but have allowed it to be bestowed on Romania, a country that pursues an equally vicious policy toward the Hungarian minority and other citizens in its country.

During the first 2 years of the United States-Romanian trade agreement, the Romanian record on emigration has been highly unsatisfactory, according to evidence presented in congressional hearings last fall. In the 9-month period between July 1976 and March 1977, the number of visas issued by Romania for emigration to both the United States and Israel has dropped precipitously when compared to the previous year's period. The number of visas to the United States dropped from 1,054 to 715, and for Israel, from 2,157 to 1,146.

Since the beginning of this year, I have been working on trying to get exit visas for two Romanian citizens of German Lutheran heritage. Klaus Grasser and his daughter Heidemarie were forced to sell all their possessions, after Klaus lost his job and after his wife passed away. There are relatives in Germany that could care for 10-year-old Heidemarie, who is now out of school and who with her father can only look forward to the authorities of the Romanian Government to overlook and ignore them yet another day.

Back in April of this year, I was notified by the Embassy of the Socialist Republic of Romania, that exit visas had been granted to the Grassers. Now it is August and they have still not been allowed to leave the country. They are told to continue waiting.

Moreover, last year very serious charges were raised about human rights violations against several million minority inhabitants of Romania, including approximately 2.5 million Hungarians. Some of these allegations were substantiated by reference to official Romanian sources, and it appears that some of Romania's minority policies violate the Helsinki agreement and other international covenants all ratified by President Nicolae Ceausescu's government.

Romania is seeking to increase its two-way trade with the United States to $1 billion a year by 1980. It now stands at $450 million per year. If we are to maintain a most-favored-nation status with Romania and permit tariff-free imports of Romanian goods, then I believe we must make her live up to her end of the bargain as well. Not allowing its citizens to enjoy the most universal values of human freedom and liberty is the most irresponsive action that the Romanian government could pursue.

Citizens of Romania, and all other nations around the world, must be free to think, to speak, to print, to assemble, and to worship in accordance with their consciences. They must be allowed to enjoy equality before the law and freedom of mobility around the world. All these basic and inalienable rights are still all but dreams in the minds of the citizens in Romania.

It is for these reasons that we must remain strong in both our conviction and in our support of these oppressed people, and especially in letting the Romanian Government know that we are unswerv-

ing and steadfast as a free people and a free nation, perpetually confirming the rights of all citizens to know their own personal freedom and independence.

Trade is a two-way-street, dependent upon reciprocations by the parties on both sides. I believe that Romania, in order to keep its most-favored-nation status with the United States, must provide this government with evidence of its good faith by granting permission to people like the Grassers, who have waited such a long time to emigrate. She must cease in her harassment of those who apply to emigrate, and in her continued oppression and violation of those basic human rights that belong to every man, woman, and child around our globe.

GENERAL LEAVE

Mr. TUCKER. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. KOCH).

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

THE ASBESTOS HEALTH HAZARDS COMPENSATION ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. FENWICK) is recognized for 10 minutes.

Mrs. FENWICK. Mr. Speaker, today, I am introducing a bill to insure that workers disabled by exposure to asbestos receive adequate compensation without having to resort to costly and time-consuming litigation. This legislation, the Asbestos Health Hazards Compensation Act of 1977, will provide equitable and comprehensive benefits to persons disabled as a result of employment-related diseases, members of their families, and surviving dependents.

At the present time, there is no single comprehensive method of dealing with the problems and hardships created by asbestos-related diseases, the dimensions of which have only recently become apparent in medical studies. It has traditionally been within the jurisdiction of the States to determine worker compensation laws; but in those cases where the States fail to provide the necessary services, the Federal Government must take the initiative. This is certainly the case here.

Asbestos-related diseases are not like coal mine related illnesses. Coal mines are located in specific States and the diseases connected with them are locally defined. Asbestosis and other asbestos-related diseases are not confined to mining areas, or even to the industrial facilities where asbestos is processed. They are scattered from California to Rhode Island, in shipbuilding yards, housing construction and repair, and other occupations and places where workers handle asbestos products.

Since few States provide adequate benefits for death or disability due to asbestos-related diseases, individuals have been forced to seek legal action against manufacturers, employers, and the Federal Government to acquire sufficient compensation. Such remedies are inconsistent and burdensome at best and fail to promote a comprehensive, unified approach to the payment of disability benefits.

This act, which is in the nature of "no fault" legislation, is designed to promote a comprehensive, unified approach and a workable benefit schedule that will be satisfactory to both employers and employees. In fact representatives from both New Jersey's largest asbestos manufacturer, Johns-Manville, and its workers' union, the International Association of Heat & and Frost Insulators & Asbestos Workers, helped to draft this legislation. Thus, this bill represents the culmination of the combined efforts of management and labor to correct existing inequities for asbestos workers.

We now know from medical studies that asbestos exposure is a leading cause of cancer. It is estimated that 50 percent of all asbestos insulation workers die of cancer. According to Dr. Irving Selikoff, the renowned and acknowledged expert in the field—

> At present, one in every five deaths among insulation workers is due to lung cancer, one in ten to cancer of the pleura or peritoneum, and one in ten to scarred lungs of asbestosis.

We also know, based on studies by Dr. Selikoff and others, that asbestos workers who smoke have an incidence of lung cancer 90 times greater than workers who smoke but are not exposed to asbestos.

I have narrowed the scope of the bill to cover only those diseases which are caused by exposure to asbestos and are diagnosed as such. The medical community has assured me that these diseases are clearly diagnosable, so there is no presumption factor to establish eligibility. Anyone who provides medical certification that the disease is asbestos-related will be eligible for benefits.

The bill which I am introducing today will pay benefits to affected persons and their dependents for disability or death from an asbestos-related disease. Affected persons are those whose occupations involve exposure to asbestos or members of their families who contract asbestos-related diseases from close contact with those individuals. Compensation will be provided for both partial and total disability, and benefits can be later adjusted if the nature or severity of the disease changes.

Compensation claims will be paid from the General Treasury through December 31, 1979. Thereafter, "responsible parties" and the Federal Government will jointly support an asbestos workers' compensation fund to pay benefits. "Responsible parties" include producers and distributors of asbestos products and, since smoking and asbestos diseases are so clearly related, the producers and distributors of cigarettes and cigarette tobacco are also included. The fund will be administered by an independent board, chaired by the Secretary of Labor; and this board will be responsible for determining the validity of claims.

The Federal Government must assume part of the burden of these compensation payments because it is partially responsible for the current dilemma. Since 1975, over 400 plaintiffs have asserted in court actions that the Federal Government is to blame for their illness because it failed to fulfill its legal obligation of warning workers of the health hazards of their job environment, as required under the Walsh-Healey Act of 1936.

This legislation would eliminate the need for such litigation in the future. In fact, those who are currently involved in legal action will have the option of withdrawing their suits in favor of this benefit plan. Persons presently eligible for compensation and those who become eligible in the future, will have 3 years from the time the disease is diagnosed in which to apply for benefits.

We are now aware of the health hazards of asbestos exposure and are beginning to move in the right direction by recognizing the danger and trying to do something about it through increased safety standards. I think all of us feel obliged to aid those workers who have long suffered from asbestos-related diseases without receiving adequate benefits. This legislation will finally provide those individuals and their families with a comprehensive compensation plan that is both equitable and expeditious. A brief section-by-section analysis of the bill follows:

ASBESTOS HEALTH HAZARDS COMPENSATION ACT—DIGEST

At the present time there is no single comprehensive method of dealing with the problems and hardships created by asbestos-related diseases, the scope of which were unknown to industry, labor, government, and medicine until recent time. Remedies pursued to date include worker's compensation and legal action against manufacturers, employers and the Federal Government. Such remedies are inconsistent and burdensome at best, and do little to promote an overall solution to the problem. This act, which is in the nature of "no fault" legislation, represents an attempt to equitably and comprehensively deal with the human burdens caused by asbestos-related disease. The legislation provides for a basic monthly benefit over and above a worker's compensation base. The act is funded by contributions from industry and the Federal Government. Recovery under this Act would be comprehensive, and would eliminate lawsuits against manufacturers, employers and the Federal Government.

The act may be summarized as follows:

TITLE I

1. Recognizes the existence and hazard of asbestos-related disease due to exposure to asbestos both alone and coupled with the inhalation of cigarette tobacco smoke.

2. Recognizes that there are inadequate remedies for those who suffer as a result of an asbestos-related disease.

3. Sec. 101(b) sets forth the intent and purpose of the act to provide equitable and comprehensive benefits for affected persons who suffer from an asbestos-related disease, and to the dependents of affected persons who die from such disease.

4. Includes within the coverage of the act as "affected persons," those persons occupationally exposed to asbestos and members of their household who may contract an asbestos-related disease. Sec. 102(b)

5. Diseases for which compensation would be paid when causally related to exposure to asbestos and asbestos coupled with the inhalation of cigarette tobacco smoke are defined in sec. 102(c) as:

(a) asbestosis
(b) bronchogenic cancer
(c) mesothelioma
(d) gastro-intestinal cancer

6. Provisions are made for permanent or partial total disability and permanent or partial temporary disability. A 60% diminution in earning capacity is considered total disability. Sec. 102(f)–(1).

7. Responsible parties, who together with the Federal government, will assume the burden of funding the legislation are defined as companies engaged in the manufacture and first sale of products containing asbestos and companies engaged in the manufacture and first sale of products containing asbestos and companies engaged in the manufacture and first sale of cigarettes, Sec. 102(j).

8. Responsible parties are further classified in order to permit different levels of contribution to the funding of the act in recognition of the risk created by various products. Sec. 102(k).

TITLE II

1. Provides for the payment of benefits to affected persons and their dependents for disability or death from an asbestos-related disease. Sec. 201.

2. Payment of benefits is scaled to the monthly payment to which a Federal employee in a given GS grade who is totally disabled would be entitled. The present draft is geared to the GS–5 level which would be approximately $500 per month for death or total disability. Sec. 202(a)(3). There are provisions for the increase of the benefit based upon the number of dependents of the affected person. Sec. 202 (a)5), (a)(6).

3. Medical criteria is established for the allowance of claims, and accordingly there is no presumption of disease based upon length or degree of exposure to asbestos. Sec. 201(b).

4. The benefits may be adjusted if the nature or severity of the disease changes, and provides for the payment of medical expense if such payment is unavailable under state worker's compensation. Sec. 202 (a)(8), (a)(9).

5. Legal and medical expenses incurred in establishing claims may be reimbursed in a sum not to exceed $1,000.00. Sec. 203(c).

6. Benefits are not to be considered income for purposes of the Internal Revenue Code and are exclusive of a base worker's compensation benefit. Worker's compensation payments above the base would be credited against benefits, received under the Act. Sec. 202(c).

7. Benefits for claims arising through December 31, 1979, are to be paid from general treasury funds.

TITLE III

1. Benefits for claims arising subsequent to January 1, 1980, are to be paid from an Asbestos Worker's Compensation Fund. The fund is to be supported by equal contributions from the responsible parties collectively and the Federal Government. Sec. 301.

2. The fund will be administered by an independent Board, chaired by the Secretary of Labor. The Board will determine the validity of claims filed. Sec. 302(b)–(h).

3. Responsible parties contribute to the fund according to a formula based on a percentage of net sales of asbestos containing products and/or cigarette sales made during the quarter fifteen (15) years preceding the quarter in which payment is made. The different classes of responsible parties would be taxed at different rates to appropirately recognize the risk created by particular products. Sec. 303(b).

4. No affected person shall be discriminated against for seeking benefits under the Act. Sec. 305.

5. There are provisions for clinical facilities for examination and treatment where deemed necessary. Sec. 307.

6. Orders allowing or denying benefits under the act may be appealed to United States District Court. Sec. 306.

7. All claims under the Act shall be filed within three (3) years of an initial diagnosis of total disability or death due to an asbestos related disease. Sec. 304.

THE PRODUCT LIABILITY INSURANCE TAX EQUITY ACT: HOW IT WILL HELP SMALL BUSINESS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, on previous occasions I have placed statements in the CONGRESSIONAL RECORD discussing H.R. 7711, the Product Liability Insurance Tax Equity Act. In June I inserted articles describing how PLITE would work with regard to companies that have problems with product liability insurance, and I also discussed how this legislation would benefit those concerned with professional liability insurance. In the July 28 RECORD I reproduced portions of letters I have received from various trade and professional organizations, explaining how the bill would help their members.

But all this is rather sterile stuff. Yes, the information is good. But it somehow does not truly convey the pathos of the small businessman or the professional who cannot afford commercial insurance coverage but who must have insurance in order to stay in business. For many, the logical alternative is to provide self-insurance for all or part of the risk. However, our Federal tax laws currently preclude this option.

The Product Liability Insurance Tax Equity Act would provide a partial solution to this problem by eliminating the Federal tax bar to self-insurance. While not terminating the original problem of unreasonable elements in the tort law, this measure at least would allow small businesses and professionals to avoid bankruptcy while they await action on the tort law reform front.

In order to help us better understand exactly how the tax laws today discriminate against the small businessman who seeks to self-insure, I would like to share with my colleagues some of the correspondence I have received from individuals around the country. This is not any kind of organized write-in, mind you. These are letters that were sent to me by individuals who had heard about PLITE and wanted to tell me how the legislation would affect them.

First, to place things in perspective, there is a letter I received from a company in Pennsylvania. This firm cannot truly be called small but it is the smallest company in its industry. This letter illustrates not only the basic insurance problem but also the competitive problems imposed by our tax treatment of self-insurance reserve funds:

We are one of those unfortunate manufacturers who by choice have elected to go the self-insured route for products liability insurance coverage. Approximately 70 percent of our annual revenues carried close to 9 percent product liability insurance in 1976, and the cost for 1977 will approach 15 percent.

. . . Our product line covers Consumer grade, Commercial grade, and Industrial grade goods. We are the only major manufacturer in the industry who is privately held and whose [deleted] equipment revenues account for the majority of the corporate income. Our major competitors, whose annual volume is somewhat below ours, enjoy the distinction of being part of very large corporations whose total revenues are between $.75 billion and $1.3 billion. Thus, the tax treatment of self-insured reserves for climbin equipment have little or no effect on these huge corporations.

We have compiled a rather excellent data base which was used extensively in negotiating renewal of our insurance, which primarily consisted of a very significant self-insured retention ($500,000/$2.5 million) and $9 million of umbrella coverage. Had we elected to take the entire package through traditional insurance channels, our cost for 1977 would have been approximately $5.2 million.

For the fiscal year ending December 31, 1977, because we elected to go to a self-insurance program, it is quite probable that for corporate recording purposes and certified financial statements to our various lending institutions, we will show a very modest pre-tax income in the range of $2 million; however, because of the disallowance of self-insured liability insurance costs included in the operating statements of the Company, but disallowed for tax purposes, we will incur a $2 million tax liability and the net income for certified statement purposes will be "zero".

We have addressed this situation to our public accountants; and as of this writing, we have not collectively agreed that a provision could be placed on the corporate records reflecting a reduction of this corporate tax provision in certified statements, recognizing the future tax benefit that may ultimately accrue—as under the self-insured retention program, it is necessary for us to abandon the traditional occurrence-basis and go to a claims-made basis. . . .

An electronics company in my own district in Ohio told the same story in a more succinct fashion. They wrote:

With the same coverage, with the same company, and with no bad experience, the premium for our product liability insurance increased over five-fold. Right now, we are in the process of debating the best course of action, including "going bare." I welcome the news that you are promoting some relief in the form of a tax-deductible reserve.

As I have noted previously, H.R. 7711 pertains to professional liability as well as product liability. A senior partner in one of the larger law firms in Dayton writes:

The problem of our premiums for liability insurance is certainly becoming acute. First of all, we have had some difficulty in securing any coverage at all since many of our partners specialize in securities matters. Additionally, if we take the kind of coverage that we need, our premiums would triple this year. As a result of all this, we are giving consideration to the possibility of self-insurance. At this time, due to the tax laws, we cannot self-insure. If your bill passes, then we can give serious consideration to the matter of self-insurance.

A letter from a farm machinery company in Iowa clearly shows how frustrated and trapped many manufacturers

feel. Less than 2 weeks after PLITE was introduced I received this message:

I believe your proposed bill, "The Product Liability Insurance Tax Equity Act," is an excellent one and will be a major aid to individuals and businesses who are having trouble getting or paying for product liability insurance.

My particular company is currently going uninsured after not being able to receive a quote for our insurance since January 1977. When we were informed that we could not even set up insurance reserves that we could deduct from our taxes, we were disheartened to the point of quitting. Now with help from people like you perhaps we can start getting some equity in our tax system and later perhaps more equity from the courts in the product liability suits themselves.

In Dayton, in the congressional district I represent, the owner of a tool and die manufacturing company presented a very similar story. His letter to me includes this passage:

. . . H.R. 7711 would be of current value to (us). As you know, we dropped our product liability insurance in January because of the tremendous increase in cost. At this time we are charging our company for product liability, recognizing the cost but realizing that at the end of the year we must put this money back into the profit pool and pay a tax on it.

As mentioned above, I think the words "current value" are of greatest importance here, for we . . . can still be sued out of business. The real problem must not be forgotten and that is that we are in a position of jeopardizing our company, or at least its profits, because of something over which we have no control . . .

Another Ohio manufacturer of precision tools and equipment had a similar experience to relate:

We have just been informed that our renewal for our product liability insurance will require a premium substantially higher than that for 1976. This premium, which will be in excess of $100,000.00, forces us to immediately give strong consideration to some level of self-insurance.

The Product Liability Insurance Tax Equity Act will help make self-insurance an economically feasible alternative for a company of our size and we certainly hope for timely adoption of this bill. Although this Act is not a substitute for legislation needed to deal directly with the product liability problem, it certainly is a welcome means to more acceptably deal with it.

Mr. Speaker, many of the corporations that are not able to obtain reasonable product liability insurance coverage have, increasingly, been turning to insurance brokers for help in finding commercial coverage. Consequently, I think you may be interested in this note I received from the director of one of the larger insurance brokerage firms:

Your Product Liability Insurance Tax Equity Bill, we believe, would have a significant, positive influence on the product liability insurance problem. Not only would it provide fair tax treatment for those businesses unable to obtain or afford product liability coverage, but it will also work to increase the availability of coverage at realistic, rather than excessive, premium levels.

If one remembers that for the small and medium size manufacturer and distributor conventional insurance is better than tax deductible self-insurance, then the impact of the Tax Equity Act on the availability and affordability of coverage is of even greater significance than the tax relief. . . .

Like insurance brokers, law firms with many corporate clients are also in a position to see this problem from a broad perspective. A senior partner of one such firm wrote:

I wish to commend you on your introduction of H.R. 7711, the Product Liability Insurance Tax Equity Act. The aim of the bill, the deductibility of self-insurance reserves, is an equitable solution to the problems posed by the high cost and limited availability of product liability insurance. Many of our clients with manufacturing and distributing businesses could take advantage of such a bill. In addition, I believe that the bill provides a workable solution to the high cost of professional liability insurance for doctors and lawyers.

Returning to the issue of competition, it is interesting to note how many companies perceive the product liability problem as one that also impacts severely on the ability of small and medium sized firms to compete with conglomerates and multinationals that enter their industries. To illustrate this point, here is a portion of a letter received from a specialty manufacturer in Connecticut:

I am completely in favor of the legislation you propose and would like to comment that at the present time the law apparently permits American corporations to form captive insurance companies, and many of them are doing so outside of the United States. This is an unfairness to the smaller corporation, which cannot avail itself of this opportunity due to the costs involved. . . . Passage of your legislation would apparently solve this inequity favoring the larger corporations, and I am sure will meet with the approval of all small and medium size manufacturers with liability insurance needs.

Finally, I will conclude this exposition with a very brief quote from a company headquartered in Chicago:

The equitable treatment under the tax laws of those companies which choose to self-insure against product liability losses is long overdue.

HOW THE SOVIETS ARE ATTEMPTING TO EXCLUDE ISRAEL FROM THE 1980 OLYMPICS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, I am increasingly convinced the Soviet Union intends to exclude Israel from the 1980 Olympic games in Moscow. I am also convinced it will happen, unless the United States and other participating countries tell the International Olympics Committee they must stop it or else.

Very specific information has been brought to my attention on this matter. It is not just speculation. A deliberately thought through plan has been set into motion to exclude Israel without it appearing the Soviets have a hand in it. How? By making sure by the time the Moscow games are held in the summer of 1980, Israel will be ineligible.

This information comes through Mr. Joachim Maitre, a former member of the Communist East German Nordic ski team, who has just written a yet-to-be-released book about Olympics politics and through Prof. Jeffrey Hart of Dartmouth College. Hart, the nationally syndicated columnist has written extensively on this subject and his first column on this subject alerted all of us to this Soviet plot. See my remarks and Hart's column in RECORD dated July 1, 1977, page 22092.

The plan is a combined Soviet-Third World one. It is based on standards of eligibility for national participation in the Olympics.

There are 26 Olympic federations, representing the recognized Olympic events. The Israelis do not belong to all 26 because they do not field teams in all events, especially the winter sports. In order to participate in the Moscow games, a Nation must belong to five or more federations.

Under relentless pressure from the Soviets and from Third World nations, the Israelis are being forced out of these federations, one by one, usually on a technicality. The goal? Have the Israelis down to less than five by 1980.

Israel was excluded from the European soccer federation on the grounds that it is not a European nation even though Turkey, which is as near-Asian as Israel, remains in the European federation.

When the final crunch comes, the weapon against the Israeli's will be the outrageous United Nations vote equating Zionism and racism, which many of us protested so vigorously. Third World delegates can be expected to show up at all the federation meetings with the UN resolution in hand, demanding the exclusion of Israel on those grounds. South Africa was excluded from the Olympics on the grounds of racism as expressed in a similar resolution.

At their 1976 Congress in Kuala Lumpur, Malaysia, members of the Asian Games Federation voted not to invite Israel on the phony grounds of security. It was claimed that Israel's participation in international sports constituted a security risk for all, and an Indian delegate supposedly calculated the cost of protecting the Israeli athletes and found them "exorbitant."

In November 1976 the world chess championships were scheduled for Haifa, Israel. The Soviets cranked up a campaign to the effect that the Israelis could not guarantee the security of the participants. When the international chess federation, FIDE, rejected the claim, the Soviet Union, Hungary, and Yugoslavia walked out. These were the 1, 2, and 3 chess nations in the world. They competed instead in the chess "International Olympics" held in Libya.

This happened in basketball too. In November 1976, the international basketball federation's European Cup Commission was informed that the teams of Spartak Brno of Czeckoslovakia and the Red Army Moscow would not travel to Israel to play Maccabi Tel Aviv in the European Basketball Champions Cup. According to the rules, this merited instant disqualification. However, the rules were bent. The games were moved to Brussels, where the Israelis beat the Soviet Team 91–79 and went on to win the cup.

Israel has already been excluded from the World University Games, to be held this August in Sophia, Bulgaria.

On April 2 of this year, at Birmingham, England, another incident in this pattern

took place. Red China's fifth ranked table tennis player, Wang Chun, failed to turn up for his first round match against unknown Shlomo Mendelson of Israel. The reason given was Red China's nonrecognition of Israel.

As my colleagues are aware, I have been deeply distressed over the increasing politicization of the Olympic Games. As an amateur and professional athlete for nearly 20 years and as a Commissioner on the President's Commission on Olympic Sports. I could not believe the relative ease with which the IOC caved in when the Trudeau government excluded the Republic of China from Montreal Olympic. Other teams last year refused to participate because of political disputes.

It has become all too clear what is happening, but it should not be a surprise to anyone. The Soviets and their cohorts intend to politicize the sports just like they have tried to politicize everything else. They intend to use these games as a vehicle for propaganda. They intend to use the competition to reflect their dialectical views of class struggle.

Congress will go into recess for a month at the end of this week. That was determined by the leadership at the beginning of this Congress. But when we return after Labor Day, I intend to circulate to my colleagues a letter addressed to the IOC, reflecting our concern over politicization in general and the exclusion of Israel in particular. I invite all my colleagues to join with me in showing Congressional opposition to this growing Soviet menace to the Olympic Games.

As Jeff Hart points out in this second column on the subject, if the Soviets succeed, it would be a major step in the attempt to de-legitimize Israel. We must prevent it from happening.

ANNOUNCEMENT OF HEARINGS ON H.R. 8359

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary will hold 1 day of public hearings on Thursday, September 8, 1977, to consider H.R. 8359. This bill will restore the effective enforcement of the antitrust laws, by overruling the Supreme Court's recent Illinois Brick opinion.

This hearing will be held in room 2141 Rayburn House Office Building at 9 a.m.

Testimony on this bill will be received from John Shenefield, Acting Assistant Attorney General for Antitrust and Lee Freeman, Jr., an attorney from the State of Illinois.

BETTE "GINGER" WEAVER OF LAURELTON

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

Mr. SCHEUER. Mr. Speaker, one of the greatest pleasures of serving as a U.S. Representative is that of meeting and working with community people of outstanding talent, energy and effectiveness. One of the leaders in my congressional district, Bette "Ginger" Weaver, joined my office as a volunteer—after I had noted her leadership qualities and asked her to contribute her time, talents, and energy to my New York office—and is now a full time assistant to me.

Nonetheless, despite our frenetic pace of work throughout the entire congressional district, Ginger has continued to step up her leadership role in the Laurelton community. Ginger was recently elected President of Public School 156 in Laurelton.

Laurelton is not just racially integrated; it is proud and it is at peace with itself. It is a community made up of good people of every faith and every color. It is a good community to represent in Congress and it is a good community to be part of, and to call home.

There is a particular uniqueness to Laurelton, as exemplified by Ginger's remarks. Laurelton is a community where racial conflict has given way to a harmonious and integrated way of life, where people relate to each other as neighbors and friends.

I would like to share with my colleagues Ginger's remarks—which were called to my attention by people in Laurelton—as eloquently reaffirming something of what is great about America:

INSTALLATION ADDRESS

Our nation has long been known as a country of pioneers constantly on the move in search of new frontiers, leaving in their wake embryonic communities that became stopovers or way-stations for the next wave of those in quest of the better life.

But we've now traversed this huge country from coast to coast, and there are no really new geographic frontiers in America, so we must settle in and make a commitment to the communities in which we live. We must make our communities the permanent bases to which, through our commitment and efforts, we bring that degree of perfection that we—each of us—seek.

And this can be done by focusing our attention and energies upon those for whom many of us want that better life—our children.

I believe that we in Laurelton have done just that

We have not abdicated our responsibility for the education of our children. Rather, we have been an integral part of that education process. And we must continue and redouble our efforts in this direction.

P.S. 156, the Laurelton school, has a student population of 1,200. Relative to New York City's total student enrollment, that's not a large number. But, to us, it is important because these students are our children. They are our most important responsibility and our community's most vital asset. For it is only through them that Laurelton will continue to thrive and prosper.

What we all want for our sons and daughters is a truly exemplary education, one that prepares them well for the next stage in their ongoing learning process—both formal and informal. This can only be achieved by the cooperative efforts of parents and teachers.

Our school is most fortunate in having an excellent staff and administration vital to us and to our children in these, their formative years. They have earned our confidence and our gratitude.

But we, as parents, cannot—must not—let our good fortune allow us to become less diligent in our efforts to ensure that improved standards of education are sought, provided and maintained for our children. This is no mean task. It requires our continued dedication and vigilance. The Parent Association of P.S. 156 has shown, time and time again, that it has an abundance of both these qualities.

It is with this knowledge that I thank you, most humbly, for investing your confidence in me. My election to the office of President of the Parents Association is an honor that I shall cherish, and I will endeavor to serve the families and children of our community with dignity and integrity. But our association can only be as good as the sum of the efforts of all of its members. I look to you for your interest, support and guidance.

Again, I thank you for the honor you have bestowed upon me.

REPEAL THE 25TH AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, our Constitution is remarkable for its durability. The institutional arrangements created by the Constitution have met the test of time incredibly well. I am convinced, however, that one of the recent additions ought to be deleted. I am once again introducing a resolution to repeal the 25th amendment.

The 25th amendment is intended to establish an orderly succession in the event the President dies or becomes disabled, or in the event of a vacancy in the office of Vice President. These are not easy problems, and there are no neat solutions. The 25th amendment is, in the words of the current Constitution, revised and annotated, "an effort" in that direction. But, note this, the commentary concludes:

It can no doubt be improved upon, but for the present it is apparently the consensus that the amendment offers the Nation a workable procedure in case one should be needed.

The need has arisen, and it is past time to give thoughtful consideration to the adequacy of this procedure.

At the time this amendment was enacted, it was in response to the murder of President Kennedy, which created a vacancy in the Office of the Vice President for which no replacement could be named, there being no procedure for it. Moreover, it was thought that something had to be done about the possibility of Presidential inability—for suppose that the President had been the victim of massive and disabling—but not fatal—brain damage? Could a vacancy be declared? It was not the first time this case had existed; Garfield lived for 80 days after being wounded, and Wilson suffered a disabling stroke 18 months before expiration of his term of office.

The solution of the amendment was to permit the principal officers of the executive departments or of such other body as Congress may by law provide to send a written declaration to the Speaker of the House and the President pro tempore of the Senate to the effect that the President is unable to carry on—whereupon a vacancy would exist, and the Vice President assume the powers and duties of office as Acting President. Later,

if the President were to revive, he could serve notice and resume office. It would be up to Congress to resolve any dispute.

The question that was not asked was whether or not it might be possible for a cabal to conspire against a President and declare him disabled. At the time, and even now, this may seem too incredible a situation to arise, but is it? We have already seen how a Vice President could be a simple crook, and forced to resign; and we have likewise seen how a President could become enmeshed in a criminal conspiracy, and forced to resign in the face of overwhelming evidence that made impeachment the inevitable alternative. That left us with an unelected Vice President who succeeded to the Presidency, and with another unelected Vice President who might well have succeeded him.

If such incredible events as these could arise, it might also be possible that unthinkable events of another character could also arise, and deprive a wholly competent President of office. Suppose a President fell into some kind of immense public disfavor. Could he be deprived of office by anxious cabinet appointees anxious to save the fortunes of their party, aided by an equally anxious and complaisant party in Congress? It is not impossible to imagine. Consider the case of Andrew Johnson, who was nearly impeached—not because he had committed any crime, but because he was in violent disagreement with his cabinet and their party in Congress, who happened not to share his political views. If forces of that kind had been able to use the tool of the 25th amendment the course of history might well have been very different.

The framers of the Constitution, and those who would amend it, must take into account all kinds of possible situations, even the bizarre. For the bizarre has happened, both before and after the 25th amendment. It is not an instrument adequate to the possible tests. The only time that this particular amendment would come into play would be in the midst of exactly the kind of tragic and bizarre situations that I have mentioned—the kind of times when our institutions are at their weakest. The amendment ought to be repealed, because, in the words of the analyst, it is an effort that can be improved upon. The time to do that is now, while we can see and think clearly—not later, in the midst of some unforeseeable tragedy, or in the aftermath of a great trauma.

HUMAN RIGHTS AND CAPTIVE NATIONS WEEK

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, anyone who knows the meaning and tradition of the Captive Nations Week observances since 1959 cannot but declare a full awareness of the natural bind between the captive nations thesis and any advocacy of human rights.

As a current congressional reprint being widely circulated both in this country and abroad expresses in its apt title, "Human Rights Are Old Hat for Captive Nations." And indeed they are old hat, for the captive nations analysis has always, and necessarily so, stressed human rights in all generic spheres of the concept—not only the personal, not only the civil, but also the national.

All too many in this country who speak in behalf of human rights tend to ignore the last category and thus fail to understand the virtual identity of human rights and captive nations. Captive nations are a natural for human rights formulation of policy.

Objectively, my selected reports on the week must carry comments and interpretations of 19 years of Captive Nations Week observances. Mr. Speaker, I request that the following items be appended to my remarks: The proclamation by Gov. James R. Thompson of Illinois; the certificate of recognition by Gov. Mills Godwin of Virginia; the proclamations by Mayor Michael A. Bilandic of Chicago, and Mayor Vincent J. Thomas of Norfolk, Va.; and a news account in the July 18 issue of News World on "Rally Held for Captive Nations."

The proclamations follow:

STATE OF ILLINOIS, PROCLAMATION

The nineteenth observance of Captive Nations Week beginning July 11 will be culminated with a parade at noon Saturday, July 16, down State Street in Chicago.

The colorful, annual event, with its different ethnic groups. reminds us that many peoples throughout the world are denied the right of self-determination and the freedom that we here take for granted. Through the years liberty-loving people have sought the freedom of America where they can worship as they wish and develop their talents in our free society.

Their different customs and characteristics have made our lives more exciting and interesting, broadened our perspective, and enriched the culture of our state. Getting to know them has given us a warm understanding and sympathy for the aspirations of all peoples.

Appreciative of their contributions to the growth and development of this Prairie State, I, James R. Thompson, Governor of the State of Illinois, proclaim July 11 through 16, 1977, Captive Nations Week and suggest that all Illinoisans participate in the observance.

CERTIFICATE OF RECOGNITION

By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, there is hereby officially recognized: "Captive Nations Week 1977."

Many people in Europe and Asia remain under the dominance of collective dictatorships, which deny the freedoms they once enjoyed.

Calling attention to their plight, the Congress of the United States and the National Captive Nations Committee, Inc. of Washington observe the period July 17–23 as Captive Nations Week, and I call the reminders it suggests to the attention of Virginians everywhere.

OFFICE OF THE MAYOR, CITY OF CHICAGO, PROCLAMATION

Whereas, our city's annual observation of Captive Nations Week will be highlighted by a State Street parade at noon on July 16th; and

Whereas, under auspices of the Captive Nations Friends Committee, the week's activities will direct public attention to the plight of people whose homelands are under Communist control; and

Whereas, many citizens of these countries are linked by family ties to residents of this community, and it is commendable that United States citizens, in appreciation of their freedoms, should extend sympathy and the hope of freedom to their fellow-men and women whose liberty has been denied:

Now, Therefore, I Michael A. Bilandic, Mayor of the City of Chicago, do hereby proclaim the period of July 11 through July 16, 1977, to be Captive Nations Week in Chicago and urge all citizens to take cognizance of the special events arranged for this time.

Dated this 3rd of June, 1977.

CITY OF NORFOLK, VA., A PROCLAMATON

Whereas, the policies of Communist Russia have led to enslavement for many peoples of many captive nations in all parts of the world; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States, by unanimous vote, passed Public Law 86–90, establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities as expressions of their sympathy with and support for the just aspirations of captive peoples,

Now, therefore, I, Vincent J. Thomas, Mayor of the City of Norfolk, do hereby proclaim the week of July 17–23, 1977, as *Captive Nations Week* in Norfolk, and I call upon the citizens of our community to join with others across the nation in observing this week by offering prayers and dedicating their efforts toward the peaceful liberation of the captive nations.

Given under my hand this 15th day of July, 1977.

RALLY HELD FOR CAPTIVE NATIONS

(By Cheryl Smith)

With guest speakers Rep. Mario Biaggi and mayorial candidates Mario Cuomo and Barry Farber in attendance, the chairman of the Captive Nations Committtee of New York read a declaration to hundreds of New Yorkers yesterday calling for maximum U.S. aid "to help liberate all nations under communistic control and imperialistic control.

"Our people, our lands are in slavery," stated one spokesman. "We must never stop fighting for their freedoms, although we may now be free."

Biaggi said that in his recent visit to six Far Eastern countries, the heads of state were deeply concerned about human rights.

"In Japan, South Korea, Indonesia, Thailand—all the heads of state were understanding and sympathetic to the human rights issue," he said. "I think it is so important for people to continue to work here, doing things like this. "It's collective efforts like this that will pay off in the end."

Earlier, some 500 people attended a special High Holy Mass at St. Patrick's Cathedral.

Rt. Rev. Basil II, Losten, Ukrainian Bishop of Philadelphia, warned the congregation that "the enemy never sleeps," and asked them: "Are we also sleeping when Christ, His church and His People need us the most?"

He concluded the stirring sermon by assuring them that "the oppressed will be set free."

Representatives of the respective nations then carried banners and flags in a parade up Fifth Avenue to the Central Park Mall.

The official proclamation of Captive Nations Week will be held on July 21 at City Hall, but recognition of the various nations' situation was dramatized yesterday with fiery speeches and warm entertainment.

One 70-year-old lady arrived at Hollis, Queens, looking understandably weary.

"You understand why I come here," she said with a shy smile. "I would not miss this."

The dancers suffered in their heavy ethnic costumes which were several layers thick. Yet, they danced with the same enthusiasm as if a cool, brisk breeze were upon them.

TOWARD A STRONGER U.S. COMMERCIAL FISHING INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 5 minutes.

Mr. SIKES. Mr. Speaker, I wish to discuss my views on the current status of our U.S. commercial fishing industry and actions the Congress should undertake to make this Nation the No. 1 fishing power in the world.

Last year, the Congress passed what may be the most comprehensive fisheries legislation in the history of our country. I refer to Public Law 94–265, which extended our fisheries jurisdiction to 200 miles. This is the greatest single acquisition of territory in our history. It involves about 2.2 million square miles—larger than the Louisiana Territory; larger than the State of Alaska. Within this area exists approximately 10 percent of the world's marine fisheries resources.

For the first time, we have a mechanism within which to effectively manage our fishery resources. Effective management is a requisite of our country to realize the full potential from the bountiful fishery resources with which we are endowed. The Congress has taken the first of two steps necessary for the United States to become the greatest fishing nation in the world. The second step the Congress should take is to enact comprehensive legislation in the area of fisheries development. Such a proposal should include provisions for exploratory fishing and gear research, produce and processing technology, financial assistance and consumer education, and market development.

There will be a requirement for a strong financial assistance program for seafood producers and processors. There is a requirement for additional consumer education and market development programs for the commercial fishing industry. Such programs are provided for the farmer who tills the soil. We must now make them available to the fishermen who cultivate the seas.

First, let me address the need for financial assistance. Commercial banks normally make loans to commercial fishermen for periods of roughly 5 to 8 years, whereas the life of most fishing vessels is 15 to 20 years. Therefore, on an annual basis, repayment of these loans is quite high. This retards expansion and modernization of our fishing fleet. Also, commercial banks normally require 25 percent downpayment on the construction of a new fishing vessel. This makes it difficult, and many times impossible, for a commercial fisherman to raise $250,000 for a downpayment on a $1 million vessel. And, to have to repay the loan in 5 to 8 years creates a financial burden that sometimes is insurmountable—particularly, when one considers the nuances of commercial fishing such as bad weather, engine breakdown, and extreme fluctuations in seafood abundance and in market prices.

What is needed is an expanded fisheries vessel obligation guarantee program which provides Federal guarantees to the banks and, more importantly, enables the commercial fishermen to obtain commercial loans with lower downpayments and longer repayment periods.

The next critical need is for a major consumer education and market development program to better enable a more economically viable commercial fishing industry to provide a greater supply of reasonably priced seafood products to better informed customers. Therefore, an extensive consumer education program on the role of fishery products in the American diet will be of benefit to our people as well as contributing to a more healthy commercial fishing industry.

The recently concluded Emergency Marketing program by the National Marine Fisheries Service is an excellent example of benefits to be derived from an adequately funded Consumer Education and Market Development program for fishery products. In 1974, there was an unprecedented decline in the demand for fish in the U.S. marketplace. The commercial fishing industry in all sections of the country suffered serious financial losses, many went broke, and thousands of people in fish processing plants, shipyards, and other areas lost their jobs. To alleviate this problem, the Office of Management and Budget released $1 million in November 1974 to the National Marine Fisheries Service for an Emergency Marketing program. A national campaign was immediately begun which involved industry, State agencies, and the Federal Government. This program was most successful and in early 1975, the fishing industry was in a much sounder economic position. U.S. commercial fishermen received nearly $73 million more for their catch in 1975 than they received in 1974. This represented better than a 12-percent increase in volume. Shrimp fishermen alone received over $48 million more for their harvest; a 27-percent increase in gross income for shrimp fishermen. Thus, in contrast with 1974, when according to studies conducted by Texas A. & M. University, shrimp fishermen lost an average of 90 cents per pound on every pound of shrimp caught.

In essence, industry experienced an economic disaster in 1974, made a profit in 1975, and had one of the most rewarding years in history in 1976.

Mr. Speaker, comprehensive fisheries development legislation is needed to assure full use of our abundant and renewable fishery resources. I plan to introduce such a bill during this session of Congress and I welcome the support of colleagues in the development of this legislation. I plan to seek the advice and assistance of industry leaders in the development of this legislation. Industry support and understanding are essential for many reasons. Understandably, many Congressmen are unfamiliar with the problems of the fishing industry. Many of those from interior States cannot be expected to realize what is needed to insure a sound, self-supporting seafood producing industry. The problem of education obviously begins in the Congress, but it must also be extended to the general public.

THIRTY-YEAR RETIREMENT AT ANY AGE

The SPEAKER. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

Mrs. SPELLMAN. Mr. Speaker, today I have introduced legislation to amend section 8336(a) of title V, United States Code, so as to authorize the voluntary retirement of a Federal employee after completing 30 years of service, regardless of age.

It is most important to remember that this legislation would not place the Federal Government in a "trend setting" position. Rather, this bill would allow civil service retirement provisions to keep pace with current changes in many private and municipal retirement programs—changes which reflect the widespread feeling within the private and public sectors that 30 years of service constitute a full career. Many Federal employees share this feeling and, additionally, contend that present law discriminates against employees who come into Federal service at an early age. Under present law, Federal employees may retire at age 55 with 30 years of service, at age 60 with 20 years of service, or at age 62 with 5 years of service.

As the pace of production accelerates in Federal agencies, increasing physical and mental effort is required of employees. Particularly where individuals are assigned jobs involving a large degree of physical activity, their conditions are likely to deteriorate more quickly. Even in sedentary occupations, where a great deal of mental concentration is required people undergo stress which tends to shorten their careers. In each of these instances, physical or mental impairment may not be sufficient to warrant disability retirement, but the employee may wish to retire at an early age so as to preserve his physical health or his mental health.

Although this legislation would permit a Federal employee to retire voluntarily at any age after completing 30 years of service, it is essential to note that it would require a 2 percent reduction in annuity for each year the employee is under the age of 55 at the time of retirement.

By passing this act, we hope to bring younger people into the civil service and allow them the opportunity to advance. Further, we hope to retain these younger

people during the first 5 years of service, which is the period during which attrition is the greatest. In effect, the passage of this legislation would create thousands of new jobs for the very people who most need them.

Mr. Speaker, having reviewed the provisions of law relating to retirement benefits for Federal employees, I firmly believe the law should be amended in the manner provided under this legislation. Therefore, I strongly urge my distinguished colleagues to support this vital measure which would affect not only many thousands of Federal employees, but also would help to curb this Nation's high unemployment rate by opening up more jobs at lower grades.

A bill to amend chapter 83 of title 5, United States Code, to authorize the retirement of employees after thirty years of service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8336(a) of title 5, United States Code, is amended by inserting "(1)" immediately before "An employee", and by adding at the end thereof the following new paragraph:

"(2) An employee who is separated from the service after completing thirty years of service is entitled to an annuity. Notwithstanding the first sentence of section 8332(c) of this title, for the purpose of this paragraph, an employee may be allowed credit only for the greater of—

"(A) four years of military service; or

"(B) all periods of military service performed by the employee during a war declared by Congress.".

(b) The first sentence of section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "subsection (a)(2) or (d) of section 8336".

HUMAN RIGHTS IN ROMANIA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Speaker, President Carter and the House Ways and Means Subcommittee on Trade have both recommended a year-long extension of most-favored nation status for Romania. I support this recommendation. However, I want to take this time to carefully review Romania's recent record on human rights.

In particular, I am disturbed by the apparent decline in the number of persons granted permission to emigrate to Israel since the approval of MFN status for Romania. Month-to-month figures are erratic, but the overall trend is downward. Surprisingly, the projected figure for 1977 departures is significantly lower than the 1974 figure of 3,700—when MFN was not in effect. The trend can be seen more clearly in the following statistics:

Permitted Romanian emigration to Israel—Arrivals in Israel, 1973–77

1973	3,700
1974	3,700
1975	2,140
1976	2,035
1977 (projected)	1,150

Many families remain divided, either because they have been turned down for an immigration visa or for fear of harassment. Threats of job loss, demotion, confiscation of property, mail censorship, loss of telephone privileges or military induction prevent many Romanian Jews from even expressing their desire to emigrate to be with their loved ones.

In addition, innumerable obstacles have been built into the application process that discourage even the most persevering. They must first undergo an intimidating preapplication process which is designed to screen out those who are not even eligible to apply. An individual may either receive permission to complete an application; be denied permission for any number of reasons, or receive no reply at all. An applicant may be confronted by official committees which probe into his background and try and persuade him from leaving. Adding to the confusion, the applicant is then required to produce countless documents, perhaps including assurances that all his taxes and utility bills are paid. Costs are prohibitive, and the waiting process is uncertain. The Kafka-like absurdity of the process is a significant deterrent to free emigration.

Romania is one of the 33 countries which signed the Helsinki agreement, which in Basket Three sets forth certain international standards concerning family reunification and other human rights. In light of the Helsinki accords and the MFN agreement, I feel that we must set forth publicly Romania's record on Jewish immigration. It is my hope that within the coming year Romania will liberalize its inordinately stringent immigration policy.

THE ECONOMIC OUTLOOK FOR THE NATION

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, of which I am chairman, has as one of its primary tasks the continuous monitoring of the Nation's serious and perplexing inflation problem. The Members of this House need no reminder of the importance of the problem. Public opinion polls consistently place the rise of prices at or near the top of the concerns of our people. Perhaps equally important, there is considerable doubt that we can have the kind of sustained, confident expansion of private investment that is needed for a return to reasonably full employment as long as the inflation we have had in recent years persists. Among its many other costs, inflation adjustment in numerous Government programs—social security, veterans benefits, pay of Government workers and others—is "eating up" billions of dollars a year of Government outlays that could be used for better purposes, including tax reduction.

Today I would like to give the House a report on the inflation situation and outlook. As will be seen, the report contains news that is both good and not so good. But while the situation has a certain baffling stubbornness about it—while significant further reduction of the inflation rate is exceptionally difficult—the picture, I am glad to say, is by no means alarming.

Let me begin with the good news.

The first thing to be said is that there is no sign, no significant danger, of a return to the distressing double-digit inflation of 1973–74. In hindsight, we can now see that that period was characterized by a most unusual combination of forces, several of them international and beyond the control of public policy or private decision in the United States. A quick rundown of some of these factors will serve as a reminder: The quadrupling of world oil prices; a series of poor crops at home and abroad; a simultaneous boom in the industrial countries, associated with an almost globally excessive expansion of money supplies that pulled up the prices of virtually all internationally traded raw materials; the aftermath of the necessary and unavoidable devaluation of the dollar's international exchange rate, which increased the prices of imports and added to an already high demand for many of our agricultural and nonagricultural exports. These forces, incidentally, rendered our now-unlamented experiment in wage and price controls completely unworkable.

Today the picture is much different.

With few exceptions, agricultural supplies are ample. Our own huge crops have produced price declines in the commodity markets that have been painful for some farmers but signal good news for consumers for many months to come. Internationally, the worst is over in coffee and a glut rather than a shortage characterizes the sugar situation. We cannot expect food prices on average to decline, given the nonagricultural factors at work that give an upward bias to the price of finished foods to the consumer; but we need not fear another explosion of food prices as a result of events on the supply side.

The economies of the other industrial economies are characterized by sluggishness rather than boom. Nearly all are showing some growth and nothing approaching a world recession is on the horizon, but exuberance is lacking everywhere—from the relatively healthy countries like Japan and Germany to the troubled ones like Britain and Italy. This situation creates serious problems, chiefly high unemployment almost everywhere; but it does mean that the United States is unlikely to suffer from "transmitted inflation" from the rest of the world.

This picture of nonexuberant growth in the industrial countries shows up strikingly in the markets for nonagricultural raw materials. All of the commodity indexes are well below their peaks and some are lower than at this time a year ago. Excess supplies and weak demand have caused notable price declines in some items, like copper; in the case of others like tin and natural rubber, the period of soaring prices has given way to stability or moderate decline.

Thanks mainly to our huge trade deficit, which in turn is a consequence entirely of our still-insatiable demand for imported oil, the dollar's exchange rate has declined recently. But the decline has been chiefly against the Japanese yen and the cluster of European currencies tied to the German mark. It is proper that the mark and yen appreciate, given the German and Japanese trade and balance-of-payments surpluses. Our trade is much broader than just with Japan and the nations associated with the European currency "snake." Our dollar has risen, for example, against the Canadian dollar. Against the basket of currencies contained in the International Monetary Fund's new standard of value, the special drawing right or SDR, the decline of the dollar since its peak earlier this year has been less than 2.5 percent, not enough to have a significantly inflationary influence at home.

Last on this list, the world oil price is now at a stage that closely approximates stability though of course stability at a high level that is maintained only by the effective working of an international cartel. Barring a new Middle East war, there is no reason to expect another violent increase in oil prices. Recent statements at the OPEC meeting in Stockholm by the ministers representing not only Saudi Arabia but also Iran were reassuring on that point. Oil prices may rise a little further next year, but we do not face another quantum jump.

Also in the category of good news, I believe it is right to list monetary and fiscal policy in the United States. With a prospective budget deficit of about $60 billion in the new fiscal year and with the money supply growing by upward of 6 percent on the narrow or M1 basis and close to 10 percent on the broader or M2 basis, neither fiscal nor monetary policy can be characterized as strongly anti-inflationary. But neither should they be, with unemployment still at 7 percent and the economy operating well below its capacity potential. Significantly tighter macroeconomic demand policies are not the right cure for our present residual inflation.

More important is the fact that in both cases we have now built in very significant safeguards against the kind of inflationary excess that sometimes characterized the past and which contributed to the distressing experience of the late 1960s and earlier in this decade. In the case of the budget, we have the effective new system of congressional control against runaway spending, and we obviously have a cautious President. In Federal Reserve monetary policy we now have the system of periodically announced targets for growth in the monetary aggregates—again thanks to Congress—that should prevent the almost mindless bursts of money growth that could occur under previous procedures. The rate of money growth in the past few months is worrisome, but I believe the Federal Reserve can be trusted to bring this growth back under control.

Monetary and fiscal policies, it seems fair to say, are not now adding a significant, independent inflationary thrust of their own despite the seemingly large budget deficit. A better description is that they are "accommodating" the present degree of inflation, which has its roots elsewhere. That is, monetary and fiscal policies are permitting real output to continue to grow and be purchased despite higher prices. If they turned more vigorously anti-inflationary, the result—according to numerous studies—would be less output and more unemployment with only a modest and delayed payoff on the inflation front.

I should mention also several other aspects of Government policy, which have been explored by our subcommittee. In the case of possible new international commodity agreements, for example, the administration has assured us that none would be signed by the United States unless it had a significant potential for averting inflation at home. While the present administration is more sympathetic than its predecessor to the concept of such agreements, they are not being viewed as a disguised means of giving foreign aid to the less-developed countries through higher commodity prices. Few agreements are likely to be negotiated in any event, but where they are, a major element will be accumulation of supplies as a buffer against sharp future price increases at times of booming world demand or short supply.

Our foreign trade policy also has inflation very much in mind. While import restraints have been imposed upon a few products, notably shoes and color television sets, Ambassador Strauss, the President's top trade official, has testified persuasively before us that the remedies chosen for those situations of clear damage to domestic producers were the least inflationary of the alternatives available. A successful outcome of the trade negotiations in Geneva, by lowering our tariffs further along with those of other countries, will enable imports to play a continuing and improved role as a competitive force in domestic markets.

All of these factors add up, I believe, to a convincing case that accelerating inflation is not now a serious danger.

While we must view economists' forecasts of inflation with extra caution, in light of their poor record in recent years, I know of no forecast that envisages an early return to double-digit inflation. Some of the projections estimate that inflation next year will be a little worse than in 1977 and some see improvement; the range of estimates of the Congressional Budget Office, to cite one respectable example, suggests that the odds favor a somewhat lower inflation rate next year than the current 6 to 7 percent. In any event, disaster is not lurking around the corner.

What about the bad news?

The most important bad news is quite simply the continuation of the inflation at its present rate of at least 6 percent. It is better than 12 or 15 percent, but it is hardly comforting. In measuring compound interest, bankers and bond dealers use the familiar "rule of 72," which says that an investment with a compounded interest yield of 7.2 percent will double in value in 10 years. By the same token, an inflation of 7.2 percent a year will cut the value of the dollar in half—that is, will double the price level—in 10 years. We are not far below that disturbing threshold, and our people know this and act upon their awareness. In acting, through such things as cost-of-living escalators in wage contracts, they help to perpetuate the inflation—a well-recognized phenomenon.

There are several forces at work, apart from escalators, that are continuing to exert upward pressures on the price level.

Energy. I fully accept the desirability, incorporated in the President's energy plan, of somewhat higher prices for energy, particularly oil and natural gas, as part of the effort to reduce consumption and increase energy efficiency. But the President's plan, taken by itself, will add at least one-half of 1 percent to the inflation rate in each of the coming years, possibly more.

Payroll taxes. Social security taxes on the employer now amount to about 30 cents for each hour worked, and they have risen steadily. The President's plan for closing the social security financing gap would add significantly further to the employer share of the tax, with inevitable consequences for employment costs and hence prices. I have commented on this elsewhere and will not go into detail now, but there is room for improvement in this area from the inflation point of view. In addition, we may face a significant increase—beyond that enacted last year—in the payroll tax for unemployment, compensation, a matter on which I hope to comment further later and which may require legislation.

Government regulation. We are obviously not going to retreat in our basic objective of cleaner air and water, safer products, and safer and more healthy working conditions. But there is no escaping that all of these improvements add to costs and hence prices, even though the exact amount cannot be quantified. One important function of the Council on Wage and Price Stability, whose life would be extended under legislation approved by our subcommittee and the full Banking Committee and soon to come before the House, is to make sure that Government decisions in these and related areas take into account the inflation consequences.

Finally, we must recognize that the rise in the price level will continue to reflect, as it always has, any excess of average wage and other labor cost increases over average improvements in productivity. With wages now rising about 8 percent a year and productivity gaining by 2 to 3 percent, the resulting gap is precisely in line with our "underlying" inflation rate of 5 to 6 percent. The figures are stark, simple—and true.

I am not criticizing the pace of wage increases. In a very real sense they are a "catchup" to prior price increases, from the time when world forces were pulling up the price level. The real standard of living of the average worker has improved a little in the past 2 years, but by some measures it is still below what it was in 1972.

But if the rate of wage increase can be understood and not blamed, the fact

remains that we cannot get inflation much lower as long as wages rise at their present rate. How to get this figure reduced is probably the most baffling aspect of the entire inflation problem; suffice it to say here that there is no merit whatever in trying to do so through mass unemployment, which results not only in human suffering but in lost output for the society as a whole.

That, then Mr. Speaker, is the current inflation picture. It is not alarming, but there is little reason to be optimistic that we can achieve the President's target of a reduction of 2 percentage points in the inflation rate by 1980. For the present purposes of the House, the important thing is to weigh the inflation consequences of each action we take, small and large. For if we can gradually tame this monster, we shall find that a "virtuous circle"—a lower rate of inflation in one year helping to bring a still-lower rate in the following year—can work just as effectively as the "vicious circle" with which we are all too familiar.

NEW BOOK ON TET OFFENSIVE SHOWS SHAMEFUL BEHAVIOR OF THE PRESS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, John P. Roche wrote in the Washington Star on Wednesday, July 27, 1977, about a possibly deliberate effort on the part of the media to make United States and Vietnam forces appear incompetent and to glorify the North Vietnam offensive at the time of Tet. It is strong reading but reading that should not be overlooked. Many people have wondered about the way in which the Tet offensive was reported. It represented a major effort by North Vietnam forces and many students of warfare felt it achieved a measure of success for a limited time, but the important fact is it failed in all its major objectives. Mr. Roche's diagnosis is quite interesting. I submit it for printing in the RECORD:

NEW BOOK ON TET OFFENSIVE SHOWS SHAMEFUL BEHAVIOR OF THE PRESS

(By John P. Roche)

After reading Peter Braestrup's Big Story: How the American Press and Television Interpreted the Crisis of Tet 1968 in Vietnam and Washington, I feel like the family of the Californian accidentally lynched in 1854. What do you say when the vigilantes come by, take off their hats, and say, "Sorry about that. We just got the wrong man—nothing personal"? I also feel spiritually drained. Braestrup's meticulously accurate study of how the American media handled the January 1968 Tet offensive forced me to relive three of the worst months of my life, January-March 1968. There is a good psychic sense in the Irish proverb, "Do not discuss rope in the house of the hanged."

January 1968 was a horrendous month for the president of the United States. On the 20th the North Vietnamese besieged Khe Sanh, a major blocking post held by U.S. Marines and ARVN Rangers in Quang Tri province just south of the Demilitarized Zone. The garrison was vastly outnumbered and people in the government and out began meditating on the possibility of an American Dien Bien Phu.

Almost simultaneously the North Koreans seized the intelligence ship "Pueblo" on the high seas and commando raiders almost reached the "Blue House" (the South Korean White House), prepared to blow it sky high. Did this indicate the Asian Communists were opening a second front? Or was it just a bluff to obtain the withdrawal of crack ROK divisions from Vietnam? Were the Soviets in the act?

President Johnson and his aides were mediating on these matters when seemingly the roof fell in. In the early morning hours of Tuesday, Jan. 30, in Saigon (early afternoon in Washington), the Vietcong hit various locations in the capital city and full-scale attacks were launched on the other major cities of South Vietnam. Hanoi had recommended, and Saigon accepted (despite American military warnings), a week's truce to celebrate the Tet holiday, so half the South Vietnamese Army was on leave when General Giap struck. While initially the assaults on Danang and Hue were the most substantial, interest world-wide focused on the battle for the American Embassy.

From the coverage you might have thought a whole North Vietnamese division was emplaced around the Chancery, and early reports indicated the VC had penetrated the building and held three floors. Curiously this (false) news seemed to overjoy leading elements of the Washington press corps—it just proved that LBJ was lying again when he talked of improved security. This attitude led even the tight-lipped Dean Rusk to ask some journalists which side they were on.

Actually a suicide squad of about 20 VC sappers hit the embassy, raised some hell, never penetrated the fortress-like building, and got killed. But it was a media event. I came close to committing homicide when I invited a leading Washington newsman who was trumpeting the VC accomplishment at the embassy. "Look," I said, "I'll put you on the phone to Arch Calhoun (the political officer) in his embassy office, which you and your pals have the VC occupying." He told me it was the kind of set-up that we could easily rig—how would he know whether Calhoun was actually in his office?

Enough therapy, Roche—moreover it's no fun to say, 'I told you so," when you cannot resurrect the dead. Suffice it that Braestrup's mordant microanalysis fully justifies Dean Rusk's query. The American media virtually single-handed turned a great victory for American and South Vietnamese troops into a demoralizing defeat. Neither Rusk nor I believe in the Soviet notion of "objective guilt"—we never wanted the journalists jailed as accomplices of Hanoi; in subjective terms that was nonsense. But there is a difference between punishment and exposure of incompetence, bias or both.

Thus, as Braestrup himself a participant overwhelmingly demonstrates, the American press—with a few outstanding exceptions—could not have done a better job of undermining the American people's commitment to the defense of the South Vietnamese had they been on Hanoi's payroll. For example, I got early information about the brutal North Vietnamese massacres at Hue which, unlike My Lai, were not spontaneous outbursts of brutality, but thoroughly researched and planned. They came with lists, broke down doors, systematically seized teachers, agronomists, civil servants and other civilians, and disposed of them KGB-style.

We found the mass graves and tried to stimulate press coverage and pictures. Except for USIS photos, which by law could not be distributed in the United States, the execution pits went unphotographed for too long. After all, the dead were Vietnamese not American. This Pavlovian ethnocentrism, as Braestrup Shows, dominated the coverage of the whole Tet offensive. It was a shameful episode in the annals of the American media.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was obliged to be in Illinois earlier today, and missed several rollcalls.

Had I been present, I would have voted "aye" on rollcall No. 488 to adopt H.R. 731 for consideration of the Department of Energy conference report. I would have voted "no" on rollcall No. 489, the motion to commit the conference report. I would have voted "aye" on rollcall No. 490, the adoption of the conference report.

I would have voted "aye" on rollcall No. 491, pertaining to the insulation program. I would have voted "aye" on rollcall No. 492, pertaining to the Department of Transportation study. I would have voted "aye" on rollcall No. 493, pertaining to bicycles.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to revise and extend their remarks and include extraneous matter:)

Mrs. FENWICK, for 10 minutes, today.
Mr. WHALEN, for 10 minutes, today.
Mr. STEERS, for 5 minutes, today.
Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. TUCKER) to revise and extend their remarks and include extraneous matter:)

Mr. RODINO, for 5 minutes, today.
Mr. SCHEUER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. SIKES, for 5 minutes, today.
Mrs. SPELLMAN, for 5 minutes, today.
Mr. ROSENTHAL, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. KOCH, for 30 minutes, on August 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. FINDLEY.
Mr. MARTIN in two instances.
Mr. LATTA.
Mr. RHODES.
Mr. KASTEN in two instances.
Mr. MCKINNEY.
Mr. WHALEN in two instances.
Mr. MCCLORY in two instances.
Mr. ASHBROOK in two instances.
Mr. ARCHER in two instances.
Mr. DORNAN.
Mr. CARTER in three instances.
Mr. DICKINSON.

(The following Members (at the request of Mr. TUCKER) and to include extraneous matter:)

Mr. LEVITAS.
Mr. MCDONALD in five instances.
Mr. BRECKINRIDGE in two instances.
Mr. OBERSTAR.
Mr. SCHEUER.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. PANETTA in two instances.
Mr. JOHNSON of California.
Mr. YOUNG of Missouri.
Mr. PATTISON of New York.
Mr. TEAGUE in two instances.
Mrs. SCHROEDER.
Mr. BRINKLEY.
Mr. CORNWELL.
Mr. LEHMAN.
Mr. BEARD of Rhode Island.
Mr. MURPHY of Illinois.
Mr. CHARLES H. WILSON of California.
Mr. LEGGETT.
Mr. LEDERER.
Mr. MCCORMACK.
Mr. FARY.
Mr. WEISS.
Mr. WOLFF.
Mr. KOCH in 10 instances.
Mr. EARLY.
Mr. RICHMOND.
Mr. JOHN L. BURTON.
Mr. DOWNEY.
Mr. MILLER of California.
Mr. DRINAN.
Mr. AMBRO.
Mr. MOORHEAD of Pennsylvania.
Mr. HARKIN.
Mr. ZABLOCKI in two instances.
Mr. SIMON.
Mr. OTTINGER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1935. An act to amend Public Law 95–18, providing for emergency drought relief measures; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 826. An act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes; and

S.J. Res. 79. Joint resolution to amend the Federal Home Loan Bank Act.

ADJOURNMENT

Mr. TUCKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, August 3, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2058. A letter from the Secretary of Agriculture, transmitting a report on studies to determine the reasons for extensive loss of livestock sustained while being transported in interstate commerce for commercial purposes, pursuant to section 809(b) of the Agricultural Act of 1970, as amended (87 Stat. 237); to the Committee on Agriculture.

2059. A letter from the Comptroller General of the United States, transmitting a report that the hiring limitation imposed on the Forest Service, U.S. Department of Agriculture, will preclude the obligation of money allocated to certain Forest Service programs prior to the end of fiscal year 1977, constituting a rescission of budget authority in one instance and deferrals of budget authority in three instances, none of which have been reported to the Congress by the President, pursuant to section 1015(a) of Public Law 93–344 (H. Doc. No. 201); to the Committee on Appropriations and ordered to be printed.

2060. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2061. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the quarter ended June 30, 1977, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

2062. A letter from the Acting Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the first of a series of six reports on compensatory education programs, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2063. A letter from the Secretary of the Treasury, transmitting the fifth quarterly report on antirecession fiscal assistance to State and local governments, pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

2064. A letter from the Secretary of the Interior, transmitting notice of the resignation of the Government Comptroller for Guam, pursuant to section 9–A(a) of the act of August 1, 1950, as amended (82 Stat. 845; 48 U.S.C. 1422d); to the Committee on Interior and Insular Affairs.

2065. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a quarterly report on the programing and obligation of international narcotics control funds as of June 30, 1977, pursuant to section 481(b)(1) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2066. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on a study of methods through which U.S. narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations, pursuant to section 481(c)(2) of the Foreign Assistance Act of 1961, as amended (90 Stat. 764); to the Committee on International Relations.

2067. A letter from the Acting Director, Defense Security Assistance Agency, withdrawing the notice of the proposed sale of certain defense articles to Iran (Transmittal No. 77–46), previously submitted pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2068. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the Agency's final report on resource recovery and the reduction of solid waste generation, pursuant to former section 205(a) of the Solid Waste Disposal Act, as amended; to the Committee on Interstate and Foreign Commerce.

2069. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act (66 Stat. 214, 76 Stat. 1247); to the Committee on the Judiciary.

2070. A letter from the Chairman, National Transportation Safety Board, transmitting a draft of proposed legislation to amend the Independent Safety Board Act of 1974, as amended, to authorize additional appropriations; to the Committee on Public Works and Transportation.

2071. A letter from the Director, National Science Foundation, transmitting the analytical section of the report on Federal support to universities, colleges, and selected nonprofit institutions during fiscal year 1975, pursuant to section 3(a)(7) of the National Science Foundation Act, as amended (82 Stat. 360); to the Committee on Science and Technology.

2072. A letter from the Comptroller General of the United States, transmitting a report on the Department of Agriculture's practice of providing free cotton classing and tobacco grading services (CED–77–105, August 2, 1977); jointly, to the Committees on Government Operations, and Agriculture.

2073. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of the Civil Service Commission's financial disclosure system for high-level executive officials (FPCD–77–59, August 1, 1977); jointly, to the Committees on Government Operations, the Judiciary, and Post Office and Civil Service.

2074. A letter from the Comptroller General of the United States, transmitting a report on the need for legislation to improve the Department of Health, Education, and Welfare's program for reducing erroneous welfare payments (HRD–76–164, August 1, 1977); jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS. Committee on Banking, Finance and Urban Affairs. H.R. 8094. A bill to promote the accountability of the Federal Reserve System; with amendment (Rept. No. 95–559). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEDELL (for himself, Mr. THONE, and Mr. CORNWELL):

H.R. 8685. A bill to require that all reports concerning certain sales of meat and meat food products meet standards set by the

Secretary of Agriculture concerning accuracy and completeness; to the Committee on Agriculture.

By Mr. BRECKINRIDGE:

H.R. 8686. A bill to establish the Office of Congressional Legal Counsel; jointly, to the Committees on House Administration, the Judiciary, and Rules.

By Mr. CARTER:

H.R. 8687. A bill to encourage the States to establish cost and quality standards for hospitals and to contain inflationary rises in hospital costs, with transitional federal system of hospital cost containments to be applied in the absence of State action for that purpose; to provide for coordination of hospital budget programs with health planning and peer review activities to impose limits on hospital capital expenditures; and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. DANIELSON:

H.R. 8688. A bill to provide that certain annuity payments made pursuant to the Civil Service Retirement Act shall be fixed at the nearest penny; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK (for herself, Mr. BEARD of Rhode Island, Mr. DODD, Mr. EILBERG, Mr. VENTO, Mr. SIMON, Mr. LAGOMARSINO, Mr. HOLLENBECK, Mr. HARRINGTON, Mr. MITCHELL of Maryland, Mr. STEERS, Mr. HAWKINS, Mr. DELLUMS, Mr. EDWARDS of California, Mr. MINETA, Mr. CARR, Mr. RODINO, Mr. DANIELSON, Mr. MAGUIRE, and Mr. MCCLOSKEY):

H.R. 8689. A bill to provide equitable, comprehensive and exclusive benefits to: (a) persons who are disabled as a result of employment-related diseases caused by the inhalation or ingestion of asbestos, and/or the inhalation of asbestos coupled with the inhalation of cigarette tobacco smoke, (b) members of such person's household, and (c) the surviving dependents of such persons whose death was due to such disease; to the Committee on Education and Labor.

By Mr. JACOBS:

H.R. 8690. A bill to amend title 18 of the United States Code, to provide for rewards for information leading to the apprehension and conviction of certain kidnapers; to the Committee on the Judiciary.

By Mr. KOCH (for himself, Mr. CORMAN, Mr. GEPHARDT, Mr. GUYER, Mr. HAWKINS, Mr. JENRETTE, Mr. MAGUIRE, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. OBERSTAR, Mr. PANETTA, and Ms. SPELLMAN):

H.R. 8691. A bill to amend the Public Health Service Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Interstate and Foreign Commerce.

By Mr. LEFANTE:

H.R. 8692. A bill entitled the "National Domestic Development Bank Act"; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVITAS (for himself, Mr. JONES of Oklahoma, Mr. MONTGOMERY, Mr. RISENHOOVER, Mr. BYRON, Mr. ERTEL, Mr. ABDNOR, Mr. ARCHER, Mr. BAFALIS, Mr. THONE, Mr. WALSH, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.R. 8693. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules imposing certain sanctions, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. LEVITAS (for himself, Mr. HAMILTON, Mr. RYAN, Mr. DICKS, Mr. ERTEL, Mr. YOUNG of Missouri, Mr. ABDNOR, Mr. ARCHER, Mr. BAFALIS, Mr. FINDLEY, Mr. JONES of Oklahoma, Mr. JONES of North Carolina, Mr. KASTEN, Mr. RISENHOOVER, Mr. SCHULZE, Mr. YOUNG of Alaska, Mr. BYRON, Mr. CUNNINGHAM, Mr. SLACK, Mr. SNYDER, Mr. STEED, Mr. SYMMS, Mr. THONE, Mr. WALSH, and Mr. FOWLER):

H.R. 8694. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. LEVITAS (for himself, Mr. HOLLAND, Mr. JONES of Oklahoma, Mr. RISENHOOVER, Mr. BYRON, Mr. ERTEL, Mr. EVANS of Delaware, Mr. ABDNOR, Mr. BAFALIS, Mr. ERLENBORN, Mr. THONE, Mr. WALSH, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.R. 8695. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of future agency rules, and by expanding judicial review, and for other purposes; jointly to the Committees on the Judiciary, and Rules.

By Mr. PICKLE:

H.R. 8696. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of an individual who receives a retroactive determination of eligibility for disability compensation from the Veterans' Administration; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 8697. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber and for other purposes; to the Committee on the Judiciary.

By Mr. ROBERTS (for himself, Mr. HAMMERSCHMIDT, Mr. TEAGUE, Mr. SATTERFIELD, Mr. MONTGOMERY, Mr. CARNEY, Mr. DANIELSON, Mr. BRINKLEY, Mr. MOTTL, Mr. HEFNER, Mr. WYLIE, Mr. HILLIS, Mr. ABDNOR, Mr. WALSH, Mr. GUYER, Mr. HANSEN, and Mr. SAWYER):

H.R. 8698. A bill to deny entitlement to veteran's benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges for service during the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. SMITH of Nebraska (for herself, Mr. MURPHY of Pennsylvania, Mr. SEBELIUS, Mrs. LLOYD of Tennessee, Mr. LOTT, Mr. ABDNOR, Mr. DUNCAN of Tennessee, Mr. NOLAN, Mr. GOODLING, Mr. EMERY, Mr. PATTISON of New York, Mr. BADILLO, and Mr. BAUCUS):

H.R. 8699. A bill to establish an Office of Rural Health within the Department of Health, Education and Welfare, and to assist in the development and demonstration of rural health care delivery models and components; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN:

H.R. 8700. A bill to amend chapter 83 of title 5, United States Code, to authorize the retirement of employees after 30 years of service; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE (for himself, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mrs. HECKLER, Mr. MOTTL, Mr. HANNAFORD, Mr. ALLEN, Mr. HEFNER, Mr. WYLIE, Mr. WALSH, Mr. SATTERFIELD, Mr. MONTGOMERY, Mr. CARNEY, Mr. DANIELSON, Mr. BRINKLEY, Mr. BEARD of Rhode Island, Mr. HILLIS, Mr. ABDNOR, Mr. GUYER, Mr. HANSEN, and Mr. SAWYER):

H.R. 8701. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WHALEN:

H.R. 8702. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of an individual the first $5,000 received from civil service and Foreign Service retirement annuities; to the Committee on Ways and Means.

By Mr. YATRON (for himself, Mr. BAFALIS, Mr. MURPHY of Pennsylvania, Mr. GUYER, Mr. WINN, Mr. MOTTL, Mr. CHARLES WILSON of Texas, Mr. HUGHES, Mr. ERTEL, Mr. BURKE of Florida, Mr. LEVITAS, Mr. GOLDWATER, and Mr. BAUCUS):

H.R. 8703. A bill to amend the Immigration and Nationality Act to change certain criteria for determining whether an alien is excludable from admission to, or deportable from, the United States as a public charge and to provide that an alien may not be admitted to the United States unless a citizen of the United States enters into an enforceable agreement to provide support to such alien for a period of 5 years after admission; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 8704. A bill to amend the Social Security Act to strengthen and improve the program of Federal support for foster care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes; to the Committee on Ways and Means.

By Mr. FOUNTAIN:

H.R. 8705. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. LUNDINE:

H.R. 8706. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, hearing aids, physical checkups, and foot care among the items and services for which payment may be made under the supplementary medical insurance program, and to provide safeguards against consumer abuse in the provision of these items and services; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. NEAL (for himself, Mr. MCCORMACK, Mr. JEFFORDS, Mr. ROSE, Mr. CARR, Mr. WON PAT, Mr. MURPHY of Pennsylvania, Mr. BROWN of California, Mr. KILDEE, Mr. WIRTH, Mr. MOAKLEY, Mr. KINDNESS, Mr. RICHMOND, Mr. LOTT, Mr. MITCHELL of New York, Mr. DE LUGO, Mr. HEFNER, Mr. CHARLES WILSON of Texas, Mr. CORRADA, Mr. BEDELL, Mr. ST GERMAIN, Mr. SIMON, Mr. OTTINGER, Mr. SEIBERLING, and Mr. BLANCHARD):

H.R. 8707. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

Br. Mr. TEAGUE:

H.R. 8708. A bill to amend the Atomic Energy Act of 1954, as amended, to expedite and stabilize the licensing and regulation of production and utilization facilities, by providing for the approval of sites and for standardization; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. BURKE of California (for herself, Mr. BENJAMIN and Mr. MARKEY):

H.R. 8709. A bill to provide for the establishment of multipurpose service centers for displaced homemakers, and for other pur-

poses; to the Committee on Education and Labor.

By Mr. FAUNTROY:

H.J. Res. 565. Joint Resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.J. Res. 566. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 25th amendment to that Constitution; to the Committee on the Judiciary.

By Mr. MINETA:

H.J. Res. 567. Joint resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent; jointly, to the Committees on Education and Labor, Post Office and Civil Service.

By Mr. BUCHANAN (for himself, Mr. ARCHER, Mr. BAUCUS, Mr. BEILENSON, Mr. BEVILL, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BURKE of Florida, Mr. PHILLIP BURTON, Mr. CAVANAUGH, Mr. COTTER, Mr. COUGHLIN, Mr. DRINAN, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. ERTEL, Ms. FENWICK, Mr. FRASER, Mr. FRENZEL, Mr. FREY, Mr. GRADISON, Ms. HOLTZMAN, Mr. JEFFORDS, and Mr. KEMP):

H. Con. Res. 321. Concurrent resolution expressing the sense of Congress that the Soviet Union should comply with the Helsinki Final Act, the International Covenant on Civil and Political Rights, and the Soviet Constitution, with respect to all its citizens, and on that basis should allow Anatoly Shchransky to emigrate from the Soviet Union; to the Committee on International Relations.

By Mr. BUCHANAN (for himself, Mr. KOCH, Mr. LEDERER, Mr. LEHMAN, Mr. LENT, Mr. LEVITAS, Mr. LONG of Maryland, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOORE, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PEASE, Mr. PRICE, Mr. QUIE, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. ROSENTHAL, Mr. SIMON, Mr. SOLARZ, Mr. STEERS, Mr. STOCKMAN, Mr. THOMPSON, and Mr. WAXMAN):

H. Con. Res. 322. Concurrent resolution expressing the sense of Congress that the Soviet Union should comply with the Helsinki Final Act, the International Covenant on Civil and Political Rights, and the Soviet Constitution, with respect to all its citizens, and on that basis should allow Anatoly Shchransky to emigrate from the Soviet Union; to the Committee on International Relations.

By Mr. BUCHANAN (for himself, Mr. BENJAMIN, Mr. CONTE, Mr. WEISS, Mr. CHARLES WILSON of Texas, and Mr. ZEFERETTI):

H. Con. Res. 323. Concurrent resolution expressing the sense of Congress that the Soviet Union should comply with the Helsinki Final Act, the International Covenant on Civil and Political Rights, and the Soviet Constitution, with respect to all its citizens, and on that basis should allow Anatoly Shchransky to emigrate from the Soviet Union; to the Committee on International Relations.

By Mr. BURGENER:

H. Res. 732. Resolution urging the expeditious completion of the Subcommittee on Communication's review of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOLDWATER introduced a bill (H.R. 8710) for the relief of Jane McMahon Jantzen and Gilbert N. Hair; which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

170. By the SPEAKER: Petition of the Monroe County Legislature, N.Y., relative to changes in procedures and requirements relating to the resale of foreclosed homes; to the Committee on Banking, Finance and Urban Affairs.

171. Also, petition of the Boston Bar Association Council, Boston, Mass., relative to creation of an independent and separate bankruptcy court; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8444

By Mr. CUNNINGHAM:

On page 404, line 22, strike "20 percent" and insert in lieu thereof "100 percent", and on page 404, line 23, after the word "taxpayer", insert "for materials only".

EXTENSIONS OF REMARKS

SANFORD McDONNELL SPEAKS OF THE FUTURE ON AIR TRANSPORTATION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. TEAGUE. Mr. Speaker, the most recent issue of Flying Colors the Braniff International travel magazine carried a guest editorial by Sanford H. McDonnell, president, McDonnell Douglas Corp., in which he speculated on air transportation for the future and how it will be brought about by the technology of the present.

I have had the distinct pleasure of knowing both Sanford McDonnell and his father; both of whom have contributed greatly to the future of this country through their company. I also had the pleasure of lunching with Mr. McDonnell recently while at the Paris Air Show when we discussed technology with respect to both air and space travel. Under leave to extend my remarks I wish to include his editorial:

GUEST EDITORIAL

(By Sanford N. McDonnell)

Imagine this. You go to the airport, pick up your ticket and check your luggage, and are directed to the gate where something new called a global rocket transport stands waiting. You find your seat, relax while the other 169 passengers come aboard, and when the scheduled departure time arrives you take off.

Forty-five minutes later, after a cup of coffee and a leisurely browse through the morning paper, you land at your destination. You're in Melbourne, Australia, on the other side of the world. Less than two hours has elapsed since you stepped out of your front door back home.

If this sounds like science fiction, it is. For now. But there's as much science as fiction in it: it could happen, and it's just possible that you might live to see it happen. Much of the technology needed for the development of global rocket transports exists today, and much of the planning needed to put such technology to work has already been done by America's aerospace industry.

It won't happen tomorrow, of course. These things do take time. But astonishing progress is routine for airplane manufacturers and the airlines they serve (remember that the Wright Brothers made their first flight just 74 years ago), and it is likely to remain so for a long time to come.

Certainly big changes lie ahead for the flying public. If some of those changes prove to be less startling than a 45-minute flight from the United States to Australia, they will nevertheless be dramatic—and important—in their own right.

One very important possibility is that new technology will eliminate the lingering economic and environmental problems of supersonic air travel. Most major aerospace firms are deeply involved in exploring the technology for an advanced supersonic transport, and as this work proceeds it is beginning to produce highly encouraging results.

At McDonnell Douglas Corporation, the example that I necessarily know best, engineers have been creating the concept of an advanced supersonic transport that would travel at 2.2 times the speed of sound—9 percent faster than the Anglo-French Concorde, the first SST to enter airline service. Our advanced SST would carry 273 passengers (the Concorde carries a maximum of 108), its range would be 4,500 nautical miles (versus 3,150 for Concorde), and it would be equipped with new, highly efficient engines capable of making it both economically competitive and acceptable to environmentalists.

That we will eventually be traveling in advanced SSTs now seems nearly inevitable.

Looking further ahead—to the next century, perhaps—we foresee the possibility of a "hypersonic" aircraft that would vastly outperform even the advanced SST.

The hypersonic transport concept developed at our company involves a plane with eight engines. Four turbojets would lift it off the ground, propel it through the sound barrier, and send it to three and a half times the speed of sound. Then four ramjets would take over, raising the speed still higher. This plane would be 475 feet long and capable of carrying 500 passengers. Though not quite as fast as a global rocket transport, it could fly at 4,000 miles per hour.

Sound incredible? Stick around. The incredible has been happening in commercial aviation for a long time now.

WAUCONDA, ILL., CELEBRATES ITS CENTENNIAL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McCLORY. Mr. Speaker, on August 18, 1977, residents of Wauconda in Lake County in my 13th Congressional District will begin a 4-day celebration observing the 100th anniversary of the organization of that community as a village.

Clearly those early residents who organized this village felt strongly that it was time to become a municipality be-

cause the vote was more than 2 to 1 nearly a century ago: 49 for incorporation to 24 against.

But the lovely name Wauconda, meaning "Spirit Water," already was affixed to the map of northeastern Illinois before the village's incorporation. In 1849, a township had been created. Several months later in 1850 the name Wauconda was selected for the township.

History tells us that a young man, a schoolteacher in the area, proposed it. He had been reading an Indian story in which the name Wauconda appeared. Further, local tradition held that a young Indian chief named Wauconda had been buried on the southern shore of Bangs Lake, named for Justus Bangs, a man from New England who built a log cabin on its shores and in 1836 became Wauconda's first settler.

Mr. Speaker, in 1849, the year Wauconda Township was created, the area that later became the village of Wauconda had about 200 people, 3 good stores, and 2 public houses. By July 1, 1975, its population was 5,700.

Wauconda, of course, has changed through the years. Yet continuity has been assured by descendants of some of its early families who have stayed on. For 3 hours Saturday afternoon, August 20, part of the Andrew Cook home on Main Street in Wauconda will be open for the centennial festivities. This home, built of brick made in Wauconda and the first brick house in the area, was begun sometime after 1840.

Now the Wauconda Township Historical Society is beginning to restore the Andrew Cook home with revenue sharing funds from the township. Still living in the village are two of my most cherished friends, Mrs. Avis Powers, now 96, a granddaughter of Andrew Cook, and Mrs. Mertie Cook, widow of Homer Cook, onetime Wauconda Township supervisor and a grandson of Andrew Cook. In Wauconda Township, Glenn and Daisy Bacon continue to farm the land his grandfather began farming in 1868. These are just a few examples of people who still make Wauconda their home—on or near the lands their forefathers settled.

One of the other early Wauconda families is that of the late Senator Ray Paddock, a long-time honored member of the Illinois State Senate. I succeeded Senator Paddock in that office upon his retirement in 1952 and then served in the State senate for 10 years preceding my election to the Congress in 1962. Senator Paddock's son, Jim Paddock, and daughter, Doris Paddock Wiemuth, together with their families, continue to make their homes in Wauconda.

Mr. Speaker, I look forward to joining the people of Wauconda on Sunday, August 21, for their centennial parade. I congratulate Mayor John Kuester, Hal Pohlman, and George Lincoln, cochairmen of the centennial celebration, and members of their steering committee, and all the many other individuals and organizations who have given time and effort to make the 100th anniversary of Wauconda's incorporation another joyful historic event in Illinois—and in the Nation.

UNSETTLING SETTLEMENTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. FINDLEY. Mr. Speaker, the West Bank of the Jordan River will undoubtedly be one of the most difficult issues to resolve at the Geneva Conference. Prime Minister Begin indicated during his recent visit to the United States that Israel will not set any preconditions to negotiations, yet he also made it quite clear that Israeli withdrawals from the West Bank will be extremely difficult. The Arab States have insisted with equal determination that Israel must withdraw to the pre-June 1967 borders.

Prime Minister Begin and the Arab leaders have expressed their great willingness to pursue negotiations in the near future. To maintain what appears to be the building momentum toward a Geneva Conference, it is important that the states involved stress potential areas of agreement and attempt to avoid emphasizing their differences.

Unfortunately, the recent announcement of the Israeli Government that it has decided to legalize three unauthorized settlements in the West Bank strengthens the impression that it is unwilling to forego preconditions to negotiations and risks unsettling a mood conducive to peace initiatives. I hope that these three settlements are evidence of Mr. Begin's need to conciliate his pronouncements as a politician with his policies as head of state rather than an indication of a deliberate effort to establish further settlements throughout the West Bank. The latter would undermine our hopes for peace.

I call to the attention of my colleagues the following editorials on the settlements in the West Bank:

[From the New York Times, July 28, 1977]

ISRAEL'S UNSETTLING SETTLEMENTS

In giving official sanction to three previously unauthorized settlements on the occupied West Bank of the Jordan River, Prime Minister Begin's new Israeli Government has surely complicated the search for a Middle East peace settlement. By making the move only hours after his return from a generally amicable meeting with President Carter, Mr. Begin has also complicated further his relations with the United States.

By itself, the granting of legal status to settlements, which had been founded by militant Israelis acting largely on their own, does little to alter the existing situation. No new settlements are thus created, and no additional settlers are being moved into Arab regions (although the development funds for which the three communities now become eligible will certainly make them more attractive as homes for other Israelis).

But the context and timing of the action are disturbing. The United States had wanted a sign from Israel that all territories occupied since 1967 were negotiable, including the West Bank. Attention ought now to have turned to the Arab governments to see how much peace and genuine security they are prepared to grant the Israelis for a return of occupied land. Secretary of State Vance will be touring the region next week to see how formal negotiations might be set in motion. This was hardly the time for Israel to appear to be asserting new territorial claims or to give the Arabs a new pretext for avoiding difficult questions.

Mr. Begin, of course, did not initiate the process of extending Jewish settlements into the West Bank. The previous Labor Government was deeply divided over the propriety and prudence of creating Jewish communities on territory controlled by Jordan from 1949 to 1967. Accordingly, the Labor coalition tried to block new settlements, but often only half-heartedly. It sought to appease politically significant groups that assert a strong claim to these Biblical lands while avoiding a final juridical resolution on their future status.

The new Israeli Government depends for its narrow majority on parties that are passionately convinced of the rectitude of West Bank annexation—as Mr. Begin himself seems to be. It is not surprising, therefore, that his Government would move in this direction. But the fate of negotiations may well depend on how far he means to go. It may be that his actions represent only a minimal and politically necessary concession to the militants on his right flank, "legalizing" some existing settlements to avoid creating new ones. If that is the case, the United States should be so informed, and perhaps even reassured. But if he intends a more massive settlement of Jews in disputed territory, he may well make real negotiation or a test of Arab flexibility impossible.

[From the Washington Past, July 28, 1977]

ISRAEL'S CHALLENGE TO CARTER

The Israeli Government's decision to legalize three previously illegal settlements on the West Bank is more than "deeply disappointing," as the State Department declared. It is reckless, provocative and indefensible. It amounts to a frontal assault on the American effort to arrange a settlement by inducing Israel to exchange war-won territory and a place for the Palestinians, for contractual acceptance by its Arab neighbors. Coming on the heels of Prime Minister Begin's warm reception in Washington, the decision conveys the unmistakable aura of sticking a thumb in Jimmy Carter's eye.

Mr. Begin's view that the West Bank is "liberated" territory, Israel's by holy scripture, and not occupied territory, is well known. It is also wholly unrealistic and incompatible with any serious effort to work out a lasting settlement in the Middle East. For the purposes of American diplomacy, it cannot be controlling. It is Mr. Begin's problem, religious and political, to solve as best he can. Last week in Washington he chose to muffle disagreements with the United States on this substantive issue and others. Mr. Carter did not press him, at least publicly. To the extent that Mr. Begin chose to mistake the President's discretion for consent, or weakness, that was a mistake. Legalization of three West Bank settlements and loud Israeli demands to plant more pose a challenge the Carter administration can no longer ignore.

Edward Sheehan, in an article on the opposite page today, suggests that Mr. Begin may wish to absorb the West Bank and, if the Arabs overly protest, to wage preemptive war. We do not subscribe to this scenario but it seems to us undeniable that the latest Israeli move adds plausibility to it. Certainly it puts the whole credibility of the administration's Mideast diplomacy on the line.

President Carter has been, we believe, amply attentive to Israel's legitimate security needs. He has offered Israel generous and effective alternatives to the permanent retention of territory. These include arms guarantees, interim security borders beyond the political borders, limitations on a Palestinian "homeland," relations of a new sort with its neighbors and, of course, American friendship and commitment. So the United States

does not have to apologize to Israel for asking it, in a negotiated peace put into effect over a period of years, to withdraw to something reasonably close to the 1967 lines.

Now that the Israelis have forced the issue, we are led to conclude that it is a good and necessary one to fight out with them. The time is right: It is early in both the Carter and Begin administrations and if either is serious about peace, this issue has to be resolved. Good feeling of the superficial and misleading sort achieved by Mr. Begin here last week is not merely worthless. It becomes positively perilous if it encourages Israel to proceed in ways that could fatally foreclose all hope for a comprehensive Arab-Israeli settlement.

SELFISH REASONS FOR OPPOSING INSTANT VOTER REGISTRATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. DORNAN. Mr. Speaker, I believe that most of my colleagues here today are aware of the potential for fraud which is inherent in the administration's instant voter registration scheme.

Representative STEVE SYMMS and I illustrated how easily false identification can be obtained when we purchased Virginia ID's in false names for a nominal amount of money. Representative HENRY HYDE—possibly in anticipation of such voter abuse—has introduced excellent legislation which would make it a Federal crime to obtain false identification. Many of our colleagues have agreed with him that the chances for abuse at the polling place and at the immigration office are almost limitless.

Now, I believe that the potential for abuse is sufficient reason for the Congress to reject the President's proposal for instant voter registration. We owe it to our constituents. They deserve to have their votes counted. They do not want—or deserve—to have them watered down by duplicate or fraudulent voting. "One man, one vote." That is what the law states. It does not state: "One honest man, one vote; one dishonest man, two votes." And yet, I fear that the latter will most likely result if this legislation is passed.

But there is another, less obvious and more selfish, reason why we as representatives of the people should oppose the administration's proposal. It is a selfish reason, I admit. But it is something about which we should rightly be selfish. It is the confidence of the people in us as their representatives. I am speaking not only of the confidence of our own constituents but of the entire American people in its Congress as a whole. In this, the era of the Watergate and Korean scandals, can we afford to be anything but selfish and jealous of the people's confidence and our reputations? Public confidence in the Congress is at an all-time low. Need I remind my colleagues that garbagemen have a higher rating in confidence polls than do we?

If we are to approve the instant voter registration scheme, do we not invite incredulity among our constituents as to the validity of our own elections? Our constituents are not dolts. They know how easily the provisions of the administration's plan can be abused. And, if knowing the ease with which fraudulent votes can be recorded, can they be confident in the outcome of an election? And if they are not confident in the outcome of the congressional elections, can they long respect the Congress and its laws?

Now, there may be a few Members who minimize or ignore the threat this legislation poses to the confidence of the people in their elected Representatives. But one need only turn to recent reports in the Washington Star to see how easily honored public servants of high standing can come into disrepute through irregularities at the polls. Even Presidents are not immune to the stigma of voting fraud perpetrated by others.

The Washington Star in last Sunday's edition, relates the story of Luis Salas who admits to certifying enough fictitious ballots to steal an election 29 years ago and start Lyndon Johnson on his path to the Presidency. The Washington Star article did not accuse Congressman Lyndon Johnson of having had a hand in the fraud but the glaring fact remains that his original election and subsequent elections are now placed under a cloud that can only impugn the respectability of every office he held.

It is just this point which we should keep in mind when we are called upon to vote on President Carter's proposal: It makes little difference if we condone fraudulent voting in our own favor, all it takes is one dishonest supporter to cast doubt on our own right to hold office.

If fraudulent voting was so easy to achieve 30 years ago with much more stringent controls, how easy will it be if same-day registration is established?

Before any of my colleagues decide to support the President's proposal, I ask them to read the Washington Star article and imagine that their names appear in the place of Coke Stevenson's.

TEXAN CLAIMS HE STOLE 1948 ELECTION FOR LBJ

(By James W. Mangan)

ALICE, TEX.—A former Texas voting official seeking "peace of mind" says he certified enough fictitious ballots to steal an election 29 years ago and start Lyndon Johnson on a path that led to the presidency.

The statement comes from Luis Salas, who was the election judge for Jim Wells County's notorious Box 13, which produced just enough votes in the 1948 Texas Democratic primary run-off to give Johnson the nomination, then tantamount to election, to the U.S. Senate.

"Johnson did not win that election; it was stolen for him. And I know exactly how it was done," said Salas, 76, who in '48 had absolute say over vote counts in his Mexican-American, South Texas precinct.

The controversy over that run-off election against ex-Gov. Coke Stevenson has been a subject of tantalizing conjecture for nearly three decades, ever since U.S. Supreme Court Justice Hugo Black halted an investigation, but the principals have been silent.

George B. Parr, the South Texas political boss whom Salas served for a decade, shot himself to death in April 1975. Johnson is dead and so is his opponent. Salas, retired from his railroad telegrapher's job, is among the few living persons with direct knowledge of the election.

Johnson's widow, Lady Bird, was informed of Salas' statements and said through a spokeswoman that she "knows no more about the details of the 1948 election other than that charges were made at the time, carried through several courts and finally to a justice at the Supreme Court."

The Associated Press interviewed Salas frequently during the last three years, but he only recently agreed to tell his full version of what happened. Salas said he decided to break his silence in quest of "peace of mind and to reveal to the people the corruption of politics."

Salas says now that he lied during an aborted investigation of the election in 1948, when he testified that the vote count was proper and above board. "I was just going along with my party," he says.

He said Parr ordered that 200-odd votes be added to Johnson's total from Box 13. Salas said he saw the fraudulent votes added in alphabetical order and then certified them as authentic on orders from Parr.

The AP interviewed everyone connected with the case who is still alive to corroborate Salas' story. One man who got a brief look at the Box 13 vote tally in the original investigation is former FBI agent T. Kellis Dibrell, who confirmed Salas' statement that the last 200 votes were in alphabetical order.

"It stuck out like a sore thumb," said Dibrell. "Also the last 202 names were made with the same colored ink, and in the same handwriting, whereas the earlier names in the poll list were written by different individuals and in different color links."

The final statewide count, including Box 13 votes, gave Johnson an 87-vote margin in a total tally approaching 1 million and earned him the tongue-in-cheek nickname, "Landslide Lyndon."

Texas Democrats were split in 1948. Johnson, then 39 and a congressman, represented "new" Democrats in his bid for the U.S. Senate. His primary opponent was Stevenson—60, three times Texas governor, never beaten and the candidate of the "old" wing of the party. They called him "Calculating Coke."

The vote in the July primary was Stevenson 477,077, Johnson 405,617. But a third candidate, George Petty, siphoned off enough votes to deny Stevenson a majority, forcing a runoff between Stevenson and Johnson on Aug. 28, 1948.

In the interim Johnson intensified his campaign. One of the places he went stumping was the hot, flat brush country of South Texas, George B. Parr country, where the Mexican-American vote seemed always to come, favoring Parr's candidate, in a bloc.

The power had passed to Parr from his father, Archie, a state senator who had sided with Mexican-Americans in a 1912 battle with Anglos over political control in Duval County. The younger Parr was known as the "Duke of Duval."

Salas said he was Parr's right-hand man in Jim Wells County from 1940 to 1950, but quit over Parr's failure to support a fellow Mexican-American who had been charged with murder.

"We had the law to ourselves there," Salas said. "It was a lawless son-of-a-bitch. We had iron control. If a man was opposed to us, we'd put him out of business. Parr was the godfather. He had life or death control.

"We could tell any election judge: 'Give us 80 percent of the vote, the other guy 20 percent.' We had it made in every election."

The night of the runoff, Jim Wells County's vote was wired to the Texas Election Bureau, the unofficial tabulating agency: Johnson 1,786, Stevenson 769.

Three days after the runoff, with Stevenson narrowly leading and the seesaw count nearly complete, Salas said, a meeting was called in Parr's office 10 miles from Alice. Salas said he met with George B. Parr; Lyn-

don Johnson; Ed Lloyd, a Jim Wells County Democratic Executive Committee member; and Bruce Ainsworth, an Alice city commissioner. Lloyd and Ainsworth, like Johnson and Parr, now are dead.

Salas told The AP:

"Lyndon Johnson said: 'If I can get 200 more votes, I've got it won.'

"Parr said to me in Spanish: 'We need to win this election. I want you to add those 200 votes.' I had already turned in my poll and tally sheets to Givens Parr, George's brother.

"I told Parr in Spanish: 'I don't give a damn if Johnson wins.'

"Parr then said: 'Well, for sure you're going to certify what we do.'

"I told him I would, because I didn't want anybody to think I'm not backing up my party. I said I would be with the party to the end. After Parr and I talked in Spanish, Parr told Johnson 200 votes would be added. When I left, Johnson knew we were going to take care of the situation."

Salas said he saw two men add the names to the list of voters, about 9 o'clock at night, in the Adams Building in Alice. He said the two were just following orders and he would not identify them.

The AP interview then produced this exchange:

Question. When you told Parr you would certify the votes, he said he would get someone else to actually add the names?

Answer. Yeah. And I actually saw them do it. I was right there when they added the names.

Q. Were all 200 names in the same handwriting?

A. Oh, yeah. They all came from the poll taxes, I mean, from the poll tax sheet.

Q. But some were dead?

A. No one was dead. They just didn't vote.

Q. So you voted them?

A. They voted them.

Q. You certified?

A. I certified. So did the Democratic county chairman. I kept my word to be loyal to my party.

Q. Had some of those names already voted?

A. No, they didn't vote in that election. They added 'em. They made a mistake of doing it alphabetically.

Q. They added them alphabetically, as though they had walked in to vote alphabetically?

A. Yeah, that's what I told George B., and he wouldn't listen to me. I said: "Look at the A, you add 10 or 12 names on that letter. Why don't you change it to the other, C or D or X, mix 'em up?" George said, "That's all right." George was stubborn. He would not listen to anybody. But it was stupid. They went to the poll tax list and got those names. For instance, on the A they got 10 or 12 names.

Q. People who had not voted?

A. That's right. They went on the B the same way, until they complete 200, and I told George, "That's wrong."

Q. While they were doing it you told him?

A. Yeah, and he said: "It's OK."

Q. They should have changed the handwriting?

A. How? Only two guys? How they going to change it? The lawyers spotted it right away, they sure did.

Six days after the runoff, with Stevenson still holding a narrow lead in the statewide count, a second telegram was sent, changing Jim Wells County's vote to: Johnson 1,988, Stevenson, 770.

Johnson gained 202 votes; Stevenson 1. They came from Box 13.

The next day, the official statewide vote canvass gave Johnson 494,191 and Stevenson 494,104.

Stevenson protested. Johnson said that if Stevenson had evidence, it was his duty to go to a grand jury. "I know that I did not buy anybody's vote," Johnson said.

Stevenson went to federal court in Fort Worth and, on Sept. 14, Judge T. Whitfield Davidson signed a temporary restraining order forbidding certification of Johnson as the Democratic nominee. The judge ordered an on-the-spot probe of voting in Jim Wells County.

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201 YEARS LATER, AND 5 YEARS AFTER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. PANETTA. Mr. Speaker, in 1976, when this Nation celebrated its bicentennial, our attention was focused on the events of those 200 years which helped to shape our national character. As we pass our 201st year, perhaps it is better to narrow our focus and measure the impact of our more recent history.

In a recent editorial, the Watsonville Register-Pajaronian examines the events of the last 5 years in the context of America's constant stuggle for self-improvement and our ability to learn from past mistakes. I believe the spirit of cautious optimism which this editorial reflects is shared by a large number of Americans throughout the country, and for this reason I would like to share it with my colleagues:

201 YEARS LATER, AND 5 YEARS AFTER

It's 201 years now—as we were amply reminded during last year's Bicentennial observances—since the Declaration of Independence was signed as the forerunner of the federal government by which the United States is glued together.

Centuries are hard for people to count, except as a concept, because so few of us experience more than a substantial fraction of one century. Years, we can cope with, understand, and sometimes marvel at.

For instance, can you believe it was really five years since Watergate began—a bungled burglary which in the end rocked the country and disgraced a president into resignation?

Why, just the other day Richard Nixon was back in our living room insisting he was guilty of no more than "mistakes of the heart."

Just the other day, the President's men, H. R. Haldeman and John Mitchell, were playing out their final scene before Judge John Sirica and then going to prison.

Just the other day, the Cubans were on television explaining why an order from their old CIA chum, E. Howard Hunt Jr., to break into the Democratic headquarters seemed perfectly reasonable.

The names, the faces, the excuses, the places—they are all so sharp and clear, so close to the surface of our lives. How could a full half decade have elapsed since we first made their acquaintance?

But wait—has it been only five years? That doesn't seem possible either.

We have had three Presidents, four vice presidents, six attorneys general and three FBI directors since the bungled burglary of June 17, 1972.

We have lost a war, survived a recession and celebrated, as of today, our 201st birthday in the interim.

We have seen ancient enmities erupt once more in the Middle East and on Cyprus, subsiding into sullen truces. We have hailed the rebirth of democracy in Greece, Spain, and Portugal, and condemned the rise of tyranny elsewhere.

The world has changed, and we have changed with it.

Even Watergate itself, physical symbol in Washington of our most searing scandal, is altered. In the rooms where the burglars prowled five years ago, scientists from the National Institute of Medicine now quietly ponder the future of American health care. Only a small plaque on the door commemorates the political crime of the century.

No matter. Long after the plaque and building have crumbled, the real legacy of Watergate will remain.

Because of Watergate, the presidency has been taken off the auction block. Sunshine laws have been enacted, aimed at opening the federal government to public inspection. Tough new ethics codes have been enacted.

Congress has reasserted its authority as a co-equal branch of government. The federal law enforcement and intelligence establishments have been reminded of the meaning of the Bill of Rights.

And the age of implied consent is over. "Because we say so" is no longer an acceptable answer when people ask why the government thinks a certain course of action to be wise.

The nerve endings of the body politic are still noticeably frayed. The Korean investigation drags on and whispers of "coverup" mount.

A deputy attorney general tries to invoke "executive privilege" to keep Congress from seeing a Justice Department memo criticizing President Carter's instant-voter-registration proposal. He is bludgeoned into submission by angry legislators.

A suggestion by Attorney General Griffin Bell that there is a distinction between "national defense" and "national security" as far as wiretapping is concerned provokes howls from senators who learned the hard way that "national security" can cover a multitude of sins.

We have renewed the social contract between the government and the governed, but the terms have been subtly altered. We read the fine print carefully now.

Watergate is behind us, yet part of us. It is ancient history and current events, a memory and an omen. The fifth anniversary is hardly an occasion to "celebrate." But it is well worth noting for the changes—changes for the better—that is has wrought in American politics.

ROCKY POMERANCE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. LEHMAN. Mr. Speaker, I wish to pay tribute today to Chief Rocky Pomerance who has just retired from his post of Chief of Police in Miami Beach.

Rocky Pomerance leaves behind an impressive record in the field of law enforcement. Most memorable perhaps is his handling of the 1972 political party conventions. We all remember how we feared that either or both of those conventions would be a repetition of the 1968 Chicago convention. Thanks to Rocky, violence was kept to an absolute minimum. He went out himself among the demonstrators for the purpose of discussion and not confrontation. He was so successful, that he was asked to direct security at the 1976 Democratic Convention in New York City as well.

His belief in humane law enforcement set an example for the entire department as well as his peers among chiefs of police. He was so well respected in his field that he was elected president of the International Association of Chiefs of Police.

He has served on numerous commissions and has received countless awards in recognition of his superior service to the public. At the time of the announcement of his retirement, tributes appeared in all Miami's major newspapers.

Rocky Pomerance believed that violence is a byproduct of frustration. To reduce violence in our society, one had to deal with the frustration. It would be well for all law enforcement officers to take note of Rocky's philosophy. "Give people the opportunity to speak out, allow for a wider representation among the citizens, and you remove most of their frustrations."

Rocky Pomerance will be sorely missed, not only in Miami Beach, but throughout Dade County.

FINANCIAL STATEMENT

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. MARTIN. Mr. Speaker, because it is desirable that people in public office be open about their financial affairs in order to retain the confidence of the public, I am herewith submitting a statement of my assets and liabilities as of the end of 1976 and as of the end of 1973, my first year in Congress.

It is my belief elected officials have an obligation not only to avoid conflicts of interest, but also to give such assurances as are possible to the public that such conflicts do not exist.

The statement follows:

Assets	Dec. 31, 1976	Dec. 31, 1973
Cash and bank accounts	$740	$2,048
Savings accounts	6,405	900
Automobiles and boats	10,500	7,500
Household, miscellaneous	10,000	8,000
Subtotal	27,645	18,448
Stocks, bonds (traded)	10,790	6,095
Stocks, bonds (untraded)	2,747	2,896
Subtotal/personal property	41,182	27,439
Real estate:		
Home in North Carolina	32,930	50,000
Home in Alexandria, Va	84,000	68,000
Subtotal/real estate	116,930	118,000
Retirement funds:		
TIAA (vested)	21,361	18,676
Insurance cash values	3,700	2,850
Subtotal	$25,061	$21,526
Total assets	183,173	166,965
Liabilities and net worth:		
Mortgage, North Carolina	------	18,314
Mortgage, Virginia	52,941	54,524
Personal loans, total	14,600	19,539
Total liabilities	67,541	92,377
Net worth	115,632	74,588
Liabilities and net worth	183,173	166,965

Mr. Speaker, also for the public record I am submitting at this point a listing of my income for 1973, my first year in Congress, and for the year just ended, 1976 along with my income tax payments for those 2 years.

	1976	1973
Congressional salary	$44,600	$38,722
Honoraria	500	450
Dividends, interest, rent	2,051	880
Subtotal (gross income)	47,151	40,052
Office expenses in excess of allowances	------	−2,564
Adjusted gross income	47,151	37,488
Net taxable income, Federal	26,901	25,641
Net taxable income, State	32,303	27,840
Federal taxes paid	6,479	5,755
State taxes paid	2,021	1,729
Total income tax paid	8,500	7,484

SACCO AND VANZETTI—A CASE OF BELATED JUSTICE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BIAGGI. Mr. Speaker, almost 50 years ago, the State of Massachusetts executed Nicola Sacco and Bartolomeo Vanzetti, following their conviction for robbery and murder. Practically since that very day, Italo-Americans have challenged the manner in which these two men were tried and convicted. It was charged that Sacco and Vanzetti were denied a fair trail by virtue of their being foreigners and political dissidents. Last week in a courageous and commendable act, Gov. Michael Dukakis of Massachusetts officially issued a proclamation clearing these two men of the charges.

This proclamation closes the door on one of the darkest episodes in the history of American jurisprudence. The proclamation confirms that these two men were victims of a travesty of justice, in a nation which prides itself on its system of due process. In reality, Sacco and Vanzetti were deprived of all their rights under the law and, in effect, were tried and convicted by a kangaroo court.

The action of the State of Massachusetts does a great deal to remove the stigma which affected the Italo-American community. Governor Dukakis, a Greek American, responded to the concerns which many immigrants have regarding their ability to get a fair trial in the United States.

A policy of selective justice for some is in total violation of the intent of our Constitution. We provide for liberty and justice for all in this Nation, and any wavering from this policy should be condemned and not repeated.

It is regrettable that it took almost 50 years to have this horrid injustice rectified. Yet rather than berating those who failed to act, let us commend the man who did, Governor Dukakis. In addition to issuing his proclamation, Governor Dukakis also set aside August 23, 1977, as a memorial to Sacco and Vanzetti.

A great nation achieves this status by admitting to and learning from its mistakes. Hopefully, the laws of this land will never again be so abused by those vested with the powers of enforcement and judicial action. The proclamation should be viewed as more than a symbolic gesture. It should be the catalyst upon which we, as a nation, reaffirm our commitment to insuring justice for all Americans irrespective of race, religion or ethnic background.

EIGHTIETH ANNIVERSARY OF ALIEF POST OFFICE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. ARCHER. Mr. Speaker, quite often we who serve in the House of Representatives receive complaints about the way our constituents are treated by various agencies of the Federal Government, and certainly the U.S. Postal Service has come in for its share of criticism over the years.

That is why I would like to share the following editorial written by the president of the Alief Chamber of Commerce, Mr. Fred F. Warren, which described his community's deep appreciation for the service provided by their post office during its 80-year history:

EIGHTIETH ANNIVERSARY OF ALIEF POST OFFICE

Alief observes a significant anniversary this year, in the 80th birthday of the Alief, TX, Post Office.

The Post Office was named for Alief Ozella Magee. It was established in 1897. Mrs. Magee became the postmistress.

Prior to this date the town was known as Dairy, from which Dairy-Ashford Road gets its name.

The town had been platted in 1895. This is the area which all Aliefians today refer to, reverently, as "Old Alief".

There is much speculation about the future of the Alief Post Office. We sincerely hope the Post Office will be allowed to continue functioning and serving the people of this rapidly-growing area.

The Chamber of Commerce will do everything it can, working through our elected representatives in Washington to try to insure the permanency of the Alief Post Office.

At the present time there are 700 boxes in the Post Office. If space were available, this number could easily go to 2500 boxes.

We are proud of the service provided by the Alief Post Office Personnel and only wish they had adequate facilities to handle the constantly increasing flow of business.

Don't know how many Post Offices in the United States Postal Service are profit centers, certainly not many, judging by the deficits, and increased user costs, but we know the Alief Post Office returns a handsome profit to the Postal Service.

VIETNAM: WHAT HAS CHANGED?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McDONALD. Mr. Speaker, in spite of the United States leaving Vietnam, the fighting goes on. If our purpose was to "stop the war" and "stop the killing" as some Members of Congress would have had us believe, neither has stopped. And, interestingly enough, the self-immolation of Buddhist monks has not stopped either. Only this time, they are protesting against the Communists. The difference is that now, however, the networks and the New York Times are not covering these events as this is impossible in a Communist society. This all goes to prove that we stopped our support of South Vietnam for the wrong reasons. One could hope that certain policymakers and the media will someday admit their mistakes or their lack of pure motives, but, it is doubtful. The relevant articles from the Washington Star of July 29, 1977, and the London Daily Telegraph of June 30, 1977, follow:

[From the London Daily Telegraph, June 30, 1977]

MONKS TURN "DEATH BY FIRE" PROTEST AGAINST COMMUNISTS

(By Ian Ward in Manila)

Monks have been burning themselves alive again in what used to be South Vietnam, this time as a result of Communist persecution of Buddhists.

Now the Communists have attacked the seat of the Unified Buddhist Church in Saigon and arrested the entire top echelon Buddhist leadership.

Among those detained is Thich Tri Quang who—ironically enough—master-minded the South Vietnamese anti-Government Buddhist demonstrations in 1963.

These led to the overthrow and assassination of President Ngo Dinh Diem and set the Communists on the road to ultimate victory in 1975.

But according to reports and documents that have reached me in the past few days the Communists' anti-Buddhist drive makes moves against the Buddhist Church by any of the pro-American Governments, from Diem onwards, look very mild in comparison.

Yet with real persecution under way the Communist authorities have little to fear from world opinion. Their closed society ensures that by the time news filters out the impact is lost, and the Western world is now bored by Vietnam, any way.

THEN—AND NOW

In the closing stages of the Diem regime, the Western Press made much of flaming monks. Journalistic prizes were won on the strength of it. The world registered shock, horror, and sympathy.

But there has not been such publicity about numerous self-immolations that have taken place in Vietnam's southern zone in the past few weeks.

Among those arrested by political police on April 6 were Thich Huyen Quang, deputy head of the Institute of the Dharma, Thich Quang Do, secretary-general, and all five newly elected committee chairmen.

Coinciding with this there was a systematic drive against Buddist centres in the provinces. According to sources many monks and laymen have been imprisoned, sent to "re-education" centres, or held under house arrest.

Some pagodas have been converted into storehouses.

COLLECTIVE SUICIDE

A mass of self-immolation took place late in November, 1975, and after the reunification of Vietnam a Buddhist delegation was promised religious freedom by Pham Van Dong, Prime Minister.

But a new outbreak of self-immolations occurred in the Mekong Delta regions last November, culminating in the collective suicide of the entire staff of the Cau Tharm-tuong pagoda in Can-thoa city.

Then in January representatives at a national Buddhist congress began detailing what are reported as "hundreds of instances of persecution—and numerous outright murders."

The Government responded by trying to infiltrate delegations attending the congress. The Buddhist hierarchy then barred the Government infiltrators. Persecution followed.

Now the Communist authorities often speak of "political security" being endangered by "saffron-clad agents." Strange echoes from the the past when some Buddhists were once called "Communists in saffron robes".

It is difficult to discover how far Vietnamese Buddhists are being helped by brethren abroad.

But it is reported that some days ago Pham Van Dong received a letter from a top Buddhist leader outside the country saying that unless the persecution ceased, 127 monks and nuns would one by one begin committing suicide by self-immolation in various parts of the free world.

The letter is reported to have said that the 127 had already volunteered.

[From the the Washington Star, July 29, 1977]

GUERRILLAS BATTLE HANOI IN JUNGLES—VIET CONG TACTICS USED ON 'NAMELESS FRONT'

(By Henry S. Bradsher)

A widespread, well-organized resistance movement is fighting the Communist regime in southern Vietnam, the Vietnamese army newspaper has reported.

"In the fighting it is not clear where the front line is and where the rear area is," an army major wrote in his diary before he was killed by the anti-Communist guerrillas, "They call it 'the nameless front,'" he wrote.

"Many soldiers have fallen on that nameless front," the newspaper quoted from Maj. Nguyen Thanh's diary.

A recent series of articles on efforts to suppress the guerrilla challenge to the Hanoi government pictures a mirror-image of the methods that the Viet Cong used to use against the Saigon government. However, the strength of the resistance does not seem to be comparable to that attained by the Viet Cong.

The articles confirm reports from Vietnamese refugees that armed opposition to the winners of the long war has been both extensive and coordinated, rather than consisting of isolated bands in the jungles. The few U.S. officials still taking an interest in Vietnam have up to now tended to be skeptical of such reports.

The Army newspaper, Quan Doi Nhan Dan, said that those opposing the new regime "are carrying out the orders of the obstinant tyrannical elements who are still hiding out in the jungle, or of the CIA." It also referred to "the plots of the CIA."

Captured documents of one resistance member told of "preparing to meet brother Minh, who had returned from Thailand to give instructions" to the resistance. Minh communicated "many urgent tasks that must be performed during the coming period."

The articles did not elaborate on who Minh was or who sent the instructions from Thailand.

Despite these references, there was little attempt to blame the resistance on the United States or other outside influences. Instead, the problem of the Communist government was pictured as primarily one of "eliminating the consequences of the neocolonial war" and "mopping up enemy troop remnants."

The articles identified the resistance organization as the National Restoration Front.

The Vietnamese term *phuc quoc*, translated as "national restoration," has been used for a century or more by organizations fighting government control. Because of its generic nature, the name has been thought by Western analysts of Vietnamese affairs to cover a number of possibly separate or only loosely connected groups.

But the Quan Doi Nhan Dan articles discussed the front as one organization with numerous local units. The nature or relocation of a central command for all of southern Vietnam was not mentioned.

An American specialist in Vietnamese affairs who has studied the articles, Cecil Spurlock, said that the National Restoration Front seemed to bear a striking resemblance to the Viet Cong's National Liberation Front in organization and methods of operation.

Spurlock noted, for example, that the articles referred to a "national restoration women's central committee." This implied that the front has developed—or is working to develop—the same network of subsidiary organizations to rally specific interest groups to its support that the NLF used to have.

The sophisticated structure of the front was shown by references to forged identity papers, an apparent system of "safe houses" where resistance personnel could obtain shelter while traveling, disguises and "secret zones," and coordination with "a strange ship running without lights" off the Vietnamese coast.

One resistance member who was captured by government forces was quoted as referring to orders from "the upper echelon." This man was well supplied with money.

The articles, signed by To Phuong with the date April 1977, focused on the situation in three provinces in the new Communist reorganization of southern Vietnam. They lie inland from the South China Sea north of Dalat, an important highland city some 150 miles northeast of Saigon.

Most of the area is inhabited by hill tribes who have always resisted control by lowland Vietnamese. But the articles gave Vietnamese names in identifying guerrilla leaders.

After the Vietnam war ended in the capture of Saigon by the North Vietnamese Army on April 30, 1975, most people enthusiastically accepted the new regime, the articles claimed. "But a considerable number of puppet officers failed to report, refused to undergo study (for 're-education' of former supporters of the Nguyen Van Thieu government), and sought ways to hide out," To Phuong wrote.

"They also rallied others to oppose the revolution. After the people who underwent reform study returned they did not undergo sincere transformation but continued on their criminal paths of the past."

This has created the problem of insincerely transformed people "having their citizenship rights restored" but then using their new status for "surreptitiously opposing the revolutionary administration," the articles said.

"Some people have truly reformed and want to earn honest livings, but their former tyrannical commanders who are still in the jungle continually threaten and dominate them and force them to continue to oppose the revolution."

This opposiiton includes such things as "throwing a grenade into a field in which a film was being shown, blowing up a bridge, stopping a few cargo trucks to plunder them, etc." In one reported coup by the government, "two intelligence agents" were captured while "presiding over a meeting to plot to sabotage the elections, murder cadres, and create disturbances in places where our governmental administration is careless and has relaxed its vigilance."

The Guerrillas steal rice, hogs, salt and other things from villagers, the articles said. It described their lives in the jungle as hard.

In one area, the guerrillas reportedly posed as Catholic priests. Their hideout was discovered to have a "radio, a military equipment storeroom, newly printed anti-Communist leaflets, and a book of lessons on how to oppose communism."

A search of one captured guerrilla's house found 20 weapons, 1,000 rounds of ammunition, "many antirevolutionary leaflets and a three-barred flag." This was the flag used by the American-supported Thieu government.

Captured documents referred to the Chau Duc area of the Mekong River delta, 250 miles west of the three-province area about which To Phuong was writing. The Seven Mountains near Chau Duc, historically the refuge of Vietnamese bandits and a Viet Cong stronghold throughout the war, are now reported to be inhabited by opponents of Hanoi.

One guerrilla diary was quoted as saying that a resistance leader, Lt. Col. Huynh Ngoc San, who operated in the Ban Me Thuot area of the highlands above Dalat took his wife "to operate in the Chau Duc area." Some coordination between the regions was clearly indicated, supporting the implication of an organized national resistance.

The Hanoi newspaper's descriptions of victories over the resistance, the quotations from papers captured from guerrillas, and other aspects of the articles bore a striking resemblance to the kind of material that U.S. information officers distributed to the American press in Saigon during the war to prove that the Viet Cong was losing and becoming demoralized.

THE ASBESTOS DISEASE COMPENSATION BILL

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am happy to join with my distinguished colleague, Congresswoman MILLICENT FENWICK, in hailing the introduction today of a bill that will give hope and aid to many people in this country and to their families in the wake of the effects of asbestos-induced diseases.

Representative FENWICK has been working on this bill for a long time and I was very pleased to be the first of the cosponsors and to work closely with her. Medical research has shown that asbestos can lead to some of the most serious industrial diseases known to us. It is not only in the area of manufacturing that asbestos presents a danger to the person handling it. It has been reliably determined that those using asbestos products in other industries are subject to the serious diseases directly related to handling a finished product. For example, this bill would cover workers in a multitude of occupations including painters, like myself, who work with spackling compounds, to shipyard workers, carpenters who install and rip out wallboard, insulation workers and even automobile mechanics who work with brake linings every day.

Mr. Speaker, I am very close to this major health hazard and as a member of the Subcommittee on Occupational Safety and Health and also chairman of the Blue Collar Caucus, I envision the provisions of this bill providing help for many people who, up to now, have been sidetracked in their misfortune and in their attempts to find remedial aid.

I congratulate Representative FENWICK and assure her of my total support for this measure.

KENT STATE CRYBABIES ARE AT IT AGAIN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. ASHBROOK. Mr. Speaker, the specter of a small, vocal minority once more causing trouble on Kent State campus is looming before us. I believe that those, like the junior Senator from Ohio, Mr. METZENBAUM, who call for memorializing the Kent State disaster by enshrining the grounds on which the bloody confrontation occurred are completely off the mark.

A memorial to what? To the radical efforts of the leaders of the American crazies—not Kent State students, I might add, but interstate agitators—to get the confrontation they wanted and the reaction from the Guard they wanted? To the stupidity of those who charged the National Guardsmen hurling rocks, bottles, and obscenities? To the lawlessness of the students who took the law into their own hands, ignoring lawful orders to abandon the area of their rioting? To the ignominious liberal professors who excused the rioters as pranksters expressing legitimate political beliefs?

The tragic deaths at Kent State were indeed unfortunate, but they were not by any means surprising. It was entirely foreseeable that if hordes of students attacked a vastly outnumbered group of National Guardsmen with rocks, pipes, and bottles, at some point such violence risked a stronger response.

Militant radicals had, by their own admission, sought by every conceivable means precisely the type of violent confrontation that took place at Kent State. They made nonnegotiable demands, aroused passions, and goaded law enforcement officials, hoping for a violent confrontation. To our sorrow, they got it.

In 1968 and 1969, radicals continued an incessant barrage of violence oriented hate propaganda on campus. Top SDS types like Mark Rudd, Carl Oglesby, and Bernardine Dohrn bombarded campus audiences. SDS rhetoric, to give specific examples, included in an instance of an SDS leader urging followers to kill the cops.

The Kent State disruptions were the subject of investigation by the House Internal Security Committee on which I served. During our hearings on SDS activities there, we were shown a copy of a document entitled "Organizers' Manual for the Spring Offensive" listing such non-negotiable demands as open admissions for what they called third world, black and white working-class people. Demands were to be pursued through a series of escalating actions described in the manual in this way:

Beginning with guerrilla theater actions in dorms we can escalate to disrupting classes, street marches, quick assaults on buildings, etc., before moving to the major confrontation of the struggle.

Also during these Kent State hearings, testimony by school officials revealed that no more than 15 to 25 hard-core members of SDS out of an enrollment of more than 21,000 were responsible for the disruptions. This small number was supplied with films, pamphlets, newsletters, and directives by the Ohio regional SDS office in Cleveland, some 30 miles away.

In a column headed "There's Proof the SDS Planned to Destroy KSU," writer Victor Reisel blasts the myth that Kent was a bucolic school that suddenly and spontaneously went haywire. He recalls:

There are those of us who would hop off at Akron, drive the 10 miles and observe the SDS Weatherman faction—Mark Rudd, Bernardine Dohrn and comrades—scream, literally, for blood, for murder, for revolt, for the leveling of its buildings to wind-blown ashes, and for armed rebellion. For some time now Kent State U. has been the target for the SDS Ohio region and the Akron communes.

In July of 1969, in one of my weekly Washington reports to the residents of Ohio's 17th District, I warned:

The true face of the campus enemy is revealed in just two quotations from the radicals at Kent State. Both are from reports published by the student newspaper, The Daily Kent Stater.

First: An SDS spokeswoman [Joyce Cecora] called for armed rebellion on the Kent State campus, saying "Sitting on the grass in front of the administration building is not fighting—They used guns at Cornell, and they got what they wanted. It will come to that here!"

Second: Another speaker declared, "We'll start blowing up buildings, we'll start buying guns, we'll do anything to bring this (obscenity) school down."

As I have said before, the handwriting was on the wall for all of us to see who would look. When you have people of this type promoting violence, the violence and its tragic aftermath at Kent State are entirely predictable.

It is inaccurate to refer to those students and youths who congregated there that tragic day as innocent. Duped, stupid, foolish, unfortunate, curious, cynical, dedicated, revolutionary—one of these descriptive adjectives or a score of other ones might fit them individually but, perhaps with one or two exceptions, certainly not the word "innocent."

In our proper concern over the deaths at Kent State, we must not let emotionalism obscure the facts in the matter. Planned violence usually results in violence, but tragically sometimes also in unplanned violence and unexpected tragedy.

Those who excuse violence or illegal conduct as "pranks" are more guilty than any National Guardsman. Professors who sense the rebellion on campus but do not endeavor to direct it into proper channels are more culpable than the Guardsmen. College presidents who capitulate to violence and non-negotiable demands are far more to blame than the police or the Guardsmen who must come to their campuses to fill the void created by their leadership vacuum. Political leaders who pander to minority groups and then turn their eyes away from riots and looting helped pull more triggers than any law enforcement official. Those who proclaim the right to violate the law as a "constitutional right" and call law and order "repression" or fascism fan the fires which lead to tragedy.

The radical protesters and their political allies, in and out of office, get the headlines. Overlooked is the fact that most Americans do not agree with them. Take the results of the poll which the Mansfield, Ohio, News-Journal took on this very subject. The results show where the right-thinking, good Americans land on this issue—not with the radicals or the opportunists who want the headlines but with traditional law and order, proper exercise of authority and an understanding of the issues, unclouded with emotional rhetoric. The results of the poll follow:

[From Mansfield-Ohio News Journal]

How You Voted

LAST WEEK'S QUESTION

Do you think Kent State University should preserve the area of the 1970 National Guardsmen killings as a memorial to the four slain students?

YES . . . 4 PERCENT

"As a KSU sophomore I feel well-informed on this issue. The administration is all talk, no answers. Through this my views have changed. Let's be concerned and remember the fallen students."

"Move the gym."

"The Kent State site should be kept as a memorial. Too many Americans hide their heads in the sand hoping the problem will go away by building another building."

"The students that were killed should remind all of us that it can happen here."

"I think the area should be preserved out of respect for the dead students and their families. If the university trustees insist on building there, perhaps they could dedicate the gym in memory of the slain students.

NO . . . 96 PERCENT

"To enshrine the cesspool of violent, authority defying, riotous actions of those responsible for instigating, inflaming and-or participating in that infamous incident is completely unthinkable."

"I would rather see them close the college up."

"They weren't where they belonged. Those students got what they deserved."

"If anything, it should be a memorial for the guardsmen."

"How about a fitting memorial for all the soldiers who were killed in Vietnam while these student punks were burning and looting our campuses."

"They were lawbreakers. They deserved to be shot."

"If the monument is erected, it will undoubtedly be destroyed before it is up a week."

"I see no reason why taxpayers should honor students who followed people like Jerry Rubin and Bernadine Dohram."

"It's out of the question. It's a tragic reflection of our fallen values to even consider making heroes out of rioters."

"A public school is a place to learn, not to destroy public property."

"A new gym would benefit future generations of young people. It would be better in the long run than a statute or a plaque set up to honor four dead students."

"Who is running Kent State? The Ohio taxpayers who own the property or a group of radicals, most of whom never attended the university?"

"I am sick of hearing about Kent State."

"Hallowed ground, my eye."

"I feel the demonstrators were wrong in every way."

THE MARITIME LOBBY'S TRIUMPH

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. RHODES. Mr. Speaker, for some time now I have been concerned over the growing distance between protestation and practice by the Carter administration. It is beginning to remind me of the preacher who would admonish his flock to "do as I tell you, not as I do."

The latest, and most blatant example of this is the current effort to require 9½ percent of oil shipped to this country to be carried in American vessels. This "cargo preference" bill is simply a political payoff to the maritime interests that will cost Americans as much as $800 million over the coming years.

I am pleased to see that the Washington Post, in its lead editorial of Tuesday, August 2, has also questioned the wisdom and validity of this action, and ask that it be inserted in the RECORD:

THE MARITIME LOBBY'S TRIUMPH

The maritime lobby, with its money bags, has scored a great political triumph. The costs will be borne over coming years by everyone who buys oil products. It's another defeat for the enlightened trade policy that President Carter keeps proclaiming but never quite manages to put into practice.

The maritime interests—ship builders, ship operators and unions together—already enjoy more different kinds of subsidy than any other American industry. Despite this torrent of aid, they have worked their freight rates up so high that nobody uses American-flag shipping unless the law requires it. The maritime lobby has now obtained President Carter's misguided support for its perennial bill to force part of this country's oil imports into those American-flag tankers. The proportion of imports affected will be small at first, but it will rise steadily.

It's called a cargo preference bill, and it is 200-proof protectionism. It would violate American treaties with other nations. It would be inflationary. It would add still another layer of subsidy, this time paid directly by consumers in the form of higher oil prices. As national policy, it's got absolutely nothing going for it but the lobbying muscle and the extensive campaign contributions of the people who wanted it. But that turned out to be enough to get the President's support.

Mr. Carter's whole trade policy is rapidly deteriorating. He keeps talking in terms of the most high-minded commitments to open trade and international competition but, unfortunately, the actual record points the other way. There have been three major cases so far, and three times the administration has caved in to the protectionists.

In the case of the color television sets from Japan, Mr. Carter resorted to an Orderly Marketing Agreement. That term is a euphemism for an agreement by the exporting country to limit shipments. In the shoe case, the administration imposed another couple of Orderly Marketing Agreements on Korea and Taiwan. They will save some jobs in American shoe factories; they will also cost some jobs in American retail stores as well as increase prices to American consumers. But at least an Orderly Marketing Agreement is limited in duration and is a legal procedure under the general trade rules that this country has bound itself to. The cargo preference bill is neither.

It's a strange performance for an administration that foresaw trade troubles and staffed itself with people to meet them constructively. Those people, led by Treasury Secretary Michael Blumenthal and Under Secretary of State Richard Cooper, have been walloped in each successive test. The President has been mainly following the advice of Robert S. Strauss, currently his special trade representative and formerly chairman of the Democratic Party. Like most party managers, Mr. Strauss thinks in terms of constituencies and grievances: a factory here, a union there. He apparently does not work in terms of broader concerns, like consumer interests in general, or American productivity, or the future of the highly competitive American industries whose overseas markets are now threatened by foreign retaliation.

If Mr. Carter will not resist protectionist pressure, he cannot expect the fragile governments of Western Europe to do better. He may get heat from aggrieved unions—but unlike, for example, the president of France, he does not face an election next year that might bring the Communists to power. In May, at the London summit conference, Mr. Carter joined in a pledge to support firmly the principle of open trade and a growing world economy. The people who heard him must wonder what he had in mind when they now read the cargo preference bill that he has promised to support.

ON RETIRED CIVIL AND FOREIGN SERVICE PERSONNEL TAX EXEMPTION PROVISION

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. WHALEN. Mr. Speaker, today I am introducing legislation to provide retired civil service and foreign service personnel an annual tax exemption of $5,000 on their annuities.

The amount of $5,000 best equates with the $437.10 monthly tax-free benefit—or about $5,245 annually—which an individual covered under social security and

contributing on the maximum wage base under that program may receive. Thus, this measure would grant more equitable tax treatment to all foreign service and civil service retirees who do not receive social security benefits.

As explained in a July 18 letter to me from the Wisconsin Chapter of the National Association of Retired Federal Employees:

Since many retired U.S. Civil Service employees do not receive social security payments, they do not have the benefit of such tax-exempt income as retired non U.S. Civil Service employees. In view of this, it is desirable to increase and expand the exemption.

I believe it is our responsibility to keep in mind those living on fixed incomes as we address meaningful tax reform. Too often, our efforts at "reform" have left senior citizens worse off than before that reform was undertaken. The bill I am introducing today should be a valid part of any comprehensive tax reform undertaken by the 95th Congress.

MESA'S TRANSFER TO THE DEPARTMENT OF LABOR

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. OBERSTAR. Mr. Speaker, responding to widespread concern over ineffective administration of the mining enforcement and safety program and its inappropriate location in the Department of the Interior, the House on July 14 passed H.R. 4287, the Federal Mine Safety and Health Act of 1977.

If further justification for this legislation were needed, it certainly is provided in abundance in the August 1 Washington Post article by Peter Masley reporting on "deficiencies and violations of Federal regulations in hiring, promotions, and incentive awards for employees" in the Mining Enforcement and Safety Administration.

This revealing article underscores the need for change in the Nation's hard rock mine safety program and, I hope, will inspire House and Senate conferees on H.R. 5287 to act speedily so that deficiencies such as are reported in this story can be corrected and miners assured of a strong effective mine safety program.

The article follows:

U.S. MINE AGENCY PERSONNEL WOES CITED

(By Peter Masley)

The personnel management program at the Mining Enforcement and Safety Administration is riddled with deficiencies and violations of federal regulations in hiring, promotions and incentive awards for employees, an Interior Department investigation has found.

Personnel problems are so widespread that "it is virtually impossible to isolate program deficiencies from headquarters and field," a department report says.

The Interior Department review "revealed many problems which were found to be systemic not only at the bureau headquarters level, but also in the field offices located in Denver and Pittsburgh," it says.

The department's evaluation, made with the Civil Service Commission, recommends that MESA Administrator Robert E. Barrett "issue a strong policy statement to all employees stating unequivocally his support for open and fair competition when filling all positions in the bureau and that pre-selection will not be tolerated."

Barrett could not be reached yesterday for comment. His superior, Joan Davenport, assistant secretary of the interior for energy and minerals, said Saturday that "there will be action taken" to correct problems in the personnel management program.

The Interior Department-Civil Service Commission report obtained by The Washington Post cites "substantive violations" of the Civil Service merit system, which is designed to assure that all qualified persons receive equal consideration for hiring, promotions, assignments and training.

Last November, the Civil Service Commission reported that MESA's Denver office had serious personnel management problems, and it raised the issue of "official culpability."

In one instance, persons were hired part-time to work in the field office's automated data processing division, "but, in reality, people who were hired on part-time were working fulltime and overtime and then those that were working overtime were getting incentive awards for working overtime," according to Lawrence Bembry, acting chief of the Interior Department's Division of Program Planning and Evaluation.

The November report also cited preselection in hiring and unjustified promotions. It said they occurred in a "series of paper manipulations of the technical personnel systems, i.e., misleading or false position descriptions to expedite specific management objectives for the placement or promotion of selected individuals."

MESA was established in 1973 by the Secretary of the Interior to provide more stringent mine safety and health enforcement. It has about 3,000 employees, 10 per cent of whom are located at MESA headquarters in Arlington.

Congress is expected to enact legislation this year transferring MESA from Interior to the Department of Labor. President Carter has endorsed the transfer, Interior Secretary Cecil D. Andrus opposes it.

The Interior Department's personnel management review said that MESA employees were promoted from clerical to technical or professional levels "without competition."

"Many of these actions were improper and reflect the lack of management responsibility for positions within their charge," it said.

It cited "lack of required documentation" to support promotions, and said MESA will have to "identify highly qualified employees whose opportunities were abridged by improper actions . . . and possibly require adverse action to remove employees improperly promoted or placed. . . ."

The report said that there has been interference by MESA headquarters in the classification and selection of employees in the Denver and Pittsburgh field offices. On the other hand, in Pittsburgh, personnel work "has been seriously impaired by the absence of firm and positive policy guidance from the headquarters function."

Also in Pittsburgh, "We found a situation of nonaction, inertness, if you will, because of what has been unanimously interpreted as headquarters policy to avoid unpleasant and/or corrective actions," he report said. It said that so simple a personnel correction as reclassifying a clerk-stenographer job to clerk-typist was not done in two years.

At headquarters, "We found the MESA position management and classification program as being most inadequate," the report said. "The quality of overall position classification of the headquarters was such that of approximately 62 positions, roughly 50 per cent were found to be improperly graded . . . Evaluation statements are either nonexistent or actually highlight the impropriety of the grade assigned," it said.

"Position and organizational structures which reflect duplication of effort, layering of lines of supervision, costly fragmentation of responsibilities not only are allowed to continue, but flourish," it said.

The report said that at MESA headquarters "It is not uncommon . . . for an individual to recommend and approve an incentive award with the same stroke of a pen."

The department's review of some of the incentive awards "disclosed a need for stronger justification."

CONGRESSIONAL LEGAL COUNSEL ACT OF 1977

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BRECKINRIDGE. Mr. Speaker, today I am privileged to introduce legislation creating an Office of Congressional Legal Counsel. The bill is similar to title II of S. 555, passed by the Senate 74 to 5 on June 27.

The need for creating an Office of Congressional Legal Counsel is clear. It is not surprising that the exercise by Congress of its constitutional powers is frequently challenged in, and affected by, various court proceedings. As Alexis de Toqueville observed during his travels in America in 1831:

Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question.

Unlike the executive branch of Government, Congress does not generally attempt to effectuate its will and perform its duties by initiating law suits in the courts. With a few notable exceptions, I firmly believe that Congress should rely primarily on its legislative, oversight, and impeachment powers—rather than the initiation of law suits—to fulfill its constitutional responsibilities. However, through no choice of the Congress, many matters vitally affecting Congress end up in the courts. Most of these cases arise where law suits have been brought against Congress to challenge an official action of the Congress, a Member or employee of Congress, or a committee or agency of Congress. In cases where Congress is not named as a party, the powers of Congress are often at issue and are interpreted by the courts.

At present, representation of Congress and congressional interests in these cases is provided on an ad hoc basis by the Justice Department and, occasionally, by private legal counsel. Indeed, because no permanent office has ever been given the responsibility to monitor and defend these interests, the Senate Subcommittee on Separation of Powers has often undertaken to warn Congress that its interests must be defended.

In recent years, Congress has involuntarily been subjected in extensive litigation to defend its constitutional powers. Indeed, in the last 5 years the Justice Department alone has defended Members, officers, and committees of Congress in at least 56 cases. This total does not even include the 60 legal mat-

ters in which the Senate Watergate Committee became involved.

Not included in this number are actions involving allegations of criminal conduct, abuse of the franking privilege by an individual Member, or contested elections, which the Department and the proposed Congressional Legal Counsel will not and should not handle.

Mr. Speaker, various legislative initiatives in the past have been undertaken to create an Office of Congressional Legal Counsel. I commend to the readership of the CONGRESSIONAL RECORD, to my fellow colleagues and to the American people, an excellent series of articles on the need for a Congressional Legal Counsel; the type of cases the office would handle; a detailed description of its duties, and historical, constitutional, and legal overview of the issues involved, appearing in the February 1, 1977, CONGRESSIONAL RECORD, pages 2961–2987; July 20, 1976, CONGRESSIONAL RECORD, pages 22788–22799; and the most recent debate on S. 555, as passed by the Senate in the June 27, 1977, CONGRESSIONAL RECORD, pages 29058–21007.

I understand from the Congressional Budget Office, in their June 11, 1976 cost estimate for an Office of Legal Counsel, that the figures of $300,000 for fiscal year 1978, $300,000 for fiscal year 1979, and $400,000 for fiscal year 1980, were based on an initial staff of a Congressional Legal Counsel, a Deputy Counsel, five assistant legal counsels, and clerical support.

Mr. Speaker, the basic proposition is simply this: That Congress needs a lawyer, and it needs a lawyer to handle its complex range of legal business, both for defense and for affirmative action. We need this legislation in order that this Office might: First, defend the Congress in civil actions; second, bring civil actions to enforce congressional subpenas; third, to represent Congress; and fourth, to intervene or appear as amicus curiae in legal actions effecting the Congress

I urge the House to consider this bill, and similar legislation, creating an Office of Congressional Legal Counsel and to join with their colleagues in the Senate.

ST. LOUIS TRAINING ORGANIZATION RECEIVES AWARD

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. YOUNG of Missouri. Mr. Speaker, I would like to take this opportunity to congratulate the St. Louis branch of the Opportunities Industrialization Center, OIC, upon its receipt of the top award plaque from region VII of the OIC's of America.

The award is presented annually to the OIC in the region with the best overall record. The St. Louis OIC has shown remarkable progress over the past 2 years, moving from 30th to 1st place in training, enrollment, placement, and community service.

OIC is a national organization which teaches people skills through which they may find employment. The St. Louis branch of OIC has now trained more than 1,250 people, and placed 850 of these people in related jobs.

I wish this organization, and its dedicated executive director, Jewel P. Livingston, the best of luck, and know it will continue its fine service to the St. Louis community.

THE LOSS OF JIMMIE ROSENBURG

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BRINKLEY. Mr. Speaker, seldom does an article capture the real drama of life and death so well as the one by Joel Ferguson of the Warner Robins Sun with reference to Jimmie Rosenburg. I submit it for the RECORD as the example of a man who took everything out of life and put back a lot more:

FRIENDS AND LOVED ONES SAY GOODBYE

(By Joel Ferguson)

He was a veteran of World War II, and one of his most prized possessions was a 1929 calendar from his father's general store in Lake Butler, Fla. The calendar was displayed near his desk and he admired it often.

Mayor Foy Evans said the man made many contributions to the city. One of the most significant of these contributions, according to the mayor, was the establishment of a Housing Authority in Warner Robins to provide low-cost housing for persons without homes.

Mayor Evans said the man had a great deal of political influence in Warner Robins and Washington.

"But he never used that influence for himself," Evans said. "It always seemed to me that he used his influence to help others. He was an outstanding citizen of Warner Robins, and he did a lot more for this community than most people realize."

He liked to greet folks near the entrance to his store, Evelyn's, which is a few steps from the fountain at Houston Mall. And he welcomed the chance to talk to almost everybody—hoboes, merchants, doctors, bankers, lawyers or politicians. One day he laughed and said, "I even like to talk to newspaper reporters."

Keeping property taxes low was one of his main objectives. He took an enormous amount of pride in the fact that Houston County provided more services for fewer tax dollars than any other county in Middle Georgia.

The pride was justified because he had served on the Houston County Board of Tax Assessors for 18 years, and had served as chairman of that board for the past 10 years.

He was one of the persons responsible for organizing high school football programs in Warner Robins. This contribution, which brings untold joy and excitement to city football fans on cool nights in autumn, reached the pinnacle of success last year when the Warner Robins High School Demons became national champions.

As a member of the Chamber of Commerce, he served for many years on the Military Advisory Committee for Robins Air Force Base, and strongly advocated appropriations to promote and improve relations between the city and the base. He also recommended programs designed to retain and expand the mission of the base.

One time he told me that local groups seeking new industry should always remember that Robins Air Force Base is the largest industry in Georgia. For that reason, he said he would question a program that devoted all of its time and energy to seeking new industry and neglected to respond to the importance of maintaining good relations with the base.

During his early days in Warner Robins, he developed real estate projects that added millions of dollars to the local tax digest. He was one of the founders and a director of the Bank of Warner Robins, which later became the Citizens and Southern Bank of Houston County. He also provided leadership in business and financial affairs as president of the Warner Robins Merchant's Association.

He was a veteran of World War II, and was a member of the American Legion and the Elks Club.

He died last Tuesday at the age of 58 following a lengthy illness. He had lived in Warner Robins 30 years.

After being eulogized by such good and honorable men as Rev. Napp Granade, Dr. James O. Dorriety and Congressman Jack Brinkley, a bronze casket covered with green fern and red roses was removed from Shirley Hills Baptist Church, where he had been a member.

As the outside temperature stood at 98 degrees the casket was loaded in a hearse for Lake Butler, Fla., for burial. The casket was borne by his dear friends Billy Randall, Frank Bizzell, C. B. Mitchell, Denmark Groover, F. O. McKneely, Lee Miller and Russell Norris.

And this is the way it was at 12:40 p.m. on Thursday, July 7, 1977, when friends and loved ones said goodbye to Jimmie Rosenburg.

CHRISTIAN SCIENCE MONITOR DISCUSSES ABOLITION OF MANDATORY RETIREMENT IN EDITORIAL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BRIGG. Mr. Speaker, today's editions of the Christian Science Monitor contain an editorial entitled "Right To Work After 65?" This editorial presents an objective evaluation of one of the key legislative issues confronting the 95th Congress—abolition of mandatory retirement.

A main theme of the editorial is that retirement shculd be voluntary and at the discretion of the individual. It should not be mandated due to the reaching of an arbitrary chronological age. The main objection I have to mandatory retirement is that it completely eliminates ability and experience from the criteria used to determine a person's capability to continue work. As the editorial states, "When it comes to holding a job—competence should be the criterion."

One argument consistently offered to support mandatory retirement is that it opens jobs for young people. This argument is specious in that there is no direct one-to-one relationship between the job vacated by a person at 65 and one a young person will assume. More importantly this argument in effect condones the practice of promoting one form of discrimination to remedy another.

One of the main forces behind the development of H.R. 5383, the bill changing mandatory retirement rules in both the public and private sector, has been Chairman CLAUDE PEPPER of the House Select Committee on Aging. I am privileged to serve with Chairman PEPPER on the Aging Committee as well as be a member of the Education and Labor Committee which reported this bill to the floor. I firmly support H.R. 5383 and feel it merits the early passage of both the House and the Senate.

Abolition of mandatory retirement is essential to promoting equality and justice as well as economic security for America's elderly workers. It is our way of demonstrating our disagreement with the fallacy that age determines ability. I urge my colleagues to take the time to read and evaluate this objective and reasoned editorial:

RIGHT TO WORK AFTER 65?

The new momentum against mandatory retirement in the United States demands attention both from institutions and from individuals. Whatever the outcome of pending federal legislation, institutions ought to take the hint to reexamine their employment and retirement policies to ensure maximum fairness for all concerned. And individuals should be reminded that the prime responsibility for security and satisfaction in later years remains with them.

No matter what employers and government programs can do to help, it is only the individual who knows himself and his resources well enough to put together the retirement package tailored best for him. This means prudent financial arrangements combining savings, private pensions, and social security. But it also means developing the interests, talents, and skills to make "retired" means something more than the "tired" which some retirees playfully put on their new nonbusiness cards. Such inner resources can be drawn upon no less by those whose economic circumstances do not permit many options for financial preparedness.

What the legislation should do is to support the best efforts of institutions and individuals. This may not mean a ban on all mandatory retirement programs, especially when these are the result of collective bargaining. The provision for a two-year study commission in the committee-passed House legislation should not be dismissed as a compromise or delaying tactic. The question is complicated enough to repay further study.

On the one hand, as a number of spry septuagenarian congressmen argue, people should not be discriminated against simply because of chronological age. When it comes to holding a job, competence should be the criterion. It is fitting for the legislation, which will probably go to the House floor in September, to bar a mandatory retirement age in the federal government. At least a dozen states already bar it in state jobs.

Yet the issue of "rights" for the elderly, a station in life open to everyone, is different from that for blacks or women, for example, who are separate and distinct groups. And, if rights are to be based on age, the rights of the young have to be considered, too. Unless the elderly are retired, especially in times of high unemployment, what happens to young people's rightful access to employment?

Such questions at least dictate caution before ruling out mandatory retirement in private business, though such mandates should have review mechanisms so that today's collective bargainers do not determine the rules for future generations. The country cannot ignore studies such as the one undertaken for the United Automobile Workers which found that mandatory retirement probably costs the American economy $10 billion a year. The loss comes both from forcing the skills of skilled workers off the market and from reducing their purchasing power.

The House legislation does move with some caution. It advocates no mandatory retirement in private business before the age of 70. But it would allow two years for accommodation in cases where collective bargaining had specified earlier retirement.

It must be remembered that mandatory retirement ages came about at least partly for such constructive purposes as ensuring that people would not be forced not to retire and that young people would find jobs opening up. There is also the element of turnover without having to specify to the incompetent or unproductive that they are being let go for reasons other than age.

It should be emphasized that banning mandatory retirement would not bar voluntary retirement. Indications are that the mass of people would not stay beyond 65 anyway. Those who want to continue working and are competent to do so would probably not upset pension plans.

But, as longevity increases, later retirement ages may prove economically attractive. There is consideration now for extending from 65 to 68 the age at which full social security benefits are available. If that were to occur, clearly a mandatory retirement age of 65 would be out of keeping.

A perspective comes from Japan, where the average retirement age has been about 55. With Japan's dramatic increase in longevity, there is talk of it rising to 56 or 57.

Obviously, what might seem a clear-cut issue is not one. That two-year study will be welcome.

HOSPITAL COST CONTAINMENT BILL

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. CARTER. Mr. Speaker, I am introducing today a proposal designed to assure that a cooperative hospital cost-control system is implemented through the encouragement of State cost-control systems.

We all are aware of the magnitude of the problem of rising health care costs. Expenditures for hospital care have more than quadrupled since 1965 with the average rate of inflation of those costs 13.9 percent. Even if this increase is adjusted to reflect constant prices in the general economy, the average annual increase still was 8.6 percent for hospital care. But a simple recounting of these statistics does not describe the whole problem. We must also look at the health status of our citizens in light of this tremendous increase in health care investment.

Although we certainly have made great strides in combating the many health problems we face, there still are improvements to be made. The infant mortality rate in some of our States is twice as high as it is in others, while the rate of deaths from cancer actually has increased since 1968. Furthermore, many of our citizens do not have access to the care which they need.

Unfortunately we have reached the point where our increased spending for health care—spending which now represents 8.6 percent of the gross national product—is buying only maintenance of existing health programs. The enormous amounts of money going for maintenance of programs effectively prevents new programs for improving health care from being added. This, therefore, is the rationale behind attempts to control mounting health care costs; unless we control the runaway spending we have little hope of being able to afford new programs for improving our health care system. Since hospital care represents about 40 cents out of every dollar spent for health, any attempts to control health care costs must first concentrate on hospital costs.

As ranking minority member of the Subcommittee on Health and the Environment, I have devoted much of my legislative effort to issues concerning our country's health care system. And, as a physician, I have made a personal commitment to doing what I can to help improve the health care of our people.

After considering this problem of rising costs, I have concluded that we must have a program to contain the dramatic increases in hospital costs. In a time of limited resources, we no longer can afford to maintain 100,000 idle hospital beds at an estimated $20,000 to $30,000 per bed per year. We no longer can afford to allow every hospital to build expensive open heart surgery units when they do not have the patients to make economic and efficient use of those units. If we continue to devote our financial resources to unnecessary or duplicative and inefficient services, we will never have the funds needed to improve emergency rooms and outpatient departments, to provide more and better preventive care and health education, and to remove the financial barriers to health care which now exist for many of our citizens.

In recent weeks I have devoted a great deal of time to the study of the various legislative proposals designed to deal with this problem, including the administration's proposal, H.R. 6575. Although, as I have indicated, I certainly share the administration's desire for timely action, I feel that the approach embodied in H.R. 6575 cannot accomplish the goals toward which we all should be working. Instead, I believe that the administration's proposal may do more harm than good.

A simple formula approach, as proposed by the administration, cannot insure that needed facilities are not forced to close. It cannot assure that base-year budgets are "reasonable." It cannot guarantee that present utilization levels represent care which is needed. It cannot take into account the wide variations among hospitals in terms of their size, location, case mix, and scope of services. Moreover, the formula approach does not differentiate between the overextended, inefficient hospitals and the efficient ones. In fact, the imposition of a simple, across-the-board formula would reward the inefficient hospital because 9 percent

of a "fat" budget involves more dollars than 9 percent of a "lean" budget.

In contrast to the administration's proposal, the legislation which I am introducing today focuses on the establishment of State commissions on hospital budgets to prospectively review the budgets of hospitals within a State. I am proposing this substitute approach because only a program instituted at the State level can achieve the level of specificity necessary to insure that the desired level of efficiency is achieved while insuring that quality of care is maintained.

Mr. Speaker, let me make it clear that this should not be an issue of Federal versus State power; the important point is the ability of State and local officials to institute selective and cooperative approaches to the problem of spiraling hospital costs. We must also keep in mind that cost containment is at present an art, not a science. Several cost-containment methods have been employed or are being developed by various States. My proposal provides the flexibility, and the oversight, to insure that all of the viable methodologies are examined, and that each State could develop a system that would be most consistent with its needs.

Many States have already taken the lead in developing creative cost-containment systems designed to meet their State's special needs and problems. Connecticut, Maryland, Massachusetts, New Jersey, New York, and Washington already have instituted cost-containment systems through regulatory agencies. Sixteen other States have instituted some form of cost containment or are in the process of development. Maryland's system has saved an estimated $55 million over 2 years, while Connecticut has saved its taxpayers over $30 million.

Most importantly, a cost-containment system must be based at the State level because the other components of an effective cost-containment system, health planning and utilization review, have already been instituted at that level. It is crucial to the success of a cost-containment system to have the planning activities of the health system agencies—HSA's—and the State health planning and development agencies—SHPDA's—linked to the budget review process. It is just as crucial to link the utilization review and quality assurance activities of the professional standards review organizations—PSRO's—to the budget review process. Only through linking these organizations, as proposed by my bill, can we implement a coordinated system which deals with all of the factors leading to spiraling increases in health-care costs. It would be impossible to link these programs if a major part of the overall system was based in Washington.

Under my proposal each State would be encouraged to establish a State commission on hospital budgets with the Federal Government paying the start-up costs. The commissions would review hospital budgets in advance to insure that they represented reasonable expenditures. Broad participation in the review process would be assured through an advisory council representing all of the groups concerned, including the HSA's and the PSRO's.

The use of prospective budget review would provide hospitals with an incentive to contain costs on their own, without the retroactive penalties proposed by the administration's bill. Under my proposal any hospital which was able to remain within the prospectively approved budget would be allowed to retain the surplus generated and use it for improvements in the care provided by the hospital. I believe that it makes sense to provide hospitals a clear goal, thereby allowing them to make adjustments as the year progresses.

In addition, my proposal would insure that cooperative effort necessary to strengthen and improve our health care system became a reality. The relationship between budget review and health planning would be enhanced through memoranda of agreement covering data sharing, development of complementary guidelines and procedures, and financial feasibility review of capital expenditures by the budget commission. Similarly, PSRO and budget commission efforts would be coordinated in order to assure that budget commission decisions did not adversely affect quality of care and that duplication of data collection did not occur.

This legislation also would improve the ability of health planners and PSRO's to carry out the tasks they have been assigned. PSRO review would be extended to all patients, not just medicare and medicaid patients. The State health planning and development agency would be provided with the authority to declare services and facilities surplus or unnecessary, and Federal funding would be authorized to finance the costs of decertification.

Other key elements of the operation of State commissions as laid out in my bill would be:

Flexibility in the selection of a prospective budget review methodology;

Uniform definition of reimbursable costs;

Public disclosure of hospital budgets and administrative salaries;

Enhanced grouping of hospitals based upon case mix, size, type, and other factors;

Requirements that hospitals submit long-range capital plans and capital budgets to State commissions and to health planning agencies—SHPDA's—and

Provisions for Federal oversight of State budget review.

In addition to these elements, the legislation which I am introducing acknowledges that it will take time to develop State programs, and that not every State will wish to participate. For this reason my proposal would direct the Secretary of HEW to develop a permanent program for those States which do not have a State commission on hospital budgets. It would also create a transitional program similar to one in the administration's plan, with certain exceptions designed to reduce the inequities inherent in the formula approach.

The major differences between my proposed transitional program and that contained in the administration proposal are that:

The base year would be more realistically set as that accounting year which ends after September 30, 1976, thereby insuring that no hospital would be held to revenue and volume levels set so far in the past that compliance with the program would necessitate drastic reductions in service;

Phase-out of duplicative services and facilities would be encouraged through insuring that volume increases associated with a shared-service agreement would be added to the base-year volume of the hospital providing the service while the hospital discontinuing the service would not be penalized by having the difference subtracted from its base-year volume;

Hospitals in underserved areas would receive 100 percent of their average reimbursement per admission regardless of changes in the number of admissions. In contrast, the administration proposal would reduce revenue by 50 percent for numbers of admissions higher than 102 percent of the base year admissions;

Each hospital's allowable rate of increase would at least be equal to the Consumer Price Index; and

Funding to hospitals which constitute national health resource centers such as the Mayo Clinic, the Lahey Clinic, and the Cleveland Clinic, would be assured.

Mr. Speaker, I believe that the approach embodied in my bill would achieve our goal of an efficient, effective, high-quality health-care system while bringing spending under control. I like to think that it attacks the complex problem of out-of-control health-care spending with a scalpel instead of a meat cleaver. For while we try to control the financial aspects of our health-care system, we must keep in mind that our goal is insuring that every American has access to medical care at a reasonable, affordable cost. We will not reach that goal by needlessly crippling our existing hospital system.

I realize that a cost-containment program, such as I am proposing, which builds upon the strengths of the State and local level will take time. But the payoff in terms of a coordinated, balanced approach to cost-control will benefit our entire health-care system. I offer this proposal for the perusal of my distinguished colleagues and hope that they will consider this alternative carefully.

KENNEDY CENTER BENEFITS THE ENTIRE NATION

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. LEVITAS. Mr. Speaker, one of the best things that has happened to Washington in recent years was the opening of the Kennedy Center. It is more than a

static monument to a President. The Nation built a living memorial to a great man, a memorial which has been enjoyed by millions.

Unfortunately, an erroneous assumption about who really benefits from this living tribute is prevalent. It is sometimes, though wrongly, believed that the Kennedy Center caters solely to the tastes of the rich and prosperous.

Each time we need to appropriate moneys for the Center's emergencies or upkeep, we hear this totally misleading charge. It took us 3 years to appropriate the money to fix the leaking roof—and we ended up having to spend far more than originally necessary just because of the shortsightedness displayed on this very matter. Some might say Congress did not have enough sense to get out of the rain in time on this occasion.

For the benefit of all the Members who have reservations about appropriating funds to keep this national treasure in good working order, as well as for those who understand what the Center does for our Nation's Capital and our Nation but would like to see it in print, I am inserting an article by Harry McPherson, the general counsel to the Kennedy Center, from the Washington Star of July 17, 1977. I call it to the Members' attention as an explanation of the millions of people, not just well-to-do residents of Washington, for whom the Center is a generous benefactor, public forum, and a center of artistic, dramatic, and musical delight.

The article follows:

KENNEDY CENTER: NOT JUST FOR THE RICH

(By Harry McPherson)

Last Sunday, *The Star* carried an article reprinted from *The New Republic*, contending that the Kennedy Center is run "mainly for the prosperous, the chic and the powerful." This must come as a surprise to those who regularly attend performances at the center. Either Stephen Chapman, who wrote the article, is wrong, or there are many more such people around than one had supposed. More than eight million persons have attended theatrical and musical events at the center since it opened in 1971.

The thrust of Chapman's piece is that the Kennedy Center, ostensibly a national institution supported by federal funds, is in fact offering high-priced entertainment to the well-to-do of Washington. Thus "the lower orders" (sic) elsewhere are subsidizing the extravagant tastes of this area's "Who's Who."

Many things might be said about this, beginning with references to the state-supported theaters, opera houses, and concert halls of Europe and the Soviet Union, and ending with the perilous economics of the performing arts here and throughout the country. But I shall limit this reply to a few facts, not included in the article, about the Kennedy Center itself.

First, the trustees of the center—principally Roger Stevens—have raised $35 million from private sources to help build and operate the place. When it was originally conceived in the 1950s, the notion was that it should be entirely financed by private funds. In 1964 the Congress determined otherwise. The center would be a "living memorial" to President Kennedy—by which was meant that it would be more than a shrine for visiting, but a platform for the continuous production of the performing arts in the national capital. Government appropriations were made which, together with private contributions, paid the construction bill.

Because 17 million persons have visited the center since then, and continue to do so at the rate of almost 14,000 each day, the Park Service bears the principal cost of maintaining and policing it, as it does in the case of other national memorials.

Second, the center is considerably more than an entertainment center for the affluent.

Since 1971, 600,000 half-priced tickets have been made available to students, the elderly, the handicapped, military personnel, and citizens of low income. These have not been throw-away tickets to poor shows; it is the center's policy to provide them consistently, whatever the box-office situation. Their monetary value to the users, and their cost to the center, was nearly a million dollars.

In the 1976 fiscal year, the center sponsored 1,500 free events. They included children's theater—in an effort to stimulate quality in such productions across the country; concerts in the Grand Foyer; symposia, films and exhibitions. The Christmas festival of free music costs the center $75,000 annually. In each of the past few years the center has mounted festivals in honor of a single great composer—Haydn and Handel so far. Brahms to come. Each costs the center about $100,000.

Since the center receives no performing arts subsidy from the government, these events—and others that cannot begin to pay their way even with high ticket costs, such as grand opera—must be underwritten by the returns from profitable shows. So the occasional "Pippin" or "Annie" makes possible the production of Monteverdi operas and plays for children—and, hopefully, of another successful musical that will put the next round of free and adventurous offerings on the boards and in the halls.

There is still more to be done that cannot be entirely financed this way. A musical theater lab has been created on the top floor, where new productions can be tried out before small audiences, and without the exorbitant costs that deny most of them even a look on the commercial stage. The cost to the center will run about $200,000 annually. Nearby, a Performing Arts library will soon be opened, stocked with 5,000 volumes from the Library of Congress, and connected with the main library by an information retrieval system. It will give the center and visitors to it the research arm it has lacked so far.

Behind and above the Eisenhower stage, a new Studio Theater will be completed within a year or so. The Japanese have made it possible, with a Bicentennial gift to America. In this versatile setting, the kind of performance that cannot be mounted now in the large halls—experimental plays, recitals by lesser-known artists, and the like—will have a home.

Private contributions will be needed to help support the Studio Theater, the musical theater lab, and other public service programming in the center. A number of corporations and foundations have already provided generous subsidies for particular shows—including the annual College Theater Festival—and a corporate fund has been created, with a goal of $1 million annually, to sustain the effort.

So with the government's help in building and maintaining it; with quite substantial private contributions; with the profits from its own successful productions; and with the determination of Roger Stevens and its trustees, the center has become, in a little more than five years, an enterprise of considerable value to the capital—and to the nation. The "prosperous, the chic and the powerful" do in fact attend its programs. But so do far greater numbers of citizens who fit none of those categories. They, no less than the affluent of Washington, have reason to be glad that such a place exists.

HELPED JOHNSON STEAL 1948 ELECTION, TEXAN SAYS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. LATTA. Mr. Speaker, the July 31, 1977, edition of the Toledo Blade carried the Associated Press story by James W. Mangan giving us—at long last—the details—from a participant—surrounding the mysterious addition of some 200 votes to Mr. Johnson's vote total in box 13 to give him a Senate seat in 1948. The most incredible part of this story is the fact that it took 29 years for our free—but liberal dominated—press to get Luis Salas' own story into print. I know that many will try to explain away the delay by saying that Luis Salas just decided to "talk" to which I say, "Hogwash." If he talked today, he would have "talked" yesterday. The article follows:

29-YEAR-OLD CASE REVIVED—HELPED JOHNSON STEAL '48 ELECTION, TEXAN SAYS

(By James W. Mangan)

ALICE, Tex.—A former Texas voting official seeking "peace of mind" says he certified enough fictitious ballots to steal an election 29 years ago and launch Lyndon Johnson on a path that led to the presidency.

The statement comes from Luis Salas, who was the election judge for Jim Wells County's notorious Box 13, a precinct in Alice, which produced just enough votes in the 1948 Texas Democratic primary runoff to give Mr. Johnson the nomination, then tantamount to election, to the U.S. Senate.

"Johnson did not win that election; it was stolen for him. And I know exactly how it was done," Mr. Salas said. Now a lean, white-haired 76, he was then a swarthy 210-pound political henchman with absolute say over vote counts in his Hispanic south Texas precinct.

The controversy over that runoff election has endured for nearly three decades, ever since U.S. Supreme Court Justice Hugo Black abruptly halted an investigation, but the principals have been silent. George B. Parr, the South Texas political boss whom Mr. Salas served for a decade, shot himself to death in April, 1975. Mr. Johnson is dead, and so is his opponent. Mr. Salas, retired from his railroad telegrapher's job, is among the few living persons with direct knowledge of the election.

LADY BIRD INFORMED

Mr. Johnson's widow, Lady Bird, was informed of Mr. Salas' statements and said through a spokesman that she "knows no more about the details of the 1948 election other than that charges were made at the time, carried through several courts, and finally to a justice at the Supreme Court."

Only now has Mr. Salas agreed to tell his full version of what happened. In his soft, Spanish accent, he said he decided to break his silence in quest of "peace of mind and to reveal to the people the corruption of politics."

Mr. Salas says now that he lied during an aborted investigation of the election in 1948, when he testified that the vote count was

proper and aboveboard. "I was just going along with my party," he says.

He told the Associated Press that Mr. Parr ordered some 200-odd votes added to Mr. Johnson's total from Box 13. Mr. Salas said he saw the added fraudulent votes, and then certified them as authentic on orders from Mr. Parr.

The final statewide count, including Box 13 votes, gave Mr. Johnson an 87-vote margin in a total tally approaching one million and earned him the tongue-in-cheek nickname, "Landslide Lyndon."

REPRESENTED "NEW" DEMOCRATS

Texas Democrats were split in 1948. Mr. Johnson, then 39, a congressman, represented "new" Democrats in his bid for the U.S. Senate. His primary opponent was Coke R. Stevenson—60 years old, three times Texas governor, never beaten, and the candidate of the "old" wing of the party. They called him "Calculating Coke."

The vote in the July primary was Mr. Stevenson 477,077, Mr. Johnson 405,617. But a third candidate, George Petty, siphoned off enough votes to deny Mr. Stevenson a majority, forcing a runoff between Mr. Stevenson and Mr. Johnson, set for Aug. 28, 1948.

In the interim, Mr. Johnson intensified his campaign. One of the places he went stumping was the hot, flat, brush country of south Texas, George B. Parr country, where the Hispanic vote seemed always to come, favoring Mr. Parr's candidate, in a bloc.

Mr. Salas said he was Mr. Parr's righthand man in Jim Wells County from 1940 to 1950.

"HAD LAW TO OURSELVES"

"We had the law to ourselves there" Mr. Salas said. "We had iron control. If a man was opposed to us, we'd put him out of business. Parr was the godfather. He had life or death control.

"We could tell any election judge: 'Give us 80 per cent of the vote, the other guy 20 per cent.' We had it made in every election."

The night of the runoff, Jim Wells County's vote was wired to the Texas Election Bureau, the unofficial tabulating agency; Johnson 1,786, Stevenson 769.

MEETING CALLED AFTER RUNOFF

Three days after the runoff, with Mr. Stevenson narrowly leading and the seesaw count nearly complete, Mr Salas said, a meeting was called in Mr. Parr's office 10 miles from Alice. Mr. Salas said he met with Mr. Parr; Mr. Johnson; Ed Lloyd, a Jim Wells County Democratic Executive Committee member, and Bruce Ainsworth, an Alice city commissioner. Mr. Lloyd and Mr. Ainsworth are now dead.

Mr. Salas told the AP:

"Lyndon Johnson said: 'If I can get 200 more votes, I've got it won.'

"Parr said to me in Spanish: "We need to win this election. I want you to add those 200 votes.' I had already turned in my poll and tally sheets to Givens Parr, George's brother.

"I told Parr in Spanish: 'I don't give a damn if Johnson wins.'

"Parr then said: 'Well, for sure you're going to certify what we do'

"I told him I would, because I didn't want anybody to think I'm not backing up my party. I said I would be with the party to the end. After Parr and I talked in Spanish, Parr told Johnson 200 votes would be added. When I left, Johnson knew we were going to take care of the situation."

Mr. Salas said he saw two men add the names to the list of voters, about 9 o'clock at night, in the Adams Building in Alice. He said the two were just following orders and he would not identify them.

NAMES ADDED ALPHABETICALLY

Mr. Salas said the 200 names were taken from the poll-tax list and belonged to people who didn't vote in the primary. He said he objected because the two men were signing the names on the voting sheet alphabetically, "as though they had walked in to vote alphabetically."

He also said that the two men didn't bother to disguise their handwriting, and the 200 signatures looked as if they had been written by only two persons. "The lawyers spotted it right away, they sure did."

The AP interviewed everyone connected with the case still alive to corroborate Mr. Salas' story. One man who got a brief look at the Box 13 vote tally in the original investigation was former FBI agent T. Kellis Dibrel, who confirmed Mr. Salas' statement that the last 200 votes were in alphabetical order.

"It stuck out like a sore thumb," Mr. Dibrell said. "Also, the last 202 names were made with the same colored ink, and in the same handwriting, whereas the earlier names in the poll list were written by different individuals and in different color inks."

Six days after the runoff, with Mr. Stevenson still holding a narrow lead in the statewide count, a second telegram was sent, changing Jim Wells County's vote to: Johnson 1,988, Stevenson, 770.

Mr. Johnson gained 202 votes; Mr. Stevenson 1. They came from Box 13.

The next day, the official statewide vote canvass gave Mr. Johnson 494,191 and Mr. Stevenson 494,104.

Mr. Stevenson protested. Mr. Johnson said that if Mr. Stevenson had evidence, it was his duty to go to a grand jury. "I know that I did not buy anybody's vote," Mr. Johnson said.

Mr. Stevenson went to federal court in Fort Worth and, on Sept. 14, Judge T. Whitfield Davidson signed a temporary restraining order forbidding certification of Mr. Johnson as the Democratic nominee. The judge ordered an on-the-spot investigation of voting in Jim Wells County.

BLACK HEARS JOHNSON PETITION

The same day, in Washington, U.S. Supreme Court Justice Black agreed to hear Mr. Johnson's petition to lift the injunction. Mr. Johnson's attorney was Abe Fortas, in later years a Johnson appointee to the U.S. Supreme Court.

Mr. Stevenson was in Alice that day; Mr. Johnson was on President Harry S. Truman's campaign train in Texas. Also on the train that day, according to Mr. Salas, were Mr. Parr, who had received a presidential pardon from Mr. Truman in 1946 after serving nine months on an income-tax conviction, and Mr. Lloyd.

Mr. Salas told the AP he was summoned the next day by Mr. Lloyd and told: "Luis, everything is all right. We talked to Truman on the train. Don't worry about the investigation."

Two days later, Justice Black, in an order he dated himself in longhand, voided the temporary injunction against putting Mr. Johnson's name on the ballot and ended the investigation. Justice Black said, "It would be a serious break with the past" for a federal court to determine an election contest.

Mr. Stevenson had lost; Mr. Johnson had won.

That ended Mr. Stevenson's political career. He retired to his hill country ranch, insisting until he died in 1975 that the election had been stolen from him. Mr. Johnson became a power in Congress, and 15 years later he was president.

CONSUMER PROTECTION RESOLUTION

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. PATTISON of New York. Mr. Speaker, on behalf of Rosemary Pooler, executive director of the Consumer Protection Board of the State of New York, I submit the following resolution, enacted on July 6–7 by the National Association of Consumer Agency Administrators:

Whereas, consumer interests have been inadequately represented within the Federal government and consumers have consequently suffered economic and physical harm, and

Whereas, there has been a seven-year effort to enact into law the bill to create the Agency for Consumer Protection, which would begin to rectify the inadequate representation of consumer interests before decision-making bodies of the Federal government, and

Whereas, the President of the United States has stated his intention to sign the bill to create an Agency for Consumer Protection, and

Whereas, there exists in Congress a stalemate between the two houses over which house should be the first to consider the bill during this session, and

Whereas, this stalemate works to the detriment of this critical legislative proposal; now, therefore, it is

Resolved, That the National Association of Consumer Agency Administrators calls upon the leadership of the House and Senate and the chairmen of the appropriate committees in both houses to resolve this stalemate so that this landmark legislation will receive its fair day on the floor of both houses of Congress.

THE ADMINISTRATION REQUESTS BREEDER STUDY, THEN IGNORES RESULTS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. TEAGUE. Mr. Speaker, before the Carter administration announced its new energy proposal in April, President Carter and Dr. James Schlesinger directed ERDA to conduct a review of the liquid metal fast breeder reactor program, in general, and the Clinch River breeder reactor plant project, in particular. The information obtained from this review was to be considered in formulating the administration's new energy policies. ERDA appointed a steering committee of 12 persons with widely different views both about nuclear energy and the breeder program to conduct the review.

Of the twelve members on the steering committee, eight members or two-thirds of the group considered that the information and experience that will be gained from building the Clinch River breeder reactor now is urgently needed. They also concluded that deferral of Clinch River will not inhibit the possibilities of proliferation of nuclear weapons.

When the steering committee completed its work, the administration chose to ignore the majority opinion of the group and contradictory to this opinion, recommended that Clinch River be indefinitely postponed primarily because it would contribute to the proliferation of nuclear weapons.

I wish to insert several passages from the report written by the eight majority members and ask my colleagues to care-

fully consider their conclusions before the upcoming vote on the Clinch River project:

PROLIFERATION

The need to minimize the potential for proliferation of nuclear weapons and the diversion of fissile materials which could result from the use of all types of reactors is recognized as an urgent requirement for the continued deployment of nuclear energy and as an essential element for breeder systems. To be effective, controls and agreements must be acceptable both to supplier nations and users and be compatible with the self-interests of each. The United States cannot unilaterally create such agreements nor by itself determine the type and pace of development of breeders and their necessary fuel cycles.

Some members of the Committee hold the view that *diversion* of fissile material within the United States can be controlled based on experience with safeguarding large quantities of fissile material since 1944. Guarding and controlling entry to fuel cycle facilities, guard and device protected shipments, careful real-time accountabilty, and supervised resident inspectors will reduce this diversion risk to acceptable levels. This risk can be further reduced by coprocessing, by isotopic dilution where applicable, and by making the fresh fuel sufficiently radioactive to deter would-be diverters with a significant radiation hazard.

Fissile material of superior quality can be produced by methods not dependent upon breeder and nuclear power reactors, using Pu as fissile material. There are at least six such approaches to methods that are not subject to safeguards. Even with breeders or other Pu producing power reactors, a nation could elect to use one or more of these options because they are more efficient, less costly, involve less difficulty internationally and are capable of producing fissionable material in a comparable period of time to diverting plutonium from power reactors.

TIMING OF THE BREEDER OPTION

The urgency for the breeder is the second major question which we assessed. Our conclusion is that there is urgency to develop the breeder option, and that the development should neither be interrupted nor delayed until the next century. The argument, reviewed and again endorsed in this study, can be stated in summary as follows: The diminishing domestic supplies of oil and gas together with probable restrictions on the rate at which coal can be mined, shipped and burned place constraints on the use of these fuels for the generation of electricity. Nuclear power supplied by light water reactors prior to breeders will place heavy demands on our domestic reserves and resources of natural uranium. If 1200 gigawatts of total electrical generating capacity is required (a midrange estimate in this study) in 2000, 400 to 500 gigawatts may be nuclear. This nuclear capacity will require, over their operating lifetime of 30 years 2,000,000 to 3,000,000 tons of natural uranium, which may come close to exhausting our uranium supply and limit our ability to expand production. The breeder option should therefore be available for deployment, if needed, by the 1990's.

The present pace of breeder development and demonstration, through the CRBR demonstration, will meet the option date.

This position is based on the following estimates of domestic uranium reserves and resources, expressed as short tons of U_3O_8.

Probable maximum: 3.7 million tons.

Prudent planning base: 1.8 to 2.0 million tons.

This estimate recognizes that our known reserves total about 680,000 tons and that the reasonable probable resources might add 1.1 million tons to this figure. Their sum is our suggested prudent planning base. The 3.7 million tons include possible and speculative resources yet to be located.

Other groups reviewing this pivotal question of future uranium supply (specifically the recent Ford Foundation Report) suggest that much more uranium can be found at economically and environmentally acceptable costs. They have used the same basic data on uraniam availability, but are more willing to gamble on future discoveries than we think prudent for the necessary assurance of the nation's future energy supply. They present no substantive argument to support their approach with its higher estimates.

CLINCH RIVER BREEDER REACTOR

We come now to the consideration of the Clinch River Breeder Reactor. After reviewing again its aims and objectives, its value in the demonstration of integrated breeder technology, and also its value as a focus for the overall breeder program, we conclude such a demonstration project is essential to realizing the Breeder option. We can find no basis for challenging the fundamental validity of its original objectives; our review resulted in a strong reaffirmation of these objectives.

We conclude that a demonstration plant of the approximate size of CRBRP is necessary and that the CRBRP objectives are appropriate to that demonstration plant. The design basis is current. The LMFBR program is not constrained forever to use all of the specific features and functional characteristics included in CRBRP. Different reactors of the fast type will be built; all will benefit from the CRBR proof-of-breeding and operation and many improvements will be a result of tests performed during its 30 year lifetime. In an evolving technology, it is not possible for any one demonstration to be totally prototypic of the future. Much has already been learned from the design. Even though changes for optimization are possible and as suggested by critics, desirable, the information and experience gained soon is urgently needed.

We conclude that the CRBRP is a necessary and essential step in development of the LMFBR energy option.

CONGRESSIONAL USE OF SOLAR ENERGY

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. JOHNSON of California, Mr. Speaker, on May 17, 1977, the House passed House Resolution 322, a resolution directing the Architect of the Capitol to conduct a feasibility study and report on using solar energy in the heating, cooling, and hot water systems of the House office building complex. This resolution authorizes the Committee on Public Works and Transportation to incur expenses for studies and investigations not in excess of $50,000 in order to carry out the provisions of House Resolution 322 in support of the Architect. These expenses are to be paid out of the House contingent fund on vouchers submitted by the Architect signed by me and approved by the Committee on House Administration.

Knowing of the interest of my colleagues in the House on this important study and in response to questions which were raised during the floor debate as to the best method of conducting this study, I am reporting to the House on the progress which has been made to date on this matter.

I directed the Architect of the Capitol to investigate existing capabilities of the Energy Research and Development Administration, General Services Administration, and any other Federal agency to see if one or more of these agencies possess the capability of conducting the study. I also inquired of the Architect as to his in-house capability to conduct the study.

The Architect has since reported to me that no Federal agency contacted would be able to conduct the study without engaging an architect/engineering consulting firm to develop the necessary engineering evaluations and to prepare the final report. The Architect further points out that while members of his staff possess the necessary expertise, the staff members are completely occupied with ongoing responsibilties. The Architect therefore concludes that it will be necessary for him to retain an architect/engineering consulting firm with expertise in solar energy installations.

I have suggested to the Architect that he proceed apace with the study so that the required report can be made available to the House as soon as possible. For the information of my colleagues I am inserting a letter from the Architect of the Capitol dated June 30, 1977, in which he discusses the events leading to his conclusion in favor of employing a consultant firm and the methodology of conducting the study and preparing the final report.

I have directed my staff to work closely with the Architect to insure the best possible administration of the funds provided for in H. Res. 322. I am confident that the Architect of the Capitol will prepare a report which will enable us to determine the wisest course of action on the question of solar energy in the House office building complex.

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., June 30, 1977.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: At a recent meeting between Messrs. Dawson and Evans of your staff and Mr. J. Raymond Carroll, Director of Engineering for this office, the procedures to be followed to assist in the timely preparation of the feasibility report as required by House Resolution 322 were discussed. Mr. Dawson expressed your desire that the Energy Research and Development Administration and the General Services Administration be contacted to determine if they have the capability of conducting this study for the Architect of the Capitol or in some other way coordinating and cooperating in its preparation.

Mr. Carroll called Mr. Henry H. Marvin, Director, Division of Solar Energy, Energy Research and Development Administration and Mr. Charles C. Law, Acting Assistant Commissioner for Construction, Public Buildings Service, General Services Administration and determined that, in each case, these agencies are interested in assisting in the review process but they would have to engage an Architect/Engineer consulting firm for the purposes of developing the necessary engineering evaluations and to

prepare the final report. Members of my staff also have the necessary expertise but they are completely occupied with their on-going duties relating to the large construction program that presently exists in the Capitol Complex. Therefore, as stated in our testimony during the hearings on this Resolution, in order to insure that the report is available within the time frame designated, we propose to retain an Architect/Engineer consulting firm with experience in solar energy installations to assist us in this regard. Naturally, the work of the consulting firm will be under the direct supervision of this office, specifically under the direction of Mr. Carroll, and we are prepared to recommend one of the available consulting firms with experience in this specialized field for this purpose.

Also, to provide Mr. Carroll with assistance in this unique area of engineering, we propose to retain the services of an internationally known scientist Dr. Stanley H. Gilman, Professor, Pennsylvania State University, currently Chairman of the Solar Energy Committee of the American Society of Heating, Refrigerating and Air Conditioning Engineers and the principal researcher of an on-going solar energy project sponsored by the Energy Research and Development Administration in Albuquerque, New Mexico. His involvement will be primarily oversight on the final report and input on instrumentation which might be installed for purposes of developing and documenting useful information for future projects.

I shall, of course, be pleased to cooperate with you and your staff to insure that the final report satisfies the purpose of the Resolution.

Cordially,

GEORGE M. WHITE, FAIA,
Architect of the Capitol.

WISCONSIN NEWSPAPERS SUPPORT THE YOUNG FAMILIES HOUSING ACT

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. KASTEN. Mr. Speaker, since my introduction of the Young Families Housing Act, I have been pleased to see the favorable response it has generated in Wisconsin. The bill is designed to bring the goal of home ownership back within reach of the average American, especially the thousands of young people wishing to buy their first home.

As an editorial in the Milwaukee Journal noted: "The old rule of thumb on what you can afford in home buying is out the window." My bill is a practical response to that problem. It would permit a first time home buyer to save for a downpayment on a home through a tax-free savings account. It would also provide for graduated monthly mortgage payments which would more closely reflect a family's income growth over the duration of the mortgage.

I would like to share with my colleagues editorial reaction to the Young Families Housing Act. Accordingly, I would like to have inserted in the RECORD recent editorials from the Milwaukee Journal, the Sheboygan Press, and the Wausau Daily Herald:

[From the Milwaukee Journal, July 23, 1977]

BOOST FOR YOUNG HOME BUYERS

The old rule of thumb on what you can afford in home buying is out the window. If you really stuck to paying no more than 2½ times annual income, choice would be quite limited. Last year, only a quarter of American families could afford to buy a median priced house. So, millions are spending more on housing than they can afford.

How are they doing it? Some trade up, applying inflation-swollen equity from the sale of one house to the purchase of another Others divert money they invested in the stock market or elsewhere into their home, buying a house as much for anticipated financial gain as for shelter. And a good many others simply are spending a great deal more than ever on housing. Often this causes a ripple of other decisions, such as postponing or even forgoing children.

In a Baltimore suburb, two young couples are trying to beat high housing costs by buying together. Their loan application has been pending more than a month, hung up on credit risk questions surrounding the unorthodoxy of two unrelated families sharing ownership. The couples are aware of tensions inevitable in the arrangement, but they insist compromises will be worth it. Neither couple could afford a house alone.

But most families do not relish communal living. Nor is everybody willing to skip child bearing for a house. And for struggling young renters, other options are not even possible. They don't have a house to trade up or investments to juggle.

These young people need help—the kind provided in legislation introduced by Rep. Robert Kasten (R-Wis.). The bill would allow first-time home buyers to save for a down payment in a tax-free savings account. They could deduct from taxable income up to $2,500 a year (maximum of $10,000). A saver would have to use the account for a down payment on a first home or return the tax break. When the home was sold, the government could recapture some lost tax revenue by imposing a capital gains tax on an amount equal to the down payment account—if the money was not reinvested in a house.

Extending this help would be costly. One estimate—considered low—is $591 million the first year. And perhaps some who really would have no trouble buying would take advantage. But for moderate income families the tax break could make the difference between buying now and renting forever.

Home ownership has been a stabilizing force in America. Everybody benefits when young families have a stake in communities. And an increased market for buyers might also stimulate home building, adding jobs that replenish lost tax revenue. Kasten's bill deserves support.

[From the Sheboygan Press, July 14, 1977]

HELP FOR HOME BUYERS

The cost of new homes has been rising at an annual rate of 9.4 percent and that of existing homes at a rate of 10.7 percent. Today, the average price of a new home is $51,600. Obviously most young couples have been priced out of the market. They are denied the American dream of owning a home.

Congressman Robert Kasten of Brookfield and Senator Edward Brooke of Massachusetts are sponsoring two-pronged legislation to alleviate the problem. It is the Young Families Housing Act of 1977.

The first phase would provide for an accelerated mortgage payment system. During the first mortgage years the payments would be as low as possible. The payments would increase during the term of the mortgage. The presumption is that the family's income would also increase.

The system makes sense and obviously would enable more young couples to meet mortgage payments on homes they otherwise could not possibly afford. Such mortgages would be insured by the Federal Housing Authority. Interest rates would probably be a little higher, but the facts are that with a conventional mortgage, most couples can't afford a home.

The second phase of the legislation is designed to help young people accumulate a down payment. They would be allowed to save up to $2,500 per year, tax free, if it is deposited in an Individual Housing Account (IHA). The money would be a tax deduction for that year. The interest earned by the IHA, which has a limit of $10,000, also would be tax free.

Kasten explained that a portion of that tax revenue would be recovered when the home is sold. The amount of the down payment would be deducted from the original price of the home, leaving the seller with a large capital gains tax liability.

The plan would be limited to first-time home buyers, thus minimizing the opportunities for abuse. With the price of an average home expected to be about $90,000 in less than 10 years some help for young couples is needed. The Young Families Housing Act of 1977 is a workable answer.

[From the Wausau Daily Herald, July 27, 1977]

KASTEN'S PROPOSAL—HELP YOUNG BUY A HOME

Rep. Robert Kasten, R-Wis., has come up with a bold and innovative proposal which could assure home ownership for a higher percentage of young families in the future. The proposal should be given very serious consideration.

Kasten's bill would allow prospective first-time home buyers to save for a down payment on a home without paying federal taxes on the income from the savings account. Young people eager to save up enough for a down payment would be able to deduct up to $2,500 a year from their taxable income for deposit in this savings account. Thus, they would also save the taxes on this portion of their income. But the savings account would be limited to $10,000.

Under the proposal, to qualify for the tax breaks, the young family would have to use the savings account for a down payment on their first home. If they did not, they would have to belatedly pay the federal taxes that they avoided by starting the savings account.

Later on, if the family sold the home, the government could recoup the lost tax revenue, or at least some of it, by assessing a capital gains tax on an amount equal to the amount that had been in the savings account for the down payment. However, if the proceeds from the first home were invested in another home, then no belated taxes would be paid.

The cost to government would be considerable, of course. It is estimated at $600 million for the first year. But the plan could make home ownership possible for thousands of young families which are unable to save a down payment under today's economic stress.

Home ownership has been a great blessing for the families of America. The communities with high home ownership are traditionally the most beautiful, the most crime-free and the best places to live. This bill could extend home ownership in all communities across the country.

In addition, the spin-off effect on the home building industry could be remarkable. The plan could boost home building, provide many new jobs in construction and stimulate the nation's economy. This is an idea whose time has come.

PROBABLE EFFECTS OF COAL CONVERSION ON THE NORTHEAST AND MIDWEST

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McKINNEY. Mr. Speaker, President Carter, in his April 20, 1977, message to the Congress, submitted a proposal aimed at reducing consumption of petroleum, converting from oil and natural gas to coal as an energy source, and increasing domestic supplies of energy. These proposals are designed to reduce imports of crude oil from a potential 11.5 million barrels a day to 7 million barrels by 1985, with 53 percent of this savings attributable to the substitution of coal for oil and gas.

The coal conversion program has been described as the keystone of the effort to use those fuels which the United States has in greatest abundance. Through revised tax policies and regulation, owners and operators of new and existing powerplants and major fuel-burning installations are encouraged to use coal, wastes, synthetic fuels, and energy from renewable resources as their primary energy source. Many owners and operators are already committed to greater use of coal in the future. The National Energy Act legislation is directed to those who are not.

As a result of the House Ad Hoc Committee on Energy meetings of July 20 to 22, the following is a summary of the tax and regulatory policies. Exemptions to these regulations include those facilities where coal conversion would cause adverse environmental impacts, where it is economically or technically infeasible to convert, where the coal supply is unreliable, or where the reliability of service provided would be impaired.

REGULATORY POLICY

Physical characteristics of facility		Prohibitions	
On-line status	Type of facility	Electric power plants	Major fuel-burning installations
New	All boilers		Cannot use oil or gas as fuel source
	Non peakload	Cannot use oil or gas as fuel source	Not applicable
	Single unit with fuel burning capability greater than 100 million BTU's/hour	Cannot use oil or gas as fuel source	Cannot use oil or gas as fuel source
	Multiple unit with combined fuel burning capability greater than 250 million BTU's/hour	Cannot use oil or gas as fuel source	Cannot use oil or gas as fuel source
Existing	Petroleum fired as of April 20, 1977, or capable of burning coal/oil or coal/gas mixtures	Cannot use natural gas as fuel source after 1990 or in greater relative proportion	
	Coal capable	May be required to revert to coal	
	Single unit with fuel burning capability greater than 100 million BTU's per hour	Cannot use oil or gas as fuel source	Some with fuel burning capability less than 300 million BTU's/hour may be prohibited from using oil or gas
	Single unit with fuel burning capability greater than 300 million BTU's per hour, or multiple unit with fuel burning capability greater than 250 million BTU's per hour	Cannot use oil or gas as fuel source	Cannot use oil or gas as fuel source

Tax policy for business use of oil and gas

	Tax on natural gas (per million)	Tax on oil (per barrel)		
Year of use	(Tier 3) electric utilities	(Tier 1) conservation tier	(Tier 2) conversion tier	(Tier 3) electric utilities
1979	None	$.30	$.30	None
1980	None	.60	.60	None
1981	None	1.00	1.00	None
1982	None	1.00	1.45	None
1983	$.55	1.00	2.00	$1.50
1984	.65	1.00	2.50	1.50
1985 or thereafter	.75	1.00	3.00	1.50

The tax on the use of natural gas in Tiers 1 and 2 is determined on a variable tax basis.

Industrial process use will be exempt from the tax when the use of fuels other than oil or natural gas would materially and adversely affect the manufacturing process, and the use would not be economically or environmentally feasible.

An exemption from the tax will be available to nonindustrial uses for oil and natural gas in residential facilities, in transportation (including pipelines), on a farm for farming purposes, in nonmanufacturing commercial buildings, and in the exploration, development and production of crude oil and natural gas.

Oil and natural gas will be exempt if used in a facility which is precluded from using coal by state or federal air pollution regulations. The first 50,000 barrels of oil (or BTU equivalent) used by all businesses to which the tax applies is exempt from taxation. where the tax places an individual plant at a competitive disadvantage in its region, the Secretary of the Treasury may provide additional tax exemptions.

ECONOMIC IMPACTS

The Northeast and Midwest states contain 41% of all industrial boilers in the U.S. over 100mm BTU/hr. (approximately 1700 boilers) mostly in the food, paper, steel and chemicals industries. Boilers using 100mm BTU/hr. (10mw) considered "small." "Large" boilers are those using 300mm BTU/hr or more (30mw). Existing boilers and some non-boilers between 10mw-30mw may be required to convert; those over 30mw will have to convert to coal. All new boilers over 10mw must burn coal.

The House Commerce Committee unsuccessfully attempted to shift the burden of proof for coal conversion from energy users back to the government. Under the existing FEA conversion program, the burden falls on FEA to prove that a plant should convert. However, the National Energy Plan shifts the burden back to the user. Under the Carter program, FEA will still have to prove the economic feasibility of conversion.

The Northeast and Midwest, areas which will contain the largest number of firms requesting exemptions for environmental, economic, or technical reasons, will bear the costs of proof of the ability to convert.

The economics of coal conversion are such that a firm which is applying its oil and gas user tax rebates to the capital costs of converting one boiler will need to pay user taxes on six other boilers of equivalent size. For example, a 25mw boiler consuming 255,000 barrels of oil per year would pay $2.7 million in user taxes from 1979–1985 if it used the full amount of oil each year. The costs of replacing a boiler of that size have been estimated at $10 million and the cost of air pollution control equipment at $5 million; thus, the cost of replacing a 25mw oil-burning boiler is $15 million, compared to a $2.7 million user tax rebate. As the number of unconverted, oil-fired boilers declines for any one firm, the incentive for conversion of the remaining boilers declines, since user tax rebates are reduced.

The capital costs for coal conversion of a 10mw boiler are less in absolute dollars than for a larger boiler, but proportionately the conversion costs more. A new 10mw coal-burning boiler costs $5 million; scrubbing equipment costs $3.2 million. A decline in boiler size of 60 percent, from 25mw to 10mw, yields a 46 percent decline in conversion costs. Small businesses with few boilers will find the costs of conversion hardest to bear.

Boilers which were designed for coal or which have burned coal in the past will be cheaper to convert to coal from oil than boilers without the design capability; however, a problem common to all firms located in densely populated metropolitan areas of the Northeast and Midwest will be the lack of additional space on-site for coal handling,

storage and waste disposal. If such space once existed around a plant site, it is probably occupied now.

Air pollution control equipment and disposal of accompanying sludge will be major expenses for businesses in the Northeast and Midwest; this equipment will put these states at an economic disadvantage if scrubbers or best available control technology (BACT) are not required nationwide on all new facilities and on existing facilities which convert to coal. Presently, the National Energy Plan calls for BACT on all new boilers over 30mw (in 1979 for industry, in 1984 for utilities).

Mixtures of coal and oil for other fuels can be burned in "coal-capable" boilers of any size. Coal-oil mixtures may be useful to businesses in the Northeast and Midwest where total conversion to coal is not possible due to environmental regulations or economic constraints. A 33 percent coal/67 percent oil mixture contains approximately 1 percent sulphur. It would permit combustion without scrubbers in many areas, and would permit conservation of oil.

Most electric utilities in the Northeast and Midwest abandoned plans for new oil or gas-fired facilities several years ago, turning increasingly to coal, nuclear and hydroelectric power. The National Energy Plan assumes that the additional capital costs of converting existing oil and gas generating facilities to coal and installing scrubbers will be offset by reductions in future capital needs due to load management and conservation programs. The net effect of the National Energy Plan on total electric utility capital requirements by 1985 is predicted to be negligible.

MOVING THE COAL

One aspect of the coal conversion program is transportation, and the main regional issues deal with the capabilities of the regional system to adequately handle increased coal traffic and assessing whether the costs of transporting coal to new markets will increase to the point of threatening these businesses' competitiveness.

For the most part, railroads will be relied upon to move coal within the region. Nationally railroads handled 66 percent of the coal tonnage in 1974, while barges, the second largest coal transporter, hauled about 11 percent. Diesel trucks, which are used for short distance trips ranging from 50 to 75 miles, carried 11 percent, and conveyor belts, pipelines and private carriers took care of the rest.

Barge travel is the least expensive means of transporting coal. Barge per ton-mile transportation costs range between 0.3 cents and 0.4 cents, while rail averages 1 cent per ton-mile of coal and diesel truck costs about five cents per ton-mile. Costs for barge shipment are low because longer distances are involved. Barges have economically served areas along the Allegheny, Ohio, Monongahela and Illinois Rivers and the Great Lakes, but barge travel remains second to rail because of its limitations. Modern unloading facilities cost millions of dollars and are needed in many of the region's ports. Delays are caused by inadequate lock systems and barges can only serve industries along navigable waterways. Non-waterfront areas will have to look to different modes for their deliveries of coal.

The rail system has traditionally been the primary coal transporter and a fairly extensive system of trackage still exists. Although many lines have been abandoned, especially in recent years with increased industrial use of oil and gas, the railroads still handle the majority of the coal tonnage. Three of the region's states, Pennsylvania, Illinois and Ohio, are in the top five coal-producing states in the nation, and these, in addition to Indiana and Michigan, rank in the top six coal consuming states. The region is primarily served by three railroad companies, all of which are in the top seven coal haulers which handle 85 percent of the coal. The Norfolk & Western and the Chesapeake & Ohio are financially sound companies and according to an official from the Association of American Railroads, they will be able to handle any increased coal traffic that results from the coal conversion provisions of the proposed energy plan. The railroads have been gearing up for additional coal hauling since the time of Project Independence. Between 1972 and 1973, coal traffic increased 15 percent and in the following years, the railroads have demonstrated that they are capable of responding to new demands for coal. The Administration's plan calls for an annual 8 percent increase in coal utilization which the railroads feel quite confident in easily handling.

The third major railroad is the Consolidated Railway Corporation (ConRail) which is comprised of several bankrupt rail lines in the Northeast now receiving federal grants and loans. The ConRail lines are in the midst of a ten-year, $6.5 billion rehabilitation program which will greatly improve the rail service to the Northeast. The ConRail lines had been the trouble spot in the Northeast-Midwest rail system, but with the guarantee of the federal money and certainty of a market, ConRail officials also feel that they will be able to deliver increased amounts of coal within their region.

The general reaction by the railroad companies to President Carter's Energy Proposal is positive since they have already prepared for more coal hauling because of the uncertainty of oil and gas supplies. The Northeast-Midwest Region, has in the past, used railroads as the primary mover of coal for both inter- and intra-state deliveries. Larry Kaufman, manager of media relations in the Association of American Railroads, states that he sees no problems with the railroads meeting the demands for coal through the gas and oil replacement program. Eastern railroads will be more easily able to handle increased coal traffic than western rail companies because the East has been used to shipping coal and has the physical equipment needed. Carter's plan puts a greater reliance on Eastern coal and Western coal through the provisions which require desulfurization equipment on all new coal burning facilities, which in turn, makes Eastern high-sulfur coal competitive with Western low-sulfur coal. This increased coal market will serve to improve the railroad system in the Northeast-Midwest Region for all commodities while other regions first of all must put much capital investment into their systems just to handle coal. This will not be a problem for them, however, since they have the financial resources to make the adjustment.

Transportation costs will not present much of a problem to the smaller businesses in the region. Although they may not be currently receiving coal, many industries and utilities have rail service for raw materials and finished products which can be used for coal shipments.

Spokesmen from both the transportation and industrial aspects agree that in the Northeast-Midwest Region transportation of the coal will not be the problem, but rather on-site storage of the coal will create one of the major challenges of the coal conversion program.

In an effort to resolve this problem, some of the region's railroads are investigating the potential of regional distribution centers for the New England states to address the storage problems and increase the efficiency of delivering coal to those states. These centers would be located once the coal market is fairly settled and would be equipped with modern unloading equipment. Since many parts of the New England system is not capable of handling 100-ton hopper cars, which are used for bulk coal transportation, coal would be carried by 50 or 70-ton cars to the individual business or, preferably, to industrial parks, Regional distribution centers would provide a close and steady supply of coal to users and perhaps could be an element of the regional energy development corporations, as proposed by the Conference of Northeast Governors (CONEG).

Reliance on coal as a fuel source for steam electric plants in relation to oil and gas use in coalition States[1]*—1967–72*

[In percent]

Region	1967[2]	1972[3]	Percent change
New England	40.4	5.2	−87.1
Mid-Atlantic	68.6	50.7	−27.4
East North Central	96.4	91.5	−5.1
West North Central	55.5	64.7	+16.6
Coalition total	77.9	68.1	−12.6
U.S. total	63.9	54.3	−14.4

[1] Information was provided on a regional basis only. The West North Central Region consists of the Coalition States of Iowa and Minnesota, in addition to Missouri, North and South Dakota, Nebraska and Kansas.

[2] Percent coal use in 1967.

[3] Percent coal use in 1972.

Source: The National Coal Association, 1974–1975 Coal Facts.

ENVIRONMENTAL IMPACTS

The effect of the coal conversion program upon air quality as measured in 1975 in the Northeast and Midwest, according to EPA, is to reduce particulates, to increase sulfur oxide emissions in some regions while reducing it in others, and to increase nitrogen oxide emissions. The following tables compare both the entire National Energy Plan and the coal conversion program to 1975 levels of emissions. While the coal conversion program contributes to increased emissions, the load management and conservation policies in the remainder of the NEP cause a decrease in total fuel consumption and therefore a reduction in combustion-related emissions.

Changes in emissions from 1975 to 1985 due to coal conversion

[In percent]

	Particulates	SO_2	NO_2
New England	−4	+42	+9.3
New York, New Jersey	−12	+2	+11.6
Pennsylvania, Maryland, District of Columbia, Delaware, Virginia, West Virginia	−23	−3.5	+18.6
Wisconsin, Michigan, Ohio, Illinois, Indiana	−14	−7.7	+21

Changes in emissions, 1975–85, due to National Energy Plan

[In percent]

	Particulates	SO_2	NO_2
New England	−8.7	+17.7	+4.6
New York, New Jersey	−12	−6.6	−.8
Pennsylvania, Maryland, District of Columbia, Delaware, Virginia, West Virginia	−23	−7.6	+13
Wisconsin, Michigan, Ohio, Illinois, Indiana	−16	−15	+15

Combustion sources such as industrial and utility boilers now account for 37 percent of particulate emissions, 80 percent of SO_2 emissions, and 50 percent of NO_2 emissions. The reduction in particulates is dependent upon a higher level of compliance with state and federal standards for this pollutant instead of the present widespread non-compliance. The increase in nitrogen oxide emissions is attributed to general growth and the lack of highly effective control technology for this pollutant.

It is important to understand the assumptions under which EPA is working because failure to meet these assumptions will have a large effect on total level of emissions. The assumptions are:

All existing facilities comply with the emission standards in State Implementation Plans by 1985;

BACT for SO_2 will require scrubbers on all boilers of 25mw or greater;

Revised New Source Performance Standards for boilers of 10–25mw will be 1.5 lbs. SO_2/mmBtu;

BACT applies to new utility boilers after 1984; new industrial boilers after 1979; and

The National Energy Plan will be implemented as proposed.

The assumption of compliance with State Implementation Plans is particularly questionable, considering that a December, 1976 survey of Air Quality Control Regions with national ambient air quality standards showed that violations for one or more pollutants still exist in at least 160 of the 247 air quality control regions and that 75 percent of all AQCRs had not attained the mandated standard for at least one controlled pollutant. AQCRs include the most heavily industrialized and densely populated sections of the country. States are faced with the choice of either complying with the law and cutting off economic growth and opportunities for additional employment on many of their impacted areas, or permitting new industrial construction which would violate the law.

EPA believes that industrial growth in a non-attainment area need not be halted so long as the net total of the new emissions together with the additional reductions from existing sources does not exacerbate the current violations of ambient standards and will, instead, contribute to reasonable progress toward attainment of these standards.

FEA's Project Independence report suggests that pollution increases resulting from plants converting to coal may not occur in the immediate vicinity of the plant but in distant regions, mainly in the Northeast and Midwest, as a result of prevailing winds.

EPA's Prevention of Significant Deterioration regulation is designed to prevent deterioration of air quality in those areas where the existing quality is currently better than that required by the National Ambient Air Quality Standards. Under this regulation a three-category classification system is established for areas subject to the program. An allowable incremental increase in ambient particulate and sulfur dioxide is established for each category. The categories are as follows:

Class I Only small increased pollution is allowed.

Class II A large level of increased pollution is allowed which would normally accompany moderate, well-controlled growth.

Class III Deterioration of air quality is allowed up to the National Ambient Air Quality Standards.

Local governments can take steps to change the classification of an area. Whether or not coal conversion would violate standards for any area would have to be determined on a case-by-case basis.

AGRICULTURE ACT CONFEREES URGED TO ADOPT TWO CRUCIAL FOOD STAMP AMENDMENTS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. KOCH. Mr. Speaker, the House and Senate conferees are continuing their deliberations on the 1977 farm bill. That bill includes major amendments to the food stamp program.

There are two issues of particular importance to people who live in high shelter cost areas of our country. Thirty-nine bipartisan Members of the House of Representatives sent a letter to each of the conferees urging that the conference adopt both the Senate position which utilizes the shelter deduction in determining eligibilty and the House provision which indexes the shelter deduction to the Consumer Price Index. The adoption of these two amendments in conference will mean that 150,000 high shelter cost households will not be deemed ineligible for food stamps and that eligible recipients will not be subject to a reduction in benefits due to skyrocketing fuel and shelter costs. For the benefit of our colleagues, a copy of the letter which was sent to the conferees follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 1, 1977.

DEAR CONFEREE: We the undersigned Members of Congress would like to bring to your attention two food stamp issues of crucial importance to recipients living in high shelter cost areas.

The first issue is the matter of applying the shelter deduction in determining eligibility as well as benefit levels. The shelter deduction is designed to take into consideration those who are burdened by higher fuel and shelter costs. However, the House version of the bill does not utilize the shelter deduction in determining eligibility. This has the effect of cutting 150,000 households out of the food stamp program, a significant portion of the very households that stood to benefit from the shelter deduction. The shelter deduction must be utilized to determine eligibility as well as benefit levels so that recipients in high cost areas will not be eliminated from the program simply because the shelter deduction was not available to them in computing eligibility. Additionally, without the application of the shelter deduction to eligibility a huge "notch" effect is created. That "notch", which serves to cut people off the program abruptly once their income exceeds the eligibility level, creates a major work disincentive. It should be noted that in both the House and Senate bills all other deductions are applied in determining initial eligibility. The Senate bill does apply the shelter deduction for that purpose as well. We support the Senate position on this issue and urge that it be adopted in conference.

The second issue is that of indexing the shelter deduction to the Consumer Price Index. Traditionally, elements of the food stamp program have been tied to a cost of living indicator. This year's House and Senate bills continue the application of this important principle. The standard deduction, the allowance for work related expenses, and the allotment scale of benefits are all designed to respond to increases in the cost-of-living. Clearly, the shelter deduction also ought to be indexed. If the cost of fuel and shelter continues to skyrocket, as it has in recent years, the failure to index will result in a loss of $60 million in benefits to recipients during the life of the program. Therefore, we urge you to support the House provision which indexes the shelter deduction to the Consumer Price Index.

We hope that you will support the Senate provision to utilize the shelter deduction in determining eligibility and the House provision which indexes the shelter deduction to the Consumer Price Index.

Sincerely,

Edward I. Koch, Michael Harrington, Frank Horton, James L. Oberstar, Donald M. Fraser, Elizabeth Holtzman, Silvio O. Conte, Tom Harkin, Charles B. Rangel, Stephen J. Solarz, Shirley Chisholm.

Cardiss Collins, William R. Cotter, Norman E. D'Amours, Robert F. Drinan, Stanley N. Lundine, James H. Scheuer, Bob Traxler, Matthew J. Rinaldo, Michael T. Blouin.

Jonathan B. Bingham, Lindy Boggs, William M. Brodhead, Harold C. Hollenbeck, James M. Jeffords, Joseph A. Le Fante, Matthew F. McHugh, Parren J. Mitchell, Melvin Price, Henry S. Reuss.

Stewart B. McKinney, Andrew Maguire, Ralph H. Metcalfe, William S. Moorhead, Richard L. Ottinger, Fernand J. St Germain, Paul E. Tsongas, Lucien N. Nedzi. Joseph S. Ammerman, Members of Congress.

THE TECHNOLOGY BEHIND NUCLEAR PROLIFERATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BROWN of California. Mr. Speaker, the magazine Chemical and Engineering News ran an article in their July 25 issue entitled "The Technology Behind Nuclear Proliferation." The article provides a detailed account of the various paths to a nuclear weapon. For example, if a country has a civilian power program with plutonium recycle, then "it will find the material (for nuclear weapons) ready at hand at the output end of its reprocessing plant." If the country does not possess a commercial plutonium reprocessing plant, then there are other paths to obtaining nuclear weap-

ons. However, these alternate paths require considerably more time and effort to develop. Quoting Albert Wohlstetter:

If one already has paid for an electric power reactor, the relevant economic figure is not the total, but the marginal, or extra, cost to get the bomb material given the fact that one has paid for the reactor. . . . Even if (the spread of nuclear weapons) were, as it is claimed, inevitable sooner or later, later would be better than sooner, and less better than more.

The article follows:

THE TECHNOLOGY BEHIND NUCLEAR PROLIFERATION

The realities of bomb-making and the nuclear fuel cycle constrain the politics of proliferation; at the heart of the issue is plutonium

(By Mitch Waldrop)

"A serious risk accompanies the worldwide use of nuclear power—the risk that components of the nuclear power process will be turned to providing atomic weapons . . . [therefore] we will defer indefinitely the commercial reprocessing and recycling of the plutonium produced in the U.S. nuclear power programs . . . [and] we will restructure the U.S. breeder reactor program to give greater priority to alternative designs of the breeder, and to defer the date when breeder reactors would be put into commercial use."
—President Jimmy Carter, April 7, 1977

Jimmy Carter is not a man to duck controversy, and this time he has stirred up plenty. The immediate issue is Congress' attempt to defy Carter and fund the demonstration breeder reactor at Clinch River, Tenn., and the Allied-General Nuclear Services fuel reprocessing plant at Barnwell, S.C. But Clinch River and Barnwell are only symbols in a larger and older debate. The question is plutonium, and its role in an energy-starved world.

To proponents of nuclear power, plutonium is a potent nuclear fuel, delivering 10 million kwh of heat energy per lb. Reprocessing plants such as that at Barnwell would recover hundreds of pounds of the element from the spent fuel of present-generation uranium reactors. By the end of the century a new generation of breeder reactors such as the one proposed at Clinch River would produce plutonium by the ton. The payoff, say breeder advocates, would be an almost limitless supply of nuclear fuel, and a world free from energy worries for a long, long time.

To critics of the program, however, plutonium also is the stuff of atomic bombs. If breeders and reprocessing plants are built worldwide, critics warn, the plutonium they produce could prove an irresistible temptation for smaller countries that desire the power, prestige, and influence that comes with owning a nuclear arsenal. Worse, a well-organized terrorist group conceivably could fashion stolen plutonium into its own atomic bomb. The payoff, say plutonium critics, would be a world more vicious, dangerous, and unmanageable than ever before.

And so it goes, with the nuclear industry's ad men prophesying doom if civilization remains breederless, and *Rolling Stone* writing darkly of plots, deals, and a plutonium black market. The truth, if such a thing exists, seems lost in a fog of unanswerable what-if's and maybe's.

But however fractious and tangled the politics of proliferation may be, they are constrained by the technological realities of bomb-making and the fuel cycle. Without trying to guess at the unknowable, then, proliferation can be considered from the standpoint of what is and isn't technically possible.

First, what does the word proliferation mean? As it is often used, it blurs two very different problems: National proliferation happens when a nonnuclear weapons state acquires those weapons; subnational, or terrorist, prolifertaion would happen if a clandestine group ever acquired a bomb. A sovereign nation, with its comparatively large resources and the power to operate freely in its own territory, clearly has many more nuclear options available than even the largest terrorist group.

Considering the national proliferator, it's possible to imagine that sometime in the 1980's a large and reasonably stable developing nation acquires facilities for the complete nuclear fuel cycle, including uranium-fueled light water reactors (LWR's), a uranium enrichment plant, and a spent fuel reprocessing plant. (Breeder reactors may not become commercial before the turn of the century. In any case it would not change matters very much; more than enough plutonium already would be moving through the LWR cycle.) The nation already has had considerable experience in nuclear matters; for more than two decades it has operated a research reactor supplied by the U.S. as part of the "Atoms for Peace" program. Moreover, U.S. universities have trained several dozen native nuclear physicists and engineers.

A few years after the nuclear fuel cycle becomes operational, the leaders of this country decide, for whatever reasons of national security or international prestige, to acquire nuclear weapons. Since at this point in world history there are N—1 countries with nuclear bombs, call this country the Republic of "N."

The political decisions having been made, the technical problems begin. First, where can N obtain fissionable material? Congress' Office of Technology Assessment, in its new report "Nuclear Proliferation and Safeguards," concludes that a country like N would have two basic choices: uranium-235 and plutonium-239. Uranium-233, created by bombarding thorium-232 with neutrons, also may become a possibility if thorium breeders ever become widespread. Most other fissionable isotopes, such as neptunium-237, exist in such minute amounts that they are not a problem.

Looking first at plutonium, then, N's scientists can consider three basic routes. They can build a so-called dedicated facility, devoted solely to the production of material for nuclear weapons. They can buy plutonium on the black market. Or they can divert plutonium from the civilian nuclar fuel cycle.

"Trying to divert nuclear power plant fuel into weapons production is the most expensive, clumsiest, dangerous, and inefficient way for any nation to make a weapon," says Rep. Mike McCormack (D.-Wash.), one of the staunchest Congressional supporters of the breeder concept.

Opinions on this differ, however. Albert Wohlstetter, in a recent *Foreign Policy* article, writes: "If one already has paid for an electric power reactor, the relevant economic figure is not the total, but the marginal, or extra, cost to get the bomb material, given the fact that one has paid anyway for the reactor . . . getting a significant quantity of rather pure plutonium would involve some fuel and operation cost, but these would be small by comparison with the expense of a program to produce and separate plutonium exclusively for weapons."

Assuming, then, that N does decide to use fuel-cycle plutonium, it will find the material ready at hand at the output end of its reprocessing plant. This is why critics see the export of commercial reprocessing plants to nonnuclear nations—as West Germany already has promised to do for Brazil—as a real and present danger to world stability.

"We might as well sell them the bombs," says Jim Cubie, a plutonium expert for New Directions, a new citizens action group.

But an embargo on reprocessing technology would not necessarily stop proliferation. Even if N didn't already have a reprocessing plant, it could build one of its own. For example, India's "peaceful" atomic bomb, tested on May 18, 1974, utilized plutonium bred in a Canadian-built research reactor and purified in a reprocessing plant built by the Indians themselves.

The currently used Purex process for plutonium extraction is straightforward and well known. The spent fuel elements first are chopped up and dissolved in nitric acid. The resulting liquid, which is highly radioactive from the presence of fission products, then is mixed with tributyl phosphate, an organic solvent. The uranium and plutonium ions migrate into the solvent, while the fission products stay put. After the fission products are removed, an oxidation process precipitates the plutonium from the solvent as plutonium nitrate, leaving the uranium in solution.

In a practical plant, things are complicated by the intense radioactivity of the spent fuel, the toxicity of plutonium, and the danger of its forming a critical mass. But these are all problems that the engineers of N could overcome by using remote control and concrete shielding and by demanding careful technique from the operators.

Plans for the Allied-General Nuclear Services Barnwell reprocessing plant have been widely distributed and are available in the Nuclear Regulatory Commission's public document room. According to OTA, all the equipment needed to build such a plant is available on the world market. OTA says that the cost of a scaled-down and simplified military version of such a plant, though difficult to estimate, would range from $10 million to $70 million. As few as 10 to 20 skilled and experienced engineers would be needed to direct the project.

Nuclear power advocates sometimes say that, even if potential proliferators like N couldn't use the plutonium anyway. The stuff is "denatured," they say, hopelessly fouled with the nonfissile isotope plutonium-240. (India was able to sidestep this problem.)

Unfortunately, this argument overstates the case. True, a bomb made from reactor-grade plutonium could have a very unpredictable yield. But it still would be a bomb, and with enough sophistication in its manufacture it could be a militarily significant bomb.

Consideration of reactor physics shows where the ^{240}Pu comes from. Fuel in the core of a nuclear reactor is awash with neutrons. Uranium-238 nuclei can absorb these neutrons and, after some internal commotion, become fissionable ^{239}Pu. When struck by a second neutron, these nuclei most likely will split apart, participating in the chain reaction (in fact, toward the end of a fuel element's lifetime in the core, its newly created plutonium is contributing almost half its power). But ^{239}Pu could absorb that second neutron and become ^{240}Pu. Being nonfissile, this isotope builds up. Since the fuel in a power reactor is left in as long as possible to maximize burnup, the spent fuel comes out with roughly 20% of its plutonium in the form of ^{240}Pu. In principle a bomb engineer could devise some isotopic separation procedure to remove the ^{240}Pu, but this would be extremely expensive. In practice, he would have to use the material as is.

The most obvious problems caused by ^{240}Pu also are the most trivial; being more radioactive than pure ^{239}Pu, it requires somewhat heavier shielding. And being nonfissible, it dilutes the fissionable ^{239}Pu and requires the use of a somewhat larger

critical mass. (The figures quoted for plutonium's critical mass vary considerably, but Princeton physicist Theodore B. Taylor gives 4.4 kg for pure ^{239}Pu and 5.6 kg when it is diluted with 20% ^{240}Pu.)

But the most serious drawback is more subtle: ^{240}Pu emits too many neutrons. To create a nuclear explosion, one must somehow assemble a mass of fissionable material that is much larger than the critical mass, then keep it assembled long enough for the ensuing chain reaction to release a significant amount of energy—before the material blows itself apart. (It will be seen that there are at least two ways to do this.) If reactor-grade material is used, the neutron flux from ^{240}Pu can cause the chain reaction to "preinitiate," or blow the mass apart before it is fully assembled. The weapon's total yield thus will be smaller than it might be otherwise and will be much harder to predict. According to OTA, the upper and lower statistical limits of yield likely would be more than a factor of 10 apart.

In short, the bomb could fizzle.

N's bomb engineers could improve matters by careful design, but perhaps they would prefer to eliminate the problem entirely. By cycling fuel through a reactor at a faster rate, for example, they could breed less plutonium of a better grade. (Plutonium containing 7% or less ^{240}Pu is called "weapons grade" in the U.S.) Wohlstetter cites an incident in the early 1970's, in which leaking fuel rods forced Illinois' Commonwealth Edison to discharge the initial core of its Dresden-2 reactor early. The rods contained 454 kg of 89 to 95% pure ^{239}Pu. To launch such a program deliberately would involve a profligate use of commercial fuel; but, Wohlstetter says, "since it is neither illegal nor uncommon to operate reactors uneconomically, governments may derive quite pure plutonium-239 with no violation nor much visibility."

N's most direct solution, however, would be to sidestep the commercial power cycle entirely and do what the U.S. did in the Manhattan Project: build a military-style dedicated reactor to produce pure ^{239}Pu in quantity. (Of course, N also would need to build a reprocessing plant.) According to OTA, a good prototype for a dedicated reactor would be Enrico Fermi's 1942 Chicago Pile, which was fueled with unenriched natural uranium, moderated with graphite, and cooled by air. The open literature contains plans for one such reactor—the Brookhaven Graphite Research Reactor—which could serve as a model. Operating between 1948 and 1957, this reactor annually produced about 9 kg of nearly pure ^{239}Pu, enough for one or two small bombs. OTA estimates that a simplified version of this reactor could be built today with as few as 10 engineers to design and oversee construction. Capital costs would range from $10 million to $30 million. The reactor could be ready for production about three to four years from the beginning of the project.

As another route to pure ^{239}PU, N could do what India did and turn to its research reactor. In 1975 there were 39 countries, outside of the six nuclear weapons states, operating one or more of these reactors. Many of these facilities were supplied by the U.S. as part of the Atoms for Peace program begun under President Eisenhower in 1953. The reactors were designed for such things as nuclear physics experiments, radioisotope manufacture, and research in nuclear engineering. Fuel is still supplied by the U.S. under license. The U.S. also has trained a great many foreign nuclear physicists and engineers over the years—more than 1000 from India alone.

From N's point of view the reactors would have another advantage. Some run on 80 to 100% uranium-235; others, called critical assemblies, run on pure plutonum at zero power. According to OTA, this plutonium is essentially uncontaminated by fission products and is of very high quality for use in weapons. In fact, it is from this type of reactor that India obtained the material for its nuclear explosion.

While part of N's weapons team is looking into the plutonium alternatives, another part would be investigating the uranium-235 alternative. When enriched to 20% or more, this material makes a perfectly good bomb, although it does have a somewhat larger critical mass than plutonium. Taylor quotes 15 kg for the pure isotope. But ^{235}U makes up only 0.7% of natural uranium and at most 3 or 4% of enriched light-water reactor fuel. For use in a bomb, it would have to be enriched still further, which for a nation like N would be a prodigiously difficult and expensive business—at least using current technology.

To date, the most widely used enrichment method has been the gaseous diffusion process, developed by the Manhattan Project in World War II. Gaseous diffusion plants are huge, use sophisticated technology, much of which remains classified, and require an enormous investment. A commercial plant typically costs several billion dollars and consumes 5% as much electric power as its final product will generate. Although a dedicated military plant could be considerably scaled down and simplified, still the costs likely would be too high for any but the largest and most developed countries to consider building one.

Even so, if N's enrichment plant were of this type it still could be converted to military production. This would involve reassembling the entire plant, however, and also would be a very hard operation to keep secret. Nevertheless, this is exactly what the Chinese appear to have done, starting with a Soviet-supplied plant.

But N's plant may use a newer technology: high-speed centrifuges, now undergoing pilot plant testing in the U.S. and Europe. Centrifuge plants appear to be cheaper and more efficient for a given amount of separative work and operable on a smaller scale. Moreover, OTA concludes that a centrifuge plant or even a small part of that plant could be converted into weapons production with relative ease, and with a relatively small chance of detection.

With centrifuges, N also could divert some fuel-grade uranium to a smaller dedicated plant, which would boost the concentration of ^{235}U to weapons grade. By far the greatest amount of energy expended in an enrichment plant goes toward raising the ^{235}U concentration from 0.7% to 3%; using this material as a feedstock, however, only about 400 centrifuges of European design would be needed to produce 30 kg of 90% ^{235}U per year. (A commercial fuel plant would contain about 200,000 centrifuges.)

Other enrichment technologies, such as laser isotopic separation, are now years or decades from commercialization. But should they ultimately prove to be cheaper and simpler than existing techniques, they also could prove to be very appealing to a country such as N.

Finally, there is one last option the leaders of N might consider. If their need for weapons is desperate, they could purchase plutonium, fissionable uranium, or complete bombs on the black market.

There is no nuclear black market known to be operating today, and it is very difficult to assess the probability that one ever will. The possibilities are endless, however, limited only by one's imagination and paranoia. OTA points out that the emergence of a black market now is constrained by the lack of a supply of fissile material; widespread plutonium recycle could remove that constraint.

Supplies for a black market would, of course, have to be stolen. In the 1974 book "Nuclear Theft: Risks and Safeguards," authors Mason Willrich and Theodore B. Taylor conclude that theft of plutonium from the light-water reactor fuel cycle is essentially impossible except at the output end of a reprocessing plant and during transit to a fuel fabrication plant. Completed fuel assemblies, before being loaded into the reactor, also are vulnerable, though their weight would make them very difficult for thieves to handle.

Opportunities for theft in the liquid-metal fast breeder cycle parallel those in the light-water cycle, although the completed fuel assemblies would contain a much higher concentration of plutonium.

Who would the thieves be? Assuming that in many countries the safeguards and materials accounting at nuclear facilities may be somewhat lax, Willrich and Taylor consider several possibilities. A single employee of a nuclear plant could do it, motivated by greed or the desire to settle a grudge. He could then either sell the material on the black market or ransom it. Organized crime also could be involved, either heisting the plutonium directly or operating as a middleman for the lone thief. It could deal in plutonium much as it now deals in heroin.

The managers of a reprocessing plant also might siphon off some plutonium in collusion with several employees. The plant's physical safeguards thus would be sidestepped since the diversion could be made to look official. The managers would be aided further by its being impossible to know ahead of time exactly how much plutonium is in a given spent fuel rod. Small discrepancies in the plant's plutonium inventory thus could be hidden within the uncertainties of materials accounting.

Perhaps as likely as a full-fledged black market, in OTA's judgment, is a "grey market." Here the transactions would be technically legitimate, but unacceptable to the world at large. For example, if N had some scarce resource such as oil, an industrial nation might be willing to curry favor by selling it a bomb.

In OTA's judgment the emergence of a black or grey market would be a serious blow to any hopes of containing proliferation. Not only would nuclear material and the weapons themselves become much more readily available, but the mere existence of the markets would make every nation nervous about what its neighbors were up to—and anxious to get a few fission bombs of its own just in case.

Back in the Republic of N, the scientists and engineers now must make a decision: How will they get their nuclear material? Should they build dedicated facilities, check the prices on the black and grey markets, or divert the material from the commercial fuel cycles?

Alas, this fable is like Frank Stockton's short story, "The Lady or the Tiger?"—it doesn't have an ending. All the routes are at least conceivable, given the proper mix of circumstances any one of them might even be seen as the best.

So, will the worldwide export of reprocessing facilities accelerate proliferation? Unfortunately—or fortunately—there are no data to go on. No nation—none that is known, at least—has ever gone the diversion route. But no one can be sure, really, that some nation, at some time, acting in woeful ignorance of the technological facts of life, might not try it.

Now, what about terrorists?

Of the options open to a sovereign nation like N, the only one that seems feasible for a subnational group is the purchase of fissile material or finished bombs on the black market—if the group can afford it and if a market even exists. Alternatively, a terrorist group could attempt to steal some bomb material itself, either by infiltrating a nuclear plant or by mounting an armed assault.

Suppose that a clandestine group does manage to get hold of nuclear material. How

much time, money, and manpower will it take to turn that material into a functional bomb? Opinions vary. Some say a few hours or days. Taylor estimates that a "crude fission bomb"—one that would have an excellent chance of attaining 100 tons' yield—could be built by a few persons, or even one person, within several weeks. E. M. Kinderman, manager of the Stanford Research Institute's Center for Energy, is less optimistic: "Five to 10 people with $100,000 or so could do the job if the people were both dedicated to their goal and determined to pursue it over two years or more," he writes. "It is likely that the team will produce something with a force equivalent to 50 to 5000 tons of TNT [and it] will weigh less than 1 ton."

Without debating precise numbers, what would a terrorist group actually have to do to make a very crude, "minimal" bomb? (This also is the lower boundary on a national effort; but a nation probably would have resources enough to make a far more sophisticated weapon.)

It's easy enough to design a bomb. An undergraduate from Massachusetts Institute of Technology did it a few years ago for the NOVA television program "The Plutonium Connection." More recently Princeton undergraduate John Phillips did it for a term paper. Both used information available in public libraries.

A fission bomb produces an explosion by assembling fissile material into a supercritical mass. The OTA report outlines the two basic ways of doing this. A gun-type device assembles two or more subcritical pieces by use of gun propellants. The Hiroshima bomb was a gun weapon. According to OTA, the velocities of assembly are high in everyday terms, but still so small that unless neutron background is low the explosive force will be essentially zero. As mentioned, "preinitiation" would blow the mass apart before the chain reaction could proceed very far. For this reason, only metallic ^{235}U is a practical material for a gun-type weapon.

A second method is to assemble and compress a subcritical configuration of fissile material into a supercritical mass by use of high explosives surrounding the material. This type of "implosion" weapon was used at Alamogordo and at Nagasaki. Because the substance is compressed, less fissile material is needed to reach any given level of supercriticality. Because the assembly is very rapid, material of higher neutron background can be used. Thus, weapon- or reactor-grade plutonium in metallic or nonmetallic form can be used, as can any form of ^{235}U or ^{233}U.

Suppose, then, that the conspirators have come up with a design for a weapon. A design on paper is only the beginning, as any engineer can attest. Now the bomb makers actually have to make their bomb.

Assume that they are using plutonium (which seems most likely; in any case, uranium would present many of the same problems). Then, unless the workers are suicidal, they will have to wear gloves and respirators at all times; not only is plutonium radioactive but its powdery oxide is extraordinarily carcinogenic when inhaled.

Depending on its source, the terrorists' plutonium could be in any of several different forms: as a nitrate, as an oxide powder, or as solid fuel pellet mixed with uranium oxide. LWR fuel would require the chemical processing of some 300 kg of mixed oxide to obtain 10 kg of plutonium; OTA estimates this would take several months and would require someone with pratical chemical engineering exerience. LMFBR fuel would be much richer in plutonium; Taylor claims it can even be used in a bomb as is.

The pure oxide certainly can be used directly, if the group is willing to accept a bomb with a 30- to 70-kg nuclear trigger. Since the oxide is a powder, it would have to be compressed into shape and sintered.

Alternatively, the terrorists could try to convert the material to metal. They might even succeed, although reducing the oxide is a nasty business involving hydrogen fluoride. But they had better have a lot of extra material on hand. Any mistakes could result in a high loss of plutonium to residues, not to mention contamination from spills or even criticality accidents. (In a criticality accident, the material "disassembles" itself, but more like soup boiling out of the pot than like an explosive. The main effect would be a potentially lethal burst of gamma rays and neutrons.)

Once the metal is in hand, the group would be faced with a complex problem in metallurgy. Plutonium metal has four crystalline forms, depending on temperature, and casting it into shape is a delicate and tricky business. The first several attempts could easily fail; and each time inexperienced workers could lose up to 10% of the plutonium in casting residue. If the metal were machined into shape, even more material could be lost. Besides, since plutonium is pyrophoric, lathe turnings and such probably would ignite in air. And, as if that weren't enough, the finished metal bomb trigger would oxidize again in a few hours. Ideally, work with plutonium metal should be done in an inert atmosphere.

If the group persisted in using plutonium metal, its payoff would be a bomb that is far more compact than an oxide device. (The critical mass of reactor-grade plutonium is only 5.6 kg.) By surrounding the material with a layer of beryllium, which reflects escaping neutrons back into the fissile mass, the size could be decreased even more. Cheaper but less effective reflectors would be copper or steel. Use of plutonium metal also would mean more of a bang for a given size and weight, since a bomb's yield depends on the degree of super criticality, and this, in turn, depends on using more than a single critical mass of material.

Putting the bomb together could prove the most dangerous activity of all. "Foolhardy," the Energy Research & Development Administration calls it. The agency's fact sheet on the hazards of such activities points out that the conspirators would be assembling near-critical pieces of nuclear material, under conditions where any miscalculation or mistake could lead to a criticality accident. Furthermore, the group would be working with high explosives, which in ERDA's words are "basically treacherous." Even among experienced explosives handlers, says the agency, accidents still sometimes occur.

Supposing, however, that the terrorist group was successfully able to manufacture a nuclear trigger and assemble a complete bomb. How big a yield would it have? Not even the bomb makers themselves could predict, especially if reactor-grade plutonium were used and preinitiation were possible. Taylor estimates that a crude fission bomb could yield the equivalent of anywhere from 20,000 tons of TNT (the same as the Nagasaki bomb) to 1 ton. A bomb on the low end of this scale is clearly more of a blockbuster than a strategic weapon. But as emphasized in the recent controversy over the neutron bomb, a nuclear weapon has a far more devastating effect than an equivalent amount of chemical explosive. Taylor and Willrich estimate that a nuclear bomb of 1-ton yield would emit penetrating gamma and neutron radiation lethal for 100 m. Fallout could contaminate much larger areas, depending on the weather conditions. The affected areas would have to be evacuated and then decontaminated at great expense.

This last possibility suggests another terrorist use of plutonium, one which would avoid all the hassles of actually making a bomb. The terrorists simply could disperse the stuff, say by introducing it into the air system of a large office building. Plutonium is so carcinogenic that a dust-sized speck could be lethal. Although no one would die for many years, the psychological impact would be devastating—and psychological impact is of course what terrorists are after.

What can be done to stop proliferation? Probably nothing in the absolute sense. But it may at least be possible to prevent a nation or terrorist group from getting bomb material through the fuel cycle.

The obvious way to do this is to follow President Carter's approach: no reprocessing and no breeder. But that option may not really exist. A reprocessing plant already is operating in France, and many nations are continuing to pour money into breeder research. Besides, Europe and Japan seem unenchanted with the idea of staking their energy futures on the uncertain supply of natural uranium.

But, assuming that reprocessing and the breeder go forward, several things still can be done. Terrorists, unpredictable as they may be, seem paradoxically to be the easiest threat to defend against. For example, given enough money, manpower, and imagination, any given nuclear facility can be garrisoned against any credible armed attack. Some critics wonder, though, if this can or will be done at every facility, especially if plutonium goes into worldwide use.

More effective would be the oft-mentioned "technical fixes," which would try to ensure that plutonium from a reprocessing plant never appears in a form that could be used by a clandestine group—or for that matter by the black market. Many of these methods were reviewed in the April 15 issue of Science.

One of them—"coprocessing"—is a minor modification of the Purex process in which the uranium and plutonium are not separated at the end. They would be processed directly to a mixed oxide. ERDA currently favors this concept since it means that plutonium would never exist as a separate entity anywhere in the fuel cycle.

A second alternative, now under study at Battelle Columbus Laboratories, would make stolen material not only difficult to handle but deadly. Through careful control of the oxidation states in the Purex process, long-lived actinides could be removed from the waste stream and included in the uranium-plutonium mixture. This would make the mix so radioactive that it could be handled only by special remote control equipment—clearly a difficult task for a nonprofessional, clandestine group.

Neither of these fixes, however, would bother a national proliferator, which could just commandeer a reprocessing plant and run it as the leaders chose. One scheme that might help discourage national activity is the "denatured thorium cycle," proposed by Theodore B. Taylor, Harold A. Feiveson, Frank von Hippel, and Robert H. Williams in the December 1976 Bulletin of the Atomic Scientists.

In their scheme, a thorium breeder would create fissile uranium-233 from fertile thorium-232, much as an LMFBR creates fissile ^{239}Pu from fertile ^{238}U.

Next, the ^{233}U would be extracted at a reprocessing plant and "denatured"—mixed with enough ^{238}U to make it unusable for a bomb. In this form it still could be used as fuel in a conventional reactor, but re-extracting bomb-grade ^{233}U would require isotopic separation techniques far beyond the capabilities of any clandestine group—and many nations, for that matter. (In the plutonium cycle, plutonium could be extracted from mixed oxide fuel by chemical techniques.) Plutonium is not entirely eliminated from the picture, however. Once the denatured fuel is placed in the reactor, its ^{238}U still will absorb neutrons and turn into ^{239}Pu, just as it does now. However, there will only be about one fifth as much.

Even this smaller amount could be kept away from potential proliferators. Taylor and

his colleagues suggest that all thorium breeder reactors, reprocessing plants, and fabrication plants—in short, all the proliferation-sensitive elements of the thorium fuel cycle—could be located in an international center under the strict control of the International Atomic Energy Agency. Only the conventional power reactors themselves would be controlled at the national level, and only denatured fuel and hopelessly radioactive spent fuel would ever exist outside the center's well-guarded gates.

Even critics of the plan agree that the thorium cycle bears study, if only as a way of conserving uranium. As for proliferation, they point out that the idea of international centers would be nearly as effective for the plutonium cycle—and, in fact, has been advocated already by many proponents of the LMFBR.

Whatever the virtues of the international center concept, there is no fuel cycle elaborate enough and no technical fix clever enough to stop proliferation totally; there are too many ways a determined nation can get its bombs independent of the fuel cycle. It may well be that the best anyone can do is to slow down the course of proliferation, to make it more expensive and difficult. Even so, it would be worth the effort. As Albert Wohlstetter puts it: "Even if [the spread] were, as it is claimed, inevitable 'sooner or later,' later would be better than sooner, and less better than more."

THE YOUNG ISRAEL EMPLOYMENT BUREAU

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. RICHMOND. Mr. Speaker, in times when critics arise to find fault with government sponsored programs designed to alleviate unemployment, it is incumbent upon us to state for the record those achievements that give credit to the U.S. Department of Labor.

As an example of an outstanding program, I submit the record of the Young Israel Employment Bureau, a non-sectarian undertaking sponsored by the National Council of Young Israel, with its national headquarters in New York City and branch operations in 17 States. It operates employment bureaus in six States: New York, Ohio, Michigan, Missouri, California, and Florida.

In 1929, the organization established its first employment bureau designed to find jobs for all people regardless of ethnic background. During, and immediately after the war years, it added a veterans division to the employment bureau. The particular concern was with the unique problems of the returning veterans, in the areas of education, employment, and social adjustment.

In 1966, the employment bureau applied to the U.S. Department of Labor and received its first federally funded on-the-job training program—OJT. Since that time, it has successfully executed 12 employment contracts under Ephraim H. Sturm, the founder and director of the program.

With the advent of CETA, the Young Israel Employment Bureau spun off their national programs in Los Angeles and in Dade County, Fla. as independent CETA operations. The records will clearly indicate that the local CETA programs are far more costly than the same operation administered as part of the bureau's national program.

This program called for the placement of 70 people in each of the above cities, with reimbursement for training costs to be provided for 35 slots. The additional 35 slots in each area were non-reimbursable on-the-job training positions. Each area was serviced by one job developer, whose annual salary was $9,816 or $188.76 per week, and a secretary with an annual salary of $6,165 or $118.55 per week. These wages are far lower than the usual salaries of $15,000 for a job developer and $8,500 for a secretary. In addition, there are the normal fringe benefits which usually amount to approximately 9 percent.

The cost of reimbursement averaged $600 per trainee. On a matching one to one basis, this means that the reimbursement cost is only $300 per trainee. The total amount of reimbursement nationally, and under CETA, is well over $1,500.

The national program was continued with Detroit, Cleveland, and St. Louis as bases. On July 14, 1977, they completed the program with a 120 percent record.

The entrance rate ranged from the $3 minimum requirement to $6 for reimbursable trainees and from $2.90 to $4 for non-reimbursable trainees.

The trainees were placed in the type of program which would lead to the learning of a particular skill and talent. The following are examples of the type of positions in which trainees are placed: office machines mechanics, secretaries, bookkeepers, metal fabricators, butchers, machinists, medical assistants, geriatric nurses, jewelers, store managers, and security officers. We note that in the foreseeable future these areas will need workers.

This on-the-job-training program, including the reimbursable funds, costs only $185,656.

One cannot judge statistics without yardsticks. Therefore, let us consider the following: the average retention rate is approximately 60 percent, 70 percent is considered good. The retention rate of the Young Israel Employment Bureau program is over 90 percent.

The mean cost for reimbursement for training is $1,500. The cost for the employment bureau is $300 for the same training period. CETA program officials are satisfied with an 80 percent performance rate, the employment bureau has a performance rate of over 100 percent, normally 120 percent.

On July 15, 1977, the U.S. Department of Labor once again recycled the Young Israel Employment Bureau national program for the above mentioned three cities. It is to the credit of the Department of Labor that it recognized the Young Israel's national program service as a yardstick in calculating the efficiency of the local CETA-sponsored programs. In particular, the astuteness of the Honorable Ernest Green, the Assistant Secretary for Employment and Training, and his staff deserve special attention. They have recognized the unique dedication and achievement of the Young Israel national OJT programs.

CONTINUED MEDICAL COVERAGE FOR UNMARRIED FORMER SPOUSES OF MILITARY PERSONNEL

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I would like to share with my colleagues the remarks of Annette Klang Smail of Novato, Calif., regarding H.R. 8258, a bill which I have introduced to provide continued medical coverage for unremarried former spouses of military personnel after 20 years of marriage:

JULY 17, 1977.

From Annette Klang Smail of Novato, Calif.

Re: Remarks on H.R. 8258 to be inserted in Congressional Record

My remarks here refer to H.R. 8258, a bill that would provide continued medical coverage for former wives of servicemen after a minimum 20-year marriage.

The need for this bill is really based on one primary principle—the ethical demand based on the intensity of need and equitable treatment under the law. How Congress behaves in approaching this problem will be watched by a large number of supporters of this measure. An equitable remedy must be found to redress the wrongs endured by a very small group of older women who are being illegally deprived of desperately-needed medical care. To this end, I can provide testimony from women, both divorced and those about-to-be divorced—women who need such continuing care as dialysis treatment, diabetic care and other problems that outcrop during middle-age.* At this time in their lives, to become suddenly stripped of health care resources is akin to having one's crutches stolen.

Under the present law, these women, upon divorce are suddenly left without any health care resources whatsoever. They are not old enough to qualify for Medicare and most often too old to qualify for private health insurance; or if they do qualify, the cost is prohibitive. All this results in cruel and unbearable financial and emotional hardship, which lays further increasing burdens on the health of these former spouses—99.9% of whom, it is estimated, are women.

Besides this ethical demand calling for Congress to confront this issue with compassion and resolution because of the devastating physical and financial effects because of the way the law now stands, there is another issue involving substantive discriminatory practices by the Federal government. Here I refer to the fact that these former wives would have had medical coverage for life, Provided they had not been divorced. I want to dramatize this point in this way: if a husband should die just up to one minute before midnight the day the divorce becomes final, then the wife is covered medically for life! By the existence of this very practice, the Department of Defense, which presently administers this law, thereby acknowledges IN FACT that this life-long medical coverage acquired after a minimum of 20 years of marriage be recognized as a vested interest, a right earned—but, a right that is perfunctorily ignored simply on the basis of a change in marital status! The husband is not penalized by a change in his marital

* Medical needs of older persons amount to three times that of younger persons. These statistics are taken from "Aging: Prospects and Issues," edited by Richard H. Davis. This book is used in a government-funded course for persons working in programs under the Older Americans Act.

status; only the wife, who is illegally deprived of a vested interest by a penalty that has no ethical, moral or economic justification. I attest here that it is not the business of the federal government to involve itself judgmentally in personal decisions by confronting certain persons (namely the ex-wife) with punitive responses. The only moral and ethical grounds that this social problem is dealing with is that of redressing wrongs, making amends to those women who continue to be deprived of their vested interests simply because their marital status is changed either by themselves or their husbands. For the federal government to get punitive about personal marital affairs toward one of the marriage partners is highly out-of-order in a democracy.

To further the point of the concept of vested interest and how it is further acknowledged by one Department of the Armed Forces, namely the Air Force, I would like to present here a "Certificate of Appreciation." This certificate is traditionally given to wives at the time husbands retire from active duty. The typical certificate I am referring to is dated June 1, 1973, signed by John D. Ryan, Chief of Staff and Colonel R. R. Melton, U.S.A.F. Commander. It reads as follows: "This is to certify that on the occasion of the retirement of her husband from active duty with the United States Air Force has earned grateful appreciation for her own unselfish, faithful and devoted service. Her unfailing support and understanding helped to make possible her husband's lasting contribution to the Nation." This is all to say that to maintain the morale of a family on a global basis for at least 20 years is certainly quite an accomplishment and should not go without compensation.

This matter of due compensation brings up another relevant point. The present form of the public law that this bill seeks to amend is in conflict with national policies on aging as enunciated in the Social Security and Medicare Acts, both of which include the 20-year-marriage clause for the entitlement of continuing benefits. Therefore, these two Acts on Aging provide the parallel and precedent to offer continuing care under CHAMPUS (Civilian Health and Medical Program of the Uniformed Services). (See Section 1077 of Public Law 89–614 which describes how these two Acts interweave with CHAMPUS.)

I have had lengthy correspondence with some members of Congress as well as some members of the Administration on this urgent social problem—a problem that must be solved honestly and with forthrightness, and not dodged by the use of fancy rhetoric or by muddying the waters with faulty rationale. For example, one of the solutions offered to me in my predicament went something like this: "You would best be advised to seek recognition of your situation through a divorce settlement." I submit that the local divorce courts are not equipped to handle this problem; and I can offer the testimony of many other ex-wives on this point. It was further suggested to me that I could attach my husband's retirement pay for overwhelming medical expenses, should they occur. To place the burden of the solution of this social problem back onto the individual retired G.I. is really no solution at all. How can Congress expect the retired serviceman to cope financially with their ex-spouses medical bills? Imagine also how it is when ex-wives are driven to such lengths of having to go to court at the time of an illness or convalescence!

The financial facts are that there would be minimal cost to the Federal government to continue this medical coverage for ex-wives with a minimum 20-year-marriage for three reasons:

(1) Statistically, most divorces occur before the 20-year period; and the number of breakups of families after 20 years is considerably smaller.

(2) At the present time, when military marriages of long-standing do break up, what happens more often than not is that informal or legal separations rather than divorces occur. This happens so that the wife does not lose her benefits and so that the husband is not obligated, through the divorce settlement, to provide financial coverage for the ex-wife's medical expenses. It is therefore estimated that the additional number of those ex-spouses to be given medical care under an amended law would be minimal.

(3) Should an ex-wife be driven to go on welfare to get her medical needs satisfied, this would certainly be more costly to the government than the initial medical coverage.

Having led the drive to get H.R. 8258 introduced, I am very much in touch with the grassroots on this matter and its visible and vocal support has underlined the need for this legislation. There is now a growing nationwide organization known as MED (Medical Equality for Dependents or Medical Ex-Dependents, take your choice) supporting this legislation. In addition, many notable organizations, many with national networks, have endorsed the concept of this legislation. To name just a few of these organizations: National Women's Political Caucus; the Democratic Party of Marin County (it is now going before the Democratic Party of California for endorsement) and International Women's Year (IWY) California Meeting. I want to point out that resolutions endorsed by IWY are categorically to be brought to the attention of the President as well as Congress, with the goal of, among other things, "to promote equality between men and women." This H.R. 8258 is designed to do just that for one small sub-group of women being denied equality of treatment.

With all the support this bill is getting, with the demonstrated intensity of need that exists, there is no way Congress could ever justify a stand about doing nothing about this social problem. I have hopes that Congress will be sensitive and act upon a citizen's warranted initiative that is a representative concern. I would like to feel that Congress monitors itself and does not wait for the emergence of pressure groups to rise to the point where something must be done just to avoid great dissensions in our country. Besides all that, I would not like to see all this reasoning spent in vain, fighting for a desperate human need that continues to go unmet, fraying so many lives into ragged prayers, causing more tragedies, more anguishes, more Viet Nams of the soul. I have another last hope about the U.S. Congress: that the issues it chooses as priorities to act quickly upon have to do with needs—not greeds, but needs, and that the intensity of these needs be given top priority. This was done for quick federal disaster relief for those sufferers of California's drought. We ex-wives of the military need similar disaster relief even more quickly. May the conscience of America be your guide.

PHILIP AGEE: WITCHHUNTER FOR THE KGB

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McDONALD. Mr. Speaker, Philip Agee, a former junior CIA officer in Latin America who quit in 1968 to become a self-styled "revolutionary socialist," is continuing to serve as a mouthpiece for exposes of current Free World intelligence activities in areas far removed from his personal experience 9 years ago in Latin America.

Shortly before his mid-1976 visit to Jamaica to denounce the political opponents of Marxist Prime Minister Michael Manley as agents of a CIA "destabilization" effort, Agee was observed in Moscow. The liberal mass media has picked up and publicized Agee's charges without asking what his sources might be, apparently because sensational headlines sell papers and satisfy their editors' "craving for bogeymen," as an article in the London newspaper, the Daily Telegraph, phrased it.

Having finally exhausted all his appeals, Agee was deported from Britain. He is in the Netherlands working with the Institute for Policy Studies' Transnational Institute which has on its staff Marxist revolutionaries and members of terrorist organizations from Latin America, Asia, Africa, and the Middle East—a virtual tricontinental thinktank of terrorist intellectuals with a heavy admixture of Castroites and Trotskyites from the Fourth International's International Majority Tendency—IMT.

The article noted that Agee's "friends in Britain" are carrying on his anti-intelligence work through a left-wing "publication called the Leveller, through a new organization called the Movement Against State Abuses (MASA), and through more shadowy groups like 'Spies for Peace.'"

The article, slightly excerpted for space, continues:

[From the (London) Daily Telegraph, July 28, 1977]

HOW THE KGB'S 'USEFUL IDIOTS' HELP TO UNDERMINE THE WEST

(By Robert Moss)

The *Leveller* is modelled on the Washington-based publication, *Counter-Spy*, which specialises in naming CIA agents and has Agee as one of its trustees. The former CIA Director, William Colby, attributed the murder of the CIA's station chief in Athens in December, 1975, to *Counter-Spy*. The *Leveller* set out in its first issues to name British intelligence officers and agents. Its founder-subscribers include Agee's friend, Mark Hosenball, as well as journalists from the *Guardian, Private Eye, Time Out* and the BBC.

The witch-finders are not embarrassed to confess that they have no interest in exposing the crimes of the Soviet KGB. One of Agee's more garrulous supporters, a journalist from the Interpress agency called Philip Kelly, has said this is because "there is nothing wrong with Russian foreign policy. And anyway, the KGB only operates internally to repress subversive elements." Agee himself has explained that the KGB is not a target because the Soviet Union had "had its socialist revolution."

Yet since he defected from the CIA in Mexico City in 1969, Agee's campaign against his former employer's has been rewarded with acres of column inches in the Press and many hours of prime-time television coverage. Few people have questioned his sources of information, even though most of his allegations, about CIA operations in Greece, Portugal, Italy, Britain, Southern Africa, Jamaica and Australia are obviously not based on his experience as a junior intelligence officer in Latin America in the 1960's.

In recent weeks, Agee's claims about CIA activities in Australia have been given full

blast in the Australian media, including a 45-minute interview on the ABC. Statements from a man who was in the process of being deported from Britain as a security risk were treated as if they came from a reputable authority and blown up into a major political crisis in which prominent anti-Communists—including trade union leaders—were treated to a typical McCarthyite campaign of smear and innuendo. Mr. Bob Santamaria, the chairman of the National Civic Council, is suing the ABC over claims made by Agee.

Gen. Andropov, the head of the KGB, with a million employees at his disposal to gag the Russian people and to subvert the Western democracies, must be laughing his head off.

It is of course true that no Western intelligence service is simon-pure. The secret war with the KGB is not played by Queensberry rules.

But I have no time for people who make out that you cannot draw a basic moral distinction between men who are employed to defend our liberties and those who are employed by the Soviet bloc to destroy them, just because sometimes they are fighting each other down in the muck. And I tremble for the survival of our freedoms if Western societies disarm themselves against the growing threat from Soviet-sponsored subversion, and if irresponsible editors and television broadcasters go on putting the lives of Western intelligence officers at risk by printing their names on the say-so of ideological defectors like Philip Agee. What is even worse is that people are named as agents who have no connection with intelligence services.

DEFORMED BY WATERGATE

So it is high time that we asked what is really at the root of this latter-day McCarthyism. I believe that there are two overlapping problems. There is a conspiracy to discredit the individuals and institutions that contribute most to our defences against Communism. There is also a consensus among many media people, especially in East-Coast America, that the only conspiracies that are newsworthy involve Governments, intelligence services, corporations and private groups that might all be broadly described as non-Left.

The consensus is well served by a generation of young reporters formed (or deformed) by the post-Watergate mood of America. The spectacle on the cinema screen of Robert Redford and Dustin Hoffman toppling Nixon through the columns of the *Washington Post* held out before every would-be investigative reporter the glittering prospect that he, too, could become a film star—if he picked the right targets.

Agee, while loud in abuse of his former colleagues in the CIA has been remarkably discreet about his contacts with the Russians and the Cubans. According to former top CIA officials, Agee's first significant contact with the KGB took place as long ago as October 1964, when he was serving in the CIA station in Montevideo. It was then that he met Vitaliy Petrovich Semenov, a KGB man then serving under cover as a military attaché.

Since then, Semenov has risen to dazzling heights. Under the secret intelligence treaty signed between Russia and Cuba in 1968, Semenov was posted to Havana as the KGB general in charge of the Cuban intelligence service. He was in Havana when Agee turned up there, having left the CIA, to take advantage of Cuban "research" facilities to put together his book "CIA Diary."

Agee has maintained regular contact with Russian and Cuban officials. In the case of the Cubans, he has said in an interview, "whether they were Cuban intelligence officers or not, I don't really care."

Agee has been accused of betraying up to 100 CIA and British intelligence contacts in Poland on the basis of information he collected while working for the CIA on the Olympic Organising Committee in Mexico City.

From his training in the CIA, if from nothing else, Agee must be fully conversant with Soviet techniques of black propaganda.

The Russians have been expert in this field since the early 1920s, when they set up a department for the spreading of false information through the media, and other subversive activities. In 1966, this department was raised to the status of a separate directorate (Directorate A) of the KGB's First Chief Directorate.

Today, this directorate is engaged in an all-out campaign to blacken the image of Western intelligence services and anti-Communist politicians and trade unionists. Satellite intelligence services like the Cuban DGI play a key role in this campaign. Under the Soviet-Cuban agreement of 1968, the DGI took over increased responsibility for dealing with radicals and the New Left in Western countries, on the (correct) understanding that Fidel Castro has a more romantic image in these circles than the stolid heirs of Stalin.

So it is not surprising that Trotskyite and other New Left publications in Britain have become a constant outlet for Agee's effusions and for black propaganda that serves the Soviet interest.

We do not need to prove that the people who are orchestrating the attack on Western security services are conscious agents of the KGB. Lenin wrote, with Slavic bluntness, about the Communist Party's "useful idiots"—people whose activities serve purposes that they do not comprehend.

The conclusion to be drawn is simple. The people who express rage and emotion over the crimes, real or imagined, of Western security services without attacking the infinitely greater crimes of our strategic enemy, the Soviet Union, are "useful idiots." They help to divert attention from the forces that are striving to subvert our freedom. They deserve no hearing.

IMPLEMENTING SECTION 504

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. HARKIN. Mr. Speaker, in May of this year, Joseph Califano, Secretary of the Department of Health, Education, and Welfare, signed into law, section 504, implementing regulations which would bar federally funded institutions from discriminating against mentally or physically handicapped individuals. These regulations require that all institutions provide, among other things, equal access to facilities and equal availability of programs to all individuals.

According to a recent Associated Press article, a Federal judge has ordered Converse College in Spartanburg, S.C., to employ a sign language interpreter for a deaf student at the college's summer school.

I commend this action on its merits alone, but also as an example that these regulations can and will work toward providing equal treatment and opportunities to handicapped individuals.

SOCIAL SECURITY EARNINGS LIMITATION

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. LEDERER. Mr. Speaker, I am inserting into the RECORD a copy of a resolution I received from the State senate in Pennsylvania concerning the elimination of the earnings limitation for social security recipients.

Since this House will soon be considering the President's social security proposals, I feel this resolution is both timely and informative.

Mr. Speaker, I hope my colleagues in the House will give this proposal included in this resolution serious consideration when this matter reaches the floor:

RESOLUTION

Whereas, many retired people receive only Social Security benefits; and

Whereas, some people also have substantial investment income, in addition to Social Security; and

Whereas, people under the age of 72 without other income desiring to increase their standard of living are penalized when the individual earns over $3,000 a year because Social Security benefits are reduced; and

Whereas, in contrast, people over the age of 72 and those with substantial income from sources other than wages are not penalized; and

Whereas, something more should be done for these citizens who have already paid their dues to the Nation's economic well-being; therefore be it

Resolved, (House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to change the Federal law to liberalize the excess earnings provision of the Social Security Law; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States and the President of the United States and to the Federal Council on Aging.

I certify that the foregoing is a true and correct copy of Senate Concurrent Resolution, Serial No. 208, introduced by Senators Freeman Hankins, Quentin R. Orlando, Joseph F. Smith, Clarence D. Bell, Michael P. Schaefer, Henry C. Messinger, Stanley M. Naszka, Eugene F. Scanlon, James R. Kelley, Louis G. Hill, James A. Romanelli, Michael A. O'Pake, William E. Duffield, Jeanette F. Reibman, Paul McKinney, Edward M. Early, Joseph E. Gurzenda, John James Sweeney, Francis J. Lynch, Franklin L. Kury, Thomas M. Nolan, James E. Ross, H. Craig Lewis, Martin L. Murray, Henry J. Cianfrani, Patrick J. Stapleton, Herbert Arlene, Robert J. Mellow, Charles F. Dougherty, R. Budd Dwyer, John Stauffer, Wilmot E. Fleming, Henry G. Hager, George W. Gekas, Edwin O. Holl, William J. Moore, Clarence F. Manbeck, Edward L. Howard, Robert C. Jubelirer, John D. Hopper, W. Thomas Andrews, Richard A. Tilghman, Ralph W. Hess, Richard A. Snyder and adopted by the Senate of Pennsylvania the second day of May, one thousand nine hundred and seventy-seven and concurred in by the House of Representatives the nineteenth day of July, one thousand nine hundred and seventy-seven.

BALANCE(S) OF POWER: PART VI (VI) THE NAVAL BALANCE: THE SHIFT IN NAVAL BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. BRECKINRIDGE. Mr. Speaker, the preceding entry in my Balance(s) of Power series on the naval balance outlined the issues in U.S. naval shipbuilding. The size of the U.S. Navy fleet—number of hulls—has been halved in the past 8 years; and the number of U.S. overseas bases has declined from 150 in 1953 to less than 70. These facts forecast a clear trend in U.S. naval posture.

Today's selection argues that these trends are more significant still: The expanding size and role of the Soviet navy, wedded to a dynamic doctrine of naval warfare—to be presented in the next election—has created a "strategic environment" which places increasing limitations not only on U.S. capabilities, but on U.S. options as well.

The entry below is excerpted from a spring 1976 Strategic Review article entitled, "U.S. Naval Strategy of the Future." It is written by Vice Adm. Joseph P. Moorer, USN, Deputy Chief of Naval Operations (Plans Policy Operations).

Admiral Moorer's look ahead warns not only that U.S. relative capabilities are in decline, but that by forfeit, the strategic horse is being placed behind the cart of existing naval forces.

Selections from Admiral Moorer's article follow:

THE NAVAL BALANCE

EVOLUTION OF NAVAL STRATEGIC CONCEPT

There has always been a strong maritime tradition in the United States. It is not by accident that the 200th birthday of the United States and the U.S. Navy are almost coincident. The performance of our infant fleet against the powerful British Navy in both the American Revolution and the War of 1812 provided an example that we have always tried to emulate. Despite this naval tradition, consolidating and developing the vast land masses in the western areas of the United States were the major national concerns during much of the nineteenth century. At that time our military policy was land-oriented. The Navy's functions were coastal defense, protection of U.S. ocean-borne trade, and commerce raiding.

In 1898, naval successes in the Spanish-American War validated Mahan's concept of command of the sea, gained by destroying the enemy's battle fleet, or driving it from the seas with one's own superior battle fleet. By the turn of the century, the United States was a fledgling global power with growing world influence. It was our naval capability which allowed the United States to supply European allies and project decisive military power overseas during World War I.

The development of carrier-based air power removed the battleship from preeminence, and gave naval forces a tool for projecting power great distances and far inland. The amphibious warfare concepts and capabilities developed by the Navy and Marine Corps from 1920 through 1938 paid large dividends while being further developed and refined during World War II.

In the years following World War II, the Cold War was being waged with increasing intensity. U.S. Presidents and Secretaries of State had begun to negotiate the alliances and mutual security pacts designed to prevent expansion of the monolithic Communist bloc. The threat then emanated from land powers, not from nation states possessing powerful fleets. The United States Navy found itself without significant opposition at sea. The American fleet, like its nineteenth century British counterpart, had acquired the capability to simultaneously command all of the world's oceans in the Mahanian fashion. The postwar concept of a transoceanic navy, with a primary function of projecting power against a land mass, was further enforced by the emergence of the nuclear-powered fleet ballistic missile submarine.

TRENDS IN THE STRATEGIC ENVIRONMENT

A survey of the strategic environment and its trends is characterized more by consistency than radical change. However, there are several factors of change which argue for continuing examination of the Navy's strategic concept.

It would have been a much more difficult and costly undertaking for the United States Navy to maintain the four carriers operating off the east coast of Korea from 1950 to 1953 and to conduct the amphibious landing in Lebanon in 1958, had there been a maritime foe capable of mounting effective opposition. As it was, we were able to execute these operations near the home waters of major adversaries with little concern for a naval threat to our forces.

The Soviet Union probably decided in the late 1950s that its national prestige depended on its ability to challenge the United States at sea. Soviet plans for an expanded naval capability were no doubt accelerated by the outcome of the 1962 Cuban Missile Crisis. The change in the strategic environment, wrought by the dramatic and unprecedented growth of Soviet sea power in the late 1960s and 1970s, has had (and will most likely continue to have) the most significant impact on American naval strategy in the second half of the twentieth century. It was this growth which allowed the Soviet Navy to deploy an impressive naval force in the eastern Mediterranean during the 1973 Middle East Crisis, thereby reducing the flexibility of U.S. force employment in the region at that time.

We have long considered the Soviet Union a land power, which indeed it is, but as a nation, we have paid relatively little heed to its increasing maritime interests. The Soviets have the world's largest fishing fleet, largest oceanographic and scientific research fleet, fifth largest and rapidly growing merchant fleet, and a healthy and expanding passenger liner fleet. This does not in any way imply that Soviet dependence on the sea is as great as ours; quite obviously, it is not. It does point out the fact that the USSR has not neglected the oceans to the degree some might have imagined or reasonably expected. Soviet naval surface forces, which until the last ten years have not been a source of major concern in the West, now fully reflect the increasing interest and importance the Soviet Union places on maritime affairs. With the world's largest submarine fleet and cruise missile-firing surface fleet, and with an impressive array of naval technology, the Soviet Union, by any standard of measurement, is a first-rate maritime and naval power, capable of challenging any nation at sea.

The Soviets believe that in any future war their naval forces will play a major role. In the words of Fleet Admiral S. Gorshov: ". . . an even further increase in the scale of naval warfare as one of the most important parts of warfare as a whole is foreordained."

With the large fleet, strong alliance system, oversea base structure, and national commitment to defense that existed in the 1950s and 1960s, the United States Navy would have been in much better position to meet the challenge now presented by the Soviet Navy. However, during the last five years or so, several trends, both at home and abroad, have considerably altered the strategic environment in which we must operate. If these trends are projected into the future, the capability of the U.S. Navy to perform its primary functions of sea control and power projection becomes questionable in the face of determined Soviet opposition.

U.S. NAVAL TRENDS

In 1967, the U.S. Navy boasted a fleet numbering 967 ships; today we have just under 500 units. In the short period of eight years, our numerical strength has been roughly halved. The Navy's share of the cost of the Vietnam War was the loss of a generation of new ships. A conscious decision was made in the early seventies to decommission many older ships and accept a temporary force shortfall, while redirecting to the construction of new ships funds that would have been spent in operating and maintaining these obsolescent units. The goal is to rebuild our fleet in a balanced manner to the required level of capability, an aggregate of about 600 ships. However, inflation, the increased cost of new weapons systems and platforms required to operate effectively in the increasingly sophisticated combat environment, and pressure to increase the portion of the federal budget devoted to non-defense spending, all place the realization of that goal in jeopardy. Taking into account the normal retirement of older units, to reach a level in the vicinity of 600 ships by the mid-eighties, the tentative target date, we must build thirty-two or thirty-three ships per year. By way of comparison. we have built an average of about fifteen ships annually over the last ten years.

Inflation has hit the defense industries particularly hard. During the fiscal year 1975 budget cycle it was calculated that past and projected inflation would raise by some $16 billion the cost of completing forty-two major weapon systems projects. About 89 percent of this cost increase is concentrated in ten of the forty-two projects, and these include the Trident ballistic missile submarine, the patrol frigate, the Spruance class destroyer, and the SSN-688 class attack submarine.

In addition to inflation, the increasing complexity and capability requirements of modern weapon systems are driving costs rapidly upward. The Spruance destroyer is priced at approximately $120 million, Nimitz class carriers at about $1.2 billion, the Trident submarine at over $900 million, and the F-14 fighter aircraft at nearly $20 million. In the words of Senator John Stennis, Chairman of the Senate Armed Services Committee: "The purchase cost of modern weapons has increased by many times even within the last few years. . . . If the geometric cost increase for weapons systems is not sharply reversed, then even significant increases in the defense budget may not insure the force levels required for our national security."

Current pressures for increases in non-defense spending probably preclude the significant defense budget increases spoken of by Senator Stennis. In the United States there has been a large increase over the last ten years in the amount of the federal budget devoted to non-defense spending. In general, this increase is attributable to a domestic policy which emphasizes that the government should allocate additional funds to support needed social programs. This rise in non-defense spending is generating enormous pressures for reductions in the defense budget which forms a large portion of that section of the federal budget most easily adjusted by Congress. The more than $7 billion Congressional reduction in the fiscal year 1976 budget may be a harbinger of future legislative action. The military sees defense spending as a capital in-

vestment. Its dividends include national security, influence, trade, and the resultant high standard of living enjoyed in this country. Many people, however, see defense spending as a drain on national productivity, and urge that the drain be reduced.

MARITIME DEPENDENCE

The alteration in the maritime balance between the two superpowers has occurred at a time when the maritime dependence of the United States and its allies has increased significantly, and is projected to increase further at an accelerated rate. The economy of the United States is highly dependent upon international trade for raw materials to support its industry and for markets in which to sell its agricultural and manufactured goods. Approximately 99.8 percent of the more than 700 million tons of goods transported annually in U.S. overseas trade goes by ship. In the next ten years. Commerce Department trade pattern projections indicate that the tonnage of imports and exports will more than double. As was graphically illustrated during the recent Arab oil embargo, our European and Japanese allies are even more dependent on seaborne commerce than we are. A perceived lessening of the West's ability to protect its sea lines of communication could influence the Soviets to attempt their interdiction if U.S.-Soviet relations should break down to the point where force was being used.

It is generally recognized that the United States and the Soviet Union are in a state of essential equivalence in terms of nuclear weapons. The achievement of this state, it may be argued, gives the Soviets certain options they did not have when they were in a decidedly inferior nuclear position. Cognizant as they are of the U.S. dependence on maritime trade, Soviet interdiction of our sea lanes, under certain circumstances, could appear to them as an attractive and low risk option in an era of nuclear equivalence and declining naval capability of the West.

Not only are the seas important as avenues of commerce, they are also rich sources of energy, minerials and food. As emphasis is placed on exploiting the resources of the sea, problems of legality, jurisdiction, ecology and methods of extraction will have to be resolved. The efforts by many nations at the United Nations Law of the Sea Conference to reach an agreement which would place much larger areas of the seas under varying degrees of national control attest, at least in part, to the importance of natural resources from the sea.

ALLIANCES AND BASES

Two additional factors serve to further complicate our defense problem: the loss of U.S. oversea bases and the weakening of our post-World War II alliance system. The availability of overseas bases allows more efficient operations and a higher level and intensity of operations with a given number of ships and aircraft, than could be achieved without such bases. This is especially true in the case of mobile logistic support ships and shore-based maritime patrol aircraft. In 1953, the United States had about one hundred-fifty air and naval bases on foreign soil; today the figure is less than seventy. The trend is continuing as several U.S. bases throughout the world appear in varying degrese of jeopardy. The availability of bases in contingencies in which the host country is not involved, or has divergent interests from the U.S., is also a matter of concern.

A commonly perceived threat is the adhesive needed to hold any security alliance system together. Despite the expansion of Soviet influence in Africa and Southeast Asia it appears that fading perception of the threat could undermine security arrangements important to the United States.

DETENTE AND MILITARY STRENGTH

The importance of these changes in the strategic environment is often dismissed with a rather casual remark about detente and the lessening need for military strength. Nothing could be further from the truth. The words of the Counselor for the Department of State, Helmut Sonnenfeldt, are particularly relevant in this regard. In addressing the 1975 graduating class of the Naval War College, Mr. Sonnenfeldt said:

The prerequisite for the pursuit of this goal [detente] is a strong defense posture. Adequate military forces and the long-term programs to sustain them are by no means incompatible with detente; they are a basic requirement for its successful pursuit. Interests will be respected only if it is clear that they can be defended. Restraint will prevail only if its absence is known to carry heavy risks.

The second prerequisite for a successful pursuit of detente is the strength and vigor of our alliances. Progress toward a safer and more constructive set of relationships with potential adversaries does not obviate the need for the mutual commitments and cooperative ventures of alliance relationships, for the fundamental interests and values we share with our friends and allies are no less important to our well-being in conditions of detente than they were in periods of acute and multiple crises.

Even should U.S.-Soviet detente result in the absence of future hostilities between the superpowers (something we can never suppose or assume), another recent international phenomenon, one little affected by detente, poses a serious threat to U.S. and allied forces. Advanced technology and the economics of the offensive versus the defensive have resulted in the development of small and relatively inexpensive platforms with a large offensive punch in the form of antiship missiles. Many countries now possess the capability to inflict considerable damage upon U.S. naval forces within the operational and weapons range of such platforms. The proliferation of nuclear technology is yet another disquieting factor in this regard.

FUTURE NAVAL STRATEGY

The changes in naval strategy which we can foresee at this time are not as dramatic and revolutionary as may be envisioned by some. Naval strategy is strongly influenced by the fact that naval forces are capital intensive and durable goods. It takes approximately ten years (give or take a few) from concept approval of a ship, submarine or aircraft to its introduction as an operational unit of the fleet. It takes another significant period of time for the production run, from completion of the first unit of a class until completion of the last. Once built, ships have a nominal service life of twenty-five to thirty years. These factors make it difficult to keep most naval developments a complete secret for very long, and dictate that most major innovations be incremental in nature. It also means, given present circumstances, that it is highly unlikely any nation other than the Soviet Union has the potential to become a major adversary for U.S. forces on the high seas in the remaining portion of this century.

PAUL R. LEAKE OF CALIFORNIA—A DISTINGUISHED AMERICAN

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. LEGGETT. Mr. Speaker, I regret to advise the House that the State of California and the Nation have lost an inspirational editor, journalist and political figure of great stature.

Paul R. Leake, copublisher of the Daily Democrat in Woodland, Calif., died in San Francisco at the age of 87 on Saturday, July 30, 1977.

Mr. Leake had been in ill health for the past 2 years and while his death was not unexpected, nevertheless, it was a shock to all who came within his sphere of influence, which included northern California in particular and all of California in general.

Paul Leake was a man of great stature in journalism as well as in the affairs of his native State.

For more than half a century Mr. Leake was regarded as one of the most respected and influential Democrats of California. His advice and ccunsel were much sought after.

In journalism, as in public life, Paul Leake enjoyed great distinction. As editor and publisher of the Woodland Democrat he carried on in the tradition of his father, the late Ed E. Leake, who purchased the Democrat in 1892 after selling the Dixon Tribune.

Mr. Leake was a past president of the California Newspaper Publishers Association and his newspaper, now published by his son, Kenneth, is regarded as perhaps the finest of its size in California.

Paul Leake was an outstanding figure in Democratic politics. From 1939 to 1952 he was U.S. Treasury Department collector of customs for the port of San Francisco. In 1952 he was appointed by Gov. Earl Warren to the State Board of Equalization, and was reelected to successive 4-year terms until his retirement in 1971.

During his term on the board he was responsible for many improvements in equalization of taxes and was a forceful figure during his terms as chairman.

Mr. Leake was born in Dixon, Solano County, Calif., and was a graduate of the University of Santa Clara, where his memory is revered.

The Leake family's loss is shared by many people in the Fourth Congressional District of California and in our State.

Paul Leake, the United States Congress today salutes you for your many contributions to a better America.

MISLEADING STATISTICS AND THE MINIMUM WAGE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McCLORY. Mr. Speaker, manipulating statistics can give a misleading picture of widespread poverty among workers at the minimum wage which, in turn, leads all too easily to erroneous decisions. The attached letter by Carolyn Shaw Bell, a Katharine Coman professor of economics at Wellesley College, which appeared in the Washington Post Friday, July 29, illustrates this point by showing that equating an hourly wage that applies to all workers—single or living in a family with other workers—with the minimum income for four-person families is wrong.

If there is any justification for raising the minimum wage it should be found in fact, not falsity. The letter from Carolyn Shaw Bell follows:

THE MINIMUM WAGE

News items about the minimum wage have repeatedly quoted a figure of $2.93 or "about $2.95" per hour as the "federally established" poverty line. In fact, no such poverty figure on a per-hour basis exists. By including the valid statement that three million workers earn the minimum wage or that six million earn less than $2.65 hourly, such reports give a totally erroneous picture of widespread poverty among workers at the minimum wage.

Poverty concerns income, not wages, and poverty varies according to the number of people living on a given income. That is why the "federally established poverty line" consists of 124 different dollar sums, each for a different size of household living under different conditions. It follows that no single hourly wage can be either above or below "the poverty level"—it all depends on whom that wage-earner is supporting.

The $2.95 per hour quoted comes from dividing the annual poverty-level income for a four-person family by 2,000 hours—the normal work-year. But there are less than four million four-person families in the country supported by one worker, and there is no evidence that they are all in poverty. Of the families of all sizes supported by one worker, two million fell below the poverty level in 1975, but there is no evidence that raising the minimum wage would help them all. To equate an hourly wage that applies to all workers, who may be single or living in a family with other workers, with the minimum income for four-person families is just plain wrong. The battle to raise the minimum wage should not be fought on the grounds of poverty.

HUMAN RIGHTS IN ROMANIA

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. FARY. Mr. Speaker, I join my voice today with those of my colleagues in the House to express my deep and personal concern about the status of human rights in Romania.

It is not wise for one nation to interfere with the internal affairs of another nation.

But human rights are so basic to mankind that they transcend the laws and boundaries of any nation. Believing in the human rights for all mankind, I must speak out when I see our fellow man being denied the basic human rights that I enjoy every day.

When a nation pledges itself in a written compact before the world community to respect the human rights of all people within its borders, then violations of that agreement become a matter of concern to the international community. Such is the case today between the world community and Romania.

And when one nation grants another nation under special conditions certain benefits that would economically benefit that nation, it becomes a matter of concern to the giving nation when the receiving nation ignores and violates the special terms. Such is the case today between the United States and Romania.

And so, Mr. Speaker, we are indeed justified in addressing ourselves to the internal affairs of Romania, especially as they relate to the basic question of human rights.

The President has recommended a 1-year extension of the most-favored-nation status granted to Romania. When the United States granted that status to Romania in the first place, we had conditions attached. Under the terms of section 402 of the Trade Act of 1974, the most-favored-nation status, which extends certain commercial benefits to trading partners of the United States, may not be extended to a "nonmarket economy" nation such as Romania, if that nation denies its citizens the right to emigrate or otherwise infringes on human rights.

Under the terms of this law, the President may recommend a waiver of the free emigration requirements and an additional 1-year extension of the most-favored-nation status where he receives assurances that the emigration practices of the country will "henceforth lead substantially to the objectives of this section." Under the law, Congress during this period of time, has the right to vote a resolution of disapproval which would deny this status to Romania.

The record of the Government of Romania regarding human rights and free emigration has so far been miserable. In fact, during 1977, the record is worse than last year. There has been a substantial drop during the past year in the number of emigration visas allowed by the Bucharest government.

Not only are the people of Romania not allowed the basic right to emigrate and live where they want to, but they are denied other basic human rights—rights we take for granted.

Furthermore, minorities within that nation, especially some 2.5 million Hungarians living mostly in Transylvania, suffer more from this oppression. Let us take a quick look at the record.

After studying the situation, it becomes very clear that the Romanian Government's policies have the one unmistakable aim to become a nation without any minorities. Aimed principally at the over 2.5 million citizens who are Hungarians, the policies are designed to eliminate and to break up the cohesion of the Hungarian districts in Transylvania.

The Romanian Government has almost complete control over its labor and housing markets. This control is used to break up the many homogeneous ethnic communities. Citizens are not permitted to resettle in another city without official approval. While Hungarians find it impossible to move into the major cities of Transylvania, the influx of Romanians is not only permitted but encouraged through offers of favorable housing opportunities and other benefits.

The breakup of Hungarian communities is further accomplished through the routine assignment of university and trade school Hungarian graduates to jobs outside of their native communities.

The Hungarian minority is deprived of doctors, lawyers, and other professionals who speak their own language. A frequently heard complaint in Transylvania, especially among the elderly, is that they cannot communicate with the local doctors.

Members of minorities are often forced to endure threats for using their native languages in private conversations at public places. Not long ago a visitor in Transylvania found only one Hungarian sign in the Hungarian village of Sic. Hanging on the wall of the village tavern the sign clearly declared: "It is forbidden to sing in Hungarian."

Hungarians in Romania look to Hungary for their poetry, fiction, drama, cinema, music, art—all of which are common to their common culture. But access and development in each of these arts are severly restricted.

In fact, curtailment of cultural opportunities permeates every aspect of minority cultural life. No independent Hungarian writers, artists, or musicians associations may exist in Romania today despite the rich living heritage of the many Hungarian artists living in Transylvania. There has been a forced reduction in the number and volume of Hungarian language books and publications.

In another move to eradicate the history of the Hungarian cultural institutions in Romania, a law was passed in 1974 which confiscated all ecclesiastical archives which contained centuries of history.

The multinational region of Transylvania has a long heritage of religious freedom. Through its Ministry of Cults, the Romanian Government exercises a policy of total interference in ecclesiastical matters regardless of their administrative, social, or theological nature. No decisions can be implemented by the churches unless it is thoroughly reviewed and approved by the Ministry of Cults. By paying one-third of the salaries of the clergy, the Bucharest government claims the right to their complete and total cooperation.

Since 1959 to the present time, the Romanian Government has followed a policy of systematically and continually eliminating ethnic minority schools. This has been especially hard on the Hungarian minority, which is the largest national minority in Europe. Educational opportunities in one's own native language is sharply curtailed and in many places eliminated.

The Bucharest government is also charged with rewriting the history of Transylvania in textbooks to minimize the importance of the Hungarian-speaking population that has been native to that region for centuries.

Early this year nine Romanians signed an appeal to the governments that signed the Helsinki Treaty. They asked these governments for their help in gaining more respect for human rights, including the right of expression, in Romania. President Nicolai Ceausescu denounced them as "traitors." A number of these people were placed under arrest. Their telephones were disconnected. Later, apparently reacting to the international outcry to this type of harassment of these dissidents, the Romanian Government relaxed its harsh treatment of these people.

Mr. Speaker, what I just pointed out

here is hardly the description of a free society.

Romania is a place where people are denied basic human rights, and where ethnic minorities are further denied educational, cultural, and employment opportunities just because they belong to a certain minority nationality.

These ethnic minorities, who choose to live in Romania, ask that their own cultural heritage be respected by the Bucharest government. These people have lived there for centuries. It is only due to the accident of history that the boundaries of Europe place them outside of the nations with which they have common ethnic ties.

I see no justifiable excuse for the Romanian Government—or any government—to constantly discriminate against its own citizens just because of their ethnic heritage. And I ask the Romanian Government to give to me and to the Congress a justifiable reason.

I call upon the Romanian Government to live up not only to their own constitution but also to the promise they made before the world community when they signed the Helsinki Treaty regarding human rights.

I call upon the Romanian Government in living up to the human rights provisions of the Helsinki Treaty to treat better those people who express views contrary to those of the government.

I call upon the Romanian Government to respect the right of all of their citizens who wish to use their own language and maintain their centuries old ethnic heritage.

I call upon the Romanian Government to respect the right of those people who wish to emigrate to other nations.

The leaders of Romania would do well to heed the lessons as well as the warnings of history. Many governments in the past who existed on oppression as well as suppression of the rights of their people have often been toppled by those they have trampled upon.

Finally, Mr. Speaker, the officials in Bucharest would do well to heed the ancient wisdom of Isaiah—to "undo the heavy burdens and to let the oppressed go free."

ERDA EXPANDS SOLAR COMMERCIAL DEMONSTRATION PROJECTS

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McCORMACK. Mr. Speaker, the Energy Research and Development Administration has announced the selection of 80 additional buildings in 33 States for installation of solar heating and, in some cases, solar cooling systems. The projects represent the second cycle of the Solar Energy Heating and Cooling Demonstration Act of 1974, which originated in the House Science and Technology Committee chaired by Hon. OLIN TEAGUE of Texas.

Since its beginning in 1974, this program has grown rapidly and is now a major component of the ERDA solar program. The Committee on Science and Technology included $91,900,000 for solar heating and cooling in the ERDA fiscal year 78 authorization bill. With this latest announcement, ERDA has participated or is participating in 135 commercial solar demonstration projects and approximately 1,500 residential projects. In addition, there are, in various stages of completion, 32 solar installations on Federal buildings.

The projects include such buildings as offices, schools, hotels or motels, fire stations, police stations, hospitals, and libraries. They were selected from 307 proposals submitted in response to a solicitation issued by ERDA last fall.

ERDA had allocated $12.6 million to fund the projects, with the average for each project being about $156,000. Government funds will be provided on a cost-sharing basis only for the solar portion of the project. ERDA now will begin negotiating the cooperative agreements with the proposers.

Many of the selected projects will be equipped with monitoring equipment provided by ERDA that will collect information on the performance of the solar systems. This information will be transferred directly into a central data processing and analysis operation at the IBM Systems Division, Huntsville, Ala.

NASA Marshall Space Flight Center in Alabama, and ERDA San Francisco Operations and Chicago Operations offices will monitor the technical design and construction of the projects.

A complete list of the 80 projects selected for negotiation follows:

SECOND CYCLE SOLAR COMMERCIAL DEMONSTRATION PROJECTS

Project and location, application, and ERDA cost-share (estimate)*

ALABAMA

Reynolds Metals Company, Product Development Division, P.O. Box 27003, Richmond, VA 23261; Shower and Change Facility, Listerhill, AL; H, HW; New; $69,634.

City of Huntsville, 125 Earl Street, Huntsville, AL 35805; Senior Citizen Center; H, HW; Retrofit; $79,068.

CALIFORNIA

Mr. Raymond G. Handley, Renault and Handley, 2500 El Camino Real, Palo Alto, CA 94306; Industrial Building, Santa Clara, CA; H, HW; New; $150,834.

City of Cerritos/Redevelopment Agency, Gaylord R. Knapp, City Manager, 19400 Pioneer Boulevard, Cerritos, CA 90701; City Hall, Cerritos, CA; H, HW; New; $40,000.

City of Long Beach, City Hall, Long Beach, CA 90802; Fire Station, Long Beach, CA; H, HW; New; $450.

Manager, Construction and Engineering, Stanford University, Stanford, CA 94305; Central Food Services, Stanford, CA; H, HW; Retrofit; $57,250.

City of Los Angeles, Bureau of Public Buildings, Dept. of Public Works, Room 800, City Hall East, Los Angeles, CA 90012; Police Station, Los Angeles, CA; H, HW; Retrofit; $230,215.

City of Saratoga, Mechanics Research, Inc., 9841 Airport Boulevard, Los Angeles, CA 90045; Library, Saratoga, CA; H; New; $81,639.

Morongo Unified School District, P.O. Box 1209, Twentynine Palms, CA 92277; Relocatable Classroom, Joshua Tree, CA; H, C, HW; New; $64,944.

San Diego Unified School District, 4100 Normal Street, San Diego, CA 92103; High School, San Diego, CA; H, C, HW; New; $392,740.

Mr. Norman Brock, Ridgeline Racquet Club, Inc., 10604 Meads Avenue, Orange, CA 92669; Racquet Club, Orange, CA; H, C, HW; Retrofit; $195,545.

Oak Grove School District, 6578 Santa Teresa Blvd., San Jose, CA 95119; Elementary School, Youth and Community Activities Building, San Jose, CA; H, C; Retrofit; $318,-615.

County of Orange, GSA/Architectural and Engineering Division, 628 N. Sycamore, Santa Ana, CA 92701; County Branch Library, El Toro, CA; H, C; New; $140,215.

COLORADO

Adams-Arapahoe Joint School District 28-J, 1085 Peoria Street, Aurora, CO 80011; Elementary School, Aurora, CO; H, HW; New; $22,577.

Mr. Gale Christy, City Manager, City of Littleton, 2450 W. Main Street, Littleton, CO 80120; Office/Police Headquarters Bldg., Littleton, CO.; H, HW; New; $184,455.

Town of Vail, P.O. Box 100, Vail, CO. 81657; Bus Stop Shelter, Vail, CO.; H; New; $10,280.

Jefferson County School, District No. R, 809 Quail Street, Lakewood, CO. 80215; School for Trainable Retarded; Lakewood, CO.; H; Retrofit; $170,990.

CONNECTICUT

Danbury Hospital, 24 Hospital Avenue, Danbury, CT. 06810; Hospital, Danbury, CT.; H, HW; New; $436,641.

Messrs. John R. McColl, Jr. & William H. Wade, 150 W. Main Street, Branford, CT. 06519; Commercial & Industrial Building, Branford, CT.; H, HW; New; $62,788.

Albie Booth Memorial Boys Club, 103 Hallock Avenue, New Haven, CT. 06519; Boys Club & Community, New Haven, CT.; H, HW; Retrofit; $325,354.

Xerox Corporation, Stamford, CT 06904; Office Building, Stamford, CT.; H, HW; New; $540,558.

FLORIDA

Smith, Korach, Hayet, and Haynie, 175 Fontainebleu Blvd., Miami, FL. 33172; Hospital Maintenance Building, Boca Raton, FL.; H, C, HW; Retrofit; $154,385.

Brandon Swimming Assoc., P.O. Box 790, Brandon, FL. 33511; Medical Clinic & Sports Complex, Brandon, FL.; H, C, HW; Retrofit; $197,985.

Florida Solar Energy Center, 300 State Road 401, Cape Canaveral, FL. 32920; Office/Electronic Data Processing, Cape Canaveral, FL ; H, C; Retrofit; $190,665.

GEORGIA

North Georgia Area Planning and Development Commission, 212 N. Pentz Street, Dalton, GA. 30720; Office, Dalton, GA.; H, C, HW; New; $111,751.

HAWAII

Mr. David P. Coon, Iolani School, Honolulu, HI. 96814; School, Honolulu, HI.; C, HW; Retrofit; $201,828.

ILLINOIS

Community Unit District 303, 210 South Fifth Street, St. Charles, IL. 60174; High School, St. Charles, IL.; H, NW; New; $478,-710.

Museum of Science and Industry, Victor O. Danilov, Director, 57th Street and Lake Shore Drive, Chicago, IL. 60637; Museum, Chicago, IL.; H, C; Retrofit; $634,165.

INDIANA

Indiana Vocational Technical College, Region I, 1440 E. 35th Avenue, Gary, IN 46409; Classroom/Laboratory Facility; H; New; $109,883

Clarksville Community School Corporation, 200 E. Ettels Lane, Clarksville, IN 47130; School Gymnasiums, Clarksville, IN; H; Retrofit; $113,599.

IOWA

Marion Independent School District, 650 South 15th Street, Marion, IA 52302; Ele-

*H—Heating; C—Cooling; HW—Hot Water.

mentary School and Admin. Offices, Marion, IA; H; Retrofit; $224,183.

KANSAS

Board of Education, Unified School District No. 306, Gypsum, KS 67401; School Building, Gypsum, KS; H, HW; New; $178,655.

Chas E. Henning, MD, Solar Services, Inc., 239 Pattie, Wichita, KS 67211; Medical Offices, Wichita, KS; H; New; $23,952.

Ducat Investments, Inc., 28–20 K Roe Lane, Kansas City, KS; Office/Warehouse Bldg., Kansas City, KS; H; New; $265,630.

Kaw Valley State Bank and Trust Company, 1110 North Kansas Avenue, Topeka, KS 66608; Detached Bank Facility, Topeka, KS; H, C, HW; New; $75,166.

MARYLAND

Montgomery Community Center, 51 Manakee Street, Rockville, MD 20850; Campus Buildings, Germantown, MD; H, HW; Retrofit; $22,379.

Anne Arundel County, Arundel Building, Attn: Robert Pascal, Annapolis, MD; Senior Citizen Recreation Center; H, C, HW; New; $183,8F3.

The Mayor and City Council of Baltimore, Attn: Bernard L. Berkowitz, 250 City Hall, Baltimore, MD 21202; Fire House, Baltimore, MD; H, C, HW; New; $203,667.

MASSACHUSETTS

Children's Hospital Medical Center, 300 Longwood Avenue, Boston, MA 02115; Pediatric Research, Boston, MA; H, HW; Retrofit; $148,150.

Christian A. Herter Center, 1175 Soldiers Field Road, Boston, MA 02134; Community Center, Boston, MA; H, HW; Retrofit; $91,489.

Technology Properties Trust, c/o Aerospace Systems, Inc., One Vine Brook Park, Burlington, MA 01803; Office Building, Burlington, MA; H, HW; New; $171,411.

Hampshire College, Amherst, MA 01002; Educational Facility, Amherst, MA; H, C, HW; New; $329,827.

MICHIGAN

John O. Esslinger, M.D., 1100 6th Street, Traverse City, MI 49684; Medical Offices, Traverse City, MI; H, HW; New; $22,280.

Jordan College, Box Y, Cedar Springs, MI 49319; College/Residence Hall, Cedar Springs, MI; H, HW; Retrofit; $98,660.

Troy School District, 440 Livernois, Troy, MI 48098; Elementary School, Troy, MI; H, HW; New; $206,770.

MINNESOTA

Minnesota Zoological Board, 12101 Johnny Cake Ridge Road, Apple Valley, MN 55124; Zoo, Apple Valley, MN; H, HW; New $313,458.

Dr. J. Bapst, Hibbing Community Col., Hibbing, MN 55746; Public Planetarium/Museum, Hibbing, MN; H; New; $145,500.

MISSOURI

Stephens College, Columbia, MO 65201; Visitor Center, Columbia, MO; H; New; $93,457.

William Tao and Assoc., Inc., 2357 59th Street, St. Louis, MO 63110; Office Building, St. Louis, MO; H, HW; New; $7,912.

MONTANA

Billings Shipping Corp., 425 North 27th, Billings, MT 59101; Office Building, Billings, MT; H; New; $59,900.

NEBRASKA

Housing Authority of the City of Lincoln, 225 N. Cotner Blvd., Lincoln, NB 68505; Central Admin., Office Facility, Lincoln, NB; H, HW; New; $13,787.

NEW HAMPSHIRE

Contemporary Systems, Incorporated, 68 Charlonne Street, Jaffrey, NH 03452, Manufacturing/Office Building, Jaffrey, NH; H, HW; New; $75,938.

University of New Hampshire, Grant & Contract Office, Durham, NH 03824; Chemistry Lab, Durham, NH; H, HW; Retrofit; $192,156.

NEW JERSEY

Cherry Hill Inn, Haddonfield Road, Cherry Hill, NJ 08034; Hotel, Cherry Hill, NJ; H, HW; Retrofit; $323,948.

Stephen Giddio Construction Co., 225 Lennox Avenue, West End, NJ 07740; Restaurant, Long Beach, NJ; H, C, HW; New; $172,944.

NEW MEXICO

City of Albuquerque, Animal Control Center, 8920 Lomas, N.E., Albuquerque, NM 87112; Kennels, Offices and Storage Area, Albuquerque, NM; H, HW; New; $39,250.

Property Control Div. Dept. of Finance & Administration, Bataan Memorial Building, State of New Mexico, Santa Fe, NM 87501; Office Facility, Santa Fe, NM; H; New; $45,000.

Mr. G. O. Drennan, Drennan Air Conditioning and Heating, Box 1936, Hobbs, NM; Retail Sales Building; H; Retrofit; $12,081.

NEW YORK

City of New Rochelle, 515 North Avenue, New Rochelle, NY 10801, Public Library, New Rochelle, NY; H, C, HW; New; $274,855.

New York Botanical Garden, Cary Arboretum, Box AB, Millbrook, NY 12545; Offices and Lab Building, Millbrook, NY; H, HW; New; $122,229.

Ballston Spa Central School District, 70 Malta Avenue, Ballston Spa, NY 12020; Educational Building, Ballston Spa, NY; H, HW; Retrofit; $470,000.

Dayton T. Brown, Inc., Engineering & Test Div., 555 Church Street, Bohemia, NY 11716; Office Building, Bohemia, NY; H; Retrofit; $129,725.

Mr. Carl Grimm, The Crossway, East Acres, Troy, NY; H; New; $141,632.

Troy, NY 12180; Bank/Retail Sales Building,

NORTH CAROLINA

Mr. Walter Baum & Ms. Carolista Baum, 515 E. Rosemary Street, Chapel Hill, NC 27514; Office and Retail Building, Chapel Hill, NC; H, C, HW; New; $50,654.

OHIO

Columbia Gas System Service Corporation, 1600 Dublin Road, Columbus, OH 43215; Office Building, Columbus, OH; H. C, HW; Retrofit; $254,300.

Columbus Technical Institute, 550 E. Spring Street, P.O. Box 1609, Columbus, OH 43216; Educational/Administrative Building, Columbus, OH; H, C; New; $389,320.

SOUTH DAKOTA

First Baptist Church, Aberdeen, SD 57401; Church, Aberdeen, SD; H, HW; New; $69,942.

Spearfish School District No. 40–2, Spearfish, SD 57783; High School; H, HW; New; $199,502.

TENNESSEE

Tennessee Building Material Assoc., P.O. Box 40328, Nashville, TN 37204; Office Building; H, HW; New; $66,652.

Coca-Cola Bottling Works of Jackson, Inc., P.O. Box 1804, Jackson, TN 38301; Soft Drink Bottling Plant, Jackson, TN; H; Retrofit; $496,094.

TEXAS

Messrs. Lon W. Travis & E. E. Braun, 4140 Office Parkway, Dallas, TX 75204; Office Building, Dallas, TX; H, HW; New; $55,625.

L. A. Bell, Owner, American Ornamental Metal Company, 5013 Kelly Street, Houston, TX 77026; Office/Manufacturing Building, Austin, TX; H, C; New; $51,782.

UTAH

Permaloy Corporation, P.O. Box 1559, Ogden, UT 84402; Manufacturing Facility; H; Retrofit; $92,560.

La Quinta Motor Inns, Incorporated, P.O. Box 32064, San Antonio, TX; Motor Inn, Salt Lake City, UT; H, HW; New; $99,350.

VERMONT

The Rutland Group, Inc., 162 S. Main Street, Rutland, VT 05701; Construction Co. Offices, Rutland, VT; H, C; New; $13,287.

VIRGINIA

Arlington House Hospital, Inc., 2101 Arlington Blvd., Charlottesville, VA 22901; Hospital, Charlottesville, VA.; H, HW; New; $47,950.

WEST VIRGINIA

Trustees of Bethany College, Bethany, WV 26032; Educational/Conference Center; H, HW; Retrofit; $154,758.

WISCONSIN

Zien Plumbing and Heating Company, 4450 N. Oakland Avenue, Milwaukee, WI 53211; Dental Clinic, West Bend, WI; H; New; $35,026.

School District of Howards Grove, 437 N. Wisconsin Drive, Howards Grove, WI 53081; Elementary School, Howards Grove, WI; H; New; $35,301.

WYOMING

Craig Thomas, Manager, Wyoming Rural Electric Assoc., Pacific Western Bldg., Casper, WY 82601; Office Building, Casper, WY; H; New; $31,447.

RABBI WALTER JACOB

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask the Chamber to join me in paying tribute to one of the leading citizens of my community, a man who has labored all of his life on behalf of his fellow man, Rabbi Walter Jacob of Pittsburgh's Rodef Shalom Congregation.

Earlier this year, Rabbi Jacob's congregation celebrated his 20-year anniversary of service to them and to the community.

Rabbi Jacob, who is the 17th generation of his family to serve God and man as a rabbi, is a nationally recognized scholar whose work on behalf of and service to the community are prodigious.

In addition to his work with Rodef Shalom, Pittsburgh's oldest Jewish congregation, Rabbi Jacob has been most active in the cause of human rights for all people, Jew and Christian alike.

In recent years he has been an active member or served on the boards of directors of a number of local civic groups including the Epilepsy Foundation, American Red Cross, Pennsylvania Equal Rights Council, the Pittsburgh Area Religion and Race Council, the Anti-Defamation League, the Religious Education Association of America, the Pennsylvania Guild for Infant Survival, Inc., the Pennsylvania Association for Retarded Children, and many more.

The rabbi also has served as a chaplain for the U.S. Air Force for 2 years.

Exemplifying his role as "teacher," the literal definition of rabbi, Rabbi Jacob has written 5 books, is the author of more than 40 articles, and serves as visiting professor at the Pittsburgh Theological Seminary.

As you can see from this varied and fruitful list, Rabbi Walter Jacob is a man who has dedicated his life to helping others, as a spiritual and religious leader and as an active contributing citizen.

I ask the House of Representatives to join me in wishing Rabbi Walter Jacob continued success and good health and

extending our hope that his future is studded with as many good works as his past.

HOW TO SAVE ON YOUR INCOME TAXES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. McDONALD. Mr. Speaker, total government spending has grown during the past three decades from 18 percent of gross national product to 34 percent. But as the noted economist Hans Sennholz points out, this figure is very misleading. When other factors such as depreciation, capital consumption, and direct costs are considered, the total burden of government averages more than 50 percent of an individual's income.

Such an enormous burden not only makes it difficult for a taxpayer to provide for himself and his family, but virtually forces him to order his spending in such a way as to keep his taxes within livable bounds.

Professor Sennholz gives an excellent account of just how great the tax burden has become in "How To Save On Your Income Taxes," an article appearing in the July 1977 issue of Private Practice. Although directed to physicians, the problems apply to any hard-working taxpayer:

HOW TO SAVE ON YOUR INCOME TAXES

(By Hans Sennholz, Ph. D.)

If you want to succeed in economic life, you must make your own opportunities. You cannot sit by the roadside.

In the American economy of today the road is rough and dangerous, and there are three formidable obstacles ahead:

1. There is the fast-growing jungle of government regulation and control that hampers individual service and productivity. Private Practice deserves our gratitude for wading through this jungle and alerting its readers in essays and editorials to the looming dangers.

2. There is inflation, the insidious policy of currency depreciation, which waylays many highly productive individuals. It robs them of their savings and thus deprives them of the fruits of many years' productive efforts. This is why the knowledge of inflation may be as important as the professional knowledge itself that enables us to render services and earn a livelihood.

3. And finally, there is confiscatory taxation that claims at least one-half of most physicians' income and labor.

In his Budget Message the U.S. president readily admitted that "over the last three decades, Federal, state, and local government spending has grown from 18 percent of GNP to 34 percent of GNP." As government can spend only that which it takes from its citizens, the president is admitting government revenues of 34 percent of GNP. Actually, this figure is misleading us badly: the real burden of government is much higher. GNP, or the gross national product, is the money value of the total output of goods and services in a year, before allowance for depreciation and capital consumption. Obviously, the wear and tear of equipment and the consumption of capital goods are no income and therefore must be deducted from any income calculation. With smaller income base the burden of government then rises to more than 39 percent of national output. But even this admission greatly understates the true cost of government. The GNP calculation blithely adds government spending to national production and assumes that all its revenue comes from current production. Actually, government may finance its expenditures, especially its deficits, out of previous savings and capital accumulated in the past, which again reduces the current income base and raises the percentage share consumed by government. We, therefore, estimate that the cost of government approaches 45 percent of our incomes. But even this is not the whole story. Taxpayers are spending many billions of dollars on tax advice, assistance, and accounting, which must properly be added to the total burden of government. If we should add the indirect costs in the form of production hampered and prevented, investments not made, savings consumed, waste and inefficiency imposed by regulations and controls, we begin to get a clearer picture of the tax scene.

Professional people with higher than average incomes obviously carry more than the average share of government burden. If the average taxpayer with an annual income of barely more than $10,000 pays 45 percent to government, the average physician with higher labor productivity and income must be expected to pay out 60 percent to 70 percent. After all, there is tax progression that puts higher income earners in progressively higher tax brackets.

A married couple with a taxable income of $44,000 per year now pays $14,060 in Federal income taxes, or some 32 percent, plus 50 percent of every additional income dollar. Then there are state and local income taxes, capita and occupation taxes, real estate taxes, sales taxes, social security taxes, excise taxes, and many others.

The tax burden that is frequently overlooked is hidden in the costs of goods and services we consume. All goods bear taxes that account for varying shares of the purchase price. The $5,000 automobile we buy from a dealer probably would cost less than $1,000 if its manufacture were not taxed every step of the way, from the mining of the ore to the manufacture of tools, the production of its parts, the final assembly, and its transportation to the dealer. One small manufacturer we know is paying 44 different taxes on his business.

We pay taxes every time we reach for our wallets and offer cash for goods or service. This is how every citizen, even the poorest members of society, must bear the growing burden of his government. Taxes are the largest single item in our costs of living: nothing else can compare with the cost of government. Americans spend more than twice as much on government as they spend on their daily food, or clothing, housing, education, transportation, etc.

The importance of taxes in our lives makes tax knowledge one of the most important stores of information in economic life. Its usefulness outweighs by far that of the stock market or any other investment plan we may devise. The investor is happy to earn 6 percent after taxes and inflation; in matters of taxes we are dealing with more than 50 percent of our daily efforts. This is why every preparation of a fruitful career, or any serious attempt at economic success, must begin with tax knowledge.

Your CPA is the expert in taxation. But he works only with the financial data you provide: he cannot bend the facts nor change the law. You, the tax payer, must learn to adjust your financial affairs to tax reality. You must be ever mindful of the tax implications of your economic decisions, and let tax considerations guide you on the road to success.

To most professional people who are dedicated to their particular profession, this may be distasteful advice. To them, taxation is a painful evil which they seek to avoid by ignoring it. But how can you ignore the fact that government is claiming more than one-half of the fruits of your labor? We do everything in our power to adjust our financial affairs to tax reality, and hold on to as much of our earnings as we legally can.

But how can you reduce your tax liabilities through personal readjustment? The answer is stated simply in what we like to call the tax law of survival: when confiscatory taxation claims the lion's share of your income, you can reduce this share by increasing your tax-deductible expenditures. That is to say, you must spend your income on tax-deductible items.

The Federal income tax in its present form is levied on personal incomes and expenditures. The more you earn and consume, the higher is your tax bracket. It is true that the Federal government allows you a few deductions, such as $750 per member of the family, interest you pay on your indebtedness, the taxes levied by other authorities, and a few other items. But by far the larger share is taxable at progressive rates. This is why a taxpayer who is concerned about the confiscatory claims of tax collectors spends as much as he possibly can on tax-deductible items, which reduce his taxable income accordingly. In fact, with the help of a friendly banker, he may increase his tax-deductible expenditures to equal or exceed his taxable income, which would eliminate all income tax liabilities.

What are such fabulous tax-deductible expenditures? Any and all outlays for business that aim to generate more income in the future. The physician who invests in the tools of his profession, his practice, office, clinic, or hospital, creates tax deductions. Every penny spent becomes a tax deduction. If he prefers to leave his field of professional occupation, he may invest in any other business. Or, he may just buy his neighbor's house for rental purposes. Except for the costs of the land, its purchase price is tax-deductible over a number of years. When he finally owns the neighborhood, with the help of his friendly banker, he may have many new problems of property management, but the income tax is not one of them. The annual depreciation deductions together with other maintenance deductions may equal or exceed his taxable income.

A simple example may illustrate the point. A young doctor who is both physician and entrepreneur is building his personal clinic. He is earning $100,000 in net fees of which the Federal government is claiming $42,060 in income taxes. He now purchases radiological equipment in the amount of $100,000, which creates a tax deduction of $20,000 per year if he distributes the write-off over five years. If he chooses to purchase used equipment, he may deduct it even faster. And if he chooses to accelerate the depreciation by applying the declining balance method (200 percent rate), he obtains a depreciation of $40,000, which reduces his taxable income to $60,000, and his income tax to $22,060. Under the present tax law, he may then deduct an investment tax credit of $6,667 (⅔ of 10 percent of the purchase price of business equipment), which reduces his income tax liability to $15,393. In only one year our young radiologist saved $26,667 in Federal income taxes.

He likes the results and, therefore, buys more equipment in the following year. And again, the new purchases lower his tax liabilities by $26,667 while the equipment bought previously still gives him $24,000 in depreciation, which now reduce his taxable income to $36,000, his income tax to $10,340, and after deduction of the investment tax credit, to $3,673.

In the third year of radiological purchases, his total depreciation amounts to some $79,000, his taxable income $21,000, his income tax $4,700, and after deduction of the $6,607 investment credit, he arrives at the zero bracket. Of course, he must make such investments every year in order to safeguard his depreciation deductions.

Surely, his equipment permits him to raise his income, which creates new tax liabilities. But he may also step up his professional investments and thus create ever larger deductions. And we must not forget that his debt to the friendly banker is rising, which creates further tax deductions of the interest he must pay.

Our physician-entrepreneur is not recklessly building a pyramid of debt. The taxes he saves are used to amortize the debt. In fact, he may even reduce his consumption spending in order to bolster his equity capital in the clinic. His personal savings, plus his tax savings, together with the inflation that depreciates his debt while it appreciates his equity, are creating conspicuous facilities that benefit his patients. He need not apologize for that.

It may also be objected that the favorable tax treatment of business investments, such as those outlined above, may only be temporary and that these "loopholes" may soon be closed by an administration seeking new revenues. We doubt it. A government taxing business expenditures as income would bring economic activity to a grinding halt, and create a hair-curling business depression from which no political administration would soon recover. We feel therefore perfectly safe in making such business investments. And we object to the term "loophole," which implies a prior government claim to personal income and an objectionable means of escape from a duty or liability. Actually, a tax loophole is a small hole in a wall of a cell that permits the inmate to breathe and live. To close it is to assassinate him. To close all business "loopholes" is to abolish economic life.

CITIZEN OF THE YEAR: A WELL-DESERVED HONOR

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. WOLFF. Mr. Speaker, I would like to commend to my colleagues a community voluntary organization that truly exemplifies America's pride in her grassroots endeavors.

Each year since 1970, the United Community Chest of Port Washington, N.Y., in mv Sixth Congressional District, has saluted and publicly recognized an individual or organization for outstanding voluntary service to the entire community in the fields of health, education, and welfare.

This year, the United Community Chest's Citizen of the Year Award, that signifies the chest's high ideals of dedicated and meaningful service, was presented to the Residents' for a More Beautiful Port Washington, a group pledged to preserving the community from potential environmental dangers.

I have known the residents' chairman, Myron Blumenfeld, and president, Mrs. Betty Forquer, for many years and have followed closely their efforts in the areas of beautification, community action and education. This dedication has resulted in a rebirth of active community interest and concern for the preservation of the environment, specifically through proposals to promote planned community growth and expansion.

I congratulate Mr. Blumenfeld, Mrs. Forquer and the entire membership of the Residents' for a More Beautiful Port Washington on their exemplary record of accomplishment. Theirs is a well deserved honor.

MR. TSUNEYOSHI KOBAYASHI—AN OUTSTANDING COMMUNITY SERVANT

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my pleasure today to honor an outstanding resident of Gardena, Calif.—Mr. Tsuneyoshi Kobayashi. As the congressional Representative for Gardena, I am well acquainted with the service Mr. Kobayashi has rendered to his community and to the entire southern California area.

Born in Kukuoka Ken, Japan, he came to this country in 1917 and moved to California where he operated several grocery stores in southern California. Due to the unfortunate situation in the United States during World War II, he was interned at the Amachi, Colo., camp, but after the war, returned to our area to open up a nursery in Redondo Beach.

Tsuneyoshi, however, was not content to just operate a business, but rather got involved in a variety of community organizations including serving as president of the Southern California Gardener's Friendship Society, as president of the Gardena Valley Gardener's Association, and as a cabinet member of the Southern California Gardener's Association. He also served, in 1968, on the City of Gardena Beautification Committee. The evidence of his concern for the beautification, and consequently the improvement of his city can be seen throughout Gardena.

He has certainly demonstrated himself to be a man of many interests and talents. He has served in the Gardena City government, the Los Angeles county government, and in the early 1970's in the California State Assembly and Senate.

As a Japanese-American, he has been very active in Japanese cultural affairs in southern California. He has been a member of the Southern California Japanese Chamber of Commerce, an adviser for the city of Gardena Japanese cultural class, general manager for the city's Japanese cultural show, and also as president of the Gardena Valley Japanese Cultural Institute.

This institute, which has done so much to increase community awareness of the many achievements and contributions of Japanese-Americans, has chosen to honor Mr. Kobayashi on August 10 at a testimonial dinner. Through his work, his concern for the welfare of his community, and more importantly, his outstanding contributions to international amity and goodwill, the Japanese Government awarded him the highest honor given to those people living outside Japan. In April of this year, he received the sixth class of the Order of the Rising Sun for his efforts in fostering better relations between the United States and Japan and through community service and Japanese-American cultural exchange.

It is my sincere pleasure to bring the many accomplishments of this gentleman to the attention of my colleagues in the Congress. He has done a great deal for my congressional district and I think it only fitting to recognize his many achievements and outstanding contributions.

THE ELDERLY AS VICTIMS OF CRIME

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. MURPHY of Illinois. Mr. Speaker, crime against the elderly is a problem of growing concern to senior citizens, police officials, and legislators. The reason is not that older persons are victimized more than other age groups, or that crime against the elderly is dramatically increasing. Rather, as a recent House study noted, it is the recognition that older Americans are financially, physically, and emotionally the least able to cope with the effects of crime.

Perhaps the most devastating impact of crime against the elderly is the fear that it creates. A number of senior citizens are prisoners of their homes and apartments, afraid to venture out even for bare necessities.

Fortunately, some steps are being taken to protect the elderly. Police escort services are being provided in some high crime areas to protect senior citizens. Legislation has been introduced to compensate victims 62 years or older for personal injuries and property loss. A bill pending in Congress would make juvenile criminals more accountable for their offenses.

Mr. Speaker, I would like to draw my colleagues' attention to an article I have written on the subject of crime against the elderly. The article appeared in the Southtown Economist on July 20, 1977:

THE ELDERLY AS VICTIMS OF CRIME

(By Rep. MORGAN F. MURPHY)

After being brutally assaulted for the second time in two months, Hans and Emma Kable, both in their 70's arranged their best clothes on their bed. Then they sat down to write a note which read: "We don't want to live in fear anymore." Shortly afterwards, they committed suicide.

The fear which gripped this New York couple is of growing concern to senior citizens, police officials, and legislators. The reason is not that older persons are victimized more than other age groups, or that crime against the elderly is dramatically increasing. Rather, as a recent House study noted, it is the growing recognition that older Americans are "financially, physically, and emotionally the least able to cope with the loss or injury that results from a criminal act."

The study, prepared by a subcommittee of the Select Committee on Aging, cited a number of reasons why the elderly suffer more than others as crime victims. Among those noted:

About half of those 65 years or older are retired and live on fixed incomes at or below the poverty line. Because of this, elderly people are hurt more by a $20 theft than those with higher incomes and jobs.

Because they are not physically strong, older Americans have difficulty defending

themselves or escaping from danger. Young thugs plot what they call "crib jobs" against the elderly, so named because they're like taking candy from a baby. A typical "crib job": Last year, teenaged hoods in Brooklyn knocked down 103-year-old Hattie Erwin and robbed her of $2 worth of groceries.

The elderly are very susceptible to injury. Their bones break easily and take a long time to heal. Two years ago, a 72-year-old Chicago woman was assaulted and left lying in her bathtub with her arms tied behind her. She was found 2 days later by her neighbors. Both of her arms had to be amputated.

More than 60 percent of the elderly reside in big cities, and most of them live in the inner city, where crime rates are highest. Many are too poor to move, and others with family roots do not want to leave.

Whatever their reasons for staying, the urban elderly live near those most apt to prey on them—the unemployed and teenaged dropouts. Older Americans are particularly vulnerable on days when they receive their social security, pension and supplemental security income checks.

Due to age and social isolation, older Americans tend to be targets for con artists engaged in bunco, fraud, and confidence games.

Perhaps the most devastating impact of crime against the elderly is the fear that it creates. A 1974 Louis Harris poll revealed that the elderly consider fear of crime to be a "very serious" problem—ranking higher than poor health, not having enough money to live on, and loneliness.

A number of senior citizens are prisoners of their apartments and homes, afraid to venture out even for bare necessities. Police report finding elderly persons nearly starved to death because they are so fearful of leaving their homes. Time magazine reported that a frightened New York woman at times lived off candy bars. To survive, she would throw coins out of her window to children and ask them to go to the store for her.

What is being done to protect the elderly? In Chicago, the police department has launched a number of anticrime training programs for the elderly. Police aides are available to escort senior citizens on trips, meetings, picnics, or any occasion that might expose the elderly to danger. (For information, call Ira Harris, Chicago Police Department, 744–5490.)

A number of bills pending in Congress deal with crime against the elderly. I recently cosponsored a bill, which has since become law, to provide police escort services to elderly residents of high crime areas. Rep. Edward Roybal (D-Cal.) has introduced a bill to compensate crime victims 62 years or older for personal injuries and property loss. And Rep. Mario Biaggi (D-N.Y.) has sponsored legislation to make juvenile criminals more responsible for their offenses.

Currently, youths under 18 years are often detained only briefly, if at all, for their crimes. Laws are so weak that young hoodlums can rob, maim, rape, even murder—and be back on the streets within a few months.

Ultimately, the best protection for older Americans is community awareness of how to thwart crime. For an excellent pamphlet on fighting crime, write: National Retired Teachers Association/American Association of Retired Persons, Crime Prevention Program, 1909 K St., Washington, D.C. 20049. Ask for "Your Retirement Anti-Crime Guide."

REMARKS ON THE FARM BILL

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. FISHER. Mr. Speaker, last week the House approved its version of the Agriculture Act of 1977 (H.R. 7171), a bill which provides 4 years of authorized spending for commodity support programs and for food stamps. I voted against this bill. While I recognize the continuing need for the Government to provide adequate support for America's farmers, my overriding concern is that this bill will result in expenditures higher than necessary for an economically healthy agricultural sector. In addition, the new level of expenditures will contribute unduly to the continuing inflation and will exceed the amount provided for the agriculture function in the first budget resolution for fiscal year 1978.

The Budget Act of 1974 requires the Congress to set a floor for total revenues and a ceiling on total budget authority, expenditures, deficit, and debt level for the forthcoming fiscal year. These five items as they are established in the second budget resolution are binding on congressional action and subject to points of order if violated. Functional targets within the total, like agriculture, are not binding in either the first or second budget resolution so that no law would be violated per se by final passage of the farm bill in its present form. But my concern is that disregard of the functional targets will seriously undermine the viability of the still maturing budget process. The difference between the agriculture target in the first budget resolution and the amount that will be expended in fiscal year 1978 if this bill is signed into law is estimated to be close to $2 billion. Had this overrun been in the order of $100 million or so, my concerns would have been reduced and I might have voted in favor of the bill. While this $2 billion excess may not by itself lead to a violation of the budget ceiling for total expenditures, it certainly sets a precedent for future transgressions of other functional targets.

I continue to support the concepts that underlie the Federal Government's involvement in limited support of food commodity prices in specified circumstances. It is important that farmers are subsidized when prices fall drastically so that farm prices will be stabilized and so that this country's agricultural productive capacity will be maintained over time. But I am distressed at the levels of support envisioned in this bill. The amendment votes on this bill almost without exception were in favor of more costly options. Targets and loan figures for basic crops have been raised substantially. The amount of payments that recipients can receive will be increased. This will continue to apply to both farmers and nonfarm corporations. Loans can continue to be made in unlimited amounts. In general, the bill does little to help needy small farmers and is likely to accentuate the trend toward larger farms owned by corporations.

With respect to the food stamps provisions, I generally support the direction provided for in the bill. Eliminating the purchase requirement will help to insure that truly needy people are better able to participate in the program. This should result in improved administration and less paperwork. I also voted for the imposition of an overall spending ceiling because I believe that we must limit the potential growth of the program. I am concerned that when the Congress comes to consider broad reform of welfare programs next fall, careful attention be given to coordinating or merging the food stamp with other welfare programs so as to create a more comprehensive and understandable welfare system.

In summary, I voted against the farm bill because it represents a disregard of the financial discipline that we need to impose through the budget process. Farmers are rightful beneficiaries of government financial support, but the level of assistance provided in this bill is accomplished at too high a cost.

WE SHOULD STOP PRACTICING SELECTIVE OUTRAGE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. DICKINSON. Mr. Speaker, the issue of human rights is presently playing a prominent role in our national consciousness. We have expressed outrage at the violation of freedom of thought and speech in the Soviet Union. We have threatened to cut off aid to certain of our allies which are alledgedly guilty of incarcerating political prisoners. We have condemned many countries for depriving their citizens of individual liberty.

Yet we have said nothing about the millions in Southeast Asia who, like most of their fellow men in Communist countries, have been denied the basic human rights. From all reports, many of which are eyewitness reports, the countries of Vietnam, Cambodia, and Laos are those most deserving of the condemnation of decent men everywhere. Instead of expressing outrage at the "inhuman carnage" going on in these countries, however, the administration is "joining the rest of the world in buttering up Communist Vietnam in the United Nations."

Mr. Speaker, President Carter has gained much praise for his stance on human rights. But I think that he should broaden his attack on tyranny and stop practicing selective outrage by speaking out against the horrors that are taking place every day in Southeast Asia.

Mr. Speaker, I recommend to my colleagues the following article by Bob Wiedrich which recently appeared in the Chicago Tribune. Mr. Wiedrich expresses very well our need to stop practicing selective outrage:

SELECTIVE OUTRAGE ON RIGHTS IS WRONG

Jimmy Carter, the world's champion of human rights, ought to stop practicing selective outrage.

He ought to keep on hollering about the deprivation of individual liberty in the Soviet Union.

But he also should start bellowing about the inhuman carnage going on in Southeast Asia instead of joining the rest of the world in buttering up Communist Viet Nam in the United Nations.

For if ever there was a glaring inconsistency, it is the sight of the United States helping Hanoi join the community of civilized nations while 1,500 Vietnamese a month flee their homeland in search of freedom at any cost.

Sure, it is wonderful that the President has approved a State Department request to admit into the U.S. another 15,000 Indochinese refugees from Communist inhumanity in Viet Nam, Cambodia, and Laos.

But that simply is not enough. President Carter should do more.

He should broaden his attacks on tyranny to include a dark side of the world where people are willing to risk death because life under oppressive regimes has become an unacceptable alternative.

He should stand up and say, as forthrightly as he has to the Russians, that the denial of human rights in Southeast Asia is deserving of the condemnation of decent men everywhere.

And that Viet Nam should be refused a seat in the UN until it stops grinding human beings into the mud of its collectivized rice paddies.

Only then, will President Carter remove his vulnerability to charges that he is practicing selective outrage—the art of getting indignant at something one nation does while carefully ignoring the same offense by another.

In the first seven months of his administration, Jimmy Carter has gained a lot of laudatory mileage from his firm stance on the preservation of human rights—and rightly so. It is a posture worthy of the foremost leader of the free world.

But how much longer can the U.S. ignore the pitiful cries of Indochinese refugees estimated to number 80,000 who are crowded into squalid camps in Thailand? They are the wretched evidence that all traces of human dignity have been erased from Southeast Asia.

"Have we repudiated the Statue of Liberty?" asks Rep. Henry Hyde (R., Chicago).

Can any American comprehend how desperate a human being has become when he is willing to cast himself and his loved ones adrift in a makeshift boat in the Mekong Delta and head into the unknown in a frantic bid for freedom?

Every day, from across that tortured part of the world, the evidence increases that inhumanity has become a way of life for many millions living under the oppressive yoke of Asian Communism.

In bits and pieces, the tragic tales of entire populations being deprived of liberty and reduced to subhuman status leak into the world press:

Fifty Cambodian villagers slaughtered while attempting to cross into Thailand, and their decomposed bodies mounted on sticks to serve as a warning to others who would seek to escape that anguished land.

Thousands of Laotians imprisoned in reeducation camps because their social behavior and politics offend their Pathet Lao masters.

Thousands more Vietnamese crowded into small boats to escape across the South China Sea from a Communist rule that uses force and terror to impose its will.

How can the U.S. continue ducking these facts while solicitously ushering Hanoi into the UN?

"Viet Nam, Cambodia, and Laos have become tyrannical closed societies," declares Rep. Hyde. "The darkness of night has fallen on Southeast Asia."

Hyde recently visited Thailand and was appalled by the stories of American officials who had witnessed the aftermath of the horror endured by the Indochinese refugees.

"I think we should let the whole world know that as a civilized nation we will welcome people needing asylum," Hyde said. "There is a grim reality that cannot be denied."

Clearly, the Carter administration is guilty of a double standard in championing human rights.

While it courts Hanoi and Communist Cuba and condemns Soviet Russian, it ignores Southeast Asian oppression.

And that qualifies as selective outrage.

WELFARE REFORM MUST NOT BE FINANCED BY DEPRIVING THE POOR

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. OTTINGER. Mr. Speaker, reports on how the administration intends to finance its new welfare program are very alarming.

Several weeks ago, the press reported that roughly $4.9 billion would be taken from our Nation's subsidized housing program and transferred to the welfare account. One week later, we learned that funds for the welfare program would be captured in an equally misguided fashion—by imposing a special tax on those welfare recipients living in subsidized housing.

In response to these plans, I received telegrams from the mayors of the cities of New Rochelle and Mount Vernon, N.Y., pointing out the severe problems associated with the adoption of these methods for financing the welfare system. I believe their messages are correct, to the point, and worth bringing to the attention of my colleagues today.

I was relieved to learn late last week that the administration has not endorsed either of these proposals, although they have apparently been presented to him as "options." While I strongly support the complete overhaul of our current welfare system, including effective work requirements, provision of jobs and elimination of abuses, I cannot support any plan which further penalizes those people in genuine need of help. To tax or deprive the poor is a totally unacceptable means of financing welfare reform.

The text of the telegrams follows:

TELEGRAM

Congressman RICHARD OTTINGER,
Cannon House Office Building,
Washington, D.C.

We are vehemently opposed to dismantling of federally assisted housing in favor of increased cash subsidies to welfare recipients. Not all public housing tenants are welfare recipients. Many working low- and moderate-income families now receiving housing subsidies will resent being added to the welfare caseload. The increase in the welfare caseload for most social service departments will be unconscionable. Rent allowances are not a substitute for the new housing units so desperately needed. Neither do they contribute to the maintenance and preservation of standard quality housing unless stringently administered. Federally assisted housing programs are concerned with good property management, management tenant relations, neighborhood stability preservation of the housing stock, and equal housing opportunities. We urge continuation and expansion of present housing programs administered by HUD, the agency with the experience and expertise necessary to meet the challenge of addressing the Nation's housing needs.

VINCENT R. RIPPA,
Mayor, City of New Rochelle.

MAILGRAM

Congressman RICHARD OTTINGER,
Washington, D.C.

Regarding the proposal of the office of management and budget to halt federally assisted housing in order to increase cash subsidies to welfare recipients, we in the city of Mount Vernon feel this would be an extremely poor reallocation of funds. The need is critical in our city to provide for funds to rehabilitate present housing and engage in low density new construction. Dismantling the broad section eight program in favor of more cash for welfare housing would only increase our problems of inadequate housing. Our goal is not to provide any kind of housing that is affordable, but rather safe and decent housing which our citizens can afford. The OMB proposal would serve to defeat that greater goal and we urge that their proposal be dropped from consideration.

THOMAS B. SHARP,
Mayor, City of Mount Vernon.

LENGTHY PROCEEDINGS IN ILLEGAL DISCHARGE CASES: THE NEED FOR LABOR LAW REFORM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. WEISS. Mr. Speaker, justice delayed is justice denied. Yet, delay is often the case in National Labor Relations Board and related court proceedings. This frequently works against the best interests of employees and in favor of unscrupulous employers who refuse to obey the law.

Take a look at the case of the J.H. Rutter-Rex Manufacturing Co. in New Orleans, La. (72 LRRM 2881 & 396 U.S. 258): In that case legal proceedings took nearly 16 years, from 1954 to 1969. In January 1954, the employees chose the Amalgamated Clothing Workers as their bargaining representatives. Negotiations with the company began but broke down in April and the employees went on strike. The union filed unfair labor practice charges against the company for refusing to bargain in good faith. In February 1956, the NLRB found the company guilty and ordered reinstatement of all employees who applied and to "make such applicants whole for any loss of pay suffered by reason of the . . . refusal, if any, to reinstate them." (115 NLRB 388). Meanwhile the employees had terminated the strike and had asked for their jobs back. The company refused reinstatement to over 207 of the 622 employees.

The company appealed the Board order to the court of appeals, which upheld the Board on August 19, 1957. Meanwhile, the regional office of the NLRB had started the laborious task of determining a formula for establishing the amount of money owed to the discharged employees. The process took several years, prompting the company in 1962 to ask for a stay of the Board order. The request was denied by the court of appeals (305 F.2d 242).

It wasn't until 1966 that the Board's trial examiner ruled the company owed

$160,000 to a total of 182 employees and denied an award to another 35 employees. The back pay award was determined to be effective through 1961. The company again appealed to the court of appeals and ultimately, the case went to the Supreme Court. On December 15, 1969, the Supreme Court held for the workers and stated "in view of the economic hardship caused by many years of undeservedly substandard earnings" . . . lengthy delays "must render the back pay award a wholly inadequate and unsatisfactory remedy" for the employees.

The Supreme Court deplored the delay, particularly "if as seems clear, innocent employees had to live for some years on reduced incomes as a combined result of the delay and the company's illegal failure to reinstate them." Mrs. Gustavia Gale and Mrs. Louise Hearns were two of the employees who suffered. They testified before the Special Committee on Labor of the Committee on Education and Labor in 1967, while the case was still being adjudicated, 12 years after it began. (Committee hearings, August 1967.) The 1954 strike cost them their jobs with Rutter-Rex, and neither was able to find suitable employment for a long time.

Several proposed changes in the act would speed the process of justice in unfair labor practice cases and would have made a direct difference in this case. Section 10 of the Thompson-Williams labor reform bill would extend the injunctive provisions of section 10(1) to promptly enjoin certain unfair labor practices such as those of this case. The labor board would be compelled to seek an injunction upon issuance of a complaint that worker had been illegally fired during an organizing campaign.

Section 2 would allow the board in routine cases to summarily affirm decisions of administrative law judges, without unnecessary review of clearcut cases to further delay the process. Finally, section 8 allows for the payment of double backpay to employees illegally discharged during a union organizing campaign or prior to the signing of an initial contract. It also establishes a formula that eliminates the need for time-consuming backpay hearings.

Hopefully, these changes would discourage employers from resorting to unfair labor practices. Where necessary, however, it would accelerate the legal processes in order to minimize the hardships on wrongfully treated employees. Passage of the Thompson-Williams bill would go a long way in eliminating the shortcomings in the present law illustrated in the Rutter-Rex case.

REJECT START OF SOCIAL SECURITY BENEFITS AT AGE 68

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. KASTEN. Mr. Speaker, millions of Americans must have been startled last weekend to learn that Commerce Secretary Juanita Kreps is considering a proposal to withhold payment of full social security benefits until recipients reach age 68.

In effect, this is a proposal to cut benefits for Americans who have worked hard and contributed all their lives to social security. Americans would lose thousands of dollars in benefits—money that they contributed, and were told they would receive at age 65.

The Kreps proposal threatens the financial security of older Americans, and it would confront them with the same inflexibility they face under current mandatory retirement laws.

Congress and the administration must explore all possible ways to insure the financial integrity of the social security trust fund—but we must not accept solutions that will reduce benefits for senior citizens or restrict their flexibility during retirement years.

I would like to share with my colleagues a letter I sent today to Secretary Kreps urging that her proposal be rejected:

CONGRESS OF THE UNITED STATES,
Washington, D.C., August 2, 1977.

Hon. JUANITA M. KREPS,
Secretary of Commerce,
Washington, D.C.

DEAR MADAM SECRETARY: I am adamantly opposed to withholding payment of full social security benefits until recipients reach age 68—an idea you proposed in a recent interview.

While we must seek ways to insure the financial integrity of the Nation's faltering social security trust fund, we must not compromise the integrity of the Government's commitment to millions of Americans.

We must not forget the vital obligation that we have to Americans who have worked hard and contributed all their lives to the social security system.

That obligation is written in the law. It is a contract with the American people that promises a full return on their investment when they reach age 65. We must not breach that commitment. It must be fulfilled.

Even today there is concern among many Americans, young and old, that monthly social security benefits are not adequate compensation for what they have contributed. This concern would intensify if we were to, in effect, cut benefits by denying full payment until Americans reach age 68.

And they would have good reason for concern. A typical male worker who entered the workforce today at age 20 (and whose earnings were taxed at the maximum rate) would lose almost $16,000 in social security payments if he could not collect benefits until age 68. A typical woman would lose more than $16,000.

Adoption of your proposal would threaten the financial security of millions of senior citizens, and force many of them, sick or poor, to continue working past the traditional retirement age. Indeed, it would present senior citizens with the same "inflexibility" they face under current mandatory retirement laws.

While the administration must explore all means by which we can insure a stable and financial sound social security system, I urge you to reject this proposal.

Problems facing the social security trust fund are complex. But our solutions should not be found in reducing benefits for older Americans or in restricting their flexibility during retirement years.

Indeed, our solutions must strengthen our commitment to doing everything we can to respond to the needs of older Americans.

Sincerely,

ROBERT W. KASTEN, Jr.,
Member of Congress.

THE ASSOCIATION OF LEUKEMIA WITH RADIATION EXPOSURE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. CARTER. Mr. Speaker, for several years we have been paying millions of dollars to Micronesians who developed leukemia, bone cancer, cancer of the bladder and other forms of cancer as a result of radiation from the explosion of atomic devices in the Micronesian Atolls.

From the data we have at the present time, the incidence of leukemia from the radiation from explosions of atomic devices show that the occurrence of leukemia, bone cancer and other types of cancer is directly related and far greater than normally occurs. There is a tremendously increased likelihood of developing cancer from exposure to atomic radiation.

Dr. Thomas Cosgriff, a hematologist in Salt Lake City, working with the Veterans' Administration, stated that in his opinion Paul Cooper, who was present at the Smoky blast with Donald Coe, suffers leukemia as a result of radiation from the exposure. When the diagnosis of leukemia was made on Donald Coe, his physician stated he would possibly live 6 months. Mr. Speaker, the 6 months is about up. Mr. Coe will go tomorrow to VA Hospital for blood transfusions and possible treatment of the leukemia from which he is dying.

I enclose a letter from Stephen E. Wright, M.D., and Clyde Ford, M.D., of the oncology section of the Veterans' Administration in Salt Lake City, Utah, for the perusal of the Members:

VETERANS' ADMINISTRATION HOSPITAL,
Salt Lake City, Utah, June 30, 1976.

Re: Paul E. Cooper, C 28 535 857.

ROBERT H. LENHAM,
VA Regional Office,
Boise, Idaho.

DEAR MR. LENHAM: I am writing in regards to your letter and our telephone conversation. Mr. Cooper's history, as related to me, is as follows:

In 1958 as a member of the United States Army, Mr. Cooper and his unit were ordered to walk across an area of ground shortly after an atomic bomb blast. Mr. Cooper states that possible adverse consequences to him of this act were not discussed. During the first part of 1976 Mr. Cooper was found to have acute myeloblastic leukemia.

The Association of Acute Myeloblastic Leukemia with Radiation Exposure has been well documented in the literature. I have included a page from the well known textbook *Hematology*, edited by William J. Williams et al. which points out that the duration since Mr. Cooper's exposure is well within those limits observed for previous cases radiation induced leukemia.

It is evident on examination of this data that the fact that Mr. Cooper had a normal physical examination in 1965 has no bearing

whatsoever on the question. It could well be pointed out that should Mr. Cooper or his family desire they could likely extract considerable benefits from the government for exposing him to a radiation dosage which in all likelihood is the etiology of his present fatal condition. Mr. Cooper, however, has no desire to seek renumeration other than what is rightfully his. May we strongly recommend that he be considered for service connection for his leukemia.

Sincerely,

STEPHEN E. WRIGHT, M.D.,
Chief, Oncology Section.
CLYDE FORD, M.D.,
Hematology/Oncology Fellow.

Enclosures.

EXCERPT FROM "HEMATOLOGY"

Ionizing radiation is the best documented leukemogenic agent in man [24–26]. The classic investigation of the effect of high-intensity, whole-body irradiation is the long-term study of the survivors of the Hiroshima and Nagasaki atomic bombings [25]. The incidence of leukemia in these individuals was dose related being high in the survivors who were less than 1,500 m from the hypocenter of the explosion and virtually normal for those beyond 2,000 m. The first cases of leukemia were noted 2 years after irradiation. A peak was reached after 5 to 7 years, but 20 years later there was still an increased incidence.

FINALLY, WE HAVE A PRESIDENT AND A SECRETARY OF DEFENSE

HON. THOMAS J. DOWNEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. DOWNEY. Mr. Speaker, when I first began my service on the House Armed Services Committee 3 years ago, I was disturbed to find that the ship of national security was more or less adrift, with the captain spending his time in the cabin posing in front of his mirror, and the executive officer playing chess with one hand and steering toward the coral reefs with the other.

President Ford was entirely occupied with dealing with the politics of problems rather than their substance; it was all he could do to try to put up the appearance of being Presidential timber; the reality was out of the question. Attempts by me and my colleagues to engage him in serious discussion of national security issues met with total failure, and with exposure of absolutely appalling ignorance on the part of his top National Security Council staff.

The Secretary of Defense, Dr. James Schlesinger, was a man of broad intellect and considerable integrity. But he was mesmerized by enthralling but hollow theories of neat little "limited" strategic nuclear wars, in which the side with the greater countersilo capability would somehow have a diplomatically exploitable advantage. As a result of the programs implemented under this doctrine, the Nation's strategic nuclear security declined under his tenure.

Dr. Schlesinger was followed by Donald Rumsfeld, whom I can, without fear of contradiction, describe as no Secretary at all. He was nothing more or less than an errand boy for the various bureaucratic interests boiling around in the Pentagon. There is not, and never was, one single major defense policy, good or bad, which bears his stamp.

Now, if I may coin a phrase, we have a whole new ball game.

We have a President who cares about national defense, who understands it, and who is not afraid to ruffle feathers when necessary in pursuit of military security for the American people. We have a President who thinks, who wants to learn, who has no hesitation about digging into a lengthy position paper and actually reading it himself. I repeat: Incredible as it seems, and radical a departure from recent practice though it is, we have a President who reads.

In an equally startling departure from the recent past, we have a Secretary of Defense who both knows his facts and understands their significance. I confess that, when Harold Brown was nominated, I was less impressed by his ability to earn a Ph. D. at the age of 5—or whatever—than I was concerned by his record on Vietnam and the Ernest Fitzgerald case. Well, Mr. Fitzgerald is still being kept in a Pentagon closet, which is not a healthy thing for the national interest. But otherwise I must say Dr. Brown's performance has been mostly magnificent.

As evidence for this, I shall insert at the conclusion of my remarks his testimoney on the B–1 replacement supplemental request, which was given to the House Armed Services Committee this morning.

I am not inserting his testimony because I agree with every word of it; I do not. I believe he underestimates the danger to both sides of the increasing attractiveness of a nuclear strategic first strike, and I believe he overestimates the significance of the correlation of forces after a nuclear attack. In addition, I am somewhat bewildered by the suggestion that, while the FB–111H and the B–52X are inferior penetrators to the B–1 and we are rejecting the idea of a penetrating bomber, they may be resurrected in future years while the B–1 will not.

But I am not disturbed by these points of disagreement, major though they be. If two people were to agree on all points, the odds are only one of them would be thinking.

I regard Dr. Brown's statement as worthy of insertion in the RECORD not because of its specific points but because of the depth of thought it reveals. I invite my colleagues to read carefully his discussion of the interrelationships among the elements of the strategic triad, and of the need to avoid presenting the Soviet Union with reason to fear a U.S. first strike. Then read, if you will, the testimony received by the committee from the four Secretaries of Defense with which we were burdened during the previous administration. I believe you will find the difference in sophistication to be on the order of that between your average high school student and your average Nobel laureate:

STATEMENT OF SECRETARY OF DEFENSE HAROLD BROWN

President Carter's decision on June 30, 1977, to cancel production of the B–1 bomber and, instead, to develop and produce long range cruise missiles for the B–52 and perhaps for other air-launch vehicles requires an adjustment to the fiscal year 78 defense budget. The B–1 funds have been deleted from the fiscal year 78 budget and the President has submitted an amendment that provides for the additions associated with the B–52/cruise missile program. I would like to review for you the basis for the decision on the B–1 and cruise missiles, and describe the major items in the budget amendment.

STRATEGIC CAPABILITIES

Our primary measure of strategic capability is our ability to retaliate after a Soviet first strike on our forces. Our analyses show that, over a range of wartime events, our current forces could ride out such a massive Soviet first-strike and retaliate with devastating effect. We have this capability even excluding new systems (cruise missiles, B–1, M–X) and following a Soviet first strike, with projected Soviet active defenses. In terms of wartime capability, this situation is acceptable for the national security. However, there are other issues that we must consider: the need to hedge against the unexpected, and the impact of comparative capabilities with the Soviet Union on international perceptions (Soviet, third party, and our own).

HEDGING

We already rely heavily on our submarine-launched ballistic missile (SLBM) force. If we do not improve our bomber or ICBM forces, particularly as our ICBM silos become increasingly vulnerable to the growing number and accuracy of the Soviet ICBM force, that relative reliance will continue to grow, with SLBMs providing perhaps 5 out of every 6 penetrating weapons by 1986. We must, therefore, pay attention to the ways in which our SLBMs might be defeated. One possibility is an ASW breakthrough; another is a more effective ABM development followed by clandestine or rapid deployment.

The possibility that such unexpected evolutions could happen in a very short time, in terms of development and massive deployment, is small. However, we cannot exclude it absolutely, and the consequences would be so serious that we cannot ignore it.

In order to hedge against unexpected breakthroughs in defensive technology, we maintain three separate strategic forces: SLBMs, ICBMs, and air-breathing systems, which together make up the Triad. It seems clear that the best hedge against potential ASW threats lies in the air-breathing leg of the Triad. Additional emphasis on SLBMs is clearly no way to hedge against threats to the SLBM force. Additional ICBMs would do better, but if in fixed silos, would suffer the same increase in prelaunch vulnerability we already expect for Minuteman. Mobile ICBMs, such as the M–X, can hedge against an ASW development but not against a breakthrough (or breakout) in ABM capability—although the much bigger payload of the M–X would provide the capability of saturating most conceivable ABM defenses. Thus, either bombers or air-based cruise missiles would be the first hedge of choice against possible threats to our essential SLBM force, with mobile ICBMs a second.

COMPARATIVE CAPABILITY

The second issue concerns how our strategic capability compares with Soviet capability, and the effects of this comparison on perceptions. There is no generally accepted way to make this comparison. However, the two methods used most often are (1) comparing static indices and (2) comparing ca-

pabilities after a first strike by one side or the other.

Table 1 gives the primary static measures of the strategic balance with the figures for the U.S. given as a percentage of the Soviet figures and excluding cruise missiles, B–1, and M–X. The table shows that the U.S. has a wide lead in numbers of warheads now and is projected to stay ahead through 1986—although the margin will decrease significantly with the Soviet deployment of MIRVs. In terms of both megatons and throw weight, the Soviets are ahead now and are projected to stay ahead. For hard target kill potential, we have a significant lead now, but with the projected deployment of large numbers of accurate MIRVs, the Soviets will have a decided edge in 1986.

TABLE 1

Static Measures of Strategic Balance [1]

(U.S. as percent Soviet)

	1977	1986
Warheads	240	104
Megatons	35	26
Throw weight	75	48
Hard Target Kill Potential	160	28

[1] Excluding Cruise Missiles, B–1, M–X.

The second comparison concerns how our remaining strategic forces would compare with the Soviets' after a first strike on the U.S. At present, the balance is in our favor. But it will become less and less favorable as the Soviets' missile force becomes more accurate and carries more MIRVs resulting in a larger and larger part of their force being left over after attacking our Minuteman fields and bomber bases.

The balance, we estimate, will have evened by about 1979 for the case where we are caught by the Soviet attack in a state of day-to-day alert. On the other hand, if we could count on being in a state of generated alert at the time of the attack, it would be an additional 2 or 3 years before the balance evened. Another possible case would be a U.S. launch of its ICBMs during a Soviet attack—an approach we should consider only with the greatest caution. The results for this case indicate that U.S. surviving forces are increased considerably.

This projected Soviet growth would not be substantially affected by any SALT arrangement we have proposed, except for the comprehensive option. In that case, though, instead of the Soviets having a possible advantage over us after a Soviet first strike in the 1980s, we would remain essentially equal—if the proposed restrictions on ICBM testing hold the Soviet accuracy to about what it is today.

PERCEPTIONS

The advantage to the Soviets of a possible lead in the primary measures of comparative capability is ill-defined in terms of useful wartime capability. But it might have some political value during peacetime or in a crisis. The perception of the U.S.-Soviet strategic balance has been and will be shifting away from that of U.S. advantage and becoming more favorable to the Soviets. Such perceptions can have an important effect. We must be sure that perceptions are such that no doubt as to our capability or our will exists in the minds of the Soviet leaders, or in the minds of our allies, or even in our own minds should we be faced with a moment of deep crisis.

In the absence of constraints on Soviet capability for the mid-80's on the order of the U.S. comprehensive SALT proposal (assuming that would freeze Soviet ICBM accuracy), I believe we need to respond to the Soviet buildup with an increased second strike capability. The issue is what should we plan to add to our forces now and what options should we retain or develop for possible further additions later.

ALTERNATIVE RESPONSES FOR INCREASED FORCES

Our best response to the growing imbalance in comparative forces after a Soviet first strike lies in the air-breathing leg of the Triad. As to the alternative of increasing the SLBM leg of the Triad, there is no way, given submarine building lead times, to add significantly to the force by the early 80's. But even if possible, it would not be prudent to make that the only response. I noted earlier our heavy dependence on this force. As secure and invulnerable as we believe this system to be, we should not rest that much of our deterrent capability on any single system.

As to the alternative of increasing the ICBM leg of the Triad, the situation is more complex. One possibility, which I will be reviewing carefully in preparing the budget for fiscal year 1979, is the M–X mobile ICBM. Analysis to date indicates M–X would be comparable to the Trident in terms of cost and effectiveness. There are some drawbacks of M–X, inherent in its mobile deployment. These are finding a suitable area large enough to serve as a base, and the difficulty of verifying numbers of mobile missiles and, thus, the complexity they would add to our SALT negotiations. There is also the issue of its high accuracy and kill probability against Soviet fixed systems—an issue that Soviet ICBMs already pose for us as we face the early 1980s. But quite aside from all that, we could not introduce the M–X as a mobile missile before about 1985. It therefore, would be of no use in redressing the imbalance in comparative capability after a Soviet first strike in the early 1980's.

Another possibility would be to produce more Minuteman III's, to be retrofitted into Minuteman II silos. In terms of our present plans, such a course of action would quickly run into the 1320 (or lower) limit on MIRV launchers. This course could give us some increased capability in the near-term, but the advantage would be transient at best in the face of the growing number of accuracy of Soviet MIRVs.

Before I leave the subject of land-based ballistic missiles, I would like to turn to another matter of perceptions—how the Soviets might perceive the threat to them of a U.S. preemptive strike. They may calculate that a U.S. first strike would result in a ratio adverse to them, just as we calculate that a Soviet first strike would result in a ratio adverse to us. To the extent that this is so, either side will, during the next decade, have a so-called "advantage" in firing first. I do not consider this a tempting advantage, nor do I think this situation per se would lead to a preemption; the consequences of such an exchange, whichever side goes first, would be catastrophic for both sides because of the forces on each side that would survive preemption and strike back. But a so-called "advantage" in striking first is a trend in the wrong direction, and we should not aggravate it unnecessarily.

Our estimate of the surviving Soviet forces after a U.S. first strike indicates that excluding cruise missiles, B–1 and M–X, our residual forces would in that case exceed the Soviets' surviving forces for the next few years, but the difference would become insignificant by the mid-1980s. Adding the cruise missile makes no difference in this picture. However, if the U.S. deployed M–X, the Soviet surviving forces after a U.S. first strike would be reduced significantly in the late 1980's if they failed to alter their forces in the direction of putting a larger fraction into SLBMs or mobile ICBMs.

Thus, adding mobile M–X's, because of their short flight time and expected high accuracy, could make the Soviets' view for the late 1980's substantially more frightening than adding to the air-breathing leg of the Triad because the latter does not include first-strike weapons. This is one more reason arguing against adding first to our ICBM force, or for that matter our SLBM force, if we can do what we need to by adding to our air-breathing force.

We may want to deploy some sort of advanced land-based missile in the mid-80's to assure strategic equivalence over a broad range of strategies. But none of the land-based ballistic missile options mentioned above is preferable to an air-breathing alternative as a way of retaining our retaliatory capability at parity with the Soviets through the 1980's.

AIR-BREATHING OPTIONS

We have examined the widest range of air-breathing systems. We considered a modernized version of the FB–111—the FB–111H; a rebuilt and upgraded version of the B–52—the B–52X—to be used as a penetrating bomber; a new penetrating bomber that might be less expensive than the B–1; a standoff cruise missile carrier based on current wide-body transport designs, and carrying many more cruise missiles than would fit into the B–52; reworking the existing B–52D's G's, and H's to keep them in service beyond 25 years and equipping them with cruise missiles; and, of course, the B–1.

Most of these alternatives, for one reason or another, fell by the wayside in the course of our review.

First, the alternative of developing a new penetrating bomber that would be less expenive than the B–1 proved infeasible. The development time would be long and the prospects for a significantly less expensive design proved to be poor. Though elimination of the B–1's supersonic capability might save in production costs, it would not save more than the new development costs—and thus nothing significant in net costs.

Second, we eliminated the FB–111H. Our analysis showed no significant advantage in cost or effectiveness over the B–1. That being the case, coupled with the added uncertainties of—and time required for—development, there was little purpose in pursuing an option that at best would be roughly equal to what we already have in hand. However, now that we have canceled production of the B–1, it may turn out that beginning in a few years from now it will be less expensive to maintain some version of the FB–111 as an option for an advanced penetrator than the B–1.

Third, we eliminated the B–52X—the completely rebuilt B–52 with an expanded bomb bay and new engines, designed as a penetrating bomber. We estimate that it would be less expensive to procure, equally expensive to operate, and have less capability than the B–1 in terms of payload and penetration (the smaller radar cross-section of the B–1 would make its ECM more effective and reduce its attrition). In terms of relative costs and effectivenesses, the B–1 and the B–52X would be about equal, although because the total number of B–52 air frames is fixed, the B–1 would have a greater potential for total increase in capability. For the B–52X, the question arises about the survivability of such a large penetrating aircraft against the defenses of the late 1980's and beyond. Moreover, the development of the B–1 is now essentially complete, whereas the B–52X has not progressed beyond the stage of studies. However, now that the B–1 is limited to development, we will continue to study the B–52X as another possible option.

A fourth possibility is the standoff cruise missile-carrier based on existing wide-bodied transport designs, and carrying several dozens of cruise missiles. To do an equivalent job, the cost of this alternative is significantly lower than the B–1. However, the feature that results in such economies—carrying so many missiles on each aircraft, and thus requiring relatively few aircraft—also results in the possible disadvantage of "having too many eggs in one basket." The cruise missile carrier would be considerably more attractive if it were deployed along with a large number of smaller aircraft carrying cruise missiles. In this way the problem of too few carriers would be overcome, and the cruise missile carrier would provide the possibility above current levels. Therefore, while I do not believe that we should rely on the cruise missile-carrier alone for the air-breathing part of our retaliatory capability, the cruise missile carrier's potential is clearly great enough to justify the funds we are asking in the budget amendment for its continued development. That leads us to the last two alternatives: the B–1 and the B–52 equipped with cruise missiles.

THE B–1 VERSUS B–52 WITH CRUISE MISSILES

A central issue in the comparison between the B–1 and the B–52 with cruise missiles is the nature and effectiveness of the Soviet defense in the late 1980's and 1930's. We must consider the range of alternatives open to the Soviets between now and then. There are inevitable differences of opinion about the absolute and relative effectiveness of various kinds of prospective Soviet defenses 15, let alone 20, years from now. There is agreement that the B–1 and the B–52 with cruise missiles would elicit different Soviet reactions in the design of their air defenses.

The B–1 would have relied on three features to assure penetration:

To suppress fixed defenses in known positions: short-range attack missiles (SRAMS). (These, of course, would have been of no use against mobile defenses, which cannot be pretargeted.)

To defeat enemy radar: a radar cross-section small for a manned bomber, coupled with powerful ECM gear.

To minimize exposure to ground-based defenses: high speed and excellent handling at low altitude. (This would have been less effective against airborne defenses assuming the Soviets developed the equivalent of AWACS and fighters with an advanced look-down, shoot-down capability, and if they could have coped with the B–1's ECM.)

The B–52/cruise missile combination relies on these features:

To avoid exposure of the parent aircraft to enemy defenses: a reasonably long range for the cruise missile—a range of 2,500 km is needed for this concept to be practical—and the longer the better.

To defeat enemy radar: The cruise missile's extremely small radar cross-section—far smaller than the B–1's.

To minimize exposure to ground-based defenses: penetration at extremely low altitude. (The cruise missile would not penetrate quite as fast as the B–1 would have but would penetrate slightly lower. It would have to overcome the same sort of airborne defenses, should the Soviets be able to develop them. However, I believe that coping with the cruisemissile's tiny radar cross-section will be far more difficult for the Soviets than coping with the B–1s ECM—perhaps even by taking advantage of it—would have been.)

Given assumptions as to scenario, the task to be done, costing ground rules. etc. that I feel are the fairest and most realistic basis for comparison, coupled with assumptions regarding Soviet defenses that, if anything, favor the B–1 over the cruise missile, a B–1 force that would have had equal capability to B–52s with cruise missiles would have been about 40 percent more expensive.

That estimate, I might note, is based on the assumption that the B–1s ECM gear would have been at least moderately effective. While we have no reason to believe that it would not have been, that is an inherently uncertain and, indeed, unknowable issue. We will not know how well the B–1's critical ECM gear will work against the Soviet defenses we expect until we complete the ECM operational testing in the fall of 1979. Even then, we will still be uncertain as to what Soviet systems it would have had to defeat—and what improved versions of the B–1's ECM would have been like—in later years. Of course this uncertainty as to future Soviet systems also influences our estimates of the cruise missile's ability to defeat enemy defenses by virtue of its small radar cross-section. But I have more confidence in our estimate of the effect that the low detectability of the cruise missile will have on Soviet radars than in the effect that the B–1's radar countermeasures would have had.

I should also mention that the figure of 40 percent accounts only for defenses that depend on radar. While those are clearly our primary concern, both we and the Soviets have infrared homing missiles of increasing sophistication. The heat—and thus infrared radiation—generated by the B–1's four large engines would have made it relatively more vulnerable to IR missiles than the cruise missile powered by a single miniature jet engine will be. To the extent that this is so, the 40 percent figure may be low.

Thus, the B–52/cruise missile combination is the better choice on grounds of certainty of effectiveness. Moreover, the B–52/cruise missile combination will stop our current trend toward too much reliance on SLBMs, raising the number of penetrating weapons delivered by the air-breathing part of our Triad to perhaps one out of three. Our air-breathing force will be based on a new type of system at the beginning of its technological life with significant potential for further development. The B–52/cruise missile force will increase our surviving forces in the 1980's in the day-to-day alert case by about 40 percent and cruise missile carriers provide an option for even further increases. With cruise missile carriers and our forces on generated alert, our surviving forces would substantially exceed Soviet residual forces. Moreover, table 2 below demonstrates that the cruise missile provides the potential for significantly improving our position with regard to the static measures of the strategic balance. I am certain that the cruise missile will improve the world's perceptions of the potency of our forces, not only by maintaining the credibility of strategic force parity with the Soviet Union, but also by retaining a clear technological superiority. And finally, we are doing all this with a weapon that in no way threatens a first-strike capability.

TABLE 2

Static Measures of Strategic Balance

(United States as percent of Soviet)

	[1]	
1977		
Warheads	240	104
Megatons	35	26
SALT Throw Weight	75	48
Hard Target Kill Potential	160	28
	[2]	[3]
1986		
Warheads	126	187
Megatons	25	34
SALT Throw Weight	48	77
Hard Target Kill Potential	67	168

[1] No modernization—excludes cruise missile, B–1 and M–X.

[2] B–52/CM.

[3] B–52/CM plus Representative CM Carrier Force.

CONCLUSIONS

My recommendation to the President, and his decision, not to proceed with production of the B–1, were based on the conclusion that aircraft carrying modern cruise missiles will better assure the effectiveness of the bomber component of U.S. strategic forces in the 1980s. Each B–52 can launch many missiles, with great accuracy, at different targets in the Soviet Union, from a distance of many hundreds of miles. Each produces many small targets for Soviet air defenses to contend with. If additional warhead-carrying capacity is needed, that can come from new cruise missile carriers in addition to the B–52.

Moreover, the B–52/cruise missile program results in significant savings—roughly $10 billion in FY 78 dollars over the next 6 years, even in comparison with a reduced program of only 150 B–1s. The first cruise missiles can be ready for the B–52s by early 1980, and the force buildup will occur at roughly the same rate and over the same period as had been planned for the B–1 deployment. Some modernized B–52s will continue in the penetrating bomber role.

With regard to the implications for SALT of this decision, the cruise missile remains a subject for negotiation. Since we are orienting our strategic nuclear capability more in the direction of cruise missiles, we have to continue to assure that our position on cruise missiles in SALT does not interfere with incorporation of cruise missiles into the strategic bomber force.

FISCAL YEAR 78 BUDGET AMENDMENT

All funds for B–1 production, spares, and associated military construction ($1,438 million) and procurement funds for the SRAM–B missile for the B–1 ($35 million), have been deleted from the fiscal year 78 budget. The B–1 research and development program will be completed to provide us the option to add the B–1 to our forces if totally unexpected events should occur. The budget amendment adds $449 million to accelerate the cruise missile development and for new initiatives in the strategic bomber and early warning programs. Seventy percent, or $312 million, of the funds is for the acceleration of both the Tomahawk and the ALCM cruise missiles, development of B–52 launchers and pylons, and R. & D. on the cruise missile carrier that could have an IOC in fiscal year 1981. I believe it prudent to maintain both air-launched cruise missile programs at least through fiscal year 1978, and quite possibly beyond. The cruise missile program now has high national priority and we need to be certain of its success. However, we intend to develop only the long-range versions of the air-launched cruise missiles. The short-range versions, intended for the B–1, are no longer necessary and they do not provide enough standoff capability for either the B–52 or the cruise missile carrier.

In addition, $99 million is included for research on cruise missile carrier concepts and for improvements for the B–52, including advanced avionics, electronic warfare systems, electro-optical and infrared countermeasures, and an advanced air-to-air defense missile. The amendment also includes $15 million for advanced cruise missile development and $3 million to accelerate mapping for cruise missile guidance. Finally, $20 million is included for improvements in our warning and attack assessment systems.

In closing, I strongly urge that you support this program. It will continue our Triad

concept that guards against unexpected technological or strategic changes by making some pessimistic assumptions and including systems with inherently dissimilar vulnerabilities to destruction before launch and to Soviet defenses. It will assure that none perceive us as falling behind the Soviet Union. It builds on our comparative advantage in technology over the Soviet Union. It will usher in a new era in bomber technology, replacing some of the traditional manned penetrators with vastly greater numbers of unmanned penetrators, much harder to intercept and with great potential for technological growth. It will not threaten destabilization of the balance. And it will save billions of dollars. That is why I ask your support. I will now be glad to take any questions you may have.

THE THREAT IN CALIFORNIA TO FAMILY FARMING

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. PANETTA. Mr. Speaker, I would like to share with my colleagues recent testimony which I presented before the California Assembly Committee on Agriculture. It deals with a subject which I know is of deep concern to all of us.

Large nonfarm corporate investors will gradually take over our agricultural sector if considerably more attention is not paid to all proposals similar to that which is now being considered by the California Department of Corporations. With today's economic conditions, family farmers simply cannot compete financially with large nonfarm investors who have great reserves of capital at their disposal. Now is the time to examine the long-run implications of the trend toward corporate farming in America.

I urge my colleagues to join with me in considering a number of legislative proposals which are due to come before Congress in the future to correct the wide range of inequities faced by family farmers who are desperately trying to hold on to their land. It is important to the future of this country that the public be made aware of the plight of the family farmer, for with increased understanding by people living in cities as well as in rural communities will come new initiatives to halt the disappearance of our prime farmland and the family farmer.

Mr. Speaker, I take this opportunity to include my testimony in the RECORD:

TESTIMONY BEFORE CALIFORNIA LEGISLATURE ASSEMBLY COMMITTEE ON AGRICULTURE

Mr. Chairman and members of the committee: On Friday, March 11, in Washington, D.C. the Continental Illinois Bank of Chicago announced its withdrawal of an application for IRS approval of its farmland investment scheme called Ag Land Fund I. Continental Illinois Bank, and the investment firm of Merrill, Lynch, Pierce, Fenner, and Smith, wanted to create a $50 million fund for the purchase of working farms in several states. Facing a great public outcry, and after three days of Congressional hearings, the bank withdrew its application for approval of Ag Land Fund I.

I am a member of the House Agriculture Subcommittee on Family Farms which called the Ag Land Fund hearings. As I listened to an overwhelming wave of opposition from farm groups, labor, consumers, environmentalists, the General Accounting Office, and the Department of Agriculture, I could hardly have suspected that in little over a week after the withdrawal of the Ag Land Fund proposal, we would face a similar threat in California. Yet on March 19, the prospectus for Western Farmlands Ltd. was filed for approval with the Department of Corporations here in Sacramento.

During those days of testimony in Washington, I learned that "innovative agricultural investment" represented by ventures such as Ag Land I and Western Farmlands is but another name for a very serious challenge to our basic agricultural philosophy of protecting the family farmers. Continental Illinois Bank contended that times have changed and farmers should now accept the role of working someone else's land, rather than seeking to be owners of that land. From its prospectus it appears that Western Farmlands Ltd. would also have us believe that ownership of farmland by the farmer is an outdated concept and that instead the farmer should settled for the role of tenant farmer. I don't believe that the farmers of this nation or the consuming public will accept that notion.

The concept of private land ownership is firmly rooted in the history of this country. Thomas Jefferson viewed widespread ownership as inherently good for the owners as well as a safeguard against tyranny. In a letter to Madison, Jefferson wrote: "But it is not too soon to provide by every possible means that as few as possible shall be without a little portion of land. The small landowners are the most precious part of a state."

Jefferson's sentiments reflect a philosophy which remains a cornerstone of our society today. It is important that we closely examine new investment proposals, as well as the conditions which encourage them, in light of what they mean to current trends in land ownership—especially ownership of our prime agricultural land.

In recent years, family farmers have been subjected to a series of challenges to their very existence. The rising costs of production, escalating land prices, and adverse weather conditions have forced thousands of small farmers out of agricultural production and thousands of others to give up their right to own the land they work day by day.

Large non-farm corporate investors are gradually taking over, radically altering the structure of our agricultural sector. Family farmers simply cannot compete financially with large non-farm investors who have great reserves of capital at their disposal. Thus, farms have become fewer in number, larger in size, more specialized in the commodities they produce, and more energy intensive. It is my belief that these trends have dire implications for the future of agriculture in America.

Mr. Chairman, schemes like Western Farmlands can only hasten these trends. Although Western Farmlands Ltd. claims that it seeks to "assist farmers to realize the new equity of their farmlands," the real impact of this proposal will be to take advantage of farmers' desperate need for credit. The huge amounts of capital that such schemes have at their disposal will have the effect of eliminating, rather than assisting family farmers in our agricultural sector.

The dumping of $50 million into the purchase of land in this state can only force up land prices and consequently place our young farmers at an even more serious disadvantage.

The important issues raised by this type of proposal are who owns the land and for what purposes. These issues are of particular concern today due to new considerations of food production capacity, changing weather conditions, foreign ownership, and the diminishing supply of prime agricultural land throughout the country.

In the case of Western Farmlands Ltd. several questions come to mind. For example, the prospectus does not indicate who will be purchasing the land where and in what amounts. This information is of major importance if we are to determine with precision what the impact of this type of proposal will be on our family farmers, rural communities, and the economy as a whole. It is also important to know the specifics of the proposed lease agreements. Will there be provisions for farmers to eventually buy the land they are farming? Is there any guarantee that the land will even be leased back to the original owners? What are the guarantees that land purchased with Western Farmlands funds will remain in agricultural production and not end up in a new development of tract homes?

Furthermore, the involvement of one portion of the partnership in the Netherlands Antilles raises a whole series of questions surrounding the issue of foreign ownership and who these foreign investors might be. Foreign ownership of our farmlands has always met stiff resistance from our farm communities. When the benefits of working U.S. farmers are sent to foreign owners who have found a tax loophole to keep more of their earnings, it is time for a more serious look at just how broad a pattern of foreign ownership of our lands we should permit.

Western Farmlands Ltd. will be "limited" only to the extent that the public and elected officials expose the full implications of this type of proposal. For this purpose, investigations such as the one being conducted by the Assembly today should be expanded. The California Department of Corporations and the Department of Food and Agriculture should also conduct complete inquires into all aspects of the issues raised by this plan. In addition, the State Legislature and the U.S. Congress must seek new legislative solutions to rectify the current situation, for it is the responsibility of elected officials to make sure that policy decisions reflect the real needs of every sector of our society. Already nine states have laws on their books restricting non-farm corporate involvement in agriculture. It is time to take a close look at these statutes as possible guidelines for future action.

In his review of the Ag Land Fund proposal Dr. Dawson Ahalt, staff economist for the U.S. Department of Agriculture, raised the fundamental point of my opposition to the Western Farmlands idea, Dr. Ahalt concluded:

"The proposed fund raises major philosophical questions concerning the goals of the American people with respect to the structure of the farming sector. Should large . . . organizations become assets holders and landlords? Or, should we continue to pursue the goals of individual ownership and control that have been fostered since the beginning of this nation? Are there any social and economic goals that would be better served by such arrangements?

"Such questions cannot be addressed on purely economic grounds, but must be viewed from a perspective that considers longer run implications for the welfare of our system"

It is the longer run implications that I am concerned about today and it is these implications which we must begin to address during our deliberations regarding all future agricultural legislation.

I am currently working on the development of a complete package of legislation which I hope will alleviate several of the

inequities faced by family farmers by offering a wide variety of incentives for them to stay in the agricultural sector, as well as limiting non-farm corporate investment in agriculture and closing tax loopholes. I am pleased to annuonce that the Subcommittee on Family Farms and Rural Development will be holding two days of hearings here in California in October to further examine the changing trends of agricultural land ownership.

I look forward to your participation in those hearings for only with cooperation between the state and federal levels of government can we come to an equitable and effective legislative program for the protection of family farmers, rural communities and the principle of individual land ownership in this country.

LANCE'S FINANCIAL WOES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. DRINAN. Mr. Speaker, the August 6 and 13 edition of the New Republic carried a very interesting and penetrating account of Bert Lance's mounting financial woes. The New Republic points out that whether or not Mr. Lance committed any illegal acts, we must wonder whether he has shown sufficient sensitivity in his own transactions to warrant the public's trust in his management of the Federal budget. In addition, the article raises important questions about the deposit of $18 million of Teamsters' pension funds in Mr. Lance's bank.

I would like to share the New Republic article with my colleagues, and ask them to carefully consider, in light of all the available evidence, Mr. Lance's fitness for the high position he holds.

The article follows:

SEND LANCE BACK TO BANKING

Bert Lance has done nothing illegal. That's what we're told, and we've seen nothing to contradict it. Some may be satisfied to learn that the man Jimmy Carter chose to head the Office of Management and Budget is not a lawbreaker. But that's not the kind of assurance we'd have expected to hear from the Carter administration, and it's not the kind we should accept. It doesn't go down well after all those lectures during the campaign on the wickedness of Washington. No, Bert Lance as we know him today does not fit the Carter image. He comes from another tradition, the LBJ school of southern cronies, shabby but not indictable.

Senator Abraham Ribicoff, Democrat of Connecticut, who chaired a congenial three-hour hearing on Lance's finances last week, spoke for all his colleagues when he charged the press with having smeared Lance's reputation "from one end of the country to the other." The senators sitting around the dais were in solemn agreement: the press is altogether too cruel to public officials. Everyone on the committee understood how easy it is to commit little indiscretions. Percy, Heinz, Stevens—all the Republicans were in sympathy. They asked a few bland questions, Percy often giving the cues for the answer. At one point he suggested that $18 million worth of Teamsters' pension funds (deposited in Lance's bank) "might sound like a lot of money" but really, given that it was put into a trust account, it really wasn't very much, was it Mr. Lance? Lance agreed; $18 million is hardly worth mentioning. The senators listened while the chairman read aloud a message sent by Lance's trustee in Georgia, Tom Mitchell, stating that he was in final and "definitive" negotiations to unload Lance's stock in the National Bank of Georgia. The senators praised Lance for his candor and sent him back home. That was the end of it, they said. We don't agree.

Lance has not been smeared; he has simply undergone the close scrutiny that every Carter administration official has had to suffer through. Only Lance has not come out clean. The information dug up by *New York Times* columnist William Safire and by reporters for the *Washington Post* was just the kind the Senate and everyone else ought to have before permitting a new official to take over a powerful job in the White House. Safire, it's true, described the facts in his most slashing style, but the facts are damaging in their own right. They show Lance to have been a hustler of a familiar kind, not in the big leagues, but big enough to get himself in serious trouble. Lance doesn't seem to have the knack of making tidy transitions. He hasn't been able to keep his reputation a pace ahead of his mistakes. As a result the bailiff stands outside the door. He is one of those businessmen of whom it can be said truly that they can't afford to work for the government. The shift from private to public life has stopped his economic momentum, and with the loss of momentum his career is in danger of coming unravelled.

The charges against Lance are two. First, he is accused of having furthered his personal career by making and accepting questionable loans, to the detriment of the National Bank of Georgia and its stockholders. Second, he is charged with having used his political connection with Jimmy Carter to lure business to the bank. The former business mistakes combined with the latter political blunders may balance each other out and leave Lance's bank no better or worse off for his shenanigans. But for Lance's reputation—both financial and political—the revelations are a net loss. Lance seems to have gotten ahead in banking because of his political assets, and he seems to have gotten ahead in politics because of his bank assets. But he excelled at neither. It was the synergy that propelled him, and the necessary severing of the link between business and politics that comes with his new job may undo him.

The evidence for Lance's business failings lies in the fact that his successor as president of the bank has had to write off $2.8 million in "soured" loans since Lance moved to Washington. The market price of the bank's stock has dropped from around $16 a share last year to around nine dollars a share today. In the hearing last week, Senator Percy tried to help the witness by suggesting that it is common for banks to write off a batch of old loans when a chief executive leaves—a form of housecleaning, he said. Lance agreed. But a loss of $2.8 million is not easily swept aside. It represents bad judgment in a measurable form.

The drop in the value of bank stock also hurt Lance personally because most of his prosperity has been built on credit—loans from major banks in New York (and now Chicago), secured with stock in his own bank as collateral. Since his assets are about equal to his debts, the drop in the value of his bank stock has put him in a bind. He didn't want to sell it as a loss (amounting to $1.6 million). He cannot secure his debt without holding onto his stock. Jimmy Carter's rules require him to sell his stock. And yet, selling his stock at a loss would drive him deeper into debt while burning up his collateral. Apparently an angel came along to buy the stock last week at about equal to what he paid for it and 75 percent above the market price. This timely rescue may solve most of Lance's finanical problems. The sale has not been completed yet.

The most intriguing aspect of this tangle is what it reveals about Lance's method of empire building, a method that seems shabby but is—we're told by the experts—common practice. Lance's big leap forward came in 1975 when he bought a controlling interest in the National Bank of Georgia. He accomplished this by taking out a personal loan of $2.7 million from the Manufacturers Hanover Trust of New York, making a "gentleman's agreement" with them at that time that he would pay back the loan immediately if he should leave the bank. In effect, Manufacturers Hanover decided to bet on him personally, like a good horse, provided that he remained in Atlanta, at the head of his bank, where he presumably had easy access to local money flows. When he left to join the Carter administration this year, he kept his commitment to the New York bank, paying off the loan with money borrowed from another bank, the First National of Chicago. This is where his problem gets sticky. Although no one can prove that Lance intended it as a quid pro quo, he did order his Georgia bank to open a non-interest-bearing account, using company funds, in the Chicago bank before it granted him a personal loan.

That account has fluctuated, growing from $50,000 before the loan was approved to a high of $350,000 last April and dropping down to $200,000 today. Lance claims it is a routine and proper business arrangement, a mere formality executed to make the Chicago bank a correspondent with his own bank in Georgia. He said he did it to bring Chicago's expertise to Atlanta. However, before the account was opened and before Lance asked for his loan, Lance's bank already had access to similar expertise at the Continental Illinois National Bank and Trust Company. There was a non-interest-bearing account in this bank already. In the hearing, Lance was not called upon to explain why his bank needed a second correspondent bank in Chicago or why he had failed to ask the first correspondent bank for a personal loan. The facts suggest that he opened the second interest-free account expressly for the purpose of getting a personal loan—a violation of federal banking regulations. But no one has proved it, and the Senate is not interested. The Comptroller of the Currency is making an investigation. But of course that investigation will deal with the question of illegality in the narrowest and strictly provable sense. A judgment of serious impropriety need not await the Comptroller's decision.

So much for business mistakes. The political blunder looks more serious. In 1976, even in the period after Jimmy Carter had been elected President, Bert Lance was negotiating with the Teamsters union to place a large chunk of Teamsters pension funds in the trust department of his bank in Georgia. The account was opened in February 1976 with an $18 million deposit and since has grown to $23 million. When it opened, the Teamsters account was many times larger than any other that ever had come the way of Lance's bank. There's nothing corrupt in the transaction; it's just unseemly.

An official at one of the biggest New York banks knowledgeable about the workings of trust departments, said last week that it was unusual for a bank not in one of the major money centers to win an account as large as $23 million. He added that bank executives compete fiercely to win this sort of business; he couldn't imagine what a relatively obscure bank in Georgia could offer to do that a bank in New York, Chicago or San Francisco couldn't do better. In the hearing last week Lance said that the Teamsters account was

the kind that barely pays for itself. "It's really a service," he explained, a not very profitable frill that's meant to attract customers. When a senator asked how and why he had solicited the Teamsters money, Lance explained that the general counsel of the bank and one of the trustees of the pension fund did a lot of business together.

In 1975 and 1976 "those folk were trying to get their business straightened out," and Lance wanted to give 'em a hand. That was all he said. Bert Lance happened to be in charge of one of the six lucky banks that got a share of these pension funds while the Teamsters were trying to clean up their business. That was before the government intervened. Now, because the Labor Department has stepped in to exercise stricter control over the funds, there is some doubt as to whether the Teamsters will be able to keep their account in Lance's bank and several others like it. Labor recognized the Equitable Life Assurance Society this year as the general manager of the Teamsters central states fund, and Equitable does not approve of the National Bank of Georgia as a fiduciary.

We know little of the Lance-Teamsters connection and any attempts to inquire into it in public hearings would do the Carter administration irrevocable damage. Perhaps there is nothing to be learned, but we are certain that if Lance were working for a Ford or Nixon administration, there would be an investigation. Who will conduct the inquiry this time?

This second instance of bad judgment closes the case. At the minimum Lance demonstrated a remarkable lack of foresight. The short-term gain he and his bank may have derived from the Chicago loan and the Teamsters fund cannot possibly offset the damage done to the administration. This is something Lance ought to have known. Nineteen seventy-five was the year Jimmy Hoffa apparently was eliminated by a professional killer; it was also the year Lance began negotiating for the Teamsters' account, knowingly his obscure bank had nothing to offer them except his increasing political prominence. No one with any political sense would have met with the Teamsters then. Yet Lance was still doing business with them last November, after the election. A man with that sort of insensitivity should not be asked to manage the nation's budget. Bert Lance should return to private business.

PRESIDENT CARTER ENDORSES APPROACH OF H.R. 432 IN DECRIMINALIZING MARIHUANA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. KOCH. Mr. Speaker, today President Carter transmitted to Congress his message on drug abuse. It contained an important section on the problem of marihuana. The President urged that the recommendations of the National Commission on Marihuana and Drug Abuse be implemented. He specifically endorsed the concept of removing criminal penalties while retaining a civil fine approach. In this way, marihuana use would not be encouraged but marihuana smokers, who number in excess of 45 million, would not be criminally penalized and have their lives ruined. This legislative remedy is similar to the statutes enacted in nine States, including my own State of New York. It is also similar to the approach taken in H.R. 432, legislation which I introduced at the beginning of this Congress. I am pleased that the President has supported H.R. 432 in principle today. The portion of his drug abuse message concerning marihuana follows:

PRESIDENT'S MESSAGE TO THE CONGRESS ON DRUG ABUSE POLICY—AUGUST 2, 1977

MARIHUANA

Marihuana continues to be an emotional and controversial issue. After four decades, efforts to discourage its use with stringent laws have still not been successful. More than 45 million Americans have tried marihuana and an estimated 11 million are regular users.

Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marihuana in private for personal use. We can, and should, continue to discourage the use of marihuana, but this can be done without defining the smoker as a criminal. States which have already removed criminal penalties for marihuana use, like Oregon and California, have not noted any significant increase in marihuana smoking. The National Commission on Marihuana and Drug Abuse concluded five years ago that marihuana use should be decriminalized, and I believe it is time to implement those basic recommendations.

Therefore, I support legislation amending Federal law to eliminate all Federal criminal penalties for the possession of up to one ounce of marihuana. This decriminalization is not legalization. It means only that the Federal penalty for possession would be reduced and a person would receive a fine rather than a criminal penalty. Federal penalties for trafficking would remain in force and the states would remain free to adopt whatever laws they wish concerning the marihuana smoker.

I am especially concerned about the increasing levels of marihuana use, which may be particularly destructive to our youth. While there is certain evidence to date showing that the medical damage from marihuana use may be limited, we should be concerned that chronic intoxication with marihuana or any other drug may deplete productivity, causing people to lose interest in their social environment, their future, and other more constructive ways of filling their free time. In addition, driving while under the influence of marihuana can be very hazardous. I am, therefore, directing the Department of Transportation to expedite its study of the effects of marihuana use on the coordination and reflexes needed for safe driving.

TESTIMONY OF CONGRESSMAN DAVID L. CORNWELL

HON. DAVID L. CORNWELL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1977

Mr. CORNWELL. Mr. Speaker, I would like to submit the following testimony I made to the Social Security Subcommittee of the Ways and Means Committee on July 27, 1977, for inclusion into the RECORD:

TESTIMONY OF CONGRESSMAN DAVID L. CORNWELL

Mr. Chairman, I want to thank you and the Members of the Committee for the opportunity to testify before you today. The bill I offer, co-signed by 60 of our colleagues, is a simple one. It says that if the regular delivery date for a social security check falls on a Saturday, Sunday or Legal Holiday, then the check will be delivered instead on the first regularly scheduled business date before. In 1976, an agreement was reached with the Department of Treasury and the Postal Service to date and deliver benefit checks on an earlier bank work day when the third of the month, the regular delivery day, falls on a Saturday or Sunday. With no need for additional appropriations, my bill makes two minor, yet important changes in that ruling. First, it would expand the policy to include the situation wherein the delivery date occurred on a legal public holiday that was not a weekend. Second, it would allow the checks to be delivered prior to the first of the month in the rare instance when the third of the month came on a Monday legal holiday. In making the 1976 decision, the Social Security Administration did not include these two provisions, claiming that statutory law did not allow this prior month delivery. The bill I offer would eliminate the statutory restriction and clear the way for the implementation of this policy.

The need for the 1976 ruling was evidenced by the perennial complaints that Congress received when the delivery date of the third fell on a Saturday, Sunday or Holiday. In the Saturday case, the check was delivered; however, because most banks were closed, the check could not be cashed until Monday, the 5th. In case where that Monday was a holiday as well, the check could not be cashed until Tuesday, the 6th.

If the Third fell on a Sunday or Monday holiday, again the situation occurred where the check could be neither delivered nor cashed until the next business day.

I need not elaborate upon the hardships that this presents to a family or individual who counts on timely delivery of the check to pay for monthly rent, utilities, food and medical bills. Over thirty-two million Americans receive monthly social security benefits, and in many instances, the social security check is the main, if not only, source of income. These recipients often budget their money tightly, sometimes down to the last dollar. A two or three day hiatus, without any available cash, the result of a Saturday delivery, places an unnecessary hardship on those who dutifully paid in for years and are legally entitled to the benefits. Had that 1976 ruling not taken place, a two day delay would have occurred this year at the beginning of September and December. A one day delay would have occurred in April and July. The proposal of my bill to include the Monday legal holiday situation, will eliminate the one last loophole in this ruling. The first time that it would be applicable would be in September of 1979, when the third falls on a Monday, Labor Day. The check would then, according to my proposal, be delivered on August 31st. The only necessary adjustments for this prior-month delivery would be to require that the Treasury put a notice on either the envelope or the check alerting the recipients to the fact that the check is for August benefits usually received in September. The printing cost here is negligible, especially in comparison to the cost of inconvenience that would otherwise be borne by the recipient of the check.

It has been asked of me whether this prior month delivery could distort the budget in a hypothetical situation where there could be thirteen payments in one year and

eleven in the next. This could only happen if the October delivery date fell on a Monday public holiday and our current calendar has no public holidays on October 3rd.

I introduce this legislation with the belief that wherever possible the law ought to reflect our concern for those who receive, need, and have earned federal benefits by virtue of their long work and service to the nation. The 1976 administrative ruling is just that; a ruling that can be easily rewritten and erased. A law cannot be. If we are indeed serious about making this ruling permanent, we, the elected representatives of the people, should give this regulation the full force of law. In cases like this, I strongly feel that we should not leave it up to the unelected bureaucrats to change regulations as they see fit. It is Congress that is accountable to the people, and therefore we should take the lead in setting the policies that so profoundly affect the lives of millions of people in this country.

Lastly, let me state that as you well know we are not dealing here with government gifts; these entitlements are earned benefits which ought to be promptly delivered to those who labored to earn them so they can be used for the necessities of life. Without an additional appropriation of funds, we can expedite this, our responsibility.

I urge you to consider this modest, yet important proposal.

Thank you very much.

SENATE—*Wednesday, August 3, 1977*

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who art our refuge and strength, we commit our Nation and ourselves to Thee. Thou hast written Thy law in our hearts and we ask for grace to live by it. Light up our daily work by Thy presence, so that even while we work we may be aware of Thee, monitoring our actions, guiding our decisions. Midst all the busy shuttle of legislation, shaped here into the fabric of law for the Republic, save us from being so enmeshed in the immediate mechanics of our day as to lose the vision of the ultimate kingdom whose builder and maker Thou art. "O Thou who changest not" abide with us now and forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 3, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, August 2, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the moment, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will report the nominations.

Mr. BAKER. Mr. President, will the clerk withhold for just a moment? Reserving the right to object—and I will not object—I will advise the majority leader that there is no objection to proceeding to executive session and that all of the nominations appearing on pages 2 and 3 of the Executive Calendar for today have been cleared for consideration and confirmation on this side.

DISTRICT OF COLUMBIA COURT OF APPEALS

The second assistant legislative clerk read the nomination of John Maxwell Ferren, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nominations of Benjamin H. Read, of the District of Columbia, to be Deputy Under Secretary of State; Rodney O'Gliasain Kennedy-Minott, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden; Andrew Ivy Killgore, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar; and William Bowdoin Jones, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the nominations were confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMBASSADOR

The second assistant legislative clerk read the nomination of Peter R. Rosenblatt, of New York, for the rank of ambassador during the tenure of his service as personal representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NUCLEAR REGULATORY COMMISSION

The second assistant legislative clerk read the nomination of Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Peter Amory Bradford, of Maine, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1982.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL MEDIATION BOARD

The second assistant legislative clerk read the nomination of Robert Oberndoerfer Harris, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1980.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Patricia Albjerg Graham, of Massachusetts, to be Director of the National Institute of Education.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read various nominations placed on the Secretary's desk in the Diplomatic and Foreign Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that these nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, they are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the votes by which the various nominations were confirmed today, and also the nomination which was confirmed on yesterday on which a motion to reconsider was intentionally not entered yesterday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I so move.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of all the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

COMMITTEE MEETINGS

LABOR SUBCOMMITTEE OF THE COMMITTEE ON HUMAN RESOURCES

Mr. ROBERT. C. BYRD. Mr. President, I ask unanimous consent that the Labor Subcommittee of the Committee on Human Resources be permitted to meet during the session of the Senate today to consider minimum wage legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services may be authorized to meet during the session of the Senate today on legislation dealing with unionization in the military.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr BAKER. Mr. President, I yield such time from my time under the standing order as the majority leader may require.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I understand the distinguished Senator from Alabama (Mr. SPARKMAN) has a matter which he wishes to take up before we go into executive session to deal with the treaty.

I yield to the Senator from Alabama such time as he may require.

Mr. SPARKMAN. Mr President, I thank the majority leader.

PEACE CORPS ACT

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1235.

The ACTING PRESIDENT pro tempore (Mr. LEAHY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1235) to further amend the Peace Corps Act, as follows:

Strike out all after the enacting clause, and insert: That (a) section 3(b) of the Peace Corps Act is amended by inserting "and for the fiscal year 1978 not to exceed $81,000,000" immediately after "$81,000,000,".

(b) Section 3(c) of such Act is amended—

(1) by striking out "and fiscal year 1977" and inserting in lieu thereof "for fiscal year 1977, and for fiscal year 1978 by subsection (b)"; and

(2) by striking out "for fiscal year 1977" and inserting in lieu thereof "for fiscal years 1977 and 1978".

Amend the title so as to read: "An Act to authorize appropriations for the Peace Corps for fiscal year 1978."

Mr. SPARKMAN. Mr. President, like many other Federal programs under this new administration, the Peace Corps is undergoing an intensive period of reevaluation and revitalization. However, during the recent authorization process it has been somewhat unclear as to how much the Peace Corps would need to carry out its programs.

Originally, the Office of Management and Budget—OMB—approved a $74.8 million budget for the Peace Corps. This sum would have financed the support and activities of an estimated 6,370 volunteers and trainees in 63 nations.

On the day of the full committee markup of the Peace Corps authorization bill, S. 1235—May 12, 1977—the Committee on Foreign Relations was notified informally that OMB and the President had approved a revised Peace Corps budget of $84.8 million for fiscal year 1978. The committee granted the administration its revised request and provided a $1 million authorization to finance increases in salary, retirement, or other employee benefits for fiscal year 1978.

On June 1, 1977, the House passed its version of the Peace Corps authorization bill. This legislation authorized $81 million for the Peace Corps in fiscal year 1978 plus such sums as may be necessary for salary, pay, retirement, or other employee benefits.

Since the passage of the House bill, a compromise has been reached which will eliminate the necessity for a conference between the House and Senate and will provide the Peace Corps with sufficient authority to effectively carry out its programs for fiscal year 1978.

UP AMENDMENT NO. 708

I, therefore, move that the Senate concur in the House amendment to the text of the bill (S. 1235), to further amend the Peace Corps Act, with an amendment, which I send to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 708.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That so much of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) as precedes the first proviso is amended to read as follows: "There are authorized to be appropriated for the Fiscal Year 1978 not to exceed $82,900,000 to carry out the purposes of this Act."

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

"(c) In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for the Fiscal Year 1978, $1,000,000 for increases in salary, pay, retirement, or other employee benefits authorized by law.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1977.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate agree to the House

amendment to the title of the bill (S. 1235).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the House amendment to the title of the bill.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield back to the distinguished minority leader the remaining time and again thank him.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the majority leader.

THE NORTH ATLANTIC ALLIANCE

Mr. BAKER. Mr. President, in this morning's Washington Post is a column by columnists Rowland Evans and Robert Novak entitled "Conceding Defeat in Europe."

Mr. President, the North Atlantic Alliance has been a cornerstone of our national security and of the security of the free world for almost three decades. We know that the NATO alliance will be as effective and as cohesive as our will and our determination, as well as that of our allies, to maintain it. The fact that the American people recognize NATO's importance and overwhelmingly support NATO gives me great hope that our security can be properly maintained.

The Evans and Novak column of August 3 quotes National Security Advisor Zbigniew Brzezinski:

> It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a "stalemate" strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression.
>
> We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy.

This quote purportedly comes from a meeting with Vice President MONDALE, CIA Director Stansfield Turner, Chief Disarmanent Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan, and Joint Chiefs of Staff Chairman Gen. George Brown and expresses the consensus of that group. If Zbigniew Brzezinski has been accurately quoted, then he has expressed views for himself and his colleagues at a Security Coordinating Committee meeting which if they ever become U.S. NATO policy, would have a devastating effect on the alliance.

The quotes attributed to Brzezinski convey a completely erroneous view of domestic suppert for deterrence through NATO. I might add that to the extent that the National Security Adviser judges current commitments to be inadequate, he should convey his opinion to the President, who in turn should inform the Congress and the American people. We, as a nation, are committed with our allies to do what is necessary to deter aggression.

The quote attributed to Brzezinski states a completely unacceptable view of what an adequate deterrent represents. An adequate deterrent is not under any circumstances "falling back until we achieve a stalemate," and then relying on intangible, and I might add possibly illusionary, support such as the U.N. or world opinion.

The Evans and Novak column greatly disturbs me. The quotes attributed to Brzezinski fly in the face of previous administration assertions of support for NATO, and as such they must raise serious concerns in the minds of our allies.

I echo the administration's earlier statements when I state my view that the only acceptable NATO strategy is one that can be fully conveyed, understood, and accepted by our allies. The quotes attributed to Brzezinski represent no such strategy.

During last fall's campaign, the Ford administration was criticized for not being open and candid with our allies and for not having sufficient faith in the future and our ability to compete with other opposing ideologies. The quotes attributed to Brzezinski seem to exhibit the faults attributed to others during the campaign.

This matter is of serious concern. It is important that the record be complete, and I call upon the President and his National Security Advisor to make it so. I also ask unanimous consent that the Evans and Novak column appearing in the Washington Post of August 3 be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending, which these advisers say would provoke Moscow and divide Washington.

PRM-10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28-29 meetings of his Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences" — world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

"Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM-10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Weser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM-10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmament or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

* * * Arms Limitation Talks] or MBFR [Mutual Balanced Force Reductions]."

PRM-10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble, in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicitly accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

Mr. BAKER. Mr. President, I have no requirement for the remainder of my time under the standing order and I yield it back.

ORDER THAT NO ROLLCALL VOTES OCCUR BEFORE 12 NOON TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur today before the hour of 12 o'clock noon.

I make this request because the conferees on the clean air measure were up until after 2 o'clock this morning working on that measure and I think obviously the Senate owes consideration to those conferees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION—AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now go into executive session and proceed to the consideration of Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

The Senate, as in Committee of the Whole, proceeded to consider Executive F, 95th Congress, 1st session, the agreement with Canada concerning transit pipelines, which was read the second time as follows:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING TRANSIT PIPELINES

The Government of the United States of America and the Government of Canada,

Believing that pipelines can be an efficient economical and safe means of transporting hydrocarbons from producing areas to consumers, in both the United States and Canada;

Noting the number of hydrocarbon pipelines which now connect the United States and Canada and the important service which they render in transporting hydrocarbons to consumers in both countries; and

Convinced that measures to ensure the uninterrupted transmission by pipeline through the territory of one Party of hydrocarbons not originating in the territory of that Party, for delivery to the territory of the other Party, are the proper subject of an agreement between the two Governments;

Have agreed as follows:

ARTICLE I

For the purpose of this Agreement:

(*a*) "Transit Pipeline" means a pipeline or any part thereof including pipe, valves and other appurtenances attached to pipe, compressor or pumping units, metering stations, regulator stations, delivery stations, loading and unloading facilities, storage facilities, tanks, fabricated assemblies, reservoirs, racks, and all real and personal property and works connected therewith, used for the transmission of hydrocarbons in transit. "Transit Pipeline" shall not include any portion of a pipeline system not used for the transmission of hydrocarbons in transit.

(*b*) "Hydrocarbons" means any chemical compounds composed primarily of carbon and hydrogen which are recovered from a natural reservoir in a solid, semi-solid, liquid or gaseous state, including crude oil, natural gas, natural gas liquids and bitumen, and their derivative products resulting from their production, processing or refining. In addition, "hydrocarbons" includes coal and feedstocks derived from crude oil, natural gas, natural gas liquids or coal used for the production of petro-chemicals.

(*c*) "Hydrocarbons in transit" means hydrocarbons transmitted in a "Transit Pipeline" located within the territory of one Party, which hydrocarbons do not originate in the territory of that Party, for delivery to, or storage before delivery to, the territory of the other Party.

ARTICLE II

1. No public authority in the territory of either Party shall institute any measures, other than those provided for in Article V, which are intended to, or which would have the effect of, impeding, diverting, redirecting or interfering with in any way the transmission of hydrocarbons in transit.

2. The provisions of paragraph 1 of this Article apply:

(*a*) In the case of Transit Pipelines carrying exclusively hydrocarbons in transit, to such volumes as may be transmitted to the Party of destination in the Transit Pipeline;

(*b*) In the case of Transit Pipelines in operation at the time of entry into force of this Agreement not carrying exclusively hydrocarbons in transit, to the average daily volume of hydrocarbons in transit transmitted to the Party of destination during the 12 month period immediately prior to the imposition of any measures described in paragraph 1;

(*c*) In the case of Transit Pipelines which come into operation subsequent to the entry into force of this Agreement not carrying exclusively hydrocarbons in transit, to such volumes of hydrocarbons in transit as may be authorized by the appropriate regulatory bodies; or

(*d*) To such other volumes of hydrocarbons in transit as may be agreed upon subsequently by the Parties.

3. Each Party undertakes to facilitate the expeditious issuance of such permits, licenses, or other authorizations as may be required from time to time for the import into, or export from, its territory through a Transit Pipeline of hydrocarbons in transit.

ARTICLE III

1. No public authority in the territory of either Party shall impose any fee, duty, tax or other monetary charge, either directly or indirectly, on or for the use of any Transit Pipeline unless such fee, duty, tax or other monetary charge would also be applicable to or for the use of similar pipelines located within the jurisdiction of that public authority.

2. No public authority in the territory of either Party shall impose upon hydrocarbons in transit any import, export or transit fee, duty, tax or other monetary charge. This paragraph shall not preclude the inclusion of hydrocarbon throughput as a factor in the calculation of taxes referred to in paragraph 1.

ARTICLE IV

1. Notwithstanding the provisions of Article II and paragraph 2 of Article III, a Transit Pipeline and the transmission of hydrocarbons through a Transit Pipeline shall be subject to regulations by the appropriate governmental authorities having jurisdiction over such Transit Pipeline in the same manner as for any other pipelines or the transmission of hydrocarbons by pipeline subject to the authority of such governmental authorities with respect to such matters as the following:

(*a*) Pipeline safety and technical pipeline construction and operation standards;

(*b*) environmental protection;

(*c*) rates, tolls, tariffs and financial regulations relating to pipelines;

(*d*) reporting requirements, statistical and financial information concerning pipeline operations and information concerning valuation of pipeline properties.

2. All regulations, requirements, terms and conditions imposed under paragraph 1 shall be just and reasonable, and shall always, under substantially similar circumstances with respect to all hydrocarbons transmitted in similar pipelines, other than intra-provincial and intra-state pipelines, be applied equally to all persons and in the same manner.

ARTICLE V

1. In the event of an actual or threatened natural disaster, an operating emergency, or other demonstrable need temporarily to reduce or stop for safety or technical reasons the normal operation of a Transit Pipeline, the flow of hydrocarbons through such Transit Pipeline may be temporarily reduced or stopped in the interest of sound pipeline management and operational efficiency by or with the approval of the appropriate regulatory authorities of the Party in whose territory such disaster, emergency or other demonstrable need occurs.

2. Whenever a temporary reduction of the flow of hydrocarbons through a Transit Pipeline occurs as provided in paragraph 1:

(*a*) In the case of a Transit Pipeline carrying exclusively hydrocarbons in transit, the Party for whose such hydrocarbons are intended shall be entitled to receive the total amount of the reduced flow of hydrocarbons,

(*b*) In the case of a Transit Pipeline not carrying exclusively hydrocarbons in transit, each Party shall be entitled to receive downstream of the point of interruption a proportion of the reduced flow of hydrocarbons equal to the proportion of its net inputs to the total inputs to the Transit Pipeline made upstream of the point of interruption. If the two parties are able collectively to make inputs to the Transit Pipeline upstream of the point of interruption, for delivery downstream of the point of interruption, of a volume of hydrocarbons which exceeds the temporarily reduced capacity of such Transit Pipeline, each Party shall be entitled to transmit through such Transit Pipeline a proportion of the total reduced capacity equal to its authorized share of the flow of hydrocarbons through such Transit Pipeline prior to the reduction. If no share has been authorized, specified or agreed upon pursuant to Article II, paragraph 2, the share of the Parties in the reduced flow of hydrocarbons shall be in proportion to the share of each Party's net inputs to the total flow of hydrocarbons through such Transit Pipeline during the 30 day period immediately preceding the reduction.

3. The Party in whose territory the disaster, emergency or other demonstrable need occurs resulting in a temporary reduction or stoppage of the flow of hydrocarbons shall not unnecessarily delay or cause delay in the expeditious restoration of normal pipeline operations.

ARTICLE VI

Nothing in this Agreement shall be considered as waiving the right of either Party to withhold consent, or to grant consent subject to such terms and conditions as it may establish consistent with the principles of uninterrupted transmission and of nondiscrimination reflected in this Agreement, for the construction and operation on its territory of any Transit Pipeline construction of which commences subsequent to the entry into force of this Agreement, or to determine the route within its territory of such a Transit Pipeline.

ARTICLE VII

The Parties may, by mutual agreement, conclude a protocol or protocols to this Agreement concerning the application of this Agreement to a specific pipeline or pipelines.

ARTICLE VIII

The Parties may, by mutual agreement, amend this Agreement at any time.

ARTICLE IX

1. Any dispute between the Parties regarding the interpretation, application or operation of this Agreement shall, so far as possible, be settled by negotiation between them.

2. Any such dispute which is not settled by negotiation shall be submitted to arbitration at the request of either Party. Unless the Parties agree on a different procedure within a period of sixty days from the date of receipt by either Party from the other of a notice through diplomatic channels requesting arbitration of the dispute, the arbitration shall take place in accordance with the following provisions. Each Party shall nominate an arbitrator within a further period of sixty days. The two arbitrators nominated by the Parties shall within a further

period of sixty days appoint a third arbitrator. If either Party fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, either Party may request the President of the International Court of Justice (or, if the President is a national of either Party, the member of the Court ranking next in order of precedence who is not a national of either Party) to appoint such arbitrator. The third arbitrator shall not be a national of either Party, shall act as Chairman and shall determine where the arbitration shall be held.

3. The arbitrators appointed under the preceding paragraph shall decide any dispute, including appropriate remedies, by majority. Their decision shall be binding on the Parties.

4. The costs of any arbitration shall be shared equally between the Parties.

ARTICLE X

1. This Agreement is subject to ratification. Instruments of Ratification shall be exchanged at Ottawa.

2. This Agreement shall enter into force on the first day of the month following the month in which Instruments of Ratification are exchanged.

3. This Agreement shall remain in force for an initial period of thirty-five years. It may be terminated at the end of the initial thirty-five year period by either Party giving written notice to the other Party, not less than ten years prior to the end of such initial period, of its intention to terminate this Agreement. If neither Party has given such notice of termination, this Agreement will thereafter continue in force automatically until ten years after either Party has given written notice to the other Party of its intention to terminate the Agreement.

IN WITNESS WHEREOF the undersigned representatives, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington in the English and French languages, both versions being equally authentic, this twenty-eighth day of January 1977.

For the Government of the United States of America:

_____ _____.

For the Government of Canada:

_____ _____.

The ACTING PRESIDENT pro tempore. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification which the clerk will state.

Mr. STEVENS. Mr. President, I do have a reservation to offer. I assume that will still be in order.

The ACTING PRESIDENT pro tempore. The reservation will come after the presentation of the resolution of ratification.

Mr. STEVENS. I thank the Chair.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of Canada Concerning Transit Pipelines, signed at Washington on January 28, 1977 (Ex. F. 95–1).

The ACTING PRESIDENT pro tempore. The time for debate on the resolution of ratification is limited to 2 hours, to be equally divided and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE), with debate on any amendment, reservation, understanding, or declaration thereto limited to 1 hour, with debate on any amendment in the second degree or an amendment to a reservation, understanding, or declaration limited to 30 minutes, and with debate on any debatable motion, appeal from the ruling of the Chair, or point of order in connection with the resolution of ratification limited to 20 minutes.

Who yields time?

Mr. SPARKMAN. I yield myself 10 minutes.

Mr. President, the Committee on Foreign Relations has carefully considered the agreemnt with Canada concerning transit pipelines, signed last January 28, and recommends that the Senate give its advice and consent to its ratification.

Its purpose is limited and simple: It provides government to government reciprocal assurances that pipelines carrying hydrocarbons such as oil, natural gas, petroleum products, coal slurries, or even petrochemical feedstocks owned by one country across the territory of the other nation will be free from interruptions in flow and from discriminatory taxation. These two assurances apply to existing pipelines and those which might be constructed in the future.

As was pointed out by several witnesses, including Senator STEVENS, other treaties, agreements or protocols to this treaty might be needed before future pipelines are constructed, but all witnesses, including the Senator from Alaska, agreed that the Senate should give its advice and consent to the pending treaty.

For background purposes, Members will be interested to know that this agreement is in response to a requirement in the Trans-Alaska Pipeline Authorization Act (P.L. 93–153) that the President determine the willingness of the Canadian Government to permit construction of pipelines across Canada to carry Alaska North Slope oil and gas to the lower 48 States. The President was also asked to identify the terms and conditions which might apply to the operations of such pipelines and to determine the need for intergovernmental agreements for this purpose. In 1973, Prime Minister Trudeau said Canada was willing to help move North Slope natural gas through a trans-Canadian pipeline if Canada received assurances regarding its oil and gas which transit the United States. On the basis of the congressional mandate and in response to the Prime Minister's statement, the Department of State began negotiations in 1974 which led to this agreement.

It became clear early in the negotiations that Canada was not prepared to agree in advance to any specific pipeline project. Neither Canada nor the United States has reached a final decision whether a trans-Canadian pipeline is in its own best interests, but it should be emphasized that there are four pipelines now serving the two nations which would benefit from the agreement, and there are numerous applications pending to build others.

Articles II, III, IV, and V of the agreement provide for regulation of both construction and operation of transit pipelines by the same appropriate government authorities who have jurisdiction over similar, nontransit pipelines. The treaty prevents those same authorities from exercising their jurisdiction in a manner which discriminates against transit pipelines and requires that all measures be just and reasonable. In summary then, it can be said that the agreement provides a framework within which the United States and Canada can cooperate on future projects beneficial to one or the other or both over the agreement's 35-year term. It is expected that Canada will ratify the agreement shortly after it is ratified by the United States.

Mr. President, I ask unanimous consent that a section-by-section analysis of the agreement be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The Preamble states that a number of pipelines provide an economic and safe means of transporting hydrocarbons from producing areas in either Canada or the United States to consumers in both, and therefore are a proper subject for an agreement between the two countries which will ensure the uninterrupted transmission by pipeline of those hydrocarbons.

Article I defines a "transit pipeline," "hydrocarbons," and "hydrocarbons in transit." The first includes all parts, such as valves, pumping and delivery stations, storage facilities, and all real and personal property connected with the system. Hydrocarbons include chemical compounds composed primarily of carbon and hydrogen in a solid, semi-solid, liquid or gaseous state, including coal, crude oil, natural gases, refined products and feedstocks derived from crude oil. Hydrocarbons in transit means those located in the territory of one country being delivered to the other.

Article II prohibits public authorities in either country from taking any measures which would impede, divert, redirect or interfere with the transmission of hydrocarbons in transit. It also provides that each country will facilitate the expeditious issuance of permits, licenses and other authorizations needed for the import or export through its territory of hydrocarbons through a transit pipeline.

Article III deals with non-discriminatory treatment. It would insure that public authorities in both countries would not impose fees, duties, taxes or other monetary charges on a transit pipeline which would not be placed on a similar pipeline not transiting the national border. (According to the Administration, during the negotiations, considerable attention was focused on the question of establishing an objective standard against which taxes on pipelines could be measured for their discriminatory effect. Article III therefore establishes as the basic standard of comparison similar pipelines within taxing governmental jurisdictions.)

Article IV grants to each government jurisdiction over transit pipelines with respect to such matters as: pipeline safety and technical construction and operations standards; environmental protection; rates, tolls, tariffs and financial regulations relating to pipelines; reporting requirements, statistical and financial information concerning pipeline operations, and information concerning valuation of pipeline properties. It is provided, however, that all such regulations, require-

ments, terms and conditions imposed "shall be just and reasonable" and "be applied equally to all persons and in the same manner."

Article V contains provisions calling for the equitable sharing of pipeline capacity on a pre-determined basis "in the event of an actual or threatened natural disaster, an operating emergency, or other demonstrable need temporarily to reduce or stop for safety or technical reasons the normal operation of a Transit Pipeline." Article V also provides that the country "in whose territory the disaster, emergency or other demonstrable need occurs resulting in a temporary reduction or stoppage of the flow of hydrocarbons shall not unnecessarily delay or cause delay in the expeditious restoration of normal pipeline operations."

Article VI preserves the right of each country to withhold or grant consent for the construction and operation on its territory of any transit pipeline construction which commences subsequent to the entry into force of the Treaty, or to determine the route within its territory of such a transit pipeline.

Article VII provides that the two countries may, by mutual agreement, conclude protocols concerning the application of this treaty to a specific pipeline or pipelines.

Article VIII permits the two countries to amend the treaty at any time.

Article IX provides that any dispute regarding the interpretation, application or operation of the treaty shall, so far as possible, be settled by negotiation between the two parties. If a dispute cannot be settled by negotiation, it must be submitted to arbitration at the request of either party. The decision of the arbitrators will be binding on both parties and the costs of arbitration are to be shared equally.

Article X provides that the treaty is to remain in force for an initial period of 35 years, after which it may be terminated by either party giving written notice, not less than ten years prior to the end of such initial period, of its intention to terminate the treaty. If neither party has given such notice, the treaty will thereafter continue in force automatically until ten years after either party has given its notice to terminate.

Mr. SPARKMAN. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself, from Senator CASE's time, such time as I may need.

I shall speak today as a supporter of the agreement concerning transit pipelines between the United States and Canada. However, my main purpose today is to clarify the relationship between the agreement and the selection of a transportation system to deliver Alaskan natural gas to the lower 48 States pursuant to the Alaskan Natural Gas Transportation Act (Public Law 94–586) and to discuss why the ratification of the agreement does not pave the way for the selection of a trans-Canada pipeline.

There are two systems which are currently under consideration to deliver Alaskan natural gas to domestic markets. One is the Trans-Alaskan—El Paso—system which will be constructed entirely within U.S. territory. The second is the Alcan system which proposes to deliver the gas by pipeline through Canada.

It is important to recognize that the agreement does not prejudge the decision of whether a pipeline should be constructed across Canada to deliver Alaskan natural gas to markets in the lower 48 States, and does not resolve the questions relating to a trans-Canada pipeline.

The limited scope of the agreement is made explicit in the report of the Senate Foreign Relations Committee.

Let me state parenthetically, Mr. President, that the distinguished chairman of the committee, a long-time friend of Alaska, did permit us to participate in the hearing although we were not members of the committee, and Alaskans are grateful to him for the opportunity to clarify the meaning of this treaty.

I quote from the report of the Committee on Foreign Relations:

It became clear early in the treaty negotiations that the Government of Canada was not prepared to conclude an arrangement which granted advance approval to a specific pipeline project. Consequently, the Agreement was drafted without reference to any of the three proposals, and in no way pre-judges the decision of whether an Alaska gas pipeline should be constructed through Canada. Many issues must be considered in connection with any such decision. These include such matters as the financing of a pipeline; settlement and payment of native claims; enactment of expediting provisions, such as limitation on judicial review and prompt issuance of permits and authorizations; tariff standards and rates; level of provincial taxation; Canadian requirements on labor and materials; and any terms and conditions which Canada would apply to the pipeline.

Some of these factors must be resolved in additional agreements or protocols. If such supplemental protocols or agreements require commitments on the part of the U.S. Government, they will also require ratification by the U.S. Senate.

The quotation, I repeat, is from Senate Executive Report No. 95–5, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

These factors have a pronounced effect on the timing and cost of a pipeline. Until all these questions are resolved, it is not possible to rationally evaluate the costs and benefits of a pipeline through Canada and to designate it to deliver Alaskan natural gas to domestic markets.

The decision concerning the selection of a transportation system to deliver Alaskan natural gas is still being deliberated. Recent events clearly will have a strong bearing on the selection of a system. These events underscore that the questions relating to a pipeline through Canada are not resolved, and additionally, raise questions concerning the applicability of the nondiscriminatory provisions of the agreement.

The NEB has recommended the approval of a modified Alcan system to deliver Alaskan natural gas to the lower 48 States. This is essentially a new proposal for the joint delivery of Alaskan and Canadian gas. The Alcan system as recommended by the NEB requires rerouting about 480 miles of the Alcan pipeline and construction of Dempster lateral of approximately 460 miles to deliver Mackenzie Delta gas to Canadian markets.

This system is undefined and unstudied. Because it is essentially a new proposal, only a portion of the previous analyses by the Federal Power Commission and interagency task force are relevant for evaluating its costs and benefits. Assessing the flexibility, gas delivery costs, environmental impacts, and overall benefits of this alternative system entails virtually new studies.

Most significantly, the NEB approved the modified Alcan system on the condition, among others, that the pipeline companies commit up to $200 million to cover indirect socioeconomic costs of the pipeline. This condition raises very important questions concerning the application of article III of the agreement which prohibits the imposition of any direct or indirect tax or other monetary charge on or for the use of a transit pipeline unless it is applicable to other similar pipelines.

Questions concerning the application of articles III and VII to the $200 million charge, and other potential charges against the pipeline, such as for the settlement of native claims, were posed to the Department of State.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter sent to the Secretary of State, dated July 22, 1977, and the reply thereto dated July 28, 1977.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, OFFICE OF THE
ASSISTANT MINORITY LEADER,
Washington, D.C., July 22, 1977.

Hon. CYRUS VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: As you know, the Agreement between the United States and Canada Concerning Transit Pipelines is being considered by the Senate. The Senate will also shortly be considering the selection of a transportation system to deliver Alaskan natural gas to the lower 48 states pursuant to the Alaska Natural Gas Transportation Act (P.L. 94–586). One of the proposed pipelines through Canada has received conditional approval by the National Energy Board of Canada. The NEB has approved a modified Alcan system on the condition, among others, that the pipeline companies agree to pay up to $200 million to cover the indirect socioeconomic costs of the pipeline.

The NEB decision raises the following very important questions concerning the relationship between the Agreement Concerning Transit Pipelines and the decision on the selection of a pipeline to deliver Alaskan natural gas:

1. Does the provision of Article III of the Agreement, which prohibits the imposition of any direct or indirect tax or other monetary charge, on/or for the use of a transit pipeline unless it is applicable to other similar pipelines, preclude the imposition by Canada of the $200 million charge?

2. If Article III does not preclude the imposition of such a charge, please specify the reason for your conclusion?

3. If the $200 million charge can be impose consistently with the Agreement, does this mean that Canada can impose other charges, such as to cover the payment of all or part of the cost of settling Canadian native claims?

4. If Article III does not preclude imposition of the $200 million charge and other charges, are other agreements being negotiated with Canada to establish a limit on the total cost that Canada can impose on the modified Alcan proposal approved by the NEB?

We would appreciate it if answers to these questions could be provided before Congress considers the Agreement Concerning Transit

Pipelines. At Senator Stevens' request, consideration of that Agreement has been delayed pending your reply. As we are certain you will realize, your response will have a major impact on the question of whether Senator Stevens and others should offer a reservation to prevent charges, such as the $200 million from being assessed against the modified Alcan pipeline, and to prevent the assessment of any part of the settlement of the Canadian native claims against a U.S. pipeline.

With best wishes,
Cordially,

JOHN SPARKMAN,
TED STEVENS,
U.S. Senators.

JULY 28, 1977.

Hon. TED STEVENS,
U.S. Senate.

DEAR SENATOR STEVENS: Secretary Vance has asked me to respond to your letter of July 22, concerning the United States-Canada Transit Pipeline Agreement and the transportation of Alaskan natural gas across Canada. I am sending a similar response to Senator Sparkman.

With regard to the relationship between Article III of the Agreement and the proposed $200 million charge to Alcan for indirect socio-economic costs, we have taken the position with the Canadians that Article III of the Agreement would preclude the imposition on the pipeline of the charge unless such a charge is applicable to similar pipelines in Canada. In raising this issue with the Government of Canada we have stressed that its resolution, and any other significant costs or uncertainties associated with the terms and conditions proposed by the NEB, will necessarily bear upon the President's decision.

We have also discussed the question of native claims with the Government of Canada. They have indicated that they do not regard the cost of settlement of native claims as being a cost of the type which should be assessed to the pipeline.

As Assistant Secretary Katz indicated during his testimony on the Agreement before the Senate Foreign Relations Committee on June 7, we do not believe that the Agreement necessarily resolves all of the questions related to a possible transit pipeline across Canada. A protocol or other inter-governmental arrangements may well be needed.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. STEVENS. The Department of State takes the position that article III of the agreement is applicable to the $200 million charge and that the charge can only be imposed if it is applicable to similar pipelines. However, it is still an open question whether the agreement provides protection against the imposition of the $200 million charge, or other charges, because it has not yet been determined whether the 48-inch pipeline proposed by Alcan is similar to any other pipeline in Canada.

I will have some questions to address to the chairman of the committee concerning that matter. If the Alcan pipeline is similar to other pipelines, then presumably the imposition of the $200 million charge would violate the agreement since such a charge has not been imposed on other pipelines in Canada. It is ironic that the United States is faced with potential violations of the agreement each prior to its ratification. On the other hand, if there are no similar pipelines, and the Alcan pipeline is "unique," and the Alcan pipeline is argued to be unique, then the agreement does not logically preclude the imposition of the $200 million charge, or, for that matter, any other charge, such as for the settlement and payment of native claims or any other tax, that Canada decides it wants to impose, because clearly the agreement prohibits these charges unless they are imposed upon similar pipelines in the host country.

The Lysyk Commission was appointed by the Government of Canada to study the socioeconomic impacts of a pipeline on the settlement of native claims in the southern Yukon which the Alcan pipeline would traverse.

The Commission issued a unanimous report yesterday. The report concluded that a pipeline through the southern Yukon is acceptable under the following conditions, among others:

First. Construction over this route is deferred for 4 years until August 1, 1981;

Second. The pipeline companies contribute up to $200 million to a "Yukon Heritage Fund" to compensate for the socioeconomic costs of the pipeline; and

Third. The Government of Canada advance payment of $50 million on the settlement of native land claims.

I understand the interest from that fund would be used to train people in the southern Yukon area.

The uncertainties and costs to the United States of a pipeline through Canada are accentuated by this report. The purpose of the Alaska Natural Gas Transportation Act is to assure the expeditious construction of a pipeline and the earliest possible delivery of Alaskan natural gas to the lower 48 States. Deferral of construction of a pipeline to facilitate the settlement of implementation of native claims impedes the realization of this objective, which was sought by congressional enactment when we passed the Alaska Natural Gas Transportation Act.

The agreement in no way protects the United States from such delays, or other delays that would result from judicial action to defer construction for an even longer period. The Council of Yukon Indians has indicated its opposition to the Lysyk report and reaffirmed its position that deferral of construction for 7 to 10 years is necessary to achieve a just settlement and implementation of their land claims.

Notably, the report strongly supports the NEB recommendation that the pipeline companies commit to pay up to $200 million to compensate for the socioeconomic costs of the pipeline.

CONCLUSION

The agreement clearly does not resolve all the uncertainties and costs of the NEB proposal and does not address all the questions relating to a pipeline through Canada. What is apparent from recent events is how far the United States and Canada are from settling these issues. Thus, the timing of construction; the financing of the system, the level of taxation, the settlement and payment of native claims, the expansibility of the system, the tariff rates and standards; and the terms and conditions that will be applied, remain unresolved. These factors directly affect the timing and cost of the Alcan pipeline through Canada. In the absence of answers to all these questions, it is not possible to assess the costs and benefits of the Alcan system. What is clear, however, is that the modifications and conditions imposed by the NEB and Lysyk Commission can only increase the costs of the Alcan system because of such factors as higher capital costs; deferral of construction; the greater fuel usage; the prolonged deliverability period of the gas; the costs of new environmental and feasibility studies; the costs of various monitoring authorities; and the $220 million charge to cover the socioeconomic costs of the pipeline.

Mr. President, I understand the Lysyk Commission further recommended that the consumers of the United States repay the advance to be made by the Government of Canada in establishing this fund. I have not read the Lysyk report yet. It will be here this afternoon. I am certain that all Senators will want to study it before passing on the question of whether there should be an Alcan pipeline built through Canada.

A decision to approve a trans-Canada pipeline before resolving these issues places the United States in an undesirable negotiating position. Effectively, this means that the United States is placed in the position of accepting a trans-Canada pipeline at any cost.

That is what I want to warn the Senate about. If all sentiment is directed toward the Canadian line, and the proponents of the all-Alaska American line are disbanded and no longer have an effective team together to build an alternative system, we could well be put into the position that the only way to get the gas out of northern Alaska would be to go through Canada. Nothing would be worse, in my opinion, for the United States than to be placed in such a bargaining position.

Before the Alcan system can be approved, it is most critical to exhaustively delineate the factors affecting its cost and their magnitude, to determine to which charges the agreement is applicable, and to effectively limit the imposition of charges which are not prohibited by the agreement.

There is no justification for the United States to assume the risks of a pipeline through Canada when there exists a viable alternative—the trans-Alaska-El Paso—system, which can deliver the gas at the earlist possible date, at an economical price, in an environmentally acceptable manner, and can distribute the gas efficiently throughout the country.

Mr. President, at the time we settled the Alaskan Native land claims, a conscious decision was made by the U.S. Government and the government of my State that the settlement of those claims would not be imposed upon the consumers of the oil or the gas found in Prudhoe Bay. My State agreed to pay $500 million to the settlement, and the Federal Government agreed to pay $462.5 million to the settlement, all of which

was paid either from royalties to be derived by the State from the oil or gas, or, in the case of the Federal Government, from the general funds of the United States.

None of the charges of settling the Alaskan Native land claims were imposed, nor will they ever be imposed, directly upon the consumers of oil or gas from the North Slope.

The proposals which are before Canada would shift the burden of the cost of settling the Canadian native claims from the Canadian Government to the consumers of Alaska's natural gas.

This gas will already be very expensive. It will have to be transported over extremely long distances, and it comes from a very violent frontier area of our Nation. The costs associated with its production are horrendous. By the time it gets to the south 48 under any of these systems, it will probably be the most expensive domestic gas we have produced. To add to the cost of that gas any of the socioeconomc costs, including any portion of the settlement of the Canadian native claims, in my opinion would be unwise.

I assume that will be the position of the United States.

I have discussed this matter with the chairman of the committee.

Mr. President, I would like to offer a reservation to this treaty.

The ACTING PRESIDENT pro tempore. The reservation will be stated.

The legislative clerk read as follows:

RESERVATION

Except that no transit pipeline to carry gas from Prudhoe Bay across Canada to domestic markets in the Lower 48 states shall be approved by the United States without first receiving assurances from the Government of Canada, in an appropriate protocol or other inter-governmental arrangement which has been ratified by the United States Senate, that (1) no part of the cost of the settlement of Native land claims in Canada will be assessed against such transit pipeline and passed through to United States gas consumers; (2) no charge for compensation for the indirect socio-economic costs of the pipeline will be assessed against such transit pipeline and passed through to United States gas consumers, and (3) the Government of Canada will hold harmless American companies and gas consumers from any fee, duty, tax, or other monetary charge imposed by any governmental authority in contravention of this agreement.

Mr. STEVENS. Mr. President, this reservation would place upon this treaty the three items that I have just discussed at length: The question of the Canadian Native land claims settlement; the question of the compensation of socioeconomic costs as outlined by the NEB and the Lysyk commission report; and third, the question of any provincial fee, tax, duty or monetary charge imposed by any unit of the Canadian Government that would place a burden upon a pipeline through Canada directly or indirectly, requiring Canada, to hold the United States harmless on such action.

If I may direct a question to the chairman of the committee, it has been argued by people who are involved in this matter in my State that, because there are no 48-inch pipelines carrying gas in Canada at this time, the pipeline treaty would not be effective against or would not be effectively applied to this new pipeline. I have taken the position that that is not correct.

Again, I thank the chairman of our committee for joining me in sending a letter to the Secretary of State. My position has been that when this treaty talks about similar pipelines, it is talking about gas pipelines to transport gas on a commercial basis from the point of production to the consumer. It is not talking about size as an element of uniqueness. So, if there is a pipeline built through Canada to carry our gas, whether it is 40 inches, 42 inches, or 48 inches is immaterial; the question is whether it is similar in purpose and intent to the pipelines that are already being used in Canada.

I wonder if the chairman of the committee agrees with me on that. We are not talking about size in terms of uniqueness, we are talking about the purpose and intent for which the pipeline was constructed and the manner in which it is to be operated; that, if it is to be operated on a commercial carrier basis, it is similar to the gas pipelines operating on a similar basis that already exist in Canada. Would the Senator from Alabama agree with me in that regard, as chairman of our committee?

Mr. SPARKMAN. Mr. President, I say to the Senator from Alaska that I do agree with him. He will recall that he and I jointly signed a letter to the Secretary of State. I believe he mentioned that in his statement, and the letter from Doug Bennet, writing for the Secretary of State.

Mr. STEVENS. I have placed in the RECORD already both the letter to the Secretary of State and the response that was sent to the Senator from Alabama, as chairman of the committee, and to me from the Department of State.

Mr. SPARKMAN. I believe that what he has said accords with the intent expressed in the exchange of letters. Is that not right?

Mr. STEVENS. That is my understanding.

It is my further understanding that the State Department has indicated that the agreement would preclude the imposition on the pipeline of the charge unless such a charge is applicable to similar pipelines in Canada. They are speaking directly about the proposal to assess the $200 million charge that has been mentioned by both the NEB and the Lysyk Commission as a charge that should be placed against the Alcan pipeline solely.

It has been our position that that is not consistent with this treaty unless the charge is applied equally to all gas pipelines in the host country of Canada.

Mr. SASSER assumed the chair.

Mr. SPARKMAN. Does the Senator not understand that the purpose of what is said in these two letters is in accordance with that?

Mr. STEVENS. That is my understanding.

Mr. SPARKMAN. That is mine.

Mr. STEVENS. Under those circumstances, Mr. President, I further address the second question. That is on the question that Assistant Secretary Katz so completely responded to before the Senate Committee on Foreign Relations on June 7 of this year. Reference is made to them in the Senate Foreign Relations Committee report. This agreement does not resolve the matters related to a transit pipeline from Canada. It had no intention to do so as far as a specific pipeline is concerned. There are specific issues—financing of a pipeline, the settling of these Canadian native claims, the expediting of provisions such as anything limiting judicial review, as we have done and, as I have indicated repeatedly, I think Canada must do. It must assure us that we will not have prolonged delay in Canada from any kind of litigation arising out of either environmental or native claim problems that might delay the startup of this pipeline.

We have questions of the expansibility of a pipeline in the future, whether it could be looped in the future, tariff standards, and rates. We have the question of provincial taxation, which was discussed at length in the hearing of the Senate Foreign Relations Committee.

We have the additional question of the Canadian requirements on labor and materials. This will be some $10 billion of money to be repaid by the consumers of the United States. If this pipeline is to go through Canada, I think we have to have an assurance as to how many American laborers and on what terms and conditions they will be allowed to come into Canada to work in this pipeline. It is not covered by this agreement. That issue is not covered. I think it must be covered before any pipeline would go through Canada.

It is my understanding, from the statement that was made by the Senate Committee on Foreign Relations in its report and the statement of its distinguished chairman here today, that it is clearly recognized that these matters are not resolved. If they are to be resolved by protocols or agreement that will commit the United States, then they will be submitted to the Senate for ratification.

Is that the Senator's understanding, too?

Mr. SPARKMAN. The Senator has correctly stated it. There may be several items—he has mentioned a few of them there—that will have to be worked out in subsequent agreements, protocols, treaties, or whatever they might be.

Mr. STEVENS. I thank the Senator.

The last item in the reservation I have presented deals with the hold-harmless provision to the United States. In testimony before the Senate Foreign Relations Committee, Assistant Secretary Katz stated:

In Canada the Treaty does not have the same face as law of the land, so that if a province were to enact legislation that was inconsistant with an obligation undertaken by the treaty, there would not be the same judicial recourse which would be available in the United States. Nevertheless, as we have made repeatedly clear to the Government of Canada, and elsewhere, if there were such an act, we would hold the Government of Canada responsible for a violation of the International Agreement which resulted.

The last provision of the reservation that I have submitted would require the

Government of Canada to assure the United States that it has, in fact, taken a position that will hold the United States harmless, that it will absorb any costs, charges, or taxes imposed by Provinces which are not allowed by the agreement. I am sure the Senator is familiar with that testimony before the Foreign Relations Committee. I assume he agrees with me, in view of the statement made by Secretary Katz and the strong position that he indicated.

Again, let me quote what he told us:

Nevertheless, as we have made repeatedly clear to the Government of Canada, and elsewhere, if there were such an Act—

And he was referring to provincial legislation that might impose charges, taxes, or costs inconsistent with the treaty—

we would hold the Government of Canada responsible for a violation of the International Agreement which resulted.

I take the position that we should make clear, if and when we ever do approve a specific pipeline, that that is a hold-harmless agreement, that the Government of Canada will, in fact, be called upon to hold the United States and its citizens harmless if a Province were to enact such legislation.

Mr. President, I do not discuss this lightly because we know that in Canada at this very time people are discussing specific provincial taxes, discussing specific portions of the Canadian native land claim settlement, which should be assessed against the pipeline, which would go into the cost of the pipeline and become part of the rate base for consumers in the United States of natural gas from Canada.

I assume—I do not wish to presume, but I assume—the chairman of the Senate Foreign Relations Committee agrees with me that the statement of Assistant Secretary Katz can be taken as an indication of our Federal Government's policy that we would hold the Federal Government of Canada responsible if the Provinces of Canada did, in fact, violate this treaty.

Mr. SPARKMAN. I say to the Senator that is correct.

Mr. STEVENS. I thank the Senator.

Mr. President, because of our Canadian neighbors' National Government system under the Canadian-North American Act, which is not like our Constitution, and their federation is of a different political complex than ours, there are differences in our Governments and there are differences in the manner in which we proceed in the relationships between State and Federal Government in this country and the Provinces and the National Government in Canada.

I do not think anyone in the country knows or appreciates the Government of Canada and Canadians more than Alaskans. When I drive home I have to drive through Canada. No one else in this country has to drive 2,000 miles through a neighboring country to get home. We do.

Often when I fly home, I land in Canada on the way home.

My brother emigrated to Canada and lived there until he died.

I think we have great respect for one another, Alaskans and Canadians. But we know each other well.

One thing we have learned to do is to listen to one another. I have been urging our executive branch to listen to what is going on in Canada. There are conditions being discussed. There are conditions being recommended by the National Energy Board which are not consistent with this agreement.

We have repeated assurances that those conditions are not being agreed to because they are not consistent with this agreement. At least, they would not be agreed to without submitting to the Congress, specifically to the Senate, international agreements or protocols to this treaty, which would give the Senate a chance to pass on these serious policy issues and to determine whether or not these costs or charges or taxes should be assumed by the consumers in the United States.

Two of the conditions I have not discussed yet. They are not involved in this treaty, nor have they yet been involved directly in the Canadian negotiations, although I think they have been mentioned in press reports.

Those two conditions are, one, the potential cost overruns for a pipeline through Canada. Those cost overruns are the most excessive in terms of the review of all three proposals. The chances for cost overruns exceeding 100 percent are very great. We have not seen any official pronouncement from the Government of Canada, but have heard the Canadian Government will seek a U.S. guarantee that those cost overruns, will, in fact, be met by the proponents of a gas pipeline through Canada.

I need not remind the Senate of the last time we tried to guarantee any part of the borrowings of a private company—that was the Lockheed issue, and it did not involve billions of dollars. It involved hundreds of millions, but it was not in the billions of dollars figures that must be involved in a pipeline through Canada.

Second, the NEB and others in Canada have discussed the question of the all-events tariff, which would mean the consumers of the United States would have to agree to pay for gas from Alaska, whether it reached the south 48 or not.

The Canadian National Energy Board has taken a position that only if an all-events tariff is put into effect by a pipeline through Canada should the Government of Canada approve a pipeline carrying Alaska's gas through Canada.

An all-events tariff has never yet been imposed by any portion of the Federal Government upon any consumer in the United States. I think it is incumbent upon the executive branch and those who are negotiating with the Canadians to tell the Canadians loud and clear, that we shall never impose an all-events tariff upon our consumers. It is not necessary.

Through the financing mechanisms of this country, we can build a pipeline to deliver this gas, which is vitally needed by our country, to our consumers without imposing upon them directly the risks associated with the development of this pipeline.

We are still a free enterprise country, Mr. President. To impose the Federal Government in either of the areas of the guarantee of the cost overruns or in the imposition of an all-events tariff would, in fact, he such a vital change in our economic structure that I think it would take a very long time to convince Congress—if anyone could ever convince the Congress—that that would be necessary.

Alaska's interest in this is obvious. The gas will be produced with the oil. I think Americans should know we cannot keep the gas in the ground and produce the oil.

We can produce the oil and the gas and reinject the gas, but, if we do that, the ultimate cost to the consumers will involve processing the gas twice. It will involve producing it once with the oil, the cost of reinjecting it, and then the cost of trying to recover it the second time.

There is no assurance in the structure we have on the North Slope that reinjected gas could be totally recovered.

Mr. President, I am grateful to the distinguished chairman of the Foreign Relations Committee for not only his courtesy on the day we had the hearing, but also for his patience in awaiting with me the response from the Department of State, and for his answers here today which assure me, on the position I have taken with my constituents, that the reservations that were requested to this treaty are not necessary at this time.

They may be necessary in the future, should a specific proposal come to the Congress which involves the imposition of a charge, be it socioeconomic or a portion of the settlement of the Canadian land claims, or with regard to the question of provincial taxes or duties or charges, that we can consider at that time whether or not there should be a reservation to a protocol if it does not properly address the questions I have tried to articulate this morning.

Based upon what I consider to be the general record before the Foreign Relations Committee and their fairness in addressing what this transit pipeline treaty is intended to do, which is to be an umbrella extending over future negotiations concerning specific pipelines, I do not see the necessity to pursue the reservation and I would not intend to offer it.

I know the Senator is entitled to time, either on the original time or time on this reservation. If he intends to make any comments, I will withhold the withdrawal of the reservation to assure he has the time, or the Senator from Idaho has the time, if they wish to make comments at this time.

Mr. President, I thank the Senator.

Mr. SPARKMAN. Mr. President, I thank the Senator from Alaska for his careful and studious handling of this matter. Particularly, its relationship, as he sees it, to the State he so well represents.

I trust the reservation will not be offered. I do not see it is necessary.

There are, according to the terms of the treaty, things left open. It is recognized in there that there will be future

questions to be determined between the two countries and, as I see it, the procedure is pretty well outlined. The reservation could be, if the Senator felt later he needed a reservation, offered to any change that might be proposed or any additions to it in the future.

I appreciate his offer to withdraw the reservation. I hope he does in order that this matter can go right through.

Mr. STEVENS. Very well. I thank the Senator for his response to my questions.

Mr. President, I do withdraw the reservation.

The PRESIDING OFFICER. The reservation is withdrawn.

Who yields time?

Mr. SPARKMAN. Mr. President, I am willing to yield back the remainder of my time if the Senator from Alaska——

Mr. STEVENS. Mr. President, how much time does Senator CASE have remaining? Did I use it all?

The PRESIDING OFFICER. The Senator from New Jersey has 45 minutes remaining on the treaty.

Mr. STEVENS. I yield the Senator from Idaho 5 minutes.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

Mr. SPARKMAN. Will the Senator yield for a minute?

Mr. McCLURE. Of course.

Mr. SPARKMAN. Mr. President, I would like to hear about that time again. We had only 1 hour to the side.

The PRESIDING OFFICER. There was 1 hour on the reservation. However, there are 2 hours evenly divided on the treaty itself.

Mr. SPARKMAN. I was not aware of the situation with respect to the reservation. I will reserve my time.

Mr. McCLURE. Mr. President, I commend the Senator from Alaska for the statement he has just made, and I am a little sorry that the reservation was withdrawn.

I am opposed to this treaty, not because I think a treaty is not necessary, but because if a treaty is to be entered into between the United States and Canada now on this subject, in my opinion now is the time to solve the problems which are left unsolved in this treaty.

Nearly 4 years ago, I wrote to Senator JACKSON, as a member of the Interior and Insular Affairs Committee, dealing with the problems of the availability of energy supplies for our country, and suggested to Senator JACKSON, the chairman of that committee, that it was time for the energy legislation committee to sit down with Canadian officials and work out some of the problems. Senator JACKSON never has seen fit to hold those meetings or to schedule those meetings. I have repeated the request informally from time to time over the years since that time.

In one respect, I am a little puzzled by the opposition of the Senator from Alaska, because I know of his preference for the all-Alaska route on the gas pipeline. I suggest that if this treaty is ratified and enforced, probably the all-Alaska pipeline is the only alternative, because there never will be a pipeline built that will be acceptable to the United States under the terms of this treaty. My guess is that the result of this treaty will be a great impetus for the all-Alaska pipeline, simply because it closes the alternative.

Mr. STEVENS. Mr. President, I have not opposed this treaty. I have specifically stated, as the committee has, that it does not address any particular pipeline. We have tried to articulate here today the reasons why the reservations that were discussed with me by Alaskans are not necessary, in view of the position taken by the Department of State before the committee in the hearings and in terms of the response that the Senator from Alabama and I received from the Department of State to specific questions we asked concerning this treaty and its applicability to some of the problems and conditions we foresee in the event a pipeline were to be approved to go through Canada.

It is not a pipeline treaty for the Alcan system, the El Paso system, or any system. It is an umbrella treaty, covering the general relationships between Canada and the United States with regard to pipelines in general. It will apply immediately to the pipeline carrying Canadian oil through the United States to Canadian markets. It does have a potential value to the Kittimat proposal to take Alaskan oil from the west coast of Canada to the northern tier States.

It is a pipeline treaty which is necessary. It is necessary in spite of the fact that it cannot and does not address the specific questions involving any specific route for a specific pipeline through Canada or, for that matter, through the United States, to carry Canadian resources to Canadian markets.

Mr. McCLURE. Any negotiation—and this involves negotiation—in the general pipeline umbrella or a specific pipeline treaty on a specific line contains several elements. Several of the elements which should be involved in the solution to the Alaska gas question already have been settled by this, without settling the central problems that deal with that. I think it reduces the likelihood of a favorable treaty so far as the Alcan route is concerned, if that should be decided as the preferable alternative by U.S. officials or by Congress.

I am sorry that we did not utilize this opportunity to pin down the various questions that deal with that problem. My concern is not simply the provisions of this treaty but the fact that this treaty does not solve the largest outstanding dilemmas confronting this country. It is too little, it is too late, and it postpones the likelihood or, in my judgment, makes less likely the possibility of forging an appropriate treaty with regard to Alaskan gas.

That, to me, is the fundamental problem concerning us right now. Certainly, there are other problems with regard to hydrocarbons and the pipelines and the issues to which the Senator from Alaska has made reference. If we had had more opportunity, I am sure we could have forged a better treaty.

Anyone who has been involved in negotiations with the Canadian Government must realize how difficult those negotiations may be. My predecessor in this seat in the Senate, former Senator Len Jordan, was the head of the International Commission for many years which negotiated the treaty with the Canadians on the Columbia River water. That was a very prolonged and a very difficult negotiation. I have discussed that matter with him on many occasions over the years, and I know what the outcome of that treaty was and how favorable it was to the Canadian Government.

I suggest that anyone who believes we are going to get a pipeline for Alaska gas without some kind of very favorable concessionary status to the Canadians is not familiar with the background of the negotiations for that treaty—either on the Columbia or on the St. Lawrence Seaway, particularly on the Columbia. I am more familiar with the concessions, the long-term benefits, and the long-term cost to us with respect to the Columbia treaty. I suggest that when we get around to the negotiation of the treaty dealing with a pipeline for Alaskan gas, negotiations on the Columbia River Treaty will look very easy by comparison.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, will the Senator yield me 2 additional minutes?

Mr. STEVENS. I yield 2 minutes to the Senator.

I say to the Senator from Idaho that this Senator, as a young lawyer, was associated with those who negotiated the St. Lawrence Treaty. I was in the Department of the Interior at the time we negotiated the Columbia River Treaty.

What the Senator from Idaho is saying is music to my ears. He is sending a message to the Canadians that this is not a treaty that authorizes or gives any approval to either the Alcan system or the El Paso system. He is warning our colleagues of what I have tried to warn them, and that is that they do not know, they are not listening to, what is being said in Canada; and that it will be a cold day in hell when we approve the conditions that are being discussed in Canada as applicable to a pipeline to carry Alaska's gas through Canada.

We will not approve an all events tariff. I do not think we will approve Government guarantees of private financing of cost overruns. We will not approve charges to pay socioeconomic costs, including payment of Canadian Native claims being assessed against a pipeline that carries Alaska's gas. That is what I hear the Senator saying, and I am glad to hear him say it.

The Senator from Idaho is not disagreeing with this Senator or with the Senator from Alabama. The Senator from Alabama has been most fair and most cautious, as was every other member of the Foreign Relations Committee. This treaty does not deal with any specific pipeline or any specific condition applicable to any specific pipeline. This is an umbrella treaty. It is necessary to assure the continuing negotiating relationships between Canada and the United States in this area, but it does not affect any specific pipeline.

There are those people in Canada at this very time who believe this treaty, in effect, paves the way for the construction of a pipeline through Canada, and I am delighted to hear you say it does not.

Mr. McCLURE. I thank the Senator from Alaska.

I agree with him on every point he has made save one, and that is the implication that somehow this does not affect those negotiations. I think this does affect those negotiations by having settled some of the outstanding issues which they are happy to have settled and, therefore, we subtracted from the other negotiations something we could have put into the negotiations as part of the bargaining leverage on those other more difficult negotiations.

But I agree with my friend from Alaska, if I understand what is being discussed in Canada right now about conditions on an Alaska gas pipeline through Canada. We are not about to, nor should we, nor are we able to, accede to the demands which some are beginning to accept as almost certain concessions that we will make.

I am only sorry that this process did not start sooner with regard to the Alaska gas pipeline. It is nothing that was unforeseen. We knew the moment Alaska oil started moving that we had to have a solution to the Alaska gas marketing question, and we have allowed the time to go by.

I would say to the Senator from Alaska certainly he is not guilty of that, but we, as a Nation, have allowed the time to go by when we should have been negotiating that agreement, and the pressure is on us more now because the technological problems in that field at Prudhoe Bay with regard to the recovery of, and the conservation of, that gas mount day by day as the oil is produced and shipped south, and there must be a solution to that problem.

It is absolutely necessary, it is in the national interest, that we find a solution, and this treaty here today does not further that goal.

I agree with the Senator from Alaska that it does not further that goal, but my only disagreement is that, in my judgment, it detracts from achieving that goal, and that is the more important immediate problem for us to face. It is not something we can face 5, 10, 15 or 20 years down the road. It is a problem that should have been resolved by this time, and remains still very much early in the negotiating stage.

I thank the Senator from Alaska for his comments and for yielding his time because I am very gravely concerned.

Mr. STEVENS. I am delighted the Senator from Idaho came because I have a simple solution. We need no treaty to build a pipeline through Alaska or use the liquified natural gas tankers to bring the gas to market, including the great Southern Natural Gas Co. that serves the area of the Senator from Alabama, the chairman of the Committee on Foreign Relations. So we have no desire to have a specific treaty covering a specific pipeline. We would rather build the Alaska pipeline.

I would like to say, Mr. President, I do not take lightly the comments of the Senator from Idaho, nor should the Senate.

When we settled the Alaska Native land claims for approximately 75,000 Alaska Natives, and this Senator urged the Congress to do so and urged the final settlement. We paid almost $1 billion and confirmed title to over 40 million acres of land of Alaska. As I said, the State of Alaska paid the largest portion of that settlement in terms of dollars, and we made certain that the consumers of the United States would not bear any of the costs of settling the Alaska Native claims.

Obviously to do so would put Alaska's gas at a competitive disadvantage with gas from other portions of the country. As I said, it is already at a disadvantage because of its remoteness and the cost of transportation to markets.

The proposals that are being discussed in Canada on this very day indicate a desire to shift the burden of the cost of settling the claims of Canadian Natives, claims of Native people, almost three times as many people, in the Northwest Territory and the Yukon Territory of Canada, against their Canadian government. I, as a U.S. citizen, cannot pass on the validity of their claims. I can say many Alaska Natives have talked to me about the claims of Canadian Natives against their Government, and Alaska Natives have tried to assist the Canadian Natives in getting a resolution of their claims.

It is, as I have said before, a human rights issue, and I see no reason why the position of the United States with regard to human rights should stop at the Canadian border. We should do what we can to assure that the Canadian natives obtain justice in their claims against their Government, consistent, of course, with our relationships with that Government as a neighbor.

But the settlement of those claims should not be assessed against the U.S. users, consumers, of Alaska's gas. To do so would set a precedent that will haunt this Government for years.

I only need mention the problems that persist in this country in Maine, in many Western States, with regard to Indian claims. It is an issue that is going to take many more years to resolve completely, and in honesty and full justice to those involved.

But we should not consent in any way to the imposition upon American consumers of the cost of settling Canadian native claims and, as the Senator from Idaho says, and as one who sat with—I was not a direct negotiator but I sat with—those who negotiated the Columbia River Treaty, I know our friends to the north, the Alaskans' friends to the south, are tough bargainers and we have a difficulty, as U.S. citizens, sometimes in listening to our North American colleagues from Canada. It is time we started to listen to what they are saying because the conditions they are discussing literally raise the hair on my head and there is not much of that left. [Laughter.]

Mr. McCLURE. I would say to the Senator from Alaska it is not enough simply to listen, as important as that is. I think we also must be engaged in direct discussions concerning the terms of any proposed treaty on any such pipelines. I am not certain we can arrive at any agreement, but every day we wait makes more inevitable the closing of the options and the elimination of any option save the one which is favored by the Senator from Alaska, and I think it is not just that question. It is also the question of whether or not the Canadian Government is going to be able to open its northern provinces and get the northern Canadian gas to market, and whether or not any of that Canadian gas marketing will then relieve their strictures on the shipment and sale of Canadian gas to the United States consumers.

Mr. STEVENS. I might say to the Senator from Idaho on that point there never has been an indication to this Senator—and I probably have spent as much time in Canada as any Member of the U.S. Senate—there never has been any indication of a change in the national policy that there will be no increase in the total commitment of gas on a permanent basis from Canadian sources, Canadian production, for U.S. use.

There has been indication that there is an intention to fulfill existing commitments, and I believe they will do this as soon as possible.

Mr. President, you will recall the discussions we have had, and I am sure the Senator from Alabama remembers them, concerning the sanctity of contracts, particularly in the West in terms of delivery of gas to the United States. But I know of no additional gas resources in Canada which will be made available to the United States. The additional resources available to our Nation are in my State.

Mr. McCLURE. Let me say to the Senator from Alaska it is not simply a meeting of commitments because those commitments had two parts. They have agreed to fulfill the volume, but they have violated not only the letter but the spirit, certainly the spirit, of those commitments with regard to price and time.

Mr. STEVENS. And time.

Mr. McCLURE. Better than 60 percent of the gas that is marketed in my State comes from Canada.

I listened to a number of people here on the floor from time to time talking about the issue of natural gas price deregulation. We are deregulated. The Canadian gas is deregulated not because the contract permitted any adjustment but because they imposed border taxes equal to the difference. So that so far as the consumer in my State is concerned, we are paying the world market equivalency in Btu content for that Canadian gas right now as dictated by the level of OPEC cartel oil prices. That is not within the spirit or the letter of the original agreements, commitments, that were made on the delivery of Canadian gas. That is one of the things that needs to be solved.

Mr. STEVENS. I am sure the Senator knows we could not solve that with this

treaty. This is a transit pipeline. This is not a treaty to cover production in the United States for Canada or production in Canada for the United States. It is solely a treaty to have an umbrella over a pipeline that originates in one country and returns to that originating country, notwithstanding the fact they transit the neighbor's area.

Mr. McCLURE. I recognize that. This is only a small facet of the total problem, but the total problem remains, and that is the concern that I express.

But I will not belabor that point. I agree with the Senator from Alaska that we do need to listen to our friends to the north, and they are our friends. They are going to make the best bargain they can for themselves, and I do not blame them for that. The only problem is we ought to also be very conscious of what that does to the consumers in this country, and we ought to try when the opportunity arises to solve the problem instead of simply dealing—nibbling away with little aspects of the total problem without addressing the fundamental problem.

I think we have missed an opportunity. For that reason I shall register my vote in opposition.

Mr. STEVENS. I yield back the remainder of the time subject to comments of the Senator from Alabama.

Mr. SPARKMAN. Just a few additional minutes.

Mr. STEVENS. Yes.

Mr. SPARKMAN. I have listened with great interest to the conversation carried on by my friends on the other side. As I recall one of them used the expression "umbrella."

Mr. STEVENS. I did.

Mr. SPARKMAN. It seems to me that is rather descriptive and correct. Remember that this does not close and seal everything forever and ever. It is an umbrella to protect the way, but at the same time to leave open further negotiations, further protocols, and further agreements of different kinds. We are not trying to solve the whole thing at one time forever and ever. I think we should remember that, and it was primarily upon that basis, that understanding of mine, that I expressed the hope the Senator from Alaska would withdraw his reservation as he did.

Mr. McCLURE. Will the Senator yield for just 1 minute?

Mr. SPARKMAN. I yield.

Mr. McCLURE. The analogy of an umbrella strikes me as being perhaps an apt way of expressing my concern. If it is sprinkling a little and a flood is rising around my knees, I am going to be more concerned about the flood than I am about the sprinkle on my head. And I think in this context this is an umbrella.

Mr. SPARKMAN. I believe in that context, to relieve the Senator's fears about the flooding around his feet, he is justified with this understanding and with this treaty arrangement that we have presented today.

Mr. STEVENS. Again I thank the Senator from Alabama for his comments, Mr. President, and I have withdrawn the reservation after discussing the matter with him. I am convinced that the letter from the Department of State clearly indicates to us that unless these charges are imposed upon similar pipelines in Canada they would not be proper under this agreement and that means that any move to try to make such charges proper would have to be presented to the Senate in the form of either a protocol or an agreement for consideration by the Senate, at which time I am certain the Senator from Alabama would again permit the Senator from Alaska to participate in any consent consideration, and I am sure the Senator from Idaho would be present at that time, too.

I thank the Senator and am prepared to yield back the remainder of the time having had no request for further time on this side.

Mr. SPARKMAN. I am glad to yield back my time. I have had no request.

Mr. STEVENS. I yield back the time of the Senator from New Jersey.

Mr. SPARKMAN. I had no request to reserve time on this side.

ADDITIONAL STATEMENT SUBMITTED

Mr. BAYH. Mr. President, although the Senator from Alaska has indicated that he will not press his reservation to the Transit Pipeline Treaty, I would like to comment briefly on it. This reservation, which is obviously directed at the proposed Alcan pipeline project, would bar approval of any pipeline for carrying gas from Prudhoe Bay across Canada to the lower 48 States unless the United States had first received assurances from the Government of Canada with respect to three issues. Comments on all three issues set forth in the reservation are in order.

First, the reservation would bar approval of a transit pipeline until the United States received assurances that no part of the cost of the settlement of Native land claims in Canada would be assessed against the pipeline. Although this is a valid concern, it does not require a reservation on the treaty. The Lysyk report on the socioeconomic impacts of the Alcan project in the Yukon, which was released yesterday, confirms the Canadian Government's position on this issue. As the report stated, the cost of settling these claims is not to be borne by the pipeline. It is a special obligation of the Government of Canada.

Incidentally, I should note that the Lysyk report effectively cleared the way for Canadian approval of the Alcan project. It supports Alcan and finds it to be beneficial to both the Yukon and Canada.

Further, putting off construction until August 1981, as recommended by the Lysyk commission, will not result in lengthy delays in actual delivery of Canadian or Alaskan natural gas to the United States. The delays suggested by the Lysyk report, if accepted by the Canadian Government, would extend the actual completion of the Alcan project for approximately 8 months to 1 year, and not the 4 years that might be inferred. This is because the delay mentioned by Lysyk would affect only the actual installation of pipes. Preconstruction work, such as surveying, road grading, and development of work areas can begin as scheduled. Thus, even if the recommendation is accepted, the Alcan pipeline will be in operation by 1982, far in advance of the El Paso project.

In addition, the moritorium recommended by the Lysyk commission does not affect construction of the Albertan or American parts of the transmission system. Thus, Alcan will still be able to begin deliveries of substantial volumes of additional Canadian gas to the United States, for which a contract has already been signed, by 1979 or 1980. This will ease gas shortages even before Alaskan gas begins to flow, and prevent too many more unnecessary winters like the one we suffered last year.

Second, the proposed reservation would bar pipeline approval if any charge for the socioeconomic costs created by the pipeline would be assessed against the pipeline. I do not understand the basis for this reservation since it is directly contrary to the principle that those who benefit from a project should bear its costs. These costs clearly include the socioeconomic impacts on the areas which the pipeline transits.

Indeed, in recent years, the United States has recognized that very large projects create secondary socioeconomic impacts and had begun to establish means to compensate for them. Examples are the Strip Mining Act which we recently passed and the energy impact provisions of the Coastal Zone Management Act. Normally, compensation for such impacts has been by Federal Government loans and subsidies, which is different from the proposed Canadian pipeline impact fund. However, the principle is the same.

Further, Canada's National Energy Board indicated that it would have imposed a similar requirement on any pipeline transiting areas north of the 60th parallel. Thus, requiring establishment of such a fund for the Alcan project is not discriminatory and preventing discrimination is the objective of the treaty.

The third provision in the proposed reservation would bar pipeline approval unless the Government of Canada agrees to hold harmless American companies from any monetary charges imposed in contravention of the treaty. This is a needless affront to the Canadian Government since it has committed in the treaty not to discriminate. The ordinary principles of international law and the practical realities of transit pipelines in North America are sufficient to deal with any treaty violation.

Further, there is no basis for speculating that the Canadian Government might tax the Alcan project in a discriminatory fashion. Indeed, the Lysyk report recommended a method of computing property taxes which is virtually identical to the approach adopted by the State of Alaska for the Alyeska oil pipeline. The Lysyk report notes that this method, when applied in the Yukon, will result in tax revenues per mile of pipeline that are less than three-quarters of the revenues per mile that will accrue to the Alaska State government from property taxes on the Alaskan section of the pipeline.

Thus, Mr. President, it is clear that the provisions in the proposed reservation are unnecessary. I would also like to in-

dicate that the Lysyk recommendations are only suggestive and do not bind the Canadian Government to any particulars. The Lysyk report is only one of a number of factors the Canadian Government will take into account in making its final decision about the precise amount to be assessed against the pipeline. In fact, this issue will likely be a subject of negotiations between our own Government and the Canadians.

Given these considerations, Mr. President, I am pleased that the Senator from Alaska is withdrawing his proposed reservation.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the resolution of ratification. (Putting the question.) Two-thirds of the Senators having voted in the affirmative the ayes have it.

Mr. SPARKMAN and Mr. STEVENS addressed the Chair.

Mr. STEVENS. Mr. President, is it necessary to reconsider the vote by which the resolution of ratification of the treaty was agreed to?

Mr. SPARKMAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPARKMAN. Is not a rollcall vote mandatory on the treaty?

Mr. STEVENS. It is not mandatory on a treaty, to my knowledge.

Mr. SPARKMAN. I think it is.

The PRESIDING OFFICER. A rollcall vote is not mandatory under the Constitution.

Mr. SPARKMAN. Mr. President, I believe we should have the yeas and nays.

Mr. STEVENS. Does the Senator wish to have the yeas and nays?

I might say to the Senator from Alabama that the leadership reserved all rollcall votes until after 12 noon. If he wishes a vote, we do not disagree, but I do not know that the vote is necessary on this treaty.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, are we discussing a vote on the resolution of ratification of the treaty?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. I think we should always have rollcall resolutions of ratification of treaties.

Mr. STEVENS. Very well.

The PRESIDING OFFICER. The vote has just been concluded by a voice vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is it not true that the ratification of resolution of treaties requires two-thirds vote

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I think we would be criticized if the Senate were to agree to a ratification of resolution of a treaty with only five Senators in the Chamber.

Mr. STEVENS. Mr. President, I offer my apologies to the Senator because I felt the rollcall vote was not required. I understand tradition would be consistent with the request of the Senator from West Virginia, and certainly we have no objection. I favor the treaty. I know of no one who wants to oppose it.

Mr. McCLURE. Except me.

Mr. STEVENS. I have just been informed that the Senator from Idaho wishes to oppose it.

Mr. ROBERT C. BYRD. Mr. President, there will be a rollcall vote on the treaty. I ask unanimous consent that it be in order at any time, either during legislative session or executive session, to request the yeas and nays on the resolution of ratification.

Mr. STEVENS. Today.

Mr. ROBERT C. BYRD. Today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays on the ratification of the treaty.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I thank the distinguished majority leader.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 926, which the clerk will state.

The legislative clerk read, as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Nevada (Mr. CANNON), on which there are 15 minutes remaining fo. Mr. CANNON and 20 minutes under the control of the Senator from Oregon (Mr. HATFIELD).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Nevada.

Mr. HATFIELD. I thank the Chair.

I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, under the same conditions as before as to time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

Mr. ROBERT C. BYRD. Mr. President, as in executive session and in accordance with the earlier understanding, I ask unanimous consent that the rollcall vote on the resolution of ratification of the Trans-Canada Pipeline Treaty occur at 12 o'clock noon today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 o'clock noon today the Senate go into executive session, and that, immediately upon the disposition of the vote on the ratification of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

Mr. CANNON. Mr. President, what is the parliamentary situation?

AMENDMENT NO. 769

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Nevada. The Senator from Nevada has 15 minutes, and the Senator from Oregon has 20 minutes.

Mr. CANNON. Mr. President, I ask unanimous consent that the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself such time as I may need.

This amendment would authorize the Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, to conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The amendment would further require the Commission to report to the Congress the results of the study, including recommendations, if any, for the implementation of a program of such standards. This would include estimates of the costs and time required to implement such a program.

Mr. President, there are at present over 12 different voting devices now being used to record votes in Federal elections in this country, and estimates of the Clearinghouse on Elections Administration of the Federal Election Commission indicate that the sale of voting systems is a $35 to $40 million a year business. We are all aware of some of the problems which have arisen with the operation of these various automated and nonautomated vote recording devices, but I would like to mention a few.

One example can be found in the recent Durkin-Wyman Senate contest where evidence was presented indicating that a number of lever voting machines had malfunctioned during the election. Additional jurisdictions have cited problems with lever machines, including counter, machining, and transparent curtain difficulties. Problems have also been cited regarding computerized voting systems, involving such matters as ballot card length, width, texture, and other variations that affect ballot counting operations, and problems with the software purchased or leased from various vendors, as well as difficulties with incomplete card punches.

At the present time, there are few standards against which to evaluate these voting systems. While a number of States have provisions in their State codes for testing voting systems, the standards that have been developed are not very detailed and may not necessarily apply to other jurisdictions. In addition, these standards usually apply only to the initial approval of a voting system. Very little is currently provided for retesting voting systems once they have been approved.

The long-term objective would be to develop voluntary performance standards for voting systems and associated computer programs used in Federal elections and the implementation of an institutional system through which conformance with those standards by particular equipment can be measured and verified at the State and local government levels. No State or local government would be compelled to use these standards but if a State chose to do so, it would have access to a more comprehensive system of standards than the State could develop with its own resources.

The manner by which voting equipment is procured, operated and tested has been a matter of growing conern to State and local election officials. In January of 1977, an FEC Advisory Panel of State and local election officials recommended the development of voluntary standards for voting systems. The increasing sophistication of voting equipment and the related technical aspects and problems associated with this equipment points out the need for both standards and recommendations detailing procedures which wiill assure the accuracy and security of vote tallying.

This study could, among other matters, concentrate on defining the problem in more detail, analyze current State legislation and testing procedures, identify institutional mechanisms that need to be put in place at the State and local government levels to insure the implementation of performance measurements against the standards and finally identify the specific standards that might be developed during subsequent stages of the program.

This amendment would give the Congress endorsement to a preliminary study at the Federal level for the eventual development of such voluntary standards and guidelines to be used by State and local governments during the testing, approving, certifying, procuring, operation and retesting of voting systems.

I understand that there have been preliminary discussions between the Bureau of Standards and the Commission as to the need for uniform standards as well as the manner by which such a study could be conducted. I would like to have the Congress go on record in support of the effort, and endorse such a study which I believe will make a significant contribution to the reliability and security of our elections.

Mr. President, I reserve the remainder of my time.

Mr. HATFIELD. Mr. President, I am happy to cosponsor this amendment with the distinguished Senator from Nevada. I shall underline only a couple of points that he made in his presentation.

One is that this amendment would provide for a preliminary study to make an assessment of the situation at hand, and would provide also for the voluntary acceptance of what standards may be developed on the part of the States.

As a former secretary of state of my own State of Oregon, I was the elections director for the State, I recall that frequently various salespersons would come by, and to promote that particular election machine product.

As the elections officer of the State, I had, of course, no technical skill or knowledge to make judgments, assessments, or observations, and neither did the legislature. The same salesmen would oftentimes come by the legislative sessions and attempt to persuade legislators to install by law a certain voting device.

We experimented with various of these devices and, of course, it was on the basis of a rather unscientific and yet practical kind of experiment.

I think the National Association of Secretaries of State would probably welcome this committee to move on this subject and to develop this kind of information for them. In most States, the Secretaries of State are assigned the responsibilities of the administration of election laws.

As the Senator from Nevada has indicated, we got into this subject matter when we were handling the Durkin-Wyman contest in New Hampshire. We had evidence there of how certain voting machines malfunctioned during that election, which threw further confusion into the election in New Hampshire.

I commend the Senator for this particular amendment and say I am pleased to join him and urge its adoption.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 544

Mr. CANNON. Mr. President, I call up amendment No. 544 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes amendment No. 544.

EXAMINATIONS AND AUDITS: REPAYMENTS

SEC. 206. Section 9007(d) of the Internal Revenue Code of 1954 (relating to deposit of repayments) is amended by striking out "general fund of the Treasury" and inserting in lieu thereof "Presidential Election Campaign Fund".

Mr. CANNON. Mr. President, this amendment would require that all repayments of excess public funds from eligible candidates in the Presidential general election, and from the parties with regard to convention expenses, be redeposited in the Presidential election campaign fund, rather than the General Treasury.

Under present law, all repayments from candidates in the Presidential primaries are made to the Presidential primary fund and not to the General Treasury, while repayments from the general election candidates and the parties with regard to their conventions are deposited in the General Treasury.

This amendment would conform existing law to require that any repayment of checkoff funds be returned to the fund. I think it is clearly what the Congress intended.

Mr. HATFIELD. Mr. President, I support this amendment and urge its adoption.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 543

Mr. CANNON. Mr. President, I call up my amendment No. 543.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment No. 543.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, strike lines 9 through 19, and insert in lieu thereof the following:

SEC. 106A. Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any State or national political committee of a political party registered with the Federal Election Commission shall be entitled to use the same postage rates as a 'qualified nonprofit organization', as defined in former section 4452(d) of this title, so long as any such organization is entitled to use such rates for communications relating to any political or legislative subject.".

Mr. CANNON. Mr. President, this is essentially a technical amendment to part II of S. 926. At page 56, beginning at line 9, the committee provided for reduced postage rates for State and national political party committees.

The Postal Service has advised the committee that this provision should be enacted as an amendment to title 39 of the United States Code rather than as an amendment to the Federal Election Campaign Act. The purpose of this change would be to assure that the Postal Service is authorized to seek appropriated funds to make up any postal revenue loss as a result of the reduced rates afforded political party committees. This amendment would, therefore, merely include the reduced mail rates for political party committees among the other reduced rates in section 3626 of title 39 for which the Postal Service is authorized under 39 United States Code 2401(c) to seek appropriated funds. This, of course, is what the committee intended and this amendment would carry out that intent.

Mr. HATFIELD. Mr. President, I join the Senator from Nevada in urging adoption of this amendment.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 578

Mr. CANNON. Mr. President, I call up amendment No. 578 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes amendment No. 578.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, lines 10 and 11, strike out "a candidate for President of the United States who is affiliated with a political party" and insert in lieu thereof "the national committee of a political party which has nominated a candidate for President of the United States".

On page 63, line 13, strike out "of being nominated" and insert in lieu thereof "after such candidate has been nominated".

On page 64, line 3, after "Any" insert the following: "national committee of a political party which has nominated a".

On page 64, line 14, strike out "candidate" and insert in lieu thereof "national committee".

On page 64, line 17, strike out "candidate" and insert in lieu thereof "national committee".

On page 64, line 18, strike out "candidate" and insert in lieu thereof "national committee".

Mr. CANNON. Mr. President, section 112(d) in part II of S. 926, gives a Presidential candidate an option to designate a specific committee in a State authorized to receive contributions and make expenditures on behalf of the Presidential candidate in the general election up to the greater of $20,000 or 2 cents times the voting age population of that State.

Under the bill, as reported, if this option is not exercised then the right to make these limited expenditures is given to the State committees of that party. State support of the Presidential nominee in the general election was curtailed by an absence of such a provision in the 1976 elections.

The purpose of this amendment is to give this option to the national committee of a political party, rather than the Presidential nominee. The national committee would appear to be in a better position to determine the relative strengths of that party's various State committees, and assess the need to exercise the right to designate a special committee in that State.

Mr. President, I reserve the remainder of my time.

Mr. HATFIELD. Mr. President, I join with the Senator from Nevada in urging adoption of this technical amendment. I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I assume all the technical amendments have been completed now by the Senator from Nevada.

Mr. CANNON. That is correct.

Mr. HATFIELD. Mr. President, I would yield the floor for the purpose of recognition to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

UP AMENDMENT NO. 709

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes unprinted amendment No. 709.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike line 18 on page 69 and all that follows until the end of line 16 on page 70, and insert the following in lieu thereof:

"SEC. 301. Section 603 of title 18, United States Code, is amended by adding the following at the end thereof:

"The preceding sentence shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.".

Mr. HEINZ. Mr. President, I was shocked to find in S. 926 an amendment to current law which would make it legal for the staffs of Congressmen and Senators to solicit contributions in this building, in their own offices, or in any other Federal building.

I do not know what the committee had in mind in adopting this provision. I think we ignore the lessons of Watergate when we allow a Senate staffer to bring in a bunch of special interest people into his boss' office and say, "This is where the Senator works, here is what he has done for you, what are you going to do for him" while the staffer holds out his hand until an envelope full of money appears in it.

Unless my amendment is agreed to, and I hope the manager of the bill (Mr. CANNON) will agree to it, what I've just described is exactly what will happen. It is an invitation for up to two members of the staff of each Senator to solicit funds from special interests and have their salaries paid for by the taxpayers.

I ask the Senator from Nevada if that is what he intends. That is what is in this bill.

Mr. CANNON. I say to my colleague that he has not been here long enough to find out how these problems work. That is clearly not the intent of the statement in the bill.

I refer him to the provision in the report on page 25, reading as follows:

Section 301 of the bill amends section 603 of title 18 U.S.C. which prohibits the solicitation or receipt of contributions in a Federal building, to provide that it shall not apply to two assistants to a Senator who have been designated by that Senator, pursuant to Senate Rule XLIX to receive, solicit, be the custodian of or distribute any funds in connection with any campaign for the nomination for election, or election of any individual to be a member of the Senate or to any Federal office. Section 603 would also not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to Section 308 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437b).

This amendment was specifically required to clear up an ambiguity in the law that existed at that time. Congress has already acted, the Senate has acted, to say that a Senator may designate two people on his staff—and those two people only—who may receive campaign funds. That is in the rules of the Senate. It has been acted on by the Senate. Yet, there might have been a question of a check in the mail coming in and that person being able to receive it, involving a technical violation of the law.

Senator ALLEN raised this point. We considered it in the committee and we did make the determination that this was necessary to comply with rule XLIX that the Senate has already adopted.

Rule XLIX reads as follows:

1. No officer or employee of the Senate may receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to two assistants to a Senator, at least one of which is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph (except solicitation) and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if such assistant files a financial statement in the form provided under rule XLII for each year during which he is designated under this rule. The Secretary of the Senate shall make the designation available for public inspection.

That amendment, as I said, was simply a clarification of something that is already in the rule to make it clear that a person is not in violation of the law if he carries out what he is authorized to do under rule XLII. It is no more nor less than that specific provision.

I have sent word to Senator ALLEN. I presume he will be here shortly, because I am sure he would want to be heard on this matter.

I reserve the remainder of my time, Mr. President.

Mr. HEINZ. Mr. President, let me respond to my friend from Nevada, because I do not think he understands the language I am seeking to strike.

If I may have the attention of the Senator from Nevada.

Mr. CANNON. The Senator has my attention, and I understand very completely what he is seeking to strike. We considered this in the committee, very completely.

Mr. HEINZ. Here is the point that seems to be glossed over.

The Senator is correct that the rule that we adopted earlier this year does permit a Senate employee—and I happen not to be in favor of the rule—to receive, solicit, or be the custodian of or distribute any funds in connection with a campaign. That is permitted under the Senate rule. I happen to disagree with that; I think it is a lousy rule. But that is not the point.

What section 603 in the United States Code is all about is not who is soliciting—that happens to be section 602—but where it is solicited. I shall restate my point to the Senator from Nevada so he understands it.

This is not an issue as to whether his assistant is going to be able to solicit funds or not. Striking what I propose to strike on page 69 and following does not eliminate the Senators' assistants' right to solicit funds. What it does eliminate and what it should eliminate is his or her right to solicit funds on Federal property. I do not want the Senator's assistant or my assistant or anybody's assistant picking up the WATS line and calling contributors and fat cats and special interest groups. That is what is at issue here.

The Senator raised one other point. The point that the Senator raised is, yes, there are contributions that come in the mail and they do come to Federal office buildings. I know. I have had contributions come in my mailbox and we send them off to our depository just as fast as we can. That is why I would leave the section 301 amendment, which I would put in with my amendment, namely, that section 603 of title 18 of the United States Code is amended by adding the following at the end thereof.

The preceding sentence shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.

That is a perfectly reasonable thing to continue. But what is totally unreasonable is to have up to two Senate employees on the phone, day in, day out, soliciting money out of the Senator's or anybody else's Government office. I do not think we can abide that. But that is exactly what the committee's amendment to section 603 would permit.

I see Senator CLARK of Iowa on the floor. He had the good sense to vote against this amendment in committee. I think Senator CLARK knows just how pernicious this amendment is.

I think the issue is very clear, Mr. President. The issue is whether we want to turn the U.S. Senators' offices into the Baltimore County Courthouse and make Marvin Mandel assistants out of every single U.S. Senate employee designated under the Senate rule. That is not at all the idea of this Senator.

I hope that, now that I have better explained my amendment—and made clear that we are not talking about a Senate employee soliciting away from the Senators' offices, away from this Capitol Building, away from any Federal building, out of his home, for example—that he will agree to accept this amendment.

Mr. CANNON. Was the Senator addressing that question to me?

Mr. HEINZ. Mr. President, I am asking my good friend and distinguished colleague from Nevada to reconsider his position, because I hope he can support this amendment. I would hate to see him be in the position of supporting the kind of shenanigans that section 603 opens the door to by letting special interest groups come in, negotiate with the Senator's administrative assistant, and leave an envelope on the table.

Mr. CANNON. I am sorry that the Senator imputes that kind of conduct to his colleagues. The Senator, I think, if he had been here a little longer, might credit them with a little more integrity than he apparently does.

Mr. HEINZ. I say to the Senator, I am not impugning anybody's integrity, especially that of my very distinguished colleague from Nevada, and I have been a Member of Congress for 5½ years.

Mr. CANNON. I am trying to respond to the Senator's question.

In the first place, Senate Resolution 188 has been acted upon by the Senate and there is a revision in that that requires the clarification.

In the second place, rule XLIX has been enacted by the Senate. The Senator says he does not agree with rule XLIX. That may well be, but he is only one of 100 Senators and the majority of them do agree with rule XLIX. They have acted on it. They have acted on Senate Resolution 188. It requires a clarification in that resolution and in rule XLIX if any change is to be made.

I certainly would not accept the amendment that he has proposed.

Mr. HEINZ. The Senator may want to know that we are talking about rule XLIX, not rule XLII.

Mr. CANNON. Also Senate Resolution 188.

Mr. HEINZ. Mr. President, I feel very strongly about this. I think the Senator from Nevada has to know that this amendment is very different from rule XLIX.

Rule XLIX goes to the conduct of a Senate employee, but it has nothing to do with where he may exercise his responsibilities and duties.

Section 603 goes to the place the activities occur. It has nothing to do with individuals, therefore.

It happens to be the case that in allowing this provision to remain unamended, as I have proposed to amend it, we are going to turn the offices of U.S. Senators into places where the business of the Senate will be for sale. I do not think that should be the case.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HEINZ. On my time.

The PRESIDING OFFICER. The Senator does not have sufficient time.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The time runs equally against both sides.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania. The Senator has 3 minutes left on his own amendment. The Senator from Nevada has 11 minutes remaining.

Mr. HATFIELD. Mr. President, I thank the chair.

Mr. HEINZ. Mr. President, I ask the Senator from Nevada if he would be amenable to striking the word "solicit" from the bill where it occurs on line 2.

Mr. CANNON. Mr. President, I could not agree, I say to my colleague. I could not agree to strike that word because the Senate has acted in both of the particulars. It acted in rule XLIX and then in Senate Resolution 188.

So if I were to agree to strike it, I would be agreeing to doing something that is contrary to Senate Resolution 188, which has already been adopted by the Senate, the report of which specifically spells out why it was left in, why the language was in there.

Mr. HEINZ. Mr. President, I beg the indulgence of my friend, the Senator from Nevada, one more time.

I want to try and clarify one thing. That is, would he agree that the focus and heart of section 603 goes to the place that an activity takes place? Is that not the central point?

Mr. CANNON. If I understand the Senator correctly on his inquiry, it was, Does the change in 603 relate to the person and also the location?

Section 603 makes a specific prohibition that which the Senate has acted to overrule in rule XLIX and has also further acted on in Senate Resolution 188.

If I need to, I could read to the Senator the committee report covering Senate Resolution 188, which makes it very clear.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The Senator from Nevada has 11 minutes on his own time left.

Mr. HEINZ. Mr. President, I did not yield to the Senator from Nevada. I assume he is proceeding on his own time.

Mr. CANNON. Mr. President, I reserve the remainder of my time.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD addressed the Chair.

Mr. CANNON. Mr. President, reserving the right to object, I did not hear the Senator's request.

Mr. HEINZ. I asked unanimous consent to proceed for 5 additional minutes.

Mr. CANNON. How much time does the Senator have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. It has expired?

The PRESIDING OFFICER. The Senator from Nevada has 11 minutes.

Mr. HATFIELD. Mr. President, I would be happy to yield the Senator some time on the bill.

Mr. HEINZ. I appreciate that.

Mr. HATFIELD. Three minutes?

Mr. HEINZ. Five minutes.

Mr. HATFIELD. Mr. President, I yield the Senator 5 minutes on the bill.

Mr. HEINZ. Mr. President, I think it might be helpful if we just read section 603 as it now reads, and it says:

> Whoever in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in a navy yard, fort, or arsenal, solicits or receives any contribution of moneys, or other thing of value, for any political purpose shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

Now, that seems very clear to me that we are making it possible for up to two Senate employees to do something that no other Government employee may do in any Federal building.

I am extremely distressed that we cannot seem to see that we are setting a double standard; that title 18, section 603, will reman in effect for everybody else on Capitol Hill except for a Senator's two trusted and experienced fund raisers, paid for at the taxpayer's expense, to sit in the Senator's offices and solicit money.

Mr. President, for the life of me, I cannot understand the arguments of the Senator from Nevada. It is very clear that we are not talking about allowing a Senate employee to solicit money. He is correct that a Senate employee may solicit money under rule XLIX; but as sure as the Lord made little green apples, it is not the intention of the Senate, I hope to let him do that on Federal property, using federally paid for WATS lines, during normal business hours, with his salary paid for by the taxpayers.

Mr. President, I reserve the remainder of my time; but before I do so, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HEINZ. Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, how much time does the Senator have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. CANNON. Mr. President, I do not know that there is any more I can say on this matter.

I have pointed out already that the Senate has acted on rule XLIX and has acted on Senate Resolution 188, which left a confusion in the law. As a result of that, Senator ALLEN offered this amendment in committee to make clear that a Senator's employee would not be in violation, provided it is one of the two persons designated under rule XLIX and designated in accordance with Senate Resolution 188 to solicit and receive funds.

The Senate acted on both of those issues. The Senator already has said that he does not agree with rule XLIX. What he should do, then, is to try to change rule XLIX, if he has the votes, because the Senate did agree with that—a majority of the Senate—and it agreed with Senate Resolution 188.

So I hope that the Senate will support the committee in keeping part 2 of the campaign reform bill in substantially the same position it is in right now, so that we can make some very greatly needed changes.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time, if the other side is.

Mr. HATFIELD. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada has 8 minutes remaining. The time of the proponents has expired.

Mr. CANNON. I yield back the remainder of my time, and I move to table the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion to table was agreed to.

UP AMENDMENT NO. 710

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 710.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, after line 24, add several new sections, as follows:

"PERSONAL CAMPAIGN EXPENDITURES"

"SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part."

SEC. 115. Section 316(a) of the Act (2 U.S.C. 439 (a)) is amended by inserting "or declaration" immediately after "statement".

SEC. 116. Section 320(a) of the Act (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9)(A) The limitations on contributions to a candidate for Federal office imposed by paragraphs (1)(A) and (2)(A) of this subsection shall not apply in the case of contributions to any candidate who has filed a declaration as provided in paragraph (1)(B) or (2)(B) of section 330(a) or his authorized political committees if any other candidate for election to such Federal office has filed with the Commission a declaration as provided in paragraph (1)(A) or (2)(A) of section 330(a).

"(B) The exception provided for in subparagraph (A) shall apply only to the extent that such contributions do not exceed the amount by which the greatest amount of intended personal expenditures declared by any candidate, as provided in paragraph (1)(A) or (2)(A) of section 330(a) with respect to a particular election, exceeds $35,000. If more than one candidate files a declaration pursuant to paragraph (1)(A) or (2)(A) of section 330(a) with respect to such election, each candidate who has filed such a declaration shall be entitled to make personal expenditures in the same amount as the candidate declaring the greatest such amount.

"(C) In the case of a runoff election, any candidate for Federal office (other than the office of President or Vice President) who is permitted under this paragraph to receive contributions in excess of the limitations imposed by paragraphs (1)(A) and (2)(A) of this subsection or his authorized political committees may receive such contributions

prior to the runoff election for such office only if such contributions—

"(i) are deposited in a single checking account to which no other funds are transferred; and

"(ii) are not used to make expenditures until after the date of the primary election which results in such runoff election.".

SEC. 117. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 118. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 119. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days before the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is earlier, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

SEC. 119. Any candidate who makes an expenditure reported pursuant to section 119 shall be in violation of the act.

Mr. JOHNSTON. Mr. President, this amendment is part of a broader amendment which I submitted to the Rules Committee as a bill and on which we had hearings. I think it is fair to say that the whole amendment at that time had some favorable comment but that there were some provisions that were considered, in remarks of the committee, to be a little too strong. For that reason, I have watered down the amendment somewhat, to make it deal with what I think is a very serious problem under the election law, and that is the problem of personal money being spent by candidates in a campaign.

This amendment would not restrict 1 cent of what a candidate can spend in a campaign, but it would require that within 5 days of the time he qualifies for office or 60 days prior to that election, whichever is later, he make his own declaration as to how much money he is going to spend. He sets the limit. If he wants to spend $1 billion, he can make a statement that he wants to spend $1 billion, and that is his limit. However, whatever he designates, he will be stuck with that limit and may not spend more than that in the campaign.

What is the reason for this, Mr. President? The reason is that the question of how a campaign is financed and how much of a man's personal money is to be spent should be known up front in any campaign. If you do not have that knowledge up front, then a candidate using his own personal money, using the advantage of his own personal wealth, can, in the last week, tilt dramatically the results of an election and do so without the public having any sense of what is happening.

I think it is fair to say that at least a third of most campaign budgets are expended within the last week or 10 days. That is when the television blitz comes on; that is when the phone banks come into effect; that is when the signs go up; that is when the media activity as well as personal activity are at their highest points.

If the critical part of the campaign is going to be financed by personal wealth—and we do not attempt to prohibit that—all we say is that that should be known up front. If a candidate wants to put his own money into a campaign, as the Supreme Court has said he may, then it should be known up front, and he should be restricted to that amount, so that the other side, which may not have the advantage of wealth, will be in a position either to make the campaign issue or know what the other side is spending, so that it can respond by seeking to raise more money.

I hope that the committee can accept this amendment.

This takes away the more Draconian features of the original bill I presented, which provided for more difficult sanctions. But this simply lets him set his own limit and prevents him from spending more than he sets.

Mr. CANNON. Mr. President, if I understand this amendment correctly, I do not believe I can accept it. I should like to ask the Senator a question or two.

Let us take the case of the distinguished Senator from Pennsylvania. Let us say he announced that he was going to spend $50,000 of his own money in a campaign and that thereafter he decided, because of the way the campaign developed, that he would have to spend more than that and he spent $100,000 of his own money. Do I correctly understand that he would be in violation of the law because he spent the additional $50,000? The Court already has said that we cannot limit the amount of a person's own money he can spend in a campaign. Would he be in violation of the law, under this provision?

Mr. JOHNSTON. This is not in opposition to the Court at all.

Mr. CANNON. All I am trying to find out is whether he would be in violation of the law if he spent $100,000, when he said he was going to spend only $50,000 of his own money.

Mr. JOHNSTON. That is correct.

Mr. CANNON. So he would be in violation of the law, even though the Supreme Court said you cannot limit the amount a person can spend on his own campaign if he is not accepting public financing.

Mr. JOHNSTON. I would not accept the implication that the Supreme Court has made impossible this kind of thing. What the Supreme Court has said is that you cannot limit expenditures, by law, of a man's own personal money. We do not attempt to limit that. What the Supreme Court says you can do is to provide for disclosure. All this does is to provide for disclosure at a time when it will do some good. It does not do any good after the election is all over and they come in and say, "Yes, we spent a million dollars of our own money," if it is not disclosed until after the fact.

Mr. CANNON. I recognize that. But what disturbs me is that we cannot tell a man how much he can spend. We cannot limit what he can spend.

Mr. JOHNSTON. That is correct.

Mr. CANNON. But if we say he can spend only so much and then he spends more, he is in violation of the law.

There is one other feature in this amendment that would cause me to oppose it. If I read the amendment cor-

rectly—and I have only read it hurriedly—in the same situation I described, in which he spent $50,000 more than he stated, the other candidate would not be bound by the contribution limitations of $1,000 per person or of $5,000 per PAC, under the law. They could give any amount of money to help that candidate raise the added $50,000.

Mr. JOHNSTON. I have taken out that feature, because I know the Senator objected to that in the Rules Committee.

Mr. CANNON. On the copy I have, I think it is still here because it says:

(9)(A) The limitations on contributions to a candidate for Federal office imposed by paragraphs (1)(A) and (2)(A) of this subsection shall not apply in the case of contributions to any candidate who has filed a declaration as provided in paragraph (1)(B) or (2)(B) of section 330(a) or his authorized political committees if any other candidate for election to such Federal office has filed with the Commission a declaration as provided in paragraph (1)(A) or (2)(A) of section 330(a).

(B) The exception provided for in subparagraph (A) shall apply only to the extent that such contributions do not exceed the amount by which the greatest amount of intended personal expenditures declared by any candidate, as provided in paragraph (1)(A) or (2)(A) of section 330(a) with respect to a particular election, exceeds $35,000.

Is that still in the Senator's amendment?

Mr. JOHNSTON. That was not intended to be, and I would be glad to strike that if the Senator can accept it.

I might point out——

Mr. CANNON. I do not think I could accept it anyway, but that is still in the amendment that was handed us as being the Senator's amendment. I do not think I could accept the proposition whereby we would say that we are told by the Court that we cannot limit the amount of an individual's own money that he can spend on a campaign. So we come in the back door and say, "All right, we cannot limit that amount, but we will require him to announce how much of his money he is going to spend, and if he announces that and then for some reason has to go over, decides he needs to go over that amount, he is then in violation of the law." I have serious doubt as to whether that could be held constitutional.

Mr. JOHNSTON. I understand we have been around this bush before, and I fail to follow the argument that to say when we do not limit him but when he limits himself and, in effect, has disclosure, predisclosure, as opposed to disclosure at a later time, that that somehow violates the law because we are limiting what he spends. He can put down anything he wishes and, indeed, the Senator in the original bill which was filed here had this predeclaration where a candidate had to state what he was going to spend. Was that not a part of the bill?

Mr. CANNON. Yes.

Mr. JOHNSTON. Will the Senator tell me what is the difference between his putting it in and my putting it in?

Mr. CANNON. We required the declaration, but there was no penalty if he exceeded that amount. That was the difference. We required him, we said, "You must state how much of your own money you will spend." This is in the interest of full disclosure. But we did not say he was in violation of the law if he spends over that, and he might inadvertently spend over it, and he would not have been in violation of the law. Yet the law says you cannot limit him in what he can spend.

Mr. JOHNSTON. The Senator agrees with me it is a good thing to require predisclosure?

Mr. CANNON. The disclosure I like, I am in support of it, and I think everyone ought to know what the candidates are spending. I favored a limit on what they could spend, as the Senator knows.

Mr. JOHNSTON. Very well.

We are in agreement that it is a worthy end. The Senator's only objection is that the court may find it unconstitutional.

Mr. CANNON. Well, not only the question of unconstitutionality, but I do not see it as being fair when the Senator says "We require him to declare." That I would have no problem with. But when the Senator says, "If he declares and then happens to exceed it or goes over that amount he is in violation of the law," I cannot buy that. If the Senator wants to require him to declare the amount of money he can spend, that I find no problem with.

Mr. JOHNSTON. Do you not think it is sort of putting the Government in league with helping enforce his official lie, if that is not too strong a word, by making his declaration when he has said, "I have declared I am not going to spend more than x dollars," and then he comes along and dumps a huge amount of his own personal wealth in at the last 3 or 4 days, and after the election is over, he won or lost, he says, "Sorry about that, guys. I changed my mind there at the last," and his opponent does not know anything about that?

Mr. CANNON. I think it is unfair. I would agree with the Senator. But I cannot go with the Senator on this kind of an approach to put him in violation of the law when the law says you cannot limit him.

Mr. JOHNSTON. I beg to disagree with the Senator. The law does not say that a man cannot limit himself.

Mr. President, I move to modify my amendment by deleting section 116, and renumbering the other sections successively.

The PRESIDING OFFICER. The Senator has the right to modify his own amendment, and it will be so modified.

Mr. JOHNSTON. Mr. President, I further move to modify my amendment in section 119 after the word "expenditure" and before the word "reported" add the words "in excess of the expenditure".

Therefore, the section would read as follows:

Any candidate—

The PRESIDING OFFICER. Is the Senator modifying his amendment?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. Will the Senator please send the modification to the desk.

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 66, after line 24, add several new sections, as follows:

"PERSONAL CAMPAIGN EXPENDITURES"

"SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister or such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

"SEC. 115. Section 316(a) of the Act (2 U.S.C. 439 (a)) is amended by inserting "or declaration" immediately after "statement".

SEC. 116. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 117. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

SEC. 118. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days before the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is earlier, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for

election to such office, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

SEC. 119. Any candidate who makes an expenditure in excess of the expenditure reported pursuant to section 118 shall be in violation of the act.

Mr. JOHNSTON. The last is simply a technical amendment.

Mr. President, I would like to ask for a rollcall vote. I know we do not have enough Senators on the floor at this particular time.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a comment?

Mr. JOHNSTON. Yes, I certainly will.

Mr. GRIFFIN. I want to indicate my agreement with the Senator from Louisiana. My only regret is that his amendment does not go further and also makes the same principle apply to independent expenditures in a campaign by special interest groups.

The Supreme Court has likewise indicated that independent expenditures cannot be limited as to amount, but I see no reason why the reporting, the disclosure, of the intention to make independent expenditures in a timely way could not be legislated by Congress. At least I think we ought to try that, and give the court an opportunity to draw some more reasonable parameters than now seem to be the case in the eyes of some Members of the Senate.

I can understand that nobody wants to enact unconstitutional legislation, and there is a question that can be raised, and undoubtedly will be raised, against the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. GRIFFIN. Could we have 3 minutes on the bill on this?

Mr. HATFIELD. I would be happy to yield the Senator 3 minutes on the bill.

Mr. GRIFFIN. I really believe we ought to give the Supreme Court more opportunity to look at this particular problem, which is one which, if we do not bring it under control, both with respect to personal expenditures of a candidate himself and independent expenditures of special interest groups, the other efforts we make here are really not going to be very effective.

For example, I think that is one of the main objections to the public financing approach, that it was rather meaningless to install public financing and put ceilings on what a candidate could spend when there is no real effort being made to curtail or limit expenditures that would be made by the outside special interest groups by way of independent expenditures and by way of personal funds of the candidate himself.

So I want the Senator from Louisiana to know he has a supporter in this particular effort.

Mr. JOHNSTON. I thank the Senator. To me it is perfectly clear that a disclosure in advance would be legal under the Supreme Court decision. We do not know that that is positive, and we do not know that many acts we pass here are positively going to be declared unconstitutional. But it is not something that has impeded this body from acting in other areas when they think they are right, and so when we think we are right, unless it is absolutely clear it is unconstitutional, unless it is passed in bad faith, knowing of its illegality, I think we ought to proceed.

EXECUTIVE SESSION—AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the Senate will go into executive session to vote on a resolution of ratification on Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

The question is on agreeing to the resolution of ratification on Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Dakota (Mr. BURDICK), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY), is absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "yes."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY), are necessarily absent.

The yeas and nays resulted—yeas 92, nays 1, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—92

Allen	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Johnston	Scott
Clark	Kennedy	Sparkman
Cranston	Laxalt	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McGovern	Tower
Eagleton	McIntyre	Wallop
Eastland	Melcher	Weicker
Ford	Metcalf	Williams
Garn	Metzenbaum	Young
Glenn	Morgan	Zorinsky

NAYS—1

McClure

NOT VOTING—7

Abourezk	Goldwater	Percy
Bartlett	Humphrey	
Burdick	McClellan	

The PRESIDING OFFICER (Mr. FORD). Two-thirds of the Senators present and voting have voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION—PUBLIC FINANCING OF SENATE ELECTIONS

The PRESIDING OFFICER (Mr. FORD). Without objection, the Senate will return to legislative session and resume the consideration of S. 926, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON) as modified.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to table amendment 709 was agreed to. I ask unanimous consent that that motion be in order.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, may we know——

The PRESIDING OFFICER. The Senator from Pennsylvania reserves the right to object. The Senate will come to order. Senators will take their seats and clear the aisles, so that the Senator from Pennsylvania can be heard.

Mr. HEINZ. Mr. President, could we know what that amendment is?

The PRESIDING OFFICER. It is the amendment of the Senator from Pennsylvania (Mr. HEINZ).

Mr. CANNON. The Senator from Nevada wants to make a motion to reconsider the vote by which the amendment of the Senator from Pennsylvania was tabled.

Mr. HEINZ. As I understand the Senator from Nevada is asking unanimous consent to make that motion?

Mr. CANNON. That it be in order to make that motion at this time.

Mr. HEINZ. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. CANNON. How much time do I have remaining on the Johnston amendment?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. CANNON. Mr. President, I believe the arguments have been made on this matter. I say to my colleagues we will vote very shortly. I intend to make a motion to table the amendment of the Senator from Louisiana.

Let me state very briefly I do not think we should make it a violation of the law for a Senator or a candidate for the Senate to do something that we cannot prohibit him from doing according to the Supreme Court. In other words, if the Johnston amendment were to carry, it would require a candidate to say that he would not spend more than x amount of his own money in the campaign. If he goes over that for any reason whatsoever, whether by inadvertence, deliberately, or by design, he would then be in violation of the law.

The Court has already said that we cannot limit the amount of his own money a person can spend in a campaign. We would be in a rather anomalous situation where the court says, "You cannot limit the amount of money a man can spend but you can tell him he has to declare what he intends to spend, and if he spends over that amount he is in violation of Federal law." I do not see the equity of that.

If the Senator wants to make a response, I will permit him to do so on my time and then I will yield back the remainder of my time.

Mr. JOHNSTON. I thank the Senator from Nevada. If Senators will give me their attention for 1 minute, this is a very simple amendment.

The PRESIDING OFFICER. The Senator will suspend. May we have order in the Chamber? I ask the members of the staff to clear the aisle.

The Senator may proceed.

Mr. JOHNSTON. Mr. President, the committee, the Senator from Nevada, and almost everyone I know thinks there ought to be a declaration by a candidate as to how much of his own money he is going to spend in a race. Indeed, that provision is already in the bill.

What my amendment does is to say that within 60 days of the election or within 5 days of qualification, whichever is later, a candidate shall declare how much of his own money he is going to spend in excess of $35,000—he gets $35,000 free—and whatever he imposes on himself as his own limit he cannot exceed.

What this amounts to, Mr. President, is predisclosure, disclosure at a time when it can do some good. It does not do any good to say after the election that he exceeded his limits. It does not do any good to say after the election that he intended not to spend more than a certain amount but he went ahead and spent it anyway.

What we are saying is disclosure at a time when it can do some good. I submit that it is a good end, and it is entirely constitutional. I hope the Senate will go along with the amendment.

Mr. CANNON. Mr. President, I yield back the remainder of my time and move to table the amendment of the Senator from Louisiana. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to table the amendment of the Senator from Louisiana (Mr. JOHNSTON). The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. ABOUREZK), are necessarily absent.

Mr. BAKER. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS), would vote "yea."

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—55

Allen	Glenn	Muskie
Baker	Hansen	Nelson
Bartlett	Hart	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield	Pearson
Brooke	Hathaway	Pell
Byrd, Harry F., Jr.	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Schmitt
Cannon	Helms	Scott
Chafee	Inouye	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Lugar	Stevenson
Danforth	Magnuson	Thurmond
Dole	Mathias	Tower
Durkin	McClure	Wallop
Eastland	McGovern	Williams
Garn	McIntyre	Young
	Metzenbaum	

NAYS—40

Anderson	Griffin	Moynihan
Bayh	Haskell	Proxmire
Biden	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Roth
Case	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schweiker
Curtis	Leahy	Stone
DeConcini	Long	Talmadge
Domenici	Matsunaga	Weicker
Eagleton	Melcher	Zorinsky
Ford	Metcalf	
Gravel	Morgan	

NOT VOTING—5

Abourezk	McClellan	Stevens
Goldwater	Percy	

So the motion to lay Mr. JOHNSTON'S amendment on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDENT OFFICER. The Senator from Louisiana.

Mr. CANNON. Will the Senator yield for one moment?

Mr. JOHNSTON. Yes.

AMENDMENT NO. 709

Mr. CANNON. Mr. President, I move to reconsider the vote by which unprinted amendment No. 709 was tabled.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 711

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 711.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, after line 24, add several new sections, as follows:

"PERSONAL CAMPAIGN EXPENDITURES

"SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses

of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

SEC. 115. Section 316(a) of the Act (2 U.S.C. 439(a)) is amended by inserting "or declaration" immediately after "statement".

SEC. 116. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 117. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 118. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days after the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is later, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000,

"(B) a declaration that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate, $35,000,

"(B) a declaration that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Maine.

Mr. DANFORTH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana has yielded to the Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Madeleine Albright of my staff be granted the privilege of the floor during debate on S. 926.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Chris Brewster of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment I have sent to the desk is the same amendment without the penalties. In other words, it requires the declaration. The original bill with title I had required that declaration, but when title I was deleted yesterday the declaration of a candidate as to how much of his own money he was going to spend was also deleted.

This amendment puts that declaration back into the law, but it provides no penalties at all.

So that if a man says he is going to spend $100,000 and circumstances change or he changes his mind, then he can with impunity exceed those limits.

I hope now the committee can accept it.

Mr. CANNON. Mr. President, I have always supported the full disclosure concept. I think this gets around the objections I had to the earlier amendment because it does not make him in violation of the Federal law. It does not do indirectly what we cannot do directly under the Supreme Court decision.

I am willing to accept the amendment of the Senator.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CANNON. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Shapiro of my staff be granted privilege of the floor during the course of consideration and voting on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 712

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment No. 712.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, after line 4, add the following:

SEC. 303. Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (3) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

The PRESIDING OFFICER. The Chair would ask the Senator from Oklahoma, is this one of the amendments to be lumped together under 1 hour?

Mr. BELLMON. This is not. This is another amendment.

The PRESIDING OFFICER. The Senator will proceed.

Mr. BELLMON. Very briefly, Mr. President, what this amendment does is add this language, "and whose dominant language is other than English" to the existing law.

The existing law requires that when more than 5 percent of the voters in a precinct are of American Indian, Asian-American, Alaskan Natives, or of Spanish heritage, then the ballots in that precinct must be printed in English and in the language of the minority language groups.

In the State of Oklahoma, as well as in many other areas of the country, we have large numbers of Americans of American Indian, Asian, Alaskan or Spanish extraction, who no longer speak the old language, but who speak English and who have in many cases not the ability to read or to speak in the old language.

In the State of Oklahoma it is a particular problem because we have 60 Indian tribes. In many cases, the Indians do not any longer use their old language, and it is a great burden upon the election officials to require that the ballots be printed in those languages and then to require there be interpreters to help the voters on election day.

Mr. President, in 1975 when the Senate passed the voting rights extension bill, I warned that it contained a provision which was totally unnecessary and which, if not removed, would prove to be both burdensome and costly in future elections. I refer to the requirement that political subdivisions conduct bilingual

elections even though there is no single language minority.

At that time I sought to amend the bill to correct what appeared to be an oversight. The purpose clause of the bill referred to the need to prevent voting discrimintion against citizens of language minorities "from environments in which the dominant language is other than English." However, the qualifying phrase, "whose dominant language is other than English" was missing from the definition sections stating which minority groups would be covered. My amendment simply sought to add those words.

My amendment was defeated, the bill was passed and signed into law and the Department of Justice went to work to enforce its provisions.

For the benefit of those who chose not to heed my warning, I would like to touch briefly on what has taken place since the bill became law.

The Census Bureau determined that political subdivisions in 26 States would be required to conduct bilingual elections and otherwise provide special assistance to minority group voters. These groups included Spanish-speaking Americans, Asian Americans, Alaskan Natives, and American Indians.

Under the Census Bureau finding, seven States were required to provide the special assistance statewide. These States are: Alaska, Hawaii, Arizona, California, Colorado, New Mexico, and Texas. In the remaining States, some 270 counties fell under the guidelines. Those States are: Connecticut, Florida, Kansas, Louisiana, Minnesota, Mississippi, Montana, Maine, Nebraska, Nevada, North Dakota, New York, North Carolina, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

In Oklahoma, 25 of the State's 77 counties come under the provisions of the 1975 act—two because of Spanish language minorities, the remainder because of their Indian population.

This law has been a particularly difficult problem for Oklahoma because more than 60 Indian tribes are represented in my State, and some of the tribes have more than one native language. But because Indians do not live on reservations in Oklahoma and have comingled with the rest of the population, they are accustomed to speaking and writing English. Few Oklahoma Indians can even understand their tribal language because it is no longer used. Many tribes do not even have a written language.

A census of the Choctaw Nation conducted by Oklahoma State University in 1975 showed that less than 1 percent of the population did not speak English. All were in one county, McCurtain, and were over 65 years old.

In spite of the fact that English is the dominant language among Oklahoma Indians, and that tribal elections are conducted in English, Oklahoma election officials were confronted with an impossible situation in locating, transporting and paying translators to comply with the law.

A good example of the difficulty faced by Oklahoma election officials is Sequoyah County. According to the Census Bureau, Sequoyah County has around 1,900 Cherokees, plus a few Creeks, Alabamas, Coushattas, Kaws, Omegas, Osages, Poncas, and Quapaws—nine different tribes. The county has 36 precincts, which means that to be in full compliance with the law, up to 324 interpreters would be needed to cover all the polling places.

A. J. Henshaw, Jr., secretary of the Sequoyah County Election Board, explained his plight in a letter to State Senator James E. Hamilton:

> The procedures this county must adopt to comply with this Act are a financial burden our county is not able to bear," Henshaw wrote. "The minimum amount the Election Board could pay these people is $17 per day, plus mileage, assuming you could get the interpreters to work 12 straight hours for that amount. The cost for the interpreters for just one election would be in excess of $6,000.

Henshaw stated further:

> To find the 324 people who speak all of the respective languages that the Census Bureau alleges we have is virtually impossible.

Yet, Senator Hamilton has told me, representatives of the Justice Department have, in effect, threatened law suits against the individual election board workers if any of them fail to comply with this Federal edict.

Another election board secretary, Glenn Wood of Pawnee County wrote Assistant Attorney General J. Stanley Pottinger concerning the experience in his county in attempting to abide by the law in a city of Pawnee special election last November:

> After considerable searching, we finally found five Indians, one each of the five precincts in the city of Pawnee, who claimed they could speak both dialects of the Pawnee language, thus qualifying as interpreters for this election," Wood wrote. "Of 1,300 registered voters, we had a total vote cast of 825 of which 25 were Indians, none of whom requested or needed assistance in voting their ballot.

Wood said that in giving the interpreters their instructions prior to election day, they were asked for comments on the new law:

> Each of them made a very definite statement, stating in their opinion the law was ridiculous, not needed and an insult to the intelligence of the American Indian," Wood said. "They called attention to the fact that when they held their tribal elections all ballots and other materials necessary to the conducting of the election are printed in the English language only, and no effort is made to provide interpreters, due to the fact there are no Indians, at least in this area, but what understand and speak the English language.

The Mayes County Election Board secretary, Hetta Morgan, wrote me that the election officials in that county believe the bilingual election requirements are "an atrocious expense and certainly not a feasible or economical plan for our taxpaying people in Mayes County."

Oklahoma Indian tribal leaders are equally critical of the new law. When I explained the bill's provisions to Slyvester Tinker, chief of the Osages, he was amazed. He told me that although far more than 5 percent of the voting age citizens in Osage County are Osage Indians, only a very few members of the tribe can read or speak the Osage language. Even as chief of the tribe, Tinker has difficulty himself in reading the Osage language although he can speak it fluently. Overton James, governor of the Chicaksaw Nation, wrote me that—

> In the Chickasaw Tribe, we have so few (in fact, I doubt any) who cannot read and understand English that it would be insignificant.

The Oklahoma State Election Board in 1976 conducted a survey concerning the implementation of the 1975 amendments to the 1965 Voting Rights Act in the 25 counties in Oklahoma affected by the act. Lee Slater, election board secretary, sent me a summary of the survey findings:

> School elections conducted throughout Oklahoma on January 27, 1976, presented the first opportunity for elections to be held simultaneously throughout the state since the Voting Rights Act became effective in those 25 counties.
>
> A total of 246 polling places were used for the school elections in the affected counties, and 42,154 persons cast ballots. Of that number, a total of 22 (Indians) requested assistance.
>
> County Election Boards provided a total of 116 interpreters—including 39 for Cherokee, 32 for Choctaw, 25 for Creek, six for Cheyenne, five for Chickasaw, three for Seminole, and one each for Apache, Shawnee, Spanish, Osage, Seneca-Cayuga and Pawnee.
>
> Of those requesting assistance, 15 requested assistance in Cherokee, six in Choctaw and one in Apache.
>
> A total of $1,637.60 was paid to these interpreters. That figure does not include the cost of printing materials in Spanish, of meetings by the County Election Boards and other costs which probably tripled or quadrupled the total cost. As you can see, that is a very high cost per voter using the service.

In 1976, I wrote the election officials in the 29 other States covered by the act to inquire whether they had encountered the same problems as Oklahoma. Of the 20 States which responded to my inquiry, only one was positive toward the law. Fifteen indicated serious problems with the law and the other four had not formed a final judgment.

Mr. President, I believe there is ample evidence, in many of the States, to illustrate the absurdity of the bilingual provisions of the Voting Rights Act. It is a situation similar to that of the Boy Scout who sought to do a good deed by helping an elderly woman across the street. The problem was, she did not want to go.

Congress, through its failure to correct a technical error in the drafting of this law, has forced election officials in 26 States to provide assistance that is unneeded and unwanted, and which imposes an unnecessary additional burden upon the taxpayers of those States.

We should act now to rescind this legislative mistake by enacting my amendment.

This amendment will simply clarify the sections in titles II and III of the Voting Rights Act, defining the term "language minorities," by adding to the various groups listed—American Indians, Asian Americans, Alaskan Natives, and Americans of Spanish heritage—the qualifying phrase: "and whose dominant language is other than English." This clause more properly defines those single language minorities who should be sub-

ject to protection under the Voting Rights Act.

It should be emphasized that the language added by this amendment is not foreign to the bill. The phrase, "and whose dominant language is other than English," is identical to the purpose clause of the act which states:

The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English.

In addition, it should be noted that Senator STEVENS' amendment adding this identical language to the minority group "Alaskan Natives" was eventually accepted during floor debate on the Voting Rights Act. I am merely asking that this modification be extended to all groups.

The goal of the new bilingual provisions is a good and just one—to insure that no citizen is denied the right to vote because his dominant language is other than English. I fully support this goal and the remedial device, bilingual elections, as a means to guarantee full participation and equal voting rights.

However, there is one major flaw in these provisions. Because of the absence of the qualifying language from the purpose clause, "and whose dominant language is other than English," many political subdivisions are forced to conduct bilingual elections even though there is no single language minority where 5 percent of the voting age citizens have a dominant language other than English.

The way to prevent this from occurring is for the Congress to adopt the language of my amendment, which will insure that the costly and burdensome bilingual registration and voting mechanism will only be applied where there is an actual need to assure citizens' voting rights because of an English deficiency.

State Senator Hamilton, a former president pro tempore of the Oklahoma State Senate, told me that if this law remains unchanged, he feels that mass resignation will result among election officials in Oklahoma. These officials know that they cannot comply with the law and simply will not take a chance on being sued by some Federal official because of their inability to do the impossible.

This change will strengthen the act. The remedies and triggering provisions will remain intact. No instance of voting discrimination cited in either the House or Senate reports will fail to be corrected because of the adoption of this amendment. I urge its approval.

Mr. President, I ask unanimous consent to have letters from various election officials in different States of the Union printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE LIEUTENANT GOVERNOR,
Honolulu, Hawaii, June 24, 1976.

Hon. HENRY BELLMON,
U.S. Senator, Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: May I thank you for your letter of June 18, 1976. I was happy to discover that the Association of Clerks and Election Officials of Hawaii has at least one ally in Congress that concurs with our position on the multi-lingual provision of the Voting Rights Act Amendments of 1975. We likewise feel that this provision should be repealed or at least amended to make it more practical and realistic. Although we have not as yet held an election under the Voting Rights Act, we have already experienced many difficulties with it.

You are probably aware that we have to provide language assistance to the Filipinos, the Chinese and the Japanese in the State of Hawaii for the upcoming elections, and to provide this assistance, we estimate that it will cost the state and county governments between $500,000 and $750,000. We have some serious doubts about the cost-effectiveness of this voters' assistance program, but we have no choice but to comply because we have been mandated to do so by the act.

We feel that the expanded part of the Voting Rights Act Amendments of 1975 was very poorly drafted and problems that are now arising were given very little consideration, if any at all. Firstly, the act states that the coverage extends to four groups, one of which is the Asian-Americans. Lacking an adequate definition of an "Asian-American," the Justice Department determined that it should be broken down into sub-groups composed of the Japanese, the Chinese, the Filipinos and the Koreans. Consideration was never given to the various languages and/or dialects spoken within these sub-groups. For instance, there are three predominant languages spoken by the Filipinos in Hawaii—Ilokano, Tagalog and Visayan. If we break these three "single-language groups" out individually, the mathematics would be such that these groups would not fall under the coverage.

Secondly, the act defines "an illiterate" as a person who failed to complete the fifth elementary grade in any school. This definition is very arbitrary and discriminatory. There are many individuals who have had no formal education that have learned to read and write the English language. Many naturalized citizens would fall into this category. Excepting for an individual who was over 50 years old on December 24, 1952, and had at that time been living in the United States for at least 20 years, all applicants for naturalization must be able to speak, understand, read and write the English language.

Thirdly, the term "single-language minority group" is very ambiguous. For instance, although the Chinese have been covered as a sub-group, a large majority of their group is only English-speaking or bi-lingual, with a very small minority being able to speak, read and write the Chinese language only. Again, the mathematics would be such that if only the uni-lingual individuals were considered under the "single-language minority groups," none of the racial groups in our state would be covered. The mistaken assumption made in the act is that "ethnicity" is synonymous with a "single-language minority group". In elaborating further on that point, permit me to explain that my ethnicity is Japanese. Therefore, I am included in the statistical number of Japanese that make up more than 5% of our total voting age population. However, I can only speak, read and write English and some French. I cannot speak, read, write nor understand the Japanese language. There are countless numbers of other individuals who have likewise been included in the statistics which have resulted in the coverage of these racial groups.

One of our own employees came from the town of Santa, a province of Ilocos Sur in the Philippines three years ago, where the Ilokano language is predominantly spoken. He stated that it is quite ironic that where their elections were held in English in the Philippines, he can vote an Ilokano ballot in the United States. Furthermore, some individuals who are part of these language minority groups have considered it an insult that these special voting assistances have to be rendered to their racial group.

Fourthly, the act has put a very heavy financial burden on all the jurisdictions that are covered under its provisions. As stated previously, it will cost the state and county governments of Hawaii upward of a half a million dollars, and these are monies which were not budgeted for. Furthermore, we may be forced to curtail some of our voter registration and "get-out-to-vote" programs because the requirements to provide multi-lingual assistance may make their costs prohibitive. In effect, this act may work against the intent to encourage maximum participation in the electoral process by the citizens of our state and county. We also strongly feel that the federal government should bear all of the expenses that have fallen upon every jurisdiction that has been mandated to comply with the provisions of the Act.

We have enclosed a rough draft of one part of our upcoming general election ballot for the City and County of Honolulu. You will notice for yourself that incorporating the three required languages on the same ballot makes it very cluttered and confusing. In attempting to aid a very small number of voters, the vast majority of voters may be adversely affected. There are other problems that we are encountering in our attempts to comply with the act; however, these that are abovementioned should give you a pretty good picture of the reasons for our opposition to it.

I would like to emphasize that we are not opposed to the intent of assisting voters who truly need language assistance in voting, because we feel that we should extend to them the fullest opportunities of their voting privilege. If we are made aware of the needs of these individuals, we are willing to work with the respective ethnic organizations in holding multi-lingual voting workshops, in embarking on publicity campaigns through the various media and in developing other effective programs. However, we are opposed to the practice of spending huge sums of money which will result in minimal benefits. The results of bilingual and multi-lingual elections in other states have already shown that the cost-effectiveness of the implementation of the requirements of the act is highly questionable.

In an attempt to reverse the trend of declining voter participation in our nation, we have moved out in two areas. Firstly, we have recently hired an individual to work with various racial groups and individuals to render voting assistance and education. Secondly, we have developed a unit of study that has been implemented in the high school civics classes entitled "Voter Education and Citizenship Responsibility." We have gotten very good responses from the students and teachers on the unit of study. Our long range goal is to develop similar units of studies that will be geared to junior high and elementary levels. We feel that the earlier citizen responsibility can be ingrained into a child's mind, the greater the chances that that individual will participate in the electoral process as an adult. Therefore, we would suggest that Congress should perhaps re-evaluate its legislations and programs in any effort to bring about greater voter participation.

If I can be of any assistance to you in effecting any amendments to the act or to have the multi-lingual provisions of the bill repealed, I would be willing to testify at a hearing or to supply a supportive statement.

I would appreciate your continued contact with me on this matter.

With warmest aloha, I remain,

Sincerely yours,

MORRIS T. TAKUSHI,
Election Administrator.

This ballot was printed in various languages:

Official Ballot

GENERAL ELECTION

Tuesday, November 2, 1976

Amendments to the State Constitution proposed by the Legislature State of Hawaii.

Vote Both Sides (Over)

This stub shall be removed by the ballot.

Vote your choice on the question below:

(1) Shall there be a convention to propose a revision of or amendments to the Constitution? Yes —; No —.

(2) Shall the amendment to article VIII, section 4, of the Constitution of the State of Hawaii to allow the State to engage in the provision of housing, in slum clearance, and in the rehabilitation of housing be adopted? Yes —; No —.

STATE OF NEW MEXICO,
Santa Fe, July 6, 1976.

Hon. HENRY BELLMON,
U.S. Senator, Oklahoma,
Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: It has always been our contention that New Mexico should not have been included under provisions of the Federal Voting Rights Act, as amended, 1975. On the whole, New Mexico has had a consistently high percentage of voters of Spanish-American descent. Historically, Spanish Americans do participate in local, state and national elections in large numbers.

The 1975 amendments have created unnecessary financial burdens on the office of the Secretary of State, all county clerks and the taxpayers of the State of New Mexico. Election printing costs have more than doubled as a result of these requirements.

It is my feeling that the 1975 amendments were ill-conceived and that the triggering mechanism for inclusion was overly broad. I am not totally convinced that the methods for increasing participation of language minorities in the electoral process have been particularly effectual under the Act.

Indian languages in New Mexico are historically unwritten. It should be mentioned that most of the Indian dialects are considered sacred. Special permission must be obtained from the various Indian leaders in order to use many of the Indian dialects on radio or elsewhere. To comply with the provisions of the Act, two Indians, Mr. Vernon Benn and Ms. Anahwake Nahtanaba, have been hired as members of my staff to serve as coordinators of the oral assistance program in the six New Mexico counties covered under the Act.

However, we feel that a concentrated voters' registration, voters' education and voters' assistance program would be a better approach to aid Indian voters. It is my intention, therefore, to go before the 1977 Legislature to request funds to conduct registration drives in English for Indians throughout the State. The primary objective of this program would be to encourage Indians of every county, rather than only the counties specified under the Federal Voting Rights Act, and particularly 18-year-olds, to register and vote.

Mr. Vernon Benn of my staff would be available to testify concerning successes and problems encountered as Federal Voting Rights Act coordinator for the Navajos, the Jicarilla Apaches and Zunis in New Mexico.

Sincerely,

ERNESTINE D. EVANS,
Secretary of State.

STATE BOARD OF ELECTIONS,
Pierre, S. Dak., July 9, 1976.

Hon. HENRY BELLMON,
Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: Thank you for your letter of June 18 in which you requested comments on the Voting Rights Act Amendments of 1975.

Much criticism has also been raised in South Dakota concerning implementation of the "language minority" provisions of the above mentioned Act.

For your information, I have enclosed a copy of a resolution passed by the South Dakota State Board of Elections. As you can tell by its contents, the general feeling in South Dakota is comparable to that in Oklahoma.

Either myself or a member of the State Election Board would be most willing to testify at a hearing on the above mentioned topic.

Sincerely,

(Mrs.) LORNA B. HERSETH,
Secretary of State.

STATE OF SOUTH DAKOTA

A RESOLUTION PERTAINING TO THE VOTING RIGHTS ACT AMENDMENTS OF 1975

Whereas, The United States Congress has passed the Voting Rights Act Amendments of 1975, Public Law 94–73; and

Whereas, Several South Dakota counties are covered under this Act which are contained in several of the nine South Dakota Indian reservations; and

Whereas, These counties must therefore provide oral assistance to any Indian registering and voting; and

Whereas, An investigation was made into the need of such interpreter, proficient in both the English language and local Sioux dialect and it was found that those Indian people who still use the local Sioux dialect are actually more proficient in the English language both in written and spoken form; and

Whereas, All Tribal elections held throughout the state of South Dakota are conducted in the English language, and it is almost impossible to find interpreters proficient in both the English language and local Sioux Dialect; and

Whereas, Such Tribal officials did not feel such interpreters were necessary and in some cases resented the implication of the Act; now therefore, be it

Resolved, That the South Dakota State Board of Elections and the South Dakota Secretary of State do hereby urge the Congress of the United States to re-evaluate the Voting Rights Act Amendments of 1975 so that the criteria for coverage under the Act more fairly represents and portrays the individual circumstances and needs of each State.

STATE OF WYOMING,
Cheyenne, June 30, 1976.

Hon. HENRY BELLMON,
U.S. Senator from Oklahoma, Russell Building, Washington, D.C.

DEAR SENATOR BELLMON: We are pleased to respond to your letter concerning the implementation of the 1975 Amendments to the Voting Rights Act.

In Wyoming five of the 23 counties are covered under the Act, four of the Spanish Heritage Group and one county under the American Indian Group.

The 1976 State Legislature refused to appropriate funds for the printing of election materials in a second language. Our office requested funds for the printing of the Voter's Guide, Constitutional Amendment pamphlets and absentee ballot envelopes in Spanish.

Like Oklahoma we have had minority citizens express that it is an insult to have a separate ballot and furthermore, we find that often minority citizens neither read or write their own language. In Wyoming the two Indian Tribes do not have a written language.

We certainly agree that bilingual election materials and assistance should be provided only where actually needed. However, with the law as it exists today, we feel that the Wyoming counties can most effectively meet the federal mandate by adopting a "targeting" plan. This would provide election materials and assistance in the minority language to those persons needing assistance, as opposed to "blanketing" or the mass broadcasting of materials. Our office has met with the Arapahoe and Shoshone Tribal Councils and the five county clerks on implementing a "targeting" plan.

Concerning the costs for holding bilingual elections, we estimate that the federal requirement has likely doubled costs. Since election costs are born at the local level, you may wish to contact the county clerks for actual costs. A list of the county clerks is enclosed for your use.

I would be pleased to support your proposed legislation; however, I think you would find the experiences of the county clerks most supportive since they are charged with conducting elections in Wyoming.

Sincerely yours,

THYRA THOMSON,
Secretary of State.

STATE OF COLORADO,
Denver, June 24, 1976.

Sen. HENRY BELLMON,
U.S. Senate, Committee on Appropriations, Washington, D.C.

DEAR SENATOR BELLMON: In answer to your letter of June 18, I submit the following:

In our city elections which were held statewide in the fall of 1975, less than 50 people throughout the state requested a Spanish ballot or oral assistance at the polls. Thirty-four of our sixty-three counties are covered under the bilingual requirement and represent about 70 percent of the electorate. The Spanish people in many instances feel they are being "singled out."

Most election clerks in bilingual areas tell me that their election costs are double what they were formerly.

At the state level the cost has risen also. Translations and interpretations have been modest, but our big expense will be in the additional printing costs and publication of amendments bilingually for the General Election.

In my estimation, this law should never have been inflicted on the taxpayer, and should be repealed at the earliest opportunity.

Enclosed are comments from City Clerks and one newspaper.

Sincerely,

JAMES L. EITEMILLER,
Elections Director.

Mr. BELLMON. Mr. President, I have discussed the amendment with both the author of the bill and the ranking Member. I believe they find some merit in the proposal.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Oklahoma. I think it is a good amendment.

I believe I raised this question once before when we were considering the Voting Rights Act. It is not only true in his State, but many other States where the dominant language is English.

It is very difficult to have a dialect, an Indian or some other dialect, printed on the ballot and have interpreters there. I see no reason for it where the

dominant language is other than English.

I would support the amendment.

Mr. HATFIELD. Mr. President, I would like to cite one example to support the Senator from Oklahoma's amendment.

In Malheur County in the State of Oregon in the last year, 1976, the county spent $4,908.17 to print Spanish ballots. In their 30 precincts, only 13 such ballots were asked for and used in the 1976 elections, which meant they cost on an average of $370 each.

So I think, as long as it does include the printing of such ballots in other languages where there is predominant use of that language, that this provides for more flexibility. I am happy to support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CANNON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I have another amendment at the desk, and I ask that it be stated.

There are actually four of these.

The PRESIDING OFFICER. The Chair asks the Senator from Oklahoma, Is this the group of four amendments where there was a 1-hour time agreement on all four?

Mr. BELLMON. That is correct.

The PRESIDING OFFICER. Will the Senator identify the amendment?

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BELLMON. On my time.

The PRESIDING OFFICER. The Senator has no time.

Mr. BELLMON. The minority time.

The PRESIDING OFFICER. There is no time until the amendment is offered.

Mr. HATFIELD. Mr. President, I yield 3 minutes on the bill.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum on the time that has been yielded by the Senator from Oregon.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT Nos. 600, 601, 602, and 603

Mr. BELLMON. Mr. President, I call up amendments numbered 600, 601, 602, and 603.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc, and the amendments will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes amendments numbered 600, 601, 602, and 603.

The amendments are as follows:

On page 41, strike out all beginning with the comma on line 25 through "election" on page 42, line 4.

On page 42, strike out all beginning with the comma on line 14 through "election" on line 18.

On page 44, strike out all beginning with the comma on line 24 through "election" on page 45, line 3.

On page 45, strike out all beginning with the comma on line 9 through "election" on line 13.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Ann Schlesinger and Claire Anderson, of my staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Bob Haught, of my staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I am going to read from S. 926, on page 41, beginning on line 19:

The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-related or political party-related activities, to the extent that the cumulative value of such activities by such individual on behalf of any candidate or political committee of a political party does not exceed $500 with respect to any election;

Mr. President, it seems to me that this language, which would prohibit the provision of any kind of campaign activity by an individual in that individual's premises, in excess of $500, is impossible to administer and is grossly unfair. I do not know how anyone could properly evaluate the cost, say, of a barbecue which some rancher might wish to provide on his ranch for a candidate he wishes to support. Who is going to say what the value of an animal might be that is driven in off the range and slaughtered and barbecued, or how much the actual use of the ranch might be worth, or what the actual value might be of the rancher's time in making the preparations for the event?

It seems to me that we are going entirely too far when we say to an American citizen that it is legal or improper for that citizen to support political activities on his own property, if someone figures that the value of the contribution that that person is making exceeds $500.

I do not know that this kind of activity has that much effect on the election processes of the country, but it seems to me to be an unnecessary and totally unenforceable limitation which is not needed and one which would better be stricken from the act.

The same provision occurs on page 42 and again on pages 44 and 45 of the act. My amendments would strike all the limitations of $500 and make it possible for a person to conduct this kind of activity without that limitation being in place.

Page 45, beginning on line 6, reads:

Any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate or committee does not exceed $500 with respect to any election;

That provision would make it impossible for a volunteer, on his own, to work for a candidate if the value of the volunteer's services exceed $500. Again, I think it is unenforceable and unnecessary and that the act would be better off with that language stricken.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I missed part of the Senator's statement.

Do I correctly understand that this is the amendment we discussed earlier, which would change the limit of an individual contribution by way of goods and services or foods provided?

Mr. BELLMON. That is correct.

Mr. CANNON. Does this leave any limit at all?

Mr. BELLMON. That would remove the limit. The law, as it now stands, limits those contributions to $500.

Mr. CANNON. Would this not open the doors to possible violations or to violations of the intent of the act, by saying that if a person went out and got a number of others and all of them said they would hold a party for him and might put up a party that cost $5,000, you could have that done 10 or 20 times in a State?

I do not believe it would be in line with the intent of the act. The dollar limit provides the problem. I wonder whether we would be better off to raise the dollar limit to a specified figure.

Mr. BELLMON. I would agree that it would help the act if the dollar figure were raised. But I simply raise the question as to whether or not the events that supporters hold in their residential premises, as the law described it, really have that much impact on the outcome of an election. Normally, in my experience, people who come to those events are for the candidate, anyway.

To limit what a person can do in his individual residence in connection with the candidate's activities, it seems to me, goes far beyond anything that is necessary to preserve the fairness of the electoral process in this country. Suppose someone gives a party which costs $5,000, which would be lavish by Oklahoma standards. I doubt that that would have much impact on the voters on election day.

Mr. CANNON. The point is that if the limit is taken off, it could lead to abuses by, say, 10 people giving a party on which there was no limit and raising it

very substantially. It would make me a little uncomfortable, with that kind of openended proposition.

If the Senator wanted to change it, perhaps to make it $1,000, which is doubling the amount, I think I probably could accept that.

That, likewise, would tie into the amount of an individual contribution as well, which is a limit of $1,000. If the Senator would go to the $1,000 figure and say that a person could spend only up to $1,000 for these exempt items, and we already have limited him as to the amount he can contribute, I think that would make it somewhat consistent.

Mr. BELLMON. Mr. President, does the Senator from Oklahoma need unanimous consent to so modify the bill?

Mr. CANNON. Yes.

UP AMENDMENT NO. 713

Mr. BELLMON. Mr. President, I ask unanimous consent to modify the bill so that where the figure $500 occurs, it be raised to $1,000 on pages 41, 42, 43, and 45.

The PRESIDING OFFICER. Does the Senator make that as a unanimous-consent request?

Mr. BELLMON. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment is agreed to.

Mr. BELLMON. Mr. President, I am willing to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time. The amendment is acceptable. I think that is consistent with the $1,000 limit on contributions that is in the present law.

The amendment as agreed to by unanimous consent is as follows:

On page 42, line 3, strike "$500" and insert in lieu thereof "$1,000".

On page 42, line 17, strike "$500" and insert in lieu thereof "$1,000".

On page 43, line 2, strike "$500" and insert in lieu thereof "$1,000".

On page 45, line 2, strike "$500" and insert in lieu thereof "$1,000".

On page 45, line 12, strike "$500" and insert in lieu thereof "$1,000".

Mr. BELLMON. I ask unanimous consent to withdraw my four amendments being considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are withdrawn.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Let me see if I understand the situation: The four original amendments by the Senator from Oklahoma have now been withdrawn, and the figures of $500 where they appear on those pages in the bill have been increased to $1,000 by unanimous consent as set out in unprinted amendment No. 713.

The PRESIDING OFFICER. That is correct.

Mr. BELLMON. I thank the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum. I am sure there are other amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there are a good many more amendments that were enumerated on yesterday. In order to expedite the action on the bill, I would suggest the cloakrooms announce to Senators that the managers of the bill are here and waiting on amendments to be called up, otherwise the bill will go to third reading.

The PRESIDING OFFICER. The cloakrooms will be so notified.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum and I ask that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered on the time. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is the intention of the leadership to finish action on this bill today so we can either finish it late or we can finish it very late. I hope Members who have amendments will come to the floor and call them up.

I suggest the absence of a quorum under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Bruce Hubbard of my staff be permitted the privileges of the floor during the consideration of this amendment and also amendment 692 which I intend to offer.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 691

Mr. STEVENSON. Mr. President, I call up my amendment No. 691.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON), for himself, Mr. BENTSEN, and Mr. HARRY F. BYRD, JR., proposes amendment numbered 691.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 5 and 6, insert the following:

"(2) by striking out in the first sentence 'may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office,';

"(3) by striking out 'him' immediately before 'to any organization' in the first sentence and inserting in lieu thereof 'such candidate or individual, as the case may be,';".

On page 61, line 11, strike out "(2)" and insert in lieu thereof "(4)".

On page 61, line 11, strike out "(3)" and insert in lieu thereof "(5)".

On page 61, lines 12 and 13, strike out "does not include" and insert in lieu thereof "includes".

Mr. STEVENSON. Mr. President, this amendment would prohibit the use of campaign contributions to defray the ordinary and necessary expenses of Federal office.

This issue was discussed at length during debate on the Code of Official Conduct for the Senate.

The amendment that I offered to proposed rule XLVI of the Code of Official Conduct then prohibited the use of contributions to pay official expenses, and it failed by a vote of 43 to 47.

Debate on that amendment indicated that it failed because of uncertainty as to whether additional official funds would be provided to cover such unreimbursed expenses as Senators' in-State travel and the use of the Senate Recording Studio.

Now such funds have been provided. In H.R. 7932, the Senate created the Official Office Expense Account, increased the allowances granted Senators, and enlarged the expenses for which official funds are available. It thereby eliminated any justification for using political contributions for official expenses.

Mr. President, public money should fund public duties, and now that the Senate has acted to adjust official allowances for official expenses, the use of political contributions for this purpose can and should be ended.

This bill, however, sanctions the use of excess political funds for official expenses.

The history of such funds, which are known in common parlance as "slush" funds, is notorious, and it does not bear repeating. Suffice it to say that public disclosure of these benefactions by individuals is not a means of ending them. Senators are beholden to their benefactors and demeaned by a process which invites them to solicit private funds for their keep. All that is sought by my amendment is to erect a wall, for the benefit of Senators, as well as for the reassurance of the public, between private contributions and official duties.

If the Senate does not act to put up the wall, others will. The Internal Revenue Service has proposed rules that would jeopardize the exempt status of political committees which provide funds

for the ordinary and necessary expenses of a Member's office. Senators may have to segregate political funds for official expenses from those for political purposes. Members would be required to distinguish between exempt political expenditures and ordinary and necessary official expenses, keep accounts accordingly, and then justify those decisions to the Internal Revenue Service. The deductibility or tax credit to the donor of a political contribution would depend on the use to which it was put and the fund to which it was assigned by the Senator. Agents of the Internal Revenue Service would opine as to what are the ordinary and reasonable expenses of Senate service.

If election reform is to be truly effective in restoring public confidence in elected officials, campaign funds must be untainted and perceived as such. Elimination of the use of political contributions for official expenses is a long overdue step in that direction.

So, Mr. President, I urge the Senate to consider favorably this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

Mr. CANNON. It is on the Senator's time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENSON. Mr. President, whose time is this quorum call being charged against?

The PRESIDING OFFICER. The Senator from Illinois is informed that a quorum call is in progress. It is charged against the Senator from Illinois.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished manager of the bill yield me some time, either from the time on the bill or the time on the amendment?

Mr. CANNON. I yield the majority leader 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate voted to strike part I, providing for partial public financing of Senate general elections, from S. 926. I voted to so strike. Although I supported—and continue to support—the concept of extending public financing to congressional elections, it had become clear that the Senate would not be permitted to bring debate to a close and proceed to vote on the merits of title I.

An additional reason for my decision to support the motion to strike part I was the fact that I consider it urgent that the Senate proceed to vote on the very important provisions contained in part II of the bill, the amendments to the Federal Election Campaign Act. These amendments are responsive to problems which have been identified in connection with the Campaign Act as it operated in the most recent elections. Some of these problems are technical in nature; solutions to such problems have been painstakingly structured by the Rules Committee. Other amendments are directly responsive to criticisms which have been offered on the Senate floor during the last few days concerning the operation of the Campaign Act during the 1976 election.

Thus, part II contains several important provisions which, among other effects, would:

Reduce the recordskeeping and reporting requirements imposed on candidates and committees, while preserving the public's right to learn the sources of campaign contributions.

Strengthen and broaden the scope of activities of politcal parties, and their State and local committees.

Clarify the application of the law with respect to permissable activities by candidates and committees.

Mr. President, part II of S. 926 contains the type of reform which is beneficial to all. These amendments resolve uncertainties in existing law, and streamline the process for everyone involved: the contributor, the candidate, the officers of a political committee. Such reforms are not partisan in impact, and favor neither incumbent or challenger. They are hardly earth-shaking in their impact, but they are necessary.

I urge my colleagues to support the recommendations of the Rules Committee as contained in part III of the bill. The committee has carefully considered these matters; it has monitored the operation of the existing law; it has studied many suggestions for improving the law; it has taken extensive testimony from interested parties; it has issued its report. The report explains the need for, and the impact of, the proposed amendments. It has been available to the Senate for more than a month.

Beyond that, the Senate has been debating S. 926 for fully 7 days now. Opponents of the legislation—part I and part II alike—have had full opportunity to present their views. For my part, I have not heard any convincing arguments as to shortcomings or problems involved with part II of the bill.

I believe that the recommendations of the Rules Committee are valid and constructive revisions to the Federal Election Campaign Act as reported by the committee, and I hope that the Senate will support the committee and proceed to accept them.

Mr. President, I yield back to the chairman any part of the 5 minutes that may remain.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will run equally against both sides.

Mr. ROBERT C. BYRD. On the bill or on the amendment?

The PRESIDING OFFICER. On the amendment.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum call be charged equally against both sides on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask unanimous consent that Dr. James P. Lucier of my staff have the privilege of the floor during the consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Brent Budowsky of my staff have the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the quorum call will be reinstated under the same provisions for the charging of time. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Nevada.

Mr. President, as I understand it, this amendment has the same intent as the amendment offered by my good friend and partial namesake from Illinois at the time we considered the ethics resolution.

If I am correct, I must once again oppose this amendment. I do so, notwithstanding the fact that I understand what he wants to do, and I, too, understand some of the problems we are having with the Internal Revenue Service. But I also believe this is not the way for us to proceed, to prohibit the use of these funds for expenses which, by definition, are expenses that are official business.

I am preparing to go to Alaska, I might say to my good friend, on Friday night. There will be at least two congressional groups in my State. One of them is a group from the other body. I want to try to have a staff member accompany that group. They are chartering planes, using committee funds, which I might say are not available to me as a member of the minority despite the fact that I

might be ranking member on several subcommittees. I have no control over committee funds. I do not question the use of committee funds from the House. I think they are correct in using those funds. I urge them and all Members of the Congress to come and learn more about our State.

In order to send my staff member along with them, and for myself to travel along with the Senate committee, I will incur expenses that far exceed my ability to reimburse under the official allowances of the Senate. If the Senate is prepared to face up to that kind of expense and sort of give us a blank check, that is one thing. But, I do not think they are.

The problems we had with the recent legislative appropriations bill and the amendments to it, I believe, demonstrate this.

We are in a position where each month I incur expenses which are beyond my allowances, which are, by definition, official expenses. They are expenses of my staff or myself as we travel to or from Alaska, or to other States. I might say I am grateful to those who worked on the legislative appropriations bill. At least we are now able to travel using official funds to a meeting in California, for example, or to a meeting in Seattle, without the necessity of paying for those expenses personally. But they do not cover all of the ordinary and necessary expenses of a Senator or his staff and, of course, I must cover those.

For those people who are independently wealthy, who have income from unearned sources, I am sure those expenses which are, by definition, business expenses are deductible. It does not do me much good in a normal year. Last year I sold my house, and I guess I could write them off against that. But in terms of those of us whose only income is our salary as a Senator, this amendment strikes at the very nature of equality.

Today we use campaign funds for the excess of the official business expenses over our allowances. We do so with the full approval of my committee. As a matter of fact, they pass over every single voucher. They have rejected some, saying, "No, you must pay those personally," which I do.

To have this section become law would affect that money which is currently available under existing law for legal expenditures. By definition there is nothing that could be wrong with these expenditures, as these are, as the Senator's amendment says, ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office. They are not political; they are business expenses, et cetera.

Mr. BUMPERS. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. BUMPERS. I voted against the amendment of the Senator from Illinois the last time. I have had difficulty understanding the rationale for the Senator's amendment.

The point that I understand the Senator from Alaska is making deals with this fact, for example:

No. 1, when the Senator goes to his home State, he has to pick up his food and hotel bill, no matter if he is touring Alaska. If he has a campaign fund, which I have——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CANNON. Mr. President, I yield an additional 5 minutes to the Senator.

Mr. BUMPERS. I have those funds and I assume the Senator from Alaska has those funds. He can pay those ordinary and legitimate expenses from that account. I do that. But this is no slush fund. This is an account which is made public. I report it. It is not a slush fund by any stretch of the imagination. Anybody is welcome to look at it.

I do not understand, until the Senate decides to address this issue in a much more realistic manner, why that is not a perfectly proper fund and a perfectly proper use of that fund.

My staff members can go home with me and they can stay, I suppose, in the fanciest hotel in town. They can submit a bill to the Disbursing Office of the Senate for their hotel bill, for their food, for everything they incur as an expense while there, and it is reimbursed. But a Senator cannot do the right thing. Is that correct?

Mr. STEVENS. I think we changed that in the legislative appropriations bill. We can get some reimbursement but not total reimbursement, and not within 60 days prior to the election.

Mr. BUMPERS. I approve of that. But how did the legislative appropriations bill amend that?

Mr. STEVENS. It makes available the per diem for Senators in their States out of their existing allowance. That does not solve the problem, as far as I am told.

Mr. BUMPERS. I wish the Senator had not told me that.

Mr. STEVENSON. Will the Senator yield for a further question?

Mr. STEVENS. I shall be happy to, if we share the time a little bit. I should like to finish.

Mr. STEVENSON. Is it not true that the bill not only enlarges the expenses that can be compensated; it also increased by 10 percent the amount of funds that are available for all the expenses the Senators are discussing?

Mr. BUMPERS. I am sorry I took up the Senator's time, and I shall check into it. I am inclined to support him, because that is the kind of thing I have been irritated about ever since I have been in the Senate.

Mr. STEVENS. What the Senator from Arkansas says is right, but the money is not there. The last time we increased the allowance to have the staff receive per diem allowances, it came out of the existing allowance. Our allowance was increased 10 percent. They gave us a 10-percent increase in our allowance, the first in 5 years, but it does not even meet the inflationary costs. The telephone costs to my State alone exceed the increase.

What they are saying is, "Take your allowance for travel, take your allowance for stationery, take your allowance for telephone, it is all lumped together, and out of that you can pay yourself per diem or pay your staff's per diem."

What that means is, if you have just been getting along on your allowance in dealing with constituents' problems, if you pay yourself and your staff per diem, you are not going to take care of constituents' problems.

We have not faced up to the question of the volume of the commitment of these funds. There is no increase to cover these commitments. The increase that we have does not cover inflation. We can look at that over 5 years, and that increase does not deal with the inflationary spiral of stationery, travel, or telephone expense.

The basic problem with it is that, even with the availability of the per diem, it still does not cover the costs we are talking about. The costs that we are talking about are the ordinary and necessary expenses of a Senator which are not reimbursable, and there are a great many.

How about the meeting that a Senator has with constituents, where he invites them to come into a central place in his State, which I am going to do again Sunday, as a matter of fact, and I am going to buy their dinner? I am going to buy their dinner with my political fund money. It is going to cost $200 or $300. The Senator from Illinois will tell us that we cannot use the reimbursement from the Senate for that; I assure the Senator of that.

If you invite them to come and meet with you and it is a dinner or luncheon meeting, you are going to pick up the tab. Today, my committee pays that. They know they are going to do it and they approve it, because it is not only good business, it is an ordinary and necessary expense of being a Senator. It is also doing your job. If you do your job right, that is good politics.

So, in effect, it is a political expenditure because, from the time you are elected until the time you leave the Senate, there is hardly anything you do that does not have political consequences. They can be negative or they can be positive. If you do not do something, it is negative. If you do do something, you might get credit for it and it is political and positive.

I think the Senator from Illinois is going the wrong way. My constituents know I am not a rich man. My constituents put up this money. Every dime is reported as it comes in; every dime is reported as it goes out. If an opponent of mine in the next election wants to say I should not have spent that money on dinners or on entertainment or whatever it is, it is there. It is in black and white.

But I think that my people know that, as a Senator, I ought to have an opportunity to get together with some of these people. I must have access to funds to do this. Unless this body is going to become 100 percent millionaires instead of just 60 proof, then I think it is time we stopped bringing this issue up.

To a certain extent, it is embarrassing. I am not a millionaire. The ethics bill that we passed earlier this year has made sure that I will never become one.

That does not bother me, because there is no way for a person to earn any money once he gets here. You can have all the money roll in that you want from inherited sources or money you made here

first under an income as entirely legal. But those of us who just improved our brain and made that the source of our income are tied and shackled here on the floor of the Senate. This will do more; this will put me in irons.

I do not like it. I do not like to have to be embarrassed to raise it every time. But it is time somebody faced up to the fact that there are those of us who come to the Senate who are not rich, who are not going to get rich, and we want to be honest. This is the way to stay honest.

The alternative is, if I want to have a dinner, I call up somebody and say—and this is perfectly legal under the present system—"Hey, Joe, will you host a dinner for me?" So I am going to go out with my hat in my hand and say, "Joe, you pick the tab up this time because I can't afford it."

Why not let me be honest, let me publish the income I get from the fund and the expenditures I make from the fund? I think it is the only way I can conduct business.

Mr. CANNON. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Nevada.

Mr. President, I rise in opposition to this as I did alongside the Senator from Nebraska, back when the ethics resolution came up. There are not many new arguments.

Granted, the allowances have been increased, but they barely take care of the rate of inflation. To give an example, if this passes, this is the kind of predicament it puts me in: We have a very aggressive constituents' group in the State. We have a mobile office that, as a matter of fact, was broken into last night and somebody stole the CB radio. We had Common Cause suggesting we put in a hot line. We answered a question during the campaign that, yes, it would have an 800 number, it would let the people of the State call in toll-free every day. If this amendment passes—we are not talking about slush funds. They are all reported funds. We are not going to stamp out that ghost. I have never had a slush fund. These funds are all reported, the expenditures are reported in accordance with the Federal Election Commission requirements. But the hot line runs about $300 a month. If this passes, we cannot use excess campaign funds or any contributed funds to defray the cost of that hot line.

I think it indicates, even though I believe the Senator from Illinois is well intentioned, that this goes far beyond that. I think the ethics resolution took care of the slush funds and those are gone. They are unethical. This is killing something, putting something to rest, that goes far beyond the slush fund. I agree with the Senator that we were wise to get rid of slush funds, even though I never had one.

A further problem I find with this is that there is no definition of "ordinary and necessary." It might well encourage the IRS to tamper with what the Ethics Committee and they have indicated has been ordinary and necessary before.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DURKIN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Is the Senator from Illinois prepared to yield his time back?

Mr. STEVENSON. Mr. President, I should like to take about 3 minutes for myself, if there are no other Members who want to be heard on this. Then I am happy to yield back my time.

Mr. President, no amount of public disclosure, righteous rhetoric, ashes, sackcloth, or all the rest is going to change the characterization of these funds. These funds are what are commonly referred to in the press and by the public as slush funds. They are political funds, political contributions, alms from private sources that are then used by Members to support themselves in public office. The Senate, in its Code of Conduct, has said that Senators cannot, beyond a limit, earn moneys from outside the Senate, but it has said in the code, and now proposes by this bill to say in the law, that it is all right to take your tin cup and go out and raise funds from private sources in the guise of political funds to maintain yourself in public office.

When this matter was last discussed, the argument made against it was similar to that just voiced by the distinguished Senator from Arkansas; namely, that the official funds available for our official expenses were inadequate. But, since then, those funds available from official sources for official expenses have been changed. They have been increased by more than 10 percent and they have also been enlarged to cover expenses such as per diem for travel in a Senator's State.

The Senator from Alaska has what I believe is a real problem and a unique problem. What he is suggesting is that, to accommodate the problems in Alaska, Congress, having limited earned income, should now sanction the receipt of gifts to defray official expenses. Well, Mr. President, I am not going to go into the history of these funds. They ought to be painfully etched upon the mind of every Member of this body. It demeans Senators to go out and seek and to accept funds from such sources for the performance of their public duties. It demeans the Senate; and, what is more, it now is not necessary.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STEVENSON. Mr. President, I yield myself 2 more minutes.

The official allowances available for those expenses are now, I believe, in most instances, if not in all, adequate.

What is more, there are alternative means by which necessary expenses can be obtained from other sources.

I think it is unfortunate. I think all official expenses ought to be defrayed from official sources, but it is possible, and the Senator from Alaska knows it well, to obtain travel under the code of conduct.

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. In extraordinary situations, and he faces them in Alaska, without——

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. Not yet.

Without using political contributions.

Mr. President, I want to make one final point. This matter is not entirely within our hands. The Senator from Alaska has cited one instance in which official funds are probably not available. He referred to the entertainment of constituents and he said that cost of entertainment of constituents is political.

If it is political—and I believe he is right, and if he is not, he can be made right by the Senate—then the political funds can be used to defray those expenses.

The point is that the IRS is denying the deduction of political funds. They get taxed to us as income, but they do not get treated as deductible expenses for the entertainment of constituents.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired.

Mr. STEVENSON. Two more minutes.

What is more, I understand the IRS is going even further now to prevent Members from taking deductions for the expenses of entertainment of their own staff, an ordinary, reasonable business expense, which in any other vocation would be deductible.

What is happening is that the IRS is moving in on these funds to regulate them and to determine what are reasonable and ordinary official expenses.

In doing so, it is creating serious problems of enforcement for the Ethics Committee of this body. It is creating pitfalls for every Member of this body. It is even, under this procedure which permits the use of political funds for political expenses, creating unforeseen difficulties for the donors of the political funds who may lose their deductions or their credits, depending on what use their contributions are put to by the Senators who receive them.

If the Senator uses a contribution for an official expense, as opposed to a political purpose, one of the consequences could be that the donor loses his tax credit or his deduction.

It has become so complicated and so fraught with peril for Members of this body that I, as chairman of the Ethics Committee, have had to retain a national accounting firm to develop standards and an accounting manual for the Members in order to keep them out of trouble with both the IRS and their own code of conduct.

The PRESIDING OFFICER. The 2 minutes have expired.

The Senator has 8 minutes remaining.

Mr. STEVENSON. Mr. President, 1 minute.

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. Mr. President, this amendment, if approved, will not deprive Senators of the funds with which to defray their ordinary, reasonable, official expenses. It will end a practice which has been a source of public suspicion and anxiety for a long time. It will head off what are already some difficult and potentially embarrassing problems that arise from the use of these funds for official expenses under the Internal Revenue Code.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Who yields time?

Mr. STEVENSON. I yield to the Senator from New Hampshire 1 more minute.

Mr. DURKIN. I thank the Senator.

The Senator from Illinois suggested there was another avenue, another means of funding travel that met all the stipulations.

That is a new thread. Will he please explain that to the body?

Mr. STEVENSON. Under the code of conduct of the Senate, gifts of travel may be accepted if they are incidental to official business or to an appearance—

Mr. DURKIN. But that is not what we are talking about here.

I mean, that goes hat in hand to get someone to sponsor the travel rather than having an FEC account where it is all reported.

Mr. STEVENSON. If the Senator is saying that is not what we are talking about, it is true, if what he is talking about is his WATS line in New Hampshire——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Who yields time?

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Illinois has 6 minutes remaining, the Senator from Nevada has 10 minutes remaining.

Mr. CANNON. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Nevada.

I do not want to be repetitive, but I do agree with the Senator from Illinois that there is a certain problem of definitions. But there is no definition of ordinary and necessary in his amendment. There is no definition of what is political.

We are getting into a quagmire and disrupting what has been fairly well settled by the IRS and by the decisions of the Ethics Committee.

These funds are all reported. The receipt is reported. The expenditure is reported to the FEC.

As I say again, I am not trying to defend the slush fund. I never had one. I never solicited nor accepted funds. I never had one.

But I ask the Senator from Illinois, he is not inferring—I am sure his answer is "no," but I want to pin this down—he is not implying the use of excess campaign funds or funds contributed in accordance with the FEC reporting—in accordance with the FEC, they are expenditures reported in accordance with FEC—ordinary and necessary expenses incurred by him or her in connection with his duties as a holder of Federal office, is in any way unethical or contrary to the decisions of the Senate Ethics Committee?

Mr. STEVENSON addressed the chair.

Mr. DURKIN. As it stands today. The answer would be "no," would it not?

Mr. STEVENSON. Mr. President, as I tried to indicate, I do not think that public disclosure changes the character of these funds. These are from private sources and used to defray official expenses. They have been historically a source of public suspicion. I think it is a bad practice, but not unethical.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. STEVENSON. I do suggest it creates an appearance——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DURKIN. Mr. President, I ask for 30 seconds because this is very important. This is the chairman of the Ethics Committee. I think the whole body should listen fairly closely.

In other words, the answer to the question is "no." There is no implication today of unethical conduct or any conduct contrary to the ethics code or decisions for the use of excess funds contributed, reported, expended, in accordance with the FEC for ordinary or necessary expenses incurred by him in the performance of his duties—or her duties—the Federal officeholder?

I gather the Senator's answer, which was interrupted by the Chair, was "no."

Mr. STEVENSON. Mr. President, that was not my answer.

The funds can be a source of unethical conduct in the Senate. I certainly have no evidence of such being the case now.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. STEVENSON. I yield myself 1 minute.

They can create an appearance which arouses suspicion in the public mind. These are funds which are obtained typically from sources that have an interest in legislation.

Finally, as I indicated earlier, they can, however innocent the donor, however innocent the donee, create serious difficulties, including unintended violations of the law, because their use can contravene the Internal Revenue Code.

Mr. CANNON. The Senator is not suggesting by that answer that the Internal Revenue Service would not approve the use of campaign funds for the ordinary and necessary expenses of a Senator's office, is he?

Mr. STEVENSON. No. What the Senator from Illinois is suggesting is that, under this approach, it is the IRS which determines what is reasonable and necessary, not the Senate. Those determinations by the IRS, in my opinion, what I have seen of them, are unreasonable, and I believe they would be regarded by many other Members as unreasonable.

That being the case, it is difficult for Members to anticipate the decisions of the IRS in advance.

The expenses of entertaining staff by a Senator or an annual Christmas party, for example, have been challenged now by the IRS, not to mention the use of such funds for entertaining constituents, which I would think would be more clearly not ordinary and reasonable expenses than those for entertaining staff.

Mr. CANNON. Mr. President, I yield 4 minutes to the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, I rise to speak in strong and personal terms about this legislation, and I ask the forgiveness of my colleagues.

I do not want to make a pretense that I am doing other than talking about the Senator from New York and the circumstances in which he would find himself if this measure were to pass. I have not only the right to do this but also the duty to the 18 million people I represent in the second largest State in this Nation.

Mr. President, I came to the Senate after having spent my life in teaching and in government affairs. I never earned more than a professor's salary or a civil servant's salary. The 1 year that I made a substantial sum of money in my life was last year, and I paid 52 percent of my income in income taxes. I paid more in taxes than I ever have been able to pay. I had to borrow to pay. I have been left, as it were, penniless.

The first thing I found when I came to the Senate was that the one source of income which I would care to say is legitimately mine, as a teacher, which is the income from lecturing, which I am trained to do, which I have done all my life, was to be denied me or curtailed sharply. I would have been quite prepared to have no expenses—if it came to that, no salary—if I could earn what would come to me openly as a teacher, lecturing at universities, and the Senate denied that to me. I said nothing. I made no comment at all during that debate.

However, over and over I heard the phrase, "The Senate is becoming a millionaires' club." It was said on this floor and it has been said in the press—a millionaires' club. And should we become such, with what moral authority will this body speak?

My grandfather came to this country and dug ditches until he finally settled, and he dug them long enough to stop in the town where the job ended. My father worked hard and made less.

I have accumulated no money. I have no family estates. My mother has none. I will never acquire any. My children have none.

However, now I learn, with respect to the small expenses of representing a State of 18 million people, that I cannot go out openly and honorably and ask friends to give me small contributions to pay for what are, in effect, the official costs of being their representative. I am told that, in effect—it was said in the last debate—this would be going out with "tambourine and tin cup." Mr. President, I have no alternative to "tambourine and tin cup." I am not a man of wealth. I am not in debt, but I have no money to speak of. My father did not give it to me. My grandfather did not give it to me. My wife did not bring it. I cannot earn it by doing what I am professionally qualified to do, which is to receive fees from lecturing, an old and honorable affair of politicians. Socrates made his living by charging for his teaching.

I cannot do this, and now I am told that I cannot go to political supporters

and have them help as well. I am told that I should bankrupt myself and live in a society here of very wealthy men, men of family, men of connections, men of huge resources; and I am told increasingly that I do not belong here.

I did not come to a House of Lords. I did not win my seat by my father's patrimony. I won it in a free election against a man of great wealth.

I put into that campaign every penny I had in my pockets, because I felt that the State of New York needed a person with my party's politics. I won. I came here without wealth. I was told I could earn nothing more from my honorable trade of teacher. Now I am told that I cannot even be a mendicant. I am told I must be a pauper.

Mr. President, I beg the Senate not to enact this legislation.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Who yields time?

Mr. STEVENSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. STEVENSON. Mr. President, that performance was not only entertaining; it was touching. [Laughter.]

But it neglects that the allowances available to Members of the Senate have been changed. They are now adequate, and the Senator does not have to put on his ashes and sackcloth, and he does not have to beg with tin cup or tambourine. The expenses of service in this body, especially for a Senator from New York, are more than adequate.

What the Senator is suggesting—and I ask him if this is not the case—is that because his opportunity to earn money on the outside has been limited, he should be able to beg on the outside.

Mr. MOYNIHAN. That is precisely what I say. [Laughter.]

If I cannot earn, I will have to beg; and if I cannot beg, I will in effect expel myself as a representative of my State. Yes, the distinguished Senator from Illinois is correct. You have to go around and ask. If you do not have money and you cannot earn money, you can steal it or you can ask for it. Another form of asking for it is to beg for it.

We know, Mr. President, that asking is a form of begging. It is not what we want. I would much rather have gone out and worked for it. But I was told that I could not do that. So, honorably, I will beg for it. I shall be a member of the mendicant order of the U.S. Senate—an honored tradition in my church and soon to be a small minority, but I hope an honored faction, in this honorable body.

Mr. STEVENSON. Mr. President, that draws the line. All beggars line up on the side of the Senator from New York. [Laughter.]

If you want to beg for funds which you do not need any longer to pay for your official expenses, vote against this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, may I have 2 minutes? I beg for 2 minutes. [Laughter.]

Mr. HATFIELD. I yield 2 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I suggest to my good friend from Illinois that the good Senator from New York, our admired friend, will be so surrounded by people who are persuaded by the logic of his argument that it may be rather hard to line up closely to the Senator from New York. I think he makes the point very well, indeed, that we have gone completely overboard in considering what sort of extraconstitutional restrictions we are placing upon Members of this body.

I compliment the Senator from New York for his perceptiveness, his understanding of the facts of life; and I can assure him that throughout America are many people who would admire and who would seek to emulate his honesty and his candor in couching his convictions in precisely the terms he states them.

I think he understands and knows full well what is back of this amendment. I hope it will be rejected. I did not vote for this ethics bill in the first place because I do not believe it is necessary for the U.S. Senate to impose extra constitutional restrictions upon membership in this body, and I salute my good friend from New York who happens to be on the other side of the aisle, but along whose side I shall try to move in order to have people in Wyoming understand how strongly I support his views.

I thank my friend from Oregon.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, before going to a vote—and I intend to move to table this matter—I will say now to my colleagues that we should be to a vote very shortly, but the Senator, in his colloquy with the Senator from New Hampshire, raised a question that I think ought to be made perfectly and absolutely clear for the record.

The implication, as I got it, was that it would be considered probably unethical to use excess campaign funds for the payment of ordinary and necessary expenses of the office. If that was the Senator's statement that is completely in error, and I would cite him section 439(a) of the Federal election campaign laws which spells out very specifically and which says, referring to these funds, "may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal Office." In addition to that, rule 46 provides specifically, in relation to the term "unofficial office account"—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. I yield myself 2 minutes on the bill.

It says:

An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from,

And then goes on to subparagraph (c)

funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971);

So I wanted the record to be absolutely clear that it is not only legal, but it is not unethical under the present ethics code of the Senate at this time for a Senator to use excess campaign funds for the reimbursement or expenditure of the ordinary and necessary expenses in connection with his office.

Mr. STEVENSON. Mr. President, I yield myself 1 minute. I concur with that statement. But it is wrong to suggest that any conduct which complies with the letter of the law is ethical. Unethical conduct does not have to be indictable; there is nothing inherently unethical about the use of unofficial funds for official expenses. However, they can be a source of unethical conduct. They can create appearances of unethical conduct, even without the reality. They can create suggestions of undue influence in the institution, and also, as I indicated, they can lead to violations of the Internal Revenue Code, however innocent.

Mr. CANNON. Mr. President, I move to table the amendment of the Senator from Illinois and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BIDEN). Does the Senator from Illinois yield back the remainder of his time?

Mr. STEVENSON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from Illinois.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HART), the Senator from Washington (Mr. MAGNUSON), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote yea.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY), are necessarily absent.

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—63

Allen	Domenici	Huddleston
Anderson	Durkin	Humphrey
Baker	Eastland	Inouye
Bayh	Ford	Javits
Bellmon	Garn	Johnston
Brooke	Glenn	Laxalt
Burdick	Gravel	Long
Byrd, Robert C.	Hansen	Mathias
Cannon	Hatch	Matsunaga
Case	Hatfield	McClure
Chafee	Hathaway	McGovern
Church	Hayakawa	Morgan
Curtis	Heinz	Moynihan
Danforth	Helms	Muskie
Dole	Hollings	Nunn

Packwood	Schweiker	Talmadge
Pearson	Scott	Thurmond
Pell	Stafford	Tower
Riegle	Stennis	Wallop
Sarbanes	Stevens	Williams
Schmitt	Stone	Young

NAYS—29

Bartlett	DeConcini	Metcalf
Bentsen	Eagleton	Metzenbaum
Biden	Griffin	Nelson
Bumpers	Haskell	Proxmire
Byrd, Harry F., Jr.	Jackson	Randolph
	Kennedy	Ribicoff
Chiles	Leahy	Roth
Clark	Lugar	Stevenson
Cranston	McIntyre	Weicker
Culver	Melcher	Zorinsky

NOT VOTING—8

Abourezk	Magnuson	Sasser
Goldwater	McClellan	Sparkman
Hart	Percy	

So the motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take seats or carry their conversations to the cloakrooms. The Senate will be in order. The Senator from Oregon cannot be heard.

Mr. HATFIELD. Mr. President, I address my brief remarks to the Members on the minority side. At this time, I have on my list for amendments to be offered, or at least for time to be allocated, 6 hours and 45 minutes. I am told by the leadership that we are going to finish this bill tonight; so I urge Members on the minority side to be very conservative with the time required to present their amendments, because otherwise we will be here rather late tonight.

I do not have a count of the number of amendments yet to be offered on the majority side, but I reiterate, on the minority side I have on my list 6 hours and 45 minutes of time set aside for amendments.

I just wanted to make that a matter of record at this time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Oregon yield to me?

Mr. HATFIELD. I yield.

Mr. ROBERT C. BYRD. I thank the Senator for that statement. I wonder if we could ascertain at this point whether or not there are further amendments on this side of the aisle.

Mr. STEVENSON has one; that appears to be it on this side of the aisle.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. BUMPERS. I ask unanimous consent that Richard Arnold, of my staff, be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 692

Mr. STEVENSON. Mr. President, I call up my amendment No. 692, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON), for himself and Mr. MORGAN, proposes an amendment numbered 692.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, between lines 4 and 5, insert the following:

"(2) by striking out '$5,000' in paragraph (2)(A) and inserting in lieu thereof '$1,000';.

On page 62, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 62, line 17, strike out "(3)" and insert in lieu thereof "(4)".

On page 62, line 21, strike out "(4)" and insert in lieu thereof "(5)".

On page 64, strike out lines 1 and 2 and insert in lieu thereof the following:

"(d) Section 320 of the Act (2 U.S.C. 441a) is amended—

"(1) by inserting a comma and 'and amounts totaling not more than $5,000 may be contributed to a candidate for nomination for election, or for election, to the House of Representatives during the year in which any election is held in which he is such a candidate, by the National Republican Congressional Committee or the Democratic National Congressional Committee, or the national committee of a political party, or any combination of such committees' immediately before the period in subsection (h); and

"(2) by adding at the end thereof the following:".

Mr. STEVENSON. Mr. President, this amendment would bring both political action committees and party committees under the same contribution limitation as individuals: $1,000 for contributions to any one candidate.

Total contributions by special interest groups rose from $12.5 million in 1974 to over $22.5 million in 1976. Those contributions went to incumbents by a ratio of 3 to 1. This proliferation of these artificial legal entities, and the amounts of money which they funnel into the campaigns of those who are sympathetic to their views, make a mockery of their original purpose, which was to permit the pooling of funds by small contributors who felt their individual contributions had a limited effect. The tail now wags the dog, and the damage to public confidence in the independence of elected officials is considerable.

Mr. President, arguments can be made for these devices as means by which to pool small contributions. The figure of $1,000 in this amendment is arbitrary. As I indicated earlier, it was settled on in order to equalize the ceilings for the PAC's, or political action committees, with those for individuals. Without some reduction in the $5,000 ceiling which is now in the bill, the relative position of the PAC's is enhanced.

A $5,000 limitation is not a realistic limitation. Large contributions can be, through the PAC's, contributed to candidates for Congress, and the whole purpose of election reform is subverted.

So I would hope that, if not at the level which the amendment now contains, the committee might be presuaded to consider a reduction of some magnitude in the $5,000 ceiling for contributions by PAC's. If so, assuming agreement, I would be happy to modify the amendment in order to incorporate a lower ceiling than the $5,000, but one that is higher than the $1,000 ceiling which I suggest in the amendment.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. STEVENSON. Mr. President, I yield to the Senator from Delaware for a unanimous consent request.

Mr. BIDEN. Mr. President, I ask unanimous consent that Dede Doran of my staff have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. STEVENSON. Mr. President, I suggest the absence of a——

Mr. CANNON. Mr. President, will the Senator withhold that?

Mr. STEVENSON. I withdraw the request?

Mr. CANNON. Mr. President, I think that this amendment is unreasonable in its restrictions. We are trying to get a base here that we can support on all contributions—contributions from the public, contributions from individuals, and contributions from qualified committees. If we reduce the maximum so that an organization or PAC can only contribute a thousand dollars, that is the same amount that an individual can contribute. As a matter of fact, an individual and his wife can contribute $2,000; so they would be able to contribute more to a candidate than one of these political action committees.

I could not support the amendment. At the appropriate time, unless it is modified, I will move to table the amendment.

Mr. STEVENS. Mr. President, will the Senator yield for just a short comment?

Mr. CANNON. I yield.

Mr. STEVENS. Mr. President, I served as chairman of the Republican Senatorial Campaign Committee for the last 2 years, and I would join the Senator from Nevada in supporting the motion to table, particularly until after the present campaign. This is changing the rules in the middle of the game. These political committees, or PACs, must be in being for 6 months and must be giving contributions, as I recall, to five candidates before they can reach the $5,000 limit. There would be no way for these committees to readjust themselves in midstream of this campaign, which, by definition, is started already.

I think it would be very unfair for us to change the rules now. If the Senator wants us to take this up and consider it for subsequent elections, that might be another matter, in terms of the total balance of outside contributions.

But I do not think there is any way we should change these limits each time a bill comes before the Senate. The limits are reasonable in terms of their maximum amount. I would hope everyone would join the Senator from Nevada in voting to table this amendment, which really has nothing to do with the total question of reform that the Senator is

talking about, as far as campaign activities are concerned.

Again, these are funds where the source is reported, where the limit is known by everybody. Very few people get the maximum from them. But of those who do, I assume that the people who manage the funds know what they are doing in terms of giving the maximum amount.

As far as the balance between the PACs and individual contributions, and the many, many people who are able to contribute $2,000 as husband and wife in the primary, and $2,000 as husband and wife in the general election, I think the balance ought to be there as in existing law.

This means a multiple organization where the contributions are very small can be pooled to an amount to a total of no more than $5,000. I think that is a fair limit to the existing system.

Mr. STEVENSON. Mr. President, this amendment would not make any Member or anyone else guilty of violating a law that was not in effect at the time of his action. The effect of this amendment would be prospective. It would not become effective until enactment of the legislation.

Mr. President, the amount of money funneled into campaigns by PAC's increased by almost 100 percent in just 2 years. If one of the purposes of election reform is to reduce the large amounts of money which go into campaigns from special interests, some greater attention ought to be paid to PAC's which, by their proliferation and the amounts permitted, are devices used freely to channel large sums of funds into political campaigns at the expense of individuals who are limited to $1,000 contributions.

As the Senator from Alaska mentioned, and also the distinguished manager of the bill, the figure is arbitrary, and so is the figure in the bill. The amendment proposes $1,000. It does so because that is the limit for individuals. The bill contains a figure of $5,000, which is also arbitrary.

I recognize that, and also that a couple can contribute $2,000. I think the RECORD should also show that these PAC's can multiply and proliferate so that one special interest can contribute many times the $5,000 ceiling for one PAC.

Recognizing that any figure is arbitrary and feeling as I do, that $5,000 is too high, I would be happy to consider some intermediate ceiling. The Senator from Nevada mentioned that a married couple could give, with a $1,000 ceiling on contributions by individuals, $2,000.

Would the Senator agree that a figure of $3,000 would be a reasonable amount for a limit on PACs?

Mr. CANNON. Mr. President, I would say that a $3,000 figure would certainly be more acceptable to me, but I do not know how some of my other colleagues might feel with respect to the $3,000. I will call upon my colleague from Oregon for his comments.

Mr. HATFIELD. Mr. President, I would say that, as the minority party manager of the bill, this figure has not been used in discussing the amendment with Members on this side of the aisle. I would have to discuss it with the members of the minority side of the committee as well as Members of the minority party. Therefore, I am not in a position to accept the $3,000 figure at this time.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield for that purpose.

Mr. HATCH. Mr. President, I ask unanimous consent that Gordon Jones, Pam Strike, and Gary Hamilton of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bill Reinsch of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield.

TIME LIMITATION AGREEMENT—S. 1952

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No 342, S. 1952, a bill to amend the Federal Water Pollution Control Act Amendments of 1972, is called up and made the pending business before the Senate, there be a 3-hour time limitation for debate, to be equally divided between Mr. MUSKIE and Mr. STAFFORD; that there be a time limitation on any amendment of 1 hour; a time limitation on an amendment by Mr. BENTSEN of 2 hours; a time limitation on any amendment in the second degree, debatable motion, point of order or appeal of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1952 (Order No. 342), a bill to amend the Federal Water Pollution Control Act Amendments of 1972, debate on any amendment in the first degree (except an amendment by the Senator from Texas (Mr. BENTSEN), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Maine (Mr. MUSKIE) and the Senator from Vermont (Mr. STAFFORD): *Provided*, That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. I thank the Senator.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

Mr. MATHIAS. Will the Senator from Illinois yield for a question?

Mr. STEVENSON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. STEVENSON. I yield for a question.

Mr. MATHIAS. I am wondering if the Senator's amendment, and whatever dollar figure it may end up with, would apply not only to the classic PAC which normally has a parent of some kind, either a labor union or a corporate organization, but if it would also apply to the so-called ideological committees, to the public interest committees, which make contributions to the Members of Congress?

Mr. STEVENSON. The answer is "Yes."

Mr. MATHIAS. I would feel disposed to object and urge the Senate not to have it so apply because of the different kinds of organizations and the different ways in which administrative costs have to be met by these two kinds of committees.

The Federal Election Commission made a report on committees with total expenditures of $25,000 or more. They indicated that the public interest committees spent over three-fourths of the money they raised to pay for administration and direct mail solicitation. In contrast, the business-labor PAC's report virtually no expense for administration. It seems to me that there is a very broad difference there between the two.

At the proper moment I will offer an amendment to the amendment of the Senator from Illinois which would exempt the public interest or ideological committees from this limitation, and which would leave them at the $5,000 figure.

Mr. STEVENSON. Mr. President, the Senator makes a good point. He has pointed out that these committees have administrative expenses associated with their political activities which exceed those of the conventional PAC. So an increased ceiling for such committees would, in part, compensate them for their increased expenses and perhaps not change their relative influence in the political process.

I think the Senator makes a strong argument. I should not want to see the difference between the two very large. Does he suggest an amount?

Mr. MATHIAS. I shall like to see the public interest committees exempted from the effect of the pending amendment, which would leave them at $5,000, and if the compromise figure is $3,000, that would not be a very large difference

between the two. It would be one which would reflect the difference in the organic nature of the different committees.

Mr. STEVENSON. Mr. President, I modify my amendment to increase the ceiling for political action committees from $1,000 to $3,000 and send the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

The Chair hears none. The amendment is so modified.

The amendment, as modified, is as follows:

On page 62, between lines 4 and 5, insert the following:

"(2) by out '$5,000' in paragraph (2)(A) and inserting in lieu thereof '$3,000',.

On page 62, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 62, line 17, strike out "(3)" and insert in lieu thereof "(4)".

On page 62, line 21, strike out "(4)" and insert in lieu thereof "(5)".

On page 64, strike out lines 1 and 2 and insert in lieu thereof the following:

"(d) Section 320 of the Act (2 U.S.C. 441a) is amended—

"(1) by inserting a comma and 'and amounts totaling not more than $5,000 may be contributed to a candidate for nomination for election, or for election, to the House of Representatives during the year in which any election is held in which he is such a candidate, by the National Republican Congressional Committee or the Democratic National Congressional Committee, or the national committee of a political party, or any combination of such committees' immediately before the period in subsection (h); and

"(2) by adding at the end thereof the following:".

UP AMENDMENT 714

Mr. MATHIAS. Mr. President, I send to the desk an amendment to the amendment which would exempt the ideological committees from the effect of the pending amendment.

The PRESIDING OFFICER. That amendment is not in order until time has been used or yielded back on the pending amendment, except by unanimous consent.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order to consider the Senator's amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes unprinted amendment No. 714 to amendment 692.

On page —, line 3, insert the following: except that a multicandidate committee not described in Section 441b(b)(2)(C) may make contributions to a candidate and his authorized political committees with respect to any election for Federal Office which, in the aggregate, do not exceed $5,000.

The PRESIDING OFFICER. There is a 20-minute time limitation on this amendment. Who yields time?

Mr. STEVENSON. Mr. President, let me make certain I understand the effect of the amendment.

The PRESIDING OFFICER. The Senator from Maryland and the Senator from Nevada control the time on this amendment.

Mr. STEVENSON. Mr. President, this is an amendment to the amendment that I offered. Under those circumstances, do I not have any time on the amendment?

The PRESIDING OFFICER. Not under the agreement. The Senator from Maryland has 10 minutes on his amendment, and the manager of the bill 10 minutes in opposition.

Mr. MATHIAS. I yield to the Senator from Illinois.

Mr. STEVENSON. The Senator's intent was to exempt, and therefore subject to the $5,000 ceiling the ideological multicandidate committees. I did not understand that he intended to exempt political committees. Is that his intention?

Mr. MATHIAS. The Senator is absolutely right. The Federal Election Campaign Act now recognizes two types of multicandidate committees that are not party organizations. What this amendment is directed to is one of those two types of nonpartisan organizations—the ideological or public interest committees. I might give the Senator some examples.

They are committees like the National Committee for an Effective Congress, the Committee for the Survival of a Free Congress, or the Women's Campaign Fund, or the National Conservation Political Action Committee, which represent a broad spectrum of citizens who are interested in electing to Congress Members who have similar philosophies. They occupy a somewhat unique and limited place in the political process.

As a matter of fact, this kind of multicandidate committee is not described in the act. What is described in the act are the common kinds of committees—the business and labor political action committees which are supported by corporations or trade associations or labor groups, which make expenditures from their general treasuries to administer and solicit contributions for political campaigns. The PAC's support the view of a particular business or the economic interests of a labor union. These are the most commonly mentioned when the influence of special interest money is described.

What I am talking about is the other kind, which is recognized in the law, but which is ideological in the sense that they support, perhaps, conservative causes or liberal causes, or they back positions on particular issues of the day—gun control or abortion or environmental concerns. That is the kind of thing that we are trying to reach.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

I would be opposed to the amendment of the Senator from Maryland. This creates two artificial distinctions that should not be there. We would have one class of committee limited to a $3,000 contribution and another class of committee limited to a $5,000 contribution. What we are trying to do is equalize among the various groups their participation, and provide a limit on the participation that they can engage in, in connection with a political campaign.

Mr. MATHIAS. I urge upon the distinguished manager of the bill the facts of life, which are that the standard PAC—the labor PAC or the business PAC—has a parent which supports it. They have a broad administrative base in which the money can be raised as a result of the fact that they have an ongoing existence as a business corporation or as a union. These public interest committees have no such base and the reports of the Federal Election Commission indicate that. They have to raise their money for their own existence, for their own administrative costs. Then they have to provide the money which they contribute to the candidates which they think will support the issues on which they have positions.

If we cut them to either $1,000 or $3,000, we are putting them in a very unhappy position. I think that we are, in fact, creating the two tiers that the Senator wants to avoid.

This amendment actually goes toward equalizing, rather than toward differentiating between these two committees. It is an equalizing amendment because it recognizes that they have a different means of providing the funds for their own administrative survival.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The proponent of the amendment has 8 minutes, the manager of the bill has 7 minutes.

Mr. MATHIAS. I suggest further to the distinguished manager of the bill that we can see unfolding here the existence of a two-tier system, in which the business PAC's and the labor PAC's are multiplying themselves very rapidly.

The Senator from Illinois cited some rather startling figures in which he said the funds had increased by 100 percent in the last several years.

I ask the Senator from Illinois this question: Is it not true that it is not only an increase in funds, it is the number of the PAC's which has increased?

Mr. STEVENSON. The Senator is correct. It is a combination of proliferation of PAC's together with the amount of money that they contribute. We can place a ceiling on the PAC's, but it is not effective if they proliferate in order to get around the ceiling. I think that has been part of the explanation for the increase of almost 100 percent in the amount of contributions made by PAC's in just 2 years, 1974 to 1976.

Mr. MATHIAS. Would the Senator agree that there has been no such proliferation of the public interest committees?

Mr. STEVENSON. I do not know about that. I am not aware of any such proliferation. It could happen in the future.

To answer the Senator, I am not aware of any such proliferation in the past of the ideological multicandidate public interest committees.

Mr. MATHIAS. I am not aware of any such differentiation, of any such increase on the part of the public interest committee. I would suggest to the Senator that it is not likely that it will because the administration structure, the fact they have to raise the funds in order to administer their programs, makes it unlikely they will increase it.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I

would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. What is the status of the Mathias amendment at this time, the Mathias modification to the Stevenson amendment?

The PRESIDING OFFICER. Is the Senator inquiring about the amount of time left?

Mr. HATFIELD. No. Has the Stevenson amendment been modified by the Mathias modification, has it been accepted?

The PRESIDING OFFICER. The amendment by the Senator from Maryland in the second degree, is the pending business to the Senator from Illinois' amendment.

Mr. HATFIELD. Would the Senator from Illinois yield for a question?

Is the Senator from Illinois going to accept the modification proposed by the Senator from Maryland, are we going to vote on these matters separately or how?

Mr. STEVENSON. I cannot answer that. I am not willing to accept or support it because I am told that it excepts the party committees—and also for the reasons which were mentioned by the distinguished manager of the bill.

I must say I was tempted at first, but I am concerned about possible proliferation in the future, and, as I indicated, the fact that I believe it exempts from the $3,000 ceiling, which the modified Stevenson amendment would impose, the party committees, and make it possible for them to do more.

Mr. MATHIAS. If the Senator will yield, it was not my intention to exempt the party committees.

I think if the Senator will refer to section 112, which is found on page 61 of the bill, he will find the pertinent sections which limit party activity and which also provide the definitions for the parties.

So that this would, under no circumstances, exempt the party organization.

The amendment refers very specifically to the section, the existing election law which makes reference to the existence of political action committees, and simply exempts those political action committees which are not described in the pertinent section of the law, which is section 441(b).

So that there is no attempt or desire to exclude from the operation of the Stevenson amendment the political organizations.

Mr. STEVENSON. Mr. President, I am relying on the advice of others. The Senator may be correct. I certainly know his intention. But I would be reluctant to support his amendment even if his intention is accurately expressed in his amendment for the other reasons which I have mentioned and were also mentioned by the Senator from Nevada.

Mr. CANNON. Mr. President, what is the parliamentary situation, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes remaining and the Senator from Maryland has 5 minutes remaining.

Mr. CANNON. I yield 4 minutes to the junior Senator from Nevada.

Mr. LAXALT. Mr. President, I rise in opposition to the Stevenson amendment. I think perhaps for a moment or two a review of our political history should be in order.

The whole tenor of the debate this afternoon for too long in this Chamber has been that there is something wrong with special interests, that there is something wrong with political action committees.

I happen to have started in this business when we deplored throughout this country the lack of activity on the part of business and professional groups in this country in contrast to the intense political activities of the labor unions.

As a partial remedy to that, we finally embarked in this Congress upon a program of authorizing political action committees so that we could thereby induce the business and professional, and other groups, to have a framework, a legal framework, in which they could concentrate more in terms of political activity.

The Senator from Illinois has deplored the fact it raises the flag of caution about the increase in the activity of the political action committee.

In my judgment, this is not to be deplored, but applauded, because that is the very purpose for which this legislation was originally instituted, to cause a catalyst by virtue of this legislation in the activity politically in the business and professional world.

So I would say that here when we talk in terms of drawing a distinction of the public service PAC's as opposed to the other PAC's, that distinction is invalid.

That is not to say that in this particular situation we should not support the position—

Mr. McCLURE. Mr. President, could we have order? I find it difficult to hear the Senator from Nevada and he is entitled to be heard.

I thank the Chair.

Mr. LAXALT. Mr. President, are we in order now?

The PRESIDING OFFICER (Mr. PELL). The Senator may proceed.

Mr. LAXALT. To continue with my thoughts, to summarize them briefly, it is my view that as to the political action committees, whether or not they represent special interests, special interests invariably are those insidious people who are on the other side of a political issue or in a political campaign.

We have authorized the political action committees. They function well.

I think that probably the answer to the defects we have in the process have been pretty well remedied by the requirement of full disclosure, and the fact that they have doubled in activity and the amount of contribution.

If they have trebled in size, fine. That is precisely what we want to restore, equality to the system, because for too long we found concentrated political activity on the part of the labor unions and the business and professional communities sound asleep. If we strengthen their hand, I think it is all to the better.

I find no justification at this time, either through discussions in the debate or otherwise, for any form of reduction, because we debated at length the $5,000 item. I think it was soundly supported at that time to be a reasonable level.

So I think this Senate, in the absence of any greater justification being made on the floor, would make a very serious mistake in supporting the Stevenson amendment.

Mr. CANNON. Mr. President, what is the time situation now?

The PRESIDING OFFICER. The time of the Senator from Nevada has expired. The Senator from Maryland has 5 minutes remaining.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. CANNON. Mr. President, how much time remains on the prime amendment, the Stevenson amendment?

The PRESIDING OFFICER. The Senator from Nevada has 27 minutes and the Senator from Illinois has 14 minutes.

Mr. CANNON. If the Senator from Illinois is willing to yield his time back, I will yield mine back except for 15 minutes and I will yield that to the junior Senator from Nevada.

Mr. BUMPERS. Mr. President, a parliamentary inquiry. Have the yeas and nays been requested on the amendment of the Senator from Maryland?

Mr. CANNON. They have not.

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. CANNON. Is the Senator willing to yield back the time?

The PRESIDING OFFICER. Unless time is yielded further from the bill, the vote now occurs on the amendment of the Senator from Maryland.

Mr. STEVENSON addressed the Chair.

Mr. CANNON. Mr. President, a parliamentary inquiry. Would it not be proper for the Senator from Illinois and the Senator from Nevada to yield back the remaining time on the Stevenson amendment, at which time a motion to table would be in order?

The PRESIDING OFFICER. That is correct.

Mr. STEVENSON. I have no desire to prolong this issue. The point of my amendment is to reduce the ceiling on political action committees because the $5,000——

The PRESIDING OFFICER. Who is yielding time on this amendment?

Mr. CANNON. There is still time on the Stevenson amendment, Mr. President.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from Illinois may proceed on his own time, notwithstanding the fact that the Mathias amendment would otherwise be voted on.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. I thank the Senator from Maryland for giving me some time on my amendment, because otherwise I could only yield.

Mr. President, the trouble with the $5,000 ceiling on political action commit-

tees is that it increases the proportionate influence of political action committees in our political process at the expense of individuals. The proliferation of committees at that level is producing more and more money in our campaigns, the doubling of funds from such committees in the space of 2 years. It is not because that activity is inherently evil or because it should be eliminated that I propose this amendment. As amended, the modified amendment would bring it down from $5,000 to $3,000 in order to restore a healthy balance to the influence exerted by individuals and political action committees in elections for Congress.

Having said that, Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. Two minutes on the bill.

Mr. BAKER. Mr. President, I thank the distinguished manager of the bill.

This is a time when we are considering a whole range of election issues, a time when we have just dealt with the question of public financing and will no doubt continue, in the course of the day, to deal with other issues.

It is a time when, so far as I am concerned—and I believe so far as many others are concerned in this Chamber—we should reiterate our concern for electoral reform. My own preference is for a different type of electoral reform—for tax credits, for example; for 24-hour voting; for a national holiday on election day; and a range of other ideas that will occur to other Members and will be discussed thoroughly on this floor.

However, I think it is not time now, today, to change the ground rules. We should not change the nature of the opportunity and the authority of groups and committees to participate in the election process in this manner at this time.

So, while I am sympathetic to another range and type of electoral reform, I hope that these amendments will not be adopted.

Mr. CANNON. I yield 15 seconds to the Senator from Nevada.

Mr. LAXALT. A parliamentary inquiry, Mr. President. Is all time yielded back now?

The PRESIDING OFFICER. All except 15 seconds.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has not yielded back his time.

Mr. LAXALT. What is the parliamentary situation? Has all time been yielded back? Has the Senator from Illinois yielded back his time on the amendment?

The PRESIDING OFFICER. The time has not been yielded back on the amendment of the Senator from Illinois.

Mr. STEVENSON. If someone will yield some time to the Senator from Illinois, he will move to table the amendment by the Senator from Maryland.

The PRESIDING OFFICER. The Senator can make that motion without time being yielded to him.

Mr. STEVENSON. I do so, Mr. President.

Mr. LAXALT. Mr. President, I think I have the floor.

The PRESIDING OFFICER. The Senator from Nevada has the floor. The 15 seconds have expired.

Mr. CANNON. I yield the Senator another minute.

Mr. LAXALT. Mr. President, within that minute, before my time passes, I should like to move now to table the Stevenson amendment.

Mr. STEVENSON. Mr. President, I have already moved to table the Mathias amendment.

The PRESIDING OFFICER. The motion to table the Stevenson amendment is not in order until all time has been yielded back or used on that amendment.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. STEVENSON. Mr. President, who has the floor?

The PRESIDING OFFICER. The question at this time is on the amendment by the Senator from Maryland, on which all time has expired.

Mr. STEVENSON. Mr. President, I ask unanimous consent that I may have 30 seconds in order to make a motion.

Mr. HATFIELD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator does not need unanimous consent to make a motion. He needs time on the bill or unanimous consent in order to speak.

Mr. HATFIELD. Mr. President, reserving the right to object, I think the Senator already has stated twice that he has made a motion to table the Mathias amendment. If that motion has been made to table, as I understand it, then I think the vote occurs on the motion.

Mr. BAKER. Mr. President, will the Senator yield to me for a parliamentary inquiry? Will the distinguished manager of the bill yield for that purpose?

The PRESIDING OFFICER. The Senator from Illinois has made a motion to table the amendment of the Senator from Maryland, and all further debate on that is out of order, and the vote now occurs on the motion.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Maryland.

The motion was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Illinois.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time, except for 15 seconds to permit a motion to table.

The PRESIDING OFFICER. If the time is yielded back, the motion is in order.

Mr. LAXALT. Mr. President, has all the time been yielded back, with the exception of the 15 seconds?

The PRESIDING OFFICER. The Senators do not need time.

Mr. LAXALT. I yield back the remaining time I have, and I now move to table the Stevenson amendment.

The PRESIDING OFFICER. The Senator from Nevada has moved to table the Stevenson amendment.

Mr. LAXALT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Stevenson amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—63

Abourezk	Hansen	Metzenbaum
Anderson	Haskell	Moynihan
Baker	Hatch	Muskie
Bartlett	Hatfield	Pearson
Bayh	Hathaway	Pell
Bellmon	Hayakawa	Randolph
Bentsen	Helms	Riegle
Brooke	Hollings	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Humphrey	Schweiker
Case	Inouye	Scott
Church	Javits	Stafford
Curtis	Johnston	Stennis
Dole	Laxalt	Stevens
Domenici	Long	Stone
Durkin	Lugar	Talmadge
Eagleton	Magnuson	Thurmond
Eastland	Mathias	Tower
Ford	Matsunaga	Weicker
Garn	McClure	Williams
Gravel	Melcher	Young

NAYS—33

Allen	DeConcini	Nelson
Biden	Glenn	Nunn
Bumpers	Griffin	Packwood
Burdick	Hart	Proxmire
Byrd, Harry F., Jr.	Heinz	Ribicoff
	Jackson	Roth
Chafee	Kennedy	Sarbanes
Chiles	Leahy	Stevenson
Clark	McGovern	Wallop
Cranston	McIntyre	Zorinsky
Culver	Metcalf	
Danforth	Morgan	

NOT VOTING—4

Goldwater	Percy	Sparkman
McClellan		

So the motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD and Mr. HATFIELD addressed the Chair.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, will the Senator yield for 30 seconds?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. Mr. President, I address my comments again to the minority side at this time. We still have 6 hours and 15 minutes of allotted time for amendments, and we are told by the leadership that we will finish the bill tonight, which means, without counting the rollcall periods, we will now be almost 10 o'clock tonight if we use all the time allocated for these amendments.

I only make this as a matter of record to indicate to Senators that we have this job ahead of us, and I hope we will be more conservative with our time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield for a unanimous-consent request to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Joe Heaton, of my staff, be accorded the privilege of the floor during vote and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I thank my distinguished friend from Oregon.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Dale Wheeler, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 715

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes unprinted amendment No. 715.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. INCREASE IN CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR THE UNITED STATES SENATE OR HOUSE OF REPRESENTATIVES

(a) INCREASE IN PORTION OF CONTRIBUTION CREDITABLE.—Subsection (a) of section 41 of the Internal Revenue Code of 1954 (relating to general rule for contributions to candidates for public office) is amended to read as follows:

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the sum of—

"(1) one-half of all political contributions (other than those described in paragraph (2)) and all newsletter fund contributions, and

"(2) 75 percent of the sum of all political contributions to—

"(A) individuals who are candidates for nomination or election to the United States Senate or House of Representatives for use by any such individual to further his candidacy for nomination or election to the United States Senate or House of Reprsentatives, and

"(B) committees, associations, or organizations (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to the United States Senate or House of Representatives for use by any such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to the United States Senate or House of Representatives,

payment of which is made by the taxpayer within the taxable year.".

(b) INCREASE IN MAXIMUM CREDIT LIMITATION.—Paragraph (1) of section 41(b) of such Code (relating to maximum credit) is amended—

(1) by striking out "$25" and inserting in lieu thereof "$100",

(2) by striking out "$50" and inserting in lieu thereof "$200", and

(3) by inserting before the period at the end thereof the following: "of which not more than $25 ($50 in the case of a joint return under section 6013) shall be determined under paragraph (1) of subsection (a)".

(c) IMMEDIATE CREDIT.—

(1) Section 41 of such Code (relating to ocntributions to candidates for public office) is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) IMMEDIATE CREDIT.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a), the credit allowed by subsection (a) with respect to any political contribution shall, upon application by the taxpayer, be allowed against the tax imposed by this chapter for the taxable year immediately preceding the taxable year in which payment of the political contribution was made.

"(2) AMOUNT OF CREDIT AND DETERMINATION OF POLITICAL CONTRIBUTION.—

"(A) AMOUNT OF CREDIT.—Except as provided in subparagraph (B), the determination of the amount of any credit allowed under paragraph (1) for the immediately preceding taxable year with respect to any political contribution shall be made as if the payment of such contribution was made in such preceding taxable year.

"(B) DETERMINATION OF POLITICAL CONTRIBUTION.—Any determination as to whether any contribution with respect to which a taxpayer is claiming the credit allowed under paragraph (1) is a political contribution shall be made on the basis of the taxable year in which the payment of such contribution was made.

"(3) TIME FOR MAKING APPLICATION.—

"(A) EARLIEST DATE.—A taxpayer may not file an application under paragraph (1) before the day on which the taxpayer filed his return of tax for the immediately preceding taxable year.

"(B) LATEST DATE.—A taxpayer may not file an application under paragraph (1) on or after the earlier of—

"(i) the due date for the filing of the return of tax for the taxable year in which the payment of the political contribution was made (determined without regard to any extension of time for filing the return), or

"(ii) the day on which the taxpayer filed his return of tax for such taxable year.

"(4) Inclusion in earlier return.—In lieu of making an application under paragraph (1), a taxpayer may elect to claim the credit allowed under paragraph (1) for the immediately preceding taxable year on his return of tax for that year if the payment of the political contribution for which the credit is claimed was made before the filing of that return.

"(5) In lieu of any other credit.—No credit shall be allowed for any other taxable year for any political contribution for which any credit is allowed under this subsection.

"(6) Treatment as claim for refund.—For purposes of this title, any application filed under paragraph (1) shall be treated as a claim for refund except to the extent that such treatment is inconsistent with the provisions of this subsection.".

(2) The Secretary of the Treasury shall publish and make generally available a form specifically designed to enable a taxpayer to apply under section 41(d) of the Internal Revenue Code of 1954, to have the credit allowed by section 41 of such Code applied to a preceding taxable year.

(d) Interest on Immediate Credit.—

(1) Section 6611(b) of such Code (relating to interest on overpayments) is amended by adding at the end thereof the following new paragraph:

"(3) Section 41(d) credit.—In the case of a credit allowed under section 41(d) for which an application has been filed under section 41(d)(1), from the 61st day after the receipt of such application by the Secretary to the date of the refund check, whether or not such refund check is accepted by the taxpayer after the tender of the check to him. The acceptance of the check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.".

(2) Section 41(e) of such Code, as redesignated by subsection (c), is amended to read as follows:

"(e) Cross References.—

"(1) For disallowance of credits to estates and trusts, see section 642(a)(2).

"(2) For interest on immediate refund, see section 6611(b)(3).".

(e) Repeal of Alternative Deduction for Political Contributions.—

(1) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by striking out section 218.

(2) The table of sections for such part is amended by striking out the item relating to section 218.

(3) Section 642 of such Code (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

SEC. 2. EFFECTIVE DATES.

The amendments made by subsections (a), (b), and (e) of section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (c) and (d) of section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1976, but only with respect to political contributions the payment of which was made in taxable years beginning after December 31, 1977.

Mr. PACKWOOD. Mr. President, this is the so-called tax credit amendment which has been discussed on numerous occasions during the debate on the public financing section of this bill.

It is a very simple amendment to the present existing law which already permits both tax credits and tax deductions for political contributions.

This amendment raises to 75 percent the tax credit that you are entitled to

take for contributions to Senate races or House races up to a maximum of $100, so that if you give $100 to a campaign you can take a $75 credit on your income tax. You cannot take more than 75 percent. If you give $1,000 you can still only take 75 percent credit up to $100. If you give any amount, that is the maximum amount of credit that you can take.

It eliminates the present deduction that you are entitled to take for a political contribution, and this credit is substituted for it. I have done that because, as we are all aware from arguments made on this floor in a whole variety of measures, tax credits are more favorable to lower and middle income taxpayers than tax deductions. Tax deductions are worth an immense amount more to those that have higher incomes, in higher brackets. But this amendment is worth the same to anyone who gives $10; they all get $7.50 off of their income tax.

That, in a nutshell, is the amendment. It is designed to encourage smaller contributions to political campaigns.

When we were discussing the public finance section of this bill, I made the argument over and over that there are millions of people in this country who will give $5, $10, or $15 to political campaigns if encouraged to do so. This political tax credit is designed to encourage such small contributions.

Mr. McCLURE. Mr. President, I wonder if we could have order. The background level of noise is almost overwhelming.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. That is the sum and substance of the amendment. It is simply and clearly designed to encourage small contributions. Certainly it is not designed for so-called large or special interest contributors, because they do not get 75 percent credit on everything they give; they get 75 percent credit on everything they give up to $100. The special interest group does not give $5,000 because it can get a very small credit; but an individual person will give $20, $25, $30, or $35 if he knows that on his income tax he can take 75 percent of that amount off of his tax liability.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I would like to read into the RECORD a letter which I think is responsive to this amendment, from the Secretary of the Treasury. It reads:

> The Administration is strongly opposed to H.R. 3340, a bill to increase the tax credit for political contributions to candidates for the United States Senate. The increased credit would be advantageous primarily to high-income taxpayers and would not provide meaningful incentives for public campaign support. At the same time, it would add several layers of complexity to the existing tax system and would hinder the development of tax reform proposals later this year.
>
> Besides the inherent inequities and complexities of the increased credit itself, it is a seriously inadequate alternative to the check-off system. It violates several basic principles of public funding. H.R. 3340 does not require candidates to demonstrate substantial public support; it gives an advantage to the candidate currently supported by wealthy contributors; it does not remove even the appearance of obligation to special interest contributors; it does not give assurance of adequate overall minimum financing; and it encourages contributions to those who seek the first deductible or creditable dollars from a taxpayer. It makes no attempt to spread public funds evenly.
>
> The primary effect of an increased credit would be a windfall for higher income taxpayers. The tax credit would be used primarily by high-income persons who would contribute anyway. State and Federal studies have shown that tax incentives for political contributions are used 25 times more by high-income than by low-income persons. Furthermore, surveys have concluded that even if all Americans were well informed about them, the benefits still would be taken much more often by high-income persons. Even among the group of contributors, low-income contributors simply are much less likely to take advantage of their tax incentives. These results contrast with the check-off system, which, studies have shown, is much more likely to be used by taxpayers proportionately in all tax brackets.
>
> An increased credit would do little to encourage contributions to political campaigns and to broaden the base of political activity. Less than 3 percent of taxpayers use the current Federal tax incentives. State experiences confirm this conclusion.
>
> The "quickie refund" feature of H.R. 3340 is unlikely to have a salutary effect on the credit's incentive value; at the same time, it creates an unwarranted administrative burden for the tax system. The Service would be required to pay moneys out of the Treasury even before candidates had qualified for contributions. New forms and new lines on existing forms, with alternative limits for the alternative levels of credit for the Senate and other campaigns, would add several layers of complexity to the existing system. It is likely that this increased complexity alone would diminish use of tax incentives, including the existing ones. Lower income persons, who do not have sophisticated tax assistance, would be those most discouraged from using the credit.
>
> Finally, I would like to point out that the Administration is reviewing the existing credit and deduction in the process of developing its comprehensive tax reform proposals to be presented to the Congress this fall. It would be unfortunate if the existing system were substantially altered before the Administration has had an opportunity to review and present reform proposals.

The letter is signed W. Michael Blumenthal, Secretary of the Treasury.

Mr. President, I reserve the remainder of my time.

Mr. NUNN. Mr. President, will the Senator from Oregon yield me about 3 minutes?

Mr. HATFIELD. Yes; I am happy to yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I support the Packwood amendment, and have for some time. I believe it does many positive things in encouraging individual contributions, and I believe it would substantially improve the incentive system for people to participate in political campaigns.

This amendment would simply increase the tax credit available for contributions to candidates for the Senate. The provisions of this amendment originally were introduced as S. 1471, and I understand they have been the subject of hearings in the Finance Committee.

I believe the consideration of this amendment is appropriate, because its enactment, if enacted, would in fact accomplish many of the laudable goals which the sponsors of S. 926 have set for this body, although I did not agree with the public financing section. This amendment would provide a real incentive for individuals to contribute to a candidate. Rather than indiscriminately showering funds on anyone interested in running for office, this amendment would encourage the citizens of this country to freely support the candidates of their choice. They would make the choice, they would decide which candidate they wanted to support, and they would make their contribution voluntarily, as opposed to the earlier version of this bill, which would have had the bureaucracy do it for them by sending out checks of taxpayers' money to anyone who actually qualified under the bill.

Moreover, as any Member of this body knows, once an individual contributes to a campaign, he is likely to become actively involved in one way or another, due to a sense of commitment to the candidate. This is the way to increase citizen participation in the electoral process, not by allocation of taxpayer funds by some Federal official, as originally envisioned in this bill.

Mr. President, I will not belabor the issue. I think it is a very clear and concise amendment, with nothing complicated about it. Simple logic indicates that by increasing the tax credit available for political contributions, we will encourage a significant increase in participation in the electoral process. With this in mind, I urge my colleagues to support the amendment.

Mr. PACKWOOD. I thank the Senator from Georgia for his support. Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. Mr. President, will the Senator yield to me at that point?

Mr. PACKWOOD. Yes.

Mr. LONG. Mr. President, as the Senator well knows, this proposal was agreed to by the overwhelming majority, unanimously or almost unanimously, in the Committee on Finance.

I can recall occasions where we have sought to raise money by small contributions. Really, if one tries it, there is a lot of money that can be raised that way.

I recall when we made the effort for Adlai Stevenson, and we asked people to put up $5 apiece. Lots of people—working people, business agents for labor unions, and just a lot of good people at the grass roots level who were interested in politics—were willing to put up $5.

If we had this kind of amendment in the law, I will ask the Senator if it is not true that the same type of $5 contributions that were made available to Mr. Stevenson would be worth $20 in net cost to the taxpayers. Is that not correct?

That is at a time when we went out and raised $5 contributions prior to the time that they become deductible.

Mr. PACKWOOD. Pardon me?

Mr. LONG. At the time some of us were helping Governor Stevenson make his race for the Presidency of the United States, we found a lot of people who

would put up $5 and we would give a little receipt for it. It would not cost but the same $5, which was not deductible at that time, to put up $20 nowadays. Is that not correct, that is, by this amendment?

Mr. PACKWOOD. That is correct. It would amend the law.

Mr. LONG. The Senator from Florida (Mr. CHILES) has demonstrated how, by making an effort to get to a great number of people, one could finance the campaign by mere $10 campaign contributions, where the potential of doing that type of thing would be doubled by making this a 75-percent credit rather than a 50-percent credit; is that not correct?

Mr. PACKWOOD. Absolutely.

Mr. LONG. In most States people have not explored the extent to which they can finance a campaign by small contributions, but where people have really made the effort we have learned that people will contribute. It is just a matter of getting to people and trying to persuade them that it is in their interest to contribute.

Mr. PACKWOOD. In every instance where candidates have tried to collect small contributions they have succeeded. We just have not tried. This is a tremendous inducement to encourage them to try, and a very great inducement for people to give.

Mr. LONG. I can recall a race in Louisiana where just one man, who was not a politician, as such, but just managed to have something of a flair for getting along with people, went out in support of the candidate he favored. He wanted contributions of $5, with no one contribution exceeding $20. The man raised $25,000 to help the candidate he was supporting in a Governor's race. When explained to someone that they could have an immediate refund, it could then be worth $100,000 to a candidate; is that not correct?

Mr. PACKWOOD. That is correct.

Mr. LONG. So the potential has only been scratched. In areas where the effort has been made, I think it demonstrates that there is a great potential to raise money by small contributions.

Mr. PACKWOOD. An interesting survey was conducted by the 20th Century Survey Fund of Political Finance, the University of Chicago, in which they asked different income classes, "If you had money, would you be willing to give money to politics?"

In the class of zero to $5,000, 8.2 said yes; $5,000 to $10,000, 8; $10,000 to $15.-000, 4.5 percent; $15,000 to $20,000, 2.5 percent, and $20,000 and over, 0.8 percent, indicating that it is the lower income classes that disproportionately will use this if given the opportunity.

Let us be very serious. Major donors do not give money because they get a tax credit. That is not their principal incentive. But someone who can only afford to give $10, $20, $30, or $40, and the fact that they can take 75 percent off their income tax, has a great incentive.

Mr. LONG. I can recall many people, even my own little daughter, not old enough to vote, watching television to watch the elections because they wanted to be identified with a candidate they thought was a good man. If people can do that and be inspired to contribute and to help candidates of modest means to make the race for Senator, there is no doubt in my mind that that is a move toward better government and toward the reduction of the kind of influence all those who have said they would like to have public financing say they would like to reduce. The very idea of fixing it so someone can make an appeal on television for contributions, to explain to people that 75 percent of it would be a tax savings, in my judgment would be a very feasible way to raise money to finance campaigns, with the Senator's amendment in place.

Frankly, I also recall down through the years how the Treasury on other occasions seemed to have so little objection to offering a tax credit for 50 percent, let us say, of $25, or a deduction for a contribution up to $100. I can recall the time when we had a very prolonged fight over the $1 checkoff, and it was those on the Senator's side of the aisle who opposed the $1 checkoff. In that same bill, we had the provision, I believe, for the tax credit of 50 percent.

In spite of the furious opposition that existed against the $1 checkoff at that point there was no opposition to the tax credit on $25.

I must say that it sort of comes as a surprise to me to find that the Treasury seems to be all upset about the idea of a tax credit of 75 percent when they were not upset on a previous occasion under a Democratic Congress when we were trying to provide a $1 checkoff as well as a tax credit. The Senate was not upset about it. The Senate passed the 50 percent tax credit almost by unanimous consent, one would have thought, even though we had a very heated fight over the $1 checkoff.

Mr. PACKWOOD. I am particularly confused by the fact that the Treasury on the tax credit favors the large donors. The argument is usually made that the deduction is unfair. This is the first time I have ever heard a Democratic administration or any Democrats here proposing a tax credit saying it favors the rich.

Mr. LONG. Actually, a person in the 70-percent bracket is permitted to deduct the $70; is that not right?

Mr. PACKWOOD. It would be worth $70.

Mr. LONG. Under existing law, if a person is in a 70-percent bracket, he already has a $70 tax saving to make his contribution to a candidate for Senator.

Mr. PACKWOOD. That is correct.

Mr. LONG. But, by contrast, some person who is in a 14-percent tax bracket——

Mr. PACKWOOD. If they give $100 it is worth $14 to them. Under this amendment it is worth $75.

Mr. LONG. If we think in terms of who it benefits, the enormous benefit is to the person who is in the lower or low middle income brackets to make a campaign contribution. That is where the big gain is. That is who gets the benefit of it. In view of the fact that the high-income taxpayer already gets the benefit of a deduction against the 70-percent rate, which is worth 70 cents on the dollar, to me it is just a matter of the Treasury kind of casting about looking for arguments when we hear the kind of rejection made that we read in the Treasury letter.

Frankly, I find myself wondering, and I think I know the answer. Does the Senator think the Treasury wrote that letter before we acted on the checkoff yesterday, or did they write it afterward? I would suspect Treasury was writing that letter fearing that the Packwood amendment might be an impediment to using the $1 checkoff for entirely public funding. A great number of the objections that one hears spelled out by the Treasury were more or less generated to backfire against the Packwood amendment because they did not want it to impede or in any wise prejudice the action on the public financing with the $1 checkoff.

Mr. PACKWOOD. I think it is entirely possible.

Mr. LONG. The Senator will recall that the Treasury was before the Finance Committee making those same arguments.

Mr. PACKWOOD. Yes.

Mr. LONG. At that particular time they were hoping to have complete public financing of campaigns.

Mr. PACKWOOD. I would even make a bet that before the year is out, or before this Congress is out, this administration will be before us with a tax reform bill with a number of tax credit devices in it for which they will say the best reasons for them is that they benefit the poor.

Mr. LONG. I have no doubt about that. In fact, I think the Senator is right, that the most expensive item in their tax reform proposal will be a tax credit for the poor.

Mr. PACKWOOD. I agree.

I yield to the Senator from West Virginia.

Mr. HARRY F. BYRD, JR. The Senator from Louisiana mentioned that more and more individuals in the low- and middle-income brackets are making contributions to political campaigns. I think that is certainly the case and I think it is a good trend. To indicate the accuracy of the statement by the Senator from Louisiana, in the campaign in Virginia last year 12,000 individuals contributed to my campaign, and the average contribution was somewhere between $55 and $60. So I think there is a trend among the people to contribute to campaigns. I think it is a good trend. I think the more we can encourage individuals to give small amounts to political campaigns the better off our Nation will be.

I do not understand that Treasury letter at all. In the first place, it is a very demagogic letter, but besides that it is not an accurate letter, as the Senator from Oregon pointed out to the Senate.

Mr. PACKWOOD. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, will the Senator from Nevada yield to me for 5 minutes?

Mr. CANNON. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment of the Senator from Oregon for a number of reasons.

First of all, I think it is unconsttiu-

tional and I shall make a brief comment on that. It is a requirement of the Constitution as well as a matter of comity with the House of Representatives, that when we deal with a tax measure or measure affecting revenues, it must be a House measure, not a Senate measure. That is the constitutional requirement. That has been the tradition and it has been respected. I think that this amendment fails on that issue.

Mr. President, I think it fails as well on the question of the merits. There are a number of arguments against increasing the tax credit for political contribution.

First, the credit does nothing about low public participation. The tax credit is not an effective incentive for political contributions.

Only about 3 percent of households use the Federal tax credit and deduction. The participation has remained constant at this low level over the entire period 1972–75 for which data are available.

By contrast, participation in the dollar checkoff has increased dramatically and continuously, from 3 percent in 1972 to 27 percent in 1976 and 28 percent today.

Available State results also confirm the fact of low participation through the tax approach, no matter how well known the tax benefits are. The 1974 Federal returns in Wisconsin show the same pattern as Federal returns. California has offered its tax deduction since 1967; yet participation in 1972 was only 2.1 percent of returns.

And, nationwide, the percentage of voting-age Americans making contributions was the same in 1972, when the Federal options were first available, as in 1960 and 1964.

Second, the tax credit provides a windfall and disproportionate benefits to high-income persons.

The credit is a significant windfall for high-income taxpayers. A large part of the revenue loss goes to reward taxpayers who would be making political contributions in any event. According to Mr. Adamany and Mr. Agree in their expert study entitled "Political Money," published in 1975:

> The tax benefit is just a minor windfall received for doing what political contributors would do anyway.

In addition, the maximum tax credit is not obtained until an individual's total contributions reach $266.67, or 75 percent times $266.67, which equals $200. Few low- or middle-income taxpayers are in a position to give such amounts. The credit thus gives unnecessary rewards to $500 and $1,000 donors.

High-income groups—those with adjusted gross income of at least $20,000—are much more likely to use the credit/deduction than low-income groups—those with AGI under $5,000.

High-income groups were 27 times as likely to use the mechanism in 1972. In California in 1972, they were 46 times as likely to claim a deduction. In Oregon in 1970, they were 290 times as likely to take the credit.

In contrast, the dollar checkoff is being used more and more widely as it becomes more understood. And checkoff participants are more representative of all taxpayers in terms of income levels.

Finally, the credit provides no benefit at all for those who have no taxable income. Since the credit is not refundable, the lowest income groups are eliminated from its benefit.

Third is the problem of complexity and discrimination. The bill arbitrarily creates more favorable tax incentives for contributions to congressional candidates compared to candidates for President, Governor, mayor.

The bill creates two different levels of percentages—50 percent for noncongressional contributions and 75 percent for Senate contributions.

The bill also creates two different maximum credits—$50 for noncongression contributions, and $200 for Senate contributions.

It is doubtful that these differences would be meaningful for taxpayers. The complexity will impair the incentive and create confusion on the tax forms for all taxpayers.

Fourth is the problem of the "quickie refund." The quickie refund procedure establishes a precedent for immediate refund for all other tax credits, and it will create substantial administrative burdens on the IRS.

The IRS might have to provide refunds even before the candidates announced their campaigns. In addition, it is likely that IRS audit resources will be inadequate to check the taxpayer's right to the credit, whether the taxpayer actually owes taxes for the preceding year, let alone audit the credit on current returns.

The quickie refund in effect allows a one-year carryback of the credit. It also establishes a precedent for requiring the IRS to pay interest, even though it does not have time to check the validity of the credit. Moreover, the IRS would be required to issue new tax forms and set up new procedures to check these mid-year refunds.

Fifth, there is the problem of the large revenue cost. The tax credit as reported by the Finance Committee is estimated to cost $14 million in fiscal year 1977 and $21 million in 1978. The total cost of the bill for the 2-year election cycle is $35 million.

The estimated cost of the Senate public financing provisions in S. 926 was $14 to $18 million over the 2-year election cycle. Thus, the tax credit approach is twice as costly as the public financing approach.

Moreover, the IRS estimates that the administrative costs of implementing the tax credit will be $2.7 million.

The administration costs for S. 926 are estimated at $1.8 million for fiscal year 1978, or only two-thirds of the costs for the tax credit approach.

In sum, Mr. President, current law provides all the tax incentive needed from political contributions. Many of the defects of the proposed additional tax credit are also applicable to the smaller credit and the alternative deduction already available under current law. These defects will be compounded by the pending amendment.

The existing law already provides a large Federal subsidy for political contributions. The credit or deduction available under current law for political contributions produces an estimated revenue loss of $84 million in a Presidential election year; $74 million in a congressional election year; and $58 million in non-Federal election years, These revenue losses through the tax system are actually tax expenditures, or Federal subsidies, for political campaigns.

Mr. President, for all of these reasons, I hope the amendment will be defeated. As a matter of Senate procedure, it is unconstitutional in its present posture. On the merits, it is ineffective as an incentive for contributions. It is inequitable in distribution of its benefits between high- and low-income taxpayers. It adds major new complexity to the tax returns. It will impose a serious administration burden on the Internal Revenue Service. And it is costly to Treasury. I urge the Senate to reject the amendment.

The PRESIDING OFFICER (Mr. SARBANES). The Senator's time has expired.

Mr. KENNEDY. Mr. President, I ask for just a moment.

Mr. CANNON. I yield another minute.

Mr. KENNEDY. Mr. President, one final point. We will have a tax reform measure before the Senate. It is being prepared by the administration, where this issue and many others will obviously have ample opportunity to be aired. The administration has indicated that its proposals will be submitted in early September. We ought not to act prematurely on this amendment, until we see the administration's comprehensive proposals.

For these reasons, it is an unwise amendment. It is an unconstitutional amendment. It deserves to be defeated on a point of order. If it survives the point of order, it should be defeated on the merits.

Mr. PACKWOOD. Will the Senator yield?

Mr. KENNEDY. If the Senator from Nevada wants to yield me another minute, I shall be glad to yield for a question.

Mr. CANNON. I am glad to yield.

Mr. PACKWOOD. An upper income taxpayer in the 70 percent bracket already gets a 70-percent deduction under the present law for political contributions—$70. A person in a 14-percent bracket, who gives any money, gets a 14-percent deduction. How does this conceivably benefit the upper income taxpayer, who already gets a $70 deduction on his contribution?

Mr. KENNEDY. If I may just clarify my position. At the proper time, if the Senator wishes to offer an amendment only to eliminate the deduction, he can put me on as a cosponsor. We are talking about the small car carrying the freight train. I think that there is merit in the elimination of the deduction. I would certainly work with the Senator from Oregon to achieve it. But that small benefit of the amendment is far outweighed by the many large defects of the amendment.

Mr. PACKWOOD. The Senator will be

happy to know that the deduction is eliminated by this amendment.

Mr. KENNEDY. I understand that. But to go on to say that this provision justifies adoption of the whole amendment is wrong. The heart of the amendment is to expand a tried but unsuccessful way of encouraging those in the higher income brackets to participate in the political system. It is an unworkable, inequitable, and unconstitutional proposal.

The PRESIDING OFFICER. The Senator's additional time has expired.

Who yields time?

Mr. CLARK. Will the Senator yield 3 minutes?

Mr. CANNON. I yield 3 minutes to the Senator from Iowa.

Mr. CLARK. Mr. President, in reading the RECORD this morning, I saw that last night, the junior Senator from Oregon referred to the public financing of elections as proposed in S. 926 as "a piece of trash," to use his words, not mine.

I think the Senator from Oregon had complained that public financing does nothing to curb special interests in politics—does nothing to curb special interest in politics. I dare say there is absolutely nothing in this amendment that does anything to curb special interests—nothing. If that is the principal objection to S. 926, I think it would have to remain the principal objection to the pending amendment.

The Senator from Oregon has complained that the checkoff has been supported by only 27 percent of the people. The Senator from Massachusetts just said how many people have used the existing tax credit and tax deduction: 3 percent.

The Senator pulled out some polls the other day in defense of his amendment and said that there are some polls that have indicated that as many as 8 percent would use the tax credit—in certain income groups, he said. That is about a third of those that use the tax checkoff. So, if there is really a case to be made, as many people have argued here—the Senator's colleague from Oregon, the Senator from Michigan, and others—that the 27 percent is a poll in itself and does not, in fact, indicate support for public financing, I do not know how one can claim that the 3 percent who used this provision does, indeed, constitute great support from the American public. Indeed, I think the record would show that the vast majority of people who have had benefit from this are wealthy people.

The Senator has complained that public financing is too expensive; to use the term that has been bandied around here for 8 days, it is "a raid on the Treasury" to spend this public money to finance elections. Yet the Packwood amendment would, in my estimation, cost more—not less than S. 926, but more—to the American taxpayer than S. 926 would cost. I would say that is accurately described as a raid on the Treasury.

The Senator has complained that public financing will not encourage small contributions. The fact that we match all contributions of $100, the Senator said, would not encourage small contributions. There is no evidence that a bigger tax credit would do that in any sense of the word. Rather, as the Secretary of the Treasury has quite accurately stated:

> The primary effect of the increased tax credit would be a windfall for higher income taxpayers.

I think that explains the purpose and the intent of the amendment: a windfall for higher income taxpayers.

Mr. PELL. Will the Senator yield for 1 minute?

Mr. KENNEDY. Will the Senator from Nevada yield to the Senator from Iowa?

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. CANNON. I yield 2 more minutes to the Senator from Iowa.

Mr. PELL. I would agree with the Senator from Iowa had public financing gone through. But now that it has not gone through, I agree that it means more to a middle income or high income person than to a low income person.

Mr. CLARK. Yes.

Mr. PELL. But part of the results we wanted in public financing are achieved by this. I look on this as a candidate myself this coming time. I wanted public financing to go through. I do not like the idea of holding my hand out. But it did not go through and we are faced with that prospect of raising money.

I prefer a project like this, in changes which would at least encourage the number of small contributions, more than would otherwise be the case.

I think it is a poor second best to public financing.

Mr. CLARK. I appreciate the Senator's comments. My only reaction would be that, if that were the case, it seems to me the small contributor would have increased his use of the tax credit we already put into law. The fact is, in my judgment, according to the statistics I have seen, that they have not. It did not encourage more people to contribute.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in dealing with this issue in the Senate, we have to look at the evidence and review the studies on the effect of the current credit. Is that right?

Mr. CLARK. That is right.

Mr. KENNEDY. And the evidence is that the current credit is a windfall. If we look at the statistics over the period that the credit has been in place, both at the Federal level and also in the States, we find that it has been ineffective as an incentive for political contributions. It simply rewards wealthy taxpayers for contributions they would be making in any event.

Mr. CLARK. I think the Senator is exactly right.

Certainly, if S. 926 is a raid on the Treasury, this measure, which does absolutely nothing to stem special interest contributions, and costs more than public financing, would have to be described as a raid on the Treasury.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I am prepared to vote if the Senator from Nevada is.

Mr. CANNON. The Senator's time has expired?

Mr. PACKWOOD. Not expired, but I am prepared to vote.

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes, the Senator from Nevada has 4 minutes remaining.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is the point of order not in order until after the time is yielded back?

The PRESIDING OFICER. The point of order is not in order until either all time has been used on the debate on the amendment or yielded back.

Mr. CANNON. Very well. I am prepared to yield back.

Mr. PACKWOOD. Yes. I will yield back my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time for debate on the amendment has been yielded back.

Mr. CANNON. Mr. President, I make the point of order that unprinted amendment No. 715 violates article I, section 7, of the U.S. Constitution in that it infringes upon the prerogatives of the House of Representatives.

The PRESIDING OFFICER. Under the precedents of the Senate, points of order as to the constitutionality of a bill or amendments proposing to raise revenue will be submitted to the Senate for decision. The Chair has no power or authority to pass thereon, and the question before the body will be, Is the point of order well taken?

Under the unanimous-consent agreement entered into on yesterday, it was agreed there would be 1 hour of debate on the constitutional point of order on the Packwood amendment, if raised.

Who yields time for debate on the constitutional point of order?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Time is divided between the Senator from Nevada and the Senator from Oregon.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, when the time has expired, is it in order to table a point of order?

The PRESIDING OFFICER. Upon the expiration of the time agreement under the unanimous-consent request, it would be in order to move to table the point of order.

Mr. PACKWOOD. Would that motion be debatable on tabling a point of order?

The PRESIDING OFFICER. The motion to table the point of order would not be debatable.

Mr. PACKWOOD. Mr. President, I will cite a number of precedents. It is not unusual at all for the Senate to attach a revenue provision to a Senate bill. I call attention to what we did on July 21, 1977, just a few days ago, on the black lung bill.

That bill was a revenue bill as it finally went to the House, but, as we added the revenue provisions, it was S. 1538. We added the provisions to it and in the unanimous-consent we held it at the desk

until there was an appropriate House vehicle to which it could be attached, and it was attached.

I am not contending we could send this Senate bill in its present form to the House as a Senate bill. But I am contending until it is sent to the House, we are not attaching and sending to the House a revenue bill.

I might recall to the Senate in 1973, S. 4, the Pension Reform Act. This was a substantial revenue bill at that time and I will quote from the Senator from Louisiana, as follows:

Mr. LONG. Mr. President, in a moment I will make a motion concerning further procedure on pension legislation. But first I would like to explain to the Senate what it is I intended to do.

In its action on S. 4, the Senate has approved major changes in our tax laws. If we were now to proceed to pass S. 4 under that number, the House would refuse to consider the bill on the constitutional grounds that revenue bills must originate in the House of Representatives.

The Senate may not originate revenue bills, but it may amend them. The Finance Committee has favorably reported H.R. 4200, a House-passed bill designed to continue the same tax treatment for survivors of servicemen and former servicemen under the recently enacted survivor benefit plan as formerly was available under the prior law.

I will move that everything the Senate has approved in its action on S. 4 be added as an amendment to H.R. 4200. In this way, we will meet any constitutional objections to House consideration of what we have done.

Mr. President, I have other precedents.

Until we try to send the House, or to send the House a Senate bill that has a revenue provision in it, there is nothing unconstitutional about this, and this Senate has done it time and again.

We have a vehicle on the calendar under the tax credit bill which I introduced, finished the Finance Committee and sits on the calendar.

All this Senate has to do is strip out the provisions of that bill, attach the provisions of S. 926 to it, send it to the House, and that is a revenue bill, and it will meet any requirements of constitutionality.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I do not know whether I have any people over here that desire to be heard on this matter. I am willing to yield time if there is.

Mr. ROBERT C. BYRD. Yes.

Mr. President, would the distinguished Senator from Oregon repeat what he just said with respect to our sending a Senate bill to the House, something to the effect that until we send the Senate bill to the House——

Mr. PACKWOOD. I do not know if I can repeat it verbatim, I will repeat the gist of what I said.

Mr. ROBERT C. BYRD. Yes.

Mr. PACKWOOD. That on many occasions we have added revenue provisions in the Senate to Senate bills—to Senate bills—and that was constitutional.

The only unconstitutional thing we tried to do would be to send a Senate bill to the House that had revenue provisions in it. On many occasions in the past, we have added these provisions to a Senate bill, and before it finally went to the Senate, substituted it for a House bill we had here.

We have a House bill on the Calendar, a tax credit bill. It would be simple to substitute the substance of S. 926, when we finish it, for that House bill on the Calendar and send it to the House.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me some time?

Mr. CANNON. I yield 10 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Oregon presents a very interesting argument here. He admits that to add a revenue raising provision to a Senate bill would not be constitutional. He also indicates that until the Senate bill gets over to the other body, there is nothing wrong with our adding a tax provision here. He says that it does not become unconstitutional until it reaches the door of the other Chamber.

Then, he indicates that there is a House tax vehicle on the calendar, and that it would be a very simple matter to strip from that House vehicle the House language, insert his own tax language enacted by the Senate; nothing unconstitutional about that. Of course not. That has been done many times.

A House bill originating from the Ways and Means Committee is a perfect vehicle for the Senate to act upon, and the Senate can amend it or strike out all after the enacting clause, do whatever it wishes, and add its own language as to the tax aspect.

The Senator's argument is an excellent leapfrog argument. He indicates that it would be a simple matter to call up the House bill, which is a tax vehicle, and then write into that bill whatever provisions the Senator wishes to write.

That is not going to happen at this juncture. That is not going to happen. The Senate has before it S. 926, which is a Senate bill; it is not a House bill. The Senate does not have before it the tax vehicle—the House bill on the calendar to which the Senator alludes.

Let us not be fooled by the argument that it will be a simple matter: Just call up the House bill and substitute the Senate language for it, and that would cure any constitutional problems that otherwise might obtain in connection with S. 926.

Will the Senator accommodate me by giving me the number of the House bill?

Mr. PACKWOOD. Calendar 317.

Mr. ROBERT C. BYRD. I thank the Senator. The older I get, the further away I have to hold the calendar in order to read it.

There may be a future time when that bill will be called up in the Senate. I may very well motion it up myself. At that time, the Senate can work its will on it. But the Senate is not going to have that bill before it today. There will be no opportunity to add to that bill the language that the Senator has in his amendment, today or tomorrow or the day after tomorrow. So much for that argument. It is entirely impracticable, unworkable, and infeasible—I think that just about takes care of that argument.

Mr. CASE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CASE. The Senator stated that the Senate would not have that bill before it today. That means it is because the majority leader chooses not to cooperate in bringing it before the Senate. Is that correct?

Mr. ROBERT C. BYRD. No. It is not a lack of cooperation.

Mr. CASE. Perhaps I have chosen the wrong word. The Senator has decided that it will not be brought up.

Mr. ROBERT C. BYRD. No. I am glad the Senator asked that question. It is the intention of the leadership to complete action on S. 926 today and then to go to the water pollution bill tomorrow—which is on the calendar—and then, upon the completion of that bill, to go to the foreign aid appropriation bill, in which the able Senator from New Jersey has great interest, and at some point along the line to take up the conference report on the clean air bill.

I believe this is about as full a platter as the Senate can digest during the remaining time before Sunday.

Mr. CASE. If the Senator will indulge me for a moment, it may help to clarify for some people my own position on this matter.

I anticipated that we might run into this. I believe and was increasingly convinced that the Packwood approach is the right approach and that the approach originally contained in this bill, especially after the primary was eliminated, was the wrong approach; and I doubted that we had a firm commitment that could bring the Packwood proposal into this legislation, without a firm commitment from the leadership. That is why I voted against cloture.

During all that period, I heard no offer made that would permit consideration of the Packwood amendment as a substitute for the public financing provisions of the bill. Therefore, I found it quite necessary to vote against cloture. If I am wrong about this, I am sorry, but there was a failure of communication. I think I am right.

The Senator, it seems to me, is confirming the fact that this was never intended, that it was either up or down on public financing in the general form of funds provided by the bill. Is that not correct?

Mr. ROBERT C. BYRD. At the moment, the distinguished Senator is attempting to explain his votes against cloture. I do not believe that I should comment on that matter. I do not know why the Senator voted against cloture.

Mr. KENNEDY. Mr. President, will the Senator yield on that question?

Mr. ROBERT C. BYRD. I yield.

Mr. KENNEDY. If the Senate were to decide that the Packwood amendment was proper, am I correct that it would open virtually any Senate bill to amendment by any tax or revenue raising measure? It would have that effect, would it not?

Mr. ROBERT C. BYRD. The Senator makes a very persuasive point. It would, indeed.

Mr. KENNEDY. Furthermore, am I correct that S. 926 is a Rules Committee

bill, rather than a Finance Committee measure?

Mr. ROBERT C. BYRD. There is no question about that.

Mr. KENNEDY. If we adopt the suggestion of the Senator from Oregon, the bill would go to the House as a Finance Committee bill. It would be returned to the Ways and Means Committee in the House.

Does the Senator think the House Ways and Means Committee would be prepared to accede on this kind of jurisdictional issue to the House Administration Committee, which would have jurisdiction over S. 926 in its present form?

Mr. ROBERT C. BYRD. I thank the Senator for the question and the point he has made in asking the question.

If this bill, S. 926, were to be sent over to the other body with the amendment attached, which the very able Senator from Oregon (Mr. PACKWOOD) seeks to attach at this point, it would be a simple matter of blue-slipping that bill and sending it back to us. They would not let it be brought up in the House.

Mr. KENNEDY. Furthermore, if the leadership were to call up a House revenue bill, as the Senator from Oregon suggests, I am sure it would be appropriate for him to offer his tax credit amendment, would it not, under the Senate rules?

Mr. ROBERT C. BYRD. Yes. Precisely.

Mr. KENNEDY. But that House bill would also be open to many other tax amendments that could also be offered and debated.

Mr. ROBERT C. BYRD. Exactly.

Mr. KENNEDY. We know that the administration is about to send us a comprehensive tax reform message in early September. We obviously will have an opportunity to debate this issue as part of those proposals, as well as a variety of other tax reform issues. I believe that is the procedure which is being urged by the leader.

Mr. ROBERT C. BYRD. That would be the proper vehicle, as the Senator from Massachusetts points out. I thank him for his very well articulated observations and the points he has stressed.

Mr. President, the tax credit plan alternative proposed by the distinguished Senator from Oregon, Mr. PACKWOOD, is subject to a point of order. The able manager of the bill has raised the point. The Packwood plan involves changes in the internal revenue code with respect to allowable credits and deductions for political contribution.

Article I, section 7 of the Constitution states:

> All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Under the precedents of the Senate, points of order as to the constitutionality of a bill or amendment proposing to raise revenue are submitted to the Senate for decision. The Chair has done that. The Chair does not rule on the point of order.

It is true that the Packwood plan does not "raise" revenues. Practically speaking, it will decrease revenues. This feature does not, however, remove the tax credit proposal from the reach of article I, section 7, which delineates an area of subject matter jurisdiction between the two Houses of the legislative branch. Original jurisdiction over revenue measures lies with the House of Representatives. The Senate is empowered to propose amendments to such bills—and to concur in House-passed measures, but it may not originate them.

We may argue about the custom that appropriation bills originate in the House of Representatives. The Constitution does not require that, but by custom they, as a general rule, have originated in the House of Representatives. But it is not by custom that revenue measures originate in the House of Representatives; it is by the express requirements of the Constitution.

It is important to emphasize that this section is jurisdictional. It does not attempt to define the extent or nature of the taxing or revenue-raising power of Congress. The definition and scope of that power is to be found elsewhere in the Constitution.

When the Constitution was adopted, the taxing power was set forth in—and circumscribed by—article I, sections 8 and 9, which of course were adopted at the same time as section 7. At that time, Congress was given the power to "lay and collect taxes, duties, imposts, and excises" by section 8, and prohibited, by section 9, from levying any capitation or direct tax except in proportion to the census.

Thus, when the framers drafted the jurisdictional section, section 7, the taxing power they had in mind was narrowly defined—duties levied on "goods, wares, and merchandise." The Supreme Court found that definition to be so circumscribed that it did not include the power to impose income taxes. A constitutional amendment—the 16th, adopted in 1913—was required to confer that power.

The evolution of the scope of Congress' taxing power is significant with respect to the jurisdictional issue between the two bodies and relevant to the point of order against this amendment. When the jurisdictional section was drafted, an Internal Revenue Code consisting of some 500 pages of fine print could hardly have been foreseen. There was no need to elaborate on the term "raising revenues" because the concepts of tax deductions and credits, carrybacks and carryforwards, depreciation and depletion allowances were not even on the horizon.

With the development of a complex body of taxation laws made possible by adoption of the 16th amendment, logic tells us that a revenue measure is any law providing for—or relating to—the assessment and collection of taxes. It is this commonsense view of what the taxing power is all about which gives life to the jurisdictional demarcation set forth in article I, section 7. Under that section, the House of Representatives has original jurisdiction over all revenue-raising bills, and this obviously does not preclude original jurisdiction over a particular bill which would decrease, rather than increase, tax receipts.

Mr. President, the amendment of the Senator from Oregon is clearly a revenue measure. It amends the Internal Revenue Code. It falls within the original subject matter jurisdiction of the House of Representatives. For the Senate to decide otherwise would be to strip article I, section 7 of the Constitution of any practical meaning.

Mr. President, I support the point of order, and if a motion to table that point of order is made, I hope that the Senate will reject the tabling motion and sustain the point of order that has been made by the able Senator from Nevada against the pending amendment.

Mr. PACKWOOD. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The time yielded to the Senator from West Virginia has expired. Who yields time?

Mr. PACKWOOD. I will yield on my time.

Is it the position of the Senator from West Virginia then that no revenue-raising measure at any time can be added to a Senate bill?

Mr. ROBERT C. BYRD. It is the position of the Senator from West Virginia that the Senate cannot add to a Senate bill, cannot originate a Senate bill, that deals with the raising of revenue, and cannot constitutionally amend a Senate bill by adding thereto an amendment that raises revenues.

Now, of course, the Senate can do it. What I am saying is, it would not be a constitutional action. It would be an act in futility because the House of Representatives, recognizing its jurisdiction and power under the Constitution with respect to the origination of revenue-raising measures, would rightfully send that measure back to the Senate and would thumb its nose at the Senate by attaching thereto a blue slip. So, I suggest that the Senate not engage in an act of futility.

Mr. PACKWOOD. Mr. President, in that case what the majority leader is saying is what he asked the Senate to do a few weeks ago was unconstitutional. He did not mind tacking on the black lung bill, a Senate bill, adding revenue provisions to it on this floor, which were evidently unconstitutional.

Mr. ROBERT C. BYRD. The black lung bill?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. It has not been sent to the House.

Mr. PACKWOOD. It has been held here for an appropriate House substitute.

Mr. ROBERT C. BYRD. For that reason.

Mr. PACKWOOD. But it is a Senate bill and it has revenue provisions in it, right, added on in the Senate, and that is why it is being held?

Mr. ROBERT C. BYRD. That is why it is being held, and if the Senator's amendment is added to this bill it should be held here, too.

Mr. PACKWOOD. That is right.

But the first question is, therefore, is the Senator saying that you cannot con-

stitutionally add a revenue provision to a Senate bill?

Mr. ROBERT C. BYRD. I answered the Senator's question. I said the Senate can add a tax revenue measure to a Senate bill but it would be an act of futility for it to send such a bill over to the House of Representatives.

Mr. PACKWOOD. Then let us separate the point of order, because the point of order is that it is unconstitutional to add this provision to this bill. The majority leader is saying that is not unconstitutional. That is different from an exercise in futility.

Mr. ROBERT C. BYRD. It would be an unconstitutional act. If the Senator feels for one moment that a tax provision added by the Senate to a Senate bill, if accepted by the other body, and later challenged in the courts, if the Senator is maintaining that the Senate action would hold up in court, I cannot agree with him.

Mr. PACKWOOD. No. The point of order is that it is unconstitutional to add this provision to the Senate bill.

Mr. ROBERT C. BYRD. It would be an unconstitutional action.

Mr. PACKWOOD. The Senator is saying that. All right. Then how did we add the revenue provisions constitutionally to S. 1538?

Mr. ROBERT C. BYRD. I am saying we held that bill waiting on the House vehicle.

Mr. PACKWOOD. Wait a moment.

Mr. ROBERT C. BYRD. When the House vehicle comes to the Senate, all after the enacting clause——

Mr. PACKWOOD. There are two questions.

Mr. ROBERT C. BYRD. All right.

Mr. PACKWOOD. One, can we add revenue provisions to a Senate bill?

Mr. ROBERT C. BYRD. I answered that question in the affirmative. Yes, but not constitutionally.

Mr. PACKWOOD. OK, yes. Then the constitutional point of order does not lie because the constitutional point of order is that it is unconstitutional to add my amendment to this bill.

Mr. ROBERT C. BYRD. The unconstitutional point is simply this: that it is not within the power of the Senate to originate a revenue-raising measure, and the Senator from Oregon is seeking to originate such a measure by virtue of his amendment. That is not allowed by the Constitution. That power and jurisdiction lie only with the other body.

Mr. PACKWOOD. What did we do on S. 1538?

Mr. ROBERT C. BYRD. The Senator seeks to continue to try to confuse somebody with what the Senate did on another bill.

Mr. PACKWOOD. We added revenue provisions on the floor of the Senate.

Mr. ROBERT C. BYRD. Yes, but that bill will never go to the other body, the House of Representatives.

Mr. PACKWOOD. That is correct.

I want to come back to the point that on the floor of the Senate we added revenue provisions to a Senate bill.

Mr. ROBERT C. BYRD. That is right.

Mr. PACKWOOD. That is constitutional?

Mr. ROBERT C. BYRD. I said we can do it. I did not say it was constitutional.

Mr. PACKWOOD. What is the Senator saying? Is it constitutional or unconstitutional on the floor of the Senate? There is an interesting precedent on that case.

Mr. ROBERT C. BYRD. Mr. President, let me repeat once more it is an unconstitutional action. The Senator will have to agree with me. First of all, does the Constitution give the Senate the power to originate revenue measures?

Mr. PACKWOOD. No.

Mr. ROBERT C. BYRD. The Senator's answer is "no."

Is the Senator's amendment a revenue measure?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. The Senator's answer is "yes."

Then if it is not within the power of the Senate to originate revenue measures, and if the Senator's measure is a revenue measure—which he admits—does it not logically follow that it is not within the constitutional power of the Senate to originate the Senator's amendment?

Mr. PACKWOOD. Exactly the same as S. 1538, exactly the same as the pension bill 4 years ago, S. 4, which became a very significant revenue bill, and we added revenue provisions in committee, and we added revenue provisions on the floor to a Senate bill.

I am not trying to do anything different to this bill than we did to the black lung bill, than we did to the pension bill. What you are saying is that those were held at the desk, and they were.

But the constitutionality comes not when we add the provisions of it on the Senate floor, or else what we did to S. 1538, what we did to the pension bill, what we did in 1959 and in 1965 to the Railroad Retirement Act were unconstitutional acts at the time. If we vote on this point of order, and if the Senator is sustained on this point of order, then any time anyone tries to add a revenue provision to a Senate bill before it ever gets to the House of Representatives it is going to be subject to this point of order.

Mr. ROBERT C. BYRD. Right. Exactly. If the point is raised.

Mr. PACKWOOD. OK. All right. I want the Senator to remember this.

Mr. ROBERT C. BYRD. I knew it before the Senator mentioned it.

Mr. PACKWOOD. It is amazing. I just want the record to show this now, then, that it is unconstitutional in the Senator's opinion.

Mr. ROBERT C. BYRD. I wish the able Senator would quit pointing his finger at me. [Laughter.]

Mr. PACKWOOD. It is unconstitutional for this body to add revenue provisions, and the Senator himself asked unanimous consent in the black lung bill that those revenue provisions be included—unanimous consent for an unconstitutional act.

Mr. ROBERT C. BYRD. No. I did not ask consent that they be included. If someone else did, the Senator could have objected, but, Mr. President, let me say this——

Mr. PACKWOOD. I could have objected, but I do not think yet the majority leader has the power by unanimous consent to waive the Constitution.

Mr. ROBERT C. BYRD. Oh, no, no, no. The majority leader does not have the power to do anything by unanimous consent if a single Senator objects.

What the Senator fails to see and the distinction he fails to note in this situation is that the black lung bill has been held at the desk awaiting the House vehicle.

Mr. PACKWOOD. I am proposing that this bill be held at the desk.

Mr. ROBERT C. BYRD. But what the Senator did not hear the majority leader say is that this bill is not going to be held at the desk.

Mr. PACKWOOD. No.

Mr. CASE. The Senator is answering that question the same way he answered my question. That is to say the majority leader wills that it will not be held at the desk. Is that not correct?

Mr. ROBERT C. BYRD. Oh, no, no, no.

Mr. CASE. I fail to get the distinction.

Mr. ROBERT C. BYRD. Let me make the distinction. The majority leader has the power of any other Senator to object. I can act within my capacity as a humble Senator from the great State of West Virginia. If a request were to be made that this measure be held at the desk, I have it within my power and capacity as a humble, lowly Senator from the State of West Virginia to object.

Mr. CASE. The Senator is only saying, then, not as majority leader but as ROBERT BYRD, a Senator from West Virginia, he will see it is not held at the desk.

Mr. ROBERT C. BYRD. Right. ROBERT C. BYRD. ROBERT C. BYRD from the State of West Virginia. [Laughter.]

Mr. CASE. I would never denigrate the Senator from West Virginia by eliminating his middle initial.

Mr. ROBERT C. BYRD. And the middle name is CARLYLE—CARLYLE. [Laughter.]

Mr. CASE. How is it spelled?

Mr. ROBERT C. BYRD. C-a-r-l-y-l-e.

Mr. CASE. That is the right way.

Mr. ROBERT C. BYRD. That is the right way. [Laughter.]

Mr. PACKWOOD and Mr. CANNON addressed the Chair.

Mr. CANNON. Mr. President, if the Senator will yield for a question, is it not also the fact in the case referred to that no point of order was made on the constitutional grounds and that here a point of order has been raised?

Mr. ROBERT C. BYRD. Exactly.

Mr. CANNON. If someone had raised a point of order on constitutional grounds then we would have found ourselves exactly in the situation we are in here now.

Mr. ROBERT C. BYRD. Yes, and the Senator knows there is an old principle of equity that one may not sleep on his rights, and if one does not raise a point of order, then what can he say? He slept on his rights. And then there is another principle of equity that requires one to

come into the court with clean hands, not unclean hands. If he sleeps on his rights, in one instance—fails to raise a point of order—then how should he expect to come into the court in a later case with clean hands, and expect the Senator from Nevada not to raise the point of order, and expect the Senate not to sustain the point of order.

Mr. CANNON. The Senator is exactly right, and I thank him.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this has boiled down now to more than a trifle issue about the tax credit matter. What the Senator from West Virginia I think is saying is that had any single Senator objected any time along the way on those two Railroad Retirement Acts, the black lung bill, and the pension reform bill, and raised a constitutional point of order, that constitutional point of order would have lain and would have been validly upheld. In the past all of these revenue provisions we have added on the Senate floor were unconstitutional, and apparently now if anyone wants to go out and sue in court and challenge the constitutionality, it would be unconstitutional even though we subsequently put it on a House bill because the constitutionality was ad initio at the time it was added on the Senate floor.

Mr. ROBERT C. BYRD. Oh, no, no, if the Senator will yield, not if we put it on a House tax bill.

Mr. PACKWOOD. Wait.

Mr. ROBERT C. BYRD. That is the final act. That is the action of the Senate on a House tax bill.

Mr. PACKWOOD. So it is not unconstitutional when we put it on the Senate bill.

Mr. ROBERT C. BYRD. Let us go back to the Senator's premise.

Mr. PACKWOOD. No.

Mr. ROBERT C. BYRD. Yes. He spoke about putting it on a House tax bill, and the Senator can shake hands on that.

Mr. PACKWOOD. Are we going to have it out? [Laughter.]

What I am saying is that if I were the majority leader I am not sure I would necessarily want my position defended in the vote, because if it is defeated, any Senator can raise this point on constitutionality, and we are going to have a precedent for every revenue measure that might be offered to a Senate bill, and if he is sustained on this vote, the Senate is going to have to sustain it in the future.

Mr. ROBERT C. BYRD. Is the Senator implying that the Senator wants the Senate to believe we are setting such a precedent today by raising this point of order?

Mr. PACKWOOD. I think we are. I think we are by this vote.

Mr. ROBERT C. BYRD. May I ask the Chair if such a point of order has ever been raised in the previous history of the Senate?

The PRESIDING OFFICER. It is the Chair's understanding such a point of order has been raised numerous times in the past in the Senate and, of course, under the precedent such point of order is put to the body by the Chair.

Mr. ROBERT C. BYRD. Then we are not indeed setting a precedent, may I say to my friend.

Mr. PACKWOOD. What was the decision of the Senate in the 1959 Railway Retirement Act on the 44 to 41 vote as to whether this was constitutional? The vote was yes, it was constitutional, that we could indeed add a revenue provision. I am delighted that we have the precedent, and I appreciate the majority leader acknowledging that precedent.

Mr. ROBERT C. BYRD. Yes.

Mr. President, have there been precedents to the contrary?

Mr. PACKWOOD. Upon which the Senate has voted?

The PRESIDING OFFICER. It is the Chair's understanding that there have been.

Mr. PACKWOOD. Name one.

The PRESIDING OFFICER. If the Members will indulge the Chair we are searching precedents.

The following types of proposals originating in the Senate were returned by the House or decided by the Senate to be an infringement of the House's constitutional privilege with respect to originating revenue legislation. Such measures are providing for a bond issue, increasing postal rates on certain classes of mail matter, providing for a tax on motor vehicle fuel, an agricultural appropriation bill, and in a number of other instances.

Mr. PACKWOOD. Was that ruling that they were returned by the House?

The PRESIDING OFFICER. Or decided by the Senate to be an infringement of the House's constitutional privilege with respect to originating revenue legislation.

Mr. ROBERT C. BYRD. Mr. President, I thank the chair for indicating to the Senate that an action by the Senate today sustaining the point of order would not indeed be a precedent.

Mr. PACKWOOD. Might I ask——

Mr. ROBERT C. BYRD. If it were, so what? But it would not be.

Mr. PACKWOOD. Might I ask if every ruling that the chair has decided was on a Senate bill that was sent to the House?

The PRESIDING OFFICER. The proposals which the chair enumerated covered both proposals originating in the Senate and returned by the House or decided by the Senate to be an infringement of the House's constitutional privilege with respect to the matter of originating revenue legislation.

Mr. PACKWOOD. I am not sure, Mr. President. I think we might as well vote on the issue.

I might say that we have now six times since 1959, at least, added revenue provisions to Senate bills. On the 44 to 41 vote I mentioned a while ago, the Senator from Nevada was one of those who voted in support of adding the revenue provision to the Senate bill, and I am sure the Senator would want to maintain consistency on a constitutional issue.

Mr. President, I am prepared to vote.

Mr. CANNON. Does the Senator yield back the remainder of his time?

Mr. PACKWOOD. I am ready to yield back the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, before we proceed, if it is the intention of the Senator from Oregon to move to table, or the intention of any Senator to move to table the point of order that has been rightly raised by the Senator from Nevada, I hope Senators will reject the motion to table and support the constitutional point of order raised by the Senator from Nevada.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. PACKWOOD. I would rather vote it up or down. I am not moving to table.

The PRESIDING OFFICER. The time is under the control of the Senator from Oregon and the Senator from Nevada, the debate time on the point of order.

Mr. HART. Mr. President, will the Senator from Nevada yield me 1 minute to ask the majority leader a question?

Mr. CANNON. I yield 1 minute.

Mr. HART. The Senator from Colorado would like the majority leader's opinion as to whether a similar constitutional point of order against the revenue raising measures on the black lung bill would have been sustainable.

Mr. ROBERT C. BYRD. Well, the Senator asks me to respond to a question that is somewhat hypothetical in nature. I think we have passed that point. I do not think that has anything to do with this point of order. No point of order was raised in that instance. If a point of order had been then raised, it might have been sustained.

Mr. HART. Does the majority leader have no opinion on that question?

Mr. ROBERT C. BYRD. On what question?

Mr. HART. As to whether a constitutional point of order could have been legitimately raised on the revenue measures on the black lung bill.

Mr. ROBERT C. BYRD. Yes, I think it could have been, but was not, and that was why the Senate bill was held at the desk. It has not yet been passed. It was for that very reason, for fear that a constitutional question would arise in the courts, that the bill was passed through its various stages up to and including third reading, and held at the desk awaiting the House action on the House bill to be sent over here.

Mr. HART. Therefore what makes this amendment subject to the unconstitutionality point of order is the fact that the leadership wants this bill to go forward?

Mr. ROBERT C. BYRD. Oh, no. The Senator must not have been in the Chamber when I made my very eloquent, impressive, and persuasive argument.

Mr. HART. Unfortunately, I was.

Mr. ROBERT C. BYRD. Well, I would say that unfortunately the Senator does not hear well, and I do not believe I

should take the time of the Senate to attempt to persuade the Senator now, if he did not succumb to the magic spell of my rhetoric in the first instance.

Mr. HART. I thank the Senator.

Mr. BUMPERS. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. BUMPERS. I would like to make an observation, and if the Senator from Oregon would like to comment he may comment. I have a tendency to favor the amendment, but I am also persuaded that the point of order is probably well taken, because, as I understand it, the Senate has added revenue measures to bills throughout its history. Some of them have been accepted without the point being raised in the House, and some have been unceremoniously returned because the House felt its prerogative was being infringed upon. Is that correct so far?

Mr. PACKWOOD. Yes, we have added revenue measures to Senate bills frequently.

Mr. BUMPERS. Can there be any question that if this amendment is adopted and sent to the House, the House would be within its rights to send it back, under the constitutional prerogative?

Mr. PACKWOOD. The Senator may be right, but I am reluctant to give the House any more wiggle room than it has now. They use that interpretation so frequently that I am reluctant, by Senate action, to reinforce it.

Mr. BUMPERS. I think the answer would be yes, they will have the right to send this back. And if that is true, I cannot help but believe, under my own constitutional oath, that I am required to uphold the Constitution and, therefore, it is not a question of whether I will uphold it or am not going to uphold it.

Mr. PACKWOOD. As the Senator from Arkansas has clearly said, sometimes they send it back, sometimes they do not. All they have to do if they do not like this provision is take this provision out of the bill. They may choose not to send it back. Why should we make the decision?

Mr. BUMPERS. The point is, the point of order has been raised. If the point of order had not been raised, I would probably support the amendment.

Mr. PACKWOOD. But the point of order—and this is a very specific point of order—is, is it unconstitutional for us—because this is the point raised—to add a revenue provision to a Senate bill? Not to hold it at the desk or send it over; just to add a revenue provision to a Senate bill. My point is that that is probably constitutional, at this point.

Mr. BUMPERS. Well, no law is illegal as long as you do not get caught, I guess.

Mr. PACKWOOD. No; I think it is perfectly constitutional to add it here. We would never get a court challenge on something just in the Senate. But until a bill leaves this body and goes to the House, we may, it seems to me, still work our will on it. All these provisions may be tabled; the bill may be defeated. So until it goes to the House, there is no unconstitutionality; and to say, as we have done so many times in the past, that any time a Senator rises to add a revenue provision on a Senate bill we have not finished working on he is doing something unconstitutional, I think, is a very dangerous precedent, and I think it is very unwise for us to do it.

Mr. BUMPERS. I thank the Senator for yielding.

Mr. ALLEN. Mr. President, will the Senator yield me enough time that I might make a parliamentary inquiry?

Mr. PACKWOOD. I yield to the Senator from Alabama for that purpose.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Assuming that this bill passes the Senate without the Packwood amendment, it goes to the House of Representatives, is amended there, and comes back to the Senate, would not the Senator from Oregon at that time have an opportunity to offer this amendment without going counter to the constitutional provision, inasmuch as the bill had been in the House, they had acted on it, and sent it back with amendments? Would that not be an appropriate time to offer this amendment?

Mr. PACKWOOD. Well, there are——

The PRESIDING OFFICER. Was the question propounded to the Chair?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. As a parliamentary inquiry by the Senator from Alabama?

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. The Chair would observe to the Senator from Alabama that the Chair is required to put the question of constitutionality to the Senate. It must be submitted to the Members; it is not ruled upon by the Chair.

By the nature of the point of order, in the Chair's opinion, it must be submitted to the Members and is, therefore, a matter to be decided by the Members of the Senate, not a matter to be ruled upon by the Chair.

Mr. PACKWOOD. May I ask the Chair to state, for the information of Senators, how the Senate will decide the question? Is not the question this: Is it constitutional or unconstitutional to add a revenue provision to a Senate bill?

The PRESIDING OFFICER. The question which the Chair will put to the Senate is the question, Is the point of order well taken?

Mr. PACKWOOD. What is the point of order?

The PRESIDING OFFICER. The point of order has been stated by the Senator from Nevada.

Mr. PACKWOOD. Would the Chair restate exactly what the point of order is?

Mr. CANNON. I will be glad to restate it myself. The point of order is that unprinted amendment 715 violates article I, section 7 of the U.S. Constitution in that it infringes upon the prerogatives of the House of Representatives.

Mr. PACKWOOD. Is that the point of order, that it infringes on the prerogatives of the House of Representatives?

Mr. CANNON. That is precisely the point of order.

Mr. PACKWOOD. It is not a constitutional point?

Mr. CANNON. It is a constitutional point.

Mr. PACKWOOD. Let me ask it again. It is a constitutional point. The Senator is saying that to add this revenue provision, or any revenue provision, is unconstitutional? Is that the point?

Mr. CANNON. Let me read from the Constitution.

Mr. PACKWOOD. I know the Constitution. I just want to make——

Mr. CANNON (continuing). State it to me.

Mr. PACKWOOD. I want to make sure I understand the point of order which has been raised.

Mr. CANNON. Article 1, section 7 of the Constitution says:

> All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

That was precisely the language which Senator BYRD read a few moments ago. That is the basis on which the point of order is made.

Mr. ALLEN. Will the Senator yield me 1 minute?

Mr. CANNON. I do not know how much time I have left.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. CANNON. I yield 1 minute.

Mr. ALLEN. Mr. President, I favor the Packwood amendment. I would like to have an opportunity to vote on it.

I do believe that it goes counter to the Constitution as being a revenue measure. But I am also of the opinion that if this bill is passed without the Packwood amendment and goes to the House, is amended there, and comes back over here, then this amendment could properly be added to the House amendment to the Senate bill, because it would then have gone through the House. I believe the Senator would have his day in court in that fashion. I do not believe that it is proper at this time.

Mr. PACKWOOD. I would conclude with these remarks: First, it will not come back to the Senate. It will come back to conference. We will not have it back on the floor.

Mr. ALLEN. The Senator does not have to go to conference. He can propose, instead, an amendment to their amendment.

Mr. PACKWOOD. Second, the majority leader and Senator CASE had a debate. This problem could be handled by simply amending Calendar No. 317 at the desk, which is nothing more than the so-called tax credit approach. There is nothing else in that bill. By a simple substitution of S. 926, the substance of it, if we finally finish it, for that bill, we could cure any constitutional problem. Now, however, the majority leader says we are not going to do that.

Mr. ROBERT C. BYRD. Not today, or tomorrow, or the next day. We may do it at a future time, in which case the Senate would not be infringing upon the prerogatives of the House.

Mr. ALLEN. Will the Senator yield?

Mr. CASE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Have I any time remaining?

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Oregon still has 6 minutes remaining and the Senator from Nevada has 4 minutes remaining.

Mr. PACKWOOD. I yield such time as the Senator from New Jersey desires.

Mr. CASE. Mr. President, I believe this matter really has been amply debated, and debated very well indeed by the majority leader, by the Senator from Oregon, and others who have discussed it. But I do want, because I sense a desire to do the right thing on the part of my colleagues, to put the matter in this light and suggest that this is the way it ought to be regarded:

We know what the Constitution says, and we know what the Senate has done in the past. We know that legislation of this sort has been added, has not been objected to in the Senate, and not returned by the House. It has become law. No one would suggest that if that were followed here the product would be unlawful, unconstitutional, or in any way ineffective. So what is proposed is not an unnatural action. It is proposed that we take a course which has been followed many times before.

I do suggest that we should be quite willing to take that course and leave to the House the decision of whether its prerogatives are infringed upon or not.

There is not really any such thing as a thing unconstitutional in limbo, inherently unconstitutional. It is only unconstitutional in this sense, that the House may decide that in the circumstances it ought to resist the Senate's action. So what we really are deciding here is not a question of constitutionality in the abstract. It is a question of whether we want this provision in law.

There is no incompetence in the Senate to take this course if it wishes to do so. It only makes it possible in the case of a bill not a House bill, for the House to return it to us. So I do not think we ought to regard ourselves as now passing upon a question of the sacred constitutionality of procedure of the Congress or of the Senate. It really is a question of do we want it, do we want to propose it to the House and let the House make the decision?

It is not up to us to decide when the prerogatives of the House are infringed upon but, rather, for the House itself to decide. All we would do is to give them that opportunity.

Mr. DECONCINI. Will the Senator yield 1 minute?

Mr. PACKWOOD. I will be happy to.

Mr. DECONCINI. I, too, commend the two principal debaters on this issue. Even though I am a newer Member, I have experienced an episode with the House where they used the origination clause of the Constitution to send a bill back to the Senate or to just flat say, "It will not be considered."

I submit we ought to help them. They are perfectly capable of exercising the origination clause in the House, and they will do it. They have done it frequently. What we are doing here today is sort of saying, "Well, we want to help them decide that issue by deciding it in the Senate," when historically we pass revenue measures here and feel quite comfortable with the House exercising its prerogative, which they use unabashed, which they have a right to use unilaterally, which no court and no Senate can do anything about.

I see no reason to break with the precedent that we will let them exercise that prerogative and turn down this point of order. There will be ample time for them to determine what it is they want to do about a Senate bill, if, as a matter of fact, the body called the House so determines. It is not an abstraction at all. It is a decision on their part. They exercise it, and they will, with great ease. Why should we help them here today by deciding that for them in the Senate?

Mr. ALLEN. Will the Senator yield?

Mr. DECONCINI. I yield.

Mr. ALLEN. It is not just a question of whether the House wants to exercise their right to originate. It is a question of the legality of the measure. It is not just a House of Representatives matter. It is a question of whether the bill did originate in the House or in the Senate. If it originated here, it would not be legal. It could not be upheld. It is not up to the House to waive that.

I suggest to the distinguished Senator from Oregon there are revenue bills coming through here all the while. The distinguished Senator from Louisiana pulls one out of the hat every now and then on which he wants to tack something. We all know that. I understand there is a tariff bill coming very soon. This measure could be put on that. The Senator could have his day in court then. He would have the opportunity to attach it to a more important bill that would have to be enacted by the Congress. There would be strong argument for that.

I believe the Senator would have a better chance to have his day in court at a later time. Understand, I do support the amendment, but I do not want to see us go contrary to the Constitution.

Mr. PACKWOOD. I appreciate the support of the Senator from Alabama. I know he has been one of the strongest supporters of this tax credit. I will say in conclusion we are not originating tax legislation. When we send a piece of legislation from this House to the other House, by adopting an amendment here that is not necessarily a conclusive action. We have done it many times in the past. If the point of order is, Is it constitutional to adopt this amendment, it is, indeed, within our prerogative to adopt it?

Mr. BUMPERS. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. BUMPERS. The Senator from New Jersey has spoken along the same lines. If we say it is unconstitutional until the House acts upon it, are we, in effect, saying that the point of order would never lie?

Mr. BAKER. Mr. President, perhaps Watergate, like the world, is too much with us, but it remains and, one hopes, will remain as the most comprehensive and exhaustive examination of the American political process that has ever been conducted. It is a history we should well remember not only for its dramatic and painful aspects, but also for the many necessary and meaningful reforms, many of which are now law, that were seen then as necessary to restore the public trust in the political process.

In my mind, the most important lesson that we should have learned is participation in the political process is too precious and important a responsibility to be entrusted to the very few. If nothing else, Watergate should have told us that participation in the political process is a public responsibility that should and must be shared throughout by as many Americans as are willing to undertake it.

Many of the ills of Watergate were the result of a very few, very wealthy participants who were able to exert their influence far out of proportion to their role as citizens. To the degree that they were able to do this, the public was excluded from the process. It is perversely ironic that the legislation that we were considering until last night, however well intentioned, would have served only to perpetuate that exclusion.

I have no quarrel with special interest, Mr. President. The right of citizens to band together and collectively enhance their individual points of views on issues of concern to them is fundamental to the democratic process. What special interest must not be able to do is unduly to influence the selection and operation of the Government. To correct that abuse we have, following the recommendations of the Watergate committee, enacted reasonable limitations on the amount of contributions and requirements for disclosure of contributions and campaign expenditures. I believe that we should go further because there are some special interest expenditures that remain undisclosed and perhaps we will; but even if we do, we are still ignoring the most important lesson that we should have learned from Watergate—the need to encourage broad public participation in the democratic process.

We have before us, Mr. President, the opportunity to act on this most meaningful reform. At the request of my good friend and colleague from Oregon, Senator PACKWOOD, I, Senator TALMADGE, and Senator NUNN introduced a proposal to expand the tax credit for contributions to senatorial campaigns. It is a modest credit with a 75-percent rate and a maximum individual credit of $100, but it allows the individual who should be participating the incentive to become involved.

I believe the American people deserve an expanded opportunity to participate in the political process. That is why I and so many of my colleagues on both sides of the aisle have resisted the passage of public campaign financing that would have gone so far toward diminishing the role of the individual citizen. We have had a full, fruitful, and constructive discussion of that legislation;

we have informed ourselves and the American public of the true impact that that legislation would have had, and I would hope that we may turn to the meaningful alternative that the Senator from Oregon is offering.

Mr. President, I urge my colleagues to consider seriously the prospects of a truly meaningful reform which is embodied in the Packwood proposal; I would urge that we turn to the consideration of that proposal and provide an opportunity for greater participation to the individual citizen; and if we do that, Mr. President, I would consider the past week of debate time very well spent.

The PRESIDING OFFICER (Mr. METZENBAUM). The time of the Senator from Oregon has expired. The Senator from Nevada has 4 minutes remaining.

Mr. CANNON. Mr. President, I am ready, again, to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. PACKWOOD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Will the Chair restate the question?

The PRESIDING OFFICER. The question is, Is the point of order well taken? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—53

Abourezk	Durkin	McIntyre
Allen	Eagleton	Metcalf
Anderson	Ford	Metzenbaum
Bayh	Glenn	Moynihan
Bentsen	Gravel	Muskie
Biden	Hart	Pell
Bumpers	Haskell	Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Riegle
Cannon	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Johnston	Stennis
Clark	Kennedy	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
DeConcini	Matsunaga	Williams
	McGovern	Zorinsky

NAYS—43

Baker	Hatfield	Packwood
Bartlett	Hayakawa	Pearson
Bellmon	Heinz	Roth
Brooke	Helms	Schmitt
Case	Hollings	Schweiker
Chafee	Javits	Scott
Curtis	Laxalt	Stafford
Danforth	Lugar	Stevens
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Eastland	McClure	Wallop
Garn	Melcher	Weicker
Griffin	Morgan	Young
Hansen	Nelson	
Hatch	Nunn	

NOT VOTING—4

Goldwater	Percy	Sparkman
McClellan		

The PRESIDING OFFICER. On this vote, there were 53 yeas, 43 nays. The point of order is well taken.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the point of order was well taken.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wonder if I could have the attention of the majority leader for a moment so that we might——

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Will the distinguished manager of the bill on this side yield time?

Mr. HATFIELD. I yield the minority leader 2 minutes.

Mr. BAKER. I thank the distinguished Senator from Oregon.

Mr. HATFIELD. I yield 3 minutes on the bill.

LEGISLATIVE PROGRAM

Mr. BAKER. Mr. President, I should like to take this opportunity, while we are here and while the majority leader is on the floor, to inquire whether he can give us some views on the likely schedule of business for the remainder of this week.

Mr. NELSON. Mr. President, may we have order so that we can hear the majority leader?

The PRESIDING OFFICER. The Members of the Senate will retire to their seats.

Mr. ROBERT C. BYRD. Mr. President, in response to the query by the distinguished minority leader, it would be the intention of the leadership to complete action on the pending measure tonight. This, I do not think, should require the Senate to be in too late. As I understand it, there are enough amendments remaining which would carry us 2 hours and 30 minutes, without rollcall votes. But I think it can be reasonably anticipated that all the time on those amendments will not likely be taken.

So if we complete action on the pending measure today, the Senate would likely come in at 9 o'clock tomorrow, start on the water pollution measure, on which there is a time agreement, and follow action on that measure by taking up the foreign aid appropriation bill, on which there is a time agreement, and hopefully complete action on both those measures tomorrow.

In any event, when the House sends over the conference report on the clean air measure, the Senate will take that up. I think it is imperative that the Senate complete action on the clean air measure before going out for the August recess.

Under the resolution of adjournment which was acted on by the Senate last Friday, the Senate will be in session on Saturday. If, however, action is completed on the water pollution measure and on the foreign aid bill and on the Clean Air Act conference report by Friday night, the session on Saturday would merely be pro forma, with no speeches. If the Senate cannot complete action on these measures by Friday night—and I have particular reference to the Clean Air Act—the Senate will be in on Saturday to continue action on that measure.

I called the Speaker earlier today and urged that the Clean Air Act conference report be sent over to the Senate as soon as it can be done. He indicated that it would come over tomorrow. I have an impression that it might be tomorrow evening or certainly late tomorrow afternoon before that conference report is sent to the Senate. I hope it will be earlier than that. The Speaker said he would do his best to send it over as early as possible.

In any event, I have also asked the Speaker to return the papers on the adjournment resolution.

I have already entered a motion to reconsider the Senate action on that resolution. If the Speaker returns the papers and in the event that we reach a situation in extremity and need to reconsider our vote on the adjournment resolution, then that motion would not be debatable. I hope we will not reach that kind of situation. But I think it is incumbent upon Congress to act finally on the Clean Air Act before it goes out for the August recess.

If Congress does not do so, the President might feel constrained to call Congress back; and I think he not only should do so but would. However, I do not want to see that happen. I feel that we have the responsibility here to determine whether or not our work is completed and to make our own judgment. That would be my purpose in moving to reconsider the adjournment resolution.

I would simply attempt to amend that to provide that the leadership on this side of the aisle and the leadership on the other side of the aisle in both Houses could call Congress back into session. If there is any calling back, I want it to be by Congress, not by the President. I want us to recognize our own responsibility in that regard. So I hope that will not happen.

I have done as well as I could do, I think, in laying out what the problems are. This will mean that we will be in session certainly to a late hour tomorrow and a late hour on Friday. If we do not complete action on Friday on the clean air conference report, we will be in on Saturday. I have no choice.

I think Senators in this instance would be wise in making their plans accordingly, not counting on having dinner at home early—that is, if they do not want to miss any votes. I say that in the proper spirit, and I know it will be accepted in the proper spirit. It is the hope of the leadership to announce to Senators, when it can see what the situation is far enough in advance, to let them know if there is going to be a late evening, and that is what I am doing now. It will be a late evening today. It will be a late evening tomorrow. It will be a late evening Friday, and we could be in on Saturday. I hope we will not be. But it is also pos-

sible that we could be in session into next week.

Does that answer the distinguished minority leader's question?

Mr. BAKER. I thank the majority leader. I share with him his concern about finishing this schedule of legislation.

I note that there are only two matters on here other than the clean air conference report. While the majority leader points out that on two matters, water pollution and foreign aid, there are time limitations, there is no time limitation on the Clean Air Act conference report.

I hope the Speaker will honor the majority leader's request to get that conference report to the Senate as soon as possible, so that we can turn to its consideration. I know there is great interest in that matter here, and I should like to see us proceed as expeditiously as possible to its consideration.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. So that the Senate might be advised of what might transpire in that matter, so far as I know, the legislative language is now completed by the staff. The statement on the part of the managers is being completed. It will be completed and filed before midnight tonight.

There are some questions concerning language in the bill and in the report which were resolved by the conferees, but there is always the possibility of a slip between the agreement and the execution.

There are some who are interested in the precise language who cannot forecast their response until they see the precise language. If the matters that were resolved in the conference are carried forward in that spirit in the language and in the report on the part of the managers, then I would think that the major likelihood of a prolonged discussion or an attempt to recommit the conference report might be avoided. However, if that language does not adequately reflect the agreement that was arrived at, I think it would be fair to say that there very likely would be an attempt to recommit, to reform that language to the agreement which was arrived at during the conference. I thank the Senator for yielding.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his observations.

Mr. ALLEN. As I understand the majority leader, he does hope to bring up the clean air measure before the foreign aid; is that not correct?

Mr. ROBERT C. BYRD. I am sorry, I did not hear the distinguished Senator.

Mr. ALLEN. I understood the distinguished majority leader to say he was going to seek to bring up the clean air conference report ahead of foreign aid; is that correct?

Mr. ROBERT C. BYRD. Not if the clean air conference report has not arrived in the Senate Chamber by the time the Senate completes action tomorrow on the water pollution bill.

If the Senate completes action on the water pollution bill before the conference report arrives at the Senate, the Senate will then proceed to the consideration of the foreign aid bill.

Mr. ALLEN. He does put high priority on clean air at this time?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. So if we were on the foreign aid bill, it might be conceivably the position of the distinguished majority leader to bring up the conference report; is that not correct?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. ALLEN. I did not understand him to say that passage of the foreign aid bill was a sine qua non to preventing the Saturday session.

Mr. ROBERT C. BYRD. Well, the Senate is prepared to stay in session Saturday to complete action on these three measures.

Mr. ALLEN. I did not understand the distinguished Senator talked about the fact that passing the foreign aid bill at this time was of such importance or immediacy that it required action before the recess.

Mr. ROBERT C. BYRD. Oh, yes, I am sorry if I did not make myself clear. I fully realize that the Senator from Alabama, under the time agreement, has some amendments on which there is no time limitation. So it is quite possible that the Senate will be unable to complete action on the foreign aid appropriation bill before Saturday night at midnight.

Mr. ALLEN. Well, has the Senate requested the return of the adjournment resolution?

Mr. ROBERT C. BYRD. Yes, the Senate voted yesterday to request the return of those papers, and I have today asked the Speaker to facilitate the return and accommodate the wishes of the Senate if he could, and he indicated he would do so.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. DURKIN. There is no question of the Coal Conversion Act. Is that going to be put over?

Mr. ROBERT C. BYRD. The distinguished Senator raises a question with respect to the Coal Conversion Act. It is not the intension of the leadership to call up that measure before the August recess because no time agreement has been reached thereon.

Mr. DURKIN. I thank the Senator.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 716

Mr. HEINZ. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment number 716:

On page 70, line 2, strike the following: "solicit,"

Mr. HEINZ. Mr. President, I intend to be very brief on this amendment.

AMENDMENTS TO THE FOREIGN AID APPROPRIATIONS BILL

Mr. ALLEN. Mr. President, will the Senator yield for 30 seconds?

Mr. HEINZ. I would be pleased to yield.

Mr. ALLEN. I send to the desk several amendments I have to the foreign aid bill.

[Laughter.]

Mr. ALLEN. I thank the Senator for yielding.

Mr. HEINZ. Is the Senator from Alabama now wholly accommodated?

Mr. ALLEN. Yes. I thank the distinguished Senator from Pennslyvania.

Mr. HEINZ. Mr. President, first, I would like to indicate that Senator STEVENSON and Senator MATHIAS are cosponsors of this amendment, which is a very simple amendment. Senator CANNON and I debated earlier today a very similar kind of amendment.

Very simply, the purpose of the amendment is to prohibit a Senate employee designated under Senate rule XLIV to handle campaign money from doing any soliciting in any Federal building.

We have decided that it is all right for one or two Senate employees to receive, to solicit, to be involved in campaign finance matters. But unless this amendment is adopted the bill before us allows that kind of fundraising activity to take place in Members' offices. I do not think that many of us—although there may be a few—would really want that to happen.

Therefore, my amendment, Mr. President, strikes the word "solicit" from the bill where it appears on page 70, line 2. I would simply point out that what we are talking about by striking that word is to continue the current prohibition against a Senate staffer to solicit campaign contributions on Federal property—and that includes Members' offices.

We do not want our staff, who are being paid for at taxpayers' expense, while working in offices maintained at the taxpayer's expense, using a telephone paid for by the taxpayers, to solicit campaign contributions.

We do not want our offices, I am sure, turned into any kind of trading post, thieves' market, flea market, call it what you will, for the political activities of fundraising.

If the Senate employee wants to do it at home, that would not be prohibited. I hope, Mr. President, the Senate will accept this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, this is the same exercise we went through earlier with the distinguished Senator from Pennsylvania.

I would point out that the word "solicit" in line 2, page 70, is what is re-

quired by Senate Resolution 188 which the Senate has adopted. This just says that subsection (a) shall not apply to two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to "receive, solicit, be the custodian of," and so on.

Well, they have been designated by that Senator to receive, solicit, be the custodian of or distribute funds in connection with the campaign pursuant to rule XLIX of the Standing Rules of the Senate, and also of Senate Resolution 188. So we have gone through this before, and if the Senator is prepared to yield back his time, I am ready to have a vote.

Mr. HEINZ. Mr. President, first, I would like to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. I thank my colleagues, and in 1 minute I will be prepared to yield back the remainder of my time.

I just want to say to my friend from Nevada that, of course, Senate Resolution 188 does not require any staff member to go out and solicit funds. I would hope it does not require anything of the kind. It does permit a Senator first to designate two staff assistants who might do that. But, of course, the issue that is before us is not trying to modify Senate Resolution 188 or rule XLIX of the Senate rules. That is not at all what we seek to modify.

It is simply a question of whether we want to maintain, in effect, section 603, title 18 of the United States Code, which makes it a criminal offense for somebody to solicit campaign contributions on Federal property.

If we do not pass this amendment, then Senate employees will be the only Federal employees to whom this criminal penalty does not apply, and I do not think that is something we really want to do, Mr. President.

If the Senator from Nevada is prepared to yield back his time, I will yield back my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. President, I will withhold that.

Mr. ALLEN. For just a moment. Let me ask a question.

Mr. CANNON. I yield to the Senator from Alabama 2 minutes.

Mr. ALLEN. Does the Senator understand it is against the law at the present time for one employee of two employees of a Senator's office to solicit funds? This has not got anything to do with the Federal building.

Mr. HEINZ. Is the Senator from Alabama addressing the Senator from Pennsylvania?

Mr. ALLEN. I am asking this question; yes.

Mr. HEINZ. My understanding of the law is that it is not illegal for up to two designated Senate employees to solicit funds if, and only if, they are not doing it in a Federal building.

Mr. ALLEN. Well, the present bill does not have anything to do with the Federal building, and the solicitation; that would still apply.

Mr. HEINZ. I say to my good friend from Alabama, if he will turn to page 60 of the report at the bottom of the page he will see that precisely what section 301 of the bill amends is the provision in title 18; namely, section 603, prohibiting anybody from soliciting funds in a Federal building, and that is clearly set forth here. Let me read section 603 as it now is and section 603 as we would amend it. It now reads:

> Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

How does section 301 of the bill change that?

The PRESIDING OFFICER. The 2 minutes of the Senator from Alabama have expired.

Mr. CANNON. I yield 2 additional minutes.

Mr. HEINZ. I will proceed on my own time.

It changes it as follows:

It strikes the word "whoever" and says, "Except as otherwise provided in subsection (b).

It then remains the same as I read just a moment ago.

It says:

> Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.
>
> (b) Subsection (a)—

Which I have just read—

> shall no' apply to two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or election, of any individual to be a Member of the Senate or to any other Federal office and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XLII of the Standing Rules of the United States Senate for each year during which he is designated as provided in this subsection.

So I say to the Senator the bill amends section 603, title 18, which is the prohibition against fundraising in Federal buildings.

Mr. ALLEN. That is not the intent of the committee, and I do not think even if it were that the amendment of the Senator reaches the issue because I believe all he is striking out with this amendment is to strike out the word "solicit." Is that correct?

Mr. HEINZ. That is exactly what the amendment does.

Mr. ALLEN. All right.

Mr. HEINZ. Excuse me.

Mr. ALLEN. Let me show where the Senator's amendment does not go far enough then. If what the Senator says is correct about disallowing solicitation in a Federal building, he is leaving here to receive in a Federal building, if that is true. There is no intent on the part of the committee, and I think the chairman will bear this out, to permit anybody on the staff to solicit in a Federal building. So if that is what the Senator is aiming at I think that could be very easily changed, if that is worrying the Senator.

Mr. HEINZ. I am delighted the Senator from Alabama feels that way. In fact, I offered an amendment that prohibited both soliciting and receiving earlier today. It struck virtually all of section 301, leaving only the receipt by mail provision. Unfortunately, we could not get a vote on it. There were not enough Senators here to get a second. It was opposed by the chairman of the committee, and it was defeated.

Mr. ALLEN. What is the point of the Senator's amendment? Is it to forbid solicitation in a Federal building? If so, I think the Senator could get unanimous consent for that. But if he strikes out the word "solicit" generally, I think he is going too far.

Mr. HEINZ. My amendment does not prohibit Senate employees from soliciting a contribution from their home or any other place except in a Federal building.

Mr. ALLEN. I certainly support that if that is what the Senator's amendment does. But it does not do that.

Mr. HEINZ. I have not heard, I say to my good friend from Alabama, anyone accuse me of that not being the purpose and the effect of the amendment.

We had a lengthy discussion on this earlier, and I think the Senator from Nevada would agree that is all this amendment does.

Mr. ALLEN. All the Senator is trying to do then is to forbid, to prevent what the Rules Committee did from bringing staff, the two staff people, one in the State and one in the city, from soliciting in a Federal building. Is that correct?

Mr. HEINZ. The Senator is entirely correct.

Mr. ALLEN. I think, I say to the chairman, that could very easily be accomplished but will not be accomplished the way the Senator generally strikes it out.

Mr. HEINZ. Will the Senator from Alabama explain to me why my amendment does not accomplish that?

Mr. ALLEN. Because it would forbid the solicitation outside the Federal building if the Senate knocks out the word. No one is asking that solicitation be permitted in a Federal building.

Mr. HEINZ. I do not quite understand why the Senator is saying that.

Mr. ALLEN. The Senator is knocking out the permission to solicit generally by one staff member.

Mr. HEINZ. The Senator is perplexing me, and I know he is acting in good faith, and I do not know why we are having a disagreement.

The amendment will only prohibit a Senate employee from soliciting in a Federal building.

The reason again is, if the Senator will turn to the report, page 60, he will see clearly that where I strike the word "solicit" is where we qualify with section 301 of the bill section 603 of title 18 of the United States Code. It is this qualification which would open up this gaping loophole in subsection (b). I only strike the word "solicit" from subsection (b). I do not amend in any way, shape, or form Senate Resolution 188.

So I do not think the Senator is correct.

Mr. ALLEN. Very well.

All the Senator seeks to do is forbid this one designated person from soliciting in a Federal building. Is that correct?

Mr. HEINZ. That is correct.

Mr. ALLEN. If that is the purpose of it, I think there would be no objection on my part to that.

Does the chairman feel the same way about it?

Mr. CANNON. I explained earlier the Senator went far beyond that in his original proposal, and I just said a few moments ago I do not think he does what he intends by striking the word "solicit" here because this applies to the whole rule that says you can designate two people on your office staff to do certain things, and one of those is solicit, and this is the part that the Senator would strike if he strikes the word "solicit" in the language.

Mr. ALLEN. He states that this provision is to take these designated circumstances out of the statute forbidding solicitation in a Federal building and that nowhere else is there a prohibition against solicitation by this one designated staff member or any staff member for that matter. That is the Senator's statement.

I wonder if the Senator will allow this amendment to be laid aside and let us see if it accomplishes what the Senator says he seeks to accomplish and then in that event I think there would be no reason why the amendment could not be agreed to.

Mr. HEINZ. Mr. President, this is a very strange situation. I think we all know exactly what the amendment does. I do not know how much more plainly it is possible to speak but if I have been in any way confusing, illogical, or deceptive, I wish the Senator from Alabama would point out why the amendment does not do what I have just said and explained it does.

I reserve the remainder of my time unless the Senator from Alabama——

Mr. HATFIELD. Mr. President, will the Senator yield for a minute?

Mr. HEINZ. I yield.

Mr. HATFIELD. I wonder if we could settle this quickly by asking the Senator from Pennsylvania to take his amendment down for a few minutes, check with the Parliamentarian, and ask the Parliamentarian to affirm so that the confusion will be eliminated and the Senator from Pennsylvania may call up his amendment again and act upon it. And if it is exactly as the Senator intends, I do not see why that amendment could not be accepted without any further problem.

It is just an offer of a solution. Frankly, I must say that I am confused as well. As I read the Senator's amendment I think it goes far beyond what the Senator explained it to be. I think the only way we can settle that is to have the Parliamentarian take a look at the Senator's amendment. Otherwise, I think the Senator is going to find a tabling motion on his amendment.

If the Senator does not want to clarify his amendment for the benefit of the managers of the bill, that is his choice.

Mr. BAKER. Mr. President, will the Senator from Pennsylvania yield to me for a moment?

Mr. HEINZ. I am very pleased to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I very much hope we can resolve this issue. I have been listening to the colloquy, and it seems to me that we are all reaching for the same result. I would very much hope that if there is any disagreement on the intent of the language itself, we might find some way to perfect or change it to accommodate those who are uncertain about its effect.

As I understand it, and the Senator from Pennsylvania can correct me if I am wrong, it is his intention to provide only against solicitation on Federal premises. Is that correct?

Mr. HEINZ. That is correct.

Mr. BAKER. I would ask the distinguished manager of the bill on our side if he could see how we might, then, modify the language, if that is necessary, to clarify the intention.

Mr. HATFIELD. There would be no objection to accepting that amendment on the part of the manager for the minority side, if that is what the amendment will do. But the question has been raised, and I think it must be satisfied, as to whether or not it goes beyond the explanation of the Senator from Pennsylvania.

I am only suggesting that, in order to remove that cloud, I think the Parliamentarian would be the best fit person to look at it and give us some kind of affirmation.

Mr. HEINZ. I would say that I would be prepared to make it right. I would be prepared to rewrite it, to have the amendment considered.

Mr. HATFIELD. I would suggest that the amendment be laid aside temporarily, and that other Senators then fall in line with their amendments.

Mr. BAKER. Mr. President, I think we are on the verge of working something out. I would, in a moment, like to suggest the absence of a quorum, if agreeable to the managers of the bill, but before that, I wonder if the Senator from Pennsylvania would yield to the Senator from Idaho.

Mr. HEINZ. I would be pleased to yield.

Mr. McCLURE. Mr. President, I think maybe the confusion arises because the amendment of the Senator from Pennsylvania strikes the word "solicit" from the prohibition, but that is not the place where the permission to solicit is granted. The authorization or permission to solicit is granted in a rule of the Senate, not in the statute which prohibits solicitation in a Federal building.

I think the Senator's amendment does exactly what he says it does; it removes that prohibition, but it carefully says that they cannot solicit in a Federal building. They can receive and distribute in a Federal building, but they cannot solicit; and the authority to solicit elsewhere is contained, not in this statute, but in a rule of the Senate.

Mr. HEINZ. The Senator has stated it very eloquently. His eloquence is almost as great as that of ROBERT CARLYLE BYRD, who regaled us a few moments ago with fantastic oratory.

Mr. BAKER. Mr. President, rather than take down the amendment at this time, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. HEINZ. I am pleased to yield.

Mr. BAKER. Mr. President, it appears to me that we once again are on the verge of working out any misunderstandings on this measure, but since there are other amendments that we might dispose of, could I propound the unanimous-consent request that the amendment of the distinguished Senator from Pennsylvania may be laid aside temporarily, and that we proceed to another amendment, with the understanding that upon the completion of the other amendment we will return to the consideration of the amendment of the Senator from Pennsylvania?

The PRESIDING OFFICER. Is the Senator making the unanimous-consent request?

Mr. BAKER. I do now propound that unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill is open to further amendment.

UP AMENDMENT NO. 717

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 717:

On page 42, line 2, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 3, insert a comma after "$1,000".

On page 42, line 16

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 2, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 3, insert a comma after "$1,000".

On page 42, line 16, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 17, insert a comma after "$1,000."

On page 43, lines 1 and 2, strike out "or committee" and insert in lieu thereof "does not exceed $1,000, and with respect to such political committee of a political party".

On page 43, line 2, insert a comma after "$1,000".

On page 45, line 1, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 45, line 2, insert a comma after "$1,000".

On page 45, lines 11 and 12, strike out "or committee" and insert in lieu thereof "does not exceed $1,000, and with respect to such political committee of a political party".

On page 45, line 12, insert a comma after "$1,000".

Mr. THURMOND. Mr. President, my amendment simply seeks to clarify the language which extends the $1,000 exclusion of certain residential, vendor and travel expenses for candidate related activity to political party related activity as well.

The language of the bill reads:

To the extent that the cumulative value of such activity by such individual on behalf of any candidate or political committee of a political party does not exceed $1,000 with respect to any election.

Use of the correlative conjunction "or," Mr. President, following the prepositional phrase "on the behalf of" serves to limit "any candidate" or "political committee of a political party."

Since it is stated that the cumulative value must not exceed $1,000 with respect to any election, I would interpret the use of the correlative conjunction after the prepositional phrase to include both candidate-related and political committees of political parties within the cumulative value. I do not believe this is the intent of the bill. I believe the relationship between "any candidate" and "political committees of a political party" is meant to be disjunctive rather than conjunctive.

My amendment would simply insure that the $1,000 ceiling would apply to candidates and another $1,000 ceiling would apply to committees.

The PRESIDING OFFICER. Will the Senator cease for a moment?

The Chair observes that the Senator's amendment pertains to figures which have already been amended, and would require unanimous consent to be in order. Does the Senator request unanimous consent that his amendment be considered at this point?

Mr. THURMOND. Mr. President, I ask unanimous consent that it be considered. The manager of the bill has agreed to accept the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. THURMOND. Therefore, the limitation would not attach to the individual, but to the candidate-related event or political committee of a political party.

Mr. President, I have talked with the manager of the bill, and he has agreed to accept this amendment.

Mr. CANNON. Mr. President, I have discussed that amendment with the distinguished Senator from South Carolina, and the amendment is acceptable. I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from South Carolina.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Pennsylvania. Who yields time?

Does the Senator suggest the absence of a quorum?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, without the time being charged to either side, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred earlier and are printed at this point in the RECORD by unanimous consent:)

Mr. BENTSEN. Will the Senator from North Carolina yield for a unanimous consent request?

Mr. HELMS. I yield.

AUTHORIZING ADDITIONAL APPROPRIATIONS FOR PROSECUTION OF CERTAIN WATER PROJECTS

Mr. BENTSEN. Mr. President, I ask unanimous consent to proceed to the immediate consideration of a bill I have introduced. I have already cleared this with the majority leader and with the minority leader. I have cleared it with the chairman of the committee, the Environment and Public Works Committee, and I have cleared it with Senator STAFFORD, Senator DOMENICI, and with all those Members involved.

What this involves is we have an appropriation authorization through 1978 to take care of these two projects. But the rivers and harbors bill is obviously locked up in conference on some other issues. The authorization is running out on these two projects, which means that the contractors will have to pull off the job in the next 2 weeks.

The projects are in California and Texas, and they come out of the committee on which I serve, the Environment and Public Works Committee.

It will cost the taxpayers substantially more money for them to have to put their crews back on those jobs.

It is my understanding that there is no objection to the bill from the members of the committee.

I send the bill to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask that the time the Senator has consumed not be charged to either side on the amendment of the Senator from North Carolina or against the bill, S. 926.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bill (S. 2001) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power, and other purposes, which was considered to have been read twice.

Mr. ROBERT C. BYRD. Will the Senator put a time limitation on the consideration of this bill?

Mr. BENTSEN. May I have another 3 minutes?

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

BRAZOS RIVER BASIN

Mr. BENTSEN. Mr. President, I am introducing legislation today to provide an urgently needed increase in the monetary authorization ceiling for the Brazos River Basin in Texas. The increase is necessary to allow construction to continue on two important projects—the Granger Dam and Lake and North Fork Dam and Lake.

Mr. President, a $60 million increase in the Brazos River Basin monetary authorization was included in the omnibus rivers and harbors bill which passed the Senate earlier this year. Unfortunately, that bill is now being delayed in the House due to extended consideration of the waterway user charge issue. It is now apparent that that legislation will not be disposed of before the August recess.

Unless an increase in the monetary authorization ceiling is granted, construction on the Granger Dam and Lake will be shut down as soon as next week and work on the North Fork and Dam and Lake will likely cease in mid-September. If immediate relief is not forthcoming, the contractors on these projects will have to lay off their work crews and costs of the final project can be expected to increase.

The bill also included an increase in the monetary authorization for the San Joaquin River Basin in California which is facing problems similar to those in the Brazos River Basin.

Mr. President, my bill would address these problems by providing an emergency increase of $7.5 million in the monetary authorization for the Brazos River Basin and a $6-million increase for the San Joaquin River Basin. This would permit the contractors to continue work under their present contracts, and allow the corps to let additional contracts that were scheduled to be awarded in October.

Mr. President, I urge my colleagues to give favorable consideration to these urgently needed increases.

Mr. President, I want to emphasize that the appropriation has already been authorized for 1978.

It is a matter of extension of the authorization. This would take care of the San Joaquin River Basin in California, which is facing the same problems as the Brazos River Basin is facing in Texas.

It is $7.5 million in monetary authorization for the Brazos River Basin, and $6 million for the San Joaquin River Basin. Those amounts and more are in the rivers and harbors bill. This is just a matter of allowing the continuation of the work and not putting the contractors off the job, letting the crews go, and then trying to reinstate those crews at a later date.

I know of no objection to the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2001) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to previous authorizations there is hereby authorized to be appropriated for the prosecution of the comprehensive plans of development of the river basins under the jurisdiction of the Secretary of the Army referred to in the first column below, which was authorized by the Act referred to in the second column below, an amount not to exceed that shown opposite such river basin in the third column below.

Basin: Brazos River Basin. Act of Congress: Sept. 3, 1954, FCA 1954, PL 780–83rd Cong. Amount: $7,500,000.

Basin: San Joaquin River Basin. Act of Congress: Dec. 22, 1944, FCA 1944, PL 534–78th Cong. Amount: $6,000,000.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent to add the senior Senator from Texas (Mr. TOWER) and the Senator from Alaska (Mr. GRAVEL) as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from North Carolina be permitted to call up his amendment at this time pending the resolving of the question on the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

AMENDMENT NO. 755

Mr. HELMS. I thank the Senator from Oregon.

Mr. President, I call up my amendment No. 755 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment number 755.

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, after line 24, insert the following:

"(9) Notwithstanding the provisions of this or any other Act, none of the dues, fees, or assessments paid by employees to any labor organization which is a party to a collective bargaining agreement requiring the payment of membership dues, fees, or assessments as a condition of employment, shall be used for registration or get-out-the-vote campaigns, for the establishment, administration, or solicitation of funds for a separate segregated fund as set forth in 2(C) above, or for any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

Mr. HELMS. Mr. President, Thomas Jefferson said:

To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is simple and tyrannical.

This quotation applies with even greater force to the political use of union dues, fees, or assessments which are obtained by compulsory employment contracts.

Mr. ROBERT C. BYRD. Mr. President, could we have order in the Senate while the Senator is addressing his amendment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I hope the Chair will insist upon order.

The PRESIDING OFFICER. The Senate will please come to order. Members will clear the aisles and please take their seats.

Mr. ROBERT C. BYRD. Mr. President, I move that the Chair not let the Senator proceed until the Senate is in order.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the quotation of Thomas Jefferson to which I have just alluded applies, as I said, with even greater force to the political use of union dues or fees or assessments which are obtained by compulsory employment contracts. This amendment is very simple, Mr. President. It would prohibit the political use of union funds which were collected under a compulsory union contract.

In other words, if a worker is required to join a union in order to get a job or keep a job, then the union dues cannot be used for political purposes.

Such political uses as registration or get-out-the-vote campaigns, or any other expenditure in connection with any election to political office, would be proscribed under this amendment.

Mr. President, I do not suggest that this topic is new; it has been an ever increasing problem in our society. Numbers of law suits have been brought by individuals who object to the fact that their enforced tribute required for employment was used for social or political action contrary to their views.

In the case of *McNamara* v. *Johnston*, 522 F2 1157 (1975) C.A. 7, a majority of members of a UAW local in Chicago objected to expenditures of their dues and assessments for political campaigns of selected candidates and contributions to various social action organizations, such as the Students Nonviolent Coordinating Committee, Americans for Democratic Action, U.S. Committee for Democracy in Greece, and United World Federalists. The Court apparently was confused between voluntary contributions and those required as a condition of employment; and it denied the relief, but noted in passing the troublesome problem in this area. The predecessor statute—Corrupt Practices Act—was analyzed, but injunctive relief was denied because Congress had, in the interim, enacted the 1974 Campaign Act amendments granting "primary jurisdiction" to the Federal Election Commission.

A subsequent case, arising from the State of Michigan, again presented the question of the use of compulsory union membership dues for political purposes. In the case of *Abood* v. *Detroit Board of Education et al.*, 45 Law Week 4473 (May 24, 1977) the Supreme Court grappled with the problem of the use of such dues for purposes unrelated to collective bargaining. Justice Stewart, writing the majority opinion, noted that previous Supreme Court cases involving the union shop concept contained no evidence of union dues used to force ideological conformity or otherwise impair the free expression of employees; had such evidence been present, the Court indicates, a different problem is presented; where such evidence is contained, the issue is one of constitutional question of "utmost gravity". The Court said:

The fact that the appellants are compelled to make, rather than prohibited from making, contributions for political purposes works no less an infringement of their constitutional rights. For at the heart of the First Amendemnt is the notion that an individual should be free to believe as he will, and that in a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State. And the freedom of belief is no incidental or secondary aspect of the First Amendment's protections:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Mr. GRIFFIN. Will the Senator from North Carolina yield?

Mr. HELMS. I am delighted to yield.

Mr. GRIFFIN. I want to indicate my strong support for his amendment. Really, the use of union dues which are collected under compulsory union contracts for politics is more a problem in

my part of the country. Obviously, in right-to-work States—where workers cannot be forced to pay dues to work—and in areas where fewer workers are organized this amendment would have little or no effect. But in my State and in other Northern States, this amendment addresses a serious civil rights problem.

Incidentally, I find it very interesting that so many in and out of the Senate who regard themselves as liberals and civil rights advocates have no concern about the fundamental civil right that is involved here. The right of citizenship—the right to vote and support the candidates and the political party of one's choice—is about as important as any right can be.

When workers vote in a representation election to be represented by a labor union, under the provisions of the National Labor Relations Act, at least, they designate the union to represent them for the purpose of bargaining with respect to wages, hours, and working conditions.

Mr. HELMS. Exactly.

Mr. GRIFFIN. That is the only purpose for which a union is authorized to represent the employees. Yet it is widely known and mostly ignored that many unions use these dues collected for purposes other than collective bargaining, including political purposes. This is wrong and especially indefensible in the case of workers who are required to pay union dues in order to work. I can say that many union members do not like it.

I am not running for reelection, but I have run twice in a State which is known as one of the strongest labor States. Many people have wondered how a Republican could beat G. Mennen Williams, as I did, in 1966 in the State of Michigan; or how a Republican could defeat a very popular attorney general, running on the other ticket, in 1972. I can say that this civil rights issue was one of the most important issues in my campaigns. It was a subject on which I related to many individual union members.

Many union members resent having their union dues used for political monkey business and for other activities not related to union business. They expect the union to do what the statute says it is supposed to do—and not try to play political party. The average union members wants to vote as he pleases; he wants to support the candidates of his—not the union's leaders—choice. He does not want his political decisions to be dictated to him; he does not want the dues that are extracted from him to be used for political purposes.

This is a good amendment. The real liberals in this body ought to support it. We shall see what happens when they come in and vote. I thank the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Michigan for his comments. He is exactly right. I have much the same experience in my State, although, as he indicated, the incidence of union membership is far less in North Carolina than it is in Michigan. I thank him again for his comment.

The PRESIDING OFFICER. Will the Senator indicate to the Chair whether this is the amendment on which he desired 1 hour of debate?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. I thank the Chair.

Mr. President, I believe we have enough Senators on the floor for me to obtain the yeas and nays, and I do so.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. To continue with the Court's opinion:

These principles prohibit a State from compelling any individual to affirm his belief in God, *Torcaso* v. *Watkins*, 367 U.S. 488, or to associate with a political party, *Elrod* v. *Burns*, supra; see id., at 363–364, n. 17, as a condition of retaining public employment. They are no less applicable to the case at bar, and they thus prohibit the appellees from requiring any of the appellants to contribute to the support of an ideological cause he may oppose as a condition of holding a job as a public school teacher.

We do not hold that a union cannot constitutionally spend funds for the expression of political views, on behalf of political candidates, or towards the advancement of other ideological causes not germane to its duties as collective bargaining representative. Rather, the Constitution requires only that such expenditures be financed from charges, dues, or assessments paid by employees who do not object to advancing those ideas and who are not coerced into doing so against their will by the threat of loss of governmental employment.

The Court concludes that such constitutional infringement cannot be allowed as a violation of first and 14th amendment rights. This has raised the difficult problem of "drawing lines" in a judicial decision.

In a concurring opinion by Justice Powell, the Chief Justice and Justice Blackmun said:

The Court today holds that a State cannot constitutionally compel public employees to contribute to union political activities which they oppose.

On this basis the Court concludes that "the general allegations in the complaint, if proven, establish a cause of action under the First and Fourteenth Amendments." With this much of the Court's opinion I agree, and I therefore join the Court's judgment remanding this case for further proceedings.

But the Court's holding and judgment are but a small part of today's decision. Working from the novel premise that public employers are under no greater constitutional constraints than their counterparts in the private sector, the Court apparently rules that public employees can be compelled by the State to pay full union dues to a union with which they disagree, subject only to a possible rebate or deduction if they are willing to step forward, declare their opposition to the union, and initiate a proceeding to establish that some portion of their dues has been spent on "ideological activities unrelated to collective bargaining." Such a sweeping limitation of First Amendment rights by the Court is not only unnecessary on this record; it is in my view unsupported by either precedent or reason.

And they further quoted Justice Douglas's views that—

Use of union dues for political purposes subordinates the individual's First Amendment rights to the views of the majority.

In *Elrod* v. *Burns*, 417 U.S 347, 362, the Supreme Court held that a "significant impairment of first amendment rights must survive exacting scrutiny" and in *Buckley* v. *Valeo*, 427 U.S. 326, 363, they said, "Care must be taken not to confuse the interests of partisan organizations with governmental interests."

The hazards of remanding these cases to U.S. district courts throughout the Nation to fashion various and sundry remedies is, in my opinion, the most wasteful, inefficient, and expensive way to protect the constitutional rights of American workers. It is the legislative function that should set parameters that will prevent these constitutional invasions.

The words of my amendment use familiar phrases that are well understood by people in the political fields. They have been subject to court decision, administrative interpretation, and are part of the Federal Election Act where affected persons can get the advantage of advisory opinions and conciliation provisions of the act (2 U.S.C. 437f and 2 U.S.C. 437g (a) (5) (A)).

In conclusion, Mr. President, the Congress should not avoid facing up to its duty to protect the constitutional rights of those Americans who are forced to join a union against their will in order to get a job, or keep it.

Mr. President, that is the purpose of this amendment and I urge its adoption.

I reserve the remainder of my time, Mr. President.

Mr. CLARK. I wonder if the Senator would yield for a question?

Mr. HELMS. Yes, of course.

Mr. CLARK. The Senator has made a strong case for saying that no individuals should have their funds, funds they have contributed, used for a purpose other than one in which they have directed the use.

They have had a say in the use. Indeed, they have determined for themselves how that money should be used in political communications or in get out the vote activities, or other things of that kind. I think that is the basis of the Senator's comments. Perhaps he could correct me.

Mr. HELMS. I am saying that compulsory union dues should not be used for that purpose, period because political activity is not the purpose of union dues.

Mr. CLARK. I understand the Senator's position more clearly.

Let me cite an example that is not covered by the Senator's amendment.

If I am an elderly person, or a person of any age, and I decide that for my own welfare and my own good I want to invest in a large corporation, I want to be a stockholder in a large corporation because inflation is eating up my income and I feel by investing it in stocks in a major corporation that I will hedge against inflation, if I make that investment in a corporation, the corporation, of course, can use the money for political purposes.

Mr. HELMS. Yes, but the Senator is not——

Mr. CLARK. If I might just finish.

If I make that investment in that cor-

poration, that corporation can take that same money and spend it for candidates I am opposed to, then use it in internal communications that argue against or for candidates to which I am opposed.

What choice do I have as a stockholder in that company?

Mr. HELMS. The Senator would not be required to buy or keep any stock in the corporation. My amendment covers political use of union dues only when the dues are compulsory.

Mr. CLARK. But the money is my money that is being used against my will for another purpose. I would have to sell my stock to prevent that from happenng, perhaps at great financial loss.

Mr. HELMS. I am sorry, but the Senator's example is not analogous at all, and I think he knows it.

Mr. CLARK. I am not talking about analogies. I am talking about the principle of using my money as an investor for purposes other than I want it used for.

That is my money. Why should I not determine it, if the Senator's principle is correct?

Mr. HELMS. Is the Senator talking about the use of corporate funds?

Mr. CLARK. For political purposes against my will as an investor.

Mr. HELMS. I do not know about the Senator's State, but in North Carolina one could end up in the penitentiary if he uses corporate funds for political purposes.

Mr. CLARK. On the contrary——

Mr. HELMS. He can propose his own amendment to take care of any problem he has with corporations.

Mr. CLARK. On the contrary. The law does not allow both union dues and corporate funds to be used for the purposes of communicating with their own members, for purposes of getting out the vote, for all the purposes, indeed, the Senator has outlined in his amendment.

But it applies in this case only to labor unions that are under union shop conditions. It does not apply to corporations and their internal communications.

It seems to me that what is sauce for the goose is sauce for the gander.

Mr. HELMS. I say to my good friend from Iowa that if he will put in an identical amendment relating to corporations, I will be glad to consider it.

Mr. CLARK. I think it is quite clear from Buckley against Valeo and other cases that we cannot restrict an organization's internal communications. That would be a violation of the first amendment.

Mr. HELMS. If we compel union membership as a requirement for getting a job or keeping it? I do not agree with the Senator at all.

Mr. CLARK. I am not talking about membership, because an investor is not a member, he is an investor.

Mr. HELMS. I am talking about unions, and compulsory membership in order to get a job or keep a job.

Mr. CLARK. I know, but it seems to me a comparable case. They are taking my money as an investor in a major corporation, spending it against my will to defeat or elect candidates through internal communications and through get-out-the-vote, or any other legal activities, against my will.

It seems to me if one is going to live by that principle, it should apply equally, whether one is an investor in a corporation or a member of a labor union.

My point simply is, however, that we cannot restrict that activity. We cannot restrict a group under Buckley against Valeo, or under the Constitution, in my judgment, from expressing itself on a candidate, whether they are for or against a candidate. We cannot limit an individual's right to spend money, to express him or herself on an issue for cr against a candidate.

Mr. HELMS. We are not talking about individuals, as the Senator knows. We are talking about compulsory union membership, and the political use of dues paid by the working people against their wishes in countless cases. The amendment simply provides that if a worker is required to join a union in order to get a job or keep a job, then union funds should not be used for political purposes.

Senator GRIFFIN has just finished giving a recitation of the feelings of what must be thousands of union members in the State of Michigan who resent the use of their money when they are required to join a union in order to get a job or keep it.

I say again that if the Senator has an amendment which will parallel the use of corporate funds more precisely to his liking, I will be glad to consider it.

Needless to say, organized labor is opposed to this amendment—or, more aptly stated, the union bosses of this country are opposed to it. Just outside the Senate Chamber, at this moment, labor union lobbyists are standing ready, poised, to buttonhole the Senators and say, "Vote down the Helms amendment."

We are going to have a vote on it, Mr. President. We are going to separate the sheep from the goats on this question. We are going to find out who stands where on this simple proposition.

No amount of sophistry will erase the plain truth about the political power exercised by the union bosses in this country.

I note that the distinguished Press Gallery is empty. Many of them are members of unions. I doubt that there will be one syllable about this amendment in tomorrow morning's Washington Post or New York Times, because so many of the reporters who report the news to the American people are members of a union. But we are going to have a rollcall vote, and we will see who stands where, Mr. President.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield myself 5 minutes.

Mr. President, the proposed amendment to the Federal Election Campaign Act of 1971 would severely limit the use of union funds for political purposes.

At the outset, it is extremely important that we all understand what type of political activity labor organizations are permitted to engage in. The relevant statutory provisions are set forth at 2 U.S.C. 441b, and I ask unanimous consent that this section be printed in its entirety at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

§ 441b. Contributions or expenditures by national banks, corporations or labor organizations

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b)(1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include—

(A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(B) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.

(B) for any person soliciting an employee for a contribution to such a fund to fail

to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

Mr. CANNON. Mr. President, section 441b, which is presently part of the Federal Election Campaign Act, essentially prohibits labor unions and corporations from making political contributions or expenditures in connection with a Federal election. This prohibition had its genesis in the Tillman Act of 1907 which prohibited national banks and corporations chartered by Congress from making political contributions in any election, and prohibited all corporations from making political contributions in connection with Federal elections. This proscription was extended in 1943 and 1947 to cover labor unions and prohibited both contributions and expenditures in connection with Federal elections.

The expressed purpose of this legislation was to limit corporate and labor union influence over elections through direct financial contributions. Subsequent Supreme Court interpretations which defined and limited the scope of section 441b led, in turn, to its amendment in 1971 as part of the Federal Election Campaign Act in an attempt to codify those areas of permissible political activity which the Supreme Court, in its decisions, had indicated would be unconstitutional for Congress to proscribe. These areas of permissible political activity were further clarified by Congress in the Federal Election Campaign Act Amendments of 1976, and are the specific areas which my colleague has proposed be effectively repealed.

First of all, section 441b specifically permits labor organizations to use union funds to communicate with their members and their families on any subject. It correspondingly permits corporations to use corporate treasury funds to communicate with their stockholders and executive or administrative personnel on any subject. Any proposal to extend the basic prohibitions of 441b to these internal communications, whether the communications be of a general political educational nature, or specific communications informing members or stockholders of the views of the union or corporation with respect to particular candidates and advocating their election or defeat, would clearly be unconstitutional. The United States Supreme Court, in United States against CIO, 335 U.S. 106 (1948), in considering the broad prohibitions of section 441b, which were then contained in the predecessor to this section, specifically concluded that the statute was not intended to prohibit a union from distributing to its members a union newspaper which urged members to vote for a certain congressional candidate. The Court, after reviewing the legislative history of the section, reached the following conclusion:

From what we have previously noted, it is clear that Congress was keenly aware of the constitutional limitations on legislation and of the danger of the invalidation by the courts of any enactment that threatened abridgement of the freedoms of the first amendment.

It did not want to pass any legislation that would threaten interference with the privileges of speech or press or that would undertake to supersede the Constitution. The obligation rests also on this court in construing Congressional enactments, to take care to interpret them so as to avoid the danger of unconstitutionality.

If section 313 (441b) were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interest from the adoption of measures or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality." (335 U.S. at 121.)

In response to arguments that it is unfair to permit the expenditure of funds for internal communications with which a union member or stockholder may disagree, the Supreme Court stated the following:

Members of unions paying dues and stockholders of corporations know of the practice of their respective organizations in regularly publishing periodicals . . . and are not . . . unwilling participants in such normal, organizational activities, including the advocacy thereby of governmental policies affecting their interests, and the support thereby of candidates thought to be favorable to their interests. (335 U.S. 123.)

In United States against United Auto Workers, 352 U.S. 567 (1957), the Supreme Court reinstated the indictment of a labor union under the predecessor to section 441b, which charged that the union had used dues funds to sponsor commercial television broadcasts designed to influence the general electorate to select certain candidates for Congress. In this case, the Court referred to the constitutionally protected areas of communications with one's members and at 352 U.S. 589, stated that:

Unlike the union-sponsored political broadcast alleged in this case, the communication for which the defendants were indicted in CIO, was neither directed nor delivered to the public at large. The organization merely distributed its house organ to its own people.

The Court then went on to assert that the purpose of the general prohibition in the present section 441b was to curb ". . . the use of corporation or union funds to influence the public at large to vote for a particular candidate or a particular party."

The specific provisions in section 441b sanctioning internal communications, of a political nature or otherwise, as well as the further exception permitting nonpartisan registration and get-out-the-vote campaigns directed at union members or corporate stockholders and executive or administrative employees—which in itself is a form of communication—are both statutory codifications of that constitutional distinction which the Supreme Court quite clearly appears to have drawn between the expenditure of corporate or union funds to influence the general public and those directed to influence members, stockholders, and executive or administrative personnel. Consequently, I urge the Senate to reject this amendment which would have the effect of proscribing these communication and nonpartisan registration activities.

The final area of permissible political activity in section 441b which has been proposed be repealed is the use of union and corporate treasury funds to pay the costs of establishing and administering separate segregated funds, as well as the cost of soliciting voluntary contributions to those separate segregated funds from union members or corporate stockholders and executive or administrative employees. Those voluntary contributions can then be used to make political contributions or expenditures, subject, of course, to the limitations and reporting requirements of the Federal Election Campaign Act.

This statutory exemption originated as an amendment proposed by Representative HANSEN in the House of Representatives as part of the Federal Election Campaign Act of 1971. At that time, Representative HANSEN indicated that the provision was intended to codify prior case law and to clarify the meaning of the prohibition against corporate and union political contributions—117 CONGRESSIONAL RECORD 43379 (1971). Reference to the 1947 Senate floor debate where the 441b prohibition was permanently extended to unions indicates that the Congress did not intend to prohibit political funds or political action committees which were organized by a union and contained voluntary contributions from union members. For example, Senator Taft, in discussing the meaning of the proposed prohibition against contributions from corporations and labor unions, stated:

If the labor people should desire to set up a political organization and obtain direct contributions for it, there would be nothing unlawful in that. (93 *Congressional Record* 6439 (1947).

Shortly after Representative HANSEN's amendment was enacted as part of Public Law 92-225, the U.S. Supreme Court in *Pipefitter* v. *U.S.*, 407 U.S. 385—1972—specifically held that the 441b prohibition with respect to political activity did not apply to union contributions and expenditures from political funds financed by the voluntary donations of members. The Supreme Court referred as follows to the concern of the Congress in 1947 that a prohibition of such corporate or union PAC's might raise constitutional questions involving the infringement of first amendment freedoms:

Senator Taft's view that a union cannot violate the law by spending political funds volunteered by its members was consistent with the legislative history of the War Labor Disputes Act and an express interpretation given to that act by the Attorney General in 1944. His views also reflected concern that a broader application of section 610 (presently 441b) might raise constitutional questions of invasion of first amendment freedoms, and he wished particularly to reassure colleagues who had reservations on that score, and whose votes were necessary to override a predictable presidential veto, (see 93 *Congressional Record* 7485) of the Labor-Management Relations Act. We conclude, accordingly, that his view of the limited reach of section 610, entitled in any event to great weight, is in this instance controlling . . . We therefore hold that section 610 does not apply to union contributions and expenditures from political funds financed in some sense by the voluntary donations of employees. (407 U.S. at 409)

Thus, the Supreme Court and the Congress have determined that it is improper for corporations and labor organizations to make direct contributions with treasury or union funds to Federal candidates, but that they can establish, administer and solicit funds internally to separate, segregated funds or political action committees as long as those contributions to the funds are voluntary. The corporation or the labor union is then permitted to direct, by maintaining control over the separate, segregated funds, what political cause or candidate the funds or voluntary contributions may be given to or expended on behalf of.

Therefore, the establishment of a political action committee which is registered with the Federal Election Commission and to which only voluntary contributions are made was not the type of activity which Congress intended to prohibit when it banned the direct contribution or expenditure of corporate or union funds in Federal elections. Union or corporate funds are merely being utilized indirectly, and in light of the Supreme Court decisions, I would be concerned that legislation prohibiting the use of treasury funds to establish corporate or union PAC's might be found to be an unconstitutional infringement, as many of the activities involved in establishing, administering and soliciting funds are, in themselves, a form of internal communication.

Consequently, I would oppose this amendment which would have the effect of prohibiting the use of union funds to establish, administer or solicit voluntary funds to a separate, segregated fund.

Mr. President, we debated this matter at some length earlier when we considered for what purposes the union dues and the corporate funds could be used. We made it clear that they could be used for the purpose of registration drives, of get-out-the-vote drives and for communications to members. I am sorry to see my colleagues support a proposal that would try to curtail these activities on the part of either corporations or unions. I think it is a proper activity on their part and should be permitted to be carried out.

When the Senator has used up the remainder of his time, I intend to yield my time back and to move to table the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. With all due respect to my good friend from Nevada, I think he has proved the point with the speech he has just read. I believe I saw his able assistant, Mr. Hall, who is sitting right beside him, and who has been handing him the pages of his speech, one by one, after editing them—I believe I saw Mr. Hall conferring with Mr. Larry Gold, who is counsel for the AFL-CIO just outside the Senate Chamber, who is said to be a competent speech writer.

Mr. President, I am willing, if the distinguished Senator is, to yield back the remainder of my time.

Mr. CLARK. Mr. President, I would like to ask the Senator from Nevada if he would yield a few minutes.

Mr. CANNON. Yes. I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. CLARK. Mr. President, the issue, I think, is really twofold: Is it constitutional, is it legal, to restrict the rights of a group, however they may be constituted, however they may be formed, from their right of free speech under the first amendment? I think the cases that have been cited by the distinguished Senator from Nevada, several other cases, at least three clear Supreme Court cases, indicate, including Buckley against Valeo, that you cannot restrict that right.

If that case was clear on any one point, it was certainly clear on that point. Mr. President, you cannot tell an organization or an individual they cannot speak or spend their money, spend money to communicate with their own members, on behalf of or against a candidate or an issue, and that is exactly what this amendment does. It says if you are organized under certain conditions of employment, then you may not have the right to spend money for that purpose.

As I have indicated earlier, what this would mean is that if a group that was organized under this condition, in other words, if in a State that does not have a right-to-work law, the union representatives and the corporation decide they want a union, if they freely negotiate through the collective bargaining process to have a union shop, and a union shop exists, under the Senator's amendment even if all the members of that labor union wished to spend their money in support of a particular issue or candidate or against a candidate, even if all of them did, they would not have the right legally to spend any of that money from their dues; even if they all favored that issue or that principle or that candidate or were opposed to that candidate, they would not have the right under this amendment to even express themselves.

Clearly this violates their constitutional right to organize, to spend their money, to express themselves under the first amendment.

On the other hand, if one were a stockholder in a corporation, all of the stockholders in that corporation could be opposed to the way in which the corporation itself decides to spend that money, and yet there would not be anything that could be done. The corporation will make that decision on how the money is going to be spent, whether it is going to be spent to defeat or to support certain candidates, to communicate with their members. Yet the individual stockholder would have absolutely no recourse—in fact, if they were all opposed to that, there could be nothing they could do.

I do not think that is either fair or constitutional, and I hope the Members will support the tabling motion.

Mr. KENNEDY. Mr. President, will the Senator yield 3 minutes?

Mr. CANNON. Yes. I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. I want to identify myself with the remarks of the Senator from Nevada and the Senator from Iowa.

Quite clearly, this is a one-sided amendment, Mr. President. It is clearly directed against the working people of this country. There is no suggestion in the amendment that its provisions would also apply against corporations. It applies only to unions and labor organizations.

So we ought to understand exactly what we are dealing with in this particular amendment. It is very clear that it is directed against working people and against the trade union movement.

Second, Mr. President, there is a right of free assembly and free association under the First Amendment. That has been a major basis of union activity since the earliest days of labor organizations. That right has been protected as a constitutional right by the Supreme Court in a long line of decisions going back over many years.

Mr. President, there are a variety of means by which a minority of members of the trade union movement may opt out of having their dues used for purposes to which they object. There are far less burdensome ways of protecting the rights of individuals not to be coerced into supporting activities they oppose. For example, an individual member could be permitted a refund of the portion of his dues attributable to such activities. With obvious alternatives like these available, there is no justification in a blanket prohibition of funding such important activities.

So, Mr. President, I hope the amendment of the Senator from North Carolina will be defeated. I think we ought to understand the direction and purpose of this amendment. It is directed against the working people of this country and, for that reason, I oppose it.

Mr. HELMS. Mr. President, my friend from Massachusetts has been quite candid and a little bit extravagant in describing this amendment as against "the working people," a cliche dragged into the political arena so readily. So I will be equally candid and say that what he has said is plain nonsense. It is the working people who are forced to join a union against their will in order to get a job—these working people support this amendment.

The PRESIDING OFFICER. All time of the Senator from North Carolina has expired.

Mr. CANNON. Mr. President, I yield back the remainder of my time. I move to table the amendment of the Senator from North Carolina, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from Mississippi (Mr. STENNIS), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 67, nays 25, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—67

Allen	Glenn	Morgan
Anderson	Gravel	Moynihan
Bayh	Hart	Muskie
Bentsen	Haskell	Nelson
Biden	Hathaway	Nunn
Brooke	Heinz	Packwood
Bumpers	Hollings	Pell
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Johnston	Schweiker
Church	Kennedy	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Danforth	Mathias	Talmadge
DeConcini	Matsunaga	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metzenbaum	

NAYS—25

Baker	Griffin	Pearson
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Scott
	Hayakawa	Thurmond
Curtis	Helms	Tower
Dole	Laxalt	Wallop
Domenici	Lugar	Young
Garn	McClure	

NOT VOTING—8

Abourezk	Metcalf	Sparkman
Goldwater	Percy	Stennis
McClellan	Randolph	

So, the motion to lay Mr. HELM's amendment on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 716

The PRESIDING OFFICER (Mr. CLARK). The question recurs on agreeing to the amendment of the Senator from Pennsylvania (Mr. HEINZ).

Mr. HEINZ. Mr. President, I have a modification of my amendment which I send to the desk as a substitute for the original amendment.

The PRESIDING OFFICER. The Chair will advise the Senator from Pennsylvania that unanimous consent is required to modify his amendment.

Mr. HEINZ. Mr. President, I ask unanimous consent that my amendment may be so modified.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair would also remind the Senator from Pennsylvania that 1 minute of his time remains.

Mr. HEINZ. Mr. President, I shall necessarily be brief.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 69, line 24, insert after "apply to": "the receipt of any contribution of moneys or other thing of value for any political purpose by"

On page 70, line 72, before the period insert the following:

", but the provisions of subsection (a) prohibiting the solicitation in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort or arsenal of any contribution of moneys or other thing of value for any political purpose" shall apply to such assistants

Mr. HEINZ. Mr. President, I ask unanimous consent that the name of the Senator from Alabama (Mr. ALLEN) be added as a cosponsor of the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. And I would like to express my appreciation to the Senator from Alabama for his assistance in perfecting this amendment.

Mr. President, I understand that the managers of the bill are prepared to accept this amendment. If they are so prepared, I would ask unanimous consent to vitiate the order previously entered for the yeas and nays.

The PRESIDING OFFICER. Is the Senator making such unanimous consent request?

Mr. HEINZ. Well, I would like to ask whether the managers of the bill will accept the amendment.

Mr. CANNON. Will the Senator withdraw the yeas and nays first?

Mr. HEINZ. I reserve the remainder of my time. I cannot hear the Senator.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Pennsylvania, and I believe it now does what he was seeking to do originally. I did not believe the original amendment accomplished the purpose, but I am willing to accept the amendment in this form.

Mr. HEINZ. Is the amendment as modified also acceptable to the minority?

Mr. HATFIELD. Mr. President, the amendment as modified is also acceptable to the minority manager, and I commend the Senator upon it.

Mr. HEINZ. Then, Mr. President, I ask unanimous consent to vitiate the order previously entered for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, will the manager of the bill yield me 1 minute?

Mr. CANNON. I yield the Senator 1 minute.

Mr. ALLEN. I commend the Senator from Pennsylvania on his amendment. I think all the members of the Rules Committee had this same thought in mind. It might be the language was not

as consistent as it will be with this amendment. I think the purpose of the amendment is very worthy indeed. I commend this distinguished Senator for offering the amendment, and I appreciate his willingness to cooperate to get the amendment in acceptable form to all Senators.

Mr. BAKER. Mr. President, will the Senator from Nevada yield me half a minute?

Mr. CANNON. I yield.

Mr. BAKER. I commend the distinguished managers of the bill for their willingness to accommodate this amendment and to accept it. I commend the Senator from Alabama, as well. I frankly think the amendment in its original form accomplished the purpose, but I think any doubt has now been removed, and I am glad that the managers have accepted it.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. Mr. President, I think I have 15 seconds left, and I want to thank the Senator from Nevada and the Senator from Oregon for their cooperation and their excellent efforts to perfect this amendment. I am very appreciative of their acceptance of it as well.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 576 (AS MODIFIED)

Mr. GRIFFIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment numbered 576, as modified:

On page 66, after line 24, add the following:

"(9) Notwithstanding any regulation or other law, no corporation, labor organization, membership organization, cooperative, political committee, or corporation without capital stock shall be authorized to use the reduced postal rates, available to qualified nonprofit organizations under section 3626 of title 39 of the United States Code with respect to any mailing made in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office. Use of such reduced rate postage for such prohibited mail shall result in having such mail charged at first-class rate, and shall be a violation of this Act.".

Mr. GRIFFIN. Mr. President, this amendment is directed at a public financing arrangement already in effect—one which many Senators and most taxpayers do not realize exists. It is a public financing arrangement that substantially favors candidates supported by some labor organizations, and works against candidates who are opposed by labor organizations.

I think it ought to be of some interest—and I am glad that at least one of the former Presidential candidates, the Senator from Indiana (Mr. BAYH), is on the floor—to call attention to the fact that this special subsidy enjoyed by labor organizations with respect to political mailings is available not only in the general elections, when it hurts Republicans, but also in the primaries when it hurts Democrats.

I have a letter from a union member in my State which came to my attention. I am not going to give his name because he might have some problems if I were to disclose it. But any Senator who wants to read it is free to take a look at it. It is addressed to me.

Dear Senator: Please check the enclosed material.

I wish the Senator from Indiana would not leave.

I believe the use of union dues money for political purposes to be illegal. This material is on UAW stationary and a UAW envelope and paid for by? If this does not violate the letter of the law, it must violate the spirit of the law.

Thank you.

It is signed by the union member.

With his letter he enclosed another letter, an election brochure promoting Jimmy Carter, sent out by the UAW from Detroit on May 10, 1976, addressed to "All UAW Active and Retired Members in region 1–C." That letter reads in part as follows:

Greetings. You can participate directly in selecting the next President of the United States. Your vote in Michigan's primary election on Tuesday, May 18, will help determine what kind of America we live in for the next 4 years.

This is a difficult decision and one we have given a great deal of time and thought. We'd like you to be aware of the position taken by many UAW leaders, including all six Regional Directors in Michigan. Very simply, we personally believe Jimmy Carter should be America's next President.

The letter then refers to an enclosed very interesting brochure promoting Jimmy Carter.

Let me make the point that ought to be of particular interest: This political material sent out under a special postage rate which is available to nonprofit religious, scientific, educational, and philanthropic organizations as well as labor organizations.

One would think, and I think most Americans would believe that a special 2-cent rate, which is available for mailings sent out by such organizations, would be used only for nonpolitical purposes.

However, it may be a surprise to some that, under existing postal regulations, such is not the case. Labor organizations are now permitted—and were permitted during the last campaign—to mail out, at the 2-cent rate, purely political propaganda, advocating the election or defeat of candidates.

Now, what did Mr. BAYH's committee have to pay for mailings in Michigan? Or Mr. UDALL's committee—or Mr. JACKSON's committee—for mailings sent out during the Michigan primary? The answer is that their committees did not enjoy the 2-cent rate used by the UAW. They had to pay the regular bulk third-class rate which is 7.9 cents, or roughly 8 cents, for each piece of mail.

As we know, Mr. Carter won that primary election in Michigan.

Not only were UAW union member contributions used to support Mr. Carter, but the taxpayers subsidized union mailings for Carter to the extent of approximately 6 cents apiece. I do not think that is right. Let me go on and say that business organizations, chambers of commerce, et cetera, do not get a 2-cent mailing rate for their political mailings. Of course, they must be the regular 8-cent bulk rate.

I think it is especially interesting to take note of the fact that this 2-cent frank in effect for union political mailings at a time when Members of Congress, most appropriately, have tightened down on their own use of the frank. Of course, it was always, and appropriately so, improper for a Member of Congress to mail out under the frank purely political mailings. He cannot, in his newsletter, urge support in elections or advocate the defeat or any candidate. If he were to do that, obviously, the mailing would not be eligible for the frank.

Not only that, but we have, and most appropriately, prohibited ourselves from sending out mass mailings, even though they are not political, for a period of 60 days prior to an election. We realize that even mass mailings that do not ask for votes have a political effect.

My amendment would strike down this special mailing privilege as it applies to labor organizations and any other groups for political mailings.

It should be noted that, under recent revisions of the Postal Service regulations, the special 2-cent frank has been extended to some other interesting organizations—including Common Cause—which has been very critical of Members of Congress for use of the frank.

Mr. BAYH. Will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. BAYH. I appreciate the fact that the Senator associated the junior Senator from Indiana——

Mr. GRIFFIN. I just wanted to be sure that he knew some of the things that went on during the campaign.

Mr. BAYH. The Senator from Indiana is painfully aware of some of the things. Just so the record will be straight, I think if we look carefully we will find that the Senator from Indiana did not take advantage of this particular rate which existed in Michigan. By that time his rather futile campaign had been thrust into the middle of the Atlantic Ocean someplace, and to my knowledge he would not have benefited if he tried to use this particular regulation.

Could I just ask the Senator from Michigan—is this the same regulation that makes it possible for me to get all those brochures from the Right to Work Committee?

Mr. GRIFFIN. That is the next point I was going to make. I understand that Postal Service has also expanded the 2

cent frank to benefit the Right to Work Committee and to Ralph Nader's organization, among others. I do not think that such organizations should be subsidized to the extent of a 2 cent rate for political mailings—while everybody else has to pay at least 8 cents postage to mail out political literature.

My amendment would correct this inequity. I cannot imagine what the arguments are against it, but we shall listen.

Do you know what the committee did when we brought this matter up at the stage of our deliberations? Instead of doing away with this special rate, the committee extended use of the 2 cent frank to the National Republican Committee and the National Democratic Committee. So if you look in the bill, that is what is there. The committee not only did not cut back the privilege, it was expanded to the National Republican Committee and the National Democratic Committee.

I think the American people would be furious if they understood and knew that that was going on. I urge the adoption of my amendment.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 15 minutes remaining on the amendment. The Senator from Michigan has 4 minutes.

Mr. CANNON. Mr. President, I want briefly to address the matter of reduced postage rates for lobbying, legislative or political mailings and emphasize that this is by no means a privilege extended solely to labor unions under existing law and regulations.

S. 926 would extend to State and national political party committees the same postage rates as a "qualified nonprofit organization," as defined in 39 U.S.C. 452(d), so long as such an organization is entitled to use these rates for communications relating to any political or legislative subject. Under existing law and present Postal Service regulations—parts 132 and 134, eight categories of nonprofit organizations—religious, educational, scientific, philanthropic, agricultural, labor, veterans and fraternal—are entitled to reduced second class and reduced third class bulk mail rates, even though the organization may be engaged in lobbying, legislative or political related activities, as long as it only mails its own matter at these rates.

I ask unanimous consent that a copy of the Postal Service Regulations, as amended through June 22, 1977, be printed in the RECORD at the conclusion of these remarks.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

[From Federal Register, June 22, 1977]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Procedures for the Appeal of Mail ability and Eligibility Rulings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This notice announces the amendment of Postal Service regulations which will, among other things, simplify the filing of applications for second-class mail privileges and will clarify and prescribe the appeal procedures for rulings on mailability of mailable matter.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur Cahn, 202-245-4604.

SUPPLEMENTARY INFORMATION: On March 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER (42 FR 12069-12071) a proposal to change under the provisions of 39 CFR 111.3, Parts 123, 132, 133, 134, 135 and 146 of the Postal Service Manual to clarify and prescribe the ruling authorities and appeal procedures for adverse rulings on mailability of matter, and on the eligibility of mailable matter for second-class, controlled circulation, and special third-cass postage rates.

The Postal Service also proposed to delete its regulations concerning action organizations in section 134.53(a)-(c) of the Postal Service Manual and to amend section 132.3 of the Postal Service Manual to allow publishers to simultaneously file applications for all additional second-class mail privileges with their application for a second-class original entry permit.

The Postal Service received one comment which suggested that the proposed revision should be amended to require an organization applying for the special third-class rate to have an equivalent Federal income tax exemption, and that the Postal Service grant and maintain the special third-class rate in effect so long as the permit holder is exempt from Federal income tax. To a certain extent the Postal Service now does what the comment suggests. Section 134.541 of the Postal Service Manual provides as follows:

Application on Form 3024, Application to Mail at Special Bulk Third-Class Rates for Qualified Nonprofit Organizations or Associations, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501(c)(19) as a veterans' organization. it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

There are thousands of small qualifying organizations which apply for nonprofit second- and third-class rates which do not have IRS exemptions and have no need for such. The Postal Service feels that it would be improper in these instances to require an organization to go to the expense of obtaining an IRS exemption it does not need in order to obtain nonprofit mailing status. For those organizations that do seek IRS exemptions, however, the regulation quoted above means that the Postal Service generally acts in a parallel fashion to IRS, though the regulation retains the possibility of an independent administrative choice, in line with the authority implied by statute.

There being no other comments concerning the proposed regulation, the Postal Service adopts the following amendments to the Postal Service Manual, effective June 22, 1977.

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

1. In 123.3 revise the first sentence of .31; and revise .33 and .37 to read as follows:

123.3 *Advice to Mailers—Mailability Decisions.*

.31 *General Advice.* When a mailer seeks advice from the postmaster as to whether particular matter may be mailed, or where the postmaster otherwise learns that matter of questionable mailability is to be mailed, it is the postmaster's responsibility to call to the mailer's attention the relevant provisions of Part 123 and 124 and any relevant guidelines issued by the Postal Service.

* * * * *

.33 *Mailability decision authorized.* Postmasters may decide whether articles and substances (Part 124) are nonmailable and shall, where appropriate, refuse to accept for mailing such matter determined to be nonmailable. Where necessary, it is recommended that the postmaster consult the postal service center for guidance in determining mailability. If the mailer desires review of the postmaster's decision, the postmaster shall refer a sample of the item offered for mailing or a complete statement of the facts, whichever may be appropriate, to the Director, Office of Mail Classification, Rates and Classification Department. Further appeal may be made in accordance with 123.37.

* * * * *

37. *Administrative Appeals.* A mailer may appeal any unfavorable mailability decision under Part 123 or Part 124 by filing a written Notice of Appeal with the Docket Clerk U.S. Postal Service, Washington, D.C. 20260, together with a copy or description of the determination or ruling in question. Such appeals shall be governed by 39 CFR Part 953, Rules of Practice in Proceedings Relative to Mailability.

PART 123—SECOND CLASS

2. In 132.3 delete the heading of .31 and insert the following in lieu thereof; add new .311 heading, and new .312, .313, .314, and .315 as follows; delete .33 and .34; redesignate .35 as .33; redesignate .36 as .34 and revise to read as follows; add new .35 and .36 as follows:

132.3 *Applications for second-class privileges.*

.31 The following applications should be filed by the publisher at the post office where the publication maintains its known office of publication. (See 132.222.)

.311 *Original entry applications for publications and new agents.*

* * * * *

.312 *Additional entry application.* A publisher may apply for permission to mail at additional entry post offices. A written request for an additional entry must be filed by the publisher at the post office where the publication has original second-class entry. A form is not provided for an additional entry application. The result may accompany the application for original entry. See 132.33 for fees required. The request must include the following information:

(a) Name of publication.

(b) Frequency of issue.

(c) Name of place where publication is printed.

(d) Name of the additional entry post office.

(e) Approximate number and weight of copies to be mailed at the additional entry post office.

(f) Specific geographical area to be served from the additional entry office. (The geographical area served by the additional entry office must include the entire local delivery area of the additional entry office).

An additional entry will be authorized at a post office located in the same county in which the office of original entry is located only when the publication is entirely or partly produced or prepared for mailing at the additional entry office (see 132.315 for available exceptional dispatch privileges).

An additional entry will be authorized only at a post office served by transportation facilities which will enable the mailings to be effectively and economically handled in the postal transportation patterns.

.313 *Application for special rates.* A publisher may apply for permission to mail at special rates. A written request for special rates must be filed by the publisher at the post office where the publication has original second-class entry. The request may be filed jointly with the application for original entry or filed separately at the post office of original entry after a publication has been granted second-class mailing privileges.

(a) *Special rate.* Non-profit organizations and associations listed in 132.122 may apply to the postmaster for the special second-class rates. They must submit evidence to establish their non-profit status and to show that they come within one of the categories stated.

(b) *Classroom rate.* Publishers of religious, educational, or scientific publications designed for use in school classrooms or in religious instruction classes may apply to the postmaster for the classroom rate listed in 132.123. They must submit evidence showing that their publications are of this character and for the uses stated.

(c) *Science of agriculture rate.* Publishers of publications designed to promote the science of agriculture may apply to the postmaster for the special zones 1 and 2 advertising rate listed in 132.124. They must submit evidence that their publications are of the character and for the use stated and that more than 70 percent of the copies distributed by any means for any purpose during any twelve-month period are to subscribers residing in rural areas.

.314 *Application for reentry.* When the name or frequency of issuance of a publication is changed, an application for reentry must be filed on Form 3510 at the post office of original entry, accompanied by two copies of the publication showing the new name or frequency. When the location of the known office of publication is changed, an application for reentry must be filed on Form 3510 at the new office, accompanied by two copies of the publication showing the name of the new office as the known office of publication. Copies of second-class publications will be accepted for mailing at the second-class postage rates during the time applications for their reentry are pending. Copies of Form 3510 may be obtained from local postmasters. An application for reentry is not required when only the ownership is changed unless the change disqualifies the publication for an entry which was authorized under 132.23.

.315 *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. At least once each 6 months the accepting postmaster shall verify the number of copies received directly from the publisher. Any significant increase noted at the time of verification or at any other time shall be reported to the entry office where the postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

* * * * *

.34 *Granting or denial of application.* The Director, Office of Mail Classification, Rates and Classification Department, Headquarters, rules on all applications for second-class mail privileges, special rates, additional entry, and reentry.

.341 *Granting of application.* If the Director grants the application, he notifies the postmaster at the office where the application for original entry was filed, who shall notify the applicant. Before taking action, on an application, the Director may call on the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish the information requested may be cause for denial of the application as incomplete or, on its face, not fulfilling the requirements.

.342 *Denial of application for original entry.* If the Director denies the application, he will notify the publisher specifying the reasons for the denial. A denial of second-class mail entry is effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, Washington, D.C. 20260, in accordance with the provisions of 39 CFR § 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of denial of an application.

.343 *Denial of applications for additional entries, special rates, and reentry.* If the Director denies an application for additional entry, special rates, or reentry made in accordance with sections 132.312–.314, he will notify the publisher specifying the reasons for the denial. The denial becomes effective 15 days from receipt of the notice by the publisher unless the publisher files an appeal with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

.35 *Revocation or suspension of second-class privileges.*

.351 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.352 The Director, Office of Mail Classification, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons for his action. The ruling becomes effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, in accordance with the provisions of 39 CFR Part 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of revocation or suspension.

.36 *Revocation for additional entries, special rates, reentry, and exceptional dispatch.* The Director shall revoke authorizations for additional entry, special rates, reentry and exceptional dispatch whenever he finds that a publication or organization is no longer entitled to such authorization. Whenever the Director revokes any such authorization, he shall notify the publisher or organization specifying the reasons for the revocation. The revocation is effective 15 days from receipt of the notice by the publisher or organization unless an appeal is filed with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

132.8 [Deleted]

3. Delete 132.8.

PART 133—CONTROLLED CIRCULATION PUBLICATIONS

4. Revise the last sentence of 133.22 to read as follows: "The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division."

5. Redesignate 133.23 as 133.24; add new 133.23 and 133.25 reading as follows:

133.23 *Appeal of denial.* If the application is denied and the mailer wishes to appeal, he may submit an appeal in writing within 15 days of receipt of the notice of denial to the postmaster who will forward the appeal to the Director, Office of Mail Classification for a final ruling.

133.25 *Revocation of controlled circulation privileges.*

.251 If a publication is discontinued, or fails to meet the requirements described in Part 133, the postmaster should report all the facts, including the publisher's current mailing address, to the General Manager, Domestic Mail Classification Division, so that a determination may be made as to whether action should be taken to revoke the controlled circulation mail privileges.

.252 If it is determined that a publication authorized to be mailed at the controlled circulation rates is no longer qualified, the General Manager, Domestic Mail Classification Division shall notify the publisher and the postmaster at the office of entry. Controlled circulation privileges will be revoked 15 days from receipt of the notice by the publisher unless an appeal is filed with the postmaster who will forward it to the Director, Office of Mail Classification for a final agency ruling.

PART 134—THIRD CLASS

6. Add new 134.23 reading as follows:

134.23 *Contested classification.* See 146.141.

7. Revise 134.53 to read as follows:

134.53 *Examples of organizations or associations that may not qualify.* The following and similar organizations do not come within the prescribed categories even though they may be organized on a nonprofit basis: Automobile clubs; business leagues; chambers of commerce; citizens' and civic improvement associations; individuals; mutual insurance associations; political organizations; service clubs such as Civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; and trade associations. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county, or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic) since their income is generally not derived primarily from voluntary contributions or donations.

8. Amend 134.542 by adding the following sentence at the end thereof: "Before taking action on an application or appeal, additional information or evidence may be requested to support or clarify the application. Failure of an organization to furnish the information is sufficient reason to deny an application or revoke existing authorization.

9. Revise the last sentence of 134.543 to read as follows: "The papers will be returned to the postmaster at the postal services center with the final decision on the appeal by the General Manager, Domestic Mail Classification Division."

10. Revise 134.56 to read as follows:

134.56 *Revocation.*

.561 The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 15 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will revoke the authorization. If an appeal is filed, a decision on the continuance of the authorization will be made by the General Manager. Domestic Mail Classification Division. Notice of the decision will be given to the organization through the postmaster.

.562 A review of any organization authorized to mail at the special third-class rates may be initiated or undertaken at any time by the General Manager, Domestic Mail Classification Division. If the General Manager, after a review, determines that an organization is no longer qualified, he will notify the organization, through the postmaster, of the proposed revocation of the authorization and the reasons for the revocation. The revocation becomes effective 15 days from receipt of the notice unless the organization files a written appeal, with the Director, Office of Mail Classification, who will issue the final agency decision.

PART 135—FOURTH CLASS

11. Add new 135.27 reading as follows:

135.27 *Contested Classification.* See 146.-141.

PART 146—PREPAYMENT AND POSTAGE DUE

12. Revise the last sentence of 146.141 to read as follows: * * * The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U.S. Postal Service, Washington, D.C. 20260, who will issue the final agency decision.

13. Redesignate 146.142 as 146.143 and add new 146.142 reading as follows:

146.142 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3 (39 U.S.C. 402(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-17819 Filed 6-21-77;8:45 am]

[POSTAL SERVICE MANUAL]

134.5 QUALIFICATION REQUIREMENTS AND APPLICATION PROCEDURE FOR SPECIAL THIRD-CLASS RATES

.51 KINDS OF ORGANIZATIONS OR ASSOCIATIONS THAT MAY QUALIFY

Only the following organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, may be authorized to mail pieces at the special rates provided by 134.121 and 134.122:

a. Religious
b. Educational
c. Scientific
d. Philanthropic
e. Agricultural
f. Labor
g. Veterans'
h. Fraternal

.52 QUALIFICATION STANDARDS

.521 Primary Purpose

The standard of *primary purpose* in these definitions shall require that the organization be both organized for and operated for the primary purpose. Organizations which incidentally engage in qualifying activities only to accomplish other goals do not meet the primary purpose test.

.522 Definitions

a. Religious

A nonprofit organization whose primary purpose is one of the following:

(1) To conduct religious worship—for example, churches, synagogues, temples, or mosques;

(2) To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

(3) To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational

A nonprofit organization whose primary purpose is: (1) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (2) the instruction of the public on subjects beneficial to the community. An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

The following are examples of organizations which are educational:

(1) An organization, such as primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on;

(2) An organization whose activities consist of presenting public discussion groups, forums, panels, lectures, or other similar programs. Such programs may be on radio or television;

(3) An organization which presents a course of instruction by means of correspondence or through the utilization of television or radio;

(4) Museums, zoos, planetariums, symphony orchestras, and other similar organizations.

c. Scientific

A nonprofit organization whose primary purpose is one of the following:

(1) To conduct research in the applied, pure or natural sciences;

(2) To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic (Charitable)

A nonprofit organization organized and operated for purposes beneficial to the public. Examples of philanthropic (charitable) organizations are organizations which are organized for:

(1) Relief of the poor and distressed or of the underprivileged;

(2) Advancement of religion;

(3) Advancement of education or science;

(4) Erection or maintenance of public buildings, monuments, or works;

(5) Lessening of the burdens of Government;

(6) Promotion of social welfare by organizations designed to accomplish any of the above purposes or;

(a) to lessen neighborhood tensions;

(b) to eliminate prejudice and discrimination;

(c) to defend human and civil rights secured by law; or

(d) to combat community deterioration and juvenile delinquency.

The fact that an organization which is organized and operated for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily prevent such organization from being exempt as an organization organized and operated exclusively for charitable purposes. The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying so long as it is not an *action* organization as described in 134.53 (a), (b), (c).

e. Agricultural

A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may further and advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, bees, etc., or other activities relating to agricultural interests. The term agricultural also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor

A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment, working conditions, etc. Examples are labor unions and employees' associations formed for the stated purposes.

g. Veterans'

A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal

A nonprofit organization which meets all of the following criteria:

(1) Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

(2) Is organized under a lodge or chapter system with a representative form of government;

(3) Follows a ritualistic format; and

(4) Is comprised of members who are elected to membership by vote of the members.

Fraternal organizations include such organizations as the Masons, Knights of Columbus, Elks, college fraternities, and the like. Fraternal organizations do not encompass such organizations as business leagues, professional associations, civic associations or social clubs.

.53 EXAMPLES OF ORGANIZATIONS OR ASSOCIATIONS THAT MAY NOT QUALIFY

The following and similar organizations do not come within the prescribed categories even though they may be organized on a nonprofit basis: Automobile clubs; business leagues; chambers of commerce; citizens' and civic improvement associations; individuals; mutual insurance associations; political organizations service clubs such as civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; trade associations; and religious, educational, scientific, and philanthropic *action* organizations. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic), since their income is generally not derived primarily from voluntary contributions or donations.

Religious, educational, scientific and philantrophic *action* organizations for purposes of this section are defined as follows:

(a) An organization is an *action* organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization—

(1) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or

(2) advocates the adoption or rejection of legislation.

The term *legislation*, as used in this subdivision, includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation.

(b) An organization is an *action* organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term *candidate for public office* means an individual who offers himself or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the public or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

(c) An organization is an *action* organization if it has the following two characteristics: (1) its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (2) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

.54 APPLICATION

.541 Filing

Application on Form 3624. *Application to Mail at Special Bulk Third-Class Rates for Qualified Nonprofit Organizations or Associations*, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501(c)(19) as a veterans' organization, it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

.542 Approval or Denial

The application Form 3624 together with any supporting papers will be sent to the postal services center. (Pending a decision, bulk mailings subject to the minimum per piece charge may be handled in accordance with 134.55.) The postmaster at the postal services center will approve or deny the application. The application Form 3624 and any supporting papers will be returned with the decision to the postmaster where the application was filed for notification of the applicant.

.543 Appeal

The decision of the postmaster at the postal services center may be appealed by the applicant, in writing to the postmaster where the application was filed. The postmaster will forward the appeal to the postal services center. If, after a review of the file, the postmaster at the postal services center is still of the opinion that the organization does not qualify, he shall furnish a statement of the reasons for his denial action to the Rates & Classification Department, Domestic Mail Classification Division. The complete file, including the original application and all supporting papers, should be submitted. The papers will be returned to the postmaster at the postal services center with notification of descision on the appeal.

.55 TEMPORARY MAILINGS

Until final action is taken on the application, postage paid on the mailings may be at the special rates, provided the mailer deposits with the postmaster an amount sufficient to cover the additional postage at the higher rates. (See 134.121 and 134.122). This deposit will be returned to the mailer if the application is approved. If the application is denied, the deposit will not be returned. The deposit will be converted into postage-due stamps which will be canceled and given to the mailer if no appeal is made. If appeal is made, action concerning the deposit will be deferred.

.56 REVOCATION

The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster who approved the application will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 10 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will cancel the authorization. If an appeal is filed, decision on the continuance of the authorization will be made by the Rates & Classification Department, Domestic Mail Classification Division. Notice of the decision will be given the organization through the postmaster.

.57 WHAT MAY BE MAILED AT THE SPECIAL BULK THIRD-CLASS RATES FOR QUALIFIED NONPROFIT ORGANIZATIONS

An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special third-class rates to any other person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates for qualified nonprofit organizations if one or more of the cooperating persons or organizations is not entitled itself to the special rates. Cooperative mailings involving the mailing of matter in behalf of or produced for an organization not authorized to mail at the special bulk third-class rates for qualified nonprofit organizations must be paid at the applicable regular rate. If customers disagree with a postmaster's decision that the regular rate of postage applies to a particular mailing, the procedures in 146.14 may be followed.

Mr. CANNON. Mr. President, approximately 30,000 nonprofit organizations are eligible under Postal Service regulations for the reduced second-class mail and reduced third-class bulk mail rates. These would include, for example, Common Cause, the National Right To Work Legal Defense and Educational Foundation, the American Legion, the Knights of Columbus, any labor organization, the American Chemical Society, and the Rockefeller Foundation.

Mr. President, this is simply a logical extension beyond those groups that have had this right for a long period of time. I propose, if the time is either used or yielded back, to move that the amendment be laid on the table.

Mr. GRIFFIN. Will the Senator withhold that?

Mr. CANNON. Certainly.

Mr. GRIFFIN. The Senator, in his presentation, has pretty much confirmed what the situation is today. He outlines what the regulations are. I ask the Senator from Nevada, is it true that if business organizations send out political mailings they do not get the 2-cent rate?

Mr. CANNON. If they are not nonprofit. I do not know of any business organization that is. Some of them may be nonprofit, but not by design.

Mr. GRIFFIN. Even if they are nonprofit, is it not the case that they do not have this rate?

Mr. CANNON. If they are nonprofit and they come under this category of religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal.

Mr. GRIFFIN. Obviously, they do not come under that.

Mr. CANNON. They may. Some of the agricultural organizations may.

Mr. GRIFFIN. I can tell the Senator

from Nevada that I have checked into it and they do not.

Mr. CANNON. I do not know why the Senator asked me the question if he already knew the answer.

Mr. GRIFFIN. I thought he might recognize that such is the case.

I do not think that business should have such a special rate. I am not advocating that they should get it. On the other hand, I think our laws, should be even-handed as between business and labor organizations when it comes to such matters as political mailings. I believe most people in the country feel the same way.

In the last election, according to the National Journal, in addition to the public financing that was available and other expenditures that were made in the Presidential campaign, organized labor spent $11 or $12 million supporting President Carter, while business organizations spent something between $1 and $2 million supporting President Ford. It ought to be noted that those figures for organized labor do not include amounts that taxpayers paid on top of that for the 6-cent postal subsidy given to unions for each piece of political mail.

In the Wall Street Journal of September 21, 1976, there was a note that:

AFL–CIO officials fear their campaign plans may be ruined by a Federal court order issued against the Postal Service in Seattle with apparent national implications. * * * Union officials blast the order as a political ploy which would nearly quadruple their fall campaign postal costs to $4.6 million from $1.2 million, forcing a cut in their plans to make 60 million political mailings.

To give some idea of how much money may be involved, I wrote to the Postmaster General and asked some questions about these matters, trying to get information. I did get some information. Although I cannot be specific as to how much was actually used for political mailings, I can point out that, in 1976, the nonprofit mailings sent out at the 2-cent rate cost the Post Office Department and, therefore, the taxpayers, $293 million——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. I wonder if I might have some time on the bill.

Mr. HATFIELD. I am happy to yield the Senator 3 minutes on the bill.

Mr. GRIFFIN. It cost the taxpayers $293 million. As I say, I am not suggesting that all of those mailings were political mailings. But recently we were arguing about the excess of $21 million that was left over from the checkoff in the Presidential campaign and whether it should be used for senatorial races. We were talking about peanuts as compared to the amounts involved here.

In view of the mammoth postal deficit that we have and the threat that first-class postal rates are going up for the average person who uses the Postal Service, I cannot imagine that any Senator would go along with the language now in the bill—that any Senator would vote against this amendment. The amendment merely seeks to see that labor organizations pay for their political mailings at the same rate that your political committee or any other political committee has to pay for political mailings.

I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time. I move to lay the amendment of the Senator from Michigan on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Michigan. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. ZORINSKY assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS) and the Senator from Minnesota (Mr. ANDERSON) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 54, nays 37, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—54

Bayh	Glenn	McIntyre
Bentsen	Gravel	Melcher
Biden	Hart	Metzenbaum
Brooke	Haskell	Moynihan
Bumpers	Hathaway	Muskie
Burdick	Hollings	Nelson
Byrd, Robert C.	Huddleston	Nunn
Cannon	Humphrey	Packwood
Case	Inouye	Pell
Church	Jackson	Proxmire
Clark	Javits	Ribicoff
Cranston	Johnston	Riegle
Culver	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Durkin	Magnuson	Stafford
Eagleton	Mathias	Stone
Eastland	Matsunaga	Talmadge
Ford	McGovern	Williams

NAYS—37

Allen	Griffin	Roth
Baker	Hansen	Schmitt
Bartlett	Hatch	Schweiker
Bellmon	Hatfield	Scott
Byrd, Harry F., Jr.	Hayakawa	Stevens
	Heinz	Stevenson
Chafee	Helms	Thurmond
Chiles	Laxalt	Tower
Curtis	Long	Wallop
Danforth	Lugar	Weicker
Dole	McClure	Young
Domenici	Morgan	Zorinsky
Garn	Pearson	

NOT VOTING—9

Abourezk	McClellan	Randolph
Anderson	Metcalf	Sparkman
Goldwater	Percy	Stennis

So the motion to lay Mr. GRIFFIN's amendment on the table was agreed to.

UP AMENDMENT NO. 719

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will please take their seats or retire to the cloakroom.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 719.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 2, strike out "or".

On page 44, line 13, strike out the closing quotation marks and the period and insert in lieu thereof "or".

On page 44, between lines 13 and 14, insert the following:

"(M) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

On age 46, line 19, strike out "or".

On page 47, line 6, strike out the closing quotation marks and the period and insert in lieu thereof "or".

On page 47, between lines 6 and 7, insert the following:

"(O) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

Mr. DOLE. Mr. President, if I may have the attention of my colleagues for just 1 minutes, I think we can dispose of this amendment.

My amendment would clarify an ambiguity in the current campaign law which has plagued a number of Senators. Section 441b of the Federal elections laws restricts corporate or labor union contributions or expenditures made "in connection with" a Federal election. Unfortunately, it is unclear exactly what is and what is not "in connection with" such an election. This is a very perplexing problem as it relates to travel.

The FEC has not given us a definitive statement telling us how they would classify different kinds of travel. Requests

for further clarification from the FEC have proven unsuccessful, except that the FEC has agreed that travel by a noncandidate to speak before the local chamber of commerce would not be "in connection with" a Federal election. Beyond that, however, the FEC seems reluctant to tell us what Congress meant when we used that phrase in the campaign law.

Since the FEC cannot tell us what we meant, I propose to redefine the phrase "contribution or expenditure" to alleviate the problem. The amendment says that travel will not be a "contribution or expenditure" unless it involves a candidate's own campaign event, or unless it is travel to one's own home State during the year in which that seat is up.

This has been a very real problem, up to now. This amendment clarifies the meaning of the law, solves the problem, and provides workable guidelines for the future. It improves and clarifies a very perplexing situation caused by the wording of the current Federal election law.

There might be cases, even in an election year, when you would be exempt if you were going to a funeral or an event of that kind; but clearly, if it is a political event, you would be excluded from traveling on corporate planes or cars or any other transportation furnished by corporations or labor unions.

Mr. President, I have discussed this amendment. I think it is acceptable.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Kansas. I believe it is a good amendment, and I am willing to accept it.

I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 720

Mr. SCHMITT. Mr. President, I have an amendment at the desk and request its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes unprinted amendment No. 720.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a) of the Act (2 U.S.C. 438(a)) is amended by adding at the end thereof the following:

"The Commission shall determine the subject of its audits under paragraph (8) (except those relating to payments received by a candidate under Chapter 95 or Chapter 96 of the Internal Revenue Code of 1954) by a random procedure in a manner to be determined by the Commission. No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year.

Nothing in this subsection shall prohibit the Commission from conducting audits when it has received a complaint or where it has other information leading it to believe that such an audit is required."

Mr. SCHMITT. Mr. President, I think it is important for all candidates for election to the U.S. Senate and to the Congress to be assured of fairness in the auditing of their campaign records.

Because of the possibilities that there might be a misuse of the discretion now available to the Federal Election Commission of this auditing procedure, I think it is important to insure that that procedure is random.

This amendment simply would have that effect. It would require the Commission to determine the audits by a random procedure in a manner to be determined by the Commission itself.

No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year in the event that that should occur randomly.

Also, I think it is important to note that this amendment would do nothing that would prohibit the Commission from conducting audits when it has received a complaint about a particular candidate's campaign procedures or where it has other information leading it to believe that such an audit is required.

I think this amendment is in the best interest of all candidates and potential candidates for the Congress, and I believe the distinguished chairman and floor manager is willing to accept this amendment. If he is then I will not require any further consideration.

Mr. CANNON. Mr. President, I have discussed the amendment with the Senator from New Mexico. I think the provision for a random audit is good. It does not prohibit the Commission from conducting audits where it has received a complaint or where it has other information leading it to believe that such an audit is required, but it does insist on fairness simply by a random method of selection for the audits that are made on any periodic basis, and I am willing to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SCHMITT. I yield back my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 721

Mr. CANNON. Mr. President, I send an amendment to the desk, a technical amendment, and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes technical unprinted amendment No. 721:

On page 41, strike out line 4.

On page 41, line 5, strike out "part" and insert in lieu thereof "Act".

On page 43, line 9, strike out "for" and insert in lieu thereof "to".

On page 54, line 8, after "Section 403(e)" insert "of the Act".

On page 65, line 5, strike "411b" and insert in lieu thereof "441b".

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, those amendments are strictly amendments of a technical nature, and I hope the Senate will agree to it.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 722

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment numbered 722.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, line 3, strike out "(b)" and insert in lieu thereof "(c)".

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a)(10) of the Act (2 U.S.C. 438(a)(10)) is amended by inserting at the end thereof the following: "In prescribing such rules and regulations, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules and regulations which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this paragraph.".

Mr. McCLURE. Mr. President, there is a problem which is building which, I think, we can solve.

The problem is easy to state. The solution is harder to state. The contributions and expenditures of money and other things of value for political purposes are regulated not only by the Federal Election Campaign Act, as amended, but they are also subject to the Internal Revenue Code of 1954.

Unless appropriate steps are taken it is entirely possible and, in fact, now seems likely, that there will be conflicting regulations promulgated by the FEC and IRS. Individuals and political committees might—and I think probably will—find themselves in an irreconcilable conflict obeying one set of regulations which will place them in violation of another.

Moreover, the confusion and inconsistency between the FEC and IRS regulations, even if not totally contradictory, will lead to unnecessary paperwork and lawyers' fees and widespread uncertainty about how to proceed.

Mr. President, it seems to me we might try to resolve this issue by providing that the regulations come back to Congress for resolution. We already, under this bill, provide that the regulations of the Federal Election Commission are referred back to Congress under the existing law, and this bill changes the period of time for those reviews from 30 days to 20 days.

Another section of this bill calls for the

reference of IRS regulations back to Congress for review so far as they relate to the IRS audit of the Presidential campaign funds. That is in existing law.

The bill before us seeks to amend that provision in conformity with the other, providing for the 20-day review by Congress of that set of regulations.

What I would suggest is that the law be amended at the appropriate place to provide that the Commissioner of Internal Revenue is directed to submit any Internal Revenue regulations concerning political committees to Congress for a period of 20 legislative days as defined in 2 U.S.C. 438, and such regulations shall be subject to approval or rejection provisions contained in that section.

This would subject those IRS regulations to precisely the same kind of review that is required of the FEC regulations and of the IRS regulations dealing with the audit of the Presidential campaign funds.

I think a statement of the problem is easy to make. There may be other solutions to the problems that are preferable to this. I am open on the solution, but I think this suggestion perhaps might work our way out of what otherwise might be a dilemma.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. McCLURE. I would be happy to yield to the Senator from Iowa.

Mr. CLARK. I read the amendment the Senator sent to the desk, and it seemed to me the amendment simply said the IRS and the FEC ought to cooperate on such matters, and that seemed perfectly sensible. It seemed to me the explanation I just heard was a rather different one.

Mr. McCLURE. I thank the Senator for bringing that up. I have two different amendments. One of them to which the Senator refers simply requires consultation but provides no mechanism by which the conflicts would be resolved.

The other amendment which is at the desk calls for the submission of the IRS regulations back to Congress, and I would invite the Senator's attention to that one.

Mr. CLARK. Does the Senator withdraw his other amendment?

Mr. McCLURE. The amendment which I have at the desk is to be considered, I would say, and is the one that calls for the reference of the IRS regulations to Congress as FEC regulations and other IRS regulations are.

Mr. CLARK. Then the Senator, if I understand his intent, would give Congress a veto over IRS regulations that involve electoral questions.

Mr. McCLURE. I would say to the Senator that is correct, in exactly the same way that we have the veto on the FEC regulations or on the IRS regulations dealing with the audit of Presidential campaign funds.

Let me identify to the Senator from Iowa my dilemma. We do not know when there is going to be a conflict between the two regulations. We have no mechanism by which we identify either the existence of a conflict or the area of a conflict until after somebody is caught in it.

It seems to me that unless we devise some mechanism to identify the conflict and then trigger a resolution process that somebody is going to be caught before we find out that the problem exists.

The only other way I can see to avoid that conflict is to impose that obligation upon us to identify whether the problem exists and to try to conform the regulations here at this level in Congress as we do on the FEC regulations themselves.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from New Mexico.

Mr. SCHMITT. I just might add to this that there is a considerable degree of uncertainty even today about what the IRS may or may not do with respect to the funds expended by a political committee after an election. I think all of us who now under the new code of conduct are utilizing our political committee for certain necessary and actually approved office expenses would, in fact, appreciate some amendment of the kind proposed by the Senator from Idaho. It would help to remove that uncertainty or at least resolve it in a timely manner when the actual event occurred.

I commend the Senator for his efforts in this area.

Mr. McCLURE. I thank the Senator from New Mexico.

I am happy to yield to the Senator from Iowa.

Mr. CLARK. If the Senator will yield 1 minute, I do not intend to ask for a rollcall vote. I do not know how any other Member of the body feels. I think the Senator has some justice in saying that if we are going to be able to veto regulations from the FEC, that it makes sense to do so for the IRS. I personally feel it is a mistake for Congress to have a veto over either the FEC or the IRS. I think if we are going to decide what IRS regulations apply to us and our political cases, we are really going beyond an area that we should be regulating. It seems to me we are better to leave that to IRS than for us to decide what IRS regulations apply to us. But I think I would be in the minority in that.

Mr. McCLURE. Will the Senator agree that there is the possible problem of the conflict between the two?

Mr. CLARK. Yes.

Mr. McCLURE. And there has to be devised some mechanism for the resolution of that conflict other than some poor political committee treasurer going to jail in the effort to find out which of the regulations is correct.

Mr. CLARK. I agree. I hope the Senator's first amendment, really addressed to that—maybe not in such a final way—at least will attempt to bring the two together and force them to come to some conclusion together rather than leaving it to Congress.

Mr. McCLURE. I appreciate the comments of the Senator from Iowa.

Mr. CANNON. Mr. President, I can support the Senator from Idaho insofar as requiring the IRS and the FEC to consult and work together to promulgate rules that are mutually consistent. But I could not support giving Congress the right to veto proposed IRS regulations in this particular area.

I think that, if we direct that they consult and work together and that they report to Congress annually on the steps they have taken to comply with that direction, that would give us a handle on it that if we were required to take further action on, we could.

Do I understand that the Senator has two amendments he is offering?

Mr. McCLURE. The Senator is correct. I offered the first one, the IRS referral amendment, as the first of the two amendments.

Mr. CANNON. Is that the one that I have here that says:

> On page 59, between lines 2 and 3, insert the following:
>
> (b) Section 315(a)(10) of the Act (2 U.S.C. 438(a)(10)) is amended by inserting at the end thereof the following: "In prescribing such rules and regulations, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules and regulations which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this paragraph.".

Mr. McCLURE. I say to the Senator that is the second of my two amendments. The other the Senator from Iowa had is the one that calls for the referral of the IRS regulations.

Mr. CANNON. Referral back to Congress.

Mr. McCLURE. Back to Congress.

Mr. CANNON. I would have to oppose that amendment then. The other amendment I would be willing to accept, but I cannot accept this amendment.

If the Senator will yield back his time, Mr. President, I yield back the remainder of my time.

Mr. McCLURE. Mr. President, will the Senator withhold that for just one moment?

Mr. CANNON. Yes.

Mr. McCLURE. Mr. President, I appreciate the good faith effort of the Senator from Nevada to accommodate a solution to the problem. The only reason I offered the one that calls for the IRS referral is because the other does not have any resolution mechanism. It only calls for them to consult, which would be an improvement, and in the event that the amendment offered by the Senator from Idaho on the reference of the IRS regulations is not approved by the Senate I would offer the other one, I would say to both the Senator from Nevada and the Members of this body.

But I would hope that we might get the IRS reference amendment adopted because that would impose a resolution mechanism, and the other does not.

I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time and move to table the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Does the Senator from Idaho yield back the remainder of his time?

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to lay on the table.

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. (Putting the question.) The ayes have it and the motion is tabled.

UP AMENDMENT NO. 723

Mr. McCLURE. Mr. President, I offer my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment No. 723.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, after line 16, insert the following:

The Director of Internal Revenue is directed to submit any Internal Revenue regulation concerning political committees to the Congress for a period of 20 legislative days as defined in 2 U.S.C. 438 and such regulations shall be subject to approval or rejection provisions contained in that section.

Mr. McCLURE. Mr. President, this is the amendment we discussed earlier.

Mr. CANNON. This is the amendment I read earlier then.

Mr. McCLURE. The Senator is correct.

Mr. CANNON. I am willing to accept this amendment of the Senator from Idaho and am prepared to yield back my time.

Mr. McCLURE. Mr. President, I yield back my time.

Mr. CANNON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CRANSTON. Mr. President, in our lengthy deliberations on S. 926 I found it necessary to vote against one amendment which I actually strongly support, and to vote for an amendment I actually strongly oppose. Such votes are always confusing to constituents, and usually involve complicated legislative situations which seldom are well understood off the Hill.

The first of these votes occurred last Wednesday, when I joined with 55 other Senators to defeat an amendment by Senator HATFIELD which would have included primaries under the public financing provisions of S. 926.

I believe in and have long supported public financing in primaries as well as general elections. I testified for primary public financing before the Rules Committee. But I and the other major supporters of S. 926 had several weeks earlier decided not to try to include primaries in our public financing proposal because we sensed strong opposition even among Senators who might support public financing in general elections.

Thus, I believed Senator HATFIELD's amendment if adopted would have turned a majority of Senators against the bill itself—dodging all public financing, in both primaries and general elections. Since I hoped that we could at least achieve public financing in general elections, I voted against the Hatfield amendment, even though I favor the public financing in primaries.

That hope withered and died yesterday when it became obvious that not enough Republican Senators would join with the majority of Democratic supporters of the bill to give us cloture. Prior to yesterday's cloture vote, the floor leaders for the bill decided that if we failed to achieve or come close to cloture, we would move to strike title I in the hopes of salvaging the worthwhile reforms in title II. Thus, when Senator ALLEN moved to strike title I at the conclusion of the unsuccessful cloture vote, we joined to approve his motion.

Mr. President, I want to reaffirm my strong support for public finance in both primary and general elections. What happened yesterday was only a setback in our efforts to stop the corrosion of our body politic caused by our legislators' total dependence on private campaign contributions.

We will achieve public financing of Federal elections—it is only a matter of time. And when we do achieve it, both major parties will be the better for it. Most of all, our country and all its people will be the better for it.

Mr. CLARK. Mr. President, the failure of the Senate to adopt congressional public financing is indeed a disappointment. Nevertheless, I should like to take a moment to express my gratitude to a number of people without whom this effort never would have been possible.

Foremost among those is the distinguished majority leader, Senator ROBERT C. BYRD. His cooperation in scheduling S. 926 and his unswerving support throughout the filibuster demonstrate once again his outstanding leadership and his commitment to strengthening this great institution. The same can be said for distinguished majority whip, Senator CRANSTON, who was an original sponsor of S. 926 and devoted many hours of his valuable time to this endeavor.

The support and splendid cooperation of the distinguished floor manager and chairman of the Rules Committee, Senator CANNON, was crucial to this endeavor. Once again, he has demonstrated great fairness, as well as a remarkable knowledge of our campaign laws. I also wanted to extend my thanks to the distinguished minority floor manager for his courtesy and good faith, in spite of our disagreements. As always, the senior Senator from Oregon has been a pleasure to work with.

Two of the other original sponsors of S. 926 deserve special mention as well.

The senior Senator from Massachusetts, Senator KENNEDY, has been the driving force behind congressional public financing for many years—indeed the driving force behind nearly every major piece of reform legislation in the Senate. And special thanks must go to the senior Senator from Maryland, Senator MATHIAS, who returned from the SALT talks to help assist in breaking the filibuster and has stood firmly behind public financing this year, as in other years.

Unfortunately, Mr. President, yesterday's vote is being perceived in some quarters as defeat for the administration. Rather, I believe it is a defeat for the Congress and for the American people. But the administration—President Carter, Vice President MONDALE, and their staffs—have provided strong support for congressional public financing and merit our deepest thanks.

Finally, Mr. President, I would like to thank the many staff members without whose assistance this effort, as with most efforts, would have been impossible. Particularly, I would like to mention the outstanding work of Cary Parker of Senator KENNEDY's staff, Ed Hall of the Rules Committee, Tom Hart of the Democratic Policy Committee and Mary Jane Checchi of Senator ROBERT BYRD's office.

UP AMENDMENT NO. 724

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. ALLEN, Mr. CASE, Mr. CLARK, Mr. DANFORTH, Mr. JOHNSTON, Mr. LEAHY, Mr. MATHIAS, and Mr. WALLOP, proposes an unprinted amendment No. 724.

Mr. BROOKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

STATUTE OF LIMITATIONS

SEC. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) The repeal made by subsection (a) applies with respect to the prosecution of violations occurring after the date which is three years before the date of enactment of this Act.

Mr. BROOKE. Mr. President, I offer this amendment for Mr. ALLEN, Mr. CASE, Mr. CLARK, Mr. DANFORTH, Mr. JOHNSTON, Mr. LEAHY, Mr. MATHIAS, Mr. WALLOP, and myself.

Mr. President, this amendment is simple and straightforward. It would repeal the section of the Campaign Reform Act of 1974 which reduced to 3 years from 5 years the statute of limitations on campaign law violations.

The amendment would give the Justice Department more time to investigate and to prosecute violations of the election campaign law.

And it would restore equity to this area of the law. For as former Watergate Special Prosecutor Henry Ruth maintained in 1975, when he was advocating the repeal of this provision, this provision pro-

vides special privileges for Members of Congress not enjoyed by the average citizen.

The average citizen's statute of limitations for Federal criminal and law violations is 5 years, Mr. President. And the statute of limitations for campaign law violations was 5 years prior to a change in a House-Senate conference which reduced it to 3 years.

I emphasize that this amendment would not have a retroactive effect. I believe that would be unconstitutional. It would be, of course, ex post facto. The repeal "applies with respect to the prosecution of violations occurring after the date, which is 3 years before the date of enactment of this act."

Mr. President, in the interests of justice and in equity, I urge my colleagues to support this amendment. It is sound and is an amendment which should be adopted.

I have discussed this with the distinguished ranking minority Member and the distinguished manager of the bill, and I would be very pleased to respond to any questions pertaining to this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, will the Senator yield for a question?

Mr. BROOKE. Yes.

Mr. CANNON. I wonder if the Senator has any evidence of any applicability of the 3-year statute that has involved a hindrance, let us say, against any prospective violator.

Mr. BROOKE. None at all.

Mr. CANNON. I hate to see us change existing law if there is no basic need for it. I might say, by way of history, that in 1974 when the Senate acted on the Federal Election Campaign Act Amendments of 1974, we did not affect the statute of limitations provision, which was prior to that time a 5-year statute.

When we went to conference with the House of Representatives, the House had a 3-year statutory limit, and in order to get a bill, that was one of the areas that the Senate gave up on, to get the House to agree, and that changed the statute of limitations to 3 years.

I do not have any particularly strong feeling one way or the other. However, the Senator seemed to indicate it might just be applied to Members of Congress. It applies to anyone who is in violation of the Federal Election Campaign Act.

Mr. BROOKE. That is correct.

Mr. CANNON. So it applies to people other than Members of Congress.

Mr. BROOKE. The Senator is absolutely right.

Mr. CANNON. It is now a 3-year statute, and I am reluctant to change it as long as there is not any demonstrated need; but I do not feel strongly enough about it to make it a major issue.

Mr. BROOKE. The Senator asked if I knew of any cases. I do not. I do question the wisdom of ever having changed it from 5 to 3 years, when all citizens of the United States have a 5-year statute of limitations for all other Federal criminal law violations. It seems to me that there is no justification for those subject to the campaign financing law to have a 3-year statute of limitations when the rest of the country has a 5-year statute of limitations. For that reason I believe it ought to be changed back to the original 5 years.

Mr. NUNN. The 5-year statute, as the Senator has it here now, commences to run as of the time of the passage of the act. In other words, after the passage of the act the statute of limitations would be a 5-year period?

Mr. BROOKE. Yes. We cannot change that and go back beyond that. That would be ex post facto, and clearly unconstitutional. Subsection (b) of my amendment states that—

> The repeal made by subsection (a) applies with respect to the prosecutions of violations occurring after the date which is three years before the date of enactment of this Act.

In 1974, it was a 3-year statute of limitation, as the Senator knows. Therefore, it could not go back beyond that.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Oregon.

Mr. HATFIELD. Mr. President, since the Senator from Massachusetts, who has not only distinguished himself here in the Senate but as a former attorney general of his State, has properly underscored the fact that this is not retroactive or ex post facto, because that would be unconstitutional—it is only post facto, is that correct?

Mr. BROOKE. Yes.

Mr. HATFIELD. I think the Senator's point, then, that here it appears on the surface that we have given ourselves, the Congress of the United States and those connected with the Federal election laws, a special status by having a 3-year statute of limitations rather than a 5-year statute, I understand the feeling of the Senator from Massachusetts that since the rest of the citizens of this country are under a 5-year statute of limitations, therefore, for the appearance factor alone, if nothing else, it would appear to me that this is an amendment worthy of consideration and of acceptance at this time on the part, at least, of the minority manager of the bill.

Mr. BROOKE. The Senator from Oregon is exactly correct. That is exactly what is involved here. I feel it would appear to the rest of the country that we are giving ourselves special privileges. We are trying to restore confidence in Congress, and I think restoring the statute of limitations to the same as holds for the rest of the country would be one way of accomplishing that.

So I am very pleased that the floor manager is willing to accept the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BROOKE. I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

The PRESIDING OFFICER. The bill is open to further amendment.

SEVERAL SENATORS. Third reading!

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CANNON. I yield back my time.

Mr. HATFIELD. I yield back my time.

Mr. CANNON. Mr. President, I have a title amendment at the desk, which I ask that the clerk report.

The PRESIDING OFFICER. That amendment will come after the passage of the bill.

Mr. CANNON. I ask unanimous consent that it be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON) proposes that the title be amended so as to read:
>
> An act to amend the Federal Election Campaign Act of 1971, and for other purposes.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 926, and I ask unanimous consent that that request be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—88

Allen	Bentsen	Byrd, Harry F., Jr.
Baker	Biden	Byrd, Robert C.
Bartlett	Brooke	Cannon
Bayh	Bumpers	Case
Bellmon	Burdick	

Chafee	Heinz	Packwood
Chiles	Hollings	Pearson
Church	Huddleston	Pell
Clark	Humphrey	Proxmire
Cranston	Inouye	Ribicoff
Culver	Jackson	Riegle
Curtis	Javits	Roth
Danforth	Johnston	Sarbanes
DeConcini	Kennedy	Sasser
Dole	Leahy	Schmitt
Domenici	Long	Schweiker
Durkin	Lugar	Scott
Eagleton	Magnuson	Stafford
Ford	Mathias	Stevens
Garn	Matsunaga	Stevenson
Glenn	McClure	Stone
Gravel	McGovern	Talmadge
Griffin	McIntyre	Thurmond
Hansen	Melcher	Tower
Hart	Metzenbaum	Wallop
Haskell	Morgan	Weicker
Hatch	Moynihan	Williams
Hatfield	Muskie	Young
Hathaway	Nelson	Zorinsky
Hayakawa	Nunn	

NAYS—1

Helms

NOT VOTING—11

Abourezk	Laxalt	Randolph
Anderson	McClellan	Sparkman
Eastland	Metcalf	Stennis
Goldwater	Percy	

So the bill (S. 926), as amended, was passed, as follows:

S. 926

An Act to amend the Federal Election Campaign Act of 1971, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1977".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

CHANGES IN DEFINITIONS

SEC. 101. (a) Section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) (hereafter in this Act referred to as the "Act"), is amended by striking out in paragraph (4) "the national" and inserting in lieu thereof "any political".

(b) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-related or political party-related activities, to the extent that the cumulative value of such activities by such individual on behalf of any candidate does not exceed $1,000 and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(2) by amending subparagraph (C) to read as follows:

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign or for use by a political committee of a political party is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activities by such vendor on behalf of any candidate does not exceed $1,000, and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(3) by amending subparagraph (D) to read as follows:

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate does not exceed $1,000, and with respect to such political committee of a political party does not exceed $1,000 with respect to any election;";

(4) by striking out "or" at the end of subparagraph (H); and

(5) by striking out all after the semicolon in subparagraph (I) and adding the following:

"(J) funds contributed to a candidate for delegate or delegate to a State or national political convention or any unreimbursed payment for travel and subsistence expenses made by any delegate or any candidate for delegate to a convention or caucus of a political party or any payment of expenses incurred by a State or local political party in sponsoring any party meeting, caucus, or convention held for the purpose of selecting delegates to a national nominating convention of a political party;

"(K) the payment by a State or local committee of a political party of the costs of campaign materials used in connection with volunteer activities on behalf of a candidate (such as pins, bumper stickers, handbills, pamphlets, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, or other similar types of general public political advertising) if such payments are made only with funds not earmarked for a particular candidate;

"(L) the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign materials, including any listing or mentioning made on broadcasting stations, in newspapers, magazines, or other similar types of general public political advertising, where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate and such listing or mentioning was initiated by such Federal or non-Federal candidate; or

"(M) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;"

(c) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by amending subparagraph (D) to read as follows:

"(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for a candidate-related or political party-related activity, to the extent that the cumulative value of such activity by such individual on behalf of any candidate does not exceed $1,000, and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(2) by amending subparagraph (E) to read as follows:

"(E) any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate does not exceed $1,000 and with respect to such political committee of a political party does not exceed $1,000 with respect to any election;";

(3) by striking out in subparagraph (J) "the national" and inserting in lieu thereof "any political" and by striking out "or" immediately after the semicolon in such subparagraph;

(4) by adding at the end of paragraph (K) the following:

"(L) the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign materials, including any listing or mentioning made on broadcasting stations, in newspapers, magazines, or other similar types of general public political advertising, where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate and such listing or mentioning was initiated by such Federal or non-Federal candidate;

"(M) any costs incurred by a delegate or a candidate for delegate to a State or national political convention, or by any political committee with respect to such delegate or candidate for delegate, without regard to whether such delegate or candidate for delegate is pledged or committed to any presidential candidate, or any unreimbursed payment for travel and subsistence expenses made by any delegate or any candidate for delegate to a convention or caucus of a political party or any payment of expenses incurred by a State or local political party in sponsoring any party meeting, caucus, or convention held for the purpose of selecting delegates to a national nominating convention of a political party;

"(N) the payment by a State or local committee of a political party of the costs of campaign materials used in connection with volunteer activities on behalf of a candidate (such as pins, bumper stickers, handbills, pamphlets, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, or other similar types of general public political advertising) if such payments are made only with funds not earmarked for a particular candidate, but such costs shall be reported in accordance with the requirements of section 304(b); or

"(O) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

(d) Section 301(o) of the Act (2 U.S.C. 431(o)) is amended by inserting a comma and "and as amended thereafter" immediately before the semicolon.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 102. (a) Section 302(a) of the Act (2 U.S.C. 432(a)) is amended—

(1) by striking out "chairman or" in the second sentence; and

(2) by striking out "chairman or treasurer, or their designated agents" in the third

sentence and inserting in lieu thereof "treasurer, or his designated agent".

(b) Section 302(e) of the Act (2 U.S.C. 432(e)) is amended—

(1) by inserting before the period in the first sentence in paragraph (1) "or notify the Commission that such individual will not authorize any political committee to receive contributions or make expenditures on his behalf";

(2) by striking out "a" immediately before "political committee" in paragraph (2) and inserting in lieu thereof "an authorized"; and

(3) by adding at the end thereof the following:

"(4) The name of each principal campaign committee of a candidate shall include the name of such candidate.".

REGISTRATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 303(b) of the Act (2 U.S.C. 433(b)) is amended—

(1) by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) by striking out paragraphs (7) and (8) and redesignating paragraph (9) as paragraph (6);

(3) by adding "and" at the end of paragraph (6), as redesignated in paragraph (2); and

(4) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (7).

(b) Section 303(c) of the Act (2 U.S.C. 433(c)) is amended by inserting immediately before the period a comma and "except that any change in the information required by subsection (b)(5) need not be reported by a multicandidate committee, as defined in section 320(a)(4)".

(c) Section 303(e) of the Act (2 U.S.C. 433(e)) is amended by striking out "a" immediately before "political committee" and inserting in lieu thereof "an authorized".

REPORTS

SEC. 104. (a) Section 304(a) of the Act (2 U.S.C. 434(a)) is amended to read as follows:

"(a)(1) Except as otherwise provided in paragraph (2), each treasurer of a political committee registered with the Commission as provided in section 303 and each candidate for election to such office who has not designated a principal campaign committee as provided in section 302(e)(1) shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by such Commission.

"The reports referred to in the preceding sentence shall be filed as follows:

"(A) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year—

"(i) each political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf and which operates in more than one State, each multicandidate political committee or political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf with respect to which the Commission has approved a request filed as provided in paragraph (3), and each Presidential candidate who has not designated a principal campaign committee as provided in section 302(e)(1) shall file such reports monthly, as required by the Commission, except that in lieu of filing the report otherwise due in November of such year, a report shall be filed not later than the twelfth day before the date on which such election is held and shall be complete as of the twentieth day before the date of such election;

"(ii) in any other case, such reports shall be filed not later than the twelfth day before the date on which such election is held and such reports shall be complete as of the twentieth day before the date of any such election, and, in addition thereto, such reports shall be filed not later than the tenth day following the close of each calendar quarter (hereinafter referred to as 'quarterly reports'), such reports to be complete as of the close of such calendar quarter, except that if any report which must be filed prior to any such election is due during the period beginning on the fifth day following the close of any calendar quarter and ending on the fifteenth such day, the quarterly report otherwise due need not be filed;

"(iii) in addition to the reports required to be filed as provided in clauses (i) and (ii), such reports shall be filed after December 1 of such calendar year, but not later than January 31 of the following calendar year, and shall be complete as of the close of the calendar year with respect to which such reports are filed; but

"(iv) the requirement for the filing of any quarterly report as provided in clause (ii) shall be waived if the candidate or political committee files with the Commission a notification, on a form prescribed or approved by the Commission, not later than the tenth day following the close of the calendar quarter involved, stating that the aggregate amount of contributions received or expenditures made by such candidate or political committee during such calendar quarter did not, taken together, exceed $1,000.

"(B) In any other calendar year in which an individual is a candidate for Federal office, such reports shall be filed—

"(i) monthly, as required by the Commission, in the case of a multicandidate political committee or political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf with respect to which the Commission has approved a request filed as provided in paragraph (3); and

"(ii) in any other case, not later than July 10 of such calendar year and shall be complete as of June 30, and after December 31 of such calendar year, but not later than January 31 of the following calendar year, and shall be complete as of the close of the calendar year with respect to which the report is filed; but

"(iii) the requirement for the filing of the July 10 report by a candidate or his authorized committees as provided in clause (ii) shall be waived if such candidate or committees file with the Commission a notification, on a form prescribed or approved by the Commission, not later than the 10th day of July, stating that the aggregate amount of contributions received or expenditure made by such candidate or committees during the reporting period did not, taken together, exceed $5,000; and

"(iv) the requirement for the filing of the July 10 report by a political committee which is not the authorized committee of a candidate as provided in clause (ii) shall be waived if such committee files with the Commission a notification, on a form prescribed by the Commission, not later than the 10th of July, stating that the aggregate amount of contributions received or expenditures made by such political committee during the reporting period did not, taken together, exceed $1,000.

Any contribution of $1,000 or more received after the twentieth day but more than forty-eight hours before any election shall be reported within forty-eight hours after its receipt. Any contribution of $1,000 or more made by a multicandidate political committee after the twentieth day but more than forty-eight hours before any election shall be reported within forty-eight hours after it is made.

"(2) Each treasurer of a political committee authorized by a candidate to accept contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, and each candidate who designates a principal campaign committee as provided in section 302(e)(1) shall file the reports required by this section with the candidate's principal campaign committee.

"(3) Upon request by any multicandidate political committee or any political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf, the Commission may permit such committee to file monthly reports in any calendar year instead of the reports specified in paragraphs (1)(A)(ii) and (1)(B)(ii).

"(4) Nothing in this subsection shall be construed to require any delegate or candidate for delegate to any State or national caucus or convention of a political party who is not the treasurer of a political committee or a candidate for election to Federal office to report to the Commission any gift of anything of value or any reimbursed or unreimbursed payment for travel and subsistence expenses incurred in connection with such caucus or convention.".

(b) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended by striking out "$100" in paragraphs (2), (7), (9), and (10) each place it appears and inserting in lieu thereof "$200".

(c) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) Every person (other than a political committee or candidate) who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $250 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required with respect to a person who makes a contribution in excess of $200 to a candidate or a political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the date specified in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii), whichever is appropriate. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the independent expenditure is in support of, or opposition to, the candidate; (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and (C) an identification of each person who has made a contribution of more than $200 to the person filing such statement, which was made for the purpose of furthering an independent expenditure. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the twentieth day, but more than twenty-four hours, before any election shall be reported within twenty-four hours after such independent expenditure is made.".

REQUIREMENT RELATING TO CAMPAIGN ADVERTISING

SEC. 105. Section 305(b) of the Act (2 U.S.C. 435(b)) is amended by striking out the material in quotation marks and inserting in lieu thereof the following: "A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C.".

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 106. Section 306 of the Act (2 U.S.C. 436) is amended by striking out "304(a)(1)(A)(ii), 304(a)(1)(B), 304(a)(1)C)," subsection (d), and inserting in lieu thereof "304(a)(1),".

MAILING PRIVILEGES FOR STATE AND NATIONAL POLITICAL PARTY COMMITTEES

SEC. 106A. Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any State or national political committee of a political party registered with the Federal Election Commission shall be entitled to use the same postage rates as a 'qualified nonprofit organization', as defined in former section 4452(d) of this title, so long as any such organization is entitled to use such rates for communications relating to any political or legislative subject.".

CAMPAIGN DEPOSITORIES

SEC. 107. (a) Section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)) is amended—

(1) by inserting immediately after the second sentence the following: "Any candidate who has not designated a principal campaign committee as provided in section 302(e)(1) shall maintain a single checking account and such other accounts as the candidate determines to maintain at his discretion at a depository designated by him and shall deposit any contributions received by such candidate into such account.";

(2) by inserting "or, in the case of a candidate who has not designated a principal campaign committee as provided in section 302(e)(1), in the account maintained by such candidate" immediately before the period in the fourth sentence, taking into account the amendment made in paragraph (1) of this subsection; and

(3) by inserting "or candidate" immediately after "committee" in the fifth sentence, taking into account the amendment made in paragraph (1) of this subsection, and striking out "such account," in such sentence and inserting in lieu thereof "the appropriate account described in this paragraph,".

(b) Section 308(b) of the Act (2 U.S.C. 437b(b)) is amended—

(1) by inserting "or a candidate who has not designated a principal campaign committee as provided in section 302(e)(1)" immediately after "committee" in the first sentence; and

(2) by striking out "it" in the first sentence and inserting in lieu thereof "such committee or candidate".

(c) Section 308(c) of the Act (2 U.S.C. 437 b(c)) is amended by inserting "or by such candidate if he has not designated a principal campaign committee as provided in section 302(e)(1)," immediately before "under" in the first sentence.

ENFORCEMENT

SEC. 108. Section 313(a)(5)(A) of the Act (2 U.S.C. 437g(a)(5)(A)) is amended—

(1) by striking out "30" and inserting in lieu thereof "20";

(2) by striking out "section 304(a)(1)(C)" in clause (i) and inserting in lieu thereof "section 304(a)(1)(A)"; and

(3) by striking out "10" in clause (ii) and inserting in lieu thereof "12".

ADMINISTRATIVE AND JUDICIAL PROVISIONS

SEC. 109. (a) Section 315(a)(4) of the Act (2 U.S.C. 438(a)(4)) is amended by striking out the colon and the proviso and inserting in lieu thereof a comma and "except that any information copied from such report or statement shall not be sold or utilized by any person for the purpose of soliciting contributions or for any other commercial purpose, but the names and addresses of any political committee may be utilized for the purpose of soliciting contributions from such committee;".

(b) Section 315(a) of the Act (2 U.S.C. 438(a)) is amended by adding at the end thereof the following:

"The Commission shall determine the subject of its audits under paragraph (8) (except those relating to payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954) by a random procedure in a manner to be determined by the Commission. No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year.

"Nothing in this subsection shall prohibit the Commission from conducting audits when it has received a complaint or where it has other information leading it to believe that such an audit is required.".

(C) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)) is amended by striking out "30" and inserting in lieu thereof "20".

STATEMENTS FILED WITH STATE OFFICERS

SEC. 110. (a) Section 316(a) of the Act (2 U.S.C. 439(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "A copy of each statement and report required to be filed with the Commission by this Act shall be filed with the Secretary of State (or the equivalent State officer), or if different, the officer of the government of each State who is charged by State law with maintaining State election campaign reports, to be designated by the Governor of that State. The Governor of each State shall notify the Commission of the official so designated."; and

(2) by inserting "statements and" immediately before "reports" each place it appears in paragraphs (1) and (2).

(b) Section 316(b) of the Act (2 U.S.C. 439(b)) is amended—

(1) by striking out "Secretary of State, or the equivalent State officer," and inserting in lieu thereof the following: "the Secertary of State (or equivalent State officer), or the officer designated";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) to preserve such reports and statements (either in the original filed form or in facsimile copy by microfilm or otherwise) for a period of seven years from the date of receipt for candidates for the Senate, for a period of five years from the date of receipt for candidates for President or Vice President, and for a period of three years from the date of receipt for candidates for the House of Representatives;"; and

(3) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) to compile and maintain a current list of all statements and reports, or parts thereof, pertaining to each candidate.".

(c) Section 316 of the Act (2 U.S.C. 439) is amended by adding at the end thereof the following new subsection:

"(c) If a report filed with the State official as provided in subsection (a)(2) relates to any candidate seeking election in another State, the duty of such State official under subsection (b)(2) to preserve such report extends only to the portion of such report which relates to candidates seeking election in the State of such State official.".

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. 111. Section 317 of the Act (2 U.S.C. 439a) is amended—

(1) by inserting "(a)" immediately before "Amounts";

(2) by inserting immediately before the period in the first sentence a comma and "including transfers without limitation to any national, State, or local committee of any political party, except that no such amounts may be converted by any person to any personal use"; and

(3) by adding at the end thereof the following:

"(b) For purposes of this section, 'personal use' does not include the reimbursement of expenses incurred by a Federal officeholder in connection with his official duties.".

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 112. (a) Section 320(a) of the Act (2 U.S.C. 441a(a)) is amended—

(1) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) to the political committees established and maintained by a national political party, in any calendar year, which, in the aggregate, exceeds $20,000, except that if any Presidential or Vice Presidential candidate designates the national committee of a political party as his principal campaign committee, the limitations in subparagraph (A) shall apply with respect to contributions received as such authorized committee, for which separate books of account shall be maintained; or";

(2) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B) to the political committees established and maintained by a national political party, in any calendar year, which, in the aggregate, exceed $15,000, except that if any Presidential or Vice Presidential candidate designates the national committee of a political party as his principal campaign committee, the limitations in subparagraph (A) shall apply with respect to contributions received as such authorized committee, for which separate books of account shall be maintained; or";

(3) by inserting "which aggregate at least $1,000 each with respect to at least five such candidates" in the second sentence of paragraph (4) immediately before the period; and

(4) by striking out "No" in paragraph (3) and inserting in lieu thereof "Except as otherwise provided in section 317, no".

(b) Section 320(c)(1) of the Act (2 U.S.C. 441a(c)(1)) is amended by striking out "subsection (b) and subsection (d)" and inserting in lieu thereof "subsections (b), (d), and (i) of this section and by subsection (f) of section 9004 of the Internal Revenue Code of 1954".

(c) Section 320(d) of the Act (2 U.S.C. 441a(d)) is amended—

(1) by striking out "The" in paragraph (3) and inserting in lieu thereof "Except as otherwise provided in paragraph (4), the"; and

(2) by adding at the end thereof the following:

"(4) Unless the national committee of a political party which has nominated a candidate for President of the United States designates a political committee as provided in subsection (i) within two weeks after such candidate has been nominated by such party or by September 1 of the calendar year in which the election for President is held, whichever is later, the State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of such candidate which do not exceed the greater of $20,000 or 2 cents multiplied by the voting age population of such State (as certified under subsection (e)). No such State committee or subordinate committee shall accept any transfer from any other State committee or subordinate committee in another State or from the national committee of such political party for the pur-

pose of making expenditures under this paragraph.".

(d) Section 320 of the Act (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(1)(1) Any national committee of a political party which has nominated a candidate for President of the United States may designate one political committee in each State which shall be authorized, notwithstanding any other provisions of this Act with respect to limitations on expenditures, to accept contributions and to make expenditures in connection with the general election campaign of such candidate. Such expenditures shall not exceed the greater of $20,000 or 2 cents multiplied by the voting age population of such State (as certified under subsection (e)). No contribution received by such committee pursuant to this subsection may be transferred to any political committee in another State.

"(2) If such national committee designates a political committee as provided in paragraph (1)—

"(A) the provisions of subsection (d)(4) shall not apply with respect to such national committee;

"(B) such national committee shall, upon making such designation, file a notice of such designation with the Commission and the appropriate State committee of the political party with whom such candidate is affiliated; and

"(C) the committee so designated shall file all reports required under this Act with such candidate's principal campaign committee.".

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 113. Section 321(b) of the Act (2 U.S.C. 4416(b)) is amended—

(1) by amending paragraph (4)(C) to read as follows:

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members (including individuals who are members of the member organizations which are themselves members of such membership organization, cooperative, or corporation without capital stock) of such organization, cooperative, or corporation without capital stock.";

(2) by amending paragraph (4)(D) to read as follows:

"(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and to the families of such stockholders or personnel, except that the member corporation involved shall have approved separately and specifically the solicitation of—

"(i) its stockholders and their families by not more than one trade association in any calendar year, such approval to continue from year to year thereafter unless or until revoked by the member corporation, and

"(ii) its executive or administrative personnel and their families by not more than one trade association per corporate division in any calendar year, such approval to continue from year to year thereafter unless or until revoked by the member corporation."; and

(3) by adding at the end thereof the following:

"(8) The name of any separate segregated fund established pursuant to this section shall include the name of the corporation, labor organization, membership organization, cooperative, or corporation which established such fund.".

STATUTE OF LIMITATIONS

SEC. 114. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) The repeal made by subsection (a) applies with respect to the prosecution of violations occurring after the date which is three years before the date of enactment of this Act.

PERSONAL CAMPAIGN EXPENDITURES

SEC. 115. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

APPROPRIATE STATE DEFINED

SEC. 116. Section 316(a) of the Act (2 U.S.C. 439(a)) is amended by inserting "or declaration" immediately after "statement".

PENALTY FOR VIOLATIONS

SEC. 117. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

DECLARATION OF INTENDED PERSONAL EXPENDITURES

SEC. 118. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 330. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days after the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary: election, whichever is later, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, or

"(B) a declaration that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate $35,000, or

"(B) a declaration that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 201. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following:

"(f) LEGAL AND ACCOUNTING COSTS.—In addition to any payments made under subsection (a), the eligible candidates of a political party shall be entitled to payments under section 9006 to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees or to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified expenses, if such qualified campaign expenses represent legal and accounting costs incurred by such candidates for the purpose of insuring compliance with the provisions of this chapter or of the Federal Election Campaign Act of 1971, in an amount—

"(1) equal to not more than $500,000 in the case of any eligible candidate of a major party in a Presidential election;

"(2) which, in the case of any eligible candidate of a minor party in a Presidential election, bears the same ratio to the amount allowed under paragraph (1) for a candidate of a major party as the amounts received by such candidate of a minor party under subsections (a)(2) and (a)(3) bear to the amount allowed to any candidate of a major party under subsection (a)(1); or

"(3) which, in the case of any eligible candidate of a new party in a Presidential election, bears the same ratio to the amount allowed under paragraph (1) for any candidate of a major party as the amount received by

such candidate of a new party under subsection (a)(3) bears to the amount allowed to any candidate of a major party under subsection (a)(1).".

REPORTS TO CONGRESS; REGULATIONS

SEC. 202. Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30" and inserting in lieu thereof "20".

CRIMINAL PENALTIES

SEC. 203. Section 9012 of the Internal Revenue Code of 1954 (relating to criminal penalties) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

REPORTS TO CONGRESS; REGULATIONS

SEC. 204. Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30" and inserting in lieu thereof "20".

TECHNICAL AMENDMENTS

SEC. 205. (a) Section 527(f)(3) of the Internal Revenue Code of 1954 (relating to certain separate segregated funds) is amended by striking out "section 610 of title 18" and inserting in lieu thereof "section 321 of the Federal Election Campaign Act of 1971".

(b) Section 9011(b) of the Internal Revenue Code of 1954 (relating to suits to implement chapter) is amended by striking out "contrue" and inserting in lieu thereof "construe".

EXAMINATIONS AND AUDITS; REPAYMENTS

SEC. 206. Section 9007(d) of the Internal Revenue Code of 1954 (relating to deposit of repayments) is amended by striking out "general fund of the Terasury" and inserting in lieu thereof "Presidential Election Campaign Fund".

TITLE III—MISCELLANEOUS

SEC. 301. Section 603 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "(a) Except as otherwise provided in subsection (b), whoever"; and

(2) by adding at the end thereof the following:

"(b) Subsection (a) shall not apply to the receipt of any contribution of moneys or other things of value for any political purpose by two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or election, of any individual to be a Member of the Senate or to any other Federal office and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XLII of the Standing Rules of the United States Senate for each year during which he is designated as provided in this subsection, but the provisions of subsection (a) prohibiting the solicitation in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort or arsenal of any contribution of moneys or other thing of value for any political purpose, shall apply to such assistants.

"(c) Subsection (a) shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.".

VOTING SYSTEM STUDY

SEC. 302. The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program).

REVIEW OF INTERNAL REVENUE SERVICE REGULATIONS

SEC. 303. The Commissioner of Internal Revenue is directed to submit any Internal Revenue regulation concerning political committees to the Congress for a period of twenty legislative days as defined in section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 438) and such regulations shall be subject to approval or rejection provisions contained in that section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There is authorized to be appropriated to the Federal Election Commission, for the fiscal year ending September 30, 1978, the sum of $250,000 for purposes of reimbursing State offices with whom statements are filed as provided in section 316 of the Federal Election Campaign Act of 1971 for expenses incurred in carrying out their duties under such section. The Commission shall pay a reimbursement to a State office upon application made therefor by the Governor of such State and upon proof satisfactory to the Commission that the amount claimed as reimbursement represents additional costs imposed on such State as a result of such section 316.

VOTING RIGHTS ACT OF 1965 AMENDMENTS

SEC. 305. (a) Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

(b) Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (3) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I want to congratulate the manager of the bill, Mr. CANNON, for his able handling of this difficult legislation through 7 days of debate on the floor. As always, he has done a remarkable job.

I also wish to congratulate the Republican manager, Mr. HATFIELD, for his work throughout the consideration of this bill.

Commendations are in order also for the distinguished Senator from Iowa (Mr. CLARK), a member of the Committee on Rules and Administration, who was also constantly on the floor throughout the debate and who, along with Mr. CANNON, most ably argued the committee's case.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements permitted therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROCESS AND PROSPECTS FOR MIDEAST PEACE

Mr. JAVITS. Mr. President, during the Fourth of July recess I traveled on behalf of the Foreign Relations Committee to four of the Mideast countries which are most heavily engaged in the Arab-Israel dispute. I was accompanied by my executive assistant, Albert A. Lakeland. The countries visited were: Israel, July 2–5; Jordan, July 5; Saudi Arabia, July 6–9; and Egypt, July 9–11. The purpose of my visit was to explore prospects for a Mideast peace agreement with the leaders of governments of those four countries and to convey to them my understanding of the views of the Congress and the American people on the major issues involved. I spoke with President Carter, Vice President MONDALE, Secretary of State Vance, and National Security Adviser Brzezinski before leaving on this trip and again reported my findings to them upon my return. On July 14, I made an oral report on my trip to members of the Foreign Relations Committee and some other interested Senators.

On July 22 I spoke before the Commonwealth Club of California, in San Francisco, concerning my findings and conclusions on Mideast peace boycotts.

I take this occasion to present to the Senate and the people my findings, conclusions, and recommendations on the subject of Mideast peace which are the result of my trip.

In Israel, I met with Prime Minister Begin, Foreign Minister Dayan, Defense Minister Weizman, Finance Minister Erlich, Agriculture Minister Sharon, Tel-Aviv Mayor Lahat, Jerusalem Mayor Kolleck and Director of Military Intelligence Major General Gazit. In addition, I met with the following leaders of the opposition: Former Prime Minister Yitzhak Rabin, former Defense Minister Shimon Peres, former Deputy Prime Minister and Foreign Minister Yigal Allon and Ambassador Abba Eban, as well as the following leaders of the Democratic Movement for Change: Prof. Yigal Yadin, former Army Chief of Staff, Prof. Ammon Rubenstein, and Gen. Sharon Yariv. I also had very valuable discussions with the U.S. Ambassador Samuel Lewis and members of his staff, and officials of the Israeli Ministry of Foreign Affairs, and others.

During my brief visit to Jordan, I had an excellent conversation with His Majesty King Hussein and additional very informative conversations with Crown Prince Hassan and Prime Minister Badran, and with our Ambassador Thomas Pickering.

My visit to Saudi Arabia was in response to an invitation of the Government of Saudi Arabia conveyed to me by

Ambassador to the United States Alirizah. In Jidda I had meetings with His Majesty King Khalid, Crown Prince Fahd, Foreign Minister Prince Saud, Finance Minister Aba al-Khayl, Petroleum Minister Yamani, Central Bank Governor Quraish, Minister of Industry and Electricity Al-Qusaibi, Prince Turki al-Faisal, and a number of other senior officials of the Government of Saudi Arabia as well as several leading Saudi businessmen. While in Jidda, I was a house guest of Ambassador and Mrs. John West, whose gracious hospitality and wise counsel were much appreciated. Ambassador West arranged for me to meet with a number of the leaders of the American business community resident in Saudi Arabia. On July 8, I made a day trip to Dhahran for a most instructive briefing and tour of the petroleum facilities by Aramco Chairman Frank Jungers and his colleague. I also received briefings from our Consul General Bushnell and General Cathey, chief of the U.S. military training mission in Saudi Arabia.

In Egypt I met with President Sadat, Speaker of the Peoples' Assembly Sayed Marei, Finance Minister Salah Hamid and Minister of Economy and Economic Cooperation Hamid al-Sayeh. I also met with the Egyptian Ambassadors to the United States and to the United Nations who both happened to be in Egypt at the time of my visit. In addition, I received very instructive briefings from U.S. Ambassador Eilts and members of his staff.

Since my return, Prime Minister Begin has visited Washington and, in my judgment, has made a positive contribution to peace through his suggestions respecting the peace process and through his dignified and high-minded demeanor. The respective positions of Israel and the United States on the peace process have now been stated. Taken together these positions provide a lead-in to the reconvening of the Geneva Conference in my judgment.

It is now the turn of the Arab governments to state their positions and make their suggestions for reconvening the Geneva Conference in a way which facilitates that step. It is also time for them to state their willingness to negotiate all the issues without preconditions, as Prime Minister Begin has done on Israel's behalf.

Secretary Vance has returned to the Mideast to seek concrete agreements from the parties which will hopefully lay the basis for the reconvening of Geneva and the achievement of a peace settlement between Israel and its Arab neighbors.

During my recent visit to Israel, Jordan, Saudi Arabia and Egypt, on behalf of the Senate Foreign Relations Committee, I found broad agreement that the time is right to seek a comprehensive Mideast peace agreement and that a reconvened Geneva Conference is the proper forum.

Serious substantive differences continue to divide the parties. But I sense a new inclination in the Arab States to pursue more constructive regional and national goals than the tattered objective of destroying Israel and driving the Israelis into the sea. The burden of four wars, excessive defense budgets and large armies weighs heavily upon Egypt, Jordan, and Syria—and upon Israel, too. Moreover, I find the stirrings of a sense of the possibilities in the Arab countries of a new Arab renaissance based on oil wealth, which would transform the Mideast from a region of poverty and despair for its peoples into a center of productivity and wealth. Some Arab leaders are beginning even to understand the enormous contribution Israel could make to regional prosperity, through its technological and managerial skills, if peace can be found.

The next 18 months could be crucial to the prospects for Mideast peace. I am neither optimistic nor pessimistic about the chances. I do believe that it is doable and that now is the time to try. Moreover, it is clear that the United States must take the lead in bringing the parties together.

President Carter has defined the three key elements of a peace settlement as being: First, Israeli withdrawal with border adjustments to its pre-June 1967 borders; second, the creation of a Palestinian "entity or homeland," "preferably" in association with Jordan, and third, the establishment of a real peace including diplomatic recognition, trade, travel et cetera. I have already made public my own critique of this formula, but President Carter has opened up the issues dramatically and vividly and brought the Arab-Israel conflict to the center of world attention and given it a high priority for a solution. Hence, I wish to focus my remarks upon where I think the United States should go from here, in discharging its great responsibility as the intermediary for peace.

First, careful attention must be given to the peace process itself, for if the process is defective substance may never even get its chance. In this regard, the focus must be upon reconvening the Geneva Conference this year. A great deal of delicate and skillful preparatory work must be completed in the interim. It would be tragic for the Geneva Conference to break down over procedural questions even before the substantive negotiations begin. But, that is a real danger if there is no agreement beforehand on such crucial questions as agenda and participants.

I am a lawyer by profession and in the law, you learn quickly that procedure affects substance, just as substance affects procedure. This adage could be particularly true in respect to the reconvening of the Geneva Conference where the threshold procedural question of the nature of Palestinian participation must be faced.

Israel will not sit down with the PLO, and the United States remains committed to its pledge not to deal with the PLO so long as it refuses to accept the existence of Israel as a nation—and that continues to be the PLO position. For their part, the Arab States are at least nominally still bound by their decision at the Rabat Conference to recognize the PLO as the "sole" legitimate representative of the Palestinian people—thereby barring Jordan from negotiating about the West Bank. Therefore, the procedural question of who represents the Palestinians is closely related to the substantive issue postulated by President Carter of the creation of a Palestinian homeland or entity, preferably in association with Jordan. And, of course, the nature and scope of the proposed Palestinian entity is central to the question of Israeli security, withdrawal and borders.

In addition to the procedural question of who shall be the participants, there is the crucial procedural question of what shall be the agenda and in what order the agenda questions will be negotiated. President Carter's three point proposal is one obvious basis for drawing the agenda, but difficulties are bound to arise in the degree to which the Carter proposal differs from the delicately worded text of U.N. resolutions 242 and 338—which make no mention of a Palestinian homeland or entity.

Moreover, it has become clear over the past 2 years that the still evolving situation in Lebanon is bound to have a direct bearing on what can and cannot be agreed upon at Geneva.

I draw attention to these more obvious procedural difficulties not because I think they are insurmountable. On the contrary, my discussions with the leaders of Israel, Jordan, Saudi Arabia, and Egypt have given me reason to believe that there may be now a common determination to surmount procedural and technical obstacles so as to facilitate a serious effort to achieve a substantive accord. But, the procedural preliminaries must be considered very carefully by the United States precisely because of the prevalent assumption among the Mideast parties that the U.S. influence will be most important on these nettlesome issues.

It is for this reason that I have proposed that the United States take the lead in organizing a Geneva preparatory working group, under Secretary of State Vance, to prepare the ground for Geneva. And Prime Minister Begin's proposals made on his visit in Washington, for preparatory procedure leading to Geneva fit in with this idea. Such a working group would necessarily entail the participation of Arab and Israeli diplomats or officials, indeed the Mideast parties themselves seem to expect the U.S. intermediation is vital to find answers to the procedural issues along the road to Geneva.

My discussions in the Mideast lead me to conclude that there has been a significant shift of emphasis by the parties with respect to the major substantive issues at stake. On the borders question I found a reduced emphasis on the question of Sinai and the Golan Heights. Differences remain but there seems to be an assumption that answers can be found to satisfy both sides respecting the Sinai and the Golan Heights, perhaps through an extension to the techniques employed in the second Sinai disengagement agreement.

The focus of contention with respect to borders has shifted quite palpably to the West Bank.

In Israel, I found virtual unanimity among opposition leaders as well as the government that Israel's security is linked inextricably to the West Bank territory it has administered since 1967. Almost to a man, Israel is passionately convinced that its security border must extend to the Jordan River. However, not all Israelis base this on Prime Minister Begin's assertion that the West Bank is "liberated" territory—ancient Judea and Samaria.

In Israel, I found that estimates of Israel's requirement for an on-the-spot security presence are perceived in part as a function of two other questions. First, I found a greater proclivity to some withdrawal if the areas left are ultimately to be placed under some Jordanian sovereignty—and, parenthetically, this coupled with an adamant refusal to withdraw to any extent to permit the establishment of a PLO state. Second, I found also a greater proclicity to some withdrawal in return for a full peace of the nature described by President Carter in his address at Clinton, Mass.

The nature of the peace which is to be sought at Geneva is also at the center of attention in Israel and among its Arab neighbors, I found on my trip. Although expressed in different ways, I found a somewhat similar ambivalence in both Israel and the Arab countries with respect to the nature of peace. On both sides there is a residual skepticism that normalization in the full sense is a realistic short-term possibility, given the years of warfare and hatred and continuing suspicions and mistrust. Nonetheless, an undeniable sense of excitement comes to the surface in any prolonged discussion of the implications of a real peace of the nature postulated by President Carter. Old dreams and exciting new possibilities flowing from relief from the burdens of war and hatred are not very far beneath the surface.

In the Arab lands, particularly Saudi Arabia, I found the beginnings of a new Arab self-image which holds promise for the future. There is a growing awareness, based upon the bounty of their oil reserves, that there is a way out of the poverty and stagnation of life which has characterized the Mideast in recent centuries. The new vision includes not only the petrodollars that are being earned from crude oil deposits but also the possibility of using those dollars to buy technology and create an infrastructure which could bring on an economic miracle of lasting growth and prosperity for the entire Mideast region.

Among those who have been infused with this vision I found the greatest openness to President Carter's call for a real peace. In fact, there are some among the Arab leaders who think privately that the signing of a juridical peace could set off a virtual stampede of normalization and regional cooperation and economic intercourse. This view, while as yet a minority view, believes that peace would develop an irresistible momentum of its own.

The majority view, particularly in the Arab lands, however, is more pessimistic and resistant to the call for a peace of full dimensions, and this will be a sticking point of major proportions at Geneva. I believe that President Carter's insistent call for a full peace now is his most brilliant and innovative contribution to the Mideast peace process. It holds great possibilities in my judgment and, while visionary, I do not regard it as being unrealistic. Consequently, I have urged the President to continue unremittingly his emphasis on normalization as the key element of the Mideast peace equation.

Perhaps the most contentious and intractable element in President Carter's three point framework for Mideast peace is his call for the establishment of a Palestinian entity. Israel is adamantly opposed to the creation of a third sovereignty between itself and the Kingdom of Jordan. And, security is the bottom line of Israel's opposition to an independent Palestinian state in the West Bank and Gaza strip. Actually, I failed to find any great enthusiasm even in the Arab countries for an independent PLO state on the West Bank. While many Arabs will argue that stability in the Mideast cannot be achieved until the Palestinians feel they have achieved political recognition as a people, I found few who contended that this means as a corollary an independent PLO state on the West Bank or that such a state would contribute, per se, to peace and stability in the region. And, I found that Arab concerns in this regard extended beyond Israel to their own security and stability. For this reason, I found an increasing disposition on the part of the Arab governments to move away from the Rabat designation of the PLO as the sole representative of the Palestinians, and toward an increasing awareness that Jordan is an indispensable element in the establishment of any Palestinian entity on any part of the West Bank.

It is clear that Israel today places a much greater emphasis on its own security interests in the West Bank than it did in the 1949–67 period when the area was under Jordan. I discern four reasons why Israel now considers the West Bank an area vital to its security interest.

First. The Arab military forces are much larger, more capable and better equipped today than they were in the period through 1949. Israel's experience in the 1973 Yom Kippur war has taught it not to underestimate the destructive power and fighting capabilities of the Arab armies which have proven capable also of close coordination of attack.

Second. Israel has learned a costly lesson in the surprise attack, which occurred in October 1973 when it took titanic efforts to reverse the tide of battle created by the clandestinely planned and coordinated surprise attack of Egypt and Syria. Space has become a vital element in Israel's defensive battle plans. Moreover, the narrow borders of the 1967 lines render Israel exceptionally vulnerable in two respects: the 1967 lines lie at the very jugular of Israel's urban population centers; the occupation of key areas in a surprise attack, and particularly the possibility that Israel could be cut in two by a quick thrust has political and psychological significance transcending the purely military and tactical significance of such developments.

Third. The religious civil war which has torn Lebanon asunder and which was made militarily "live" what was once Israel's only tranquil border, all as a result of PLO aggressiveness, has steeled Israel's determination not to permit any analogous situation developing in the West Bank.

Fourth. The continued hardline of the PLO, in deed as well as word, contributes importantly to the unacceptability to Israel of an independent PLO state on the West Bank. Israelis are particularly resentful, and justifiably so, at voiced criticisms of alleged Israeli hardlining, in contrast to persistent efforts to paint the PLO as privately "moderate" and "reasonable"—despite the PLO's continuing violent lawlessness in Lebanon and its refusal even at its Cairo National Council meeting in March of this very year to moderate one bit its demand for the dismemberment of Israel as a Jewish state.

If the issue of the West Bank as a whole has become more intractable, there seems to be some lessening of the contentiousness of the issue of Jerusalem. By implication, and only by implication, I believe that there is an assumption now that the status of Jerusalem in the context of an overall peace is an issue which is solvable in consonance with the principles that it must be a united city with access guaranteed to all parties and with the respective Jewish, Moslem, and Christian holy places under a Vatican-like autonomy of the respective faiths.

The still unresolved "settlement" in Lebanon, following the vicious communal civil war there, is an important new factor in an Arab-Israel overall peace agreement. Moreover, it is a factor which has not found identification in either the U.N. resolutions—242 and 338—or in the principles stated by President Carter. In my judgment, until there is an agreed understanding concerning Lebanon, it will be much more difficult to resolve the issues of the Golan Heights and West Bank.

In Jordan and Saudi Arabia I found a growing appreciation of the economic dimension of a Mideast peace settlement. For a territorial settlement per se, even including the establishment of a West Bank Palestinian entity, will not solve the Palestinian refugee problem, since it is not possible that the 600,000 odd Palestinian refugees outside the West Bank and Gaza could be absorbed into those already crowded areas. But, the economic dimension of peace goes beyond the mere "negative" issue of settling the Palestinian refugees lest they remain as a continuing impediment to peace and stability. Rather, there is a positive element to the peace dimension which could, over time, make a crucial difference as to its quality and permanence. For the first time in centuries the elements necessary for a lasting Mideast economic development boom are coming into being. First, there is the accumulation of vast

amounts of capital in the Arab oil states and the beginnings of the creation of a petro-based industrial structure there. Second, there is a growing realization that development and prosperity must be regionwide and can benefit enormously from a marrying of Israeli technological and managerial capacities with Arab capital and infrastructure.

The time has come for a quiet diligence to be the hallmark of U.S. Mideast diplomacy. The United States, as the preferred intermediary of all the parties, bears a great and historic repsonsibility. I shall do my utmost to assist President Carter in his high and noble goal of seeking to achieve a just and lasting peace in the Mideast at this time. The high endeavor has been launched. It cannot be abandoned or the duties shirked until it has reached its port of destination—a real Mideast peace.

THE PRESIDENT'S MARIHUANA PROPOSAL

Mr. JAVITS. Mr. President, it is most gratifying that President Carter has publicly indicated his strong support of legislation to decriminalize the possession and use of small amounts of marihuana. In transmitting to Congress his message on drug abuse, the President has made a strong commitment to a more effective Federal role in drug abuse prevention, treatment and control. On the question of marihuana penalties, he has adopted a forthright and sensible approach to a problem which has assumed enormous national proportions in recent years.

In every Congress since the 92d, Congressman EDWARD KOCH of New York and I have sponsored legislation strongly and unanimously recommended by the National Commission on Marihuana and Drug Abuse to decriminalize the private possession and private use of small amounts of marihuana.

Our current bill in the Senate is S. 601. It is also introduced in the House. It has now been 5 years since the National Commission published its massive study on the extent and nature of marihuana use in our society, and the medical, legal and social problems associated with such use. I, with three of my congressional colleagues—former Senator Harold E. Hughes, and Congressmen PAUL ROGERS and TIM LEE CARTER—served on that body with a distinguished group of educators, lawyers, psychiatrists, law enforcement officials and others. Its work and recommendations were widely acclaimed and endorsed by commentators throughout the world.

The approach the President has adopted is identical to that which we proposed in S. 601 and H.R. 432, bills which would decriminalize the personal possession and use, and not-for-profit transfer of up to 1 ounce of marihuana and substitute in lieu thereof a civil fine not exceeding $100. This would be enforceable with a citation rather than an arrest. Current Federal law provides a penalty of up to 1 year in jail for this offense. The civil fine approach represents a variation—which I accept—from our original bills and the Commission's specific recommendation which proposed straight decriminalization for possession of 3 ounces of marihuana.

In a letter dated February 2, 1977 Senator CRANSTON, Congressman KOCH and I wrote to President Carter discussing the need for this legislation and the reasons why its enactment is so important. Now that the President has made his decision on this issue, I ask unanimous consent that a copy of the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. JAVITS. Mr. President, criminalization of marihuana has failed. It is now time for Congress to join with the President and our State governments to readjust our priorities and eliminate the profound inequity which results from random enforcement of these laws when the surveys show that 35 million Americans have tried marihuana at least once, and 13 million Americans are reportedly using the drug today.

The number of Americans experimenting with and using marihuana, and getting arrested for the same, continues to increase, and so does the number of criminal justice system professionals who are engaged in detecting, prosecuting, defending, counseling, judging, and punishing alleged offenders. This in spite of the fact that the National Commission found that in excess of 90 percent of all marihuana arrests are for possession and use of minimal amounts.

Consequently, the cost—in money and in diversion from other criminal law enforcement—of law enforcement involving marihuana is skyrocketing. According to the FBI, more than 2 million persons have been arrested for marihuana offenses in this country since 1970. We continue to reap more than 400,000 marihuana arrests per year, and this distorted priority has cost us the equivalent of billions of dollars in scarce law enforcement resources which are so desperately needed in programs to reduce violent crime and hard drug use.

Mr. President, for 5 years now, I have sponsored, with other colleagues in the House and Senate, currently with Senator CRANSTON here and, in the other body, with Congressman KOCH of New York, legislation to do exactly what the President is recommending.

In the past 5 years, we have already seen important changes in public attitudes and public law on this subject. This is due in large measure to the extraordinary job done by the National Organization for the Reform of Marijuana Laws, and its talented director, Keith Stroup, and the work of Dr. Thomas Bryant, formerly President of the Drug Abuse Council, Dr. Robert Dupont, head of the National Institute for Drug Abuse and many others including Dr. Peter Bourne, the President's senior adviser on health and drug matters. Nine States have enacted decriminalization/civil fine statutes—Oregon, Ohio, Alaska, California, Colorado, Minnesota, Maine, South Dakota, and my very own State of New York—and such legislation will be considered in at least 30 State legislatures.

In addition, many recent public opinion polls show consistent majorities for decriminalization. Without doubt, the case for reform has become clearer and more broadly accepted.

Mr. President, I believe very strongly that we must preserve a governmental policy of discouraging the use of marihuana. Our bill seeks to achieve that objective by serving several distinct and vital public interests while recognizing the social and historical contexts in which public policy toward marihuana has developed. We must act in this Congress to move the law more closely into accord with the current body of knowledge about this drug.

I commend President Carter's strong leadership on this controversial issue and urge the Senate to act affirmatively without delay.

Mr. President, there are bills in the House and the Senate to carry out the President's recommendation. I hope very much that they will have early attention from both parties.

EXHIBIT 1

WASHINGTON, D.C., *February 2, 1977.*

Hon. JIMMY CARTER,
President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We appreciate and applaud the fact that you have expressed your concern about our present Federal laws on the subject of criminal penalties for marihuana possession offenses. We urge your personal support for the decriminalization of Federal marihuana laws and request that, in the course of your Administration's review of existing policy, every consideration be given to early action for reform of these laws and to the development of a comprehensive national policy on overall drug abuse in the United States.

We have long been concerned about the fundamental unfairness which underlies Federal law on the subject of criminal penalties for marihuana possession offenses. We likewise view as unwise and ill-conceived laws which cause the diversion of the scarce law enforcement resources required by the more than 400,000 Federal, state and local arrests every year for the possession of small amounts of marihuana. We are accordingly reintroducing legislation tomorrow providing that the possession and not for profit transfer of one ounce or less of marihuana would be punishable at the Federal level by a civil fine of not more than $100. Commercial sale of the drug for profit would remain a criminal offense.

We realize that this is an issue that you will want to study carefully. With this in mind, we have introduced this bill as a starting point for discussion. We hope to work closely with you and the Attorney General—and those in your Administration whom you designate—in reviewing it and formulating meaningful reforms to these outmoded laws.

According to an April, 1976 survey conducted by the National Institute for Drug Abuse 13 million Americans or 8% of the adult population were using marihuana and 35 million or 21.3% have tried it at least once. FBI statistics show that more than 2 million persons have been arrested for marihuana offenses in this country since 1970. A statistical analysis of State marihuana arrests by the National Commission on Marihuana and Drug Abuse uncovered the unsettling fact that ninety-three percent were for possession—not sale—and two-thirds of

these involved the quantity of one ounce or less. Only seven per cent of the arrests were against the commercial trafficker.

Public attitudes towards marihuana smoking have changed dramatically over the past few years. Eight states have enacted decriminalization statutes—including California—and the issue will be considered this year in forty state legislatures. Where stiff jail penalties were once demanded for someone caught with a small amount of marihuana, many public opinion polls confirm that civil fines are now favored by a majority of our citizens, and fines rather than imprisonment are routine in almost all jurisdictions today.

Mr. President, we believe that marihuana policy should be a primary responsibility of state governments, but it is difficult for states to change their laws so long as the federal statute remains unchanged. Thus, although the vast majority of arrests and convictions are non-federal, federal action would serve as a model for state reform. Moreover, the decriminalization of marihuana would remove one unnecessary governmental incursion into individual freedom. The value of the criminal sanction in a society rests on a foundation of fairness and practicality. Penalties for possession of small amounts of marihuana do not meet that test.

With best wishes,

Sincerely,

JACOB K. JAVITS,
ALAN CRANSTON,
EDWARD I. KOCH.

Mr. CRANSTON. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. CRANSTON. I would like to join in the statement of the Senator from New York in regard to the President's pronouncement and in regard to the legislation and the need for it. It is my privilege to be a principal sponsor with the Senator from New York of that legislation. I hope that we shall now be able to move it and move it soon.

Mr. JAVITS. I thank my colleague.

I point out that the most urgent need for this is by the police themselves, who feel that there is an enormous amount of money and resource which is being diverted for the purpose of catching small users or possessors of tiny amounts of marihuana to no purpose whatever. It is a great diversion of the criminal enforcement activity in Federal, State, and local establishments.

Mr. CRANSTON. Yes; we have now had experience in California where we have a law quite close to the Federal statute that we are proposing. That experience has been very, very satisfactory. It has proven, I think, the case for the legislation that we have introduced together.

Mr. JAVITS. I thank my colleague.

THE DEATH OF ARCHBISHOP MAKARIOS

Mr. SARBANES. Mr. President, I rise to express my deep sorrow, which I know is shared by the American people and by my colleagues, at the death of His Beatitude Archbishop Makarios. His passing is a tragic loss for freedom-loving people everywhere.

As the champion of independence for the people of Cyprus, he brought about the birth of that independent island republic. Since then he has served as the only President of the Republic of Cyprus repeatedly chosen by the people over the past 18 years.

As President he provided a leadership which commanded respect throughout the world. A man of great intelligence, strong principle, and profound faith, he asserted the democratic values which we all share.

He stood for the proposition that a commitment to justice and freedom could shape and guide our world. In a period of nuclear power, he relied on eminent personal qualities to persuade and to lead. In a world where countries are often measured by sheer power, he led by a combination of religious and political strengths. And in a world of superpowers, he led a country of less than 700,000 people in a manner which brought him a role of world leadership.

His rare and extraordinary qualities will be deeply missed. My sympathies go to all those in Cyprus and elsewhere who share this enormous loss.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SARBANES. I yield.

Mr. JAVITS. I knew the archibishop very well. I was one of the first Members of either body to greet him when he came here to preach on the doctrine of enosis. I considered him a great patriot, a very inspiring and distinguished leader and thinker. I am deeply sorry that, within his lifetime, he could not see the fruition of his dream, which was a peaceful and an independent Cyprus. I join the Senator in paying respect to this very outstanding personality.

Mr. SARBANES. Mr. President, I ask unanimous consent that other statements by Senators on the death of Archbishop Makarios may be printed together in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF ARCHBISHOP MAKARIOS

Mr. PELL. Mr. President, the people of the Republic of Cyprus have suffered a great loss in the death of their beloved leader, His Beatitude, Archbishop Makarios, President of Cyprus.

It is difficult for us in the United States to comprehend the unique position that Archbishop Makarios held in the political, religious, and cultural life of his country. He was the deeply respected—and, indeed, awesome—political leader of his nation and, at the same time, the revered spiritual leader of the Cypriot people. In both of these capacities, he had earned and sustained the deep love, trust and affection of the Cypriot people.

Archbishop Makarios drew upon these deep-rooted ties to the people of Cyprus to sustain and lead Cyprus through the events that engulfed the island in the years following the end of World War II. Through the series of crises that erupted in Cyprus through the past 30 years, Archbishop Makarios has been a tower of strength and a vital stabilizing force.

When he agreed in 1960 to serve as the first President of Cyprus, Archbishop Makarios assumed one of the most difficult, trying, and personally dangerous leadership positions in the world. He met the challenges of that position as no other Cypriot could.

It is a great tragedy that at the death of Archbishop Makarios, the island of Cyprus remains divided, a major portion of the island still occupied by Turkish Forces as a result of the Turkish invasion of July 1974.

I had the pleasure of meeting with Archbishop Makarios in Cyprus in August of 1975, a little more than a year after the Turkish invasion, and I know from our conversation that no objective was dearer to the heart of the archbishop than the peaceful reunification of his beloved Cyprus.

With the death of Archbishop Makarios, a new chapter begins in the history of Cyprus. I extend my sympathy to the Cypriot people on the loss of their beloved leader. I pray that the Cypriot people will soon see the day when the archbishop's dream of a peaceful and reunited Cyprus will be realized.

A TRIBUTE TO THE LATE PRESIDENT MAKARIOS

Mr. KENNEDY. Mr. President, the international community mourns today the loss of a great and respected world leader, Archbishop Makarios, the President of Cyprus.

President Makarios was not only the towering leader of his people during their struggle for independence, but since then he has also been their symbol of strength in adversity, and their source of courage and hope in their constant struggle to preserve unity and peace on Cyprus.

During the last 3 years, as the island of Cyprus has stood divided and occupied, the Cypriot refugees have looked to the leadership of President Makarios to bring a just and peaceful settlement to the human and political tragedy experienced by all who live there. And those in the international community, who have sought to help bring peace and relief to Cyprus, have respected the efforts of President Makarios to lead his people to a negotiated settlement that would normalize the lives of the Cypriot people and strengthen peace and stability throughout the eastern Mediterranean.

As an international statesman and leader, President Makarios was received by countless nations all over the world. Especially in the Third World, he was deeply respected for his commitment and leadership in the struggle for self-determination and human rights, and for peace and justice throughout the world.

During President Makarios' first state visit to the United States in 1962, President Kennedy saluted the Cypriot leader for the long and difficult fight he conducted for his country's independence, involving the most sensitive interests, involving his own persistent, courageous and far-seeing view of his country's future.

In turn, President Makarios expressed to President Kennedy the view that guided his actions over the many years of his leadership on Cyprus. President Makarios said that—

All people who truly love peace must sincerely work closely together if peace is to be secured. Countries should be united not only through believing in the same ideals, but by the consciousness of the common effort and the awareness of working together for the preservation of these ideals.

Mr. President, I want to express my deep personal condolences to the people of Cyprus, who have truly lost a great national leader.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

Under authority of the order of August 2, 1977, a message from the House of Representatives was received on August 2, during the recess of the Senate, stating that the Speaker had signed the following enrolled bill:

S. 826. An Act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

The enrolled bill was signed today, August 3, 1977, by the President pro tempore.

At 9:42 a.m., today, a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 31, 32, 59, 68, 76, 79, and 80 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 3, 12, 13, 28, 45, 66, 72, and 82 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

At 11:50 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed without amendment the following bill:

S. 1765. An act for the relief of the Federal Life and Casualty Company of Battle Creek, Michigan.

The Speaker has appointed as members of the National Commission on Neighborhoods, Mrs. BURKE of California and Mr. PRITCHARD.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan;

H.R. 1939. An act for the relief of Meda Abilay Florin;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 5555. An act for the relief of Adelida Rea Berry; and

H.R. 5928. An act for the relief of Miss Coralia Raposo.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1768. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on one rescission and three deferrals of U.S. Department of Agriculture, Forest Service, budget authority that should have been, but were not, reported to the Congress; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Agriculture.

EC–1769. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of six construction projects to be undertaken by the Air Force Reserve (with accompanying papers); to the Committee on Armed Services.

EC–1770. A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the Administration of the Marine Mammal Protection Act of 1972 for the period of April 1, 1976, through March 31, 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–1771. A letter from the Chairman of the National Transportation Safety Board transmitting a draft of proposed legislation to provide an authorization for the programs of the National Transportation Safety Board for fiscal years 1979 and 1980 (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–1772. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with FMC Corp., Santa Clara, Calif., for a research project entitled "Multi-purpose Test Chassis" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1773. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Mathtech, Inc., Princeton, N.J., for a research project entitled "Analysis and Development of Operating Guidelines for Dozer/Dragline and Loader/Truck/Dragline Tandem Mining Systems" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1774. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Ingersoll-Rand Research, Inc., Princeton, N.J., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1775. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Iowa State University of Science and Technology, Ames, Iowa, for a research project entitled "Geology of Deep Coal Beds in Iowa" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1776. A letter from the Secretary of the Interior transmitting, pursuant to law, notice that Mr. Floyd W. Fagg, Government Comptroller for Guam, has resigned effective July 20, 1977; to the Committee on Energy and Natural Resources

EC–1777. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with the Bendix Corp., Englewood Colo., for a research project entitled "One-Inch Flexible Drill for Resin Bolter Module" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1778. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with the Bendix Corp., Englewood Colo., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1779. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Anschutz Coal Corp., Denver, Colo., for a research project entitled "Demonstration of Longwall Mining in a Steeply Dipping Coal System" (with accompanying papers); to the Committee on Energy and Natural Resources.

E–1780. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Rapidex, Inc., Gloucester, Mass., for a research project entitled "Experimental Study of the Self-Advancing Miner for Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1781. A letter from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the fourth report on resource recovery and the reduction of solid waste generation reviewing the current status of resource recovery and waste reduction in the United States (with an accompanying report); to the Committee on Environment and Public Works.

EC–1782. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report of Building Project Survey for Knoxville, Tenn. (with accompanying papers); to the Committee on Environment and Public Works.

EC–1783. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to limit the period during which a State may file a claim for Federal reimbursement under certain titles of the Social Security Act (with accompanying papers); to the Committee on Finance.

EC–1784. A letter from the Secretary of the Treasury transmitting, pursuant to law, a report entitled "Antirecession Fiscal Assistance to State and Local Governments" containing information on the amounts which have been paid to each State and local unit of government (with an accompanying report); to the Committee on Finance.

EC–1785. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting, pursuant to law, a report of study of methods through which U.S. narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations (with an accompanying report); to the Committee on Foreign Relations.

EC–1786. A letter from the Chairman of the Commission on Security and Cooperation in Europe transmitting, pursuant to law, a report entitled "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations for Two Years After Helsinki" (with an accompanying report); to the Committee on Foreign Relations.

EC–1787. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Legislation Needed to Improve Program for Reducing Erroneous Welfare Payments" (HRD–76–

164) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1788. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Department of Agriculture Should Be Authorized to Charge for Cotton Classing and Tobacco Grading Services" (CED–77–105) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1789. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Financial Disclosure for High-Level Executive Officials: the Current System and the New Commitment" (FPCD–77–59) (with an accompanying report) to the Committee on Governmental Affairs.

EC–1790. A letter from the Director of Office of Management and Budget, Executive Office of the President, President's Reorganization Project, transmitting a recommendation of the consolidation of 26 existing consumer units which, as presently constituted, would duplicate the functions of the new consumer agency; to the Committee on Government Affairs

EC–1791. A communication from the President of the United States transmitting, pursuant to law, the second annual report of executive branch activities to comply with the Privacy Act of 1974 (with an accompanying report); to the Committee on Governmental Affairs.

EC–1792. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning domestic mining and mineral and mineral fuel conservation fellowships which has been transmitting to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–1793. A letter from the Acting Director of the National Institute of Education transmitting, pursuant to law, a report describing the compensatory services provided by a cross-section of the 14,000 school districts which receive title I funds (with an accompanying report); to the Committee on Human Resources.

EC–1794. A letter from the Director of the National Science Foundation transmitting, pursuant to law, the analytical section of the report entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1975" (with an accompanying report); to the Committee on Human Resources.

EC–1795. A letter from the Inspector General of the Department of Health, Education, and Welfare transmitting, pursuant to law, the first quarterly report covering the activities of the Office of Inspector General for the period April 1 to June 30, 1977 (with an accompanying report); to the Committee on Human Resources.

EC–1796. A letter from the Principal Deputy Assistant Secretary of Defense, MRA & L, transmitting, pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for October 1976 to February 1977 (with an accompanying report); to the Select Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Without amendment:

S. Res. 240. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5027, as reported. Referred to the Committee on the Budget.

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 239. An original resolution to provide severance pay for certain committee staff members who are displaced as a result of the reorganization of Senate committee staffs caused by the Committee System Reorganization Amendments of 1977 (Rept. No. 95–387).

By Mr. PELL, from the Committee on Human Resources:

Without amendment:

S. 2002. An original bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon Unified School District, Ariz., and for other purposes (Rept. No. 95–388).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 1866. A bill to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section (Rept. No. 95–389).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

H.R. 5027. An act to amend title 38 of the United States Code to clarify the requirement that medical services be provided by the Veterans' Administration in certain cases (title amendment) (Rept. No. 95–390).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

A special report entitled "Report With a Recommendation of the Committee on Foreign Relations on Foreign Travel Paid for by Foreign Governments" (Rept. No. 95–391).

By Mr. PELL, from the Committee on Human Resources:

Without amendment:

S. 1752. A bill to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes (Rept. No. 95–392).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 233. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1952, a bill amending the Federal Water Pollution Control Act (Rept. No. 95–393).

S. Res. 228. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 977 (Rept. No. 95–394).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Ray V. Fitzgerald, of South Dakota, to be a member of the Board of Directors of the Commodity Credit Corporation.

Sarah Weddington, of Texas, to be General Counsel of the Department of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

Alonzo Lowry McDonald, Jr., of Connecticut, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Simon David Freeman, of Maryland, to be a member of the Board of Directors of the Tennessee Valley Authority.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

John C. Krsul, of Montana, to be U.S. marshall for the district of Montana.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Earl E. Veron, of Louisiana, to be U.S. district judge for the western district of Louisiana.

By Mr. WILLIAMS, from the Committee on Human Resources:

Irene Tinker, of Maryland, to be an Assistant Director of the ACTION Agency.

Mary Frances Cahill Leyland, of New York, to be an Assistant Director of the ACTION Agency.

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board.

John Robert Lewis, of Georgia, to be an Associate Director of the ACTION Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the Judiciary:

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1934. An act for the relief of Dr. Lawrence C. B. Chan;

H.R. 1939. An act for the relief of Meda Abilay Florin;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 5555. An act for the relief of Adelida Rea Berry; and

H.R. 5928. An act for the relief of Miss Coralia Raposo.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 3, 1977, he presented to the President of the United States the following enrolled bill:

S. 826. An act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HASKELL:

S. 1989. A bill to reform the tax laws of the United States; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. RIBICOFF):

S. 1990. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METCALF (for himself, Mr. ABOUREZK, Mr. MCGOVERN, and Mr. METZENBAUM):

S. 1991. A bill to conserve the Nation's energy resources; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. HART, and Mr. METZENBAUM):

S. 1992. A bill to establish reporting requirements and voluntary energy efficiency targets for industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. PELL, and Mr. STONE):

S. 1993. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; to the Committee on Finance.

By Mr. CRANSTON:

S. 1994. A bill to amend title XVIII of the Social Security Act so as to permit payment under the Medicare program for certain hospital services provided in Veterans' Administration hospitals; to the Committee on Finance.

By Mr. ABOUREZK:

S. 1995. A bill to grant admission to the United States to certain nationals of Chile and the spouses, children, and parents of such nationals, and for other purposes; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. LEAHY, Mr. FORD, Mr. MELCHER, and Mr. LAXALT):

S. 1996. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the armed forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 1997. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Finance.

By Mr. INOUYE:

S. 1998. A bill for the relief of Ms. Marlene Sabina Lajola; to the Committee on the Judiciary.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 1999. A bill to amend section 447 of the Internal Revenue Code pertaining to accounting procedures for businesses operating nurseries; to the Committee on Finance.

S. 2000. A bill to provide for the use and distribution of funds appropriated in satisfaction of the judgment awarded to the Seminole Indians in Dockets 73 and 151 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BENTSEN (for himself, Mr. GRAVEL, and Mr. TOWER):

S. 2001. A bill authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and other purposes; considered and passed.

By Mr. PELL, from the Committee on Human Resources:

S. 2002. An original bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon Unified School District, Arizona, and for other purposes. Placed on the Calendar.

By Mr. HELMS (for himself, Mr. PERCY, Mr. STEVENSON, and Mr. TOWER):

S. 2003. A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HASKELL:

S. 1989. A bill to reform the tax laws of the United States; to the Committee on Finance.

Mr. HASKELL. Mr. President, today I introduce legislation which I believe comes to terms with one of the most important issues before this or any other Congress: the return of our Internal Revenue Code to the simple, fair and logical system it was intended to be.

The path away from that simple, fair system began about 20 years ago when the Federal Government found that the tax system was a handy tool which could be adapted to any social or economic need. Since then, the Congress has drafted thousands of special provisions to prod some social or economic activity by offering reduced taxes for those who pursue the activity. It is that use of the tax system which has made it what it is today—what President Carter quite rightly calls "a disgrace." The tax system today is burdensome, unfair, and irrational. Few even claim to understand it and everyone resents it as a maze of special interest provisions.

In the years since the Congress began tampering with the tax code for purposes other than revenue raising, it has failed repeatedly to do anything but make the situation worse. What it calls reform is usually a cosmetic surgery.

It has long been painfully evident that the tax system distorts the economy, rewards inefficiency, penalizes small businesses and those who work for wages. But the congressional response to this mess of its own making is best typified by a provision included in the grossly misnamed "Tax Reform Act of 1976."

Faced once more with the knowledge that many huge incomes escape all taxes because of shelters and other special tax breaks, the Congress again imposed a minimum tax. The minimum tax seemed to me a confession of failuure. It was a statement that, all the tax breaks notwithstanding, Congress really intended for everyone to pay a little something in taxes.

The few of us who urged an attack on the very tax loopholes which made such abuses possible were routinely and overwhelmingly outvoted.

I think the reason real tax reform has eluded us for years is simple: every special tax provision written into the code has a constituency which benefits from it.

The Congress cannot combat the regional and national tax loophole constituencies which it has created over the years and which now hold many members hostage. That is a consequence the Congress probably never intended when it began excusing first one enterprise, then another, from its fair share of taxes. But it happened all the same. And now those beneficiaries of tax loopholes are strong, entrenched and effective, able in many districts and states to perpetuate their friends in office and punish their enemies.

That is where President Carter comes in—if he chooses. He can make tax reform a major issue. He is ideally situated to focus the attention of average taxpayers on reform. He can transform the vague resentment and mistrust most Americans feel into a force for reform. If the President offers strong leadership for reform, this could be the Congress in which the Tax Code is attacked with a meat ax instead of with a cosmetic scalpel.

I see some reasons to be hopeful that the administration will accept that role, as well as some signs that optimism ought to be no more than cautious.

Throughout his campaign, Jimmy Carter pledged tax reform would be a prime goal of his administration. Yet, the President's energy proposals indicate he is as willing as other Presidents and other Congresses to use the Tax Code as an all-purpose tool. I hope the President will realize it is such uses of the Tax Code which have made it a "disgrace" and that the first step toward its redemption is a rejection of most such uses—however tempting. There is a handful of important exceptions which I will mention later. It is unlikely the President will get his way on energy taxes. Still, it is disappointing that he is even trying.

On the positive side, some of the bits and pieces of the administration's tax reform package which are beginning to sift down are quite promising.

Though tax reform will be an awesome and complex task, there are a few simple principles which should guide it and express its goals. These are embodied in the bill I introduce today. I hope these principles are also the basis of President Carter's reform proposal which we expect to see this fall.

Reform should return us to a tax system which is simple, fair and progressive—that is people should be taxed according to their ability to pay. All three goals, I believe, will be furthered by the following steps:

Taxpayers should state their income for tax purposes just like they state it for their bankers. Income is income, regardless of source, and should be taxed at the appropriate rate. Taxpayers with similar incomes should pay similar taxes.

As a rule, only those tax preferences generally available to all taxpayers, regardless of income, should be retained. These include the deductions for home mortgage interest, medical expenses and charitable contributions. Most narrowly drawn provisions in the tax code should be repealed.

Small businesses deserve and need tax relief. Nearly all tax breaks over the years have worked to the benefit of the giant corporation. To help offset that, the corporate surtax exemption should be increased for small businesses.

Corporate income is now taxed twice, once as corporate profits, again after those profits are distributed as dividends to shareholders. The Tax Code also favors certain stocks over others and, as a result, certain shareholders over others. That is unfair. The corporate income tax should be integrated with the personal income tax.

All tax rates should be lowered. They are higher than they need to be because we have, through exemptions, exclusions, deductions and special treatments, steadily cut into the taxable base to which those rates are applied.

The bill I introduce today would repeal 16 special tax breaks in the code and limit as many more. Two examples illustrate the kinds of loopholes I am seeking to close. First is the investment tax credit. This is nothing more than an outright Federal subsidy—to the tune of over $8 billion a year—to businesses for buying equipment. As with most business tax breaks, this one will work almost entirely to the benefit of the big corporation. According to the Treasury Department, over 70 percent of the benefits of this tax break in 1972 went to less than 1 percent of the Nation's corporations, those with assets of $100 million or more.

Furthermore, the tax credit fails to do what it was meant to do. Congressional Research Service economists concluded in a recent study that each dollar of revenue lost through the credit produces only 50 cents of added investment. That means that at least half the credit is used to offset routine equipment replacement costs. Beyond that, it is impossible to know how much of the increased investment might have occurred anyway because of normal increases in productivity.

In addition, the investment tax credit discriminates against both new and small businesses. An important exception to this repeal is that it would leave the investment tax credit in place for small firms and family farms.

A second tax break I hope to eliminate is the asset depreciation range or ADR which taps the U.S. Treasury for $1 billion a year. Like the investment credit, it is aimed at spurring equipment investment. ADR allows a taxpayer to depreciate his capital assets more rapidly than would be the case under normal business accounting methods.

Also like the investment credit, ADR does not do the job it is supposed to do. A McGraw-Hill Capital Expenditure Survey found "little evidence that liberalization of depreciation allowances of this type will have much effect on investment." If ADR does not encourage investment, it simply subsidizes businesses for what they would probably be doing anyway.

Corporate giants benefit most by ADR. One estimate has 55 percent of the benefits going to the largest 103 corporations and 80 percent going to the largest 2500. These comprise only a twentieth of 1 percent of all U.S. businesses.

Where applicable, my bill would allow taxpayers to continue to use accelerated depreciation and other special treatments on assets they already hold but not on new assets. Retroactive repeals are unfair. Taxpayers who use the special provisions of the code have every right to do so and have made plans and investment decisions on the basis of the present law.

All taxpayers should benefit from the revenue raised by repealing certain provisions and limiting the use of others. My bill does this by lowering all tax rates by one percentage point and by cuttting the top tax rate—the 70 percent on investment income—to 50 percent, the same as the top rate now for earned income.

This cut in the top rate may seem excessively generous. It is not. The 70 percent rate is largely a fiction. According to Joseph Pechman of the Brookings Institute, the average top rate paid by people in the upper income brackets is around 32 percent. But it is true that the threat of a 70-percent tax rate drives many people to seek ways to shelter high incomes. High-income taxpayers are able to find ways to reduce their taxable income enormously through tax-favored investments before applying the appropriate tax rate.

Those special treatments should be eliminated and income should be taxed at reasonable rates without regard to source. Once those reforms are in place, a 70-percent rate may well be confiscatory. Regardless, such a rate is not necessary if the tax base is increased. It is the erosion of that base which has driven all tax rates up and it is that erosion which my bill seeks to halt. Cutting the top rate should make tax shelters much less attractive and as a result, easier to repeal.

That same tactic should be useful in the corporate sector. The business lobbies have actually drawn their own special tax provisions over the years, found friendly Members of Congress to introduce them, then fought fiercely and effectively to save them once passed. The sole purpose of business tax breaks can be eliminated. I think, with the elimination of the corporate income tax. There are several other advantages to this approach besides removing one of the biggest barriers to tax reform.

The tax code distorts economic activity in this country enormously, resulting in great horizontal inequity between certain kinds of corporations. Banks and oil companies pay taxes at an effective rate of around 6 to 8 percent. Major manufacturing firms pay at about 40 percent—much closer to the statutory 48-percent corporate rate. The average corporate tax rate paid is between 30 and 32 percent.

These wide variations are a result of the kinds of tax breaks available to the various corporations. I do not believe a dollar of oil revenue should be taxed at a lower rate than a dollar of auto revenue. But it is. And the real effect of all this is that the Tax Code subsidizes shareholders in banks and oil companies and penalizes shareholders in major manufacturing firms.

The Tax Code should be neutral in this regard and my bill seeks to make it so.

One way to achieve this neutrality is by so-called corporate integration. Integration simply means combining the two taxes, corporate and individual, so that instead of taxing corporate profits at the corporate rate, then taxing dividends paid to the individual at his individual rate, we tax corporate income only once—at the shareholder level.

Under my bill, corporations would not pay taxes on earnings but would withhold taxes, on behalf of stockholders, at the present corporate rates. The system would work for stockholders much the same as the present withholding system now works for wage earners. Stockholders would reduce their individual taxes by the amount corporations had already withheld in their name.

The major advantage to this approach, as I have noted, is that it will make the Internal Revenue Code neutral insofar as various kinds of stocks are concerned. Investors with plenty of money typically do not need dividends and will lean toward growth stocks which pay no dividends. So by taxing dividend-paying stocks twice, we are penalizing those who would prefer—and who may need—to invest in steady, stable dividend-paying stocks. Most analysts agree that this distorts stock market patterns.

Others argue that it encourages bigness; that is, it encourages corporations to retain earnings which they then use to expand. Under my corporate integration plan, stockholders would be charged with taxes on all corporate earnings, not just on dividends. They would be very reluctant to pay taxes on income they did not receive. Corporations would thus be encouraged to distribute wealth in the form of dividends.

Individuals in the lower or middle income brackets would benefit not only by the lower rates my bill proposes but by another provision which would allow them to take a $250 credit in place of the present $750 personal exemption. A credit is worth the same to all taxpayers. The value of an exemption depends upon the individual's tax bracket. It is worth more to those in higher brackets, less to those in lower brackets. Because the personal exemption is designed to help offset the basic cost of staying alive, it should not be worth more to the rich than to the poor. But it is now. The $750 deduction is worth $375 to one in the 50 percent tax bracket but only $150 for one in the 20 percent bracket.

The credit I propose would be worth the same $250 to every taxpayer. It would mean that an additional 11.6 million Americans would owe no taxes. Another 59 million taxpayers, all those who earn less than $50,000 a year, would enjoy tax reductions through the use of the credit.

Mr. President, real tax reform, of course, does not just mean cutting taxes. And it does not mean soaking the rich. It does mean returning our tax system to a simple, rational code which gives all Americans the assurance that they are paying their fair share and so is every one else.

Those who are now paying their fair share would benefit under my bill; only those who are not would be penalized.

Mr. President, I ask unanimous consent that my bill be printed in its entirety in the CONGRESSIONAL RECORD at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Tax Reform Act of 1977".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

(c) CONFORMING AMENDMENTS.—The Secretary of the Treasury or his delegate shall, as soon as is practical but not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout the Code the changes in the substantive provisions of law made by this Act.

(d) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this Act apply to taxable years beginning after December 31, 1977.

TITLE I—INCOME TAX AMENDMENTS

SEC. 101. REPEALS.

(a) INTERNAL REVENUE CODE.—The following provisions in chapter 1 (relating to normal taxes and surtaxes) are repealed:

(1) Section 40 (relating to expenses of work incentive programs).

(2) Subpart C of part IV of subchapter A of chapter 1 (relating to rules for computing credit for expenses of work incentive programs).

(3) Section 1201 (relating to alternative tax).

(4) Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences).

(5) Section 116 (relating to partial exclusion from gross income of divdends received by individuals).

(6) Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing).

(7) Section 167(m) (relating to class lives).

(8) Section 169 (relating to amortization of pollution control facilities).

(9) Section 174 (relating to research and experimental expenditures).

(10) Section 184 (relating to amortization of certain railroad rolling stock).

(11) Section 188 (relating to amortization of certain expenditures for on-the-job training and child care facilities).

(12) Section 272 (relating to disposal of coal or domestic iron ore).

(13) Section 46(a)(2)(B) (relating to additional investment tax credit for employee stock ownership plans).

(14) Section 616 (relating to developmental expenditures).

(15) Section 617 (relating to deduction and recapture of certain mining exploration expenditures).

(16) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).

(17) Section 643(a)(7) (relating to definitions applicable to trusts and estates).

(18) Section 911 (relating to earned income from sources within the United States).

(19) Section 931 (relating to income from sources within a possession of the United States).

(20) Part IV of subchapter N of chapter 1 (relating to domestic international sales corporations).

(21) Section 1231(b)(2) (relating to timber, coal or domestic iron ore).

(22) Section 1244 (relating to losses on small business stock).

(23) Section 1348 (relating to fifty-percent maximum rate on personal service income).

(b) Other Statutes.—Section 607(h) of the Merchant Marine Act, 1936 (relating to capital construction fund) is repealed.

SEC. 102. TAX RELATED PROVISIONS OF LAW OUTSIDE THE INTERNAL REVENUE CODE.

Within one year after the date of enactment of this Act, the Secretary or his delegate shall make a report to Congress in which he describes each provision of law, other than provisions of the Internal Revenue Code of 1954, which provides a credit against any tax imposed by such Code, an exclusion from gross income for purposes of such Code, a deduction from gross income for purposes of such Code, or a deferral of the time for payment of any tax imposed by such Code by any means. Such report shall include any reasons for keeping each such provision outside the Internal Revenue Code of 1954 and the Secretary's views on including such provision in such Code.

SEC. 103. INCREASE OF CORPORATE SURTAX EXEMPTION.

(a) In General.—Section 11(d) (relating to surtax exemption) is amended to read as follows:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $100,000 reduced (but not below zero) by an amount equal to 2 times the amount by which the taxable income for such year (determined without regard to this subsection) exceeds $250,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.".

(b) CONFORMING AMENDMENT.—Section 1561 (relating to surtax exemptions in case of certain controlled corporations) is amended to read as follows:

"SEC. 1561. SURTAX EXEMPTIONS IN CASE OF CERTAIN CONTROLLED CORPORATIONS.

"(a) GENERAL RULE.—If a corporation is a component member of a controlled group of corporations on a December 31, then for purposes of this subtitle the surtax exemption of such corporation for the taxable year which includes such December 31 shall be an amount equal to—

"(1) the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income for such group of corporations for such taxable year, divided by the number of corporations which are component members of such group on such December 31, or

"(2) if all such component members consent (at such time and in such manner as the Secretary shall by regulations prescribe) to an apportionment plan, such portion of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year, as is apportioned to such member in accordance with such plan.

The sum of the amounts apportioned under paragraph (2) among the component members of any controlled group shall not exceed the amount of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year.

"(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation—

"(1) has a short taxable year which does not include a December 31, and

"(2) is a component member of a controlled group of corporations with respect to such taxable year,

then for the purposes of this subtitle the surtax exemption of such corporation for such taxable year shall be an amount equal to the amount of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year, divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31.".

SEC. 104. INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (a) of section 38 (relating to investment in certain depreciable property) is amended to read as follows:

"(a) GENERAL RULE.—In the case of a taxpayer with assets which, as determined by the Secretary, exceed liabilities by less than $2,000,000, there shall be allowed as a credit against the tax imposed by this chapter, the amount determined under subpart B of this part.".

(b) SPECIAL RULE.—Section 38 is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RULE.—If a taxpayer is a component member of a controlled group of corporations with respect to any taxable year, then for purposes of determining the amount of assets of the taxpayer for the taxable year, the assets of the controlled group shall be apportioned among the component members of the group in such a manner as the Secretary shall by regulations prescribe.".

SEC. 105. INTANGIBLE DRILLING DEDUCTIONS LIMITED TO EXPLORATORY DRILLING.

Section 263(c) (relating to intangible drilling and development costs) is amended by inserting after "Congress" the following: "except that such regulations shall limit the option to deduct such expenses to expenses attributable to exploratory wells".

SEC. 106. ALLOCATION OF DEDUCTIONS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280C. ALLOCATION OF DEDUCTIONS.

"(a) GENERAL RULE.—If a taxpayer has tax preferences exceeding $5,000 and allocable deductions for a taxable year, the total amount of such deductions otherwise allowable under this chapter shall be disallowed to the extent of an amount equal to such total amount multiplied by the section 280 fraction.

"(b) SECTION 280 FRACTION.—The 280 fraction is the fraction the numerator of which is the sum of tax preferences and the denominator of which is the sum of tax preferences plus taxable income (determined without regard to this section).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ALLOCABLE DEDUCTIONS.—The term 'allocable deductions' means the amounts allowable as deductions for the taxable year by application of the following provisions:

"(A) section 163 (relating to interest),

"(B) section 164 (relating to taxes),

"(C) section 165 (relating to losses), but only with respect to a loss described in section 165(c)(3) (relating to casualty losses),

"(D) section 170 (relating to charitable contributions),

"(E) section 172 (relating to net operating loss deduction), but only to the extent that the amount allowable (without regard to this section) as a deduction is attributable to a loss described in section 165(c)(3),

"(F) section 213 (relating to medical, dental etc., expenses),

"(G) section 216 (relating to deduction of certain amounts by cooperative housing corporation tenant-stockholders),

"(H) section 263(c) (relating to deduction for intangible drilling and development costs in the case of oil and gas wells), with respect to each property (as defined in section 614), but only to the extent that the total amount allowable as a deduction by such section exceeds the total amount which would have been allowable as a deduction for drilling and development costs in the case of oil and gas wells if no deduction were allowed under section 263(c), and

"(I) section 1202 (relating to deduction for capital gains).

"(2) TAX PREFERENCES.—

"(A) IN GENERAL.—The term 'tax preferences' means—

"(i) CHARITABLE CONTRIBUTION OF APPRECIATED PROPERTY.—The amount of the deduction (determined without regard to section 277) for charitable contributions under section 170 or 642(c) allowable for the taxable year which is attributable to appreciation in the value of property not included in gross income (determined without regard to this section).

"(ii) INTEREST ON CERTAIN GOVERNMENTAL OBLIGATION.—The excess (if any) of interest on obligations which is excludable from gross income for the taxable year under section 103 over the sum of—

"(I) the amount of the proper adjustment to basis required to be made for the taxable year under section 1016(a) (5) or (6), and

"(II) the amount of deductions allocable to such interest which is disallowed by application of section 265(a)(1) (relating to expenses relating to tax exempt income).

"(iii) CAPITAL GAINS DEDUCTION.—The amount allowable as a deduction for long-term capital gains under section 1202.

"(3) NONRESIDENT ALIENS.—In the case of a nonresident alien, the items of tax preference shall include only those items of income which are effectively connected with the conduct of a trade or business within the United States and those items of deductions which are allowable as deductions in determining taxable income which is effectively connected with the conduct of a trade or business within the United States.

"(d) AMOUNT DISALLOWED FROM EACH ALLOCABLE EXPENSE.—For purposes of this chapter, the amount of deductions disallowed by this section shall be disallowed proportionately from each allocable deduction.".

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"SEC. 280C. Allocation of deductions."

SEC. 107. INTEREST ON CERTAIN GOVERNMENTAL OBLIGATIONS.

(a) ELECTION TO ISSUE TAXABLE BONDS.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) ELECTION TO ISSUE TAXABLE BONDS.—

"(1) SUBSECTION (a)(1) NOT TO APPLY.—The issuer of obligations described in subsection (a)(1) may elect to issue obligations to which subsection (a)(1) does not apply.

"(2) ELECTION.—The election described in paragraph (1) shall be made (at such time, in such manner, and subject to such conditions as the Secretary by regulation prescribes) with respect to each issue of obligations to which it is to apply. An election with respect to any issue once made shall be irrevocable.".

(b) PERMANENT AUTHORIZATION.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section. Such authorization shall be deemed permanent.

(c) PAYMENT OF FIXED PERCENTAGE OF INTEREST YIELD.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay 40 percent of the interest yield on each issue of obligations to which an election under section 103(e) of the Internal Revenue Code of 1954 applies. Such payments shall apply with respect to all issues of obligations made during such calendar quarter to which elections under such section 103(e) apply.

(2) INTEREST YIELD.—For purposes of this section, the interest yield on any issue of obligations shall be determined immediately after such obligations are issued.

(3) TIME OF PAYMENT.—Payment of any interest required pursuant to paragraph (1) shall be made by the Secretary of the Treasury or his delegate not later than the time at which the interest payment on the obligation is required to be made by the issuer.

(d) DUAL COUPON OBLIGATIONS.—At the request of the issuer, the liability of the United States under this section to pay interest to the holders of an issue of obligations shall be made through assumption by the United States of the obligation to pay a separate set of interest coupons issued with the obligations.

(e) SECTION TO APPLY ONLY TO SECTION 103(e) OBLIGATIONS.—This section shall apply only to obligations which, but for an election under section 103(e) of the Internal Revenue Code of 1954, would be obligations to which section 103(a)(1) of such Code applies.

SEC. 108. REPEAL OF DEDUCTION OF INVESTMENT INTEREST.

Section 163(d) (relating to interest) is amended to read as follows:

"(d) INVESTMENT INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no amount of investment interest paid or accrued during the taxable year in excess of the amount which is equal to the amount of gross income (if any) attributable to the investment with respect to which such interest is paid reduced by the total amount of deductions, other than the deduction allowed under this section, attributable to such investment.

"(2) REGULATIONS.—The Secretary shall prescribe regulations to carry out the provisions of paragraph (1).

"(3) DEFINITION.—For the purposes of this section, the term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.".

SEC. 109. LIMITATION ON DEDUCTION OF MORTGAGE INTEREST.

Section 163 (relating to interest) is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) LIMITATIONS ON INTEREST ON RESIDENTIAL PROPERTY MORTGAGES.—

"(1) PRINCIPAL RESIDENCE LIMITATION.—In the case of an individual, no deduction for a taxable year shall be allowed under subsection (a) for interest paid or accrued with respect to a mortgage on residential property in which the taxpayer lives during such year unless such property is the principal residence of the taxpayer during such year.

"(2) DEFINITION.—For purposes of this subsection, the term 'individual' includes an individual and his spouse.".

SEC. 110. REAL PROPERTY.

(a) DEPRECIATION.—Section 167(j) (relating to special rules for section 1250 property) is amended to read as follows:

"(j) SPECIAL RULE FOR SECTION 1245 AND SECTION 1250 PROPERTY.—

"(1) GENERAL RULE.—In the case of section 1245 property (as defined in section 1245(a)(3)) and in the case of section 1250 property (as defined in section 1250(c)), subsection (b) shall not apply and the term 'reasonable allowance' as used in subsection (a) means an allowance, computed in accordance with regulations prescribed by the Secretary under the straight line method.

"(2) CHANGE IN METHOD OF DEPRECIATION.—Any change in the computation of the allowance for depreciation required by reason of the application of paragraph (1) shall not be considered a change in method of accounting.

"(3) LIMITATION BASED ON TAXPAYER'S EQUITY.—In the case of section 1250 property, the deduction for depreciation for the taxable year with respect to such property shall not be allowed to the extent it would reduce the adjusted basis of the property at the end of the year below an amount equal to any mortgage indebtedness at the end of the year on the property minus the adjusted basis of the land allocable to such property.

"(4) CARRYOVER OF UNUSED DEPRECIATION.—If the amount of depreciation determined with respect to property to which this subsection applies for any taxable year exceeds the limitation provided by paragraph (3) for that year (hereinafter referred to as the 'unused deduction year'), such excess shall be a depreciation deduction carryover to succeeding taxable years. The amount of the unused deduction shall first be carried over to the taxable year next following the unused deduction year, and then carried over to each succeeding taxable year to the extent that, because of the limitation contained in paragraph (3), such unused deduction may not be used for a prior taxable year to which it might have been carried. The amount of the unused deduction which may be added under this paragraph to any taxable year succeeding the unused deduction year shall not exceed the amount by which the maximum amount allowable under the limitation provided by paragraph (3) exceeds the sum of—

"(A) the deduction allowable under subsection (a) and this subsection for section 1250 property, and

"(B) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused deduction year.".

(b)(1) RECAPTURE.—Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) ORDINARY INCOME.—Except as otherwise provided in this section, if section 1250 property is disposed of after the date of the enactment of the Tax Reform Act of 1977, the amount by which the lower of—

"(1) the recomputed basis of the property, or

"(2)(A) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(B) in the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) RECOMPUTED BASIS.—For purposes of this section, the term 'recomputed basis' with respect to any property means its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1963, reflected in such adjusted basis on account of deductions (whether in

respect to the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization (other than amortization under section 168, 169, 185, or 188). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed.".

(2) Section 1250(d) (relating to exceptions and limitations) is amended—

(A) by striking out paragraph (4)(E),

(B) by striking out paragraph (6)(B),

(C) by striking out paragraph (8)(D), and

(D) by striking out paragraph (8)(E).

(3) Section 1250 is further amended by striking out subsection (e) (relating to holding period), subsection (f) (relating to treatment of separate elements), and subsection (g) (relating to special rules for low-income housing).

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to property acquired by the taxpayer after December 31, 1977, or the construction, reconstruction, or erection of which is begun after such date.

(2) The amendments made by this section shall not apply to property described in paragraph (1) if such property was acquired, constructed, reconstructed, or erected after December 31, 1977, pursuant to a binding contract into which the taxpayer has entered before December 31, 1977.

SEC. 111. TAX SHELTER FARM LOSSES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280C (as added by section 106 of this Act) the following new section:

"SEC. 280D. LIMITATION ON DEDUCTIONS ATTRIBUTABLE TO FARMING.

"(a) GENERAL RULE.—In the case of taxpayer engaged in the business of farming, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall not exceed the sum of—

"(1) the gross income derived from the business of farming for such taxable year, and

"(2) in the case of an individual, the higher of—

"(A) $15,000, if such individual has gross income derived from sources other than the business of farming for the taxable year in excess of $20,000, or

"(B) the amount of the special deductions (as defined in subsection (e)(1)) for the taxable year, or

"(3) in the case of any other taxpayer, the amount of the special deductions for the taxable year.

For purposes of this subsection, the term individual does not include a trust.

"(b) MARRIED INDIVIDUALS AND MEMBERS OF CONTROLLED GROUPS.—

"(1) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a separate return, the $15,000 amount specified in subsection (a) shall be $7,500. The preceding sentence shall not apply if the spouse of the taxpayer does not have any income or deductions attributable to the business of farming for the taxable year.

"(2) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)) the $15,000 amount specified in subsection (a) shall be divided equally among the component members of such group unless all component members consent (at such time and in such manner as the Secretary prescribes by regulations) to an apportionment plan providing for an unequal allocation of such amounts.

"(c) EXCEPTION FOR TAXPAYERS USING CERTAIN ACCOUNTING METHODS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a taxpayer who elects to compute taxable income from farming (A) by using inventories, and (B) by charging to capital account all expenditures paid or incurred which are properly chargeable to capital account (including such expenditures which the taxpayer may, under this chapter or regulations prescribed thereunder, otherwise treat or elect to treat as expenditures which are not chargeable to capital account).

"(2) TIME, MANNER, AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be filed within the time prescribed by law (including extensions thereof) for filing the return for such taxable year, and shall be made and filed in such manner as the Secretary shall prescribe by regulations. Such election shall be binding on the taxpayer for such taxable year and for all subsequent taxable years and may not be revoked except with the consent of the Secretary or his delegate.

"(3) CHANGE OF METHOD OF ACCOUNTING, ETC.—If, in order to comply with the election made under paragraph (1) a taxpayer changes his method of accounting in computing taxable income from the business of farming, such change shall be treated as having been made with the consent of the Secretary and for purposes of section 481(a)(2) shall be treated as a change not initiated by the taxpayer.

"(d) CARRYOVER OF FARM OPERATING LOSSES.—The amount not allowed as deductions by reason of subsection (a) for any taxable year shall be treated as a deduction attributable to the business of farming for each succeeding taxable year (to the extent not allowed as a deduction under this subsection for any prior taxable year), except that the amount so treated shall be allowable as a deduction for any such succeeding taxable year only in an amount not to exceed the amount by which—

"(1) the gross income derived from the business of farming for such succeeding taxable year exceeds

"(2) the deductions allowable by this chapter (computed without regard to this subsection) for such succeeding taxable year which are attributable to the business of farming.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) SPECIAL DEDUCTIONS.—The term 'special deductions' means the deductions allowable under this chapter which are attributable to the business of farming and which are attributable to—

"(A) taxes,

"(B) interest,

"(C) losses arising from fire, storm, or other casualty, or from abandonment or theft,

"(D) losses and expenses directly attributable to drought, and

"(E) recognized losses from sales, exchanges, and involuntary conversions.

"(2) INCOME AND DEDUCTIONS.—The determination of whether any item of income is derived from the business of farming and whether any deduction is attributable to the business of farming shall be made under regulations prescribed by the Secretary,

but gains or losses which for the taxable year are treated under section 1231(a) (after the application of section 1245) as gains and losses from sales or exchanges of capital assets held for more than 12 months shall not be taken into account.

"(3) BUSINESS OF FARMING.—

"(A) HORSERACING.—In the case of a taxpayer engaged in the raising of horses, the business of farming includes the racing of horses.

"(B) SEVERAL BUSINESSES OF FARMING.—If a taxpayer is engaged in more than one business of farming, all such businesses shall be treated as one business.

"(C) RELATED INTEGRATED BUSINESSES.—If a taxpayer is engaged in the business of farming and is also engaged in one or more businesses which are directly related to his business of farming and are conducted on an integrated basis with his business of farming, the taxpayer may elect to treat all such businesses as a single business of farming. An election under this paragraph shall be made in such manner, at such time, and subject to such conditions as the Secretary may prescribe by regulations.

"(4) PARTNERSHIPS.—A business of farming carried on by a partnership shall be treated as carried on by the members of such partnership in proportion to their interest in such partnership."

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280D. Limitation on Deductions Attributable to Farming.".

SEC. 112. CERTAIN TRANSACTIONS DISQUALIFIED AS REORGANIZATIONS.

(a) IN GENERAL.—Section 368(a)(2) (relating to special rules in connection with definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

"(g) 25-percent rule for paragraphs (1)(A), (B), and (C).—A transaction described in paragraph (1)(A) shall be disqualified as a reorganization if the shareholders of any corporation entering into the merger or consolidation own, immediately after and as a result of the transaction, less than 25 percent of the total combined voting power of all classes of stock entitled to vote of the surviving corporation in the merger or consolidation or of the controlling corporation described in subparagraph (D) or (E) of this paragraph. A transaction described in paragraph (1)(B) or (C) shall be disqualified as a reorganization if the shareholders of the corporation whose stock or assets are acquired own, immediately after and as a result of the transaction, less than 25 percent of the combined voting power of all classes of stock entitled to vote of the acquiring corporation or of the corporation in control of the acquiring corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be applicable to transactions after the date of the enactment of this Act.

SEC. 113. REPEAL OF SPECIAL TREATMENT OF BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS.

(a) BANKS.—Section 585 (relating to reserves for losses on loans of banks) is amended by adding at the end thereof the following new subsection:

"(c) NO SPECIAL ADDITIONS for Years After 1976.—Subsections (a) and (b) shall not apply to taxable years beginning after December 31, 1976, and the reasonable addition to the reserve for bad debts for any taxable year beginning after such date shall be computed under section 166(c) on the basis of the actual experience of the taxpayer.".

(b) SAVINGS INSTITUTIONS.—Section 593(b) (relating to addition to reserves for losses on loans) is amended by adding at the end thereof the following new paragraph:

"(6) NO SPECIAL ADDITIONS FOR YEARS AFTER 1976—This subsection (other than this paragraph) will not apply to taxable years beginning after December 31, 1976, and reasonable addition to the reserve for bad debts for any taxable year beginning after such date shall be computed under section 166(c) on the basis of the actual experience of the taxpayer.".

SEC. 114. LIMITATION ON PERCENTAGE DEPLETION TO COST.

Section 611(b) (relating to percentage depletion) is amended by adding at the end thereof the following new paragraph:

"(5) Maximum depreciation.—In no case shall the allowance for depletion under this section which is computed under sections 613 and 613A for any taxable year be less than it would be if computed under this section, except that in no case shall the aggregate allowances for depletion under section 611 for all taxable years computed with reference to such sections be more than the adjusted basis of the property determined without regard to the deductions allowed by this section.".

SEC. 115. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT.

(a) IN GENERAL.—Section 1023 (relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976) is amended—

(1) by striking out "(determined after any adjustment under subsection (h))" in subsection (c);

(2) by striking out "(h) or" each time it appears in subsection (d)(1);

(3) by striking out "(h)," in subsection (e);

(4) by striking out "(as determined after any adjustment under subsection (h))" in subsection (f)(2); and

(5) by striking out subsection (h).

(b) The amendments made by this section shall apply to estates of decedents dying after the date of enactment of this Act.

SEC. 116. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart II thereof the following:

"Subpart I—Controlled Foreign Corporations

"Sec. 983. Amounts included in gross income of United States shareholders.
"Sec. 984. Definitions.
"Sec. 985. Rules for determining stock ownership.
"Sec. 986. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 987. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 988. Special rules for foreign tax credit.
"Sec. 989. Election by individuals to be subject to tax at corporate rates.
"Sec. 990. Records and accounts of United States shareholders.
"Sec. 990A. Transition rules for period before subpart I is completely phased in.

"SEC. 983. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNT INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation which owns (within the meaning of section 985(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 985(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 985(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be reduced by the amount, if any, by which the sum of the deficits in earnings and profits of such corporation for any prior taxable years beginning after December 31, 1976, exceed the sum of the earnings and profits of such corporation for such prior taxable years,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country but any such amounts shall be included in earnings and profits for the first taxable year in which such restrictions or limitations are terminated or modified to permit distribution of such amounts.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(d) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) SPECIAL RULE IN CASE OF INDIRECT OWNERSHIP.—For purposes of subsection (b), if—

"(1) a United States shareholder owns (within the meaning of section 985(a)) stock of a foreign corporation, and by reason of such ownership owns (within the meaning of such section) stock of any other foreign corporation, and

"(2) any of such foreign corporations has a deficit in earnings and profits for the taxable year,

then the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, with respect to such United States shareholder, be properly reduced to take into account any deficit described in paragraph (2) in such manner as the Secretary shall prescribe by regulations.

"(f) CONSOLIDATION OF EARNINGS AND PROFITS FROM MULTIPLE FOREIGN CORPORATIONS.—Under regulations prescribed by the Secretary setting forth rules substantially similar to the rules contained in section 963(c) (relating to amounts to which section applies) as such section existed on the day before the date of enactment of the Tax Reduction Act of 1975, subsection (a) shall be applied to a United States shareholder who owns stock in more than one controlled foreign corporation, or who owns stock in other foreign corporations (whether controlled foreign corporations or not) through stock owned by a controlled foreign corporation, by taking into account the aggregate earnings and profits of all foreign corporations.

"SEC. 984. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 985(a)), or is considered as owning by applying the rules of ownership of section 985(b), 1 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation—

"(1) of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by United States shareholders on any day during the taxable year of such foreign corporation, or

"(2) over which United States shareholders exercise actual control, as determined by the Secretary, from all facts and circumstances in the case.

"(c) LIMITATION ON ACTUAL CONTROL DETERMINATION.—In the case of a foreign corporation of which not more than 25 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by one or more United States shareholders on any day during the taxable year of such foreign corporation, the burden of proof in respect of the issue, for purposes of subsection (b)(2), as to whether such United States shareholders exercise actual control shall be upon the Secretary.

"SEC. 985. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation of foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered

to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 984, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 984(a), or to treat a foreign corporation as a controlled foreign corporation under section 984(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 986. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a) shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 985(a), to—

"(1) such shareholder (or any person which acquires from any other person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a benficiary,

be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM EARNINGS AND PROFITS OF CERTAIN SUBSIDIARIES.—For purposes of section 983(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a), shall not, when distributed through a chain of ownership described under section 985(a), be also included in the earnings and profits of another controlled foreign corporation in such chain for purposes of the application of section 983(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 983(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC. 987. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 985(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 983(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 986(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 986(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 988. SPECIAL RULES FOR FOREIGN TAX CREDIT.

"(a) TAXES PAID BY FOREIGN CORPORATION.—

"(1) FIRST TIER FOREIGN SUBSIDIARY.—For purposes of subpart A of this part, if there is included, under section 983(a), in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation at least 1 percent of the voting stock of which is owned by such domestic corporation then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in the gross income of the domestic corporation bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.

"(2) SECOND TIER FOREIGN SUBSIDIARY.—If the foreign corporation described in paragraph (1) (hereinafter in this subsection referred to as the 'first foreign corporation') in the gross income of which there would be included (under section 983(a) applied as if the first foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a second foreign corporation in which it owns 10 percent or more of the voting stock the first foreign corporation shall be deemed to have paid the same proportion of any income war profits, or excess profits taxes paid or deemed to be paid by the second foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the second foreign corporation as the amount of earnings and profits of the second foreign corporation included (under rules similar to the rules prescribed under paragraph (1)) in the gross income of the first foreign corporation bears to the entire amount of the earnings and profits of the second foreign corporation for such taxable year.

"(3) THIRD TIER FOREIGN SUBSIDIARY.—If the first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation in the gross income of which there would be included (under section 983(a) applied as if the second foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a third foreign corporation in which it owns 10 percent or more of the voting stock, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the third foreign corporation as the amount of earnings and profits of the third foreign corporation included (under rules similar to the rules prescribed under paragraph (2)) in the gross income of the second foreign corporation bears to the entire amount of the earnings and profits of the third foreign corporation for the taxable year.

"(b) TAXES DEEMED PAID.—

"(1) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 986, the income, war profits, and excess profits taxes or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such a distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under subsection (a) for any prior taxable year.

"(2) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 986(a) shall be treated by the domestic corporation as a dividend solely for the purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under subsection (a) for any prior taxable year.

"(c) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OR RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benfits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits to any foreign country or to any possession of the United States, and

"(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribu-

tion or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

"(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

"(A) the amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income section 983(a) of the amount in respect of the controlled foreign corporation, reduced by

"(B) the amount of income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

"(3) CASES IN WHICH TAXES NOT TO BE ALLOWED AS DEDUCTION.—In the case of any taxpayer who—

"(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"SEC. 989. ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

"(1) the tax imposed under this chapter on amounts which are included in his gross income under section 983(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

"(2) for purposes of applying the provisions of section 988 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

"(b) ELECTION.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

"(c) SURTAX EXEMPTION.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to the surtax exemption as the amounts included in his gross income under section 983(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 983(a).

"(d) SPECIAL RULE FOR ACTUAL DISTRIBUTIONS.—The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 983(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 986(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

"SEC. 990. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons.

"SEC. 990A. TRANSITION RULES FOR PERIOD BEFORE SUBPART I IS COMPLETELY PHASED IN

"In the case of a United States shareholder whose taxable year ends within or with the taxable year of a foreign corporation which begins after December 31, 1976, and before January 1, 1982, the amount which such shareholder shall include in his gross income under this part (to the extent such inclusion is determined under this subpart) shall, notwithstanding any other provision of this subpart or subpart F, be an amount equal to the greater of—

"(1) the amount such shareholder would be required to include in his gross income for the taxable year under subpart F (as such subpart was in effect on the day after the date of enactment of the Tax Reform Act of 1976), or

"(2) the amount such shareholder would be required to include in his gross income under this subpart (determined without regard to this section).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(c) TAXABLE YEARS BEGINNING ON ENACTMENT OF THIS ACT—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning after December 31, 1976, to the extent that such amount is required to be included in the gross income of a United States shareholder under section 983(a).".

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 983" after "section 951" and by inserting "or 986" after "section 959".

(5) Section 1248 is amended—

(A) by amending subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 953.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 983, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.";

(B) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation beginning after December 31, 1976."; and

(C) by adding at the end thereof the following:

"(h) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term 'less developed country corporation' means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(c)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B)."

(6) Section 78 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by striking out "or under section 960(a)(1)(C) (relating to taxes paid by foreign corporation)" and inserting in lieu thereof the following: ", under section 960(a)(1)(C) (relating to taxes paid by foreign corporation), or under section 988(b) (relating to taxes deemed paid by corporations)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1976, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

TITLE II—TAX RELIEF AMENDMENTS

SEC. 201. REDUCTION IN MARGINAL TAX RATE.

Effective for taxable years beginning after December 31, 1976, each percentage figure appearing in the tables in section 1 (relating to tax imposed) shall be reduced by 1.

SEC. 202. OPTIONAL CREDIT AGAINST TAX FOR PERSONAL EXEMPTION.

(a) IN GENERAL.—Section 42 is amended to read as follows:

"SEC. 42. PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $250 multiplied by the number of exemptions to which the taxpayer is entitled under section 151. Such credit shall not exceed the tax imposed by this chapter for the taxable year.

"(b) ELECTION.—An election under subsection (a) for a taxable year may be made at any time before the expiration of the period for filing a claim for a refund or credit of an overpayment of tax for such taxable year and shall be made in such form and manner as the Secretary or his delegate prescribes by regulation.

"(c) DENIAL OF DEDUCTION.—If a taxpayer elects the credit provided by subsection (a) for a taxable year, no deduction shall be allowed under section 151 for any exemption to which he is entitled under such section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Personal Exemptions.".

(2) Section 41(b)(2) (relating to contributions to candidates for public office) is amended by striking out "and" before "section 38" and by inserting before the period at the end thereof a comma and "and section 42 (relating to personal exemptions)".

(3) Section 46(a)(4) (relating to the investment credit) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma and "or", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) section 42 (relating to personal exemptions).".

By Mr. ROTH (for himself and Mr. RIBICOFF):

S. 1990. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

Mr. ROTH. Mr. President, today, on behalf of Senator RIBICOFF and myself, I am introducing the International Trade and Investment Reorganization Act which would bring together in one Cabinet-level department most of the many separate Federal offices and agencies that are now engaged in international trade and investment policy decisions.

This legislation is designed to streamline the Government apparatus involved in foreign trade and investment. It would consolidate into one department three separate Federal entities—the Office of the President's Special Trade Representative, the Export-Import Bank, and the Overseas Private Investment Corporation—as well as parts of the Treasury, Commerce, and State Departments. By reducing duplication, it would decrease the number of high level executive branch officials as well as the total number of governmental employees involved in these issues. It would strengthen U.S. efforts to promote job-creating exports and to protect domestic industries from unfair overseas competition.

At present, the governmental machinery dealing with foreign trade and investment decisions is hopelessly antiquated, outmoded, and confused. The effectiveness of our foreign economic policies has been sapped by bureaucratic infighting and unnecessary redtape. At times, foreign economic policy has been the hostage of other agency interests, such as foreign political interests. As in the case of energy, there has been no single focal point for the consideration of foreign economic policy.

We can no longer afford the present chaos. The governmental organization we have now is inherited from an earlier era when international trade was of marginal importance to our total economy and when U.S. technological advantages and the strength of the dollar ensured us a dominant role in international trade. It was an organization that grew up in a haphazard and piecemeal fashion; it was never planned.

We must be properly organized if we are going to be able to compete—and compete effectively—in today's rapidly changing and increasingly interdependent world. We cannot expect to have a first-rate international economic policy if we have only a third-rate governmental organization structure to develop and implement those policies.

The United States today is the only major economic power that does not have a specific Government ministry or department with responsibility for foreign trade activities. All of our major trading partners devote far more government attention to developing export markets and providing effective protection against disruptive or unfair imports.

Our trading partners know that exports mean jobs and income.

Exports mean jobs and income in the United States, too. Today it is estimated that 4.7 million American jobs are supported by sales in overseas markets. One of every six jobs in manufacturing is supported by exports. American farmers earn $23 billion from overseas agricultural sales. One of every three acres farmed produces for the export sector.

My home State of Delaware provides an excellent illustration of the importance of foreign trade for our economy. Our largest industry is the chemical industry, which estimates that about 15 percent of its sales and jobs are export supported.

Our second largest industry is agriculture. Delaware farmers sold $43 million worth of agricultural products to overseas markets in the year ending June 30, 1976; more than double the $21 million sold 3 years earlier. During this same period, overseas poultry sales from Delaware increased from $1.6 million to $4.7 million, and feed grain exports tripled from $5.8 million to $17.4 million.

International trade has become big business. We are dealing with tough competition. Often we face Government-subsidized competition. It is not consistent with our practices to have the same kind of Government-industry relationships that are found in such countries as Japan, but there is no reason why our Government apparatus cannot be better organized to help promote export sales and provide protection to domestic industries when necessary.

I am confident our businessmen and workers can compete more than adequately with fair foreign competition. But it is unfair to handicap them with a governmental apparatus that does not function effectively and efficiently.

By providing a single, focal point of authority for the consideration of international trade and investment policies, the creation of the new department will strengthen our voice in international trade negotiations. At present, we have a myriad of voices, some emanating from the Department of the Treasury, some from the Department of State, as well as the President's Special Trade Representative. This weakens the U.S. bargaining position. As a Japanese told me last January when I was in Japan meeting with their trade officials:

We never know whom in Washington to deal with. Sometimes it is one person and sometimes its another.

There has been concern for some time about the lack of a single, strong office to handle international trade and economic issues. For this reason, 3 years ago, the President's Special Trade Representative was made a member of the Cabinet. This, however, does not go far enough, because the Special Trade Representative simply does not have the institutional basis of power to compete with powerful department heads. Moreover, his ability to act effectively is severely weakened by the fact that so many of the trade authorities are vested in other agencies and offices.

The need for action to streamline and strengthen the Government bureaucracy in the international economic arena has been widely recognized although little action has been taken. The Chairman of the International Trade Commission, Daniel Minchew, has spoken frequently and eloquently about the need to consolidate the offices and agencies dealing in international economic policy. The Asian and Pacific Council of the Chamber of Commerce has long supported a consolidation of the type I am proposing. Mr. Timothy W. Stanley, president of the International Economic Policy Association, writes:

We had hoped that the operation of the Council on International Economic Policy within the White House, as it first functioned under Peter G. Peterson, would continue to perform the coordinating task for U.S. international economic policies. That has not turned out to be the case; and there is now no overall focal point in the government which can address the long-term international problems facing American business, or indeed, those facing the U.S. economy as a whole in world competition.

In a just-published book entitled "The Making of United States International Economic Policy: Principles, Problems, and Proposals for Reform," Prof. Stephen Cohen of American University discusses the need for a Cabinet-level de-

partment for international trade and commerce and other organizational reforms in the international economic area. Professor Cohen, who has wide experience with the Murphy commission, has been very helpful in developing the legislation which I am offering today.

We are presenting this bill as a vehicle for congressional hearings and discussion. The time to get started is now. Under my bill, the Office of the Special Trade Representative, the Export-Import Bank, and the Overseas Private Investment Corporation would be absorbed into the new Department of International Trade and Investment. From the Commerce Department would come the international business and export control functions. The new Department would take over the administration of the antidumping and countervailing duties statutes from the Treasury Department as well as administration of the customs. It would do the statistical reporting work of the ITC and the administration of section 337 of the Tariff Act of 1930, but the ITC would be retained as an independent agency to make findings of fact about the need for import relief and recommendations for implementing relief. The new Department would also assume the work of the State Department on bilateral trade agreements and commercial opportunities.

I want to make it clear that our bill is intended to serve as a basis for study and that in the hearings process, we will want to consider various means for restructuring the executive branch to provide the most effective procedure for considering and implementing our Nation's international economic policies. I am convinced, however, that restructuring and consolidation is needed and that the creation of a Department of International Trade and Investment is fully consistent with the President's objective of making the Federal bureaucracy less cumbersome and more responsive to our society's needs. A major bureaucratic realinement of the type I am proposing will encounter many obstacles, but if the executive branch works with the Congress in developing this legislation, we can make it succeed.

By Mr. METCALF (for himself, Mr. ABOUREZK, Mr. MCGOVERN, and Mr. METZENBAUM):

S. 1991. A bill to conserve the Nation's energy resources; to the Committee on Energy and National Resources.

RELIABILITY AND CONSERVATION OF ELECTRICAL ENERGY REQUIRES A NATIONAL POWER GRID

Mr. METCALF. Mr. President, on behalf of the senior Senator from South Dakota (Mr. MCGOVERN), the junior Senator from South Dakota (Mr. ABOUREZK), the junior Senator from Ohio (Mr. METZENBAUM), and myself, I introduce for appropriate reference the National Electrical Energy Reliability and Conservation Act of 1977.

Congressman RICHARD L. OTTINGER of New York is introducing companion legislation in the House.

The purpose of this bill is to establish a national power grid and regional bulk power distribution system which will make more efficient use of electrical energy and insure against the kind of blackouts which again paralyzed the Nation's largest city last month.

The idea of a national power grid is not new. But only after a major blackout does it return to the national consciousness.

Our bill would establish a three-member National Power Grid Corporation and regional three-member bulk power supply corporations. The National Power Grid Corporation would establish and operate a national power grid system consisting of electric power generating facilities and very high voltage transmission lines interconnected with the regional corporations.

The National Power Grid Corporation would be authorized to purchase for resale surplus electric power generated by any electric utility. The utilities would purchase needed power from the regional corporations, provided that the utilities agreed to permit use of excess transmission capacity for the purpose of wheeling—that is, transmitting—power to other parts of the system. Rates for transmission would be established on a regional basis.

Mr. President, despite the heat, despite the scare stories of recent years about shortages in electrical energy, this Nation has had an overabundance of electricity. Construction of dozens of plants has been cancelled or delayed because usage has not caught up with projected demand. Even so a number of utilities have had excessive reserves of power. The customers and stockholders of such utilities would both benefit from an integrated transmission system which would use excess capacity to better advantage in meeting the seasonal and daily peaks throughout the country.

Mr. President, let me make it clear that this legislation will increase the direct Federal role in both generation and transmission of electric power. The Federal Government has long been active in both generation and transmission, in our pluralistic electric system, although these Federal G. & T. functions have not increased appreciably in recent years. The best examples of coordinated and reliable G. & T. systems in the country continue to be those with a heavy Federal involvement, in the Tennessee Valley Authority and in the Bonneville Power Administration territory and the related BPA-California transmission system jointly developed by public and private power.

One of the things which this country has learned in the past 12 years is that the investor-owned utilities do not take all the prudent steps to provide for adequate transmission capability and interconnections. Providing the Federal Power Commission with additional authority to require interconnections and beefing up weak links in the transmission network will, I fear, provide more work for lawyers than for construction workers. Utilities would rather tie such issues up in court than do the sensible things that have been done in TVA and BPA country.

Enactment of this bill will authorize the Federal Government to build both transmission lines and generation plants. If the specter of Federal competition causes utilities to do what they should have done anyhow to improve their transmission network that will be fine with me. But the birchrod can be taken out of the closet, the lines can be built by the Federal Government, if that is necessary to bring this Nation's transmission network up to the standards common in other advanced countries.

The bill we are introducing today is practically identical to S. 1208, which I introduced in the 94th Congress. The advisory committee section has been changed to make advisory committees that may be established by the national or regional grid corporations subject to the same rules that now apply to Federal Energy Administration advisory committees, and will apply to most other energy advisory committees after the Department of Energy Organization Act becomes law. The bill has also been changed to apply the Sunshine Act provisions to the three-member national and regional grid corporations.

Mr. President, I ask unanimous consent to insert at this point in the RECORD an editorial, "Preventing Blackouts," which appeared in the July 16 Baltimore Sun, a letter to the editor of the New York Times—July 28—by Dr. Henry Greber of the New Jersey Institute of Technology regarding the need for a national power grid in the United States and the text of the bill:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, July 16, 1977]

PREVENTING BLACKOUTS

Stronger interconnections between electric power systems might prevent blackouts like the one New York city just suffered. At least so believes Senator Lee Metcalf (D., Mont.), who unsuccessfully introduced intertie legislation in two previous Congresses and plans to introduce a similar bill again this year.

The Metcalf plan would establish a federal corporation to strengthen national and regional electric power grids. The national system, and each of the regional systems, would be governed by boards of directors representing privately and publicly owned utility systems.

These systems would build transmission lines heavy enough to assure that every utility in every region would have backup from other utilities in that region—and that each region, in turn, would have the backup of other regions. In the event of a blackout in a particular city, power would be immediately available from other cities in the regional grid. If the regional grid's capacity became strained, then that grid would have access to power from other regions.

Although the immediate cause of the New York City blackout was lightning striking facilities of the Consolidated Edison Company, the blackout probably would not have occurred if Con Ed had been able to rely on stronger interconnections with other systems. As it happened, the PJM (Pennsylvania-Jersey-Maryland) grid had too little capacity to help New York city; the city's connection with PJM tripped out when the load became too heavy for PJM to carry.

Besides increased reliability, there would be many other advantages to the strong interties. Because electric load patterns vary from one region to another, interties would allow transfers of power from areas where

power is needed the least to areas where it is needed the most. For instance, the Carolinas have heavier summertime electrical needs than Minnesota, because of heavier use of air conditioning in Southern states. But the situation is reversed in the winter when Minnesota's hard, dark winters demand more electric power. With better interregional ties, the two regions could swap power far more efficiently than is now possible—at considerable savings to consumers who would not have to pay for as many generating stations.

Utilities are not enthusiastic about the Metcalf plan because they fear it might mean too much federal interference with their operations. But the New York city blackout has illustrated once again that a geographical hodgepodge of ill-connected and ill-coordinated utilities poses some major risks to consumers. The utilities should either support the Metcalf bill or establish their own stronger interconnections.

[From the New York Times, July 28, 1977]

AFTER THE BLACKOUT: THE HUMAN FAILURES AND THE ELECTRICAL FAILURES

To the Editor:

The cause of the 1977 New York electric power blackout is the same as that of the 1965 blackout, namely too weak interconnections between the New York power system and those of the neighboring utilities. This was pointed out in 1965 but not remedied. Today's large power systems cannot operate independently or with weak interconnections to other power systems because the reserve capacity, usually set at the maximal economically acceptable level, is not sufficient in severe emergencies.

Overseas electrical utilities solved this problem a long time ago, by connecting all power systems of a country into a national integrated power grid. Not only that, but for greater reliability, some national grids are connected with international interconnection lines, so that power can be brought from one end of a country to another end of another country. The idea of a U.S. national electrical power grid has been vigorously opposed by some people to whom it has smacked of nationalization of the electric power industry. Regional power pools have been applied instead, but, unfortunately, turned out to be insufficient for severe emergencies. It is a fair prediction that a third power blackout will occur sooner or later unless we apply the remedy used already by every other industrial country. Let us catch up with the rest of the world—we need a national power grid.

HENRY GREBER,
New Jersey Institute of Technology.

S. 1991

A bill to conserve the Nation's energy resources

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Electrical Energy Reliability and Conservation Act of 1977".

TITLE I—NATIONAL POWER GRID AND REGIONAL BULK POWER DISTRIBUTION

SEC. 101. DEFINITIONS.

For purposes of this Act:

(1) The term "National Grid" means the National Power Grid Corporation, established by section 102.

(2) The term "National Board" means the Board of Directors of the National Grid.

(3) The term "regional corporations" means regional bulk power supply corporations established by the National Grid under section 103.

(4) The term "corporation" means the National Grid or any regional corporation.

(5) The term "regional board" means the board of directors of a regional corporation.

(6) The term "region" means a bulk power supply region established under section 103 (a)(1).

(7) The term "electric utility" means any person or public agency whose functions include the sale of electric power.

SEC. 102. NATIONAL POWER GRID CORPORATION.

(a) There is created a body corporate by the name of the "National Power Grid Corporation" which shall establish and operate a national power grid system. The National Grid shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate, in accordance with section 202, and which shall direct the exercise of all of the functions of the National Grid.

(b) The National Grid shall establish and operate a national power grid system consisting of electric power generating facilities, and a system of very high voltage transmission lines which, to the extent practicable, shall interconnect such generating facilities and the transmission systems of each regional corporation. Such system may be established by constructing generating facilities and transmission lines, or by acquisition of existing facilities and lines under section 105, or both.

(c)(1) The National Grid shall contract to sell electric power to regional corporations at rates which shall be regional throughout the United States and which shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the National Grid (including depreciation) and to amortize the indebtedness of the National Grid.

(2) The National Grid shall provide base load, peaking, or other power to regional corporations to meet requirements of which the National Grid has at least 10 years notice. Any notice of requirements under this paragraph shall be accompanied by an offer to contract for the required power.

(3) The National Grid is authorized to purchase for resale by the National Grid surplus electric power generated by any electric utility on schedules and at rates agreed upon with such electric utility.

SEC. 103. REGIONAL BULK POWER SUPPLY CORPORATIONS.

(a) Subject to section 105(a)(2), the National Grid shall establish by regulation—

(1) a number of bulk power supply regions which in the aggregation shall comprise the entire United States, and

(2) a regional bulk power supply corporation in each such region.

(b) Each regional corporation shall have a board of directors which shall be composed of three members from the region but each from a different State appointed by the National Board with the approval of the President in accordance with section 202, and which shall direct the exercise of all of the powers of such regional corporation. A member of a regional board may be removed by the National Board for cause (including failure to carry out any order of the National Board issued under subsection (f)).

(c)(1)(A) A regional corporation shall be the exclusive marketing agency for the National Grid within the region for which such corporation was established. Any electric utility, publicly or privately owned, may enter into a contract for services with a regional corporation. A regional corporation shall sell electric power to any electric utility which provides the corporation adequate notice of need except in cases of failure of such utility to meet its financial obligations, on proof of fradulent application, or because of willful failure of such utility to comply with wheeling orders under subparagraph (B) or other requirements of such regional corporation.

(B) A regional corporation may not enter into a contract for services with any electric utility unless such utility agrees to permit (at such times and to such extent as such corporation may order) the use of its excess transmisson capacity for the purpose of wheeling power from facilities of such corporation or of the National Grid to load centers of other electric utilities contracting to purchase electric power from such corporation.

(2) Any transmission lines of any agency the facilities of which are transferred to the corporation under section 105(a)(1) may be transferred by the National Grid to the regional corporation for the region in which such lines are located and shall be operated by such corporation. Each regional corporation shall obtain such transmission capacity, in addition to the capacity acquired under the preceding sentence, as may be necessary to sell electric power generated by the National Grid to each electric utility in the region, to meet emergency demands and to transmit to National Grid transmission lines such electric power as the National Grid may purchase from such utilities. A regional corporation may obtain such additional capacity (A) by lease of or contract for all or part of the capacity of existing transmission lines of electric utilities, (B) by modification of existing facilities of electric utilities, or (C) by construction of new transmission lines by such regional corporation. Any excess transmission capacity of a regional corporation may be made available to electric utilities on a contract carrier basis.

(d) Electric power marketed for the National Grid by the regional corporation shall be sold at a rate equal to the regional rate established by the National Grid under section 102(c)(1), plus a transmission rate charged by such regional corporation. Such transmission rate shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the regional corporation (including depreciation) and to amortize the indebtedness of the regional corporation.

(e) A regional corporation shall have the authority to issue bonds in accordance with section 206, but such bonds shall not be guaranteed by the United States unless issued with the approval of the National Board.

(f) Any person aggrieved or adversely affected by any action of a regional corporation may obtain administrative review of such action by the National Board. The National Board may, on the basis of such review, order the regional board to take appropriate remedial action. The final decisions of the National Board shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5 of the United States Code.

SEC. 104. RESEARCH AND DEVELOPMENT.

(a) The National Grid shall carry out a program of research and development in the area of electric power generation and transmission. In carrying out such program, the National Grid—

(1) may conduct research and development activities directly or through contracts with any person or public agency,

(2) shall coordinate its activities with those of the Energy Research and Development Administration, and to the extent practicable with those of other public and private agencies, and

(3) shall develop priorities for carrying out such program.

In developing priorities under paragraph (3), the National Grid shall give preference to environmental protection and land use research including, but not limited to, underground

high voltage transmission technology, sulfur oxide control, and other technology to improve the performance of fossil fuel plants, development and demonstration of utility corridors, development and demonstration of improved methods for disposing waste heat, and development of alternative methods of electric power generation (including, but not limited to, solar power, wind power, hydropower, biochemical conversion, thermonuclear fusion, magnetohydrodynamics, and fuel cells).

(b)(1) The National Grid shall expend at least 2 percent of its revenues in each fiscal year to carry out the program under this section.

(2) There are authorized to be appropriated to the National Grid for each fiscal year to carry out the program under this section an amount equal to (A) $250,000,000 less (B) the amount the National Grid is required to expend under paragraph (1) to carry out such program.

SEC. 105. TRANSFER OF CERTAIN EXISTING FEDERAL-OWNED FACILITIES.

(a) Effective 180 days after the date of enactment of this Act:

(1) There are transferred to the National Grid all electric power generating and transmission facilities of the following agencies:

(A) Bureau of Reclamation.

(B) Army Corps of Engineers.

(C) Southwestern Power Administration.

(D) Southeastern Power Administration.

(E) Bonneville Power Administration.

(F) Alaska Power Administration.

(2) After amortization, hydroelectric power projects, together with associated Federal transmission facilities, which are transferred to the National Grid under this subsection shall provide financial assistance to water resource development, the reclamation fund, and the basin accounts, in accordance with the laws and procedures under which they were authorized.

(3) The Tennessee Valley Authority shall be designated as the regional corporation for the region consisting of the area in which it operates on the date of such designation.

(b) Title I of this Act shall not apply to the Tennessee Valley Authority.

TITLE I—GENERAL PROVISIONS APPLICABLE TO NATIONAL GRID AND TO REGIONAL CORPORATIONS

SEC. 201. ENVIRONMENTAL PROTECTION.

(a) Each corporation shall be subject to Federal, State, and local environmental standards. For purposes of this subsection, the term "environmental standard" means a law or regulation prescribing a standard or limitation for the purpose of control or abatement of air or water pollution or for the purpose of some other aspect of environmental protection.

(b)(1) Prior to applying to any public agency for authority to construct any proposed facility, the corporation which proposes to construct such facility, shall hold a public hearing, after adequate public notice, and shall allow interested persons to submit comments on such proposal.

(2) Each corporation shall treat all decisions regarding the siting and design of facilities as a significant aspect of land use planning in which all environmental, economic, and technical issues with respect to a facility should be resolved in an integrated fashion. In the resolution of these possibly competing demands such corporation shall give all possible weight to the protection of the environment.

(c) This section shall apply to the Tennessee Valley Authority.

SEC. 202. BOARDS OF DIRECTORS.

(a) Of the members appointed to the board of directors of any corporation, one member shall be representative of the interests of privately owned electric power companies, one member shall be representative of the interests of publicly or cooperatively owned electric utilities, and one member shall be representative of the interests of consumers. Not more than two members of any board may be members of the same political party. Not more than two members of the national board may reside on the same side of the 100th meridian.

(b)(1) Members of the board of directors of each corporation shall be appointed for terms of 6 years, except that the terms of office of the members of any such board first taking office after the date of enactment of this Act, shall expire as designated by the President (or the National Grid in the case of members of a board of a regional corporation) at the time of nomination, one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year, after such date. A successor to a member of a board shall be appointed in the same manner as the original member and shall have a term of office expiring 6 years from the date of the expiration of the term for which his predecessor was appointed. No member may be appointed for all or part of more than two terms.

(2) The members of the National Board first appointed shall be deemed the incorporators of the National Grid and the incorporation shall be held to have been effected from the date of the first meeting of the National Board.

(c) Any member appointed to fill a vacancy in a board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in a board, so long as there shall be two members in office, shall not impair the powers of such board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such board.

(d) The chairman of each board shall be elected by the members thereof.

(e) Each of the members of the National Board shall receive compensation at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313), to be paid by the National Grid. Each of the members of a regional corporations board shall receive compensation at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315), to be paid by such corporation. No member of any such board shall, during his continuance in office, be engaged in any other business.

SEC. 203. OFFICERS AND EMPLOYEES OF CORPORATIONS.

(a) The board of directors of a corporation may without regard to the provisions of title 5, United States Code, governing appointments in the competitive service—

(1) appoint a manager of the corporation who shall be compensated at the provided for level II of the Executive Schedule, and

(2) appoint such other officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general schedule pay rates), define their duties, and require bonds of such of them as such board may designate.

Any appointee of a board of directors may be removed in the discretion of such board.

(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the corporation is a party shall be considered a contract to which the United States is a party.

(2) If work, which if let by contract would be subject to paragraph (1), is done directly by a corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

(c) In the appointment of officials and the selection of employees for a corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permited or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of a board of directors who is found by the President of the United States to be guilty of a violation of this subsection shall be removed from office by the President of the United States, and any appointee of a board of directors who is found by the board to be guilty of a violation of this subsection shall be removed from office by such board.

SEC. 204. CORPORATE POWERS GENERALLY.

(a) Except as otherwise specifically provided in this Act, a corporation shall have the same powers as a District of Columbia nonprofit corporation as under subsections (a), (b), (c), (d), and (e) of section 5 of the District of Columbia Nonprofit Corporation Act, and in addition—

(1) May make contracts to carry out its functions under this Act.

(2) May adopt, amend, and repeal bylaws.

(3) Shall have power to acquire real and personal property for the construction of generating facilities, transmission lines, and other structures and projects.

(4) Shall have power in the name of the United States of America to exercise the right of eminent domain, in accordance with section 207.

(5) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred in this Act upon such corporation.

(b) In order to enable a corporation to exercise the powers and duties vested in it by this Act—

(1) The exclusive use, possession, and control of all property to be acquired by such corporation in its own name or in the name of the United States of America, are entrusted to such corporation for the purposes of this Act.

(2) The President of the United States is authorized to provide for the transfer to such corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such corporation as stated in this Act.

(c) Each corporation shall maintain its principal office at a place determined by the corporation, within its service area.

(d) Section 101 of the Government Corporation Control Act is amended by inserting "any corporation established under the National Power Grid Act;" after "Tennessee Valley Authority;".

(e) A corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States. A corporation may contract with the Federal Power Commission to participate with the staff of such corporation in system planning and load forecasting.

SEC. 205. ACCOUNTS AND CONTRACTS.

(a) A corporation shall at all times maintain complete and accurate books of accounts. Each corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided by law. All accounts shall be public information and shall be audited annually by the General Accounting Office.

(b) Subject to the other provisions of this Act, a corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the

final settlement of all claims and litigation by or against such corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the accountable officer or employee of such corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the board of directors thereof shall determine to have been necessary to carry out the provisions of this Act.

(c) All purchases and contracts for supplies or services, except for personal services, made by a corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the board of directors thereof shall determine to be adequate to insure notice and opportunity for competition; except that advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for suplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $2,500; in which cases such purchases of supplies or procurement of services may be made in the open market.

In comparing bids and in making awards a board of directors may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

SEC. 206. BONDS FOR FINANCING POWER PROGRAMS.

(a) (1) Each corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") to assist in financing its activities and to refund such bonds.

(2) the aggregate outstanding amount of bonds issued by the National Grid and by all regional corporations shall not exceed $30,000,000,000 at any time. This paragraph shall not apply to bonds issued by a regional corporation and not guaranteed by the United States.

(b) Subject to section 103(e), payment of principal and interest on bonds issued by a corporation under this section shall be guaranteed by the United States. Proceeds realized by a corporation from issuance of such bonds and from power operations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

(c)(1) Subject to paragraph (2), bonds issued by a corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of such corporation in such manner and at such times and redemption premiums, and shall be subject to such other terms and conditions as such corporation may determine.

(2) At least 15 days before selling each issue of bonds under this section (exclusive of any commitment shorter than 1 year) a corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions, and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest to be borne by the bonds. If the Secretary of the Treasury does not approve a proposed issue of bonds hereunder within 7 working days following the date on which he is advised of the proposed sale, such corporation may issue to the Secretary interim obligations in the amount of the proposed issue, which the Secretary is directed to purchase. In case such corporation determines that a proposed issue of bonds under this section cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. Notwithstanding the foregoing provisions of this subsection, obligations issued by a corporation to the Secretary shall not exceed $750,000,000 outstanding at any one time, shall mature on or before 1 year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of 1 year or less as of the close of the month preceding the issuance of the obligations of such corporation. If agreement is not reached within 8 months concerning the issuance of any bonds which the Secretary has failed to approve, such corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds. For the purpose of any purchase of a corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of such corporation's obligations hereunder. A corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with such bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 105 and 106 of the Government Corporation Control Act) may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its power program in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and may perform such other act not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by a corporation under this section shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity.

(d) Bonds issued by a corporation under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of a corporation acquired by them under this section.

(e) Bonds issued by a corporation under this section shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes. Interest on such bonds shall not be included in gross income for purposes of any tax imposed by subtitle A of the Internal Revenue Code of 1954.

(f) The section shall apply to bonds of the Tennessee Valley Authority only if such bonds are guaranteed by the United States, in accordance with section 103(e).

SEC. 207. CONDEMNATION PROCEEDINGS.

A corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity or existing facilities referred to in section 103(C)(2)(A) or (B), which, in the opinion of such corporations, are necessary to carry out the provisions of this Act. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled "An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain", approved February 26, 1931 (46 Stat. 1421).

SEC. 208. REPORTS.

(a) Each corporation shall report to the President annually, and the President shall transmit the report to the Congress with such comment and recommendations as he deems appropriate.

(b) Each corporation shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of such corporation covering the preceding fiscal year.

(c) Reports provided for in subsections (a) and (b) shall also be noticed in the Federal Register.

SEC. 209 ADVISORY COMMITTEES.

(a) Advisory committees established or utilized by the National Grid or by any of its regional corporations shall be governed by Section 17 of the Federal Energy Administration Act of 1974.

(b) This section shall apply to the Tennessee Valley Authority.

SEC. 210. APPLICATION OF GOVERNMENT IN THE SUNSHINE ACT.

The provisions of section 552 b of title 5 of the United States Code shall apply to the Board of Directors of the National Grid, and to the board of directors of each regional corporation established by the National Grid.

By Mr. KENNEDY (for himself, Mr. HART, and Mr. METZENBAUM):

S. 1992. A bill to establish reporting requirements and voluntary energy ef-

ficiency targets for industry, and for other purposes; to the Committee on Energy and Natural Resources.

THE INDUSTRIAL ENERGY CONSERVATION ACT

Mr. KENNEDY. Mr. President, on behalf of myself and Senators HART and METZENBAUM I send to the desk and ask that it be appropriately referred, the Industrial Energy Conservation Act of 1977.

I present this legislation in the expectation that, once passed, it will provide energy savings on a substantial scale for American industry. From the national perspective industrial energy might well be called the last great frontier of conservation, a vast unexplored area filled with promise and potential.

A few simple facts indicate the size of this frontier. To begin with, industry consumes 40 percent of all U.S. energy compared to roughly 25 percent for space heating and 25 percent for transportation. The potential for savings in this sector is truly enormous.

Within industry fully 80 percent of energy use can be traced to just three processes, the raising of steam, the heating of materials and the operation of electric motors. One study, by the Thermo-Electron Corp., estimates that a quarter of the energy used in these three processes can be saved within the next decade. This savings would amount to 4.5 million barrels of oil a day or 10 quads of energy.

Taking the case a step further, consider each of these three familiar processes, beginning with electric motors. There are about 55 million motors in the United States. 11 million of them with a capacity of one horsepower or more. As they are now designed, most of them are, for one reason or another, inefficient. A single device, invented by Cravens Wanlass of California, can be applied to all of them with a savings of electricity of between 20 and 30 percent.

Assuming the most conservative estimate of the savings potential, 20 percent, incorporating the Wanlass device in all motors would save 1.2 million barrels of oil a day, approximately the daily production of the Alaskan North Slope oil field. These savings have been scientifically verified and mass production is simply a matter of industry acceptance.

As for boilers and furnaces, which raise steam and heat materials such as steel and wood pulp, we find that huge savings can be achieved by focusing on a very small number of consuming units. There are only about 9,000 boilers at 3,000 industrial plants which use more than 50,000 pounds of steam per hour and there are only about 6,000 furnaces which use 50 million Btu's of energy per hour. However these 15,000 units consume 16 percent of all energy used in the United States.

I want to point out that in all our talk about energy conservation and in all our legislation no attempt has been made to achieve efficiency in these boilers and furnaces. We have taken steps to bring maximum efficiency to the 120 million cars and trucks driven in the United States. We have begun to make more energy-efficient the 45 million appliances in most common use. And we have begun to set energy standards for America's 102 million dwellings. In other words we have already taken on the most difficult tasks which affect millions of people several times over. Incredibly, little has been said about the efficiency of these 9,000 boilers and 6,000 furnaces even though they account for 16 percent of the energy consumed in the United States and 35 percent of that consumed in industry. Improving the efficiency of these boilers alone, using technology already available, could save a million barrels a day—the same savings which will be achieved in 1985 by the improved efficiency in automobiles.

It should be clear by now not only that large savings are possible but that these savings can be achieved by concentrating on a relatively small number of targets and inventions. Even the most conservative estimates indicate the potential gains exceed the maximum savings attainable by turning down the thermostats in residences. Tens of millions of Americans could not offset the loss of the energy put into the air by industry.

How is this possible? Why has the largest target been overlooked? Should we conclude that industry enjoys favored status or blame timidity on the part of Government? Is it possible to set reasonable standards for energy efficiency?

I think we should understand industry is no more wasteful than the rest of us. In fact since the oil embargo industry has a better conservation record than other sectors of society. But the fact remains that we have all been living in a fool's paradise in which energy has been priced well below its replacement cost. We all grew comfortable in bad habits which must now be corrected. Other countries, and the industries in those countries, heard the conservation message long ago simply because they did not have at their disposal the wealth of oil, gas, and coal of the United States. After all the dire warnings, we are still the leading energy producer in the world. But we are also the leading consumers by a wide margin.

I focus today on industry not because it is more deserving of censure or special treatment but simply because industry consumes so much energy. When we have squeezed all we can from space heating and all we can out of transportation and all we can out of the utilities, the potential for savings in industry remains as the last frontier of conservation. My purpose is not to point the finger of blame but to begin what will be a long process of achieving greater energy efficiency in industry.

Other nations have already traveled this road. In West Germany, five energy-intensive industry categories—food; chemicals; petroleum and coal products; stone, clay, glass, and concrete products; and primary metals—use around 35 percent less energy per dollar of sales than the same industries in the United States. Overall the Swedish and West German economies provide similar standards of living but with energy consumption two-thirds of our own, with much of the savings coming from industry.

As for the administration's plan, the President has drawn back from the hard task of conserving energy in industry through efficiency standards similar to those for cars and appliances. Industrial energy conservation has long been considered so difficult an area that the President chose to influence conservation through the marketplace effect of higher energy prices and the incentive of a tax credit, rather than seeking efficiency directly. Therefore the national energy plan calls for a crude oil equalization tax and an industrial utilization tax to raise prices and a 10-percent tax credit for investments in energy conservation by industry.

Yet while I understand the President's reluctance to enter what has been portrayed as a thicket of difficulty, I believe we have stopped short and have chosen the wrong course when we rely exclusively on a tax credit. All too frequently the Government tries to correct a national problem with the incentive of a tax credit. Tax credits and deductions constitute the "loopholes" against which the President campaigned; this year's credit is next year's loophole. Time and again tax credits have a way of rewarding those who would have undertaken the desired conduct anyway. Can there be any doubt that when faced with rising energy costs companies will undertake the easiest conservation measures, "cream off" the prime opportunities and also get a tax credit to boot? Energy Users News, a daily publication for industry, devotes two pages of each edition solely to report on conservation already now going on in industry—the very same conduct that, in many cases, will be rewarded with a tax credit.

I consider it appropriate to ask industry to achieve additional savings beyond that which might be reached through tax incentives alone. Consuming as much energy as it does, industry and particularly the major corporations have a national obligation as well as an obligation to its stockholders, to reduce its fuel consumption. I have written the Industrial Energy Conservation Act to achieve this purpose.

The act was written in its present form after hearings by the Energy Subcommittee of the Joint Economic Committee which I chair. Witnesses included Roger Sant, former Assistant Administrator of FEA for Conservation, Dr. George Hatsopolos, president of the Thermo-Electron Corp. and Charles Berg, former Chief Engineer of the Federal Power Commission. These experts agreed that simple energy efficiency measurements could be established for boilers and furnaces and would be useful.

All believe that substantial savings are possible. Dr. Berg cautioned against so designing standards as to stifle innovation. Dr. Karl M. Willenbrock, dean of engineering and applied science at Southern Methodist University stressed the need to involve industry cooperatively in achieving its goals. These concerns are reflected in this bill and would be further developed in legislative history.

I have considered carefully the possibility of including in this bill mandatory efficiency standards for steam raising and heating of stock. Senator METZENBAUM adopted this approach in an

amendment to the Energy Policy and Conservation Act providing mandatory standards for electric motors. This was approved by the Energy and Natural Resources Committee on July 29. I support Senator METZENBAUM's approach in this case. As with appliances manufacturers now covered by EPCA, the improvements in electric motors can be achieved at the manufacturer level with relative ease, affecting a limited number of companies. Testimony before the Joint Economic Committee supports this amendment.

It may also be necessary to establish efficiency standards for steam raising and the heating of stock—that is for the entire process or function, not just the equipment used. Standards could be written using simple second-law calculations. However, at this time, I have decided not to ask for mandatory standards. If, in the next few years, it appears likely that other methods will achieve the necessary savings, mandatory standards will not be necessary.

In order to avoid imposing standards on so large a portion of the Nation's energy consumption, the Congress should be assured that industry is making rapid progress. This can be done if industry and the Federal Energy Administration agree on voluntary targets both for each industry, distributed company-by-company, and for the use of fuel in large boilers and furnaces. In order to make this possible the major energy consuming companies must report energy use both for total consumption and for boilers and furnaces. Because energy consumption by the top 1,000 energy users is so great and the savings potential so high, these steps must be taken as a minimum. Only then will industry avoid Federal standards.

My bill, which is a substitute part D of title III of the Energy Policy and Conservation Act—EPCA—continue the present authority of the Administrator of the Federal Energy Administration to set voluntary efficiency targets industry-by-industry for the 10 most energy-intensive industries and makes possible similar targets in the second group of 10. It also broadens the reporting requirement in EPCA to include all companies using more than 1 trillion Btu's a year, approximately 950 companies. These companies would now report on a unified basis, using standard units of measurements and would report in such a way as to reveal the efficiency of their total use of energy. In addition—and this is the major addition to EPCA—the act would provide the Administrator with authority to establish efficiency targets for two industrial processes and functions: The raising steam and the heating stock.

The act contains relatively high thresholds for the inclusion of boilers and furnaces in its requirements—50,000 pounds of steam per hour for the raising of steam, 50 million Btu's of energy per hour for the heating of stock. This insures that only about 9,000 boilers and 6,000 furnaces will be covered.

Provisions of the act insure that no regulations would be issued without a long and thorough process of consultation with industry, public hearings, and citizen participation.

The section of the act providing for improved reporting of energy use is needed immediately to assist the Administrator in establishing energy efficiency targets. The reporting EPCA is so broad and general as to provide little useful information. It is clearly inadequate and cannot even be used as the basis for determining whether a particular company is, indeed, meeting the voluntary targets established jointly by FEA and industry. The Industrial Energy Conservation Act would provide for reporting in more detail. To be precise, the act would require that reporting be at least to the four-digit level—meaning that it reports energy use company-by-company—and that it reports on "second law efficiency"—meaning that reporting will be made not only for energy used but for energy wasted.

No claim can be made that this information cannot be obtained. From 1973 to 1975 the Federal Energy Administration conducted an energy audit of the 10 largest energy-consuming industries and achieved information of the quantity and quality which the act would mandate.

Mr. President, the last question I asked a few minutes ago was "Is it possible to establish reasonable targets of energy efficiency?" I recognize that this is the critical question.

Until recently it seemed impossible to set efficiency targets for a large portion of industry. There were too many processes, too many companies, and too many sites, we were told. No simple measurements were available.

This need not be the case however. Let me first quote at length from an article in the May 1977 Fortune magazine by Tom Alexander entitled appropriately, "Industry Can Save Energy Without Stunting Its Growth":

> Over the long haul, the greatest promise for reducing industrial energy consumption lies in applying some long-known but astonishingly neglected insights that are implicit in the physicists' second law of thermodynamics. Most of the calculations of how much energy industry could save have been based exclusively on the *first* law of thermodynamics, the physical law that says that energy is neither created nor destroyed, but only transformed. Efficiency, in the eyes of the law, is the ratio between the useful work that a device performs and the amount of energy put into it.
>
> What the second law addresses, however, is the *quality* of energy. That law holds, in effect, that thermal energy is a bit like water power: it can only power man's devices when it can flow from a region of high potential—high altitude in the case of water, high temperature in the case of thermal energy—to a region of lower potential. The implications, according to the second law, is that the actual usefulness of any given BTU of energy is not a constant but a variable quantity. As soon as a BTU of energy is released in the combustion process, it immediately begins to flow "downhill": that is, to dissipate itself into the cool surrounding environment where it becomes gradually lost to mankind's purposes. . . .
>
> The analogy of a wasted waterfall:
>
> Typically, most industrial processes waste high amounts of the potential available work that the second law says is in every molecule of fuel. More than 45 percent of the energy used by American industry, for example, goes into making "process steam," which is used at a typical temperature of around 350° F. By first-law standards, the boilers in which that steam is made are pretty efficient devices; roughly 85 percent of the BTU's initially in the fossil fuel wind up in the steam.
>
> But by second-law standards, these systems are scandalously inefficient, since they will exploit no more than about 25 percent of the fuel's available work. The reason is that the fuel molecules themselves—whether oil, natural gas, or coal—burn at a temperature around 3,600°F. To immediately dilute that wonderful, high-quality heat to the level of 350° is lamentably wasteful. It is the equivalent of building a 250-foot-high dam at the bottom of a 1,000-foot waterfall, and using only the 250-foot "head" in the man-made lake to generate electricity, instead of constructing penstocks to harness the far more potent 1,000-foot plunge of water from the top of the waterfall. It is possible, therefore, to measure energy.

According to industrial engineers at MIT and Dr. George Hatsopolos, president of the Thermo-Electron Corp., it is possible to measure the efficiency of the three industrial processes mentioned above—raising steam, heating stock and providing motive power and electricity—by one simple formula based on the second law of thermodynamics. This formula has universal applicability and it can be varied to achieve any degree of efficiency. As with automobile standards it can be increased each year, providing ample opportunity for industry to convert without penalty.

The Industrial Energy Conservation Act is not, however, dependent upon the utilization of this one second law formula. The Administrator of FEA could offer industry alternative methods of achieving energy efficiency, for example, a certain level of second law efficiency or its equivalent by whatever means a company could devise. There would be adequate opportunity for innovation. For example, rather than improve the efficiency of an existing system of making paper or steel by adding cogeneration of electricity, a company could completely redesign its production system, for example, adopting fluidized bed combustion or an entirely new ceramic making system which saves an equivalent amount of energy.

This bill is a reasonable approach to exploration on the last major frontier of conservation. It falls well short of the requirements on industry in automobiles, appliances, and housing. The voluntary approach has the virtue of encouraging particular industries to adopt changes which single member companies might reject. But for those who object to even this limited step, as being, perhaps, an unnecessary burden, we should remember our experience with the automobile industry. When efficiency standards for cars were first proposed, some said it would weaken the industry and create unemployment. In the meantime, fuel efficient foreign cars were grabbing an increasing share of the market until today 20 percent of our automobiles are made abroad. Instead of ruining the industry, mandatory standards may have saved it. Sales this year are higher than ever and for the first time in years it is possible American manufacturers may recapture a portion of the market instead of watching it slip away. Energy efficiency all across the board will make

American industry more competitive. Over a 5- to 10-year span it will also reduce domestic prices. Benefits so attractive cannot and should not be overlooked.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That this Act may be cited as the "Industrial Energy Conservation Act of 1977".

INDUSTRIAL ENERGY CONSERVATION

SEC. 2. (a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.) is hereby amended by striking Part D of Title III of said Act, and inserting in lieu thereof the following:

Part D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

(5) The term "energy-consuming corporation" means a corporation which consumes at least one trillion British thermal units of energy per year.

(6) The term "plant" is an economic unit at a single physical location where industrial processes are performed. A plant may also be referred to as a factory, a mill, or an establishment.

(7) The term "heating function" means an operation conducted in a plant that performs one or more of the following functions: the raising of steam to a given pressure and temperature; the heating of material to a given temperature; or, either of the above two functions in combination with the generation of electricity. The term "heating function" does not include steam raising at less than 50,000 lbs. of steam per hour per plant or the direct-combustion heating of materials with a furnace which consumes less than 50 million British thermal units of energy per hour.

(8) The term "heating function efficiency" means the ratio of the minimum available work necessary to perform the heating function to the available work of the actual fuel used to complete the heating function.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry;

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries;

(3) to establish for energy-consuming corporations national unit operation efficiency targets for each industrial unit operation.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. (a) The Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. (b) Within each industry so identified, the Administrator shall identify each energy consuming corporation.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, and periodically thereafter, the Administrator shall establish industrial energy efficiency improvement targets for each of the 10 most energy-consumptive industries identified under section 373. Such targets—

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve no later than January 1, 1980 and January 1, 1982 respectively; and such dates thereafter as the Administrator may determine; and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372;

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies;

(3) any special circumstances or characteristics of the industry for which the target is being set; and,

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372 (1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve no later than January 1, 1980 and January 1, 1982 respectively; and such dates thereafter as the Administrator may determine; and,

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent; and,

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

NATIONAL HEATING FUNCTION EFFICIENCY IMPROVEMENT TARGETS

SEC. 375 (a) Within one year of the enactment of this Act, the Administrator shall set a national heating function efficiency improvement target or targets for each heating function. Such target or targets

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in efficiencies of heating functions which can be achieved by January 1, 1982 and may include such variances as may be appropriate to each industry; and,

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target. (b) In determining maximum feasible improvement under subsection (a), the Administrator shall consider—

(1) the objectives of the program established under section 372; and,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies.

(c) Any target established under subsection (a) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent; and,

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 376. (a) The Chief executive officer (or individual designated by such officer) of each energy-consuming corporation which is identified by the Administrator pursuant to section 373 (b), shall report to the Administrator not later than 270 days after the enactment of this Act, and semi-annually thereafter, on the progress which such corporation has made in improving its energy efficiency and its heating function efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement targets set under sections 374 and 375.

(b) Each report to the Administrator shall be based on data aggregated to the two-digit and four-digit SIC classifications from plant reporting forms in a manner to be determined by the Administrator.

(c) Each plant shall file a plant reporting form with its parent corporation. Each plant reporting form will be retained by the plant's parent corporation for at least 5 years. Such forms will be made available to the Administrator upon request.

(d) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(e) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), a simple plant reporting form which shall be designed in such a way as to avoid imposing an undue burden on any plant.

(f) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator.

(2) a statement of the average heating function efficiency in the United States for each heating function and a summary of the progress made toward the establishment of or the achievement of national heating function and industrial efficiency improvement targets; and,

(2) recommendations to the Congress as to how additional improvements might be achieved.

General Provisions

Sec. 377. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 376 (a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency, heating process efficiency, and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and the establishment of any national heating process efficiency improvement target or targets under section 375, and prior to publication of any reporting requirements under section 376.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to Committees of Congress upon request of such Committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 375 or for failure to meet any national heating function efficiency improvement target established under section 378 of this Act.

(g) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

By Mr. CRANSTON (for himself, Mr. PELL, and Mr. STONE):

S. 1993. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; to the Committee on Finance.

BUY-IN AMENDMENT TO MEDICARE

Mr. CRANSTON. Mr. President, today I introduce a bill designed to enable certain individuals who have not yet reached age 65 to "buy-in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

I am delighted the distinguished Senator from Rhode Island (Mr. PELL) and the distinguished Senator from Florida (Mr. STONE) have joined me in cosponsoring this legislation.

Mr. President, this bill is designed to enable certain individuals who have not yet reached age 65 to "buy-in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

The need for this legislation stems from the fact that medicare eligibility does not begin until age 65—except for those disabled social security beneficiaries and, in a limited fashion, individuals suffering from chronic kidney disease to whom medicare coverage was extended as the result of Public Law 92–603—yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health insurance policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This is an intolerable situation, Mr. President, and I believe that we can effectively counteract it through the enactment of the measure we are proposing today. The amendment provides that if one spouse is over 65 and enrolled in medicare, the other spouse, if at least 60 years old, would be able to enroll in the program and receive equivalent benefits at a cost actuarially determined. In addition, these benefits would be made available to those receiving social security benefits who are 62 years of age and over; a divorced mother or widow between the ages of 60 and 64 if she is caring for a child under age 18 who is receiving payments based on the worker's record; the dependent parents between the ages of 60 and 64 of a deceased worker; and individuals between the ages of 60 and 64 who are retired on social security disability.

Persons in this last category whose disability persists for 2 years are eligible for medicare coverage now under existing law. Under the amendment I am offering today, these individuals would be able to "buy-in" to medicare without waiting 2 years if they are over 60 years old.

Mr. President, my proposal would allow each of these categories of individuals for a premium equal to that paid by individuals over the age of 65, currently permitted to buy-in to medicare, to enroll in part A of medicare—the hospital insurance benefits—if they also enroll in part B supplementary medical insurance.

The cost of the medicare premium is readjusted every July by the Secretary to take into account the cost of an increase in living, if any.

As of July 1, 1977, the monthly premium for part A coverage for those over 65 was changed to $54 and for part B to $7.70. My amendment would set the part B premium at 300 percent of the current part B premium, two-thirds of which the Government presently underwrites for current medicare beneficiaries. Under my amendment, this Federal subsidy would not apply to those individuals under 65 who buy-in to medicare.

I would also like to point out that this cost is applicable for the first year of implementation of the buy-in program only. My amendment provides that in December of the first year of effectiveness—which is the earliest possible time when sufficient information will be available—the Secretary of HEW shall determine on an actuarial basis the actual costs of both part A and part B coverage for this group of beneficiaries and set the premiums for the subsequent years accordingly. The premiums which my amendment sets for the first year of operation are based on what has been determined as an actuarial base for individuals over the age of 65. The individuals who could buy-in under my amendment are a substantially younger group and it is expected that their health care costs will be commensurately lower, and their premiums in all probability would be less in the years following the first year of implementation.

Thus, the monthly cost for those covered by my amendment in the first year would be $77.10. This is hardly a bargain, but it does offer an option to many individuals between the ages of 60 and 65 who otherwise would be unable to purchase health insurance at any price. These individuals would be permitted to enroll in these programs any time they are or become eligible during a 90-day period following receipt of notice of eligibility from the Social Security Commissioner.

The amendment mandates that any individual "buying-in" to medicare must "buy-in" to both part A and part B in order to reduce the potential excessive utilization of part A that might occur if that were the only coverage available to an individual. With coverage of both hospital benefits and ambulatory care benefits, the individual will have an opportunity to utilize the most cost effective and appropriate means of treatment for his or her ailment. Otherwise, if enrolled only under part A, an incentive might be created for overutilization of the most expensive kinds of in-hospital services. This specific provision is identical to the one added by Public Law 92–603 to the Social Security Act to govern "buy-in" for those over 65 not covered by social security.

Premium costs after the first year of operation for part A and part B coverage would be set at a level which the Secretary determines, based on the estimated cost of health insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. This premium would be adjusted annually to reflect both the experience of the group and any changes in costs. It is conceivable that experience will show the part A premium and the part B premium should be less than that which is proposed for the first year of operation of this program.

As I indicated that figure is based on the premium charged by HEW after July 1, 1977, to individuals over 65 who wish to enroll in medicare and who are

not eligible for social security. The group we propose to enroll is a younger and, presumably, healthier group so one would expect the premium to be less.

HISTORY OF BUY-IN AMENDMENT

This buy-in provision was originally included in the Social Security Act Amendments of 1972 (H.R. 1) as reported from the Finance Committee.

Though in 1972 the Senate Finance Committee clearly recognized the need for this extension of medicare coverage, and recognized that it would provide important health insurance benefits at no cost to the Government, this provision was deleted from the bill in conference, and not included in the final version of the Social Security Amendments of 1972 as signed by the President.

At that time, I was advised by the Finance Committee that the major factor in its deletion was simply the lack of opportunity, given the time constraints under which we were all operating in the concluding days of that Congress, for the House to evaluate this Senate provision thoroughly.

Subsequently, in the 93d Congress, the Finance Committee again recommended support for the "buy-in" provision when I offered it as an amendment to H.R. 3153 and it was adopted by the Senate during floor consideration of that act. Unfortunately, the House was unwilling to come to conference on H.R. 3153 and the bill was allowed to die with adjournment of the 93d Congress.

In December 1975, it was adopted by the Senate as a floor amendment to H.R. 10284—the medicare amendments—but once again this provision was dropped in conference with the House. In this instance, the House refused to accept the medicare buy-in provision on the grounds they would only include in the conference report provisions facing an immediate deadline for termination, and "because it would tend to put medicare into competition with private health insurance carriers, because it raises the question of why social security beneficiaries below age 60 should not also be included".

I believe, however, this provision will not have that effect. Most individuals under 60 are employed or are dependents of an employed person and are eligible for group health coverage through their employer or spouse at premium rates considerably less than those of medicare. Many of those who are not eligible for health care through employment coverage may be eligible for medicaid. In all, I believe a small number of individuals under 60 would find buying in to medicare an attractive proposition economically.

I was pleased that the distinguished Senator from Louisiana (Mr. LONG) received assurances from Mr. ULLMAN, chairman of the Committee on Ways and Means, at the time the two Houses were reaching an agreement on H.R. 10284 that he would look at this provision very carefully so that the questions raised by the House can be answered fully.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program without any additional cost to the Federal taxpayer.

The Senate having already passed this measure three times, I would hope that this fourth effort, if successful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I ask unanimous consent that an excerpt describing these provisions from the Senate Finance Committee Report on H.R. 1, the Social Security Amendments of 1972 (S. Rept. No. 92–1230)—this excerpt is footnoted to point out the changes made in the amendment offered today and the one offered in 1972, changes necessitated by the increase in the costs of health care over the past 5 years. which are further evidence of the hardships which the population affected by my amendment have been faced with in the intervening 5 years—be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

MEDICARE COVERAGE FOR CERTAIN INDIVIDUALS AGED 60–64

(Sec. 214 of the bill)

Present law provides hospital insurance protection for persons aged 65 and over who are insured or deemed to be insured for cash benefits under the social security or railroad retirement programs. Essentially, all persons aged 65 and over are eligible to enroll for medical insurance (part B) without regard to insured status. The committee has approved a provision in the House a bill which would permit persons aged 65 and over who are not insured or deemed insured for cash benefits to enroll in part A at a premium rate equal to the cost of their protection.

The committee is concerned that many social security and railroad retirement cash beneficiaries aged 60–64 and spouses aged 60–64 of medicare beneficiaries find it difficult to obtain adequate private health insurance at a rate which they can afford. Frequently these older persons—retired workers, wives, husbands, widows, widowers, mothers, parents, brothers and sisters, for example—have been dependent for health insurance protection on their own group coverage or that of a related worker who is now retired or deceased. It is a difficult task for such older persons to secure comparable protection at affordable cost when they are not connected with the labor force.

The committee, therefore, has added to the House bill a provision which would make medicare protection (both part A and part B) available on an optional basis at cost to spouses aged 60–64 of medicare beneficiaries; others aged 60–64 who are entitled to retirement, wife's, husband's, widow's, widower's, mother's, parent's, or brother's and sister's benefits under social security and the railroad retirement programs; and disability beneficiaries aged 60–64 not otherwise eligible for medicare because they have not been entitled to cash disability benefits for 24 months. The availability of medicare protection would be limited to persons aged 60–64 because the committee believes that people under age 60 who are not disabled generally have relatively little difficulty in obtaining private health insurance. About 6 million persons aged 60–64 would be potentially eligible to enroll for medicare as spouses of medicare beneficiaries or as beneficiaries entitled to the benefits specified above.

Persons who elect to avail themselves of medicare protection under this provision would pay the full cost of such protection. Enrollees would pay a monthly part A premium based upon the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any; such premium would be $33 a month through June 1974[1] and would be adjusted for each 12-month period thereafter to reflect both the experience of the group and any changes in costs.

The monthly premium for persons in the group who enroll for part B would be twice[2] the premium paid by an individual who has attained age 65 until June 1974 and would be adjusted for each 12-month period thereafter to reflect the estimated cost of supplementary medical insurance protection for persons eligible to enroll under the provisions plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. Aliens who have been in the United States less than 5 years and persons who have been convicted of certain subversive crimes would be excluded from participation under this provision, just as they are excluded from enrolling for supplementary medical insurance.

The committee bill would require, as it requires under the provision in the bill making medicare protection available to uninsured persons aged 65 and over, that in order for persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. If a person terminates his supplementary medical insurance, his hospital insurance coverage under this provision would be automatically terminated effective the same date as his supplementary medical insurance termination. The committee believes that such a restriction is necessary to reduce the possibility of excessive utilization of the more expensive hospital insurance coverage as might occur if an individual were enrolled for hospital insurance (covering primarily institutional care) but not for supplementary medical insurance (covering primarily outpatient care).

Coverage would be initially available as of July 1, 1973, to enrolled eligible persons.

By Mr. CRANSTON:

S. 1994. A bill to amend title XVIII of the Social Security Act so as to permit payment under the medicare program for certain hospital services provided in Veterans' Administration hospitals; to the Committee on Finance.

MEDICARE REIMBURSEMENT TO VA HOSPITALS FOR PERSONS TREATED UNDER A MISTAKEN, GOOD FAITH BELIEF THAT THEY WERE ELIGIBLE VETERANS

Mr. CRANSTON. Mr. President, today I introduce a bill that would permit Medicare reimbursement to a Veterans' Administration hospital under certain

[1] In the amendment offered today, this premium would be $54 through June 1979.

[2] In the amendment offered today, the monthly premium for persons in the group who enroll for part B would be three times the premium paid by those over 65 who buy-in to the program. In 1972, the cost of the part B premium represented approximately one-half the cost of the care provided on an actuarial basis. Since that time, however, legislation has been passed which limits the increase in the part B premium to a rate comparable to the cost of living increase given social security beneficiaries. Since the cost of health care has risen at a higher rate than the cost of living, the part B premium now represents approximately one-third of the total costs of the program.

unusual circumstances. These circumstances would be those rare instances where an individual eligible for medicare is treated in a VA hospital on the good faith assumption, both on the individual's part and that of the hospital, that he is a veteran who is eligible for VA hospital care under title 38 of the United States Code. Under title 38, if this situation occurs, the patient or his estate is liable to reimburse the VA for the cost incurred, and under the Social Security Act, Medicare cannot reimburse either the patient or his estate for the care provided in a VA or other Federal hospital. Thus the patient must pay the full costs of his hospital care even though he is entitled to medicare coverage.

A little over a year ago, this situation was brought to my attention by the family of a medicare beneficiary which had been billed for a substantial sum covering his hospitalization in a VA hospital. As chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I joined with the then committee chairman (Mr. HARTKE) in writing to the chairman of the Finance Committee and its Subcommittee on Health, Senator LONG and Senator TALMADGE, respectively, to bring this situation to their attention and proposing that a very tightly drawn amendment which would permit the payment of these costs be considered during the Finance Committee's meeting on the medicare deadline amendments (H.R. 10284). I was most grateful that the committee agreed to do this and accepted our amendment in H.R. 10284 as reported.

Mr. President, I ask unanimous consent that the text of the letter former Senator HARTKE, my predecessor as chairman of the Committee on Veterans' Affairs, and I sent to Senator LONG and Senator TALMADGE, as well as an excerpt from the committee report describing this provision—pages 12–13—be printed in the RECORD at this point.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., December 3, 1975.

Honorable RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Honorable HERMAN E. TALMADGE,
Chairman, Subcommittee on Health, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMEN: Recently a case was brought to our attention of an elderly Medicare beneficiary who was admitted to a VA hospital for emergent care prior to a determination of veteran eligibility, who received care there for several months, and who was ultimately determined ineligible for such care. Because of the error, which was made without any intention to defraud, the patient's estate is now being billed by the Veterans Administration for $5,000. Section 1814 (c) of the Social Security Act leaves no alternative to the VA, and the patient's estate is liable for the debt under title 38, United States Code.

To avoid any reoccurrence of this unfortunate situation, we recommend that your Committee consider the adoption of an amendment to H.R. 10284 which would permit reimbursement to a VA hospital for hospital care rendered in carefully defined circumstances such as that of the case brought to our attention. We are advised this situation occurs rarely and that the costs would be negligible.

Enclosed is a draft amendment (made retroactive to cover the above case) for such consideration during Committee markup of the House bill.

Your assistance in adding this provision to H.R. 10284 would be very much appreciated.

With warm best wishes.

Sincerely,

VANCE HARTKE,
Chairman, Committee on Veterans Affairs.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

(Section 7 of the Bill)

Under present law, payments may not be made under part A of medicare to any Federal providers of services, such as a Veterans' Administration hospital, where such institution is otherwise obligated by law to render care at public expense.

The committee has had its attention called to circumstances in which an individual, entitled to part A benefit, was admitted to a veterans' hospital with both the hospital and the beneficiary believing the patient was eligible for such care and was subsequently found to be ineligible for care as a veteran. Following such a determination, the Veterans' Administration is required, by law, to recover the costs of such care from the patient (or his estate, if the patient is deceased).

The committee amendment would permit payment by the medicare program to VA hospitals for care rendered to a part A beneficiary in certain circumstances. Payment may be made only when (1) the beneficiary is admitted to the VA facility in the reasonable belief that he is entitled to have service furnished to him by the VA free of charge; (2) the authorities of such hospital and the beneficiary acted in good faith in making such admission; (3) that the beneficiary is, in fact, not entitled to care in the facility free of charge; and (4) the care was provided while those operating the facility remained unaware of the fact that the individual was not eligible for VA benefit or before it was medically feasible to arrange a transfer or discharge.

Payment for services would be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) reasonable costs for such services (as estimated by the Secretary following consultation with the Chief Medical Director of the Veterans' Administration).

Mr. CRANSTON. Mr. President, I was very disappointed, however, that in efforts to reach agreement on H.R. 10284 between the House and Senate, the House refused to accept this provision.

The House suggested in explaining its refusal:

It might be appropriate to afford relief, as part of veterans' legislation, for all such persons found not to be VA eligible—not just those who are eligible for medicare. In addition, it would seem more appropriate for the VA to administer such a provision rather than complicating the medicare law and its administration.

The VA statute prohibits the VA from providing care to anyone except a veteran, and then only when it is in conjunction with a service-connected injury, or when the veteran is unable to defray the costs of hospitalization. What the House seems to be proposing is that the VA hospitals open their doors to everyone. The VA does provide emergency services to anyone, regardless of eligibility, as a humanitarian service. However, to do what the House suggests could seriously detract from the VA's mandate to care for the service-connected disabilities of veterans, could result in the VA being unable to provide care to eligible veterans on a timely basis, and would establish an unfortunate precedent insofar as utilization of VA health care facilities.

Therefore, I am hopeful the House will reconsider their position on this provision at this time. The distinguished Senator from Louisiana (Mr. LONG) assured me 2 years ago when the House first refused to accept this amendment that he would work with me later on to convince the House of the merit of this provision.

By Mr. ABOUREZK:

S. 1995. A bill to grant admission to the United States to certain nationals of Chile and the spouses, children, and parents of such nationals, and for other purposes; to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, today I am introducing a bill to grant Chilean political refugees asylum in this country. A comparable bill, H.R. 14372, was introduced in the House by Congressman OTTINGER on April 4, and reintroduced on May 23, 1977. The purpose of this legislation is to establish an initial 2 year asylum period for Chilean political refugees who are in the United States or another country, as well as for dissidents remaining in Chile. After 2 years, a redetermination of status is made by the Attorney General.

The problem of Chilean refugees is acute and grows greater all the time. After the brutal coup in Chile in September of 1973 and the establishment of the military dictatorship of General Pinochet, 30,000 people fled the country. Amnesty international has stated that over 1,500 Chileans have disappeared since the coup and another 5,000 have been executed. Moreover, many of the 20,000 people who have disappeared from Argentina in the past 2½ years have been Chileans.

The United States has established parole programs for Chileans in the past; unfortunately they have been limited and largely fruitless efforts. The first program for 400 heads of families was established in June 1975, to assist Chileans in Chile. It was not until October 1976, that the first refugees under the program began arriving. The second parole program, established in October 1976, is for Chilean refugees in Argentina. As of this May, no Chilean refugee has entered the United States under this current program.

These programs have failed primarily because of the long waiting period from the time of application to the time of entry. For example, Chileans who fled to Argentina were told to register with the Office of the United Nations High Commission for Refugees before they filed their parole applications. Unfortunately this office has been burgled twice and the files containing the identity and the location of Chilean refugees stolen. Several Chileans disappeared after their files were taken. Thus, it is understandable why Chileans are hesitant now to register with the High Commissioner's Office.

Other countries have opened their doors to Chilean refugees. Foremost among them is our neighbor, Canada, which sends representatives of the Federal Ministry of Manpower and Immigration to Chile, Argentina, and other Latin American Countries to find, relocate, and provide Canadian employment opportunities for Chilean refugees. Thus far, Canada had admitted 6,000 Chilean refugees, 2½ times the number of Chilean refugees as has the United States. France has also admitted 4,000 Chilean refugees; Italy, Sweden, and Switzerland have admitted fewer numbers.

The United States as well must provide refuge for these persecuted Chileans. Indeed our responsibility to these people is great. Were it not for the covert intervention by the U.S. Government and American corporations to destabilitize the democratically elected government of President Allende, there might never have been a Chilean refugee problem.

The following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

Section 1. (a) Provides for the admission of any National of Chile as a Non-Immigrant if a Consular Officer determines that:

(1) If in Chile is being persecuted or in danger of persecution;

(2) If not in Chile, would be persecuted or in danger of persecution if returned to Chile;

(3) Further findings must be made that he is not excludable from the U.S., except relating to eligibility for a non-immigrant visa;

(4) Must apply for admission within one year of date of enactment of this Act.

(b) Provides for the admission for a 2 year period, with authorization to accept employment. After a 2 year period, if alien has not acquired permanent residence and a determination is made that he would be in danger of persecution if he returned to Chile, he will be accorded permanent resident status as of the date of his arrival in the U.S. notwithstanding the fact that he is not in possession of the appropriate documents.

Section 2. Relates to Nationals of Chile in the U.S. and provides the same relief as Section 1 of the bill for such applicants, provided they apply within a 1 year period following enactment of the Act.

Section 3. Related to the similar treatment for spouses, children or parents of a national of Chile (admission or adjustment of status to permanent resident).

Section 4. Exempts any person admitted under the Act from the numerical limitations imposed by or contained in the Immigration and Nationality Act.

Section 5. Places responsibility on the Attorney General for disseminating information to possible beneficiaries concerning application for treatment under the Act. Especially the limitations on the time in which they must apply for admission or adjustment of status.

Section 6. Provides that the technical definitions used in the Immigration and Nationality Act are applicable to this Act.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 214 of the Immigration and Nationality Act, any alien who is a national of Chile and is not in the United States shall be issued a nonimmigrant visa and admitted to the United States as a nonimmigrant if the consular office determines—

(1) that such alien—

(A) if in Chile, is being persecuted or is in danger of persecution on account of his political opinions; or

(B) if not in Chile, would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile;

(2) that such alien is not excludable from the United States under section 212(a) of the Immigration and Nationality Act without regard to paragraph (26) of such section; and

(3) that such alien has applied for such admission during the one-year period which begins on the day after the date of enactment of this Act.

(b) (1) The admission to the United States of any alien under this Act shall be for the two-year period which begins on the date of such admission. During such period any alien admitted under this Act shall be allowed to accept employment. Not later than the date on which such two-year period expires, the Attorney General shall examine the case of such alien and, if the Attorney General determines—

(A) that such alien has not acquired permanent residence; and

(B) in the case of an alien other than an alien subject to this subsection by reason of section 3(a)(1) of this Act, that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile,

such alien shall be placed in the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act.

(2) Any such alien who, pursuant to paragraph (1), is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the Immigration and Nationality Act, shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

SEC. 2. (a) Notwithstanding section 241 of the Immigration and Nationality Act, any alien who is a national of Chile and is in the United States on the date of the enactment of this Act shall be treated in accordance with subsection (b) if the Attorney General determines—

(1) that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile;

(2) that such alien is not excludable from the United States under section 212(a) of the Immigration and Nationality Act without regard to paragraph (20) or (26) of such section;

(3) that such alien has applied for such treatment during the one-year period which begins on the day after the date of enactment of this Act.

(b) (1) An alien subject to this subsection shall be examined by the Attorney General in accordance with paragraph (2) not later than the earlier of—

(A) in the case of an alien holding a valid nonimmigrant visa, the date on which the visa expires;

(B) in the case of an alien paroled into the United States by the Attorney General, the date on which such parole status expires; or

(C) the date two years after the date on which such alien makes application under subsection (a)(3).

(2) The Attorney General shall examine the case of an alien subject to this subsection and, if the Attorney General determines—

(A) that such alien has not acquired permanent residence; and

(B) in the case of an alien other than an alien subject to this subsection by reason of section 3(a)(2) of this Act, that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile,

such alien shall be placed in the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act.

(3) Any such alien who, pursuant to paragraph (2), is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the Immigration and Nationality Act shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

SEC. 3. (a) Notwithstanding section 214 or 241 of the Immigration and Nationality Act—

(1) any alien who satisfies the requirements of subsection (b) and is not in the United States shall be issued a nonimmigrant visa, admitted to the United States as a nonimmigrant, and treated in accordance with subsection (b) of the first section of this Act; and

(2) any alien who satisfies the requirements of subsection (b) and is in the United States shall be treated in accordance with subsection (b) of section 2 of this Act.

(b) An alien satisfies the requirements of this subsection if the Attorney General determines—

(1) that such alien is the spouse, a child, or a parent of a national of Chile who has been admitted to the United States under subsection (a) of the first section of this Act or with respect to whom determinations described in subsection (a) of section 2 of this Act have been made;

(2) that such alien—

(A) is a national of Chile but does not satisfy the requirements for admission under subsection (a) of the first section of this Act or for receiving treatment in accordance with subsection (b) of section 2 of this Act; or

(B) is not a national of Chile; and

(3) such alien has applied for treatment under this section within the one-year period which begins on the day after the date of enactment of this Act.

SEC. 4. Any alien who acquires permanent residence under this Act shall not be chargeable for purposes of the numerical limitations contained in section 201 or 202 of the Immigration and Nationality Act.

SEC. 5. The Attorney General shall take such steps as he deems appropriate to provide that any alien who is a national of Chile or the spouse, a child, or a parent of a national of Chile shall be informed of the treatment for which application may be made under this Act before such alien is otherwise excluded from admission into, or deported from, the United States.

SEC. 6. The definitions contained in sections 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act.

By Mr. STAFFORD (for himself, Mr. LEAHY, Mr. FORD, Mr. MELCHER, and Mr. LAXALT):

S. 1996. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for nonregular service, and for other purposes; to the Committee on Armed Services.

Mr. STAFFORD. Mr. President, I am introducing legislation with Senators LEAHY, FORD, MELCHER, and LAXALT that would amend section 1448 of title 10, United States Code, to provide survivor benefit protection during the latter portion of the Reserve Forces retiree's annuity vulnerability. It provides that in case of death of a Guard or Reserve member who has completed 20 or more years of qualifying service before his 60th birthday, the benefit that would be paid had he lived to that age would be immediately payable to his dependent if he was at least 55 when he died. A lesser amount, based upon a reduction of 2 percent a year for each year between his age at time of death and age 55, would become payable at the time he would have become 55 had he lived. Passage of this legislation will greatly alleviate the hardships created for dependents and will correct this serious defect that was not addressed when the survivor benefits plan was authorized in 1972. Priority should be given to amend this unjust law that leaves a Guard or Reserve widow with no entitlement to an annuity otherwise rightfully earned.

The need for this legislation arises as a result of the peculiarities of the present laws governing Reserve Forces title III retirement and the laws governing eligibility for the survivor benefits plan—SBP.

The present law requires the Guardsman and Reservist to meet the following criteria to be eligible for title III military retirement pay;

First. Complete 20 satisfactory years of Federal military service, of which the last 8 must be served in Guard or Reserve status, and

Second. Reach age 60 before retirement benefits begin.

It is in the period after completing the over 20 years military service requirements and while awaiting age 60 that the Reserve Forces member's rights to survivor benefits are unprotected. During this period, the Guardsman or Reservist has no options available to him to protect his 20 or more years' investment in earned military retirement. Should he live to age 60, he begins receiving retirement pay and his dependents are immediately and fully covered under the survivor benefits plan. However, should he die before 60, all pay and survivor benefits are totally lost.

Active force retirees do not face this problem. Regardless of age, on the first day of retirement they immediately begin to draw retirement pay and their dependents are immediately covered under the provisions of the SBP. It is to correct this inequity for Reserve Forces survivor dependents to qualify for SBP benefits legislation is required.

Mr. President: I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1448 of title 10, United States Code, is amended by adding new subsection (e) to read as follows:

'(e) If a person who would otherwise have become entitled to retired pay under chapter 67 of this title dies before attaining the age at which he would have been entitled, upon application, to such retired pay, the Secretary concerned shall pay to a widow or widower described in section 1450 of this title 55 percent of—

"(1) the retired pay to which the member or former member would have been entitled if he had all of the qualifications described in section 1331 of this title and had applied therefor, if he was at least 55 years of age when he died; or

"(2) the retired pay to which he would have become entitled under clause (1) if he had lived until age 55, commencing on the date he would have attained that age, and based upon the pay rates then in effect. However, if the member or former member was at least 50 but less than 55 years of age at the time of his death, the surviving widow or widower may elect to receive an annuity to commence immediately, based upon the pay rates in effect on the date of the member's or former member's death reduced by one-sixth of 1 percent for each full month between his age on the date of his death and age 55, or the annuity described in the first sentence of this clause. A person entitled to an annuity under this subsection is considered to be a dependent of a member or former member who was at the time of his death entitled to retired pay.".

By Mr. INOUYE:

S. 1997. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation which would allow a taxpayer who adopts a child to receive a deduction from gross income for the medical, legal, and other expenses incurred in the adoption process. As you are aware, natural parents are permitted to deduct the medical expenses incurred in the birth of their child. Since these expenses are oftentimes substantial, natural parents receive sizable deductions. The costs of adopting a child have risen steadily, and according to recent figures, it is not unlikely that these costs are becoming prohibitive and discouraging many from adopting a child. Therefore, I believe that adoptive parents should be given treatment similar to that afforded natural parents. This measure would provide an incentive to adoption by permitting a maximum deduction of $1,000 for expenses incurred in the adoption of a child.

I would like to point out that the administration has announced its support for legislation which addresses all aspects of the problems created when a child is separated from the family unit. Consistent with this position, the administration recently proposed the allowance of subsidies to low- or moderate-income families wishing to adopt so-called hard-to-place foster children.

In addition, President Carter has indicated his desire to support legislation providing alternatives to abortion. The controversy over the administration's support of cutting medicaid funds for abortion makes it imperative that such alternatives be provided. Assisting adoptive parents in meeting the special costs associated with adoption would create one alternative by assuring expectant mothers who do not want to or who cannot raise their children that their offspring will be placed in a healthy and beneficial adoptive situation.

I believe that this measure will encourage the elimination of the barriers to adoption and supplement efforts by the administration to reexamine and reform existing policies that harm rather than maintain stable, supportive family units. My proposed bill will help to accelerate the placement process for homeless children and reduce some costs incurred by State and local government agencies. Furthermore, this measure would close the gap in the recent administration proposal, which provides subsidies only to individuals adopting hard-to-place babies. It says nothing about subsidizing people to adopt healthy, young children. My proposed bill would allow a deduction to persons adopting both healthy and hard-to-place children.

This bill has received the endorsement of numerous adoption agencies throughout the Nation. I urge speedy consideration of this measure as we put together a comprehensive and much needed adoption opportunity plan.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Adoption Opportunity Act".

SEC. 2. (a) Part VII of subchapter V of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the amount of any adoption expenses (as defined in subsection (b)) paid by the taxpayer during the taxable year.

"(b) DEFINITION.—As used in this section, the term 'adoption expenses' means expenses which pertain to the legal adoption of a child by the taxpayer, and which are incurred in accordance with applicable State or Federal laws, including social or adoption agency fees, court costs, attorneys' fees, and other necessary costs and fees in connection with the adoption of the child.

"(c) LIMITATIONS.—

"(1) DOLLAR LIMITATIONS.—The amount of the deduction allowable under this section with respect to any one child shall not exceed $1,000.

"(2) EXPENSES OTHERWISE ALLOWABLE AS DEDUCTIONS.—No amount which is allowable as a deduction under any other provision of this part shall be allowed as a deduction under this section."

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out

"Sec. 221. Cross references."

and inserting in lieu thereof

"Sec. 221. Adoption expenses.
"Sec. 222. Cross references."

SEC. 3. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

By Mr. HELMS (for himself, Mr. PERCY, Mr. STEVENSON, and Mr. TOWER):

S. 2003. A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

UNFINISHED BUSINESS THAT CONGRESS SHOULD NOT FURTHER DELAY

Mr. HELMS. Mr. President, today I am introducing a bill which will take care of some unfinished business.

Last year, when the Senate was trying to wrap up the 94th Congress, the Banking Committee, of which I was a member, sent to the full Senate, the Bretton Woods Agreement Amendments of 1976, H.R. 13955.

This bill was primarily a change in Federal law to ratify a change in the charter of the International Monetary Fund and to increase our subscription to the IMF.

The House passed the bill on July 27, and the Senate Foreign Relations and Banking Committees subsequently held hearings on it. During the course of our deliberations, it was agreed to adopt a number of amendments to the bill. In fact, all the amendments were agreed to by the leadership on both sides and by all Senators working on the bill.

Unfortunately, and at the last minute, it became clear that there was not enough time to send an amended bill back to the House and go through the unanimous-consent procedures needed for the House of Representatives to pass the Senate-amended bill and send it to the President for his signature.

There was only time enough to do one thing: to take up the bill as approved by the House of Representatives, and send an unamended bill to the President.

That is what finally happened, and it was agreed that the Senate amendments would be acted upon during the 95th Congress.

The bill I introduce today has all those amendments except an amendment offered by the junior Senator from Illinois (Mr. STEVENSON), dealing with the Exchange Stabilization Fund. I understand he is developing separate legislation concerning that agency which will be acted upon by the Senate Banking Committee later this year.

The bill I introduce today contains four key provisions. The first is a technical improvement relating a requirement that congressional approval be granted before added IMF gold could be used for the IMF Trust Fund for less developed countries, and requiring congressional approval before any new trust fund be established that would specifically aid a single member or group of IMF members.

Primarily, this is a clarification of the Rousselot amendment adopted in the House Banking Committee and subsequently enacted. Congressman ROUSSELOT endorses this technical change in the language.

The second portion of the bill would direct the President to provide appropriate information to the committees of Congress having oversight responsibilities in the area of monetary and international policy. This amendment was offered by the distinguished senior Senator from Illinois (Mr. PERCY), who stated:

> The purpose of the amendment is to improve the potential of Congressional oversight of U.S. Governmental activities regarding U.S. participation in the international monetary system and U.S. foreign economic policy. The growth of economic interdependence and the increasing size of the international sector of the U.S. economy necessitate greater Congressional concern to these policy areas. For example, in this Congress we have dealt with Bretton Woods, commodity agreements, energy problems and the OECD financial safety net.

Senator PERCY has told me that there have been no problems in recent months with obtaining needed information, but such language might be important in any future investigation Congress may pursue concerning international monetary matters.

The third area of the bill concerns the maturity of loans made by the Exchange Stabilization Fund. The language would require that the President provide Congress with a written determination any time money is used from the ESF for loans in excess of 6-month terms.

An added provision in this portion of the bill would amend the Gold Reserve Act to specify that the purpose of the exchange stabilization is not exclusively to "stabilize the exchange value of the dollar." That, of course, is something that we automatically gave up when our Government adopted irresponsible fiscal and monetary policies in the late 1960's and into the 1970's that put the lie to the phrase, "sound as a dollar."

The final portion of the bill would effectively repeal the "Joint resolution to assure uniform value to the coins and currencies of the United States," of June 5, 1933. This joint resolution was adopted when President Roosevelt devalued the dollar and it served to eliminate the private ownership of gold and the enforceability of gold clause contracts.

In 1973, Congress restored the right of American citizens to hold gold, but Congress did not move to allow a contract between two citizens specifying payment in gold or in dollars measured in gold to be enforceable in the courts. That oversight will now be rectified. Last year, I received letters indicating that the Federal Reserve Board Chairman and the Secretary of the Treasury had no objections to this provision. Gold clause contracts are technically nothing more than a type of commodity contract that is presently fully legal in every other commodity except gold. This reform simply makes the law consistent.

Mr. President, my staff has worked closely with officials of the Treasury Department and this language has been cleared by officials there. I hope we can get speedy clearance from the Office of Management and Budget and subsequent passage.

I specifically wish to give credit to former Congressman Tom Rees, who capably served as chairman of the International Monetary Policy Subcommittee of the House Banking and Currency Committee. Mr. Rees is now in private law practice here in Washington, but devoted much of his valuable time in helping get these loose ends tied up.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Financial Reform Amendments of 1977".

SEC. 2. The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2)(A) by inserting "(a)" immediately after "Sec. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information."

SEC. 3. (a) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(1) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(2) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however,* That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the Presi-

dent provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(b) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section".

SEC. 4. The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. ROBERT C. BYRD, subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from North Carolina (Mr. HELMS), relative to the Bretton Woods Agreements and the Gold Reserve Act, and for other purposes, be jointly referred to the Committees on Foreign Relations and Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 123, to amend the Social Security Act.

S. 129

At the request of Mr. INOUYE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 129, to restore wartime recognition of certain Filipino veterans of World War II.

S. 794

At the request of Mr. BAYH, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 794, the Juvenile Delinquency in the Schools Act of 1977.

S. 972

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Delaware (Mr. BIDEN), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 972, the Small Business Development Center Act.

S. 1835

At the request of Mr. HUDDLESTON, the Senator from Iowa (Mr. CLARK), the Senator from North Dakota (Mr. YOUNG), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 1835, relating to the needs of agriculture and rural development in the United States.

S. 1836

At the request of Mr. HUDDLESTON, the Senator from Iowa (Mr. CLARK) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 1836, relating to railroad transportation and to postpone reduction of certain rail service.

S. 1960

At the request of Mr. HEINZ, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1960, relating to the creation of a national endowment for children's television.

S. 1962

At the request of Mr. HUDDLESTON, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1962, to amend the Communications Act of 1934.

S. 1968

At the request of Mr. RIBICOFF, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1968, to establish the Long Island Sound heritage.

SENATE JOINT RESOLUTION 48

At the request of Mr. CHURCH, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of Senate Joint Resolution 48, providing the authority for the President to call a White House Conference on Aging in 1981.

SENATE RESOLUTION 238—SUBMISSION OF A RESOLUTION CALLING FOR A WORLD ASSEMBLY ON AGING AND A WORLD YEAR ON AGING

(Referred to the Committee on Foreign Relations.)

Mr. CHURCH (for himself, Mr. CHILES, Mr. BROOKE, Mr. DECONCINI, and Mr. PERCY) submitted the following resolution:

SENATE RESOLUTION 238

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the thirty-second session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching opportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. CHURCH. Mr. President, on behalf of myself and Senators CHILES, BROOKE, DECONCINI, and PERCY, I submit today for appropriate reference a sense of the Senate resolution asking that the U.S. delegation to the U.N. be instructed to work with other U.N. member nations to support a World Year on Aging and a World Assembly on Aging in 1982.

My proposal is timely, I believe, for the following reasons:

First. The United Nations has within recent years taken encouraging actions to broaden its research and information program on aging. A question to expand that effort will be considered this autumn at the 32d session of the General Assembly. The forum thus provided should serve as an appropriate vehicle for discussion of a World Year and a World Assembly on Aging.

Second. U.N. research efforts and reports clearly show, in my opinion, that public policy issues related to aging require an international exchange of information and proposals for individual cooperative action.

I emphasize that the World Assembly would be a meeting of nations; it would not be an exchange of information by research scientists. That purpose is admirably dealt with by triennial meetings of the International Congress of Gerontology. What is also needed in communication among political leaders and government specialists who, more and more, will find that the "aging" population throughout the world has already begun to cause significant and sometimes startling social and economic changes requiring immediate and long-term attention and action.

Mr. President, I ask unanimous consent that a summary of significant facts from recent U.N. reports be printed at this point to document the urgency of the situation, now and in the future.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SOME REASONS FOR INCREASED INTERNATIONAL ATTENTION TO AGING

(Excerpts from U.N. Publication: "Questions of the Elderly and the Aged: Conditions, Needs and Services." August 28, 1973)

1. Projected increase in population of persons 65 and over (in millions):

		More developed regions	Less developed regions
1970	189	105	84
1980	246	130	117
Increase	56	25	33
Percentage increase	30.2	23.7	38.2

2. The approximate 291 million persons 60 years and over, in 1970, throughout the world, will increase to nearly 585 million by the year 2000 or more than 100 percent, while the world's population as a whole will increase from 3.6 to 6.5 thousand million, or by approximately 80 percent. It is significant to note that for the more developed regions the increase in the population as a whole will be 33 percent, from 1970 to 2000, while the 60 and over population will increase by 50 percent. *For the less developed regions the proportionate increase of the older population is even more pronounced, while a 98 percent increase is anticipated for the total population over the same time period, the increase in the 60 and over population will be approximately 158 percent.* (emphasis added).

3. It would appear from the demographic overall view of the world population trends in Chapter II, as well as the critical conditions and potential resources found among aging populations throughout the world, that aging may be one of the crucial social policy questions of the latter third of the twentieth century.

4. A policy on aging . . . is essential as the world approaches the 21st century, in order to assure the increasing numbers and proportions of older persons their basic human rights, full participation and contribution to, as well as protection in, the society of which they are a part. In addition, the rapid increase of older people suggests a need for responsive policies which may help to compensate for the problems arising from this change in the population structure. For example, existing health and social services must be reassessed and new centers must be established and personnel must be trained faster than the increase in the industrialization leading to migration, particularly in developing countries, may threaten older people and hinder the development of modern technology in rural areas. Such a situation calls for anticipatory policy steps providing policy protection for rural elderly and economic policies for balanced development of rural areas.

A MORE RECENT WORD ABOUT ELDERLY IN URBAN CENTERS

The U.N. Secretary-General's progress report on the Question of the Elderly and the Aged in September 1976 reviewed the status of the aging in slums and uncontrolled settlements (so-called squatter villages) and predicted the "with rapid expansion of these areas, the number and proportion of older adults are expected to rise."

In Bogotá, for example, the aging comprised about 3.8 percent of the total city population and 3.3 percent of the squatter population. But projections through 1985 foresee a rise of more than 300 percent among the elderly squatter population in fewer than 20 years.

The report added:

"Migration of older persons to slums and squatter settlements appears to be predominantly that of older widows, and this phenomenon seems to occur in all areas of the world."

Mr. CHURCH. I have suggested that 1982 be designated for the World Year and World Assembly on Aging because only one such U.N. function can be conducted in any one year. Similar conferences will be held on children in 1979, women in 1980, and the disabled in 1981.

There is good reason to believe, in my view, other nations are becoming increasingly aware of the need for the action I propose today. I believe that the United States should join with them in a joint effort culminating the 1982 conference and year long program of activities.

For very compelling reasons in this Nation and so many others, I urge early and favorable action upon this resolution.

SENATE RESOLUTION 239—ORIGINAL RESOLUTION REPORTED RELATING TO SEVERANCE PAY FOR CERTAIN COMMITTEE STAFF MEMBERS

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

SENATE RESOLUTION 239

Resolved, That for purposes of this resolution—

(1) the terms "eligible staff member", "new committee", and "transition period" have the meanings given to them by section 701 of Senate Resolution 4, 95th Congress, agreed to February 4 (legislative day, February 1), 1977; and

(2) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated solely and directly as a result of the reorganization of the staff of a new committee caused by such Senate Resolution 4, and who is certified as a displaced staff member by the chairman (and, with respect to a minority employee, by the ranking minority member) of such new committee.

SEC. 2. The chairman (and, with respect to a minority employee, the ranking minority member) of each new committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee within ten days after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, within ten days after the termination of his service).

SEC. 3. (a) Subject to the provisions of this section and sections 4 and 5, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to receive a gross amount of severance pay (based on a thirty day month) equal to seven days' pay for each year of service as an employee of the Senate (and a ratable portion in the case of service for part of a year). Such application shall be made not later than the 30th day after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, not later than the 30th day after the termination of his service).

(b) The maximum number of days' pay which may be taken into account in computing the gross amount of severance pay to which a displaced staff member is entitled under subsection (a) shall be 90 days' pay.

(c) For purposes of subsection (a)—

(1) in prorating severance pay for part of a year, any service insufficient to calculate severance pay for a full day shall be disregarded; and

(2) active military service shall be treated as service as an employee of the Senate if such active military service was immediately preceded and followed (except for periods of 30 days or less) by service as an employee of the Senate.

(d) Severance pay of a displaced staff member (1) shall be computed on the basis of the per annum rate of compensation of such displaced staff member on the date of termination of his service, (2) shall commence on the day after the termination of the transition period, and (3) shall be paid on a monthly basis from the contingent fund of the Senate, upon vouchers approved by the Chairman of the Committee on Rules and Administraton, until such displaced staff member has been paid the gross amount to which he is entitled under this resolution.

SEC. 4. (a) A displaced staff member shall not be entitled to severance pay under section 3 unless he has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding the termination of his service.

(b) A displaced staff member shall not be entitled to severance pay under section 3 if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for non-regular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(c) A displaced staff member shall not be paid severance pay under section 3 for any day during the period of his entitlement to severance pay on which he—

(1) is an employee of the United States or the Government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (b) (2),

and each such day shall be subtracted from the number of days for which such displaced staff member is entitled to severance pay under section 3.

(d) A displaced staff member shall be entitled to severance pay under section 3 only if the Committee on Rules and Administration is satisfied that the displaced staff member has made reasonable efforts to obtain employment comparable to his employment as a member of a committee staff, but has been unable to do so.

SEC. 5. (a) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such amount (or portion).

(b) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (a)(2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within 60 days after the close of such month (or, if later, within 60 days after the date on which this resolution is agreed to), the gross amount of severance pay to which such displaced staff member is otherwise entitled under section 3 shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

SEC. 6. In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next kin of such deceased displaced staff member.

SEC. 7. Severance pay paid under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to the benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

SEC. 8. Upon the enactment of S. 1153, 95th Congress, or similar legislation abolishing the Joint Committee on Atomic Energy and providing for disposition of the staff of such Joint Committee, the provisions of this resolution shall apply with respect to the displaced staff members of such Joint Committee. In applying this resolution for such purpose, the terms "eligible staff member", "new committee", and "transition period" have the meanings given to them by S. 1153 or such similar legislation.

SEC. 9. Upon the termination of the temporary Select Committee on Nutrition and Human Needs on December 31, 1977, pursuant to section 106 (e) of Senate Resolution 4, 95th Congress, each eligible staff member of such Select Committee who is serving as a member of its staff on such date shall be treated as a displaced staff member and the provisions of this resolution (other than section 2) shall apply with respect to such displaced staff member. In applying this resolution for such purpose, the transition period shall be treated as ending on December 31, 1977.

SENATE RESOLUTION 240—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 5027

(Referred to the Committee on the Budget.)

Mr. CRANSTON, from the Committee on Veterans' Affairs, reported the following original resolution:

SENATE RESOLUTION 240

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5027 as reported. Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Failure to grant the waiver would impair the ability of the Veterans' Administration to provide necessary medical services to veterans.

The major provisions of H.R. 5027 as reported (1) make clarifying amendments in title 38, United States Code, provisions under which the Veterans' Administration may furnish contract health care services through private facilities, (2) extend and improve the Veterans' Administration's authority to enter into new, or extend certain expiring, special-pay agreements with eligible physicians and dentists in order to overcome difficulties in recruiting and retaining highly qualified health care professionals; and (3) establish new health-care programs for eligible veterans in the areas of readjustment professional counseling, drug and alcohol disabilities, and preventive health care for veterans with service-connected disabilities.

Enactment of the provisions regarding the Veterans' Administration contract health care authority (sections 101–103) are urgently needed to resolve satisfactorily substantial problems which have arisen in the implementation of Public Law 94–581, the Veterans Omnibus Health Care Act of 1976, enacted on October 21, 1976, which restricted the Veterans' Administration's authority to provide contract health care services through private facilities. The major difficulty in this connection pertains to the revocation under Public Law 94–581 of the VA's authority to furnish contract outpatient services to approximately 90,000 severely disabled veterans whose eligibility for such services was based on their entitlement to regular aid and attendance or a "housebound" allowance.

A subcommittee of the Veterans' Affairs Committee held a hearing on these provisions on April 27, 1977. During this hearing, however, the subcommittee determined that certain information—such as the numbers of veterans affected by the various restrictions on contract health care imposed by Public Law 94–581, the number of such veterans who could be provided contract care under other provisions of title 38, and data regarding the provision of contract care in Alaska, Hawaii, and Puerto Rico—not then available, and requiring difficult and extensive research by the Veterans' Administration, was necessary before the final form of the measure could be determined. That information was not finally received by the Committee until June 21, 1977, after the May 15 reporting deadline had passed.

The Congressional Budget Office has advised that no fiscal year 1978 costs will be incurred under the contract health care provisions of the bill.

The provisions extending and improving the Veterans' Administration's physician and dentist special-pay authority (sections 201 and 202) derive from Administration-requested legislation which, despite numerous Committee requests to the new Administration, was not submitted to the Congress until June 27, 1977. A subcommittee hearing was promptly held on this legislation on July 1. Failure to grant this waiver would impair the Veterans' Administration's ability to overcome problems in the recruitment and retention of highly-skilled professionals during fiscal year 1978, at great detriment to the quality of health care required to be provided to veterans under existing law.

All provisions of this bill which, according to the Congressional Budget Office estimates, involve any costs in fiscal year 1978 were specifically described in the Veterans' Affairs Committee's March 15, 1977, report to the Budget Committee. The total estimated costs of the bill as reported in fiscal year 1978 is $26.97 million, an amount within and consistent with the functional allocation to the Veterans' Affairs Committee under the First Concurrent Resolution on the Budget for Fiscal Year 1978 (S. Con. Res. 19). Moreover, the bill as reported will not significantly affect the Congressional Budget nor delay the appropriations process.

This waiver of section 402(a) of the Congressional Budget Act of 1974 is only the second such waiver which has been requested by the Committee on Veterans' Affairs during the past years.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5027 as reported by the Committee on Veterans' Affairs.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 7797

AMENDMENTS NOS. 771 THROUGH 809

Ordered to be printed and to lie on the table.)

Mr. ALLEN. Mr. President, I submit for printing a series of 39 amendments which I intend to propose to H.R. 7797, a bill making appropriations for foreign assistance and related programs.

I ask unanimous consent that the amendments and a brief explanation of each be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENTS TO H.R. 7797

FOREIGN RELATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT

Number and Title

771—Human Rights Amendment.
772—Limitation of Third World Loans to Thirty-Year Term.
773—Short-Term Development Assistance Loans.
774—Limitations on Expenditures for International Organizations and Programs.
775—Sahel Amendment.
776—Drug Programs in Bolivia.
777—Unobligated Balances Subject to Authorizations Acts.
778—Deobligated Funds Returned to the Treasury.
779—Red China Amendment.
780—$222,000,000 Reduction in Security Supporting Assistance.
781—Earmarkings to Effect $222,000,000 Reduction.
782—Arab State Reductions.
783—African State Reductions.
784—Limitation on Loan Authority.
785—AID Entertainment and Representational Expenses.
786—Overseas Private Investment Corporation Entertainment.
787—Prohibition on Direct or Indirect Assistance to Certain Repressive Governments.
788—Limitation on AID Entertainment.
789—Limitation on AID Representational Expenses.
790—Military Assistance Programs Entertainment Liaison.
791—General Human Rights Amendment.
792—Direct Assistance to Mozambique or Angola.
793—Limitation on Aid to Panama.
794—Reduction in Contribution to Asian Development Fund.
795—Prohibition on Asian Development Bank Loans to Vietnam, Cambodia, or Laos.
796—Reduction in Inter-American Development Bank Replenishment Contribution.
797—Prohibition on Inter-American Bank Loans to Cuba.
798—Reduction in Replenishment Contribution to the International Bank for Reconstruction and Development.
799—Limitation on Loans to the Republic of Panama.
800—Reduction in Contribution to the International Finance Corporation.
801—Reduction in Replenishment for the International Development Association.
802—Sense of the Congress Provision on International Financial Contribution.
803—Percentage Limitation on Contributions to the Inter-American Development Bank.
804—Reduction in Percentage Contribution to International Development Association.
805—Ex-Im Bank Entertainment Limitation.
806—Prohibition of Use of Funds for Propaganda.
807—Public Disclosure by International Financial Institutions.
808—Prohibition of Aid to Cuba.
809—Aid to Korea.

No. 771. Human Rights Amendment

This amendment would make applicable to all aspects of the food and nutrition programs of the Department of State and the Department of Agriculture the human rights prohibitions now applied only with respect to loan agreements under title I of Public Law 480.

On page 2, line 11, strike out "$515,000,000" and substitute in lieu thereof: "$515,000,000: *Provided*, That no part of such appropriation shall be made available, directly or indirectly, to any country which is or would be excluded

by the human rights provisions of Section 112 of the Agricultural Trade Development and Assistance Act of 1954 from entering into an agreement with the United States under such Act".

No. 772. Limitation on Third World Loans to Thirty-Year Term

This amendment requires that the bulk of the funds appropriated for Development Assistance loans must be repaid within thirty years following the date of the loan. The bill as now written permits $175,000,000 to be repaid on the basis of a forty-year term, and in view of the fact that the bulk of such forty-year loans would be made to unstable governments, a term of that length is excessive.

On page 3, strike lines 17 through 20, and substitute in lieu thereof the following: "1978: *Provided*, That of this amount $212,000,000 shall be available for loans".

773. Short-Term Development Assistance Loans

This amendment would require that at least $98,500,000 of the loans made available as Development Assistance loans must be repaid over the relatively short term of fifteen years, thereby increasing the probability that repayment will be received and lessening the inflationary impact of the loans on the U.S. economy.

AMENDMENT NO. 773

On page 3, line 21, strike out the word "thirty" and substitute in lieu thereof the word "fifteen".

774. Limitations on Expenditures for International Organizations and Programs

This amendment reinserts in the bill language adopted in the House of Representatives which guarantees that no more than certain specified amounts may be spent for various areas of United Nations activity. The amendment modifies the House language by reducing the amount available for the Namibia Institute from $500,000 to $50,000 and by reducing the amount available for United Nations Decade for Women from $3,000,000 to $1,000,000. The Namibia Institute is a Marxist-dominated institution located in Lusaka, Zambia. (I have material to back up its undesirable political perspective.) The United Nations Decade for Women expends vast sums carrying out Marxist-oriented propaganda activities while doing virtually nothing to truly improve the status of women.

AMENDMENT NO. 774

On page 4, line 10, strike out the colon appearing at the end of the line and substitute in lieu thereof the following: ", not more than $25,000,000 shall be available for the United Nations Children's Fund, not more than $1,000,000 shall be available for the United Nations Education and Training Program for Southern Africa, not more than $50,000 shall be available for the United Nations Namibia Institute, not more than $1,000,000 shall be available for the United Nations Decade for Women, not more than $2,000,000 shall be available for the United Nations Capital Development Fund, and not more than $5,600,000 shall be available to strengthen the International Atomic Energy Agency's safeguards program out of the total contribution made available to the Agency:".

775. Sahel Amendment

This amendment would make available $20,000,000 during Fiscal Year 1978, provided that the United States total contribution out of the $20,000,000 made available does not exceed 10 percent of the total contribution to the Sahel program. The amendment would allow Congress to re-examine the program on a yearly basis rather than making available for an indeterminate period $50,000,000 as now provided by the bill.

AMENDMENT NO. 775

On page 5, strike out lines 19 and 20 and substitute in lieu thereof the following: "carry out the provisions of Section 121, $20,000,000: *Provided*, That no part".

776. Drug Programs in Bolivia

Major illegal drug imports originate in Bolivia. Just as special emphasis is required for drug programs in Mexico, so also should programs in Bolivia receive special attention.

AMENDMENT NO. 776

On page 6, line 5, strike out "Mexico" and substitute in lieu thereof the following: "Mexico and that $3,000,000 shall be available only for programs in Bolivia.".

777. Unobligated Balances Subject to Authorization Acts

By striking the House language with respect to the purposes for which unobligated balances may be continued for Fiscal Year 1978 the Senate Committee on Appropriations has deftly removed many of the restrictions and specifications in the various authorizing acts involved in the Fiscal Year 1977 appropriations and the appropriations for the transition quarter. The amendment would insure that not only the purposes set forth in appropriations acts, but also the purposes and limitations set forth in authorization acts are to be taken into account with respect to the expenditure of unobligated balances as of September 30, 1977.

AMENDMENT NO. 777

On page 6, line 22, strike out the words "appropriations Acts" and substitute in lieu thereof the following: "appropriations and authorizations Acts".

778. Deobligated Funds Returned to the Treasury

This amendment would require that funds deobligated are not continued available indefinitely in the same appropriations act and for the same purposes set forth in the appropriations act originally involved. The Committee on Appropriations is apparently attempting to circumvent procedures for returning to the Treasury deobligated funds. You should call their hand.

AMENDMENT NO. 778

On page 7, strike out lines 2 through 21 and substitute in lieu thereof the following: "deobligated, hereby returned to the Treasury of the United States.".

779. Red China Amendment

The Committee on Appropriations, in typical arcane fashion, would seek to eliminate the provisions of the Mutual Security Appropriations Act which reiterates the opposition of Congress to the seating in the United Nations of the Communist China regime. The significance of the repeal of the section is that Red China can be seated on the Security Council of the United Nations without the President reporting to the Congress upon the implications of that action on the foreign policy of the United States and, moreover, the express statutory opposition of the Congress to that eventuality would be removed. The following is Section 108 of the Mutual Security Appropriations Act:

SEC. 108. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

AMENDMENT NO. 779

On page 7, strike out lines 22 and 23.

780. $222,000,000 Reduction in Security Supporting Assistance

This amendment would reduce the appropriation for security supporting assistance by $222,000,000. The reduction would be accomplished as follows: $50,000,000 from Egypt, $13,000,000 from Jordan, $37,000,000 from Syria (for a total of $100,000,000), $100,000,000 from the Southern Africa Special Requirements Fund, $6,500,000 from the category of "Southern Africa Regional", $5,500,000 from Swaziland, and $10,000,000 from Jamaica.

The reductions made in the Arab countries reflect approximate levels of expenditures estimated for Fiscal Year 1977 and reflect an attempt to hold the line on military spending for Arab states inasmuch as those states are already subsidized for military purposes by OPEC nations. The elimination of the $100,000,000 Southern Africa Special Requirements Fund reflects the fact that the authorizing legislation only permits $80,000,000 to be allocated to that Fund and further reflects a decision to defer action on the Special Requirements Fund until the $1,000,000 study mandated by the authorizing legislation can be accomplished. Obviously, the money should not be spent before the study is completed. The reduction of $5,500,000 from Swaziland is designed to limit efforts to "wean" Swaziland away from South Africa. Swaziland is on the border with Mozambique and the aid of Swaziland is essential to terrorist border operations by Mozambiquans against South Africa. This amendment would leave Swaziland with $10,000,000 in security supporting assistance which should be more than adequate for a country of ——— million population.

The $6,500,000 is removed from the category "Southern Africa Regional" since the bulk of these funds would probably be expended in Zambia, a country which is giving increasing aid to the forces of Robert Mugabi, leader of the so-called Patriotic Front terrorists who recently burned 24 people alive in a cabin on the northern border of Southern Rhodesia (adjacent to Zambia).

The $10,000,000 reduction from security supporting assistance slated to Jamaica is advisable since political rights in Jamaica are non-existent and the present dictator of Jamaica is increasingly allying himself with other Marxist governments, chiefly Cuba. Note that the authorizing committees have admitted, in effect, that the $10,000,000 slated for Jamaica should not have been carried under the category "Security supporting assistance" since the money would be a mere drop in the bucket when applied against Jamaica's present $300,000,000 balance of payments deficit. The $10,000,000 should more appropriately be provided to Jamaica in the form of direct aid to the population of Jamaica rather than to further bolster the present reprehensible government by encouraging and supporting its spendthrift policies.

Please note that the Senate Appropriations Committee has included in the total category for security supporting assistance $135,000,000 for southern Africa. This total allocation includes $100,000,000 for the Southern Africa Special Requirements Fund even though the authorizing legislation limits the fund to $80,000,000. Moreover, the earmarkings of funds authorized in the $80,000,000 Special Requirements Fund are additive with funds already authorized in the $35,000,000

earmarkings made on a country-by-country basis. Thus, at present, totals stand as follows: Botswana $18,000,000, Lesotho $20,000,000 (incredible), Swaziland $17,500,000, Zaire $10,000,000, Regional Programs in Southern Africa $51,500,000. Note further that the authorizing legislation have indicated that $30,000,000 of the Southern Africa Regional money should be directed to Zambia and that an additional $10,000,000 should be allocated to Zaire so that Zaire will actually receive $20,000,000 even though the Administration only asked for $10,000,000; Swaziland will receive $17,500,000 when the Administration only asked for $10,500,000; Lesotho will receive $20,000,000 even though the Administration only requested $5,000,000; and Botswana will receive $18,000,000 when the Administration only requested $3,000,000.

Frankly, I do not believe the Committee on Appropriations realized that the sums provided in the Special Requirements Fund were additive to the funds already earmarked in the $35,000,000 identified in the Administration budget request. I am sure some embarrassment could be caused by pointing out this particular gaff.

On page 9, line 7, strike out "$2,222,200,000" and substitute in lieu thereof the following: "$2,000,200,000".

781. Earmarkings to Effect $222,000,000 Reduction

This amendment contains earmarkings, allocations, and restrictions consistent with the basic $222,000,000 reduction in the Security Supporting Assistance category made by Amendment No. 10.

AMENDMENT NO. 781

On page 9, line 9, strike out all that appears after the word "Israel" down to and including the word "Syria" at the end of line 11, and substitute in lieu thereof the following: $700,000,000 shall be allocated to Egypt, $80,000,000 shall be allocated to Jordan, $53,000,000 shall be allocated to Syria, not to exceed $3,000,000 shall be allocated to Botswana, not to exceed $5,000,000 shall be allocated to Lesotho, not to exceed $5,000,000 shall be allocated to Swaziland, and not to exceed $10,000,000 shall be allocated to Zaire: *Provided further*, that of the funds appropriated under this paragraph, no funds shall be allocated under the general category Southern Africa Regional, no funds shall be allocated to Jamaica, and no funds shall be allocated to Southern Africa Special Requirement Funds although not to exceed $1,000,000 may be allocated to the preparation of a comprehensive analysis of the development needs of Southern Africa.".

782. Arab State Reductions

This amendment contains allocations necessary to effect a $100,000,000 reduction in Security Supporting Assistance to the Arab states specified.

AMENDMENT NO. 782

On page 9, line 9, strike out all that appears after the word "Israel" down to and including the word "Syria" at the end of line 11, and substitute in lieu thereof the following: "$700,000,000 shall be allocated to Egypt, $80,000,000 shall be allocated to Jordan, and $53,000,000 shall be allocated to Syria".

783. African States Reductions

This amendment does not reduce expenditures in Arab states but does reduce by $122,000,000 expenditures in Southern Africa and Jamaica.

AMENDMENT NO. 783

On page 9, strike out lines 10 and 11 and substitute in lieu thereof the following: "$93,000,000 shall be allocated to Jordan, $90,000,000 shall be allocated to Syria, not to exceed $3,000,000 shall be allocated to Botswana, not to exceed $5,000,000 shall be allocated to Lesotho, not to exceed $5,000,000 shall be allocated to Swaziland, and not to exceed $10,000,000 shall be allocated to Zaire: *Provided further*, That of the funds appropriated under this paragraph, no funds shall be allocated to Jamaica, and no funds shall be allocated to the Southern Africa Special Requirement Fund although not to exceed $1,000,000 may be allocated to the preparation of a comprehensive analysis of the development needs of Southern Africa.".

784. Limitaton on Loan Authority

This amendment guarantees that all loans made to the category Security Supporting Assistance shall mature within 30 years following the date on which funds were originally made available under such loans.

AMENDMENT NO. 784

On page 9, line 16, strike out the words "not to exceed $865,400,000" and substitute in lieu thereof the following: "no funds".

785. AID entertainment and representational expenses

This amendment insures that not more than $5,000 within the United States and not more than $15,000 in foreign countries shall be expended for entertainment purposes by AID personnel.

AMENDMENT NO. 785

On page 10, line 22, strike out the word "Development" and substitute in lieu thereof the following: "Development and that none of the funds made available by this Act shall be used for representational or entertainment expenses in excess of $5,000 within the United States and $15,000 in foreign countries".

786. Overseas Private Investment Corporation entertainment

This amendment reduces from $5,000 to $1,000 the funds available to the Overseas Private Investment Corporation for entertainment purposes.

AMENDMENT NO. 786

On page 11, line 2, strike out '$10,000" and substitute in lieu thereof the following: "$1,000".

787. Prohibition on Direct or Indirect Assistance to Certain Repressive Governments

This amendment expands the scope of a present provision in the bill by banning funds to Angola, Mozambique, Equatorial Guinea, North Korea, Cuba, and the Peoples Republic of China, in addition to the countries already specified, to wit: Uganda, Cambodia, Laos, and the Socialist Republic of Vietnam.

AMENDMENT NO. 787

On page 14, strike out lines 6 and 7 and substitute in lieu thereof the following: "expended to finance directly or indirectly any assistance or reparations to Uganda, Angola, Mozambique, Equatorial Guinea, North Korea, Cuba, the Peoples Republic of China, Cambodia, Laos, or the Socialist".

788. Limitation on AID Entertainment

This amendment would reduce the Committee limitation on AID entertainment expenses within the United States from $15,000 to $5,000.

AMENDMENT NO. 788

On page 14, line 17, strike out "$15,000" and substitute in lieu thereof the following: "5,000".

789. Limitation on AID representational expenses

This amendment would limit so-called "representational" entertainment expenses in foreign countries to $15,000 and would thereby save $81,000 over the committee bill.

AMENDMENT NO. 789

On page 14, line 21, strike out $96,000" and substitute in lieu thereof the following: "$15,000".

790. Military assistance program entertainment limitation

This amendment would reduce the funds available for military assistance program entertainment expenses from $73,900 to $10,000, thereby effecting a savings of $63,900.

AMENDMENT NO. 790

On page 15, line 2, strike out $73,900" and substitute in lieu thereof the following: "$10,000".

791. General human rights amendment

This amendment would strengthen the provision already contained in the bill prohibiting the obligation or expenditure of funds for the purpose of aiding in a foreign government's effort to repress legitimate civil rights.

AMENDMENT NO. 791

On page 15, strike out lines 18 through 22 and substitute in lieu thereof the following: "country for the purpose of aiding, or likely to have the effect of aiding, directly or indirectly, the efforts of the government of such country to repress the legitimate civil, political, and religious rights of the population of such country or the population of any other country contrary to the Universal Declaration of Human Rights."

792. Indirect assistance of Mozambique or Angola

This amendment would reinsert language in the bill as passed by the House of Representatives designed to prevent a circumvention of the prohibition on aid to Mozambique or Angola.

AMENDMENT NO. 792

On page 15, line 25, strike out the word "directly" and substitute in lieu thereof the following: "directly or indirectly.".

793. Limitation on aid to Panama

This amendment would guarantee that aid to Panama is held at presently planned levels, i.e., approximately $22,000,000, and would thereby prevent the Executive Branch from diverting unearmarked funds to Panama in conjunction with efforts to negotiate a new Canal treaty.

AMENDMENT NO. 793

On page 16, at the end of line 8, add the following new Section: "Sec. 117. None of the funds made available by this Act in excess of $25,000,000 may be expended directly or indirectly for the benefit of the Republic of Panama."

794. Reduction in contribution to Asian Development Fund

This amendment would reduce the United States' contribution to the Asian Development Fund replenishment from $263,571,563 contained in the Senate committe bill to the $200,000,000 level specified in the House bill, thereby effecting a savings of $63,571,563. If the Senate amount prevails, this year's replenishment of the Asian Development Bank will be $148,094,563 above the 1977 appropriation for the same purpose. The modest reduction made by the House in the original budget estimate of $263,571,563 should be retained by the Senate in order to preclude the Senate position prevailing in conference.

AMENDMENT NO. 794

On page 18, line 11, strike out "$263,571,563" and substitute in lieu thereof "$200,000,000".

795. Prohibition on Asian Development Bank Loans to Vietnam, Cambodia, or Laos

This amendment would guarantee that the Asian Development Bank does not make

additional loans to Vietnam, Cambodia, or Laos, since presumably the Bank would prefer to have the $263,000,000 replenishment coming from the U.S. Treasury.

AMENDMENT NO. 795

On page 19, immediately before the period at the end of line 2, insert the following: ": *Provided further*, That no such payment shall be made in the event the Asian Development Bank does not agree prior to such payment to refuse to contribute or lend funds to the Socialist Republic of Vietnam, Cambodia, or Laos".

796. Reduction in Inter-American Development Bank Replenishment Contribution

This amendment would reduce by $323,000,000 the U.S. contribution to the Inter-American Development Bank. (Note: the committee bill does already contain a reduction of $77,000,000 from the Administration request of $600,000,000.)

AMENDMENT NO. 796

On page 19, line 12, strike out "523,000,000" and substitute in lieu thereof the following: "200,000,000".

797. Prohibition on Inter-American Bank loans to Cuba

This amendment would guarantee that the Inter-American Development Bank does not make loans to Cuba.

AMENDMENT NO. 797

On page 20, immediately before the period at the end of line 2, insert the following: ": *Provided further*, That no such payment shall be made in the event the Inter-American Development Bank does not agree prior to such payment to refuse to contribute or lend funds to Cuba".

798. Reduction in replenishment contribution to the International Bank for Reconstruction and Development

This amendment would reduce the United States contribution to the International Bank for Reconstruction and Development from $400,000,000 to $100,000,000, thereby effecting a savings of $300,000,000.

AMENDMENT NO. 798

On page 20, line 9, strike out "400,000,000" and substitute in lieu thereof "$100,000,000".

799. Limitation on loans to the Republic of Panama

This amendment provides that the International Bank for Reconstruction and Development must agree to limit loans or contributions to the Republic of Panama to 5% of the Bank's loans made to Panama which were outstanding on July 1, 1977. (Note: A similar amendment might be considered for the Inter-American Development Bank.)

AMENDMENT NO. 799

On page 20, immediately before the period on line 19, insert the following: ": *Provided further*, That no such payment shall be made in the event the International Bank for Reconstruction and Development does not agree to limit loans or contributions made to the Republic of Panama in any one calendar year to 5% of the principal amount of all loans of the Bank made to the Republic of Panama which were outstanding on July 1, 1977".

800. Reduction in contribution to the International Finance Corporation

This amendment would reduce the United States contribution to the International Finance Corporation from $44,597,200 to $40,000,000, thereby effecting a savings of $4,597,200 and additionally making consistent the Senate provision with the provision contained in the House bill.

AMENDMENT NO. 800

On page 21, line 2, strike out "44,597,200" and substitute in lieu thereof "$40,000,000".

801. Reduction in replenishment for the International Development Association

This amendment would reduce by $350,000,000 the contribution made to the International Development Association so that this year's replenishment would be only $220,000,000 in excess of last year's. At present the replenishment is more than one-half billion dollars above the appropriation contained in the 1977 Act.

AMENDMENT NO. 801

On page 21, line 12, strike out "$950,000,000" and substitute in lieu thereof "$600,000,000."

802. The sense of the Congress provision on international financial contribution

This amendment would correct the error of the Senate Committee on Appropriations in providing only for a sense of the Senate provision regarding international financial contributions and would make the provision the sense of the Congress.

AMENDMENT NO. 802

On page 22, line 10, strike out the word "Senate" and substitute in lieu thereof "Congress".

803. Percentage limitation on contributions to the Inter-American Development Bank

This amendment would make the percentage contribution of the United States to the Fund for Special Operations of the Inter-American Development Bank consistent with the percentage of U.S. contributions to other funds. The Fund for Special Operations is used primarily to aid preferentially countries with serious balance and payment deficits, thereby amounting to *sub rosa* form of foreign aid by inflating the U.S. currency in relation to the currency of the recipient nation.

AMENDMENT NO. 803

On page 23, line 2, strike out "40%" and substitute in lieu thereof "34.5%".

804. Reduction in percentage contributions to International Development Association

This amendment would reduce the U.S. contribution to the Inter-American Development Association of the International Bank for Reconstruction and Development from 25% to 15%.

AMENDMENT NO. 804

On page 23, line 7, strike out "25" and substitute in lieu thereof "15".

805. Eximbank entertainment limitation

This amendment would limit funds for entertainment by the Board of Directors of the Eximbank to $4,000 in lieu of the $24,000 specified in the committee bill.

AMENDMENT NO. 805

On page 24, line 14, strike out "$24,000 for entertainment allowances" and substitute in lieu thereof "$4,000 for entertainment allowances".

806. Prohibition of use of funds for propaganda

This amendment would strengthen the bill's prohibition on the use of foreign aid funds for publicity or propaganda purposes within the United States. The committee bill contains the escape clause "not heretofore authorized by Congress" which presumably might permit the United Nations Decade for Women or similar organizations to operate with impunity in the American political system with U.S. taxpayer funds.

AMENDMENT NO. 806

On page 25, line 8, strike out lines 8 and 9 and substitute in lieu thereof the following: "within the United States.".

807. Public disclosure by international financial institutions

This amendment would strengthen the committee bill for disclosure of loan information by international financial institutions.

AMENDMENT NO. 807

On page 27, strike out lines 15 and 16 and substitute in lieu thereof the following: "international financial institution whose United States' Representative cannot upon his own request, or upon his request on behalf of a Member of Congress, obtain and disclose to the people of the United States the amounts and the".

808. Prohibition of aid to Cuba

This amendment would strengthen the Senate committee's prohibition on aid to Cuba by reinserting the House language struck by the Senate in committee.

AMENDMENT NO. 808

On page 28, line 6, strike out the word "directly" and substitute in lieu thereof "directly or indirectly,".

809. Aid to Korea

This amendment would insure that our withdrawal from Korea is not precipitous by restoring to the Korean military assistance program the $60,000,000 made available in fiscal year 1976. (See page 98 of Report 95-352.)

At the end of the Act, add the following new section:

"SEC. . Of the funds appropriated or made available pursuant to this Act to the Republic of Korea, not less than $60,000,000 shall be used for military assistance, not less than $1,400,000 shall be used for international military education and training, and not less than $275,000,000 shall be used for foreign military credit sales.".

WATER POLLUTION CONTROL—S. 1952

AMENDMENT NO. 810

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. ANDERSON, Mr. MOYNIHAN, Mr. HART, Mr. PROXMIRE, Mr. RIEGLE, Mr. LEAHY, and Mr. BAYH) submitted an amendment intended to be proposed to the bill (S. 1952) to amend the Federal Water Pollution Control Act Amendments of 1972.

ADDITIONAL STATEMENTS

GERARD SMITH: AN EXPERIENCED VOICE IN ARMS NEGOTIATIONS

Mr. HEINZ. Mr. President, the appointment and subsequent confirmation 2 weeks ago of Gerard C. Smith as Ambassador at Large, Special Representative for Non-Proliferation Matters, and our Representative to the International Atomic Energy Agency is a welcome sign indeed.

Gerard Smith has had a long and distinguished career in Government culminating in his 4 years of service as Director of the Arms Control and Disarmament Agency and chief negotiator at the SALT talks which produced the first SALT agreement.

Prior to that Mr. Smith had served with the Atomic Energy Commission in its early days and then joined the State Department as an adviser to Secretary of State Dulles on nuclear and disarmament problems. In 1957 he became Assistant Secretary of State for policy planning, and from 1961 to 1968 he was a consultant to the Department's Policy Planning Council.

Those of us who viewed with some concern the appointment of Paul Warnke as our chief negotiator at the new SALT talks should be heartened by the news of Mr. Smith's forthcoming involvement in those same negotiations. In fact, this appointment represents a recognition on the part of the President of the accuracy of many of the concerns expressed about Mr. Warnke at the time of his nomination.

At that juncture those who opposed Mr. Warnke were concerned that his positions on arms control issues were too rigid—that he was too publicly committed to be an effective negotiator. In particular there was fear on the part of some that Mr. Warnke's well-publicized distaste for several of our developing weapons systems could lock us into concessions at Geneva that were both unnecessary and unwise from a national security point of view. The subsequent meeting last spring with Soviet officials did little to convince the public that the United States was represented by an experienced, flexible negotiating team.

For these reasons then, the return of Gerard Smith to the arms negotiation scene is a welcome turn of events. Ambassador Smith is a seasoned negotiator, having spent 4 of the past 8 years in Mr. Warnke's current position, and the results of his tenure—SALT I—prove him a resourceful and flexible man who can obtain a fair agreement without sacrificing our vital security interests. The New York Times had a thoughtful commentary of Mr. Smith's work at the time of his resignation in early 1973:

President Nixon has lost an able and effective public servant with the resignation of Gerard C. Smith, director of the Arms Control and Disarmament Agency and chief negotiator for the Strategic Arms Limitation Talks with the Soviet Union.

A skillful fighter for the cause of arms control against demands of the military for ever more weaponry, Mr. Smith always avoided the temptation of taking his battles to Congress or the public. SALT I was the towering achievement of his four years in office; ironically, one of the most dubious concessions in that accord was made by Mr. Nixon himself over his disarmament chief's head. For months of hard bargaining last year, Mr. Smith resisted demands of the Soviet Union to be permitted to significantly larger submarine fleet. At the last moment, President Nixon conceded the point in order to seal the agreement during his Moscow summit meeting.

Ambassador Smith, credited with first posing the Soviet-American hotline, brings imagination, dedication, resourcefulness and experience to his new position, all needed qualities. I welcome Ambassador Smith to his new position, and I compliment the administration on seeing the light—as expressed by many of us during Ambassador Warnke's confirmation hearings—and bringing him on board.

THE NEW LOOK AT INTERIOR

Mr. CHURCH. Mr. President, this week's issue of Newsweek magazine contains a highly complimentary article on some of the major changes being made at the Department of the Interior under Secretary Cecil Andrus, the former Idaho Governor.

Noting that White House aides "now call him the most effective Cabinet member," the article goes into detail on the Secretary's efforts to reorganize the Department to change what Andrus has called the policy of "rape, ruin and run."

I commend the article to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENVIRONMENT: INTERIOR REDESIGN

When Jimmy Carter placed a lanky, popular two-term Idaho governor named Cecil Andrus in charge of the Department of the Interior last January, most environmentalists held little hope that Andrus would be able to change what he called the "rape, ruin and run" development policies presided over by Interior. The man seemed dedicated enough, but he was going up against a lot of history. For much of its 128-year existence, the department often shaded its environmental responsibilities—to manage 538 million acres of Federal land, to protect fish and wildlife, to supervise Indian lands and to administer the continental shelf—in favor of rapid development by mining companies, oil firms or ranchers. Interior's Bureau of Land Management was often called "the bureau of livestock and mining," and those few Interior Secretaries with conservationist tendencies—notably Stewart Udall—were bent or buried under the combined weight of big money, entrenched bureaucracy and Presidential waffling.

But after seven months, Andrus has established a strong environmental thrust at the Interior Department, outraging industry lobbyists in the process. He was the point man for the Administration's recommended cancellation of nineteen pork-barrel water projects, and he is backing legislation to tighten environmental safeguards on offshore oil drilling. A supporter of strong strip-mining legislation, Andrus helped secure a proviso that would flatly ban strip mining on prime agricultural land. In contrast to recent years, about a dozen environmental activists have been hired by the department and given some clout. "It's a clear environmental commitment," says the Sierra Club's Michael McCloskey.

Andrus has so allayed Congressional and environmental distrust of Interior that it may be expanded into a new Department of Natural Resources and Environment—to include the U.S. Forest Service, the Army Corps of Engineers and the powerful Environmental Protection Agency. Newsweek has learned that the Office of Management and Budget is about to launch a study of such a sweeping reorganization.

Reassurance: Andrus has already won the confidence of the governors of the coastal and Western states, who had the most to fear from Interior's pro-development policies of the past. "The difference is like night and day," says New Jersey's Gov. Brendan Byrne, who had been fighting both the Nixon and Ford administrations over offshore oil exploration. "We have a lot more confidence that we're going to be protected." Andrus has also won over Alaska's Republican Gov. Jay S. Hammond, who has been concerned about offshore exploration and the fate of 83 million acres of Alaskan lands.

In April, Andrus took on the timber companies and logging unions when he backed a Congressional bill that would add 48,000 acres to Redwood National Park in California. He also halted Interior's attempt to bully California into permitting construction of Exxon Corp.'s controversial tanker terminal in Santa Barbara Channel. "Prior to Andrus's arrival," says Don Neuwirth of the California Coastal Zone Conservation Commission, "if you cut somebody in the oil companies, somebody at the Interior Department bled. It was impossible to distinguish the regulators from the regulatees."

Andrus's performance has angered industry lobbyists. They call his aides "no-growth preservationists" and complain, in the words of an oil-company lawyer, that Federal acreage may not be "available to shoulder its fair share of the responsibility in meeting future energy and mineral needs."

Country Boy: Such sniping seems to leave Andrus unruffled. A 45-year-old country boy who dropped out of Oregon State after a year, he sold insurance and ran his father's sawmill before turning to politics after hearing John F. Kennedy on the Idaho stump in 1958. Called to Plains to discuss the Interior job with President-elect Carter, Andrus says he had just one question: "Am I going to run Interior or will it be run by the White House staff?"

Assured of Presidential backing (White House aides now call him the most effective Cabinet member), Andrus says he is seeking a better balance between conservation and development. "All development doesn't have to be on *their* ground rules, at the expense of the environment," he says. "If development doesn't devastate the environment, then we'll be for it," he says. "Protection is no longer a pious sentiment. It is an element of the survival of this race."

Andrus may soon face his toughest opposition—from James Schlesinger's Department of Energy. So far the two men have worked together closely, but the prospect looms of a major three-way struggle among the environmentalists, the states and the Federal energy developers for control of vast tracts on-shore and off. On the evidence so far, Andrus seems quite willing and able to hold his own.

CARTER'S ENERGY DEBACLE

Mr. HATCH. Mr. President, on June 21 I raised the question in the Senate: "Are the Carter Energy Hardships Necessary?" I asked if it was an energy program or a power grab. The answer to my question can be found in the August issue of Harper's in a thoroughly researched and documented article by Lewis H. Lapham, the editor of this fine and respected magazine. From Mr. Lapham's account it is clear as day that the Carter energy program is a power grab on the part of one man—David Freeman—who successfully used the Ford Foundation to launch his own personal ideas into a national energy program which furthers the interests of a new class of power brokers and technocrats at the expense of the American people.

The Carter energy plan is nothing other than David Freeman's 1974 Ford Foundation report—a report that has been characterized by a number of prominent economists as "an intellectual disgrace." Freeman's partisan use of the Ford Foundation to enshrine his personal views in an energy program was a source of acute embarrassment to officials of the foundation. The foundation official responsible for Freeman's report described it as "simply awful stuff." In the foundation's defense, the official discounted as nonsense the possibility of the report having a political result. The report could not do any harm, he said, because "the intelligent reader will see

through it." McGeorge Bundy, the foundation's president, said that it would be a mistake to assign significance to a report which, from a scientific point of view, might be construed as nothing more than an elaborate press release. Yet, Mr. Freeman is today in the White House with President Carter, and his energy program is the President's energy program.

Mr. Lapham reports that—

At its final meeting on August 5, 1974, the project's advisory board, finding that Freeman's bias was deeply embedded in the text of the report, required him to include a series of specific recommendations. Although originally conceived as an open-minded examination of all the factors relevant to an energy policy, the report quite clearly wasn't any such thing. Any pretense to objectivity might have been cause for embarrassment.

What are these biases that have been proposed by the President as a national energy program? They are the biases of a man who sees himself in an adversary role toward the American economic system, a man who sees free enterprise not as a source of progress but as a source of evils and miseries. They are the biases of a man who believes, as Harper's editor says:

That the United States could reduce its demand for energy by as much as 50 percent if only it would establish a federal agency large enough and forceful enough to impose rationing (on heating fuels as well as gasoline), allocate resources, rearrange the international oil market, set prices, raise taxes, issue energy stamps, and redistribute income.

Mr. President, a person does not have to be very long in Washington before he learns how special interests masquerade behind the guise of "the public interest." What special interests are being advanced by the energy legislation that the President has brought to the Congress? Mr. Lapham answers that question as follows:

The technocratic class, of which Freeman was representative, aligned itself with the academic and bureaucratic interest, with government regulation in all markets, with the host of ambitious mandarins (city planners, professors of social science, journalists, foundation officials, and university presidents) who talk of building a New Jerusalem in the slum of capitalism. Although as self-interested as the older class, the new class is less forthright about its desire for political influence. Its publicists seldom point out that a policy of "zero growth," whether computed in terms of energy or anything else, rewards people who explain, categorize, and interpret things at the expense of people who make things. In a stagnant society, the bureaucrat holds sway. His taxes, regulations, and moralisms replace the market mechanism, and, like the grocery clerk in command of a limited inventory, he finds himself invested with the wisdom of Solomon. Knowing this to be so, the bureaucrat resents the messiness of abundance.

Mr. President, the Congress does not owe this special interest group anything. Why, then, are we in the process of considering whether we are going to turn the U.S. economy over to them?

I ask unanimous consent that Mr. Lapham's article, which is as fine an example of writing as it is of reporting, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ENERGY DEBACLE

(By Lewis H. Lapham)

But man, proud man!
Dress'd in a little brief authority,
Most ignorant of what he's most assur'd,
His glassy essence, like an angry ape,
Plays such fantastic tricks before high heaven
As make the angels weep.

—Measure for Measure

I

The news from Washington suggests that President Carter's energy plan, otherwise known as "the moral equivalent of war," suffers from a lack both of strategy and recruits. Witnesses testifying before the Congress point out, as politely as possible and without meaning to hurt anybody's feelings, that the plan must have been written by people who didn't know what they were talking about. Their collective testimony (about such substantive matters as oil reserves, markets, automobiles, prices, and environmental effects) conveys the impression that the plan was conceived either as a transcendent moral vision or as a scheme to raise about $40 billion a year in additional tax revenue. Either possibility would explain the confusion about the character and extent of "the energy crisis." If it were a question of moving oil and gas from one place to another, of finding new fuels or designing new machinery, then in a nation as inventive as the Uited States I would expect that the problem could be solved without much difficulty. But the crisis unfortunately has little to do with technology, or even with raw materials. It is a political crisis, and, like most things political, resolves itself into quarrels about who has the right to do what to whom, at what price and in whose interest under what definition of government and according to which interpretation of the democratic idea.

As a demonstration of this hypothesis I propose to tell an exemplary tale. The characters in the story, all of them either rich, influential, or well informed, came together in 1972 as participants in the Energy Policy Project, commissioned by the Ford Foundation. For the next two years they carried forward what the foundation was pleased to call "a dialogue" in which their fear, prejudice, and anger frequently obscured the questions at hand. As in the larger world of the Congressional debate, so also in the little room of the Energy Policy Project. People associated the advancement of their own interests with the preservation of Western Civilization and The American Way of Life. Experts came and went, displaying their maps and graphs like so many magicians' scarves, conducting their discourse in the theater of hypothetical numbers, and proving whatever they were expected to prove. Their statistics provided a screen behind which the interested parties could haggle about the division of the spoils.

The foundation assigned the direction of the project to S. David Freeman, a fervent advocate of environmental reform now employed in the White House Office of Energy Planning. Given grants amounting to $4 million between 1971 and 1974, Freeman produced a compendium of research in twenty-one volumes and a final report published under the title *A Time to Choose*. His report recommended a policy of energy conservation and suggested that the United States could reduce its demand for energy by as much as 50 percent if only it would establish a federal agency large enough and forceful enough to impose rationing (on heating fuels as well as gasoline), allocate resources, rearrange the international oil market, set prices, raise taxes, issue energy stamps, and redistribute income. The report also asked for the manufacture of more efficient automobiles, for government subsidy of anything that might conserve energy, for a schedule of pollution taxes, and for the raising up of a tribunal that could award supplies of energy (on the basis of need and moral worth) among major industries and geographic regions. As might be guessed by Freeman's presence in the White House, many of these same proposals, together with the social doctrine implicit in his report, appear in President Carter's energy plan.

A Time to Choose was published in October 1974 with all the expensive ceremony that the foundation attachés to announcements of grave social significance. It was presented at press conferences convened simultaneously in New York and Washington. At least 6,000 copies of the report were given to members of Congress, the federal bureaucracy, and the press; during the autumn of 1974 another 30,000 copies were sold in bookstores, and the foundation arranged for the Book-of-the-Month Club to offer an additional 300,000 copies of an abridged text to its civic-minded subscribers.

In the minds of many people on Capitol Hill at the time, the report was thought to provide the first coherent explanation of energy matters not submitted by the oil and gas lobby. Politicians spoke of the report's "filling a vacuum," of the way in which it "exploded the myth of a connection between energy growth and economic growth as a whole." The sector of the national press that notices such things received the publication of the report with thanksgiving and applause. Among more knowledgeable people the response was not so enthusiastic. A number of prominent economists characterized the report as an intellectual disgrace. Several months later, under suspicion of having sponsored the dissemination of ideological propaganda, even a hierarch at the Ford Foundation disavowed the worth of the report, describing it as inept, foolish, and of little consequence.

II

My own acquaintance with the report was the result of a conversation with William Tavoulareas, the president of the Mobil Oil Corporation. Tavoulareas had served on the advisory board to the Energy Policy Project, but on the date after the Ford Foundation held its press conference Mobil placed an advertisement in 117 newspapers denouncing the final report as the harbinger of an American police state. Recognizing this as an unusual act on the part of a man who had been a signatory to the document in question, I went to ask Tavoulareas about the reasons for his unhappiness. A red-faced and choleric man, who spoke so rapidly that it was sometimes difficult to hear what he said, Tavoulareas rocked back and forth in his chair and gestured furiously with his hands. He described the Ford Foundation as a "goddamned ripoff," as an institution afraid of debate, as a conspiracy of petty tyrants determined to wreck the country. When his anger threatened to choke him, he gripped the sides of his chair and held onto it as if to a child's rocking horse. Not only had the foundation published a work of fraudulent and subversive economic analysis, but also, he said, it had failed to honor its contractual obligations. Tavoulareas had agreed to serve on the project's advisory board only after he had received assurances that his views would be published in the final report. The foundation agreed to this condition in writing, but when Tavoulareas offered a dissenting opinion of several hundred pages the foundation refused to publish it on the grounds that it was too long.

"Who do these people think they are?" he said. "To whom are they accountable?"

As evidence of the injustice that had been done to him, Tavoulareas handed me the file

of his correspondence with Freeman and various foundation officials. The correspondence opened a Pandora's box of apology and recrimination. Over the next six months, I spoke to many of the people associated with the project, and I was surprised to discover that few of them could discuss the subject without bitterness. Together with Tavoulareas the advisory board counted among its members such prominent men as Michael McCloskey, executive director of the Sierra Club; John D. Harper, chairman of the Aluminum Corporation of America; Harvey Brooks, dean of the division of Engineering and Applied Physics at Harvard University; Phillip S. Hughes, assistant comptroller general, General Accounting Office; Joseph L. Fisher, formerly president of Resources for the Future and now a Democratic Congressman from Virginia; and Gilbert White, director for the Institute of Behavioral Sciences at the University of Colorado.

I had assumed that all of these gentlemen would recognize a common, even a national, interest. Without exception they belonged to the American ruling class; they enjoyed equivalent degrees of status and lived in the same well-lighted suburbs of Washington, New York, Pittsburgh, Boston, and San Francisco. Any agreement about energy policy clearly served their mutual advantage, and yet so many of them apparently had been reduced to calling each other names, as if they had been walking around in the rain with political placards instead of sitting across conference tables from one another.

McCloskey remembered Tavoulareas as "a bully who thought that everybody should dance to his tune," a man whose "presumption and gall" reminded him of Khrushchev pounding his shoe on the table of the General Assembly in the United Nations. Tavoulareas described McCloskey as "a nut." Freeman, the director of the project, spoke contemptuously of both Tavoulareas and the Ford Foundation; Tavoulareas he characterized as "a Nixon type . . . a bad actor who played dirty pool and tried to take advantage of his monstrous corporate power"; the Ford Foundation he dismissed as "a group of nervous Nellies," crouching and timid men who feared the "cutting edge of controversy." Tavoulareas thought Freeman "a fool and a zealot."

Attempting to remain equidistant from any and all parties to a quarrel they thought unseemly, officials at the Ford Foundation described Tavoulareas and Freeman as well-intentioned but misguided advocates who, "quite frankly . . . didn't understand the rules."

None of this made much sense until I realized that the people associated with the project didn't think of themselves as belonging to the same ruling class. They divided themselves into at least two classes, and they preferred to think of the project as a mortality play in which the people they didn't like or with whom they didn't agree appeared as personifications of the Evil One. The merchant class, of which Tavoulareas was representative, aligned itself with the financial and industrial interests, with the theoretical freedoms of the marketplace, and with the sanctity of money. Most of the people associated with this class endorsed the notion of an "energy crisis" because it was good for business: if oil could be made to seem in scarce supply, then everybody could maintain a posture of innocence while selling it for high prices.

The technocratic class, of which Freeman was representative, aligned itself with the academic and bureaucratic interest, with government regulation in all markets, with the host of ambitious mandarins (city planners, professors of social science, journalists, foundation officials, and university presidents) who talk of building a New Jerusalem in the slum of capitalism. Although as self-interested as the older class, the new class is less forthright about its desire for political influence. Its publicists seldom point out that a policy of "zero growth," whether computed in terms of energy or anything else, rewards people who explain, categorize, and interpret things at the expense of people who make things. In a stagnant society, the bureaucrat holds sway. His taxes, regulations, and moralisms replace the market mechanism, and, like the grocery clerk in command of a limited inventory, he finds himself invested with the wisdom of Solomon. Knowing this to be so, the bureaucrat resents the messiness of abundance. In a robust or creative society, too many people go around making things without permission, inventing new sources of wealth and political theory. Obviously people cannot be trusted. They must be managed. But most people object to being managed, even for their own good, and so first they must be frightened, which is why, in the best ideological circles, it is proper to say that the United States is cruel, ignorant, and wasteful. Thus the government's willing belief in the apparition of the energy crisis and the news that the world is coming to an end.

III

When the foundation decided to consider the problem of energy policy in late 1971, McGeorge Bundy announced that it hoped to provide "an informed and reasoned base" for the national discussion. The evidence suggests that the report was neither reasoned nor informed, but for the time being it is enough to say that the foundation had assembled a large sum of money for a public purpose and that somebody suggested that it might be useful to do something about energy. Clearly the subject was one of sufficent importance; obviously it was complicated and therefore in need of additional research; certainly it was the kind of thing to which the foundation should address itself. Nobody quite knew how to go about it, but a program officer named Edward Ames recommended the formation of an independent study group under the direction of S. David Freeman.

I spoke to Ames in December of 1974, at a time when he wanted very much to believe that he hadn't taken part in something that might be construed as a failure. He has since left the employ of the foundation, but I remember him as a thoughtful man in his early forties who, with a faint but disarming smile, accepted full responsibility for the management of the Energy Policy Project.

"I'm the continuity," he said. "If anybody takes blame or credit for this, it is I."

Of the three people to whom I spoke at the foundation, Ames was the only one who was embarrassed about the intellectual inadequacies of the report. Choosing his words with painful discretion, he said that he had "introduced" Freeman to the foundation. Freeman was a lawyer who had come to Washington from the Tennessee Valley Authority in the early 1960s. Appointed to the Federal Power Commission by President Kennedy and to the White House Office of Science and Technology by Presidents Johnson and Nixon, he had written President Nixon's energy message in the spring of 1971; shortly afterward he had become the director of an energy study sponsored by the Twentieth Century Fund. His credentials were of a kind to warrant the investment of foundation money, and, like Ames, he favored the environmental line of argument. In journals as diverse as the *New York Times* and and the *Bulletin of Atomic Scientists*, in articles published as early as 1968, Freeman had censured the energy industries and recommended a reduction in demand to conserve dwindling supply.

"It's always a problem with these things," Ames said. "If you're going to go to somebody who knows something, you find yourself with a man who holds opinions."

The foundation took the precaution of inviting Freeman to New York to meet with its board of trustees, a procedure that Ames described as extremely unusual. During a conversation that lasted about thirty minutes, Freeman was asked if he could conduct a study with an open mind, whether he was capable of restraining his bias while constructing an objective analysis. As Ames remembered it, the trustees were very particular on this point; they hoped for a comprehensive review of the alternatives rather than a passionate declaration of principles. Ames remembered that Freeman said something to the effect that, although he had an open mind, he didn't have an empty one. And then, with a hint of apology in his voice, Ames said:

"We believed him."

For a moment we both looked out the window at the profusion of trees and flowers in the interior garden of the foundation's building on East Forty-second Street in New York City. That the foundation should have felt obliged to advance the cause of energy conservation struck me as incongruous. The gracefulness of its own building depended on the profligate waste of light and space. Laughing nervously and still talking about Freeman, Ames said: "After the fact, you can say that we were naive."

I later met Freeman in Washington, and I found it difficult to understand how anybody could have mistaken the intensity of his commitment to a cause. During the winter of 1975 he was employed by the Democratic majority in Congress, and he reecived me in a cluttered government office, his desk strewn with drafts of legislation and his secretary making engagements for him to speak to environmental groups in Maryland and Florida. A slender and intense man, quite obviously possessed by a utopion vision of the just society, he cast his arguments in the same mode of self-righteous Puritanism that has come to characterize the rhetoric of President Carter. Freeman spoke in a quiet and slightly Southern voice, but his speech had an edge of harshness in it, as if he thought himself chosen to draw the lines of moral geography, if necessary with the point of a knife. The conversation with the Ford Foundation trustees in New York he remmbered as an empty charade. He assumed that all those present understood his support of a policy for conserving energy.

"It was clear enough," he said. "Everybody knew what my feelings were."

The foundation had come to him, he said, and he had agreed to undertake its project on the condition that he could continue to lobby for his own ideas. The foundation could pay for the studies, but he would hire the consultants and decide what was deserving of research.

"But Bundy knew all that," he said. "The foundation knew it was buying a controversial guy. I felt that it was my mandate to educate the members of the Congress and the press."

He established the project's offices in Washington (another unusual procedure for a supposedly scholarly and nonpartisan study) and began the business of recruiting an advisory board that would invest the project with an aura of national consensus. Freeman didn't particularly care who the foundation nominated to the advisory board. He was concerned only that the members of the board represented a sufficiently broad spectrum of opinion to sustain the illusion of impartiality. He agreed to print any comments they might wish to append to the final report, but he didn't expect to pay close attention to their advice or counsel.

"I could take it or leave it," he said. "What none of them seemed to understand . . . probably because they were board-of-direc-

tors types used to ordering people around . . . was that I had the power. I had the power, and it didn't matter what any of them said."

Freeman reminded me of this point several times during the space of an hour, and I remember being taken aback by the violent emphasis that he placed on the word power. His enemies had been delivered into his hands, and he had thoroughly enjoyed the task of meting out God's vengeance. Listening to him talk about the wickedness of oil companies, I reflected that Freeman and Tavoulareas were very much alike. They shared an equivalent obsession with power, and it seemed that both of them had embarked on the project in the hope of rooting out—once and for all and without any more of this goddamn wheedling and compromise—the infamous doctrine of those people whom they imagined to be subverting the Constitution and subtracting from the sum of their civil rights. They were engaged in argument about which of them represented legitimate authority in the United States. Both of them also wanted to control the buying and selling in the company store, and neither of them seemed to know that the poor man forced to do the work of the society seldom cares whether his overlords call themselves capitalists or environmentalists.

When Freeman first went with Ames to persuade Tavoulareas to serve on the advisory board, each must have thought that he could outwit the other. Tavoulareas accepted a place on the board despite the advice of his friends in the oil industry who warned him against trusting "any of those liberal bastards at the Ford Foundation" and despite his familiarity with Freeman's record as an implacable opponent of big business. His motives for doing so deserve a moment's speculation because it is possible that they reflect the inability of the older class to perceive the strengths and weaknesses of the technocrats.

Tavoulareas may have thought that the Ford Foundation embodied the best of the American dream, that somehow it had managed to preserve the spirit of the New England town meeting in which free men conduct a free debate in the name of Enlightenment. He had been born poor in the Red Hook section of Brooklyn, working his way upward through the hierarchy of Mobil Oil Corporation in the tradition of Horatio Alger. If that much of the American dream proved to be correct, then why not the rest of it? Such an assumption would cast Tavoulareas in the part of the quixotic idealist who agrees to lay aside his blackjack because he believes himself in the presence, of gentlemen. This is an engaging possibility, but it requires a further assumption of innocence and naiveté that doesn't coincide with Tavoulareas's reputation for bargaining with Arabs. Neither does it coincide with the oil industry's preference for monopoly dressed up in the pieties of free enterprise.

It thus becomes equally possible that Tavoulareas agreed to serve as a member of the advisory board because he thought he could gain an easy victory over people whom he imagined to be his enemies. Most of the other members of the board he characterized as "sweet do-nothings" and "weak humdrums," the kind of men appointed to ornamental councils and commissions precisely because they could be counted upon to exchange platitudes and sign whatever statement was put in front of them. Tavoulareas could rely on his tactical skills, on his willingness to insult people, and on a research division within his own company that could provide the glut of statistics necessary to refute the work of Freeman's consultants.

As long as he believed that his deal was with the foundation instead of with Freeman, that if anything went wrong he could fix it with the people who mattered (with Bundy or the Board of Trustees), then Tavoulareas may have had reason to think that his views would prevail. Unfortunately, he missed the point of modern politics and failed to recognize the alliance between foundations and the wandering moralists upon whom the foundations lavish money and patronage. In a country where the traditional forms of politics have become suspect (vide the antipolitical credo of such otherwise different people as Messrs. Nixon, Carter, Agnew, McGovern, Nader, and Brown), political authority comes to reside in organizations pretending to exist in a realm beyond politics—in consumer groups, Presidential commissions, public-opinion polls, universities, and, most conspicuously, in foundations. Given the loud ignorance of the media, in which strident and competing voices all claim to be the voice of truth, the foundation remains one of the few American institutions that can validate the claim to authority. This works to the advantage of the technocratic interest, which abrogates to itself the prerogatives of government by purporting to reach technological solutions without having to confront the stubbornness of human needs, interests, or emotions. Behind the facade of impartiality, the weight of money and influence shifts to people who affect to despise politics.

The Ford Foundation spends as much as $100 million a year ($200 million before the recent reductions) for a multitude of studies, programs, symposia, seminars, and social experiments that seek to identify and shape the public interest. It would be foolish not to assume that the projectors of these visions don't hope to impose a political design on what they perceive as the careless disorder of events. No doubt this is to be expected, and probably nothing can be done about it. Money is politics, and politics is money, and research studies tend to flatter the self-interest, as well as the social conscience, of the buyer.

Anybody given to the construction of conspiracy theory could draw lines of connection between a great many of the people beholden to the Ford Foundation, between the programs supported by the Public Broadcasting System and the books published under the aegis of the Brookings Institution, between money spent for scientific research and the questions that politicians identify as useful. The money disbursed by the Ford Foundation since the advent of McGeorge Bundy in 1966 amounts to more than $2 billion. Although this does not seem so large a sum when compared to the federal deficit, or even to the annual budget of New York City, it should be remembered that ambitious metaphysicians trade at small prices, sometimes for nothing more than an invitation to Aspen to take part in a symposium or their names printed on a letterhead. The credentials qualify them as oracles of the received wisdom, which, if properly advertised, can be changed into money and votes.

IV

The energy project's advisory board held the first of its eleven meetings in Washington in July of 1972. Within a few months it became obvious to several members that Freeman was directing the study toward a predetermined conclusion. Freeman's choice of consultants, his casting of the argument along conservationist lines, his insistence on a program of social justice—all of it foretold the advent of an ideological tract. Phillip Hughes, the assistant comptroller general of the General Accounting Office and one of the two federal bureaucrats on the board, accepted the politics of the project as nothing out of the ordinary.

"Everybody knew at the beginning," he said, "that the point of view would be Freeman's."

Inclining to agree with Freeman's bias in favor of big government, Hughes found the discussions "enjoyable and educational . . . not nearly as rough" as the arguments with which he was familiar in Washington. Harvey Brooks, the dean of engineering at Harvard, also understood that "what Freeman wanted all along was a political document." He improved as many draft papers as he found time to edit or correct, in the meantime consoling himself with the knowledge that the final report wasn't "nearly as bad as it might have been if Freeman had been allowed to write everything he wanted to write."

The meetings moved around the country, convening in places such as Aspen or Santa Barbara. The views of the sea or the mountains apparently did little to improve the quality of the argument.

As Tavoulareas gradually recognized the weakness of his position, he began to beat his fists on tables and make strident accusations. Having underestimated the strength of his opponents, he failed to understand that the noisiness of his protest confirmed the nonaligned members in their worst suspicions. If Tavoulareas complained so much, then clearly he must be hiding something, and so Freeman must be right in his definition of the oil industry as a conspiracy of thieves. Tavoulareas also failed to anticipate the indifference of the less opinionated members toward a measurable result. What did it matter to them where the argument came out? What did it cost them? Nor could Tavoulareas intimidate them with threats of public exposure. Such a tactic might work against businessmen habitually frightened of "what people might think," but the academic reputation waxes and grows fat in the soil of controversy. The more widely known a professor's name, the more valuable his opinions become, and the more often he will be invited to sit on advisory boards. Given the climate of opinion in the country in 1972 and 1973, few people could fail to gain anything but honor if they were known to be despised by the president of the Mobil Oil Corporation. Talking to several members on this point, I had the feeling that they smiled pityingly among themselves about what they came to regard as "Tav's harangues." They remembered him as "consuming more than 25 percent of the time" in rhetorical tirades, as "unreasonable," "overbearing," and "always loud." McCloskey extended the general observation into a metaphor, choosing to see in Tavoulareas the literal embodiment of the industrial interests laying waste the virgin wilderness. A year later, rocking back and forth in his chair, Tavoulareas found it almost impossible to describe his feeling of frustration and anguish.

"It was a nightmare," he said. "The whole thing was a goddamned nightmare. The monstrous presumption of those people. Everybody was an instant expert on everything; on oil, on foreign policy, on the Middle East, for Christ's sake. None of them knew a goddamned thing."

At the meeting in Santa Barbara in February of 1973, not only Tavoulareas but also three or four other members of the board threatened to resign. Even the moderate members mumbled about their integrity being impugned. The occasion for their distress was a speech that Freeman had delivered in January to the Consumers Federation of America. Identified in newspaper accounts as the director of the Energy Policy Project, he was quoted as making a number of political statements—about the Nixon Administration, the oil-import quota, the price structure of the energy industry. Ames remembered the speech with acute embarrassment.

"It was not the kind of speech you'd want a study director to make," he said. "Freeman was given complete freedom, but . . . people who receive that kind of freedom . . . have a responsibility to exercise it wisely."

Again he was apologetic, conceding that many people at the foundation had been dis-

appointed in "Dave." He explained that prejudicial statements compromised Dave's credibility as an objective and open-minded researcher into the energy question. Smiling as brightly as possible, and with the familiar strain of nervous laughter in his voice, Ames said:

"It was an eye opener for all of us. We realized that Dave really was an active participant, and that gave us a real problem."

It was a problem that the foundation made little attempt to resolve. The advisory board insisted that Freeman make a public apology, which he did on February 6 by issuing a statement (largely ignored by the press) to the effect that he regretted the way in which his speech might have been interpreted. A few days later he was summoned to New York for what Ames described as "a lively and active discussion" with McGeorge Bundy. Beyond that the foundation did nothing but hope that the controversy would go away. Nobody suggested that the study be abandoned or that Freeman be replaced.

"We swallowed hard and went on with it," Ames said. He offered the usual explanations: that so much money had been spent, that there was a public purpose to be served, that the question of energy was becoming more and more important to the national interest. The explanations were those of a man who feels himself subservient to forces beyond his knowledge or control. The spectacle of the Ford Foundation pleading helplessness, as if it were a friendless salesman standing in line at a welfare office, seemed to me either difficult to believe or a testimonial to its disassociation from the political reality that the foundation so devoutly wished to shape into monuments of the public happiness.

Having made his apologies, Freeman continued to do as he pleased. Throughout the whole of 1973, he testified before Congress on numerous occasions and maintained a market in information for newspaper reporters and Congressional staff assistants. The working papers submitted by consultants to the project he systematically leaked to interested politicians. One of his most frequent correspondents was a man named Ed Morrison, the legislative assistant to Charles Vanik, a Democratic Congressman from Ohio. Vanik is an influential member of the House Ways and Means Committee, a man known for his interest in energy and the environment, and Morrison had been his primary source of information since 1972. Freeman conferred with Morrison throughout the early phases of the Energy Project, briefing him with particular reference to automobile efficiency, tax credits for buildings with improved insulation, and a federal trust fund for the development of alternative sources of supply. Morrison acknowledged the far-reaching effect of Freeman's thinking among people on Capitol Hill.

The same point was made by Rep. Joseph L. Fisher, Democrat of Virginia, who had been a member of the project's advisory board. Fisher had been named to the board in his capacity as former president of Resources for the Future, Inc. (an environmental group funded in large part by the Ford Foundation); elected to Congress in November 1974, he was appointed to the Ways and Means Committee and assigned responsibility for organizing debate on the energy bill. As a preliminary to this task he presented each of the members with a copy of *A Time to Choose*.

That much of Freeman's information became outmoded as a result of the Arab-Israeli war in October 1973 apparently didn't make much difference, either to Freeman or his correspondents in Congress and the press. The economic analysis in the final report estimates the price of oil in the Persian Gulf at $7 a barrel; at the time of the report's publication the price had risen to $11 a barrel, but Freeman didn't bother to change the numbers. When asked whether he had reached his conclusions before embarking on the project, he dismissed the question as one of slight importance.

"I won't say that I didn't have some feel for the subject," he said. "But what matters is whether the conclusions are right . . . whether they will stand the test of time and public scrutiny."

Those are not the questions that would occur to a man of scientific mind, to whom the test of time seems impossible and the value of public scrutiny irrelevant, and so I think it fair to assume that Freeman approached the study in the spirit of a political reformer. Such an attiude would explain his mood of exaltation, as if what mattered was the vindication of a social philosophy. The death of Goliath signified the birth of a new order.

"We were ahead of the issue," he said. "I knew that the country was in trouble, that we were wasting energy, that Tavoulareas's economy had gone to pot. We are trying to put it back together."

v

At its final meeting on August 5, 1974, the project's advisory board, finding that Freeman's bias was deeply embedded in the text of the report, required him to include a series of specific recommendations. Although originally conceived as an open-minded examination of all the factors relevant to an energy policy, the report quite clearly wasn't any such thing. Any pretense to objectivity might have been cause for embarrassment.

As with so much else about the Energy Policy Project, the final difficulty was placed in its most flattering perspective by Marshall Robinson, a vice-president of the foundation who became director of its Office of Environment in 1973 and was thereby responsible for Freeman's report. By the time I went to see Robinson in early 1975, the report already had begun to come under attack in academic circles. People were talking about its poor scholarship and about the chance of the foundation being embroiled in a political scandal. Older than Ames and far more practiced in the bureaucratic arts, Robinson was a tall and handsome man who carried himself with the erect posture of a military officer. Such was the graciousness of his manner that he managed to express a number of contradictory attitudes within the compass of a single gesture. He was sorrowful and yet hopeful, embarrassed and yet forthright, wistful and yet admonishing, delighted to talk about the project and yet wondering why it couldn't be forgotten.

The controversy that had attached itself to the project, he said, was so unfortunate, so unnecessary, so obviously not the foundation's sort of thing. The rumors of recrimination distressed him.

"It would be a mistake," he said, "to place subsets of unhappiness too high in the general assessment of a process."

So many aspects of the study seemed to Robinson cause for regret—Freeman's failure to provide a decent set of notes, what he called "the irrelevant social philosophizing" about corporate enterprise, the reluctance of the advisory board to deal with anything but procedural questions—that he found it difficult to choose among them. Even so, he was especially wistful about the matter of Tavoulareas' dissent. Of course Tavoulareas was right about that, "in a strictly literal-minded way, you understand," but nobody else had interpreted the agreement as an invitation to write a book of his own. Such a thing had never happened before, not in all of Robinson's experience with foundation affairs.

"I can't imagine why a man with Tav's sophistication and experience would get worked up over something as small as this," Robinson said. "He's used to winning or losing hundreds of millions of dollars a day in the routine of the oil business. He knows that you win some and lose some." If any fault was to be found, he said, it was probably with the advisory board's willingness to conceal its divisions from itself. The members allowed their emotions to get tangled up in everything, and yet they didn't acknowledge the presence of those emotions—which was a pity, of course, but probably the result of everybody on the board being "such nice guys." He reminded me that when a group of people set forth on the "high road of energy policy," some of them must, of necessity, suffer casualties.

"A foundation study," he said, "is not a zero-sum game."

In the same way that Robinson sought to minimize the political or scholarly questions raised by the study, he spoke of both Freeman and Tavoulareas in terms of the affectionate diminutive. Referring to them as "Dave" and "Tav," he smiled tolerantly when informed of their reckless talk, as if he were being told about the harmless pranks of somebody else's children. Poor Dave. Poor Tav. Neither of them really understood the purpose of the study. Certainly they made "important contributions," but they exaggerated their own and the study's place in the scheme of things. Of Tavoulareas, he said:

"Tav didn't have what I would call an instinctive understanding of advisory committeeship."

Of Freeman, he said, "We had hoped that Dave would be more mature than that, that he would do something about his stylistic behavior."

Robinson discounted as nonsense the possibility of the report achieving a political result. It was, he said, a small and inconsequential thing, a few thousand words floated off into the void of the general confusion, a tiny voice crying out in the wilderness of the national energy debate. He conceded that much of what Freeman had written was "simply awful stuff," but he couldn't imagine how it could do any harm. It didn't matter that the foundation had arranged to distribute 300,000 copies of the abridged text through the Book-of-the-Month Club, or that the Consumers Union had chosen the final report as its January book selection.

"The intelligent reader," Robinson said, "will see through it."

So often with studies of this kind, he said, the prejudice conceals itself in the language, in inferences rather than direct statements, and so the board thought it prudent to "smoke Dave out . . . to get his agenda on the table."

When I mentioned this subtlety to Freeman, he permitted himself a thin smile.

"If that is what they want to think," he said, "I see no reason to contradict them."

Freeman believed that his cause and his generation had prevailed against the primordial night of capitalist superstition. If so, then he could afford a gesture of condescension toward those whom he thought he had rescued from their own stupidities. Freeman accepted it as an article of faith that "Tavoulareas's economy" (i.e., the notion of free enterprise and its attendant miseries) soon would be superseded by a more equitable division of wealth.

"The public debate has come our way," he said. "The government has embraced our ideas."

In retrospect the statement reads like the stuff of prophecy. Freeman sent a copy of *A Time to Choose* to the then Governor Carter in late 1974, and he had heard that the governor carried the volume around with him as if it were as precious to him as the writings of Reinhold-Niebuhr. In the summer of 1976, Freeman went to Georgia to help Mr. Carter with policy. He stayed to become a member

of the team that wrote the energy plan. Accounts published in the newspapers suggest that the plan was brought forth in an atmosphere of secrecy and mistrust. It was written by government functionaries, by lawyers and academics, almost all of them, like James Schlesinger (President Carter's nominee as chief of the new energy agency), representatives of the technocratic interest. As the subsequent debate has made plain, the planners apparently didn't find it necessary to talk to people unlike themselves—not to politicians, not to officials in the Department of Transportation and the Treasury, not to oil-company executives, not to anybody who might violate the purity of their moral vision. As might have been expected, they assigned the task of allocating the national resources to a government bureaucracy employing 20,000 people and requiring an annual budget of $10.5 billion. This bureaucracy presumably would fall to the direction of officials possessing a sufficiently high degree of conscience to adjudicate the noisy and competing claims of citizens less fortunate. The plan endorsed, almost as an article of religious faith, the principle of energy conservation and reserved the government's right to restrain all forms of unauthorized development and to demand equal sacrifices from all social classes and interest groups.

VI

Whether Tavoulareas foresaw President Carter's plan I have no way of knowing, but something very much like it clearly was foreseen by John Harper, the president of ALCOA. Another of the members of the advisory board, Harper also had been appalled by the implications of Freeman's thinking, but, unlike Tavoulareas, he had made no complaint about the limits of his dissent. Within the space allowed he said plainly that "the premise of government control . . . is abhorrent to me and, I am sure, to most of the people in this nation." The assumptions underlying the report seemed to him consistent with a totalitarian definition of the state, and this he also mentioned in his dissent: "Such controls, no matter how well-intentioned they may be, could cost Americans their economic freedom of choice, and—inevitably—their political liberties as well."

Harper brooded on the matter throughout the autumn of 1974; when the chance offered itself in December, he willingly raised money for a scholarly repudiation of Freeman's report. Subsequently entitled No Time To Confuse, this counter-study was published in March 1975 by the Institute for Contemporary Studies in San Francisco. It consisted of ten academic commentaries from, among others, Morris A. Adelman, professor of industrial management at MIT and a well-known critic of the oil industry; Herman Kahn of the Hudson Institute; and Walter J. Mead, professor of economics at the University of California at Santa Barbara. Mead had been a consultant to the Ford Foundation project, but his unhappiness with Freeman's interpretations of his work prompted him to resign. The introductory essay to No Time To Confuse describes Freeman's report as an all but worthless ideological tract—"arrogant and paternalist" in its assertions of what comprises the public welfare, deserving of inclusion in "the Guinness Book of World Records for the most errors of economic fact and analysis" in one volume. The subsequent articles become both more specific and more derisive. Several contributors cannot refrain from observing that the report shows little understanding either of the working of the free market or the mechanism of a successful cartel. Other contributors remarks on the report's failure to note a connection between supply and demand.

The conception of the counter-study appears to have derived from a fairly extensive feeling of revulsion within the community of professional economists. During the summer of 1974 J. Clayburn LaForce, the chairman of the Department of Economics at UCLA, heard increasingly vivid rumors about the shoddiness of Freeman's report. Economists employed to do consulting work for Freeman spoke to LaForce of the way in which their findings had been declared unacceptable because they failed to conform to the ideological specifications. People said that the report was so badly done that it constituted an insult to the profession.

"But the thing itself," LaForce said, "was much worse than the worst rumors."

LaForce approached the Institute of Contemporary Studies with the notion of publishing a rebuttal because he was convinced that Freeman's report was "likely to become an influential handbook for people running around Washington." He was further convinced that much of the trouble in the country followed from the bad legislation written by eager but misinformed politicians. The academic unhappiness with Freeman's economic analysis coincided with Harper's uneasiness about Freeman's political vision. The institute took advantage of the common discontent to raise the $30,000 necessary for the publication of *No Time to Confuse*. A. Lawrence Chickering, the executive director of the institute, approached a number of sizable corporations with the information that it was in the interest of the business community to repudiate the Ford Foundation attack on its traditonal freedoms. He went to corporations that had as little as possible to do with the production of energy (in order to avoid the appearance of too parochial a complaint), and in response to his political hypothesis (presumably confirmed by the discreet witness of John Harper), the institute received about $3,000 each from the ALCOA Foundation, American Telephone and Telegraph, Continental Can, the John Deere Foundation, E. I. duPont de Nemours, IBM, International Harverster, Deering Milliken, Monsanto, Proctor and Gamble, Sears Roebuck, Southern Pacific, and the Union Carbide Corporation.

All of these are corporations of great wealth and influence in national affairs, and all of them are presumably administered by men of intelligence and public acumen. And yet, with its habitual inability to understand the politics of the media, the older class bungled the announcement of its bad news. Chickering went to Washington and convened a press conference, but the publication of *No Time to Confuse* passed almost without notice in the press. His friends in the profession later explained he should have "orchestrated" the release of his information, that he should have leaked it in bits and pieces of salacious gossip to the Style section of the *Washington Post* or to the important columnists in town. Having thought that "the ideas made a difference," Chickering was alarmed by what he discribed as "the theatricality of journalists." He neglected to mention the names of the corporations that had put up money for the counter-study, and by so doing he lost the chance of presenting the Ford Foundation as a villain.

In April of 1975 I went to see McGeorge Bundy. So many aspects of the Energy Policy Project seemed so unusual—the possibility of a political motive, the public outcry of an oil-company president, the embarrassment of Robinson and Ames, Freeman's exaltation and glee, the publication of a foundation study for the express purpose of discrediting another foundation study—that I looked to Bundy as to a light in the darkness. He received me in the Roman manner, reclining on a low couch and smiling the enigmatic smile of a man who knows much but tells little. I never know what to make of men who adopt that pose; sometimes it signifies benign omniscience; at other times it tempts the foolish into the abyss of error. With regard to Bundy, I had read testimony on both sides of the interpretation. His admirers described him as a political bureaucrat of incomparable subtlety. In support of their praise they mentioned Bundy's success in the world, pointing out that he had been born to a Boston family of high intellectual attainment, that he had become dean of Harvard College at the age of thirty-five, that he was the most brilliant of the advisers to the late President Kennedy, and that he could read Herodotus in Greek. His critics mentioned the effect of his success on other people. They spoke of his enthusiasm for political assassination and the Vietnam war, of his committing the Ford Foundation's investment portfolio to a policy of adventurous expansion at precisely the point, in late 1963, when the stock market began to collapse.

Probably it is unfair to form impressions of a man on the basis of circumstantial evidence, but the day on which Bundy granted me an audience was not a favorable one from the point of view of his admirers. The papers that morning published accounts of the retreat from Danang. The news was of people moving south, of Americans departing on helicopters, of Vietnamese killing each other as they clawed at the gunwales of the last boats. Another article on an inside page of the *New York Times* explained that a loss of assets had obliged the Ford Foundation to dismiss 300 employees and reduce by one-half the budget of its philanthropy. None of this news was reflected in Bundy's thin and distant smiling. Like Marshall Robinson he sought to minimize, diminish, and make small, but, unlike Robinson, he offered no apology. He did what he could to conduct a cordial conversation, but he left the distinct impression that we were talking about an animal left dead in the street. Of Tavoulareas and his incessant complaint, Bundy said:

"People employed in private enterprise are always surprised that other people have opinions. They haven't had the tempering that results from government service."

His tone of voice implied that the narrow-mindedness of businessmen could be ascribed to their parochial interest in money and trade. As for the possibility of a political motive on the part of the Ford Foundation, Bundy laughed at the childishness of such an idea.

"If you mean lobbying for a particular point of view," he said, "certainly not. If you mean drawing attention to issues of great national interest, obviously yes."

As a general statement of principle, this satisfactorily answers the question. The difficulty with it arises from a specific application to S. David Freeman and the Energy Policy Project. Freeman's commitment to "a particular point of view" should have been apparent since 1968. By assigning him responsibility for the project, the foundation indirectly constituted itself as a lobbyist. Bundy understood that Freeman would leak the draft studies and consulting papers to members of Congress and the press. Reminding me that the foundation was accountable to the appropriate committees of Congress, to the Treasury, and to its own trustees, he quoted the 1968 legislation (which he described as "the langu ge of art") that obliges foundations to "make available nonpartisan research" to almost anybody who asks for it. With what I took to be a glint of sly humor in the corners of his eyes, Bundy then said:

"If I know Freeman, he would make his findings available to anybody who would listen to him . . . at any hour of the day or night."

Together with the other people who defended the integrity of the project, Bundy

advised me against placing "an undue emphasis" on the final report. The entire project consisted of twenty-one volumes at a price of $220 in cloth and $80 in paper editions. This body of research would provide the context for "a continuing dialogue," Bundy said. He implied that it would be a mistake to assign significance to a report which, from a scientific point of view, might be construed as nothing more than an elaborate press release. Given Freeman's political objectives and the foundation's policy of extending what it likes to call "the outreach," that agrument also seemed slightly disingenuous. Only a few people would take the trouble to read the complete text. It was the final report that the foundation sought to advertise with drums and flourishes, and it was the final report that Congressman Fisher presented to the members of the Ways and Means Committee. Bundy had been informed of the publication of No Time to Confuse, but he hadn't found time to read it. The rumor of what he called its "polemical intent" did nothing but raise unpleasant questions in his mind about the people who paid for it.

"At the foundation," he said, "we do our business on the top of the desk."

VIII

If it accomplished nothing else, the inadequacy of the Energy Policy Project testified to the lack of leadership in the country and to the collapse of an idea of legitimate authority. Confronted with a problem of great complexity, a problem important not only to themselves but also to their children and everybody else in the world, the interested parties fell to arguing about who would corner the markets in heat and light. Instead of inspiring a debate about the ways in which the world's natural and technological resources might be put to the best use for all mankind, the Energy Policy Project offered a melancholy lesson in the narrowness of competing interests. Few people on any side of the argument could agree to a common system of values; neither could they refrain from describing one another with the empty slogans ("the interests," "police state," et cetera) characteristic of people who fear unseen abstractions moving around in the shadows beyond their experience or understanding. The recognition of their own weakness prompted them to affect an air of exaggerated certainty and inclined them to pursue their objectives by means of indirection.

The foundation deemed it necessary to hire Freeman as its agent in the cause of energy conservation; Freeman seemed to think of himself as a man working behind enemy lines, and the presidents of both ALCOA and Mobil appealed to the guerrilla theater of the national press. Probably the worst of the confusion had to do with the way in which the old and the new class preferred to conceive of the other as malevolent conspiracies. Freeman expressed the traditional suspicions of New York industrialists in the manner of a drawing by Thomas Nast, as if they were evil and cynical old men who could fix prices, buy governments, rig markets, and declare foreign wars. He persisted in this idea despite the chapter in his own report that could find no proof of monopoly or cabal among the major oil companies and despite his direction of the Ford Foundation Energy Policy Project to his own uses. Both Harper and Tavoulareas apparently cherished equivalent fantasies about the terrible and irresponsible power of the new class. They envisioned zealous bureaucrats ((intelligent, pious, underpaid) dictating changes in the law from within the strongholds of the SEC, the IRS, and the Department of Justice. Like many other members of the merchant class, they had come to think of Washington as the seat of socialist heresy. Together with Freeman, they insisted on the truth of their vision, despite the evidence to the contrary. The energy bill drafted by the Ways and Means Committee in 1975 never had a chance of even reaching a vote in Congress, and the present evidence suggests that, except in severely modified form, President Carter's plan has equally little chance of becoming law.

It promises so many things to so many different and irreconcilable interests that obviously it satisfies nobody. Economists of the Right referred to the plan as a "bureaucrat's delight"; economists on the Left suggested that the plan would provide government subsidy and a protection of markets for the major oil companies. A critic as astute as Barry Commoner goes so far as to say that the effects of the plan would betray its rhetoric: that it would save little energy, favor the rich over the poor, stimulate the development of nuclear energy, place unbearable demands on the nation's dwindling supply of investment capital, encourage both unemployment and inflation, and generally make possible the catastrophe that it seeks to avert.

Although I hold no brief for the merchant class and its habit of blind rapacity, I cannot see how a policy of "zero growth" can do anything but lead to even more savage result. People want what they want, and they will pay whatever prices they must, and so it is no use trying to tell them what's good for them. Like Prohibition and other governmental attempts to justify man's ways to God, the National Energy Plan presumably would accomplish a purpose contrary to the one intended. Given a limited supply of goods, people compete more fiercely for the smaller number of jobs, freedoms, and opportunities. They would place an even heavier reliance on money because money would provide them with the only defense against the officiousness of government. In an open and expanding society, people will pay their taxes, study the odds, and try to improve their lot; within a closed society, they have no choice but to kill each other. This also can be construed as an equivalent of war, but I doubt whether it is one that Mr. Carter would smilingly describe as moral.

EDWARD MEZVINSKY'S NEW POST

Mr. CULVER. Mr. President, when a Presidential appointment places precisely the right individual in an important governmental post, this happy circumstance deserves to be noted. President Carter's appointment of former Congressman Edward Mezvinsky of Iowa to be U.S. representative to the United Nations Human Rights Commission is such a case. Ed Mezvinsky, whom I have known for many years, is a person of extraordinary ability and compassion whose devotion to human rights through the years eminently qualifies him for this sensitive position.

His service on the House Judiciary Committee during the constitutional crisis a few years ago will be long remembered as a reflection of his personal integrity and sincerity. President Carter, who has made human rights a cornerstone of U.S. policy, deserves great credit for this outstanding choice. An editorial in the Des Moines Register of July 22, 1977, indicates the strong approval of Mr. Mezvinsky's appointment in his home State. I ask unanimous consent for this editorial as well as a July 24 news story from the same paper to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Des Moines Sunday Register, July 24, 1977]

ED MEZVINSKY'S NEW JOB: BENDING CARTER'S EAR ON HUMAN RIGHTS

(By James O'Shea)

WASHINGTON, D.C.—You can find former Iowa Representative Ed Mezvinsky in Washington these days in an office on the top floor of the State Department where U.S. Ambassador Andrew Young, "department spokesman" Hodding Carter, Jr., and other big names hang their hats.

The reason is that Mezvinsky was appointed by President Carter last week as the U.S. representative to the U.N. Human Rights Commission. And, as his present surroundings indicate, the job is likely to become a lot more important than it was in the previous administration, when it was little more than a title.

As one of the two major advisers on the progress of human rights in the many nations around the world, Mezvinsky will have the President's ear on a subject that clearly has become the cornerstone of Carter's foreign policy.

HIS RESPONSIBILITY

If, for example, the President is wrestling with a decision on whether to sell arms or grain—or to grant financial aid—to some nation, Mezvinsky will be responsible for analyzing that nation's human rights record for the President.

As recent events have indicated, a bad human rights record is no longer ignored, as many say it was when Henry Kissinger headed the State Department.

Instead, Carter is attempting to infuse the notion of human rights into the practical world of international politics. And Mezvinsky—as spokesman for human rights at the U.N., as co-ordinator of human rights between the State Department and the U.N. and as head of the U.S. delegation to the Human Rights Commission in Geneva, Switzerland—clearly will play an important role.

Perhaps the first big task he faces is helping develop the issues to pursue at the Belgrade conference on the Helsinki accords this fall. At that conference, human rights could become "the" hot topic of international diplomacy, largely because the purpose of the conference is to review compliance with the human rights portions of the agreements, which could prove embarrassing to the Soviet Union.

WESTERN RESPONSE

The inclusion of human rights in the Helsinki accords in the first place was a U.S.-Western European defensive response to continued Soviet pressure in the 1960s to settle the first major portion of the agreements: Security and recognition of post-World War II boundaries of Europe.

The Russians wanted to settle the boundaries, and the West agreed to the conference only if human rights was made part of the agenda. So the Russians, who also wanted to initiate trade and scientific exchanges—the second major portion of the Helsinki accords—went along with the West's wishes on human rights, the third portion of the agreements.

Now, however, the Soviet concession has turned into an embarrassment for the Russians, for the Soviet dissident movement has used the human rights agreements at Helsinki as a rallying point.

The Russians now are maneuvering in preliminary conferences to limit the amount of time spent on discussion of each part of the agenda to curb talk about human rights.

DEVELOPING ISSUES

Mezvinsky says the State Department now is developing the issues to pursue in detail.

Although some critics in the U.S. and in other parts of the nation have criticized U.S. human rights initiatives as "meddling in other countries' affairs," Mezvinsky disagrees. Mezvinsky says he doesn't think the charge is valid so long as the nation is one of the 35 that signed the Helsinki accords.

Mezvinsky says he thinks the issues that will come up at Belgrade probably will determine the major thrust of debate at the U.N. in the next session.

Mezvinsky, who will be paid $47,500 a year in the new job, says he will spend much of his time talking "with our friends and allies, seeing what is on their minds, what is bothering them." He says one goal is to try to get other nations to speak out on human rights so the U.S. can support them instead of always being in the forefront.

He says part of his new job could be calling on some of his former colleagues in the House, where he was a liberal congressman for two terms before being narrowly defeated in 1976 by James Leach, a Davenport Republican.

One of those former colleagues could be fellow Democratic Representative Thomas Harkin of Iowa. Harkin is an advocate of using U.S. aid as a weapon in support of human rights throughout the world. He has campaigned for laws that prohibit financial assistance to countries with "a consistent pattern of gross violations of internationally recognized human rights" unless the assistance will directly benefit needy people.

Carter has responded by saying he needs more "flexibility" in dealing with other nations than Harkin's view permits.

Mezvinsky says he has "empathy" with Harkin's position and thinks that U.S. aid should be used to force compliance with basic human rights. However, he agrees that the President needs flexibility, and that each case should be reviewed on an individual basis.

Mezvinsky admits that the Carter administration faces many problems in forging a new policy. "How do you take each country and respond to each situation, yet still make it clear that the nation is committed to human rights?" he said.

"I don't think it will do any good to restate the definition of human rights. We have to find out how do we apply that definition to different countries. You know, economic rights are human rights, too. What becomes more important—food or aid?"

PROBLEM COUNTRIES

Mezvinsky said the administration will have problems with countries like Iran, a major source of oil for the U.S. whose Shah recently was the subject of demonstrations here staged by Iranian students, who were complaining of his human rights policies.

"And, of course," he says, "this will be a test of whether we mean what we say. Being concerned with human rights elsewhere probably will force us to review our own human rights policies, too. I'm sure other countries will demand that of us."

Mezvinsky says his primary responsibility will be multilateral human rights policy while bilateral policies will continue to be under the direction of Patricia Derian, the State Department's co-ordinator for human rights and humanitarian affairs. Both are the administration's main human rights advisers.

[From the Des Moines Register, July 22, 1977]

. . . AND FOR MEZVINSKY

Edward Mezvinsky, former congressman from Iowa, is a good choice by President Carter for U.S. representative to the United Nations Human Rights Commission. President Carter plans a long-term effort to improve human rights in the world; the U.N. commission is one of the logical channels. An able, committed, energetic U.S. representative like Mezvinsky should be a big asset.

As an article elsewhere on this page points out, the U.N. commission badly needs rejuvenation. It has been floundering much of the time since it drew up the Universal Declaration of Human Rights under its first chairman, Eleanor Roosevelt.

The splendid Universal Declaration of 1948 was not a binding promise by U.N. member governments to observe human rights, but merely a "standard of achievement for all peoples and all nations." In the years since its adoption the commission has done much on paper, but little in practice for human rights.

It ruled early that it had "no power to take any action" on the petitions that come in by the thousands each year. It had a hand in drafting 19 binding agreements on various aspects of human rights, the most comprehensive being a Covenant on Civil and Political Rights and a Covenant on Economic, Social and Cultural Rights.

The two covenants were not completed until 1966 and did not get enough ratifications to go into effect among ratifiers until 1976. The United States has not yet ratified them, though President Carter is urging it.

All 19 U.N. human rights agreements are weak in enforcement provisions. They depend mainly on the good faith of member governments. The U.N. uses its moral pressure mostly against a few politically selected targets: Rhodesia, South Africa, Israel and Chile.

Only a tiny minority of U.N. member governments have effective human rights provisions for their own citizens.

But now, when most of the world's governments are at last committed on paper to binding promises on human rights, is a good time to start talking about practice. Mezvinsky will be working in Washington in the State Department, in New York in the U.S. mission to the United Nations, in Geneva with the U.N. Commission on Human Rights. It is a big job. It is bound to be a frustrating job. But there is a chance for real achievement.

"UNOFFICIAL OFFICE ACCOUNT"

Mr. DOLE. Mr. President, funds from my "unofficial office account" have been utilized on a nonpartisan basis to help meet expenses incurred by my Senate office operation. All expenditures have been made in accordance with "old" Senate rule 42, and records on the account are maintained by Dean Crawford, a CPA, in Lawrence, Kans.

In accordance with the provisions of the Senate Code of Official Conduct and new Senate rule 46, which became effective April 1, 1977, not only were no contributions received into this account after April 1, but in anticipation of these new rules governing such accounts, no contributions were received for the entire year. We are presently in the process of closing out the account completely, and the few remaining funds will have been disbursed prior to December 31, 1977. In the meantime, approved expenditures from present funds in the existing account have been and will be made in accordance with the provisions of rule 46.

In accordance with the reporting requirements of "old" Senate rule 42, I ask unanimous consent that the semiannual balance sheet statement for the first 6 months of 1977 on this account be printed in the RECORD. Additional information on the operation of the account or specific entries is available upon request.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Account balance, Jan. 1, 1977	$650.83
Income	None
Disbursements:	
Printing	109.46
Repairs	5.00
Newspapers	87.00
Videotape rent	50.00
Accounting services	30.00
Total disbursements	281.46
Account balance June 30, 1977	369.37

HOWARD CALLAWAY

Mr. BUMPERS. Mr. President, in its July issue, Harper's magazine devoted considerable space to last year's Interior subcommittee hearings on the conduct of Howard Callaway in connection with his Crested Butte, Colo., ski area.

The article concluded that neither the hearing nor the subcommittee's conclusion was justified. The Wall Street Journal and several columnists assumed the accuracy of the magazine article and joined in criticism of the hearings.

Mr. President, an objective analysis of the article shows that it lacks balance. This objective analysis is set forth in an article which appeared on July 17, 1977, in the Atlanta Constitution under the byline of Joseph Albright. Unlike the author of the Harper's magazine article, Mr. Albright took the time to discuss the facts with those involved in the hearings.

Clark Mollenhoff, one of Washington's most respected columnists—and one who frequently finds himself on the conservative side of issues—also addressed the question. Mr. Mollenhoff concludes that the subcommittee had an absolute duty to investigate and would have been negligent had it failed to do so. If such investigations often have partisan overtones, Mr. Mollenhoff continues:

It is an unfortunate fact of political life that the American people usually must rely upon Republicans to lead the way in investigations of Democratic wrongdoing and upon Democrats to provide the leadership where Republican wrongdoing is the issue.

That was precisely the case, he notes, in the congressional investigations of Air Secretary Harold Talbott in the Eisenhower administration and of Navy Secretary Fred Korth in the Kennedy administration.

Mr. President, I certainly commend to my colleagues the column by Mr. Mollenhoff and the news article and ask unanimous consent that both be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WATCH ON WASHINGTON

(By Clark R. Mollenhoff)

WASHINGTON, D.C.—In recent weeks there has been considerable unjustified public bleeding by a few conservative columnists and some others over what is called "the political persecution" and "character assassination" of Howard (Bo) Callaway.

It is contended that Callaway, former Secretary of the Army and director of President Ford's presidential campaign, was the faultless victim of a political assault by a vicious cabal of Senate Democrats.

The articles document quite persuasively that the Democrat-dominated Senate Interior Subcommittee would not have launched the investigation of Callaway if he had not been a prominent Republican.

But, the case falls apart when the writers conclude that this was persecution or character assassination because the Democrats were eager to investigate Callaway's use of his political connections to further his financial interest in a Colorado ski resort.

Some of the columns and a Harper's magazine article demonstrate either a superficial understanding of Callaway's role or a Republican partisanship that is as blind as the Democratic partisanship they sought to condemn in the members of the Senate Interior Committee.

A careful analysis of the record demonstrates that Callaway deserved to be investigated on the basis of what he admitted about his use of political connections to further his financial interest in Crested Butte ski resort.

Bo Callaway admitted:

1. He used his Secretary of the Army stationery in correspondence to push a favorable decision from the Agriculture Department on use of 2,000 acres of forest land for his ski resort.

2. He met in his Secretary of the Army office at the Pentagon with three Agriculture Department officials—two of them former political friends from Georgia—to discuss means of expediting a Forest Service decision for Callaway's ski resort.

3. His meetings and correspondence with former Undersecretary of Agriculture J. Phil Campbell and former Deputy Undersecretary Richard Ainsworth—both Georgians—was to seek use of 2,000 acres of forest land to expand his ski resort.

4. Following his intervention the Forest Service reversed a prior position to give his Crested Butte ski resort use of the forest land.

It was a situation that merited a depth congressional investigation regardless of whether Callaway was a Republican or a Democrat.

If the Interior subcommittee had not conducted an investigation, it would have been negligent and would have seemed to approve or condone Callaway's callous misuse of his position for personal financial advantage.

Without judging Callaway's motivation, it was at a minimum an insensitivity to the conflicts-of-interest situations that Democrats had condemned in Air Secretary Harold Talbot in the Eisenhower Administration and that Republicans have criticized in Navy Secretary Fred Korth in the Kennedy Administration.

Partisan politics—the desire to make political capital out of the other political party's mistakes—is present in nearly every meaningful investigation of the Executive Branch.

It was partisan Democrats in the Democrat-controlled Congress who provided the impetus for the probe of the Nixon White House involvement in the Watergate burglary. In the months that followed the Senate Watergate committee established the documented record that convinced all but a few die-hard Nixon fans that President Nixon was personally involved in a criminal obstruction of justice.

Watergate was the two-party system operating in traditional fashion with some Democrats eager to explore every scrap of evidence of wrongdoing or impropriety, and some Republicans resisting in a manner that assured Mr. Nixon would be given ample opportunity to explain all the charges against him or his administration.

The same general statement can be made to cover the Callaway ski resort investigation. The facts justified an investigation, and partisan political feelings helped achieve a meaningful inquiry.

It is an unfortunate fact of political life that the American people usually must rely upon Republicans to lead the way in investigations of Democratic wrongdoing and upon Democrats to provide the leadership where Republican wrongdoing is the issue.

If the facts do not justify an investigation it usually will become apparent to the public before an investigation is completed, and the wronged political figure will find many forums for dramatizing any real political persecution.

The major problem for the voting public is not that there are partisan political persecutions of Republicans by Democrats or Democrats by Republicans. It is the tendency toward bipartisan cover-up of bipartisan crimes and improprieties and the absence of any effective check on abuses of power by Executive Branch agencies.

The past record of Executive Branch blackmail and pressure to stop legitimate investigation is cause for concern. When it is coupled with support from bipartisan cliques of crooks in Congress it is a wonder that any investigations get off the ground.

On balance, it is better to have an overzealous or mildly partisan chairman of an investigating committee than to have a weak or corrupt chairman who is fearful of confronting the wrongdoers or is in league with them.

Although there can be differences of opinion on the gravity of Bo Callaway's improprieties, there should be no doubt about the need for the probe even if it failed to produce evidence of federal crime.

Even if no federal crime is proved, it is not "persecution" or "character assassination" to investigate a situation in which a man's actions as a public official could enhance his personal financial interests.

[From the Atlanta Journal and Constitution, July 17, 1977

SAYS WRITER IGNORED EVIDENCE; HASKELL LEVELS NEW CHARGE AT CALLAWAY

(By Joseph Albright)

WASHINGTON—The chief accuser of Howard H. "Bo" Callaway has responded to a critique of the Senate's Callaway investigation with a fresh charge that the former Army secretary "successfully intervened" with other government officials on behalf of his ski area.

Sen. Floyd Haskell, D-Colo., said Harper's magazine writer James Hougan ignored evidence in the record that Callaway set up a meeting in 1973 which resulted in a Forest Service decision favorable to Callaway's crested Butte, Colo., ski area.

Another figure in the Harper's article in the July issue, Sen. Frank Church, D-Idaho, issued a one-sentence statement: "Having not been able to personally participate in the hearings, I gave my proxy to Sen. Haskell because I have always found him to be a fair-minded man."

Haskell, in an interview and in a statement published in the Congressional Record, said: "There are so many distortions, omissions and factual errors in the article that they can only be explained as willful." He said Hougan twice ignored invitations to interview him on the Callaway hearings he chaired last year. The invitations were issued by his press secretary, Haskell said.

In reply, Hougan said Haskell was unavailable on five occasions when he telephoned his Senate office for information. No specific interview date was ever offered, Hougan said.

To buttress his response, Haskell quoted investigative reporter Jim Polk as telling a Denver newspaper that Hougan used "cheap shot tactics."

In Polk's view the author of the Harper's piece did "a very good job of extracting from the hearings sets of facts that support his contention and omitting quotation that would not."

Haskell's fresh charge against Callaway revolved around a 140-acre tract of public land which the Crested Butte developers sought back in 1973 to add to their ski area permit as a site for a new base lodge.

Locally, the land is known as "Tony's parking lot." By Haskell's account, Callaway went over the heads of regional Forest Service officials when his brother-in-law, who was president of the ski area, could not get permission on his own to add the extra 140 acres to the Crested Butte permit.

Haskell said: "Mr. Callaway's Oct. 5, 1973, Pentagon phone log shows that he called an old Georgia friend, Deputy Agriculture Undersecretary Richard Ashworth, to set up a meeting on Oct. 9 between ski area and Forest Service representatives in Washington. A Forest Service memo summarizing the meeting notes that 'Bo Callaway, Secretary of the Army, is one of the developers.'"

That meeting produced no immediate results. But four months later, when a Crested Butte official made a follow-up call to Ashworth, the Forest Service reversed itself within 24 hours.

The one-month recess. Haskell said Callaway's plea to terminate the hearings on April 12, 1976, was "deliberately laying the groundwork for a later charge that the subcommittee was unfair, regardless of what happened."

Haskell explained that at Callaway's request, he summoned his three Colorado constituents to the April 12 hearing so Callaway could "confront his accusers."

When a question arose of subpoenas for the three witnesses, Callaway's lawyer, Jerris Leonard, withdrew the request for testimony by the three witnesses by means of a written release, Haskell said.

The senator said the hearings were not about to adjourn anyway, since both Republicans and Democrats still intended to question Agriculture Secretary Earl Butz, who was then out of the country.

Hougan replied that in his view, Haskell deliberately used the confusion over the subpoenas to stretch out Callaway's testimony. He acknowledged that the Butz testimony was still in the offing, but said its impact would have been minimized without Callaway's return appearance.

The second vote. Haskell said Hougan knowingly published an incorrect account of why senators met a second time to vote on accepting the conclusions of the subcommittee investigation.

Haskell said the second meeting had nothing to do with allowing Sen. Church to vote in person rather than by proxy, as the Harper's article suggested. Rather, Haskell insisted, it was the result of a parliamentary hitch that made the first vote invalid, adding that his press secretary gave Hougan the real reason in a telephone interview.

Hougan replied, "It may be that my sources are wrong about this and that the second vote was purely procedural, though I doubt it." Hougan said that Haskell was "right in criticizing me for not having reported the explanation that (Haskell) gave—whether or not that explanation was a self-serving one."

Asked about Hougan's suggestion that the subcommittee merely produced innuendoes in its final report, Haskell pointed to what he called a "solid conclusion" that was not quoted in the Harper's account:

"Secretary Callaway participated in events the natural and logical effect of which could only have been to create pressures on the Forest Service to permit expansion of the ski area. Secretary Callaway's telephone calls to

Deputy Undersecretary Ashworth on a matter affecting his private business interests, Mr. Ashworth's calls to the Forest Service on behalf of Secretary Callaway, and Mr. Callaway's participation in the extraordinary meeting at the Pentagon with Undersecretary of Agriculture Campbell, Deputy Undersecretary Ashworth, and Associate Chief Resler were clearly calculated to exert pressure on the Forest Service."

In defending his motives for calling the hearings, Haskell said he never discussed the hearings with any officials of the Democratic National Committee or any Democratic candidates for president.

"When the issue first arose," Haskell said, "I carefully considered the virtual certainty that our inquiry would be labeled a political hatchet job. But I was also faced with the question of how our ignoring the situation would be viewed. Too many people harbor a deep-seated view that the government only responds to the powerful, the influential, and the well-placed.

"On balance, it seems to me the subcommittee had a duty to investigate the Crested Butte matter. The hearings were necessary to show those who mistrust government officials that their suspicions were groundless, or—if their suspicions had some basis in fact—that there is some accounting for the abuses of power and position . . ."

That meeting produced no immediate results. But four months later, when a Crested Butte official made a follow-up call to Ashworth, the Forest Service reversed itself within 24 hours and allowed the addition of the disputed tract.

As evidence that Callaway had "successfully" intervened in the case, Haskell pointed to a letter, marked "personal," in which Ashworth passed along to Callaway the favorable decision on inclusion of "Tony's parking lot."

The letter, reproduced in an appendix to the hearing record, contains a further handwritten note from Callaway to his brother-in-law transmitting the correspondence from the Forest Service.

Reached in Colorado, Callaway acknowledged that he set up the 1973 meeting on "Tony's parking lot" between officials of the Forest Service and the Crested Butte Development Corp. although he was not present at the meeting.

Callaway said: "The people who represented the ski area made a valid case for the extension of the permit through the proper channels of government, and "Tony's parking lot" was added to the ski area permit.

"It is a very, very small part of the permit. It is totally insignificant in the over-all picture, and there has never ever heard raised is the question of the timing."

As for Haskell's raising the matter now, Callaway said: "The hearings were possibly the longest hearings held by the Senate last year. The hearings discussed 'Tony's parking lot' in some detail. It is not likely that anything new could come out on 'Tony's parking lot' after such extensive hearings."

Author Hougan said he skipped over the "Tony's parking lot" controversy because the Senate hearings had concentrated largely on an incident two years later, in which Callaway met Ashworth and other Agriculture Department officials in his Pentagon office and discussed a separate expansion of the Crested Butte ski area.

Haskell's new charge on "Tony's Parking Lot" went well beyond the conclusion of his own subcommittee.

In its final report, the Haskell subcommittee said that because it had not investigated the events involving Tony's parking lot "in comparable depth," it would refrain from drawing "extensive conclusions on the matter."

On a separate question, Haskell differed from the Harper's article in his interpretation of the innocence of Callaway's meeting with the Agriculture Department officials on his final day in office at the Pentagon.

"The scene, then, was this," Haskell recounted:

"There, in the Pentagon office of the Secretary of the Army, sat the deputy chief of the Forest Service, discussing Forest Service decisions with an applicant by phone—all under the watchful gaze of two superiors from the Forest Service's parent agency and the secretary of the Army, soon to become campaign manager for the President of the United States."

Disputing Hougan's judgment that it was a mere "courtesy call," Haskell said a subsequent letter from Callaway to his brother-in-law was a "clear statement that Callaway was after something at that meeting."

In that letter, Callaway wrote: "I really couldn't get too much out of Rex Resler, associate chief forester. Every time I thought I had him pinned down, something else came out."

Among factual points in the Harper's article which Haskell disputed:

Time of the hearings. Haskell said he could not have asked the Forest Service for a formal explanation until he received a written account of his three constituents complaints. That, said Haskell, he got last January one month, not five months, before he wrote to the Forest Service. Hougan replied in an interview that Haskell had just as much information from meetings with his constituents the previous October.

INTERNATIONAL WOMEN'S YEAR

Mr. BAYH. Mr. President, State conferences on women have been occurring across this Nation for the past several months. These conferences were the preliminary step to the convening of a national women's conference to be held in Houston, Tex., on November 18. This national women's conference will be the first such convocation since the famous Seneca Falls meeting in 1848. At that 1848 meeting those concerned with the plight of American women adopted a "declaration of sentiments." Of the 12 resolutions cited in this document, only one has been instituted to date—the right of women to vote.

The State and national IWY conferences were authorized by the Congress by Public Law 94–167. In passing this legislation, the Congress hoped to establish, for the first time, true, grassroots participation by American women. Despite some of the unfortunate rhetoric on these conferences, I feel this goal has been accomplished. I understand, for instance, that of the 1,000 women attending the IWY conference in Vermont, nearly half were never members of any women's organization nor had they ever attended a meeting addressing the concerns of women.

More than 100,000 women have participated in these IWY meetings and that participation has reflected every age, racial, ethnic and religious group. There have been women from cities, from suburbs and from rural America. The conferences have included homemakers, blue-collar workers, and professional women.

As a member of the national IWY Commission, I have been concerned about some of the misconceptions concerning these IWY meetings. I am particularly concerned about allegations of illegal lobbying activities on the part of the national commission. In order to help clarify this situation, Mr. President, I ask unanimous consent that a copy of the seventh circuit court of appeals dismissal of a suit against the commission be printed in the RECORD. I also ask unanimous consent that a fact sheet on the State and national IWY conferences be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the United States Court of Appeals for the Seventh Circuit, Nos. 76–1840, 76–1917]

Harriet Mulqueeny and Patricia Boehnke, Plaintiffs-Appellees, Cross-Appellants, versus National Commission on the Observance of International Women's Year, 1975, Defendant-Appellant, Cross Appellee.

(Appeal from the U.S. District Court for the Southern District of Illinois—No. A–CIV–760039, Robert D. Morgan, Judge.)

ARGUED JANUARY 12, 1977—DECIDED FEBRUARY 24, 1977

Before Sprecher and Tone, Circuit Judges, and East, Senior District Judge.*

Sprecher, *Circuit Judge*. Defendant-appellant, the National Commission on the Observance of International Women's Year, 1975 (hereinafter referred to as the "Commission"), asserts three issues in its appeal from the entrance of a preliminary injunction restraining it from engaging in certain activities: (1) whether plaintiffs lack standing to litigate that the Commission's conduct violates specific Constitutional and statutory provisions; (2) whether the Commission's activities in disseminating information concerning the proposed Equal Rights Amendment constitute "lobbying activities," and thus contravene a specific prohibition embodied in Public Law 94–167 [1] and 94–303; [2] and (3) whether the district court improperly exercised its discretion in entering a preliminary injunction. We hold that plaintiffs lack standing to sue for the relief requested, and therefore we do not consider the issues relevant to the merits of plaintiffs' claim.

I

The Commission was established by Executive Order [3] on January 9, 1975 to promote national observance in the United States of 1975 as International Women's Year. To achieve this end, the Commission was equipped with the broad mandate of focusing the national consciousness "on the need to encourage appropriate and relevant cooperative activity in the field of women's rights and responsibilities." The President allocated specific functions as the "action agenda" of the Commission, including the tasks of promoting "equality between men and women," ensuring "the full integration of women in the total development effort," and encouraging "public and private sectors to set forth objectives to be achieved as part of the program observing International Women's Year." The Commission was expressly authorized to convene meetings when deemed appropriate and to "assemble and disseminate information, issue reports and other publications and conduct such other activities as it may deem appropriate to provide for effective participation of the United States in the domestic observance of International Women's Year."

Pursuant to its executive mandate, the Commission adopted a resolution urging ratification of the Equal Rights Amendment [4] and established an "ERA Committee," cochaired by Alan Alda and Representative

Footnotes at end of article.

Margaret Heckler (R. Mass.), to disseminate information regarding ERA and to encourage discussion of the merits of the proposed amendment. The ERA Committee requested a ruling from the General Accounting Office delineating the parameters of its charge under Executive Order No. 11832. The Comptroller General of the United States issued an opinion letter [5] which affirmed that all proposed activities of the ERA Committee were encompassed within the scope of the authority accorded the Commission.

The Commission, in compliance with its Executive charge, submitted to the President on July 1, 1976 a report detailing its activities which was entitled ". . . To Form a More Perfect Union . . ." [6] The report focuses upon "barriers that keep women from participating in American life as full partners," and discusses a panoply of issues affecting American women, including the role of the homemaker, the image of women projected by the mass media, women's accomplishments and position in the arts and humanities, ERA, employment discrimination, child care services, family planning programs, and enforcement of existing laws prohibiting discrimination.

During the period that the Commission functioned under Executive mandate, the House of Representatives passed a resolution which called for "the launching of new programs and the forming of new attitudes toward the role of women, with impact reaching well beyond 1975, so as to overcome the obstacles still encountered by women in exercising their full human rights and responsibilities in all fields, including education, the arts, and sports, and in enjoying freedom of choice in planning their lives." H.R. Con. Res. 309, 94th Cong., 1st Sess. (1975). This resolution led to the enactment, after vigorus debate, of Pub. L. 94–167,[7] which prolonged the existence of the Commission and directed it to convene a National Women's Conference in order to "assess the progress that has been made toward insuring equality for all women, to set goals for the elimination of all barriers to the full and equal participation of women in all aspects of American life, and to recognize the importance of the contribution of women to the development of friendly relations and cooperation among nations and to the strengthening of world peace." In addition, Congress instructed the Commission to work toward the attainment of specific goals pertinent to the achievement of full equality for women,[8] and expressly provided that the statutory powers derived from the enactment were to be employed in addition to those powers derived from the Executive charge. An amount up to $5 million to effect these provisions was authorized to be appropriated without fiscal year limitation, with the proviso that "[n]o funds authorized hereunder may be used for lobbying activities." Some six months later, sharp, protracted debate in both Houses culminated in appropriation of the $5 million requested by the Commission, again with the proviso that these funds were not to be expended for lobbying activities.[9]

On April 9, 1976, prior to the appropriation of any funds to the Commission, plaintiffs filed a complaint alleging violation of Article V of the Constitution [10] and of the statutory prohibition against use of appropriated moneys for lobbying activities by the Commission's adoption of affirmative resolutions regarding ERA and family planning. Plaintiffs further alleged that members of the Commission were steeped in lobbying activities, appearing at legislative hearings, on media programs and at various luncheons for the purpose of urging ratification of ERA. In addition, plaintiffs alleged that the Commission constituted an "advisory committee" within the intent of the Federal Advisory Committee Act, and violated Section 5(b)(2) of the Act [11] in not providing for a fair balance of viewpoints among members on the ERA and abortion questions.

Plaintiffs specified three alternative requests for relief. First, plaintiffs requested judicial termination of the Commission and an order requiring its members "to refund to the Treasury of the United States all funds spent for ratification of the Equal Rights Amendment, for opposition to a constitutional amendment limiting abortion, and for 'lobbying activities.'" Alternatively, plaintiffs desired to enjoin the Commission from perpetrating the constitutional and statutory violations detailed in the complaint. Finally, plaintiffs sought to compel appointment of persons to the Commission whose viewpoints on the ERA and abortion questions would make the Commission "fairly balanced." [12]

In response to the Commission's Motion for Judgment on the Pleadings, plaintiff Mulqueeny executed an affidavit which identified herself and plaintiff Boehnke as chairpersons of the Illinois branch of "Stop ERA," an organization keenly and actively opposed to the ratification of the proposed Equal Rights Amendment. Plaintiffs claimed to be threatened by immediate, irreparable injury as a consequence of Commission functioning, stating that:

5. For the past four years, Plaintiffs have spent much time, effort, and personal funds in planning, leading, organizing, and carrying out educational work in the State of Illinois to show the harmful effects of the Equal Rights Amendment. Plaintiffs have performed this educational work in various organizations, in schools and colleges, in the press and media, at State of Illinois legislative hearings, at churches, and at many meetings in various parts of Illinois. Plaintiffs have built up a large organization of thousands of citizens who have traveled to the State Capitol at their own expense on many occasions to oppose ratification of the Equal Rights Amendment.

6. Plaintiffs are now in imminent danger of having their four years of time and effort in this educational campaign wiped out, their organization destroyed, the good will credibility they have built impugned, and their five years of legislative victories taken away from them, because of Defendant's illegal actions.

The district court found that plaintiffs had standing to sue for the relief requested, and after hearing testimony, determined that the Commission's programs supporting ERA constituted "lobbying activities." [13] The court enjoined the Commission and its members from participating in the following activities *pendente lite:*

(1) engaging in lobbying activities of any kind, (2) using, directly or indirectly for lobbying activities, any funds appropriated to said defendant to promote the passage or defeat of any legislation, or the adoption, ratification, or defeat of any proposed Constitutional amendment by any legislative body, and (3) using any meetings or women's conferences called or sponsored by it, directly or indirectly, to promote the passage, ratification, or defeat of any such proposed legislation or Constitutional amendment by any legislative body. App. at 145.

Defendant appeals from the issuance of this preliminary injunction.

II

According to their complaint, plaintiffs challenge defendant's activities under the Administrative Procedure Act, alleging illegality in the Commission's putative violation of the Federal Advisory Committee Act, the statutory prohibitions against the use of appropriated funds for "lobbying activities" and Article V of the United States Constitution. For purposes of assessing plaintiffs' standing to maintain this litigation, we deem these allegations to be true.

Despite the conceptual vagaries attendant to the doctrine of standing, as well as Mr. Justice Douglas' admonition that "[g]eneralizations about standing to sue are largely worthless as such," [14] it is settled that "the gist of the question of standing" involves an inquiry into whether the litigant has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions". *Baker v. Carr*, 369 U.S. 186, 204 (1962). A litigant who asserts that he is "aggrieved by agency action" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 702, must at the outset demonstrate, as an irreducible minimum, that he has sustained "injury in fact," [15] *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970),[16] and that the grant of judicial relief requested will ameliorate the complaint of harm. *Simon v. Eastern Kentucky Welfare Rights Organization*, 96 S. Ct. 1917 (1976); *Warth v. Seldin*, 422 U.S. 490 (1975); *Linda R.S. v. Richard D.*, 410 U.S. 673 (1973). Plaintiffs' complaint fails to comport with either requirement.

Sierra Club v. Morton, 405 U.S. 727 (1972), is instructive in the determination of whether plaintiffs allege a legally cognizable injury. In that case, the Sierra Club, a membership corporation holding "a special interest in the conservation and sound maintenance of the national parks, game refuges, and forests of the country," *id.* at 726, sought declaratory and injunctive relief in order to restrain federal officials from approving a proposed plan for development of the Mineral King Valley. In assessing the standing of the Sierra Club to pursue its claim, the Court concurred in the proposition that a litigant may assert values other than economic in order to fulfill the requirement that "injury in fact" be alleged, but cautioned that "broadening the categories of injury that may be alleged in support of standing is a different matter from abandoning the requirement that the party seeking review must himself have suffered an injury." *Id.* at 738. Despite the Sierra Club's long "commitment to the cause of protecting our Nation's natural heritage from man's depredations," *id.* at 739, the Court concluded that the Sierra Club lacked standing because involvement with an issue, whether on the part of an organization or an individual, without more, is insufficient to satisfy the constitutional essential of "injury in fact." *Id.* at 739–40

The "injury in fact" alleged by plaintiffs Mulqueeny and Boehnke is threatened loss of the benefits of legislative victories concerning a pressing current issue, gains reaped at the price of the expenditure of time, energy and funds on the part of plaintiffs. Manifestly, this imminent "injury" must be interpreted in actuality as a potential that the efforts employed by plaintiffs toward their goal of defeating legislation concerning ratification of the Equal Rights Amendment might ultimately prove fruitless, should the position they advocate not prevail. Certainly plaintiffs' endeavors on behalf of their cause bespeak their interest in the Commission's functioning, in the sense that defendant's plans and proposals are antagonistic to plaintiffs' theories regarding women's rights. However, the thrust of recent Supreme Court decisions underscores the principle that "mere interest" in the resolution of an issue, no matter how compelling, no matter how vigorously and vocally expressed, is of itself inadequate as a substitute for the Article III requirement that a litigant demonstrate per-

sonal, concrete injury. *Sierra Club, supra; United States v. Students Challenging Regulatory Agency Procedures* (SCRAP), 412 U.S. 669 (1973). *Cf. Laird v. Tatum*, 408 U.S. 1 (1972); *Roe v. Wade*, 410 U.S. 113, 127–29 (1973).

SCRAP, supra, relied upon by plaintiffs, illuminates proper application of the principle delineated in *Sierra Club*. Plaintiffs in that case challenged a surcharge on virtually all railroad freight rates authorized by the Interstate Commerce Commission, asserting that adoption of the proposed rate structure would discourage the use of recyclable materials, and thereby adversely affect the environment. Plaintiffs alleged specific injury in that their actual use and enjoyment of natural resources and recreation areas would be directly impaired. The Court determined this allegation a sufficient injury for standing purposes, distinguishing *Sierra Club* as involving "a vehicle for the vindication of value interests of concerned bystanders," *SCRAP, supra*, at 687, rather than concrete and perceptible injury. The *SCRAP* plaintiffs alleged a threat of actual harm to their environmental and esthetic interests, as opposed to the abstract concern regarding environmental protection issues voiced by the Sierra Club. *See also Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208 (1974).

Any energy, funds or time disbursed by plaintiffs is concomitant to their keen concern regarding the fate of legislation seeking the ratification of ERA. Any alleged loss incurred by plaintiffs therefore constitutes an abstract injury, not judicially cognizable in the assessment of plaintiffs' standing.

Moreover, assuming *arguendo* that plaintiffs' allegations of harm establish injury in fact," plaintiffs lack standing to invoke the jurisdiction of the federal court in that only through reliance upon the most speculative inferences is a relationship between defendant's conduct and plaintiffs' claimed harm aparent. It is wholly conjectural whether the exercise of remedial powers possessed by the federal court, as desired by plaintiffs, would result in the maintenance of the status quo in the Illinois legislature's posture on the issue of ratifying the Equal Rights Amendment. It is highly plausible that the Commission's proposed course of conduct would have no impact on a legislative determination to disfavor ratification of the proposed amendment; it is equally plausible that, were the injunctive relief requested by plaintiffs granted, the legislature would nevertheless elect to ratify the ERA. Plaintiffs cannot establish that the harm they assert is fairly attributable to the Commission's functioning, or that the grant of injunctive relief will remedy the alleged injury. Thus, plaintiffs' reliance on merely the remote possibility, unsubstantiated by allegations of fact, that their situation might [be] better had [defendant] acted otherwise, and might improve were the court to afford relief," *Warth, supra*, at 507, is insufficient to assure that plaintiffs would realize a benefit from judicial intervention. *Eastern Kentucky Welfare Rights Organization, supra; Linda R.S., supra.*

The fact that denying these plaintiffs standing to litigate the legality of the Commission's activities because plaintiffs cannot establish a cognizable injury which is a consequence of defendant's conduct, precludes other individuals from mounting an effective challenge is of no moment. Standing to sue does not affix itself to a litigant who does not possess it merely because no other individual is willing or able to vindicate a claim. Rather, the Supreme Court has aptly declared that:

Lack of standing within the narrow confines of Art. III jurisdiction does not impair the right to assert his views in the political forum or at the polls. Slow, cumbersome, and unresponsive though the traditional electoral process may be thought at times, our system provides for changing members of the political branches when dissatisfied citizens convince a sufficient number of their fellow electors that elected representatives are delinquent in performing duties committed to them.

United States v. Richardson, 418 U.S. 166, 179 (1974). Protection against the harm asserted accrues to plaintiffs through the political, not the judicial process. *Schlesinger, supra*, at 227.

In view of this resolution of the standing issue, it is unnecessary to consider the remaining issues. Accordingly, the judgment of the district court is vacated, and this case is remanded to the district court with directions to dismiss for lack of standing.

VACATED AND REMANDED.

A true Copy:
Teste:

_____.

Clerk of the United States Court of Appeals for the Seventh Circuit

FOOTNOTES

*Honorable William G. East, United States Senior District Judge for the District of Oregon, is sitting by designation.

[1] 89 Stat. 1003 (approved December 23, 1975). The pertinent part of the statute is Section 9, which provides:

There are authorized to be appropriated without fiscal year limitation, such sums, but not to exceed $5,000,000, as may be necessary to carry out the provisions of this Act. Such sums shall remain available for obligation until expended. No funds authorized hereunder may be used for lobbying activities.

[2] This appropriation statute provides, in pertinent part:

For necessary expenses of the National Commission on the observance of International Women's Year, 1975, as authorized by Public Law 94–167, $5,000,000, to remain available until expended: Provided, that none of the funds appropriated under this paragraph shall be used for lobbying activities.

[3] Executive Order No. 11832, 40 Fed. Reg. 2415 (1975). The Order specified that membership of the Commission would consist of up to 35 private citizens, appointed by the President, and two members of each House of Congress, appointed by the President of the Senate and the Speaker of the House of Representatives. Commission members were to serve without compensation, but would be entitled to travel expenses as authorized by 5 U.S.C. § 5703 (1970).

The Commission was ordered to conclude its tasks by the end of 1975. On November 25, 1975, Executive Order No. 11889, 40 Reg. 54765, was issued sustaining the life of the Commission through June 30, 1976, and directing it to submit a final report of its activities to the President within 30 days of its termination.

[4] The Commission also adopted the recommendations of a subcommittee which supported decisions of the Supreme Court regarding abortion issues and urged that family planning services be made available to women unable to take advantage of private facilities.

[5] No. B–182398 (July 31, 1975). The ruling stated:

The Executive Order confers wide discretion upon the Commission as to how it should *inter alia*, actively promote equality between men and women. The Commission in the exercise of that discretion has resolved to favor ratification of the ERA. To effectuate the Commission's resolution, the ERA Subcommittee intends to educate interested parties as to the impact of the amendments on sexual inequality in the United States and consult with the experts on how to best communicate the facts about ERA. In our view, the Subcommittee's planned activities are within the scope of the Executive Order, both in letter and spirit App. at 30.

[6] This report was received in evidence during the proceedings in the district court, and is part of the record on appeal.

[7] This legislation was passed by the House on December 10, 1975, the Senate on December 11, 1975, and approved by the President on December 23, 1975.

[8] Pub. L. No. 94–167 delineates the Commission's goals and powers as follows:

COMPOSITION AND GOALS OF THE CONFERENCE

SEC. 3. (a) The Conference shall be composed of—

(1) representatives of local, State, regional, and national institutions, agenceis, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and

(2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

(b) The Conference shall—

(1) recognize the contributions of women to the development of our country;

(2) assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) assess the role of women in economic, social, cultural, and political development;

(4) assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) establish a timetable for the achievement of the objectives set forth in such recommendations; and

(7) establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference. The second Conference will assess the progress made in achieving the objectives set forth in paragraphs (5) and (6) of this subsection, and will evaluate the steps taken to improve the status of American women.

(c) All meetings of the Conference and of State or regional meetings held in preparation for the Conference shall be open to the public.

POWERS OF COMMISSION

SEC. 4. The Commission shall—

(1) designate a coordinating committee in each State which shall organize and conduct a State or regional meeting in preparation for the Conference;

(2) prepare and make available background materials relating to women's rights and related matters for the use of representatives to the State and regional meetings, and to the Conference;

(3) establish procedures to provide financial assistance for representatives to the Conference who are unable to pay their own expenses;

(4) establish such regulations as are necessary to carry out the provisions of this Act;

(5) designate such additional representatives to the Conference as may be necessary and appropriate to fulfill the goals set forth in section 3(b) of this Act;

(6) grant technical and financial assistance by grant, contract, or otherwise to facilitate the organization and conduct of State and regional meetings in preparation for the Conference;

(7) establish such advisory and technical committees as the Commission consider nec-

essary to assist and advise the Conference; and

(8) publish and distribute the report required under this Act.

[9] Acute concern that any funds appropriated to the Commission would be misused for improper purposes surfaced during the hearings in both Houses. Representative Miller offered to substitute for the ban on use of appropriate funds for lobbying activities the following proviso:

That none of the funds appropriated under this paragraph shall be used for the purpose of directly or indirectly influencing the passage or defeat of any piece of legislation before any legislative body including the ratification of any Constitutional Amendment. This amendment was ultimately rejected by both Houses in favor of the less restrictive "lobbying activities" language.

Moreover, during the course of the debate an opponent of the appropriation read into the Congressional Record the entire complaint filed by plaintiffs in this lawsuit. *See* 122 Cong. Rec. S6918–6919 (daily ed. May 10, 1976).

[10] Article V provides in pertinent part:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. . . .

[11] Pub. L. No. 92–463 (Oct. 6, 1972). Section 5 of the Act provides, in part:

* * * * *

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain, appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment.

[12] An amended complaint, filed subsequent to the Congressional appropriation of funds to the Commission, reiterated these allegations and additionally sought a temporary injunction "ordering the Defendant Commission to refrain from spending any of the $5,000,000 appropriated . . . until Defendant . . . and all subcommittees and subgroups . . . are in compliance with the Federal Advisory Committee Act."

[13] The district court did not consider the purported violations of Article V of the Constitution and the Federal Advisory Committee Act. Plaintiffs appeal from the district court's failure to rule up on the applicability of the Federal Advisory Committee Act.

[14] *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 151 (1970).

[15] The requirement of alleging an "injury in fact" is obviated in situations where Congress has enacted a specific statute authorizing invocation of the judicial process. *See, e.g., Tafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205 (1972); *Hardin v. Kentucky Utilities Co.*, 390 U.S. 1 (1968); *Scripps-Howard Radio, Inc. v. F.C.C.*, 316 U.S. 4 (1962). However, the legislative history of neither the Federal Advisory Committee Act nor of the provisions of Public Laws 94–167 and 94–303 prohibiting expenditure of appropriated moneys for "lobbying activities" manifests an intent, either express or implied, to create a right of enforcement in private citizens.

[16] *See also Barlow v. Collins*, 397 U.S. 159 (1970); *Arnold Tours, Inc. v. Camp*, 400 U.S. 45 (1970).

NATIONAL AND STATE IWY CONFERENCES

1. What is the origin of the various state International Women's Year conferences occurring across the nation?

In December 1975 the Congress enatced P.L. 94–167 which authorized the convening of a national conference on American women to "assess the progress that has been made toward ensuring equality for all women, to set goals for the elimination of all barriers to the full and equal participation of women in all aspects of American life." The national conference is to be preceded by state conferences in the 50 states and in the territories. The cornerstone of the state conference is the adoption of recommendations and the election of delegates to the national conference.

2. How were these various conferences coordinated?

Under P.L. 94–167, the National Commission on the Observation of International Women's Year was given the authority to convene both the national and the various state conferences. This Commission was originally established by Executive Order 11832 under the Ford Administration. Congress extended the life of the Commission until the completion of the national women's conference to be held in Houston, Texas on November 18 to 21. The National Commission is mandated by P.L. 94–167 to go out of existence in March of 1978.

3. Who are the members of the National IWY Commission?

President Carter selected the 42 members of the IWY Commission from a broad spectrum of outstanding Americans from diverse walks of life including homemakers, students, nurses, secretaries, rural women, household workers, teachers, artists, civic leaders, union leaders, and church workers. The Commission also included four Members of Congress. All members serve without compensation.

4. How are these state conferences funded?

Pursuant to P.L. 94–167, Congress appropriated $5 million for the National IWY Commission in the Second Supplemental Appropriations bill for FY 1976.

5. How were the state conferences organized?

Under the mandate of P.L. 94–167, the National IWY Commission appointed a coordinating committee in each state to organize the state conference. The state coordinating committee was charged with selecting speakers, establishing workshops, and nominating delegates to the national convention in Houston. All activities of the state coordinating committees were conducted pursuant to detailed regulations published in the Federal Register by the National Commission.

6. What procedures were used to select the state coordinating committees?

Beginning in July 1976, the National Commission undertook a massive effort to seek out nominees for membership on state coordinating committees. The Commission sought nominations from well over 1000 national, and state organizations concerned with the status of women as well as from individuals. Hundreds of names were submitted to the staff of the Commission for consideration. Constant efforts were made by the staff to assure that nominees reflected a broad representation in age, ethnicity, race and political ideology. There was a conscious attempt to designate people with a range of views on some of the more controversial issues. No candidate was nominated based upon her view on abortion or the Equal Rights Amendment. Final selection was made by the members of the National Commission.

7. Have these conferences been dominated by pro-ERA and pro abortion women?

State conferences across the country have been open to women with diverse views on a range of topics including abortion and the Equal Rights Amendment. Many state conferences elected women as delegates to the national convention in Houston who ran on an anti-ERA or anti-abortion slate. States which elected such slates included: Indiana, Utah, Missouri, Mississippi and Oklahoma.

8. Have these conferences been used to lobby for the Equal Rights Amendment?

Under the mandate of both PL 94–167 and the Second Supplemental Appropriations Act for FY 1976, none of the funds used to convene the IWY conferences could be used to lobby on behalf of the Equal Rights Amendment. An investigation of the activities of the National IWY Commission relating to the ERA by the General Accounting Office (January 17, 1977) concluded that the Commission had not acted in violation of this ban. Several state conferences did conduct workshops on the ERA; however, viewpoints on both sides of this issue were sought out, and registered participants had the opportunity to vote for or against any recommendations which emerged.

SENATE SHOULD CONSIDER THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it now has been more than 28 years since the General Assembly of the United Nations unanimously adopted the International Convention on the Prevention and Punishment of the Crime of Genocide. During these years, there has been much debate in this country about the merits of the treaty. In newspapers throughout the Nation, among citizens, and among the Members of this very body, much discussion has been generated. People are clearly interested and concerned.

Mr. President, I mention these facts for one reason. It seems to me that any issue so important to the American people deserves to be considered by the Senate. Yet each time the Foreign Relations Committee has recommended ratification of the treaty, this body has refused to act. Think about that. The Foreign Relations Committee has considered the Genocide Convention four times, and each time it has urged the Senate to give its advice and consent. The Senate, however, has never even voted on the question.

And I should mention that this treaty does not deal with some obscure question of international law or some esoteric point of international affairs. This treaty outlaws genocide. It declares that any act

committed with the intent to destroy a national, ethnical, or religious group is a crime against international law.

Now I admit that there have been a number of arguments against this treaty. And they certainly deserve to be debated. I can find no reason, however, why the Senate, at some point, should not consider the convention on its merits. After almost three decades, I do not believe it is an outrageous expectation that the Senate vote on the question. The American people deserve no less.

JFTY MITZVAH CORPS

Mr. WILLIAMS. Mr. President, last week I had the privilege of meeting an extraordinary group of young people who, at their own expense, are spending 6 weeks this summer helping the poor, infirm, and elderly of New Brunswick, N.J. I am speaking of the Jersey Federation of Temple Youth Urban Mitzvah Corps.

Every year since 1970 when the corps was organized by Rabbi Richard Sternberger, director of the Mid-Atlantic region of the Union of American Hebrew Congregations, 20 Jewish teenagers from mostly suburban homes in New Jersey have performed a variety of service jobs on a rotating basis in the city of New Brunswick. These jobs have included delivering meals-on-wheels, participating in "outreach" visits to shut-ins, working at the Happy Day Camp for retarded persons, and staffing a nutrition center, a senior citizens resource center and a federally funded day care center.

This summer the students also helped to open two inner-city playgrounds in New Brunswick which would not have opened were it not for the efforts of these high school youths.

These students each year raise all the money themselves for their program, including living expenses and travel expenses to and from their jobs, by seeking support from different local groups and businessmen.

Last week the students traveled to Washington with the corps' current directors, Jonathan Miller, a second-year rabbinical student at the Hebrew Union College-Jewish Institute of Religion, and his wife, Judy. Both Jon and Judy were original participants in the Mitzvah Corps. Their group held discussions with me and members of my staff on ways to improve Federal services to the elderly and retarded citizens of our country. Their insights, often coming from direct experience, were most valuable in pinpointing areas where help is urgently needed.

I strongly commend their program and each one of its participants. It is a sure sign that our Nation's young people are not the apathetic and uncaring generation often described by the media. These students are participating in a program which I am sure will have great meaning for them personally and at the same time provide a valuable contribution to the people of the city of New Brunswick.

All involved in this worthy program deserve the highest praise, and I wish the Mitzvah Corps continued success for years to come.

ROBERT MAYNARD HUTCHINS

Mr. CRANSTON. Mr. President, on May 14, 1977, the Nation suffered the passing of Robert Maynard Hutchins—scholar, humanist and visionary in the noblest sense of that often maligned word. As the founder and director of the Center for the Study of Democratic Institutions in Santa Barbara, Bob Hutchins took a concept and molded it into concrete reality, creating a continued dialog between scholars with a penetrating interest in public affairs, and public men with an eye for the "practical philosophy" inherent in contemporary issues.

The center's current president, Harry S. Ashmore, a distinguished journalist and scholar in his own right, has done a commendable job in seeing to it that the center and its activities remain true to the goals and ideals of its founder. At the memorial service for Robert Maynard Hutchins, Harry Ashmore chose for his readings an eloquent selection from his published works. Bob Hutchins' own words, I feel, can say much more than I for the greatness of his humanity and vision.

I ask unanimous consent that these quotations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROBERT M. HUTCHINS
JANUARY 17, 1899—MAY 14, 1977

Some twenty-five years ago I proposed to the University of Chicago that it change its motto . . . I may claim it for the Center for the Study of Democratic Institutions. It was a line from Walt Whitman:

"Solitary, singing in the West, I strike up for a new world."

READINGS, MEMORIAL SERVICE FOR ROBERT M. HUTCHINS, CENTER FOR THE STUDY OF DEMOCRATIC INSTITUTIONS, SANTA BARBARA, MAY 28, 1977

Our text for today is taken, with apologies to all those who would have chosen differently, from the published works of Robert Maynard Hutchins.

Of his antecedents, he said:

My father's family was descended from a long line of Connecticut doctors and ministers; my mother's from a long line of sea captains from Maine. My childhood was nourished by the stories of their independence . . . and I began to think at an early date that the ideal American was the perpendicular man. These ancestors of mine were all stubborn and some of them were vain. Their notion of success did not seem to involve material goods so much as it did holding on to their own convictions in the face of external pressure.—Freedom, Education and the Fund, 1956.

Thornton Wilder used to say that he and I were brought up in the "late foam-rubber period of American Protestantism." And the worst of that, he said, was that we didn't have the courage to think what he called "window-breaking thoughts." Thornton thought I had lived in two of the wrong neighborhoods: the neighborhood of late foam-rubber Protestantism and, as a semi-professional money raiser, in the neighborhood of the very rich. "The rich," Thornton said, "need to be lapped in soothing words." What was required was window-breaking thoughts. The enemy was philistinism, parochialism, narrow specialization. The object of education—indeed of the whole of life—was the expansion of imagination.—Remarks, Memorial Service for Thornton Wilder, January 18, 1976.

To his students, early in his career at the University of Chicago:

I am not worried about your economic future. I am worried about your morals. My experience and observation lead me to warn you that the greatest, the most insidious, . . . the most paralyzing danger you will face is the danger of corruption. Time will corrupt you. Your friends, your wives, or husbands, your business or professional associates will corrupt you; your social, political, and financial ambitions will corrupt you. The worst thing about life is that it is demoralizing.

The pressure toward uniformity is especially intense now. More effective methods of applying it are constantly appearing. The development of the art of advertising and the new devices now at its disposal make more moving than ever the demand that every American citizen must look, act, and think like his neighbor, and must be afflicted with the same number of gadgets. . . . Almost everybody now is afraid. This is . . . reflected in the decay of the national reason. Almost the last question you can ask about any proposal nowadays is whether it is wise, just, or reasonable. The question is how much pressure is there behind it or how strong are the vested interests against it . . .

Believe me, you are closer to the truth now than you ever will be again. Do not let "practical" men tell you that you should surrender your ideals because they are impractical. Do not be reconciled to dishonesty, indecency, and brutality because gentlemanly ways have been discovered of being dishonest, indecent, and brutal. . . . Courage, temperance, liberality, honor, justice, wisdom, reason, and understanding, these are still the virtues—Address to the Graduating Class, University of Chicago, 1935.

Bidding the students at Chicago farewell:

Perhaps the greatest difference between your time in college and my own is the popularization in the intervening years of the works of Freud . . . I must say that he has had . . . an unfortunate effect upon your conversation and upon the standards by which you judge yourselves and others. A graduate student in psychology told me last year that in her opinion 99% of the people of this country were abnormal. In addition to providing an interesting definition of normality, this suggested to me that the ordinary difficulties of growing up and being human, from which the race has suffered for a million years, had taken on a kind of clinical character . . . On the principle laid down by Gilbert and Sullivan that when everybody is somebody, nobody is anybody; if everybody is abnormal, we don't need to worry about anybody.—Address to students, University of Chicago, 1951.

To the proprietors and managers of the mass media:

The Press must know that its faults and errors have ceased to be private vagaries and have become public dangers.—A Free and Responsible Press, 1947.

The greatest aggregation of educational foundations is the press itself . . . Indeed, I notice that in spite of the frightful lies you have printed about me I still believe everything you print about other people . . . Must we fall back on the process of education through educational institutions, hoping that in the long run we may produce a generation that will demand better things of

you? This process will be tedious and difficult, because of the power of the press itself over the minds and habits of those whom the educational institutions produce.—Address to the American Society of Newspaper Editors, 1930.

The horrid prospect that television opens before us, with nobody speaking and nobody reading, suggests that a bleak and torpid epoch may lie ahead, which, if it lasts long enough, will gradually, according to the principles of evolution, produce a population indistinguishable from the lower forms of plant life. Astronomers at the University of Chicago have detected something that looks like moss growing on Mars. I am convinced that Mars was once inhabited by rational human beings like ourselves, who had the misfortune, some thousands of years ago, to invent television.—Address to students, University of Chicago, 1951.

Of his life work, he said:

Upon education our country must pin its hopes of true progress, which involves scientific and technological advance, but under the direction of reason; of true prosperity, which includes external goods but does not overlook those of the soul; and of true liberty, which can exist only in society, and in a society rationally ordered.—The Higher Learning in America, 1936.

We can learn from science and technology how to build a bridge. We may, perhaps, learn from social science what some of the social, political, and economic consequences of building the bridge will be. But whether those consequences are good or bad is not a question in either physical or social science.

And so it is of all the most important questions of human existence. What is the good life? What is a good society? What is the nature and destiny of man? . . . These questions do not yield to scientific inquiry. Nor do they become nonsense, as the logical positivists would have us believe, because they are not scientific. . . . Unfortunately, the question whether there is knowledge other than scientific knowledge is one that science can never answer. It is a philosophical question.—The Conflict of Education, 1953.

Of his personal faith, he said:

I was the classic example of the young man brought up to good habits who could not understand why he or anybody else should have them until his own experience forced him to try to find out . . . A lifetime of experience and reflection has supplied me with reasons for defending the faith in which I was brought up.

That faith, I say again, was faith in the independent mind. Its educational consequences were belief in free inquiry and discussion. Its political consequences were belief in democracy, but only in a democracy in which the minority, even a minority of one, could continue to differ and be heard. Those who desire to conform, but are prohibited or hindered from doing so by intolerance and prejudice must be aided; the non-conformist conscience must not be stifled. Hence my interest in the Fund for the Republic—Freedom, Education and the Fund, 1956.

The Civilization of the Dialogue is the only civilization worth having and the only civilization in which the world can unite. It is, therefore, the only civilization we can hope for, because the world must unite or be blown to bits. The Civilization of the Dialogue requires communication. It requires a common language and a common stock of ideas. It assumes that every man has reason and every man can use it. It preserves to every man his independent judgment, and, since it does so, it deprives any man or group of men of the privilege of forcing their judgment upon any other . . . The Civilization of the Dialogue is the negation of force.—Bedell Lecture, Kenyon College, 1948.

Finally, I think he would say to you what he said on another testimonial occasion:

The life of man, so far as it is of value at all, is at every point a struggle of wisdom against folly, of generosity against selfishness, of objectivity against prejudice, of civilization against barbarism.

I salute you because you are leaders in that struggle. I am grateful to you because you have been willing to be my friends.—Remarks, Testimonial Dinner, New York, 1965.

DR. JAMES R. SCHLESINGER TO BE FIRST SECRETARY OF ENERGY

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources held a hearing today on the proposed nomination of Dr. James R. Schlesinger to be the Nation's first Secretary of Energy.

I am advised that the President will submit Dr. Schlesinger's nomination to the Senate after he signs the Department of Energy Organization Act tomorrow morning.

Mr. President, I ask unanimous consent that Dr. Schlesinger's biography and his statement to the committee today be printed in the RECORD. I also ask unanimous consent that Dr. Schlesinger's sworn financial statement and a letter from the Counsel to the President discussing his stockholdings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JAMES R. SCHLESINGER

James R. Schlesinger is Assistant to the President with primary responsibility for energy matters. He is working to establish a comprehensive national energy policy and a Cabinet Department of Energy to carry out this policy. He was selected by then President-elect Jimmy Carter as his chief energy advisor on December 23, 1976, at which time he was a Visiting Scholar at Johns Hopkins University.

In March 1969 Mr. Schlesinger began his Government service as Assistant Director of the Bureau of Budget (later the Office of Management and Budget), and served for a period as Acting Director. He left BOB in August 1971 to become Chairman of the Atomic Energy Commission, a post he held until February 1973 when he was named Director of Central Intelligence. He served in that position until July 1973 when he was appointed Secretary of Defense. He remained at the Defense Department until November 1975.

Born in New York City, February 15, 1929, Mr. Schlesinger received A.B., A.M. and Ph. D. degrees in economics from Harvard University in 1950, 1952 and 1956, respectively. From 1955 to 1963 he served as assistant and associate professor of economics at the University of Virginia. Subsequently he was associated with the Rand Corporation as a senior staff member, 1963–67, and director of strategic studies, 1967–69.

Mr. Schlesinger has been an associate editor of the Journal of Finance, 1964–65; a member of the board of associates of the Foreign Policy Research Institute at the University of Pennsylvania, 1962–63; and a Frederick Sheldon Prize Fellow at Harvard, 1950–51. He is the author of The Political Economy of National Security, 1960, and co-author of Issues in Defense Economics, 1967.

Married to the former Rachel Mellinger, Mr. Schlesinger and his wife have eight children and live in Arlington, Virginia.

Mr. Chairman and Members of the Committee: I am pleased to be here this morning for your consideration of my prospective nomination to be Secretary of Energy, and am most grateful to you, Mr. Chairman, for the extraordinary speed with which you have called this hearing.

The President, in transmitting the National Energy Plan to the Congress in April of this year, stated that "In each period of our history, the nation has responded to challenges which have demanded the best in all of us. This is one of those times."

Creation of the nation's first new Cabinet Department since 1966 indicates the seriousness of the challenge we face. Rarely have we faced a more difficult task. Rarely has the need for cooperation between the Congress and the Executive branch been more essential. And rarely has the response of both the Congress and the American people been more heartening.

The Congress has created the Department of Energy in just five months, an amazingly and gratifying short period of time. Both the Senate and the House are acting on major elements of the President's National Energy Plan, many portions of which will be administered by the Department of Energy.

Now, we must begin the job of organizing in government to meet the challenges we face ahead. The President believes that the Congress has given us the tools to undertake that task in creating the Department of Energy. Yet I do not want to underestimate the difficulty of the organizational job ahead in combining the Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and a variety of programs and responsibilities from other Cabinet Departments into a coherent, manageable and effective Department of Energy.

This task of organizational integration is currently underway. We have not yet reached many firm conclusions but are moving forward toward those decisions. I hope and intend to consult with the members of this Committee and the Congress over the next few months as these decisions are made to seek your views and your advice.

In the course of creating the Department, the Congress has already given some very definite guidance. We are pleased that we have been given the flexibility to organize sensibly along functional lines, taking into account the need for a new structure that can meet changing conditions and new programmatic responsibilities. And in creating the new Federal Energy Regulatory Commission within the Department, the Congress has recognized the need for continued independence in decision-making in certain key areas relating to natural gas and electricity, and yet has created a cooperative mechanism under which the Secretary and the Federal Energy Regulatory Commission hopefully can arrive mutually at decisions which will aid the integration of national energy policy with other societal goals.

If confirmed, I am determined to ensure that the Department of Energy results in a more cost-effective use of Federal funds. And I am committed to seeking the advice and cooperation of the Congress, the states and localities, and interested individuals and groups of all perspectives.

I look forward with great anticipation to the challenge ahead, and to working with you on the many problems we will face together.

Mr. Chairman, I will be happy to respond to any questions the committee may have

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT
JAMES R. AND RACHEL M. SCHLESINGER

Real Estate:	
Home (assessed value)	$130,000
Less: Mortgage	41,000
Total	89,000
Lot, Fairfax County	20,000
Farm, Springfield, Ohio 20 percent interest at $1500/acre	96,000
Total	205,000
Personal Property	20,000
Pension Plans:	
TIAA–CREF	41,000
Government Retirement	23,000
Total	64,000
Cash	3,000

Stocks:

Listed—5,000 Sea Containers, 1,929 Central Telephone, 1,250 Fred S. James & Co. 2,100 Newhall Land and Farming, 300 Victor Comptometer, 108 Boise Cascade.

Unlisted—400 Responsive Environments, 6,000 Rosegold, 700 Funding.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) Only in normal operation of brokerage account.

3. Are you currently a party to any legal action? As former Director of Central Intelligence I still am involved in a class action by parties charging possible legal violations. This is being handled by the Department of Justice.

4. Have you ever declared bankruptcy? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Schlesinger, James R.

Position to which nominated: Secretary of Energy.

Date of birth: February 15, 1929.

Place of birth: New York.

Marital status: Married.

Full name of spouse: Rachel M. Schlesinger.

Name and ages of children: Cora, 22; Charles, 21; William, 18; Emily, 15; Thomas, 12; Clara, 11; James, Jr., 7.

Education: Harvard University, January 1950–June 1955, A.M., Ph.D.; Harvard College, September 1946–January 1950, A.B.

Honors and awards: Frederick Sheldon Fellowship, 1950; Honorary Degree, Doctor of Laws, Citadel, 1975; Honorary Degree, Doctor of Laws, University of South Carolina, 1976; Honorary Degree, Doctor of Laws, Indiana University of PA, 1976; Honorary Degree, Doctor of Laws, New York University, 1976; Honorary Degree, Doctor of Laws, Ohio State University, 1977; Dwight David Eisenhower Gold Medal, Veterans of Foreign Wars, 1976; Honorary Degree of Humane Letters, Wittenberg College, 1977; Intelligence Community National Intelligence Distinguished Service Medal, 1975; Senate Resolution 303, 94th Congress, 1st Session, November 18, 1975, Citation for Excellence in Office as the Secretary of Defense; Department of Army Distinguished Service Medal; Department of Navy Distinguished Public Service Medal; Department of Air Force Exceptional Civilian Serv. ice Medal; Atomic Energy Commission Distinguished Service Medal.

Memberships: None.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

January 1977 to Present: U.S. Government, White House, Assistant to President.

November 1975 to January 1977: Johns Hopkins SAIS, Washington, D.C., visiting scholar, new position.

July 1973 to November 1975: U.S. Government, Washington, D.C., Secretary of Defense, termination.

February 1973 to July 1973: U.S. Government, Washington, D.C., Director, CIA, new position.

August 1971 to February 1973: U.S. Government, Washington, D.C., Commissioner, AEC, new position.

March 1969 to August 1971: U.S. Government, Washington, D.C., Associate Director, OMB, new position.

March 1962 to March 1969: Rand Corp. Santa Monica, Calif., consultant/director, new position.

September 1955 to March 1962: University of Virginia, Charlottesville, Va., assistant professor/Assistant, new position.

July 1957 to December 1957: Naval War College, Newport, R.I., academic consultant, end agreement.

September 1951 to June 1955: Harvard University, Cambridge Mass., teaching fellow or student or unemployed prior to September 1951.

1962 to 1964: Amerad Corp., Charlottesville, Va., VA consultant, end agreement.

February 1962 to February 1962: Foreign Policy Research Inst., University of Pennsylvania, Philadelphia, Pa., associate, end agreement.

1962 to 1967: Board of Governors, Federal Reserve Board, Washington, D.C., consultant, end agreement.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions. See employment record.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. Political Economy of National Security—published in 1960. Countless technical articles plus Fortune (March 1976) and Readers Digest (April 1976).

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Normal legislation activities of a Federal officer.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Not applicable.

JAMES R. SCHLESINGER

James R. Schlesinger is Assistant to the President with primary responsibility for energy matters. He is working to establish a comprehensive national energy policy and a Cabinet Department of Energy to carry out this policy. He was selected by then President-elect Jimmy Carter as his chief energy advisor on December 23, 1976, at which time he was a Visiting Scholar at Johns Hopkins University.

In March 1969 Mr. Schlesinger began his Goverment service as Assistant Director of the Bureau of Budget (later the Office of Management and Budget), and served for a period as Acting Director. He left BOB in August 1971 to become Chairman of the Atomic Energy Commission, a post he held until February 1973 when he was named Director of Central Intelligence. He served in that position until July 1973 when he was appointed Secretary of Defense. He remained at the Defense Department until November 1975.

Born in New York City, February 15, 1929, Mr. Schlesinger received A.B., A.M. and Ph.D. degrees in economics from Harvard University in 1950, 1952, and 1956, respectively. From 1955 to 1963 he served as assistant and associate professor of economics at the University of Virginia. Subsequently he was associated with the Rand Corporation as a senior staff member, 1963–67, and director of strategic studies, 1967–69.

Mr. Schlesinger has been an associate editor of the Journal of Finance, 1964–65; a member of the board of associates of the For-

eign Policy Research Institute at the University of Pennsylvania, 1962–63; and a Frederick Sheldon Prize Fellow at Harvard, 1950–51. He is the author of the Political Economy of National Security, 1960 and co-author of Issues in Defense Economics 1967.

Married to the former Rachel Mellinger, Mr. Schlesinger and his wife have eight children and live in Arlington, Virginia.

THE WHITE HOUSE,
Washington, August 2, 1977.

Dr. JAMES R. SCHLESINGER,
Secretary-Designate, Department of Energy, Washington, D.C.

DEAR DR. SCHLESINGER: I acknowledge receipt of your response to the Outline of Information Requested of Prospective Nominees. I congratulate you on your notification of the President's intention to nominate you to be Secretary of the Department of Energy. I also acknowledge receipt of your letter of commitment to the President.

It is my understanding that you have fully severed your relationship with Johns Hopkins University and have no further obligation to that institution nor do you have any commitment to return to it following your government service. Similarly, I understand that you have no ongoing obligation or commitment to any of the institutions which paid you fees or honoraria for speaking, writing or participating in seminars during 1976.

You have advised that you own security interests in six different companies which are listed on stock exchanges. I understand that none of these securities are in energy related companies. If you learn that any of these companies engage in energy related activities you should divest yourself of such securities. Moreover, you should disqualify yourself to act on any particular matter, as that phrase is defined in 18 U.S.C. 208(a), which would affect the interest of any of those companies. Should you determine that you need to disqualify yourself more than infrequently as a result of such stock ownership, I recommend that you divest yourself of those securities which are causing that disqualification or establish a blind trust which complies with the standards established under the Carter-Mondale Guidelines on Conflicts of Interest.

You have advised that you own unlisted stocks in three companies. The total value of these stocks is $1,000 or less and their actual value may be zero. However, if Responsive Environments is still a viable enterprise, it would seem to have an interest in the rules, regulations and actions of the Department of Energy. Accordingly, I suggest that you sell or otherwise dispose of this stock if it has any value at all. The elimination of the appearance of a conflict is important.

I understand that the legislation establishing the Department of Energy will require sale of all energy related stocks owned by Executive Level appointees to the Department. In my opinion, such divestiture is appropriate.

I assume that there is no oil or gas drilling, or coal mining, on the farm in Springfield, Ohio in which you hold a 20% interest. Any interest in mining, drilling or exploratory operations, would be inappropriate for the Secretary of the Department of Energy.

It is my understanding that you are not a member of any organization or group which lobbies before Congress, is likely to lobby at the Department of Energy or seeks grants or applications from other federal government agencies or departments. You have advised, however, that you are a member of the Audubon Society which may take an interest in some environmental matters.

Based on our review of the materials you have submitted and assuming you take the actions you have indicated you will take and those that are suggested in this letter, it appears that you will have complied with the Guidelines on Conflicts of Interest.

It has been a pleasure to work with you at the White House. I know that you will fulfill your new responsibilities with great distinction.

Sincerely,

ROBERT J. LIPSHUTZ,
Counsel to the President.

HAZEL R. ROLLINS NOMINATED AS ASSISTANT ADMINISTRATOR OF THE FEDERAL ENERGY ADMINISTRATION

Mr. JACKSON. Mr. President, last Friday the Committee on Energy and Natural Resources held a hearing on the nomination of Hazel R. Rollins to be an Assistant Administrator of the Federal Energy Administration for energy conservation.

I ask unanimous consent that Mrs. Rollins' biography, her statement to the committee and her sworn financial statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL STATEMENT

1. Name: Hazel Rollins (nee Reid, Robinson).

2. Address: 717 6th Street, S.W., Washington, D.C. 20024.

3. Date and place of birth: May 17, 1937; Newport News, Virginia.

4. Marital status: Divorced.

5. Names and ages of children: Carl Gilbert Rollins—16.

6. Education: Fisk University, 1955–1959, B.A., June 1959. Rutgers Law School, 1963–1966, LL.B., June 1966.

7. Employment record:

May 1977—Present, Consultant, Federal Energy Administration, Washington, D.C.

June 1976–May 1977, General Counsel, Community Services Administration, Washington, D.C.

July 1974—June 1976, Office Director, Federal Energy Administration, Washington, D.C.

February 1972–June 1974, Office Director, Cost of Living Council, Washington, D.C.

January 1971–August 1971, Attorney (private practice), Orange, New Jersey, and also Assistant County Prosecutor, Essex County Prosecutor's Office, Newark, New Jersey.

May 1969–June 1970, Assistant Administrator, Essex County Legal Services, E. Orange, New Jersey.

July 1968–May 1969, Attorney (private practice), Orange, New Jersey.

April 1968–June 1969, Organize office in Newark for Community Action Legal Workshop, Newark, New Jersey.

September 1967–January 1968, Deputy Attorney General, State of New Jersey, Trenton, New Jersey.

8. Government experience:

Member, City of Orange (N.J.) Board of Education; Deputy Attorney General, State of New Jersey; and Assistant County Prosecutor, Essex County New Jersey.

9. Memberships:

Board of Trustees, Orange YWCA (N.J.)—Member of Board; United Campaign of Essex County (N.J.)—Member; National Bar Association—Member; and United Federal Campaign (Executive Committee—1976).

10. Honors and awards:

Deans List—Fisk University. Senior Honors Program—Fisk University; Cum Laude—Fisk University; Moot Court Competitor—Rutgers University; Outstanding Black Female Attorney—National Bar Association; Director's Distinguished Service Award, Cost of Living Council, 1973 and 1974; and Director's Distinguished Service Award, Community Services Administration, 1976.

11. Published writings:

Series of Government Annual Reports, mandated by legislation, 1972–1976.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $24,208.56.

U.S. Government securities—add schedule, $4,000.00.

Real estate interests, including mortgages—add schedule, $77,000.00.

Residence, $20,000.00.

Civil Service Retirement, $4,000.00.

Total assets, $129,208.56.

LIABILITIES

Real estate mortgages payable—add schedule (Residence only), $46,000.00.

Household and living expenses, $1,000.00.

Total liabilities, $47,000.00.

Net worth, $82,208.56.

Chessie System, Inc., 25 shares.

Singer (Carl), 50 shares.

Western Union (Carl), 20 shares.

Rollins, Inc., 100 shares.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

STATEMENT OF HAZEL R. ROLLINS BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, JULY 29, 1977

Mr. Chairman and members of the committee, it is a privilege to appear before you today. Before I begin my remarks, I would like to thank Deputy Administrator David Bardin for his kind comments on my behalf.

It is an honor to be here as a nominee to join President Carter's administration as the Assistant Administrator for Conservation of FEA at a time when the president has designated conservation as a basic principle of our national energy policy. Energy conservation is the only viable means of maintaining our national well-being in the short term, as we strive to develop alternatives to meet our long-term energy needs and bring new technologies on-line. At the same time, a great deal of effort must be made in the ordering of priorities and in making certain that conservation programs are cost-effective and produce significant cost savings.

Because energy conservation is such a high priority, I believe that emphasis must be placed upon those areas where the greatest benefits will accrue—commerce and industry, government and the home. As an example, the possibilities for achieving substantial energy savings in the industrial sector are great. Important initiatives have already been taken by many corporations and they have begun to pay off in clearly demonstrable terms, not only in energy savings but also in increased production efficiency.

These efforts must be expanded to include the small business community. I intend, therefore, to form a strong partnership with business and industry.

A successful national energy conservation program cannot be achieved without cooperation among all levels of government. The opportunities for partnership between the Federal Government and State and local governments are numerous. We have begun at the State level, and have every indication that local governments are eager to plan for and implement their own energy conservation programs.

Conservation is the one area in the large and increasingly important subject of energy that touches every citizen. Fortunately, the need for conservation is a principle upon which nearly all of us agree. Difficult choices face us as we develop and implement a successful national energy program. If I am confirmed, I look forward to working with you and your constituents to create a conservation program that will insure the continuing economic health of this nation and its citizens and a program that is consistent with the realities of our national energy supply situation.

I again thank you for the opportunity to appear before you today. I will be pleased to answer any questions you may have.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Rollins, Hazel, nee Reid, Robinson.

Position to which nominated: Assistant Administrator.

Date of nomination: July 14, 1977.

Date of birth: May 17, 1937.

Place of birth: Newport News, Virginia.

Marital status: Divorced.

Name and ages of children: Carl Gilbert Rollins—16.

Education, institution, dates attended, degrees received, and dates of degrees.

Fisk University, 1955–1959, B.A., June 1959.

Rutgers Law School, 1963–1966, LL.B., June 1966.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Deans List—Fisk University; Senior Honors Program—Fisk University; Cum Laude—Fisk University; Moot Court Competitor—Rutgers University; Outstanding Black Female Attorney—National Bar Association; Director's Distinguished Service Award, Cost of Living Council, 1973 and 1974; and Director's Distinguished Service Award, Community Services Administration, 1976.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates.

Board of Trustees, Orange YWCA (N.J.), Member of Board, 1964.

United Campaign of Essex County (N.J.), Member, 1963–64.

National Bar Association, Member, Current.

United Federal Campaign, Executive Committee, 1976.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

May 1977–Present, Consultant, Federal Energy Administration, Washington, D.C.

June 1976–May 1977, General Counsel, Community Services Administration, Washington, D.C.

July 1974–June 1976, Office Director, Federal Energy Administration, Washington, D.C.

February 1972–June 1974, Office Director, Cost of Living Council, Washington, D.C.

January 1971–August 1971, Attorney (private practice), Orange, New Jersey; also

January 1971–August 1971, Assistant County Prosecutor, Essex County Prosecutor's Office, Newark, New Jersey.

May 1969–June 1970, Assistant Administrator, Essex County Legal Services, E. Orange, New Jersey.

July 1968–May 1969, Private Law Practice, Orange, New Jersey.

April 1968–June 1968, Organize Office in Newark for Community Action Legal Workshop, Newark, New Jersey.

September 1967–January 1968, Deputy Attorney General, State of New Jersey, Trenton, New Jersey.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Member, City of Orange (N.J.) Board of Education (appointed position).

Deputy Attorney General, State of New Jersey.

Assistant County Prosecutor, Essex County, New Jersey.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Series of Government Annual Reports, mandated by legislation, 1972–1976.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Not applicable—Federal employee prior to nomination.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Western Union—Stock; Singer, Inc.—Stock; Chessy System—Stock; and Rollins, Inc. (Atlanta, Ga.)—Stock.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I will divest myself of any stocks I now hold personally or in my name for my son Carl under the Uniform Gift to Minors Act in order to avoid any potential conflict of interest.

QUALIFICATIONS

The administrative and legal positions I have held during my professional career qualify me to undertake responsibilities for developing and implementing energy conservation programs to reduce the rate of growth in energy demand consistent with national economic and social goals.

Since coming to the Federal Government in February of 1972, I have held progressively more responsible assignments. Initially, I was hired as a lawyer/advisor with a range of experience in various legal skills developed as a general practitioner, Assistant County Prosecutor, and Deputy State Attorney General.

In my positions as Deputy Director and Director of the Self-Administered Industries Division of the Cost of Living Council, I instituted an information system for collecting and analyzing all data and contract information relative to major industry wage adjustments, including the petroleum, steel, coal, cement, and utility industries. In order to effectively represent the Federal Government in negotiations with industry and union officials and their attorneys for resolution of cases, I conducted in-depth studies of those industries.

As Director, Public Sector Division, Cost of Living Council, and Deputy to the Counselor to the Director, Cost of Living Council, I monitored State and local government wage increases when they were not consistent with Economic Stabilization Law, directed appropriate administrative action, and personally negotiated wage reductions with State and local public officials and employee representatives which required a knowledge of State and local governments as well as economic issues.

While serving as Director of the Office of Consumer Affairs/Special Impact, Federal Energy Administration, from July 1974 to June 1976, I evaluated national energy policy and its impact on the public. In this position my office conducted the first national study on weatherizing the homes of low income citizens. As a result of that study my office developed and recommended the first national weatherization program which was proposed in January 1975. In addition, the

office developed technical papers on rate reform, the first microeconomic impact analysis of increased energy prices on individuals. Through coordination with other FEA program offices, innovative rate design concepts were incorporated into FEA utility demonstration projects in the Office of Conservation.

As General Counsel to the Community Services Administration, I served as the legal counsel to the Director. I was responsible for supervision of the legal staff and the activities of the Office of Inspection and participated in the formulation and revision of policies and procedures governing the activities of CSA and other Federal human resource agencies, many of which focused on energy conservation.

My legal skills, in combination with my management abilities, energy expertise and experience in dealing with representatives of all sectors of the economy, provide the appropriate balance of skills and experience necessary to develop and manage a comprehensive energy conservation program.

As an administrator my programs have always had a very high level of productivity. I have supervised lawyers, economists, engineers, administrators, computer scientists, secretaries, and clerical employees, both men and women, of various age groups. I believe I have uniformly had their admiration and respect.

THE RECOMBINANT DNA ACT—S. 1217

Mr MOYNIHAN. Mr. President, yesterday a substitute amendment to S. 1217, the Recombinant DNA Act, was introduced by my distinguished colleague, the junior Senator from Wisconsin. As I believe this matter to be one of serious import, with possible far-reaching consequences, I have joined Senator NELSON as cosponsor of his amendment.

Federal regulation of research into recombinant DNA is, indeed, a most complex and controversial issue. The research itself is being conducted at the very frontiers of science, where our knowledge is incomplete, but rapidly growing. While there are legitimate concerns regarding the safety of this research, we must take great care so as to not allow unjustified fears to cloud our judgment and cause us to set precedents which we may, at a later date, have reason to regret. This substitute amendment would, I believe, establish the necessary regulatory authority to control recombinant DNA research.

I find this proposal to be in all respects superior to S. 1217. We must be very careful when creating such regulatory power that we examine its impact on private research institutions. In this case, the institutions that are affected are our universities and research laboratories, which have operated, and should continue to operate, in the tradition of free inquiry into all research matters. S. 1217 would establish unnecessarily stringent controls on the research activities of the scientific community.

The amendment which we introduced yesterday provides the necessary regulation without forcing unnecessary intrusion into what is, legitimately, the academic domain.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

On July 7, 1977, Congress received transmittal No. 77–46, which proposed the sale of seven E–3A—AWACS—to the Government of Iran. After extensive hearings on the proposed sale, the Foreign Relations Committee determined that there was insufficient time to give the sale the serious consideration it deserved. Consequently, the Foreign Relations Committee requested that the President withdraw temporarily the proposed sale to Iran.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter from the Defense Security Assistance Agency indicating that the President has directed transmittal No. 77–46 to be withdrawn.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 2, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The President has directed that Transmittal Number 77–46, which proposed the sale of seven E–3A (AWACS) to the Government of Iran, be withdrawn.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

NOMINATIONS TO FEDERAL POWER COMMISSION

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources earlier this week held hearings on the nomination of Charles B. Curtis and Georgiana Sheldon to be members of the Federal Power Commission.

I ask unanimous consent that biographies of the nominees, their statements to the committee and their sworn financial statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERSONAL RÉSUMÉ OF CHARLES BRENT CURTIS

PERSONAL INFORMATION

Born. April 27, 1940.

Married: Rochelle E. Bates; one child, Brent Arthur.

Address: Van Ness, Curtis, Feldman & Sutcliffe, 1220 19th Street, N.W., Suite 500, Washington, D.C. 20036. 9500 Ewing Drive, Bethesda, Maryland 20034.

Telephone: 202/331–9400 (office), 301/530–5563 (home).

PROFESSIONAL EXPERIENCE

January 1977 to present: Van Ness, Curtis, Feldman & Sutcliffe.

November 1976 to January 1977: Carter-Mondale Transition Team—Federal Energy Administration Liaison Officer.

June 1971 to November 1976: Counsel, Committee on Interstate and Foreign Commerce U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act. Motor Vehicle Insurance and Cost Savings Act. Emergency Petroleum Allocation Act of 1973. Energy Supply and Environmental Coordination Act of 1974. Securities Acts Amendments fo 1975. Energy Policy and Conservation Act of 1975. Energy Conservation and Production Act of 1976.

May 1967 to June 1971: Securities and Exchange Commission, Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967: Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

EDUCATION

Legal: Boston University Law School, 1962–1965, LL.B., *cum laude*, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards. Graduated among top ten in class of 178.

Undergraduate: University of Massachusetts, Amherst, Massachusetts, 1958–1962, A.B., B.S. Elected to Senior Men's Honor Society. Permanent Class Vice President.

ADMITTED TO PRACTICE

Commonwealth of Massachusetts—1965.

District of Columbia—1976.

Professional and business references furnished upon request.

MAY 17, 1977.

STATEMENT OF CHARLES B. CURTIS, NOMINATED TO BE A MEMBER OF THE FEDERAL POWER COMMISSION, BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, AUGUST 2, 1977

Mr. Chairman and Members of the Committee, my name is Charles B. Curtis, an attorney engaged in the private practice of law. I appear today as the President's nominee to be a member of the Federal Power Commission. I am pleased to have this opportunity to discuss my qualifications for this most important position and to respond to your questions.

Herman Kahn once observed that "everything is complex." But surely energy policy is a final exam in complexity. This is particularly true with respect to the discharge of the responsibilities which the Congress has vested in the Federal Power Commission. I can assure this Committee that I approach the task with a full sense of humility.

For virtually my entire professional life, I have been privileged to hold various positions of responsibility for the Federal Government. The perspectives gained from this experience should prove useful in the performance of the responsibilities which the President has asked me to assume. But I am fully cognizant that much remains to be learned.

My credentials for this position are grounded in the positions I have held over the past twelve years in government service. Others should speak to the manner in which I have discharged my assigned responsibilities and provide the Committee with a measure of my professional competence. Let me, then, only attempt to describe the nature of the various positions which I have held and briefly relate this experience to the work of the Federal Power Commission.

I entered government service as a staff attorney for the Comptroller of the Currency of the U.S. Department of the Treasury. As you know, the Comptroller's office has responsibility for regulating the national bank system. During my stay with the Comptroller, I was schooled in administrative law and economic regulation. Beginning in 1967, I accepted a position with the Securities and Exchange Commission and continued to serve that agency in various positions of ascending responsibility for a period of four years. In that endeavor I significantly added to my background in the problems and complexities which attend the administration of regulatory programs. Most importantly, I gained an understanding of the dynamics of working with a collegial body charged with the administration of national economic and regulatory policies.

Throughout my tenure with the Securities and Exchange Commission, I was impressed by the commitment of that agency to professional excellence. That commitment lies at the root of the high reputation which the Securities and Exchange Commission enjoys; for, although many may disagree strenuously with the policies of the Commission, few would challenge the dedication and skill of its members and the staff. It will be one of my first priorities to attempt to instill this same commitment to excellence in the Federal Power Commission and to help that agency repair its reputation which has been tarnished in recent years.

Let me add parenthetically that I know there are many at the Federal Power Commission who are dedicated, highly competent, public servants. I am confident that they are anxious to join in a common effort to improve the agency's resources and the public's perception of its commitment to the effective discharge of its responsibilities.

My technical credentials in the energy field are largely derived from my experience in the Congressional arena. For five years I served as counsel to the House Interstate and Foreign Commerce Committee and, in that capacity, had principal staff responsibility for a number of major initiatives in energy policy. Specifically, these have included: the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, the Energy Policy and Conservation Act of 1975, and the Energy Conservation and Production Act of 1976. In the course of Congressional deliberations on these and other legislative matters, I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area. Moreover, in the conduct of the oversight responsibilities of that Committee which has jurisdiction over the Federal Power Commission and the majority of other independent regulatory agencies, I have gained an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment which independent regulatory Commissions must exercise. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. And, I pledge to fully honor that commitment in the office for which I have been nominated.

Mr. Chairman, I am greatly honored by the trust that the President has evidenced by his nomination of me to this position of great responsibility. I hope that the members of this Committee will find that that trust is well placed and that, if confirmed, I will continue to justify your confidence.

FINANCIAL STATEMENT AS OF JULY 11, 1977

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. (Figures are rounded to the nearest dollar.)

ASSETS

Cash on hand and in banks [1]	$21,967
U.S. Government securities—add schedule	—
Listed securities—add schedule	2,860
Unlisted securities—add schedule	—
Accounts and notes receivable:	
Due from relatives and friends	—
Due from others	—
Real estate interests, including mortgages—add schedule	87,000
Personal property [2]	12,261
Life insurance—cash value [3]	450
Other assets—itemize:	
(a) Employee contribution to Government retirement plan, receivable on demand (estimated)	19,000
(b) Distribution of capital account from law partnership [4]	—
(c) See footnote 5 below	—
Total assets*	143,538

LIABILITIES

Notes payable to banks—secured	—
Notes payable to banks—unsecured [5]	—
Notes payable to relatives	—
Notes payable to others	—
Accounts payable [6]	1,100
Unpaid income tax	—
Other unpaid tax and interest	—
Real estate mortgages payable—add schedule [7]	25,000
Chattel mortgages and other liens payable	—
Total liabilities	26,100
Net worth*	117,438

FOOTNOTES

*Excluding distribution of capital account of law partnership.

[1] Schedule A attached.

[2] Schedule D attached.

[3] Policy number BOS3-11-258-573; Prudential Insurance Company of America—cash surrender value of $260 plus undetermined accumulated dividends estimated to be $190.

[4] Distribution from capital account from law partnership cannot be valued at this time. If confirmed by the Senate, I will terminate my partnership and all interest in the firm of Van Ness, Curtis, Feldman & Sutcliffe; the books at that time will be closed and a full accounting will be rendered by a certified public accountant. A valuation of the capital distribution would be made available to the Committee. Capital distribution is expected to range between $15,000 and $25,000.

[5] Charles B. Curtis is jointly and severally liable on a note in the amount of $8,605.40 plus interest, payable to the National Bank of Washington, due September 20, 1977, which is offset by a note receivable held by the law partnership due and payable on the same date in an equivalent amount.

[6] Outstanding bills payable for current and ordinary household and living expenses.

[7] See Schedule C.

SCHEDULE A—*Cash on hand and in banks*

Checking: Suburban Trust Co., Hyattsville, Md., acct. 43-1309-8-3101	$4,657
Checking: National Bank of Washington, P.O. Box 2844, Washington, D.C., acct. 3-831-33-7-01	101
Savings: Wright Patman Congressional Employees Federal Credit Union Longworth House Office Building, Washington, D.C. 20515, acct. 7810-04	17,209
Total	21,967

SCHEDULE B—*Listed securities*

Securities: 52 shares GE common at $55 fair market value	$2,860

SCHEDULE C—*Real estate interests*

Residence 9500 Ewing Drive, Bethesda, Md.:	
Fair market value*	$82,000
Mortgage indebtedness: Interstate Federal Savings Association**	25,000
Equity	57,000
Second trust: Property located at Hollins Drive, Bethesda, Md. $5,000 at 9 percent due January 1978	5,000
Fair market value of security*	94,000
First mortgage	35,000
Equity security second mortgage**	60,000
Total	62,000

* Estimated values.

** Rounded to the nearest $1,000.

SCHEDULE D—*Personal property*

PERSONAL PROPERTY

Automobiles:	
1971 Audi: Fair market value*	$1,500
1975 Opel:	
Fair market value*	3,200
Indebtedness	2,439
(Wright Patman Congressional Employees Credit Union)*	761
Miscellaneous (Unspecified furniture, clothing, etc.)**	10,000
Total	12,261

*Estimated value.

**Current estimated value (replacement cost estimated to be $25,000).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

(a) Distribution from capital account of law partnership of the firm of Van Ness, Curtis, Feldman & Sutcliffe. The distribution cannot be valued at this time. If confirmed by the Senate, I will terminate my partnership and all interest in the firm, the books will be closed at that time, and a full accounting will be rendered by an independent certified public accountant. A valuation of the capital distribution will be made available to the Committee. The distribution will occur within 45 days of confirmation; it is expected to range between $15,000 and $25,000.

(b) No other arrangements or future benefits.

2. Are any assets pledged? (Add schedule.) Yes; residence (See Schedule C), automobile (See Schedule D).

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Curtis, Charles Brent.

Position to which nominated: Federal Power Commission.

Date of nomination: July 29, 1977.

Date of birth: April 27, 1940.

Place of birth: Upper Darby, Pa.

Marital status: Married.

Full name of spouse: Rochelle Elaine Bates Curtis.

Names and ages of children: Brent Arthur Bates Curtis, age 8.

Education:

Belmont High School, September 1955 to June 1958.

University of Massachusetts, September 9, 1958 to June 1962, BS and BA.

Boston University School of Law, September 1962 to June 1965, bachelor of laws, cum laude.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Boston University Law School, LL.B., cum laude, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards.

University of Massachusetts, Amherst, Massachusetts. Elected to Senior Men's Honor Society. Permanent Class Vice President. Veterans of Foreign Wars and American Legion Scholarship awards.

Letters of commendation: Comptroller of the Currency, U.S. Treasury; Chairman, Securities and Exchange Commission.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, Office held (if any), and Dates:

D.C. Bar Association, none, November 1976 to present.

Federal Bar Association, Member, Exec. Council Securities Law Section 1975–1977, 1975 to present.

American Bar Association, None, 1965 to present.

American Judicature Assn., None, 1975 to 1976.

St. Luke's House, Inc., Member, Board of Directors, 1975 to present.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

January 1977 to Present: Van Ness, Curtis, Feldman & Sutcliffe, 1220 19th St. NW., Washington, D.C. 20036, Partner legal.

November 1976 to January 1977: Carter-Mondale Transition Team, C/O Federal Energy Administration, 12th & Penn. NW., Washington, D.C., FEA Liaison.

May 1971 to November 1976: United States Congress, U.S. House of Representatives, Committee on Interstate & Foreign Commerce, 2125 Rayburn HOB, Washington, D.C. Chief Counsel.

May 1967 to May 1971: Securities and Exchange Commission, 500 N. Capitol, Washington, D.C., Attorney Advisor.

July 1965 to May 1967: Department of Treasury, Washington, D.C., Staff Attorney.

June 1964 to September 1964: Attorney General, Commonwealth of Massachusetts, State House, Boston, Mass., Law Clerk.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions. See attached sheet titled "Government Experience".

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. I have not had direct and sole authorship responsibility for any published articles or reports. However, I have written numerous committee reports in connection with my responsibilities as counsel to U.S. House Committee on Interstate and Foreign Commerce related to energy, securities and consumer safety and other matters. Also, as assistant note editor of the Boston University Law School Law Review, I participated in the writing of several articles for that law review.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.—See note respecting distribution of capital account of law partnership.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. See attached sheet titled "Potential Conflicts of Interest: Responses to items 3, 4 and 5."

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Same as for 3.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Same as for 3.

GOVERNMENT EXPERIENCE

November 1976 to January 1977:

Carter-Mondale Transition Team—Federal Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act; Motor Vehicle Insurance and Cost Savings Act; Emergency Petroleum Allocation Act of 1973; Energy Supply and Environmental Coordination Act of 1974; Securities Acts Amendments of 1975; Energy Policy and Conservation Act of 1975; Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission; Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney); Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

June 1964 to September 1964:

Attorney General, Commonwealth of Massachusetts; Law Clerk, Criminal Division.

For virtually my entire professional experience, I have been privileged to hold various positions of responsibility for the federal government. I have served within an executive department as a staff attorney for the Comptroller of the Currency of the U.S. Department of Treasury. For four years I was employed by an independent regulatory commission in positions of ascending responsibility. My experience with the Securities and Exchange Commission, well recog-

nized as perhaps the most competent of federal agencies, has been instructive in understanding the dynamics of working with a collegial body charged with the administration of economic policies and regulatory programs. I have been trained in administrative law and have had supervisory experience, although not of the dimension which will attend my prospective position on the Federal Power Commission. That endeavor coupled with my service as counsel to the Interstate and Foreign Commerce Committee of the House of Representatives (which has jurisdictional responsibility for the oversight of many of the independent regulatory agencies) has imbued me with an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment called for in the generic acts establishing independent regulatory commissions. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. I pledge to fully honor that commitment in the office for which I have been nominated.

In the past five years the Congress has considered and acted upon several major initiatives in the energy field. Specifically, these have included: The Emergency Petroleum Allocation Act of 1973, The Energy Supply and Environmental Coordination Act of 1974, The Energy Policy and Conservation Act of 1975, and The Energy Conservation and Production Act of 1976. In the course of congressional deliberations on these and other legislative matters I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area. The perspectives gained should prove both useful and humbling in the performance of the task which the President has asked me to undertake.

POTENTIAL CONFLICTS OF INTEREST: RESPONSES TO ITEMS 3, 4, AND 5

Much of my professional experience in the last ten years has involved government service. From July 1965 to June 1967 I served on the legal staff of the Comptroller of the Currency. In June 1967 I began a four-year stint in various legal capacities with the Securities and Exchange Commission. For the period May 1971 through November 1976, I was engaged as Counsel to the Committee on Interstate and Foreign Commerce, U.S. House of Representatives. From November 1976 through January 20, 1977, I served as Federal Energy Administration Liaison Officer on the Carter-Mondale Transition Team. I do not believe that my activities in these positions in any way constitute or could result in a possible conflict of interest in the position for which I am being considered. Moreover, I have not engaged in any business relationship, dealing or financial transaction during that period (i.e., July 1965 through January 20, 1977) which, in my opinion, could in any way constitute or result in a possible conflict of interest in the position for which I am being considered.

Beginning on January 21, 1977, and continuing to the present date, I have been engaged in the practice of law as a member of the firm of Van Ness, Curtis, Feldman & Stutcliffe. In this capacity, I have established certain client relationships which pose potential conflicts. My responses to items (3), (4) and (5) attempt to describe those client relationships and the manner in which I would propose to resolve any potential conflict of interest. For convenience, my response will consider the questions en bloc.

First, a preliminary comment. None of the client relationships established by the firm of Van Ness, Curtis, Feldman & Sutcliffe have involved or presently contemplate appearances before the Federal Power Commission with respect to matters committed to the jurisdiction of that Commission. Nonetheless, I would propose to recuse myself, while a member of the Commission, from the consideration of any matter which may come before the Commission which specifically and directly affects the interest of any existing or past client of the firm of Van Ness, Curtis, Feldman & Sutcliffe for a period of one year. I would propose to permanently recuse myself from the consideration of any matter which specifically and directly affects a client for which I had principal responsibility while engaged in the practice of law and with respect to which I furnished advice or represented the client before any administrative agency or the Congress.

The following describes these client relationships, the specific activities engaged in on behalf of the client, and the potential conflict of interest, if any, which may attend my discharge of the responsibilities to be vested in me as a member of the Federal Power Commission:

1. American Institute for Certified Public Accountants:

a. Description: General consultative relationship with respect to administrative agency actions and legislation affecting the accounting profession including its role and responsibilities with respect to municipal disclosures, illegal or questionable payments by corporate officials, promulgation of accounting standards and principles, relationship with government regulatory bodies and other related matters. Representation includes appearances before the Congress and administrative agencies.

b. Specific Activities: I have made appearances on behalf of the client before the Congress being duly registered under the Lobby Registration Act in support of modifications to legislation dealing with the role and responsibilities of accountants with respect to questionable and illegal corporate payments and with respect to providers of health services under the Medicaid and Medicare programs. I have also made appearances before the Congress in connection with the need for and content of Federal regulation of the accounting profession.

c. Potential Conflict of Interest: None perceived.

2. Pacific Gas and Electric Company:

a. Description: General consultative relationship with particular interest in the selection of a system for the transportation of Alaska natural gas to serve California and western states. Relationship involves appearances on behalf of the client before administrative agencies only.

b. Specific Activities: I have made appearances before administrative agencies in support of a Presidential decision under the Alaska Natural Gas Transportation Act to authorize the construction of a pipeline system for the transportation of Alaska natural gas which includes direct pipeline delivery facilities for the distribution of a portion of such gas to California and western state markets. I have made no appearances on behalf of this client before the Congress nor have I appeared on behalf of this client before any administrative agency with respect to any other matter.

c. Potential Conflict of Interest: A question of conflict of interest could be raised with respect to the selection of a system for the transportation of Alaska natural gas to serve California and western state markets, if this decision is not made by the President under the Alaska Natural Gas Act but left to the Federal Power Commission. Accordingly, if this occurs, I would propose to recuse myself permanently from consideration of any such matter.

3. Central and South West Corporation:

a. Description: Specific consultative relationship with respect to the interconnection of electric utilities in the State of Texas in interstate commerce. Relationship involves appearances on behalf of the client in support of legislation proposed by the President in the National Energy Act to provide a means of fostering such interconnection.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of provisions of the President's bill designed to foster interconnection of electric utilities. The client's interest is specifically confined to the problem which exists in the State of Texas. I have made no other appearances on behalf of the client with respect to any other matter nor have I appeared before any administrative agency on behalf of this client.

c. Potential Conflict of Interest: I believe there exists a potential conflict of interest with respect to Federal Power Commission consideration of any proposed interconnection of electric utilities in the State of Texas with affiliates of the Central and South West system operating in Oklahoma and Arkansas. Accordingly, I would propose to permanently recuse myself from consideration of this issue or any other matter which specifically involves the interconnection of affiliated entities of Central and South West Corporation.

4. Manufacturing Chemists Association:

a. Description: General consultative relationship with respect to national energy policy. Relationship does not involve or contemplate appearances before the Congress or administrative agencies.

b. Specific Activities: I have acted in an advisory and consultative capacity only. I have made no appearances before the Congress nor before any administrative agency.

c. Potential Conflict of Interest: None perceived.

5. American Bakers Association:

a. Description: General consultative relationship concerning national energy policy. Relationship did, but does not any longer, contemplate appearances before the Congress on behalf of the Association (terminated June 17). The consultative relationship continues at this date. The relationship does not involve appearances before administrative agencies.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation which proposes to provide emergency allocations and curtailment protection for essential agricultural uses of natural gas. As noted above, I terminated on June 17, the lobby registration on behalf of this client. I continue to serve the client in a consultative capacity. I have made no appearances on behalf of this client before administrative agencies.

c. Potential Conflict of Interest: Some potential exists. I would propose to permanently recuse myself from consideration of any matter which contemplates the creation of a separate priority for the allocation of natural gas to, or the protection from curtailment of, the baking industry or other food processors as a separate class.

6. Wheelabrator-Frye Inc.: General consultative relationship with respect to matters concerning solvent refined coal process technology, resource from waste recovery systems and synthetic gas from coal. Relationship involves appearances before the Congress and administrative agencies.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation to provide Federal fi-

nancial assistance for the demonstration of solvent refined coal process technology. I have also made appearances concerning the possible modification of proposed amendments to the Clean Air Act to clarify the application of new source performance standards to sources which avail themselves of solvent refined coal process products. I have had discussions with members of administrative agencies concerning these matters but have made no formal appearances before these agencies.

c. Potential Conflict of Interest: None perceived.

7. Dupont-National Distillers (joint venture):

a. Description: Specific consultative relationship concerning proposed construction order to be issued with respect to syngas facility located in Texas. Relationship contemplated appearance before administrative agency. The matter is now closed and the relationship will be termintaed.

b. Specific Activities: I have made appearances before the Federal Energy Administration on behalf of this client concerning a notice of intent to issue a construction order under the Energy Supply and Environmental Coordination Act with respect to a proposed syngas facility located in Texas.

c. Potential Conflict of Interest: None perceived.

8. The Business Roundtable:

a. Description: General consultative relationship only concerning national energy policy. No appearances before the Congress or administrative agencies have been undertaken or are contemplated.

b. Specific Activities: None engaged in beyond a general advisory and consultative relationship.

c. Potential Conflict of Interest: None perceived.

With respect to the following clients, other members of the firm of Van Ness, Curtis, Feldman & Sutcliffe have principal responsibility. In no case have I engaged in any activity on behalf of such clients for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I have rendered advice to the Arctic Slope Regional Corporation concerning their interest in connection with legislation proposed under Section 17(d)(2) of the Alaska Native Claims Settlement Act, and to the Northern Tier Pipeline Company concerning their interest in gaining approval of a proposed pipeline for the distribution of surplus Alaska crude oil from the West Coast to the Northern Tier and Midwestern States. In this latter regard, I have also rendered advice to Northern Tier Pipeline Company concerning the prospect of obtaining legislation to expedite the permitting and construction process of such a pipeline system. Also, I have rendered advice to Kidder-Peabody and Company concerning the financing of home insulation and conservation programs for residences.

Existing client relationships for which other members of the firm have principal client responsibility:

1. Northern Tier Pipeline Company.
2. North Slope Borough.
3. Allstate Insurance.
4. Consumers Action Now.
5. Wolf Trap Foundation.
6. Association of Local Transport Airlines.
7. National Park Concessions, Inc.
8. Republic Geothermal, Inc.
9. Arctic Slope Regional Corporation.
10. Kidder-Peabody & Co.
11. Committee for Consumers No-Fault.
12. Texaco, Inc. (Consultative only respecting coal lands located in alluvial valleys, refinery competition and coal conversion.)
13. Seatrain-Alaska Consolidated Shipping, Inc.
14. Western Crude Oil, Inc.
15. Montana Power Company.
16. National Committee for Automobile Crash Protection.

I do not believe that any of the above-listed client relationships pose a true conflict of interest inasmuch as the clients either have no business before the Federal Power Commission or, if they do, it is with respect to issues beyond our existing client relationships. However, in an excess of caution, I would propose to recuse myself for a period of one year with respect to any matter before the Federal Power Commission which directly and specifically affected the interest of any of these clients, should the issue present itself.

Past Client Relationships

The law firm of Van Ness, Curtis, Feldman & Sutcliffe had a brief client relationship with Texas Eastern Transmission Company concerning their interest in an application for waiver under the Jones Act to permit the transportation of LPG in a foreign flag vessel from a port in Texas to facilities in New Jersey during last winter's emergency. This matter does not involve the jurisdiction of the Federal Power Commission and I believe no potential conflict of interest exists although Texas Eastern Transmission Company is regulated by the Commission with respect to other aspects of its business.

GEORGIANA SHELDON

SYNOPSIS

Twenty-five years of successful achievement in academic, business, and intergovernmental affairs, federal personnel management; legislative as well as executive competence.

EMPLOYMENT HISTORY

March 1976 to June 15, 1977.—Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977, to June 15, 1977. Line management authority for 7,000 employees of the Civil Service Commission. Appeared before House Appropriations Committee in defense of seven billion dollar budget.

1975–1976.—Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. Government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long-range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1969–1975.—Deputy Director, Defense Civil Preparedness Agency, The Pentagon, Washington, D.C. 20301.

Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/state agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personal management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

1969.—Special Recruiter, The Peace Corps, Washington, D.C.

Temporary assignment—Talent search for the Agency.

1963–1969.—Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515.

Served as executive and personal assistant to Members of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

1961–1962.—Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C.

Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

1961.—Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.

Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

1956–1961.—Assistant to Special Assistant to Chairman, Republican National Committee, Washington, D.C. 20006.

Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interviewed all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

1954–1956.—Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.

Supervision of all applications for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

1953–1954.—Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.

Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

GENERAL INFORMATION

Education: Avon High School, Avon, New York, Keuka College, Keuka Park, New York—B.A. 1945, Cornell University—M.S. 1949, Federal Executive Institute, Charlottesville, Virginia—1972.

Recognitions: Fellowship to Cornell University, Alumni Award for Professionalism, Keuka College, Consultant, Personnel Publications, The Brookings Institution; Who's Who in America; Who's Who in Government; Who's Who of American Women; Department of Defense Distinguished Civilian Service Medal by Secretary Laird—1973; Bronze Palm added to the Department of Defense Distinguished Civilian Service Medal by Secretary Schlesinger—1976.

Boards and Committees: Board of Trustees, Keuka College; Board of Trustees, Federal Woman's Award, Inc.; Representative on Employee-Management Relations Commission of the Foreign Service Board; Member, President's Commission on Personnel Interchange; Member, Federal Committee on Ecology; Co-Chairperson, Department of Defense International Women's Year Committee—1975.

Memberships

Professional: International Personnel Management Association; Executive Women in Government.

Personal: The Capitol Hill Club.

Personal Data: Excellent Health; Single, free to travel.

References

Hon. Melvin R. Laird, Vice President, Readers Digest, 5703 Kirkwood Drive, Washington, D.C. 20016.

Hon. I. Lee Potter, Chairman of the Board, Jelleff's, 3120 North Wakefield Street, Arlington, VA 22207.

Hon. Hadlai Hull (former Assistant Secretary of the Army for Financial Management), 5001 Rockwood Parkway, N.W., Washington, D.C. 20016.

Hon. John E. Davis (former Governor of North Dakota), 404 Apollo Avenue, Bismarck, North Dakota 58501.

STATEMENT OF GEORGIANA H. SHELDON, NOMINEE FOR FEDERAL POWER COMMISSION, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, TUESDAY, AUGUST 2, 1977

Mr. Chairman, I appreciate the opportunity to appear before you today to answer any questions you may have in connection with my nomination as a Member of the Federal Power Commission.

I am honored to have been selected by President Carter to serve as a member of this important Commission. I do believe my many years of governmental experience, a truly unbiased attitude and a fresh viewpoint are assets which will assist me in carrying out my responsibilities and solving the energy problems with which I will be confronted.

I have supplied the Committee with the material you requested and I am ready to answer any questions you may have.

Thank you, Mr. Chairman.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand in banks	$2,000.00
U.S. Government securities—add schedule	3,000.00
Addenda A, listed securities—add schedule	[1] 2,752.00
Personal property	50,000.00
Teachers retirement (beneficiary)	211.56
Civil service retirement	24,696.00
Total assets	82,659.56

Liabilities

Net worth	$82,659.56

[1] Addenda A—Listed securities: 44 shares A.T. & T., $2,752.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.—None.

2. Are any assets pledged?—None.

3. Are you currently a party to any legal action?—None.

4. Have you ever declared bankruptcy?—No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Sheldon, Georgiana H.

Position to which nominated: Member Federal Power Commission.

Date of nomination: July 29, 1977.

Date of birth: February 12, 1923.

Place of birth: Lawrenceville, Pennsylvania.

Marital status: Single.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees

Avon High School, 1937–1941, Academic, June 1941.

Keuka College, 1941–1945, B.A. Degree, June 1945.

Cornell University, 1948–1949, M.S. Degree, June 1949.

Federal Executive Institute, 1972, No Degree.

HONORS AND AWARDS

List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

Fellowship to Cornell University.

Alumni Award for Professionalism, Keuka College.

Who's Who in America, Government and American Women.

Department of Defense Distinguished Civilian Service Medal (Sec. Laird)—1973.

Bronze Palm added to above award by Sec. Schlesinger—1976.

EMPLOYMENT HISTORY

1976 to present

Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415. Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977 to present. Line management authority for 7,000 employees of the Civil Service Commission.

Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301. Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nation wide defense civil preparedness programs. Liaison with Congress, Department of Defense and other Federal/State agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

Special Recruiter, the Peace Corps, Washington, D.C.—Temporary assignment—Talent search for the Agency.

Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C.—Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C.—Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.—Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

Assistant to Special Assistant to Chairman, Republic National Committee, Washington, D.C. 20006.—Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interview all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.—Supervision of all applicants for admission, records on all students in residence, general administration of the Liaison between University and press, radio and television.

Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.—Responsibile for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

MEMBERSHIP

List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization and dates

International Personal Mgt. Ass'n., present.

Executive Women in Gov't., present.

Board of Trustees, Keuka College, 1976–present.

GOVERNMENT EXPERIENCE

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or position:

Board of Trustees, Federal Women's Award, Inc.

Representative on Employee-Management Relations, Commission of the Foreign Service Board.

Member, President's Commission on Personnel Interchange.

Member, Federal Committee on Ecology.

Co-Chairperson, Department of Defense, International Women's Year Committee—1975.

PUBLISHED WRITINGS

List the titles, publishers and dates of any books, articles, or reports you have written:

Nothing other than materials required in various positions.

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.—Not presently employed.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.—No.

3. Has anybody made you a commitment to a job after you leave government?—No.

4. Do you expect to serve the full term for which you have been appointed?—Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.—None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.—None.

QUALIFICATIONS

The Federal Power Commission is an independent, regulatory agency which was established to protect the consumer and the environment.

In my opinion during the past twenty five years my experience in the academic world, business and Government has given me the background needed to bring objectivity and open-mindedness to this position in Federal Government in both the legislative and executive branch has given me a broad perspective of the Government process and the internal workings of the bureaucracy. This experience included policy making as well as administrative functions.

As Vice Chairman of the Civil Service Commission, I was the second ranking policy official in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal employees.

As Acting Charman of the Commission, I had line management authority for 7,000 employees of the Civil Service Commission.

As Deputy Director of the Defense Civil Preparedness Agency it was necessary to be able to effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside Government; analyze complex problems, and make difficult decisions.

While more direct experience could be advantageous, I believe my experience does not limit me to one point of view. I am confident I will be able to bring openness, candor and objectivity to the Federal Power Commission.

Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.—None.

List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.—Only that which was necessitated by my previous Federal positions.

SENATOR KENNEDY ON THE POCKET VETO ISSUE

Mr. ABOUREZK. Mr. President, the current issue of the Virginia Law Review contains a significant article by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) on the pocket veto clause of the Constitution. In recent years, Senator KENNEDY has taken the lead in Congress in defending the constitutional prerogatives of the Senate and the House of Representatives against the efforts of the Nixon and Ford administrations to expand the President's pocket veto power. In two separate court actions involving Senator KENNEDY as plaintiff, his viewpoint prevailed, and a series of pocket vetoes were declared unconstitutional, thus vindicating the rights of Congress. As a result of those two court decisions—one in the U.S. Court of Appeals for the District of Columbia circuit, and the other in the U.S. District Court for the District of Columbia—the applicable constitutional law now is that a pocket veto is valid only during the final adjournment at the end of a Congress, and not during adjournment within a session or between sessions.

Mr. President, I believe that Senator KENNEDY has performed a valuable service for the Congress on the Constitution in securing this interpretation of the pocket veto clause. I commend his perseverance, and I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS, THE PRESIDENT, AND THE POCKET VETO

(By EDWARD M. KENNEDY)

Article I, section 7 of the Constitution contemplates four possible actions by the President when a bill passed by Congress is presented to him: (1) He may approve the bill by signing it within ten days; (2) He may disapprove, or veto, the bill by returning it to Congress with his objections within the ten-day period, in which case Congress will have the opportunity to override the veto; (3) He may allow the bill to become a law by failing to sign it within the ten-day period; or (4) He may disapprove the bill by declining to sign it when the adjournment of Congress prevents him from returning the bill with his objections.[1] In this final situation, the President is said to pocket veto the bill.[2]

The power of the President to pocket veto a bill after *sine die* adjournment[3] at the end of a Congress has survived with little controversy.[4] However, the exercise of this power when the mandated ten-day period expires during a *sine die* adjournment *between* sessions of a Congress (intersession adjournment) or during an adjournment *within* a session (intrasession adjournment) is relatively uncharted constitutional territory.

In 1929 and 1938, the Supreme Court considered the validity of an intersession pocket veto and intrasession pocket veto, respectively. In *The Pocket Veto Case*,[5] the Court sustained a pocket veto during the five month *sine die* intersession adjournment of the Sixty-Ninth Congress. On the other hand, in *Wright* v. *United States*,[6] the Court declared that a pocket veto would be unconstitutional if exercised when one house of Congress had adjourned for three days. These two cases represent the only interpretations of the pocket veto clause by the Supreme Court. Moreover, they resolved the availability of the pocket veto only with respect to extreme situations. The larger question, when—if at all—the President may pocket veto legislation during brief intersession and intrasession adjournments of both houses, remained unanswered until recently.

Presidents have exercised the pocket veto power during intersession adjournments on numerous occasions since the ratification of the Constitution.[7] But the large majority of these occasions have been adjournments of at least three months.[8] As *The Pocket Veto*

Footnotes at end of article.

Case involved an adjournment of five months, the Supreme Court's rationale in sustaining the validity of the pocket veto in that situation is not necessarily applicable to the much briefer intersession adjournments that are now the practice of Congress.[9]

Unlike the intersession pocket veto, the intrasession pocket veto is a relatively new phenomenon. Born of historical accident in 1867,[10] the practice took on significant dimensions only in recent years, with eighty-five percent of such vetoes occurring since the beginning of World War II.[11] In addition, the practice has generally been confined to long intrasession adjournments [12] and to measures of relatively minor importance.[13]

Despite their dubious constitutionality, intersession and intrasession pocket vetoes remained largely unchallenged until the 1970's. However, in two recent cases, I successfully challenged the validity of such pocket vetoes. In 1974, the United States Court of Appeals for the District of Columbia Circuit declared invalid a pocket veto of a bill during a five-day congressional Christmas recess.[14] More significantly, I later challenged not only an intrasession pocket veto, but also a pocket veto exercised between the two sessions of the Ninety-Third Congress. The defendants consented to summary judgment in my favor in federal district court.[15]

This article will discuss the constitutionality of pocket vetoes exercised during intersession and intrasession adjournments of Congress by examining several factors: the intent of the framers of the Constitution, the two applicable precedents of the Supreme Court, recent court decisions, and fundamental considerations of public policy involved in the enactment of federal legislation.

I believe that the pocket veto power is valid only in circumstances involving the final adjournment at the end of a Congress. The pocket veto should not be available during intersession or intrasession adjournments because such adjournments do not "prevent" the return of bills to Congress within the meaning of the Constitution.

I. THE ACTIONS AND INTENTIONS OF THE FRAMERS OF THE CONSTITUTION

The pocket veto is an exception to the basic constitutional rule giving Congress the power of final action in the enactment of federal legislation.[16] The proceedings of the Constitutional Convention and the specific language and broad framework of the Constitution clearly demonstrate the intent of the framers that the veto power conferred on the President be a "qualified negative," not an "absolute negative." [17]

A. The proceedings of the Constitutional Convention

The proceedings of the Constitutional Convention provide significant insight into the meaning of the pocket veto clause and its application to adjournments of Congress.[18] The Committee of Detail prepared the first known precursor of the clause for inclusion in the first draft of the Constitution.[19] James Wilson of Pennsylvania wrote this first draft, which is Document VIII in Farrand's series of documents reflecting various stages of the Committee's work.[20] Document VIII contains the following provision, with the number of days left blank:

"If any Bill shall not be returned by the Governour within ——— Days after it shall have been presented to him, it shall be a Law, unless the Legislature, by their Adjournment, prevent its Return; in which Case it shall be returned on the first Day of the next Meeting of the Legislature." [21]

The second draft of the Constitution, Document IX in the Farrand series, is also in Wilson's hand, but has changes made by John Rutledge of South Carolina. In this draft, the pocket veto provision had been modified to read:

"If any Bill shall not be returned by the (President) within (seven) days after it shall have been presented to him; it shall be a Law, unless the Legislature by their Adjournment prevent its Return; in which case it shall (not)." [22]

Virtually identical language was contained in the draft constitution subsequently reported to the Convention by the Committee.[23] The only later change of consequence was an amendment setting ten days (Sundays excepted) as the period granted to the President for consideration of bills passed by the Congress.[24]

The changes that Rutledge made in Document IX are significant in the interpretation of the pocket veto clause. Document VIII and the original draft of Document IX indicate the Committee's view, at that stage of its deliberations, that Congress should always have the opportunity to override a presidential veto. Bills disapproved during an adjournment were to be returned to the next session of Congress, in accord with the practice at that time in New York.[25] Rutledge's modifications, especially his substitution of the word "(not)" for the closing words of the provision, diluted this absolute authority that Congress would otherwise have been empowered to wield over legislation. Given the Committee's clear emphasis on the prerogatives of Congress in Document VIII and the original version of Document IX, the most reasonable conclusion is that the final language of Document IX establishing the presidential pocket veto power should be narrowly construed.

The argument for a narrow construction of the pocket veto clause also finds support in the actions of the Committee of Detail with respect to a separate provision of the Constitution, the annual assembly clause. As finally adopted by the Convention, that clause provided that, "[t]he Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day." [26] Document IX also contains the first recorded precursor of the annual assembly clause. Like the modification that created the pocket veto clause, the reference in the same Document to the requirement that Congress assemble once each year is in Rutledge's handwriting. Congress, Rutledge wrote, was "[t]o meet on the 1st Monday every December." [27] Thus, at the very time Rutledge created the pocket veto clause by deleting from Document IX the provision requiring the return of a bill to the next "Meeting" of Congress, he also inserted a provision requiring Congress to "meet" on the first Monday of December each year. Surely Rutledge understood both "Meeting" and "meet" to refer to the assembling of Congress at the beginning of its annual session. In other words, in creating the pocket veto clause, Rutledge was envisioning only situations in which Congress had adjourned its annual session and would not "meet" again until the following December, The only adjournment of Congress that would "prevent" the return of a bill was the long adjournment at the end of one session until the beginning of a new one. If this analysis is correct, the final language of Document IX was intended to authorize the intersession pocket veto, but to exclude the intrasession pocket veto.[28]

The debates of the Constitutional Convention on the annual assembly clause reveal the rationale for the change made by Rutledge in Document IX. The framers contemplated that Congress would convene at its annual session, transact its business, and adjourn for relatively long periods before the beginning of the next session.[29]

Under Wilson's draft, if the President disapproved bills after Congress had adjourned its annual December session, he would have to return them to Congress for reconsideration in the following December, on the first day of the next annual session. The pocket veto clause was included in the Constitution in order to avoid the long periods of delay and uncertainty that inevitably would arise under this scheme with respect to the status of legislation.[30]

By contrast, there is no indication in the debates that the framers contemplated adjournments *within* a session of Congress other than the brief three-day recesses that the Constitution authorizes one house to take without the consent of the other.[31] Thirty-nine of the fifty-five delegates to the Convention were or had been members of the Continental Congress and were familiar with its practice of taking frequent, brief recesses of one or two days.[32] Substantial Christmas adjournments did not become an annual custom of Congress until the 1850's.[33] Moreover, the congressional practice of taking frequent intrasession breaks at other times during a session did not become routine until the 1960's.[34] As these practices were unknown to the framers, their obvious and sole concern in enacting the pocket veto clause was the avoidance of long delays and uncertainty over the status of legislation during the lengthy *intersession* breaks that they clearly anticipated.

B. The language and framework of the Constitution

The framers designed article I, section 7 of the Constitution to afford Congress the fullest practicable opportunity to reconsider bills disapproved by the President and to enact such measures into law by a two-thirds vote in each house. By subjecting presidential vetoes to further consideration by Congress, the framers cast the veto power as a "qualified negative" of the President, not an "absolute negative." Even Alexander Hamilton, the leading proponent of a strong executive, supported this check on the president's authority. In *The Federalist*, he wrote:

The king of Great Britain, on his part, has an absolute negative upon the acts of the two houses of Parliament. The disuse of that power for a considerable time past does not affect the reality of its existence; and is to be ascribed wholly to the crown's having found the means of substituting influence to authority, or the art of gaining a majority in one or the other of the two houses, to the necessity of exerting a prerogative which could seldom be exerted without hazarding some degree of national agitation. The qualified negative of the President differs widely from this absolute negative of the British sovereign . . .[35]

The inclusion of the pocket veto clause, conferring an "absolute negative" on the President in certain circumstances, was an exception to the basic principle that Congress was to have the final word in the enactment of legislation. That the framers granted the President a full ten days to consider a bill and determine his response reflects their desire to promote a certain degree of reciprocity in the legislative process.[36] However, by imposing no time limitation whatsoever on the period in which Congress can override a normal veto, the framers clearly indicated that they intended the preponderance of law-making authority to reside with the legislative branch.

When the ten-day period expires at a time when Congress is not in session, the basic principle is more difficult to apply. The problem arises in its most obvious form when Congress has gone out of existence by adjourning *sine die* at the end of its second

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session. Because the Congress that passed the bill no longer exists, reconsideration of the bill by that Congress is impossible.[37] In other cases, such as long adjournments at the end of a session or for lengthy periods of time within a session, reconsideration of the bill would be possible only after long delay.[38] In these situations, the framers faced the choice of either (1) requiring the President to act immediately on eleventh-hour legislation so that Congress could reconsider his action before adjourning, or (2) both allowing him the full ten-day period and specifying the status of bills he disapproved. The framers chose the latter course and prescribed that if the President declined to approve a bill in circumstances where he was unable to return it to Congress at the time he vetoed it, the bill would not become law.

The pocket veto is thus an extremely limited exception to the general principle of congressional supremacy in the enactment of federal statutes. It is an extraordinary power fashioned to deal with circumstances in which Congress's reconsideration of the President's action is impossible or possible only after long delay. Only in these very narrow circumstances did the founding fathers give the President an "absolute negative."[39] To permit the use of the pocket veto during brief intersession or intrasession adjournments of Congress would transform the pocket veto into a major presidential encroachment on congressional power. Because the framers left some flexibility in the text of the Constitution, however, Presidents could—and did—exercise the pocket veto power in inappropriate circumstances.[40] The federal courts remained the sole potential check on excessive presidential power in this area.

II. THE POCKET VETO IN THE SUPREME COURT

The Supreme Court had no occasion to determine the validity of a presidential pocket veto until *The Pocket Veto Case* in 1929.[41] In June, 1926, the first session of the Sixty-Ninth Congress approved a private bill authorizing Indian tribes in the State of Washington to pursue claims against the United States in the Court of Claims. After presenting the bill to President Coolidge, but before the ten-day constitutional period for considering the bill had expired, Congress adjourned for five months.[42] The President neither signed the measure nor returned it to Congress. Maintaining that the bill had become law, the Indian tribes filed a petition in the Court of Claims, asserting without success the claims authorized by the bill.[43] The Supreme Court affirmed the dismissal of the petition by the Court of Claims, holding that the bill had been properly pocket vetoed and therefore had not become law.[44]

The Court emphasized that the dispositive issue was whether the adjournment "prevent[ed]" the President from returning the bill to Congress.[45] Writing for the Court, Mr. Justice Sanford concluded that the adjournment did prevent such return. He reasoned that, in speaking of the "return" of a bill to a house, the Constitution was referring to a *house in session*. A bill cannot be "returned," in the constitutional sense, to an officer or agent of a house when the house is not in session.[46] The Court also alluded to the framers' desire to avoid uncertainty with respect to the status of legislation approved by Congress and to avoid a procedure that would involve: "keeping the bill in the meantime in a state of suspended animation until the House resumes its sittings, with no certain knowledge on the part of the public as to whether it had or had not been reasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid.[47]

Footnotes at end of article.

Because one goal of the pocket veto clause is the avoidance of uncertainty, the holding of the Court applying the clause to a long *sine die* adjournment of a session of Congress is relatively easy to justify. If, at the beginning of a new session, Congress were to have the opportunity to reconsider a bill disapproved by the President at the beginning of a long adjournment following the previous session, the status of the bill would be uncertain throughout the adjournment.[48]

Nine years later, the Supreme Court again considered the scope of the President's pocket veto power. In *Wright* v. *United States*,[49] the bill in question was a private relief measure granting jurisdiction to the Court of Claims to hear the petitioner's claims against the United States. After the measure was presented to President Roosevelt, the Senate, which was the house of origin, adjourned for three days while the House remained in daily session. During the recess of the Senate, the ten-day period expired. The President disapproved the bill and returned it with his objections to the Secretary of the Senate. When the body reconvened, the message of the President was read, but neither house of Congress attempted to override the veto.[50]

The beneficiary of the private bill filed a petition in the Court of Claims, tendering a somewhat ingenious two-part argument that the measure had become law. First, he argued that the President's purported use of his normal veto power was invalid because the Senate had not been in session on the day the bill was returned; and, according to *The Pocket Veto Case*, a return to an agent of the Senate was therefore improper.[51] Second, he argued that a pocket veto was also unavailable; since only the Senate had adjourned, there had been no adjournment of "Congress" within the meaning of the pocket veto clause.[52] Under this line of reasoning, the house in which a bill originated could completely deprive the President of his power to disapprove that bill by adjourning while the other house remained in session.[53]

In response to the beneficiary, the government agreed that the adjournment of the Senate, however brief, barred a valid return by the President.[54] However, the Solicitor General also argued that such adjournments *automatically* "trigger" the pocket veto clause.[55] Acceptance of this view would lead to the equally undesirable result of expanding the pocket veto power immensely, for that power would become available whenever a single house adjourned, with the result that Congress would have no opportunity to review the veto.

The Supreme Court wisely steered a middle course between these extreme positions. In affirming the denial of the beneficiary's petition by the Court of Claims, the majority opinion by Chief Justice Hughes[56] concluded that since the House of Representatives had remained in session during the brief adjournment of the Senate, "Congress" had not "adjourned" within the meaning of the pocket veto clause, and the bill consequently had not been subject to a pocket veto.[57] The Court also determined, however, that the three-day Senate recess did not "prevent" the President from returning the bill with his objections to the Senate, since the Secretary of the Senate was available to receive the President's message.[58] The President's action was a valid "return" and a normal veto within the meaning of article I, section 7. Since Congress had not overridden the veto, the bill had not become law.[59]

The *Wright* decision recognizes that normal vetoes and pocket vetoes are mutually exclusive devices. A pocket veto is valid only when both houses of Congress have "adjourned" *and* when such an adjournment "prevents" the return of the bill in question. If either of these conditions is lacking, then the President may exercise his regular veto power.

Wright substantially modified the earlier holding of *The Pocket Veto Case*. As was his custom,[60] Chief Justice Hughes distinguished the two cases on their facts and left the earlier holding intact. In reality, however, the rationale of *The Pocket Veto Case* was almost entirely undercut. Justice Sanford had based the Court's strong affirmation of the presidential pocket veto power upon the conclusion that a bill must be returned to a house of Congress actually in session, not to an officer or agent of a house.[61] The Court in *Wright* repudiated this conclusion by holding that, during a three-day recess, a return of the bill to the agent of the house of origin was appropriate.

"Here, the recess of the Senate from May 4th to May 7th was during the session of Congress. . . In returning the bill to the Senate by delivery to its Secretary during the recess there was no violation of any express requirement of the Constitution. The Constitution does not . . . deny the use of appropriate agencies in effecting the return.

"Nor was there any practical difficulty in making the return of the bill during the recess. The organization of the Senate continued and was intact. The Secretary of the Senate was functioning and was able to receive, and did receive, the bill. Under the constitutional provision the Senate was required to reconvene in not more than three days and thus would be able to act with reasonable promptitude upon the President's objections. . . . To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical considerations and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right."[62]

The adjournment of only one house and availability of an agent of Congress were not the sole considerations in *Wright*. Chief Justice Hughes also distinguished the long *sine die* adjournment in *The Pocket Veto Case* from the temporary three-day recess in *Wright*.[63] The length of the adjournment, therefore, was a significant factor in determining the validity of a pocket veto. By including this factor in its analysis, the Court in *Wright* further limited the rationale of *The Pocket Veto Case*, in which the Court considered the physical presence of the Congress as the dispositive factor.[64] Chief Justice Hughes observed that this emphasis on Congress actually being in session "should not be construed so narrowly as to demand that the President must select a precise moment when the House is within the walls of its Chambers and that a return is absolutely impossible during a recess however temporary."[65]

The Chief Justice found that the danger of long uncertainty in the status of legislation, a factor which led the Court in *The Pocket Veto Case* to the view that a bill must be returned to a house in session and not to its agents during a *sine die* adjournment, did not exist whe one house recessed for three days. Chief Justice Hughes referred to such difficulties as "illusory" when there is a temporary recess.

"In such case there is no withholding of the bill from appropriate legislative record for weeks or perhaps months, no keeping of the bill in a state of suspended animation with no certain knowledge on the part of the public whether it was seasonably delivered, no causing of any undue delay in its reconsideration. When there is nothing but such a temporary recess the organization of the House and its appropriate officers continue

to function without interruption, the bill is properly safeguarded for a very limited time and is promptly reported and may be reconsidered immedately after the short recess is over." [66]

Dictum near the end of *Wright* suggests that the length of the adjournment was an important concern of the Court.[67]

"We are not impressed by the argument that while a recess of one House is limited to three days without the consent of the other House, cases may arise in which the other House consents to an adjournment and a long period of adjournment may result. We have no such case before us and we are not called upon to conjecture as to the nature of the action which might be taken by the Congress in such a case or what would be its effect." [68]

The specific question that the Court was reserving was whether the pocket veto clause might apply to long recesses even if only one house was in adjournment. The Court was suggesting that the first prong of its holding, that both houses of Congress must be in adjournment before the pocket veto clause comes into play at all, might not be applicable in circumstances involving long adjournments of one house only. If so, then one of the two major distinctions between *Wright* and *The Pocket Veto Case*—that *Wright* involved an adjournment of only one house, whereas *The Pocket Veto Case* involved an adjournment of both houses—must give way to the more important distinction between the lengths of adjournment in the two cases.

This latter element is of obvious significance to the present controversy concerning the use of pocket vetoes during brief intersession and intrasession adjournments. One may reason with some confidence that the Court would not have seen any significant distinction between these types of adjournments and the three-day adjournment of the Senate in *Wright*. During brief intersession and intrasession adjournments, the dangers of uncertainty are, as Chief Justice Hughes noted, illusory. There is no withholding of the bill from any appropriate legislative record for weeks or months. There is no prolonged state of suspended animation or uncertainty with regard to the status of the bill. There is no undue delay in the reconsideration of the bill. The organization of the Senate and its appropriate officers continue to function without interruption during the short adjournments. The prospect that the public will not be properly informed of the return of the bill with the President's objections, or that the bill will not be properly safeguarded or duly recorded upon the journal of the Senate, or that it will not be subject to prompt action by the Senate, is highly improbable. In other words, each of the concerns raised by Chief Justice Hughes in *Wright* is met.[69]

By making time a governing factor in *Wright*, the Court restricted the availability of the pocket veto power and upheld the veto at issue as a normal veto. No longer could the President cite the mere adjournment of Congress as justification for employing the pocket veto and depriving Congress of an opportunity to reconsider. As long as an agent is available to receive a veto message on behalf of his house, the factor that will determine the type of veto to be used is the length of the adjournment.[70] Unfortunately, the Court limited its holding in *Wright* to a three-day adjournment and gave no guidelines concerning how long an adjournment would be required to activate the pocket veto clause. For over three decades, no case raising this issue arose in the federal courts.

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III. THE POCKET VETO AND THE COURTS IN THE 1970'S:

Kennedy v. Sampson and Kennedy v. Jones

On December 14, 1970, the Ninety-First Congress passed the Family Practice of Medicine Act [71] and presented it to President Nixon for his signature. On December 22, Congress adjourned for the Christmas holidays. Two days later, on December 24, the President issued a Memorandum of Disapproval announcing his decision to pocket veto the bill.[72] The Senate, the house where the bill originated, resumed its session on December 28, and the Ninety-First Congress adjourned *sine die* on January 2, 1971. The circumstances surrounding President Nixon's pocket veto of the Family Practice of Medicine Act bear two dubious distinctions—the five-day Christmas recess in 1970 is the shortest intrasession adjournment during which any President exercised a pocket veto.[73] and the bill itself is the most significant piece of legislation ever subjected to an intrasession pocket veto.[74]

In an era of collision between Congress and the President over their respective constitutional prerogatives in areas such as war powers, impoundment of funds, and executive privilege, Congress protested the pocket veto of the Act.[75] In August, 1972, I filed a complaint in the United States District Court for the District of Columbia and sought an injunction and a declaratory judgment that the pocket veto was invalid and that the bill had become law without the President's signature.[76] In the resulting decision, *Kennedy v. Sampson*, the district court entered summary judgment in my favor,[77] and the judgment was affirmed by the United States Court of Appeals for the District of Columbia Circuit.[78]

In its analysis, the court of appeals considered *The Pocket Veto Case* and *Wright* and held unanimously that President Nixon's pocket veto of the Family Practice of Medicine Act was unconstitutional because the brief adjournment in question did not prevent the President from returning the bill to Congress. Although the case involved a five-day intrasession adjournment, the court made clear that its holding was intended to apply to *all* intrasession adjournments, whatever their length.

"[T]he case is an appropriate one for disposition of the question of whether any intrasession adjournment, as that practice is presently understood, can prevent the return of a bill by the President where appropriate arrangements have been made for receipt of presidential messages during the adjournment—a question which must be answered in the negative." [79]

Analyzing the text, purpose, and history of the pocket veto clause, the decisions of the Supreme Court interpreting the clause, and the modern practice of Congress with respect to adjournments, the court of appeals concluded that the five-day adjournment came within the logic and reasoning of *Wright*, which authorized bills to be returned by the President to agents of Congress during certain adjournments.[80] The court also concluded that the fears expressed in *The Pocket Veto Case* [81] were inapplicable to the modern congressional practice of short intrasession adjournments. Such adjournments involve neither long delay nor public uncertainty in resolving the status of bills disapproved by the President. Modern methods of communication make it possible for the return of a disapproved bill to an appropriate agent to be a matter of public record accessible to every citizen.[82] Finally, the court rejected the view that prior executive practice of intrasession pocket vetoes sustained the pocket veto here. The court noted that an executive practice could not create an executive power, and found the rationale behind the practice unpersuasive in any event.[83]

The declaration in *Kennedy v. Sampson* that all intrasession pocket vetoes are unconstitutional represents a substantial restriction of the presidential veto power. Also significant was the court's failure to restate the traditional black letter law, based on *The Pocket Veto Case*, that a pocket veto is always valid during an *intersession* adjournment of Congress. Instead, the court emphasized the long duration of the adjournment involved in *The Pocket Veto Case*, as contrasted to the shorter adjournments now taken by Congress.[84] Essentially, the court in *Sampson* analyzed *The Pocket Veto Case* solely on the basis of factors relating to the length of the adjournment, and declined to distinguish between intersession and intrasession adjournments. Thus, the court's method and analysis comports with the view that the pocket veto power is unavailable to the President during any intrasession adjournments and during brief intersession adjournments.

The Solicitor General declined to seek review by the Supreme Court of the decision in *Kennedy v. Sampson*. After the district court's decision, but before the court of appeal's affirmance, President Nixon pocket vetoed a transportation bill [85] during the twenty-nine-day adjournment in January, 1974, between the first and second sessions of the Ninety-Third Congress (an intersession pocket veto). After the final decision in *Sampson*, President Ford, directly flouting the court's ruling therein, pocket vetoed an aid-to-the-handicapped bill [86] in October, 1974, during the thirty-one-day intrasession adjournment for the congressional elections. I challenged both of these actions in federal district court in *Kennedy v. Jones*.[87] After a decision by the court on preliminary questions,[88] the Department of Justice agreed to the entry of summary judgment invalidating both the intersession and intrasession pocket vetoes involved.[89]

Jones is a major cutback on the pocket veto power. By agreeing to summary judgment, the executive branch conceded that the President may not constitutionally pocket veto a bill during a thirty-one-day intrasession adjournment, which far exceeds the five-day adjournment held in *Sampson* not to activate the pocket veto power. Because present intrasession adjournments of Congress rarely exceed thirty-one days,[90] *Jones* makes a constitutional intrasession pocket veto highly unlikely. The Ford Administration's acceptance of the view—implied by the rationale of *Sampson*—that the pocket veto power is inapplicable to intersession adjournments of Congress was even more important. After *Sampson* and *Jones*, the pocket veto power appears clearly constitutional only with regard to a *sine die* adjournment after the final session of a Congress. In effect, *The Pocket Veto Case* has been confined to its facts, and the intersession pocket veto has become an obsolete relic.

Of course, neither *Sampson* nor *Jones* carries the precedential authority of a Supreme Court decision.[91] A future administration might, therefore, choose to relitigate the issue in the federal courts, although the prospect of success seems remote indeed.

IV. WHERE TO DRAW THE LINE: SOME POLICY CONSIDERATIONS

To sustain the exercise of the pocket veto during intrasession and brief intersession adjournments of Congress would be a substantial expansion of the President's absolute veto power, a corresponding reduction in the authority of Congress, and, therefore, a significant shift in the balance of power from the legislative to the executive branch. For example, because the Senate and House

of Representatives passed the Family Practice of Medicine Act overwhelmingly,[92] Congress would probably have easily overriden a normal veto of that bill. Following the pocket veto, however, the action of the President was final, and Congress had no opportunity to address the President's action in disapproving it.

The paramount concern of the framers was to avoid extended delay, uncertainty and confusion over the status of legislation. As noted above, they probably intended the pocket veto clause to apply during any adjournment between sessions of Congress.[93] Though the framers' concerns made sense in 1787 in light of the lengthy congressional adjournments, the dispersal of members, and the lack of rapid communication and transportation facilities, such concerns no longer exist. The adjournments after the first session of a Congress are no longer many months in duration. In fact, intersession adjournments of the four most recent Congresses have been thirty, twenty-nine, thirty-one, and twenty-six days, respectively; [94] or no longer than the duration of some of the frequent intrasession adjournments.

If the framers had intended the pocket veto clause to apply inflexibly to such adjournments, they could have so specified. Instead, with their extraordinary foresight, they chose language flexible enough to accommodate the changed circumstances of the modern Congress, so that intrasession and short intersession adjournments do not necessarily "prevent" the President from returning bills to Congress. The pocket veto clause may apply to long intersession adjournments in the unlikely event that Congress resumes that past practice.

During the early Congresses, there was no practical difference between an intersession adjournment at the end of the first session and the final adjournment at the end of a Congress.[95] In this respect, the early Congresses followed the contemporary practice of the British Parliament. Because of the long period between sessions, unfinished legislative business "died" with the adjournment of each session, and Congress began its business anew at the beginning of the next session. By 1816, however, the practice had come under question. In 1818, the House of Representatives began to carry over its business from one session to the next within a Congress, and the Senate followed suit in 1848. The procedure was applied to committee business in 1860, and the modern practice was established.[96] A century later, with Congress a year-round operation, circumstances have changed sufficiently to make the intersession pocket veto a historical anomaly in the modern legislative process.[97]

The use of the pocket veto during intrasession adjournments would raise the specter of absolute vetoes whenever Congress takes a recess, however brief. There is no obvious dividing line based on the length of an adjournment. Congress is seldom in recess within a session for more than a month at a time. If the device of the pocket veto is available for a five-day adjournment as the President contended in *Sampson*, why not for an adjournment of three days, a weekend, one day, or even overnight? Since the ten-day period for the President's consideration of legislation expires at midnight of the tenth day, and since Congress is virtually always in adjournment at midnight, the *reductio ad absurdum* is that virtually every piece of congressional legislation could be vulnerable to a pocket veto.[98]

Thus, strong policy considerations militate against application of the pocket veto during both intrasession and intersession adjournments. Neither type of adjournment affects the status of other pending legislation. The same Congress reconvenes, and all its bills are carried forward. Further, the interval between the end of the first session and the beginning of the second session of a Congress now tends to be relatively brief—often no longer than an intrasession recess and, on occasion, even shorter.

The problem becomes one of line-drawing. Conceivably, a court might adopt a case-by-case approach under which the pocket veto would be available only under circumstances involving relatively long adjournments within or between sessions of Congress. Such a rule, however, could engender serious uncertainty and require lengthy litigation to determine the validity of particular applications of the pocket veto clause. By ruling that a pocket veto is invalid during any adjournment within a session of Congress, the court in *Sampson* avoided the uncertainty and repeated political entanglements involved in a case-by-case approach, as well as the arbitrariness of a fixed dividing line based on the length of adjournments.

The holding of *Sampson* produces no protracted uncertainty with respect to the status of legislation passed by Congress but disapproved by the President. The growing workload of Congress requires that adjournments within a session or between sessions be at most a few weeks, rather than months. As a result, if bills are returned to Congress by the President during intrasession or intersession adjournments, there will be only brief delays before Congress has the opportunity to reconsider them. The delay ordinarily will be no greater than a month.

Intersession adjournments and the increasingly frequent, but brief, intrasession adjournments within longer sessions are a convenient way for Congress to reconcile its growing workload with the need for members to spend adequate time in their constituencies. Thus, the lengthening congressional work year is eliminating the need for the pocket veto as conceived by the founders—Congress is never out of session for months on end.

It is unrealistic to say that if Congress wishes, it can simply pass a pocket vetoed bill again and present it to the President at a time when the pocket veto cannot be used. At best, this route is unnecessarily repetitive and time-consuming, involving subcommittee and full committee action as well as proceedings on the floors of both the Senate and the House. At worst, if the unique alchemy of public and private interests that enabled the legislative process to function successfully the previous time around has disappeared, the result may be that the bill cannot be passed again.

Nor is it an answer to say that Congress can adjust its schedule to insure that one or both Houses are in session when the President's ten-day period expires. Given the current practice of frequent intrasession adjournments and the year-end intersession adjournment, such a procedure would add unnecessary complexity and delay to the business of Congress. Proponents and opponents of bills would manipulate the legislative calendar for political advantage, and Congress would lose a substantial part of its present discretion to select the most favorable time for presenting legislation to the President.

In contrast, on the basis of policy, history, precedent, and the modern practice of Congress, a substantial case can be made for application of a pocket veto following final adjournment at the end of a Congress. After the final adjournment, the Congress that passed a bill no longer exists, and therefore cannot return to reconsider the bill. The presence of an authorized agent to receive a veto message is irrelevant. All other legislation pending in Congress at the time of the final adjournment dies, so the fate of the pocket vetoed bill is no different from the fate of all other unfinished business. In an obvious sense, the final adjournment of Congress "prevents" the return of the bill, and the bill should not become a law if the President refuses to sign it.

V. CONCLUSION

Kennedy v. Sampson, reinforced by the summary judgment in *Kennedy v. Jones*, has all but precluded the possibility of a constitutional intrasession or intersession pocket veto. The rationale of *Sampson* persuasively stresses the length of the adjournment as the decisive factor, and the rationale finds solid support in the intentions and actions of the framers. Nothing in the Supreme Court's decisions in *The Pocket Veto Case* or in *Wright v. United States* compels a court to hold that a pocket veto is valid during a brief intersession adjournment of a Congress. As in *Sampson*, the clear focus of the Court's holding in *Wright* was on the length of the adjournment. To the extent *The Pocket Veto Case* survives at all as a precedent after *Wright*, it is easily distinguishable as involving a lengthy intersession adjournment of several months, compared to the modern practice of one-month adjournments between sessions of a Congress. In addition, with respect to *The Pocket Veto Case*, the Court's apparent unawareness of the historical evidence available regarding the proceedings of the Constitutional Convention renders its analysis of the pocket veto clause even less persuasive.

By distinguishing *The Pocket Veto Case* and following the path clearly charted by Chief Justice Hughes in *Wright* and by the court of appeals in *Sampson*, it is possible to end the confusion surrounding the status of the pocket veto, restore the intent of the framers of the Constitution, and establish a policy that fits our modern needs. Unless the rationale of *Sampson* prevails, the opportunities for use of the pocket veto may proliferate, thereby transforming the pocket veto from a sleepy end-of-session housekeeping measure into a potent political weapon for quashing popular legislation.

FOOTNOTES

[1] U.S. CONST. art. I, § 7 provides, *inter alia*, that:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. . . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, *unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.* (emphasis added).

[2] THE OXFORD ENGLISH DICTIONARY 1037 (1971) traces the first use of "pocket," in the sense of suppressing a bill or report, to a pun on the word in W. SHAKESPEARE, THE TEMPEST, Act II, Sc. i, Lines 60–67:

Gonzalo: That our garments, being, as they were, drench'd in the sea, hold, notwithstanding, their freshness and glosses, being rather new-dy'd than stain'd with salt water.

Antonio: If but one of his pockets could speak, would it not say he lies?

Sebastian: Ay, or very falsely pocket up his report.

See W. SAFIRE, THE NEW LANGUAGE OF POLITICS 505 (1972).

[3] Congress adjourns *sine die*, "without

day," at the end of each annual session, including the end of a Congress. On these occasions, it adjourns without specifying a date for its return in the adjournment resolution. Section 2 of the twentieth amendment to the Constitution provides that Congress shall convene on January 3 of each year unless Congress by statute establishes a different date. Adjournments within a session are taken to a date certain specified in the adjournment resolution, which takes the form of a motion in each house if the adjournment is for three days or less or a concurrent resolution of both houses if the adjournment is for a longer period. U.S. CONST. art. I, § 5.

[4] *See Hearings on the Constitutionality of the President's "Pocket Veto" Power Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess., 119–73 (1971) [hereinafter cited as *Pocket Veto Hearings*]. Henry Clay mounted one of the few serious challenges to this type of pocket veto, asserting that President Andrew Jackson's pocket veto of Clay's controversial public lands bill at the end of the Twenty-Second Congress in 1833 was unconstitutional. 10 CONG. DEB. pt. I, 14–18 (1833). *See* note 36 *infra*.

[5] 279 U.S. 655 (1929). *See* notes 41–48 *infra* and accompanying text.

[6] 302 U.S. 583 (1938). *See* notes 49–70 *infra* and accompanying text.

[7] In this century alone, beginning with President Theodore Roosevelt, Presidents have pocket vetoed 191 bills during intersession adjournments of Congress. Brief for Plaintiff, Exhibit 6, Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976). *See also* SENATE LIBRARY, PRESIDENTIAL VETOES: RECORD OF BILLS VETOED AND ACTION TAKEN THEREON BY THE SENATE AND HOUSE OF REPRESENTATIVES, FIRST CONGRESS THROUGH THE NINETIETH CONGRESS, 1789–1968 (1969); *Calendars of the United States House of Representatives and History of Legislation, 92d Congress* 108 (fin. ed. 1972): *Calendars of the United States House of Representatives and History of Legislation, 91st Congress* 110 (fin. ed. 1971).

[8] Of the 27 intersession adjournments during which pocket vetoes were used in this century, only five involved adjournments of one month or less; 18 involved adjournments of three months or longer. *See* SENATE LIBRARY, *supra* note 7; CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[9] *See* note 94 *infra* and accompanying text.

[10] In the spring of 1867, the Fortieth Congress completed action on a joint resolution, H.R.J. Res. 6, 40th Cong., 1st Sess. (1867), placing troops in the Missouri State Militia on an equal footing with Union forces with respect to benefits authorized by Congress for service in the Civil War. Senator Edmund Ross of Kansas, Chairman of the Senate Committee on Enrolled Bills, put the resolution in his desk and forgot it was there. CONG. GLOBE, 40th Cong., 1st Sess. (1867). Eight days later, Congress adjourned for a spring recess until July 3. The resolution was discovered and presented to President Andrew Johnson for his signature. The President refused to sign the measure into law because he shared the then-prevailing views that he had constitutional authority to approve legislation only while Congress was actually in session. *See Pocket Veto Hearings, supra* note 4, at 144. Thus was born the intrasession pocket veto. With respect to end-of-session adjournments, the practice in the nineteenth century was for the President to go up to the Capitol during the closing hours of the session in order to sign bills he wished to approve. The presidential power to sign bills during adjournments of Congress was not established until La Abra Silver Mining Co. v. United States, 175 U.S. 423 (1899) (bill may be signed into law during intrasession adjournment), and Edwards v. United States, 286 U.S. 482 (1932) (bill may be signed into law after *sine die* adjournment).

[11] Records through the end of the Ninety-fourth Congress document a total of 43 intrasession pocket vetoes under the following Presidents: Andrew Johnson (4), Benjamin Harrison (1), Cleveland (2), Hoover (1), Franklin Roosevelt (10), Truman (6), Eisenhower (7), Lyndon Johnson (2), Nixon (5), and Ford (5). Through 1974, Presidents had used 1326 normal vetoes, as well as over 900 pocket vetoes during *sine die* adjournments. *See* Brief for Plaintiff, Exhibits 1 and 3, Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976). *See also* SENATE LIBRARY, *supra* note 7, at 17–19, 60, 69, 99, 153–55, 170–71, 189, 198, 203, 205 (1969); *Calendars of the United States House of Representatives and History of Legislation, 92d Congress* 108 (fin. ed. 1972); *Calendars of the United States House of Representatives and History of Legislation, 91st Congress* 110 (fin. ed. 1971).

[12] Before President Nixon took office, there had been only three pocket vetoes during adjournments of 10 days or less—one each by Presidents Roosevelt in 1944 (10 days), Eisenhower in 1956 (10 days), and Johnson in 1964 (9 days). SENATE LIBRARY, *supra* note 7, at VI—VIII, 154, 189, 203.

[13] Of the 43 intrasession pocket vetoes, *see* note 11 *supra*, 29 have involved private bills for the relief of particular individuals or corporations. Virtually all of the remaining 14 bills appear to have been public bills of little significance. *See generally* SENATE LIBRARY, *supra* note 7.

[14] Kennedy v. Sampson, 511 F.2d 430 (D.C. Cir. 1974), *aff'g* 364 F. Supp. 1075 (D.D.C. 1973).

[15] Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976).

[16] Kennedy v. Sampson, 511 F.2d 430, 437 (D.C. Cir. 1974).

[17] The absolute veto possessed by the King of England and most of the colonial governors had been a major source of friction in the pre-revolutionary period, and was the first of the specific grievances cited by the colonists against George III in the Declaration of Independence. The Constitutional Convention expressly rejected the concept of an absolute veto. *See* 1 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 292, 300 (rev. ed. 1937); 2 *id.* at 71. For a general discussion of the background and nature of the veto power, *see* Zinn, *The Veto Power of the President*, 12 F.R.D. 207 (1951).

[18] The traditional view has been that "[n]o light is thrown on the meaning of the constitutional provision in the proceedings and debates of the Constitutional Convention. . . ." The Pocket Veto Case, 279 U.S. 655, 675 (1929).

[19] The proceedings and preliminary conclusions of the Convention in May, June, and July of 1787 were referred to a five-member Committee of Detail on July 23. On July 26, the Convention adjourned for ten days to permit the Committee to prepare a draft of a constitution. The Chairman was John Rutledge of South Carolina; other members were Oliver Ellsworth of Connecticut, Nathaniel Gorham of Massachusetts, Edmund Randolph of Virginia, and James Wilson of Pennsylvania. 1 M. FARRAND, *supra* note 17, at xxii; 2 *id.* at 97. In the materials known to have been referred to the Committee, the only reference to what ultimately became the veto provisions of the Constitution was a resolution stating that, "the national Executive shall have a Right to negative any legislative Act, which shall not be afterwards passed, unless by two third Parts of each Branch of the National Legislative [sic]," 2 *id* at 132. There was no reference to a pocket veto.

[20] 2 M. FARRAND, *supra* note 17, at 159. The first draft of the Constitution is in two parts, Documents VI and VIII.

[21] 2 M. FARRAND, *supra* note 17, at 161–62. This provision probably was based on article III of the New York Constitution of 1777:

And in order to prevent any unnecessary delays, *Be it further ordained*, that if any bill shall not be returned by the council, within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

[22] 2 M. FARRAND, *supra* note 17, at 167. Parts lined through indicate words crossed out in the manuscript of Document IX. Parentheses indicate words added by Rutledge. The logical inference is that Rutledge also crossed out the words in this passage.

[23] 2 *id.* at 181.

[24] 2 *id.* at 295, 302. A subsequent draft was prepared by the Committee of Style, and on September 17, 1787, the state delegations approved the Constitution. *Id.* at 565, 664–65.

[25] *See* note 21 *supra*.

[26] U.S. CONST. art. I, § 4, cl. 2. The requirement was changed by the twentieth amendment to the Constitution, adopted in 1933. *See* note 3 *supra* & note 33 *infra*.

[27] 2 M. FARRAND, *supra* note 17, at 163. Subsequently, the Convention adopted an amendment to this provision authorizing Congress to set a different date by statute. *See* U.S. CONST., art. I, § 4, cl. 2.

[28] This analysis suggests that the framers intended the pocket veto to be applicable during *sine die* adjournments both at the end of a Congress and at the end of the first session of a Congress. In fact, the pocket veto was first used to disapprove a bill in 1812 during the *sine die* adjournment of a first session. *See* H.R. 170, 12th Cong., 1st Sess. (1812); 25 ANNALS OF CONG. 17 (1812) (Message of President Madison to the Second Session explaining his objections). During the early Congresses, there was no practical difference between *sine die* adjournments at the end of a session and those at the end of a Congress. Unfinished legislative business died with the adjournment of each session and began anew at the beginning of the next session. *See* notes 95–96 *infra* and accompanying text.

[29] James Madison's journal gives the following account of the debate on August 7, 1787, on the question whether the session should begin in May or December:

Mr. Govr. Morris moved to strike out Decr. & insert May. It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned during the Winter and of which intelligence would arrive in the Spring.

Mr. [Madison] 2ded the motion, he preferred May to Decr. because the latter would require the travelling to & from the Seat of Govt. in the most inconvenient seasons of the year.

Mr. Wilson. The Winter is the most convenient season for business.

Mr. Elseworth [sic]. The summer will interfere too much with private business, that of almost all the probable members of the Legislature being more or less connected with agriculture.

Mr. Randolph. The time is of no great moment now, as the Legislature can vary it. On looking into the Constitution of the States, he found that the times of their elections with which the elections of the Natl. Representatives would no doubt be made to co-inside, would suit better with Decr. than May. And it was advisable to render our innovations as little incommodious as possible.

2 FARRAND, *supra* note 17, at 199–200.

[30] Subsequent events amply confirmed the expectation that the adjournments between

sessions would be lengthy. In the case of the "short" or "lame duck" session—the session convening on the first Monday in December in even-numbered years and expiring at the end of a Congress on March 3 in odd-numbered years—the delay until the beginning of the next session was often nine months. In the case of the "long" session—the session convening in December in odd-numbered years—adjournment *sine die* usually took place in the following spring, and the delay until the next session was often six months or longer. As recently as 1931, Congress took a nine-month adjournment between sessions, and adjournments of three to six months were common in the 1950's and early 1960's. *See, e.g.*, CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[31] *See* U.S. CONST. art I, § 5.

[32] For example, in 1786, the Continental Congress was in session from January 2 to November 13. During that period, excluding Sundays, there were 39 recesses for one day, 6 for two days, and 1 for four days. Brief for Petitioner at 12, Wright v. United States, 302 U.S. 583 (1938). From September 13, 1775 until June 3, 1784, the Congress had been in almost continuous session while it conducted the Revolutionary War. Christmas recesses were limited to Christmas day, or to two days when Christmas fell on Saturday or Monday; intervals of from two to eight days occurred when Congress moved to avoid the British forces. The Congress's longest formal adjournment—from June 3, 1784 to November 1 of that year—came immediately after peace was concluded, although from 1785 until the Congress ceased to exist on March 2, 1789, there were frequent de facto interruptions of its business because of absenteeism. *See* U.S. GOV'T PRINTING OFFICE, JOURNALS OF THE CONTINENTAL CONGRESS 1774–1789 (1904–1937); E. BURNETT, THE CONTINENTAL CONGRESS (1941).

[33] According to an unpublished compilation of the Senate Library, brief intrasession adjournments over the Christmas holidays occurred in 1800 (five days), 1817 (four days), and 1828 (four days). Beginning in 1857, and virtually without exception thereafter through 1932, Congress took two-week adjournments over the Christmas holidays. The principal reasons for this shift in practice were (1) the approval of legislation in 1856 shifting the salary of members of Congress from a per diem to an annual basis, thereby avoiding the potential embarrassment of members drawing salaries while on holiday, Act of Aug. 16, 1856, ch. 123, 11 Stat. 48; (2) congressional reapportionment after the 1850 census, causing an influx of new western members into the House of Representatives who needed more time to travel back and forth to Washington during the holidays, *see generally* F. RIDDICK, THE UNITED STATES CONGRESS ORGANIZATION AND PROCEDURE 441 (1949); and (3) the perennial difficulty of obtaining a quorum for the transaction of business during the holidays. The ratification of the twentieth amendment in 1933 advanced the date for convening the annual session of Congress to January 3 and made it likely that Congress would adjourn *sine die* before the Christmas holidays.

[34] *See* CONG. DIR., 94th Cong., 2d Sess. (1976), as supplemented by an unpublished compilation of the Senate Library. Intrasession adjournments, other than for Christmas, occurred in 1865 (four days), 1867 (three and four months), 1868 (four months), 1916 (four days), 1919 (six days), 1929 (two months), and 1936 (six days). Thereafter, through 1966, there were usually one or two intrasession adjournments each year. Since 1967, intrasession adjournments have become even more frequent, *Id.*

[35] THE FEDERALIST, No. 69, at 416–17 (New Am. Lib. ed. 1961).

[36] *See* Wright v. United States, 302 U.S. 583 (1938); Edwards v. United States, 286 U.S. 482 (1932); La Abra Silver Mining Co. v. United States, 175 U.S. 423 (1899). James Madison, whose journal constitutes one of the foremost authorities on the proceedings of the Constitutional Convention, believed strongly in reciprocity. In 1833, discussing President Jackson's pocket veto of Henry Clay's public lands bill, Madison wrote to Clay:

It is obvious that the Constitution meant to allow the President an adequate time to consider the Bills &c presented to him, and to make his objection to them; and on the other hand that Cong. should have time to consider and overrule the objections. A disregard on either side of what it owes to the other, must be an abuse, for which it would be responsible under the forms of the Constitution. An abuse on the part of the President, with a view sufficiently manifest, in a case of sufficient magnitude to deprive Cong. of the opportunity of overruling objections to their bills, might doubtless be a ground for impeachment. . . . In order to qualify (in the French sense of the term) the [pocket veto] of the Land bill by the President, the first inquiry is, whether a sufficient time was allowed him to decide on its merits; the next whether with a sufficient time to prepare his objections, he unnecessarily put it out of the power of Cong. to decide on them.

9 G. HUNT, WRITINGS OF JAMES MADISON 515 (1910).

In reality, the President often has substantially longer than ten days to consider a bill and to decide upon his action, since he has the opportunity to analyze the measure during the course of its consideration and passage by Congress.

[37] *But see* note 97 *infra*.

[38] *But see* text accompanying note 94 *infra*.

[39] *See* 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 888 (1st ed. 1833); *Pocket Veto Hearings*, *supra* note 4, at 7 (views of Prof. Arthur Miller); Miller, *Congressional Power to Define the Presidential Pocket Veto Power*, 25 VAND. L. REV. 557 (1972); Note, *The Presidential Veto Power: A Shallow Pocket*, 70 MICH. L. REV. 148 (1971); Comment, *The Veto of S. 3418: More Congressional Power in the President's Pocket?*, 22 CATH. U.L. REV. 385 (1973); Comment, *The Veto Power and Kennedy v. Sampson: Burning a Hole in the President's Pocket*, 69 NW. U.L. REV. 587 (1974).

[40] *See* notes 10–15 *supra* and accompanying text.

[41] 279 U.S. 655 (1929).

[42] Technically, the adjournment was an intrasession adjournment. The Senate adjourned from July 3, 1926, until a date in November, when it was to meet as a court of impeachment. For practical purposes, however, the adjournment was intersession and was so treated by the Supreme Court and the parties to the case. 279 U.S. at 672 & nn.1–2. *See also* Wright v. United States, 302 U.S. 583, 593 (1938). In any event, since the House had adjourned *sine die*, it would have been impossible for that session of Congress to override a normal veto.

[43] 66 Ct. Cl. 26 (1928). At the time, this litigation was regarded as a test case that would also determine the status of the controversial Morin-Norris Bill, S. J. Res. 46, 70th Cong., 1st Sess. (1928), establishing a public power and flood control project at Muscle Shoals on the Tennessee River. The bill had been pocket vetoed by President Coolidge in June, 1928. The Court of Claims had decided *The Pocket Veto Case* in April of that year, and the Supreme Court granted certiorari the following January, 278 U.S. 597 (1929). In December, 1928, President Coolidge transmitted to Congress a document entitled *A Memorandum Prepared at the Office of the Attorney General Regarding Bills Presented to the President Less than 10 Days Before the Adjournment of Congress and Not Signed by Him*. H.R. Doc. No. 493, 70th Cong. 2d Sess. (1928), *reprinted in Pocket Veto Hearings*, *supra* note 4, at 131. The document listed numerous examples of pocket vetoes at the end of sessions of Congress. A similar Muscle Shoals bill was passed again by Congress in 1931. President Hoover chose to disapprove it by a normal veto on March 3, 1931, even though he could have waited a day and pocket vetoed it. In 1933, Congress passed the bill as part of the Tennessee Valley Authority Act, 16 U.S.C. § 831 (1933), and President Roosevelt signed it into law.

[44] 279 U.S. at 691–92.

[45] *Id.* at 680–81.

[46] *Id.* at 680–87. In disapproving the argument that the bill could have been returned to an officer or agent of a house of Congress, the Court also relied on the fact that Congress had not enacted a statute authorizing such a procedure, nor were there any rules of Congress granting such authorization. *Id. But see* Wright v. United States, 302 U.S. 583 (1938), discussed at notes 49–70 *infra* and accompanying text, in which the Court upheld the regular veto of a bill returned to an agent of the House of Representatives during an adjournment, even though the House had not authorized the agent to receive the bill. In recent years, it has become routine procedure for both houses of Congress to authorize officers to receive messages from the President during brief adjournments. *See, e.g.*, 116 CONG. REC. 43221 (1970).

[47] 279 U.S. at 684.

[48] In the case before the Court, the First Session of the Sixty-Ninth Congress had adjourned on July 3, 1926, and the Second Session had convened on December 6, 1926, an interval of five months. *Id.* at 672 & n.l.

[49] 302 U.S. 583 (1938).

[50] *Id.* at 585–86.

[51] Brief for Petitioner at 5–6, Wright v. United States, 302 U.S. 583 (1938). *See* note 46 *supra* & note 70 *infra* and accompanying text.

[52] Brief for Petitioner, *supra* note 51, at 6–13.

[53] Brief for the United States at 9–10, Wright v. United States, 302 U.S. 583 (1938).

[54] *Id.* at 14.

[55] *Id.* This position, at least in the absence of specific authorization of an agent by the adjourning house, was accepted by the two concurring Justices. *See* note 59 *infra*. More than three decades later, the purported pocket vetoes of the Family Practice of Medicine Act and other bills indicated that the executive branch again was asserting a position virtually as extreme as its argument in *Wright*. *See* text accompanying notes 71–74 *infra*.

[56] Hughes had not been a member of the Supreme Court at the time of the decision in *The Pocket Veto Case*. However, as private counsel to the American Cyanamid Company, he had been active in support of the private operation of the Muscle Shoals facilities and had helped to prepare legislation to turn the facilities over to the company. 72 CON. REC. 3584 (1930) (remarks of Senator Norris during debate on the confirmation of Hughes as Chief Justice). Subsequently, as Chief Justice, Hughes authored the opinion of the Court upholding the validity of the public operation of the Muscle Shoals facilities by the TVA, Ashwander v. TVA, 297 U.S. 288 (1936). *See also* Freund, *Charles Hughes as Chief Justice*, 81 HARV. L. REV. 4, 10 (1967).

[57] 302 U.S. at 587.

[58] *See* note 46 *supra* & note 70 *infra*.

[59] 302 U.S. at 589–90. Justice Stone, in an opinion joined by Justice Brandeis, concurred in the result but disagreed with the majority's holding that the bill had been properly returned to the Senate and that a pocket veto was unavailable. He argued that the Senate, by adjourning without authorizing an agent to receive bills returned by the President, had prevented the return of the bill within the meaning of the pocket veto clause. *Id.* at 601 (Stone, J., concurring). Justice Cardozo did not participate in the decision.

[60] *See, e.g.*, NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937) (distinguishing Carter v. Carter Coal Co., 298 U.S. 238 U.S. 238 (1936) and other cases, and sustaining the National Labor Relations Act of 1935 as a proper exercise by Congress of its constitutional power to regulate commerce between the states); Kentucky Whip & Collar Co. v. Illinois Cent. R.R., 299 U.S. 334 (1937) (distinguishing Hammer v. Dagenhart, 247 U.S. 251 (1918), and sustaining a federal law prohibiting shipment of convict-made goods in interstate commerce in certain circumstances); Texas & N.O.R.R. v. Brotherhood of Ry. & S.S. Clerks, 281 U.S. 548 (1930) (distinguishing Coppage v. Kansas, 236 U.S. 1 (1915), and Adair v. United States, 208 U.S. 161 (1908), and sustaining the Railway Labor Act of 1926 and its provisions dealing with collective bargaining under the commerce clause). *See also* Freund, *supra* note 56, at 35–37.

[61] Since the bill is to be returned to the same "House" [in which it originated], and none other, . . . it follows, in our opinion, that under the constitutional mandate it is to be returned to the "House" when sitting in an organized capacity for the transaction of business, and having authority to receive the return, enter the President's objections on its journal, and proceed to reconsider the bill; and that no return can be made to the House when it is not in session as a collective body and its members are dispersed.

The Pocket Veto Case, 279 U.S. 655, 682–83 (1929).

[62] 302 U.S. at 589–90. To emphasize his disagreement with the declaration of *The Pocket Veto Case* that the transmission of a bill to an agent of Congress is not effective, the Chief Justice quoted—approvingly and extensively—from the unsuccessful argument of Congressman Hatton W. Sumners in that case. *Id.* at 590–92. As amicus curiae on behalf of the House Judiciary Committee, Mr. Sumners had urged that the pocket veto clause permits the houses of Congress to receive veto messages from the President through agents, and he discussed at length the practical factors in favor of such a result. By drawing upon agency principles to find the return of a bill valid, the *Wright* Court generously vindicated his arguments. As Chief Justice Hughes concluded:

The fact that Mr. Sumners' contention in the *Pocket Veto Case* was unavailing with respect to the effect of an adjournment of the Congress at the close of its first regular session, in no way detracts from the pertinence and cogency of these observations as addressed to the situation which is now presented.

Id. at 593.

Justice Stone agreed, but thought the Court should have explicitly overruled *The Pocket Veto Case*. 302 U.S. at 603–04 (Stone, J., concurring); *see* note 59 *supra*.

[63] 302 U.S. at 595–96.

[64] *See* note 61 *supra*.

[65] 302 U.S. at 594.

[66] *Id.* at 595.

[67] Hughes had also cited the length of the adjournment as one distinction between *Wright* and the *Pocket Veto Case*. *See* note 63 *supra* and accompanying text.

[68] 302 U.S. at 598.

[69] *See* text accompanying note 66 *supra*.

[70] *Wright* apparently does not even require that the Congress formally authorize its agent to receive veto messages, since the Secretary of the Senate had no express authorization in that case. *See* 302 U.S. at 598 (Stone, J., concurring); note 46 *supra*. *But see* Kennedy v. Sampson, 511 F.2d 430, 437 (D.C. Cir. 1974) (emphasizing the need for Congress to make "appropriate arrangements" for receipt of veto messages).

[71] S. 3418, 91st Cong., 2d Sess. (1970). The bill authorized the appropriation of $225 million for fiscal years 1971–73 for grants by the Secretary of HEW to hospitals and medical schools to train family physicians. It passed the Senate by a vote of 64–1. 116 CONG. REC. 31508 (1970). The House passed a companion bill, H.R. 19599, 91st Cong., 2d Sess. (1970), by a vote of 346–2. 116 CONG. REC. 39379–80 (1970).

[72] *Public Papers of the Presidents, Richard Nixon, 1970* at 1156 (1971). The President's ten-day period for acting on the bill expired on December 25, 1970.

[73] *See* note 12 *supra*.

[74] *See* note 13 *supra*.

[75] *See Pocket Veto Hearings*, *supra* note 4. Wishing to test the pocket veto, Congress appropriated a token $100,000 to carry out the program authorized by the legislation. Supplemental Appropriations Act of 1972, Pub. L. No. 92–184 ch. 3, 85 Stat. 627, 631 (1971). The Secretary of HEW declined to spend the funds, on the ground that the Family Practice of Medicine Act had been pocket vetoed. *Cf.* Larson v. Garlock, Civil Action No. 1410–71 (D.D.C., filed July 15, 1971) (challenge to the pocket veto of H.R. 3571, 91st Cong., 1st Sess. (1969), a private relief bill also pocket vetoed during the 1970 Christmas adjournment; complaint dismissed on May 26, 1972 by stipulation of the parties on grounds unrelated to the pocket veto issue). *See also* Comment, 22 CATH. U.L. REV., *supra* note 39, at 394–97.

[76] The two defendants were the Acting Administrator of General Services and the Chief of White House Records. Part of the relief sought in the complaint was an order requiring the defendants to publish S. 3418 in slip form and in the *Statutes at Large* as a law of the United States pursuant to 1 U.S.C. §§ 106a, 112, 113 (1970).

[77] 364 F. Supp. 1075 (D.D.C. 1973).

[78] 511 F.2d 430 (D.C. Cir. 1974). The court of appeals agreed with the district court that I had standing to sue because the object of the suit was to vindicate the effectiveness of my vote as a United States Senator. *Id.* at 433–36; *see* Coleman v. Miller, 307 U.S. 433 (1939). After the judgment of the court of appeals became final, the bill was published as a law of the United States, Pub. L. No. 91–696, 84 Stat. 2080–1 to 2080–5 (1970).

[79] 511 F.2d at 442.

[80] *Id.* at 436–42. *See* text accompanying note 62 *supra*.

[81] *See* text accompanying notes 47–48 *supra*.

[82] 511 F.2d at 440–41.

[83] *Id.* at 441–42.

[84] *Id.* at 441.

[85] H.R. 10511, 93d Cong., 1st Sess. (1973).

[86] H.R. 14225, 93d Cong., 2d Sess. (1974).

[87] 412 F. Supp. 353 (D.D.C. 1976).

[88] The court held, citing *Kennedy* v. *Sampson*, that I had standing to sue. 412 F. Supp. at 355; *see* note 78 *supra*. Also, the court ruled that, although Congress had passed and the President had signed at a later date bills essentially identical to those vetoed, the case was not moot, inasmuch as the defendants had refused to publish the vetoed bills as laws. 412 F. Supp. at 356.

[89] 412 F. Supp. at 356; 122 CONG. REC. S. 5912 (1976) (daily ed.). The bills in question were published as laws of the United States, Pub. L. No. 93–650, 89 Stat. 2–1 (H.R. 10511); Pub. L. No. 93–651, 89 Stat. 2–3 (H.R. 14225).

[90] *See* text accompanying note 94 *infra*.

[91] Nevertheless, *Sampson* and *Jones* are formidable barriers to an executive attempting to reassert the intrasession and intersession pocket veto power. The executive branch failed to ask the Supreme Court to review *Sampson*, despite the holding of that case that *any* intrasession pocket veto was unconstitutional. In *Jones*, the government's agreement to adverse summary judgment is a strong indication that the government was conceding the substantive issues in the case, thereby acquiescing to a ruling that drastically curtailed *The Pocket Veto Case*.

[92] *See* note 71 *supra*. In the case of the aid-to-the-handicapped bill, *see* note 86 *supra*, the President returned the bill to veto. 120 CONG. REC. 36621–22 36882 (1974). The Ford Administration claimed, however, that notwithstanding the return of the bill, and notwithstanding *Sampson*, the measure had been pocket vetoed. The return of the bill was probably a back-up strategy anticipating a court challenge to the pocket veto. If Congress had not overridden the veto, the pocket veto issue might well have been moot, since the bill could not have become law. The government was a victim of its own strategy; it was making the awkward claim that the adjournment of Congress had prevented the return of the bill even though the bill had in fact been returned to Congress.

[93] *See* text accompanying notes 18–34 *supra*.

[94] The figures refer to the Ninety-Fourth, Ninety–Third, Ninety-Second, and Ninety-First Congresses, respectively. CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[95] In fact, the first recorded use of a pocket veto was to disapprove a bill during the intersession adjournment of the first session of a Congress. *See* H.R. 170, 12th Cong., 1st Sess.; 25 ANNALS OF CONG. 17 (1812) (Message of President Madison to the Second Session, explaining his objections).

[96] 5 HINDS' PRECEDENTS 873 (1907); Senate Rule XXXII; House Rule XXVI.

[97] The reduction in the length of the final adjournments of Congress is also substantial—from the customary nine months in the early years to approximately two months today. *See* CONG. DIR., 2d Sess. 404–10 (1976). Nothing in the Constitutional Convention records necessarily indicates a concern to prevent a new Congress from voting to override the veto of a bill passed by the preceding Congress. In light of the nature of a final adjournment of a Congress, however, and the still relatively long duration—two months—of that adjournment, it seems unlikely that a court would overturn the long-standing executive utilization of the pocket veto power during such adjournments. But it is not difficult to imagine that, were he reviewing Documents IX today, John Rutledge would have let James Wilson's version stand, and there would be no pocket veto clause in the Constitution.

[98] *See* Wright v. United States, 302 U.S. 583, 597 (1938).

THE B–1 BOMBER

Mr. HEINZ. Mr. President, July 18, I voted with a large majority of my colleagues to delete funding in the DOD appropriations bill for full-scale production of the B–1 bomber. A word is in order about this important Senate decision.

The amendment came recommended not only by the President, but by the Senate Armed Services Committee as well. Nevertheless, I was willing to support such an action only on the condition that enough money was still retained—$442 million as it happened—to continue whatever research and development is necessary for keeping abreast of technology in case unforseen events convince us to reverse our course. When it comes to national security, our bets should be hedged.

The case for going ahead with actual B–1 production at this point, however, just is not as compelling. Even proponents of the B–1 admit that the B–52, in the modern G and H series, as well as the FB–11, are competent to perform a strategic bombing mission well into the

1980's. It is my understanding, in fact, that DOD was intending to keep the B–52 in service even after deploying the B–1.

The argument that costs will increase the longer we wait to produce the B–1 may be penny-wise, but it may also be pound-foolish. We will be in for much greater costs if we go full steam now only to find our system obsolete in a few years. Since a B–1 produced now would overlap for many years with a still quite adequate B–52, it seems prudent to defer production and deployment decisions while technology continues to change rapidly on both the Soviet side and our own.

It is very possible that the Soviets by the 1980's or at least the 1990's will have developed modern AWACS—airborne warning and control systems—or improved surface-to-air missiles which would render our B–1 ineffective. But even if they do not achieve such exotic, though plausible, new defenses, a modernized B–52 can be counted on to penetrate Soviet air space, even if it does not do so in as fancy a fashion as the B–1. The B–52 can be equipped with quick start accessories to assure prelaunch survivability, electro-optical viewing systems for improved low-altitude performance, as well as armed decoys, certain new electronic countermeasures, and SRAMS—short range attack missiles.

Moreover, the B–52 can be refitted to perform as a standoff bomber as well as a penetration bomber. As such, it could stop short of the Soviet border and fire remarkably versatile and accurate cruise missiles. These missiles, descendants of the German buzz bombs of World War II, are in effect small, pilotless jet planes which can be launched at 40,000 feet, travel up to 550 miles an hour even after descending to 50-foot treetop level, deliver a 200 kiloton nuclear warhead—the bomb dropped on Hiroshima was only 15 kilotons—and strike within 100 feet of target—having been launched from 700 to 1,700 miles away. To boot, they are relatively inexpensive.

The B–52 can be equipped with eight cruise missiles in its bomb bay and six on either of its wings; the B–1's carrying capacity is much more limited. Not surprisingly, at the same time the administration cancelled the B–1 program, it ordered the air-launched cruise missile program speeded up by 3 years, to permit full deployment by 1983.

So though there might still be something of a difference in the performance of a B–1 and that of a B–52, the essential issue is whether it is worth the enormous difference in cost. It is not enough that the B–1 represents an impressive feat of modern technology. Trying to balance the budget as we are, it has to be shown truly important to our defense—and something for which there is not a more cost-effective substitute. The B–52 and the cruise missile are good alternatives.

NINE YEARS AGO ON AUGUST 21

Mr. BAYH. Mr. President, I want to take this opportunity today to observe with sadness the ninth anniversary of the Soviet invasion and occupation of Czechoslovakia. The Senate will not be in session on August 21, but I am sure my colleagues will recall with painful vividness the shock of that late summer day in 1968. American citizens of Czech, Slovak, and Subcarpatho-Ruthenian descent will once again affirm the independence and yearning for liberty that are such inherent characteristics of the brave people of Czechoslovakia in their own observance of this tragic anniversary.

Earlier this year, we witnessed the brutal repression by the Government in Prague against the "Charter 77" human rights movement. These brave citizens are attempting to give substance to the pledge of the Czechoslovak Socialist Republic to honor its commitment to enhancing political liberty in conformity with the Helsinki Final Act, the International Covenant on Civil and Political Rights. And the International Covenant on Economic, Social, and Cultural Rights.

To the extent that we praise the gallantry and spirit of "Charter 77," we must also wonder what Czechoslovakia would have been like today had the liberalizing reforms of the Prague Spring been allowed to occur without the interference in the internal affairs of the Dubcek government. Had the Prague Spring been allowed to bloom, true detente may then have flourished in terms the people of the world could understand and support. However, the wave of repression that gripped the people of Czechoslovakia after the invasion by the U.S.S.R. has been partially broken by the bravery of those who dare to peacefully express firm faith in the political ideals shared by free men everywhere. As a free people it is essential that we recognize and pay tribute to the courage of those who endure the wrongs of political oppression in order to speak the truth. This is why we note this solemn occasion.

Whether we recall the sacrifices of Jan Hus or Jan Palach, the message of our remembrance of August 21, 1968, is clear: The desire for freedom can never be extinguished through an ideology imposed by tanks and maintained because of a fear of competing ideas. It will prevail as long as free people everywhere do not become indifferent or unaware of the magnitude of the sacrifice and difficulty of the conditions which we witness today in Czechoslovakia.

LET FREEDOM RING

Mr. McCLURE. Mr. President, on May 1, 1977, more than 3,500 members of the Independent Order of Odd Fellows observed their 44th pilgrimage to the Tomb of the Unknown Soldier. They came from all over the United States and Canada to participate in this moving ceremony, during which 81 wreaths were placed on the tomb by members of the Odd Fellows and Rebekahs.

Mr. Jack O. Morrow, of Boise, is currently the sovereign grand master of the Odd Fellows. It was his honor to give the main address on this occasion. Aptly titled "Let Freedom Ring," Mr. Morrow's words do indeed ring with the fervor of patriotism and the principles which characterize Odd Fellowship—friendship, love, truth, faith, hope, charity, and universal justice.

I want to share Mr. Morrow's address with my colleagues, so I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LET FREEDOM RING

(By Jack O. Morrow)

From the time that the Pilgrims set sail across the unknown vastness of the Atlantic and landed at Plymouth Rock to the time that the Astronauts circled the unknown spaciousness of the moon, freedom has been a beacon light. From our earliest heroes who explored unknown lands to our modern pioneers who searched unknown space, the American dream has been for freedom; and the vision for tomorrow is freedom.

It is today that we reaffirm our faith and rededicate the principles of Friendship, Love, and Truth to the cause of freedom. We honor those fighting men around the world who sacrificed their lives, their "all."

We pay homage to the American Patriots who fought in the Revolutionary War. When the church bells rang and the drums beat after the midnight ride of Paul Revere in 1775, they heard the "call to arms." The struggle was long and hard—Lexington, Concord, Bunker Hill, Valley Forge—and, finally, victory at Yorktown in 1781.

In spite of defeat, poverty, tears, and starvation, the Patriots stood together and left to their descendants a nation with freedom. This is their heritage to us: Declaration of Independence—"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

We pay homage to the Civil War men who fought a bitter conflict. They answered their leader's call for volunteers after the early morning firing on Fort Sumter in 1861. Families were torn apart with brothers, fathers, sons, friends, and neighbors fighting for the Blue or Gray. It was a destructive, horrible conflict—Bull Run, Merrimac and Monitor, Vicksburg, Gettysburg—and, at long last, peace at Appomattox in 1865.

When the fighting had ended, the men of Blue and Gray became united in the cause of freedom. This is their heritage to us: Gettysburg Address—"That this nation shall have a new birth of freedom; and that this government of the people, by the people, and for the people shall not perish from the earth."

We pay tribute to the Unknown Soldier of World War I who represents the Americans that fought "Over There" and brought new hope to our Allies after Congress was forced to declare war in 1917—Lusitania, Chateau-Thierry, Belleau Wood, Argonne Forest—and, then, an Armistice in 1918.

The first World War had new and improved weapons that made warfare more dangerous and deadly—aircraft, flame throwers, submarines, mechanized equipment, and trench combat. World War I was a "war to end wars," and "to make the world safe for democracy."

Initial action was taken in the development of a International Organization, and the fighting "Yanks" made our nation one of the most powerful on earth. This is their heritage to us: League of Nations—"To promote international cooperation and to achieve peace and security among the nations of the world."

There was no peace! Within a span of twenty-three years, the United States was at war again! World War II grew out of the grievances that were not settled from World War I.

No American can ever forget Pearl Harbor on December 7, 1941—a day of infamy!

We pay tribute to the Unknown Soldier of World War II who represents the Service Men that fought in the most terrible and costliest war in all history—Bataan, North Africa "D-Day," Hiroshima—and, at last, "V-J Day" in 1945.

Modern warfare had no equal—the Atomic Bomb had many times the destructive power of any weapon in the history of the world. The soldier, airmen, sailor, and marine answered their country's call in the cause of freedom. This is their heritage to us: Four Freedoms—"We seek to make secure, everywhere in the world, freedom of speech and expression, freedom for everyone to workship God in his own way, freedom from want, and freedom from fear."

We honor the Unknown Soldier of the Korean War who represents the fighting men that were sent across the sea in 1950 when a conflict between political ideologies led to war. The Korean War demonstrated the capability of a World Organization to take military action in an emergency.

Another struggle against Communism broke into open warfare in Vietnam in 1965. Once again, our armed forces fought in the defense of free people who were being deprived of their liberty. Many Americans lost their lives in Korea and Vietnam because they fought to bring freedom to oppressed people who were terrorized with brutality and fear.

We honor the fighting Americans of other wars—War of 1812, Mexican War, Indian Campaigns, Spanish American War, and Philippine Insurrection. They, too, "sleep in peace" in Arlington National Cemetery, Flanders Field, National Cemetery of the Pacific, and unknown cemeteries around the world. Their fight in the cause of freedom is over, but the heritage they left us "lives on."

We, the American people, must hold fast to the faith that our fighting men have entrusted to us. We dare not allow their fight for our freedom to be taken away from us. We must be vigilant!

It is for all members of the Independent Order of Odd Fellows to rededicate themselves to live together in peace and to hold high the ideals for which our "Honored Men" so nobly fought. We have no other choice! The supreme sacrifice of their lives in the cause of freedom is a command for all of us throughout the world to uphold the principles for which they died—Friendship, Love, Truth, Faith, Hope, Charity, and Universal Justice. We must continue to work for the Law of Universal Brotherhood that will bind all nations together in freedom and for the solution of any disagreements in the conference room, not on the battlefield.

May our visions of 1977 fulfill their dreams!

Today we honor all the fighting men represented by the Unknown Soldier—"Known Only to God."

They gave their lives, their all
And answered their country's call.
They held high the beacon light
As the eternal flame of freedom's right.

Together we achieve unlimited visions! Let freedom ring!

THE CLEAN WATER ACT OF 1977

Mr. CHAFEE. Mr. President, is it my understanding that tomorrow we will consider S. 1952, the Clean Water Act of 1977. There has been considerable interest in how the Committee on Environment and Public Works has addressed the subject of the permit program for dredged and fill material. Much information and guesswork about the committee bill and the Bentsen-Tower amendment regarding this permit program has circulated throughout these Chambers.

I hope the factsheet, prepared by the committee staff, will help clarify the situation. The committee has been able to resolve many of the legitimate concerns that were brought to our attention, while at the same time maintaining vital wetlands protection.

Mr. President, I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET

COMMITTEE AMENDMENTS TO SECTION 404 OF THE FEDERAL WATER POLLUTION CONTROL ACT

Question

What is the basic difference between the Committee bill and the Bentsen-Tower Amendment?

Answer

The Bentsen-Tower Amendment eliminates protection for 98 percent of the Nation's stream miles and removes protection from 80 to 85 percent of the Nation's valuable swamps and marshes.

The Committee bill continues the jurisdiction of the Federal Water Pollution Control Act which is essential to control pollution at its source. The Committee Amendment assures continued protection of all the Nation's waters by encouraging State and local government to assume the primary responsibility for protecting waters outside the traditional "Phase I" jurisdiction of the Corps of Engineers, and by providing for recognition of existing non-permit regulatory authority for those activities for which permit regulation is administratively inappropriate.

Question

What protections are afforded under these proposals for the nation's vitally important coastal wetlands?

Answer

The Bentsen-Tower Amendment limits jurisdiction for an enforceable program to the mean high water mark in coastal wetlands. Since approximately one half of most coastal marshes lie above the mean high water mark, the Corps and EPA would have no legal recourse to require permits or enforce permits in these adjacent wetlands, according to the legal analysis of Department of Justice and General Counsels for Army and EPA.

The Committee bill retains jurisdiction over all coastal wetlands. During the last two years, the current program effectively conserved thousands of acres of coastal wetlands by inducing modifications in several thousand permitted projects.

Question

Would the Bentsen-Tower Amendment provide protection for other important wetlands?

Answer

No. Under the Bentsen-Tower Amendment, the Corps would not have legal authority to require or enforce permits in wetlands above the "ordinary high water mark" along traditionally navigable waters, or in any of the wetlands located along the tributaries to these waters.

Question

Would the Bentsen-Tower Amendment impair the authority of the Federal Government to regulate the dumping of *toxic* fill in the nation's waters?

Answer

Yes. The Bentsen-Tower Amendment would virtually eliminate the government's ability to control the discharge of dredged or fill material contaminated with toxic materials. Section 307 referenced by the Amendment only provides a mechanism for identifying toxic pollutants and setting standards for such pollutants. This information is virtually impossibe to implement without the permit program which the amendment would completely dismantle.

Even if toxic standards could be implemented under the Bentsen-Tower approach, the amendment prohibits the applicability of toxics standards for the discharges that are specifically exempted—no matter how contaminated such materials may be.

The Committee bill continues the current program which is effectively locating environmentally sound disposal sites for contaminated materials.

Question

How would the 404 permit program be administered under the Bentsen-Tower Amendment and under the Commission Bill?

Answer

Under the Bentsen-Tower Amendment the 404 permit program would not be administered except in 2 percent of the stream miles and in 15 to 20 percent of the nation's wetlands. The amendment provides no incentive for states to develop their own comprehensive programs. Moreover, the remnants of the existing program that would survive the Bentsen-Tower amendment could be split jurisdictionally between the States and the Corps in a manner that assures administrative overlap. Thus, a citizen seeking permits for a causeway across a coastal marsh would be forced to obtain a state permit for half the causeway and a Corps permit for the other half of the road.

The Committee bill encourages states to assume full permitting responsibility in all lakes, rivers, streams and wetlands except those that have been regulated by the Corps since 1899. The bill provides statutory program criteria to insure that EPA must approve adequate state programs. EPA may object to the issuance of state permits "only where such permit is clearly outside the guidelines and requirements" of the bill. The Corps may object to permits that will impair navigation. Under the Tower-Bentsen Amendment the Corps and EPA are prohibited from protecting the national interest in navigation or the clean water if the harmful discharge occurs outside those relatively few waters that support ship traffic.

Question

Is the current Corps program manageable and would it be able to continue in all three phases until states are able to assume responsibility for administering the program?

Answer

The current program is manageable.

Only 4,444 permit applications have been received for waters in the "expanded" jurisdiction in the 24 months since the program went into effect.

On July 19, 1977, the Corps issued nationwide general permits covering:

Discharges in regular flowing streams with average annual flow less than 5 cfs.

Discharges in irregular flowing streams with median flow less than 5 cfs over 50% of year.

Discharges into lakes less than 10 acres.

Maintenance and emergency reconstruction of existing fills.

Backfill for utility line crossings.

Small roadfills in nontidal waters (covers 98% of such roads nationwide).

Backfill for bridges and causeways.

Property protection to prevent erosion.

The Corps has issued 87 general permits and is processing 136 additional general permits.

Only 16 of the permit issuances have required environmental impact statements under NEPA.

New Corps regulations streamline procedures and delegate most decision-making responsibility to its field offices.

The Committee amendment will require the Secretary of the Army to enter into procedural memoranda of understanding to expedite the processing of applications and

avoid delays often experienced when other federal agencies, including the Fish and Wildlife Service, become involved in the review of permit applications.

Question

How does the Committee proposal handle minor agricultural drainage?

Answer

First, the Committee's program does not apply to any drainage activities which occur in upland areas. The Committee amendment also specifically exempts the construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches. For instance, if the drainage is being constructed in field already in agricultural use for crops such as soybeans or corn the drainage activity would not be subject to any permit under the provisions of the Committee bill.

Question

What types of farming and forestry practices are exempt from permit requirements under the Committee Bill?

Answer

Normal farming and forestry activities such as plowing, seeding, harvesting and cultivating

Minor drainage

Upland soil and water conservation practices

Maintenance and emergency reconstruction of existing fills such as dikes, dams, and levees

Construction and maintenance of farm or stock ponds and irrigation ditches

Maintenance of drainage ditches

Construction and maintenance of farm and forest roads

Placement of dredged and fill material from farming and forestry practices which the state chooses to regulate by best management practices.

Question

What do these exemptions mean for the farming and forestry industry? What are some examples?

Answer

The Committee bill would make it clear that a farmer does not need a permit to rotate lands in agriculture use from one crop to another. For example, a field of alfalfa could be converted into a row crop without applying for a permit.

The Committee bill would make it clear that a farmer does not need a permit to tile line a field in intensive agricultural use to enhance drainage.

The Committee bill would assure that important upland erosion control practices will continue to be used by farmers and ranchers to conserve their water and soil resources without having to get a permit.

The Committee's amendment would ensure that log road access to the valuable timber products of our nation's forests would not be delayed by requirements to obtain permits.

The Committee's amendment would allow farmers to construct and maintain irrigation ditches essential to deliver water for growing their crops without the need for permits. This will be of particular significance to those areas of the country ravaged by the recent drought.

COMPARISON

1. Waters Covered:

Current program.—All waters of the United States, including: Phase I, navigable waters of the United States, including adjacent wetlands; Phase II, primary tributaries, lakes, and adjacent wetlands; and Phase III, tributaries and other waters.

Committee bill.—All waters of the United States, including: Phase I, navigable waters of the United States, including adjacent wetlands: Phase II, primary tributaries, lakes, and adjacent wetlands; and Phase III, tributaries and other waters.

Bentsen bill.—Phase I waters, less historically navigable waters, and adjacent wetlands and Phases II and III are excluded but may be included upon petition by States.

2. Percentage of waters Protected:

Current program.—Rivers and streams, 100%; and Wetlands, 100%.

Committee bill.—Rivers and streams, 100%; and Wetlands, 100%.

Bentsen bill.—Rivers and streams, 2%; and Wetlands, 15%.

3. Federal Permit Issues:

Current program.—Corps of Engineers.

Committee bill.—Corps of Engineers.

Bentsen bill.—Corps of Engineers.

4. 1899 Act:

Current program.—Retained.

Committee bill.—Retained.

Bentsen bill.—Retained in waters presently used or susceptible to use for navigation and adjacent wetlands; Excludes historically navigable waters; Excludes activities in nonnavigable waters which could affect navigation or navigable capacity of navigable waters.

5. Specific Permit Exemption: Plowing, seeding, harvesting and cultivating:

Current program.—Exempted.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Minor drainage:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Upland soil and water conservation practices:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Maintenance and emergency reconstruction of existing fills.

Current program.—Exempted.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Construction and maintenance of farm or stock ponds and irrigation ditches:

Current program.—Large number permitted through nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Maintenance of drainage ditches:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction of temporary sedimentation basins on construction sites:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction and maintenance of farm and forest roads.

Current program.—About 98% are permitted by nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction and maintenance of temporary mining roads:

Current programs.—About 98% are permitted by nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Backfill for utility line crossings.

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Small erosion control activities:

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Fill incidental to causeway construction in tidal waters:

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Placement of dredged or fill material from agriculture, mining, and construction "gray area" practices if State adopts best management practices:

Current program.—Some are subject to nationwide permits.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

6. Delegation to States:

Current program.—No delegation.

Committee bill.—Phase I, no delegation; Phases II and III, EPA can delegate.

Bentsen bill.—Phase I, Corps can delegate some wetlands adjacent to Phase I waters; delegation of the remainder of Phase I not allowed. Phases II and III, exempt from program.

7. Flexibility in Manner and Implementation of State Delegated Program:

Current program.—No delegation.

Committee bill.— Does not require a new Federal delegation program administered by a different agency. Delegation can be to NPDES agency, or to separate agency already in existence; implementation can include variety of mechanisms adaptable to local conditions.

Bentsen bill.—Requires a new Federal delegation program. No statutory guidance on form or manner of delegation.

8. Federal Item Veto over State Issuance:

Current program.—Not applicable (delegation not authorized).

Committee bill.—Corps retains Phase I and navigation veto in Phases II and III; EPA retains water quality veto in Phases I, II, and III under strict burden of proof.

Bentsen bill.—Corps loses naviation veto in Phases II and III (and historically navigable waters); EPA loses water quality veto in Phases II and III (and historically navigable waters).

9. Control of Toxic Substances:

Current program.—All activities must meet the substantive requirements of Section 307, including those subject to nationwide permits.

Committee bill.—All activities must meet the substantive requirements of Section 307, including activities exempt from permits.

Bentsen bill.—Exempted activities do not have to meet substantive requirements of Section 307. Nonexempted activities must meet substantive requirements of Section 307, but no permit review avail. for implementation.

10. General or Nationwide Permits:

Current program.—Authorizes use of general or nationwide permits.

Committee bill.—Authorizes use of general or nationwide permits, with specified guidelines.

Bentsen bill.—Author. use of genl. permits.

11. Federal Projects:

Current program.—Not exempted.

Committee bill.—Not exempted.

Bentsen bill.—Exempted if authorized by Congress and an envl. impact statement is submitted.

RECENT SENATE ELECTIONS—STATISTICS ON VOTING BY CANDIDATE AND PARTY

Mr. KENNEDY. Mr. President, in connection with the current debate on public financing of elections, I believe it would be helpful, in considering the application of the bill to Senate races, to make available in the RECORD some statistics on recent Senate elections, going back to 1968, showing the election results by candidate and party. The statistics are compiled from Congressional Quarterly and the Biennial Reports of the Clerk of the House of Representatives, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

RECENT SENATE ELECTIONS—STATISTICS ON VOTING BY CANDIDATE AND PARTY

ABBREVIATIONS FOR PARTY DESIGNATIONS

A—American.
AIP—American Independent.
B—Buffalo.
C—Conservative.
COM—Communist.
CP—Consumer.
CRG—Courage.
CST—Constitutional.
CVV—Concerned Voters Voice.
D—Democratic.
DFL—Democratic-Farmer-Labor.
DI—Dodd Independent.
DS—Democratic Socialist.
FP—Freedom and Peace.
GWP—George Wallace.
HR—Human Rights.
IA—Independent American.
IAL—Independent Alliance.
IG—Industrial Government.
IND—Independent.
IV—Independent Vermonters.
L—Liberal.
LIB—Libertarian.
LP—Labor.
LRU—La Raza Unida.
LU—Liberty Union.
N—New.
NC—National Conservative.
ND—National Democratic.
NDPA—National Democratic Party of Alabama.
NP—Nonpartisan.
P—Prohibition.
PC—People's Constitutional.
PFP—Peace and Freedom.
PP—Peoples.
R—Republican.
SL—Socialist Labor.
SW—Socialist Workers.
TRT—Taxpayers Ticket.
USLP—United States Labor Party.

33 SENATE ELECTIONS IN 1976

	Votes	Percent
Arizona:		
Dennis DeConcini (D)	400,334	54.0
Sam Steiger (R)	321,236	43.3
Allan Norwitz (LIB)	7,310	1.0
Bob Field (IND)	10,765	1.5
William M. Feighan (IND)	1,565	.2
California:		
John V. Tunney (D)	3,502,862	46.9
S. I. Hayakawa (R)	3,748,973	50.2
David Wald (PFP)	104,383	1.4
Jack McCoy (AIP)	82,739	1.1
Omanir Musa (IND)	31,629	.4
Connecticut:		
Gloria Schaffer (D)	561,018	41.2
Lowell P. Weicker, Jr. (R)	761,683	57.7
Robert Barnabei (GWP)	14,407	1.1
Delaware:		
Thomas C. Maloney (D)	98,042	43.6
William V. Roth, Jr. (R)	125,454	55.8
Donald G. Gies (A)	646	.3
John A. Missimilla (P)	216	.1
Joseph F. McInerney (IND)	437	.2
Florida:		
Lawton Chiles (D)	1,799,518	63.0
John Grady (R)	1,057,886	37.0
Hawaii:		
Spark M. Matsunaga (D)	162,305	53.7
William Quinn (R)	122,724	40.6
Rockne Johnson (LIB)	1,404	.5
Anthony N. Hodges (PP)	14,226	4.7
James D. Kimmel (NP)	1,433	.5
Indiana:		
Vance Hartke (D)	868,522	40.2
Richard G. Lugar (R)	1,275,833	59.0
David Lee Hoagland (USLP)	2,511	.1
Don L. Lee (A)	13,564	.6
Maine:		
Edmund S. Muskie (D)	292,704	60.2
Robert A. G. Monks (R)	193,489	39.8
Maryland:		
Paul S. Sarbanes (D)	772,101	56.5
J. Glenn Beall, Jr (R)	530,439	38.8
Bruce Bradley (IND)	62,750	4.6
Massachusetts:		
Edward M. Kennedy (D)	1,726,657	69.3
Michael S. Robertson (R)	722,641	29.0
Carol Henderson Evans (SW)	26,283	1.1
H. Graham Lowry (USLP)	15,517	.6
Michigan:		
Donald W. Riegle, Jr. (D)	1,831,031	52.5
Marvin L. Esch (R)	1,635,087	46.9
Theodore G. Albert (HR)	7,281	.2
Paula L. Reimers (SW)	3,399	.1
Frank Girard (SL)	2,554	.1
Peter A. Signorelli (USLP)	2,218	.1
Bette Jane Erwin (LIB)	8,842	.3
Minnesota:		
Hubert H. Humphrey (D)	1,290,736	67.5
Jerry Brekke (R)	478,602	25.0
Bill Peterson (SW)	9,380	.5
Robin E. Miller (LIB)	5,475	.3
Matt Savola (COM)	2,214	.1
Paul Helm (A)	125,612	6.6
Mississippi:		
John H. Stennis (D)	554,432	100.0
Missouri:		
Warren E. Hearns (D)	813,571	42.5
John C. Danforth (R)	1,090,067	56.9
Lawrence (Red) Petty (IND)	10,822	.6
Montana:		
John Melcher (D)	206,232	64.2
Stanley C. Burger (R)	115,213	35.8
Nebraska:		
Edward Zorinsky (D)	313,805	52.9
John Y. McCollister (R)	279,284	47.1
Nevada:		
Howard W. Cannon (D)	127,214	63.0
David Towell (R)	63,471	31.4
Byron D. Young (IA)	3,619	1.8
Dan Becan (LIB)	2,307	1.1
Others	5,288	2.6
New Jersey:		
Harrison A. Williams, Jr. (D)	1,681,140	60.7
David F. Norcross (R)	1,054,508	38.1
Bernardo S. Doganiero (SL)	9,185	.3
Hannibal Cundari (LIB)	19,907	.7
Leif Johnson (LP)	6,650	.2
New Mexico:		
Joseph M. Montoya (D)	176,382	42.7
Harrison "Jack" Schmitt (R)	234,681	56.8
Malcolm "Matt" Dillon (AIP)	906	.2
Ernesto B. Borunda (LRU)	1,087	.3
New York:		
Daniel P. Moynihan (D)	3,328,511	48.6
Daniel P. Moynihan (L)	184,983	2.8
James L. Buckley (R)	2,525,139	37.9
James L. Buckley (C)	311,494	4.7
Marcia Gallo (SW)	16,350	.2
Elijah C. Boyd (LP)	6,716	.1
Martin E. Nixon (LIB)	10,943	.2
Herbert Aptheker (COM)	25,141	.4
Others	348,498	5.2
North Dakota:		
Quentin N. Burdick (D)	175,772	62.1
Robert Stroup (R)	103,466	36.6
Clarence Haggard (A)	3,824	1.4
Ohio:		
Howard M. Metzenbaum (D)	1,941,113	49.5
Robert Taft, Jr. (R)	1,823,774	46.5
Donald E. Babcock (A)	36,979	.9
Emma Lila Fundaburk (IND)	33,285	.9
John O'Neill (IND)	53,657	1.4
Melissa Singler (SW)	31,805	.8
Pennsylvania:		
William J. Green (D)	2,126,977	46.8
H. John Heinz III (R)	2,381,891	52.4
Andrew J. Watson (CST)	26,028	.6
Frederick W. Stanton (SW)	5,484	.1
Frank Kinces (COM)	2,097	.1
Bernard Salera (LP)	3,637	.1
Rhode Island:		
Richard P. Lorber (D)	167,665	42.0
John H. Chafee (R)	230,329	57.7
Margaret R. Cann (COM)	912	.2
Tennessee:		
James R. Sasser (D)	751,180	52.5
Bill Brock (R)	673,231	47.0
Mark Clark Bates (IND)	5,137	.4
Willie C. Jacox (IND)	1,406	.1
Arnold Joseph Zandie (IND)	1,061	.1
Texas:		
Lloyd Bentsen (D)	2,199,956	56.8
Alan Steelman (R)	1,636,370	42.2
Marjorie P. Gallion (A)	17,355	.5
Pedro Vasquez (SW)	20,549	.5

33 SENATE ELECTIONS IN 1976—cont.

	Votes	Percent
Utah:		
Frank E. Moss (D)	223,948	42.9
Orrin G. Hatch (R)	290,221	55.6
George Merl Batchelor (A)	4,913	.9
Steve Trotter (LIB)	3,026	.6
Vermont:		
Thomas P. Salmon (D)	85,682	45.3
Robert T. Stafford (R)	94,481	50.0
Nancy Kaufman (LU)	8,801	4.7
Virginia:		
E. R. (Bud) Zumwalt (D)	596,009	38.3
Harry F. Byrd, Jr. (Ind)	890,778	57.2
Martin H. Perper (Ind)	70,559	4.5
Washington:		
Henry M. Jackson (D)	1,071,219	71.8
George M. Brown (R)	361,546	24.3
William F. Wertz, Jr. (LP)	3,389	.2
Richard K. Kenney (LIB)	19,373	1.3
Dave Smith (AIP)	28,182	1.9
Karl Bermann (SW)	7,402	.5
West Virginia:		
Robert C. Byrd (D)	556,359	100.0
Wisconsin:		
William Proxmire (D)	1,396,970	72.2
Stanley York (R)	521,902	27.0
Robert Schwartz (SW)	4,876	.3
William O. Hart (DS)	7,354	.4
Michael A. MacLaurin (USLP)	2,148	.1
Robert E. Nordlander (SL)	1,731	.1
Wyoming:		
Gale W. McGee (D)	70,558	45.4
Malcolm Wallop (R)	84,810	54.6

33 SENATE ELECTIONS IN 1974–75

	Votes	Percent
Alabama:		
James B. Allen (D)	501,541	95.8
Alvin Abercrombie (P)	21,749	4.2
Alaska:		
Mike Gravel (D)	54,361	58.2
C. R. Lewis (R)	38,914	41.7
Arizona:		
Barry M. Goldwater (R)	320,396	58.3
Jonathan Marshall (D)	229,523	41.7
Arkansas:		
Dale Bumpers (D)	461,056	84.9
John Harris Jones (R)	82,026	15.1
California:		
Alan Cranston (D)	3,639,334	60.5
H. L. Richardson (R)	2,176,315	36.2
Jack McCoy (AIP)	100,111	1.7
Gayle M. Justice (PFP)	95,394	1.6
Colorado:		
Gary Hart (D)	471,688	57.2
Peter H. Dominick (R)	325,526	39.6
Joseph Fred Hyskell (P)	8,404	1.0
John M. King (IND)	16,131	2.0
Henry John Olshaw (A)	2,394	.3
Connecticut:		
Abraham A. Ribicoff (D)	690,820	63.7
James H. Brannen, III (R)	372,055	34.3
Arthur F. Capozzi, Jr. (GWP)	19,184	1.8
Norman L. Rochon (A)	2,682	.2
Florida:		
Richard (Dick) Stone (D)	781,031	43.4
Jack Eckerd (R)	736,674	40.9
John Grady (A)	282,659	15.7
Georgia:		
Herman E. Talmadge (D)	627,376	71.7
Jerry R. Johnson (R)	246,866	28.2
Hawaii:		
Daniel K. Inouye (D)	207,454	82.9
James D. Kimmel (P)	42,767	17.1
Idaho:		
Frank Church (D)	145,140	56.1
Bob Smith (R)	109,072	42.1
Jean L. Stoddard (A)	4,635	1.8
Illinois:		
Adlai E. Stevenson, III (D)	1,811,496	62.2
George M. Burditt (R)	1,084,884	37.2
Edward Thomas Heisler (SW)	12,413	.4
Ishmael Flory (COM)	5,873	.2
Indiana:		
Birch Bayh (D)	889,269	50.7
Richard Lugar (R)	814,117	46.4
Don L. Lee (A)	49,592	2.8
Iowa:		
John C. Culver (D)	426,947	50.0
David Stanley (R)	420,546	49.3
Lorin E. Oxley (A)	6,028	.7
Kansas:		
Bob Dole (R)	403,983	50.8
Bill Roy (D)	390,451	49.1
Kentucky:		
Wendell H. Ford (D)	398,887	53.6
Marlow W. Cook (R)	328,260	44.1
William E. Parker (A)	17,551	2.4
Louisiana:		
Russell B. Long (D)	434,643	100.0
Maryland:		
Charles McC. Mathias (R)	503,223	57.3
Barbara A. Mikulski (D)	374,563	42.7
Missouri:		
Thomas F. Eagleton (D)	735,433	60.1
Thomas B. Curtis (R)	480,900	39.3
C. E. (Cliff) Talmage (IND)	7,970	.7
Nevada:		
Paul Laxalt (R)	79,605	47.0
Harry Reid (D)	78,981	46.6
Jack C. Doyle (IA)	10,887	6.4
New Hampshire (1975):		
John A. Durkin (D)	140,778	53.6
Louis C. Wyman (R)	113,007	43.1
Carmen C. Chimento (A)	8,787	3.3
New York:		
Ramsey Clark (D)	1,973,781	38.2
Jacob K. Javits (R)	2,098,529	40.6
Jacob K. Javits (L)	241,659	4.7
Barbara A. Keating (C)	822,584	15.9
Rebecca Finch (SW)	7,727	.1
Robert E. Massi (SL)	4,037	.1
Elijah C Boyd, Jr. (LP)	3,798	.1
Mildred Edelman (COM)	3,876	.1
William F. Dowling, Jr. (CRG)	7,459	.1
North Carolina:		
Robert Morgan (D)	633,775	62.1
William E. Stevens (R)	377,618	37.0
Rudolph Nesmith (SL)	8,974	.9
North Dakota:		
Milton R. Young (R)	114,852	48.4
William L. "Bill" Guy (D)	114,675	48.4
Kenneth C. Gardner (IND)	853	.4
James R. Jungroth (IND)	6,679	2.8
Ohio:		
John Glenn (D)	1,930,670	64.6
Ralph J. Perk (R)	918,133	30.7
K. G. Harroff (IND)	76,882	2.6
Richard B. Kay (IND)	61,921	2.1
Oklahoma:		
Henry Bellmon (R)	390,997	49.4
Ed Edmondson (D)	387,162	48.9
Paul Edward Trent (IND)	13,650	1.7
Oregon:		
Bob Packwood (R)	420,984	54.9
Betty Roberts (D)	338,591	44.2
Jason Boe (Write In)	5,072	.7
Pennsylvania:		
Richard S. Schweiker (R)	1,843,317	53.0
Pete Flaherty (D)	1,596,121	45.9
George W. Shankey, Jr. (CST)	38,004	1.1
South Carolina:		
Ernest F. Hollings (D)	356,126	69.5
Gwen Bush (R)	146,645	28.6
Harold Hough (IND)	9,626	1.9
South Dakota:		
George McGovern (D)	147,929	53.0
Leo K. Thorsness (R)	130,955	47.0

33 SENATE ELECTIONS IN 1974–75—cont.

	Votes	Percent
Utah:		
Jake Garn (R)	210,299	50.0
Wayne Owens (D)	185,377	44.1
Kenneth Rex Larsen (A)	24,966	5.9
Vermont:		
Patrick J. Leahy (D)	67,125	47.0
Richard W. Mallary (R)	66,223	46.4
Bernard Sanders (LU)	5,901	4.1
Patrick J. Leahy (IV)	3,504	2.5
Washington:		
Warren G. Magnuson (D)	611,811	60.7
Jack Metcalf (R)	363,626	36.1
Clare Fraenz (SW)	8,176	.8
Gene Goosman (AIP)	19,871	2.0
Patrick Ruckert (USLP)	4,363	.4
Wisconsin:		
Gaylord A. Nelson (D)	740,700	61.8
Thomas E. Petri (R)	429,327	35.8
Gerald L. McFarren (A)	24,003	2.0
Roman Blenski (IND)	5,396	.4

34 SENATE ELECTIONS IN 1972

	Votes	Percent
Alabama:		
John Sparkman (D)	654,491	62.3
Winton M. Blount (R)	347,523	33.1
Herbert W. Stone (C)	6,338	.6
John L. LeFlore (ND)	31,421	3.0
Jerome B. Couch (P)	10,026	1.0
Alaska:		
Gene Guess (D)	21,791	22.7
Ted Stevens (R)	74,216	77.3
Arkansas:		
John L. McClellan (D)	306,398	60.9
Wayne H. Babbitt (R)	248,238	39.1
Colorado:		
Floyd K. Haskell (D)	457,545	49.4
Gordon Allott (R)	447,957	48.4
Henry John Olshaw (IA)	7,353	.8
Secundo (Sal) Salazar (LRU)	13,228	1.4
Delaware:		
Joseph R. Biden, Jr. (D)	116,006	50.5
J. Caleb Boggs (R)	112,844	49.1
Henry M. Majka (A)	803	.3
Herbert B. Wood (P)	175	.1
Georgia:		
Sam Nunn (D)	635,970	54.0
Fletcher Thompson (R)	542,331	46.0
Idaho:		
William E. (Bud) Davis (D)	140,913	45.5
James A. McClure (R)	161,804	52.3
Jean Stoddard (A)	6,825	2.2
Illinois:		
Roman C. Pucinski (D)	1,721,901	37.3
Charles H. Percy (R)	2,667,078	62.2
Edward C. Gross (SL)	13,384	.3
Arnold F. Becchetti (COM)	6,103	.2
Dakin Williams (write-in)	396	----
Iowa:		
Dick Clark (D)	662,637	55.1
Jack Miller (R)	530,525	44.1
William Rocap (AI)	8,954	.7
Fred Richard Benton (IAL)	1,203	.1
Kansas:		
Arch O. Tetzlaff (D)	200,764	23.0
James B. Pearson (R)	622,591	71.4
Gene F. Miller (C)	35,610	4.1
Howard Hadin (P)	12,857	1.5
Kentucky:		
Walter (Dee) Huddleston (D)	528,550	50.9
Louis B Nunn (R)	494,337	47.6
Helen Breeden (A)	8,707	.9
William E. Bartley, Jr. (PP)	6,267	.6
Louisiana:		
J. Bennett Johnston, Jr. (D)	598,967	55.2
Ben C. Toledano (R)	206,846	19.1
John J. McKeithen (IND)	250,161	23.0
Hall M. Lyons (A)	28,910	2.7
Maine:		
William D. Hathaway (D)	224,270	53.2
Margaret Chase Smith (R)	197,040	46.8
Massachusetts:		
John J. Droney (D)	823,278	34.7
Edward W. Brooke (R)	1,505,932	63.5
Donald Gurewitz (SW)	41,369	1.8
Michigan:		
Frank J. Kelley (D)	1,577,178	46.3
Robert P. Griffin (R)	1,781,055	52.3
Patrick V. Dillinger (AI)	23,121	.7
Thomas D. Dennis, Jr. (COM)	1,908	----
Barbara Halpert (HR)	19,118	.5
James Sim (SL)	2,127	.1
Linda Nordquist (SW)	2,389	.1
Minnesota:		
Walter F. Mondale (D)	961,320	56.7
Philip Hansen (R)	742,121	42.8
Karl H. Heck (IG)	8,192	.5
Mississippi:		
James D. Eastland (D)	375,102	58.1
Gil Carmichael (R)	249,799	38.7
Prentiss Walker (IND)	14,662	2.3
O. L. McKinley (IND)	6,203	.9
Montana:		
Lee Metcalf (D)	163,609	52.0
Henry S. Hibbard (R)	151,316	48.0
Nebraska:		
Terry M. Carpenter (D)	265,922	46.8
Carl T. Curtis (R)	301,841	53.2
New Hampshire:		
Thomas J. McIntyre (D)	184,495	56.9
Wesley Powell (R)	139,852	43.1
New Jersey:		
Paul J. Krebs (D)	963,573	34.4
Clifford P. Case (R)	1,743,854	62.5
A. Howard Freund (A)	40,980	1.5
Julius Levin (SL)	10,058	.4
Charles W. Wiley (CVV)	33,442	1.2
New Mexico:		
Jack Daniels (D)	173,815	46.0
Pete V. Dominici (R)	204,353	54.0
North Carolina:		
Nick Galifianakis (D)	677,293	46.0
Jesse A. Helms (R)	795,248	54.0
Oklahoma:		
Ed Edmondson (D)	478,212	47.6
Dewey F. Bartlett (R)	516,934	51.4
William G. Roach (A)	5,769	.6
Joe C. Phillips (IND)	2,264	.2
Paul E. Trent (IND)	1,699	.2
Oregon:		
Wayne L. Morse (D)	425,036	46.2
Mark O. Hatfield (R)	494,671	53.7
Rhode Island:		
Claiborne Pell (D)	221,942	53.7
John H. Chafee (R)	168,990	45.7
Patrick M. DeTemple (SW)	458	.1
John Quattrocchi (IND)	2,041	.5
South Carolina:		
Eugene N. Zeigler (D)	241,056	36.7
Strom Thurmond (R)	415,806	63.3
South Dakota:		
James Abourezk (D)	174,773	57.0
Robert Hirsch (R)	131,613	43.0
Tennessee:		
Ray Blanton (D)	440,599	37.8
Howard H. Baker, Jr. (R)	716,539	61.5
Dan East (IND)	7,026	.6

34 SENATE ELECTIONS IN 1972—cont.

	Votes	Percent
Texas:		
Barefoot Sanders (D)	1,511,985	44.3
John G. Tower (R)	1,822,877	53.4
Flores Amaya (LRU)	63,543	1.9
Tom Leonard (SW)	14,464	.4
Vermont (special election, Jan. 7, 1972):		
Robert T. Stafford (R)	45,646	65.7
Randolph T. Major (D)	23,787	34.3
Virginia:		
William B. Spong, Jr. (D)	643,963	46.1
William Lloyd Scott (R)	718,337	51.5
Horace E. Henderson (IND)	33,912	2.4
West Virginia:		
Jennings Randolph (D)	486,310	66.5
Louise Leonard (R)	245,531	33.5
Wyoming:		
Mike M. Vinich (D)	40,753	28.7
Clifford P. Hansen (R)	101,314	71.3

35 SENATE ELECTIONS IN 1970

	Votes	Percent
Alaska:		
Stevens, Ted (R)	47,908	59.6
Kay, Wendell P. (D)	32,456	40.4
Arizona:		
Fannin, Paul (R)	228,284	56.0
Grossman, Sam (D)	179,512	44.0
California:		
Murphy, George (R)	2,877,617	44.3
Tunney, John V. (D)	3,496,558	53.9
Ripley, Charles C. (AL)	61,251	.9
Scheer, Robert (PF)	56,731	.9
Connecticut:		
Weicker, Lowell P. (R)	454,721	41.7
Duffey, Joseph D. (D)	368,111	33.8
Dodd, Thomas J. (DI)	266,497	24.5
Delaware:		
Roth, William V. (R)	94,979	58.8
Zimmerman, Jacob (D)	64,740	40.1
Gies, Donald (A)	1,720	1.1
Florida:		
Cramer, William C. (R)	772,817	46.1
Chiles, Lawton (D)	902,438	53.9
Hawaii:		
Fong, Hiram L. (R)	124,163	51.6
Heftel, Cecil (D)	116,597	48.4
Illinois (special election):		
Smith, Ralph T. (R)	1,519,718	42.2
Stevenson, Adlai E. III (D)	2,065,054	57.4
Henderson, Lynn (SW)	8,859	.2
Fisher, Louis (SL)	5,564	.2
Indiana:		
Roudebush, Richard L. (R)	866,707	49.9
Hartke, Vance (D)	870,990	50.1
Maine:		
Bishop, Neil S. (R)	123,906	38.3
Muskie, Edmund S. (D)	199,954	61.7
Maryland:		
Beall, J. Glenn, Jr. (R)	484,960	50.7
Tydings, Joseph D. (D)	460,422	48.1
Wilder, Harvey (AL)	10,988	1.1
Massachusetts:		
Spaulding, Josiah A. (R)	715,978	37.0
Kennedy, Edward M. (D)	1,202,857	62.2
Gilfedder, Lawrence (SL)	10,378	.5
Shaw, Mark R. (P)	5,944	.3
Michigan:		
Romney, Lenore (R)	858,438	32.9
Hart, Philip A. (D)	1,744,672	66.8
Lodico, Paul (SW)	3,861	.1
Sim, James (SL)	3,254	.1
Minnesota:		
MacGregor, Clark (R)	568,025	41.6
Humphrey, Hubert H. (DFL)	788,256	57.8
Strebe, Nancy (SW)	6,122	.4
Braatz, William (IG)	2,484	.2
Mississippi:		
Stennis, John C. (D)	286,622	88.4
Thompson, William R. (IND)	37,593	11.6
Missouri:		
Danforth, John C. (R)	617,903	48.1
Symington, Stuart (D)	655,431	51.0
Chapman, Gene (A)	10,065	.8
DiGirolamo, E. J. (IND)	513	----
Montana:		
Wallace, Harold E. (R)	97,809	39.5
Mansfield, Mike (D)	150,060	60.5
Nebraska:		
Hruska, Roman L. (R)	240,894	52.5
Morrison, Frank B. (D)	217,681	47.5
Nevada:		
Raggio, William J. (R)	60,838	41.2
Cannon, Howard W. (D)	85,187	57.6
DeSellem, Harold G. (IA)	1,743	1.2
New Jersey:		
Gross, Nelson G. (R)	903,026	42.2
Williams, Harrison A. (D)	1,157,074	54.0
Job, Joseph F. (IND)	58,992	2.8
O'Grady, William J. (NC)	12,938	.6
Mans, Joseph S. (IND)	6,066	.3
Levin, Julius (SL)	4,009	.2
New Mexico:		
Carter, Anderson (R)	135,004	46.6
Montoya, Joseph M. (D)	151,486	52.3
Higgs, William L. (PC)	3,382	1.2
New York:		
Goodell, Charles (R)	1,178,679	20.1
Goodell, Charles (L)	225,793	3.8
Ottinger, Richard L. (D)	2,171,232	36.8
Buckley, James L. (C)	2,179,640	37.1
Buckley, James L. (IAL)	108,550	1.8
Johnson, Arnold (COM)	4,097	----
Dawson, Kipp (SW)	3,549	----
Emanuel, John (SL)	3,204	----
North Dakota:		
Kleppe, Thomas S. (R)	82,996	37.8
Burdick, Quentin N. (D)	134,519	61.3
Kleppe, Russell (IND)	2,045	.9
Ohio:		
Taft, Robert A., Jr. (R)	1,565,682	49.7
Metzenbaum, Howard M. (D)	1,495,262	47.4
Kay, Richard B. (AI)	61,261	1.9
O'Neill, John (SL)	29,069	.9
Pennsylvania:		
Scott, Hugh (R)	1,874,106	51.4
Sesler, William G. (D)	1,653,774	45.4
Gaydosh, Frank W. (CST)	85,813	2.4
MacFarland, W. Henry (AI)	18,275	.5
Johansen, Herman A. (SL)	4,375	.1
Maisel, Robin (SW)	3,970	.1
Mimms, William R. (CP)	3,932	.1
Rhode Island:		
McLaughlin, John J. (R)	107,351	31.5
Pastore, John O. (D)	230,469	67.5
Fenton, David N. (PFP)	2,046	.7
Fein, Daniel B. (SW)	996	.3
Tennessee:		
Brock, William E. (R)	562,645	51.3
Gore, Albert (D)	519,858	47.4
Pitard, Cecil R. (A)	8,691	.8
East, Dan R. (IND)	5,845	.5
Texas:		
Bush, George (R)	1,035,794	46.5
Bentsen, Lloyd (D)	1,194,069	53.5

35 SENATE ELECTIONS IN 1970—cont.

	Votes	Percent
Utah:		
Burton, Lawrence J. (R)	159,004	42.5
Moss, Frank E. (D)	210,207	56.2
Freeman, Clyde B. (AI)	5,092	1.4
Vermont:		
Prouty, Winston L. (R)	91,198	58.9
Hoff, Philip H. (D)	62,271	40.2
Meyer, William H. (LU)	1,416	.9
Virginia:		
Garland, Ray (R)	145,031	15.3
Rawlings, George C. (D)	295,057	31.2
Byrd, Harry F., Jr. (IND)	506,633	53.5
Washington:		
Elicker, Charles W. (R)	170,790	16.0
Jackson, Henry M. (D)	879,385	82.4
Massey, William (SW)	9,255	.9
Fisk, Edison S. (B)	7,377	.7
West Virgina:		
Dodson, Elmer H. (R)	99,658	22.4
Byrd, Robert C. (D)	345,965	77.6
Wisconsin:		
Erickson, John E. (R)	381,297	28.5
Proxmire, William (D)	948,445	70.8
Hou-Seye, Edmond E. (A)	6,137	.5
Boardman, Elizabeth (IND)	2,022	.2
Quinn Martha (SW)	580	----
Wiggert, Adolf (SL)	428	----
Wyoming:		
Wold, John S. (R)	53,279	44.2
McGee, Gale W. (D)	67,207	55.8

34 SENATE ELECTIONS IN 1968

	Votes	Percent
Alabama:		
Hooper, Perry (R)	201,227	22.0
Allen, James B. (D)	638,774	70.0
Schwenn, Robert P. (NDPA)	72,669	8.0
Alaska:		
Rasmuson, Elmer (R)	30,286	37.4
Gravel, Mike (D)	36,527	45.1
Gruening, Ernest (write-in)	14,118	17.4
Arizona:		
Goldwater, Barry (R)	274,607	57.2
Elson, Roy (D)	205,338	42.8
Arkansas:		
Bernard, Charles T. (R)	241,739	40.9
Fulbright, J. W. (D)	349,965	59.1
California:		
Rafferty, Max (R)	3,329,148	46.9
Cranston, Alan (D)	3,680,352	51.8
Jacobs, Paul (PFP)	92,965	1.3
Colorado:		
Dominick, Peter H. (R)	459,952	58.6
McNichols, Stephen L. R. (D)	325,584	41.4
Connecticut:		
May, Edwin H., Jr. (R)	551,455	45.7
Ribicoff, Abraham A. (D)	655,043	54.3
Florida:		
Gurney, Edward J. (R)	1,131,499	55.9
Collins, LeRoy (D)	892,637	44.1
Georgia:		
Patton, E. Earl, Jr. (R)	256,796	22.5
Talmadge, Herman (D)	885,093	77.5
Hawaii:		
Thiessen, Wayne C. (R)	34,008	15.0
Inouye, Daniel K. (D)	189,248	83.4
Lee, Oliver M. (PFP)	3,671	1.6
Idaho:		
Hansen, George V. (R)	114,394	39.7
Church, Frank (D)	173,482	60.3
Illinois:		
Dirksen, Everett McKinley (R)	2,358,947	53.0
Clark, William G. (D)	2,073,242	46.6
Fisher, Louis (SL)	17,542	.4
Indiana:		
Ruckelshaus, William (R)	988,571	48.1
Bayh, Birch (D)	1,060,456	51.7
Malcolm, L. Earl (P)	2,844	.1
Levitt, Ralph (SW)	1,247	.1
Iowa:		
Stanley, David M. (R)	568,469	49.7
Hughes, Harold E. (D)	574,884	50.2
Higens, Verne M. (P)	727	.1
Kansas:		
Dole, Robert (R)	490,911	60.1
Robinson, William I. (D)	315,911	38.7
Hyskell, Joseph E. (P)	10,262	1.3
Kentucky:		
Cook, Marlow W. (R)	484,260	51.4
Peden, Katherine (D)	448,960	47.6
Olson, Duane F. (Ind.)	9,645	1.0
Louisiana:		
Long, Russell B. (D)	518,586	100.0
Maryland:		
Mathias, Charles McC., Jr. (R)	541,893	47.8
Brewster, Daniel B. (D)	443,367	39.1
Mahoney, George P. (IND)	148,467	13.1
Missouri:		
Curtis, Thomas B. (R)	850,544	48.9
Eagleton, Thomas F. (D)	887,414	51.1
Nevada:		
Fike, Ed (R)	69,068	45.2
Bible, Alan (D)	83,622	54.8
New Hampshire:		
Cotton, Norris (R)	170,163	59.3
King, John W. (D)	116,816	40.7
New York:		
Javits, Jacob (R)	2,810,836	42.7
Javits, Jacob (L)	458,936	7.0
O'Dwyer, Paul (D)	2,150,695	32.7
Buckley, James L. (C)	1,139,402	17.3
Ferguson, Homer (FP)	8,775	.1
Emanuel, John (SL)	7,964	.1
Garza, Hedda (SW)	4,979	.1
North Carolina:		
Somers, Robert V. (R)	566,934	39.4
Ervin, Sam J., Jr. (D)	870,406	60.6
North Dakota:		
Young, Milton R. (R)	154,968	64.8
Lashkowitz, Hershcel (D)	80,815	33.8
Mutch, Duane (TRT)	3,393	1.4
Ohio:		
Saxbe, William B. (R)	1,928,964	51.5
Gilligan, John J. (D)	1,814,152	48.5
Oklahoma:		
Bellmon, Henry (R)	470,120	51.7
Monroney, A. S. Mike (D)	419,658	46.2
Washington, George (A)	19,341	2.1
Oregon:		
Packwood, Robert W. (R)	408,646	50.2
Morse, Wayne (D)	405,353	49.8

34 SENATE ELECTIONS IN 1968—cont.

	Votes	Percent
Pennsylvania:		
Schweiker, Richard S. (R)	2,399,762	51.9
Clark, Joseph S. (D)	2,117,662	45.8
Gaydash, Frank W. (CST)	96,742	2.1
Perry Benson (SL)	7,198	.2
Chertov, Pearl (SW)	2,743	.1
South Carolina:		
Parker, Marshall (R)	248,780	38.1
Hollings, Ernest F. (D)	404,060	61.9
South Dakota:		
Gubbrud, Archie (R)	120,951	43.2
McGovern, George (D)	158,961	56.8
Utah:		
Bennett, Wallace F. (R)	225,075	53.7
Wellenmann, Milton L. (D)	192,168	45.8
Philips, Bruce D. (PFP)	2,019	.5
Vermont:		
Aiken, George D. (R)	94,738	60.2
Aiken, George D. (D)	62,416	39.7
Washington:		
Metcalf, Jack (R)	435,894	35.3
Magnuson, Warren G. (D)	796,183	64.4
Hogenauer, Irwin R. (N)	2,762	.2
Leonard, Debbie (SW)	1,224	.1
Wisconsin:		
Leonard, Jerris (R)	633,910	38.3
Nelson, Gaylord (D)	1,020,931	61.7

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida for the term of 4 years (reappointment).

Robert E. Raiche, of New Hampshire, to be U.S. marshal for the district of New Hampshire for the term of 4 years, vice Victor Cardosi.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, August 10, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

AUTHORIZATION FOR THE COMMITTEE ON JUDICIARY TO MEET 1 ADDITIONAL HOUR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary may be authorized to meet for an additional hour tomorrow beyond what it would be entitled to meet under the Stevenson resolution.

Mr. BAKER. Mr. President, reserving the right to object, will the majority leader advise me whether or not the purpose of the meeting of the Judiciary Committee for the additional hour falls within the scope of his statements and my statement to the effect that, at this point in the session, we did not plan to grant unanimous consent for those purposes, except for the consideration of energy bills or other urgent matters?

Mr. ROBERT C. BYRD. Mr. President, I am given to understand that at least one of the matters that would be taken up in the Judiciary Committee tomorrow would be a matter with respect to the implementation of the Mexican-Canadian prisoner exchange.

Mr. BAKER. Mr. President, I think, under the circumstances, that is a matter that requires our immediate consideration and there will be no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of and voting on S. 1952, the Clean Water Act of 1977, the following members of the staff of Environment and Public Works Committee be granted the privilege of the floor:

John Yago, Philip Cummings, Richard Harris, Leon G. Billings, John Freshman, Sally Walker, James Range, Jacqueline Schafer, Judy Parente, Mike Naeve, Dick Oshlo, and Bob Van Heuvelin.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR LEAHY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that prior to the order for the recognition of Mr. JAVITS on tomorrow, Mr. LEAHY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 1952, THE FEDERAL WATER POLLUTION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the two orders for the recognition of Senators tomorrow, the Senate then proceed to the consideration of the Federal Water Pollution bill, S. 1952, Calendar Order N. 342.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the calendar which have been cleared for passage by unanimous consent.

On the Unanimous-Consent Calendar, Mr. President, I would refer the Chair to that calendar. I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 337, 338, and 345.

The PRESIDING OFFICER. Without objection, it is so ordered.

WESTERN STATES CONSERVATION ACT OF 1977

The Senate proceeded to consider the bill (S. 1614) to establish the Western States conservation program, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Western States Conservation Act of 1977".

SEC. 2. Section 16(b)(1) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)(1)) is amended by—

(1) striking out "Great Plains area" whenever such phrase appears therein and inserting in lieu thereof "Western States region";

(2) striking out in the second complete sentence "Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming," and inserting in lieu thereof "Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming,";

(3) amending the fourth complete sentence to read as follows: "Such plan may also include practices and measures for (A) enhancing fish and wildlife, (B) improving irrigation systems to conserve water, and (C) reducing or controlling agricultural related pollution.";

(4) redesignating clause (v) of the seventh complete sentence as clause (vi) and adding after clause (iv) a new clause (v) as follows:

"(v) to forfeit all rights to disaster pay-

ments for production losses with respect to an agricultural product or commodity under any other law administered by the Department of Agriculture if such production losses are sustained in connection with lands on which permanent conservation measures are installed under a contract entered into under this subsection and such conservation measures are later destroyed by the owner or operator of the farm, ranch or other land; and".

SEC. 3. This Act shall become effective October 1, 1978.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–362), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 1614 amends 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. As amended by the committee, S. 1614 would—effective October 1, 1978—

(1) Extend the program into all 22 contiguous States west of the Mississippi River;

(2) Authorize farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and

(3) Add a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses.

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. Mr. President, I would like to note the passage of S. 1614 by Senator HAYAKAWA, my colleague, and call attention to the fact that this may be his first bill passed. I am not certain that is so, but it may well be and I congratulate him on his diligent and effective work.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GREAT PLAINS CONSERVATION PROGRAM AMENDMENTS OF 1977

The Senate proceeded to consider the bill (S. 896) to amend Public Law 91–118, the act of November 18, 1969 (83 Stat. 194), providing for a Great Plains conservation program, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert the following:

That section 16(b) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)) is amended by—

(1) in the second complete sentence of paragraph (1), striking out "Such contracts may be entered into during the period ending not later than December 31, 1981, with respect to farms, ranches, and other lands in counties" and inserting in lieu thereof "Such contracts may be entered into with respect to farms, ranches, and other lands", and striking out the comma immediately following "Wyoming" and all that follows down through the end of the sentence and inserting in lieu thereof a period; and

(2) in paragraph (7), striking out the colon preceding the word "Provided" and all that follows down through "$25,000,000".

SEC. 2. This Act shall become effective October 1, 1978.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–364), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 896 amends section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program. As amended by the committee, S. 896 would—effective October 1, 1978—

(1) Make the Great Plains conservation program permanent—by striking out the provisions in current law that no new conservation contracts may be entered into after December 31, 1981;

(2) Make the program available to all farmers in eligible States, not just those in counties classified as "semi-arid"; and

(3) Amend the authorization for the appropriations to carry out the program by deleting the current $300,000,000 limitation on total appropriations and $25,000,000 limitation on annual appropriations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SICKLE CELL MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 71) to authorize and request the President to issue annually a proclamation designating September of each year as "National Sickle Cell Month," which had been reported from the Committee on the Judiciary with amendments as follows:

In line 3, strike "annually";

In line 4, strike "of each year" and insert "1977";

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating September of each year 1977 as "National Sickle Cell Month", and calling upon the people of the United States and interested groups and organizations to observe that month with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A joint resolution to authorize and request the President to issue a proclamation designating September 1977 as "National Sickle Cell Month."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was adopted.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 351 (S. 911).

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate also proceed to the consideration of Calendar No. 346 (H.R. 7345), and Calendar No. 347 (H.R. 6502).

Mr. ROBERT C. BYRD. Mr. President, I understand that these measures have been cleared on both sides for passage, by unanimous consent.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the three items are cleared for passage—No. 351, a bill by the distinguished Senator from Connecticut (Mr. WEICKER), 346, and 347. There is no objection to the passage on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEE HWA HONG

The Senate proceeded to consider the bill (S. 911) for the relief of Mr. and Mrs. Brian Logan, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Mee Hwa Hong may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Brian Logan, citizens of the United States, pursuant to section 204 of the Act: Provided, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WEICKER. Mr. President, this bill requests a waiver of the law which only permits for two Korean children to be adopted by a family in this country. This is for a third such adoption. I have no weighty statement to make. This involves the adoption of a third Korean child by the Brian Logans, and God bless them.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 911) was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Mee Hwa Hong.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF AUTOMOBILE ASSISTANCE ALLOWANCE AND EQUIPMENT ELIGIBILITY

The Senate proceeded to consider the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) section 1901 of title 38, United States Code, is amended by striking out "on or after September 16, 1940" in clauses (A) and (B) of paragraph (1).

(b) The amendment made by subsection (a) of this section shall become effective October 1, 1977.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

The Senate proceeded to consider the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert:

That this Act be cited as the "Veterans and Survivors Pension Adjustment Act of 1977".

TITLE I—VETERANS' AND SURVIVORS' PENSIONS

SEC. 101. Section 521 of title 38, United States Code, is amended by—

(1) amending the table in section (b)(1) to read as follows:

"The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,100
.07	1,100	1,700
.08	1,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension for a veteran shall be—$212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000
.06	3,000	3,200
.07	3,200	3,600
.08	3,600	5,070";

(4) striking out "$4,760" in subsection (c)(3) and inserting in lieu thereof "$5,070";

(5) striking out "$155" in paragraphs (1) and (2) of subsection (d) and inserting in lieu thereof "$165"; and

(6) striking out "$57" in subsection (e) and inserting in lieu thereof "$61".

SEC. 102. Section 541 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,700
.07	2,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070";

(4) striking out "$4,760" in subsection (c)(2) and inserting in lieu thereof "$5,070"; and

(5) striking out "$24" in subsection (d) and inserting in lieu thereof "$26".

SEC. 103. Section 542 of title 38, United States Code, is amended by—

(1) striking out "$57" and "$24" in subsection (a) and inserting in lieu thereof "$61" and "$26", respectively; and

(2) striking out "$2,890" in subsection (c) and inserting in lieu thereof "$3,080".

SEC. 104. Section 544 of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 105. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.".

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Section 415 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $152 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,500
.08	1,500	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $107 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.05	1,100	2,000
.06	2,000	2,600
.07	2,600	3,770";

(4) striking out "$3,540" in subsection (c)(3) and inserting in lieu thereof "$3,770";

(5) amending the table in subsection (d)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $102 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,000
.03	2,000	2,900
.04	2,900	3,600
.05	3,600	3,900
.06	3,900	5,070";

(6) striking out "$4,760" in subsection (d)(3) and inserting in lieu thereof "$5,070"; and

(7) striking out "$74" in subsection (h) and inserting in lieu thereof "$79".

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 301. Section 322(b) of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 302. The provisions of this Act shall take effect January 1, 1978.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OCEAN POLLUTION RESEARCH PROGRAM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 339.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1617) to establish a program of ocean pollution research and monitoring, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 725

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I send to the desk several technical amendments, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Washington (Mr. MAGNUSON), proposes an unprinted amendment numbered 725.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, they being technical in nature.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Page 1, line 8, insert the word "the" before the word "coastal".

Page 2, line 4, insert the words "pollutants, including" after the word "of"; and insert a comma after the word "petroleum."

Page 2, delete lines 10 through 13.

Page 2, line 14, change "(5)" to "(4)".

Page 3, delete lines 12 through 13.

Page 3, line 14, change "(4)" to "(3)".

Page 3, after line 19, add the following:

"(4) The term 'marine environment' means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States."

Page 3, after line 19, add the following:

"(5) The term 'ocean pollution' means any short-or long-term change in the marine environment."

Page 3, after line 19, add the following:

"(6) The term 'research plan' means the Federal plan to be prepared pursuant to section 204."

Page 3, line 23, delete the word "annual" and insert in lieu thereof the words ", 3-year research".

Page 4, line 1, delete the word "annually" and insert in lieu thereof the words "every third year".

Page 4, line 3, delete the word "annual" and in insert in lieu thereof the word "research".

Page 4, line 8, insert the words "pollutants, including" after the word "of"; and insert a comma after the word "petroleum".

Page 4, after line 9, insert the following and renumber succeeding paragraphs accordingly:

"(2) a listing and explanation of the research priorities identified by the Administrator in accordance with subsection (d);"

Page 4, line 10, before the word "Director" insert the words "Administrator and the".

Page 5, line 6, delete the words "Director and the".

Page 5, line 7, delete the word "recommend" and insert in lieu thereof the word "identify".

Page 5, line 9, delete the word "annual" and insert in lieu thereof the word "research".

Page 5, line 9, after the word "consultation" insert the words "the Director,".

Page 5, after line 13, insert the following:

(e) PLAN REVISIONS.—The Administrator, with the assistance of the Director, shall prepare and submit to Congress and the President, as part of the annual report required by section 6, a detailed explanation of any revisions of the research plan during the period of such plan.

Page 7, line 19, delete the words "annual plan" and insert in lieu thereof the words "research plan, and any revision thereof,".

Page 7, after line 25 insert the following new section and renumber the succeeding section accordingly:

"SEC. 7. DISCLAIMER.

"Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal agency or department, under any law, to undertake research related to ocean pollution."

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Without objection, the amendments were agreed to en bloc.

Mr. MAGNUSON. Mr. President, when the Senate Committee on Commerce, Science, and Transportation considered the rash of tanker accidents which occurred in U.S. waters earlier this year, we learned of the paucity of information about the effort of oil pollution on the marine environment. Source after source indicated that very little is known about how the environment reacts when confronted with a petroleum spill.

We also saw rather clearly how disorganized the Federal Government ocean pollution activities really are. According to a recent report by the Department of Commerce, at least 11 agencies conduct marine oil pollution research programs: the National Science Foundation; the Environmental Protection Agency; the Bureau of Land Management, the Fish and Wildlife Service, and the U.S. Geological Survey of the Department of the Interior; the National Oceanic and Atmospheric Administration, the Maritime Administration, and the National Bureau of Standards of the Department of Commerce; the U.S. Coast Guard of the Department of Transportation; and the U.S. Navy. According to the Congressional Office of Technology Assessment, these efforts are not always well coordinated—OTA, Coastal Effects of Offshore Energy Systems; November, 1976; page 69. In addition, the OTA report concludes that—

. . . very little money is allocated to projects that address the unknowns of the effects of oil spills.

This same theme is repeated elsewhere in the literature.

Therefore the committee recommended legislation to establish the legal authority for a comprehensive ocean pollution research program, to include oil pollution of the sea. This legislation was contained in title II of S. 682, the Tanker and Vessel Safety Act of 1977. That bill passed the Senate on May 26, 1977, but title II was removed on the floor because of the jurisdictional objections of the Committee on Environment and Public Works. The provision was introduced as a separate bill and referred to that committee for not to exceed 30 legislative days. The Environment Committee took no action on the bill and it was returned to the Senate Calendar last week.

Mr. President, this is an important bill. We need to have an effective, efficient, and well-run research program on ocean pollution. Man-induced changes in the oceans, as in the atmosphere, may well affect the future condition of life on this planet. If we are not prepared to expend the small amount of funds this research requires we truly have our head in the sand.

It is also critical that we designate a lead Federal agency with authority to oversee the coordination of ocean pollution research and to fill the gaps in our efforts. The National Oceanic and Atmospheric Administration is the most logical for this task. The work of that agency after the *Argo Merchant* incident shows their ability to take on these tasks. But the committee does not intend that NOAA do all the research. Other agencies must conduct research related to their missions. Coordination is vital; this is the purpose of S. 1617.

The committee has several technical amendments to the bill. One would change the mandated 1-year research plan to a 3-year plan. This allows for longer range planning and continuity.

Mr. President, I urge the favorable passage of this bill. I also ask unanimous consent that chapter II of the recent report by the Department of Commerce on Ocean Pollution and the relevant passages from Senator Report No. 95–176 be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TANKER AND VESSEL SAFETY ACT OF 1977

(Report of the Senate Committee on Commerce, Science, and Transportation on S. 682 to amend the Ports and Waterways Safety Act of 1972, to increase the use of vessels of the United States to carry imported oil, and for other purposes)

6. OCEAN POLLUTION RESEARCH AND MONITORING

The Committee has approved new statutory authority to address the question of ocean pollution research and monitoring. It

has been well established that far more needs to be known about oil pollution in the sea, as well as ocean pollution generally. In its report on *Petroleum in the Marine Environment* issued in 1975, a National Academy of Sciences panel concluded:

"In general, much more research regarding the fates and effects of petroleum hydrocarbons in the marine environment is needed. Studies to date indicate that areas polluted with petroleum hydrocarbons "recover" within weeks or years (depending on local conditions and the characteristics of the petroleum); however, composition of the local biological communities may be altered. The oceans have considerable ability to purify themselves by biological and chemical actions. A basic question that remains unanswered is, "At what level of petroleum hydrocarbon input to the ocean might we find irreversible damage occurring?" The sea is an enormously complex system about which our knowledge is very imperfect. The ocean may be able to accommodate petroleum hydrocarbon inputs far above those occurring today. On the other hand, the damage level may be within an order of magnitude of present inputs to the sea. Until we can come closer to answering this basic question, it seems wisest to continue our efforts in the international control of inputs and to push forward research to reduce our current level of uncertainty."

More recently, the Congressional Office of Technology Assessment issued an analytical report on *Coastal Effects of Offshore Energy Systems: An Assessment of Oil and Gas Systems, Deepwater Ports, and Nuclear Powerplants Off the Coast of New Jersey and Delaware*. That report found that very little public research money is allocated to projects that address the unknowns of the effects of oil spills and other pollutants. The report also stated that there is little cooperation among Federal agencies on ocean pollution research.

Under title II of the Marine Protection, Research, and Sanctuaries Act (Public Law 92–532), the Secretary of Commerce is directed to initiate a comprehensive program and continuing program of research with respect to the possible long-range effects of ocean pollution. However, no funds have ever been expended for this kind of program. Instead, a number of projects undertaken by several Federal agencies are listed as the "comprehensive program" in an annual report by the Secretary. And as the Office of Technology Assessment report indicates, there is little coordination among these agencies. Consequently, neglect and unnecessary duplication has resulted. The purpose of title II of S. 682 is to end this situation.

Finally, in conjunction with the Outer Continental Shelf baseline research programs, the "monitoring" activities of the Federal Government were evaluated. In a report entitled, *The Environmental Quality Monitoring Report* (February 1976), the Task Team proposed the establishment of a monitoring function in the National Oceanic and Atmospheric Administration. It was stated by the team:

"The introduction of pollutants into the marine environment, a result of man's activities, may have severe effects on the Outer Continental Shelf environment. In some areas these contaminants may be hazardous to health through ingestion of seafood products. Potential losses and restricted uses of certain living marine resources suggest economic hardship to portions of the fishing industry. Also, recreational areas may be lost as a result of contamination by high concentrations of pollutants. The Outer Continental Shelf Task Team proposes a monitoring program combined with the necessary R&D and special studies to provide the data to properly assess and monitor the effects of man's activities on the environmental quality of the OCS. The program is proposed to follow two broad, continuous, and parallel streams of action. One will involve the integration and coordination of existing facilities and plans. The other will identify activities that require further development and planning."

Title II of S. 682 addresses this issue as well.

REPORT TO THE CONGRESS ON OCEAN POLLUTION, OVERFISHING, AND OFFSHORE DEVELOPMENT, JULY 1974 THROUGH JUNE 1975

(Submitted in compliance with section 202 (c), title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (Public Law 92–532), June 1976)

CHAPTER II. OCEAN POLLUTION

Coastal waters receive polluting materials from a variety of point and nonpoint sources. Materials are introduced into the coastal environment from polluted rivers and streams, land runoff, barge and other vessel dumping, discharges of shoreline outfalls, wastes discharged from submerged pipes, deballasting and bilge pumping, vessel casualties, shipping operations, and atmospheric transport. The open ocean, while relatively insulated from the myriad sources of pollutants affecting estuaries and the nearshore areas, is beginning to show signs of man's impact. The mid-ocean areas evidence elevated petroleum hydrocarbon levels, particularly along heavily trafficked tanker routes, as well as elevated concentrations of heavy metals and synthetic hydrocarbons, carried to remote oceanic regions through the atmosphere. Oceanic currents also play a role in transporting polluting materials from nearshore regions to deeper waters.

For both the nearshore and deepwater regions, the basic informational needs are essentially the same. These include: (1) sources and quantities of anthropogenic materials reaching the marine environment; (2) pathways of such materials into and through the food chain; (3) the toxicity of the materials to marine organisms and to man through the consumption of seafood; and (4) the persistence of the pollutant in the marine environment. In addition, research must be focused on both the acute or immediate effects as well as the longer-term or chronic effects on marine organisms. While there are many investigations in progress in this country and others, the task ahead is immense and the present state of knowledge in many of the fundamental areas of research is far from adequate. The problems of ocean pollution will require continuous and systematic study by all countries capable of making a contribution.

During FY 1975, the National Academy of Sciences released two major reports concerned with ocean pollution. The report entitled *Petroleum in the Marine Environment* provides an excellent summary of what is currently known about the subject and where future research efforts sought to be applied. A synoposis of this report is provided in Appendix B. The scond NAS report on marine pollution issued in FY 1975 is *Assessing Potential Ocean Pollutants*. The result of a 2½-year effort by a study panel and workshop, this report is significant because it describes and tests a methodology for ascertaining whether or not a given substance will adversely impact the marine environment. The report is summarized in Appendix C.

Marine pollution research in this country has focused on petroleum hydrocarbons, heavy metals, and man-made (synthetic) hydrocarbons. The rationale for this is that these three classes of chemical compounds: (1) are already present, in widely varying concentrations, in the oceans of the world; (2) have or may have toxic effects on marine life; (3) may or may not have a relationship to human health and well-being; and (4) will continue to be introduced into the oceans more or less in direct relation to their production, transport, and use.

PETROLEUM HYDROCARBONS

Petroleum hydrocarbons are introduced into the oceans as the result of offshore oil production activities, oil tanker operations, vessel casualties, coastal refinery operations, atmospheric transport, shoreline discharges of municipal and industrial wastes, land runoff, and natural submarine seeps. As stated in last year's annual report, the problem of estimating input and flux of PHCs in the marine environment has proven to be a most difficult task. The above-cited NAS study on petroleum in the oceans provides a "best estimate" of 5.5 million metric tons annually, to the oceans from man's activities. Petroleum additions to the oceans from natural seeps in the sea floor cannot be measured with any scientific certainty. The NAS estimate for this pathway was 0.6 mta, giving an overall total of 6.1 mta.

Research on petroleum hydrocarbons is carried out in four general areas: inputs, analytical methods, fate of PHCs (physical, chemical, and biological), and effects of PHCs. While there are a large number of research activities in progress in all these areas, the state of knowledge with respect to oil in the ocean environment is still quite incomplete. For example, information is lacking on such basic problems as how much oil enters the marine environment and from what sources, how to distinguish between PHCs and biogenic hydrocarbons, and how to assess oil spills in an adequate manner.

Marine oil pollution research programs

Many governmental agencies and private organizations are currently involved in research on oil pollution in the marine environment. Federal agencies that conduct or sponsor marine oil pollution research activities are: the National Science Foundation; the Environmental Protection Agency; the Bureau of Land Management; Fish and Wildlife Service (FWS) and the U.S. Geological Survey (USGS) of the Department of the Interior; the National Oceanic and Atmospheric Administration, the Maritime Administration, and the National Bureau of Standards (NBS) of the Department of Commerce; the U.S. Coast Guard of the Department of Transportation; and the U.S. Navy of the Department of Defense. Coastal states are also conducting or sponsoring research on various aspects of marine oil pollution. In addition, the National Academy of Sciences, Ford Foundation, Battelle Memorial Institute, American Petroleum Institute (API), various oil companies, and other organizations carried out during the reporting period studies of the distribution, fate, or effects of oil in the ocean. The nature of research programs and activities by these public agencies and private organizations is briefly summarized.

National Science Foundation. As part of its IDOE program, NSF sponsors basic research programs on the transfer and effects of pollutants, including oil, in the marine environment. In the Controlled Ecosystems Pollution Experiment, which started in 1973, natural marine communities contained in large plastic enclosures located offshore of British Columbia are subjected to low-level and long-term exposures of selected contaminants. The first CEPEX test involving petroleum was started in the summer of 1974. Preliminary findings showed that at low concentrations of PHCs (approximately 10–20 ppb) there was an enhancement of primary productivity (phytoplankton). However, more recent studies have shown that water extracts of fuel oils in concentrations of 40–60 ppb; caused a rapid population decrease followed by species shifts in these lower trophic levels. The population decrease occurs at the same time the hydrocarbon concentrations in the water column decreases. This could be the result of adsorption of the

PHCs to particulate matter, including the dying plankton, and consequent settling to the bottom. Another tentative conclusion from the CEPEX project is that the efforts of metals and petroleum on bacteria are short-term due to rapid adaptation (in days) of the populations to imposed stress. No work is underway to study the effects of contaminants on benthic organisms.

The CEPEX effort is unique because it is an attempt to bridge the gap between laboratory results and field observations of the fates and effects of selected contaminants on marine organisms in their natural environment.

Also as part of its IDOE program, NSF initiated in 1972 the Pollutant Transfer Program. While NSF's earlier Baseline Program (1971–1972) indicated levels of contaminants in water, sediment, and biota, it did not provide information on the pathways or mechanisms controlling the rate of pollutant transfer from the source and within the ocean environment. The goals of the Pollutant Transfer Program are: 1) to identify important transfer pathways and mechanisms; 2) to evaluate major environmental factors that affect transfer processes; and 3) to develop principles governing transfer of pollutants.

During the first 2 years, primary research emphasis in the Pollutant Transfer Program has been on the transport of petroleum, as well as chlorinated hydrocarbons and trace metals, to the ocean via the atmosphere, rivers, sewage and industrial outfalls, and ocean dumping. Research also was begun on the chemical form and degradation of these pollutants in the marine environment. Biological studies were designed to investigate the mechanisms of pollutant uptake by organisms, to verify transfer through the food web, and to quantify the role of organisms in pollutant dispersion.

A workshop sponsored by NSF in January 1974 reviewed the findings of the program and presented recommendations for additional research on pollutant transfer. It was pointed out that little or no research attention was being directed toward pollutants other than the three major classes (petroleum hydrocarbons, heavy metals, and synthetic organics) and that this deficiency should be corrected. The workshop participants suggested that more work must be done to determine quantitative fluxes of the three major classes of pollutants. Also recommended was an analytical means to distinguish between natural and anthropogenic sources of heavy metals and petroleum hydrocarbons in the marine environment. The NSF published in 1974 a review of the initial 2-year research effort carried out under the Pollutant Transfer Program.

Environmental Protection Agency. Research programs on the effects of oil in the marine environment are carried out by EPA in partial response to Resolution 12 of the International Conference on Marine Pollution (London, 1973), which considered the need to establish water quality criteria for the protection of the marine environment. As a part of the mission to develop the scientific basis for the establishment of water quality criteria for marine and estuarine waters, EPA is conducting toxicological studies on the acute and chronic effects of pollutants, including petroleum and heavy metals. To date the agency has conducted original investigations to determine the acute toxicity of six petroleum products on four test organisms, determined physiochemical properties of water emulsions of test oils, completed a thorough literature review on the relative effects of different refined fractions of crude oil, and developed acute toxicity bioassay procedures for oil and oil dispersants. EPA has continued developing bioassay methods to assess chronic and acute responses of marine organisms to oil pollution using a flow-through system. Besides examining measurable expressions such as feeding rates, tissue reactions are followed carefully in order to determine any possible relationships between physiological responses and tissue aberrations.

Field and laboratory studies are being carried out to determine the effects of oil spills on marine biota. Uptake of benzopyrenes by marine mollusks is being studied in an attempt to find possible cause/effect relationships between oil components and the incidence of cancer lesions in these animals, as has been reported to happen in oil spill sites. Laboratory experimentation is being conducted to determine the effect of different concentrations of oil on eggs, larvae, and juvenile fish. Further studies are being designed to determine the effect of petroleum on reproductive physiology of fish. Also, EPA is supporting a project granted to the University of Rhode Island to study the response of ecosystems to oil stress. The experimental system is expected to simulate the conditions in Narragansett Bay, Rhode Island. As oil is applied to the ecosystem, several physiological, ecological, and chemical parameters will be monitored to follow the impact of oil on the ecosystem.

Department of Commerce. NOAA has major research programs at Seattle, Washington, and Auke Bay, Alaska, to determine and understand the effects of petroleum oil on marine organisms. The ultimate objectives of these programs are to learn how well organisms tolerate various levels of exposure to oil and to define the limits of this tolerance. This knowledge is required where relatively low levels of oil are continually released to the marine environment from sewage, industrial effluents (including offshore drilling operations), land runoff, recreational or transportation activities, and where oil remains after a large spill.

In FY 1975, a NOAA interdisciplinary team, working at the National Marine Fisheries Service (NMFS) Northwest Fisheries Center at Seattle and at Auke Bay continued to examine both the acute and chronic effects of petroleum hydrocarbons.

Acute effects of oil/water dispersions and water-soluble fractions on different life stages of fish and shellfish were studied. Larvale forms were more sensitive to oil and oil fractions, particularly during molting. The frequency of molting by crustacean larvae appears to make them especially sensitive to contact with oil. Sensitivity of animals during their different life stages may be more critical than differences in sensitivities among species. Of the eight species tested, all had similar median tolerance limits, fish and shrimp were the species having best tolerances, but juvenile crab were the most resistant. Data suggest that toxicity of oil fractions is related to the amount of naphthalenes or chemically similar compounds present. The toxic fraction is volatile; after its evaporation, surviving fish recovered. After-effects of this exposure are still unknown.

Chronic effects on marine organisms of sublethal levels of petroleum and its fractions are being studied. Physiological and biochemical parameters are estimated to detect changes in the organisms and to determine whether these changes could affect the survival of the species. The studies document the role of such variables as temperature, concentration of oil or oil fractions, manner of exposure, and size, age, and sex of the animals. Some species of crabs lost their legs when they were exposed to oil during molting. When salmonids were fed high levels of oil, they had abnormal liver cells and structure that suggest possible metabolic and functional alterations. These factors may be involved in the observed decreased growth rate when the fish were fed high levels of oil. Salmonids contain enzymes that permit the breakdown of aromatic hydrocarbons. This ability suggests possible adaptation to the presence of petroleum oil if the initial exposure is at a level that allows time for activation of the enzymes. The enzymes and other mechanisms formed metabolic products in various organs of the body. Their effects and degree of accumulation are still unknown.

Research personnel from NOAA, EPA Region X, and the Washington State Department of Biology completed a 2-year interdisciplinary field study on the long-term chemical and biological effects of a persistent oil spill from the grounded (1972) troopship *General G. C. Meigs* in a cove on the northwest coast of Washington. The only organisms that appeared to be affected were sea urchins, which had recovered by the end of the study, an algae, which (except for the species *Laminaria andersonii*) also had recovered by the end of the study period. Intertidal plants and animals, fresh oil, and weathered tar balls were analyzed to follow changes in content of paraffin (aliphatic) hydrocarbon during the period.

Accumulation of petroleum compounds in tissues of fish and shellfish appears to be affected by types and levels of petroleum compounds, methods of exposure, and species exposed. The species that were tested metabolized the aliphatic (paraffin) compounds. Pink salmon fry rid themselves of most of the accumulated naphthalenes even though the fish remained in contaminated water. After exposed shellfish were removed to clean water, juvenile king crab rapidly cleansed themselves of the petroleum compounds, but scallops and shrimp had a much slower rate of cleaning.

The accumulation of fish of the aromatic compounds such as naphthalenes and anthracenes was related to chemical structure of the compounds. The larger the size of the molecule the slower the excretion rate of the compound and the greater the possibility of higher levels accumulating. Thus, anthracene compounds remain a longer time than benzene compounds. Benzene disappears so rapidly that it is rarely detected after the animal is removed from exposure. The potential of excreted compounds, whether parent compound or its metabolic products, for recycling and accumulation in other animals is unknown.

In addition to the work being done at Seattle and Auke Bay, the NOAA Office of Sea Grant sponsored during FY 1975 various university research efforts related to marine oil pollution.

Sea Grant researchers at the Massachusetts Institute of Technology are developing a model to predict the trajectory of oil spills given the type of oil, volume of spill, and spill location. The model will predict the size, shape, and movement of a spill as a function of time. This information can be used to develop appropriate methodology for effective nearshore and offshore cleanup systems. It will also be useful to decisionmakers relative to the siting of deepwater ports and terminal installations.

A Sea Grant-sponsored study at Woods Hole Oceanographic Institution is focused on the physicological and biochemical effects of oil on selected fishes. Researchers have shown that chronic and acute exposure to environmental levels of petroleum hydrocarbons alters the carbohydrate and lipid metabolism of those species under study. In anticipation of such stresses, baseline studies are underway at the University of Alaska to assess background levels of petroleum hydrocarbons in the sediment and dominant benthic organisms in Prudhoe Bay. These data will be used to assess the environmental impact of offshore development in this area. Similar effects studies at Louisiana State University are designed to determine the impact of petroleum hydrocarbons on commercially important species, including shrimp and oysters. Special emphasis is being placed on rates of uptake and release of petroleum hydrocar-

bons and their effect on growth and recruitment of young oysters.

Also within the Department of Commerce, the Maritime Administration continued to carry out its pollution abatement research and development program and sponsored a sampling program designed to measure hydrocarbon concentrations along heavily travelled tanker routes in the Pacific Ocean. In its research and development program, MarAd is evaluating vessel equipment and operating procedures and systems to enable U.S. vessels to operate within specified national and international discharge standards without undue economic penalty. Major R&D antipollution activities in FY 1975 included the evaluation of on-board oil/water separation and processing equipment, oil discharge control and monitoring systems, improved tank cleaning procedures, segregated ballast designs, navigation equipment, explosion suppression aboard tankers, and deepwater port equipment.

Since 1971, Exxon Corporation, under contract to CorAd, has been collecting and analyzing water samples along tanker routes in the Atlantic, Indian, and Pacific Oceans, and in the Mediterranean Sea. This worldwide sampling effort was designed to generate baseline data on the concentration and distribution of hydrocarbons (including both petroleum hydrocarbons and naturally occurring hydrocarbons) in the open sea. During the 1971–1973 sampling program in the Atlantic and Indian Oceans, water samples were obtained from Exxon tankers and from oceanographic research vessels and were analyzed. More than 1,050 samples were taken along four main tanker routes in the Atlantic Ocean and adjacent seas. Samples were taken from the top meter of the water column and at a depth of 10 meters. The results of the 1971–73 program indicate that the median concentration of nonvolatile hydrocarbons (C_{14} and higher) was 4 parts per billion (ppb) with values from 1.3 ppb to 13 ppb falling within one standard deviation. These values include hydrocarbons produced by marine organisms. In the South and North Atlantic, most surface water was found to contain <10 ppb of nonvolatile hydrocarbons. An occasional sample was found to contain 10–25 ppb. Some higher concentrations were found near ports in the northern part of the Mediterranean Sea and in the Indian Ocean near the Persian Gulf. However, the higher values, according to the Exxon study, probably result from recent input of petroleum from shipping activity near the immediate sampling area.

The Exxon-MarAd Atlantic Ocean survey was followed by a comparable baseline study in the Pacific Ocean. This survey began in mid-1973 and was completed in 1974. NOAA joined MarAd as a sponsor of the Pacific Ocean survey by Exxon. The Pacific sampling program differed from that in the Atlantic in that volatile hydrocarbons (C_4–C_8) also were measured.

Analysis of some 850 surface and subsurface samples collected in the Pacific Ocean was completed in FY 1975. The 1973–74 survey included tanker routes between such distant points as Southern California, Adak, Honolulu, Tokyo, Singapore, Wellington, Antarctica, and the Panama Canal.

Surface water in the Pacific was predominantly of <10 ppb hydrocarbon content. Nonvolatile hydrocarbons showed a median surface water concentration of 2 ppb, with values from 0.8 ppb to 13 ppb falling within one standard deviation. The highest values were found between San Francisco and Cook Inlet, Alaska. Samples from the 2,800-meter depth showed median concentrations of 0.5 ppb. The median concentration of volatile hydrocarbons was 0.09 ppb, with little difference between surface and the 2,800-meter depth. North Pacific waters appeared to contain higher concentrations of both volatiles and nonvolatiles as compared with the South Pacific. Only the northwest sector and, in particular, the San Francisco/Cook Inlet tanker route had hydrocarbon concentrations in the 10–25 ppb range. Tokyo harbor water had a measured concentration of 25 ppb.

To identify the origin of the hydrocarbons, analyses are made of the sample's complex compositions. Such analyses frequently indicate the presence of one or more compounds that came from marine organisms. However, petroleum-type hydrocarbons appear to dominate, even in samples where hydrocarbons from marine organisms occur. Petroleum-derived hydrocarbon compounds can originate from natural seeps or man's activity. Further investigative work is needed to find a more definitive indication of hydrocarbons derived from these sources.

The National Bureau of Standards is supporting NOAA in the OCS Environmental Assessment Program now underway in Alaska. The NBS is carrying out trace hydrocarbon analyses and is serving as a quality assurance laboratory for hydrocarbon analysis in sediments, tissue, and fish. NBS personnel participate in the initial sampling cruise made by each NOAA laboratory or contractor that undertakes hydrocarbon analyses. The NBS laboratory receives sample splits from all participating laboratories and processes them to provide quality assurance and interlaboratory correlation. The NBS is also developing methods and equipment needed to conduct trace hydrocarbon analysis in sea ice and at the air-ice-water interface.

Department of the Interior. Within the U.S. Geological Survey there are ongoing studies on pollution by heavy metals and organic chemical compounds in rivers, and coastal, estuarine, and continental shelf waters. The input of pollutants from rivers has been measured at selected stations for many years. The general "state of pollution" in estuaries, has been studied in most west coast estuaries, some gulf coast estuaries, and one east coast estuary. Ongoing studies have been accelerated in outer continental shelf areas of potential leasing for oil and gas development. The field studies are complemented by laboratory studies that include organic and trace metal geochemistry, origin of petroleum hydrocarbons, pollution indexes, and fate and dispersion of contaminants. The effects of OCS activities on aquifers that extend seaward beyond the coast also are being studied by the Geological Survey.

The role of the Bureau of Land Management in marine oil pollution research is in the context of the offshore oil and gas leasing program which that agency administers. BLM activities in this area are described in Chapter IV. Also described in Chapter IV are activities of the Fish and Wildlife Service which is conducting studies to determine the effects of acute and chronic oil pollution on migratory birds, including seabirds, at its Patuxent, Maryland, Wildlife Research Center.

Coast Guard. Development of forecasting techniques to predict pollutant movements is continuing. Coast Guard emphasis is fourfold: to develop field guides for use by operating personnel in forecasting movement of oil and hazardous substances in specific harbors of interest; to define procedures for the preparation by trained personnel of general field guides for any harbors; to continue to examine the potential of computers to assist in the movement forecasting problem; and to define the models and data base on movement mechanisms for petroleum products, cryogenic materials, and other hazardous substances. Specific harbor guides have been developed for New York, Puget Sound and San Francisco; guides for Galveston, San Diego and Long Beach are now being completed. Several computer models are being tested for accuracy and application to Coast Guard mission objectives. As an input to the environmental impact analysis of proposed deepwater port and offshore drilling sites off the New Jersey/Delaware coast, the Coast Guard has provided the Office of Technology Assessment (OTA) a statistical movement guide for potential oil spill accidents.

An air-deliverable, high-volume pumping system for off-loading liquid cargo from a stricken vessel was developed and delivery of eighteen operational systems to National Strike Teams was completed in FY 1974. A high seas oil containment barrier system capable of air transport and deployment was also developed. This system can contain oil in current speeds up to 1 knot and in 4-foot waves and can survive in higher currents and wave heights. Delivery of fifteen operational systems to field commands was completed in FY 1975. Development of two high seas oil recovery systems was completed in FY 1975 and procurement of operational systems is scheduled for FY 1976. The feasibility of two concepts to control and remove oil in currents of up to 10 knots was demonstrated. Further work is underway to demonstrate the feasibility of these concepts to function as total removal systems. Research continued on the feasibility of using inexpensive cotton wastes as a sorbent oil removal system.

Studies and field tests were completed on the risks, fate, and effects of petroleum spills in the Arctic environment to support the need for developing the necessary response and cleanup capability. Commercially available oil recovery equipment was tested with oil in an ice tank to evaluate its feasibility for use in an ice-laden environment. Two devices demonstrated that they had potential.

The Coast Guard's Pollution Incident Report System (PIRS) continued to provide valuable statistical data on oil discharges into the navigable waters of the United States, the contiguous zone, and the high seas.

Studies are continuing in an effort to develop means to separate and monitor waste oil in bilge and ballast water discharged from ships. Current projects include laboratory and shipboard analysis of a centrifugal oily water separator system and development of oil-in-water content monitors. Prototype development of one or more of these monitors is also planned. In addition, a test facility is being developed in Mobile, Alabama to accommodate testing of oily water separating and monitoring equipment for compliance with specifications proposed by the Intergovernmental Maritime Consultative Organization (IMCO). Data obtained at the facility will be used to determine the validity of the proposed specifications, to support the U.S. position on the specifications before IMCO, and to draft U.S. domestic specifications. These efforts continue to be closely coordinated with MarAd, EPA, and the Navy.

Coast Guard operational evaluations of a prototype multisensor airborne surveillance system have been highly successful. Several oil pollution discharge violation cases during FY 1975 were directly attributable to detections by the system of vessels discharging under cover of bad weather and cloud cover. The prototype equipment is currently being upgraded and installed in an HC–130 aircraft for long term operational use. Future systems to fit smaller surveillance aircraft are under development. Operational evaluations of fixed-site-spot and scanning sensors at several harbor locations continue.

Systems to provide capabilities for the positive identification of the source of spilled oil are being procured and distributed to operating Captain of the Port units. Usage of these systems has resulted in an ever-increasing savings in U.S. Government contingency funds that would have been expended for spill cleanup had polluting

sources not been promptly identified and caused to recover the spilled oil. Sampling and transmittal procedures and equipment for use by oil spill investigation teams are being made available to Coast Guard field commands.

Energy Research and Development Administration. Battelle Memorial Institute (Battelle-Northwest) continued their studies for the Energy Research and Development Administration (ERDA) on the fate and effects of oil in the marine environment. The studies were centered on determining the effects of long-term, chronic exposure to oil on marine intertidal communities and individual organisms, and the ultimate fate of the oil in the intertidal environment. Major progress was made in the development of a flow-through exposure system that would enable researchers to deliver known amounts of seawater-borne oil solution to organisms or communities for periods of 6 to 12 months. The system was tested and detailed analyses of the concentration and compound types present in the system were conducted.

U.S. Navy. The Navy, through the Office of Naval Research (ONR), in FY 1975 continued to sponsor several research projects that examine the microbial degradation of petroleum hydrocarbons. The Navy is supporting work at Texas University, Austin, the University of Maryland, Rutgers University, Georgia State University, State University of New York (Brockport) on microbial degradation of crude oils and other forms of PHCs. In addition, ONR is funding research on degradation of PHCs under low-temperature marine conditions at the University of Rhode Island.

A study at the Texas University Medical Branch is concerned with the chronic effects of hydrocarbons on chemoreceptive membranes of marine invertebrates. A similar effects study with bacteria is underway at Harvard University. This investigation shows that chlorinated hydrocarbons have a greater inhibitory effect on chemoreception than PHCs.

Private section oil pollution research

In the private sector, various research organizations and industrial groups are engaged in various facets of marine oil pollution research. Some of the more significant investigaitons carried out during the FY 1975 period are described.

The Ford Foundation, as part of its Energy Policy Project, published in 1974 a review of the ecological and technological aspects of marine oil pollution. The Ford Foundation document recommends that, because of the large knowledge gaps and conflicting opinion surrounding marine oil pollution, great caution be applied in making policy decisions involving oil and the marine envronment. The report urges more and better research into the problem, particularly in the more neglected aspects, such as sublethal effects, oil pollution in estuaries, background levels of biogenic and petroleum hydrocarbons, and oil pollution and its relationship to human health.

The oil industry sponsors research on marine oil pollution through the American Petroleum Institute (API), individual companies, and regional consortia. Recent API-sponsored field and laboratory research includes: sorbent recovery systems; effects of oil and chemically dispersed oil on selected marine biota; testing of oil recovery equipment; oiled waterfowl rehabilitation techniques; shoreline protection and restoration methods; biological effects of pelagic oil (tar balls); microbial degradation of PHCs; sublethal effects on marine organisms subjected to chronic exposure to oil; fate of oils in a water environment; and development and validation of techniques for the analysis of petroleum components in water, sediments, and marine animal tissues.

API has made a direct contribution to laboratory studies on oil in the marine environment by establishing four reference oils for use by their contractors. These four oils include a southern Louisiana crude, a Kuwait crude, a Venezuelan Bunker C, and a No. 2 fuel oil. Limited amounts of these reference oils are available at Texas A&M University at nominal cost for other research workers.

The Institute has sponsored since 1974 a study of growth irregularities and abnormalities in marine biota subject to long-term natural seepage. The study site is Coal Oil Point, California, and the present contractor is the Allan Hancock Foundation of the University of Southern California (USC). Findings to date indicate no adverse sublethal effects on selected benthic organisms and no relationship between PHCs in sediments and either the biomass or the abundance or presence/absence of any group or organisms.

Another API-sponsored project at USC involves the development of a computerized model capable of describing and perhaps predicting the actual exposure of marine animals at all depths to major PHC fractions found in an oil spill. Work on this contract is scheduled for completion in early 1976; the final report will include a description of the oil spill simulation model and validation of the model. For validation, USC investigators have been comparing model predictions against known spill data from Santa Barbara, controlled experimental spills in the Chesapeake Bay, and the accidental spill in Chedabucto Bay, Nova Scotia (1970). API reports that some impressive correlations between computer predictions and actual spill trajectories have been obtained.

The JBF Scientific Corporation is under contract to API to conduct four planned oil spills about 60 miles off the coast of Massachusetts. The objective is to obtain physical and chemical data on the dispersion of oil slicks in the water column by natural forces. This project supplements the USC oil spill model project. It will provide information for model development and verification in areas previously identified by the USC researchers and data-deficient.

API also sponsored a followup study of the West Falmouth area affected by the 1969 spill of No. 2 fuel oil. The contractor is the Woods Hole Marine Biological Laboratory. This study has shown that the bottom fauna have substantially recovered, although the number of species in the affected marsh area is lower than at the control marsh. The offshore area is nearer to total recovery than the marsh areas.

HEAVY METALS

Environmental stress caused by the introduction of heavy metals can alter the ecosystem and limit the recruitment, abundance, and distribution of living marine resources. Heavy metals can kill marine organisms or so contaminate them that they are a hazard to human health. To provide a basis for environmental management, it is necessary to learn what levels of heavy metals can cause mortalities and what levels limit development, growth, reproduction, and other physiological processes at various stages in their life history. Heavy metals that accumulate in various tissues and organs are of concern to humans who eat these marine species.

Research on physiological and biochemical effects

National Oceanic and Atmospheric Administration

Studies were underway in the laboratory to determine how heavy metals—such as arsenic, cadmium, copper, mercury, nickel, zinc, and silver—affect the normal life functions of certain marine species. These experiments, when correlated with contaminant levels in the environment, will indicate the marine animals that are extremely sensitive to minute amounts of metals and also the animals or communities that are likely to flourish where traces of specific metal contaminants are present. Another area of research interest was the long-term effects that heavy metals may have on marine organisms.

Experiments to measure physiological and biochemical changes in various species of marine shellfish, including lobsters, and fish common to the Atlantic Coast have been continued. Results have shown, for example, that different metals have different effects on different early life stages of the American oyster. Eggs are more sensitive than larvae to mercury and silver, less sensitive to copper and zinc, and equally sensitive to nickel. On the other hand, juvenile bay scallops are less sensitive than oyster eggs to mercury and silver, but more sensitive to cadmium and arsenic. This shows the need to understand how heavy metals affect all life stages of a number of species before firm conclusions can be drawn regarding the effects of heavy metals on marine ecosystems. When exposed to low concentrations of heavy metals for 1 to 4 months, a number of juvenile and adult fish, mollusks, and crustaceans showed differential stress response. These responses included altered rates of oxygen consumption, biochemical dysfunction, changes in blood components, and rapid uptake of metals (silver, cadmium, and mercury). Histopathological examinations of certain fish species were also undertaken.

Environmental Protection Agency

Experiments have been made to assess the effect of an array of metals on early life stages of several marine organisms. Differences in toxicity of the same metal appear within the same groups of organisms and between groups. Studies also have been made to determine cadmium and copper uptake by shellfish in long-term exposure tests.

National Science Foundation

NSF also supports research on the biological effects of heavy metal pollutants on marine organisms and ecological communities. Both laboratory and field experiments are included. Laboratory work is concerned mainly with effects of pollutants on single classes of organisms. Field studies are integrated into the Controlled Ecosystem Pollution Experiment of IDOE. This cooperative research project of international scope involves trapping water and natural communities in large plastic enclosure (10 m diameter by 30 m deep) and assessing the effects of added pollutants on marine ecosystems—the long-term effects influencing the stability of marine populations. The initial CEPEX enclosures are in Saanich Inlet, Vancouver Island, British Columbia. CEPEX is described under International Marine Pollution Research Activities.

Metals in seafood and sediments

Federal agencies and university researchers are making considerable effort to quantitate how much trace metals humans contribute to the marine environment and to evaluate the potential threat of these metal additions to marine organisms and the people who consume them. A number of programs are measuring concentrations of trace metals in marine organims. Some of these are monitoring programs and others are basic research efforts to understand the cycling and transfer processes of metals in the marine environment.

National Oceanic and Atmospheric Administration

NOAA has the major Federal Government program now underway to determine baseline levels of metals in seafood. This effort,

known as the Resource Survey, has been underway since 1971. The goals and objectives of this program are to:

1. Define occurrences of microconstituents (trace metals) in marine fish and fishery products,

2. Assess significance of the amount of metals in seafood in relation to human consumption,

3. Influence the establishment of sound regulation or guidelines, and

4. Establish an information base to assist other organizations with related responsibilities.

Initially, a preliminary resource survey was made to measure the concentrations of 15 elements (mercury, lead, cadmium, arsenic, selenium, silver, chromium, copper, zinc, nickel, molybdenum, vanadium, manganese, antimony, and tin) in muscles and livers of 204 species of marine fish and shellfish (85% finfish and 15% shellfish) from seven major geographical areas (North and Mid-Atlantic, South Atlantic, Gulf of Mexico, California, Pacific Northwest, Alaska, and Hawaii). Data from this survey will identify potential problems relative to certain trace metals in particular species and geographical areas. The second phase of the study—detailed surveys—has been initiated to confirm the extent and nature of potential problems. These surveys will determine: (a) levels of trace metals; (b) their relationship to size and sex of organisms, season, and locale; and (c) the necessity or possibility of managing the problem. The third phase of the program will be to relate consumer intake of trace metals in fish to consumer intake from other food sources. All samples for the first goal have been collected, and 85 percent of the analytical data have been collected. An interim report of the resource survey, which has just been released, describes the approach used in planning and carrying out this survey and includes analytical data representing approximately the first third of the survey samples assembled.

NOAA personnel participated in two dumpsite studies in 1974 and 1975 to collect sediments and deep-sea fish samples for heavy metal analyses in the vicinity of Deepwater Dumpsite 106. This site, located 90 nautical miles east of Cape Henlopen, Delaware, in water depths of about 2,000 meters, is used for the disposal of industrial wastes.

Sediment samples were collected and analyzed for heavy metal content. It was determined that at most stations having water depths of about 2,000 meters there was relatively little heavy metal present when compared with sediment samples collected inshore in polluted areas such as the New York Bight Apex. However, it was noted that these sediments had somewhat more heavy metals than sediments collected from the outer reaches of the continental shelf in the Bight. This may be due either to dumping operations or to materials being carried down the Hudson Shelf Valley.

The data from the two cruises provide information on the distribution of heavy metals in sediments and fishes from deeper waters. It is possible that future industrial and domestic wastes may be dumped at sites beyond the continental shelf-slope break. The information at hand provides a preliminary baseline.

Environmental Protection Agency

EPA is sponsoring studies to determine the influence of dredged material and sediment pollution on trace metal assimilation by organisms and to document the history of heavy metal pollution in estuaries. EPA has also issued a grant designed to answer specific questions concerning the fate and impact of trace metal pollution in marine waters.

Interagency Program

The National Shellfish Sanitation Program, conducted by a group of Federal, State, and private sector research organizations, is sponsoring a Chemistry Task Force which is attempting to establish environmental levels of four trace metals (lead, copper, zinc, and cadmium) in approved shellfish growing beds along the Atlantic, Gulf, and Pacific coasts of the United States and Canada. This represents an attempt to determine background concentrations of these metals in different growing areas so that metal contaminated shellfish beds can be readily identified. Once this is known, efforts can be made by appropriate State and Federal agencies to identify and eliminate sources of unnatural inputs of these metals to these growing areas. To accomplish this task, standard procedures have to be followed by all participants. During 1975 the Task Force published a brochure entitled *Chemical Procedures, Collection, Preparation, and Analysis of Trace Metals in Shellfish.* (Department of HEW publication #FDA 76-2006). These methods will be used by all participants to (1) establish background levels of trace elements and (2) identify areas where contamination may have occurred.

Pollutant transfer studies

National Ocean and Atmospheric Administration

Research is underway in NOAA to determine (1) the cycling of heavy metals in estuaries and coastal waters of the Southeastern United States and (2) the effects of these metals on biota common to the region. Research completed to date includes studies on the influence of environmental variables on the concentrations of trace metals in marine organisms and on the flux of trace metals in the estuarine environment. In addition, research began during the past year to determine the lethal and sublethal effects of copper on marine biota. This work is directed toward determining which chemical forms of copper are most toxic to marine organisms in the estuarine environment and then designing bioassay experiments in the laboratory which will expose the test organisms to these specific chemicals.

SYNTHETIC HYDROCARBONS

Insecticides, herbicides and polychlorinated biphenyls (PCBs) are synthetic hydrocarbons that threaten the marine environment. Many such compounds persist in the environment and are toxic at low concentrations. These chemicals, particularly the chlorinated hydrocarbons, accumulate in aquatic food chains and could adversely affect not only such organisms as fish and fish-eating birds, but also man, the ultimate consumer.

The EPA is carrying out a major research program on the effects of synthetic hydrocarbons on marine ecosystems at the Gulf Breeze Environmental Research Laboratory (GBERL) in Gulf Breeze, Florida. Activities at GBERL during FY 1975 included: (1) evaluating the impact of pesticides and PCBs on marine ecosystems and continuously updating methods to appraise overall ecological effects; (2) determining the pathways and mechanisms of microbial degradation of pesticides in the marine environment; (3) assaying new pesticides and pesticides involved in EPA's reregistration process for effects on specific marine organisms and populations of "indicator" species; and (4) establishing water quality criteria for pesticides and PCBs by utilizing information obtained in items listed above and by studying effects of the chemicals on sensitive life stages and behavior of selected organisms. Specific research projects and findings during FY 1975 are described in the following.

The chemical, toxaphene, has been the most widely used insecticide in the United States in recent years, accounting for over 50 percent of total organochlorine insecticides applied to crops. Even greater amounts of toxaphene may be applied in the future because of restrictions on related insecticides such as DDT, aldrin, dieldrin, heptachlor, and chlordane. Increased usage of toxaphene may present environmental problems. For example preliminary data obtained by GBERL during FY 1975 indicate that newly hatched sheepshead minnow fry, exposed for 28 days to five concentrations of toxaphene ranging from 0.2 to 2.5 ppb suffered potentialy harmful effects. The fry survived exposure to 1.1 ppb, but died when exposed to 2.5 ppb. Hatching time and growth appeared to be unaffected by 0.2 to 2.5 ppb of toxaphene. Fry bioaccumblated toxaphene 6,100 to 14,000 times the concentration measured in water.

Research has continued to assess the potential effects of other pesticides such as heptachlor, hexachlorobenezene (HCB), and DDT. Acute bioassays to determine effects of heptachlor on various life stages of the sheepshead minnow indicated that the 96-hour LC_{50} for fry was 3.6 ppb; for juveniles, 10.5 ppb, and for adults, 16.3 ppb. Tentative analysis of data from tests that included the reproductive portion of the life cycle indicates that safe concentrations were 18 to 27% of concentrations lethal to half of the juvenile fish in 96-hour tests.

Twenty-eight-day bioaccumulation studies were conducted to determine the effects of HCB on the American oyster and the pinfish. Each test was followed by a 28-day depuration period to record the rate of loss of HCB's four isomers. Maximum concentration factors were 210 in oyster meat and 125 in pinfish muscle. After a 7-day depuration period, no HCB was detected in oysters or pinfish. A 96-hour flow-through bioassay was conducted to determine the IC_{50} of DDT to juvenile brown shrimp. These data were effects of proposed DDT applications to crops in Louisiana. The LC_{50} for DDT in this test was 0.14 ppb.

The recent discovery that wastes from a manufacturer of the chlorinated hydrocarbon insecticide Kepone have contaminated the lower James River, necessitated a new research effort to evaluate the impact of this pollutant on this estuarine system. Experiments will attempt to reveal the level of concentration of Kepone in organisms that are commercially harvested in the James River estuary. These organisms constitute a direct route of this potential carcinogen to humans. Studies will also focus on the loss of Kepone from organisms transplanted to clean water, the direct toxic effects of Kepone on individual organisms, the potential ecological hazards in the James River estuary, and the fate and persistence of any harmful compounds in the estuary. These data will aid in the assessment of the problem and in developing effective corrective action.

Another group of synthetic chlorinated hydrocarbons, PCBs, are manufactured by one company in this country. These complex mixtures have been used as transformer oils, condenser dielectrics, plasticizers, printing components, and other industrial products. They are stable and persistent and, like DDT, are widely prevalent in the environment. They are found in ocean water, sediment, and biota. In the United States, about 40 million pounds of PCBs are produced each year.

Tests indicate that all PCBs are toxic to certain estuarine organisms and their degree of bioaccumulation is significant. A study is underway to determine the amount and modes of input of PCBs in the Los Angeles Bight. Preliminary results indicate that atmospheric fallout is a significant source (up to 30%) of the local input of PCBs. The rate of input and solubilities of one tested form differ from those of other forms of PCBs. In addition, caged mussel experiments indicate that the rate of depuration of PCBs is approximately the same as the rate of uptake.

Recently, the U.S. manufacturer of PCBs voluntarily restricted their distribution. However, studies show that both freshwater

and marine organisms continue to accumulate these chemicals in their fatty tissues.

In the area of methodology for synthetic hydrocarbon research, it has long been recognized that long-term, sublethal exposures of organisms to pollutants provide valuable information in assessing the potential stress of contaminants to estuarine and marine organisms and ecosystems. Such studies have been limited by: the inability of many species to mature and reproduce under laboratory conditions; relatively lengthy time requirements for entire life cycles; the high costs of necessary environmental controls; and the lack of information on the nutritional requirements of larval stages.

Two recent developments may improve this situation. First, it has been determined that the sheepshead minnow, an estuarine fish of the Atlantic and Gulf Coasts, is suitable for both partial chronic and chronic (egg-to-egg) bioassays The fish is easily held at high population densities in the laboratory and produces numerous eggs. Generation time for this species is short (3 to 4 months) and its small adult size (average male length is 48 mm) provides for relatively inexpensive bioassays. The susceptibility of this species to organochlorine chemicals is similar to that demonstrated by other estuarine fishes. Tests utilizing this fish, therefore, should yield significant information on the effects of toxicants on the estuarine community.

Second, laboratory experiments conducted over the past several months indicate that small, estuarine shrimp-like crustaceans called mysids may function as reliable, practical bioassay animals for use in conducting life-cycle studies for the purpose of determining sublethal effects of contaminants. Based on tests using cadmium, the mysid demonstrated sensitivity to this toxicant an order of magnitude greater than previously exhibited by other estuarine biota.

Thus, in terms of laboratory maintenance, life-cycle time requirements, and representatives of response, the mysid appears to be an organism quite suitable for long-term bioassay studies. Its utilization apparently can conserve time and resources and aid in the establishment of water quality standards and effective water pollution control procedures.

NOAA's National Marine Fisheries Service conducted research to determine the levels of DDT and PCBs in three Pacific Coast species of fish (lingcod, albacore tuna, and striped bass) and one menhaden fish and products (meal, oil, solubles, and stickwater) from the Middle Atlantic, South Atlantic, and Gulf of Mexico. DDT and PCB levels in 58 out of 60 samples of the three Pacific Coast species did not exceed 1.0 ppm which is well below the Food and Drug Administration (FDA) action level for raw fish of 5.0 ppm for both compounds. A pronounced decrease in DDT and PCB levels in menhaden was noted over the 5-year period 1969–74. This decrease is probably due to the restricted use of DDT in agriculture and PCBs in manufacturing.

NOAA Sea Grant research on the environmental impacts of sythetic hydrocarbons has concentrated primarily in the effects of persistent chlorinated hydrocarbons (pesticides) on food chains in the Great Lakes. Scientists at the University of Wisconsin are analyzing the accumulation and impact of these compounds (i.e., DDT, PCB, DDE, dieldrin, aldrin, and HCB) and their major degradation products (metabolites) on phytoplankton and zooplankton in Lake Michigan. Several microbial strains in the sediments of the lake were found to actively dechlorinate or degrade the PCBs. A project just beginning is focusing on the effects of various PCBs on the morphology, development, and survival of lake trout. Early results suggest detrimental effects are substantial. In a more positive vein, another contaminant, 3-trifiouro-methyl-4-nitrophenol, has been deliberately placed into the tributaries of Lake Michigan in a successful effort to control the sea lamprey. PCBs have become a severe contaminant problem in Lake Michigan, with levels in some large lake trout and salmon reaching 50 parts per million (ppm), ten times the safe levels for consumption set by the FDA. Sea Grant scientists have found that salmon and trout concentrate PCBs at one hundred thousand to a million times the levels found in surrounding waters. In effect, the fish feed as the PCB sinks, taking in these compounds very rapidly and eliminating them very slowly. The compounds are taken up through the gills, fins, and skin.

Other Sea Grant-sponsored studies have examined the effect of PCBs on monkeys and have shown that animals fed half the recommended safe FDA levels in their diets (2.5 ppm) suffered severe health problems, developing acne, hair loss, swollen eyelids and lips, enlarged livers, and stomach uclers within two months. The infants of PCB–fed females are small and contain comparable levels of PCB in their fatty tissue. Detectable levels persist in both mothers and infants for 1½ years. Though man is not likely to consume this level of PCBs on a continuous basis in his diet, the research does raise questions about the safe levels set by the FDA since the money's metabolic pathways are similar to man's.

At its Great Lakes Fishery Laboratory in Ann Arbor, Michigan, the Fish and Wildlife Service determines the identity, severity, areas of distribution, and changing trends of contaminants (DDT, DDE, and PCBs) that are a potential threat to the fish and fisheries of the Great Lakes. FWS also determines the toxicity thresholds of contaminants in physiological and biochemical systems of the Great Lakes fishes and invertebrates.

The NSF/IDOE program is studying synthetic organic compounds in its pollutant transfer and biological effects programs. Light halocarbons, including Freon and dry cleaning solvents have been measured in air and in the surface waters along the coasts. The transport routes for heavier halocarbons including DDT, toxaphene, and PCBs are surface runoff, rivers, and the atmosphere, depending on their volatility. Toxaphene, a pesticide used in growing cotton, is presently transported to the Atlantic Ocean in concentrations 100,000 times greater than DDT. The biological effects of synthetic organic compounds are also being studied. The decreasing levels of DDT and PCBs off California are leading to better reproductive success of marine animals and birds. In the laboratory, different life stages of crabs and shrimp are being exposed to PCBs and polychlorinated naphthalene (Halowax) with deleterious effects at the 10 ppb level. The ability of marine bacteria to degrade PCBs is also being studied.

In summary, new information on the effects of synthetic hydrocarbons is becoming available, particularly in regard to single species. The introduction of these compounds into the marine and estuarine environments is being more stringently controlled. More information, however, is required before the total impact of these materials can be predicted and effectively controlled. Specifically, knowledge of the ecosystem response to synthetic hydrocarbons, both singly and in combination, must be broadened before the environmental stress caused by these compounds can be properly evaluated and controlled.

MAJOR REGIONAL STUDIES OF OCEAN POLLUTION

New York Bight

The New York Bight, a 15,000-square-mile area of the ocean extending from the tip of Long Island, New York, to Cape May, New Jersey, and out to the edge of the continental shelf, is the ultimate repository of about 4 million metric tons of industrial wastes and 5 million metric tons of sewage sludge annually from the New York/New Jersey metropolitan region. Although ocean dumping of industrial and municipal wastes accounts for a significant fraction of the contaminants entering the Bight, at least five other sources or pathways of pollutants are important. They are: sewer outfalls, dredging and dredge spoil disposal, land runoff, the Hudson and Raritan Rivers, and atmospheric transport.

In the early 1970s NOAA initiated the Marine Ecosystem Analysis (MESA) program, which consists of multidisciplinary investigations of the ecology of a given marine environment and the changes in that natural system which result from human activities and natural forces. The New York Bight was selected as the first U.S. coastal area to undergo a comprehensive study under this program.

In FYs 1974 and 1975 most of the resources of the MESA New York Bight project were directed to an investigation of the immediate problems of dumping of wastes in the Bight. However, work was also initiated to: (1) determine the effects of existing and projected pollution loads from the other major sources; and (2) investigate the nearshore ocean processes such as currents, wave patterns, and sediment movement in order to improve coastal zone management and coastal engineering decisions.

While ocean dumping is the most visible and probably most aesthetically displeasing activity contributing to the overall contamination of the New York Bight, it is only one of many contaminant sources. Sewage sludge provides a source of nutrients when dumped in the Bight, but the quantity introduced in this manner is small compared to the river input. Regarding heavy metals, MESA researchers have concluded that the Hudson and Raritan estuaries are the likely major sources of metals to the Bight, followed by the dredge spoil dumpsite. The exception to this is mercury of which 70 percent of the total input is attributed to shoreline wastewater discharges. Dumped sewage sludge contributes less than 6 percent of the heavy metal load. Unchlorinated municipal wastewater and urban runoff from combined sewer overflows contribute the bulk of the microbial load. There is no evidence of shoreward movement of dumped sewage sludge, and MESA scientists have concluded that, at present levels of sewage sludge dumping, there is no threat to shoreline communities. Nevertheless, some areas of the Bight are heavily polluted and large sectors are closed to shellfishing due to ocean dumping and other pollutant sources. The MESA project is sponsoring a study by Manhattan College on contaminant inputs to the New York Bight. A report from this study is expected to be issued in 1976.

Great Lakes studies

The International Field Year for the Great Lakes (IFYGL) is a joint United States and Canadian multiyear program that includes an intensive field study of Lake Ontario and its drainage basin. The 1-year data collection effort was completed in March 1973. Data on physical, chemical, and biological properties were collected from ships, buoys, towers, and aircraft by radars and rawinsondes and at meteorological and hydrologic stations.

The IFYGL studies were conducted on both a whole-lake scale and on a fine scale for the nearshore and selected tributaries to determine distributions and variability in specific sections of the lake. The whole-lake scale studies provide information on the balances of physical, chemical, and biological properties in terms of input, output, and storage. The fine-scale studies provide information on the mechanisms by which effluents are transported and distributed. Studies of harbors

and embayments are providing information on the fate of effluents discharged into these waters as a function of the physical characteristics of the shore area and the lake.

The IFYGL data and analysis results will provide a basis for determining the distribution and fate of pollutants in Lake Ontario. Mathematical models are under development and test to stimulate the important processes in determining the impact of man's activities on the lake's future state and its value as a resource for various uses. Much of the information collected during IFYGL may be applicable to the other Great Lakes.

The IFYGL Water Movement Project is investigating the water movements and mixing processes involved in the distribution and variability of pollutants. These studies include: analyses of physical properties, development of diagnostic and simulation models of the deep lake and coastal circulation, and the effects of diffusion and of internal and surface waves. Analyses of IFYGL data are yielding significant results on these physical parameters and the hydrodynamic models show promise of useful simulations.

The occurrence and accumulation of hazardous materials in the lake and the biotic system are being investigated through a series of transport pathway studies. Hazardous materials, such as radioactive materials, pesticides, organics, etc., were sampled on a limited basis to determine the magnitude of their input and very detailed mapping of chlorophyll *a* was undertaken on a weekly basis to measure the eutrophic status of the lake.

A fish survey was conducted during IFYGL as a first step in an ongoing program to guide management initiatives aimed at restoring the fish stocks of Lake Ontario and the other Great Lakes. Both nearshore and deep lake surveys were conducted to determine the species and distribution of fish still inhabiting Lake Ontario. A species distribution study has been completed and a long-period study of the relationships of the lake biota and the physical and chemical properties of the lake is underway.

Work is continuing on analysis of IFYGL data to provide descriptive summaries of the distributions and variability of measured parameters, statistical relationships of the parameters and processes observed, and simulation and prediction models of the physical, chemical and biological processes occurring in the lake. This analysis phase is expected to be completed in FY 1976. These products will have almost immediate utility in making decisions relative to use of the lakes as an effluent dumping ground, as a source of water for public and industrial use, as fish and wildlife habitat, and as a recreational resources. They also will increase our scientific understanding of the Great Lakes as a total system.

Another joint Canada-United States activity concerned with Great Lakes water quality is the implementation of the 1972 Great Lakes Water Quality Agreement. The Agreement establishes certain water quality objectives to be achieved by both countries. The International Joint Commisson (IJC), established in 1909, was designated by the two governments to coordinate activities under the Agreement. This task was delegated, pursuant to the Agreement, to the Great Lakes Water Quality Board, which is located at Windsor, Ontario. Basically, the mission of the board is to coordinate joint activities, monitor progress under the Agreement, report annually to the two governments on such progress, and make recommendations to help achieve the objectives of the Agreement.

In addition to the basic 1972 Agreement, the IJC was requested by the two governments to conduct studies of: (1) the water quality in Lakes Huron and Superior; and (2) pollution of the Great Lakes from agricultural, forestry, and other land use activities. The work of the Upper Lakes Reference Group was well underway in FY 1975 and the Group expects to issue its final report on pollution in the upper lakes to the IJC in mid-1976. The objectives of the Reference Group on Great Lakes Pollution From Land Use Activities are to:

Assess problems, management programs and research, and to attempt to set priorities on the effects of land use activities on Great Lakes Water Quality;

Inventory land use and land use practices, with emphasis on certain trends and projections to 1980 and, if possible, to 2020;

Study small number of representative watersheds to permit extrapolation of data to the entire Great Lakes Basin and to relate contamination of water quality which may be found at river mouths to specific land uses and practices; and

Diagnose degree of impairment of water quality in the Great Lakes, including assessment of concentrations of contaminants of concern in sediments, fish, and other aquatic resources.

This investigation is expected to require 5 years (1973–78).

INTERNATIONAL MARINE POLLUTION RESEARCH ACTIVITIES

Four major international cooperative programs of marine research are reviewed. Among these are the International Decade of Ocean Exploration (IDOE) Environmental Quality Program, the NATO Committee on the Challenges of Modern Society (CCMS), the Global Investigation of Pollution in the Marine Environment (GIPME), and the Interated Global Ocean Station System (IGOSS).

International decade of ocean exploration

The National Science Foundation's IDOE program supports basic research on ocean pollution. Projects study the movement of pollutants into the ocean, the effects of these pollutants on marine life, and geochemical indicators of ocean mixing and diffusion.

The Geochemical Ocean Sections Study (GEOSECS) effort began with collection of water samples at 121 carefully picked locations in the Atlantic and 130 locations in the Pacific. Scientists are now analyzing nearly 40 different geochemical features of these samples. This data will provide a better understanding of the diffusion of material in the oceans, the stirring and mixing that goes on in the deep ocean, and the exchange of water and gas with the atmosphere. Geochemists from 14 United States universities are taking part in GEOSECS. Scientists from Belgium, Canada, France, Germany, India, Japan, and the United Kingdom are also participating in the program, or are carrying out similar efforts coordinated by U.S. investigators. GEOCECS investigators are now preparing a final data report of shipboard analysis and several detailed geochemical atlases.

The main concern of the Pollutant Transfer Program is to find out how pollutants reach the ocean and what happens to them once they get there. The air is a major route for chlorinated and petroleum hydrocarbons and trace metals destined for the sea. Most of the airborne trace metals over the open ocean and Antarctica are from normal weathering of the earth's crusts. Concentrations of several trace metals (zinc, copper, antimony, lead, selenium, and cadmium), however, are far higher than those predicted to be of crustal origin.

The major routes for pollutant transfer to coastal waters are rivers and sewage and industrial outfalls. Wastes from these sources subject estuaries to the most severe man-induced stresses in the marine environment. Researchers at the Skidaway Institute of Oceanography are tracing iron, manganese, copper, cadmium, and mercury through salt marsh estuaries out to the continental shelf off the southeastern United States. On the west coast, scientists are trying to identify how lead in different chemical forms enters the Southern California Bight. They are now sampling dissolved and particulate lead in the ocean near sewage outfalls and in rain and storm runoff.

The Biological Effects Program is using laboratory studies to evaluate the effects of metals, petroleum, and chlorinated hydrocarbons on bacteria, phytoplankton, zooplankton and more complicated marine creatures. Scientists ran acute toxicity tests to find how sensitive various organisms are to specific pollutants. By reducing the fatal dosages the researchers can determine the effects of pollutants on important processes like respiration, reproduction, and photosynthesis.

In these preliminary tests, heavy metals (e.g., mercury) and chlorinated hydrocarbons (e.g., PCBs) were generally more toxic than petroleum hydrocarbons for most tested species. Crude oils from Kuwait and Louisiana, and Number 2 fuel oil were toxic to phytoplankton in extremely small concentrations (15–150 parts-per-billion).

The effects of pollutants on communities of organisms are the concern of scientists in the Controlled Ecosystems Pollution Experiment (CEPEX). Scientists from the United States, the United Kingdom, and Canada are studying the natural marine communities captured in large plastic enclosures. These large cylindrical bags (8 ft. x 52 ft.; and 33 ft. x 96 ft.) are suspended in Saainch Inlet, Victoria, British Columbia.

Planktonic organisms trapped inside the enclosures went through an ecological sequence common to waters surrounding the enclosures. Experiments using the smaller enclosures included measuring the effects of low concentrations of copper, mercury, and petroleum hydrocarbons. The results of the copper experiments showed that low concentrations (10 and 50 ppb) of copper caused an immediate mortality of plankton species, followed by the development of bacterial and plankton populations that appear to tolerate these low copper concentrations. The mercury experiments were similar to those of copper. Mercury, however, was toxic to these organisms at lower concentrations (0.25–1.0 ppb), and the effects were not as rapidly detectable as those of copper. One interesting result showed that bacteria exposed to either of these metals showed an increased tolerance to the other metal.

Preliminary findings from the petroleum hydrocarbon experiments were even more striking than those of the copper experiments. At low concentrations of PHCs (approximately 10–20 ppb) there was an enhancement of primary productivity among certain marine organisms. However, more recent studies have shown that water extracts of fuel oils in concentrations between 40–60 ppb caused a rapid population decrease followed by species shifts in these lower trophic levels. The research suggests that the PHC concentration in the water column decreases within a few days after introduction. This could be the result of the adsorption of these compounds to particulate matter, including dying plankton, which carries them to the bottom where they are degraded by bacteria in the sediment.

General implications resulting from the CEPEX project indicate that the effects of metals and PHCs on bacteria are transient and short-term due to rapid (days) adaptation of the populations to imposed stress. Phytoplankton, likewise, adapt to stress quickly (less than 15 days). Some physiological measurements (respiration, excretion rates) have shown very little relation to pollution stress in zooplankton. Other indices of metabolic well-being (egg production, feeding rate) are sensitive indicators of stress at sublethal levels. In general, small zooplankton, regardless of species, are more sensitive than larger organisms. The consequences of pollution on organisms at high

trophic levels, for the most part, remains unresolved.

In 1969 the North Atlantic Treaty Organization (NATO), accepting an initiative proposed by the United States, added a social dimension to its activities by establishing a Committee on the Challenges of Modern Society. The North Atlantic Council directed CCMS to examine ways to improve the exchange of information among member countries relative to creating a better environment and to consider specific problems of modern society with the objective of stimulating action by member governments.

CCMS identified oil spills as a problem of urgent concern and therefore gave it early priority. CCMS activities are organized by individual member countries of NATO, each acting as a "pilot" for one or more activities. Belgium accepted the role of "pilot" on the problem of oil spills, as a first step in the broader project of coastal water pollution. In late 1970 the Belgium Government convened in Brussels an international conference on oil spills. A significant outcome of this conference was a resolution by the NATO Foreign Ministers committing their governments to work toward the elimination of intentional discharges of oil and oily wastes into the sea by 1975, if possible, but no later than the end of the decade. This NATO/CCMS resolution was adopted as the goal of the Inter-Governmental Maritime Consultative Organization (IMCO) International Conference on Marine Pollution held in London in October 1973. The outcome of that conference was the International Convention for the Prevention of Pollution From Ships, 1973, which is now open for ratification.

Belgium, as "pilot country", together with the United Kingdom and the Netherlands, initiated a North Sea Pollution Project. The major effort in this project is development of a North Sea diagnostic model which was completed in 1975. The basic CCMS North Sea model has also been modified for application in the estuaries of the Tagus River in Portugal and the Po River in Italy. At the end of fiscal year 1975, the CCMS nations were considering possible followup efforts to the North Sea Pollution Project.

Integrated Global Ocean Station System

The Marine Pollution Monitoring Pilot Project is part of the Integrated Global Ocean Station Syntem program cosponsored by the Intergovernmental Oceanographic Commission of UNESCO and the World Meteorological Organization. The purpose of the Pilot Project is to bring together and coordinate the national activities of various countries, and to develop common methodology into a global organization on marine pollution monitoring.

Initially, the Pilot Project was to be limited to the monitoring and assessment of petroleum hydrocarbons, but with the possibility of adding or extending the project eventually to cover other pollutants. Oil was selected as the initial contaminant because: (1) it is recognized as a worldwide problem; and (2) many nations have an interest and varying capabilities to participate in some way.

An Operational Plan for the Marine Pollution Pilot Project was designed around the recommendations made at a Marine Pollution Monitoring Symposium and Workshop held in May 1974 at the National Bureau of Standards. Specifically, the Pilot Project was designed to collect data on the following:

Oil slicks and other floating pollutants visually observed from participating ships

Floating particulate petroleum residues (tar balls)

Dissolved or dispersed PHCs in surface waters

Tar on beaches

The areas that will be concentrated on initially by the Pilot Project are areas of the North Atlantic, waters around Africa, the Norwegian Sea, ocean areas around Japan, and the northern part of the Indian Ocean. These areas were selected to take into account the regions of offshore oil production, oil transportation routes, and ocean current patterns. However, observations from all ocean areas are encouraged. Data collected by participating countries will be made available to a spectrum of ocean users.

Efforts are underway to coordinate and encourage the participation of U.S. Federal agencies, academic institutions, and private industries in the Pilot Project. To provide for U.S. participation in the project, and to ensure compatibility with ongoing activities and programs, the U.S. plan will be implemented in phases. The first phase, which began in early 1975, consists of developing reporting procedures for visually observable pollutants, obtaining sampling informaton from ongoing programs, and receiving, archiving, and disseminating data.

To date, the primary U.S. effort in IGOSS has come from the Federal agencies, specifically NOAA, U.S. Navy (Military Sealift Command), and Coast Guard ships. The Coast Guard has provided data on visual observations of oil slicks and tar balls. For the past two years, Coast Guard vessels have been routinely sampling coastal surface waters while occupying Ocean Weather Station Hotel and on fisheries patrol. This program is an attempt to determine the source, quantity, and possibly the residence time of tar balls in the marine environment. The Coast Guard Research and Development Center has managed the Tarball Sampling Program and has developed a method for determining the areal distribution of tar at various locations in the open sea.

Data input from the private sector so far has been limited to that from Exxon Corporation which has supplied results of petroleum dissolved hydrocarbon analyses of water samples from its open ocean sampling program.

The IGOSS Marine Pollution Monitoring Project did not get underway until late in FY 1975 and not many observations were reported in that year. However, the project has demonstrated that some cooperation could be obtained at the national level for a pollution monitoring program. Probably more important, the project has established a reporting network for the receipt, analysis, and dissemination of marine pollution data.

Global investigation of pollution in the marine environment

GIPME is a program of the Intergovernmental Oceanographic Commission whose purpose is to provide an international framework within which national and regional programs on various aspects of marine pollution may be coordinated in order to contribute to a continuing evaluation of global marine pollution problems. This goal is to be achieved through strategies outlined in the Comprehensive Plan, the first steps of which are to conduct baseline surveys to acquire data on pollutant inputs, distributions and pathways, and to promote research on transfer processes (including atmospheric transfers) between major reservoirs and the effects of pollutants on marine ecosystems. The coordinating body for GIPME is the International Coordination Group (ICG).

The ICG held its Second Session (GIPME II) at the United Nations headquarters in New York, July 15–19, 1974, and approved a draft plan for implementation of GIPME. Proposed at the session, was the establishment of a Working Committee for GIPME. Its tasks would be to: (1) revise and update, when necessary, the implementation plan for GIPME: (2) develop and maintain an up-to-date comprehensive statement of the "health of the oceans"; (3) coordinate those GIPME projects requiring concerted action by the member states; and (4) facilitate and expedite, when necessary, international arrangements for field and laboratory studies conducted under the auspices of GIPME. It was recommended that this proposal be considered at the IOC's Ninth Assembly to be held in late 1975.

The Third Session of the ICG (GIPME III) was held in Paris during the period May 28 to June 4, 1975. At that session the ICG considered (1) further modifications to the Comprehensive Plan, and (2) a draft report of an IOC/ICES working group on baseline study guidelines. The latter document will, once it is approved, serve as a common international framework for conducting marine baseline investigations.

Mr. HOLLINGS. Mr. President, not too long ago, the Senate approved S. 682, a bill to strengthen U.S. vessel and tanker safety laws. During consideration of that legislation, a jurisdictional objection to title II of that bill was heard. Members of the Committee on Environment and Public Works claimed jurisdiction over subject matter relating to ocean pollution research and monitoring.

In an effort of accommodation, the Committee on Commerce, Science, and Transportation agreed to remove title II from the bill, introduce it as a separate piece of legislation, and have that new bill referred to the Committee on Environment and Public Works for not to exceed 30 days. This has occurred, and S. 1617 is now pending before this body once again. The Committee on Commerce, Science, and Transportation, with the concurrence of the Committee on the Environment and Public Works, is asking for passage. We feel that it is terribly important that this occur.

The Commerce Committee responded quickly to the *Argo Merchant* incident of last December. Besides focusing on preventative measures, the committee sought information on the effects of oil spills on the marine environment. What we discovered was that little was truly understood about the effects of oil spills and that little Government research into the question was going on. Oil industry studies claimed that oil is "good for fish"; conservationists say that oil is devastating to marine life. And the researchers say that more study is needed to draw any final conclusions, especially about the long-term effects of oil spillage.

The committee staff then researched various recent reports to determine the level of government effort to understand the effects, fates, and inputs of oil in the marine environment. The following documents were used:

Petroleum in the Marine Environment; National Academy of Sciences; 1975.

Sources, Effects, & Sinks of Hydrocarbons in the Aquatic Environment; The American Institute of Biological Sciences; 1976.

Hydrocarbons in the Ocean; National Oceanic and Atmospheric Administration; 1976.

Coastal Effects of Offshore Energy Systems; Congressional Office of Technology Assessments; 1976.

The *Argo Merchant* Oil Spill—A Preliminary Scientific Report: National Oceanic and Atmospheric Administration; 1977.

Report to the Congress on Ocean Pollution, Overfishing, and Offshore Development; National Oceanic and Atmospheric Administration; 1976.

As a consequence of this research, the committee concluded that: First, very

little research money is directed toward understanding the unknowns of oil pollution effects; Second, cooperation and planning between Federal agencies is virtually nonexistent; Third, short-term budget objectives often squeeze out meaningful long-term research; and Fourth, the Office of Management and Burget plays a far too powerful role in making research decisions although that agency does not coordinate its own budget policies with regard to ocean pollution research.

Therefore, title II of S. 682 was written to attack the weaknesses in the system and develop a more comprehensive program of ocean pollution research and monitoring. As written, the proposed legislation calls upon the President's science adviser to assist in drawing up a research plan. The National Oceanic and Atmospheric Administration continues in its role as lead agency for ocean research, and additional research authority is provided for that agency. Finally, the legislation does not take away the authority of other Federal agencies to do mission-oriented oil spill research. For example, S. 1617 would not affect the ability of the U.S. Coast Guard to research oil spill recovery or containment techniques or equipment.

The purpose of S. 1617 is to fill the gaps in research and to coordinate all Federal efforts, while eliminating unnecessary duplication. We also hope to start a meaningful research program which is not subject to the peaks and valleys of OMB budget decisions.

To those of us interested in a strong ocean program, ocean pollution and research presents a significant test case. Great pressures from other agencies and departments are pushing for miniocean programs in each and every agency in this Government. In October of 1975 the General Accounting Office reported to the National Ocean Policy Study that marine science activities and oceanic affairs are being conducted in the Federal Government by 21 organizations in 6 departments and 5 agencies. In 1973, there were 4,020 marine research projects sponsored by 10 of the 11 Federal agencies and departments.

The National Oceanic and Atmospheric Administration was created in 1970 to be the lead Federal agency for ocean programs. Instead of allowing every Federal agency to develop oceanography programs as extensions of their land activities, reorganization plan No. 4 sought to achieve economies of scale by creating one ocean agency. Ocean expertise was to be built up in NOAA and drawn upon by other agencies on an "as needed" basis.

Unfortunately however, as the 1975 GAO report shows, other agencies have continued and expanded their ocean projects. For example, the Department of the Interior is running an ocean environmental baseline program being undertaken in areas of the Outer Continental Shelf slated for new oil and gas development. However, much of the baseline studies have been undertaken by the National Oceanic and Atmospheric Administration by contract with the Department of the Interior. In short, the Interior Department has developed an ocean program of its own but must rely on that already existing in NOAA anyway. It does not make sense. Other agencies are doing the same or developing their own programs, and not relying on NOAA.

The Office of Management and Budget is no help in controlling the growth of duplicative ocean projects outside of NOAA. Small ocean-related efforts are buried in larger departmental programs. Yet in NOAA, all ocean projects are "outfront," visible for the arbitrary reduction. In addition, there is no OMB analysis across agency lines to eliminate duplication. If it falls generally within an agency's mission, it can be approved. On the other hand, those who review NOAA's budget are ever-mindful of expanding ocean programs and projects. So while one budget examiner keeps the NOAA ocean budget down, other budget examiners are allowing a proliferation of ocean projects throughout the Government. No effort at consolidation or coordination is undertaken. The broader goal of reducing conflicting Government programs is sacrificed on the alter of narrow budget review. This is certainly something the President should look at before relying on OMB advice.

We strongly believe that S. 1617, if enacted, will provide a process for fairly examining ocean pollution research and monitoring in the Federal Government. The suggestions in the bill are the result of continual study by the Committee on Commerce, Science, and Transportation since the National Oceanic and Atmospheric Administration was begun. Examination of such issues was mandated by Senate Resolution 222 which created the National Ocean Policy Study. Because of the expertise in the Commerce Committee, the Senate gave general ocean policy jurisdiction to our committee. That authority includes jurisdiction over ocean pollution questions.

The April issue of the NOAA magazine contains a very lucid article describing the research efforts of NOAA in trying to understand the effects of the *Argo Merchant* oil spill. I ask unanimous consent that the article, in its entirety, appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOAA AND THE NANTUCKET OILSPILL

(By Roland D. Paine)

At 7 a.m. Wednesday, Dec. 15, 1976. the tanker Argo Merchant, carrying 7,700,000 gallons of heavy No. 6 fuel oil, ran aground 29 nautical miles southeast of Nantucket Island. At 1 p.m. that day Elaine Chan of the Environmental Data Service was notified of the grounding and of the possibility that a major oil spill could occur. By 9 p.m. she and Gary Hufford of the Coast Guard Research and Development Division, Groton, Conn., had arrived in Hyannis, Mass., and established the headquarters of the NOAA/Coast Guard Spilled Oil Research (SOR) team.

Meanwhile, that same afternoon:

Craig Hooper of the Environmental Research Laboratories, SOR Program Director, packed his gear and boarded a plane at Boulder, Colorado;

Dr. James Mattson, who like Chan is with EDS' Center for Experiment Design and Data Analysis (CEDDA), sauntered out of a law examination in Orlando, Fla., picked up a telephone message, and hurried north;

Dr. Peter Grose of CEDDA interrupted a long-planned family Christmas trip, collected suitcases and scientific instruments, and started for Boston;

Sue Lease of ERL/Boulder, who was on her way to Juneau with equipment for an Alaska-based oil spill team, was located in Seattle and turned around;

Anthony Tancreto, Meteorologist-in-Charge of the National Weather Service office in Boston, issued the first of innumerable special marine forecasts directly to the Coast Guard.

The following morning Hooper, Mattson, and Grose met in Boston's Logan Airport, where they were given an airline flight lounge to use as telephone headquarters. By 1 p.m. they too were in Hyannis. Lease joined them two days later.

The SOR team had been designed by Hooper as a quick-response unit, and, holidays notwithstanding, its members reacted as planned. During the succeeding days the original group was joined by many other people from NOAA, the Coast Guard, the State of Alaska, and colleges and universities. All were eager to help monitor what was to become one of the largest oil spills in U.S. history, and track and assess its potential for environmental damage. Averaging about 15 people, and numbering at times as many as 25, the team worked for more than three weeks, through Christmas and the New Year, finally tapering off on January 9, 1977, to a small monitoring group of five.

The notion of quick-response teams to carry out research on oil spills arose as a result of work NOAA is doing for the Department of the Interior's Bureau of Land Management. In May 1974 BLM asked NOAA to undertake research leading to an environment assessment in the offshore waters of Alaska, in anticipation of future oil and gas lease sales and subsequent development. NOAA established an Outer Continental Shelf Environmental Assessment Program (OCSEAP) at its Boulder research laboratories to manage the program.

Two major objectives of the project are to find out what influences the fate of spilled oil on the surface of the water, in the atmosphere, and in the water column; and to determine the physical and chemical changes in the oil slick as time passes. OCSEAP initiated an extensive series of studies of these problems, involving both observation of actual spills and computer modeling of oil spill behavior. The research is aimed at producing models by which the direction and speed of oil movement during future spills, and the impact of the oil on the immediate environment, can be predicted, under a variety of environmental conditions.

All this requires that, when an oil spill occurs, somebody—several somebodies—must be prepared to drop routine work, interrupt personal plans, get to the scene as quickly as possible, and study—carefully and scientifically—just what is happening.

OCSEAP, under Hooper's leadership, began to form teams to accomplish this—four of them, two in Alaska, one in Seattle, one in Washington, D.C., and with a small back-up group in Boulder. The research capabilities of ERL and the data management capabilities of EDS made it natural that the cadre of the teams were provided by these two organizations. The State of Alaska and the Coast Guard also provide team members, and close liaison has been established with the Coast Guard's National Response Center in Washington.

Equipment packages were assembled containing supplies sufficient for at least 48 hours of oil spill tracking—specially modified cameras, drift cards printed in three languages, inflatable markers, sample bottles, current probes, and many other items.

They were to be kept readily accessible at each of the four locations. This was the equipment that Sue Lease was taking to Alaska, until the call came that sent her to Massachusetts instead.

So when Elaine Chan received a telephone call on Dec. 15 from Yates Barber of the National Marine Fisheries Service, telling her that a major oil spill was impending, the mechanism was in place and the team members trained. Meeting the test that was to follow, the severest yet faced, required almost the full strength of all four oil spill teams plus major assistance and cooperation from many other people and organizations, within and outside NOAA.

In the cold dawn of Dec. 16 Chan and Hufford took off in a small aircraft that they had hastily chartered upon their arrival in Hyannis the previous evening. Visibility was about 1000 to 1200 feet, the tanker was leaking oil, and her starboard side was awash. Chan and Hufford took photographs, observed the leaking oil, and dropped probes to obtain information on surface currents in the vicinity of the grounded tanker.

Below them were the Coast Guard cutters Sherman and Vigilant, and two Coast Guard helicopters putting pumps, fuel bladders, and other equipment aboard the Argo Merchant. The Coast Guard's Atlantic Strike Team was aboard the tanker completing removal of the crew and continuing efforts to try to refloat the ship.

"The Coast Guard directed air traffic at the scene, and was immensely cooperative in helping us get our work done," said Chan. "We were able to deploy one current probe very close off the starboard bow of Argo Merchant. As a bit of luck, too, right after the two die markers surfaced the Vigilant moved between them, and since we knew her length we had a perfect scale for our current measurements."

They observed the oil coming from the ship, and noted that it was floating all around the tanker instead of trailing off in one direction. "This indicated to us that the oil was under tidal current influence," Chan said.

Hooper, Mattson, and Gross came in from Boston shortly after noon, and in the afternoon made their first aerial reconnaissance of the extent of the slick. That evening the five team members went to the Coast Guard air station at Otis Air Force Base, to confer with the Federal On-Scene Coordinator and to be briefed on the operational situation. Hopes were high that enough oil might be pumped out of the ship to refloat her, and the team members thought that they might get home for Christmas.

But the weather continued to worsen. That evening the Coast Guard lost the battle of the pumps, and had to abandon ship. "They lifted 16 people off the Argo Merchant by helicopter in gale force winds, at night," said Mattson. "The Coast Guard helo pilots are tremendous—the support they gave us throughout the whole operation was almost unbelievable."

The SOR team received an unexpected and welcome addition at the time of the visit to Otis, in the person of Joseph Deaver, Coast Guard oceanographer, who was engaged in a long-term aerial survey of the Gulf Stream. Forced into Otis by the foul weather, he promptly joined up, stayed with the team for three weeks, and made almost daily flights in a Coast Guard HU-16 seaplane to chart the oil spill areas and obtain surface water temperature data.

During the day team members found time to telephone Government agencies and academic institutions in the area with urgent requests for research ship time, and the first to respond were the Woods Hole Oceanographic Institution and the University of Rhode Island. On Dec. 17—a nasty day with a heavy overcast and rain showers alternating with snow—Hooper, Mattson, and Chan went down to Falmouth, where late in the afternoon they briefed WHOI staff members on the situation and on their needs. Much later that evening, back at Hyannis, they met with Dr. Mason Williams and Dr. Jamse Quinn of the University of Rhode Island, talking and planning until well into the morning hours for a later cruise by URI's ship Endeavor.

As a result of the afternoon meeting the Woods Hole Oceanographic Institution made its research vessel Oceanus II available, called the ship back to port, installed new scientific gear and a new scientific team, and sent her out to conduct the research agreed upon with the SOR team. Dr. Jerry Galt, a physical oceanographer with NOAA's Pacific Marine Environmental Laboratory, flew in from Seattle on Saturday to join the team and departed on the cruise on Monday. His quick response, incidentally, meant that he missed seeing his sister, who lives in Taiwan and had come to Seattle to spend the holidays with him.

Dr. John Milliman of WHOI was chief scientist for the Oceanus II cruise, which included several other top WHOI scientists—Drs. John Farrington, John Teal, and Howard Sanders, Richard Jadamec of the Coast Guard research and development center in Groton responded to a telephone call and also joined the cruise. He is experienced in taking sterile bag samples, lowering the samplers through the oil slick, obtaining water samples below it, and then bringing them back up through the slick without contaminating them. Jadamec later analyzed the water and sediment samples taken by Government and university ships during the spill.

The ship occupied three scientific stations northeast of the known spill area. Sediment samples were taken for baseline information in case oil sank to the bottom with consequent degradation of the environment of bottom-dwelling organisms, and water samples for hydrocarbon analysis were taken at three depths at each of the stations. Even though foul weather, with blowing snow and 20 foot seas, forced an early halt to the cruise, it proved to be very helpful to the SOR team and to other scientists working on problems of the oil slick.

By Saturday, Dec. 18, hard aground on the rocky shoal, Argo Merchant was beginning to show signs of the battering she was taking. The Coast Guard reported her listing at 20 degrees, with geysers of oil shooting upward, large amounts of oil spilled, and a heavy oil plume extending 7½ miles from the vessel. An SOR team overflight showed an oil slick extending seven miles to the northwest, reaching toward the beaches of Nantucket Island. Oil "pancakes"—thick, flat, cohesive masses of oil floating amidst the thinner slick—were observed 27 miles to the east, and team members measured surface currents in both areas with air-dropped probes to get a better understanding of the forces working on the oil, and to enable them better to predict further oil movement.

By the following day the slick stretched out from Argo Merchant in a huge horseshoe, 36 nautical miles long. The Coast Guard reported that an estimated 1.5 million gallons of oil had entered the sea, and that the tanker was settling into the sand. Huge supertanker fenders were rigged alongside the ship that day, by an Army "sky crane", with the hope of taking off the oil.

The NWS special marine forecasts begun by Tancreto the first day were invaluable tools for the Coast Guard. Every six hours they came, night and day, predicting wind speed and direction and sea state.

SOR team members made overflights by helicopters and chartered aircraft, measuring currents, sampling the oil, mapping the slick, and measuring the difference in velocity between water and oil. The National Aeronautics and Space Administration and the Environmental Protection Agency also conducted overflights of the scene. The NASA aircraft took false-color infra-red photographs of ship and oil slick that were soon provided to the SOR team for their use.

During the four-day period ending on Sunday Professor Jerome J. Milgram and Dr. E. Kern of the Massachusetts Institute of Technology Sea Grant program visited the Argo Merchant to study first hand the dispersion, spreading, and mass transport of the oil slick, and to obtain oil and water samples for laboratory analysis. Milgram was able to take one 16 ounce sample, which he shared with the University of Rhode Island. It was later learned that there were two No. 6 fuel oils (the so-called "Bunker C" heavy industrial oil) in the cargo of Argo Merchant, 50,000 barrels of one and 139,000 barrels of the other. Their viscosities are very similar, and the team is trying to find out which cargo was in which tanks, to further identify the sample taken by Milgram.

By the time the weekend was over, men and women from the four oil spill teams, and many other interested people, had responded to calls for aid and flocked to Hyannis to help. Most of an upstairs wing of the Holiday Inn had been taken over for the project. A large room, with beds removed, served as operations headquarters and message center. It was provided with four telephones, bulletin boards, a conference table, and a davenport and armchairs. Dresser drawers, neatly labeled, contained cameras and film, drift cards, water samplers, and other equipment. A small adjoining room served as secretarial headquarters, and also contained a plotting table.

A few doors away Grose and the Environmental Data Service group established a small data collection office, with light table, charts, files, and supplies. Adjoining it, Rosalie Redmond of ERL/Boulder operated a magnetic-card automatic typewriter and associated equipment. Most of the scientific equipment, when not in use, was stored in closets and on the floors of rooms occupied by the team members responsible. For several days a stairwell that housed vending machines and an ice-maker also served as storage room for a bright orange data buoy.

Early each morning there were hasty conferences and briefing sessions, as team members prepared for their day's work, checked the equipment they would need, and made ready for flights in Coast Guard helicopters or fixed-wing aircraft, or in smaller planes leased by the project or provided by contractors. As the groups left in twos and threes, those remaining would begin to use the telephone—efforts to locate equipment or services from local merchants (who proved to be immensely cooperative and cheerfully ready to extend instant credit), calls to NOAA headquarters and installations around the country for specialized assistance, liaison with the Coast Guard, consultations with scientists who might offer helpful suggestions, and so on. Incoming calls kept them members busy answering queries about the latest position of oil slicks, potential danger to fish or marine mammals or beaches, and the most recent weather at the site.

A couple of transplanted meteorologists, Katherine Kidwell and John Carlile, both of EDS, made regular overlays of a National Ocean Survey chart of the area, so that team members and others could instantly check the current position of the oil slick and its movement from the time the ship went aground. Carlile also kept a complete photographic file, identifying each slide by date and with other pertinent information, thus providing a continuous record of the spill.

Late in the afternoon those returning from flights or ship cruises would phone their most recent observations, and as evening approached they would drift in, brief Grose and Mattson, provide data and photo rolls to the EDS office, write their reports, and relax to exchange information and experiences with others.

Frequently in the evening an overall de-

briefing and summing up of the day's activities would take place, and plans would be made for the next day's work. Coast Guard Capt. Lynn Hein, Federal On-Scene Coordinator, and Cdr. Barry Chambers, head of the Atlantic Strike Team, were participants in many of these conferences.

The basic scientific objectives had been laid out in some detail three months before. After consultations among the individuals initially identified as members of the teams, an operations plan was agreed upon that spelled out organization, operational procedures, equipment, and scientific observations and measurements to be made. Primarily, said the plan, teams would measure the physical movement of various classes of oil at sea under diverse oceanographic and meteorological conditions, the purpose being to test existing oil spill trajectory models.

The team later noted: "While there are available many time-series photographs of spills in cold water environments, these spills have not been adequately instrumented and measured to characterize the behavior of the spill and its surrounding environment in sufficient detail to provide all the data required to compare actual spill behavior with trajectory model forecasts."

Secondary objectives laid out in the operations plan were as follows:

to observe the behavior of various types of oil over time, paying particular attention to spreading, lens ("pancake") formation, sinking, evaporation retardation, and tar-ball formation;

to measure the chemical degradation of the oil over time;

to define the processes involving oil in the surf zone;

to document the appearance of the underside of oil pancakes by means of underwater photography.

Because of careful preparation by team members, the relatively easy accessibility of the Argo Merchant oil, and the strong logistics support provided by the Coast Guard, the team had by the end of the first full day of operations begun activities to accomplish all the planned objectives except the last; and that was accomplished shortly before Christmas. Looking at the scientific needs and at the capabilities being assembled in Hyannis, the team scientists decided to add two additional objectives to the list:

to measure the distribution of oil in the water column; and

to investigate the transfer of energy from waves to oil.

Biological and ecological research was also brought quickly into the operation, as scientists from WHOI, the University of Rhode Island, and the National Marine Fisheries Service undertook to determine the effects of the spill on plankton, fish, and sea birds in the area. The grounding occurred on Nantucket Shoals, one of the most heavily fished reefs in the region, and was sufficiently close to another—Georges Bank—to cause great concern by fishermen and scientists.

Fortunately, too, the Marine Mammal Commission met in Boston during the spill, and asked the team to provide a briefing. Elaine Chan did the briefing, mentioned that the team wanted a marine mammal observer, and invited the commission to send a representative. Shortly thereafter, Ben Baxter of the College of the Atlantic and his assistant, Barbara Morson, arrived to join the team for this purpose.

Accomplishment of the primary scientific objective—mapping the spill—was a coordinated effort involving visual sightings plus infrared and conventional photography. The principal source of the daily slick maps was Joseph Deaver of the USCG oceanographic unit. Videotapes and photos of the spill taken by Coast Guard and news representatives were also made available to the SOR team.

"Because of all this, mapping of the Argo Merchant spill was more extensive than that of any previous spill," said Grose.

Tracking the slick had not only a scientific purpose, but also a serious immediate use. Argo Merchant held together for more than a week, releasing oil at varying rates, until a heavy storm moved in. On Dec. 21 the ship broke in two and a huge amount of oil was discharged from the ruptured tanks. On Dec. 22 she broke again, triggering another massive release of oil.

At 4 p.m. on Christmas day Cdr. Charles Morgan, an oceanographer assigned to the Coast Guard's on-scene coordinator, called the team—whose numbers had dropped to five that day—to say that grave problems existed. He asked them to come over and look at the projected oil movements, which were based on then-existing currents and winds forecast by NWS. Team members hastened over and examined the projections, which showed that the spill could approach within two miles of Nantucket's beaches by Sunday afternoon, the day after Christmas. They compared the previous forecasts with the most recent map then being drawn by Deaver; the results were dishearteningly close.

What was needed was a large supply of drift cards, to be put in the water ahead of the leading edge of the slick, and notices to the public to be on the lookout for these cards. If the cards began to wash up anywhere on shore, the SOR team and the Coast Guard would know that the slick was close behind, and cleanup crews could be in place.

But the team had used up its supply of drift cards. So a telephone call was placed to Craig Hooper, back in Boulder spending Christmas with his family, telling him of the problem and asking that 20,000 cards—all that were available in Boulder—be shipped to the team right away.

Hooper worked all evening to locate a commercial flight that could get the drift cards to Boston; the Coast Guard had pledged that it would meet any commercial flight, and get the drift cards into the water. Finally, he called to say that Continental Air Lines had just cancelled its 4 a.m. flight from Denver, the last hope, because of the weather. At his request Mattson and Lt. Cdr. Roger Cawley, who was responsible for coordinating beach cleanup, conferred. They decided that the cards were indeed badly needed; word was passed back to Hooper.

The night stretched on like a bad dream, with appalling weather and events appearing to conspire to frustrate the shipment while threatening the coast. At one point Hooper had to have a telephone call to Hyannis routed through London, as all domestic lines were hopelessly tied up.

He then left his family dinner, collected assistance from some of the Boulder staff of MESA (Marine Ecosystems Analysis group), drove to the county airport, and loaded a jet—chartered a short time before—with the cards.

At 5:30 a.m. the jet appeared over Otis, asking for permission to land. Once on the ground, the MESA people who had come along pitched in and helped unload the cargo. By 9 a.m. an HU-16 Albatross seaplane took off with the cards, which were deployed successfully between the then-menacing oil slick and the land.

The end of the story was anticlimactic but very welcome—the easterly winds never appeared, the slick moved away from the shore, and the problem was resolved for the moment.

On the evening of Dec. 28, a group of SOR team members and Coast Guard officers who had dropped in—Capt. Hein, Cdr. Morgan, Lt. Cdr. Cawley—sat in the operations room relaxing, watching television, and talking about the situation. Among the ideas that came up was using Coast Guard marker buoys to track the oil, which the team would sometimes "lose" when bad weather forced cancellation of overflights.

Grose then suggested that what was really needed was satellite tracking through use of one of NOAA's small data buoys, a drifting buoy that he had helped develop while with the NOAA Data Buoy Office in Bay St. Louis, Miss. "Silence greeted his suggestion," recalled Mattson, "while we all sat there with the same reaction—'why didn't we think of that before'!"

So Grose called James Winchester, head of NDBO, at home. Winchester immediately set to work on the problem, and shortly found one of the buoys at Nova University in Florida, awaiting deployment. The University agreed to lend it to the project, and had it flown up.

On Dec. 31 the buoy was slung from a Coast Guard helicopter, which set out for the slick. Grose and Marilyn Pizzello, an SOR team member from PMEL, went out to deploy the buoy in the middle of "Pancake One", a huge oil lens, about 750 feet long and 450 feet wide, that had been spotted on Christmas day and tracked thereafter by visual sightings.

"The sun had set by the time we arrived at the area, so the Coast Guard used hover lights to locate the pancake," said Grose. "The helo hovered over the pancake at about 60 feet altitude, while we tried to release the buoy from the sling. Finally they cut the whole safety release mechanism away and the buoy dropped into place in the pancake. We arrived at Nantucket with only 30 minutes of fuel remaining, refueled, and got back to Hyannis at 9 p.m.—an unforgettable New Year's eve."

The buoy is a spar 10 feet long, with a flotation collar. Twice a day it sent a signal to NASA's Nimbus E satellite, from which NASA calculated the buoy's position and passed it along to the SOR team. This permitted them to track a part of the slick in all weather, and long after it was out of helicopter range.

Work in conjunction with the oil slick mapping was also of great value to the scientists working toward certain of the secondary objectives, including observing the behavior and characteristics of the oil pancakes and learning more about the underside of these huge masses of oil. Experience gained in an earlier spill in the Florida Keys showed that such pancakes can be up to six inches in thickness, and contain substantial amounts of oil. "Pancake One", for example, was estimated to contain about a half million gallons of oil, which in the cold water had roughly the consistency of cup grease or peanut butter.

On her second cruise, for example, Delaware II first covered, as control, an area of Georges Bank north of the spill and unaffected by it, then worked eastward, then down across an area that had been affected by the spill, and finally westward.

Nearshore studies began as early as Dec. 27, when MESA personnel assembled a team of biologists and chemists on Nantucket Island to develop a sampling plan for exposed beaches and inlets that would be vulnerable should the oil come ashore. The scientists—from WHOI, the Marine Biological Laboratory at Woods Hole, the University of Massachusetts, Northeastern University, and the Energy Resources Co.—obtained samples at four localities around the island. In addition, the U.S. Geological Survey obtained numerous intertidal samples which, like those collected by the MESA team, are in the custody of WHOI.

It was apparent to NOAA, two weeks after Argo Merchant went aground, that the SOR team had been highly successful in designing and organizing the research and modeling effort and enlisting the cooperation of

organizations and individuals up and down the coast. It had also become apparent that in addition to the quick-response activities, a long-term assessment effort was going to be needed, because of NOAA's responsibilities under the Marine Protection, Research and Sanctuaries Act of 1972 (the "Ocean Dumping" Act). Dr. Robert M. White, NOAA Administrator, promptly directed that ERL, through its MESA program, lead and coordinate the NOAA effort at both short-term and long-term assessment of the impact of the spill on the ocean environment.

In his Dec. 29 memorandum, Dr. White provided for the initiation of a program of research on the long-term effects of the Argo Merchant oil on the ocean ecosystem, with particular reference to the fish stocks of the Georges Bank area. He also asked for an interim report. The SOR team immediately turned to, working over the following weekend and through New Year's Day, and by Monday, Jan. 3, had produced a detailed account of the cooperative research activities thus far undertaken.

Also on Jan. 3 and Jan. 4 a major meeting was held at Falmouth, with participation by 50 people from Federal and State agencies, universities, and research institutions, to analyze the results as then known of the scientific work, and to lay plans for a follow-up cruise in late January that might determine how much the Argo Merchant spill had contaminated the ocean bottom.

The comprehensive nature of scientific coverage of the Argo Merchant spill and the degree of detail that the SOR team was able to achieve is producing results that promise to be of great help in modeling future oil spills. The team found, for example, that it is not sufficient to use existing current tables combined with statistical models of winds as a basis for prediction of oil movement—winds and currents in the nearshore environment interact too closely for this to be adequate.

The following day was Christmas. The half dozen SOR team members in Hyannis—Chan, Deaver, Lease, Mattson, Lou Butler of MESA/Boulder, and Alan Kegler of the State of Alaska Department of Environmental Conservation—took a little time in the morning to exchange Christmas gifts, around a small tree that they had put up in the operations room. A Coast Guard helicopter meanwhile retrieved the samples from the Vigilant. Then the team went back to work.

One of the important scientific objectives toward which the SOR team worked was to obtain a better understanding of the differing velocities of water and oil. While the oil moves with the water, it is given an extra push by wave action, and consequently moves more rapidly than the water. How much more rapidly depends upon a number of factors, including the size and speed of the waves. The team devoted several experiments to examining this problem.

One such experiment was undertaken by Galt and Mattson on Dec. 19. From a helicopter they released three dye markers in a line downwind and ahead of an oil pancake. This patch of oil was at the head of the 36-nautical-mile-long, horseshoe-shaped oil slick emanating from Argo Merchant. They used time-lapse photography to photograph the rate at which the oil mass advanced on the three dye markers.

The sequence of five photographs shows, for example, that at the beginning of the photography the oil was 42 feet from the nearest dye marker (which drifts with and at the same speed as the surface current). Slightly more than 3½ minutes later the slick had advanced to within three feet of the dye marker. Using information from the photographs together with other data such as observations of wind speed and wave height from the nearby Vigilant, the team calculated differential water-oil velocity, surface current velocity, and other data needed for better modeling.

Major activities were also undertaken to find out what impact the oil spill would have on the biological populations of the area, both near the shore and in the waters and on the bottom at greater depths. In addition to biological work during the first cruise of WHOI's Oceanus II, biologists participated in two cruises of the NOAA research vessel Delaware II, a second cruise of Oceanus II, and a cruise of URI's Endeavor.

The first cruise of Delaware II took place Dec. 22–24, during which 11 stations were occupied, and the second Jan. 4–11, with 39 stations. Among the samples taken were surface plankton, skimmed off by use of Neuston nets; eggs and larvae in the top 50 meters of water, collected in Bongo nets; and bottom samples taken by Otter trawl. Fish samples were taken for hydrocarbon analysis, stomach analyses, and benthic (bottom) biological data. Biologists subsequently examined the eggs in laboratory analyses to get some clues as to the degree to which the oil spill might have adversely affected their development.

"It is difficult to sample near oil without contaminating the samples," said George Kelly, fisheries biologist at the NMFS Woods Hole laboratory." During the cruises, we stayed well out of the oil slick initially, to collect useful baseline information, then went closer in."

Two days before Christmas a Navy diving team that had flown up from Norfolk, Va., was transferred to the USCGC Vigilant by helicopter, and members of the team dove into the chilly (41–43° F) water. They found the bottom, at 140 feet, to be clean white sand with no traces of oil but covered with clams, and they photographed a portion of it. They also took motion pictures and still photographs of the bottom of an oil pancake, which they found to be flat. The pancake was about an inch and a half to two inches thick; air bubbles from the divers would break through it, but it would then quickly coalesce.

Measurements of other pancakes from Coast Guard vessels, and during the New Year's eve buoy deployment, indicated that the pancakes were increasing in thickness as they drifted away from the ship, up to thicknesses of eight to twelve inches.

As a result of their dive through the oil, the divers lost three wet suits and most of their rubber gear, being unable to clean off the thick petroleum. They did succeed in cleaning their regulators and tanks. When they were brought aboard the Virginia after the dive, with face masks caked with oil, they were led around the ship, and there was considerable concern about how to clean the oil off them. But one of the Coast Guardsmen brought up a container of shaving cream, which worked very well.

Two private contractors for the Bureau of Land Management's study of the New England Outer Continental Shelf also contacted the SOR team and helped with oil slick mapping. Aero-Marine Surveys, Inc., of New London, Conn., and EG&G of Waltham, Mass., sent personnel to Hyannis a few days after the tanker went aground. Aero-Marine Surveys brought in a twin-engine marine survey airplane, and used it to augment other slick mapping by making visual observations, dropping drift cards, and making surface water temperature measurements.

Measuring the distribution of oil in the water column, an objective added to the scientific work as the team began its operations, was carried on beginning with the first cruise of WHOI's ship Oceanus II. Numerous other cruises also undertook this work. In addition, Coast Guardsmen volunteered to take samples from their cutters from time to time, monitoring the slicks when no other ships were at sea.

"I took sterile bag samplers out to the Vigilant the day before Christmas," said Chan, "because that was the only ship on station then, and we wante l samples at that time. After the samplers were put aboard from the helicopter that flew me to the cutter, I was lowered in a personnel transfer basket. I had to go aboard to show them how to use the samplers. When I arrived on deck and took off my parka, the men on deck saw that I was a girl and gave a great cheer!"

Moreover, when real-time forecasting of oil slick movement is undertaken, the team found it highly necessary that there be both accurate maps of the existing slick and efficient transfer of data between models and observers.

Other essential contributions to better oil spill modeling include accurate measurements of oil-water differential velocities, observations that pancakes build up in thickness rather than disintegrate, and the results of the photography of the underside of an oil pancake.

Tracking and analysis of the movement and behavior of the oil pancakes also promise to be among the most useful results of the team's work. They tracked individual pancakes, originally up to two inches thick, that after a week or two of movement had become eight to twelve inches thick.

The team also found that these oil masses did not move as had previously been thought. A general rule of thumb—that they move at about three percent of wind speed—has been used in modeling and analysis. The SOR team found, however, that in this particular case the pancakes moved at only slightly more than one percent of wind speed, when the wind was 10 to 17 knots and oil thickness was more than one inch. In addition, the thinner oil sheens that cover much of the sea surface, probably "fed" by the thicker patches, also appear to be limited to the 1.1-1.2 percent "wind factor."

A NOAA C–130 aircraft from the Flight Operations Group in Miami went to Cape Cod for two overflights of the oil, on Jan. 12 and 14. Observers aboard the aircraft located numerous oil pancakes far out at sea, and sighted drift cards still accompanying them. They were also able to confirm that the data buoy was still floating in the vicinity of the oil slick, so the positions it had given twice a day continued to be useful for records of the oil's drift.

With respect to one of the concerns of some fishermen in the area—the amount of oil that may have sunk to the bottom—analyses as of the end of January showed no confirmed reports of oil, visible or otherwise, in any of the samples. This is consistent with the observations made by the Navy scuba divers, who one week after the grounding reported no visible oil on the bottom. Because the currents in their dive area are primarily tidal, oil had passed over the spot checked by the divers twice a day for the seven days.

A separate but related problem is under analysis by scientists of the National Marine Fisheries Service and of research institutions in the area. The fisheries biologists want to know the extent to which the floating oil may have affected eggs and larvae in the water, possibly posing a threat to future fish stocks. It is known that the oil will adversely affect the eggs and larvae that comes in direct contact with it, but NMFS scientists are trying to determine if this actually happened to an extent great enough to affect commercial fishing in the area.

Of the bird populations, participants from the Manomet Bird Observatory found that herring and black-backed gulls, both common in the area, were the hardest hit by the spill. Badly oiled gulls landed on the Vigilant, and some accepted food by hand. Many birds in flight were seen to have oil patches on their underparts, and occasional dead birds were seen. Kittiwakes appeared to be less

affected than gulls, and most gannets were clean. Fulmars, murres, and ducks were also affected, but bird observers reported that there appeared to be no massive effects on any of the species.

There was little early indication that marine mammals had been greatly affected. About six to eight finback whales, and two white-sided dolphins, were spotted by observers, and none indicated any adverse response to the oil.

"The real problem," said Ben Baxter of the College of the Atlantic, "is that if there were any animals in the oil that were affected, we probab'y will never know about it. If their bodies wash up on a beach and are reported, we may get a clue, but this is unlikely."

By January 9, 1977, the SOR team had essentially completed its on-site work, and members scattered to Boulder, Washington, Seattle, Fairbanks, and the many other localities whence they had come. A small monitoring team stayed on for another week, serving as transition for the MESA assessment effort that began to move in. The critically important 25 days that the SOR team worked on site thus became Phase 1 of the overall NOAA response to the Argo Merchant grounding, and MESA began Phase 2.

John Robinson of MESA established headquarters in Falmouth, and a group numbering about five, augmented by people from a variety of other organizations, began planning the next phase of NOAA's response. Early in January, it was agreed among representatives of the Coast Guard, EPA, BLM, and NOAA that NOAA would coordinate scientific work undertaken in Phase 2. Robinson is thus both the NOAA coordinator and head of the interagency coordinating team, which includes Dr. Paul Lefcourt of EPA, Robert Beauchamp of BLM, and Capt. Frederick Schubert of the Coast Guard.

Following up on Dr. White's directive, Robinson's group is carrying out the long term assessment, a task expected to last about 18 months. Work also continues within Phase 2 by NMFS scientists, investigating fin fish, shellfish, and ichthyoplankton, and by Woods Hole Oceanographic Institution scientists working on biological sample analysis. The long-term effects of the grounding of that tanker, however severe they may be, will be better known than has been possible for any previous spill.

QUICK-RESPONSE RESEARCH: PLANNING PAID OFF

Early in November, in Santa Barbara, California, a new "real time" scientific research operation was born: rapid-response study of oil spills. A group of NOAA and Coast Guard oceanographers from opposite coasts of the United States came together to begin training sessions, developing and practicing the techniques for such an operation.

Before they met, there were no experts in such work. Only two of the group had been involved in oil spill studies. Dr. James Mattson remarked (to a company representative demonstrating a tool that they might use): "We're not just training, we're starting from scratch. We're training each other."

The Spilled Oil Research (SOR) teams grew out of NOAA's Outer Continental Shelf Environmental Assessment program, which is managed by the Environmental Research Laboratories for the Bureau of Land Management. One of the goals of that program is to develop mathematical models of oil spill behavior, to help assess the impact of oil leasing in the Gulf of Alaska. The NOAA/Coast Guard SOR teams, coordinated by Craig Hooper of ERL, will provide information obtained from actual spills that is necessary to develop viable models for forecasting the behavior of future spills.

Oil spill teams have been set up in four cities—Seattle, Juneau, Fairbanks, and Washington, D.C. Each team consists of three to six people from NOAA, the Coast Guard, State of Alaska, or University of Alaska. They must be ready to mobilize on a few hours' notice, rush to the scene of a spill, obtain a small aircraft and a boat, and begin their investigation.

The main purpose of the SOR teams is to measure the physical movement of various types of oil at sea under diverse oceanographic and meteorological conditions. They also hope to be able to observe how the oil behaves, and what chemical transformations it undergoes. Does it spread, sink, evaporate, or form tar balls? Other secondary goals are to define the processes that occur when oil enters the surf zone, and to measure the oil content of bottom sediments.

Each team is equipped with a kit containing equipment for making repeated measurements of currents, winds, waves, and the extent and path of the oil for at least 24 hours. An aluminum suitcase contains cameras, film, stopwatch, walkie-talkie, dictaphone, inflatable markers (and a compressed gas cartridge for inflating them), sextant, binoculars, and wind gauges. A trunk carries such tools as current probes, anemometers, thermometers, another camera, bags for collecting water and oil samples. Everything is ready for a call from the Coast Guard.

According to the plan that existed at the time of the Argo Merchant spill, whenever an oil spill of more than 1,000 barrels occurs the Coast Guard's National Response Center in Washington, D.C. would call Hooper or an alternate. The first individual contacted then calls whoever is in charge at the scene—usually the Federal On-Scene Coordinator—to learn more details about the size, accessibility, environmental conditions, and geography of the spill. The next calls are to Mattson, Elaine Chan, or Dr. Peter Grose, scientists with the Environmental Data Service in Washington; Gary Hufford, a Coast Guard officer and member of the Washington spill research team; and Dr. Jerry Galt of NOAA's Pacific Marine Environmental Laboratory, to discuss whether that particular spill is worth investigating.

The answer to that question hinges on the answers to a list of others: Is the spill large enough to be tracked for at least 24 hours after the team arrives? Is it a commonly transported type of oil or an odd case? Do the winds, waves, and currents of the area present an opportunity to fill a data gap? How easily and quickly can the site be reached? How difficult will it be to obtain the necessary platforms to conduct a study? Can the nearest team provide at least two members? Finally, is the spill or its environment unique in any way? Is a highly sensitive biological community threatened? Will oil enter a surf or ice zone where there are no data? Is there a large amount of suspended matter in the waters or an upwelling, which would be important to study?

If the decision is to go, the researchers will be on the way within a few hours. What they do when they arrive on the scene was carefully worked out in Santa Barbara.

There, the teams from Juneau, Fairbanks, Seattle, and Washington met with the Boulder headquarters crew to practice on the natural oil seeps in the Santa Barbara Channel. From a 25-foot cabin cruiser, some of the team members measured winds and temperature. Meanwhile, others circled above in a Cessna 182 to drop current and wind probes. The current probe, a two-foot tube of white plastic, sinks into the water, anchors itself to the bottom, and releases two colored plastic "rockets" at timed intervals. The rockets rise to the surface and release patches of green dye. By measuring the distance between the patches, the researchers on the boat can infer the distance that the first patch has traveled in the time between the releases, and, therefore, the speed of the currents.

The airborne and surface members of the teams keep in constant touch by walkie-talkie, and each observation and activity is recorded on a dictaphone. Photographs from the plane (a Cessna 182 was selected because its door can be removed for unobstructed views downward) reveal the area covered by the oil and record the positions of dye patches.

Such seemingly trivial problems as what kind of pattern the plane should fly had to be ironed out. An oval, or "racetrack" pattern was tried first. Then they settled on a figure-eight, making drops at the crossing of the "8," sweeping into a quick turn to come back and take photographs. The airborne members got to be good bombardiers, dropping current probes within 100 yards of the boat. Such accuracy was more than a nicety, for the observers on the boat must speed to the spot where a probe hits the water in order to time the appearance of the dye markers. It also helps to aim for the "downsun" side of the boat, so that the surface observers will not be looking into the sun.

Bright orange plastic drift cards dropped in the water track oil and current movements over longer distances. The cards carry messages printed in English, Spanish, and French, requesting the finder to notify NOAA of the location and time where they were found. These are dropped in batches of 25.

The teams worked long hours, testing over and over until a "run"—a complete run-through of all necessary measurements—could be performed in an hour, and each member felt comfortable with the tools. At evening debriefing sessions they discussed problems encountered during the day, and suggested new approaches to try the next day.

What the oil spill researchers learned in Santa Barbara has since been put to rigorous test. Team members have gotten their feet oily on two major spills. Their techniques will doubtless continue to evolve. But one thing has changed already. Now the new type of research operation has experts.

ON CAPE COD, DOUBLE TROUBLE

Scarcely had NOAA staffers started writing their report on Phase 1 of the Argo Merchant oil spill when another hit Cape Cod waters. This time it was highly toxic No. 2 heating oil, flowing into the ice-choked estuary of Buzzards Bay and threatening thousands of dollars worth of nearby shellfish beds as well as large concentrations of diving ducks and Canada geese.

Because of NOAA's research interests in the behavior of oil in ice and its effects on fisheries resources, and because of the early estimate that more than 100,000 gallons of oil were spilled, personal plans were again shelved and NOAA scientists and back-up staff gathered in Falmouth to see how they might help.

The oil came from Bouchard No. 65, a tug-towed barge carrying its vital carge to a fuel-short New England that was shivering through the worst winter in many years. The tug Frederick E. Bouchard had struggled for two days to cross Buzzards Bay, en route from Providence, R.I. to Portland, Me., by way of the Cape Cod canal. The tug was breaking a channel through the pack ice when the barge drifted onto a ledge at about 8:15 p.m. Friday, Jan. 28.

In a struggle to reduce the amount of oil spilled in the bay, the Coast Guard freed the barge from its mid-bay location and intentionally beached it 100 yards off frozen, wind-swept Wing's Neck, where another barge could be brought up and the oil taken off. Saturday morning brought relief when the barge Bouchard No. 85 was towed alongside and much of the cargo transferred.

Nearby Falmouth was the headquarters of the Marine Ecosystems Analysis (MESA) group charged with Phase 2—long-term assessment—of the Argo Merchant spill. The weekend barge accident found many of the group out of town, but on-scene consultants Ben Baxter and Barbara Morson made imme-

diate plans for an overflight, while awaiting word as to NOAA's possible involvement.

On Saturday morning they made their first overflight, with the help and cooperation of Dr. George Woodwell of the Marine Biological Laboratory in Woods Hole. On Sunday evening ERL's John Robinson returned to coordinate the MESA effort on the new spill.

Because this spill took place within the waters of the state of Massachusetts, state and local officials were closely involved in the research as well as having responsibility for management of the area. George Kelly of NMFS' Northeast Fisheries Center at Woods Hole contacted state fisheries biologist Arnold Carr for other assistance, while from the town of Bourne came Department of Natural Resources officers under the direction of Burke Limeburner, who hastened to collect shellfish samples before the beds could be fouled. Over the weekend Limeburner closed all shellfish beds as a precautionary measure, noting that "we may not know until spring if these beds are wiped out."

"The yellow (oil-stained) ice is bad enough at Wing's Neck," he continued, "but what concerns me is what is happening under the ice."

It was this concern that meshed the state and local effort with the MESA research activities. Robinson's group called in oil spill and ice pack experts from around the country to help. Dr. Seelye Martin and Peter Kauffman from the University of Washington sped to Cape Cod to lend their ice-pack research expertise to the problem, as did Paul Deslauriers of Arctec, Inc., a Columbia, Md., contractor with NOAA's Outer Continental Shelf Assessment Program (OCSEAP).

Meanwhile the transfer of oil to Bouchard No. 85 was completed Saturday night in temperatures approaching zero, and ice-breaking tugs took the two barges into Boston on Sunday morning, 24 hours after the Corps of Engineers closed the Cape Cod canal to all other traffic.

Dr. James Mattson and Elaine Chan of EDS joined the MESA people in Falmouth to lend their Argo Merchant quick-response experience to the effort. Garry Mayer, Kevin O'Donnell and Katie Baker of MESA, and George Heimerdinger—EDS laision at Woods Hole—were among the others of scene.

What quickly became a cooperative interagency effort also saw Dr. Paul Lefcourt, Carl Eidam, and Peter Nolan of the Environmental Protection Agency, and Beth Hubbard of the Massachusetts Division of Marine Fisheries, working in cooperation with NOAA scientists.

Wednesday morning, Feb. 3, found some of the scientists fanning out on the ice to sample ice and water, while others set about locating supplies that would be needed for the cold and difficult work at hand. The Northeast Fisheries Center made equipment available, and the Coast Guard provided protective wet suits to enable the scientists to withstand the chilling winds on the ice. The U.S. Army's Cold Regions Research and Engineering Laboratory at Hanover, N.H., quickly lent ice corers and a portable viscometer.

The team located and purchased a chain saw with non-oil-lubricating cutting chain, so that ice could be cut for sampling without having lubricating oil foul the samples. A large heated van was rented and positioned on a spit of land near operations on the ice, to serve as field communications center and emergency aid station.

The first samples taken on the ice by Dr. Howard Sanders of the Woods Hole Oceanographic Institution were quickly analyzed with the help of WHOI's Dr. John Farrington, and the results made available to NOAA. From that sample analysis, the NOAA team and Burke Limeburner jointly planned succeeding sampling operations designed to provide the state and local officials with resource assessment information, and provide the NOAA team with research information.

The Coast Guard meanwhile continued its efforts to contain the oil, and remove it from the icy waters. Later estimates placed the amount spilled at about 80,000 gallons.

A week after the first oil-ice research began, the weather warmed and the ice started to melt. The research team completed much of its work, and the operation was throttled down. A report on the activities of the group was made to the selectmen of the town of Bourne on Feb. 9, and NOAA staffers from out of town dispersed to their many locations around the country. The permanent scientific staffs of the Marine Biological Laboratory and the Northeast Fisheries Center would continue their resource assessment work in conjunction with state and local officials.

Oilspills would never be commonplace, but valuable lessons were being learned about how NOAA could best react to them.

Mr. HOLLINGS. Mr. President, unfortunately, the research efforts of NOAA have been cut off in midstream by an overly constricting CMB decision. If we knew more about oil spill effects we could perhaps devise more cost effective oil spill programs, but this information is denied to us. This is short-sighted. With so many nebulous research programs throughout this Government, it seems ridiculous that a comprehensive ocean pollution research program is not instituted, especially since public resources are threatened.

I hope my colleagues will examine S. 1617 and support its enactment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1617

An Act to establish a program of ocean pollution research and monitoring, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Pollution Research Program Act".

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Man's activities in the ocean and the coastal zone can have profound short-term and long-term impacts on the marine environment.

(2) There is need to establish a comprehensive Federal program of ocean pollution research and monitoring, particularly in regard to the inputs, fates, and effects of pollutants, including petroleum, in the marine environment.

(3) Numerous agencies, departments, and instrumentalities of the Federal Government sponsor, support, or fund activities relating to ocean pollution research and monitoring. However, such programs are often uncoordinated and can result in unnecessary duplication.

(4) Better planning and more effective and efficient use of available funds, facilities, vessels, and personnel is the key to an effective Federal program of ocean pollution research and monitoring.

(b) PURPOSES.—It is therefore the purpose of the Congress in this Act—

(1) to establish a comprehensive Federal program of ocean pollution research and monitoring;

(2) to designate the National Oceanic and Atmospheric Administration as the lead Federal agency for ocean pollution research and monitoring; and

(3) to provide for the assistance of the Director of the Office of Science and Technology Policy, through the Federal Coordinating Council for Science, Engineering, and Technology, in coordinating, on a continuing basis, the Federal program of ocean pollution research and monitoring.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires:

(1) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "Council" means the Federal Coordinating Council for Science, Engineering, and Technology.

(3) The term "Director" means the Director of the Office of Science and Technology Policy in the Executive Office of the President.

(4) The term "marine environment" means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States.

(5) The term "ocean pollution" means any short- or long-term change in the marine environment.

(6) The term "research plan" means the Federal plan to be prepared pursuant to section 204.

SEC. 4. FEDERAL PROGRAM AND PLAN.

(a) LEAD AGENCY FOR PLAN.—The Administrator with the assistance of the Director and the Council, shall prepare a comprehensive, three-year research plan for ocean pollution research and monitoring which shall be submitted to the Congress and the President within one year after the date of the enactment of this Act and every third year thereafter, in accordance with section 5.

(b) CONTENT OF PLANS.—Each research plan shall contain, but need not be liimted to—

(1) a detailed listing of all Federal programs relating to ocean pollution research and monitoring, including general research on ocean ecosystems and research into the inputs, fates, and effects of pollutants, including petroleum, in the marine environment;

(2) a listing and explanation of the research priorities identified by the Administrator in accordance with subsection (d);

(3) a description of actions taken by the Administrator and the Director to coordinate the budget review process to insure interagency cooperation and to eliminate unnecessary duplication; and

(4) the goals and estimated cost of each such Federal program.

(c) INTERAGENCY COORDINATION AND COOPERATION.—The head of each agency, department, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, programs relating to ocean pollution research and monitoring—

(1) may, upon a written request from the Director or the Administrator, make available to the Director or the Administrator, on a reimbursable basis or otherwise, such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Director or the Administrator to achieve the purposes of this Act; and

(2) shall, upon a written request, furnish such data or other information as the Di-

rector or the Administrator deems necessary to fulfill the purposes of this Act.

(d) PRIORITIES.—The Administrator shall identify priorities for the Federal program of ocean pollution research and monitoring prior to preparation of the research plan, after consultation with the Director, other Federal agencies, departments, or other instrumentalities, the National Academies of Sciences and Engineering, the academic community, industry, State and local governments, and other interested parties.

(e) PLAN REVISIONS.—The Administrator, with the assistance of the Director, shall prepare and submit to Congress and the President, as part of the annual report required by section 6, a detailed explanation of any revisions of the research plan during the period of such plan.

SEC. 5. AUTHORITY OF THE ADMINISTRATOR.

(a) RESEARCH AND DEVELOPMENT ASSISTANCE.—The Administrator shall identify specific national needs and problems in fields related to ocean pollution research and monitoring. The Administrator may provide financial assistance in the form of grants or contracts with respect to such needs and problems, if such needs and problems are not being addressed by any other Federal agency.

(b) APPLICATION FOR ASSISTANCE.—Any person (including a governmental entity) may apply for financial assistance under this section for the conduct of research and monitoring projects, and, in addition, specific proposals may be invited. Each grant or contract under this subsection shall be made pursuant to such rules as the Administrator shall perscribe. Each application for financial assistance shall be made in writing in such form and with such content and other submissions as the Administrator may require. The Administrator is authorized to enter into contracts under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

(c) EXISTING PROGRAMS.—The activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Administration programs including the national sea grant program. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the program, project, or activity involved.

(d) ACTION BY ADMINISTRATOR.—The Administrator shall act upon each application for a grant or contract received by him under his section within 6 months after the date on which all required information is received.

(e) RECORDS.—Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such a project or undertaking. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent to such financial assistance.

SEC. 6. ANNUAL REPORT.

The Administrator, with the assistance of the Director, shall submit to the Congress and the President, not later than February 15 of each year, a report on the status of ocean pollution research and monitoring. Each such report shall include—

(1) the research plan, and any revision thereof, prepared under section 4;

(2) an evaluation of the Federal Government's research capabilities, including the status of personnel, vessels, facilities and equipment; and

(3) a summary of the efforts undertaken and planned to coordinate the Federal program of ocean pollution and monitoring.

SEC. 7. DISCLAIMER.

Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal agency or department, under any law, to undertake research related to ocean pollution.

SEC. 8. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for the purposes of carrying out his responsibilities under this Act, not to exceed $5,000,000 for the fiscal year ending September 30, 1978, and not to exceed $6,000,000 for the fiscal year ending September 30, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are four measures on the calendar which have been cleared for passage by unanimous consent. They are Calendar Nos. 348, 349, 352, and 353. I ask that the clerk transfer those four measures to the Unanimous Consent Calendar.

The PRESIDING OFFICER. The measures will be so transferred.

BENJAMIN WHITCOMB INDEPENDENT CORPS OF RANGERS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. LEAHY, I send to the desk a resolution extending best wishes of the Senate to the Benjamin Whitcomb Independent Corps of Rangers. I understand that it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 241) extending best wishes of the Senate to Benjamin Whitcomb Independent Corps of Rangers.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with, the title being clearly expressive of the content of the resolution. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 241

Whereas on October 15, 1776, the Continental Congress commissioned two independent companies of men to be commanded by Captain George Aldrich; and

Whereas the men who formed such companies were from the areas which are now the States of Vermont and New Hampshire; and

Whereas the Benjamin Whitcomb Independent Corps of Rangers is a nonprofit educational corporation incorporated under the laws of the State of Vermont and was formed to carry on and commemorate the name of the original independent company of men who fought for this Nation's independence; and

Whereas a company of men under the command of Captain Benjamin Whitcomb participated in the battle of Bennington, Vermont on August 16, 1777; and

Whereas the Benjamin Whitcomb Independent Corps of Rangers will re-enact the famous battle of Bennington on August 13 and 14, 1977, in celebration of the 200th anniversary of such battle: Now, therefore, be it

Resolved, That the Senate hereby extends to the Benjamin Whitcomb Independent Corps of Rangers its best wishes on the occasion of the re-enactment, on August 16, 1777 of the Revolutionary War battle of Bennington, Vermont, and commends the Benjamin Whitcomb Independent Corps of Rangers for its continuing educational efforts in connection with the Revolutionary War.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver at the desk which pertains to the water pollution bill. I ask unanimous consent—I understand this has been cleared all around—that Senate Resolution 233, the budget waiver resolution, be called up and the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, do I understand this is the budget waiver on the water pollution bill?

Mr. ROBERT C. BYRD. The budget resolution waiver to S. 1952, the Water Pollution Control Act Amendments of 1972.

Mr. BAKER. It is cleared on this side and there is no objection to its consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1952, a bill amending the Federal Water Pollution Control Act.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

S. RES. 233

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1952. Such waiver is necessary to allow for the authorization of funds for the Federal water pollution control program and municipal treatment construction grant programs.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 16, 1977, because of the large number of other matters considered and reported by the Committee on Environment and Public Works. Other matters considered and reported to the Senate included S. 1529, the Water Resources Development Act of 1977, and S. 252, the Clean Air Act amend-

ments. Further, the issue of water pollution was addressed in the conference on H.R. 11, the Public Works Employment Act, but no satisfactory resolution of the issues could be worked out. Water pollution issues were not included in the conference report.

The authorizations contained in S. 1952 are consistent with the Environment and Public Works Committee's March 15, 1977, report to the Committee on the Budget.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a resolution at the desk, Senate Resolution 228, a budget waiver resolution to S. 977, Calendar Order No. 336, the coal conversion bill.

I understand this resolution has been cleared all the way around, and I, therefore, ask unanimous consent that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, I understand it is cleared with the members of the Budget Committee, and there is no objection on this side of the aisle.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 977.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

Resolved, That, pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 977. Such waiver is necessary because (1) section 211 of the bill provides that the Administrator of the Federal Energy Administration is authorized to make loans to any person who owns, leases, operates, or controls any existing electric powerplant or major fuel-burning installation which converts to coal or other fuel in lieu of natural gas or petroleum as a primary energy source beginning in fiscal year 1978 and extending through 1982; and (2) section 306(g) authorizes the Administrator of the Federal Energy Administration to expend sums for assistance to regions impacted by expanded coal production for eight years beginning in fiscal year 1978.

All of these provisions relate to that part of the national energy plan concerning the conversion of electric powerplants and major fuel-burning installations from natural gas and oil to coal and other fuels.

The committee action to report S. 977 was delayed because of the need to consider (1) other major bills which had not been within the committee's jurisdiction prior to adoption of S. Res. 4 and (2) the energy proposal submitted to Congress by the President to implement his national energy plan.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized during the recess over until tomorrow to receive messages from the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I assume that a time limitation had best be put upon that request, and I suggest that the hour of 10 p.m. would be a reasonable hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF LEGISLATIVE PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the water pollution bill, the Senate proceed to the consideration of the foreign aid appropriations bill, with the understanding that the clean air conference report can be called up at any time, and with the further understanding that a motion to proceed to reconsider the vote on the adjournment resolution may also be called up at any time, notwithstanding the fact that there are time agreements on both the water pollution bill and the foreign aid appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, this can be done without unanimous consent.

Mr. BAKER. Mr. President, reserving the right to object just for a moment, will the majority leader withhold that request for action on his unanimous-consent request for a moment; might it be possible to suggest the absence of a quorum?

Mr. ROBERT C. BYRD. Yes.

If the Senator will allow me, I should state that it is not necessary to get unanimous consent to do this.

The only reason I asked unanimous consent, and I shall withdraw the request, is I simply want to state for the record that it will be possible at any time during the consideration of the water pollution bill and the foreign aid appropriation bill to call up the conference report on the clean air amendments notwithstanding the fact that there are agreements on those two measures.

All that would be needed would be for the Senator who wishes to call up the Clean Air Act conference report to get one of the managers of the bill to yield a minute in which he could ask unanimous consent to bring up the conference report, and if there is an objection thereto he can move to proceed and that motion is not debatable.

On the adjournment resolution, it likewise is a highly privileged matter and unanimous consent is not needed.

I think I should state this for the record. The only reason I used the unanimous-consent request approach was really for the understanding of the Senate that these things would be done.

So I withdraw the unanimous-consent request.

Mr. BAKER. Mr. President, I thank the majority leader, and may I say that I agree with his assessment of the parliamentary situation and agree with his plan.

I feel that there is nothing more important now than proceeding to the consideration, and, one hopes, the disposition of the clean air conference report. I agree that the majority leader needs no unanimous-consent agreement in order to proceed to the consideration of the conference report, or indeed to proceed to the consideration without debate of reconsideration of the motion for adjournment.

So I thank the majority leader for withdrawing the unanimous-consent request, which I had not been able to clear on this side, and proceeding on the basis of his rights as he described them.

Mr. ROBERT C. BYRD. There is one portion of the unanimous-consent request, however, that I killed by withdrawing the request, and that is that the Senate proceed, upon the disposition of the water pollution bill, to the consideration of the foreign aid appropriation bill. I renew that request.

Mr. BAKER. Mr. President, there is no objection to that on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 8:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes, after which Mr. JAVITS will be recognized for not to exceed 15 minutes, and after which the Senate will proceed to the consideration of the water pollution bill on which there is a time agreement.

Rollcall votes are expected in relation thereto, and upon the disposition of that measure, the Senate will proceed to the consideration of the foreign aid appropriation bill on which there is a time agreement. Rollcall votes are expected in relation to that bill.

At some point during the day, if the clean air conference report comes over from the other body, which is anticipated, the manager of that conference report, Mr. MUSKIE will call it up, and

there will be some debate thereon. Undoubtedly there will be a rollcall vote on the adoption of the conference report, and if the action, upon its adoption, has not been completed on either the water pollution bill and/or the foreign aid appropriation bill, the Senate will resume, at that point, the consideration of such measure or measures.

I dare not anticipate that the Senate will complete action on all three of these measures tomorrow. Tomorrow will be a long day, however, I think undoubtedly. We read in the Scriptures that there was a long day when Joshua asked the Sun to stand still. I do not anticipate that kind of a long day, but I would suggest that Senators not plan to have dinner at their homes tomorrow evening. Friday likewise, I would suggest at this point at least, would be a lengthy session, and a late one, and I would hope that the action on the three measures I have outlined will be completed by that time, so as to spare us from a Saturday session.

There may be other matters that will be cleared for action in the meantime, and hopefully the Senate can act on them.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and at 9:11 p.m. the Senate recessed until tomorrow, Thursday, August 4, 1977, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 3, 1977:

DEPARTMENT OF STATE

Benjamin H. Read, of the District of Columbia, to be Deputy Under Secretary of State.

Rodney O'Gliasain Kennedy-Minott, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

Andrew Ivy Killgore, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

William Bowdin Jones, of California, a Foreign Service office of class 1, to the Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

AMBASSADOR

Peter R. Rosenblatt, of New York, for the rank of Ambassador during the tenure of his service as personal representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands.

ENVIRONMENTAL PROTECTION AGENCY

William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

NUCLEAR REGULATORY COMMISSION

Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981.

Peter Amory Bradford, of Maine, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1982.

NATIONAL MEDIATION BOARD

Robert Oberndoerfer Harris, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1980.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Patricia Albjerg Graham, of Massachusetts, to be Director of the National Institute of Education.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

DISTRICT OF COLUMBIA COURT OF APPEALS

John Maxwell Ferren, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning Edward P. Djerejian, to be a Foreign Service officer of class 3, and ending Stephanie A. Smith, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 21, 1977.

HOUSE OF REPRESENTATIVES—*Wednesday, August 3, 1977*

The House met at 10 o'clock a.m.

Rev. McArthur Jollay, pastor, Christ Church of Washington, D.C., offered the following prayer:

Our Father, who art in heaven, we bless and honor Your name for sharing with us the privilege of helping shape the destiny of men and nations. May we move on in the confidence of Your guidance, for You have promised those who follow Thee You will never send them back, nor go on without them. (Hebrews 13: 5 (Gr.))

Let our faith, then, so respond today that this certainty may hold and guide us; that in very fact we may help fulfill the innate longing of all mankind, as voiced in the prayer of our Saviour who taught us to pray: "Thy kingdom come. Thy will be done on Earth, as it is in heaven. For Thine is the kingdom, and the power, and the glory, forever. Amen."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Secretary be directed to request the House of Representatives to return to the Senate the concurrent resolution (H. Con. Res. 317) entitled "Concurrent resolution providing for an adjournment of the House from August 5 until September 7, 1977, and an adjournment of the Senate from August 6 until September 7, 1977."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7589, MILITARY CONSTRUCTION APPROPRIATION ACT, 1978

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT DURING 5-MINUTE RULE TODAY

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may sit today while the House is under the 5-minute rule to consider matters before the committee.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, it is my understanding that because of the recess the House Administration Committee has graciously scheduled hearings so that the Intelligence Committee can get into operation by September, so I certainly do not object and I hope no one would object. Therefore, I withdraw my reservation of objection.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, that is the purpose of the request, and we hope to have the matter on the Intelligence Committee finished within the hour.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REQUEST TO CONSIDER S. 1765, FOR THE RELIEF OF THE FEDERAL LIFE & CASUALTY CO. OF BATTLE CREEK, MICH.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1765) for the relief of the Federal Life & Casualty Co. of Battle Creek, Mich.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I do not intend to object, as I understand it the Senate bill is identical to the House bills (H.R. 8001 and H.R. 8005), introduced by me and the gentleman from Michigan (Mr. TRAXLER), and that the subcommittee has acted upon those and

reported favorably upon them, but because of the urgency of the situation, the Senate bill is being taken up at this time.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, the gentleman's statement is correct. The subcommittee did report favorably on the bill H.R. 8001, of which the gentleman from Michigan (Mr. BROWN) is the author and which is identical in its language and effect with the bill S. 1765, which I have asked unanimous consent to be taken up for immediate consideration.

Mr. BROWN of Michigan. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I was not aware that this bill was to be called up and I have had no occasion to look at it. If I am not mistaken, this bill in the normal course of procedure would be on the Private Calendar and would be considered by the official objectors. I would think the least we could do when the procedure is to be varied is to consult the objectors, and I would hope the gentleman from California would withdraw his request.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I did discuss it with the gentleman briefly, and I did discuss it with the gentleman from California (Mr. ROUSSELOT), the chairman of the private objectors, and he indicated he would discuss it with the gentleman. The matter has to be taken care of before the recess.

Mr. BAUMAN. But nevertheless I have seen no report and no summary on it. The least I think we could do is to consult the objectors, and I wonder if the bill cannot be taken up later this afternoon.

Mr. DANIELSON. Mr. Speaker, I withdraw my request for the immediate consideration of the Senate bill, S. 1765.

The SPEAKER. The request is withdrawn.

PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO SIT DURING 5-MINUTE RULE TOMORROW MORNING

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to sit on the morning of August 4, 1977, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, is it the understanding this is only for the purpose of hearings and that there will be no mark-up of the bill?

Mr. ADDABBO. It is solely for the purpose of hearings.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE NEUTRON BOMB CONTROVERSY

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, Saturday, August 6, is the anniversary of dropping the atom bomb on Hiroshima. It is fitting that we commemorate this occasion with something other than a rush to endorse the new/old neutron bomb.

The popularization of this fresh-out-of-the-lab weapon as a "clean" bomb is a cruel deception and certainly an insult to our intelligence. The same rationale holds for cancer being a "clean" death as opposed to being blown to bits by a grenade.

Of course, what is meant by "clean" is that it will release neutrons which will scurry down the streets killing only humans while leaving the buildings along the way intact. What has happened is that scientists have made a concentrated bomb, like a concentrated pill, which packs much more wallop in a smaller space without as many side effects—in this case, blast and heat. This is consistent with American technological procedures. We have done it with medicine, electronics, household products and with food, so it follows that we also manufacture weapons in a concentrated form. In the case of the neutron bomb, more direct radiation per kiloton is achieved, but so is the amount of deadly fallout which some scientists say cannot help but float with the winds around the globe.

And dealing with death is decidedly another matter than manufacturing life-enhancing products. Neutrons do not necessarily kill instantly. I do not want to envision what an enraged populace would do for revenge if they knew neutrons had entered their bodies and they would be dying in a few days or 2 weeks. Such a prospect should not be convincing when considering the neutron bomb a preferred weapon in a limited war.

So let us not mark the destruction of Hiroshima by supporting another Hiroshima-size bomb simply compressed into a smaller package with a more discriminating capability. We owe our children something better than that. Perhaps a bomb that would destroy the buildings and the weapons, but leave the people? That is facetious, but perhaps just as militarily effective.

JUDGE C. RHODES BRATCHER

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, U.S. District Judge C. Rhodes Bratcher died Monday night, July 25, 1977, at Kentucky Baptist Hospital in Louisville of a heart attack. He was 59.

I want to pay tribute to this distinguished Kentuckian whom I have known for many years. Further, I want to express to his lovely wife Martha and his four children, Thomas, William, Suzanne and Sarah, and to his father, Judge A. J. Bratcher, my sincere sympathy.

Rhodes Bratcher was sworn in as a Federal judge in October 1970, became a senior judge in August 1973, and chief judge for the western district of Kentucky in June, 1976.

Judge Bratcher was for several years a member of the St. Matthews Baptist Church in Louisville. I first met him there. My father was that church's pastor then. Judge Bratcher is a native of and is now buried at Morgantown, Ky. His father and his son are constituents of mine.

Judge Bratcher's contributions to his country were many, outstanding, and will be notable in the years to come. His family can indeed be proud of the life of Rhodes Bratcher, a personal favorite of mine and a truly great American.

TRIBUTE TO ARCHBISHOP LUCEY

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, Archbishop Robert E. Lucey, who had retired as the Archbishop of San Antonio a few years ago, has passed on. It would be remiss not to mention that this most distinguished churchman contributed tremendously to the progress of our country in the sense that he was a pioneer in such things, for example, as setting up the first, the original Archbishop's Committee for the Spanish-speaking Peoples at a time when this was considered quite a radical thing to do. He was a zealous defender of the working and labor element and never abdicated his defense of the free trade union movement in the United States in an area in which that was considered not only radical, but highly antithetical to the conducting of church business by the hierarchy. He had bitter opposition, even within the church membership. Many of the anti-labor-hating elements of the church even withheld contributions to the church because Archbishop Lucey would still respect the rights of organized labor.

He pioneered in the human relations of that peculiar social area in which we enjoy a tremendous cultural heritage, a place in the Southwest where we have two great streams of culture that merge. Archbishop Lucey surely has been received into the bosom of the Almighty as a very faithful and a very loyal and a very successful Christian churchman.

FEDERAL LIFE & CASUALTY CO. OF BATTLE CREEK, MICH.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1765)

for the relief of the Federal Life & Casualty Co. of Battle Creek, Mich.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 709 of title 18, United States Code, in the event of any reorganization, merger, or consolidation of the Federal Life and Casualty Company, Battle Creek, Michigan, which was originally incorporated in 1906 in the State of Michigan as the Federal Casualty Company, the surviving or successor entity shall be entitled to continue to use the word "Federal" in its new name.

Mr. DANIELSON. Mr. Speaker, the purpose of the legislation is that notwithstanding the provisions of section 709 of title 18, United States Code, in the event of any reorganization, merger, or consolidation of the Federal Life & Casualty Co., Battle Creek, Mich., the surviving or successor entity shall be entitled to continue to use the word "Federal" in its new name.

Federal Life & Casualty Co., a licensed Michigan insurer which has used the word "Federal" for 70 years, proposes to merge into an existing affiliate, the Peoples-Home Life Insurance Co. of Indiana. Both of the foregoing insurers are now and will be at the time of the merger wholly owned subsidiaries of the Home Insurance Co., New York, N.Y.

It is proposed that the surviving insurer will use the name "Federal Home Life Insurance Co.," in order to reflect its origins and to utilize its valuable proprietary interest in the name "Federal" dating back to 1906.

In 1926, the Congress passed an act (18 U.S.C. 709) prohibiting the use of the word "Federal" as a portion of any corporate or trade name, with the proviso that the prohibition would not apply to any company "actually engaged in business under such name or title prior to the passage of this act." Section 709 also prohibits the use of the words "United States" and "reserve," except under the same "grandfather clause" circumstances.

The merger or consolidation of these companies must be approved by the insurance departments of both States where the respective insurers are domiciled, and the fairness and propriety of the merger are subject to full scrutiny by those regulatory authorities.

The proposed bill, which is carefully limited to the particular facts of this case, would merely permit the surviving insurer to continue to use the word "Federal" in its new name. The proposed legislation in no way authorizes the use of the word "Federal" in more than one corporate name, and there can be no proliferation of the word "Federal."

The enactment of this legislation involves no direct additional expenditure to the Government.

I urge that the House pass this bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 1765.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

THE MIGHTY DEMOS HAVE STRUCK OUT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker—

It looked a little hazy/for our dauntless team that night.
The fog lay thick in blankets/hiding Michel, out in right.
So, when inning after inning/our score remained at aught,
I knew 'twas time to grit my teeth/and fight, *by God,* we fought!

The upstart Dem-o-crats had bet/on youth, and brawn and speed,
To save the game, the day,/and cer-tain-ly their lead.
For, they thought, "with Downey, Young, Panetta/and such a youthful set,
We'll triumph, trounce, and vanquish./The trophy we will get!

But with the kind of cunning/that only comes with age,
Our nine had schemed and we had planned/we'd bottled up our rage.
With Cohen at the mound, sleek, fit/not the least bit gangly,
We knew we could, we *had* to,/stand our ground at Langley.

Five hundred eyes were on us/in the dawning of the fourth,
When I called up "Catfish" Hollenbeck/a rookie from up north.
He shrugged, then took his stance/there in the growing mist,
And when the ball came floating in/his bat it sweetly kissed.

T'would have done justice to old Casey/ the re-main-der of that game,
The fifth, sixth and final innings/ are destined for the Hall of Fame.
The standouts, they were legion,/names like Frenzel, Frey and Beard,
The bats of Pritchard, Pursell and Heinz/are now something to be feared.

They tell the tale, I understand, from Maine to Kankakee,
Of the labors, then, of Cochran,/Clausen, Meyers, Marriott, and McClos-key.
Of the last great stand of Cohen,/out on the lonely mound.
Of hopes and dreams of Dem-o-crats/sunk, leadened, to the ground.

We left the likes of Russo,/who looked a little glum,
Still out on base and grumbling low,/"we'll get the dirty bum."
But to this coach, who takes his leave/of gloves and balls and play,
The jeers and shouts were just the thing/to finish off my day.

It really wasn't "Mudville" / that field out in McLean,
(Although the turf was helped along/by a short and sudden rain).
Sometime, I know, they'll rise above/this *hu-mil-i-ating* rout,
But last Monday night in baseball/the mighty Demos did strike out.

With apologies to Ernest Lawrence Thayer (author of Casey at the Bat)

APPOINTMENT AS MEMBERS OF NATIONAL COMMISSION ON NEIGHBORHOODS

The SPEAKER. Pursuant to the provisions of section 203(b)(2), Public Law 95–24, the Chair appoints as members of the National Commission on Neighborhoods the following Members on the part of the House: Mrs. BURKE of California and Mr. PRITCHARD.

NATIONAL ENERGY ACT

Mr. BOLLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8444) to establish a comprehensive national energy policy.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. BOLLING).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 404, nays 5, not voting 24, as follows:

[Roll No. 498]

YEAS—404

Abdnor	Brinkley	Daniel, Dan
Addabbo	Brodhead	Daniel, R. W.
Akaka	Brooks	Danielson
Alexander	Broomfield	Davis
Allen	Brown, Calif.	de la Garza
Ambro	Brown, Mich.	Delaney
Ammerman	Brown, Ohio	Dellums
Anderson, Calif.	Broyhill	Derrick
Anderson, Ill.	Buchanan	Derwinski
Andrews, N. Dak.	Burgener	Devine
Annunzio	Burke, Calif.	Dickinson
Applegate	Burke, Fla.	Dicks
Archer	Burleson, Tex.	Dingell
Armstrong	Burlison, Mo.	Dodd
Ashbrook	Burton, Phillip	Dornan
Ashley	Butler	Downey
AuCoin	Byron	Drinan
Badham	Caputo	Duncan, Oreg.
Bafalis	Carney	Duncan, Tenn.
Baldus	Carr	Early
Barnard	Carter	Eckhardt
Baucus	Cavanaugh	Edgar
Bauman	Cederberg	Edwards, Ala.
Beard, R.I.	Clausen, Don H.	Edwards, Calif.
Beard, Tenn.	Clawson, Del	Edwards, Okla.
Bedell	Clay	Eilberg
Benjamin	Cleveland	Emery
Bennett	Cochran	English
Bevill	Cohen	Erlenborn
Biaggi	Coleman	Ertel
Bingham	Collins, Ill.	Evans, Colo.
Blanchard	Collins, Tex.	Evans, Del.
Blouin	Conable	Evans, Ga.
Boggs	Conte	Evans, Ind.
Boland	Conyers	Fary
Bolling	Corcoran	Fascell
Bonior	Corman	Fenwick
Bonker	Cornell	Findley
Bowen	Cornwell	Fish
Brademas	Cotter	Fisher
Breaux	Coughlin	Fithian
Breckinridge	Cunningham	Flood
	D'Amours	Florio
		Flowers

Flynt	McCloskey	Rose
Foley	McCormack	Rosenthal
Ford, Tenn.	McDade	Rostenkowski
Forsythe	McDonald	Rousselot
Fountain	McEwen	Roybal
Fowler	McFall	Rudd
Fraser	McHugh	Runnels
Frenzel	McKay	Russo
Frey	Madigan	Ryan
Fuqua	Maguire	Santini
Gammage	Mahon	Sarasin
Gaydos	Mann	Satterfield
Gephardt	Markey	Sawyer
Gibbons	Marks	Scheuer
Gilman	Marlenee	Schroeder
Ginn	Marriott	Schulze
Glickman	Martin	Sebelius
Goldwater	Mathis	Seiberling
Gonzalez	Mattox	Sharp
Goodling	Mazzoli	Shipley
Gore	Meeds	Shuster
Gradison	Metcalfe	Sikes
Grassley	Michel	Simon
Gudger	Mikulski	Sisk
Guyer	Mikva	Skelton
Hagedorn	Milford	Skubitz
Hall	Miller, Calif.	Slack
Hamilton	Miller, Ohio	Smith, Iowa
Hammer-schmidt	Mineta	Smith, Nebr.
	Minish	Snyder
Hanley	Mitchell, N.Y.	Solarz
Hannaford	Moakley	Spellman
Hansen	Moffett	Spence
Harkin	Mollohan	St Germain
Harrington	Montgomery	Staggers
Harris	Moore	Stangeland
Harsha	Moorhead, Calif.	Stanton
Hawkins		Stark
Heckler	Moorhead, Pa.	Steed
Hefner	Moss	Steers
Heftel	Mottl	Steiger
Hightower	Murphy, Ill.	Stockman
Hillis	Murphy, N.Y.	Stokes
Holland	Murphy, Pa.	Stratton
Hollenbeck	Murtha	Studds
Holtzman	Myers, Gary	Stump
Horton	Myers, John	Taylor
Howard	Myers, Michael	Thompson
Hubbard	Natcher	Thone
Huckaby	Neal	Thornton
Hughes	Nedzi	Traxler
Hyde	Nichols	Treen
Ichord	Nix	Trible
Ireland	Nolan	Tsongas
Jacobs	Nowak	Tucker
Jeffords	Oakar	Udall
Jenkins	Oberstar	Ullman
Jenrette	Obey	Van Deerlin
Johnson, Calif.	Ottinger	Vanik
Johnson, Colo.	Panetta	Vento
Jones, N.C.	Patten	Volkmer
Jones, Okla.	Patterson	Waggonner
Jones, Tenn.	Pattison	Walgren
Jordan	Pease	Walker
Kasten	Perkins	Walsh
Kastenmeier	Pettis	Wampler
Kazen	Pickle	Watkins
Kelly	Pike	Weaver
Kemp	Poage	Weiss
Ketchum	Pressler	Whalen
Keys	Preyer	White
Kildee	Price	Whitehurst
Kindness	Pritchard	Whitley
Krebs	Pursell	Whitten
Krueger	Quayle	Wiggins
LaFalce	Quie	Wilson, C. H.
Lagomarsino	Quillen	Wilson, Tex.
Latta	Rahall	Winn
Le Fante	Railsback	Wirth
Leach	Rangel	Wolff
Lederer	Regula	Wright
Leggett	Reuss	Wydler
Lehman	Rhodes	Wylie
Lent	Richmond	Yates
Levitas	Rinaldo	Yatron
Lloyd, Tenn.	Risenhoover	Young, Alaska
Long, La.	Roberts	Young, Fla.
Long, Md.	Robinson	Young, Mo.
Lott	Rodino	Young, Tex.
Lujan	Roe	Zablocki
Luken	Rogers	Zeferetti
Lundine	Roncalio	
McClory	Rooney	

NAYS—5

Aspin	Mitchell, Md.	Wilson, Bob
Lloyd, Calif.	Symms	

NOT VOTING—24

Andrews, N.C.	Burke, Mass.	Chisholm
Badillo	Burton, John	Crane
Beilenson	Chappell	Dent
Diggs	Koch	Pepper
Flippo	Kostmayer	Ruppe
Ford, Mich.	McKinney	Teague
Giaimo	Meyner	Vander Jagt
Holt	O'Brien	Waxman

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8444, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, August 2, 1977, part IV of title I was under consideration, and pending were amendments recommended by the Ad Hoc Committee on Energy beginning on page 183 and continuing through page 209, which are being considered en bloc pursuant to House Resolution 727.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, when we rose on yesterday, it was with an informal agreement between the majority and the minority that we would try to get to a vote on the Wilson-Eckhardt amendment within the next 10 or 15 minutes, that is to say, that there would be one or two from each side who might be recognized to conclude debate.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I will be pleased to yield to my colleague, the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

The Commerce Committee version and the ad hoc committee amendments that are under consideration at this point were thoroughly discussed last night prior to our rising for consideration of the HEW conference report. Pursuant to an agreement at that time reached informally, it is our plan this morning to discuss the commerce bill and the ad hoc amendment for only about 10 minutes to a side, as I understand it and then to dispatch that issue. At that point, hopefully, I would be recognized to offer the amendment provided for in the rule relating to the lifting of Federal price controls on natural gas.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Is the gentleman asking for unanimous consent agreement to limit debate?

Mr. ASHLEY. No.

Mr. ASHBROOK. My only concern is it is usually my feeling that these informal agreements do not take into consideration about 430 Members of the House, and I am a little bit concerned about such arrangements.

Mr. ASHLEY. I made it clear, if I may say to my colleague, it was not formal. Obviously, it was not cast in concrete. What we are trying to do is to move the debate along, to move the proceedings along without in any way impairing the rights of any Members.

Mr. ASHBROOK. Will the gentleman yield further?

Mr. ASHLEY. I yield to the gentleman.

Mr. ASHBROOK. I would commend the gentleman for that approach, and I would observe, having sat on the floor during the debate, that he has been patient in leaving the debate as open as possible. I think all of us want to move expeditiously to close it, but I want to make sure that we are not closing off those who want to debate.

Mr. BROWN of Ohio. If the Chairman of the ad hoc committee would yield further, let me say to my colleague, the gentleman from Ohio, that it would be my hope that we would focus the debate where I think it ought to be focused, and that is on the difference between the amendment which I will offer on terminating Federal price controls and the rather less significant amendment that was made in the ad hoc committee that is just a mere modification of what the Commerce Committee offered.

Mr. ASHBROOK. If the gentleman will yield further, I would say I would agree with my colleague, the gentleman from Ohio. I guess my only concern was when he indicated we probably could do this in 10 minutes to a side. Maybe we can, but let us just wait and see.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

I would call to the attention of the distinguished gentleman from Ohio that I have prepared about a 4-minute talk which I hope to deliver this morning. I would make the point that I have not been allowed to speak to this amendment prior to this time.

Mr. Chairman, I hope that I shall not be cutoff from making these remarks.

Mr. ASHLEY. Obviously the gentleman should know by this time he will not be cutoff. He has been on his feet many times and I have not cut him off.

Mr. ALLEN. I have not spoken to this amendment at any time.

Mr. YOUNG of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to direct a question to the gentleman from Michigan (Mr. DINGELL), of the Interstate and Foreign Commerce Committee, with reference to the salvaging of oil from old wells.

Mr. Chairman, I realize that this is somewhat out of order in connection with the question which is before the House right at this time, but it is important I think to get this matter before the House. As a matter of history, I offered an amendment in the Rules Committee and had it made in order pertaining to the definition with respect to stripper wells or marginal wells. Through some series of misunderstandings or disagreements it has now been developed that there is a question about whether or not that amendment would be subject to a point of order.

In the process of considering my amendment and the point of order, I had

occasion to discuss the subject matter of my amendment with James R. Schlesinger. I found from my discussion with him that the administration is very mindful of the problem of the salvaging of oil from depleted wells.

As a result, Mr. Chairman, I am satisfied that Mr. Schlesinger and the administration are of the same mind as I am with regard to the very serious concern that we should have relative to producing every possible barrel of oil that we can from the resources of this country and particularly from those wells that are now salvage operations.

My amendment would simply have provided that the definition of stripper wells be changed from simply wells which produce 10 barrels or less of oil to wells that produce 35 barrels of oil but in the process produce 9 or more barrels of salt water for each barrel of oil.

Mr. Chairman, there are many other salvage considerations that should be in a bill of this type, but I cannot go into them at this time, other than to cite the example, that, in the field of heavy viscosity oil there is in the Bureau of Mines records that nearly a trillion barrels of this type of oil exist under the North American Continent with half of it under the Continental United States, or 445 billion barrels, as I remember.

These are important matters that should be in any comprehensive energy program.

Before I propound my question to the gentleman from Michigan (Mr. DINGELL), I want to read into the RECORD a short letter from Mr. Schlesinger:

THE WHITE HOUSE,
Washington, D.C., August 1, 1977.

Hon. JOHN YOUNG,
House of Representatives,
Washington, D.C.

DEAR MR. YOUNG: As a follow-up to our conversation of Friday afternoon, July 29, I want to emphasize that the Administration shares your objective of maintaining the maximum amount of oil production from the Nation's older, declining wells. There is a clear national benefit to be gained by the production of such oil, since it displaces additional barrels of foreign crude.

We are prepared to work with you under the authorities in the Energy Policy and Conservation Act for selectively increasing oil production incentives. I will particularly direct my attention toward analyzing the problem of low oil yields from wells with high volumes of salt water.

My staff will be in touch with yours in the near future to follow up on this important matter.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. Chairman, my question to the gentleman from Michigan (Mr. DINGELL) is simply, I am satisfied that I have accomplished administratively what I would have had to accomplish legislatively had we gone through the formal parliamentary procedure; but I want to ask the distinguished chairman of the committee if the gentleman shares my view about the salvage of petroleum in this manner.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would observe the gentleman brings before the House a matter of considerable gravity. A substantial quantity of imported oil can be saved if we will extort from the ground the last drop of domestic crude oil which can be pumped. I commend the gentleman's efforts to achieve that goal. I think the gentleman provides a valuable public service in this particular area.

I have had a chance to read a copy of the letter to which the gentleman has referred. The letter speaks rather clearly for itself with regard to the matters the gentleman has just raised.

There are, I observe, two ways in which the Federal Energy Administration or the new Department of Energy may act on the matter at hand.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. YOUNG of Texas was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman continue to yield?

Mr. YOUNG of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, there are two ways in which the matter about which the gentleman complains, and I think properly so, may be addressed. The first is by administrative action of the Administrator of FEA or the Secretary of the new Department of Energy. Acting within the composite price limitations imposed by the Energy Policy and Conservation Act, special incentives and special treatment may be afforded for the situation where nine barrels of water will be produced with one barrel of oil in the kind of marginal well to which the gentleman alludes. The same problems exist in other types of marginal wells that are extremely deep, as the gentleman knows. The costs of production from a stripper well at 5,000 feet is one thing and at 10,000 feet might be strikingly different.

Mr. YOUNG of Texas. Mr. Chairman, I agree.

Mr. DINGELL. Mr. Chairman, if the gentleman will continue to yield, this matter may be addressed, within the EPCA-established composite price, by administrative action by the Administrator of FEA. There is further action which may be taken to address this matter and that is by the mechanism of an energy action.

I believe this is the kind of situation which should be addressed by one or the other of these two administrative remedies. The full authority to deal with this problem does exist, however.

I commend the gentleman for bringing this matter to the attention of the House. I offer the gentleman my support and full assistance in seeing to it that we encourage recovery of the last drop of domestic oil, which is so important to our energy supplies, to our economy, to our balance of payments, and to our national security.

The gentleman deserves the thanks of the House for raising this matter and also for not having offered the amendment since we can address the matter through the administrative route.

ANNOUNCEMENT BY THE CHAIR

The CHAIRMAN. The Chair would like to make a statement for the information of the Members of the Committee of the Whole.

The Chair has before it a list of those who spoke on this amendment yesterday. The Chair will recognize those who have not spoken on this amendment first and, of course, preference will be given to the members of the ad hoc committee and any Member, of course, under the rule has the right to offer pro forma amendments. The Chair will adhere to that direction.

The gentleman from Michigan (Mr. DINGELL) did not speak on this amendment yesterday, so as a member of the ad hoc committee, for what purpose does the gentleman from Michigan (Mr. DINGELL) use?

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of yielding to my friend and colleague, the gentleman from Texas (Mr. KRUEGER) for purpose of debate.

Mr. Chairman, I yield to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, I thank the gentleman from Michigan for yielding, so that I might address this question. I appreciate the opportunity of addressing this body this morning.

I wish, first of all, to indicate that I intend to vote for the ad hoc committee amendment. I will vote for it because I believe it is a step in the right direction, although I think it is a short step toward a long distance which we ought to go.

I think we should also make clear that this proposal before us is not a deregulation amendment. This proposal before us is primarily an attempt, as I view it, not even at compromise, but rather, to correct errors.

I think it is a good amendment in correcting one of the most egregious errors in the administration bill. I observe that the committee report says:

> The ad hoc committee determined that this definition [of new gas in the Administration bill] was too restrictive. It did not grant producers the assurance that if they stepped out their drilling more than twice the distance of the normal industry practice they would be assured of receiving the new natural gas incentive price.

In short, it is an amendment that corrects egregious errors that ought to have been corrected in Commerce Committee consideration. To correct errors is not to compromise.

There are two other observations I wish to make. First, deregulation of new gas, which will be offered soon after, does not deprive those who have been short in gas supplies from bidding on and getting future purchases. In fact, it substantially enlarges their body of gas on which they might bid. Last year the interstate pipelines added only about 1.5 TCF to new reserves. Under the Brown-Krueger amendment they could bid immediately on about 8 TCF. Therefore, it seems to me that it is in the interests of interstate consumers that their pipelines

should have the opportunity to bid on those supplies of gas.

I would also observe, however, that the present amendment, which does not deregulate any natural gas, differs substantially from existing practices of the allocation expectations of the Federal Government. I read from the committee report on page 47, which says:

The expansion of the scope of the Emergency Natural Gas Act to intrastate natural gas supplies by this legislation greatly expands the pool of natural gas subject to allocation.

I think it important to all Members, and of particular importance to those who are from instrastate-market States, that they recognize that in going along with this amendment, were they to stop there, they would be going along with the authority to give to the Federal Government very, very substantial allocation powers, the power to allocate intrastate gas, which they do not have at this time. I can understand that might seem attractive to certain States, but I think we ought to realize, in the interests of fairness and equity, that it really is to change the rules of the game in the middle of the game.

The people of the States with intrastate markets have made an investment in gas supplies which they have paid for and they are entitled to. If we stop with this amendment, make no mistake, we are giving to Federal regulations the authority to allocate energy, and therefore, jobs and economic well-being. Jobs will go from those States where the people have invested in gas supplies, and will be allocated by energy czars in Washington to the States and industries of his choice. That is to grant extraordinarly excessive power to one individual, or one board, and to open future energy supplies and jobs to the dictators of political pressure, not equity.

What we are now saying is that someone in the Federal Government, someone in Washington, will have the authority to allocate those gas supplies in times of shortage, whereas if, instead of stopping at this first step, we go on to deregulation, what we are doing is saying, in effect, that all people, all regions, all States will have the opportunity to bid on new supplies. But with deregulation we will not put into the hands of a single Federal administrator the authority to allocate gas which has already been paid for by the citizens of certain States.

I would, therefore, urge an aye vote on the present amendment and an aye vote on the Brown-Krueger substitute to follow.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time this morning to give the remarks of the articulate and distinguished Member from Illinois, the ranking Republican member of the ad hoc committee, whose talents are going to be missed today because his voice is gone. There is no more difficult position for JOHN ANDERSON to be in than to have lost his voice. He is defenseless.

But in his absence, I would like to say to the Members what he would have said far better than I can say it were he here this morning and could talk at all.

I intend to vote for the Eckhardt amendment.

The gentleman from Texas (Mr. KRUEGER) has done a good job in saying what needs to be said. It is an amendment that is an improvement. It is inadequate, but it does a reasonable job, under the circumstances.

Mr. Chairman, if the gentleman from Illinois (Mr. ANDERSON) were here, he would say the following:

Because of this very unusual rule, and because of the action taken by the Democratic caucus of the ad hoc committee, we are forced to vote for these amendments en bloc, even though some of us have strong disagreements with various parts of the amendment and very strong support for other parts.

Members on my side of the aisle have been told that this package of amendments is a "compromise" that has been arrived at only after the most difficult of circumstances in the Democratic caucus of the ad hoc committee.

It is not unusual for committees of the House to agree to compromise provisions of a bill in order to get the bill out of committee and onto the floor. These compromises are generally recognized by the Rules Committee to be just what they are, "deals" and the Rules Committee generally allows all members of the House to challenge the components of these deals.

It is unusual, and especially on a bill of this character, to have the Rules Committee ratify the "deal" and not let the whole House register its views on its component parts. We in the minority party are caught in an especially difficult situation—we are forced to vote up or down on the "deal" without knowing what has gone into the discussion leading to the presentation of this package of amendments nor what agreements might have been reached between honorable men to consider various parts of the package at some future date. These crucial pieces of information are missing over here and if we were privy to them, much of the disgruntlement and in fact, strong opposition, could possibly be alleviated.

Because of this unusually partisan parliamentary situation, I would like the RECORD to show that this is a shot-gun wedding between a good idea (the definition of new gas) and a bad idea (tying the price of new gas to the price of "old" oil). In my view, the irate father of the bride has acted hastily and has foreclosed options which could have led to a more happy marriage between the affected parties.

In conclusion, Mr. Chairman, I am very pleased with the definition of new gas that is contained in these amendments. I complement the author and those who have finally realized that the definition pending prior to this action was nonsensical. It was clear to me from the beginning that the definition of new gas was a throw away issue and I am surprised that so many of my colleagues are so happy that they have made such a major victory in striking the effect of that definition.

My views on the pricing section should be clear from my remarks yesterday. It does not make sense and it should not be adopted.

Nevertheless, I have decided after much thought, that I will vote for the Eckhardt amendment pending now. I strongly think the pricing section needs a great deal of work in the future and I would recommend to my colleague from Texas, Mr. ECKHARDT and the chairman of the Subcommittee, Mr. DINGELL, that they begin to look into this matter at the earliest date.

With some reluctance, I urge my colleagues to vote yes on this amendment and then to follow it with a yes vote on the Brown-Krueger-Wirth-Anderson amendment to remove price controls on new onshore natural gas which will follow immediately.

Mr. Chairman, I thank my colleagues for their patience.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio (Mr. BROWN.)

Mr. BROWN of Ohio. Mr. Chairman, I would like to join the gentleman from Ohio (Mr. ANDERSON), the gentleman from Texas (Mr. KRUEGER)—and the gentleman from Colorado (Mr. WIRTH) who has indicated he joins us in supporting the ad hoc committee amendment. It is the one now before us, and we can discuss it for a few minutes, perhaps. It is clearly better than the Interstate and Foreign Commerce Committee version, although I think we ought to take just a couple of minutes to discuss precisely what it does.

The geographic definition of new natural gas, under the Interstate and Foreign Commerce Committee version, is very similar to the Carter Administration request. It is very restrictive. If surface drilling started after April 20, 1977, gas found more than 2½ miles from an existing well, even if that existing well were a dry hole, or more than 1,000 feet deeper, is new natural gas only if it can be proved that it is from a new reservoir.

In an effort to correct that flawed Interstate and Foreign Commerce-administration version, the ad hoc committee version is less restrictive. It says that if surface drilling started after April 20, 1977, gas found more than 2½ miles from an existing well, but only if that existing well is a producing well—a change—or more than 1,000 feet deeper, is new gas by an irrebuttable presumption.

That is the same as the Krueger-Brown-Wirth definition, in effect.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

(By unanimous consent, Mr. STEIGER was allowed to proceed for 2 additional minutes.)

Mr. STEIGER. Mr. Chairman, I yield further to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. But the ad hoc committee version does one different thing from Krueger-Brown-Wirth. It says that within 2½ miles and the 1,000-foot cylinder, the Federal Power Commission can set the standards for the new reservoir. It can delegate the authority to determine that new reservoir to the States.

But once having delegated the authority, the Federal Power Commission can veto the State decision within 1 year.

There are a couple of other things that are important, and this bears on the colloquy I had with the gentleman from Texas (Mr. ECKHARDT) the other evening.

What happens to the sales price of new gas? Under the version of the Committee on Interstate and Foreign Commerce, the Btu equivalency of the refinery acquisition cost of domestically produced crude

oil, $9.25 a barrel or $1.60 per Mcf is the price that the new price would now bring. The ad hoc committee version is the same, except that it says that it will be the Btu equivalency price or $1.75, whichever is higher.

In both cases, however, old gas is treated the same. Under both versions, if old gas has never previously sold under contract, the price would be $1.45. Old gas previously sold under contract—a contract which had expired—if it were in interstate commerce, would get a maximum ceiling of $1.45, although it could be less. If it were in intrastate commerce and if the expired contract under which it previously sold called for $1.45 or over, it would then be the Btu-related price, now $1.60.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. STEIGER was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, if I may repeat, in the event the expired contract for intrastate gas had been at a price over $1.45, then the gas could sell as the Btu-related price, now $1.60 or less. If the expired contract were under $1.45, then it could be sold at $1.45 or less.

So in effect we have a series of definitions, most of which are in the $1.45–$1.60 range, and a few of which could go to $1.75, but that would be the maximum.

Mr. Chairman, that is what is involved in the ad hoc committee version. It is an improvement. There is also a special price provided. There is a provision for wells under 500 feet of water, for wells that are deeper than 15,000 feet on shore, and wells in geopressurized brine, as well as others that are drilled with extraordinary risks or costs.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the ad hoc committee amendments.

Mr. Chairman, I rise in support of the Wilson-Eckhardt compromise amendment. I have supported it somewhat reluctantly, I might add, in the ad hoc committee, because of the fact that it does greatly expand the definition of "new natural gas." I think that is reflected in the support the amendment has attracted from many pro-deregulation Members in the House.

Let me point out before we go any further some of the things that the amendment will do when combined with the $1.75 starting point. For those who are fearful that we are not providing enough incentive, I would like to point out the following facts:

The $1.75 is only a starting point. This goes well beyond that. According to the Library of Congress, the price of nearly $3.50 will be reached in 1985 in fairly large steps as we go along each year and as we follow the oil prices.

Second, if we look at the production levels in the face of a variety of FPC increases since 1965, we find that production of natural gas has gone not up with those increased prices, but down by 10 percent and has dropped after each of the successive rate increases. In 1965 the FPC raised prices from 13.5 cents to 16.5 cents. In July, 1971, the FPC raised the price 26 cents per Mcf.

In 1971, we may recall that the major producers in the southern Louisiana rate case agreed to a stipulation that said that just over 20 cents would be perfectly adequate to carry them through 1977. That is precisely where we are now—in 1977. They said that 26 cents per Mcf for new gas would provide them with all the incentive required to produce natural gas from the major areas through 1977. An industry-dominated Federal Power Commission scuttled this agreement and set the rates, which first escalated to 52 cents and have now gone to well over $1.40.

Therefore, there should be no doubt about incentive. There should be doubt about whether raising the price really is going to get us that much more production, given the fact that we do have most of the drilling rigs in operation.

There is no evidence that anyone here can cite that can show that deregulation will give us real assurances of increased production. We do know about the macroeconomic inflationary effect.

However, I would also say this, that in 1968, as my colleagues know, in the Permian case, in its southern Louisiana opinion, the FTC said the following:

> We do not believe that competition in the market for natural gas and the facts of that competition in Southern Louisiana, as shown in the record, have been or will be adequate to assure consumers just and reasonable rates.

Let us understand that we are abandoning the just and reasonable standard that has been affirmed and reaffirmed year after year by Supreme Court decisions. We are doing that by our action today. I do not see any other way to go myself at this point because we are in a situation in which we have very few alternatives.

Nevertheless, Mr. Chairman, let there be no mistake that the new gas definition and the $1.75 as the starting point provide ample incentive—I think too much incentive, but certainly ample incentive—for major oil companies who own most of the natural gas. Some of us who were genuinely concerned about some of the independents with regard to the new gas definition have agreed to modify and expand the new gas definition partly for this reason.

Finally, Mr. Chairman, let me say this: I think it is really a shame that we consider an issue like this one without looking at the structure of the industry, a structure which has been certainly deemed noncompetitive and anticompetitive over the years and has gotten more and more so.

Is there any doubt, for example, that we have an extremely high concentration of power in the natural gas industry, concentration not only over natural gas supplies, but interlocking relationships among major producers and between major producers and some of our independents, interlocking relationships between producers and pipeline companies, existing major pipelines and recent offshore sales, and interlocking relationships between bank directors and major petroleum companies?

Is it not amazing that we hear people on this floor time and time again talk about free enterprise and free marketing?

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(By unanimous consent, Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. To continue, Mr. Chairman, I do not think that we can have it both ways. If we are really for the free-market system and for free enterprise, let us begin, not today necessarily, but in the future to promote competition. Let us begin to look at the structure of this industry and debate whether or not a free market exists. We have to go one of two ways, either create some competition or continue a strong regulation; and this bill attempts to continue with regulation in some form because of the fact, largely, that we simply do not have competition in the structure of the industry.

Therefore, Mr. Chairman, I think it is important to support this compromise because in doing so, we will head off the multibillion dollar macroeconomic anticonsumer impact that our consumers simply cannot afford. It is critical that we support this compromise. It is certainly not the pure position I would like to take, but it is critical that we support this compromise in order to get this bill and the President's energy program through.

Then we can come back, hopefully, and look at the structure of the industry and the way in which our Government supports the OPEC cartel rather than really attempting to break it up.

Mr. ASHLEY. Mr. Chairman, I wonder whether we could get an agreement on some time.

I see that the minority has indicated that it is practically finished. If there is only one more speaker on that side, that answers my inquiry.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, having heard all of my good and distinguished friends from Texas, Oklahoma, and Louisiana, engage in a mutual admiration society about the pending amendment, I get a somewhat sinking feeling in the pit of my stomach.

I realize that nothing I say at this point will change the outcome of the vote on this amendment. However, I do want to set the record straight. Members of the ad hoc committee have repeatedly referred to this amendment in glowing terms as a "great compromise." A more apt term or description would be "the great retreat."

The lobbyists of the giant oil companies, and of the multinational and multibillion-dollar corporations, have done their work well. Oh, they will be seeking still more, of course, and they will complain long and loud about how they are being abused. But they will be arguing mostly, I suspect, for the purposes of the record, that we should permit our free enterprise system and free and open competition in the marketplace to establish the price of natural gas. But we know, and they know, that there can be no free and open competition when a few giant corporations have virtually cornered the market and hold in their hands an ironclad control over the interstate distribution and sale of natural gas. And this Congress knows that. These lobbyists who have covered Capitol Hill since the first of the year like a swarm of locusts know that most Members of the Congress realize that what I am saying is correct. So they have lowered their sights to extract from this Ad Hoc Committee on Energy a so-called compromise, which will give the oil and gas companies most, if not quite all, of what they were seeking, while they will continue to go through the motions of seeking outright deregulation.

What does this compromise do? It expands the definition of new gas, thereby greatly increasing the amount of natural gas they will be permitted to sell at the higher price, at a temporarily fixed price of $1.75 as a start.

But even the price is deceptive. Not only is the initial price of $1.75 permitted to be charged under the compromise much higher than the average prices they have heretofore been getting for natural gas, but the $1.75 itself will be but a temporary figure, and it will go up and up and up.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. If the gentleman from Texas will permit me to complete my statement, I will yield to the gentleman and ask him a question.

Mr. ECKHARDT. I thank the gentleman.

Mr. ALLEN. This $1.75 price will go up and up, just as the tax on the OPEC oil is increased, and as the Arabs and other OPEC nations increase their prices still higher.

Now I will yield to the distinguished gentleman from Texas (Mr. ECKHARDT) and I would ask the gentleman just how much he projects the price of natural gas will increase under the formula in this amendment for each of the next 5 years? I believe the gentleman gave those figures yesterday, but I would like to have them repeated for the record again.

Mr. ECKHARDT. If the gentleman from Tennessee (Mr. ALLEN) will yield, the ad hoc committee did not in any wise change the formula for the ceiling price except to assure that which Dr. Schlesinger said would be the case that in the beginning of next year when the Act goes into effect we are assured that the price will be $1.75.

With respect to the other question about escalation, over a 15-year period, which is about the life of a gas well, the price would average $2.40 starting with the $1.75 and moving upward with the price of crude oil.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ALLEN was allowed to proceed for 2 additional minutes.)

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I will yield to the gentleman from Texas if he will secure me additional time.

Mr. KRUEGER. Mr. Chairman, I will be very brief. I just wonder, in view of the gentleman's observation about the concentration of the industry whether the gentleman could think of any other large industry in the United States of America in which the seven largest companies together do not produce, as in this instance, half of the product? The seven largest companies producing natural gas do not produce even half of the natural gas. The 20 largest companies do not produce three-quarters. Just think of steel and copper, or the three largest communications networks, I wonder if there are any other areas in which the gentleman can suggest where there is as compact and broad a diversity in the number of companies as there are here, but would the gentleman suggest that in all other industries there is no concentration in the industries?

Mr. ALLEN. I would question that. But let me say, furthermore, that regardless of the number of drillers or producers the actual interstate distribution of natural gas is tightly controlled by not more than 12 companies in this Nation. Let me continue on so I can finish in my time.

The gentleman from Texas (Mr. ECKHARDT) on yesterday gave us these figures, and they no doubt will appear in the CONGRESSIONAL RECORD of yesterday's proceedings. Mr. MOFFETT, a member of the committee, just stated from the Library of Congress study that the price would rise to $3.50 by 1985. So we see from Mr. ECKHARDT and his figures and Mr. MOFFETT's figures that this is not just some innocuous amendment, or a compromise that will benefit the people. It is, instead, a gigantic rip-off of the American consumers.

It, together with the other provisions of this bill, will increase the prices of everything they buy, and may well fan the flames of inflation into a firestorm that could get completely out of control. I, for one, if I am the only one, shall vote against this amendment.

The CHAIRMAN pro tempore. The question is on the ad hoc committee amendments.

The ad hoc committee amendments were agreed to.

Mr. ASHLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. The Chair would like to advise the gentleman from Ohio that he was not standing at the time the vote was taken, and the gentleman's request comes too late.

The Clerk will designate the next ad hoc committee amendment.

The Clerk read as follows:

Page 193, line 11, after "the cost of" insert "compression,".

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Do I understand that we now have under consideration the second ad hoc committee amendment?

The CHAIRMAN. Yes. The Chair would like to advise the gentleman from Ohio that this is the second ad hoc committee amendment, and that is the question before the Committee at this time.

The question is on the ad hoc committee amendment.

The ad hoc committee amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

Is the amendment that was made in order by the rule in order now?

The CHAIRMAN. The Chair would like to advise the gentleman from Ohio that there are other ad hoc amendments.

The Clerk will designate the next ad hoc committee amendments, which under the rule are considered as read and considered en bloc.

The Clerk read as follows:

Page 209, lines 3 and 4, on page 209, lines 12 through page 210, line 6, on page 210, line 7, on page 210, lines 16 through 18, on page 211, line 6, on page 211, lines 23 through 25, on page 212, lines 4 through 6, and on page 212, lines 16 through 18.

(The ad hoc committee amendments read as follows:)

Page 209, lines 3 and 4, strike "UNENFORCEABLE CONTRACT PROVISIONS.", and insert: "INTRASTATE CONTRACTS AND TRANSACTIONS.".

Page 209, following line 11, insert:

(b) AUTHORIZATION OF CERTAIN SALES AND TRANSACTIONS.—(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission determines appropriate. No person shall be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale, or engaging in any transportation, of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is subject to the jurisdiction of the Commission under the Natural Gas Act.

Page 210, line 7, strike "(b)" and insert "(c)".

Page 210, line 16, following the words "respect to" insert "any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect".

Page 211, line 6, following "section 1" insert "(b)".

Page 211, line 23, following the word "apply" insert "or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act;".

Page 212, line 4, following the word "apply" insert "or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act."."

Page 212, line 16, following the word "apply" insert "or makes a sale or engages in the transportation of natural gas authorized by the Commission under section 414(b) of such Act."."

The CHAIRMAN pro tempore. Does anyone desire to debate these amendments or move to strike the last word?

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word, and I ask the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY), for a brief explanation of these amendments.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, these amendments allow the FPC to provide limited exemptions from regulation under the Natural Gas Act to intrastate pipelines which transport natural gas for, or sell natural gas to, interstate pipelines. The FPC may specify terms and conditions, including provisions respecting fair and equitable prices, as the Commission determines appropriate.

Mr. BROWN of Ohio. Is that the only aspect?

Mr. ASHLEY. That is the essence of the amendments.

Mr. BROWN of Ohio. And does this terminate the ad hoc committee amendments to the bill? Does this conclude them?

Mr. ASHLEY. After the adoption of these amendments for part 4, yes.

Mr. BROWN of Ohio. I thank the gentleman from Ohio.

The CHAIRMAN pro tempore. The question is on ad hoc committee amendments.

The ad hoc committee amendments were agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Chair would like to inquire of the gentleman from Ohio if this is an amendment permissible under the rule and made in order under the rule?

Mr. BROWN of Ohio. This is authorized under the rule and has been assigned to the gentleman from Ohio (Mr. BROWN) to offer at this point.

Mr. DINGELL. Mr. Chairman, two things. I reserve all necessary points of order and, second, I inquire, has the unanimous-consent request been made for the dispensation of the reading of the amendment? I am not making that request.

The CHAIRMAN. The Clerk will first have to report the amendment and then the gentleman's request will be in order.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Page 180, strike line 9 and all that follows down through line 21 on page 217, and insert in lieu thereof the following:

FINDINGS AND PURPOSES

"SEC. 401. (a) The Congress finds that—

(1) in the early history of this nation's petroleum industry, natural gas was a by-product of the production of crude oil, and was not easily marketable, and was often flared off and treated as waste or sold at very low prices;

(2) the natural gas market changed dramatically through the course of the last 40 years as a national distribution system was built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to provide protection for consumers and to provide a regulatory structure through which interstate pipelines could be assured a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce, subjecting producers selling interstate gas, but not intrastate gas, to a reasonable rate of return regulatory standard based on a determination of production costs;

(5) the differential between the price of natural gas and oil has widened with the continuation of cost-based regulation of natural gas, the fourfold rise in world oil prices in 1973 and 1974, and the increasing pressure to burn natural gas because of its environmentally superior qualities;

(6) as a result, the incentives to find new natural gas have declined along with the proven reserves of natural gas, while demand for this premium and relatively inexpensive fuel has increased;

(7) the decline in incentives to find new natural gas and the decline in the Nation's inventory of proven reserves can be reversed by permitting market forces to determine the value of future supplies through the removal of Federal wellhead price controls applicable thereto.

(b) The purposes of this part are—

(1) to bring the natural gas market back into better balance by increasing the supply of and reducing the demand for natural gas through the deregulation of producer sales of future supplies which are sold in interstate commerce; and

(2) to deal with short-term supply shortages of natural gas through extension of the authority of the President under the Emergency Natural Gas Act of 1977.

SEC. 402. This part may be cited as the "Natural Gas Supply and Conservation Act of 1977".

SEC. 403. The Natural Gas Act (15 U.S.C. 71 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection.

"(a) This Act may be cited as the 'Natural Gas Act'.".

SEC. 404. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Supply and Conservation Act of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, as amended, after the date of enactment of the Natural Gas Supply and Conservation Act of 1977, the authority of the Commission to regulate the sale of natural gas to a natural gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Supply and Conservation Act of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (AR) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural gas company which transports natural gas in interstate commerce.".

SEC. 405. Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), respectively, and by inserting the following new paragraphs:

"(7) 'New natural gas' means (A) natural gas sold or delivered in interstate commerce for the first time on or after April 20, 1977: *Provided,* That such natural gas shall not be deemed new natural gas if at any time prior to April 20, 1977, such gas could have been sold and delivered and was not sold and delivered at any time prior to April 20, 1977, as determined by the Federal Power Commission: *Provided further,* That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than fifteen years or for the life of the reservoir from which it is produced if less than fifteen years: *Provided further,* That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Supply and Conservation Act of 1977 pursuant to limited term certificates (five years or less) or temporary emergency contracts including sales made pursuant to the Emergency Natural Gas Act of 1977 shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a new well which is 2.5 miles or more (horizontal distance) from any old well, unless such new well is completed in a newly discovered reservoir as determined by State or Federal agencies having jurisdiction over the drilling of wells and production therefrom; or is produced from a new well the completion of which is one thousand feet or more deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, unless such new well is completed in a newly discovered reservoir as determined by the State or Federal agencies having jurisdiction over the drilling of wells and production therefrom, regardless of whether or not the leases on which the wells were drilled were committed by contract or dedicated to the interstate market.

"(8) 'Old natural gas' means natural gas sold or delivered for resale in interstate commerce other than new natural gas.

"(9) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by rule by the Commission.

"(10) 'Offshore Federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"(11) 'Intrastate commerce' means commerce within the United States other than interstate commerce.

"(12) 'New well' means a well the surface drilling of which was begun after April 20, 1977.".

SEC. 406. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own prop-

erties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.".

SEC. 407. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ": *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling, or interim ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.".

SEC. 408. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out in paragraph (4), the following: "or which would be required to be so certificated but for section 1(c) of such Act."

(2) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1980";

(3) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(4) in section 6(a) delete "as the President determines" and insert in lieu thereof "which the President shall determine from time to time, in advance of any such sales";

(5) In section 6(a), by striking out "August 1, 1977" and inserting in lieu thereof "August 1, 1980";

(6) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "August 1, 1980"; and

(7) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1979, and June 1, 1980,".

SEC. 409. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is further amended by adding at the end thereof the following new subsection:

"(i) Subject only to the provisions of section 24 of this Act, as amended, after the date of enactment of the Natural Gas Supply and Conservation Act of 1977, the provisions of this section shall not permit the Commission to condition the grant of or to deny a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.".

SEC. 140. The Natural Gas Act (15 U.S.C. 717 et seq.), as amended by the Natural Gas Supply and Conservation Act of 1977, is further amended by adding at the end thereof the following new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Supply and Conservation Act of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after April 20, 1977, through April 20, 1982. In establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"(2) the rates and charges necessary to encourage the optimum level of (A) exploration for natural gas, (B) development, production, and gathering of natural gas, and (C) maintenance of proven reserves of natural gas;

"(3) the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on April 20, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth as designated by the Commission by rule.

"(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within thirty days after the date of enactment of the Natural Gas Act Amendments of 1977 and on April 20 of each year thereafter until such establishment of a national ceiling pursuant to subsection (a), the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective April 20, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Supply and Conservation Act of 1977 as determined by the Federal Energy Administration pursuant to title IV of the Energy Policy and Conservation Act (15 U.S.C. 753–757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the date of the establishment of the national ceiling

"(e) From and after April 20, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"(f) No price established by or pursuant to the Natural Gas Supply and Conservation Act of 1977 for new natural gas produced from offshore Federal lands be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to April 20, 1977.

"(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"SEC. 25. (a) Except to the extent that natural gas supplies are required to maintain natural gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural gas curtailment plan in effect under existing law, the Commission shall within one hundred and twenty days of the date of enactment of the Natural Gas Supply and Conservation Act of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, the use of natural gas as a raw material feedstock or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule within sixty days of the date of enactment of the Natural Gas Supply and Conservation Act of 1977 the agricultural food, processing, and food packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) Except to the extent that natural gas supplies are required to maintain natural gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than one hundred and twenty days after the date such applications are accepted for filing.

"SEC. 26. Any contractual provision in any contract for the first sale, transfer or exchange of natural gas in or affecting commerce, which provision determines or redetermines the price paid to the seller by reference to other sales of natural gas, crude oil, or any sale of any refined petroleum product is declared to be contrary to public policy and any determinations or redeterminations of price pursuant thereto made

from and after the date of enactment of the Natural Gas Supply And Conservation Act of 1977 shall be unenforceable.

"SEC. 27. (a) (1) Not later than ninety days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after such date of enactment to any pipeline company exceeds the average cost of natural gas delivered to such company during the twelve-calendar-month period ending immediately before the date of enactment of this Act shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

"(A) low priority users served by such pipeline company,

"(B) high priority users served by such pipeline with respect to uses of natural gas in excess of the base quantity of each used, and

"(C) local distribution companies for resale by such companies to low priority users and to high priority users in excess of the base quantity of each such high priority user.

until the rates or charges applicable to such low priority users or high priority users with respect to sales of natural gas which exceed the base quantity of each such high priority user, served by such pipeline company or such local distribution company, equals 120 percent of the average cost of imported crude oil which has the equivalent Btu content as the quantity of natural gas for which such rates or charges apply (as determined by the Commission).

"(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (C) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users and to high priority users with respect to sales of natural gas which exceed the base quantity of each such high priority user.

"(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rate and charges of a pipeline company applicable to sales of natural gas to—

"(A) low priority users served by such pipeline,

"(B) high priority users served by such pipeline in excess of the base quantity of each such user, and

"(C) local distribution companies for resale by such companies to low priority users and to high priority users in excess of the base quantity of each such high priority user,

equal 120 percent of the average cost of imported crude oil which has the equivalent Btu content as the quantity of natural gas for which such rates or charges apply (as determined by the Commission), further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

"(b) For purposes of this section:

"(1) The term 'low priority user' means any person who uses natural gas for boiler fuel use in excess of 1500 Mcf per peak day.

"(2) The term 'high priority user' means any person who uses natural gas and who is not a low priority user and who uses natural gas in amounts greater than 50 Mcf on a peak day.

"(3) The term 'boiler fuel user' means the use of natural gas for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity, whether or not alternate fuel capacity has been installed.

"(4) The term 'base quantity' means, when used with respect to any user of natural gas served by a pipeline company or local distribution company—

"(A) the average annual quantity of natural gas used by such user during the 3-year period ending June 30, 1977, or

"(B) if such user was not being served by such pipeline company or local distribution company during such period, a quantity determined under regulations prescribed by the Commission to be used by similar users under comparable circumstances during such 3-year period.

"(5) The term 'pipeline company' means any person engaged in the business of transporting natural gas in interstate commerce by pipeline other than a local distribution company.

"(6) The term 'local distribution company' means any person engaged in the business of transportation and local distribution of natural gas and the resale of natural gas received from a pipeline company for ultimate consumption.

"(7) The term 'person' includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

"(8) The term 'Commission' means the Federal Power Commission.

"(9) The term 'natural gas' has the same meaning as such term has under section 2 (5) of the Natural Gas Act.

"EFFECTIVE DATE OF THIS ACT

"SEC. 411. The amendments to the Natural Gas Act made by the Natural Gas Supply and Conservation Act of 1977 shall not take effect until April 30, 1978, or until Congress so declares by concurrent resolution, whichever is earlier.".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ALLEN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue the reporting of the amendment.

The Clerk continued the reading of the amendment.

The CHAIRMAN pro tempore. Does the gentleman from Ohio renew his request to dispense with further reading of the amendment?

Mr. BROWN of Ohio. Mr. Chairman, I am happy to renew my request.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. DINGELL. Mr. Chairman, reserving the right to object; Mr. Chairman, I do so only for the purpose of a colloquy.

Mr. Chairman, my old friend, the gentleman from Ohio, has requested that the reading of the amendment be dispensed with and I simply ask: Is this the amendment which was published in the RECORD?

Mr. BROWN of Ohio. Mr. Chairman, this is the amendment made in order by the rule and published in the RECORD, yes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. DINGELL. Mr. Chairman, I have some other inquiries under my reservation.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. DINGELL. Mr. Chairman, is this the one published in the publication of the list of amendments made in order by the rule?

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, yes, it is.

Mr. DINGELL. Mr. Chairman, I further direct a question to the gentleman from Ohio; this is the amendment published in the RECORD on July 27, 1977; am I correct?

Mr. BROWN of Ohio. But for the page and line numbers, that is correct.

Mr. DINGELL. That is the reason for my inquiry, because I observe that the page and line numbers cited therein were incorrect. The reason I am inquiring is to make sure it is the correct amendment.

Mr. BROWN of Ohio. Mr. Chairman, as the gentleman knows, at the time it was published in the RECORD we were using page and line numbers of the bill then available to us.

Mr. DINGELL. My comment is not critical.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I just want to be sure that all is correct as it should be.

Mr. BROWN of Ohio. Mr. Chairman, if I heard the Clerk correctly, I think the Clerk read the proper page and line numbers. The amendment at the desk relates to the page and line numbers as they would be related in the bill.

Mr. DINGELL. Well, Mr. Chairman, as I observed, I continue my reservation here both as to the right of the gentleman to get unanimous consent to dispense with further reading, but also with regard to the offering of the amendment under the rule. I do not wish to foreclose my friend from his rights under the rule, but I have a parliamentary inquiry at this time.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, I make the observation that the rule does provide that the gentleman from Ohio (Mr. BROWN) shall have the authority to offer the amendment now referred to according to the terms and the conditions of the rule. The rule says as follows:

(3) An amendment printed in the Congressional Record of July 27, 1977, beginning on page 25321, by Representative Brown of Ohio, to part IV, title I, which amendment shall be in order only after disposition of the amendments to that part recommended by the Ad Hoc Committee on Energy printed in or adopted to the bill;

Mr. Chairman, I observe that the amendment printed in the RECORD is to one portion of the bill, but I observe that the amendment offered is offered to a different portion of the legislation before us.

Mr. Chairman, I am curious to know whether or not the amendment is offered in conformity with the rule.

Mr BROWN of Ohio. Mr. Chairman, because of the necessary confusion created by the abrupt procedures by which the ad hoc committee and then the Committee on Rules met in efforts to get amendments identified so that the requests could be made of the Committee on Rules, the amendment which the gentleman from Ohio sought to have the Committee on Rules make in order was printed in the RECORD on the 27th of July.

There is no susbtantial difference in the amendment which was read by the Clerk from that amendment.

The question of the slight differences in page numbers and so forth which were necessitated because of the fact that the printed bill in its final form was not available for the gentleman from Ohio to make reference to when he printed his amendment in the RECORD. Because of that circumstance we cleared with the Parliamentarian, or so we thought, the appropriateness of the amendment which was submitted to the desk in accordance with the rule.

I appreciate the gentleman from Michigan trying to keep the gentleman from Ohio precisely correct on all points and I concede that there may have been some slippage merely because under the procedures of the House the ad hoc committee and the Committee on Rules did not make it possible for me to be prescient enough to know on July 27 where my amendment would appropriately be inserted since the bill before us today was not available at the time my insertion in the RECORD was made.

The CHAIRMAN (Mr. NATCHER). The Chair finds that there is a difference in the page and line numbers that are now before the committee, and if the gentleman from Michigan insists upon his request, the gentleman from Ohio will have to ask unanimous consent that his amendment be modified.

Does the gentleman from Michigan insist upor his request?

Mr. DINGELL. I think, Mr. Chairman, we would be better served were that done. It will not prejudice my friend from Ohio.

The CHAIRMAN. Is there objection to modification of the amendment?

Mr. ALLEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I make the same unanimous-consent request.

The CHAIRMAN. The Chair would like to advise the gentleman that the amendment will be in order regardless of the page and line numbers since an amendment to part IV of title I, is permitted in the rule.

Mr. DINGELL. Perhaps I can obviate some of the problems, since I am partly responsible for them. I am sure my good friend from Ohio, for whom I have great respect and long friendship, would assure us that the two amendments are substantively identical.

Mr. BROWN of Ohio. They are.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ALLEN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. ALLEN. Mr. Chairman, after consulting with the Parliamentarian on the situation, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is now modified. The Clerk will continue to read the amendment.

The Clerk continued the reading of the amendment.

The CHAIRMAN (during the reading). Does the gentleman from Ohio renew his request that the amendment be considered as read and printed in the RECORD?

Mr. BROWN of Ohio. I do, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, this is the amendment which was made in order by the Rules Committee, to be offered by the gentleman from Ohio, and is the amendment which has been known generally as the Krueger-Brown-Wirth amendment, which was narrowly defeated in the Commerce Committee and is the amendment which seeks to terminate on a gradual basis the price controls of the Federal Government in the area of natural gas.

Now, as we begin the debate on one of the most important and controversial portions of H.R. 8444, my amendment to the natural gas pricing provisions, I would like to take each of the Members back to late January or early February of this year. At that time, industrial natural gas users in most parts of the Midwest and the Northeast were receiving only enough natural gas to prevent damage to their plants from frozen pipes and water lines. As a consequence of that gas shortage, which closed industrial plants, closed schools and other public facilities throughout the industrial Midwest and the East, an estimated $610 million in wages were lost by 1.2 million idle workers, idled by shortages of natural gas during that week or 10-day period; shortages that can be laid directly—I repeat, directly—to Federal price controls, as well as to the unusual cold weather that we experienced.

At the height of last winter's shortages, residences, public health and safety institutions and small commercial institutions were threatened with curtailment. In my area of the Nation, some communities had their plans promulgated whereby residents should go to public buildings that might be kept warm if all gas to private residences were lost.

It should be no comfort to those who support the price control policy that created this situation in the interstate natural gas market to know that next winter's curtailments are estimated to exceed last winter's curtailments. As a solution to these ever-increasing and severe gas shortages, the Committee on Interstate and Foreign Commerce merely offered an extension of the same deficient natural gas policy which will do nothing to increase gas supplies and which will continue the shortages in the interstate market.

Mr. Chairman, the ad hoc committee amendments which we have just adopted and have euphemistically characterized as a compromise do little more than the Commerce Committee bill's provisions. In point of fact, the ad hoc committee amendments do not significantly change the counter-productive, proven bankrupt policies of price controls.

For example, both the Interstate and Foreign Commerce Committee bill and the ad hoc committee amendments to it place virtually identical ceilings on the price of new natural gas, and those are placed substantially below the current intrastate price of about $1.95 to $2. The Interstate and Foreign Commerce Committee bill sets the price of new natural gas equal to the Btu equivalent price of refinery-acquired domestic crude oil. Today the average domestic crude oil prices are about $9.25 per barrel, which equals $1.60 per Mcf of natural gas.

The ad hoc committee amendments changed that formula only slightly, to say it would be the Btu equivalent price, or $1.75, whichever was higher.

Nowhere in the original request of President Carter does that $1.75 price appear. It is not in the Interstate and Foreign Commerce Committee version. But the reason for the $1.75 Mcf figure, which has gained such general currency, is that the prospective Energy Secretary, James Schlesinger said, during testimony before the Energy and Power Subcommittee, that the Btu equivalency of refinery-acquired domestically produced oil would be equivalent to $1.75 per Mcf for gas by the winter of 1978.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ST GERMAIN. Mr. Chairman, reserving the right to object, will that be it?

The CHAIRMAN. Does the gentleman from Rhode Island reserve the right to object?

Mr. ST GERMAIN. Mr. Chairman, I reserve the right to object.

Mr. BROWN of Ohio. If one of my colleagues would want to ask questions, in that case I would assume he would also ask for a continuation of time.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I think it should be pointed out that we have to understand, and I am sure the gentleman from Rhode Island does understand, that the amendment we are considering is the single most important amendment which we will have before us—yesterday, today or tomorrow.

I am sure the gentleman is not going to object to an additional 5 minutes or perhaps a couple of minutes after that.

I really think that the gentleman from Ohio (Mr. BROWN) is entitled to make his case, just as we on the other side are entitled to have the time to rebut that case. I would hope that the gentleman from Rhode Island (Mr. ST GERMAIN) would not object at this time.

Mr. ST GERMAIN. Mr. Chairman, further reserving the right to object, the gentleman from Rhode Island is well aware of that fact. He appreciates the comments, nonetheless, of his colleague, the gentleman from Ohio (Mr. ASHLEY) on this side of the aisle. By the same token, I would also venture to say that because of the importance of this amendment there are perhaps three Members of the House who do not know right now how they are going to vote on the amendment. I certainly did not intend to restrict the gentleman, the proponent, to a 5-minute period.

By the same token, I will begin to object if we go on ad infinitum on this extension.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I want the gentleman from Rhode Island (Mr. ST GERMAIN) to know how much I appreciate his courtesy.

Mr. Chairman, the $1.75 per Mcf price of gas is that which is supposed to be reached by January of 1978, according to the Secretary.

So there is very little difference between the provision of the Committee on Interstate and Foreign Commerce; that is, the Btu domestic oil equivalency of $1.75 by January 1, and the ad hoc committee provision that says $1.75 or the Btu equivalency, whichever is higher.

What in effect is the difference? Very little. Both the bill of the Committee on Interstate and Foreign Commerce and the ad hoc committee amendments define "new natural gas" extremely narrowly, with the ad hoc committee amendments constituting only a slight improvement, because of the potential regulatory morass created by the provisions allowing the Federal Power Commission to control what constitutes a new reservoir.

Both bills contain a so-called "special pricing provision," which is often represented by proponents as allowing certain gas to exceed price ceilings. These proposals will not be of any benefit, given the historical experience with such ex post facto mechanisms.

What happens if you underestimate your costs? Provisions for such price relief have been provided in virtually every Federal Power Commission order since the Permian decision of the 1960's. But very few requests for such price relief have ever been granted. In those cases where relief has been granted, the process before the Federal Power Commission has taken so long that the relief became moot by the time the petitioner finally received it.

I trust that none of the Members will be deluded into believing that the ad hoc committee amendments are a compromise. The compromise idea is a charade.

As an alternative to the counterproductive and bankrupt policies of the proposals from the Committee on Interstate and Foreign Commerce and the ad hoc committee, the gentleman from Illinois (Mr. ANDERSON), the gentleman from Texas (Mr. KRUEGER), the gentleman from Colorado (Mr. WIRTH), and I offer what we think is a true compromise amendment. Our amendment removes Federal price controls from the narrow category of new onshore natural gas. Old natural gas being sold under existing interstate contracts will remain subject to current FPC regulations, but gas under intrastate contracts will be available for bidding by interstate pipelines at market prices when existing intrastate contracts expire. Offshore natural gas, which must be dedicated to the interstate market, will remain subject to Federal Power Commission price controls through April 20, 1982, but the FPC must establish a new national ceiling, taking into consideration prospective costs of production.

One of the most important aspects of our amendment is that residential gas consumer will receive maximum protection from any higher prices. The possibly higher costs which may be associated with developing additional supplies of new natural gas will be allocated to industrial boiler fuel users of natural gas until the cost of such gas reaches 120 percent of the costs of imported crude oil on a Btu basis. That means that it could go as high for industry as $3, which is still cheaper than oil or conversion to coal. This will help insulate the residential user from any costs associated with the new, higher priced gas.

The amendment also extends the Emergency Natural Gas Act of 1977 for 3 years. This act gives the President the authority to allocate natural gas on an emergency basis and to set ceiling prices for gas sold under the emergency provisions of the act. This will give the President maximum flexibility in dealing with any short-term shortages or unwarranted spot price increases, should they arise.

Finally, our amendment provides that present Federal price controls on new natural gas will not terminate until April 30, 1978, in order to give Congress time to enact, if it wishes, a tax on any windfall profits of gas producers which may occur.

This amendment is a true compromise among the alternatives, and it is far preferable to the ad hoc committee solution, which would permanently extend Federal price controls into the intrastate market at levels substantially below current intrastate prices. In short, the $1.75 price is not a compromise price.

The basic assumption behind the $1.75 price and the administration-committee policy with respect to natural gas is that little natural gas remains to be found within the United States. The CIA and MIT/WAES reserves studies, which predict worldwide petroleum shortages by 1985 to 1990, are frequently cited to support this position. If little natural gas remains to be found, the administration-committee argument goes, then if prices of new natural gas are allowed to rise significantly, producers will only be receiving more and more money for producing less and less gas.

This basic assumption underlying the administration's policy is patently unsound.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. To continue, Mr. Chairman, the basic assumption underlying the administration's policy is patently unsound. The Potential Gas Agency, an independent nonprofit committee based at the Colorado School of Mines, estimates that there still remain between 923 and 973 trillion cubic feet of natural gas, in addition to proved reserves, which can be discovered in the future and produced from conventional sources in the United States. At present rates of consumption and including the approximately 220 trillion cubic feet of currently known proved reserves, the United States has between 35 and 60 years of natural gas remaining in the ground. This conclusion is supported by 22 separate and independent studies of potentially recoverable natural gas reserves that have been made since 1963.

Most notably, studies prepared by the U.S. Geological Survey and the National Academy of Sciences place the total remaining cubic feet somewhere between 752 and 1,100 trillion cubic feet, approximately the same as the estimates prepared by the Potential Gas Agency. That is about a 40-year supply.

The only conclusion one can reach with respect to unanimity is that there is still enough natural gas remaining to be produced by conventional sources. The administration rejects this conclusion. It must do so in order to justify the $1.75 price ceiling. Witness after witness appearing before the Subcommittee on Energy and Power stated that even though large amounts of natural gas still remain to be found, they will be more expensive.

Mr. Chairman, we need them in the industrial parts of the country. Without them, we must go to the higher priced oil from abroad, to electricity, or to synthetic gas, which costs massively more than natural gas produced by our American neighbors in the Southwest.

We feel that in order to keep industry going in the United States, we must have the deregulation of natural gas. In order to keep many of us going in the parts of the country where residences and commercial activities depend on natural gas, we must have those supplies. In order to get the supplies, we must have the market price to produce the supplies, and to bring it into balance at a moderate figure, as it is now in the intrastate market—which is not controlled.

If we have that, Mr. Chairman, we will have the same advantage that our Texas and Louisiana friends have; that is, an adequate supply of natural gas.

Mr. Chairman, I beg the Members to consider the amendment with the same generosity they have considered other amendments to this bill, and pass the amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it strikes me that there are five major policy defects in the Brown-Krueger amendment.

First of all, deregulation as proposed will result in demand-driven prices of $5 or more per thousand cubic feet.

Second, deregulation will result in some $56 billion to $88 billion in windfall profit to natural gas producers.

Third, deregulation will produce little or no increase in production as compared to the incentive-based pricing proposal of H.R. 8444.

Fourth, deregulation will spur inflation, reduce real GNP growth, and increase unemployment.

Fifth, deregulation will cost consumers approximately $1,000 per household by 1985, while providing no benefit to the economy.

Perhaps the least understood objection to deregulation, Mr. Chairman, is the argument that deregulation will result in demand-driven prices which, in the near term, will reach $5 or more per 1,000 cubic feet.

Recent new natural gas prices have not exceeded the Btu equivalent price of crude oil in intrastate markets. Why, then, will deregulation of interstate natural gas sales result in such dramatically higher new natural gas prices? The answer to the question requires an appreciation of the differing characteristics of the interstate and intrastate market. Natural gas price increases in unregulated intrastate markets have been demand limited. Many intrastate contracts are of comparatively short duration and often contain price redetermination or other escalator clauses. As a result, average intrastate natural gas contract prices have rapidly followed increases in new natural gas contract prices. As average intrastate natural gas contract prices have reached the level at which delivered intrastate natural gas prices approach the price of alternative fuels, the ability of intrastate pipelines to pay higher prices for new natural gas supplies is limited by the pipelines' ability to pass through other natural gas price increases without losing natural gas customers.

The fact that many intrastate natural gas users are consuming natural gas as a boiler fuel solely for its heat content exacerbates the inability of the intrastate pipeline to pass through price increases since these users are among the most sensitive to price increases and often have a ready ability to switch to alternative fuels, especially oil.

Interstate pipelines, on the other hand, have large quantities of natural gas under long-term contracts. Thus, while average intrastate contract prices presently average as high as $1.85 per Mcf for some intrastate pipelines, the average cost of natural gas to interstate pipelines is only slightly above $0.60 per Mcf.

It is generally in the financial interest of the interstate pipeline to increase its throughput of natural gas. Therefore, a natural gas-starved interstate pipeline has great incentive to acquire increased supplies of natural gas so long as the average cost of natural gas delivered to its most price sensitive users, its boiler fuel users, does not exceed their cost of using alternative fuels. And, to the extent that many interstate natural gas users are less price sensitive, for example, petrochemical feedstock consumers, process fuel users, and residential users, even this delivered price level is not a constraint if these categories of users will consume any natural gas made available by conversion by boiler fuel users to other fuels.

Finally, the economic consequences and consumer price impacts of deregulation are unacceptable. As compared to the natural gas pricing policy adopted in H.R. 8444, deregulation, as proposed in the Brown amendment, would result in a new natural gas price in 1980 of as much as $5.69 per Mcf. Despite this price level, deregulation would produce only 1.7 Tcf of additional conventional natural gas supplies above those produced under H.R. 8444 during the period from 1978 through 1985. Yet the cumulative consumer cost during this period would range between $53.1 an $79.3 billion more under deregulation than under H.R. 8444. Expressed differently, annual residential natural gas bills in 1985 would be as much as $159 more under deregulation than residential natural gas bills would be under H.R. 8444.

The small increase in conventional natural gas production generated by deregulation would cost the Nation's consumers more than $32 per Mcf and would be equivalent to paying $187 per barrel of oil. While these marginal cost estimates may appear absurd, they testify to the fact that deregulation is an inherently blunt instrument.

Deregulation will affect both the price of genuinely incremental supplies of natural gas and also the price of natural gas that would have been discovered anyway. In addition, deregulation would affect the price of flowing intrastate natural gas as that natural gas is purchased by interstate pipeline companies following expiration of existing intrastate contracts. Because deregulation permits other than true additional supplies of natural gas to rise to unregulated prices, the cost of deregulation is simply too great a price to pay for the small increase in natural gas supplies.

In conclusion, Mr. Chairman, the natural gas pricing policy in H.R. 8444 recognizes impracticability of deregulating natural gas prices as long as a substantial supply/demand imbalance exists.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I appreciate the gentleman's yielding.

I would just like to observe that the gentleman is predicting natural gas prices to go through the roof. I think the gentleman from Ohio is familiar with what we paid for synthetic gas in Ohio last winter, at least in my area and I presume in his, manufactured in Green Springs, Ohio. We could not buy natural gas at above $1.42. We had to pay $4.14 for that synthetic gas manufactured at Green Springs. That would be the equivalent of $23.26 oil.

The highest price that gas went to in the intrastate market last winter when there was a severe shortage in the United States and emergency purchases were allowed in the intrastate market, was $2.39 in Texas. That $2.39 is in effect the same as the price of stripper oil. U.S. stripper oil is below the foreign crude oil that is coming into this country now in massive quantities.

What we want to do is to allow people all over the country to buy gas at the price that it can be bought in the intrastate market so that we can force out that foreign market.

Does the gentleman disagree with that?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. KRUEGER, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 5 additional minutes.)

Mr. ASHLEY. I will say to the gentleman that he comments on the emergency situation we both experienced last winter in Ohio. Under the Brown-Krueger amendment, as I understand it, under emergency situations natural gas allocations could only be ordered from the interstate pool and not from the national pool as under H.R. 8444.

Mr. BROWN of Ohio. No; it would be impossible, if the gentleman will yield further, for interstate bidders to move to the intrastate market and be on parity with those people who are buying intrastate gas and who last winter were able to do so at $2.39 or below, so we would not have to go to that expensive oil at $4.14.

Mr. ASHLEY. What I am saying is under the Brown-Krueger amendment, as I understand it, under emergency situations, gas could be allocated only from interstate resources and not from a national pool as under H.R. 8444.

Mr. BROWN of Ohio. That is not correct. That is why I wanted the gentleman to yield, because that is not correct. It would be impossible under the amendment for interstate pipelines to buy gas from the intrastate market or from those who wish to dedicate their gas to the interstate gas who had not previously dedicated it to either one.

Mr. ASHLEY. I think the problem goes further because, again, it is my understanding that under Brown-Krueger there would be continued regulation of producers of natural gas by the Federal Power Commission.

Mr. BROWN of Ohio. Of old contract interstate gas, so the price for the residential user would not go up. The new gas as somewhat higher prices would all be charged to industry on an incremental basis and would still be cheaper for industry than for them to convert to coal.

Mr. ASHLEY. It seems to me that the gentleman's amendment perpetuates the anomalies of the dual market—the inter-intrastate markets. This, frankly, I

find to be one of the severe impediments contained in the gentleman's amendment.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield for a question?

Mr. ASHLEY. I yield to the gentleman from Texas, indeed.

Mr. KRUEGER. I thank the gentleman for yielding.

I observe that the gentleman indicated that he felt demand-driven prices, as he terms it, might rise to $5 per Mcf. Our committee received testimony from no one from the industry who suggested such prices. In fact, I know of only one person who ever suggested that kind of price, and this particular individual is one who heads a company that has massive investments in LNG tankers to bring it from overseas at $3.50 per Mcf. Therefore, I think his judgment might be at least somewhat partial.

I did observe that the gentleman from Ohio, the chairman of the ad hoc committee, believes that boiler fuel use is an inappropriate use for natural gas, and I would agree with him that it is. I would ask if he recognizes, as I am sure he does, that if we convert from gas to oil for boiler fuel when the price of gas reaches the Btu equivalent of fuel oil, that conversion will take place at gas prices of about $2.50 per Mcf. Then it is impossible for the price of natural gas to go to $5 for boiler fuel use, when in the State of Texas alone there are 2.4 million cubic feet of gas under boilers, which would became available for other uses when those who presently buy his gas switch to cheaper alternatives.

The notion that gas prices would rise to $5 when there is that quantity of boiler fuel use and corresponding Btu oil in the neighborhood of $2.60 to $2.70 is clearly, absolutely untenable. The argument falls because there is no way that the rate could rise that high.

Second, there is no way that the extraordinary—and that is the most generous term I could think of—figures he has given for consumer impact could possibly come about since the Brown-Krueger-Wirth amendment includes incremental pricing procedures whereby residential users are held harmless and the brunt of any increased costs go to boiler fuel users. I would refer to testimony we received in the Energy and Power Subcommittee.

Mr. ASHLEY. Mr. Chairman, if the gentleman will let me, I would just say one thing that strikes me, that although the gentlemen surrounding me are infinitely more experienced and knowledgeable in this area than I am, as one who looks at this with perhaps the same eyes as many others in this body, I think we cannot deny the fact that, I would say to the gentleman from Texas (Mr. KRUEGER) and the gentleman from Ohio (Mr. BROWN), they call for immediate deregulation.

Mr. KRUEGER. Only of new gas, if the gentleman might yield further, and new gas will probably cost about 7 percent of what the consumer uses.

Mr. ASHLEY. But there is a marked difference between the approach of the gentleman from Texas (Mr. KRUEGER) and that of the bill, H.R. 8444.

Mr. KRUEGER. I concur that there is a difference and it is an important difference.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. GORE, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I find it curious that the gentleman from Texas argues now that the price in a deregulated market would not rise to extraordinarily high levels. The first measure which the gentleman introduced before the Commerce Committee early this year included a provision that built a wall around the State of Texas to insulate consumers in that State and the rest of the intrastate market from the high prices which will certainly result from deregulation.

Earlier this year in a speech to the Texas State Senate the gentleman from Texas talked about the change in the intrastate market which will occur when, for the first time, the interstate market customers compete for the supplies in the intrastate market. I quote from the speech by the gentleman from Texas:

> With the interstate market potentially coming in to bid on our gas we are likely to see those contracts triggered up to a very, very high and extremely high, I would say unacceptably high, level.

There was a problem raised, during committee consideration of deregulation proposals, with the "wall" erected around Texas by an early proposal sponsored by Mr. KRUEGER. In order to secure the support of the members of the committee from the North and the East, that provision had to be taken out of the bill. We now have the patchwork compromise from that side of the aisle which has been offered, but there was a tacit admission in the speech of the gentleman to the Texas legislature and in the provisions of the bill offered originally in the Commerce Committee that the price levels that consumers will be asked to pay in a deregulated market are totally unacceptable.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

Let us just consider this hard and simple fact. Last fall when we were passing the emergency legislation, who was it that sought to have protection of the intrastate market from the interstate market? It was the Governor of Texas on behalf of the people from Texas. We went along with that because we recognized the merit of their claim.

Who was it that placed a wall around the State of Texas in the legislation which he sponsored in order to protect the same intrastate market for the same reason? It was my friend, the gentleman from Texas (Mr. KRUEGER).

What was the reason? The gentleman from Texas (Mr. KRUEGER) wisely recognized that the big interstate market, with rolled in prices, can go in and disintegrate the intrastate market.

Now, why? Because the higher wellhead prices will make no difference to the interstate market, but they will make an enormous difference to the intrastate market. The consequence of the difference in price impact on the intrastate market is disastrous.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has again expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. ASHLEY was allowed to proceed for an additional 3 minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. I yield.

Mr. DINGELL. Mr. Chairman, the reason for this is very simple. Natural gas prices during the winter crisis of this last year were artificially set at $2.25 Mcf. SNG has gone for $6 to $6.50 per Mcf. That is the real ceiling in terms of what will happen to natural gas prices if the Krueger-Brown substitute goes through, particularly in the short term, because of the enormous disruptive effect of short-term decontrol. That is a hard, hard fact. Perhaps the prices increases might be more moderate over the long term, but I would not bet on it.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, just to buttress what the chairman of the subcommittee was saying, there is an article in the July 2 National Journal which comes from the president of the Houston Natural Gas Corp., a gentleman who has supported deregulation in the past and who supports deregulation about 5 years from now, but who says deregulation now would be a serious mistake, precisely because of the consequences to the intrastate consumer, that is, that the interstate pipelines will be willing to bid as high as $4 and $5 per million Btu's, because they are willing to do it right now to get synthetic gas or to get liquid natural gas. Under those circumstances, they will bid up those prices to above the market equilibrium to a sky-high, abnormally-high price, and they will be able to do it for several years until we generally dampen the demand and the incremental price will spread; that so long as we are in the system that it will not be adequate to hold everything down, those prices will dampen demand.

In addition, many of the interstate pipelines, or some of them, do not serve a lot of industrial customers. Therefore, the homes on those pipelines, especially those going into Kentucky, will be hit hard with price increases.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, I would like to comment on two points. The first is that for the third time now the gentleman from Tennessee has taken my comments out of context. I have pointed out before that I was talking to the Texas Senate about the need to do

something about so-called favored-nation or most-favored-producer clauses. That was the specific context. Those favored-nation clauses are outlawed in my bill. Therefore, that question is addressed.

The second comment by the gentleman from Indiana (Mr. SHARP) on the comments of the chairman of the board of the Houston Natural Gas Co., I would observe that that particular company, if we look at the Forbes list of the 500 largest American corporations, last year had the highest rate on equity of any corporation in the United States.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. KRUEGER, and by unanimous consent, Mr. ASHLEY was allowed to proceed for an additional 4 minutes.)

Mr. KRUEGER. Mr. Chairman, if the gentleman will yield further, the reason that its returns were that high is because it brokers natural gas to the gas-short interstate market. They brokered large amounts for emergency sales; but I do not think that is the kind of policy that we wish to continue in the long term. I do not think that that particular gentleman's comments stand for the attitudes of the producers. I do not think that they are even representative of that particular industry.

What we need to do at this time is to find a policy of bringing on the necessary supplies and in doing so we need to encourage people to go from the use of natural gas for boiler fuels, which I would agree with the chairman of the ad hoc committee is an inappropriate use; the Krueger-Brown-Wirth proposal has incremental pricing and thereby discourages such use.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I wanted to respond to the statement that I was quoting the gentleman's remarks out of context.

The quote was precisely on target. The price which triggers the operation of the redetermination clauses is the new gas price.

That is the price which the speech dealt with.

We are talking about something that is in demand in both the interstate and the intrastate market. What will be the price for this commodity in the deregulated market?

Let me quote further on the subject from the gentleman's speech:

> We have this vast, voracious interstate system that has been starved for gas for a very long period of time.

He goes on to say:

> That big interstate appetite is going to come in and seek to take away whatever surplus gas we might have and whatever new gas is possible to bring on.

He goes on, and I quote again:

> This is going to make the price very, very high and extremely high—I would say unacceptably high . . .

Mr. KRUEGER. For the favored nations clause.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield.

Mr. WIRTH. On this point of intrastate gas that was brought up by the chairman, Mr. DINGELL, and by the gentleman from Tennessee, it is very important to point out that what Mr. KRUEGER was intending in that speech was not a protection of price, but a protection to make sure the producer States kept the gas in their States. This is not something that those of us who come from consumer States would like to see. If one were coming from a State producing natural gas, one would want to have that gas stay in that producer State, sc industry would move there and use the gas.

What we did in the subcommittee and in the full committee was to remove that clause from the bill offered by Mr. KRUEGER. Mr. KRUEGER agreed to drop the intrastate amendment. In other words, he agreed that what we would do is to allow the gas to be bid for by the interstate pipelines so that all States would have access to that gas. That is one of the great advantages of the Brown-Krueger-Wirth amendment, which is providing precisely that access by the consumer States to producer State gas.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Indiana.

Mr. SHARP. Let us not lose sight of the central issue here. That is the abnormally high price that will occur because of interstate bidding. Members can try to discredit the gentleman, but his logic is sound. They will be more than happy to bid that to the price of synthetic gas, or higher. They will be happy to do that.

Second, do not misunderstand the issue of renegotiated contracts here, please. That is a separate question that deals with old gas under contract in Texas now. Both of us agree that we have to protect the Texas market from all that old gas and contracts being triggered up because of new gas price, but that does not go to the issue of new gas pricing. Both of us agree to keep those contracts stable. The gentleman was not concerned about that, but he was concerned about new gas pricing.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. STOCKMAN and by unanimous consent Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield.

Mr. STOCKMAN. The gentleman from Indiana indicated that this question of porous demand on the price is not an answer. It has been said that the price will go to $5 and the chairman of the subcommittee has indicated that as well. But, I have before me the committee report of the Commerce Committee. On page 118 there is a study performed by the staff, the majority staff of the Commerce Committee. It attempted to estimate what would be the price of new gas under decontrol with incremental pricing.

Right in that study it indicates that in 1978 the maximum price would be $3.76 per Mcf. By 1985, that would decline to $2.77. Furthermore, it indicates that because all of the incremental price would be placed on industrial boiler and process users, either under decontrol with incremental pricing or the administration plan before us, the residential users; the household users' price would be $2.32 Mcf, or exactly the same.

What I would like to ask the chairman of our subcommittee is, whether or not he is now disavowing the study his own staff performed, and apparently he had approved and put in that report.

Mr. DINGELL. The answer to the question is a very simple one. The model is an excellent one. The figures cited do not apply to the specific Brown-Krueger-Wirth proposal now before the House.

If the gentleman from Ohio will permit, the incremental pricing of the Brown-Krueger-Wirth proposal does not work to protect the consumer. It is largely illusory in its promise of benefiting the household consumer. The lower new gas prices the gentleman refers to in the report, for deregulation with incremental pricing, are not applicable, in my opinion, to this proposal.

Mr. STOCKMAN. If the gentleman will yield further, I am only saying that this study case 5 is entitled "Deregulation of Offshore for Four Years." Krueger-Brown has incremental prices. That was the information and material which was provided the membership of the House in the committee report.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan did the same thing which we anticipate will be done in this, which is to raise the specter of very high prices from decontrol. But last winter the President of the United States, in an emergency, asked for the possibility of emergency sales of gas above the $1.42 Federal frozen price ceiling. He had to, because there was an emergency. Those sales were consummated relative to gas from the intrastate market. In the intrastate market in Texas, the highest price reported by the Federal Power Commission was $2.39. The average price was $1.94.

My question is: Where does the gentleman from Michigan get his figures about all of these excessively high prices?

Mr. ASHLEY. Mr. Chairman, I yield to the gentleman from Michigan (Mr. DINGELL) to answer the gentleman's question.

Mr. DINGELL. Mr. Chairman, the answer is that there were offers, bona fide offers, seriously considered, of $2.75 and more which were not accepted because the Chairman of the Federal Trade

Power Commission refused to approve them. Other offers went from around $3.20 to around $3.80; and there were offers made, and seriously considered, for large volumes of gas at $5 per Mcf.

Mr. BROWN of Ohio. Offers, but not consummated. I think that is the message.

Mr. DINGELL. No, not consummated.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there are two things that would happen with deregulation, with respect to gas going to a State like Texas. And what happens in Texas is only a forerunner of what would happen in the rest of the Nation because the gas price in the producing States will ultimately be the price that the people of the United States will have to pay for gas.

It works like this: Whether we like it or not, there is an artificially low price applied to most gas in interstate pipelines. If a pipeline is carrying 95 percent 50-cent gas, it may carry 5 percent $4 gas without raising the gas ingredient price to higher than $1.67½ at the other end of the pipeline.

What has happened is that since about 1970 the price of gas in intrastate commerce has risen from about 20 cents Mcf to a figure in the neighborhood in Texas at present of $1.85. It went up to $2 and it has now come back down a bit because there is not that hard a market in Texas.

There will be advantages in the producing States if we enlarge the interstate market to producers, but enormous disadvantages to those State's consumers if there is not ultimately a ceiling like the $1.75 ceiling because the lack of a ceiling would mean that the bidding in Texas for gas to fill out the extra 5 percent can easily go to $4.

The gentleman from Texas (Mr. KRUEGER) is correct in saying that over a period of time that may come down. The point is, though, that even he says that the price would go up to $2.25 or $2.40 over the short term. (See Forbes, Aug. 1, p. 26.)

What we are attempting to do in this bill is to strike a reasonable ceiling so that this will not happen, because, if the price is bid up in Texas, in the long run the whole Nation is going to have to pay that inordinately high price.

The estimate of the cost of the Brown amendment by 1985 is approximately $50 billion more than what would be paid under the program that the committee is proposing. Generously, we might estimate—and there is an estimate in the report to this effect—that something like 1.7 billion Mcf might be added by paying $50 billion more. That means that we pay $30 for every Mcf increase we would get due to the Brown amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, where does the gentleman get this $50 billion difference as between the administration's proposals and the Brown amendment?

Mr. ECKHARDT. It is an estimate of the difference between $1.75 and the unregulated price as such applies to new gas which would be produced. The price will rise very rapidly.

Mr. ROUSSELOT. How does the gentleman have enough judgment to sit here today and tell us what the price will be?

Mr. ECKHARDT. Because I have been studying the subject matter for about 3 years. Has the gentleman done the same?

Mr. ROUSSELOT. Well, I have tried to.

Mr. ECKHARDT. I understand that, but I do not think the gentleman and I have made the same studies.

Mr. ROUSSELOT. Where does the gentleman get the $50 million figure?

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I would note that the gentleman from Texas (Mr. ECKHARDT) was being conservative in his estimate. The analysis shows a range of $50 billion to $79.3 billion.

Mr. ROUSSELOT. Whose estimate is that?

Mr. GORE. Mr. Chairman, there have been 3 separate studies made in this area in the last 2 months by the Library of Congress, by the Congressional Budget Office, and by the Federal Energy Administration. They all come up with a range of around $75 billion to $80 billion for the original proposal, and by adjustment this range is from $50 billion to $79.3 billion for the proposal we have under discussion now.

Mr. ECKHARDT. Mr. Chairman, I want to thank the gentleman from Tennessee for his contribution.

Mr. Chairman, I want to again pursue this question of the most-favored-nation contracts, and the gentleman from Tennessee (Mr. GORE) has raised that point directly.

It is true that a great amount of the immediate increase in price could be as a result of triggering the most-favored-nation contracts. Of course, both the committee bill and what was formerly the Krueger amendment and is now the Brown amendment have addressed that problem. But that is not the whole problem.

In the long run, it is not the contracts now in existence and coming out from under control that will increase the price all over the Nation; it is that new gas which is going to increase the price.

I am taking a middle position on this issue. I offered the amendment to enlarge the base for new gas. It is quite true that a great amount of new gas will come in at a higher price under the Eckhardt-Wilson amendment than would have occurred had that not passed.

It is that very gas that must be held to $1.75 or else it will drastically disadvantage Texans or Oklahomans or Louisianans in getting hold of their own gas. It must not be taken out of the range of their price reach.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 30 additional seconds.)

Mr. ECKHARDT. Mr. Chairman, the point is this: It is not only a question of Texans, Louisianans and Oklahomans having to pay an inordinately high price; it is the question of whether they can get the gas at all if we enlarge the interstate market and permit that interstate market to bid any amount for gas without restraint.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank Mr. ASHLEY, the chairman of our ad hoc committee for an emphatic statement he made. When he yielded to the gentleman from Ohio (Mr. BROWN), he made the statement at the time that this is a most important amendment. I hope that every Member realizes that this is the key amendment that we have in this bill. It is absolutely the key amendment. Whether we vote this amendment up or down, that is how the bill is going to go.

I am not sure, with all the dialog that we have had and all the technicalities, whether we fully realize what President Carter has submitted to us in the way of an energy plan. First, let us all understand this is not a conservation plan.

We can look high and low, we can make all the bicycle studies we vote to make, but we must realize that this is not a conservation bill.

Basically, a tax plan is what the bill is: It is a tax plan. It is going to tax, tax, tax, and tax. Just as an example, we have a wellhead tax. That is going to take that crude oil from $5.25 to $14.50 a barrel, and they are going to grab all that money; then they are going to pass the tax on to the consumer. This will be an additional 7 cents a gallon that it will cost everyone as an additional price at the gasoline pump. For this crude oil tax.

That is just one of the added taxes. We have already heard that we were going to have another 5 cents a gallon in addition to that. That costs the consumer 12 cents tax more for each gallon.

Therefore, we are going to have the poor person buying the gasoline to be the first to get stuck; but that does not tell us what this bill does to industry. Any industry, when it converts over to coal, or if it is slow in converting over, or regardless of what happens, is going to be taxed and taxed and taxed.

When we tax business today, the consumer pays for it tomorrow. In every way, whether it is a tax payment on oil or whether it is a tax payment on natural gas, it is going to be a tax, tax, tax bill.

Mr. Chairman, I want to also talk about the total cost of what this bill is going to be, because all of us have our own figures. However, I am not going to take one out of thin air. I am going to take imports that actually exist today.

We have seen what has happened to oil, and oil and gas are related commodities.

Back in 1972 we had $5 billion a year for oil which we were sending to the Arab OPEC countries; and today we are sending $45 billion to the Arabs for that oil. That is $360 billion which we will be sending over there in the next 8 years of this Carter Energy Plan.

That means losing 7 million American jobs. That is what this bill will do. This

is a jobs bill which is going to be a disaster to employment in America.

Mr. Chairman, when we discuss these oil companies and when someone says we are going to give them back a little bit of money, the record of the oil companies is that they reinvest and have more than drilled up their total profits. They are consistent. They have more than drilled up their total profits, and what we are asking for is a plowback credit to be brought in by the Committee on Ways and Means. We have asked that the independent oilmen be allowed to plow back all of their total profits in finding more new gas in America.

Mr. Chairman, people do not realize how little we are able to do in this country by way of drilling and exploration. Total exploration in America today is only $10.3 billion. That includes $2.3 billion that oilmen lose in dry holes. It includes over 500,000 oil and gas wells that must be reworked each year. Including land leased, geology, equipment, the United States spends only $10.3 billion for exploration and development.

Congress spends $10.6 billion a year for the Energy Department, and all that gives us is bureaucrats and conversation.

In order to really solve the situation, Congress must face this matter of deregulation of natural gas.

Many Members have talked about coal; but they seem to have overlooked the fact that coal, through private enterprise, is doing all that it can do. We also seem to forget the fact that productivity of labor has dropped from 15 tons a day to 8 tons a day in the past 10 years, so we are not going to get the extra energy from coal.

One thing I would like to emphasize because most Members are interested in jobs in their districts is that 50 percent of natural gas is used directly by industry. Remember that when they close down your factories and they ask, "How did you vote on the Brown amendment?," 50 percent of natural gas in the United States is used for industry.

When we talk about where we are going on this matter, we need to think in terms of where America will be in the future.

Residential heating is certainly a persuasive argument, and we are going to provide for residential homes, but homeowners must think of the hidden costs. We have forgotten that there are two hidden costs which are overlooked. What are the alternatives for natural gas? If we do not have natural gas, what will you have? Many people say, "I do not use gas or I do not use oil."

They surely do. Along with coal and nuclear is how we generate power in our powerplants, but do the Members know that electricity costs four times as much as natural gas? Therefore, when people talk about the electricity alternative, they should remember that electricity costs four times as much as natural gas.

Mr. Chairman, the one alternative that many people do not seem to understand is how much it costs if that gas pipeline, that interstate gas pipeline, is not full. I have been trying to explain what extra costs arise when that big pipeline is only able to run half full.

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has expired.

(On request of Mr. KETCHUM and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. Mr. Chairman, if I could just finish this illustration, I tried to explain it to my office staff; I tried to explain what it means when the gas pipeline is not full how costs go up.

The other day a young lady said, "I understand." She said, "We are renting a house over in Georgetown. Four of us rent it, and we pay $500 a month. Two of the girls left. Before that time we were paying $125 as our share. Now that the House is half empty, the rent is the same, and our rent cost for me has doubled."

Mr. Chairman, that is what happens to gas pipelines. The pipelines are there, and the pipelines and local distribution make up about 85 percent of the cost when a homeowner pays their bill. If we do not have that gas pipeline full, the cost of gas is going to go up considerably.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I agree with the gentleman, and I know that the gentleman used to be a small businessman who worked very hard.

Is the gentleman concerned about the concentration of power in the oil industry, No. 1? No. 2 when the gentleman talks about that big, bad OPEC cartel, does the gentleman agree that our Government has done nothing to attempt to get a lower price on imports and that the major oil companies are the glue that hold that cartel together and have gone hand-in-hand with the price increases our consumers have suffered?

We hear the major oil companies crying about the cartel but that they are really the ones who have had an advantageous arrangement with a cartel.

Mr. COLLINS of Texas. To answer the question about the Arab or OPEC countries, the gentleman from Connecticut (Mr. MOFFETT) is exactly correct about this administration and the past administration that they have not faced up to the situation at all.

As a matter of fact, I think that cartel over there would be better off if we were not buying so much of their oil and they would probably be better satisfied, too.

But, about the major oil companies, if the gentleman is talking about a power structure, then I am not aware of it. The real strength in the oil business is from the independents.

Mr. MOFFETT. Mr. Chairman, if the gentleman will yield for a few seconds longer, the thing that is amazing to me is the fact that the gentleman from Texas (Mr. COLLINS) has such a strong background as a small independent businessman, as one who has worked hard all of his life, and then we see an industrial structure where we have 90 percent of the crude oil reserves held by the majors, and two-thirds of that by the eight largest companies and the gentleman does not seem to want to do something about it.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KETCHUM, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 2 additional minutes.)

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I rise in support of the Brown amendment and I wish to associate myself with the remarks of the gentleman from Texas (Mr. COLLINS).

Mr. Chairman, this most divisive issue is also one of the most profoundly important. The decision we make on the natural gas provisions of this bill will determine not only the price of natural gas but from whom we buy it and how much is available.

The questions of quantity, price, and supplier are answered by four undeniable truths:

First. If it costs less, people will use more;

Second. If the price is lower and profits cannot be made, people will produce less;

Third. If fixed costs are amortized over fewer units, the price of those units will increase; and

Fourth. If higher cost substitutes must be used, consumer prices will increase.

Any proposal which provides a subsidy for natural gas by regulating its price at less than the price of its competition—that is, home heating oil, coal et cetera—will encourage the people to use more natural gas. The proposals contained in H.R. 8444 subsidize natural gas by instituting an artificial price structure.

These same regulated prices will make the gas, which is difficult to produce, unprofitable. Without profits workers do not get paid, without pay workers quit, and without workers there will be no gas produced.

No matter what the definition of new gas, arbitrary limits on the price of that gas and a rollback of the price of new intrastate natural gas, will reduce domestic production of natural gas.

This plan makes much of the potential domestic natural gas unprofitable to produce.

The major objection to decontrol is the spector of catastrophic increase in costs to consumers. This argument is a straw man on several counts. In the first place, it assumes there is an alternative of abundant, and cheap, natural gas—a totally false proposition. If there is no control, there will be no natural gas for purchase, at any price. I contend that people who want to use gas will pay for it.

A second point is that even without decontrol, the price to consumers is bound to go up, due to the inexorable demands of pipeline costs. Pipelines operating at less than full capacity, as they do now, cost considerably more to operate. Continuation of present policy will result in a massive shift in the cost of transportation and distribution. The

producers' share will remain stationary. Thus consumers will pay more without the desirable effect of an increased price for producers to stimulate more production. Since the producers' fuel costs account for between 10 to 18 percent of home heating oil costs, the actual effects of a raise in wellhead prices will be minimal.

Finally, if a family wants to have enough fuel to heat their home, or a business enough fuel to keep production lines open and workers on the job, and there is not enough domestic natural gas available, there will be a shift to substitute fuels. Domestic synthetic substitutes and foreign substitutes are priced 2 or 3 times higher than deregulated natural gas. The Independent Oil and Gas Producers of California estimate that a shift to oil would cost current natural gas producers an additional $6.3 billion by 1980, over the costs of decontrolled natural gas. Higher costs, most often paid for foreign substitutes, mean higher prices for the consumer. We must also consider that in the absence of decontrol of oil, the shift from gas will result in massive increases in imported oil. The inflationary drawbacks of continuing controls are thus far greater than those of complete decontrol.

Faced with spiralling costs, what producer in his right mind will extend his search for natural gas just to sell it for a controlled price that bears no relation to current market values. The only way to get more supply is to let the market mechanism work, and get the suffocating hand of the Federal Government off the gas fields.

If the committee proposal is implemented, we shall see less domestic natural gas available, at higher prices to the consumer, and the necessity to purchase alternative fuels at higher prices from foreign producers.

I urge my colleagues to consider the facts and to reject the rhetoric in making their decision, I have stated only too often that the only sensible energy policy is one that encourages the production of more energy. The Brown natural gas deregulation amendment will create more supply. I urge my colleagues to accept it.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I rise in support of the Brown-Krueger amendment which would provide for the decontrol of natural gas prices at the wellhead. I would also like to take this opportunity to commend my colleague (Mr. BROWN of Ohio), and also Congressman JIM COLLINS, and DAVE STOCKMAN for their leadership in this most important effort.

Mr. Chairman, there are essentially two paths that we can travel in regard to energy production, conservation, and standard of living. One, we can capitulate to the organized campaign directed by a small band of elitist socio-economic manipulators for total Federal control of energy—including end-use allocation—with the result being a controlled society and a drastically lower living standard for the American people. Or, two, we can allow individual initiative and the free market laws of supply and demand to work with the result being adequate energy supplies at the lowest cost to the consumer and a high standard of living characteristic of America. Had we taken the former path 100 years ago, America would have collapsed when we ran out of whale oil.

Mr. Chairman, I believe that, given the choice, the American people would opt for adequate energy production to maintain a high standard of living and to retain their individual freedom. I do not think that Americans want to go down the path of high taxes, shortages, rationing, and all the accompanying social and economic controls, nor do they want to be deprived of individual transportation and herded around like sheep on Government—or public—transportation systems.

Consequently, the time has come for the Congress of the United States to address the real causes of the natural gas shortage in the eastern part of the country. There was no excuse for what happened last winter—and may very well happen again next winter—Americans being put out of work, schools and factories closed, and people freezing in their homes. Wellhead price regulation of natural gas remains the cause of this problem. The Federal price regulation is the reason that there is an abundance of gas in Texas but a shortage in the East.

There are a great many more reserves of gas that have not been tapped because the return on a high risk investment—drilling operations—makes it unattractive. Sufficient capital cannot be attracted to a high-risk deep drilling operation when the gas must be sold at a below market or below production price. Commonsense tells that if the Federal Government would get out of the way and let the market work on a nationwide basis, there would be ample gas in the East as well as in the Southwest.

I must add, Mr. Chairman, that it strikes me as ironic that the Northeast, the section of the country hardest hit by energy shortages, is the regional hotbed of demogogic attacks on the energy producers in this country. It is from this part of the country that come almost solid blocks of votes in Congress to pass punitive legislation on the oil and gas producers in Texas, and other gas producing States, placing America more dependent on foreign oil; but at the same time they scream for more oil and gas from Texas. But, one day, Mr. Chairman, there will be no more gas or oil from Texas because the independent producers down there—the wildcatters—will have gone out of business as a result of production disincentives placed on them by big government and the anti-energy lobby.

We have no immediate alternative to natural gas. It is imperative that new gas fields be produced, that additional exploration take place. But this will only happen if it is economically attractive for the producers to drill the deep wells—the wells below 15,000 feet where new gas deposits exist.

I am amazed at the mentality that is prevalent in the media and opinion-making segments of society regarding energy. The administration and other liberal politicians tell us that higher consumer prices are acceptable if they result from a Federal tax on gas or on crude oil, but that they are unacceptable if they result from a free-market price that stimulates new production and perhaps lower prices ultimately. They had rather the consumer bear higher taxes and shortages rather than adequate supplies of gas and oil at a fair market price.

It is enough to make me think that there may be an ulterior motive at work. It's even more puzzling when you consider that the same crowd that is out to restrict the oil and gas producers frequently state that not enough attention is being given to alternative energy technologies such as solar. They do not seem to realize that the artificially depressed price of natural gas is one reason that alternative energy technologies have not developed at a faster rate. As long as controls are in effect on gas and oil these higher priced alternatives are not competitive.

Adoption of the Brown-Krueger amendment would have the effect of not only increasing gas supplies but would also have the effect of making alternate energy sources more competitive. Consequently, I cannot understand why the environmental movement seems to oppose deregulation of wellhead gas and oil prices.

In conclusion, Mr. Chairman, I wonder how many more people are going to loose their jobs due to energy production shortages before the people of this Nation rise up and put an end to the political interference that is hampering our development of energy resources. I wish that the voters in the areas hardest hit by the gas shortages last winter would take a hard look at the voting record of their Congressmen on issues involving energy production and take a good look at which ones vote to oppose incentives for domestic oil and gas production and oppose utilization of coal and nuclear energy.

Mr. Chairman, I urge my colleagues to adopt this amendment to deregulate natural gas prices at the wellhead. I would like to include an editorial from the July 13, 1977, issue of the Wall Street Journal entitled "A $48 Billion Presidential Error."

The editorial follows:

A $48 BILLION PRESIDENTIAL ERROR

When the House Commerce Committee two weeks ago voted 22-to-21 against deregulation of new natural gas, President Carter and his energy people celebrated a victory. The White House had come down to using the argument that deregulation would give producers a "windfall" of more than $71 billion in revenues. This is over and above what they would get from the $1.75 per thousand cubic feet (mcf) price ceiling in the Carter plan. Perish the thought, even though producers would probably invest almost as much in exploration and production as they receive in revenues.

Mr. Carter's energy people have been shamelessly playing with numbers like this all year to support their case for continued regulation, scaring people with the idea that deregulation will cost consumers a lot more money. What they carefully avoid mentioning is that continued regulation will cost even more.

In a careful, conservative study that bends over backward to be fair to the White House, two Republican Congressmen this week estimated that the Carter plan will cost $48 billion more than deregulation between now and 1990. Here is how Rep. David Stockman of Michigan and Rep. Clarence Brown of Ohio came to this conclusion:

They first reject the incredible White House assumption, implicit in its numbers game, that at a price above $1.75 per mcf zero gas will be produced. The study instead reckons that over the 13-year period, an additional 25 trillion cubic feet (tcf) will be produced as a result of deregulation. Current production is about 20 tcf a year, and the estimate of 25 tcf from deregulation is highly conservative. More production, of course, would mean more savings from deregulation.

If American consumers are denied 25 tcf of natural gas, they will have to get the energy instead from oil or liquefied natural gas or synthetic gas from naphtha or coal. All are more expensive than gas and is likely to be under deregulation. The cost of these fuels adds $168 billion to the energy bill. And by moving 25 tcf less gas through the pipeline system, the distribution charges rise per unit to the consumer. This comes to another $44 billion cumulatively. The administration simply ignored these hidden costs in making its case.

The 13-year energy costs under deregulation are then calculated by Stockman-Brown at $414.2 billion. The parallel figure under the Carter plan is $461.8 billion with the gap between the two widening every year thereafter.

If there is any error in these numbers, the Carter plan gets the best of it, considering the length to which Reps. Stockman and Brown want to be fair. For example, they hold OPEC pricing constant through the 13 years. But obviously, if the United States must substitute for 25 tcf of domestic natural gas, it most likely will have to import the energy equivalent. This increase in demand would permit OPEC to increase its oil price by at least $1 per barrel for all oil. This adds an average of roughly $33 billion to the U.S. import bill during the 13 years, and adds $100 billion to the import bill of Europe, Japan and the Third World. The Stockman-Brown $48 billion estimate charitably ignores these costs.

Even if the increased demand has zero impact on OPEC pricing, it would still mean the United States would have to increase imports of Arab oil by nearly 500,000 bbls. per day when compared to a deregulated scenario. The Stockman-Brown study figures the Carter plan will mean an extra $26 billion in the U.S. import bill over these years even without a price increase.

The Carter people will no doubt want to quibble with these numbers, if they can't find a way of ignoring them altogether. But there is absolutely no logical way deregulation can cost consumers more than the Carter plan. The only way the President's people can defend their position is by sticking to their assumption that there is no gas to be found above $1.75. It is hard to see how any serious person can accept such an assumption. Even the most pessimistic of the three estimates in the ERDA MOPPS study, for example, found twice as much gas at a price of $3.25 than at $1.75.

Mr. Carter is supposed to be good with numbers and logic, and ought to sit down with his own slide rule, taking the administration's gas deregulation position as seriously as the B1 or the neutron bomb. It's inconceivable that a good engineer would make a $48 billion mistake.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. COLLINS).

I would also like to add two additional points that I have not heard made here in this debate.

One concerns the studies we have heard so much about. These studies are from the Library of Congress, the Congressional Budget Office and the Federal Power Commission.

It sounds to me like we have a stiuation wherein a Boeing 747 airplane is being flown by bulldozer operators. I do not believe that any of the three agencies that made the studies have the expertise and knowledge about gas and oil to render a meaningful product.

The second point I would like to make is the fact that Texas and other gas producing States have many areas of marginal sands that will produce gas. We call them "marginal sands" because one cannot produce enough gas—at present market prices—to justify developing them.

The bill as now drafted establishes a ceiling price. Whatever that ceiling price might be, its effects will be to immediately shut down all exploration and development of all marginal sands that would come in above that price. Would the gentleman agree with that?

Mr. COLLINS of Texas. That is a very important point that my colleague, Mr. MILFORD, has raised.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I would like to say that I could not agree more with the gentleman from Texas (Mr. COLLINS) insofar as the gentleman's concern about the consumers. I know that he is just as concerned for the consumers at home as I am, just as I am for the consumers in Washington, D.C., in New York, or in Massachusetts.

Mr. Chairman, this bill before us is playing right into the hands of the major oil companies, the seven sisters, if you want to refer to them in that light, if we do not include this amendment for deregulation because we are going to eventually, and I believe very quickly, without deregulation, hurt all of the small independent producers who provide a little competition along the line to these seven major oil companies, and those major oil companies will control the entire supply of oil in this country just as they do in other countries, with the exception of Russia and China, which do not make any difference. Then you will see, Mr. Chairman, what happens to the price in terms of electricity as the utility companies convert back over, try to convert to coal, at the expense of the plants that they have now.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. RISENHOOVER, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 1 additional minute.)

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield further?

Mr. COLLINS of Texas. I yield further to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I thank the gentleman.

When the consumers of electricity, which is four times as expensive at the present time, start paying for the capital investment required to convert to coal at the same time they are paying for the plants which are not paid for yet that use natural gas or oil, the price of electricity is going to double again. Without deregulation, those who are concerned about the major oil companies monopolizing this country are playing exactly into their hands approving deregulation and they could not want anything more in the world than continued regulation.

Mr. COLLINS of Texas. I concur with the gentleman and ask everyone to support the Brown amendment, the most important amendment coming in this session to the floor of Congress.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment before us is, indeed, an extremely important piece of legislation. It is very important, however, that the Members of this body recognize some of the underlying facts relevant to last winter's shortage, a weather-induced shortage. I think that there are some excellent studies available that give us some insight into the nature of that, and I am going to read from such a study. It states:

> In the series of recommendations which follow, we have found that the shortage of supplies is caused in part by the failure of Consolidate Natural Gas Systems and Columbia Gas systems, their pipelines and their subsidiaries, to exact specific performance of contracts for gas from producers.

It continues on:

> The alignment of forces promoting deregulation of the price of natural gas serves as a disincentive for primary supplies of Ohio Gas customers to provide the historic requirements of gas.

A disincentive to supplying the historic requirements of gas.

In fact, one of the contributing causes of the shortage of supply alone of the Columbia Systems lines in Ohio is that the investment in Columbia at the Green Springs, Ohio, plant, which produces synthetic pipeline quality gas, would be a totally unproductive investment without a shortage and/or the curtailment of natural gas. It would follow that if the Columbia Systems historic requirements had been fulfilled, the company would have jeopardized its entire $63 million investment in the Green Springs plant.

Finally, our conclusion is that those pipeline companies, particularly the Columbia Gas Transmission, have placed the historic needs of Ohio secondary to profit motives. In so doing, they have not provided supplies of gas to Ohio companies according to those companies' 1972 base year allocations.

The report is much more full and detailed than that. It is called the Draft Natural Gas Investigations Staff Report and Findings, July 7, 1977, dealing with the shortage which occurred in the Ohio area in this past winter.

I think we ought to look at why we had a shortage, because the remarks of the distinguished gentleman from Ohio (Mr. BROWN) and others on this floor have attributed that to the working of price,

and that, in my opinion, is a cruel hoax. Price was not the reason for the shortage last year. The shortage then was the result of a higher demand due to cold weather, a demand that operated under a dual system never designed to handle the requisite amount of flowing gas. It was even further debilitated because we could not get oil supplies due to the heavy freezing which occurred in a large part of the Nation.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield on that point?

Mr. MOSS. I yield to the gentleman from Texas, of course.

Mr. CHARLES WILSON of Texas. I thank the gentleman for yielding.

I apologize for being redundant, but when we are talking about Ohio shortages, would the gentleman agree with me that perhaps the State law against drilling for gas in Lake Erie could contribute to that?

Mr. MOSS. I have no idea. I am not familiar with that State law. Maybe the gentleman from Texas could enlighten us on that.

But I do know that the shortage we faced last winter was not because of the drilling in Lake Erie. It was because the systems themselves could not handle the demand upon them. As a matter of fact, we had here in Washington, D.C., a 34-percent colder winter than we had ever had before. In Pittsburgh we had a 37-percent colder winter, and in Ohio a 33-percent departure from the norm.

In a bit of corporate publicity by Mobil Oil, not an advocate of any of the things that I normally stand for in the energy field, we do find this observation in one of their ads during the month of January.

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 2 additional minutes.)

Mr. MOSS. Mr. Chairman, the statistical probability of a winter just 10 percent colder than normal is 1 in 100. Most of our systems are designed to operate within that range, and so to come in here and use the one winter in a century as the predicate upon which to legislate, as I said before, constitutes in this Member's mind a cruel hoax.

Let us look at why we had a failure. We are going to have another difficult period, not because of price but because of the ability of the storage systems to keep enough gas in their systems to deliver it and to rebuild their supplies to take care of this coming winter. There is not that much price signifiance in that last.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas (Mr. WILSON).

Mr. CHARLES WILSON of Texas. Mr. Chairman, I really believe it is important for this House, and I know the gentleman from Ohio (Mr. BROWN), agrees with me 100 percent, to address itself to the attitudes that exist, I do not think among Members of this House, but the attitudes that exist among certain parts of the population and that which exists in Pennsylvania or Ohio, the two States which were the hardest hit by the gas shortage since they had State laws which forbid production of their own reserves.

And it cannot be an antipollution thing because on the same lake on the northern shore a constituent of mine has 100 gas wells.

Mr. MOSS. Mr. Chairman, let me recapture my time, with all due deference to the gentleman. That is not an issue on the House floor. The gentleman may if he wants to, run for the State legislature of Ohio and deal with it there, but we do not deal with it here.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, the gentleman from Texas has mentioned the attitudes that exist among the public. It is a fact that tens of millions of dollars have been spent to convince the public that deregulation is necessary through oil company ads and gas company ads.

Mr. MOSS. And they have pointed to last winter, which is not at all an honest representation.

Mr. MOFFETT. Second, as the gentleman in the well knows and I think several other people in this Chamber know, the shortage has been used—and I think this is what the gentleman is saying—by some irresponsible proponents of deregulation to get added impetus for deregulation. We hear so much crying and shedding of tears about closed factories and schools as a way of pushing deregulation.

Mr. MOSS. May I say instead of "irresponsible" that we may call it "overenthusiastic."

Mr. MOFFETT. We had schools and businesses closed. It is said we have to accept that and we cannot go to the source of the problems and ask why this Government and the legislators in this Chamber cannot do something to force production where it is known that gas exists and a reasonable profit can be made.

Mr. MOSS. Let me take back my time, because in the State of Texas, as the gentleman knows, we had hearings. There were closed schools and closed businesses in the land of so-called plenty with a free market because they could not get gas.

Mr. MOFFETT. One more point. In spite of all this lobbying, people have come out in the polls nationwide, the most recent one, as 55 percent opposed to deregulation and that poll was taken in the dead of winter.

Mr. ARCHER. Mr. Chairman, I rise in support of the amendment and move to strike the requisite number of words.

Mr. Chairman, I listened intently to the debate earlier which brought in the name of Joe Foy, of Houston, Tex., who is a constituent of mine, and I would like to set the record straight as to some of the comments that were made.

First in the discussions I have had with his people, they do not believe that we will see an overall national price of $4 to $5 per thousand cubic feet but they are concerned about the possibility of an aberration here and there that might go up to $4, concerned only because it would trigger the most-favored-nation clause in Texas' intrastate contracts. The most-favored-nation clause is a provision that provides for an automatic price redetermination or escalation to the highest market price paid at any time.

Roughly one-third of the intrastate contracts in Texas today contain this provision; and if there were a temporary aberration by an interstate line paying $4 per thousand cubic feet to fill a hole in its system, it would have the effect of raising one-third of all the intrastate gas contracts in Texas to $4. That is the fear that Mr. Foy has. It is a fear that is not shared by the majority of producers in the State of Texas, who believe that the price could actually decline as a result of deregulation. In Texas, the intrastate market price of gas did accelerate tremendously and hit the B.t.u. equivalent price of new oil and then began to decline.

Now, my colleague from the adjoining district, the gentleman from Texas (Mr. ECKHARDT) has said we may have suffered with artificially low prices of natural gas in the past. What does the gentleman offer as a solution? Continuation of the same thing. Now the gentleman says that $1.75 is adequate. Twenty years ago the gentleman might have said 20 cents or less was adequate and the gentleman might have said at any point along the line that the FTC was setting an adequate price because of the formula that is in the law.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield, since the gentleman has used my name?

Mr. ARCHER. I will be happy to yield at the end of my statement if I have time.

Mr. Chairman, how is $1.75 per thousand cubic feet an adequate price when the equivalent Btu value in the cost of imported oil is $2.25 per thousand cubic feet?

Here we are, a country that needs to have wise use of natural gas, a premium fuel; but it is more attractive to use gas than oil. We will continue the same economic dislocations in the utilization of gas as has occurred over the last 20 years. Ironically, we have great gas supplies in this country that we could use if we were to eliminate Federal price controls. This has been shown by many, many studies. The suppressed MOPPS study shows in the Rocky Mountain region alone there is over 750 trillion cubic feet of natural gas. It is going to be expensive, it is going to be difficult to get out, but it is the equivalent of 30 years supply.

Talking about last winter, the gentleman from California who just spoke said it was an unprecedented winter and that it will not occur again; but the Federal Power Commission in its report of June 22 this year projected that whereas last winter we were 20 percent short, next winter we will be 23 percent short.

The only way to balance supply and demand is to let the market work, and that means let the price seek its competitive level. The Government cannot do it by price fixing. It cannot effectively or efficiently substitute for the billions of economic decisions made. Historically,

we can go all the way back to Diocletian, to each day by individual consumers and businesses in the marketplace. Historically, we can go all the way back to Diocletian and observe the continual failures of Government efforts at regulating prices.

Mr. Chairman, if we want gas to heat the homes and fuel the businesses of this country, it is essential that we grasp the lesson of history and that we go to deregulation. It is for this reason that I support the amendment.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ARCHER was allowed to proceed for 1 additional minute.)

Mr. ARCHER. Mr. Chairman, I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the gentleman said that 20 years ago I had said that 20 cents was too high. Of course, 20 years ago the price of gas was somewhere, well, I will say 18 years ago, it was somewhere around 14½ cents. It was yielding Texas at 7 percent a tax of about 1 cent.

I said at that time it was too low for Texas, and tried to set a tax on it that would have gotten Texas as much as a penny. I have never said it was too high at that time, nor high enough.

Mr. ARCHER. Well, the gentleman's position today is, and I assume that the gentleman's position has been the same in previous years, that the Government can set a price and that price will be adequate. But, the Government has not set a price that is adequate in the years that we have dealt with the Federal Power Commission under the Natural Gas Act. There is no reason for us to believe that $1.75 is going to be adequate for the future.

Mr. ECKHARDT. If the gentleman will yield further, that is precisely what we are moving away from. But, if we move away from it as fast as the gentleman on the other side of the aisle are asking for, the situation in Texas will be very much like it is described in Forbes magazine for August 1, with a picture of Mr. KRUEGER in it.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. ARCHER was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. We have had some other experience in the Midwest with setting prices under a previous administration, an administration that was a Republican administration. We set the price of beef and chicken, and the results were that the farmers dumped the chicks into the fire or drowned them, and the beef and the chicken left the supermarket shelves.

The gentleman is talking about price control. This is exactly the same kind of situation except that the first shelf that natural gas leaves has been the interstate shelf, because that is where the price has been set. It did not leave the intrastate shelf, which was the free market shelf, and it is our hope to get all the shelves into the same happy position that the intrastate market was in when we did not have price controls.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the question before us is very simple. What policy can we adopt that will minimize our imports of energy from abroad and maximize the production of energy and the creation of jobs at home at the cheapest possible cost to the consumer? Now, that is the question the people expect us to answer. I would say to the Members in this Chamber who are about to tie their political futures to this tax program, this so-called energy program, that if they are jumping on board they had better take a life preserver, because without this amendment they will be on a ship full of holes with an engine that will not run.

Before we prevent the market from setting the price of natural gas, be on notice that the case against deregulation is based on two very fundamental misstatements. First, the argument that gradual decontrol of natural gas will not appreciably increase America's domestic gas production. The overwhelming evidence from America's best brains, our most prestigious think tanks, but most importantly our direct experience with unregulated natural gas production, proves precisely the opposite.

Who favors a gradual decontrol of natural gas? Newspapers across the country, from the most conservative to the Washington Post; the most respected economists in the country, from Milton Friedman to Paul Samuelson; the most prestigious intellectual groups, from the American Enterprise Institute to Brookings.

Look at the experience in my own State of Oklahoma, where under the unregulated intrastate market, net reserves have increased by 454 percent in just 5 years, while supplies have steadily decreased for years in the controlled markets around us. Look at Canada, which until recently talked of cutting off deliveries, but now with new reserves from just modestly higher prices is delighted to sell all the gas that this Congress has not allowed Americans to produce for themselves.

Finally, consider the findings of the administration's own top specialists, from ERDA.

They concluded that with only moderately higher prices we would not only find more gas, we would be literally awash in it. We would have enough to last for decades, and then the price of alternative fuels could be forced down.

The second error is made by those who insist on continued controls to protect consumers. The simple truth is that every single cubic foot of natural gas that is not purchased from domestic supplies, because we do not produce it, has to be replaced by more expensive fuels with the added cost being paid directly by consumers.

That is why the Brooklyn Union Gas Co. estimates its customers could save in excess of $10 billion next winter under deregulation.

That is why the Boston Gas Co., which last winter had to purchase up to 40 percent of its fuel from expensive supplemental sources, says its customers would benefit from deregulation.

That is why the Baltimore Gas and Electric Co. has stated that its customers would benefit from deregulation, because they are now paying more for synthetic gas and imported gas than they would for deregulated domestic gas.

Consumers. If this is a regional issue, as we are constantly told it is a regional issue, then deregulation benefits most the consumer in the Northeast and in the Midwest. Those are the people who benefit from deregulation.

To vote today for continued regulation is to force American consumers next winter to pay higher prices for natural gas from Canada, to pay up to $4 for liquefied natural gas from Algeria, to pay up to $5 for synthetic gas. Each of these synthetic fuels is more expensive than deregulated natural gas would be.

To vote today for continued regulation is to force our constituents to stimulate the economies of Canada, Algeria, and all of the OPEC countries, while subsidizing their own inflation and unemployment in this country.

Mr. Chairman, let us try it. If decontrol does not work, this Congress can come back in 2 years and impose new controls. It is not locked in concrete. But we have tried Government controls. We are here today debating this whole energy issue because of the results of that policy of Government controls.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Oklahoma. But suddenly the same people, who add hundreds of dollars to the consumer's tax bill every time this Congress meets, claim to fear the specter of an increase in gas prices. And suddenly the great experimenters in this Chamber become the great champions of the status quo.

Mr. Chairman, so far this is just a tax bill. Let us give the American consumer a break. Let us not have more winters of unemployment and hunger. Let us not have more winters of cold homes and closed schools. We need to get the gas in the pipelines, Mr. Chairman, and we can do it by voting for this amendment.

Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment before us today.

I would like to address the issue from the point of view of the consumer. Let us look at where a dollar that the consumer pays for natural gas goes. Only 18 cents of that dollar goes to the producer. Eighteen cents. Twenty-seven cents goes to the pipeline. The other 55 cents goes to the utility company.

Mr. Chairman, the issue we are addressing here is that 18 cents, the supply of natural gas that is furnished by the

producers. And it has been suggested here today that the seven major oil companies furnished this supply of natural gas. This is not true. Literally thousands of independent natural gas producers find the majority of new natural gas each year.

But what would happen if the price of natural gas is doubled?

What if it were doubled overnight? I am speaking not only of new gas but all gas.

This would mean only an 18-percent increase to our consumers. But that is not going to happen. That is not what we are addressing here.

We are saying, "Let's allow the marketplace to work for new gas."

New gas only comes on at a rate of about 10 percent per year. It has been suggested here that new gas, if we allowed the marketplace to work, would rise to a price in the neighborhood of $2 to $2.25, which is far less than the 100-percent increase I had suggested earlier. Then the consumers would see very little if any increase as a result of this bill, and yet they would have an abundant supply of natural gas.

The gentleman from Alabama (Mr. FLOWERS) stated yesterday that officials of ERDA testified before his subcommittee and stated that if the price of natural gas were allowed to rise to $3, we would be literally drowned in natural gas, we have a real surplus of natural gas.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield on that point?

Mr. HUCKABY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I think the gentleman, before accepting what the gentleman from Alabama (Mr. FLOWERS) read as gospel, should look at the transcript of the statement made by the gentleman from ERDA.

After that statement was made, I called Mr. Fri, the Administrator of ERDA, and as a matter of fact that gentleman testified in favor of the administration proposal. He then said in response to a question by one of the committee members—and I believe it was the gentleman from Colorado (Mr. WIRTH)—that $3 would give us more than we need in natural gas.

But the fact of the matter is, as the gentleman knows, that we will be at $3 under the administration proposal by 1985, and we will probably be considerably above it. Is that not correct?

Mr. HUCKABY. Mr. Chairman, it is a matter of when we get there. Regardless of what we do today, we are going to have shortages this winter, and most likely we will have shortages the following winter. But if we act today, the winter of 1978–79 should be the last winter this Nation goes through with a shortage of natural gas.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am glad the gentleman brought up the testimony presented to the gentleman from Alabama (Mr. FLOWERS), in testimony before his subcommittee. I would like to read that statement.

The question came from the gentleman from Alabama (Mr. FLOWERS) to Mr. Harry Johnson, Deputy Assistant Administrator of ERDA.

Mr. FLOWERS asked this question:

> What if you had in 1985 $3.00 a thousand cubic feet?
>
> Mr. JOHNSON. $3.00? Our analysis would indicate we would have more gas than anybody could ever use.
>
> Mr. WIRTH. Would you say that again?
>
> Mr. JOHNSON. Our analysis would indicate at $3.00 that we would have more gas available than anybody could ever use.
>
> Mr. LUJAN. Natural gas?
>
> Mr. JOHNSON. Natural gas.

Mr. Chairman, I thank the gentleman very much for bringing this to our attention, and I am glad he has made that point clear.

Mr. HUCKABY. Mr. Chairman, I come from a gas-producing region in Louisiana. Let me tell the Members what is happening there and what we are experiencing.

All of the easy stuff has been found. In the 1950's and 1960's it was common to find wells producing 5 million cubic feet a day. That no longer takes place; that is a rare exception. Today we are having to drill 10 wells for every well we drilled back in those years in order to get the same production. We have tighter sands, we have deeper sands, and it costs more to drill.

We are in a situation where fields are not being developed in Louisiana, Texas, and Oklahoma unless they can find an intrastate market for their gas, because it is simply a bad investment at the current price of gas if they have to go into the interstate market. This is happening throughout the gas-producing areas. We have vast reserves of gas there, but the artificially low price of natural gas is holding production down. It is preventing these fields from being developed.

Mr. Chairman, that is why it is imperative that we go ahead today and act.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. HUCKABY) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. HUCKABY was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I thank the gentleman for yielding, and I compliment him on his excellent statement, even though I disagree with him.

I want to address briefly the peripheral statement raised by the gentleman from Colorado (Mr. WIRTH) and alluded to in his statement concerning the MOPPS study on the price increase.

I have here a letter from the gentleman who testified in that subcommittee hearing. We should make it clear for the RECORD that the question was asked about the relationship between supply and demand in 1985 if one assumes the price of $3. Two points need to be made in response to that.

First, he makes it clear that what he was talking about was that the higher price decreases demand, so that the factors of supply and demand cross.

He said—and I am quoting,

> Nothing in this conclusion or in the information provided the Committee in response to this question related to a specific estimate of the actual increase in natural gas supplies.

The second point is that the response was based on the assumption of a $3 price in 1985.

Let us look at the administration plan. In 1984, under the administration plan, we get a price of $3.01. So if one takes at face value the projections of the gentleman from ERDA, even though he has disowned them, the administration plan is right down the gentleman's alley.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. HUCKABY) has again expired.

(By unanimous consent, Mr. HUCKABY was allowed to proceed for 1 additional minute.)

Mr. HUCKABY. I would like to point out that that is the heart of this entire energy package. If we increase price by increasing taxes, we will decrease demand.

I say that we need to increase price so that we can increase the supplies out there and put this money back into exploration.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, can the gentleman explain to us why, in the face of a 760-percent increase in the last 11 years of new gas prices and a 550-percent in the last 4 years, we have not seen an increase in production but have seen a decrease in production?

Mr. HUCKABY. As I just pointed out, we are drilling almost 10 wells for every well we were drilling 11 years ago to get the same amount of gas.

Mr. MOFFETT. If the gentleman will yield further, can the gentleman tell us about the rate of return for production? Is it so bad that they cannot make a reasonable living and profit on it?

Mr. HUCKABY. In the State of Louisiana one of the largest independents cancelled contracts for offshore exploration because of the fact that he did not see an adequate rate of return.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. HUCKABY) has expired.

(On request of Mr. STOCKMAN and by unanimous consent, Mr. HUCKABY) was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, it has been said a number of times in the last half hour by the gentleman from Connecticut (Mr. MOFFETT) and the gentleman from Tennessee that the administration's pricing plan allows the price to rise to $3 by 1985, the MOPPS study figure we are talking about; but that is merely an increased projection based on an assumed 7-percent rate of inflation with respect to the $1.75 price.

The fact is that producers are going to be responsive to the real price, not just the inflationary increase that occurs over the next 8 or 10 years. If we look at the schedule for increases in the real price of gas under the administration plan, it reaches only $2.16 by 1985 in 1976 prices. That is a relevant figure.

We are talking about apples and oranges here. If we just assume a 7-, 8-, or 15-percent or even a 20-percent rate of inflation, the administration's price would come up $10 by 1985. The point is that there is very little room in the administration's pricing plan, tied as it is to the total price of domestic oil, including old oil and new oil and the other categories, for the price rise to bring about that responsive supply that the MOPPS study and other sources indicate. Therefore, let us not be confused about the numbers.

Mr. HUCKABY. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Brown-Wirth-Krueger amendment.

There are several points I would like to make, and which, I think, have been ignored so far in this debate.

One of them is that any honest critique of the administration's energy plan shows that, in effect, it ignores the potential gap between supply and demand for energy during the next 10 to 25 years.

We now have studies from the General Accounting Office, from the Congressional Budget Office, and from the Office of Technology Assessment, all of which agree that the administration plan would leave a widening gap between supply and demand, and that, by 1985, and depending upon the study, the gap will vary from a low of about 1 million barrels a day oil equivalent, to about 4.5 million barrels a day equivalent. This is in addition to the administration's projected 6 million barrels a day of oil to be imported.

I think this point must be made; and it must be made now, at this time, during this debate. Unfortunately, we often become so engrossed in these arguments about details on some specific point of little consequence that we tend to forget the overall basic problem that this Nation faces. It seems unreal to feel obligated to remind the Members that we are presumably dealing with what we call the "energy crisis," and that the energy crisis has to do with the potential gap between supply and demand in the predictable future.

For instance, there have been comments today about obtaining synthetic gas at various prices. I must advise you that there is going to be no significant increase in the production of synthetic gas in this country, any place at any price, between now and 1985. Whatever there is will make an infinitesimally small contribution to the total supply.

Twice during the last session of Congress this body rejected programs to stimulate and assist in the production of synthetic natural gas. There is almost nothing in the budget for this purpose. Private industry cannot afford to enter this technology on a production level at this time. The leadtime for a single production plant is at least 10 years. Let us not kid ourselves into thinking that we can press some sort of magic button and produce tomorrow, or in the near future, significant quantities of synthetic gas.

I have listened to this debate and I have studied the question of how to regulate, or not regulate, trying to understand all of the arguments and trying to decide how to vote. To me, the overriding factor is that even with the best of circumstances that we can imagine, we are still dealing with the widening gap between supply and demand; and with the impact that it will make on this country in terms of our economy, our vulnerability in foreign policy, and our increased unemployment. This is the reality with which we must deal. We must do so now, and we must do so honestly.

No one can be absolutely certain of what the future will bring under the program advanced by the administration, or the plan as amended by the ad hoc committee, or under the Brown-Krueger-Wirth amendment.

However, Mr. Chairman, if I must choose between them, if I must choose the option I think best for our Nation, then I choose the option which I believe will stimulate the maximum production of gas for this country during the next 10 or 15 years. That option is the Brown-Krueger-Wirth amendment. For this reason I am urging support of that amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would ask if the gentleman from Washington (Mr. McCORMACK) in his calculations has taken into consideration the Eckhardt-Wilson amendment?

Mr. McCORMACK. Yes.

Mr. ECKHARDT. How much additional gas would be produced in your calculations by the Brown-Krueger plan above the Eckhardt-Wilson plan?

Mr. McCORMACK. Mr. Chairman, let me state to the gentleman from Texas, Mr. ECKHARDT, that he knows that I cannot stand here now and give the gentleman numbers with which he would agree, but I think the gentleman knows that the Brown-Krueger-Wirth amendment will produce the most gas for this country.

Mr. ECKHARDT. Regardless of the costs?

Mr. McCORMACK. I do not think the costs will make much difference. I think the testimony shows that today.

Mr. ECKHARDT. Frankly I do not know, either, but I believe the $1.75, graded upward, will produce as much gas as the higher prices. That is our calculation. Of course, everyone can quibble.

Mr. McCORMACK. I agree, everyone can do that, and this is the very problem we face at this time. We keep forgetting that the basic issue in the energy crisis is the gap between supply and demand. I do not believe we should become so absorbed in defending positions for the sake of defending them, or so involved in the details that we forget why we are here.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I concur with the gentleman's assumption about what is going to happen to our country in the 1980's; it will indeed be severe. I look forward to the gentleman's support of my amendment to the ERDA bill in September.

Mr. McCORMACK. I will give the amendments of the gentleman from Massachusetts every consideration.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has again expired.

(On request of Mr. GLICKMAN, and by unanimous consent, Mr. McCORMACK was allowed to proceed for an additional 30 seconds.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would like to associate myself with the remarks made by the gentleman from Washington (Mr. McCORMACK).

Mr. Chairman, I rise in support of the Krueger-Brown-Wirth proposal to deregulate new natural gas.

In perspective, perhaps a bit of moderation can be put into play. The polarization of this debate is very evident. Some reflection is therefore necessary. The Krueger-Brown-Wirth amendment will: First, not in itself make us energy independent and is no panacea to the energy crisis, and second, will not provide catastrophic increases in consumer prices that would not otherwise occur.

Similarly, the ad hoc committee proposal, which calls for controls on natural gas pricing, although at increased levels, will also not make us energy independent, nor will it keep prices at low levels for the benefit of the consumer.

In the last analysis, I am not sure that in the long run that there is all that great difference between the two proposals. So where are we? All statistics indicate we are running out of natural gas. Even in my State, the Federal Power Commission recently announced curtailments of new gas deliveries to broad sections of Kansas and Missouri—which will have a devastating effect on the growth and stability of the economy in this area. This curtailment is not being done in anticipation of another cold winter—it is being done because supplies are short and because we are running out of gas.

Therefore, the bottom line in all this debate is the assurance of supplies of natural gas so that this Nation can keep its schools, hospital, and industries going, and so that homes are heated. The Krueger-Brown proposal offer us an opportunity to see if, in fact, increased prices to producers of new gas will produce more gas. If it does, the people win. If it does not, and consumer prices go up dramatically, then controls can always be imposed, and should be imposed, if the deregulation proposal is not fruitful.

This amendment is a little bit like chicken soup. We have all heard about the parable of the sick child, who, when offered some chicken soup, replied to his

mother that "it won't help," then heard his mother respond to him that "it may not help but it sure won't hurt." I have come to the conclusion that the Krueger-Brown-Wirth amendment would not hurt, and could conceivably help very significantly the supply of gas in this country. Yesterday, we heard our distinguished majority leader, Mr. WRIGHT, talk about the "specter" of rising prices under this deregulation proposal. That is obviously a key issue. But so is the "specter" of closed schools, factories, and hospitals because of dwindling gas supplies. It seems that this amendment would do both.

This is not a black or white issue. I do not want anyone to be ripped off by higher gas prices. For that reason, I would have preferred that deregulation of gas and decontrol of oil be coupled with a very substantial windfall profits tax if profits from higher gas and oil prices were not reinvested. That would have seemed to make a great deal of commonsense. Unfortunately, that plan is not being offered here, and the greatest deficiency of the amendment is that it does not provide a mechanism to serve as an incentive for reinvestment. We can only hope that deregulation will provide that incentive.

Mr. ASHLEY. Mr. Chairman, I would like to see if I can secure some idea as to a time limit on this amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment conclude at 2:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. MOORE. Mr. Chairman, I object.

Mr. WATKINS. Mr. Chairman, further reserving the right to object, many of us have shortened our debate on the amendment that was adopted by voice vote in order to be here at this time to discuss and debate the question of deregulation. I think it would jeopardize our chances for being heard fully if we were to cut off debate on this particular amendment.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair will advise the gentleman from Ohio, Mr. ASHLEY, that considering the number of Members who were standing at the time the time limitation was requested, if that time limit were set at 2:30 p.m., that those Members would be entitled to 3 minutes each.

Mr. KRUEGER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I would ask unanimous consent that all debate on this amendment conclude at 3 o'clock p.m. today.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FISHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak against the Brown amendment and for the ad hoc committee approach. This is an intricate, technical, and economic matter, difficult for many of us to come to a decision on. I have weighed it as carefully as I can. It is not my style to present an advocate's position with all of the arguments lined up on one side or the other.

It does seem to me that the objectives we seek at this critical point in the bill are generally subscribed to. They are: To begin to restore free market pricing for all gas, to protect consumers against unwarranted price increases, to stimulate exploration and development for more gas, and to promote efficiency and conservation in the use of gas, and to promote the substitution of coal and other fuels. Obviously, we have to compromise. We cannot serve all of these objectives to the maximum all at once.

The proposed bill without the Brown amendment strikes me as a good compromise for gas pricing. It would do these things. Not exclusively, not 100 percent, but in the main it would do these things. It would result in some price increase, some definite movement toward freer pricing. New gas with the expanded definition would go to $1.75, with further increases after that, depending upon oil prices, all of which I think would stimulate the development of new gas—not right away, of course. There is hardly anything we can do in this energy field that produces a quick result. We cannot change demand behavior very quickly unless we mandate the prohibition of certain uses, and we cannot produce a supply response quickly for technical reasons. It takes a long time to increase supplies. But I think the ad hoc committee's recommendation would stimulate new supply; it would set in train right away decisions which later on after a few years would surely increase the supply of new gas.

I think the solution of the ad hoc committee would protect consumers from rapid large unjustifiable price increases. It would give assurance to people everywhere that they are not going to be taken by this—ripped-off is the phrase. It is important in terms of public support to give this assurance. In this respect, the ad hoc approach would take us to what the majority leader yesterday referred to as a resting place, an advance toward freer prices, toward stimulating new supply, but a resting place from which later on, if in our wisdom we wish to do so, we can move on toward further deregulation.

So I say, Mr. Chairman, for now, for this year, I believe the ad hoc committee gives us a good compromise position from which we can move later on if conditions warrant it.

I have been torn between two positions on this. First my preference as a professional economist has been to get on with deregulation It is no surprise that most of the economists of the country have been advocating to this body that we move as rapidly as possible to deregulation. But I am also influenced by my feeling of political responsibility toward people generally, including my own constituents, not to go too fast in this direction, out of respect to them as consumers, scores of millions of them.

So I have been torn in these two directions, but out of it I do come down in favor of the ad hoc committee view, the view that is in the bill before us, without the Brown amendment, as representing the best compromise at this time.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I come from Louisiana, which probably most of the Members know and also probably know it produces natural gas. As a matter of fact it produces more gas for the interstate system than any State in the Union, but the thing Members may not know about Louisiana is the fact that our residential consumers use natural gas from the interstate pipelines, just like most of the other States do.

Simply producing more natural gas in Louisiana does not really help the consumers in Louisiana. It does when the gas gets into the interstate system though, just like it helps the constituents of all other Members.

So basically the problem I see is twofold. First we have to produce more natural gas to have it available to consumers and second, we have to get it into the interstate system to do us any good.

I submit the administration proposal and that of the ad hoc committee does not do that, whereas the Brown amendment does. I urge its support. As a result of information presented to the Energy and Power Subcommittee, I have prepared a 5-point summary in support of this amendment.

Part A shows that as early as 1908, at regular intervals ever since, the Federal Government has been saying that we are running out of petroleum, and it is saying now the same thing about natural gas. Part B shows we have information from the Academy of Sciences and the National Science Geological Survey indicating that we have 50 years supply of natural gas we can produce right now, and according to other studies of the Government, we may have 175 to 1,000 years of natural gas from new sources of natural gas that we are not producing from now.

So we do presently have natural gas and it is available for production for a long time to come, just as after every other Government statement we have had oil and gas available ever since the Government has been incorrectly predicting we would run out.

This gas will be produced in direct relationship to price. There definitely is a price response in productivity.

The administration has said that this bill will produce about 1 trillion cubic feet now of natural gas at $1.75 trillion cubic feet, and that any rise in price above that will not produce more. Part C shows this is not true according to recent studies by the Federal Power Commission, FEA, and ERDA. There is a direct price response. As a matter of fact if we will adopt the Brown amendment we will produce about 4 trillion cubic feet more than now.

We had a shortfall this past winter of 3 trillion cubic feet, and this is roughly 3 trillion cubic feet more than the administration bill will produce.

Also, I point out something very interesting. We can produce more natural gas, but with the administration program of having gas sell for the same thing in both

markets, $1.75 in interstate and $1.75 in intrastate, will not get any more gas in the interstate market. Producers who sell in intrastate markets will continue to sell in that market if the price is the same. They do not want to come under interstate regulations for the same price. They will sell into the interstate market for a higher price.

So really the only way to get increased gas into the interstate system is to deregulate the interstate price so that intrastate gas will move more freely into the interstate market.

This conclusion is the result of the testimony of numerous people before our Energy Subcommittee, including Mr. Richard Dunham, Chairman of the Federal Power Commission, as shown in part D.

I have heard remarks on the floor today about the concentration of companies in the production of natural gas in this country. According to the figures from the U.S. Bureau of Mines, there is less concentration in gas production in the United States than in almost any other industry. The top four natural gas producers in this country have about 24 percent of the market whereas the top four have more than this in the telephone, automobile, tire, soap, steel, farm machinery, or periodical industries.

The concentration is far heavier in those industries. As a matter of fact, the top 50 domestic producers of natural gas in this country account for only 64 percent of the market. There are better than 10,000 producers of natural gas in this country. Therefore, the concentration is not anything like people would have us believe. It is less concentrated than almost any industry in this Nation.

So I conclude by saying we have a two-part problem: Producing more gas and, second, getting it into the interstate system to solve our problem. Reallocating the shortages, fixing the prices or providing for emergency purchases only treat the symptoms, not the problem. Nothing is done, unfortunately, in the administrative bill to solve the problem.

The Brown amendment does exactly that by deregulating new natural gas to encourage production which will take place as we have seen from the Government's own studies.

Second, we will see that gas gets out of the natural gas producing areas into the interstate pipelines where it is needed if the interstate price is deregulated.

So I urge passage of the Brown amendment, and I include at this point the five-part summary in full earlier referred to:

SUMMARY

A. There has been Government predictions of a shortage of reserves of oil and gas for many years which were all subsequently proven far too pessimestic:

1. 1908.—Statement: "Maximum future supply of 22.5 billion barrels." (Officials at U.S. Geological Survey.) Fact: 110 billion barrels produced since 1908 with proved and undiscovered resources now estimated at 135 to 223 billion barrels.

2. 1914.—Statement. "Total future production only 5.7 billion barrels." (Official at U.S. Bureau of Mines.) Fact: More than 108 billion barrels produced in the U.S. since 1914.

3. 1920.—Statement: "U.S. needs foreign oil and synthetics; peak domestic production almost reached." (Director of U.S. Geological Survey.) Fact: Production in 1976 almost 7 times 1920 production.

4. 1931.—Statement: "Must import as much foreign oil as possible to save domestic supply." (Secretary of Interior.) Fact: During next 8 years imports were discouraged and 14 billion barrels were found in the U.S.

5. 1939.—Statement: "U.S. oil supplies will last only 13 years." (Radio broadcasts by Interior Department.) Fact: New oil found since 1939 exceeds the 13 years supply known at that time. More than 90 billion barrels of crude oil produced in U.S. since 1939.

6. 1947.—Statement: "Sufficient oil cannot be found in the U.S." (Chief of Petroleum Division, Department of State.) Fact: 4.3 billion barrels found in 1948, largest volume in history and twice our consumption. 86 billion barrels of new crude oil reserves found in U.S. since 1947.

7. 1949.—Statement: "End of U.S. oil supply almost in sight." (Secretary of Interior.) Fact: More than 73 billion barrels of crude oil produced since 1949 with proved and undiscovered resources now estimated at 135 to 223 billion barrels.

8. 1977.—Statement: We are being led to believe that we have little natural gas resources left and little prospect of discovering more. Fact: We have 40 to 50 years proven gas supply and prospects of 175 to 1000 years more.

B. We have sufficient natural gas reserves available for production with existing technology according to Government studies to last 40 to 50 years:

	1976 [1]	Total potential	Total [2] (in Tcf)	Duration of supplies [3]
USGS	228	524–857	752–1085	37–54
National Academy of Sciences	228	648	876	44

[1] Estimated proved reserves.
[2] Total remaining resources.
[3] Years.

(Above does not include resources from coal seams, Devonian shale, Rocky Mountain tight formations, geopressured zones.)

2. Government studies show we have 175 to 1000 years supply in Devonian shale, Rocky Mtn. tight gas formations, geo-pressured zones, etc.—

Natural Gas from Coal Seams (Energy Research & Development Administration, 1976, & Bureau of Mines, 1976): 300–800 Tcf.

Devonian Shale (U.S. Geological Survey, 1976): 500–600 Tcf.

Rocky Mtn. Tight Formation (U.S.G.S., 1976, & Federal Power Commission 1973): 600 Tcf.

Geopressured Resources (National Academy of Sciences, 1976): 3000–50,000 Tcf.

Geopressurized methane (ERDA, MOPPS Status Report, June 3, 1977): 500–1000 Tcf.

3. Industry sources verify the Government sources:

	1976 [1]	Total potential	Total [2] (in Tcf)	Duration of supplies [3]
Exxon base	228	423–1143	651–1371	33–69
Mobil	228	508	736	37
Potential Gas Committee	228	1146	1374	69

[1] Estimated proved reserves.
[2] Total remaining resources.
[3] Years.

(Above does not include resources from coal seams, Devonian shale, Rocky Mountain tight formations, geopressured zones.)

C. Government econometric studies show that deregulation will produce the gas in these reserves:

(Annual production 1985 (in Tcf))

	Reg.	Dereg.	Difference
1. Deregulation of new gas price: Federal Energy Administration (January 1977)	16.6	20.6	4

Federal Power Commission (May 1977) cites historical evidence supporting price supply response.

Energy Research & Development Admin. studies (June 3, 1977, MOPPS Status Report) show that size of U.S. conventional gas resource base varies depending on extent to which producer costs can be recovered. At producer cost of $1.00/Mcf, resource quantity is 120 quads $2.00/Mcf is 275 quads.

(Annual production 1985 (in Tcf))

	Reg.	Dereg.	Difference
2. University studies verify: Institute of Gas Technology [1]	16.2	21.6	5.4
Stanford Research Institute	----	26.4	---
3. Industry studies verify: American Gas Association	16.1	20.0	3.9

[1] University of Illinois.

D. The consensus of the testimony at the hearings was that a regulated price in both inter and intrastate markets would not result in more natural gas in the interstate system. Only deregulation would accomplish this desired end because, if the price is the same, producers will choose a deregulated market over a regulated one.

1. Richard Dunham, Chairman, Federal Power Commission.

2. Honorable Briscoe, Governor of the State of Texas.

3. Honorable Boren, Governor of the State of Oklahoma.

4. Robert Batinovich, President, California Public Utility Commission.

5. Luther Heckman, Chairman, Ohio Public Utilities Commission.

6. Richard O'Shields, President, Interstate Natural Gas Association of America.

7. Robert Hefner, Independent Gas Producers Committee.

8. Charles Allen, geologist, Phillips Petroleum.

9. A. V. Jones, President, Independent Petroleum Association of America.

10. D. K. Davis, Vice President, Independent Petroleum Association of America.

11. David Foster, Natural Gas Supply Committee.

E. Concentration ratio of natural gas producers is dramatically less than concentration ratios of other industres.

1. Top 4 concentration ratios (U.S. Census of Manufacturers, 1972):

[In percent]

Telephone apparatus	94
Motor vehicles	93
Tires and tubes	73
Soaps and detergents	62
Steel	45
Farm machinery	47
Petroleum refining	31
Periodicals	26
Paints	22

2. Top 4 companies' concentration ratio in natural gas production industry is 24.4%.

Top 50 companies' concentration ratio in natural gas production industry is 64.2%.

Top 50 companies—U.S. net natural gas production, 1975

Company	Percent of total U.S. production
Exxon	9.0
Texaco	6.9
Standard Oil of Indiana	4.8
Mobil Oil Corp	3.7
Gulf Oil Corp	3.6
Shell Oil Co	3.5
Atlantic-Richfield Co	2.9
Union Oil of California	2.5
Phillips Petroleum Co	2.4
Sun Oil Co	2.3
Standard Oil of California	2.3
Getty Oil	2.0
Tenneco	1.9
Cities Service Co	1.9
Continental	1.6
Superior Oil	1.4
Pennzoil-United	1.3
El Paso	1.2
Coastal States	0.9
Marathon	0.7
Columbia Gas	0.7
La. L&E	0.5
Ashland	0.5
Consolidated N. G.	0.5
Diamond Shamrock	0.5
Mesa	0.4
Enserch	0.4
Peoples Gas	0.4
Forest	0.3
Southern Nat. Resources	0.3
Mountain Fuel	0.3
Arkla Gas	0.2
Houston N. G.	0.2
Texas Gas Trans.	0.2
Texas O&G	0.2
Standard Ohio	0.2
Houston O&M	0.2
General American	0.2
Equitable Gas	0.2
Dorchester Gas	0.2
Southern Union Production	0.1
Murphy	0.1
Pioneer Corp	0.1
Kewanee	0.1
Texas Eastern	0.1
Apex Co	0.1
American Petrofina	0.1
Occidental	0.1
Noble Affiliates	0.1
McCulloch	0.1

Source: Company Annual Reports; 10–K Reports; Company interviews; Bureau of Mines (U.S. Total).

The CHAIRMAN pro tempore. (Mr. KREBS). The time of the gentleman from Louisiana has expired.

(At the request of Mr. GORE, and by unanimous consent, Mr. MOORE was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, the bill offered by the gentleman from Ohio (Mr. BROWN) does not, unfortunately, remove the jurisdiction of the Federal Power Commission under the Natural Gas Act to cover the natural gas companies. By contrast, the President's bill does. It removes all regulation, other than that related to price.

Mr. MOORE. Mr. Chairman, if I can reclaim my time, I know what the gentleman is getting at. The gentleman is disputing the point that only deregulation will get intrastate gas into the interstate system. The point the gentleman is talking about is the emergency purchase procedures. If the price is the market price, wherever it is, the producer will sell it at the highest price, even if it is to the interstate market.

Mr. GORE. Mr. Chairman, if the gentleman will yield further, that is not the point I am addressing. The Natural Gas Act has four jurisdictional bases: Sales in interstate commerce for natural gas, resale transportation of interstate natural gas, natural gas companies who engage in such sales, and natural gas companies that engage in transportation.

As a result of adopting the Brown-Krueger-Wirth amendment, the companies' paperwork burden under the Natural Gas Act would remain in place.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana has again expired.

(By unanimous consent, Mr. MOORE was allowed to proceed for 1 additional minute.)

Mr. MOORE. Mr. Chairman, I would answer the gentleman by saying that it is the price controls that prevent intrastate gas getting into the interstate system. The testimony we had before our committee was that if the price is the same, everyone who testified before our committee testified it will not go into the interstate system, but it will stay in the intrastate system.

Mr. GORE. Mr. Chairman, if the gentleman will yield further, that is why we deregulate everything except the price. Under section 26 of the Natural Gas Act——

Mr. MOORE. The price is not deregulated and that is the barrier of getting it into the interstate system. It is not deregulated gas. The price stays the same.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

(At the request of Mr. STEIGER, and by unanimous consent, Mr. MOORE was allowed to proceed for 1 additional minute.)

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, if I read the Brown-Krueger-Wirth-Anderson-Edwards-Watkins amendment, you do terminate producer regulation under the natural gas for new onshore natural gas sales. Requirements for producer certification, dedication, rate filing, and abandonment of new natural gas produced and sold from onshore lands would no longer apply.

That is a part of that amendment. It seems to me almost exactly the same way as apparently the administration saying it is part of their amendment.

Mr. MOORE. Mr. Chairman, I certainly agree. The point is, however, not what the gentleman from Tennessee is talking about, the paperwork, but that we have to deregulate the price or no more gas will get out of the intrastate and into the interstate system.

Mr. GORE. Mr. Chairman, will the gentleman yield for a response?

Mr. MOORE. I would yield for a question, not a response.

Mr. WATKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, members of the committee, I rise in support of the Krueger-Brown deregulation amendment to H.R. 8444, the National Energy Act. Our past experience with regulation of the interstate natural gas market proves that deregulation is essential. Today I would like to make five major points which prove that deregulation is necessary, workable, and advantageous.

First, there is a large quantity of additional gas that remains to be discovered and produced. The U.S. Geological Survey estimates that total undiscovered natural gas resources in the United States are between 322 trillion and 655 trillion cubic feet. Also according to the USGS, the potential gas reserves in the United States are 3.7 to 5.4 times as large as the reserves currently under production.

The administration's energy plan is based on the premise that there are no significant quantities of natural gas to be discovered. Actually, that assessment is not new—people have been saying that for the past 15 years. But what has happened during this time period? Within the past 10 years the Prudhoe Bay field in Alaska was discovered, the largest proven reserves in North and South America. Within the last 5 years, England brought in the North Sea field, which amounts to two-thirds of the total U.S. proven reserves. And during the past year, Mexico has announced reserves that appear to be larger than any of these

Second, contrary to the claim by the administration, drilling rigs can be produced and made available to meet the exploration effort required to balance supply with demand.

In addition to the new rigs coming on line, more than 50 superdeep rigs are sitting idle at this time because of the artificially low, regulated interstate gas prices. These same rigs could be put to work in the Deep Anadarko Basin, where nearly half of Oklahoma's 122 trillion cubic feet of potential natural gas resources lie, if the interstate prices were deregulated to reflect the free market price of this commodity.

Third, drilling and production are price responsible. During the decade of the 1960's, the real price of oil and gas, adjusted for inflation, declined from $3.40 per barrel of oil equivalent to $2.70. This same period was marked by a drastic reduction in drilling expenditure. However, when the real price of oil and gas began to rise early in the 1970s, and drilling expenditures subsequently doubled between 1971 and 1975.

According to the Federal Energy Administration, the number of gas wells drilled in a five-State area, including Oklahoma, Texas, Louisiana, New Mexico, and Arkansas, increased from 1,884 in 1971 to 4,128 in 1975, an increase of 119 percent. During that same period, footage drilled nearly doubled.

About 58 percent of Oklahoma's natural gas production is delivered to interstate pipelines. While the State's total gas reserves have declined since 1972, the reserves dedicated to the intrastate market have increased. This is because the average wellhead price for intrastate gas in Oklahoma is three times the average wellhead price of interstate gas.

During 1975, interstate dedicated reserves for the Nation as a whole decreased 12.1 trillion cubic feet, while the intrastate reserves rose 3.5 trillion cubic feet. The increase in the intrastate reserves can be attributed to free-market pricing of natural gas versus the regulated pricing of interstate gas.

The Energy Research and Development Administration's market oriented planning study, also known as MOPPS, concluded that the supply of gas is price responsive; however, the administration did its best to suppress this finding until the Wall Street Journal blew the whistle. On July 12 of this year, the Fossil and Nuclear Research, Development and Demonstration Subcommittee of the House Committee on Science and Technology, of which I am a member, held a hearing on MOPPS. Representing ERDA at the hearing were Dr. Phillip C. White, ERDA Assistant Administrator for Fossil Energy, and Dr. Harry R. Johnson, ERDA Deputy Administrator for Planning, Analysis, and Evaluation. I would like to read for the RECORD a portion of the transcript from that hearing:

Mr. FLOWERS. What if you had in 1985 $3 a thousand cubic feet (for natural gas at the wellhead)?

Mr. JOHNSON. $3? Our analysis would indicate we would have more gas available than anybody could ever use . . .

Mr. FLOWERS. Look at the difference a dime per Mcf makes in 1985, between $1.80 and $1.90. That is a tremendous difference.

Mr. WHITE. Given another 50 cents (per Mcf), you could close your gap. It is implicit in that . . .

Mr. JOHNSON. . . . Our demand in the year 1985 is somewhere around 18 trillion standard cubic feet, and the market clearing price using this set of resources would be around $2.25.

In other words, ERDA concluded in its MOPPS study that if the price of natural gas were $2.25 in a deregulated market, by 1985 supply and demand would be balanced. We would not have the shortfalls and curtailments that have plagued us for 3 years, and we would not have the closed schools, industries, and office buildings that we had last winter. All for only $2.25 per Mcf.

Yet, the administration's energy bill, with pricing initially regulated at $1.75, inherently requires such shortfalls, with only two choices:

First, import the additional energy needed, at a tremendous cost to our balance of payments, economy, and national security; or second, allow even more curtailments, forcing our constituents to freeze and putting thousands of people out of work each winter.

Fourth, deregulation would actually reduce the per unit price of energy to many consumers.

This is because the price paid the producer at the wellhead represents only one-fourth to one-third of the average residential bill in the interstate market. Maintenance and amortization costs remain constant, whether the pipeline is full or empty. When the volume of gas being transported through the pipeline declines because of inadequate supplies due to inadequate wellhead prices, gas distribution companies must increase their unit charges to consumers to recover these fixed costs.

It works something like this: Suppose you own a gas distribution company that is capable of delivering 200,000 cubic feet of gas. However, the wellhead price of gas has been regulated at $1 per Mcf. At that price, there is only a supply of 100,000 cubic feet available, so your pipeline runs at only one-half of capacity. The fixed costs of operating your distribution system total $300,000. Therefore, your customers pay $4 per Mcf for gas—$1 per Mcf covers the price paid to the producer at the wellhead, and $3 pays for the prorated share of the fixed costs. Now, suppose Congress decides to deregulate gas prices, and your company can purchase its full 200,000 Mcf requirement of gas from producers for $2 per Mcf, twice what you were paying before. Your pipeline is now running at its full 200,000 Mcf capacity. Your customers would now be paying $3.50 per Mcf—$2 to cover the higher wellhead price, but only $1.50 to cover the pro-rata share of the fixed costs. Thus, although the wellhead price doubled, the cost to the consumer decreased because the pro-rata share of fixed costs were cut in half, due to the increased supply of gas available.

A very similar situation exists in real life, right in New York City. Brooklyn Union Gas Co. is a distribution company which serves New York. It buys its gas from an interstate pipeline that in 1976 paid a maximum of 52 cents per Mcf for new gas at the wellhead. In 1976, Brooklyn Union's customers paid $3.48 per Mcf for their gas, almost seven times the maximum price paid at the wellhead. Two-thirds of the price the customer paid went to Brooklyn Union to pay the amortization costs of its pipeline; about another 10 percent was used to pay the transportation costs between the producing fields and New York City. If Brooklyn Union's pipeline were full of higher priced, deregulated natural gas, the per unit costs to the consumers would actually go down. Last year, Brooklyn Union had to supplement its meager supply by kicking in a synthetic gas plant that cost $4 per Mcf to produce gas. This expense, also, could be eliminated if gas were deregulated and supply matched demand at the equilibrium price.

I want to assure my colleagues that I am not just pulling these figures out of the air. In 1975, the State of Oklahoma commissioned Arthur Young & Co. to study the relationship of gas supply and wellhead prices to consumer costs. That study found that without additional supplies, and I can assure those supplies would not be available without deregulation, in 1985 Brooklyn Union's customers would be paying $4.45 per Mcf. But if Brooklyn Union could keep its pipeline full of gas costing $2.50 per Mcf, its retail price would be $3.98, 47 cents per Mcf cheaper. And since ERDA's Dr. White and Dr. Johnson concluded from their MOPPS study that the wellhead price needed to match supply with demand in 1985 would be $2.25 per Mcf, the price to Brooklyn Union's customers would actually be less than $3.98!

Of course, the administration has submitted various analyses of what deregulation would cost, as have the Library of Congress and others. However, as Mr. KRUEGER has pointed out, all of these analyses are based on faulty premises, and I defer to his arguments on this point. But I would like to remind my colleagues of the study done by Mr. STOCKMAN of Michigan, which indicates that this deregulation proposal would save American consumers $48 billion between now and 1990, as opposed to the language currently in the bill.

Finally, I would like to point to Oklahoma's experience with the unregulated pricing of the intrastate market. More than 93 percent of the natural gas used in Oklahoma is purchased on the intrastate market, where new gas prices have been ranging around $2 per Mcf. Including the old, lower-priced contracts, the average wellhead price for Oklahoma intrastate gas in the first quarter of 1976 was 84 cents per Mcf, compared to the average price of 31.6 cents for Oklahoma gas leaving the State in intrastate pipelines. However, the average Oklahoma consumers pay for gas at the end of the pipeline in 1975 was 79 cents per Mcf, compared to the national average price of $1.29. Thus, although Oklahoma intrastate utilities pay more than twice as much for gas at the wellhead, their customers pay only 62 percent of the national average price.

My fifth and last point is that deregulation would enable supply to match demand, and at the same time promote conservation. This is important, because the administration claims the higher price ceilings contained in H.R. 8444 are designed to promote conservation. In actuality, this bill would roll back the price of new intrastate gas, thus discouraging drilling in this market, which as I said earlier, is presently at an all-time high. At the same time, the prices established by this bill would still be below the replacement cost, and natural gas would still be priced well below other fuels, thus encouraging its wasteful consumption.

However, this deregulation amendment is a conservation measure. If the well head price of natural gas were deregulated and allowed to seek its free market level, it would encourage many industrial consumers to switch to alternative fuels and would make substitute fuels, such as coal gasification, economically practical. And, at the same time, it would encourage drilling and help us close the production gap.

Under the free market, deregulated system, supply would rise and demand would fall until the two cross at an equilibrium price. This has happened in the intrastate market, where, when prices rose to $2.25 per mcf, supply rose rapidly. Supply then began to exceed demand in some locations and prices slipped until they stabilized at $2 per Mcf, the supply-demand equilibrium price for 1976. The same thing would happen in the interstate market.

In summary, I would like to quote from the findings of the Brookings Institution in its study, "Setting National Priorities: the 1978 Budget":

Optional adjustment toward a long-run equilibrium in the natural gas market would affect both production and consumption. Deregulation of natural gas that had not previously been consigned to the interstate

market would be one means to achieve this adjustment. On the supply side, deregulation would prompt new exploration and more intensive development of known reservoirs. The amount of gas marketed would also be increased because the amount wasted, used in the field, or used for producing petroleum would fall owing to its higher value. Finally, decontrol and the rising prices it would induce would encourage the development of synthetic natural gas . . . at rates that would minimize total energy costs to the economy.

. . . Gradual decontrol of natural gas would reduce the cost of energy to the economy, not increase it. In essence, the higher prices and fuel switching occasioned for some consumers would make gas supplies available to those for whom the alternatives are worse. The inefficiencies and inequities of the present system are disguised, but its benefits to some are large and obvious. In contrast, decontrol would bring obvious losses to some but widely dispersed and less readily visible benefits to the economy generally. On the whole, the economy would benefit from the more efficient use of energy and other resources that decontrol would bring.

Mr. Chairman, those are my sentiments. Deregulation would allow supply to match demand, thus ending our tremendous and terrible natural gas shortages. It would also encourage conservation and development of alternative fuels. And finally, it would do so at a price that might actually be cheaper than what many consumers are paying today. For these reasons, I urge my colleagues to join me in voting for the Brown-Krueger amendment.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. WATKINS) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. WATKINS was allowed to proceed 3 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is talking about the production inside of the State of Oklahoma. I have a report, based on the figures from the American Petroleum Institute, showing that since 1973, marketed natural gas production in the deregulated market of Oklahoma has steadily gone down. To intrastate customers, the supply sold to intrastate customers since 1973 has steadily gone down.

The gentleman talks about the increased availability of prices inside the State of Oklahoma, as compared to the availability in the interstate market. I would also point out that the average prices inside the Oklahoma intrastate market during this year was $1.63, far below the prices proposed by the administration. In January, $1.72; in February, $1.47; in March, $1.68; and so on.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, I think the point the gentleman was making was an attempt to allay the fears of this House thinking that the increase in the wellhead price is going to affect the consumer. If I understand the gentleman, the point is that the wellhead price makes up only about 20 percent or 25 percent paid for natural gas by consumers; is that correct?

Mr. WATKINS. That is correct. If we keep the pipeline full, actually the customers to the north and to the northeast, will be paying less per thousand cubic feet.

Mr. LUKEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Michigan (Mr. DINGELL). I wish to obtain from the gentleman from Michigan additional clarification regarding the scope of the authority provided to the Secretary of Agriculture by section 411 of the bill. Specifically, I want to assure myself that under the provisions of section 411, the Secretary of Agriculture is empowered to afford the protection of the priority established by that section to any use of natural gas within the entire food supply system which he determines to be essential to avoid an interruption of that system.

Mr. DINGELL. I can assure the gentleman that such is the intent of the section and such is my understanding of the section's language.

Mr. LUKEN. Thus, I am correct in my understanding that the language of section 411 is intended to be read broadly and the Secretary of Agriculture is directed to consider the entire food supply system, including uses of natural gas in the distribution of food and food products, such as storage.

Mr. DINGELL. That is correct. It was the specific intent of the report of the Ad Hoc Committee on Energy as it relates to section 411 to reaffirm that the Secretary of Agriculture is empowered and directed to identify essential uses of natural gas in the entire food supply system, including food storage and distribution and to afford to such essential uses the protection provided by this section which is consistent with the intent of the Interstate and Foreign Commerce Committee.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take this opportunity to address what I think is the single most effective and most important criticism that has been made of this amendment on the general issue of decontrol, because I know it troubles those Members of this body who genuinely want to give this proposal a fair hearing.

Of course, the argument we have been contending with for many months now is that there will be no supply response to decontrol or higher prices. I will have to admit that the critics of our amendment have very effectively and correctly noted that the track record of the last 4 years needs to be taken into account. They have shown that the price for new natural gas has increased by a factor of 3 or 4 times and yet in that 3- or 4-year period natural gas production has actually declined—to be exact, from about 23 trillion cubic feet a year to 19 trillion cubic feet last year.

So the question has been legitimately raised: Will another 30 or 60 or 80 percent increase in price which we might get under decontrol result in anything different from what we have had during the last 4 years?

That is a legitimate question and an important one, and I would suggest that to get the answer to the question we have to recognize one fundamental factor or proposition about the economics of gas, and that is that gas production in the current year is almost totally insensitive to the new gas price during that current year. The variable or the factor which is sensitive to the new price of gas is reserve additions, and I think we can see from the record very clearly and from the statistics that have been published by everyone that reserve additions since 1973, when the price of gas turned around, have been rising very rapidly. In fact, they are being added at a rate today 50 percent above what they were in 1973.

Now, by contrast, if we look at current-year production, we have to recognize that it is determined by two factors which are basically unrelated to the price for new gas in the current year. Those two factors are, No. 1, the ratio of production to the total reserves that we have in inventory, and, No. 2, the rate at which new reserves have been added to our total reserve inventory in the 4 to 7 years prior to the year of production we are looking at.

What I would like to do for the Members of the House is to very briefly document where we were on these two factors, the ratio of production to total reserves and the rate at which new reserves were being added, in previous years I would like to show where we were on those critical factors in 1973 when the price began to turn around.

If we look at the production-to-reserve ratio, we will see we were at rock bottom. Whereas in the 1950's our annual gas production had been 2 or 3 percent of our total reserves, I would point out that it had risen to 4 to 6 percent in the 1960's, and by 1973 we were producing 10 percent of our total reserves every year.

That is our maximum limit. That is as far as we can go, because geologic factors, conservation factors, and even State law prevents us from going beyond that.

The meaning of that is very clear. This means that the easy annual production increases that we were getting in gas during the 1960's could no longer be obtained, because we were at the limit of producibility of our gas.

I would point out to the Members of the House that at the beginning of the mid-1960's our additions in new reserves to our total gas inventory began to decline, but despite that, from 1962 to 1973, actually the production of gas increased from 14 trillion cubic feet to 23 trillion cubic feet. The only reason for that was that we were producing higher and higher ratios of our inventory, and when we hit 1973, we could no longer do that. For that reason, our gas production had to peak out.

Second, let us look at where we were in 1973, when prices began to turn around, in terms of the rate of annual reserve additions in the last 6 or 7 years previous to 1973. We will see that we had an absolute catastrophe.

In 1976 we added about 20 trillion cubic feet of gas to our reserve inventory. By 1973, because of the decline in real price and because of the rising cost of finding new gas, we were only adding 6 trillion cubic feet of gas to our reserves, and we were consuming 23 trillion cubic feet.

The obvious implication of that 70 percent decline is pretty apparent to me, and I think it should be to the Members of this body; and that is that we were depleting our inventory, our reserve of gas, so fast that no matter what happened after 1973 in terms of price and in terms of new reserve additions, production had to decline.

The CHAIRMAN pro tempore (Mr. KREBS). The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(On the request of Mr. GORE and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Tennessee very briefly.

Mr. GORE. Mr. Chairman, I wanted to take issue with the gentleman's statement that reserve additions have increased since 1973.

On page 387 and 388 of the ad hoc committee report we have charts which clearly show—and the source is the American Gas Association, which is certainly not biased in favor of the committee's position, and also the Federal Power Commission. These figures clearly show a steady decline in reserve additions. The aggregate reserve additions over the 5-year period from 1964 to 1969 were 718 trillion cubic feet. From 1970 to 1974 it was only half that amount.

Mr. STOCKMAN. If the gentleman will allow me to reclaim my time, the gentleman is looking at the wrong series of statistics.

The fact is that in 1973 we added 6 trillion cubic feet of gas to our reserves. That was the rock bottom. In the last couple of years we have added 10 trillion cubic feet.

Mr. GORE. Mr. Chairman, will the gentleman yield further?

Mr. STOCKMAN. I will not yield further, because I think there is an important conclusion to be made from this, and that is the point which, I think, was made very effectively a while ago by the gentleman from Virginia. He said that we cannot turn around either supply or demand in a short period of time. Now, because we have lowered our reserve level of gas from 300 trillion cubic feet which we had in the mid-1960's to the very low level of 200 trillion cubic feet in 1973, it is going to take 4 or 5 or 6 years of very large reserve additions before we can even stabilize the level of annual gas production.

The point I am trying to make, Mr. Chairman, is simply that the critics have imposed an unfair and basically an irrelevant test. The true test is if we had not had that increase in price, and if reserve additions had continued to decline after 1973 at the rate that they were in the previous 7 years, then where would we be today?

I think it can be demonstrated that instead of producing 20 trillion cubic feet of gas this year, we would be producing only 17 trillion cubic feet of gas. I think it would be demonstrated that by 1985 we would be producing less than 10 trillion cubic feet of gas, and the whole industry would disappear by 1990.

Mr. Chairman, I think the facts are pretty clear. At the old price, the pre-1973 price of 20 or 30 cents, we were getting almost zero reserve additions. We were just living off the past. At the price of $1.45 to $2 prevailing in the last few years, we are getting about 10 trillion cubic feet of new gas reserves a year. That, too, will mean a continued decline in gas production.

Mr. Chairman, the only way in which we are going to be able to stabilize gas production at 20 trillion cubic feet to keep our homes, hospitals, and process industries going is to increase that reserve addition rate to about 20 trillion cubic feet a year.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. To continue, Mr. Chairman, I would suggest to the House that we should come back up to that level of replenishing our inventory and getting a total reserve of gas large enough to permit us to continue to produce 20 trillion cubic feet a year, which we need if we want to avoid hardship and tremendous economic cost in this country through switching to more costly substitutes.

We cannot get that at $1.75 because the record of the last 3 years is clear that $1.75 will only produce 10 trillion cubic feet a year of additional reserves. That is not enough to keep our production level up.

Mr. Chairman, the MOPPS study and much other information available suggests, and that includes even the third edition of MOPPS, the most conservative edition, that there would be 475 trillion cubic feet of gas at a price up to $3. That is enough to add 20 trillion cubic feet to reserves and produce 20 trillion cubic feet a year for 25 years. That is why we need that price increase. When all is said and done, it is still a far better deal for the consumer and for the economy than having imported oil and synthetic gas priced at $5, or any of the other alternatives available.

Mr. RUNNELS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, and members of the committee, I have heard throughout yesterday and today the word "average" batted around on this floor. It reminds me of the story of a friend of mine who had a set of twin boys. One day I was visiting with my friend, and these little twin boys, one of whom had a set of Gotch eyes, one eye looked thataway and one eye looked thisaway, and the other twin boy's eyes were crossed. And he had been taking them to the eye doctor.

So I said to him "How are your boys' eyes?"

And he said, "On the average, they are perfect."

That is what we are using around here, the word "average."

Mr. Chairman, let me say that I rise in support of the Brown-Krueger-Wirth amendment. I think we are being penny wise and pound foolish. If you will turn to page 180 on this bill you will see that the findings say:

> . . . during the early history of this nation's petroleum industry, natural gas was a byproduct of the production of crude oil, and was not readily marketable . . .

Please remember one thing, that we are talking about a commodity called natural gas. Natural gas, as this bill says, originally was a byproduct of crude oil. Now what caused this huge surplus in American was that many years ago people dug oil wells. In case you do not know, an oil well has only two sources of a drive to get the oil out of the ground. It either has a water drive or a gas drive. If it is a water drive, the water is salt water.

So, throughout the years, because they could market their oil, a man would dig an oil well and then sometimes along with it, he would have gas and that would push the oil out of the ground.

Over the years the only way you can get that gas from that wellhead to your home or your factory in your district was through a pipeline system. You can get the oil from the tank battery to a refinery in a truck.

So, over the years, they have laid thousands of miles of pipeline to get this gas. Back many years ago they handled the gas from an oil well this way. If they did not have someone in that State that was willing to purchase it, they laid a little pipe out from the wellhead, stuck it up in the air away from the wellhead and struck a match and flared the gas.

So, if you went through the country where they produced oil and gas it looked like a Christmas tree at night as the gas was being flared. And that was wrong. We were wasteful in this Nation.

So the oil producing States, their regulatory agencies, said to the oil producers, "You no longer can flare that gas. You must blow that flame out."

Well, about three things happened all at the same time. The first thing that happened with the no-flare order, then the utility companies of this country and the transmission companies of this country grabbed on to an opportunity to tie all of these wells together. Gathering the gas produced by an individual, independent or the major oil companies. Here in this bill we know what happened because on the very next page it is spelled out, it says right here, on page 181:

> (3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. RUNNELS was allowed to proceed for 4 additional minutes.)

Mr. RUNNELS. Mr. Chairman, that was 39 years ago. Then look at the very next paragraph. In 1954 the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce. That was 23 years ago—23 years of price controls of natural gas at the wellhead set at a price of 15 cents per 1000 cubic feet of gas.

Let me say to the Members that if Federal controls, through the Federal Power Commission, and price control is the answer to our problem, pray tell me why are we discussing this bill today. We have a shortage for the very reason we are discussing. You cannot be half pregnant, and that is what we are doing in this bill—being half pregnant. We have price controls on an industry that should be going wide open, because this country was built on energy. It was originally wood; next it was coal; then it was oil; then it was oil and gas.

Mr. Chairman, I am saying that we need a new source of energy in America because this is a depletable mineral just like the rest of them. It will come and go in its day. But price controls? We can get out of our trap this year. We can face our voters next winter maybe, but I want the Members to know that in the future and for the good of this country we are doing a disservice by continuing to have price controls, because the source is getting shorter and shorter and shorter.

Remember, we should do two things. We should have maybe a price on that gas produced along with oil, and another price for new gas where they drill strictly a new gas well.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. RUNNELS. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. I thank the gentleman for yielding.

I think the gentleman has hit on something that the people in the Northeast are sincerely concerned about as to what is going to happen to price. It is their concern—and I share that concern—and the concern of the gentleman from Tennessee, and the gentleman from Indiana, and the gentleman from Connecticut. When they stopped the flaring of those gas wells, and the small companies came in and bought the rights to that gas and started piping it around all over the country before controls, there was gas everywhere. We got it into the system and got it out to the consumers. This was the result of exploration and drilling by independent oil producers.

Mr. RUNNELS. Independent and major.

Mr. RISENHOOVER. And major, but independents were drilling most of the wells.

Mr. RUNNELS. They do a lot of wildcat drilling.

Mr. RISENHOOVER. All right. The reason I say the majors want this bill like it is without deregulation, and people who are scared of the Seven Sisters are playing right into their hands, because what happened when we did away with the depletion allowance? We forced a lot of small independent producers to sell their holdings to major oil companies. Did we not? Did we not lose a lot of those independents? Along with that goes that natural gas. They obtained these leases. They drilled the oil wells. As the price of oil came up, we raised the price on some of it. Now what is going to happen to natural gas if we do not get deregulation here? Then the majors, who control the oil market in the whole world, except less in this country than in other countries, are then going to have control of the natural gas. Would the gentleman agree with that?

Mr. RUNNELS. Let me say that I think we are worrying about something we should not be worrying about. I personally do not see this big ugly major oil company combine that we are talking about. They are here. They are in America, and that is part of America.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. RISENHOOVER, and by unanimous consent, Mr. RUNNELS was allowed to proceed for 2 additional minutes.)

Mr. RUNNELS. We are talking about obscene profits. If we really believe that they are making obscene profits, every one of the Members here makes a darned good salary, and they ought to go buy some of their stock if they think they are making so much money. They ought to get in on it. It is sold every day by stock brokers. You can get in on it. But it is not true compared to other stocks.

Let me finish just quickly about what happened to our natural gas. When the Federal Government set that price at the wellhead at 15 cents a thousand—and, true, our environmentalists were telling industry back East and every place else, "Do not burn coal any more unless you clean it up"—since the Federal Government had set the price at 15 cents a thousand at the wellhead, we converted throughout the United States—and we should have—and they got in on a good deal.

But the good deal is over. It is not as good as it once was. We cannot conserve ourself to an adequate supply nor can we spend ourself to prosperity. It costs more and more to drill deeper and deeper and find less and less. The end product has a price control, but every thing used to drill and produce, such as salaries and supplies has no controls.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. RUNNELS. I yield to the gentleman from Texas, the chairman of the Appropriations Committee.

Mr. MAHON. Mr. Chairman, the gentleman has spoken very eloquently about the problems before us. Could much of what the gentleman has been saying be summarized as follows: If we are concerned and apprehensive about the consumers, we should deregulate natural gas not so much in the interest of the producers of oil and gas but in the interest of the consumers? It seems to me the gentleman has made an eloquent plea in behalf of the consumers of the Nation. I trust that the deregulation amendment will be adopted.

Mr. RUNNELS. Mr. Chairman, I agree with the gentleman from Texas (Mr. MAHON) wholeheartedly.

I am not talking for the producers. I am talking for the good of all American people, for the jobs that are provided and for an adequate supply, and that is what we need.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. RUNNELS. I yield to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Mexico and those of the gentleman from Texas and thank them for their leadership.

I represent consumers and decontrol is in this interest. The people of the State of New York are paying $4 and $5 Mcf for synthetic natural gas and imported LNG from Algeria plus are paying $2 or $3 Mcf from Canada.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(On request of Mr. KEMP, and by unanimous consent, Mr. RUNNELS was allowed to proceed for 1 additional minute.)

Mr. KEMP. Mr. Chairman, if the gentleman will yield further, my friend from New Mexico is talking about production being in the interest of the consumer, I totally agree. As a Representative from a consumer State I want the gentleman to know I become an advocate of decontrolled natural gas when I found the Federal Power Commission a few years ago turning down sales to my State of natural gas on the basis of the fact that they were 25 cents Mcf over the controlled price, the result was we ended up buying it for $4 and $5 Mcf from Algeria or using higher priced SNG at $5 or $6 Mcf. It is absolutely insane.

The gentleman talks about obscene profits. I will tell you what is obscene, it is obscene that we are denying the consumers of the Northeast the adequate supplies of natural gas that they desperately need. Last winter was obscene when shortages occurred, homes went cold and factories and schools closed down.

I commend the gentleman for his remarks and bring to his attention and this body that the interests of the Nation and the Northeast would best be served by deregulation of natural gas.

Mr. RUNNELS. I agree with the gentleman's remarks, and I congratulate Mr. KEMP for understanding the problem and the solution to it, and having the guts to speak out for his people. It is the consumer that is going to pay the price either for high price foreign energy, or no supply. It does not make sense for us to pay $5.25 for old oil produced in America and yet we pay $13.50 for half of our supply to a foreign nation. I urge you to vote for the amendment for the good of our country.

Mr. KEMP. Mr. Chairman, I rise in strong support of this amendment. Offered by a Democrat BOB KRUEGER of Texas and a Republican BUD BROWN of Ohio, it is a bipartisan measure deserving of the support of every Member. It is

clearly in the interest of the consumer for Congress to enact it, and our colleagues do service to all consumers by giving Congress such an opportunity to revise the disastrous Federal controls on natural gas that have caused these shortages.

This amendment seeks to end Federal price controls on new natural gas. Decontrol will bring onto line enough new gas to overcome the projected shortfalls, especially in the winter months, without causing onerous cost increases to the consumer. As a matter of fact, the consumers will pay less under this amendment because the increase in supply will keep the gas companies which supply them from having to rely on synthetic and liquefied natural gases at double or three times the projected decontrolled gas rates. Twenty-five percent of our supply of natural gas in western New York is expensive synthetic and imported natural gas, even No. 2 fuel oil is almost twice the price of these artificial controlled prices. It is a disaster to this country and to the people of the Northeast.

There has never been a reputable study of America's energy problems which did not conclude that it was necessary to deregulate natural gas prices in interstate sales to take any meaningful step toward energy independence.

The administration has released a study through the Executive Office of the President, Energy Policy and Planning, which projects that massive economic cost will be imposed on the American consumer through deregulation of natural gas. Referring to this study, the President called the deregulation of natural gas a $71 billion ripoff of the American consumer.

Only a cursory analysis of the study is required to discover that it is rigged to yield the results the President wants. In fact, if one sought to impute sinister motives to the White House, it would be easy to argue that the study is little more than a fraud used to mislead the American public and the Congress concerning the cost of deregulation.

While numerous criticisms can be made of the data used and the analytical process employed, two principal flaws stand out above all others.

First, the President assumes that raising the price of natural gas from $1.42 per thousand cubic feet to $1.75 per thousand feet will produce a substantial supply response, increasing output by over a trillion cubic feet by 1985. Beyond the $1.75 price proposed by the President, additional increases in price are assumed to have no impact on output. This assumption is implicitly built into the data, and no justification is given. The results, therefore, are rigged since the President's proposed price is assumed to yield all the output response that can be had and higher prices produce no additional response, only additional cost.

If the same output growth, which is assumed to occur between $1.42 per thousand cubic feet price and $1.75 per thousand cubic feet price is projected to higher prices, substantial increases in output are obtained through deregulation.

In fact, by projecting the supplier responsiveness the administration assumes to exist up to $1.75 to the $2.40 range, a 3-trillion-cubic-foot natural gas production increase is produced. It is interesting to note that the large responsiveness produced by projecting the administration's estimates to higher prices yields results that are very similar to the findings of the American Gas Association, the Institute of Gas Technology, the Federal Energy Administration, Stanford Research Institute, and Professor MacAvoy.

Not only does the White House study assume a totally unrealistic relation between price and quantity above the $1.75 price, but it fails to take account of the fact that any increase in the supply of natural gas will displace fuels that in many cases are three times more expensive than natural gas.

For example, the cost of raising the price of natural gas to $1.75 per thousand cubic feet—the President's plan—is assumed to be $4.1 billion in 1985. This figure, however, neglects the fact that by the President's own figures, supply would rise by 1.1 trillion cubic feet in response to this higher price. While the new gas is costing the consumer $4.1 billion, it is displacing fuels that at $6 per million cubic feet cost $6.6 billion. In reality, the consumer is saving over $2 billion per year by 1985.

When the output responsiveness that the administration assumes to exist between $1.42 and $1.75 is projected up to the $2.50 price range, the expected output rises by over 3 trillion cubic feet in 1985. While this 3 trillion cubic feet of natural gas will cost the consumer $7.5 billion, at the current price for alternative fuels, 3 trillion feet of natural gas would displace alternative fuels costing more than twice the price of natural gas. With the simple adaptation of the output responses the administration study, which is used to call deregulation a ripoff, can easily be used to demonstrate the benefit of deregulation to the consumer.

As late as the 1930's, natural gas was still a semi-waste product. Demand was not sufficient to produce a market price which would finance the development of a distribution system for those deposits of natural gas that were found away from existing pipelines in small quantities When natural gas was discovered in remote areas, it was often burned into the atmosphere.

In the post-war period, with growing energy demand and increasing concern about clean air, the demand for natural gas expanded rapidly. Natural gas had two desirable qualities: It was clean burning and it was cheap. We saw the development of what could have become a nationwide distribution system as natural gas production expanded to provide cheap fuel for the post-war growth.

In 1954 all this changed. It changed because the Supreme Court ruled that the Federal Power Commission under the Natural Gas Act of 1938 could regulate the price of gas that was produced within a State but sold to an interstate pipeline.

With this Supreme Court decision, the Federal Power Commission sought to regulate natural gas prices on a field-by-field basis. In 1961 the FPC imposed a price ceiling at the wellhead on interstate sales of natural gas.

By the late 1960's it had become apparent that the reserves committed to interstate commerce and the production of natural gas were not keeping pace with demand. In 1956, 58,000 oil and gas wells were drilled, but by 1971, that number had dropped to 27,000. The number of natural gas producers dropped from 18,000 in 1956 to 4,000 by 1971—a Government-caused concentration. The old truths were still true: water wets, fire burns, and artificially low prices set by Government must cause output to fail and shortages to occur.

As demand for natural gas outstripped supply, potential interstate consumers were prompted to find substitutes. The consumer in the nonproducing States bought fuel oil, liquefied gas from Algeria, and synthetic gas as substitutes for natural gas and paid up to $5.35 per Mcf. In 1972, 89-percent of finished petroleum products imported into the United States consisted of fuel oil and 46-percent of all petroleum imported including crude was fuel oil. In terms of energy yield, fuel oil has on average in the 1970's sold at roughly twice the free market price of natural gas. Our dependence on Arab oil today would be much less if it were not for these natural gas pricing policies.

As I have said, by regulating the price of natural gas at the wellhead, the Federal Power Commission has produced several undesirable effects. It has stifled the development of a cheap and clean-burning domestic fuel. It has produced a higher price to the consumer because he has been forced to rely on more expensive substitutes. And it has produced foreign dependence because the consumer has been forced to make up for the failure of natural gas suppliers to grow by importing petroleum products as substitutes.

In a very real sense, our foreign dependence has not been produced by the failure of American ingenuity to produce oil and gas but by governmental interference, for which we have all paid in higher prices and shortages.

The possibility that the consumer may actually have lost by regulation is amplified by the fact that wellhead prices of natural gas represent only a fractional part of the price consumers pay at the point of consumption. This is especially significant in the Northeast, where 81 percent of the residential gas bill is for pipeline and distribution costs. To the customer of natural gas in the Northeast a doubling of wellhead prices causes only a 20-percent increase in point of use cost. Conversely, any fall-off in natural gas production means that the portion of the pipeline cost that has to be borne by each unit of gas delivered rises.

To gage the benefit or cost to the consumer of FPC regulation on interstate natural gas, it would be necessary to look at total energy consumption and to compare the prices paid under regulation with the prices that would have existed without it.

While deregulation would have allowed the price of natural gas to rise, it would have expanded the supply and displaced fuels that were far more expensive. In 1975 the interstate pipelines serving the

Northeast were 15 percent empty due to the shortage of natural gas produced by FPC price regulation. Thus, the consumer in New York State paid more. The 15-percent of unused pipeline cost the gas consumer $1 billion in added overhead on delivered gas.

There is another way to compare costs. While the interstate price of natural gas has been regulated by the FPC, the intrastate price has generally fluctuated with market prices. With the expansion in the demand for gas in 1972 and 1973, the unregulated price of natural gas rose sharply. The Texas consumer saw the marginal price rise from 75 cents in 1972 to a high of $2.20 in 1975. With the new price incentive, drilling rigs came to Texas from all over the country and even from Canada. In 1971, only 1,056 new wells were drilled, but by 1975, 2,275 new wells were completed.

This expansion in supply drove prices down to $1.76 as the average new price for gas. The Texas consumer had to pay more for gas, but he got more gas at higher prices. The gas he got was still a bargain. According to FPC price projections, the free market price for natural gas in 1975 was 22 percent cheaper than liquefied natural gas, 31 percent cheaper than Alaskan gas, 44 percent cheaper than coal gas, and 46 percent cheaper than synthetic gas.

There is simply no alternative fuel known or planned in America today that is cheaper than the most expensive natural gas produced and sold. And the people and industry of New York State need it. They need cheaper, deregulated gas moving in pipelines, coming up from the Southwest, pipelines which could then assure adequate supply, even in severe winter months. They need increases in gas supply from the Devonian shales underlying the Appalachian States from New York to Mississippi and much of the Midwest which can be most quickly recovered if there is deregulation. And they need the supplies which are underneath New York State itself—especially along the southern tier of counties on the Pennsylvania border.

Finally, Mr. Chairman, the coverup of information about new supplies of natural gas at decontrolled prices is a bigger scandal than "Koreagate." Mr. Schlesinger, our new Energy Secretary, has called our situation a Malthusian crisis, while at the same time denying knowledge of an ERDA study which found that at $3/McF—approximately the same price of Number 2 fuel oil—America would have more than enough natural gas. Mr. WIRTH of Colorado has pointed out, even Brookings Institute studies show increasing supplies as a result of decontrol, and shortages at continued regulation of prices.

When shortages result from continued controls, as they will and always have, the people of America must hold accountable those political leaders who vote today to continue price controls on natural gas.

Mr. GORE. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman, we just heard about the effect of this proposed amendment on the consumer. Let us look at it for a moment from the consumer's point of view. If a consumer of natural gas, whether he or she is a residential customer or a business customer, does not like the price that he or she is paying for natural gas, what is he supposed to do? Go out to the side of the house and switch to a different supplier the following day? That is impossible, obviously. By the very structure of this industry it is noncompetitive. The buyers are tied to a single supplier. They are forced to pay the price which is set.

To those who say that there is a free market in energy which would set the price in the absence of a Federal role, I say there is no free market in energy. The price of oil, as everyone knows, is set by a cartel. The price of uranium, we have now discovered, has been secretly set by a cartel behind closed doors.

Indeed, those who favor deregulation make two inconsistent arguments. On the one hand they say a free market will set the price when on the other hand they say it is somehow unfair that the price is any lower than the Btu equivalent price for oil. Those arguments are inconsistent.

The gas industry in this country seeks, through deregulation, to be plugged into the OPEC cartel as a silent member so that they will receive the price increases that are extorted from the American public by the cartel in the Middle East.

Now a lot has been said about the cost of deregulation. Three separate studies have established the costs at very, very high levels. We all know the price is going to go up and it is going to go way up. That is why the original deregulation proposal this year included a wall around the State of Texas to insulate the intrastate customers from the very high, unacceptably high prices which will certainly result from deregulation.

Now, what do we get in return for that cost?

In return we get a promise. We get a promise of vast new supplies.

It is, in my opinion, an ephemeral promise, an illusion, a promise that has been made many times in the past. "If we just get the price to 50 cents," we were told in the past, "we will have all the gas we need." It did not come true. It has not come true each time the price has gone up over the last decade, and the price has increased eightfold over that period of time.

Additions to reserves over that period have continued to go down.

Let us look at the actual figures in the deregulated market. Let us look at what happened in the State of Texas where there have been no Federal regulations. In 1970 in the State of Texas there were 774 gas wells drilled. Last year in response to skyrocketing prices there were 2,443 gas wells drilled. Yet over this same period of time marketed natural gas production in Texas has gone steadily downward.

A deregulated market encourages the use of our drilling capacity in low-risk holes where we do not have the chance of getting the supply response which the Nation needs.

The figures in Oklahoma and Louisiana reflect the same story. The figures for reserve additions throughout the country reflect the same story.

We have, in fact, no shortage of incentive. What we have, if anything, is a shortage of drilling capacity. Last month in this country there were 2,041 drilling rigs active at 100-percent rating. We are expanding at the rate of 200 rigs each year. Both those figures, the 2,000 total and the 200 which are added yearly, are the highest they have been in 15 or 20 years. Even if the price goes up, as it does in the President's bill, the drilling capacity shortage will still be there. The current incentive is perfectly adequate.

It should be pointed out very clearly that what the President is proposing and what the ad hoc committee is proposing is not a continuation of the present regulatory framework. By no means. It makes several critical changes to alleviate problems that do exist. We concede they exist within the present regulatory framework.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, the most serious problem with the present regulatory framework is the artificial distinction between the interstate market and the intrastate market. That is why we have had gas diverted from the interstate to the intrastate market. In middle Tennessee it was diverted in a surreptitious manner. Gas which was contracted for at set prices was secretly diverted away from the interstate pipeline into an intrastate subsidiary and then sold to Tennessee at vastly inflated prices during a time of emergency. This distinction which encourages the diversion of supplies to the intrastate market is removed by the President's bill. The interstate market will now have access to supplies of natural gas to which we have not had access in the past.

In addition, the President's bill encourages the use of scarce drilling capacity in the frontier areas of exploration where we have a chance of getting the kind of supply response that the Nation needs.

By contrast, the amendment offered by Messrs. BROWN, KRUEGER, and WIRTH, has many serious defects in it. Those on the Commerce Committee know it was a patchwork, quilt arrangement, put together at the last minute in the Commerce Committee, in an effort to take care of this problem that one Member had and that problem that another Member had. As a result, it is no surprise that it has serious defects in it; one of them is that it does not remove natural gas companies from the regulatory provisions of the Natural Gas Act that applies to companies.

The President's bill removes that paperwork burden and continues the regulation of the price in a sensible manner.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to my friend, the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank my friend, the gentleman from Tennessee, for yielding.

The gentleman raised the question as to why, even though there are more wells being drilled, especially three to one in the State of Texas, using the gentleman's own figures, gas production is decreasing.

It is simply because the wells which are being drilled today are being drilled in areas where the finds are less productive than was the case with easier, bigger finds. I want to ask the gentleman a question. The gentleman believes in regulation, obviously, because he has taken a position against deregulation in energy.

The gentleman comes from Tennessee, a coal-producing State. Coal has increased in price relatively more than has natural gas or crude oil. Is the gentleman willing to protect the consumer and to exercise those same controls over coal production?

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

Mr. GORE. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, the gentleman has had 8 minutes. I would not object except that we are approaching 3 o'clock, and I want to make sure that everybody is going to get 5 minutes. I will not object at this point, but I think from now on we had better object.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORE. Let me respond to the question. Deregulation has a certain superficial political sex appeal about it because it purports to go back to a free market structure. This is fallacious, because the structure of the natural gas industry is itself noncompetitive. The buyers of natural gas, be they businessmen or homeowners, are tied to a single supplier. What do you do if the price is not to your liking? You have no choice; no choice whatsoever.

Mr. WAGGONNER. Would the gentleman answer my question about coal?

Mr. GORE. I am coming to the answer, and the answer is yes, it should be considered. The structure of the industry is different, but in spite of that fact——

Mr. WAGGONNER. It is more concentrated; is it not?

Mr. GORE. In response to the gentleman's question. I think if the price increases have impacts on the consumer, certainly that is a fit question for exploration.

Mr. WAGGONNER. Well, the gentleman has proved to be a good mugwump. He has got his mug on one side and his wump on the other side.

Mr. GORE. In further response, I would note that I have introduced a bill, which has caused some consternation in the coal industry, asking the Federal Energy Administration to make a study of that exact question. It is on record, and has been filed.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Oklahoma.

Mr. WATKINS. A moment ago the gentleman indicated something about drilling capacity. Does he realize that in Oklahoma we are going over five times deeper and hitting a lot more shallow wells?

Mr. GORE. Yes, I am familiar with that. In 1970, the number of rotary rigs active in Oklahoma was 98. Last year, it was 187, double the capacity. Yet, the marketed natural gas production in Oklahoma—a deregulated market—has steadily gone downward.

Mr. WATKINS. The gentleman insinuated a while ago that we secretly pulled away the gas. He is contradicting his own statement.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support this amendment to decontrol new natural gas. Exploration and drilling may well be at the highest level in a decade, and may well be at the highest level in 17 years, as the President has boasted and others have claimed. Yet, it is still only 60 percent, less than two-thirds, of what it was just 21 years ago, in 1956, when the Federal Power Commission began to control interstate prices of natural gas.

New discoveries are running at the rate of only one-half of what we are consuming. We consume 20 trillion cubic feet a year, but only find 10 trillion. That is the problem. Clearly, we must begin to stimulate this discovery and production, and this amendment is our best way to do just that. There are those who are properly concerned about price impact of decontrol. I want to point out that there is in this amendment a provision to protect the residential customers.

I would like to call upon the gentleman from Texas (Mr. KRUEGER) to explain how these protections would work in this amendment.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Texas.

Mr. KRUEGER. I thank the gentleman for yielding.

Mr. Chairman, there is a protection against prices jumping too rapidly which is given to the residential consumer by assuring that all new gas purchased to fill shortages in a pipeline will be charged to boiler fuel users of natural gas and industrial users, to the extent that they use gas in excess of their base period consumption, until such costs reach 120 percent of the costs of imported crude oil on a Btu basis. This means that all higher cost new gas will be charged first to large industrial boiler users and then to medium and large users using over their base allowance, thus holding residential users harmless.

Mr. MARTIN. In my own State, where we have one pipeline, and it is faced with severe shortages, curtailments last year on the order of 45 percent, if we can resupply that shortage by getting new gas in to that pipeline, under this amendment, it will have that additional cost of that new gas borne initially by industrial customers who are now curtailed. Would not that postpone the impact of deregulation on residential customers in North Carolina and other consumers?

Mr. KRUEGER. Not until old low-cost contracts expire and are gradually replaced by contracts for more recently developed higher-cost wells will the residential user be affected by higher prices for natural gas.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Another point needs to be made, and that is even at the higher price, the industrial boiler fuel users would be better off paying the higher price for gas than they would be trying to convert that boiler to coal, which then requires burning in lump form, requires the cleanup procedure, stack scrubbers, and so on, or by converting to oil. And, of course, as the gentleman knows, some of the industrial gas users cannot convert to either oil or coal.

Mr. MARTIN. The gentleman is absolutely correct. In this case, they would be better off to have the natural gas available than to have to pay the higher price for propane or synthetic gas.

Mr. BROWN of Ohio. And if the ad hoc committee version works, they will not be able to move their plant any place where they can get gas unless they have it at deregulated prices.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Texas.

Mr. KRUEGER. I thank the gentleman for yielding.

Mr. Chairman, I observe that the ad hoc committee amendments allocation of so-called 533 sales, the direct industrial sales, which sales kept industries open in the Carolinas last year. This gas would continue to be protected under the Brown-Krueger-Wirth proposal, but it will not be under the present committee bill or under the ad hoc committee bill.

Mr. MARTIN. I appreciate the gentleman pointing that out.

Mr. Chairman, I would ask one further question. Is there now an adverse effect to consumers at the present time, such that, as gas supplies to our industries in North Carolina are curtailed, the fixed costs of paying for the pipeline have to be borne in increasing proportion by the residential customers?

Mr. KRUEGER. The gentleman is correct. And I would observe that what happens when a pipeline is not filled with gas is that the cost goes up to the consumers, because the major costs borne by the consumers are amortization costs.

Mr. MARTIN. We are speaking about residential users?

Mr. KRUEGER. I am speaking about residential users. They are having to pay that higher cost because the pipelines are not filled. Under deregulation, those pipe-

lines are refilled, and we can expect the price to consumers to go down.

The Wall Street Journal had an editorial on this very recently, and there is a recent editorial by the Boston Globe as to why deregulation is in the interest of New England. They pointed out the same thing.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. MARTIN was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I wish to correct one thing, and I believe the gentleman in the well will confirm this; 533 gas is not in any way changed in the ad hoc committee's bill. It is treated the same way as it is under existing law.

There is one other thing I would like to add.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. Mr. Chairman, before the gentleman from Texas (Mr. ECKHARDT) proceeds, I will yield to the gentleman from Ohio (Mr. BROWN) on the point the gentleman just made.

Mr. BROWN of Ohio. Mr. Chairman, 533 gas is available for allocation under the proposal of the ad hoc committee and the proposal of the Committee on Interstate and Foreign Commerce, unless I misread this very badly. If I have, the gentleman can point it out to me.

Mr. KRUEGER. Mr. Chairman, that is found on page 47 of the committee report. It is in the third paragraph, and if I might be allowed, I will read it.

Mr. MARTIN. Mr. Chairman, if I may be allowed to control the time, I will yield to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, on page 47, in the third paragraph, of the committee report on this bill, the language is as follows:

> The expansion of the scope of the Emergency Natural Gas Act to intrastate natural gas supplies by this legislation greatly expands the pool of natural gas subject to allocation. As a result, the prospect of 533 natural gas being allocated away from a high priority industrial user is diminished. Therefore, no exemption of 533 natural gas is necessary since this natural gas would normally be expected to be reallocated last. The Committee intends that the expanded allocation authority provided by extension and expansion of the Emergency Natural Gas Act of 1977 should be exercised in a manner which looks to the end-use priority of the user whose supplies are subject to allocation.

So, Mr. Chairman, the emergency purchases that saved North Carolina the last time would not be protected under the ad hoc committee bill. There would be authority presumably to allocate gas from, say, the gentleman's congressional district or my congressional district, if we want to give that authority to a Federal administrator.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

(By unanimous consent, Mr. MARTIN was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. MARTIN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would like to ask this question of the gentleman in the well:

Is it not true, however, that at least with respect to Texas, residential users bear the same burden as industrial users, that there is not the protection from increased gas prices with the increase first falling on industrial users, but that is designed in Texas so that the residential users bear the increase just like the industrial users?

Mr. MARTIN. Mr. Chairman, I will say to the gentleman that that is a non sequitur, because he is comparing an intrastate situation with an interstate situation.

We need this section 533 in North Carolina, because otherwise our industries are not able to get access to gas which is available to industries in the State of Texas.

I want to thank the gentleman from Texas (Mr. KRUEGER) and his colleagues for incorporating this protective cushion in this amendment. In North Carolina no one really wants to pay more for gas or for anything else, but we know, from 3 years' experience with worse and worse gas shortages, that far worse than the prices of a free market are the shortages that result from an arbitrarily controlled market.

We may not want to pay more, but we want no more shortages.

I will admit that I am from a consumer State. There are no oil wells or gas wells in my District in the State of North Carolina. The obvious reason for that is because no oil or gas has been found in North Carolina. Our gas is in Texas, in Louisiana, and in Oklahoma. We will benefit in our consumer State if by deregulation we allow ourselves to have access to the market for gas from the producing States.

Therefore, Mr. Chairman, I support this amendment that has been drafted by my four colleagues, the gentlemen from the States of Ohio, Illinois, Texas, and Colorado.

Mr. ASHLEY. Mr. Chairman, I would like to attempt to get some idea as to a time limitation.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment conclude at 3 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment conclude at 3:30 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, could we get an indication as to how much time that would mean for Members who have not spoken?

Most of us have been sitting here while certain Members have been allowed to speak for 10, 12, and 15 minutes. Are we now to be denied the opportunity to speak for even 5 minutes?

The CHAIRMAN. The Chair observes about 30 Members standing. That would mean that about 2½ minutes would be alloted to those who have requested time.

Mr. ASHBROOK. Then, Mr. Chairman, I must object.

The CHAIRMAN. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I move that all debate on this amendment conclude at 3:30 o'clock p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 45, noes 11.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent to be permitted to yield my time to the gentleman from Texas (Mr. CHARLES WILSON).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, it is, of course, with a great deal of reluctance that I, of all people, would rise to oppose this particular amendment in which I honestly feel there is great merit. However, I also feel, as I said last night, that it is incumbent upon this House for Members to make personal sacrifices in order to achieve some degree of a national policy in regard to energy. I think that it is also incumbent upon this House to try to prove to the American people that we can, indeed, come to grips with and, indeed, formulate a national energy policy that is fair and rational.

In addition to that, Mr. Chairman, I think that it is important for those of us in the majority party, since it is a Democrat who occupies the White House, to try to show a certain degree of unanimity among ourselves.

In that respect, I want to say that those who favor more regulation than I do have been very fair and have kept the faith with me throughout all of these procedures.

I want to commend the Speaker for the part that he has played in trying to keep a compromise together. I think it is in the interests of the House and in the interests of all of the Members to show maturity and unanimity and as much cooperation and willingness to sacrifice regional interests as possible.

For that reason, Mr. Chairman, I support the ad hoc committee in its entirety and oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to be permitted to yield my time to the gentleman from Michigan (Mr. DINGELL).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Yes, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, I yield to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say initially that it seems to me that one of the things we have not addressed in any of this debate on natural gas policy is the fact that this present bill expects very substantial taxes to be imposed on all industrial users of natural gas. The administration wants taxes on the use of natural gas so high that they would drive the price of it in a very short period of time to the level of fuel oil to induce displacement.

What we need to recognize, if we are concerned about this country's balance-of-payment position and if we are concerned about this country's competitiveness with other nations is that as a result of those taxes that the ability of industry in our country to compete effectively with foreign industry, with other nations, is going to be lessened in that process and industry will not get any new natural gas supplies.

On the other hand, if we go with the Brown-Krueger deregulation amendment, we will bring on substantial new energy supplies, as the studies and reports show, and as the MOPPS study shows, and as the Brookings Institution indicates and what will happen is that our industry will bc far better able to compete with the industries of other nations. Currently, we are able to compete in foreign countries because we have much lower energy costs than France or Germany or the other nations we try to compete with.

However, if we impose the administration's tax on natural gas, which is the largest single source for energy used by industries in this country, over half the industries in this country use natural gas, and as we impose those taxes we will make the Nation less competitive.

On the other hand, if we vote for deregulation and new gas supplies, we will add to the competitiveness of our own industry in the world markets, and that means jobs for Americans. Sc I urge you to vote for the Brown-Krueger amendment which means we are voting for jobs.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I appreciate the gentleman from Texas (Mr. MILFORD) yielding to me during his time, and I appreciate this opportunity to continue further.

Mr. Chairman, I would like to observe that there have at various times been exercises in what we might call the new demagoguery in politics, the recent gathering of so-called scientific studies.

Mr. Chairman, once upon a time I was a dean of arts and sciences in a university, and I must say that the quality of the research that comes out of the Congressional Research Service on energy policies would flunk a freshman course, as would the new people who work for the Federal Energy Administration.

I should like to cite just a few errors in assumption in one of their recent studies. One of their studies led to the claim of a $71 billion ripoff, but what has really happened is that someone has ripped off the intelligence of the people who put together this study, because those people did not understand, for example, that there was nothing in the present bill that would cause old contracts to be renegotiated. The same terms would exist as had always existed; therefore, there is a $17½ billion error as a result of a false assumption.

Second, there was the statement that all new offshore gas would sell for $2.40. If they had read the bill they would have seen that gas would be regulated offshore for 5 years in the neighborhood of $1.95. We should not long tolerate this new demagoguery that would lead us into a lack of awareness that deregulation saves money.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I rise in support of the Brown-Krueger-Wirth amendment, and I will yield to the gentleman from Texas (Mr. KRUEGER) but first I want to say again that in my opinion if this House is serious in wishing to make substantial progress toward solving the natural gas problem we must adopt the Brown-Krueger-Wirth amendment. Our natural gas problem arose as a result of Government regulation established years ago. No adequate solution is possible in my view unless we move toward deregulation. It is urgent that the amendment be agreed to.

Mr. KRUEGER. I thank the distinguished Chairman for yielding.

If we do not maximize our own Nation's energy supplies, it will mean a substantial alteration in Middle-Eastern policy. Anyone, I think, who is seriously concerned, for example, about support of Israel has got to recognize that one of the greatest threats to Israel is the increased power of the Middle Eastern OPEC countries. The surest way of lessening the power of those OPEC nations is to maximize our own energy production so that we are less subject to the imports from those nations. Right now we import twice as much petroleum from the Middle Eastern OPEC countries as we did 4 years ago when the Arab embargo took place. Therefore, for international as well as for national reasons it is important that we heed the ERDA study that indicates, as the gentleman from Colorado (Mr. WIRTH) indicated, that we will have natural gas beyond our expectations if we deregulate.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I wonder if I could have the attention of my friend and colleague, the gentleman from Texas (Mr. ECKHARDT). I would like to propound one question. I guess one of the things I have felt as I listened to this debate, not being an expert, is the difference in our philosophies. I guess I am considered somewhat conservative, so, therefore, I am on the side of deregulation. I try to think what I would do if I were a liberal. I guess the thing I cannot understand is if I thought decontrol was so bad, and if I were opposed to deregulation, why I would not advocate total regulation of natural gas. The inconsistency seems to be very apparent. Liberals believe in controls and regulations but only control interstate commerce. If I believed in controls I think I would at least be consistent enough to demand controls of both interstate and intrastate natural gas.

Could my colleague respond?

Mr. ECKHARDT. If the gentleman will yield, I guess I am not so much of a true believer as the gentleman is. I am something of a pragmatist. I think the objective is to get more gas but not to unduly blow the economy.

Mr. ASHBROOK. I guess I cannot help but wonder if I were to take your position that decontrol is bad and that control and regulation is necessary, why I would not then, with some consistency, say it must be advocated over all segments of the natural gas industry.

Mr. ECKHARDT. May I say that I think our problem is usually the path from here to there. There is no utopia. There is no golden age. But we must move away from strict regulation and toward some reasonable encouragement of gas production, but not at the inordinate expense of the economy.

Mr. ASHBROOK. I thank the gentleman.

Mr. Chairman, I disagree with the entire thrust of this bill. There is an overemphasis on taxing and Federal controls rather than providing incentives to increase development of our energy supplies.

One area of particular concern is in regard to natural gas. I have consistently supported natural gas deregulation. I believe deregulation offers the best way of meeting our long term energy needs.

Since 1954 the Federal Government has kept the price of natural gas at artificially low levels. This has encouraged consumption while discouraging exploration. Despite increasing demand, exploratory drilling for natural gas dropped more than 50 percent between 1954 and 1970. As a result, demand for natural gas far outstripped supply.

In fact, because of the Federal price controls natural gas production has actually been decreasing for the past several years. From a high of 22.7 Tcf. in 1972, production fell to 19.5 Tcf. in 1976. We are simply not finding gas fast enough to replace the amount we use.

Ohio has been a particular victim of this ridiculous regulatory policy. During the past winter Ohioans suffered a natural gas shortage of crisis proportions. Factories were shut down, schools were closed and residential consumers were threatened with cutbacks. Hundreds of thousands were thrown out of work.

Despite all this the bill before us would continue the same discredited policy of Federal price controls that has helped create our present energy shortage. New gas would have a $1.75 ceiling per million Btu's. In addition, Federal price controls would be extended to intrastate as well as interstate gas.

This would only worsen the problem. The price level established in the bill would be insufficient to encourage exploration and development of new natural gas. Furthermore, extending controls to the previously unregulated intrastate market would also restrict the discovery and production of new gas reserves.

Deregulation, however, would mean more natural gas for everyone. Higher wellhead prices would boost U.S. supplies and provide our citizens with the large additional supplies of new gas we must have in the years ahead.

Why is this so? Every price increase makes it economically feasible to develop certain gas reserves which could not be developed beforehand. Consequently deregulation would spur not only large gas finds but make possible the development of countless small deposits of gas. This adds up to more gas for America.

We can no longer afford to continue the foolish regulatory policy that has helped create our energy mess. We must allow a profit incentive to develop our natural gas reserves. If we do, then natural gas will again be in sufficient supply. Otherwise the gas we need will remain in the ground.

Critics of deregulation complain that it will lead to higher gas prices. Yes, the price of gas will rise. I have always believed, however, that American consumers are better served by an adequate supply of natural gas at reasonable prices than by a scarcity of natural gas at low government-regulated prices. After all, we cannot keep our businesses and factories going and our citizens employed without energy. Nor can we even keep our houses warm.

Moreover, any discussion of additional costs resulting from gas deregulation must also take into account the additional costs of substitute fuels and increased pipeline charges which would result if price controls are not lifted. In large measure we would be forced to turn to expensive imported oil to meet our energy shortfall. It has been estimated that because of the negative impact on gas production resulting from this bill U.S. consumers between now and 1990 would spend an extra $26 to $40 billion on imported crude oil. All in all, over the next 13 years American consumers might have to spend as much as $48 billion more for energy than they would pay if price controls on new gas were not in effect.

I would also remind my colleagues that the intrastate price of new gas is in the $2 range. This is a far cry from the $1.75 proposed in the bill. In other words, for those who are selling gas in the intrastate market, the $1.75 figure amounts to a price rollback.

We should leave the price of natural gas to the free market. This is the only way of assuring adequate supplies for the future. The intrastate market in the gas producing States, for example, which has been free of price controls, has been far more successful at balancing supply and demand.

Although the gas is higher priced, at least it has been available to meet the needs of the people within that market.

This situation has caused some companies to relocate their businesses. Companies are moving from areas of gas shortage to areas where natural gas is available.

Price controls have created this unfortunate situation. Failure to lift price controls will lead to further dislocations and gas shortfalls.

We must not kid ourselves on this point. The Congress cannot legislatively mandate the production of cheap natural gas in abundant quantities. Despite all the liberal rhetoric, Government controls do not create supplies.

Controls do, however, create shortages. It has been estimated that passage of this bill would result in a 20 percent drop in production than would occur with deregulation of new gas prices. This certainly is no service to the American consumer.

I urge a vote for more natural gas. I urge the deregulation of new natural gas.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in strong support of the Brown-Krueger amendment. I speak as a Midwesterner, an area which is supplied in substantial amount by natural gas. In this great area of northeastern Illinois, we depend substantially upon supplies of gas from Texas and Oklahoma. People's Gas Light and Coke Co., and its subsidiaries do a fantastic job of anticipating the needs for gas in this area for the future. But in anticipating the needs, these distributors need additional supplies of gas. They have acquired coal mines in North Dakota in order that they can engage in coal gasification. They are working to receive natural gas from Alaska. But deregulation of gas at the well head will provide much of the additional supplies needed for the consumers. It is the retail suppliers of gas and the consumers themselves whose interests it seems to me I speak for when I say I am in strong support of deregulation in order to provide the inducements for greater production of gas to supply the needs of the consumers of gas in Illinois and throughout the Nation.

Mr. McCLORY. Mr. Chairman, the Brown amendment to deregulate the price of new natural gas will serve to protect the consumer from higher prices for new natural gas and also protect the consumer from continuing winter natural gas shortages.

The so-called compromise measure passed by the Ad Hoc Energy Committee effects only two changes: It revises the definition of the term "new gas," making this category slightly larger, and it allows the initial price of this new gas to go to $1.75 the first year, as opposed to the $1.60 level under the administration plan. Unfortunately, this $1.75 price is still substantially less than the almost $2 average interstate gas price—thus the ad hoc committee price constitutes a roll-back from current prices.

Mr. Chairman, if this bill is enacted without the Brown amendment, it is estimated that over the next 13 years, Americans will have to pay an additional $48 billion more for energy than they would pay if Federal price controls were removed. Indeed, the disincentive to natural gas production resulting from this bill could cause U.S. consumers to pay $2¢ to $40 billion more on imported crude oil within the next 13 years—when they could have been using domestic natural gas.

By contrast, the Brown amendment would remove counterproductive controls from new natural gas, thus providing a real incentive for new exploration and development of supplies of gas which are needed—if we are to even approach energy self-sufficiency in this country.

The root of the problem, of course, is the declining production of natural gas in the United States over the past 5 years. Since 1973, natural gas production has declined annually by approximately 4 trillion cubic feet, or nearly 20 percent from the 1972 level. As a result, the substitution of expensive alternate energy sources, such as imported oil, has cost the American consumer dearly—and will continue to do so until Federal controls are lifted from new gas. There are other costs associated with decreased gas production, but suffice it to say that the administration and the ad hoc committee have omitted literally hundreds of billions of dollars in hidden costs from their estimates on the ad hoc gas provision.

The Brown amendment, on the other hand, will result in the production of 25 trillion cubic feet more gas by 1990 than will the ad hoc proposal. This fact, coupled with decreased consumer costs over the same period, should persuade my colleagues to support the Republican position.

Besides increasing domestic production and conservation and reducing dependence on oil imports, the Republican position recognizes that Federal price controls—the only commodities in this country under price control—have been the major barrier to the development of and exploration for new natural gas resources. Natural gas price controls cause substantial shortages and will continue to do so if we do not end them now. Deregulation of new natural gas prices provides us the best means of achieving supply-demand balance in the future. Marginal industrial users will change to alternate fuels. Substitute supplies will be stimulated.

We need only look to the situation in the intrastate natural gas market to find proof that where prices are unregulated new and additional supplies of gas have been found. Now we are faced with an administration bill that would extend Federal prices controls to this market—

and create shortages. Consumers will pay more because the alternative, petroleum imports, will cost more than deregulated gas.

Integral to the deregulation bill is a windfall profits tax—though most producers would plow these profits back into further exploration and development rather than allow 48 percent of their profits to be taxed anyway.

To deregulate the wellhead price of new natural gas is in the best interests of the American people. It will be ultimately more economical than alternatives and will reduce our reliance on imported petroleum.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. If I may have the attention of the gentleman from Ohio (Mr. ASHLEY) I would like to address a question to him. Being from a coal-producing State and also from a consuming State, what, in fact, would deregulation do as far as the coal conversion program, changing from natural gas to coal, if in fact deregulation lets the price of natural gas go up? Would that not in fact enhance the coal conversion program, which is part of this bill? I wonder if the gentleman from Ohio (Mr. ASHLEY) can answer that.

Mr. ASHLEY. If the gentleman will yield, I can give it a try, but I think for the purposes of the gentleman from Pennsylvania it might be more instructive if, with his permission, I should defer to the gentleman from Michigan (Mr. DINGELL) who is essentially the author of the bill.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

If it were not for the oil and gas-consumption taxes in the bill, the gentleman from Pennsylvania might well be correct. Let me explain why deregulation would work at cross-purposes with the user taxes in the bill in such a way that coal conversion might actually be discouraged by deregulation.

Remember that the user tax on natural gas is designed to bring the industrial and utility cost of gas to specified levels related to the equivalent price of No. 2 fuel oil. The key fact is that the higher the price, the more the user pays for his gas, the smaller will be his tax obligation.

But this tax is a cornerstone of the President's coal conversion program. All of a user's tax obligation is effectively rebated to that user if the rebate is used to purchase coal-burning equipment. This tax therefore operates as a strong incentive, a strong carrot for coal-burning investment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, under deregulation, the higher price of natural gas would no doubt encourage some coal conversion. But the potential of industrial users to take advantage of tax rebates, thereby lessening their cost of conversion, would be lost. In effect, the money then would go to the seller of natural gas. Under the tax proposal, it would go toward coal conversion through rebates to the user, and that would have a significant benefit from the standpoint of achieving coal conversion to the maximum extent possible.

Mr. ERTEL. Mr. Chairman, I thank the gentleman from Michigan for an answer.

I think the gentleman from Colorado (Mr. WIRTH) might have a different answer.

Mr. WIRTH. No. I think the gentleman is quite correct.

Mr. DINGELL. Mr. Chairman, I do not yield to the gentleman. I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I think one thing needs to be made clear and that is the administration's own study makes it clear the $1.75 price even with the escalation provided will lead to a declining supply of natural gas. Over the next 10 years it will be down to 16 million cubic feet a year and by 1990 it will be down to 10 million cubic feet. What that means is we will have no natural gas for industry in this country—it will all go to households.

The biggest project going on in Saudi Arabia today is an attempt to take advantage of the natural gas they are flaring off at the present time. They are building gathering lines, gas processing plants, and so on, and investing in their natural gas industry. That means if we do not insure adequate supplies of natural gas over the next 10 years in this country, we will be importing our manufacturing gas and synthetics, and we will be importing petrochemical feedstocks from Saudi Arabia not at $3.00/Mcf—but at $20/Mcf in feedstock and processed form.

We have to worry about the next 20 to 30 years about the viability of our processes and feedstocks industries and we must have an adequate supply of natural gas, which we will not have with the proposals before us.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Chairman, I rise in support of the Brown-Krueger-Wirth amendment.

I want to clarify one statement I was making in talking with the gentleman from New Mexico (Mr. RUNNELS) earlier when he had the floor. I do not mean to be unjustly critical of the major oil companies in this country, but the point I am trying to make is that if we do not deregulate natural gas, what is going to be affected of course is the supply, but also we are talking about competition and the effect on the market price, and also we should consider what happens when we have a monopoly situation.

What is happening to the small independent producers we heard about from the gentleman from New Mexico. Also the gentleman from Louisiana (Mr. HUCKABY) was saying that the small independent producers have had to drop out of drilling offshore simply because they cannot attract the additional investment capital they need in order to explore the Outer Continental Shelf. They will have to go to greater depths than they have had to do in years past. And in the Anadarko Basin an independent producer is going down in one well to a little over 15,000 feet. For that independent driller to get his capital investment returned would take something like 50 to 60 years at the present prices. The independents cannot afford those costs at today's prices.

What is going to happen in the near future is that only the majors will have the means to go to those depths and the supply will be restricted.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I rise in strong support of the Brown amendment. As most of us know, only about 15 percent of the price that we pay as a consumer comes from the actual cost of the gas at the wellhead. The rest is in transportation and in other costs

If we do not have enough natural gas, we will have to pay for LNG. We will have to pay additional costs for transportation if the pipelines are less than full.

It is important to our country that we have enough natural gas for our people's use. If we do have, the cost for each of us will be less than it would be if we are living in a time of shortages.

I do not think that this program as it has been put before us by the ad hoc committee will provide the gas we need as a nation. I think we need decontrol to have the gas we need and the prices we want to pay for the future. I think if we want to move forward with the Nation and keep our plants and factories open and have enough gas for use in our homes, we will have to go to decontrol, and the sooner the better.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Ohio (Mr. BROWN).

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STEIGER. Mr. Chairman, I have been remarkably restrained on this whole amendment. I have not said a word. I really was hoping I could escape having to say any words on this; but since the gentleman objected, I suppose I have no choice.

Mr. Chairman, when all is said and done, I have heard about charts and graphs, we have had Mcf's, bbl's, Btu's and all throughout this debate. It is all fascinating and all exceedingly interesting and esoteric; but when we get down to the bottom line, we have to answer whether the present policy works, and the answer is clearly, no. It does not work. It has not worked and the tragedy is that

we should be debating this at all. If we had gone ahead and done this before and had Eisenhower not vetoed this, the controls would not exist. The present policy works against the American consumer, works against the American worker, and works against the best interests of this country. If we are ever going to change our national energy policy, which this bill is designed to do, we will not do it by rejecting the Brown-Krueger-Wirth-Anderson amendment. We will continue the present bankrupt policy and that would be shortsighted and wrong.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Chairman, I yield to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to make one particular observation at this time to follow the very fine statement by the gentleman from Wisconsin, and that is, it is time to face up to the situation. We can talk as long as we want, just looking to the date of the next election. We can ignore, the fact that a Harris poll this last February 1977, indicated a 50 to 24 percent approval for deregulation.

We can take the instant and cowardly way and refuse to address the question.

I am reminded by some of the partial truths we have heard here of the quotation from Shakespeare when one of his characters says:

> Tis strange, and oftentimes to win us to our harm, the instruments of darkness tell us truths, win us with honest trifles, to betray us in deepest consequence.

I think we are being betrayed in deepest consequence if we go along with yet another Federal regulatory policy.

What we need to do is grasp the nettle firmly and recognize it is important that we have to make the decisions we will otherwise have to make, 2, 4, 6, 8, or 10 years along the line, to get us the energy we need.

This is a time that will take guts to make the best possible choice.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Ohio (Mr. BROWN). This amendment would remove Federal price controls from "new" gas beginning on April 30, 1978, with "new" gas defined to include gas sold or delivered in interstate commerce for the first time on or after April 20, 1977, and gas flowing from genuinely new wells and reservoirs.

Passage of the Brown amendment will do more both to conserve energy and to encourage new energy production than the rest of this bill put together. Unless our country is prepared to permanently pursue no growth policies, and is content to concern itself forevermore simply with allocating and rearranging shortages, there have got to be efforts made to increase long-term supplies.

The premise, of course, of this bill is that this cannot be done. According to Press Secretary Jody Powell, President Carter believes that:

> Even if we increased the price of oil to provide an additional $20 per barrel, there would be little, if any, increase in production. The same is true of natural gas.

This premise is refuted not only by a commonsensical understanding of the marketplace, but by repeated studies which have been done by disinterested parties. Even the much doctored MOPPS study done by ERDA concluded that a 55-year supply of natural gas could be projected at prices of $3.25/Mcf. Using extremely cautious estimates, the gentleman from Ohio (Mr. BROWN) and our colleague from Michigan (Mr. STOCKMAN) have demonstrated that deregulation could produce an additional 25 trillion cubic feet of gas over the next 13 years.

Other studies have predicted average annual increases of 6 percent to 8 percent in natural gas supplies following deregulation. Unless one is prepared to accept that the administration has perfect knowledge about the geological resources of this planet, he should be reluctant to commit this Nation to an energy policy which will prove disastrous if the seers in the White House are wrong.

As the Brown-Stockman study also demonstrates, natural gas deregulation also offers the maximum protection to consumers. The continuation of Federal wellhead controls will, in the long run, reduce the amount of supplies available to consumers while causing the price on these supplies to rise higher than under deregulation. There are two reasons for this: First, substitute energy forms will have to fill the gap caused by natural gas shortages. The price of natural gas, on a per-BTU basis, is nearly 80 percent below the price of electricity, 46 percent below the price of heating oil, and 70 percent below the price of manufactured synthetic gas and imported liquefied natural gas. Gas consumers who find themselves curtailed and forced to seek out alternatives in these price ranges will not likely be appreciative of the efforts of self-styled consumer advocates so determined to prevent even the most modest increases in the price of natural gas.

Second, the fixed costs involved in the transportation and distribution of natural gas, representing nearly 82 percent of the overall price of gas, will have to rise sharply when gas shortages force them to operate with greater unused capacity. For every cubic foot that the thousands of miles of pipeline in this country are short of full capacity, the remaining gas bears a higher proportionate transportation burden. The gas consumer who is no longer in existence because of gas shortages is also no longer available to assist in underwriting the massive capital costs of the pipeline companies.

Mr. Chairman, I have heard a great deal about sacrifice from this administration. I agree with the administration that the American people are fully prepared to sacrifice over the short term for the long-term benefit of the country. The bill that the White House has given us, however, calls for nothing less than perpetual sacrifice with no hope that this sacrifice will ever bear fruit. The Brown amendment offers an alternative. At the cost of slight and gradual short-term increases in the cost of natural gas, we can set in motion policies certain to bring us greater supplies of domestic energy. The substantial reduction in Federal bureaucracy and intrusion in the private sector that the amendment will bring is another happy by-product of the amendment currently before us.

I strongly urge my colleagues to adopt the Brown amendment and put an abrupt end to the crisis that the policies contained in this bill have brought about in the first place.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I have listened with great interest for these several days the debate in "deregulation." I think the best quote I can use as to why we should have decontrol comes from Jimmy Carter himself. In his letter of October 19, 1976, to Governor Boren of Oklahoma, candidate-for-President Carter said:

> To increase our domestic production, I have proposed three important steps.

This is October 1976. This is not a quote from way in the past. This statement relates to the production of gas. Mr. Carter continues:

> First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital.

Additionally Mr. Carter stated:

> Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies.

That statement is right today. It was right when the—the President-to-be, campaigning for President—made this important statement in October at a key time in the campaign. I think we should follow through on the wisdom of that statement and vote for the Brown-Krueger amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in opposition to the Krueger-Brown-Wirth amendment. I think one of the things all of us, especially those that come from consuming States, have to remember as we look at this entire issue is, basically, what we are talking about here is taking a gamble. We are gambling that, if we give the gas-producing States this unlimited increases, that there will be a commensurate increase in the amount of gas which is available to those of us in energy-consuming States that depend upon them to produce it for us.

Since 1965, there has been an increase from 13.5 cents to $1.42 per Mcf in the production of natural gas. But, at the same time, there has been a consistent decrease in the production of natural

gas in this country. Now, many people would say, "Well, if we had known that there was going to be the type of increase that would give us the type of incentive to develop, we would have and could have." Yet in 1971 at the time the price was increased from 13.5 cents to 26 cents per Mcf (in the south Louisiana decision) Louisiana producers of gas said, "If we receive this increase it will be sufficient incentive to secure new supplies for America until 1977."

So much for assurances of increased supplies. Mr. Chairman, it is clear that we must not take this foolish gamble with the welfare and economy of our country. We must defeat the Krueger-Brown-Wirth amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I rise in support of the Brown-Krueger-Wirth amendment, which is a moderated, graduated decontrolled measure. I think everybody in this House understands that a deal has been cut to pass the new gas definition and, thus, be able to defeat the Brown-Krueger amendment. That deal may still hold, and that may well be the result, although I hope not. I think, though, that the people from the gas-producing States have given up a great deal in exchange for mighty little, in the event that this amendment fails.

Mr. Chairman, I would hope that the amendment prevails. Surely every Member in this House would understand that those of us from a gas-producing State, whose industries over the years have been built solely on gas and oil, must be very vigilant in trying to protect the supply of our natural gas. And now we object to the fact that States such as New York, Massachusetts, and others, would come in and take our gas, or attempt to do so.

The committee says this is not an attempt to allocate gas. I raised this question with Secretary Schlesinger, who said,

> I have not proposed allocation of your State gas. We do not intend it, and we are not going to do it at all.

Yet in places in this bill this question is very much open. Our State has every right to retain our own supply. The Members should understand that we are not trying to be sectional. We must protect our State interest, and we have every right to do it. The amendment before us (Brown-Krueger) is the fairest approach to accomplish this. It is time for us to get more production—all over the country. We must say to the North and to the East, "Go ye into the Atlantic and drill your own wells."

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I would say to my friend from Texas that it is unfortunate that we gloss over the fact that the Occidental refinery in New England, for example, was stopped by the major oil companies and not by anyone else. It would be irresponsible for this House to vote deregulation, leaving so many questions unanswered. Totally irresponsible. What are those questions?

No. 1, why do we have a 760-percent increase in new natural gas prices over the last 11 years, with a decrease not an increase in production? It is a question which remains unanswered.

Second, why do we have so much concentration of power in the industry, with very little competition and no attempt to do anything about the horizontal situation, the intrusion into not only coal and uranium, but other kinds of fuels?

Third, what about under-reporting of reserves by the AGA, which has been documented?

Fourth, what about withholding? Has there been withholding or has there not been? I am not sure there has been a great deal of withholding, but there has been a reasonable amount of evidence generated by committees of this Congress to at least raise a serious question.

Fifth, what about rising costs of production? In a study by the Oklahoma legislature they put the actual cost of production in the 35- to 60-cent category.

Finally, how about the consumer impact?

I agree with the gentleman from Texas that there are great questions about all of these studies and their effects. There is enough of a question, a serious question, about the multibillion dollar consumer impact that we should not go forward with deregulation.

The Carter proposal and the proposal I am supporting do not answer all of these questions either, but it does answer more of the questions.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, I rise in support of the amendment.

Mr. MARTIN. Let me also remind you of the point made by the gentleman from California (Mr. MOORHEAD). Most of the cost of gas in consumer States is the fixed pipeline cost distribution system and administrative cost. As long as we have shortages in the pipeline, industries are unable to buy their share of gas and pay their share of the pipeline cost. When we begin to get gas back into the pipeline for industrial customers, they can help share those fixed costs which in North Carolina the residential customers have had to bear alone because industries cculd not get any gas.

Furthermore, we must be clear that no one is proposing to deregulate pipelines or distributors. They are regulated of necessity because they are monopoly utilities. This amendment does not deregulate them. It only deregulates the highly competitive producers who drill the wells.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, when the President proposed his energy bill in this Chamber to the Nation, he held out some hope and created hope in the minds of too many Americans, I fear, that he had the answer to our energy problem.

After seeing and analyzing the President's proposal, I can only conclude that that dream will not be fulfilled, and will not be achieved, because by and large, this energy bill consists of taxation and excessive regulation.

We are told that we cannot deregulate new natural gas as this amendment proposes, because there is an imbalance in supply and demand. I would submit that the only way to get rid of that imbalance is to deregulate. It cannot be accomplished in any other way.

Mr. Chairman, the gentleman from Wisconsin (Mr. STEIGER) eloquently said earlier that the choice was to continue doing what we are doing or to deregulate. No one here would take the position that to continue regulation, to continue what we are doing, is in any way resolving the problem. It is making the problem worse.

But what is the problem? Why is it that we are not deregulating? I do not think we are going to vote, much to my disappointment, to deregulate, as this amendment proposes today.

The gentleman from Virginia (Mr. FISHER) put it in proper perspective when he said that as a professional economist, he was torn between two points of view. As an economist, he thought he ought to get on with deregulation, but in considering his political responsibility—and he stated the situation pretty well—he thought he had to think about the consumers and compromise.

Mr. Chairman, I submit that except for political considerations almost everybody here would be for deregulation; and we must get on with deregulation. The new reservoir definition will not do the job. Do not play politics with something this important.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GAMMAGE).

Mr. GAMMAGE. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, the amendment I have offered in conjunction with the gentleman from Texas (Mr. KRUEGER), the gentleman from Colorado (Mr. WIRTH), and with Mr. ANDERSON is designed to produce added supplies of natural gas for industrial jobs and American homeowners.

There were such adequate supplies in the intrastate market last year in spite of the cold weather because that market did not have price controls, a bankrupt policy which has for years created growing shortages in the price-controlled interstate market.

Gas in the adequately supplied intrastate market last winter sold for about $2, but we could not buy it at that price in the interstate market last winter. We paid $4.20 for synthetic gas or $6 for imported liquidified natural gas or $3 for Btu equivalent oil or $11 for electricity, all because of a discredited Federal control policy advertised as "consumer protection." Thanks, but no thanks.

We have been protected to the point that we are freezing to death. Let us get out of the rut of shortages. Let us try a system that works.

There must be something wrong with the Carter ad hoc plan.

The Brookings Institution and American enterprise both condemn it. Econo-

mist Paul Samuelson and Milton Friedman both condemn it. The GAO and CBO both condemn it, and former President Ford and former candidate Carter also condemned it and preferred deregulation.

Let us try terminating Federal price controls and see if that will not solve both our supply problem and our price problem and perhaps put behind us this political nettle, as someone called it, that we have had to look at and try to handle for the past several years.

Let us try a new, better scheme than that which has been presented to us by the Carter ad hoc approach.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in opposition to the Brown amendment which would deregulate the price of natural gas. The ad hoc committee approach provides a new standard for identification of new natural gas and sets $1.75 per 1,000 cubic foot and is a generous support and tremendous encouragement for possible domestic development of natural gas.

Deregulation is itself a misnomer. By disengaging the decisionmaking of the Federal Government regarding the wellhead price, we would not embrace a free market system; rather we would permit even greater impact of the market system by action of the Organization of Petroleum Producing Countries and the major multinational energy grants.

What is 1,000 cubic feet of natural gas worth—an extremely difficult question to answer because we are trying to define the price of a nonreplaceable resource. Today with regulation, the FPC on interstate gas guarantees at the point of sale a 15- to 20-percent return on investment, which in years past, although a low price, by today's standards commanded investment and development of natural gas.

Historically, this resource has been used to fill needs and feed the ever-growing appetite of American energy consumption. It was reasonable in cost and available with negligible environmental effects.

Today, we properly review its use and qualify preferential use and compel priorities with positive steps to address the limitations on available supply.

In 1973, we had available 25 trillion cubic feet of natural gas—about 2 trillion imported—at a price of 53 cents per million cubic feet.

In 1976, with an almost tripled price—to $1.45 per million cubic feet—the available natural gas fell to 23 trillion cubic feet with about the same amount imported.

That price increase which far outstripped inflation—and is really a major contributor to our recent inflationary experience—demonstrates decisively the fallacious relationship between price and its potential to increase production. To say the least, it is really inadequate.

We have a responsibility in this Congress to play a role in the determinations of energy policy and the impact on our economy.

Natural gas is an energy supply that is limited. It is finite. There is not an endless supply.

Some geological sources suggest that we have peaked out, reached maximum production. The production statistics and data verify their contention. Others would argue a price limitation is what we are interpreting from this same data.

Nevertheless, comments by proponents today will lament the more difficult process that producers face, "easy to locate and drill natural gas is almost all discovered." Their very statements agree with the "peak out" projections, yet the drums beat the echo of deregulation and raise what I characterize as false hopes.

Defeat the Brown amendment and continue the positive development of energy policy without the consumer-paid price of windfall earnings for natural gas producers leveraged by OPEC-induced price increases.

We must be mindful of the priority use of natural gas and its wide range of application as a fertilizer in the production of synthetics and eventually, face conserving for these uses. It, indeed, may be too valuable to burn.

This legislation is part of the foundation, not the total resolution of our energy decisions. Natural gas is a component that the Federal Government will be concerned with in a variety of ways—the leasing of public reserves, diligence of production, the common carrier role—all point up the need to continue our role in the primary pricing of natural gas. Rejection of the Brown amendment would be positive action by Congress to this end.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for yielding.

Having achieved the general compromise agreement embodied in the ad hoc committee amendment, I am going to vote against the Brown amendment.

As the gentleman from Ohio (Mr. BROWN) is aware, I suggested to him some weeks ago that a good solution to this problem might be a phased deregulation which would terminate the control of wellhead gas prices over a period of 4 or 5 years. It seemed to me that a resolution of that kind might provide light at the end of the tunnel sufficient to assist small independent explorers to secure the capital necessary to go out into the field and drill in the search for new reserves.

I still believe that decontrol of wellhead prices should be our goal, in an economy of sufficiency. The President says that this is his goal.

Why, then, you might reasonably ask, shall I vote against the sudden decontrol of new gas prices next April, as the Brown amendment would provide?

For one thing, we already have provided some very useful incentives to assist in finding the supplies that are so vitally necessary to the future of our country.

This bill contains assurances that the small independents will enjoy the same intangible drilling costs that have been assured to their corporate competitors.

We have adopted the new definition on what constitutes a new reservoir, or new natural gas.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I yield to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for yielding to me.

This new definition of which I spoke will make it possible for a good many of the people in the drilling business to find new supplies.

In addition, we have provided an assured price of $1.75, which is, I think, a very acceptable price at the present time, and one which will generate additional exploration.

Also, it is possible that this committee, and I know not, may adopt a plowback feature. If it does that, there would be still another incentive for exploration.

But, Mr. Chairman, all of these incentives combined—indeed even immediate deregulation if it were adopted—would take a great deal of time, 4, 5, 6, or 7 years actually to supply the fuel that we seek to add to the Nation's inventory.

The question we now must face is what most likely will happen in the interim, in the next 2, 3, or 4 years before new discoveries can be located and brought on stream? This is what disturbs me about the prospect of immediate deregulation.

It seems to me that, whatever we set in motion this year, the shortfalls we already have seen in the interstate markets are going to be exacerbated in the short-term future. We may well face the probability that next winter, unless it is exceptionally benign, will confront the country with gas shortages perhaps even more severe than those that beset us last winter. And the winter following that, if the Federal Power Commission's estimates are accurate, may produce shortages even more severe than next winter.

According to the Federal Power Commission findings, the 50 national gas pipelines that move in interstate commerce will be severely affected.

The CHAIRMAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Chairman, I yield to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I thank the gentleman for yielding.

According to data on file at the Federal Power Commission, during the year April 1976 until April 1977, the shortfall of actual availability of natural gas to the 50 interstate pipelines was 23 percent below their commitments. That is why we had the shortages last winter. The gas just simply was not there. The anticipated shortfall for the present year extending from April 1977 through March 1978—next March—is an additional shortfall of some 26½ percent, an even more severe one.

What happens then if one-fourth of the supplies that these pipelines have committed themselves to deliver are not available, and we have sudden price deregulation? I expect we would find these 50 pipelines, under the demand-driven competition, putting unward pressures on gas prices in a frantic effort on the part of each to get a bigger share of the available gas for its own customers.

The Arkansas-Louisiana Gas Co. is expected to face, for example, a 43-percent shortfall. The Eastern Shore Natural Gas Co., a relatively small one, is expected to have a 50-percent shortfall. The Trans-Continental Gas Pipeline Corp., a big one, faces a likely 45 percent shortage. United Gas Pipeline Co., another large one, may face a 50-percent shortage.

Now, if shortages of that magnitude should, as I fear, generate this sudden upward price pressure in a newly decontrolled market, what does that do to our tentative revival in our economy? The effect could be drastically depressive. Just stop and think how pervasive is petroleum, and particularly natural gas, in almost everything we buy and use.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

Natural gas is pervasive in all we do. Look around you. The upholstery on the chairs on which you are sitting is petroleum. The carpeting below our feet is petroleum. The suit I am wearing is made of natural gas. From the time you get up in the morning and brush your teeth with a plastic toothbrush with nylon bristles until you go to bed at night clad in pajamas made of a miracle fiber, you are using natural gas and petroleum in a hundred ways.

We have begun a tentative revival of this economy. So far it has been extremely salutary. In the first 6 months of this year we have added 2,200,000 new jobs. We have reduced unemployment by almost 1 full percentage point. Public confidence and business confidence have revived. Business investment in new plant and equipment is 16 percent higher in the second quarter of this year than it was in the last quarter of the previous year. Housing starts are up by 18 percent. But if we impact this economic revival with a sudden increase in natural gas prices, for so pervasive a commodity in our way of living, we could stall out this recovery.

So I think it wiser that we try as best we can to go the route that the ad hoc committee recommended, providing these incentives which are vitally necessary to our future supplies in the hope that we can move, as the President says he wants to move, toward eventual decontrol at a time when revived exploration hopefully will have produced a revival in supply, the intense competition for short supplies with its upward pressure on price will be less.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Is it not true, I will ask the majority leader, that perhaps if we had higher energy prices, the gentleman would be wearing a wool suit instead of a suit made from hydrocarbons, and he might be wearing cotton underwear or pajamas—if he wears pajamas to bed—instead of synthetic fibers? Is that not what we ought to do, is get back to natural resources?

Mr. WRIGHT. I think the gentleman is basically correct, and there are certain provisions in this bill to encourage conservation of this scarce fuel and diversions to other sources.

That, however, is not enough. We have not demonstrated the sense of urgency that we really should demonstrate. Conservation is not enough. Conservation is just the first step. If we have not sense enough to use that time to bring on more supplies—and I speak not only of conventional supplies such as more gas and oil, but also synthetic supplies, coal gasification and liquefaction, which shamefully we failed to do last year, and in the long run solar energy and nuclear power—if we do not do those things, we are just postponing the day when we are going to run out. We must do two things: use less, and produce more. If we do not do the latter, we will sentence the country to a long-term decline in its standard of living.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Would not the gentleman in the well admit in all fairness that the amendment pending is not a full deregulation bill in the sense that we have had in the past, that it is a modified deregulation bill, that it is for new gas; and, indeed, the amendment pending is not as strenuous as the amendment the gentleman supported in recent years?

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

The gentleman from Texas (Mr. PICKLE), my dear friend, is eminently correct. I have in the past supported deregulation bills, and I support long-term deregulation now. If a conference report should recommend a gradual and intelligently phased deregulation, I could support that. I supported the Harris bill in 1955 that passed the House by six votes. I think it demonstrable that over these 20 years the Government's well-intentioned attempts to control wellhead price have, indeed, decreased exploration and thus contributed to the shortage.

But I would say to the gentleman that I believe these things we have provided in this bill in the way of incentives will move us in the direction of more exploration, hopefully of more discoveries and therefore more supplies.

I believe it would be preferable at the present time if we can go forward with the national program and support the bill before us which would achieve stability, predictability, and some semblance of a national consensus of an energy policy, rather than being quarrelsome and divisive.

Mr. PICKLE. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman yielding. I think it helps the debate.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I thank the Chair.

I shall not belabor the point. I appreciate the sincerity and the deep conviction of people who earnestly believe that deregulation next April is in the best interest of the country. I certainly do not accuse them of being callous to the needs of the people.

But I am deeply concerned about the impact of sudden deregulation at a time when we are certain to be short, even though that shortage may have been to some degree caused by well-intended regulation, and I think the best course under these circumstances is to try to phase out regulation in such a way that it does not have an adverse effect on the economy and set us back at a time when our economy at least is moving forward.

Mr. RONCALIO. Mr. Chairman, will gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I rise to commend our majority leader. I respect his courage and leadership.

This is a great step toward unification and meeting the needs of all the people of this Nation. After searching all the needs of the people in my beloved State, I am going to support this position, the position the gentleman has recommended.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I have a district that produces gas. I will tell the Members of some of my own fears. I do not commend myself to this body as an expert, but I have seen the oil and gas rigs disassembled and moved to other parts of the world, because there has been insufficient incentive to drill and produce new oil and gas.

I think it is time we bit the bullet now. Deregulation is the only feasible answer. What I really fear is this: If we pass this bill presently without the Krueger amendment, and then do not get the production necessary to blunt the energy crisis, in a few years some will come back to say what we really need to do is nationalize the industry, which would be an absolute disaster.

Now is the time to face the problem. Now is the time to deregulate. We could then see how this works. If it does not,

then this Congress has the power to roll back the prices, if there is inordinate profit. After all, the Krueger-Brown amendment calls only for partial deregulation.

Let us give it a chance. This is a chance to solve this crisis.

Others have spoken with greater eloquence and knowledge but I am speaking for my people who have passed on to me their experience.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I yield my time to the distinguished Speaker of the House of Representatives.

Mr. O'NEILL. Mr. Chairman, there is no question that this Nation needs an energy policy. That was agreed upon earlier in the year. I can remember meeting with the minority leader, the gentleman from Arizona, Mr. JOHN RHODES, and talking with him about an ad hoc committee, talking about the fact that it is impossible to put a policy together if we have the legislation going to different committees and being reported as individual bills as in the past. If we did that there would be nitpicking and logrolling. We agreed on a solution: Let us have an ad hoc committee. Let us not strip the committees of their rights but rather send the bill to the standing committees and then have them report to an ad hoc committee.

That we have done. We have been talking about this legislation for 3 days. There are 113 different legislative initiatives that form a national energy policy.

We have debated the issue of deregulation so many times and so hotly through the years.

In trying to avoid bitterness, we got a group together—a group of those who had been for deregulation and those who had been opposed to deregulation. We had them sit down. They talked to the independents around the Nation, to those who, spending their own money, search out and look for gas.

They came up with an agreement. That agreement passed the House today by voice vote. So it is now in the bill. What does it do? It increases the price of natural gas from $1.44 to $1.75, a 31-cent increase, which the Supreme Court had determined was a just and reasonable price; furthermore, the administration has the discretion to provide an incentive price. By every indication the price of natural gas will provide the most generous incentive price anywhere in the world.

The CHAIRMAN. The Chair recognizes the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Now, we come to the Brown-Krueger amendment. Let us consider the consequences of the deregulation of natural gas. Let us consider the added cost to the consumer. The cost to the consumer over and above the ad hoc committee amendment would be $53 billion to $79 billion between now and the year 1985. The Library of Congress says that the figure is $120 billion—that the consumer will pay $120 billion more than under the ad hoc committee amendment.

The bill allows higher prices for more costly production; the administration is given discretion to permit higher prices along the line.

Now, what about this amendment? If we pass this according to the Library of Congress, it is going to cost the average family $260 more a year from 1978 through 1985.

Now, I am fearful about this entire legislation. All of us appreciate the fact that we need a national energy policy. I am fearful that if this amendment is adopted, this bill will not pass. I am wondering what America will think. America is watching this legislation more than it has watched any legislation in years.

Will the House fail? Can the House act? Can the House put together an energy policy? Those are the questions.

The question now comes down to this. On one side are the people of America, the independent producers, the little man from Texas or Oklahoma or Louisiana, who invests his money and truly goes out and looks for new gas. On the other side is big oil and gas. Never have I ever seen such an influx of lobbyists in this town as from big oil on this amendment.

I believe this bill will go down, if the Krueger-Brown amendment is adopted. I think it would be wrong. I think it would be an injustice to this country.

I say to you, look at your conscience. Do you want to go home on Saturday of this week and say that the Congress has failed? As between the people and the independent gas producers working together on one side and big oil on the other. Where do you core down?

Believe me, the future of America in 1985, the economy of this country, the defense of this Nation, are at stake. This is at the heart of this bill.

I ask you to vote down the Krueger-Brown amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 227, not voting 7, as follows:

[Roll No. 499]

AYES—199

Abdnor	Brown, Mich.	Conable
Anderson, Ill.	Brown, Ohio	Corcoran
Andrews, N. Dak.	Broyhill	Cornwell
Archer	Buchanan	Coughlin
Armstrong	Burgener	Crane
Ashbrook	Burke, Fla.	Cunningham
AuCoin	Burleson, Tex.	Daniel, Dan
Badham	Butler	Daniel, R. W.
Bafalis	Byron	Davis
Barnard	Caputo	de la Garza
Bauman	Cederberg	Derrick
Beard, Tenn.	Chappell	Derwinski
Boggs	Clausen, Don H.	Devine
Bowen	Clawson, Del	Dickinson
Breaux	Cleveland	Dornan
Brinkley	Cochran	Duncan, Tenn.
Brooks	Coleman	Edwards, Ala.
Broomfield	Collins, Tex.	Edwards, Okla.
		Emery
English	Lloyd, Tenn.	Roberts
Erlenborn	Long, La.	Robinson
Evans, Del.	Long, Md.	Rooney
Evans, Ind.	Lott	Rousselot
Findley	Lujan	Rudd
Fish	McClory	Runnels
Flowers	McCloskey	Ruppe
Flynt	McCormack	Santini
Forsythe	McDonald	Sarasin
Frenzel	McEwen	Satterfield
Frey	McKay	Sawyer
Fuqua	Madigan	Schroeder
Gammage	Mahon	Schulze
Giaimo	Mann	Sebelius
Glickman	Marlenee	Shipley
Goldwater	Marriott	Shuster
Goodling	Martin	Skubitz
Gradison	Mattox	Slack
Grassley	Metcalfe	Smith, Nebr.
Guyer	Michel	Spence
Hagedorn	Milford	Stangeland
Hall	Miller, Ohio	Stanton
Hammer-schmidt	Mitchell, N.Y.	Steed
	Mollohan	Steiger
Hannaford	Montgomery	Stockman
Hansen	Moore	Stump
Hightower	Moorhead, Calif.	Symms
Hillis		Taylor
Holland	Murphy, Ill.	Thone
Holt	Myers, Gary	Treen
Horton	Myers, John	Trible
Hubbard	Natcher	Vander Jagt
Huckaby	Neal	Waggonner
Hyde	O'Brien	Walker
Ichord	Pease	Wampler
Ireland	Pettis	Watkins
Johnson, Colo.	Pickle	White
Jones, N.C.	Pike	Whitehurst
Jones, Okla.	Poage	Wiggins
Kasten	Pressler	Wilson, Bob
Kazen	Pritchard	Wilson, C. H.
Kelly	Pursell	Winn
Kemp	Quayle	Wirth
Ketchum	Quie	Wydler
Kindness	Quillen	Wylie
Krueger	Railsback	Young, Alaska
Lagomarsino	Regula	Young, Fla.
Latta	Rhodes	Young, Tex.
Lent	Risenhoover	

NOES—227

Addabbo	Dellums	Jenkins
Akaka	Dicks	Jenrette
Alexander	Diggs	Johnson, Calif.
Allen	Dingell	Jones, Tenn.
Ambro	Dodd	Jordan
Ammerman	Downey	Kastenmeier
Anderson, Calif.	Drinan	Keys
	Duncan, Oreg.	Kildee
Andrews, N.C.	Early	Koch
Annunzio	Eckhardt	Kostmayer
Applegate	Edgar	Krebs
Ashley	Edwards, Calif.	LaFalce
Aspin	Eilberg	Le Fante
Baldus	Ertel	Leach
Baucus	Evans, Colo.	Lederer
Beard, R.I.	Evans, Ga.	Leggett
Bedell	Fary	Lehman
Beilenson	Fascell	Levitas
Benjamin	Fenwick	Lloyd, Calif.
Bennett	Fisher	Luken
Bevill	Fithian	Lundine
Biaggi	Flood	McDade
Bingham	Florio	McFall
Blanchard	Foley	McHugh
Blouin	Ford, Mich.	Maguire
Boland	Ford, Tenn.	Markey
Bolling	Fountain	Marks
Bonior	Fowler	Mathis
Bonker	Fraser	Mazzoli
Brademas	Gaydos	Meeds
Breckinridge	Gephardt	Meyner
Brodhead	Gibbons	Mikulski
Brown, Calif.	Gilman	Mikva
Burke, Calif.	Ginn	Miller, Calif.
Burlison, Mo.	Gonzalez	Mineta
Burton, John	Gore	Minish
Burton, Phillip	Gudger	Mitchell, Md.
Carney	Hamilton	Moakley
Carr	Hanley	Moffett
Carter	Harkin	Moorhead, Pa.
Cavanaugh	Harrington	Moss
Chisholm	Harris	Mottl
Clay	Harsha	Murphy, N.Y.
Cohen	Hawkins	Murphy, Pa.
Collins, Ill.	Heckler	Myers, Michael
Conte	Hefner	Nedzi
Conyers	Heftel	Nichols
Corman	Hollenbeck	Nix
Cornell	Holtzman	Nolan
Cotter	Howard	Nowak
D'Amours	Hughes	Oakar
Danielson	Jacobs	Oberstar
Delaney	Jeffords	Obey

Ottinger	Ryan	Tucker
Panetta	Scheuer	Udall
Patten	Seiberling	Ullman
Patterson	Sharp	Van Deerlin
Pattison	Sikes	Vanik
Pepper	Simon	Vento
Perkins	Sisk	Volkmer
Preyer	Skelton	Walgren
Price	Smith, Iowa	Walsh
Rahall	Snyder	Waxman
Rangel	Solarz	Weaver
Reuss	Spellman	Weiss
Richmond	St Germain	Whalen
Rinaldo	Staggers	Whitley
Rodino	Stark	Whitten
Roe	Steers	Wilson, Tex.
Rogers	Stokes	Wolff
Roncalio	Stratton	Wright
Rose	Studds	Yates
Rosenthal	Thompson	Yatron
Rostenkowski	Thornton	Young, Mo.
Roybal	Traxler	Zablocki
Russo	Tsongas	Zeferetti

NOT VOTING—7

Badillo	Flippo	Teague
Burke, Mass.	McKinney	
Dent	Murtha	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. SCHEUER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to be permitted to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, may we know what the purpose is?

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield, I will be delighted to respond. I am asking for permission to speak out of order because on this day Archbishop Makarios of Cyprus passed away. I would like, for the record, to make some appropriate comments.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, is this request in order under the rule which allows no amendments and no Members the opportunity to offer any changes in the bill?

The CHAIRMAN. The Chair will respond that by unanimous consent, it would be in order to speak out of order.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO ARCHBISHOP MAKARIOS

Mr. BIAGGI. Mr. Chairman, today the Greek community is in mourning, one of their great leaders is dead. Archbishop Makarios, the only President Cyprus has known since its independence, succumbed early today to the effects of his second major heart attack in 4 months.

For the Greek Cypriot population, Archbishop Makarios was more than just their leader—he symbolized their hopes for the future. It is the 75-percent Greek population of Cyprus which has endured tragedy since the 1974 invasion of the island by Turkey. Hundreds of thousands are refugees, thousands are separated from their families, and some 2,000 Greek Cypriots are still officially listed as missing since the invasion.

For the Greek Cypriots, the death of Archbishop Makarios is a severe blow to their hopes of achieving an early peace. He was a dogged advocate of peace for Cyprus, committed to a peace which would maintain the territorial integrity of the island. He was highly regarded as a world leader, known as an apostle of universal peace.

The key to a great leader is his ability to inspire others. Archbishop Makarios epitomized this type of leader. His unique position as the religious and political leader of Cyprus, earned him the love and respect of the Greek Cyriot population. He was a man of the people. He was born the son of a poor shepherd. He entered the Orthodox Church, and by the time that Cyurus was ready to achieve independence, Makarios had assumed a prominent position in the religious community of Cyprus. His election as President came as no surprise.

The durability of his rule was based on the fact that he never lost touch with the people. They related to him. He was both a visible and vigorous leader. He ruled firmly, but with compassion for the needs of the people of Cyprus. He was an outspoken foe of discrimination.

The life of Archbishop Makarios may have ended, but the legacy he has created will endure for years to come. I have already expressed my condolences directly to Archbishop Iakouos, Archbishop of the Greek Orthodox Archdiocese of North and South America, as well as to Fr. John Povlos, pastor of St. Demetrios Church in my district. I express my condolences to the Greek American community in my district, which is the largest community outside of Greece. I share their grief and that of the millions of others who loved and respected Archbishop Makarios.

The CHAIRMAN. If there are no further amendments to part IV, the Clerk will designate the heading of the part now pending.

The Clerk read as follows:

Page 217, line 22, Part V—Public Utility Regulatory Policies.

(Part V reads as follows:)

PART V—PUBLIC UTILITY REGULATORY POLICIES

Chapter 1—GENERAL PROVISIONS

SEC. 501. PURPOSES.

The purposes of this part are—

(1) to increase the efficiency of generation, transmission, and distribution of electric power through encouragement of competition, through incentives for efficiency, and through prescription of reliability standards;

(2) to establish national minimum standards for electric ratemaking to encourage efficient use of electric energy to—

(A) insure that electric utility rates are designed to encourage energy conservation by minimizing (i) energy consumption and (ii) the need for new generating capacity,

(B) provide for reasonable rates to electric consumers, and

(C) assure that States which implement rate reforms are not placed at a competitive economic disadvantage by reason of the failure of other States to implement such reforms; and

(3) to provide for greater consumer representation in regulatory proceedings, to provide notice procedures respecting termination of service to electric consumers, and to provide technical and financial assistance to State regulatory authorities.

SEC. 502. DEFINITIONS.

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "Commission" means the Federal Power Commission.

(3) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5) (A) The term "State regulated electric utility" means any electric utility other than a nonregulated utility as defined in subparagraph (B).

(B) The term "nonregulated utility" means a nonregulated public system or a nonregulated cooperative. Such term does not include an electric utility with respect to which the Tennesee Valley Authority has ratemaking authority.

(C) The term "nonregulated public system" means an electric utility which is a State agency or Federal agency unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(D) The term "nonregulated cooperative" means a private cooperatively organized electric utility unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(6) The term "Federal agency" means any agency or instrumentality of the United States, but does not include the District of Columbia.

(7) The term "rate" means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(10) The term "sale" includes an exchange of, or a charge for transmission of, electric energy.

(11) The term "State" means a State or the District of Columbia.

(12) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than by such State agency), and, in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(14) The term "bulk power facility" means a bulk power generating facility or a bulk power transmission facility.

(15) The term "bulk power generating facility" means electric generating equipment (and associated facilities) designed for, or capable of, operation at a single site with an aggregated capacity of 200 megawatts or more.

(16) The term "bulk power transmission facility" means an electric transmission line (and associated facilities) designed for, or capable of, operation at a nominal voltage of 200 kilovolts or more, between phase conductors for alternating current or between poles for direct current.

(17) The terms "evidentiary hearing" and "evidentiary proceeding" mean (A) in the case of a State agency, a proceeding (i) which includes notice to, and an opportunity for, participants to present direct and rebuttal evidence and to cross-examine witnesses, and a written decision based upon evidence appearing in a written record of the proceeding, and (ii) which is subject to judicial review; and (B) in the case of a Federal agency, a proceeding conducted in accordance with section 556 of title 5, United States Code.

(18) The term "class" means with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use, such as—

(A) the nature of requirements placed by such group upon the system of the electric utility, and

(B) the amount of kilowatt demand and kilowatt-hour requirements placed by such group upon the system of the electric utility.

SEC. 503. APPLICATION TO FEDERAL POWER ACT.

Section 3 of the Federal Power Act is amended by inserting "(a)" after "SEC. 3." and by adding the following at the end thereof:

"(b) For purposes of this Act, the terms 'bulk power facility', 'bulk power generating facility', 'evidentiary hearing' and 'evidentiary proceeding' have the same meaning as when used in part V of title I of the National Energy Act.".

SEC. 504. ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND COMPOSITION.—There is established a Utility Advisory Committee (hereinafter in this section referred to as the "Committee") to advise the Commission respecting its duties and functions under chapter 2 of this part, sections 541 through 546 of this Act, and chapters 4 and 5 of this part, and to advise the Administrator respecting his duties and functions under subpart A of part I and part VI of this title. The Committee shall be composed of at least 12 members appointed by the President as follows:

(1) at least 3 representing utilities (one representing publicly owned utilities, one representing privately owned utilities, and one representing nonregulated cooperatives);

(2) at least 5 representing State regulatory authorities from different parts of the country;

(3) at least 3 representing consumers of utilities (at least one from groups of residential consumers, at least one from groups of commercial consumers, and at least one from industrial consumers); and

(4) at least one representing conservation organizations.

A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(b) TERMS.—Members of the Committee shall serve for terms of 2 years.

(c) PAY AND TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) AUTHORIZATION.—There are authorized to be appropriated not more than $50,000 in each of the fiscal years 1978, 1979, and 1980 to carry out the provisions of this section. No other amounts are authorized to be appropriated unless specifically provided by law enacted after the date of the enactment of this Act.

Chapter 2—IMPROVING EFFICIENCY OF USE OF ELECTRICITY

Subchapter A—General Provisions

SEC. 505. COVERAGE.

(a) APPLICATION OF CHAPTER.—The requirements of this chapter do not apply to sales of electricity by an electric utility—

(1) in any calendar year beginning less than 2 years after the date of enactment of this Act, or

(2)(A) in any calendar year beginning 2 years or more after the date of enactment of this Act but less than 7 years after such date of enactment unless such sales of electric energy by such utility during the second preceding calendar year exceeded 750 million kilowatt-hours, or

(B) in any calendar year beginning 7 or more years after such date of enactment unless sales of electric energy by such utility during the second preceding calendar year exceeded 200 million kilowatt-hours.

Except in the case of section 515 (relating to prohibition against special nonaggregate inclusions) and section 536(c) (relating to contracts by Federal agencies) the requirements of this chapter apply only to sales of electric energy for purposes other than resale.

(b) EXTENSION.—Upon application to the Commission by an electric utility, and for good cause shown, the Commission may provide that the 2-year period specified in subsection (a) may be extended for one additional period of not more than 2 years with respect to such utility.

Subchapter B—National Minimum Standards for State Regulated Electric Utility Rate Regulation

SEC. 511. MINIMUM STANDARDS FOR RATES OF SERVICE.

(a) MINIMUM STANDARDS FOR RATES.—Each State regulated electric utility shall, in making sales of electric energy subject to this chapter, comply with the following minimum standards respecting the rates at which such energy is sold:

(1) Except to the extent permitted under subsection (b), rates for providing electric service to each electric consumer (or class thereof) shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such consumer (or class). For purposes of carrying out this paragraph, the rate per kilowatt, or per kilowatt-hour, for electric service during any period to any electric consumer (or class thereof) shall not decrease as kilowatt, or kilowatt-hour, consumption by such consumer increases during such period except to the extent that such utility shows in an evidentiary hearing that such decrease reflects the decrease in such cost of providing electric service to such consumer (or class) as such consumption increases during such period.

(2)(A) The rates for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such electric consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(B) The rates for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(C) A rate for a class of electric consumers shall be treated as cost-effective for purposes of subparagraph (A) only if the long-run benefits of such rate are likely to exceed the metering costs associated with the implementation of such rates.

(D) If any time-of-day rate has been determined not to be cost-effective under subparagraph (A) for any class of consumers, each electric utility shall offer such rate to each consumer in such class willing to pay the costs of metering associated with such rate.

(E) Each electric utility shall offer each electric consumer (or class thereof) an interruptible rate which reflects the cost of providing interruptible service to such customers.

(3) The Commission may prescribe voluntary guidelines respecting the terms and conditions of any rate offered under subparagraphs (A), (B), and (E) of paragraph (2) and the types of load management systems and terms and conditions of rates offered under section 521.

(4) For purposes of this section, costs of providing electric service shall be determined as provided in section 532.

(b) LOWER RATES.—(1) No provision of this title shall prevent an electric utility, a State regulatory authority, or other State agency from fixing, approving, or allowing to go into effect a rate for electric energy for essential needs of residential electric consumers (as defined by the State regulatory authority) which is lower than that otherwise required by paragraph (1) of subsection (a).

(2) A State regulatory authority which has enforcement responsibility may, upon application of any electric consumer, prescribe a temporary exception pursuant to which an electric utility rate schedule which does not comply with the requirements of subsection (a) will be fixed, approved, or allowed to go into effect, with respect to such consumer. Any such exception shall comply with the following requirements:

(A) such exception may apply only to the type of use and amount of use of electric energy as does not exceed the amount the electric consumer used prior to the date of enactment of this Act;

(B) the electric consumer who applies for such exception demonstrates to such State regulatory authority in an evidentiary hearing that such exception is necessary to avoid significant economic hardship to such consumer; and

(C) such exception does not remain in effect more than 5 years after the date of enactment of this Act.

(c) GATHERING INFORMATION ON COSTS OF SERVICE.—(1) Each State regulated electric utility shall gather information under such rules promulgated by the Commission as the Commission determines necessary to allow State regulatory authorities (and other persons) to determine the costs associated with providing electric service. For purposes of this section and section 532 (relating to determination of costs of service), such rules shall include requiring the gathering of the following information—

(A) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(B) representative daily kilowatt demand load curves for all electric consumer classes combined, and representative daily kilowatt demand load curves for each electric consumer class for which there is a separate rate; and

(C) annual capital, operating, and maintenance costs—

(i) for transmission, and distribution services of such utility, and

(ii) for each generating unit to meet kilowatt demand on such electric utility.

Such rules shall provide that information required to be gathered under this subsection shall be presented in such categories and such detail as may be necessary to carry out the purposes of this subsection.

(2) The Commission within 180 days after the date of enactment of this Act, shall, by rule, prescribe the methods, procedure, and format to be employed by electric utilities in gathering the information described in this subsection. Such a rule may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, if such utility shows and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments (and so states in such rule) that gathering such information is not likely to further the purposes of this chapter. The Commission shall periodically review such finding and may revise such rule.

(3) Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has rate-making authority for such utility the information gathered pursuant to this section (if such information is not otherwise required to be filed with such authority), and publish or otherwise make such information available to the public, in such form and manner as the Commission shall prescribe. In addition, each electric utility shall publish or make such information available to the public, in such form and manner as the Commission shall prescribe, not later than 60 days prior to the commencement of any hearing on an application for any rate increase.

SEC. 512. MINIMUM STANDARDS RESPECTING ADVERTISING

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State regulated electric utility shall be determined to be in compliance with this subchapter if such utility recovers from its electric consumers through such rate any direct or indirect expenditure by such utility—

(1) for promotional advertising, or

(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs electric consumers how they can conserve electric energy or can reduce peak demand for electric energy,

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(2) The term "institutional advertising" means any advertising which is designed to create, enhance, or sustain an electric utility's public image or goodwill with the general public or such utility's electric consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of an electric utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 513. MINIMUM STANDARDS RESPECTING POLLUTION CONTROL COSTS.

(a) RECOVERY OF COSTS.—Each State regulated electric utility may recover from its electric consumers the reasonable costs incurred by such electric utility for any pollution control facility.

(b) DEFINITION.—For purposes of this section, the term "pollution control facility" means a facility which is used to remove, alter, dispose of, or store pollutants, contaminants, waste, or heat.

SEC. 514. AUTOMATIC ADJUSTMENT CLAUSES.

(a) PROHIBITION.—Except as otherwise provided in subsection (b), no increase in any rate may be made by any State regulated electric utility unless—

(1) opportunity for consideration of the lawfulness of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect,

(2) such rate increase is pursuant to an automatic adjustment clause which has been determined by the State regulatory authority (or the Commission as provided in section 531), after evidentiary hearing, to effectively provide incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and to be necessary to enable such utility to meet its immediate short-term financial obligations, or

(3) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B) of the Federal Power Act).

(b) INTERIM RATES.—The prohibition contained in subsection (a) shall not apply to interim rates which take effect subject to a later determination of the amount of such rates and to a requirement of refund of any overcharge with interest.

(c) REVIEW OF CLAUSE.—(1) No automatic adjustment clause shall be treated as meeting the requirements of subsection (a)(2) unless the rate schedule containing such clause is reviewed by the State regulatory authority having ratemaking authority with respect to such utility (or by the Federal Power Commission as provided in section 531) not less often than every 2 years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be treated as meeting such requirements for any period in excess of 4 years after such clause has been reviewed in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the State regulatory authority makes the finding required under subsection (a)(2).

(2) In making a review under this subsection, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such utility relating to expenses subject to an automatic adjustment clause. Each such utility shall provide reports on such practices as required by such authority, which shall be made available to the public, and shall contain such information as such authority may require to implement the purposes of this subsection (including a disclosure of any ownership or corporate relationship between such utility and the seller of fuel or other items).

(d) DEFFINITION.—As used in this section, the term "automatic adjustment clause" means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).

SEC. 515. PROHIBITION AGAINST SPECIAL NONAGGREGATE INCLUSIONS.

(a) The rates of any electric utility which is a State utility agency shall, consistent with section 511(a), be based on the total costs of—

(1) all electric energy generated by all facilities of the entire system of such utility; and

(2) all electric energy purchased by such utility which is sold by such utility.

(b) The term "State utility agency" means an agency of a State (not including any political subdivision or agency thereof) which is an electric utility.

SEC. 516. RELATIONSHIP TO OTHER APPLICABLE LAW.

Nothing in this subchapter shall be construed as authorizing or requiring the recovery by an electric utility of revenues, or of a rate of return, in excess of the amount of revenues or a rate of return determined to be lawful under otherwise applicable State or Federal law.

SEC. 517. SOLAR, WIND, AND SMALL ELECTRIC GENERATING SYSTEMS.

Each State regulated electric utility shall—

(1) within 2 years after the date of enactment of this Act, include in the rates for the sale of electric power by such utility—

(A) rates which do not discriminate against the use of solar electric generating systems, including electric generating systems which use wind power, and other small electric generating systems of 15,000 kilowatts of capacity, or less, and

(B) rates and conditions under which excess power generated by such systems may equitably be sold to such utility except that such rates and conditions shall not require such utility to purchase electric energy from any such system during any period at any rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period; and

(2) take such other steps as may be prescribed by the State regulatory authority, by rule, in order to prevent any other unreasonable discriminatory practice (as defined by the Commission) against such systems, or the regulated utilities to which such systems sell, or from which such systems purchase, electric power.

Subchapter C—Other Requirements for State Regulated Electric Utilities

SEC. 521. LOAD MANAGEMENT TECHNIQUES.

(a) PRACTICABLE AND COST EFFECTIVE TECHNIQUES.—Each State regulated electric utility shall—

(1) offer to its electric consumers such alternative load management techniques which have been determined (as provided in section 533) to be practicable and cost-effective; and

(2) submit, as a part of any application for a rate increase, an analysis of the cost-effectiveness of such other load management techniques as have been identified under section 553(2)(A) prior to 1 year before the date of application.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "load management technique" means any technique (other than a rate described in section 511(a)(2)) to re-

duce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, including ripple or radio control mechanisms, energy storage devices, interrupted or interruptible electric service, load-limiting devices.

(2) A load management technique is cost-effective if—

(A) such technique is likely to reduce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, and

(B) the long-run benefits of such reduction are likely to exceed the long-run costs associated with implementation of such technique.

SEC. 522. STANDARDS FOR INFORMATION TO CONSUMERS.

(a) PROPOSED RATE SCHEDULES.—Each State regulated electric utility shall transmit to each of its electric consumers—

(1) not later than 60 days after the date of commencement of service or 90 days after this title takes effect with respect to such utility, whichever last occurs, and

(2) not later than 30 days (60 days in the case of a utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer,

a clear and simple statement of the existing and any proposed rate schedule applicable to such consumer.

(b) EXISTING RATE SCHEDULES.—Each such State regulated electric utility shall transmit to each of its electric consumers not less than once each year a brief, clear, and simple summary of the existing rate schedules applicable to each of the major classes of its electric consumers, and identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the utility deems appropriate.

(c) STATEMENT OF CONSUMPTION.—Unless such information is otherwise provided as part of a bill for electric service (or in any other manner which has been determined by the State regulatory authority (or the Commission as provided in section 531) to be adequate to make such information available to the consumer), on request of an electric consumer of such an electric utility, such utility shall transmit to such consumer a clear and simple statement of the actual consumption (or degree-day adjusted consumption) of electric energy for each billing period during the prior year (except when such consumption data is not reasonably ascertainable by the utility.

SEC. 523. MINIMUM PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE

No State-regulated electric utility may terminate electric service to any consumer of electric energy except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 531). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no electric service to an electric consumer may be terminated until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a reasonable opportunity (at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no electric service to a residential electric consumer may be terminated on account of nonpayment for electric service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility as provided in section 533) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such electric service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No electric service may be terminated before the procedures required under this section have been completed.

Subchapter D—Nonregulated Utilities

SEC. 526. REQUIREMENTS.

(a) APPLICATION OF SUBCHAPTERS B AND C.—The provisions of subchapters B and C (other than section 521, relating to load management techniques, and, in the case of nonregulated cooperatives, section 521, 512, relating to advertising, and 514, relating to automatic adjustment clauses) shall apply to each nonregulated utility in the same manner as such provisions apply to each State regulated electric utility, except that any action required to be taken by a State regulatotry authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

(b) LOAD MANAGEMENT.—Each nonregulated utility shall consider alternative load management techniques (as defined in section 521(b)) and shall promptly implement those which are practicable and cost effective (within the meaning of section 521(b)(2)).

(c) COSTS OF SERVICE.—Each nonregulated utility shall establish and utilize methods for determining cost of service in accordance with section 532.

Subchapter E—Requirements Applicable to State Regulatory Authorities

SEC. 531. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED ELECTRIC UTILITIES.

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to an electric utility may determine whether or not such utility is in compliance with the requiremements of subchapters B and C if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with repect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter.

(2) such authority makes such determination of compliance by an electric utility with the requirements of subchapters B and C in an evidentiary hearing, and

(3) complies with the requirements applicable to such authority under this chapter.

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with subsection (a) or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State regulated electric utility, determine in an evidentiary hearing whether or not such utility is in compliance with such requirements and shall carry out the requirements of this subchapter, until such time as such State regulatory authority notifies the Commission that it assumes such responsibility and certifies that it has adequate authority to carry out the requirements of this subchapter.

(c) COMMISSION REVIEW OF ENFORCEMENT.—Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utility or utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with any requirement of subchapter B or C, the Commission shall publish such finding which shall be prima facie evidence in any court that the rates of such utility or utilities are not in compliance with such requirement under subchapter B or C of this chapter. The preceding sentence shall not apply in any case in which the Commission has not made any such finding or in any case in which the Commission, after notice and an evidentiary hearing, has reversed any such finding.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with the requirements of subchapters B and C.

SEC. 532. DETERMINATION OF COSTS OF SERVICE.

(a) METHODS TO DETERMINE COSTS OF SERVICE.—(1) Each State regulatory authority which has assumed responsibility under section 531 shall prescribe methods for determining costs associated with providing electric service to electric consumers (and classes thereof) by each electric utility over which it has ratemaking authority. The Commission shall prescribe such methods for each State regulated utility with respect to which no such assumption has been made.

(2) Such methods shall, to the maximum extent practicable and to the extent consistent with section 516, reflect differences in cost-incurrence, for each electric consumer (or class thereof), attributable to daily and seasonal time of use of service. In prescribing such methods, there shall be taken into account the extent to which total costs to an electric utility are likely to change if—

(A) capacity is added to meet peak demand relative to base demand, and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) FINDINGS REQUIRED.—A State regulatory authority which has assumed responsibility under section 531 (or the Commission in the case of an electric utility with respect to which no such assumption has been made) may not make a determination of compliance with section 511 unless—

(1) such authority (or the Commission, as the case may be) has made findings of fact respecting—

(A) the factors which cause changes in the daily and seasonal peakloads of such utility and of the electric consumer classes served by such utility;

(B) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(2) such authority (or Commission, as the case may be) bases the determination of such compliance on such findings and on the methods prescribed under paragraph (1) of subsection (a).

(c) LOWER RATES.—In the case of any electric utility which does not have a lower rate as described in setcion 511(b)(1) in effect on the date 2 years after the date of the enactment of this Act, the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility under section 531) shall determine, after an evidentiary hearing, whether

or not such a rate should be implemented by such utility.

SEC. 533. ALTERNATIVE LOAD MANAGEMENT TECHNIQUES.

Each State regulatory authority which has assumed responsibility under section 531 (or the Commission in any case in which such authority has not assumed such responsibility) shall consider in an evidentiary hearing, initially within 2 years of the date of enactment of this Act and thereafter no less often than once during each subsequent 2-year period, alternative load management techniques for purposes of carrying out the requirements of section 521.

SEC. 534. MASTER METERING.

The Commission shall prescribe rules requiring each State regulatory authority which has assumed responsibility under section 531 to prohibit or restrict the use of such bulk or master meters in buildings as it deems necessary to carry out the purposes of this chapter. Such rules shall provide that in determining whether or not to prohibit or restrict such meters in any building, such authority shall consider the potential energy savings of central heating, cooling, and domestic hot water systems in buildings in which the output of such systems to separate units is measured separately and charged to such units. Such rules may apply to buildings construction of which commenced less than 1 year after the date of promulgation thereof only to the extent the Commission determines that such application is economically feasible.

SEC. 535. PARTICIPATION IN REGULATORY PROCEEDINGS BY STATES AND BY ELECTRIC CONSUMERS.

(a) INTERVENTION.—Any electric consumer or State agency may intervene as of right as a party in any evidentiary hearing or other proceeding of a State regulatory authority which has assumed the authority to make determinations under this chapter (or of the Commission in any case in which the State authority has not assumed such authority) if such hearing or other proceeding affects such consumer or State agency and relates to the determination of compliance with the requirements of this chapter.

(b) COMPENSATION FOR COSTS OF PARTICIPATION.—(1)(A) Unless an alternative means for assuring electric consumer representation is adopted in accordance with paragraph (2), if an electric consumer (who is a person described in paragraph (2)) of an electric utility prevails in a ratemaking proceeding before a State regulatory authority (or before the Commission where responsibility has not been assumed by such authority under section 531) in which such consumer has alleged that any rate proposed by an electric utility is not in compliance with any requirement of subchapter B or C, such utility shall be liable to compensate such consumer for reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participation in, such proceeding (including fees and costs in obtaining judicial review of such proceeding). Such consumer may collect such fees and costs from such utility in a civil action in any court of competent jurisdiction, unless such State regulatory authority (or the Commission, as the case may be) has adopted a reasonable procedure pursuant to which such authority—

(i) determines the amount of such fees and costs, and

(ii) includes an award of such fees and costs in its order in the proceeding.

(B) For purposes of subparagraph (A), an electric consumer shall be deemed to have prevailed in a proceeding if such consumer's participation in the proceeding substantially contributed to disapproval or modification of a rate proposed by an electric utility on grounds that the rate did not comply with any requirement of subchapter B or C.

(C) A State regulatory authority (or the Commission, as the case may be) may prescribe reasonable requirements that persons with the same or similar interests have a common legal representative in the proceeding, as a condition of receiving fees and costs under subparagraph (A).

(2) Paragraph (1) shall not apply to proceedings before a State regulatory authority if the State or such authority has provided an alternative means for providing adequate compensation to persons—

(A) who have, or represent, an interest (i) which would not otherwise be adequately represented in ratemaking proceedings, and (ii) representation of which is necessary for a fair determination in the proceeding, and

(B) who are unable effectively to participate in such proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness' fees, and other reasonable costs of preparing for, and participating in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) TRANSCRIPTS.—Each electric utility shall make available at cost of reproduction to parties in a proceeding before a State regulatory authority transcripts of such proceeding.

Subchapter F—Enforcement and Review

SEC. 536. PROHIBITIONS.

(a) STATE REGULATED UTILITIES.—Except for an increase referred to in section 514(a)(2) or (3), no State-regulated electric utility may increase any rate at which it sells electric energy unless such utility has been determined to be in compliance with the requirements of subchapters B and C. Such determination shall be made as provided in sections 531 and 532 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission in any case in which the State has not assumed responsibility as provided in section 531).

(b) NONREGULATED UTILITIES.—(1) Except for an increase referred to in section 514(a)(2) or (3), no nonregulated public system (as defined in section 502(5)(C)) may increase any rate at which it sells electric energy unless such system has determined that it meets the requirements of subchapter D.

(2) No nonregulated cooperative (as defined in section 502(5)(D)) may violate the requirements of this chapter made applicable under subchapter D.

(c) CONTRACTS BY FEDERAL AGENCIES.—No contract between a Federal agency and an electric utility for sale of electric energy by such Federal agency for purposes of resale may contain any provision inconsistent with the requirements of this chapter. Any such inconsistent provision shall be null and void. This subsection shall apply notwithstanding section 505(a)(2) (relating to volume of electric energy sold).

SEC. 537. ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency, or State agency referred to in section 535(a), the appropriate United States district court shall have jurisdiction to enjoin an electric utility from violating any prohibition contained in section 536. Each electric consumer of an electric utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 536(b)(2) if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 538. JUDICIAL REVIEW.

(a) COMMISSION OR STATE AGENCIES.—The Commission or any State agency referred to in section 535(a) may obtain review of any determination referred to in section 536 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any electric utility with respect to which a determination referred to in section 536 has been made or any electric consumer of such a utility may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made—

(A) by a nonregulated public system which is a Federal agency,

(B) by a State regulatory authority or nonregulated public system whose determination is not reviewable by a State court of competent jurisdiction, or

(C) by a State regulatory authority or nonregulated public system whose determination is reviewable by such a court in a review proceeding in which—

(i) the Commission may not intervene as a matter of right, or

(ii) the court does not treat any finding under section 531(a) as prima facie evidence of noncompliance with the provisions of this chapter.

(2) Any Federal agency which is an electric consumer of an electric utility with respect to which a determination referred to in section 536 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 537 shall be construed to prohibit any electric consumer or electric utility from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 536 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Court to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State agency under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any electric consumer or electric utility in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) if such removal and consolidation will result in a more expeditious determination of such actions.

(b) FEDERAL COURTS.—Nothwithstanding any other provision of law, no opportunity for review of a determination of compliance with the provisions of this chapter in the courts of the United States shall be available except as provided in this chapter.

Chapter 3—IMPROVING EFFICIENCY OF, AND PRESERVING COMPETITION IN, GENERATION AND TRANSMISSION OF ELECTRICITY

SEC. 541. INTERCONNECTION, POOLING, WHEELING, AND CENTRAL DISPATCH.

(a) REGIONAL DISTRICTS.—Section 202(a) of the Federal Power Act is amended:

(1) by striking the word "voluntary" from the first sentence; and

(2) by inserting "for the purpose of assuring the goals set forth in this part and to assure maximum competitive opportunities for the purchase and sale of electric energy at wholesale at the lowest possible cost" immediately after "districts" in the third sentence.

(b) Section 202(b) of such Act is amended to read as follows:

"(b)(1) Whenever the Commission, on its own motion or upon application of any State commission or any electric utility or the owner or operator of any qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds it necessary or appropriate in the public interest, it shall by order direct an electric utility to—

"(A) establish physical connection of its transmission facilities with the facilities of any other electric utility or qualify cogenerator, or

"(B)(i) sell or deliver energy to or exchange energy with,

"(ii) provide pooling for,

"(iii) provide wheeling, or otherwise transmit energy for, or

"(iv) otherwise coordinate with,

such utility or cogenerator. For purposes of this paragraph, the term 'wheeling' means transmission of electric energy among electric utilities and qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), but such term does not include the transmission of electric energy to an ultimate consumer (other than to a qualifying cogenerator for purposes of providing backup power, as determined by the Commission).

"(2) No order may be issued under subparagraph (A) of paragraph (1) unless the Commission determines that—

"(A) such order will benefit consumers of an electric utility by reducing costs of supplying electric energy to such consumers or will otherwise provide public benefits in assuring that supplies of electric energy are generally made available with greater economy and with regard to the proper utilization and conservation of natural resources, and

"(B) no utility subject to such order or consumers of such utility will suffer economic hardship thereby.

The Commission may not issue an order under paragraph (1) upon application of any electric utility or the owner or operator of any qualifying cogeneration facility to direct an electric utility to establish physical connection or to provide wheeling services unless the electric utility or qualifying cogeneration facility which makes an application for such connection or wheeling demonstrates to the Commission that such electric utility or owner or operator of any qulafiying cogeneration facility is ready, willing, and able to provide reimbursement reasonably due for the cost (including capital and operating costs) incurred by the electric utility of owner which is requested to make physical connection or to wheel electric energy.

"(3) Whenever the Commission, on its own motion or upon application of any electric utility within a regional district established under this Act, and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds such action necessary or appropriate in the public interest it may by order direct any electric utility owning or operating any bulk power transmission facility located (in whole or in part) within such district to increase the transmission capacity of such facility.

"(4)(A) With respect to each regional district established under this Act in which a centrally dispatched power pool is not operating, upon its own motion or upon application the Commission shall commence a proceeding to determine whether requiring operation of such a power pool in such area is technologically and economically feasible and in the public interest. To the extent that the Commission determines, after public notice and notice to each State commission and after evidentiary hearing, that operation of such a pool is technologically and economically feasible and in the public interest, the Commission shall by order require operation of such a pool.

"(B) For purposes of subparagraph (A), the term 'centrally dispatched power pool' means—

"(i) a power pool which utilizes a central dispatch system for all generation facilities (other than cogeneration facilities which are not required to be included as provided under regulations under section 546(a)(2) of the National Energy Act) in a regional district and in which, to the extent technologically and economically feasible as determined by the Commission, each electric utility which owns or operates a bulk power generation facility in such region participates, or

"(ii) an exchange or other system which the Commission determines is more effective or substantially as effective as a power pool referred to in clause (i) in assuring the most economical utilization of generation and transmission facilities in such area.

"(C) For purposes of subparagraph (B), the term 'central dispatch system' means a centrally coordinated system for controlling the generation and transmission of electric power in an area which system is designed to obtain the most economical utilization of generation and transmission facilities in such area.

"(5) The Commission shall prescribe the terms and conditions of the arrangement to be made between the persons affected by any order under this subsection, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them if the parties fail to agree to such terms and conditions.

"(6) The Commission shall have no authority under this subsection to compel the enlargement of generating facilities for purposes of this subsection, nor to compel an electric utility to take any action under paragraph (1) if the Commission determines that to do so would impair the ability of the electric utility to render adequate service to its customers.".

(c) APPLICATION OF FEDERAL POWER ACT.—(1) The first sentence of section 201(b) of such Act is amended by inserting "(other than sections 202(b), relating to interconnection, pooling, wheeling, and central dispatch, and 205(k), relating to unfair competition)" after "Part" and by adding the following at the end thereof: "The provisions of sections 202(b) and 205(k) shall apply to the electric utilities and other persons specified therein.".

(2) Section 201(e) of such Act is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(b) and 205(k))" after "Part.".

SEC. 542. CONTINUANCE OF SERVICE.

(a) CONTINUANCE OF SERVICE.—Section 202 of the Federal Power Act is amended by inserting the following new subsection at the end thereof:

"(g) In order to insure continuity of service to retail and wholesale customers, the Commission—

"(1) shall require, by rule, each public utility to report promptly any anticipated shortage of electric energy which would affect such utility's capability of serving its wholesale customers,

"(2) shall require, by order, such utility to accommodate such shortage in a manner which affects the retail customers of the utility and the retail customers of such utility's wholesale customers in a nondiscriminatory manner, and which gives due consideration to public health and safety,

"(3) shall require, by order, such connection of facilities and such generation, sale, delivery, exchange, or transmission of electric energy, pooling, wheeling, or other transmission service or other coordination as in its judgment will best serve the public interest, and

"(4) shall, by rule, require each public utility to submit contingency plans respecting electricity supply shortages.

No order may be issued under this paragraph, except after evidentiary hearing.".

(b) "CONFORMING AMENDMENT.—The last sentence of section 202(c) of such Act is amended by striking out "affected by such order" and inserting in lieu thereof "affected by any order under this subsection or subsection (g)".

SEC. 543. CONSIDERATION OF PROPOSED RATE INCREASE.

(a) NEW SCHEDULES.—(1) Section 205(e) of the Federal Power Act is amended by striking out "(e) whenever" and inserting in lieu thereof the following: "(e) Except as otherwise provided in subsection (f) in the case of proposed rate increases, whenever".

(2) Section 205 is amended by adding the following new subsection at the end thereof:

"(f)(1) Whenever any such new schedule contains a change in any rate, charge, classification, or service, or any rule, regulation, or contract relating thereto, which results in any increase in the charges to any customer for electric energy, 30 days before filing such schedule, the public utility shall provide notice of such schedule to the Commission and to each customer which purchases electric energy for resale from the public utility.

"(2) The Commission may, upon its own initiative, and shall, upon complaint, enter into an evidentiary hearing concerning the lawfulness of such schedule and shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service until a lawful schedule is established by final order of the Commission based upon the record of such evidentiary hearing. The last sentence of subsection (e) shall apply to any hearing referred to in this subsection.

"(3) The Commission upon its own initiative or upon application of any person, shall determine whether or not to require such public utility to furnish additional relevant data or information to support any such new schedule. In any case in which the Commission determines that a decision with respect to the application of such utility requires additional relevant data or information, except for a period determined by the Commission (not in excess of 14 days, or 21 days in case of the first determination), the time after such determination and before such utility furnishes such additional data or information shall be added to the 10-month and 12-month periods referred to in this subsection and subsection (d)(2).

"(4) The Commission shall render a decision with respect to such new schedule within 10 months of the original filing of such schedule. If the Commission fails to issue a final order within such period, it shall immediately notify the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the appropriate Committees of the House and Senate of such failure, and shall cease to have authority under this subsection with respect to such schedule.

"(5) In any case in which the Commission has not completed the evidentiary hearing within the 10-month period, the Chairman of the Commission shall continue and complete such hearing concerning the lawfulness of such schedule. In any case in which the Commission has not issued a final order within such 10-month period, the Chairman shall

issue a final order thereon within 12 months from the original filing of such new schedule. The same provisions of law as apply to any hearing conducted or final order issued by the Commission under this subsection shall apply to any hearing conducted or final order issued by the Chairman under this subsection and the Chairman shall have the same authority as the Commission with respect to any such hearing or order. An order of the Chairman under this subsection shall be based upon the record of the hearing conducted under this subsection. A final order of the Chairman with respect to such schedule shall be treated for purposes of this Act as a final order of the Commission.

"(6) No schedule to which this subsection applies may take effect unless established by a final order under this subsection.

"(7) Notwithstanding section 3147, for purposes of this subsection, the term 'person' includes any State or political subdivision thereof or any agency or instrumentality thereof.

"(g) For purposes of this section, the term 'lawful', with respect to a new schedule filed by a public utility under subsection (d), means just, reasonable, and otherwise lawful. Such schedule shall not be considered lawful if differences between such utility's wholesale rates under such schedule and its retail rates are unreasonable or anticompetitive.".

(b) CERTAIN NEW SCHEDULES PROHIBITED.—Section 205(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2) A public utility may not file a new schedule which seeks to increase a rate to any customer for electric energy or power, which rate is the subject of a prior schedule which is pending before the Commission but which has not taken final effect, or any amendment to such pending schedule (other than a technical or clerical amendment), unless such prior schedule was filed 10 months or more before the filing of such new schedule.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to schedules filed after the date of the enactment of this Act under section 205(d) of the Federal Power Act.

SEC. 544. AUTOMATIC ADJUSTMENT CLAUSES.

(a) AUTOMATIC ADJUSTMENT CLAUSES.—Section 205 of the Federal Power Act is amended by adding the following at the end thereof:

"(h)(1) Except as otherwise provided in paragraph (2) of this subsection, the Commission may not allow to go into effect any increase in any rate of any public utility unless—

"(A) opportunity for consideration of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect,

"(B) such rate increase is pursuant to an automatic adjustment clause which the Commission has determined, after evidentiary hearing, effectively provides incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and is necessary to enable such utility to meet its immediate short-term financial obligations, or

"(C) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B)).

"(2) The prohibition contained in paragraph (1) shall not apply to interim rates which take effect under subsection (e)(1)(B).

"(3)(A) If a rate schedule of a public utility contains an automatic adjustment clause, the Commission shall review such schedule not less often than every two years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be effective for any period in excess of 4 years after such clause has been reviewed by the Commission in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the Commission makes the finding required under paragraph (1)(B).

"(B) In making a review under subparagraph (A), the Commission shall examine and, if appropriate, cause to be audited the practices of such public utility subject to an automatic adjustment clause. Each public utility shall provide such reports on such practices as may be required by the Commission, which shall be made available to the public, and shall contain such information as the Commission shall require to implement the purposes of this subsection (including a disclosure of any ownership, corporate relationships, and other legal or financial relationships between the utility and the seller of such fuel or other items).

"(C) Any purchaser of electric energy for resale which purchases electric energy subject to such adjustment clause may examine the records of the public utility pertaining thereto from whch it purchases electric energy to insure compliance with applicable schedules and Commission rules.

"(i) On its own motion or upon complaint, the Commission shall, after affording an opportunity for evidentiary hearing, issue an order directing a public utility to cease or modify any practice which does not result in the most economical purchase and use of fuel or other items.

"(j) As used in this section the term 'automatic adjustment clause' means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date one year after the date of enactment of this Act with respect to public utilities which file a schedule containing any rate increase after the expiration of such one year period.

SEC. 545. ELECTRIC UTILITY RELIABILITY.

(a) RELIABILITY RULES.—(1) Not later than 2 years after the date of enactment of this Act, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral and written data, views, and arguments, the Commission shall prescribe rules respecting electric utility reliability.

(2) The Commission shall base such rules on the availability of electric energy to a consumer at the point of use. The Commission shall, in prescribing such rules require a level of reliability—

(A) sufficient to meet the demonstrated public need; and

(B) not in excess of that which is cost-effective (except where necessary for purposes of subparagraph (A)),

as determined by the Commission.

(3) The Commission, in prescribing such rules, shall—

(A) give consideration to the technological feasibility, energy conservation, and environmental impact of such standards;

(B) minimize capital costs and operational and maintenance expenses related to such standards;

(C) recognize different requirements of reliability of different consumers due to use, need, alternative sources, location, and other matters;

(D) provide that the relationships between the reliability of generating, transmission, and distribution equipment and operating and maintenance procedures are consistent with the reliability of the entire electric system; and

(E) consider the availability of emergency electric energy from nonutility sources.

(4) Such rules may require minimum standards of quality in the purchase, construction, operation, and maintenance of bulk power facilities.

(5) Not less often than every 5 years, the Commission shall review and, after consultation with representatives of State regulatory authorities and after a reasonable opportunity for the presentation of oral and written data, views, and arguments, make appropriate amendments in such rules.

(b) IMPLEMENTATION RULES.—The Commission, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral as well as written data, views, and arguments, shall prescribe such rules (and may issue orders and take such other action) as may be necessary or appropriate to assure implementation of subsection (a). Such rules (and other actions) under this subsection may include—

(1) sampling, testing, and other quality control requirements applicable to facilities (or components thereof) to which rules under subsection (a) apply, and

(2) provisions, relating to performance warranties and measure of damages, which shall be included by electric utilities in contracts between such utilities and their suppliers.

(c) ENFORCEMENT.—For the purpose of enforcement, a rule, order, or other action under this section shall be treated as a rule or order under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under subsection (b) if the Commission determines that such State authority has the capability to effectively exercise such authority within its jurisdiction.

SEC. 546. COGENERATION.

(a) COGENERATION RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for other interested persons to submit oral as well as written data, views, and arguments, prescribe rules requiring electric utilities to offer to sell electric energy to the owner or operator of a qualifying cogeneration facility and to offer to purchase electric energy from such owner or operator. Such rules shall insure that rates for such sales and purchases are just, reasonable, in the public interest, and do not discriminate against cogeneration. Such rules shall include—

(1) rules for allocating costs of a qualifying cogeneration facility between those incurred in generating electric energy and those incurred in generating other forms of energy;

(2) rules respecting the interconnection of a qualifying cogeneration facility to the distribution system of any electric utility or to a centrally dispatched power pool as defined in section 202(b)(4)(B) of the Federal Power Act;

(3) rules respecting the responsibility of the owner or operator of a qualifying cogeneration facility during periods of electric shortage;

(4) rules respecting the minimum reliability standards for the qualifying cogeneration facility; and

(5) rules which specify the reliability of emergency electric energy service available to the qualifying cogeneration facilities.

Such rules may not (A) require an electric utility to purchase electric energy from a qualifying cogeneration facility during any period at a rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period, or (B) au-

thorize such cogeneration facility to make any sale for purposes other than resale.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "cogeneration facility" means a facility which produces—

(A) electric energy and

(B) other forms of useful energy (such as steam or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

(2) The term "qualifying cogeneration facility" means a cogeneration facility which the Commission determines—

(A) meets such requirements respecting minimum size and fuel efficiency as the Commission, by rule, prescribes; and

(B) in the case of a cogeneration facility which is not owned by a utility and which is, or will be, directly connected to an electric utility, the owner or operator of such facility has offered such utility an opportunity to construct and operate such facility on terms acceptable to such owner or operator.

(c) ENFORCEMENT.—For the purposes of enforcement, a rule under this section shall be treated as a rule under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under this section if the Commission determines that such State regulatory authority has the capability of effectively exercising such authority within its jurisdiction.

(e) EXEMPTION FROM FEDERAL POWER ACT.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, prescribe rules exempting qualifying cogenerators in whole or part from the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting electric utility regulation, if the Commission determines such exemption is necessary to carry out the purposes of this part. No such exemption shall be modified, except for good cause shown, with respect to any such cogenerator after such exemption takes effect with respect to such cogenerator.

SEC. 547. INTERLOCKING DIRECTORATES.

(a) PROHIBITIONS.—Section 305(b) of the Federal Power Act is amended by—

(1) striking out "After six months from the date on which this Part takes effect," and inserting in lieu thereof: "(1) Except as provided in paragraph (2),";

(2) striking out "or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility," and inserting in lieu thereof ", director, partner, appointee, or representative of—

"(A) any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or any investment bank, bank holding company, mutual savings bank, savings and loan association, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit,";

(3) striking out "or officer or director of any company supplying electrical equipment to such public utility," and inserting in lieu thereof:

"(B) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear material or other fuel, for the use of public utilities;

"(C) a company, firm, or organization which, during any of the three immediately preceding calendar years, was one of the 20 largest purchasers of electric energy sold by such public utility (or by any public utility which is part of the same holding company system), or

"(D) any company, firm, or organization which is controlled by any company, firm or organization referred to above;"; and

(4) striking out the last sentence thereof and substituting the following:

"(2) Paragraph (1) shall not prohibit any person from holding any position with more than one company which is a part of a holding company system, any company of which is a registered holding company.

"(3) No authorization of the Commission under paragraph (1) of this subsection may be used as a defense to any action brought under section 8 of the Clayton Act.

"(4) For purposes of this subsection—

"(A) the term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility, and

"(B) the terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 1 year after the date of the enactment of this Act except that no person to whom such amendments apply and who was not covered by section 305 as in effect immediately before the date of the enactment of this Act shall be treated as holding a position in violation of section 305(b) during the 6-month period after the effective date of such amendments if, during such period, he applies to the Commission for an authorization under paragraph (1) of such section 305(b) during such 6-month period.

SEC. 548. PRESERVATION OF COMPETITION.

(a) GENERAL AUTHORITY OF COMMISSION.—Section 205 of the Federal Power Act (as amended by section 544 of this Act) is further amended by adding at the end thereof the following:

"(k) Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that an electric utility is engaging in any unfair method of competition, or that an electric utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, it shall issue an order prohibiting any such unfair method of competition, or reject such a filing.".

(b) NEW BULK POWER FACILITIES.—Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(h)(1) If any bulk power facility is proposed to be constructed in any regional district, any electric utility may apply to the Commission for an order under paragraph (3) if such utility is engaged in the generation, transmission, or sale of electric energy within the regional district in which such facility is proposed to be constructed. This subsection shall not apply to a utilization or production facility required to be licensed under section 103 of the Atomic Energy Act of 1954.

"(2) Whenever an application is received under paragraph (1), it shall be transmitted to the Attorney General, who shall, within a reasonable period of time (but not to exceed 60 days), advise the Commission as to whether (absent an order under this subsection) the ownership or use of such facility may create or maintain a situation inconsistent with the antitrust laws (as defined in section 549 of the National Energy Act).

"(3) If the Commission, after giving consideration to the advice of the Attorney General and after public notice and an opportunity for the submission of written data, views, and comments, determines that such ownership or use is likely to create or maintain a situation inconsistent with such laws, the Commission shall issue an order conditioning the construction of such facility on compliance with such requiremnts as it determines appropriate to prevent or remedy such a situation (including providing for joint ownership of such facility). The Attorney General may participate as a party to any proceeding concerning such application.

"(4) The Commission may prescribe such rules as it determines appropriate to carry out this subsection.".

SEC. 549. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICATION.—Nothing contained in this chapter or the amendments made thereby shall—

(1) be deemed to convey to any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws, or

(2) restrict any authority the Commission may have under the Federal Power Act to regulate unfair methods of competition.

(b) DEFINITION.—For purposes of this section, the term "antitrust laws" includes—

(1) the Sherman Act (15 U.S.C. 1, and following);

(2) the Clayton Act (15 U.S.C. 12, and following);

(3) the Federal Trade Commission Act (15 U.S.C. 41, and following);

(4) the Wilson Tariff Act (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

Chapter 4—CONSUMER REPRESENTATION AND ASSISTANCE TO STATE AGENCIES

SEC. 551. FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION.

(a) GRANTS.—Title II of the Energy Conservation and Production Act is amended by striking out section 203 and inserting in lieu thereof the following:

"ESTABLISHMENT OF PROGRAM

"SEC. 203. (a) The Administrator is authorized, in accordance with the provisions of this title, to make grants to State utility regulatory commissions—

"(1) for purposes of section 203A (relating to staffing);

"(2) for purposes of section 205(d) (relating to participation in proceedings); and

"(3) for purposes of section 204(1)(B) (relating to innovative rate structures).

"(b) No grant shall be made under this title unless an application therefor has been submitted to the Administrator in such form and manner as the Administrator may require. The Administrator may not approve an application of a State agency unless such authority assures the Administrator that funds made available under this title will be in addition to, and not in substitution for, funds made available to such State agency from other sources.

"(c) No grant may be made under this title after September 30, 1980.

"GRANTS TO IMPROVE STAFFING

"SEC. 203A. The Administrator may make grants to assist any State utility regulatory commission in improving its staff capacity to effectively regulate electric utilities. No grant may be made under this section unless the Administrator determines that such State utility regulatory commission—

"(1) requires additional staff in order to effectively carry out its regulatory authority, and

"(2) agrees to institute a system for assessing and collecting fees in a just and equitable manner from every electric utility subject to its jurisdiction, or otherwise secures the funds, to maintain the additional staff made possible under such grant following expiration of the grant.".

(b) FUNDING FOR INNOVATIVE RATE STRUCTURES.—Section 204(1)(B) of such Act is amended by inserting the following before the comma at the end thereof: "which encourage the development and operation of innovative rate structures which encourage

conservation, are equitable and nondiscriminatory among the various classes of electric consumers, promote the efficient use of electric energy, and comply with the requirements of chapter 2 of part V of the National Energy Act".

(c) PARTICIPATION IN PROCEEDINGS.—(1) Section 204(2) of such Act is amended by inserting "or nonregulated public system (as defined in section 502 of the National Energy Act)" before "which relates".

(2) Section 205 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Administrator may make grants to State utility regulatory authorities to provide for the establishment and operation of programs which meet the requirements of 537(b)(2) of the National Energy Act (respecting participation in proceedings) and which meet such other requirements as the Administrator shall prescribe by rule.".

(d) AUTHORIZATIONS.—Section 207 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. There are authorized to be appropriated—

"(1) not to exceed $40,000,000 in any fiscal year for grants under section 203A (relating to staffing);

"(2) not to exceed $5,000,000 in any fiscal year for grants under section 205(d) (relating to participation in proceedings); and

"(3) not to exceed $5,000,000 in any fiscal year for grants under section 204(1)(B) (relating to innovative rate structures).".

(e) ALLOTMENTS.—Such title II of such Act is amended by adding the following new section at the end thereof:

"ALLOTMENT OF SUMS

"SEC. 208. (a) In each fiscal year the Administrator shall allot the sums appropriated under this title equitably among the States on the basis of population, except that—

"(1) no State which qualifies for a grant under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures) may receive less than one-half percent or more than 5 percent of amounts appropriated for grants under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures), respectively, for any fiscal year; and

"(2) no State which qualifies for a grant under section 205(d) (relating to participation in proceedings) may receive less than 1 percent or more than 3 percent of amounts appropriated for grants under such section for any fiscal year.

"(b) The Administrator may withhold any part or all of any grant under this title if such Administrator finds that the State regulatory authority or other person is not carrying out the program as described in the application or has violated assurances contained in the application.".

(f) CONFORMING AMENDMENTS.—The table of contents for title II of such Act is amended by striking out the item relating to section 203 and inserting in lieu thereof the following:

"Sec. 203. Establishment of program.
"Sec. 203A. Grants to improve staffing."

S53. 552. REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL POWER COMMISSION.

The Federal Power Act is amended by redesignating sections 319 and 320 as 320 and 321, respectively, and by inserting the following new section after section 318:

"OFFICE OF PUBLIC COUNSEL

"SEC. 319. (a)(1) There shall be established, within sixty days after the date of enactment of this section, an independent office in the Commission to be known as the Office of Public Counsel (hereinafter in this sectio referred to as the 'Office').

"(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates) at a rate not in excess of the maximum rate prescribed for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(3) The Director may appoint, fix the compensation, and assign the duties of employees of such Office, and he may procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States shall provide the Office with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties.

"(4) In addition to any other duties and responsibilities prescribed by law, the Office—

"(A) shall have standing to become a party to any proceeding, formal or informal, which is before the Commission;

"(B) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission;

"(C) may seek judicial review of any Commission action, to the same extent such review is authorized by law for any person;

"(D) shall solicit, study, evaluate, and present before the Commission in any proceeding, formal or informal, the views of those States and political subdivisions thereof and consumers of electric energy affected by proceedings before the Commission, whenever the Director determines, for whatever reason (such as size or location), that such State or political subdivision or consumer might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(E) shall evaluate and represent, before the Commission and before other Federal agencies (when their policies and activities significantly affect public utility matters subject to the jurisdiction of the Commission) and by other means assist the representation of the interest of States and political subdivisions thereof and consumers of electric energy in safe, efficient, reliable, and economical electric utility services.

"(5) The budget requests and budget estimates of the Office of Public Counsel shall be submitted concurrently to the Congress and to the President.

"(6) There are authorized to be appropriated to the Office of Public Counsel for the purpose of carrying out the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.

"(b)(1) The Director of the Office may, pursuant to rules prescribed by him, provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating in any proceeding before the Commission to any person—

"(A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the proceeding taken as a whole, and

"(B) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of preparing or making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceeding.

"(2) The aggregate amount of compensation paid to all persons in any fiscal year under this subsection may not exceed $2,000,000.".

SEC. 553. RESPONSIBILITIES OF ADMINISTRATOR.

The Administrator, for the purpose of carrying out his functions under title II of the Energy Conservation and Production Act, shall—

(1) publish a list identifying the State regulatory authorities and nonregulated utilities to which the provisions of chapter 2 of part V are applicable;

(2) inform, on a continuing basis, the State regulatory authorities and nonregulated utilities identified pursuant to paragraph (1) with respect to—

(A) the identification (for purposes of section 521 of the National Energy Act) and development of load management techniques, including the results of experiments in load management;

(B) developments and innovations in electric utility ratemaking throughout the United States, including the results of experiments in rate structure and rate reform;

(C) methods for determining cost of service under section 532; and

(D) any other data or information which the Administrator determines to be of assistance in carrying out the provisions of chapter 2; and

(3) State agency having responsibility with respect to planning and siting of bulk power facilities such technical assistance (including assistance in developing demand forecasting methods and in using techniques for choosing the desired degree of reliability) as he determines is appropriate; and

(4) provide on a formal or informal basis such appropriate technical assistance as is requested by a State regulatory authority, electric utility, or nonregulated utility.

Chapter 5—NATURAL GAS UTILITIES

Subchapter A—General Provisions

SEC. 561. FINDINGS.

The Congress finds that improvements in gas utility rate design and other improvements in the policies applicable to such utilities have great potential for reducing the cost of gas utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation.

SEC. 562. DEFINITIONS.

As used in this chapter:

(1) The term "gas consumer" means any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(2) The term "gas utility" means any person, Federal agency, or State agency which sells natural gas.

(3) The term "natural gas" shall have the same meaning as such term has under section 2 of the Natural Gas Act.

(4) The terms "State-regulated gas utility", "nonregulated utility", "evidentiary hearing" and "evidentiary proceeding", "nonregulated public system", "nonregulated cooperative", "rate", "rate schedule", "sale", and "State regulatory authority" shall have the same meaning as such terms have under section 502; except that the term "gas" shall be substituted for "electric" and "electric energy" wherever those terms appear in section 502.

Subchapter B—Requirements for Gas Utilities

SEC. 566: COVERAGE.

The requirements of this subchapter (other than section 567) apply only to sales of natural gas by a gas utility for purposes other

than resale in a calendar year beginning two or more years after the date of the enactment of this Act; except that such requirements of section 569 shall not apply to a gas utility in any calendar year unless such sales by such utility exceeded 10 billion cubic feet of gas during (1) the second preceding calendar year or (2) any calendar year after 1975 but before such second preceding calendar year.

SEC. 567. GAS UTILITY RATE DESIGN PROPOSALS.

(a) STUDY.—(1) The Administrator, in consultation with the Commission, with the participation of representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design. Such study shall address the effect (both separately and in combination) of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The study under paragraph (1) shall address the effect (both separately and in combination) of the factors listed in paragraph (1) upon the following:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from such designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) PROPOSALS.—Based upon the study prepared pursuant to subsection (a), the Administrator shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include recommendations of the Commission, if any.

(c) TRANSMISSION TO CONGRESS.—The proposals prepared under subsection (b) shall be transmitted to each House of Congress not later than twelve months after the date of enactment of this Act for review and such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of the proposals published under this subsection, and

(3) the effects of other provisions of this Act on gas utility rate structures.

SEC. 568. MINIMUM STANDARDS RESPECTING ADVERTISING.

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State-regulated gas utility which makes sales of natural gas subject to this chapter shall be determined to be in compliance with this subchapter if such utility recovers through such rate from its natural gas consumers any direct or indirect expenditure by such utility—

(1) for promotional advertisting, or

(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs natural gas consumers how they can conserve natural gas,

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITONS.—For purposes of this section:

(1) The term "advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television in order to transmit a message to a substantial number of members of the public or to such utility's natural gas consumers.

(2) The term "institutional advertising" means any advertising which is designed to create enhance, or sustain a gas utility's public image or goodwill with the general public or such utility's natural gas consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of a gas utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 569. MINIMUM PROCEDURES FOR TERMINATION OF GAS SERVICE.

No State-regulated gas utility which makes sales of natural gas subject to this subchapter may terminate natural gas service to any consumer of natural gas based upon nonpayment for such service, except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 583). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no natural gas service to a consumer may be terminated based upon nonpayment for such service until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a reasonable opportunity (at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no natural gas service to a residential consumer may be terminated on account of non-payment for natural gas service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility as provided in section 583) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such natural gas service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No natural gas service may be terminated based upon nonpayment for such service before the procedures required under this section have been completed.

SEC. 570. NONREGULATED UTILITIES.

The requirements of this subchapter (other than section 568 in the case of nonregulated cooperatives) shall apply to each nonregulated utility in the same manner as such requirements apply to each State-regulated gas utility, except that any action required to be taken by a State regulatory authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

Subchapter C—Administration, Enforcement, Review

SEC. 581. PROHIBITIONS.

(a) STATE-REGULATED UTILITIES.—No State-regulated gas utility subject to this subchapter may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such utility has been determined to be in compliance with the requirements of subchapter A. Such determination shall be made as provided in section 583 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission after such proceeding in any case in which the State has not assumed responsibility as provided in section 583).

(b) NONREGULATED UTILITIES.—(1) No nonregulated public system (as defined in section 561) may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such system has determined that it meets the requirements of subchapter A.

(2) No nonregulated cooperative (as defined in section 561) may violate any applicable requirement of subchapter A.

SEC. 582. ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency or affected State agency, the appropriate United States district court shall have jurisdiction to enjoin a gas utility from violating any prohibition contained in section 581. Each natural gas consumer of a gas utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 581 if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 583. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED GAS UTILITIES

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to a gas utility may determine whether or not such utility is in compliance with the requirements of section 581 if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with respect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter.

(2) such authority makes such determination of compliance by a gas utility with the requirements of this chapter applicable to such utility in an evidentiary hearing, and

(3) such authority complies with the requirement contained in subsection (c)(1).

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with paragraphs (1) through (3) of subsection (a) with respect to any utility or any determination or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State-regulated gas

utility, determine in an evidentiary proceeding whether or not such utility is in compliance with such requirements until such time as such State regulatory authority notifies the Commission that it assumes such responsibility.

(c) COMMISSION REVIEW OF ENFORCEMENT.—(1) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with subchapter A, the Commission shall publish such finding which shall be prima facie evidence in any court that the rates of such utilities are not in compliance with section 581.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with section 581.

SEC. 584. JUDICIAL REVIEW.

(a) STATE OR FEDERAL AGENCIES.—The Commission, or any affected State agency may obtain review of any determination referred to in section 581 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any gas utility or natural gas consumer of a gas utility with respect to which a determination referred to in section 581 has been made may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made by a State regulatory authority in a review proceeding in which—

(A) the Commission may not intervene as a matter of right, or

(B) the court does not treat any finding under section 583(c) as prima facie evidence of noncompliance with the provisions of section 581.

Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(2) Any Federal agency which is a natural gas consumer of a gas utility with respect to which a determination referred to in section 583 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 582 shall be construed to prohibit any consumer from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 581 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Court to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any natural gas consumer in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) where such removal and consolidation will result in a more expeditious determination of such actions.

(d) FEDERAL COURTS.—Notwithstanding any other provision of law, no opportunity for review in the courts of the United States shall be available except as provided in this chapter.

Chapter 6—SMALL HYDROELECTRIC POWER PROJECTS

SEC. 586. INCENTIVE PROGRAM.

Part I of the Federal Power Act is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

"(b) The Commission shall establish a program to—

"(1) encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power, and

"(2) use simple and expeditious licensing procedures under this Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

"(c)(1) The Commission is authorized to make grants (and commitments to grant) of up to 50 percent of the project costs of any small hydroelectric project which the Commission finds—

"(A) will be construed in connection with any existing dam,

"(B) has received all necessary licenses and other required Federal, State, and local approvals,

"(C) will provide useful information as to the technical and economic feasibility of—

"(i) the generation of electric energy by such projects, and,

"(ii) the use of energy produced by such projects,

"(D) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

"(E) will not have a significant adverse effect on any other use of the water used by such project.

"(2) In making grants under this subsection, the Commission shall give priority to any such project proposed by any municipality, electric cooperative, industrial development agency or nonprofit organization, or by any person other than a utility. An applicant other than an applicant entitled to priority under the first sentence of this paragraph which proposes such projects or participates jointly with any other person in such projects may receive grants under this section only on a finding by the Commission that no other similar project can carry out the purposes of paragraph (1) and that the proposed project cannot be reasonably carried out by any municipality, electric cooperative, industrial development agency, nonprofit agency, nonprofit organization, or person other than such a utility.

"(d)(1) The Commission is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or person other than a utility, of up to 50 percent of the project costs of a small hydroelectric project which meets the requirements of subsection (c)(1)(A), (B), (D), and (E) of this section. The Commission may make loans to a person or an industrial development agency only upon a finding that the operation of the project will result in substantially increasing employment or preventing a substantial loss of employment in the area to be served by the project.

"(2) The Commission shall give preference to applicants under this section who do not have available alternative financing which the Commission deems appropriate to carry out the project.

"(3) Every loan made pursuant to this subsection shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a)) and shall be for a term not less than twenty-five years and not more than fifty years, as the Commission deems appropriate.

"(4) Amounts repaid under loans made pursuant to this subsection shall be deposited into the Treasury as miscellaneous receipts.

"(e) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

"(f) In making grants and loans under this section and in issuing licenses for small hydroelectric power projects, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

"(g) Nothing in this section shall be construed to preclude licensees of small hydroelectric power projects from entering into contracts to sell electric energy to (1) any person for such person's consumption, or (2) any utility for resale under such terms and conditions as the Commission may approve.

"(h) Notwithstanding any other provision of Federal, State, or local law, licensees of small hydroelectric power projects shall not be charged for the water used to operate such small hydroelectric power project licensed under this Act except to the extent that such water is consumed by such project or results in costs being imposed on the supplier of such water, or, upon a finding by the Commission that such charge is necessary or appropriate in the public interest.

"(i) Every licensee of a small hydroelectric power project licensed pursuant to this Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

"(j) In the case of projects receiving both grants and loans under this section, the total amount of Federal funds expended for such

project shall not exceed 75 percent of the total project cost.

"(k) Before issuing any license under this Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

"(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

"(2) shall consult with the Council on Environmental Protection Agency, and the Department of Interior with respect to the environmental effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

"(l) Nothing in this section authorizes the grant or loan of funds, or simple and expeditious licensing, for construction of any new dam or other impoundment.

"(m) There is hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980—

"(1) $50,000,000 for grants made pursuant to subsection (c); and

"(2) $50,000,000 for loans made pursuant to subsection (d), such funds to remain available until expended.

"(n) For purposes of this section, the term—

"(1) 'small hydroelectric power project' means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

"(2) 'electric cooperative' means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

"(3) 'industrial development agency' means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

"(4) 'project costs' means the cost of all facilities and services used in the design and construction of a project;

"(5) 'utility' means any person engaged in transmission, or distribution, or both, of electric energy for profit;

"(6) 'nonprofit organization' means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

"(7) 'existing dam' means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any dam construction or enlargement (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.".

SEC. 587. LICENSE CHARGES.

Section 10(e) of the Federal Power Act is amended by inserting before the period at the end thereof the following: ": *Provided further*, That, for licenses involving a Government dam issued subsequent to December 31, 1975, the annual charge shall be no more than $1 for each kilowatt of installed capacity".

SEC. 588. TRANSFERS OF AUTHORITY.

Notwithstanding section 4 of this Act, if the Federal Power Commission is terminated, any reference (other than a reference respecting licensing) in this chapter (or any amendment made therein) to the Federal Power Commission shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of the Federal Energy Administration are vested, transferred, or delegated pursuant to law.

The CHAIRMAN. The Clerk will designate the page and the line number of the ad hoc committee amendment to part V.

The Clerk read as follows:

Ad hoc committee amendment: Page 248, delete the language stricken on lines 17 and 18.

(The ad hoc committee amendment reads as follows:)

Page 248, lines 17 and 18, strike: "(who is a person described in paragraph (2))".

Mr. ASHLEY. Mr. Chairman, I rise in support of the ad hoc committee amendment.

At this time I will yield to the noted gentleman from Arizona (Mr. UDALL) for an explanation of the amendment.

Mr. UDALL. Mr. Chairman, in this bill the committee has written requirements that will conserve energy and we are laying down guide lines for the State utilities commissions.

Part of the mechanism for carrying this policy out is to have participation by consumers.

This is a part of the engine by which we will reach the conservation goals which the committee seeks to reach.

The bill as originally written had a "catch 22" in it. All this simple amendment does is to straighten out that "catch 22" to provide that a consumer who intervenes in the proceeding could receive costs, attorneys' fees, and necessary costs if he showed that unless those costs were provided for him he could not successfully participate. Well, obviously, if you had won that case you would not meet that description that you were not able to effectively participate, and there would be no reason to reimburse.

All this one sentence amendment says on page 249 is that:

Such procedure may require that as a condition of receiving such award such consumer demonstrate in a preliminary proceeding that, but for the ability to receive such award if he prevails, such consumer may be unable effectively to participate in such proceeding.

This amendment was overwhelmingly adopted by the ad hoc committee and I hope it will be adopted by the committee here today.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I thank the Chair for his understanding and patience.

The Committee on Interstate and Foreign Commerce on which, thank heavens, I do not serve, adopted a version of this section which required that a consumer establish that he or she could not afford to pay reasonable attorney's fees, expert witnesses' fees, and other reasonable costs of participating in a State regulatory proceeding on electric rates before—and I underline the word "before"—the consumer could be awarded reimbursement for expenses.

I must say I thought that was reasonably fair, because only someone who is unable to afford participation should be able to receive reimbursement. I do not think we want someone who is relatively wealthy to be reimbursed. The ad hoc committee, however, through the amendment of the distinguished gentleman from Arizona adopted an amendment which would make such a means test discretionary, depending upon whether the individual State regulatory authority established such a requirement.

If the Federal Government is going to intrude upon State regulatory authority jurisdiction and mandate the reimbursement of consumer interveners by electric utilities. I think it should insure that such program is equitable to all parties involved. Because of that, I think the ad hoc committee amendment, Mr. Chairman, is not as good as the original Committee on Interstate and Foreign Commerce position, and I, thus, am in opposition to the Udall amendment.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment, the gentleman from Arizona (Mr. UDALL) a question. We had this same similar amendment with respect to the Nuclear Regulatory Commission in the Interior Committee, and, in my judgment, the Interior Committee in their wisdom turned down the intervener funding.

Who would be eligible to get the money?

Mr. UDALL. If the gentleman will yield, this is not quite the same situation we had for intervener funding. The committee on this bill has apparently decided that there will be funding for interveners. The question is on what terms and under what conditions. It is discretionary, and I emphasize in the bill that it is discretionary. They do not have to make such an award, but it says the procedure may require that an award be given.

Mr. SYMMS. What I am trying to follow is for what purpose does the gentleman envision that people are going to be interveners? Would it be on rate fights? Is that what the Chairman said?

Mr. UDALL. Yes. The bill mandates the State Utilities Commissions to set the kinds of rates that will give us energy conservation, and in those proceedings one of the mechanisms to see that we get the intent of the bill carried out is some encouragement for consumers to participate in these proceedings.

Mr. SYMMS. Is there a protection in this procedure in the bill and in the gentleman's amendment that says if these people are otherwise able to pay their way, they are not eligible? We found out in the Interior Committee that the Sierra Club and other "fat cat" environmental groups, would be able to qualify for funding.

Mr. UDALL. Yes. It says unless they have this kind of help, they would be unable to participate in such proceedings. It is not intended to provide funding for "fat cats."

Mr. SYMMS. I thank the gentleman very much.

The CHAIRMAN. The question is on the amendment of the ad hoc committee.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 74, noes 29.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the ad hoc committee amendment was agreed to.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and the line number of the next ad hoc committee amendment to part V.

The Clerk read as follows:

Ad hoc committee amendment: Page 249, insert the matter printed in italics on lines 14 through 18.

(The ad hoc committee amendment reads as follows:)

Page 249, following line 13, insert: "Such procedure may require that as a condition of receiving such award such consumer demonstrate in a preliminary proceeding that, but for the ability to receive such award if he prevails, such consumer may be unable effectively to participate in such proceeding."

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my friend, the gentleman from Illinois (Mr. RUSSO) for the purpose of permitting him to ask a question for my response.

Mr. RUSSO. Mr. Chairman, I thank the gentleman from Michigan for yielding.

Page 103 of the Commerce Committee's report describes the meaning of the term "first sale." I think there appears to be some confusion in the term "in an arms-length transaction." Can the gentleman give us an explanation of that particular definition?

Mr. DINGELL. Yes.

The Commerce Committee report explained the term "first sale" as "the first transfer of natural gas for value." The phrase "in an arms-length transaction" was included as a printing error in the printed report. The phrase incorrectly suggests that first sales between affiliated companies are not to be included within the natural gas pricing provisions of the legislation. The intent of the committee is to establish a uniform national pricing system for natural gas which eliminates the distortions created by the simultaneous existence of regulated and unregulated first sales. The exclusion of first sales between affiliated companies from the natural gas pricing provisions of the legislation would frustrate this intent by preserving a bifurcated natural gas pricing system. The erroneously included phrase was deleted in reprinting the Commerce Committee report in the appendix to the ad hoc committee report in order to remove any doubts regarding the proper scope of the natural gas pricing provisions of the legislation.

Mr. RUSSO. I thank the gentleman from Michigan.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part V.

The ad hoc committee amendment was agreed to.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and the line number of the next ad hoc committee amendment to part V.

The Clerk read as follows:

Ad hoc committee amendment: Page 274, strike the matter beginning on page 274, line 16 through page 277, line 7, and insert the matter beginning on page 277, line 8 through page 280, line 17.

(The ad hoc committee amendment reads as follows:)

Page 274, line 16, strike:

"(a) PROHIBITIONS.—Section 305(b) of the Federal Power Act is amended by—

(1) striking out "After six months from the date on which this Part takes effect," and inserting in lieu thereof: "(1) Except as provided in paragraph (2),";

(2) striking out "or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility," and inserting in lieu thereof ", director, partner, appointee, or representative of—

"(A) any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or any investment bank, bank holding company, mutual savings bank, savings and loan association, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit,";

(3) striking out "or officer or director of any company supplying electrical equipment to such public utility," and inserting in lieu thereof:

"(B) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear material or other fuel, for the use of public utilities;

"(C) a company, firm, or organization which, during any of the three immediately preceding calendar years, was one of the 20 largest purchasers of electric energy sold by such public utility (or by any public utility which is part of the same holding company system), or

"(D) any company, firm, or organization which is controlled by any company, firm or organization referred to above;"; and

(4) striking out the last sentence thereof and substituting the following:

"(2) Paragraph (1) shall not prohibit any person from holding any position with more than one company which is a part of a holding company system, any company of which is a registered holding company.

"(3) No authorization of the Commission under paragraph (1) of this subsection may be used as a defense to any action brought under section 8 of the Clayton Act.

"(4) For purposes of this subsection—

"(A) the term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility, and

"(B) the terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 1 year after the date of the enactment of this Act except that no person to whom such amendments apply and who was not covered by section 305 as in effect immediately before the date of the enactment of this Act shall be treated as holding a position in violation of section 305(b) during the 6 month period after the effective date of such amendments if, during such period, he applies to the Commission for an authorization under paragraph (1) of such section 305(b) during such 6-month period.

And insert:

"(a) DISCLOSURE.—Section 305 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) On the date one year after the date of enactment of this subsection, and annually thereafter, any person who is an officer or director of a public utility and who holds the position of officer, director, partner, appointee, or representative of any entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall prescribe, a written statement concerning all such positions held by such person. Such statement shall be available to the public.

"(2) The entities referred to in paragraph (1) are as follows—

"(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit (other than a bank-referred to in subsection (b), a mutual savings bank, or a savings and loan association;

"(B) any company or organization that is authorized by law to underwrite or participate in the marketing of securities of a public utility;

"(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear material, or other fuel, for the use of public utilities;

"(D) a company, firm, or organization which during any of the 3 immediately preceding calendar years, was one of the 20 largest purchasers of electric energy sold by such public utility (or by any public utility which is part of the same holding company system),

"(E) any entity referred to in subsection (b), and

"(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

"(3) For purposes of this subsection and subsection (d)—

"(A) the term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility and

"(B) the terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) PROHIBITIONS.—(1) Such section 305 is amended by adding the following new subsection at the end thereof:

"(d)(1) Except as provided in paragraph (2), if the Commission finds after notice and opportunity for public hearing, that it adversely affects the public interest for an officer or director of a public utility to hold the position referred to in subsection (c)(1), it shall be unlawful for such officer or director to hold the position with respect to which such finding has been made. Such finding may be made—

"(A) on an individual basis,

"(B) in the case of entities referred to in subsection (c)(2)(A), on the basis of the extent of interests held by such entities in utilities, or

"(C) in the case of entities refererd to in subsection (c)(2)(C), on the basis of the amount of equipment or fuel supplied to public utilities.

"(2) Paragraph (1) shall not—

"(A) apply in any case in which subsection (b) applies, or

"(B) prohibit any individual from holding any position with more than one company system, any company of which is a registered holding company.

"(3) The Commission may, by rule or order, exempt any individual within a class or category covered by a finding under subparagraph (B) or (C) of paragraph (1) from the prohibition contained in such paragraph if it finds, upon a showing in such form and manner as may be prescribed by the Commission, that neither the public nor private interests will be adversely affected thereby.

"(4) No authorization under subsection (b), the failure of the Commission to act under paragraph (1) of this subsection, nor any exemption under paragraph (3) of this subsection may be used as a defense to any action brought under section 8 of the Clayton Act.".

(2) The amendments made by this subsection shall not apply to any person before the date 2 years after the date of the enactment of this Act.

Mr. DINGELL. Mr. Chairman, I rise for the purpose of supporting the amendment.

Mr. Chairman, the amendment adopted by the ad hoc committee reverses the burden of proof for persons who hold positions with the public utilities and with certain financial institutions, producers of energy, and suppliers of equipment used by utilities and the 20 largest customers of said utilities. These persons would be required to disclose certain information relative to the holdings of both these positions but would not—I repeat, would not—be required to get prior approval from the Federal Power Commission to hold those positions. Rather the Federal Power Commission would have to hold a hearing and give notice before restricting this activity.

My colleagues should know that this is a modest expansion on existing law. Under existing law persons covered under the conflict of interest and disclosure sections are the following: Officers and directors of banks, trust companies, bank associations, or firms authorized to underwrite or participate in underwriting securities of public utilities.

Second, firms supplying electrical equipment to the utility in question. The amendment adds new coverage, principally to the banks and insurance companies (but not savings and loan associations and mutual savings banks), producers of fuels and suppliers of equipment and the 20 largest customers.

Different treatment would be afforded to the second category brought in under new coverage. It would not be a violation of the Federal Power Act for them to be on both boards, unless after notice and opporutnity for hearing, the Federal Power Commission finds that it adversely affects the public interest for them so to do. Disclosure to the Federal Power Commission of information on holding dual positions would be required.

Our purpose here is to expand slightly and sensibly the prohibitions against holding dual positions on boards of directors, something that I think is very much in the public interest.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. STEIGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know it will come as a surprise to the committee, but I rise in support of this amendment. The gentleman from Michigan (Mr. DINGELL) has done an excellent job of describing the decision of the ad hoc committtee to reverse the presumption that was contained in the Commerce Committee reported bill.

I think the amendment as we have before us is a good faith effort on the part of the members of the ad hoc committee, and particularly the gentleman from Michigan, the chairman of the subcommittee, to deal with what would otherwise have been a serious problem.

Mr. Chairman, the Commerce Committee bill amends section 305 of the Federal Power Act by adding certain entities to which the present prohibition on the holding of the position of officer or director of one of these entities and a position as officer or director of a public utility would apply. These additional entities included certain types of banks, equipment or fuel suppliers, and the 20 largest purchasers of electric energy sold by the utility. The Commerce Committee reported bill made the holding of the position of director, officer, partner, appointee or representative of one of these entities and the holding of the position of director or officer of a public utility a violation of the Federal Power Act unless the Commission authorized the holding of such positions upon a showing that "neither public nor private interests will be adversely affected."

The ad hoc committee amendment would strike the Commerce provisions and insert new language which would require annual reporting to the FPC by persons holding the potentially conflicting positions. On the basis of this information the FPC may make a finding that the holding of the two positions adversely affects the public interest. The finding may be made either on an individual or on a category basis related to the extent of interests held by such entities in public utilities or related to the amount of equipment or fuel supplied. And this finding can be made only after notice and the opportunity for a public hearing. If the FPC prohibits the holding of dual positions on a category basis, an individual can still come forward and petition for an exemption from the prohibition by showing no conflict of interest.

Mr. Chairman, this amendment is an improvement because it reverses the presumption in the Commerce bill that the person holding the two potentially conflicting interests is guilty until proven innocent. The Subcommittee on Energy and Power received no testimony as to abuses in this area. Certainly, the FPC should have to find a conflicting interest adverse to the public interest before an individual can be prohibited from serving on the public utility's board.

I urge my colleagues to vote for this amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to ask the gentleman from Michigan about this interlocking directory question. As I understand the amendment that is pending it would say that the Federal Power Commission could prohibit a director of a public utility from holding a position on the board of directors of a bank or a fuel supplier to the utility or one of the utility's largest customers.

Let me pose this question. In my district there are two publicly owned utilities, one is the Lower Colorado River Authority, appointed by the Governor, and as such a State agency. The other utility is the city of Austin, which owns its own municipal system.

The language here says "directors of a bank or fuel supplier to the utilities or one of the utility's 20 largest customers." I want to ask the gentleman, would the city of Austin come under this proviso as a publicly owned utility?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the language with regard to which boards of directors are covered can be found in the definition in existing law of term "public utility."

Let me read that definition. It is in part II of the Federal Power Act, section 201(e) of the statute. It says:

The term "public utility" when used in this part or in the part next following means any person who owns or operates facilities subject to the jurisdiction of the commission under this part.

Mr. PICKLE. I would take it, then, that the city of Austin would be one of those utilities so affected, is that correct?

Mr. DINGELL. The city of Austin might qualify were they to serve as directors on the bank in addition to the utility.

Mr. PICKLE. I do not understand your answer. Let me take it a step further. Suppose that a gentleman wanted to run for the city council of Austin. The city council is the board of directors of the publicly owned utility. Would they have to go to the Federal Power Commission to get permission for anybody to run as a member of that board?

Mr. DINGELL. First of all, the answer is that he does not own, so he therefore——

Mr. PICKLE. But he is a member of that board. I am not trying to be technical, but I say that this is a fundamental question.

Mr. DINGELL. I am trying to answer the gentleman, if the gentleman will permit.

First of all, the public utility must fall in under the coverage of section 201(b), which states the following:

The provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce.

I would suspect, given that language, that the utility to which the gentleman refers, since it is a municipal utility of the city of Austin, would not fall in under the prohibition.

My judgment at this moment would be that it would not apply to the municipal utility of the city of Austin.

Mr. PICKLE. The gentleman would understand my concern, if any municipally owned utility would be so restricted, that no one could serve on the

city council, or the LCRA, who happened to be a director of a bank, and it would be a great unfairness to the individual's constitutional rights.

Mr. DINGELL. First of all, it is my view that it does not apply to city council. It may apply to the members of the board which run the municipal utility if the municipal utility was run by a board of directors appointed by the mayor and the utility is subject to the jurisdiction of the Federal Power Act.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PICKLE) has expired.

Mr. PICKLE. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, some of us could not even get 2 minutes on the previous amendment. I am going to object to any extension of time.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. In further response to the gentleman from Texas, the way the statute has been interpreted over the years—and what we do here is just an amplification of the existing statute authority—is that the prohibition applied only to those banks which were also engaged in underwriting of stock issues of public utilities. I would doubt that they were so. I would further point out that in most instances the waiver of the Federal Power Commission was rather routine.

I would anticipate that in this instance, there would be little hardship, even if it were interpreted against the city of Austin and the bank, in the case the gentleman refers to. I do not think that that would be the case.

Mr. OTTINGER. I would just also advise the gentleman that, at any rate, they do not have to go for permission. The way this is constructed, the Federal Power Commission has the burden of going after anybody they feel is in conflict. There is no advance permission required.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, the Federal Power Commission would have the right to say to some businessman who happened to be on the bank board that he could not serve on either the city council or on a State agency, such as the River Authority.

I will say to the gentleman that, with respect to a State agency, those people are appointed by the Governor. And the Governor ought not to have to come to the Federal Power Commission to get clearance or even to have the burden of proof shifted before he can serve on a board. I think there is a fundamental question here that was not intended but is wrongly retained.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, in Chicago we have a situation where, for the first time, a black man serves on one of the major utility boards in America. He is also the chairman of a black bank, and he is also on the board of directors of the Metropolitan Life Insurance Co. of New York. Would he be prohibited from serving on the board of Edison and Company?

Mr. OTTINGER. He would not automatically be prohibited. He would only be prohibited if the Federal Power Commission determined it was a conflict of interest.

Mr. MURPHY of Illinois. How long a procedure does the gentleman envision for these gentlemen to go down and make application and get approval?

Mr. OTTINGER. No application is required. The amendment requires the Federal Power Commission to initiate any action against the individual, and the FPC must carry the burden of proof with respect to any conflict of interest.

Mr. MURPHY of Illinois. So the Federal Power Commission is the moving party?

Mr. OTTINGER. That is correct.

Mr. MURPHY of Illinois. And the members of the board do not have to do anything of their own volition?

Mr. OTTINGER. That is correct, until one is removed. If we defeat this amendment, then we go back to the much more harsh provision that would put the burden of proof on the applicant.

Mr. MURPHY of Illinois. The moving party is the Federal Power Commission, not the director or the board itself?

Mr. OTTINGER. That is correct. And that is the change the ad hoc committee made. I prefer the original language, but in view of accommodating the overall scheme of the bill I will support the amendment. But I prefer the harsher conflict-of-interest provisions that were contained in the original bill that would be effectuated were the ad hoc committee amendment to be defeated.

Mr. MURPHY of Illinois. I thank the gentleman.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I move to strike the requisite number of words, and I would like to engage the chairman of the Subcommittee on Energy and Power in a colloquy.

Mr. Chairman, I would simply like to observe for the record that, among the high costs for which a producer may be entitled to special relief under section 409 of the act would be the cost of producing so-called sour gas. Sour gas is gas which, when produced, contains a high volume of hydrogen sulfide. The costs attributable to production of this gas are historically higher because of its adverse affect on drilling materials, and further, in order to be salable, this gas must be treated for removal of this hydrogen sulfide, and this treatment involves the construction of highly sophisticated and expensive facilities. I think it only fair that any producer willing to incur the expenses associated with this kind of production be accorded the right to recover his full costs, including a return on his capital investment. While section 409 of the act need not be specifically amended to so provide, I would ask my distinguished colleague, the gentlemen from Michigan, if he agrees with me that these producers should be given consideration in this regard from the commission.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to begin by agreeing with my good friend that there are certain higher costs attributable to sour gas to which the gentleman has referred and the production thereof. It is my hope that this discussion will help make clear that section 409 is indeed intended to cover the higher costs associated with and incurred by producers who undertake to perform the processing functions of sour gas by things like removal of hydrogen sulfide and similar impurities.

Mr. CHARLES WILSON of Texas. I thank the gentleman.

Mr. MOSS. Is my understanding correct that the term "interested person" in section 621(e), together with the definition of the term "person" in section 602, would allow a State regulatory authority or other State energy agency—as designated by the Governor of such State to present its expert views to the administrator with respect to orders or rules imposing a prohibition or granting an exemption (or permit) under this part?

Mr. DINGELL. Yes.

Mr. MOSS. Am I further correct in understanding that through the vehicle of this subsection, an avenue of consultation will be opened between the Administrator and appropriate State agencies so that such agencies may inform the Federal regulatory process through the sharing of their expertise with respect to State energy forecasts, plans, and projections?

Mr. DINGELL. Yes. Indeed, I would hope and expect that the FEA keep in close contact with the States in the administration of this program.

Mr. TUCKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the appropriate members of the ad hoc committee in colloquy as to the intention of the committee under subsection (c) relating to the definition of the words, "public utility," on line 13 of page 277 and the definition of the words, "any entity," on line 15 of page 277.

Specifically, I am interested in whether either or both of those descriptions would include the officers of members of the board of directors of a public utility holding company, and if so, which.

I am referring to page 277, paragraph (c)(1) under "Disclosure."

Let us deal first with the words, "public utility." Does that include members of the board of directors of a public utility holding company?

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, let us go to page 278, lines 22 through 25. Does that not provide an answer to that question?

Mr. TUCKER. No, it does not. That says:

The term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company . . .

Mr. STEIGER. Then we have the definition of the term, "holding company," on page 279.

Is there some hidden word missing in that definition?

Mr. TUCKER. Yes, I think there is.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I would be happy to yield to the chairman of the subcommittee.

Mr. DINGELL. Mr. Chairman, I think, for the answer to the question, we have to go to page 279 of the bill, specifically, line 22, subparagraph (c)(2). That language is as follows:

Paragraph (1) shall not—

(a) apply in any case in which subsection (b) applies, or

(b) prohibit any individual from holding any position with more than one company system, any company of which is a registered holding company.

Mr. TUCKER. Therefore, the answer to my question is that the members of the board of directors of a public utility holding company would not be precluded from serving on the board of directors of a public utility within that holding company system?

Mr. DINGELL. I believe that is correct.

Mr. TUCKER. And the same would be true as to the board of directors of any other entity listed in subparagraph (2)?

Mr. DINGELL. I think, as to the first one, it is true. As to the second one, it is my belief that they could be barred from serving as an officer of a bank or other company in accordance with the provisions, as they would be affected were they to be simply the officers of any other utility.

Mr. TUCKER. So, such officers might be subject to a finding that their joint service on both the board of directors of a public utility holding company and the board of directors of any other entity listed in paragraph (2), on page 277 might be against the public interest?

Mr. DINGELL. That is correct.

Mr. TUCKER. They would be subject to such a finding?

Mr. DINGELL. That is correct, even though they could not be barred from serving on both the holding company's board of directors and a subsidiary company's board.

Mr. TUCKER. Mr. Chairman, I thank the gentleman for his response.

The CHAIRMAN. The question is on the amendment of ad hoc committee to part V.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 40, noes 1.

So the ad hoc committee amendment was agreed to.

AD HOC COMMITTEE AMENDMENT

The Clerk will designate the page and the line numbers of the next ad hoc committee amendment to part V.

The clerk read as follows:

Ad hoc committee amendment: Insert the matter beginning on page 313, line 19, through page 315, line 5.

(The ad hoc committee amendment reads as follows:)

Ad hoc committee amendment: Insert the matter beginning on page 313, line 19, through page 315, line 5, as follows:

SEC. 589. CONDUIT HYDROELECTRIC FACILITIES.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall grant an exemption from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the distinguished chairman of the Energy and Power Subcommittee of the Interstate and Foreign Commerce Committee, the subcommittee on which I serve and the subcommittee to which was referred much of this bill, a question concerning an amendment made to part 5 in the Subcommittee on Energy and Power. This amendment was adopted by the subcommittee and retained in the bill through the full committee and the ad hoc committee.

The language states that:

In prescribing such methods, there shall be taken into account the extent to which total costs to an electric utility are likely to change if—

(A) capacity is added to meet peak demand relative to base demand, and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

When this amendment was offered, the sponsor, Mr. STOCKMAN of Michigan stated and I quote from page 10–47 of the transcript of June 15, 1977:

What it does is provide some direction in the formation of these minimum standards to take into account marginal cost ideas, because after all, that is the whole thrust of our national energy plan.

However, we have written the language in such a way that it is clear that this isn't an ironclad mandate for full-blown marginal cost pricing to be imposed on every state regulatory commission, and on every utility around the country, because there are some very difficult problems of implementation and what we are saying is use the marginal cost idea but apply to each circumstance to the degree that is realistic and feasible and can be accommodated with other needs of the rate design of the utility system.

I would like to ask the chairman of the subcommittee, Mr. DINGELL, if he agrees with the understanding.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Michigan.

Mr. DINGELL. I find in the language quoted a proper expression of the intent of the subcommittee in adopting this amendment.

Mr. MOFFETT. I thank the distinguished chairman of the subcommittee for that comment.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

I, under the advice of expert staff counsel, find myself in a most difficult situation.

The colloquy that just took place was read at a pace that my ears found difficult to follow closely, but I would want the record to show that on page 146 of the report of the Committee on Interstate and Foreign Commerce the following language appears:

The committee carefully chose the phrase "take into account"; this section is not intended to be a mandate to a State regulatory authority to follow any specific costing methodology for determining cost of service. However, the committee feels that the matters specified in paragraph (2)(A) and (B) are factors to be taken into serious consideration in determining costs of service, especially with respect to time of day, interruptible, and seasonal rates. State utility commissions and utilities should apply the conclusions of taking these factors into account in a manner best calculated to fulfill the purposes of the national energy plan.

I believe that that report language is a clear definition of that question, is it not, I ask the distinguished chairman of the subcommittee?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the statement made by myself in response to the question of the gentleman from Connecticut (Mr. MOFFETT) in our colloquy and the statement just read from the report of the committee by the gentleman from Wisconsin (Mr. STEIGER) are not in any respect inconsistent. I read them as being fully consistent.

I want the gentleman to understand that we are trying to establish legislative history in a rational fashion. The principles of marginal pricing will be among the factors considered in the ratemaking processes. That is the whole purpose of the language read by the gentleman from Wisconsin (Mr. STEIGER) and of the comments of the gentleman from Connecticut (Mr. MOFFETT).

Mr. STEIGER. I thank the chairman of the subcommittee.

Mr. DINGELL. If the gentleman will permit me one further comment, it is not the intention or plan that marginal pricing practices are required by this bill to be the only ones considered. That would be wrong.

Furthermore, the basic action in applying these will be taken by the State regulatory agencies.

Mr. STEIGER. I thank the chairman for that clarification.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the matter before us is section 589, conduit hydroelectric facilities, added by ad hoc committee amendment.

I rise in strong opposition to this ad hoc committee amendment and I do so for four reasons.

First, Mr. Chairman, it creates an unprecedented, unwarranted, and dangerous exemption from the Federal Power Commission's authority over hydroelectric power.

Second, it interferes with two cases now pending before the Federal Power Commission, a fact that was not known to the ad hoc committee at the time of its consideration of the amendment.

Third, the provisions, which could be very far reaching, were not the subject of hearings. Indeed, the amendment was rejected both in the Subcommittee on Energy Power and the full Committee on Interstate and Foreign Commerce in part on the grounds that no hearings had been held to determine the extent of the exemption and who might be adversely affected.

And, fourth, it is a "special interest" provisions. Indeed, it is not the type of an amendment that belongs in a national energy bill or in any other act of Congress. It has no national objective. It is a narrow effort to serve the interests of one water district in one State, not even of an entire State, mind you, but just one water district in one State. That is bad law.

Not only that, but it seeks to serve the interests of that water district by predeciding a case which is currently under consideration in the Federal Power Commission. This amendment would remove the case of a particular water district from the Commission's jurisdiction and foreclose any orderly consideration and subsequent judicial review.

This is bad lawmaking. It is something that Congress has ever been reluctant to do.

The water district that would benefit from this amendment is the Metropolitan Water District of Southern California. The case that it would so precipitously remove from the Federal Power Commission's jurisdiction is FPC docket No. E9555.

In their haste to promote this narrow interest, the proponents of this amendment have driven a wedge deep into the power act itself by exempting all similar "conduits" from the licensing requirements of the act. No reason has been demonstrated for such an exemption.

The proposed amendment is in direct conflict with the Commission's broad authority to license hydroelectric projects under section 4(e) of the act, as pointed out in the supplemental views of the gentleman from Michigan, Mr. JOHN D. DINGELL, the chairman of the Subcommittee on Energy and Power and a member of the ad hoc committee, opposing the amendment and describing its mischief.

Also pointed out in Mr. DINGELL's views:

The Commission by law must often license a complete project consisting of various project works, i.e., dam, reservoir, conduit, powerhouse, and so forth.

This is clearly the case with the metropolitan water district project being removed from the jurisdiction of the Federal Power Commission: allowing the rest of the project to remain under the jurisdiction of the Federal Power Commission, and only the conduit portion to be exempt. Removing one part of a large project, conduits, from FPC jurisdiction is fundamentally censored.

The full text of the Dingell views follows:

[From the report of the Ad Hoc Committee on Energy, H. Rept. 95-543]

X. SUPPLEMENTAL VIEWS OF THE HON. JOHN D. DINGELL

The committee adopted an amendment to part I of the Federal Power Act which authorizes the Federal Power Commission to grant exemptions from the license requirements of the act. At the time, I expressed concern about the amendment, but did not oppose it. In fact, I amended it to make the Fish and Wildlife Coordination Act applicable to any such exemption.

Since then, I have learned that this amendment might affect one and possibly two matters pending before the Federal Power Commission. One such case involves contested applications for relicensing of a canal project located in California. One of the parties to that case is the Secretary of the Interior in his capacity as Trustee for several bands of Indians. The other parties are the Escondido Mutual Water Company, the Vista Irrigation District, and San Diego Gas and Electric Company. An initial decision on the contested applications was issued by the Administrative Law Judge on June 1, 1977 in favor of the Water Company and the Vista District.

That decision is not yet final. The FPC must still act. The Commission may not agree with the Administrative law judge's decision that the operation "is not power project licensable under the Federal Power Act." Yet this amendment would, in effect, reach that conclusion and exempt the project from the Federal Power Act.

The second proceeding involves the Metropolitan Water District of Southern California (MWD) case, in which that District has proposed to install a number of generating units along a conduit. The case concerns the issue of FPC jurisdiction over proposed hydropower facilities in Southern California. The water is transported from the Colorado River on the California-Arizona border via the Colorado River aqueduct. MWD plans to build, operate, and maintain hydropower plants at locations along its water delivery system. By running water through hydroelectric turbines, energy can be converted to electrical power to be consumed by MWD or sold wherever possible.

There follows some staff comments of the FPC, dated July 27, 1977, concerning the effect of this amendment on this case:

"The following are comments relating to the proposed amendment to Section 31(a) through (c) of H.R. 8444 offered by Congressman Moorhead of California. The proposed amendment is similar to draft legislation by former Senator Tunney and reviewed by the Commission in 1976, except that the bill includes a parenthetical phrase "(not including any dam or other impoundment)". The proposed amendment is principally for the benefit of the Metropolitan Water District of Los Angeles which is contesting jurisdiction over proposed hydroelectric power plants utilizing the City's domestic water supply conduits. The proposed amendment is in direct conflict with the Commission's broad authority to license hydroelectric projects under Section 4(e) of the Act that meet the "comprehensive development" test of Section 10(a) of the Act and the definition of a project under Section 3 of the Act. The Commission by law must license a complete project consisting of various project works, i.e., dam, reservoir, conduit, powerhouse etc. A complete project may, for example, consist of facilities constructed by a prospective licensee and the Federal Government. Since Congress retains jurisdiction over all Federally constructed facilities, the Commission would license all remaining non-Federally constructed project works. If it is determined that a complete project does include municipally-owned conduits or other facilities, the proposed amendment would conflict with the intent of the Federal Power Act. The proposed amendment would severely alter the Commission's jurisdiction and confuse the interpretation of the Act as determined by the Congress and the courts.

"In addition, the language of the amendment is sufficiently confusing so as to suggest that if a project occupies both Federal and non-Federal lands, the Commission may only license those facilities on non-Federal lands that do not fall within the definition of exempted facilities as defined in the proposed new Section 31. This would apply, for instance, to projects similar to the California Aqueduct Project No. 2426, and the City and County of Denver Project No. 2204. Project No. 2204 is particularly applicable because the installed capacity is 3 MW, well below the 15 MW limit included in the proposed Section 31.

"The proposed amendment further assumes that each power plant may be a single project. This, in fact, may not be so as is the case in the California Aqueduct Project No. 2426. A single project may consist of several developments that, in the aggregate, have a total installed capacity far exceeding 15 MW and, as such, would not be excepted under the proposed amendment. A project may consist of one or more developments that are hydraulically connected or interdependent e.g., utilizes some source of water supply.

"In the case of Metropolitan Water District, it is noted that the water supply originates at FPC licensed dams and reservoirs (Orovill Project No. 2100), and Federally constructed dams and reservoirs (Colorado River Projects)."

Quite clearly, this amendment seeks to prejudge a matter that is pending before the FPC of which I was unaware when it was considered. In addition, the FPC staff points out a number of technical problems with the amendment.

After close scrutiny of this amendment since the committee action, I now believe that it is a bad precedent, and only for extraordinary reasons, which have not been demonstrated in this instance to my satisfaction, should Congress intervene in a proceeding pending before a regulatory body like the FPC.

Mr. OTTINGER. Despite an informal survey conducted by the representatives of the metropolitan water district themselves, the fact is that we have no clear idea of what the ultimate effect of the amendment would be in removing projects from the jurisdiction of the Federal Power Commission. There were no hearings on the provision to permit those who might be affected to be heard.

It is significant to note that the Metro-

politan Water District of Southern California is seeking relief from a problem which is of its own making. The district elected not to apply to the Federal Power Commission for a license but, instead, to challenge the authority of the FPC to license their project and thus subjected themselves to the hearing process from which they now ask Congress to relieve them. Had they accepted the FPC jurisdiction and merely sought a license, I have been told by the FPC staff that the issue would long since have been decided and they would have received their license.

Even now, if they accept the authority of the Federal Power Commission, the issue can be promptly decided without this unusual and ill-advised congressional intervention in due process. The Federal Power Commission has provided and expedited procedure to handle such small projects.

My staff and I tried to work out a more limited amendment with the Metropolitan Water District of Southern California that would have solved their problem and avoided the defects of this amendment. They have, however, insisted upon this "all or nothing" approach of attempting to adopt this amendment.

The administration, which originally supported this amendment in the ad hoc committee, upon hearing of the interference it introduces into the proceedings before the Federal Power Commission, now opposes it.

For all the above reasons, this amendment is clearly bad law and sets a bad precedent. I urge the Committee to reject the amendment.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment that we are considering here today was the Republican amendment to the ad hoc committee bill. I believe it is the only one of substance that was successful, and it gives the bill a little bipartisan effect. But the amendment is not a partisan amendment. It is an amendment that will provide energy for the people of the United States. The amendment was not considered before the subcommittee. I put it over at the request of the chairman who said he would help me in the full committee if I did, because there was a time problem. In the full committee it was held nongermane, but it was germane in the ad hoc committee. So the ad hoc committee was the first time that it could have been voted on. I want to thank my Democratic and Republican friends for their unanimous support of the amendment before the ad hoc committee.

Actually what the amendment does is it exempts from FPC licensing requirements small hydroelectric plants in conduits where the generation of electricity is incidental to other conduit uses such as municipal, industrial, and agricultural water supply. Basically, the interests that would be benefited are the publicly owned water systems in many of the States of the United States. For that reason the legislation is supported by the National Water Resources Association, by the Democratic administration in the State of California, by the Electronic Institute, and by most other agencies having knowledge in this particular field.

The language and intent of this amendment defines the term "small hydroelectric facility" as one which has a capacity of not to exceed 15 megawatts at one particular site. Only those facilities in conduit systems where the primary purpose of the system is not the generation of electric power would be exempted. This exemption would only apply to nonutilities, that is, water distribution systems like water districts producing energy as a natural side effect of its primary purpose which is the distribution of water.

I made the amendments in the ad hoc committee that were requested by the Carter administration in order to make them neutral on the legislation. I, in good faith, made those amendments in compliance with their desire in order to get their neutrality. I do not think that they have changed their position. They have been fully informed, because I know there is a little opposition from the FPC that does not like to lose any power whatsoever. I cannot help that. If we waited for them, we would wait forever.

There is no chance economically of a small generating plant of this kind to be able to actually get a license and be effective within a reasonable period of time. At the present time the waiting period for a license is 6 years, and there are hundreds of these applications that are waiting for determination. Admittedly, this amendment, if adopted, would not provide billions of barrels of oil or electricity, but it would provide the equivalent of 6 million barrels of oil a year that we would not otherwise have.

It would save us $84 million a year. The electricity that would be saved would be the equivalent of more than half of the capacity of one Hoover Dam. It is vital to the American people to find some sources of energy where it is available and to make use of whatever resources we may have. If this legislation is adopted, under this amendment California will be able to save 200 megawatts of electricity; Idaho, 200; New York, 114; Pennsylvania, 100; Washington, 50; and Wyoming and Nevada, 10 each; Colorado, less than 10; and other States have some potential.

Many people have commented upon the inefficiency of the FPC.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. MOORHEAD of California. Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

Mr. ASHBROOK. Mr Chairman, reserving the right to object, will the gentleman make the request for 2 minutes.

Mr. MOORHEAD of California. I will take what I can get.

Mr. ASHBROOK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from California is recognized for 2 additional minutes.

Mr. MOORHEAD of California. Mr. Chairman, as we move forward with the problems we have before us I would like to quote our President on this particular subject. He said:

> We can rediscover the ingenuity and the efficiency which have made our Nation prosper, rather than deepening our dependence on insecure imports and increasingly expensive conventional energy supplies. We can rediscover small-scale, more creative ways of satisfying our needs. If we are successful, we can protect jobs, the environment and the basic American standard of living, not only for ourselves but also for our children and grandchildren.

Let us then as Members of Congress take this opportunity to let inventive, small-scale, creative ways satisfy our energy needs for many years.

I ask for an "aye" vote on the grounds that the amendment before us will improve America's balance of trade. It will give us energy we will not get but for this amendment. We are wasting energy in the conduits of America. Let us get that energy and put it to work for us. It is environmentally clean. It cannot do any harm to the people of this Nation. It is necessary. Let us take advantage of it.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I would just like to point out in response to the statements of the gentleman from California (Mr. MOORHEAD) that I am all for putting generators in conduits and there is nothing under existing law which would prevent generators going into conduits.

The question is whether we want or need legislation granting an exemption from FPC jurisdiction to do that, especially a special interest provision which affects a pending case in FPC of California. I think that is unsound and unwise.

All those great savings the gentleman pointed out as advisable from putting generators in conduits would not be attributable to the passage of his amendment. They would be attributable to putting the generators in the conduits, which can be done without any amendment.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, we did not have really an opportunity to check out everything in the letter the gentleman sent around, and I did check into one of the cases cited. The generators were shown above the 15 megawatt level and obviously not included. There was one situation which went to a Federal land area which obviously would not be included. The Espodido case had been settled.

As I said, I did not have time to check out everything but most of the things the gentleman cited were just not true.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to point out that this is fundamentally unsound. In fact the metropolitan water district case involved a part of a bigger system which is clearly subject to Federal Power Commission license jurisdiction. To exempt just the conduit part of the project does not make sense. It does not make sense for us to inter-

vene in the pending FPC case involving this matter, either.

I would like to quote a letter from John F. O'Leary, Administrator, Federal Energy Administration, to Mr. JOHN DINGELL, chairman, Subcommittee on Energy and Power, which says:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C.

Mr. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to a question from your staff regarding the Administration's position on exemptions of certain hydroelectric facilities from regulation under Part V, Title 1 of H.R. 8444 dealing with public utility regulation policies.

The Administration has evaluated that proposal subsequent to Ad Hoc Committee action and opposes the amendment. In our view, the amendment may well be unnecessary because the Commission may have adequate authority under existing law to exempt facilities of the type in question from licensing if such exemption is in the public interest. Moreover, we are concerned about the possible overbreadth of the exemption: it may be interpreted as applying to a much wider range of facilities than those which were described in the Ad Hoc Committee debate. Finally, a statutory exemption would preclude Commission consideration of wide variety of ancillary issues which relate to regulation of water flow and environmental protection.

If we can be of further assistance, please let us know.

Sincerely,

JOHN F. O'LEARY,
Administrator.

Mr. Chairman, I urge defeat of the amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

In the district of the gentleman from California (Mr. GOLDWATER), which adjoins mine, there is a potential project of the type the amendment addresses near the community of Castaic. It is located in an underground pipeline on non-Federal lands.

The city of Santa Barbara in my district is contemplating a similar project. We have heard a lot of rhetoric about reducing Government redtape. We have heard a lot of rhetoric about reducing our dependence on foreign oil. We have heard a lot of rhetoric about producing environmentally clean energy.

So far little has been done on any of these fronts. It seems to me that here is a chance to take a small step toward meeting all three of these objectives, and I commend my colleague, the gentleman from California (Mr. MOORHEAD) and the ad hoc committee, for advancing this amendment.

Mr. Chairman, there are a couple points I would like to clear up in colloquy with the gentleman from California (Mr. MOORHEAD).

First, is the gentleman's amendment designed in any way to enlarge the FPC jurisdiction?

Mr. MOORHEAD of California. Mr. Chairman, if the gentleman will yield, the answer is no.

Mr. LAGOMARSINO. Let me be specific. It is my understanding that although certain other conditions must be met, generally speaking hydroelectric facilities in impoundments that are not located on navigable waterways or tributaries thereto are not covered by the Federal Power Act. There are such impoundments in my district and others and maybe some day they could be utilized to generate electricity. Would the gentleman's amendment have the effect of including some impoundments under FPC jurisdiction?

Mr. MOORHEAD of California. Definitely not. Under my amendment, if certain facilities, such as the gentleman describes, are currently exempt from FPC licensing requirements, they would continue to be exempt. All my amendment does is extend the exemption to hydroelectric generating facilities located in a man-made conduit which has the primary function of transporting water for other uses.

I might also say, the total jurisdiction has not been taken away from the FPC, because under the amendment that the Carter administration asked the committee to make, the FPC has to make a determination that the primary purpose is not generating electricity, but is in conjunction with the transport of water.

Mr. LAGOMARSINO. I note that section C of the amendment requires conformance with the Fish and Wildlife Coordination Act. In connection with the facilities referred to in section A, does the gentleman expect that there will be a significant impact on fish or wildlife, and does the gentleman think that these requirements would act as impediments to the installation of the facilities?

Mr. MOORHEAD of California. In response to both parts of the gentleman's question, let me say that I agreed to include section C upon a request by the distinguished chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL). I do not foresee a large problem here. In the first place, the impact of installing hydroelectric facilities in conduits on fish and wildlife would be insignificant. There are no fish in the pipelines of the metropolitan water district of southern California, because if there were, they would come out of the water faucet or else plug it up. So fish are screened from entering the pipeline system. The same holds true for any municipal system.

The same holds true for wildlife. Most of these facilities are in populated areas, and the construction would involve no more than digging a hole, replacing or bypassing a pressure relief valve, and then covering up the hole to the original contour.

In answering the last question, it is not my intent, nor do I think it is the intent of my distinguished colleague, the gentleman from Michigan (Mr. DINGELL), that compliance with the Fish and Wildlife Coordination Act should give the Fish and Wildlife Service, or State and game agencies, or the FPC, a means of harassing or impeding those who wish to install such facilities. If there are legitimate fish and wildlife problems that must be mitigated, then certainly I think they should be.

Beyond that, my intent is to facilitate getting these environmentally clean projects in operation and the energy to the people.

Mr. LAGOMARSINO. I thank the gentleman. I urge an aye vote on the amendment.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first let me admit that I am not an expert in connection with this, but it was called to my attention recently. It is a very important exemption for literally thousands of people in connection with small operations such as farms, ranches and so forth, who impound small amounts of water or even small irrigation districts which impound water, and as the water flows downhill, going wherever it is going, they put a wheel in the stream and it generates some electricity which they may use for home use and within the system itself.

The language of the Moorhead amendment makes it very clear that the exemption would not apply to any projects in excess of 15 megawatts, so under no circumstance are we talking about any project of any size. I would certainly hope that we use all the means of creating and developing all the energy we possibly can.

We have used these kinds of projects by the hundreds for the last 75 years in California, and the foothill areas particularly, where we impound water and allow it to flow downhill to irrigate crops in the summertime.

I just think it would be unfortunate if, after the ad hoc committee has considered this and voted on it and put it in the bill, that then an attempt would be made to strike it out merely because there are those people who think birds and bees are worth more than human beings has suddenly activated opposition in the last few hours. I have no idea why, but some letters have been sent up here from downtown. It does not indicate the concern for people I have. Some who put the welfare of fish before people—I like fish, and I am going fishing a little later on, but I question whether they should be put ahead of the benefits of people, and particularly the beneficial use for power.

So, I urge adoption of the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from New York.

Mr. OTTINGER. I would just like to point out to my good friend that this is not something generated by environmental groups. It has no environmental consequence as far as I know. I think small hydroelectric projects on streams or small conduits are splendid but they are presently permitted under the Federal Power Act. There is no problem there. Projects involving generation of less than one thousand horsepower are already exempt and the FPC has broad exemption powers.

We are talking here about a special interest provision for the metropolitan district project. There is no reason to declare this special exemption.

Mr. SISK. Let me say to my colleague from New York that I am not carrying the ball for metropolitan water districts because they are well able to take care of their own burden because they are well

financed and well operated. I am talking about the hundreds of individuals throughout the West who are dependent upon small water projects. Here again, if in fact they are exempt, the language would do no harm, but it does give assurance to those people who have gone out to develop their own power that they can continue doing that without the necessity of going to the Federal Power Commission.

Mr. Chairman, I would hope that the amendment would be adopted.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part V.

The question was taken; and on a division (demanded by Mr. OTTINGER) there were—ayes 43, noes 5.

So the ad hoc committee was agreed to.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Strike section 548 beginning at line 18 on page 280 through line 13 on page 282, and renumber subsequent sections accordingly.

Mr. FLOWERS. Mr. Chairman, it is not surprising that we in the House of Representatives find ourselves in disagreement over many specific provisions of the energy bill. After all, we come from different backgrounds, we represent different geographic regions and we possess different political philosophies.

But I think that from the beginning there should be no real disagreement over the general need for an energy policy—a policy that will encourage the conservation and production of energy.

So it is a bit surprising to me that as we near the end of our consideration, we find in this bill certain provisions which seem to do nothing to either conserve or produce energy. In fact, some of these provisions, in my view, run counter to the intent of this legislation.

I am particularly concerned about section 548—a section which President Carter did not include in his original energy package and a section which would be deleted by the amendment I am offering here today.

Section 548 provides that each time an electric utility company wants to expand its generating capacity, that company would be subject to an anti-trust review by the Justice Department. The results of that investigation would then be turned over to the Federal Power Commission, which could take as much time as it wanted before making a determination.

At present such an antitrust review is required only when a nuclear powerplant is being proposed. This new section would provide for similar reviews for conventional fossil-fired electric generating plants, hydroelectric plants and even transmission lines.

It puzzles me, Mr. Chairman, that we are seeking to build in new delays into the construction process just at the time when we need the additional generating capacity as quickly as we can get it.

It puzzles me, too, that we are seeking to make it more difficult and more costly to build fossil-fired generating plants just at the time when we are encouraging utility companies to use coal.

H.R. 8444 is a bill supposedly aimed at encouraging the conservation and production of energy. Why, then, should we include section 548—a section whose provisions would clearly inhibit the production of electric power?

The construction delays of which I speak affect the utility companies first, of course, bringing about great expense and uncertainty. But eventually there is a ripple effect. Construction workers are laid off or not hired in the first place. Consumers find their electric bills going up because the utility company is forced to import expensive power to meet demand. And the economy of an entire State could be damaged if there is not enough electricity available to permit industrial expansion.

Even 7/10 under the existing regulatory process, it takes from 7 to 10 years to build a fossil-fired plant. But if we add another layer of bureaucracy—together with a lengthy process of hearings and appeals—who knows how long it will take to build a plant?

Some who support section 548 may imply that the nonnuclear activities of utility companies are not now covered by antitrust law, but that is simply not the case. The Federal Power Act gave the FPC the responsibility to deal with antitrust issues, and the Supreme Court reaffirmed the FPC's antitrust power in a 1973 decision.

Some supporters of section 548 also argue that if nuclear plants are subject to a certain kind of review process, then fossil-fired plants should be, too. But this argument ignores the great differences between these two forms of power and does not take into account the special role of the Federal Government in the development of nuclear power.

By the way, I have not heard anyone promoting the present antitrust process in the nuclear area as a good model to follow. If section 548 remains in the bill and its provisions are enforced with the same degree of speed and efficiency as the current law affecting nuclear plants, we will all be in trouble.

I know firsthand of a case involving an electric utility company in my State. This company first applied for permission to build a nuclear powerplant in 1969—a full year before the 1970 amendments to the Atomic Energy Act which established the antitrust review process.

Construction by the company was "grandfathered" in under these amendments, while the Justice Department's antitrust review proceeding for this one plant has dragged on for 7 years with no end in sight. Tens of thousands of pages of testimony and exhibits have been presented and nearly 200 days of hearings have been held but the issue still is not resolved.

The result is that this massive powerplant stands completed but unused. In the meantime, the company is spending nearly $2 million a week to buy power that otherwise would come from the plant. Obviously, this delay is costing Alabama consumers dearly. I do not know which situation would be less costly—not to have constructed the plant—or to have constructed it under these circumstances.

Section 548, Mr. Chairman, essentially puts the Federal Government into the business of passing judgment on the construction of every powerplant in America—as if Washington did not have enough to do already.

The potential increased workload for the Federal Power Commission and the Justice Department boggles the mind. In just the next 5 years alone, utility companies in the United States plan to put into operation 145 new fossil-fired plants and 50 new nuclear plants. So if this section had been law when these plants were proposed, the Justice Department would have been four times as busy in this area as it was.

What this section mandates is a substantial change in the enforcement procedures of the Justice Department—in direct contradiction to the wishes of the President as stated in the national energy plan he submitted to the Congress.

The President's plan states that the Federal Trade Commission and the Justice Department will continue their programs of enforcement of antitrust laws affecting energy industries, and those programs, Mr. Chairman, involve the selecting of test cases.

I think that section 548 could end up being more a hindrance than a help to effective antitrust enforcement. If the people at the Justice Department have to spend their time looking into the details of every powerplant to be built in this country, then I fear that major antitrust cases—the real blockbuster kind—would not get the attention they deserve.

Mr. Chairman, I think the case against section 548 is overwhelming. If we allow this section to remain in the energy bill, we will mandate long delays in the construction of powerplants, we will slow down energy production, we will sentence our people to paying even more for electricity, we will create unemployment in the construction industry and we will overburden our regulatory system. I urge my colleagues to support this amendment deleting section 548. Thank you.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with considerable reluctance that I rise in opposition to this amendment, because the gentleman from Alabama (Mr. FLOWERS), aside from being a good friend of mine, has been an enormously valuable member of the Ad Hoc Committee on Energy.

I must say that in my capacity as chairman of the Ad Hoc Committee on Energy, Mr. Chairman, that this matter was considered by the committee at considerable length. The amendment offered by the gentleman was rejected by a very close vote, 18 to 21, and it was on the basis of that close vote that the amendment very properly is being considered at this time.

My opposition to the amendment when it was considered in committee and at this time, I am bound to say, is predicated on the position of the Department of Justice, which strikes me as being persuasive in the matter.

I would like at this time, Mr. Chairman, to cite a letter of recent date over

the signature of John H. Shenefield, Acting Assistant Attorney General of the Antitrust Division. The letter reads as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested the views of the Department of Justice on a motion to strike Section 548 of H.R. 8444, a bill to establish a comprehensive national energy policy.

Section 548 would permit the Federal Power Commission (or its successor regulatory body) to determine and prohibit unfair methods of competition by electric utilities. Further it would authorize the FPC to review proposals to construct nonnuclear bulk power facilities of substantial size to determine whether the ownership or use of a facility would likely create or maintain a situation inconsistent with the antitrust laws and to condition construction of the facility appropriately to prevent or remedy such a situation.

In our opinion it would be most unfortunate were this salutary preconstruction antitrust review procedure stricken from a bill designed to "increase the efficiency of generation, transmission, and distribution of electric power through encouragement of competition . . . ." In my previous testimony on this subject, I indicated that similar prelicensing antitrust review at the Nuclear Regulatory Commission has been extremely successful in insuring that anticompetitive situations are not permitted to develop or continue with the construction and operation of nuclear generating facilities.

We strongly urge that you counsel your colleagues against elimination of this significant procompetitive provision.

Sincerely yours,

JOHN H. SHENEFIELD,
Acting Assistant Attorney General Antitrust Division.

It is for these reasons, Mr. Chairman, that the ad hoc committee was constrained to reject the amendment of the gentleman from Alabama (Mr. FLOWERS) when it was considered some few days ago; and it is this which prompts me at this time to oppose the gentleman's amendment.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment.

As the ranking member of the Subcommittee on Monopolies and Commercial Law, the Antitrust Subcommittee, of the Committee on the Judiciary, I certainly do not need to apologize for my credentials in support of improved antitrust legislation and for having supported the comprehensive antitrust bill in the last Congress, including the new concept of parens patriae. The provisions of that legislation also provided for civil investigative demand—CID's—and other improvements in the antitrust laws.

Mr. Chairman, I can assure the Members that I support strong antitrust laws and the effective enforcement of the antitrust laws.

We are dealing here today with the subject of energy, and we are trying to provide more productive sources of energy for our country and for the consumers of America. It seems to me that we should be very hesitant about throwing roadblocks or providing obstacles in attempting to attain this goal.

I hope and would expect that with respect to any substantial plant expansion the Antitrust Division would have information and could get information. They could utilize the civil investigative demands—CID's—for which we have provided. Of course, information is freely available as between the various agencies of the great bureaucracy. However, to require with respect to every substantial expansion of a utility that it would have to, first of all, wait and then be confronted with the suggestion that here is an antitrust violation or prospective antitrust violation would seem to me to be inconsistent with what we are trying to do.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman stated that this involves every substantial expansion of a utility.

This refers to 200 megawatts, I want the gentleman to know; and that is not a small expansion. That was a very large increase in generating capacity.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for his comments.

When I mentioned the substantial expansion, I intended it to be what the legislation involves.

Public utility electric generating is big business, and we are talking about regulated monopolies. We are not talking about fly-by-night competitive organizations that just go out and suddenly decide that they are going to develop an electric-generating plant. We are talking about large utilities which are going to expand their plants to provide for increased needs, substantial needs, to meet utility demands. Therefore, to force a utility into a position where it has to be suspect before it even gets permission from the Federal Power Commission to expand its generating capacity would seem to me to be suggesting—and I think it is commonplace in some areas—that somehow or other there is something evil and something that is contrary to the interests of the American consumer going on with respect to the large utilities and their expansion.

My golly, Mr. Chairman, what we need is the expansion of our utilities so as to provide greatly increased sources of energy. It seems to me that perhaps what we are doing here today is not so much helping to solve our energy problem, but we are helping to create the problem. The problem is right here. Let us not throw in more obstacles, more road blocks, more requirements, more 60 day delays, delays which have plagued the utilities in recent years. I believe those delays account for the shortages that have occurred, including, I would suggest, the blackouts.

I would say that in the area from which I come that the public utilities have done a fantastic job of anticipating the needs of the public. I do not want to stifle their efforts to meet the needs of our people or the ability of the utilities to provide gas and electricity, all of the needs we have as consumers of energy.

So, Mr. Chairman, I am hopeful that the amendment offered by the gentleman from Alabama (Mr. FLOWERS), will be approved and we can move forward to other parts of this legislation.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I thank the gentleman from Illinois for yielding to me. I would like to address the statement the gentleman made that every construction will have to be reviewed. Let me point out that under the bill there is no review until and unless a utility within the region feels that there is an anticompetitive threat because of the planned construction, and files a complaint with the Department of Justice. Only then would there be a review.

As a result, there would be very few reviews triggered under this provision.

Mr. McCLORY. Mr. Chairman, as I understand, during the 60-day period, there would be a delay. It is the delays that I think are hampering and which satisfy none of our needs for energy. It is the delay that I am trying to correct.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. MCCLORY was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Illinois for yielding to me.

Let me say for the benefit of the gentleman from Illinois (Mr. MCCLORY), Mr Chairman, that under this statute, under the Atomic Energy Act, 180 days are allowed for review and the period for review runs contemporaneously with the process of the application and the construction work which goes on. There is no delay.

I repeat, there is no delay. As a matter of fact, the biggest delays in these areas come from labor problems, from equipment delays, and from environmentalists' complaints.

All we are seeking to have done here is a review of the antitrust questions of the sales of bulk power.

The gentleman from Illinois and all of us want to see competition come into play. That is the issue in question. And then it will be done only at the request of a utility in the region which feels it is adversely affected in connection with the sale of bulk power.

Mr. McCLORY. Mr. Chairman, I think I understand what is involved, because it says that whenever an application is received it shall be transmitted to the Attorney General, and then there is a 60-day delay. It is that delay in the development of a new or expanded generating facility that we wish to avoid.

This was not in the original bill.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. MCCLORY was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, it seems to me that maybe what we are trying to answer in this proposal is the ever-pending question of who regulates the regulators. This appears to be an attempt to have super regulation of the other regulatory bodies that are already overseeing the expansion and application of power generation for the general public.

Is that not actually what we want to have and not the superseding regulator?

Mr. McCLORY. That is the question it involves, it involves another agency of the Government, and another review, and another delay. It would seem to me that if any public utilities violate the law, then we want to have the situation corrected and we want the offense prosecuted. But, to require or attempt to have another delay it seems to me would be unconscionable and is not logical. This section was not embodied in the original bill recommended by President Carter that was brought to us. I believe we should drop it from the bill.

I would urge again support of the gentleman's amendment.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would ask the gentleman from Illinois (Mr. McCLORY) if it is not the truth that the proposal lost in the Committee on Interstate and Foreign Commerce and then it won by a show of hands of 14 members voting in the ad hoc committee?

Mr. McCLORY. I believe the gentleman is correct.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words to speak against the amendment.

Mr. Chairman, I will be brief in speaking against this amendment. First, I want to correct the record. This amendment was defeated in the Commerce Committee. It was allowed on the floor by the Committee on Rules, but in the Commerce Committee it was defeated.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

Was not the amendment approved in the subcommittee? The section was reinstituted in the full committee.

Mr. GORE. That is correct. In the full committee the amendment was defeated.

Mr. FLOWERS. But it was a very close vote.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Michigan, the chairman of the subcommittee.

Mr. DINGELL. I thank the gentleman for yielding.

I will say to my good friend, the gentleman from Alabama, that I was there. Just to start to help things along, let me observe that it was not in the bill as sent by the White House. It was put in in the committee print. It was in the subcommittee print. It was taken out by the subcommittee. It was put in in the full committee. It was kept in in the ad hoc committee, and it is now here on the floor.

Mr. GORE. Reclaiming my time, the chairman of the subcommittee is correct. I was the author of the amendment in the full committee, and it did pass there. What this seeks to do is to extend antitrust protection and review to the siting of very large generating powerplants in this country. Part of the problem with energy in this country is the distribution of generating capacity. We have had a history of anticompetitive practices within the electric power industry.

What are some of these practices? In some instances we have requirements in power contracts that a utility buy all of its power from one supplier, or none at all. In other instances we have had provisions requiring that a utility not "wheel" electricity, that is, move electricity from one boundary of its jurisdiction to another for a third utility. In other instances we have had refusals to coordinate with utilities unless they grant territorial concessions to the big power supplier within their area.

This antitrust review, I say again, is only triggered upon a complaint filed by a utility within the region where the generating powerplant is proposed to be built. It provides for antitrust review. If we want to remove the application of the antitrust laws here and eliminate the possibility of antitrust review of new powerplants, then vote in favor of this amendment.

But I am a strong supporter of the antitrust laws and I think that they have been a good thing in this country. I think that they need to be extended and strengthened. We need this antitrust review.

There is another reason to support it. I come from an area where we have public power, but this is not a public power-private power issue—not at all. Twenty-nine percent of the investor-owned utilities purchase their power totally from another big power supplier. They are defenseless in many instances when they have these contracts with the only big power supplier in their area. In 1937 there were 1,404 investor-owned utilities in this country. Ten years ago there were 405. Last year there were 376. The number is going down, and the trend shows that we are moving toward the time when we will have fewer and fewer suppliers of energy in this country. We need this provision now to prevent that problem from occurring in the future.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this opportunity to engage in a colloquy with the gentleman from Illinois (Mr. MADIGAN) and the gentleman from Michigan (Mr. DINGELL), and I hope Members will permit me to take a moment or two to ask a question or two about another part of the bill, because I have been involved in other committee activities in the last day or so, and also we do not have opportunity for amendment and this is the only chance we have to ask questions.

I rise out of concern for the provision in part II, title I, respecting the use of recoverable materials by industry. One of the purposes of this section is to encourage the use of recoverable materials within the industry that produced those materials. That is commendable. There are industries that produce materials such as aluminum and steel, that can recycle those materials they produce. Four industries are singled out in this section. One of them is the textile industry.

After considerable investigation of this, I find virtually no waste recoverable material is created in the manufacture of cloth or yarn that could be recycled within that industry. I wonder if the gentleman from Illinois, the author of that amendment could perhaps comment as to what his real intent was in including this section in the bill.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from North Carolina for yielding.

As the author of the section on recycling that the gentleman refers to, I would say I have no intention of legislating and I had no intention of legislating requirements which would serve no purpose. It is my intention that our resources recovery efforts should be directed to the industries which can use the recyclable materials in their own industrial processes and to a substantial degree. Certainly it would be proper, and if this is the thrust of the gentleman's comments, for the conferees between the House and the Senate to take a very close look at this to insure that it properly applies to the textile industry.

I appreciate the comments of the gentleman from North Carolina and thank the gentleman for his comments.

Mr. BROYHILL. I thank the gentleman.

I wonder if I could have some comment on this from the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would be glad to respond if the gentleman will yield.

Mr. BROYHILL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for his comments. I am aware of his concern.

As my colleague, the gentleman from Illinois, has indicated, the provision was offered by the gentleman from Illinois (Mr. MADIGAN) who had a very strong interest in it and who handled the amendment very well. I supported his effort on recycling materials and I recognize the urgency of that undertaking. The four industries were selected because it was believed at that time they had the greatest potential for the use of recoverable materials.

I intend to ask, in response to my friend, the gentleman from North Carolina, that the Federal Administrator

advise us about this matter when we will consider this information in the conference.

I want to make it clear that I have no interest in creating unnecessary paperwork for no benefit. I believe in that I am concurred in by my friend, the gentleman from Illinois (Mr. MADIGAN), and if redress of this matter is necessary I assure the gentleman from North Carolina we will do so.

Mr. BROYHILL. I thank the gentleman very much.

I am sure it was not the intention of the chairman of the Subcommittee on Energy and Power or of the author of the amendment, the gentleman from Illinois, to burden an industry which has little or no need to recycle its materials because it does not use those in its processes.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I join the gentleman from North Carolina (Mr. BROYHILL) in his comments on the fact that there is practically no recoverable waste where a textile mill product is concerned. I believe it would be a mistake to include this in section 241 and it would only result in burdensome reporting.

I thank the gentleman from Illinois and the gentleman from Michigan for their consideration.

Mr. Chairman, I have asked a lot of questions about this provision and its effect on the textile industry. As a result of my investigation, I find that there is virtually no recoverable waste material created in the manufacturing of textile mill products which can be recycled by that industry in the manufacturing of textile mill products as envisioned in section 241 of H.R. 6831. The "findings" in that section state that it is designed to conserve energy in major energy-consuming industries where recovered materials are utilized in their manufacturing operations.

Those usable wastes which result from textile mill products manufacturing are used outside of the textile industry for such things as paper and allied products, apparel manufacturing, furniture, and cosmetics.

The Federal Government classifies textile mill products in SIC 22. This SIC classification covers products from yarn through finished fabrics.

In the manufacturing of yarn, some cotton with a staple length too short to use for yarn and lint become waste materials. These materials are sold for various types of stuffing for everything from furniture to coffins. Other waste lint is frequently donated to charitable organizations for pillow stuffing. None of these uses are in SIC 22.

In the manufacturing of fabric, a commodity known as "selvage" is created when the fabric is trimmed. These are small, narrow, generally ragged pieces of material. These are baled and sold to the "rag" market. One use within the textile industry is to weave small bathmats. This is an extremely small type of operation, which would not be subject to the target and reporting under the proposed new program. Some selvage is used for cleaning cloths. This use, also is outside SIC 22.

Some rags and cotton linters are used in manufacturing paper, but that accounts for less than 1 percent of the paper market and it is used in SIC 26, not SIC 22. This is a specialized and declining market where, even in the paper industry, there is little expectation that rag use will increase significantly.

Wool grease is produced in the processing of wool. That grease is combined with alcohol to make lanolin, all of which is sold to the pharmaceutical industry. None is used in SIC 22.

Some wool is reused to manufacture suits. This is a specialized market, with only about six manufacturers. Of the 11.6 billion pounds of fiber consumed by U.S. manufacturers in 1976 only 122 million pounds were wool. That amount is wool for all purposes. The reuse suit market would be an infinitesimal fraction of that. None of the used wool fabric manufacturers would be subject to the reporting program under the definitions in section 374 of EPCA.

Some comber noils from extra long staple cotton can and are being blended with short staple cotton in open end spinning. The bagging from a bale of cotton is sometimes used for carpet backing. Card strips and clearer waste from spinning can and is being used for mattress ticking, this, likewise, is a very small volume use. Some cotton linters and waste are used in mattress batting or stuffing. This is not recycling, but utilization of lower grade products which are a byproduct.

I have been able to determine that a small amount of polyvinyl alcohol is recovered and recycled in certain textile finishing processes under certain conditions in a limited number of plants. However, this would be insignificant at best.

Because of the fact that there is practically no recoverable waste where the textile mill products industry is concerned, the inclusion of textiles in section 241 is in error. It would impose a burdensome target reporting program on an industry which of necessity would have a ridiculously low target and no known potential for improvement, even with the help of tax incentives.

Title II of H.R. 6831 provides for a special 10-percent investment credit in addition to the regular investment tax credit in connection with the purchase of "recycling equipment," defined as "equipment which is used exclusively in the recycling of solid waste and to sort and prepare solid waste for recycling." The textile industry has no idea what type of equipment could be purchased to enhance solid waste recovery and reuse in the textile mill products industry, even if the tax credit were 100 percent.

Yet, section 241 of title I would impose a mandatory data collecting and reporting program on the textile industry. The only voluntary aspect of the program is that there is no requirement to meet the industry target.

Mr. Chairman, I know from personal observation that the textile industry does not oppose realistic and meaningful energy conservation reporting programs. The American Textile Manufacturers Institute pioneered the energy efficiency reporting program and the ATMI program set the pattern for the voluntary program which eventually became the basis for the EPCA target program. The ATMI energy efficiency measurement program is widely recognized in Government and industry as a model program.

The EPCA target for the textile industry cost the FEA in excess of $125,000 in addition to staff time required to conduct a public hearing, written comment evaluation, and promulgation of regulations.

The new proposed program would be another burdensome paperwork project imposed on the industry and would require an additional bureaucracy to administer a target program, which could be expected to produce minimum results where textiles are concerned.

The solid waste of the textile industry is utilized outside of SIC 22 in the form of byproducts sold to other industries.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment offered by my good friend.

Mr. Chairman, there is a good deal of misunderstanding about the amendment. First of all it relates to bulk power sales, not to the retail sales of electric utilities. Second of all, it is triggered not by a citizen complaint or a lawsuit but it is triggered by a complaint of an electric utility in the region who might claim that he is being foreclosed from the ability to participate in the generation of electric power.

Now, it has been pointed out by the able gentleman from Tennessee that the number of private utilities in this country are in a substantial and real decline. This tends to eliminate the availability of bulk power from competing sources. There are large numbers of utilities in the United States that have no generating power facilities of their own, but exist and serve their customers solely with power which is bought on the marketplace.

Now, the comment was made with regard to delay. I think that is one question which merits consideration. Delay here is not a real peril. A delay would not occur, in my view, because a review would be going on at a time other processes were going forward; the site permits, right-of-way permits for lines, EPA permits with regard to air pollution and air and water access and things of that kind; so it should be plain there is really no possibility for delay.

As a matter of fact, it should be apparent to all that if we really want delay in the construction of these plants, let the plant begin and then let them get hit with an antitrust suit; then they will see some genuine delay that will curl the hair of all here present.

That is not what we want. We want to have this review, which would take place at a time earlier.

It should be observed that under similar legislation enacted at a time earlier, statistical experience on this kind of review does exist under the Atomic Energy

Act, which has a similar provision. Under that provision, the Justice Department, as of July 29, 1977, reviewed 89 applications. In 16 of these, it recommended hearings be held on anticompetitive problems, but only three of these resulted in full blown hearings.

It should be noted that under the Atomic Energy Act, the Justice Department is given 180 days for this review. Under the legislation before us, we give the Justice Department 60 days, one-third of the time, and it should be noted that the Justice Department reviews in this instance only on complaint, not upon its own motion.

Now, let us talk about the grandfather situation that my good friend, the gentleman from Alabama, refers to. The Alabama Power Company was involved in certain anticompetitive practices, the principal of which was the refusal of that company to coordinate its bulk power system with the Alabama Power Cooperative. Also involved was a demand by Alabama Power for concessions in territorial allocation.

I do not think this is the kind of thing we want to foreclose by denying the kind of opportunity for a brief review while other applications are pending.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman implied a very important aspect of the provision in the bill if the amendment is not adopted.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. GARY A. MYERS, and by unanimous consent, Mr. DINGELL was allowed to proceed for an additional 3 minutes.)

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will continue to yield, is the gentleman suggesting that the provision by providing so in the act here that if a competitor does not raise the antitrust issue within this time frame that it precludes his opportunity to exercise that option once that construction begins?

Mr. DINGELL. Mr. Chairman, I do not believe that is necessarily the case, because it would be their preference that the antitrust question would be raised prior to the time that the construction begins, for reasons that both my friend, the gentleman from Pennsylvania, and I can clearly understand.

As the gentleman well knows, long before the digging commences there are a whole series of permits from State, Federal, and local agencies, and a 60-day antitrust review would not unduly prejudice anything. As a matter of fact, there are delays much more important which come from other things such as equipment supply, labor difficulties, environmental and citizens suits which might arise.

Mr. GARY A. MYERS. But the truth of the matter is that those same delays could occur even with this provision.

Mr. DINGELL. They might occur when the company was unprepared by the right review, which this makes possible. This actually is therapeutic in preventing misfortune from striking the company.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Alabama.

Mr. FLOWERS. I do not think companies regard this as quite as therapeutic as the distinguished chairman says it is. I think what he said is that there is already so much delay written into government, there is so much redtape and regulation that even this additional substantial amount will not do that much harm.

Let me say to my friend from Michigan—and I admire his work—but I just cannot agree with him on this section. There is an absolute horror story in the situation that I made reference to and what the gentleman made reference to. I do not think that either one of us has been able to tell the whole story in the short time we have here, but my point is that this is a potential for further delay.

All of the antitrust laws that are on the books are still on the books. They can be utilized. We can have this and still have the court proceedings. There is not anything this circumvents, that this heads off. It does not put a lid on anything. It adds another level of redtape and delay. It is not just for competitors, but for any electric utility.

Mr. DINGELL. If the gentleman will permit, I want this observed, that this causes no delay but, in the case of Alabama Power, it caused a remarkable change in their viewpoint toward the cooperative when they had a similar review. As a matter of fact, it was found that earlier they were engaged in the practice of having a dual rate system to the jeopardy of a number of smaller electrical utilities in the area. Most of the delays in the case the gentleman has referred to started from the Alabama Power's wanting them.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. FLOWERS. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan (Mr. DINGELL) be granted 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

First off, Mr. Chairman, let me observe for the Members present that in Ohio we have several plants that have been built that serve investor-owned utilities, cooperative utility distribution systems, and municipal utilities all at the same time. So, we have this kind of combined generating plant capacity on a voluntary basis that apparenty the authors of this section would like to encourage through the imposition of bureaucratic meddling from the Justice Department and the Federal Power Commission.

But, I rise in opposition to the section and in support of the Flowers amendment. It seems to me that section 548 is not desirable because it will delay the construction of generating capacity. Nobody, I think, can argue that generating capacity delays are not to be sought in this bill if we are trying to produce a bill to produce energy. The subcommittee, I might say to the gentleman from Illinois, deleted section 548, which deals with the preservation of competition, on a 12 to 10 vote, but the full committee reinserted the section.

At that time the proxy votes were all pretty well in line on the majority side, and it was through the leadership of our chairman—who I want now to sit back and relax and just listen to me for a few minutes because he had a long night with a sick conference report last night—that section 548 was reinserted in the full committee.

The problem with this provision, which now is in the bill, is that it would permit the Federal Power Commission and the Justice Department to delay a utility's planned construction, even though neither the Commission nor the Department now has certifying authority with respect to construction of fossil fuel fired generating units and it would permit Justice and the FPC to exact commitments prior to construction, such as selling parts of generating capacity to other parties.

Let me read some of the language. On page 282, line 6, it says:

> . . . with such requirements as it determines appropriate to prevent or remedy such a situation (including providing for joint ownership of such facility.)

That clearly is an invitation in legislative language for these two agencies to get in and just say, "Now, you will be all right, provided you do this." If we want them to do it, why do we not just mandate it? Why do we give the authority to the agencies—we do not know who will be making this determination here—to say, "Well, you can go ahead and build the plant if you do this, that, or the other," or whatever is the whimsical idea of what the agency thinks is right.

The FPC and the Justice Department do not presently have authority to compel such action in return for permission to go forward. If the FPC and the Justice Department are to be given an additional role in the certification process, which I do not believe to be desirable, it should be done by clear statutory direction by the Congress, with procedural safeguards, and not in some indirect way of administrative or judicial interpretation which permits the extension of bureaucratic power for the sake of the exercise of that bureaucratic power alone.

And that is what we are doing. Talk about sloppy legislation. Is this the same Congress that a couple of years ago was saying that we did not want the executive branch to start making all of the rules for us, that we want to tell them what they are to do and what they are not to do?

And now we write the language like this, which says, "We want you to review these things whenever anybody builds a new powerplant. Take your time if you wish." We do not say, "Take your time," but we do say, "You can review the whole process and then say what is appropriate to remedy whatever situation you find that may be at fault here."

If that again is not an invitation to bureaucratic interpretation of what is right and wrong, I have never heard of it.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(On request of Mr. MCCLORY, and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. MCCLORY. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out, in line with what the gentleman has said, there are specific authorities in that section that the Commission may prescribe as it determines appropriate to carry out this subsection. They want to make sure they have the right to carry out rules and regulations, to amplify and expand the authority they have here. That is going to be even more mischievous than the language itself.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, I would just say to the gentleman from Illinois that I hope the Members know what is at stake here. There are the distribution companies and utilities which do not want to build the generating capacity themselves. They want somebody else to build it, so that then when it is built they can say, "Well, now, we want to buy from you. We want you to build enough to take care of us."

So they are not committing their utility or their customers to the necessity of paying for that plant. That is what is at stake. If we think that ought to be done, if we think we ought to give somebody a free ride, that is something else. Let us take the case of the last guy waiting at a bus stop. If the bus is going that way anyway, why should he have to pay? If we want to say, "That guy deserves a free ride, but all the other people on the bus have to pay," we ought to put that in the law and say that since the bus is going his way, he gets on free.

Frankly, I do not think that is desirable, and I do not think we ought to put that in the law. I think some of my friends on the other side of the aisle do not think it would be desirable either, and they might not get a majority vote for that approach. So what we have now is an opportunity for the same thing to be accomplished bureaucratically.

Mr. Chairman, I do not think that is desirable, and the gentleman from Alabama (Mr. FLOWERS) is quite right in saying it should be stricken.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I thank the gentleman for yielding.

No one is proposing that any utility should be given a free ride.

Mr. BROWN of Ohio. No, not directly.

Mr. GORE. The gentleman is quite correct in stating that some distribution companies are not large enough to construct their own facilities for increased generating capacity.

Mr. BROWN of Ohio. If that is true, why, then, do they not combine, as they do in Ohio, with the other companies that are going to build facilities? They can put their capital in, too, the same as the other companies that are going to build the facilities.

Mr. GORE. That is precisely the result that is expected through this legislation.

Mr. BROWN of Ohio. That is the purpose of it, then, is it not?

Mr. GORE. The purpose is to encourage the sharing of generating capacity so there will be a constant supply of energy.

Mr. BROWN of Ohio. Mr. Chairman, I would say to the gentleman that it is not to encourage that but to force a whim or a bureaucratic decision on other utilities and their customers.

Mr. GORE. No; I do not believe that to be correct.

Mr. BROWN of Ohio. Why do we not do it directly, then, if that is what we want to do?

Mr. GORE. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, this action only comes on the complaint of a utility in a region in which an anticompetitive result will occur if they are not given the opportunity to share in the costs as well as the benefits of additional generating capacity in order to better serve its customers.

Mr. BROWN of Ohio. It comes only if the utility says, "I want a free ride." The utility goes to the Justice Department and the FPC and says, "Give me a free ride."

The question we must ask ourselves is: Do we want to leave it up to the FPC and Justice to make that decision?

Mr. Chairman, the real danger is that such a provision would cause delays in the construction of facilities necessary to provide adequate supplies of electric energy to meet the demands of the public. Thus, the burden which would be created by section 548 would aim toward defeating the basic purpose of the national energy legislation, that is, assurance of the timely development of energy resources necessary to meet the needs of the nation.

Proponents of section 548 argue that it would not cause any undue delay because the Justice Department would have only 60 days to make its review. However, there is no time limit whatsoever on the Federal Power Commission in making its determination. In fact, section 548 provides that after receiving the Attorney General's advice, the FPC shall launch its own proceeding, including "public notice and an opportunity for written data, views and comments." Experience with the FPC on other matters indicates that there is little hope for speedy and expeditious action. Instead, there is every likelihood that the utility applicant will wait for many months and years while the bureaucratic process rolls on.

I urge my colleagues to support the Flowers amendment.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make an inquiry of the gentleman from Michigan (Mr. DINGELL), if he will allow me to ask a couple of questions.

Mr. DINGELL. If the gentleman will permit and if he will yield, I will be delighted to try to respond.

Mr. STEERS. Mr. Chairman, I believe I heard the gentleman indicate the point that in many, many instances there would be no possibility of a delay because, first of all, this cannot be triggered unless there is another public utility or another complainant who would raise the question. Is that not correct?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the answer is that the gentleman is correct, except that the complainant would have to be a utility.

Mr. STEERS. Why does it say, then, "whenever the Commission determines on its own initiative or upon complaint. . . ."?

Mr. DINGELL. Mr. Chairman, if the gentleman will permit me to answer, that is a different section in the bill. That refers to other parts of the legislation and is not a subject of the preservation of competition section.

Mr. STEERS. I am reading from section 548. That language appears at line 24, on page 280.

Mr. DINGELL. The gentleman is in the wrong subsection. There are two subsections here. There is section 548(a), which is the general authority of commission section, and then there is the section 548(b) relating to new bulk power facilities. The reference there is to subsection (h)(1) of section 202 of the Federal Power Act.

Which one of those subsections is the gentleman reading?

Mr. STEERS. I am reading from (a), which refers to adding a new section (k).

If I understand the gentleman correctly, then, he is saying that this states the general authority of the Commission. This section says, "whenever the Commission determines on its own initiative . . ." By that language, then, could that not result in a delay?

Mr. DINGELL. Mr. Chairman, for the benefit of my friend, let me say that can be done under present law now, and the Supreme Court has already passed on this. That is in connection with rate cases, not construction of facilities, I would point out to the gentleman.

Mr. STEERS. Mr. Chairman, my other question relates to utilities, and I understand there are some that do not have to go to the Federal Power Commission.

The point I am making—and I am asking a question really, because I am not sure I am right—is this: It says on page 281 at line 19, as follows: "(but not to exceed 60 days) . . ."

My question is if one does not have to go to the Federal Power Commission, is that not an additional 60 days since there are no 180 days that will run contemporaneously?

Mr. DINGELL. Let me respond to the gentleman in this way: That is concurrent with other actions that go on in the Commission, not in succession with other actions. Furthermore, these plans are filed prior to the time the construction actually starts.

Mr. STEERS. But suppose, if I may interrupt, that the utility has nothing

filed with the Federal Power Commission. The gentleman says that it goes on during other action.

Mr. DINGELL. There is no triggering of the section if there is no proposal to construct new bulk power facilities before the Commission.

Mr. STEERS. No, but suppose it has been triggered by the complaint of, say, another municipality or utility?

Mr. DINGELL. That can take place only if there is a proposal to construct new bulk power facilities before the Commission.

Mr. STEERS. Then the gentleman is saying that if the utility has no construction permit application binding, the 60-day delay cannot occur; is that correct?

Mr. DINGELL. The 60-day delay does not occur if there are no proposed plans. The provision with regard to competition and the review of antitrust matters under these sections does not come into operation.

Mr. STEERS. Mr. Chairman, I thank the gentleman.

Mr. DINGELL. If the gentleman will yield further, I want to thank the gentleman because he has elucidated much of the controversy that appears to exist here.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a long time ago it used to be lawful to engage in any conduct, commercial or private, unless it was explicity against the law. That maximized our freedom. We would pretty well do whatever we wished unless the law made it illegal to do so.

However, in recent years, we have been moving in a different direction. It is now not enough that one should be in violation of the law. Now we are asking Government to take a look at our conduct prospectively and make a determination as to whether our plans—and now I quote those exquisitely vague words in the bill—"may create or maintain a situation inconsistent with the anti-trust laws."

Mr. Chairman, that kind of review is required by this act. One complains to the Commission, and the Commission seeks the views of the Attorney General with respect to particular conduct, namely, a business decision to construct, and asks the Attorney General to make such a determination.

Of course, if he makes a determination that one is violating the law, his remedy is to proceed promptly against the alleged violator under the existing antitrust laws.

If he makes a determination that one is apt to violate the law, there are injunctive remedies available. But that is not the determination to be made here. He is asked to second guess a business decision to become involved in the business decision to construct bulk-power facilities on the basis of a determination by him that one's conduct may create or maintain a situation which is inconsistent with the antitrust laws, as defined.

Mr. Chairman, what do the Members suppose the Attorney General is going to do if given that responsibility? He may well decide that one's business judgment is not sound in his view. He may well decide that it would be more consistent with the spirit of the antitrust laws if there were joint ownership of a bulk-power facility. He may interpose his judgment in many ways. Mr. Chairman, that is not good policy.

A person in this country still should be permitted to engage in conduct unless it is against the law, and Government ought to keep its hands off unless it is against the law.

If we wish to prohibit the construction of one-owner bulk-power facilities in a region, then we ought to make it against the law to do so. However, we do not do that in this bill. No, we simply invite the Attorney General to sit on the board of directors and grant him a veto over the board's business judgments.

Mr. Chairman, the amendment of the gentleman from Alabama (Mr. FLOWERS) is a worthy amendment; and it is entitled to the support of this body.

The language contained in this bill is not unique. It merely reflects a growing trend in other legislative areas to have prior review by the Attorney General with respect to the antitrust laws.

That is not good policy. People should not have to go to a police agency to expose their plans and ask for an advisory opinion as to whether or not it may be inconsistent with the law. If you do that, the chief of police, or, in this case, the Attorney General, will surely give his advice. He will say that the plan is all right, but—and then make some suggestions which, of course, one is afraid to disregard.

I hope that the Members recognize the importance of the amendment and will support the gentleman from Alabama (Mr. FLOWERS) in his motion to strike section 548 of the bill.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, just briefly in response to the gentleman's reference that this is perhaps not a fit subject for antitrust, or for actions under the antitrust law, let me point out that in FPC versus Conway Corp., the Supreme Court there said that:

> The exercise by the Commission of powers otherwise within its jurisdiction "clearly carries with it the responsibility to consider, in appropriate circumstances, the anticompetitive effects of regulated aspects of interstate utility operations pursuant to . . . directives contained in the law . . ."

I thank the gentleman for yielding.

Mr. WIGGINS. Mr. Chairman, I recognize that this is not a new or novel theory. I am simply suggesting that we not extend it.

Let me make a final observation on what is done under the heading of "preservation of competition." Bear in mind what is proposed to be done. A person wants to go into competition, he wants to build a bulk power facility, and, in the name of "preservation of competition" he may not be permitted to do it.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know that I can add much to what has already been said by those who have offered their support to the amendment offered by the gentleman from Alabama (Mr. FLOWERS) but, Mr. Chairman, I would like to concur in the substance of everything that has been said in support of the amendment, which I believe is an appropriate amendment. It is looked upon by many utilities and, I might say, the International Brotherhood of Electrical Workers, as another indication of the extent to which the Congress is willing to legislate more and more harassment against those who are trying to meet public needs.

Let us take or further look at the language of section 548 and see how far it goes.

Mr. Chairman, reviews similar to the one to be established under section 548 are now conducted for each proposed nuclear plant, but section 548 would provide for reviews for conventional fossil-fired electric generating plants, hydroelectric plants, and even transmission lines.

In the case of nuclear plants the rationale was that utilization of nuclear energy was originally a monopoly in the hands of the Federal Government. Thus, an anticipatory antitrust review was ingrafted into the licensing procedures for nuclear plants to supplement conventional procedures for applying the antitrust laws. Experience has shown that the antitrust proceedings under the Atomic Energy Act have been lengthy and complex, and have resulted in delays in the construction or the operation of plants which were needed to provide adequate supplies of electricity in the areas which such plants were designed to serve.

With respect to generation and transmission facilities, to which section 548 would apply, the rationale which supported the antitrust review for nuclear plants is not applicable. Technology for such facilities was not developed at Government expense, and the Federal Government is not turning over to private enterprise a technology which it had developed and controlled. Importing the anticipatory antitrust review is unnecessary with respect to such facilities in view of the conventional antitrust procedures which are available for application to the electric utility industry. Providing for such review would be tantamount to requiring an antitrust review before a steel company built a new steel mill or before a car manufacturer expanded its production capability.

The real danger is that such a provision would cause delays in the construction of facilities necessary to provide adequate supplies of electric energy to meet the demands of the public. Thus, the burden which would be created by section 548 would aim toward defeating the basic purpose of the national energy legislation, that is, assurance of the timely development of energy resources necessary to meet the needs of the nation.

Proponents of section 548 argue that it would not cause any undue delay because the Justice Department would have only 60 days to make its review. However, there is no time limit whatsoever on the Federal Power Commission in making its determination. In fact, section 548 provides that after receiving the Attorney General's advice, the FPC shall launch its own proceeding, including

"public notice and an opportunity for written data, views and comments." Experience that the utilities in my State have had with the FPC on other matters indicates that there is little hope for speedy and expeditious action. Instead, there is every likelihood—certainly a possibility, and that is dangerous—that the utility applicant will wait for many months and years while the bureaucratic process rolls on.

As a related point, section 548 would necessitate a substantial increase in the Federal bureaucracy. Neither the Justice Department nor the FPC currently have the staff to carry out the responsibilities that would be imposed upon them by this anticipatory antitrust review provision applicable to every new generation and transmission facility. At a time when there is agreement that too many local decisions are made by the bureaucrats in Washington, section 548 would add still another layer of Federal regulation delaying construction of needed energy facilities.

I would like to conclude by saying that I have a telegram, as I am sure most of the Members do, from Mr. Charles H. Pillard, international president of the International Brotherhood of Electrical Workers, which reads as follows:

The International Brotherhood of Electrical Workers opposes section 548 of H.R. 8444 and urges you to support Representative Walter Flowers amendment to strike this section during floor consideration. Section 548 permits the Federal Power Commission to conduct anti-trust review of proposed utility plans for constructing coal or oil fired generating plants or transmission facilities. State regulatory commissions—not FPC—has certifying authority over utility construction and section 548 with its numerous lengthy hearing procedures adds but another layer of red tape and will result in unnecessary delay of vitally needed power facilities. Such delay will lead to the postponement or complete loss of thousands of vitally needed jobs for members of IBEW and other building and construction trades unions. Section 548 was deleted in subcommittee on an amendment by Representative John Murphy (D., N.Y.) but reinstated by the full committee. This section is onerous to all union labor and we urge you to strike it from this legislation.

Mr. Chairman, I think the amendment of the distinguished gentleman from Alabama is a proper one and should therefore be adopted.

This union is opposed to the legislation, and I hope that the committee will accept the amendment offered by the gentleman from Alabama.

Mr. SAWYER. Mr. Chairman, I move to strike the last word.

I just want to make a very brief observation, and that is I have listened now for a very considerable length of time to an argument that centers over a potential of delays of 60 days, and whatnot. If the Members would take a look at section 623 which allows citizen suits to be brought without regard to the amount involved or their damage, and without regard to citizenship, to get preliminary relief and to get their attorneys' fees and expenses paid, if they do not like something, or claim anything virtually in the way of construction or otherwise is illegal, they will think what we are talking about here is de minimus. I may say that I have already had two environmentalists' highly activists groups from my district call and want copies of this section. They are already gearing up on it. So I would just say that I am not impressed with either defenders of the delay arguments or the affirmative arguments here when we look at the havoc that is going to be wrought by section 623.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat perplexed by this amendment. I am inclined to think it unnecessary. I am wondering if I may engage the attention of the gentleman from Michigan, the chairman of the subcommittee, so we can get some indication of the true intent.

As I understand this section, the Attorney General would make a finding of anticompetitive impact and the Commission would then order a remedy. But the problem I have with the wording is that the remedy is open ended. It says, "as he deems appropriate." I am wondering if the gentleman could indicate to me and to the House and for the legislative history of this section, whether there is any intention here that the remedy might involve allowing, say, a municipal power system to come into a bulk power facility on a 10 or 15 percent share at a cost that would be lower than the market cost or the true investment cost. Is there an intent to subsidize or to provide the opportunity to enter into some kind of jointly owned power producing facility at a cost that is lower than the actual cost of building and constructing that facility, or is this merely an intent to provide access if that complaining municipal power system feels it does not have an opportunity to participate on a market cost basis.

Mr. DINGELL. Mr. Chairman, I think the gentleman has put his finger on some of the concerns expressed by my colleagues. He has expressed it most eloquently.

I would point out the gentleman also has stated clearly the intent. We are not intending that anybody be harassed or cause a delay. They can buy in.

Mr. STOCKMAN. So it is the intent, to clarify or to reiterate, that they would have to buy in on a market cost basis.

Mr. DINGELL. Most emphatically.

Mr. STOCKMAN. If that is the indication, I think the amendment is unnecessary. We have heard a lot of talk about competition and regulation. Let us remember this section of the bill affects the electric utility industry and by definition the utilities are monopolies. In all the decisions the utilities make, whether it is on rates or customers they serve, or the facilities they build, those decisions are determined by regulatory commissions either at the State level or in some instances by the Federal Power Commission.

So the question here is whether this will improve the rationality and effectiveness of the regulatory process, and I think it will, because frankly I would rather see the small, municipal utilities, which basically are in the business of selling and distributing power, not in generating it, buy into joint production facilities where they do have the very large, efficient, central generating plants than to have the small utilities be forced into building very small plants of their own which would really result in generating high-cost power for the customers.

So I think the Flowers amendment is unnecessary. I urge it be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 45, noes 19.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 160, answered "present" 1, not voting 15, as follows:

[Roll No. 500]

AYES—257

Abdnor	Flynt	Milford
Alexander	Foley	Miller, Ohio
Ammerman	Forsythe	Mineta
Anderson, Calif.	Fountain	Mitchell, N.Y.
	Fowler	Mollohan
Andrews, N.C.	Frenzel	Montgomery
Annunzio	Frey	Moore
Applegate	Fuqua	Moorhead, Calif.
Archer	Gammage	
Armstrong	Gephardt	Moorhead, Pa.
Ashbrook	Giaimo	Murphy, Ill.
Badham	Gibbons	Murphy, N.Y.
Bafalis	Gilman	Murphy, Pa.
Bauman	Ginn	Myers, Gary
Beard, R.I.	Goodling	Myers, John
Beard, Tenn.	Gradison	Natcher
Benjamin	Grassley	Nichols
Bennett	Gudger	Nowak
Bevill	Guyer	O'Brien
Biaggi	Hagedorn	Panetta
Boggs	Hall	Pepper
Boland	Hamilton	Perkins
Bowen	Hammer-schmidt	Pettis
Breaux		Pickle
Broomfield	Hansen	Pike
Brown, Mich.	Harsha	Poage
Brown, Ohio	Heckler	Preyer
Broyhill	Hefner	Pritchard
Buchanan	Heftel	Pursell
Burgener	Hightower	Quayle
Burke, Fla.	Hillis	Quie
Burleson, Tex.	Holland	Quillen
Butler	Hollenbeck	Regula
Byron	Holt	Rhodes
Carney	Horton	Rinaldo
Carter	Hubbard	Risenhoover
Cederberg	Huckaby	Roberts
Chappell	Hyde	Robinson
Clausen, Don H.	Ichord	Rogers
	Ireland	Roncalio
Clawson, Del	Jenrette	Rooney
Cleveland	Johnson, Calif.	Rose
Cochran	Johnson, Colo.	Rostenkowski
Cohen	Jones, N.C.	Rousselot
Coleman	Jones, Okla.	Rudd
Collins, Tex.	Kasten	Runnels
Conable	Kazen	Ruppe
Conte	Kelly	Russo
Corcoran	Kemp	Ryan
Cornwell	Ketchum	Santini
Cotter	Kindness	Sarasin
Coughlin	Lagomarsino	Satterfield
Crane	Latta	Sawyer
Cunningham	Leach	Schulze
Daniel, Dan	Lehman	Sebelius
Daniel, R. W.	Lent	Shipley
Davis	Levitas	Shuster
de la Garza	Lloyd, Calif.	Sikes
Derrick	Lloyd, Tenn.	Simon
Derwinski	Long, La.	Sisk
Devine	Long, Md.	Skelton
Dickinson	Lott	Slack
Dornan	Lujan	Smith, Iowa
Duncan, Oreg.	Lundine	Smith, Nebr.
Duncan, Tenn.	McClory	Snyder
Edwards, Ala.	McDade	Spence
Edwards, Okla.	McDonald	Stangeland
Emery	McEwen	Stanton
English	McFall	Steed
Erlenborn	McHugh	Steers
Ertel	McKay	Steiger
Evans, Del.	Madigan	Stratton
Evans, Ga.	Mahon	Stump
Evans, Ind.	Mann	Symms
Fary	Marks	Taylor
Fascell	Marriott	Thone
Findley	Martin	Thornton
Fish	Metcalfe	Treen
Flowers	Michel	Trible

Vander Jagt	Whitley	Wydler
Waggonner	Whitten	Yatron
Walker	Wiggins	Young, Alaska
Walsh	Wilson, Bob	Young, Fla.
Wampler	Wilson, C. H.	Young, Mo.
Watkins	Wilson, Tex.	Young, Tex.
White	Winn	Zab.ocki
Whitehurst	Wolff	Zeferetti

NOES—160

Addabbo	Fenwick	Nedzi
Akaka	Fisher	Nix
Allen	Fithian	Nolan
Ambro	Flood	Oakar
Andrews, N. Dak.	Florio	Oberstar
	Ford, Mich.	Obey
Ashley	Ford, Tenn.	Ottinger
Aspin	Fraser	Patten
AuCoin	Gaydos	Patterson
Baldus	Glickman	Pattison
Barnard	Gonzalez	Pease
Baucus	Gore	Pressler
Bedell	Hanley	Price
Beilenson	Hannaford	Rahall
Bingham	Harkin	Rangel
Blanchard	Harrington	Reuss
Blouin	Harris	Richmond
Bolling	Hawkins	Rodino
Bonior	Holtzman	Roe
Bonker	Howard	Rosenthal
Brademas	Hughes	Roybal
Breckinridge	Jeffords	Scheuer
Brinkley	Jenkins	Schroeder
Brodhead	Jones, Tenn.	Seiberling
Brooks	Jordan	Sharp
Brown, Calif.	Kastenmeier	Skubitz
Burke, Calif.	Kildee	Solarz
Burlison, Mo.	Kostmayer	Spellman
Burton, John	Krebs	St Germain
Burton, Phillip	LaFalce	Staggers
Caputo	Le Fante	Stark
Carr	Lederer	Stockman
Cavanaugh	Leggett	Stokes
Chisholm	Luken	Studds
Clay	McCormack	Thompson
Collins, Ill.	Maguire	Traxler
Conyers	Markey	Tsongas
Corman	Marlenee	Tucker
Cornell	Mathis	Udall
D'Amours	Mattox	Ullman
Danielson	Mazzoli	Van Deerlin
Delaney	Meeds	Vanik
Dellums	Meyner	Vento
Dicks	Mikulski	Volkmer
Diggs	Mikva	Walgren
Dingell	Miller, Calif.	Waxman
Dodd	Minish	Weaver
Downey	Mitchell, Md.	Weiss
Drinan	Moakley	Whalen
Early	Moffett	Wirth
Eckhardt	Moss	Wright
Edgar	Mottl	Wylie
Eilberg	Myers, Michael	Yates
Evans, Colo.	Neal	

ANSWERED "PRESENT"—1

Edwards, Calif.

NOT VOTING—15

Anderson, Ill.	Goldwater	McCloskey
Badillo	Jacobs	McKinney
Burke, Mass.	Keys	Murtha
Dent	Koch	Railsback
Flippo	Krueger	Teague

The Clerk announced the following pairs:

On this vote:

Mr. Jacobs for, with Mr. Edwards of California against.

Mr. Burke of Massachusetts for, with Mr. Badillo against.

Mr. Teague for, with Mr. Koch against.

Messrs. VANIK, LEGGETT, BRODHEAD, KASTENMEIER, CAVANAUGH, PRESSLER, BAUCUS, and MATHIS changed their vote from "aye" to "no."

Mr. SMITH of Iowa changed his vote from "no" to "aye."

Mr. EDWARDS of California. Mr. Speaker, I have a live pair with the gentleman from Indiana (Mr. JACOBS). If he were present he would have voted "aye." I voted "no." I withdraw my vote and vote "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate the heading of the part now pending.

The Clerk read as follows:

Page 315, line 6; Part VI—Conversion From Natural Gas and Petroleum to Coal and Other Fuel Resources.

(Part VI reads as follows:)

PART VI—CONVERSION FROM NATURAL GAS AND PETROLEUM TO COAL AND OTHER FUEL RESOURCES

Subpart A—General Provisions

SEC. 601. FINDINGS AND STATEMENT OF PURPOSES.

(a) The Congress finds that the protection of public health and welfare, the preservation of natural security, and the regulation of interstate commerce require the establishment of a program for the expanded use, consistent with applicable environmental requirements, of coal and other fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations.

(b) The purposes of this part, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses other than as a boiler fuel or for the generation of electricity and to conserve such resources for the benefit of present and future generations;

(3) to encourage and foster the greater use of coal and other fuels, in lieu of natural gas and petroleum as a primary energy source for existing and new electric powerplants and major fuel-burning installations, and for other purposes;

(4) to encourage the use of synthetic gas derived from coal and, to the extent permitted by this part, to encourage the use of synthetic gas derived from coal mixed with natural gas;

(5) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source for existing and new electric powerplants, major fuel-burning installations, and for other purposes;

(6) to require the improvement or modernization of existing and new electric powerplants and major fuel-burning installations, which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other fuels, in order to conserve natural gas and petroleum;

(7) to require that existing and new electric powerplants and major fuel-burning installations which utilize petroleum, coal, or other fuels pursuant to this part comply with applicable environmental requirements;

(8) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this part by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such action as lies within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(9) to insure that adequate supplies of natural gas are available for essential agricultural uses, including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses; and

(10) to reduce the United States' vulnerability to energy supply interruptions.

SEC. 602. DEFINITIONS.

For the purposes of this part—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" means any individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, or any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or any agency or instrumentality thereof.

(3) The term "natural gas" means—

(A) natural gas, as defined in section 2(5) of the Natural Gas Act, other than—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity) as determined under rules prescribed by the Administrator; and

(ii) natural gas which is produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(B) liquid petroleum gas; and

(C) synthetic gas derived from crude oil.

(4) The term "petroleum" means crude oil, residual fuel oil, and products derived from crude oil other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas; and

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(5) The term "coal" means anthracite and bituminous coal and lignite.

(6) The term "other fuels" means electricity or any fuel (other than coal, natural gas, or petroleum) and includes—

(A) petroleum coke, uranium, biomass, wood, and renewable and geothermal energy sources;

(B) synthetic gas derived from coal; and

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(7) The terms "electric powerplant" and "powerplant" mean any electric generating unit, including a gas turbine or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(A) has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more electric generating units (excluding, if determined appropriate by rule by the Administrator, any such unit not having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Such terms do not include any such unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission.

(8) The term "new electric powerplant" means—

(A) any electric powerplant (other than a peakload powerplant) the onsite construction or replacement of which, in accordance with final drawings or an equivalent design document approved by the State regulatory authority, had not commenced on or before April 20, 1977; or

(B) a peakload powerplant (i) the construction or acquisition of which, in whole or in part, had not been contracted for on or before April 20, 1977, or (ii) if contracted for on or before such date, the construction or acquisition of which could not be canceled, rescheduled, or modified without—

(I) adversely affecting electric system reliability (as determined by the Administrator after consultation with the Federal Power Commission and the appropriate State regulatory authority), or

(II) incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(9) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(10) The terms "major fuel-burning installation" and "installation" mean a unit, other than an electric powerplant, consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(A) has a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more such units (excluding, if determined appropriate by the Administrator, any such unit having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming such fuel at a fuel heat input rate of 250 million Btu's per hour or greater.

(11) The term "new major fuel-burning installation" means any major fuel-burning installation—

(A) the construction or acquisition of which, in whole or in part, had not been contracted for, on or before April 20, 1977; or

(B) if contracted for on or before such date, the construction or acquisition of which could be canceled, rescheduled, or modified without incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(12) The term "existing major fuel-burning installation" means any installation—

(A) which is not a new major fuel-burning installation, and

(B) which has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 300 million Btu's per hour or greater.

The provisions of subparagraph (B) shall not apply to exclude any installation from being considered an existing major fuel-burning installation if the Administrator finds, by order, that it is technically and financially feasible (as determined under rules prescribed by the Administrator), in view of the remaining useful life of such installation, for such installation to comply with the prohibitions to which such installation would be subject if it were treated as an existing major fuel-burning installation.

(13) The term "primary energy source" means the fuel or fuels used by an existing or new electric powerplant or major fuel-burning installation or the use of which by such powerplant or installation is technically feasible, except it does not include, as determined under rules prescribed by the Administrator—

(A) the minimum amounts of fuel required for boiler startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the health, safety, or welfare which would result from electric power outages.

(14) The term "site limitations" means, when used with respect to any powerplant or installation, specific limitations associated with a particular site which relate to the use of coal or other fuels as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other fuels;

(B) lack of transportation facilities for coal or other fuels;

(C) lack of adequate facilities for the handling and storage of coal or other fuels;

(D) lack of adequate means for the disposal of wastes from such powerplant or installation; and

(E) lack of an adequate and reliable supply of water for use in compliance with applicable environmental requirements.

(15) The term "applicable environmental requirements" includes—

(A) any Federal, State, or local government law, standard, limitation, or other requirement (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other fuels or natural gas or petroleum as a primary energy source or from the operation of air pollution control equipment in connection with such use; and

(B) any standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

(16) The term "peakload powerplant" means a powerplant the generation of which in kilowatt hours does not exceed, for any 12-month period, such powerplant's design capacity multiplied by 1,500 hours. Not later than 90 days after the date of the enactment of this Act, the Federal Power Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(17) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Administrator in consultation with the State regulatory authority or other State agency, as appropriate. In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(18) The term "Btu" means British thermal unit.

(19) The term "Mcf" means, when used with respect to natural gas, 1,000 cubic feet of natural gas.

(20) The term "qualifying cogeneration facility" shall have the same meaning as given such term in section 546(b).

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any electric utility.

(22) The term "electric utility" means any person or Federal agency which sells electric power.

(23) The term "Federal agency" has the same meaning as is given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 603. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

Except as provided in section 631, nothing in this part shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements.

SEC. 604. TERRITORIAL APPLICATION.

The provisions of this part shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that the provisions of sections 611, 612, and 613 shall only apply to powerplants and installations situated on lands within the contiguous 48 States, Alaska, and the District of Columbia.

Subpart BM—Prohibitions; Exemptions

SEC. 611. NEW ELECTRIC POWERPLANTS.

(a) No new electric powerplant shall use natural gas as a primary energy source.

(b) No new electric powerplant shall use petroleum as a primary energy source.

(c) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for a new electric powerplant may file a petition with the Administrator requesting an exemption for such powerplant from the prohibition of such use under subsections (a) and (b).

(d) The Administrator, after consideration of a petition filed under subsection (c) for a temporary exemption and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(1) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant;

(2) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(3) the prohibitions of subsections (a) and (b) could not be satisfied without violating applicable environmental requirements; or

(4) the issuance of such exemption furthers the purposes of this part.

No exemption under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration.

(e) After consideration of a petition filed under subsection (c) requesting a permanent exemption and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(1) there is no site at which—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant;

(B) despite diligent good faith efforts, site limitations would permit the location of a powerplant using coal or other fuel as a primary energy source;

(C) the prohibitions of subsections (a) and (b) could be satisfied without violating applicable environmental requirements; and

(D) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such powerplant; or

(2) the issuance of such exemption furthers the purposes of this part.

(f) Before the Administrator grants any petition for an exemption under subsection (d) or (e), the Administrator shall submit a copy of the petition to the Federal Power Commission for the purpose of the Commission's certifying that there is no alternative supply of electric power which can be obtained without impairing reliability of service.

(g) In the case of any petition for a permanent exemption from the prohibitions of subsection (b) applicable to a new electric powerplant, the Administrator shall grant such exemption, by order, if the petitioner certifies that such powerplant is to be constructed and operated solely as a peakload powerplant.

(h) If the appropriate State regulatory authority has not approved a powerplant for which a petition for an exemption has been filed under subsection (c), such exemption may not take effect until the Administrator has determined that approval by such State regulatory authority has occurred.

(i) Any new electric powerplant issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subject to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such powerplant. Nothing in this subsec-

tion shall be construed to affect the validity of any such final order or to require the Administrator to reissue any such order.

SEC. 612. NEW MAJOR FUEL-BURNING INSTALLATIONS.

(a)(1) No new major fuel-burning installation which is a boiler shall use natural gas or petroleum, or both, as a primary energy source.

(2)(A) The Administrator may, by rule, prohibit categories (identified in such rule) of new major fuel-burning installations, other than boilers, from using natural gas or petroleum, or both, as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this subparagraph, the Administrator shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other fuels and the size or location of such installations). Any such rule shall not apply in the case of any new major fuel-burning installation subject to such rule pending a resolution of any petition for an exemption for such installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(B) The Administrator may, by order, prohibit any new major fuel-burning installation, other than a boiler, from using natural gas or petroleum, or both, as a primary energy source if such installation is not, at the time of the issuance of such order, in a category identified in a rule prescribed under subparagraph (A). The Administrator shall not issue an order under this subparagraph to any installation if it is demonstrated that such installation would have been granted an exemption, if such prohibition had been established by rule pursuant to subparagraph (A) rather than by order pursuant to this subparagraph.

(b) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for any new major fuel-burning installation may file a petition with the Administrator requesting an exemption for such installation from the prohibitions of subsection (a)(1) or (2)(A).

(c)(1) The Administrator, after consideration of a petition for a temporary exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate, if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels, it is likely such supply will not be available to such installation;

(B) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(C) the prohibitions of subsection (a)(1) or (2)(A) could not be satisfied without violating applicable environmental requirements;

(D)(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption; or

(E) the issuance of such exemption furthers the purposes of this part.

(2) No exemption under paragraph (1), including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that any exemption based on subparagraph (1)(D) may, upon petition, be extended an additional period of 5 years. Notwithstanding the preceding provisions, any exemption based on subparagraph (1)(D) may not be effective after December 31, 1994.

(d)(1) After consideration of a petition requesting a permanent exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(A) there is no site proposed by the petitioner at which—

(i) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply for coal or other fuel, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the installation;

(ii) despite diligent good faith efforts, site limitations would permit the location of an installation using coal or other fuels as a primary energy source;

(iii) the prohibitions of subsection (a)(1) or (2)(A) could be satisfied without violating applicable environmental requirements; and

(iv) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such installation;

(B) the issuance of such exemption furthers the purposes of this part; or

(C) in the case of any installation other than a boiler—

(i) the use of a primary energy source, other than natural gas or petroleum, is technically infeasible; and

(ii) a substitute heat source is not possible due to process requirements.

(2) The Administrator, upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (a)(1) or (2)(A) applicable to a new major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and other fuels as a primary energy soruce, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(e) Any new major fuel-burning installation issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subject to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such installation. Nothing in this subsection shall be construed to affect the validity of any such order or to require the Administrator to reissue any such order.

SEC. 613. EXISTING ELECTRIC POWERPLANTS AND EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

(a)(1) No existing electric powerplant—

(A) shall use natural gas as a primary energy source on or after January 1, 1990;

(B) if such powerplant used petroleum as a primary energy source on or before April 20, 1977, shall convert to the use of natural gas as a primary energy source; or

(C) shall use natural gas as a primary energy source in greater proportions than the average yearly proportion of natural gas which—

(i) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(ii) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

(2) The Administrator may prohibit any existing electric powerplant from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such powerplant had on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such powerplant of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(3) In the case of any existing electric powerplant in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such powerplant from using petroleum or natural gas, or both, in amounts in excess of the minimum amount necessary to maintain fuel efficiency of such mixture or such combination.

(b)(1) The Administrator may prohibit any existing major fuel-burning installation from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such installation had, on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such installation of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(2) In the case of any major fuel-burning installation in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such installation from using petroleum or natural gas, or both, in amounts in excess of the minimum amounts necessary to maintain fuel efficiency of such mixture or such combination.

(c)(1) The prohibitions under subsection (a)(2) and subsection (b)(1) shall be established—

(A) by rule, in the case of powerplants or installations in a category of powerplants or installations, respectively, identified by the Administrator in such rule, or

(B) by order, in the case of any powerplant or installation which is not, at the time the proposed order is issued, within any such category.

(2) In prescribing any rule under paragraph (1)(A), the Administrator shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the technical feasibility of burning coal or other fuels and the size, age, or location of such powerplants or installations). Any such rule shall not apply in the case of any existing electric powerplant or major fuel-burning installation subject to such rule pending a resolution of any petition for any exemption for such powerplant or installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(d)(1) Any person who proposes to use natural gas or petroleum as a primary energy source for any existing powerplant or major fuel-burning installation, and such use would be prohibited under subsection (a)(1) or under any rule prescribed under subsection (a)(2) or subsection (b)(1), may file a petition with the Administrator requesting a temporary or permanent exemption for such powerplant or installation from such prohibition. The prohibition of subsection (a)(1)(A) shall be stayed with respect to any existing powerplant, pending a resolution of any petition for any exemption from such prohibition which is filed at any time after the effective date of this part, but at least one year before the date such prohibition first takes effect.

(2) The Administrator, after consideration of a petition for an exemption from a prohibition under subsection (a) (1) or (2) or subsection (b)(1) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant or installation;

(B) natural gas will be used as a primary energy source by the petitioner in a powerplant which is a peakload powerplant (determined only with regard to its usage of natural gas);

(C) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(D) such prohibition could not be satisfied without violating applicable environmental requirements;

(E) in the case of an existing major fuel-burning installation—

(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption;

(F) the issuance of such exemption furthers the purposes of this part;

(G) in the case of an existing major fuel-burning installation, the use of a primary energy source other than petroleum or natural gas is technically infeasible, and a substitute heat source is not possible due to process requirements; or

(H) in the case of an existing electric powerplant, the Federal Power Commission has certified that there is no alternative electric power supply which can be obtained without impairing reliability of service.

(3) The Administrator upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (b) applicable to an existing major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and any other fuels as a primary energy source, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(4) If a petition is filed with the Administrator for a permanent exemption from the prohibitions of subsection (a)(1)(B) for the use of liquefied natural gas by a powerplant as a primary energy source, the Administrator shall grant such exemption, by order, if the Administrator of the Environmental Protection Agency has certified that the use of coal by such powerplant as a primary energy source would not comply with applicable environmental requirements.

(5) No exemption (other than a permanent exemption) under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that—

(A) any exemption based on paragraph (2)(E) may, upon petition, be extended an additional period of 5 years, but such exemption shall not be effective after December 31, 1994; and

(B) an exemption based on paragraph (2)(B) shall not be effective after December 31, 1994.

(6) The Administrator shall not issue an order under subsection (b) to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by rule pursuant to subsection (c)(1)(A) rather than by order pursuant to subsection (c)(1)(B).

(e) Upon publication of any proposed order under subsection (a) or (b) in the case of any existing major fuel-burning installation or upon the receipt of any exemption under this section, the Administrator shall request the Federal Trade Commission to evaluate the impact of the proposed order or a denial of the proposed exemption on competition and provide to the Administrator, within 120 days of receipt of such request, written views and recommendations, if any, concerning such impact. Any such views or recommendations shall be available to the public. The Administrator shall consider such views and recommendations in issuing any such order or exemption.

(f)(1) Notwithstanding any other provision of law, no proposed order under subsection (a) or (b) (or modification thereof) which may result in the use of coal as a primary energy source may be issued—

(A) until the Administrator of the Environmental Protection Agency notifies the Administrator under section 119(d)(1)(B) of the Clean Air Act, or

(B) if such notification is not given, until the date which the Administrator of the Environmental Protection Agency certifies, pursuant to section 119(d)(1)(B) of such Act, is the earliest date which the powerplant or installation will be able to comply with all applicable requirements of section 119 of such Act.

(2) Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act. Notice or certification pursuant to this subsection shall be provided within 270 days of the date the Administrator of the Environmental Protection Agency receives notice of such proposed order (or modification).

(g) The provisions of this section shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this part is pending or final or which, on review, was held unlawful and set aside on the merits. Nothing in this subsection shall be construed to affect the validity of any such order or be construed to require the Administrator to reissue any such order.

(h) The Administrator shall, by rule, require that existing electric powerplants which, on or after April 20, 1977, uses a mixture or combination of petroleum and coal or other fuels as a primary energy source may not increase their use of petroleum as a primary energy source unless a permit is issued by the Administrator authorizing such increased use of petroleum. Such permit shall be issued if—

(1) the Administrator finds that the petitioner has (A) demonstrated that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of a permit and (B) established the duration of the need for increased petroleum to comply with such plan; and

(2) the appropriate State regulatory authority, as determined by the Administrator, has certified to the Administrator that the increased use of petroleum by such powerplant is necessary to permit the powerplant to comply with such implementation plan.

Such permit shall be issued only for such period as the Administrator determines a need for such increased use of petroleum.

(i) In making a determination of financial feasibility under this section, the Administrator shall take into account costs, as defined in section 602(17).

SEC. 614. SUPPLEMENTAL NATURAL GAS BOILER FUEL CONVERSION AUTHORITY.

(a) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if the Administrator determines that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler had the capability on or before April 20, 1977, to use petroleum as a primary energy source;

(3) such boiler consumes 50 Mcf or more of natural gas per day on a peak day; and

(4) such prohibition is consistent with the purposes of this part.

(b) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if the Administrator determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will consume 50 Mcf or more of natural gas per day on a peak day; and

(3) such prohibition is consistent with the purposes of this part.

(c) The Administrator shall exempt any person from any rule prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Administrator that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

(d) For purposes of this section—

(1) The term "new boiler" means any boiler the construction of which the Administrator determines commenced on or after the date of the enactment of this section.

(2) The term "existing boiler" means any boiler other than a new boiler.

SEC. 615. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING.

(a) Not later than 180 days after the effective date of this part, the Administrator shall, by rule, prohibit any natural gas pipeline or local distribution company from providing natural gas service to any residential, commercial, or industrial customer for use in out door lighting. The Administrator shall take into account any special circumstances or characteristics in prescribing such rule.

(b) The Administrator shall, by order, exempt any natural gas pipeline or local distribution company from the rule required to be prescribed under subsection (a) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any interested person. Such exemption shall be for such period as, and to the extent that, the Administrator finds—

(1) such exemption is necessary to protect public safety;

(2) such exemption is necessary to permit the installation of substitute lighting where no outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(3) compliance with such rule would entail extraordinary expense by the petitioner and would not be cost justified; or

(4) the issuance of the exemption furthers the purposes of this part.

(c) As used in this section, the term "outdoor lighting" means lighting by an stationary source which is not located inside any building.

SEC. 616. EXEMPTION FOR QUALIFYING COGENERATION FACILITIES.

The Administrator, upon the filing of a petition, may, by order, grant an exemption from any prohibition under this subpart applicable to any qualifying cogeneration facility, if—

(1) he finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the order a statement of the basis for such finding.

SEC. 617. EXEMPTION FOR HIGH BTU SYNTHETIC GAS DERIVED FROM COAL.

(a) Any person who is prohibited by any provision of section 611, 612, 613, or 614, or any rule or order, thereunder from using natural gas as a primary energy source may petition for a permanent exemption from such prohibition pursuant to this section.

(b) The Administrator shall grant an exemption, by order, from any prohibition on the use of natural gas as a primary energy source under this part or any rule or order thereunder if the Administrator finds that the petitioner has demonstrated that—

(1) such petitioner owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal;

(2) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by such exemption plus the approximate Btu content of any natural gas consumed or lost in transportation;

(3) such petitioner delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person;

(4) (A) in the case of any such transportation in interstate commerce (with in the meaning of the Natural Gas Act), such transportation has been certified by the Federal Power Commission;

(B) in the case of any other transportation, such transportation has been approved by the State authority which exercises regulatory jurisdiction over the rates and charges applicable to such transportation; and

(5) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction or operation of the facilities for the manufacture of the synthetic gas involved.

(c) In granting any exemption under this section, the Administrator shall, after consultation with the Federal Power Commission, consider the appropriateness of the use of the synthetic gas involved for the benefit of the petitioner rather than for other possible uses, including residential and small commercial users which consume less than 50 Mcf of natural gas per day on a peak day.

(d) Nothing in this part shall be construed as affecting the use by any major fuel-burning installation of synthetic gas which is derived from coal and which is not mixed with natural gas as the primary energy source of such installation.

(e) If, at the time the Administrator makes his findings under subsection (b), the petitioner has not demonstrated that all necessary permits, licenses, and approvals from appropirate Federal, State, and local agencies (including Indian tribes) have been obtained for the construction and operation of the facilities for the manufacture of the synthetic gas with respect to which such exemption is sought under this section, such exemption, if granted, shall not be effective until the Administrator determines that such permits, licenses, and approvals have been obtained.

SEC. 618. TERMS AND CONDITIONS EXEMPTIONS.

Any exemption from any prohibition under this subpart shall be on such terms and conditions as the Administrator determines appropriate, including, in the case of any such exemption (other than from a prohibition under section 615), terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this part. The terms and conditions applicable in the case of any temporary exemption shall be designed to insure that upon the expiration of such exemption, the persons covered by such will comply with the otherwise applicable prohibitions.

Subpart A—Enforcement; Administration

SEC. 621. ADMINISTRATIVE PROCEDURES.

(a) Except to the extent otherwise provided in this section, rules prescribed under this part shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code.

(b) Before prescribing any rule or issuing any order imposing a prohibition under this part, the Administrator shall publish such proposed rule or order in the Federal Register, together with a detailed statement of the reasons for such rule or order, and in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. In the case of any such order, a copy shall be transmitted to the person who operates any such powerplant or installation subject to such order.

(c) Any petition for an exemption from any prohibition under this part or for any permit under section 613(h), shall be filed at such time and shall be in such form as the Administrator shall by rule prescribe. The Administrator, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a detailed summary of the reasons set forth in such petition for requesting such exemption or permit, and provide a minimum of 45 days for written comments thereon. Rules required under this subsection shall be prescribed not later than 90 days after the date of the enactment of this Act.

(d) Any denial of any petition for an exemption or a permit under this part shall be published in the Federal Register, together with the reasons for such action.

(e) In the case of any rule or order by the Administrator imposing a prohibition or granting an exemption (or permit) under this part, any interested person shall be afforded an opportunity to present oral data, views, and arguments, including an opportunity, by means of conferences or other informal procedures, to question—

(1) other interested persons who have made oral presentations, and

(2) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order,

with respect to disputed issues of material fact, but only to the extent the Administrator determines that such questioning is likely to result in a more timely and effective resolution of such issues.

(f) A transcript shall be kept of any oral presentation made in accordance with this section.

(g) (1) Any rule or order to be prescribed by the Administrator imposing a prohibition or granting an exemption (or permit) under this part shall be published in the Federal Register and shall not take effect earlier than the 60th day after such rule or order is published.

(2) Any person aggrieved by a rule or order referred to in paragraph (1) or in section 631, or by the denial of such a rule or order, may at any time before the 60th day after the date such rule or order is prescribed (or denied), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. Such agency thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of the petition referred to in paragraph (2), the court shall have jurisdiction to review the rule or order (or denial thereof) in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such rule or order (or denial thereof) shall be final, subject to review by the Supreme Court of the United States upon certain certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) A copy of any proposed rule or order to be prescribed or issued by the Administrator which imposes a prohibition under this part (other than under section 614, 615, or 632), or which grants an exemption, shall be transmitted by the Administrator to the Administrator of the Environmental Protection Agency and the Administrator shall request such agency to comment thereon within the period provided to the public unless a longer period as provided by the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (e).

(6) The Administrator, within 6 months after the initial public comment period applicable to any petition for an exemption or permit, shall grant or deny such exemption or permit, except that the Administrator may publish a notice in the Federal Register extending such period to a specified date. Such notice shall include the reasons for such extension.

SEC. 622. ENFORCEMENT AND PENALTIES.

(a) (1) Any person who violates any provision of this part, or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Administrator, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

(2) In the case of any electric powerplant granted an exemption as a peakload electric powerplant, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil pen-

alty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(3) Any person operating a major fuel-burning installation granted an exemption under section 612(d)(2) or section 613(d)(3) which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 per Mcf of natural gas which were used in excess of such use allowed by such exemption.

(4) Before assessing against any person any civil penalty under this title, the Administrator shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order of the Administrator assessing such penalty shall state the Administrator's findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall promptly be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Administrator shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Administrator, or the court may remand the proceeding to the Administrator for such further action as the court may direct.

(b) Any person who willfully violates any provision of this part, or rule or order thereunder, shall be subject to a fine of not more than $50,000, or by imprisonment of not more than one year, or both, for each violation.

(c) Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this part, or rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under subsection (b), unless he also knows, or reasonably should have known, of notice of noncompliance received by the corporation from the Administrator.

(d) No person shall be subject to any penalty under this section with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Administrator that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant were unavailable for service due to unit or system outages.

(e) Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this part or any rule or order thereunder, the Administrator may request the Attorney General to bring a civil action to enjoin such acts or practices, and, upon a proper showing, shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief.

SEC. 623. CITIZEN SUITS.

(a) Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against—

(1) any person who is alleged to be in violation of any provision of this part, or any rule or order thereunder; or

(2) any Federal agency which has a responsibility under this part if there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary.

The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) before the 60th day after the date on which the plaintiff has given notice of the violation (i) to the Administartor, and (ii) to any alleged violator of such provision, rule, or order; or

(B) if the Administrator has commenced and is diligently prosecuting a civil action to require compliance with such provision, rule, or order, but, in any such action, any person may intervene as a matter of right; or

(2) under subsection (a)(2), before the 60th day after the date on which the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action brought under subsection (a), the Administrator, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator).

(f) For purposes of this section, if a person owning, operating, or controlling any electric powerplant or major fuel-burning installation complied in good faith with a provision, rule, or order under this part, then he shall not be deemed to have violated any provision of this part by reason of the invalidity of such provision, rule, or order.

SEC. 624. PRESERVATION OF CONTRACTUAL RIGHTS.

(a) The provisions of this section shall apply to any natural gas the use of which is prohibited by the provisions of section 611, 612, 613, or 614, or any rule or order thereunder.

(b)(1) Any person who receives such natural gas for such prohibited use pursuant to a firm service contract, in effect on April 20, 1977, between such person and any interstate pipeline, may transfer all or any portion of his interests under such contract to such interstate pipeline and receive in consideration therefor just compensation (as determined by the Administrator) from such pipeline.

(2)(A) Any person who receives such natural gas for such prohibited use pursuant to a contract, in effect on April 20, 1977, between such person and any person other than an interstate pipeline, may transfer his contractual interests under such contract to any person and receive in consideration therefor just compensation (as determined by the Administrator) from the person to whom such contractual rights are transferred.

(B) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred to any other person pursuant to subparagraph (A) shall be entitled to receive just compensation (as determined by the Administrator) from the person to whom contractual rights are transferred.

(c)(1) Any provision of any contract which prohibits any transfer authorized by subsection (b) or terminates such contract on the basis of such transfer shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (b).

(d) For purposes of this section—

(1) The term "just compensation" means—

(A) in the case of paragraphs (1) and (2)(A) of subsection (b), an amount not to exceed the amount by which—

(i) the reasonable costs (excluding capital costs) incurred during the remainder of the period of the contract described in subsection (b) and directly associated with the use of an alternative fuel by the applicable existing electric powerplant or major fuel-burning installation,

(ii) exceeds the price of natural gas, to which the provisions of this section apply, during such period; and

(B) in the case of subsection (b)(2)(B), an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (b)(2), to the extent such loss is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to subsection (b)(2) and is not offset by revenues derived from other transportation or distribution which would not have occurred if contractual interests had not been transferred.

(2) The term "interstate pipeline" means—

(A) any person who transports natural gas, the transportation of which is subject to the jurisdiction of the Federal Power Commission; and

(B) any person who receives natural gas, from a person described in subparagraph (A), for distribution to ultimate consumers.

(3) The term "contractual interests", with respect to a contract described in subsection (b)(1), includes the right to receive natural gas as affected by any applicable curtailment plan of the interstate pipeline filed with the Federal Power Commission or State regulatory authority.

(4) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(e) For purposes of paragraphs (1) and (2)(A) of subsection (b), in determining the amount of just compensation the Administrator shall, to the maximum extent practicable, apply any liquidated damages provision set forth in the applicable contract, but in no event may such amount exceed the maximum prescribed in subsection (d)(1)(A).

(f) The amount paid by any interstate pipeline pursuant to any transferred contractual interests and any amount paid by such pipeline as just compensation pursuant to subsection (b) shall be deemed just and reasonable for purposes of section 4, 5, and 7 of the Natural Gas Act. If a transfer of contractual interests pursuant to subsection (b) requires the sale of natural gas to an interstate pipeline by any person other than the person whose contractual interests are transferred, such former person and such sale shall not thereby become subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

(g) No supplier of natural gas under any contract, with respect to which contractual interests have been transferred under this section, shall be required to supply natural

gas in volume amounts which, on an annual basis, exceeds the lesser of—

(1) the annual volume determined by reference to maximum delivery obligations specified in such contract;

(2) the volume which would have been delivered or for which payment would have been made during such annual period pursuant to such contract but for the application of section 611, 612, 613, or 614 of this part; or

(3) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

SEC. 625. INFORMATION.

(a) For purposes of carrying out his responsibilities under this part, the Administrator may require, under the authority of this part or any other authority administered by him, any person owning, operating, or controlling any new or existing electric powerplant or major fuel-burning installation or any other person otherwise subject to this part to submit such information and reports of any kind or nature directly to the Administrator with respect to implementing the provisions of this part and insuring compliance with the provisions of this part and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under such section.

(b) In the case of responsibilities expressly given by this part to the President or the Federal Power Commission, subsection (a) shall be applied as if the references to the Administrator were references to the President or the Federal Power Commission, as the case may be.

Subpart D—Miscellaneous Provisions

SEC. 631. EMERGENCY POWERS OF THE PRESIDENT.

(a) If the President—

(1) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

(2) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(C) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal to any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or both.

(b) In the event the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any new or existing electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the period specified in the order. Any such order may authorize a waiver or modification of any Federal, State, or local law, standard, limitation, or other requirement applicable to emissions of environmental pollutants or any applicable environmental requirement if the President finds, and publishes such finding in the Federal Register, that such waiver or modification is necessary by reason of the prohibitions of such order (and the supply interruption on which it is based) and that no alternative means are practicable which would result in compliance with such environmental requirements. Any such waiver or modification shall be made under such terms and conditions as the President may prescribe to insure compliance with applicable environmental requirements to the maximum extent practicable under the circumstances. Such waiver or modification may cause or contribute to a violation of a primary ambient air quality standard only to the extent the President finds and publishes his finding that no alternative means are practicable to avoid such violation.

(c) The President may, by order, stay the application of any provisions of this part, or any rule or order thereunder—

(1) in the case of any provision, rule, or order applicable to any new or existing electric powerplant, if the Federal Power Commission finds, and publishes such finding, that an emergency exists, due to national, regional or systemwide shortages of coal or other fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant; and

(2) in any other case, to the extent the President determines is necessary to alleviate or prevent any emergency adversely affecting the public health, safety, or welfare.

(d)(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), any order issued under this section shall remain effective throughout the 15-calendar-day period during which any order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

(e) The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations implementing such order.

(f) Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to Congress of his intention to issue such order and state his reasons therefor.

SEC. 632. FEDERAL ACTIVITIES.

(a) No Federal facility (or unit thereof)—

(1) constructed by or on behalf of the United States or any agency or instrumentality thereof, after the effective date of this part, or

(2) effective beginning January 1, 1985, owned by the United States or any agency or instrumentality thereof,

shall use natural gas as the primary energy source for such facility or unit, unless the President determines in each case and informs the Congress of his determination, and the reasons therefor, that such use is necessary for national security reasons or to meet other requirements of law. The President shall review each such determination every two years and submit a report to the Congress on the results of such review. Any such facility permitted to use natural gas by the President shall establish and carry out effective fuel conservation measures, as determined by the Administrator.

(b) In order to implement the purposes of this part, the President shall, not later than 30 days after the effective date of this part, cause to be issued an order—

(1) requiring each Federal agency which is empowered to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purpose of this part, particularly those relating to the conservation of petroleum and natural gas, by rule, in such contrasting or assistance activities within 180 days after issuance of such order, and

(2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement effectively, including procedures for each agency to annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(c) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this section if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

(d) The President shall annually submit a detailed report to the Congress on the actions taken to implement this section, including the progress and problems associated with implementation of this section.

SEC. 633. IMPACT ON EMPLOYEES.

(a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any rule or order imposing any prohibition under this part, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such rule or order. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) On a written request filed with the Administrator by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such rule or order, the Administrator shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Administrator shall require the parties, including any employer involved, to present information on the actual or potential effect of such rule or order on employment and on any alleged employee discharge, layoff, or other discrimination relating to rule or order and the detailed reasons or justification therefor. At the completion of such investigation, the Administrator shall make findings of fact as to the effect of such rule or order on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

(c) Nothing in this section shall be construed to require or authorize the Administrator to modify or withdraw any rule or order under this part.

SEC. 634. ANNUAL REPORT.

The Administrator shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this part and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such report shall include data on the effectiveness of this part in achieving the purposes of this part.

SEC. 635. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to the Administrator for fiscal year 1978 $11,500,000, including such sums as are authorized in section 29 of the Federal Energy Administration Act of 1974, to carry out the provisions of this part (other than sec-

tion 636(a)) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1978 for the report required under section 636(a).

SEC. 636. STUDIES.

(a) The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other fuels by reason of this part or otherwise using coal or other fuels and the effect thereof on the public health, safety, and walfare. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

(b) The Administrator, in consultation with the National Governors' Conference, other Federal agencies, interested persons, and organizations, shall conduct a study of the socioeconomic impacts of expanded coal production on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

(c) The Administrator shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors. In conducting such study, the Administrator shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

SEC. 637. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under this part, or section 2 of the Energy Supply and Environmental Coordination Act of 1974, shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part or section, or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part or such section, and declaring that such provision supersedes this part or such section.

SEC. 638. CONFORMING AMENDMENTS.

(a) Section 11(g) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out paragraph (2), and

(2) in paragraph (1) by striking out "(g)(1)" and inserting in lieu thereof "(g)".

(b) The preceding provisions of this part shall not affect any order issued under subsection (a), or any final order under subsection (c), of section 2 of such Act, and the authority of the Administrator to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto shall remain in effect notwithstanding any limitation of time otherwise applicable to such authority. Except as provided in the preceding sentence, the authority of the Administrator under such section 2 of such Act shall terminate on the effective date of this part.

SEC. 639. EFFECTIVE DATES.

Unless otherwise provided in this part, the provisions of this part shall take effect 180 days after the date of the enactment of this Act, except that the Administrator may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment.

AD HOC AMENDMENTS

The CHAIRMAN. The Clerk will designate the page and line numbers of the first ad hoc committee amendment to part VI.

Mr. ASHLEY. Mr. Chairman, there are three ad hoc committee technical amendments in part VI, and I ask unanimous consent to have them considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, and I do not think I will object because our staff has reviewed these amendments with the staff of the majority, I want to be sure that the amendments are as we understand them to be.

Can we have the amendments read pending the reservation of objection?

The CHAIRMAN. The Clerk will report the three amendments.

The Clerk read as follows:

Ad hoc committee amendments: On page 342 delete the stricken word on line 18 and delete the stricken word on line 23 and insert the matter in italics; and on page 343 delete the stricken matter on lines 1 and 2.

(The ad hoc committee amendments read as follows:)

Ad hoc committee amendments: Page 342, line 18, strike "no." Page 342, line 23, strike "subsection" and insert "subsections (a) and." Page 343, lines 1 and 2, strike "pursuant to subsection (c)(1)(B)."

Mr. BROWN of Ohio. Further reserving the right to object, Mr. Chairman, and I shall not object, the amendments as the Clerk read them are as we understand them to be. They comport with the ad hoc committee's actions and are technical amendments.

With a certain catch in my voice I must note that I proposed to the Committee on Rules an amendment that would be somewhat more substantive than these technical amendments which relate to the size of boiler in this part of the bill, but the Committee on Rules, in its wisdom, for reasons that I never quite fully understood, chose not to make those amendments in order. We had a nice discussion about the issue of boiler exemptions in the ad hoc committee before it voted down my amendment. There had been some very close votes in the Committee on Interstate and Foreign Commerce, on the issue which I sought to have made in order by the Rules Committee.

But, Mr. Chairman, we will eventually see the legislation amended, as I originally proposed because what we have now in the bill is economically undesirable and brings into conflict our energy goals and our environmental goals. Since there seems at this point to be nothing that I can do about that other than to take this moment to reflect upon it, I am more than happy to withdraw my reservation of objection and to allow these technical amendments to be put in the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY) that the three amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The question is on the amendments of the ad hoc committee to part VI.

The ad hoc committee amendments were agreed to.

The CHAIRMAN. The Clerk will designate the page number and heading of the part now pending.

The Clerk read as follows:

Page 377, line 4: Part VII—Federal Energy Initiatives.

(Part VII of title I reads as follows:)

PART VII—FEDERAL ENERGY INITIATIVES

Subpart A—Federal Van Pooling Program

SEC. 701. FEDERAL VAN POOLING PROGRAM.

Section 381 of the Energy Policy and Conservation Act is amended—

(1) in subsection (b)(1)(A), by striking out "or" after the semicolon and inserting in lieu thereof "and"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c)(1) The Secretary of Transportation (hereinafter in this subsection referred to as the 'Secretary') may, under such regulations as he may prescribe, after consultation with the Administrator of General Services and the Administrator, provide for the establishment of a program pursuant to which van pooling arrangements are offered and provided to officers and employees of the Federal Government. Any such program may be phased over a period of years, and may be limited by the Secretary to one or more reasonable categories of such officers and employees, or other individuals on a space-available basis, determined by the Secretary. Such categories may include, but need not be limited to, categories determined by such factors as location of residence, location of place of employment, or regular hours of work.

"(2) In order to establish, maintain, and operate any program authorized to be established under paragraph (1) of this subsection, the Secretary, after due consideration of the effect on existing public and private transportation services, shall be authorized to—

"(A) arrange for the provision of van pool services, including but not limited to—

"(i) encouraging and cooperating with officers and employees of the Federal Government, associations thereof, and other organizations, public or private, in establishing van pooling arrangements;

"(ii) encouraging and cooperating with officers and employees who own vans in participating in such a program;

"(B) establish and maintain, or encourage and assist departments and agencies to establish and maintain, lists of officers and employees participating, or desiring to participate, in van pooling arrangements; and

"(C) cooperate with other van pool programs available in a particular area.

"(3) In order to establish, maintain, and operate any program authorized to be estab-

lished by the Secretary under paragraph (1) of this subsection, the Administrator of General Services, in consultation with the Secretary and after due consideration of the effect on existing public and private transportation services, shall be authorized under such regulations as such Administrator may prescribe to—

"(A) acquire vans by purchase, or by lease for periods not exceeding five years, except that the number of vans made available for use under this subparagraph shall not, at any time, exceed six thousand vehicles;

"(B) contract for nonpersonal maintenance and other services incident to van pooling arrangements;

"(C) permit any person authorized to operate a van acquired pursuant to subparagraph (A) to—

"(i) operate the van for personal use (other than for hire or for use on vacation trips and trips over extended distance, as defined by the Administrator of General Services), with or without a charge for such personal use as determined by the Administrator of General Services, and subject to the provisions of paragraph (4)(C)(iv) of this subsection; and

"(ii) retain, if and to the extent authorized by the Administrator of General Services, a portion of the rider charges paid by individuals participating in such van pooling arrangements for the purpose of operation and maintenance of the vehicle or as incentive to encourage and sustain maximum capacity and effective service;

"(D) retain until expended such portions of the rider charges as the Administrator of General Services deems necessary to pay the costs of operation and maintenance of vans; and

"(E) establish and operate training programs for van operators and program administrators.

"(4) Any program using vans acquired pursuant to paragraph (3)(A) of this subsection shall, with respect to the operation of such vans, include—

"(A) a requirement that individuals participating in van pooling arrangements authorized under such program pay a rider charge, including a sum for government self-insurance against financial loss that may be imposed on the Federal Government because of such programs, in such amount and at such intervals as the Administrator of General Services may provide, except that such Administrator may provide that a person authorized to operate a van pursuant to a van pooling arrangement may not be required to pay a rider charge;

"(B) a requirement that, excluding Federal personnel costs and administrative expenses as designated by the Administrator of General Services, all costs and expenses incurred by the Federal Government in connection with the acquisition, maintenance, and operation of a van for such a program (including, with respect to a van purchased by the Federal Government, a sum to cover repayment of the purchase price of the van plus interest on the unrecovered balance of such price computed at a rate of 7 per centum per annum) will be repaid from rider charges over a period to be determined by the Administrator of General Services not to exceed five years, except that, for purposes of this subparagraph, the Administrator of General Services shall not exclude—

"(i) personnel costs of personnel spending all or a substantial portion of their time on such a program; or

"(ii) administrative expenses of such a program that are readily identifiable or segregable; and

"(C) requirements to insure that each individual operating such a van—

"(i) shall be a regular officer or employee of the Federal Government;

"(ii) shall, as directed by the Administrator of General Services, arrange for maintenance of the van in good and safe working order;

"(iii) shall be an individual who is entitled by law to operate the van in such individual's place of residence, except that nothing in this subparagraph shall be deemed to require that such individual be licensed to operate the van for hire; and

"(iv) shall, in the event that such individual is authorized to operate and operates the van for personal use, secure and maintain at such individual's expense insurance against such risks as the Administrator of General Services deems necessary to assure payment of any claim that may arise other than in van pooling use.

"(5) For the purposes of section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), a van obtained for the purpose of, and operated pursuant to, a van pooling arrangement established pursuant to this subsection shall not be deemed to be a passenger motor vehicle.

"(6) Neither the offering of a van pooling arrangement pursuant to this subsection nor the operation of a van pursuant to such an arrangement shall subject any person to regulation as a motor carrier under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or to any similar regulation under the laws of the District of Columbia or of any State or political subdivision thereof.

"(7) Sections 1346(b), 2672, and 2679 of title 28, United States Code, shall apply to claims arising from van pooling use of vans acquired pursuant to paragraph (3)(A) of this subsection.

"(8) The operation of a van pursuant to a van pooling arrangement established pursuant to this subsection shall not be deemed to be operation of a motor vehicle for hire for purposes of any law of the District of Columbia or of any State or political subdivision thereof relating to the licensing of operators of motor vehicles for hire; nor shall personal use authorized under paragraph (3)(C)(i) be subject to any law of the District of Columbia or of any State or political subdivision thereof relating to registration, licensing, maintenance, or inspection of motor vehicles.

"(9) Time spent traveling in van pooling arrangements established pursuant to this subsection shall not be included in determining the hours of which a Federal employee is employed for the purposes of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); nor shall such time be considered Federal employment for the purpose of any law administered by the Civil Service Commission or by the Department of Labor pursuant to chapter 81 of title 5, United States Code. Rider charges paid the operator of a van pool shall be deemed to be paid to and received by individuals in their private capacity.

"(10) The Secretary or the Administrator of General Services may delegate to the heads of Federal departments and agencies whose officers and employees are authorized to participate in van pooling arrangements under paragraph (1) such of his functions, powers, and duties under this subsection as he deems necessary or appropriate to establish, maintain, operate, or promote van pooling programs authorized by this subsection.

"(11) Except as otherwise authorized in this subsection and in section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), all rider charges and other receipts from the operation of van pooling arrangements established pursuant to this subsection received by the Administrator of General Services or by the head of any department or agency exercising authority delegated pursuant to paragraph (10) of this subsection shall be deposited in the general fund of the Treasury of the United States.

"(12) The requirements of section 211(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491(k)) regarding conspicuous identification shall not apply to the van pooling arrangements. The Administrator of General Services shall require that each Government-owned vehicle or leased vehicle acquired pursuant to paragraph (3)(A) shall use United States Government vehicle tags.

"(13) The Secretary shall be authorized to provide at Government expense special arrangements allowing physically handicapped officers and employees of the Federal Government to participate in programs established pursuant to this subsection.

"(14) The Secretary is authorized to study the feasibility of utilizing vans acquired under paragraph (3)(A) for use in providing social service-related transportation during periods of the day when such vans are not required for use in a van pooling arrangement.

"(15) For purposes of this subsection:

"(A) The term 'van' means any automobile which the Secretary determines is manufactured primarily for use in the transportation of not fewer than eight and not more than fifteen individuals.

"(B) The term 'van pooling arrangement' means an arrangement for the transportation of individuals in a van, in a single daily round trip between their residences or other designated locations and their places of employment, on a for-profit or nonprofit basis, in which the costs of such arrangement are primarily paid for by the individuals utilizing such arrangement.

"(C) The term 'van pooling use' means the operation or maintenance, by an officer or employee of the Federal Government, of a van acquired pursuant to paragraph (3)(A), in the course of or incidental to a van pooling arrangement authorized under this subsection, excluding any personal use permitted under paragraph (3)(D)(i).

"(16) There are authorized to be appropriated to the Secretary to carry out the provisions of this subsection not more than $15,000,000 for each of the fiscal years beginning on October 1 of 1977, 1978, 1979, 1980, and 1981. The Secretary shall authorize, with the approval of the Director of the Office of Management and Budget, to transfer to the Administrator of General Services and to the heads of Federal departments and agencies such amounts from the sums so appropriated as may be necessary to carry out the functions, duties, and responsibilities assigned or delegated to the Administrator of General Services and to the heads of Federal departments and agencies by this subsection. The Administrator of General Services may subsequently transfer funds to the heads of Federal departments and agencies to carry out the functions, duties, and responsibilities assigned or delegated by the Administrator of General Services to the heads of such departments and agencies.

"(d) The President shall submit to the Congress annual reports concerning all steps taken under subsections (a), (b), and (c). The President shall include with any report concerning steps taken under subsection (c) an annual financial report concerning all activities undertaken under such subsection.".

Subpart B—Amendment to Section 381 of Energy Policy and Conservation Act

SEC. 721. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(f) In addition to funds authorized in any

other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

Subpart C—Demonstration of Solar Heating and Cooling in Federal Buildings

SEC. 741. DEFINITIONS.

As used in this subpart—

(1) The term "agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in subparagraphs (B) through (H) of paragraph (1) of section 5721 of title 5, United States Code.

(2) The term "building" means and structure owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotiating.

(3) The term "solar heating" means, with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means, with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods) and all or part of the cooling needs or such building.

(5) The term "solar energy equipment" means equipment for solar heating and solar heating and cooling.

(6) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 742. FEDERAL SOLAR PROGRAM.

The Administrator shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 743. DUTIES OF ADMINISTRATOR.

(a) In exercising the authority provided by section 742, the Administrator shall—

(1) solicit and consider proposals by any agency to apply solar heating and solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of type of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate each such proposal pursuant to the criteria promulgated pursuant to paragraph (2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment); and

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Services Administration and the Administrator of the Energy Research and Development Administration.

SEC. 744. TRANSFER OF APPROPRIATION.

In carrying out a proposal for which the Administrator has provided assistance, any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

SEC. 745. SUBMISSION OF PROPOSALS.

(a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within one hundred and eighty days after publication of criteria under section 743(a)(2), submit initial proposals to the Administrator for installation of solar energy systems on selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy systems, the funds requried for the system, the proposed implementation schedule, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals to the Administrator for additional solar energy systems for buildings under their control on a schedule established by the Administrator but not greater than two-year intervals.

SEC. 746. AUTHORIZATION.

There are authorized to be appropriated to the Administrator through fiscal year 1980 to carry out the purposes of this subpart not to exceed $100,000,000.

Subpart D—Use of Energy Conservation and Solar Energy in Federal Buildings

SEC. 761. FINDINGS.

The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, being the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures along with the use of renewable energy sources.

SEC. 762. POLICY.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation and solar heating and cooling in Federal buildings.

SEC. 763. PURPOSE.

It is therefore the purpose of this subpart to promote the use of commonly accepted methods to establish and compare the life cycle costs of operating residential, commercial, industrial, and Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation and the use of solar heating and cooling. It is also the purpose of this subpart to aim for a reduction of energy use in existing Federal buildings by 20 per centum by 1985.

SEC. 764. DEFINITIONS.

For purposes of this subpart—

(1) the term "Administrator" means the Administrator of the Federal Energy Administration;

(2) the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; in the case of leased buildings the life cycle cost shall be calculated over the effective remaining term of the lease;

(3) the term "preliminary energy audit" means a determination of the per square foot energy demand, either actual or calculated, of existing buildings and of the physical characteristics of such buildings including but not limited to their age, use, construction, and retrofit potential;

(4) the term "Federal building" means any building, structure, or facility or part thereof which is constructed, renovated, or leased specifically for use by the United States or by an agency or agencies thereof; and

(5) the term "existing Federal building" means any Federal building for the construction, renovation, or leasing of which funds have been appropriated or otherwise actually made available prior to the date of the enactment of this subpart, and the term "new Federal building" means any other Federal building; except that a building shall be considered a "new Federal building" even though funds for its construction, renovation, or leasing have been made available prior to that date if (A) its construction, renovation, or leasing has not been completed prior to that date, and (B) the Administrator determines that the plans for such construction, renovation, or leasing can still feasibly be modified to take into account the provisions of this subpart relating to new Federal buildings.

SEC. 765. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

(a) The Administrator, in consultation with the Director of the Office of Management and Budget, the National Bureau of Standards, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, and the Secretary of Housing and Urban Development, shall—

(1) establish practical and effective methods for estimating and comparing life cycle capital and operating costs for residential, commercial, industrial, and Federal buildings, including the life cycle fuel and energy requirements for such buildings; and

(2) develop and prescribe the forms to be used and the procedures to be followed in applying and implementing the method so established and in conducting the preliminary energy audits required by section 767.

(b) All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, preference shall be given to life cycle cost rather than first cost.

(c) In addition, the Administrator shall take such actions as may be necessary or appropriate to promote to the maximum extent possible the use and acceptance of such methods in the construction and renovation of non-Federal public buildings and in the construction and renovation of other buildings, structures, and facilities in all segments of the economy.

SEC. 766. ENERGY PERFORMANCE TARGETS FOR EXISTING BUILDINGS.

In addition to establishing methods for estimating and comparing life cycle costs under section 765, the Administrator, in consultation with the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Hous-

ing and Urban Development, and the Director of the Office of Management and Budget, shall establish energy performance targets for existing buildings, structures, and facilities, and shall take such actions as may be necessary or appropriate to promote to the maximum extent feasible compliance with such targets by all existing Federal buildings within the United States. The performance targets established under the preceding sentence shall be compatible with standards adopted or developed by the Secretary of Housing and Urban Development.

SEC. 767. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a)(1) As soon as possible after the date of the enactment of this subpart, each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain thirty thousand or more square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1977.

(2) As soon as possible after the completion of the preliminary energy audits required under paragraph (1) (and concurrently with such audits to the extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain one thousand or more but less than thirty thousand square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1978.

(b)(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsection (a) appropriate buildings for retrofit measures to improve their energy efficiency in general and their life cycle cost effectiveness in particular. Such measures shall include, without being limited to, energy conservation measures and measures involving solar technology.

(2) At least 1 per centum of the total gross square footage contained in all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency, and which are included in a preliminary energy audit conducted by such agency under subsection (a), shall be retrofitted by such agency under paragraph (1) pursuant to actions taken or arrangements made by such agency during the first year after the date of the enactment of this subpart; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) By no later than January 1, 1990, all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall have been the subject of such retrofit measures under paragraph (1) as will assure their maximum possible life cycle cost effectiveness.

SEC. 768. ENERGY PREFERENCE FOR LEASED BUILDINGS.

Each Federal agency, in leasing buildings or before exercising lease renewal options on buildings heretofore leased for its use or the use of any other Federal agency, shall give an appropriate preference to buildings which use solar heating and cooling or which otherwise have a high degree of energy efficiency in general and life cycle cost effectiveness in particular.

SEC. 769. BUDGET TREATMENT OF ENERGY ITEMS BY FEDERAL AGENCIES.

Each Federal agency, in the preparation and submission of its budget requests for any fiscal year, shall specifically set forth (and identify in a separate line item or items) the funds being requested for retrofit measures to be undertaken in accordance with section 767(b), and the portion of any other funds being requested which represents the initial costs of construction or renovation attributable to captial equipment for energy conservation or the utilization of solar energy.

SEC. 770. REPORTS.

Each Federal agency shall periodically furnish the Administrator with full and complete information on its activities under this subpart, and the Administrator shall annually submit to the Congress a comprehensive report on all activities under this subpart and on the progress being made toward achievement of the objectives of this subpart.

SEC. 771. TRANSFER OF FUNCTIONS.

Within sixty days after the effective date of any law creating a Federal Department of Energy or its equivalent (or within sixty days after the enactment of this subpart if the effective date of such law occurs prior to the enactment of this subpart), the functions vested in the Administrator of the Federal Energy Administration under this subpart and any funds which may have been appropriated pursuant to section 772 of this subpart, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such Department.

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator such sums, not exceeding $2,000,000 in the aggregate, as may be necessary to enable him to perform the functions vested in him under this subpart.

Subpart E—Use of Advanced Photovoltaic Energy Devices in Federal Facilities

SEC. 781. SHORT TITLE.

This subpart may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 782. PHOTOVOLTAIC ENERGY PROGRAM.

There is hereby established a photovoltaic energy commercialization program (hereafter in this subpart referred to as the "program") for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities, using technologically and technically approved and proved equipment.

SEC. 783. PURPOSE.

The purpose of the program shall be to accomplish the following:

(1) accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public as an option which can reduce national consumption of fossil fuel;

(2) conserve fossile fuel costs of the Federal Government;

(3) stimulate the general use within the Federal establishment of life-cycle costing and innovative procurement methods; and

(4) develop program performance data to support policy decisions on future incentive programs with respect to energy.

SEC. 784. ACQUISITION OF SYSTEMS.

The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability, primarily for use by the Department of Defense. The acquisition of photovoltaic electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques. The Administrator is authorized to make the acquisitions authorized by this section through the use of multiyear contracts.

SEC. 785. ADMINISTRATION.

The Administrator shall administer the program and shall—

(1) insure that the installation of photovoltaic electric systems pursuant to this subpart shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this subpart; and

(3) report annually to Congress on the status of the program.

SEC. 786. SYSTEMS EVALUATION AND PURCHASE PROGRAM.

The Administrator and the Administrator of the Energy Research and Development Administration shall jointly establish, within sixty days following the date of the enactment of this subpart, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Secretary of Defense to carry out this subpart. In acquiring photovoltaic systems under this subpart, the Administrator of the Energy Research and Development Administration shall insure that such systems reflect the most advanced technology and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States.

SEC. 787. ADVISORY COMMITTEE.

There is hereby established an advisory committee to assist the Administrator in the establishment and conduct of the program. Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Postmaster General, and such other persons as the Administrator deems necessary.

SEC. 788. DEFINITION.

As used in this subpart, the term "Administrator" means the Administrator of the Federal Energy Administration, or his successor.

SEC. 789. AUTHORIZATION.

For photovoltaic system acquisition, there is authorized to be appropriated to the Administrator not to exceed $39,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: Strike out line 5 on page 377 and all that follows, up to and including line 25 on page 386; reletter succeeding subparts accordingly.

Mr. HORTON. Mr. Chairman, all of us believe that energy conservation is an important part of the solution to our national energy dilemma. In the transportation field, conservation steps must be taken which will encourage and enable more and more Americans to avoid reliance on private automobiles which carry only one person in going to and from work.

Improved access to efficient mass transit, increased use of car pooling and van pooling programs are certainly part of the answer to conserving fuel in the transportation sector.

However, we have an obligation which goes beyond the need to support energy conservation. We must determine how best to allocate the people's money in implementing sensible ways of encouraging energy conservation. The Federal Government does have an important role to play in encouraging voluntary and private sector van pooling programs. This encouragement should come in the form of Federal leadership in breaking down some of the institutional barriers which stand in the way of spreading the concept of van pooling across the country into those areas where it is an appropriate energy conservation solution.

Unfortunately, section 701 of this bill which would establish a massive van pooling program for Federal employees does not add up to a very effective approach to the problem. What section 701 does is to authorize the Federal Government to purchase 6,000 vans, I repeat, a fleet of 6,000 vans at a cost of $75 million so that these vehicles can be used to transport selected Federal employees to and from their jobs.

This is not encouragement and leadership directed at making van pooling a viable solution for American citizens in the private sector, it is rather a spendthrift and foolhardy way of wasting $75 million of the taxpayers money.

For those of my colleagues who are not familiar with the van pooling concept, let me say that van pooling was not invented or conceived by the drafters of the President's energy bill. Van pooling is an idea which has been implemented in many, many areas throughout this country. It is a program which has already garnered a wealth of experience. The Government Operations Subcommittee, which considered this portion of the energy bill, had testimony from expert witnesses who have been operating van pooling programs for many years. A reading of some of that testimony is all that is necessary to discover that section 701 of this bill does not build on the experience that has already been gained. Rather, it repeats in a massive way some of the mistakes that were made in the very earliest attempts to promote van pooling.

In the city of Knoxville, Tenn., for example, van pooling has been launched very successfully through the cooperation of the University of Tennessee Transportation Center, through the city's department of public transportation services and through the Tennessee Valley Authority. In the early stages of the Knoxville program, the city purchased 51 vans which were then leased to private operators. The very first witness to testify before the Government Operations Subcommittee was Frank Davis, head of the University of Tennessee's Transportation Center. He indicated that the city of Knoxville is now in the process of trying to sell to private operators the 51 vehicles which it had initially purchased. He feels, as does Robert Aex, who heads the city's department of public transportation services, that the publicly owned vehicles, which represent only a small portion of the vans used in the Knoxville area, have performed least efficiently and have generated the greatest problems and highest costs in comparison to the van pooling vehicles which are owned privately.

Mr. Aex told my office yesterday that the maintenance costs for the publicly owned vehicles in their program are close to 300 to 400 percent higher than those for comparable vehicles owned by private operators. In other words, Knoxville has gained a great deal of experience from this program and is learning from its initial mistakes. It has definitely decided that public ownership of van pooling vehicles is a serious mistake and a costly one.

Why then, Mr. Chairman, should we authorize in this bill an expenditure of $75 million so that the Federal Government can make in grand style the same mistake which Knoxville is now trying to correct? If we do not delete this provision, the Federal Government will be purchasing 117 times the number of vehicles that the city of Knoxville is now trying to sell to private operators because they have proven that public ownership of vans is neither prudent nor cost effective.

Much of the debate here this week has been partisan. I trust that our consideration of this amendment will be an exception. My distinguished colleague from California, JOHN MOSS, the second-ranking Democrat on the Commerce Committee, and I have had differing views on many matters, but we have joined together in offering this amendment. We propose striking the van pooling section for a truly bipartisan—or better yet, nonpartisan—reason: we want to remove from the bill a section which bears little, if any, relation to a national energy plan and which, in our view, makes no sense.

I feel that it would be a step forward if the Federal Government took the lead in encouraging sensible use of the van pooling concept. What we should be doing is taking note of the state of the art of van pooling as it stands today and build upon that experience through creative leadership at the Federal level. However, if we adopt section 701 of this bill, we will be taking a giant step backward in the van pooling field at a cost of $75 million. It is quite possible, in fact probable, that a Federal van pooling program based on the purchase of 6,000 vehicles will fall flat on its face and become a national laughing stock. That is clearly not creative Federal leadership nor is it likely to encourage sensible implementation of van pooling programs in the private sector.

Mr. Chairman, I believe that this bill is much too important to have it encumbered with this proposal. I would like to cite four reasons for supporting this amendment.

First. Establishing a van pooling program would create a new special benefit for Federal employees, which would be subsidized by the taxpayers. Van pooling may be a fine idea, and encouraging, promoting, and consulting on it seems to me an appropriate role for the Federal Government. Buying vehicles for bureaucrats to drive to work, on the other hand, does not strike me as a good idea.

Second. No one has yet performed a survey to determine whether a market exists for a van pooling program. Since the bill requires the program not to compete with existing public or private transportation services, the market could be very slim.

Third. No one knows how much this scheme would cost. The section which I propose to strike would authorize the appropriation of $75 million for the purchase of vans, with no guarantee that the Government would ever recoup any of the money. The expense of buying the vans, as well as all other costs which are readily allocable to the program, is supposed to be paid by riders of the vehicles. A major component of the rider charges, however, is the salaries of employees who administer the enterprise, and no one can predict how many people will be needed for this job. GSA estimates 12 for the entire Nation. Projections based on the experience of the one private van pooling organization for which we have figures, though, indicate that 60 would be a rock-bottom minimum.

Fourth. The proposal contains a potential for creating enormous amounts of paperwork in establishing and administering the program. As chairman of the Commission on Federal Paperwork, I have become extremely concerned about this aspect of Federal programs. Let me tell you, any system which involves 6,000 vans and, assuming 10 riders per vehicle, 60,000 Federal employees, all going back and forth to and from Federal buildings all over the country every day, is bound to pose a massive paperwork tangle.

In summary, Mr. Chairman, the van pooling program envisioned in this bill is poorly conceived and it is a step backward from experience already gained in this field. I urge Members to support the amendment to strike this program from the legislation before us.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

I will be brief, Mr. Chairman, because the hour is late and I hope we might complete action on this amendment this evening. It is my understanding that there are other pieces of business that will be before this body before we retire later on in the evening, so let me be brief and I hope others will be as well.

The section which the gentleman's amendment would strike establishes a program for van pooling of Federal employees, wherever feasible. This program, Mr. Chairman, it seems to me, will provide a most valuable kind of demonstration to industries and other commercial concerns of the kinds of economic and energy conservation benefits to be derived from van pooling.

It is estimated each van will permit the savings of some 5,000 gallons per year, enough to fuel five average automobiles for 1 year.

It seems to me, Mr. Chairman, we should support the widespread adoption of vanpooling as well as carpooling systems. They can make a strong contribution toward conserving gasoline.

Let me repeat the statistics which the gentleman, my friend, the gentleman from New York, did not dwell upon. Forty percent of the gasoline we consume in this country is used in trips to and from work. Clearly that offers a target for conservation.

I acknowledge that Federal van pooling is not, indeed, the complete and ultimate answer, but it does seem to me that if van pooling and car pooling allow us to increase the average vehicle's occupancy by 10 percent, which is possible, we could reduce gasoline consumption by 200,000 to 300,000 barrels per day by 1985.

The Federal van pooling program proposed in this bill will pay for itself through rider charges and will represent a small step toward encouraging others to adopt those programs.

Furthermore, Mr. Chairman, I would think it incumbent on the Federal Government to lead the way in this area by providing van pooling for its own employees, as it has been doing through its private demonstration programs.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

The point I want to make is that I certainly am not going to disagree with the point the gentleman made in regard to the need for conservation of fuel and I certainly would agree with the gentleman that we ought to have more people riding in private automobiles.

I for one would want to encourage in every way we can, van pooling, but my point is we should do it in the private sector and should not be allocating $75 million in the next 5 years to buy a fleet of vans and have Federal Government subsidies for the Federal employees getting to and from work. That is the point I am trying to make.

Mr. ASHLEY. Mr. Chairman, I can understand the gentleman's point but I do not agree with it. It seems to me the Federal Government, being a major employer not only in Washington but also in other parts of the country, does have a responsibility in taking the lead and in trying to promote efficiency in the use of gasoline for commuting to work purposes.

Mr. HORTON. Mr. Chairman, will the gentleman yield again?

Mr. ASHLEY. Mr. Chairman, this is not a subsidized program.

I say if the gentleman from New York disagrees with me he should do so on his own time, but this program will pay for itself. It is not a subsidized program.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I can see very sensibly setting up a tax program to give incentives to people to buy vans and use vans to transport their people and we can give people incentives through a tax system to do that.

For us to buy the vans and say, "Here, you take the vans," they can take these vans home on the weekend. They can use them for private purposes.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I will take my own time in a moment, but I just want to point out that in the private sector there are scores of companies, such as 3M, and Scott Paper, that go out and purchase the van and lease that van to the 8, 10, or 11 riders that are using it and recover the funds.

I think the Federal Government as a primary employer in the United States should lead the way in a symbolic manner and operate the van-pool system in the same way as we have asked the private sector to do.

Mr. MOSS. Mr. Chairman. I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, this is a $75 million piece of damn foolishness, in my judgment. When I first saw it, I thought, "You must be kidding."

This is not very carefully thought out. We are being asked, as I say, to underwrite $75 million and we are going to get nothing new from it. If we want to refer to it as a good demonstration project, there are many excellent demonstration projects which have been funded by private industry all around the Nation.

Now, if the Federal Government wants to give some example here to the populace, maybe it should start pooling the vans that it has in the Washington area and in others, because it is not an efficient employer or utilizer of vans.

There are many questions that arise in connection with this. I do not know, for example, when we start reading the proposed language, I would say that the gentleman from New York is precisely right, the operator is entitled to operate the van for personal use.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman.

Mr. JOHN L. BURTON. Mr. Chairman, that is as long as he pays for it; is that right?

Mr. MOSS. As long as he pays whatever the Administrator prescribes.

Mr. JOHN L. BURTON. As long as he can regain a reasonable cost.

Mr. MOSS. There is nothing in this legislation that assures that the Government will recapture its cost. There is no language that proves the Government will be free of liability under the insurance program that will be necessary for the protection of the passengers in these vans.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield further?

Mr. MOSS. Of course, I yield.

Mr. JOHN L. BURTON. Before any more of these great thoughts, we ought to read the statutes. It is all in the statutes.

Mr. MOSS. Mr. Chairman, the gentleman knows I do not yield for such foolish comments. I do not yield.

Mr. Chairman, I have read the statutes, or I would not be in this well. I hope the gentleman has done as much.

Mr. JOHN L. BURTON. I happen to have done as much.

Mr. MOSS. I do not want to say a great deal about this, but I think we ought to take just a little time to look at what we are asked to create, without adequate hearings, and I say that with due deference to the distinguished committee upon which I am privileged to serve and have served for a great many years. It does its work normally very well, but it was reacting in a rather unusual fashion in the instance of writing this legislation. They did not proceed with their usual caution, because with usual caution this bill would not be here, or this portion of this bill would not now be on this floor asking for our approval.

I do not think anyone has had more of an input in trying to develop plans for conserving fuel or assuring that we have adequate supply than this Member now speaking; but I think there is a difference between gimmickry and something that is going to be promising and on a cost basis be feasible.

In my judgment, this does not meet any of the requirements for the kind of program that we ought to be enacting.

Mr. WAGGONNER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, my colleagues of the committee, the idea that the Federal Government can at this point in time, under the guise of saving energy, justify spending $75 million to establish a pilot program—and that is about all it will really amount to—of van pooling to transport Federal workers to work is an idea whose time has not yet arrived. There is no justification whatever for the Federal Government to undertake such a foolhardy project.

Now, the Federal Government has programs subsidizing mass transit systems of all types, including bus systems, subway systems, and every other conceivable system. Just yesterday, or just this week, a great deal was said in the local media about the fact that the mass transit system here was shelving several hundred buses, taking them out of circulation, doing away with the routes to the extent that they were just going to take people to where they could get on the subway and ride rather than continue on their routes as they had been doing in times gone by.

The idea that the Federal Government does anything without cost to the taxpayers is about the most foolish thing I have heard said here on this floor in an awfully long time, because the Federal Government does not do anything without a cost to the taxpayer. Who would stand here and tell me that for the Federal Government to buy 6,000 vans, $75 million, 10 passengers each, that they can make this cost efficient for the rider or Federal Government? Federal workers are going to refuse to ride them because the costs are going to be so exorbitant.

They are going to it is said amortize the cost of the vehicle, the cost of its upkeep, its insurance, its liability, its replacement, the driver; all other factors, and with a 10-passenger van find that this van is cost efficient. How ridiculous can we be? It will cost the average worker probably $2 each way each day to ride the van. It cannot be done except at a cost to the taxpayer. The idea that it can be done with a few employees is equally as foolish.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I will be happy to yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding, because I am intrigued by his point about subsidies for mass transit

and other subsidies. I wonder if the gentleman in the well would agree with the Senator on the Senate side——

Mr. WAGGONNER. Tell me what his name is and I will tell the gentleman whether I agree with him without even knowing what he said.

Mr. EDGAR. Let me ask the gentleman if he agrees with the proposal of Senator GARY HART that we should stop subsidizing free parking in the House and Senate, and——

Mr. WAGGONNER. No, I do not agree with him, whoever he is. I sure do not. That proves the point that the Government does not do anything that does not cost the taxpayer.

The Government cannot do it without an extreme cost to the taxpayer, and all we are doing is trying to assure the failure of what we have already provided for, subsidy programs for mass transit. It is foolish; it is unwise, and the amendment ought to be adopted forthwith.

Mr. EDGAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the opportunity to speak on the House floor on this important issue. In the last 2½ years my office has probably spent more man-hours on the issue of van pooling than any other office in Congress. I and a member of my staff had the opportunity in November to see the Tennessee Valley Authority's van-pooling program.

Just during the last recess I had the opportunity to spend a morning riding in a van provided by Scott Paper Co. to its employees, in Delaware County, who, on a purchase-of-service basis were able to fill that van with 11 to 12 persons each day and ride throughout the community and arrive at work.

As I have studied all of the reports and all of the issues, it seems to me that the President of the United States made a dramatic statement when he endorsed the van pooling concept.

In April 1973, 3M Co. began the van pooling program and proved that it could work.

In 1977 over 100 employers and oranizations out in the society have van pooling programs. In a quasi-governmental private agency corporation, such as the Tennessee Valley Authority, they have proven that van pooling can work, not just in an urban area, but at construction sites for nuclear powerplants or other hard-to-get-to places where vans can be provided.

I would remind the gentleman that when he mentioned the point about the Tennessee Valley Authority, they purchase the vans, they allow the driver to take that van home and use it on a cost basis with his family on weekends. But during the week that driver is trained—and his accident rate is lower—to drive fellow employees to work. The average trip for many of the vans in the Los Angeles area is 25 miles. Each van replaces 8 cars and has approximately 10 to 11 occupants. As our chairman just indicated, it saves 5,000 gallons of gasoline each year—and I think this is an important comment—it reduces carbon monoxide by 1.6 tons per year and hydrocarbons by 0.2 tons per year.

Our present average vehicle occupancy is 1.4 persons. How many of us could say that it would not help our energy problem if we could increase that to 2. If that could be achieved, we would save the equivalent of 500,000 barrels of oil each day.

Van pooling reduces pollution, eases traffic congestion, saves money for the participants, saves money on parking fees for employees and saves money on parking at all of those parking lots we have subsidized for years. It increases the labor pool for employers and improves employee morale.

Mr. Chairman, I would just like to close by making just this one important point. When I had the opportunity a few weeks ago to board a van and to ride it, I discovered some of the advantages of van pooling that I had not anticipated. It was not just the economic advantage or the energy advantage, but it was the social advantage. Each of the persons who boarded that van, when I asked them the specific question, "What is the advantage to you for riding in this van?" They indicated to me that it was the social interaction and the ability to get home from work without feeling that they had been in a pressure cooker for one-half hour or an hour in traffic, the fact that they had the opportunity to ride in comfort and ease to and from their place of employment. And each one of them indicated that that gave them higher productivity and higher efficiency through the day's tasks.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Mr. Chairman, I think the Federal Government, with all its employees, should be in the van pooling business. I think we should have taken the lead many years ago when the private sector proved it could do it. I think the Federal Government should take the lead in this energy-efficient means of transportation.

I believe that the Federal Government should make its stand in this area, because I think we cannot only save the energy that is so precious but we can develop and help to develop throughout this Nation an understanding that the one-occupancy private automobile has to be put aside, particularly in going from our places of residence to our places of work.

Finally, Mr. Chairman, let me make these points: The gentleman who offered the amendment said he had four reasons for offering the amendment:

First, that this was a new, special benefit. I reminded the gentleman that we provide a special benefit for parking. I do not believe that this is a new special benefit; I think it is a new opportunity to save energy, and the net cost to the Government would be virtually nothing.

Second, the gentleman from New York (Mr. HORTON) indicated there have not been sufficient surveys. We had a half day of public hearings before the Committee on Public Works and Transportation during which the program was endorsed by every witness. I testified before the Committee on Government Operations, and we had ample opportunity to hear from many of the people who have been in the business. Frankly, we surprised many members of the committee by getting new information that proved van pooling is working.

The third point is this: How much will it cost? Frankly, I do not think it will cost more than $1 million a year, because the money that will be spent in the purchasing and operating of the vans will be recycled, recovered as user charges. One hundred percent of the cost will be recycled. About 60 percent of the administrative costs will be covered, according to the Congressional Budget Office.

In some of the private sector areas, the private sector provides 100 percent of the administrative costs involved.

Mr. Charman, I think that this program should be implemented.

Finally, there is the issue of paperwork, and I do not think that the private sector has demonstrated that this is an unwieldy process as far as the paperwork is concerned.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, section 701 of the National Energy Act creates a Federal van pooling program submitted by the administration as part of its national program to conserve energy.

Van pooling has been tried successfully in a number of private industries. It has been thought that the Federal Government, as the largest employer in the Nation, should encourage this approach.

The potential for gasoline savings is considerable if it will get people out of their one-passenger-per-car habit into 8- and 12-passenger vans when they drive to work. One van carrying 11 passengers on a daily round trip of 50 miles is estimated to save 5,000 gallons of gasoline a year. Six thousand vans will give us an estimated total savings of some 30 million gallons of gasoline a year.

The gentleman from California (Mr. JOHN L. BURTON) is the chairman of the Subcommittee on Government Activities and Transportation of the Committee on Government Operations, and he did a splendid job handling this legislation which is really, as they say, the centerpiece of President Carter's energy program. In a moment the gentleman from California will give us some details on this program.

First, I would still like to say that I had some reservations about this. I still have some, but I think that the bill has been substantially improved by the subcommittee. As it now stands, virtually all costs to the Government will be recovered through fees paid by the riders. There seems little doubt that it will reduce gasoline consumption, traffic congestion, and parking problems. I think it is worth trying.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out that this program is fully recoverable under the law that would be passed, except for those funds that have to be spent to make the vans available to handicapped citizens.

Second, I think those Members who know me know that I have had a good many great interests in my legislative career, and van pooling was not really one of them.

After 2 full days of hearing a lot of witnesses, the subcommittee which heard this testimony came to the conclusion that it really made sense if we could save 30 million gallons of gasoline, if we could reduce pollution by 10,000 tons, and if we could get people out of private cars and into these vans. As far as the Government is concerned, every Government agency has people in it who work on carpools, work on parking, work on other types of situations; and to have them also deal with the van pool situation would not be that great a problem. Also, the administrative costs would be recovered.

The private sector which my good friend, the gentleman from New York (Mr. HORTON), talks about wants to do this and wants us to help break the ground to reduce the institutional barriers so as to make van pooling work. Every person, from the 3M Corp., to Arco to whatever corporation one can name, wants the Government to get involved in this program. It is not going to cost us money. The GSA figures show that the only cost not recoverable is going to be that for handicapped people.

We do not provide for purchase. We provide for lease and purchase. The reason we need $15 million in authorization is that in entering into a 5-year lease, one has to have all the money for the 5-year lease up front so that he can make the lease.

We provide for contracting out maintenance in the private sector. We do everything we can to tilt it to the private sector.

Mr. Chairman, it makes sense. Federal employees would like to have it. Those involved in the private sector want us to do it as well.

The CHAIRMAN. The time of the gentleman from Texas (Mr. BROOKS) has expired.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I would really just like to reiterate a couple of points that were made by the gentleman from New York (Mr. HORTON). We do not spend $75 million. The money is recoverable under the act. The President has to report to us every year as to how the program is going.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, that is one of the points that I tried to make. There is a tremendous amount of paperwork. Here we have the President who will have to report on this little program.

It was also mentioned by the gentleman from Texas (Mr. BROOKS) and I think the gentleman from California (Mr. JOHN L. BURTON) mentioned that the savings would be 30 million gallons a year.

Mr. Chairman, that sounds fine; but when we figure that it is costing us $15 million to establish the program, that comes out to 15 cents a gallon.

Mr. JOHN L. BURTON. It does not cost $15 million because the user fees pay for the project. It is in the law. If the gentleman will just read the law, the user fees—and these are the GSA figures—pay for the cost of the program except for fixing it up for handicapped individuals.

Mr. HORTON. Mr. Chairman, if the gentleman will yield further, he has just quoted the bill.

Mr. JOHN L. BURTON. Mr. Chairman, I do not yield any further. I am sorry.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would just like to ask one question, if I might.

Knowing of the gentleman's great interest in public transportation systems, would this in any way, if this amendment were defeated and if the van pool provision were to go into effect, abrogate all public utility licensing of public transportation? Would the driver hired by the Federal Government under the leased van program have insurance?

Mr. JOHN L. BURTON. Yes. It is paid for under the program.

These are the institutional barriers that the proponent of the amendment would like to see struck down. They would be struck down by this amendment.

Mr. BADHAM. Then would the gentleman also advocate, perhaps, that fare box revenues will govern mass transit? If this program should work, it would certainly seem to me that fare box revenues would also govern mass transit.

Mr. JOHN L. BURTON. Yes. That would be subject to the decision of the transit agency of Orange County where I live.

Mr. BADHAM. Could we go, perhaps, next year into the rent-a-bus program?

Mr. JOHN L. BURTON. Not at all. We do not believe in Government subsidies.

Last, Mr. Chairman, the people who are involved in it in the private sector strongly support this legislation.

It is the only way to really break down the institutional barriers. It is not going to cost that much money, but I will admit this, it will require the President to send us a report, which I am sure will be a tremendous burden on the President's office. But I think we in the Congress have a right to do that. Further, the bill provides for contacts with the private sector, and the maintenance of contacts with the private sector.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just wanted to point out that I agree with the chairman of the subcommittee that we came down strongly on the side of leasing vans and thought that was the direction we were taking but it seemed that perhaps when we got to the full committee that the weight of the financing seemed to be strongly on the side of purchasing. In fact, we are hearing here so much about purchasing on the floor it seems that is the way we are going.

Mr. JOHN L. BURTON. If the Government enters into a 5-year lease the Agency has to have all of the money for that 5-year lease in hand to enter into that contract. That would be the only way they could have a 5-year lease in the beginning of the program is to have sufficient money in hand to do so.

Mr. WALKER. But the very fact the committee established a record on purchasing, having the money in hand, was giving us the idea that that was the money they needed to purchase.

Mr. JOHN L. BURTON. The report of the committee in no way establishes that record. The views of the gentleman are in the report. The gentleman assumed that the 15 million dollars was for purchasing and the gentleman assumed they would be purchased. But it is for leasing. If the agency does not have that kind of money in hand then they cannot lease for 5 years, because that is a government regulation.

Mr. WALKER. Again I thank the gentleman for yielding, but I think the record clearly established that the money was for purchase.

Mr. JOHN L. BURTON. I do not think the record in the report so establishes that.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Washington.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Let me say that I appreciate the arguments made by the gentleman from California, and it is certainly laudable as to the kind of gasoline that we will save, and the pollution that we will not have, but I do have one question and that is if it is so good for the private sector and these employees are going to pay all of the costs for them, why do they need the Government involved? Why do they not just do it themselves?

Mr. JOHN L. BURTON. Because this also provides for the moneys for those Federal employees purchasing vans, it is all the same, this law permits that to happen and permits the charge of users fees and permits the parking of the van in the area of the Federal building, and so forth. All of that is permitted. One of the problems to van pooling has been the institutional barriers that the gentleman from New York (Mr. HORTON), has talked about. This bill does permit the type of thing the gentleman is talking about.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield, in the private sector where we have van pooling, it is not

true that the private industry furnishes the financing and then recovers?

Mr. JOHN L. BURTON. The private industry does purchase the vans.

Mr. VOLKMER. Which is no different from what we are proposing here. In other words, we are saying the same thing, that what is good for private industry is good for the Government?

Mr. JOHN L. BURTON. Exactly.

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield, the gentleman mentioned the Government employee buying the van and then establishing user fees. Who would establish those user fees and who would decide what those user fees would be?

Mr. JOHN L. BURTON. If they are established under this program for Federal employees they would come under whatever the user fees are for that kind of ride.

Mr. KETCHUM. Then if they are to establish the user fees in the State of California, for the Federal vans, would you not be abrogating the law, despite the fact that we have the public utilities commission that sets up transportation in the State, would you not be then just abrogating the State law?

Mr. JOHN L. BURTON. No. In California we have a van pooling program called Caltran that is run by the State government, and I will tell the gentleman that it works very well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON).

The questioin was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 184, answered "present" 1, not voting 16, as follows:

[Roll No. 501]

AYES—232

Abdnor	Clawson, Del	Fish
Addabbo	Cochran	Flowers
Alexander	Cohen	Ford, Tenn.
Andrews, N.C.	Coleman	Forsythe
Andrews, N. Dak.	Collins, Tex.	Fountain
Archer	Conable	Frenzel
Armstrong	Conte	Frey
Ashbrook	Corcoran	Fuqua
Badham	Cornell	Gammage
Bafalis	Coughlin	Gephardt
Baldus	Crane	Giaimo
Barnard	Cunningham	Gilman
Bauman	D'Amours	Glickman
Beard, Tenn.	Daniel, Dan	Goldwater
Bevill	Daniel, R. W.	Goodling
Biaggi	Danielson	Gradison
Bonker	de la Garza	Grassley
Bowen	Delaney	Gudger
Breaux	Derwinski	Guyer
Breckinridge	Devine	Hagedorn
Brinkley	Dickinson	Hall
Broomfield	Dicks	Hammer-schmidt
Brown, Mich.	Dingell	Hanley
Brown, Ohio	Dornan	Hansen
Broyhill	Drinan	Harsha
Buchanan	Duncan, Tenn.	Heckler
Burgener	Early	Heftel
Burke, Fla.	Edwards, Ala.	Hightower
Burleson, Tex.	Edwards, Okla.	Hillis
Butler	Emery	Hollenbeck
Caputo	English	Holt
Carter	Erlenborn	Horton
Cederberg	Ertel	Hubbard
Chappell	Evans, Del.	Hughes
Clausen, Don H.	Evans, Ga.	Hyde
	Fenwick	Ichord
	Findley	Ireland
	Jenkins	Moakley
	Mollohan	Sisk
	Johnson, Colo.	Montgomery	Skelton
	Jones, N.C.	Moore	Skubitz
	Jones, Okla.	Moorhead, Calif.	Smith, Iowa
	Jordan		Smith, Nebr.
	Kasten	Moss	Snyder
	Kazen	Myers, Gary	Spence
	Kelly	Myers, John	Stangeland
	Kemp	Natcher	Stanton
	Ketchum	Neal	Steed
	Kindness	Nichols	Steiger
	LaFalce	Panetta	Stockman
	Lagomarsino	Pepper	Stump
	Latta	Pettis	Symms
	Leach	Pickle	Taylor
	Leggett	Poage	Thone
	Lehman	Pritchard	Traxler
	Lent	Pursell	Treen
	Lloyd, Tenn.	Quayle	Trible
	Long, Md.	Quie	Tucker
	Lott	Quillen	Vander Jagt
	Lujan	Railsback	Waggonner
	Luken	Regula	Walker
	McClory	Rhodes	Walsh
	McCormack	Rinaldo	Wampler
	McDade	Risenhoover	Watkins
	McDonald	Roberts	White
	McEwen	Robinson	Whitehurst
	McHugh	Rousselot	Whitten
	McKay	Rudd	Wiggins
	Madigan	Runnels	Wilson, Bob
	Mahon	Ruppe	Winn
	Mann	Russo	Wolff
	Marks	Sarasin	Wydler
	Marriott	Satterfield	Wylie
	Martin	Sawyer	Yates
	Mattox	Schulze	Young, Alaska
	Michel	Sebelius	Young, Fla.
	Milford	Shipley	Young, Mo.
	Miller, Ohio	Shuster	Young, Tex.
	Mitchell, N.Y.	Sikes	Zeferetti

NOES—184

Akaka	Fascell	Murphy, Pa.
Allen	Fisher	Myers, Michael
Ambro	Fithian	Nedzi
Ammerman	Florio	Nix
Anderson, Calif.	Flynt	Nolan
	Foley	Nowak
Annunzio	Ford, Mich.	Oakar
Applegate	Fowler	Oberstar
Ashley	Fraser	Obey
Aspin	Gaydos	Ottinger
AuCoin	Gibbons	Patten
Baucus	Ginn	Patterson
Beard, R.I.	Gore	Pattison
Bedell	Hamilton	Pease
Bellenson	Hannaford	Perkins
Benjamin	Harkin	Pressler
Bennett	Harrington	Preyer
Bingham	Harris	Price
Blanchard	Hawkins	Rahall
Blouin	Hefner	Rangel
Boggs	Holland	Reuss
Boland	Holtzman	Richmond
Bolling	Howard	Rodino
Bonior	Huckaby	Roe
Brademas	Jeffords	Rogers
Brodhead	Jenrette	Roncalio
Brooks	Johnson, Calif.	Rooney
Brown, Calif.	Jones, Tenn.	Rose
Burke, Calif.	Kildee	Rosenthal
Burlison, Mo.	Kostmayer	Rostenkowski
Burton, John	Krebs	Roybal
Burton, Phillip	Krueger	Ryan
Byron	Le Fante	Santini
Carney	Lederer	Scheuer
Carr	Levitas	Schroeder
Cavanaugh	Lloyd, Calif.	Seiberling
Chisholm	Long, La.	Sharp
Clay	Lundine	Simon
Cleveland	McFall	Slack
Collins, Ill.	Maguire	Solarz
Conyers	Markey	Spellman
Corman	Marlenee	St Germain
Cornwell	Mathis	Staggers
Cotter	Mazzoli	Stark
Davis	Meeds	Steers
Dellums	Metcalfe	Stokes
Derrick	Meyner	Stratton
Diggs	Mikulski	Studds
Dodd	Mikva	Thompson
Downey	Miller, Calif.	Thornton
Duncan, Oreg.	Mineta	Tsongas
Eckhardt	Minish	Udall
Edgar	Mitchell, Md.	Ullman
Edwards, Calif.	Moffett	Van Deerlin
Eilberg	Moorhead, Pa.	Vanik
Evans, Colo.	Mottl	Vento
Evans, Ind.	Murphy, Ill.	Volkmer
Fary	Murphy, N.Y.	Walgren
	Waxman	Whitley	Wright
	Weaver	Wilson, C. H.	Yatron
	Weiss	Wilson, Tex.	Zablocki
	Whalen	Wirth	
		Gonzalez	

NOT VOTING—16

Anderson, Ill.	Jacobs	Murtha
Badillo	Kastenmeier	O'Brien
Burke, Mass.	Keys	Pike
Dent	Koch	Teague
Flippo	McCloskey	
Flood	McKinney	

ANSWERED "PRESENT"—1

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. McCloskey for, with Mr. Badillo against.

Mr. O'Brien for, with Mr. Koch against.

Messrs. LENT, LEHMAN, RISENHOOVER, DICKS, NICHOLS, and BUCHANAN changed their vote from "no" to "aye."

Messrs. FITHIAN, THOMPSON, and KREBS changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate the heading of the part now pending.

The Clerk read as follows:

Page 403, line 18:

TITLE II—TAX PROVISIONS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Energy Tax Act of 1977".

Mr. SIMON. Mr. Chairman, this is a short item but I think a significant one as we take up the energy bill. I just looked at the latest figures from the U.S. Department of Transportation and they show that in April 1977 we citizens of the United States purchased 13.3 percent more automobile gasoline than they did in the same period in 1974 and 9.1 percent more than they did in 1975.

This suggests the need for action on our part is not diminishing.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8444 to establish a comprehensive national energy policy, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 6161, CLEAN AIR ACT AMENDMENTS OF 1977

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–562) on the resolution (H. Res. 7) providing for consideration of the conference report of the bill (H.R. 6161) to amend the Clean Air Act, and

for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION TO PROVIDE FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY HOUSE PERMANENT COMMITTEE ON INTELLIGENCE

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–562) on the resolution (H. Res. 729) to provide funds for the expenses of investigations and studies to be conducted by the House Permanent Committee on Intelligence, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6161, CLEAN AIR ACT AMENDMENTS OF 1977

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 6179, ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS OF 1977

Mr. ZABLOCKI submitted the following conference report and statement on the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–563)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Arms Control and Disarmament Act Amendments of 1977".

SPECIAL REPRESENTATIVE

SEC. 2. (a) Title II of the Arms Control and Disarmament Act is amended by adding at the end thereof the following new section:

"SPECIAL REPRESENTATIVE

"SEC. 27. The President may appoint, by and with the advice and consent of the Senate, a Special Representative for Arms Control and Disarmament Negotiations who shall perform such duties and exercise such powers (under the direction of the President and the Secretary of State, acting through the Director) as the Director may prescribe with respect to international arms control and disarmament negotiations and matters relating thereto.".

(b) Section 5315 of title 5, United States Code, is amended by inserting the following new paragraph immediately after paragraph (49):

"(50) Special Representative for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency.".

RESEARCH

SEC. 3. Section 31 of the Arms Control and Disarmament Act is amended by striking out "United States" in clause (2) of the second sentence.

VERIFICATION OF ARMS CONTROL AGREEMENTS

SEC. 4. Title III of the Arms Control and Disarmament Act is amended by adding at the end thereof the following new section:

VERIFICATION OF ARMS CONTROL AGREEMENTS

"SEC. 37. (a) It is the sense of the Congress that adequate verification of compliance should be an indispensable part of any international arms control agreement. In recognition of such policy and in order to assure that arms control proposals made or accepted by the United States can be adequately verified, the Director shall report to the Congress, on a timely basis, or upon a request by an appropriate committee of the Congress—

"(1) in the case of each element of any significant arms control proposal made to a foreign country by the United States, or made to the United States by a foreign country, the determination of the Director as to the degree to which such element can be verified by existing national technical means;

"(2) in the case of any arms control agreement or treaty that has entered into force, any significant degradation or alteration in the capacity of the United States to verify the various components of such agreement or treaty;

"(3) the number of professional personnel assigned to arms control vertification on a full-time basis by each Government agency; and

"(4) the amount and percentage of research funds expended by the Agency for the purpose of analyzing issues relating to arms control verification.

"(b) For purposes of paragraphs (1) and (2) of subsection (a), the Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

"(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control agreements.".

GENERAL AUTHORITY

SEC. 5. (a) Section 41(b) of the Arms Control and Disarmament Act is amended to read as follows:

"(b) appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that during the 2-year period beginning on the date of enactment of the Arms Control and Disarmament Act Amendments of 1977, the Director may, to the extent he deems necessary to the discharge of his responsibilities, appoint and fix the compensation of officers and employees for the Agency without regard to such provisions, subject to the following requirements:

"(1) an officer or employee whose compensation is fixed under the foregoing exception may not be paid a salary at a rate in excess of the rate payable under such chapter 51 and such subchapter III for positions of equivalent difficulty or responsibility except for (A) those officers and employees whose compensation is fixed by law, and (B) scientific and technical personnel who may be compensated at a rate not to exceed the rate in effect for grade GS–18 of the General Schedule;

"(2) the Director shall make adequate provision for administrative review of any determination to suspend or dismiss any officer or employee appointed under the foregoing exception; and

"(3) an officer or employee of the Agency serving under a career or career conditional appointment on the date of enactment of the Arms Control and Disarmament Act Amendments of 1977 may not be involuntarily deprived, while employed by the Agency, of any rights normally granted such officer or employee in the competitive service;".

(b) Section 41 of such Act is amended—

(1) by redesignating paragraphs (g) and (h) as paragraphs (h) and (i), respectively; and

(2) by inserting immediately after paragraph (f) the following new paragraph:

"(g) permit, under such terms and conditions as he may prescribe, any officer or employee of the Agency, in connection with the attendance by such officer or employee at meetings or in performing advisory services concerned with the functions or activities of the Agency, to accept payment, in cash or in kind, from any private agency or organization, or from any individual affiliated with such agency or organization, for travel and subsistence expenses, such payment to be retained by such officer or employee to cover the cost thereof or to be deposited to the credit of the appropriation from which the cost thereof is paid;".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 49(a) of the Arms Control and Disarmament Act is amended to read as follows:

"(a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for fiscal years 1976 and 1977, the sum of $23,440,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs); and

"(2) for fiscal year 1978, the sum of $16,600,000 (and such additional amounts as may be necessary for increases in sal ry, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs);

to remain available until expended. Of the sum authorized to be appropriated by this section for the fiscal year 1978, $2,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency.".

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
GERRY STUDDS,
ANTHONY C. BEILENSON,
WM. BROOMFIELD,
EDWARD J. DERWINSKI,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN SPARKMAN,
C. PELL,
G. MCGOVERN,
HUBERT H. HUMPHREY,
CLIFFORD P. CASE,
CHARLES H. PERCY,
ROBERT P. GRIFFIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

VERIFICATION OF ARMS CONTROL AGREEMENTS

The House bill added a new section 37 to the Arms Control and Disarmament Act which set forth a sense of Congress that effective verification of compliance is an indispensable factor in any international arms control agreement. The House bill further provided that the Director of ACDA shall report to the Congress on a timely basis or upon request the following information: The verifiability by existing national technical means of each element of any arms control proposal made to foreign governments by the United States; the verifiability by existing national technical means of each element of any arms control proposal made by foreign governments to the United States; any significant degradation or alteration in the capacity of the United States to verify the various components of existing arms control agreements or treaties; the number of professional personnel assigned by various Government agencies to analyze arms control verification; and the amount and percentage of research funds expended by Government agencies for the purpose of analyzing issues relating to arms control verification.

The House bill further provided that the Director, in reporting to the Congress on the verifiability of arms control proposals made to or received by the U.S. Government, should assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

The Senate amendment also added a new section 37 to the Arms Control and Disarmament Act which set forth the sense of Congress that adequate verification of compliance should be an indispensable part of international arms control agreements or treaties. The Senate amendment required the Director of ACDA to report to the Congress on a timely basis or upon request the following information: the verifiability by existing national technical means of significant arms control proposals made to or received by the U.S. Government; any significant degradation or alteration in the capacity of the United States to verify the various components of existing international arms control agreements and treaties; the number of professional personnel assigned to arms control verification by Government agencies; and the amount and percentage of research funds expended by ACDA for the purpose of analyzing issues relating to arms control verification.

The Senate amendment further provided that, in making his reports to the Congress on the verifiability of arms control proposals and of arms control agreements or treaties that have entered into force, the Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification. The Senate amendment also provided that except as otherwise provided by law nothing in the section on verification of arms control agreements should be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control agreements.

The committee of conference adopted the Senate provisions. In doing so, the committee of conference makes clear the responsibility of ACDA to support verification research. Just as importantly, the committee of conference notes that the provision is not intended to interfere with the President's ability to conduct arms control negotiations but is intended to emphasize the responsibility of ACDA and other executive branch agencies to keep the Congress informed with respect to the verifiability of significant arms control proposals. The committee of conference intends that this provision should assist Congress in assessing the national security implications of arms control agreements and treaties, in accordance with its constitutional and statutory responsibilities.

SECURITY REQUIREMENTS

The House bill amended section 45(c) of the Arms Control and Disarmament Act to permit the Director of ACDA to grant ACDA employees access to restricted data.

The Senate bill did not contain a comparable provision.

The committee of conference did not adopt a provision on this issue. In doing so the committee of conference noted that a provision identical to the House provision was reported to the floor of the Senate by the Senate Foreign Relations Committee. That provision was deleted following receipt of assurances from ERDA and ACDA that every effort would be made to resolve problems with the clearance procedures by which ACDA contractors are granted access to restricted data. A memorandum of understanding to this effect was concluded on July 8, 1977, by ACDA and ERDA. After reviewing the memorandum, the committee of conference recommends that implementation of its understandings be reviewed by appropriate oversight committees, and that its terms be extended when the new Department of Energy is established.

GENERAL AUTHORITY

A. Excepted authority From Civil Service

The Senate amendment amended section 41(b) of the Arms Control and Disarmament Act to permit the Director of ACDA for a 2-year trial period to appoint officers and employees and fix their compensation without regard to the provisions of title 5, United States Code.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision. In taking note of objections to placing Government employees outside the competitive service, the committee of conference concludes that the specialized personnel needs of ACDA merited a 2-year trial of this excepted authority. The committee of conference further notes testimony from ACDA officials to the effect that the number of individuals hired each year under the excepted authority provision would be small.

B. Reimbursements to ACDA

The Senate amendment amended section 41 of the Arms Control and Disarmament Act to permit ACDA employees to accept payment in cash or in kind for travel and subsistence expenses incurred in attending meetings or performing advisory services concerned with the functions or activities of ACDA.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision. The committee of conference notes the provision is similar to provisions in the organic statutes of the Department of State and other departments and agencies.

AUTHORIZATION OF APPROPRIATIONS

The House bill amended section 49(a) of the Arms Control and Disarmament Act to authorize the appropriation of $14.6 million (and such additional amounts as may be necessary for nondiscretionary costs) for fiscal year 1978.

The Senate amendment also amended Section 49(a) of the Arms Control and Disarmament Act to authorize the appropriation of $16.6 million (and such additional amounts as may be necessary for nondiscretionary costs) for fiscal year 1978, $2 million of which shall be used only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency.

The committee of conference adopted the Senate provision with a technical and clarifying amendment. The $16.6 million authorized to be appropriated for ACDA for fiscal year 1978 is $3 million greater than the amount requested by the executive branch. Funds appropriated in excess of the $13.6 million requested and already programed by ACDA are to be used as follows: $1 million is to be used to support additional ACDA public information and external research programs. The remaining $2 million will be available to support the nuclear safeguards programs and activities of the International Atomic Energy Agency.

CLEMENT ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
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Managers on the Part of the Senate.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, could the gentleman indicate whether this will be for markup or for hearings?

Mr. EILBERG. If the gentleman will yield, it will be for hearings only.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON S. 1377, EXTENDING TIME FOR COMMENCING ACTIONS FOR SETTLEMENT OF MONETARY DAMAGES ON INDIAN CLAIMS

Mr. DANIELSON. Mr. Speaker, I call up the conference report on the Senate bill (S. 1377) to extend the time for commencing actions on behalf of an Indian tribe, band, or group, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

(For conference report and statement, see proceedings of the House of July 20, 1977.)

The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) is recognized for 30 minutes.

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report refers to the Senate bill, S. 1377, which, as the Members will recall, is the bill which puts a new period of limitation on Indian claims that are litigated by the Department of Justice on behalf of Indian tribes or groups and agencies.

As the bill passed the House of Representatives, a date for expiration of the period of limitations was fixed as July 18, 1979. The other body did not agree with that and insisted on its date of December 31, 1981. The difference between the two dates is 29½ months. The controversy centered around what the effective date of the statute of limitations would be.

In the free conference that took place the managers on the part of the House yielded 8½ months to the other body. On the other hand, the other body yielded 20½ months to the House. We yielded 30 percent, and they yielded 70 percent. I think that is a pretty good bargain.

Mr. Speaker, I respectfully urge that the House adopt this conference report.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman from California (Mr. DANIELSON) has stated the situation exactly. The will of the House and the position of the House are largely preserved in this conference report.

I think we have eliminated most of the controversy in this bill, and I hope the conference report will be speedily approved.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I will indicate that there is one thing that is missing from this conference report in terms of the statement of the managers, and that is a reflection of the very strong will as expressed by the House that this is the final extension of the Indian trust section of title 28, section 2415 (a) and (b) dealing with pre-1966 claims.

I think it ought to be very clear that this House has indicated on the record that this is the final extension, and that we are sending a message to the Department of the Interior and to the Justice Department that they had better get busy in processing whatever claims they have because this House will not extend the statute in the future.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for his contribution. He has stated the facts very eloquently, and I agree 100 percent.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I just want to make certain that I heard what the gentleman from Maine (Mr. COHEN) said. I believe he used the word, "final," f-i-n-a-l. That was the word the gentleman used, was it not?

Mr. COHEN. I did.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would just like to associate myself with the remarks of the gentleman from Maine (Mr. COHEN). I know there are other Members from other parts of the country who are just as concerned, and I hope that this is the final extension.

Mr. UDALL. Mr. Speaker, will the gentleman yield once again?

Mr. DANIELSON. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I just want to say that as a member of and the chairman of one of the committees that deals with Indian Affairs, I would like to dig a little hole for myself and state for the record that this is the last extension I would support.

Mr. DANIELSON. Mr. Speaker, I have never seen such unanimity.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DISAPPROVING CONTINUATION OF THE PRESIDENT'S AUTHORITY TO WAIVE FREEDOM OF EMIGRATION REQUIREMENTS FOR THE GRANTING OF MOST-FAVORED NATION STATUS TO ROMANIA

Mr. VANIK. Mr. Speaker, pursuant to section 152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 653, to disapprove the recommendation of the President to extend the authority in section 402(c) of the Trade Act of 1974 with respect to the Socialist Republic of Romania for an additional 12 months.

The Clerk read the title of the resolution.

The Clerk read the resolution, as follows:

H. RES. 653

Resolved, That the House of Representatives does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 3, 1977, with respect to the Socialist Republic of Romania.

PREFERENTIAL MOTION OFFERED BY MR. STEIGER

Mr. STEIGER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STEIGER moves, pursuant to section 152 (d)(3) of the Trade Act of 1974, to postpone indefinitely the motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 653.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the preferential motion offered by the gentleman from Wisconsin (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 149, noes 33.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred and twenty-four Members are present, a quorum.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the preferential motion was agreed to.

A motion to reconsider was laid on the table.

DISAPPROVING THE CONTINUATION OF THE PRESIDENT'S AUTHORITY TO WAIVE FREEDOM OF EMIGRATION REQUIREMENTS FOR THE GRANTING OF MOST-FAVORED-NATION STATUS TO ROMANIA

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 653.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes before we proceed.

Mr. Speaker, on July 18, 1977, the Subcommittee on Trade ordered that House Resolution 653 be reported unfavorably to the full Committee on Ways and Means. House Resolution 653 provides for congressional disapproval of

the recommendation of the President to extend the waiver authority in section 402(c) of the Trade Act of 1974 with respect to the Socialist Republic of Romania for an additional 12 months, until July 3, 1978.

As you know, the United States-Romanian trade agreement took effect in August 1975 following passage by both Houses of Congress of concurrent resolutions approving the extension of nondiscriminatory—MFN—treatment to imported products from Romania under the waiver provisions of title IV of the Trade Act of 1974. Section 402 of the act prohibits the granting of MFN treatment, Government credits or investment guarantees, or the negotiation of a commercial agreement with any Communist country if that country does not allow its citizens the freedom to emigrate. Section 402 also permits the President to waive this prohibition for a limited period of time—subject to renewal—if he determines that doing so will promote freedom of emigration.

The first renewal of the President's waiver authority took place by operation of law last fall. Since Congress did not act to negate the President's recommendation within the statutory time period, the authority automatically extended until July 3, 1977. The Subcommittee on Trade held a hearing on September 14, 1976, on the President's request for renewal of the waiver authority, but took no further action.

On June 3, 1977, President Carter recommended to the Congress a further extension for 1 year of the Trade Act authority to waive the freedom of emigration requirement and its extension to Romania. On June 22, House Resolution 653, disapproving extension of the waiver authority to Romania, was introduced. Under the special expedited procedures of section 152(d) of the Trade Act, a motion to proceed to House consideration of the resolution is highly privileged and not debatable. The statutory 60-day period for House consideration of House Resolution 653 expires on September 1, 1977.

The Subcommittee on Trade held a public hearing on July 18, receiving testimony from the administration, Members of Congress, trade councils, the business community, and private citizens. The testimony was heavily in favor of continuation of MFN to Romania.

In reporting House Resolution 653 unfavorably by a voice vote, the Committee on Ways and Means gave full consideration to the moderately increasing trend of Romanian emigration to the United States and the declining emigration rate to Israel.

The committee concluded that the Government of Romania had made a sincere effort to live up to its human rights obligations and that extension of MFN treatment for another year is crucial to the continued development and improvement of U.S. economic and political relations with Romania. At the same time, the committee expects that the intention expressed by President Carter to monitor more closely Romania's compliance with the Trade Act emigration objectives will be implemented through a formalized monitoring system which includes periodic reporting to and consultation with Trade Subcommittee members and staff. The committee also expects the President to bring to the attention of the Romanian Government any actions or emigration trends which do not appear to conform to the assurances they have provided in the past to treat emigration matters in a humanitarian manner.

It is my view, therefore, that the House should table House Resolution 653 and thereby discharge its responsibilities under the special Trade Act procedures.

Mr. STEIGER. Mr. Speaker, I, too, oppose enactment of House Resolution 653, which would serve to reverse the President's determination to extend the waiver of emigration requirements under the Trade Act of 1974 as applied to Romania. I feel that, in light of the continuing favorable trade relationship between this country and Romania and of Romania's continued response to its human rights obligations, an effort to reinstate restrictions is not warranted at this time.

As my colleagues know, most favored nation—MFN—treatment for any Communist bloc country is contingent upon that country's efforts to assure its citizens the right to emigrate. However, under section 402 of the Trade Act of 1974, the President can waive this requirement if he determines that such a waiver will actually promote freedom of emigration. The waiver is subject to renewal if either House does not disapprove the renewal within 60 days after the waiver's termination date.

The Trade Subcommittee, in its oversight responsibility, has carefully monitored the emigration situation in Romania since that country was granted MFN status in August of 1975. Investigations have shown that, on the whole, Romania is meeting its humanitarian responsibilities and is allowing an increasing number of its citizens to move out of the country.

I want to point out to my colleagues, however, that there also is need for improvement. Statistics show that emigration from Romania rises significantly during the time period surrounding consideration by the Congress of waiver extensions. The President should make clear to the Romanians that these cyclical trends are not acceptable, and this Government should continually press for a more consistent commitment to human rights.

Mr. Speaker, with continuing oversight by the Trade Subcommittee, I believe that Romania should continue to receive the privileges afforded under MFN. They are good trading partners and are making a good faith effort to meet the humanitarian principles to which they have subscribed under international agreements. My colleagues on the Ways and Means Committee agree with me and have reported this bill unfavorably. I urge the House to reject House Resolution 653 at this time.

Mr. ROSENTHAL. Mr. Speaker, President Carter and the House Ways and Means Subcommittee on Trade have both recommended a year-long extension of most-favored nation status for Romania. I support this recommendation. However, I want to take this time to carefully review Romania's recent record on human rights.

In particular, I am disturbed by the apparent decline in the number of persons granted permission to emigrate to Israel since the approval of MFN status for Romania. Month-to-month figures are erratic, but the overall trend is downward. Surprisingly, the projected figure for 1977 departures is significantly lower than the 1974 figure of 3,700—when MFN was not in effect. The trend can be seen more clearly in the following statistics:

Permitted Romanian emigration to Israel—Arrivals in Israel, 1973–77

1973		3,700
1974		3,700
1975		2,140
1976		2,035
1977	(projected)	1,150

Many families remain divided, either because they have been turned down for an immigration visa or for fear of harassment. Threats of job loss, demotion, confiscation of property, mail censorship, loss of telephone privileges or military induction prevent many Romanian Jews from even expressing their desire to emigrate to be with their loved ones.

In addition, innumerable obstacles have been built into the application process that discourages even the most persevering. They must first undergo an intimidating preapplication process which is designed to screen out those who are not even eligible to apply. An individual may either receive permission to complete an application; be denied permission for any number of reasons, or receive no reply at all. An applicant may be confronted by official committees which probe into his background and try and persuade him from leaving. Adding to the confusion, the applicant is then required to produce countless documents, perhaps including assurances that all his taxes and utility bills are paid. Costs are prohibitive, and the waiting process is uncertain. The Kafka-like absurdity of the process is a significant deterrent to free emigration.

Romania is one of the 33 countries which signed the Helsinki agreement, which in Basket Three sets forth certain international standards concerning family reunification and other human rights. In light of the Helsinki accords and the MFN agreement, I feel that we must set forth publicly Romania's record on Jewish immigration. It is my hope that within the coming year Romania will liberalize its inordinately stringent immigration policy.

Mr. BINGHAM. Mr. Speaker, I intend to vote against House Resolution 653, which would terminate most-favored-nation trade status for Romania. I believe the favorable trade terms we presently share with Romania should be extended for another year.

The historical record of Romania with respect to emigration is a very commendable one. Despite Romania's very small size—only about 19.5-million in the recently completed census—many hundreds of thousands of people have been able to leave Romania over the years—not only Jews emigrating to Israel, where

Romanians are now one of the largest national origin groups, but also Germans, Hungarians, and others.

Furthermore, Mr. Speaker, Romania has been cooperative and responsive in successfully resolving cases of separated families and others wishing to emigrate as such cases have been brought to the attention of Romanian officials by Members of Congress and others in the West.

But there is a difference between a favorable historical record and resolution of certain emigration cases, on the one hand, and a broad and consistent policy of free emigration on the other. This difference disturbs me with respect to Romania to the extent that I am in considerable doubt as to whether I will be able to support continuation of Romanian most-favored-nation beyond the coming year.

The facts are that while the rate of emigration from Romania has risen slightly this year in comparison to last, the number of emigrants to Israel has declined. This is, no doubt, in part due to the diminishing size of the Jewish community—25,000, according to the recent Romanian census—but certainly an aggravating factor is the reality that emigration from Romania continues to be actively and rather harshly discouraged. Prospective emigrants continue to experience inhumane pressures and treatment, from detention to loss of jobs and educational opportunities for their children. While the Romanian Government may deny and even officially discourage such treatment, the fact is that it continues.

This suggests that rather than a true commitment and policy of free emigration, Romania is implementing instead a strategy of emigration—that it is deliberately using and manipulating emigration for the economy advantages of maintaining favorable trade status with the United States. The harsh treatment and case-by-case approach to emigration, Romania is using emigration as a calculated device for immediate political and economic ends.

There comes a point, Mr. Speaker, at which historical considerations and case-by-case progress become outweighed by the current realities of harsh treatment of emigrants and a lack of a broad and consistent policy which recognizes the right of peoples to leave one nation for another. They will have to be carefully watched in the year ahead.

Mr. HARRINGTON. Mr. Speaker, the 1-year extension of Romania's most-favored-nation status presents an opportunity for both the President and the Congress to reassert their commitment to human rights, as well as to further legitimize that policy in the eyes of our own people and the international community at large by insuring that it is carried out fairly and equitably. We cannot simply employ the human rights policy, and the economic sanctions attached to lend it substance, against those poorer countries which are dependent upon our aid. Through such an approach we risk compromising the principles involved and eventually undermining our own position through the loss of credibility which would insure from anything but a consistent application of the policy.

In recent years we have forged ties with Romania primarily through trade relations. These connections should be subjected to the same type of scrutiny, in terms of human rights considerations, that is involved in our review of political and economic relations with the countries of Latin America, Asia, or Africa.

In an interview with journalist Tad Szulc, of the New Republic, Romania's president, Nicolae Ceausescu, stated that with regard to economic relations between his nation and ours, "no attempts should be made to erect artificial barriers—such as a cancellation of the most-favored-nation clause—and that economic relations should not be subjected to political conditions." Commenting further, President Ceausescu went on to say that:

> We must set out from the principles laid down in the joint declarations made by Romania and the United States, principles of equality, non-interference in internal affairs, and reciprocal advantage.

In the recent past, both the Congress, through various applications of the human rights language, and the Carter administration, through several policy decisions, have made it clear that they intend to implement the human rights policy, in part, by a conscious linkage of political and economic policies, in order to give that policy some force greater than the mere power of words. Rather than an effort at creating barriers, it would seem that the strategy behind the Jackson-Vanik amendment in particular, and the Carter administration's human rights policy more generally, is that of using all available political instruments to eliminate political barriers—be they barrier to unhindered emigration, free thought, expression or religious belief.

Among the principles laid out in declarations to which both Romania and the United States have been signatories, and from which President Ceausescu implies relations between our two nations must proceed, are those comprising the Helsinki Accords. These include unrestricted travel for the people of all nations, as well as cooperation and exchange in the fields of education and culture. With regard to the economic agreements included in the accords, the United States clearly conveyed to the Soviets and the East Europeans at the time of final agreement that most-favored-nation status would not be conferred automatically.

It has been alleged by responsible sources that Romania has neither fully complied with the emigration requirements of the Trade Act of 1974 nor honored the principles to which it subscribed at Helsinki. In his New Republic article of October 23, 1976, Tad Szulc reported that Romania was embarking on a "cultural revolution," engendering conditions of domestic repression worse than at any time since the late 1960's. In direct contravention of the humanitarian principles established in the Helsinki Accords, the Romanian Government has imposed strict restrictions on the foreign travel rights of its citizens, and limited their contact with foreigners visiting Romania. Far from fostering cultural freedom and interchange between nations, Romania has engaged in stifling the cultural heterogeneity existent within its own borders. It is alleged that 2.5 million Hungarians, 400,000 Germans, 80,000 Jews, Ukrainians, Serbs, Greeks, Turks, and other ethnic minorities are being forcibly assimilated in order to establish "the unitary character of the formation of the Romanian people."

To allege that what is being waged here, namely a campaign to alert the Romanian Government to our concern for the rights of all its people, is an ideological battle in the guise of a human rights fight seems self-defeating. Given the concrete action that has been taken with regard to military and foreign assistance cutbacks to Latin America, I do not think that this policy can be construed as merely a ploy that masks a cold war attitude toward Communist regimes. Furthermore, I think that in this case our actions are commensurate with the severity of the infringements on human rights. While I do not think that Romania should be denied the most-favored-nation status recommended by the President, I nevertheless feel that we must convey the message that implementation of the Helsinki Accords and the United Nations Universal Declaration of Human Rights will be important considerations in decisions on the continuation of such privileged status.

It is my hope that in the case of Romania we can begin to work toward accomplishing two of our foreign policy goals, namely those of better relations with the nations of Eastern Europe and the furtherance of human rights worldwide, and that we can be spared the choice between improved economic relations and the protection of fundamental freedoms.

Mr. GRADISON. Mr. Speaker, I am deeply concerned over the treatment of human rights and the freedom of emigration extended to the citizens of the Socialist Republic of Romania. Monitoring of Romanian emigration figures has revealed a sharp drop in emigration to Israel and irregular patterns of emigration to the United States. In addition, there have been serious allegations directed against the Romanian Government regarding discriminatory treatment of minority groups.

I firmly believe that it is important to support human rights in formulating U.S. foreign policy. I am in favor of the recent decision to continue most-favored-nation status for Romania; however, I feel that it is necessary for the Congress to emphasize its concern over the unsatisfactory emigration trends and alleged violations of human rights, and continue to closely monitor Romania's future performance on these matters.

As is provided in the Trade Act of 1974, MFN status cannot be granted to any Communist country which does not allow its citizens a total freedom of emigration. However, section 402 of the Trade Act permits the President to waive this prohibition for a limited period of time if he determines that doing so would promote freedom of emigration. In 1975, Romania was granted such a waiver and was permitted a 1-year extension in 1976. On June 3, 1977,

President Carter recommended an additional 1-year extension.

In light of Romania's emigration record and alleged violations of human rights, Congressman LARRY MCDONALD introduced House Resolution 653, which would disapprove the President's waiver recommendation for extension of MFN status to Romania. In effect, removal of MFN status would force Romania to accept generally higher tariff rates on exports to the United States, discouraging trade relations with our country. House Resolution 653 was reported unfavorably by the Ways and Means Committee and was defeated in the House by a vote of 33–144.

I oppose passage of House Resolution 653. As stated in the Ways and Means Committee report, "* * * extension of MFN treatment for another year is crucial to the continued development and improvement of U.S. economic and political relations with Romania." I believe that improving United States-Romanian relations can have a positive effect on both nations. Additionally, it is my hope that the continuation of a strong trade policy will favorably affect the attitudes of Romania's leaders toward the personal freedoms of her citizens.

I agree with the President that continued MFN status for Romania is warranted. However, the Romanian Government should realize that its performance in human rights and emigration to date is not considered by Congress to be adequate, and that unless there is improvement, Congress and the President will have no alternative but to terminate MFN status.

Mr. MCDONALD. Mr. Speaker, the purpose of section 402 of the Trade Act of 1974 is to promote freedom of emigration. The President is granted authority to waive this requirement and grant most-favored-nation treatment to a Communist country, but only if he determines doing so will promote such freedom.

While the President has so determined with respect to Romania, the record does not support such a determination and I fail to see any other means of improving the human rights and emigration situation in Romania than to withhold MFN status.

Consider the record since Romania was first granted MFN status in July of 1975. Emigration to the United States did increase during the first year, but declined by 30 percent during the first 9 months of fiscal year 1977 in comparison to the same period last year. Whereas emigration of ethnic Germans to the Federal Republic of Germany and Jewish emigration to Israel has declined considerably since 1974. Total emigration to Israel for both fiscal year 1975 and fiscal year 1976 was 45 percent lower than 1974, and is 50 percent lower for the first 9 months of fiscal year 1977.

Thus total emigration has actually declined considerably during the time Romania has enjoyed MFN status.

There is, of course, a good explanation for this. I quote from an internal background document prepared in May for the members of the Commission on Security and Cooperation in Europe (CSCE), the congressional commission established to monitor the Helsinki Agreement:

> The Romanians claim that fewer Jews are applying; that is no doubt true since it seems that the procedures for emigrating to be reunified with families have become more complex, difficult, and arbitrary—in direct contradiction to the Final Act provisions. It is estimated that about 25–50 percent of Romania's Jewish population (estimated at 60,000 total) have informed relatives in Israel that they wish to leave, but most have not applied because application procedures remain discouraging and dangerous for Jews as well as other Romanians. Applying is a lengthy, convoluted process involving several branches of the bureaucracy—local and national—long delays, uncertainties, harassment, job loss, and unexplained and arbitrary rejections—often of the preliminary request for application forms. Some of the difficulties are the result of local bureaucratic inefficiencies, but the government has done nothing to facilitate the situation. President Ceausescu has, to the contrary, repeatedly spoken out against those who wish to desert their homeland.

In December 1975, Romania created local commissions, made up of local Communist Party members and community representatives, to screen and interview those wishing to leave. While the Government claims their purpose is to discourage young Romanian women from marrying foreigners who later desert them, they bring a great deal of social and psychological pressure to bear and have become a formidable obstacle to all who wish to emigrate.

Clearly the emigration situation in Romania is getting substantially worse, not better.

But Romania's record with respect to other human rights is even worse. At the beginning of May, for example, Romania initiated a major crackdown on dissidents, arresting the noted writer Paul Goma and many others (New York Daily News, May 1, 1977). Since then Romania has apparently released many political prisoners in a general amnesty. But there is every reason to believe this is nothing more than a public relations ploy designed to encourage the United States to extend MFN status, and represents only a temporary and partial lessoning of repressive treatment of dissidents.

Perhaps the true attitude of the Romanian Government toward human rights is best expressed by its treatment of a young English teacher named Nicolae Dascalu, a signer of the Czechoslovakia's charter 77. Beginning on April 15 of this year, Dascalu was taken each day for 10 days to security headquarters and subjected to interrogations and beatings that lasted for as much as 16 hours, in an effort to get him to sign a letter declaring that all human rights are respected in Romania. He refused and sought refuge in the U.S. Embassy. Apparently, however, our concern for human rights has not changed since the Simas Kudirka affair, as our Embassy refused to grant asylum to Dascalu and turned him back over to his torturers.

Religious persecution continues unabated in Romania, and is aimed at Christians as well as Jews. While the state-controlled church reports that everything is fine, the real church leaders continue to report incidents such as the 17 Baptists who were arrested on April 4, 1977, after signing a protest document describing in detail the persecution against neo-Protestants in Romania. I have been told by persons with access to sources behind the Iron Curtain that these individuals were arrested each night, interrogated and beaten. Then each morning they were released to go to work, only to be rearrested each night and the process repeated.

The Romanian Government also continues to make it difficult if not impossible for split families to be reunited. The News World of New York City reported on June 16, 1977, that 29 Romanian-Americans were in the 23d day of their hunger strike in a common effort to get their families reunited. In addition, I have been furnished with a list of 28 Romanians who wish to come to the United States but have not been allowed to leave. This list is attached as an appendix to this statement.

The purpose of granting Romania MFN status was to promote freedom of emigration. But after 2 years, both the emigration and human rights situation in general have become substantially worse. Obviously the only way to improve the situation is to withhold MFN status. The Romanians will not appreciate having their bluff called, but I doubt they will give up the substantial economic benefits of American technology and trade credits.

If we are serious about promoting human rights, we will vote to pass House Resolution 653 and send a signal to the world that we have a real concern for those being persecuted by repressive Communist regimes:

LIST OF THOSE WHO DID NOT RECEIVE ROMANIAN PASSPORT FOR UNITED STATES OF AMERICA

(Name, date and place of birth, address, and relation in the United States)

1. Aurelia Sămințâ, 2–19–32, Vermes, Str. 6 Martie Bocsâ Română, husband: Trandafir Sămintă, 2680 Huntington Pk.

2. Titu M. Sămintă, 11–22–52, Boca R., Str. 6 Martie, Bucharest, father, Trandafir Sămintă, 2680 Zoe Huntington Pk.

3. Dumitru Ghitea, 9–11–32, Oradea, Str. I, Creangă 9, brother, Mircea Ghitea, 4241 Walnut, Be.

4. Maria Ghitea, 8–13–40, Sebeș, Str. I, Creangă 9, brother-in-law, Mircea Ghitea, 4241 Walnut, Be.

5. Daniel Ghitea, 1–1–61, Hapria, Str. I, Creangă, uncle, Mircea Ghitea, 4241 Walnut, Be.

6. Magdalena Ghitea, 3–24–63, Bucharest, Str. I, Creagngă, uncle, Mircea Ghitea, 4241 Walnut, Be.

7. Cornelia Ghitea, 5–27–64, Bucharest, Str. I, Creangă, uncle, Mircea Ghitea, 4241 Walnut, Be.

8. Emil Ghitea, 6–29–65, Bucharest, Str. I, Creangă 9, uncle, Mircea Ghitea, 4241 Walnut, Be.

9. David Ghitea, 7–28–75, Bucharest, Str. I, Creangă 9, uncle, Mircea Ghitea, 4241 Walnut, Be.

10. Dragomir Simion, 5–26–27, Ohaba, Aleea Macaralei 2, Blox 021, Sc. 1, ap. 10, sister-in-law: Elis Florea, 8348 Stewart, Downey, Calif.

12. Titi Dragomir, 8–14–51, Sebeș, Aleea Macaralei 2, Bloc 021, Sc. 1, ap. 10, aunt: Elis Florea, 8348 Stewart, Downey, Calif.

13. Lia Dragomir, 2–14–53, Sebeș, Aleea Macaralei 2, Bloc 021, Sc. 1, ap. 10, aunt: Elis Florea, 8348 Stewart, Downey, Calif.

14. Ilie Jiganie, 11-8-33, Ogrezeni, Bl. D., Cantemir, sister in law: Elis Florea, 8348 Stewart, Downey, Calif.
15. Victoria Jiganie, 10-26-38, Sebes, Bloc lo Nr. 17, ap. 39 Sc. B, sister, Downey, CA.
16. Claudiu Jiganie, 6-15-64, Bucharest, Bloc lo Nr. 17, ap. 39 Sc. B, aunt, Downey, CA.
17. Alis Jiganie, 1-20-66, Bucharest, Bloc lo Nr. 17, aunt, Downey, CA.
18. Ilie Curuta, 3-24-08, Vrani, Caras, Vrani, wife: Minodora Curuta, 5462 Marathon, Los Angeles.
19. Cornel Curuta, 3-24-38, Vrani, Caras, Vrani, mother.
20. Radu A. Dumitrescu, 2-13-37, Bucharest, Dr. Taberii 12 Bloc A2 Sc. B ap. 33 Bucharest.
22. Rodica T. Dumitrescu, 1963, Bucharest, Dr. Taberii 12 Bloc A2 Sc. B ap. 33 Bucharest.
22. Rodica T. Dumitrescu, 1963, Bucharest, Dr. Taberii 12 Bloc A2 Sc. B ap. 33 Bucharest.
23. Doina M. Dumitrescu, 1968, Bucharest, Dr. Taberii 12 Bloc A2 Sc. B ap. 33 Bucharest.
24. Mircea I. Dumitrescu, 1975, Bucharest, Dr. Taberii 12 Bloc A2 Sc. B ap. 33 Bucharest.
25. Zaharia Ionescu, 2-8-22, Bucharest, Str. Presei 1 Bloc C. ap. 1 Bucharest.
26. Valeria Ionescu, 2-8-22, Bucharest, Str. Presei 1 Bloc C. ap. 1 Bucharest.
27. Cristina M. Ionescu, 12-25-51, Bucharest, Str. Presei 1 Bloc C. ap. 1 Bucharest.
28. Petre Zoldi with his family, Str. Gradinarilor 67 Bucharest.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 1235. An act to further amend the Peace Corps Act.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING THE 5-MINUTE RULE

Mr. PHILLIP BURTON. Mr. Speaker, I have been asked by the two contending forces on the matter concerning the upper boundary States to have a hearing tomorrow and to be permitted to sit during the 5-minute rule. There will be no legislative action, and no markup or anything. Therefore, Mr. Speaker, I ask unanimous consent that the committee be permitted to sit for that purpose.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, are there any redwoods involved in this?

Mr. PHILLIP BURTON. There is not even a minimum wage item involved in this.

Mr. ROUSSELOT. Fantastic.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 6689, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1978

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H.R. 6689) to authorize fiscal year 1978 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, to make certain changes in the Foreign Service personnel system, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ASHBROOK. Reserving the right to object, I believe the 224 Members who are present want to hear this.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read the conference report.

(The Clerk commenced reading the conference report.)

Mr. BUCHANAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the conference report be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk continued to read.

Mr. RYAN. Mr. Speaker, I ask unanimous consent that further reading of the conference report be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk continued to read.

Mr. BUCHANAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the conference report be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would like to propound a parliamentary inquiry of the Chair. It is my understanding under the rules there is no appealing a ruling of the Chair that can be made as to those present. Am I correct?

The SPEAKER pro tempore. The gentleman is asking about an appeal to the count of the Chair?

Mr. ASHBROOK. An appeal to the count of the Chair cannot be taken?

The SPEAKER pro tempore. That is correct.

Mr. ASHBROOK. Further reserving the right, then, to object, all that the Members can rely on for the count of the Chair is the integrity of the Chair and the capacity of the Chair to make a correct count.

The SPEAKER pro tempore. The gentleman can ask for the yeas and nays.

Mr. ASHBROOK. I would like to do that later if I could be assured we probably could get that count.

But having made that point, I withdraw by reservation of objection.

Mr. BUCHANAN. I thank the gentleman.

POINT OF ORDER

Mr. CAPUTO. Mr. Speaker, a point of order.

I would like to make a point of order, and I regret that it comes at so late an hour and after the previous discussion. I make the point of order that the matter contained in section 515 of the conference report would not be germane to H.R. 6689 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4 of rule XXVIII.

Let me state that the language in the conference report substantially changes the terms under which the Members of Congress can accept or authorize acceptance of things of value from foreign governments.

The Constitution clearly provides in article I that each House shall write its own rules. The House has a rule of its own on this matter, rule 44, which we only recently modified, under which Members of Congress could receive things of value from foreign governments.

The conference report changes that rule because it is a subsequent act of this House and in direct conflict with that rule. In Jefferson's Manual, section 335 and Deschler's Procedures, chapter 5, that is clearly improper. We cannot change the rules of the House in that manner. Let me read from Jefferson's Manual, section 335 briefly. It says:

> But a committee may not report a recommendation which, if carried into effect, would change a rule of the House unless a measure proposing amendments to House rules has initially been referred to the Committee of the Whole by the House.

This has not been referred to the Committee of the Whole by the House as required by the precedents. Indeed, this is the first time the House has viewed this matter and it would have been impossible for us to have referred it to the Committee of the Whole. It was put in by the other body. We never considered it.

If the Chair does not sustain my point of order, he will be in effect sustaining the other body in writing the rules of this House.

I insist on my point of order Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Florida wish to be heard on the point of order?

Mr. FASCELL. Mr. Speaker, I would like to be heard on the point of order.

First of all, we are dealing with the 1966 Foreign Gifts and Declarations Act which is clearly and certainly within the jurisdiction of the committee.

The bill that went to the conference is broad and diverse enough to handle the subject matter in this amendment.

Finally, we do not in any way change the rules of the House. We are dealing with an act. We in no way impinge on the Ethics Committee or the rule the gentleman cited. That is clearly within their jurisdiction, it stays there, and is in no way affected by this amendment.

Therefore I would hope the Chair would overrule the point of order.

The SPEAKER pro tempore. Does the gentleman from New York wish to be heard further on the point of order?

Mr. CAPUTO. Mr. Speaker, it seems three points are raised, and again I apologize for the awkwardness of the hour at which I arise.

The jurisdiction of the committee was not questioned in my statement. I was merely saying that this changes the rules of the House. I have no quarrel with the jurisdiction of the committee over the Foreign Gifts and Declarations Act.

It is quite clear a subsequent and contradictory act by the legislature overrules a prior rule. Let me read from Deschler, chapter 5, section 3.3.

Mr. Speaker, let me read from Deschler's Procedures, chapter 5, section 3.3:

Where the rules of the House and a legislative enactment are not consistent, the most recent legislative expression will prevail.

Mr. Speaker, if we pass this tonight, the rule covering receipt of things of value from foreign governments will be changed.

Mr. FASCELL. Mr. Speaker, I would like to be heard.

The SPEAKER pro tempore. The gentleman from Florida may proceed.

Mr. FASCELL. Mr. Speaker, clause 4 of House rule 43 deals only with gifts to employees. It does not deal with gifts of foreign governments, which is the subject of this amendment.

Furthermore, Mr. Speaker, we have specifically provided that nothing in this section shall be construed in derogation of any regulations prescribed by any Member or agency, and in this instance it would be the Congress or the Ethics Committee, which provides for more stringent limitations on the receipt of gifts and declarations by employees.

We are dealing with this in this amendment, because it deals with the foreign gifts and declarations section which affects other members of the Government not having anything to do incidentally with Members of the House and in no way changes the rules of the House.

Mr. CAPUTO. Mr. Speaker, on page 21 of the committee report, section 515 says such act is amended and then it says, "a Member of Congress." It clearly applies to Members of Congress.

Let me state what it does. It permits Members of Congress to accept gifts of more than minimum value.

Page 22, section (c)(1)(B) clearly changes rule 24.

The SPEAKER pro tempore. The Chair is ready to rule.

The gentleman from New York makes a point of order that the conference report contains, in section 515, matter contained in the Senate amendment which would not have been germane to the bill if offered in the House.

Section 515 amends the Foreign Gifts and Declarations Act to provide new guidelines and procedures relating to the acceptance by employees of the United States of gifts and awards from foreign governments. The section provides that the Committee on Standards of Official Conduct shall have the functions of regulating the minimum value of an acceptable gift for Members and employees of the House of Representatives, of consenting to the acceptance by Members and employees of gifts in certain circumstances, and of disposing of unacceptable gifts through the General Services Administration. H.R. 6689, the Foreign Relations Authorization Act, as passed by the House, contained a wide variety of amendments to existing laws within the jurisdiction of the Committee on International Relations relating generally to the foreign relations of the United States and the operations of the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. It thus appears to the Chair that an amendment to the Foreign Gifts and Declarations Act, a law within the jurisdiction of the committee and relative to our foreign relations, would have been germane to the bill if offered in the House, particularly since section 111 of the House bill dealt with foreign employment by officers of the United States notwithstanding article I, section 9 of the Constitution. The Foreign Gifts and Declarations Act arose from the identical constitutional provision. The fact that the Senate amendment placed new responsibilities on a standing committee of the House does not render the provision subject to a point of order, since no attempt is made to amend the rules of the House or to otherwise exceed the jurisdiction of the Committee on International Relations.

For the reasons stated, the Chair overrules the point of order.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) is recognized for 30 minutes.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say right at the outset that the statement made by the Speaker in overruling the point of order is clearly consistent with what the conference report provides. It does not affect House Rules in any way. The Committee on Standards of Official Conduct can recommend whatever standards they wish. We had to provide guidelines in the Foreign Relations Authorization bill to deal with the whole problem of Government-wide reform. We had to deal with all employees of the Government, including all three branches.

With respect to Congress, we made it quite clear that we intended to and by law did leave authority with the Ethics Committee, to write any regulations which are more stringent than the bill sets.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding to me. I would like to ask a practical, as well as a legal, question. We now have certain rules and regulations in this House for the conduct of Members of the House and staff. Are these rules and regulations changed by the passage of the conference report?

Mr. FASCELL. None whatsoever.

Mrs. FENWICK. There is no change in the rules we now have for the governance of the conduct of Members of the House?

Mr. FASCELL. Absolutely none.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. BAUMAN. On page 22 of the conference report, section (B)(ii), it states:

An employee—

Meaning a Member of Congress—

may accept gifts of travel or expenses—

From foreign governments. The phrase used is—

consistent with the interests of the United States.

Who determines what is consistent with the interests of the United States under this provision?

Mr. FASCELL. That would be the employing agency, and the regulations set by that employing agency. As it relates to the Congress, it means the Ethics Committee.

Mr. BAUMAN. Does this mean that in each case of foreign travel in which a foreign government proposes to invite a Member and pay his expenses, each Member must go to the Ethics Committee and request a ruling?

Mr. FASCELL. That has been the position up until now. That is what we have all had to do.

Mr. BAUMAN. So whether it is Taiwan, Korea, South Africa, or the Soviet Union, each Member now will have to request a formal ruling as to what is in the interests of the United States as far as congressional travel?

Mr. FASCELL. I will tell the gentleman this: Before I would accept, I would certainly want to clear it. As a matter of fact, I did just that in a case here not too long ago when such an invitation was extended to me. Because I was not satisfied with the answer, it was kind of left up to my judgment, I turned it down.

Mr. BAUMAN. But the gentleman still has not answered my question.

Mr. FASCELL. The answer is yes. I would say that the gentleman would have to follow the Ethics Committee's procedures which are now in effect.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to my colleague from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding to me. I would just like to ask, if it does not change anything, why are we doing it?

Mr. FASCELL. Because it deals with all the other employees of the U.S. Government who are not in the Congress.

Mr. BAUMAN. Mr. Speaker, may I ask a further question on that point?

Mr. FASCELL. Certainly.

Mr. BAUMAN. At the top of page 23 there appears to be a waiver for the Ethics Committee to allow Members of Congress to travel abroad at the expense of foreign governments without reporting. In the report, beginning with the third line, it states:

Unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement.

Mr. FASCELL. All I can tell the gentleman is this: Whatever the employing agency sets down by way of regulation

in terms of reporting will have to be complied with. That means that all gifts of more than minimal value will be reported in the Federal Register. Whatever additional conditions the Ethics Committee and the House decide to impose will govern Members and staff.

Mr BAUMAN. I thank the gentleman.

Mr. FASCELL. There is no intent here, in any way, to cover that up.

Mr. Speaker, I have no further requests for time.

Mr. BAUMAN. If the gentleman did not intend to discuss it further——

Mr. FASCELL. I will be glad to discuss it further.

Mr. BAUMAN. On another point we discussed earlier, on pages 16 and 17, section 504, the conference has added the language which pertains to foreign information offices located in the United States, and added the phrase, where these offices do exist:

If maintenance of such office is consistent with United States law.

As the gentleman knows, some officials of this administration have taken the position in the case of the Rhodesian Information Office that there is a legal obligation on the part of the U.S. Government to honor the United Nations resolution freezing the assets of that country in the United States, and thereby closing the office. My question is, does this phrase that the conference has adopted in any way force the United States Government to honor that resolution of the United Nations? My understanding is that they are not obligated by law; that it is discretionary with the U.S. Government. I do not believe the added language in any way justifies the closing of the Rhodesian Information Office.

Mr. FASCELL. My understanding is the same as that of the gentleman's; that is, they are not required to follow that interpretation. If they do so, they do so on their own. This sense of the Congress statement was written in by the other body. The language making it apply "consistent with United States law" was insisted upon by the House because of its possible application to situations that did not have anything to do with the Rhodesian office.

Mr. BAUMAN. I thank the gentleman.

Mr. FASCELL. The Trading with the Enemy Act is one example.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I merely want to thank the 10 conferees and particularly the chairman of the committee, the gentleman from Wisconsin, for explicitly—and I use the word "explicitly"—keeping their word and upholding the position of the House on the Vietnam amendment.

Mr. FASCELL. I thank the gentleman. We were very successful in upholding the House position all the way through this conference.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself very strongly with the remarks and the responses of our distinguished subcommittee chairman, Mr. FASCELL, and commend him for his outstanding leadership throughout our deliberations on this legislation.

I will not repeat what our colleague has said, but I would like to emphasize that the conference report on H.R. 6689, the Foreign Relations Authorization Act of fiscal 1978, is essentially the same bill as that passed by the House in May.

It authorizes the identical amounts approved by the House in three categories: the administration of foreign affairs; international organizations and conferences, and international commissions.

The conference version provides increases in two other areas: migration and refugee assistance and educational exchange. With respect to this latter provision, it is my hope that the Department of State will recognize the support for these programs within the Congress and will, therefore, take steps to expand them.

For far too long, the Bureau of Cultural Affairs has been the redheaded stepchild of the Department of State. Its programs have brought innumerable benefits to our country and it ought be expanded.

Many of the provisions added on the House floor have been retained. The language protecting the U.S. interests in negotiating on the Panama Canal is unchanged.

The provisions against aid to North Vietnam are essentially the same with the addition of language calling on the President to continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

Through the increases for the USIA and Radio Free Europe/Radio Liberty provided in the House bill and included in the conference report, we will enhance our communications with the rest of the world, particularly those in the lesser developed countries and behind the Iron Curtain where millions are denied access to news of events which effect their lives.

At the same time, we are expressing our support for the provisions of the Helsinki Final Act which provide for increased informational exchanges.

In conclusion, Mr. Speaker, the $1.69 billion provided in this bill for the Department of State, the U.S. Information Agency and RFE/RL, Inc., will permit the continued effective conduct of foreign policy by the United States.

I concur in my colleague's assessment that this conference bill reflects the best provisions of both the House and Senate versions and I, too, urge its adoption.

Mr. CAPUTO. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. Mr. Speaker, I am concerned about this statement—and it has been difficult to hear all of the time—that nothing is changed here.

I would like to ask the gentleman if in his opinion the language at the bottom of page 21, where it says, " 'minimal value' means a retail value in the United States at the time of acceptance of $100 or less" is not in direct conflict with rule 434, which we amended earlier this year, which talked about $35 or less, with an aggregate of $100 in each of those $35 gifts.

Mr. FASCELL. If the gentleman will yield, the answer is, "no." We did not change the rule. We cannot change the rule of the House. Only the House can do that. In order to safeguard it and make it more specific, we wrote in subsection (j), on page 24, the section which I read earlier, which states:

Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

In the definition we make it clear that insofar as the Congress is concerned, "employing agency" means the Committee on Standards of Official Conduct. They can write it down to zero. This act in no way impinges on the rules.

Mr. CAPUTO. Section (j) talks about "more stringent limitations." I am talking about more limited requirements. It would appear to me the language is somewhat different than the language of the rule, which says one cannot accept a gift of $35. I am glad to hear the gentleman say that Members cannot accept, notwithstanding this, gifts of more than $35.

Mr. FASCELL. I would say that if there is any doubt insofar as the committee which has jurisdiction is concerned, the committee can clarify that in a second.

Mr. CAPUTO. I would have thought that the language in section 515, which deals with the amount of money a Member can accept, refers to the consumer price index, indexing where something belongs. Bribery is something else. I did not see that in the section.

Mr. FASCELL. Again, we are not only talking about Members of Congress. We are talking about members of the executive branch of government as well.

Mr. CAPUTO. Is the gentleman sure that is right? I ask the gentleman to look at section (F). It says, "Member of Congress."

Mr. FASCELL. I understand that. The general rule of applicability would apply across the board to everybody covered by the definition. But if the rule of the House is more stringent then this provision would be superseded.

Mr. CAPUTO. I accept that.

Let me ask one last question. In the gentleman's mind how would this affect the propriety of something received in excess of the existing requirement by a Member of Congress. What we are doing tonight in no way applies retroactively to past behavior?

Mr. FASCELL. No. It does not apply retroactively.

Mr. BUCHANAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I will advise the Members to listen for just a moment, because I do not think this House should be falsely accused, as has too often been the case. Let me tell the Members what this section which was drafted in consultation with the Committee on Standards of Official Conduct in fact does.

Section 515 permits more stringent requirements, as we now have in the

House and will have. If any member on the Committee on Standards of Official Conduct feels that this is not the case, I invite you and, as a Member of the Congress, I charge you to make certain by your action, which we authorize and which we put into your hands, that you make certain that this is more stringent rather than less so.

Section 515 implements the General Accounting Office's rules for receipt and disposition of gifts and decorations and closes several loopholes and corrects weaknesses now existing in that law. Existing law does not set effective penalties for noncompliance with the act.

Section 515 would penalize a violator with a $5,000 fine, as well as assessing the value of the gift, if improperly received. The existing law does not provide for public disclosure of gifts with a minimal value.

Section 515 provides for annual publication in the Federal Register of the name of the recipient, the donor, a description of the gift, the circumstances justifying acceptance, and its estimated value. Existing law does not explicitly prohibit a Government employee from accepting or allow a Government employee to accept travel expenses for travel originating outside the United States, and this clarifies that law.

Mr. Speaker, I think if we examine this sentence by sentence, we will discover what the conferees believed, and that is that we have tightened, we have refined, and we have clarified the law.

Furthermore, Mr. Speaker, there is not a member on the conference committee representing the House of Representatives who would do other than that or who in any way would knowingly be a party to undermining the ethics of this House or weakening the law in terms of the ethical standards of Members of Congress.

Mr. Speaker, I urge adoption of the conference report.

Mr. BROOMFIELD. Mr. Speaker, I would like to take the opportunity to express my support for the adoption of the conference report on H.R. 6689. The compromise agreed upon by the House and Senate conferees would authorize a total of about $1.7 billion for fiscal year 1978 for the Department of State, the U.S. Information Agency—USIA—and the Board for International Broadcasting—BIB.

The money authorized would fund a variety of operations and expenses for these three agencies. One of the smallest allocations of money—only $441,000—was made available for the establishment of passport field offices in Detroit, Houston, and Connecticut. I want to thank the chairman of the International Operations Subcommittee, Mr. FASCELL, for his support in reaching the conference agreement to provide the funding and to instruct the Department of State to give priority attention to the establishment of these three offices.

H.R. 6689 also would authorize funds for administering foreign affairs; for international organizations conferences and commissions; educational exchanges; migration and refugee assistance; special international exhibitions; the acquisition and construction of radio facilities; and various costs associated with salaries, expenses, and employee benefits.

I would like to take a moment at this time to enumerate a few of the more significant aspects of the bill. In this regard, the conference report contains an additional $33.5 million over what the administration originally requested for migration and refugee assistance. Of this amount, $20 million is specifically earmarked for assistance to refugees from the Soviet Union and Communist East European countries who wish to resettle in Israel.

The conference version of this bill expresses the sense of Congress that the State Department should increase its efforts to assist and look after the welfare of American citizens imprisoned in foreign countries. To help Congress effectively monitor this situation, beginning in 1978 and annually thereafter, the Secretary of State will be required to submit a comprehensive report to the appropriate committees of Congress detailing the number of American prisoners abroad, the charges against them, the steps taken to assist these individuals, and an evaluation of those steps.

The conference report also declares it to be the sense of Congress that the President should "initiate a major diplomatic initiative," to make progress in the stalled international negotiations on the establishment of an international system of nationally held grain reserves to assure adequate supplies for consumers and income security for producers.

In addition to authorizing funds for various purposes for fiscal year 1978, this legislation also contains provisions dealing with U.S. foreign policy toward certain countries and placing restrictions on the use of funds authorized in the bill. Thus it continues the congressional policy of prohibiting reparations, aid, or other payments to Vietnam. Another provision expresses the sense of Congress that any negotiations to normalize relations with Cuba must protect the personal and property rights of U.S. citizens, and must take into account human rights conditions in Cuba and that country's military and paramilitary activities abroad. Likewise H.R. 6689 states the position of Congress that U.S. policy toward the Republic of Korea should be consistent with U.S. interests in Asia, particularly regarding Japan, and with the security interests of Korea.

My comments thus far have by no means touched upon every significant aspect of the legislation before us. However, I believe it is obvious from what has been said that the conference report on H.R. 6689 covers a number of important matters and deals with those issues in an appropriate fashion and at an appropriate overall funding level. I would therefore urge the House to adopt the conference report.

CERTAIN NONIMMIGRANT VISAS

Mr. FASCELL. Mr. Speaker, I would like to address the issue raised in connection with section 112 of the bill as agreed upon by the conference committee. The section deals with certain nonimmigrant visas and I want to discuss the conference language in legal terms, but especially in people terms.

When we consider the issue, we ought not to forget that our decisions will impact directly on how this Government deals with people—those who try to come here for temporary visits and oftentimes their families living here who await their arrival. And at the same time we will be considering a step toward better compliance with the Helsinki Final Act, something most of us usually think about when the policies and practices of other countries are the subject of our concern.

The United States takes seriously its commitments to freer movements of people. Its policy on granting visas is an integral element in encouraging other states to do better in letting people travel. The conference substitute conveys to foreign governments and people that, in a careful examination of our national interests and international commitment, we recognize the need for fairness in considering visas for people wishing to travel to the United States on legitimate business or for personal reasons. The amendment explicitly points to the Secretary of State's role in assuring that people whose activities and intentions are inimical to this country shall not come here. That has to be.

It has been said by that the very existence of the Immigration and Nationality Act's section 212(a) (27), (28), and (29), which outline political ineligibilities for a U.S. visa, is a source of embarrassment to the United States, given the high priority we attach to human rights, the free movement of people, and the upcoming Belgrade meeting. Well, I do not feel this is an embarrassment, for these words set forth clearly the criteria we have incorporated into our laws and judgments on who shall visit this country. They are the sort of criteria which some East European countries, signatory to the Final Act, impose with a far heavier hand, with far greater delays and with a degree of secrecy which leaves visa applicants uninformed as to why visas had been denied and with no possibility of recourse. We are out in the open, we say why visas are denied, and we even allow for reconsideration.

Western and Eastern European States all have policies, not as publicly disseminated as ours, which result in people being denied entry to their territory for political reasons. Communist countries know our policy, can read our laws and determine in advance what the situation is. Section 112 clarifies this further still.

Inclusion of the Senate amendment as changed by the conferees reaffirms the discretion of the Secretary of State and the Attorney General to decide for or against waivers of section 28 ineligibilities and underscores U.S. forthrightness in this matter. We can take some satisfaction that we are more public even than most of our Western allies in publishing our policies in this important subject. We are certainly more frank and honest about it than the Soviet bloc states.

The recommendation of the conferees does take an enlightened step by revising the presumptive nature of waivers.

In fact, its entire focus is to reverse that presumption while retaining flexibility for the Secretary of State to ensure that the security interests of the United States have first priority.

Under present circumstances—legal and consequent administrative—an applicant ineligible because of past or present membership must presume that on application he will not receive a visa because of the (28) ineligibility. This presumption in fact applies to entire categories of people and groups and has been the basis for sharp criticism of U.S. duplicity in calling for respect for the Final Act.

The language recommended by the conferees reverses the situation. Instead of indicating that persons will not get a U.S. visa, the conference substitute says he or she can get the visa, in that a recommendation for waiving the (28) ineligibility ought to be forthcoming, unless the applicant specifically is judged a danger to the United States. In practice, that is what happens now, and the law can reflect it.

A major CSCE criticism about the United States, echoed by some domestic voices, is that ineligibilities for U.S. visa policy are inconsistent with U.S. commitments under the U.N. Human Rights Declaration and the Helsinki Final Act, in terms of freer movement of people.

I do not think it is. Since the signing of the Final Act, and especially with the support of our President, we have continued to register concern for the right of peoples to move freely. In the CSCE context, we are on record in so many different ways, having pressed Communist governments to allow divided families to be reunited once again. Those of us who have intervened personally with Communist governments have had the unhappy experience sometimes of finding that our own Immigration and Nationality Act ends up as an unexpected obstacle barring potential immigrants from the United States to rejoin loved ones. Visa numbers sometimes are just not there, and often divided families have to wait months in Europe before the way can be found to get them here.

The conference language does not address this matter directly. It speaks of visas for people coming here temporarily. But the United States is beginning to emphasize its concern with the Final Act requirement that states permit temporary travel abroad to visit families. Our policies on visitors' visas thus have to be consonant with our express desire to have these people be able to get here without undue debate over whether a visa will be issued.

We ought to be able to say at Belgrade that the United States has taken a step—by voting the amendment—to comply more fully with the Helsinki Final Act. This motivation is not just to make ourselves look good, but to present the seriousness of U.S. commitments in a complex multilateral process. Changing the impact of the visa law, making it more equitable, and yet protecting the national security interests is not an easy task. The conference language is a step which reflects the need to give due recognition and balance to these factors, and yet move in the direction of freer movement of people.

We are a sophisticated and powerful country, the melting pot which has absorbed many races, creeds, and political beliefs. We have the strength and wisdom to accommodate many visitors to this country even if a few do not share the mainstream of American thought, as long as they are not here to throw bombs or to do harm to our citizens. We should be able to say at Belgrade that we are improving our law to facilitate these visits. After all, we are asking other countries signatory to the Final Act to do this when we speak of the need to remove Communist barriers against members of the clergy traveling eastward.

Every option that the Secretary of State traditionally has had to recommend for or against a waiver in these cases remains. They are options political in nature, legitimate, and discretionary, much as they exist in all countries signatory to the Helsinki Final Act.

The conference substitute only sets down in writing what in fact has become standard practice by this Government. Every visa form that we hand out to someone who wants to come to the United States asks specifically if the applicant is a member of a Communist party or other organizations committed to the overthrow of the U.S. Government. We want the applicant to answer this question. If he does so in the affirmative, or if he declines, a consular officer at an embassy somewhere then telegraphs the application to INS via the State Department. The Justice Department tells the State Department that the person can come and grants the waiver. There are those instances, and many of us know about them in detail, when there are very good reasons to deny entry to the United States to a person who presents a true danger through terrorism, because he is a committed anarchist, or he interprets his commitment to Communist ideology as a genuine license for destructive activities within our borders. The conference language requires the Secretary of State to deny entry to these people and to so inform the Justice Department and the Congress of this fact.

May I point out that people who are ineligible for the reasons in section 212(a) (27) and (29) are the ones recognized by law or practice as the real dangers to our national security. Those ineligibilities cannot be waived. No part of the conference language can or ought to change this protection.

You know, we do not often think about past affiliation to Communist parties, yet the question on the visa form requires the applicant to say whether, even in his past, he has been a member of a proscribed organization. What do we do if someone, perhaps respected by local society and known as a decent person, discloses truthfully that in his youth he was motivated by misplaced ideals to become a part of a leftist group?

Do we really want the force of U.S. visa law to tell this person, in advance of his request for a visa, that he will not get one unless the Secretary of State of the United States of America personally looks at the case and recommends that he should come?

These cases do occur, over and over again, not just in Eastern Europe but in Western Europe as well. Times change, people change, we grow wise and a bit more mature, and yet our law says that a person who years ago participated in some political group will not get his visa. It is time to say to the visa applicant ineligible because of section 28 that this ineligibility is going to be waived, unless, in the judgment of the Government of the United States this person today still is a clear danger to us.

The conference language in fact recognizes that party affiliation alone does not make a person a danger. What of the people in Communist countries whose families welfare depended on unwilling party membership because the head of household had to bring home money, assure a child's education, or receive decent living space? Are these dangerous people? Or were they forced to join the party? These are not the people which the law is meant to identify, label, and bar in advance from visiting the United States.

Section 112 does not give away anything regarding the national security of the United States. The language agreed upon by your conferees is just the sort of attempt by a CSCE government needed at this time to address the Helsinki Accords and to set a precedent for stimulating other governments to take steps to better compliance. We will be serving this very cause, and consequently, the respect for human dignity so much in the forefront of our thoughts, by retaining this language in the bill.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on H.R. 6689, and I wish to commend the gentleman from Florida (Mr. FASCELL) and his Subcommittee on International Operations for their expeditious—yet thorough—handling of this comprehensive piece of legislation. It is a testiment to the gentleman's leadership, extensive preparation and firm grasp of the many issues involved that we were able to work out a fair and satisfactory conference agreement in one session.

This conference report represents a good compromise—embodying, I believe, the best features of both Senate and House bills. Although, as the gentleman has pointed out, there were more than 40 issues of difference, many were minor or technical in nature and were disposed of without difficulty. On all major issues, the House position was either upheld fully or protected in a manner which was found satisfactory to all conferees.

In terms of dollar figures, the House authorization levels were either maintained or adjusted to split the difference between House and Senate levels. The amounts contained in this conference report, if fully appropriated, would be well under the budget authority and target outlays included in the international affairs function in the first budget resolution.

On all foreign policy issues, such as those relating to Vietnam and Panama, the House positions were fully upheld in conference. Senate provisions relating to Korea and Cuba, moreover, contain sense of Congress language which I believe is reasonable and acceptable to the mem-

bership of this body. It does not exceed the basic authority contained in the House bill.

As a longtime supporter of Radio Free Europe and Radio Liberty, I am pleased to note that sufficient funding has been retained to upgrade transmitter facilities for both of these radios and for the Voice of America. With respect to RFE/RL, the $5 million contingency fund for fluctuations in currency exchange rates—A provision included in last year's authorization which was recommended by the General Accounting Office—has also been retained in this conference document.

Mr. Speaker, this is a good agreement, a fair agreement, and one which reflects not only a number of key House initiatives, but also the essentials of approved House policy. I urge its prompt adoption.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDING THE PEACE CORPS ACT

Mr. HARRINGTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1235) to further amend the Peace Corps Act, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

That so much of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) as precedes the first proviso is amended to read as follows: "There are authorized to be appropriated for the fiscal year 1978 not to exceed $82,900,000 to carry out the purposes of this Act.".

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

"(c) In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for the fiscal year 1978, $1,000,000 for increases in salary, pay, retirement, or other employee benefits authorized by law.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I do not recall this being discussed as a crucial item on which action had to be taken. I do not recall any discussion indicating that we were going to bring this up tonight.

Why is it imperative that we act on this matter tonight? Will the Peace Corps fall apart if we do not act tonight?

Mr. HARRINGTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Massachusetts.

Mr. HARRINGTON. Mr. Speaker, the Peace Corps will not fall apart. However, there is little controversy surrounding this bill, and it is a matter on which we have an indication of cooperation on behalf of the minority. It was felt that we might conserve our time available in terms of the handling of other matters that are more controversial and pressing, and therefore the decision was made to bring this measure up tonight.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WINN. Reserving the right to object, Mr. Speaker, one reason, I might answer the gentleman from California (Mr. ROUSSELOT), is that it is a matter of whether we bring it up tonight or we bring it up the first thing in the morning.

The Congress wants to recess by Friday night. We have a lot of work to do on the energy bill.

However, further reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Massachusetts (Mr. HARRINGTON) if he would give the Members of the House a brief explanation of what was decided in our conferences and our meetings with the other body.

Mr. HARRINGTON. If the gentleman will yield, Mr. Speaker, let me just simply say that all we are doing is taking the measure as passed by the House, containing some $81 million, as compared with the other body's version of $84.8 million and splitting the difference.

There was little concern in terms of there being a relatively minor amount of money involved, and an effort is being made to insure that the Peace Corps will have at least both the capacity for modest pay increases limited to $1 million for fiscal year 1978 by the version of the other body and will have the capacity to spend moderately as far as the scope of its program is concerned.

In the absence of any substantial justification to do otherwise, this is an effort to resolve the matter and let the Peace Corps get on with its work for the coming year.

Mr. WINN. Again reserving the right to object, Mr. Speaker, I would like to add to what the gentleman from Massachusetts (Mr. HARRINGTON) has said.

Initially we acted, the Members may recall, on this authorization bill on June 1. However, there were long delays which the Subcommittee on International Development experienced in its desire to obtain further specified details; and this is one reason that it has taken so long for us to come before the full House for this action.

However, Mr. Speaker, I would have to point out that and we are all in agreement on this. I think we should go ahead and approve the unanimous-consent request of the subcommittee chairman, the gentleman from Massachusetts (Mr. HARRINGTON).

Mr. HARRINGTON. Mr. Speaker, if the gentleman will yield further, let me just concur in the gentleman's statement and suggest also that the authorization amount is well within the range established by the first budget resolution.

Mr. WINN. Mr. Speaker, I withdraw my reservation of objection.

Mr. Speaker, I join the distinguished chairman of the International Development Subcommittee, Mr. HARRINGTON, in urging that the House accept the proposed compromise between the fiscal year 1978 Peace Corps authorization levels initially passed by the House and Senate. The authorization proposed in the Senate amendment before us today is $82.9 million. This figure merely reflects the common practice of splitting the difference between the original House and Senate figures precisely in half. The initial fiscal year 1978 authorization passed by the House was $81 million. The original Senate figure was $84.8 million.

As many of you may recall, when the House initially acted on this authorization bill on June 1, I noted the long delays which the Subcommittee on International Development experienced in its desire to obtain details of the administration's revised fiscal year 1978 Peace Corps authorization request. When that revised request, for $84.8 million, was executive branch justification was somewhat lacking in details in my opinion. In retrospect, it appears that these delays and other shortcomings were probably due mostly to the administrative disruption accompanying recent changes in the leadership of the Peace Corps and its parent agency, ACTION, and the new administration's proposed "revitalization" of the Peace Corps.

Since that time, I believe the subcommittee has made it quite clear that we expect the Peace Corps to provide us with most thorough and specific program justifications for authorizing the expenditure of the taxpayers' hard-earned dollars. ACTION and Peace Corps officials have since demonstrated a very cooperative and constructive attitude in this respect. In addition to the continued careful scrutiny given to the annual Peace Corps authorization, I understand that the Subcommittee on International Development contemplates comprehensive hearings on the Peace Corps' structure, program operations, recruiting, management, and goals.

In light of the procedural and substantive considerations which I have briefly outlined just now, I feel that the $82.9 million compromise level embodied in the Senate amendment now before the House is a very reasonable one. The Peace Corps is a unique and essentially successful entity in mobilizing the energies of individual Americans willing to serve in people-to-people programs to provde basic self-help assistance to the needy majority in developing countries. I therefore urge the House to accept the appro-

priate compromise authorization level for the Peace Corps contained in this amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, and perhaps this should be a parliamentary inquiry, does the gentleman from Massachusetts ask unanimous consent to bring the conference report up and consider it or ask for the adoption of the conference report?

Mr. HARRINGTON. If the gentleman will yield, Mr. Speaker, this request is just to concur in the Senate amendment.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. EDWARDS of Oklahoma. Reserving the right to object, Mr. Speaker, I just want to gauge the potential reactions of my colleagues because I have assured a number of colleagues who came by the desk that they could go home since there were not going to be any more votes.

Does the gentleman have any intention of getting a recorded vote on this, because if anybody is going to try to get a recorded vote, I will probably object.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, if the gentleman would like to propound a parliamentary inquiry, I think the Chair would tell him that there is no way by which this can pass except by a unanimous-consent request. A vote cannot be had on it.

Mr. EDWARDS of Oklahoma. Mr Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

Mr. ZABLOCKI. Mr. Speaker, I strongly support the bill S. 1235, as amended by the Senate, which represents a consensus among those members of both bodies who have been primarily concerned with the fiscal 1978 Peace Corps authorization.

As the gentleman from Massachusetts (Mr. HARRINGTON) has pointed out, the $82,900,000 authorization level provided in this bill is a compromise, splitting the difference between House and Senate figures.

The Committee on International Relations, as the gentleman has observed, acted on the basis of an initial executive branch request for $81 million, while the Senate Foreign Relations Committee was subsequently in a position to consider the Executives' amended request for $84.8 million. Under the circumstances, the agreement which has been worked out appears to be an entirely reasonable one.

As is evident from the history of this legislation, the Peace Corps is currently in a phase of reorganization and transition, and the new leadership is having some difficulty in putting its "act together."

I personally am deferring judgment on the program until the outlines of the new policies and programs currently being considered are more clearly defined. In the meantime, I believe the new leadership should be given a chance to prove itself and implement its new programs.

In fact, I would prefer that the Agency move cautiously and deliberately in devising such programs rather than hastily and, perhaps, unwisely. Our committee and the House as a whole will have the opportunity to review the record in due course.

This bill also contains an overall limitation of $1,000,000 for so-called nondiscretionary costs and is in line with actions taken in previous years to replace open-ended provisions with specific funding ceilings. The $1,000,000 figure, we are informed, will more than cover salary and other increases imposed by law during fiscal year 1978.

This is a 1-year authorization based on the best available estimates of program costs for the coming fiscal year. These costs, I might add, will be subjected to close scrutiny in the months ahead.

Mr. Speaker, I urge the adoption of S. 1235, as amended.

GENERAL LEAVE

Mr. HARRINGTON. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate amendment to the House amendments on the Senate bill S. 1235, to further amend the Peace Corps Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MESSAGE FROM THE SENATE REQUESTING THE HOUSE TO RETURN TO THE SENATE HOUSE CONCURRENT RESOLUTION 317

The SPEAKER pro tempore laid before the House the following message from the Senate:

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the concurrent resolution (H. Con. Res. 317) entitled "Concurrent resolution providing for an adjournment of the House from August 5 until September 7, 1977 and an adjournment of the Senate from August 6 until September 7, 1977."

The SPEAKER pro tempore. Without objection, the request is agreed to.

Mr. KAZEN. Mr. Speaker, I reserve the right to object.

I want to know what that last resolution was.

The SPEAKER pro tempore. The Chair will state that the Clerk read it.

Mr. KAZEN. Mr. Speaker, what is the effect? Who is going to explain it or did the Chair just lay it out?

The SPEAKER pro tempore. The Chair will state that the Chair laid the matter before the House and the Clerk read the request of the Senate.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Speaker, may I say with regard to the concurrent resolution, as I understand, we have received a message from the Senate regarding the concurrent resolution. As the gentleman from Texas (Mr. KAZEN) knows, we passed a concurrent resolution saying that we would conclude business on Friday night, and the request of the Senate is now to return the concurrent resolution. Comity says in view of the fact that that concurrent resolution has been reconsidered in the Senate, the Senate has requested that we send this resolution back to it. This has always been done in the past.

I might add that with respect to the Clean Air Act there could very well be a filibuster in the Senate, or something of that nature, and if such a thing should happen, then the Senate could not concur in the resolution to adjourn on Saturday.

This is the normal way we do this.

Mr. KAZEN. Mr. Speaker, I would inquire whether the Senate concurred in the concurrent resolution?

Mr. O'NEILL. The Senate did and then there was a motion to reconsider within the proper time in the Senate. The Senate had sent the papers over before the reconsideration had been moved. In view of the fact that the reconsideration has been moved, the House has always proceeded in this fashion, and on that basis we will send the concurrent resolution back.

Mr. KAZEN. Mr. Speaker, I thank the gentleman from Massachusetts, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection the request is agreed to.

There was no objection.

COMMUNICATION FROM THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation, which was read and, together with the accompaning papers, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., August 2, 1977.

Honorable THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 12 of the Water Resources Development Act of 1974 (88 Stat. 12), the Committee on Public Works and Transportation on July 27, 1977, adopted a resolution stating that the projects listed in the resolution shall continue to be authorized projects.

A copy of the resolution is enclosed.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

Enclosure.

CONGRESSMAN BRADEMAS PAYS TRIBUTE TO ARCHBISHOP MAKARIOS

Mr. BRADEMAS. Mr. Speaker, I rise to express the deep regret that I am sure is

felt by millions of Americans at the announcemnt of the death early this morning of His Beatitude, Archbishop Makarios, President of the Republic of Cyprus.

Archbishop Makarios was a remarkable man, the leader both religious and political of his country and the father of independent Cyprus. Repeatedly elected by the people of Cyprus, he was its first and only President. He was, Mr. Speaker, an intelligent and tenacious defender of the independence of the small island republic of fewer than 700,000 persons.

Mr. Speaker, Archbishop Makarios led the people of Cyprus through a number of crises, the most recent of which was the invasion and occupation of nearly 40 percent of that country in the summer of 1974 by Turkish armed forces, a condition which persists to this day and which, because it was marked by the wrongful use of weapons supplied to Turkey by the United States, has meant a continuing problem for American relations with Cyprus, Greece, and Turkey.

Mr. Speaker, Archbishop Makarios enjoyed the strong support of an overwhelming majority of the people of Cyprus. He will not be easy to replace in this time of crisis there.

The son of a shepherd in western Cyprus, Archbishop Makarios studied both in Greece and at Boston University in the United States.

I myself, Mr. Speaker, first met the President of Cyprus at a luncheon given in his honor at the White House by President Kennedy in 1962, and I had, together with my distinguished colleague, the present junior Senator from Maryland, the Honorable PAUL SARBANES, the privilege of visiting the Archbishop in Nicosia in early 1975.

He was a man of great charm and personal charisma and it was easy to understand why he had such immense support among the people of Cyprus.

Mr. Speaker, although his was a small country, Archbishop Makarios led it so ably that he earned a place of considerable respect in the councils of world statesmen.

Mr. Speaker, I have little doubt that Archbishop Makarios of Cyprus will come to be regarded by historians as one of the most gifted leaders of our time.

Mr. Speaker, I insert at this point in the RECORD, an article on Archbishop Makarios from the Washington Post of August 3, 1977:

[From the Washington Post, August 3, 1977]

MAKARIOS DIES—SECOND HEART ATTACK IN 4 MONTHS KILLS 63-YEAR-OLD CYPRUS PRESIDENT

NICOSIA, CYPRUS.—Archbishop Makarios, president of the troubled island of Cyprus since it gained independence from Britain in 1960, died early today following his second heart attack in four months. He was 63.

A government spokesman said Makarios, who was to be 64 Aug. 13, died at 5:15 a.m. (11:15 p.m. EDT).

Makarios was taken seriously ill late yesterday. Officials said he suffered a miocardial infarction, or obstruction of blood flow to the heart, similar to his first attack April 3.

All Cabinet members were called to the Archbishop's palace within the walled city of Cyprus at the first news of his illness. Greek Prime Minister Constantine Karamanlis was immediately informed. Two ambulances were seen arriving at the palace with oxygen cylinders and nurses.

Civilian and military police closed all streets leading to the palace to keep away all traffic and noise.

The Greek Cypriot newspaper Simerini said the police and national guard had been placed on alert. But the government spokesman would say only that the situation was "under control."

Makarios, who has never lost the ascetic habits of his monastic youth, was vigorous and healthy before his heart attack in April. The attack came while he was celebrating a Palm Sunday service but he continued the rite despite his pain and was conducting state affairs from his bed the next day. At the time a heavy guard, similar to yesterday's was put outside his sandstone byzantine-style palace.

Makarios became president when Cyprus gained its independence from Britain on Aug. 16, 1960. With no opposition, he was declared re-elected to a five-year term in February 1973.

Makarios has been the major political figure on the island with a population of about 700,000, whose political evolution has been shaped by conflicts between its Greek ethnic majority and Turkish minority.

Greek Cypriots have long advocated enosis, or union with Greece, while Turkish Cypriots have favored partition of the island into Greek and Turkish enclaves.

The archbishop was ousted in a coup led by Greek army officers on July 15, 1974. Five days after the coup, Turkish troops invaded northern Cyprus, occupying about 40 percent of the island which has a total land area of about 3,570 miles.

Makarios returned to office in December of the same year, but on February 13, 1975 the northern sector declared a Turkish Cypriot Federal Wing of the Cyprus Republic with Rauf Denktash as president.

On July 20 this year, the third anniversary of the Turkish military invasion, Markarios addressed a mass rally in Nicosia's main square and declared that Greek Cypriots would "continue the struggle regardless of time and sacrifice until the Turkish agressor leaves our soil."

Makarios' illness created a vacuum in Cyprus state affairs. Under the constitution of the island, when the president of the republic is unable to perform his duties, the president of the House of Representatives takes over as acting president.

But House president Spyros Kyprianou has also been ill for the past three weeks and Makarios visited him at his home last Thursday.

At the time of the 1974 coup false reports circulated that the archbishop had been killed. After disappearing from view for a day or so, however, he broadcast a statement to encourage his followers and then flew off the island to safety.

Eventually, strong international pressure forced the coup leaders to give way and the archbishop returned to office.

The coup had been supported by the military regime then ruling Greece. With the collapse of the plot and the invasion of Cyprus by the Turks the military junta in Athens, which had ruled Greece since 1967, gave way to a civilian government.

The threat of violent death hung over Makarios constantly in recent years.

"I am careful, but the evil deed may happen," the thickly bearded archbishop once replied to a supporter who shouted to him to be careful.

Though he ruled like a benevolent dictator, he was genuinely loved and supported by the vast majority of Greek Cypriots, who make up three-quarters of the population of 647,000. He customarily won well over 90 per cent of the vote in presidential elections.

His unique position as religious and political leader of Cyprus was the basis of his durability. As the archbishop elected for life by universal suffrage, he was guaranteed massive electoral backing.

Those who knew Makarios well characterized him as an immensely charming and charismatic leader without an equal on the island.

He was born Michael Mouskos in western Cyprus, the son of a poor shepherd who sent him to the ancient monastery of Kykko to become a novice monk and receive the schooling the family could not otherwise afford.

He received later education in Greece and studied theology at Boston University in the United States. He rose quickly through the church and was elected archbishop in 1950.

A political activist, he was banished by the British in 1956 and returned in 1959 as the island was preparing for independence.

THE PERSECUTION AND CHARACTER ASSASSINATION OF HOWARD (BO) CALLAWAY AS PERFORMED BY THE INMATES OF THE U.S. SENATE UNDER THE AUSPICES OF THE DEMOCRATIC PARTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. WAGGONNER) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Speaker, many of us counted Howard (Bo) Callaway as a friend when he served in this House, representing his State of Georgia with honor and distinction. We watched with a sense of pride when he was chosen to become Secretary of the Army, because he brought to that office the same personal dedication and hard work that had characterized his years in Congress. His reputation for honesty was beyond reproach. His record of public service was enviable. He was a man respected for his talents by Members from both sides of the aisle. In short, Bo Callaway was a man who was respected because he earned that respect.

The cover story in this month's Harper's, "The Persecution and Character Assassination of Howard (Bo) Callaway As Performed By the Inmates of the U.S. Senate Under the Auspices of the Democratic Party," gives a shocking example of how the good works and reputation of an honorable public servant can be brought to ruin by innuendo. It is a sad commentary on America, and this Congress, in the so-called "post-Watergate age." It should be read and remembered, and lessons learned from it, because it reveals how fragile a person's reputation and life's work really are.

No formal charges of illegality or abuse of power were ever made against Bo Callaway. Indeed, no wrongdoing by him were ever found by the six investigations that were conducted. The specter of impropriety was raised, and that was enough. There has never been so much as a half-hearted apology for the wrong that was done to him or even news reports of his vindication in the media that spread the innuendoes against him.

For a man like Bo Callaway, who values honor and a good name above all, this is a cruel fate. I, for one, want Bo Callaway to know that there are those of us in Congress who are ashamed about how he was treated by the greatest legislative body in the world.

He is an honest and honorable man, and I am proud to still call him a friend.

The text of the article follows:

THE PERSECUTION AND CHARACTER ASSASSINATION OF HOWARD (BO) CALLAWAY AS PERFORMED BY INMATES OF THE U.S. SENATE UNDER THE AUSPICES OF THE DEMOCRATIC PARTY

(By Jim Hougan)

This is a Washington story, which is to say that it deals with the technique of character assassination, and, at the risk of committing a tautology, with the tactical use of false appearances, public pieties, and moral fraud. It tells how a cabal of Democratic senators, all of them well known for their fine and upstanding concern for the well-being of the Republic, combined to destroy the reputation of Howard (Bo) Callaway, who, at the time of his impeachment, was President Ford's campaign manager. The hit was sponsored by the Senate subcommittee on the Environment and Land Resources, before which tribunal Callaway was questioned about rumors to the effect that he had used his office as Secretary of the Army to further his financial interests in a Colorado ski resort. There was little evidence for the allegations brought against him, but Callaway was not in the hands of the judiciary. Senate privilege, and not the common law, decided the question of guilt or innocence. As Sen. Lee Metcalf (Dem.-Mont.) remarked, in an effort to give the hearings a semblance of respectability (while, at the same time, explaining the general disregard for Callaway's civil rights), "It's sort of like a grand jury."

Sen. Floyd Haskell (Dem.-Colo.) presided as chairman over the legislative "Gong Show" in which Callaway's reputation was ruined. The hearings exhausted more time and money than the same subcommittee had appropriated to its consideration of the Alaska pipeline—but its effect on the Ford campaign, at least to the parties interested in the result of the eventual election, presumably was worth the price. Sen. Henry Jackson, a Presidential candidate at the time, and chairman of the Committee[1] as a whole, could have stopped the hearings, but he chose not to do so. Instead Jackson indulged himself in a ritual handwashing, seeming pious by virtue of inaction. Sen. Frank Church (Dem.-Idaho), equally pious and also a candidate for the Presidency, was not so circumspect. He failed to attend a single hearing; nor did he bother to read the final Report, but he permitted his proxy to be voted twice in the cause of political expedience. Together with Haskell, Church, and Metcalf, two other Democratic Senators, James Abourezk (S. Dak.) and Dale Bumpers (Ark.) did what was necessary to accomplish the subcommittee's purpose. As is usual in such affairs the press proved itself a willing instrument of the subcommittee, allowing Senator Haskell to leak his innuendos in such a way as to bring down the maximum damage on Callaway. The object of the attack was not so much Callaway himself, but the Presidential campaign of President Ford, which (at the very least) can be said to have come unstuck in the shadow of a Colorado peak known as Snodgrass Mountain.

CRESTED BUTTE

The unraveling of Bo Callaway's reputation can be traced to his hopes for the rejuvenation of Crested Butte, Colorado, a town roughly a hundred miles southwest of Denver. Established in 1829 by representatives of the Colorado Fuel & Iron Co., Crested Butte had waxed and waned for more than a century as seams of coal, silver, and gold appeared and disappeared in its vicinity. At 9,000 feet, the city has always had a rather precarious hold on existence, and local residents sometimes feared that the town might "go the way of Gothic—or even Irwin and Pittsburg." The first reference is to a nearby ghost town, whose empty shells stand as testament to the perils of a one-dimensional economy; the allusion to Irwin and Pittsburg is even more pessimistic in that both these villages have disappeared entirely, leaving no testament at all.

And yet, as long ago as 1971, there was cause for optimism in Crested Butte. After a century of intermittent exodus and decline, the town's citizenry once again numbered more than 500. Many of the new immigrants were urban expatriates whose correspondence with senators and foresters suggests that their values could be looked up in the index to the *Whole Earth Catalog*. But a great deal of the town's new wealth was derived from the local skiing industry, whose fortunes sank below sea level in the mid-1960s. Driven into bankruptcy, the former proprietors of the Crested Butte Ski Area relinquished ownership of their property to a consortium of banks. In 1970, the consortium sold its interest to the Crested Butte Development Corporation (CBDC), a creation of Bo Callaway's.

The scion of a family tree rooted in the loamy traditions of the Old South, Callaway, a husky and distinguished-looking fifty-year-old with a fondness for squash, enjoyed inherited wealth and the benefits of an unsentimental education at West Point. A conservative respect for the value of hard work in a context of free enterprise was tempered in him by a history of family philanthropy. Politically active in the South, Callaway virtually reinvented Georgia's Republican Party in 1964, winning a seat in Congress. At the time, Democratic domination of the Peach Tree State was so complete that GOP candidates were often forced to petition for official recognition of their party. Callaway himself had to obtain more than 100,000 signatures when, in 1966, he returned from Washington to run for governor. A moderate in a decade of rhetorical extremism, he challenged Lester "Give-'Em-the-Axe, the-Axe,-the-Axe" Maddox. He defeated Maddox in the general election, but his victory was short-lived: falling 2 percent short of an absolute majority, Callaway's 48 percent plurality was declared null and void. In a procedure unique to Georgia, the election was remanded into the custody of the state legislature. There, in a sort of mono-partisan Electoral College, the assembled Democrats overturned the popular vote, and gave the governorship to Maddox. Despite the loss Callaway remained a popular and important figure, albeit within an impotent state party. In return for his services, and for his later support of Richard Nixon's candidacy, he was appointed to various state posts and served as Georgia's Republican National Committeeman.

Politics was an important part of Callaway's career, as were his philanthropic and business responsibilities. As president of the Callaway Foundation he presided over "Callaway Gardens," a large and popular southern resort established as a horticultural idyll. As the heir to a textile fortune, he's always been wealthy, and serves as chairman of the board of Interfinancial Inc., an insurance and real-estate combine with more than 16,000 stockholders. His other business affairs, however, were far from the Peach Tree State. Callaway's commitment to the Crested Butte ski resort in Colorado was a multi-million-dollar one that involved rebuilding virtually all its existing facilities. He persuaded his brother-in-law, Ralph Walton, to run the day-to-day affairs of the resort in exchange for an option to buy a one-third interest in the Crested Butte Development Corporation. The future of the firm depended upon its ability to succeed as a so-called "destination ski area." Because Crested Butte is a remote location, its clientele tends to consist of skiers whose priorities are short lift-lines and uncrowded slopes. To compete with the bigger resorts, it must provide "a higher-quality skiing experience," and that entailed rebuilding, refinancing, and expansion.

The logical place for expansion was nearby Snodgrass Mountain. To accomplish this, however, Walton and Callaway needed the permission of the U.S. Forest Service. Much of the vertical land in the country is owned by the federal government, and Snodgrass Mountain is no exception: the county in which it stands is about 85 percent National Forest. There's nothing unusual in the private rental and development of such federal lands. On the contrary, roughly one in three U.S. ski resorts, including Crested Butte, have received "special use permits" enabling them to build lifts and trails on taxpayers land.

[2] Often, as with Crested Butte, the skiing operation is part of a paralled real-estate venture in which the resort-owner builds vacation homes, lodges, and "warming houses" on privately owned land beneath the slopes. Obtaining a special-use permit presents bureaucratic difficulties on a gigantic scale, involving a succession of overlapping jurisdictions: city, county, state, and federal governments. Master Plans, unit plans, site plans, conceptual plans, and development plans must be prepared in various drafts and repeatedly amended, with the firm's criteria, alternatives, and priorities set forth in meticulous detail (with maps and flow-charts appended). Public hearings must be held, commentary solicited, and drafts of Environmental Statements filed detailing the proposed development's projected impact upon local air, water, soil, flora, fauna, noise, fisheries, and waste disposal. It is, in short, an enervating, if necessary, procedure requiring entrepreneurs to tread capital for years. Because the process is more or less indifferent to fluctuations within the economy, oil embargoes, interest rates, and changes in tax law, it occasionally happens that the money runs out while the permit pends. In any event, the businessman must endure a financial rite of passage during which the value of his assets is in doubt, and planning is well-nigh impossible. For all he knows, he's sitting on another Comstock Lode—or another Irwin.

So it was with the Crested Butte Development Corporation. In the spring of 1971, Callaway's firm formalized year-old discussions with the Forest Service, submitting a revised Master Plan for the resort's development—including a plan for expansion to Snodgrass Mountain. If and when that Master Plan should be approved, CBDC could begin the tortuous process of applying for a special permit which, if granted, would enable the development to take place. A decision on the Master Plan, however, would have to wait upon the Forest Rangers' completion of the East River Unit plan. (This was a document pertaining to the area of the Gunnison National Forest which contains the Crested Butte ski resort and Snodgrass Mountain.)

So Callaway knew he was going to have to wait. And wait. And wait again. He would wait for the Forest Service to produce a draft of the East River Unit plan. He would then attend upon public hearings and revisions of that draft. At each stage of the proceedings, his firm would be required to prepare a series of increasingly detailed environmental impact statements, each of them requiring negotiations with the Forest Service. Assuming that all of these obstacles were successfully overcome, CBDC could then, and only then, apply for a special permit—and, of course, wait years for a decision. And, in the end, if all permissions were granted, and if the money were still available, a few thou-

[1] The Senate Committee on Interior and Insular Affairs, to which the subcommittee on the Environment and Land Resources is responsible.

[2] From Forest Service statistics: the actual figure is 174 out of 522.

sand more vacationers could be hauled up to the top of a mountain where they would be allowed to pay for the privilege of roaring down 11,000 feet on snowflakes on slim boards of plastic.

A METICULOUS ARMY SECURITY

Bo Callaway became Secretary of the Army on May 15, 1973. If few people took notice of the appointment, they can hardly be blamed. In Washington that week almost everyone was consumed with anticipation of the testimony that James McCord was to give to the Senate Watergate Committee two days later. In any case, Callaway's office was a sub-Cabinet post that carried more honor than responsibility. As Secretary his most important job would be to "make the All-volunteer Army work." How seriously he took that task would be up to him.

In the Senate confirmation hearings, Callaway submitted his financial affairs to public scrutiny. Satisfied that there were no conflicts of interest, the Senate allowed him to take office in the Pentagon.

As a West Point graduate, Callaway had a special affection for the Army and for his new role as its commander. ("I loved that job. It was the best job in Washington. It was the best job I ever had.") Accordingly, he became an active Secretary, traveling from one military base to another in every part of the world. By all accounts, these were working visits during which Callaway would hold inspections, attend receptions, and give speeches about the virtues of a volunteer army.

The Watergate scandal must have seemed a world apart. But the atmosphere of suspicion created by it led Callaway to take precautions with what the Army's General Counsel later described as "an overabundance of care." On those occasions when Callaway's wife accompanied him on official trips, the Secretary reimbursed the government for her passage—despite a ruling that he needn't do so. He ordered a meticulous log kept of his telephone contacts and though it was unnecessary, he reimbursed the Army for every personal call. Even in the matter of postage, Callaway was circumspect, supplying his secretary with stamps for use on his private mail. Moreover, and again as his behest, a record of his daily activities was maintained: submitted to the Senate under unhappy circumstances, the record showed that, during his twenty-seven months as Secretary of the Army, he accumulated more than 3,000 hours of "overtime" by working twelve-hour days and weekends. Of this amount, he recovered perhaps forty hours, spending less than five minutes per day managing his private affairs from his office in the Pentagon—a minuscule amount in view of his holdings.

In all things, Callaway was governed by policies and regulations promulgated by the Department of Defense (DOD). The evidence is clear that he followed them to the letter. Despite the impression created by Senate Democrats, Callaway has never been publicly accused—by anyone—of breaking any law or violating any policy governing the demeanor or actions of a public official.

Admittedly, the precautions described above were as much a result of political prudence as ethical conviction. The point, however, is that Bo Callaway gave every *appearance* of being an honest and hardworking public official. And, in the end, that's what it came down to: appearances. The Senate inquiry in re Callaway would do everything in its power to uncover wrongdoing, but it would have to settle for the appearance of impropriety, an appearance, moreover, that the Senate would itself create by the simple means of questioning the man's integrity. In their own way, Senate Democrats would wage the same war of innuendo against Callaway that George Smathers once waged against Claude Pepper. ("Are you aware," Smathers used to harangue voters, "that Claude Pepper is known all over Washington as a shameless extrovert? Not only that, but this man is reliably reported to practice nepotism with his sister-in-law, and he has a sister who was once a thespian in wicked New York. Worst of all, it is an established fact that Mr. Pepper, before his marriage, practiced celibacy."[3]) Callaway would be found guilty of similar offenses.

While its owner served in Washington, the ski resort hummed. Although the East River Unit plan was years from completion, Callaway's brother-in-law helped incorporate the town of *Mount* Crested Butte (population 150 plus). Located only two and a half miles from its "sister city" to the south, the new town virtually guaranteed local approval of CBDC's plans for Snodgrass Mountain. Opponents of the new municipality charged that an "end-run" had been committed and that Mount Crested Butte would be a "company town." While CBDC disputed both descriptions, they seem accurate enough. Many of the new town's residents work for the firm, and its financial condition has a direct impact on virtually all of the town's residents. What is not valid, of course, is the implication that a "company town" includes a "company store." Incorporating Mount Crested Butte, therefore, was a logical business decision, and entirely within the letter and spirit of relevant laws.

Soon after the town's incorporation, however, fateful events occurred. Responding to a Forest Service request for statistical data, CBDC provided figures that would be used to calculate the resort's skiing "capacity." The capacity of the resort would be used by the rangers to decide upon the *timing* of the proposed expansion (if and when permission should be granted for it). Until there was a *need* to develop Snodgrass Mountain, the rock would remain untouched. What made this event "fateful" was the fact that the Forest Service used the CBDC figures to calculate the area's "maximum capacity"—rather than its "comfortable capacity." The distinction is a critical one for a "destination ski area." Using the wrong formula, the Forest Service arrived at the erroneous conclusion that the Crested Butte ski area was years away from any need to expand. If the resort would not, as the wrong numbers suggested, reach "capacity" for another decade, local Smokeys responsible for preparing the East River Unit plan could safely procrastinate upon the expansion proposal. They need only label it as a subject of consideration for some future time.

Repeated delays of the plan's publication, however, were frustrating to CBDC. They had waited five years for a decision. Their original request had been made at the height of the Vietnam war. Since then the Paris Peace Talks had come and gone, detente had been reached, wars had begun and ended, and a President had been elected and politically impaled. The *world* had changed, and still there was no decision as to whether or not Bo Callaway would be permitted to put a ski lift on Snodgrass Mountain. And though CBDC had good reason to expect a favorable decision, the firm needed an official commitment.

SUSPICIONS

The trouble began in January 1975, with the release of what was called "a tentative draft" of the East River Unit plan. The purpose of the draft, as the document itself stressed, was to generate public discussion, in consideration of which changes would be made. The reader may not be surprised to learn that the plan was ambiguous on the subject of Snodgrass Mountain. The good news was that "The management we [the Forest Service] propose for the Snodgrass Mountain area will protect its potential for future ski area development." The bad news was that the expansion would not be permitted "at this time" in view of the fact that "Crested Butte Mountain appears to have sufficient development capacity to satisfy public skiing demands . . . for approximately 10 years."

So after five years of waiting for a decision. Callaway was told that the Forest Service proposed to make a decision in ten more years.

CBDC contacted the Forest Service, pointing out that the tentative plan was based upon the misleading formula for "maximum capacity." They were told to submit new figures, and it was stressed once again that the tentative plan was subject to major revision. The new figures submitted by CBDC showed that the Crested Butte ski area would exceed its comfortable capacity within two years—and that, therefore, expansion to Snodgrass Mountain required a prompt decision.

A month after the tentative plan was released, two things happened, and both of them aroused suspicion. First, John T. Minow, the Forest Supervisor responsible for the East River Unit plan, was promoted and transferred to Denver, leading some to speculate that his expatriation from Crested Butte was "a punishment" for his work on the plan. In fact, however, the promotion preceded the plan's release by more than two months; the outgoing supervisor, moreover, was considered favorable to the expansion proposed by CBDC. By an unfortunate coincidence, however, his replacement, Jimmy R. Wilkins, was another career forester whose last assignment happened to have been in Atlanta, Georgia; in the atmosphere created by Watergate. it was inevitable that some would suspect a conspiracy. In fact, however, the new supervisor had never met Callaway or any other CBDC employee—and had, like his predecessor in Crested Butte, learned of his transfer long before the tentative plan's release. Both transfers, in other words, were routine—as the Senate later found. But people wondered at the time.

The second event generating suspicion was the rejection of the tentative plan by the regional Forest office in Denver. A month after the plan's release, the regional office described it as "unsuitable," pointing out that it included no alternatives, contained technical and factual errors, and actually violated the National Environmental Policy Act (NEPA). A "tentative" document in the first place, it was also erroneous and contrary to law.

Meanwhile, the revised figures provided to the Forest Service by CBDC resulted in a reconsideration of the tentative plan's approach to the Snodgrass Mountain issue. It appeared to those preparing the East River Unit plan in the spring and summer of 1975 that the expansion ought to be considered and not deferred. To some of the residents of Crested Butte, it appeared that the Forest Service had undertaken a dramatic reversal of position following what amounted to the wholesale transfer of local rangers to the asphalt jungles of Denver and Durango. That the new man in charge of the local office was "from Georgia" (and ipso facto thought to be a "crony" of Bo Callaway's) seemed "too coincidental." Talk of political pressure made the rounds of the chalets, and a veil of conspiracy-theory settled over the town. Not since Irwin and Pittsburgh vanished had local residents had so much to talk about. In their own way, they'd become a part of Watergate. Like everyone else in America, they'd been *touched* by current events.

To some of those in Crested Butte, unfolding events surrounding the ski resort resembled a scenario for a sequel of a Billy Jack film: as the romance was perceived, "progressive youths," nostalgic for time past and an innocence that never was, found their

[3] Miami *Herald*, *Tropic* Magazine, May 2, 1971.

inner peace and outer surroundings threatened by what they believed to be a corrupt and rapacious pol, a wheeler-dealer bent upon demolishing the wilderness from the vantage of his Pentagon aerie. "Working within the system," the youths would nevertheless triumph through the courageous efforts of the town's embattled newspaperman, a feisty mayor, and a liberal senator. As a film, the scenario was as plausible as it was hackneyed. But as reality, it was only the fantasy of suspicious naifs.

THE ARBER MEMORANDUM

Bo Callaway left office as Secretary of the Army on July 3, 1975, on the eve of America's Bicentenary celebration. His new post was much more influential than the one he'd just left: Callaway had been named campaign manager for the incumbent President, Gerald Ford. At the time of Callaway's appointment, Ford's chances for succes appeared great. Not only was he liked by most Americans, but he had skillfully sloughed off the Pardoner's image, exchanging it for one of Healer. With numbing frequency, the citizenry was told that "Watergate is behind us" and that the man in the White House was, above all else, a Decent Man. It seemed unlikely that the electorate would reject a well-liked incumbent in the Bicentennial year, opting for still further change in the aftermath of the Watergate maelstrom. On the contrary, the word in the streets was "Slow it down. Just. slow. it. down." Callaway and Ford understood that, and also understood that the biggest threats to their success were internal. "The enemies within," so far as they were concerned, were the possibilities that Watergate might somehow be reinvented, and that the party's militant right wing might somehow slip its leash. But, so long as Nixon remained under de facto house arrest, and providing that Ronald Reagon could be trounced in the opening primaries, the future was Ford's.

The Democrats were in their usual disarray, divided between a redistribution of the wealth and the immediate invasion of Soviet Russia. Sen. Edward Kennedy remained in political hermitage, and a multitude of other candidates spread across the scene, muddying it. Senators Henry Jackson and Frank Church were noisily engaged, as were Hubert Humphrey, Fred Harris, Gene McCarthy, George McGovern, and Mr. Carter, but few people thought they could win. The best analysis indicated that they'd get 48 percent of the vote, regardless of who ran, and alienate the staff of Ms. magazine.

What the Republicans did not anticipate, however, was the impact of the Crested Butte Chronicle, a weekly newspaper with a circulation comparable to that of a college "little magazine." The proprietor of the Chronicle is Miles Arber. A graduate of New York University Law School, Arber did not fail to notice the local controversy swirling around Callaway's resort. And it seemed to him that, as he later said, "something funny" was going on. Accordingly, at about the time Bo Callaway took over the Ford campaign, the small-town publisher "got together with" the mayor of Crested Butte, Tommy Glass, and a Gunnison County judge, John Levin. "We all thought it looked mighty strange," Arber said, referring to developments in Crested Butte, and so "we agreed to keep an eye on" the situation.

In October, Glass and Levin decided that their suspicions justified a "full-fledged" Senate inquiry. Armed with their doubts, they went to Denver for a meeting with Sen. Floyd Haskell, chairman of the Senate subcommittee on the Environment and Land Resources. A lifelong Republican who'd held senior posts in the Colorado State legislature, Haskell switched his allegiance to the Democratic party in 1970. Because that reversal of loyalties took place the day after the invasion of Cambodia, the apostasy was widely interpreted as an act of courage and moral principle. And, while Haskell did not pay a high price for the switch (indeed, he was elected to the U.S. Senate one campaign later), the change seems to have been more than superficial. As a former Denver tax lawyer, he'd represented some of the largest and most conservative corporations in America. Upon entering the Senate, however, Haskell revealed himself to be an uncompromising liberal and a powerful advocate of environmentalists' concerns. The depth of the change surprised many of his colleagues who, in trying to explain it, resort to religious metaphors about the convictions of those who have been "twice born."

Confiding their suspicions that a conspiracy was in progress, the mayor and the judge won a promise from the Senator to keep their rendezvous a secret. Judge Levin later testified that the secrecy pledge was sought in an effort to protect Callaway's reputation from harm. It may be cynical, but one might also add that the secrecy pledge had another virtue: it kept Callaway in ignorance of the innuendos raised against him and put him at the mercy of events that would transpire "behind the scenes." Haskell asked the pilgrims from Crested Butte to provide him with a statement in writing. Returning home, Glass and Levin told Arber of their secret mission and asked him, as a journalist, to prepare a confidential "memorandum" for the Senate.

So great was the atmosphere of paranoia and intrigue in Crested Butte that every event pertaining to the resort assumed a significance of vast proportions. When the CBDC Master Plan appeared in the Appendix of the first published draft of the East River Unit plan, Arber et al. apparently viewed it as proof that a decision had been made favoring expansion to Snodgrass Mountain. In fact, the Master Plan was added to the larger document in an effort to satisfy legal requirements that Unit plans include alternatives that the public might review. Still, it was apparent that the Forest Service was considering the expansion, contrary to recommendations contained in the "tentative plan" rejected months earlier. This, then, was the first public indication that CBDC would eventually get its way.

In January, while Callaway was managing President Ford's primary campaign to an unbroken string of successes, Arber completed his "confidential report" to the Senate.

Its opening pages analyze the "disastrous" financial condition of CBDC, describing the ski resort as a "marginal" operation. Pointing out that "bankruptcy was clearly unacceptable to a man as highly politically motivated as Callaway," Arber asserts that the firm's only chance for survival rests upon its ability to attract new capital. Depicting Callaway and Walton as financial desperados—"men who would do whatever had to be done"—the publisher notes a series of "ploys," "foils," and "schemes" carried out by "sleight-of-hand." Addressing the issue of expansion, Arber mentions Forest Service fears that "development might interfere with the life of the elk who make the mountain their habitat and that . . . expansion . . . might have a deleterious effect on . . . the former ghost town of Gothic . . . where the Rocky Mountain Biological Laboratory conducts its research." Claiming that CBDC has "its back . . . against the mountain," Arber tells how "Reports of private meetings between CBDC executive personnel and Forest Service personnel began leaking out, the reports being to the effect of some heavy pressure being brought to bear on the men responsible for [making a] momentous decision." Subsequent to this "personal pressure," "one by one, the local personnel . . . were transferred" and replaced by an "inexperienced" group led by a man from Georgia.

In conclusion, Arber put together a remarkable sequence of rhetorical innuendos: "How much influence was asserted by the CBDC both directly and indirectly and just what form that assertion took; the role of Callaway and his associates in asserting additional influence on a national level in Washington, D.C.; why local Forest Service personnel opposed to the designs of the CBDC were all transferred . . . and replaced by people whose only apparent advantage was their lack of familiarity with the entire matter. How much collusion existed on the part of high-level Forest Service personnel . . .; why public sentiment . . . was ignored; why the final plan inexplicably reversed earlier . . . policies and . . . the judgment of the experienced local Forest Service personnel; what further machinations of the CBDC will be condoned . . .; and the implications for the people of this valley and their descendants—these are the questions and doubts that remain. . . .

"For all of the foregoing reasons and all the doubts that have arisen in our individual minds . . ., we feel justified in relaying this information with a request . . . [for] a far-reaching investigation. . . . This request is made with the hope its results will either lay these doubts finally to rest or . . .vindicate all the doubts and suspicions which honest men have had to acknowledge have intruded themselves so profoundly and implacably into their consciousnesses during the course of being witnesses to this unsetting episode."[1]

Ploys, schemes, scenarios, designs, and machinations! The doubts and suspicions of honest men! Mysterious changes and strange ways! The memo's grammar is the best index to its accuracy. The analysis of CBDC's financial condition was muddied and inept. Senate Democrats would later be shocked to learn that the skiing operation was making a profit on its own, exclusive of real-estate enterprises, and that, moreover, Callaway had no personal notes outstanding on the property. That bankruptcy was an "unacceptable alternative" to Callaway is probably true, as is the assertion that he's a "politically motivated man." As it happens, however, Callaway was a rich man unlikely to go bankrupt. And, as for his political motivations, they were explicit enough: he was Ford's campaign manager. By referring to them in the way he did, Arber harkened back to George Smather's old speeches; he might as easily have called Callaway "a known ectomorph and masticator."

As for "reports of private meetings" between CBDC and Forest Service personnel, Arber is correct: there were frequent discussions between the two groups—as one would expect. Where Arber leads us astray, of course, is to imply that there was something wrong with this. He mentions reports of these meetings that the "heavy pressure" that's been brought to bear. We're given the impression, in the context of the questions Arber later raises, that this pressure is intense and out of the ordinary. The implication to be drawn is that Bo Callaway is yanking strings in Washington, threatening to ruin the men's careers if they don't give him what he wants.

Arber never indentifies the sources of these reports, but there's no need to speculate: since the meetings were "private," the reports presumably came from the rangers themselves. And yet, each of the rangers and all of their superiors would later testify under oath that no such pressure was exerted or felt; nor had any of them ever said otherwise to anyone. As Arber told the Senate, "I don't know what went on within the Forest Service." And, in the end, the Crested Butte publisher leaves us with a set of rhetorical questions whose obvious intent is to suggest criminal activity on the part of Callaway—without ever, of course, accusing him of anything per se.

The technique is not an unusual one. In-

[1] All quotations from the so-called "Arber Memorandum" to Senator Haskell.

deed, it's become the hallmark of an entire genre of post-Watergate journalism—what might be called "interrogative" as opposed to "investigative." In this feudal genre, the words "May" and "Seem" reign as king and queen over a dazzling court of "machinations," "scenarios," and lordly "ploys." Clustered below the salt like so many syllabic catamites, anxious to serve their conditional lieges, are the Facts—ignoble and dowdy, they combine and recombine for an assembly of stooped, but venerable, Question Marks, the grand viziers of innuendo.

And yet . . . and yet, while the Arber memorandum deserves to be criticized, there is no cause to interrogate Arber's own motives in writing it. As a citizen of Crested Butte, concerned about the town's welfare and the integrity of government, he had the right to petition his representatives in Congress and to advise them of his suspicions in any manner he saw fit.

A MATTER OF TIMING

On the other hand, it's hard to understand how Callaway's reputation could depend upon Arber's document, but that it did is certain. Some time after receiving the memo, Senator Haskell wrote to the Forest Service, asking for an explanation of the "disturbing allegations" he'd received. Interestingly, Arber later disputed that characterization of his memo's contents. ("I have not made any accusations against Mr. Callaway. I myself never accused him of any wrongdoing, per se. . . . You notice," he added helpfully, "I didn't allege these as charges. These are the questions and doubts. . . .") Haskell's timing was also interesting. He'd spoken with Arber in December, having talked to Levin and Glass months before that. Why he should have waited until February 19 before asking the Forest Service for an explanation has never been made clear. A subsequent statement of Arber's, however, is explicit. "I spoke to Haskell in December," he said, "and I said let's wait on . . . [the] beginning of the ski season. I think it can have a devastating effect . . . I would like to make sure that when it comes out it has a national impact."

To some—notably Callaway and the minority which supported him—Haskell's delay suggested that he agreed with Arber. And this raised an important question: What did the Colorado publisher intend when he referred to a "devastating effect"? Was it an effect that he and Haskell sought, or did they seek to avoid it? According to Arber, he feared the devastating effect which a scandal might have on the economy of Crested Butte, and so urged that the investigation be delayed until the spring. With the snows melting on Snodgrass Mountain the skiing season would be at an end. News of Callaway's activities might in other words, have a "national impact" in March without deterring a significant number of skiers from visiting Crested Butte. If this was Arber's only concern, his prudence seems to have been unnecessary. Townspeople assert that, when the scandal became a subject of national news, they began to get calls from relatives and friends around the country, remarking upon the physical beauty of Crested Butte and their intentions, therefore, of visiting it. Callaway himself, in a giddy moment of gallows humor, later remarked to the Senate that the scandal has "put Crested Butte on the map . . . the dream of our marketing department has come true. We have pushed Vail, Aspen, and Sun Valley to the back pages."

That was true. But it was also true that, by waiting until spring, Haskell and Arber made it possible for the national impact of the scandal to fall most heavily upon the Ford campaign. The economy of Crested Butte would be spared the effect of media attention (whether good or bad), but Gerald Ford would not. He would lose his campaign manager, and the integrity of his administration would be cast in doubt. News of the supposed scandal would project a baleful sense of déjà vu upon voters, inviting comparisons between Callaway's allegedly alleged activities, Watergate, and Teapot Dome. If the intention was to have a devastating effect upon the Ford campaign, it would do no good—indeed it would be a political disaster—to convene hearings at too early a date, especially in view of the Arber memorandum's questionable contents. Whether or not that *was* the intention is a matter of speculation.

In any case, Haskell waited months before contacting the Forest Service. The inquiry was an important formality: appearances, at least, demanded that the records show that an effort had been made to check Arber's innuendos before acting upon them. Failing to make such an inquiry, Haskell might easily find himself dangling from his own petard.

But that Haskell intended to call an investigation (even before the Forest Service could reply) appears certain. The possibility had been mentioned as far back as October, according to Arber, who adds that, in January, Haskell "promised to hold fair hearings."[5] And, while Senate Republicans were kept in ignorance of those intentions, NBC was not. Again according to Arber, who'd contacted the network's "head office," "NBC was called in and assisted in the gathering of further evidence in the case and when they agreed with Haskell that there were some reasonable grounds to suspect malfeasance of office on the part of Callaway . . . they agreed to break the story nationwide."[6] (Or, as the publisher later explained, "I called in NBC News and I said, 'Well, gentlemen, I think we have the makings of a major national issue here.'"[7] That commentary infuriates Jim Polk, the reporter who covered the story for NBC. Polk denies that there was any collusion between himself and Haskell with regard to the timing of the news. While it's true that Haskell leaked the Arber memorandum to Polk—and that, as early as February 25, Haskell discussed with Polk his intention to hold hearings—Polk says, "The memo was silly. There was nothing in it but Arber's conspiracy theories, and I didn't have much faith in the rumor about the Forest Service transfers." Nevertheless, Polk says, there was a "remote possibility" that there might be something to it and, as an avid skier, that was all the encouragement he needed to visit Crested Butte. Before leaving, Polk promised to keep Haskell informed.

After writing to the Forest Service and providing Polk with Arber's musings, Haskell waited. For its part, the Forest Service acknowledged the senator's inquiry on the day it was received, promising an immediate report. On March 8, as that report went into the mail, Haskell was suddenly galvanized into action. Claiming that the rangers were dragging their boots, he made a formal request for a Senate investigation. Two days later, the reply from the Forest Service arrived in his office, discrediting each of the allegations and explaining the agency's procedures in detail. Nevertheless, Haskell says he was "disturbed and troubled" by the response, falsely characterizing it as "incomplete, inadequate, and, perhaps, misleading."

Meanwhile, Bo Callaway knew nothing of Polk's presence in Crested Butte, the Arber memorandum, or Haskell's intentions in Washington. His concern at the time was with impending primaries in Illinois and North Carolina, primaries intended to write finis to Reagan's candidacy. Already Reagan had lost badly in New Hampshire, Massachusetts, and Florida; polls indicated that the incumbent President would win easily in both the March 16 Illinois primary and the March 23 contest in North Carolina.

Callaway, of course, was not entirely unaware of the controversy in Crested Butte. His information, however, was limited to what Arber published in the *Crested Butte Chronicle*. Accordingly, Ford's campaign manager was unconcerned. The dispute was a local matter, in his opinion, and he could answer the *Chronicle's* editorials after the November election.

In fact, the opportunity came sooner than he'd expected. And, while Callaway is noted more for his ability as a squash player than for his talent as a gymnast, it's fair to say that, as of March 10, 1976, he could kiss his ass goodbye.

TRIAL BY HEADLINE

March 10 was the day Jim Polk learned of correspondence between Callaway's brother-in-law, Ralph Walton, and Richard Ashworth, a Deputy Under-Secretary of Agriculture. It seemed significant to Polk, rummaging through Forest Service records in Gunnison, because the Forest Service is a part of the Department of Agriculture. That Walton was in contact with Agriculture officials in Washington suggested (correctly) that he'd gone over the heads of local rangers. There was nothing wrong with that, but Polk wondered, "Why Ashworth? Who's he?"

Checking further, he found that Ashworth was an ex-reporter who's served as a speechwriter in Callaway's Georgia campaign for governor. Looking even deeper, Polk learned that Ashworth met with Callaway in the Pentagon on July 3, 1975. Accompanying Ashworth to that meeting were Phil Campbell and an Associate Chief Forester, Rex Resler. Campbell, it turned out, was an Under-Secretary of Agriculture and, like his subordinate, a Georgian who counted Callaway as a personal friend. According to those involved, the meeting was "a courtesy call" arranged a few days earlier at Ashworth's suggestion. It took place during Callaway's last four hours in office, and one of its main purposes was to give him a briefing on the status of Crested Butte. Five months earlier, in the wake of the tentative East River Unit plan's release, Callaway had telephoned Ashworth, complaining about the non-decision. According to a memo written by Callaway at that time: "At Ralph's request, I called Richard Ashworth to tell him that I would appreciate it if someone could look at this clearly on the merits. This goes against the assurance we have been given by the Forest Service since 1971 . . . I made it very clear to . . . Ashworth that I did not want any special favors and that we thought this should be judged on its merits only, but that we felt we had a very strong case. . . ."

Whatever their "case," NBC had its story nine months later. After a great deal of searching by a Pulitzer prize-winning reporter, the "appearance of impropriety" was finally unearthed. All that was necessary for the 'impropriety" to become a fait accompli in the eyes of the public was for the Pentagon meeting to be made known. Jim Polk is aware of that irony, and expresses sympathy for Callaway. "I'm not sure I agree that the *appearance* of impropriety should be enough to convict government officials of wrongdoing. But it is. In my opinion, though, that meeting—the meeting itself—*was* improper. If I hadn't thought that, I wouldn't have put the story on the air. But I don't think that Callaway had any intention of using improper influence. I'm sure he thought that there was nothing wrong in meeting with Resler and his friends. It's unfair, I suppose. There never would have been a story if Callaway hadn't been who he was: Ford's campaign manager. If he'd been a first- or second-term Congressman—in fact, if he'd just stayed Secretary of the Army—we wouldn't have touched it. But that's the news business." The comment is remarkably candid in its acknowledgment

[5] Speech to the Gunnison Lion's Club, March 29, 1976.
[6] *Crested Butte Chronicle*, March 18, 1976.
[7] *Op. cit.*, Lion's Club speech.

of the methodology employed against Callaway. Ford's campaign manager was singled out, Polk admits, not for what he did—but for who he was.

At the time of his discovery, Polk was using Arber's office as a base of operations and keeping the Colorado publisher informed of his findings. Reportedly, Arber was overjoyed by news of the Pentagon meeting—so much so that Polk, fearing what he might do with (and to) his scoop, wrote a story for the *Chronicle's* next edition. Studiously avoiding any mention of the Pentagon meeting, Polk's anonymous article reported Senator Haskell's intention to announce an investigation to the Crested Butte controversy. *That* information, Polk says, came in a March 10 phone call from Haskell to Arber. The significance of this fact is that, on March 10, Haskell had less reason for suspicion than ever before. Rumors concerning the transfer of local personnel had been quashed: both the Forest Service and Polk agreed that the transfers were routine and even overdue. Nor was there any connection between Callaway and the rangers' replacements. Lacking that tenuous foothold in fact the Arber memorandum was an anthology of baseless innuendos. Nevertheless, Haskell was determined to hold hearings.

On March 12, Polk confronted Callaway at O'Hare Airport. The Illinois primary was at its height, and the circumstances for the interview were less than ideal. Minutes before Air Force One touched down, tornados ripped through Chicago's suburbs, blowing houses away. As the wind roared in his ears, Callaway heard Polk ask, "What took place at the meeting in the Pentagon?" Startled by the unexpected question, Callaway replied, "We just said we had been asking for this thing for four or five years, and we'd certainly appreciate getting a chance to have our views known." With that interview on film, Polk telephoned Haskell's office, advising them of the Pentagon meeting. Twenty minutes later, Haskell called back to provide the broadcast with its hook. Callaway, he said, would definitely be called to testify under oath at hearings the following month. Like the rest of America, *including Republicans on the Haskell subcommittee*, Callaway would learn of the hearings on the "NBC Nightly News."

Haskell's enthusiasm was perhaps understandable, but his decision would later lead other members of his subcommittee to accuse the Colorado Democrat of having conducted "a campaign more concerned with timing than with truth, with publicity rather than propriety." At the time he told NBC of his decision to question Callaway, Haskell had yet to show the Arber memorandum to subcommittee Republicans, nor had he informed them of the investigation getting under way. The partisan nature of the hearings, then, was self-evident even before they began: Indeed, the April hearings were merely an extension of the trial-by-headline orchestrated in March. Proof of that rests with Haskell's announced intention to interrogate Callaway in the Senate—knowing full well the effect that this would have on the Georgian's reputation—even before the investigation had begun. A week after his announcement, subcommittee investigators were journeying to Colorado in an effort to substantiate Arber's quasi allegations. After examining thousands of documents and questioning dozens of witnesses, they reported that the record showed that:

There had been no "reversal" of Forest Service position on the Snodgrass Mountain issue.

There was "no positive evidence" to indicate that any pressure or direction had passed from Washington to regional rangers.

There was nothing to indicate that the local transfers were anything other than routine.

There was "no evidence" that Callaway was acquainted with the rangers' replacements in Crested Butte.

The Arber memorandum, in other words, was useless. Had Haskell waited upon the results of his field investigation before imputing Callaway's guilt, it's unlikely that hearings into Crested Butte would have been held. At this point, Haskell was committed. By mid-March, Callaway's reputation and political career had already been destroyed. To have cancelled the hearings for lack of evidence might have exposed Haskell to charges of character assassination and political opportunism. The hearings would have to be held, and, sadly for Callaway, the reputation of his inquisitor probably would depend upon their outcome.

THE DEVASTATING EFFECT

Polk's broadcast, carrying news of the scheduled hearings, had a sensational effect. Hours after the news flickered across the television screen, Callaway took leave of the Ford campaign intending to return within a week or two. The Pentagon meeting was not, in his opinion, an improper one. He had a right to meet with Agriculture officials about Crested Butte, and there was nothing unusual in his request that the Forest Service expedite its decision in his favor. On the contrary, literally thousands of such contacts take place in Washington every year.[8] As for the meeting being held in his office, Callaway says, "It was my last day! I'd already resigned as Secretary of the Army. What was I supposed to do? Two friends I'd known for years asked if they could pay a 'courtesy call'—and I said 'fine.' Where else should we have met? In a hotel room? What would that have looked like?"

So Callaway thought the issue could be disposed of in a relatively short time. Working with his attorneys and aides, he gave the Senate a voluminous file, documenting every letter, phone call, and business contact he'd had in the preceding twenty-seven months. That file would eventually comprise more than half of the Senate's written record. It would also show that Callaway had written thank-you notes to those he'd met in the Pentagon and that, in a two-year period, he'd called Richard Ashworth exactly twice. Because the notes were typed on stationery belonging to the Secretary of the Army, this would be construed by Senate Democrats as further evidence that Callaway abused his office, attempting to bully the bureaucracy with subliminal hints at his power. To Callaway, however, it had seemed a casual thing: a letter from the President's campaign manager would have been more impressive had he actually intended to invoke his "political influence." In any case Callaway could hardly have disguised his position, unless he'd chosen to write in crayon on pages torn from a spiral notebook, signing them "You Know Who." In fact, Callaway used his Army stationery even when writing to his family. Indeed, one such letter to his brother-in-law describes the Pentagon meeting, and suggests rather clearly that the Forest Service was not intimidated:

"Ralph: I really couldn't get too much out of Rex Resler. Every time that I thought I had him pinned down, something else came out . . ." Not that the session was a complete bust. The letter continues, "But with Phil [Campbell] and Richard [Ashworth] listening, he did agree that there would be no timing on the issue of whether Snodgrass is in the ski area or not. I believe we can hold him to this commitment."

As it happened, Callaway was wrong about that but, after March 12, it hardly mattered. Following Polk's broadcast, Callaway's fortunes precipitously declined. Some people within the Ford campaign saw the Georgian's problem as a political opportunity for themselves. Accordingly, they isolated him from the President and demanded that his leave of absence become a resignation. Callaway refused, still thinking he could clear himself. By March 15, however, rumors involving Callaway were metastasizing in the national media. Besides the Senate's, there were at least six other investigations under way,[9] and no allegation was too fatuous in report.

From Colorado, a tale of bribery emerged, becoming national news a month after it first surfaced in the Gunnison County Times. According to that newspaper's managing editor, Kyle Lawson, the story came about in the following way: "A woman who refused to give her name asked if the newspaper was aware of a $135,000 bribe allegedly paid to the Forest Service and various Forest Service officials for a favorable reaction on the CBDC application to expand. . . . She said she had heard this information at 'a party.' She would not say from whom she had heard the rumor. And, shortly after divulging the information, 'for whatever you want to do with it,' hung up. I was skeptical of the remark and told her so and warned her that the repeating of the rumor was tantamount to scandalous libel. The County Times did nothing with the report, feeling it . . . to be unfounded." Well, not exactly. The editor continues: "However, when the opportunity came to interview [Forest Ranger] Wilkins, our reporter did broach the subject with him to see if the Forest Service had also heard of this rumor. With the resulting decision on Mr. Wilkin's part to call for an investigation, we felt we had no choice but to print such a call and give the reasons for it." So much for Free Will.

By asking the Forest Service about "the bribery rumor," the County Times created a news story, elevating a crank call to the stature of a scoop— albeit one with so little foundation that national media wouldn't touch it until mid-March. By then, Callaway's reputation was beyond the help of an oxygen tent. The March 14 issue of the Denver Post was a veritable broadside against Ford's campaign manager, devoting a yard of news space to the leaked and baleful suspicions of Arber and Haskel. With the publication of that story, the Colorado edda moved to the front pages of the Washington and New York papers, encasing Callaway's reputation in editorial cement.

As the month wore on, Callaway twisted in the wind of print. Reports of senate investigators interviewing Forest Service officials were page-one news in the *Washington Post*, while Callaway's denial of office misuse was embalmed on page 28 nine days later. The national news weeklies also made much of the story, trumpeting it with their usual sensitivity and panache. Headlining its March 29 dispatch "Curtains for Callaway," *Time* magazine referred to the "genial . . . bumbling . . . bigwig" who had a nickname that was two-thirds of the expletive "boo!" Under a photograph of a smiling Callaway on skis, the cutline read "Two many booboos," while subheads summed the story up

[8] According to former Secretary of Agriculture Earl Butz, the Forest Service handled 3,687 such inquiries in 1975—from members of Congress alone. Additionally, more than fifty formal meetings were convened between congressional constituents and representatives of the Forest Service's Washington office. An even larger number of other meetings, characterized as "informal," were held for the same purpose in the offices of those who were members of the 93rd Congress. Indeed, Senator Haskell himself intervened thirty-eight times on behalf of constituents, contacting Secretary of Agriculture Earl Butz with requests that he expedite Forest Service decisions or otherwise assist his constituents.

[9] None of the investigations found Callaway guilty of any wrongdoing.

with the words "Scandals," "Sweet-talk," and (again) "Boo-boos." If you failed to get the drift the first two times, the story's last sentence chugged in with the kicker that Ford "cannot afford to wait for the final verdict on Bo's boo-boos."

Within a matter of days, Ford's campaign took a predictably sudden turn for the worse; North Carolina reversed earlier polls showing "Mr. Clean" to be ahead, and gave its mandate to Reagan. After three years of scandal, GOP voters began to get the idea that a new team should be brought in from the coast. Bo Callaway seemed like just another bat in the "Watergate nightmare." A week before the Senate hearings, he resigned from Ford's campaign and retired from politics.

"NO SIR, HE DID NOT"

The hearings opened April 8 and, over the next three days, seventeen witnesses were read their rights and asked if they understood them. They did. The atmosphere in the hearings was that of a political trial. Indeed, Haskell's argumentative demeanor, interruptions of witnesses, and prosecutorial "summations" led Sen. James McClure (Rep.-Idaho) to issue an unheard-of-rebuke to his subcommittee chairman. "I suppose it's an irresistible impulse on the part of any persons interested in a congressional hearing to try the case to the jury before all the evidence is in," McClure said. "I don't intend to try to make a summation to the jury at this time," he added, alluding to the television cameras, "nor am I counsel for or against any of the participants in this inquiry." It was not the sort of commentary one usually hears in the Senate. But later McClure would go even further, joining four other senators in labeling the affair "an exercise for political advantage and excoriation . . ."

As for the witnesses, their testimony confirmed the results of the field investigation. Callaway's contacts with the Agriculture Department had been minimal, and entirely reasonable in light of his concern about the tentative East River Unit plan and the delay it proposed. Nothing untoward had occurred. No pressure had seeped from Washington to Crested Butte. Earl Butz's only role in the affair was to forward a memo from Campbell to Ashworth; the memo, reporting Callaway's position as he expressed it at the Pentagon meeting, remained for six weeks on Butz's desk before the Secretary of Agriculture forwarded it to Ashworth with the notation that "Phil thinks Bo is right on this, ELB—call Rex Resler." Ashworth, however, did not call Resler, and Butz had no other contact with Callaway concerning Crested Butte.

Callaway was the seventeenth witness to be called after three days of testimony. In his opening statement, he addressed the issue of improper influence directly: "Let me say that I know something about political pressure. I have seen it first hand. I have been pressured by governors, mayors, and local legislators . . . I have been wooed by Chambers of Commerce . . . I have been called by White House aides with the magic words: 'The President wants . . .' I have been told by Senators and Congressmen, 'Bo, I don't want any special favors, but I want you to remember that I sit on your Appropriations Committee.' I have been told: 'Bo, if I don't get what I want I'm going to go over your head to the Secretary of Defense or to the President.' Let me say in all candor, there are few people in America who know more about pressure than I do. I have it applied to me by experts. But, Mr. Chairman, in all my experience, I have never had anyone tell me that if I didn't do what he wanted, he would go to the Deputy Under-Secretary of the Army, because when you want to pressure you go to the top.

"As one who has had pressure applied, I should know how to apply it. If I wanted to apply pressure for Crested Butte, I can assure you I would have called the Secretary of Agriculture rather than the Deputy Under-Secretary of Agriculture, and I would have called him not once, but once a week.

"As you can imagine, I have gone over and over in my mind during the last month all of the events in connection with this investigation. The one that stands out, obviously, is the meeting in my office on July 3. Without that meeting I don't think there would be anything that anyone could, even by innuendo, allege as an impropriety on my part. I have thought about this a lot and in retrospect I have tried to get myself to conclude that if it happened again I would do something different. But, you know, I can't really say that. Perhaps I was naive.

"Let me give you the circumstances . . . On . . . July 1, the Army gave a farewell review in my honor. It was an emotional experience for me. I love the Army, regretted having to say goodbye and appreciated the enormous honor of a nineteen-gun salute, a review by the Old Guard . . . , and complimentary remarks by [the Secretary of Defense] and Army Chief of Staff. . . . Phil Campbell and Richard Ashworth came to that review. I thought it was a very gracious thing to do, and I appreciated it. On the following day Richard Ashworth called me as an old friend, saying that he and Phil would like to come by on my last day in office and express their gratitude for the job that I had done, and at the same time bring me up to date on the Crested Butte situation. In retrospect, I probably would say again, as I did on July 2, 'Come on by. I'll be glad to see you.' "

Having said that, Callaway went on to the Arber memorandum. "Mr. Chairman, as you know, I have requested repeatedly from this committee that I be allowed to see a copy of the so-called 'narrative,' but you have denied this request. I believe that it is fundamental to the American system of justice that a man be allowed to know the allegations against him and face his accusers. . . . Surely you realized that I would be handicapped having to answer allegations that have not been made known to me."

The accusation infuriated Haskell, who denied that the memorandum was the basis for the hearings. He recalled a letter Callaway had written demanding that Arber, Glass, and Levin be called before the committee to testify. And he asked if Callaway would like him to subpoena them. Callaway replied that "My problem is I have been twisting in the wind for a month. To wait again for another three or four weeks is not what I want." He withdrew his request for the subpoenas but offered an alternative: noting that Miles Arber was present, Callaway asked that he be called as a witness. If Arber would testify, Callaway would not ask that Levin and Glass appear. Haskell replied, "I think . . . we will recess these hearings until right after the Easter recess; we will issue subpoenas . . . to the three gentlemen."

"You are aware that I requested that not be done," Callaway said. "I have a personal commitment, my daughter is getting married in that week, my desire is to get this behind me as soon as possible and I request that we finish today, with or without witnesses, please, sir, finish today."

Haskell was resolute in the pose that the subcommittee's "integrity" was at stake. Callaway had asked, and Callaway would receive, whether he liked it or not. And he didn't like it. "As I understand it," he said, "at the time you quite properly read me my rights, I waived some of those rights, such as the right to remain silent. I will happily waive the right to know more information at this time. I will waive it fully, I will not complain, I will waive the right to have additional information if we can continue and end these trials . . . I would like to finish it."

The display was a brutal one, and it was also bizarre. Arber was seated in the hearing room and Haskell had already obtained a subpoena for him. Asked if he was willing to testify, Arber said, "I am . . ., [but] not without a subpoena." Nodding, Haskell then recessed the hearings for a month, until May 13. It didn't make any sense, unless you enjoyed the suffering in Callaway's face.

It was a peculiar course of action. Virtually all of the witnesses had already testified, and each of them was in agreement on the subject of improper influence. Their responses to the following question were unanimous:

"Did Howard H. Callaway or any person known to you to be associated with him or with Crested Butte Development Corporation offer you anything of value or threaten or pressure you in any way to reach any decision you may have reached or change any decision you may have changed with respect to any matter having to do with the Crested Butte Ski Resort at any time from 1969 to today?"

A good question. A hard question. A question with six "anys" and four "ors" in it! And this is what the witnesses replied:

Mr. MCGUIRE: "No."
Mr. RESLER: "Absolutely not."
Mr. ASHWORTH: "None whatsoever . . . ."
Mr. RUPP: "No, they did not."
Mr. LUCAS: "No."
Mr. WILKINS: "No, sir."
Mr. PIERCE: "Absolutely not."
Mr. EDSTROM: "No, sir."
Mr. LARSEN: "No, sir."
Mr. CARR: "No, sir."
Mr. BUTZ: "No, sir."
Mr. CAMPBELL: "No, sir, they did not."
Mr. MINOW: "No, sir, they did not."

NO REDEMPTION

When the hearings were reconvened thirty days later, Callaway had been twisting in the wind for so long that he seemed dehydrated. For more than two months his reputation had declined, despite the testimony of every witness repudiating charges of political pressure and wrongdoing. Actually, it didn't matter what the witnesses said. In the inverted atmosphere of post-Watergate Washington, a denial is usually regarded as a form of polite confession. In any case, Callaway couldn't win: the "appearance of impropriety" was established by the fact of the Senate's investigation. And predictably, Callaway's own testimony, coming a month after the hearings were recessed, was reported for what it was: the denial of a disgraced pol.

In Washington, the story was presented to the public as a latter-day version of the David and Goliath saga. Filling in for the Philistines were (appropriately enough) that small but fearsome, subculture known as the Republicans. The "Chosen People," of course, were the Democrats. And yet, a fair examination of the record reveals that Callaway/Goliath is a hardworking family man whose powers had been wildly exaggerated. David, on the other hand, was impersonated by Sen. Floyd Haskell, whose own dimensions were minimized by media sympathetic to the Democrats—the intention being to excuse David's blatant resort to dirty tricks (I refer to the sling containing mud).

This is a city that can only be understood through anecdotes told about it. General descriptions of Washington's ways and means are bound to fail because it is impossible to say anything that's completely true, or entirely false, about a town whose raison d'être is compromise. The city is *defined* by its ambiguities, its approximations, and reasonable facsimiles. A sort of urban Wonder Bread, familiar to all and theoretically capable of feeding millions, the capital is aglutinous and insubstantial at heart, ultimately unknowable and depressing to contemplate. It's a place where prestige is routinely confused with power when, in fact, the real power resides in the most boring process of an unreachable bureaucracy, its anonymous "transmission belts," red tape, and ringing phones.

And yet, prestige *is* rewarded here, just as celebrity is rewarded in Hollywood. A *reputation* for having power is bankable (and, as Callaway found out, potentially destructive). And Washington resembles Hollywood in another way, too: like its sister-city on the West Coast, it's devoted to the manufacture of images—second-rate deceptions projected upon the brain pans of a citizenry which expects little and gets . . . disappointed.

Callaway had no hope of returning to politics, but there was a chance that his reputation would be redeemed in the Senate subcommittee's final Report. He asked that the allegations against him be clearly stated, along with the committee's findings. "If the committee determines there is no evidence to support these accusations, then I respectfully request that the . . . Report say so and say I have been fully exonerated. I trust the Report will not speak vaguely and in generalities . . ."

His trust was misplaced. The Report took almost six months to prepare, during which time Callaway's reputation starved. And, over the protests of Senate Republicans, the Report was withheld from the minority until the last minute. On September 7, it was turned over to dissenting senators with the injunction that they had just forty-eight hours to analyze it and append any rebuttal they might have. Minority staffers said they were "flabbergasted" by the Report, as the GOP senators themselves made clear in a startling (and startled) dissent.

Branding the Report as one filled with "smear and innuendo," the dissenters went on to describe it as "unfair and misleading," citing as much evidence of its "bias and prejudice" as they could type out in two days. Pointing to Senator Haskell's opening statements as "damning evidence of bias," the Republicans commented that "the timing, the tenor and the content" of his remarks "removed forever any question regarding the chairman's objectivity. The chairman abandoned the role of an unbiased factfinder to assume the role of an outspoken advocate. The case against Callaway became *his* case and *he* argued to the public what he thought the facts were *before* all the evidence was in." (Emphasis in original.) It was a ringing rebuke, and it was accurate. The Report it described is a most unsenatorial document, invoking "lingering doubts" and "serious concerns" about a host of resolved issues. E.g., while there was "no evidence" that the Pentagon meeting was initiated by Callaway, and while the witnesses testified that it had no effect, the Report concludes that it was "at least translatable into the appearance of improper pressure." Translatable into an appearance? What does *that* mean? Similarly, the Report finds that "there is no positive evidence" of Callaway's having influenced the Forest Service; "On the other hand," it adds, "this possibility cannot be excluded." (Thus is the virtue of open-mindedness reduced to a vice: *why*, if there's no evidence, should the possibility not be excluded?)

Elsewhere, the Report suggests that witnesses have perjured themselves: repeatedly, summations of sworn testimony are introduced with the phrase, "The subcommittee has been asked to believe . . ." But, of course, no one is ever called a liar. In yet other places, we're told that Callaway's conduct "can raise the specter of improper pressure" and that it "poses . . . serious questions of propriety." Spectors, of course, are insubstantial things, and the purpose of Senate hearings is to *disperse*, rather than raise them—just as a Senate Report is supposed to answer questions rather than rephrase them. The document, in short, commits analytical mayhem, reaching its conclusive innuendos only by ignoring the evidence given by *every* witness.

JUDGING REPUTATION BY PROXY

The fact of the matter is that the damage done to Callaway's reputation and career was so great that Senator Haskell had placed himself in jeopardy. Should Callaway, in ruins, be found innocent, he would seem a martyr—and Haskell, as the instrument of his unravelling, an imprudent man at best, a persecutor at worst. At the very least, "reasonable doubts" of Callaway's innocence would have to be sustained if Haskell was not to suffer the consequences of his inquisition. One might think that in view of the witnesses' unanimity, such doubts could not be sustained. But "reasonable" is, in the end, a matter of majority opinion. And there were seven Democrats and only four Republicans on the Haskell subcommittee: it should not have been too hard to get a majority to approve the Report.

And yet, the subcommittee was an unusual one. Among the seven Democrats were no fewer than three candidates for places on the party's national ticket: Henry Jackson, Frank Church, and John Glenn. That in itself made the de facto impeachment of Ford's campaign manager highly suspect but Jackson, at least, had the intelligence to wash his hands of the affair from the beginning. He would not participate in the hearings, he said, or cast any vote, because it might give the appearance of partisan impropriety. This pose reduced the voting majority of Democrats to two. The majority was narrowed even further, however, when Sen. John Glenn proved unable to attend all the hearings. Glenn could have given his proxy to Haskell, but he declined. He didn't think it proper to judge a man's reputation by proxy.

With the proxies of Jackson and Glenn withdrawn, the Democratic majority consisted of a single vote. It belonged to Sen. Frank Church. Like Jackson, he was a Presidential candidate and might have excused himself from judgment on that ground alone. But there was another reason for him to demur: like Glenn, he would be unable to attend any of the hearings. He had two good reasons, then, to withhold his proxy from Haskell. But he did not: too many political debts could be incurred by casting it, or having it cast for him. Later, this became something of an embarrassment: Church's proxy vote on the Report put the seal on Callaway's reputation, and he was asked about it by Rick Coffman, an Idaho newspaperman. Church said he was not a Presidential candidate at the time the hearings were called, having declared for the Presidency on March 18. Coffman pointed out that Church already had raised a sizable campaign chest before that time and had, moreover, became eligible for federal funds months before. He could hardly deny that he was running for President. In any case, his failure to attend a single hearing might be seen as reason to disqualify himself from voting—especially in view of the fact that he had not read the Report. How could he allow his proxy to be cast under those circumstances?

Apparently, the questioning disturbed Church. A week after the Report was approved by a 5–4 majority, with Haskell casting Church's vote, a new vote was ordained. Its purpose was to afford Church the opportunity of casting his own vote: the decisive proxy left a queasy impression. Unfortunately, Church somehow failed to attend that meeting, too, and, at the last minute, Haskell endured the ignominy of having to cast the putative proxy a second time. He could hardly be blamed: if he failed to get a majority to endorse the Report, the hearings would be revealed as a fraud.

Months after the election had been lost, Callaway wandered through the editorial rooms of the *Washington Post* and other publications, looking for exoneration in print. Like the Ancient Mariner, he wouldn't let the issue die, but "stoppeth one in three." And like that old sailor, he received little solace. *Post* editor Ben Bradlee listened to his tale and sighed and shrugged. *"C'est vrai,"* he says, *"mais ce n'est pas une histoire."* And Bradlee was right. Boy, is it not a news story! Callaway is no longer a political figure of national importance. His reputation, having been ruined, is suddenly a private matter. Besides, Callaway has had his day in the hearing room, and it dragged on for months. The result was 1600 pages of turgid testimony about matters of fleeting relevance. Included in the hearings are scores of maps, excruciating chronologies of minor events spanning seven years, and literally hundreds of exhibits ranging from "Early Warning Alerts" to letters, memoranda, and telephone logs—all of it cresting in a 196-page Senate Report that reads like an investigative article in *Rolling Stone:* "the specter is raised," "nagging doubts persist," "there is no positive evidence but . . ." Indeed, the Senate's investigation of Callaway's activities generated so much detail that its product is, from beginning to end, almost unreadable. Any reasonable man (Sen. Frank Church, for instance) would, upon hefting these tomes of testimony, shake his head and conclude that "where there's smoke, there's fire." Ipso facto, Callaway must be a walking inferno. But . . .

("No.")

("No, sir.")

("Absolutely not.")

("No, sir, they did not.")

NOT FOR ATTRIBUTION

There is only one other anecdote to recount about the affair, and its says more about Washington in the Seventies than it does about Bo Callaway or his accusers.

While putting together the story of the character assassination of Bo Callaway, as performed by the inmates of the Senate, I had cause to interview a man who'd worked with him for years, and considered himself Callaway's friend. We met outside the Washington Visitors' Center, and he was obviously agitated at the thought of our meeting. He didn't want to be seen talking to a reporter.

"Let's walk over there," he said, gesturing to a park filled with trees. As we strolled, we made small talk about a third world war and then, locating a bench, we sat down. "I want you to understand something," he said, "before I'll talk to you."

"Okay."

"You have to agree that what I'm about to tell you is for deep-background only. Maybe that's not the right phrase. What I mean is, you can quote what I say, but you can't attribute it. I don't want to be mentioned in your story, and I don't want you to characterize me in any way—not as old or young or middle-aged, not as a bureaucrat, an Army man, or a politician. If this gets out, my career is ruined. Understand??"

"Yeah. What is it?"

He paused for a second and, in the space of it, glanced at his shoulder. "If you attribute this, I'll have your head."

"I won't."

"All right. Bo Callaway is an honest man. . . ."

The conversation lasted thirty minutes, but that was all he had to say, really. And I wondered about a city in which a good reputation is "not for attribution."

REBUTTAL REMARKS TO SPECIAL ORDER ON ROMANIA OF HON. EDWARD KOCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, yesterday, August 2, the gentleman from New York (Mr. KOCH) had a Special Order on Romania and I think his com-

ments deserve rebuttal. I do not believe that Mr. KOCH is properly analyzing the situation in Romania, and quite frankly, on this particular subject he is ignoring the intricacies of the present diplomatic situation. A number of points must be made:

Romania pursues a somewhat independent foreign policy, more so than any other Warsaw Pact country.

Romania does not have Soviet troops stationed within its border. It does not allow participation of its forces in Warsaw Pact military exercises and does not permit Warsaw Pact troop manueuvers within its territory.

Economically, Romania has broader ties with the non-Communist world than any other Warsaw Pact country. It is the only Warsaw Pact country that has joined the World Bank and the International Monetary Fund. It leads the other members of COMECON in the proportion of trade—now more than 55 percent—that it conducts with the West.

On ideological issues, Romania frequently is at odds with the U.S.S.R. For one, the Romanians are among the strongest champions of the right of all Communists parties to chart their own course rather than follow the lead of Moscow. Romania has extended this principle to apply to Western Europe Communist parties, thereby taking a stand on "Eurocommunism" which clearly conflicts with the Soviet position.

At Helsinki and at the Belgrade follow-up conference on CSCE, the Romanian position on some issues is closer to that of the West or the neutrals than to the Soviet position. In other international fora, including the United Nations, the Romanians sometimes depart from the Warsaw Pact line in ways that can be helpful to U.S. interests.

Unlike other Warsaw Pact countries or Yugoslavia, Romania has continued to maintain diplomatic relations with Israel after the 1967 Arab-Israel war and has a constructive working relationship with the Israelis.

Romania did not participate in the oil embargo and in fact increased shipments of petroleum products to the United States during that period. However Romania is not a major oil producer.

Romania also maintains good relations with such countries as the People's Republic of China, the Democratic People's Republic of Korea, and Albania—contacts that sometimes can be useful to the United States.

As the Members know, Romania was the only country to conclude a trade agreement with the United States under the terms of the Jackson-Vanik amendment to the Trade Act of 1974.

Since the visit of President Nixon to Romania in 1969, our two countries have maintained a growing dialog on many political, economic, and commercial issues. This is evidenced through the frequent visits to both countries by high-level government officials and delegations, including U.S. congressional leaders concerned with political and trade issues.

The most important trip in recent years was that of President Ford to Romania in August 1975. During that trip he and President Ceausescu reaffirmed their commitment to improving United States-Romanian economic and commercial relations and they signed the documents bringing the United States-Romanian Trade Agreement into force.

On the evening of March 4, 1977, Romania was struck by a major earthquake. Over 1,600 people lost their lives in the disaster and more than 11,000 people in Bucharest and other areas were injured. Material losses and damage included the destruction of housing complexes, hospitals, and schools. The homes of some 35,000 families were destroyed and over 33,000 other dwellings were seriously damaged. The Romanian Government estimates total damage resulting from the quake at approximately $1 billion.

As you know, the U.S. Government's response to this disaster was quick and generous. Within days the U.S. Government offered a $25,000 cash grant to Romania and delivered 7 tons of medical supplies valued at $85,000. Soon thereafter, we provided 300 tons of dried milk valued at $470,000 and sent a team of U.S. engineers and geological experts to Bucharest to work with Romanian specialists on assessing the condition of dams, buildings, and seismographic monitoring equipment.

The Congress authorized and President Carter approved a disaster relief program of $20 million in reconstruction and rehabilitation assistance to Romania. The Agency for International Development—AID, which is administering the program, has been working closely with the Romanians.

In authorizing the grant of $20 million for disaster relief assistance, Congress indicated that this money should be spent for humanitarian purposes to assist the victims of the earthquake. I understand the supplemental appropriation bill will have the needed funds. AID has identified assistance under the program as follows: repair and reconstruction of severely damaged building structures, including housing blocks and hospital and medical facilities; replacement housing; replacement of medical and school equipment; technical assistance in construction design and repair methods; and technical assistance in seismology.

The earthquake has had a devastating impact on Romania and the full effect of it on the Romanian economy is difficult to determine. Despite the disaster assistance efforts of many countries, the burden of restoring the country's economy obviously falls on the shoulders of Romania's people. An important element in this recovery effort is Romania's ability to expand its trade with the United States.

Mr. Speaker, the United States-Romanian Trade Agreement has properly served U.S. economic interests and should continue to do so in the future. I believe extension of the waiver authority under section 402 of the Trade Act, which will allow that agreement to remain in force, is in our national interest. Its extension will aid the development of United States-Romanian economic and commercial relations and encourage the expansion of economic cooperation between our two countries on a sound basis. It also gives us some political leverage with Romania, a fact that has major geopolitical implications.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 27, 1977.

DEAR COLLEAGUE: Before the Congress adjourns for the August recess, I think it is important through our public statements to impress upon the Romanian government that the Congress is concerned about emigration from and the status of human rights in Romania.

As you know, the President has recommended a one-year extension of the most favored nation status granted Romania, even though Romania has still not completely complied with the free emigration requirements of the Trade Act of 1974. In fact, emigration from Romania to both Israel and the United States has dropped substantially during the past year. In addition, a number of questions have been raised about Romania's treatment of dissident writers and intellectuals as well as ethnic minorities including Hungarians and Germans. If, as is probable, neither House of Congress votes disapproval of the President's recommendation for continued most favored nation status, the proposed extension will take effect during the August recess. Although I personally do not support a resolution disapproving MFN for Romania, I believe that it is important for the Congress to voice its concern with Romania's record on emigration, treatment of dissidents and the status of its ethnic minorities. I am pleased that the Report of the Ways and Means Committee, recommending continued MFN, also expressed its concern about emigration and human rights. As a signatory to the Helsinki Agreement and as a beneficiary of most favored trade treatment by the United States, Romania has agreed to follow internationally accepted standards with regard to human rights and emigration, and we should indicate that we expect them to do so.

On Tuesday, August 2nd, I will reserve time for a special order to enable Members to express their concern about the human rights situation in Romania. I believe that Romania should be made aware that the Congress' willingness to continue most favored nation treatment does not mean that we are unaware of the need for careful scrutiny of past and future performance in the area of human rights. In his recommendation for continued most favored nation treatment, President Carter pledged himself to carefully monitor the emigration and human rights situation in Romania, and I believe that Congress should also indicate that it will be watching Romania's human rights performance during the upcoming year.

If you would like to participate in this special order or desire more information, please contact Sean McCarthy at x52436.

Sincerely,

EDWARD I. KOCH.

LEGISLATION TO PLACE ELK HILLS ON A STANDBY BASIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, during the time-consuming and aggravating gasoline shortage lines of 1973, who would have believed that we could have too much oil? Yet with the long-awaited opening of the Alaska pipeline, the impossible dream is about to occur—on the west coast, at least in the short term, we are going to have a huge surplus.

While there are several contributory factors, one primary cause is the lack of refinery capacity. Conversions of west

coast refineries to process the relatively heavy, high sulfur North Slope crude have not occurred as rapidly as anticipated. These refineries will be able to process only about 700,000 to 800,000 barrels per day of the North Slope oil. As a result, by the end of this year, the pipeline will be delivering 400,000 to 500,000 barrels per day in excess of present refinery capability. This figure may well exceed 700,000 by 1980.

When the pipeline is constructed from the west coast to a midland point of distribution, this North Slope oil can be disbursed over a wide area of the United States. At present, the overland distribution pipeline is undergoing the rigors of meeting Federal, State, and local environmental requirements, but it is inconceivable that this could be completed prior to 1980. In the interim, administration energy officials have been reviewing several short-term options to dispose of the surplus, including the sale of North Slope oil to Japan in exchange for Japanese-owned oil more accessible to our gulf and east coast refineries. It is my understanding that this controversial proposal has been ruled out in favor of some type of transportation through the Panama Canal to gulf coast ports.

Adding further to the surplus, we have the petroleum produced from the Elks Hills Naval Petroleum Reserve, near Bakersfield. Congress last year opened this reserve for commercial production in the wake of the Arab boycott and subsequent energy crisis. This legislation reversed the long-standing policy that the Naval Reserves would be preserved for military use in the event of a national emergency. Additionally, the Naval Petroleum Reserves Production Act of 1976 did not anticipate the surplus of North Slope oil on the west coast, which substantial production at Elk Hills would only compound.

As a result, I am today introducing legislation to place Elk Hills and the smaller Petroleum Reserves Nos. 2 and 3 on a standby basis. The 1976 law mandated that the Secretary of the Navy produce the naval petroleum reserves at the maximum efficient rate for a period of 6 years. My amendment would instead authorize the Secretary to produce the reserves at a rate sufficient to defray the costs of exploring and developing the naval petroleum reserves, to a maximum capacity for national defense purposes.

I want to emphasize that this amendment would not in any way countermand the decision of Congress to put these reserves in a production-ready status. We simply would halt mass production, at least for the time being. The Navy would still be charged with the responsibility of exploring and developing Elk Hills, so that it could be put into immediate and full production in case of a future need.

With a glut of 500,000 barrels of excess North Slope oil expected daily by the end of this year, it makes no sense to also produce Elk Hills at this time. We should reserve this valuable energy resource for future emergency requirements, whether military or domestic. In this instance, our crystal ball miscalculated, and it is time to correct the stiuation. I urge my colleagues to amend the Naval Petroleum Reserves Production Act of 1976 to put Elk Hills on production-ready standby status, until we need it.

THE PRODUCT LIABILITY INSURANCE TAX EQUITY ACT: CONSUMERS WILL BENEFIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, most discussions of product liability insurance seem to focus on the problems of manufacturers. The consumer has been somewhat overlooked.

I must confess, in the various statements I have placed in the RECORD lately which describe the Product Liability Insurance Tax Equity Act, H.R. 7711, I too have been guilty of not fully analyzing the consumer interest. So, that shall be the focus of this discussion.

The Product Liability Insurance Tax Equity Act—PLITE for short—provides that manufacturers can set up self-insurance reserve funds for product liability. Also, professionals can create self-insurance funds for professional liability, such as medical malpractice. Money paid into the trust funds so established would qualify as a deductible business expense and the reserve fund itself would be tax exempt so long as it is used properly.

Some companies and individuals might use the PLITE plan to build up a large reserve fund to cover their entire potential liability. However, I suspect that most would opt to use this plan to build a modest reserve and then use it to enable them to take a commercial policy with high deductibles.

Now, how does the plan embodied in H.R. 7711 help consumers? In my view, there are four principal ways in which enactment of this measure would be in the consumer's best interests.

First, and most obvious, is the potential savings to consumers.

The ad hoc task force on product liability, which I chaired earlier this year, found that one out of every three companies surveyed indicated that they had been forced to increase the price of at least one product line as a result of rising product liability insurance costs. And in the case of professional liability insurance, the impact of its costs on prices charged consumers of medical services is well documented.

Any proposal that might stabilize or reduce insurance costs can be expected to result in a pass-through economic benefit to consumers. This theory has already been confirmed by numerous statements I have received from corporations and individuals from around the country.

Second, PLITE offers immediate and direct relief to those who are hardest hit by the product/professional liability crisis. This will help abate the panic that has set in, and thus buy extra time in which we can work out the complex issue of tort law reform.

Meanwhile, H.R. 7711 would not itself make any change in the tort laws. Consequently, no hasty alterations occur in the respective rights and responsibilities of consumers and producers. Instead, while that debate continues, we simply make it easier for manufacturers and professionals to meet their existing obligations.

Third, we must acknowledge that a significant number of companies and professionals are today operating "bare," without any commercial coverage for liability. The task force's survey found that 21.6 percent of the firms in our four-State sample said they want product liability insurance coverage but either cannot afford it or cannot obtain it at any price. Other studies have shown that between 10 and 20 percent of all professionals are practicing today without commercial coverage.

Quite frankly, in a major liability action it would do the aggrieved party little good to sue a company or individual who has gone bare. Without a substantial self-insurance reserve fund, the defendant would simply have to declare bankruptcy and turn over the keys if the case were lost. This would be of little consolation and even less help to the plaintiff.

Without PLITE and the ability to create and maintain an adequate self-insurance reserve many firms and individuals simply will not be able to make good on major liability claims. H.R. 7711 would help protect the consumer against being left holding the bag.

In short, it does an injured consumer no good to sue a company or professional who will go bankrupt before the claim is paid. PLITE would help alleviate this risk.

Fourth, there is the very important fact that permitting the establishment of self-insurance reserve funds will create a greater incentive for manufactures to produce safe products.

The letters I have received, and the findings of our survey, indicate that in many instances the rising price of product liability insurance premiums bears little relationship to the safety record of the individual company. Consequently, commercial insurance today offers little direct incentive for stricter quality control.

In fact, there may be some psychological inducement to less stringent control. A manufacturer who has been paying ever-higher premiums and has had no claims paid out may begin to wonder what he has to show for his money.

On the other hand, a self-insurance reserve fund will be regarded as a corporate asset to be preserved and protected. Once the fund is built up sufficiently and the manufacturer no longer is paying large sums into it, then some of the annual budget allocation for insurance costs can be diverted to increased product safety efforts.

PLITE, therefore, will give manufac-

turers a vested interest in product safety. There will be an inherent attraction to comprehensive risk management.

Mr. Speaker, this has been just a quick overview of how consumers will benefit from passage of the Product Liability Insurance Tax Equity Act, H.R. 7711. I have been encouraged by the interest in this legislation manifested by some consumer interest groups. I am hopeful that many in the consumer movement will join with manufacturers and professionals in supporting this legislation, as it is to their mutual benefit.

KEMP ASKS PRESIDENT TO REJECT PRESIDENTIAL REVIEW MEMORANDUM 10

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, today in the Washington Post, columnists Rowland Evans and Robert Novak published excerpts from a document which is becoming notorious in the national security community for its vociferous advocacy of a weakened defense posture for the United States. This massive study of nearly 700 pages is filled with options concerning various modes of accommodation to the growth of Soviet military power. The sections dealing with the U.S. posture in Europe were prepared by one element of the Office of the Secretary of Defense, in the Office of the Assistant Secretary of Defense for International Security Affairs. Despite the strong recommendations of virtually every segment of relevant civilian and military opinion within the Defense Department who were asked to comment on the ISA draft, rejected it as either incompetent or thoroughly bad policy choices for any President to be forced to consider.

Needless to say, the proposals put forward by the authors or URM–10/NSC–10 would totally destroy the fabric of America's alliance structure if allowed to stand. Indeed, no alliance can be expected to survive when its most powerful member is committed to a strategy of withdrawal should a war break out. The ludicrous suggestion that outraged United Nations opinion would deter the Soviets from exploiting the fruits of military conquest must surely be the nadir of American strategic thought.

The text of the Evans-Novak column should be required reading for anyone concerned about the drift of American policy. I ask that it be printed at the conclusion of my remarks. I urge the President to publicly reject PRM–10, send its architects back from whence they came, and reassure the American public and its allies that it will not abandon Europe, should the Soviets decide to become adventuresome in Western Europe.

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending, which these advisers say would provoke Moscow and divide Washington.

PRM–10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admittng its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's National security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28–29 meetings of his Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences"—world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reason announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM–10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Weser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM–10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmament or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

PRM–10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble; in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicitly accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

THE HEAD OF HOUSEHOLD TAX EQUITY ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr Speaker, I am introducing a bill today that will allow heads of households to use the $3,200 standard deduction presently available only to married couples. The purpose of this bill is to end the unjust tax penalty on some 5 million people, who are unmarried, but have dependents to support.

Heads of households are unjustly treated by our tax laws because while they have similar expenses as married couples do in providing for their children, they are allowed only the $2,200 standard deduction for single people, not the $3,200 deduction established for married couples. The financial pressures on heads of households are greater, too, because they earn less than half the average income for married couples. The average family income for heads of households was $8,295 in 1975. The comparable figure for married couples in that year was $16,775.

The inequitable tax burden on heads of households is a recent development, but unfortunately has become worse every year. Before the Tax Reduction Act of 1975, heads of households could use the same standard deduction as married couples. However, this act set a $2,300 maximum standard deduction for heads of households, and $2,600 for married couples, thus creating a $300 gap. In 1976, the gap became $400 when heads of households were allowed a $2,400 standard deduction, but married couples $2,800. This year, 1977, the gap is $1,000 because the Tax Simplification Act set a $2,200 deduction for heads of households and a $3,200 deduction for married couples.

I believe it is time for Congress to take some action to end this inequity. The Senate has already shown its support for this bill by passing it as part of the Tax Simplification Act. However, in an unfortunate decision, a conference committee deleted it from the act on May 3d.

The proposal has wide support, though, and is endorsed by the American Association of University Women, League of Women Voters, Parents Without Partners, the National Organization of Women, the Women's Lobby, the Committee of Single Taxpayers, and the National American Singles Association.

I, therefore, urge prompt consideration of this bill. The Congress has cre-

ated this inequity, and should now begin to alleviate it.

The text of the bill is as follows:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to permit heads of households to use the standard deductions used by married persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARD DEDUCTION FOR HEADS OF HOUSEHOLDS

(a) IN GENERAL.—Subsection (b) of section 1 of the Internal Revenue Code of 1954 (relating to the rates of tax on individuals) is amended by striking out the text thereof and inserting the following:

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	14% of the excess over $3,200.
Over $4,200 but not over $5,200	$140, plus 16% of excess over $4,200.
Over $5,200 but not over $7,200	$300, plus 18% of excess over $5,200.
Over $7,200 but not over $9,200	$660, plus 19% of excess over $7,200.
Over $9,200 but not over $11,200	$1,040, plus 22% of excess over $9,200.
Over $11,200 but not over $13,200	$1,480, plus 23% of excess over $11,200.
Over $13,200 but not over $15,200	$1,940, plus 25% of excess over $13,200.
Over $15,200 but not over $17,200	$2,440, plus 27% of excess over $15,200.
Over $17,200 but not over $19,200	$2,980, plus 28% of excess over $17,200.
Over $19,200 but not over $21,200	$3,540, plus 31% of excess over $19,200.
Over $21,200 but not over $23,200	$4,160, plus 32% of excess over $21,200.
Over $23,200 but not over $25,200	$4,800, plus 35% of excess over $23,200.
Over $25,200 but not over $27,200	$5,500, plus 36% of excess over $25,200.
Over $27,200 but not over $29,200	$6,220, plus 38% of excess over $27,200.
Over $29,200 but not over $31,200	$6,980, plus 41% of excess over $29,200.
Over $31,200 but not over $35,200	$7,800, plus 42% of excess over $31,200.
Over $35,200 but not over $39,200	$9,480, plus 45% of excess over $35,200.
Over $39,200 but not over $41,200	$11,280, plus 48% of excess over $39,200.
Over $41,200 but not over $43,200	$12,240, plus 51% of excess over $41,200.
Over $43,200 but not over $47,200	$13,260, plus 52% of excess over $43,200.
Over $47,200 but not over $53,200	$15,340, plus 55% of excess over $47,200.
Over $53,200 but not over $55,200	$18,640, plus 56% of excess over $53,200.
Over $55,200 but not over $67,200	$19,760, plus 58% of excess over $55,200.
Over $67,200 but not over $73,200	$26,720, plus 59% of excess over $67,200.
Over $73,200 but not over $79,200	$30,260, plus 61% of excess over $73,200.
Over $79,200 but not over $83,200	$33,920, plus 62% of excess over $79,200.
Over $83,200 but not over $91,200	$36,400, plus 63% of excess over $83,200.
Over $91,200 but not over $103,200	$41,440, plus 64% of excess over $91,200.
Over $103,200 but not over $123,200	$49,120, plus 66% of excess over $103,200.
Over $123,200 but not over $143,200	$62,320, plus 67% of excess over $123,200.
Over $143,200 but not over $163,200	$75,720, plus 68% of excess over $143,200.
Over $163,200 but not over $183,200	$89,320, plus 69% of excess over $163,200.
Over $183,200	$103,220, plus 70% of excess over $183,200.

(b) WITHHOLDING.—Paragraph (1) of section 3402 (f) of such Code (relating to withholding exemptions) is amended—

(1) by striking out "and" at the end of subparagraph (F),

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a semicolon and the word "and", and

(3) by adding at the end thereof the following new subparagraph:

"(H) in the case of an employee who is the head of a household (as defined in section 2(b)) and who elects the application of this subparagraph, an additional zero bracket allowance.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act apply with respect to taxable years beginning after the date of enactment of this Act.

REPREHENSIBLE PROCUREMENT PROCEDURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, (Mr. HARSHA) is recognized for 10 minutes.

Mr. HARSHA. Mr. Speaker, if there is but one lesson we have learned from the Watergate experience, it would be that under our system of government, from the President of the United States on down, no man is above the law. This is especially true for Government officials such as the Director of the CIA, the Director of the FBI, Members of Congress, and Federal employees such as civil service contracting officers holding positions where integrity is implicit and honor is synonymous with the job. As a Member of Congress, I know that if a law is bad, it should be changed. As an exprosecutor, I also know that regardless of popularity, good or bad, any law, to be effective, must be enforced.

I can still remember the Comptroller General's words "plainly illegal" and I had my staff look this up the other day and found that they pertained to the actions of an Air Force procurement official at Tinker AFB Oklahoma City over 8 years ago. In the CONGRESSIONAL RECORD of June 4, 1969, volume 115, page 14724, 91st Congress, I cited the General Accounting Office Decision B–161722 which resulted from a complaint filed at that time by Mr. P. J. Kanistros, then president of Dayton Electronic Products, Dayton, Ohio, against the Air Force award of a million dollar contract to a California manufacturer in spite of the fact that the Dayton firm was the legitimate, responsible, responsive, prequalified low bidder in a two-step procurement of the AN/GPA–118 Radar. The General Accounting Office found that the low bidder had been cheated out of the award by Air Force authorizations which were "plainly illegal" and I commented at that time that I was sure no one in the Air Force had even been reprimanded for this illegal award. Unfortunately, everybody, including my own staff, had other work to do of more immediate concern, so there was no follow-up to fix responsibility.

Mr. Speaker, since that time, we have all become acutely aware of other criminal activities of Government officials, some of whom honestly believed they were acting in the name of national security, while others, for their own purposes, break the law under cover of national defense. I regret to report that after a very careful study of certain documents developed by my staff, illegal acts by employees of the Defense Department have become so common as to become routine.

Mr. Speaker, falsification of official documents is a standard procedure at the U.S. Navy Ships Parts Control Center, Mechanicsburg, Pa. During fiscal 1976, this agency conducted 6,104 contracts over $10,000 in value for a total expenditure of $374,820,000 under which 5,277 of them covered a total $341,350,000 as "exceptions" to the Armed Services procurement regulation providing for formal, open competitive bidding. I have only seen a half-dozen documents which justified the 5,277 exceptions, all of which apply to the procurement of repair parts for a radio set identified as the AN/SRC–20(A). These documents have been falsified.

Mr. Speaker, section 1001, title 18 of the United States Code provides:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by a trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both. June 25, 1947, c 645, 62 Stat. 729.

Mr. Speaker, on January 8, 1975, a civilian employee named S. Rusack, contracting officer, U.S. Navy Ships Parts Control Center, Mechanicsburg, Pa., signed Determinations and Findings No. NOO104–75–R–VQ29 which was one of five sequential authorizations to cover approximately $2 million in repair parts for the AN/SRC–20(A) radio under restricted bidding conditions allowing proposals for this unclassified equipment to be opened in secret, out of sight of the public, behind closed doors.

Mr. Speaker, after the bids were opened in secret, the low bidder and previous supplier of this equipment, PoliCom Inc., 1240 Stanley Avenue, Dayton, Ohio, was cheated out of approximately $1.5 million contract when the Navy quietly canceled the requirement which still exists today. The president of PoliCom Inc. is Mr. P. J. Kanistros, the erstwhile president of Dayton Electronic Products Co. who was victimized by the "plainly illegal" actions of the Air Force under the AN/GPA–118 8 years ago. The difference is, of course, that this time the culprits are Navy employees not Air Force, but the conspiracy is clear, and so is the law.

To compound the problem the officials at the Navy Ships Parts Control Center generated a series of justifications to authorize noncompetitive negotiations

for radio set spare parts, one of which was PTWA44/6258/0747 resulting in an award to Teledyne Lewisburg under contract NOO104–77–C–0187 announced after the fact in the Department of Commerce Business Daily, May 3, 1977, page 26, column 3, covering six units of the SRC–20(A) power amplifier for $58,296.00, making an average unit price come to $9,716. More importantly, however, is the fact that the SPCC officials ignored the $3,510 unit price submitted by Poli-Com Inc., under the earlier solicitation NOO104–75–R–VQ29 for the same power amplifier, simultaneously denying Poli-Com an opportunity to compete for this small requirement.

To have the SPCC officials certify that Teledyne Lewisburg, Post Office Box 326, Industrial Park, Lewisburg, Tenn., is the only manufacturer in the United States capable of delivering power amplifiers within the shortest possible time is manifestly false, since Admiral Corp. is just now winding down production of the AN/SRC–20(A) radio set, and Poli-Com in Dayton stands ready with inventory on hand. This is a small loss to the taxpayer, but the key to it all is the basic falsification of the official records to show as fact something that is not a fact. For an agency charged with the responsibility of obligating $400 to $500 million a year of the taxpayers money, this kind of procurement procedure cannot be tolerated. I cannot ascribe to their motives, but the record will attest to their deeds.

I do not wish to burden the record with a lot of technical data, but because of the seriousness of the matter and the grave ramifications to follow, it is important to present as complete a summary as possible pertaining to the Navy procurement of the AN/SRC–20(A) radio. This transmitter-receiver was introduced to the Navy inventory over 15 years ago under an initial contract with Collins Radio, Cedar Rapids, Iowa. Subsequent competitive bids resulted in awards to various manufacturers at difference prices over the years including Stewart Warner, Teledyne, Beaconning Optical, Dayton Electronic Products, and Admiral Systems Corp. The AN/SRC–20(A) is a 3,500-channel unit produced under awards to Teledyne, Dayton Electronic Products and Admiral Systems.

A complete set of manufacturing drawings had been produced by Dayton Electronic Products and delivered to the Navy for approximately $200,000. Microfilm of these very drawings formed the basis for subsequent production procurement under open, competitive bidding through Navy Electronic Systems Command, Washington, D.C. Invitation NOOO39–72–B–0257 offered at $5 per reel—15 reels—to any and all firms interested in estimating the job. This action resulted in heavy competition and award of Contract NOOO39–72–C–0292 with Admiral Systems. At the time of solicitation, the Navy stipulated that the delivery schedule was firm, and that any deviation from the 270-day first-article, and 19-month production schedule would be cause for rejection of bid as nonresponsive. After the award to Admiral, the situation was altered apparently. The delivery schedule was relaxed, allowing 420 days for preproduction units and production to begin in 40 months after date of contract.

Following the award of contract to Admiral for the complete radio, subsequent requirements for repair parts to support the thousands upon thousands of these radio sets in service came under the procurement cognizance of the Electronics Supply Office, Great Lakes, Ill.

Approximately 1974, the Navy elected to close the ESO facility, so the procurement cognizance for fleet requirements was transferred to the Navy Ships Parts Control Center, Mechanicsburg, Pa. On January 8, 1975, Navy SPCC issued D. & F. 75–R–VQ–29—cited above—under the allegation that the use of formal advertising is impracticable because the data available is not adequate to assure that the part or component will perform the same function in the equipment as the part or component it is to replace. This D. & F. was signed by Navy civilian employee S. Rusack identified as contracting officer. This statement is false. To allege that drawings for this ancient equipment do not exist is absurd. Determinations and Findings 75–R–1740 dated March 5, 1975, employs identical language and is signed by S. Rusack. Also 76–R–2601 dated May 21, 1976, signed by Rusack, carries the same allegation, while 76–X–5722 signed by M. Slusser states "fully adequate data is not available and cannot reasonably be made available." The D. & F. 76–R–0547 is unsigned and undated, citing only NPD 3–201.50(B). These five documents formed the justification for solicitations of radio set components of the value of which was approximately $2 million, and the lowest, responsive, responsible bidder was the previously successful producer of similar equipment, Poli-Com Inc., Dayton, Ohio.

Under a preaward survey conducted at the Poli-Com facility, on April 6, 1976, Maj. Thomas A. Jones, Chief, Production Division, DCASMA, Dayton, Ohio, AV–850–6496, Survey NOO104–76–R–0547, serious S3605–A62004P(N), went on record to state:

> The Board met to discuss this pre-award and after an evaluation of all the points, the Board unanimously agreed to a "no award" . . . there was no complete government controlled data package with the pre-award and numerous phone calls have been made to SPCC to no avail. The following comments summarize the evaluation: From a production standpoint, the proposed contractor, Poli-Com, is capable of providing the items as quoted. However, without adequate data package, or detailed clarification of the current data in Navy files, the U.S. Navy will be faced with undue administrative delays, requests for clarification and deviations and the high possibility of justified claims.

Mr. Speaker, you may find it hard to believe, but here we have DCASMA, Dayton demanding drawings from the Navy—to no avail—under five procurement actions themselves justified for informal procurement on the false allegation that drawings do not exist. Even in the days of Mack Sennett comedies, the writers would not have dared to advance any concept of military procurement as lunatic as this. The Navy SPCC decided to cancel these requirements which effectively cheated Poli-Com out of the awards to which it was entitled. Of course, PCI protested this action to the General Accounting Office.

December 21, 1976.—In a conference held by Mr. Richard Martin, attorney for the GAO, seven Navy people met with Mr. P. J. Kanistros, including the following people from Mechanicsburg SPCC: S. Rusack, B. D. Share, L. R. Lines, and C. S. Chronister. These Navy employees repeatedly stated that the drawings for the AN/SRC–20(A) were "not available." They had no comment when Mr. Kanistros produced on the conference table several reels of the very drawings the Navy claimed did not exist. At that point Kanistros offered to withdraw his protest, provided the Navy would reinstate the solicitations and award the contracts to PCI to which they were already entitled. The SPCC representatives rejected this offer, knowing full well that their secret plans to award the entire package to the Small Business Administration would be an accomplished fact within a short period of time. These mendacious, cunning and devious government employees were unaware that a parallel inquiry on the subject resulted in a premature disclosure of their plans later on that same day.

Unknown to the participants in that December 21, 1976, meeting, a letter from the Secretary of Navy was in the mail dated December 16, 1976, signed by Mr. H. Robert Ferneau, the Special Assistant to the Secretary, which stated, in part:

> SPCC with the assistance of NavElex has now located a complete microfilm set of these drawings in the files of the Naval Ship Engineering Center, Hyattsville, Maryland, and is initiating procurement action on the items involved in the cancelled solicitations as well as other AN/SRC–20 parts whose procurement was held up pending resolution of the data question. The Small Business Administration has expressed interest in supplying these AN/SRC–20 parts under its Minority Business Enterprise Contracting Program pursuant to Section 8(a) of the Small Business Act. SPCC anticipates a solicitation for the AN/SRC–20 parts with the SBA.

Mr. Speaker, the vicious part about this situation is not that the Navy finally found their drawings, but the SPCC personnel had secretly decided to hand off a $2 million award under the SBA 8(a) program which automatically carries a higher price to a firm subsequently indentified as Oklahoma Aerotronics based only its minority ownership allegation. In other words, the previously denied existence of drawings was refuted, but the implication is clear that the quality of the drawings is such that any firm, even one without any previous experience in the manufacture of the AN/SRC–20 radio could make a satisfactory finished product in accordance with the specifications and within the time required.

Mr. Speaker, the ignorance of the SPCC procurement officials is appalling. They were obviously unaware that the Small Business Act, Public Law 85–536, July 1970, part 124 SBA rules and regulations, amendment No. 5 and OPI–20 brochure, specifically note that—

> The SBA will NOT accept subcontractual opportunities whenever a small business concern may suffer a major hardship if a procurement is offered to the 8(a) program.

Naturally, any give-away under the 8 (a) program would be fatal to Poli-Com, so the 8(a) project was scrapped for yet another attempt to exclude PCI from the market.

March 10, 1977.—General Accounting Office decision B–187086 concluded that:

It is clear that at the time of the cancellations, adequate specifications did exist within the Navy. We have no indication that prior to the RFP cancellation SPCC made any effort to determine if a data package was available within the Navy. Based on that record, we cannot say that the cancellations were justified.

Mr. Speaker, this conclusion on the part of the Comptroller General is supported by the Ferneau statement of December 16, 1976—cited above—and a letter from W. R. Dowd, Jr., rear admiral, SC, U.S. Navy, Naval Supply Systems Command dated 11 February 1977 which repeated, in part:

The central issue involved here is whether the specification provisions of the original solicitations were adequate for contracting purposes. After review of the recommendation of the Defense Contract Administration Services Management Area, Dayton, Ohio, that no awards be made because of specification inadequacy, SPCC concluded that the specifications were in fact inadequate and that the solicitations had to be cancelled. The fact that drawings and field changes thereto have now been located and revised testing procedures have now been developed will enable SPCC to competitively resolicit for proposal and hopefully award contracts for these needed items. However, we can find no justification for negotiating "sole-source" with POLI–COM to supply these items.

It is interesting to note that Admiral Dowd was quick to find justification for the noncompetitive award of contract 77–C–0187 with Teledyne Lewisburg to pay $9,716 each for a power amplifier PCI offered to manufacture for $3,510, obviously in full agreement with SPCC policy to withhold contracts and contract opportunities from PCI.

February 23, 1977.—The SPCC officials released a letter request for technical proposal NOO104–77–R–WR79 covering substantial requirements for the components of the SRC–20(A) radio. Authorized by J. F. Minahan, contracting officer, and R. H. Brydon (A/C 717 766–8511, extension 3035) it is stated that:

The government's previous experience in the procurement of components for the AN/SRC–20 Radio Set has proven that the drawings, specifications and technical data in the government's possession are insufficient to properly produce and manufacture the component.

In addition, it says:

Based on the urgent need and lack of complete documentation for supply of these items, only sources who have previously supplied these items or have the complete documentation and capability to supply them within a short time frame to meet the Navy requirements will be solicited.

Then, they add the key to the mystery:

Pricing will not be submitted with the technical proposal. This will be requested on a subsequent request for proposal (RFP) issued to those offerors who have submitted an acceptable technical proposal consisting of all the required documentation.

Mr. Speaker, the fact that the Secretary of the Navy and Admiral Dowd state that the drawings are perfectly acceptable for manufacturing purposes, Minahan and Brydon dispute this in their solicitation so slyly packaged and add something never before seen in the history of military procurement. These people proposed to solicit quotations under an informal basis in phase II of this action. In other words, the bids accepted by the Navy were again to be opened in secret, behind closed doors, out of sight of the public. This is directly contrary to the regulation covering letter request for technical proposals as all bids are to be opened publicly. The significant part about this is that informal request for proposals allows the contracting officer unlimited latitude to demand revised proposals or "best and final offer" in a series of roulette spins until the right face appears in the winner's circle. The best example of such a tragedy is documented in Report No. 94–1383, 94th Congress, 2d session, House of Representatives, Mr. BROOKS, from the Committee on Government Operations 29th report dated August 3, 1976, entitled "Questionable Contract for Mobile Field Radios by Department of the Army." This is a documented outrage where the legitimate low bidder was cheated out of the production, while the "winner" was paid over $3 million more than required in spite of the fact that it took four rounds of bidding before this could be accomplished.

Mr. Speaker, the LRFTP NOO104–77–R–WR79 was modified on February 23, 1977, to be replaced by Request for Proposal NOO104–77–R–WR79. The closing date is stated to be 4 p.m. on August 3, 1977. The Navy Ships Parts Control Center is right back where it started on January 8, 1975, where S. Rusack falsified D&F 75–R–VQ29. In the hands of legitimate procurement officials, delivery of this much-needed equipment would have already been accomplished. We cannot allow this farce to continue, and as soon as I can assemble some additional data, it will be my recommendation to the Secretary of the Navy to close the SPCC procurement office altogether and forever, transferring the contracting function to the Navy Purchasing Office, Washington.

Mr. Speaker, you might be interested in the following summary of the last procurement conducted by the NPO Washington, D.C. under solicitation 72–B–0257 covering the entire AN/SRC–20(A) radio set which resulted in award to Admiral Systems Corp., the lowest responsible bidder for the basic requirement plus the optional requirements. Note that the entire radio was priced at $10,872.00, as compared to the SPCC contract with Teledyne announced May 3, 1977, for the power amplifier, a small part of the overall radio, priced at $9,716 each. It is a crime. In this instance, we cannot afford to report the SPCC actions as "plainly illegal" and then forget it. I intend to coordinate my files through the office of the U.S. attorney for prosecution.

Bidders	Basic requirements				Optional number of units listed below								With options total bid
	108 each SRC–20	52 each SRC–21	144 each URC–9	71 each C–3868	1 each SRC–20	108 each SRC–20	1 each SRC–21	52 each SRC–21	1 each URC–9	144 each URC–9	1 each C–3868	71 each C–3868	
Allied Dare	9,600	6,480	4,680	128	9,200	9,200	6,250	6,250	4,380	4,380	126	126	$4,015,034
Clavier	10,125	8,633	3,560	200	9,125	9,125	8,633	8,633	3,560	3,560	200	200	4,030,512
Admiral	10,872	6,043	4,441	156	9,858	7,925	5,409	4,452	4,063	3,465	134	132	3,735,155
Beacon'G	11,017	6,375	4,300	225	11,017	10,910	6,375	6,350	4,300	4,290	225	225	4,298,726
Lehigh	10,741	6,700	5,262	240	10,510	9,832	6,526	6,056	5,118	4,713	196	186	4,351,842
Esco	12,163	7,403	5,618	225	12,163	12,163	7,403	7,403	5,518	5,518	225	225	5,032,654
Teledyne	14,782	7,627	6,108	334	38,908	12,003	20,249	6,457	17,206	5,487	890	258	5,359,000
Depco	19,204	10,856	8,230	201	28,000	20,000	15,800	11,000	12,400	8,500	315	225	7,811,990

	Without option	With option
Allied Technology, Dare Division, Troy, Ohio	$2,056,768	$4,015,034
Clavier Corp., Huntington, N.Y.	2,069,256	4,030,512
ASC Systems (Admiral), Chicago, Ill.	2,139,283	[1] 3,735,155
Beaconning Optical & Precision Ltd., Montreal	2,156,511	4,298,726
Lehigh Electronics, Beverly, N.J.	2,283,196	4,351,842
Esco Corp., Dayton, Ohio	2,523,527	5,032,654
Teledyne, Lewisburg, Tenn.	2,918,466	5,359,000
Dayton Electronic Products, Dayton, Ohio	3,840,015	7,811,990

[1] Awarded Admiral Systems Corp., with optional requirements.

Notes: Maximum bid total based on maximum options. Bids opened Mar. 30, 1972 Naval Electronics Systems Command, Navy Purchasing Office, Washington, D.C. NOO039–72–B–0257.

TRUTH-IN-SAVINGS—A GROWING NEED FOR LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today individual consumers often lack the basic information necessary for them to meaningfully compare different savings opportunities. This lack of information causes confusion, misunderstanding and

economic loss for the consumer. In order to assist consumers I plan to reintroduce legislation designed to require standardized disclosure of pertinent savings account information. This legislation will be entitled the Truth in Savings Act.

The Truth in Savings Act is designed to provide the consumer with the information he needs to know to choose the savings account which will be most advantageous for him. The act requires disclosures of the terms and conditions of earnings on individual savings deposits. The more important disclosures include the annual percentage rate, the annual percentage yield, the minimum length of time funds must remain on deposit in order for earnings to be payable at the stated annual percentage rate, and the method used to calculate the interest earned. Under this legislation, all of this information must be clear and concise, and must be made available upon request, as well as at the time of the establishment of savings deposit account. These disclosures afford the consumer the opportunity to make an informed comparison of the savings options available to him.

According to the American Bankers Association, there are some 50 different methods being used to calculate the amount of interest earned on a savings account. Without these disclosures the consumer has no way of knowing what method is being used or how this affects the amount of interest he receives. A study on this subject made in 1970 at Kansas State University by Mr. J. Pinson, entitled: "Truth in Savings," found that many savings institutions were unable to adequately describe the method they used to calculate interest earned on accounts. The same study showed that it is possible for two institutions with similar earnings rates to vary by as much as 170 percent in the amount of earnings they paid on a specified 6 month savings program.

A similar problem exists with respect to NOW accounts. A saver earning 4 percent in a NOW account might decide to put his savings in another account earning 6 percent. The saver might not realize, however, that if, that 6-percent interest rate is being paid on the lowest balance in the account during each month, he might earn more by sticking with the 4-percent NOW account, if the interest is paid from day of deposit to day of withdrawal. The Truth in Savings Act will provide the saver with the information he needs to know to make the right choice.

The act will require every advertisement relating to the amount of earnings payable on an individual savings deposit account to include specific disclosures. Those who violate the act would be subject to civil suit and, in the case of a willful and knowing violation, would be subject to criminal liability.

There are many factors in the terms of savings deposit agreements which, when added together result in higher or lower interest yield for the saver. Some of these factors are: Charges for withdrawing funds at a certain date in the interest period and charges for withdrawing funds too frequently or for too large an amount. In addition, minimum balances are sometimes required in order to earn interest on an account. If consumers are unaware of these factors they can very well work to their detriment. With this information disclosed, savers will be able to make an informed decision as to when and how to save. They will be aware of the contract provisions of their account with their savings institution.

As chairman of the Banking Committee's Subcommittee on Consumer Affairs I intend to pursue this legislation in the coming session of Congress. Legislation of this type will not only increase competition among financial institutions, it will also benefit consumers by increasing their understanding of savings accounts and by helping consumers to make better use of their hard-earned dollars.

TRIBUTE TO THE HONORABLE PETER W. RODINO, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LEFANTE) is recognized for 5 minutes.

Mr. LE FANTE. Mr. Speaker, New Jersey's 14th Congressional District, which I represent, became the recipient of a lasting and outstanding honor. Jersey City State College has established an Institute of Criminal Justice and dedicated it to the doyen of our State's delegation, PETER W. RODINO, JR.

Needless to say, the college made an excellent choice and a more fitting tribute could not possibly have been awarded to our colleague from Newark. Our colleague guided the House Judiciary Committee through the critical summer of 1974, and by his fairness and impeccable spirit of nonpartisanship during that crisis, won for himself the respect and admiration of all Americans.

A native of New Jersey, PETER RODINO is a graduate of Rutgers Law School, and in fact, was practicing law in early 1941 when he decided to enlist as a private in the U.S. Army. Among the first enlisted men to be given a field commission, PETER RODINO fought in both the North African and Italian campaigns, performing special assignments with the military mission of the Italian Army. Throughout his military service, he served his country with honor and distinction, being awarded both the Bronze Star and the War Cross, in addition to the many decorations which were bestowed upon him by various foreign governments.

Since coming to Congress 29 years ago, PETER RODINO has championed the needs of his district and those of the State of New Jersey. He has served his constituents well, with deep conviction and a sincere concern for their welfare. We in New Jersey were always aware of his dedication and sterling character, but it took a constitutional crisis to bring those qualities to the full attention of the Nation. PETER RODINO met that challenge and our Government is a more responsive representative institution because of it.

Today, PETER RODINO is the very embodiment of rule by law, and I for one am pleased to see that now the country and the world appreciate what we in New Jersey have known for so long: PETER RODINO is the epitome of unselfish and exceptional public service.

I congratulate my colleague from Newark on his long and exemplary career and on his most recent accolade, as well, which I am greatly honored to have located in my district: the Peter W. Rodino, Jr. Institute of Criminal Justice.

Mr. Speaker, at this time I would like to submit for inclusion in the RECORD the citation which accompanied Mr. RODINO's honorary degree of doctor of humane letters, as well as the certificate announcing the formation of the Peter W. Rodino, Jr. Institute of Criminal Justice and an article on the ceremonies which appeared in a campus publication:

PETER RODINO

Your willingness to accept and carry out the grave responsibility of chairing the Judiciary Committee of the House of Representatives in momentous deliberations has gained you the respect of your colleagues in both political parties. Your guidance of the committee during some of the most critical days in our nation's history was distinguished by its fairness and unwavering spirit of nonpartisanship. Under your leadership, the work of the committee was based, in the words of Edmund Burke, "not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality." Your patience and determination through many hours of difficult toil have earned you the admiration and gratitude of the American people.

At present, your key role in the attempt to secure legislative passage of the bill entitled "Criminal Code Reform Act of 1977," which contributes significantly to the clarity and predictability of the American legal system while simultaneously modernizing it, is greatly appreciated.

Peter Rodino, a native of New Jersey, was born in Newark in 1909. He attended the University of Newark and earned his law degree from the New Jersey Law School (now Rutgers University). He began to practice law in 1938, but interrupted his career to enlist as a Private in the United States Army in March, 1941. He was among the first to be sent overseas, and among the first enlisted men to be given a field commission. After serving with the First Armored Division in the North African and Italian campaigns, he was given a special assignment with the Military Mission of the Italian Army to consolidate operations of the British and American troops for organizing and training equipment for a new Italian Army. He was awarded the Bronze Star, the War Cross, and other foreign decorations for his outstanding military service.

Peter Rodino was elected to Congress in 1948, and for the past twenty-nine years he has served all citizens of New Jersey, and particularly his constituents from the city of Newark and neighboring communities with dedication and a responsive concern for their welfare. He has long been a supporter of Human Rights. He voted against an amendment to the House Joint Resolution (of the women's rights amendment) that would have retained discriminatory laws against women in military service. In 1956, he played an instrumental part in liberalizing American immigration policy by helping to eliminate the national origin quotas provision of the McCarran-Walter Act of 1952. Mr. Rodino rightly considers his work in this cause to be one of his most outstanding accomplishments.

Mr. Rodino was an early supporter of the Marshall Plan for a strong and free Europe. and he was among the most important speakers in support of the United Nations crusade to aid children from war-damaged countries. In his native Newark, he has had an abiding interest in community affairs

and was an early advocate of rehabilitation of delinquent boys.

Husband, father, teacher, concerned citizen, defender of human rights, and upholder of the Constitution, your example of service with integrity will be of lasting value in restoring the faith of the American people in representative Government. It is with great pride that Jersey City State College awards you the honorary degree of Doctor of Humane Letters.

PETER W. RODINO, JR.
INSTITUTE OF CRIMINAL JUSTICE

It is with a great deal of pleasure and personal satisfaction that I make the following announcement. As of this date there shall be established at Jersey City State College an Institute of Criminal Justice. This Institute typifies the urban Commitment of the College which we consider basic to our mission. It also demonstrates growth and development of the College's academic programs. Jersey City State College is indeed moving forward.

In September, 1974 the Board of Higher Education approved a Bachelor of Science Degree in Safety and Security Administration. In the Fall of 1975, 936 students enrolled in the courses offered by this new department; in June, 1976 we graduated the first 13 majors. In June, 1976, after hard work by faculty and students in the program, the Department of Higher Education approved the College's request for a change in degree designation to Criminal Justice/Fire Safety Administration. In the academic year that ends today 1600 students enrolled in the courses offered by this department, and today we are honoring 26 Criminal Justice/Fire Safety majors.

Today I am announcing a third major step in the development of the program: The establishment, at Jersey City State College, of the Peter W. Rodino Jr. Institute of Criminal Justice. We are confident that the new institute will contribute significantly to the achievment of two major goals of Jersey City State College: To strive for excellence in all our academic programs, and to enhance our contribution to the community in which we live. The primary purposes of the Institute are: 1) To focus on the problems and solutions in the field of criminal justice as related to public administration; 2) To function as the educational center for professionals serving the public in the areas of law enforcement, correctional services, probation/parole and the courts; 3) To serve as a research and testing center for new programs and policies developed by governmental and private research organizations in the appropriate fields; 4) To enable Jersey City State College to enlarge its public service mission through providing technical assistance to local agencies; and 5) To improve the understanding of the American system of justice and to provide workshops for the citizenry at large in such matters as personal safety and security.

PETER W. RODINO, JR.

Jersey City State College thanks you for your willingness to have your name associated with the new institute. I am confident that this college community, Board of Trustees, students, faculty and administration, in close cooperation with each other and the community, will bring further honor to your name. May I ask you to come forward and accept a plaque which reads:

The Honorable Peter W. Rodino, Jr., Attorney, Congressman, Humanist, to Commemorate the Establishment of the Jersey City State College, Peter W. Rodino, Jr. Institute of Criminal Justice on June 5, 1977.

HANS W. HELD,
Vice President for Academic Affairs.

COMMENCEMENT 1977 HONORS REPRESENTATIVE RODINO

Commencement, 1977, the 47th at Jersey City State College, was special in many ways. At the initiative of President William J. Maxwell, the ceremonies were held on campus Sunday, June 5, for the first time since 1964. With the Gothic Tower of Hepburn Hall as a backdrop, the College not only awarded baccalaureate degrees to 997 candidates, but honored two retired faculty members, and awarded an honorary degree to one of the country's most distinguished Congressmen.

The Honorable Peter W. Rodino, Jr., Democratic Congressman from New Jersey's 10th District, was the keynote speaker. For his twenty-nine years of service to his constituents and to the American people, most notably as the chairman of the Judiciary Committee of the House of Representatives during the Watergate Affair, an honorary Doctorate of Humane Letters was conferred on him. In addition, the College established the Peter W. Rodino Institute of Criminal Justice in his honor.

GILLIS LONG SAYS "OLD FRIENDS MAKE THE BEST FRIENDS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I do believe that community leaders and individual citizens have the responsibility for assuring that advancing age will not diminish one's right to enjoy life, to serve one's fellow man, and to be a vital part of society's mainstream. More and more older Americans have greater capacity for involvement in life's affairs. Let us make sure that all enjoy the benefits, the opportunities, and the hope of continued growth in later years.

The House Select Committee on Aging, which I chair, has concentrated a great deal of its time in developing alternatives to retirement which involve paid work, but recognizes the contribution older Americans can make and the sense of satisfaction they can derive from "volunteerism."

Representative GILLIS LONG recently addressed this issue in remarks before members of the St. Landry Parish Senior Companion Program in Opelousas, La. His remarks accentuate the need to offer retirees the opportunity to continue using their talents in meaningful ways. I share Representative LONG's view that the stereotype of the enfeebled older person—as perceived by many Americans and the elderly themselves—need not persist. The doors need not be shut on vigorous, capable, willing senior citizens who want to participate in family, community and national life.

I recommend that my colleagues read Representative LONG's thoughtful remarks with respect to the value of a senior companion program in his community which allows older workers to continue to contribute thereby deriving a purpose in life. I insert these remarks to be included in their entirety at this point in the RECORD:

REMARKS GIVEN BY CONGRESSMAN GILLIS W. LONG

It has been said that age is best in four things—old wood to burn; old wine to drink; old authors to read; and old friends to trust.

Old friends make the best friends. When King James observed this fundamental truth a few hundred years ago, he was describing the comfort and the shared experience which familiarity can bring.

I can think of no more fitting tribute for this group. Shared experience is the guiding principle and the underlying strength of the "Senior Companions."

Who better knows the fear of becoming dependent than one who has faced it?

Who better recognizes the subtle discrimination against the aging than one who has encountered it?

Who better grasps the impact of doctor's bills, prescriptions and hospital care than one who has felt it?

Who better understands that isolation leads to quiet despair? Or that individual respect and recognition are the well-spring of meaning in life?

We need look no further than this room for the answer. People like you in the senior companion program have done so much to affect the lives and minds of other senior citizens. Leaders like you in the State and local government have done much to create opportunity where it is needed, muster resources and involve people in the effort.

You could serve no better cause.

I have a deep and abiding interest in your efforts, for I have been a long-standing advocate of programs to improve the quality of life for all Americans.

Nearly fifteen years ago, I was privileged to serve Louisiana's Eighth District in the 88th Congress. It was an active Congress. Among the many initiatives we accomplished was a new federal program known as the Economic Opportunity Act.

The key sentence in that act said that "It is therefore the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation."

That is a profound statement. It says that this rich land will not let human needs go begging whatever or wherever they may be.

But in passing that act, Congress was doing much more than launching a new program. It was challenging American communities to tackle their own problems, to break new ground, to take the lead in improving local living conditions.

New approaches to the problems of the poor, the elderly, the handicapped were needed because the old solutions simply were not working. And programs of new organizational design have been spinning off the system since that time.

Job Corps, Head Start, Neighborhood Youth, College Work-Study . . . and VISTA, the forerunner to your program—these programs dealt with poverty of the spirit as well as poverty of the pocketbook.

Perhaps even more important than the specific programs initiated, however, was what took place in the spirit of the country. People became aroused. Community organizations and associations formed to provide the forum for voices in need and to pull together entire communities for a common goal.

The process of progress was underway. It is the process which carried us here to this point today.

The Senior Companions program is solid evidence of the fruits of partnership between government, community organizations, such as the St. Landry Parish Community Action Agency, and local citizens when they unite for a common cause.

At present, there are nearly 2,600 Senior Companions at work all across this Nation, helping other seniors to remain independent as long as possible and to stay in their home setting with the people and the environment they have known all their lives.

Elderly people, like everybody else in the world, need to belong to a place and a time. Uproot people from their homes, they lose that sense of belonging. Isolate them from friends and fellow residents, they lose their sense of community.

This is why your efforts and your contributions have such great value. Your determination to fight the irreversible drift toward institutionalization in nursing homes or hospitals, has particular significance for all of us.

By providing alternatives for other older Americans, you are also helping to break the stereotyped images about the elderly.

By providing companionship and services to others in need, you are entering a unique position to share the wisdom and experience of your years with people of all ages.

You, as senior companions, can be one of the most valuable links we have between the young and old of our society. America has many important lessons to learn from its older citizens—lessons which are wasted as long as artificial, institutional barriers continue to develop between generations.

As society rushes through an era best characterized by technological advancement and creature comforts, we seem to be losing the communication and interrelationships among generations that have been a part of the American family in the past.

Our expectations, our perception of progress, our very patterns of living have changed with our scarcely knowing it.

When I was a youngster, growing up on my family's farm in Winn Parish, we had very little we could count on in terms of material wealth. These were fearful times for the most part. But we lived together as a family—young ones, parents, grandparents all were part of the same household, sharing a common experience, learning from each other and leaning on each other in times of need.

Today, fewer and fewer opportunities exist for this kind of family unity.

Our mobile society has become a rootless one. Generations have drifted apart and grouped together in living arrangements as much by age as by any other factor.

In the process we have lost an identity with the older population, and an awareness of the important structural influence they play in society.

Our children grow up, move away to better jobs, new lives, and often the family ties degenerate. It is not surprising then, that those left behind become remote and cut off from the mainstream of life as the years go by.

This is where you, as senior companions, provide that vital link. You can dissolve the social isolation which leads to loneliness among the elderly.

You can establish a stronger spirit of community. And by community spirit I mean the spirit of belonging, the spirit of responsibility and the spirit of participation.

You can and should become the ultimate communicators for our elderly population—a link through which their material and spiritual needs are carried to the rest of the community, and in turn by which they keep in touch with the contemporary world.

You must articulate the wisdom and understanding of your unique perspective if we are to regain that lost spirit of community, because the quality of life for older America requires the attention of us all.

"Old friends are the best friends," King James tells us. And as you go about talking with other old friends, helping to strengthen the good things that remain in life and restoring some of those that are lacking, I hope you won't forget the importance of identifying the special needs. This is as important as any contribution you can make.

We need to hear from you. Your dynamic local leadership needs the benefit of your judgment to respond on the local level. We who represent you need your valuable assistance so that we can do a better job of responding from a national level.

So you see, you are vitally important people. What you have been able to accomplish here with the St. Landry Senior Companions Program is significant in that it brings together people with common interests and common concerns. But the real importance of what you are doing goes beyond the immediate goal.

You are the cutting edge of a powerful and growing force of more than 23 million older Americans who can focus attention on some initiatives to be taken in your own behalf—initiatives such as improving the Social Security system, assuring adequate housing, eliminating discriminatory laws, promoting better health care and greater opportunities for self-respect and individual choice.

These initiatives will remain in the background without persons like you to lead the way.

With more than 4000 Americans turning 65 each day, you show strength by numbers. With the creation and development of programs such as the senior companions, you show strength of commitment as the well-organized constituency which you are.

In your hands lies success or failure.

From my personal point of view, you have the basic ingredients for a successful campaign here in St. Landry Parish against the deprivations of advancing age—an awareness of the problem, a dedication to solving it, and a mobilization of resources and talents to get the job done. I commend you for your efforts and your devotion to making a longer life in America a better life.

There is a Chinese folk tale about a hunter who, while traveling through the woods, saw a very old man planting a plum tree.

"Aged one," he said, "Many years will pass before this tree bears fruit."

"True," said the old man.

"Why, then do you plant it"

"I did not find the world a barren place when I came into it," the old man said. "And just as those who went before me planted trees, so do I for those who follow."

The seeds of hope for older Americans are planted here among you. I pledge my best efforts to help them grow.

IN SUPPORT OF HOUSE RESOLUTION 48 TO REESTABLISH COMMITTEE ON INTERNAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. McDONALD) is recognized for 5 minutes.

Mr. McDONALD. Mr. Speaker, another tragedy took place this morning in New York City as a result of a terrorist bombing. At about half-past nine this morning, a passerby was killed when a bomb went off at the Citibank on East 42 Street in New York City. The FALN, a Puerto Rican terrorist group which receives support from the Castro dictatorship in Cuba, took responsibility for the bombing. They claimed that six other bombs had been planned in various parts of New York City. One of these has already gone off in an office on Madison Avenue, with only property damage. Police are searching for the other five bombs.

The FALN is the group that was responsible for the January 24, 1975, bombing of Fraunces Tavern in New York in which four people were killed and over 50 injured.

As a result of the destruction of the police intelligence facilities in New York City and State, and the severe curtailment of FBI intelligence gathering, the FALN terrorists continue to commit atrocities without being apprehended. At this time, we have no congressional committee investigating terrorism or developing legislation to cope with this problem. Over 150 Members of Congress have joined Congressman JOHN ASHBROOK and myself in cosponsoring House Resolution 48 to reestablish the Committee on Internal Security so that we can begin rebuilding our defenses against terrorism. The innocent victim murdered by the FALN this morning and the unknown number of injured in the New York bombing would have been safe if our defenses against terrorism had been rebuilt long ago.

I invite my colleagues to join with those of us who have already sponsored House Resolution 48 and to urge the Rules Committee to report it out so that Congress will have the opportunity to vote on this important matter.

THE 1977 CAPTIVE NATIONS WEEK ON HUMAN RIGHTS AND U.S. FOREIGN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, throughout the successful 19th observance of Captive Nations Week speakers and writers stressed the prime character of the captive nations for application of a foreign policy with human rights as its centerpiece. The elucidation of the captive nations field for human rights application was in the judgment of numerous analysts the sterling contribution of the 1977 Captive Nations Week. Plainly, the captive nations position is a natural for human rights advocacy, and to try to conceal this, as some influences behind the President's hesitancy in issuing his proclamation aimed at, just runs counter to commonsense and our perception of reality.

In presenting further selected items on the 1977 week, I submit the following: First the proclamations of Mayor Vincent A. Cianci, Jr., of Providence, R.I., and Mayor Thomas P. Ryan of Rochester, N.Y.; second, the proclamation of Gov. Scott M. Matheson of Utah; third, two reports on the President's proclamation in the New York Times and the New York News; fourth, a release by the National Captive Nations Committee on the Carter proclamation; fifth, the story in the July 30 issue of Human Events on "Carter's Desperate Moves To Maintain Détente"; and a report on free China's observance of the week in the China Post of July 19:

STATE OF UTAH.

DECLARATION

Whereas, the week of July 17 through 23, 1977, will be the 19th observance of "Captive Nations Week" in accordance with Public Law 86–90; and,

Whereas, the freedom loving peoples of Armenia, Byelorussia, Estonia, Latvia, Lithuania, Ukraine, Serbia, Poland, Rumania, Czechoslovakia and others, today find themselves in a situation which strongly parallels that from which these United States of America liberated themselves over two hundred years ago; and,

Whereas, these people in captive nations look to the United States as the citadel of human freedom and to its people for guidance and inspiration; and,

Whereas, this Nation's tradition of leadership in matters of independence and democracy has been a steady beacon of hope for the Captive Nations under a Russian Communist domination:

Now, therefore, I, Scott M. Matheson, Governor of the State of Utah, do hereby declare the week of July 17 through 23, 1977 as

"Captive Nations Week" in the State of Utah.

CITY OF PROVIDENCE.

PROCLAMATION

Whereas, the United States of America has enjoyed full freedom for all of its citizens ever since it became "one nation under God, with liberty and justice for all" in 1776; and

Whereas, throughout the world in 1977, the same rights for freedom and personal liberty to which all men are heirs, are not presently available to countless millions of our fellow human beings in many captive nations; and

Whereas, it is incumbent upon all elected officials in this nation, to whom the deprivation of human liberty and the continuing enslavement of peoples is most reprehensible, to speak out on behalf of all who reside in these captive nations;

Now, therefore, do I, Vincent A. Cianci, Jr., mayor of the city of Providence, hereby proclaim the week of July 17th through the 23rd, 1977 as "Captive Nations Week in Providence" and urge all of my fellow citizens in the capital city of Rhode Island to become cognizant of the fact that all of the personal freedom that we enjoy is still being denied many of our fellow human beings throughout the world.

CITY OF ROCHESTER.

Whereas, policies of the Soviet Union and other communist powers have led to the subjugation and domination of thousands of freedom-loving peoples whose yearnings for independence, and whose right to self-determination, have been arbitrarily ignored, and

Whereas, The United States of America, having thrived on the guiding principles of liberty and justice, is the ultimate symbol of human freedom and therefore has a unique obligation to make independence a reality for enslaved populations everywhere, and

Whereas, Rochesterians recognize their special responsibility to the overseas relatives and friends of many of our City's residents, who contribute so much to the nourishment of basic human rights and to the civic betterment of our comunity, and

Whereas, the Congress of the United States has established the third week in July each year as Captive Nations Week, to encourage all Americans to participate in activities to demonstrate our sympathy with and support for freedom, independence, and self-determination of captive peoples throughout the world, and

Whereas, at the ceremony in Rochester the ethnic groups represented each with their national flags and native costumes, include East Germany, Estonia, Hungary, Latvia, Lithuania, Poland, Ukraine, and Yugoslavia.

Now, therefore, I, Thomas P. Ryan, Jr., Mayor of the City of Rochester, do hereby proclaim July 18–July 24, 1977 to be "Captive Nations Week" in Rochester and urge all Rochesterians to rededicate themselves to work and pray for the day when freedom for all the world's peoples will be a reality.

[From the New York Times, July 21, 1977]

IT'S CAPTIVE NATIONS WEEK

WASHINGTON, July 20.—President Carter today proclaimed this week as Captive Nations Week and asked Americans to demonstrate their support for peoples seeking national independence, liberty and human rights. His action was based on a resolution adopted by Congress in 1959 asking the President to designate the third week in July as Captive Nations Week to emphasize disapproval of the Soviet Union's takeover of the Baltic states and the emergence of Communist governments in Eastern Europe, China, Cuba, North Korea and North Vietnam.

[From the New York News, July 21, 1977]

CARTER PROCLAIMS CAPTIVE NATIONS WEEK

WASHINGTON.—President Carter yesterday signed the annual proclamation designating Captive Nations Week. Acting belatedly, Carter proclaimed the week that began last Sunday is one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights." Such proclamations have been issued each year since 1959.

CARTER PROCLAMATION ON CAPTIVE NATIONS CALLED "A RETREAT ON HUMAN RIGHTS"

WASHINGTON, D.C.—President Carter's four-day late and weakly-worded proclamation on Captive Nations Week was called today "the beginning of a retreat on human rights" by Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee.

Dr. Dobriansky, who earlier this week criticized President Carter for his failure to proclaim Captive Nations Week, which began last Sunday, July 17, charged there was "no excuse" for the delay—the first in the 19-year history of Captive Nations Week.

"Captive nations and human rights are a natural combination," stated Dr. Dobriansky, "and we therefore expected a prompt and strongly worded proclamation from President Carter.

"Instead, we were first informed there would be no proclamation. Then we are presented with a pro forma statement which makes no mention of any of the 27 nations now under communist captivity or the primary cause of their captivity—Soviet Russia.

"We note that this deplorable misreading of the cause of captive nations follows closely the formation of the inter-agency committee on U.S.-USSR relations—the first such governmental agency of its kind.

"We feel compelled to ask: Which is more important to this administration—human rights or relations with the Soviet Union?

"We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he himself has called his 'crusade for human rights.'

"His near disastrous inaction on Captive Nations Week suggests that his commitments to his human rights crusade is growing lukewarm if not cold.

"If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

[From Human Events, July 30, 1977]

ALMOST CANCELLED CAPTIVE NATIONS WEEK: CARTER'S DESPERATE MOVES TO MAINTAIN DETENTE

President Jimmy Carter, who has made "human rights" a centerpiece of his diplomacy, beat a spectacular retreat last week that left many foreign policy observers simply stunned. "He almost duplicated Ford's snub of Solzhenitsyn," remarked one amazed critic.

What prompted this and similar outbursts against the President was his initial decision to forego issuing a Captive Nations proclamation in accordance with Public Law 86–90. Signed by President Eisenhower in 1959, the law states the Senate and the House resolve that "The President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as 'Captive Nations Week.'"

The law further states that the President is "authorized and requested" to issue similar proclamations each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

The brainchild of Georgetown University Prof. Lev E. Dobriansky, chairman of the National Captive Nations Committee, the act has become a symbol for those Americans of Eastern European ancestry who have seen their countries swallowed up by Soviet armies. Every year dozens of groups, many of whose members typify the ethnic base of the Democratic party in the East, gather during this week to talk of their heritage and liberation of their homelands. Because of the deep current of feeling among the ethnics, not only Presidents, but governors, mayors and other public officials from around the country pay homage to Captive Nations Week.

But for reasons which are still wrapped in something of a mystery, Carter, though ultimately reversing himself under pressure, had planned to become the first President since passage of PL 86–90 to ignore the occasion.

Dobriansky, who has raised the issue every year with whoever is President, wrote to Carter in the early part of May, telling him of the importance of Captive Nations Week and the presidential proclamation. He eventually received a reply—oddly enough, from a man at the Office of Management and Budget—saying the matter would be handled by the State Department. Still later, Dobriansky was directed to Greg Treverton, a staffer on the National Security Council, headed by the President's chief White House adviser on foreign affairs, Zbigniew Brzezinski.

Meanwhile, Captive Nations Week was approaching. On July 14, three days before it was to officially begin, Treverton's office informed Dobriansky that the NSC was still working on the President's statement, and gave no hint that Carter might choose not to deliver one at all. Up until 3 p.m. Friday, July 15, Dobriansky believed a declaration—which had been issued by every President prior to the official start of Captive Nations Week—would still be forthcoming.

Eager to obtain it to inform various interested parties, Dobriansky then told the executive director of his group, Lee Edwards, a conservative activist and publicist, to follow through with Treverton, since he had to fly out to Cleveland for, ironically enough, a panel on detente.

When Edwards called about an hour or so later, Treverton said there wasn't going to be any proclamation. It was "not required," he told Edwards, despite the language of the 1959 law stating the President is "authorized and requested" to issue such a proclamation. (Treverton, in fact, was correct, since Congress deliberately chose the softer word "requested" so it would not look as if it were ordering the President around.)

Treverton said the proclamation wasn't necessary because of the President's well-known stand on human rights. Edwards was taken aback, but told Treverton that a "lot of people" were going to be both surprised and disappointed. Treverton stressed that the lack of a proclamation should not be seen as a retreat for either human rights or self-determination for those behind the Iron Curtain, but Edwards responded it would be interpreted as a retreat for both.

(Treverton's response, however, appeared to be more considered than that of Pat Derian, the State Department's designated human rights expert. When Rep. Larry McDonald's (D.-Ga.) office asked Ms. Derian why there was no Captive Nations proclamation, she said: "I vaguely recollect recommending that the President issue a proclamation in support of captive nations, but I'm not overly concerned that he hasn't. It's not as if we were sending money to Chile.")

When Dobriansky found out about the President's decision, he began spreading the word to interested ethnic groups and to congressional leaders on Capitol Hill.

In a sharply worded letter to the President dated July 18, he wrote: "Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian

centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your five predecessors, you chose to ignore this traditional annual observance of Captive Nations Week. . . . We are appalled by this indifference."

As word filtered to various groups, many of whose members, in turn, wrote or called the White House, the pressure on Carter mounted to issue a proclamation. Republican leaders—many of whom, in fact, had ignored the "human rights" issue when Presidents Nixon and Ford were in office—began making some noises.

Sen. Robert Dole (R.-Kan.), contending that Americans were "distressed" because the President had failed to issue a proclamation, introduced a resolution that would have directed the Administration to bring up the subject of "captive nations" at the Belgrade conference this fall on the implementation of the Helsinki document.

But Democrats also got into the act. Andrew Valuchek, director of Minority Divisions at the Democratic National Committee, issued a special plea to the White House to come forth with a proclamation.

As is normally the custom, House members, in honor of Captive Nations Week, scheduled a special order for Wednesday, July 20, to bring up the subject and to discuss Carter's curious refusal to issue a statement.

By Wednesday morning, the President had yielded to political pressures at home. Before the House went into session on its special order, with many members primed to blast the President, Carter had issued a token proclamation, thereby avoiding some harsh condemnations.

What alarms foreign policy experts about this entire episode is that in the confrontation between Carter and Brezhnev on human rights, Carter appears to have blinked first. Moreover, he was clearly tempted to appease the Soviets in the most desperate fashion.

While the Soviets used to look upon Captive Nations proclamations as an offensive intrusion into their affairs, they now tend to view the issuances of such statements as ritualistic exercises, primarily because U.S. Presidents in recent years have kept watering down these proclamations. But Carter was so worried about offending the Soviets, he initially decided to cancel a pro forma proclamation, even if it would arouse the ire of ethnics loyal to the Democratic party.

Moreover, this Carter effort to appease Moscow follows a series of other major accommodation moves, including cancellation of the B–1, the scrapping of the production of the Minuteman III missile, the elimination of an upgraded guidance system for the Minuteman II, the end of the hard-line Foreign Intelligence Advisory Board and a move to end the Jackson-Vanik amendment limiting trade with the Soviet Union.

Just last week, in fact, the President authorized the creation of a special committee to coordinate all governmental policies involving the Soviet Union to be centered in the State Department. The new group, to be co-chaired by Marshall D. Shulman, chief adviser to Secretary of State Cyrus Vance on Soviet affairs, and George S. Vest, a foreign service officer, who was once an aide to Secretary of State Henry Kissinger, appears to have been established for the purpose of avoiding conflicts with the Soviets. Shulman, according to many who are acquainted with him, takes pretty much of a dovish position when it comes to formulating policy.

In other words, President Carter, who began his Administration with a relatively tough stance toward the Soviets on both human rights and SALT, now appears to be scurrying in retreat before Brezhnev's wrath. It may be the biggest retreat before the Russians since Napolean's army escaped Moscow in the winter of 1812.

[From the China Post, July 19, 1977]

WRITERS AGREE ON ANTI-COMMUNISM

Ten free world anti-Communist leaders including William L. Dickinson, member of the U.S. House of Representatives have arrived in Taipei for the 1977 Captive Nations Week being held in Taipei July 16 to 23.

During a meeting of national writers yesterday to accuse the Chinese Communists of destroying Chinese literature and culture, Dickinson pointed out that the Communists were preserving Chinese culture and said that the totalitarian rule will not be accepted for long by the people, and there is no place for such a regime anywhere in the world.

Im Tam, former Cambodian premier, also pointed out yesterday that the people in Cambodia are taking action to over throw the Communist regime which has undertaken a campaign of massacres throughout the country.

Ander Larsson, secretary-general of the World Anti-Communist League Sweden Chapter said that he believed that only Free China is the real China and the philosophers, artists and politicans in Taiwan are the sole representatives of Chinese culture.

Baycocie Bounleuth, an anti-Communist leader in Laos, said that anti-Communist activities are going on in his country.

He urged the free world to support these activities with financial and other material assistance.

Suvit Chi-nachote, secretary-general of World Anti-Communist League, Thailand Chapter, pointed out that the Communists never uphold human rights.

The writers' meeting yesterday, attended by about 100 people, agreed on the following five points:

Leaders and people of the free world must struggle for the protection of human rights are freedom. Human rights can not be interpreted under a double standard.

Many American politicians and people agree that totalitarian regimes are not viable.

The Chinese writers and people will always unite with the people of Asian countries and people of the world in anti-Communism, and anti-slavery and anti-totalitarianism.

Chinese traditional culture the freedom and democracy of the West and the Three Principles of Dr. Sun Yat-sen will be the mainstream of the world people's ideology and political models.

Philosophers, politcians and scholars all over the world must lead the people toward anti-Communism.

Picture shows U.S. Rep. William L. Dickinson, addressing the writers' meeting yesterday.

AMENDMENT TO THE OLDER AMERICANS ACT OF 1965 AS AMENDED, TO PROVIDE THAT THE COMMISSIONERS OF ADMINISTRATION ON AGING MAY MAKE GRANTS TO ASSIST OLDER PERSONS ADVERSELY AFFECTED BY NATURAL DISASTERS, AND FOR OTHER PURPOSES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

Ms. OAKAR. Mr. Speaker, as a member of the House Select Committee on Aging, I was privileged to attend a hearing held by the committee concerning the fate of elderly persons in the aftermath of a severe natural disaster. We heard from witnesses who had survived floods in Kentucky and Virginia, and a tornado in Nebraska. We were particularly concerned with the efforts of the Federal Government as represented by the Federal Disaster Assistance Administration to help our elderly when the President declares a disaster is eligible for Federal funds.

The Federal Disaster Assistance Administration establishes disaster assistance centers in the stricken area, and these serve as a central location for Federal, State, and local agencies, and facilitates matters for victims.

However, our hearing revealed that while these centers do provide an invaluable service to victims of disasters, the elderly, who are one of our most vulnerable groups in such situations, often do not receive the assistance they need. Many times, they cannot get to the center, and they find it difficult to secure the critical items like food, shelter, transportation and medical help. Psychologically, the impact of a disaster, which may wipe out the product of a lifetime, is much harder on them.

We heard testimony from elderly witnesses about the difficulties they experienced in dealing with the extensive bureaucratic redtape long after the disaster had occurred. They still needed help of all kinds.

As a result of this hearing, I am introducing an amendment to the Older Americans Act that this bill will allow the Commissioner of the Administration on Aging to reserve a certain percent of discretionary money for just such emergencies. This bill will allow him to give the appropriate area agency on aging the necessary funds to assist the older persons who are adversely affected by any emergency or major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

I believe the Commissioner needs this flexibility to assist the elderly when they need it most. I am sure that those who have had serious weather disasters in their district can well understand the psychological and physical damage to people, particularly our older people. We should give our Government agencies the necessary flexibility to deal with such emergencies effectively. I believe that this bill will do just that.

H.R. 8606, THE NON-GAME FISH AND WILDLIFE CONSERVATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, when the first colonists came to America they found a land rich in wildlife resources. Their interest, however, was focused on animals which could be used to help these colonists survive in a new land. This early focus on game animals became imbedded in our national consciousness and when the early Americans thought of wildlife management, they thought of game animal management. Nearly 400 years later, America's

wildlife management structure is still focused primarily on game animals.

It is time, however, that we as a nation recognize that the 2.2 billion acres which comprise the United States supports a rich diversity of nongame wildlife. Of the approximately 3,700 species of verebrates found in the continental United States, approximately 3,100 are nongame species. Unfortunately, less than 10 percent of the total 3,700 vertebrate species receive scientific management and, with few exceptions, these represent the game species.

Although our wildlife management system is focused primarily on game animals the fact remains that game and nongame animals share the same environment. The same forces which threaten the habitats and the survival of game species, threaten nongame animals. Our present system offers only partial protection. If the wildlife habitats of America are to be fully protected for future generations of Americans we must begin now to establish a wildlife conservation program which places equal emphasis on game and nongame species.

The degree of enjoyment which the present generation of Americans derive from our nongame wildlife resources is illustrated by the fact that each year approximately 65 million Americans over 9 years of age venture into the outdoors specifically to observe or photograph wildlife. Those Americans who participate in activities involving nongame species spend on an annual basis approximately $170 million on bird seed, $7 million for field guides and other natural history books, $190 of the total sales of photographic equipment and $115 million of the total sales of binoculars.

It is because of these facts, Mr. Speaker, that ED FORSYTHE and I have introduced H.R. 8606, the Non-Game Fish and Wildlife Conservation Act of 1978. This bill offers matching funds to assist those States which establish a comprehensive and effective program for conserving and enhancing nongame resources. At the present time the States lack the funds to develop such a plan or to implement a comprehensive program. Existing funding sources are neither fully appropriate nor adequate for the protection and conservation of nongame wildlife.

Some States have nevertheless seized the initiative. My own State of California, for example, has created a Citizens Non-Game Advisory Committee which has recommended the establishment of a comprehensive nongame conservation program. To raise revenue, California sells personalized motor vehicle plates and earmarks funds derived from these sales for endangered and nongame species protection.

To evaluate the depth of the State's interest in establishing a nongame conservation program and to determine the States' views regarding the need for such a program the Department of the Interior's Fish and Wildlife Service recently conducted a survey of State fish and game departments. This survey indicated great support for nongame legislation and revealed that an average of 279 species of wildlife in each State will benefit from the conservation program established in H.R. 8606. This number represents more than twice the number of species which are legally harvested in each State and is probably more than three times the number of species which are currently under scientific management.

Mr. Speaker, the need to establish an effective and comprehensive program for the protection and enhancement of our nongame wildlife values is clear. The Non-Game Fish and Wildlife Conservation Act of 1978 attempts to meet this need and I look forward to hearings on this legislation before the Subcommittee on Fisheries and Wildlife Conservation and the Environment later this year.

HOUSE TELEPHONE DIRECTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, I wish to thank House Members, chairmen, and the staff of each office and committee for their fine cooperation in submitting data that will be utilized in the publication of the first comprehensive House telephone directory next month.

The telephone directory is a joint undertaking of the House Administration Committee and the Clerk of the House, with the assistance and technical expertise of the House Information System, the House Finance Office, the Government Printing Office, and Joint Committee on Printing staff, as well as the staff personnel of each of the various offices involved in the project.

The House telephone directory will be published quarterly so as to be kept as reasonably accurate as possible. Each congressional office, committees, and subcommittees will receive an ample supply for official use. It will also be sold on an annual subscription basis by the Superintendent of Documents, Government Printing Office for use by executive branch personnel, trade associations, labor unions, law offices, and other groups who have regular communication requirements with the House.

The directory will alphabetically list all House employees who have a daily need for telephone contact, along with their titles, room numbers, and extensions. A separate classified listing will give the names, titles, room numbers, and extensions of staff personnel of each Member, with a similar listing of his district office personnel, their addresses, staff, and phone numbers. Another section of the directory will list similar information for all committees, subcommittees, select committees, joint committees, ad hoc groups, and other House organizations, including the officers of the House, leadership, and minority offices. A separate section will also list miscellaneous service and other functional offices of the House, while another section will list numbers of executive branch departments and agencies, with their congressional liaison contact numbers.

Mr. Speaker, I am confident that this House telephone directory will help immeasurably to expedite the work of this body by providing readily available, current information about addresses and phones of Members and committee staff personnel. It should reduce the number of second calls that are made many times each day to committees and subcommittees that are presently necessary to locate a particular staff member.

I appreciate the cooperation of the Clerk, Edmund L. Henshaw and his fine staff who have worked closely with House Information System Director Boyd Alexander and his able staff, and the staff of the House Administration Committee to help advance this House telephone directory project.

THE LATE ARCHBISHOP MAKARIOS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

Mrs. SPELLMAN. Mr. Speaker, I was deeply saddened this morning to learn of the death of Archbishop Makarios. The loss of such a towering figure will be felt, not just by his own people who so revered him, but by those of the world community who have sought for so long to bring peace to the troubled Island of Cyprus.

The fratricidal conflict that has torn that beautiful island was the archbishop's constant cross. The most recent devastating attack by Turkish troops must have, at last, made it too heavy to bear.

Efforts to restore the human rights of the thousands of displaced, homeless refugees who still roam Cyprus will be extraordinarily more difficult without the moral leadership of the archbishop. I can only hope that sorrow at his passing will serve to fulfill the purpose to which he dedicated his life: An equitable peace for the Cypriot people.

NO HUMAN RIGHTS IN CZECHOSLOVAKIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

Mr. VAN DEERLIN. Mr. Speaker, 9 years ago this August 21, a half million troops mustered by the Soviet Union overran Czechoslovakia, a small and gallant nation whose only offense was a penchant for freedom from the demands of monolithic communism.

Shamefully, the invasion force remains, and for the 14 million Czechs and Slovaks, there is great sadness. But there is also hope—the human spirit is unquenchable—and the August 21 anniversary will be designated correctly in Czechoslovakia as a "Day of Soviet Shame."

Throughout the world, Czechoslovak national groups intend to help keep the spark of liberty alive in their homeland. Men such as Dr. Joseph Hasek, cochairman of the Foreign Affairs Research Committee of the Czechoslovak National Council of America, are appealing to us to harken to the plight of these subjugated peoples.

There are relatively few people of Czechoslovak descent in my own district, yet it is impossible for me not to identify with the cause of these freedom-loving people who are, in Dr. Hasek's words, "now enslaved by the Soviet neo-colonialists."

Nine years seems a long time to wait for relief from oppression that disgraces us all, regardless where we stand on the political spectrum. Let us remain resolute in our determination some day to welcome back the brave people of Czechoslovakia, into the community of free nations.

THE OFFICE OF DRUG ABUSE POLICY SHOULD NOT BE ABOLISHED

Mr. RANGEL. Mr. Speaker, I would like to take this time to establish a record. The gentleman from New York (Mr. GILMAN) and I have asked for this opportunity because the President of the United States has recently indicated under the powers bestowed upon him by this House and Congress that he intends to abolish the Office of Drug Abuse Policy. It has taken a long time for this House to get some priority on the importance and sensitivity of the drug abuse in this country, and after many attempts we were successful last year in persuading the previous administration to if not support, at least sign into law the legislation that this Congress has passed.

We were able in the last administration at least to get on the record a white paper which outlined recommendations that this country had to make and decisions that we had to make in order to form a national policy in an international field to allow America's position to be known for opium-producing countries. It was a hard struggle here in the House, but with the combined effort, we not only were able to set up a Select Narcotics Committee in the House of Representatives, but we were able to get substantial support in the Senate. We waited a very long time for President Carter to be able to pull together his national policy as relating to drug abuse, not only as relates to our domestic policy but also its implication in the international arena.

On August 2 a message was sent to the Congress. It outlined many of the things the past administration had promised to do, but one of the significant things was that it was supposed to support the United Nations. It was an involvement of the Congress. It was supposed to put an emphasis on law enforcement. There were supposed to be additional studies made.

Ironically, the people who were supposed to do the studies are the people who are assigned to the Office of Drug Abuse Policy. It is my understanding, after the gentleman from New York (Mr. GILMAN) and I were briefed this morning by Dr. Peter Bourne, that it is this very same staff that has the responsibility that expects to be out of business at the end of this year as a result of the President's recommendation under the reorganization plan he submitted.

The gentleman from New York (Mr. GILMAN) and I have gone to many of our colleagues. I think we have close to 100 Members of the House who are prepared to ask the Speaker to use his good office to advise the President of the United States to reconsider his recommendation to abolish the Office of Drug Abuse Policy. It was created over the objection of the last administration, and the Congress created it to develop a national drug abuse policy and to finally coordinate the 50 policies, agencies, bureaus, and administrators of the executive branch having jurisdiction over drug traffic and drug abuse.

When President Carter first took office, he supported the decision, and for the first time the Congress and the Nation had hopes that progress was being made. Now with less than 5 months of existence, ODAP is being charged with the responsibility to research this study and to make recommendations to the Congress, and then at the end of the year go out of business. I think the Congress should maintain the oversight that it had with the Office of Drug Abuse.

Mr. Speaker, I now yield to my friend, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the distinguished gentleman for yielding.

I want to commend my colleague, the gentleman from New York (Mr. RANGEL) for taking the time and for having the leadership to focus attention on the President's recent decision to dismantle the Office of Drug Abuse Policy, the principal unit within the Executive Office of the President for coordinating the more than 50 departments and agencies and bureaus and administrations having jurisdiction over the drug abuse prevention and control program.

I ask the distinguished gentleman, who I know was here in the Congress at the time this Office of Drug Abuse Policy was created, was it the intention of the Congress at that time to try to maintain some oversight and some control over policymaking decisions and to have some input at the time this agency was created?

Mr. RANGEL. As the gentleman from New York (Mr. GILMAN) well knows, in the Congress itself so much of the jurisdiction that relates to law enforcement and drug abuse and rehabilitation, because it was covered in so many committees and subcommittees, the Congress in its wisdom or the House in its wisdom created the Select Committee on Narcotic Abuse. This same situation, as the gentleman stated, exists with over 50 bureaus and agencies in the executive branch, and the House in its wisdom and the Congress created the Office of Drug Abuse Policy so that there could be one agency that could inform this Congress as to what our national policy is and as to what our international policy is.

The ironic thing is that last year, as the gentleman well knows, the Congress appropriated a quarter million dollars that was not used, and the Congress sent back to the President an appropriation of $2 million, and yet President Ford did not see fit to recognize ODAP, and it was our present President in March of this year who recognized this creation of the ODAP and this President, without giving it a chance to produce, is asking that it be abolished.

Mr. GILMAN. I know my colleague participated with me in recent hearings of the Select Committee on Narcotic Abuse, when we had the principal policymakers of the Drug Administration before our committee, including Peter Bensinger, of the Drug Enforcement Agency and Mathea Falco of the Department of State, and Dr. du Pont of the National Institutes, and Dr. Peter Bourne, the President's Special Advisor. At that time we discussed who was making policy and how it was made with respect to the narcotic problems confronting our country. It was my impression from that testimony that these four people were the principal policymakers for the President with respect to narcotics, that is Dr. Bourne, Peter Bensinger, Mathea Falco, and Dr. du Pont, and they indicated they met, I believe, every other week in an informal working group.

Lo and behold, we find now that the President, with well intentions and good words, has yet to formulate a formal coordinator in his executive branch, after being in office for some 7 months, and is relying only on this informal arrangement.

Is it the impression of the gentleman that we still lack a formal policymaker in the executive branch with respect to narcotics?

Mr. RANGEL. Mr. Speaker, I would say to my dear colleague, the gentleman from New York, that through his thorough questioning at the Select Narcotics Committee hearings we were able to find out from the administration that indeed what we had hoped was a formal arrangement was very informal indeed, what I think was referred to as a working group. But as a result of the meeting the gentleman from New York (Mr. GILMAN) and I had with the administration just this morning, and I think the gentleman and I and those that were present in attendance at this meeting know that the depth of the relationship as it relates to coordinating the agencies and departments in the area of drug abuse depends on the relationship that Dr. Bourne has with the President of the United States.

Mr. GILMAN. Suddenly we find that Dr. Bourne is going to be without an office and that the policymaking will be folded in from its former position in the Office of Drug Abuse Policy into the Domestic Council in a reshuffling, which I think will be detrimental to the overall national effort.

Does my colleague agree that this could create a great deal of problems with regard to our national effort?

Mr. RANGEL. I not only agree with the gentleman from New York, but I think we ought to underscore that in the President's message the addition of opium and hard drug abuse, even though Dr. Bourne loses his staff, in a sense his responsibilities are increased as he is charged with studying the ill effects of tobacco, as well as international health problems.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for helping us to focus attention on these very serious prob-

lems. I am very much concerned. I am concerned about the lack of leadership, the lack of attention to a very serious and massive problem. I am hoping that our colleagues will join in our mutual efforts to prevent this reorganization from occurring, to ask the President to reconsider his dismantling of the Office of Drug Abuse Policy, which I think is an extremely important agency within the executive branch for coordinating a widespread fragmented effort that is taking place throughout some 50 agencies in the National Government.

Mr. RANGEL. Well, I thank the gentleman for his support.

I have no problem with the commitment of the President of the United States in eliminating this epidemic, which I think is at the roots of many of our families in the cities and inner cities in our countries.

I think the problem our President faces is that he never had the opportunity to discuss this important issue with those people he had appointed as his advisers in the area of drug abuse. This was made clear in our hearings of the select committee, as well as the briefings we had.

With this support and the support of so many other people in the House, I am confident that the Speaker will use his good office to advise the President as to what will be in the best interests of this great country of ours.

Mr. GILMAN. Mr. Speaker, I thank my colleague, the distinguished gentleman from New York (Mr. RANGEL), and I commend him for his leadership and for taking this time to focus attention on the President's recent decision to dismantle the Office of Drug Abuse Policy—ODAP—the principal unit within the Executive Office of the President—EOP—responsible for coordinating the more than 50 departments, agencies, bureaus, and administrations having jurisdiction over drug abuse prevention and control programs.

In 1976, the Congress created the Office of Drug Abuse Policy in the executive branch to provide "for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy." On March 14 of this year, the President activated ODAP, and now, just 4 months later, he has submitted to the Congress a plan to reorganize the EOP wherein ODAP would be abolished. Mr. Speaker, ODAP is the one major entity within the President's Executive Office that has the authority and ability to assist the President in formulating a comprehensive national drug strategy program. It is the one entity that could coordinate the diverse, competing Federal narcotics agencies.

Yesterday, August 2, the President submitted his long-awaited message to the Congress proclaiming a comprehensive national drug strategy program. Unfortunately, the President's approach toward controlling drug abuse and illicit drug trafficking in the United States is weak and disappointing. His program is mostly a reiteration of the obvious and a recitation of support of existing programs and agencies. His proposal is primarily a program of reviewing the adequacy of existing statutes and conducting of further studies.

The President's drug message calls for the revitalization of the Strategy Council on Drug Abuse, a Council that was activated last March but which has yet to hold its first meeting. Will the Strategy Council suffer the same fate as ODAP, being activated only to be abolished a few months later? If the President does not amend his reorganization proposal within the permitted 30 days. ODAP will be terminated—unless either the House or the Senate disapproves the reorganization proposal. Why activate the Strategy Council on the one hand if on the other hand ODAP is to be dismantled? Mr. Speaker, it is difficult to follow these inconsistencies.

The President noted in his drug message that ODAP has already begun the first phase of reviewing the proper division of Federal, State, and local law enforcement responsibility, including a review of border security and drug trafficking intelligence. With this work underway, it is difficult to understand why the President is seeking to dismantle the unit that has just started its mission of coordinating our Nation's efforts in interdicting narcotics trafficking and in eradicting illicit opium production.

The House Select Committee on Narcotics Abuse and Control, of which I am a member, recently heard testimony from administration narcotics officials who informed us that a "working group" consisting of Dr. Peter Bourne, Director of ODAP, Dr. Robert DuPont, Director of the National Institute of Drug Abuse, Peter Bensinger, Administrator of the Drug Enforcement Administration, and Mathea Falco, Senior Advisor to the Secretary of State and Coordinator for International Narcotics Matters, was meeting periodically, and informally, in the absence of the Strategy Council. From the testmony of the administration's narcotics experts, it is apparent that none of these narcotic administrators were aware that ODAP would soon be dismantled.

Further revelations indicate that the Office of Management and Budget, which was instrumental in recommending the dismantling of ODAP, did not consult the President's narcotics policymakers. If this lack of policy planning and coordination is indicative of how the executive branch is pursuing such a critical problem, then there is reason for grave concern about the direction and effectiveness of our Nation's "war" on drugs.

Who, then, Mr. Speaker, is assisting the President in formulating a comprehensive national strategy on drugs and who is coordinating the Federal drug programs? Our Select Committee on Narcotics is still at a loss to learn who actually assists the President in policymaking with regard to drug abuse prevention and control. The President's message on drug abuse does not shed any light on this question.

The President's words, while well intentioned, are inconsistent with the administration's actions in seeking its objectives: specifically the dismantling of the very unit in his Executive Office that could accomplish the objective of developing a national drug strategy.

Drug abuse and drug trafficking is not going to fade away. There are between 700,000 and 800,000 addicts who support the drug trafficking business. Illicit drug sales and drug-related crimes are estimated to exceed $27 billion. To fight this scourge on society, this Nation needs more than glossy verbiage; we need a serious, concerted effort to develop and coordinate the more than 50 Federal agencies that are concerned with drug abuse.

Mr. Speaker, the President's messages of July 15 and August 2 are certainly saying the right things with regard to drug abuse prevention and control, but there is a wide gap between his words and his deeds.

The administration's narcotic experts appearing before the Select Committee testified that the President has "a very personal interest in the drug abuse issue" and that "the suppression of illicit narcotic traffic is a high priority of his administration." If the President's August 2 message is any example of what he means by "personal interest" and a "high priority" in illicit drug trafficking and drug abuse, then his program is very disappointing. Coupled with his proposed dismantling of ODAP, his remarks constitute a setback in our Nation's efforts to develop a comprehensive drug strategy to effectively interdict narcotics trafficking and to eradicate the illicit supply of opium production.

Furthermore, I am concerned that with the demise of ODAP there will not be any visible unit within the White House which the American people can look to for guidance and for coordination of the fragmentation that exists in this Nation's widespread drug abuse prevention and control programs.

Mr. Speaker, I urge my colleagues to take a close, hard look at the President's proposal to dismantle ODAP and the inconsistencies of his drug strategy program. I hope that the President will amend his reorganization proposal by restoring ODAP to its original purpose of providing the necessary strong Federal leadership in formulating and coordinating a comprehensive drug abuse policy.

THE NEUTRON BOMB ARMS CONTROL IMPACT STATEMENT

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, shortly after the President released an arms control impact statement for the Lance 3 enhanced neutron radiation warhead, I asked the Congressional Research Service of the Library of Congress to evaluate this statement along the same criteria used earlier on the arms control impact statements submitted for fiscal year 1978. I would like to make available the evaluation of the Lance 3 arms control impact statement prepared by CRS.

The CRS evaluation of the administration's arms control impact statement shows that there has been a definite improvement in the scope and breadth of the analysis and statement. The CRS evaluation makes it clear that the admin-

istration is attempting to comply more completely with the letter and intent of the law to the degree by addressing more issues related to the arms control implications of enhanced radiation weapons.

The CRS evaluation also indicates however that questions of arms control policy and arms control negotiations were not as carefully addressed as one might expect. For example, there is no mention made of the legality of enhanced radiation weapons, or the relationship of such weapons to the U.S. call for a ban on radiological weapons. Certainly, one would expect that future arms control impact statements will address the arms control policy aspects in much greater detail than the current Lance 3 impact statement.

While the arms control impact statement submitted for the Lance 3 is not to be taken as a model for all future arms control impact statements, I believe it indicates a useful addition to the information available to the Congress in considering whether or not to go forward with enhanced radiation weapons. The CRS evaluation also contains important insights which when read with the administration's arm control impact statement provide new insights into the issue. Accordingly, I commened the arms control impact statement on the Lance 3 and the CRS analysis, which follow, to the attention of our colleagues:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 25, 1977.

To: Hon. Clement J. Zablocki, Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

From: William W. Whitson, Chief, Foreign Affairs and National Defense Division.

Subject: CFS Evaluation of Arms Control Impact Statement.

In response to a request by the House International Relations Committee on July 14, 1977, the Congressional Research Service (CRS) has evaluated the Arms Control Impact Statement (ACIS) submitted by the President on the W–70 Mod 3 (Lance) warhead.[1] The evaluation was prepared by Robert G. Bell, a defense analyst on our staff. An ACIS on the W70–3 was not included among the twenty-six impact statements submitted by the executive branch to Congress earlier this year. These statement were evaluated by CRS under a procedure established in consultation with the House International Relations Committee and Senate Foreign Relations Committee in April 1976.[2] Since the submission of the ACIS on the W70–3 was intended to correct this omission, CRS has evaluated the statement according to the same criteria applied to the earlier set of statements.

It is our understanding that this ACIS was prepared on very short notice. Nevertheless, in performing our evaluation we could not have presumed that certain aspects of the arms control impact of this weapons system would have been addressed in greater detail had more time been available; nor could we have assumed that various lines of argument would have been developed more persuasively. In brief, we chose to critique this impact statement as if it were the final product of a careful deliberative process. To have approached this task otherwise could only have depreciated the net contribution to the informed, comprehensive dialogue expected from the ACIS procedure.

We have been advised that the Arms Control and Disarmament Agency recommends that this ACIS not be taken as a model for future statements submitted by the administration on this or any other weapons system. This caveat notwithstanding, the impact statement submitted on the W70–3 clearly marks a very laudatory transition from statements with little or no substantive content to one which provides a starting point for reasoned debate. Although the ACIS on the W70–3 does not address all possible arms control interests to the extent one might hope (particularly in the area of arms control negotiations), on balance the statement covers the range of arms control factors identified as salient by CRS. The statement is substantive and deserving of studied response. In this regard, we hope that this CRS evaluation will advance the public dialogue one step further.

ARMS CONTROL IMPACT STATEMENT EVALUATION*

PROGRAM TITLE: W–70 MOD 3 (LANCE) WARHEAD

1. Factual Information and Issues Related to Military Considerations.

a. Provide a brief outline of the capabilities of the proposed system, an estimate of its costs, the status of the testing program, if applicable, and projected date of completed deployment. If the system is still in some state of development, when is deployment expected to begin?

The arms control impact statement (ACIS) submitted on the W70–3 provides a fairly comprehensive and informative description of this weapons system. It explains the basic theory underlying enhanced radiation (ER) weaponry and presents data on the number and accuracy of planned W70–3 launchers. Although the ER warhead is categorized as a qualitative modernization of existing nuclear-capable Lance missiles, the statement goes beyond the W70–3 to make a case for the delivery vehicle itself. The ACIS estimates the expense of the W70–3 program for FY 77–80 to be $32.1 million, an estimate which presumably includes costs attributable both to RDT&E and production. No information is provided in this unclassified ACIS on the yield of the W70–3, the number of warheads planned for procurement, or the system's date of initial operational capability (IOC). Although previously declassified testimony by ERDA officials indicates that deployment of the ER Lance warhead will begin in 1979, the statement neither confirms nor amends this schedule.[1]

The ACIS would have been more comprehensive had it addressed two military considerations absent from the submitted text. First, the statement provides no information or analysis regarding the time required for the device to incapacitate enemy personnel. Some critics of ER weaponry contend that enemy troops exposed to the neutron radiation would not be incapacitated for hours and that during this interval the irradiated troops could be expected to fight with vengeful determination. An Army field manual published in 1976 indicates that the time until incapacitation varies from a few minutes to several hours, depending on the dosage.[2] Since the Army reportedly resisted introduction of this weaponry for years because it was not confident of ER weaponry's power to "instantaneously" incapacitate, this issue is particularly salient.[3]

The ACIS also fails to address the subject of residual radiation. While an airburst of the W70–3 could largely prevent the creation of fallout (radioactive soil particles carried by the wind), neutrons emitted by the detonation would combine with nitrogen present in the atmosphere to form Carbon-14 (C^{14}) isotopes. C^{14} is highly radioactive, with a half-life of 5,720 years. The ACIS does not indicate whether this "spike" of C^{14} would initially be sufficiently dense to cause death or injury to humans or the time required before the mass of C^{14} would dissipate. The statement also does not suggest whether the residual radiation effects of a single or multiple ER detonations would disrupt Allied military operations unduly or whether these effects would be any more or less disruptive than those associated with standard tactical nuclear airbursts.

b. What effect might the proposed system have on the military stability of the relevant environment (e.g., specific regional military forces, U.S.-Soviet strategic balance, etc.)? In the case of strategic weapons, could it be viewed as a threat to strategic equivalence? Could acquisition of the proposed system contribute to an adversary's perception of his own position as being inferior? Under what circumstances could the system be viewed as one which granted the United States an advantage over an adversary?

Since the W70–3 warhead is planned for deployment on the tactical, or "battlefield," Lance missile, it cannot be construed as a strategic weapons system or a factor in net assessments of U.S./Soviet strategic equivalence. The ACIS lists the range of the Lance missile as 130 km., a range which makes it impossible to strike targets in the Soviet Union from launch sites in West Germany. The ACIS's concern extends beyond measurements limited to the NATO/Warsaw Pact tactical nuclear balance and encompasses the broader issue of the military stability of the European central front. In this regard, the ACIS correctly focuses on the implications of deploying ER weaponry for the continuum of deterrence provided by NATO's "triad" of conventional, tactical nuclear, and strategic forces.

The ACIS analysis of the stabilizing or destabilizing impact of deploying ER weaponry in Europe is essentially theoretical. The statement does not suggest whether the current military balance is regarded as stable or unstable or whether future trends are regarded as favorable or unfavorable. To cite one example, the ACIS does not assess the significance of the Soviet Union's recent deployment of the mobil SS–20 missile. In brief, the analysis would have been better served had it provided an introductory frame of reference.

The ACIS analysis begins by noting two possible perceptions of the significance of ER weaponry. The statement first declares, "It can be argued that the improved warhead may make the initial use of nuclear weapons in battle seem more credible which might enhance deterrence." In fact, this assessment

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[1] Although the submitted document was originally entitled "Arms Control Impact Analysis," the title was subsequently amended to comply with the statutory provision of P.L. 94–141 requiring the transmittal of a "statement." (See the Congressional Record, July 13, 1977, p. S11765)

[2] An explanation of this procedure and the criteria used in CRS's evaluation of the 26 statements is included in "Analysis of Arms Control Impact Statements Submitted in Connection with the FY 1978 Budget Request," Joint Committee Print: House International Relations and Senate Foreign Relations Committees; 95th Cong. 1st sess, April, 1977; pp. 1–21.

* Prepared by Robert G. Bell, Analyst in National Defense. The Arms Control Impact Statement submitted to Congress on July 13, 1977 is included as attachment 1.

[1] U.S. Congress. House: Committee on Appropriations, Subcommittee on Public Works. Public Works for Water and Power Development and Energy Research Appropriation Bill, 1978; Hearings, Part 6 (ERDA), 95th Cong., 1st sess.; Wash., D.C. U.S. Govt. Print. Off., 1977; p. 1089.

[2] U.S. Army, Field Manual FM 100–5, "Operations," 1976.

[3] The Washington Post, July 8, 1977, p. A3.

was central to the NATO tactical nuclear force improvement program detailed by Secretary of Defense Schlesinger in a 1975 report to Congress.[4] Secretary Schlesinger argued, "Reduction of collateral damage should make it more credible to the WP (Warsaw Pact) that the Alliance will use nuclear weapons."[5] The report also noted that, "Further reductions in collateral damage can be made by improvements in weapons systems (e.g., reduced yields, special warheads effects such as enhanced radiation . . .)."[6]

In its simplest form, this argument holds that one effect of deploying ER weaponry to Europe would be a lower likelihood that *any* war would occur. The following graph depicts this effect:

[Graph not printed in RECORD.]

The ACIS notes a second possible perception of the effect of deploying these weapons: ". . . it can be argued that it increases the likelihood that nuclear weapons would actually be used in combat." In this case the emphasis is not on raising or lowering the threshold between war and peace; rather, the focus is on raising or lowering the threshold between conventional warfare and nuclear warfare. In its simplest form, this argument holds that NATO commanders would recommend the use of ER weapons in cases where they otherwise would have refrained from urging standard tactical nuclear strikes, and the U.S. president would authorize their use. In other words, should war break out, NATO would cross the nuclear threshold sooner than otherwise would be the case. The following chart depicts this effect:

[Graph not printed in RECORD.]

Although the ACIS does not *explicitly* endorse or reject either of these two possible perceptions, the progression of the analysis appears to refute the second case and accept the first. In short, the ACIS concludes that the deployment of ER weapons would not lower the nuclear threshold but could enhance deterrence. Each of these points will be examined in turn.

At three separate points in the analysis, the ACIS unequivocally denies that any U.S. president would be inclined to order the use of ER weapons in situations where he would otherwise not authorize the employment of current tactical nuclear weapons:

The President would be faced with a decision of the same nature whether or not this class of weapons or other tactical weapons are used.

Any U.S. decision to use nuclear weapons is in all likelihood insensitive to whether or not ER weapons were deployed.

These weapons would not make [the] decision any easier.

The basic premise underlying the contentions repeated in the ACIS is that ". . . the escalating potential is the same for this weapon as for any other nuclear weapon." In another passage, the statement declares, "There is no evidence . . . that the Soviets would be less likely to escalate a nuclear exchange if ER weapons were used by the U.S. rather than standard fission weapons." According to the ACIS, "the prospect of escalation would remain a central component of a U.S. decision to use nuclear weapons *regardless of* the performance characteristics of this or other classes of nuclear weapons." [emphasis added]

In essence, the ACIS appears to argue that while at first glance the use of ER weapons may seem more plausible to NATO (due to their lower collateral damage), in the final analysis the President's assessment of the prospects of escalation will take precedence over this consideration. Furthermore, the ACIS concludes that the escalatory potential will be assessed to be the same regardless of the type of tactical nuclear weapons deployed in Europe. In short, all tactical nuclear weapons are equally credible or "*in*credible."

The statement devotes considerably less attention to assessing the argument that ER weaponry enhances deterrence. Instead, the ACIS seems content to accept this premise with a slight hedge: ". . . by enhancing deterrence, they *could* make it less likely that the President would have to face such a decision." [emphasis added] This somewhat equivocal endorsement is given added weight, however, by its placement as the concluding sentence in the ACIS.

The problem with ACIS's conclusion that ER weapons could enhance deterrence but would not affect the nuclear threshold is that one cannot argue the former unless the latter is also believed to be true. If deterrence is in fact enhanced, then it must be because the credibility of using ER weapons is greater; they would be used in cases where standard tactical nuclear weapons would not. While such a decision may or may not be any "easier," it is precisely an adversary's calculation, or at least his uncertainty, that the decision would be made that would deter his aggression. Conversely, if the adversary calculates that it is not more likely that the decision to go nuclear with ER weaponry would be made, then the net effect on deterrence is zero. To argue otherwise is tantamount to maintaining that there is no significant rationale for deploying these or any other "more discriminant" tactical nuclear weapons.

In summary, this is not a case in which one or the other argument can be true but not both; rather, the two effects are interrelated. Thus the principal dilemma for policy-makers considering the W70–3 is whether the perceived gains for deterrence outweigh the perceived risks of a lowered nuclear threshold. Inherent in the concept of ER weaponry is a trade-off. The ACIS would have made a more valuable contribution to the current debate on ER weaponry had it recognized the necessity of this trade-off and delineated its terms.

Although the ACIS acknowledges that Soviet perceptions are difficult to analyze, the statement concludes that NATO's deployment of ER weaponry "presumably" would not cause the Soviets to alter their tactical warfare doctrine. The ACIS predicts that the Soviets will attempt to use NATO's ER weaponry deployment to score propaganda points but does not suggest whether they can be expected to acquire similar weapons for their forces. Nor does the statement suggest what the net effect on stability would be should the Soviets acquire ER weaponry. Finally, the statement claims that "with this weapon armored vehicles, which are relatively unaffected by blast effects except at close range, can be temporarily neutralized by radiation casualties by crew personnel." The ACIS does not speculate on whether this capability represents a net "advantage" to NATO forces.

c. What role is the system expected to play in U.S. defense strategy? Does it replace another system or improve on an existing one in that role? Is the system being developed to counter a specific threat? If so, define.

The ACIS explains that the W70–3 equipped Lance will be used as a tactical nuclear artillery weapon and that the warhead is intended to replace existing nuclear warheads with one having lower collateral effects. As previously noted, the ACIS does not relate the deployment of the W70–3 to a specific "threat" in Europe. The statement does not suggest whether the on-going expansion and modernization of Warsaw Pact conventional capabilities has necessitated this weapon, or whether it is simply a case of the technology now becoming available. The statement notes that a Lance battalion with ER warheads will be earmarked for the Pacific "should the need arise," but it does not detail what specific changes in current military balances in the Pacific region might necessitate this course of action.

d. If this system were actively developed and/or deployed, how might one expect an adversary to respond in his own weapons program? To what extent would the development of similar weapons become an adversary's goal? To what extent might an adversary develop countermeasures?

The ACIS does not address any of these points, other than to predict that NATO's deployment of ER weaponry will not likely cause the Soviet Union to change its tactical warfare doctrine.

e. Could the mission of the proposed system be interpreted differently from the role assigned to the system in U.S. defense policy? If so, how? If not, why not?

The ACIS stresses that, in the long run, interpretations of U.S. intent in deploying ER weaponry will be more significant than "judgments based on hard analytical criteria or weapons characteristics." Thus regardless of U.S. efforts to emphasize ER weaponry's positive contribution to deterrence, the ACIS suspects that a large body of public opinion within the United States, Allied nations, and the third world (as well as the Soviet government) will perceive an intent to change U.S. doctrine "so as to make the use of nuclear weapons more likely in a tactical situation." The ACIS enumerates several adverse effects of such perceptions, including gains for Soviet propaganda, a lessened NATO receptivity to the weapons, and increased difficulty in preventing further nuclear proliferation.

The problem with the ACIS analysis is that it appears to presume that such perceptions would be different from those held by advocates of the weaponry. This paper has previously argued that the United States can claim the "benefits" of enhanced deterrence only if it concedes the "costs" of a lowered nuclear threshold. If the United States were to announce that it would most probably use ER weapons where it otherwise would not use standard tactical nuclear weapons, then the global debate would focus on the appropriateness of this decision, rather than on varying perceptions of U.S. intent.

The ACIS does not intimate whether it expects that anyone will perceive a strategic application for ER weaponry. Finally, the statement does not comment on the possibility that tactical ER weapons might be perceived by the Warsaw Pact as providing NATO with an offensive capability.

f. What are the possibilities for the proposed weapons system to serve in a tactical or strategic role? Will it be equipped with only conventional munitions, nuclear, or both?

The ACIS clearly describes the W70–3 as a *tactical nuclear* weapons system. It does not comment on whether the United States has plans for applying the ER concept to strategic weaponry.

g. To what extent could the proposed system be viewed as enhancing a first-strike capability? What is the extent of its technical capability to be used in a counterforce role?

The W70–3 weapons system is not relevant to calculations of U.S. counterforce first-strike capabilities. The ACIS does emphasize that ER weapons can be viewed as enhancing the likelihood of a NATO "first-use" of tactical nuclear weaponry. In addition, the statement stresses the battlefield, or counterforce, role of the W70–3.

h. What risks are posed to U.S. security in the absence of the proposed program or system?

Not addressed.

2. Arms Control Policy.

a. How is the weapons program consistent with arms control policy? In what ways could it reduce the likelihood of war or en-

[4] The Theater Nuclear Force Posture in Europe: A Report to Congress in Compliance with P.L. 93–365; DOD, March 1975.

[5] Ibid., p. 21.

[6] Ibid.

hance crisis stability? To what extent could it contribute to the destructiveness of war? To what extent could it reduce the destructiveness of war? To what extent does it lessen the burden of military expenditure?

The ACIS concludes that "this weapons system has no arms control advantages." This unequivocal assertion is subsequently contradicted by the claim that ". . . by enhancing deterrence, they could make it less likely that the President would have to face such a decision [authorizing the use of tactical nuclear weapons]." If indeed the statement supports the concept that ER weaponry enhance deterrence, then this is entirely consistent with the cardinal objective of U.S. arms control policy: to make war less likely. As previously argued, the trade-off inherent in ER weapons requires that this objective be strengthened at the expense of another cardinal U.S. arms control objective: avoiding nuclear war.

Although the ACIS points out that "casualties to civilians and damage to property from blast and thermal effects in a congested region would be greater" with standard tactical nuclear weapons than with ER weaponry, the statement does not relate this advantage to a third U.S. arms control objective: limiting the destructiveness of war should it occur. The ACIS concludes, rather, that "unless the Soviet forces are supplied with a comparable warhead, their response would create the kind of devastation that this warhead is designed to prevent." It is not clear from this sentence whether the ACIS believes that there is no value—moral or practical—in the United States acting unilaterally in a manner consistent with its own arms control policies.

The statement does not address the question of the cost effectiveness of this weapons system, except to note that the Lance missile has replaced older systems "on a less than one-for-one basis, thus reducing the number of forward-deployed nuclear systems and weapons." Likewise, the ACIS does not address the question of crisis stability or whether NATO's deployment of ER weaponry might provide the Soviets with a greater incentive to strike first with nuclear weapons, except to state that the Lance missile system is more survivable than the system it replaces. Both of these points pertain more to the delivery vehicle than the W70–3 itself.

b. What is the relationship of the proposed system to an existing arms control agreement? Does it represent a build-up to a ceiling? Does acquisition of the system accompany a tradeoff with other U.S. weapons systems? Could it be interpreted as a violation either of the spirit or letter of an arms control agreement in force?

Some opponents of ER weaponry contend that the development of this weapons system violates the spirit of arms control agreements prohibiting the use of chemical or biological weapons. The thrust of this argument is not that ER weaponry is outlawed by such agreements, but rather that the development of the W70–3 moves the United States in the direction of sanctioning the kinds of weapons effects that it seeks to outlaw in the chemical/biological warfare area. The questions of the "morality" of the ER weapon or its legality under existing arms control agreements are not addressed in the ACIS.

c. To what extent might the development and acquisition of this system contribute to horizontal proliferation of nuclear weapons or nuclear delivery systems? Will it increase the number of nuclear weapons or nuclear delivery systems available to the United States?

The ACIS declares:

"Some governments might couple a decision to deploy ER weapons with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation."

Implicit in this argument is the suggestion that any development which makes the use of nuclear weapons more plausible makes them more attractive for non-nuclear states. The ACIS also appears to contend that some governments might take U.S. nonproliferation goals and policies less seriously if it deploys the ER weapon.

It is not clear whether the ACIS is contending that a U.S. decision to deploy ER weaponry would make it more likely that non-nuclear states would endeavor to develop or acquire ER weaponry, standard nuclear weapons, or both. If the first case applies, the statement does not speculate on how long it would take nonnuclear states to perfect the technology of the ER weapon. No information is given on the likely time and industrial base required to perfect ER weapons or on countries that have, or could acquire, this base. If the second case is endorsed by the statement, then the linkage between a U.S. decision to deploy ER weapons and increased demands from nonnuclear states for a standard nuclear capability should be developed more persuasively, rather than just asserted.

Since the Lance missiles are replacing older systems on less than a one-for-one basis, it is implied that the Lance will decrease the number of nuclear weapons and nuclear delivery systems available to the United States. The ACIS does not suggest whether the W70–3 inventory for the Lance will be larger or smaller than currently maintained for the nuclear Lance.

d. To what extent does this system have the potential of becoming a part of the U.S. arms sales or aid inventory?

Not applicable. (The United States does not export nuclear warheads.)

3. Arms Control Negotiations

a. What negotiations, either ongoing or proposed, might consider limitations on the proposed system?

The ACIS notes that a Comprehensive Test Ban (CTB) treaty "would pose limitations on the further development of this class of weapons since over the long term, further testing would be required." Since the yield of the W70–3 does not approach the 150 kiloton limitation in the proposed Threshold Test Ban Treaty, the ACIS concludes that the development and deployment of this weapons system would not be affected. Lastly, the ACIS observes that the so-called "nuclear sweetener" offered by NATO in December 1975 at the Mutual and Balanced Force Reduction (MBFR) talks did not include the removal of any Lance missiles. (The offer included nuclear-capable F4's and Pershing missiles.) The statement cautions, though, that the deployment of ER weaponry could shatter whatever credibility still rests with this NATO offer, since the W70–3 could be cited by the Soviets "as evidence that the U.S. proposal would involve elimination of obsolete weapons while actual capability is being upgraded."

b. Does or could the proposed system play a role in these negotiations? What trade-off with this system in negotiation would be acceptable to meet the needs of U.S. national security? Could one view the system as a hedge against failure of on-going discussions? Does it strengthen the U.S. negotiating position? If so, how? To what extent could its use as a bargaining chip impede agreement? If so, how?

The ACIS concludes that, "To the extent it has any impact on ongoing arms control negotiations, the impact is marginally negative." This conclusion is not developed in great detail, nor is it related to the specific kinds of concerns reflected in the above set of questions.

c. What method of verification would be necessary to monitor a limitation on this system? Can the system be deployed in a manner which lends itself to inspection by national technical means? Can the system be deployed in a manner that renders difficult inspection by national technical means?

Not addressed.

d. What effect is the proposed system expected to have on an adversary's position at the bargaining table? Could deployment of the system be viewed as an incentive for an adversary to accept mutual restraint on this or any other weapon system? Or would the opposite effect be likely?

Not addressed.

e. What impact could the current rate of development or deployment have on negotiations? To what extent would a slower pace of development or deployment jeopardize U.S. security?

Not addressed.

ARMS CONTROL IMPACT ANALYSIS

PROGRAM TITLE: W–70 MOD 3 (LANCE) WARHEAD

I. Program synopsis:

A. Descriptions:

The W–70 Mod 3 is being developed to satisfy an Army requirement for a low-yield enhanced radiation (ER) warhead for the Lance missile system.

Enhanced radiation is achieved by fusion reactions that produce high energy neutrons. When these neutrons are produced in connection with relatively low-yield fission reactions, the range of effect of the neutrons is greater than the range at which blast or thermal effects are lethal. At higher yields, blast and thermal effects predominate over both neutron and gamma radiation effects of any type. By employing ER as the target damage mechanism, a reduction in collateral damage is achieved since lower yields are required when personnel are the targets rather than equipment. For example, a 1KT ER warhead gives the same approximate damage expectancy of tank crew incapacitation through radiation effects as a 10KT fission warhead does through radiation effects.

The Lance is a highly mobile surface-to-surface, ballistic missile system which can provide tactical nuclear artillery support to the battlefield through attacks on either fixed targets or non-fixed targets (e.g., tank battalions in staging areas). The nuclear Lance missile has a maximum range of 130 km with a CEP (Circular Error Probable) of 400–450m. Lance has replaced the Honest John and Sergeant missile systems in the US forces in Europe and is replacing the Honest John and Sergeant in most NATO countries (UK, FRG, Belgium, Netherlands, Italy) in both cases on a less than one-for-one basis, thus reducing the number of forward-deployed nuclear system and weapons. (A total of 92 Lance launchers are now programmed for Europe.) Additionally, two Lance Battalions will be based in the US with one presently earmarked for deployment in the Pacific should the need arise. The Lance system is more survivable and more responsive than the systems it replaces, and it has a selectable yield capability. Its longer range allows it to remain further behind the forward edge of the battle area (FEBA) and thus contributes to its survivability. The longer range also facilitates targetting across Corps boundaries.

B. Rationale.

An ER warhead provides increased kill capability principally against personnel and reduce collateral effects (blast and thermal). It has less effect on standard military equipment than a fission weapon of the same yield. With this weapon, armored vehicles, which are relatively unaffected by blast effects except at close range, can be temporarily neutralized by radiation casualties of crew personnel. Requisite effects can still be achieved at much greater ranges, with less collateral damage, than could be expected from blast predominant weapons.

C. Funding.

ERDA's total projected direct costs are $32.1 million for FY–77 through FY–80.[1]

II. Analysis:

The ER warhead will kill tank crews by nuclear radiation. In covering the same intended target area with a non-ER fission weapon, casualties to civilians and damage to property from blast and thermal effects in a congested region would be greater.

It can be argued that the improved warhead may make initial use of nuclear weapons is battle seem more credible which might enhance deterrence. However, by the same token, it can be argued that it increases the likelihood that nuclear weapons would actually be used in combat. In any event, the escalating potential is the same for this weapon as for any other nuclear weapon.

The political effects of deploying enhanced radiation warheads relate to characteristics which may be imputed to the entire class of enhanced radiation weapons rather than to the Lance warhead alone. Potential effects on the nuclear threshold lie more in the gray area of perception—U.S. public, Allied, Soviet, and third world—than in judgments based on hard analytical criteria or weapons characteristics. This class of weapons is more dependent on radiation than on blast or thermal yields, but not entirely so. It is designed primarily against personnel and less against material and sheltering structures. Some will see this class of weapons as more plausible for battlefield use than other kinds of nuclear weapons and might infer a greater U.S. willingness to engage in nuclear war.

Soviet perceptions are difficult to analyze. There is no evidence that the development of this system would have any effect on Soviet doctrine for the initiation of nuclear war or that the Soviets would be less likely to escalate a nuclear exchange if ER weapons were used by the U.S. rather than standard fission weapons. They would presumably follow their own doctrines whether or not this weapon is introduced. The fact that the W–70 Mod 3 warhead may cause less collateral damage to civilians and property in NATO territory cannot be expected to moderate Soviet response. Its use would be no less likely than the present warhead to evoke Soviet retaliatory use of tactical nuclear weapons. Unless the Soviet forces are supplied with a comparable warhead, their response would create the kind of devastation that this warhead is designed to prevent.

Thus, the President would be faced with a decision of the same nature whether or not this class of weapons or other tactical nuclear weapons are used.

If ER weapons are deployed, the Soviets will continue to accuse the U.S. of contributing to the arms race in Europe. There is little doubt that the Soviets would seize or publicized materials alleging that U.S. development of ER weapons make nuclear war more likely by lowering the threshold.

In the U.S. case, the prospect of escalation would remain a central component of a U.S. decision to use nuclear weapons regardless of the performance characteristics of this or other classes of nuclear weapons Thus, any U.S. decision to use nuclear weapons is in all likelihood insensitive to whether or not ER weapons were deployed.

There is no evidence that NATO governments would be particularly concerned about Lance deployment with this warhead. Nevertheless, public discussion of the sort now taking place here could affect NATO attitudes.

The W–70 Mod 3 development and deployment would not be affected by the TTB since the underground testing of warhead under 150 KT is not prohibited.

A CTB would pose limitations on the further development of this class of weapons since over the long term further testing would be required. Conclusion of a test ban treaty with no PNE exception during the next few years would limit the development and refinement of such weapons by both sides.

With regard to MBFR, the Western proposal does not affect Lance launchers. Neither does the Western warhead proposal select specific types of warheads for removal. Development and deployment of the W–70 Mod 3 could, however, be cited by the Soviets as evidence that the U.S. proposal would involve elimination of obsolete weapons while actual capability is being upgraded.

Some governments might couple a decision to deploy ER weapons with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation.

In conclusion, this weapon system has nc arms control advantages.

To the extent it has any impact on ongoing arms control negotiations, the impact would be marginally negative.

A decision to cross the nuclear threshold would be the most agonizing decision to be made by any President. These weapons would not make that decision any easier. But by enhancing deterrence, they could make it less likely that the President would have to face such a decision.

[1] Cost data provided by Energy Research Development Administration. The ERDA Budget Estimate (as amended for FY–78) supplied to Congress cites a figure of $43.3 million for FY–78, of which $14.4 million are direct costs.

ATTORNEYS ON BEHALF OF THE AGENCY FOR CONSUMER PROTECTION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, during the past several months, opponents of the proposed Agency for Consumer Protection have attacked its creation on the grounds that it is everything from unconstitutional to unfair. Unfortunately, the volume and frequency of the opposition has obscured the voices of many of the individuals who are best equipped to comment upon the effectiveness and practicality of the new agency, including the attorneys who practice before the Federal agencies.

Mr. Speaker, I would like to bring to the attention of the Members a letter to our distinguished colleague, JACK BROOKS, Chairman of the Committee on Government Operations which is signed by 14 attorneys with wide and varied experience in Federal agency practice. The letter puts to rest many of the spurious arguments raised against the establishment of the Agency for Consumer Protection, and demonstrates the effective and responsible way in which the agency will be able to represent consumer interests.

The letter follows:

JUNE 30, 1977.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BROOKS: An increasingly active and vocal lobbying campaign is being waged against H.R. 6805, the bill to create an Agency for Consumer Protection. Its opponents claim that such an agency, having the power to gather information from business and to intervene on behalf of consumers in federal agency proceedings, will result in undue additional expense, delay, and confusion, will needlessly harass business, and will impede the workings of the regulatory process.

We are practicing lawyers who have appeared or otherwise participated in federal executive and administrative proceedings for many years. In our view, these concerns are unfounded and we share President Carter's belief that the opposition campaign against the ACP is ill-advised.

By training and experience, lawyers, more than most, appreciate the defects of a decisional process which fails to provide adequate representation of the various competing interests. Because the consumer interest is fragmented and under-financed, it is seldom effectively represented in the process of reaching and reviewing government regulatory decisions that substantially affect consumers.

A situation in which a major interest group in society is inadequately represented within the regulatory process is not only unfair to that group but may lead to unwise and incompeltely analyzed decisions. We believe that an institutionalized, adequately financed consumer advocate would improve rather than impede the regulatory process by bringing to light and forcefully advocating ideas and arguments that would not otherwise be fully explored. In this sense, the proposed Agency for Consumer Protection will contribute to a more efficient and responsible government process.

Several major objections to the bill have been cited which warrant response:

1. It is asserted that there are no criteria in the bill for defining the consumer interest which the ACP will represent. Section 16(4) defines the term "interests of consumers" with great particularity:

"Any concerns of consumers involving the cost, quality, purity, safety, durability, performance, effectiveness, dependability, and availability and adequacy of choice of goods and services offered or furnished to consumers; and the adequacy and accuracy of information relating to consumer goods and services (including labeling, packaging, and advertising of contents, qualities, and terms of sale)."

2. It is argued that there will be no effective check against abuse of the authority granted to the ACP. But, as now carefully refined, the legislation contains rigorous safeguards. The Administrator is required to refrain from intervening in any proceeding unless he determines in a public written statement containing his findings that "such intervention is necessary adequately to represent the interest of consumers," and states "the specific interests of consumers to be protected." The Administrator must comply, like every other party, with all agency statutes and rules governing timing and manner of intervention or participation in such proceedings. Where the Administrator has not intervened or participated in an agency proceeding, he may not obtain judicial review until he has petitioned the agency for rehearing or reconsideration of its action, and the court may, in any event, reject ACP's petition to review the agency action if it finds that this "would impede the interests of justice." (Section 6.)

3. It is suggested that the proposed ACP may be unconstitutional because its intervention before independent regulatory agencies might constitute improper executive interference. This fear is unfounded. Intragovernmental conflicts are not unusual (*e.g.*, Department of Justice intervention in ICC, CAB, FCC proceedings), and have repeatedly been litigated before the Supreme Court without constitutional impediment.

4. It is said that it is undemocratic to vest in a single unelected official the authority to represent, legally and politically, the interests of all the people. The Act confers

no such comprehensive and unconfined powers. The Administrator's duties and functions are carefully circumscribed. He is given no decision-making powers. He acts only as an advocate, and only on behalf of specifically defined consumer interests. His actions are subject to agency statutes and rules of general applicability. Any abuses of his authority are subject to judicial review. Like all officers in the executive branch, he may be removed at will by the President. His every action will be subject to the oversight of Congress and the agency's charter, under the terms of the statute, lapses in 1982.

5. Finally, it is said that the ACP will have limitless powers to harass business with burdensome, repetitive, useless and unfair demands for information. In fact, the discovery powers of the agency are carefully defined and sharply limited. In contrast to the usual investigative powers of regulatory agencies, the ACP may only ask questions and request information, and only where necessary to protect health or safety, or to uncover fraud or substantial economic injury to consumers. It cannot inspect documents or compel the testimony of witnesses; it must define with particularity the purpose for which the information is requested; it cannot exercise even its restricted gathering authority if the information is a matter of public record or available at another agency; small business is exempt. Most importantly, it has no power to issue subpoenas or compel production of information. If a recipient balks, the agency may seek a federal court order, but the order will be granted only if the agency proves in court its need for the requested information.

While we do not believe the ACP will be a panacea for all regulatory ills, we do believe that it will provide a useful, cost-beneficial technique for advocating the legitimate interests of consumers, for monitoring definciencies in the administrative process, and for improving the quality of agency decision-making. For these reasons, we support enactment of this legislation.

Very truly yours,

Joan Z. Bernstein, Sheldon Cohen, Kenneth Cox, Philip Elman, Ronald Goldfarb, Mary Gardiner Jones, Stuart Land, Harry McPherson, Michael Nussbaum, Robert Pitofsky, Stanford Ross, Thomas Troyer, Robert Skitol. Robert Wald

UNITED STATES SHOULD LEAD UNITED NATIONS IN DRAWING ATTENTION TO ELDERLY PEOPLE AROUND THE WORLD

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, today I am introducing a House resolution for the purpose of requesting that the U.S. delegation to the United Nations be directed to join with other United Nation member nations in support of a World Year on Aging and a World Assembly on Aging in 1982.

A parallel resolution is being introduced today in the other body by Senator FRANK CHURCH of Idaho.

The Select Committee on Aging, which I chair, realizes that the elderly make up the fastest growing group in our society. By the year 2020, over 40 million Americans will be aged 65 and above, compared to 22 million in 1975, and only 3 million in 1900.

This very substantial increase in the number of people projected to be over 65 in future years is a compelling reason for public attention to focus on the needs of the eldery. This growing segment of our population will cause significant social and economic changes requiring immediate and long-term attention and action. And this population boom of over-65ers is not limited by national boundaries—the elderly are increasing in numbers worldwide. The approximate 291 million persons 60 years and over, in 1970, throughout the world, will increase to nearly 585 million by the year 2000—an increase of more than 100 percent!

The increasing aging population poses crucial social policy questions, not only for policymakers in the United States, but throughout the world. For this reason, I believe a great deal can be gained in bringing political leaders and governmental specialists together from different countries for the purpose of shaping responsive policies which address problems arising from this change in the population structure.

I urge my colleagues to allow the United States to take the lead in recognizing the need to enhance communication between policymakers, from many lands, to benefit from their insights with respect to methods, approaches, and techniques of improving the lot of elderly people throughout the world, whether it is with regard to improvement of health, status, income maintenance, housing, or simple social acceptability.

Mr. Speaker, I insert at this point the text of the resolution:

H. RES.—

Resolution to express the sense of the House of Representatives that the United States delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the 32nd session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching cpportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Clerk of the House shall transmit a copy of this resolution to the President.

A WEATHERMAN OFFERS THE "NATIONAL WEATHER SERVICES ACT OF 1977"

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, almost every person that comes to Congress has a very special personal contribution that he would like to make. As the only weather forecaster, ever to have served in Congress, I would like to tender my small offering.

I am introducing today a bill entitled the "National Weather Services Act of 1977," which provides a systematic approach for updating national weather services and supporting research.

In an age of highly sophisticated technology there is some irony in the fact that man has in some respects become increasingly vulnerable with respect to natural disasters. The networks of production and transport which supply our food, energy, and material goods have linked large populations over large geographic areas in a common system.

Increased numbers of people with increased consumption have taxed these systems to the point where a disaster or major perturbation, at any point in the system, has consequences for us all.

The number of people in areas susceptible to natural disasters has increased along with the value of property in these areas. Thus the need for predictions of the occurrence of weather extremes becomes more critical for the saving of life and property.

As a professional meteorologist, I am especially aware of the public's need to be informed of violent weather. I spent 20 years forecasting weather in the "tornado belt" of this Nation where citizens are acutely aware of the affects of severe weather. Many people in that part of the United States are wiped out completely each year by violent weather. Hurricanes, tornadoes, and floods annually take their grim toll in the southeastern and eastern sections of our Nation. Droughts can devastate crops and produce water shortages anywhere.

While weather services in the United States have improved, due to new technological developments over the past 20 years, they have failed to keep pace with demand. Particularly lacking are specialized weather services such as those needed in agriculture, aviation, energy management, construction, forestry, and marine activities.

Lack of vital large-scale research and development programs have seriously hampered the operational weather forecasters' ability to deliver needed intermediate and long range forecasts.

Farmers may be the direct victims of floods, drought, and hailstorms, but all citizens are affected by the resulting higher food prices. When one stops to consider the losses to American agriculture from hail alone—currently running from $600 to $800 million annually—an aggressive research program to control hailstorms seems entirely justified.

The entire cost of the most expensive hail suppression research program ever envisioned would be less than 1 year's

crop losses. Experiments to diminish the intensity of hurricanes are underway with encouraging preliminary results. Similarly, there have been successful small-scale experiments to increase rainfall in limited circumstances.

Given the present state of science and technology, the prospects for a better understanding of weather, improved forecasting, and even modification of weather are bright. The answer to the world's food problem may very well lie in our ability to modify weather patterns.

Mr. Speaker, it is my opinion that the time has come to reorganize our entire weather service system so that the National Weather Service can adequately respond to these demands. Technology is now within reach which could provide a successful operational weather research program. Specific national goals can now be identified and established.

National policies, responsibilities and programs regarding weather services and weather research have never been prescribed as a whole by any administration or by any Congress.

No precise statement of federal responsibility for providing weather services to the public has ever existed. Rather, there are many scattered statutory references, some dating back more than 100 years, without clear, concise statements of an overall policy.

Currently, Congress does not even review weather services and supporting research programs that are being conducted by our Government. All we have now is a very brief review by an Appropriations Subcommittee when the President's budget comes up to Capitol Hill each year. This subcommittee has neither the time nor the staff to examine carefully the complete weather program. Certainly the subcommittee cannot examine comprehensive proposed plans or research goals.

The bill I am introducing today addresses this problem by providing for annual program authorizations. Congress would specify the direction, scope and funding of weather services and supporting research. Regular, comprehensive congressional reviews of all weather service programs will assure solutions to bona fide National Weather Service needs. This bill is in keeping with the intent of the 94th Congress when the House committees were restructured. Jurisdiction of weather services were placed under the Science and Technology Committee.

My bill would revise the statutory authority for national weather services which are provided by the Secretary of Commerce as set forth in title 15, United States Code, sections 311 through 328. This bill updates and clarifies existing authorities and functions conducted by the National Oceanic and Atmospheric Administration. It does this by taking into consideration the increasing technological advances made by the weather services both domestically and internationally.

The bill provides that the Secretary of Commerce shall be responsible for the implementation and coordination of all weather-related activities of the Federal Government.

Specific authority for performing weather services and studies and for engaging in joint projects and cooperative agreements with any person, firm, or others, both public and private, domestic, and international, is provided in the bill.

New authority has been added for an equipment replacement fund to replace national weather service facilities as needed in an orderly manner.

In short, Mr. Speaker, this bill is designed to provide a clear congressional mandate to conduct weather programs necessary to meet national needs and to establish procedures for complete weather services and supporting research necessary to fulfill those national needs.

CONFERENCE REPORT ON H.R. 7589

Mr. McKAY submitted the following conference report and statement on the bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95–560)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7589) "making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 8, 9, 12, and 13.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 10, and 11, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$527,769,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$463,056,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$406,986,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,009,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendment numbered 5.

GUNN MCKAY,
ROBERT SIKES,
JOHN MURTHA,
TOM STEED,
CLARENCE D. LONG,
BILL CHAPPELL,
GEORGE MAHON,
ROBERT C. MCEWEN,
RALPH REGULA,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
JOHN L. MCCLELLAN,
DANIEL INOUYE,
WALTER D. HUDDLESTON,
JAMES R. SASSER,
TED STEVENS,
MILTON R. YOUNG,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

General subjects: The conferees agreed to include some but not all of the energy control and monitoring projects approved by the Senate. The House conferees feel that more testing of actual systems is required to verify that these systems actually live up to the services' expectations and to validate both the total concept and the specific applications of these systems. The conferees were also concerned by lack of evidence of comprehensive planning and an apparent tendency to increment such systems. Therefore, the conferees deleted those systems that did not complete the requirements at the installations concerned pending further evidence of documented savings from and comprehensive planning for such systems.

In many instances, the conferees have reduced the amounts provided by the House or Senate for specific projects. These reductions, by and large, were made as a result of lower estimates by the services or reduced authorization for these projects. With the exception of the reductions made in the exchange complex, service station, auto hobby shop, and base cafeteria at the Trident Support Complex, Bangor, Washington, and the addition to aircraft operational parking apron at Moody Air Force Base, Georgia, the conferees do not intend these reductions to represent limitations on the amounts which can be obligated for these projects.

Amendment No. 1, Military construction, Army: Appropriates $527,769,000 instead of $483,659,000 as proposed by the House and $583,059,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Fort Bragg, North Carolina:	
Energy control system	+$2,936,000
Upgrade sewage plant	+7,950,000
Fort Carson, Colorado:	
Lighting systems	+617,000
Electrical distribution system	+492,000
Fort Hood, Texas:	
Oil interceptors	+1,768,000
Municipal sewer connection	+3,200,000
Dental clinic—*Trim*	+454,000
Fort George G. Meade, Maryland: Rehabilitate street lighting	+744,000
Fort Ord, California: Direct support maintenance facility	+1,478,000
Presidio of San Francisco, California: Energy control system	+132,000
Fort Stewart/Hunter Army Airfield, Georgia:	
Two brigade headquarters	+1,119,000
Tactical equipment shop	+1,385,000
Direct support maintenance facility—*Trim*	+4,893,000
Fort Benjamin Harrison, Indiana: Regional sewer connection	+1,796,000
Fort Benning, Georgia: Barracks complex, trainee	+13,934,000

Fort Bliss, Texas:	
Hot water heaters	+95,000
Insulate buildings	+557,000
Water storage tanks	+462,000
Fort Jackson, South Carolina: Sewage treatment upgrade	+366,000
Aberdeen Proving Ground, Maryland:	
Energy control system	+1,600,000
Alter electrical distribution system	+120,000
Corpus Christi Army Depot, Texas: Heat treatment facility	+2,693,000
Harry Diamond Laboratory, Maryland: Energy control system	+1,305,000
Iowa Army Ammunition Plant, Iowa:	
Insulate steam lines	+351,000
Spill control	+357,000
Picatinny Arsenal, New Jersey: Regional sewage plant	+2,823,000
White Sands Missile Range, New Mexico: Range communication facility	+$376,000
Walter Reed Army Medical Center, Washington, D.C.: Fuel storage and emergency generator support	+2,089,000
Military Ocean Terminal, Sunny Point, North Carolina:	
Field operations building	+312,000
Explosive truck access road	+319,000
Camp Zama, Japan: Dependent high school	+180,000
Germany, Various Locations: Funding reduction, NATO-eligible projects	+25,000,000
Rock Island Arsenal, Illinois: Replace Moline Bridge—*Trim*	−234,000
White Sands Missile Range, New Mexico: High energy laser systems test facility	−33,449,000
Fort Sam Houston, Texas: Brooke Army Medical Center—*Trim*	−1,000,000
U.S. Army Intelligence and Security Command (Korea): Supply warehouse and office	−158,000
Dining facility addition	−675,000
Panama Area, Canal Zone: Dining facility modification, Fort Kobbe	−447,000
Germany, Various Locations: NCO open mess, Bremerhaven	−618,000
Outdoor athletic facility, Garlstedt—*Trim*	−321,000
Dental clinic, Heidelberg—*Trim*	−891,000

At Fort Lewis, Washington, the conferees deferred without prejudice an instrument landing system requested for $615,000 pending decisions on the type of division and numbers of helicopters to be stationed at Fort Lewis and the feasible level of utilization of instrument landing facilities at airfields such as McChord Air Force Base. The action taken should not preclude the Army from requesting these facilities in an appropriate manner once these issues have been resolved.

For Fort Benning, the conferees provided an additional $13,934,000 for construction of a trainee barracks at authorized scope, but deferred the $5,886,000 requested for a reception station associated with implementation of one-station unit training (OSUT) for infantry. The conferees also agreed that the Army should undertake a test, as discussed in the House report, and direct that contract award for barracks construction should not be made until the Army has verified that such a test will be performed and has informed the Committees of the criteria, procedures, and schedule to be followed under this test. The conferees also agreed that if, after the results of the test have been analyzed, the Secretary of the Army reports that OSUT is the most advantageous and economic method of initial entry training of infantry, the Committee's concerns as expressed in the House report will be satisfied, provided however that in this connection the House committee shall determine whether the Secretary's determination is reasonable.

The conferees agreed to a general reduction in new budget authority for the Army of $45,000,000 in lieu of a $70,000,000 reduction proposed by the House and a $20,500,000 reduction proposed by the Senate. The conferees agree that the Army immediately shall take all steps necessary to obtain NATO eligibility for all or a significant portion of each of the POMCUS maintenance facilities requested in fiscal year 1978 and, further, that the Army should, to the extent practicable, utilize conjunctive funding in lieu of prefinancing for such facilities. In addition, the conferees understand that to the extent that additional ammunition storage may become NATO-eligible, this should serve to reduce military construction programming requirements. Except where it decreases NATO defense capabilities to do so, funds should not be directed to ammunition storage facilities which may become NATO-eligible as a result of the current NATO ammunition expenditure rate study. Further, the Army and Department of Defense must conscientiously work to ensure that in the future facilities necessary to enhance NATO readiness are NATO financed.

The Senate bill included authority to spend monies available from prior years to complete alterations and improvements to a medical and dental clinic at Giessen, Germany. The conferees agree to allow up to $200,000 to be spent for this purpose.

Amendment No. 2, Military construction, Navy: Appropriates $463,056,000 instead of $425,686,000 as proposed by the House and $523,279,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Trident Support Complex, Bangor, Washington:	
Exchange complex, service station, auto hobby shop and cafeteria—*Trim*	+$1,800,000
Post contract award services—*Trim*	+450,000
Marine Corps Supply Center, Albany Georgia:	
Energy monitoring and control system	+90,000
Steam and condensate systems	+100,000
Marine Corps Air Station, Beaufort, South Carolina: Sanitary sewage collection and treatment	+1,100,000
Marine Corps Base, Camp Lejeune, North Carolina:	
Steam and condensate systems	+550,000
Lighting systems	+500,000
Marine Corps Air Station, Cherry Point, North Carolina: Lighting systems	+450,000
Marine Corps Air Station, El Toro, California: Electrical energy systems	+600,000
Marine Corps Recruit Depot, San Diego, California: Steam and condensate systems	+1,200,000
Marine Corps Base, Twentynine Palms, California: Maintenance facilities	+2,600,000
Naval Academy, Annapolis, Maryland: Steam and condensate systems	+200,000
Naval Observatory, Flagstaff, Arizona: Heating, ventilation and air-conditioning	+80,000
Naval District, Washington: Steam and condensate systems	+850,000
Naval Air Station, Brunswick, Maine: Operational trainer building	+1,100,000
Fleet Combat Training Center, Dam Neck, Virginia: Insulation and Storm windows	+240,000
Naval Submarine Base, New London, Connecticut:	
Lighting systems	+80,000
Insulation and storm windows	+390,000
Naval Station, Norfolk, Virginia: Insulation and storm windows	+230,000
Naval Air Station, Norfolk, Virginia: Air freight terminal	+2,950,000
Naval Air Station, Miramar, California: Boiler plant modifications	+$230,000
Naval Air Station, Moffett Field, California: Heating, ventilation and air-conditioning	+110,000
Naval Air Station, North Island, California:	
Steam and condensate systems	+4,500,000
Oil spill prevention	+1,500,000
Naval Station, Pearl Harbor, Hawaii: Arizona Memorial shoreside facility	+2,000,000
Naval Station, San Diego, California: Berthing improvements	+400,000
Naval Submarine Support Facility, San Diego, California: Berthing pier	+1,670,000
Armed Forces Staff College, Norfolk, Virginia: Building alterations	+160,000
Naval Training Center, Orlando, Florida: Building alterations	+200,000
Naval Regional Medical Center, Norfolk, Virginia: Steam and condensate systems	+600,000
Naval Ship R&D Center, Annapolis, Maryland:	
Energy recovery system	+150,000
Steam and condensate systems	+130,000
Naval Shipyard, Charleston, South Carolina: Welding shop	+1,850,000
Naval Ordnance Station, Indian Head, Maryland: Heating, ventilation and air-conditioning	+180,000
Naval Air Rework Facility, Jacksonville, Florida: Lighting systems	+1,200,000
Naval Torpedo Station, Keyport, Washington: Industrial waste collection	+2,650,000
Naval Air Station, Lakehurst, New Jersey: Building alterations	+160,000
Naval Shipyard, Long Beach, California:	
Heating, ventilation and air-conditioning	+170,000
Steam and condensate systems	+320,000
Insulation and storm windows	+140,000
Naval Air Rework Facility, Norfolk, Virginia: Insulation and storm windows	+390,000
Navy Public Works Center, Norfolk, Virginia: Municipal sewer connections	+4,150,000
Naval Shipyard, Norfolk, Virginia: Electrical energy systems	+100,000
Naval Air Test Center, Patuxent River, Maryland: Steam and condensate system	+1,589,000

Naval Shipyard, Puget Sound, Washington: Ship support service center	+1,550,000
Navy Public Works Center, Pensacola, Florida: Sanitary sewage collection and treatment	+1,250,000
Naval Shipyard, Philadelphia, Pennsylvania: Municipal sewer connection	+2,200,000
Naval Construction Battalion Center, Port Hueneme, California: Boiler plant modification	+310,000
Navy Public Works Center, San Francisco, California: Energy monitoring and control system	+480,000
Naval Research Laboratory, Washington, D.C.: Heating, ventilation and air-conditioning	+330,000
Naval Weapons Station, Yorktown, Virginia:	
Building alterations	+200,000
Dredging	+900,000
Ammunition segregation facility	+2,350,000
Portsmouth Naval Shipyard, Kittery, Maine: Dredging	+2,650,000
Naval Security Station, Washington, D.C.: Heating, ventilation and air-conditioning	+90,000
Naval Station, Roosevelt Roads, Puerto Rico: Sanitary sewage collection and treatment	+150,000
Navy Public Works Center, Guam: Sanitary sewage collection and treatment	+2,800,000
Navy Fleet Activities, Yokosuka, Japan: Electrical power improvements	+1,850,000
General reduction	+181,000
Naval Air Station, Whiting Field, Florida: Land acquisition	−530,000
Atlantic Fleet Ballistic Missile Refit Site (Preferred), Kings Bay, Georgia: Refit site	−19,500,000

At the Trident Support Complex, Bangor, Washington, the Committee of Conference deferred explosive handling wharf No. 2 and missile motor magazines without prejudice. Navy schedules for missile and submarine deployments indicated that funding of this construction is not required in fiscal year 1978. The House had allowed a total of $3,000,000 for an exchange complex, service station, auto hobby shop, and cafeteria, a reduction of $3,789,000 from the budget request. The conferees agreed to restore $1,800,000 of the House reduction. Although specific restrictions are not set for the manner in which the Navy allocates these funds, the conferees feel that service stations normally are and should be built from nonappropriated funds and that the exchange facility is overscoped according to Department of Defense criteria and in view of support available in the civilian community and military installations in the area. The conferees agreed to restore $450,000 of the $900,000 House reduction for on-post contract award services. In addition, the conferees agreed to eliminate $4,533,000 for an off-crew administration building and make a $5,000,000 overall funding reduction.

The conferees agreed to an appropriation of $10,800,000 for the construction of the Naval Station, Adak, Alaska supply pier in lieu of $14,000,000 as proposed by the Senate. It is the intent of the conferees that the amount appropriated should provide facilities adequate to service this remote location. Since there appears to be some question as to the amount actually required for construction of an adequate pier, the conferees wish to be apprised of Navy intentions in this regard. This should include an evaluation of the relative capabilities of supply wharfs in lieu of a pier, together with the costs of each based upon the most complete design information available. While an important factor, cost alone should not be the major consideration in determining the proper means of satisfying supply requirements for this station.

The House bill contained $19,500,000 for a refit site at the preferred location for the Atlantic Fleet Ballistic Missile Refit Site. The conference committee has not provided $19,500,000 in funding; however, this is done without prejudice and with the understanding that the Navy will be allowed to submit a reprogramming request for the approval of the Committees on Appropriations of the Senate and the House of Representatives. A similar procedure is specifically authorized in section 202 of the authorizing legislation.

With respect to the National Naval Medical Center at Bethesda, Maryland, included in the fiscal year 1978 Military Construction Authorization Act as section 205, the conferees concurred with the use of prior-year appropriations for this construction. Fiscal year 1976 appropriations in the amount of $8,000,000 may be used for the construction of a south parking structure for the 500-bed replacement hospital.

Amendment No. 3, Military construction, Air Force: Appropriates $406,986,000 instead of $379,044,000 as proposed by the House and $451,233,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Kingsley Field, Oregon: Add to and alter runway special lighting	+$115,000
Peterson Air Force Base, Colorado: Energy monitoring and control system	+623,000
Hill Air Force Base, Utah: Alter heating systems	+1,500,000
Kelly Air Force Base, Texas:	
Aircraft instrument landing and navigational facility	+134,000
Alter lighting system	+2,300,000
McClellan Air Force Base, California: Repair heating distribution system	+886,000
Robins Air Force Base, Georgia:	
Alter heating and steam mains	+2,669,000
Alter air-conditioning system	+1,500,000
Tinker Air Force Base, Oklahoma: Alter lighting system	+584,000
Wright-Patterson Air Force Base, Ohio:	
Alter lighting fixtures and install light switches	+1,000,000
Repair heating distribution systems	+1,210,000
Arnold Engineering Development Center, Tennessee:	
Waste heat recovery	+850,000
Alter lighting system	+430,000
Edwards Air Force Base, California: Alter mechanical system	+546,000
Eglin Air Force Base, Florida:	
Alter heating and air-conditioning systems	+700,000
Solar domestic hot water	+76,000
Security police operations facility	+309,000
Energy monitoring and control system	+544,000
Patrick Air Force Base, Florida: Waste heat recovery for water heating	+300,000
Columbus Air Force Base, Mississippi: Aircraft instrument landing and navigational facility	+77,000
Keesler Air Force Base, Mississippi: Aircraft control tower	+642,000
Lowry Air Force Base, Colorado: Energy monitoring and control system	+1,808,000
Mather Air Force Base, California: Alter heating plants	+115,000
Randolph Air Force Base, Texas: Aircraft instrument landing and navigational facility	+91,000
Williams Air Force Base, Arizona:	
Parachute and dinghy shop	+432,000
Aircraft instrument landing and navigational facility	+125,000
Elmendorf Air Force Base, Alaska: Alter sewage treatment and disposal facilities	+142,000
Eielson Air Force Base, Alaska: alter sewage treatment and disposal facilities	+$297,000
Shemya Air Force Base, Alaska: Alter sewage treatment and disposal facilities	+853,000
Altus Air Force Base, Oklahoma: Aircraft instrument landing and navigational facility	+145,000
Andrews Air Force Base, Maryland:	
Add to and alter security police operations facility	+692,000
Repair heating distribution system	+2,844,000
Bolling Air Force Base, District of Columbia: Storm windows	+133,000
Little Rock Air Force Base, Arkansas:	
Energy monitoring and control system	+573,000
Flight simulator training facility	+2,305,000
McChord Air Force Base, Washington: Energy monitoring and control system	+1,008,000
Norton Air Force Base, California:	
Solar process water	+444,000
Repair steam distribution system	+430,000
Pope Air Force Base, North Carolina: Energy monitoring and control system	+550,000
Travis Air Force Base, California: Energy monitoring and control system	+500,000
Barksdale Air Force Base, Louisiana:	
Sanitary sewer mains	+1,530,000
Alter air-conditioning system and install insulation	+368,000
Industrial waste treatment and disposal	+215,000
Beale Air Force Base, California: Energy monitoring and control system	+409,000
Castle Air Force Base, California:	
Aircraft instrument landing and navigational facility	+134,000
Energy monitoring and control system	+650,000
Ellsworth Air Force Base, South Dakota: Addition to communications - electronics shop	+251,000
McConnell Air Force Base, Kansas:	
Storm windows	+100,000
Aircraft instrument landing and navigational facility	+116,000
Plattsburgh Air Force Base, New York: Aircraft instrument landing and navigational facility	+140,000
Bergstrom Air Force Base, Texas: Energy monitoring and control system	+874,000
Cannon Air Force Base, New Mexico: Alter fuel systems maintenance facility	+329,000
Davis-Monthan Air Force Base, Arizona: Aircraft instrument landing and navigational facility	+262,000

George Air Force Base, California: Aircraft instrument landing and navigational facility	+127,000
Holloman Air Force Base, New Mexico: Aircraft instrument landing and navigational facility	+128,000
Luke Air Force Base, Arizona: Aircraft instrument landing and navigational facility	+115,000
MacDill Air Force Base, Florida: Energy monitoring and control system	+$1,009,000
Aircraft corrosion control facility	+1,411,000
Moody Air Force Base, Georgia: Addition to aircraft operational parking apron	+1,000,000
Mountain Home Air Force Base, Idaho: Fire protection-avionics shop	+195,000
Myrtle Beach Air Force Base, South Carolina: Energy monitoring and control system	+718,000
Shaw Air Force Base, South Carolina: Aircraft instrument landing and navigational facility	+117,000
Energy Monitoring and control system	+646,000
Gunter Air Force Base, Alabama: Alter air-conditioning system	+248,000
United States Air Force Academy, Colorado: Alter sanitary sewage treatment and disposal facility	+132,000
Kadena Air Base, Japan: Sanitary sewage main	+344,000
Taxiway lighting	+443,000
Osan Air Base, Korea: Corrosion control facility	+1,255,000
Misawa Air Base, Japan: Alter sewage treatment plant	+732,000
Spangdahlem Air Base, Germany: POL operations facility	+340,000
RAF Alconbury, United Kingdom: Aircraft arresting system	+274,000
Galena Airport, Alaska: Dormitory addition	−5,100,000
Various Locations, Strategic Air Command: Addition to field training facility	−1,097,000
Funding adjustment (overall reduction)	−10,955,000

The conferees have denied the Technical Intelligence Operations Center project at Wright-Patterson Air Force Base, Ohio, but do so without prejudice. While it is agreed the work at the Center is essential, the conferees are unconvinced this particular project has been thoroughly justified. Upon receipt of sufficient justification, a request for reprogramming or inclusion in a supplemental or regular program will be considered.

With regard to an environmental and radiological health laboratory at Brooks Air Force Base, Texas, the conferees are in agreement that language in the House report should govern.

Both the House and Senate have approved $5.1 million for the construction of a 179-man bachelor enlisted quarters at Galena Airport, Alaska. The House, however, had recommended new fiscal year 1978 appropriations in this amount, whereas the Senate had recommended project execution within available fiscal year 1977 resources. The conferees agreed that since the project had undergone complete review during the normal review cycle, its approval as a reprogramming would not violate standing injunctions against the reprogramming of funds for a project previously denied by the Congress. Accordingly, the conferees adopted the Senate position, which eliminated the need for new appropriations in fiscal year 1978.

At Moody Air Force Base, Georgia, the conferees have allowed $1,000,000 for upgrading existing operational apron space.

Amendment No. 4, Military construction, Defense Agencies: Appropriates $58,009,000 instead of $32,314,000 as proposed by the House and $59,659,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

(NSA) Fort George G. Meade, Maryland: Underground communications link	+$436,000
Unspecified Location, DARCOM: (White Sands Missile Range, New Mexico) High energy laser systems test facility	+33,449,000
Unspecified Location, TRADOC: (Fort Belvoir, Virginia) Alter building for Defense Systems Management College	+1,810,000
Department of Defense Emergency Construction	−10,000,000

The conferees have agreed to provide $1,810,000 for facilities in support of a Defense Systems Management College at Fort Belvoir, Virginia. The conferees feel that reductions should be made in the Defense establishment in the National Capital Region and encourage the Secretary of Defense and the military services to establish new targets for further reductions in the approximately 139,000 Defense personnel in the National Capital Region and an additional meaningful reduction in the space occupied by Defense activities.

In view of the many problems resulting from Department of Defense impaction in the Washington area, the conferees feel that economic criteria should not be the sole determinant in specific decisions to relocate activities from the National Capital Region. Many factors should be carefully considered in such decisions, and costs for new construction or modification at a location outside of Washington may be outweighed by advantages of such a move.

Amendment No. 5, Family Housing, Defense: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $1,460,140,000 instead of $1,435,538,000 as proposed by the House and $1,451,640,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 6, Family Housing, Defense: Authorizes not to exceed $26,837,000 for the construction of Navy family housing as proposed by the Senate instead of $2,235,000 as proposed by the House.

The conferees have agreed to five hundred and twenty units of family housing at the Naval Complex, Bremerton, Washington. These units were not contained in the House bill because they were not contained in the House authorizing bill at the time the appropriations bill passed the House of Representatives. In addition, the Committee on Appropriations of the House was concerned that the project should contain a greater proportion of two-bedroom units in view of the very large deficit projected for this size units, particularly for the lower enlisted pay grades. These units have now been authorized with the condition that no funds be obligated until the Department of the Navy has revalidated the requirement. The conferees agree to appropriations for this housing with the above condition. Further, the House conferees caution the Navy not to present an unbalanced program (one which completes the programmable requirements for larger units for higher rank personnel while leaving a large deficit of two-bedroom quarters for lower rank enlisted personnel).

Amendment No. 7, Family housing, Defense: Restores technical matter proposed by the House.

Amendment No. 8, Family housing, Defense: Restores $8,500,000 for energy consumption metering as proposed by the House.

The conferees agreed to an appropriation of $8,500,000, as proposed by the House, for a test to determine the feasibility of metering family housing facilities. The conferees further agree that these funds should be limited solely for the purpose of the feasibility test, and that such test should follow the specific guidelines established by the military construction authorization conferees. The Department of Defense should not implement a metering program for the current housing inventory without the express prior approval of the House and Senate Committees on Appropriations.

Amendment No. 9, Family housing, Defense: Restores technical matter proposed by the House.

Amendment No. 10, Family housing, Defense: Adds language proposed by the Senate to establish a maintenance floor within funds appropriated for operations and maintenance.

Amendment No. 11, Homeowners Assistance Fund, Defense: Appropriates $1,500,000 as proposed by the Senate instead of $3,000,000 as proposed by the House.

Amendment No. 12, General provisions: Deletes language proposed by the Senate with regard to sections 612 of the Military Construction Authorization Acts of 1977 and 1978.

Amendment No. 13, General provisions: Deletes language proposed by the Senate with regard to eligibility of applicant for the United States Military Academy.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the 1978 budget estimates, and the House and Senate bills for 1978, follows:

New budget (obligational) authority, fiscal year 1977	$3,461,397,000
Budget estimates of new (obligational) authority, fiscal year 1978	3,015,600,000
House bill, fiscal year 1978	2,819,501,000
Senate bill, fiscal year 1978	3,130,630,000
Conference agreement	2,977,720,000
Conference agreement compared with:	
New budget (obligational) authority fiscal year 1977	−483,677,000
Budget estimates of new (obligational) authority, fiscal year 1978	−37,880,000
House bill, fiscal year 1978	+158,219,000
Senate bill, fiscal year 1978	−152,910,000

GUNN MCKAY,
ROBERT SIKES,
JOHN MURTHA,
TOM STEED,
CLARENCE D. LONG,
BILL CHAPPELL, Jr.,
GEORGE MAHON,
ROBERT C. MCEWEN,
RALPH REGULA,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
JOHN L. MCCLELLAN,
DANIEL INOUYE,
WALTER D. HUDDLESTON,
JAMES S. SASSER,
TED STEVENS,
MILTON R. YOUNG,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6161

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95-564)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1977".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENTS RELATING PRIMARILY TO TITLE I OF THE CLEAN AIR ACT

Sec. 101. Training.
Sec. 102. Waiver of maintenance of effort requirement.
Sec. 103. Air quality control regions.
Sec. 104. Criteria and control techniques.
Sec. 105. Transportation planning and guidelines.
Sec. 106. Air quality standards.
Sec. 107. Energy or economic emergency authority.
Sec. 108. Implementation plans.
Sec. 109. New source standards of performance.
Sec. 110. Standards for hazardous air pollutants.
Sec. 111. Enforcement provisions.
Sec. 112. Compliance orders (including coal conversion).
Sec. 113. Notice to State in case of certain inspections, etc.
Sec. 114. International air pollution.
Sec. 115. President's air quality advisory board.
Sec. 116. Control of pollution from Federal facilities.
Sec. 117. Primary nonferrous smelter orders.
Sec. 118. Noncompliance penalty.
Sec. 119. Consultation.
Sec. 120. Unregulated pollutants.
Sec. 121. Stack heights.
Sec. 122. Assurance of plan adequacy.
Sec. 123. Interstate pollution abatement.
Sec. 124. Public notification.
Sec. 125. State boards.
Sec. 126. Ozone protection.
Sec. 127. Prevention of significant deterioration.
Sec. 128. Visibility protection.
Sec. 129. Nonattainment areas.

TITLE II—AMENDMENTS RELATING PRIMARILY TO TITLE II OF THE CLEAN AIR ACT

Sec. 201. Light-duty motor vehicle emissions.
Sec. 202. Studies and research objective for oxides of nitrogen.
Sec. 203. Study and report of fuel consumption.
Sec. 204. State grants.
Sec. 205. Cost of certain emission control parts.
Sec. 206. Warranties.
Sec. 207. California waiver.
Sec. 208. Maintenance instructions.
Sec. 209. Warranties and motor vehicle parts certification.
Sec. 210. Repair at owner's place of choosing.
Sec. 211. High altitude performance adjustments.
Sec. 214. Assurance of protection of public health and safety.
Sec. 215. Fill pipe standards.
Sec. 216. Onboard hydrocarbon technology.
Sec. 217. Test procedures for measuring evaporative emissions.
Sec. 218. Certain minor and technical and conforming amendments.
Sec. 219. Tampering.
Sec. 220. Testing by small manufacturers.
Sec. 221. Parts standards; preemption of State law.
Sec. 222. Testing of fuels and fuel additives.
Sec. 223. Small refineries.
Sec. 224. Aircraft emissions standards.
Sec. 225. Carbon monoxide intrusion into sustained use vehicles.

TITLE III—AMENDMENTS RELATING PRIMARILY TO TITLE III OF THE CLEAN AIR ACT

Sec. 301. Definitions.
Sec. 302. Emergency powers.
Sec. 303. Citizen suits.
Sec. 304. Civil litigation.
Sec. 305. Administrative procedures and judicial review.
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Sec. 308. Financial disclosure; conflicts of interest.
Sec. 309. Air quality monitoring by environmental protection agency.
Sec. 310. Modeling.
Sec. 311. Employment effects.
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Sec. 313. National Commission on Air Quality.
Sec. 314. Vapor recovery.
Sec. 315. Authorizations.

TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 401. Basis of administrative standards.
Sec. 402. Interagency cooperation on prevention of environmental cancer and heat and lung disease.
Sec. 403. Studies.
Sec. 404. Railroad emission study.
Sec. 405. Study and report concerning economic approaches to controlling air pollution.
Sec. 406. Savings provision; effective dates.

TITLE I—AMENDMENTS RELATING PRIMARILY TO TITLE I OF THE CLEAN AIR ACT

TRAINING

SEC. 101. (a) Section 103(b) of the Clean Air Act is amended by striking out paragraph (5), redesignating the following paragraphs accordingly, and adding the following at the end thereof: "In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications and make grants to such agencies, to other public or nonprofit private agencies, institutions, and organizations for the purposes stated in subsection (a)(5). Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.".

(b) Section 103(a) of such Act is amended by striking out "training," in paragraph (1); by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and by inserting the following paragraph at the end thereof:

"(5) conduct and promote coordination and acceleration of training for individuals relating to the causes, effects, extent, prevention, and control of air pollution."

(d) The Administrator of the Environmental Protection Agency shall consult with the House Committee on Science and Technology on the environmental and atmospheric research, development, and demonstration aspects of this Act. In addition, the reports and studies required by this Act that relate to research, development and demonstration issues shall be transmitted to the Committee on Science and Technology at the same time they are made available to other committees of the Congress.

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

SEC. 102. (a) The third sentence of subsection (b) of section 105 of the Clean Air Act is amended to read as follows: "No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs, and will in no event supplant such State, local, or other non-Federal funds.".

(b) Subsection (c) of section 105 of such Act is amended by adding the following at the end thereof: "In fiscal year 1978 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

AIR QUALITY CONTROL REGIONS

SEC. 103. Section 107 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(d)(1) For the purpose of transportation control planning, part D (relating to nonattainment), part C (relating to prevention of significant deterioration of air quality), and for other purposes, each State, within one hundred and twenty days after the date of enactment of the Clean Air Act Amendments of 1977, shall submit to the Administrator a list, together with a summary of the available information, identifying those air quality control regions, or portions thereof, established pursuant to this section in such State which on the date of enactment of the Clean Air Act Amendments of 1977—

"(A) do not meet a national primary ambient air quality standard for any air pollutant other than sulfur dioxide or particulate matter;

"(B) do not meet, or in the judgment of the State may not in the time period required by an applicable implementation plan attain or maintain, any national primary ambient air quality standard for sulfur dioxide or particulate matter;

"(C) do not meet a national secondary ambient air quality standard;

"(D) cannot be classified under subparagraph (B) or (C) of this paragraph on the basis of available information, for ambient air quality levels for sulfur oxides or particulate matter; or

"(E) have ambient air quality levels better than any national primary or secondary air quality standard other than for sulfur dioxide or particulate matter, or for which there is not sufficient data to be classified under subparagraph (A) or (C) of this paragraph.

"(2) Not later than sixty days after submittal of the list under paragraph (1) of this subsection the Administrator shall promulgate each such list with such modifications as he deems necessary. Whenever the Administrator proposes to modify a list submitted by a State, he shall notify the State and request all available data relating to such region or portion, and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate.

"(4) Any region or portion thereof which is not classified under subparagraph (B) or (C) of paragraph (1) of this subsection for sulfur dioxide or particulate matter within one hundred and eighty days after enactment of the Clean Air Act Amendments of 1977 shall be deemed to be a region classified under subparagraph (D) of paragraph (1) of this subsection.

"(5) A State may from time to time review, and as appropriate revise and resubmit, the list required under this subsection. The Administrator shall consider and promulgate such revised list in accordance with this subsection.

"(e)(1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State for purposes of efficient and effective air quality management. Upon such redesignation the list under subsection (d) shall be modified accordingly.

"(2) In the case of an air quality control region in a State, or part of such region, which the Administrator finds may significantly affect air pollution concentrations in another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.

"(3) No compliance date extension granted under section 113(d)(5) (relating to coal conversion) shall cease to be effective by reason of the regional limitation provided in section 113(d)(5) if the violation of such limitation is due solely to a redesignation of a region under this subsection.

CRITERIA AND CONTROL TECHNIQUES

SEC. 104. (a) The first sentence of section 108(b)(1) of the Clean Air Act is amended by striking the words "technology and costs of emission control" and inserting in lieu thereof the words "cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology".

(b) Section 108(c) of such Act is amended by adding the following at the end thereof: "Not later than six months after the date of the enactment of the Clear Air Act Amendments of 1977, the Administrator shall revise and reissue criteria relating to concentrations of NO_2 over such period (not more than three hours) as he deems appropriate. Such criteria shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially careinogenic derivatives of oxides of nitrogen.".

TRANSPORTATION PLANNING AND GUIDELINES

SEC. 105. Section 108 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(e) The Administrator shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development and State and local officials and within 180 days after the enactment of this subsection, and from time to time thereafter, publish guidelines on the basic program elements for the planning process assisted under section 178 of part D. Such guidelines shall include information on—

"(1) methods to identify and evaluate alternative planning and control activities;

"(2) methods of reviewing plans on a regular basis as conditions change or new information is presented;

"(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

"(4) methods to assure participation by the public in all phases of the planning process; and

"(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

"(f)(1) The Administrator shall publish and make available to appropriate Federal agencies, States, and air pollution control agencies, including agencies assisted under Section 175 within 6 months after enactment of this subsection for clauses (i), (ii), (iii), and (iv) of subparagraph (A) and within one year after the enactment of this subsection for the balance of this subsection (and from time to time thereafter),

"(A) information, prepared, as appropriate, in cooperation with the Secretary of Transportation, regarding processes, procedures, and methods to reduce or control each pollutant, including but not limited to—

"(i) motor vehicle emission inspection and maintenance programs;

"(ii) programs to control vapor emissions from fuel transfer and storage operations and operations using solvents;

"(iii) programs for improved public transit;

"(iv) programs to establish exclusive bus and carpool lanes and areawide carpool programs;

"(v) programs to limit portions of road surfaces or certain sections of the metropolitan areas to the use of common carriers, both as to time and place;

"(vi) programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities;

"(vii) programs to control on-street parking;

"(viii) programs to construct new parking facilities and operate existing parking facilities for the purpose of park and ride lots and fringe parking;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

"(x) provisions for employer participation in programs to encourage carpooling, vanpooling, mass transit, bicycling, and walking.

"(xi) programs for secure bicycle storage facilities and other facilites, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

"(xii) programs of staggered hours of work;

"(xiii) programs to institute road user charges, tolls, or differential rates to discourage single occupancy automobile trips;

"(xiv) programs to control extended idling of vehicles;

"(xv) programs to reduce emissions by improvements in traffic flow;

"(xvi) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations;

"(xvii) programs for retrofit of emission devices or controls on vehicles and engines, other than light duty vehicles, not subject to regulations under section 202 of title II of this Act; and

"(xviii) program to reduce motor vehicle emissions which are caused by extreme cold start conditions;

"(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambient air quality standard will be exceeded and during episodes for which an air pollution alert, warning, or emergency has been declared;

"(C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and

"(D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an increase in the emissions or formation of any other pollutant.

"(2) In publishing such information the Administrator shall also include an assessment of—

"(A) the relative effectiveness of such processes, procedures, and methods;

"(B) the potential effect of such processes, procedures, and methods on transportation systems and the provision of transportation services; and

"(C) the environmental, energy, and economic impact of such processes, procedures, and methods.".

AIR QUALITY STANDARDS

SEC. 106. (a) Section 109 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(d)(1) Not later than December 31, 1980, and at five-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards promulgated under this section and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate in accordance with section 108 and subsection (b) of this section. The Administrator may review and revise criteria or promulgate new standards earlier or more frequently than required under this paragraph.

"(2)(A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

"(B) Not later than January 1, 1980, and at five-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 108 and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing criteria and standards as may be appropriate under section 108 and subsection (b) of this section.

"(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or devised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.".

(b) Section 109 of such Act is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall, not later than one year after the date of the enact-

ment of the Clean Air Act Amendments of 1977, promulgate a national primary ambient air quality standard for NO_2 concentrations over a period of not more than 3 hours unless, based on the criteria issued under section 108(c), he find that there is no significant evidence that such a standard for such a period is requisite to protect public health.".

ENERGY OR ECONOMIC EMERGENCY AUTHORITY

SEC. 107. (a) Section 110(f) of the Clean Air Act is amended to read as follows:

"(f)(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and opportunity for public hearing, the Governor of the State in which such source is located may petition the President to determine that a national or regional energy emergency exists of such severity that—

"(A) a temporary suspension of any part of the applicable implementation plan may be necessary, and

"(B) other means of responding the energy emergency may be inadequate.

Such determination shall not be delegable by the President to any other person. If the President determines that a national or regional energy emergency of such severity exists, a temporary emergency suspension of any part of an applicable implementation plan adopted by the State may be issued by the Governor of any State covered by the President's determination under the conditions specified in paragraph (2) and may take effect immediately.

"(2) A temporary emergency suspension under this subsection shall be issued to a source only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source a temporary energy emergency involving high levels of unemployment or loss of necessary energy supplies for residential dwellings; and

"(B) such unemployment or loss can be totally or partially alleviated by such emergency suspension.

Not more than one such suspension may be issued for any source on the basis of the same set of circumstances or on the basis of the same emergency.

"(3) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator, if any. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of paragraph (2).

"(4) This subsection shall not apply in the case of a plan provision or requirement promulgated by the Administrator under subsection (c) of this section, but in any such case the President may grant a temporary emergency suspension for a four month period of any such provision or requirement if he makes the determinations and findings specified in paragraphs (1) and (2).

"(5) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 119, as in effect before the date of the enactment of this paragraph or 113(d) of this Act, upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.".

(b) Section 110 of such Act is amended by adding the following new subsection at the end thereof:

"(g)(1) In the case of any State which has adopted and submitted to the Administrator a proposed plan revision which the State determines—

"(A) meets the requirements of this section, and

"(B) is necessary (i) to prevent the closing for one year or more of any source of air pollution, and (ii) to prevent substantial increases in unemployment which would result from such closing, and

which the Administrator has not approved or disapproved under this section within the required four month period, the Governor may issue a temporary emergency suspension of the part of the applicable implementation plan for such State which is proposed to be revised with respect to such source. The determination under subparagraph (B) may not be made with respect to a source which would close without regard to whether or not the proposed plan revision is approved.

"(2) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of this subsection.

"(3) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or increment of progress) to which such source is subject under section 119 as in effect before the date of the enactment of this paragraph or section 113(d) upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection.".

IMPLEMENTATION PLANS

SEC. 108. (a)(1) Section 110(a)(2)(A) of the Clean Air Act is amended by inserting "except as may be provided in subparagraph (I)" after "(A)".

(2) Section 110(a)(2)(B) of such Act is amended by striking out "land-use and" and by inserting after "transportation controls" the following: ", air quality maintenance plans, and preconstruction review of direct sources of air pollution as provided in subparagraph (D)".

(3) Section 110(a)(2)(D) of such Act is amended by inserting after "(D) it includes" and before "a procedure" the following: "a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit program as required in parts C and D and a permit or equivalent program for any major emitting facility, within such region as necessary to assure (i) that national ambient air quality standards are achieved and maintained, and (ii)".

(4) Section 110(a)(2)(E) of such Act is amended to read as follows:

"(E) it contains adequate provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will (I) prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, and (ii) insuring compliance with the requirements of section 126, relating to interstate pollution abatement;".

(5) Section 110(a)(2)(F) of such Act is amended by striking out "and" before "(v)" and by inserting the following at the end thereof: "and (vi) requirements that the State comply with the requirements respecting State boards under section 128;" after "such authority;".

(6)(A) Section 110(a)(2)(II)(ii) of such Act is amended by inserting after "to achieve the national ambient air quality primary or secondary standard which it implements" the following: "or to otherwise comply with any additional requirements established under the Clean Air Act Amendments of 1977".

(B) Section 110(a)(2)(II) ii, of such Act is amended by inserting "except as provided in paragraph (3)(C)," before "whenever".

(b) Section 110(a)(2) of the Clean Air Act is amended by striking out "and" at the end of subparagraph (G), striking out the period at the end of subparagraph (H), and by adding the following new subparagraphs at the end thereof:

"(I) it provides that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area (as defined in section 171(2)) to which such plan applies, if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction or modification, such plan meets the requirements of part D (relating to nonattainment areas);

"(J) it meets the requirements of section 121 (relating to consultation), section 127 (relating to public notification), part C (relating to prevention of significant deterioration of air quality and visibility protection); and

"(K) it requires the owner or operator of each major stationary source to pay to the permitting authority as a condition of any permit required under this Act a fee sufficient to cover—

"(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this subparagraph, the reasonable costs (incurred after such date of enactment) of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action.".

(c) Section 110(a)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator in the case of a plan (or portion thereof) promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more exemptions under section 118 (relating to Federal facilities), enforcement orders under section 113(d), suspensions under section 110(f) or (g) (relating to temporary energy or economic authority) or orders under section 119 (relating to primary nonferrous smelters) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, extensions, or variance had been granted.".

(d)(1) Section 110(c)(1) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, any portion of a plan relating to any measure described in the first sentence of section 121 (relating to consultation) or the consultation process required under such section 121 shall not be required to be promulgated before the date eight months after such date required for submission.".

(2) Section 110(c)(1)(A) of such Act is amended to read as follows:

"(A) the State fails to submit an implementation plan which meets the requirements of this section,".

(3) Section 110(c) of such Act is amended by adding the following new paragraphs at the end thereof:

"(3) Upon application of the chief executive officer of any general purpose unit of

local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the authority to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection.

"(4) In the case of any applicable implementation plan containing measures requiring—

"(A) retrofits on other than commercially owned in-use vehicles,

"(B) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects, or

"(C) the reduction of the supply of on-street parking spaces,

the Governor of the State may, after notice and opportunity for public hearing, temporarily suspend such measures notwithstanding the requirements of this section until January 1, 1979, or the date on which a plan revision under section 110(a)(2)(I) is submitted, whichever is earlier. No such suspension shall be granted unless the State agrees to prepare, adopt, and submit such plan revision as determined by the Administrator.

"(5)(A) Any measure in an applicable implementation plan which requires a toll or other charge for the use of a bridge located entirely within one city shall be eliminated from such plan by the Administrator upon application by the Governor of the State, which application shall include a certification by the Governor that he will revise such plan in accordance with subparagraph (B).

"(B) In the case of any applicable implementation plan with respect to which a measure has been eliminated under subparagraph (A), such plan shall, not later than one year after the date of the enactment of this subparagraph, be revised to include comprehensive measures (including the written evidence required by part D) to:

"(i) establish, expand, or improve public transportation measures to meet basic transportation needs, as expeditiously as is practicable; and

"(ii) implement transportation control measures necessary to attain and maintain national ambient air quality standards,

and such revised plan shall, for the purpose of implementing such comprehensive public transportation measures, include requirements to use (insofar as is necessary) Federal grants, State or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and funds. Such measures shall, as a substitute for the tolls or charges eliminated under subparagraph (A), provide for emissions reductions equivalent to the reductions which may reasonably be expected to be achieved through the use of the tolls or charges eliminated.

"(C) Any revision of an implementation plan for purposes of meeting the requirements of subparagraph (B) shall be submitted in coordination with any plan revision required under part D.".

(e) Section 110(a) of such Act is amended by adding at the end thereof the following new paragraphs:

"(5)(A)(i) Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program. The Administrator may approve and enforce as part of an applicable implementation plan, an indirect source review program which the State chooses to adopt and submit as part of its plan.

"(ii) Except as provided in subparagraph (B), no plan promulgated by the Administrator shall include any indirect source review program for any air quality control region, or portion thereof.

"(iii) Any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan, provided that such plan meets the requirements of this section.

"(B) The Administrator shall have the authority to promulgate, implement and enforce regulations under section 110(c) respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources.

"(C) For purposes of this paragraph, the term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c)(2)(D)(ii)), including regulation of existing off-street parking but such term does not include new or existing on-street parking. Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this paragraph.

"(D) For purposes of this section the term 'quote indirect source review program' means the facility-by-facility preconstruction or premodification review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(i) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(ii) preventing maintenance of any such standard after such date.

"(E) For purposes of this paragraph and paragraph (2)(B), the term 'transportation control measure' does not include any measure which is an 'indirect source review program'.

"(6) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of an order under section 113(d) or section 119 (relating to primary nonferrous smelter orders), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.".

(f) Section 110(d) of such Act is amended by striking out "implements" and all that follows down through the period at the end thereof and inserting in lieu thereof "implements the requirements of this section.".

(g) Section 110 of such Act is amended by adding the following new subsection at the end thereof:

"(h)(1) Not later than one year after the date of enactment of the Cean Air Act Amendments of 1977 and annually thereafter, the Administrator shall assemble and publish a compresensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the Federal Register of the availability of such documents. Each such document shall be revised as frequently as practicable but not less often than annually.

"(2) The Administrator may promulgate such regulations as may be reasonably necessary to carry out the purpose of this subsection.

"(i) Except for a primary nonferrous smelter order under section 119, a suspension under section 110(f) or (g) (relating to emergency suspensions), an exemption under section 118 (relating to Federal facilities), an order under section 113(d) (relating to compliance orders), a plan promulgation under section 110(c), or a plan revision under section 110(a)(3) no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator.

"(3) As a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used as such source will enable it to comply with the standards of performance which are to apply to such source and that the construction or modification and operation of such source will be in compliance with all other requirements of this Act.

NEW SOURCE STANDARDS OF PERFORMANCE

SEC. 109 (a) Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(f)(1) Not later than one year after the date of enactment of this subsection, the Administrator shall promulgate regulations listing under subsection (b)(1)(A) the categories of major stationary sources which are not on the date of the enactment of this subsection included on the list required under subsection (b)(1)(A). The Administrator shall promulgate regulations establishing standards of performance for the percentage of such categories of sources set forth in the following table before the expiration of the corresponding period set forth in such table:

"Percentage of source categories required to be listed for which standards must be established:	Period by which standards must be promulgated after date list is required to be promulgated:
25	2 years.
75	3 years.
100	4 years.

"(2) In determining priorities for listing of unlisted categories of major stationary sources for the purpose of paragraph (1), the Administrator shall consider—

"(A) the quality of air pollutant emissions which each such category will emit, or will be designed to emit;

"(B) the extent to which such pollutant may reasonably be anticipated to endanger public health or welfare; and

"(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

"(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

"(g)(1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (f)(1) any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

"(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b)(1)(A) contributes significantly to air pollution which may reasonably be anticipated to endanger public

health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

"(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (f)(2), the Administrator shall revise the list under subsection (b)(1)(A) to apply properly such criteria.

"(4) Upon application of the Governor of a State showing that—

"(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

"(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) for such category no longer reflects the greatest degree of emission limitation achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air-quality health and environmental impact and energy requirements) has been adequately demonstrated, the Aministrator shall revise such standard of performance for such category accordingly.

"(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 112, the Administrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

"(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 142 is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

"(7) Unless later deadlines for action of the Administrator are otherwise prescribed under this section or section 112, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

"(A) find that such application does not contain the requisite showing and deny such application, or

"(B) grant such application and take the action required under this subsection.

"(8) Before taking any action required by subsection (f) or by this subsection, the Administrator shall provide notice and opportunity for public hearing.

"(h)(1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce a standard of performance, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which reflects the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(2) For the purpose of this subsection, the phrase 'not feasible to prescribe or enforce a standard of performance' means any situation in which the Administrator determines that (A) a pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

"(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of standard of performance whenever it becomes feasible to promulgate and enforce such standard in such terms.

"(i) Any regulations promulgated by the Administrator under this section applicable to grain elevators shall not apply to country elevators (as defined by the Administrator) which have a storage capacity of less than two million five hundred thousand bushels.".

(b)(1) Section 111(d)(1) of such Act is amended by striking out "emission standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.".

(2) Section 111(d)(2) of such Act is amended by adding at the end thereof the following new sentence: "In promulgating a standard of performance under a plan prescribed under this paragraph the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.".

(c)(1)(A) Section 111(a)(1) of the Clean Air Act, defining standard of performance, is amended to read as follows:

"(1) The term 'standard of performance' means—

"(A) with respect to any air pollutant emitted from a category of fossil fired stationary sources to which subsection (b) applies, a standard—

"(i) establishing allowable emission limitations for such category of sources, and

"(ii) requiring the achievement of a percentage reduction in the emissions from such category of sources from the emissions which would have resulted from the use of fuels which are not subject to treatment prior to combustion;

"(B) with respect to any air pollutant emitted from a category of stationary sources (other than fossil fuel fired sources) to which subsection (b) applies, a standard such as that referred to in subparagraph (A)(i); and

"(C) with respect to any air pollutant emitted from a particular source to which subsection (d) applies, a standard which the State (or the Administrator under the conditions specified in subsection (d)(2)) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

For the purpose of subparagraphs (A)(i) and (ii) and (B), a standard of performance shall reflect the degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. For the purpose of subparagraph (1)(A)(ii), any cleaning of the fuel or reduction in the pollution characteristics of the fuel after extraction and prior to combustion may be credited as determined under regulations promulgated by the Administrator, to a source which burns such fuel.".

(B) Section 111(a) of such Act is further amended by adding the following new paragraph at the end thereof:

"(7) The term 'technological system of continuous emission reduction' means—

"(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

"(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, including precombustion cleaning or treatment of fuels.".

(2) Section 111(b)(1)(B) of such Act is amended by striking out "may, from time to time," in the next to last sentence thereof and by inserting in lieu thereof "shall, at least every four years, review and, if appropriate,".

(3) Section 111(b) of such Act is further amended by inserting at the end thereof the following:

"(5) Except as otherwise authorized under subsection (h), nothing in this section shall be construed to require, or to authorize the Administrator to require, any new or modified source to install and operate any particular technological system of continuous emission reduction to comply with any new source standard of performance.

"(6) The revised standards of performance required by enactment of subsection (a)(1)(A)(i) and (ii) shall be promulgated not later than one year after enactment of this paragraph. Any new or modified fossil fuel fired stationary source which commences construction prior to the date of publication of the proposed revised standards shall not be required to comply with such revised standards.".

(d)(1) The second sentence of section 111(c)(1) is amended by striking out "(except with respect to new sources owned or operated by the United States)".

(2) The second sentence of section 112(d)(1) is amended by striking out "(except with respect to stationary sources owned or operated by the United States)".

(3) The second sentence of section 114(b)(1) is amended by striking out "(except with respect to new sources owned or operated by the United States)".

(e) Section 111 of such Act is amended by adding the the following new subsections at the end thereof:

"(j) As a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emmission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source and that the construction or modification and operation of such source will be

in compliance with all other requirements of this Act.

"(k)(1)(A) Any person proposing to own or operate a new source may request the Administrator for one or more waivers from the requirements of this section for such souce or any portion thereof with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a waiver under this paragraph, if the Administrator determines after notice and opportunity for public hearing, that—

"(i) the proposed system or systems have not been adequately demonstrated,

"(ii) the proposed system or systems will operate effectively and there is a substantial likelihood that such system or systems will achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or nonair quality environmental impact,

"(iii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction, and

"(iv) the granting of such waiver is consistent with the requirements of subparagraph (C).

In making any determination under clause (ii), the Administrator shall take into account any previous failure of such system or systems to operate effectively or to meet any requirement of the new source performance standards. In determining whether an unreasonable risk exists under clause (iii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce or eliminate emissions of any unregulated pollutants; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) of this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (iii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system if such pollutant was not emitted, or was emitted in significanty lesser amounts without use of such system.

"(B) A waiver under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(i) emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

"(ii) proper functioning of the technological system or systems authorized.

Any such term or conditions shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 113.

"(C) The number of waivers granted under this paragraph with respect to a proposed technological system of continuous emission reduction shall not exceed such number as the Administrator finds necessary to ascertain whether or not such system will achieve the conditions specified in clauses (ii) and (iii) of subparagraph (A).

"(D) A waiver under this paragraph shall extend to the sooner of—

"(i) the date determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

"(ii) the date on which the Administrator determines that such system has failed to—

"(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

"(II) comply with the condition specified in paragraph (1)(A)(iii),

and that such failure cannot be corrected.

"(E) In carrying out subparagraph (D)(i), the Administrator shall not permit any waiver for a source or portion thereof to extend beyond the date—

"(i) seven years after the date on which any waiver is granted to such source or portion thereof, or

"(ii) four years after the date on which such source or portion thereof commences operation,

whichever is earlier.

"(F) No waiver under this subsection shall apply to any portion of a source other than the portion on which the innovative technological system or systems of continuous emission reduction is used.

"(2)(A) If a waiver under paragraph (1) is terminated under clause (ii) of paragraph (1)(D), the Administrator shall grant an extension of the requirements of this section for such source for such minimum period as may be necessary to comply with the applicable standard of performance under subsection (b) of this section. Such period shall not extend beyond the date three years from the time such waiver is terminated.

"(B) An extension granted under this paragraph shall set forth emission limits and a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practicable and include such measures as are necessary and practicable in the interim to minimize emissions. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section and section 113.".

(f) Section 111(a) of such Act is amended by adding the following new paragraph at the end thereof:

"(7) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such Act, or (B) which qualifies under section 113(d)(5)(A)(ii) of this Act, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.".

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

SEC. 110. Section 112 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(e)(1) For purposes of this section, if in the judgment of the Administrator, it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in his judgment is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. In the event the Administrator promulgates a design or equipment standard under this subsection, he shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(2) For the purpose of this subsection, the phrase 'not feasible to prescribe or enforce an emission standard' means any situation in which the Adminstrator determines that (A) a hazardous pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

"(3) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(4) Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission standard whenever it becomes feasible to promulgate and enforce such standard in such terms.".

ENFORCEMENT PROVISIONS

SEC. 111. (a) Section 113(a) of the Clean Air Act is amended by inserting the following new paragraph at the end thereof:

"(5) Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of the regulation refered to in section 129(a)(1) of the Clean Air Act Amendments of 1977 or any plan provisions required under section 110(a)(2)(I) and part D, he may issue an order prohibiting the contruction or modification of any major stationary source in any area to which such provisions apply or he may bring a civil action under subsection (b)(5).".

(b)(1) So much of section 113(b) of such Act as precedes paragraph (1) thereof is amended to read as follows:

"(b) The Administrator shall, in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever such person—".

(2) Section 113(b) of such Act is amended by inserting the following after the first sentence thereof: "The Administrator may commence a civil action for recovery of any noncompliance penalty under section 120 or for recovery of any nonpayment penalty for which any person is liable under section 120 or for both.".

(b) Section 113(b) of such Act is amended by striking out the penultimate sentence thereof and substituting: "Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty and to collect any noncompliance penalty (and nonpayment penalty) owed under section 120. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into consideration (in addition to other factors) the size of the business, the economic impact of the penalty on the business, and the seriousness of the violation.".

(3) Section 113(b) of such Act is amended by adding the following at the end thereof: "In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (includ-

ing reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.".

(c)(1) Section 113(b)(3) of such Act is amended by striking out "or section 119(g)" and inserting in lieu thereof "section 119(g) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977) subsection (d)(5) (relating to coal conversion), section 320 (relating to cost of certain vapor recovery), section 119 (relating to smelter orders) or any regulation under part B (relating to ozone)".

(2) Section 113(b)(4) of such Act is amended by inserting "or subsection (d)" after "114".

(3) Section 113(b) of such Act is amended by striking out "or" at the end of paragraph (3), striking out the period at the end of paragraph (4) and substituting ": or", and inserting the following new paragraph at the end thereof:

"(5) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) has been made."

(d)(1) Section 113(c)(1)(B) of such Act is amended to read as follows:

"(B) violates or fails or refuses to comply with any orders under section 119 or under subsection (a) or (d) of this section, or"; and

(2) Section 113(c)(1) of such Act is amended by striking out "or" at the end of subparagraph (B), by striking out "section 112(c), or section 119(g)" and inserting in lieu thereof: "section 112(c), or

"(D) violates any requirement of section 119(g) (as in effect before the date of the enactment of this Act) subsection (b)(7) or (d)(5) of section 120 (relating to noncompliance penalties) or any requirement of part B relating to ozone)".

(3) Section 113(c) of such Act is amended by adding the following new paragraph at the end thereof:

"(3) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.".

COMPLIANCE ORDERS (INCLUDING COAL CONVERSION)

SEC. 112. (a) Section 113 of the Clean Air Act is amended by adding the following new subsection:

"(d)(1) A State (or, after thirty days notice to the State, the Administrator) may issue an order for any stationary source which specifies a date for final compliance with any requirement of an applicable implementation plan later than the date for attainment of any national ambient air quality standard specified in such plan if—

"(A) such order is issued after notice to the public (and, as appropriate, to the Administrator) containing the content of the proposed order and opportunity for public hearing;

"(B) the order contains a schedule and timetable for compliance;

"(C) the order requires compliance with applicable interim requirements as provided in paragraph (5)(B) (relating to sources converting to coal), and paragraph (6) and (7) (relating to all sources receiving such orders) and requires the emission monitoring and reporting by the source authorized to be required under sections 110(a)(2)(F) and 114(a)(1);

"(D) the order provides for final compliance with the requirement of the applicable implementation plan as expeditiously as practicable, but (except as provided in paragraph (4) and (5)) in no event later than July 1, 1979, or three years after the date for final compliance with such requirement specified in such plan, whichever is later; and

"(E) in the case of a major stationary source, the order notifies the source that it will be required to pay a noncompliance penalty under section 120 or by such later date as is set forth in the order in accordance with section 120 in the event such source fails to achieve final compliance by July 1, 1979.

"(2) In the case of any major stationary source, no such order issued by the State shall take effect until the Administrator determines that such order has been issued in accordance with the requirements of this Act. In the case of any source other than a major stationary source, such order issued by the State shall cease to be effective upon a determination by the Administrator that it was not issued in accordance with the requirements of this Act. If the Administrator so objects, he shall simultaneously proceed to issue an enforcement order in accordance with subsection (t) or an order under this subsection. Nothing in this section shall be construed as limiting the authority of a State or political subdivision to adopt and enforce a more stringent emission limitation or more expeditious schedule or timetable for compliance than that contained in an order by the Administrator.

"(3) If any source not in compliance with any requirement of an applicable implementation plan gives written notification to the State (or the Administrator) that such source intends to comply by means of replacement of the facility, a complete change in production process, or a termination of operation, the State (or the Administrator) may issue an order under paragraph (1) of this subsection permitting the source to operate until July 1, 1979, without any interim schedule of compliance: *Provided*, That as a condition of the issuance of any such order, the owner or operator of such source shall post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue to the owner or operator of such source by reason of the failure to comply. If a source for which the bond or other surety required by this paragraph has been posted fails to replace the facility, change the production process, or terminate the operations as specified in the order by the required date, the owner or operator shall immediately forfeit on the bond or other surety and the State (or the Administrator) shall have no discretion to modify the order under this paragraph or to compromise the bond or other surety.

"(4) An order under paragraph (1) of this subsection may be issued to an existing stationary source if—

"(A) the source will expeditiously use new means of emission limitation which the Administrator determines is likely to be adequately demonstrated (within the meaning of section 111(a)(1) upon expiration of the order.

"(B) such new means of emission limitation is not likely to be used by such source unless an order is granted under this subsection.

"(C) such new means of emission limitation is determined by the Administrator to have a substantial likelihood of—

"(i) achieving greater continuous emission reduction than the means of emission limitation which, but for such order, would be required; or

"(ii) achieving an equivalent continuous reduction at lower cost in terms of energy, economic, or nonair quality environmental impact; and

"(D) compliance by the source with the requirement of the applicable implementation plan would be impracticable prior to, or during, the installation of such new means.

Such an order shall provide for final compliance with the requirement in the applicable implementation plan as expeditiously as practicable, but in no event later than five years after the date on which the source would otherwise be required to be in full compliance with the requirement.

"(5)(A) In the case of a major stationary source which is burning petroleum products or natural gas, or both and which—

"(i) is prohibted from doing so under an order pursuant to the provisions of section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such provisions, or

"(ii) within one year after enactment of the Clean Air Act Amendments of 1977 gives notice of intent to convert to coal as its primary energy source because of actual or anticipated curtailment of natural gas supplies under any curtailment plan or schedule approved by the Federal Power Commission (or, in the case of intrastate natural gas supplies, approved by the appropriate State regulatory commission),

and which thereby would no longer be in compliance with any requirement under an applicable implementation plan, an order may be issued by the Administrator under paragraph (1) of this subsection for such source which specifies a date for final compliance with such requirement as expeditiously as practicable, but not later than December 31, 1980. The Administrator may issue an additional order under paragraph (1) of this subsection for such source providing an additional period of such source to come into compliance with the requirement in the applicable implementation plan, which shall be as expeditiously as practicable, but in no event later than five years after the date required for compliance under the preceding sentence.

"(B) In issuing an order pursuant to subparagraph (A), the Administrator shall prescribe (and may from time to time modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions for each source to which such an order applies. Such limitations, requirements, and measures shall be those which the Administrator determines must be complied with by the source in order to assure (throughout the period before the date for final compliance established in the order) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

"(C) The Administrator may, by regulation, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out this paragraph shall provide such systems to users thereof, if he finds, after consultation with the States, that priorities must be imposed in order to assure that such systems are first provided to sources subject to orders under this paragraph in air quality control regions in which national primary ambient air quality standards have not been achieved. No regulation under this subparagraph may impair the obligation of any contract entered into before the date of enactment of the Clean Air Act Amendments of 1977.

"(D) No order issued to a source under this paragraph with respect to an air pollutant shall be effective if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing)—

"(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region

where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.

"(6) An order issued to a source under this subsection shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable.

"(7) A source to which an order is issued under paragraph (1), (3), (4), or (5) of this subsection shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such order is in effect and shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include—

"(A) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

"(B) a requirement that the source comply with the requirements of the applicable implementation plan during any such period insofar as such source is able to do so (as determined by the Administrator).

"(8) Any order under paragraph (1) or (3) of this subsection shall be terminated if the Administrator determines on the record, after notice and hearing, that the inability of the source to comply no longer exists. If the owner or operator of the source to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under this subsection.

"(9) If the Administrator determines that a source to which an order is issued under this subsection is in violation of any requirement of this subsection, he shall—

"(A) enforce such requirement under subsection (a), (b) or (c) of this section.

"(B) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted,

"(C) give notice of noncompliance and commence action under section 120, or

"(D) take any appropriate combination of such actions.

"(10) During the period of the order issued under this subsection and where the owner or operator is in compliance with the terms of such order, no other enforcement action pursuant to this section or section 304 of this Act shall be pursued against such owner or operator based upon noncompliance during the period the order is in effect with the requirement for the source covered by such order.

"(11) For the purposes of sections 110, 304, and 307 of this Act, any order issued by the State (and approved by the Administrator) pursuant to this subsection shall become part of the applicable implementation plan.

"(12) Any enforcement order issued under subsection (a) of this section or any consent decree in an enforcement action which is in effect on the day of enactment of the Clean Air Act Amendments of 1977 shall remain in effect to the extent that such order or consent decree is (A) not inconsistent with the requirements of this subsection and section 119 or (B) the administrative orders on consent issued by the Administrator on November 5, 1975 and February 26, 1976 and requiring compliance with sulfur dioxide emission limitations or standards at least as least as stringent as those promulgated under section 111. Any such enforcement order issued under subsection (a) of this section or consent decree which provides for an extension beyond July 1, 1979, except such administrative orders on consent, is void unless modified under this subsection within one year after the enactment of the Clean Air Act Amendments of 1977 to comply with the requirements of this subsection.".

(b)(1) Section 119 of such Act is hereby repealed. All references to such section 119 or subsections thereof in section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319) or any amendment thereto, or any subsequent enactment which supersedes such Act, shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular. Any certification or notification required to be given by the Administrator of the Environmental Protection Agency under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such Act, shall be given only when the Governor of the State in which is located the source to which the proposed order under section 113(d)(5) of the Clean Air Act is to be issued gives his prior written concurrence.

(2) In the case of any major stationary source to which any requirement is applicable under section 113(d)(5)(B) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such Act, the Administrator of the Environmental Protection Agency shall certify the date which he determines is the earliest date that such source will be able to comply with all such requirements. In the case of any plant or installation which the Administrator of the Environmental Protection Agency determines (after consultation with the State) will not be subject to an order under section 113(d) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such Act, the Administrator of the Environmental Protection Agency shall certify the date which he determines is the earliest date that such plant or installation will be able to burn coal in compliance with all applicable emission limitations under the implementation plan.

(3) Any certification required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto, or any subsequent enactment which supersedes such Act, or under this subsection may be provided in an order under section 113(d) of the Clean Air Act.

NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

SEC. 113. Section 114 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(d)(1) In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of an order under section 113(d), before carrying out an entry, inspection, or monitoring under paragraph (2) of subsection (a) with respect to such standard, limitation, or other requirement, the Administrator (or his representatives) shall provide the State air pollution control agency with reasonable prior notice of such action, indicating the purpose of such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation, or other requirement which is not part of an applicable implementation plan or which was promulgated by the Administrator under section 110(c).

"(2) Nothing in paragraph (1) shall be construed to provide that any failure of the Administrator to comply with the requirements of such paragraph shall be a defense in any enforcement action brought by the Administrator or shall make inadmissible as evidence in any such action any information or material obtained notwithstanding such failure to comply with such requirements.

INTERNATIONAL AIR POLLUTION

SEC. 114. Section 115 of the Clean Air Act is amended to read as follows:

"INTERNATIONAL AIR POLLUTION

"SEC. 115. (a) Whenever the Administrator, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the Governor of the State in which such emissions originate.

"(b) The notice of the Administrator shall be deemed to be a finding under section 110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable implementation plan as is inadequate to prevent or eliminate the endangerment referred to in subsection (a). Any foreign country so affected by such emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

"(c) This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this section.

"(d) Recommendations issued following any abatement conference conducted prior to the enactment of the Clean Air Act Amendments of 1977 shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 109 of this Act unless the Administrator, after consultation with all agencies which were party to the conference, rescinds any such recommendation on grounds of obsolescence.".

PRESIDENT'S AIR QUALITY ADVISORY BOARD

SEC. 115. Section 117 of the Clean Air Act is amended—

(1) to strike subsections (a) through (c);

(2) to renumber subsection (d) and (e) as subsections (a) and (b), respectively; and

(3) to amend redesignated subsection (b)—

(A) by striking the words "the Board and"

the first time the word "Board" appears and inserting in lieu thereof the word "any"; and

(B) by striking the words "of the Board" the second time the word "Board" appears.

CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 116. (a) Section 118 of the Clean Air Act, relating to control of pollution from Federal facilities, is amended—

(1) by inserting "(a)" after "118", and

(2) by striking out "shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and inserting in lieu thereof "and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty for which he is not otherwise liable."

(b) Section 118 of such Act is amended by striking out "The President may exempt" and inserting in lieu thereof:

"(b) The President may exempt".

(c) Section 118(b) of such Act, as amended by subsection (b) of this Act, is amended by inserting the following immediately before the last sentence thereof: "In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.".

PRIMARY NONFERROUS SMELTER ORDERS

SEC. 117. (a) Title I of the Clean Air Act is amended by inserting immediately before section 101 the following:

"PART A—AIR QUALITY AND EMISSION LIMITATIONS".

(b) Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"PRIMARY NONFERROUS SMELTER ORDER

"SEC. 119. (a)(1) Upon application by the owner or operator of a primary nonferrous smelter, a primary nonferrous smelter order under subsection (b) may be issued—

"(A) by the Administrator, after thirty days' notice to the State, or

"(B) by the State in which such source is located, but no such order issued by the State shall take effect until the Administrator determines that such order has been issued in accordance with the requirements of this Act.

Not later than ninety days after submission by the State to the Administrator of notice of the issuance of a primary nonferrous smelter order under this section, the Administrator shall determine whether or not such order has been issued by the State in accordance with the requirements of this Act. If the Administrator determines that such order has not been issued in accordance with such requirements, he shall conduct a hearing respecting the reasonable control technology for primary nonferrous smelters.

"(2)(A) An order issued under this section to a primary nonferrous smelter shall be referred to as a 'primary nonferrous smelter order'. No primary nonferrous smelter may receive both an enforcement order under section 113(d) and a primary nonferrous smelter order under this section.

"(B) Before any hearing conducted under this section, in the case of an application made by the owner or operator of a primary nonferrous smelter for a second order under this section, the applicant shall furnish the Administrator (or the State as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). The statement of the grounds for the proposed order shall be provided by the Administrator or the State in any case in which such State or Administrator is acting on its own initiative. Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of such hearing. No primary nonferrous smelter order may be granted unless the applicant establishes that he meets the conditions required for the issuance of such order (or the Administrator or State establishes the meeting of such conditions when acting on their own initiative).

"(D) Any decision with respect to the issuance of a primary nonferrous smelter order shall be accompanied by a concise statement of the findings and of the basis of such findings.

"(b) A primary nonferrous smelter order under this section may be issued to a primary nonferrous smelter if—

"(1) such smelter is in existence on the date of the enactment of this section;

"(2) the requirement of the applicable implementation plan with respect to which the order is issued is an emission limitation or standard for sulfur oxides which is necessary and intended to be itself sufficient to enable attainment and maintenance of national primary and secondary ambient air quality standards for sulfur oxides; and

"(3) such smelter is unable to comply with such requirement by the applicable date for compliance because no means of emission limitation applicable to such smelter which will enable it to achieve compliance with such requirement has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, nonair quality health and environmental impact, and energy consideration).

"(c)(1) A second order issued to a smelter under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. The increments of progress shall be limited to requiring compliance with subsection (d) and, in the case of a second order, to procuring, installing, and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated to be reasonably available within the means of subsection (b)(3).

"(2) Not in excess of two primary nonferrous smelter orders may be issued under this section to any primary nonferrous smelter. The first such order issued to a smelter shall not result in the postponement of the requirement with respect to which such order is issued beyond January 1, 1983. The second such order shall not result in the postponement of such requirement beyond January 1, 1988.

"(d)(1)(A) Each primary nonferrous smelter to which an order is issued under this section shall be required to use such interim measures for the period during which such order is in effect as may be necessary in the judgment of the Administrator to assure attainment and maintenance of the national primary and secondary ambient air quality standards during such period, taking into account the aggregate effect on air quality of such order together with all variances, extensions, waivers, enforcement orders, delayed compliance orders and primary nonferrous smelter orders previously issued under this Act.

"(B) Such interim requirements shall include—

"(A) a requirement that the source to which the order applies comply with such reporting requirements and conduct such monitoring as the Administrator determines may be necessary, and

"(B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons.

(C) Such interim measures shall also, except as provided in paragraph (2), include continuous emission reduction technology. The Administrator shall condition the use of any such interim measures upon the agreement of the owner or operator of the smelter—

"(i) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such interim measures, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the order relates, and

"(ii) to commit reasonable resources to research and development of appropriate emission control technology.

"(2) The requirement of paragraph (1) for the use of continuous emission reduction technology may be waived with respect to a particular smelter by the State or the Administrator, after notice and a hearing on the record, and upon a showing by the owner or operator of the smelter that such requirement would be so costly as to necessitate permanent or prolonged temporary cessation of operations of the smelter. Upon application for such waiver, the Administrator shall be notified and shall, within ninety days, hold a hearing on the record in accordance with section 554 of title 5 of the United States Code. At such hearing the Administrator shall require the smelter involved to present information relating to any alleged cessation of operations and the detailed reasons or justifications therefor. On the basis of such hearing the Administrator shall make findings of fact as to the effect of such requirement and on the alleged cessation of operations and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public, and shall be taken into account by the State or the Administrator in making the decision whether or not to grant such waiver.

"(3) In order to obtain information for purposes of a waiver under paragraph (2), the Administrator may, on his own motion, conduct an investigation and use the authority under section 319.

"(4) In the case of any smelter which on the date of enactment of this section uses continuous emission reduction technology and supplemental controls and which receives an initial primary nonferrous smelter order under this section, no additional continuous emission reduction technology shall be required as a condition of such order unless the Administrator determines, at any time, after notice and public hearing, that

such additional continuous emission reduction technology is adequately demonstrated to be reasonably available for the primary nonferrous smelter industry.

"(e) At any time during the application of such order, the Administrator may enter upon a public hearing respecting the availability of technology. Any order under this section shall be terminated if the Administrator determines on the record, after notice and hearing, that the conditions upon which the order was based no longer exist. If the owner or operator of the smelter to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under subsection (c).

"(f) If the Administrator determines that a smelter to which an order is issued under this section is in violation of any requirement of subsection (c) or (d), he shall—

"(1) enforce such requirement under section 113,

"(2) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted.

"(3) give notice of noncompliance and commerce action under section 122, or

"(4) take any appropriate combination of such actions".

NONCOMPLIANCE PENALTY

SEC. 118. Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"NONCOMPLIANCE PENALTY

"SEC. 120. (a)(1)(A) Not later than 6 months after the date of enactment of this section, and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations requiring the assessment and collection of a noncompliance penalty against persons referred to in paragraph (2)(A).

"(B)(i) Each State may develop and submit to the Administrator a plan for carrying out this section in such State. If the Administrator finds that the State plan meets the requirements of this section, he may delegate to such State any authority he has to carry out this section.

"(ii) Notwithstanding a delegation to a State under clause (i), the Administrator may carry out this section in such State under the circumstances described in subsection (b)(2)(B).

"(2) (A) Except as provided in subparagraph (B) or (C) of this paragraph, the State or the Administrator shall assess and collect a noncompliance penalty against every person who owns or operates—

"(i) a major stationary source (other than a primary nonferrous smelter which has received a primary nonferrous smelter order under section 119) which is not in compliance with any emission limitation, emission standard or compliance schedule under any applicable implementation plan, or

"(ii) a stationary source which is not in compliance with an emission limitation, emission standard, standard of performance, or other requirement established under section 111 or 112 of this Act, or

"(iii) any source referred to in clause (i) or (ii) (for which an extension, order, or suspension referred to in subparagraph (B) is in effect), or a primary nonferrous smelter which has received a primary nonferrous smelter order under section 110 which is not in compliance with any interim emission control requirement or schedule of compliance under such extension, order, or suspension.

For purposes of subsection (d)(2), in the case of a penalty assessed with respect to a source referred to in clause (iii) of this subparagraph, the costs referred to in such subsection (d)(2) shall be the economic value of noncompliance with the interim emission control requirement or the remaining steps in the schedule of compliance referred to in such clause.

"(B) Notwithstanding the requirements of subparagraph (A) (i) and (ii), the owner or operator of any source shall be exempted from the duty to pay a noncompliance penalty under such requirements with respect to that source if, in accordance with the procedures in subsection (b)(5), the owner or operator demonstrates that the failure of such source to comply with any such requirement is due solely to—

"(i) a conversion by such source from the burning of petroleum products or natural gas, or both, as the permanent primary energy source to the burning of coal pursuant to an order under section 119;

"(ii) in the case of a coal-burning source granted an extension under the second sentence of section 119(c)(1), a prohibition from using petroleum products or natural gas or both, by reason of an order under the provisions of section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 or under any legislation which amends or supersedes such provisions;

"(iii) the use of innovative technology sanctioned by an enforcement order under section 113;

"(iv) an inability to comply with any such requirement, for which inability the source has received an order under section 113(u) (an order under section 113 issued before the date of enactment of this section) which has the effect of permitting a delay or violation of any requirement of this Act (including a requirement of an applicable implementation plan) which inability results from reasons entirely beyond the control of the owner or operator of such source or of any entity controlling, controlled by, or under common control with the owner or operator of such source; or

"(v) the conditions by reason of which a temporary emergency suspension is authorized under section 110 (f) or (g).

An exemption under this subparagraph shall cease to be effective if the source fails to comply with the interim emission control requirements or schedules of compliance (including increments of progress) under any such extension, order, or suspension.

"(C) The Administrator may, after notice and opportunity for public hearing exempt any source from the requirements of this section with respect to a particular instance of noncompliance if he finds that such instance of noncompliance is de minimis in nature and in duration.

"(b) Regulations under subsection (a) shall—

"(1) permit the assessment and collection of such penalty by the State if the State has a delegation of authority in effect under subsection (a)(1)(B)(i);

"(2) provide for the assessment and collection of such penalty by the Administrator, if—

"(A) the State does not have a delegation of authority in effect under subsection (e), or

"(B) the State has such a delegation in effect but fails with respect to any particular person or source to assess or collect the penalty in accordance with the requirements of this section;

"(3) require the States, or in the event the States fail to do so, the Administrator, to give a brief but reasonably specific notice of noncompliance under this section to each person referred to in subsection (a)(2)(A) with respect to each source owned or operated by such person which is not in compliance as provided in such subsection, not later than July 1, 1979, or thirty days after the discovery of such noncompliance, whichever is later;

"(4) require each person to whom notice is given under paragraph (3) to—

"(A) calculate the amount of the penalty owed (determined in accordance with subsection (d)(2)) and the schedule of payments (determined in accordance with subsection (d)(3)) for each such source and, within forty-five days after the issuance of such notice or after the denial of a petition under subparagraph (B), to submit that calculation and proposed schedule, together with the information necessary for an independent verification thereof, to the State and to the Administrator, or

"(B) submit a petition, within forty-five days after the issuance of such notice, challenging such notice of noncompliance or alleging entitlement to an exemption under subsection (a)(2)(B) with respect to a particular source:

"(5) require the Administrator to provide a hearing on the record (within the meaning of subchapter II of chapter 5 of title 5, United States Code) and to make a decision on such petition (including findings of fact and conclusions of law) not later than ninety days after the receipt of any petition under paragraph (4)(B), unless the State agrees to provide a hearing which is substantially similar to such a hearing on the record and to make a decision on such petition (including such findings and conclusions) within such ninety-day period;

"(6)(A) authorize the Administrator on his own initiative to review the decision of the State under paragraph (5) and disapprove it if it is not in accordance with the requirements of this section, and (B) require the Administrator to do so not later than sixty days after receipt of a petition under this subparagraph, notice, and public hearing and a showing by such petitioner that the State decision under paragraph (5) is not in accordance with the requirements of this section;

"(7) require payment, in accordance with subsection (d), of the penalty by each person to whom notice of noncompliance is given under paragraph (3) with respect to each non-complying source for which such notice is given unless there has been a final determination granting a petition under paragraph (4)(B) with respect to such source;

"(8) authorize the State or the Administrator to adjust (and from time to time to readjust) the amount of the penalty assessment calculated or the payment schedule proposed by such owner or operator under paragraph (6), if the Administrator finds after notice and opportunity for a hearing on the record that the penalty of schedule does not meet the requirements of this section; and

"(9) require a final adjustment of the penalty within 180 days after such source comes into compliance in accordance with subsection (d)(4);

A delayed compliance penalty established by a State under this section shall apply unless the Administrator, within ninety days after the date of publication of the proposed penalty under subsection (c)(2)(A) of this section, objects in writing to the amount of the penalty as less than would be required to comply with guidelines established by the Administrator. If the Administrator objects under this subsection, he shall immediately establish a substitute delayed compliance penalty applicable to such facility.

"(c) If the owner or operator of any stationary source to whom a notice is issued under subsection (b)(3)—

"(1) does not submit a timely petition under subsection (b)(4)(B), or

"(2) submits a petition under subsection (b)(4)(B) which is denied, and

fails to submit a calculation of the penalty assessment, a schedule for payment, and the information necessary for independent veri-

fication thereof, the State (or the Administrator, as the case may be) may enter into a contract with any person who has no financial interest in the owner or operator of the source (or in any person controlling, controlled by or under common control with such source) to assist in determining the amount of the penalty assessment or payment schedule with respect to such source. The cost of carrying out such contract may be added to the penalty to be assessed against the owner or operator of such source.

"(d)(1) All penalties assessed by the Administrator under this section shall be paid to the United States Treasury. All penalties assessed by the State under this section shall be paid to such State.

"(2) The amount of the penalty which shall be assessed and collected with respect to any source under this section shall be equal to—

"(A) the amount determined in accordance with regulations promulgated by the Administrator under subsection (a), which is no less than the quarterly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and any additional economic value which a delay in compliance beyond July 1, 1979, may have for the owner or operator of such source, minus

"(B) the amount of any expenditure made by the owner or operator of that source during any such quarter for the purpose of bringing that source into, and maintaining compliance with, such requirement to the extent that such expenditures have not been taken into account in the calculation of the penalty under subparagraph (A).

To the extent that any expenditure under subparagraph (B) made during any quarter is not subtracted for such quarter from the costs under subparagraph (A), such expenditure may be subtracted for any subsequent quarter from such costs, except that in no event shall the amount paid be less than the quarterly payment minus the amount attributed to actual cost of construction.

"(3)(A) The assessed penalty required under this section shall be paid in quarterly installments for the period of covered noncompliance. All quarterly payments (determined without regard to any adjustment or any subtraction under paragraph (2)(B)) after the first payment shall be equal.

"(B) The first payment shall be due on the date six months after the date of issuance of the notice of noncompliance under subsection (b)(3) with respect to any source or on January 1, 1980, whichever is later. Such first payment shall be in the amount of the quarterly installment for the upcoming quarter, plus the amount owed for any preceding period within the period of covered noncompliance for such source.

"(C) For the purpose of this section, the term 'period of covered noncompliance' means the period which begins—

"(i) two years after the date of enactment of this section, in the case of a source for which notice of noncompliance under subsection (b)(3) is issued on or before the date two years after such date of enactment, or

"(ii) on the date of issuance of the notice of noncompliance under subsection (b)(3), in the case of a source for which such notice is issued after July 1, 1979,

and ending on the date on which such source comes into (or for the purpose of establishing the schedule of payments, is estimated to come into) compliance with such requirement

"(4) Upon making a determination that a source with respect to which a penalty has been paid under this section is in compliance and is maintaining compliance with the applicable requirement, the State (or the Administrator as the case may be) shall review the actual expenditures made by the owner or operator of such source for the purpose of attaining and maintaining compliance, and shall within 180 days after such source comes into compliance—

"(A) provide reimbursement with interest (to be paid by the State or Secretary of the Treasury, as the case may be) at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any overpayment by such person, or

"(B) assess and collect an additional payment with interest at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any underpayment by such person.

"(5) Any person who fails to pay the amount of any penalty with respect to any source under this section on a timely basis shall be required to pay in addition a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties with respect to such source which are unpaid as of the beginning of such quarter.

"(e) Any action pursuant to this section, including any objection of the Administrator under subsection (b)(1)(2)(B) shall be considered a final action for purposes of judicial review of any penalty under section 307 of this Act.

"(f) Any orders, payments, sanctions, or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way affect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

"(g) In the case of any emission limitation or other requirement approved or promulgated by the Administrator under this Act after the enactment of the Clean Air Act Amendments of 1977 which is more stringent than the emission limitation or requirement for the source in effect prior to such approval or promulgation, if any, or where there was no emission limitation or requirement approved or promulgated before enactment of the Clean Air Act Amendments of 1977, the date for imposition of the noncompliance penalty under this section, shall be eitner July 1, 1979, or the date on which the source is required to be in full compliance with such emission limitation or requirement, whichever is later, but in no event later than three years after the approval or promulgation of such emission limitation or requirement."

CONSULTATION

SEC. 119. Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof.

"CONSULTATION

"SEC. 121. In carrying out the requirements of this Act requiring applicable implementation plans to contain—

"(1) any transportation controls, air quality maintenance plan, requirements or preconstruction review of direct sources of air pollution, or

"(2) any measure referred to—

"(A) in part D (pertaining to nonattainment requirements), or

"(B) in part C (pertaining to prevention of significant deterioration),

and in carrying out the requirements of section 113(d) (relating to certain orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1977 as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than 6 months after the date of enactment of the Clean Air Act Amendments of 1977. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.".

UNREGULATED POLLUTANTS

SEC. 120. (a) Part A of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"LISTING OF CERTAIN UNREGULATED POLLUTANTS

"SEC. 122. (a) Not later than one year after date of enactment of this section (two years for radioactive pollutants) and after notice and opportunity for public hearing, the Administrator shall review all available relevant informaion and determine whether or not emissions of radioactive pollutants (including source material, special nuclear material, and byproduct material), cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 108(a)(1) or 112(b)(1)(A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

"(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).

"(c)(1) Before listing any source material, special nuclear, or byproduct material (or component or derivative thereof) as provided in subsection (a), the Administrator shall consult with the Nuclear Regulatory Commission.

"(2) Not later than six months after listing any such material (or component or derivative thereof) the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement with respect to those sources or facilities which are under the jurisdiction of the Commission. This agreement shall, to the maximum extent practicable consistent with this Act, minimize duplication of effort and conserve administrative resources in the establishment, implementation, and enforcement of emission limitations, standards of performance, and other requirements and authorities (substantive and procedural) under this Act respecting the emission of such material (or component or derivative thereof) from such sources or facilities.".

"(3) In case of any standard or emission limitation promulgated by the Administrator, under this Act or by any State (or the Administrator) under any applicable implementation plan under this Act, if the Nuclear Regulatory Commission determines, after notice and opportunity for public hearing that the application of such standard or limitation to a source or facility within the jurisdiction of the Commission would endanger

public health or safety, such standard or limitation shall not apply to such facilities or sources unless the President determines otherwise within ninety days from the date of such finding.".

(b) The Administrator of the Environmental Protection Agency shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter.

STACK HEIGHTS

SEC. 121. Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"STACK HEIGHTS

"SEC. 123. (a) The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this title shall not be affected in any manner by—

"(1) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or

"(2) any other dispersion technique.

The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Amendments of 1970 or dispersion techniques implemented before such date. In establishing an emission limitation for coal-fired steam electric generating units which are subject to the provisions of section 118 and which commenced operation before July 1, 1957, the effect of the entire stack height of stacks for which a construction contract was awarded before February 8, 1974, may be taken into account.

"(b) For the purpose of this section, the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

"(c) Not later than six months after the date of enactment of this section, the Administrator, shall after notice and opportunity for public hearing, promulgate regulations to carry out this section. For purposes of this section, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this section such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source.".

ASSURANCE OF PLAN ADEQUACY

SEC. 122. Part A of title I of the Clean Air Act is amended by adding the following new sections at the end thereof:

"ASSURANCE OF ADEQUACY OF STATE PLANS

"SEC. 124. (a) As expeditiously as practicable but not later than one year after date of enactment of this section, each State shall review the provisions of its implementation plan which relate to major fuel burning sources and shall determine—

"(1) the extent to which compliance with requirements of such plan is dependent upon the use by major fuel burning stationary sources of petroleum products or natural gas,

"(2) the extent to which such plan may reasonably be anticipated to be inadequate to meet the requirements of this Act in such State on a reliable and long-term basis by reason of its dependence upon the use of such fuels, and

"(3) the extent to which compliance with the requirements of such plan is dependent upon use of coal or coal derivatives which is not locally or regionally available.

Each State shall submit the results of its review and its determination under this paragraph to the Administrator promptly upon completion thereof.

"(b)(1) Not later than eighteen months after the date of enactment of this section, the Administrator shall review the submissions of the States under subsection (a) and shall require each State to revise its plan, if in the judgment of the Administrator, such plan revision is necessary to assure that such plan will be adequate to assure compliance with the requirements of this Act in such State on a reliable and long-term basis, taking into account the actual or potential prohibitions on use of petroleum products or natural gas, or both, under any other authority of law.

"(2) Before requiring a plan revision under this subsection, with respect to any State the Administrator shall take into account the report of the review conducted by such State under paragraph (1) and shall consult with the Governor of the State respecting such required revision.

"MEASURES TO PREVENT ECONOMIC DISRUPTION OR UNEMPLOYMENT

"SEC. 125. (a) After notice and opportunity for a public hearing—

"(1) the Governor of any State in which a major fuel burning stationary source referred to in this subsection (or class or category thereof) is located.

"(2) the Administrator, or

"(3) the President (or his designee),

may determine that action under subsection (b) is necessary to prevent or minimize significant local or regional economic disruption or unemployment which would otherwise result from use by such source (or class or category) of—

"(A) coal or coal derivatives other than locally or regionally available coal,

"(B) petroleum products,

"(C) natural gas, or

"(D) any combination of fuels referred to in subparagraphs (A) through (C),

to comply with the requirements of a State implementation plan.

"(b) Upon a determination under subsection (a)—

"(1) such Governor, with the written consent of the President or his designee,

"(2) the President's designee with the written consent of such Governor, or

"(3) the President

may by rule or order prohibit any such major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives to comply with implementation plan requirements. In taking any action under this subsection, the Governor, the President, or the President's designee as the case may be, shall take into account, the final cost to the consumer of such an action.

"(c) The Governor, in the case of action under subsection (b)(1), or the Administrator, in the case of an action under subsection (b) (2) or (3) shall, by rule or order, require each source to which such action applies to—

"(1) enter into long-term contracts of at least ten years in duration (except as the President or his designee may otherwise permit or require by rule or order for good cause) for supplies of locally or regionally available coal or coal derivatives,

"(2) enter into contracts to acquire any additional means of emission limitation which the Administrator or the State determines may be necessary to comply with the requirements of this Act while using such coal or coal derivatives as fuel, and

"(3) comply with such schedules (including increments of progress), timetables and requirements as may be necessary to assure compliance with the requirements of this Act.

Requirements under this subsection shall be established simultaneously with, and as a condition of, any action under subsection (b).

"(d) This section applies only to existing or new major fuel burning stationary sources—

"(1) which have the design capacity to produce 250,000,000 Btu's per hour (or its equivalent), as determined by the Administrator, and

"(2) which are not in compliance with the requirements of an applicable implementation plan or which are prohibited from burning oil or natural gas, or both, under any other authority of law.

"(e) Except as may otherwise be provided by rule by the State or the Administrator for good cause, any action required to be taken by a major fuel burning stationary source under this section shall not be deemed to constitute a modification for purposes of section 111(a) (2) and (4) of this Act.

"(f) For purposes of sections 113 and 120, a prohibition under subsection (b), and a corresponding rule or order under subsection (c), shall be treated as a requirement of section 113. For purposes of any plan (or portion thereof) promulgated under section 110 (c), any rule or order under subsection (c) corresponding to a prohibition under subsection (b), shall be treated as a part of such plan. For purposes of section 113, a prohibition under subsection (b), applicable to any source, and a corresponding rule or order under subsection (c), shall be treated as part of the applicable implementation plan for the State in which subject source is located.

"(g) The President may delegate his authority under this section to an officer or employee of the United States designated by him on a case-by-case basis or in any other manner he deems suitable.

"(h) For the purpose of this section—the term 'locally or regionally available coal or coal derivatives' means coal or coal derivatives which is, or can in the judgment of the State or the Administrator feasibly be, mined or produced in the local or regional area (as determined by the Administrator) in which the major fuel burning stationary source is located".

INTERSTATE POLLUTION ABATEMENT

SEC. 123. Part A of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"INTERSTATE POLLUTION ABATEMENT

"SEC. 126. (a) Each applicable implementation plan shall—

"(1) require each major proposed new (or modified) source—

"(A) subject to part C, relating to significant deterioration of air quality or

"(B) which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification),

to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after the date of enactment of the Clean Air Act Amendments of 1977.

"(b) Any State or political subdivision may petition the Administrator for a finding that any major source emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i). Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition.

"(c) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State—

"(1) for any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of the prohibition of section 110(a)(2)(E)(i), or

"(2) for any major existing source to operate more than three months after such finding has been made with respect to it.

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirement contained in section 110(a)(2)(E)(i) as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 113(d) after the expiration of such period during which the Administrator has permitted continuous operation.".

PUBLIC NOTIFICATION

SEC. 124. Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof.

"PUBLIC NOTIFICATION

"SEC. 127. (a) Each State plan shall contain measures which will be effective to notify the public during any calendar year on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year, to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

"(b) The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a).".

STATE BOARDS

SEC. 125. Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"STATE BOARDS

"SEC. 128. (a) Not later than the date one year after the date of the enactment of this section, each applicable implementation plan shall contain requirements that—

"(1) any board or body which approves permits or enforcement orders under this Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and

"(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar power be adequately disclosed.

A State may adopt any requirement respecting conflicts of interest for such boards or bodys or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraph (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.".

OZONE PROTECTION

SEC. 126. Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART B—OZONE PROTECTION

"PURPOSES

"SEC. 150. The purposes of this part are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere on the public health and welfare, (3) to provide information on the progress of regulation of activities which may reasonably be anticipated to affect the ozone in the stratosphere in such a way as to cause or contribute to endangerment of the public health or welfare, and (4) to provide information on the need for additional legislation in this area, if any.

"FINDINGS AND DEFINITIONS

"SEC. 151. (a) The Congress finds, on the basis of presently available information, that—

"(1) halocarbon compounds introduced into the environment potentially threaten to reduce the concentration of ozone in the stratosphere;

"(2) ozone reduction will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

"(3) increased incidence of solar ultraviolet radiation is likely to cause increased rates of disease in humans (including increased rates of skin cancer), threaten food crops, and otherwise damage the natural environment;

"(4) other substances, practices, processes, and activities may affect the ozone in the stratosphere, and should be investigated to give early warning of any potential problem and to develop the basis for possible future regulatory action; and

"(5) there is some authority under existing law, to regulate certain substances, practices, processes, and activities which may affect the ozone in the stratosphere.

"DEFINITIONS

"SEC. 152. For the purposes of this subtitle—

"(1) the term 'halocarbon' means the chemical compounds $CFCL_3$ and CF_2CL_2 and such other halogenated compounds as the Administrator determines may reasonably be anticipated to contribute to reductions in the concentration of ozone in the stratosphere.

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause.

"STUDIES BY ENVIRONMENTAL PROTECTION AGENCY

"SEC. 153. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

"(1) the release into the ambient air of halocarbons,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the uses of bromine compounds, and

"(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substances, and

"(4) other methods to regulate substances, practices, processes, and activities which may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere.

"(c)(1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

"(d)(1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modifications of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make a report of its findings by January 1, 1978.

"(2) The Administrator shall make available to the Academy such information in the Administrator's possession as is needed for the purposes of the study provided for in this subsection.

"(e) The Secretary of Labor shall study and transmit a report to the Administrator and the Congress not later than six months after date of enactment, with respect to the losses and gains to industry and employment which could result from the elimination of the use of halocarbons in aerosol containers and for other purposes. Such report shall include recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom.

"(f)(1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) and section 154.

"(2) Members of the Coordinating Committee shall include the appropriate official re-

sponsible for the relevant research efforts of each of the following agencies:

"(A) the National Oceanic and Atmospheric Administration,

"(B) the National Aeronautics and Space Administration,

"(C) the Federal Aviation Administration,

"(D) the Department of Agriculture,

"(E) the National Cancer Institute,

"(F) the National Institute of Environmental Health Sciences,

"(G) the National Science Foundation, and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

"(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

"(4) The Chairman may request a report from any Federal Agency for the purpose of determining if that agency should sit on the Coordinating Committee.

"(g) Not later than January 1, 1978, and biennially thereafter, the Administrator shall report to the appropriate committees of the House and the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies.

"RESEARCH AND MONITORING BY OTHER AGENCIES

"SEC. 154. (a) The Administrator of the National Oceanic and Atmospheric Administration shall establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of changes in the stratosphere and climatic effects of such changes. Such Administrator shall on or before January 1, 1978, and biennially thereafter, transmit such report to the Administrator and the Congress on the findings of such research and monitoring. Such report shall contain any appropriate recommendations for legislation or regulation (or both).

"(b) The National Aeronautics and Space Administration shall, pursuant to its authority under title IV of the National Aeronautics and Space Act of 1958, continue programs of research, technology, and monitoring of the stratosphere for the purpose of understanding the physics and chemistry of the stratosphere and for the early detection of potentially harmful changes in the ozone in the stratosphere. Such Administration shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of the programs authorized in this subsection, together with any appropriate recommendations for legislation or regulation (or both).

"(c) The Director of the National Science Foundation shall encourage and support ongoing stratospheric research programs and continuing research programs that will increase scientific knowledge of the effects of changes in the ozone layer in the stratosphere upon living organisms and ecosystems. Such Director shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

"(d) The Secretary of Agriculture shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon animals, crops, and other plant life. Such Secretary shall transmit reports by January 1, 1978, and biennially thereafter to the Administrator and the Congress on the results of such programs together with any appropriate recommendations for legislation or regulation (or both).

"(e) The Secretary of Health, Education, and Welfare shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon human health. Such Secretary shall transmit reports by January 1, 1978, and biennially thereafter, to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for legislation or regulation (or both).

"(f) In carrying out subsections (a) through (e) of this section, the agencies involved (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

"PROGRESS OF REGULATION

"SEC. 155. The Administrator shall provide an interim report to the Congress by January 1, 1978, shall provide a final report within two years after date of enactment, and shall provide follow-up reports annually thereafter on the actions taken by the Environmental Protection Agency and all other Federal agencies to regulate sources of halocarbon emissions, the results of such regulations in protecting the ozone layer, and the need for additional regulatory action, if any. The reports under this section shall also include recommendations for the control of substances, practices, processes, and activities other than those involving halocarbons, which are found to affect the ozone in the stratosphere and which may cause or contribute to harmful effects on public health or welfare.

"INTERNATIONAL COOPERATION

"SEC. 156. The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this part, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes the President through the Secretary of State and the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

"REGULATIONS

"SEC. 157. (a) If at any time prior to the submission of the final report referred to in section 155 in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, the Adminstrator shall promptly promulgate regulations respecting the control of such substance, practice, process, or activity, and shall simultaneously submit notice of the promulgation of such regulations to the Congress.

"(b) Upon submission of the final report referred to in section 155, and after consideration of the research and study under sections 153 and 154 and, consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control. Such regulations may exempt medical use products for which the Administrator determines there is no suitable substitute. Not later than three months after proposal of such regulations the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

"OTHER PROVISIONS UNAFFECTED

"SEC. 158. Nothing in this part shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under section 231 (relating to aircraft emission standards), or under any other provision of this Act or to affect the authority of any other department, agency, or instrumentality of the United States under any other provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere. In the case of any proposed rule respecting ozone in the stratosphere which has been published under the Toxic Substances Control Act prior to the date of enactment of this Act notwithstanding section 9(b) of such Act, nothing in this part shall be construed to prohibit or restrict the Administrator from taking any action under the Toxic Substances Control Act respecting the promulgation or enforcement of such rule.

"STATE AUTHORITY

"SEC. 159. (a) Nothing in this part shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere except as otherwise provided in subsection (h).

"(b) If a regulation of any substance, practice, process, or activity is in effect under this part in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political subdivision is identical to the requirement of such regulation. The preceding sentence shall not apply with respect to any law or regulation of any State or political subdivision controlling the use of halocarbons as propellants in aerosol spray containers.".

PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 127. (a) Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART C—PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

"PURPOSES

"SEC. 160. The purposes of this part are as follow:

"(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur from air pollution (or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air), notwithstanding attainment and maintenance of all national ambient air quality standards;

"(2) to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national

or regional natural, recreational, scenic, or historic value;

"(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources.

"(4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

"(5) to assure that any decision to permit increased air pollution in any area to which this section applies is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

"PLAN REQUIREMENTS

"SEC. 161. In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part, to prevent significant deterioration of air quality in each region (or portion thereof) identified pursuant to section 107(d)(1)(D) or (E).

"INITIAL CLASSIFICATIONS

"SEC. 162. (a) Upon the enactment of this part, all—

"(1) international parks,

"(2) national wilderness areas which exceed 5,000 acres in size,

"(3) national memorial parks which exceed 5,000 acres in size, and

"(4) national parks which exceed six thousand acres in size

and which are in existence on the date of enactment of the Clean Air Act Amendments of 1977, and all areas which were redesignated as class I under regulations promulgated before such date of enactment shall be class I areas and may not be redesignated.

"(b) All areas in such State identified pursuant to section 107(d)(1)(D) or (E) which are not established as class I under subsection (a) shall be class II areas unless redesignated under section 163.

"INCREMENTS AND CEILINGS

"SEC. 163. (a) In the case of sulfur oxides and particulates, each applicable implementation plan shall contain measures assuring that maximum allowable increases over baseline concentrations of, and maximum allowable concentrations of, such pollutant shall not be exceeded. In the case of any maximum allowable increase (except an allowable increase specified under 165(d)(2)(C)(iv)) for a pollutant based on concentrations permitted under national ambient air quality standards for any period other than an annual period, such regulations shall permit such maximum allowable increase to be exceeded during one such period per year.

"(b)(1) For any class I area, the maximum allowable increase of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

"Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	5
Twenty-four-hour maximum	10
Sulfur dioxide:	
Annual arithmetic mean	2
Twenty-four-hour maximum	25
Three-hour maximum	25

"(2) For any class II area, the maximum allowable increase of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts:

"Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	19
Twenty-four-hour maximum	37
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	512

"(3) For each class III area, the maximum allowable increase in concentrations of sulfur dioxide and particulate matter over the baseline concentration of such pollutants shall not exceed the following amounts.

"Pollutant	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	37
Twenty-four-hour maximum	75
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four-hour maximum	182
Three-hour maximum	700

"(4) The maximum allowable concentration of any air pollutant in any area to which this part applies shall not exceed a concentration for such pollutant for each period of exposure equal to—

"(A) the concentration permitted under the national secondary ambient air quality standard, or

"(B) the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

"(c)(1) In the case of any State which has a plan approved by the Administrator for purposes of carrying out this part, the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that for purposes of detemining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:

"(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under the provisions of sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any subsequent legislation which supersedes such provisions) over the emissions from such sources before the effective date of such order.

"(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan.

"(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities, and

"(D) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration determined in accordance with section 169(4).

"(2) No action taken with respect to a source under paragraph (1)(A) or (1)(B) shall apply more than five years after the effective date of the order referred to in paragraph (1)(A) or the plan referred to in paragraph (1)(B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

"(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

AREA REDESIGNATION

"SEC. 164. (a) Except as otherwise provided under subsection (c), a State may redesignate such areas as it deems appropriate as class I areas. The following areas may be redesignated only as class I or II:

"(1) an area which exceeds ten thousand acres in size and is a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, national wildlife refuge, a national lakeshore or seashore, and

"(2) a national park or national wilderness area established after the date of enactment of this Act which exceeds ten thousand acres in size.

Any area (other than an area referred to in paragraph (1) or (2) or an area established as class I under section 162(a)) may be redesignated by the State as class III if—

"(A) such redesignation has been specifically approved by the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area so redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's redesignation;

"(B) such redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase or maximum allowable concentration permitted under the classification of any other area; and

"(C) such redesignation otherwise meets the requirements of this part."

Subparagraph (A) of this paragraph shall not apply to area redesignations by Indian tribes.

"(b)(1)(A) Prior to redesignation of any area under this part, notice shall be afforded and public hearings shall be conducted in areas proposed to be redesignated and in areas which may be affected by the proposed redesignation. Prior to any such public hearing a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation shall be prepared and made available for public inspection and prior to any such redesignation, the description and analysis of such effects shall be reviewed and examined by the redesignating authorities.

"(B) Prior to the issuance of notice under subparagraph (A) respecting the redesignation of any area under this subsection, if such area includes any Federal lands, the State shall provide written notice to the appropriate Federal land manager and afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of redesigntaion and to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area under this section with respect to which any Federal land manager has submitted written comments and recommendations, the State shall publish a list of any inconsistency between such redesignation and such recommendations and an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal land manager).

"(C) The Administrator shall promulgate regulations not later than six months after date of enactment of this part, to assure, insofar as practicable, that prior to any public hearing on redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major emitting facility which may be permitted to be constructed and operated only

if the area in question is designated or redesignated as class III.

"(2) The Administrator may disapprove the redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

"(c) Lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated only by the appropriate Indian governing body. Such Indian governing body shall be subject in all respect to the provisions of subsection (e).

"(d) The Federal Land Manager shall review all national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for redesignation as class I where air quality related values are important attributes of the area. The Federal Land Manager shall report such recommendations, with supporting analysis, to the Congress and the affected States within one year after enactment of this section. The Federal Land Manager shall consult with the appropriate States before making such recommendations.

"(e) If any State affected by the redesignation of area by an Indian tribe or any Indian tribe affected by the redesignation of an area by a State disagrees with such redesignation of any area, or if a permit is proposed to be issued for any new major emitting facility proposed for construction in any State which the Governor of an affected State or governing body of an affected Indian tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected State or tribal reservation, the Governor or ruling body may request the Administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any State or Indian tribe involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the parties involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable plan and shall be enforceable as part of such plan. In resolving such disputes relating to area redesignation, the Administrator shall consider the extent to which the lands involved are of sufficient size to allow effective air quality management or have air quality related values of such an area.

"PRECONSTRUCTION REQUIREMENTS

"SEC. 165. (a) No major emitting facility on which construction is commenced after the date of the enactment of this part may be constructed in any area to which this part applies unless—

"(1) a permit has been issued for such proposed facility in accordance with this part setting forth emission limitations for such facility which conform to the requirements of this part;

"(2) the proposed permit has been subject to a review in accordance with this section, the required analysis has been conducted in accordance with regulations promulgated by the Administrator, and a public hearing has been held with opportunity for interested persons including representatives of the Administrator to appear and submit written or oral presentations on the air quality impact of such source, alternatives thereto, control technology requirements, and other appropriate considerations;

"(3) the owner or operator of such facility demonstrates that emissions from construction or operations of such facility will not cause, or contribute to, air pollution in excess of any (A) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (B) national ambient air quality standard in any air quality control region, or (C) any other applicable emission standard or standard of performance under this Act;

"(4) the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this Act emitted from, or which results from, such facility;

"(5) the provisions of subsection (d) with respect to protection of class I areas have been complied with for such facility;

"(6) there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility;

"(7) the person who owns or operates, or proposes to own or operate, a major emitting facility for which a permit is required under this part agrees to conduct such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any area which may be affected by emissions from such source; and

"(8) in the case of a source which proposes to construct in a class III area, emissions from which would cause or contribute to exceeding the maximum allowable increments applicable in a class II area and where no standard under section 111 of this Act has been promulgated subsequent to enactment of the Clean Air Act Amendments of 1977, for such source category, the Administrator has approved the determination of best available technology as set forth in the permit.

"(b) The demonstration pertaining to maximum allowable increases required under subsection (a)(3) shall not apply to maximum allowable increases for class II areas in the case of an expansion or modification of a major emitting facility which is in existence on the date of enactment of the Clean Air Act Amendments of 1977, whose actual allowable emissions of air pollutants after compliance with subsection (a)(4), will be less than fifty tons per year and for which the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur oxides will not contribute to ambient air quality levels in excess of the national secondary ambient air quality standard for either of such pollutants.

"(c) Any completed permit application under section 110 for a major emitting facility in any area to which this part applies shall be granted or denied not later than one year after the date of filing of such completed application.

"(d)(1) Each State shall transmit to the Administrator a copy of each permit application relating to a major emitting facility received by such State and provide notice to the Administrator of every action related to the consideration of such permit.

"(2)(A) The Administrator shall provide notice of the permit application to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within a class I area which may be affected by emissions from the proposed facility.

"(B) The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values.

"(C)(i) In any case where the Federal official charged with direct responsibility for management of any lands within a class I area or the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such a class I area files a notice alleging that emissions from a proposed major emitting facility may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur dioxide will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area.

"(ii) In any case where the Federal Land Manager demonstrates to the satisfaction of the State that the emissions from such facility will have an adverse impact on the air quality-related values (including visibility) of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will not cause or contribute to concentrations which exceed the maximum allowable increases for a class I area, a permit shall not be issued.

"(iii) In any case where the owner or operator of such facility demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such facility will have have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding the fact that the change in air quality resulting from emissions from such facility will cause or contribute to concentrations, which exceed the maximum allowable increases for class I area, the State may issue a permit.

"(iv) In the case of a permit issued pursuant to clause (ii), such facility shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides and particulates from such sources together with all other sources, will not exceed the following maximum allowable increases over the baseline concentration for such pollutants.

	Maximum allowable increase (in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	19
Twenty-four hour maximum	37
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four hour maximum	91
Three-hour maximum	325

"(D)(i) In any case where the owner or operator of a proposed major emitting facility who has been denied a certification under subparagraph (C)(iii) demonstrates to the satisfaction of the Governor, after notice and public hearing, and the Governor finds, that the facility cannot be constructed in any class I area by reason of any maximum allowable increase for sulfur dioxide for periods of 24 hours or less applicable to such area and, in the case of Federal mandatory class I areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the Governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If such variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph.

"(ii) In any case in which the Governor recommends a variance under this subparagraph in which the Federal land manager does not concur, the recommendations of the Governor and the Federal land manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that such variance is in the national interest. No Presidential finding shall be reviewable in any court. The variance shall take effect if the President approves the Governor's recommendations. The President shall approve or disapprove

such recommendation within 90 days after his receipt of the recommendations of the Governor and the Federal land manager.

"(iii) In the case of a permit issued pursuant to this subparagraph, such facility shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such source, together with all other sources, will not exceed the otherwise applicable maximum allowable increases for a period of exposure of 24 hours or less on not more than 18 days during any annual period and that during such day such emissions will not exceed the following maximum allowable increases over the baseline concentration for such pollutant:

Maximum allowable increase

[In micrograms per cubic meter]

Period of exposure	*Low terrain areas*	*High terrain areas*
Twenty-four-hour maximum	36	62
Three-hour maximum	130	221

"(e)(1) The review provided for in subsection (a) shall be preceded by an analysis in accordance with regulations of the Administrator, promulgated under this subsection, which may be conducted by the State (or any general purpose unit of local government) or by the major emitting facility applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such facility for each pollutant subject to regulation under this Act which will be emitted from such facility.

"(2) Effective one year after date of enactment of this part, the analysis required by this subsection shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such facility will exceed the maximum allowable increases or the maximum allowable concentration permitted under this part. Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under this part unless the State, in accordance with regulations promulgated by the Administrator, determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis shall be available at the time of the public hearing on the application for such permit.

"(3) The Administrator shall within six months after the date of enactment of this part promulgate regulations respecting the analysis required under this subsection which regulations—

"(A) shall not require the use of any automatic or uniform buffer zone or zones.

"(B) shall require an analysis of the ambient air quality, climate and meteorology, terrain, soils and vegetation, and visibility at the site of the proposed major emitting facility and in the area potentially affected by the emissions from such facility for each pollutant regulated under this Act which will be emitted from, or which results from the construction or operation of, such facility, the size and nature of the proposed facility, the degree of continuous emission reduction which could be achieved by such facility, and such other factors as may be relevant in determining the effect of emissions from a proposed facility on any air quality control region.

"(C) shall require the results of such analysis shall be available at the time of the public hearing on the application for such permit, and

"(D) shall specify with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this part.

Any model or models designated under such regulations may be adjusted upon a determination, after notice and opportunity for public hearing, by the Administrator that such adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from a source applying for a permit required under this part.

"OTHER POLLUTANTS

"SEC. 166. (a) In the case of the pollutants hydrocarbons, carbon monoxide, photochemical oxidants, and nitrogen oxides, the Administrator shall conduct a study and not later than two years after the date of enactment of this part, promulgate regulations to prevent the significant deterioration of air quality which would result from the emissions of such pollutants. In the case of pollutants for which national ambient air quality standards are promulgated after the date of the enactment of this part, he shall promulgate such regulations not more than 2 years after the date of promulgation of such standards.

"(b) Regulations referred to in subsection (a) shall become effective one year after the date of promulgation. Within 21 months after such date of promulgation such plan revision shall be submitted to the Administrator who shall approve or disapprove the plan within 25 months after such date or promulgation in the same manner as required under section 110.

"(c) Such regulations shall provide specific numerical measures against which permit applications may be evaluated, a framework for stimulating improved control technology, protection of air quality values, and fulfill the goals and purposes set forth in section 101 and section 160.

"(d) The regulations of the Administrator under subsection (a) shall provide specific measures at least as effective as the increments established in section 163 to fulfill such goals and purposes, and may contain air quality increments, emission density requirements, or other measures.

"(e) With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulates, an area classification plan shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under section 110(c) contains other provisions which when considered as a whole, the Administrator finds will carry out the purposes in section 160 at least as effectively as an area classification plan for such pollutant. Such other provisions referred to in the preceding sentence need not require the establishment of maximum allowable increases with respect to such pollutant for any area to which this section applies.

"ENFORCEMENT

"SEC. 167. The Administrator shall, and a State may, take such measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction of a major emitting facility which does not conform to the requirements of this part, or which is proposed to be constructed in any area included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 107 of this Act and which is not subject to an implementation plan which meets the requirements of this part.

"PERIOD BEFORE PLAN APPROVAL

"SEC. 168. (a) Until such time as an applicable implementation plan is in effect for any area, which plan meets the requirements of this part to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under this Act prior to enactment of this part shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant except as otherwise provided in subsection (b).

"(b) If any regulation in effect prior to enactment of this part to prevent significant deterioration of air quality would be inconsistent with the requirements of section 162(a), section 163(b) or section 164(a), then such regulations shall be deemed amended so as to conform with such requirements. In the case of a facility on which construction was commenced in accordance with this definition after June 1, 1975, and prior to the enactment of the Clean Air Act Amendments of 1977, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to the enactment of the Clean Air Act Amendments of 1977.

"DEFINITIONS

"SEC. 169. For purposes of this part—

"(1) The term 'major emitting facility' means any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant from the following types of stationary sources: fossil-fuel fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding three hundred thousand barrels, taconite ore precessing facilities, glass fiber processing plants, charcoal production facilities. Such term also includes any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant. This term shall not include new or modified facilities which are nonprofit health or education institutions which have been exempted by the State.

"(2)(A) The term 'commenced' as applied to construction of a major omitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.

"(B) The term 'necessary preconstruction approvals or permits' means those permits or approvals, required by the permitting authority as a precondition to undertaking any activity under clauses (i) or (ii) of subparagraph (A) of this paragraph.

"(3) The term 'best available control technology' means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques,

including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act.

"(4) The term 'baseline concentration' means, with respect to a pollutant, the ambient concentration levels which exist at the time of the first application for a permit in an area subject to this part, based on air quality data available in the Environmental Protection Agency or a State air pollution control agency and on such monitoring data as the permit applicant is required to submit. Such ambient concentration levels shall take into account all projected emissions in, or which may affect, such area from any major emitting facility on which construction commenced prior to January 6, 1975, but which has not begun operation by the date of the baseline air quality concentration determination. Emissions of sulfur oxides and particulate matter from any major emitting facility on which construction commenced after January 6, 1975, shall not be included in the baseline and shall be counted against the maximum allowable increases in pollutant concentrations established under this part.".

(b) Within one year from the date of enactment of this Act, the Administrator shall report to the Congress on the consequences of that portion of the definition of "major emitting facility" under the amendment made by subsection (a) which applies to facilities with the potential to emit two hundred and fifty tons per year or more. Such study shall examine the type of facilities covered, the air quality benefits of including such facilities, and the administrative aspect of regulating such facilities.

(c) Not later than one year after the date of enactment of this Act, the Administrator shall publish a guidance document to assist the States in carrying out their functions under part C of title I of the Clean Air Act (relating to prevention of significant deterioration of air quality) with respect to pollutants, other than sulfur oxides and particulates, for which national ambient air qualing standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multistate basis for the purpose of implementing part C and section 110 of such Act.

(d) Not later than two years after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the progress made in carrying out part C of title I of the Clean Air Act (relating to significant deterioration of air quality) and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multistate basis.

VISIBILITY PROTECTION

SEC. 128. (a) Part C of title I of the Clean Air Act, is amended by adding the following new section after section 168.

"VISIBILITY PROTECTION FOR FEDERAL CLASS I AREAS

"SEC. 169A. (a)(1) Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.

"(2) Not later than six months after the date of the enactment of this section, the Secretary of the Interior in consultation with other Federal land managers shall review all mandatory class I Federal areas and identify those where visibility is an important value of the area. From time to time the Secretary of the Interior may revise such identifications. Not later than one year after such date of enactment, the Administrator shall, after consultation with the Secretary of the Interior, promulgate a list of mandatory class I Federal areas in which he determines visibility is an important value.

"(3) Not later than eighteen months after the date of enactment of this section, the Administrator shall complete a study and report to Congress on available methods for implementing the national goal set forth in paragraph (1). Such report shall include recommendations for—

"(A) methods for identifying, characterizing, determining, quantifying, and measuring visibility impairment in Federal areas referred to in paragraph (1), and

"(B) modeling techniques (or other methods) for determining the extent to which manmade air pollution may reasonably be anticipated to cause or contribute to such impairment, and

"(C) methods for preventing and remedying such manmade air pollution and resulting visibility impairment.

Such report shall also identify the classes or categories of sources and the types of air pollutants which, alone or in conjunction with other sources or pollutants, may reasonably be anticipated to cause or contribute significantly to impairment of visibility.

"(4) Not later than twenty-four months after the date of enactment of this section, and after notice and public hearing, the Administrator shall promulgate regulations to assure (A) reasonable progress toward meeting the national goal specified in paragraph (1), and (B) compliance with the requirements of this section.

"(b) Regulations under subsection (a)(4) shall—

"(1) provide guidelines to the States; taking into account the recommendations under subsection (a)(3) on appropriate techniques and methods for implementing this section (as provided in subparagraphs (A) through (C) of such subsection (a)(3)), and

"(2) require each applicable implementation plan for a State in which any area listed by the Administrator under subsection (a)(2) is located (or for a State the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area) to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal specified in subsection (a), including—

"(A) except as otherwise provided pursuant to subsection (c), a requirement that each major stationary source which is in existence on the date of enactment of this section, but which has not been in operation for more than fifteen years as of such date, and which, as determined by the State (or the Administrator in the case of a plan promulgated under section 110(c)) emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area, shall procure, install, and operate, as expeditiously as practicable (and maintain thereafter) the best available retrofit technology, as determined by the State (or the Administrator in the case of a plan promulgated under section 110(c)) for controlling emissions from such source for the purpose of eliminating or reducing any such impairment, and

"(B) a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal specified in subsection (a).

In the case of a fossil fuel fired generating powerplant having a total generating capacity in excess of 750 megawatts, the emission limitations required under this paragraph shall be determined pursuant to guidelines, promulgated by the Administrator under paragraph (1).

"(c)(1) The Administrator may, by rule, after notice, and opportunity for public hearing, exempt any major stationary source from the requirement of subsection (b)(2)(A), upon his determination that such source does not or will not, by itself or in combination with other sources, emit any air pollutant which may be reasonably be anticipated to cause or contribute to a significant impairmment of visibility in any mandatory class I Federal area.

"(2) Paragraph (1) of this subsection shall not be applicable to any fossil-fuel fired powerplant with total design capacity of 750 megawatts or more, unless the owner or operators of any such plant demonstrates to the satisfaction of the Administrator that such powerplant is located at such distance from all areas listed by the Administrator under subsection (a)(2) that such powerplant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such area.

"(3) An exemption under this subsection shall be effective only upon concurrence by the appropriate Federal land manager or managers with the Administrator's determination under this subsection.

"(d) Before holding the public hearing on the proposed revision of an applicable implementation plan to meet the requirements of this section, the State (or the Administrator, in the case of a plan promulgated under section 110(c)) shall consult in person with the appropriate Federal land manager or managers and shall include a summary of the conclusions and recommendations of the Federal land managers in the notice to the public.

"(e) In promulgating regulations under this section, the Administrator shall not require the use of any automatic or uniform buffer zone or zones.

"(f) For purposes of section 304(a)(2), the meeting of the national goal specified in subsection (a)(1) by any specific date or dates shall not be considered a 'non-discretionary duty' of the Administrator.

"(g) For the purpose of this section—

"(1) in determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements;

"(2) in determining best available retrofit technology the State (or the Administrator in determining emission limitations which reflect such technology) shall take into consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology;

"(3) the term 'manmade air pollution' means air pollution which results directly or indirectly from human activities;

"(4) the term 'as expeditiously as practicable' means as expeditiously as practicable but in no event later than five years after the date of approval of a plan revision under this section (or the date of promulgation of such a plan revision in the case of action by the Administrator under section 110(c) for purposes of this section);

"(5) the term 'mandatory class I Federal areas' means Federal areas which may not be designated as other than class I under this part.

"(6) the term 'visibility impairment' and 'impairment of visibility' shall include reduction in visual range and atmospheric discoloration; and

"(7) the term 'major stationary source' means the following types of stationary sources with the potential to emit 250 tons or more of any pollutant: fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refiners, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, smeltering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than 250 million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities.".

NONATTAINMENT AREAS

SEC. 129. (a) (1) Before July 1, 1979, the interpretative regulation of the Administrator of the Environmental Protection Agency published in 41 Federal Register 55524–30, December 21, 1976, as may be modified by rule of the Administrator, shall apply except that the baseline to be used for determination of appropriate emission offsets under such regulation shall be the applicable implementation plan of the State in effect at the time of application for a permit by a proposed major stationary source (within the meaning of section 302 of the Clean Air Act).

(2) Before July 1, 1979, the requirements of the regulation referred to in paragraph (1) shall be waived by the Administrator with respect to any pollutant if he determines that the State has—

(A) an inventory of emissions of the applicable pollutant for each nonattainment area (as defined in section 171 of the Clean Air Act) that identifies the type, quantity, and source of such pollutant so as to provide information sufficient to demonstrate that the requirements of subparagraph (C) are being met;

(B) an enforceable permit program which—

(i) requires new or modified major stationary sources to meet emission limitations at least as stringent as required under the permit requirements referred to in paragraphs (2) and (3) of section 173 of the Clean Air Act (relating to lowest achievable emission rate and compliance by other sources) and which assures compliance with the annual reduction requirements of subparagraph (C) and

(ii) requires existing sources to achieve such reduction in emissions in the area as may be obtained through the adoption, at a minimum of reasonably available control technology, and

(C) a program which requires reductions in total allowable emissions in the area prior to January 1, 1979, so as to provide for the same level of emission reduction as would result from the application of the regulation referred to in paragraph (1).

The Administrator shall terminate such waiver if in his judgment at the reduction in emissions actually being attained is less than the reduction on which the waiver was conditioned pursuant to subparagraph (C), or if the Administrator determines that the State is no longer in compliance with any requirement of this paragraph. Upon application by the State, the Administrator may reinstate a waiver terminated under the preceding sentence if he is satisfied that such State is in compliance with all requirements of this subsection.

(3) Operating permits may be issued to those applicants who were properly granted construction permits, in accordance with the law and applicable regulations in effect at the time granted, for construction of a new or modified source in areas exceeding national primary air quality standards on or before the date of the enactment of this Act if such construction permits were granted prior to the date of the enactment of this Act and the person issued any such permit is able to demonstrate that the emissions from the source will be within the limitations set forth in such construction permit.

(b) Title I of such Act is amended by adding the following new part at the end thereof:

"PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS

"DEFINITIONS

"SEC. 171. For the purpose of this part and section 110(a)(2)(I)—

"(1) The term 'reasonable further progress' means annual incremental reductions in emissions of the applicable air pollutant (including substantial reductions in the early years following approval or promulgation of plan provisions under this part and section 110(a)(2)(I) and regular reductions thereafter) which are sufficient in the judgment of the Administrator, to provide for attainment of the applicable national ambient air quality standard by the date required in section 172(a).

"(2) The term 'nonattainment area' means, for any air pollutant an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under paragraphs (A) through (C) of section 107(d)(1).

"(3) The term 'lowest achievable emission rate' means for any source that rate of emissions which reflects—

"(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

"(B) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

"(4) The terms 'modification' and 'modified' mean the same as the term 'modification' as used in section 111(a)(4) of this Act.

"NONATTAINMENT PLAN PROVISIONS

"SEC. 172. (a)(1) The provisions of an applicable implementation plan for a State relating to attainment and maintenance of national ambient air quality standards in any nonattainment area which are required by section 110(a)(2)(I) as a precondition for the construction or modification of any major stationary source in any such area after July 1, 1979, shall provide for attainment of each such national ambient air quality standard in each such area as expeditiously as practicable, but, in the case of national primary ambient air quality standards, not later than December 31, 1982.

"(2) In the case of the national primary ambient air quality standard for photochemical oxidants or carbon monoxide (or both) if the State demonstrates to the satisfaction of the Administrator (on or before the time required for submission of such plan) that such attainment is not possible in an area with respect to either or both of such pollutants within the period prior to December 31, 1982, despite the implementation of all reasonably available measures, such provisions shall provide for the attainment of the national primary standard for the pollutant (or pollutants) with respect to which such demonstration is made, as expeditiously as practicable but not later than December 31, 1987.

"(b) The plan provisions required by subsection (a) shall—

"(1) be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing;

"(2) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

"(3) require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

"(4) include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under paragraph (1);

"(5) expressly identify and quantify the emissions, if any, such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

"(6) require permits for the construction and operation of new or modified major stationary sources in accordance with section 173 (relating to permit requirements);

"(7) identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

"(8) contain emission limitations, schedules of compliance and such other measures as may be necessary to meet the requirements of this section;

"(9) evidence public, local government, and State legislative involvement and consultation in accordance with section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

"(10) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

"(11) in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a)—

"(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

"(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

"(C) identify other measures necessary to provide for attainment of the applicable na-

tional ambient air quality standard not later than December 31, 1987.

"(c) In the case of a State plan revision required under the Clean Air Act Amendments of 1977 to be submitted before July 1, 1982, by reason of a demonstration under subsection (a)(2), effective on such date such plan shall contain enforceable measures to assure attainment of the applicable standard not later than July 1, 1987.

"PERMIT REQUIREMENTS

"SEC. 173. The permit program required by section 172(b)(6) shall provide that permits to construct and operate may be issued if—

"(1) the permitting agency determines that—

"(A) by the time the facility is to commence operation, total allowable emissions from existing sources in the region, from new sources which are not major emitting facilities, and from the proposed facility will be sufficiently less than total emissions from existing sources allowed under the implementation plan prior to the application for such permit to construct or modify so as to represent (when considered together with the plan provisions required under section 172) reasonable further progress (as defined in section 171); or

"(B) that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources under section 172(b);

"(2) the proposed source is required to comply with the lowest achievable emission rate; and

"(3) the owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in such State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this Act.

Any emission reductions required as a precondition of the issuance of a permit under paragraph (1)(A) shall be legally binding before such permit may be issued.

"PLANNING PROCEDURES

"SEC. 174. (a) Within six months after the enactment of the Clean Air Act Amendments of 1977, for each region in which the national primary ambient air quality standard for carbon monoxide or photochemical oxidants will not be attained by July 1, 1979, the State and elected officials of affected local governments shall jointly determine which elements of a revised implementation plan will be planned for and implemented or enforced by the State and which such elements will be planned for and implemented or enforced by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. Where possible within the time required under this subsection, the implementation plan required by this part shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and certified by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Act Amendments of 1977, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, and in accordance with the determination under the first sentence of this subparagraph, shall designate an organization of elected officials of local governments in the affected area or a State agency to prepare such plan. Where feasible, such organization shall be the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, or the organization responsible for the air quality maintenance planning process under regulations implementing this section, or the organization with both responsibilities.

"(b) The preparation of implementation plan provisions under this part shall be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under section 134 of title 23, United States Code, and the air quality maintenance planning process required under section 110, and such planning processes shall take into account the requirements of this part.

"ENVIRONMENTAL PROTECTION AGENCY GRANTS

"SEC. 175. (a) The Administrator shall make grants to any organization of local elected officials with transportation or air quality maintenance planning responsibilities recognized by the State under section 174(a) for payment of the reasonable costs of developing a p'an revision under this part.

"(b) The amount granted to any organization under subsection (a) shall be 100 percent of any additional costs of developing a plan revision under this part for the first two fiscal years following receipt of the grant under this paragraph, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance p'anning. Grants under this section shall not be used for construction.

"LIMITATIONS ON CERTAIN FEDERAL ASSISTANCE

"SEC. 176. (a) The Administrator shall not approve any projects or award any grants authorized by this Act and the Secretary of Transportation shall not approve any projects or award any grants under title 23, United States Code, other than for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance, in any air quality control region—

"(1) in which any primary ambient air quality standard has not been attained,

"(2) where transportation control measures are necessary for the attainment of such standard, and

"(3) where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982).

"(b) In any area in which the State or, as the case may be, the general purpose local government or governments or any regional agency designated by such general purpose local governments for such purpose, is not implementing any requirement of an approved or promulgated plan under section 110, including any requirement for a revised implementation plan under this part, the Administrator shall not make any grants under this Act.

"(c) No department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve, any activity which does not conform to a plan after it has been approved or promulgated under section 110. No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under section 110. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

"(d) Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air quality standard. This paragraph extends to, but it not limited to, authority exercised under the Urban Mass Transportation Act, title 23 of the United States Code, and the Housing and Urban Development Act.

"NEW MOTOR VEHICLE EMISSION STANDARDS IN NONATTAINMENT AREAS

"SEC. 177. Notwithstanding section 209(a), any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if—

"(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

"(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator.)

"GUIDANCE DOCUMENTS

"SEC. 178. The Administrator shall issue guidance documents under section 108 for purposes of assisting States in implementing requirements of this part respecting the lowest achievable emission rate. Such a document shall be published not later than nine months after the date of enactment of this part and shall be revised at least every two years thereafter."

(c) Notwithstanding the requirements of section 406(d)(2) (relating to date required for submission of certain implementation plan revisions), for purposes of section 110(a)(2) of the Clean Air Act, each State in which there is any nonattainment area (as defined in subpart D of the Clean Air Act) shall adopt and submit an implementation plan revision which meets the requirements of section 101(a)(2)(I) and subpart D of the Clean Air Act not later than January 1, 1979. In the case of any such State plan revision adopted and submitted before such date which has made the demonstration required under section 172(a)(2) of the Clean Air Act (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meets the requirements of section 172(b) and (c) of such Act.

LIGHT-DUTY MOTOR VEHICLE EMISSIONS

SEC. 201. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15.0 grams per vehicle mile of carbon monoxide. The regulation under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during the model year 1980 shall contain standards which provide that such emissions may not exceed 7.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 percent from emissions of such pollutant allowable under the standards under this section applicable

to light-duty vehicles and engines manufactured in model year 1970. Unless waived as provided in paragraph (5), regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during or after the model year 1981 shall contain standards which require a reduction of at least 90 percent from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of section 202(b)(1) of such Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during the model year 1981 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 gram per vehicle mile. The Administrator shall prescribe standards in lieu of those required by the preceding sentence, which provide that emissions of oxides of nitrogen may not exceed 2.0 grams per vehicle mile for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer whose production, by corporate identity, for model year 1976 was less than 300,000 light-duty motor vehicles worldwide if the Administrator determines that—

"(i) the ability of such manufacturer to meet emission standards in the 1975 and subsequent model years was, and is, primarily dependent upon technology developed by United States manufacturers and purchased from such manufacturers; and

"(ii) such manufacturer lacks the financial resources and technological ability to develop such technology.".

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A) At any time after August 31, 1978, any manufacturer may file an application requesting the waiver for model years 1981 and 1982 of the effective date of the emission standard required by paragraph (1)(A) for carbon monoxide applicable to any model (as determined by the Administrator) of light-duty motor vehicles and engines manufactured in such model years. The Administrator shall make his determination with respect to any such application within 60 days after such application is filed with respect to such model. If he determines, in accordance with the provisions of this paragraph, that such waiver should be granted, he shall simultaneously with such determination prescribe by regulation emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (2)(A) of this subsection) to emissions of carbon monoxide from such class or category of vehicles or engines manufactured during model years 1981 and 1982.

"(B) Any standards prescribed under this paragraph shall not permit emissions of carbon monoxide from vehicles and engines to which such waiver applies to exceed 7.0 grams per vehicle per mile.

"(C) Within 60 days after receipt of the application for any such waiver and after public hearing, the Administrator shall issue a decision granting or refusing such waiver. The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

"(i) such waiver is essential to the public interest or the public health and welfare of the United States;

"(ii) all good faith efforts have been made to meet the standards established by this subsection;

"(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

"(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

"(6)(A) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles or engines manufactured by such manufacturer during any period of up to four model years beginning after the model year 1980 if the manufacturer demonstrates that such waiver is necessary to permit the use of an innovative power train technology, or innovative emission control device or system, in such class or category of vehicles or engines and that such technology or system was not utilized by more than 1 percent of the light-duty vehicles sold in the United States in the 1975 model year. Such waiver may be granted only if the Administrator determines—

"(i) that such waiver would not endanger public health,

"(ii) that there is a substantial likelihood that the vehicles or engines will be able to comply with the applicable standard under this section at the expiration of the waiver, and

"(iii) that the technology or system has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act upon the expiration of the waiver.

No waiver under this subparagraph granted to any manufacturer shall apply to more than 5 percent of such manufacturer's production or 50,000 vehicles or engines, whichever is greater.

"(B) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not to exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles and engines manufactured by such manufacturer during the four model year period beginning with the model year 1981 if the manufacturer can show that such waiver is necessary to permit the use of diesel engine technology in such class or category of vehicles or engines. Such waiver may be granted if the Administrator determines—

"(i) that such waiver will not endanger public health.

"(ii) that such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act, and

"(iii) that the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.".

STUDIES AND RESEARCH OBJECTIVE FOR OXIDES OF NITROGEN

SEC. 202. (a) The Administrator of the Environmental Protection Agency shall conduct a study of the public health implications of attaining an emission standard on oxides of nitrogen from light duty vehicles of 0.4 gram per vehicle mile, the cost and technological capability of attaining such standard, and the need for such a standard to protect public health or welfare. The Administrator shall submit a report of such study to the Congress, together with recommendations not later than July 1, 1980.

(b) Section 202(b) of the Clean Air Act is amended by adding a new paragraph (7) as follows:

"(7) The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen actually measured from light duty motor vehicles manufactured in model year 1971 not subject to any Federal or State emission standard for oxides of nitrogen. The Administrator shall, by regulations promulgated within one hundred and eighty days after enactment of the Clean Air Act Amendments of 1977, require each manufacturer whose sales represent at least 0.5 per centum of light duty motor vehicle sales in the United States, to build and, on a regular basis, demonstrate the operation of light duty motor vehicles that meet this research objective, in addition to any other applicable standards or requirements for other pollutants under this Act. Such demonstration vehicles shall be submitted to the Administrator no later than the end of model year 1978 and in each model year thereafter. Such demonstration shall, in accordance with applicable regulations, to the greatest extent possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and (C) assure the utilization of optimum engine, fuel, and emission control systems.".

STUDY AND REPORT OF FUEL CONSUMPTION

SEC. 203. (a) Following each motor vehicle model year, the Administrator of the Environmental Protection Agency shall report to the Congress respecting the motor vehicle fuel consumption associated with the standards applicable for the immediately preceding model year.

(b) The Secretary of Transportation and the Secretary of Energy shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subsection (a), separate reports respecting such fuel consumption.

STATE GRANTS

SEC. 204. Section 210 of such Act is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made.".

COST OF CERTAIN EMISSION CONTROL PARTS

SEC. 205. Section 207(a) of the Clean Air Act is amended by adding the following new sentences at the end thereof: "The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for replacement during the useful life of the vehicle in order to maintain compliance with regulations under section 202 of this Act, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 per cent of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and such replacement shall be provided without cost to the ulti-

mate purchaser, subsequent purchaser, or dealer. The term 'designed for emission control' as used in the preceding sentence means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions (not including those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control).".

WARRANTIES

SEC. 206. (a) Section 203(a)(4) of the Clean Air Act is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma and by adding the following new subparagraphs:

"(C) except as provided in subsection (c)(3) of section 207, to provide directly or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the coverage of any warranty under this Act is conditioned upon use of any part, component, or system manufactured by such manufacturer or any person acting for such manufacturer or under his control, or conditioned upon service performed by any such person, or

"(D) to fail or refuse to comply with the terms and conditions of the warranty under section 207 (a) or (b) with respect to any vehicle, or to fail or refuse to comply with any requirement under subsection (b)(5) or (b)(6) of section 207.".

CALIFORNIA WAIVER

SEC. 207. Section 209(b) of the Clean Air Act is amended to read as follows:

"(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determinations of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extrordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.".

MAINTENANCE INSTRUCTIONS

SEC. 208. Paragraph (3) of subsection (c) of section 207 of the Clean Air Act is amended to read as follows:

"(3)(A) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine written instructions for the proper maintenance and use of the vehicle or engine by the ultimate purchaser and such instructions shall correspond to regulations which the Administrator shall promulgate. The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2).

"(B) The instruction under subparagraph (A) of this paragraph shall not include any condition on the ultimate purchaser's using, in connection with such vehicle or engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguishing between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship, and service performed by independent automotive repair facilities with which such manufacturer has no commercial relationship; except that the prohibition of this subsection may be waived by the Administrator if—

"(i) the manufacturer satisfies the Administrator that the vehicle or engine will function properly only if the component or service so identified is used in connection with such vehicle or engine, and

"(ii) the Administrator finds that such a waiver is in the public interest.

"(C) In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 202 of this Act. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.".

WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

SEC. 209. (a) Section 207(b)(2) of the Clean Air Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).".

(b) Section 207(a) of such Act is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)" respectively, by inserting "(1)" and "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.".

(c) Section 207(b) of such Act is amended by adding the following at the end thereof: "For purposes of the warranty under this subsection, for the period after 24 months or 24,000 miles (whichever first occurs) the term 'emission control device or system' means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968.".

REPAIR AT OWNER'S PLACE OF CHOOSING

SEC. 210. Section 207 of the Clean Air Act is amended by adding the following new subsection:

"(g) For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of section 207(a)(1)), unless such part, item, or device is covered by any warranty not mandated by this Act.".

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 211. (a) Section 203(a) of the Clean Air Act is amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited Act under such paragraph (3) if such action is in accordance with section 215".

(b) Part A of title II of such Act is amended by inserting the following new section after section 214:

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

"SEC. 215. (a)(1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated as not in violation of section 203(a) if such action is performed in accordance with high altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance with respect to each standard under section 202 at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice.

"(b)(1) Instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted by the manufacturer to the Administrator pursuant to regulations promulgated by the Administrator.

"(2) Any knowing violation by a manufacturer of requirements of the Administrator under paragraph (1) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205.

"(3) Such instructions shall provide, in addition to other adjustments, for adjustments for vehicles moving from high altitudes areas to low altitude areas after the initial registration of such vehicles.

"(c) No instructions under this section respecting adjustments or modifications may require the use of any manufacturer parts (as defined in section 203(a)) unless the manufacturer demonstrates to the satisfaction of the Administrator that the use of such manufacturer parts is necessary to insure emission control performance.

"(d) Before January 1, 1981 the authority provided by this section shall be available in any high altitude State (as determined under regulations of the Administrator under regulations promulgated before the date of the enactment of this Act) but after December 31, 1981, such authority shall be available only in any such State in which an inspection and maintenance program for the testing of motor vehicle emissions has been instituted for the portions of the State where any national ambient air quality standard for auto-related pollutants has not been attained."

DEALER CERTIFICATION

SEC. 212. Section 207 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(g)(1) Upon the sale of each new light-duty motor vehicle by a dealer, the dealer shall furnish to the purchaser a certificate that such motor vehicle conforms to the applicable regulations under section 202, including notice of the purchaser's rights under paragraph (2).

"(2) If at any time during the period for which the warranty applies under subsection (b), a motor vehicle fails to conform to the applicable regulations under section 202 as determined and subsection (b) of this section, such nonconformity shall be remedied by the manufacturer at the cost of the manufacturer pursuant to such warranty as provided in section 207(b)(2) (without regard to subparagraph (C) thereof)."

HIGH ALTITUDE REGULATIONS

SEC. 213. (a) Section 206 of the Clean Air Act is amended by adding the following new subsection:

"(f)(1) All light duty vehicles and engines manufactured during or after model year 1984 shall comply with the requirements of section 202 of this Act regardless of the altitude at which they are sold.

"(2) By October 1, 1978, the Administrator shall report to the Congress on the economic impact and technological feasibility of the requirements found in subparagraph (1) of this subsection. The report is also to evaluate the technological feasibility and the health consequences of separate proportional emission standards for light duty vehicles and engines in high altitude areas that would reflect a comparable percentage of reduction in emissions to that achieved by light duty vehicles and engines in low altitude areas.".

(b) Section 202 of such Act is amended by adding the following new subsection at the end thereof:

"(f)(1) The high altitude regulation in effect with respect to model year 1977 motor vehicles shall not apply to the manufacture, distribution, or sale of 1978 and later model year motor vehicles. Any future regulation affecting the sale or distribution of motor vehicles or engines manufactured before the model year 1984 in high altitude areas of the country shall take effect no earlier than model year 1981.

"(2) Any future regulation applicable to high altitude vehicles or engines shall not require a percentage of reduction in the emissions of such vehicles which is greater than the required percentage of reduction in emissions from motor vehicles as set forth in section 202(b). This percentage reduction shall be determined by comparing any proposed high altitude emission standards to high altitude emissions from vehicles manufactured during model year 1970. In no event shall regulations applicable to high altitude vehicles manufactured before the model year 1984 establish a numerical standard which is more stringent than that applicable to vehicles certified under non-high altitude conditions.

"(3) Section 307(d) shall apply to any high altitude regulation referred to in paragraph (2) and before promulgating any such regulation, the Administrator shall consider and make a finding with respect to—

"(A) the economic impact upon consumers, individual high altitude dealers, and the automobile industry of any such regulation, including the economic impact which was experienced as a result of the regulation imposed during model year 1977 with respect to high altitude certification requirements:

"(B) the present and future availability of emission control technology capable of meeting the applicable vehicle and engine emission requirements without reducing model availability; and

"(C) the likelihood that the adoption of such a high altitude regulation will result in any significant improvement in air quality in any area to which it shall apply.".

be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.

(b) Section 206(a) of such Act is amended by adding at the end thereof the following:

"(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a)(4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.".

(c)(1) Section 206(b)(2)(A)(i) of such Act is amended by inserting "and with the requirements of section 202(a)(4)" after "conformity was issued".

(2) Section 206(b)(2)(A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

FILL PIPE STANDARDS

SEC. 215. Section 202(a) of the Clean Act is amended by adding the following new paragraph at the end thereof;

"(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall, after consultation with the Secretary of Transportation with respect to motor vehicle safety, prescribe, by regulation, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which the Administrator determines may be required to comply with such vapor recovery regulations. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate lead-time for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, contiguation, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure."

ONBOARD HYDROCARBON TECHNOLOGY

SEC. 216. Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(6) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall, after consultation with the Secretary of Transportation with respect to motor vehicle safety, prescribe, by regulation, standards requiring the use of onboard hydrocarbon technology which shall not become effective until the introduction to the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.".

TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 217. Section 202(b)(1) of the Clean Air Act is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph."

CERTAIN MINOR AND TECHNICAL AND CONFORMING AMENDMENTS

SEC. . (a) Section 203(a)(2) of the Clean Air Act is amended by inserting the following before the semicolon: "or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 203(e)".

(b) Section 204(a) of such Act is amended by striking out "paragraph (1), (2), (3), or (4) of".

(c) Section 302(d) of such Act is amended by inserting before the period at the end thereof the following: "and includes the Commonwealth of the Northern Mariana Islands".

(d) Section 203(b)(3) of such Act is amended by striking out "subsection (a)" the second time it appears and inserting in lieu thereof "section 202" and by striking out "country of export" in each place it appears and inserting "country which is to receive such vehicle or engine".

TAMPERING

SEC. 219. (a) Section 203(a)(3) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding the following new subparagraph (B) at the end thereof;

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or".

(b) Section 203(a) of such Act is amended by adding the following at the end thereof:

"Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means, with respect to a motor vehicle engine, parts produced or sold by the manufacturer of the motor vehicle or motor vehicle engine.".

(c) Section 205 of such Act is amended to read as follows:

"PENALTIES

"SEC. 205. Any person who violates paragraph (1), (2), or (4) of section 203(a) or any manufacturer, dealer, or other person who violates paragraph (3)(A) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any person who violates paragraph (3)(B) of such section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.".

TESTING BY SMALL MANUFACTURERS

SEC. 220. Section 206(a)(1) of the Clean Air Act is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life (as determined under section 202(d)) with the regulations prescribed under section 202 of this Act.".

PARTS STANDARDS; PREEMPTION OF STATE LAW

SEC. 221. Section 209 of the Clean Air Act (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval which relates to motor vehicle emissions and is applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).".

TESTING OF FUELS AND FUEL ADDITIVES

SEC. 221. (a) Section 211 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(e)(1) Not later than one year after the date of enactment of this subsection and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations which implement the authority under subsection (b)(2)(A) and (B) with respect to each fuel or fuel additive which is registered on the date of promulgation of such regulations and with respect to each fuel or fuel additive for which an application for registration is filed thereafter.

"(2) Regulations under subsection (b) to carry out this subsection shall require that the requisite information be provided to the Administrator by each such manufacturer—

"(A) prior to registration, in the case of any fuel or fuel additive which is not registered on the date of promulgation of such regulations; or

"(B) not later than three years after the date of promulgation of such regulations, in the case of any fuel or fuel additive which is registered on such date.

"(3) In promulgating such regulations, the Administrator may—

"(A) exempt any small business (as defined in such regulations) from or defer or modify the requirements of, such regulations with respect to any such small business;

"(B) provide for cost-sharing with respect to the testing of any fuel or fuel additive which is manufactured or processed by two or more persons or otherwise provide for shared responsibility to meet the requirements of this section without duplication; or

"(C) exempt any person from such regulations with respect to a particular fuel or fuel additive upon a finding that any additional testing of such fuel or fuel additive would be duplicative of adequate existing testing.

"(f)(1) Effective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206.

"(2) Effective November 30, 1977, it shall be unlawful for any manufacturer of any fuel to first introduce into commerce any gasoline which contains a concentration of manganese in excess of .0625 grams per gallon of fuel.

"(3) Any manufacturer of any fuel or fuel additive which prior to March 31, 1977, and after January 1, 1974, first introduced into commerce or increased the concentration in use of a fuel or fuel additive that would otherwise have been prohibited under paragraph (1) if introduced on or after March 31, 1977 shall, not later than September 15, 1978, cease to distribute such fuel or fuel additive in commerce. During the period beginning 180 days after the date of the enactment of this subsection and before September 15, 1978, the Administrator shall prohibit or restrict the concentration of any fuel additive which he determines will cause or contribute to the failure of an emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified under section 206.

"(4) The Administrator, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under paragraph (1) or (3) of this subsection if he determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206. If the Administrator has not acted to grant or deny an application under this paragraph within one hundred and eighty days of receipt of such application, the waiver authorized by this paragraph shall be treated as granted.

"(5) No action of the Administrator under this section may be stayed by any court pending judicial review of such action.".

(b) Section 211(d) of such Act is amended by inserting "or (f)" after

SMALL REFINERIES

SEC. 222. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(g)(1) For the purposes of this subsection:

"(A) The terms 'gasoline' and 'refinery' have the meaning provided under regulations of the Administrator promulgated under this section.

"(B) The term 'small refinery' means a refinery or a portion of a refinery producing gasoline—

"(i) the gasoline producing capacity of which was in operation or under construction at any time during the one-year period immediately preceding October 1, 1976, and

"(ii) which has a crude oil or bona fide feed stock capacity (as determined by the Administrator) of 5,000 barrels per day or less, and

"(iii) which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity (as determined by the Administrator) of 137,500 barrels per day or less.

"(2) No regulations of the Administrator under this section (or any amendment or revision thereof) respecting the control or prohibition of lead additives in gasoline shall require a small refinery prior to October 1, 1982, to reduce the average lead content per gallon of gasoline refined at such refinery below the applicable amount specified in the table below:

"If the average gasoline production of the small refinery for the immediately preceding calendar year (or, in the case of refineries under construction, half the designed crude oil capacity) was (in barrels per day):	The applicable amount is (in grams per gallon)
5,000 or under	2.65.
5,001 to 10,000	2.15.
10,001 to 15,000	1.65.
15,001 to 20,000	1.30.
20,001 to 25,000	.80.
25,001 or over	as prescribed by the Administrator, but not greater than 0.80.

The Administrator may promulgate such regulations as he deems appropriate with respect to the reduction of the average lead content of gasoline refined by small refineries on and after October 1, 1982, taking into account the experience under the preceding provisions of this paragraph.

"(3) Effective on the date of the enactment of this subsection, the regulations of the Administrator under this section respecting fuel additives (40 CFR part 80) shall be deemed amended to comply with the requirement contained in paragraph (2).

"(4) Nothing in this section shall be construed to preempt the right of any State to take action as permitted by section 211(c)(4) of this Act.".

EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 223. (a) Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(3)(A)(i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1979. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1979 through 1982 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year—

"(1) 1983, in the case of hydrocarbons and carbon monoxide, shall contain standards which require a reduction of at least 90 per cent, and

"(II) 1985, in the case of oxides of nitrogen, shall contain standards which require a reduction of at least 75 per cent from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

"(iii) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of particulate matter from classes or categories of vehicles manufactured during and after model year 1981 (or during any earlier model year, if practicable). Such regulations shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. Such standards shall be promulgated and shall take effect as expeditiously as practicable taking into account the period necessary for compliance.

"(iv) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

"(v) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first appleid with respect to such pollutant.

"(B) During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A)(ii)) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning four model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production of such period and shall prescribe a revised emission standard in accordance with such determination. Such revised standard shall require a reduction of emissions from any standard which applies to previous model year.

"(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if he finds—

"(i) that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods, or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under part C of title I (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply.

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A)(ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E)(i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such information as is available to him (including the studies under section 214), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A)(ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year four years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines (except as otherwise permitted under section 206(f)(1)) unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category. In any case in which such standards are promulgated for such emissions from motorcycles as a separate class or category, the Administrator, in promulgating such standards, shall consider the need to achieve equivalency of emission reductions between motorcycles and other motor vehicles to the maximum extent practicable.".

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

(c) Section 312 of such Act is amended by inserting "AND STUDIES OF COST-EFFECTIVENESS ANALYSES" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act."

(d) Part A of title II of such Act is amended by redesignating section 214 as section 222 and by inserting after section 213 the following new section:

"STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES

"SEC. 214. (a)(1) The Administrator shall conduct a study concerning the effects of health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1977. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a).".

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof.

"(f)(1) In the case of any class or category of heavy-duty vehicles or engines to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing. In the case of motorcycles to which such a standard applies, such a certificate may be issued notwithstanding such failure if the manufacturer pays such a penalty.

"(2) No certificate of conformity may be issued under paragraph (1) with respect to any class or category of vehicle or engine if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) with respect to such class or category exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than one year after the date of enactment of the Clean Air Act Amendments of 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant:

"(B) may vary by class or category or vehicle or engine;

"(C) shall take into account the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) be increased periodically in order to create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction (including any such disadvantage arising from the application of paragraph (4)).

"(4) In any case in which a certificate of conformity has been issued under the subsection, any warranty required under section 207(b)(2) and any action under section 207(c) shall be required to be effective only for the emission levels which the Administrator determines that such certificate was issued and not for the emission levels required under the applicable standard.

"(5) The authorities of section 208(a) shall apply, subject to the conditions of section 208(b), for purposes of this subsection.".

(g) Section 202(d) of such Act is amended by striking out "and" at the end of paragraph (1) thereof; by inserting "(other than motorcycles or motorcycle engines)" after "engines" in paragraph (2) thereof; by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and by adding a new paragraph (3) to read as follows:

"(3) in the case of any motorcycle or motorcycle engine, be a period of use the Administrator shall determine.".

AIRCRAFT EMISSIONS STANDARDS

SEC. 224. Section 231(c) of the Clean Air Act is amended to read as follows:

"(c) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1977 or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the President, after notice and opportunity for public hearing, on the basis of a finding by the Secretary of Transportation that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.".

CARBON MONOXIDE INTRUSION INTO SUSTAINED USE VEHICLES

SEC. 225. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into the passenger area of sustained-use motor vehicles. Such study shall include an analysis of the sources and levels of carbon monoxide in the passenger area of such vehicles and a determination of the effects of carbon monoxide upon the passengers. The study shall also review available methods of monitoring and testing for the presence of carbon monoxide and shall analyze the cost and effectiveness of alternative methods of monitoring and testing. The study shall analyze the cost and effectiveness of alternative strategies for attaining and maintaining acceptable levels of carbon monoxide in the passenger area of such vehicles. Within one year the Administrator shall report to the Congress respecting the results of such study.

(b) For the purpose of this section, the term "sustained-use motor vehicle" means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including buses, taxicabs, and police vehicles.

TITLE III—AMENDMENTS RELATING PRIMARILY TO TITLE III OF THE CLEAN AIR ACT

DEFINITIONS

SEC. 301. (a) Section 302 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(i) The term 'Federal land manager' means with respect to any lands in the United States the Secretary of the department with authority over such lands.

"(j) Except as otherwise expressly provided, the terms 'major stationary source' and 'major emitting facility' mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

"(k) The terms 'emission limitation' and 'emission standard', means a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

(l) The term 'standard of performance' means a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

"(m) The term 'means of emission limitation' means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics).

"(n) The term 'primary standard attainment date' means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

"(o) The term 'delayed compliance order' means an order issued by the State or by the Administrator to an existing stationary source, postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan.

"(p) The term 'schedule and timetable of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard."

(b) Section 302(e) of such Act is amended to read as follows:

"(e) The term 'person' includes an individual corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.".

(c) Section 302(g) of such Act is amended to read as follows:

"(g) The term 'air pollutant' means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.".

EMERGENCY POWERS

SEC. 302. (a) Section 303 of the Clean Air Act is amended by inserting "(a)" after "303" and by adding the following at the end thereof: "If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking. Such order shall be effective for a period of not more than twenty-four hours unless the Administrator brings an action under the first sentence of this subsection before the expiration of such period. Whenever the Administrator brings such an action within such period, such order shall be effective for a period of forty-eight hours or such longer period as may be authorized by the court pending litigation or thereafter.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day during which such violation occurs or failure to comply continues.".

(b) Section 313 of the Clean Air Act is amended by striking out "and" at the end of clause (9) and adding after clause (10): "and (11)(A) the status of plan provisions developed by States as required under section 110(a)(2)(F)(v), and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 303) by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 110(a)(2)(F)(v), and an evaluation of their effectiveness in reducing pollution, and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action".

CITIZEN SUITS

SEC. 303. (a) Section 304(a) of the Clean Air Act is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or"; and

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(3) against any person who proposes to construct or constructs any new major emitting facility without a permit required under part C (relating to significant deterioration of air quality) or part D of title 1 (relating to nonattainment) or who is alleged to be in violation of any condition of such permit.".

(b) Section 304(f) of such Act is amended by striking out "or" at the end of paragraph (1), striking out the period at the end of paragraph (2) and substituting ", or", and

by adding the following new paragraph at the end thereof:

"(3) any condition or requirement of a permit under part C of title I (relating to significant deterioration of air quality) or part D of title I (relating to nonattainment), any condition or requirement of section 113(d) (relating to enforcement orders). 119 (relating to primary nonferrous smelter orders), requirements under an applicable implementation plan relating to vehicle inspection and maintenance programs or vapor recovery requirements. Section 211 (e) and (f) (relating to fuels and fuel additives), or section 169A (relation to visibility protection), any condition or requirement under part B of title I (relating to ozone protection), any requirement under section 111 or 112 without regard to whether such requirement is expressed as an emission standard or otherwise, trans,".

(c) Section 304(e) of such Act is amended by inserting at the end thereof the following: "Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State, local, or interstate authority from—

"(1) bringing any enforcement action or obtaining any judicial remedy or sanction in any State or local court, or

"(2) bringing any administrative enforcement action or obtaining any administrative remedy or sanction in any State or local administrative agency, department or instrumentality,

against the United States, any department, agency, or instrumentality thereof, or any officer, agent, or employee thereof under State or local law respecting control and abatement of air pollution. For provisions requiring compliance by the United States, departments, agencies, instrumentalities, officers, agents, and employees in the same manner as nongovernmental entities, see section 118.".

(b) Section 307 of such Act is amended by adding the following at the end thereof:

"(e) nothing in this Act shall be construed to authorize judicial review of regulations or orders of the Administrator under this Act, except as provided in this section."

CIVIL LITIGATION

SEC. 304. (a) Section 305 of the Clean Air Act is amended to read as follows:

"REPRESENTATION IN LITIGATION

"SEC. 305. (a) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action, within a reasoanble time, attorneys appointed by the Administrator shall appear and represent him.

"(b) In the event the Attorney General agrees to appear and represent the Administrator in any such action, such representation shall be conducted in accordance with, and shall include participation by attorneys appointed by the Administrator to the extent authorized by, the memorandum of understanding between the Department of Justice and the Environmental Protection Agency, dated June 13, 1977, respecting representation of the agency by the department in civil litigation.".

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 305. (a) Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof.

"(d)(1) This subsection applies to—

"(A) the promulgation or revision of any national ambient air quality standard under section 109,

"(B) the promulgation or revision of an implementation plan by the Administrator under section 110(c),

"(C) the promulgation or revision of any standard of performance under section 111 or emission standard under section 112,

"(D) the promulgation or revision of any regulation pertaining to any fuel or fuel additive under section 211,

"(E) the promulgation or revision of any aircraft emission standard under section 231,

"(F) promulgation or revision of regulations pertaining to orders for coal conversion under section 113(d)(E) (but not including orders granting or denying any compliance date extensions),

"(G) promulgation or revision of regulations pertaining to primary nonoffensive smelter orders under section 119 (but not including the granting or denying of any such order),

"(H) promulgation or revision of regulations under subtitle B of title I (relating to stratosphere and ozone protection),

"(I) promulgation or revision of regulations under subtitle C of title I (relating to prevention of significant deterioration of air quality and protection of visibility),

"(J) promulgation or revision of regulations under section 202 and test procedures for new motor vehicles or engines under section 206, and the revision of a standard, under section 202(a)(3),

"(K) promulgation or revision of regulations for noncompliance penalties under section 120,

"(L) promulgation or revision of any regulations promulgated under section 207 (relating to warranties and compliance by vehicles in actual use),

"(M) action of the Administrator under section 126 (relating to interstate pollution abatement), and

"(N) such other actions as the Administrator may determine.

The provisions of section 553 through 557 and section 706 of title 5 of the United States Code shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies. This subsection shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5 of the United States Code.

"(2) Not later than the date of proposal of any action to which this subsection applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be simultaneously established in the appropriate regional office of the Environmental Protection Agency.

"(3) In the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the Federal Register, as provided under section 553(b) of title 5, United States Code, shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment (hereinafter referred to as the 'comment period'). The notice of proposed rulemaking shall also state the docket number, the location or locations of the docket, and the times it will be open to public inspection. The statement of basis and purpose shall include a summary of—

"(A) the factual data on which the proposed rule is based;

"(B) the methodology used in obtaining the data and in analyzing the data; and

"(C) the major legal interpretations and policy considerations underlying the proposed rule.

The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by the Scientific Review Committee established under section 109(d) and the National Academy of Sciences, and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

"(4)(A) The rulemaking docket required under paragraph (2) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

"(B)(i) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(ii) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(5)(A) In promulgating a rule to which this subsection applies (i) the Administrator shall allow any person to submit written comments, data, or documentary information; (ii) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (iii) a transcript shall be kept of any oral presentation; and (iv) the Administrator shall keep the record of such proceeding open for thirty days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information.

"(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(7)(A) The record for judicial review shall consist exclusively of the material referred to in paragraph (3), clause (i) of paragraph (4)(B), and subparagraphs (A) and (B) of paragraph (6).

"(B) Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment

(including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b)). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

"(8) The sole forum for challenging procedural determinations made by the Administrator under this subsection shall be in the United States court of appeals for the appropriate circuit (as provided in subsection (b)) at the time of the substantive review of the rule. No interlocutory appeals shall be permitted with respect to such procedural determinations. In reviewing alleged procedural errors, the court may invalidate the rule only if the errors were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.

"(9) In the case of review of any action of the Administrator to which this subsection applies, the court may reverse any such action found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations or short of statutory right; or

"(D) without observance of procedure required by law if (1) such failure to observe such procedure is arbitrary or capricious, (ii) the requirement of paragraph (7)(B) has been met, and (iii) the condition of the last sentence of paragraph (8) is met.

"(10) Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

"(11) The requirements of this subsection shall take effect with respect to any rule the proposal of which occurs after ninety days after the date of enactment of the Clean Air Act Amendments of 1977.".

(b) Section 105 of such Act is amended by adding the following new subsection at the end thereof:

"(e) No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for a public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected).".

(c)(1) The first sentence of section 307(b)(1) of such Act is amended by striking out "or" after "211," and by inserting after "231" the following: ", any other nationally applicable regulations promulgated, or final action taken, by the Administrator under this Act".

(2) The second sentence of section 307(b)(1) of such Act is amended by inserting after "thereunder," the following: "or any other final action of the Administrator under this Act which is locally or regionally applicable".

(3) The last sentence of section 307(b)(1) of such Act is amended to read as follows: "Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise.".

(4) Section 307(b)(1) of such Act is further amended by inserting the following after the second sentence thereof: "Notwithstanding the preceding sentence a petition for review of any action referred to in such sentence may be filed only in the United States Court of Appeals for the District of Columbia if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.".

(d)(1) Clause (iii) of section 114(a) of such Act relating to inspection, monitoring, and entry, is amended by striking out "section 119 or 303" and inserting in lieu thereof the following: "any provision of this Act (except with respect to a manufacturer of motor vehicles or motor vehicle engines)".

(2) Section 114(a)(1) of such Act is amended by striking out "the owner or operator of any emission source" and inserting in lieu thereof "any person subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 206(c) or 208)".

(3) Section 114(a)(2)(A) of such Act is amended by striking out "in which an emission source is located" and by inserting in lieu thereof "of such person".

(4) Section 114(a)(2)(B) of such Act is amended by striking out "the owner or operator of such source" and by inserting in lieu thereof "such person".

(e) Section 301 of such Act is amended by inserting "(1)" after "(a)" and by inserting a new paragraph (2) to read:

"(2) Not later than one year after the date of enactment of this paragraph, the Administrator shall promulgate regulations establishing general applicable procedures and policies for regional officers and employees (including the Regional Administrator) to follow in carrying out a delegation under paragraph (1), if any. Such regulations shall be designed—

"(A) to assure fairness and uniformity in the criteria, procedures, and policies applied by the various regions in implementing and enforcing the Act;

"(B) to assure at least an adequate quality audit of each State's performance and adherence to the requirements of this Act in implementing and enforcing the Act, particularly in the review of new sources and in enforcement of the Act; and

"(C) to provide a mechanism for identifying and standardizing inconsistent or varying criteria, procedures, and policies being employed by such officers and employees in implementing and enforcing the Act.".

(f) Section 307 of such Act is amended by adding the following new subsection at the end thereof:

"(f) In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) whenever it determines that such award is appropriate.".

(g) Section 307 of such Act is amended by adding the following new subsection at the end thereof:

"(g) In any action respecting the promulgation of regulations under section 120 or the administration or enforcement of section 120 no court shall grant any stay, injunctive, or similar relief before final judgment by such court in such action.".

(h) Section 307(b) of such Act is amended by inserting after "231" the following: "or any rule issued under section 120 (relating to noncompliance penalties)" and by inserting "any order under section 120," after "111(d)".

SEWAGE TREATMENT GRANTS

SEC. 306. Title III of the Clean Air Act is amended by striking out section 316 and adding the following new section at the end thereof:

"SEWAGE TREATMENT GRANTS

SEC. 316. (a) No grant which the Administrator is authorized to make to any applicant for construction of sewage treatment works in any area in any State may be withheld, conditioned, or restricted by the Administrator on the basis of any requirement of this Act except as provided in subsection (b).

"(b) The Administrator may withhold, condition, or restrict the making of any grant for construction referred to in subsection (a) only if he determines that—

"(1) such treatment works will not comply with applicable standards under section 111 or 112,

"(2) the State does not have in effect, or is not carrying out, a State implementation plan approved by the Administrator which expressly quantifies and provides for the increase in emissions of each air pollutant (from stationary and mobile sources in any area to which either part C or Part D of title I applies for such pollutant) which increase may reasonably be anticipated to result directly or indirectly from the new sewage treatment capacity which would be created by such construction,

"(3) the construction of such treatment works would create new sewage treatment capacity which—

"(A) may reasonably be anticipated to cause or contribute to, directly or indirectly, an increase in emissions of any air pollutant in excess of the increase provided for under the provisions referred to in paragraph (2) for any such area, or

"(B) would otherwise not be in conformity with the applicable implementation plan, or

"(4) such increase in emissions would interfere with, or be inconsistent with, the applicable implementation plan for any other State.

In the case of construction of a treatment works which would result, directly or indirectly, in an increase in emissions of any air pollutant from stationary and mobile sources in an area to which part D of title I applies, the quantification of emissions referred to in paragraph (2) shall include the emissions of any such pollutant resulting directly or indirectly from areawide and nonmajor stationary source growth (mobile and stationary) for each such area.

"(c) Nothing in this section shall be construed to amend or alter any provision of the National Environmental Policy Act or to affect any determination as to whether or not the requirements of such Act have been met in the case of the construction of any sewage treatment works.".

ECONOMIC IMPACT ASSESSMENT

SEC. 307. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"ECONOMIC IMPACT ASSESSMENT

"SEC. 317. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation under part B of title I (relating to stratosphere protection),

"(4) any regulation under part C of title I (relating to prevention of significant deterioration of air quality),

"(5) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(6) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c), and

"(7) any aircraft emission standard under section 231.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (7) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date ninety days after the date of enactment of this section. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be subtantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact assessment respecting such standard or regulation. Such assessment shall be included in the docket required under section 307(d)(2) and shall be available to the public as provided in section 307(d)(4). Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact assessment in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a). Each such explanation shall be part of the statements of basis and purpose required under sections 307(d)(3) and 307(d)(6).

"(c) Subject to subsection (d), the assessment required under this section with respect to any standard or regulation shall contain analysis of—

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the effects on competition of the standard or regulation with respect to small business;

"(4) the effects of the standard or regulation on consumer costs; and

"(5) the effects of the standard or regulation on energy use.

Nothing in this section shall be construed to provide that the analysis of the factors specified in this subsection affects or alters the factors which the Administrator is required to consider in taking any action referred to in subsection (a).

"(d) The assessment required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed—

"(1) to alter the basis on which a standard or regulation is promulgated under this Act;

"(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and welfare; or

"(3) to authorize or require any judicial review of any such standard or regulation, or any stay or injunction of the proposal, promulgation, or effectiveness of such standard or regulation on the basis of failure to comply with this section.

"(f) The requirements imposed on the Administrator under this section shall be treated as nondiscretionary duties for purposes of section 304(a)(2), relating to citizens suits. The sole method for enforcement of the Administrator's duty under this section shall be by bringing a citizen suit under such section 304(a)(2) for a court order to compel the Administrator to perform such duty. Violation of any such order shall subject the Administrator to penalties for contempt of court.

"(g) In the ease of any provision of this Act in which costs are expressly required to be taken into account, the adequacy or inadequacy of any assessment required under this section may be taken into consideration, but shall not be treated for purposes of judicial review of any such provision as conclusive with respect to compliance or noncompliance with the requirement of such provision to take cost into account.".

FINANCIAL DISCLOSURE; CONFLICTS OF INTEREST

SEC. 308. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"FINANCIAL DISCLOSURE; CONFLICTS OF INTEREST

"SEC. 318. (a) Each person who—

"(1) has any known financial interest in (A) any person subject to this Act, or (B) any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act, and

"(2) is (A) an officer or employee of the Environmental Protection Agency who performs any function or duty under this Act, (B) a member of the National Commission on Air Quality appointed as a member of the public, or (C) a member of the Scientific Review Committee under section 109(d)

shall, beginning six months after the date of enactment of this section, annually file with the Administrator a written statement concerning all such interests held by such officer, employee, or member during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of the Clean Air Act Amendments of 1977—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section;

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers, employees and members of such statements and the review by the Administrator (or the Commission in the case of members of the Commission) of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such statements to the Administrator and the actions taken in regard thereto during the preceding calendar year.

"(c) After the date one year after the date of the enactment of this section, no person who—

"(1) is employed by, serves as attorney for, acts as a consultant for, or holds any other official or contractual relationship to—

"(A) the owner or operator of any major stationary source or any stationary source which is subject to a standard of performance or emission standard under section 111 or 112,

"(B) any manufacturer of any class or category of mobile sources if such mobile sources are subject to regulation under this Act,

"(C) any trade or business association of which such owner or operator referred to in subparagraph (A) or such manufacturer referred to in subparagraph (B) is a member, or

"(D) any organization (whether or not nonprofit) which is a party to litigation, or engaged in political, educational, or informational activities, relating to air quality, or

"(2) owns, or has any financial interest in, any stock, bonds, or other financial interest which ownership or interest may be inconsistent with a position as an officer or employee of the Environmental Protection Agency, as determined under regulations of the Administrator.

may concurrently serve as such an officer or employee of the Environmental Protection Agency.

"(d) The Administrator shall promulgate rules for purposes of subsections (b) and (c) which—

"(1) identify specific offices or positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section, and

"(2) identify the ownership or financial interests which may be inconsistent with particular regulatory or policymaking offices or positions within the Environmental Protection Agency.

"(e) Any officer or employee of the Environmental Protection Agency or member of the National Commission on Air Quality or of the Scientific Review Committee under section 109(d) who is subject to, and knowingly violates this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(f) Nothing in this section shall be construed to affect or impair any other federal statutory requirements respecting disclosure or conflict of interest applicable to the Environmental Protection Agency. Subsections (c) and (d) of this section shall not apply after the effective date of any such requirements respecting conflicts of interest which are generally applicable to departments, agencies, and instrumentalities of the United States.".

AIR QUALITY MONITORING BY ENVIRONMENTAL PROTECTION AGENCY

SEC. 309. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"AIR QUALITY MONITORING

"SEC. 319. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977 and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quality monitoring system throughout the United States which—

"(1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index.

"(2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan.

"(3) provides for daily analysis and reporting of air quality based upon such uniform air quality index, and

"(4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air

quality monitoring system required under any applicable implementation plan under section 110 shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations.".

MODELING

SEC. 310. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"STANDARDIZED AIR QUALITY MODELING

"SEC. 320. (a) Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1977, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out part C of title I (relating to prevention of significant deterioration of air quality).

"(b) The conference conducted under this section shall provide for participation by the National Academy of Sciences, representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation; the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

"(c) Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

"(d) The comments submitted and the transcript maintained pursuant to subsection (c) shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under part C of title I.".

EMPLOYMENT EFFECTS

SEC. 311. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"EMPLOYMENT EFFECTS

"SEC. 321. (a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement.

"(b) Any employee, or any representative of such employee, who is discharged or laid off, threatened with discharge or layoff, or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed or proposed to be imposed under this Act, including any requirement applicable to Federal facilities and any requirement imposed by a State or political subdivision thereof, may request the Administrator to conduct a full investigation of the matter. Any such request shall be reduced to writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice. At such hearings, the Administrator shall require the parties, including the employer involved, to present information relating to the actual or potential effect of such requirements on employment and the detailed reasons or justification therefor. If the Administrator determines that there are no reasonable grounds for conducting a public hearing he shall notify (in writing) the party requesting such hearing of such a determination and the reasons therefor. If the Administrator does convene such a hearing, the hearing shall be on the record. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such requirements on employment and on the alleged actual or potential discharge, layoff, or other adverse effect on employment, and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

"(c) In connection with any investigation or public hearing conducted under subsection (b) of this section or as authorized in section 119 (relating to primary nonferrous smelter orders), the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part theref, if made public, would divulge trade secrets or secret processes of such owner, or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when, relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and other notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Nothing in this section shall be construed to require or authorize the Administrator, the States, or political subdivisions thereof, to modify or withdraw any requirement imposed or proposed to be imposed under this Act.".

EMPLOYEE PROTECTION

SEC. 312. Title III of the Clean Air Act is amended by adding at the end thereof the following new section:

"EMPLOYEE PROTECTION

"SEC. 322. (a) No employer may discharge any employee or otherwise discriminate against employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under any applicable implementation plan,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard

to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act.".

NATIONAL COMMISSION ON AIR QUALITY

SEC. 313. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

"NATIONAL COMMISSION ON AIR QUALITY

"SEC. 323. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and to achieve the other purposes of the Act, including achievement and maintenance of national ambient air quality standards and in accordance with subsection (b)(2) of this section the prevention of significant deterioration of air quality;

"(2) the economic, technology, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) the technological capability of achieving and the economic, energy, and environmental and health effects of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen in relation to and independent of regulation of emissions of oxides of nitrogen from statutory sources;

"(4) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(5) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(6) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act;

"(7) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

"(A) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants' or chemical precursers to photochemical oxidants;

"(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(C) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

"(E) any other oxidant-related issues which the Commission determines to be appropriate; and "(8)(A) the special problems of small businesses and government agencies in obtaining reductions of emissions from existing sources in order to offset increases in emissions from new sources for the purposes of this Act; and

"(B) alternative strategies for permitting, without impeding the achievement of national ambient air quality standards as expeditiously as possible, the construction of new facilities and the modification of existing facilities in air quality control regions exceeding the national ambient air quality standard for any pollutant regulated under the Act.

The Commission's study and report under paragraph (4) shall include analysis of the health effects of pollutants which are derivates of oxides of nitrogen.

"(b)(1) Studies and investigations conducted pursuant to subsection (a) shall include the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects.

"(2) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of part C of this Act (relating to prevention of significant deterioration of air quality) and its effects on the States and the Federal Government. In carrying out such study, the Commission shall study, among other questions, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under part C are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of part C, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under part C, including an analysis of the costs associated with that technology;

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act; [class III?]

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; [class III?]

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II [III?], regions designated under this Act for the pollutants subject to regulation under part C; and

"(G) the effects of such provisions on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

"(c) The Commission shall, as a part of any study conducted under subsection (b)(2) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

"(d) Such Commission shall be composed of eleven members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce (or delegates of such chairmen or member appointed by them from among representatives of such committees) and seven members of the public appointed by the President, by and with the advice and consent of the Senate. The chairman of the Commission shall be elected from among the members thereof. Not more than one third of the members of the Commission may have any interest in any business or activity regulated under this Act.

"(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a)(3) of this section no later than March 1, 1978, and the results of the investigation and study concerning subsection (b)(2) of this section no later than two years after the date of enactment of the Clean Air Act Amendments of 1977. A report, together, with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning paragraphs (3) and (8) of subsection (a) of this section no later than March 1, 1978, in order that Congress may have this information in a timely fashion if it deems further changes are needed in the requirements for control of emissions of oxides of nitrogen under this Act, and for other purposes. The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the same matters required to be studied by the Commission under subsection (b)(2) and to submit such study to the Congress at the same time as required for the report of the Commission concerning such subsection. Funds shall be available in the same manner, and the Administrator shall have the same authorities and duties respecting such study, as provided in the case of the study authorized pursuant to section 202(c).

"(g) A report shall be submitted with regard to all Commission studies and investigations other than those referred to in subsection (f), together with any appropriate recommendations, not later than three years after the date of enactment of this section. Upon submission of such report or upon expiration of such three-year period, whichever is sooner, the Commission shall cease to exist. The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a)(7) of this section.".

VAPOR RECOVERY

SEC. 314. (a) Title III of the Clean Air Act is amended by adding the following

new section at the end thereof: "COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

"SEC. 324. (a) The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Except as provided in subsection (b), such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered or renewed after the date of enactment of the Clean Air Act Amendments of 1977 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment. Such regulations shall also provide that the cost of procurement and installation of vapor recovery equipment may be recovered by the owner of such outlet by means of price increases in the cost of any product sold by such owner, notwithstanding any provision of law.

"(b) The regulations of the Administrator referred to in subsection (a) shall permit a lease of a retail outlet to provide for payment by the lessee of the cost of procurement and installation of vapor recovery equipment over a reasonable period (as determined in accordance with such regulations), if the owner of such outlet does not sell, trade in, or otherwise dispense any product at wholesale or retail at such outlet.".

(b) Title III of such Act is amended by adding the following new section at the end thereof:

"VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

"SEC. 325. (a) The regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall not apply to any outlet owned by an independent small business marketer of gasoline having monthly sales of less than 50,000 gallons. In the case of any other outlet owned by an independent small business marketer, such regulations shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment at such outlets under which such marketers shall have—

"(1) 33 percent of such outlets in compliance at the end of the first year during which such regulations apply to such marketers.

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b) Nothing in subsection (a) shall be construed to prohibit any State from adopting or enforcing, with respect to independent small business marketers of gasoline having monthly sales of less than 50,000 gallons, any vapor recovery requirements for mobile source fuels at retail outlets. Any vapor recovery requirement which is adopted by a State and submitted to the Administrator as part of its implementation plan may be approved and enforced by the Administrator as part of the applicable implementation plan for that State.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 324 of this Act or under regulations of the Administrator, unless such person—

"(1)(A) is a refiner, or

"(B) controls, is controlled by, or is under common control with, a refiner,

"(C) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person), or

"(2) receives less than 50 percent of his annual income from refining or marketing of gasoline.

For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of more than 50 percent of its stock.".

AUTHORIZATION

SEC. 315. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

APPROPRIATIONS

SEC. 325. (a) There are authorized to be appropriated to carry out this Act (other than provisions for which amounts are authorized under subsection (b)), relating to training, $200,000,000 for the fiscal year 1978 and for each of the three fiscal years beginning thereafter.

"(b)(1) There are authorized to be appropriated to carry out section 175 beginning in fiscal year 1978, $75,000,000 to be available until expended.

"(2) There are authorized to be appropriated for use in carrying out section 323 (relating to National Commission on Air Quality), not to exceed $10,000,000 beginning in fiscal year 1998."

(3) For the study authorized under this subsection there shall be made available by contract to the National Commission on Air Quality from the appropriation to the Environmental Protection Agency for fiscal year 1977 the sum of $1,000,000.

"(3) There are authorized to be appropriated to carry out section 127 (relating to grants for public notification) $4,000,000 for the fiscal year 1978 and each of the three succeeding fiscal years.

"(4) For purposes of section 103(b)(5), there are authorized to be appropriated $7,500,000 for the fiscal year 1978 and each of the three fiscal years beginning after the date of enactment of the Clean Air Act Amendments of 1977.

"(5) For the purpose of carrying out the provisions of part B relating to studies and reports, there are authorized to be appropriated—

"(A) to the National Aeronautics and Space Administration, the National Science Foundation, and the Department of State, such sums as may be necessary for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978;

"(B) to the Environmental Protection Agency, $157,000,000 for fiscal year 1978; and

"(C) to all other agencies such sums as may be necessary.

"(6) There are authorized to be appropriated for carrying out research, development and demonstration under sections 103 and 104 of this Act $120,000,000 for fiscal year 1978.".

TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

BASIS OF ADMINISTRATIVE STANDARDS

SEC. 401. (a) Section 108(a)(1)(A) of the Clean Air Act is amended to read as follows:

"(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;".

(b) The second sentence of section 111(b)(1)(A) of such Act is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.".

(c) Paragraph (1) of section 112(a) of such Act is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness.".

(d)(1) Section 202(a)(1) of such Act is amended to read as follows:

"(a)(1) Except as otherwise provided in subsection (b) the Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)(8), relating to useful life of vehicles for purposes of certification), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.".

(2) Section 202(c) of such Act is amended by striking out "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers" and substituting "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger".

(e) Section 211(c)(1)(A) of such Act is amended to read as follows: "(A)" if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or".

(f) Section 231(a)(2) of such Act is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare."

INTERAGENCY COOPERATION ON PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 402. (a) Not later than three months after the date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the 'Task Force'). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

(1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

(2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;

(3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

(4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and such other

agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

(5) report to Congress, not later than one year after the date of enactment of this section and annually thereafter, on the problems and progress in carrying out this section.

STUDIES

SEC. 403. (a) Not later than eighteen months after the date of the enactment of the Clean Air Act Amendments of 1977, the Administrator of the Environmental Protection Agency, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the endangerment to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter.

(B) The Administrator of the Environmental Protection Agency shall conduct a study and report to the Congress not later than January 1, 1979, on the effects on public health and welfare of odors or odorous emissions, the sources of such emissions, the technology or other measures available for control of such emissions and the costs of such technology or measures, and the costs and benefits of alternative measures or strategies to abate such emissions. Such report shall include an evaluation of whether air quality criteria or national ambient air quality standards should be published under the Clean Air Act for odors, and what other strategies or authorities under the Clean Air Act are available or appropriate for abating such emissions.

(c)(1) Not later than twelve months after the date of enactment of this Act the Administrator of the Environmental Protection Agency shall publish throughout the United States a list of all known chemical contaminants resulting from environmental pollution which have been found in human tissue including blood, urine, breast milk, and all other human tissue. Such list shall be prepared for the United States and shall indicate the approximate number of cases, the range of levels found, and the mean levels found.

(2) Not later than eighteen months after the date of enactment of this Act the Administrator shall publish in the same manner an explanation of what is known about the manner in which the chemicals described in paragraph (1) entered the environment and thereafter human tissue.

(3) The Administrator, in consultation with the National Institutes of Health, the National Center for Health Statistics, and the National Center for Health Services Research and Development, shall, if feasible, conduct an epidemiological study to demonstrate the relationship between levels of chemicals in the environment and in human tissue. Such study shall be made in appropriate regions or areas of the United States in order to determine any different results in such regions or areas. The results of such study shall, as soon as practicable, be reported to the appropriate committees of the Congress.

(d) The Administrator of the Environmental Protection Agency shall conduct a study of air quality in various areas throughout the country including the gulf coast region. Such study shall include analysis of liquid and solid aerosols and other fine particulate matter and the contribution of such substances to visibility and public health problems in such areas. For the purposes of this study, the Administrator shall use environmental health experts from the National Institutes of Health and other outside agencies and organizations.

(e)(1) The Secretary of Labor, in consultation with the Administrator, shall conduct a study of potential dislocation of employees due to implementation of laws administered by the Administrator. Such study shall estimate the number of employees so affected, identify existing sources of assistance available to such employees, assess the adequacy of such assistance, and recommend additional adjustment measures, if justified.

(2) The Secretary shall submit to Congress the results of the study conducted under paragraph (1) not more than one year after the date of enactment of this section.

(f) The Administrator of the Environmental Protection Agency shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct continuing comprehensive studies and investigations of the effects on public health and welfare of emissions subject to section 202(a) of the clean air act (including sulfur compounds) and the technological feasibility of meeting emission standards required to be prescribed by the Administrator by section 202(b) of such Act. The Administrator shall report to the Congress within six months of the date of enactment of this section and each year thereafter regarding the status of the contractual arrangements and conditions necessary to implement this paragraph.

(g) The Administrator of the Environmental Protection Agency shall conduct a study and report to Congress by the date one year after the date of the enactment of this section, on the emission of sulfur-bearing compounds from motor vehicles and motor vehicle engines and aircraft engines. Such study and report shall include but not be limited to a review of the effects of such emissions on public health and welfare and an analysis of the costs and benefits of alternatives to reduce or eliminate such emissions (including desulfurization of fuel, short-term allocation of low sulfur crude oil, technological devises used in conjunction with current engine technologies, alternative engine technologies, and other methods) as may be required to achieve any proposed or promulgated emission standards for sulfur compounds.

RAILROAD EMISSION STUDY

SEC. 404. (a) The Administrator of the Environmental Protection Agency shall conduct a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power source on railroad rolling stock, in order to determine—

(1) the extent to which such emissions affect air quality in air quality control regions throughout the United States,

(2) the technological feasibility and the current state of technology for controlling such emissions, and

(3) the status and effect of current and proposed State and local regulations affecting such emissions.

(h) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall submit a report of such study and investigation, together with recommendations for appropriate legislation, to the Senate Committee on Environment and Public Works and the House Committee on Interstate and Foreign Commerce.

STUDY AND REPORT CONCERNING ECONOMIC APPROACHES TO CONTROLLING AIR POLLUTION

SEC. 405. (a) The Administrator, in conjunction with the Council of Economic Advisors (hereinafter in this section referred to as 'the Council'), shall undertake a study and assessment of economic measures for the control of air pollution which could—

(1) strengthen the effectiveness of existing methods of controlling air pollution,

(2) provide incentives to abate air pollution to a greater degree than is required by existing provisions of the Clean Air Act (and regulations thereunder), and

(3) serve as the primary incentive for controlling air pollution problems not addressed by any provision of the Clean Air Act (or any regulation thereunder).

(b) The study of measures referred to in paragraph (1) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

(c) The study of measures referred to in paragraph (2) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficiently extensive to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

(A) interfering with the effectiveness of existing methods of control, or

(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

(d) The study of the measures referred to in paragraph (3) of subsection (a) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

(e) In conducting the study under this section, a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

(f) Within one year after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the advantages and disadvantages (including an analysis of the feasibility) of establishing a system of penalties for stationary sources on emissions of oxides of nitrogen and make recommendations regarding the establishment of such a system. Such study shall determine if such a system will effectively encourage the development of more effective systems and technologies for control of emissions of oxides of nitrogen for new major emitting facilities, or existing major emitting facilities, or both. In any case in which a proposed penalty system is recommended by the Administrator, the report should include—

(1) a recommendation respecting the appropriate period during which such system of penalties should apply and the appropriate termination date or dates for such system, if any, taking into account—

(A) the time at which adequate technology may reasonably be anticipated to be available to control oxides of nitrogen for that category of facilities,

(B) the degree to which such technology can be expected to be used on such facilities, and

(C) the Administrator's authorities to require the use of such technology, and

(2) recommendations respecting the compilation of records by facilities subject to such penalties for purposes of determining the applicability and amount of such penalty.

(g) Not later than two years after the date of the enactment of this section, the Administrator and the Council shall conclude the study and assessment under this section

and submit a report containing the results thereof to the President and to the Congress. Interim reports on specific pollution problems and solutions recommended shall be made available to the President and the Congress by the Administrator whenever available.

SAVINGS PROVISIONS; EFFECTIVE DATE

SEC. 406. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official dates under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendments made by this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c) Nothing in this Act nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of this Act or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(d)(1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on date of enactment.

(2) Except as otherwise expressly provided, each State required to revise its applicable implementation plan by reason of any amendment made by this Act shall adopt and submit to the Administrator of the Environmental Protection Administration such plan revision before the later of the date—

(A) one year after the date of enactment of this Act, or

(B) nine months after the date of promulgation by the Administrator of the Environmental Protection Administration of any regulations under an amendment made by this Act which are necessary for the approval of such plan revision.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN E. MOSS,
PAUL ROGERS,
HENRY A. WAXMAN,
ANDY MAGUIRE,
SAM DEVINE,
JAMES T. BROYHILL,
TIM LEE CARTER,
JOHN BREAUX,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND MUSKIE,
JOHN CULVER,
GART HART,
WENDELL ANDERSON,
ROBERT T. STAFFORD,
HOWARD H. BAKER,
JAMES A. MCCLURE,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarfiying changes.

TRAINING

House bill

Prohibits EPA from charging fees for training courses provided to personnel of State and local air pollution control agencies. Permits reasonable fees to be charged for persons other than employees of such public agencies.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

MAINTENANCE OF EFFORT

House bill

Authorizes the Administrator to waive on a case-by-case basis the existing requirement that a State air pollution agency must maintain its level of program support the previous year in order to get Federal grants.

Senate amendment

Provides that a State air pollution agency whose budget is reduced as part of an overall State budget reduction shall not lose its Federal grants as a result of the existing maintenance of effort requirement.

Also provides that no State air pollution agency shall receive less than one half of one percent of the total Federal grant money available.

Conference agreement

The House concurs in the Senate amendment with an amendment to require notice and opportunity for hearing prior to the Administrator's determination that a reduction in air pollution expenditures is due to a nonselective reduction in a State budget.

AIR QUALITY CONTROL REGIONS

House bill

Authorizes the Governor of each State to revise the boundaries of air quality control regions designated under the 1970 Act. The boundary revisions shall be effective only with the approval of the Administrator, and, if applicable, the approval of Governors of nearby States which may be affected by any such revision.

Senate amendment

Each State must submit to the Administrator within 120 days after enactment, a list identifying air quality levels of its air quality control regions or portions thereof. The Administrator shall promulgate such list within 60 days with any necessary modifications, and after notifying and receiving any comment from the State.

Conference agreement

The House concurs in the Senate amendment which requires listing of regions with an amendment to delete the provision relating to air quality sampling procedures which is incorporated in the House amendment on air quality monitoring.

The Senate concurs in the House provision which authorizes the Governor to revise the boundaries of air quality control regions for the purpose of improved air quality management. Revisions of boundaries for purposes other than improving the capacity of air pollution control agencies to perform authorized functions would be inconsistent with this provision and should not be approved by the Administrator. Where subdivisions of regions allow for effective air quality management, the Administrator should approve State redesignation which reduce the size of existing regions.

CRITERIA AND CONTROL

House bill

No comparable provision.

Senate amendment

Requires the inclusion of information on the cost of installation and operation, energy requirements, air quality benefits and environmental impact of emission control technology in air quality control techniques document now issued by the Administration under section 108(b) of existing law.

Conference agreement

The House concurs in the Senate amendment with an amendment to substitute "emission reduction" for the reference to "air quality" benefits.

TRANSPORTATION PLANNING AND GUIDELINES

House bill

No comparable provision.

Senate amendment

Section 5 requires the Administrator to publish information on four basic transportation control measures within 180 days after enactment and, within one year, information on additional measures, including those enumerated in the statute.

Conference agreement

The House concurs in the Senate provision modified to delete regulation of new offstreet parking facilities as an element of a transportation control program. Such facilities are defined elsewhere in the bill as indirect sources. Regulation of legal onstreet parking continues to be included as a transportation control measure.

AIR QUALITY STANDARDS

House bill

Amends Section 109 of the Clean Air Act to require a review of the air quality criteria for existing ambient air quality standards and a review of the standards themselves by the Administrator 18 months after enactment, and every two years thereafter.

An independent scientific review committee is also established to complete a review of air quality criteria and existing ambient air quality standards no later than one year after enactment and every two years thereafter. The Committee must recommend new ambient air quality standards to the Administrator, as well as revisions to the existing ambient standards.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House amendment with the following modification: (1) the first review of the existing ambient standards shall be completed by December 31, 1980; (2) subsequent reviews of the standards are required every five years. The Administrator is authorized to conduct review of existing ambient standards more frequently than every five years and is expected to revise standards whenever available information justifies a revision. Members of the Scientific Advisory Board are made subject to the same financial disclosures process as applicable to the Environmental Protection Agency personnel.

ENERGY OR ECONOMIC EMERGENCY AUTHORITY

House bill

This provision confers authority upon States to temporarily suspend State implementation plan requirements where neces-

sitated by energy or economic emergencies (such as the 1977 winter natural gas shortage). A State suspension under this emergency authority may take effect without prior approval of the Administrator.

A single suspension, not to exceed 4 months in duration, is authorized by this section.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) require as a prior condition for the Governor's action under this section, a Presidential (non-delegable) finding of the existence of a national or regional energy emergency of such severity that temporary suspension of Clean Air Act applicable implementation plans may be necessary in that area and that other means of dealing with the emergency may not be adequate; (2) authorize the Governor to petition the President for such a finding; (3) prohibit the Governor from suspending, but authorize President to suspend, any federally-promulgated standard or requirement; (4) authorize the Administrator to disapprove any Governor's suspension under this section at any time; (5) limit the Governor's economic emergency suspension authority to a case in which the State has adopted and submitted a proposed plan revision, which it finds will meet the requirements of the Act and is necessary to prevent the closing (for one year or more) of any source, and consequent substantial increases in unemployment which would result absent such plan revision and which would not result if such revision is approved, and the Administrator has failed to approve or disapprove such plan revision within the required four-month period.

IMPLEMENTATION

Senate bill

The Senate bill contains provisions requiring State plans to include enforceable permit programs for nondegradation and nonattainment areas. It also contains requirements for plan revisions to meet the requirements of this bill. Finally, the Senate bill required certain prior considerations by the Administrator before he could impose land use requirements under the Act.

House bill

The House bill contains somewhat similar provisions on permit requirements for prevention of significant deterioration, visibility protection, and nonattainment. The House bill deletes the term "land use" from section 110(a)(2)(B) of the Act, because of its vagueness, and more specifically directs State plans to include air quality maintenance measures, and preconstruction permit requirements to assure compliance with all requirements of the Act.

Conference agreement

The conference agreement incorporates elements of both the House and Senate permit provisions in section 110 of the Act. This provision is regarded as largely technical and conforming in nature, because of the similarity of the two bills.

The conference agreement accepts the House provision on the deletion of "land use" and inclusion of air quality maintenance requirements.

The conference agreement accepts the Senate provision requiring plan revisions to meet the new requirements of the 1977 legislation.

INDIRECT SOURCE REVIEW

Senate amendment

No provision.

House bill

The House bill establishes numerous procedural, factual, and substantive limitations upon the Administrator's authority to impose, or require the States to impose, indirect source review requirements or controls.

The House bill also establishes constraints on the Administrator withholding or limiting sewage treatment grants because of Clean Air Act considerations and also establishes the conditions on which such withholding or limitation is permitted by the Act.

Conference agreement

The Conferees agreed to modify the House provision which restricted the authority of the Administrator to require indirect source review programs as part of state implementation plans. The Administrator, under the conference provision, would be prohibited outright from requiring indirect source review programs, either directly or indirectly, except with respect to federally funded projects.

This prohibition extends to the Administrator's authority to require as a condition for approval the inclusion or retention of these programs in state implementation plans as well as the authority of the Administrator to promulgate plans or regulations which include such programs. An exception to this prohibition is made for major federally funded public works projects such as highways and airports and federally owned and operated indirect sources. The term "federally funded" does not include federal assistance such as loan guarantees and federal deposit insurance programs.

Under the conference provision, any State or local government may adopt and enforce an indirect source review program if it so chooses. Any State or local government which has such a program would be free to leave such a program in effect. The Administrator may approve and enforce an indirect source program if it is adopted and submitted by a State. Any such program which has already been approved by the Administrator may remain part of the applicable implementation plan. However, any State at any time may suspend or revoke such a program.

In addition, the conferees agreed to adopt the House provision's definitions of "indirect source" and "indirect source review program" with the exception that existing on-street-parking was excluded from the definition of "indirect source." An indirect source review program is one which provides for the review of new, existing or modified indirect sources.

With respect to existing "on-street parking", the conference agreement authorizes the Governor of a State to suspend temporarily certain regulations contained in the applicable implementation plan to restrict the supply of on-street parking.

The "on-street parking" suspension authority does not alter or affect the validity or enforcement of traditional municipal traffic and parking ordinances. Nor does it pertain to any requirements which are not included in the applicable implementation plan. Suspensions would be authorized only for implementation plan curtailments of the supply of existing on-street parking; they would not be authorized for measures to restrict double parking or otherwise eliminate impediments to traffic flow.

In authorizing "on-street parking" suspensions by the Governor, the conferees intend to permit a period for reevaluation of control strategies in nonattainment areas prior to the plan revision required by January 1, 1979, for such areas. Where a court order has been issued compelling enforcement of "on street parking" supply reductions, the effect of the Governor's temporary suspension of such measures may be in the discretion of the court to stay the court's order in that respect. However, the conferees do not intend the Governor's temporary suspension to constitute a permanent revocation of that aspect of the plan. Thus, if the Governor fails to submit a revised plan by January 1, 1979, which the Administrator approves as meeting the requirements of this Act, the "on street parking" supply reduction requirements could no longer be suspended and the court's stay on enforcement, if any, should terminate.

LAND USE

House bill

Section 201(f) deletes the phrase "land-use" from section 110(a)(2)(B) of the Act, which sets out requirements for State implementation plans. The words "air quality maintenance plans, and preconstruction review of direct sources of air pollution" are substituted.

Senate amendment

Section 6(b) limits land-use controls to the maintenance of, or to prevent further deterioration from, primary ambient air quality standards and provides they may be included in a plan only after consideration of their energy, environmental and economic impacts.

Conference agreement

The Senate concurs in the House provision with the understanding that preconstruction reviews of direct sources are to include consideration of energy, environmental and economic impacts and that the only land-use regulations which may result from implementation of this Act are those which are needed to assure attainment and maintenance of ambient air quality standards and prevent significant deterioration of air quality.

INTERNALIZATION OF COST

House bill

Provides that each applicable implementation plan must require the payment of permit fees by the owner or operator of any major stationary source required to obtain a permit under the Act.

Senate amendment

No comparable provision.

Conference agreement

The conference agreement adopts the House provision with a modification. This modification makes clear that court costs and other costs associated with the filing and prosecution of judicial or administrative enforcement proceedings may not be recovered through permit fees. Costs of implementing the permit conditions, however, would be covered by the permit fee requirement as in the House bill. Other provisions of the conference agreement make clear that preconstruction permits are required by the Act for all new or modified major stationary sources, whether locating in significant deterioration or nonattainment areas.

DELEGATION TO LOCAL GOVERNMENT UNDER FEDERAL PLAN

House bill

Authorizes the Administrator to delegate enforcement authority to local government in the case of a plan promulgated by the Administrator.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

IMPLEMENTATION PLANS REQUIRING BRIDGE TOLLS

House bill

Any implementation plan which contains a measure requiring a toll for the use of a bridge located entirely in one city shall be revised to eliminate such measure, upon the application of a Governor to the Administrator. The Governor shall certify in such application that the implementation plan shall be revised not later than one year after enactment.

Senate amendment

Any implementation plan which contains a measure requiring a toll for use of a bridge located entirely in one city shall be revised to eliminate such measure, upon application of a Governor to the Administrator. The Governor shall certify in such application that the implementation plan shall be revised not later than one year after enactment to include measures to provide emission reductions equivalent to the reductions identified with the tolls or charges eliminated.

Conference agreement

The House concurs in the Senate amendment with an amendment to substitute for the reference to emission reductions "identified" as a result of application of bridge tolls, a reference to emission reductions "which may be reasonably expected to be achieved" through use of bridge tolls.

LOSS OF PAY

House bill

This section provides that one of the conditions for use of supplemental or intermittent control measures or other dispersion enhancement methods would be that the owner or operator of the source proposing to use such measures or methods agree not to make employees bear any of the costs of periodic shutdowns or production curtailments which may result from use of such methods or measures.

Senate amendment

This section bars the loss of pay to workers that could result from the implementation of supplementary control systems for nonferrous smelters, as authorized in this legislation. Each State implementation plan which contains provisions for supplemental controls for a source must also include a requirement that no reduction in production can result in a loss of pay to the workers.

Conference agreement

The Senate concurs in the House provision.

NEW SOURCE STANDARDS OF PERFORMANCE

House bill

Section 111 amends existing section 111 requiring the promulgation and revision of new source performance standards to further require that major new sources use the best technological continuous emission controls to meet standards and percentage reduction requirements.

The House provision makes numerous significant changes in existing law. First, it clarifies that intermittent or alternative control measures are not permissible means of compliance. Second, it indicates that the best adequately demonstrated technology, including precombustion cleaning or treatment of fuels, is to be the basis of the standard, not merely reliance on use of untreated fuels. Third, it requires the Administrator to take into account energy requirements (in addition to costs) in determining which technologies have been adequately demonstrated. It also requires the Administrator to consider non-air quality health and environmental impacts in making that determination.

The section also makes clear that standards adopted for existing sources under section 111(d) of the Act are to be based on available means of emission control (not necessarily technological) and must, unless the State decides to be more stringent, take into account the remaining useful life of the existing sources.

This section also contains authority for the Governor of a State to petition the Administrator to compel the Administrator to issue new source performance standards for industries which have not yet been covered by such standards to revise priorities for standard setting, to issue revised standards when better technology becomes adequately demonstrated, or to issue standards for unregulated hazardous pollutants, or sources thereof under Section 112. The House's intended purposes in adopting this amendment are: (1) to provide a greater role for the States in standard setting under the Act; (2) to assure that industries do not play off States with weak or no environmental controls against States with stronger controls in decisions to locate new sources; and (3) to provide a check on the Administrator's inaction or failure to control emissions adequately. Not later than nine months after enactment of this Act, the Administrator shall promulgate regulations specifying the categories of unregulated major stationary sources. One year after enactment and annually thereafter for 3 years, the Administrator shall list 25% of such categories under section 111(b).

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with minor amendments. The agreement requires (1) that the standards of performance for fossil fuel-fired boilers be substantially upgraded to require the use of the best technological system of continuous emission reduction and to preclude use of untreated low sulfur coal alone as a means of compliance; (2) that specific technological requirements may be required in lieu of performance standards only under the same conditions as the Conferees have established for hazardous emission design standards; and (3) that for fossil fuel-fired sources, the new source performance standards must be comprised of both a standard of performance for emissions and an enforceable requirement for a percentage reduction in pollution from untreated fuel.

In calculating the percentage reduction requirement, the Administrator is authorized to give credit for accepted minemouth and other precombustion fuel cleaning processes, whether they occur at, or are achieved by, the source or by another party. The Conferees intend that the granting of such credit shall be in accordance with regulations promulgated by the Administrator, and shall be consistent with the purposes of the House provision. Moreover, in establishing a national percent reduction for new fossil fuel-fired sources, the Conferees agreed that the Administrator may, in his discretion, set a range of pollutant reduction that reflects varying fuel characteristics. Any departure from the uniform national percentage reduction requirement, however, must be accompanied by a finding that such a departure does not undermine the basic purposes of the House provision and other provisions of the Act, such as maximizing the use of locally available fuels.

The Conferees also agreed to a modification of the House provision to give the Administrator more time in the early stages of promulgating new additional source performance standards: (1) to allow one year for initial listing of categories of sources; and (2) to delete the requirement for 25 percent of standards to be set each year and require, instead, that at least one-quarter of standards must be promulgated by the end of the second year after listing, at least three-quarters by the end of the fourth year after listing.

WAIVER FOR TECHNOLOGY INNOVATION

House bill

Authorizes the Administrator to grant variances of up to 10 years from Federal new source performance standards to permit a source to use innovative continuous emission control technology. In order to grant the variance, the Administrator must find: (1) a substantial likelihood that the new technology will achieve greater emission reduction than that required under the new source performance standards or an equivalent reduction at lower economic, energy or environmental costs; (2) the new technology will not cause or contribute to an unreasonable risk to public health, welfare or safety; (3) the Governor of the State in which the source requesting the variance is located consents to the variance; (4) the variance will not prevent the attainment or maintenance of any national ambient air quality standard.

The number of variances authorized to be granted is limited to the number necessary to test the new technology.

Senate amendment

Authorizes the Administrator to grant a waiver of up to three years from Federal new source performance standards to a person proposing a construction of a new source which would incorporate a technological system likely to achieve greater continuous emission reduction or achieve at least equivalent reduction at lower cost compared to existing systems.

The Administrator must also find that the new technology will not cause or contribute to an unreasonable risk to public health, welfare or safety; that the waiver will not prevent the attainment or maintenance of any national ambient air quality standard, and that the Governor of the State in which the source is located has consented to the variance.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) the term "waiver" is substituted for "variance" throughout the section; (2) waivers are authorized to be granted on a unit-by-unit or source-by-source basis; however, waivers may only be granted for that unit or portion of the source on which the innovative technology is to be used; (3) one or more waivers may be granted for any unit or source, but the cumulative effective period of all waivers for any unit or source may not exceed the earlier of, seven years after the date on which the first waiver is granted for that unit or source, or four years after commencement of operation of that unit or source; (4) the Administrator must find that the proposed system has not been adequately demonstrated; (5) in determining the substantial likelihood of a new system achieving greater emission reduction, the Administrator must take into account any previous failures of the system; and (6) if a waiver is terminated, the Administrator shall grant the source an extension of no longer than 3 years in order to comply to applicable emission standards.

HAZARDOUS DESIGN STANDARDS

House bill

No comparable provision.

Senate amendent

Amends Section 112 of existing law to specify design, equipment, or operational standards for the control of a source of hazardous emissions, where an emission limitation is not possible or feasible to measure hazardous emissions or to capture them through appropriate devices for control.

Conference agreement

The House concurs in the Senate provision with an amendment to clarify that the Administrator may specify a hazardous design standard if the emission of hazardous pollutants through a conveyance designed to emit or capture such pollutants would be inconsistent with any Federal, State or local law and minor clarifying modifications in the language.

The language in this section with respect to technological or economic limitations defines what is not feasible *only* for purpose of prescription or enforcement by EPA.

ENFORCEMENT PROVISIONS

Conference agreement

The conference agreement includes a section entitled enforcement provisions which

includes various amendments to Section 113 of the Clean Air Act.

CIVIL PENALTIES

House bill

This section authorizes the courts to impose civil penalties of up to $25,000 per day for violations of the Act. The courts are directed to take into account the size of the business and the seriousness of the violation, in setting the amount of the penalty.

Senate amendment

Section 113, the Federal enforcement provision of the Clean Air Act, is amended to provide for a civil penalty of not more than $10,000 per day of violation, in addition to injunctive relief, for violations of enforcement orders or various requirements of the Act. In addition, the criminal penalty provision of section 113 is revised to include violations of section 113(d) enforcement orders involving compliance date extensions, and to add to the definition of "person" for the purpose of criminal sanctions, any responsible corporate officer.

The section is also amended to provide a fine or not more than $25,000 per day for knowing violation of implementation plan requirements where there has been no request for a section 113(d) enforcement order extending the compliance date, filed within 180 days after enactment, and for violations of the provisions of section 120 which require submission of information by October 1, 1977, on the cost of compliance and which require the payment of the delayed compliance penalty.

Conference agreement

The conferees agreed to accept the House provision on civil penalties, with the following changes: (1) include the Senate requirement that the Administrator give notice of the commencement of any action to the appropriate State air pollution control agency; (2) require the Administrator to commence a civil action against a major stationary source; (3) include the Senate residence venue provision in the case of a suit against an individual.

The conferees agreed to accept the Senate provisions on criminal sanctions, with the following changes: (1) delete subsection (e), requiring a fine of not more than $25,,000 per day for a knowing violation of certain requirements; (2) delete subsection (f) relating to interstate pollution abatement by the Administrator; and (3) amend section 113(c) to make a knowing violation of the delayed compliance penalty provisions subject to criminal sanctions.

COMPLIANCE DATE EXTENSIONS

House bill

Section 121 of the House bill authorizes the State or the Administrator to issue delayed compliance orders to stationary sources which directly emit pollution. A delayed compliance order may postpone any compliance deadline under an applicable implementation plan. Thus an order would allow continued operation of a source not in final compliance with its emission limitations, even though the violation of the emission limitations by the source may have the effect of delaying the actual date for attainment of a national ambient air quality standard or may violate provisions for prevention of significant deterioration.

An order under section 121 may not postpone any deadline or requirement applicable to stationary sources under section 111 or 112 of the Act. Nor may a delayed compliance order under this section postpone any transportation control or indirect source review program requirement which is part of an applicable implementation plan. The section also provides authority to extend compliance dates to allow sources to utilize new means of emission control, and to extend requirements for prevention of significant deterioration after a new source has been in operation and has become an existing source.

Senate amendment

Section 12(a) amends Section 113 to authorize a State, and after 30 days notice, EPA, to issue enforcement orders to sources not in compliance with applicable emission limitations. Such orders shall require compliance as expeditiously as practicable, but in no event later than July 1, 1979.

If a non-complying source intends to comply with an applicable emission limitation by closing or replacing a facility, or changing its production process, the State or the Administrator may issue an order permitting such source to operate until July 1, 1979, upon the posting of a bond or other surety. If the source fails to close or replace the specified facility, or fails to change its production process, the bond shall be forfeited.

If a source intends to comply with an applicable emission limitation with an innovative control technique which will reduce emissions more than the applicable standard, or which has potential industrywide application at significantly lower costs than demonstrated control technology, such facility must be in compliance by July 1, 1981.

Any enforcement order in effect on the date of enactment of these amendments shall remain in effect to the extent that it is consistent with section 113(d) but shall adhere to the compliance date of July 1, 1979.

Conference agreement

The conference adopts the Senate provision on issuance of enforcement orders; the House provision on review of orders; and the Senate provision which requires the Administrator to issue an order simultaneously in case of any disapproval. Orders are limited to not more than 3 years delay, except in case of innovative technology (5 years), coal conversion extensions, or smelter orders.

No order may be issued after July 1, 1979 unless it establishes a delayed compliance penalty.

Also adopted is the language on the replacement of facilities. The Senate language dealing with inconsistent enforcement orders which have been issued is adopted with a modification to give all States one year to modify such orders.

The provision in the Senate bill continuing the administrative orders on consent for the Louisville Gas and Electric Company's facilities is clarified to specify the dates on which such orders were actually issued. Such orders are the only exception from the July 1, 1979 deadline.

The House language on interim measures and on revocation procedures is adopted.

COAL CONVERSION

House bill

This section amends section 119 of the Clean Air Act, as adopted by the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319). It permits compliance date extensions for sources converting to coal to last until 1981, instead of 1979, as under existing law. A further extension up to as late as 1986 could be granted under section 103 of the bill.

The amendments to Public Law 93-319 also permit extensions for those coal burning sources (subject to an FEA order not to switch to oil or natural gas), which had earlier intended to meet applicable emission limits by switching to one of these fuels and had earlier received a variance or plan revision to do so. Under existing law extensions are not authorized for these sources.

Also under current law, a source which is ordered to convert from burning petroleum products or natural gas to coal may not receive an extension of an emission limitation for any pollutant if the air quality anywhere in the region exceeds the primary health standard for that pollutant. This is called the "regional limitation". This section would make the "regional limitation" rebuttable (and thus permit extension) upon certain findings.

This section also requires concurrence by the Governor as a condition for granting this type of extension. Concurrence by the Governor is not required under existing law.

The amendments would also affirm the decisions of four U.S. court of appeals cases that the Act requires continuous emission reduction measures to be applied. Thus, intermittent control measures (to be applied only in case of adverse weather conditions), increasing stack heights, or other pollution dispersion techniques would not be permitted as final compliance strategies.

Senate amendment

The bill includes two amendments dealing with coal conversion. The first is a provision within the new section 113(d) compliance date extension procedure for sources converting to coal. The other repeals section 119 of the Clean Air Act originally added by the Energy Supply and Environmental Coordination Act of 1974, and provides that the certifications and notifications required to establish the date for effectiveness of FEA prohibition orders shall be provided by the appropriate States rather than by the EPA Administrator. These provisions replace the current means of providing compliance date extensions for sources ordered to convert to coal by the Federal Energy Administration with the compliance date extension procedure established for all stationary sources under these new amendments. In addition, this section preserves the approach of section 19(d)(5) by adding similar language to section 111 of the Act.

Any source ordered to convert under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or which converts to coal as a primary energy source because of actual curtailment of natural gas supplies under a curtailment plan approved by the Federal Power Commission or, for intrastate gas supplies, by a State regulatory commission, can receive an extension of the time for compliance with the applicable emission limitations until July 1, 1979, or 3 years after the date on which the conversion order is issued. In no event may the compliance date be extended beyond December 31, 1980.

This section repeals section 119 and provides that certifications and notifications to the Federal Energy Administrator shall be provided by the appropriate States rather than by the Administrator of EPA.

The section further provides that references to section 119 in section 2 of the Energy Supply and Environmental Coordination Act shall be construed to refer to section 113(d) of the Clean Air Act (on delayed compliance orders) and to paragraph (5) thereof in particular.

Conference agreement

The House conferees agreed to:

(1) Accept the Senate approach incorporating in the delayed compliance order an extension (to December 31, 1980) for any source that can't meet State implementation plan requirement because of order to convert to coal, with authority for an additional delay up to five years as in the House bill;

(2) Allow sources ordered to convert to actually begin to burn coal only when they can do so without causing or contributing to concentrations of any pollutant in excess of primary air quality standards (the "primary standard condition" contained in both bills);

(3) Require the Administrator to certify the date on which the primary standard condition can be met, subject to disapproval by the State;

(4) Eliminate the required special showing that conversion will not pose a significant risk to public health from non-criteria pollutants, as the Senate bill did;

(5) Make the existing "regional limitation" a rebuttable presumption rather than an absolute, as the House bill did;

(6) Delete the Senate scrubber allocation provision.

NOTICE TO STATE REGARDING CERTAIN INSPECTIONS

House bill

This section requires the Administrator to give reasonable notice to the States prior to carrying out an entry, inspection or monitoring, where the Administrator intends to check on compliance with a standard adopted by the State and approved by the Administrator.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) delete the requirement that the Administrator must give a statement of reasons for his actions and take into account a showing by a State agency that such action would be detrimental to the administration of the State enforcement program, but require the Administrator to inform the State of the purpose for his action; (2) add a provision that failure of the Administrator to comply will not be a defense in an enforcement action, nor would it make inadmissible any evidence obtained in violation of this provision.

The intent of this provision is to improve Federal-State relations and to minimize duplication of effort. It is intended to be a protection for States, not for sources, and to encourage cooperation and consultation. Under this provision, oral notice would be permitted.

INTERNATIONAL POLLUTION

House bill

No comparable provision.

Senate amendment

Provides a mechanism for the Administrator to trigger a revision of a State Implementation Plan under Section 110(a)(2)(H) upon the petition of an international agency or the Secretary of State if he finds that emissions originating in a State endanger the health or welfare of persons in a foreign country.

Representatives of the foreign country shall be invited to appear at the public hearing upon any such revision.

The section does not apply unless the foreign country has afforded the United States essentially the same rights.

The recommendations of any international abatement conference conducted before enactment remain in effect unless rescinded on the grounds of obsolescence.

Conference agreement

The House concurs in the Senate amendments to (1) reflect the test of "reasonably may be anticipated" to endanger public health adopted in this legislation; (2) require a request by a duly constituted international agency as a condition for the Administrator to act; and (3) require a plan revision only to the extent necessary to prevent or eliminate the endangerment in the foreign country.

PRESIDENT'S AIR QUALITY ADVISORY BOARD

House bill

No provision.

Senate amendment

Abolishes the President's Air Quality Board.

Conference agreement

The House concurs in the Senate amendment.

FEDERAL FACILITIES

House bill

Clarifies the intent of the 1970 Clean Air Act that Federal facilities must comply with all substantive and procedural air pollution requirements of Federal, State, interstate, or local law to the same extent as any person subject to such requirements. Any Federal employee, officer or agency may be held liable personally for civil penalties as well as in his official capacity for a violation of this provision.

Senate amendment

Clarifies the intent of Section 118 of existing law that all Federal facilities must comply with all substantive and procedural requirements of applicable State implementation plans. Certain procedural requirements with which Federal facilities must comply are specified: construction and operating permits, reporting and monitoring; injunctive relief and sanction provisions and the payment of reasonable service charges. Personal liability is not extended to Federal employees, officers or agents.

Conference agreement

The Senate concurs in the House provision with the amendments (1) to assure that Federal employees, officers and agents are not made personally liable for civil penalties to which such person is not otherwise liable; (2) to assure that no judicial review of an EPA action in State or local courts is authorized; and (3) to delete a provision which barred removal of suits against Federal facilities to Federal courts. The conferees intend, by adopting the House amendment, to require compliance with all procedural and substantive requirements, to authorize States to sue Federal facilities in State courts, and to subject such facilities to State sanctions.

SMELTER ORDERS

House bill

Authorizes the use of enforceable supplementary control strategies for existing nonferrous smelters. Supplemental controls are to be used only after the installation of continuous emission control technology, after the Administrator and the State are satisfied as to the reliability and enforceability of a particular system, and after the State or the Administrator has adequate resources to oversee the use of supplemental control strategies. Existing nonferrous smelters in operation before January 1, 1910 may be granted up to two extensions not to exceed five years each for the use of enforceable intermittent control systems if the Administrator finds that the imposition of continuous emission controls would result in a cessation of smelter operations.

Senate amendment

Authorizes the Administrator or State to issue up to two delayed compliance orders for existing nonferrous smelters. The first enforcement order could not delay compliance with the applicable implementation plan beyond January 1, 1983, and the second order could not delay compliance beyond January 1, 1988. A smelter under such an order must employ reasonably available continuous emission reduction measures, i.e. acid plants, with a supplementary system. Where, however, the smelter could show that continuous emission reduction measures would necessitate permanent shut down, an intermittent control system alone would be allowed. In either case, a smelter would be held liable for any violation of a national ambient air quality standard within a predetermined area. No delayed compliance penalty would apply to any smelter in compliance with any order, but the requirements to do research and develop needed control technology would be applicable.

Conference agreement

The Conference agreement adopts the basic format of the House amendment with several modifications. First, State or Federal enforcement orders may be issues for an initial five year extension without public hearings except (1) where the source wants to avoid the imposition of any continuous controls because of possible shutdowns that would exceed at least one year, or (2) where the Administrator disapproves a State order. Second, where a smelter is using enforced supplemental controls on the date of enactment, no additional continuous controls may be required in an initial five year order. However, during the course of any order, the Administrator may trigger a public hearing when he believes that additional continuous controls have become reasonably available for the nonferrous smelting industry.

Prior to granting a second order for any nonferrous smelter, there must be notice and a public hearing. Such a hearing must be preceded by a submission by the applicant of a documentation of the grounds for the second order which must be available to the public. A second order must require the smelter to install technology as expeditiously as practicable after it has been determined by the Administrator to be reasonably available and adequately demonstrated.

NONCOMPLIANCE PENALTY

House bill

This section of the bill creates a new section 122 of the Act, which establishes a system for the assessment and collection of penalties from noncomplying stationary sources by the States or by the Administrator.

The penalty under this section would not apply to nonmajor stationary sources, unless they violate hazardous emission standards or unless they contribute significantly to pollution or violate a requirement under section 111 of the Act. Procedural due process is afforded with judicial review. The penalty only applies to violations which occur after mid-1979.

If a source can show that its noncompliance occurs for reasons entirely beyond its control, then it would be exempt from the penalty. Expenditures by the source to come into compliance may be offset, as provided in this section, against the amount which represents the value of noncompliance to the source.

The penalty would be imposed against major stationary sources which violate emission limits set out in an applicable implementation plan, and against stationary sources which are not in compliance with standards of performance or hazardous emission standards under section 111 or 112 of the Act, respectively. Additionally, any source which is granted compliance date extensions (under section 119 of the Act), a delayed compliance order (under section 121(b)(1) or (2)) or a smelter order (under section 121(b)(3) or a temporary emergency suspension (under section 110(f)) and which is not in compliance with an interim emission control requirement or schedule of compliance mandated by the above respective provisions, would be subject to the penalty.

This section provides for the granting of exemptions from the section 122 penalty under the following narrowly defined circumstances. First, an exemption would be granted if the source has an extension under section 119 of the Act and the source demonstrates that is noncompliance is solely due

to the FEA order under the Energy Supply and Environmental Coordination Act, which preceded the section 119 extension. Next, an exemption must be granted if the source has a section 121(b)(1) delayed compliance order for inability to comply and the source bears the burden of proof that such inability to comply is due to circumstances entirely beyond the control of the owner or operator of the source.

Another basis for a source to be exempted from the section 122 penalty is if it has a delayed compliance order pursuant to section 121(b)(2) to permit the use of innovative control technology. Finally, an exemption must be granted if the violation is "de minimis".

Any source which violates an interim control requirement or schedule of compliance while operating under an extension, order or waiver issued pursuant to the act, would be subject to the section 122 penalty provision.

The section sets forth a detailed procedure to permit due process prior to any penalty becoming payable, including provision of a formal adjudicatory hearing if a source wishes to challenge a determination by the Administrator or the State that the source is liable for a penalty. The provision authorizes review by the Administrator of a State assessment of a penalty and mandates review by the Administrator upon petition by any person showing that the requirements of this section have not been met.

Section 122 further provides that violating sources become liable for the penalty only if the violation continues beyond the date which is two years after the date of enactment of this section. The amount of the penalty is predicated upon the equivalent of the costs which would be necessary for the source to attain and maintain compliance with the requirement with respect to which the penalty is assessed.

The penalty would be paid on a quarterly basis. In no event may the penalty exceed $5,000 per day. Any person who fails to pay on a timely basis the amount of any penalty assessed under section 122 would be required to pay an additional quarterly nonpayment penalty equal to 20 percent of any amount which the person has failed to pay.

Senate amendment

The Senate provision adds a delayed compliance penalty provision under which any source which receives an enforcement order under Section 12(a) but does not comply with its regulation by July 1, 1979, shall be automatically subject to a delayed compliance penalty in the form of monthly payments equal to at least the cost of compliance, including capital costs, debt service costs, operation and maintenance costs, and the additional economic value gained by delay.

Any source which receives an enforcement order with a compliance date later than July 1, 1978, shall furnish to the State prior to October 1, 1977, detailed information on its proposed method of compliance, including all costs. After publication by the State of a proposed delayed compliance penalty and an opportunity for a public hearing, the State shall amend such source's enforcement order to include such penalty, to accrue after July 1, 1979.

If the Administrator objects to such penalty established by the State, he shall give written notice of his objection within 90 days after the proposal, and shall substitute his own penalty.

A source which fails to make a penalty payment shall be subject to a penalty of not more than $25,000 per day of violation, as provided in section 113(e). Judicial review of a penalty is available to a source in district court, but such review shall in no case delay the imposition of a delayed compliance penalty unless bond is posted. Financial relief shall be provided to a source which successfully challenges its established penalty after partial payment.

Conference agreement

Adopts the House provisions which authorize the Administrator or the State to assess and collect a noncompliance penalty with a modification that the EPA regulations setting forth the basic regulations must be promulgated within six months rather than one year. The State may develop a plan to carry out the section and the Administrator may delegate the authority to the State. Language from the Senate bill is adopted requiring that if the Administrator disapproves any penalty established by a State, the Administrator must immediately substitute a noncompliance penalty for the source (Senate section 120(b)).

Adopts the Senate language establishing that actions pursuant to this section shall be considered final actions for the purpose of section 307, assuring that the use of the penalty provision in no way affects further enforcement proceedings, and establishing that emission limitations promulgated after enactment shall have penalties established no later than three years after the approval of such emission limitation. The establishment of the penalty shall be calculated in accordance with provision of the Senate bill with an addition to clarify that the penalty must cover any additional economic value which delay in compliance brings to the owner.

Includes the House provision allowing for a reduction from the penalty for payments made to place a source in compliance with additional language to assure that the economic benefit of noncompliance is recovered from the source.

Adopts the provisions of the House bill requiring payment to begin two years after enactment and definitions and a required resettlement at the end of the completion of penalty payments. Adopts the provision authorizing Judicial review of the Administrator's regulations only in the U.S. Court of Appeals for the District of Columbia. Judicial review of the specific amount of any individual source's penalty is reviewable in the appropriate Circuit of Appeals.

CONSULTATION

House bill

Requires each State to establish a consultation process to assure adequate opportunity for general purpose local governments, regional agencies and Federal Land Managers to present views prior to adoption of measures of concern to them.

Senate amendment

Requires the States to provide satisfactory consultation with local governments in carrying out the requirements of Sections 110 and 113 of existing law. EPA must promulgate regulations to assure the adequacy of such consultation. Thereafter, the Administrator may disapprove any plan not in compliance with such regulations. Such disapproval may be petitioned only by local governments.

Conference agreement

The House concurs in the Senate amendment with amendments to (1) include the Federal Land Manager in the consultation process with respect to Federal lands; (2) assure that the scope of the consultation requirement includes all measures required in the House bill; (3) limit the consultation requirements to regulations promulgated more than one year after the date of enactment; (4) permit 6 months for EPA to promulgate regulations under this section; and (5) include House provision which allows the Administrator eight months after submission of an implementation plan to promulgate a consultation process for a State.

UNREGULATED POLLUTANTS

House bill

Section 101 requires the Administrator to promulgate an ambient air quality standard for one-hour concentrations of nitrogen dioxide (NO_2) within one year after enactment unless he finds no significant evidence that such a standard is required to protect public health. The Administrator must first revise and reissue air quality criteria for 1-hour NO_2 concentrations within six months after enactment.

For radioactive pollutants, cadmium, arsenic and polycyclic organic matter, the Administrator must include such substances in a list under Section 108 within one year, thus triggering the issuance of air quality criteria, or a list under Section 112 or Section 111 of existing law, unless he finds that a substance will not cause or contribute to air pollution which may be reasonably anticipated to endanger public health. He shall also conduct with other appropriate agencies, a study of the health and welfare effects of sulfates, radioactive pollutants, cadmium, arsenic and polycyclic organic matter.

Within six months after listing any radioactive material, the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement regarding facilities under the jurisdiction of the Nuclear Regulatory Commission.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) For radioactive pollutants, cadmium, arsenic and polycyclic organic matter, the Administrator shall make a determination within one year of date of enactment (two years for radioactive pollutants) that such a substance causes or contributes to air pollution which may be reasonably anticipated to endanger public health or result in an increase in mortality of serious, irreversible or incapacitating reversible illness before listing such pollutants under Section 108, Section 111, or Section 112; (2) With respect to the short-term NO_2 standard, the Administrator shall within one year after date of enactment of this Act, promulgate a national primary ambient air quality standard for a period not to exceed 3 hours.

(3) The conference agreement adopts the House provision which classifies radioactive substances (including, but not limited to, naturally occurring radioactive materials, accelerator produced isotopes, and source material, special nuclear material, and byproduct material as defined by the Atomic Energy Act, as amended) as air pollutants. This brings them under the various provisions of the Clean Air Act and allows their regulation as criteria pollutants under ambient air quality standards, as hazardous air pollutants, or under new source performance standards, as appropriate. In the past there has been doubt about the authority for regulation of radioactive air pollutants under the Clean Air Act. This provision makes it clear that the full regulatory framework of the Act is available for radioactive pollutants.

Further, as in the case of the other named pollutants, EPA is required to make an affirmative decision within two years, whether or not to list radioactive pollutants under section 108, 111 or 112 of the Act.

The provision of the House bill requiring EPA consultation with the NRC prior to listing any source material, special nuclear or byproduct material is retained. The purpose of this provision is only to make available to the Administrator, prior to listing a radioactive pollutant, relevant information from the NRC, and to inform the NRC of action contemplated by EPA.

The House provision requiring an interagency agreement between EPA and NRC and the House provision requiring an EPA study of radioactive pollutants are also retained.

With regard to facilities licensed by the NRC, the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 mandate licensees to observe such safety standards as the NRC may require to protect health and to minimize danger to life or property. In order to avoid unnecessary confusion and delay in the licensing process and to recognize the prior existence of Federal regulation of nuclear sources and facilities, EPA may choose to promulgate identical standards to those previously established by the NRC, but only to the extent that EPA finds that such standards are adequate to fulfill the requirements of this Act.

A provision is also included in this bill which permits the NRC to disapprove any EPA, State or local standard promulgated under the Clean Air Act if the Commission finds, after notice and opportunity for public hearing that the application of such standard to a source or facility within its jurisdiction would endanger public health or safety. The President may overturn a disapproval within 90 days, upon appeal by the agency which promulgated the disapproved standard. In this connection, sources and facilities shall be construed to mean only those sources and facilities actually licensed by the NRC, or an "agreement State" under agreement with NRC, whether the license is issued to an individual, institution, agency, corporation, or other entity.

As for other Federal facilities, not licensed by the NRC, there is no new authority for disapproval of clean air regulations. Section 118 of the Clean Air Act already provides for exemption of Federal facilities from certain air pollution emission requirements when it is determined by the President to be in the paramount interest of the United States.

Under this provision, radioactive pollutants, including source material, special nuclear material, and byproduct material are covered by Section 116 of the Clean Air Act. Thus, any State, or political subdivision thereof, may establish standards more stringent than Federal, or where a Federal standard has not been established. may establish any standards they deem appropriate. Thus the provision would not preempt States and localities from setting and enforcing stricter air pollution standards for radiation than the Federal standards, and would not follow the holding of Northern States Power Co. v. State of Minnesota, 447 F. 2d 1143 (8th cir. 1971) aff'd 405 U.S. 1035 (1972) in the context of radioactive air pollution.

In addition, this provision is not intended to reduce or remove any authority which EPA now has under the Clean Air Act, the Atomic Energy Act, or Reorganization Plan No. 3. It is also not intended to prevent the NRC from setting more stringent standards than those set under this Act.

The conferees intended that judicial review of any NRC decision to preempt state standards shall be advanced on the docket of the reviewing court and shall be decided as expeditiously as is practicable and shall be given preference with respect to other cases on the court's docket.

TALL STACKS

House bill

The stack height of any stationary source which exceeds good engineering practice, defined as a 2½ times the height of the source, shall not be credited toward the amount of emission reduction required under the State implementation plan.

The Administrator may waive such restriction for a source which demonstrates that a stack height greater than 2½ times the source is necessary to insure against excessive air pollutant concentrations resulting from areodynamic downwash.

This restriction on stack height affects only the degree of credit a source may receive for air pollution control purposes; it does not affect the height of a stack for any other purpose.

No stack height in existence prior to the enactment of the Clean Air Act of 1970 shall be affected by this provision.

Senate amendment

The Senate bill established one exception to the requirement of the 1970 Act that tall stacks are not a means of emission limitation and cannot be taken into account for that purpose. For any coal-fired steam electric generating units subject to Section 118 which commenced operation prior to July 1, 1957, emission limitations established may take into account the effect of the entire stack height of stacks for which a construction contract was awarded before February 8, 1974.

Conference agreement

The conferees agreed to adopt both the House and Senate provisions. The adoption of these provisions is intended to reaffirm the mandate of the 1970 amendments that atmospheric loading through dispersion technology is not an acceptable means of meeting State Implementation Plan emission limitations. This is consistent with the policy enunciated in the House Report (95–294) at p. 92; due to a typographical error appearing in the last paragraph though, the word "acceptable" was changed to "unacceptable."

Tall stacks are not a means of emission limitation under the Clean Air Act of 1970. That policy is continued in these 1977 amendments, with the exception to this policy established by the adoption of the Senate provision.

ASSURANCE OF ADEQUACY OF STATE PLANS

House bill

This provision requires each State, not later than one year after enactment, to review the provisions of its implementation plan relating to major fuel burning sources. The State shall determine the extent to which its plan is dependent upon petroleum products, natural gas and coal not locally available and submit its findings to the Administrator.

Senate amendment

The Senate bill contains a provision identical to the House provision.

Conference agreement

The conferees agreed to adopt this provision.

MEASURES TO PREVENT ECONOMIC DISRUPTION OR UNEMPLOYMENT

House bill

This provision authorizes the State, the Administrator or the President to require any major fuel burning stationary source not in compliance with an implementation plan or under a coal conversion order to use local coal to prevent severe local or regional economic disruption or unemployment which might otherwise result. Each source so ordered must (1) enter into long term contracts for local or regional coal; (2) enter into contracts for any additional pollution controls which may be necessary, and (3) must comply with requirements necessary to assure compliance with this Act.

A major fuel-burning stationary source is one with a design capacity to produce 100,000,000 B.t.u./hour.

Senate amendment

This provision authorizes the State, the Administrator or the President to require any major fuel burning stationary source not in compliance with an implementation plan or under a coal conversion order to use local coal to prevent severe local or regional economic disruption or unemployment which might otherwise result. Each source so ordered must (1) enter into long term contracts for local or regional coal; (2) enter into contracts for any additional pollution controls which may be necessary, and (3) must comply with requirements necessary to assure compliance with this Act.

The cost to the consumer must be considered prior to the issuance of an order under this provision.

A major fuel burning stationary source is one with a design capacity to produce 250,000,000 B.t.u./hour.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) the initial finding that action under this section is necessary may be based on economic disruption or unemployment which would result not only from use of other than local or regional coal, but also petroleum products, or natural gas, or a combination thereof; (2) a regionally or locally available coal requirement rule or order may be issued by the President, or Governor of the State in which the source is located, or by the Governor with the written consent of the President's designee; (3) the President may delegate his authority on a case-by-case or across the board basis; (4) require cost to be taken into account in issuing any rule or order as in the Senate provision; and (5) accept the Senate's facility size limitation on the applicability of this section.

INTERSTATE POLLUTION ABATEMENT

House bill

Modifies Section 110(a)(2)(E) of the Act to provide specific requirements in State Implementation Plans prohibiting any stationary source within a State from emitting pollutants which will prevent attainment or maintenance of standards in another State or which will interfere with measures in another State designed to prevent significant deterioration or protect visibility.

Adds a new section 126 to the Act requiring State Implementation Plans to:

1. Require new (or modified) sources which may contribute to interstate pollution to obtain a permit to construct at least 90 days prior to commencement of construction:

2. Provide for notice to all nearby States which may be affected of the proposed commencement of construction of such a source at least 60 days prior to commencement of construction;

3. Review and identify all major existing stationary sources which may have interstate impacts and to provide notice of such sources to any State potentially affected within 18 months after enactment.

Affected neighboring States may petition the Administrator for a finding of violation which must be granted or denied, after public hearing, within 60 days. If granted, the source must shut down, unless the Administrator permits continued operation on a compliance schedule designed to abate the violation as expeditiously as is practicable.

Senate amendment

Requires that each State Implementation Plan prohibit any stationary source within that State from emitting air pollutants which would interfere with measures in another State to prevent significant deterioration, prevent attainment and maintenance of ambient air quality standards in another State, or endanger the health or welfare of the citizens of another State.

The following provisions implement the basic prohibition:

Each State implementation plan must identify each new or existing source which may have the adverse air quality impact on another State prohibited under this section, and notice must be given to all nearby States of the identity of such sources.

Any State or political subdivision may petition the Administrator for a finding that a major stationary source in another State emits pollutants which would adversely affect the air quality in the petitioning State. The Administrator must make such a finding or dismiss the petition within 60 days. If a finding of violation is made, the Administrator shall proceed to abate the pollution in the host State as a violation of that State's implementation plan.

Conference agreement

The House concurs in the Senate amendment with the following amendments: (1) delete the requirement that a failure by the Administrator to act on a petition by a State to make a finding that any major source would emit a pollutant in violation of this provision, or to deny such petition in the required time period shall be deemed to be the making of such a finding; (2) delete reference to levels "in excess of the national air quality standards" as a circumstance under which one State must notify another of any new source subject to significant deterioration requirements which may affect air pollution levels in the other State; (3) include references to visibility protection; (4) delete provision contained in Senate significant deterioration section providing a mechanism for interstate abatement by the Administrator; and (5) provide that a delayed compliance order would be available for a source unable to comply with the requirements of this provision after three years.

CONFLICT OF INTEREST (STATE BOARDS)

House bill

Section 319 requires each State plan to require financial disclosure and to prohibit conflicts of interest by State air pollution board personnel with policymaking, regulatory, or enforcement responsibility.

Senate bill

No comparable provision.

Conference agreement

The Senate concurs in the House provision as modified to require only that, within one year after enactment, State implementation plans shall require that: (1) any board or body with permit issuance or enforcement authority under the Clean Air Act shall have a majority of members who do not have a significant financial interest in persons subject to regulation by such board or body; and (2) members of such board or body, and heads of executive agencies with similar powers, shall disclose any potential conflicts of interest. It is the responsibility of each State to determine the specific requirements to meet the general requirements of this section, and any State may adopt more stringent requirements if it so chooses.

PUBLIC NOTIFICATION

House bill

No provision.

Senate amendment

Within 90 days of the enactment of the Act the Administrator must initiate a program which will provide for public notification of potential health hazards at major access points to metropolitan areas where primary ambient air quality standards are not being met. Notification should cease once the Administrator determines the area is meeting all primary standards.

Conference agreement

States are required to include in their implementation plans effecitve measures to notify the public of air pollution levels exceeding primary standards and to educate the public as to the hazards of such levels and measures which can be taken to improve air quality. The Administrator is authorized to make grants to States and localities to assist in making these notifications and to educate the public on transportation and other control measures needed to improve air quality.

OZONE PROTECTION

House bill

Provides for a 2-year study by the Administrator, in cooperation with the National Academy of Sciences, and an interagency task force on the effects of various substances and activities on the stratospheric ozone layer. Then EPA may promulgate regulations to protect the stratospheric ozone layer if the Administrator finds that public health or welfare may reasonably be anticipated to be endangered. Regulations must take into consideration feasibility and costs of control.

Senate amendment

Includes research studies as follows: EPA is to conduct a continuing study with an initial report to Congress October 1, 1977, and biennial reports thereafter. EPA will chair an inter-agency committee to coordinate research, including National Oceanic Atmospheric Administration, National Aeronautics and Space Administration, Federal Aviation Administration, Department of Agriculture, National Science Foundation, National Cancer Institute, and National Institute of Environmental Health Sciences. Recognizing that the National Academy of Sciences has already issued one report, in September 1976, EPA shall contract with the National Academy of Sciences to continue their study and report October 1, 1977. No regulation except "safety net" amendment to Toxic Substances Control Act.

Conference agreement

The House concurs in the Senate research provision, with the dates adjusted to conform to the date of final passage. Thus the studies by the National Academy of Sciences and by various agencies are due January 1, 1978, with biennial follow-up studies by the agencies.

EPA is to provide an interim report January 1, 1978, a final report within two years of enactment and annual follow-up reports thereafter.

The Senate concurs in the House regulatory provision with the addition of a provision that the grant of authority in the Conference substitute to the Environmental Protection Agency to regulate substances that may reasonably be anticipated to endanger the public health or welfare because of their effect on the stratosphere is not intended to supersede or preempt authority that other agencies may have under existing law to take regulatory action with respect to the same or similar hazards presented by products or activities subject to their jurisdiction.

With respect to EPA, the intent of the provision is that any rulemaking commenced by the Administrator to protect the stratospheric ozone under the Toxic Substances Control Act prior to the date of enactment of this provision shall proceed as though this provision had not been enacted.

Thus, the regulatory authority granted under this provision is designed only to fill regulatory gaps and not to supersede any existing authority of other agencies.

REQUIREMENT TO PREVENT SIGNIFICANT DETERIORATION

House bill

The bill requires State implementation plans to be amended to include requirements that will prevent the significant deterioration of air quality where such air quality is presently cleaner than existing ambient air quality standards. Increments were established for all pollutants for which national ambient air quality standards exist. States were required to classify nondegradation areas under the following classification scheme:

Class I: 2% of the lowest national standard for all pollutants except 10% of the lowest national standard for particulate.

Class II: 25% of lowest national standard for each pollutant.

Class III: 50% of lowest national standard for each pollutant.

The State may develop measures to prevent significant deterioration other than the classification and increment scheme for pollutants other than sulfur dioxide or particulate. The Administrator must approve a State's plan for such pollutant if he determines that it will carry out the purpose of this section at least as effectively as an area classification plan.

Initially most areas which are cleaner than the national ambient air standards with respect to any pollutant would be classified as Class II with respect to that pollutant. Areas where air quality is worse than these minimal Federal standards would not be classified at all, and would not be affected by this section.

Existing national parks and national wilderness areas over 25,000 acres in size and national monuments, national primitive areas, and national receration areas exceeding 100,000 acres in size would be designated a mandatory Class I and would remain permanently as Class I. The following areas would begin as Class I but could be redesignated by the State as Class II: national parks and national wilderness areas between 1,000 and 25,000 acres, international parks over 1,000 acres, and national monuments, national recreation areas, national preserves, and national primitive areas all in excess of 10,000 acres.

To redesignate lands from Class I to Class II or from Class II to Class III, the State must conduct hearings and present extensive description and analysis of the effects of redesignation. The approval of affected local governments representing majority of the population is required. Prior consultation with the Federal land manager is required before Federal lands may be redesignated.

The bill identifies 8 categories of Federal lands that cannot be redesignated as Class III; national wild and scenic rivers, national lakeshores or seashores, national wildlife refuges, national forests, and national monuments, national recreation areas, national preserves, national parks, national wilderness areas, and national primitive areas.

Major emitting facilities proposing to construct facilities must receive State permits. All sources with the design capacity to emit 100 tons per year or more of any pollutant must receive a permit. Exclusion of nonprofit schools and hospitals from this requirement is allowed at the State's discretion. EPA may review and disapprove permits only on a limited basis. In the event that the State fails to submit an approvable plan, EPA shall substitute and implement a plan.

At the discretion of the Governor, a State may exempt certain sources of pollution from being counted against the increment. The States must adopt plans for the control of sulfur oxide, sulfur dioxide and particulates within 12 months of the date of enactment. For other pollutants the period is 24 months.

Sources in one area may not cause or contribute to increases in pollutants that exceed the applicable increments in any other areas. The levels in such other areas may be exceeded no more than one time per year. The only exception to this rule is that a Governor may allow a variance which would allow in Class I areas the increment to be exceeded no more than 18 days per year, with a further limitation that in no case could the Class II increment ever be exceeded under such a variance.

If increments are exceeded, the State is required to revise the State implementation plan to ensure that the increment is not exceeded. Sources receiving new emission limitations would be eligible for compliance date extensions under the compliance date extension section of the bill.

Senate amendment

This section adds a new subsection (g) to section 110 of existing law. Each State which contains an area in which the levels of sulfur oxides or particulates are better than any secondary air quality standards (or primary standard, if that standard is more stringent) for that pollutant must adopt and enforce as part of its implementation plan provisions to prevent significant deterioration of air quality.

Such protection is defined by maximum numerical pollution increments for sulfur dioxide and particulates, which can be added to existing levels of those two pollutants in designated areas. A second test of protection is provided in specified Federal land areas (class I areas), such as national parks and wilderness areas; these areas are also subjected to a review process based on the effect of pollution on the area's air quality related values.

The Environmental Protection Agency is required to study the establishment of such increments for other pollutants and to recommend within 1 year increments for stationary source emissions of nitrogen oxides and hydrocarbons.

All international parks regardless of size and each national memorial park and wilderness areas, exceeding 5,000 acres, and each national park which exceeds 6,000 acres, which exist on the date of enactment are designated as class I areas. All other lands, including other Federal lands and new national parks and wilderness areas shall be designated class II areas, but may be redesignated class I by the State. Indian tribes have similar redesignation authority. The concurrence of the Federal land manager is not required where Federal lands are involved.

Each new source with the potential to emit more than 11 tons of a pollutant per year and identified by category in the statute must apply to the State for a permit to construct a class II area. EPA is informed of the application and gives notice of it to Federal land managers and supervisors of potentially affected class I areas.

Any Federal land manager or supervisor of an affected class I area, or the Administrator of EPA, or a Governor of an adjacent State, is authorized to notify the State of potential adverse impact on the air quality within the class I area with a statement identifying potential impacts from the proposed facility. If no such notice is forthcoming, the applicant is required only to meet best available control technology requirements as statutorily defined and show that the class II increment will not be exceeded.

If there is such notice, the applicant would be required to demonstrate whether the class I increments would be exceeded in the class I areas, and—

If the permit applicant meets the class I increments, but the Federal land manager (not the supervisor) demonstrates to the satisfaction of the State that the applicant's emissions would nevertheless have an adverse effect on the air quality-related values of the Federal lands, the State must deny the permit; or

If the permit applicant does not meet the class I increments but demonstrates, to the satisfaction of the Federal land manager (not the supervisor), that there would be no adverse impact on the air quality-related values of the Federal lands, the State may issue the permit.

In the event a dispute occurs over any development or activity in an adjacent State, the Governor of the affected State may request the Administrator to enter into negotiations. If this is not successful, the Administrator shall then resolve the dispute.

The Senate concurs in the House regulatory provision with the addition of a provision that the grant of authority in the Conference substitute to the Environmental Protection Agency to regulate substances that may reasonably be anticipated to endanger the public health or welfare because of their effect on the stratosphere is not intended to supersede or preempt authority that other agencies may have under existing law to take regulatory action with respect to the same or similar hazards presented by products or activities subject to their jurisdiction.

With respect to EPA, the intent of the provision is that any rulemaking commenced by the Administrator to protect the stratospheric ozone under the Toxic Substances Control Act prior to the date of enactment of this provision shall proceed as though this provision had not been enacted.

Thus, the regulatory authority granted under this provision is designed only to fill regulatory gaps and not to supersede any existing authority of other agencies.

In the event that the emissions from any new major emitting facility will cause or contribute to a pollutant increase greater than a class II increment for such pollutant, the Administrator shall, and a Governor may, seek injunctive relief to prevent the issuance of a permit or construction of that facility.

Conference agreement

The conference agreement adopts the statement of purpose from the House bill. Increments setting forth the maximum allowable increase in pollutants are stated in the statute for particulates and sulfur dioxide.

Within two years EPA is to propose regulations for increments or other means for preventing significant deterioration which would result from nitrogen oxides, hydrocarbons, carbon monoxide and oxidant. These proposed regulations would not go into effect for one year. At the end of that year, revision of State Implementation Plans would begin unless there was contrary Congressional action. If the Administrator finds that establishing and implementing significant deterioration regulations for HC, CO, NO_x, or Oxidants would present special difficulties or problems of practicality, he is required to report to Congress. This report shall not act to stay the Administrator's duty to proceed with these regulations. States may adopt strategies other than increments for these other pollutants if the strategies taken as a whole, accomplish the purposes of this provision.

The proposed regulations are to provide: (a) specific numerical measures against which permits may be tested; (b) a framework for stimulating improved control technology; (c) protection of air quality values; and (d) fulfill the goals set forth in the purposes provisions.

Regulations for new ambient air quality standards are to be followed within 2 years by measures to prevent significant deterioration.

The specific increments are set forth in the statute as in the Senate bill, as follows: (a) Class I, Senate bill; (b) Class II, House bill except the 3 hour SO_2 increment, which becomes 512 micrograms per cubic meter; (c) Class III, House bill except the 3 hour SO_2, which becomes 700 micrograms per cubic meter. Increments may not be exceeded more than once per year, except as provided in Sec. 165, which provides for variance from Class I increments in Federal mandatory Class I areas.

The listing of lands to be included in mandatory Class I areas is as in the Senate bill.

All other nondegradation areas are initially designated Class II by statute upon enactment.

The Federal Land Manager is required to review national monuments, primitive areas, national preserves, and recreation areas and shall recommend any appropriate areas for Class I designation where air quality related values are an important attribute of the area. The recommendations must be made within one year, with recommendations going to the State involved and to Congress. The Federal Land Manager shall consult with the states in determining these recommendations.

The procedural requirements for redesignating an area Class III are accepted from the House bill. The following areas are not eligible for Class III designation if the area is over 10,000 acres; national monuments, national primitive areas, national preserves, national wild and scenic rivers, national wildlife refuges, national lakeshores and national seashores, new national parks, new national wilderness areas, and any other new areas in these categories created after enactment.

The House requirement for consultation with the Federal Land Manager prior to redesignation of Federal lands is adopted.

The State Plan must require permits for: (a) All 28 categories listed in the Senate bill if the source has the potential (design capacity) to emit over 100 tons per year; and (b) any other source with the design capacity to emit more than 250 tons per year of any air pollutant. The state may exempt nonprofit health or educational institutions from the permit requirement.

The conditions of the permit are as in the Senate bill, with the following additions: (a) A one year monitoring requirement may be waived by the State; (b) the language of the House prohibiting uniform or automatic buffer zones; (c) a completed permit application must be approved or denied not later than one year after filing an adequate application; and (d) for permits where the source proposes to exceed the Class II increment, EPA approval of the States' determination of best available technology is required for sources not covered by adequate New Source Performance Standards.

EPA is to establish within one year by regulation the models to be used in analyzing air quality impact.

Indian tribes shall have the authority to redesignate tribal reservation lands as Class I or Class III. If an affected State disagrees with such a designation, the Governor may appeal to the Administrator to resolve the dispute. Indian tribes have the same appeals rights regarding redesignations by States and permits issued by States. In resolving such disputes, the Administrator must consider the extent to which the areas are of sufficient size to allow effective air quality management and whether the proposed area has the air quality values of such an area.

All major emitting facilities must perform analysis of air quality impact in Class I areas. The air quality related values test, including visibility, is applied to sources affecting Class I areas.

The Administrator shall issue orders and seek other action to prevent the issuance of an improper permit.

The conference adopted the air quality modeling conference in the House bill and expects that EPA will seek the full participation of representatives of private and public interests. The definitions of "baseline" and "commenced construction" of the Senate bill were accepted, with a slight modification of the "commenced construction" definition to clarify the intent that a source must have approval before construction may begin, and that any source that has begun construction without approval may not argue that construction activity alone (within the meaning of clauses (i) and (ii)) is adequate to meet the requirement of paragraph (2A).

The House provision for emissions which the Governors may exempt from being counted against the increment is accepted for emissions from coal conversions, natural gas curtailments, temporary construction, and emissions from sources outside the United States.

The House provision requiring that the State Implementation Plan must contain measures to insure that significant deterioration, as defined, will be prevented was accepted.

The conference adopted a modified version of the House provision which allows a variance to be granted from the nondegradation increments for up to 18 days a year. The variance would be available only for the sulfur dioxide 3 hour and 24 hour Class I increments. The variance would allow Class I increments to be exceeded on a total of 18 days per year. A violation of 3 hours in one day is considered a violation for the entire day. High terrain areas are defined as terrain 900 feet above the stack of the facility applying for the waiver.

A notice and public hearing must be held prior to granting the variance. The applicant must demonstrate, and the Governor must find, that the proposed facility cannot be built without the variance and, in the Federal Class I mandatory lands, that the variance will not adversely affect air quality-related values in the area. Before granting a variance, the Governor must consider the Federal Land Manager's recommendations and obtain his concurrence. If the Governor recommends a variance for Federal mandatory Class I areas contrary to the recommendation of the Federal Land Manager, the Governor's recommendation and the recommendation of the Federal Land Manager are to be transmitted promptly to the President. The President may approve the variance if he finds that such a variance is in the national interest. The President must act in ninety days to affirm or deny the variance. The President's decision is a final, nonreviewable decision.

VISIBILITY

House bill

Section 116 of the bill would establish a national goal of remedying existing impairments of visibility in these areas and of preventing future visibility problems from arising in such areas.

Within 18 months of enactment, the Administrator must submit a report to Congress detailing available methods whereby the national goal of visibility protection can be attained. The report must include recommendations for: Identifying sources which cause or contribute to visibility impairment; measuring visibility impairment; modeling techniques to determine manmade contribution to visibility impairment; methods of preventing visibility impairment.

Twenty-four months after enactment, the Administrator must promulgate regulations which assure attainment of the national goal. These regulations must provide guidelines to the States for implementing appropriate visibility protection techniques. Specifically, the regulations must require that States which contain mandatory Class I areas, and States whose emissions cause or contribute to visibility problems in such areas, revise their implementation plan to include two elements. The first element of the plan revision is that the State plan must provide for installation of "best available retrofit technology" for existing major stationary sources which cause or contribute to visibility impairment in such areas. Second, the plan must be revised to incorporate a long-term (10–15 year) strategy for making maximum reasonable progress toward attaining the national goal. Prior to holding public hearings on a prospective plan revision, the State must consult in person with the Federal land manager concerning the revision and make the land manager's conclusions available to the public.

In determining best available retrofit technology, costs, energy requirements, non-air-quality environmental impacts of the technology, the remaining useful life of the source, and the anticipated degree of visibility improvement that would result from control must be considered.

The Administration may not require States to apply the best retrofit technology to sources which have been in existence more than 15 years. States may do so if they choose, but could not be required to do so by the Administrator.

The bill prohibited the Administrator from requiring scrubbers to be retrofitted on existing fossil-fuel-fired powerplants with less than 750 megawatts total generating capacity, regardless of the current age of such plants.

This section provides authority for the Administrator to exempt by rule from the retrofit requirement a source that he determines will not emit, by itself or in conjunction with other sources, pollutants which will cause or contribute to significant visibility impairment in a Federal mandatory Class I area. The purposes of this authority are to permit exemption for smaller, isolated sources which make an insignificant contribution to visibility impairment.

An exemption issued by the Administrator would be effective upon the concurrence of the appropriate Federal land manager. The exemption provision would not apply to fossil-fuel-fired powerplants with total generating capacity of 750 megawatts or more.

The section would prohibit citizen suits to compel attainment of the national goal by a specific date and would prohibit the Administrator from imposing any mandatory or uniform buffer zone aronud a Class I area to accomplish the purpose of this section.

Senate amendment

No comparable provision.

Conference agreement

The Conferees agreed to the House provision with modifications. The Secretary of Interior in consultation with appropriate Federal land managers is to identify within six (6) months all Federal Mandatory Class I areas where visibility is an important value of the area. The Administrator shall, after consultation with the Secretary of Interior, promulgate a list of such areas within one (1) year. The Administrator and the Secretary of Interior may update the applicable recommendations and list periodically when appropriate.

The requirement for a State plan to require the Best Available Retrofit Technology to be installed is limited to the 28 major sources contained in the Senate bill's definition of major emitting facilities, exempting any such which has the maximum potential to emit less than 250 tons per year. The Best Available Retrofit technology requirement is to be stated as an emission limitation, and is to be included in a revised State plan.

The agreement clarifies that the State, rather than the Administrator, identifies the source that impairs visibility in the Federal Class I areas identified and thereby fall within the requirements of this section.

The term "maximum feasible progress" is changed to read "reasonable progress" whenever it appears in the section.

In establishing emission limitations for any source which impairs visibility, the State shall determine what constitutes "Best Available Retrofit Technology" (as defined in this section) in establishing emission limitations on a source-by-source basis to be included in the State implementation plan so as to carry out the requirements of this section. The regulations and Federal guidelines required by the House passed bill for determining this technology are eliminated for all sources other than fossil fuel fired electric generating plants with a total generating capacity in excess of 750 megawatts.

A major concern which prompted the House to adopt the visibility protection provision was the need to remedy existing pollution in Federal mandatory Class I areas from existing sources. Issues with respect to visibility as an air quality value in application to new sources are to be resolved within the procedures for prevention of significant deterioration.

NONATTAINMENT AREAS

House bill

Section 117 affords a State the option of complying offset policy (41 Federal Register 55524–30, December 21, 1976) or promulgating a revised implementation plan containing several mechanisms to assure attainment by the specified dates. The plan would be required to: identify all nonattainment areas; assure attainment as expeditiously as practicable, but not later than December 31, 1982, for sulfur dioxide, carbon monoxide, particulates and oxides of nitrogen, and no later than December 31, 1987, for oxidants; requires, in the interim, "reasonable further progress", defined as equal, incremental reductions in emissions every 2 years; identify several types of emissions from a wide variety of sources which must be taken into account in order to attain the standards and permit new growth; and require a permit program for all new or modified facilities in the area. The permit program must demonstrate: that the emissions from the proposed source will not exceed the allowance permitted from such area; that the latest revised inventory demonstrates the achievement of reasonable further progress toward attainment; that all sources owned by the permit applicant are in compliance or on a compliance schedule; and that issuance of the permit will not result in concentrations of any pollutant for which a national ambient air quality has not been promulgated.

Additionally, the plan would have to evidence public consultation and involvement in the formation of the plan and public cognizance of the economic, energy and social effects of the plan.

The section also requires that EPA within one year and biennially thereafter, report to Congress on the air quality, health, welfare, economic, energy and social effects of nonattainment policy.

Additionally, the House provision provides that States with automotive-related air pollution problems could adopt auto emission standards which are identical to the California standards. Additionally, the section states the Administrator may not use requirements in the Clean Air Act to restrict or impose conditions on sewage treatment grants unless a treatment plant fails to meet Federal emission standards or unless the State failed, in its implementation plan, to provide for increases in emissions likely to result from the treatment plant's increased capacity.

Senate bill

Section 14 prohibits issuance of permits for new or modified major sources prior to 1979 unless offsets are achieved and certain other conditions are met. After 1979, permits are allowed only if a State has an approved implementation plan revision including offset requirements and is carrying out plan provisions. A waiver from offset provisions is available if a State implements certain other control strategies.

Revised plans must provide for attainment of standards within three years after approval, except that with respect to carbon monoxide and oxidants, a plan may show that attainment is not possible in that time.

Section 8 requires plan revisions for areas not meeting oxidant or carbon monoxide standards and specifies provisions the plans must contain. For areas which show that attainment of standards by 1982 is not possible, in addition to requiring implementation of all reasonable controls, a plan is required to list such other measures as would

be necessary to achieve standards by 1987. A second plan revision to be submitted in 1982 for these areas must commit the State and locality to whatever controls are needed to meet standards.

Certain highway funds and air pollution grants may be withheld from States where a Governor fails to submit the required plan revision. Air pollution grants must be withheld from local governments failing to implement provisions of an approved revision.

Conference agreement

As a condition for permitting major new sources to locate in a nonattainment area, States are required to have approved revised implementation plans. The plans must provide for attainment of primary ambient standards no later than December 31, 1982, except that with respect to especially severe oxidants and carbon monoxide problems, the deadline may be as late as December 31, 1987. Providing for attainment in the context of a 1987 deadline means a State must submit a plan in 1979 requiring implementation of all reasonably available control measures. In addition, the plan must list other measures, if any, which may not be reasonably available but which would be needed to meet a 1987 deadline. The State need not make a commitment in 1979 to implement these latter measures. A second plan revision must be submitted by July 1, 1982, if implementation of all reasonable measures contained in the earlier revisions are not sufficient to meet the 1987 deadline. The plan revision submitted in 1982 must require implementation of all available measures needed to attain the primary standards by 1987.

A plan submission in 1979 which demonstrates that oxidant or carbon monoxide standards will not be met by 1982 must contain certain specified provisions: (1) it must require alternative site analyses for major emitting facilities proposing to locate in a nonattainment area; (2) it must establish a schedule for implementing a vehicle inspection and maintenance program; and (3) it must require that funds reasonably available to the State or local government be used to improve public transportation.

All implementation plan revisions must contain a permit program for new or modified major facilities similar to the program required in the House bill. In order to issue a permit the State must show either that offset requirements are met or that the new source will not cause to be exceeded the allowance for new growth built into the State plan revision.

Prior to 1979, the offset policy published by EPA on December 21, 1976, will be in effect in nonattainment areas unless a State complies with a waiver procedure similar to the one contained in the Senate bill. The baseline for calculating offsets is the implementation plan in effect at the time of an application for a permit for a new or modified source.

The House definition of "lowest achievable emission rate" is adopted for purposes of this section. In determining whether an emission rate is achievable, cost will have to be taken into account, but cost factors in the nonattainment context will have somewhat less weight than in determining new source performance standards under section 11. Of course, health considerations are of primary importance. Facilities seeking to locate or expand in areas not meeting air quality health standards should be required to use the best control technology and processes available. The definition is intended to describe the lowest rate which is actually, not theoretically, possible. If the cost of a given control strategy is so great that a major new source could not be built or operated, then such a control would not be achievable and could not be required by the Administrator.

The definition of "reasonable further progress" in the House bill is modified to remove the requirement for equal emissions reductions every 2 years.

However, the conferees intend that regular, consistent emission reductions will be demonstrated through the mechanism of the implementation plan throughout the period prior to the respective attainment date.

House provisions relating to California standards for motor vehicles and withholding sewage treatment grants were adopted. The Administrator may provide guidance to any State which wishes to revise its implementation plan to provide for the increases in emissions that may be indirectly caused by treatment plants with excess capacity.

The Senate highway and air pollution fund sanctions were retained.

A Governor is given authority to suspend portions of existing transportation control plans which deal with on-street parking restrictions, gas rationing and retrofit of noncommercial vehicles until a revised plan is submitted or until January 1, 1979, whichever is earlier, so long as the State is in the process of revising its plan at the time the suspension takes effect. (Adapted from section 202 of the House bill, relating to extension of transportation control dates.)

Sources properly issued construction permits prior to enactment of the 1977 amendments will be permitted to obtain operating permits. (Section 307A of the House bill.)

ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

House bill

Requires as a condition of certification of new motor vehicles or engines that the manufacturer establish to the satisfaction of the Administrator that the emission control system used will not cause or contribute to an unreasonable risk to public health, welfare or safety.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

FILL PIPE STANDARDS

House bill

Authorizes EPA to prescribe fill pipe standards for new motor vehicles to assure effective connection with certified vapor recovery systems.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with amendments to require consultation with the Secretary of DOT regarding motor vehicle safety and to delete the House provision requiring consultation with the Secretary of the Department of Transportation prior to promulgation of any standards or regulations.

ONBOARD HYDROCARBON TECHNOLOGY

House bill

Requires EPA to consider use of onboard hydrocarbon control technology on new vehicles to minimize the necessity for vapor recovery requirements, and to promulgate such standards if it makes certain findings.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with amendments to (1) require consultation with the Secretary of DOT regarding motor vehicle safety before the Administrator promulgates a regulation and (2) delete the provision authorizing the Secretary of Transportation to disapprove EPA regulations under this section if he finds they would create a hazard to vehicle safety.

EVAPORATIVE EMISSIONS

House bill

Requires the Administrator of EPA to revise for model year 1978 the existing evaporative emissions test procedure to measure hydrocarbon emissions from the vehicle as a whole.

If such revision applicable to heavy duty engines and vehicles is infeasible by model year 1978, it may be delayed until it becomes feasible.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

TECHNICAL AND CONFORMING AMENDMENTS

House bill

This section includes miscellaneous technical and conforming amendments.

Senate amendment

No comparable provision.

Conference agreement

The conferees agreed to accept the House provision, with any additional technical and conforming amendments to conform the two bills.

TAMPERING

House bill

Broadens the prohibition against removal of or tampering with auto emission controls to cover independent auto repair operations. A civil penalty of up to $2500 is established for any violation of this provision.

This amendment also states that nothing in this provision shall require the use of manufacturer's parts in maintaining or repairing any motor vehicle.

Senate amendment

Broadens the existing prohibition against removal of or tampering with auto emission controls to cover independent repair and service businesses and selling, leasing, trading and fleet operations.

A civil penalty of up to $2500 is established for any violation of this amendment.

Conference agreement

The Senate concurs in the House provision.

TESTING BY SMALL MANUFACTURERS

House bill

Exempts vehicle manufacturers with projected annual U.S. sales of 300 or less from the requirement for 50,000 mile certification testing of such vehicles.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

PARTS STANDARDS; PREEMPTION OF STATE LAW

House bill

This section provides that whenever a parts certification program is promulgated by the Administrator, States and political subdivisions will be preempted from adopting or enforcing any parts testing or certification program. This provision does not apply to California if it has received a waiver under section 209(b).

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House amendment (1) with the understanding that the parts preemption does not apply in California so long as it adopts and enforces more stringent emission standards than the Federal requirements; and (2) with clarifying language to indicate that no preemption of safety or other parts is authorized.

FUELS AND FUEL ADDITIVES

House bill

Makes mandatory the Administrator's existing discretionary authority to require manufacturers of fuels and fuel additives to (1) conduct tests to determine the potential health effects of their products and (2) to supply EPA with information necessary to determine the effect of a substance on emission control performance on public health.

Senate amendment

Prohibits, after March 31, 1977, the introduction into commerce of new fuel additives, and requires the removal, 180 days after enactment, of fuel additives that were introduced after January 1, 1974. The Administrator may waive the prohibition if the applicant establishes that the additive will not impair the emission performance of vehicles produced in model year 1975 and subsequent years.

Conference agreement

The Senate concurs in the House provision. The House concurs in the Senate amendment with the following amendments: (1) Any fuel or fuel additive first introduced into commerce or increased in concentration after January 1, 1974 but prior to March 31, 1977 must be removed no later than September 15, 1978; (2) the Administrator shall prohibit such additive or restrict its concentration during the period after 180 days after enactment but prior to September 15, 1978 if he finds that such additive or given concentration of such additive will cause or contribute to the failure over its useful life of an emission control device or system to comply with emission standards to which it has been certified pursuant to section 206; (3) the maximum concentration of manganese in a gallon of gasoline shall be no greater than .0625 grams after November 30, 1977; (4) an applicant for a waiver must demonstrate that such a fuel or fuel additive or a given concentration of it will not cause or contribute to the failure over its useful life of an emission control device or system to comply with emission standards to which it has been certified pursuant to section 206; and (5) no action of the Administrator shall be stayed by any court pending judicial review of such action.

In view of the strict time limitation imposed by the September 15, 1978 deadline, it is expected that the Administrator will, if requested, monitor the progress of tests conducted by a manufacturer pursuant to an application for waiver and take such actions as may be reasonably necessary to expedite consideration of such applications.

The conferees intend that in the event the Administrator takes action to prohibit an additive or to restrict its concentration, any vehicle previously certified, or in the process of being certified, which used certification fuel containing such additive need not be recertified for that model year.

The conferees also intend that the words "cause or contribute to the failure of an emission control device or system to meet emission standards over its useful life to which it has been certified pursuant to section 206" mean the noncompliance of an engine or device with emission levels to which it was certified, taking into account the deterioration factors employed in certifying the engine. The term "emission control device or system" means the entire emission performance of a vehicle. Thus, if a fuel or fuel additive causes an increase in engine emissions so as to increase tail pipe emissions or interferes with performance of a specific device or element of emission control so as to cause or contribute to the vehicle's failure to meet the standards at any point in its useful life, the Administrator could not waive the prohibition.

The prohibition of manganese at levels of concentration greater than .0625 grams per gallon of gasoline is not intended to imply that a concentration of .0625 grams per gallon should be required for use in certification fuel, nor is it intended to imply that the required concentration of manganese in certification fuel should restrict, or be equated with the maximum concentration of manganese in use in gasoline in the field.

The conferees recognize the right of the State of California under section 211 of existing law to prescribe and enforce a control or prohibition respecting any fuel or fuel additive if the State has received a waiver from Federal preemption of emission standards, under section 209. Nothing in this provision is intended to affect that authority, or to alter any action taken by the State of California under the authority of Section 211.

SMALL REFINERIES

House bill

Section 219 establishes relaxed standards on lead levels in gasoline produced by small refineries of crude capacity up to 50,000 barrels per day, owned by refiners with total crude capacity up to 175,000 barrels per day.

Senate bill

Section 40 provides until October 1, 1982 relaxed limits on lead in gasoline produced by small refineries or crude capacity up to 50,000 barrels per day, owned by refiners with total crude capacity up to 100,000 barrels per day.

Conference agreement

The House concurs in the Senate provision with the following amendments: (1) the provision is to be applicable only to that capacity which was in existence and devoted to gasoline production or under construction during the one year period ending October 1, 1976. Thus, new capacity or existing capacity newly diverted to gasoline production by a small refinery is not eligible for the relaxed lead requirement provided by this section; (2) the provision is revised to apply to refineries owned by refiners with capacity up to 137,500 barrels per day; (3) the table of applicable amounts is revised to levels intermediate between the House and Senate values, and extended to set explicit numeral requirements for refineries with gasoline production up to 25,000 barrels per day. By including this provision, the Congress does not intend to limit the authority of EPA to set lead standards before or after October 1, 1982 for refineries and refiners not covered by this provision. And, on the basis of experience under this provision, the Administrator shall promulgate such standards as he sees fit for the period beyond October 1, 1982 for refineries herein defined.

HEAVY DUTY VEHICLES AND OTHER VEHICLES

House bill

This provision requires EPA to set standards for 1979–1984 for classes or categories of heavy duty vehicles (trucks, buses and motorcycles) based on the best technology which has been adequately demonstrated. For 1985 and subsequent model years, standards must require a 90 percent reduction of hydrocarbons and carbon monoxide, and a 65 percent reduction of oxides of nitrogen from baseline levels, i.e. uncontrolled levels emitted by gasoline-powered vehicles or engines of a comparable category. EPA would be permitted to revise 1985–1987 standards on the basis of technical infeasibility or fuel economy penalties. Additional revisions of up to three years each could be granted at three-year intervals thereafter. A vehicle or engine failing to meet the revised standards could be sold if the non-conformity is within a prescribed range and the manufacturer pays a non-conforming technology penalty. Production line testing of heavy-duty vehicles or engines is required. EPA must report in 2 years on the effects on health and welfare of particulate emissions from motor vehicles.

Senate amendment

This provision requires the Administrator to promulgate hydrocarbon, carbon monoxide, nitogen oxide and particulate emission standards by 1979 and 1980 model heavy duty trucks, buses and motorcycles which reflect essentially the best practicable control technology. After 1971 standards must reflect the reductions required for automobiles. Section 27 allows EPA to define the useful life for motorcycles.

Conference agreement

The Senate concurs in the House provision, with modifications to provide for interim administrative standard for HC and CO to be effective from 1979–1982, with statutory HC and CO standards becoming effective in model year 1988, and the statutory NO_x standard becoming effective in model year 1985. The statutory standards mandate a 90% reduction from baseline for hydrocarbons and carbon monoxide and a 75% reduction from baseline for nitrogen oxides. However, in establishing the NO_x standard, the conferees are not prejudging the present or prospective technological feasibility of attaining the ultimate standard the conferees emphasis that they are not thereby making a determination whether or not the statutory NO_x standard is or will be technologically feasible.

The conference agreement provides four years lead time before temporary or permanent revision of any statutory standard and requires the Administrator to promulgate particulate standards based on criteria set forth in the House interim standards provision. These standards are to become effective as expeditiously as practicable taking into account the lead time necessary to comply, but in no event later than 1981 model year. The conferees adopted the Senate provision requiring any temporarily revised standards to be more stringent than the interim (administratively-prescribed) standards. The Conference agreement requires that the nonconforming technology penalty be increased periodically as any vehicle or engine fails to conform, so as to provide a graduated incentive for compliance. The manufacturer who certifies nonconforming vehicles or engines will be required to assure, for the purpose of warranty and recall obligations, that the vehicle conforms to the standards to which the vehicle or engine is certified.

The provision requires the nonconforming technology penalty to be set at a level which will eliminate the competitive advantage, if any, for the manufacturer of a nonconforming vehicle or engine. Thus, its calculation would include such items as the actual cost of compliance for complying vehicles, the capital costs foregone as a result of noncompliance, the market value of any fuel economy gains made by non-complying vehicles compared to complying vehicles and the competitive advantage that may arise because of the lesser warranty and recall obligations for noncomplying vehicles compared to complying vehicles. The conference agreement permits the Administrator to utilize the authority under section 208(a) of the Act in order to assure full access to any financial or technical data so as to implement the nonconforming technology penalty.

The Administrator is specifically authorized to subdivide heavy duty vehicles into classes or categories for purposes of this section. For example, the recent classification of vehicles between 6,000 and 8,500 pounds as light duty trucks would continue to be appropriate, provided regulations developed for such vehicles conform to this section.

In regard to motorcycles, the provision accepts the Senate definition of "useful life" for motorcycles, as determined by the Administrator; authorizes but does not re-

quire, the Administrator to permit the sale of nonconforming motorcycles upon payment of a nonconforming technology penalty; and requires the Administrator, in setting separate standards for motorcycles, if any, to consider the need for achieving equivalency of emission reductions or emission standards between motorcycles and other new motor vehicles. Thus motorcycles could adhere to the percentage reduction requirement of this section for hydrocarbons and carbon monoxide, while applying the light duty vehicle nitrogen oxide standard but meet the same emission standard in grams per mile of nitrogen oxides as light duty vehicles.

The conferees recognize that the Administrator is authorized to set standards for classes or categories of vehicles affected by this section and that the Administrator recently promulgated standards for motorcycles. The conferees intend that EPA's promulgated approach is consistent with the authority granted in this section. The Administrator is authorized to continue to perform such functions as consistent with this section. Additionally, the health effects study in the House bill is expanded to cover other sources of mobile source related pollutants.

AIRCRAFT EMISSION STANDARDS

House bill

Authorizes the Secretary of Transportation to disapprove any aircraft emission standard promulgated by EPA, if the standard would create a hazard to aircraft safety.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with an amendment to delete the authority for disapproval of EPA regulations by the Secretary of Transportation and to provide for disapproval by the President upon a finding by the Secretary of the Department of Transportation that such regulations would create a hazard to safety.

CARBON MONOXIDE INTRUSION INTO SUSTAINED USE VEHICLES

House bill

Requires EPA together with DOT to report within one year on carbon monoxide levels inside sustained-use vehicles such as school buses, taxis and police cruisers, including the sources and means of control of such pollutants.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

LIGHT DUTY MOTOR VEHICLE EMISSIONS

House bill

Section 203 extends the existing 1977 auto emission standards of 1.5 HC, 15 CO, and 2.0 NOx for two additional years, through model year 1978 and 1979. For model year 1980 and thereafter, the standards are .41 HC, and 9.0 CO. For model years 1980 and 1981, the NOx standard continues at 2.0 grams per mile (gpm). The NOx standard for model years 1982 and thereafter is 1.0 gpm, unless revised by the Environmental Protection Agency, The NOx standard may be relaxed to not more than 2.0 gpm for any two year period if the Administrator finds that practicable technology is not available, or on the basis of cost or fuel economy, but not if the revision would endanger public health.

In addition, EPA may waive the NOx standard to as much as 2.0 gpm for any class of light duty vehicles for a period of four or more model years beginning in 1982 or thereafter if he determines the waiver is necessary to permit use of innovative, energy-saving power train technology, but not if it would endanger public health.

The House emission standards are summarized in the table below:

Emissions (grams per mile)

Model year	HC	CO	NO_x
1977–79	1.5	15.0	2.0
1980–81	.41	9.0	2.0
1982 and thereafter	.41	9.0	[1] 1.0

[1] The NO_x standard may be waived or relaxed to 2.0 .

Senate amendment

Sections 22 and 23 extend the existing 1977 auto emission standards of 1.5 HC, 15 CO, and 2.0 NO_x for two additional years, through model years 1978 and 1979, except that Section 24 requires that 10% of the projected total sales of each major manufacturer in model year 1979 shall meet the statutory standards. The statutory standards, for model year 1980 and thereafter are 0.41 HC, 3.4 CO and 1.0 NO_x.

The NO_x standard for 1980–81 shall be waived by EPA to not more than 2.0 gpm for small manufacturers which rely on others for emission control technology.

In addition, EPA shall waive the NO_x standard to as much as 2.0 gpm for a period of two model years beginning in 1980 for any light duty vehicle which uses an innovative engine or emission control system and which meets the fuel economy standards prescribed in the Energy Policy and Conservation Act.

The Senate emission standards are summarized in the table below:

Emissions (grams per mile)

Model year	HC	CO	NO_x
1977–79	1.5	15	[1] 2.0
1980 and thereafter	.41	3.4	[2] 1.0

[1] Ten percent of projected sales must meet 1980 standards in 1979.

[2] Innovative technology waiver to 2.0 gpm.

Conference agreement

The House concurs in the Senate amendment such that: the existing 1977 auto emission standards are extended for two additional years, through model years 1978 and 1979; the statutory standard of 0.41 HC is required in model year 1980; an interim standard of 7.0 CO is required and the interim standard of 2.0 NO_x is continued through model year 1980; statutory standards of 3.4 1.0 NO_x are required in model year 1981 and thereafter; and the small manufacturer NO_x waiver applies to model years 1981–82.

However, the CO standard for model years 1981 and 1982 may be waived up to 7.0 grams per mile by EPA for any model line of vehicles if the Administrator finds (for such vehicles): that public health does not require attainment of the statutory standard; that the water is essential to the public interest; that all good faith efforts have been made to meet the statutory standard; that control technology to meet the statutory standard will not be available, taking into account cost, driveability and fuel economy; and the study by the National Academy of Science does not disagree with his finding on availability of technology.

The Senate concurs in the provision of the House bill for a waiver of the NO_x standard to allow use of innovative technology, with an amendment to allow the waiver up to a level of 1.5 NO_x, beginning in model year 1981 under certain conditions, including the potential for long term air quality benefit while meeting national average fuel economy standards. The innovative technology waiver is limited to not more than 5 percent of a manufacturer's production or 50,000 vehicles or engines, whichever is greater. A similar waiver is available for any class of light duty vehicles or engines using diesel engines, but only for model years 1981–84 and only if necessary to permit the use of diesel technology in that class of vehicles or engines.

The conference emission standards are summarized in the table below:

Emissions (grams per mile)

Model year	HC	CO	NO_x
1977–79	1.5	15.0	2.0
1980	0.41	7.0	2.0
1981 and thereafter	0.41	[1] 3.4	[2] 1.0

[1] Possible 2 year waiver to 7.0 gpm.

[2] Innovative technology or diesel waiver to 1.5 gpm.

WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

House bill

The House bill contained the following provisions relating to warranty requirements: 1) a reduction of the performance warranty to 18 months or 18,000 miles; (2) a requirement that the Administrator promulgate regulations within 2 years to establish an aftermarket parts certification program; 3) a prohibition on the invalidation of a warranty by the use of certified aftermarket parts; 4) a requirement that the vehicle manufacturer include in new car maintenance instructions a boldface statement that maintenance may be performed at any service shop, with any certified part, without invalidating the warranty; 5) an authorization to the vehicle manufacturers to specify parts to be used, or persons to perform labor, required to be provided at the cost of the manufacturer under the ultimate purchaser, for purposes of the "defect" to include only defects which existed at the time of sale of a new motor vehicle to the ultimate purchaser, for purposes of the defects warranty; and 7) a definition of "emission control device or system" to include for warranty purposes, a catalyst, thermal reactor, or other component installed in a vehicle primarily for emission control purposes, and excluding vehicle components in general use prior to model year 1968.

Senate amendment

The Senate bill contains the following provisions relating to warranties:

(1) The manufacturer is required to furnish to the ultimate purchaser of a new motor vehicle written instructions for the proper maintenance and use of the vehicle which conform to the regulations which the Administrator shall promulgate.

(2) The Administrator of the Environmental Protection Agency must promulgate regulations implementing a program to certify that motor vehicle parts made by other than an auto manufacturer will meet the performance standards of the original equipment installed by the manufacturer.

No warranty shall be invalid on the basis of the use of any such certified part, nor shall such warranty be invalid on the basis of the installation or use of any air-conditioning system, if a model car has been previously certified by EPA with an allowance for the addition of such air-conditioning system.

(3) The manufacturer may not condition the warranty of an emission control system upon the use of any component, system or service of such manufacturer unless the Administrator finds under section 207(c)(3) that such specific component or service is essential to the proper functioning of the vehicle.

(4) The cost of any part principally used for emission control which is scheduled for replacement during the useful life of the vehicle and whose cost is greater than 2 percent of the vehicle's retail cost shall be borne by the manufacturer at the time of replacement.

(5) The owner of an automobile warranted under the Clean Air Act is responsible, in the proper maintenance of his vehicle, for replacing and maintaining emission control components scheduled for replacement prior to the expiration of its useful life. The car owner may go anywhere to have such maintenance performed.

(6) A study of the impact on competition of any warranty required pursuant to the Clean Air Act shall be made by the Bureau of Competition of the Federal Trade Commission, in consultation with the Bureau of Consumer Affairs, the Environmental Protection Agency, and the Department of Justice.

Conference agreement

The conferees have agreed to adopt the following provisions:

(1) The Senate replacement cost provision, with a modification to exclude vehicle components in general use prior to model year 1968 and the primary function of which is not related to emission control;

(2) The Senate provision making it a prohibited act to communicate to the vehicle purchaser that any warranty coverage is conditioned on the use of manufacturer's parts or services;

(3) The Senate provision on maintenance instructions, with the addition of the House requirement that the manufacturer furnish in instructions for each new car a boldface statement that maintenance may be performed at any service shop, with any certified part without invalidating the warranty.

(4) The House section providing that no warranty shall be invalidated by the use of any part certified under regulations promulgated by the Administrator not to result in failure of an engine to comply with emission standards;

(5) The Senate provision requiring the owner to properly maintain his car.

(6) A reduction of the performance warranty to 24 months or 24,000 miles, except that with respect to the "emission control system or device", as defined in the House bill, shall be covered by the performance warranty for 5 years or 50,000 miles.

The conferees agreed to set the 207(b) performance warranty at 24 months/24,000 miles. During this warranty period, the vehicle manufacturer would be required to bring into compliance with emission standards any car which failed an inspection and maintenance test. The warranty could be invalidated only upon a showing by the manufacturer that the owner did not perform the required maintenance or repair as set forth in the owner's manual or abused the vehicle in its operation. Requisite repairs and maintenance could be performed by any establishment (including an independent garage or service station) that uses parts certified in accordance with section 207(a). After the 24 month, 24,000 mile warranty terminates, the performance warranty on the emission control system under section 207(b) would require the repair or replacement only of an "emission control device" or "component designed for emission control". The vehicle manufacturer's warranty after 24,000 miles, thus, would be limited to the catalytic converter, thermal reactor or other component installed on or in a vehicle for the sake or primary purpose of reducing vehicle emissions and would be invoked in the event of failure of the vehicle to meet emission standards at any time up to 60 months. Such limitation does not apply to section 207(a) warranties or to section 207(c) recall actions.

To the extent permitted by the Moss-Magnuson Act any establishment that uses certified parts could provide parts and services as specified in the warranty at any time during or after the warranty. This would include the right to perform work covered by the section 207(b) warranty with the right to reimbursement by the vehicle manufacturer, to the extent permitted by the Moss-Magnuson Act or by subsequently enacted legislation which amends or supersedes that Act. The provisions of this section are not intended to supersede or alter warranty provisions provided under any other law.

IMPLEMENTATION OF MOTOR VEHICLE STANDARDS AND WARRANTIES

House bill

This provision amends existing law to clarify that it is a prohibited act for new motor vehicle manufacturers to fail to comply with the terms of a warranty required by this Act.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

HIGH ALTITUDE REGULATIONS

House bill

The House bill suspends implementation of high altitude regulations until 1981. Automobiles produced in model year 1981 and thereafter must meet standards based on percentage reduction no greater than those for all automobiles, based on high altitude emissions from 1970 model cars operating at high altitudes.

Senate amendment

The Senate bill suspends high altitude regulations for two years. For model year 1980 and thereafter, cars must meet statutory emission standards at all altitudes.

Conference agreement

The conferees agreed to adopt the House provision for new cars produced before model year 1984. For model year 1984 and thereafter, the conferees agreed to adopt the Senate provision.

HIGH ALTITUDE ADJUSTMENTS

House bill

The House Bill provides that adjustments to automobiles are not to be prohibited by section 203(a) if they are performed in accordance with manufacturer instructions which have been approved by the Administrator. Such instructions shall insure an emission control performance at least equivalent to that which would result if no such adjustment had been made.

Senate amendment

The Senate bill had no comparable provision.

Conference agreement

The Conference agreement provides that adjustments to automobiles are not to be prohibited by section 203(a) if they are performed in accordance with manufacturer instructions which have been approved by the Administrator. Such instructions shall insure an emission control performance for each pollutant which is at least equivalent to that which would result if no adjustments had been made. With regard to used automobiles, it is the conferees intention that the baseline for determining equivalent emission performance shall be an automobile which has been properly maintained and restored.

High altitude adjustments are permitted only in high altitude states. Furthermore, after January 1, 1981, adjustments are permitted only in those high altitude states which have implemented inspections and maintenance programs in their nonattainment areas.

CALIFORNIA WAIVER

House bill

This provision authorizes the Administrator to grant the State of California a section 209 waiver from federal preemption for a set of standards which he determines are in the aggregate as protective of public health and welfare as the federal standards.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

DEALER CERTIFICATION AND PRESALE TESTING

House bill

No provision.

Senate amendment

Section 36 amends existing law to allow States with emission inspection and maintenance programs to require autos to pass a State inspection test prior to sale, with the cost obligation, if any, to be borne by the manufacturer.

Conference agreement

The conferees agreed to replace the Senate provision by a requirement that the dealer furnish to the purchaser of any new light duty vehicle a certificate that such vehicle does conform to the emission standards applicable to it. This is intended to provide assurance to the purchaser of a new motor vehicle that the car meets the emission standards at the time of sale, similar to the assurance that would have been provided under the Senate amendment.

The operative portion of the conference agreement requires that if at any time within the duration of the warranty period under section 207(b) a motor vehicle fails an in-use emissions test as described in Section 207(b) such nonconformity shall be remedied by the manufacturer at the cost of the manufacturer. Such in-use emission test may be adopted by any State as part of its implementation plan and may be applied for purposes of this section at any time from immediately after sale to the end of the specified warranty period.

PRODUCTION LINE TEST

House bill

No provision.

Senate amendment

Section 30 requires that EPA establish, within 6 months, a test procedure for a production line test of new motor vehicles or engines, to begin by model year 1977.

Conference agreement

The conferees did not include a new legislative provision for production line testing. Rather, they recognize the existence of authority under Section 206(b) of the Clean Air Act for the Administrator to test or require the manufacturer to test new motor vehicles or engines to determine whether they do in fact comply with the emission standards for which a certificate of conformity was issued. EPA has taken a first step to meet the intent of that provision by promulgating a random-sampling test, the so-called Selective Enforcement Audit. However, the conferees intend that the Administrator revise current test procedures expeditiously to provide a short production line test. That test is to be designed, and applied in such a way as to assure reasonable statistical certainty that each car produced will be able to pass an emissions inspection based on a test which is the same as or comparable to the short production line test. The conferees did not create any new requirement beyond that in existing law for each and every vehicle or engine to actually pass a production line test. However, as required by section 206(b) of the Act, any vehicle or engine which actually fails the production line test must be brought into conformity before any certificate of conformity shall apply to that vehicle or engine, and before it may be introduced into commerce.

STUDIES AND RESEARCH OBJECTIVE FOR OXIDES OF NITROGEN

House bill

Section 203 requires EPA to report to Congress by June 30, 1980 on the need for a more stringent NO_x standard to protect public health.

Senate amendment

Section 25 retains the 0.4 NO_x level as a research objective to which each major auto manufacturer must build demonstration vehicles for annual submission to EPA starting in model year 1978.

Section 24 requires EPA to report to Congress by July 1, 1980 on the need for a 0.4 NO_x standard to protect public health or welfare, and on the cost and technological capability of attaining such a standard.

Conference agreement

The House concurs in the Senate amendment with respect to provisions for a 0.4 NO_x study and a 0.4 NO_x research objective.

DEFINITIONS

House bill

Defines a major stationary source as any stationary source of air pollutant which directly emits or has the design capacity to emit 100 tons annually of any pollutant for which an ambient air quality standard is promulgated.

Senate amendment

Defines emission limitation as a requirement which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including a detailed schedule and timetable of compliance. "Schedule and timetable for compliance" is defined as a schedule of enforceable actions in an implementation plan which leads to compliance with the specified emission limitation or other standard in the plan.

A major emitting facility is defined as any stationary source with an annual potential to emit 100 tons of any pollutant, for the general purposes of the bill, such as the delayed compliance provision.

Other definitions are discussed in the report where the applicable provision is discussed.

Conference agreement

Section 301 collects definitions placed throughout the bill in both the House bill and Senate amendment. The term Federal Land Manager is defined as the Secretary of the Department which has authority over any specific Federal land.

Defines major stationary source and major emitting facility as defined in the Senate bill. For the purposes of prevention of significant deterioration, a modification of this term is used. That modification appears in the part on prevention of significant deterioration.

The term "emission limitation" is a combination of definitions from both bills and is defined as the requirement that limits the quantity, the rate, or the concentration of emissions of air pollutants on a continuous basis. This term also includes requirements relating to operation and maintenance required to assure continuous emission reduction.

The term standard of performance is defined to mean continuous emission reduction, including operation and maintenance. Additional terms defined include means of emission limitation, primary standard attainment date, delayed compliance order, person, and air pollutant.

EMERGENCY POWERS

House bill

Broadens the authority of the Administrator to issue emergency orders to any person whose action or inaction requires prompt regulation to protect public health. The Administrator is required to consult with States prior to commencing any emergency action.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) restore the provision of existing law authorizing the Administrator to commence a civil action in an emergency situation to protect public health; and (2) require the Administrator to bring suit within 24 hours after issuance of an order and require that the court uphold such court order within 48 hours (including any court order leaving the Administrator's order in effect pending litigation) as a condition on the effectiveness of the Administrator's order.

CITIZEN SUITS

House bill

No provision.

Senate amendment

Section 304 of the Clean Air Act is amended to allow a citizen to bring suit to prevent construction of a major emitting facility without a permit in compliance with section 110(g), the nondeterioration provisions of the act, or to enforce against any violation of a condition of such a permit or other requirements of the act such as those of sections 110(a)(4) and 110(g).

Conference agreement

The House concurs in the Senate amendment with the following amendments: citizen suits are authorized against sources to enforce compliance only with respect to (1) "emission standards or limitations", including schedules and timetables for compliance, not subject to citizen suits under the Act; (2) any proposal to construct or the construction of any new or modified major emitting facility without a permit under the prevention of significant deterioration provision or the non-attainment provision; and (3) the violation of any condition or requirement specified by the State or the Administrator under a significant deterioration or non-attainment permit or under a delayed compliance order, enforcement order, smelter order, or compliance date extension: any design standard to regulate hazardous emissions, or under section 111; stratosphere and ozone protection regulations; transportation control plans or indirect source review requirements, vehicle inspection and maintenance programs; vapor recovery requirements; fuels and fuel additives registration; air quality maintenance plan requirements; and visibility protection requirements.

CIVIL LITIGATION

House bill

Section 311 authorized attorneys of the Environmental Protection Agency to represent the Administrator in civil litigation under the Act in the district courts and courts of appeals.

Senate bill

The Senate bill contained no comparable provision.

Conference agreement

The conference bill retains the basic provision of existing law which places in the Department of Justice primary responsibility for the control and supervision of civil litigation involving EPA. However, the conference bill adds a new provision requiring that the conduct of such litigation by the Justice Department be in accordance with the memorandum of understanding, dated June 13, 1977, which has been signed by the Attorney General and the Administrator of EPA.

The purpose of this new provision is to encourage and enhance a new spirit of cooperation, consultation, and shared responsibility which the Agency and the Department have sought to foster.

In the past, concern was expressed about the absence of such a cooperative spirit and procedures to assure proper participation by agency attorneys in litigation under the Clean Air Act. See H. Rep. No. 95-294, May 12, 1977, pp. 332-336. This concern was not only directed to the Justice Department. Concern was also expressed about EPA's role and performance in several respects.

In an attempt to reconcile these past differences and to assure a more cooperative arrangement for the future, representatives of the Department and the Agency have formulated a new interagency agreement. This memorandum of understanding has been signed by the Administrator of EPA and by the Attorney General on June 13, 1977. The memorandum represents a new effort to provide for shared responsibility in the conduct of litigation under the Act, and the conferees commend both the Department and the Agency for the efforts to assure greater cooperation in the future.

The conferees considered simply deleting the House provision and retaining section 305 of the existing law in unamended form. Instead, the conferees agreed that the statutory sanction for the memorandum of understanding should be provided to assure the continuing effectiveness of the provisions of the memorandum. The conferees agreed that the memorandum of understanding should be applied to all cases filed after date of enactment of the 1977 amendments. Hopefully, the provisions of the agreement also can be applied in most presently pending cases involving EPA, taking into account the current status of each such case. Furthermore, the conferees agreed to ratify the interagency memorandum with the understanding that its provisions will be interpreted by the Department and the Agency in accordance with the following statement of legislative intent.

First, the memorandum does not expressly address the question of what procedure would apply if the Department is requested to represent both the Administrator and other federal agencies holding different views in the same litigation. In such a case, the conferees intend that the decision of the Attorney General to represent any other federal agency would be deemed a refusal to represent the Administrator, and the Administrator would be authorized to be represented exclusively by his own attorneys.

Second, implicit in the memorandum is that the Agency will be afforded the opportunity to review, comment on, and (if warranted) object to any briefs, or other documents prior to their filing by the Department. This would include the opportunity to review the final version as well as earlier drafts. No document should be filed in court without EPA attorneys reviewing the document and having their comments on it considered. Without an assurance of such consultation, the right to appeal disagreements to the Attorney General under item 5 of the memorandum would be hollow. If there is serious disagreement and EPA refuses to concur in the filing of any document, the disputes resolution provision of item 5 would come into play. In establishing working timetables to implement this provision, the Department and Agency should allow sufficient time for preparation of drafts; review of drafts; identification of disputes (if any); consultation; and, if need be, appeal of any unresolved dispute; and final preparation, review, and submission of the document. Such a procedure should be followed in all cases, and the memorandum should be construed to so require.

Third, item 4 of the memorandum assigns "the right to allocate tasks" in the litigation to the Attorney General. This is an appropriate provision in light of the Attorney Gen-

eral's basic responsibility to control and supervise the Agency's litigation.

On the other hand, this right to allocate tasks must not be used to limit or undermine the right of Agency attorneys to participate fully in the litigation. Moreover, in exercising this "task allocation" authority, the Attorney General would be expected to permit Agency attorneys to play the greatest role with respect to factual, technical, policy or judgment issues which bear most importantly on the Agency's role, programs, or expertise. This is how the "due consideration" provision in the last sentence of item 4 of the agreement must be construed and administered. Department attorneys should be given the greatest responsibility with respect to issues of law arising under other legislation, such as the Administrative Procedure Act, or legal issues which relate to matters directly affecting other agencies authority or the interest of the United States Government. The "task allocation" provision of item 4 of the memorandum will be subject to the disputes resolution provision of item 5, in the event the Agency strongly disagrees with the task allocation in a particular case or cases. As a result of this agreement, there is likely to be a substantial increase in the number of cases in which Agency attorneys are assigned the lead role in presenting the Agency's position to the courts, particularly in cases involving challenges to Agency rules and orders. The conferees anticipate an increasing volume of enforcement actions will be referred by the Agency and filed by the Department in the near future. By permitting greater use of Agency attorneys in judicial review litigation, there should be greater availability of Department attorneys to press enforcement actions.

In implementing the review procedure in item 5, the Attorney General is expected to use the qualification of the last sentence sparingly. In the conferees view, this final sentence should be used only where he determines that it is essential to avoid prejudicing the government's case or to prevent substantial disruption of an ongoing trial. The provision should not be construed to limit the effect of the review procedure to subsequent cases.

Fourth, item 14 of the memorandum indicates that the Attorney General is required to defer the Agency interpretation of scientific and technical matters. This is consistent with the broader recognition of the special expertise of Agency attorneys, contained in the fifth "whereas" clause of the agreement. In representing the Agency, the Department ought to grant the deference to the Agency's views not only in scientific, factual and technical matters, but also in matters of judgment, risk balancing, policy choice and interpretation of Agency regulations. This deference has been accorded by the courts. See *Ethyl Corp.* v. *EPA*, 541 F.2d 1 (D.C. Cir. 1976). Even on issues of law which arise under the Act which the Administrator is charged with implementing and enforcing, courts will defer to reasonable Agency interpretations, even if alternative interpretations would also be reasonable. See *Train* v. *NRDC*, 421 U.S. 60 (1975). Similar deference to reasonable Agency legal interpretations should be afforded by the Department in its representation of the Agency in litigation.

Fifth, and related to the previous point, any instance in which the Justice Department chooses to confess error contrary to the Agency's wishes or otherwise acts in fundamental opposition to the Agency's position would constitute in effect a decision by the Department to decline to represent the Agency within the meaning of the fourth "whereas" clause in the agreement. In such a case, the Agency would be authorized to be represented entirely by its own attorneys.

Sixth, the effect of item 13 is merely to assure that negotiation procedures which may lead to a settlement of an enforcement action pending in court will involve attorneys for the Department.

Seventh, the memorandum requires annual review of its implementation by the Agency and the Department. However, neither the Agency, nor the Department, may abrogate the agreement or alter its basic thrust without legislative sanction. This is the intent and effect of subsection (b) of new section 305 of the Act. Of course, minor clarifying or technical changes may be made in the agreement. The memorandum of agreement may also be changed with the written consent of both the Department and the Agency to make the procedure more efficient, to improve cooperation between the two, or to permit more effective participation by the Agency, so long as the change does not violate the intent described in this section—i.e. to insure full and meaningful participation by EPA attorneys in civil litigation under this Act subject to Justice Department supervision.

Eighth, it is very clearly provided in item 9 that the 150-day period for the commencement of enforcement actions must not apply to emergency actions. The Agency and the Department must act rapidly in emergency situations. The requirement for prompt filing of emergency actions applies to all EPA authorities, not merely those expressly referred to in item 9.

The conferees also intend that the Agency's review and the Department's review will result in a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Environment and Public Works Committee of the Senate on how this agreement is being executed and whether both the Department and the Agency are satisfied with its operation. The conferees expect, in light of the new cooperative relationship which has emerged between the Department and the Agency that the new agreement, as construed here, will prove satisfactory to both.

Finally, it should be noted that this memorandum of understanding between the Department and the Agency, does not restrict or limit any authority which the Administrator may have under any other provision of law to be represented by attorneys employed by the Agency—e.g. the Toxic Substances Control Act to the extent permitted under that Act.

COSTS OF LITIGATION

House bill

This provision authorizes the award of attorneys fees and other costs in judicial review proceedings under section 307 of the Act.

Senate amendment

This provision authorizes courts to award reasonable attorneys fees to any party against whom EPA acts unreasonably in initiating an enforcement action. Attorney's fees and other costs may also be awarded in judicial review proceedings brought under section 307 of the Clean Air Act whenever the court determines that such an award is appropriate.

Conference agreement

The conferees agreed to accept both the House provision, which is identical to one portion of the Senate provision, as well as the entire Senate provision.

ADMINISTRATIVE PROCEDURES

House bill

Adds to section 307 new provisions which modify existing administrative procedures followed in EPA rulemaking, and changes the standard of judicial review.

(1) The Record. This provision specifies the documents that must be contained in the rulemaking docket of any proposed rule. These documents are:

a statement of the basis and purpose of the rule;

all written comments and documentary information received on the proposed rule during the comment period; and all documents received after the comment period which the Administrator deems to be of central relevance to the rulemaking;

the transcript of any public hearing held on the proposed rule;

the draft proposals and accompanying documents submitted by the Administrator to OMB, all interagency comments on the proposal and all EPA responses to those comments.

(2) Hearings and Hearing Procedures. The House bill would make available an opportunity for a public hearing on additional specified categories of rulemaking not covered under existing law.

Any interested person would be given the right to make an oral presentation, and an opportunity to cross-examine any person making such an oral presentation.

(3) Standard of Review. The House bill would change the standard under which courts review an EPA rulemaking from the existing "arbitrary and capricious" test to one of whether the rule conforms to the "substantial evidence" on the record.

(4) Judicial Review. The House bill would extend from thirty to sixty days the available time for petitioning for judicial review of an EPA promulgation.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with the following amendments: (1) delete application of this section to the approval or disapproval of State implementation plans and applications for State program grants; (2) delete the requirement for opportunity for cross-examination during public hearings; (3) substitute for cross-examination a requirement that the hearing docket remain open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information; (4) delete the change in the standard of review to the "substantial evidence" test; (5) make this provision applicable to rules proposed after ninety days after enactment.

(7) Delete the reference to "evaluations of competing risks" required to be included in notices of proposed rulemaking, and substitute policy "options" for policy "considerations" required in such proposals.

The conferees intend by the use of the word "options" that EPA should include in its proposals a summary of possible alternatives considered, including an evaluation of significant competing risks associated with the proposal, which were examined in arriving at the proposal. Such an evaluation of risks is not intended to be exhaustive; nor is the extent of such discussion intended to provide a basis on which to challenge a rule.

With respect to the "arbitrary and capricious" scope of review retained in these amendments, the conferees intend that the courts continue their thorough, comprehensive review which has characterized judicial proceedings under the Clean Air Act thus far.

In changing the scope of review as contained in the House bill, the conferees were aware that there may be little practical difference between the "substantial evidence" scope of review and the "arbitrary and capricious" scope of review and that the two tests tend to converge as described by recent court decisions. See: *Associated Industries* v. *Department of Labor* 487 F.2d 342 (2d Cir. 1973). Therefore, in order to avoid misinterpretations or confusion regarding the intent underlying a change in the existing scope of review, it was the decision of

the conferees to retain the "arbitrary and capricious" scope of review.

CODIFICATION OF STATE PLANS

House bill

This provision requires the Administrator to compile and publish annually copies of each State's air pollution control plan which has been Federally approved or promulgated.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

ECONOMIC IMPACT ASSESSMENT

House bill

No comparable provision.

Senate amendment

Requires the Administrator to prepare an economic impact statement on proposed regulations concerning new source performance standards, excess emissions fees, ozone, significant deterioration, auto emission standards, fuel or fuel additives, aircraft emission standards or railroad emission standards. A standard or regulation shall not be held to be invalid for failure to comply with the requirements of the section unless the Administrator's actions were arbitrary and capricious.

Conference agreement

The Senate concurs in the House provisions with the following modifications. The statement will be called an economic impact assessment. The factors specifically required to be analyzed have been reduced from fourteen to five items, but the listing of specific factors is not exhaustive and does not relieve the Administrator of his obligation to consider additional factors necessary to reach sound decisions under other sections of the Clean Air Act. No legal challenge to a rule of the Administrator may be based on failure to comply with the section, nor may any stay or injunction of a rule be granted on such a basis. The sole method for enforcement of the Administrator's duty under the section is by a citizen's suit seeking a court order to compel performance. Where other sections of the Act expressly require that cost be taken into account, the adequacy of the economic assessment may be considered but is not to be taken by the courts as conclusive for the purpose of those sections.

FINANCIAL DISCLOSURE; CONFLICTS OF INTEREST

House bill

Section 2 requires financial disclosure by officers and employees of the Environmental Protection Agency (except those in nonregulatory or non-policymaking positions) and by public members of the National Commission on Air Quality. It also prohibits conflicts of interest in matters such as contractual relationships and ownership of securities by such persons. A fine of up to $2,500 or imprisonment of up to one year, or both, is the criminal penalty for knowing violations.

Senate bill

No comparable provision.

Conference agreement

The Senate concurs in the House provision with modifications to: (1) require financial disclosure by members of the Scientific Review Committee, established under Section 109(d); (2) apply the conflict of interest provision only to officers and employees of EPA; (3) provide for equitable representation on the National Commission on Air Quality, including a requirement that not more than one-third of the non-congressional members shall be attorneys, employees, or consultants of entities subject to regulation under the Clean Air Act; (4) extend the conflict of interest provision fully to other organizations (including non-profit organizations) engaged in activities related to air quality; (5) prohibit ownership of stocks, bonds or other financal interests by EPA employees only to the extent that they are inconsistent with the particular position held by the employee, as defined in regulations to be promulgated by the Administrator; (6) make the conflict of interest provision applicable one year after enactment; and (7) provide that the conflict of interest provision shall be suspended by any Federal anti-conflict of interest statute, which applies generally to Federal agencies, departments and instrumentalities.

AIR QUALITY MONITORING

House bill

EPA shall promulgate regulations establishing a standard air quality index for monitoring and reporting of air quality data by State and local governments. It also requires the Administrator to supplement State and local monitoring stations with Federal stations where necessary.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision.

MODELING

This section is discussed under prevention of significant deterioration.

EMPLOYMENT EFFECTS, EMPLOYEE PROTECTION

House bill

The employment effects provision authorizes the Administrator to investigate, report and make advisory recommendations concerning employer allegations that requirements under the Clean Air Act will adversely affect employment. No sanction or enforcement authority is provided under this section.

A separate employee protection provision adds a new section to existing law to protect employees who believe they have been fired or otherwise discriminated against as a result of having testified or brought suit under the Clean Air Act. The employee may apply to the Secretary of Labor for review of his case. If the Secretary finds that discrimination did occur, he or she can issue an order for the reinstatement of the employee to his former position, with back pay. The provision does not apply to an employee who acts outside of the direction of his employer.

Senate amendment

The employee protection provision offers protection to employees who believe they have been fired or discriminated against as a result of the fact that they have testified or brought suit under this Act. The employee may apply to the Secretary of Labor for review of his case. The Secretary of Labor can issue an order for the employee to be rehired, or otherwise compensated, if the employee's case is justified. The section does not apply to an employee who acts outside the direction of his employer.

At the request of an employee, the Administrator shall investigate threatened plant closure or reductions in employment allegedly resulting from any Clean Air Act requirement, including public hearings on the record. Such hearings shall be the basis for findings of fact and recommendations by the Administrator.

Conference agreement

The Senate concurs in the House employment effects provision with an amendment to substitute the portion of the Senate employee protection provision related to the Administrator's evaluations and investigations of loss of employment and plant closure.

The Senate concurs in the House employee protection provision with the following amendments: (1) authority for the Secretary to award compensatory damages for violations of this section is made discretionary; (2) the authorization for the Secretary to award exemplary damages is deleted; (3) the Secretary is authorized, but not required to file a civil action for enforcement; for refusal of an employer to comply with an order by the Secretary of Labor to abate a violation of this section; (4) the person on whose behalf the Secretary's order is issued is authorized to sue for enforcement of that order, and in appropriate cases, to receive costs of litigation; (5) the requirements for judicial expedition of civil actions for enforcement and the provision making the Secretary's action "nondiscretionary" for the purpose of citizen suits are deleted.

NATIONAL COMMISSION ON AIR QUALITY

House bill

Section 108(f) establishes a National Commission on Air Quality composed of four members of Congress and seven public members to study and report to Congress in three years on the adequacy of clean air programs, implications of implementing such programs, and, in particular, to study the effects of preventing significant deterioration (report due in two years) and of meeting the auto emission standard for NO_x (report due March, 1978).

Senate bill

Section 46 establishes a National Commission on Air Quality similar to the provision in the House bill, with additional studies of methods to achieve the primary standard for oxidants and the effects of an alternative nonattainment studies. Authorizations for the Commission were $17,000,000, with an additional $1 million to be made available to the Commission from EPA appropriations.

Conference agreement

The agreement incorporates the subjects of study from both bills, provides for four Congressional members of the Commission and nine public members, three of whom may represent interests subject to regulation under the Clean Air Act. In the authorization section of the bill, EPA is directed to make one million dollars available to the Commission, and a total of $10 million for fiscal years 1977, 1978 and 1979 is authorized.

VAPOR RECOVERY

Senate amendment

No comparable provision.

House bill

Requires that the cost of the purchase and installation of vapor recovery equipment for storage and refueling operations must be paid by the owner of the fuel storage tanks and pumps.

This provision also requires that vapor recovery regulations applicable to independent gasoline marketers provide for a three-year phase-in of the installation of vapor recovery equipment for the refueling of motor vehicles.

The effective date of such vapor recovery regulations shall be delayed by two years only for independent gasoline marketers.

In addition, the FTC must complete, within one year, an economic analysis of these vapor recovery regulations on independent marketers. EPA is then required to incorporate the FTC data in a report to the Congress containing recommendations within 6 additional months.

The House bill also authorizes certain extensions or exemptions to be granted by the Administrator to independent small business marketers of gasoline.

Conference agreement

The conferees agreed to the House bill provisions relating to the costs of vapor recovery.

The conferees agreed to a modified version of the House provision on the applicability of vapor recovery requirements to small business independent marketers of gasoline. Under the conference agreement, no station which is owned by an independent

marketer and which has monthly throughput of less than 50,000 gallons of gasoline may be required, directly or indirectly, by the Administrator under this Act to install and use vapor recovery equipment.

States or local governments would be free to adopt and enforce requirements for such stations to install and use such equipment. Any such State or local requirement could be submitted as part of an implementation plan, and the Administrator could approve and enforce any such requirement as part of an applicable implementation plan. But the Administrator may not promulgate such a requirement for an independent marketer station with less than 50,000 gallons per month throughput under section 110(c).

A three year phase-in period would be provided under the conference provision for independent marketers with stations with greater than 50,000 gallons per month throughput. Again, State or local governments could require earlier installation and operation of such equipment, but could not be compelled to do so by the Administrator. The studies and two year delay provision of the House bill were not included in the conference agreement. Nor was the Administrator's authority to grant extensions or exemptions beyond the three year phase-in requirement.

The conferees agreement narrows the definition of "small business independent marketers of gasoline" from that contained in the House bill. The conference definition excludes any person who receives more than 50 percent of his income from sources other than gasoline marketing or refining.

Nothing in the conference agreement authorizes or requires any exemption or phase-in of vapor recovery requirements for persons other than "small business independent gasoline marketers" as defined.

AUTHORIZATIONS

House bill

There are authorized to be appropriated to carry out this act, other than sections 327, 103(b)(5), and authorities providing for research and development, $200,000,000 for each of three fiscal years beginning after the date of enactment of these amendments.

Senate amendment

There are authorized to be appropriated to carry out this act, other than sections 103 (f) and (d), 104, 110(h)(7), 150 through 157, 212, 315, and 403, not to exceed $147,805,000 for fiscal year 1977, and $200,000,000 for each of fiscal years 1978, 1979, and 1980.

There are authorized to be appropriated for carrying out research, development, and demonstration under sections 103 and 104, $120,000,000 for fiscal year 1978.

There are authorized to be appropriated to carry out transportation planning requirements of this act $75,000,000 beginning fiscal year 1978 to be available until expended, and $17 million for the National Commission on Air Quality.

Conference agreement

The conferees agreed to authorize $200,000,,000 for fiscal year 1978 (as in the Senate bill) and for each of the three succeeding fiscal years (as in the House bill), for purposes other than research and development, training, the National Commission on Air Quality, transportation-related planning grants and public notification grants.

The conferees also agreed to accept the Senate authorization of $75 million for transportation-related planning; to provide a $10 million authorization for the National Commission on Air Quality, and to accept the Senate provision authorizing $1 million to EPA for contract authority to assist in starting up the National Commission; and to authorize $4 million for FY 1978 and each of the three succeeding fiscal years for the public notification grants to States.

The research and development authorization is excluded because it is included in other legislation.

BASIS OF ADMINISTRATIVE STANDARDS

House bill

Provides a uniform standard of proof for EPA regulation of air pollutants which applies to the setting of (1) criteria for national ambient air quality standards under Section 108; (2) new stationary source performance standards under Section 111; (3) hazardous stationary source emission standards; (4) new auto emission standards under Section 202; (5) regulations of fuels and fuel additives under Section 211; (6) aircraft emission standards under Section 231.

In all future rulemaking in these areas, the Administrator could regulate any air pollutant from those sources, the emissions of which "in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare."

This section also requires that unregulated radioactive pollutants, cadmium, arsenic, polycyclic organic material be automatically listed under Section 198 thus requiring issuance of air quality criteria for those pollutants.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with an amendment to delete reference to Section 120 (unregulated pollutants).

INTERAGENCY COOPERATION ON PREVENTION OF ENVIRONMENTAL CANCER, HEART AND LUNG DISEASE

House bill

Requires the creation of an interagency task force to promote increased cooperation between EPA and HEW to quantify the relationship between environmental pollution and cancer, heart and lung disease and to find methods for preventing environmentally induced cancer, heart and lung disease.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with amendments to (1) make the Environmental Protection Agency the lead agency for the Task Force; (2) include representatives of the National Institute for Occupational Safety and Health on the Task Force; (3) delete the requirement that the Task Force coordinate control efforts of EPA and HEW: (4) require an annual report one year after enactment and annually thereafter; and (5) other minor and clarifying amendments.

FINE PARTICULATE STUDY

House bill

The Administrator shall study and report to Congress in 18 months on the health hazards and means of controlling fine particulates. The National Academy of Sciences shall also participate in this study.

Senate amendment

No comparable provision.

Conference agreement

The Senate concurs in the House provision with an amendment to delete the reference to the degree of "hazards" to public health, and to substitute for it "endangerment" to public health.

ODOR STUDY

House bill

No provision.

Senate amendment

This provision requires the Administrator to conduct a study and report to Congress no later than January 1, 1979, on the public health and welfare effects of odorous emissions, their sources, and measures available to control such emissions.

Conference agreement

The House concurs in the Senate provision.

TISSUE STUDY

House bill

No provision.

Senate amendment

The Administrator shall publish a list of all known chemical contaminants resulting from environmental pollution which have been found in human tissue within twelve months after enactment. Within eighteen months, the Administrator shall publish an explanation of the origin of these chemicals. The Administrator shall also, if feasible, conduct an epidemiological study on the relationship between levels of chemicals in the environment and in human tissue.

Conference agreement

The House concurs in the Senate amendment.

AIR QUALITY STUDY FOR GULF COAST AND OTHER AREAS

House bill

No comparable provision.

Senate amendment

Requires the Administrator to study an analysis of the composition of fine particulate matter in the Gulf Coast region, and the contribution of such subsection to visibility and public health problems.

Conference agreement

The House concurs in the Senate amendment with amendments to (1) delete the separate $5 million authorization for the study; (2) require the study to include various areas throughout the country including the Gulf Coast region; and (3) change the title of the provision to "Air Quality Study for Gulf Coast and Other Areas". Funds for this study are to be made available under the general Clean Air research authorization.

STUDY AND REPORT OF FUEL CONSUMPTION

House bill

EPA and also the Department of Transportation and the Federal Energy Administrator are required to report annually on fuel economy in relationship to the emission standards.

Senate amendment

No comparable provision.

Conference agreement

Senate concurs in the House bill.

ENVIRONMENTAL ADJUSTMENT ASSISTANCE STUDY (SEC. 315A OF HOUSE BILL)

House bill

Directs the Administrator to study alternative systems for providing economic adjustment assistance for employees who are dislocated as result of any law administered by EPA. The report of the study, including the Administrator's recommendations, is to be submitted to the House Interstate and Foreign Commerce Committee and to the Senate Public Works and Environment Committee within one year after date of enactment.

Senate amendment

No comparable provision.

Conference agreement

Senate concurs in the House provision with the following changes: (1) Title is changed to "Study of Potential Employee Dislocation;" (2) Primary responsibility for the study is given to the Secretary of Labor; (3) The study would estimate the number of employees affected, identify existing sources of assistance, assess the adequacy of such assistance, and recommend additional adjustment measures, if justified.

SULFUR EMISSIONS STUDY

House bill

No provision.

Senate amendment

The Administrator shall conduct a 1-year study of the emissions of sulfur compounds from motor vehicles and aircraft. Health and welfare effects of such emissions are to be reviewed and alternative control strategies are to be analyzed. Such study shall be reported to Congress by January 1, 1978.

Conference agreement

The House concurs in the Senate amendment with an amendment to require submission of the report one year after enactment.

NATIONAL ACADEMY OF SCIENCES STUDY

House bill

No provision.

Senate amendment

The Administrator shall contract with the National Academy of Sciences for continuing studies on the health effects of auto-related pollutants, including sulfur compounds, and on the technological feasibility of achieving the emission standards set for such pollutants.

Conference agreement

The House concurs in the Senate amendment.

RAILROAD EMISSION STUDY

House bill

No provision.

Senate amendment

The Administrator shall conduct a study and investigation of the air quality impacts of emissions from railroad locomotives, locomotive engines and secondary power sources on rolling stock, and of the technological feasibility of controlling such emissions.

Such study shall include an investigation of current regulation of railroads by State and local governments, and shall make recommendations for future regulation of railroad emissions. The study shall be published no later than 180 days after enactment of these amendments.

Conference agreement

The House concurs in the Senate amendment.

NO_x EMMISSION PENALTY STUDY/ECONOMIC APPROACHES TO POLLUTION CONTROL STUDY

House bill

This provision requires the Council on Environmental Quality to complete within 2 years a study of various economic measures to control presently unregulated or underregulated pollutants.

Senate amendment

No comparable provision. However, the Senate bill requires EPA to submit to Congress in one year a report on the possibility of creating a system of penalties of NO_x emissions from new and existing major emitting facilities. The purpose would be to encourage the development or more effective control technology.

Conference agreement

The conferees agreed to mandate both studies in a single provision with slight modifications in the required elements of the studies, and a mandate to the Administrator and the Council of Economic Advisors, not the Council on Environmental Quality, to conduct the study on economic approaches to air pollution.

The Administrator, in conjunction with the Council on Economic Advisors, shall study and report to Congress within 2 years on economic measures to control air pollution effectively. Within one year, the Administrator shall report to Congress on the advantages and disadvantages of a system of penalties on NO_x emissions, including recommendations regarding the establishment of such a system.

Included in section 405 is a direction to the Administrator to undertake a study and report to the Congress on the advantages and disadvantages of establishing a system of penalties for stationary sources on emissions of oxides of nitrogen in order to encourage, in a meaningful way, the development of more effective systems and technologies for control of oxides of nitrogen emissions. The conferees made no judgment regarding the need for such a system of penalties and intend that the study provide a complete and thorough analysis of the feasibility and desirability for the creation of such a system. The Administrator is directed to complete the study and report to Congress the results of the study together with any recommendations within one year after the date of enactment of this Act.

SAVINGS: EFFECTIVE DATE

House bill

This section provides that enactment of the 1977 amendments will not invalidate or stay any rule under the Clean Air Act, except to the extent the amendments contain express provisions. The effective date for these amendments shall be the date of enactment unless provided otherwise. Each State required to revise its implementation plan by reason of any amendment to this Act shall adopt and submit a revised plan no later than one year after enactment.

Senate amendment

This section provides that suits, proceedings, regulations, orders, and other items relating to implementation of the Clean Air Act otherwise not affected by provisions of this Act remain in effect.

Conference agreement

The Senate concurs in the House provision.

PROTECTION OF COMPETITION

House bill

This provision authorizes the Administrator to promulgate rules and take other actions necessary to protect competition and assure consumer freedom of choice regarding the implementation of emission control warranties.

Senate amendment

No comparable provision.

Conference agreement

No comparable provision.

REDUCTION OF PAPERWORK

House bill

The Administrator is required to study and report to Congress in one year on ways to reduce paperwork and simplify administration under the Clean Air Act.

Senate amendment

No comparable provision.

Conference agreement

No comparable provision.

RULE REVIEW

House bill

This section provides that any rule or regulation prescribed by the Administrator under the Clean Air Act may be disapproved by either House of Congress adopting a resolution of disapproval within sixty calendar days after promulgation of the rule or regulation.

Senate amendment

No comparable provision.

Conference agreement

No comparable provision.

HARLEY O. STAGGERS,
JOHN E. MOSS,
PAUL ROGERS,
HENRY A. WAXMAN,
ANDY MAGUIRE,
SAM DEVINE,
JAMES T. BROYHILL,
TIM LEE CARTER,
JOHN BREAUX,
Managers on the Part of the House.
JENNINGS RANDOLPH,
EDMUND MUSKIE,
JOHN CULVER,
GARY HART,
WENDELL ANDERSON,
ROBERT T. STAFFORD,
HOWARD H. BAKER,
JAMES A. MCCLURE,
PETE V. DOMENICI,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. WAGGONNER, for 10 minutes today.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. BOB WILSON, for 5 minutes, today.

Mr. ANDERSON of Illinois, for 15 minutes, today.

Mr. MCCLOSKEY, for 1 hour, today.

Mr. WHALEN, for 10 minutes, today.

Mr. KEMP, for 5 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

Mr. HARSHA, for 10 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. RANGEL, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ASPIN, for 5 minutes, today.

Mr. LE FANTE, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. MCDONALD, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Ms. OAKAR, for 5 minutes, today.

Mr. LEGGETT, for 5 minutes, today.

Mr. THOMPSON, for 5 minutes, today.

Mrs. SPELLMAN, for 5 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OTTINGER, and to include extraneous material, in his remarks today on H.R. 8444.

Mr. MAHON, in his remarks today on H.R. 8444.

Mr. WAGGONNER, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,093.

Mr. ZABLOCKI, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,207.50.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous material:)

Mr. ARMSTRONG.

Mr. COCHRAN of Mississippi.

Mr. KASTEN.

Mr. QUAYLE.

Mr. SARASIN in two instances.
Mr. STOCKMAN.
Mr. FORSYTHE.
Mr. ARCHER.
Mr. CUNNINGHAM in two instances.
Mr. HAMMERSCHMIDT.
Mr. RUPPE.
Mr. DERWINSKI.
Mr. ABDNOR in two instances.
Mr. DORNAN in two instances.
Mr. FREY.
Mr. CARTER.
Mr. KEMP in two instances.
Mr. MICHEL.

(The following Members (at the request of Mr. RAHALL), and to include extraneous matter:)

Mr. RICHMOND.
Mr. DINGELL in two instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. MCHUGH.
Mr. MCDONALD in three instances.
Mr. MURTHA in two instances.
Mr. STRATTON.
Mr. WAXMAN in four instances.
Mr. OBERSTAR.
Mr. OTTINGER in two instances.
Mr. HAMILTON.
Mr. ROBERTS.
Mr. TEAGUE.
Mr. TRAXLER.
Mr. WALGREN.
Mr. SOLARZ in two instances.
Mr. EDWARDS of California in two instances.
Mr. BEARD of Rhode Island.
Mr. SCHEUER.
Mr. ROSENTHAL.
Mr. KILDEE.
Mr. ULLMAN.
Mr. CORRADA.
Mr. MURPHY of New York.
Mr. MOAKLEY.
Mr. WOLFF.
Mr. EILBERG.
Mr. ALEXANDER in two instances.
Mrs. COLLINS of Illinois.
Mr. SIMON in two instances.
Mr. ZABLOCKI.
Mr. MAGUIRE.
Mr. DRINAN in 10 instances.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 2, 1977, present to the President, for his approval, a bill of the House of the following title:

H.R. 7558. Making appropriations for agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Thursday, August 4, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2075. A letter from the Administrator of General Services, transmitting a building project survey for Knoxville, Tenn., in response to a resolution adopted by the House Committee on Public Works and Transportation on September 16, 1976; to the Committee on Public Works and Transportation.

2076. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to limit the period during which a State may file a claim for Federal reimbursement under certain titles of the Social Security Act; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MCKAY: Committee of conference. Conference report on H.R. 7589 (Rept. No. 95–560). Ordered to be printed.

Mr. MEEDS: Committee on Rules. House Resolution 733. Resolution providing for the consideration of the conference report on the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes (Rept. No. 95–561). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 729. Resolution to provide funds for the expenses of investigations and studies to be conducted by the House Permanent Committee on Intelligence (Rept. No. 95–562). Referred to the House Calendar.

Mr. ZABLOCKI: Committee of conference. Conference report on H.R. 6179 (Rept. No. 95–563). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 6161 (Rept. No. 95–564). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself and Mr. CORNWELL):

H.R. 8711. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and to surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. BEARD of Rhode Island:

H.R. 8712. A bill to provide for the establishment and operation of a national lottery to assist in financing the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. COLLINS of Texas:

H.R. 8713. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to certain reporting and disclosure requirements; to the Committee on Education and Labor.

By Mr. ERTEL:

H.R. 8714. A bill to improve the criminal justice system by eliminating and improving overcrowded and unsafe conditions in State, county, and local prisons through the provision of grants to assist in the construction, acquisition, and renovation of such facilities; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 8715. A bill to provide for the transportation within the United States of passengers in foreign-built inflatable rafts, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HAWKINS (for himself, Mr. BLANCHARD, Mr. CARNEY, Mr. MIKVA, Mr. MURPHY of Illinois, Mr. O'BRIEN, Mr. RISENHOOVER, Mr. THONE, Mr. WALGREN, and Mr. YOUNG of Missouri):

H.R. 8716. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; to the Committee on Education and Labor.

By Mr. LEGGETT (for himself, Mr. DELLUMS, Mr. DERWINSKI, Mr. DUNCAN of Tennessee, Mr. HARRINGTON, Mr. JENRETTE, and Mr. MURPHY of Pennsylvania):

H.R. 8717. A bill to provide that Federal primary and Federal general elections are held on the last weekend in June and the first weekend in November, respectively, and to provide that polling places are open for at least 8 hours during each day of any such weekend; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mr. ANDREWS of North Dakota, Mr. BAFALIS, Mr. BAUMAN, Mr. EVANS of Delaware, Mr. HARSHA, Mr. HYDE, Mr. LOTT, Mr. MCDONALD, Mr. MANN, Mrs. PETTIS, Mr. SKUBITZ, and Mr. WALSH):

H.R. 8718. A bill to provide for the personal safety of those persons engaged in furthering the foreign intelligence operations of the United States; to the Committee on the Judiciary.

By Mr. MOAKLEY (for himself, Mr. BURKE of Massachusets, Mr. CARNEY, Mr. COHEN, Mr. CORRADA, Mr. EDWARDS of California, Mr. EILBERG, Mr. FISH, Mr. GINN, Mr. HANLEY, Mr. HAWKINS, Mrs. HECKLER, Ms. HOLTZMAN, Mr. JENRETTE, Mr. LEHMAN, Mr. MCKINNEY, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PEPPER, Mr. RANGEL, Mr. ROE, Mr. TSONGAS, Mr. WALGREN, and Mr. CHARLES WILSON of Texas):

H.R. 8719. A bill to provide that the Secretary of Housing and Urban Development shall implement programs designed to provide increased security for public housing projects; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PREYER:

H.R. 8720. A bill to amend the Internal Revenue Code of 1954 with respect to the net operating loss deduction allowable in the case of certain taxpayers; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 8721. A bill to provide for grants to graduate and professional schools for the establishment of programs for minority, low-income, and culturally disadvantaged individuals for the purpose of providing greater access to graduate and professional education for such individuals; to the Committee on Education and Labor.

H.R. 8722. A bill to designate the Boundary Waters Wilderness, to establish the Boundary Waters National Recreation Area, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Agriculture.

By Mr. QUIE:

H.R. 8723. A bill to amend the Internal Revenue Code of 1954 to exempt certain trucks owned by farmers from the tax on the use of certain highway motor vehicles; to the Committee on Ways and Means.

By Mr. ROONEY (for himself, Mr. BIAGGI, Mr. BINGHAM, Mr. FISH, Mr. HANLEY, Mr. KOCH, Mr. LUNDINE, Mr.

PATTISON of New York, Mr. ZEFERETTI, Mr. MURPHY of New York, Mr. MCEWEN, and Ms. HOLTZMAN):

H.R. 8724. A bill to authorize appropriations for the summer Olympic games, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR (for himself, Mr. SEBELIUS, Mr. MCFALL, Mrs. SPELLMAN, Mr. LOTT, Mr. NOLAN, and Mr. BEDELL):

H.R. 8725. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Department of Agriculture; to the Committee on Post Office and Civil Service.

By Mr. WHITTEN:

H.R. 8726. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 8727. A bill to amend chapter 641 of title 10, United States Code, relating to naval petroleum reserves; to the Committee on Armed Services.

By Mr. ALEXANDER:

H.R. 8728. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. ANDERSON of California (for himself, Mr. JOHNSON of California, Mr. HARSHA, Mr. HAMMERSCHMIDT, Mr. FARY, Mr. HOWARD, Mr. DON H. CLAUSEN, Mr. RAHALL, Mr. LEVITAS, Mr. TAYLOR, Mr. ROE, Mr. MINETA, Mr. YOUNG of Missouri, Mr. GINN, Mr. ERTEL, Mr. HEFNER, Mr. RONCALIO, Mr. FLIPPO, Mr. ROBERTS, Mr. MCCORMACK, Mr. BREAUX, Mr. RISENHOOVER, Mr. WALSH, Mr. OBERSTAR, and Mr. BONIOR):

H.R. 8729. A bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BEDELL:

H.R. 8730. A bill to amend the Federal Meat Inspection Act for the purpose of requiring that imported meat food products made in whole or in part of imported meat be labeled "imported" at all stages of distribution until delivery to the ultimate consumer, and to require certain eating establishments, which serve imported meat, to inform customers of this fact; to the Committee on Agriculture.

By Mr. BONIOR (for himself, Mr. BRODHEAD, Mr. BADILLO, Mr. BLANCHARD, Mr. MIKVA, Mr. PEASE, Mr. TRAXLER, Mrs. SPELLMAN, Mr. CARR, Mr. VENTO, Mr. BEDELL, Mr. SEIBERLING, Mr. FRASER, and Mr. MAGUIRE):

H.R. 8731. A bill to provide for the regulation of certain detergents in the Great Lakes region of the United States; to the Committee on Public Works and Transportation.

By Mr. BYRON (for himself, Mr. GUYER, Mr. RAHALL, Mr. ROE, Mr. PATTERSON of California, Mr. MANN, Mr. SANTINI, Mr. HAGEDORN, Mr. CUNNINGHAM, Mrs. HECKLER, Mr. FRENZEL, Mr. LEVITAS, Mr. KRUEGER, Mr. HYDE, Mr. JENRETTE, and Mr. EDWARDS of Oklahoma):

H.R. 8732. A bill to improve agency responsiveness to citizen complaints and inquiries, to require submission to Congress of information on administrative procedures used to handle citizen complaints and inquiries, and for other purposes; to the Committee on Government Operations.

By Mr. CONABLE (for himself, Mr. FISHER, Mr. FRENZEL, Mr. LEDERER, Mr. KETCHUM, and Mrs. KEYS):

H.R. 8733. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 8734. A bill to amend the Internal Revenue Code of 1954 to permit heads of households to use the standard deduction used by married persons; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 8735. A bill to provide that local governments may receive reimbursement from the United States for protection provided by such governments to visiting Federal and foreign governmental officials; to the Committee on Government Operations.

H.R. 8736. A bill to provide for the issuance of a commemorative postage stamp in honor and memory of the Jews persecuted and killed by Nazi Germany before and during the Second World War and by the Soviet Union during the past 60 years; to the Committee on Post Office and Civil Service.

H.R. 8737. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for property improvements designed to prevent shoreline erosion caused by high water levels in the Great Lakes; to the Committee on Ways and Means.

By Mr. LEACH:

H.R. 8738. A bill to provide that a former spouse of a Federal employee who is married to such employee for 5 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LEACH (for himself, Mr. RAILSBACK, Mr. BEDELL, Mr. BRECKINRIDGE, Mrs. COLLINS of Illinois, Mr. CORNWELL, Mr. ERTEL, Ms. HOLTZMAN, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mrs. SPELLMAN, and Mr. VENTO):

H.R. 8739. A bill to prohibit any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compelled by a foreign state to take the action which is the basis of the proceeding; to the Committee on the Judiciary.

By Mr. MIKVA:

H.R. 8740. A bill to amend the Internal Revenue Code of 1954 to provide that amounts received under certain tuition remission program will be exempt from taxation, and for other purposes; to the Committee on Ways and Means.

By Ms. OAKAR (for herself and Mr. CAVANAUGH):

H.R. 8741. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Mr. ROSENTHAL:

H.R. 8742. A bill to amend title III of the Comprehensive Employment and Training Act of 1977 to establish programs for displaced homemakers; to the Committee on Education and Labor.

By Mr. ROSTENKOWSKI (for himself, Mr. ANNUNZIO, Mr. CAVANAUGH, Mr. GILMAN, Mr. HARRINGTON, Mr. IRELAND, Mr. LEDERER, Mr. MCCLORY, Mr. MCKINNEY, Mr. MAGUIRE, Mr. MICHAEL O. MYERS, Mr. NEAL, Mr. ST GERMAIN, and Mr. ZEFERETTI):

H.R. 8743. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING (for himself, Mr. AUCOIN, Mr. BEARD of Rhode Island, Mr. BLANCHARD, Mr. CARNEY, Mr. HOWARD, Mr. LEVITAS, Mr. LUKEN, Mr. RICHMOND, Mr. WATKINS, Mr. CONTE, and Mr. ROGERS):

H.R. 8744. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mr. SYMMS (for himself and Mr. RUNNELS):

H.R. 8745. A bill to provide for the conveyance of certain public domain lands to a State in any case in which land in such State has been designated as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. WAGGONNER:

H.R. 8746. A bill to amend the Internal Revenue Code of 1954 to allow the disclosure of the mailing address of a taxpayer for use in collecting certain unpaid student loans; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 8747. A bill to modify the navigation project for Lynnhaven Inlet Bay, and connecting waters, Virginia; to the Committee on Public Works and Transportation.

By Mr. WOLFF (for himself and Mr. DICKS):

H.R. 8748. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee of Veterans' Affairs.

By Mr. WOLFF (for himself and Mr. PATTEN):

H.R. 8749. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to eligible veterans and dependents; to revise the criteria for nonaccredited courses; to provide alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period; to provide for a conditional extension of the delimiting period for certain Vietnam-era veterans; to provide for the development of additional educational, employment, and readjustment assistance programs for veterans; to provide for the correction and preclusion of, and protection against, abuses and misuse of veterans benefits; and to otherwise enhance and improve the effectiveness, integrity, and utilization of veterans readjustment assistance programs; to the Committee on Veterans' Affairs.

By Mr. ADDABBO:

H.J. Res. 568. Joint resolution to authorize the construction and maintenance of a monument to General Draza Mihailovich in the District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. BIAGGI:

H.J. Res. 569. Joint resolution designating the American rose as the national floral emblem of the United States of America; to the Committee on Post Office and Civil Service.

By Mr. HEFTEL (for himself and Mr. AKAKA):

H.J. Res. 570. Joint resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent; jointly, to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. MURTHA (for himself and Mr. WALGREN):

H.J. Res. 571. Joint resolution to authorize the President to proclaim the 22d day of April of each year as Queen Isabella Day; to the Committee on Post Office and Civil Service.

By Mr. VANDER JAGT (for himself, Mr. KETCHUM, Mr. DEVINE, Mr. ANDREWS of North Dakota, Mr. GUYER, Mr. STANGELAND, and Mr. HARRINGTON):

H.J. Res. 572. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. ZABLOCKI (for himself, Mr. NEDZI, Mr. BOLAND, Mr. DINGELL, Mrs. FENWICK, Mr. RODINO, Mr. ANNUNZIO, Mrs. MEYNER, Mr. KASTEN, Mr. MOAKLEY, Mr. GAYDOS, Mr. MINISH, Mr. PRICE, Mr. THOMPSON, Mr. ROSTENKOWSKI, Mr. GONZALEZ, Mr. NOWAK, Mr. DERWINSKI, Mr. BRADEMAS, Mr. BIAGGI, Mr. FASCELL, Mr. REUSS, Mr. BROOMFIELD, Mr. BUCHANAN, and Mr. MURPHY of Illinois):

H.J. Res. 573. Joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people; to the Committee on International Relations.

By Mr. KEMP:

H. Con. Res. 324. Concurrent resolution to call for full freedom and independence for the Baltic States; to the Committee on International Relations.

By Mr. WOLFF:

H. Con. Res. 325. Concurrent resolution to express the sense of the Congress that the United States encourage the self-determination of the captive nations of the Baltic republics of Lithuania, Latvia, and Estonia; to the Committee on International Relations.

By Mr. YOUNG of Alaska:

H. Con. Res. 326. Concurrent resolution providing for the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska for the National Statuary Hall collection, and for other purposes; to the Committee on House Administration.

By Mr. HILLIS (for himself, Mr. BRADEMAS, Mrs. HECKLER, Mr. GEPHARDT, and Mr. PURSELL):

H. Res. 734. Resolution to create a congressional senior citizen intern program; to the Committee on House Administration.

By Mr. MITCHELL of New York:

H. Res. 735. Resolution that Congress move expeditiously to resolve pending issues regarding national telecommunications policy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H. Res. 736. Resolution to express the sense of the House of Representatives that the U.S. delegation to the United Nations should work with the delegations of other member nations to call for a World Assembly on Aging and a World Year on Aging; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KASTEN:

H.R. 8750. A bill for the relief of Lt. Col. Kenneth J. Sawyer; to the Committee on the Judiciary.

By Ms. OAKAR:

H.R. 8751. A bill for the relief of Francesco Giuttari; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 8752. A bill to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel *Bomar* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

By Mr. BARNARD:

H. Res. 737. Resolution to refer the bill H.R. 8114 for the relief of William H. Spratling to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

REPORT ON THE STATUS OF THE ENVIRONMENTAL PROTECTION AGENCY'S MID-ATLANTIC MONITORING HELICOPTER

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. FORSYTHE. Mr. Speaker, during the past year, the Environmental Protection Agency has had the use of a modified Huey helicopter for sampling the water quality in the mid-Atlantic. This helicopter—by detecting or predicting oxygen depressions, red tide blooms, and the chemical and biological quality of the coastal waters in the mid-Atlantic—has played a critical role in EPA's efforts to protect our marine environment. Unfortunately, the Department of the Army, which loaned the helicopter to EPA, announced plans this spring to recall the helicopter as of October 1, 1977.

On July 7, 1977, I wrote to Secretary of the Army Clifford Alexander, urging him to reconsider his decision to terminate the interagency agreement which allowed EPA to utilize an efficient aircraft to comprehensively monitor the waters of the mid-Atlantic. On July 21, 1977, I along with a number of my colleagues from the Merchant Marine and Fisheries Committee and from the New York and New Jersey area—including Senators CLIFFORD CASE and HARRISON WILLIAMS of New Jersey; Senators JACOB JAVITS and DANIEL PATRICK MOYNIHAN of New York; Representatives WILLIAM HUGHES, ROBERT A. ROE, MILLICENT FENWICK, JAMES HOWARD, FRANK THOMPSON, MATTHEW RINALDO, and HAROLD "CAP" HOLLENBECK of New Jersey; NORMAN F. LENT, JOHN J. LAFALCE, FREDERICK W. RICHMOND, THOMAS J. DOWNEY, JOHN W. WYDLER, and ELIZABETH HOLTZMAN of New York; JOEL PRITCHARD of Washington; ROBERT LEGGETT of California; THOMAS B. EVANS of Delaware; and DON YOUNG of Alaska—sent another letter to EPA, again urging the Army to allow EPA continued access to this helicopter.

On July 27, 1977, the Secretary of the Army responded to my letter of July 7, 1977, regarding continuance of the loan of the UH–1H helicopter to EPA. I was extremely pleased to learn that the Army has reversed its earlier decision and will extend the use of this helicopter, and two backups, to EPA for another year. The Army wrote me:

> We will now be able to extend the loan of three U.S. Army helicopters to EPA until September 30, 1978.

In January of 1978, EPA will be asked to rejustify an extension beyond September, a procedure which the Army informed me is routine.

The Army's decision is undoubtedly an important one for our mid-Atlantic region. The waters of this area are an enormous economic and recreational resource—depended upon by millions. These waters must be monitored and protected to the maximum extent possible. Continued use of the Huey helicopter will allow EPA to orchestrate an effective monitoring program.

The use of this helicopter, however, will not prevent pollution of our mid-Atlantic waters. Nevertheless, this helicopter will identify the sources of pollution which must be phased out as rapidly as possible. The phasing out of these pollution sources is a task all of us—the administration, the Congress, and the public—must address. Cleaning up the mid-Atlantic must be our top priority; waters depended upon by millions deserve no less.

ELECTRIC SHORTAGES LOOMING IN RURAL AMERICA?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ABDNOR. Mr. Speaker, electric power shortages, whether due to an "act of God" storm or to excessive demands on overworked distribution systems, may be an unhappy fact of life for all of America in years to come.

In recent years production of nearly all forms of energy has been stifled in one way or another, yet our Nation's demands for energy are steadily increasing. This week we are attempting to develop a national energy policy through legislation which many of us fear may stifle production even more.

This is not just a problem for cities along the eastern seaboard. It is also a looming problem as this thoughtful editorial from the August 1977 edition of the Guardian, published by the East River Electric Co-Operative, points out:

THE WAY IT IS

(By Loren Zingmark)

During the past two months, I have visited with you on the legislation to create the new Department of Energy within our federal government. The House and Senate have amended the Administration's bill into a more workable piece of legislation than would have been possible under the proposals submitted by the President. The House-Senate conference committee has not met to iron out the differences in the two versions of the bill, but we expect action on that soon.

This new department and the way it is set up and operated is very important to everyone in the energy industry. Its policies, rules and regulations will affect the electric consumers of this country for years to come.

On another front, the construction of new electric generating facilities is an area of increasing concern to us.

Building new generating plants has become a highly complex and expensive program for rural electric cooperatives. The complexity does not necessarily lie in the design of the facilities, but rather with the rules and regulations on the state and Federal levels.

The long process to get all the necessary permits and conduct the hearings has increased the lead time from five to ten years for the planning and constructing of a generating plant to be in commercial operation.

This procedure is often complicated by various lawsuits which can be tossed in anywhere along the way by just about anyone who wants to oppose a power project.

The Laramie River Station in Wyoming is a good example of this process. Even though construction is on schedule, there are still some legal hurdles to clear before this plant can be put into operation, now set for early 1980.

Obtaining a total of 50 local, state and federal permits, participating in more than 38 days of hearings before the various agencies and commissions plus meeting several legal challenges have been part of the process to get this power plant underway.

Power supply for you, the rural people whose cooperatives are members of East River, seems to be adequate at this time. However, we have been told by Basin Electric Cooperative officials that there could be some shortages in 1979 or 1980. Presently over half of the power that East River buys to supply our 24 member systems serving more than 60,000 rural member-consumers in eastern South Dakota and western Minnesota comes from plants operated by Basin Electric.

Because of the many delays in building power plants in the United States, Basin Electric is the only organization that currently has a turbine generator on order with the General Electric Company. Westinghouse has about four orders from utilities. These two companies are the largest manufacturers of turbine generators in the U.S.

So, you can see that many utilities are holding back on construction of new facilities. Yet power loads continue to increase and reserves in generating capacity are getting very low in some areas of the country.

We've always taken pride in being able to supply our distribution systems and you members with an adequate, dependable supply of electric energy and we will anticipate doing so.

However, I would not be surprised if we would be asked to curtail usage of electricity during some peak periods in 1979 or 80. This is not our plan, but we may not have any choice.

The need to conserve all forms of energy, including electricity, is extremely important. We no longer can afford the luxury of any waste in the energy field.

VICKSBURG STUDENT REFLECTS ON CITIZEN'S ROLE IN GOVERNMENT

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. COCHRAN of Mississippi. Mr. Speaker, for the past 3 years, I have conducted a high school essay contest among students in my Fourth Congressional District. The primary purpose of the essay contest is to encourage high school students, who will become the leaders of tomorrow, to devote their best thinking to some of our national issues. This year, 17-year-old Willie Nettle, son of Mrs. Dorothy N. Myles of Vicksburg, submitted the winning essay: "A Citizen's Role in American Government."

Willie has organized his essay into four areas which detail a citizen's responsibility to our American Government. His guidelines should be followed by every citizen who wants to take full advantage of his citizenship and become an active participant in our democratic government.

I commend it to the attention of my colleagues:

A CITIZEN'S ROLE IN AMERICAN GOVERMENT

We, the citizens of the United States, must become increasingly aware of the ever present fact that the federal, state, and local government organizations are not some quiescent creations set up by our forefathers to govern the people in an automatic and unchanging manner. They are, on the contrary, living, breathing, and vital forces composed of industrious and intelligent citizens. They can do no more than responsible citizens are willing to help them do. This very unique system of government which has existed since the time of notable people like George Washington and Thomas Jefferson, will continue to exist as long as there are responsible, hard-working, and interested citizens. To insure that there will always be someone capable of making significant contributions to the government and making it more responsive to everyone's needs, young people should adopt the following basic steps to becoming an active participant in American government: one, obtain a creditable education; two, participate fully in the voting process; three, become fully aware of public affairs; four, do not be afraid to pursue a public office.

The first step on the road to becoming an active participant in American government involves the process of going to school. Many students have asked at one time or another: "Why do I have to go to school?" Well, the answer is quite simple. One of the chief reasons why the American people support free public education is to teach young Americans to become good citizens. This is done by offering such courses as civics and American history, by promoting participation in sports, which teach fair play and the need to obey rules, and by advocating active leadership in school clubs, class work, and student councils. All three of these developments result in industrious, well-trained, and clear thinking citizens.

The second measure that should be taken on the rewarding road to becoming a good American citizen is exercising the right to vote. Intelligent and conscientious young Americans will take complete advantage of this privilege by seeking information on public questions and checking the qualifications of each candidate before voting. Equipped with this vital information, they can then cast their votes for the person they believe will best serve the community, the state, and the federal government. If, by chance, their particular candidate loses the election, they even have the right to try to win others to their point of view. If they are successful, in the next election they may themselves become the majority and can directly influence the making of laws.

A third step that should be taken on the road to becoming a good American citizen involves the willingness of interested people to become fully aware of public affairs. When called upon for jury duty or for service in one of the many capacities where citizens are asked for assistance, the responsible citizen will serve to the best of his ability. He will participate fully in all elections, seeking to understand the issues and voting for courageous officials. He will also express his views on public matters by keeping in close contact with public officials. In so doing, he will realize that the government has its limitations as to what it can accomplish just as the individual citizen cannot do everything.

The fourth, and probably the most important, step that should be taken on the road to becoming a good American citizen involves the following question: "Should I run for this particular public office?" During the two-hundred years that the United States has been in existence, many great Americans have confronted themselves with this question, giving due respect to their qualifications, their willingness to work diligently for the welfare of the people, and their ability to accept unpleasant criticism. The American citizen today must also consider these expedients before running for a public office. He must learn to preserve and extend the democratic principles which have made our nation great. In so doing, he will enrich his own life and strengthen the United States of America also.

In this great day and age, young people must realize that their responsibilities as American citizens are much greater than they were a half-century ago. They must make sure that they are not deprived of their precious right to a free public education. They must also participate fully in the voting process, become increasingly aware of public affairs, and even pursue a public office whenever they feel that they are qualified for the job. In this world of imminent danger and great challenge, they must learn to use their knowledge for the betterment of human life and to govern themselves so that all may enjoy equality and justice.

HONORING GEN. THADDEUS KOSCIUSZKO

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ZABLOCKI. Mr. Speaker, October 17 marks the bicentennial anniversary of the Battle of Saratoga. The contributions of Gen. Thaddeus Kosciuszko in this battle are enormous, and as Americans we are indebted to his service in our revolution.

Thaddeus Kosciuszko fought for American independence for 6 years without a furlough. On October 17, 1977, he courageously held off the British Army at Saratoga causing their surrender and the turning point of the American Revolution.

Mr. Speaker, the American Council of Polish Cultural Clubs under the able leadership and direction of its president, Mr. Walter Zachariasiewicz, has offered a memorial plaque to be erected at the tomb of Gen. Thaddeus Kosciuszko at the Wawel Cathedral in Krakow, Poland, commemorating his role in our independence.

Mr. Speaker, Americans are indebted to General Kosciuszko for his role in preserving the principles of freedom, and the American Council of Polish Cultural Clubs wish this gift to be deemed a gift of the American people to the people of Poland. Accordingly, I am introducing today the following joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people:

JOINT RESOLUTION

Whereas October 17, 1977, marks the 200th anniversary of the historic battle of Saratoga;

Whereas General Thaddeus Kosciuszko served in the Continental Army from 1776 through 1783, and played a vital and significant role in the battle of Saratoga;

Whereas the American people are indebted to Thaddeus Kosciuszko for his role in American independence; and

Whereas the American Council of Polish Cultural Clubs has made the arrangements for the erection of a memorial plaque near the sarcophagus of Thaddeus Kosciuszko in the Wawel Cathedral in Krakow, Poland, commemorating his dedication to the principles of freedom, and has obtained the approval of the Governments of Poland and the United States and the appropriate Polish ecclesiastical authorities for the erection of the plaque bearing the words both in Polish and in English: "On the Bicentennial Anniversary of the victory of Saratoga October 17, 1777, grateful America remembers General T. Kosciuszko fighter for your freedom and ours": Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That in an expression of esteem and gratitude by the American people, the plaque to be erected in the Wawel Cathedral in Krakow, Poland, on October 17, 1977, in the memory of General Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland.

WHAT RIGHTS?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ARCHER. Mr. Speaker, I would like to call attention to the following concerning the abuses of OSHA. I hope article written by one of my constituents my colleagues will take the time to review this article.

WHAT RIGHTS?

The first 10 amendments to our Constitution are called the Bill of Rights. Each of them was designed to protect citizens against the Government, because the framers of our Constitution were well aware of the consequences of a Government not controlled by the governed. We have come to take for granted such rights as that of a trial by jury should we be accused of a crime.

But apparently OSHA is above the Constitution.

Frank Irey, Jr., Inc. was fined $5,000 by OSHA. We do not care why. Irey was denied a trial by jury, so, naturally, appealed to the Supreme Court.

The Supreme Court in an 8–0 ruling, refused to hear the appeal.

Not being lawyers, we don't understand this.

Being citizens, we don't want to understand.

We just want to be certain that if a bureaucrat with OSHA, FBI, CIA, IRS, HEW, or SNAFU levies a fine or other punishment on us, we have as much right to judgment by our peers as if we had gotten a parking ticket.

A wise man wrote, "Eternal vigilance is the price of liberty".

Please take time to write your congressman and Senators.

FUTURE DIRECTIONS OF THE POSTAL SERVICE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MURTHA. Mr. Speaker, I would like to share with the Members two items: First, the results of a recent poll I took in my area on the future of the Postal Service; second, a response to that poll by a local newspaper.

I asked two questions to my regular polling list of 7,000. The first question—prepared by the Library of Congress—was:

Because of rising costs and inflation, the Postal Service may shortly face some difficult decisions. How do you think the U.S.P.S. should handle rising costs? Should they:

Increase mailing costs for newspapers and magazines—63%.

Cut back on services such as Saturday delivery—48%.

Seek additional money from Congress—22%.

Increase first class postal rates on letters—17%.

Other (most common response was raise postage on third class "junk" mail)—13%.

The second question was also prepared by the Library and pursued the issue of funding.

Some people regard mail service as part of the government's role which should be supported by taxes. Others view it as a service which should pay for itself. What is your view?

Postal service should pay for itself—65%.

Government funds should be used to support services—35%.

I would also like to insert into the RECORD the following editorial from the July 18 Johnstown Tribune Democrat:

POSTAL RATES

There usually are at least two ways of looking at just about everything, and so it was interesting to read about Congressman Murtha's "instant" poll and what people had to say about postal rates.

Few of them want to see an increase in first-class mail rates, and they would prefer higher mail rates for magazines and newspapers and a cutback in services. Naturally, we don't entirely agree, especially with the part about increased rates for newspapers and magazines.

The postal service has begun legal steps to raise the mail rates next year. At President Carter's request, the service excluded private individuals' letters from the increase. The increases average 22 per cent, but letters sent by individuals would stay at 13 cents while those sent by businesses would cost 16 cents.

However, the postal service already has raised the rates for newspapers—on July 6 to be exact. And it was the sixth time that the second-class rate which covers newspapers, was raised since 1974. This newspaper absorbed the five previous increases but because of the most recent action has had to boost its subscription rates for those who get their paper through the mail. Present customers will not be affected until their present mail subscriptions run out, regardless of how long that might be.

Congressman Murtha's poll revealed that 65 per cent of the people believe that the mail service should be self-supporting; that is, the rates should be high enough to cover the costs of operating the postal service. However, this is an area where there is another school of thought and it is that the delivery of mail, along with other essential public services, is a service and, as such, should be guaranteed by tax monies, if that is necessary. There are many other arms of government that do not show a profit or break even. But we wouldn't disband the Army, Air Force or the National Park Service for that reason.

When newspapers and other businesses are faced with higher costs, they are forced to pass along those costs to the consumer. In the end, the consumer pays for everything. Rep. Murtha said that rate increases for the delivery of magazines and newspapers always have been difficult for Congress because the higher rates could force some of the small publications out of business.

Rate increases aside, there is no reason why there shouldn't be continuing scrutiny of the postal service. It has been subjected to much criticism in the past—some of it justified—and undoubtedly will face more in the future.

Congressman Murtha probably will be one of those keeping an eye on the situation. He said that additional changes are needed in postal operations because reforms of the early 1970s failed to produce the results desired by Congress and the individual mail-user.

ON THE DEATH OF THE PRESIDENT OF CYPRUS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. DERWINSKI. Mr. Speaker, I was shocked to hear the news of the death of Archbishop Makarios, President of Cyprus, a man renowned not only for his political leadership, but for the great moral integrity that he brought to bear in world affairs. His death is a tremendous loss to his people and, the world has lost one of its truly outstanding statesmen.

There is no doubt that the tragedy that has afflicted his country weighed heavily on President Makarios the last 3 years. Cyprus was a thriving, progressive country, with an impressive list of economic

advances after achieving its independence from Great Britain. The Turkish invasion and subsequent occupation of a substantial part of the island disrupted both the political and economic life of the country.

President Makarios had worked hard to bring about the proper withdrawal of Turkish forces, but the political settlement remained elusive.

President Makarios has earned a prominent position in the history of Cyprus and his memory will continue to be an inspiration to Greek-Cypriots. His passing obviously creates a void that will be most difficult to fill. It is my hope that his successors will continue to pursue the goals of national unification and peace, and that some day, hopefully soon, Cyprus will once again enjoy the political freedom and tranquillity that it so richly deserves.

AIR BAG ISSUE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. DINGELL. Mr. Speaker, in view of the ongoing debate on the air bag issue, I wish to insert in the RECORD a recent statement delivered by Leonard R. Barnes of the Automobile Club of Michigan.

AUTOMOBILE CLUB OF MICHIGAN STATEMENT ON MOTOR VEHICLE OCCUPANT CRASH PROTECTION

(Delivered for Len Barnes, Editor, Michigan AAA Motor News, Apr. 27, 1977)

Let's begin with a quotation:

"Evaluation of air bags' effectiveness is impossible at this point due to the small number of air bag-equipped cars on the road and the small number of accidents. We cannot quantitatively evaluate them based on field experience."

End quote.

The words of an air bag opponent? No, they are the objective evaluation by William E. Scott, acting director of National Highway Traffic Safety Administration's National Center for Accident Statistics and Analysis and Dr. Russell Smith, project director for evaluating effectiveness of various car restraints for NHTSA. They were made to me on February 10, 1977.

These scientists along with Automobile Club of Michigan then looked forward to the 500,000 air bag car test former Secretary of Transportation Coleman ordered. As a reporter who has covered the auto industry and been a motorist advocate for 30 years, I interviewed them to bring real-life air bag experience up to date and to check printed reports that a film dramatizing bag experience and an article based on the film in an insurance journal contained distortions. The film was produced by an air bag advocate which identifies itself as a scientific and educational organization.

The film exaggerated both in speeds of collisions claimed by persons involved in accidents and in what the air bag did for them. NHTSA records show that speed claimed by one person protected by bags was exaggerated by 25 m.p.h.

I reasoned that if indeed their lives had been saved or serious injury prevented, as claimed in the film and in print, then unbelted, non-air-bag-protected occupants of the other cars with which they collided head-on must be either dead or seriously injured. But in neither collision was anyone seriously injured, and injuries suffered were comparable in both cars.

So I decided to compare what happened to all occupants involved in head-on or near head-on collision deployments of air bag cars with non-air bag cars.

I'd assume that in such collisions, the air bag-protected would come off better if bags were indeed as good as claimed. Considering that air bag-equipped cars are the larger models, and that many of the cars with which they collided are smaller, lighter, there should be a noticeably better experience in air bag cars when they collided with non-air bag cars head-on or almost head-on.

But the record of such collisions so far does not show this. Dr. Smith says the air bag experience is slightly better, while my analysis of available data leads me to conclude that the non-air bag occupants came off slightly better. In most, both had minor injuries.

Dr. Smith counts 21 head-on cases. This isn't enough experience on which to base a decision on mandating bags, Dr. Smith says, and I agree. If a drug company tried to introduce an expensive new cure-all with as few facts as there are on real-life air bag performance, the self-appointed consumer advocates would rise up in protest.

If I understand correctly, in Secretary Adams' rationale in reconsidering the air bag question, cost versus benefit is not a criteria. It must be. Mr. Nader's $50-a-car estimate on original costs is unrealistic. Also, our Insurance Exchange insures more than a million autos in Michigan. It recently replaced a deployed air bag, and it cost $629.26, including $126 in labor. The accident was a minor one with no injury to either vehicle occupants. A safety belt would not have to be replaced.

Those who blithely say air bag reliability is tested should examine reasons for the 12 non-accident deployments. I attach them, and they prove that air bags are delicate mechanisms, a lot more complicated than belts.

I am disturbed that air bag advocates, including the scientific, educational group, are going to such great lengths to publicize obscure surveys in Australia and England to show that sometimes belt wearers get hurt or killed. A definitive study by Dr. B. J. Campbell in North Carolina and many other studies show that belts do protect.

Auto Club agrees with American Automobile Association that auto manufacturers should do a better job of designing belts, and that NHTSA should set a new standard to that end. A recent survey showed 66 percent have the newer, better seat belts and this has caused 44 percent to wear them more often.

While motorist surveys in the past showed opposition to compulsory belt laws, the tide is swinging. Our most recent survey showed 66.6 percent choose a compulsory belt law over air bags and four percent want neither. So if our federal government wants to save lives, why not order us to wear belts instead of putting the monkey on the automakers' backs by mandating bags for which the increasing numbers who wear belts will have to pay and not get as good protection?

Motorists don't want bags, as study after study shows. Most recently is April 1977 AAA Motor News where a cut-out coupon has already brought 1,200 responses. In it, only 1.7 percent said they think air bags should be in all cars. Are the self-appointed consumer advocates going to persuade the federal government they know better than the voters? Finally, President Carter's MPG requirements and tougher emission standards will add importantly to the cost of buying and owning a car. Air bags could be the straw that takes auto ownership out of the market for many who must get to work in cars.

Thank you.

TWELVE NONACCIDENT DEPLOYMENTS

(Approximately 8 percent of total real-life deployments)

Six were in garages, blamed on maintenance problems.

One, which shouldn't count, was triggered by an explosion of propane gas carried in the car's trunk.

One was in an electric fire. A poorly wired CB unit melted the insulation on the bag wiring.

One was in a garage when a young man struck the car with a hard object while the ignition was on.

Three were on-road non-collisions. One was caused by radio frequency interference. One was a power steering attachment rubbing against air bag wiring harness. And one was when the bumper sensor fell off after the bumper was repaired and the mechanic forgot to screw the nuts onto the sensor bolts.

MORE ON PORPOISES

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. KOCH. Mr. Speaker, during the recent tuna-porpoise controversy which culminated in a vote by the House to raise the limit on the number of porpoise kills permitted the American tuna fishing fleet incidental to its operations, I initiated some correspondence with Mr. August Felando, general manager of the American Tuna Boat Association, which I believe may interest my colleagues. I do not agree with the several points made by Mr. Felando; however, I do believe all points of view should be heard.

As I have stated on several occasions, my position is that careful tuna fishermen have demonstrated that the purse seine method of fishing for tuna can be effectively employed without killing many porpoises; therefore, a mortality rate approaching zero should be phased in over the next 2 or 3 years. I was pleased to note recently that the Commerce Department has proposed to halve the porpoise-kill limit by 1980.

My correspondence with Mr. Felando and a Wall Street Journal article announcing the Commerce Department's proposed limits follow:

MAY 6, 1977.

Mr. AUGUST FELANDO,
General Manager, American Tuna Boat Association, San Diego, Calif.

DEAR MR. FELANDO: The enclosed Letter to the Editor appeared in the New York Times on Wednesday, May 4, 1977.

Do you feel that the contentions in this letter are true? If not, then how do you explain them? If, in fact, this letter is accurate, I see no reason why a low limit on the number of porpoises that can be killed per year would adversely affect the tuna industry.

It is my understanding that a handful of tuna boats and their captains are responsible for the vast majority of the porpoises killed in tuna fishing.

I look forward to hearing from you.

All the best.

Sincerely,

EDWARD I. KOCH.

Enclosure.

[From the New York Times, May 4, 1977]

PORPOISES AND OUR TUNA FLEET: NEEDLESS PERILS

TO THE EDITOR:

As scientists actively involved in research on the tuna/porpoise problem we are appalled at the tragic irony in the present situation, a situation which may lead not only to the loss of the American tuna fishing fleet but also to the ultimate loss of the porpoise population involved.

Schools of adult yellowfin tuna aggregate under schools of certain kinds of porpoises in the eastern tropical Pacific, perhaps because tuna and porpoise both feed on the same kinds of small prey. The porpoises can be easily spotted and herded, and the tuna stay beneath them. Fishermen set their nets around both tuna and porpoise, and then sink a portion of the rim of the net to set the porpoises free over the top while retaining the tuna.

By fall of 1976, after some years of effort, improved net designs and new behavioral techniques for release-porpoises from the nets resulted in almost perfect porpoise safety records for some boats. One ship, observed by scientists throughout a single fishing trip in October-November, encircled 45 schools of porpoises and tuna, caught over 1,000 tons of tuna and caught and released unharmed 30,233 porpoises, with a mortality of only 16. We have observed these techniques and dived in the nets far at sea to observe the porpoises, which under this improved system are able to wait safely in the center of the net and then go quietly out the net opening like cattle going through a gate.

The irony is that fishing has been halted, leaving the porpoises to the mercy of unregulated, unmotivated and unimproved foreign fleets, just when a reasonably good way of fishing safely "on porpoise" has been developed.

The American fishermen by now are highly motivated to adopt the new net designs and techniques. They are well aware that they need to preserve the porpoises, and the new techniques are safer for the crew, more efficient and cost-effective. The fishing industry, however, seems reluctant to defend itself on the basis of the new capability, perhaps lest regulations become even tighter before every boat has acquired the new gear and mastered the new techniques. Also, they have been confident of net improvements in the past which were only partially successful; now perhaps they fear they will not be believed in any case. Furthermore, some of the environmental opponents of the industry are ignoring or dismissing the highly successful results of last year's research, perhaps because it is not helpful to their own position.

As a result, an industry is dying and a major piece of ocean is in for more ecological damage than ever. As scientists, citizens and porpoise admirers we urge the Government and the public to find a mechanism for the reasonable management of what has become a remarkably irrational situation.

KAREN PRYOR,
PHILIPPE VERGNE,
Biologists, Porpoise Rescue Foundation.
WARREN STUNTZ,
Program Manager, Tuna/Porpoise Behavior Study, University of California at Santa Cruz.

NEW YORK, *April 26, 1977.*

AMERICAN TUNABOAT ASSOCIATION,
San. Diego, Calif., June 15, 1977.

Hon. EDWARD I. KOCH,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN KOCH: Thank you for your letter of May 6, 1977. I regret this long delay but events prevented an earlier response. I will answer your questions in the order that you asked them.

The facts in the letter to the New York Times by Pryor, et al. are true. The *Elizabeth C.J.* left port on October 7, 1976 and returned on December 9, 1976. The vessel captured 30,200 porpoise on 45 sets, sustained 16 porpoise mortalities and caught 915 tons of tuna and porpoise. Of these 16 porpoise deaths, 4 were attributed to fishermen, the balance to scientists. The purpose of the charter of the vessel to the government was twofold. First, to gather baseline data on the behavior of tuna and porpoise in the net and the second was to test experimental porpoise release gear.

The gear modification tested on the *Elizabeth C.J.* was an appendage to the Medina Panel called a "super-apron." It was very successful in releasing porpoise. This gear has been tested successfully on other vessels as well, although some skippers still feel that there are problems that need to be resolved. The American Tunaboat Association, Porpoise Rescue Foundation and National Marine Fisheries Service (NMFS) are working closely to solve these problems.

Currently, there are 12 seiners testing the "super-apron" but results will not be available for several months.

The "super-apron" requires about 17 percent more fine mesh webbing than the gear required by the 1977 regulations. There are 30 vessels in the U.S. fleet that do not at present have webbing available to meet the 1977 regulations. All of the webbing has to be manufactured and is not commercially available except through special order. We feel all of the vessels should be equipped with the minimum amount of webbing to meet the 1977 regulations before diverting towards the "super-apron."

In addition to the fine mesh and "super-apron," there are other reasons for the success of the *Elizabeth C.J.* cruise.

The vessel was fishing in the area that has been fished before many times. The porpoise were apparently used to the experience of being in a net, so they waited quietly for the set to continue and backdown to begin. One must remember, the boats do not fish for porpoise, but fish for tuna, so when the tuna is available in the area where the porpoise may not be as experienced, higher porpoise mortality could occur.

The *Elizabeth C.J.* trip was within the Inter-American Tropical Tuna Commission Yellowfin Regulatory Area (CYRA), an area the United States fishermen are regulated from fishing in after the Yellowfin tuna conservation quota is reached. Generally they are restricted from fishing within the CYRA if their trip starts after mid-spring. They are then forced to fish "outside the regulatory area," where 95 percent of the fishing is done on porpoise, and where the porpoise may not be as experienced in the net.

Secondly, a lot of the success of the low porpoise mortality on the *Elizabeth C.J.* trip was because crewmen and scientists were diving inside the net to depths of 10–20 feet to hand release the porpoise. Although this release technique is admirable, we do not feel it is safe to order men in the water to release porpoise. National Marine Fisheries Service observers are currently given direct orders not to enter the water for safety reasons and the NMFS gear technicans are paid an extra 25 percent hazardous duty pay for each day they enter the water. Thus, until the experimental gear has been tested successfully on a large number of boats, under a variety of operating conditions, we feel it would be patently unfair to expect that all vessels in the fleet match the performance record of the *Elizabeth C.J.* we feel that the overall quota should be large enough so the fleet can experiment with a variety of gear and freely test the gear, under a variety of conditions for an entire fishing year. The Medina Panel was introduced to the U.S. fleet by Captain Harold Medina in 1971, and since that date the industry and the NMFS have gradually tested and enhanced the effectiveness of the backdown gear and procedure.

In response to your next question, in 1976 there were observers and gear technicians on 75 trips aboard commercial tuna seiners (please see attachment "A"). There were 25 trips, testing experimental porpoise release gear, and 50 trips using two-inch webbing in the Medina Panel. Analyzing the trips that carried the regular two-inch Medina Panel, it can be seen that the morality per trip ranged from 1,472 animals to zero. The number of sets on porpoise ranged from 56 to zero and the number of tons of tuna taken on porpoise ranged from 789 to zero. Many of these boats did not set on porpoise at all, while others fished exclusively on porpoise. The boats that fished outside the CYRA were forced to fish entirely on porpoise. Additionally, many of the trips that carried observers had to drop the observer off when Judge Richey closed the porpoise fishing on May 31, 1976, and again when the fishery on porpoise was closed in late October. Thus, the skippers that carried an observer for a full trip outside the line would appear to be much worse than the skippers who had the good luck of carrying an observer while fishing on school fish, inside the CYRA, early in the year, or skippers who carried an observer on a trip where the observer was returned to port.

In any sample of boats there are going to be some skippers that have a much higher total mortality than others, depending on the type of fishing the boat is doing and the area of the ocean the boat is operating in while the observer is aboard. Thus, we feel it is generally unfair to say that a few skippers are responsible for the majority of the mortality.

There are some skippers/vessels that have much larger mortality rates, i.e., mortality per ton or mortality per set, than others. The Expert Skipper's Panel has zeroed in on these vessel captains and are working intensively with them. The Expert Skipper's Panel has analyzed each trip with a high observed mortality and made recommendations to the captains and managing owners for improving gear or procedures. On all of the vessels with a high observed mortality in 1976, the nets have incorporated, at a minimum, the Fine Mesh Medina Panel and some have installed the "super-apron." Of the 1276 sets observed by government employees in 1976, 32 sets caused about 40% of the observed total mortality. It was these 32 sets that were examined by the Expert Skipper's Panel for purposes of discovering the reasons for the unusual mortality results. Based upon existing government regulations, if any vessel has a high mortality rate, the Export Skipper's Panel will be analyzing the trip and making recommendations to the skipper, the managing owner and NMFS, with regard to reducing the mortality on that vessel.

If you have any further questions, do not hesitate to contact us. Again, I regret the lengthy delay in responding to your inquries.

Sincerely,

AUGUST FELANDO,
General Manager.

ATTACHMENT A

TABLE 4.—NUMBERS OF VESSELS CAPABLE OF FISHING FOR PORPOISE SCHOOLS AND NUMBERS OF TRIPS BY SUCH VESSELS DURING 1971–76

Year	United States		Non-United States		Total	
	Vessels	Trips	Vessels	Trips	Vessels	Trips
1971	113	[1](6)554	34	166	147	720
1972	120	(13)521	40	179	160	700
1973	124	(24)507	50	214	174	721
1974	126	(41)445	50	224	176	669
1975	131	(30)438	54	230	185	668
1976	131	(74)460	62	229	193	689
Mean		488		207		694

[1] The number of trips with NMFS observers each year. In 1976, the total includes 20 trips by NMFS gear technicians.

[From the Wall Street Journal, July 21, 1977]

UNITED STATES PROPOSES TO HALVE PORPOISE-KILL QUOTA IN TUNA FISHING BY 1980

WASHINGTON.—The Commerce Department proposed to almost halve the number of porpoises that may be killed in tuna fishing operations by 1980.

The plan of the department's National Marine Fisheries Service would set a quota of porpoise kills by U.S. fishermen of 51,930 next year, 41,600 in 1979 and 31,140 in 1980. This year's limit is 59,050.

Porpoises, which often swim with schools of tuna, are killed when they become ensnared in tuna fishermen's nets. The government by law must set limits for the amount of porpoises that are killed, but tuna fishermen argue that the restrictions are severely hampering their operations.

The fisheries service announcement is the first time the agency has proposed quotas over a three-year period rather than on a year-by-year basis. The agency said the reductions in quotas will be possible as fishing gear and techniques improve.

The regulations also require that tuna boats install a "porpoise apron system" that allows the porpoise to escape.

A public hearing on the proposal will be held Aug. 22 in San Diego and later at an unspecified date in Washington.

ON GOVERNMENT SPENDING

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. QUAYLE. Mr. Speaker, for nearly 40 years the American people have been told that the solution to every problem is greater Government spending. Federal dollars have been touted as the magic elixir which will reduce poverty, end racial discrimination, wipe out unemployment and cure every form of social malaise.

Alice Rivlin, the Director of the Congressional Budget Office, recently informed the Senate that the level of Federal spending in addition to the above is also the key to economic prosperity. Dr. Rivlin testified that if outlays are less than $455 billion next year, then the economy can be expected to grow at a reduced rate.

Over the past 24 months, the Government has spent approximately $17½ billion less than anticipated. Despite its best efforts, the executive branch has consistently dispersed less than Congress has appropriated. Many economists—Dr. Rivlin apparently among them—have deplored the unanticipated savings and blamed the reduced outlays for retarding expansion. Unfortunately for those who seek simple-minded solutions, this theory is not borne out by the facts.

A recently completed study, available in my office, evaluates the effects of Government disbursements on real GNP growth during the past 7 years. One aspect of the study includes measuring the impact of overruns and shortfalls on the economy. The study suggests that there is literally no correlation between periods of lower-than-normal growth and periods of lower-than-anticipated outlays. Higher Government spending does not insure prosperity. In fact, during the last 7 years, the opposite conclusion appears to be more valid.

Historical evidence demonstrates that shortfalls are a sign of national health. Last January, the Office of Management and Budget forecast a growth rate in the neighborhood of 5 percent for calendar year 1977. The OMB also predicated that Federal expenditures would total $411 billion. Actual figures for the first half of the year indicate that gross national product rose by 7 percent and that the Federal Government has spent $4 billion less than Congress planned last spring. Despite the shortfall—or perhaps because of it—the economy has performed better than expected. During the recovery, in fact, Government spending has been nearly $20 billion below most estimates. On the other hand, the worst recession in recent years occurred between the summer of 1974 and fall, 1975. This period was marked by overruns amounting to approximately $9 billion.

In view of these recent examples, I am alarmed by Dr. Rivlin's assertions that shortfalls are detrimental to continued prosperity. Such statements reinforce the belief in ever-larger expenditures and encourage action to counteract the shortfalls with larger appropriations. Unless the Congress has a proper understanding of the economic efforts of the budget options available, fiscal policy will continue to be ineffectual and retard growth.

GROWTH IN SPENDING IS COUNTER-PRODUCTIVE

Additional spending will jeopardize our recovery by fostering higher inflation and widening the wedge between pre-tax and after-tax earnings in the private sector. This wedge is the fundamental deterrent to economic growth. It discourages work by lowering the benefits of work effort, renders investments less attractive by making them less profitable and thus prevents the full utilization of the energies and talents of the American people. Ironically, excessive spending diminishes our ability to achieve social objectives by weakening the private sector.

Instead of bemoaning the shortfalls, I believe we should "institutionalize" lower spending through permanent reductions in Federal disbursements. The ultimate result will be lower taxes, a higher standard of living, with prosperity and necessary resources to finance solutions to America's problems.

WISCONSIN FAMILIES SUPPORT HOMEOWNERSHIP BILL

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. KASTEN. Mr. Speaker, the great American dream of homeownership is beginning to fade for millions of families. With the average price of a new home at $51,600, young families in particular are being priced out of the market.

As a positive, practical approach to the problem of homeownership, I have introduced the Young Families Housing Act.

The bill would allow first-time home buyers to save for a downpayment on a home through a tax-free savings account. Homebuyers could save $2,500 a year tax-free, up to a total of $10,000. The bill also provides for graduated monthly mortgage payments.

I would like to share with my colleagues four letters I received from Wisconsin families who are struggling to save for their first homes, and who support the Young Families Housing Act.

Mr. and Mrs. Craig Cerasoli of Milwaukee speak for millions of young families:

Our dream has always been a home of our own someday, but that dream is slowly fading.

The American dream of homeownership is clearly expressed in each of the following letters, which I call to the attention of my colleagues:

JUNE 22, 1977.

DEAR MR. KASTEN: We heard about your proposed bill, Family Housing Act on Channel 6, Carl Zimmerman's editorial.

We just want to let you know we are for it and hope it passes or that something can be done for young couples just starting out. It really surprises us that no one else has thought of this. Maybe because those in office already are lucky enough to have a home. Everyone of us has bills and has to cope with the high cost of things now but for those of us who are still renting it's so very hard to save for a home.

We really do appreciate your concern in this matter and hope and pray something will be done to help anyone out no matter how old, to get a home. Right now my husband and myself would settle for an old shack just so we could call it our own and we'd fix it up ourselves.

We have signatures on the attached notebook paper and they all know what they were signing for. I just decided it would be better to type this letter up formally.

There are many more people who are for this bill who either don't have the time or take the time to write you but believe me there are.

Thank you again and good luck—we are all behind you.

Sincerely,

BOB and SUE LACKOVIC.

MENOMINEE FALLS, WIS.

JUNE 16, 1977.

Congressman ROBERT KASTEN: My husband and I saw your editorial on TV-6 last night and are all in favor. We are in our early 20's, both working and have a fairly good savings account. But, we still can't afford the down payment required for a starter home. We are tired of the rent money going down the drain. We can afford mortgage payments, but it doesn't do any good if you can't meet the down payment. You have us on your side. Thanks.

PAM AND JOHN BRAUKMAN III.

NEW BERLIN, WIS.

JUNE 20, 1977.

DEAR CONGRESSMAN KASTEN: The other night my husband and I were watching the TV-6 news. Carl Zimmerman had given an editorial about your giving approval of a bill on housing for first time buying. Mr. Zimmerman had said to write to you so here is our letter.

My husband and I are both in our mid-twentys. Both of us have tried to save for a house for five years and we still haven't reached a sufficient down payment for a

house. Although we can go through a State Veteran loan we still can't afford the high house payments of today.

We both agree as you have said today's home prices are pricing young people right out of the market. Our dream has always been a home of our own someday but that dream is slowly fading.

We are glad that you understand the problems of today's home buyers and hope that you will be able to get this bill passed.

If there is more information on this bill we would appreciate if you would send it to us.

Thank you.

Mr. and Mrs. CRAIG CERASOLI.

SOUTH MILWAUKEE, WIS.

JUNE 16, 1976.

DEAR CONGRESSMAN BOB KASTEN: This letter is to let you know that my wife and I fully support your efforts regarding legislation helping young couples buy their first house.

My wife and I have been married for two years. During this time, we have been trying to save money for a house, and also make our monthly rental payments for our apartment.—However we get the feeling we are losing ground to the ever rising costs of houses.

We are also expecting our first child in September. Buying a house is our American dream. If you can help us attain our dream we would be grateful.

Mr. and Mrs. RONALD L. SCHAFER.

WEST BEND, WIS.

SOCIALIST WORKERS PARTY'S SPIES ON CLAMSHELL ALLIANCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. McDONALD. Mr. Speaker, the Socialist Workers Party, a Trotskyite-Communist group, has had a long history of spying on their Marxist-Leninist rivals. When they participate in coalitions they, nevertheless, make reports on those individuals and groups that collaborate with them. The Trotskyites call their spying on rival Marxist-Leninists and their report writing on coalition partners, "an intervention."

The SWP "members only" publication Discussion Bulletin, July 1977, No. 12, contained an interesting informant's report by an SWP member, who had penerated the antinuclear Luddites, who call themselves the Clamshell Alliance. The report contains much interesting information that would be of value to my colleagues in understanding the activities of those who feel that it is their right to invade and take over facilities that do not belong to them. The modern Luddites like their predecessors of centuries ago advocate stopping progress by smashing the machines.

The Socialist Workers Party supports the Clamshell Alliance. The report prepared by Gary Cohen of the Cambridge branch, Boston local of the Socialist Workers Party identified the main group within Clamshell as the American Friends service committee. According to the report, while Clamshell is in sympathy with those groups that use "legal, legislative lobbying and other similar techniques" their method of operation is "direct action" which includes taking over nuclear sites.

The report on Clamshell Alliance follows:

NO NUKES IS GOOD NEWS (OR DIGGING CLAMS)

(By Gary Cohen)

I will not in this contribution attempt to deal with the scientific aspects or more general political aspects of nuclear power. That has been dealt with quite adequately in Discussion Bulletin Vol. 35, No. 7 by Baumann, Murphy, and Weissberg, and I am in agreement with their conclusions. I would like to concentrate on the nature and activities of the Clamshell Alliance and the Boston local's role in relation to those activities.

The mass occupation of Seabrook on April 30 of this year had a major impact on the consciousness of large numbers of people throughout this country, regarding the question of nuclear power. This action in part was motivated by mass actions that have been taking place in other parts of the world, especially in Western Europe, directed at nuclear power plants. The question of nuclear power tied in to the whole energy question (the so-called "energy crisis" etc.) is becoming more of a concern to more and more people. However, at this time I feel that the vast majority of Americans don't really understand what is at stake, and the Clamshell Alliance and other groups like it that are now and will undoubtedly be springing up in various parts of the country will be playing a vital role in getting the message across—that is, in essence, corporation profits before human needs is behind the building of nukes.

WHAT IS THE CLAMSHELL ALLIANCE?

The battle against the Seabrook plant has been going on for 7 years. Various legal actions were undertaken in an attempt to prevent construction at Seabrook. In July of 1976 a group of people who were involved decided that legal actions alone were not sufficient to produce a victory. It was determined that direct, nonviolent action would be the most effective orientation rather than solely relying on legal and legislative processes. At first it was only New Hampshire people who were involved, but they were able to reach out to other people throughout New England and involved them in a couple of small occupations and a petitioning campaign against the Seabrook plant. The American Friends Service Committee played an important role in this process. A small number of people from the Boston area (13 at the outset) got involved and formed a Boston Clamshell group. After the Seabrook occupation the regular weekly unpublicized business meetings were attended by approximately 150 to 200 people.

The major factor which sets Clamshell (whose members refer to themselves as "Clams") apart from other environmental groups is that they are founded on the premise that direct action is the route to follow. They are in sympathy with groups that use legal, legislative lobbying and other similar techniques, but feel that the efficacy of these groups is limited. Clamshell is the only sizable group that I know of in this country that has this orientation and as such it is the cutting edge, the vanguard, of the environmental struggle in this country.

Boston Clamshell has discussed and rejected and orientation toward legal or judicial tactics (for itself, not other groups). It has also rejected an orientation toward broadening its scope to include nuclear arms and export of nuclear technology, and will continue to focus its attention on nuclear power plants. This discussion was reminiscent of the "multi-issue" vs. "single issue" debates in the antiwar movement with the difference being practically unanimous support for the single focus.

Clamshell Alliance is a New England-wide organization consisting of some 40 local groups. It maintains contact with numerous environmental groups throughout New England and groups similar to Clamshell that have begun forming in other parts of the country.

STRUCTURE OF CLAMSHELL

Figuring out the structure and operating mechanisms of Clamshell sometimes feels like trying to grasp a shadow, but I think I can produce a Lamont Cranston. There is a central coordinating committee which has representatives from all the Clamshell groups in New England which meets every 2 weeks in Portsmouth, New Hampshire, the location of the Clamshell headquarters. The committee makes proposals for New England-wide activities. There are no elected officers of the organization, to my knowledge. The staff people in Portsmouth are volunteers, as are the staff people in Boston. There is a degree of autonomy on the part of the local Clam groups, but I have not yet quite figured out what the delimitations are.

Boston area Clam has recently split into 2 groups—Boston and Cambridge, with one central coordinating committee for both. Boston area Clam is the only group I have direct knowledge of, but I assume it functions in the same way as other Clam groups. The 2 staff people are volunteers who work out of the Clam office in the AFSC headquarters, and they are there on a permanent basis. There are no elected officers anywhere in Clamshell that I have been able to discern. Reps. to the Portsmouth coordinating meetings, reps. to the local coordinating meetings, chairpeople for the Clam meetings who prepare the agenda, are all volunteers who perform on a 4 to 6 weeks rotating basis. All decisions are made on a consensus basis, but nonbinding votes are taken which in essence put pressure on the minority, if it is small, to rethink its position. All heads of committees and task forces are volunteers and these various groups meet on a regular basis. Believe it or not, Clamshell functions relately efficiency and democratically so far, but there is an inherent tendency for power to accrue in the hands of a few key people. Contradictions between present structure and democratic, efficient functioning will probably manifest themselves in the near future but it is not a real problem at the present time.

COMPOSITION OF CLAMSHELL—WHO ARE THE CLAMS?

The composition of Clamshell still represents a fairly narrow social stata. Claims are mostly in their early and mid-twenties, practically all white, a lot of ex-students and young professionals, a number of students, a handful of older pacifist types. To me it is reminiscent of the early days of the antiwar movement. The active people in Clam are dedicated, hard-working, talented, serious, and very open to radical ideas. There is no discernible antitechnology current present; as a matter of fact, many Clams are active in the natural sciences. There is a certain countercultural element present but it is by no means a major thrust of the group.

People in Clamshell are very concerned about the narrowness of their base and there are constant discussions about the need for outreach and basebroadening to include workers, Blacks, Hispanics, etc.

The only organized tendency other than the SWP (and the AFSC) openly functioning in Clamshell is YAWF. The total extent so far of their activity is to have one person attend the meetings and hand out free copies of *Workers World*.

CLAMSHELL ACTIVITIES SINCE SEABROOK

In conjunction with the mass occupation of Seabrook, the following day a mass rally was held at Hampton Falls which is adjacent

to Seabrook, which attracted over 1,300 people. This is of course in addition to the over 1,600 who participated in the occupation itself.

The following Saturday a rally in support of the occupiers was held at the State House in Concord which was attended by over 300 people. On May 15, a rally was held in Copley Square in Boston at which Barry Commoner spoke, and which was attended by about 350 people. Lee Artz did an interview with Commoner at the rally which appeared in a subsequent issue of the *Militant*. Diane Jacobs, SWP City Council candidate, gave greetings to the rally.

During the week preceding the final EPA decision to give the green light to Seabrook, it was reported in the press that the decision would be final on Friday, June 17, and it was apparent what that decision would be. An SWPer proposed at the Clam meeting that week that there should be a response to that decision in the form of a picket line at the regional EPA office, and a mass rally. Everyone agreed, and that Friday when the decision was announced, about 40 people showed up to picket the EPA office, and 10 days later a rally of some 400 people was held to protest that decision. Greetings to the rally from Hattie McCutcheon and Diane Jacobs, SWP candidates for Boston School Committee and City Council, were read and warmly accepted by the gathering.

In addition to the main focus on Seabrook, some attention has been given to the proposed building of Pilgrim 2 nuclear power plant in Plymouth. Pilgrim 1 is already in operation. Leafleting by Boston Clams has been going on in the Plymouth area to educate the populace of the danger of nuclear power. No occupation has been discussed for Plymouth for a few reasons:

1. The plans for Pilgrim 2 are not as far along as Seabrook, and therefore it is not as crucial.

2. The people of Plymouth in their majority support the power plant in contradistinction to Seabrook.

3. There is a legally oriented anti-nuke group which exists in the Plymouth area, which is opposed to any occupation-type activities at this time.

4. Some people are afraid of nuclear hazards in doing an occupation in the vicinity of Pilgrim 1.

In addition to political activites, Clamshell has had a couple of large benefit concerts including one by Pete Seeger which have netted them large sums of money. They seem to be doing well financially and there are a number of people who are willing to offer financial support; that will probably increase if they get tax-exempt status, which they are seeking.

BOSTON LOCAL'S ROLE CLAMSHELL

The Boston SWP local did not get involved in Clamshell until a few weeks after Seabrook. My personal feeling was that we should have gotten involved earlier, before Seabrook, but there was some delay. Despite that minor reservation, I think we are in on the ground floor and this is manifested by the impact of our ideas in the short time in which we have been involved. If there are groups or activities in other parts of the country similar to that of Clamshell, I feel very strongly that we should get involved. Based on what has happened in Western Europe, I think we are seeing in this country the rise of a new mass movement, one which we can fully support, build, and give direction to.

PARTY'S GOALS IN ANTI-NUKE MOVEMENT

There are 3 general goals that we should seek to achieve in this struggle against nuclear power. Firstly, the dissemination of socialist propaganda, mainly sales of the Militant and the Young Socialist and also the Intercontinental Press and any pamphlets that will be coming out on this question. The coverage so far has been exemplary. Secondly, we seek to put forward our political orientation to aid in the development of a genuine mass movement, i.e., posing a mass action strategy. We have had tremendous success so far in advancing the aforementioned goals. Last but certainly not least is recruitment. This is a vital aspect of our involvement, but one which will take more time before we can report tangible results of some magnitude.

I have been in the party for a good many years. I have sold Militants in the civil rights movement, the antiwar movement, etc., but never in my entire experience have I ever had a better reception to the Militant than from antinuke people. I mean never under any circumstances, time, place, political struggle, etc., have I ever had such a positive response to the Militant. Let me enlighten you with some details.

April 30, 1977—the day of the occupation. Two comrades went up from Boston early in the morning to sell. We found that we were unable to sell where they were gathering to prepare for the occupation, due to the fact that it was on private property and the owner had stipulated no sales of any publication. The Guardian was there and was told the same thing. The people who informed us of this fact were very friendly and bought three Militants as we were leaving. We were told to return later in the day and sell at the entrance to Seabrook as occupiers were going in. Unfortunately, we got lost coming back and missed the entire group going in. We did not want to get arrested so we did not go onto the site. However, there were a few stragglers and some supporters hanging around the entrance (approximately 100 people to whom we sold over 40 Militants in less than an hour. If only we hadn't gotten lost! I was told by a Guardian supporter that they had 4 people with Guardians on the site. In the morning I saw stacks of about 500 Guardians.

The next day the mass rally of 1,300 took place and comrades sold there with good results. There were a number of opponents selling their press also.

A week later at the rally in Concord, 2 comrades sold over 50 Militants to a crowd of over 300 in about 1½ hours. We were the only ones selling our press and the reception was extremely warm. The following week we sold at the Copley Square rally in Boston and got another good response.

No comrades were able to attend the picket line on the day of the EPA decision, but at the rally 10 days later we not only sold Militants but sold 3 or 4 subscriptions. Also our members in Clamshell sell regularly at the business meetings with good results. The Militant coverage of the anti-nuke movement is of tremendous help in motivating Militant sales.

I think the YSA has an important role to play in the anti-nuke movement, especially come fall; and YS sales are important at Clamshell activities. YS sales have not been consistent and will be improving I am sure. The coverage in the YS has also been exemplary. The party is working together with the YSA and we have a joint fraction.

POLITICAL ORIENTATION—MASS ACTION

The major thrust of our political intervention is to pose a mass action perspective as being the most effective way to win the struggle against the nukes. We have been amazingly successful in winning people to this perspective. As a matter of fact, our general perspective for the upcoming period has been adopted by consensus in both Boston and Cambridge Clamshell. This does not mean that everyone agrees with our mass action perspective, however. Some of the hard-core civil disobedience types just went along because they were in a minority and didn't want to block consensus, but they are long-term members of Clamshell (the majority of members are relatively new) and have prestige and hold key positions as regards implementation of the proposals.

The approach we used was not directly counterpose mass action to civil disobedience. In my opinion we were not opposed to civil disobedience (CD) per se but see it as a tactical question. What we are opposed to is a strategy of civil disobedience (CD), just as we are not opposed to guerrilla warfare as a tactic when appropriate, but oppose a guerrillaist strategy. The reason we are opposed to a CD strategy is that rather than broadening the base of the movement it tends to limit and narrow the base and is counterproductive to the building of a mass movement. We have participated in CD actions in the civil rights movement (sit-ins, etc.) and in the antiwar movement (march on the Pentagon which included aspects of CD) but we viewed these actions as tactical adjuncts to the main thrust of the movement—mass action.

Our attitude toward the Seabrook occupation is that we supported it, especially its massive character and the mass rallies that were held in conjunction with the occupation. However, now that the occupation had made many people aware of the issue of nuclear power, we must embark on a course of mass action designed to educate and involve a broad spectrum of the population—workers, Blacks, Hispanics, trade unionists, etc., as well as college students and young white professionals. This approach has struck a responsive chord in the minds of most of the Clams, especially the newer members.

We explained that although people are now generally aware that nuclear power is an issue, the vast majority do not understand what it means to them, and must be educated and then involved in the movement. To accomplish this we need to draw upon the lessons of the antiwar movement, i.e., having teach-ins, protest actions like picket lines, speakers at Black organizations and at union meetings, and mass marches and rallies. Leafleting to build these actions would constitute an effective form of education for many people. The mass actions of a legal character will not constitute a barrier for many people who are concerned but are afraid to get involved for fear of arrest or confrontations, as CD does.

We did not directly counterpose mass action to CD because most people do not see CD as a strategy but merely as a tactic to be used under certain circumstances. We identified with the strongest sentiment for broadening the base by proposing a mass action strategy, leaving the question of another mass occupation of Seabrook for the future. We did not oppose small CD actions per se in Boston, which were suggested by some people, but cautioned against the possibility of utilizing so much energy on CD that the mass action orientation would be undermined, meaning failure to broaden the base of Clamshell.

Clamshell Alliance was founded on the premise that it would be a "direct action" organization. The meaning attributed to that term by the original members was essentially a CD strategy. We have in the course of discussion of strategy for Clamshell redefined the term "direct action," a redefinition accepted by the majority of Clams. (Just a reminder that this contribution is dealing with Boston-area Clamshell and not New England Clamshell.) We explained that direct action includes a lot of activities besides CD. Direct action means taking our destiny in our own hands and not relying on the legislature, the courts, the Carter administration, the EPA, etc., to guarantee our rights and safety. Direct action means picket lines, teach-ins, leafleting, and mass marches and rallies which will involve thousands, hundreds of thousands, or ultimately even millions of people struggling to take control of their own lives.

The acceptance of our redefinition was

reflected in a series of proposals adopted by consensus by Boston and Cambridge Clamshell.

The proposals were in essence as follows:

1. An educational leafleting campaign around Boston and Plymouth areas focusing on Seabrook and Pilgrim 2 over the summer.

2. Support for activities against nuclear arms on August 6–9, Hiroshima and Nagasaki Days, sponsored by Mobilization for Survival, an anti-nuclear-arms group founded by Sid Lens, Sid Peck, and others of that ilk. Clamshell would take no organizational responsibility for these activities.

3. Formation of an investigative task force to gather information on nuclear-related financial institutions in Boston. Actions will be determined by the nature of the findings. (There will be some people pushing for CD actions in the banks, but that debate has not yet taken place.)

4. In late September after schools open, a broad spectrum press conference (reps. from unions, Black and Hispanic communities, scientists, etc.) would announce a teach-in on nuclear power for a Friday night followed by a Saturday mass march and rally in Boston.

5. All the above activities would build up to a New England-wide regional rally and/or march and rally at Seabrook of a legal character in late October.

6. In addition Clamshell should, in the form of a probe, contact groups throughout the country to get some feedback on the feasibility of organizing a nationwide mass march and rally in Washington, D.C., and San Francisco some time next year, possibly in the fall, preceded by a national conference.

Sounds fantastic, doesn't it? There are, however, some big questions. Because of the loose organizational structure of Clamshell these decisions don't mean anything until they are implemented. A vote one week may be overturned the next. There are still some people who want an occupation of Seabrook this fall and might raise it again. There are some people in key positions who are opposed to the mass action perspective and could possibly prevent its implementation. Another question is the response of New England Clam to the proposal for a mass legal action at Seabrook in October. That decision will probably not be made until late August, when there will be a New England-wide Clam congress.

What we have definitely accomplished is to orient the consciousness of most Boston-area Clamshell members in the direction of mass action. All of our proposals have been receiving overwhelming support. Hopefully, tangible results will follow. A new development that has just occurred and probably reflects our influence is the appearance of red-baiting.

An individual member of Cambridge Clamshell wrote up and distributed a proposal which criticized the supposed degeneration of Clamshell and included within it the statement that this sad state of affairs was reflected by the fact that "the Trotskyites were trying to take over the Action Committee for example." The Action Committee, made up of approximately 8 to 12 people, brings in proposals for action to Clamshell meetings. The individual who made the proposal was directly approached and apologized profusely for his red-baiting. He is not on the Action Committee and stated he received his information second-hand but did not divulge its source. We have not yet determined how we will deal concretely with this situation but this is the first instance of any manifested hostility to the SWP despite the fact that we have been quite open in our participation.

One other orientation was proposed for this fall; that was a referendum. There was little support for the idea and much confusion about Clamshell participating in the electoral arena. There was little discussion on the question and from a purely practical point of view it was really not feasible and we did not participate in the discussion.

RECRUITMENT

Obviously a vital element in any mass work that we do is recruitment of activists to the party. First and foremost in our minds at all times is the necessity to build the revolutionary party. We can introduce activists in the anti-nuke movement to our ideas through our press which we should not be afraid to push audaciously. We attempt wherever possible to have SWP speakers, especially candidates, at anti-nuke rallies. We must establish personal relations with those activitists who are friendly to our ideas and invite them for dinner, out for a drink after meetings, or wherever it is possible to engage in informal political discussion. It is important to have forums on nuclear power. The Fenway branch had a forum with a Clamshell spokesperson before Seabrook, and this week Cambridge is having a forum with a Clam spokesperson. We publicize our events at Clamshell meetings and there is no objection to our doing so. Holding forums and classes on the socialist view of nuclear power (which we plan to do in the near future) is a good way to attract the activists to us. It would be very helpful if a pamphlet were published presenting the socialist view of nuclear power.

CONCLUSION

Our brief involvement in the anti-nuke movement here in Boston has been a rich and rewarding experience. We have had a significant impact on the movement and vice versa. We have reached a large number of talented, dedicated, and radicalizing young people with revolutionally-socialist ideas. These people are open to our views; they are not sectarians, ultralefts, or counter-cultural, antitechnology nuts. The movement has a basically anticapitalist thrust as can be seen from the 2 Appendices attached to this contribution.

This fall when the campuses open, the YSA can play an important role in building Clamshell groups on their respective campuses. YSAs throughout the country should seek out any Clamshell-type groups and try to build them on their campuses. The party should seek out any anti-nuke groups in their areas and work with them, and help them to develop a mass action perspective. Union fractions should try to arrange anti-nuke talks or debates with pro-nuke people at their union meetings.

I believe we are seeing the beginning of a burgeoning mass movement. We have an important opportunity to be in on the ground floor and have a significant impact on its political direction. Our opponents do not seem to be taking this movement seriously for the most part, or else are opposed to it. We should make a firm commitment to supporting the anti-nuke movement, to continue to publicize the issues and activities through our press and election campaigns, and to recruit the best activists to the SWP. Social workers unit! We have nothing to lose but our chain reactions. Human needs before profits—no nukes!

CARTER GIFT TO MARITIME LOBBY

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. STOCKMAN. Mr. Speaker, the President of the United States, while on his long trek toward the White House, was represented as a Washington "outsider", untainted by special interests. After only 6 months in Washington, however, those special interests which rode unnoticed in Mr. Carter's entourage are beginning to emerge, asking their reward for campaign contributions—and Mr. Carter is delivering with alarming frequency.

This weekend, the President announced plans for cargo preferences for U.S. tankers on shipments of foreign oil. He seeks by fiat to triple the volume of oil business for the maritime lobby, perhaps America's least cost-competitive industry. Even if this proposal had no cost implications, such blatant protectionism, in violation of international treaties—not to mention specific campaign promises—is an alarming move. But the bottom line is the vast windwall that the maritime lobby will reap for its modest $100,000 investment in Mr. Carter's campaign. The cost of this effective subsidy of high-priced shipping will add significantly to our already bloated foreign energy bill. The President's own Secretary of the Treasury, and his Under Secretary of State were apparently unsuccessful in discouraging Mr. Carter from rewarding a major contributor in such an expensive fashion.

Mr. Speaker, I commend to the attention of the House the following editorial from the pages of yesterday's Washington Post, one of America's most distinguished newspapers. I congratulate the Post on its timely analysis of the President's proposal:

[From the Washington Post, August 2, 1977]

THE MARITIME LOBBY'S TRIUMPH

The maritime lobby, with its money bags, has scored a great political triumph. The costs will be borne over coming years by everyone who buys oil products. It's another defeat for the enlightened trade policy that President Carter keeps proclaiming but never quite manages to put into practice.

The maritime interests—ship builders, ship operators and unions together—already enjoy more different kinds of subsidy than any other American industry. Despite this torrent of aid, they have worked their freight rates up so high that nobody uses American-flag shipping unless the law requires it. The maritime lobby has now obtained President Carter's misguided support for its perennial bill to force part of this country's oil imports into those American-flag tankers. The proportion of imports affected will be small at first, but it will rise steadily.

It's called a cargo preference bill, and it is 200-proof protectionism. It would violate American treaties with other nations. It would be inflationary. It would add still another layer of subsidy, this time paid directly by consumers in the form of higher oil prices. As national policy, it's got absolutely nothing going for it but the lobbying muscle and the extensive campaign contributions of the people who wanted it. But that turned out to be enough to get the President's support.

Mr. Carter's whole trade policy is rapidly deteriorating. He keeps talking in terms of the most high-minded commitments to open trade and international competition but, unfortunately, the actual record points the other way. There have been three major cases so far, and three times the administration has caved in to the protectionists.

In the case of the color television sets from Japan, Mr. Carter resorted to an Orderly Marketing Agreement. That term is a euphemism for an agreement by the exporting country to limit shipments. In the shoe case, the administration imposed another couple

of Orderly Marketing Agreements on Korea and Taiwan. They will save some jobs in American shoe factories; they will also cost some jobs in American retail stores as well as increase prices to American consumers. But at least an Orderly Marketing Agreement is limited in duration and is a legal procedure under the general trade rules that this country has bound itself to. The cargo preference bill is neither.

It's a strange performance for an administration that foresaw trade troubles and staffed itself with people to meet them constructively. Those people, led by Treasury Secretary Michael Blumenthal and Under secretary of State Richard Cooper, have been walloped in each successive test. The President has been mainly following the advice of Robert S. Strauss, currently his special trade representative and formerly chairman of the Democratic Party. Like most party managers, Mr. Strauss thinks in terms of constituencies and grievances: a factory here, a union there. He apparently does not work in terms of broader concerns, like consumer interests in general, or American productivity, or the future of the highly competitive American industries whose overseas markets are now threatened by foreign retaliation.

If Mr. Carter will not resist protectionist pressure, he cannot expect the fragile governments of Western Europe to do better. He may get heat from aggrieved unions—but unlike, for example, the president of France, he does not face an election next year that might bring the Communists to power. In May, at the London summit conference, Mr. Carter joined in a pledge to support firmly the principle of open trade and a growing world economy. The people who heard him must wonder what he had in mind when they now read the cargo preference bill that he has promised to support.

HELSINKI'S UNFULFILLED PROMISE

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. McHUGH. Mr. Speaker, when the Helsinki Final Act was signed, hopes were raised that families separated by political boundaries would finally be reunited. However, this goal has not been achieved, largely because of the failure of the U.S.S.R. to live up to its written pledge.

That is why we must continue to speak out for the 200,000 Jews who have applied for permission to emigrate from the U.S.S.R. as well as for those whose fear of reprisal has prevented them from requesting permission to emigrate.

If we allow ourselves to be caught up in our daily routines and fail to voice our opposition to this continuing repression, then whom can we expect to defend the cause of human rights?

Human rights is not simply an internal political question, as Soviet leaders would have us believe. We have a right to expect the U.S.S.R. to honor those basic human liberties spelled out in the Helsinki agreement and the Universal Declaration of Human Rights, to both of which it is a signatory.

I have spoken of 200,000 Jews who seek permission to emigrate. I ask my colleagues to consider the case of one, Roman Lazarevich Bernshtein. Roman is a 38-year-old mechanical engineer, presently living with his wife, Ludmilla, and 6-year-old daughter, Marina, in Moscow.

In 1969 he was recalled by the army for 2 years of service as an engineer, service which he completed in 1971. Four years later, in 1975, he applied for a visa to emigrate from the U.S.S.R. His request was denied on the ground that Roman had not completed a 5-year waiting period necessary after a military discharge.

A year later, when the 5-year waiting period had expired, Roman applied for a visa once again, and once again he was refused. The explanation given to him this time was that he had to wait a full year from the date of his previous refusal in order to apply for a visa.

Clearly, Soviet officials were intent on placing stumbling blocks in Roman's way, stumbling blocks designed to prevent his reunion with his mother.

Sarah Bernshtein, Roman's 73-old-mother, has been in Israel for a little more than 2 years. Since her arrival there, she has sought to help her only son leave the U.S.S.R. so that he might be able to join her in Israel. In an anxious plea, she writes to us:

As a 73-old mother, all alone, and with a heart ailment, my suffering is beyond endurance. My son's family in Moscow is beset with great suffering because of his wife's elderly and sick parents, and because my son is anxious over his lonely mother in Israel who needs his help and care. He always displayed a deep sensitivity, love, and concern for me.

On my knees, I beg you to help me in my agonizing torments. Please, please, help me! Help me to regain my dearly beloved son *while I am still alive*—the son whom I alone raised and cared for since he was three years old, because his father died in World War II at Stalingrad.

If at any time you underwent great suffering, you will understand me!

If you have a mother, you will understand me!

If you have children dear to you, you will understand me—and you will comfort an old gray mother.

Please do everything possible within your power. Over the great distance between Israel and America, please listen to my call for help.

Separated and alone, Sarah Bernshtein waits, and we wait with her. Clearly, the suffering and anguish caused to Roman Bernshtein, his family, and so many other Soviet Jews is intolerable to all those committed to the cause of human rights.

As Members of Congress and citizens of the United States, we cannot force the U.S.S.R. to free Roman nor any other Soviet Jew. However, we can attempt, through a vigil such as this, to remind the U.S.S.R. of its obligations, not only to the Helsinki Final Act but to the far more important cause of decency and humaneness.

THE SOUTH KOREAN PROBE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for August 3, 1977, into the CONGRESSIONAL RECORD:

THE SOUTH KOREAN PROBE

Can Leon Jaworski, one of the heroes of Watergate, get the troubled investigation of alleged South Korean influence-buying on Capitol Hill back on track?

The presence of the former Watergate Special Prosecutor should help restore credibility to the troubled probe. Since doubts have been raised about Congress' ability to press ahead in areas which could prove embarrassing to some of its own members, his appointment solves, at least temporarily, the problem of public skepticism about the investigation. It is essential, of course, that Mr. Jaworski be able to work from a charter of indepedence with full authority to investigate any wrongdoing, to present any evidence concerning it, to hire, organize and direct the staff and to make such public statements as he deems appropriate.

The road to a complete investigation is not without obstacles. Mr. Jaworski has been assured by the House Ethics Committee of full and complete independence to conduct the inquiry but the recent change of staff leadership could slow the pace of things at least temporarily. Moreover, it will be difficult for the new prosecutor to win the sort of praise he received as the skilled, judicious and determinedly independent Watergate advocate. At 71 years of age, however, Mr. Jaworski has little to gain and much to lose if the investigation falls through. My guess is that the country will be able to count on his very best effort.

Another factor makes the new prosecutor's job a tough one. Unlike the actions of the Watergate criminals, lapses in the ethical conduct of members of Congress are not necessarily criminal Thus, Mr. Jaworski will be forced to make judgments concerning acceptable standards of behavior for public officials and how departures from those standards should be dealt with. It is Attorney General Griffin Bell, however, who has the ultimate responsibility for criminal prosecutions. Mr. Bell has already announced that investigations are about 80% complete and that we can expect indictments in the near future of a few members of Congress. I am hopeful that both the congressional and the executive investigations will proceed quickly. The chips should be allowed to fall wherever they may.

The problems of the Ethics Committee itself should not be overlooked. Key witnesses, like Tongsun Park, are unavailable. Even though the Committee has delegated independence to Mr. Jaworski to find facts and to submit recommendations based on the evidence, the Committee cannot delegate the ultimate power to judge fellow members of the Congress. Members of the Committee must judge difficult cases involving colleagues, not just the obvious cases of cash payoffs in exchange for favors, but more subtle ones involving degrees of contacts, favors, and influence buying. Extraordinarily difficult judgments will have to be made about the propriety of human behavior in a political world.

The Ethics Committee must remove all doubt of its ability to go after the wrongdoers. Their party affiliation or status in the Congress should make no difference. Only a wide-ranging, non-partisan inquiry will preserve the integrity of the Congress. I am encouraged by the events of recent days and I will continue to support the vigorous prosecution of the investigation

Some critics of the South Korean probe have demanded the appointment of a special prosecutor. In my view that would be a mistake. A special prosecutor would be taking over the Justice Department's investigation and there is no evidence, or even charge, that the Department's investigation is foundering. In addition, a special prosecutor cannot take over Congress' job to investigate, pub-

licize and discipline the conduct of members that may not be criminal but does violate the code of ethics and abuse the public trust. A special prosecutor could determine whether any criminal offenses have occurred, but he could not go into the questions of potential impropriety which go beyond determining whether indictable offenses have occurred. Only the House of Representatives can do that disagreeable work. If the investigation, however, should founder it may become necessary to appoint a special prosecutor at a later date.

The South Korean scandal is one of the most serious matters ever to face the Congress. The integrity of Congress rides on its thorough and fair investigation. I am prepared, as are most members of Congress, to see the House of Representatives assumes its responsibility directly and openly without hiding facts or dodging consequences.

"THE SLOW, HARD FIGHT TO CONTROL STRIP MINING"—A TRIBUTE TO LOUISE DUNLAP'S HEROIC EFFORTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. OTTINGER. Mr. Speaker, this morning a very heartening event is occurring at the White House. President Carter is signing the strip mine legislation which has for so many years been snaking its way through the legislative process.

That significant event symbolizes the culmination of many long years of hard work by concerned citizens all around the country. People who care about our lands and waters joined with those whose lands were in jeopardy, with people who care about health—of miners and of all our citizens—and with people who care about the society in which we live. All the diverse reasons for why there should be protection against ravishing of the earth, or protection of people have helped.

Last evening I had the privilege of joining with some of those people to celebrate, at a boathouse overlooking the Potomac. People from Appalachia, from the far West, from the Northern Plains, from the Northeast joined with their Washington friends. Now, those people are at the White House where, after so many years they all deserve to be.

No one worked harder or more effectively to bring about passage of the Surface Mining Control and Reclamation Act of 1977 than Louise Dunlap, who lead the fight as head of the Environmental Policy Center.

This morning's Washington Post carries a delightful article by Coleman McCarthy about Louise's successful efforts, which I commend to the attention of my colleagues:

COLMAN MCCARTHY—THE SLOW, HARD FIGHT AGAINST STRIP MINING

As the President signs the strip-mine bill today, he completes a process begun 37 years ago by Rep. Everett Dirksen. In 1940, the downstate Illinois congressman, a booster of both the marigolds of his district and the virid hills on which they grew, introduced a bill to control the plundering strip miners. The bill went nowhere.

Thirty-seven years may seem glacial for even the inert ways of Congress, but along the way it often appeared as if nothing would ease the raw destruction inflicted upon the land. In the last six years, when the debate became intense, the coal industry might not have been cumbered at all if it hadn't been for the determination of a skilled and passionate environmentalist, Louise Dunlap. She did not work alone, but more than anyone in Washington since 1971 Dunlap persistently did the researching, cajoling and inspiring that eventually brought the bill to the White House for today's signing.

Although the quality of the law's enforcement has still to be judged, Dunlap's accomplishment is worth noticing—first, for what it says about the techniques of lobbying for environmental causes and, second, for its illustration that in political Washington idealism and compromise need not be opposites.

Washington environmentalists are often pictured as low-paid romantics working 20-hour days in rat-hole offices papered by "Down With Capitalism" posters. Dunlap's current salary is in the mid-20s, her office is tidy, she is romantic only about her husband and her garden and she has not disowned the capitalism taught at home by her father, a Republican businessman.

Dunlap's commitment began in 1971, when she co-founded the Environmental Policy Center, a small but respected group with two alumni now serving as senior officials in the Carter administration. Six years ago, a few in Congress were talking about a ban on strip mining. However logical and reasonable that was—overwhelmingly, the nation's recoverable coal reserves are in deep mines—a ban was immeditaely portrayed by the industry as anti-energy. With the goal of getting the strongest bill possible, Dunlap visited the coalfields of Appalachia, the Midwest and the Great Plains, learning from individual citizens and citizens' groups. Returning to Washington, she found that lobbying was simplified because it was not her personal feelings she was presenting but those of people being victimized in tragic ways by strip mining. In the current bill, for example, provisions call for controls against blasting the earth to expose the coal seams. This idea came from citizens who had boulders and rocks crash into their homes, or family cemeteries unearthed, or their peace of mind shattered by the constant noise.

In some years, strip-mine bills cleared the Senate but not the House. Other times, subcommittees and committees reported bills but the House Rules Committee blocked them. Gerald Ford, accepting incorrect data from the coal industry, vetoed the bill twice. Amid the stalls and defeats, much of Dunlap's work was, first, persuading one congressman or another to stay with the issue and, second, always having facts available to either support or oppose each of the 800 amendments offered to the bill since 1971. It meant containing her anger when a West Virginia congressman said that strip mining was actually a blessing because it exposed wildlife to the sunshine after the trees were bulldozed away. It meant finding an Irish Catholic bishop to phone an Irish Catholic member of the Rules Committee to persuade him to stop blocking the bill.

Throughout the debate, Dunlap was aware of the immense power of the energy lobby to get its case heard. It had not only easy access to individual politicians and Interior Department officials; it had unlimited funds for ad campaigns as well. When the energy lobby saw that a strip-mine law would be inevitable if Jimmy Carter became President, it took the line that the bad days of reckless stripping were over but that new methods of reclamation not only restored the land but even improved it. The true guardians of the Lord's earth, if only the obtuse public would believe the ads, were the strip miners.

Even with the bill passed, a current ad campaign of the Mobil Oil Corporation persists in repeating the industry's rejected arguments. It warns against "the impediments being thrown in the way of coal development by the shortage-creators in the name of environmental protection." As one of the presumed "shortage-creators," Dunlap is several steps ahead of Mobile. She has been persuasively arguing for years that strip mining is far more than environmental destruction. She marshalled evidence that stripping poses a severe economic threat to the farmers and ranchers of the West and that the trade-offs are not worth it. She pointed to the rise in alcoholism, mental depression and family breakdowns in areas—both East and West—where the energy companies began stripping. The question now is: What are the strip-mine operators' reclamation plans for the ravaged emotions of citizens whose livelihoods and spirits have been as much under assault as their land?

Some of these citizens are joining Dunlap at today's signing in the Rose Garden. The President, who was backed by many in the coalfields precisely because he expressed an understanding of the tragedy of strip mining, has invited farmers, ranchers, Appalachian mountaineers and others to participate in the White House ceremony. For some, the bill is too weak; for others, too late. But for most, including Louise Dunlap, it represents all the good that can be wrenched out of a legislative process that is mastered only by those who do not demand quick results and easy victories.

TESTS DEMONSTRATE AIR BAG SAFETY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WAXMAN. Mr. Chairman, on June 30, 1977, Secretary of Transportation Brock Adams announced the issuance of an auto safety standard requiring improved crash protection in automobiles manufactured after the 1981 model year. The proposed rule would require that automobile manufacturers provide automatic crash protection for front seat occupants in 30 m.p.h. frontal collisions.

While the Secretary's proposal does not mandate the use of any specific technology to comply with the Federal standard, recent attention has been focused upon the application of the air bag. One concern expressed about this form of passive restraint is that premature, accidental inflation might cause a driver to lose control of the car.

I recently came across some information which I feel may be of interest to my colleagues in assessing the value of the air bag and, specifically, the danger resulting from premature inflation. The General Motors Corp. conducted a test of just this possibility, the results of which were published in the August 1975 Journal of the American Medical Association. The tests concluded that although drivers are somewhat startled by the premature deployment of the bag, they maintain good control of the vehicle and can im-

mediately see over it to continue their driving.

I would ask that a copy of the AMA Journal article be printed in the RECORD at this point:

STARTLE REACTION TO AIR-BAG RESTRAINTS

(By H. Haskell Ziperman, MD, George R. Smith)

Air bags in vehicles constitute a means of passive restraint for individuals involved in auto accidents. There is fear, however, that the inadvertent nonaccident-connected deployment of one of these air bags might substantially interfere with the handling of a vehicle in which such deployment occurred. We have found that while physiologic and physical evidence of startle accompanies such unexpected deployment, good control of the vehicle continues to be exercised by the test subjects under the conditions of our experimental protocol.

"Startle" is the reaction of the body to a sudden, unexpected, or frightening event. It is, in effect, a reaction to suddenly induced psychological stress and takes the form of muscular activity, such as jerking, jumping, crouching, running, and blinking, as may be appropriate to the event producing the startle phenomenon. Startle is always associated with physiologic alterations in the cardiovascular system mediated through reflex autonomic changes. The physical component of this reaction can be an extremely variable and perhaps unpredictable one depending on the stimulus, the task that the individual is performing at the time and place, and the person's past experience with unexpected events of this or any other type. The physiologic response, since it is mediated through the autonomic nervous system, is more stereotyped and more predictable.

The body's physiologic reaction to psycological stress can be measured and recorded in several ways, but the simplest indicators available for measurement are the changes in blood pressure, pulse rate, and respiration. Change in respiration is less reliable as a gauge of the intensity of a reaction than the other two indicators. Galvanic skin reaction (GSR) has been used by many researchers as a measure of the psychological stress associated with driving.[1,2] It has, however, some limitation in its quantitative usefulness as shown by Lauda.[2] A little utilized measurement of physiologic startle is electrocardiographic change. According to Greybiel et al. and Marriott, the startle phenomenon can produce T-wave changes that are transitory in nature but can on occasion be misinterpreted as representing heart disease. These electrocardiographic changes would probably tend to exaggerate those cardiovascular reactions demonstrated by Simonson et al. to be associated with the stress of driving a car.

For the purposes of this study of the startle effect resulting from unexpected deployment of a steering-wheel-mounted air cushion on unsuspecting drivers, it was elected to use blood-pressure changes, pulse-rate changes, electrocardiographic changes, and GSR as measures of the intensity of this physiological response. We also chose to compare physical and physiological responses to hood fly-up vs air-cushion deployment to determine what—if any—differences could be elicited.

TEST PROTOCOL

From a pool of 75 men and women varying in age from 19 to 75 years, 51 drivers were chosen. Fifty-three tests were performed on these drivers only after they had had normal findings on a physical examination that included an ECG. Informed, written consent was obtained from all volunteers after the nature of the test had been fully explained.

All drivers tested were seated in the driver's seat of a standard 1973, four-door sedan. The rear seat was modified to contain the test monitor and his control panel. Drivers were required to wear lap and over-the-shoulder belts. Electrodes used for ECG and GSR were of the shielded silver/silver chloride type. Those for GSR were glued to the left ankle and instep and those for ECG to the manubrium and to the right and left costal borders. Blood pressure was recorded by an ultrasonic Doppler blood pressure apparatus.

The course driven was located on an inactive airbase near San Antonio, Tex. It consisted of a 3-km (2-mile) circuitous route. Each driver was permitted three to five circuits of the course before the monitor would activate either the air cushion or the hood release. The car was driven at 45 mph on straightaway and from 25 to 35 mph on a curve. The drivers had no forehand knowledge of the upcoming startling event.

During the course of each test, data recorded included a pretest ECG, pulse rate, and blood pressure. These tests were repeated during the course of the cushion deployment or hood fly-up, and data continued to be recorded after the test period for variable durations. Data on GSR were recorded on 20 drivers. Data accumulated on all drivers also included such physical indicators as braking pressure, lane deviations, and steering-wheel rotation. On-board cameras recorded the driver's reactions.

PHYSIOLOGIC RESULTS

Injuries and hearing

Minor injuries consisting of ecchymoses, erythema, minimal abrasions, and superficial lacerations were produced early in testing in ten drivers. These were minimized in this test program by having the volunteers wear long sleeves and by having them sit well back in the seat so as to decrease the slapping contact of the bag against bare skin of forearms and antecubital spaces.

An initial audiometric examination was performed on all candidates during the course of their physical examinations because of the possibility of hearing loss caused by the loud, gunshot-like noise on air-bag deployment. In every instance where a posttest audiometric examination was performed (36 instances), there was no notable change in hearing levels at any of the frequencies tested.

CHANGES MONITORED DURING TESTING

Electrocardiogram.—An ECG was performed during the course of the initial physical examination and was followed by continuous electrocardiographic monitoring during the test period. Readable electrocardiographic tracings were obtained in 48 instances from the direct writer or from the magnetic tape after all test runs had been completed.

The most consistent electrocardiographic change noted during test runs was a decrease in the amplitude of T waves caused by startle. Seven drivers evidenced this phenomenon during and after cushion deployment and two drivers after hood fly-up. Premature ventricular contractions occurred in two drivers in pretest period, in two drivers during the test run, and in two drivers in the posttest period. These recorded changes in ECG indicate that there is psychological tension and stress associated with driving a test car under unknown experimental circumstances. They also indicate that the startle phenomenon can produce electrocardiographic changes in the heart even when the driver continues to maintain control of the car.

It was anticipated that the best and most consistent quantitative physiologic measure of the startle phenomenon would probably turn out to be changes in blood pressure and pulse rate. The results bear this out.

Pulse Rate.—A total of 17 hood fly-ups and 33 single cushion (air cushion on the driver's side only) and double cushion (air cushion on the driver's side and the front seat passenger air cushion, simultaneously actuated) deployments were performed. Complete data in regard to pulse-rate changes were collected in nine of the 17 hood fly-ups and in 32 of the 33 cushion deployments. The average pulse-rate change from initial examination to day of test was +3.9 beats per minute. The maximum observed increase was 24 beats per minute. The average pulse rate increase during testing was 23 beats per minute and was essentially the same for both hood fly-up and air-cushion deployment. This was not reflective of the views of the drivers experiencing both startle effects who believed that the cushion deployment had a far greater subjective startle effect.

Men and women drivers responded with almost identical pulse-rate changes, although pulse-rate data are available on only four women as compared with 28 men, and therefore no firm conclusions can be drawn.

Blood Pressure.—The average blood-pressure change from initial examination to day of test was +8.5/2.8 mm Hg. The average increase of blood pressure for 33 drivers during air-cushion deployment was 20.7/11.7 mm Hg compared with an average increase of 8.1/3.1 for ten drivers during hood fly-up. The women showed no significant difference from the men in blood pressure increase during air cushion deployment. The maximum increase in blood pressure during air-cushion deployment was 64 mm Hg systolic and 34 mm Hg diastolic. The maximum increase for hood fly-up was 36/18 mm Hg.

Galvanic Skin Response —On 10 individuals, ankle electrodes were used because other test indicators precluded the use of the normal palm-finger electrode placement. Approximately 50% of the subjects demonstrated a decrease in skin resistance soon after the event, but there was no opportunity to acquire quantitative data.

PHYSICAL PERFORMANCE

The principal measures of physical performance of the subject drivers that were of interest in this series of tests were those that could be used in evaluating their ability to maintain control of the vehicle after deployment of the startle device. These consisted of the following:

Braking was assessed in relation to the static maximum applied-pressure capability. Each driver, as he took his seat behind the wheel of the car, was asked to press as hard as he could on the foot brake. This pressure capability was recorded as 100 for each. During the test run, the average brake pressure applied during hood fly-up was 48.3 percent of maximum, with a range of 29 percent to 72 percent. With air-cushion deployment, the average brake pressure applied was 59.3 percent of maximum, with a range of 0 to 113 percent.

Lateral movement (lateral deviation) of the vehicle in its lane was measured. The car was instrumented with sensing coils in a tube in front of the front bumper. The drivers were asked to keep the car within the marked driving lane since an electromagnetic field had been established with a wire buried in the pavement. Any deviation of the car from the center of the 4-meter (12-foot) wide driving lane during the event was recorded on tape. The maximum deviation of 2 meters (6 feet) (from 1 meter [3 feet] right of lane center to 1 meter left) occurred with one driver on air-cushion deployment. One other driver had a 1.5-meter (5-foot) deviation (from 1 meter [3 feet] right to 0.5 meters [2 feet] left) on air-cushion deployment. All other drivers showed no more than about 1 meter (3½ feet) of total deviation.

STEERING AND VISIBILITY

Steering-wheel rotation was measured as the angle of turn of the wheel. In a number of instances, one or both hands were forced off the wheel by the expanding bag.

Footnotes at end of article.

This did not result in loss of control since the hands were immediately replaced on the wheel and relatively little rotation of the wheel occurred. As noted in the lateral-deviation criterion, no driver exceeded the limits of the driving lane. The average steering-wheel rotation was 85° during hood fly-up and 72° during cushion deployment. This degree of steering-wheel rotation would correspond to approximately 3 to 4 degrees at the tire. In combination with the lateral-deviation data, it shows that adequate steering control can be and is maintained in the startle modes tested.

Visibility was the ability to see to continue driving after the event. There was no problem in this regard with either startle mode. With hood fly-up, the gap between the hood deck and the frame permitted easy visibility of the road. With cushion deployment, the top rim of the bag was easily depressed by the weight of the hand, permitting good vision. The taller drivers (above 50 percentile in height when seated) could see easily over the bag rim without depressing it.

COMMENT AND CONCLUSIONS

The rapid deployment of an air cushion necessary for proper protection of vehicle occupants during a collision constitutes a typical startling event. The inadvertent activation of an air-cushion restraint module during normal driving, when there is no crash situation impending, has the potential for being even more startling and dangerous because it is completely unexpected. Can the average driver maintain safe control of the vehicle in this situation? It was an attempt to resolve this question that caused us to pursue this line of investigation.

The physiologic responses noted and recorded (blood pressure, pulse rate, ECG, and GSR) merely confirm the fact that there is psychologic stress associated with driving a car in an unknown and experimental situation. The changes produced were greater for the startle event (hood fly-up and cushion deployment) than for the driving itself, a not unexpected finding. An unexpected finding, however, was that the physiologic response to cushion deployment was only minimally greater than that for hood fly-up, since the air cushion was in closer proximity to the driver, sometimes forcefully lifted his hands from the wheel, had an activation that was accompanied by a shot-like noise, and was described by all drivers as being subjectively more startling than hood fly-up. In any event, every physiologic change produced was immediately reversible without ill effect, on termination of the test.

The physical responses noted were recorded in a driving situation not associated with the presence of other vehicles, tests were conducted during daylight hours only and in relative isolation from the stress-producing situation and the hurly-burly of downtown driving. Within these known limitations, it has been shown that air-bag deployment or hood fly-up is not likely to cause such a severe startle reaction as to produce an increase in the incidence of accidents in a car in which such an event occurs.

From our investigation, the following conclusions can be drawn:

1. Startle is a measurable response to unexpected events such as those occurring as an individual drives a car.

2. Both the physical and physiologic responses to startle can be quantitated by various methods easily instrumented in a test car.

3. Findings from monitoring of ECG, pulse rate, blood pressure, and GSR support the concept that both air-cushion deployment and hood fly-up produce physiologic changes caused by the startle phenomenon.

4. Air-cushion deployment is apparently minimally more startling than hood fly-up, based on the more substantial changes in blood pressure, pulse-rate, and ECG with air-bag deployment than with hood fly-up.

5. Under the conditions of these experiments, although considerable physiologic evidence of the startle phenomenon was demonstrated, drivers retained good control of the test vehicle and were lucid on questioning less than ten seconds after cushion deployment.

6. All drivers with hood fly-up or with cushion deployment were easily able to see to guide their car in spite of the minimal obstruction of vision produced by this event.

7. Audiometric examinations performed before and after the test on 36 drivers subjected to both single and double air-cushion deployment showed no change in hearing acuity. (All drivers wore head sets providing some 40 dB of attenuation so that they received less than the usual decibels of noise on deployment.)

John Clark, Director of the Department of Automotive Research, Southwest Research Institute, established the engineering protocol for the study. Roger Hemion, MS, managed the project. Robert Wilbur, MS, provided and maintained all of the biomedical instrumentation.

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FILL 'ER UP WITH GASOHOL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. OTTINGER. Mr. Speaker, one important flaw in the administration's proposed energy program is the short shrift it gives to gasohol. A blend of 90 percent gasoline and 10 percent alcohol which could be burned in automobiles to reduce U.S. dependence on foreign oil—indeed it is being used successfully in the State of Nebraska—gasohol can be made by combining gasoline with alcohol made either from grain and other farm products or from wood wastes. It burns more cleanly than gasoline and, depending on the blend, it can reduce the amount of air pollution created by automobiles.

"Fill 'Er Up With Gasohol," an article by Dick Kirschten in the July 23, 1977, issue of the National Journal, describes the growing recognition, by Congress and by the administration, of gasohol's potential importance as a national oil stretcher. I recommend the article to my colleagues:

FILL 'ER UP WITH GASOHOL

Nebraska's "Prairie Arabs" have been trying for 40 years to sell Americans on the idea of burning alcohol in their automobile engines. Preferably, a large amount of the alcohol would be distilled from Nebraska grain.

Back in the late 1930s, service stations in Nebraska, as well as in Illinois, Kansas and Missouri, sold an alcohol-gasoline mixture called Agrol. The blend apparently gave good results, but Agrol's producers were unable to compete in price with the oil firms that sold their gasoline straight.

Now that President Carter has proposed a national energy policy that calls for a 10 percent reduction in gasoline consumption, the Nebraskans—who now push their concept under the name of gasohol—are starting to win a few rounds on Capitol Hill.

However, they're not offering any thanks to Carter. Even though gasohol—a blend of 90 percent gasoline and 10 percent alcohol—is being offered as a quickly available means for reducing dependence on diminishing petroleum supplies, the Carter energy plan, for all practical purposes, ignores it.

In the 103-page pamphlet describing the President's energy strategy, the use of alcohol receives one sentence on Page 102. And to the distress of the Nebraskans, that sentence is in the chapter entitled, "The Future Beyond 1985." Worse yet, the sentence refers to "methanol," a form of alcohol that is derived not from grain or other farm products, but rather from natural gas, coal or wood.

Despite the Carter energy team's apparent indifference, a trio of minority-party Nebraska legislators have been attracting majority backing for their contention that the time is right for a harder look at alcohol as a renewable, liquid-fuel resource.

The veteran Nebraska Sen. Carl T. Curtis, R, who entered Congress back in 1939, when Agrol was still on the market, started the bill rolling with a bill to authorize $60 million in loan guarantees to support four pilot distilleries for fuel alcohol. In addition, the measure sets up $24 million in research grants for colleges and universities investigating alcohol and problems related to its use as a blended fuel.

Rep. Charles Thone, R-Neb., persuaded his colleagues on the House Agriculture Committee to include the language of Curtis's bill as a section in their farm bill (H.R. 7171). Curtis then followed suit, offering his measure as a successful floor amendment to the Senate farm bill (S. 275).

While Curtis and Thone were moving to get the Agriculture Department more actively involved in support of gasohol research and development, another Nebraska legislator, Rep. Virginia Smith, R, was using her position as a new member of the House Appropriations Committee to increase the budget of the Energy Research and Development Administration (ERDA) by $1.5 million for the expansion of its efforts to develop alcohol fuels.

The victories by the Republicans from the Nebraska plains have not gone unnoticed by Democrats from states with parochial interests in the economic possibilities of alcohol as a "petroleum extender." Although from a state where it is more traditional to make the stuff for drinking rather than driving, Sen. Wendell H. Ford, D-Ky., alertly added an amendment to the ERDA appropriations bill calling for a feasibility study of the role that the liquor industry might play in the gasohol program. Similar interest is being shown from Hawaii (sugar cane) to Maine (forestry residues).

A week ago, an inventor from Fort Smith,, Ark., Stanley Barber arrived in Washington in a car rigged to operate on either straight alcohol or straight gasoline. Interest in Barber's achievement prompted Senate Appropriations Committee chairman John L. McClellan, D-Ark., to call a July 12 meeting in the Capitol to which Administration energy officials and interested Senators were invited.

Federal Energy Administrator John F. O'Leary attended the meeting, along with representatives of ERDA, the Environmental Protection Agency and the White House en-

ergy adviser's office. The chairman of the Senate Energy and Natural Resources Committee, Henry M. Jackson, D-Wash., was among the Senators present to hear Barber's discussion of the merits of domestic alcohol as an alternative to gasoline. Jackson said that the forest products industry in his state is seeking new markets for alcohol made from wood wastes that no longer can be disposed of easily because of water pollution regulations.

Barber said that one of the arguments in favor of alcohol as a fuel for motor vehicles is that it burns more cleanly than gasoline, and depending upon the blends, can reduce the amount of air pollution.

McClellan was not the first to invite the attention of Carter Administration energy officials to the alcohol issue that received such short shrift in their plan. The congressional Office of Technology Assessment (OTA), in its critique of Carter's energy policy, complained, "The plan does not address the transition from a petroleum base to a new liquid base fuel. Stressing the vulnerability of U.S. dependence of a liquid-fueled transportation system, the OTA analysis pointed out that "alcohol can be obtained by fermentation from dispersed biomass and can be used in modern internal combustion engines."

Proponents of gasohol have long accused the petroleum industry of retarding the advance of alcohol as a fuel. The oil companies, on the other hand, have charged that blending problems have not been resolved and that cars will experience operating problems. However, the big obstacle always has been price. As long as petroleum supplies were abundant, gasoline could be made available more cheaply.

If the world oil situation is as grim as Carter has indicated, Americans may soon have to consider seriously whether their farmers and foresters can be put to work as fuel suppliers. For decades, through their state university's research efforts, and the lonesome sales pitches of their politicians, Nebraska's "Prairie Arabs" have been trying to get in on the ground floor of the gasohol business.

THE DEBATE OVER THE BREEDER IN EUROPE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BROWN of California. Mr. Speaker, our domestic controversy over whether or not to build the Clinch River breeder reactor—CRBR—is intimately tied in with our foreign policy. Because of the threat of a rapid proliferation of nuclear weapons, the President has asked countries of the world to rethink any premature commitments to a commercial plutonium economy and to consider a pause in which to obtain an international framework for dealing with or bypassing plutonium. The only possible domestic decision consistent with a serious international reevaluation was also taken by the President, and that was to defer commercialization of the breeder reactor and the Clinch River project, which is intimately tied in with the commercialization program.

Opponents of the President's deferral of the CRBR claim that the rest of the world, especially our European allies and Japan, will push full-speed ahead with their own breeder programs, regardless of what the United States does. They point to the recent announcement by the French and West Germans who stated that they will set up a company to market breeders.

Such an analysis overlooks a very important component of political decisionmaking in these countries. France and West Germany are both democracies, and there is serious political opposition to the current governments' policy on plutonium and breeders. For example, Francois Mitterand, the Socialist leader, has criticized the French nuclear program and has said that, if elected, his party will call a national referendum on nuclear energy. The recent demonstrations of 30,000 people at the Super-Phenix breeder reactor construction site also indicate that the French people are far from unanimous in support of the French Government's rush to plutonium use. It should be noted, however, that the French Communists and the far left are in full support of both plutonium breeders and France's independent atomic military force. In Germany, the Government is being forced to slow down research on plutonium breeder reactors, primarily because part of the parliamentary ruling coalition said that they would break party discipline and vote against the government budget if the breeder program stayed in. Also, a German court ruling has caused a virtual moratorium on the construction of nuclear plants until the Government can show that it has discovered a safe way to dispose of wastes. In Sweden, debates over nuclear power played a key role in turning out the last government in their recent election.

I have inserted into the record two New York Times articles, one from August 2, 1977, and the other from May 12, 1977, which describe the intense political debate in France and Germany over nuclear power and plutonium breeders. I point this out not because I am opposed to nuclear power. On the contrary, I support both the continued use of light water reactors and a vigorous research and development program on breeders, but I also support the President's decision to postpone the commercialization of plutonium use. The President's nonproliferation initiative is a long-term policy, and we should not be too hasty in judging its success or failure from the first comments of the current European governments or their nuclear bureaucrats. The French and West German decision on plutonium use is far from determined; the current position could be reversed in the next election if not sooner due to domestic political pressure. Also, we should not underestimate the power of the United States to lead the rest of the world in a direction which is eminently rational. The European leaders will have to cope not only with the United States but also with their own people and political parties who are opposed to the current programs aimed at early commercialization of plutonium use.

The two articles follow from the New York Times, the first is from May 12 and the second is from August 2:

BONN, UNDER DOMESTIC PRESSURES, SLOWS BREEDER REACTOR RESEARCH

(By Craig R. Whitney)

BONN, May 11.—The West German Government, faced with political criticism of its nuclear energy policies, is being forced to slow down research on the plutonium-based breeder reactors that President Carter opposes.

The Government still is committed to develop breeders, which produce plutonium, the prime ingredient of nuclear weapons. But, officials said today, $51.7 million in funds for research and development have been frozen until skeptics in Parliament can be convinced that this avenue to nuclear power is neither costly nor dangerous.

Last month President Carter cut off support for breeder development in the United States. He did not call on other nations to follow suit but he clearly hoped that the American example would be taken seriously elsewhere.

DOMESTIC PRESSURES ARE KEY FACTOR

The West German Government, committed to making the nation's nuclear power industry a world leader, announced only two weeks ago that it would request $96 million over the next five years for breeder research and development.

Dr. Armin Gruenwald, an aide of Chancellor Helmut Schmidt, said today that as far as he knew, the Chancellor did not mention the possibility of freezing development funds in talks with President Carter in London last weekend.

The reason for the freeze is more closely connected with domestic politics and with the governing Social Democratic Party's weakness and disunity than with Mr. Carter's opposition to breeder technology.

A small group of left-wing members of Parliament from Schleswig-Holstein, where antinuclear feeling has been particularly strong, said they would break party discipline and vote against the government budget if the breeder program stayed in. This could have meant the end of Mr. Schmidt's precarious majority in Parliament since only five defections could bring the Government down.

The Ministry of Research and Technology agreed to the freeze yesterday, denying any connection with the threatened revolt. According to the ministry's spokesman, the prototype breeder that has been under construction near the Dutch border will not be affected.

WIDE INTEREST IN BREEDER TECHNOLOGY

The French, British and West German governments have all supported research into breeder technology because, unlike the United States, they must import all the nuclear fuel they use, and breeders produce more fissionable material than they burn. The Soviet Union, too, has been developing breeder reactors.

West Germany plans to have 29 nuclear power plants generating 30,000 megawatts of electricity by 1985, and the Government believes that both breeders and reprocessing of spent fuel will be essential after that. President Carter opposes this approach. The industrial democracies at the London meeting did not come to an agreement, but set up a committee that is to report in two months.

As the debate has grown more intense, so has skepticism about whether West Germany's course is realistic. Citizens' lobbies have sprouted in opposition to Mr. Schmidt's plans. A conservative, Christian Lenzer, said today:

"One can have differences of opinion about the necessity of fast breeder reactors but this surprising reversal is a sign that the Minister of Research and Technology can't even get his views through over the objections of leftist comrades in his own party."

ANTINUCLEAR MOVEMENT GROWING IN WEST EUROPE

(By Jonathan Kandell)

PARIS, August 1.—Although later in getting started than in the United States, public opposition to nuclear energy in Western Europe has emerged as a powerful movement cutting across national boundaries, forcing governments to curtail development and compelling political parties to engage in debates on energy programs.

In France, over the weekend, opponents of nuclear energy rallied 30,000 people for an attempt to invade the construction site of the Super Phoenix breeder reactor in Creys-Malville, a rural area on the Rhone River. The protest left one demonstrator dead and a hundred injured in clashes with the police.

Until recently, the controversies over nuclear energy—the development of breeder reactors, the use of plutonium as a fuel, the reprocessing and enrichment of uranium, and, consequently, the potential spread of atomic weapons—have tended to focus on the debate between the governments of the United States and Western European nations.

But grass-roots opposition movements, often unconnected with political parties, have emerged as an even more important factor in slowing the expansion of nuclear generating capacity.

WEST EUROPE MORE DEPENDENT ON IMPORTS

The strength of the antinuclear movement is all the more remarkable because Western Europeans—with few conventional energy sources of their own—have tended to be more concerned than Americans over their reliance on costly oil supplies from abroad.

France's nuclear program dates from de Gaulle and his desire to develop an independent atomic strike force. The program was accelerated in 1974 after the rise in the world oil price. Officials envisioned the installation of nuclear plants that would cover about 20 percent of energy needs by 1985. The program has since been scaled down.

The exports earnings from nuclear technology were also supposed to defray the mounting costs of petroleum imports. Three years ago, the French began to push the sale of reactors in the Middle East, Pakistan and South Korea.

A key element in the government's program has been the breeder reactors. Their attraction is twofold: by producing more fuel than they consume, the breeders, at least theoretically, would cut down dependence on uranium imports; and officials expect to use France's lead in the field to carve out a lucrative slice of the overseas market.

COMMON MARKET ACCORD RECALLED

Despite President Carter's call for a moratorium of breeder reactor development and the use of plutonium, the French have pressed ahead with their program. Last month in Paris, they signed agreements with the West Germans and other Common Market countries to continue research and development of the breeders and eventually to market them abroad.

To deal with domestic opposition, the French Government has sought to either sidestep the debate or steal the thunder of critics with timely public gestures.

Only a day before the rally against the reactor site in Creys-Malville, President Valery Giscard d'Estaing chose to visit a nearby uranium-enrichment plant and assert his commitment to nuclear programs.

In the aftermath of the violence, officials have sought to inject an element of nationalism in the debate by pointing out that some of the protesters were West Germans.

"These people are undeniable anarchists both in their acts and beliefs who know no frontiers and have turned up elsewhere, notably in West Germany," said the Interior Minister, Christian Bonnet, in a television interview last night.

ENVIRONMENTALISTS GAINING STRENGTH

But the majority of the demonstrators were French. They are part of an environmentalist movement, embracing university youths, older middle-class people and even some farmers, that has blossomed into a significant political force in the last three years.

In municipal elections last March, the environmentalists ran an independent slate of candidates who garnered about 10 percent of the votes in the first electoral round. With legislative elections scheduled for next March, both the government majority and the leftist parties are in a quandary as to how to win over the environmentalists.

The Communists have voiced strong views—echoing the government arguments—in favor of the nuclear energy program and the maintenance of an independent atomic military force. Through their labor federation, the Communists have lashed out at opponents of nuclear energy as partisans "of a return to the days of sailboat navies and oil lamps."

But the Socialists, the leading members of the leftist coalition that hopes to gain power next year, appear to have been bending under the growing strength of the environmentalists. The Socialist-dominated labor federation has criticized the nuclear program and joined in demonstrations.

MITTERRAND FAVORS A REFERENDUM

Francois Mitterrand, the Socialist leader, raised the possibility last month that if elected he would call a national referendum on nuclear energy—a move that President Giscard d'Estaing declared to be unconstitutional.

The French Government has withstood the onslaught of the opponents of nuclear energy better than most other Western European governments.

In Sweden, the issue was believed to have played a key role last year in turning out the Social Democrats, who had been in power since 1932.

In the Netherlands, opinion polls indicate that more than half the Dutch have doubts about nuclear energy. The Government has run into opposition to plans for the construction of three new atomic plants and the burial of nuclear wastes.

Both for financial reasons and for domestic political considerations, the Dutch Government has sought to carry out its breeder reactor plans as part of a joint program involving France, Belgium, Italy, and West Germany.

In Italy, a program calling for more than 20 reactors in operation by 1985 appears to be endangered primarily by soaring costs and the near-paralysis brought on by the internal political crisis.

But ecological considerations also became a factor after last year's explosion at a chemical plant in the northern town of Seveso that covered thousands of acres with a deadly toxin. Officials said the accident—though unrelated to nuclear energy—had aroused opposition to the construction of an atomic plant about 30 miles from Seveso.

The most dramatic demonstration of the pressure from opponents of nuclear energy has taken place in Britain and West Germany—the two Western European nations with the most advanced programs.

Rising costs and domestic protests have led British officials to agree to a public debate on the advisability of building a commercial breeder reactor. Britain already has two experimental breeders.

CASES ARE TAKEN TO COURT

But the Government's apparent flexibility on the issue of breeder reactors has not deterred environmentalists from pressing their case against other nuclear programs. Court hearings have been taking place for more than a month over a plan to build a uranium-reprocessing plant at Windscale in northwest England that could handle 1,200 tons of spent fuel a year by the 1980's.

West Germany has been the scene of violent clashes between police and demonstrators. The environmentalists have had even greater impact in court. Last February, a lower court decision brought a virtual moratorium on the construction of nuclear plants until the Government can give show that it has discovered a safe way to dispose of wastes.

Chancellor Helmut Schmidt had planned to have 30 reactors supplying half of the country's electric energy by the mid-1980's. Although 13 plants are in operation, the construction of others has been delayed.

SOCIALIST WORKERS PARTY PLANS EXPLOITATION OF ANTINUCLEAR MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. McDONALD. Mr. Speaker, the Trotskyite Communist Socialist Workers Party—SWP—the American section of the Fourth International, has joined the antitechnology neo-Luddites of the antinuclear power movement with the intention of exploiting its revolutionary potential for the SWP's ends.

While the SWP is just entering the antinuclear movement, its Fourth International comrades in France, West Germany, and Italy have joined with other Marxist-Leninists in battles with police at nuclear powerplant sites.

The SWP Political Committee met on May 27, 1977, and devoted a considerable section of discussion to the implications of the antinuclear movement typified by the Clamshell Alliance in New England and being made national via the American Friends Service Committee—AFSC—a secular socialist-pacifist group which may deplore but does not oppose violence and terrorism on behalf of Marxist causes.

Following the Political Committee meeting, Fred Murphy of the SWP's Bronx branch and Arnold Weissberg of the Lower East Side branch produced an article for circulation among SWP members only in the confidential SWP Discussion Bulletin, volume 35, No. 7, July 1977. Dated June 25, 1977, the article commenced:

The April 30-May 1 demonstrations against the construction of a nuclear power plant in Seabrook, New Hampshire, dramatized the growth of mass opposition to nuclear energy development in the United States. Although opposition to nuclear power has existed among environmentalists for many years, and has often shown itself in the form of lawsuits and challenges within the government's regulatory process (by residents of areas where nuclear plant construction has been proposed), the Seabrook protests were the first direct actions to involve a significant number of persons and the first to gain publicity on a national scale.

More massive direct actions against nuclear power have occurred in Western Europe and Japan in the past several years—sit-ins, occupations, marches, with as many as 50,000

participants in a single demonstration. Antinuclear activists in France are currently projecting a gathering of 100,000 on July 31 at the proposed site of the "Superphenix" fast breeder reactor at Creys-Malville.

The European and Japanese movements are genuine mass movements, not merely limited to students and intellectuals. In Italy, one recent action brought out large numbers of fishermen and farmers. "Ecology" candidates in the French municipal elections this spring won about 10 percent of the vote in Paris, and a plurality in several towns near nuclear plants. The movement is biggest in West Germany, where the question of nuclear power has engendered a deep fissure in the ruling Social Democratic Party.

Following a general survey, the article continues:

THE PARTY'S POSITION

We think the party should adopt a clear and unequivocal position opposing the construction of nuclear power plants, period. ("No nukes!" was the popular formulation at the Seabrook protests.)

This stand will make it clear that we don't think the capitalists should be trusted at all with such an inherently dangerous technology, no matter how many promises they may make about safety measures.

It is unnecessary for us to append "under capitalism" to every formulation of this position, as we have generally done in *Militant* articles and campaign statements up to now. We can safely leave the question of whether or not nuclear power can one day be made both safe and efficient to the free communist scientists of the future.

What we have to say clearly today is that on the day a workers government led by the SWP comes to power, all the nuclear plants in the country will be permanently shut down. Every one of them is a potential catastrophe for all life within hundreds of miles, and it is not in the interests of the working class or humanity to have such dangerous installations in existence.

The "No nukes" slogan will go hand in hand with our call to open the books of the energy trusts. The corporations involved are the same. (Exxon, for example, is both the largest oil company and the largest single supplier of uranium ore.) The capitalists are using their manufactured energy crisis to push the development of nuclear power. When faced with opposition to construction of atomic plants, the energy trusts claim that present fuel supplies are running out. Our reply is then "Open the books!", as well as to demand other, safer forms of energy.

Murphy and Weissberg continue with an analysis of the antinuclear movement and how it can be exploited by the SWP and their front groups like the Young Socialist Alliance—YSA:

THE ANTINUCLEAR MOVEMENT

Like all new movements, the antinuclear movement is contradictory and heterogeneous.

The basic thrust of the movement is altogether positive and eminently in the interests of our class: Human life should not be endangered for the sake of the profits of the utilities and the energy trusts, nor should the natural environment on which all life depends be recklessly destroyed.

At present, the composition of the movement is similar to that of the student antiwar movement. The activists are young and radical-minded, ready to listen to all ideas. We can certainly win a wide hearing, both for our proposals on how to build the movement, and for our socialist ideas.

On the surface, the movement may appear to be heavily countercultural, antitechnology, and shot through with petty-bourgeois utopianism. Such a trend undoubtedly exists ("Split wood, not atoms").

But it would be dead wrong to see only this aspect of the movement, and to justify the party's abstention on such grounds. Many of the leading spokespersons are clear in denying that they are opposed to technology as such. In fact, one indispensable component of the movement up to now has been radical and liberal scientists and engineers, including former employees of the nuclear industry and at least one former member of the Atomic Energy Commission itself.

It's too early to do any real analyzing about the various political trends in the antinuclear movement. Much more information is needed, but this will come when the branches seek out the antinuclear organizations and activists in their areas, get to know them, hold forums, participate in and help build protest activities, write *Militant* articles, and so on.

Opposition to nuclear power is most visible and organized right now on the campuses, so the Young Socialist Alliance can play an especially important role in getting Trotskyists involved in the antinuclear movement.

In addition to learning from the movement, we can bring to it our working-class perspective, and point it in the direction of involving working people, the oppressed nationalities, the trade unions.

An immediate obstacle to this is that the young activitists tend to see the unions as the bureaucracies, which are vehemently pro-nuclear-power. But we can be confident that when working people learn the facts about the dangers of nuclear power, they will join this movement in massive numbers, and we can instill this perspective among antinuclear activists. We can point to Steelworkers Fight Back as an example of the kinds of forces that can be involved.

Our union factions should look for opportunities to raise the issue of nuclear power in their work. It really represents a generalization to the social level of the issue of workers' health and safety—a topic many young union militants are already deeply concerned with.

Most importantly, we can bring to the movement our strategy of independent mass action. We can link up our history and experiences in the antiwar, Black, and women's movements with the salutary example set by the 2,000 Seabrook occupiers, as well as with the painful lesson these activists have just learned about putting confidence in Democratic and Republican Party politicians.

Many of the Seabrook protesters saw Carter as an environmentalist who thought nuclear power should be used only as a "last resort." Now that he has made it clear that the "last resort" is instead a top priority, the way is opening for a real growth in this independent movement.

The statement issued by twenty environmental groups after Carter's EPA appointee gave the Seabrook plant a green light said:

"Jimmy Carter has turned his back on the environmentalists and antinuclear citizens who supported his election.

"In light of what is now happening around the country, it is not unlikely that this White House decision to approve the Seabrook cooling system will bring on a period of domestic turmoil over the nuclear issue similar in scope and depth to what surrounded the Vietnam War.

"That the Carter Administration would allow this construction to go ahead is a Declaration of War against the natural environment and those who are dedicated to protecting it.

"Jimmy Carter may be signalling with this decision that he will make himself the Lyndon Johnson of the 1970s.

"He has turned the EPA [Environmental Protection Agency] into a bad joke. It should be renamed the Profits Protection Agency. He has destroyed his credibility with those who supported him in the name of the natural environment. He has proved less sensitive to environmental needs than John McGlennon [regional EPA director who opposed the Seabrook cooling system] and Russell Train [EPA administrator under Nixon and Ford who has since spoken out against nuclear power], both Republican appointees."

The Seabrook decision can thus be seen as a big step toward reducing illusions in Jimmy Carter's supposed "proenvironment" stand.

The statement also reflects the view of many in the antinuclear movement that what is required is an approach modeled on the movement against the Vietnam War. Nowhere is there a better understanding of the lessons of that movement than in our party, we therefore have an important role to play in educating this new movement about those lessons.

Getting involved in this movement will also mean learning from and about it. Most important in this regard will be for comrades to become acquainted and comfortable with how nuclear power plants work, the effects of radiation on living things, the history of the nuclear industry and the role of the government, and the arguments raised by pronuclear forces. There is a rich literature on the subject—a few books that we have found useful are listed in a bibliography below.

Next is the SWP's analysis of the positions of rival Marxist-Leninist groups toward the antinuclear movement including the Moscow-dominated Communist Party, U.S.A. and its official newspaper, Daily World; In These Times, an "independent socialist" newspaper closely associated with the New American Movement—NAM—and the Maoist newspaper collective, the Guardian, which also retains some ties to Cuba.

OUR OPPONENTS

The initial reactions of most of our major opponents are outlined in the article "The American Left Looks at Nuclear Power," in the July 4 issue of *International Press.*

The currents represented by the *Guardian* and *In These Times* are probably most deeply involved in the movement at present. The *Guardian* was much in evidence at the Seabrook actions, and its supporters have already initiated a debate in the New England coalition over what course the movement should follow ("solidarity with third-world struggles," more "militant" tactics, less clarity on total opposition to nuclear power, [China may want to build nuclear plants!] etc.).

A number of leaders of the Seabrook protests come out of the radical pacifist, left Social Democratic milieu that *In These Times* is seeking to relate to. The American Friends Service Committee provided many of the resources for putting the Seabrook actions together. We have worked with this current closely in the past, particularly in defense work and often in the antiwar movement. We should take as open and friendly an approach as possible toward them.

So far the *Daily World* has been cautiously friendly to the antinuclear movement. The paper didn't report the Seabrook occupation, but it did editorially support the democratic rights of the 1,414 protesters who were arrested and held in poor conditions in state armories.

The CP will have trouble getting involved in the antinuclear movement because the Soviet Union is an enthusiastic builder of breeder reactors. It is hard to be against them in the U.S. and for them in the Soviet Union. They may simply claim that they're safe in the Soviet Union because that's a socialist society, of course, but that false claim won't erase the fact that reactor safety records in the USSR aren't particularly good.

NO NUKES!

To sum up: The antinuclear movement in the United States that emerged in the Seabrook protests is a new component of the present radicalization. Its thrust is anti-capitalist; its demands are in the interests of our class, the working class.

The party should embrace this new movement, champion its demands, help organize and build its activities, and seek to win the leadership of it. In the process we can recruit new layers of activists to our ranks, and enrich our Marxist understanding of the material basis that underlies society at the deepest level—the natural environment.

JUNE 25, 1977.

BUNGLING THE LOCAL PUBLIC WORKS PROGRAM

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SARASIN. Mr. Speaker, many of us in this body enthusiastically supported the extension of the Local Public Works Act early this year in the expectation that the additional funds would be used to extend this short-term jobs creation program to some of our hard-pressed communities which may not have received funding under phase I funding or which were particularly in need of help.

An equitable distribution of the funds, based on the existing applications filed in the first phase, with a refinement of the formula to correct some inequities which cropped up then, was the least we thought we could expect from the extension.

What we got instead was a badly bungled program which left local officials confused and angry, the Commerce Department's Economic Development Administration deservedly embarrassed, and many of us in Congress perplexed at how such a simple program should be so badly mismanaged and why we cannot get better answers as to what went wrong.

Obviously, some arbitrary decisions within the EDA bureaucracy, made late in the administrative process and with little public notice, resulted in significantly changed prospects for the applicants. One department bureaucrat, asked about the fairness of such a change in the rules in the middle of the game, responded simply, "life's not fair."

Arbitrary and unreasonable as the new procedures were in many cases, EDA managed to make matters worse by using erroneous figures in programing their computers, publicly announcing the wrong entitlements, and then blithely rescinding commitments and disavowing responsibility for expenses incurred by the towns on the basis of those figures.

This whole sorry performance has led to justifiable anger and disillusionment on the part of local officials and the public in general. This indignation is graphically demonstrated by the following communication to EDA from Democratic Mayor William C. Rado of the Borough of Naugatuck, Conn. I think this demonstrates convincingly why we in this House must ask for a full and accurate accounting of how this all came about.

The material follows:

NAUGATUCK, CONN., *July 22, 1977.*

Mr. GEORGE T. KARRAS,

Deputy Assistant Secretary for Operations, U.S. Department of Commerce, Economic Development Administration, Washington, D.C.

DEAR MR. KARRAS: Received your letter of 7/21/77 explaining the Public Works allocation and quite frankly feel your explanation, which I assume was given to you by your help, is nothing but a lot of *baloney*.

You explain why Watertown did not get funds but do not explain why you gave more funds to Thomaston, Waterbury and many other cities that have less unemployment than Naugatuck.

Based on the past performance of the E.D.A., President Carter should fire every one of you for incompetence. The general public is sick of political hacks taking care of their own and the hell with the taxpayers.

I will not let this issue die and will continue to let the public know how they are being treated by people who live off of their tax dollars.

Sincerely,

WILLIAM C. RADO,
Mayor.

THE THIRD TRAGEDY IN INDOCHINA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. DORNAN. Mr. Speaker, on July 21 and 22, I placed in the RECORD two articles detailing the slaughter and oppression being inflicted upon the people of Cambodia and Laos by the Communists.

But in true keeping with the international nature of Marxism, the murder and upheaval are not limited to these two small nations. The tragedy of Communist takeover is evidenced in Vietnam as well and it is this fact which hits a more sensitive nerve in the American people. After all, it is Vietnam where the bulk of our young men died defending freedom. It is from Vietnam that we were finally driven away from helping our ally. And it is Vietnam which is to reap the benefit of the largesse of President Carter's so-called normalization process.

Curiously, the definition of "normalization" seems to have changed once it came in touch with the Carter administration. It now no longer means simply shipping official representatives across the ocean. It now connotes the opening of the U.S. taxpayer's Treasury to ease the Communists' economic sufferings.

This amazing aspect of the current negotiations with the Communists is commented upon in the July 23 issue of TV Guide in an article by John P. Roche. Although I do not agree with all of Mr. Roche's points—he believes, for example, that the recognition of Cuba and the P.R.C. would be no cause for concern—I do concur in his assessment of the biased commentary of many of the news analysts of the major networks. I urge my colleagues to take careful note of the experiences of Vietnamese Assemblyman Nguyen Con Hoan.

The article follows:

TV NEWS MISSING NEW PUBLIC ATTITUDES ON FOREIGN AFFAIRS

(By John P. Roche)

One of the problems with news coverage of the Vietnam War, particularly in its early phases, was the mind-set of correspondents. Most of them had won their spurs in the Korean War where every night there was a nice, neat line across the peninsula: the Main Line of Resistance (MLR). Unfortunately, there never was a "battle front" in Vietnam—the war was always fought on a "leopard-skin map." Thus the fact that Vietcong sappers could ride Hondas into downtown Saigon and throw grenades was an index of total failure in security. It was, as I can testify, unsettling, but as far as the basic balance of military power was concerned, they might as well have been throwing candy bars.

To shift contexts entirely, we now have network news staffs who came of age in the tumultuous late 1960s and 1970s, at a time when prevailing enlightened opinion suggested the United States should avoid "wicked, immoral" involvement in the affairs of the world. To them, President Jimmy Carter's calls for "normalization" with the Chinese People's Republic, Castro's Cuba, the Socialist Republic of Vietnam are the biggest things since sliced bread. And his messianic call for the protection of human rights makes their hearts go pitty-pat. At last the United States has a moral government!

The problem is, as polls and Congressional actions clearly indicate, these analysts are like whales beached on a sand bar. For whatever his intentions in launching "normalization" and "human rights" campaigns, Mr. Carter has brought the American people out of their post-Indochina hangover. They are taking a very hard look at the world.

For starters, let's take the whole question of "normalization." Maybe some television commentator has filed a minority report on this caper, but it surely has not received the 90-minute special it deserves. To "recognize" Fidel Castro is not to award him the Legion of Merit; it is simply an acceptance of the unfortunate fact that he is the present Cuban *caudillo*. Thus if Mr. Carter wants to ship ambassadors to Havana, Hanoi, Peking, Kampala or other strongholds of due process of law, I sleep undisturbed.

However, this is not what the Carter definition of "normalization" seemingly involves: he looks on it as giving these folks a hand. In fairness, it was Richard Nixon who promised Hanoi more than $4 billion in a plain brown envelope if the Communists would behave, but their invasion of the South closed that account. In any case, the President dispatched Richard Holbrooke, Assistant Secretary of State, East Asia & Pacific, to Paris to get our relations with Hanoi back on the track.

From the media, you might get the impression that the only thing holding up a love feast between us and the Vietnamese is the question of the Americans missing in action (MIAs) whose bodies have not been returned, that our real grievance against Hanoi is its refusal to behave like a licensed mortician. Hanoi's behavior on this score is outrageous—even the Nazis during World War II accounted for our MIAs—but they are using it as a ploy, drawing from a warehouse enough fresh caskets to keep us on the string. May God rest the MIAs and comfort their families, but isn't our fundamental concern, given our commitment to human rights, what they are doing to live Vietnamese?

There is a witness, *Nguyen Cong Hoan*, and a very interesting one indeed. A Saigon opponent of President Thieu who fed endless material to the American press on that "ferocious" regime, he was adjudged "progressive" enough to be elected to the new Na-

tional Assembly of the unified Communist Vietnam. Appalled by what he saw, Hoan and two companions, like himself anti-Thieu members of the old Saigon legislature, escaped in a fishing boat, were rescued and taken to Japan. There they are currently isolated in a remote village, awaiting visas to the United States—or expulsion (the Japanese provide no asylum). Hoan held one press conference, which was mind-boggling to the "normalizers" in the United States, and has received no reply to his request for residence in the United States.

He said he applied to the American Embassy for the necessary documents and was told to be "patient." A State Department spokesman in Washington after some shilly-shallying, said there was no record of his formally applying for a visa. Nonsense. Maybe he didn't turn up at the Embassy in a cutaway, but he and his companions want to come here. They should be admitted and invited to testify to Congress and the American people—maybe even on a television news program. But from the viewpoint of the "normalizers" they are dynamite. Their message, like the similar ones emerging from Laos and Cambodia, would undermine any attempt to do business with Hanoi—unless you are prepared to sell oversized pots to cannibals.

While we're in the vicinity, let's spend a few moments on "normalizing" relations with the Peking regime. Communist China is the world's biggest concentration camp run by a military junta. For some unexplained reason Mr. Carter, and his advisers Cyrus Vance and Zbigniew Brzezinski think we should do something for the Chinese. Otherwise they might get annoyed and do something. China, in short, is a Great Power and merits our concern and aid.

Well, China isn't a Great Power—it has a smaller GNP than the German Federal Republic, antique military assets, and is involved in a first-class brawl with the Russians. But back in 1972 didn't Henry Kissinger and Chou En-lai make a deal on a menu in a Shanghai restaurant that we would give them Taiwan? Who knows? Kissinger is inscrutable, Chou is dead, and we have no more right to give them Taiwan than we do to donate Soviet Turkestan. There's another "normalization" we can put on "Hold."

We can worry about other "normalizations" another time. The point is that while the beached whales at the networks are flapping their tails to a 1967–75 tempo, American opinion has shifted almost 180 degrees. Lou Harris' polls show strong opposition to Carter's SALT and African policies; the Senate virtually tells him to keep the troops in Korea; both Houses pass a resolution to protect the family jewels at SALT, and Congress overwhelmingly expresses distaste for providing credits to Vietnam, Laos, Cambodia and several African butcher shops.

In sum, much to President Carter's admitted "surprise," the issue of human rights has revitalized the American sense of purpose. Maybe this new tide of confidence will float the whales off the network sand bars?

SMALL BUSINESS, AN ENDANGERED SPECIES

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. EARLY. Mr. Speaker, I insert in the CONGRESSIONAL RECORD an article called to my attention by a constituent of mine, Mr. John J. Connor of Polyvinyl Films, Inc. Mr. Connor recently wrote to me concerning the problems of small business. He included this article which appeared in the Worcester Evening Gazette.

The article deals with a study written by Prof. George A. Doyle, chairman of Assumption College's Department of Economics and Foreign Affairs. Professor Doyle offers some interesting comments on the relation of small business to the Federal Government. I recommend that my colleagues take the time to read this article:

SMALL BUSINESS CALLED ENDANGERED SPECIES

(By Leonard J. Lazure)

Question: What employs about 60 per cent of the American work force, is often thought of as the foundation of the American economy and may join the plight of the bald eagle by the 1980s?

Answer: Small business.

Small business, according to Prof. George A. Doyle, is fast becoming an endangered species.

Unless the United States assumes a "positive, aggressive" strategy to solve its problems, Doyle doubts small business will survive.

That is the basis of a study written by Doyle for the Joint Economic Committee, co-chaired by Sen. Hubert H. Humphrey, D-Minn.

Doyle, a 59-year former Marine major, is chairman of Assumption College's department of economics and foreign affairs.

"We're living in the world of Exxon . . . the world of giants. Yes, they were developed on the free market, but then they went on to stamp it out," Doyle said in a recent interview.

Not only are small businesses facing a shortage of capital, but are overwhelmed with government regulations like the Occupational Safety and Health Act (OSHA) and the Employees Income Security Act (ERISA), he said. Doyle said trying to develop a national policy of "full employment" without protecting small business is unrealistic.

NEW CABINET POST

Among Doyle's recommendations is restructuring the President's Cabinet to include a Department of Small Business.

"Agriculture employs only about 3½ percent of the labor force, but we have a secretary of agriculture. Small business employs 60 per cent of the work force, but there is no representation on the Cabinet level," Doyle said.

"It's time we recognize this."

Doyle will testify this month at a Senate hearing on small business. The Senate is preparing a bill that will ask Congress to implement some of Doyle's findings.

Doyle said the structure of the Cabinet has always leaned toward big business, even under President Carter.

For example, Doyle said, many of Carter's appointees come from a background of IBM and AT&T. Cyrus Vance, secretary of state, Howard Brown, secretary of defense, and Patricia Harris, secretary of housing and urban development, have all been directors of International Business Machines.

"A small businessman doesn't feel he has any access to government," Doyle said.

Government regulations were also hard hit by Doyle.

"The activities of the Occupational Safety and Health Administration may turn out to be a classic case of government frustrating small business as it attempts to deal with survival," Doyle writes in his report.

In his study, Doyle cites the case of a Worcester business—already sinking with the effects of the recession and a lack of capital—closing because of OSHA.

"It was, so to speak, the last straw . . . the marginal firm which may be pushed to the wall by OSHA requirements," he wrote.

Doyle said the intent of the health and safety act was good, but no one sat down to think about its effects on small business.

He also said there is a serious lack of qualified people who enforce the law. OSHA, wrote Doyle, has 100 offices and 2,200 employes.

"Its goals are to have 1,000 compliance officers in the field of safety and 1,000 in the field of health. There are, however, only 2,000 industrial hygienists in the whole country. To fill the gaps, Administrator Corn (Dr. Morton Corn) says OSHA intends to hire college graduates in science and engineering, give them short-term specialized training and send them out to enforce the act. Such a measure stems from haste," Doyle wrote.

HARASSMENT TO BUSINESSMEN

Doyle concludes that if small business is to survive in the "OSHA era," it has to be offered alternative plans to comply. Without more harassment" to the businessman.

Turning to ERISA, Doyle wrote that the pension legislation involved four congres-alternatives, Doyle said, OSHA becomes "one sional committees, took nine years to formulate and covers 200 pages. If a small businessman wants to comply with the law, it means hiring accounts, actuaries and lawyers, Doyle said.

Quoting Bankers Trust Co., Doyle said, "The changes mandated by ERISA are so sweeping and the regulations so complex that most employers will be working through the problems for years to come."

Doyle said the Small Business Administration does not have enough resources to meet problems faced by small business.

"Consider the fact that 90 per cent of our firms are small businesses. Next, consider the fact that under good economic conditions, before the recent recession, half of these firms would fail and go out of business during their first two years. This is the world with which SBA has been trying to work. It has never had sufficient resources," Doyle wrote.

Doyle also urges that unless the federal government sets aside capital for the small businessmen, their future is bleak.

In addition to recommending the creation of a Cabinet-level Department of Small Business, Doyle is also urging:

The development of a small business investment-reserve fund. Small business failures are too high, and sellouts to large corportations too common to ignore, said Doyle. Under his plan, similar to one developed in Sweden, small businesses would be allowed to take 40 percent of its before-tax profits and deposit it in an account with a so-called Small Business Investment-Reserve Fund. Half would be under the control of the secretary, who will release it when investment needs stimulating. The other half would be available to the company for development.

The development of a Small Business Management Institute. The institute would conduct research and provide training for small businessmen. Before new businesses could apply for federal money, the institute would determine if they have the management know-how.

Issuing small business impact statements. Doyle suggests that an impact statement be prepared before federal money is released. He said "we must nip in the bud" any merging of political and large-corporation interest that may harm small business.

"If we permit small business to disappear," said Doyle, "we'll be living in a wholly different country."

INTERVIEW WITH CONGESSMAN JOHN M. MURPHY

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ROBERTS. Mr. Speaker, I recently read an interview with Merchant Marine and Fisheries Committee Chairman JOHN M. MURPHY, in the July issue of Sea Power, the publication of the Navy League of the United States. Navy League Executive Director Vincent C. Thomas, Jr. and Sea Power Editor-in-Chief, James D. Hessman visited Congressman MURPHY to discuss the state of the U.S. Merchant Marine, the Panama Canal situation, Law of the Sea Conference, and U.S. Oceanographic programs, and other matters under the committee's jurisdiction. Following is the text of the interview, entitled "The Panama Canal, LOS, Deepsea Mining and U.S. Oceanographic Programs":

SEAPOWER. Mr. Chairman, you said in a speech on May 21 before the Port Everglades Propeller Club that "I will continue to . . . resist efforts to give away the Panama Canal Zone." What, in your opinion, are the minimum conditions safeguarding U.S. interests which must be included in any treaty modification before, if ever, the House would agree to transfer of any U.S. property in the Canal Zone?

MURPHY. In 1967, at the conclusion of three years of negotiations between the U.S. and Panama, a draft treaty on the Panama Canal was promulgated. This document was formally rejected by Panama in 1970 and was never really taken up in the United States. Since the time of that draft treaty, negotiations have continued, and the key mechanism in these negotiations was the agreement of negotiating principles signed by Mr. Kissinger and former Panamanian Foreign Minister Juan Tack in 1974.

I believe that the United States has said, and should continue to say, that there are two elements in the Canal issue that are basically non-negotiable. One of these is operational control, which must be guaranteed because our responsibilities and obligations to world shipping can only be fulfilled by U.S. authority to deal with the tremendous engineering problems that the Panama Canal entails. This is a canal with constantly changing cuts and bottoms in the non-lock areas and, as such, presents far more difficult problems than the Suez Canal. Lock maintenance is one vital necessity for the Panama Canal, and so is the fresh water that is required with every transit, and the need for this water supply alone creates a difficult engineering problem.

Of course, you also need skilled pilots for the Canal. We've been able to increase the number of ship transits each year, through good management and good pilotage.

So, I feel that U.S. management and control of the Canal is vital, and with that you have the related question of defense. These two issues should be non-negotiable.

SEAPOWER. What is negotiable, then?

MURPHY. We understand, and have understood, that there are many land areas on the Isthmus, in the Zone, the disposition of which could well be negotiated with the Republic of Panama. Panama City and Colon are expanding cities which, in some instances, could most logically expand into areas of the present Canal Zone. So while there is this real estate that could be negotiated, there are also other areas wherein the question of sovereignty is always risky.

I think the treaty arrangement with Panama is pretty clear. Sovereignty is one thing, but another consideration is property rights. The United States purchased the Canal Zone property twice. The 1946 Panamanian Constitution recognizes that fact and retains the right to take property, except for that property in the Canal Zone. So I believe here's a constitutional protection in Panama for the Canal Zone.

SEAPOWER. What are your conclusions, then?

MURPHY. I think there is an area for negotiation, but I don't think the United States can, per se, give away the Panama Canal. That appears to be the way the present negotiations are headed.

I asked [Ambassador-at-large] Ellsworth Bunker [chief neogtiator for the Panama Canal Treaty] recently which country would ratify the treaty first, and what constituency in Panama would be the ratification body. In Panama, he said, it would go to a plebiscite of the people. I reminded him that Panama is a dictatorship, and that there is no bona fide assembly or representative body to evaluate and debate and explain the treaty.

The assembly of community representatives that does exist is nothing more than a puppet body, and everyone knows that. The ratification in Panama would be nothing more than a dictator's statement to the people. So I asked Ambassador Bunker what would happen to the legality of the treaty if the dictator was overthrown the next day. His answer was not clear as I thought it should be.

The American presence in the Canal is vital in the areas that I have mentiond, but I think there are areas in which we can negotiate.

SEAPOWER. Will the House consider certain aspects of this, as well as the Senate, so far as ratification of the treaty is concerned?

MURPHY. Constitutionally, the Senate must consent to ratify the treaty by a two-thirds vote of the Senators present. The House becomes involved whenever there are appropriated funds involved, which is, of course, a matter for the House Appropriations Committee. The hearings I conducted as chairman of the Panama Canal Subcommittee stressed the provision in the U.S. Constitution—Article IV, Section 3, Clause 2—which vests power to dispose of territory and other property of the United States in the Congress, which of course includes the House of Representatives as well as the Senate. This means there must be enabling legislation passed by the House before a treaty can be consummated.

Then, there is a need for a majority vote of the whole House for any transfer of property.

The Committee on Merchant Marine and Fisheries has jurisdiction in many respects over legislation to be acted upon pursuant to a treaty, and that also would require a majority vote in the House. The Post Office and Civil Service Committee would be involved with Canal Zone employees and the terms and conditions of the treaty as they affect this group. So at least three committees of the House would be involved, and it would be quite a complex situation.

SEAPOWER. I don't think this is very much understood by the American people—they believe only the Senate is involved, and these other matters haven't even been brought up in most discussions of the situation.

MURPHY. As chairman of the Panama Canal Subcommittee in the 92nd Congress, I held extensive hearings, and had the Justice Department and the State Department testify, as principal witnesses. Both departments agreed that the House does have jurisdiction in most of these cases.

SEAPOWER. How would you answer those people who charge that the United States has been exploiting the Panamanians, or who consider the Panama Canal to be the last bastion of colonialism?

MURPHY. The Republic of Panama has the highest per capita income in Central America, and the fourth highest in Latin America, excluding the Caribbean. Only Venezuela, Mexico, and Argentina surpass Panama, principally because of their natural resources, Venezuelan oil, and the Argentine agricultural areas.

But we feel the United States has provided tremendous job opportunities for many Panamanians, and has upgraded their educational base.

Annual benefits to Panama, in direct connection with the Canal, are now about 250 million per year, an important part of the Panamanian economy. That includes over $100 million per year we pay to Panamanians working in the Zone and residing in Panama. The $2.3 million per year as outright payment to the government of Panama is only a very small part of their benefits.

The United States did, and still does provide, very extensive aid programs to Panama in education, housing, and the construction of the Darien Gap highway and bridge construction. We have literally poured hundreds of millions of dollars into Panama and that county has been the tremendous beneficiary of the U.S. presence on the Isthmus.

SEAPOWER. You've made several statements of facts that I don't think are known at all to the general public; do you think the American public has been given a balanced view of the Panama situation, either by the administration or by the U.S. media?

MURPHY. In the last Republican presidential primary campaign, both Ronald Reagan and Gerald Ford clearly articulated a position relative to the ongoing negotiations. An issue such as this polarizes people and unfortunately we find extremists on both sides. But I think we should discuss it with the American people. From my own sampling and the national polls that have been taken, the overriding majority of Americans do not want to give up the Panama Canal.

SEAPOWER. If we can shift to another subject which you are very much interested in—that's Law of the Sea—what do you think is the mood of Congress now concerning the deadlock, apparently, which has been reached in New York at the current conference on deep seabed mining? Is it likely that you will go ahead with your proposed legislation on deep seabed mining, even though some other countries have indicated that, if the United States does take action on its own, there will be some type of reprisal taken by them?

MURPHY. The United States would like to conclude a successful Law of the Sea [LOS] treaty with basic equities in areas being addressed by all three committtees at the conference. Committee one in the LOS—which has deep ocean mining as its basic responsibility—has been deadlocked because of the polarization of the Group of 77, or Lesser Developed Countries, and a coalition of landlocked nations that want to share in the "common heritage of mankind." This means that the United States would supply the capital and technology to an international authority to develop the deep seabed. But international law today permits any country the free use of the high seas, and the seabed is part of the high seas. So the law clearly would permit the United States to mine the deep ocean—or Japan, or West Germany, or Russia, or whichever country has the technology. I have discussed with members of the West German and Japanese parliaments legislation, which they have under consideration at this time, to permit those countries to mine unilaterally, or in concert with other countries, certain areas

of the deep ocean. Our Subcommittee on Oceanography will start markup in early July of a deep sea mining bill which provides for the United States to mine unilaterally under certain conditions and terms. The legislation does, however, provide for an end to the program which it establishes if a successful LOS treaty should be concluded and become binding on the United States. There would be no prejudice in American legislation against any LOS treaty, but at the same time we would not be constraining U.S. mining interests that have taken a technical lead and spent $150 million in developing deep ocean mining technology.

SEAPOWER. Two questions from that answer: (1) If there is an LOS treaty agreed upon in New York, will your committee, or the House as a whole, be considering the provisions of that treaty?; and (2) if you authorize deep seabed mining, either under the law you are speaking about or through an LOS agreement, will you require U.S. companies to use U.S.-flag ships and to have the nodules processed in the United States?

MURPHY. Where the United States is the lead partner in a deepsea venture and that deepsea venture would have the guarantees in our legislation, then the transport vessels that are built would be built in the United States and the processing would be done in U.S. processing plants. With respect to your first question, only the Senate has the authority to ratify a treaty, but the House, particularly the Merchant Marine and Fisheries Committee, would have to consider implementation legislation.

SEAPOWER. Going back to your comment about U.S. vessels being used in the mining, would you also include in any legislation you might propose that any support vessels have to be U.S.-registered? I can see an issue developing as to whether you should require U.S.-flag ships to provision the mining ships which would be over the deep seabed.

MURPHY. Where the United States is the lead financial control agency, we feel that U.S. shipping should be used.

SEAPOWER. Do you think you can get something like that through Congress?

MURPHY. Well, it's in the legislation—of course, Congress must work its will on it.

SEAPOWER. Will your committee have jurisdiction over an LOS treaty?

MURPHY. The LOS treaty would go to the Senate, but we would hold oversight hearings on any LOS treaty that is concluded.

SEAPOWER. The questions about deep seabed mining lead to a much broader overall subject: U.S. oceanographic programs in general. Would you say that U.S. federal funding for such programs is now too high, too low, or maybe just about right?

MURPHY. In an overview I would say that we aren't spending anything. The most critically underfunded area of American research and American technology by the federal government has been in the area of ocean resources and ocean technology. And for some reason our Department of Commerce does not support us in our requests. We have constantly, in the congressional committees—and our committee particularly—allocated funds and then find we don't have the Department of Commerce supporting us, except very minimally. We're hoping there will be a new look at this in the executive branch because of the tremendous awareness that people now have regarding the value of ocean resources.

SEAPOWER. Are you happy with the present organizational structure governing oceanographic programs and, if not, as I suspect you're not, what would you recommend as an agency to handle all these programs?

MURPHY. Senator [Ernest F.] Hollings [D.-S.C.] and I have discussed the questions about the ocean programs and are trying to draw them together. We get into the same jurisdictional/traditional battles we saw in the Senate earlier this year when the Senate underwent reorganization. We're trying to draw together all oceanic technology under the overview of our committee. We do have a Science and Technology Committee constantly intruding in the area of research as far as the deep oceans are concerned. We don't mind, but we insist that our committee retain the overall responsibility because of the experience and expertise that has been gained over the years.

SEAPOWER. Have you and Senator Hollings discussed the possibility of setting up a House counterpart to the Senate's National Oceans Policy Study [NOPS]?

MURPHY. I think the Senate's rules are somewhat different than ours. Our Subcommittee on Oceanography has the expertise and the breadth, particularly with its present chairman, John Breaux [D-La.], to encompass those same goals that NOPS has in the Senate.

SEAPOWER. If Chairman Breaux and you are able to persuade your colleagues to grant additional funding for oceanographic programs, where would you put your first emphasis? How would you allocate those funds?

MURPHY. We're in the process of doing that. We're working in acquaculture right now. This year we've had joint hearings with both the Oceanography and Fish and Wildlife Subcommittees to promote that form of resource development, which is a replenishable resource. In the oceanography area we are very interested in undersea stations, and the resources and research necessary to fully appreciate the biological chains as they relate to the fisheries resources particularly, and the mineral resources. I will be in an undersea habitat for three to four days in August with scientists studying this very subject. Those are the programs on which we are contrating at the present time.

SEAPOWER. One issue which we are very interested in is cargo preference, and I'd like to ask one question about that. If the administration takes a position against the legislation you're proposing—I gather it's not done so yet—do you think you'll still get your legislation through the House?

MURPHY. We hope to work with the administration, as we did on the Outer Continental Shelf Bill, resolve differences, and report out an acceptable bill. We're not going to please 100% of the people, but I think there is a valid national security interest at stake here, one that President Carter gave recognition to during the last campaign. We will see a cargo equity program that will meet the basic requirements that we established at the outset.

SEAPOWER. Suppose your legislation does fail and nothing is passed—we have now gone six years in an attempt to get something through Congress—do you think that will result in even greater problems for the U.S. merchant marine?

MURPHY. Well, I have a task force on the American merchant marine working, and cargo equity is only one phase of an overall program. One problem we are currently looking into is the practice of the U.S. government permitting millions of dollars in government cargo to be shipped in foreign-flag bottoms. We've already introduced a resolution on this problem. We will go into the whole question of utilization of the U.S.-flag fleet on our trade routes. We know that many of our ships sail half empty. There is an imbalance in this whole area, and I think that our program, when we finally articulate it late next fall, will be one that will comprehensively address the problems of the American-flag fleet and not just the one phase that we've been discusing, cargo equity, which has gotten so much publicity.

SEAPOWER. This will be the first time ever that Congress has tried to address that subject so comprehensively, am I right?

MURPHY. Well, we've tried to address it. We did pass the Merchant Marine Act of 1970, it was a failure. . . .

SEAPOWER. Not entirely, though. You still got a good many new vessels out of that which wouldn't have come about if you hadn't passed the legislation.

MURPHY. Fortunately, both Maritime Administrators, [Andrew E.] Gibson and [Robert J.] Blackwell, implemented the Act so that some VLCCs [very large crude carriers] and LNG [liquefied natural gas] vessels were constructed. Otherwise, ship construction would have generally been limited to replacement vessels required by operating-differential subsidy contracts.

The basic problem is cargo. If you have the cargo, you will have the vessels to move it. But when foreign-flag carriers freeze you out, as they are doing now, then we will not have the ships required in either peacetime or during periods of national emergency. There is something wrong with the American maritime industry and the U.S. government policy, because of the position we are in now.

SEAPOWER. That's right. Cargo moves ships—that's what the Shipbuilders Council says. Now: do you think it would be in the best interests of the United States for the Departments of Defense, Navy, Transportation, the Coast Guard, and the Maritime Administration, along with the shipping and shipbuilding industries, to get together, take a long careful look at U.S. shipbuilding capabilities and plans for the future, and come up with one, national, coordinated plan? And if you do think that's a good idea, would you propose that such a study be undertaken?

MURPHY. You had better add the Department of Commerce. MarAd is in the Department of Commerce. But I think we have studied it to death. We spent two years in the last Congress in oversight and wound up with more disagreements and divergent philosophies on the committee. We know what the problems are and just to go into another phase of studying an old problem and rehashing and reviewing the bromides necessary to correct the illness is a waste of time. The clock has run out on the American-flag merchant marine.

SEAPOWER. Would you address yourselves, too, to the problem of having all our nuclear submarine building capability on the East Coast, and of the decision by Mr. [former Defense Secretary Robert S.] McNamara a few years back not to allow Navy ships to be built in the Navy yards, and all of the complexities that now have us at a point where there just aren't enough yards to go around? If your legislation passes, and if the Navy ever gets the legislation to support a construction program for a 600-ship Navy, there won't be yards available to build the ships. There has to be some integration. It looks as though if there are, say, 15 nuclear submarines in the program next year, we still wouldn't get them until 1990, because they couldn't be built unless there were some radical changes in shipbuilding.

MURPHY. Well, I went into this in great detail with Secretary McNamara because the Brooklyn Navy Yard was in the area that I represented at one time. One of the parameters for the evaluation of Navy yards was that there would be a carrier building capability and a nuclear submarine building and maintaining capability on both coasts, in public yards. I have requested a hearing this month with the Secretary of Defense to address the Navy's five- and ten-year construction needs, because the Department of Defense will come in and say it cannot support cargo equity as the shipyard construction capability in the United States would be pre-

empted by tanker construction and consequently would be overpriced for Navy shipbuilding. Frankly, I think that is just someone's excuse for not supporting a cargo equity bill. We do have, I feel, the necessary shipbuilding industrial base. It is a question of allocating resources. We have very interesting personalities in the naval shipbuilding areas that I think exacerbate this particular problem.

SEAPOWER. On the same theme of national defense: from your own military experience both in World War II and Korea, and from your unique perspective as chairman of the Merchant Marine and Fisheries Committee, you obviously understand the importance of logistics to our national defense effort. Now, do you think our national security establishment understands logistics and has made adequate provision for logistics in the event of a future conflict?

MURPHY. I know they understand logistics. What they are faced with is defining a future conflict, the dimension of it, and the reaction this country must make to it. We do not have the ability today to meet any moderate threat strategically in the Eastern Mediterranean, Persian Gulf, or Western Pacific. We do not have the capability to react within 30 or 60 days with a two-divisional movement in those areas. We know that the Russians have a far greater sealift capability for this purpose. Statistically, we've studied Vietnam, which is as late as you can get as far as an intermediate-type war is concerned, and we know that sealift carried about 95% of the logistic requirements of our defense forces to that theatre. Airlift simply cannot do it all; airlift can do it on a very limited basis for a very limited period of time.

SEAPOWER. You may recall a few years ago Mr. McNamara was pushing his airlift philosophy and was trying to form a major operative airlift to Europe on a training basis. I don't know how many days it took to get the aircraft prepared to make the lift, but that was the biggest part of the whole operation.

MURPHY. An analysis of an airlift, such as the Israeli effort, would indicate that aircraft have some serious limitations. We better get on with the business of building up a U.S.-flag merchant marine to work with the Military Sealift Command in meeting our defense requirements.

SEAPOWER. Well, what measures do you think are necessary to rebuild our resupply capabilities?

MURPHY. It is not just a question of having six ships in the MSC fleet that are MSC-flag ships. I think that the Navy and MSC can use and should have available a mix of relatively fast containerships, Ro-Ro [roll-on/roll-off], LASH [lighter aboard ship], and dry cargo vessels; some with heavy lift equipment or at least with the capability of having heavy lift equipment transported on board, to meet fleet needs. We went through Operation Steel Pike, and the difficulties that showed up there remain today. In fact, our capability has deteriorated since that exercise in terms of fleet support.

SEAPOWER. Is the Navy heeding your views at all insofar as trying to include this type of shipbuilding in their program?

MURPHY. The Navy is an executive [branch] agency and is responsive to executive department philosophy. It has a role to play in the formulation of policy in its area, but I think it is trading off sealift requirements for other advantages.

SEAPOWER. Do you think MSC's "Build and Charter Program" is going to help? And, if so, would you like to see that program expanded? That's the one where they have the private builder build the ships with the guarantee of cargoes.

MURPHY. That is a viable program. They currently have 14 U.S.-lines on long-term charter and various other types of charters. They have 30 small tankers. But when we look at it in an overview we find that they can carry, with this whole mix, only about 5% or 6% of the Defense Department's needs in peacetime. So we know that it is a seriously inadequate sealift. We are not at all happy about the Defense Department's utilization of foreign-flag shipping. So it's not just limited to the federal government. We have to address ourselves to this and are in the process of doing just that.

SEAPOWER. I have only one last question and that is this: Is there any question you wish we had asked and would like to answer?

MURPHY. We've covered the waterfront. In addition, we are going into an area that the President has spoken about—the environmental impact of oil spills, and the construction standards of American ships and other ships that will call in our ports in the future. We will address ourselves to legislation in those areas in the near future as well.

SEAPOWER. In that connection, and taking a look at the Coast Guard budget for this year, one of the things that astounded me was that in many areas they received very, very little more than they got last year—even their shipbuilding was off a little bit, as I recall—and yet they have been given so much more in the way of responsibilities. Have you made that point to [Transportation] Secretary [Brock] Adams, and tried to encourage more funding and greater flexibility for the Coast Guard?

MURPHY. I made that point very clear to Coast Guard officials during the authorization bill mark-up and specifically questioned them as to that point—can they properly fulfill their mission in the new 200-mile zone with the existing equipment and personnel—and I got a very equivocal answer. And they answered very equivocally to the Appropriations Committee when asked the same question. We know that they do not have the proper equipment and sufficient personnel to perform that mission. But, again, the Coast Guard is a part of the Department of Transportation, which is subject to Office of Management and Budget oversight; the Coast Guard does not speak for itself. Our committee constantly has had to expand and broaden the Coast Guard program and budget, as we've had to this year in the area we've mentioned.

SEAPOWER. We know they've had to be conservative in their statements, and they've probably been over the barrel in this respect.

Mr. Chairman, that concludes our questions. Thank you very much for your time, and for your thinking on these various subjects, which I know will be extremely interesting reading for our Navy Leaguers, and for a lot of other people as well.

MURPHY. It's been my pleasure. Thank you for coming by. I'm glad we had the opportunity to spend some time together.

TRIBUTE TO JUDGE ISAAC PACHT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WAXMAN. Mr. Speaker, it gives me great personal pleasure to join with his numerous friends in honoring Judge Isaac Pacht on the occasion of his being inducted as an honorary fellow of the Hebrew University of Jerusalem and of the creation of a scholarship fund bearing his name in the university's faculty of law. Judge Pacht will receive the tributes of his friends and community at a dinner on Sunday, August 14, sponsored by the attorney's division of the American Friends of the Hebrew University.

Isaac Pacht was a judge of the Superior Court of the State of California from 1931 to 1936, president of the California State Board of Prison Directors from 1940 to 1950, past trustee of the American College of Trial Lawyers, chairman of the California Commission on Criminal Law and Procedure, and a member of the California Board of Corrections. He has been a distinguished trial lawyer for the past 64 years, and is a senior member of the law firm of Pacht, Ross, Warne, Bernhard & Sears. He is a member of the American Bar Association, the Beverly Hills Bar Association, and the State bar of California.

While leading a full and active professional life, Judge Pacht has found the time to contribute widely to his community's welfare. He was the first chairman of the United Jewish Welfare Fund, president of the Los Angeles Jewish Community Council, chairman of the Los Angeles Community Relations Committee, and is now vice president of the Western States Region of the Friends of the Hebrew University and a member of the Society of Founders of the Hebrew University. Judge Pacht was president of the Jewish Orphans' Home of Southern California, now known as the Vista Del Mar Child Care Service and a director of that organization since 1927, founder of the Los Angeles chapter of the NAACP, and past president of the Los Angeles Community Chest.

Born in 1890 in Millie, Austria, Isaac Pacht came to the United States as a child. Educated in the New York public schools, he received his law degree at the Brooklyn Law School of St. Lawrence University in 1911. He moved to Los Angeles in 1912 and was admitted to the California bar in 1913. He married Rose Rudolph on February 12, 1912. Isaac and Rose enjoyed 63 years together. Their three children do credit to their parents. Rudolph, a lawyer; Lucy Winifred Kurioff, a writer; and Jerry, now a judge of the Superior Court of the State of California, have followed in their parents' footsteps as community leaders.

The city of Los Angeles and the State of California are fortunate to have Isaac Pacht as a resident these many years. I ask the Members to join me in recognizing the many benefits with which he has endowed our community.

SMOKY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. CARTER. Mr. Chairman, I have today received a letter from Chairman MELVIN PRICE, of the Armed Services Committee, which I wish to share with my colleagues.

Last week I introduced a resolution of inquiry, House Resolution 709, to direct the Secretary of Defense to furnish this

body with the name, and in the case of a member or former member of the armed services the service serial number, of each individual who was present at the explosion of the atomic device known as "Smokey" which was detonated at Camp Desert Rock, Nev., on August 31, 1957.

Chairman PRICE has now notified me that he agrees that the names of the 2,232 persons who were there should be disclosed to the Center for Disease Control in Atlanta so that an epidemiological study can be completed. As my colleagues will note, Chairman PRICE is writing to the Department of Defense to ask that the names be released to CDC.

I want to commend Chairman PRICE for his very compassionate cooperation in this matter, and I certainly hope that we will get the names from the Department of Defense shortly.

Mr. Chairman, I also want to note that the ranking minority member of the Veterans' Affairs Committee, JOHN PAUL HAMMERSCHMIDT, also has been most helpful in attempting to assist these men who served their country honorably and who now have leukemia or other cancers. Representative HAMMERSCHMIDT has written to the VA Board of Veterans' Appeals in support of Mr. Donald E. Coe from my district who was at Smoky and who has leukemia. I want to publicly thank Representative HAMMERSCHMIDT for his support.

I enclose Chairman PRICE's letter for the RECORD:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., August 2, 1977.

Hon. TIM LEE CARTER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CARTER: This is in response to your letter concerning the resolution of inquiry, H. Res. 709, which you have introduced and which has been referred to this committee. The resolution directs the Secretary of Defense to furnish the House of Representatives with the names, and where appropriate, serial numbers of individuals present at the explosion of an atomic device known as "Smokey" at Camp Desert Rock, Nevada on August 31, 1957.

I am particularly aware of your concerns in this area because, as it happens, I was present as a witness to the "Smokey" nuclear test. I have already answered an inquiry from Dr. William H. Foege, Assistant Surgeon General and Director of the Center for Disease Control in Atlanta, Georgia. Fortunately, I have had no ill health effects in the intervening 20 years which would appear to be attributable to the possible exposure to radiation.

I certainly believe that this survey of the participants at "Smokey" should be carried through, and I know of no reason why the Department of Defense should withhold the names of the participants from the officials doing the study.

Accordingly, therefore, I am today writing to the Department of Defense and requesting that the names, and where appropriate, serial numbers of those who took part in the Desert Rock exercise be made available to the people conducting the study as soon as possible. It should not be necessary to act on the resolution to get these names promptly released. However, should there be any unnecessary delay in releasing the names, we would be prepared to consider the resolution. I am sure the Department of Defense will be prepared to cooperate in this endeavor.

Sincerely,

MELVIN PRICE, *Chairman.*

THE CRUELTY OF MANDATORY RETIREMENT

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SARASIN. Mr. Speaker, the policy of mandatory retirement is one that cruelly destroys the twilight years of many Americans today, taking its toll both on the human and social levels. As the Honorable CLAUDE PEPPER succinctly defined it, "Mandatory retirement is a cruel camouflage masking age discrimination and forced unemployment." Older workers who still have the will, talent, and energy to be socially productive are driven into a premature retirement, often resulting in an old age of poverty and aimlessness. The House Select Committee on Aging reported information indicating that people who retire at 65 have a lower life expectancy than individuals who continue working. We have no way of knowing what the impact of mandatory retirement is on our society as a whole for the loss of the intellectual contributions of these senior citizens is immeasurable.

In response to the injustice of such a mandatory policy, H.R. 5383 has been introduced, seeking to address the problem of across-the-board mandatory retirement. This bill is now pending in the Committee on Post Office and Civil Service and I hope will reach the floor of the House soon after the August recess.

Regarding this issue, then, I would like to take this opportunity to direct the attention of my colleagues to a letter that I recently received from Mr. Robert D. Kilpatrick, president of the Connecticut General Insurance Corporation. Mr. Kilpatrick outlines a recent change in his company's retirement policy that stands as a laudable example of the kind of attitude toward our working elderly that should be shared by all employers. For such an attitude, in encouraging the elderly to work for as long as they are willing and able to, benefits not only our older working force, but the entire Nation. The letter follows:

CONNECTICUT GENERAL INSURANCE CORPORATION,
Hartford, Conn., July 29, 1977.

Hon. RONALD A. SARASIN,
House of Representatives,
Washington, D.C.

In light of all the current discussion about the inequities of mandatory retirement, Congressman Sarasin, I'm pleased to tell you about the decisive step Connecticut General Insurance Corporation has taken on the issue.

Beginning August 1, we are eliminating mandatory retirement for all of our employees who are not officers or field managers. This move affects some 7,600 salaried and hourly employees of Connecticut General Life Insurance Company around the nation and 4,300 employees of the Aetna Insurance Company, our property and casualty affiliate.

The trend toward liberalized retirement has generally emphasized leaving a career at earlier ages. We feel that emphasis overlooks a very important group of people: the employees who want to continue working beyond age 65. Even extending mandatory retirement to age 70 doesn't take into account the tremendous energy and ability some people maintain well into their senior years. Some of our employees want to continue their careers with the company beyond what used to be considered "normal" retirement age and we recognize what a valuable resource they are.

Hence, our retirement range continues to begin at age 55, but now extends for as long as the employee wants to continue working and maintains fully satisfactory performance. By eliminating mandatory retirement I believe we offer the individual employee a greater freedom of career choice . . . because other career opportunities are always open, irrespective of age. At the same time we retain experience and knowledge that would otherwise be lost. We strengthen our organization and ourselves as individuals when the interests of employees and the corporation work in support of each other. In this case, as long as performance is satisfactory, retirement is open-ended and the choice is entirely the employee's.

Knowing of your interest in this area and of pending bills on the subject in Congress, I wanted to personally acquaint you with this major shift in our company's retirement policy.

R. D. KILPATRICK,
President.

THE DEATH OF PRESIDENT MAKARIOS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. KILDEE. Mr. Speaker, the death of Archbishop Makarios III of Cyprus should be mourned by us all. President Makarios was a great statesman and religious leader. His loss is not only a loss to the Cypriots, but also to all of those who seek peace and stability in the world. His leadership has been an extremely important stabilizing force in the eastern Mediterranean and Middle East. I fear that his death inevitably complicates the problem of arriving at a just settlement on Cyprus which protects the rights of both Greek and Turkish Cypriots.

President Makarios was one of those great men who overcomes humble beginnings but does not forget them. He was born into the family of a poor shepherd in the village of Pono Paniya, Paphos. In 1950 he became the youngest man ever elected archbishop of Cyprus.

During the 1950's his concern for his people pushed him into the forefront of the anticolonial Cypriot independence movement. Although there was violent opposition to British rule, the charisma of Archbishop Makarios tempered the radicalism of both the right and the left. Despite this, the British exiled him to the Seychelle Islands in 1956.

When Cyprus achieved independence in 1960, Archbishop Makarios was elected as its first president. The international and domestic problems which confronted

the new government were tremendous, and President Makarios devoted his entire energies to finding solutions to them. He made every effort to keep Cyprus on an independent road in international relations and to reduce the communal tensions which existed internally. Without the respect which has been given to President Makarios, these tasks will be much more difficult for the new President.

In 1878, Archbishop Sophronios expressed a wish which was a guiding principal for his distinguished successor. He said:

> We hope that all shall be instructed without distinction of race or creed; that law is the king of all; that all shall have equal rights and responsibility before the law, for equality of rights implies also equality of responsibility; that all shall be used to treading the good road, that is to say, the road of truth, duty, and liberty.

I feel a personal sadness because of his death. Every person seeking peace and justice certainly shares in that sense of sadness and loss.

CONVENIENT TIMING OF "REVELATIONS" REGARDING 1948 TEXAS SENATE CONTEST

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. PICKLE. Mr. Speaker, recent allegations by a former South Texas Democratic precinct chairman that he fraudulently gave Lyndon Johnson the victory in the 1948 primary election contest with Gov. Coke Stevenson should be taken with a large grain of salt.

The background of the accuser who says he winked at voting irregularities, is very suspect, to put it mildly. His claims that he was doing this now to "clear his conscience" are ironic because the charges as told should increase any burdens that he takes to his grave. It is also interesting to note that he has just "seen the light" since all of the participants he professes were in on the fix are dead. There is also considerable reliable information that the accuser has been working on a book about the 1948 election for many years and his sensational allegations have certainly given him a free publicity boost.

I might also point out to the instant experts and revisionist historians that the 1948 run-off for the Democratic nomination for the Senate was a bitterly fought battle. Although the historical focus has been over the election contest at Box 13 in Jim Wells County, in fact, this was just one of numerous disputes over the vote counts. No court has ever found that there was fraud in this torrid, hard-slugging in which both sides fought tenaciously over every vote.

I was an active participant in behalf of Lyndon Johnson during this election and as far as I know, Mr. Johnson did not go anywhere near Jim Wells County after the election to meet with the accuser and others. It seems very logical to me that this would be the last thing that Mr. Johnson would have done.

The former precinct chairman is very bold in making these spurious charges about others who are all deceased. I must say, too, that if the role played by the Associated Press correspondent in this story seems to me to indicate he is not being totally objective. It is more like an adversary proceedings.

Lyndon Johnson was one of the greatest Presidents this country has ever had and history will record his legislative accomplishments along side of that other great modern day president, Franklin D. Roosevelt.

The rehashing and digging up of old unsubstantiated accusations will not stain the memory of Lyndon Johnson.

NEW CONSUMER ALMANAC PROVIDES VITAL INFORMATION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. RICHMOND. Mr. Speaker, American consumers have long been the victims of a severe vacuum of meaningful information regarding every day products which constantly affect our lives. While particular consumer-oriented periodicals can be the source of useful data on specific products, until now there has been at best only a smattering of general consumer information.

Government and business institutions still have much to do for the American consumer. It has only been through the individual efforts of consumers and consumer advocacy organizations that we have begun to learn what our rights are as consumers, and what the truth is behind advertising claims.

I would like at this time to single out one organization in particular, Consumer News, Inc., for their determination and resourcefulness in providing American consumers for the first time, with an authoritative and thorough guide to vital consumer concerns. This new book, entitled "Help: The Useful Almanac" is overflowing with information that not only can save individual consumers hundreds of dollars each year, but may also save lives. Chapters in this book deal with household products and services, money and taxes, transportation and communication, energy and the environment, and the very quality of life in our cities.

Of particular interest to me, as the only urban member of the House Agriculture Committee and Chairman of the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, are the sections on food and nutrition. With the dietary habits of Americans constantly being influenced by slick commercials and promotional campaigns which have little regard for the quality, safety and usefulness of products being sold, the American consumer stands in grave need of accurate, helpful information. "Help: The Useful Almanac" clearly outlines the differences between junk food and nutritious foods, the hazards of sugar, fat, salts and other additives, reveals Government standards of filth and contamination of food, and provides an endless amount of useful information for the consumer.

I commend this book to my colleagues attention and hope that they will be able to share this vital information with consumer organizations and concerned individual consumers in their districts. Only by enlightening ourselves to the truths which we must face and challenge in our consuming society, will we be able to make intelligent and responsible decisions which affect not only our lives, but the lives of our children and their children.

CUMMINS ENGINE CO., INC., SUPPORTS AGENCY FOR CONSUMER ADVOCACY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BRADEMAS. Mr. Speaker, I have recently received a letter from Mr. Henry Schacht, chairman of the Cummins Engine Co. of Columbus, Ind., in which he expresses the full and complete support of his company for the Agency for Consumer Advocacy proposed by President Carter.

Because the arguments presented by Mr. Schacht are significant and timely, I insert the full text of this letter at this point in the RECORD:

CUMMINS ENGINE CO., INC.,
Columbus, Ind., July 18, 1977.

Hon. JOHN BRADEMAS,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BRADEMAS: Cummins Engine Company supports H.R. 6805, which would establish an Agency for Consumer Advocacy.

We believe that it is in the interest of all participants in the economy that the rules of the marketplace be fair. The best assurance of fairness is that the rules be formed on the basis of full information and balanced argument.

The number of federal agencies dealing with matters affecting the consumer is too great for consumers as individuals or even as classes to monitor and influence effectively. The current representation of consumer interests through private or pro bono litigation, while sometimes highly effective, is often prohibitively expensive and is generally haphazard.

The proposed Agency, on the other hand, will be able to develop a broad view of consumer needs, assign reasonable priorities, and pursue those priorities strategically. Such an agency would go far toward ensuring that the consumer interest is heard in the right place at the right time.

We are, of course, aware of the various arguments against the Agency for Consumer Advocacy. We do not find them compelling. The cost would be slight. The additional paperwork would be negligible in its impact upon anyone but the parties to the proceedings. And the danger that the Agency will cause administrative delay is balanced by the likelihood that administrative proceedings will be expedited by the presence of an aggressive party whose interest is to improve rather than retard governmental regulatory efficiency. Indeed, we expect that the net

effect of the Agency's involvements will be to eliminate much unnecessary regulation and to reduce administrative delay.

In sum, we regard the Agency for Consumer Advocacy as a promising experiment in improving the quality and accountability of the governmental process.

Sincerely,

HENRY SCHACHT,
Chairman.

THE CAMBRIDGE BANNER COMMENTS ON DOUBLE DIPPERS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BAUMAN. Mr. Speaker, recently the Banner in Cambridge, Md., commented on the issue of double dippers, those who have retired from the military and are working for the Government in some other capacity. Quite frankly, the term "double dippers" is a demeaning term, and was coined by those who oppose the right of former military retirees to work in other Government positions. I commend to my colleagues consideration of the various arguments of the Banner, pointing out that this is really discrimination against the retired military:

DOUBLE-DIPPERS

In defense of "double-dippers"—and it is high time someone rallied to their defense—we ask these simple questions:

Is military retirement pay deferred income for long, arduous and frequently dangerous service performed for the country, or is it a form of welfare payment?

Should jobs in the federal government be filled by the best-qualified, regardless of age, race, sex, religion or previous condition of servitude?

A mass of misinformation is being circulated by those who should know better concerning the alleged injustice of retired servicemen holding civilian jobs in the government. House Appropriations Defense Subcommittee Chairman George Mahon (D-Tex.) says it is "simply unfair for some people to draw two salaries when other people can't get one." His subcommittee voted last week to require retired servicemen who get civilian jobs in the government (the so-called "double-dippers") to give up their retired pay.

According to the subcommittee's own study, 95 per cent of the double-dippers are retired enlisted men and reserve officers, not the fat cat generals and admirals who shed their uniforms one day and step into cushy civilian jobs in the Pentagon the next. (Retired regular officers are already required to surrender a portion of their retired pay when they take a federal job.)

The average combined salary and pension for an enlisted man is $19,500 and for an officer $34,000—comfortable, indeed, but not princely in these times, and a far cry from the $57,000 annual salary drawn by Rep. Mahon and his congressional colleagues (who also enjoy a retirement system and other fringe benefits that make those of the armed forces appear miserly).

If Congress goes along with Rep. Mahon's subcommittee, the government will save an estimated $26 million in military retirement pay for fiscal 1978. What it will cost in terms of disillusionment and lowered morale within the ranks of both active and retired servicemen is incalculable.

Can anyone blame soldiers, sailors and airmen in today's armed forces if they turn to unions in the face of the constant chip, chip, chipping away of what have long been considered the earned benefits of a service career? We would deeply deplore such a move, but at the same time we could understand it.

ADDRESS BY DRYDEN PENCE, GOVERNOR OF ARKANSAS BOY'S STATE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. HAMMERSCHMIDT. Mr. Speaker, last summer and again this year, an outstanding young Arkansas native, Dryden Pence of Forth Smith, has served as an intern to the Select Committee on Aging, Subcommittee on Housing and Consumer Interests.

Among Dryden's many honors and civic involvements, he attended Arkansas Boy's State earlier this year, and was privileged to be elected Governor.

In that capacity, Dryden was called on to address the Arkansas State Convention of the American Legion, the sponsoring group whose many civic contributions include the great learning experience in Government and opportunity for personal growth that is Boy's State.

Dryden's speech for that occasion is a stirring one of faith in the future and fiber of our country. I commend it to the attention of my colleagues:

ADDRESS BY DRYDEN PENCE

Members of the head table, distinguished members of the American Legion, ladies and gentlemen, I'm honored to speak before you today and hope that this convention will be an enjoyable experience for all concerned.

Upon my arrival home from Boy's State many people came to me and told me how proud of me they were, but without exception everyone of my friends also asked me, "How in the world could you, of all people, pull off something like the governership of Boy's State?" I had one standard answer, "I believe in what I was doing and I realized that I couldn't do it alone".

It wasn't just Dryden Pence running for governor—it was all of Robinson County. It was 104 men working together as one unit trying to win. I was just lucky enough to be the one they wanted to support. What more can I say . . . I won . . . because of unity and the whole-hearted efforts of a great bunch of guys to whom I will be eternally grateful.

Boy's State is an experience that teaches us about our State and local governments. It teaches us how to be leaders, good citizens and men.

A few weeks ago I was sitting in Washington National Airport and I looked out of the massive glass windows and noticed a towering and beautiful structure . . . the Capitol. It provided an interesting contrast with the most advanced and modern aircraft man has to offer in the foreground, and the most important building to the free world in the background.

As I sat there I thought deeply of our country and what it had seen in the past, and what was yet to come. I pondered over the why and the how of our great Nation and tried to look back into the past into the hearts of men, who too, believed in what they were doing and realized that they couldn't do it alone. These men, the Founding Fathers, the patriots, if you will, the dreamers . . . the thinkers . . . the fighters . . . the believers. These were the men who wrote down what they believed in for future generations, who spoke about what they dreamed to gather support for their cause, who took up the sword to fight for liberty and freedom and who shed their blood for the rights of men—men like us whom they would never know.

This is the basis of our country. Men who gave of themselves 100% . . . who fought against insurmountable odds, for what? Freedom . . . freedom, liberty, choice—all the things that many people take for granted, these men fought for, with such zeal and conviction that even their enemies were impressed.

To me, our country is more than buildings. It's more than highways. It's more than material things. It's people and ideas. People who care, people who love, people who have personal rights and freedoms and they have these freedoms because they believe in America.

America born from the toil and trials of men. America given birth to by not just words, but ideas. America conceived by justice and consummated by liberty. America a land of people who cried for freedom and were not afraid to die for it.

This was the America of the patriots and it is still the America of today. Many people say that our country is dying. Many people say that with the onslaught of propaganda, brainwashing, technology and cybernation, that America is fading rapidly under the burden of the excess paper turned out by the bureaucracy at a rate that boggles the mind.

They say that the younger generation can't cut it . . . that we're soft and that America and our way of life is rapidly running down a socialistic tube and individual freedoms are lost and that the end of our land is in sight. To these people I politely say don't count your chickens before they hatch.

Because it's still there . . . the words, the ideas, the thoughts, the flame of liberty . . . it's still there under all the paper and garbage. And do you know what? It's still burning. Why? Because it works. The system works. Sure it has it's faults, but it works. The thought, the drive, the feelings, and the ideas are still there. And they're, ironically enough, on paper for us all to see. They sit in the Archives—the Declaration of Independence. The Constitution, and the Bill of Rights. They're there in plain view and let no man hold us blind to that sight or understanding.

The feeling for this country is still there. The love is still solid. You men are an example of that. You men are patriots. When the time came and your country needed you, you came. You left your land, your homes, your loved ones and gave all you had like the patriots, you put it on the line—and for what? Your country and the countless unborn generations in this Nation and others.

Someone once said that eventually we all fight wars so there will be peace. No one really wins in war. We all lose something. Maybe for you it was a friend who was there one minute and then gone the next. What was it for? It was for America. I don't know what it was like and I pray I never will. But it's because of those who gave their lives before me that people my age do not know the bitter taste of war. What was it for? It was for America—a land 200 years young, a land of people who care. We stay alive because of people who are willing to put their lives on the line. Like the patriots: "Is life so dear or peace so sweet as to be purchased at the price of chains and slavery?" Forbid it, Almighty God. "I know not what course others may take, but as for me, give me liberty or give me death". Or "I only regret that I have but one life to give for my country".

Ideals like that of the patriots Patrick

Henry and Nathan Hale—where are they? They're still there. You men by your deeds are patriots. You men by your lives are truely what makes this country great. And the remarkable thing is that you pass it on. You teach not by affliction but by conviction. You truly are shining examples. Thomas Jefferson said, "if a Nation expects to be both ignorant and free it expects what never was and will never be."

Through your programs like Boy's State, you teach us the value of the word freedom and to you I give my personal thanks.

A new patriotism is forming in our country. A new feeling for life and a new feeling for ourselves. I look at our land with the optimism and energetic eyes of youth and yet with the reality of growing up overnight in troubled times.

Where are the new patriots? They're here. And you can spot them a mile off. They're the ones who stand a little straighter when they pledge allegiance. They're the ones who sing a little louder when they sing the national anthem. They're the ones who walk a little faster to meet the local politicians. They're the ones who take action and who say no when it's in to say yes, or who stand their ground even if it's unpopular. They're the ones who say, "I'm an American and I'm proud of it."

They are the new patriots and I believe and have faith that good things are in store for this country.

We will see brighter days. We will feel the warm sunshine of truth. We will bask in the light of Justice and Liberty. Because we do care.

America is not dead, no sir—far from it. The drums are just starting to roll. The curtain is just beginning to rise. All the knowledge, thought and learning of over 200 years of freedom is poured into one generation and we will reach new goals. We will succeed in solving our own problems. Why? Because we believe in what we are doing. We believe in America. And we realize that we cannot do it alone.

New patriots, young and old—hand in hand, will go on together freely.

Thank you.

THE FRESHMEN GET OLDER EVERY YEAR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SOLARZ. Mr. Speaker, I would like to share with my colleagues a brief and sad notice I saw the other day in the New York Times which brings out the human side of some legislation now pending in the Subcommittee on Postsecondary Education. The legislation, H.R. 3542, would permit senior citizens to attend any college or university free of charge on a space available basis. The brief notice was the obituary of a wonderful woman, Bertha Farmer, who was one of the first to take advantage of a similar program which I helped institute at the City University of New York. Mrs. Farmer died only a month after hearings were held in New York on the bill which would have made available to senior citizens all over the country the same opportunity that meant so much to her.

Mrs. Farmer kept in touch with me over the years that she attended school, and I remember her joy and pride when she told me that she received an A+ grade in her first college course. Her spirit is truly an example to us all and her determination is symbolic of the desire to continue to learn felt by many of our senior citizens.

Here is Mrs. Farmer's obituary:

BERTHA R. FARMER, 87; ENTERED COLLEGE AT 83

Bertha Rosenthal Farmer, who at the age of 83 enrolled as a nondegree student at Baruch College, died Saturday in the American Nursing Home, at 60 East Fifth Street, where she had lived since suffering a stroke eight months ago. She was 87 years old.

"I truly believe that life begins at 84," Mrs. Farmer said in an interview when she enrolled at Baruch. "I have an active mind and I like to keep it that way. I think you're never too old to learn, and what better way to stay alert and aware of what's going on than by going to college?"

After graduating from high school in 1907, Mrs. Farmer worked as a typist and bookkeeper to help support her widowed mother. For 23 years she worked as a self-taught typesetter with her husband, Anthony, in his printing business in Richmond Hill, Queens. After he died in 1940, Mrs. Farmer continued the business for 10 years. She later worked as a proofreader.

Mrs. Farmer attended Baruch College under a special City University program that enabled the elderly to pursue college studies free of tuition.

IN TRIBUTE TO ARCHBISHOP MAKARIOS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. TRAXLER. Mr. Speaker, at 11:15 yesterday evening, the world lost a truly great leader, Archbishop Makarios, President of Cyprus since 1960. This revered man has tried to improve the quality of life of all Cypriots over the last 17 years, despite pressures that would have forced many lesser men to give up.

I know and understand the plight of the people of Cyprus, especially those Cypriots who maintain their ties with their heritage in Greece. Since the time of the tragic invasion of Northern Cyprus by Turkish troops 3 years ago, Archbishop Makarios had worked to restore unification to a nation that has been torn away from its Greek roots.

Archbishop Makarios was a Greek ruler who understood the need to be firm in order to keep his nation alive, but while being firm he still remembered how to be gentle in dealing with the problems faced by the 700,000 citizens of Cyprus. His benevolence was constantly remembered by his people who would customarily provide him with well over 90 percent of the vote in the presidential elections in which he was a candidate.

Mr. Speaker, in a time when the United States is vitally interested in the issue of human rights, we certainly must pause to honor the memory of a man who knew the value of human dignity, and who despite personal illness for the past several years, continued his struggle to protect the independence of his island nation.

We must reaffirm at this time our support for the Greek people of Cyprus, and let them know that the United States will not allow the efforts of Archbishop Makarios to be pushed aside by those who would seek control of Cyprus at all costs.

The world has lost a great man. Such a loss will always be a tragedy for the entire world. I would urge my colleagues today to pause in honor of the memory of Archbishop Makarios, the late President of Cyprus.

ALASKAN NATURAL GAS—PART VII—A CANADIAN REACTION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MURTHA. Mr. Speaker, the decision by the National Energy Board of Canada in favor of the Alcan proposal to transport American gas from the State of Alaska to the lower 48 States has sparked a controversy in Canada. Even though the new proposal by the NEB would benefit Canada, many observers are asking serious questions about it.

I insert into the RECORD an article written on July 12 by the financial analyst for The Albertan in Canada. I believe it raises a number of important points:

[From The Albertan, July 12, 1977]

PIPELINES: THE U.S. VIEWS

Let's suppose you are one of President Carter's energy advisors.

Your assignment is to review the National Energy Board's recommendation in favor of the Alcan-Dempster route for moving North Slope gas to American markets and Delta gas to Canadian markets.

The results of your review will have a strong bearing on what the president proposes to Congress this fall.

Your basic terms of reference are relatively simple. The lower 48 states need the gas available in the upper 49th. It can be brought down by an overland route through Canada or liquified and moved by tanker over water.

The U.S. would prefer the overland route for a number of reasons.

Your immediate concern is to determine whether the U.S. should concur in the NEB preference for the Alcan route over the Mackenzie Valley route.

To start with, you wonder why Alcan over Mackenzie Valley when the NEB concedes throughout its report that the latter is superior to the former in its scheduling, its economics, in the quality of its back-up research, in the weight of the financial resources behind it.

From your Washington base, however, you can appreciate the political considerations. No use bucking a deck stacked by political activists in the Mackenzie Valley if you can make an end run through the Yukon.

But that's a Canadian problem. So you are looking at the Alcan route solely in terms of how adequately it satisfies American requirements. And what are you seeing?

You are seeing a recommendation that the U.S. government guarantee the financing. Well, that's not unreasonable.

The line is carrying gas, at least initially, from an American source to an American market. Guarantees would probably be needed

even if the whole of the route was in American territory.

But wait. What's this? Another recommendation that Canadians have at least a 51 per cent equity ownership?

You would expect Canadians to insist on operating the line, at least that part of it which runs through Canadian territory, just as you would expect them to want to build it.

They'd want the maximum economic benefits of its construction. It does seem a bit much, though, to expect the U.S. to underwrite the line but to be confined to a minority interest in it.

And what's this about a $200 million bond? Canadians will build and operate the line but the NEB apparently expects Americans to cover any social and environmental damage incurred in the process.

That's the equivalent of handling Canadians a blank cheque. You make a note that at the very least the U.S. would want to say something about that.

So far you are not particularly surprised by the NEB recommendations. You'd expected the Canadians to drive a hard bargain. With some give and take, you think a deal might be done.

But then you come across the NEB recommendation that Delta gas be moved through the line by way of the Dempster connection.

The NEB calculates that moving the line through Dawson, so the connection can be made, will add six cents per thousand cubic feet to the carrying charges.

Even so, those charges are still some 24 cents less than the overwater route.

The extra cost doesn't bother you that much. The reduction in U.S. gas to make way for Canadian gas does. You want the maximum flow into U.S. markets.

But the Canadians are proposing to take up as much as 25 per cent of the pipeline's capacity to carry Delta gas in the middle 1980s.

You don't like that one bit. You had capacity to sacrifice in the Mackenzie line because the throughput would have been greater. But not in the Alcan line.

Moreover, you can't be sure the Canadians won't pre-empt more capacity, at your expense, as their own needs grow.

Didn't they renege on oil exports?

And it's at that point you begin to wonder if maybe the overwater route isn't the better one after all.

MRS. HOWARD P. WINSTON—OUTSTANDING FLORIDA CITIZEN

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. FREY. Mr. Speaker, I would like to take this opportunity to recognize one of Florida's outstanding citizens, Mrs. Howard P. Winton, of Melbourne, Fla. She recently received the auxiliary to the American Optometric Association's 1977 Appreciation Award at their 15th annual meeting.

Jeanne Winton is lauded as a member who has made outstanding contributions beyond customary expectations toward advancing the objectives of the auxiliary. She is to be praised for her excellent service on behalf of the visual welfare of the public, the community at large, and the optometric profession through its auxiliary.

Our congratulations to Jeanne, and the auxiliary, with our thanks on behalf of Florida for dedicating so much of their time and effort toward the health and welfare of the people of the Sunshine State.

DR. THOMAS DOOLEY'S ROLE IN VIETNAM: ANOTHER EARLIER STRUGGLE FOR "HUMAN RIGHTS"

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. STRATTON. Mr. Speaker, on Saturday, October 19, 1968, a paid advertisement appeared in the New York Times discussing American involvement in Vietnam in terms of the deep convictions of the late Dr. Thomas Dooley and the pledges in behalf of "human rights" made in President Kennedy's Inaugural Address.

That advertisement and its deeply moving message were the work of Dr. Millard Harmon, a close personal friend of Tom Dooley and, like him, one of the U.S. Junior Chamber of Commerce's 10 Outstanding Young Men in America for 1956.

Today Dr. Harmon is a resident of Delmar, N.Y., in my congressional district. Recently he took the time and trouble to prepare another advertisement, featuring the original New York Times ad of 1968 and reflecting on America's traumatic experience in Vietnam, including the lasting value of Dr. Dooley's work and even more his perception of the importance of that special freedom, "freedom from deliberately planned terror." That advertisement appeared in the Lake Placid News of Lake Placid, N.Y., on June 30, 1977.

In the firm belief that Members will find Dr. Harmon's message of special interest and value, particularly in the light of America's current campaign for human rights, I include the full text of the June 30 advertisement:

[From the New York Times, Oct. 19, 1968]

MESSAGE BY MILLARD HARMON

(This message is a protest (nonviolent) against the press, political candidates, and church leaders who have not taken time to weigh our present Vietnam involvement against the events of the mid-fifties and John Kennedy's pledge of 1961.)

Dr. Thomas Dooley wrote compassionately on Vietnam in the mid-fifties. ("Deliver Us From Evil," Farrar, Straus & Cudahy, 1956.) Having known him, it is difficult to forget his dedicated concern for the people of Southeast Asia. The following questions should be asked:

1. Why have our press and news media given so little coverage to the Vietcong's systematic slaughter of mayors, teachers, scholars and children in South Vietnam? Dr. Dooley had good press representation while he lived, but since his death there seems to be no one speaking on behalf of the individual South Vietnamese and his suffering in the hands of deliberate Vietcong terror.

2. Why has our government been so prone to talk about U.S. involvement in Southeast Asia in terms of "Domino Theories" or "U.S. Security Concerns" rather than the degradation of human dignity as represented by the Vietcong attempt to impose rule by deliberate terror? South Vietcong action is no less a threat to humanity than the ovens of Buchenwald.

3. Why have many people professed themselves as experts on Southeast Asia while admittedly having become interested or concerned during the past few years? It appears that these people are not well informed about events of the mid-fifties which brought about U.S. commitment to the Vietnamese.

4. Why are candidates at both the national and local levels this election year seemingly overreacting to a vociferous minority demanding an American withdrawal from South Vietnam?

Technological advancements have brought us close to realizing dreams of concerned men through all ages:

1. Freedom from hunger. With today's communication, transportation skills and agricultural revolution, no one should die of hunger. We are close to relaizing this freedom.

2. Freedom from disease. No one today should die from the uncontrolled spread of disease or pestilence. The successful assault upon malaria represents the coming of age of this freedom.

The seven allies presently fighting in Southeast Asia, and the thousands of casualties suffered, are attempting to guarantee the third freedom for all humanity:

3. Freedom from deliberately planned terror. No one should live in the shadow of constant fear of deliberate, planned death.

It is true that these three basic freedoms should be guaranteed by as large a community of nations as is possible—all believing in the preciousness of human life. In time the U.N. may accept this charge. In 1961 the U.S. became the nucleus of such concerns when, on January 20, John F. Kennedy said:

"(We are) unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world.

"Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty."

The torch of responsibility and concern has been flung to others who have not been as articulate. But the words of 1961 still have their honorable ring, and carry the pledge of the government John Kennedy represented. Today Vietnam is the test of our resolve as a nation to tread the difficult path anticipated by that 1961 pledge.

When military power is made ineffective for political reasons, we can expect no concessions at the peace table. The potential tragedy of 1968 is the possible loss of faith by both friend and foe in the United States' ability to honor pledges to threatened areas of the world.

[From the Lake Placid (N.Y.) News, June 30, 1977]

A BACKWARD GLANCE AT VIETNAM

(By Millard Harmon)

PLEASE NOTE.—In Dallas, Texas, in 1956 Millard Harmon, along with Thomas Dooley and others, was honored by the U.S. Junior Chamber of Commerce as among the Ten Outstanding Young Men of the Nation. As a result of this shared honor, Dooley and Harmon became friends. Because of this friendship, Harmon was able to gain a perspective upon the events of the late 1950's that few people have. This perspective reveals background seldom mentioned in the official Vietnam strategy reviews, or the self flagellation of the press—i.e, most of the Vietnam refugees from the north were Catholic—Dr. Dooley was Catholic—as was Presi-

dent Kennedy. This common bond, plus concern about one's fellow man, was more basic in establishing U.S. policy in South East Asia than any contrived government release dealing with a "Domino Theory."

In 1968, frustrated by the lack of a clear presentation of the "why" of American involvement, and with many of his academic colleagues involved in "peace marches", Dr. Harmon took a calculated risk. He purchased, at considerable cost, over a half page of the New York Times to put forth a plea for a review of the basic reason for our involvement—the desire for there to be "freedom from deliberately planned terror"!

The risk was specific—with a position so contrary to the student and faculty view on the campus where he served as Director of Summer Session, his office might have been closed down by demonstrating students and faculty.

Fortunately, no one on the campus noticed the New York Times paid advertisement of October 19, 1968, and thus no disruptive action was taken by faculty or students.

The enclosed paid message is a sequel on U.S. commitment in Vietnam as viewed by Dr. Harmon.)

And so it's over . . .!

And few people would suggest that either the process or the results were satisfactory.

And toward the end, with over a decade of killing, blood and unfulfilled hopes, viewpoints were locked in concrete, with no hope of modification. Souls were not free to reexamine the reason for America's commitment—both in precious stores, as well as the more precious blood of a youth too soon taken from the carefree life of home and school.

And yet—with the emotional experience of the returning G.I. gone from our consciousness—the somber deplaning of those prisoners returned by Hanoi fading in our memory—and still being haunted by the fate of the MIA, perhaps this is the place and now is the time to turn our attention to those early days when our commitment was first made.

A proper focal point might be May 7th, 1954, when the key fortress of Dien Bien Phu fell to the Communists. It was shortly after this that Dr. Thomas Dooley found himself thrown into contact with those Vietnamese leaving the Communist north for what they expected to be sanctuary in the south.

The dreadful plight of these simple, strong people, was indelibly marked upon the mind of Dr. Dooley as he became involved in the evacuation of 800,000 souls from the north. And because he was articulate and had personal experience in that part of the world that few Americans knew, he found himself serving as the focal point of extensive briefings and counsel to top military personnel as well as those elected and appointed officials carrying the responsibility for guiding the direction of our commitment in South East Asia.

Those of us who knew Dr. Dooley were captivated by his personality, his sincerity, and his desire to serve thousands of suffering people of South East Asia.

From that May 7th, 1954 date, Dr. Dooley found himself deeply drawn into the life and culture of those people whom he had adopted as his own. As time passed, his counsel was increasingly requested by our country's leaders. Perhaps it was his indomitable personality—perhaps it was his innate honesty—or his outstanding success in gaining (through donations) an array of medicines and equipment supporting his humanitarian thrust into that difficult and desolate (to the white man) part of the world.

Dr. Tom found himself closeted with President Kennedy shortly following the 1960 election. Dooley, too, was a part of that generation "born in this century, and tempered by the fires of two world wars." He was now placing his skill, power and intellect into the balance of a new war—a war against disease and pestilence, against death through terror and against deliberate, planned violence.

What Dr. Thomas Dooley brought to South East Asia was the humble integrity and value structure of midland America. He brought the tenacity to succeed, as it was developed with the settling of our West. A difficult task (in his Vang Vieng dispensary) was accomplished immediately—the impossible took a little longer. He also brought youth—and along with it the expectation that right will triumph if only reasonable men put their minds to the task. Truly, this bright, sensitive personality was thrust deep within the Asian society known by few Westerners, and he won the hearts of those whose suffering he served.

What Dr. Thomas Dooley brought back to his country was an expertise and understanding of South East Asia sharpened through personal experience. This, with his charming personality, and his extensive writing, opened to him the doors of the most high.

His message was simple—the delightful, strong people of South Vietnam must not be allowed to suffer under the threat of constant death from political assassins. It was President Kennedy who agreed, and arms and moral strength of the United States were committed to protect the peace loving South East Asians from their politically active and aggressive neighbors.

And time passed.

Dr. Dooley lost his youthful strength to the great leveler—cancer.

The simple precept that a man and his family should not live in constant fear of being killed in his bed at night by political assassins was not an appropriate platform behind which to mobilize the strength of the United States, and a more plausible theory was developed to carry this thrust—the Domino Theory.

Political aspects of protecting the dignity of a man and his family 10,000 miles from the shores of our own democracy became riddled with the corruption that comes with massive money, massive supplies, massive manpower. The black market and the corruption that often comes with power exposed itself in Saigon for all to see.

And the fighting G.I. was not told of how the commitment first began with a humble doctor's exposure to death through political assassination on a massive scale.

And the enemy continued to fight in his own particular way—making combatants out of children, wreaking havoc and death where he determined, with little fear of retaliation in his home life sanctuaries.

History tells us many things about the Vietnam war. Perhaps such understanding will come to us with sufficient distance between us and the war so that the terror and the spilled blood will be deadened in their starkness. Truly, we must learn something from the treasure that was spent.

But—let us not fail to recognize that the original reason for committing our blood and treasure was valid. An idealistic American brought himself to the center of a human problem in South East Asia, and as a foremost expert on that part of the world attempted to bring an end to a great tragedy. A tragedy that, time has shown, was just beginning.

Dr. Tom, where ever you are, rest in peace—knowing that you did what you had to do to attempt to make the world a better place for a courageous, beautiful, tenacious people.

It was not to be!

IMPORTED MEAT LABELING ACT OF 1977

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. BEDELL. Mr. Speaker, during my brief tenure in the Congress I have had numerous discussions with farmers in my district about the question of imported meat. Largely as a result of their input, I have studied this issue in considerable detail, and I share their concerns about some of the potential problems for our society resulting from meat imports.

In considering this issue, it is important to recognize that it affects both producers and consumers. Producers have a right to full confidence in the promise their Government made in the 1964 Meat Import Act that foreign countries would not be allowed to dump their livestock products in American markets, and to assurance that foreign meat is held accountable to the same standard of wholesomeness as its American counterpart. And consumers have a right to full information about the nature of the food products they wish to purchase, at the grocery store or at a restaurant, and to assurance that such products have met strict inspection standards.

In my view, the imported meat issue should be addressed in several ways. What is needed is a combination of strict inspection standards for imported meat and meat products, effective labeling of such items, and international agreements governing the international exchange of food products.

Earlier this year, I joined in sponsoring legislation which would insure that meat imports meet the same standards of wholesomeness that we impose on American food products. At present, we have no guarantee that foreign inspection systems are as effective as ours. It is time for the USDA to implement a program which would insure that the accuracy of foreign testing programs is thoroughly verified, and which would then deny the importation of meat from countries which consistently fail to meet standards prescribed by the Secretary of Agriculture. Such a program would be financed by the assessment of fees against the exporting country.

I believe that such an inspection program is necessary and fair. However, I think it should be accompanied by stronger labeling requirements for imported meat and meat products. In my judgment, such requirements are essential if we are to insure that the American people have all the necessary information upon which to make a rational choice of what meat products they wish to buy.

Today, I am introducing legislation which would establish such a labeling program. It would amend the Federal Meat Inspection Act to require that imported meat and meat food products be labelled "imported" at all stages of distribution until delivery to the ultimate consumer. It would also require certain

eating establishments, which serve imported meat, to inform customers of this fact.

The amount of foreign meat that is imported into the United States each year is substantial—estimated at about 8 percent of U.S. domestic production in 1977. And, for the most part, such meat is absorbed into the domestic economy with little attention.

I believe that the American people are entitled to know all the essential facts about the products they buy, whether they be an automobile, a television, or a cut of meat. Current labelling requirements for imported meat and meat food products are simply not adequate, where such requirements even exist. Foreign meat imported into the United States is normally transported in frozen blocks of about 50–60 pounds. Existing law does require that these blocks of meat be labelled according to country of origin. However, after processing in the United States, no further labelling as to country of origin is required.

The fact of the matter is that the current labelling practices are of no practical value to the American consumer. When he purchases meat in a grocery store or at a public eating establishment, he has no way of ascertaining whether that product was produced in the United States or abroad. I believe that he has a need, and a right, to know such information in advance of his purchase.

Many Americans, if given the choice, would prefer to buy meat which has been raised and processed in the United States. Imported labelling is a viable mechanism for providing such an opportunity.

Mr. Speaker, in conclusion, I want to emphasize that my labelling and inspection proposals are designed to complement and not impede the current Geneva trade talks which are considering the establishment of universal standards of quality for food products traded internationally. I fully support these negotiations. My proposals do not conflict with the objectives of the Geneva talks. On the contrary, their enactment would merely demonstrate a strong congressional commitment to insuring that imported meat and meat products meet strict standards of wholesomeness and that essential labeling information as to the country of origin would be available to the American consumer as he makes his choices in the marketplace.

Following is the text of my bill:

H.R. —

A bill to amend the Federal Meat Inspection Act for the purpose of requiring that imported meat and meat food products made in whole or in part of imported meat be labeled "imported" at all stages of distribution until delivery to the ultimate consumer, and to require certain eating establishments, which serve imported meat, to inform customers of this fact.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following:

"(2) Any imported meat or meat food product referred to in paragraph (1), and any meat food product made in whole or in part of such imported meat, or its package or container, shall be labeled as 'imported' or 'imported in part', as the case may be. This paragraph shall not apply if the meat or meat product, or its package or container, is marked and labeled to show the country of origin as required under regulations referred to in paragraph (1).

"(3) If any person other than the ultimate consumer cuts meat or a meat food product into pieces or breaks a package or container containing meat or a meat food product and such meat, product, package, or container is marked or labeled as required by paragraph (1) or (2), such person shall affix a label to each piece of such meat or product or to each package or container in which any such meat or product is placed to provide the information required by paragraph (2). In applying this paragraph and paragraph (2), for purposes of this Act the term 'label' includes 'labeling' as defined in section 1(p.).".

SEC. 2. (a)(1) The owner of any eating establishment described in paragraph (2) of this subsection shall provide that individuals purchasing food from such establishment be informed of the fact that such establishment serves meat or meat food products imported from a foreign country, or meat food products containing meat imported from a foreign country. The owner shall provide that these individuals are informed of such fact—

(A) by displaying, in a conspicuous place in such establishment, a sign indicating such fact; or

(B) by indicating such fact on the menus offered to such individuals.

(2) The eating establishment referred to in paragraph (1) of this subsection shall be any restaurant, cafeteria, lunch counter, or other facility (including any such facility located on the premises of any retail establishment)—

(A) which engages in operations affecting commerce; and

(B) which sells (for consumption on the premises) meat or meat food products which have been imported from a foreign country, or meat food products containing meat imported from a foreign country.

(b) For purposes of this section, an eating establishment engages in operations affecting commerce if such establishment serves or offers to serve any individual engaged in commerce, or a significant portion, as determined by the Attorney General of the United States under section 3(a), of the food and other products which such facility offers for sale has moved in commerce.

(c) Any owner of an eating establishment who knowingly violates subsection (a) of this section, or whose employee or other agent knowingly violates such subsection, shall be fined an amount not to exceed $100 for each day such subsection is violated.

(d) For purposes of this section—

(1) the term "commerce" means travel or transportation between any of the several States, or between any foreign country and any State, or between points in the same State but through any other State or any foreign country;

(2) the term "owner" means a corporation, partnership, association, any other legally organized entity or an individual; and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 3. (a) The Attorney General of the United States shall prescribe a regulation defining the term "significant portion of food and other products", as used in section 2(b) of this Act, within 30 days from the date of the enactment of this Act.

(b) The provisions of this Act shall become effective 90 days after the date of the enactment of this Act, or 30 days after the effective date of the regulation described in subsection (a) of this section, whichever occurs later.

PROTECTION FOR ALL

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ABDNOR. Mr. Speaker, a recent article in the Washington Post describes the valuable protection the Hatch Act provides for the public and Federal worker alike and why this protection should be preserved. It is an article meriting the attention of all Members of the House and Senate as we work on radical changes to this law:

WHY THE HATCH ACT IS WORTH KEEPING

(By Marjorie G. Fribourg)

In a famous White House memo in 1971, John Dean asked, ". . . how can we use the available federal machinery to screw our political enemies." Only the Hatch Act, which spells out that government workers are not to take an active part in campaigns, kept the Watergate crowd from being able to use vast numbers of unwilling government workers to go after Nixon's enemies. Having worked well for the protection of both the nation and the employees, the Hatch Act now faces being demolished or updated, depending on your point of view.

The House has passed H.R. 10, knocking down the safeguards in the act. The Senate is holding hearings on the bill, and while opponents may have blocked action this fall, some union leaders still hope to push the bill through. If they don't succeed, H.R. 10 will be high on the Senate agenda early next year.

Hence, some clear spring evening a platoon of postmen could be combing your neighborhood ringing every doorbell, handing out campaign literature and collecting contributions. Ostensibly, they will have volunteered their services and in any case are trying to make sure that their candidate defeats the incumbent congressman who either dared disagree with the President or dared fight the demands of a government workers' union.

Picture it: Your mailman comes calling to get your signature on a petition to put the challenger on the ballot—something you don't want to do or to refuse. Elsewhere, a clerk for the Social Security office distributes posters for one of the administration's favorites, making her neighbors wonder if her on-the-job decisions are also partisan. A scientist from the Bureau of Standards is out fund-raising and calls on a manufacturer who has a product under examination—not by the campaigner, that would be illegal—but by another member of the agency. The manufacturer also doubts the integrity of the system.

A rumor has started simultaneously in every federal agency: Promotions will be given to those who go out and canvass for the cause; job descriptions will be reworded after election to match the individuals who helped the party. Legions of the 2.8 million civil servants have decided they had better be cooperative.

If anything like this ever happens—and it could without the Hatch Act—we will have returned to the patronage system instead of the merit system.

I'M HATCHED

Labor union activists have battled the Hatch Act for years. They come to the Hill to tell congressmen that postal and federal agency staffs are being treated as second-class citizens. It is not enough that they can vote, express their views and give contributions to political parties. "Voluntary political participation is one of the basic rights of American citizens."

Their challengers don't think it's the federal workers who want to be rid of the act. When a civil servant says, "I'm Hatched," he is not complaining. He is protecting himself from political arm-twisting, announcing, "You can't force me to do what is illegal." (Sen. Abraham Ribicoff's Governmental Affairs Committee has been getting a flow of personal notes from people with government jobs who don't want the change.)

It is the unions that will profit, gaining clout if H.R. 10 passes. Today, the president of an association tells his congressman he speaks for so and so many potential voters. Next November, he may be able to summon an instant campaign committee, persuading federal personnel to wave placards, address envelopes or drive the faithful to the polls, and somewhere in the United States swaying the outcome of an election.

The Republican minority on the House committee that processed the bill was deeply concerned over union power. One of them, Edward J. Derwinski (R-Ill.), has charged that union leaders want enough influence to force the government to let its employees strike—giving unions enough muscle "to bring the government to its knees." It's not the unions, however, but future administrations that will have the greatest opportunities to be abusive.

Even with the Hatch Act, division chiefs in the General Services Administration six years ago collected ticket money for a gala "Salute to the President" dinner. They claimed that GSA placed a great deal of emphasis on "organization responsiveness"; and they never checked to learn that the affair was partisan. In other words, they did what was expected of them.

We are heading into these problems because the sponsors of H.R. 10 have treated the Hatch Act as if it were merely an overreaction to problems with the New Deal's Works Progress Administration, an unnecessary, unprecedented and novel device. That impression is misleading. Americans have gone through a long, harrowing saga to get the Hatch Act.

THE SPOILS SYSTEM

It started in 1791. Worried that government workers would be used as political tools, a group led by Georgia's Rep. James Jackson tried unsuccessfully to limit the political activities of inspectors to casting their own ballots. But, in spite of subsequent warnings by President Jefferson, by 1830 public servants were picked or fired on the basis of party loyalty. And all resolutions designed to keep federal employees from using threats, money or official abuse to affect elections were voted down.

By 1876, the milking of federal workers for campaign funds was so shocking that Congress prohibited all except the highest-ranking appointees from "giving or receiving from any other employee of the government any money . . . for political purposes. . . ." That did not save a number of them from getting a letter a few years later requesting 1 per cent of their salaries with the explanation that ". . . there will be no objections in official quarters to such voluntary contributions. . . ."

President Garfield had to be gunned down in a railroad station by a disappointed officeseeker before the spoils system was partially replaced with a merit system. (In the course of getting the bill passed, Congress discovered that in one section of the Treasury 500 of the 900 employees were completely useless except at election time.)

The Pendleton Act restated the prohibitions passed in 1876 and outlawed collecting political contributions in government buildings. By 1907, it was being evaded. President Theodore Roosevelt—a knowledgeable former civil service commissioner—issued a directive: Persons in the classified civil service could vote and express their views, but should take no active part in political management or political campaigns.

GOP CHARGES

It was all inadequate. In the 1930s, all the old abuses appeared in a new situation. The federal government had created projects designed to hire the unemployed but not under civil service. By 1938, there were legions of people relying on the WPA for their existence. Charges appeared that they were being shamelessly coerced to support Democratic candidates.

Bills had been introduced in previous Congresses to stop federal officeholders from misusing their positions for partisan ends, but mostly the suggestion came from statesmen on the minority side of the aisle. They did not get very far.

1938 was a congressional election year. Any attempt by the Republicans to do anything about the allegations against Democrats could have been countered as a partisan attack. Instead, the attack came from a Democrat, Carl A. Hatch—a gentle, mild-mannered New Mexican and the center of an influential group in the Senate. That summer, Hatch presented an amendment to be added to the appropriation for relief works. In brief, no person receiving pay from these funds was to use his authority to interfere with a political convention, a primary or an election.

Senate Majority Leader Alben Barkley of Kentucky objected: "The fact that a humble man or woman happens to be employed by the government . . . is not a sufficient reason for . . . denying to any such person the same right that anybody else in the United States enjoys . . .," he told Hatch.

When at last they voted, the measure was defeated, 37 to 40.

The Senate then increased the funds made available to Sen. Morris Sheppard's Committee on Privileges and Elections, which would be investigating the unsavory tales.

On July 16, 1938, the committee sent its investigators to Kentucky. It was true that Barkley's opposition in the primary took contributions from state employees. It was also true that, in parts of the state, Barkley's supporters conducted a systematic canvass of all WPA workers.

Project workers were asked by foremen to sign a statement that they would support Barkley's candidacy. Barkley buttons were handed out. Men known to hold views contrary to the candidates were, in a number of instances, discharged. Always the reason given was nonpolitical. Always political motives were denied.

When Barkley was questioned, he emphatically denied knowledge of any improper practices. "In every speech I made," he said, "I declared, insisted and urged that every federal, state and local employee possessed, and should exercise, the right to vote as they pleased."

The investigators noted these remarks and conceded that it had found nothing to show that Barkley had any knowledge of any of these activities. Officeholders in Washington often claimed to be, and often were, ignorant of the activities of their supporters back home, as the committee knew.

OBJECTIONS IN THE HOUSE

Autumn found the investigators checking out complaints in Pennsylvania. There, on more than one occasion, the supervisor of a women's sewing project circulated among the timid seamstresses, offering to sell them $1 and $1.50 tickets to a political rally or clambake. The foreman of a crew of unskilled laborers on a highway project did the same to his crew.

With all this in the record, Hatch renewed his crusade in 1939 and won the help of a singularly valuable gladiator—Vice President John Nance Garner. Together, they lined up support for legislation that would keep government employees from using their authority for the purpose of affecting elections.

The measure passed the Senate and went to the House Judiciary Committee where, according to Hatch, "unfair, unjust and unreasonable criticisms were made." Representatives were afraid the bill might apply to their own campaign speeches and dinners, "a most ridiculous interpretation."

Hoping to save his bill, Hatch went to the committee and agreed to language changes. After the meeting, the act read: "No officer or employee in the executive branch of the federal government, or any agency or department thereof, shall take any active part in political management or in political campaigns." The President, his Vice President, his cabinet, his staff and his appointees on the policy-making level were exempt.

In other words, Hatch wanted Theodore Roosevelt's directive turned into law and extended to cover federal workers who were not part of the classified or merit system. (It has been estimated that at that time only 32 per cent of the government force were classified.)

Hatch faced other complications. The Democratic Party would soon have to decide whether to offer Franklin Delano Roosevelt a third term. Political analysts expected that the President's cause would suffer if federal employees were barred by the Hatch Act from being delegates to the convention.

Toward the end of July, the measure came back from the House. Hatch strolled into the Senate and asked that it be put to a vote. The Vice President agreed and announced hurriedly that, if no one objected, it would be so ordered. Then they heard Sherman Minton's sharp, "Wait a minute."

The Indiana senator looked over the House changes to see if the bill should be sent to conference.

This time Hatch, who was usually calm and affable, exploded.

"There is nothing to confer about," he insisted. "A vote to send it back to conference . . . is a vote to send the bill to the graveyard . . . Let there be no pious declaration of being for the noble objectives of the bill, but. . . ."

Instead of being antagonized, Minton understood Hatch's concern for his bill. Gently chiding that he had no dagger up his sleeve, he capitulated, letting the measure come to a vote.

It passed the Senate. Then the President made everyone wonder whether he would sign it. Roosevelt told reporters at his press conference that it was too vague and hard to interpret. He wanted to study it and get some advice on it. According to journalist Marquis Childs, Hatch began preparing a speech to deliver if the President vetoed the bill.

Hatch never had to read his veto speech. Roosevelt signed the act into law.

But even then, the Hatch Act was not safely on the books. It was twice challenged before the Supreme Court. The fight was not over until the justices ruled that "Congress has the power to regulate within reasonable limits the political conduct of federal employees in order to promote efficiency and integrity in the public service." By then, a century and a half had gone by since congressmen first tried to prevent federal officers from interfering with elections.

Since 1791, there have been repeated, frustrating struggles to protect both the integrity of elections and the rights of govern-

ment workers. Nobody could have dreamed that, after all that, the issue would come up again—that it was still debatable.

The need for the Hatch Act is even greater now than when Hatch proposed it. The size of the civil service has more than tripled. Roughly 1 out of every 75 Americans works for the executive branch of the U.S. government. Every time we face a major national problem—war, depression or catastrophe—we add to the federal staff. If anyone ever succeeds in molding these millions of men and women into a well-disciplined political machine, no challenger will ever again be able to beat it.

The subcommittee under Rep. William Clay (D-Mo.) that processed H.R. 10 believes that it is so skillfully written that it will protect the public, the employee and the merit system. While the bill states that federal employees are encouraged to be politically active, exceptions are made. Foreign intelligence agents, men and women who enforce the laws and those awarding government contracts, subsidies or licenses will remain Hatched. No one will be able to staff a political committee with Internal Revenue agents or with mortgage credit inspectors from HUD.

NO WAY TO DRAW LINE

Someone asked Hatch, when his bill was being written, whether there weren't some government workers who couldn't coerce anyone and shouldn't be restricted. He answered that there is no way to draw a line. Almost every agency affects the lives of multitudes.

He would not have been impressed with the few hard-to-enforce rules in H.R. 10 stating that neither coercion nor abuse of authority (both almost impossible to prove) are not to be used for election purposes. Such rules are no substitute for a healthy nonpartisan spirit in a government office.

Another provision lets government employees run for public office if they take leaves of absence from their jobs. As one young attorney explained it, "If I take leave, run for the city council and am defeated, I can come back. By then, I have found out that only one of the three men in the office who lives in my district campaigned for me. If there is a chance to recommend him for promotion over the others, and I feel obligated to him because he helped me, you've stepped back into the patronage system."

The argument gets more heated when lobbyists examine the protection that workers are supposed to enjoy from being pressured by their superiors.

True, no one may campaign while on duty or in uniform or in a government building and no supervisor may solicit contributions from a subordinate or use his authority to help a political cause.

What the authors of the bill fail to consider is that coercion may be subtle. You do not have to go after a worker with a club or threaten to have him transferred. All a boss has to do is be visibly more cordial to those who showed up at a fund-raising dinner or rally and the maverick gets the idea. Life in the office will be more pleasant if one fits in with the crowd politically. If "great" assignments seem to go to the political conformist and "lousy" ones to the apathetic, that does it. More and more staff members show their eagerness to perform chores for the party after hours. They can no longer get out of it by saying, "I'm Hatched."

Obviously, a balance has to be struck between the needs of the workers voluntarily to exercise the rights of citizens and the needs of the government to preserve its integrity. The Hatch Acts strikes that balance. Judging from the 150-year struggle required to get, if we ever lose it, we won't get back. We had better hold on to it.

EPA: DILEMMA FOR THE SMALL BUSINESSMAN

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. CUNNINGHAM. Mr. Speaker, I would like to share with my colleagues the following article from Linen Supply News of July 1977. It demonstrates one more case where the small businessman is at the mercy of the Federal bureaucracy. Specifically, the Environmental Protection Agency (EPA) has proposed regulations that would require chemical pretreatment of the waste water discharged from commercial laundries into the sewer system.

As the article points out, the cost of the pretreatment equipment will force the price of laundry services up. And, with higher prices many customers will be forced to find other ways to clean that do not require them to pay for the costly pretreatment of the discharge water.

The situation is sadly ironic when one realizes that the EPA will have commercial laundry customers doing more laundry at home, and small businesses starting their own laundry services. Sad because of the many laundries that will be forced to close, and the resulting unemployment. Ironic because the amount of untreated discharge water will increase, more detergent will be used, and the amount of energy required for laundering will increase by a staggering amount. By requiring the pretreatment of the discharge water from commercial laundries, the EPA will increase the workload of publicly owned sewer systems—the very thing they are trying to decrease.

I hope the Congress will examine these proposed regulations and urge the EPA to reconsider their position. We in Congress should encourage small business, and at this time that means collaring the EPA:

KNOW AND TELL YOUR GOVERNMENT WHY PRETREATMENT IS A WASTE

(By Dorothy Struminger)

Working with the Environmental Protection Agency (EPA) to exempt our industry from proposed regulations that would require pretreating waste water discharge is among LSAA's most important projects. Our position is that publicly owned treatment works (POTW) provide the best means of handling our waste water. And we feel strongly that our success in this project could mean the difference between many of us remaining in business or closing our doors.

Because we present logical, legitimate, and valid arguments for exemption we feel our chances for realizing that goal are excellent. Here are our reasons.

First: Our industry, as one member of a group classified as "auto and other laundries" by the EPA, is not covered under the law—the Federal Water Pollution Control Act amendments of 1972. We are not listed in the "manufacturing" category nor have we been deemed a significant waste producer by the EPA administration. Nor does the textile service industry add contaminants. We add nothing—either as raw material or as process chemicals—that is an objectionable contaminant. Contaminants come to us on the soiled linen and garments of our customers and are, therefore, not "our" contaminants, but generated in the community and beyond our capacity to control.

Second: We are a unique industry, in that if we were forced out of business, the linen and garments used by the community would continue to be washed or cleaned, but in other ways. The soil contaminants would not disappear with our businesses—they would remain to be handled by the community. Therefore, these contaminants are quite properly removed from sewer systems by city water treatment plants. The cost should not be shouldered solely by the textile maintenance industry. Pretreatment standards are not justified for our industry because our principal process is laundering.

Third: Our industry offers a public service that provides economic and social benefits to the communities we serve. LSAA staff studies show that home-sized washers and dryers use 98 per cent more energy, 70 per cent more water, and 900 per cent more detergents than do our industry's large, mass production equipment.

If we were required to install pretreatment equipment for our waste water, this cost would have to be passed on to our customers. In many cases, these customers would not continue our service but would install their own equipment. Enforcement of waste water pretreatment regulations for these many, small-size individual customers would not be practical and, therefore, would probably be non-existent. The net result would be greater energy, water, and detergent consumption, which would not be in the public interest.

Further, the economic impact of coverage under pretreatment regulations—a loss of jobs in our industry—would include thousands of non-skilled workers who would join the ranks of the unemployed, become an economic burden upon our society, and increase our welfare rolls. Our industry is also a unique industry in that we are a human needs' industry, offering an easily "substitutable" service while still providing an important public health benefit.

We ask our members, the EPA, and all concerned citizens to realize that asking our industry to spend money on pretreatment equipment is senseless. Local POTWs are quite capable of handling our waste water discharge. Therefore pretreatment is economically redundant, and a misuse of capital, water, laundry supplies, and energy.

Each member of our industry must understand why we request exemption if we are to succeed with this most important prcject. We ask that you communicate these reasons to your government representatives.

COAL CONVERSION PROGRAM

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WALGREN. Mr. Speaker, it is appropriate to note at this point a matter of some concern to persons who strongly support the thrust of the coal conversion program as a necessary and integral part of our national energy plan. The bill we are enacting has in it wider exemptions for the conversion of existing plants than did the legislation initially proposed. Despite the good reasons for this, I think it important that we not fail to note again our intention that this program be made to work. An important as-

pect of achieving the aims of the bill is the manner in which exempted existing plants operate.

Operators should be encouraged to the extent practicable to modernize existing major fuel-burning installations to conserve petroleum fuels and natural gas where conversion to coal is not practical. This could be done by converting conventional steam plants to modern high-efficiency combine-cycle plants to reduce fuel consumption and to improve overall system efficiency. This conversion involves the integration of a combustion turbine/heat recovery boiler system with the components of an existing plant. The new boiler replaces the old oil or gas fired boiler.

Operating efficiency can be expected to be 20 percent to 40 percent higher than that of the steam plant before conversion. Repowering should be a part of the considerations involved in the exemption process both from the standpoint of its administration and of the utilities interested in long-term planning based on plant exemption. Such consideration would insure that the aims of the bill are met.

THE GRADUATE EDUCATIONAL ACCESS ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. OBERSTAR. Mr. Speaker, within a very short time, the U.S. Supreme Court is going to announce its decision in the case of The Regents of The University of California against Allan Bakke. This is the case of an applicant to a California medical school who is claiming reverse discrimination after being denied admission. If the decision of the California Supreme Court is upheld, and many observers believe that it will be, then the Nation's graduate schools may be left without any viable means of increasing their enrollment of minority, low income, and culturally disadvantaged students.

The bill that I am introducing today, the Graduate Educational Access Act, will provide the Nation's graduate schools with the opportunity to actively seek out and identify potential applicants of all races who may have an aptitude for, and show an interest in, pursuing a professional career, but who are not presently receiving the proper education which would enable them to do so. The graduate schools will then have an opportunity to help correct and prevent this situation long before these individuals apply to graduate schools and are forced to compete with better qualified applicants.

In order to obviate the need to admit one individual to graduate school ahead of another who is more qualified, simply because of racial or economic considerations, the Graduate Educational Access Act will help make it possible for graduate schools to secure future classes that are truly representative and truly the best qualified.

At the present time, there are some programs which provide counseling, and aid in the graduate school admission process to minority, low income, and culturally disadvantaged individuals. However, what good is counseling about how to fill out an application when that application is doomed to rejection from the very start?

What little exists in the way of compensatory education programs is not generally available until years of neglect have taken their toll and the damage has been done. The Nation's graduate schools need to take an active role in the educational preparation of their future applicants at the earliest possible stage.

This approach would be a change from the present system in which the Nation's graduate schools sit back passively and wait for their potential students to be fed to them by the Nation's elementary, secondary, and undergraduate schools.

The idea is not necessarily to give money to the graduate schools so that they in turn can feed money to local elementary, secondary, and undergraduate institutions which would enable these institutions to bolster their existing programs. Rather, the emphasis is on the close relationship that the graduate school itself should have with its potential applicants on a substantive academic level.

The individual graduate schools would be given great flexibility in determining the specific methods which would serve their needs best. One need not envision a program in which law or medical professors are in direct contact with elementary school students. Perhaps a graduate school will find that its most effective contact with elementary schoolchildren would be through a project with local school authorities aimed at improving the curriculum at local elementary schools. Other possible methods might include special summer, weekend, or night sessions for interested students at all levels. Maybe some graduate schools will find that their graduate students can play an important role in the process. The field is wide open for innovation and HEW could serve as a national clearing house for such methods, so that it will be easy for individual graduate schools to learn from each other's experience.

There are several important reasons why the graduate schools, as distinguished from other institutions, should be given this opportunity. First of all, many graduate schools have already expressed their desire to increase their enrollment of minority, low income, and culturally disadvantaged students. They have attempted to accomplish this through special admissions programs which are riddled with constitutional, educational, and ethical difficulties. The Graduate Educational Access Act will simpy provide these graduate schools with the alternative means necessary to achieve their own goals.

Second, the graduate school knows better than anybody else exactly what kinds of skills its students should have. The graduate school will have an early opportunity to develop and sustain the analytical reading, mathematical, scientific, and other skills which it deems most important for a graduate student to have.

Third, the graduate school will be able to give the potential applicant an early introduction to its particular field, whether law, medicine, education, business, public administration, nursing or whatever. However this will not be a program to be used for pushing the desirability of graduate school over vocational training or any other post-secondary, or post-graduate education. Nobody will be forced to go to graduate school if they don't want to. This program is only aimed at providing access for those who want to go.

And, of course, if the graduate school utilizes certain testing techniques in its admission procedures, then an early introduction and experience with these types of tests could be most helpful in insuring that when the applicant does take an admissions test, the score is a more or less accurate reflector of intellectual ability, rather than test-taking ability.

Mr. Speaker, we are faced with the fact that early and continuous educational deficiencies in the academic careers of many minority, low income, and culturally disadvantaged individuals has resulted in blocking access to post graduate education for these individuals. With this bill we can begin the fight to provide that access.

CAMPAIGN MONEY AND PUBLIC TRUST

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ARMSTRONG. Mr. Speaker, the lead editorial in the Washington Post on Sunday, July 31, expresses eloquently many of the concerns I have about proposals to finance congressional elections with taxpayer funds.

Those who favor these proposals say public financing of House and Senate races would somehow help restore public trust and confidence in Congress.

I wonder how much trust and confidence the average taxpayer would feel in a Congress which, after voting itself a fat pay raise and increasing already generous staff allowances and fringe benefits, now reaches into the taxpayers' pockets to pay its re-election expenses.

I would not do justice to the Post editorial if I attempted to paraphrase it, so I will simply urge all Members to read it:

CAMPAIGN MONEY AND PUBLIC TRUST

President Carter used familiar and fashionable language the other day in endorsing S. 926, the pending bill for partial public financing of Senate campaigns. He said the bill would "help restore the public's confidence and trust in officials" by removing "the appearance of obligation to special interests." Now, that sounds soothing—but this is no time for the Senate to relax. There is more than cosmetics involved here, and the effects of this legislation in its present form might not be as restorative as the advertising suggests.

Consider the matter of "special interests," which has become shorthand for corruption. Any two people could argue all day

about which interest groups—bankers or doctors or unions or whatever—are "special" in the pejorative sense, and what their political role should be. Regardless of where one comes out, two points seem clear to us.

First, the most corrosive kinds of interest-group money, the huge, often covert donations such as those revealed in recent years, either have been illegal for decades or were curbed by the disclosure rules and contributions limits enacted in 1974.

Second, the role of political-action committees and big donors would not necessarily be reduced a whit by S. 926. Public matching of small private gifts would give Senate nominess less need to court big contributors. But the bill does not cover primaries, where some elections are settled and early, big donations can have the greatest effect. Moreover, as the Supreme Court emphasized last year, the First Amendment gives individuals and groups the liberty to spend as much as they want on independent, parallel campaigns for candidates. Last fall, while Mr. Carter's election drive was being publicly financed, labor unions were spending, by one estimate, over $11 million independently on his behalf. So when Mr. Carter says that public financing for presidential campaigns "worked very well last year [pause . . . laughter]" without any of the candidates "being obligated to anyone," we get the joke—but not the argument.

The advocates of public financing also claim that it would open up the system and, in Mr. Carter's words, "help enable deserving candidates to run for office even if they are not rich." This also sounds good—but also raises large questions about the nature of political competition and the proper role of government.

It's true that competition is inhibited by the high and rising cost of getting political messages into the marketplace at all. If a candidate can't afford advertising, voters have no way to gauge whether he is "deserving" of support. Especially in primaries, one can justify more public-service broadcasts, publicly financed mailings and perhaps modest matching grants. But public-financing's advocates have much more in mind. They want to assure challengers not just basic access but equal funds. S. 926 would promote parity by setting spending limits as a condition of public aid. And if one candidate foregoes that aid and exercises his right to spend more in private money, his opponent would get extra subsidies.

What's wrong with this? For one thing, it reflects a simplistic view of the role of money in campaigns. More dollars don't always mean more votes. In the past five years, 17 men have come to the Senate the hard way, by beating incumbents, nine of those 17 won even though they were outspent. Beyond that, S. 926 would legislate a value judgment: Big spending is bad. But if a candidate with wealth or access to large sums does spend millions, as long as his financing is lawful and fully disclosed, who should decide whether that's fair or wholesome? Since the record suggests that lavish spending is not necessarily decisive and can itself become a campaign issue, why not let the voters make these judgments on a case-by-case basis?

That leads to the rock-bottom question: To what extent should government regulate political activity? Public financing of presidential campaigns, of course, also poses that question and in time may help to answer it. In our view, that experiment worked well enough last year to be continued in 1980. It was, however, limited to contests for one nationwide office. And it did affect the structure of politics, especially the nature of fund-raising and the role of political parties, in ways that are not yet entirely clear. The problem of dealing fairly with third-party and independent candidates remains unsolved and may be unsolvable.

Finally, the whole regulatory effort launched in 1974 has produced not just administrative burdens and snarls but also a worrisome degree of official involvement in the details of political practices. That, more than anything else, suggests that Congress should not rush into public financing for Senate and House campaigns across the land. A law meant to return politics to the people would defeat its own purpose if it turned out, instead, to be dictatorial and stultifying.

JOHN O. HOLLY: IN MEMORIAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. STOKES. Mr. Speaker, I rise on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives the eminent career of the late John O. Holly of Cleveland, Ohio.

Mr. Holly died December 19 of last year at 71 years of age. With his death, he left a legacy of accomplishment which will live on in the hearts of all those who knew him and who reaped the benefits of his outstanding work in the area of civil rights.

Mr. Speaker, John Holly was a political and civil activist of the first order. He devoted his entire life to the social and economic betterment of Cleveland's black community. Long before the inception of the great civil rights movement of the 1960's, John Holly was organizing and protesting against the rampant racial discrimination in our city.

Mr. Speaker, in order that my colleagues in the House can realize the full extent of Mr. Holly's impact on Cleveland, I would like to submit for the RECORD excerpts of an article by Booker T. Tall which appeared in the Saturday, July 2, 1977 Cleveland Call and Post newspaper. I am particularly grateful to Call and Post publisher W. O. Walker for featuring the biographical highlights of John Holly's life since so many of our young people in Cleveland are unaware of the extent of his exemplary career:

JOHN O. HOLLY (1903–1974)

In Cleveland, Ohio John O. Holly is hailed as a National leader, Mr. President, "Black Moses," the Exalted Ruler and a pioneer in the field of Civil Rights, as well as a distinguished leader in political, fraternal and religious activities throughout Ohio for nearly a half century.

John Oliver Holly founded, organized and directed for over 30 years one of the most effective grassroot community organizations for removing racial barriers to employment opportunities in the history of the city of Cleveland and the state of Ohio.

A native of Tuscaloosa, Alabama, Holly's name is synonomous with the organization he founded in 1935: The Future Outlook League. The principles and program of the F.O.L. have served as a model for Black community organizations throughout the state. In its heyday, there were branches in Akron, Alliance, Canton, Mansfield, Painsville, Springfield and Youngstown, Ohio. The Future Outlook League slogan, "Don't buy where you can't work" has served as an example and guide for Black Community Organizations throughout the United States.

In 1935, with a nucleus of 13 Cleveland business and church leaders, The Future Outlook League was organized under John O. Holly's determined leadership. The first targets of this embryonic organization in the '30's were the hundreds of community based businesses that did not hire Blacks except for the very few that were in menial jobs. John O. Holly was sent to jail for defying a court order banning orderly picketing. This however, did not deter John O. Holly in his efforts to advance his people.

Before Holly organized the Future Outlook League in February 1935, nearly 80 percent of the African-American population were unemployed. Fifteen percent of those working in menial jobs had a gross family income of less than $1000 per year. Minority businesses numbered less than 50 worthy of mention out of a Black population of 80,000.

Many of the Black professionals including medical doctors in Cleveland at that time were forced to accept work on the Federal W.P.A. project. Notwithstanding more than 3000 business places operated in the Central area of Cleveland, the Cleveland Black Community boundaries for the most part, less than 100 of these businesses employed Blacks in any capacity, and for the most part, these few jobs were menial. For example, there were seven neighborhood theatres in the area and not one Black employee; there were 35 food-chain stores in the area and only 3 black employees. The entire transit system employed only one Black employee.

Added to the problem of employment discrimination for Black adults, the youth problem was worse: Nearly 30,000 between the ages of 8 and 21 were forced to roam the streets because of no job opportunities nor adequate recreational facilities.

A survey at the time indicated that Blacks of the Central area were spending 200,000 dollars per week in these establishments which refused to hire them.

These men were the conditions in Cleveland when Holly gathered 13 sympathizers on the evening of February 11, 1935 at his home on 5209 Julia Avenue and began organizing to do something about this despicable pattern of racial discrimination. This was to be the first official meeting of the League. These thirteen were: Mr. and Mrs. Thomas Graham, Mrs. Eva Gibbs, Mrs. Beatrice Cole, Mr. William H. Reed, Atty. Harvey Johnson, Mrs. Mary Gassaway, Mrs. Viola Wilson, Mr. Albert Porter, Mrs. Laura Peynado, Mr. Grover Davis, and Mr. & Mrs. John Holly. This group christened the club. "The Future Outlook League." They elected Mr. John O. Holly temporary chairman; Cora L. Graham, temporary secretary and Grover Davis, temporary treasurer.

The next meeting was held a week later, with the original thirteen reduced to seven. Seven against the world! No funds, no membership, no plan. All they had was determination and a vision.

Mrs. Leola Holly gave the treasurer his first job of bookkeeping when she gave a dance on February 23rd, which flooded the organization treasury with five dollars and twenty cents. With all this capital behind it the success of the club was assured. The next meeting drew seventeen persons.

The aims and purposes of The Future Outlook League were as follows:

1. It is to establish, build and preserve all legitimate Negro business and create employment for Negroes.

2. To use every legitimate weapon at it's command in advocating and forcing merchants whose business is wholly or partially supported by Negroes, to employ Negro help in proportion regardless of the size of the business.

3. To advocate a closer union as a race, regardless of religion or politics, to help make possible better living conditions in the future, and cooperate wholeheartedly with

every other organization working for the uplift of the race.

"The League is not satisfied with creating jobs for Negroes, but it also makes it its business to see that the hours are regulated that the salary meets with the standard of any other clerk, that their working conditions are likewise and that they are given a chance to improve their knowledge in whatever business they are employed."

"We are constantly on the lookout for merchants who will try to make it hard for our young girls by forcing them to do unfair duties. We have forewarned that any merchant who attempted such discriminations will not only be boycotted, but the League will place a picket in front of the store and force him out of business. We have had to repicket several merchants because they tried either to cut their employees wages or make them work longer hours."

"We want the Negro youth to realize that he is not inferior to any other race on God's green earth. We want him to feel he has a right to make an honest living and stand up and fight until death for that which rightfully belongs to him."

On March 4, The Future Outlook League became a permanent organization. Mr. Holly was elected president: Tom Graham, vice-president; Cora Graham, secretary; Leola Holly, assistant secretary; Grover Davis, treasurer and Atty. Harvey Johnson, counselor. A committee consisting of Dr. A. A. Hops, William H. Reed, Atty. Harvey Johnson, Charlie Morris and John Holly were appointed to draw up the laws of the organization.

A few meetings later during which time the body discussed the laws with the committee, (and during which time the membership was increased by the addition of M. Milton Lewis, Robert Warren, T. W. Lewis, William Gorman and C. M. Smart) the constitution of the F.O.L. was adopted on April 3, 1935.

On November 29, 1935, the League under Holly's leadership published a report on its first seven months of existence. This is what had grown out of the idea of one man less than 12 months before:

F.O.L. membership: 14,633.

Persons placed by F.O.L. 395.

Over the next 10 years, The Future Outlook League obtained employment for over 15,000 persons at its peak; the F.O.L. handled over 10,000 personal problems of every description per year. Juvenile delinquency decreased over 50 percent.

The integration of Banks, Utility companies, Department stores, Industry, housing and the development of Black owned Businesses were predicated upon the primary objectives of John O. Holly and the Future Outlook League. . . .

John O. Holly also exerted his organizational genius and leadership ability in other fields, including the political process. In 1937, he was a candidate and nominated for City Council in Cleveland from the 12th ward, and while losing in that contest, was subsequently (1952-1956) elected Delegate-at-Large to the Democratic National Convention, serving as Vice-chairman of the Ohio Delegation. In 1954 he was a Democratic candidate for Congress from the 21st Ohio District, failing of a nomination by 1700 votes, but pioneering the Movement that later achieved the election of the present Honorable Louis Stokes, Congressman from this 21st District of Ohio.

Mr. Speaker, on July 3, 1977, I had the distinct honor of delivering the principal tribute at a memorial service for the late John Holly. Citizens from all walks of life, both black and white, gathered to commemorate his life and work.

In keeping with the solemnity of that event, Mr. Speaker, I would like to take this opportunity to call on my colleagues in the House to join me in a posthumous tribute to this great American. John O. Holly was our standard-bearer in the civil rights movement. With his death, his work has passed on to a new generation of black leadership. The responsibility is ours to carry on the struggle for equality and human dignity in which John Holly was so nobly engaged. There can be no greater tribute for this great man.

In conclusion, Mr. Speaker, I would like to read from a Cleveland Call and Post editorial at the time of Mr. Holly's death entitled "Rational Revolutionist":

A great man can be buried but a great idea will live on. Or so, those of us who saw John O. Holly and his great idea originate, flourish, and eventually ebb, hope the future is still ours to achieve.

GEORGE FALK—A TRULY OUTSTANDING AMERICAN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SCHEUER. Mr. Speaker, on May 15, 1977 a special award was presented to an extraordinary American—Mr. George Falk of Far Rockaway—Queens, the heartland of my congressional district. Rabbi Walter S. Wurzburger, President of the Rabbinical Council of America presented the Kether Shem Tov Award to one of the outstanding Jewish leaders in America today.

I have known George for many years and consider him to be one of the most dynamic and creative leaders I have come across in more than a decade of public service. I would like to draw the attention of my colleagues to this remarkable man and his extraordinary accomplishments.

Printed below is a text of the presentation speech by Rabbi Wurzburger and the acceptance speech of George Falk. The following quote from Rabbi Wurzburger's speech explains why George Falk deserves our recognition:

George Falk does not want accolades. He doesn't want tributes. As a matter of fact, he told me this evening before the dinner, "don't waste your time and mine by praising me." What he wants is action in behalf of the goals and ideals to which he is deeply committed.

I commend both of these speeches to my colleagues' attention.

ADDRESS BY RABBI WALTER S. WURZBURGER

Mr. Chairman, Mr. President, distinguished rabbis, Congressman Wright, ladies and gentlemen.

You may recall, early in the evening, Rabbi Lookstein promised that he will be the shortest speaker. I promise you to be the most impossible speaker—impossible because your chairman has allotted to me exactly five minutes not for one but for two speeches. Even the generosity of a George Falk, who donated to me three minutes of prime time will not really enable me to discharge my responsibility to deliver two distinct messages. But since tonight is Yom Yerushalayim, the anniversary of the liberation of Jerusalem, a solution to my dilemma suggests itself. The Jewish mystics note that the hebrew term for Jerusalem is in the plural. There is the terrestrial Jerusalem and the celestial Jerusalem. Yet, they are one and indivisible. Similarily for me there is no conflict between my seemingly two distinct assignments—of bringing a message in behalf of the rabbinical Council of America and conferring the Kether Shem Tov award to my beloved friend, George Falk. The two tasks are really one. My close personal friendship with both the president of the union and the Kether Shev Tov awardee is a reflection of the strong and close relationship that binds together the Rabbinical Council of America with the union of Orthodox Jewish Congregations of America. We both strive and struggle together for the achievement of our joint objective. The battle we wage together is for the unity of Jerusalem.

We hear a great deal about concern that our own government as yet has not recognized Jerusalem as the capital of the state of Israel. I am always more concerned about what we Jews think about our problems. Have we really recognized the primacy of Jerusalem? Are we fully aware that the reunification of Jerusalem imposes upon us a mandate to unite the Jewish people. The psalmists sing so beautifully, "God builds Jerusalem when all the dispersed of our people shall be gathered in." For us Jerusalem is the symbol of the unity of the Jewish people, it is the city that makes all of us associates. We all struggle together to bring about the *vision of L'Shana Haba B'Yerushalayim.* (Next year in Jerusalem.)

Jerusalem is the city of Jewish unity. Jerusalem, so the Talmud tells us, was not divided among the various tribes within Jerusalem there is no room for tribalism, sectarianism, institutionalism or partisan concerns. We have a sacred and solemn responsibility to draw into the orbit of Jerusalem every possible Jew.

The present moment presents us with unique opportunities along these lines. A few decades ago it seemed that the forces of secularism were invincible. But, thank God, the tide has turned and today orthodoxy has emerged as the most vibrant, dynamic and growing movement in the world Jewish community. We now enjoy unprecedented opportunities to bring our message to Jews all over the world. Today, we must take leadership, it is gratifying that we have made so much progress. But need I remind you that as you travel throughout the length and breadth of this continent, you will come to community after community where there isn't a single orthodox Jewish institution. I can show you campus after campus where there is no Torah presence. At a time when our young people are hungry for the word of God, we are not there. The Jewish community is agitated over the unification movement of a Reverend Moon, over missionary efforts. I say to my fellow Jews, don't worry about missionary activities, worry about the erosion of the Jewish soul, the erosion of Jewish commitment. To meet this challenge the entire orthodox community must be united. Can there be room for divisiveness at this historic moment?

We dare not be silent, we dare not sit still, we must be restless, restless until God establishes Jerusalem and makes it as a praise in the Earth. Yes, we must be restless and emulate the divine discontent, and if I may say, it is this attribute that endeared so much to me personally, our distinguished Kether Shem Tov Awardee, George Falk.

George is a man who is restless, he loves Jerusalem, loves the Jewish people, and he cannot stand it when lethargy and divisiveness prevent us from reaching our objectives. He can't take it when we abandon our youngsters. This is why he has recently established in Jerusalem a seminar center. This is why George Falk will every pesach orga-

nize sedorim in Jerusalem to take care of Russian Jews who never before in their lives have seen a seder. That's George Falk. George Falk does not want accolades. He doesn't want tributes. As a matter of fact he told me this evening just before the dinner, "don't waste my time and your time by praising me." What he wants is action in behalf of the goals and ideals to which he is deeply committed. He is a creative, dynamic Jewish leader, innovative in his approach, who gives to his communal leadership the same kind of drive and energy he devotes to his commercial enterprises. He has attained an eminent position as an industrialist because of his imagination, perserverance and determination, but those very qualities have made him also a dynamo charging the Jewish community to restless, relentless movement toward the great goal—the realization of Jewish destiny.

Indeed, we thank God for having made it possible for us to be led, inspired and moved by George Falk. And in the words of the Psalmist, we say to him, "may the Lord bless you from Zion, and may you behold the God of Jerusalem all the days of your life."

ADDRESS BY MR. GEORGE FALK

Esteemed Rabbis, Honorable Congressman Wright, co-honorees, Rabbi Pelcovitz, and Phil Stollman, awardee, members of the dais, dear family and friends.

While I appreciate the wonderful words spoken by Rabbi Wurzburger, whom I admire so much, I look upon them as a goal for the future rather than praise of the past. I hope that I shall be able to live up to the image Rabbi Wurzburger tried to portray of me. May I thank you, Harold Jacobs, our beloved and highly esteemed president and the directors of the union for having bestowed this great honor upon me.

Standing here tonight, my heart is filled with memories of a lifetime. . . . Forty years ago this month I came to the wonderful shores of the United States of America as an immigrant and refugee from persecution looking for freedom and opportunity. I am grateful to say I have found them both in our great country. . . . It might take an immigrant to appreciate the great privileges and freedom America offers its citizens. The American values of life, its philosophy, the Bill of Rights, which is the backbone of our country, are treasures to be cherished.

The Pilgrims founded this country, escaping oppression, looking for freedom from want and fear and . . . eventually this great bastion of democracy was thrust into being. We, in our generation, about 170 years later were privileged to witness the arising of another true democracy, the state of Israel. There, miraculously, the oppressed and persecuted and nearly annihilated Jews gathered together to bring a state against all odds into being.

I look back 34 years, when on June 6th, I was one of the many proud American soldiers who stepped on the shores of Normandy. It was a special privilege for me to wear the uniform of an officer of my newly adopted country and a terrific feeling to return to the shores of Europe to liberate it from tyranny.

Our elation of victory was soon diminished by seeing the horrors of war . . . after the break through, we marched on through St. Lo and Avranche, and I started looking for my people, fellow Jews, but I could not find them. They were deported—destination unknown. We got further and further into France and the story was the same all over . . . destruction, horrors of war, synagogues demolished, Jews deported—destination unknown. I remember so vividly my Jewish New Year on the battlefield in Luneville where we found a desecrated synagogue and performed services. We marched on with the feeling of victory and elation on one hand and the feeling of sadness on the other. We crossed the Rhine, the human story was even worse.

The final realization came when we came to the gates of Dachau and saw the famous sign, "Arbeit Macht Frei"—work gives freedom . . . but what we did find were human skeletons, some still alive, most dead, horrors so far unknown to mankind. I became determined then and there that I would dedicate my life to the causes of my people and its institutions and always cherish our beloved America.

How different is our lives here in the United States for all of us today. We have here a network of hundreds and hundreds of vibrant congregations all across the land with hundreds of thousands of members. We, the generation of the Holocaust, understand only too well that we need more than isolated congregations. What we need is the force that unifies us all and that is what the Union of Orthodox Jewish Congregations is all about. There is strength in unity and unity in strength. The union speaks for and represents the American Orthodox Jewish Community whenever and wherever the need arises.

There is a tremendous depth and intensity from the inter-action among our sister congregations . . . anyone who has attended one of our retreats or shabbatons has truly experienced living judiasm.

But our real strength lies in our youth. The youth especially benefits from the awareness of the larger American Jewish Community in regional and national NCSY seminars. The dynamism instilled by the many vibrant but isolated local NCSY chapters is reinforced in these seminars by their peers from all across the land.

Tonight is the tenth anniversary of the Liberation of Jerusalem by the Israeli people. A city founded by King David thousands of years ago once again became a free Jewish city where everyone is free to worship according to his belief . . . Jews, Christians and Moslems alike . . . how different is today's unified Jerusalem from the Jerusalem under Arabic rule . . . we must all be determined that Jerusalem shall always remain the Capital of Israel, a state not only with defensible and safe borders but recognized as an equal and appreciated for its contributions to the family of nations.

I am especially proud that the union has decided to bind its ties even closer to Israel by opening a seminar center in Jerusalem to cement the relationship of the union and its youth, an American organization, with the people of the state of Israel. I am delighted Phil Stollman has joined me and the union to bring this seminar center to its reality.

I thank Mrs. Wright and Congressman Wright, one of the most important and illustrious leaders in our country for honoring us here tonight with their presence. We are proud to be Americans of the Jewish faith, and we are grateful for the help and understanding that this great country of ours has given to the state of Israel. Israel is the only true democracy in the Middle East and the best and most reliable friend and ally of the United States.

Yet, we again are faced with enemies who would like to see history repeat itself and seek not only our destruction, but the destruction of the free democratic world. Let us not fear these threats, but let us stand up with pride and determination as tora-true Jews and proud Americans to carry on our vibrant struggle for survival. Let us give our fullest support to our beloved United States and the state of Israel without which our Jewish life today is unthinkable.

I would like to pay special tribute to my parents, Bernard and Sara Falk, in blessed memory, who were such wonderful parents and showed me the right road to life and the true meaning of derech erez.

May I introduce my family,

First, my father-in-law, Max Baer who has just celebrated his 95th birthday. He is the patriarch of our family, loved and admired by all.

To my darling wife, Ilse, I say thank you for the love, deep spirit you have given our family, especially for giving me the guidance, the goals and encouragement to live a full and beautiful life. Ilse, you have taught me that material success is only fulfilling when it is coupled with a capacity to share to alleviate suffering . . . and to further higher aspirations of man.

To my sons, Bernard and Elliott, I say you are wonderful sons. You have made us proud parents. While you, Elliot, are still happily free and unattached, Bernard you are joined by your wonderful wife, Vicki, who is such a treasure and you have made us now the happy grandparents of Colin Etzion.

My special gratitude goes to Rabbi Simcha Cohen, our chairman, and the staff of the union for the outstanding work they have done. There are no words to express my thanks to you for organizing and preparing a most wonderful affair.

My thanks, once again, If I may to you, Congressman Wright. I am deeply touched to be able to sit with you on the dais, knowing what you stand for, what you represent, not only as a congressman and a majority leader but also as the representative of the proud and great State of Texas . . . May I, sir, as a personal token present you tonight with the flag of Jerusalem on its anniversary of liberation. Please, sir, accept this flag in the same spirit and emotion as I am presenting it to you. Thank you very much and thank you all for coming here tonight.

THE SOCIAL SECURITY NATIONAL LOTTERY BILL

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am introducing a bill today that will establish a national lottery for the specific purpose of providing financial support for the social security program. Over the past 2 years, we have heard much about the fiscal future of this retirement program and the need to insure that funds will be available to carry into the 1980's and beyond. I believe that attempts to finance social security from general tax revenues will only create heavier burdens on the general populace.

The experience of many western European countries with national lotteries is well-documented and in all these nations, the great bulk of receipts from their lotteries are earmarked for social programs. I think the American people are ready for such a lottery and would welcome it.

My bill provides for the establishment of a six-member lottery commission to administer, operate, and issue regulations for the purchase of tickets and the distribution of prizes.

There are currently many legislative reforms proposed for expansion of social security benefits but plans to restructure the financing aspect are mired in indecision. I firmly believe that a national lottery would be the most effective way

to provide the funds needed for any expansion of benefits and I commend this bill to the membership of this House.

CHALLENGING MEDIA MONOPOLIES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WAXMAN. Mr. Speaker, the issue of broadcast-newspaper cross-ownership poses many far-reaching questions regarding the delivery of news and information services. Should one corporation be permitted to control both the print and broadcast media in a given community? Is the public interest—and the public's right to know—better served by prohibiting these arrangements? Does diversity of media ownership necessarily enhance the media's contribution to an informed public? Or is service actually improved by virtue of harnessing a broadcast facility's profits to subsidize expanded newspaper coverage?

The House Subcommittee on Communications is currently studying many of these issues in its review of the Communications Act of 1934. The concerns raised by cross-ownership are ones deserving of the fullest consideration by the Congress. Deirdre Carmody of the New York Times recently surveyed this controversy. I am therefore pleased to insert in the RECORD her recent articles:

[From the New York Times Magazine, July 31, 1977]

CHALLENGING MEDIA MONOPOLIES

(By Deirdre Carmody)

By 1975, the Steinman family had gained a dominant hold over the news media in Lancaster, Pa. Through the years, their holdings had grown to include the morning, evening and Sunday newspapers—the only three in Lancaster—television station WGAL, radio stations WGAL-AM and FM and 60 percent of the city's cable television network. The Steinmans, clearly, had gained extensive power over the Lancaster community's understanding of itself and the outside world, but for many years, nobody seemed to care.

Then one day two years ago, the Steinmans woke up to find their dominant position under attack. A local group called Feminists for Media Rights had teamed up with a Washington, D.C., public-interest law firm called Citizens Communications Center to to challenge WGAL-TV's right to renew its license, and they had brought their case to the Federal Communications Commission. The feminists charged that WGAL did not run enough programs on women's issues, and Citizens Communications argued that the Steinmans were abusing their multiple ownership by, for instance, promoting WGAL programming in the entertainment sections of their newspapers, to the disadvantage of other stations in the area.

A decade or so before, the F.C.C. might have turned a deaf ear to such complaints, but as the Steinmans were to learn somewhat painfully, times have changed. The F.C.C. scheduled a hearing in the case, but before it could be held, the Steinmans, fearing that "forced divestiture [was] close at hand," decided to break up their media complex. Last December, they sold their radio stations, and this spring they agreed to dispose of the television station by 1981.

But that wasn't all. To satisfy the complaint of the feminists, the Steinmans made a deal that may affect the programming on WGAL-TV for years to come. In return for withdrawal of the license challenge, they agreed to a long list of administrative and programming changes. These included: weekly half-hour programs on women's issues, increased coverage of women's sports, more investigative reports and news stories about women on the evening news "free-speech messages" (30- or 60-second appearances by persons wishing to speak out on community issues), a grant of $150,000 to set up a nonprofit women's news service. And they agreed to try to find a buyer for the station who would continue these policies.

The Lancaster case, and the questions it implies about the right of publishers and broadcasters to conduct their affairs as they please, is part of a trend that is shaking up the whole communications industry. Encouraged by new court decisions and impatient with what they see as the ineffectiveness of the Federal Communications Commission, public-interest lawyers, often acting in concert with minority groups, have in recent years brought hundreds of challenges to media ownership. Their principal objectives have been to break up media monopolies and to give the public a greater voice in the regulation of the airwaves.

On March 1, Citizens Communications Center, the tiny public-interest law firm that is in the vanguard of this "broadcast reform" movement, won its most far-reaching case. The Court of Appeals for the District of Columbia decided that newspaper publishers may not own broadcasting facilities in the same city, and vice versa. To Citizens, this was a heady victory: The National Association of Broadcasters estimates that if the court's order is carried out, the F.C.C. will oversee the divestiture of 160 such combinations.

The broadcasting industry and the fraternity of newspaper publishers, along with the F.C.C. have asked the United States Supreme Court to review the case. "In economic terms alone, the impact of the decision would be massive," the N.A.B. told the Supreme Court in its request for review of the decision. "The value of newspaper and broadcast properties subject to divestiture is estimated to exceed $2 billion." If the Court of Appeals decision is allowed to stand, the N.A.B. added, it could "compel a sweeping restructuring of the country's communications media."

This is, of course, exactly what Citizens wants. Its lawyers argue that democracy is based on the free expression of as many voices as possible. The fewer voices you have in the community, they say, the less the chance for dissent.

The guessing is that it will be a long time before the cross-ownership matter is finally resolved. It is a complex issue, and since it involves both newspapers and the broadcasting industry, it presents a perplexing dilemma: On the one hand, Congress is constitutionally forbidden to regulate newspapers, while, on the other hand, it has been mandated by law to regulate the broadcasting industry.

In the case of newspapers, Congress and the courts have repeatedly said that the Government can in no way abridge freedom of the press as guaranteed by the First Amendment. And to tell a newspaper publisher that he cannot own a broadcast station is in direct violation of the First Amendment, according to proponents of cross-ownership.

"Under the divestiture rule [the March 1 ruling by the Court of Appeals] we're reduced to the status of illegal aliens and felons," says Joe M. Dealey, president of The Dallas News and chairman of the committee set up by the American Newspaper Publishers Association to study the cross-ownership question. "They are the only people besides publishers who are not allowed to own television stations."

But whereas Congress cannot regulate newspapers, the licensing of broadcasters has been justified under the First Amendment because of the physical limitations of the electromagnetic spectrum. Because the capacity of the air-waves is finite, someone must decide who will be allowed to use them and who will not. This is the function of the F.C.C., as mandated by the Federal Communications Act.

Behind the dramatic confrontation over cross-ownership lie some vexing questions of communications policy. For instance, the F.C.C. is supposed to supervise broadcasting activities to see that they accord with the public interest. But what is the public interest? Who are the public? What criteria should determine who has access to the airwaves? To what extent should broadcasters be required to reflect the tastes and interests of their listeners?

A few years ago, Citizens represented a coalition of the listeners of radio station WNCN in New York City. The station had announced it would abandon its all-classical format for rock-and-roll, and the listeners were up in arms. They won the case, but what about all the New Yorkers who would have preferred rock? And, for that matter, what about those in Lancaster who might not have shared the views of the Feminists for Media Rights? Who is to say whose tastes and opinions should prevail? How should a station deal with all the various majorities and minorities with special cases to plead?

And on a more basic level, how much public regulation of the airwaves is consistent with free speech? Even granting the limits imposed by the electromagnetic spectrum, should a Government agency—or, for that matter, a court—really address itself to questions of what a broadcaster does or does not choose to put on the air?

To understand these questions fully, it is necessary to return to March 25, 1966, when the United States Court of Appeals for the District of Columbia handed down one of the most significant decisions in the history of broadcasting. The case involved WLBT, a television station in Jackson, Miss., whose population is 45 percent black. Civil-rights groups had repeatedly accused WLBT of discriminating against blacks in its programming. In March 1964, two civil-rights leaders and the United Church of Christ, which had become a persistent public advocate on such issues, went to the F.C.C. and urged it not to renew WLBT's license. They brought their protest on behalf of themselves and as representatives of "all other television viewers in the State of Mississippi."

The F.C.C. dismissed their petition, declaring that it could consider such an action only if an individual's legally protected rights had been invaded by the station or if the station had caused him direct injury. Viewers whose individual rights had not been violated, the commission said, had no standing to bring protests before it.

The petitioners took their case to the Court of Appeals, where Warren E. Burger, now Chief Justice of the United States, ruled that "responsible representatives of the listening public" did indeed have the right to challenge the renewal of a broadcaster's license. He ordered the commission to hold a hearing on whether WLBT should have its license renewed, "We can see no reason," he stated, "to exclude those with such an obvious and acute concern as the listening audience."

By ruling that viewers and listeners could challenge a broadcaster's right to hold a license, the Burger ruling opened up a new area of communications law. It also gave the public-interest lawyers an effective new weapon with which to take on the communications industry.

Though it has consisted of no more than four or five lawyers at any time in its existence, Citizens Communications Center is considered the foremost of these firms, and its history is, in effect, a capsule history of the broadcast reform movement.

Since its creation eight years ago, Citizens

has filed scores of license-renewal challenges on behalf of its clients. It has brought actions that have resulted in breaking up media monopolies, provided more employment opportunities for minorities in broadcasting and opened up the F.C.C. to citizen involvement. It has reached out-of-court settlements with broadcasters that have facilitated the public's access to the airwaves and resulted in more programming for minorities.

Citizens was founded by Albert Kramer, who in 1969 was beginning to lose interest in doing bank mergers at Washington's prestigious law firm of Covington & Burling. Kramer was concerned about the general lack of citizen participation in F.C.C. proceedings and felt that there ought to be some kind of national law center for citizen groups that wanted to participate in the regulatory process.

He resigned from Covington & Burling and obtained a $25,000 grant from the Midas International Foundation and a desk and part-time secretarial help at the Robert F. Kennedy Memorial Foundation. At first, the work was mostly informational. Volunteers had to be taught how to monitor stations to look for abuses; how to meet with the management of stations, and what questions to ask; how to find their way around station files. Kramer spoke at conferences, gave seminars and supplied background information on legislation.

Many of Citizens' early clients were black civil-rights groups which complained that broadcasters were discriminating against blacks in programming or employment. The usual tactic was to have volunteers monitor a particular station to accumulate enough evidence for Citizens to file a petition with the F.C.C. asking it to deny renewal of that station's license on the grounds that in areas where much of the listening public is black, it is in the public interest to have at least some of the programs aimed at black audiences.

"In the next two or three years, a pattern grew up," says Susan Dillon, who joined the firm in the early days. "A coalition was set up several months before the licenses in that state expired and then they would call us. We would do research; an attorney would go to a city to find out more about the complaints there and would spend night after night writing. Then he would come back, and we would type it up and ship it in to the F.C.C."

The "petition to deny" (a station's license), as it is called, became a trademark of Citizens in the early years of its existence. It was actually a way to harass the broadcasters, because it put the burden on the station to show why the petition to deny was invalid and why the license should be renewed. Once the petition was filed, Citizens would usually offer to withdraw it in return for certain concessions from the station.

Few of the petitions to deny actually resulted in hearings by the F.C.C. Out of 3,014 license renewals handled by the F.C.C. in 1976, only 23 were designated for hearing. It is rarer still for the commission to take away a station's license. F.C.C. figures show that in the past five years the commission has approved an average of 98.8 percent of AM radio-station license renewals; 99.4 percent of FM radio-station license renewals, and 97.7 percent of TV license renewals.

It is statistice like these that have led critics of the F.C.C. to say that it simply has not fulfilled its function of regulating the broadcasting industry over the years.

"In the past," says Tracey Westen, director of the communications-law program at U.C.L.A., "the F.C.C. was always right as long as it gave the broadcaster what it wanted. Then along came Citizens. . . . Through its litigation, Citizens has forced the F.C.C. to clarify its standards. Its litigation has determined the very structure of the industry."

"What we began to develop was a framework where two things happened," says Albert Kramer of his reign at Citizens. "First, the regulatory processes themselves began to be opened up to a lot of groups who never before had participated in the regulatory process. They became adversaries, and the commission had to respond.

"And then it forced the broadcast media to sit up and take notice that there was a major segment of the population that was ethnic, racial, poor, female, intellectual or aged, who had been virtually ignored."

"My bottom line is that we never lost a case," says Frank Lloyd, who succeeded Kramer as executive director in 1973. "It didn't matter that we won or lost. At the end, by the time two or three years of litigation had passed, the broadcasters had usually upgraded themselves out of lawsuits. While we may have technically lost, we had usually won most of what we wanted."

One notable victory came in 1971 after Citizens tried to block a complicated transfer of broadcast properties which Capital Cities Broadcasting Corporation was trying to effect. Capital Cities agreed that if Citizens would withdraw its opposition, it would provide $1 million for minority programming and set employment goals for blacks and Hispanics in Philadelphia, New Haven and Fresno. The company also agreed to set up advisory councils made up of blacks and Hispanics in order to give them a voice in determining programming in those cities.

By 1971, Citizens had received its first Ford Foundation grant—$200,000 a year for two years—and was housed in the cheerful, four-story red-brick town house at 1914 Sunderland Place just off Dupont Circle (and within walking distance of the F.C.C.), where it is still located.

There was a ragged appearance about the place and a spirit of camaraderie as the lawyers often worked 17 and 18 hours a day to meet filing deadlines. Kramer, who was wont to work in a T-shirt, work pants and socks and simply put his head down on the desk when he needed sleep, was the kind of person who inspired personal loyalty, and his staff was devoted to him. There were many bone-wearying days, but there was also a certain amount of conviviality, as when the staff would order pizza and make a salad in a big green bucket and then sit around eating and telling stories.

By 1973, Al Kramer was exhausted, and he left Citizens to lobby against a license-renewal bill supported by the broadcasting industry. (He later went back to private practice and is now director of the Bureau of Consumer Protection at the Federal Trade Commission.)

After Lloyd, a Harvard Law School graduate who had a mixed background in communications law, became executive director, the firm shifted from its leadership and organizing role to become more of a test-case firm. Lloyd remained until earlier this year, when he, too, joined the Carter Administration in the Office of Telecommunications Policy.

The new director is Nolan Bowie, a 33-year-old graduate of the University of Michigan Law School who was an assistant special prosecutor in the Watergate prosecution force. Bowie is black, as are associate member Edwina Dowell and several other members of the staff, making Citizens a majority-black firm. The other lawyer is Charles Firestone, a Duke law graduate who worked for four years in the F.C.C. general counsel's office and who is in charge of litigation at Citizens. (Firestone will soon leave to become the new director of the communications-law program at U.C.L.A.) The staff is directly responsible to its board of directors, which is headed by Henry Geller, former general counsel at the F.C.C.

Citizens' most notable recent battle was with Joe Allbritton, now publisher of The Washington Star, who in 1975 was trying to acquire control of the company that owned The Star and WMAL–TV, AM and FM radio in Washington. Citizens, vehemently opposed to what is considered a blatant case of cross-ownernhip, filed a challenge with the F.C.C. contending that under a recently enacted ruling by the commission, ownership of these properties should not be transferred to Allbritton. After much dealing, Citizens withdrew its challenge when Allbritton agreed to sell off the radio and television stations.

It is the broader cross-ownership case, however, that may turn out to be Citizens' most important confrontation. It goes back to 1970, when the F.C.C. announced that it would look into the question of whether cross-ownership of newspaper and broadcast facilities in the same city was in the public interest. More than 200 comments on the subject, plus 25 major studies, were filed with the F.C.C. Later, three days of hearings were held. Finally, five years after raising the question, the F.C.C. issued its first report in 1975, which banned future cross-ownerships of newspaper and broadcast facilities in the same city, but allowed almost all existing combinations to stand. (The order required only divestiture of what the commission called "the most egregious cases"—seven newspaper-television combinations and 16 radio-newspaper combinations in cities where there were no other newspaper or broadcast facilities; in other words, where these cross-ownerships were the only source of information in that city.)

Citizens, acting on behalf of its client, the National Citizens Committee for Broadcasting, took the matter to the Court of Appeals for the District of Columbia and asked the Court to reverse the part of the commission's order that preserved existing newspaper-broadcast cross-ownerships.

"The problem in all these areas is that the fewer voices you have in the community, the less chance you have for diversity and dissent," said Nicholas Johnson, a former chairman of the F.C.C. and head of the National Citizens Committee for Broadcasting. "The whole theory of a democracy is that you have as many voices as possible."

That is beside the point, argued the F.C.C. "A mere hoped-for gain in diversity" was not adequate cause for the disruption of operations and the economic dislocation that would necessarily follow such a massive reorganization of the country's media. The commission apparently was persuaded by the broadcasters' point that in many cities economics is such that the breaking up of media monopolies will actually impede the goal of diversity. Television stations generally are far more profitable than newspapers, and it is possible that some newspapers might expire after divestiture, since they would lose their periodic transfusions of television profits.

The F.C.C., in reviewing the evidence submitted to it, had come to the conclusion that significant diversity of voices in broadcasting and the press existed in most communities anyway. The F.C.C. also went on to say that there was no evidence that breaking up newspaper-television combinations would necessarily result in more diversity.

But interestingly enough, the court, reviewing the same massive evidence that had been presented to the F.C.C., differed on two major points. In the words of Chief Judge David Bazelon:

"There is virtually no evidence regarding the likelihood that divestiture would produce the harmful effects feared, or how serious such harm would be.

"And the record no more establishes that cross-ownership serves the public interest than it injures it. After years of study, the record was essentially inconclusive."

On March 1, the court ruled that the commission's decision not to require divestiture of existing cross-ownerships was inconsistent with its longstanding policy that "nothing can be more important than insuring that there is a free flow of information from as many divergent sources as possible.

"We believe . . . ," Judge Bazelon wrote, "that divestiture is required except in those cases where the evidence clearly discloses that cross-ownership is in the public interest."

Since then, the F.C.C., the National Association of Broadcasters, the American Newspaper Publishers Association and some of the major cross-owners have asked the Supreme Court to review the case. They argue that newspaper-broadcast combinations have a long record of meritorious service and that there is no evidence that breaking up these combinations is going to result in greater diversity of information. They also contend that the court exceeded its bounds and usurped the policymaking role of the F.C.C. in requiring divestiture.

Whatever the court decides, it is clear that the door Chief Justice Burger opened back in 1966 when he said that listeners could challenge the practices of broadcasters is now wide open. The listening public, in effect, has been mobilized, and Citizens has become an accepted participant in the continuing process of regulating who controls the airways.

In one sense, this may be seen as a splendid example of democracy at work, a reaffirmation of the democratic dream that the have-nots of society can march into court, challenge the power structure and win.

On the other hand, democracy often pushes forward on clanking wheels, and few victories are free of nagging doubts. There are many, within the communications industry and without, who are made nervous by the prospect of the courts' telling a Federal commission how it should conduct its business, however overprotective of broadcasters the F.C.C. may have become. And they are made even more nervous by the prospect of increased public and Government control over the media. They fear, in the end, that the movement to break up cross-ownerships may yet turn out to be another wave of high-minded reform that turns out to have an unforeseen, destructive undertow.

ACCOMPLISHMENTS OF THE HOUSE

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BYRON. Mr. Speaker, as Congress concludes its work prior to the August recess, I think this is an appropriate time to reflect on the record of Congress thus far. We can justifiably take pride in the accomplishments of the House this year, not only in terms of the number of bills which have been passed on the floor, but also because of the important work being conducted in many of the House committees and subcommittees. While these efforts are sometimes well publicized, such as the outstanding work done by a number of committees in reviewing the President's energy package, in many cases committees have undertaken comprehensive reviews of major issue with little public awareness of the importance of their deliberations. This is the case with the Subcommittee on Communications, which is in the midst of a vital, but laborious, review of Federal communications policy.

This is a critical area that is ripe for legislative attention. The availability of the best system of communication is crucial to America—both in our personal lives and to our society as a whole. Our system of democratic government and our personal freedoms are based on the free exchange of information in our society and the free expression of ideas. Our modern communications technology is essential in this regard.

The preservation of our communications system and its continued progress are matters which should be high on the list of congressional priorities. The availability of a low cost, universal, and dependable telecommunications system is of particular importance to the rural areas of the country, such as those I represent in central and western Maryland. Furthermore, the health and safety of many senior citizens is dependent upon access to needed services that their telephone provides. The poor and unemployed must rely heavily upon the use of the telephone in order to seek or receive notice of that much needed job.

It is clear that severe alterations in the cost or availability of telephone service would have a great impact on these sectors of society, which have the fewest alternatives of replacement choices for their telephone service.

For these reasons, earlier in this session, I cosponsored H.R. 1811, the intent of which is to assure the continuation of readily available, widely affordable telephone services for the citizens of this country. The Consumer Communications Reform Act of 1977 addresses fundamental issues which have made possible the growth and progress of our nationwide system. This system is unsurpassed in the world in terms of service quality, percentage of incomes paid for service and, more importantly, the percentage of the country's population who can reach each other by telephone.

We have arrived at this position by virtue of the wisdom of our predecessors in the Congress who established the national policy, "to make available—to all the people of the United States a rapid, efficient, nationwide—communication service with adequate facilities at reasonable charges." To my knowledge that policy has not changed. What has changed are the actions of the regulatory body which was established by the same law that set forth this policy.

In the past decade, the Federal Communications Commission has undertaken a course of departure from the practices of the previous 30 years which had achieved the congressional objective. The FCC has done so without bringing forth a definitive case for its action so that the Congress may rule upon the desirability of these, in effect, changes in policy. The FCC has embarked upon a course of injecting so-called competition into the telecommunications industry without having determined the economic and social impact of that action. Its own proceeding, established after the fact, to determine such impacts remains open and without definitive conclusion. Meanwhile, the implementation of the procompetitive activities continue in an industry in which Congress long ago determined competition to be wasteful and not in the public interest.

It is time for the Congress to lend its wisdom to this vital matter and establish anew the national telecommunications policy which best serves the interests of all the citizens of the country. Congress should act promptly to spare this society the pitfalls of piecemeal experimental regulation.

I commend my colleagues serving on the Subcommittee on Communications of the Interstate and Foreign Commerce Committee for their diligent work of reviewing the Communications Act of 1934. In addition, I hope my colleagues in the Congress will examine closely the facts as they are developed and participate actively in the formulation of the policy under which regulators will carry out the will of the Congress.

Finally, I urge that my colleagues act swiftly on House Resolution 422, a resolution which sets forth a description of the very matters I have described and would require that the FCC defer implementation of any further new policies until the Congress has completed its study of the matter and determined what the national policy shall be.

NATIONAL SICKLE CELL MONTH

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Ms. COLLINS of Illinois. Mr. Speaker, I have introduced House Joint Resolution 561 which would empower the President to designate each September as National Sickle Cell Month.

It is important that this disease be brought periodically to the attention of the American people. One out of every 400 black Americans are afflicted with sickle cell anemia, a genetic blood disease which hampers the blood cell's ability to carry oxygen within the body. While this disease is not always debilitating, anemia and pain occur in the body's joints during crisis periods.

One out of every 10 black Americans carry the sickle cell trait, which is not the disease itself. However, if both a husband and wife carry the trait, their offspring have a 25-percent chance of being born with sickle cell anemia.

The majority of adults who have sickle cell traits are not aware that they are carriers of the gene. Thus, it is particularly important that there be an ongoing screening and testing program. followed by appropriate counseling and reach.

I urge my colleagues to act on House Joint Resolution 561, which has Senate Joint Resolution 71 as its Senate counterpart, so that President Carter can assure Americans that we will not ignore this debilitating illness which affects so many citizens.

DISPLACED HOMEMAKERS' JOB PROGRAM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ROSENTHAL. Mr. Speaker, I am today introducing legislation which would establish a special jobs program for displaced homemakers. The measure seeks to help those who have served this Nation by caring for their families and communities only to find themselves with no means of support at the dissolution of their marriage. It creates public service employment, on-the-job training programs, and peer group counseling centers under title III of CETA.

The displaced homemaker phenomena is a relatively new and growing one. It is the tragedy of the millions of individuals, mostly women, who have devoted their lives to their families only to find themselves incapable of supporting themselves when the need arises. After years of working in the home, they enter the labor market middle-aged and inexperienced in business. Practices of age and sex discrimination reinforce personal insecurities and combine to keep displaced homemakers unemployed for extraordinary periods of time.

This is not a minor problem. The divorce rate in the United States is the highest in the world and is increasing as it gains social acceptability and legal accessibility. According to the National Center for Health Statistics, the divorce rate has more than doubled in the last dozen years. The Bureau of the Census reported that in March 1976 there were 4.4 million divorced women in the United States who had not remarried. In addition, there are over 10 million widows in America today. Furthermore, 2.4 million women are separated from their spouses.

It may be common to assume that such women can simply remarry, but that just is not true. Differences in male and female life expectancy and the social unacceptability of older women marrying younger men result in a scarcity of eligible men. In early 1976 there were five widows to every widower and half as many divorced men as women living in America.

All of these factors lead to the startling conclusion that, as women age, they face a great probability of being left alone. As of March 1976, while 79.4 percent of the women between 40 and 44 were living with their husbands, only 67.4 percent of the women between 55 and 64 were. In that same age group, 17 percent of the women lived alone.

The forms of support commonly assumed available to such women just do not exist. According to the report of the National Commission on the Observance of International Women's Year, only 14 percent of divorced women are awarded alimony and of those only 46 percent collect it regularly. Most of these women are ineligible for social security benefits because they are too young but they do not qualify for Federal assistance once their children are grown.

Most displaced homemakers can not even receive assistance from State relief programs; at least 25 States will not give any assistance to individuals who have no employment disability. Furthermore, most State programs are woefully inadequate, often providing nothing more than one-time relief.

The unemployment rate for the middle-aged women is considerably higher than it is for men of the same ages. Moreover, there are a large number of women between the ages of 35 and 59 who are not even counted in the unemployment statistics because they have given up their job searches in discouragement; in 1976, there were 216,000 women as compared to only 73,000 men who felt job seeking was a futile exercise. There were also more women who cited ill health as an excuse for not having a job, but would take one willingly if it came.

For the displaced homemaker, as for all middle-aged women, the duration of unemployment tends to be extraordinarily lengthy. Twenty-five percent of all women in the labor force between the ages of 45 and 54 are unemployed for 15 weeks or more per year. For single women the unemployment period is even longer.

With so many factors going against her, it is to be expected that the displaced homemaker lives in poverty. According to the Census Bureau, one-third of all female heads of household live below the official poverty level. The median income for divorced women in 1974 was only $5,600 and for separated women it was only $3,622.

The displaced homemaker is in need of special help because the currently existing employment and training programs are simply not reaching her. When Congress in 1973 passed the Comprehensive Employment and Training Act it stated that its purpose was "provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons." While the displaced homemaker certainly fits that label, she has not been the recipient of very much help from CETA.

Title I of CETA, which provides for training programs, has tended to serve the young. For example, unpublished data from the Manpower Employment and Training Office of the Department of Labor reveals that only 7.6 percent of the participants under title I were over 44 years old.

Titles II and VI provide public service jobs to "persons who reside in areas of substantial unemployment who have been unemployed for at least 30 days." Many CETA sponsors consider these women to be ineligible for such positions because they have never been employed. Furthermore, because of the direct employment approach of title II and VI, sponsors have tended to look for "job ready" individuals, which usually means recently laid off males between the ages of 22 and 44. The Manpower Employment and Training Office's data show that in the first 3 quarters of fiscal year 1977, the percentage of women under both titles II and VI was under 40 percent. Moreover, only 7.6 percent of title I participants, 16 percent of title II participants and 16.8 percent of title VI participants were over the age of 45.

A cross tabulation of the ages and sex of the participants of CETA done for the Department of Labor reveals the inequities. The following table shows the small percentage of CETA funds that are reaching middle-aged women. Compare these figures to the percentage of these women in the population as represented by the Census Bureau.

Percentage of participants in CETA from 4/75 to 2/76, cumulative

Women aged:	Title I	Title II	Title III	Title VI
30–44	6.4	6.9	.01	7.6
45–54	2.3	4.4	no data	3.1
55–64	1.9	1.0	.02	1.0

Women aged:	Percentage of total unemployed work force	Percentage of population
30–44	10.1	13.9
45–54	2.3	7.8
55–64	2.9	6.5

Most displaced homemakers have been unassisted by comprehensive employment and training programs which seek to help either the young or the unemployed skilled worker. As a recent Congressional Budget Office report states:

> . . . the percentage of program slots filled by minorities and the economically disadvantaged were higher in programs that emphasized skill development and work experience (CETA titles I, III and IV). On the other hand, the percentage of white, male prime-aged (22–44) workers were higher in programs designed to create jobs directly (CETA titles II and VI and Job Opportunities Program).

Where does that leave the displaced homemaker who is neither young or recently laid off?

It was the original intent of Congress to aid such individuals in the CETA program, specifically under title III which assists "special target groups." Section 301(a) of the act makes title III funds available for "segments of the population that are in particular need of such services, including youth, offenders, persons of limited English-speaking ability, older workers and other persons which the Secretary determies have particular disadvantages in the labor market." But the Congress then went on to specify Indians, youths and migrant and seasonal farmworkers as particular target groups worthy of having their own programs. With no established title II program for them, the displaced homemaker was again left out.

An amendment to title III, creating a special program for the displaced homemakers would enable them finally to get the employment and training funds they need and deserve.

The concept of placing the displaced homemaker problem under title III is not a new one. In 1976, under the experimental national program for select-

ed population segments, title III funds were released to special prime sponsors who had drawn up an innovative program which aimed at one of four special target groups—youth, women, older workers or the handicapped. Some 25 prime sponsors were awarded grants for programs specializing in women. These programs are currently being evaluated by the Department of Labor, but a random survey of ten program directors revealed that CETA could be used to help the displaced homemaker.

While most of these programs have not been aimed exclusively at the displaced homemaker, they have helped them to a limited degree. Most of these centers have found that the two-step approach, which my amendment sets forth, is needed to get these women working.

The first step is a job preparedness program. Most displaced homemakers have either been out of the labor force for years or have never been in it. Besides lacking actual occupational skills, they lack the basic skills necessary for obtaining and maintaining a job. Such simple but necessary tasks as writing a resume can become major impediments. But more importantly, they often lack the self-esteem and assertiveness required to get a job in today's competitive job market. This "psychological approach" has also been used in two existing displace homemakers centers in Oakland, California and Baltimore, Md.

Such programs have proven very helpful in improving women's self-esteem and preparing them with a skill. Their success has been limited, though, in terms of employment and it has been difficult to find jobs for the women they enrolled. Hammond, Indiana, for example, has placed only 50 percent of its graduates in on-the-job training programs. In Monmouth County, N.J., less than one-quarter of the first 22 graduates have been placed. And many other programs have far lower placement rates. This may be due to the fact that these programs trained women in areas where there were no jobs readily available. That is why a public service employment approach is needed.

The experimental programs also are inadequate because they are both temporary, and limited in their scope. Furthermore, they vary in their approaches and eligibility requirements. For example, the Fairfax County, Va. program only trains women in computer technology, housing management and small applicance repair. And the Monmouth County program has no actual job placement program. The city of Wilmington, Del. enrolled no women over the age of 45.

Existing displaced homemaker centers provide valuable models for the solution of the displaced homemakers problem. Out of financial necessity they have been forced to utilize already existing agencies and services. The centers which would be funded under my amendment would continue to do that to avoid a duplication of services.

More importantly, existing centers have shown that displaced homemakers can work together to help themselves. But they suffer in that they do not have the capability to create jobs directly. And they have had problems working with CETA as it now exists. The Baltimore center, for example, has been negotiating with the local prime sponsor since February, but so far they have received no funds. Until those funds are made available, no amount of peer support will be able to compensate for unemployment. It is a cruel hoax to prepare these women, who have already lost their families and suffered greatly, for jobs which do not exist. Title III of CETA should be amended to help the homemakers of America who, thus far, we have honorcd only on Mother's Day, and ignored in their times of plight.

KEEP THE HATCH ACT

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BAUMAN. Mr. Speaker, in the last few weeks editorial comment from two of the major news sources in Salisbury, Md., have vigorously opposed appeal of the Hatch Act. Both the Salisbury Times and WBOC television have published editorials opposing Hatch Act repeal, detailing the many good reasons why this law should not be changed. At this point I submit these editorials for inclusion in the RECORD:

[From the Sunday Times (Salisbury, Md.), June 26, 1977]

KEEP THE HATCH ACT

The House voted 244 to 164 the other day to let federal employes take part in partisan politics, which shows that even a bad bill can pass if it has the proper promoters.

In this case, the AFL–CIO and its public employe unions, backed by President Carter, are trying to rewrite the Hatch Act so that federal workers can run for office, make campaign speeches and raise money for partisan political causes. It's a terrible idea and should be rejected when it reaches the Senate later this year.

Why should government workers be used as political foot soldiers? Why should they be pressured to get out the vote for some influential congressman? Or raise money for the next senatorial campaign?

It's easy to forget why the Hatch Act was enacted in 1939. It was enacted because federal employes were being dunned, prodded and otherwise coerced into taking sides politically. The classic example was the 1938 Senate race in Kentucky, where workers on federal projects were told to back Sen. Alben W. Barkley for reelection. Some were fired when they refused.

The bill passed by the House does offer some protection by prohibiting federal law enforcement officers, field inspectors and workers who handle grants, contracts and licenses from taking part in partisan political activity.

But there is no reason why other employes, in other departments, should be considered fair game for political recruitment.

This bill has little merit and even less public support. The Senate should send it back where it came from at the first available chance.

[From WBOC–TV]

THE HATCH ACT

The unions and the business community will again be on different sides when the Senate Governmental Affairs Committee holds hearing on repeal of the Hatch Act. Under the guise of encouraging Federal employees to more fully participate in the political process, the bill would lift most of the restriction of the Hatch Act which has been in force since 1939.

It would in our opinion leave Federal employees open to the pressures of power politics and the spoils system of a bygone era. It would politicize the civil service and give Federal employee union bosses increased power. The dangers of political corruption are just as great today as in 1939, when after a series of hearings, sufficient evidence of political corruption and coercion of Federal employees was found to warrant the depoliticizing of Federal employees.

Since that time, the Hatch Act has been the subject of three separate challenges before the U.S. Supreme Court, and all were thrown out. In 1939, public employee unions were not large . . . and attempts at political coercion were localized and unorganized . . . but not today . . . for there are now 3 million Federal employees . . . and removing protection from political coercion is an open invitation to abuse on a massive scale.

Organized labor will be pounding the pavement in support of repeal of the Hatch Act . . . so it behooves members of the business community to make its strong opposition known to members of the Senate Governmental Affairs Committee. It just happens that Senator Roth of Delaware and Senator Mathias of Maryland are members of this committee . . . and we urge you to make your views known. Repeal of the Hatch Act could have a long range adverse effect on the business community . . . and now's the time to make our opposition known.

GI BILL IMPROVEMENTS ACT OF 1977

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. CUNNINGHAM. Mr. Speaker, because I did not become a Member of Congress until May 23, 1977, I unavoidably lost the opportunity to support a piece of worthwhile legislation which I would now like strongly to endorse before it comes to a vote of the full House.

The legislation, H.R. 8386, was reported out of the Veterans' Affairs Committee as a clean bill. I have been in contact with the community colleges and other institutions of higher education in the Seventh Congressional District of Washington. They have informed me that overly strict requirements passed by the Congress in good faith during the 94th Congress have worked a hardship both on deserving veterans and on the institutions of higher learning.

The "GI Bill Improvements Act of 1977" liberalizes policies of Veterans' Administration reimbursement for educational institutions so as to allow greater innovative services for our deserving veterans. It also allows institutions to recover more of their costs in administering the program.

Many Members have been very active in moving H.R. 8386 along, Mr. Speaker,

but special mention should be made of my colleagues from New York (Mr. WOLFF) and Ohio (Mr. MOTTL).

I praise their hardworking efforts on behalf of the veterans of our country in assisting them to obtain further education in order to qualify for productive jobs in the private sector of our economy.

Mr. Speaker, I would urge Members to join me in strong support of the "GI Bill Improvements Act of 1977" when it comes to the floor for a vote.

ILLEGAL ALIENS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. EDWARDS of California. Mr. Speaker, as a member of the House Judiciary Committee, and as one who represents thousands of Mexican Americans, I am deeply concerned with the problem of undocumented aliens living and working in this country. I am also concerned about the hysterical tone of some of the comments, and some of the proposals offered, concerning this problem. I fear that racial discrimination, already a factor in our treatment of our Mexican American citizens, may increase toward those with Spanish surnames and/or brown skins.

Far too often, we from California and from the Southwest forget that the Mexican Americans were here first. We are the immigrants, not they. We also tend to forget the great contribution their culture offers ours and their history of sacrifice and achievement in this country. During the painful days of the Vietnam war, for example, I checked the killed-in-action list from my district. While my district's population includes about 16 percent Mexican Americans, the killed-in-action list had 32 percent Spanish surnames.

It is in the light of this background that I recommend that you read Bill Broom's recent two-part series on the undocumented aliens. For the first time, to my knowledge, he has attempted to dispel the myth surrounding this problem and to explore it without the prejudice or the inflammatory tones so often associated with the term illegal aliens.

I offer to you some of the facts that Mr. Broom presents:

That if Immigration and Naturalization Service estimates of more than 5 million Mexican-Americans residing illegally in this country are accurate, then one-fourth of the adult population of Mexico is hiding here;

That a check of 9,000 social service cases in San Diego revealed only 10 undocumented workers on the social service rolls;

That the so-called "illegal aliens" may pay far more in taxes and social security than they receive in benefits;

That the social pressures in Mexico are so great that the only way we could stop the flow of the undocumented workers is to build a "Berlin Wall" of our own along our southern border.

I will not say more about Bill Broom's series. I recommend that you read it, for we all shall be wrestling with this problem shortly.

I would, however, like to note that this is Bill's last series as bureau chief of the Ridder Washington bureau. Bill is leaving Washington Monday to become director of public affairs of the Philadelphia Knight-Ridder newspapers. Because Bill originally came here from the San Jose Mercury and News, my hometown newspapers, I knew he would do a good job here. He has done a better job than even I expected. Philadelphia's gain is our loss.

Mr. Speaker, I ask that Bill Broom's distinguished series on the undocumented workers be placed in the RECORD:

HIGH COST OF ILLEGAL ALIENS CHALLENGED

(By William Broom)

EL PASO, TEX.—The U.S. Immigration and Naturalization Service, now estimates there are 8 million illegal aliens inside the United States after earlier guesses that the number was 2 million to 12 million.

Of these, said a 1976 report for INS, 5,222,000 are calculated to be Mexicans.

Another federal government report (Houston-North for the U.S. Labor Department) quarrels with the estimate.

Noting that the 1970 Mexican census recorded 23,229,320 men and women between the ages of 15 and 59, the age group from which most of the 5,220,000 Mexican illegals would be drawn, the Labor Department report wryly notes:

"The implication that between one-fifth and one-quarter of all Mexican residents in that age group are illegally in the U.S. appears to us most improbable."

The Houston-North report also noted that 4,100,000 legal aliens registered with the U.S. government in 1974. It commented "it is unlikely there are twice as many illegals in the nation as legal immigrants who register."

While the numbers game remains unresolved, state and local politicians have had a field day sounding alarms that the undocumented aliens cost taxpayers billions of dollars in social and welfare services.

A 1974 Texas State Senate estimated the cost in that state was $45 million annually. Los Angeles County supervisor Pete Schabarum said last week his county provided $50 million in medical services to undocumented aliens each year.

But the Houston-North survey and another conducted for the past two years by Vic Villalpondo for San Diego County raise serious questions about the validity of those estimates.

Houston-North remains the only major, exhaustive study on the economic impact of the present of undocumented aliens in the United States. Said the report:

"Our data on their participation in public programs thus suggests that their principal direct economic impact is on the labor market (and perhaps upon the balance of payments) but not on the public treasuries."

The study reported that:

1. Illegal aliens make "substantial tax contributions" in the form of withholding and Social Security taxes which are not refunded and in other tax contributions, such as sales taxes.

2. They send the bulk of their earnings to their families in Mexico, thus creating a dollar drain for the United States, which is returned in Mexico's purchase of U.S. products and services.

3 Aliens are inconsequential users of social and welfare services, because it exposes them to possible deportation.

"All available evidence," says the official U.S. survey, "indicates that these migrants paid into the U.S. government treasury taxes far more than they collected in benefits from tax-using programs."

A similar study by Prof. Wayne Cornelius of Massachusetts Institute of Technology, found Mexican undocumented aliens were "considerably less likely than aliens from other countries to make use of tax-supported programs and services."

In a paper presented to the annual conference of the Southern Economic Assn. Nov. 17, 1976, Mexican economist Jorge Bustamante concluded: "what has been called a national crisis is unmeasured and ill-defined. We still do not know how many undocumented immigrants there are or what impact they have on either the U.S. or the Mexican economies.

The Houston-North report for the Department of Labor found that 77 per cent of the undocumented aliens surveyed paid social security taxes, 73 per cent paid federal income taxes, less than 4 per cent had children in U.S. schools and five-tenths of one per cent received welfare benefits.

Villalpondo's survey found only 10 out of 9,132 welfare recipients in San Diego County to be undocumented aliens. In Los Angeles County, 56 among 14,000 welfare recipients were undocumented, and Villalpondo found they actually were eligible.

"A case for an international court of law could be made by the Mexican government if it could determine the accumulated amount paid by Mexican workers in U.S. income taxes and Social Security," said Bustamante.

"No one so far has been able to adequately represent without bias in statistical terms, the flow of Mexican undocumented immigration as a whole," said Julian Samora, author of "The Wetback Story."

What is certain, however, is that arrests at the border and within a few miles of it have sharply escalated. More alarming, the few economic studies available indicate that the pressures inside Mexico pushing workers toward the United States are building and will continue to build.

One of the leading authorities on this subject is a tall, quiet Texas economist based at the University of Texas here.

"The economic inducements to migrate from Mexico to the United States are strong and are getting stronger," said Prof. Dilmus D. James. "Furthermore, the magnitude and momentum of the "push" forces are so great, a net reduction is unlikely before the end of this century even assuming favorable economic and political conditions."

Dr. James and his research associate, Prof. John E. Evans of the University of Alabama, found that Mexico's booming population and internal political and economic problems "conspire against" any hope of decreasing the migration of Mexicans to the United States to seek work.

In a recent research paper, Evans and James concluded:

"Hoping that declining population growth, the petroleum boom in Mexico, industrialization of the northern border of Mexico, or other single trends or policies will rescue the situation . . . is akin to hoping that a brick in the toilet tank will save the day for conservation."

They said "the eventual solution rests on an entire constellation of mutually reinforcing programs operating in concert to absorb labor productively and channel the fruits of growth to the disadvantaged strata of Mexican society."

As a starter, the economists recommended "a flexible, workable and humane policy dealing with Mexican migration to the United States."

While the official and unofficial studies surveyed for this report disagree on numbers, there is little disagreement on a central reality:

The pressures for export of labor inside Mexico are rising and irresistible. Unless it

is properly channeled by both the U.S. and Mexican governments, relationships between the two friendly countries will suffer, the Mexican aliens will be subjected to greater exploitation, and American workers will be adversely affected.

"We need a realistic and enforceable immigration policy geared to the nation's need for labor skills," said Sen. Alan Cranston (D-Calif) recently. "If more foreign labor genuinely is needed, it ought to be allowed in legally, not under the fence where it can too easily be exploited."

But the Carter administration and its predecessors have found the task much more complex than that.

"I don't know any legislation that can resolve the problem of undocumented aliens," said Rep. Don Edwards (D-Calif), "when the richest country in the world and an underdeveloped country live side by side along a 2,000-mile border."

AMNESTY FOR ALIENS IGNORES PROBLEM'S CAUSES

(By William Broom)

WASHINGTON.—The Carter administration is heading toward a solution of the illegal immigration problem that deals with symptoms rather than causes.

Its early proposals will be announced this week. They are widely believed to involve amnesty for aliens who have lived at least 5–7 years in the United States without discovery and additional assistance to the U.S. Immigration and Naturalization Service for stopping aliens at the border.

These will be welcomed by the Border Patrol and some segments of the American public, but public officials, residents of the border and other authorities interviewed for this series view the Administration's offerings as flawed measures that will not deal with the central problem—the internal condition of Mexico that requires her to export surplus jobseekers to the United States.

Mexico has an unemployment rate estimated variously at 60 percent along the U.S. border to 35–40 per cent nationally. Additional thousands are underemployed.

Her birth rate is one of the highest in the world, and there is widespread cultural and religious resistance to the government's half-hearted efforts at birth-reduction programs.

Distribution of income is badly skewed. Ten per cent of the population receives 50 per cent of the annual income.

Most economists who have studied the problem believe that Mexico will need wise and understanding assistance from her No. 1 trading partner, the United States, to overcome those problems.

Among residents of the U.S.-Mexico border, there is recognition of that central fact.

Long-time employees of the U.S. Immigration and Naturalization service, a Chicano activist and university economists interviewed for this article all mentioned the "push-pull" economic effect as the central issue to be solved.

"Push" they defined as the lack of jobs and the extremely low salaries paid to Mexican workers which require them to work outside their homeland or starve. "Pull" was the obvious wealth of U.S. job opportunities at wages extremely low by U.S. standards but high by Mexico's.

Nevertheless the Administration is pushing toward a program embodying some elements of amnesty, tougher laws on smuggling aliens, and employer penalties.

There has been little said about dealing with the primary source of the problem—the internal condition of Mexico.

"The United States is looking at illegal Mexican migration as if it were simply a domestic problem," said Dr. Jorge A. Bustamante, a Mexican economist who has advised his government on the problem. "It isn't considering the impact of its unilateral decision on our economy, our levels of unemployment, and above all, on the border regions."

In a recent newspaper interview, Bustamante insisted the Carter administration's responses to the problem are based on false premises. He said there are far fewer Mexicans in the United States than official estimates and that most of them are not taking jobs away from Americans but doing low-paid menial work that Americans refuse to do.

U.S. citizens interviewed for this series tended to produce assessments strikingly similar to Bustamante's.

The director of a Chicano activist group in El Paso, a veteran Border Patrolman, and a university economist specializing in Mexico's economy, all volunteered that the pressures inside Mexico that propel workers toward the United States must be relieved and that all other measures would fail to reduce illegal immigration unless that happens.

"We won't see an end to the problem without a mini Marshall aid program to create jobs in Mexico," said Ray Reaves, the Border Patrol's top expert on alien-smuggling.

One of the Border Patrol's most voluble critics in El Paso is Freddie Morales, 23, director of Chihuahuita neighborhood center. But he agrees in principle with Reaves.

"The only way to stop them from crossing is to throw up a cactus curtain, Berlin on the border, which could seriously damage relations with Mexico," said Morales. "If the United States wants to show Latin Americans they care, they will work out a program that will allow limited emigration for work.

"The United States cannot solve Mexico's ills, but it can try to do as much as it can to help create jobs in Mexico."

The near impossibility of controlling the border was acknowledged by Dale Swancutt, chief patrol agent for the Border Patrol in El Paso.

"Those who advocate hiring more border patrolmen, helicopters and electronic equipment are not being realistic," said Swancutt. "It is not possible to control this border. You'd need a virtual army. The American public wouldn't accept such a police state. We've got to talk in terms of long-range programs and federal legislation."

Reaves and Swancutt believe that the Patrol needs legislation and manpower to deal with smugglers.

"If we could put the smugglers out of business," said Swancutt, "we'd have a major step toward control.

"Prosecution is not a deterrent. In many cases, jail is preferable to home in Mexico. Jail is a place where they can learn English, a trade and get an education into how to make a false claim of U.S. citizenship."

In a landmark study prepared for the North American Economics Assn. meeting in Atlanta last fall, two U.S. economists concluded there is little hope Mexico's economy can absorb its rising population before the year 2000.

But despite the difficulties, warned Professor Dilmus D. James of the University of Texas (El Paso) and Professor John S. Evans of the University of Alabama, an immediate start is imperative. James and Evans made it clear that U.S. financial support and trade policies would be vital to Mexico's development.

"There is a pressing need to begin to forge a flexible, workable and humane policy dealing with Mexican migration to the U.S.," their study concluded. "It should be done soon before a crisis situation forces policy makers to do so within a context of mutual hostility and uncertainty . . ."

While the knowledgeable along the Mexican border agree the eventual solution must be economic, the Carter administration has shown no evidence that it is considering any initiatives to help Mexico create jobs at home.

After six months of grappling with the problem, the White House is about to go public with its initial proposals. It has been under heavy pressure from organized labor which sees the invasion of aliens without legal entry papers as a threat to jobs for Americans.

At the same time, employers, particularly in areas close to the Mexican border, fear the loss of vitally needed cheap labor if stringent controls are placed on immigration.

The deliberations have taken place amid a growing mood of hostility toward Mexican migrants as Americans associated such problems as unemployment, taxation and crime with their presence in the United States.

Many of the proposed solutions pose nearly as many problems as they would cure.

Amnesty for long-time aliens who have lived within the United States without being discovered has already encouraged thousands of Mexicans to go north in order to be there when it is granted. Unions and many Mexican-Americans oppose amnesty.

Plans to fine employers who hire undocumented aliens produced an outcry among U.S. citizens of Mexican descent. They fear employers would refuse to hire anyone who looked or sounded like a Mexican rather than shoulder responsibility for determining who is and is not a U.S. citizen.

Proposals to bolster the Border Patrol also met heavy criticism on grounds of an estimated $200 million annual cost and because pushing Mexican migrants back across the 2,000-mile long border could cause social chaos in the border towns.

A favorite proposal in Congress, fostered by Rep. Peter Rodino, chairman of the House Judiciary Committee, would subject American employers to heavy fines if they employ undocumented aliens. The Administration also considered issuing identity cards to help employers determine who was legal and illegal.

THE ONLY THING SLOWER THAN MOLASSES IS MOPAC

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. PICKLE. Mr. Speaker, when Amtrak began operating the Inter-American passenger route between Chicago and Laredo, I joined with my constituents in central Texas in celebrating the event. The city of Austin, which is one of the stops on the Inter-American route, hailed the return of rail passenger service as a very important development for the area.

After 6 years of operation, however, the Inter-American has failed in almost every respect to live up to the potential that the citizens of Austin envisioned. Many of the problems with the route have been resolved by the administrators at Amtrak. But most of the problems with the Inter-American have been created by the Missouri Pacific Railroad and the problems remain unresolved.

The most serious complaint about the Inter-American route and the reason that it has always had such low ridership is that the trains do not run on time.

A good example is an experience I had recently in Austin. After several years of urging by myself and the city of Aus-

tin, Amtrak finally agreed to establish daily service between Fort Worth and Laredo. On June 17, the second day of daily service, I was in Austin and intended to greet the southbound Inter-American when it arrived. When I called the station to find out when the train would arrive, I was told that it would be at least 3 hours and 10 minutes late.

After this, I requested and received a listing of the train's performance record from June 16 through July 4. On July 4, perhaps out of patriotic spirit, the southbound Inter-American arrived in Austin on schedule for the first time since October 31, 1976. Perhaps that was to make up for the July 3 train which never even arrived in Austin.

During this period of June and July, the train averaged 3 hours and 5 minutes late every day.

As the following article from the front page of the Washington Star explains, many of the delays on the Inter-American have been caused by the manner in which Missouri Pacific operates its system. It appears to me that the law is very clear that passenger trains will have priority over freight trains. Just the opposite is the practice of Mopac.

I have nearly lost my patience with this railroad company and their operation and I hope the officials at Amtrak will take whatever action is necessary against Missouri Pacific to finally resolve this problem:

MISSOURI PACIFIC AND AMTRAK ON A COLLISION COURSE

(By Stephen M. Aug)

The way William B. Strong, a Memphis machinery salesman, tells it, all is not well between the Missouri Pacific Railroad and Amtrak.

The problems on this trip from Little Rock, Ark., to Laredo, Tex., began at the Little Rock station when Amtrak's "Inter-American" was about 30 minutes late arriving.

"That wasn't very unusual," Strong recalled the other day, "but when we didn't leave more or less immediately I asked what was going on." A trainman, he says, told him the delay was to give the engineer time to repair the headlight.

After what seemed like a long time, Strong saw what he thought was the engineer strolling back through the sleeping car. "He spoke to the porter and a man I believe was an ununiformed flagman from the rear and asked what was holding up the train. The flagman said, 'we're waiting on you to fix the headlight.' And the engineer said, 'that's been fixed for 30 minutes' and he was waiting for a highball" (a signal from the conductor to start the train).

Within minutes the train started—after a full hour at Little Rock and an hour and a half behind schedule.

The apparent lack of communication between the engineer and the conductor was still on Strong's mind a few minutes later when he saw the conductor and noticed he wasn't carrying a radio as train crewmen usually do. It turned out that on the Missouri Pacific, radio communications between engine and crew members are for freight trains only.

Then there was the "phantom" freight train. About a mile from Devine, Tex., south of San Antonio, the Inter-American came to a milepost in a sparsely settled area and stopped. The conductor, Strong recalled, said "'our train orders tell us to wait here at this point' until a certain time. He said it was just poor dispatching, there really wasn't any problem."

But Strong later learned that the Inter-American is often ordered to stop at the milepost near Devine even though there is no passing freight train in sight. Chasing a phantom freight across Texas, he called it.

By the time the train arrived in Laredo it was more than two hours late, resulting in Strong missing a connection to Mexico City.

Strong's experience with the Inter-American—or, more to the point his experience with the Missouri Pacific which operates part of the Inter-American—is turning out to be fairly typical.

Amtrak officials contend that, of the 18 railroads that operate its trains, Mopac is by far the most difficult to deal with. The litany of Amtrak complaints includes:

One of the worst on-time records in the system despite the fact that Mopac is generally considered a profitable, well-maintained rail system. Statistically, when Amtrak trains are late, the systemwide average is 51 minutes late. On Mopac, when they are late, Amtrak trains are averaging 144 minutes behind schedule time.

Mopac is moving Amtrak trains too slowly. Mopac has a 60-mile-an-hour limit for both passenger and freight trains. Most railroads allow higher speeds for passenger trains and, until about five years ago, so did Mopac. So, while Santa Fe operates Amtrak trains at 90 miles an hour, and most other railroads run them 79 miles an hour, on Mopac they're limited to 60.

Despite the fact that the law prohibits railroads from sidetracking Amtrak trains so freights can go by—except in emergencies—Mopac does it routinely. Freight train interference is the biggest cause of Amtrak delays on Mopac: 45 percent of all time lost is due to freight train interference and 40 percent of all instances of delay are due to freight trains.

Amtrak trains on Mopac are late so frequently that on 29 instances between March 2 and July 2—roughly one out of every four trips on the Inter-American—Amtrak had to provide buses for passengers from St. Louis to Chicago. Buses cost Amtrak $484 for each such trip.

There have been other problems involving the Mopac as well. A couple of years ago the Missouri Pacific refused to allow a Federal Railroad Administration track inspection car onto its tracks because of a squabble over who would pay for liability insurance.

Then there was the time this past June when a dispatcher in a tower near the Dallas railroad station refused to allow Amtrak's Inter-American to back into an unoccupied track—others were occupied by freight or mail trains—because he wanted to put another freight train on the track. According to one observer, he told an Amtrak representative at the station that his salary was paid by freight revenues and not by "damn" Amtrak passenger trains.

When an ambulance was required to evacuate a sick dining-car cook, the same day, it was delayed because the train was too far out into the yards. The train finally left Dallas about four hours late.

But what really infuriated Amtrak's management was the trip the Inter-American made on June 19. The train—which runs between Chicago and Laredo—arrived at Laredo eight hours late.

So late was the train, in fact, that when it arrived at Corning, Ark., the crew's time on duty reached the maximum of 12 hours allowed under federal law. Crew members simply walked off the train and the Inter-American sat for two hours and 43 minutes waiting for a new crew.

The same day the train had to be refueled at Little Rock—not a normal fueling stop. The reason: Delays were so long that the engine ran out of fuel. The long delays also ran down batteries in the passenger cars and air conditioning failed.

There was, it is true, a wreck at Neelyville, Mo., but the Inter-American was kept behind five freight trains before it could clear the wreck.

Nor is the poor service to Amtrak—and the resulting poor relationships between Amtrak and Missouri Pacific—a particularly new matter. There have been disputes between them for years. It was one of the first problems Amtrak President Paul E. Reistrup tried to solve when he arrived at the company 2½ years ago.

During a round of meetings with chief executives of railroads operating Amtrak trains, Reistrup met with John H. Lloyd, president of the Mopac. "I must say that at that session I found out that there were very many things that Amtrak was doing wrong and we immediately took steps to correct those," Reistrup recalled in an interview the other day.

"An awful lot of billing and accounting squabbling was going on. Some of it bordered on being ludicrous. For instance, we asked them to re-rail a locomotive and the bill was . . . what you might be charged for towing your automobile, and we refused to pay it . . . It just caused all sorts of misunderstandings," he said.

But operating problems continued—as did a Mopac law suit against Amtrak involving rental payments for Union Station in St. Louis (which Mopac won).

Operations became so bad this past winter, that Reistrup met again with Lloyd on Jan. 12. It was, he says, "an effort to see if we really could solve some of these operating problems and encourage the . . . (Mopac) to negotiate with us a new contract . . . to bring about improvements in the operation and also better compensation for them."

Such a new contract—adopted by most of the railroads that operate Amtrak trains—pays railroads more money for better on-time performance and improvements in other services. Amtrak currently pays Mopac about $285,000 a month to run sections of three trains, Inter-American, Lone Star and National Limited. The Inter-American alone costs $210,000, said one Amtrack official.

Reistrup said he made Lloyd aware of his complaints. The impression he got, Reistrup recalls, was one of, "their organization is a highly efficient, very profitable and very hard-nosed one. And, really, I think, feels that our passenger operation gets in their way."

Lloyd's view is slightly different: "In the first place . . . they haven't paid their charges in accordance with their contract. I wouldn't say they're far behind, they just nit-pick everything we assess them. We finally had to take them to court to get rental charges."

Although he concedes Amtrak and Mopac have had problems, "otherwise we wouldn't have taken them to court . . . there's no question I would love to run their passenger trains on time, because then it's easy to schedule a train. Nobody likes to receive criticism when they think they're running a good railroad, and we think we have the best railroad in the country."

Nevertheless, he does concede that Mopac freight trains interfere with Amtrak's passenger trains: "I'm sure that there are delays due to freight train interference, but when the original schedules are established it's most difficult to delay . . . our freight trains waiting for a delayed passenger train . . . I just can't stop the whole railroad waiting for a delayed passenger train." Lloyd said there are delays in terminals for which Mopac is not responsible.

Further, he said in an interview, the line south from St. Louis is a densely used freight line, apparently one reason there are more frequent delays there than on the Kansas City-St. Louis line where Mopac operates the National Limited for Amtrak.

Lloyd said, too, he is aware of the laws requiring passenger trains to be given pref-

erence over freights: "We comply with it to the best of our ability."

Quite obviously, with a performance record as poor as that of the Inter-American, it is far from the most heavily used train in the Amtrak system. During the first five months of this year, it averaged about 50 passengers per trip. On June 19 when it was delayed eight hours, only about 10 passengers were no board when the five-car train left St. Louis.

"The passenger load on that train has varied quite a lot," says Dr. Dan Monaghan, a Garland, Tex., optometrist who is also a director of the National Association of Railroad Passengers, a nationwide consumer organization. "They'll get the thing straightened out . . . Last summer they got it straightened out . . . the business built up, then they had that wreck at Hawkins, Tex., in the fall of last year."

Unable to convince Mopac to come to its terms, Amtrak officials have approached the Justice Department as a first step in suing Mopac in federal court over violations of the federal law under which Amtrak operates. Amtrak is not allowed to sue the railroads and must convince the Justice Department to do so.

The suit would charge freight-train interference. The law prohibits operating railroads from sidetracking Amtrak trains so freights can go by. This had been a principal complaint of rail passengers before the creation of Amtrak, some contending it was the railroads way of discouraging passengers and finally getting out of a money-losing business.

Reistrup said Amtrak also may seek the aid of the Secretary of Transportation Brock Adams to force Mopac to increase its speed limit on passenger trains. Reistrup said he was unsuccessful in trying to convince the last secretary, William T. Coleman Jr., to have Mopac increase its speed, but he may have better luck with the current administration.

Under the law, the secretary may order a speed increase, but he can also decide whether the railroad is to receive extra pay for higher speeds.

Amtrak, however, may have yet another lawsuit against Mopac. The federal law governing Amtrak also requires railroads to provide at least the same level of service they were delivering when Amtrak began operations May 1, 1971. Mopac lowered its speed limits for passenger trains on its Kansas City-St. Louis line to 60 from 65 miles an hour in December 1972.

PUBLIC HOUSING SECURITY ACT OF 1977

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MOAKLEY. Mr. Speaker, today on behalf of my 24 colleagues, who have joined me in sponsoring the Public Housing Security Act of 1977, I wish to address the present crisis of security in housing projects across the Nation.

During the sixties, the fashionable mode of social change was the tearing down of older buildings and replacement with quick, prefabricated low cost units. These programs were termed urban renewal, and later coined urban removal. They set a precedent for the renovation of our economically depressed and suggested that our crime and poverty problems could be solved in much the same way as our overnight technology seemed to dictate.

Within the decade we have witnessed a large-scale failure of low and moderate income developments. Statistics show that these projects are experiencing the Nation's highest crime rate. The rising crime and vandalism has created a situation where the neighborhood is no longer a community experience, but rather a center of fear and violence.

The complete lack of security is best exemplified in the numerous attacks on our elderly. Indeed the elderly are the most vulnerable to crime. Their fear of being robbed or assaulted has prevented such routine activities as buying groceries or cashing social security checks.

Vandalism has exposed another threat to those who live in urban housing projects. If a vandal destroys the projects' elevator, the elderly person is further imprisoned in his apartment. The "rip-off" then becomes merely an object of choice in these high rise, high-density buildings. With more than 500 people sharing a common entry, anonymity and accessibility lends itself to maximum advantage.

The Public Housing Security Act would take the necessary steps to control the environmental factors surrounding a project which relates so strongly to the crime patterns. Under the provisions of the bill, the concept of residential security would be addressed in the initial planning and design stages of federally financed public housing. This would apply to new construction, renovation, and rehabilitation of existing housing stock. A local public housing authority would be required by HUD to insure that overall security concepts be detailed in all phases of project management planning including site selection, design, and construction. The plan would then be elevated in every aspect or risk a new bid determination.

A second provision of the bill would establish an assistance fund for local public housing agencies which demonstrate an urgent need for security. A January 1977, study conducted by the National Institute for Law Enforcement and Criminal Justice, suggests that many security measures are not adequately funded and consequently could fall by the wayside even though they enjoy local law enforcement and resident support.

This legislation must be complemented by the education of all those who work within the project; planners, developers, architects, and housing authorities. We can develop proper design guidelines to reduce vulnerability and they can be instituted at a low marginal cost. Most certainly the lower long-range cost—both physically and socially—would prevent the steady abandonment of these million dollar Government financed housing projects. The following HUD/LEAA study points out the comparative costs of different building types and the possible achievement of medium-density housing which is safe to all that inhabit it.

[Source: Design Guidelines for Creating Defensible Space National Institute of Law Enforcement (LEAA) and the U.S. Dept. of Housing and Urban Development (c1975) Oscar Newman]

THE COMPARATIVE COSTS OF DIFFERENT BUILDING TYPES

For a good many years it was accepted as general wisdom in the building profession that high-rise buildings cost less to build and maintain than walk-ups. This view is often the result of inappropriate comparisons between the over-all "development costs" of a housing development and its "construction costs" and between the maintenance costs of buildings occupied by different family types. Development costs include the cost of the land; construction costs are exclusive of land costs. The higher the cost of a piece of land, the less will be the development costs per unit if more units can be put on the same piece of land. For example, the construction costs per unit may be higher in an elevator building than in a row-house building, but still result in lower development costs per unit in the high-rise as a result of lower land costs per unit. In a high-density scheme the savings on land costs per unit may produce a lower over-all development cost per unit than a low-density scheme, even when construction costs per unit are higher.

A true comparison of the construction and development costs of various building types should only be made when the density of the high-rise scheme and the walk-up scheme are identical. In that instance the land costs per unit would be the same and could be cancelled out of the equation. Comparable densities in walk-ups and high-rises occur at the upper limits of the walk-up prototypes and the lower limits of the high-rise prototypes. Such a comparison therefore may serve little more than to satisfy academic curiosity.

Comparison of construction and development costs of different building types is still further complicated by the different mortgage financing arrangements provided under different housing programs, each producing different sets of financial benefits. There are also significant variations both in the quality of construction and the quality of materials used in different developments. These variations will, in two identically planned developments, produce different costs ad life expectancies. Finally, building codes throughout the country require that buildings above three stories in height be of fireproof construction; this normally entails the use of higher fire-rated materials, more stairs, heavier walls and supporting structures. Higher buildings also require, as intrinsic to their construction, the use of heavier foundations, the provision of elevators, additional emergency fire stairs, and the provision of incinerators.

From all of the above it should be clear that within the scope of this handbook it is impossible to undertake an exhaustive comparison of construction costs for different building types. However, a few recent studies have appeared on the subject and their conclusions are quoted here for general information.

The National Commission on Urban Problems prepared and exhaustive comparison of the cost of different housing types across the nation built under various government assistance programs.[1] Two of their concluding tables are presented here (Tables A.1 and A.2).

Footnotes at end of article.

TABLE A.1.—*Development cost by type of building*[2]

FHA 207–231 Multi-Unit Programs	Development cost per unit		
	High	Median	Low
1966 HUD study, 196 projects	$36,001	$16,524	$7,702
1962–66 medians, 87 projects	41,269	15,110	8,102
Elevator	41,269	20,826	12,464
Walk-up	20,954	13,388	8,102
Row	19,767	13,227	8,111

TABLE A.2.—*Construction cost per square foot by type of building*[3]

FHA 207–231 Multi-Unit Programs	Dollars per square foot		
	High	Median	Low
1966 HUD study, 196 projects	$20.88	$12.49	$7.74
1962–66 medians, 87 projects	21.66	10.16	6.70
Elevator	21.66	14.35	10.16
Walk-up	12.90	9.61	6.70
Row	13.63	9.66	8.25

Both tables show, first, that the range in costs within any building type, including elevator buildings, walkups, and row houses, is sufficiently large as to make a low-priced elevator building less expensive than a high-priced row house or walk-up. Nevertheless, Table A.1 shows that a comparison of over-all development costs per unit, row houses cost slightly less than walk-ups, and walk-ups, in turn, cost significantly less than elevator buildings. Table A.2, comparing construction costs per square foot, shows that walk-up units are less costly than row-house units, and row-house units less costly than elevator buildings.

The Housing Development Administration of the City of New York recently undertook a comparative study of both the development and maintenance costs of different housing types.[4] The study, based on 1973 construction experience, does not appear to be either so comprehensive or so rigorous as the study by the National Commission on Urban Problems. Their conclusions are quoted here for information purposes only.

The HDA study compared three-story, three-family homes with Mitchell-Lama (state subsidized) high-rise buildings, and determined that the three-story buildings, selling at approximately $100,000, were "among the best housing buys available." Development costs for the walk-ups and the highrises were calculated on the basis of land costs at 20 percent to 25 percent of the total development costs. Furthermore,

1. Development costs for a conventionally built three-family home are approximately $6,900 per room as compared with current estimates of $11,900 per room in a high-rise Mitchell-Lama building.

2. Maintenance and operation costs of three-family homes are approximately $135 per room per year, compared with high-rise Mitchell-Lama, which costs substantially in excess of $200 per room per year. The saving to three-family homes is the result of several factors, among them: the willingness and ability of homeowners to make small repairs; the absence of common spaces that require maintenance; the absence of elevators and other complex systems; and the small-scale nature of the housing, which encourages individual concern for proper maintenance.

Both of the above studies appear to share similar conclusions: that the three-story, multifamily walk-ups are the least costly means of providing medium-density housing. Walk-ups are less expensive to build and to maintain than both row houses and high-rises. Costwise, the three-story walk-up manages to achieve an excellent compromise between the two-story row house and the high-rise apartment, in that it does not require the elevators or elaborate fireproofing of the high-rise, nor the extensive foundations, roofing, and exterior walls of the row house.

FOOTNOTES

[1] Elsie Eaves, *How the Many Costs of Housing Fit Together*. Research Report No. 16, prepared for the consideration of the National Commission on Urban Problems. Washington, D.C.: U.S. Government Printing Office, 1969.

[2] Ibid., Table 30, p. 56.

[3] Ibid., Table 42, p. 64.

[4] Mayor's Policy Committee, *Housing Development and Rehabilitation in New York City*. November 1974.

GRADUATION THOUGHTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WOLFF. Mr. Speaker, I am happy to insert at this point in the RECORD the text of a most interesting and thoughtful commencement address recently deliverted by the distinguished founding director of the Washington Workshops Foundation, Mr. Leo S. Tonkin.

The address was delivered at the 18th annual commencement of Herricks Senior High School in New Hyde Park, N.Y.

The following is the text of the address:

GRADUATION THOUGHTS

Dr. Haweeli, Mr. Lasala, Mr. Guglielmone, faculty, parents, friends, and graduates of Herricks Senior High School, please let me say, at first instance, how delighted and honored I am to be here this afternoon. It's a rare privilege indeed to be asked to address the graduating class of any school or college, and I especially join with everyone in this room in congratulating the young men and women gathered here as the 1977 graduates of Herricks High School.

As I sat preparing my remarks for this ceremony, I must confess to some mixed emotions—for I am convinced that a commencement address is oftentimes the most perplexing and exasperating thing known to man. Amidst the Ephoria of graduation, the evening parties ahead, and the genuine family pride and happiness, some erstwhile soul agrees to stand before you and say, in effect, listen to my words of sage advice, fall not asleep, Heed well my message for your future.

Usually, a commencement address must be all things to all people—young people, mature people, parents, students—the whole ballgame in a sense. In today's world, it's no easy task to say something that occasions itself to parents and offspring alike. Thus, the commencement address usually falls into the category of stressing jokes to keep all smiling, or on the other hand, an impassioned charge to those assembled a la the Duke of Wellington. The whole business reminds me of the poor preacher who was asked to give a few remarks on "the world the war, and the church." He said he would be delighted to do so, provided he could add a few comments on "The Sun, the Moon, and the Stars!"

As far as charging this splendid class to future action and in a sense telling you what to do and how to go about it, I am soberly reminded of the old story that said, "Socrates was a Greek—he lived 2,000 years ago—he told people what to do—he was poisoned!" And then there is one other caveat for any speaker that I enjoy remembering, "he that talketh by the yard, but moveth by the inch, deserves to be kicketh by the foot."

Perhaps the irony and vacuity of many graduation speeches was really driven home to me a few weeks ago when I picked up a newspaper and read excerpts of two graduation talks in the same city, on the same day, at virtually the same time. Both speeches were given by two of the most noted and gifted educators in the country today. As one gentleman remarked, the younger generation is far better qualified for the world of business and government than ever before. The other fine gentlemen was heard to say that never before have Americans been as poorly educated as now. Well, I can't very well improve upon this confusing contradiction—nor shall I try. For my words this afternoon are quite simple. All I have to share are some feelings and emotions of my own, and they seem to be shared by many hundreds of young people that I have met in Washington and in my frequent travels to high school and college campuses across the United States.

I don't have to tell you tonight of the "values crisis" that has premeated our Government and life in Washington these past few years. But as I noted in a commencement address I delivered in 1973, and I now quote myself, "a resolution and adjudication of the convoluted happenings of recent months will be accomplished in timely and orderly fashion, transforming this current national difficulty into one of the strongest winds for constructive change to sweep across Government in many years.

"As a result of the witless malfeasance of a few, the collective energies of many have been brought to bear in an objective search for truth, the results of which will be the promulgation of new laws and individual liberties in the context of revitalized national leadership. We will see a strengthened Government and political system with reestablishment of the values of credibility and integrity at every level of government."

Indeed, much of what I spoke about in 1973 in the future tense has come to pass. But just as our Government and leadership's system of values have been called to task, may we not use this occasion to call our own system of individual, human values to an accounting. And what better time to start such positive introspection than this hour—your graduation from high school into your life of maturity and responsibility ahead.

There is not one of us whose values are inviolate and secure, free from some form of hypocrisy and illogic. We are all creatures of human nature—but you, my young friends, while your parents and families have given the best of their values and love through the years, you now set out on your own, testing those values to your own heart

and individual frame of reference—retaining those that make sense in this world of today, and discarding those that lend small credence to your own search for goodness and human compassion. In every measure, you will now have to fashion a set of values that is uniquely your own, capable and worthy of imparting to the people you meet and whose lives you touch.

This entire process will be the most important job that will ever come your way. For if you fashion now a system of nonplastic values, imbued with goodness, affection and conviction, then indeed your life—and everything in it—will be full of those same positive qualities of sustenance. As the poet Shelley once wrote, "those who inspire love most are fortunate, but those who feel it most are happier still."

Now granted, it's not always an easy task to live a positive and vibrant life, day by day, in today's human maelstrom—filled with the passions and turmoils of our time. But let me suggest a few attitudes that might help to put it together, in the context of your expectations and approach to the day to day happenings of this world.

First: Understand that progress is a reality, and that constructive change and human advancement are the rules—not the exceptions. Make a conscious effort to seek out the things around you that are good, and acknowledge them to yourselves and to others. Then go on and discover where new progress is needed and new solutions are to be found. In the process, make a sincere and conscious effort to look for the goodness in people. In a real sense, look at each friend and individual as you might hope that he would look at you—seeking not reasons to hate, but reasons to love, and to understand, and to forgive.

You might remember as you set about the tasks of life, and enter a world with no small amount of despair and disappointment, that the traveler who enters the forest in order to reach the other side goes a long way while the forest continues to become darker and darker. And yet each step the traveler takes, if it be true and well intentioned, is a step closer to the goal and the brightness of the other side.

Secondly, as you live your lives and take positions on things and try to influence others around you, remember the words of the great philosopher, Goethe, as he said a century and a half ago, "There is nothing more frightful than ignorance in action." This is the motto of our own student seminars in Washington, and it suggests that each time you are confronted by a question or an issue, think it through as thoroughly as possible, seek out the facts and the reasoning of other people, juxtaposing this information in turn to your own judgment and commonsense. Then my friends, you will be no one's pawns, but on the contrary your own formidable selves, as you act and move about the work of your lives.

Thirdly, learn to laugh at yourselves, and to understand the sagacity and beauty of a sense of humor. I don't mean to suggest that the problems you encounter are frivolous and specious, but, since all of us are only human, we are fallible and make mistakes and if we are going to avoid the lethal error of locking ourselves into those mistakes out of pride or ignorance, then we must be able to say time and again—how foolish of me, how ridiculous could I be. Laughter can heal: A smile can unite—and when turned inward it can help to nurture that beautiful and much needed quality of humility.

This brings me to the fourth and final observation I should like to share, one that concerns your interrelationships with people all about you. Indeed the most simple and yet most profound quality that all of us have within ourselves is the gift of love, and I can only plead with you this evening to feel the vibrance and fire of love throughout your lives—and give of it unstintingly to others. For love is perhaps the only thing you will ever lose by not giving it away. Love is one of those eternal words that often defies explanation and even understanding; forever remaining an emotion or a feeling of the heart. But love has its roots and its causes, and all of us know the wonderous beauty that springs forth from a heart touched by love. Perhaps there is no better place in all the world to feel the beauty of love than right here in this room, where many a father and mother now sit, with the trace of tears in their eyes, tears of love and affection for their children, who today are growing up, and away, a bit more.

A great philosopher said many centuries ago that "Goodness in the object, when perceived, is the fundamental cause of all love."

What a true and noble course this suggests for each of our lives. For it leads onto the grandest road—a road in search of love, and in turn a life full of meaning and hope. It suggests that we might well be consumed by our search for goodness in others, as well as in ourselves. For all around us there is the capacity to love and the natural and wonderful desire to be loved. Within the very nature of this ethic of love lies the future hope of man and his destiny as he meets his God.

In a world filled with stress and toil—as well as the simple miracle of a bird's morning song—the essence of human affection and tenderness can change our lives and our world as no other force in existence.

So let your lives be a search for such real treasure—sincere, honest, and ennobling friendship—and along your way, share the most meaningful thing you have to give—your love as a human being. From this very commingling of friendship, goodness, and love—your lives will touch the very reasons for your creation.

There then, you have few of my own feelings and thoughts to accompany your journeys ahead. Actually, the searchings of youth are in all of us, but it is you, my young friends, as yet unencumbered by many of the commitments of older years, and unfettered by the conventions of yesterday, who seek new answers, and new compassions from each other and the world at large.

Sadly, there will always be those amongst us who follow a crooked path of demogogic sermonizing and moralizing, all in the distorted guise of righteousness. This must not be your quest. Rather your lives, and every action in them, must be imbued with the highest personal ideals of knowledge, integrity, honesty, and compassion, all in the spirit of a humble recognition of the greatness and the humanity of your heritage. These are the personal values, that in great measure, are the moral imperatives of your existence.

As you travel your unknown roads to unimagined lands afar, some of you will become leaders of your community, your State, and perhaps your Nation.

Others will simply and beautifully become leaders of your family; some of you will become involved in the great issues of our society,

Others will face the sheer madness of balancing a checkbook; some of you will hear the sounds of applause in your honor,

I hope all of you will marvel at the sound of a baby's cry to you as a young parent.

Now, in closing, and in the spirit of these moments, I am reminded once again of those vibrant and glimmering words of Ernest Hemingway, who said:

"We are living in the morning of an epoch, and in the fog of the early dawn, men walk confused and see strange sights, but the fog will melt under the rays of the sun which has created it, and the world of truth will be seen to be solid and lovely again. All the glory of life, all the romance of living, all the deep and true joys of the world, all the splendor and all the mystery are within our reach."

Thank you, and God speed to each and everyone.

PEACEFUL PUERTO RICANS FIRMLY COMMITTED TO PRINCIPLES OF DEMOCRACY

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. CORRADA. Mr. Speaker, I wish to express my extreme anguish at the acts of violence in New York attributed to a group called "Armed Front for National Liberation" (FALN), who allegedly support independence for Puerto Rico.

I doubt very much the individuals involved are actually Puerto Ricans even though they may be using independence for Puerto Rico as a pretext for their violence. The people of Puerto Rico are peaceful and firmly committed to the principles of democracy and we reject the use of violence as a method for political change.

I believe that those responsible for these acts of terrorism are most likely Marxist-Leninists or Communists who denigrate the word "independence" when they use violence and cause pain and suffering to the innocent.

The people of Puerto Rico have overwhelmingly rejected independence at the polls. In our last general elections in November the two parties on our island advocating independence together did not poll more than 6 percent of the vote. On the contrary, the two major political parties advocating close ties with the United States together polled more than 90 percent of the vote.

I would not be surprised that the persons involved in these acts are agents of international communism directly or indirectly associated with certain Communist nations, such as Fidel Castro's Cuba, who wish to bring attention to the case of Puerto Rico which is now pending before the Committee of Decolonization of the United Nations. That committee will soon meet again to discuss whether or not Puerto Rico should be declared a colony. Opponents of the United States hope to use this issue as a way to embarrass the United States before the world public opinion.

The political status of Puerto Rico is an internal matter between Puerto Rico and the United States and we Puerto Ricans will not allow strange elements to interfere in our affairs. In Puerto Rico we are used to discussing the alternatives of statehood, Commonwealth and independence in a climate of tolerance and mutual respect and we firmly reject terrorism and violence.

These acts of terrorism have no popular support whatsoever in our island and as Puerto Rico's Resident Commissioner in the United States I trust that the public opinion of this Nation will reject the efforts of those who do not represent our people and attempt to distort political to democracy as this Nation is committed to democracy and we condemn terrorism

realities of our island. We are committed just as most other Americans do.

RETIREMENT ISSUE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. WAXMAN. Mr. Speaker, on July 26, 1977, our colleague, Representative TED WEISS, of New York, testified before the Senate Subcommittee on Labor concerning S. 1773 and related bills dealing with the mandatory retirement issue. As you are aware, the House Education and Labor Committee, on which Mr. WEISS serves, recently approved by a unanimous vote, H.R. 5383, the 1977 amendments to the Age Discrimination in Employment Act. H.R. 5383 raises coverage under the Age Discrimination in Employment Act from the current level of 65 to 70 years, and eliminates all retirement provisions on the Federal sector. This legislation and the Senate versions of the 1977 amendments also contain a provision similar to one included in legislation which Mr. WEISS and I have introduced prohibiting employers from mandating the early retirement of their employees through the provisions of pension plans and other benefit systems.

Mr. WEISS' testimony provides a clear account of the legislative history surrounding the pension plan provision and a succinct explanation of this issue which the House will consider during the month of September. I would like to share Mr. WEISS' remarks with my colleagues:

Mr. Chairman, I greatly appreciate this opportunity to appear before the Senate Subcommittee on Labor concerning S. 1773, the 1977 amendments to the Age Discrimination in Employment Act (ADEA).

While I understand that there are differences between the House and Senate versions of this legislation, as introduced, concerning the age limits at which the private sector is uncapped, I would like to direct my comments to the provision clarifying section 4(f)(2) of the act.

As the Senators may know, S. 1773 incorporates a provision similar to that included in legislation introduced by Representative Henry Waxman of California and myself closing an unintended loophole in section 4(f)(2).

Section 4(f)(2) was originally designed to increase the employment opportunities of older workers by making their hiring relatively easy; under section 4(f)(2) employers could hire older workers and benefit from their employment experience without having to include them fully in company benefit plans or seniority systems.

Some employers, however, have interpreted this section as a license to permit mandated early retirement—prior to the upper age limit in the ADEA—as long as such a provision is written into the terms of a benefit plan or retirment system. A reading of the original Senate debate on the ADEA in 1967, makes very clear that such an interpretation was not the intent of the original authors.

The distinguished Senator from New York and member of this subcommittee, Senator Jacob Javits, alluded in his introductory remarks to accompany S. 1773, to his colloquy with Senator Ralph Yarborough during Senate consideration of the original ADEA. In the words of Senator Javits, the purpose of section 4(f)(2) was "to facilitate the hiring of older workers by permitting their employment without necessarily providing equal benefits under employee benefit plans." In further explanation of this provision, the Senator stated the following:

"The meaning of this provision is as follows: An employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits which he affords to younger workers." Senator Yarborough agreed with Senator Javits' interpretation of this provision.

In hearings held on March 15, 1967, Senator Javits made a statement similar to the one I have just quoted setting forth his intention "that a fairly broad exception be provided for bona fide retirement and seniority systems that will facilitate hiring rather than deter it and make it possible for older workers to be employed without the necessity of disrupting those systems."

While this legislative history should eliminate any doubt concerning the intent of the original authors, I have sought to insure that the provision, section 4(f)(2), which is designed to encourage the employment of older workers cannot be used to force them to retire early by incorporating in H.R. 5383 language similar to that in S. 1773. The Senate language follows:

(Insert after "individual") "and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12 of this act because of the age of such employee."

I am convinced that, without clarification, the potential for future abuse of this section is widespread. Figures from the Bureau of Labor Statistics indicate that some 2 million Americans are covered by pension plans which permit employers to retire workers before age 65. This I am afraid is only the beginning.

If we were to find a provision in the Civil Rights Act of 1964 which was intended to advance the opportunities of those covered by the law but which, in fact, was used against their advancement, we would act without haste to correct the provision. Likewise, it is our legislative responsibility to move expeditiously when the rights of older workers are jeopardized by misapplication of the law. We cannot allow the very law which exists to protect the rights of older workers and the very provision which was written to expand their employment opportunities to be ctied as the vehicle for mandated early retirement. Once we are aware of such a contradiction, our position as Members of Congress leaves us no option but to clarify the law without delay.

THE VOTE AGAINST DECONTROL OF NATURAL GAS WAS A VOTE AGAINST THE NORTHEAST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. KEMP. Mr. Speaker, I regret very much that the Congress today voted against the consumers of America by further regulating the price of natural gas at artificial prices which encourages a reliance on more expensive fuels such as imported LNG and synthetic gas. This outstanding article discusses the impact on northeast consumers.

WHY NEW NATURAL GAS DEREGULATION MAKES SENSE FOR N.E. CONSUMERS

(By Warren T. Brookes)

You have no doubt noticed that fear is a very bad basis for doing anything in life. It usually makes us do just the opposite of what we should do.

It is fear that makes us jam on the brakes on ice, thus causing us to skid even more dangerously. It is fear that makes us lean into the hill while skiing downhill, and this just makes us fall harder.

As it is with everyday decisions, so it is with economic policy. When fear is in command, policymakers invariably do just the opposite of what should be done.

This is especially true of our government's present approach to the deregulation of natural gas. Reason tells us that the very best way to stimulate the search for new gas is to deregulate its price.

But fear is telling our politicians that such a move would be disastrously costly, and enable the companies to make too much money. So we clutch our price controls to our bosom—and thereby promote even worse shortages, and curiously even higher prices, as the nation makes less and less economic use of its costly pipelines, and even greater use of hugely expensive imported and synthetic natural gas.

Thus, when Congressman Robert Drinan warned us that deregulation of newly discovered natural gas (already voted by a House subcommittee) could cause "massive inflation and unemployment," he was speaking more from fear than reason.

The fact is that continued failure to deregulate new gas will almost assuredly cau: even more unemployment (remember last winter?) and even more inflation, as we are forced to use even most costly sources of fuel.

Nowhere is this more true than in New England.

Any careful analysis of our present natural gas situation shows that deregulation of newly discovered gas would undoubtedly cost New England consumers less, both in the short and long run, than continuing with present controls.

That is not just our opinion, it is the opinion of responsible economists at both of our leading universities, MIT and Harvard. It is also shared by many of the utilities who will have to purchase the gas for us from whatever source they can find.

The reason for this is that, as Prof. Thomas Stauffer of Harvard points out in a brilliant paper in 1976, natural gas regulation has only forced the country, and particularly Massachusetts, to "choose the expensive solutions," namely LNG and SNG.

His detailed analysis, appearing in a book called "Regulating the Product," shows graphically how the failure of the FPC to lift controls on natural gas directly curtailed discovery and production, and gradually forced the nation to buy more and more expensive liquefied natural gas (LNG), synthetic gas (SNG) and propane at prices several times the natural gas controlled price.

This partially explains why, even with price regulation, the cost of natural gas to Massachusetts consumers has continued to spiral.

Because local gas utilities are unable to get all the contract natural gas they need through interstate pipelines, they have had to go out and supplement their supplies with costly imports and substitutes.

During this past winter, for example, more than 12 percent of the natural gas used in New England came from SNG and propane at prices of from $4.50 to $9 per MCF (compared with interstate natural gas at an average of about 46 cents). Another 6 percent of our natural gas came from LNG tankers from Algeria, Alaska and so forth at prices of from $1.60 to $4.

As a result, about 16 percent of our present natural gas needs are now being supplied at prices that average close to $4 per MCF, almost ten times the price of price-controlled interstate gas, and twice as much as uncontrolled intrastate gas.

And, during the next three years, this figure is expected to climb to as much as 25–30 percent of our total usage, unless there is substantial new gas discovered out west.

So, even if new natural gas were deregulated, and rose to the $2.25 figure (which Dr. Schlessinger suggests), this new gas could be used to cut our present use of SNG and LNG, and New England would automatically pay less for its natural gas than it will without deregulation.

More important, the major share of our present retail gas prices (about 80–85 percent) is not for the gas but for pipeline costs. Unfortunately, total pipeline costs are fixed. As their usage declines, consumer pipeline charges rise.

The best proof of this is what happened in the case of Brooklyn Gas where the total price of gas to the consumers rose in two years from $1.72 to $3.38, while the price of the raw fuel went up only 20 cents. Of the $1.66 increase, $1.44 was in the rising cost of the pipeline services.

The main reason for this rise in pipeline costs was the decline in the flow of natural gas through the nation's major pipelines. When pipeline flow drops (as it has over the past three years) by as much as 20 percent, the cost of pipeline charges to the consumer will increase by about 23 percent. Conversely, a 20 percent increase in pipeline flow, will cut pipeline costs to the consumers by 15–18 percent.

This is why a study done for Brooklyn Union Gas Company in 1975 showed that if new natural gas were deregulated, and the pipelines were kept full by new gas costing $2.50, Brooklyn Union's cost to the consumer would be $3.98—but, if regulation remained and the downward trend in natural gas production from the west continued, the consumer price would be $4.45 or about 12 percent higher.

In other words, the better utilization of the pipeline would more than offset the immense rise in the price of new gas if it were deregulated.

To show you how this might work in New England, we have done a little analysis using rough average prices and costs. In the following table we show what would happen to the present cost of the gas (not the pipeline) under two different situations—continued regulation (CR) and unregulated new gas (URNG).

	Present	1980 CR	1980 URNG
LNG percent used	6	12	6
Average price	$2	$3	$3
Net cost	$.12	$.36	$.18
SNG and propane			
Percent used	10	15	5
Average price	5.40	$6	$6
Net cost	$.54	$.90	$.30
Regular			
Percent used	84	73	85
Average price	$.46	$.83	$1.03
Net cost	$.38	$.61	$.92
Net composite	---	---	---
Price (MCF)	$1.04	$1.87	$1.40

What this table tells you is that under continued regulation our use of the more expensive LNG and SNG would grow to 27 percent of total usage, and the composite price of our gas would rise from $1.04 to about $1.87 in the next three years.

But, if new natural gas were deregulated and much of the present gas being "shut-in" for intrastate use were turned loose at a price of $2.25 per MCF, our use of expensive synthetic gases would drop to 5 percent, and our total composite price would rise to $1.40, or about 47 cents per MCF less than it's going to rise anyway, under continued regulation.

But, this isn't all. You have to add in the costs of the pipeline itself, which will rise if we have to use more local propane. SNG and LNG, but fall if we use more gas from Texas and Louisiana.

The following table then tells the whole story:

Cost per Mcf

	Present	1980	1980 CR URNG
Pipeline cost	$3.20	$3.84	$2.85
Gas cost	1.04	1.87	1.40
Total	4.24	5.71	4.25

What this table shows is that not only will deregulation of new natural gas wind up saving the N.E. consumer about $1.46 over the cost of continued regulation, but it would in fact probably cost no more than the present price of natural gas. This is based on comparatively high usage (15 percent) of new natural gas at unregulated prices of $2.25 to $2.50.

Indeed, many local utilities feel that this estimate is pessimistic—that, in fact, the immediate effect in the next two or three years of deregulation would be to lower net gas prices to residential consumers.

One thing, however, is plain. The present policy of hanging fearfully on to price regulation of natural gas is going to be the very worst possible situation for New England, because it will only drive up our use of LNG and SNG, and raise our pipeline costs.

But that's the way it is with any policy dictated by fear not reason.

DOUBLE STANDARD ON LANCE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. DRINAN. Mr. Speaker, an editorial in the Christian Science Monitor of August 3 continues to escalate the torrent of questions about the propriety of Bert Lance's position as the head of OMB.

The time has come for Mr. Lance to explain fully all of the circumstances that prompted the Teamsters' opening a trust account in his Atlanta bank, the reported quashing by the U.S. attorney of an investigation of Lance's banking operations just before he took up his present post, and all of the other ethical questions that have been raised in the press.

The pointed editorial from the Monitor follows:

DOUBLE STANDARD ON LANCE

A strange thing happened the day after a Senate committee last week accepted budget director Bert Lance's assurances that he had done nothing improper in his personal financial dealings. The country's top financial officer appeared before Congress Joint Economic Committee but would not talk freely about simple financial matters. He sparred with Senator Humphrey on a question about banking capital. When asked about the trend of interest rates, he said: "I've been told I shouldn't talk about interest rates." He said that not to be able to respond was an "unusual position" to be in.

It certainly is an unusual position for the head of the Office of Management and Budget to be in. A congressional economist was astonished by the performance, which he said rendered the Lance testimony worthless. The reluctance to talk about banking and interest rates, of course, was due to the conflict-of-interest allegations about Mr. Lance's banking and borrowing activities despite his clearance by the Senate panel. Will he feel free to testify on these matters once he pays off his $3.4 million loan at a rate of interest tied to the prime rate?

Such questions arise whether or not an investigation by the Comptroller of the Currency finds any illegality in the Lance transactions. They are compounded now by reports that a buyer has been found to buy Mr. Lance's Atlanta bank stuck at about the price he paid for it rather than the lower market price offered to other stockholders. Such a sale would take care of the $3.4 million loan. Whatever the legalities, can it be seriously argued that Mr. Lance's governmental position had nothing to do with the prospect of such a rescue? And did his relationship with Mr. Carter have nothing to do with the Teamsters opening a trust account in his Atlanta bank? Or with the reported quashing of a U.S. attorney's investigation of Lance banking operations just before his appointment to his present post?

To bring up such points is not to deny Mr. Lance's protests of innocence on his own part but to seek to avoid a double standard in the scrutiny of public officials. Suppose the present circumstances had surrounded the budget director of the Ford administration. Is there much doubt that the Senate panel would have demanded more specific answers than it received from Mr. Lance? Or that there would have been at least one question on the topic during the President's subsequent news conference last week? Remember how President Ford's own alleged conflicts of interest were pursued to the last golf tee?

The Carter administration came in with unusually stern attitude against conflict of interest. Yet now its budget director feels he cannot answer questions of the Joint Economic Committee because of conflict-of-interest charges. Surely the press, public, and government should be no less concerned about clearing everything up than they were in the all too recent past.

PLIGHT OF A SOVIET REFUSENIK

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ROSENTHAL. Mr. Speaker, once again the Soviet Union has exhibited its disregard for human rights by prohibiting Dr. Veniamin G. Levich and his wife from leaving the country. It is tragic that a man of Dr. Levich's stature—a world-renowned physical chemist—was prevented from attending a recent international conference in his honor.

The Soviets' action is just one more step in an escalation of that country's massive pogrom against its Jewish citizens who wish to emigrate. Dr. Levich's situation is a case in point.

He applied for an exit visa in 1972 and was told that he could not leave because of his supposed knowledge of state secrets. As with so many other Jewish professionals, this excuse has been offered time and time again as a valid reason for refusal. Anatoly Scharansky, the renowned Jewish dissident was refused on such grounds, as were Iosef Begun, Naum Salenski, and Vladimir Slepak.

Beginning with the application and perfunctory refusal of emigration visas,

Levich's experience coincides with the pattern often followed by other "refuseniks"—Jews who have been refused exit visas.

He was subsequently dismissed from his job—again a common occurrence with refuseniks—and his chair at Moscow University was immediately abolished. He was denied access to his laboratory, but perhaps worse, he was cut off from associations with fellow colleagues. In what Dr. Levich terms moral torture, former colleagues were either instructed or frightened into treating him as a nonperson.

"As I walk in, my former colleagues or students pretend they do not see me, stand up, and leave me completely alone . . . One of our Soviet colleagues visited Israel and saw my son, who gave him a picture of my granddaughter to bring me. But the photograph never reached me. I suppose my colleague was afraid that visiting me could jeopardize his own job," Levich wrote recently.

Once a Jew makes an application for an exit visa, he essentially sets himself up for continuous harassment. Whether the applicant is a world famous chemist or an ordinary citizen, the Soviets devise a systematic smear campaign to discredit him. Many who merely wish to unite with their families are linked to the revolutionary movement and are looked upon as enemies of the state. They are accused of being subversives and are subject to arrest at any moment on a variety of trumped-up charges.

Life suddenly becomes a maze of catch-22's where the simplest movement is seen as a crime, such as accidentally bumping into a KGB agent. Phones are disconnected, mail is confiscated, and even conscription into the army is not uncommon.

The detention of Dr. Levich is by no means an isolated incident. It is symptomatic of a carefully arranged, methodical plan to discredit the Jewish movement. And the trend is ominous because the seriousness and frequency of the repressive acts increases daily.

The Soviets' continued disregard for human rights is a clear violation of the Helsinki accords, an agreement which was signed and endorsed by Secretary Brezhnev. In no uncertain terms, the third basket of the agreement protests every individual's basic right to freedom of thought, conscience, religion or belief. It also encourages movement among persons of different nationalities, for personal or professional reasons.

Mr. Speaker, the case of Dr. Veniamin Levich now stands as another example of the Soviet Union's continued violation of the Helsinki agreement. We must pay close attention to the plight of Dr. Levich and his appeal for action.

I am taking the liberty of including excerpts of his articulate address to the Oxford University Conference, which he, unfortunately, could not attend:

EXCERPTS FROM STATEMENT OF DR. LEVICH

I am addressing you on a most solemn and at the same time most grievous day of my life. A high honor is conferred on me which I appreciate very much—an international scientific conference held on the occasion of my 60th birthday.

As I see it, this is a high appraisal not only of a modest contribution I have made to science, but also of my struggle against the transformation of scientists into property of the state—the latter being a threatening precedent for scientists all over the world.

Meanwhile, as authorities of this country have willed it, the Oxford conference will pass in conditions approximating those of a memorial to me.

Twenty-seven years have passed since I altogether left my investigations in nuclear physics. Five and a half years have passed since I made up my mind to put moral principles above the well-being I had been provided as the result of my high standing in the scientific hierarchy of this country.

I felt I had fulfilled my duty in regard to the country of my birth. I had every right to choose another country to live and work in.

DEPRIVED OF ELEMENTARY RIGHTS

Since I applied to emigrate I have been deprived of elementary rights granted to scientists in any civilized society.

Since then I have been totally isolated and completely cut off from scientific life in this country. Under the circumstances, it would be most absurd to refer again to the alleged secrecy of my previous work, even as a plausible excuse for denying me my natural human rights.

During all these past years I have been offered appointments by 24 western universities as a visiting professor, besides a number of invitations to international conferences. Each time I applied to the authorities of the Academy of Sciences, but never have I received any reply.

All this, and especially my absence from the Oxford conference, shows that scientific cooperation on one hand is dictated by the authorities. Meanwhile, some Soviet scientists, particularly those who frequently travel abroad, continue to misinform the world scientific community about the situation of scientist refuseniks, for the purpose of reducing the concern and activity of Western colleagues.

Article 5 of the Universal Declaration of Human Rights prohibits torture, brutal treatment, treatment which humiliates human dignity.

Is the deliberate transformation of a scientist who devoted 40 years of his life to science into a pariah cut off from his professional activity anything but severe humiliation of his human dignity—actually, a kind of moral torture?

Moreover, apart from the right of separated families to be reunited, the right to emigrate is the most modest of all universally accepted human freedoms. Nevertheless, my wife and I have been indefinitely separated from our children, despite assurances given us three years ago.

Is this anything but a form of moral torture? It is evident that after long, agonizing years, freedom for me to emigrate his come to be even more than that. It is now a question of life and death. In my case, one cannot but see a direct and flagrant violation of several basic humanitarian points in the Final Act of the Helsinki agreement.

I am aware of the fate evil forces have in store for us.

I would like to emphasize, however, no matter what happens, I do not repent of the decision I have made.

I, as well as others like me, are encouraged by your genuine concern, by your unstinting support.

I appeal to you. Do not lessen your noble efforts. While contacting Soviet representatives, you Western intellectuals can and ought to openly raise the question of Soviet scientist-refuseniks and their fate, to clearly show your profound concern with this humanitarian problem. Again and again, persistence and persistence.

TOAST BY MENACHEM BEGIN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SOLARZ. Mr. Speaker, I recently had the great honor of attending a state dinner at the White House in honor of the new Prime Minister of Israel, Menachem Begin.

At a time when we too often forget about the moral greatness of our country, when we are criticized by friends and foes alike, it was refreshing to hear the Prime Minister's poignant words of gratitude to America and its people.

This remarkable man, whose whole life has been devoted to the struggle for Jewish survival and security, also spoke movingly about the travails of the people he has been freely chosen to lead, and of their passionate desire, above all else, for a just and lasting peace in the Middle East.

Mr. Speaker, I take great pleasure in bringing Menachem Begin's toast to the President to the attention of my colleagues in the Congress:

Mr. President, after having met you, I can say it was a great day in my life to be here to speak to you, to listen to you. We have had very few good days in our lives in our generation. Most of the days were spent in struggle, in persecution; at times in being hunted, in dreams, in suffering. And the days of solace are not many.

This is one of the best days in my life, having met the President of the United States, having learned that this is a man, a great friend of humanity, a man of great understanding and feeling. And therefore, I can say now wholeheartedly a great friend of Israel.

Therefore, tonight, Mr. President, with your permission, I will say something about what I believed to be, perhaps since my childhood, the moral greatness of America.

In 60 years, America has saved mankind from three very grave dangers. The first was Prussian militarism, which during the First World War almost trampled under foot all of Europe and ultimately the world.

1917 was a crucial year. There were mutinies in the French Army. The great question was whom? Who is going to break whom? And then the outcry was heard throughout Europe: "The Yankees are coming." The Army of General Pershing fought valiantly. Mainly, the spirit of the European armies, of the allies rose, and then victory came.

The second time America saved mankind came during the period when, as Churchill said, all the embodiment of evil mankind turned a great nation—a nation of poets and philosophers—into a bloodthirsty mob, thirsty first of all for Jewish blood. And in that hour, perhaps the darkest in our time, we lost a third of our people. That would mean 80 million Americans wiped out. Those are phantasmagoric figures which scientists make up in connection with the megatons. But megatons are produced never to be used. As we believe, all free men and all those who believe in Divine Providence, we have to live with those phantasmagoric figures to the last day on earth.

A dark age started in Europe and throughout the world. We should always tell the truth. There was a time when England stood alone resisting that barbarous tyranny. And there was a time when the Soviet armies fought heroically against the onslaught by the Nazi hordes.

However, whoever studied history does

know and should admit that were it not for America—for America's might and America's spirit and faith in justice and liberty—even England would have succumbed, Russia would have fallen, and then a dark age would have started perhaps for many, many years, perhaps for centuries, mankind never knew since the days of Nero and Caligula.

Ultimately, the United States won the day for all mankind, and so we were saved from the dark age under the Nazi tyranny.

After the Second World War, Mr. President, there is no doubt whatsoever were it not for America, the Soviet armies long ago would have reached the shores of the Atlantic Ocean. There wasn't enough strength in Europe left to withstand such a possible onslaught. It was only because of America that part of mankind was saved from Soviet slavery, from communist subjugation. This struggle still goes on, as we can see a tendency to take over country-by-country by proxy.

This is the moral greatness of America. It saved three times in two generations, in 60 years, all the nations, all mankind. We free men bow to that greatness of America.

America knew crisis as well—economic and moral crisis. But as we follow those 200 years of American history, as we read Jefferson and the story of Lee and Hamilton, and Citizen Tom Payne, and the marvelous life story of Abraham Lincoln, who actually renewed all the great precepts taken from the Bible—when we follow this wonderful story, we see that after each crisis America becomes more democratic, more just, more free and more devoted to our human tasks.

Now, with your permission, Mr. President, a few words about little Israel. And I do not say so for the sake of artificial modesty—we are a very little country. We shall always be. And in comparison with America's might, we are a very small, very small, country and people in the Middle East. However, we rose in suffering and in heroism.

Sometimes, as I heard today as well, journalists have an undertone when they ask me about the Bible. I am not ashamed to say that I do believe with all my heart in Divine Providence. Were it not for Divine Providence, where would we be today or tonight? We were sentenced to death, all of us, and the life of every one of us is a present. We could have been dead in the trains and in the camps, as the wife of my friend and secretary, a young lady, was, having spent three years in Auschwitz, having looked every day upon that smoke coming in from the chimneys and knowing what happened.

So we suffered. And when people ask me about the Bible, then I can say our generation, my generation, is almost a Biblical generation.

Of course, we don't dare compare ourselves with our ancestors. But what was the Biblical generation? They achieved everything by suffering and with heroism. They suffered very much until they reached the Promised Land. And Moses, the great Liberator, wasn't even allowed to come into the Promised Land.

In great heroism, Joshua was told, "Be strong spiritually, have courage and faith against overwhelming odds and forces."

That is our generation. Everything we achieved was through great suffering, almost inhuman suffering, having lost a mother, a father, a brother, a little nephew, everything dear and near to you being bereaved and orphaned; asking the question, "Wherefore will come my salvation?" And then saying to ourselves, "Rise for a just cause. Endanger your life; it is a present given to you. And create conditions in which never again will an enemy raise his hand on a Jewish child and escape with impunity."

So we did fight and we suffered and there was great heroism and singing of the Hatikvah with the last breath in one's lungs. But ultimately, with God's help—indeed, only with God's help—we won the day; we have a country, a parliament, a government, a land to till, cities to build, the field to make green, to take in our persecuted people from scores of countries, from the Arab lands. We took in 800,000 of our brethren from the Arab countries. The others came from Europe, what we call in Hebrew "Sharei Pleyta"—the term is absolutely unknown to other nations—the remnants of our people from generation to generation; we are the remnants of the remnants.

And now we want to have peace; more than anything in the world to have peace. We didn't have in our time one day of real peace there with all the tragic events, and in our own land, terror and bloodshed, always living on the hinge, always threatened with extinction and standing on God for our people and for human liberty and for human dignity. This is the story of our generation.

Therefore, Mr. President, I have come to you, as the democratically elected Prime Minister of Israel, with a deep sense of responsibility. May I inform you, sir, that our spiritual leadership, the rabbinate, the day before yesterday asked the people to pray every day for the success of my mission. And they recited a special song to say every day, people praying for the success of one's mission.

This is some phenomenon because they know we have a great friend, the United States of America. And we, Israel, are a faithful ally of the United States. We do whatever we can to serve the free world. We contribute to the national security—as tonight I will show you, Mr. President—to the national security of the United States.

We are a guardian of human liberty and democracy in the Middle East. We look around; I don't see any country in our neighborhood which can, through a free vote of proud citizens, say one leadership should take a vacation and there should be another leadership, and then the transfer of power is being carried out in so orderly a way—my predecessor waiting for me in his office, I coming in and shaking hands, expressing the best feelings for each other, and then the predecessor saying, "Now, take over," and I going into my office and then indeed giving the first order to bring in the Vietnamese refugees into our country.

Democracy is beautiful. When you look at what is happening under tyranny or whatever comes, and you compare democracy, as Churchill used to say, it also has its faults, but basically how beautiful is democracy.

We are proud that we are a democracy, as the United States carries the banner of democracy.

This is our contribution to freedom, national security of the free world. We shall continue to do so to the best of our ability.

Our talks, Mr. President, I do hope, first of all, will result in the deepening of friendship between our countries. One day, one day—I pray for it—perhaps I will be able to say in pride I will call you my friend, in pride. And then our talks may result in progress towards that goal called peace.

We must have the sense of urgency, but we also must have some patience. May I respectfully submit that I prove to have patience. Some patience it was. (Laughter.)

You, too, Mr. President, showed that you have patience. So some patience must be guarded, because it is an historical conflict; it is not a territorial problem. For 19 years, there was no peace; for 19 years we didn't have the second part of Jerusalem, the Golan Heights, not one day of peace.

The question arises: Why not? Were it a territorial conflict, there was no reason not to make peace with Israel. These are historical conflicts. We came there. We have come there by right to the land of our ancestors. But it was not recognized and time again attempts were made to destroy us.

Sometimes you have a defeated aggressor claiming he is the wronged victim. But we know what happened. We only defended ourselves against attempts, repeated, to destroy our people, our dreams, our independence and ultimately our lives.

With a sense of urgency on one hand and some patience on the other, I think we can build a foundation of peace in the Middle East and the recognition of justice for all and fairness for all, as we believe.

We don't hate our neighbors. We don't want to humiliate them at all. We never wanted to defeat them. We never wanted to wrong them. But we had to defend ourselves. This is the whole story, as they used to say in those ancient days, on one foot. I can only speak very shortly standing on one foot, the whole story.

We are hopeful; we are optimistic. We have to be. Our people have always been optimistic.

So, Mr. President, the day after tomorrow I will be leaving Washington with a staunch heart, grateful for your gracious hospitality, for your friendship, for the encouragement you gave all of us, for your leadership.

At the time, ladies and gentlemen, the British used to say, because of their own reasons, thank God for the French Army.

Now, paraphrasing that saying, I will raise my glass and say with all my heart, thank God for America.

To the President of the United States, the leader and defender of the free world: L'chaim.

GO GET IT, FELLOWS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MAGUIRE. Mr. Speaker, the following article from the June 1, 1977, issue of Forbes magazine "Capitated Tool" describes clearly why the Jones-Schroeder plowback amendment should be soundly defeated.

The article describes the hefty and powerful incentives the Carter pricing proposal grants for oil exploration. It tells how oilmen privately concede these incentives.

It reveals that "there is more drilling going on in the United States today than at any time in almost 20 years."

It shows that "the industry's capital exploration budget for this year runs to $30 billion" compared to only $9 billion in 1973.

It quotes expert industry analysts that greater proportions of rising oil company revenues will be plowed back into drilling not just this year, or next, but on to 1990.

It describes the attractiveness of drilling in the United States as geologically second only to the Persian Gulf, and politically there is no place as attractive.

It quotes Energy Secretary Schlesinger: "The oil companies can make more money in the United States than anywhere else in the world."

In short, the companies are and will be plowing back so much under current pricing that they do not need any additional plowback.

The text of the article follows:

GO GET IT, FELLOWS!

There's a lot more oil and gas waiting to be found in the U.S. For all the moaning

and groaning you've heard, President Carter's energy program does give oilmen powerful incentives to find it.

Many businessmen were disappointed that President Carter's energy program did not permit the price of domestic oil to rise to world levels. But it is wrong to conclude, therefore, that the program does not contain any worthwhile incentives for finding oil and gas. The program does contain a very major incentive: The price of newly discovered oil would be allowed to float up toward world prices. This is a hefty incentive indeed. The world price at present is $13.50 a barrel, while under present laws and regulations "new" U.S. oil brings only $11.28. The extra $2.22 ought to make a great deal of difference toward producing the new oil and gas the Administration privately concedes the U.S. needs for the rest of the century.

Natural gas? There are incentives here, too. "New" new gas would be price controlled at $1.75 per thousand cubic feet. This is less than new gas produced in Texas sells for in Texas these days (intrastate gas would be brought under the same ceilings as interstate gas under the Carter program). But it is considerably more than gas sells for elsewhere in the nation today. The new price makes the interstate market attractive and assures drillers—who have to see $1 per mcf before they'll even think about drilling these days—that the price trend for gas is up in the U.S.

You would never realize all this from reading most accounts of the energy program, which tend to put a gloomy interpretation on the program's incentive aspects. You would never realize it, either, from reading the public pronouncements of most oilmen. But don't be deceived. Privately, many oilmen will concede that—for new oil at least—the program contains strong incentives. Why, then, is the industry crying poor mouth? In large part, because it knows too well that its open approval would amount to a kiss of death.

The world market price for oil, which would be adjusted continually for domestic inflation, is the kind of money and policy that is likely to bring about an increase in new-field exploratory drilling. This kind of drilling has been declining since 1974, according to Petroleum Information, Houston's influential statistical service. PI points out that while 25,794 oil and gas wells were drilled last year, the number of them that were in new fields—attempting to establish new reserves—fell 3 percent, to 6,289.

There is more drilling going on in the U.S. today than at any time in almost 20 years, but the trend has been toward reworking old territory, pumping more from reservoirs that were not payworthy when oil was much cheaper. This kind of drilling does not add to proven reserves.

The Carter program means to shift the emphasis to true exploration. If the program—or the pricing part of it—gets through Congress, the way is clear economically for drillers to go deeper into the Gulf of Mexico and to the frontier areas on the U.S. outer continental shelf.

It costs between $6 and $8—from lease purchase through production—to bring in a barrel of new oil in the U.S. today. At $11.28, the more difficult parts of the game may not be worth the risk; at $13.50, indexed to inflation, they may well be. Oilmen privately concede the price is an incentive. Energy Secretary James Schlesinger is certain: "The oil companies can make more money in the U.S. than anywhere else in the world," he says. After all, the Georges Bank off Massachusetts is no tougher or riskier than Britain's North Sea.

Is the oil there for the finding? A good deal certainly is. The U.S. Geological Survey estimates that, at a statistical mean, there are 82 billion barrels of undiscovered recoverable reserves of oil in the U.S. That dwarfs the current 39 billion barrels of *proven* reserves. The Geological Survey also estimates that 484 trillion cubic feet of natural gas remain to be discovered—roughly equal to the total U.S. gas production to date. Exxon is a little more conservative in its estimates of attainable new reserves, preferring 63 billion barrels of oil and about 287 trillion cubic feet of gas. Shell Oil, on the other hand, is a bit more optimistic than the Geological Survey. It is a choice of riches.

And the oil companies have the cash flow ready and waiting to plunge into a new round of exploration. Exxon alone is running a cash flow of more than $4 billion a year; Mobil, Texaco and Standard of Indiana are each at $1.5 billion. The North Sea and North Slope are producing, beginning to return the investments made in them by the oil companies since the mid- to late-sixties. The costly Alaska pipeline will begin throwing off cash rather than swallowing it. The industry's capital and exploration budget for this year runs to $30 billion, estimates Dallas' authoritative Energy Management Report. In 1973, before the oil price rise, it stood at $9 billion. The oil companies want to put it into exploration in the U.S. because geologically its attractiveness is second only to the Persian Gulf, and politically there is no place as attractive.

Frederick Z. Mills, the respected oil services and equipment analyst of Rotan Mosle Inc., has just taken a look backward and forward. He notes that 1956 was the last time the major oil companies plowed back as great a percentage of their wellhead revenues for drilling in the U.S. as did the independent producers. That was also the year when U.S. oil and gas prices began a long decline in real terms and the majors began in a big way to shift their exploration overseas and to put their investments into refining, transport and marketing and into diversification, importantly in chemicals. But now wellhead revenues in the U.S. are rising again, and Mills sees the majors putting more of their rising revenues into U.S. drilling, not just this year, or next, but out to 1990.

Last year the oil industry pumped up $1.1 billion for leases in the Baltimore Canyon off New Jersey. That nothing has happened off the New Jersey coast to date is not the industry's fault, but is due to a court battle in which environmental groups and the Long Island counties of Nassau and Suffolk are trying to prevent development, preferring to get their oil and gas from offshore Galveston if not offshore Saudi Arabia.

About the only thing, then, that could prevent a vast new drilling and exploration boom is environmental politics. But Interior Secretary Cecil Andrus, himself a noted environmentalist, has just committed the nation to about the fullest possible development of the areas offshore, where our potential reserves lie. There will be a lease sale in the Gulf of Mexico this month, in Alaska's Cook Inlet in October and off Massachusetts in November. Next year will see three additional sales in the Gulf of Mexico and two more in Atlantic waters. Besides these, Andrus promises more to come in Alaska and offshore before 1980.

Andrus noted the "critical need" to develop U.S. oil and gas resources in announcing his lease schedule May 17. He is under no illusions about how long it will take to shift the U.S. energy base. Like Carter, Andrus sees conservation and conversion to coal alleviating U.S. dependence on foreign oil in the long run. "But we have to produce more oil and gas in the short range—or we have to buy more foreign crude, and I'm not in favor of that." That is why Andrus is opposing the environmentalists in the Baltimore Canyon case: He wants to get U.S. exploration off the dime.

Some complications may be added by the pending amendments to the Outer Continental Shelf Act of 1953, which the Congress takes up this summer. The worst effect of the amendments proposed for the OCS Act is that they would lengthen the time between lease sale and production of oil by two years—to nine years from seven. Under some clauses supported by Senator Henry M. Jackson of Washington, the government itself would hire a drilling contractor to go out on the shelf and drill a few to see what is there. The oil industry sees in this the shadow of the national oil company they suspect the Washington bureaucracy dreams about.

Don't be surprised, therefore, if the oil industry continues to meet roadblocks. But the problem is not lack of incentive. At $13.50 a barrel, there is all the incentive any oilman would want to go out and search for oil in the hard and risky places.

AN AMERICAN FAMILY: THE DUFFYS OF AUGUSTA, ARK.

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues an article from the July edition of the Reader's Digest spotlighting the O. C. Duffy family of Augusta, Ark., in my district. This courageous family is evidence that the American dream is alive and well:

AN AMERICAN FAMILY

(By Joseph P. Blank)

"My life is a dream come true," Leona Duffy said softly, as she stood among her 12 children on a hot Saturday evening last August.

This 66-year-old woman, her shoulders bowed from lifelong labor, now works as a cook for a family in Augusta, a small Arkansas farming town. Her husband, O. (Octavris) C., 72, is a cemetery caretaker. But for most of their lives the Duffys were sharecroppers. They never earned more than a couple of thousand dollars in cash a year and, when bad weather caused a sparse cotton crop on their rented 25 acres, they counted far less of an income.

On the eve of her wedding in 1934, Leona asked God to help her make Duffy a name to be proud of. After the ceremony she packed her belongings in a cardboard carton and a shoe box, and the couple walked to O. C.'s home—an uninsulated, tin-roofed ramshackle house. Soon after the wedding O. C. told his wife: "If the Lord blesses us with children, we must educate them. They must not grow up the way we did."

The Duffys had seven daughters and five sons, born over the span of 20 years: Spencer, Eliza, Marie, Cora, Edna, Henry, Leona, Bernice, O. C. Junior, Edward, Nancy, Mary and James. They are the "dream come true." Eleven have graduated from college, and five have master's degrees. The 12th, Henry, is a shipping foreman and attends college at night. The children obtained their education with almost no money from their parents. But they could not have done it without the attitudes toward life instilled in them by their parents.

Poverty was so much a part of the Duffys' experience that it was almost considered normal. Edward, now a guidance counselor and academic adviser at the University of Maryland: "One late spring, I had to wear high rubber boots to school because I had no shoes. When the teacher asked me why I was wearing boots in such warm weather, I told her, without feeling embarrassed. Being without things was just a part of life."

None of the children ever had much clothing. (The girls wore slips that Leona made from flour sacks.) But the children believed

their mother when she told them: "What counts is what's on the inside, not what you're wearing on the outside. Have faith—in God, in yourself, in your fellow men."

Though the boys, possibly because of their larger appetites, were sometimes bothered by repeated skimpy meals, the girls accepted whatever was available. Edna, now a French and Spanish teacher in Shaker Heights, Ohio: "If supper was just a piece of bread with bacon grease smeared on it, we knew that's all there was. If there had been more, we would have gotten it."

Leona and O.C. at times had terrible anxieties, but they hid them from the children. Young Leona, now a branch specialist for a California bank: "It was a big family. We all shared. Maybe hardship puts fears into many people, but not me. The matter-of-fact way that my folks handled it taught me that one can survive on very little."

Those end-of-winter days—when the butchered-and-smoked hogs were gone, and the canned vegetables and fruits were dwindling—stick in the boys' minds. James, now a county health official in Arkansas: "No man ever worked harder than my father, and yet, with all his hard work, there were some very rough times. But how could I mind when I never saw my father lower his head in defeat or express despair? 'When there is a problem, you never sit down on it,' he told me. 'You keep going and use your next stride to make things better.' "

The cruelest test of the family's ability to survive came in 1953, when their house burned to the ground, and all their possessions and cash went up in smoke. There was no time to be immobilized by shock and sadness. The family had to keep going. One man offered O. C. the use of a small, empty house. Another said he'd go into town for a bed, a mattress and some cooking utensils. Friends and neighbors offered to house the children until the Duffys got settled.

Edward: "The fire was just another crisis. Everything was a crisis—food, shelter, wood to keep us warm in the winter. At the time, though, we didn't see them as crises. They were a part of living, things that had to be dealt with. We children were fast to learn what was important and what was not important. We learned to put a high value on things that weren't material. Like love. And concern for others."

Where Leona was the gentle, understanding mother, O. C. was the unyielding disciplinarian. He told the children what was right and wrong, what they could do and what they could not do. If they knowingly committed a wrong or disobeyed, he walloped them. He would not let the girls attend school dances, take the school bus to basketball games or wear shorts on the streets. Even well into their teens they had to be in the yard by sundown.

Bernice, now a high-school teacher in Indianapolis: "I resented my father's strictness. But I questioned that resentment. It occurred to me that he might be trying to protect me until I was old enough to protect myself."

The boys disliked the discipline and confinement more than the girls. Henry: "It was hard, but I can see now there must have been something to it. Sure, I hated staying home at night when the other kids were messing around, but some of those other kids are in jail or out of jobs right now. The discipline has served me well."

Although neither Leona nor O. C. went in for displays of affection, the children knew that their parents cared tremendously. Edward: "I never heard my father use the word 'love' with any of us. But we knew that he did love us. What we had went far beyond hugs and kisses. Hardship gave us unity. We shared the conviction that none of us would fail the others."

Eliza Marie, now a supervisor in a large Los Angeles bank: "Father did show affection in the most meaningful way. He spent as much time with us as he could. When the night grew particularly cold, he was at our bedsides, covering us with extra quilts. He told us stories in the evening, and led us in singing from the hymn book."

All the children put a high value on belief in God, for they could see in their parents that it was an inner resource of strength. While on the farm, the family trekked four miles to church each Sunday. In very bad weather, O. C. held Sunday school and services at home.

The children, of course, went to black schools. They saw the differences between black and white living conditions. Leona told them that racism was a reality in their lives. It should not, however, make them feel inferior. "It's what you are inside that counts. You don't have to reconcile yourself to the racial conditions here. If you don't like them, then leave when you have the opportunity and seek something better."

While living at home all the children, except Henry, were able to adopt Leona's equanimity. "How many times I heard whites call blacks 'boy,' " Henry recalls, "and each time it made me cry inside." At the time of his graduation from high school he walked into a luncheonette for a pack of cigarettes. The owner scowled at him and said, "Boy, I want to talk to you about using that front door. . ."

That did it. If he remained he knew he would lose his temper and cause problems for himself and his family. As an honor student, he could have obtained the necessary scholarships and jobs to see him through an Arkansas college, but he decided to shake himself loose from the deep South. He now lives in Southern California.

Every child worked. If the Duffy crop was poor and couldn't keep all hands busy, the children labored in other fields, picking cotton and strawberries.

In a good picking season, the parents periodically declared "a day," usually for a girl in college. "Friday is Cora's day," O. C. would announce. And the $20 earned by the family that day was set aside for Cora's books, clothing or bus travel. Cora is now a director of leadership training in the Arkansas Education Association.

Working in the fields was backbreaking. Nancy, now a high-school language teacher in Arkansas: "I must have started to chop cotton in 1954, when I was five years old. Work was what we had to do in order to eat and have clothes. It was hard, chopping from sunup to sundown for $2 a day (later $5 to $6). Sometimes, I'd stand in the fields with that hot sun beating down and think, 'There must be a better way to make a living.' "

At various times, each child said yearningly to Leona that "There must be a better way." She told them that there was. It would take hard work, but they could have a better life. The answer was education.

SPENCER, the oldest and now a plant physiologist with the Environmental Protection Agency, was the first to leave home to attend college, supporting himself with jobs and scholarships. He set the pattern for the family, although the parents never established him as an example. They never compared one child to another, never prodded one with the achievements of another.

But each child did know that Spencer had found the way out of the cotton fields. And for most of them, college was the natural sequence to high school. Young Leona: "Neither Mother nor Daddy ever urged me to go to college. They couldn't. Since I had to work my way through, I had to want it very much. But it was an easy decision. I had seen what promises it held for the three older children. And I had seen how it made my parents feel that their lives had been worthwhile."

O. C. Junior: "No more picking cotton and berries for me. I also never wanted to say, 'I could have been somebody if I had the chance.' The chance was there."

Although most of the children encountered difficult financial periods in college, none of them was ever overwhelmed. They had been raised to beat off the vicissitudes of life. Once, when O. C. Junior was down to his last dollar, he learned that his work-scholarship check would be delayed about a week. He bought eight cans of beans and lived for eight days on them.

In 1960, the Duffys concluded that they could not survive on their rented land. It produced less cotton each year, and good farmland could not be rented. They moved into town, the parents hired out as seasonal field workers and O. C. also found odd carpentry jobs. During the summers, the children worked the fields; in the school year, they worked at part-time jobs in town.

Two years later, a series of ailments began for O. C. that kept him from doing manual labor for the next 12 years. Leona quickly faced the fact that she would have to be the primary support of the family and landed a steady job as a domestic—at $18 a week.

Leona had always wanted to be a student—she could read at the age of five. But she had dropped out of school after the eighth grade because her father could not afford to buy books. She yearned for knowledge and one afternoon, when she answered the doorbell to an encyclopedia salesman, she asked to examine a sample volume. Her children had frequently asked her questions about their schoolwork that she couldn't answer. She signed a contract, agreeing to pay $10 a month for the $240 set.

O. C. was dismayed. How could she pay it off? "I'll manage," she said, and did, never missing a payment. Her children used the books out of necessity, but she pored over the pages out of desire and was thrilled. Spencer: "If there's one member of the family capable of earning a Ph.D., it's Momma."

Over the years, she occasionally mentioned, "One of these days I'm going to get my high-school diploma." The opportunity came in 1968, when the Augusta school system announced evening courses for adults. Leona, then 57, promptly enrolled. She arose each weekday morning at five o'clock, did her homework, prepared breakfast, cleaned the kitchen and was at her job by eight o'clock. On some evenings, she did not reach home till seven, which barely gave her time to get to her first class at 7:30. She completed high school in two years with straight A's.

Last August, the Duffy children, scattered from Maryland to California, gathered in Augusta to honor their parents. "We came from near and far to say that we love you," said Eliza Marie. "You are parents beyond parents. You gave us the means to test the American democratic system. The results were good, and now your 12 children are making a contribution to American society. It is because of you, because you taught us how to live."

O. C., in acknowledging the praises of his children, concluded "We have tried our best and you have told us that we did well. Such things are usually said about a person at his funeral. Having heard them while alive, I can go to my glory in peace."

Leona's glowing eyes announced that this was the happiest day of her life. When the children gathered around her, she could only repeat, "My life is a dream come true."

But she had yet one unfulfilled dream, and the reunion was the perfect occasion to consult with her children about it. Her idea, long nurtured, was to help youngsters outside the family get an education and build worthwhile lives. If her children agreed, the family would set up the "Duffy Scholarship." Each member would contribute regularly to the scholarship fund, and the money would be awarded annually to a student at the University of Arkansas at Pine Bluff, which several of the Duffy children had attended. The

first award would be made in September 1977. The children heartily and unanimously approved.

"I don't want to live just for myself," Leona reflected. "I want to help people. The scholarship is one way that I'll be helping after I'm gone. There must be other ways, and by the time my eyes close I'll think of something."

FOOT-DRAGGING ON SAFETY BY THE FRA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SIMON. Mr. Speaker, I hope that a few of my colleagues will read a letter I have written in response to a letter by the new administrator of the Federal Railroad Administration on the need for greater safety for unguarded crossings.

This is a classic example of administrative inaction and foot-dragging. I hear that the new administrator, John M. Sullivan, is a good man. But good administrators must be more than simply good people. I trust that after receiving this letter the new administrator will do more than have some staff person prepare another letter for me which calls for more foot-dragging.

What has happened is that the Federal Railroad Administration has studied the possibility of requiring strobe lights on locomotives. Those studies have been unanimous in concluding that strobe lights can be both safety effective and cost effective for the railroads. The studies have done nothing more than gather dust. There has been no action taken. And when I and some of my colleagues asked for action, we received a reply from the administrator saying that the matter should be studied.

The day for more studies is past. The day for action is here. And if the Federal Railroad Administration cannot act on such an obvious need, then we ought to fold their tent and do away with them.

I am attaching my letter to the administrator of the Federal Railroad Administration for the enlightment of my colleagues:

AUGUST 3, 1977.

Mr. JOHN M. SULLIVAN,
Administrator, Federal Railroad Administration, Department of Transportation, Washington, D.C.

DEAR MR. SULLIVAN: I must admit that I was angered by the response to my letter regarding an FRA regulation to require strobe lights.

FRA does not seem to recognize the urgency of this issue. Last year there were 1126 deaths at grade crossings. This is literally a life and death matter. Yet six years after the FRA first issued a report favoring strobe lights, FRA is still studying the issue. Since that first study came out, several thousand lives have been lost.

I have yet to see *anybody* say that strobe lights should not be used. All of the studies dealing with this subject have encouraged the use of strobes.

You said that "no substantive data have heretofore been produced which link increased locomotive conspicuity with reduced rail/highway grade crossing accidents. It is possible that even a dramatic increase in conspicuity might have a relatively small impact in terms of safety benefits." Common sense alone should be enough to tell us that increased visibility will prevent grade crossing accidents. A May 1975 report of your agency said that "since it is reasonable to assume that very few motorists deliberately drive into a train or in front of a locomotive, one must conclude that a key element in most accidents is a failure either to see the train or accurately to judge its arrival time. Indeed, in seven of the 13 grade crossing accidents investigated under the NHTSA Multidisciplinary Accident Investigation program, the driver reported failure to see the locomotive."

We know intuitively, and from the three studies you have had, if not on the basis of masses of data, that strobe lights will save lives, yet the FRA wants to know the exact number of lives that will be saved. The tests that FRA is currently running will produce data that will merely give "scientific" backing to a fact that we already know.

You make a point in your letter of noting the decline in fatalities in 1975 as compared to 1974. You fail, however, to mention the subsequent marked increase in fatalities for the year 1976.

My last lettter told you that your studies were costing lives by wasting time. Your response says, in effect: "We don't know how many lives are being wasted by the lack of strobe lights, so we want to study the matter some more. We must measure the lives that we are wasting." If seeking "substantive data," as you claim to be doing, consists of waiting for collisions at grade crossings so that we can count the bodies, I am unwilling to wait for such data.

You seem also to have stretched the costs of strobe lights in order to cast doubt on the FRA study's conclusion that these lights are cost effective. You chose to figure the cost according to Amtrak's system, one of the most expensive systems available. One of FRA's May 1975 reports estimated the total cost for both strobes and outline lights to be about $500 per locomotive (including installation). I think that you will agree that $400 per locomotive is a reasonable figure if outline lights are not included and we allow for two years of inflation. Since there are about 34,339 locomotives not yet equipped with strobes, according to my figures, it would be possible to install lights on all locomotives for less than $14 million rather than the $30 million that you suggest.

You indicate that even after your studies are complete, you do not plan to require strobe lights but will leave the choice up to the railroads. When dealing with hundreds of lives per year, you ought to *require* safety, rather than make it optional—or else close your doors for lack of a reason to justify your existence. As one of FRA's reports points out, if compliance is less than 100%, it might be preferable not to equip any trains with strobes, due to the fact that people accustomed to seeing strobe lights on trains might not even look for a train if they did not see a strobe.

The nice thing about research—for the researcher—is that it always leads to further areas for investigation. Those of us who believe that the goal of research should be results, experience disappointment and a growing sense of frustration. In 1974 the FRA reported to Congress: "High intensity strobe lights mounted in pairs on locomotives have shown to be very effective in the enhancement of train visibility at grade crossings. Crew acceptance of these high intensity lights has been very good, and maintenance appears to be low. If driver awareness tests are satisfactory and cost-benefit ratios are advantageous, promotional efforts will be made to incorporate this means of accident prevention." In May, 1975, the cost-benefit ratios were identified as better than 11 to one, and the driver awareness tests were published. Both were favorable to strobe lights. The two years that have gone by since then have been sufficient time to have acted on those promising results.

We who work in government are depressingly accustomed to bureaucratic delay—for example, the delay for constituents who need their overdue pension checks or black lung benefits. But I know of no other instance in which the delay of government action is so obviously costing so many lives.

I understand your concern that FRA not issue useless regulations, but when facing the fact that three people die every day at grade crossings and that your studies show that strobe lights save money and save lives, such a regulation is far from useless.

Interestingly, you say that in your latest of a series of studies you want "to identify those institutional barriers which hinder the introduction of grade crossing technology." I can save you money by quickly identifying one of those institutional barriers: The Federal Railroad Administration and administrators of it that duck and dodge and study and study and study rather than act.

I am inserting this letter into the CONGRESSIONAL RECORD. I shall have more to say during the month of September if action is not taken by then.

Sincerely,

PAUL SIMON,
U.S. Congressman.

ORGANIZED CRIME, THE DEGRADATION OF WOMEN AND THE FIRST AMENDMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. DORNAN. Mr. Speaker, last Sunday, an article appeared in the Washington Star which revealed the rotten underpinnings of the network of topless bars which has flourished in New York City since the 1964 Supreme Court decision on obscenity.

The article relates not only the widespread involvement of organized crime in topless bars and the blatant prostitution which is an integral part of their operation but it also describes the lengths to which a woman must degrade herself if she is to "earn her keep." I see little difference between the station of these women and that of degraded slaves in any period of history.

I urge my colleagues to read this article. Hopefully, it will convince some of us that this type of activity was never intended by the framers of the Constitution to be protected under the first amendment. That the ugly interpretation of the Constitution which allows this type degradation of women to flourish is wrong, as is clearly illustrated in the Star article.

Meanwhile, why can't we move faster against child pornography:

N.Y. TOPLESS BARS SEEN PROVIDING MILLIONS FOR ORGANIZED CRIME FIGURES

(By Selwyn Raab and Nathaniel Sheppard Jr.)

NEW YORK.—New York got its first topless bar in 1967. Since then these licensed drinking spots with nude dancers have become a multimillion-dollar business, and law enforcement officials say the business has fallen largely under the control of organized crime.

Police officials and agents from the Internal

Revenue Service who have been investigating topless-bar finances in the city believe that many of them earn more than $1 million a year.

"A good joint can easily take in $5,000 a night," said Sgt. Richard Klev of the Police Department's Midtown South public morals squad. "And the dancers, with tips, can make $300 a night."

A reputed mob leader, Matthew (Matty the Horse) Ianniello, alone has hidden financal interests in at least a dozen of the estimated 50 topless bars in the city, confidential police records show.

Ianniello's reported financial connections to topless bars and his other business activities are under investigation by the U.S. attorney's office.

The vast cash flows in topless bars and other sex-related business, such as "massage parlors" and book and peep stores, have prompted the IRS to begin a large-scale investigation of possible tax frauds.

Besides Ianniello, three other persons have apparently dominated the topless bar business in New York. Records compiled by city agencies, the police department and the state liquor authority, identify the others as Melvin Thaler, a former lawyer who has been linked to at least seven bars, and Sol and Sid Sitzer, brothers, who have been associated with four places.

Investigators who have followed the careers of Thaler and the Sitzer brothers said they generally run "cleaner-type" bars for tourists and businessmen. In these bars, the investigators said, dancers usually refrained from soliciting customers for prostitution.

Dancers in the Ianniello-controlled bars often were lewd and invitations for prostitution occurred frequently, detectives said.

Most of the dancers who appear in the topless and bottomless bars are hired and supplied by separate "talent agencies" that recruit through newspaper advertisements or referrals.

"Talent" agents guarantee the dancers base salaries of $48 to $51 for eight-hour day or night appearances. At one agency, the Go Go, on West 54th Street, a job applicant was assured she could earn at least $25 a day additional in tips and in commissions on drinks she "sold." Bottomless dancers, the agent said, can expect $150 or more for their added exposure.

"What the girls do on the job for tips is their business," the agent said. "We just hire them to dance."

Before the end of one 15-minute job interview the manager of the Fontana Talent Agency, at the same address, asked the young woman standing before him to disrobe and also asked her if she would have sex with the managers of bars and clubs.

He warned her not to waste her talents on those who could not reciprocate her favors.

In the back office of the Go Go, Bernard Feinberg, the manager, sat among photographs of nude women and four decals that said "Help Prevent Rape—Say Yes."

"We treat our girls right," Feinberg said, "if they behave." A handlettered sign listed fines for misbehavior such as canceling a scheduled show. More severe reprimands are employed for dancers who violate the agency's accepted standards of behavior.

Suzy, about 20, a bottomless dancer who was seated in the office during an interview with Feinberg, wore a metal-studded leather dogcollar padlocked around her neck—her punishment for soliciting the services of another talent agent.

"My girlfriend wore a collar for a whole year," Feinberg said. "It showed she was my property." He placed a large bone in front of Suzy as he distributed doughnuts from a paper bag to the other women in his office.

"Suzy was a very, very bad girl," Feinberg said as the small, blonde woman nodded agreement. "Until that collar comes off in December, she can't leave New York State, date more than once a week or miss an appearance in a club.

"If she does," Feinberg added with a smile, "she'll never work again."

AIR BAGS ENDORSED

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MURPHY of New York. Mr. Speaker, the debate over mandating passive restraints in automobiles has already become heated and is certain to be lengthy. Charges and counter-charges have been exchanged with such fury that the resulting chaos has left many Members confused and uncertain as to who or what to believe.

I recently circulated a "Dear Colleague" letter on this subject with which I included an editorial on air bags from the New York Times. To further assist my colleagues in their deliberations I am inserting at this point two further endorsements of air bags; the first from the New York Consumer Assembly, the second from a representative of the Physicians National Housestaff Association:

[From the New York Consumer Assembly]

APRIL 22, 1977.

Hon. BROCK ADAMS,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: The New York Consumer Assembly, a federation of labor unions, cooperatives and consumer societies, strongly advocates an early introduction of the use of air bags.

The air bag is not an expensive item, particularly when mass produced. Its efficacy has been proven, and it can save thousands of lives annually.

We are aware of your deep interest and concern about auto safety and urge you to set an early deadline for the installation of air bags.

Sincerely yours,

AL SMOKE.

AUTOMOTIVE OCCUPANT CRASH RESTRAINT PROTECTION STANDARDS

(Statement before the Secretary of Transportation by Robert G. Harmon, M.D., Past President, Physicians National Housestaff Association)

Mr. Secretary, I represent the Physicians National Housestaff Association (PNHA), a nationwide union of over 10,000 intern and resident doctors. We take care of patients in some of the biggest and busiest hospitals in the land. We are distressed at the dead and horribly injured people brought daily to our emergency rooms direct from auto crashes. We know that fighting to save lives in our operating rooms isn't the answer. Prevention is the answer, Mr. Secretary, and this critical public health decision is in your hands. Mandatory auto passive restraint systems are needed here and now. The PNHA is behind this concept 100 percent.

I am currently a resident physician in preventive medicine. My chosen specialty extends my responsibility beyond the individual patient to the general population. I also work in a public hospital emergency room. There I take care of the skull fractures, smashed faces, crushed chests, broken backs, and paralyzed limbs that could be prevented in auto crashes by systems such as air bags. I also have the unpleasant task of pronouncing dead the unfortunate victims of some of these crashes.

I read that hundreds of thousands of serious injuries and about 10,000 deaths could be prevented by air bags. Excuse my naiveté, Mr. Secretary, but why don't we get on with it?

Air bags would cost about $4 per month over 36 months. That sounds like a pretty cheap health insurance deal to me. Projected savings on health and life insurance claims would approach $2 billion annually. In this time of searching for cost controls in health care, that looms as big as President Carter's hospital "cap" of 9 percent.

The PNHA is not opposed to mandatory seat belt laws but we are pessimistic about compliance and enforcement. We are concerned about the people who are not helped by such active restraint systems. For example, a drunk driver speeding along I–66 hits a guard rail and smashes into a car containing teenagers. Both categories are notoriously negligent about seat belt usage and frequently are involved in fatal crashes. They need passive protection, Mr. Secretary, not the surgeon's scalpel.

The PNHA joins the 80 percent of new car buyers who in a recent survey favored passive protection. We urge you not to pursue a weak demonstration program which will set back passive restraint protection by five to eight years. We urge a prompt, clear mandate of passive systems. Thank you.

GIFFORD, SAYERS, GREGG, WILLIS AND STARR ARE ENSHRINED IN PRO FOOTBALL'S HALL OF FAME

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. KEMP. Mr. Speaker, I am very honored to commend to the Congress, along with my friend RALPH REGULA of Ohio the five outstanding Americans who were inducted into the Pro Football Hall of Fame last weekend in Canton, Ohio. I would like to bring to the attention of my distinguished colleagues some of the highlights of their career, the sacrifice and dedication these football greats have manifest in their lives. Frank Gifford, all time all-pro running back and flanker for the New York Giants. Forrest Gregg was an all-pro tackle for 7 years. The late Vince Lombardi called him "the finest all around team player the game has ever known". Gale Sayers, the game breaker, thought he was finished in 1968 because of a knee injury but he courageously returned the next year and led the NFL in rushing. Bart Starr was a 17th round draft choice in 1956 but the incomparable Vince Lombardi saw leadership and quarterback qualities in Bart he liked and was proved right as Bart led the Green Bay Packers to the first two victories in the Super Bowl. Bill Willis overcame lack of size and the color barrier with exceptional speed and strength to become all-pro at middle guard for the Cleveland Browns. Frank, Forrest, Gale, Bill, and Bart are truly reflective of all football greats presently enshrined and indeed of the highest qualities of pro football as played in the National Football League.

I think it would be a mistake to focus attention only on this award without recognizing the qualities developed in their lives which helped them to overcome obstacles on the way to the Hall of

Fame. For to focus attention solely on the award, and their success, is to lose sight of the many hardships and challenges that each has overcome and which seem to me the real reason the Hall of Fame exists for all America.

The meaning of the Hall of Fame is to serve as an example and a beacon, by which young men and women around this country can gain inspiration and motivation to press on, despite temporary setbacks to their goals in life. Whether or not they reach the Hall of Fame—it is in the competition and in the striving that qualities are forged that make for better people and better citizens of this great Republic.

What these great athletes really honored last weekend in Canton, Ohio is the transcendent quality of the human spirit that unites us all, black and white, young and old, man and woman, the spirit that derives strength from challenge. The spirit that never gives up. The spirit upon which this country was founded, upon which we must build even further if we are to have a better tomorrow. It has been said that if you lose your money you have lost nothing. If you lost your health you have lost something, but if you lose your spirit, you've lost everything. We must never lose our spirit, either as individuals, or as a nation.

As we look upon these outstanding and successful professional football players, Frank, Bart, Gale, Bill, and Forrest, I think it would be a mistake if we did not realize the setbacks and defeats that each has faced in his life, along with the moments when each was knocked down, only to get up and to come back to the battle, even more determined to prevail. That type of spirit will succeed, not only in the lives of individuals but in the life of our country, not only in the sports fields, but off the field as well. It is that type of spirit held by our Founding Fathers, by the American professional football players enshrined in the Hall of Fame in Canton and by millions of other Americans from every walk of life, religion and race. It is that spirit which is the real meaning of the Hall of Fame.

These men are friends of mine and inspirations to all who know of their personal and professional lives. I include at this point the great sportswriter of the New York Times, Red Smith's article on these great NFL stars:

Frank Gifford had been carrying the ball brilliantly, throwing blocks and making tackles in the National Football League for a decade when somebody realized that he never had been involved in any of the fist-fights which kept breaking out on the field in those days. Such decorum seemed slightly out of character, for the New York Giants of his time were a team with muscle and he was one of the more intensely competitive members—four times an all-pro back and once the N.F.L.'s most valuable player. Frank said he was no pacifist at heart and his exemplary deportment was only common sense. "With those big iron face-masks they wear," he said, "you can't land a decent punch, and besides, there's nobody in the league I can whip." Gifford came out of the University of Southern California as an artist's conception of the all-American Boy—handsome, versatile and candid. He was no hot dog, yet he relished his role as a sports hero and was honest enough to admit it. He tried to postpone the day when he would no longer hear the cheers of the crowd. Hoping to extend his playing days, he tried out at quarterback one year, and after Chuck Bednarik of Philadelphia put a violent end to his career as halfback, he made a comeback as a flanker.

When he was finished as a player and turned to radio and television, he worked as hard on the new job as he had worked on offense and defense. Unlike jocks who bring nothing but an athletic reputation to the microphone, Gifford set out earnestly to learn technique, to develop a presence and hone his skills as a reporter.

He is a class guy who richly deserved inclusion in the Pro Football Hall of Fame, where he was installed Saturday along with Forrest Gregg, Bart Starr, Gale Sayers and Bill Willis.

VINCE'S PET MONSTER

Gifford had to fight down his emotions when he was inducted. Butterflies may have been doing loops under Bart Starr's wishbone, too, but the coach of the Green Bay Packers was the most poised and articulate individual on the stage. There was evidence there of the late Vince Lombardi's handiwork, for before Vince took over as coach, Bart was a rookie quarterback whose insecurity was showing.

"You're my quarterback," Lombardi told him at the outset.

"I feel sorry for a boy Vince thinks has a future at quarterback," said Marie Lombardi, the coach's wife. "It's as though Vince drills a hole in his head and pours everything he knows into it."

Lombardi didn't create Starr, but he reshaped and polished him until he had a 17th-round draft pick who would lead the Packers to five National League championships. Along with football savvy, the coach instilled confidence. One summer Starr came in with an unsigned contract and named another salary figure.

"A few years ago," he said, "I'd have signed anything you gave me, but now you've taught me to be more aggressive and self-assertive and given me more confidence, and this is what I want."

"So that's it," Lombardi said. "Like Frankenstein, I've created a monster."

THE MOST UNSELFISH

Lombardi called Forrest Gregg "the finest football player I've ever coached." He was also the most unselfish. He was an all-league tackle for five years in a row and was a good bet to make it for his sixth year but gave up that opportunity at Vince's request to shift to guard and lead interference. Self-sacrifice doen't always hurt; Gregg made all-league at guard that year, then went back to regain all-pro distinction at tackle for two more seasons.

At one point he retired to a job as assistant coach at Tennessee because he was tired of traveling. On his arrival in Knoxville he was handed an air travel card and a credit card for car rentals. He went back to Green Bay. The way he has turned the Cleveland Browns around stamps him as a Hall of Fame coach.

At the age of 34, Sayers is the youngest godling ever voted into the shrine in Canton, Ohio, but he was a sure thing before he was 30. If he wasn't the most brilliant runner since Red Grange, he was certainly the most exciting of his time, meaning from the day in 1965 when he scored six touchdowns as a rookie against San Francisco through 1969, the last year he was sound enough to gain 1,000 yards.

When Paul Brown organized the Cleveland Browns of the All-America Conference, Bill Willis, who had made all-America under Brown at Ohio State, asked for a job. Though small for a pro lineman, he played eight years with the Browns, first on offense and defense, then as middle guard on defense. Whether in the All-America Conference or the N.F.L., he was all-league seven times.

Willis is sometimes identified erroneously as the league's first black player. In the 1920's blacks played in the National League. Paul Robeson of Rutgers, the singer, was an end and Fritz Pollard of Brown a halfback with the Milwaukee Badgers, and Duke Slater of Iowa played tackle for Rock Island. Comparatively few blacks attended college in those days, and after the first ones retired a de facto color line existed until Brown and Willis broke it in 1946, the year Branch Rickey hired Jackie Robinson for Brooklyn's Montreal farm team.

THE VIETNAM TRAGEDY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. MICHEL. Mr. Speaker, I recently came across an editorial published in the Richmond News Leader. This editorial eloquently discusses the tragedy of Communist domination in Vietnam. As the News Leader points out, those voices that were heard crying "give peace a chance" only a few short years ago are curiously silent in the face of mounting evidence that the peace of Vietnam is something worse than the peace of the grave—it is the peace of Gulag, of concentration camps, of slavery. I have long held that the current silence of those who eagerly swallowed Hanoi propaganda during the war, a silence that tells us all we have to know about the concern of these self-proclaimed peace-lovers, is one of the worst examples of hypocrisy ever to be seen in this Nation. The Richmond News Leader deserves praise for setting the record straight. At this time I would like to insert into the RECORD "Vietnam's Peace" from the Richmond News Leader, July 12, 1977:

VIETNAM'S PEACE

A hit song released during the height of the Vietnam War implored people to "give peace a chance." Two years have passed since the fall of Saigon, and the South Vietnamese are learning that "peace" under Communism is far more painful than the wounds opened by 30 years of war.

The voice of Nguyen Cong Hoan silences those who doubt the severity of the terror Communism is inflicting on our former allies. A recently escaped refugee, Hoan describes a country filled with prison camps and devoid of human rights. Hoan is not an aristocrat caterwauling about lost fortune or power; he is a former leader of the antiwar movement in South Vietnam. Indeed, the Communists thought so highly of him that he was rewarded with a seat in the Hanoi assembly. He had welcomed the North Vietnamese "liberators" in 1975, and he was going to help rebuild his country.

Hoan soon learned what Communist liberation means. And unlike the moral polliwogs in America, Hoan is not afraid to admit that his anti-interventionist position was wrong. Hear him: "The Communists have violated the 1973 Paris Agreement. My first motivation was to help with the reconstruction of the country in 1975, but I realized that the Communists were worse than I had imagined."

The legacies of Ho Chi Minh, General Giap, and other heroes of the left have fashioned a Vietnam where "fundamental human rights are not guaranteed," Hoan says. "No freedom of religion, speech, or movement is allowed. In a word, there is no freedom at all except the freedom to obey the orders of the

Communist Party. Otherwise you will be put into prison."

"Re-education" is the Reds' currently favorite word. They claim that the South Vietnamese must be "re-educated" to appreciate the glories of Communism. Hoan explains that re-education means imprisonment. The Paris Agreement stipulated that Hanoi could not punish employees of the Saigon government. But Hoan says 200,000 former government workers are confined in prison camps.

Hanoi's commissars are more subtle than their comrades in Cambodia, where more than 1 million persons have been slaughtered by the benevolent armies of peace and freedom. Says Hoan, "When the Khmer Rouge took over in Cambodia, they killed the opposition immediately on arrival. But the Vietnamese Communists are wiser. They compiled lists, classified people according to their importance, and sent them to different camps. Those who are killed are killed secretly."

One particular prison camp is used to re-educate 1,000 Vietnamese who fled to Guam immediately after the fall of Saigon. The refugees refused offers to immigrate to the United States; they decided to return to their native land. The North Vietnamese said there would be no bloodbath. But peace has sentenced these patriots to indefinite terms in the Vietnamese Gulag.

Hoan explains that many South Vietnamese were relieved when the war ended. They knew that rebuilding their country would be an arduous task, but the Communist assault on their hearts and minds soon turned their relief into disillusion and fear. In Hoan's words, "We wanted peace because people had suffered from war and political oppression under the old social institutions. We now realize we lost a precious thing—freedom."

This veteran of the Red terror has learned something that American doves seem unable to comprehend: There is a difference between a weak, imperfect government—and genocide. Anti-war zealots may shed a few obligatory tears for the victims of organized terror, but they refuse to listen to voices suggesting that effective American action could have prevented the genocide of a proud people. Hoan says simply—and emphatically: "The U.S. intervention was right."

Do not expect Hoan's truthful words to elicit any response in the United States: Nowadays Vietnam is a taboo subject. And the so-called "humanists"—who so eagerly swallowed Hanoi's propaganda—prefer pretty songs about giving "peace a chance" to the harsh realities of postwar Southeast Asia. While America averts her eyes, "peace" is giving the Vietnamese a chance all right—a chance to experience first-hand the barbarity called Communism.

CONGRESS SHOULD NOT CAUSE HIGHER INTEREST RATES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. SIMON. Mr. President, if there is one thing that could help this economy tremendously without any cost to the Federal Government and with benefits to all, it would be a lowering of the interest rates, provided we do not increase the money supply. I have never advocated increasing the money supply faster than we increase productivity.

I think we have to be much more imaginative in our approaches to reducing the interest rates than we have been. We have, with much too much ease, accepted the dogmas of the traditional economists that somehow high interest rates reduce inflation, when, in fact, I believe in our current situation high interest rates are, in themselves, inflationary.

But one of the stimulants that I see to higher interest rates is the so-called NOW account. This is the movement that is gaining headway to pay interest on checking accounts.

I do not suppose one small voice of someone who is not on the Banking and Currency Committee is going to do anything to stop the movement in that direction, but we should recognize some fundamental economics.

And those fundamental economics are these: If the banks have to pay interest on checking accounts, they are going to charge more interest to their customers. There is no way of getting around that.

My hope is that we will get hold of our senses and stop the movement in the direction of the NOW accounts. They are going to hurt the consumer, and they will have a depressing effect on the economy.

I am attaching an article which appeared in the New York Times, written by Edward G. Nelson, president and chief operating officer of the Tennessee Valley Bancorp and Commerce Union Bank of Nashville, Tenn. It appeared in the New York Times of July 31, 1977:

NOW—THERE'S NO FREE CHECKING

(By Edward G. Nelson)

Consumerism in the form of free banking services has reached its limits. Banks simply cannot continue to supply significant additional services without offsetting them by increases in revenues.

So let the consumer beware. Any new rules or legislation that would increase costs for the commercial banking system will be paid for, in some way, by someone else. Rest assured that if it becomes more difficult to recognize the actual bill-payer, the likelihood will increase that he will be the smallest and poorest consumer.

Yet everyone is jumping on the bandwagon for legislation that would permit commercial banks across the country to pay interest on consumer checking accounts. "Ah," the consumer says, "now we'll be getting something for nothing out of those greedy banks."

Not quite.

It may come as a surprise, but the idea for the proposed "negotiable order of withdrawal" (NOW accounts)—which in effect, would allow banks to pay interest on checking accounts—did not come primarily from consumer advocates.

Rather, the idea originated within the powerful savings industry, whose lobbyists for years have successfully persuaded Congress to prohibit banks from paying to small savers the same high rates of interest paid to corporations or to individuals able to put $100,000 or more into one account.

The legislative battle over NOW accounts is not designed to give a break to the consumer—even though it is billed that way—but is part of an intense competition for position among various sectors of the nation's complex financial structure.

Traditionally, savings institutions have been geared to finance the housing industry by accepting savings to be reinvested in long-term investments. The savings banks grew because the commercial banks did not provide the necessary funds for an expanding number of home buyers.

Commercial banks have elected to focus on short-term lending. Many companies, for example, have seasonal businesses where receipts are bunched up in one period of a year. Such companies depend on commercial bank loans to carry them through the rest of the year so that payrolls, rent and other expenses can be met. Small and medium-sized companies also tend to rely heavily on commercial banks to finance job-creating expansion programs.

Frequently, commercial banks and savings institutions work in tandem. If a contractor is planning to construct an apartment house, he would obtain credit from a commercial bank to finance the cost of construction, which might take 18 months. Then he would get long-term financing—perhaps for 20 or 30 years—from a savings institution. In most cases, the construction financing would be available only after assurance of financing from a long-term lender.

In recent years, though, distinctions between long-term and short-term lenders have been blurred. Savings institutions have been allowed to engage in more short-term transactions, while commercial banks have been extending the maturities of their loans. It is inevitable that savings banks and savings and loan associations eventually will closely resemble commercial banks, if not actually become commercial banks.

Since checking account balances represent the ultimate in short-term funds for the consumer, the controversy over NOW accounts has become a key battle. Savings banks have driven a wedge into the New England area and wrested permission from state authorities to issue NOW accounts. To even the competition, commercial banks in the region have granted similar powers. At this point, Congress is trying to decide whether NOW-type accounts ought to be permitted on a nationwide scale.

The real question, though, has become not so much whether NOW accounts ought to be permitted, but the form they should take and how they might be applied so that no sector of the financial structure will be put in a particularly strong, or weak, competitive position.

These real reasons that NOW accounts are being urged on Congress are often camouflaged behind a barrage of consumer-oriented rhetoric. But will the average consumer actually gain?

The first question that must be asked is whether the commercial banking system is willing to reduce its profits by paying more to its depositors. If it is not—and it cannot—then the second question is, who will foot the bill? Ultimately, it will be the consumer.

The great bulk of bank funds really do not belong to the banks. At the end of 1976, the total balance sheet of all large banks in the United States amounted to slightly more than $469 billion. That sounds like a lot. But of that total, only $32 billion, or 6.8 percent, actually belonged to the banks and their shareholders. The rest was borrowed from the public, mainly in the form of deposits.

The money was used by the banks to relend to corporations, individuals and governments. Without these loans, the economy would stop. Moreover, without growth in these loans, the economy itself would not be able to expand.

The banking industry's ability to increase its deposits and loans is based on the level of the funds that it actually owns—in other words, capital and reserves. Over the last decade, the commercial banking system has become increasingly efficient and has reduced

the proportion of its own funds in relation to the funds it borrows. This might be called leveraging.

There are two basic ways this can be accomplished. The first is for a bank to earn enough to reinvest profits in its own capital accounts (retained earnings). The second method is to sell stock to the public. A banks ability to sell stock, however, depends on conditions in the stock market and on the public's perception of the particular bank's profit outlook.

To the degree that a bank's profits are under downward pressure because of interest payments on demand deposits, a bank would find it more difficult to sell its shares to the public.

If bank stocks are booming, it could be argued that bank profits are high enough and that a dividend could be paid to the public in the form of interest on checking account funds.

Unfortunately, that is not the case. Most bank stocks are selling well below book value. That means a shareholder today would get more for his investment if his bank were liquidated than if he tried to sell his shares in the stock market. Today, many bank stocks are selling as much as a third below book.

Not surprisingly, then, ways are being sought to offset the cost of NOW accounts to banks. The Federal Reserve Board has suggested that it be permitted to pay interest on funds that banks are required to keep on deposit at the Fed. The board realizes that a squeeze on profit is causing many banks to leave the Federal Reserve System, so they might avoid having to keep portions of their deposits in accounts that do not bear interest. This, in turn, is causing the Fed to lose its grip on the nation's money supply.

The Fed hopes that by paying interest on reserves, it will be able to lure banks back into the central banking system. It would also like to get the growing savings industry under monetary control. (Naturally, the savings institutions that are so eager to offer NOW accounts, are not so eager to have to abide by any reserve requirements.)

This leveraging process has gone so far that regulatory authorities have been telling many banks that they must increase their capital accounts if they are to expand their loans and deposits.

At the end of each year, the Fed remits its net earnings to the Treasury. Last year this payment amounted to almost $6 billion. To the extent the Fed's earnings are reduced because of interest payments on bank reserves, the payment to the Treasury would decline. The Treasury, then, would have to raise the money elsewhere. One method might be to raise taxes.

Another might be to increase Treasury borrowing from the money markets. This would either increase money rates or cause the Fed to inflate the money supply. Any increase in money rates would raise the cost of doing business, which eventually would be reflected in the price of consumer goods. Similarly, an increase in the money supply to finance a bigger Treasury deficit would add to general inflationary pressures. In either case, the ultimate cost to the consumer most likely would be greater than the amount he would receive in interest on his checking account.

More importantly, the consumer who has the smallest checking account, or none at all, would be the one to get hurt the worst. In effect, the so-called boon for the consumer would actually amount to a regressive tax.

Another alternative would be for banks to increase the fees they charge for their services. This, in effect, would cancel any benefits that might accrue from the payments of interest on demand deposits.

The worst that could happen is that the banking industry would stop growing, stifling the country's economy.

Adoption of NOW accounts is inevitable. The legislation may come this year, or next or the following year. NOW accounts represent only one important aspect of the evolution that is taking place in the nation's financial structure. Just as commercial banks would like to be allowed to offer a wider range of services, they would welcome competition from other industries.

But that competition must be fair, and the competitors must be given equal opportunity. The conflict over NOW accounts is not so much whether they should be permitted on a national scale, but rather over the form that they should take.

Above all, consumers should not be misled into the belief that they will be getting something for nothing. Only through fair, open competition among the nation's financial institutions will the consumer's interest best be served.

NORTHEAST PHILADELPHIA NEWSPAPER OBSERVES ITS 50TH ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. EILBERG. Mr. Speaker, on August 10, one of the very fine weekly newspapers which serves my congressional district will celebrate its golden anniversary of service to the community.

I would like to take this opportunity to extend my congratulations to The Breeze, to its president and general manager, Mr. Richard McCuen, and to all of the fine people on its editorial, advertising, and circulation staffs who work together to bring this publication into thousands of homes each year.

The Breeze serves the communities of Rockledge, Cheltenham, Elkins Park, Hollywood, Fox Chase Manor, Bethayres, Huntingdon Valley, Bryn Athyn, Abington, Meadowbrook, and Rydal in lower Montgomery County, and the areas of Fox Chase, Burholme, Lawndale, and Crescentville in northeast Philidalphia.

In connection with its forthcoming golden anniversary, Mr. Speaker, The Breeze carried an article in its July 28, 1977 edition covering some of the newspaper's history, and I am pleased to have this opportunity to place that article in the RECORD.

BREEZE TO MARK 50TH ANNIVERSARY

(By Richard Hubbard)

In the hip-flask year of 1927, speakeasies were in full swing. An upstart young U.S. Air Mail pilot named Charles Lindbergh left Roosevelt Field, New York on May 20—flying on a wing, a prayer and a bagful of sandwiches. Landing the next day in Le Bourget Field, Paris, he had accomplished his mission.

In the same year a small tabloid newspaper called "The Breeze" took its first flight as well. And the mission, 50 years later, has been a successful one, rich in community service, involvement and non-partisan bird's-eye-view of this area which has spanned five decades.

On Aug. 10 The Breeze marks its 50th birthday with a blockbuster Souvenir Edition. The gala Birthday Issue—which promises to be a collector's item—will take a nostalgic look at the past through classic old photographs, clippings and advertisements selected from The Breeze's files.

To mark the newspaper's golden anniversary, letters of congraulations are expected from President Carter; Governor Shapp; the area's Congressional delegation in Washingon, D.C.; our State Senators and Representatives; and a host of other dignitaries. All will be published in the Souvenir Edition.

Breeze readers can stroll down Memory Lane on Aug. 10 and share our own observations of the last 50 years here. A history of local landmarks; a "Do You Remember" column; and scores of interesting historical pictures and stories are expected to swell the pages of the anniversary edition.

The first editions of The Breeze catalogued some of the memorable events of August 1927:

Pitcairn Aviation, Inc. of Bryn Athyn was lowest of three bidders for the contract for the Atlantic-Jacksonville, Miami Air Mail route opened at the Post Office Department in Washington in 1927. The bid was $1.46 a pound for all mail carried.

In August, 1927 the Fox Chase Camp 127, Patriotic Order of America, had nearly 100 members. In 1952, the group was still meeting at Grookett's Corner, Fox Chase.

The date for the cornerstone laying for the Lawndale Presbyterian Church, Oakley and Levick St., was set for Nov. 17, 1927.

Members of the Artisans Fox Chase Assembly No. 71, A.O.M.P. joined with 82 other groups for a day at Wildwood, N.J. on August 20, 1927.

The Northeast Shrine Club, local church and school teams and Penn State College made The Breeze's local sports headlines.

In the Aug. 4, 1927 edition of The Breeze, it was reported that three members of the Rockledge Borough Council were going to retire from active political life. The headline read "Rockledge Salons Retire."

The Breeze was born and nurtured in times of change and upheaval. In 1927, "The Jazz Singer" starring Al Jolson demonstrated the first part-talking pictures, in a New York City showing.

Meanwhile, back home in the Philadelphia area, the age was one of rapid growth and change. Philadelphia's population had already reached 1,950,000 and the urban overflow into suburban counties—including Montgomery—had already become substantial.

A huge "underdeveloped" section was opened up, too, with a road called Roosevelt Blvd. cutting northeast from the old Hunting Park race track, and the Frankford Elevated Line, following the curve of the Delaware River.

The Breeze was there through it all, to record and catalogue local history in the making.

Back then, people were lamenting the fact that Philadelphia's 1926 Sesqui-Centennial celebration (the nation's 150th birthday)—was a bust, drawing very few crowds.

Parallel that with last year's bicentennial celebration in Philadelphia; a classic case of history repeating itself?

The joy and the heartbreak of five decades has been catalogued on the pages of The Breeze . . . for the world to share. Literally thousands of births, deaths, engagements and weddings in the pages of The Breeze have unfolded the rich panorama of the people who make this are alive and breathe.

The Breeze invites its readers, then, to share with us a milestone in local journalism on Aug. 10. You, the reader, has made it all possible.

GOVERNMENT REGULATIONS: HOW MUCH CAN WE AFFORD?

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues a recent editorial from the American Cotton Grower written by my good friend and constituent, Chauncey Denton of Denwood, Ark. Chauncey is former president and chairman of the board of the National Cotton Council and in this editorial has captured what I believe to be the mood of a growing number of Americans. I commend the article to my colleagues:

GOVERNMENT REGULATIONS—HOW MUCH CAN WE AFFORD?

(By Chauncey L. Denton, Jr.)

No cotton grower—and probably no person involved in any other enterprise today—can escape the direct impact of government regulation on the cost of doing business. If we have employees, we are—or soon will be—meeting requirements of the Occupational Safety and Health Administration (OSHA). If we use pesticides or have discharges from processing operations, we are regulated by the Environmental Protection Agency (EPA). If our products go into textiles or food, we are affected by rules of the Consumer Product Safety Commission (CPSC) or the Food and Drug Administration (FDA). This list could go on and on.

Important pesticides have been removed from the market by EPA, and their replacements are often more costly, less effective, and shorter-lived.

CPSC flame-retardant regulations have cost cotton farmers over 100,000 bales per year in the children's sleepwear market, while allowing the use of synthetic fibers that melt, drip, and cause severe burns, but do not ignite. The Commission is considering addition flame-retardant standards in other apparel markets which consume 1.4 million bales of cotton annually.

Unless the temporary stay on OSHA's machinery-guarding rules is extended, that agency this fall will begin enforcing its requirement that all drive shafts and power transmission "nip points" on *old* farm machinery be guarded.

OSHA also has proposed a universal cotton dust standard from gin to mill and beyond, which will add nearly 30¢ per pound to the cost of using cotton at the textile mill—assuming the technology is available—and this will make it next to impossible to meet man-made fiber competition.

These are regulations we all are aware of because they affect us directly. Less apparent are those that affect our suppliers. EPA requirements for the registration of new pesticides involve so much expense that new registrations dropped from 700 in 1970 to about 25 last year. Re-registration of those already in use is so expensive that some manufacturers whose patents have run out are seriously considering whether the future profit potential for the materials justifies the cost. The end result? Higher pesticides costs for you and me.

Now the Administration and many Congressional leaders want to add a new layer of regulation—the so-called "Agency for Consumer Advocacy"—to regulate the regulators, and put a battery of lawyers at the disposal of dissidents all over the nation. The added cost in taxes and product prices is incalculable.

Most of us are concerned about the environment. We like to hunt and fish and swim. We want to breathe clean air and drink clean water. We want our employees to be safe and healthy. We are consumers ourselves, and we want the products we buy to be safe. Therefore, we do not dispute the need for reasonable regulation.

What we do object to is regulation that grows, uncontrollably, like a cancer. The Congress, in many instances, has created Frankenstein monsters which are answerable to no one. The OSHA administrator has authority to destroy our industry by imposing the proposed cotton dust regulations. An appeal to the courts can only determine whether the law has been broken, not whether bad judgment was involved in an administrator's decision. We saw this demonstrated in the DDT case.

How, then can we stop the cancer of overregulation? The only answer is public arousal. Last year OSHA became the butt of many jokes as a result of its warnings that "manure can be slippery" and its proposal to put toilet facilities in the fields and pastures of the nation. Congress promptly adopted an amendment to the Labor Department appropriations bill which exempted farms and businesses with 10 or fewer employees from OSHA regulation.

The House Labor Appropriations Subcommittee is recommending the same provision for next year.

Public opinion accomplished this, and it can do more. The new OSHA administrator has promised to do away with many of the Agency's "nit-picking" rules. She is beginning to get the message. We must see that she and other administrators continue to get the message over and over again from every conceivable source. The public must be made aware that in the end they pay the cost of all the regulations, directly or indirectly. Again and again we must raise the question, "Does the benefit justify the cost?"

In the final analysis, the public must decide where the line should be between each individual's responsibility in protecting himself and the government's invasion of this area under the guise of protecting its citizens. And all of us must realize that insofar as we delegate that responsibility to government, we will have to pay for it in the form of both taxes and higher prices.

ADMINISTRATION ENERGY PLAN IS LIKE SWISS CHEESE, FULL OF HOLES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. TEAGUE. Mr. Speaker, the July 12 issue of the Energy Daily carried a report of the discrepancies between the President's projections for energy production and the General Accounting Office's—GAO—estimates of future energy production. Part of the text of the article reads as follows:

If the General Accounting Office is correct, oil imports in 1985 may be 10.3 million barrels a day, not the six million b/d targeted in the Carter Administration's national energy plan. In a lengthy discussion of Carter's proposals released on Tuesday (July 26), GAO restated its earlier objection to the Administration's proposals—that they expressly fail to meet the objectives set forth by Carter—and added a few more caveats. Specifically, GAO believes the production levels targeted for 1985 for coal, natural gas and nuclear power are overstated and cannot be met. In the coal area, GAO believes the Carter plan will fall short of its goals by the equivalent of 2.3 million b/d of oil. In natural gas supply, GAO believes the Administration has overstated the achievable goal by about two trillion cubic feet a year, leaving another one million b/d of oil equivalent to be made up by oil imports. Where the Administration's plan contemplates 1985 annual supply of 17 Tcf, GAO considers a 15 Tcf level more realistic. Finally, in the area of nuclear power, GAO believes the Administration has overstated what is realistic by about 0.6 million b/d of oil equivalent.

Mr. Speaker, in the 4 weeks ending in mid-July this country used 4.7 percent more oil than it did at the same time last year and it imported 12 percent more, according to Government figures. As our oil consumption increases, our domestic production continues to decline. According to ERDA our demand for oil has been rising by more than 5 percent each year, but domestic oil production has been falling recently by more than 6 percent. This can only mean increased dependence on foreign oil supplies. With this comes the assumption that oil exporting nations will continue to be willing to produce and sell as much oil as its customers, United States included, want and need to buy. In light of the sudden oil embargo of 1973 this is a shaky assumption.

If one couples this already bleak scenario with the reality that oil prices have continually increased and the OPEC nations have no inclination to sympathize with the oil importing nations' petrodollar outlays, the United States as a heavy oil importer is at the mercy of forces completely beyond its control.

In June of this year, the United States sustained another record trade deficit as imports rose 11 percent and exports declined 3 percent. Oil imports were responsible for the bulk of this rise.

Mr. Speaker, all of these facts tell us that the United States is in energy trouble and is paying billions of dollars to play catchup ball. The present is bad and the future could be worse because the President's energy proposal is speculative and assumptive. This energy plan also includes a recommendation for the indefinite postponement of the Clinch River breeder reactor. The breeder could offer America the energy independence which has historically assured our economic stability and national security. If the demonstration plant at Clinch River is not built now to test and perfect the breeder technology that could insure us against the possibility of greater energy voids in the future, we may well be legislating a cold, dark future for this Nation.

If we indefinitely postpone the practical demonstration of our breeder know-how, we are asking Americans to walk an energy tightrope. We are asking them to have faith in assumptions and speculations that may well prove wrong. We are actively denying them a secure energy source to fall back on if they

need it at some future date. We are asking them to accept energy insecurity.

I am asking my colleagues to carefully consider these issues before the upcoming vote on the Clinch River breeder reactor.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extension of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 4, 1977, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 5

9:00 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1871, to increase the Federal minimum wage.
4232 Dirksen Building

9:30 a.m.
Finance
To continue consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and other committee business.
2221 Dirksen Building

10:00 a.m.
Energy and Natural Resources
To continue markup of S. 1469, proposed National Energy Policy Act, and other pending calendar business.
3310 Dirksen Building

Judiciary
To hold hearings on the nomination of John H. Shenefield, of Virginia, to be an Assistant Attorney General.
2228 Dirksen Building

Joint Economic
To hold hearings to receive tesitmony on the July employment/unemployment situation.
6226 Dirksen Building

AUGUST 8

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the relationships between Federal welfare reform and public housing programs.
5302 Dirksen Building

Finance
To hold hearings on title II, Tax Provisions of H.R. 6831, proposed National Energy Act
2221 Dirksen Buiding

AUGUST 9

10:00 a.m.
Finance
To continue hearings on title II, Tax Provisions of H.R. 6831, proposed National Energy Act.
2221 Dirksen Building

AUGUST 10

10:00 a.m.
Finance
To continue hearings on title II, Tax Provisions of H.R. 6831, proposed National Energy Act.
2221 Dirksen Building

AUGUST 11

10:00 a.m.
Finance
To continue hearings on title II, Tax Provisions of H.R. 6831, proposed National Energy Act.
2221 Dirksen Building

AUGUST 12

10:00 a.m.
Finance
To continue hearings on title II, Tax Provisions of H.R. 6831, proposed National Energy Act.
2221 Dirksen Building

AUGUST 29

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on the dimension of national debts and payments deficits, and the outlook for the future.
5302 Dirksen Building

AUGUST 30

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on the dimension of national debts and payments deficits, and the outlook for the future.
5302 Dirksen Building

SEPTEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on automatic auto crash protection devices.
5110 Dirksen Building

10:00 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on S. 1874, to allow recovery for damages by direct or indirect purchasers of goods.
2228 Dirksen Building

Select on Indian Affairs
To hold hearings on Federal Indian Domestic Assistance Program.
Room to be announced

SEPTEMBER 12

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

SEPTEMBER 13

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Donald L. Tucker, of Florida, to be a member of the Civil Aeronautics Board.

SEPTEMBER 14

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

10:00 a.m.
Select Committee on Indian Affairs
To hold hearings on the concept of creating an independent Indian Agency.
Room to be announced

SEPTEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on consumer protection and education in the energy conservation area.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act.
5302 Dirksen Building

SEPTEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on consumer protection and education in the energy conservation area.
5110 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1819, proposed Federal Criminal Diversion Act (voluntary use of intensive supervision at the time of arrest or soon thereafter).
2228 Dirksen Building

SEPTEMBER 20

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on H.R. 7792, to establish certain limitations on the use of franking privileges, and on simplifying mailing procedures.
6226 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvement Act of 1977.
2228 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 364, Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. Room to be announced

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvement Act of 1977.
2228 Dirksen Building

SEPTEMBER 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Consumer Product Safety Commission.
5110 Dirksen Building

SEPTEMBER 28

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings on the Consumer Product Safety Commission.
5110 Dirksen Building

10:00 a.m.
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

SENATE—*Thursday, August 4, 1977*

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Reverend Dr. George Gilman Watson, of the First United Methodist Church, Lithonia, Ga., offered the following prayer:

O God our Father, send Your blessing upon this Senate Chamber that each Senator will be filled with Your Holy Spirit to the end that Your love permeates every law that is passed here.

When weariness of long hours in committee would weaken minds, fortify us with a determination to stand for the right.

When pressures from without and powers from within would seek undue influence, keep us anchored in the truth.

When personal anxieties and emotional strain from the drudgery of crowded schedules would tempt isolation, give patience to be open to the needs of others.

Forgive us when we hunger for possessions and fail to feed the hungry.

Forgive us when our thirst for power prevents us from educating deserving youths who are thirsty for knowledge.

Forgive us when we clothe ourselves in a mantle of self-righteousness to the neglect of the indigent.

Hold us in the hollow of Your hand that we will never cease from striving to be better.

Turn us around when our motives have strayed from Your purposes.

Prod us when we would be content with our past accomplishments.

Shove us along when, in selfish obstinance, we think our way superior to others.

Encourage us when depression would seek to overcome us.

Pick us up when we fall under the weight of the responsibility of living our faith.

Take all that is worthwhile and magnify it to Your glory. Take all that is noble of purpose and consecrate it for Your service. For we ask everything in the name of Jesus. Amen.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, August 3, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 71

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 302, S. 71, a bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon for debate of 1 hour, to be equally divided between Mr. PROXMIRE and Mr. BROOKE; that there be a time limitation on any amendment of 30 minutes; that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate, of 20 minutes, and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, I wonder if the majority leader, in propounding that request, might consider any further restrictions on the nature and type of amendments which might be offered.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I suggest the absence of a quorum on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Will the distinguished majority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I believe, in view of our previous conversations with respect to the scope of this bill and the possibility of amendments to it, and because of the early hour it being impossible for me at this time to check with certain Senators at this moment, I wonder if the majority leader would agree to modify his request so that the unanimous-consent order could be vitiated on motion or request from the distinguished junior Senator from Massachusetts (Mr. BROOKE), who is the ranking member of the jurisdictional committee?

Mr. ROBERT C. BYRD. Mr. President, in view of the peculiar circumstances surrounding this particular measure at this particular moment, I modify my request in accordance with the suggestion of the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent request, as modified, is agreed to.

NO ROLLCALL VOTES PRIOR TO 10 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes today prior to the hour of 10 a.m. Several Senators on both sides of the aisle will be at the White House.

The ACTING PRESIDENT Pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

ENERGY AND CLIMATE

Mr. BAKER. Mr. President, during this summer of unusually hot weather it seems appropriate for me to invite the attention of my colleagues to a recent article which appeared in this week's "U.S. News & World Report."

The conclusion of this article is that heavy dependence on the burning of fossil fuels could lead to a gradual warming of the Earth's climate. According to one leading researcher, Columbia University's Wallace S. Broecker, the effects of burning coal, oil, and natural gas "could be the single most important environmental issue of the next 30 years."

The burning of all fossil fuels releases carbon dioxide into the atmosphere. For example, combustion of 1 ton of coal produces 3 tons of carbon dioxide.

While carbon dioxide is not a health hazard and is one of the most common gases in our atmosphere, increases in the amount can lead to a rise in the temperature of the Earth through the green house effect.

Just like the glass of a green house roof, the molecules of carbon dioxide allow sunlight to reach the ground, but block the escape of the heat it produces.

A report which was just released by the National Academy of Sciences concludes that if fossil fuels remain the world's principal energy source during the next hundred years, the carbon dioxide content of the world's atmosphere will quadruple and result in large alteration in climate.

Long range side effects of such a rise in average global temperature could cause drastic changes in the world rainfall patterns, partial melting of the polar ice caps, and a rising of the ocean levels.

Mr. President, I think this "U.S. News & World Report" article provides valuable information on the possible consequences of excessive burning of fossile fuels. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS ENERGY USE OVERHEATING WORLD?

The world may be inching into a prolonged warming trend that is the direct result of burning more and more fossil fuels—coal, oil and natural gas.

This man-made climate modification, which some scientists say is already taking hold, could have a profound impact on this planet for at least the next 1,000 years unless the industrialized world comes up with some alternative to massive utilization of fossil fuels during the next few decades.

For a number of years, some respected climatologists were saying that the earth was getting cooler, not warmer. These "ice age" theories, based on the natural climate cycles, now are being convincingly opposed by growing evidence of human impact on the weather.

While it is still too early to prove either hypothesis, says J. Murray Mitchell, Jr., a Government climate expert, "it seems likely that industrial man already has started to have an impact on global climate," which could lead to a warming trend.

In the next 30 years. One of the leading researchers in the field, Wallace S. Broecker of Columbia University's Lamont-Doherty

Geological Obeservatory, says the effects of burning coal, oil and natural gas "could become the single most important environmental issue of the next 30 years."

Reasons for all the concern are the long-range side effects that even a slight rise in average global temperature could cause—drastic changes in world rainfall patterns, partial melting of the polar ice caps and rising ocean levels.

Not all the changes caused by a 5 degree (Fahrenheit) temperature rise over the next 30 to 100 years will necessarily be bad, Broecker says, but "before we take actions which will lock us into bestowing a millennium of warmer climate on the generations to follow, we had best learn more than we now know" about possible side effects.

Key to the worldwide research effort now under way is carbon dioxide, among the earth's most common gases, a by-product of all fires and one of the primary constituents of exhaled air from human lungs. By burning large amounts of coal and oil, industrialized nations are slowly putting more of this gas into the atmosphere than nature's recycling mechanisms can handle.

As use of fossil fuels increases, the atmospheric concentrations of this gas go up, creating a greenhouse effect around the globe. Just like the glass of a greenhouse roof, the molecules of carbon dioxide allow sunlight to reach the ground, but block the escape of heat radiating off the surface. This results in steadily rising temperatures, or so the theory goes.

Once the levels of carbon dioxide are altered, Mitchell says, it will take thousands of years—even after consumption of fossil fuels has been reduced—to bring things back into equilibrium.

The earth has been in a warm period, called an "interglacial," for the last 10,000 years. Broecker calls the era he believes the earth is now heading into a "superinterglacial," a period of even warmer weather. Says Broecker:

"The addition of large quantities of carbon dioxide to the atmosphere will likely push the earth's climate into a realm considerably warmer than that experienced during the last several interglacials. In this sense, the postcoal-burning era will be a superinterglacial."

Researchers have been monitoring carbon dioxide concentrations at remote sites for the last 20 years. From stations at the South Pole and Hawaii, they have tracked a small but steady rise, from 313 parts per million of carbon dioxide to 331 parts per million.

A less definitive record, going back several hundred years, comes from analysis of tree rings. It indicates that levels of carbon dioxide started to rise in the early 1900s as the industrial revolution, with its massive use of fossil fuels, was getting into full swing.

One factor that could have contributed to rising levels of this gas in the past, and could be adding to the problem today, is the rate at which the world's great forests have been harvested.

All plants depend on carbon dioxide for life in the same way that all animals rely on oxygen. Trees consume more carbon dioxide than other flora and are essential in balancing the earth's carbon-dioxide budget.

In fact, when carbon dioxide levels are raised, plant growth is stimulated. Unfortunately, the rate at which growth is spurred is not nearly enough to counteract the rate at which humans are flooding the atmosphere with the gas.

The big worry. Coal is the energy about which researchers are most concerned. It represents the largest fossil-fuel resource left on earth, and has just begun to be exploited. President Carter, for example, is calling for the U.S. to nearly double its coal use by the mid-1980s to a billion tons annually.

The problem: For every ton of coal burned, three tons of carbon dioxide are shot off into the atmosphere.

One clue to the direction the earth's climate is going may be unfolding in desolate reaches of the Antarctic. Researchers say they may be seeing the start of the collapse of the Western ice sheet that covers roughly a third of that continent. They don't know whether ice movement is being caused by warming climate or by some other mechanism, but they guarantee it will add momentum to any warming trend if the ice sheet goes. The collapse of this continental ice mass could take less than 100 years.

Murray Mitchell warns that if the world puts off finding options to fossil fuels, "much of the damage will already have been done."

Mr. BAKER. Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

SENATOR LEAHY MOVES STAFF TO VERMONT FOR AUGUST RECESS

Mr. LEAHY. I thank the distinguished President.

Mr. President, I am delighted that both the distinguished majority leader and the distinguished minority leader are present today because I intend to announce an experiment in my office, an experiment that in many ways is made possible because of the leadership shown by both Senator ROBERT C. BYRD and Senator BAKER, and the type of work they have done in providing the schedule of the Senate.

Mr. President, I wish to emphasize at the beginning of my speech that I have the highest respect and admiration for the U.S. Senate. The people of Vermont have given me the greatest honor possible by letting me represent them in this body.

Moreover, I fully realize the national responsibility of serving in this country's highest legislative body.

It is because of this respect and admiration for the Senate that I would suggest we Senators spend far too much time in the Senate and far too much time in Washington. Like so many in Washington we reach the point where we can believe all wisdom resides here. Instead of fulfilling our representative capacities, we run the risk of emulating much of the national news media.

Instead of talking to people, we often end up interviewing each other.

Mr. President, this Republic has survived well. It is the oldest democracy in existence today. It has survived because of its representative form of government and its unique system of checks and balances.

As we enter our third century as a country, we need to reaffirm, by our actions, the commitment to a representative form of government.

Mr. President, I have been constantly impressed by the diligence and conscientious hard-working nature of my colleagues on both sides of the aisle. I sincerely doubt if there is a harder working group of 100 people anywhere in the world.

Nonetheless Mr. President, we could do more by doing less. We could spend less time here in Washington—even though it means less legislation passed and more time in our individual 50 States. During my first 2 years here, I have made nearly 100 trips back and forth to Vermont.

In returning to my birthplace—and returning to the people I represent and serve—I found, on many occasions, that the people thought differently than the "experts" in Washington. They gave me the encouragement and support in 1975, when I cast a vote in the Armed Services Committe to finally cut off the funds for the Vietnam war—a motion that was carried by a single vote margin. They gave me the support in the sometimes lonely fight to reverse a Federal urban bias in programs involving the needs of rural America. Time and again, when my family and I have been emotionally and physically exhausted by Washington, it has been friends and neighbors in our native Vermont who have rejuvenated and restored our spirits and my very strong commitment to this Government.

Mr. President, I hope that, notwithstanding an enormous complexity of our Government, the day will come when we can return for a month out of every three to our constituents to fulfill our primary responsibility in a representative government. I wish to praise my distinguished colleagues (Mr. BYRD and Mr. BAKER) for making returns possible this year.

I believe the leadership of the Senate realizes that it has probably never been demonstrated before how important it is for us to see the people we serve.

I wish that in future years, summers could be set aside to return home with our families and be with our constituents. I hope also that a month during the spring and again in the fall would be available for the same purpose.

Mr. President, I am willing to try ways to carry out my philosophy, I intend to try an experiment—one I understand is unprecedented in the Congress—during our statutory recess in August. I intend to move my Washington staff to Vermont.

To me it is as important for the members of my staff to have the kind of constant contact with Vermonters we serve as I do.

Staff members will travel extensively throughout the State, working and talking with Federal, State, regional, and local government officials and with other Vermonters who have contact with the Federal Government.

For many of them, it will be a sacrifice, for they will be away from their families and will have to bear additional living expenses while traveling around the State. There will also be long working hours, but they and I feel that this is an important effort.

Already, many people in the State have contacted me to say how happy they are with this experiment. Many have offered invitations to come visit them. Others have offered staff members a place to stay, room and board.

While I am encouraged by the response thus far, I shall not prejudge the usefulness of the program until we have returned to Washington and have gotten

specific feedback from Vermonters on how they feel about the program. If the response is positive, we will do it again next year. If, on the other hand, this program turns out to be unnecessary, we will try something else.

The important point here is that all of us in the Congress have to experiment in an effort to find new and better ways to reach people and respond to our constituents' needs and wishes. Congress has been criticized for a great many things, oftentimes legitimately, but I do not think I can recall a time when we have been criticized for being too sensitive to what our constituents are thinking.

In my own case, I have already done several things to stay in touch with Vermont, but together with my staff, I am constantly trying to come up with new ideas to better serve those who elected me.

Mr. President, in conclusion I cite just one example of how I have learned from some constituents.

Last year, staff members of the Plainfield Food Co-op wrote to me to explain that, under existing regulations, food stamps could not be used when preordering food. The Plainfield Co-op serves 1,500 families who are able to save on food costs because the organization's markup is between 10 percent and 40 percent lower than non co-op food outlets. However, as with most co-ops, customers must pay when the food is ordered and delivery usually takes two weeks.

Clearly those regulations did not square with the principles of the food stamp program, but I would never have known it if thoseVermonters had not told me. As a result, the legislation that was passed last year and the new bill this year both contained corrective language.

We have to realize, and so do those who work for us, that those of us in Washington do not have a monopoly on wisdom. Nor are we the source of every bright idea or solution. Our job must be viewed as a partnership with those people we serve, truly as representatives of the people.

Mr. ROBERT C. BYRD. The Senator from Vermont is conducting a very, very important experiment which I think all Senators will want to keep their eyes on.

Mr. BAKER. Mr. President, I want to commend the Senator from Vermont, not only for the experiment but for calling it to our attention today. It is a subject that is near and dear to my heart. I commend him for his courage to do it.

Mr. LEAHY. I thank the distinguished leaders.

Mr. President, I yield the remainder of my time back to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, how much time remains out of the Senator's time?

The ACTING PRESIDENT pro tempore. The Senator from Vermont has 10 minutes remaining.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may control that time.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

TIME LIMITATION AGREEMENT—LABOR, HEW APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the Labor-HEW appropriations conference report is called up before the Senate, there be a time limitation thereon of not to exceed 1 hour on the adoption of the conference report, to be equally divided between Mr. MAGNUSON and Mr. BROOKE; that there be a time limitation on any amendment in disagreement of not to exceed 1 hour, to be equally divided between Mr. MAGNUSON and the distinguished minority leader or his designee, and with the further proviso that this agreement may be vitiated by either Mr. MAGNUSON or Mr. YOUNG or Mr. BROOKE.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, as far as I know, that agreement is entirely satisfactory on this side. We have cleared it as best we can at this hour.

I appreciate the majority leader's making the proviso for vitiation by the distinguished ranking member of the committee and the ranking member of the subcommittee, and we have no objection.

The ACTING PRESIDENT pro tempore. If there is no objection, the unanimous-consent request is agreed to.

ORDER FOR CERTAIN AMENDMENTS TO BE CONSIDERED EN BLOC

Mr. ROBERT C. BYRD. Mr. President, with the understanding that we had earlier that Mr. MAGNUSON, or Mr. YOUNG, or Mr. BROOKE may vitiate all or any part of the agreement entered into with respect to the Labor-HEW appropriations conference report, I ask unanimous consent that, when the amendments in disagreement to H.R. 7555 are considered, amendments 3, 12, 13, 28, 45, 66, and 72 be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. JAVITS. Mr. President, as a principal coauthor of the Employee Retirement Income Security Act of 1974—"ERISA" of the "act"—I have had a deep and abiding interest in assuring the retirement income of millions of pension plan participants and beneficiaries. Starting in the 90th Congress in 1967 and in each succeeding Congress thereafter until 1974, I introduced bills to protect the benefit rights of American workers. Seeing the bill through to passage was a herculean task, and I understandably take pride in having played a major role in shaping this landmark piece of legislation.

ERISA was necessary because the private pension system was becoming discredited to the American worker. It simply did not have adequate minimum standards and safeguards for guaranteeing the payment of promised benefits. The Senate Labor Subcommittee's 3 years of intense study revealed innumerable cases of workers putting in years of honest labor and expecting to receive their pensions only to find that no benefits would be paid because of trustee abuse, inadequate funding or unfair qualifying rules. The human suffering caused was enormous.

Faced with so major and cruel a shortcoming in our social system, Congress finally acted to correct the situation. Because of the special tax treatment afforded employee benefit plans, the congressional tax committees became involved in the process which had been started by the congressional labor committees.

The involvement of four committees made the passage of a bill an extremely difficult matter, especially when one considers the rather abstruse subject matter. During my many years in Congress, I have never participated in a more politically and substantively complex legislative House-Senate conference than on the passage of ERISA.

With the exception of dual agency jurisdiction, the basic concepts of ERISA have proved to be sound. The reporting and disclosure provisions, the minimum standards including vesting, the funding and fiduciary requirements as well as the enforcement and plan termination provisions have withstood their initial test. Because of ERISA, benefits under many terminated plans are continuing to be paid by the Pension Benefit Guaranty Corporation, PBGC. The minimum standards protections are being incorporated into hundreds of thousands of plans across the country. The participants in the Teamsters Central States, Southeast and Southwest Areas Pension Fund can thank ERISA for assuring that their plan is now on the way to becoming a better and more reliable program for retirement security.

There are, to be sure, problems with some of ERISA's provisions, but this was not unexpected with so massive, complex and pioneering a statute forged under such divergent political pressures. Those provisions found wanting can, of course, be amended. But, Mr. President, we should not stop there because much can yet be done to expand the act's protections. We should make every effort to identify those areas where advances can be made and to fashion provisions which effectively and reasonably implement the desired ends. We have had almost 3 years to observe the implementation of the act, and the time is now right for Congress comprehensively to review ERISA and

to take steps to perfect as well as expand its protections.

In order to avoid the legislative difficulties of the past, I recommend that Congress proceed prudently, responsibly, and deliberately, emphasizing cooperation not confrontation. I also recommend that as we determine problems with the act and suggest solutions, we keep in mind that the overriding and paramount policy of the act is to assure retirement income security for workers and their beneficiaries. The bottom line consideration for every solution we propose must be whether it will benefit the workers the act was intended to protect and will be feasible for employers. In no way should our reconsideration of ERISA be turned into a grabbag for special interests pursuing their own benefits—the history of "Christmas Tree" tax bills must be avoided at all costs.

Mr. President, if I may, I would like to discuss some of the more pressing problems that have arisen and point out some of the new directions in which we should move to better protect participants and beneficiaries. I want to make clear that my remarks today are the first of many I intend to make about ERISA and are not meant to be an exhaustive discussion of all the issues which merit attention.

DUAL JURISDICTION

When ERISA was passed, I had grave doubts about the overlap of jurisdiction between the Labor and Treasury Departments with respect to certain areas of regulation. Parts 2 and 3 of title I of ERISA—regarding participation, vesting, benefit accrual, and funding—as well as section 406 of title I—regarding prohibited transactions—have corresponding provisions in the Internal Revenue Code added by title II of ERISA—hereafter, all section references are to ERISA. The dual administration of these substantive areas was the product of political compromise rather than objective analysis that this was the best way to proceed. As the original proponent of an independent pension agency, I was dissatisfied with this compromise when the act was passed, and I am still dissatisfied with the arrangement. To no one's surprise, dual jurisdiction has interfered with the effective administration and enforcement of ERISA.

Two basic approaches to solving dual jurisdiction have recently been proposed. In H.R. 4340, Congressmen DENT and ERLENBORN propose that the administration of ERISA be centralized in an Employee Benefit Administration, EBA. The President would have discretion to place EBA in an existing Federal department or to make it an independent agency. In S. 901, Senator BENTSEN proposes dividing jurisdiction between DOL and Treasury by giving exclusive jurisdiction over fiduciary responsibility and prohibited transactions to DOL and over participation, vesting and funding to Treasury.

The administration is presently considering a solution which basically follows the philosophy of S. 901 but which differs in some respects from the Bentsen bill. The administration solution is intended to reduce delays in issuing regulations, opinions and exemptions and will probably be sent to Congress for approval as part of the President's reorganization program. When the administration finally submits its proposal to Congress, I recommend that the Human Resources Committee hold hearings to study closely the division of responsibilities and the need for personnel changes.

I have given much thought to the dual jurisdiction problem as well as to the lack of policy coordination between not only the three principal ERISA agencies but also the other agencies whose decisions impact upon employee benefit plans. I have concluded that the administration approach, as presently formulated, may be a satisfactory short-term approach to dual jurisdiction and that the establishment of an independent, SEC-style pension agency on or about January 1, 1980 is the best long-term approach to dual jurisdiction as well as tri-agency administration.

The continuation of my initial, favorable reaction to the administration approach will, of course, be a function of the terms of the proposal. The administration approach, as distinguished from S. 901, should reduce administrative delays without causing disruptive change. I think that the employee benefit plan community is still adjusting to ERISA and that any significant administrative changes at this time would be counterproductive.

By January 1, 1980, though, the pension community should have amended its plans and should have adjusted to ERISA's requirements. At that time it will be appropriate to once and for all rationalize and clarify the Federal Government's administration of ERISA.

The independent agency I propose, which is similar to the agency I advocated before ERISA's passage, would be called the Pension Security Administration, PSA, and would become operational on or about January 1, 1980. The PSA Board of Directors would have five full-time members appointed by the President. The PBGC would become a division of PSA without its own Board. PSA personnel at the national office and in the field would be drawn to the fullest extent possible from the existing agencies.

All present DOL and PBGC functions would be transferred to PSA. I think it advisable to establish an impartial panel to study the extent to which present IRS functions could be transferred to PSA without interfering with the effective administration of the Internal Revenue Code. I do not foresee any changes in the IRS's present functions of determining the taxability of distributions or the collection of excise taxes. I do, however, advocate that the qualification of pension plans and the administration of the minimum funding standards be transferred to the PSA. Other IRS functions which should be considered for possible transfer include the determination whether contributions are within the required range, the enforcement of limitations on deductions, and the administration of code provisions on individual retirement accounts and code section 403(b) annuities. A PSA office of policy coordination should be established to coordinate PSA actions with those of the IRS.

In addition, the President should be directed to transfer, to the extent feasible and appropriate, the functions of other agencies dealing with employee benefit plans. All agencies should be required to coordinate with PSA those decisions and actions which relate to such plans.

The establishment of the PSA will result in the more efficient administration of ERISA, the orderly development of a national policy on pension and welfare plans, and the proper balancing of competing interests. The January 1, 1980, startup date for PSA will give enough time for the existing agencies to get their shops in order and for affected personnel to make their career decisions. It would also give enough time for the development of logistics to set up the PSA and for the pension community to prepare for the new agency.

My proposal on dual jurisdiction and tri-agency administration is a practical solution to a difficult problem. It combines a short-term attempt to reduce present administrative delays with a long-term reorganization to overcome the splintered administration of ERISA.

If the administration is serious about rationalizing and reorganizing the Federal Government and about helping American workers, it should adopt my proposal for streamlining and improving the administration of ERISA. As our population grows older placing greater strains on the capabilities of our retirement systems, the need for a thoughtful and coordinated national policy on retirement income security becomes a matter of the highest priority. In announcing his intent to appoint a blue ribbon panel to study our retirement systems, the President has indicated that the subject is of great concern to him. A centralized Pension Security Administration would provide the mechanism for rationally and wisely dealing with coming retirement income problems which involve ERISA as well as go beyond it.

MULTIEMPLOYER PLANS

In my view, ERISA's treatment of multiemployer plans is tentative and in need of further development. Time has shown that certain changes are necessary if plan participants are to avoid becoming "second class citizens." Representatives of organized labor have changed their views somewhat on the treatment of multiemployer plans, and I hope they will work closely with us. Without trying to cover all the topics worthy of legislative attention, I intend to touch on a few changes which should be made to help participants in such plans.

With respect to title IV which deals with plan termination insurance, multiemployer plans have several problems. I have been informed that a number of multiemployer plans intend to terminate on or about January 1, 1978, the first day of mandatory termination insurance coverage by the PBGC. Some of these plans may cover employees in "dying industries." One estimate of PBGC's potential liability from such terminations is in the hundreds of millions of dollars. Obviously, such staggering increases in liability will necessitate equally staggering increases in the premium paid to PBGC by multiemployer plans. Three ways of dealing with this problem are imposing a

cap on liabilities assumed by the PBGC, instituting some form of experience rated premium structure or combining the PBGC's single employer and multi-employer funds. Raising the 30 percent of net worth liability may also be a factor to consider. In order to give us time to devise a solution, I am introducing legislation to postpone the effective date for mandatory insurance coverage from January 1, 1978 to January 1, 1979. My purpose is to bring about high priority consideration by the PBGC and the Congress, and to have a vehicle before us for preliminarily dealing with this problem. My bill is intended to cause the marshaling of pertinent facts, ideas and solutions. I have accordingly requested the PBGC to accelerate its current study of potential plan terminations so that within 30 days the Congress will have the benefit of the latest available evidence.

A problem related to the potential multiemployer terminations in 1978 is the possibility that under section 4082, the PBGC will be required to reduce or terminate payments to plans discretionarily covered by the PBGC prior to January 1, 1978, in order to avoid jeopardizing the payment of mandatorily covered benefits. This requirement is unfair to those participants who are presently depending upon discretionary payouts from the PBGC.

I am deeply concerned about the district court decision in *Connolly* v. *Pension Benefit Guaranty Corporation*, 419F Supp. 737 (C.D. Cal. 1976), which held that a typical multiemployer plan—Taft-Hartley plan—was an individual account plan not subject to the premium payment requirements of title IV. The effect of this decision will be to deny title IV's termination insurance protection to millions of participants in collectively bargained plans. Congress never intended to exempt Taft-Hartley plans from title IV, and I hope this decision is rectified on appeal. As I said during consideration of ERISA, Congress "had no intention whatsoever of treating workers in these plans as second-class citizens and is determined that benefits be fully protected to the statutory limits regardless of the type of plan involved."

The present method under section 4064 for allocating liability when a plan with more than one contributing employer terminates is simply not fair. The liability is allocated according to the employer's share of total contributions for the 5 years immediately preceding the termination. The effect of this formula is to penalize younger, faster growing employers and to benefit older, less vigorous employers who have been making a lower proportion of recent contributions but whose employees will represent a larger proportion of retirees. One way to ameliorate this situation is to extend the 5-year period to 10 years. Since under section 4064(b) the PBGC can by regulation determine liability on an equitable basis, the Corporation should and is considering correcting this situation.

The definition of "substantial employer" in section 4001(a)(2) should be amended so that it covers employers who have contributed at least 10 percent of the total contributions to the multiemployer plan for 5 rather than 2 successive years. The present 2-year provision has a deterrent effect on large contractors undertaking temporary projects within the jurisdiction of one or more multiemployer funds. If the contractor accounts for 10 percent of the contributions for two consecutive years and subsequently no longer contributes to the plans, the contractor may be considered a substantial employer who has withdrawn from the plan. In that case, the employer would be required to place large amounts in escrow or post a surety bond under section 4063.

With respect to nontitle IV matters, I have two recommendations. First, in order to assure the prompt payment of employer contributions to multiemployer plans, ERISA should provide that the failure of any employer to meet his contractual obligations violates the statute's funding requirement without regard to whether the plan as a whole is funded or underfunded. The effect of this change would be to impose an excise tax on the employer under code section 4971. Serious consideration should be given to whether the tax should be treated as liquidated damages payable to the plan rather than the Treasury.

Second, the present definition of a multiemployer plan should be amended by eliminating the requirement that no employer can make more than 50 percent of a plan's aggregate contributions and substituting the requirement that the fund have at least 10 contributing employers or satisfy the Secretary of Labor that it encompasses a substantial portion of an industry or trade in an area. The purpose of this change is to make ERISA's multiemployer provisions applicable to industry plans which are dominated by one company.

PLAN TERMINATION INSURANCE

There are a multiplicity of issues arising under title IV which must concern us.

Section 4023 provides that the PBGC shall insure any employer who maintains or contributes to a plan covered by title IV against the payment of any liability imposed by subtitle D of that title. No insurance can be provided, though, unless the premiums on such insurance have been paid and the insurance has been in effect for more than 5 years. The PBGC has been working diligently to implement its statutory mandate and may have its final proposal ready by early September. One possible option for this contingent employer liability insurance program, CELI, is to make it a mandatory system involving bankruptcy procedures. Because CELI undercuts the basic 30 percent net worth liability provision for employers and because of feasibility problems, we may have to consider eliminating the program. We may wish, though, to give the PBGC some flexibility with respect to waiving liability for small employers in cases of substantial business hardship.

The PBGC is also considering requesting congressional approval in September of a premium increase. The size of the increase will depend in part on whether PBGC assets from terminated plans are invested in higher yield private sector securities or in lower yield Treasury obligations. Since lower premiums benefit pension plans and their participants by leaving more assets in the fund, I urge the PBGC to invest its assets from terminated plans in private sector securities. If the Treasury Department persists in frustrating what I regard as clear congressional intent in this respect, then I will propose statutory amendments that will assure PBGC investment in private securities.

Litigation has shown that it is difficult and costly to establish the net worth of an employer for purposes of imposing the 30 percent of net worth liability. I would consider amending section 4062 to apply the 30-percent figure to a more easily ascertainable measure of the employer's unencumbered assets. I also think clarification is needed as to whether the 30-percent liability applies to each plan termination or to all plans terminated by an employer. As the statute is presently drafted, an employer who terminates four of its plans over a 1-year period could arguably be liable for 120 percent of its net worth. With respect to the applicability of the 30-percent liability to a controlled group, I think there is such group liability, and I hope the bankruptcy judge's decision in *PBGC* v. *Avon Sole Company* (D. Mass., May 13, 1977), is reversed. The court in that case found that in order to be liable for a terminated underfunded plan, an employer must be the direct employer and not a stranger to plan beneficiaries who becomes the "employer" through control group theory. I also think consideration should be given at the same time to raising the 30-percent figure.

The present lack of coordination between the Internal Revenue Service and the PBGC with respect to the termination of qualified defined benefit plans is unacceptable. The IRS issues a letter of determination of qualification upon termination but conditions it upon the PBGC's approval of the section 4044 asset allocation. If the PBGC requires a change in the asset allocation, the employer must then go back to the IRS for its approval. If the agencies cannot administratively correct the present situation, the Congress will have to.

Under section 4022(b)(3), monthly benefits guaranteed by the PBGC cannot exceed: First, the employee's average monthly gross income from his employer during a defined 5 consecutive calendar years period, or, second, $750 multiplied by a factor tied to the social security contribution and benefit base. Rapid increases in the social security base have caused the $750 figure to jump to $937.50. Good sense dictates that we tie the ceiling on guaranteed benefits to a less volatile factor than the social security base. The cost-of-living indicator would be preferable in my judgment.

Serious thought should be given to how the PBGC's potential liabilities can be minimized with respect to pension plans sponsored by employers with low net worth. An employer with hardly any assets can establish a tax-qualified pension plan, maintain it for 5 years, and then terminate, leaving the PBGC holding the bag. Another example is when a large corporation sells a division to a smaller company with a much lower

net worth. Where the division's pension plan had the assets of the large company behind it, the same plan now maintained by the small company has a much lower net worth covering its liabilities.

I also believe that section 403(d)(1) could be amended to provide that upon the termination of a defined benefit plan, plan assets will be allocated according to section 4044. Upon the termination of a defined contribution plan, assets should be allocated according to the terms of the plan.

PLAN TERMINATIONS, SMALL PLANS, AND REPORTING (PAPERWORK) AND DISCLOSURE REQUIREMENTS

I am very concerned about the number of plans terminated since the passage of ERISA. In 1975, 4,000 plans covered by title IV terminated, while in 1976, 7,300 such plans terminated. The terminations during 1975 and 1976, though, affected only about 1 percent of all participants covered by plans on September 2, 1974. The PBGC has informed me that the rate of plan terminations in 1977 has decreased.

According to the PBGC, 65 percent of the terminating plans cited the following non-ERISA reasons for termination: business conditions or other business reasons, plan too costly, change in ownership, or liquidation of sponsoring employer. ERISA was given as the reason for termination by 20 percent of the plans and as one of several reasons by another 15 percent. Of the terminating plans, 86 percent were plans of ongoing employers. Among these terminated plans, about 28 percent were being replaced by another plan, and about half of these new plans were profit-sharing plans.

The IRS has recently reported that a preliminary and limited telephone sampling of employers suggests that possibly 30 percent of the Nation's 500,000 private pension plans may have or will terminate. Most of these plans were small plans. It should be emphasized that contrary to certain news accounts, many of these plans may have terminated prior to ERISA. The IRS is now preparing a mass mailing and expects to have reliable termination statistics by November. In addition, the Labor Department is preparing studies on plan terminations and formations.

I understand that the IRS is looking into the possibility of proposing separate statutory sections for small plans. I applaud this effort and agree that there are good reasons why small plans should not always be treated the same as those of major corporations. I urge the Department of Labor to take similar steps.

In addition, it may be advisable to establish two federally sponsored and administered pension benefit plans—one a defined contribution plan and the other a defined benefit plan—to which employers with 25 employees or less could make tax-deductible contributions. Such federally-run plans would encourage those small employers who may have terminated plans to once again provide for their employee's retirement security. There would be minimal reporting and disclosure burdens and no need to apply to the IRS for the tax qualification of such a plan. Asset management, funding calculations and recordkeeping would be performed pursuant to arrangements made by the Federal Government. It may be desirable to have such a program administered by a quasi-governmental corporation rather than by an existing agency.

With respect to the reporting and disclosure requirements for small plans, the Labor Department has taken a number of significant steps to reduce their burdens:

All unfunded welfare benefit plans and plans funded exclusively through insurance contracts and covering less than 100 participants have been exempted from the reporting requirements.

The requirement for an opinion from an independent qualified public accountant has been waived for plans covering less than 100 participants.

A shorter annual report for small plans—Form 5500-C—has been instituted, and plan administrators have been permitted to use low-cost second- and third-class mail to send summary plan descriptions to participants.

Beginning in 1978 all annual reports, including the 5500-C, will be sent only to the IRS on a specified date.

The DOL is studying the need for information presently required on its forms and will hopefully be able to eliminate unnecessary questions.

Some have advocated completely exempting small pension plans from the reporting and disclosure requirements. I do not support this idea because there is a justifiable need to have information even from small plans. Abuses and violations of the law can occur with small plans just as easily as they can with large plans. I do not think protecting participants should be sacrificed because of complaints about paperwork burdens, but I do think we should continue to find ways to reduce these burdens as much as possible as long as the interests of participants are adequately protected.

I support the proposal that for tax-qualified plans, the filing deadline for the initial EBS-1—DOL Plan Description Form—be changed to within 120 days after the plan receives a favorable determination letter from the IRS. The filing deadline for the amended EBS-1 should be changed to within 60 days after the plan receives reaffirmation of its qualified status from the IRS. The proposal will cut down on unnecessary paperwork. I also encourage the IRS and the DOL to analyze the feasibility of eliminating the filing of an EBS-1 with the DOL when a tax-qualified plan is amended and possibly when it is established. The IRS could simply report information which it receives in the qualification application to the DOL.

PREEMPTION

ERISA preempts all State laws that "relate to any employee benefit plan." While the act exempts State insurance statutes from preemption, it provides that no employee benefit plan shall "be deemed" to be an insurer for purposes of State insurance regulation. Any fund or program, therefore, which qualifies under ERISA as an employee benefit plan cannot be regulated by State law.

The original Senate and House bills preempted only those State laws which regulated substantive matters already covered by ERISA. In explaining why the conference version of the bill provided for broader preemption, I stated:

> Such a formulation (the Senate and House bills) raised the possibility of endless litigation over the validity of State action that might impinge on Federal regulations, as well as opening the door to multiple and potentially conflicting State laws hastily contrived to deal with some particular aspect of private welfare or pension benefit plans not clearly connected to the Federal regulatory scheme.
>
> Although the desirability of further regulation—at either the State or Federal level—undoubtedly warrants further attention, on balance, the emergence of a comprehensive and pervasive Federal interest and the interests of uniformity with respect to interstate plans required—but for certain exceptions—the displacement of State action in the field of private employee benefit programs.

I also called for further study of the preemption provision.

While I still think that broad Federal preemption is preferable, experience has shown that section 514 of ERISA may have gone further than desirable with respect to welfare benefit plans.

California's Knox-Keene Act, which regulates the funding, disclosure, sales practices and quality of services of health care service plans including self-funded welfare benefit plans, has been held preempted by ERISA. *Hewlett-Packard* v. *Barnes*, 425 F. Supp. 1294 (N.D. Cal. 1977). The Idaho attorney general has concluded in an advisory opinion that ERISA preempts Idaho's 1974 statute regulating self-funded health care plans. Other States, including Minnesota, Hawaii, Arkansas, Missouri, North Carolina, Oklahoma, Utah, and West Virginia have statutes regulating self-funded employee benefit plans which presumably will be held to be preempted by ERISA.

As a result, a regulatory vacuum has arisen in such areas as funding and participation where ERISA sets no substantive standards for welfare benefit plans. Welfare plan abuses include inadequate actuarial valuation, insufficiencies in claim reserves, and excessive marketing fees.

One especially serious problem is the use of the self-funded multiple employer trust—MET. A MET has been defined in a recent paper on preemption as a trust created to provide welfare benefit programs to employees of small employers with claim payments contingent, in whole or in part, on the availability of trust funds if benefits are not funded through insurance contracts. Insured MET's have been popular with small businessmen for years.

Recently, two California-based self-funded MET's have gone bankrupt, and others may follow. The two bankrupt MET's had covered 40,000 individuals and left at least $7 million in unpaid claims. Self-funded MET's cover an estimated 1 million people and allegations have been made that "industry sharks" are becoming involved in their operation. The Labor Department is studying this very complex matter, but has not yet decided whether certain MET's are employee benefit plans immune from State regulation.

In addition, other areas of potential conflict between ERISA and State laws involve State equal employment and age discrimination laws.

There are at least two ways of resolving the preemption problem involving welfare benefit plans. The first is to provide for complementary State and Federal jurisdiction by not preempting State statutes with additional standards for welfare plans. The second is to extend ERISA's substantive standards, for example its funding requirements, to welfare plans. The matter is very serious and should be thoroughly reviewed by Congress.

THE DANIEL CASE

In *Daniel* v. *International Brotherhood of Teamsters,* 410 F. Supp. 541 (D.C. Ill. 1976), the district court held that participation in a collectively bargained, compulsory, noncontributory employee pension plan involves the sale of a security to the employee-participant, subject to the antifraud disclosure requirements of the Securities Exchange Act of 1934. The effect of the decision, if upheld, will be to impose large liabilities on collectively bargained plans.

Mr. Daniel was the unfortunate victim of a brutally unfair break in service provision which denied him a pension in 1973 after 22 years of service because his service was interrupted by a few months' involuntary layoff. If ERISA's vesting requirements and break in service rules had been applicable, Mr. Daniel would have received his pension.

In its amicus curiae brief on appeal, the Labor Department points out that in balancing the competing considerations of retroactively protecting individuals like Mr. Daniel and forcing pension plans to face large new liabilities, Congress decided to make ERISA's protections prospective only. It therefore provided in section 203(b)(1)(F) that plans may disregard vesting years of service before the act's effective date which "would have been disregarded under the rules of the plan with regard to breaks in service as in effect on the applicable date." The Labor Department urges that even though the Daniel decision is based on securities laws rather than ERISA, the court, in exercising its discretion with respect to a judicially created cause of action, should heed pertinent policy decisions by Congress. The Department also recommends that the court consider that the securities law antifraud disclosure requirements are largely duplicative of ERISA's extensive reporting and disclosure provisions.

The issues raised in Daniel are of great concern to me, and I will be closely monitoring how the case proceeds through the courts. While there may well be an important subsidiary role for the application of the securities antifraud provisions to private pensions, we must see to it that such a role does not result in displacing or disturbing fundamental policies established by Congress under ERISA. After all, if the securities laws were intended to create remedies for participants that rival those provided by ERISA, there would have been little reason to enact the latter.

CONCENTRATION OF SECURITY HOLDINGS AND MODIFICATION OF THE PRUDENT MAN RULE

It has been advocated by Senator BENTSEN, who has been a wonderful friend and ally in developing ERISA, that a tax be imposed on pension managers with authority over more than $1 billion in assets who hold more than 5 percent of any class of security of any corporation. While those seeking to prevent the concentration of holdings of any one security by large institutional investors have admirable motives, I am not yet convinced that the issue is not more appropriately within the province of the Securities and Exchange Commission.

Questions have also been raised whether the prudent man rule has had a deleterious effect on pension plan investment in small companies. Senator BENTSEN has advocated that a 2-percent leeway clause be added to ERISA's prudent man rule to encourage pension funds to invest in small businesses. I am concerned, if it is a fact, that the flow of pension assets in the direction of small corporations has decreased because pension fund managers are being overly cautious. I do not, though, think that the way to solve this problem is to set aside 2 percent of pension plan assets as "mad money." I think the better approach is to clarify the prudent man rule preferably by DOL advisory opinion but if necessary by statutory amendment. One clarification to consider is providing that an investment in securities shall not be imprudent merely because the number of such securities is relatively small or because the securities are not widely held or regularly traded.

Another possible approach is to determine the prudence of an investment by looking at the entire portfolio. Such a provision, though, should not permit trustees to invest in unacceptably speculative investments.

Of course, if we are going to open the subject of the social uses to which pension assets can or should be put, I think it worth considering whether a percentage of such assets, particularly those in pooled real estate trusts managed by banks and insurance companies, should be invested in low- and moderate-income housing. In fact, I do not see how the venture-capital application of pension funds can be given priority over other socially desirable applications.

NEW PROTECTIONS

Since the passage of ERISA, I have given much thought to how its protections can be expanded. I have concluded that there are a number of ways in which ERISA can be responsibly extended.

Since the ultimate protection of an employee's right to an accrued benefit is the vesting of that benefit, I am in favor of establishing a faster vesting schedule so that an employee will be 100 percent vested after 5 years of service. This will give employees, particularly those who change jobs frequently, significantly greater protections. There may be a need for a transitional period in order to implement faster vesting.

In this era of continuing inflation, I think it is important that the benefits of retirees be protected from economic erosion. A fixed dollar pension is in reality a decreasing benefit. I, therefore, am in favor of requiring plans to make some provision for cost-of-living increases for retired participants. Because of the cost implications of this change and others, I will propose that the Human Resources Committee have conducted a cost study to determine the impact of these changes on pension plans.

The protections of section 205 regarding joint and survivor annuities can and should be significantly expanded. ERISA presently requires that if a pension plan provides an annuity benefit, such benefit must be in a form having the effect of a qualified joint and survivor annuity. Such an annuity essentially provides an annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent nor more than 100 percent of the amount of the annuity payable during the joint lives. A pension plan, though, is not required to provide such an annuity before the later of the earliest retirement date or 10 years before the normal retirement age.

If a participant dies before he is covered by a joint and survivor annuity, the surviving spouse can lose even the participant's vested accrued benefits. I advocate that this be changed so that a surviving spouse will be entitled to a survivor's annuity based upon the participant's vested benefit.

Section 205 should also be amended to require that a participant's spouse be given the same information as the participant on the consequences of rejecting the joint and survivor annuity. In addition, section 205 should be amended to permit the receipt of survivor's benefits by divorced spouses. The present requirement that a spouse be married to the participant throughout the 1 year immediately preceding the participant's death has had the inadvertent effect of precluding divorced spouses from receiving benefits. The provision that any election or revocation of the form of annuity payment may be deemed ineffective under a plan if the participant dies within 2 years of the election or revocation should be eliminated. A surviving spouse should not be denied the protection of a survivor annuity simply because the participant dies within the stated period.

My staff has been working with outside experts on the feasibility of establishing a central, federal portability fund to which vested accrued benefits can be transferred upon termination of employment. Even though the jury is still out on the proposal in some quarters, the justification for such a fund has been somewhat diminished by the creation of the rollover IRA. An employee who terminates employment and receives a lump sum distribution may transfer his benefits into a rollover IRA, and may, if the qualified pension plan of his second employer permits, transfer the assets of of his rollover IRA to the second pension plan. If an employee does not receive a distribution, he will, of course, not lose his vested benefits and upon application for social security benefits, will be informed by the Social Security Administration of all the plans under which he is credited with vested accrued benefits.

The concept of reciprocity, that is, the

transfer of years of service credit from one plan to another, is extremely difficult to implement because of the great differences between plans. I am aware that certain multiemployer plans have reciprocity provisions, and to the extent we can, we should encourage the development of reciprocity arrangements between plans in the same industry or area.

For those employees who are covered by qualified plans with low employer contributions, limited employee retirement account, LERA's, should be permitted. Under a LERA, an employee could contribute to an individual tax-exempt account the difference between a maximum figure of $1,500 and the amount of the employer contribution. In addition, during those years when an employee is not vested, he should be permitted to contribute the maximum amount to the LERA.

The present declaratory judgment procedure under section 7476 of the code should perhaps be broadened in scope with respect to subject matter, forum and agency action covered. The adequacy of the act's present remedies should be examined as should the possibility of strengthening the investigatory powers and staff of the enforcement agencies.

In addition, the possibility of requiring representative participant involvement in the administration of pension and welfare plans should be considered as a means of assuring that the needs of participants are continually communicated in a responsible fashion. I also support studying the possibility of paying some kind of retirement benefits to the approximately 1 million workers who lost their pensions prior to ERISA.

Finally, under section 206(b), a plan may not decrease the benefits of a pension plan participant in pay status or a vested participant who is separated from service by reason of any increase in social security benefit levels. This section should be amended to provide that benefits under disability benefit plans may not be decreased because of social security increases.

In conclusion, it is clear that there are many issues arising under ERISA which deserve our immediate attention. I will therefore, Mr. President, as ranking minority member of the Human Resources Committee, recommend that our committee hold ERISA oversight hearings early this fall.

I want to reemphasize that all concerned should do their best to proceed thoughtfully, steadily and responsibly so that every point of view is heard and considered before a bill is written. Cooperation rather than confrontation will produce a bill which will be in the best interest of plan participants and beneficiaries.

EXECUTIVE SESSION

(The following proceedings occurred later in the day and are printed at this point in the RECORD by unanimous consent.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business

The PRESIDING OFFICER. The nominations on the Executive Calendar will be stated.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The legislative clerk read the nomination of Alonzo Lowry McDonald, Jr., of Connecticut, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF AGRICULTURE

The legislative clerk read the nomination of Ray V. Fitzgerald, of South Dakota, to be a member of the Board of Directors of the Commodity Credit Corporation, and the nomination of Sarah Weddington, of Texas, to be General Counsel of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

THE JUDICIARY

The legislative clerk read the nomination of Earl E Veron, of Louisiana, to be U.S. district judge for the western district of Louisiana.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of John C. Krsul, of Montana, to be U.S. marshal for the district of Montana.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

TENNESSEE VALLEY AUTHORITY

The legislative clerk read the nomination of Simon David Freeman, of Maryland, to be a member of the Board of Directors of the Tennessee Valley Authority.

Mr. STENNIS. Mr. President, the nomination of Mr. David Freeman as a Director of the Tennessee Valley Authority leads me today to make some deeply felt remarks about the role and importance of that great institution to the Nation, and especially to the State which I am honored to serve in the Senate. Its distinguished past and its critical future are closely related to the nomination before us today.

TVA is the largest power-generating utility in the country, and its contribution during wartime and peace to the expansion of energy availability has been of incalculable benefit to the region it serves and to the Nation. For example, in 1933 approximately 3 percent of the farms in the TVA area had electricity; and, now, thanks to the energy program of that institution, the coverage is almost total. TVA has brought electricity to once remote and inaccessible areas and with it a new hope for development and progress toward a fuller life for the citizens of the Valley. On a nationwide scale, the energy technology developed at TVA has been and continues to be an important resource and model.

TVA is, of course, much more than a utility. Its farsighted and broad charter gives TVA as part of its purpose the following mandate: "fostering an orderly and proper physical, economic, and social development of said areas." TVA's development programs include a very wide variety of programs: river navigation, flood control, water management, community and economic development assistance, forestry development, health care service to remote areas, fisheries and wildlife development, environmental protection, recreational areas and projects, and its highly important fertilizer research and development programs—just to mention a few.

My home State of Mississippi has had a particularly beneficial relationship with the Authority. The first TVA customer for power was Tupelo, Miss., in 1934; and in the same year, Alcorn County, Miss., became the first rural electric power cooperative to purchase power from the system. Today, TVA power is marketed in our State through 28 rural electric cooperatives and municipal distributors who serve a quarter of a million customers.

The Authority's efforts in the area of fertilizer technology and farm development deserve special commendation. They make their technology available to the producers of fertilizer across America; and much of the agricultural and commercial fertilizer used today arose from TVA technology. Further, TVA makes special efforts to get the word to the small as well as large farmers by setting up demonstration projects and using demonstration farms in the various communities. This program has contributed substantially to America's agricultural output, as well as having improved the lot of many small farmers.

The future of TVA is of critical concern to us all. We live in complex times when all sorts of pressures and counterpressures develop around us. And, an agency like the Authority often finds itself caught in the midst of these maelstroms that swirl around us. Development versus conservation, economic growth versus environmental protection, energy expansion verus energy conservation, coal versus nuclear, and so forth—the controversies are deep and the solutions elusive.

In times like these it is important for an agency like TVA to stay close to the mission of its original charter. The original law was based on a vision broad enough to have brought TVA through the changing times since the early 1930's. TVA can and should serve as a model for the rest of the Nation in the area of responsible energy development and utilization, but it also must never lose its basic commitment to the people of the

Valley. This commitment is based upon its mission to advance the quality of life in that region by expanding life's opportunities for the people, developing the economy, and protecting and enriching the natural environment.

The TVA Act requires that "* * * all members of the board shall be persons who profess a belief in the feasibility and wisdom of this act." I personally attended the hearing on Mr. Freeman's nomination and questioned him about his dedication to the vision of TVA and the specific provisions of the act. I was particularly concerned about his full commitment to the continued economic growth and development of the entire valley. The nominee answered me fully, and affirmed that commitment. He said, in part:

I believe TVA's prime responsibility is to advance the economic and social well-being of the people. TVA's programs should be designed to spur economic growth.

And, in response to my quoting certain provisions of the act, Mr. Freeman responded:

I pledge myself to the vigorous execution of the above quoted provisions, especially those dealing with overall development of the Valley, without any reservation.

Based upon my careful scrutiny of Mr. Freeman's credentials and qualifications for this important post, and based upon his testimony and upon private conversations I have had with him, I support his confirmation. I believe that he is qualified to be a TVA director and is committed fully to the vision and programs of the Tennessee Valley Authority.

Mr. BAKER. Mr. President, I support the nomination of S. David Freeman to the Board of Directors of the Tennessee Valley Authority. His nomination received careful and thorough attention in 3 days of hearings in the Environment and Public Works Committee. Based upon his responses and the quality of knowledge of energy affairs he demonstrated, the committee has sent his nomination to the Senate unanimously.

Frankly, it was with some misgivings that I initially received this nomination. Mr. Freeman has worked as a part of the administration energy planning group which recommended the termination of the Clinch River Breeder reactor, an action which I believe would be extremely detrimental to the energy future of this Nation and the world. But in the course of the committee's hearings I questioned the nominee extensively on this issue. His responses were assurances that he felt the breeder was a vital technology and that while he personally held reservations regarding the present formulation of this program, he would not as a director of the TVA seek in any way to thwart the will of Congress if we approve continued funding for this program.

While I would prefer more enthusiastic support for the breeder program which both Mr. Freeman and I feel is essential to the full development of the nuclear energy option, I will accept his assurance that he will not use this office to impede the completion of the program.

Many questions on a wide variety of issues from Senators on and off the committee were asked of the nominee during the 3 days of hearings. His views on economic growth, the nuclear energy option, the future of coal, coal purchasing policies, and many other matters were carefully elicited. His responses have, I believe, indicated a proper attitude toward the need for balanced growth and careful objective analysis of all energy options. His responses have also indicated a broad knowledge of energy issues derived from his long involvement in national energy policy.

I believe that Dave Freeman will bring a new and fresh perspective to TVA in both energy and environmental matters.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

RAILROAD RETIREMENT BOARD

The legislative clerk read the nomination of Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

ACTION AGENCY

The legislative clerk read the nomination of John Robert Lewis, of Georgia, to be an Associate Director of the ACTION Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

(This concludes proceedings which occurred later in the day.)

CLEAN WATER ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1952, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1952) to amend the Federal Water Pollution Control Act Amendments of 1972.

The Senate proceeded to the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 3 hours, to be equally divided and controlled by the Senator from Maine (Mr. MUSKIE) and the Senator from Vermont (Mr. STAFFORD), with 1 hour on any amendment in the first degree, except an amendment by the Senator from Texas (Mr. BENTSEN), on which there shall be 2 hours, and with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Does the Senator from Maine yield time?

Mr. MUSKIE. Mr. President, I yield myself such time as I may need.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, 5 years ago, Congress completed a comprehensive revision of national water quality policy. The 1972 Amendments to the Federal Water Pollution Control Act were initiated by Congress and enacted over the President's veto. Their implementation has been uneven, often contrary to congressional intent, and, frequently more the result of judicial order than administrative initiative.

The Committee on Environment and Public Works has now completed a comprehensive review of those 1972 amendments. That review involved 15 days of hearings at which 159 scheduled witnesses and over 75 unscheduled witnesses appeared.

The committee was unanimous in its final vote to report this bill, and I believe that every member of the committee supports the overall thrust of this measure which reaffirms the basic regulatory structure of the 1972 act.

My colleagues in the Senate will recall that earlier this year, in April, House and Senate conferees were unable to reach agreement on continued funding for the water pollution program as part of the Public Works Employment Act. The Senate bill dealt with water pollution funding only, while the House bill contained far more extensive amendments to the act. Finally, the conferees were forced to drop all water pollution provisions so that the jobs bill could go farward.

At that time, we assured both the House conferees and the Members of the Senate that the committee would conduct a comprehensive review of the Clean Water Act and report back to the Senate before the August recess. We are here today with a bill that fulfills that promise.

As chairman of the Subcommittee on Environmental Pollution, and floor manager of this complex and important legislation, I am grateful for the time and effort that went into its production. Our committee deliberations were marked by a high level of debate, deep involvement of individual members, and a spirit of constructive compromise.

I am especially grateful to the members of the subcommittee who chaired

hearings in Washington and throughout the country. Senator ANDERSON travelled to Duluth and Alexandria, Minn., and Seattle, Wash.; Senators HART and WALLOP went to Ft. Collins, Colo.; Senator CULVER went to Le Mars, Iowa and was joined by Senator CHAFEE in New Orleans, La.; Senator STAFFORD conducted a hearing in Burlington, Vt. Each of them, by assisting in these hearings, made a comprehensive review of the Nation's water pollution control program possible.

The Subcommittee on Environmental Pollution was fortunate to have as new members, Senator ANDERSON and Senator CHAFEE—no members participated more in our hearings or contributed more to our markups.

I also express the appreciation of all of the members of the Committee on Environment and Public Works and to the staff. Without their help, we could not have accomplished so much.

Congress knew when it wrote the act in 1972, that its far-reaching scope and long-term goals would require periodic review. In anticipation of that need, the Congress authorized the appointment of a National Commission on Water Quality to study the implications of achieving or not achieving the 1983 requirements imposed by that act. The Commission study, which cost $17 million, provides valuable insight into the environmental and economic implications of the regulatory requirements which will be applicable at the beginning of the next decade.

Little contained in the study of the Commission could be construed as justifying major change in the direction established in 1972.

The Commission found the costs of achieving the 1983 regulatory requirements to be small and the benefits as substantial:

Additional price increases due to best available technology are smaller than due to best practicable treatment. Cumulative effects are predicted to average only 1.1 percent in 1985.

Generally the number of plant closures directly attributable to the regulatory requirements will be small. In many cases, they will be old, small, single-plant firms that could not remain economically viable over the next decade regardless of water pollution requirements.

Benefits expressed only in economic terms will reach a level of at least $33.3 billion and as much as $88.1 billion by 1985.

The Commission identified significant gains for the environment from the investment in achieving the 1983 regulatory requirements. And, the Commission pointed out that failure to proceed on the course directed in 1972 could eliminate many of the important water quality gains which will result from achievement of the 1977 requirements.

The hearings the committee conducted this year throughout the country and in Washington confirmed much of what the Commission study reported.

Russell Train, former Administrator of the Environmental Protection Agency, appeared before the committee and stated:

It has been approximately five years since the 1972 Clean Water legislation was enacted and a year since the submission of the report of the National Commission on Water Quality. Thus, the time is appropriate for undertaking a mid-term review of the FWPCA to determine what, if any, legislative changes are needed.

Much of the testimony that the subcommittee will be receiving will doubtless focus on economic aspects of the program. Questions will be raised about cost-effectiveness and these are important questions to address. However, I think it is critical that your review of the 1972 legislation emphasize above all the Act's stated objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." To restore the ecological integrity of our waters—to clean up our streams and rivers, our ponds and lakes, our harbors and estuaries—is surely one of the most inspired goals any nation ever set for itself . . .

As a closing word, I will simply reemphasize the point I made at the outset: whatever revisions of the statute are considered—and I would hope these could be kept at a minimum—they should be considered in the context of how best they contribute to the overriding purpose of the statute, to restore and maintain the ecological health of our nation's waters. We must not be distracted from that objective.

And Thomas C. Jorling, Assistant Administrator for EPA's Office of Water and Hazardous Materials, appeared before the committee and said:

I am sure you have heard from previous witnesses, here and in other parts of the country about particular problems with the Act's implementation. It is a complex piece of legislation and there have been probiems, but I want to strongly assert that despite the problems, the Act is working. It is gratifying to report that the great majority of industry will be in compliance with the 1977 requirements. Out of 4000 major industrial dischargers, an estimated 3,400 have complied with the deadline, and most of the remaining 600 are moving toward compliance. I think this stands as conclusive evidence of the basic validity and effectiveness of the Act's strategy for the application of uniform standards to point source discharges. Also, it is tribute to the ingenuity, dedication and good faith demonstrated by most of America's industry toward achieving water pollution control . . .

Let me preface my comments in this regard by saying that EPA feels the Act is basically sound as a mechanism for advancing the nation's water pollution control program. The proposals being offered by the Agency are aimed at fine tuning the Act's provisions.

This bill focuses on several major program areas: the municipal program, the industrial program, toxics control, and non-point source control. I would like to highlight each of these areas.

MUNICIPAL PROGRAM

In 1972, the Congress recognized that growth of the major urban areas in the United States and the continued degradation of the rivers, streams, and oceans demanded adequate treatment of municipal pollution. The Congress authorized, through contract authority, $18 billion which, when matched, would provide $24 billion to help meet the pressing need of cleaning up the pollution from existing public sources.

The purpose was to provide funding to achieve the objectives of an earlier statute and an earlier program.

In order to achieve this objective, a regulatory program was established codifying EPA's requirement for secondary treatment of municipal wastes. A deadline of 1977 was established for achieving secondary treatment. Cleaning up the pressing backlog was given the highest priority.

But another priority was evident. Congress recognized that most sewage is fresh water and that many valuable nutrients are lost when fresh water contaminated with human sewage is discharged into the oceans and rivers. The same nutrients that cause lakes to eutrophy could be recycled and reclaimed. Thus, the law required programs which emphasized reclaiming and recycling sewage, conserving water, reusing valuable nutrients, and reducing flows.

Unfortunately, these three primary directions—providing adequate funding, addressing the backlog of unmet needs, and moving toward reclaiming and recycling wastewater—have been inadequately addressed and often ignored.

Half of the $18 billion of Federal dollars was impounded early in the program. Collector sewers, interceptor sewers, and treatment plants were approved even though their primary purpose was to meet new growth needs. Secondary treatment was defined without recognition of reclaiming and recycling alternatives.

The result is a municipal program which lacks uniformity and is in serious disarray. Many of the nation's large cities such as Philadelphia, New York, and San Francisco, still discharge raw or inadequately treated sewage into rivers, lakes, bays, and oceans. At the same time, oversized interceptors and new collectors are constructed in suburban areas in anticipation of development, and treatment plants are sized to accommodate that growth.

Small communities are overwhelmed by complex requirements, the result of which is construction of conventional systems which they do not understand how to operate and cannot afford to run. Alternatives exist but are not encouraged by the institutions and personnel involved. Thus, the committee found only one operating major land irrigation-sewage treatment system in the U.S. It approaches self-sufficiency through the sale of a corn crop. This system achieves a level of treatment which exceeds drinking water quality.

With this background accumulated in hearings in small and large cities throughout the country, the committee addressed the municipal treatment program. The committee's objectives were to replenish funding; provide reasonable relief from specific regulatory requirements; reorient the direction of the program toward use of alternative technologies as required in the 1972 act; reestablish that the primary focus of the program is the backlog of needed facilities; reduce the costs to small communities; and reaffirm the requirement that the program be operated and maintained on the utilitylike basis.

FUNDING AND FEDERAL SHARE

One of the most pressing issues identified for the committee is the need for continued funding of the municipal construction grant program. Without additional funding for fiscal year 1977 and subsequent years—

At least nine States will not have sufficient funds to cover their need between now and September 30;

An estimated 20 States will run out of available funds by the end of October and 12 more would run out by January if they continued funding at normal rates;

State project planning for fiscal year 1978 through the priority list process will probably be deferred in many States until new funding is in hand, resulting in disruption to planned project scheduling;

States and localities will act to slow down project completions based on lowered estimates of funding;

States will be unable to develop funding strategies that ensure a good mix of planning, design, and construction projects for effective use of funds.

The National Water Quality Commission, the Administration, and most of the testimony before the Committee supported a long-term commitment of Federal dollars to the construction of publicly owned treatment facilities needed to eliminate the backlog of needed waste treatment works in the Nation's communities. It is anticipated that the cost of eliminating that backlog is greater than $60 billion, of which at least $45 billion in Federal funds will be required under current grant policy.

The committee considered a 10-year, $4.5 billion annual authorization to provide for these needs, but decided that the responsibility of the Congress in exercising budgetary control taken together with the need to reexamine, on a periodic basis, the Nation's priorities, suggested only a five-year authorization at that level. By its action, the committee does not suggest that the 10-year program will not be forthcoming. The Senate Committee on Environment and Public Works will continue active oversight responsibility for this program to determine whether or not the public investments are sound, and whether or not the kinds of projects assisted by the act are, indeed, part of the country's waste treatment backlog or are intended for other purposes.

This bill also provides an additional year for the obligation of funds released under a Supreme Court order—so-called fiscal year 1976 funds. This extension of the reallotment date for these funds was approved for several reasons.

The release of the impounded fiscal year 1976 funds, the fiscal year 1976 allotment, was $9.0 billion. more than twice the level of any previous allotment;

At least five States and the District of Columbia are projected to lose funds to reallotment if the date is not extended—Connecticut, Maryland, Delaware, Washington, D.C., South Carolina, and Michigan;

In order to use available funds, a number of other States would be forced to bypass the highest priority projects to reach those lower priority, but eligible, facilities that are ready to proceed before September 30;

EPA policy is to use the scarce funds now available for treatment related projects only, except for health emergencies, and the current reallotment date prevents effective implementation of that policy.

The committee is concerned about the possibility that the current reallotment date, along with the general tendency to speed the flow of money, has had the effect of inducing the construction of poor projects, especially projects constructed with the inadequate consideration of alternatives to conventional treatment. The committee expects the Administrator to manage the program to avoid this result.

By its actions, the committee underscored the intention of the 1972 act; the purpose of these funds is not to finance the future growth needs of the United States. Rather, the purpose is to eliminate the backlog with limited provisions for growth set forth specifically in the statute to recognize the cost-effectiveness factors and to achieve a balance between the pressures for economic development and the need for environmental improvement.

In order to stress this point, the committee considered eliminating entirely the eligibility for Federal financial assistance of lateral collector sewers. The committee decided that many small communities with serious ground and surface water quality problems caused by inadequate or overcrowded septic systems needed some form of financial assistance. At the same time, the committee intends that funds for these systems not be available for any future capacity. And the committee expects the States and the Administrator to fund alternative waste treatment systems which do not rely on collection and central treatment.

The availability of a 75-percent Federal grant has encouraged the construction of collectors. A town in Wisconsin installed an entirely new collection and treatment system to replace existing septic tanks and ended up spending $500 per household per year for debt service and operation and maintenance. A similar situation in Maine has produced costs of $220 per household per year for debt service and operation and maintenance.

The committee was disturbed by the fact that there seemed to be little relationship between the enforceable requirements of the act and the distribution of public funds for this program.

In a county neighboring Washington, D.C., the Environmental Protection Agency, the State, and county had proposed to construct a $400 million advanced waste treatment facility whose capacity was at least four times that needed by the existing population. Meanwhile, 43 other cities in that same State which would have gone without funds to construct needed secondary treatment facilities are potentially subject to abatement action for failure to comply with minimum treatment standards.

Again, to underscore that the purpose of the program is to reduce the backlog of future growth, the law specifically requires that State priority lists reflect the enforceable requirements of the act—the deadlines for municipalities and for those industries which will discharge through those municipalities.

The Administrator may not approve a grant award for a facility designed to meet new growth. He may only approve a grant for that portion of any facility which meets the specific criteria of this act.

The Administrator may not approve a grant for a project primarily designed to deliver more waste to a receiving water. No collection system for an existing community can be approved unless there will be available when that collection system is completed, a completed secondary or high level treatment facility to treat the waste prior to its discharge into a receiving water.

This bill also restricts the Federal share of a treatment works to a 10-year reserve capacity and a 20-year reserve capacity for interceptor sewers. This restriction will reduce Federal contribution by about $2.5 billion and will also limit unnecessary oversizing of plants.

The committee recognizes that the total package of amendments in this measure which deal with the municipal construction grant program may have the effect of slowing down the pace of grant awards. However, because these changes encourage the examination of cost-effective alternatives, efficient design for industrial contribution, and other factors to assure the proper use of Federal dollars, the committee feels that a slower pace is justified. This program is an environmental protection/water pollution control program, not a public works/jobs program, and steps must be taken to assure that the grants program is regarded as such.

ALTERNATIVE AND INNOVATIVE TECHNOLOGIES

The committee bill emphasizes the need to use alternative technologies that have been developed in place of conventional secondary treatment plants and encourages the development of new and innovative systems. To accomplish this, the bill requires republication of cost-effective guidelines to reflect the long-term benefits of reclaiming and recycling; creates a special setaside for rural and lightly populated areas to be used for alternative technologies; and authorizes 100-percent grants for the development of innovative technologies. The bill also includes a provision for extension of deadlines for industries which use innovative technologies to meet the 1983 requirements.

The committee intends that all of those involved in implementing the program—the Environmental Protection Agency, States, communities, and consulting engineers—redirect the program away from the conventional collection and secondary treatment approach and toward the use of alternative technologies, especially those which rely on natural systems, such as land or lagoons or marshes, in order to make use of the nutrients in the waste waters.

More than any other issue concerning the construction grant program, the committee hearings focused on the need to encourage alternative and innovative systems. The problems of small communities coping with expensive capital-intensive waste treatment systems and the wastefulness of discharging valuable nutrient resources to the Nation's waters were stressed throughout the country. The need for new industrial processes which produce no waste was emphasized.

The committee bill, in every possible way, attempts to reinforce the specific statement of the 1972 act with respect to innovation, use of alternatives, and

the adoption of policies which would lead to the confined and contained disposal of waste, utilization of the values of waste, and the elimination of the discharge of pollutants to the Nation's waters.

The committee bill recognizes that sludge, which is a burden to many communities, can be usefully applied as a soil conditioner, as a nutrient, and as a fertilizer. But the bill also recognizes that often sludge is so contaminated by the chemicals and metals which find their way into municipal waste treatment systems that it is useless. The committee adopted amendments to stop the waste of this important resource. The committee expects the Administrator to heed that emphasis of this legislation.

There is no defense for the practice of dumping all of the waste that this country generates into rivers, lakes, and streams. The 1972 act stipulated that the Nation's fresh and marine waters would not be an element of the waste treatment process. That continues to be national policy. For communities and industries, the discharge of waste directly into the Nation's waters and oceans is permitted only where there will be no interference with attainment and maintenance of that water quality which assures protection of water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water: that is only where ecological balance can be assured. Thus, alternative technologies for dealing with waste, particularly land treatment options which will take advantage of the valuable nutrients in the waste stream, and other waste recycling options should become the highest priority for funding under this act wherever these are feasible or available.

OPERATION AND MAINTENANCE EXPENSES

The committee discussed the issue of assuring proper operation and maintenance of municipal treatment systems with particular reference to the user charge question. The bill reaffirms the requirement of the 1972 act that operation and maintenance expenses be distributed in proportion to costs of operation and maintenance. The committee bill continues the policy that there be established a clearly identified revenue base for the operation and maintenance of municipal treatment facilities.

The committee considered testimony regarding the difficulties for some existing residential areas which do not have user charge systems to determine the exact usage of each recipient of the waste treatment service. To clarify any doubts, the committee bill includes an amendment which provides that meters are not required for existing users and that a flat rate or an ad valorem tax could be imposed as the flat rate or tax is proportional to use.

If the system of charges is based on something other than metering, the Administrator must require the applicant to establish a system whereby the necessary funds will be available for operation and maintenance of the treatment works. He also must require the applicant to establish a procedure to notify the residential user as to how much of his total payment will be allocated to the operation and maintenance of treatment works.

This amendment recognizes the privilege of local governments to carry out their responsibilities under the act in a manner which is particularly appropriate to their citizens. The amendment allows such flexibility, while insuring that the goals of proportionality will be carried out.

A system of charges based on a flat fee per household or per plumbing fixture would be authorized under this amendment. A user charge system based on a flat fee for residential users would save communities the high cost of installation, maintenance and reading of meters.

Charges levied on residential users in the manner allowed by this amendment may be collected as part of the ad valorem taxes or by some other means. Funds so collected must be sufficient for the dedicated purpose of proper operation and maintenance of the treatment works. The amendment does not authorize a system which would allow these funds to be diverted to other uses within the municipality or withheld from the treatment works.

The proposed amendment requires the Administrator of EPA to impose restrictions on the applicant who establishes a charge system based on something other than metering. The intent of these restrictions is to address the reservations raised above. First, the amendment requires the applicant to establish a system which will ensure the funds necessary for the operation and maintenance of the treatment works. Such system could include a separate fund such as an escrow account. Second, the applicant is required under the proposed amendment to notify the individual user as to the costs paid by the individual for the operation and maintenance of the treatment works.

The committee believes that public knowledge of the cost of operation and maintenance of the treatment works to individual residential users will promote efficient management of the system and foster a public interest in water conservation and other measures to reduce flows and thereby reduce treatment costs.

This provision is a modification of the user charge provision of existing law, which requires that no construction grant for a municipal waste treatment facility may be made after March 1, 1973, unless the applicant has established a system of charges to insure that each user of the facility pays its proportionate share of operation and maintenance costs, including replacement, of services provided by that facility.

As early as 1966, the problems associated with the operation and maintenance of federally financed waste treatment facilities were recognized. The major problem was the inability of municipalities to sustain the costs of operation and maintenance of facilities constructed with Federal grant money.

The committee reviewed the industrial cost recovery question and adopted changes which, while reaffirming the basic intent of the act, provide that industrial users should repay that portion of capital cost of the system attributable to their use. The purpose of industrial cost recovery is to avoid inequity through subsidy which creates a competitive advantage for an industrial point discharging through municipal plants over those sources which must construct separate treatment works and pay the entire cost.

The limited changes would provide relief for industries which have conserved subsequent to joining a municipal system, allow industrial cost recovery payments to be used for program implementation and exempt certain small industries whose discharges are nontoxic.

DEADLINE EXTENSIONS AND MODIFICATIONS

The committee approved a case-by-case extension for municipalities which were unable to meet the July 1, 1977, requirements, in part as a result of recognition of the impact of impounded funds. These extensions are available only to municipalities which would require substantial construction and for which Federal funds were not available, if they agreed to establish and maintain an interim compliance schedule.

Of 12,500 treatment plants now in operation, 4,150 or one-third will meet the 1977 requirements of Public Law 92–500. These plants serve about 52 million persons. Plants that will not meet the deadline serve about 92 million persons. EPA has provided the following estimates as to ultimate municipal compliance:

Most facilities were operated out of municipal budgets and were thereby subject to municipal fiscal constraints. These constraints included legal limitations on the amount of general obligation debt, limitations on municipal tax sources and the taxing power of special districts, rapid increase of the demand for other public services, and reliance on additional burdens on property taxpayers to improve operation and maintenance.

The concept of "user charges" was originally proposed as a means of assuring that each Federally assisted facility would have adequate operation and maintenance funds. In this way, municipalities could employ their limited taxing powers in providing other forms of public services, and waste treatment facilities could be operated and maintained efficiently, thereby assuring adequate waste treatment services and the sound investment of Federal dollars.

Further examination of the user charge concept revealed additional benefits. A charge to the "consumer" based on cost of treatment, would be a positive force in encouraging more efficient management of wastes discharged through a municipal system as well as an economic inducement to reduce excessive use.

Under the committee amendments, greater flexibility will be provided for the assessment of user charges among residential users. The community may use water meters, flat rates, or ad valorem taxes, so long as the basic requirement of proportionality in the distribution of costs among each recipient of waste treatment services is assured. In adopting this amendment, the committee did not change the basic requirements

of the law, the committee only provided more options to communities.

EPA estimates the cumulative number of facilities currently in operation that would achieve secondary or more stringent treatment levels:

Fiscal years:	Meet level	Not meet level
1977	4,150	8,370
1980	5,260	7,260
1985	8,250	4,270
1990	11,200	
1993	12,500	

Although there is no precise estimate of the number of present industrial hookups to municipal waste water systems, roughly 50,000 industries, most of which are relatively small, is an EPA approximation. Based on a survey this year of major industrial discharges in the paper industry, the total number of major industries—flow greater than 50,000 gallons per day—in all categories desiring hookups to municipal systems would be in the order of 70 to 100. There is no estimate of potential hookups for the small industries, but EPA believes that several thousand such industries may find hookups to be advantageous.

The purpose of this amendment is to allow the permitting agency to extend the date of compliance for those treatment works, and industries with contracts to tie in to treatment works, which have made all possible good faith efforts to meet the July 1, 1977, deadline and whose failure to do so is primarily the fault of the Federal Government. For those industrial and municipal sources which are unable to meet this statutory deadline due to their unwillingness to take appropriate actions and spend necessary amounts of money at the earliest possible time, the committee intends that no extension be granted and that enforcement actions be undertaken under section 309.

Some communities located along the Nation's oceans have argued that there is no need to require secondary treatment for municipalities which discharge into ocean waters. The committee determined, after much analysis, that there should be a mechanism by which communities making this argument can test their case in the administrative process. No such contention was made for fresh water discharges. There seems to be general acceptance of the need to achieve a high degree of municipal waste treatment for discharges into the Nation's rivers, lakes, and streams. But with respect to marine discharges, the committee has provided a limited exception. The Administrator can, on a case-by-case basis, exempt a publicly owned waste treatment plant from the requirements of secondary treatment for marine discharges where a specific showing is made.

Where applicable water quality standards exist specific to a pollutant in a discharge, the municipal source can apply for a waiver from the secondary requirement for that pollutant if a showing is made that the applicable water quality standard will be maintained; there will not be interference with the national water quality standard for that pollutant, if indirect sources which discharge into that system meet all applicable pretreatment requirements; if no other point or nonpoint source will be required to meet additional requirements because of a modification of the secondary treatment requirement; and if the volume of discharge of the pollutant will not increase beyond that specified in the modified permit for the period during which the waiver is granted.

Throughout its deliberative process, the committee sought to keep a basic objective: That the funds for the program must be replenished and must be provided over a sufficient period of time to allow communities to know what they can expect in order to meet what is expected of them; that the primary thrust of the program must be directed toward the backlog of untreated wastes; that the program must be redirected from its current emphasis on capital-intensive conventional treatment systems toward those alternative systems which reclaim and recycle wastewater; that operation and maintenance must be on a utility basis; and that the States, the municipalities and the Federal Government must continue to operate this program in a shared relationship, with shared responsibilities.

INDUSTRIAL

With respect to the industrial program, the committee recognizes and applauds the significant success that most of the Nation's major industries have attained. And, for those who have begun, have made the investment in waste treatment facilities, have complied with the 1977 requirements, there will be significant economic as well as environmental benefits. There will be environmental benefit to receiving waters, economic benefit to those companies which bought pollution control when pollution control was considerably less expensive than it will be as result of inflationary patterns, and competitive improvement as a result of the delayed compliance fee required by this act.

Ninety percent of the Nation's industries will meet the 1977 requirements of the 1972 act. A good portion of those who will not, will fail for what appear to be legitimate reasons. And about half of those who fail, according to Environmental Protection Agency, will not have complied because of lack of diligence, lack of good faith, or lack of interest in the success of this program.

The committee believes that a case has been made in our hearings on this bill that some relief from penalties must be granted for those sources which have made a good faith attempt to comply with the deadlines in the statute but for justifiable reasons have been unable to do so. The committee considered but rejected the alternative of providing a case-by-case extension of the deadline set out in the statute. That alternative was rejected because the committee felt that such a case-by-case extension would not only burden the administrative process but that it would provide further opportunity for delay for those sources which are otherwise unable to make a legitimate case for additional time. Consequently, decisions by the Administrator pursuant to this new provision of law should not be the subject of administrative hearings and appeals but rather, if the Administrator feels he cannot determine that a source meets the requirements of section 309(a)(5)(B), that he will immediately proceed under any of the other enforcement options set out in section 309. This authorization of limited flexibility granted to the Administrator will maintain the pressure for compliance while at the same time enabling the Administrator to use his discretion to grant any justifiable extension.

With regard to the 1983 requirements for industries, the bill authorizes a case-by-case exemption for industries which demonstrate, to the satisfaction of the Administrator, that pollutants in their discharge are not toxic or harmful to the aquatic environment; that the pollutants discharged will not interfere with the attainment of the national water quality standard—defined as protection of public drinking water supplies, protection and propagation of a balanced population of fish, shellfish, and wildlife and allows recreational activities, in and on the water; that there are applicable water quality standards for each exempted pollutant; that the new limitation will not be less than required by best practicable treatment; and that the exemption would not be available for pollutants designated as toxic or hazardous pursuant to the act or the Safe Drinking Water Act.

This approach allows the discharger to demonstrate no adverse effect of pollutants in his discharge and have his requirement reduced.

1977 DEADLINES

Only a small percentage of sources within a few major industrial categories will be out of compliance with the 1977 requirements and subject to enforcement actions. Of 4,000 major industrial dischargers, only 633 or 15 percent will fail to meet the deadlines. Of these, only 300 are candidates for enforcement. Of the remainder, more than 100+ are powerplants awaiting 316(a) exemption decisions; 100 are in adjudicatory hearings contesting legitimate issues; and 100 are tied into municipal systems. Some of the 300 will end up in court if the enforcement order is contested. There are 94 district courts in the country; there is no danger of the courts being overloaded by enforcement actions, and EPA is trying to negotiate enforcement orders without going to court.

For those industrial dischargers not in compliance, the bill provides the Administrator with yet another tool by, in effect, sanctioning what has been a policy of dubious legality with respect to delays in compliance. Two new enforcement tools are provided. First, these amendments provide the Administrator with authority to issue enforcement orders which specify a reasonable time for compliance with a final deadline. Current law limits the Administrator to issuing orders of 30 days duration.

Second, these amendments allow the Administrator, at this initiative, to grant a simple extension of 18 months to a source whose facilities are under construction but could not have been completed by July 1, 1977. This is simply a codification of the enforcement compli-

ance schedule letter process which the Administrator has used for sources which, in good faith, have tried to comply with the law.

The Environmental Protection Agency has developed an enforcement strategy under current authority to initiate enforcement actions only against recalcitrant major dischargers. Dischargers who are going to miss the July 1, 1977, deadline through no fault of their own will not be subject to enforcement actions; instead, they will receive enforcement compliance schedule letters, stating a specific date by which they must comply with a final deadline and an interim compliance schedule. The committee bill, essentially, codifies this policy.

A case-by-case extension through section 301 for industrial dischargers would be a variance. It would place a significant administrative burden on the resources of the Agency. EPA would have to determine bad faith before rejecting a variance, which determination would be subject to administrative procedures and judicial review. Because the action focuses on a particular "person" and is the modification of an effluent limitation, it requires a formal adjudicatory hearing. The determination is subject to judicial review.

This process is resource-intensive and time consuming. According to EPA estimates, adjudicatory hearings involving major dischargers require, on the average, 86 days to review the request for a hearing, 157 days to publish public notice and allow time for intervenors, and 473 days until an adjudicatory hearing can be held.

Two examples of steel industry use of these procedures are instructive. A permit was issued to United States Steel in Gary, Ind., in October 1974. The final settlement was reached in April 1976. This was one that EPA pursued vigorously and moved quickly. The final resolution by the circuit court of appeals was wholly in the Agency's favor. The second case also involved United States Steel in its Monongahela works. There was no contest on the prescribed technology, just the actual limitations to be achieved. Yet this case, also resolved wholly in favor of the Agency, took 2 years and consumed 5 percent of enforcement resources during that time—25 man-years. During that period, two other steel plants in the same area installed the technology.

A good faith variance would create a new layer of review. If the industry did not like the variance decision, it would adjudicate it. During the period of adjudication, it would seek a stay from the requirement. EPA would have to prove "bad faith" through every step of a cumbersome process.

Although there occasionally are cases in which the discharger's inability to comply is clearly due to factors beyond its control, the majority of cases require extremely subjective judgments. In such cases, an Agency denial would almost certainly be followed by an appeal to the court of appeals, thus delaying Agency enforcement efforts. There is adequate opportunity for judicial review in Federal district courts in an enforcement action. The committee bill maintains this opportunity.

The legitimate concerns of those industrial dischargers who cannot comply with their pollution abatement requirements by July 1, 1977, through no fault of their own, is adequately handled by the committee bill. Such dischargers are further protected against any unjustified enforcement action by their ability to present their good faith as a mitigating factor to the district court which controls any enforcement action which may be brought.

The industry with the greatest rate of noncompliance with the 1977 requirements is iron and steel: 46 percent. It is also one of the industries with a major discharge of toxic and nondegradable pollutants. Normal constituents include phenols, cyanide, fluoride, chromium, nickel, and lead. Although the 1977 requirements are not geared directly to toxics, they will achieve a substantial reduction of all materials within the iron and steel industry dischargers. Continued litigation and delay would mean that these discharges would continue unabated until final judicial resolution first of the variance, and then, if necessary, of the ensuing enforcement order.

TOXICS/1983 REQUIREMENTS

While the committee found little disagreement over the need to regulate toxic discharges to the Nation's waters, some controversy exists over the best mechanism with which to regulate toxics.

The committee decided that the 1983 requirements based on best available technology in Public Law 92–500, supplemented by earlier limitations under section 307(a), provide the most effective mechanism in the act for dealing with toxic pollutant discharges. Not only is BAT a technology-based requirement as recommended by the National Commission on Water Quality, but it also calls for heavy reliance on advanced technology and in-process controls which are appropriate for dealing with the majority of toxic discharges. More importantly, the nature of the toxics problem is so pervasive that the most effective approach in dealing with it is on an industry-by-industry basis.

Studies over the past year have identified large numbers of pollutants that have known or strongly suspected toxic effects, many of which are carcinogens. Past experience has shown that the only practical way of dealing with such a problem is to examine each industry category or subcategory. In this manner, control options can be developed that deal most effectively with the entire waste stream of an industry. This is the approach called for by best available technology.

Another, and possibly more important, reason for maintaining the 1983 requirements is that the Agency currently has a major program underway of using BAT to control toxics. Technology-based effluent limitations are being developed which will place limits on toxic pollutants which pose or are likely to pose human health and ecological hazards.

To take a different course for dealing with toxics at this point would require a major reprograming of EPA resources. Such a delay, whether it be to allow utilization of a different section of the act or in order to implement a completely new section, would only cause confusion and add still more delay to efforts to solve the toxics problem. The discharge of toxic pollutants in toxic concentrations should be eliminated as soon as possible. Because EPA is already embarked upon a program to control toxics using a proven mechanism, technology-based effluent limitations, and because of the urgency to control toxics, prudent public policy demands that that strategy be maintained.

The seriousness of the toxics problem is just beginning to be understood. New cases are reported each day of unacceptable concentrations of materials in the aquatic environment, in fish and shellfish, and even in mother's milk. Emperical evidence has shown a statistical correlation between materials in New Orleans' drinking water and cancer mortality rates; Kepone has destroyed the James River, one of America's most productive, and most historic rivers. PCB's are pervasive and have ruined the fishing in the Hudson River and the Great Lakes; carbon tetrachloride is only the most recent material to contaminate the Ohio River; the pesticide endrin has been found in the Mississippi; perhaps worst of all, are the ones we do not know of yet.

The more we find out, the more cause there is for concern. PCB's, the most studied and the most prevalent, are good examples. The cancer risk from breast feeding has been placed at approximately 10 times than that from consumption of saccharin, due to the levels of PCB, DDE, dieldrin, and others, according to the environmental defense fund. Salmon in the Great Lakes have been found with 10.45 ppm and lake trout with 22.91 ppm of PCB's—twice and four times the Food and Drug Administration's tolerance levels. Since these are sports fish, they are not screened by the FDA and are routinely eaten. The herring gull is failing to reproduce in the Great Lakes region because of PCB's and Mirex, a chemical cousin. And another study found that between 41 percent and 45 percent of the U.S. population has at least 1 part per million of PCB's concentrated in human tissue.

It is imperative that these materials be controlled. The 1977 requirements have made a beginning, but much more is required. Early data indicates substantial toxics remaining after BPT. In iron and steel, there are benzene, napthalene, and phenolics. Leather tanners are discharging 60,000 pounds/year of chrome and 130,000 pounds/year of phenols; in petroleum refining, those numbers rise to 400,000 pounds/year, and 180,000 pounds/year, respectively. Timber processing discharges cadmium, benzene, toluene, and PCP.

The National Commission on Water Quality did only limited work on toxics in its environmental study but its findings also were disturbing.

Based on their review of 41 study sites, the Commission reported that two major categories of recognized toxics, heavy metals—including mercury and cadmium—and pesticides, were the most

commonly observed. Concentrations of one or more of the heavy metals commonly exceeded suggested safe limits in the water column or in fish tissue at 17 sites—41 percent. At an additional 12 sites, heavy metal concentrations sometimes exceeded safe limits or were evident in high concentrations in bottom sediments. Six sites—15 percent—were found to have no problems with heavy metals, while detailed data were not presented for six sites. The most commonly cited heavy metals were mercury, zinc, lead, manganese, and iron. Major sources of heavy metals cited included industrial point sources, urban runoff and mine drainage.

Pesticide concentrations commonly exceeded suggested safe limits or were linked with fish kills at nine sites—22 percent—in recent years. Presence of pesticides at an additional five sites were noted as being sometimes above safe levels. Low concentrations of pesticides appeared at 7 sites—17 percent—and detailed data were not available for the remaining 20 sites—49 percent. The most commonly cited pesticides were DDT, dieldrin, and Heptachlor. Runoff from agricultural land was cited as the major pesticide source at eight of the problem sites. Forested and urban land runoff was noted as a contributing source at a number of sites.

Other toxic substances were detected at a number of sites. Polychlorinated biphenyls—PCB's—were noted as exceeding safe concentrations in fish tissue and sediments at five sites, all associated with industrialized areas. Phenols linked with industrial discharges were cited as possible toxics at seven sites.

The committee reaffirmed the commitment made in 1972 to achieve a second phase of technology-based controls on industrial point sources aimed at toxic and other exotic materials which remain after achievement of the 1977 requirements. Considerable testimony was taken on the 1983 requirements based upon best available technology, more than on any other subject. The issue was pursued by all committee members with great interest.

These requirements were a primary focus of the National Commission on Water Quality, and were the subject of panels in hearings in Duluth, Seattle, New Orleans, and Washington, D.C. The committee was impressed by the testimony of Dr. Robert Harris of the environmental defense fund, and Dr. Edwin Gee of the duPont Co., who appeared together on a panel in Washington, D.C. on June 23. They each spoke persuasively of the urgent need to limit or eliminate the dispersal of toxic or unknown materials into the aquatic environment.

Senator CHAFEE pursued the question of the most appropriate mechanism for controlling toxic pollutants, particularly the use of case-by-case controls on specific substances versus industrywide application of best available technology. Dr. Harris replied:

> . . . I think the current strategy of course is instead a prohibition of discharge where needed; PCB was mentioned as one example of the very persistent biochemical type of chemical which poses a substantial threat to the public which should be banned from commerce and there should be no discharge of this chemical in the water. There are other toxic substances for which we have enough information that we can justify setting threshold effects, if you will, or concentrations which would represent safe concentrations to the aquatic environment, to the humans consuming that water, and there are other toxic substances for which we don't have that amount of data which practically necessitates that they be controlled through a best available control technology together with their potential toxic effects and economic impacts.
>
> I believe that is all of these approaches being used now under the existing Act and I believe to the extent that I think there is some agreement among us on that, that is how I interpret what is needed . . . .
>
> . . . That is what we are doing, I think right now, through the BAT requirements. So I would support that. I think maybe I would disagree, and Dr. Gee can respond to this, in fact we do disagree, that it should not be done on a case-by-case basis, BAT determined on a case-by-case basis.
>
> That is really getting into the pitfalls that led us to issuing the Act in the first place. Clearly, I think there is a need for industrywide standards that can be justified for best available control technology and regulations of toxic pollutants.
>
> You get into the problem of obviously when you go another route of blackmail. If you require us in this case to clean up toxics, we will move somewhere else where the standards are not as stringent I think is something we ought to avoid.

Dr. Gee then responded to the same line of inquiry:

> I am basically in agreement with what Mr. Harris said. I ought to preface my remark and say that I do think he performs, his organization, an important social service in bringing to the attention of society the kind of thinking that he has here today of trying to point our potential hazards that we can look at and try to do something about.
>
> I doubt that enough of that has been done in the past. We perhaps differ on this last point on my emphasis on the case-by-case basis in the treatment of toxics because it is a very large, very complicated list.
>
> We are already removing many toxics. We are using biochemical decomposition; we are using salt extraction, carbon absorption, stream stripping, and if you really want to take these toxics out, first you have to decide are they there, what are they; then you take the procedure to take them out.
>
> Use the shotgun, your opportunity of getting all of them is reduced. I think it is important that wherever we have the knowledge we use it; wherever we don't, I am completely in agreement with Mr. Harris, we ought to go to best available treatment.

Control of toxics is the major, but not the only, reason the committee maintained the 1983 requirements based upon the best available technology requirements in the law. After achievement of the 1977 requirements, there is still a need to control conventional pollutants. Twenty percent to 34 percent of the Nation's waters will not be suitable for game fish populations; east of the Rockies, that percentage is 32 percent to 49 percent.

Furthermore, according to the National Commission on Water Quality, growth will at least double the discharge of conventional pollutants if only the 1977 requirements and new source performance standards are used. And industrial sources are still projected to account for about half of the BOD loadings after the 1977 requirements are achieved.

It has often been argued that after the 1977 requirements are achieved, the major problem will be non-point sources. This is generally true, but those loadings do not usually create serious water quality problems because they occur at time when flows are extremely high. For example, during Hurricane Agnes, dissolved oxygen readings for the Potomac River were over 8 mg/1, approaching saturation, even though enormous amounts of BOD was reaching the water.

The National Commission on Water Quality recommended that Congress postpone the best available technology requirement for a sufficient period of time to determine the receiving water quality impact of compliance with the best practicable technology requirements for 1977. The Commission based its recommendation on studies which seemed to suggest that the national goal of water quality which would protect balanced indigenous populations of fish, shellfish, wildlife, and other aquatic life throughout their ecological cycle would be achieved with the 1977 requirements. The Commission projections were based on the anticipated improvements in the dissolved oxygen content of water as a result of the application of best practicable technology.

The committee did not challenge the judgment of the Commission with respect to dissolved oxygen even though no national water quality criteria has yet been published. The committee recognizes that any particular level of water quality would be dictated by the particular location, the particular species and the particular activity in which that species was involved. Thus, higher levels of dissolved oxygen would be required in areas in which fish propagation is occurring or more susceptible elements of stream life on which fish depend for survival are going, than might be the case in other areas.

The committee did determine that, in fact, it was possible that the best available technology requirements might result in the application of excessive controls to certain kinds of conventional pollutants for which sufficient information was available to make a judgment as between a particular discharge and a particular receiving water quality. Where that judgment could be made, the committee felt that it was appropriate that relief should be provided. The committee was particularly concerned, however, that such a waiver not be extended to those pollutants for which significant knowledge has been accumulated.

The Administrator is expected to expedite these determinations. Whenever he determines that there is substantial likelihood that a petition for a waiver will not prevail on the merits, the committee expects the Administrator to reject the application so that the process of compliance can begin.

The committee is aware of the administrative and judicial implications of case-by-case extensions and case-by-case exemptions from a law as complex as the Clean Water Act. There was only one exception provided in the 1972 act and, in that case, there had been great abuse. More than 100 steam electric powerplants applied for modification of thermal effluent limits. None have yet

been placed on a compliance schedule to meet effluent limitations because of extensive delay as a result of this exception. And there is little question that after the administrative process there will be extensive litigation. Heat has become an unregulated pollutant, clearly not the intent of the Congress. The Congress intended that there be a very limited waiver for those major sources of thermal effluents which could establish beyond any question the lack of relationship between federally established effluent limitations and the national water quality standard. That limited exemption has been turned into a gaping loophole.

The cumbersome process which the Agency initiated resulted in part in a decision to avoid any application of 1977 regulatory requirements for steam electric powerplants. There is no basis for that decision in the law. The committee does not expect, however, that the Agency will not impose any additional 1977 requirement other than State water quality standards. The Agency also concluded that the 1972 act was preemptive with respect to the application of State water quality standards and effluent limits for heat. This is a determination for which there is no substance in law and which is wholly contrary to the committee's long-held view that the States are free to establish any more strict standards or effluent limitations, as specifically set forth in section 510 of the act.

Even without the State water quality standards/effluent limits question, the delays in section 316(a) would be unfortunate and indefensible. Similar delays under the waivers of this act would be disastrous to this program. The committee expects the Administrator to establish an expeditious process for determining the validity of applications for exceptions, and to proceed swiftly to enforce effluent limitations applicable to pollutants for which there are no water quality standards or which would clearly interfere with attainment and maintenance of that water quality which provides for the protection of public water supplies and provides for the protection and propagation of fish, shellfish, and wildlife, and provides for recreation, in and on the water. Only in this way can these waivers be useful, both to the source which needs to know as early as possible what will be required and to the environment which will benefit from an entire reduction of discharges of pollutants.

OTHER REGULATORY PROGRAMS

In 1972, the Congress made a clear and precise distinction between point sources, which would be subject to direct Federal regulation, and nonpoint sources, control of which was specifically reserved to State and local governments through the section 208 process.

The committee hearings focused on the progress of the 208 program, methods developed for nonpoint source control, and the relationship of the regulatory program under 402 and 404 to the section 208 program, with a specific view as to the way water pollution programs related to agriculture.

Between requiring regulatory authority for nonpoint sources, or continuing the section 208 experiment, the committee chose the latter course, judging that these matters were appropriately left to the level of government closest to the sources of the problem.

But that should not be interpreted as a lack of concern of the committee. The committee clearly intends 208 to produce specific nonpoint source abatement programs and will review the program as more plans are completed.

The $150 million authorization for section 208 for fiscal year 1978, 1979, and 1980 will be used to support the continuing development of water quality management plans and programs that are needed to attain the national goals for 1983. The committee recognizes that the requirements of section 208 provide the primary means for the control of nonpoint sources of pollution, and expects EPA to direct the funds authorized under this section towards assisting in the development of effective nonpoint source control programs.

In addition, the planning and development of regulatory mechanisms can be used for a large number of problem categories—urban-industrial problems such as municipal facility planning, pretreatment, sludge disposal, and urban runoff, and efforts in the area of water conservation and reuse.

The States and EPA should carefully evaluate the success of initial work by designated areawide agencies. The committee expects that continuing funding of any 207 agency will be given to those agencies which have demonstrated the ability to carry out their plans, and have the capability to deal with future priorities and problems.

Proper and effective use of these 208 funds has the potential for identifying significant cost savings in municipal and industrial facility investment.

AGRICULTURE

Agriculture was demonstrated to be a major source of pollution. The current strategy in the act to divide agriculture into point and nonpoint sources is effective with regard to feedlots, but ineffective with regard to irrigation return flows. Yet the threat of direct regulation by permit has moved farmers and the farm-service community into a willingness to work with the section 208 areawide process, recognizing the advantage of locally initiated regulatory programs.

In most instances, the section 208 "best management practices" are not actual abatement programs, and interim strategies need to be developed. Section 208 offers the potential for abatement programs to control both irrigation return flows and nonpoint source agricultural runoff, and the committee considered several proposals to pursue this proposal.

For these reasons, the committee adopted several amendments which generally concern section 208 and specifically relate to agriculture. First, the committee renewed funding for section 208 planning and plan implementation. This is necessary to continue the work that has begun. Unfortunately, like other Public Law 92-500 programs, initial implementation of section 208 was slow. Few plans are completed, and accordingly the committee also extended completion deadlines.

Secondly, the committee exempted irrigated agriculture, defined under the act as a point source, from the 402 permit program and included it within the 208 program.

Third, the committee examined a variety of ways to strengthen the implementation of the 208 program, so that it would become a meaningful nonpoint source abatement mechanism. The committee provided an opportunity in its consideration of the section 404 issues for States to develop an approvable 208 regulatory program for specified activities. Approval through this process would remove those activities from direct Federal control.

DREDGE AND FILL PERMIT PROGRAM

There has been considerable discussion of the provisions of section 404 of the act, much of which has been related to the suspicions and fears with respect to that section, and little of which has been related to substantive solutions to real problems while providing an adequate regulatory effort to assure some degree of wetlands protection. There is no question that the systematic destruction of the Nation's wetlands is causing serious, permanent ecological damage. The wetlands and bays, estuaries and deltas are the Nation's most biologically active areas. They represent a principal source of food supply. They are the spawning grounds for much of the fish and shellfish which populate the oceans, and they are passages for numerous upland game fish. They also provide nesting areas for a myriad of species of birds and wildlife.

The unregulated destruction of these areas is a matter which needs to be corrected and which implementation of section 404 has attempted to achieve. The upland farming, forestry and normal development activity carried out primarily by individuals and as a part of family business or family farming activity need not bear the burden of an effort directed primarily at regulating the kinds of activities which interfere with the overall ecological integrity of the Nation's waters. At the same time, these activities cannot be fully ignored. Without question, they should not and cannot be regulated by the Federal Government. Equally without question, there should be a degree of discipline over the extent to which these activities destroy wetlands or pollute navigable waters. The committee bill addresses these questions and tries to deal both with the institutional method for reducing the impacts of this program and also maintain a program of effective wetlands protection.

Section 208, the 1972 act's laboratory for new institutional control mechanisms for vexing nonpoint source problems, is undoubtedly the logical element for dealing with this and other similar problems. It may not be adequate. It may be that the States will be reluctant to develop the control measures and management practices which protect upland wetlands and navigable waters, and it may be that sometime in the future a Federal presence can be justified and afforded.

But for the moment, it is both necessary and appropriate to make a distinction as to the kinds of activities that are

to be regulated by the Federal Government and the kinds of activities which are to be subject to some measure of local control. The distinction does not necessarily need to be limited to the waters into which the discharge occurs so much as the kind of discharge which occurs, whether or not it is point source or nonpoint, whether or not it is major or minor, whether or not it is a conventional activity or a major change in the use of an area.

The committee bill includes a provision which utilizes existing legislative mechanisms, and maintains the primary thrust of section 404 with respect to protection of wetlands from spoil and fill discharges where wetlands protection is an important public need. At the same time, the bill tries to free from the threat of regulation those kinds of manmade activities which are sufficiently de minimus as to merit general attention at State and local level and little or no attention at the national level.

The bill intends to develop a better response from the States with respect to the development of better management practices for nonpoint sources and de minimus point sources. The proposal would permit the degree of exemption from the section 404 program to be determined by the States as opposed to the courts, as is currently the case when there is a dispute between the regulator and the potentially regulated. By the act of assuming the regulatory program under section 208, the State can define those covered by State best management practices, the effect of which, if approved by EPA, will be a specific, precisely defined exemption from section 404. And at the same time, the public will benefit from the hoped-for improvement in the manner in which polluting activities are carried out in order to reduce the discharge of effluents and improve the quality of water.

The provision solves most real problems with section 404 by providing general delegation authority to the States; by specifying exempt activities; and by bringing the program under the general procedures of section 402.

OIL AND HAZARDOUS SUBSTANCES

The committee made some changes in the liability scheme for discharges of oil and hazardous substances. The changes made, while limited, are of considerable importance in the overall implementation of this provision.

The committee considered amendment to section 311 to establish liability for damages occurring outside the jurisdiction of any State as a result of an oilspill, including compensation for income loss due to damage to property or natural resources. A related amendment creating a new compensation fund covering claims from damages above the spiller's limits of liability and funded by a 3-cent-per-barrel throughput fee on oil not already subject to the fees associated with the existing compensation funds, was also considered. The committee deferred action on these proposals and will consider them as part of the comprehensive oilspill liability legislation, which will be taken up after enactment of this bill. In that context, a provision of liability for damages and a compensation fund which does not preempt State liability requirement will be included in any committee action.

The language of the bill would permit the expenditure of funds from the section 311 fund for the purpose of mitigating the effects of a spill of a nonremovable hazardous substance. The effect of this amendment would be to place the financal burden of protecting persons and property from the harmful effects of discharges, of hazardous substances upon those who are responsible for the discharges, and to thereby provide an incentive to such discharges to take every reasonable step to mitigate the effects thereof.

Under the current wording of the statute, while it appears that such costs can be recovered in cases of discharges of substances determined to be nonremovable, the language is somewhat ambiguous, and the purpose of this amendment is to remove any ambiguity by making clear the intention that such costs can be recovered, regardless of whether the substance is determined to be removable or nonremovable. In addition, the amendment would make clear that the section 311(k) revolving fund could be used to pay for the mitigation effort. Such authority is essential to insure prompt action to protect public health and safety, including, for example, protection of drinking water supplies in the event of a discharge of a hazardous substance.

The bill also removes the total dollar ceiling on liability for oil spills from vessels. The ceiling served no useful purpose, inadvertently subsidizing large tankers and thus enhancing their competitive position over smaller vessels. According to testimony, the $150 per ton limit should be adequate for cleanup of all but the most catastrophic spills. The $14 million limit in existing law is totally inadequate to deal with an oil spill of any magnitude from the size of tanker that is expected to be plying the waters of the United States.

The committee also established a maximum liability for small vessels carrying oil as cargo of $150 per gross ton or $500,000 whichever is greater. Again, according to testimony from the Coast Guard—the agency charged with the responsibility for cleaning up oil spills—very often spills from small tankers and other sources are among the most difficult to clean up because they occur in areas where the water is moving and the urgency of the application of clean-up techniques is most pronounced. Additionally, the first cost of any clean-up activity is the most costly. The perton limit on smaller vessels is not adequate to provide liability commensurate with the costs of clean-up which have been experienced with such spills.

The committee was particularly concerned with the soundness of the contingency fund. As a result of the 1970 act, $35 million was appropriated to that fund. Most of that has now been depleted. While there are over $26 million in pending claims and while liability payments and penalties have been returned to the fund, depletion has resulted from clean-up from unknown sources, clean-up where costs exceeded liability, and clean-up of spills where a defense to liability was raised. The new minimum liability for smaller oil tankers and the removal of the upper limit should make the fund more sound.

In addition, the committee has adopted a provision which assures that the Government can pursue the insurer or the spiller to recover clean-up costs without awaiting final disposition of all third-party damage claims. This provision was adopted as a result of discussions with the Justice Department which indicated that the greatest limit on speedy clean-up cost recovery was the joining of clean-up liability suits with third-party negligence actions. This will no longer be the case.

The committee has extended the jurisdiction of section 311 out to the 200-mile limit of the fisheries management zone. The many recent incidents of tanker spills, especially the disaster caused by the *Argo Merchant* off the coast of New England, underscore the immediate need for improved protection from and jurisdiction over marine pollution. The absence of clear legal authority to deal with oil spills beyond the territorial seas is indefensible.

Finally, the committee approved language that would permit costs expended by the Federal government or any State government for the restoration or replacement of natural resources damaged by a spill of oil or hazardous substance to be paid by the contingency fund. This provision authorizes the President, or a State representative, to act on behalf of the public as trustee of natural resources to recover such costs. This is an important protection for these natural resources, and this particular provision is fashioned after a similar one in the Deepwater Ports Act.

ISSUES BEFORE THE COMMITTEE

The committee specifically reviewed every legislative issue which has been raised to the committee, either in the form of an introduced Senate bill, as a proposal from the Environmental Protection Agency, as a provision of the House-passed bill, H.R. 3199, or as a specific recommendation to the committee in the hearings. I ask unanimous consent to have printed in the RECORD at this point a list of all the issues considered by the committee during its mark-up of this bill and their ultimate disposition. Those issues which are not included in S. 1952 were specifically considered by the committee and determined not to be included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INCLUDED IN S. 1952 OR REPORT

Federal Facility Compliance.
State Certification.
Enforcement of POTW Permits.
Authorizations.
Allotment.
Eligible Categories.
User Charges.
Secondary Treatment Waiver.
BAT Waiver.
Oil & Hazardous Substances.
Delayed Compliance Penalty.
1977 Industrial Extensions.
Combined Step 2 & 3.
1977 Municipal Extensions.
State Reports.

Industrial Cost Recovery.
Reserve Capacity.
Sludge Disposal.
EPA Issuance of Permits.
Section 404.
Cost-Effective Guidelines.
Pretreatment.
Reallotment.
Estuarine Study.
Aquaculture Permits.
208 Deadlines.
Interagency Agreements.
Operator Training.
Training Grants.
Enforceable Priority.
Water Conservation.
R&D Projects.
Compliance with State Requirements.
National Water Quality Standard.
Sludge Utilization Study.
Combined Sewer Overflow Study.
Contract Enforcement.
BAT Extension for Innovation Technology.
Set-aside for Alternative Systems.
Procedures for Modifications.
Check-Off for Innovative Systems.
Irrigation Return Flows.
Best Management Practices for Industry.
Marine Sanitation Devices.
Clean Lakes.
Individual Systems.
Agricultural Cost-Sharing.
Alaska Village Study.
Exemption for Seafood Processing.
Exemption for Rum Distillers.

NOT INCLUDED IN S. 1952

Sewage Collection Systems.
Reimbursement.
Priority Lists.
Buy America.
Financial Disclosure.
Deer Island Relocation.
Deputy Administrator for Engineering.
Urban Pass-Through.
Flow Reduction.
Phosphates in the Great Lakes.
Judicial Review.
Corps of Engineers Management of Grant Program.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section summary of S. 1952.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS OF CLEAN WATER ACT OF 1977

AUTHORIZATIONS

This section provides authorizations for EPA's non-research operating programs for fiscal years 78, 79, and 80.

ESTUARINE STUDY

This section amends section 104, Research, Investigations, Training and Information, to permit the estuarine report to be submitted every six years instead of every three years.

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT

This section amends section 104, Research, Investigations, Training, and Information, to establish a national clearinghouse for the collection and dissemination of information developed on alternative treatment technologies.

CHECKOFF FOR INNOVATIVE SYSTEMS

This section amends section 105, Grants for Research and Development, to allow up to ½ of 1% of a State's construction grant allotment to be used for paying the non-Federal share of a project utilizing innovative treatment technologies.

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

This section amends section 105, Grants for Research and Development, to authorize grants for operation and maintenance costs of an EPA funded research and demonstration project to reduce those costs to those comparable to a conventional secondary treatment sytsem.

PRIORITY LIST REQUIREMENTS

This section amends section 106, Grants for Pollution Control Programs, to require that State priority lists reflect the enforceable requirements of the Act.

TRAINING GRANTS

This section amends section 109, Training Grants and Contracts, to increase the limit of a grant for a training facility from $250,000 to $500,000, and to exempt any such grant from the requirements of section 204.

RURAL VILLAGE STUDY

This section amends section 113, Alaska Village Demonstration Project, to authorize a study for the development of a comprehensive program for adequate sanitation services in Alaska villages.

REALLOTMENT

This section amends section 205, Allotment, to extend the period of availability of sums made available during FY 76 to September 30, 1978.

CONSTRUCTION GRANT PROGRAM

This section amends section 207, Authorization, to authorize $3.5 billion for the municipal construction grant program for FY 77, and $4.59 billion for each of the fiscal years 78, 79, 80, 81, and 82. This section also provides for the allotment of these funds.

AREAWIDE PLANNING

This section amends section 208, Areawide Waste Treatment Management, to provide that each Statewide planning agency shall have three years for completion of their plan. This section also provides that each initial planning grant shall be 100% and further grants shall be 75%.

INDIVIDUAL SYSTEMS

This section amends section 201, Purpose, to permit grants for construction of privately-owned treatment works where a public body applies for such grant on behalf of a number of such units and will assume that such treatment works are properly operated and maintained, and where such service is more cost-effective than collection and central treatment.

RESERVE CAPACITY

This section amends section 201, Federal Share, to restrict the amount of reserve capacity which is eligible for Federal funding to 10 years for the treatment works and 10 years for sewers and associated appurtenances.

CONTRACT ENFORCEMENCT

This section amends section 203, Plans, Specifications, Estimates and Payments, to authorize the award of a combined Step 2 and Step 3 grant in the case of a treatment works costing less than $2 million which will serve a population of 25,000 or less. In States which have unusually high construction costs, the grant may be increased to $3 million.

CONTRACT ENFORCEMENT

This section amends section 203, Plans, Specifications, Estimates and Payments, to make EPA a party to construction contracts to ensure enforceability of contract.

METERING

This section amends section 204, Limitations and Conditions, to permit the use of something other than metering, including ad valorem taxes, for the collection of user charges from residential users of waste treatment services. If metering is not used, there must be assurance of adequate funds for operation and maintenance of the treatment works, and each user must be notified as to the amount to be used for such costs.

WATER CONSERVATION

This section amends section 204, Limitations and Conditions, to permit a proportional reduction of industrial cost recovery payments as the industrial user reduces his flow to the system.

INDUSTRIAL COST RECOVERY

This section amends section 204, Limitations and Conditions, to permit the exemption of small discharges (less than 2,500 gallons a day) from industrial cost recovery requirements.

STATE MANAGEMENT ASSISTANCE

This section amends section 205, Allotment, to authorize reservation of up to 2% of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspects of the construction grant program. Such funds may be increased to assist in the administering of the 402 permit program, statewide 208 planning, and responsibility for managing construction grants for small communities.

SET ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

This section amends section 205, Allotment, to require the setting aside of between 5 percent and 10 percent of construction grant funds alloted to a rural State (States with a rural population of 28 percent or more of the total population of the State) for use only for alternative or unconventional systems for communities of 2,500 or less. Nonrural States may request, through the Governor, a set aside of up to 10 percent of its grant allotment to be used for such purposes.

IRRIGATION RETURN FLOWS

This section amends section 208, Areawide Waste Treatment Management, to specifically exempt discharge from irrigation return flows from the 402 NPDES permit program, and to add irrigation return flows to the 208 program.

AGRICULTURAL COST SHARING

This section amends section 208, Areawide Waste Treatment Management, to authorize funds for use by the Secretary of Agriculture in cost-sharing programs to implement best management practices on agricultural non-point sources of pollution.

GRANT ELIGIBLE CATEGORIES

This section amends section 211, Sewage Collection Systems, to eliminate from eligibility the construction of treatment works for the control of discharges from separate storm sewers, the replacement or rehabilitation of a collection system unless necessary to correct excessive infiltration, and the construction of a new collection system unless the grant is limited to existing population, there is or will be treatment capacity to serve the system, the system is necessary to protect ground or surface water supplies or to attain water quality standards, and the alternatives have been proved less cost-effective.

COST-EFFECTIVENESS GUIDELINES

This section adds a new section 213 to require that cost-effectiveness guidelines must provide for the identification and selection of cost-effective treatment alternatives.

WAIVER FROM BEST AVAILABLE TECHNOLOGY

This section amends section 301, Effluent Limitations, to provide for a waiver from best available technology for a pollutant for which there is a water quality standard as long as the modification is at least best practicable technology, will not require additional controls on any other source, will not interfere with the attainment or maintenance of the national water quality standard, and presents a reasonable cost for level of reduction achieved.

WAIVER FROM SECONDARY TREATMENT

This section amends section 301, Effluent Limitations, to provide for a waiver from the secondary treatment requirement for any

conventional pollutant in a discharge into marine waters from existing municipal sources if it can be shown that the modification will not interfere with protection of public water supplies and the attainment or maintenance of the national water quality standard, will not require additional controls on any other source, assures enforcement of all applicable pretreatment requirements, and assures that there will be no substantial increase in the volume of the discharge.

MUNICIPAL TIME EXTENSIONS

This section amends section 301, Effluent Limitations, to permit a case-by-case modification of the July 1, 1977 deadline for publicly-owned treatment works up to July 1, 1983, where construction cannot be completed or where Federal funds have not been made available. Such modification is available to dischargers into the system if such dischargers have been found to have acted in good faith.

PROCEDURES FOR MODIFICATIONS

This section amends section 301, Effluent Limitations, to establish the procedures for obtaining a waiver from secondary treatment and best available technology.

INNOVATIVE TECHNOLOGY

This section amends section 301, Effluent Limitations, to permit a two year extension of the best available technology requirement for sources utilizing innovative technology.

INFORMATION AND GUIDELINES

This section amends section 304, Information and Guidelines, to require publication of water quality criteria to implement the national water quality standard.

BEST MANAGEMENT PRACTICES FOR INDUSTRY

This section amends section 304, Information and Guidelines, to permit the control, through best management practices, of ancillary industrial activities which contribute toxic pollutants to the navigable waters.

INTERAGENCY AGREEMENTS

This section amends section 304, Information and Guidelines, to authorize $500,000,000 for fiscal years 79–83 for interagency agreements to encourage the use of expertise in other Federal agencies.

STATE REPORTS

This section amends section 305, Water Quality Inventory, to permit the submission of State water quality reports every two years instead of every year.

TOXIC POLLUTANTS

This section amends section 307, Toxic and Pretreatment Effluent Standards, to revise the procedures for establishing and publishing a toxic pollutant and extend the period for compliance from one to up to three years as long as there is no significant risk to public health, public water supplies, or the environment.

PRETREATMENT

This section amends section 307, Toxic and Pretreatment Effluent Standards, to provide a mechanism for EPA enforcement of pretreatment standards for pollutants which pass through or interfere with municipal treatment processes or contaminate sewage sludge.

TECHNICAL AND CONFORMING AMENDMENTS

This section amends section 309, Federal Enforcement, to ensure the enforceability of permits issued under section 318 (aquaculture) and section 405 (sewage sludge).

1977 INDUSTRIAL DEADLINES

This section amends section 309, Federal Enforcement, to provide two new enforcement options for violations of the 1977 best practicable technology requirement for industrial dischargers. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes up to an 18 month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that a serious commitment to achieve compliance had been made; that compliance will occur no later than January 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction.

MITIGATION COSTS

This section amends section 311, Oil and Hazardous Substance Liability, to permit the expenditure of funds from the Contigency Fund for the purpose of mitigating the effects of a spill of a non-removable hazardous substance.

OIL SPILL LIABILITY

This section amends section 311, Oil and Hazardous Substance Liability, to extend the jurisdiction under this section out to 200 miles; to raise the limits of liability for clean-up of oil spills from vessels to $150 per gross ton or $500,000, whichever is greater; to raise the limits of liability for clean-up of oil spills from onshore and offshore facilities to $50 million; to authorize the use of Contingency Funds for protection against threatened discharges; to permit immediate recovery of clean-up costs from oil cargo vessels or oil storage or handling facilities in the event of allegations of third-party fault, reserving rights of subrogation; and to permit the recovery of costs expended by the Federal or a State government in restoring or replacing natural resources damaged by an oil spill.

MARINE SANITATION DEVICES

This section amends section 312, Marine Sanitation Devices, to (1) require the EPA Administrator to prohibit the discharge of treated sewage from vessels in drinking water intake zones, upon an application of a State and (2) to require the Administrator to amend current marine sanitation device regulations for commercial vessels on the Great Lakes and navigable waters other than coastal waters to require said devices, within a time period to be determined by the Administrator, to produce an effluent, at a minimum, of a quality of secondary treatment; and that such vessels be required to treat greywater also.

FEDERAL FACILITY COMPLIANCE

This section amends section 313, Federal Facilities Pollution Control, to assure that all Federal activities comply with all Federal, State, interstate and local requirements.

CLEAN LAKES

This section amends section 314, Clean Lakes, to require the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biannually information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is further amended to authorize $450,000,000 for fiscal years 1978, 1979, and 1980 for the Clean Lakes program.

AQUACULTURE

This section amends section 318, Aquaculture, to assure that permits issued under this section are consistent with section 402.

NONCOMPLIANCE FEE

This section amends section Title III of the Act by adding a new section 319. Any point source (other than a publicly owned treatment works) not in compliance with the effluent limitations and compliance date in its permit, shall be required to pay a fee equivalent to the economic value of noncompliance. The payment shall be imposed automatically for sources out of compliance with the 1977 requirements or applicable new source, toxic or thermal limitations beginning on July 1, 1979, and for sources out of compliance with the 1983 requirements beginning on January 1, 1984.

COMPLIANCE WITH STATE REQUIREMENTS

This section amends section 401, Certification, to assure compliance with all State requirements.

EPA ISSUANCE OF PERMITS

This section amends section 402, National Pollutant Discharge Elimination System, to permit EPA to issue a permit where a State-issued permit is inadequate.

ENFORCEMENT OF MUNICIPAL PERMITS

This section amends section 402, National Pollutant Discharge Elimination System, to permit the EPA to enforce against a violation of a municipal permit.

DREDGE AND FILL PERMIT PROGRAM

This section amends section 402, National Pollutant Discharge Elimination System, section 404, Dredge and Fill Permit Program, and section 208, Areawide Waste Treatment Management, to modify the existing program for controlling the disposal of dredged and fill material. The bill amends section 402 to provide a mechanism for approving permit programs of States for controlling disposal of dredge and fill material which meet their particular needs. Section 404 of the Act is amended to provide specific exemptions from any permit requirement for certain activities. The amendment also provides for the use of general permits as a mechanism for eliminating the administrative burdens and delays associated with this program.

A third provision amends section 208(b)(4) to provide that the placement of fill material associated with activities which a State chooses to regulate by requiring best management practices under that section, is also exempt from any permit requirement under section 404 or 402.

The National Wetland Inventory is required to be completed by December 31, 1978, and $6,000,000 is authorized for that purpose.

SLUDGE DISPOSAL

This section amends section 405, Disposal of Sewage Sludge, to assure that permits issued under this section are consistent with section 402.

COMBINED SEWER OVERFLOWS

This section amends section 516, Reports to Congress, to authorize a study by EPA on combined sewer overflows in municipal treatment works.

UTILIZATION OF TREATED SLUDGE

This section amends section 516, Reports to Congress, to authorize a study by EPA on the use of municipal effluent and sludge for agricultural and other purposes.

Mr. MUSKIE. Finally, Mr. President, I would like to extend special appreciation to the staff who worked long and hard with us to fashion this legislation, see it through markup and bring it to the floor.

We are all grateful for their help.

I ask unanimous consent to include the staff members at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STAFF MEMBERS

Leon Billup, John Freshman, Sally Walker, Phil Cummings, John Yago, Jackie Schafer, Bailey Guard, Jim Range, Mimi Feller, Mike Morgan, Demming Cowles, Bob Van Huevelin, Len Stewart, Dick Oshlo, and Mike Naeve.

Susan Martel, Peter Gove, Marcia Johnson, Lee Rawls, Judy Parente, Peggy Nagel, Frankie Williams, Debbie Canavan, Maggie Meyer, Joan Ramsey, Julie Devlin, Pat Underwood, Zoe Tierney, Jerry Cohen, and Dick Harris.

Mr. MUSKIE. Mr. President, I am happy to yield to my good friend the Senator from Vermont, who is a valued assistant as ranking Republican member on the committee and without whose support we would not be here on the floor.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Peter Van Oot, Vic Maerki, and Rick Herron be accorded the privilege of the floor throughout the consideration of the pending measure.

The PRESIDING OFFICER. (Mr. SARBANES). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Mary Butler, Larry Able, and Randy Jones of my staff have the privilege of the floor during the consideration of this legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I make a similar request in behalf of Peter Gove and Susan Martell of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, there is no need for me to speak at length concerning the Clean Water Act of 1977. The chairman of the subcommittee, Senator MUSKIE, has presented an exceptionally thorough discussion of the provisions of the bill before us today, as he always does.

I wish to emphasize my feeling that it has been a real pleasure and privilege to work with Senator MUSKIE, under his distinguished leadership, in connection with bringing clean water back to this country.

For my part, it is important to note the degree of support that these amendments enjoy from the Republican members of the Committee on Environment and Public Works. First, the bill, S. 1952, was ordered reported from committee by a unanimous vote. Second, every effort was made to fully consider as broad a range of viewpoints on the issues as possible. This was accomplished by conducting 15 days of hearings in the field and in Washington, D.C. throughout the month of June and into July, and by a conscientious effort to work from an agenda in committee meetings which included virtually every issue which was brought to our attention. We set aside a few matters which were of special interest to certain members which may be brought up on the floor or in conference with the House. We proceeded to agree on those issues about which there was no controversy. Then we voted on those issues on which there was disagreement. To a remarkable degree, however, those differences which did exist among members on controversial items were worked out to the satisfaction of all the members.

Minority members of the committee played a critical and constructive role in this process. Specifically, a new member of the committee, Senator CHAFEE, probably more than anyone else, labored to mould the section providing for a modification of the "best available technology" requirement for industrial point source dischargers into a sensible and workable procedure which is intended to provide genuine relief for dischargers of conventional pollutants where controls beyond "best practicable technology" are not necessary to meet water quality standards. His efforts resulted in a unanimous rollcall vote on this provision of the bill.

On the issue of eligible categories of treatment works to be assisted by Federal funds in the municipal construction grants program, Senator DOMENICI persuasively argued against the total elimination of collector sewers as an eligible item. As a result the committee agreed instead to limit the capacity of new sewers to that necessary to serve populations existing on the date of enactment of this act and to require that treatment facilities are adequate to treat the volume of sewage which is collected. Thanks to his role in retaining the eligibility of collector sewers under these conditions, this provision was agreed to unanimously.

After extensive discussion led by Senator MCCLURE over far-reaching amendments to the oil spill liability provision of the statute, that section was adopted unanimously.

The development of a formula for allotting construction grant funds represented a joint effort in which every Member participated. The concept which I advanced, providing a minimum allotment to each State, was retained in the reported bill. Thus, no State will receive less than $22.5 million during fiscal years 1978–82 assuming an annual appropriation of $4.5 billion.

On a very few items, unanimous agreement was not possible, but they are important matters and worth mentioning. First, the issue of whether user charges or ad valorem taxes ought to support the operation and maintenance costs of publicly owned treatment works generated a great deal of discussion, in which Senator DOMENICI vigorously participated, and which was the subject of several rollcall votes. The course which was ultimately followed by the committee permits residential users to pay for waste treatment services according to a scheme other than metering, including ad valorem taxes, so long as adequate funds for operation and maintenance are assured thereby and each user is notified of the costs attributed to his use of the system. This was endorsed by all the minority members of the committee other than myself. From our vantage point in Vermont, the present system is working well, and I preferred not to tamper with it.

Another important matter which required a divided vote was an amendment to extend for 2 to 3 years the deadline for achieving "best practicable technology" for industrial point source dischargers which failed to meet the July 1, 1977 deadline. An amendment offered by the committee chairman, Senator RANDOLPH, was defeated, and instead an amendment offered by Senators MUSKIE and BAKER was adopted 14–1. This amendment offers the Administrator of the Environmental Protection Agency the option of extending the deadline for achieving BPT as much as 18 months for point source dischargers who in good faith have tried to meet the requirements of the act, but which for justifiable reasons were unable to do so. Here again the participation of the minority was a key element in the adoption of this provision by such a clear margin.

One other matter of critical importance to the minority is the amendment adopted by the committee pertaining to section 404 of the 1972 Water Pollution Control Act. The staff worked out a recommendation which represented their best effort to take into consideration all of the concerns raised over the implementation of this provision of the law. I am mindful of the preference of some of my Republican colleagues for an alternative solution to the problems posed by section 404 regulation of the disposal of dredged and fill materials in the Nation's waters.

Because of the continued controversy over this provision, which will unfold later this morning in the Senate, I would like to offer some observations of my own in support of the committee's effort.

The section 404 program as outlined in the committee bill will be a successful and reasonable process for protecting inland and coastal waters, including wetlands, from adverse environmental effects resulting from the discharge of dredged or fill material. The section 404 program is essential if we are to achieve the objective of the Water Act, which is to restore and maintain the chemical, physical and biological integrity of our waters. The chemical makeup and the biological life of the Nation's waters have been adversely affected by the physical destruction or alteration of water bodies by discharges of dredged or fill material. In addition, such discharges sometimes contain dangerous levels of toxic substances that must be regulated carefully. The program is necessary, it is manageable, and it will work well. The ultimate success of the program will depend, in large part, on the growing partnership of Federal, State and local government.

The Federal Water Pollution Control Act Amendments of 1972 mandated the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. Full implementation of the section 404 decisionmaking process is imperative if we are to achieve this objective. The section 404 process is an essential tool for preventing the unnecessary degradation of water quality by discharges of dredged or fill material. Without it, critical aquatic areas including swamps, marshes, and submersed grass flats, which are such an important segment of this Nation's water resource and are essential to the preservation of migratory and resident fish, bird and other animal populations, might otherwise be irrevocably destroyed.

The lasting benefits that society derives from coastal and inland wetlands often far exceed the immediate advantage their owners might get from draining or filling them; we are losing wetlands at the rate of some 300,000 acres per year. The committee recognizes the need for a program which regulates the discharge of dredged or fill material into our waters and wetlands. They did, however, assure that this program should be carried out in a way that avoids undue Federal regulation and that does not tie up individuals in unnecessary redtape.

The Corps of Engineers and the Environmental Protection Agency are aware that the program must be realistic and manageable. Not only must we guard against unnecessary regulation but we must also insure that the program does not allow unnecessary environmental destruction. We believe that the committee amendment will successfully meet both of these goals.

In addition to the sections of this bill which I have already discussed, a number of other provisions which are contained in S. 1952 represent specific contributions of the minority members of the committee. I want to call attention to these provisions not only to argue for support for the bill as a whole, but to demonstrate the active and constructive contribution from this side of the aisle.

Thanks to the combined efforts of Senator WALLOP and Senator HART, who conducted a field hearing in Fort Collins, Colo., on July 13 on agriculture's concerns about the Water Pollution Control Act, the committee adopted an amendment which, in effect, exempts irrigated agriculture from all permit requirements under section 402 of the act, and instead insures that areawide waste treatment management plans under section 208 include consideration of irrigated agriculture. This amendment promotes equity of treatment among farmers who depend on rainfall to irrigate their crops and those who depend on surface irrigation which is returned to a stream in discreet conveyances. While this amendment may appear to be a minor matter to those of us from the East, to the farmers in the semiarid and arid West this amendment is a critical feature of the bill.

Several provisions of the bill represent attempts to encourage the use of innovative technologies in the construction of sewage treatment facilities and in controlling industrial pollutants. One amendment, offered by Senator DOMENICI, provides that R. & D. grants under section 105, which presently qualify for a 75-percent Federal grant, can receive 100 percent if a State opts to provide the additional 25 percent out of its allotment under the construction grants program. To qualify, the R. & D. project must appear on the State's priority list and the total contribution to the non-Federal share of all such R. & D. projects cannot exceed one-half of 1 percent of a State's allotment.

Senator MCCLURE offered an amendment which gives industrial point source dischargers up to 2 years beyond 1983 to achieve the best available technology requirement if such discharger selects an innovative technology which has industrywide application and which achieves a degree of effluent reduction greater than BAT would accomplish or which achieves an equivalent degree of control at significantly less cost.

Senator MCCLURE also offered an amendment which requires, in addition to the BPT and BAT controls over industrial polluters, the use of best management practices for the ancillary activities of those industries which might otherwise discharge toxic pollutants which are not subject to a point source permit limitation. The management requirements authorized are intended to control pollution by toxic materials from site runoff, spillage of leaks, lagoons, sludge or waste disposal or drainage from raw materials storage. The kepone which found its way into the James River originated from an outdoor storage area, not from an intentional discharge. This amendment would authorize the Administrator to require control measures to deal with this type of problem.

With further respect to toxic pollutants, the committee agreed with the administration's proposal to amend the procedures which determine the degree of control of toxic pollutant discharges under section 307. While the bill changes the rulemaking procedures from formal to informal, an amendment offered by Senator DOMENICI provides an opportunity for oral and written presentations and cross-examination on disputed issues of material fact.

At this point, Mr. President, I would like to indulge myself in a discussion of certain provisions which were of particular concern to me, coming as I do from the most rural State in the Nation.

During the consideration of this bill in committee I have focused on the special problems faced by small communities in rural areas which must undertake the construction of a wastewater treatment facility. In order to determine the nature of these problems I chaired a hearing in Burlington, Vt., on July 9.

It is, very briefly, that conventional secondary wastewater treatment facilities which require the construction of a network of collector sewers and a centralized plant is an expensive, and often overwhelming financial burden on rural communities. A scaled-down version of a municipal treatment plant is simply not suitable for a town of 2,000 people or so.

At our Vermont hearing, we also explored the availability of alternatives to these conventional treatment works, and focused on the technical, environmental, financial and institutional advantages and disadvantages of adopting such alternatives.

What I have proposed in response to the information gathered from our witnesses is a set-aside out of the construction grant allotment for use in constructing financing alternative systems for small communities. This provision appears as section 21 of the bill before us.

The set-aside, which amounts to not less than 5 nor more than 10 percent of a State's allotment under the construction grant program, is required to be reserved for small communities which choose to construct alternative systems only in those States having a substantial rural population—where 25 percent or more of the population live in places of 2,500 or less inhabitants. In other States, a Governor can request that the funds be set aside for this purpose.

The projects which may be constructed with such funds may, under authority provided elsewhere in the bill, include individual systems which are not necessarily publicly owned so long as the local community applies for the grant on behalf of a number of households and will assure that such individual or cluster treatment systems are properly operated and maintained and meet all other requirements of section 204 of the act. Other alternatives which might be selected include various types of land treatment alternatives which have always been eligible for assistance under the act but which have been resisted by State administrators or by the construction and engineering fraternity. I found that communities have been willing to explore other options to control water pollution when they are presented and promoted. However, few States actively promote alternatives and tend to rely instead on the tried, if not so true, conventional plants which they are confident will be approvable by the EPA.

Because a portion of a State's funds can only be used for nonconventional systems, one highly desirable effect of this set-aside amendment will be the creation of the expertise and interest in State pollution control agencies to promote and assist in the development of less costly alternatives in small rural communities.

The committee adopted a number of other provisions which will be of definite benefit to small communities. I call attention to the section providing management assistance for administering portions of the construction grant program which are assumed by State agencies on EPA's behalf. Up to 2 percent of a State grant allotment may be used for this purpose, with a minimum of $400,000 in any one State. Grants are increased where States administer the NPDES permit program, a statewide section 208 water treatment management planning programs, or manage the waste treatment grants for their small communities.

Another section of the bill provides for the combining of the grant process steps 2 and 3—advanced engineering and design with the actual construction phase—where a treatment plant has an estimated total cost of $2 million in communities of 25,000 or less. This amendment will eliminate a good deal of redtape for small communities.

Yet another provision will authorize the Administrator of EPA or the State to be a party to any contract in connection with the construction of a treatment works, at the request of a grantee. This is intended to help small communities which do not have the legal or technical resources to force a consulting engineer or a contractor to perform on time or correct a problem in design, construction or operation of the plant.

In closing, Mr. President, I emphasize why we are seeking this legislation at this time. Most importantly, we are providing authorizations totalling $26 billion over the next 5 fiscal years to continue our work on the construction grants program. While most large industrial dischargers have or will soon meet the 1977 requirements for control of water pollution, the vast majority of municipalities will have not constructed the publicly owned treatment systems necessary to assure that water quality which will contribute to the protection of our water supplies, or provide a balanced population of aquatic life, or provide recreation in and on the water. An enormous investment of public funds will be needed to achieve this goal. By the end of the cur-

rent fiscal year, most States will have obligated all of their share of the $9 billion which was authorized for use beginning in fiscal year 1976. Unless a new authorization is provided the momentum which these States have achieved will slow down, and our pollution cleanup effort along with it.

As I have discussed, there are also a number of program changes which have been suggested by the National Commission on Water Quality and by witnesses before the committee which are important to the smooth and effective operation of this entire Federal effort. Although much has been achieved in the past 5 years, even more needs to be done. The problems of toxic pollutants, the nonpoint sources of pollution and the remaining untreated municipal sources of water pollution must be attacked during the next 5 years. This will not be an easy task and it will certainly not be cheap. But it is vital to the future generations of Americans, and we must provide for it now.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON addressed the Chair.

Mr. MUSKIE. Mr. President, I have asked the distinguished junior Senator from Minnesota to floor manage the bill so I yield my time to him to manage and he will take such time as he may require.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. ANDERSON. Mr. President, I ask unanimous consent that Len Stewart, of Senator HART's staff, and Jerry Cohen, of Senator MOYNIHAN's staff, be accorded the privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I strongly support the Clean Water Act of 1977 and am pleased to have had the opportunity to participate in the development of this legislation by the Environment and Public Works Committee.

The first testimony I presented to Congress as Governor of Minnesota in December 1971 was on the amendments to the Federal water pollution control program that legislation was enacted the next year over President Nixon's veto and became Public Law 92–500, the Federal Pollution Control Act of 1972. Since 1972, no Federal law in the environmental area has affected my State more than the legislation that S. 1952 succeeds.

As I indicated at length in the committee report on the Clean Water Act of 1977; Minnesota, by definition, throughout its history, and at present, is particularly dependent on its rich and varied water resources.

A priority of my administration as Governor of Minnesota was the restoration and presentation of the natural resources and quality of life of the North Star State. In fact, when I now reflect on my 6 years as Governor of Minnesota, I believe there is no other area where more substantive, comprehensive progress was made than in the protection of Minnesota's air, land, and water resources. In my judgment, no State enacted a more comprehensive legislative program to protect the environment than did Minnesota in these years. I would match my State's environmental record in this decade against any other. I listed in the committee report 27 separate legislative and administrative actions taken in Minnesota since 1970 to protect its water resources. This list is evidence of what one State has done to see to it that clean water will be enjoyed by the children and grandchildren of our residents.

I approached consideration of the Clean Water Act of 1977 with this Minnesota background. I had the good fortune to chair three of the eight field hearings held by the committee on this legislation and several of the seven hearings held in Washington, D.C. At the Duluth and Alexandria, Minn., hearings I chaired, 60 witnesses presented statements commenting on many aspects of the Federal Government's efforts to clean up our Nation's water. My colleagues need only review the hearing record from Duluth and Alexandria to see the important and wide-ranging recommendations the Senate received in those 2 days. I am very grateful to Senator RANDOLPH, Senator MUSKIE, and the subcommittee staff for the 2 days of Minnesota hearings.

Panel discussions were held on several critical issues addressed in S. 1952, including the 1977 and 1983 industrial deadlines; the control of toxic chemicals; the operations of large municipal wastewater systems; the problems of small communities; the availability and use of alternative wastewater treatment systems, particularly those that utilize the water content and nutrient value of treated wastewater or sludge; the clean lakes program for the restoration of freshwater lakes; and section 404.

During markup, the committee adopted several amendments I offered and supported on a number of other initiatives, based on testimony received at the Minnesota field hearings. These amendments permit assistance to communities for the operating and maintenance costs of research and wastewater treatment plants; expand the use of grant funds for the training of operators of municipal plants; permit the EPA or State to be a party to a contract between a consulting firm and municipality for enforcement purposes; amend the industrial cost recovery program to provide incentives for water conservation and relief for small businesses; clarify the Marine sanitation device section; expand the clean lakes program; mandate that all dredging activities of the Corps of Engineers be conducted in compliance with applicable State water quality standards, and require EPA to report to Congress on the problem of combined sewer overflow and the status of potential projects that utilize municipal wastewater and sludge for a productive purpose.

Mr. President, since several of these amendments have important background and justification from testimony the committee received, I request the opportunity to submit for the RECORD additional material on several of these issues of particular importance to me and the State of Minnesota.

The fact that the Senate is in a position to act today on S. 1952 is due to the diligence of the Environment and Public Works Committee, particularly our distinguished subcommittee chairman, Senator MUSKIE, and the committee staff. The Senate should be aware that the process of amending Public Law 92–500—an exceedingly complex and comprehensive statute of nearly 100 separate provisions—was begun by the committee barely 2 months ago. Since July 1, 15 days of public hearings and 2 weeks of intensive markup sessions have produced the Clean Water Act now before us today. As my colleagues are no doubt aware, during this same period this same committee has done double duty with the Clean Air Act of 1977, for which the conference committee concluded barely 24 hours ago.

The Senate should clearly recognize the tremendous efforts of Senator MUSKIE, the Senate's wise and dedicated adviser and defender of the environment, and, from a talented, dedicated staff. I want to commend two staff members in particular, Leon Billings and Phil Cummings. It has also been an honor and privilege for me to work on this legislation under the dedicated direction of our distinguished chairman, Senator JENNINGS RANDOLPH.

Mr. President, the Senate's goal today is to enact comprehensive amendments to the Federal Water Pollution Control Act of 1972 to expand, refine, and improve the Federal Government's effort to clean up and preserve the Nation's waters resources.

I was a conferee earlier this year on the Public Works Employment Act. This legislation included funds for fiscal year 1977 to construct water pollution control plants. That conference ended without the authorization of these needed construction funds because the House insisted on a number of significant changes to the 1972 act that had not been considered by the Senate. After that conference committee ended, the Senate Environment and Public Works Committee set a course of action to carefully consider amendments to the 1972 legislation. With passage of this bill today, the Senate meets its obligations to the House. I share the expectation of Senators RANDOLPH and MUSKIE that the House will be prepared immediately following the August recess to conference on this matter and send it to the President.

In Minnesota we need the Clean Water Act of 1977. Several dozen communities are waiting for construction funds to build sewage treatment plants. Over a hundred more are ready to prepare step 1 plans or begin step 2 engineering. Communities and lakeshore owners associations are anxious for additional lake restoration projects. The Minnesota Pollution Control Agency is prepared to assume the expanded role in the administration of the construction grants program authorized in S. 1952. Small businesses need relief from the burdens of industrial cost recovery. Many communities will be interested in the set-aside authorized for alternative systems. And many other provisions of this legislation will be of benefit to my State. I share Senator MUSKIE's hope the House acts quickly on it.

In testimony before the Congress

nearly 6 years ago on water pollution control, I said:

We must act now to reshape priorities so that both clean water and productive capacity are achieved. If we do not act, rivers like the Buffalo, Rouge, and Cuyahoga will continue to catch fire because of the pollution in them. And nobody sets his house on fire to keep temporarily warm. When that glow is gone, all we are left with is ashes. Our people deserve a better legacy.

National priorities were reshaped by the Federal Water Pollution Control Act of 1972. Much has been accomplished since the 1972 legislation to insure that our waters are cleaner for our children and grandchildren than they are today.

S. 1952 continues the Federal Government's commitment to clean water. It deserves enactment today by the Senate. Implicit in the Clean Water Act of 1977 is that the Nation's glass of water is now half full. The severe pollution in the Buffalo, Rouge, and Cuyahoga Rivers that caught the attention of the public and Congress in earlier years and gave impetus to the 1972 act, are now only memories.

But the burning rivers of the past are now replaced by kepone in the James River and PCB's in the Great Lakes and the Mississippi River.

Seven out of ten municipalities still are not discharging adequately treated sewage.

Nonpoint source pollution has not been confronted; 112 chemicals have been found in the drinking water of New Orleans; wetlands continue to be threatened; massive quantities of sludge are simply dumped into the oceans; cancer mortality is increasing and what we drink is increasingly suspect as the cause; algae clogs thousands of recreational lakes.

Chlorination of water is suspect because of the potentially harmful compounds that are formed in the chlorination process.

Pesticide use will increase by 50 percent by 1984 with potentially serious consequences of runoff to the Nation's waters.

And in my own State of Minnesota, on beautiful Lake Superior—the world's largest freshwater lake—another 67,000 tons of taconite tailings would be dumped into the lake today as they have been daily for nearly 22 years.

The challenge of clean water for all Americans remains. The Clean Water Act of 1977 continues the commitment of the Congress to restore and maintain the ecological health of our Nation's waters. I solicit my colleagues' favorable support for S. 1972 and thank Senator MUSKIE, Senator STAFFORD, and the other members of the Environment and Public Works Committee for the opportunity to participate in the development of this legislation.

Mr. President, three amendments in S. 1952 are of particular concern to me and I would like my colleagues to have the benefit of their background.

S. 1952 amends section 404 to mandate that all dredging by the Corps of Engineers is carried out in compliance with State water quality standards. The committee report recites the history of the litigation initiated by the State of Minnesota in 1975 to require the corps to dredge consistent with the water quality standards of the Minnesota Pollution Control Agency.

I believe the efforts of the State of Minnesota, through the Minnesota Pollution Control Agency, to insure that the significant dredging activities of the corps in Minnesota are carried out in compliance with MPCA water quality standards are very appropriate and reasonable. Dredging is a major activity in the Nation's waters and the water quality impacts associated with the massive removal and subsequent disposal of bottom sediments in rivers and harbors throughout the United States are of great significance, and, can be mitigated with appropriate planning and operational techniques. The on-land or confined disposal of dredge spoil, versus the predominant practices to date of open water disposal, is available in almost all instances at a cost that is not prohibitive.

The necessity of the States having the authority to require on-land disposal of dredge spoil becomes more apparent each day as new substances are discovered which are carcinogenic, mutagenic, or teratogenic. Many of these substances have made their way into the environment and are dormantly locked in the sediments of our lakes and rivers, including areas where the corps dredge to maintain navigation. Dredging obviously disturbs the pollutants in bottom sediments and again gives them an opportunity to enter the ecosystem.

An excellent example of the problems of unregulated dredging and dredge spoil disposal is the case of polychlornated biphenyls, PCB, concentrations that have been found in the Duluth-Superior Harbor and along the Mississippi River. It is essential in these locations for the corps to periodically dredge to maintain the navigation channel, but it makes little sense to then dispose of the spoil by returning it to the waterway. In this case, as with other pollutants, disposal in a lake, river or harbor simply allows the PCB's another chance to make their way into the fatty tissues of fish and potentially into human beings.

The amendment adopted by the committee recognizes that the capability of the corps to comply with State water quality standards, and other State and local procedural and substantive requirements, is influenced by the availability of funds for mitigation technology to the corps. As the committee report indicates, corps dredging must be approached with the same general philosophy that the 1972 act uses for other discharges. That is, if a mitigation technology is available at a reasonable cost, it must be utilized. Certainly it is beyond the budgetary capability of the corps to provide on-land or confined disposal of all dredge spoil in all locations in the United States. However, several corps district offices, including the St. Paul district, have requested and received funds for these practices to date. Pursuant to this amendment, the corps will be required in many instances by the States to expend additional funds to protect water quality. The committee report supports funds for this purpose and has determined that it is the responsibility of the Secretary of the Army to seek funds from the Congress, with the support of the Environmental Protection Agency.

This amendment to section 404, is neither intended nor will result in compromising the ability of the corps to maintain navigation as some have maintained. The permit program in the 1972 act provides ample opportunity for the corps to obtain relief from water quality standards in those cases where compliance is not economically feasible or is not required from a water quality perspective. Also, the States like Minnesota that have taken administrative and judical action to seek corps compliance with water quality standards, have a comparable interest in the movement of commerce on waterways maintained by the corps by dredging. I am confident that the States will act both to insure compliance with water quality standards and continued corps dredging activities. Finally I share the view of Justices Stevens, Rehnquist, and Marshall in their dissent to the Supreme Court's decision not to review Minnesota against Callaway. The justices said, in part, "Section 404 simply provides that dredging permits are issues by the Army Corps rather than the EPA. It says nothing about any exemption from State water pollution regulation." (45 U.S.L.W. 3706, 1977) I agree and so did the committee. This amendment leaves no question that the Corps of Engineers must comply with State water quality standards when dredging in Minnesota and across this country.

The committee also amended the marine sanitation device section to require that sanitation devices on commercial ships meet or exceed secondary treatment requirements. The committee did not go as far as I recommended on this matter but at least on the Great Lakes for commercial vessels the treatment of sewage from vessels will be improved.

The States of Michigan, Minnesota, and Wisconsin all enacted statutes prior to the 1972 Federal Water Polution Control Act requiring all vessels in intrastate and interstate waters to be equipped with marine sanitation devices that retained all vessel wastes, for subsequent disposal on-shore through a pumpout facility. Because of the difficulties these and other States encountered in enforcing their regulations in interstate waters, particularly on commercial vessels, these States petitioned the EPA to enact Federal standards.

Prior to enactment of the 1972 act, the EPA, acting pursuant to prior authority, promulgated regulations (40 C.F.R. 140) to control marine sanitation devices. These regulations eventually required all vessels to be equipped for no-discharge of wastes. Later, pursuant to section 312 of the 1972 act, these regulations preempted the authority of States to enforce State regulations. Testimony by the Minnesota Polution Control Agency and Michigan Department of Natural Resources at the Duluth field hearing, indicated that both States did not oppose the preemption of State authority in section 312 because then current EPA regulations, and assurances at that time to the States by the EPA and Coast Guard, all pointed toward no-discharge for all vessels. No-

discharge is particularly important to the Great Lakes States because of the large number of commercial vessels on the Great Lakes passing through recreational waters.

These Great Lakes States were disappointed when in June 1974, the EPA reconsidered its regulations, indicating a willingness to discuss the use of "flow-through treatment" or non-detention devices, when in January 1975, the Coast Guard promulgated regulations pursuant to Section 312 that permitted flow-through devices, and when in January 1976, the EPA amended its regulations to allow the discharge of vessel wastes in coastal waters, the Great Lakes and on navigable interstate waters, while retaining no-discharge requirements on land-locked bodies of water. The EPA and Coast Guard justified these regulations because of the cost of retrofitting existing vessels and the inadequate number of pumpout facilities, particularly for commercial vessels engaged in interstate and foreign commerce.

The States of Michigan, Minnesota, and Wisconsin subsequently exercised their prerogatives under section 312(f), that permits the Administrator to declare no-discharge zones where sufficient pumpout facilities exist or where the waters under such consideration require special protection. These States, confronted with Federal regulations that were less stringent than their own requirements that were now preempted, accordingly appealed to the EPA to declare their waters zones of no discharge.

From the record of the Michigan, Minnesota, and Wisconsin experiences with the section 312(f) provision, it is apparent to me that these States have been denied protection of their waters by both the EPA and Coast Guard regulations and the 312(f) procedure. All but one petition, filed pursuant to section 312(f)(3) and (4) have been denied by the EPA because of the lack of pumpout facilities. The State of Minnesota suggested in testimony to the committee that the EPA denial of no-discharge zones for Lake Superior and other waters from a lack of pumpout facilities is ironic since these pumpout facilities are not required when vessels, pursuant to EPA and Coast Guard regulations, need not install holding tank equipment. Also, I agree with the concerns of these States that many of these devices, particularly for large volume commercial vessels, do not meet the secondary treatment requirements of on-shore treatment works.

The situation in 1977 with the regulation of marine sanitation devices, particularly on the Great Lakes, in short, is not at all satisfactory to the States of Michigan, Minnesota, and Wisconsin. Speaking for these upper Great Lakes States, the Minnesota Pollution Control Agency at the Duluth hearing testified as follows:

> The Agency feels that the Federal regulations on vessel wastes are, at best, inadequate. Where discharge is allowed, effluent standards are not at the secondary treatment level—the level required for shorebased industries and cities. What is more, there are no monitoring, testing, or reporting requirements to insure proper operation and maintenance of "flow-through treatment" devices. Despite the fact that federal regulations were designed to promote a unified regulatory approach, the situation on the Great Lakes is the same as it was six years ago, but with an additional set of federal regulations involved. Parts of Lake Michigan and Superior are now no-discharge (along with land-locked lakes) and under state control, while the rest of the Great Lakes are currently under federal flow-through regulations, subject to further state petitions.

The States of Michigan and Minnesota recommended to the committee that section 312 should be clarified and that a uniform enforceable Federal vessel waste regulation of no-discharge on all waters be enacted. These States contend that their recommendation was the stated goal of the EPA at the time of the enactment of the 1972 act and the only reasonable, workable standard for the control of vessel wastes. These States suggest a no-discharge requirement would end the confusion and conflict which currently exists between the States and the Federal Government.

The committee was sympathetic to the position of these Great Lakes States and acted in part to assist them. In retrospect, the developments since the 1972 act do call into the question the preemption of State authority to regulate marine sanitation devices by section 312 and the absence in section 312 or the legislative history of direction to the EPA and Coast Guard by the Congress to implement, in the regulations authorized by section 312, the standard of no-discharge that was the goal of regulations in force at the time of enactment.

The Environment and Public Works Committee has been reluctant to preempt State authority in any matters affecting the health and safety of the public. In the setting of water quality standards, pursuant to this and earlier Federal water pollution legislation, the States are permitted to enact more restrictive requirements than those of the Federal Government. Elsewhere in S. 1952, the committee amended section 313 and 404 to make it abundantly clear that the activities and discharges of the Federal Government are not outside the jurisdiction of State substantive and procedural requirements. Consequently, the preemptive effect of section 312 of the 1972 act was carefully considered by the committee. but enacted to insure a uniform system of regulation of a class of dischargers, particularly susceptible to varying State requirements.

While the logic of the States of Michigan and Minnesota are in recommending enactment of a no-discharge standard cannot be easily dismissed, the committee recognized that since the 1972 act, thousands of recreational and commercial vessels have been constructed and retrofitted to comply with the EPA and Coast Guard regulations. The manufacturers and owners of those vessels acted in good faith to build or renovate their vessels to comply with Federal regulations. The committee determined that, at this time, to enact a no-discharge requirement for all existing and new vessels, would not be equitable, notwithstanding the regulatory advantages of such a standard. I accept this judgment and hope that the amendments that were adopted will assist in improving the quality of wastewater treatment onboard vessels on the Great Lakes.

On the clean lakes program, the 1972 Senate report on the clean lakes section of the Federal Water Pollution Control Act said, in part:

> In many areas of the nation, freshwater lakes and reservoirs are seriously degraded by municipal-industrial pollutants, by agricultural runoff, and by accelerated sedimentation. These pollutants greatly accelerate the rate of eutrophication . . . Excessive eutrophication, accumulated sludge and other pollutants, reduced flow and severe water level fluctuations, and heavy sedimentation all are contributing to critical conditions which must be remedied promptly if the lakes are to recover and continue their natural function in our national life.

The 1972 act recognized the urgent need for a lake improvement program to restore the significant number of the Nation's 95,000 freshwater lakes that were in a eutrophic and deteriorated condition. The clean lakes program was conceived to respond to this problem. The Environment and Public Works Committee and the Congress, in enacting the clean lakes program as part of the 1972 act, joined the author and tireless supporter of this program, then Senator from Minnesota, now the Vice President of the United States, WALTER F. MONDALE, in expecting the EPA to restore freshwater lakes. During the debate on the Senate legislation on November 2, 1971, Senator MONDALE said of the clean lakes program:

> For the magnificent freshwater community lakes of this country are threatened now with destruction and this legislation is designed to prevent that destruction. I am hopeful that it will be fully funded and that we will begin, at long last, to save this irreplacable resource for our country.

Nearly 5 years have passed since Public Law 92–500 went into effect. The hopes and expectation of the Congress for lake restoration programs have not even begun to be realized. The EPA has shown little interest nor given even a modest priority to the clean lakes program. Only 15 percent of the 95,000 freshwater lakes of this country have been investigated pursuant to section 314. The EPA has not requested any of the research funds authorized for lake pollution. The EPA's approach to the clean lakes section is simply summarized in the level of appropriations for lake restoration to date. Only $40.3 million has been appropriated since fiscal year 1975.

In fact, neither the Nixon nor Ford administrations ever requested funds for the clean lakes program. Of the funds appropriated through fiscal year 1977, the EPA has only allocated $19 million. With tens of thousands of lakes in a condition warranting the use of clean lakes project grants, the EPA has only funded 54 projects to date. With the discouraging lack of interest by EPA in this program, I am nonetheless encouraged that 54 lake restorations projects were in a position to qualify for these grant funds.

My concern for the poor record of the EPA in implementing section 314 and my interest in hearing directly from individuals involved in lake restoration

projects, resulted in a panel discussion on section 314 at the Alexandria, Minn., public hearing. The panelists confirmed both that section 314 provided an adequate framework for a successful lake restoration program, and, that the EPA, to date, has seen fit to all but neglect this program. The hearing record from the Alexandria panel clearly demonstrated to the committee that there is great interest in lake areas in the restoration and preservation of degraded freshwater lakes, that the clean lakes grants that have been made have had some impact and that additional research and demonstration efforts are necessary so to successfully implement clean lakes projects, especially in urban areas.

The committee in the report expressed its disappointment to the Administrator regarding the implementation of the clean lakes program since 1972. I believe that the basic structure of 314 is adequate. The amendments to this section were suggested in testimony before the committee and intended to correct two inadequacies of the program.

I share the hope of the committee that these amendments and the language in the report will result in an expanded clean lakes program as a high priority program for the U.S. Environmental Protection Agency.

Mr. President, I yield to the Senator from Rhode Island for the purpose of submitting a conference report, without relinquishing my right to the floor.

Mr. RANDOLPH. Mr. President, the Senator from Maine (Mr. MUSKIE), who is the chairman of our Subcommittee on Environmental Pollution, has presented in detail the provisions of this legislation.

This vitally important measure was marked up by the full Environment and Public Works Committee. The basic work, however, was carried out by our Subcommittee on Environmental Pollution under the able direction of Senator MUSKIE. Again, I commend him for his dedication to environmental matters and for his efforts to achieve a reasonable, balanced, and workable program.

As always, the committee has been greatly facilitated in its work by the cooperation and shared concern expressed by our minority members. Senator STAFFORD, the ranking minority member of the committee, who has spoken, has been particularly helpful in moving this legislation forward.

The extensive hearings and committee meetings to develop this bill were well attended by the members and I commend them for their concern. Their participation was extensive and constructive, and I extend my appreciation to Senators GRAVEL, BENTSEN, BURDICK, CULVER, HART, ANDERSON, MOYNIHAN, BAKER, MCCLURE, DOMENICI, CHAFEE, and WALLOP.

The Members are always appreciative of the work of the committee staff in the preparation of legislation. In the development of this bill, I am particularly gratified by the contributions of John Yago, Leon Billings, Philip Cummings, Bailey Guard, Judy Parente, John Freshman, Sally Walker, Richard Harris, Jacqueline Shaffer, Richard Herod, James Range, and Paul Chimes.

Mr. President, the Clean Water Act of 1977 is a major adjustment of the program established with enactment of the Federal Water Pollution Control Act of 1972. When that measure became law 5 years ago we anticipated that it would be necessary to make adjustments such as those represented in the bill before the Senate today. The Committee on Environment and Public Works has carefully reviewed the implementation of the 1972 act. We have developed these amendments in response to that implementation and the events of the past 5 years.

The bill addresses issues in all water pollution areas—inland as well as marine, industrial as well as municipal, toxic substances as well as conventional pollutants, large cities as well as small communities. In each of these areas we have proposed modifications of the basic act to strengthen its ability to respond to needs in various facets of our society. As reported, the bill provides the means to continue progress in reducing water pollution through a fair, flexible, and workable program.

In anticipation of the need to adjust the program, the 1972 act provided for the establishment of the National Commission on Water Quality. I was privileged to serve as a Senate member of that Commission together with Senators MUSKIE, BENTSEN, BAKER and former Senator Buckley. During its 3-year existence, the National Commission on Water Quality, under the chairmanship of Nelson Rockefeller, examined both the long-range objectives of the water pollution program and the mechanism and timetables we established for achieving them. The bill before the Senate today reflects many of the findings and recommendations of the Commission.

The Committee on Environment and Public Works did not adopt each of the Commission's proposals, but we did find that its work was helpful in helping us to focus on particular problems and to devise solutions to them. Without the efforts of the Commission, the committee would have faced a much more difficult task in bringing this legislation to the Senate.

A major feature of the water pollution control program is the Federal grants to assist local communities in the construction of sewage treatment systems. The backlog of needs for these systems remain high and the cost of building them is far beyond the capacity of local governments, even some State assistance. The 1972 act, therefore, provided 75 percent of the construction cost should come from Federal funds. The $18 billion authorized in 1972 has been largely committed with the result that substantial progress has been made in reducing the discharge of pollutants in the waters of the United States. The Clean Water Act of 1977 continues the construction grant program. It authorizes $3.5 billion to supplement the $1 billion already appropriated for fiscal year 1977. The bill authorizes $4.59 billion for each of the next 5 fiscal years. These authorizations will permit long-term planning for development of new treatment facilities.

The committee considered various means for the distribution for these funds, including those based on need, those based on population and various combinations of the two approaches. The formula in the bill as reported by the committee is a combination of both needs and population and is intended to avoid inequities in the distribution of funds solely on the basis of population or needs. The bill also provides that a minimum amount go to smaller States.

In the allocation of funds to the States, the bill recognizes that encouragement must be given to the development and construction of alternative methods of sewage treatment. The United States has traditionally relied on centralized treatment plants served by widespread collection networks. In many instances these are neither the most effective nor least costly method of resolving the problem. The bill, therefore, encourages the consideration and implementation of alternative systems.

Committee members gave particular concern to the high construction and operating costs that some communities, particularly smaller communities, have encountered by adopting conventional treatment systems. Alternative technologies should provide these communities with options which will enable them to meet basic needs without placing unnecessary financial burdens on the people of the community.

To encourage the alternative systems approach, the bill contains a section sponsored by Senator STAFFORD and myself which requires specific amounts to be earmarked for alternative systems. For those 34 States in which the total population is more than 25 percent rural, the Administrator of the Environmental Protection Agency would set aside at least 5 percent and up to 10 percent of those States' grant allocations. This money would be used exclusively for alternative treatment systems. This would not prohibit States from using an even greater percentage of Federal allocation for alternative systems, nor would it prevent States with smaller rural populations from making the same use of their construction grant funds.

This earmarking of funds is closely related to another section of the bill which I sponsored. That provision would permit the Environmental Protection Agency to make grants to individuals for the installation of individual treatment systems in homes and small commercial establishments. Such grants are intended to resolve pollution problems in rural and lightly populated areas where conventional collection and treatment systems are not suitable. The Appalachian Regional Commission has conducted a demonstration program in Boyd County, Ky., which has shown that individual and cluster systems are a realistic means of meeting rural sewage treatment needs.

This section of the bill authorizing grants to individuals corrects an impediment in existing law. While grants can be made for individual and cluster systems, they cannot be made to individuals. The proposed change would permit these awards to individuals but

only if the applications are made through a public body which then must assume the responsibility for proper maintenance and operation of the systems.

Mr. President, I think such a program as envisioned with alternative systems will contribute to the reduction of overall costs in the construction grant program.

For many years, we have relied so extensively on conventional systems that in many areas little is known about other methods. The bill, therefore, contains another provision I sponsored which would direct the Environmental Protection Agency to establish a clearinghouse for information on alternative systems. Such a clearinghouse would collect and disseminate information on the types of technology that are available and how they can be applied to various situations. This, I believe, is another means of encouraging the use of alternative treatment systems.

Mr. President, as a Senator from the Nation's second most rural State, I am naturally concerned with the problems of small communities in meeting the objectives of the water pollution control program. As with many Federal programs in the water pollution area, there are substantial administrative requirements—redtape—in the distribution of construction grant funds. Small communities, particularly, are ill-suited to cope with the administrative and regulatory requirements of the program. At the present time, approval in three steps is required of applications for municipal treatment facilities. The first of these is initial planning, followed by the design of the system and finally actual construction.

In recent years, there has been a move toward standardized facilities, particularly for smaller communities. The committee, therefore, believes that the process could be streamlined by the combination of steps two and three in smaller communities. Such authority is provided in the bill for those projects costing less than $2 million and which will serve a population of less than 25,000. An exemption is made for States like Alaska in which construction costs are considerably higher than average. In those States, the step two and three combination is available for those projects costing less than $3 million. This provision will not only remove much of the frustration and take away a major burden of small communities, many of them functioning with only part-time officials, it can also accelerate the construction program and the reduction of pollution.

Mr. President, one of the most extensively debated sections of this bill is that relating to the types of facilities which are eligible for Federal assistance under the construction grant program. The Environmental Protection Agency proposed removing collector sewer systems from eligibility. The Committee on Environment and Public Works rejected this recommendation. The bill continues eligibility for collector sewers under limited conditions.

I recognize that under the existing program. there may have been abuses in some States and communities which utilized funds for excessive construction of collector sewers. In many areas, however, it is impossible to build a treatment system without assistance for the total sewer system. I turn to the State of West Virginia as an example. My State generally has a widely-dispersed population and extensive sewer lines are needed for the system to function. The cost is so high that sewage plants cannot be built if local funds must be relied on for all of the sewers. In West Virginia, in fact, it has been estimated that approximately three-quarters of the cost of building treatment systems is attributable to the sewers themselves. Without Federal assistance for collector sewers, many communities in my State simply would be unable to participate in the program and would be forced to continue without pollution abatement facilities.

The committee, therefore, decided to continue collector sewers as an eligible item. Federal funding is available when collector sewers are intended to serve an existing population, when there will be adequate treatment capacity to serve the sewers, and when they are necessary to protect water supplies and when there are no less cost efficient alternatives.

Excessive construction of collector sewers also will be controlled by other provisions in the bill which restrict the reserve capacity of treatment systems. Sewers, for instance, may be constructed to accommodate the anticipated need for the next 20 years, whereas treatment plants can be constructed with a reserve capacity of up to 10 years. Both of these requirements, again, will prevent overconstruction and thereby excessive costs to communities for operation and maintenance.

I refer again to the emphasis on alternative treatment systems to stress that their use should reduce the need for the construction of extensive sewage networks.

Mr. President, I have spoken on several occasions to the difficulty faced by communities in financing sewage treatment projects to reduce pollution. I turn again to the State of West Virginia where many municipalities and public service districts have been frustrated in their efforts to comply with the law. Until recently, they found it extremely difficult and in some cases impossible to raise the necessary 25 percent local share to qualify for Federal assistance. Now the strain is no longer so great. The West Virginia Water Development Authority has developed its own program to assist communities in raising the local share. All the communities, for instance, are now eligible to receive 5 percent of the costs from the Water Development Authority.

In addition, under hardship conditions, the State can provide up to 15 percent grants in addition to the basic 5 percent. Therefore, the State can, in some instances, pay 20 percent of the cost to qualifying communities. More recently, the West Virginia Water Development Authority has begun loans to communities to make up their local share.

A program such as this combines Federal, State, and local efforts and is permitting West Virginia to move ahead more rapidly than it has in past years in meeting its responsibilities under the Water Pollution Control Act. I commend the State for its forward-looking approach to this problem and suggest that others may wish to examine what has been done in West Virginia.

Mr. President, one of the most difficult and controversial issues is that relating to the regulation of the disposal into the waters of dredged and fill material. This issue was extensively debated last year and again earlier this year.

The situation arose from judicial and administrative interpretation of the provisions of section 404 of the Water Pollution Control Act of 1972. These actions greatly expanded the authority of the Army Corps of Engineers to regulate the placement of dredged and fill materials in the Nation's waters. As a result, there has been widespread concern that many activities that are normally considered routine would be prohibited or made extremely difficult because of the complex regulatory procedure.

Last year, in developing the water pollution bill, Senator BAKER and I sponsored a provision to give congressional direction to the regulatory program now carried out solely by the Corps of Engineers. This proposal was adopted by the committee and by the Senate. Unfortunately, however, the conference on the water pollution bill was not concluded before the end of the 94th Congress.

The Committee on Environment and Public Works has, therefore, approached this problem again and has devised a realistic and workable way of protecting our Nation's waterways from contamination by the disposal of dredged and fill materials. The section of the Clean Water Act of 1977 addressing this subject is similar to that in last year's bill.

The committee bill recognizes that there should be no gaps in the effort to protect our Nation's waterways from contamination. For that reason, a broad program of control is provided and permits for the discharge of dredged and filled material are required. Parts of the program would continue to be administered by the Army Corps of Engineers, but the bill provides for the assumption by the States of substantial portions of the permit program.

To facilitate the carrying out of routine activities, our bill specifically states that permits are not required for such activities as normal farming, silviculture or ranching, some mining and construction activities. The exemption of these activities from permit requirements will greatly simplify the administrative process and reduce the potential redtape burden.

I emphasize, Mr. President, that while silvicultural activities are exempted from permit requirements, this exemption does not extend to clearcutting in eastern mixed hardwood forests. Clearcutting has resulted in extensive damage to the land and pollution of streams where it is practiced. The committee report, therefore, specifies that clearcutting in eastern mixed hardwood forests is not a normal silvicultural activity and thereby is subject to the permit requirements of the act. I personally believe that in those instances when clearcutting is practiced that it must be done only under the most

careful supervision and control so that the adverse effects of this regrettable practice will be kept to a minimum.

The permit program also is simplified by providing for general permits which could be issued on a regional or national basis for classes of activities.

I believe that the committee has developed a realistic response to a very difficult and complex problem. I hope the Senate will give its endorsement to our work in this respect.

Mr. President, the 1972 act established deadlines for the achievement of certain goals. By July 1, 1977, it was required that both municipal and industrial dischargers would have installed the best practicable treatment technology. It was anticipated that such installation would greatly reduce the amount of pollution being emptied into our waterways.

Neither all municipal nor all industrial dischargers met this goal for a variety of reasons.

A major obstacle to the municipalities was the lack of Federal funds. Although $18 billion were provided in the 1972 act for Federal assistance, much of this money was impounded by the executive branch during the early years of the program. Its subsequent release sometimes was too late to be utilized by municipalities to meet the 1977 deadline. In addition to the shortage of funds, there are other extenuating circumstances which prevented the achievement of this goal. As a result, only about half of the municipalities met the 1977 deadline.

The record with respect to industry is considerably better. Of the 4,000 major industrial dischargers, nearly 90 percent achieved the 1977 objective for installing the best practicable treatment technology. As a result only about 600 industrial sources are now in violation of the 1977 deadline. Action will not be taken against many of these sources, many of which are not in compliance because of reasons beyond their control.

With respect to municipalities, the committee agreed that circumstances were such that an extension of the time to meet the 1977 deadline was required and such an extension is provided on a case-by-case basis under specified conditions.

The committee was more reluctant to provide relief for industry, although recognized that in some instances there were conditions beyond the control of industry sources which prevented them from attaining the 1977 standard. I raised this issue of industrial extensions before the committee and proposed that extensions be granted in those instances where a good faith effort had been made to meet the 1977 deadline. The provision of the bill on this subject reflects the committee's acknowledgement that some relief is required in those instances where industry could not meet the goals despite their best efforts and for reasons that were not always within their control. This provision is based on the existing act and provides the Environmental Protection Agency with two methods to provide relief for industrial dischargers. The first allows the Administrator to issue an order to comply within a reasonable time. The second option provides up to 18 months' extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith, where he finds it a serious commitment to achieve compliance has been made, that the extension will not impose additional controls on other sources and that an application for a permit was filed before December 31, 1974, and that the necessary facilities for abatement are under construction.

There was considerable discussion in the committee as to the type of commitment to providing pollution control facilities that an industry must have undertaken to qualify for a permit. It is my belief that the commitment of resources to an abatement program meets the requirements of this provision. The initiation of plans, hiring of technical personnel, approval of permits, and the commitment of financial resources all should be taken as meeting the requirements of this section. In some instances, physical construction may not have begun, but this should not be considered as failure to meet one of the requirements.

In some instances, industries are working on approved compliance schedules that do not require construction until sometime in the future. The requirement that abatement facilities be under construction in order to receive an extension of the deadline need not be interpreted as requiring that actual physical activities be underway.

Mr. President, this is a broad bill covering all water pollution issues. It is the result of extensive hearings, consultations and deliberations by the Committee on Environment and Public Works. It continues the important effort that we began in 1972 and the necessary adjustments to make this program compatible with contemporary needs. I hope that it can be enacted and that a conference with the House of Representatives can be completed in the shortest possible time to remove the uncertainties that are faced by many public and private groups throughout the country. Of particular importance is the construction grant program. Federal funds for this activity are nearly exhausted. The program is being continued solely on a $1 billion appropriation that was adopted earlier this year. We must enact this legislation so that the construction grant program can continue in an orderly fashion and so the States and local communities can begin planning for their long-range pollution control programs. The people of America will be benefited by its passage.

Mr. GRAVEL. Mr. President, clean water is a motherhood issue. Who can be against it? Who does not want it now and in the future? Who does not want to see fish return to the Great Lakes, and never be threatened in now pristine areas? If that were the only question, Senators MUSKIE and STAFFORD, the able managers of the bill, and Senator RANDOLPH, the fine chairman of the Environment and Public Works Committee, would not have had to toil as they did. But toil they did.

Was there any difficulty in marking up the committee bill, in bringing to the floor the first amendments to the 1972 Federal Water Pollution Control Act amendments? Because the question is not whether we want clean water, but how do we attain it and preserve it? What standards do we set to assure clean water that can be met by technology and by the treasuries of large and small companies alike? How much should we have to pay for it, and how will we pay for it? Should exceptions to the general requirements be granted, and if so, on what basis to assure clean water and equity for all others concerned? What areas of the thrust toward clean water should the Federal Government finance, and to what extent? To what extent should the Government, and at what level, regulate activities that are viewed by some as minor, and by others as major? How do we accommodate those who want to use the waters for recreational or aesthetic purposes with those who need the water for agricultural or industrial purposes?

Mr. President, these are the types of questions that make Senator MUSKIE and Senator STAFFORD and Senator RANDOLPH have a difficult time in reporting out a clean water bill. These are the issues that each and every Member has to wrestle with, to appreciate, to decide upon, even if a particular issue does not directly affect his constituency. And they are all issues on each side of which there are strong feelings. That also makes it difficult for all of us, both on the committee and on the floor today.

Mr. President, the true significance of the Clear Water Act, the midcourse correction of the 1972 water law, is that most of the current law will remain intact. The law has worked. Water is getting cleaner through the largely commendable efforts of industry and despite the politics of vetoing construction grant funding. EPA, in most respects, has been able to function in its issuance of guidelines and permits.

Experience has shown that changes are in order, however, and the committee was willing to wrestle with some 60-odd issues in trying to fine-tune the act to address those problems that remain. Some municipal extensions are in order. Some waivers for traditional pollutants are in order that will not make it necessary for industry to install additional pollution control equipment merely for the sake of meeting the 1983 standard. The waivers will be limited, but they will be granted to those who can make a showing that basic environmental and economic concerns are met. Some municipalities that discharge into the coastal waters and saline estuarine waters with strong tides and currents may obtain waivers from the secondary treatment standard if they can show basic environmental concerns are satisfied. Some extensions of the 1977 requirements for industry may be granted for limited periods of time and in cases of good faith attempts to comply—some will have to accept delayed compliance penalties. The rum distillers in the Virgin Islands and Puerto Rico and the seafood processors, many of them in Alaska, will be reviewed to determine whether there is justification to exempt them from the 1977 standards. These provisions are a credit to the committee's ability to strike a balance between environmental protection and recognition

of the complications of what we affectionately call civilization.

Changes in the discharge of dredge and fill materials were addressed. Problems of lake freighters on the Great Lakes were addressed. Fears of many States were allayed when Federal agencies were required to conduct their activities in accordance with State environmental law. Small communities were assured funds to address problems of dispersed populations and limited tax bases. Innovative systems were allowed to be constructed in small communities on a house-by-house basis. Rural villages in Alaska will be studied to determine appropriate methods of providing adequate sanitation services. Local communities will have some control over the method used to assure the funds necessary to operate and maintain plants constructed by Federal funds.

Not only were errors in the system corrected, but new directions were given. Emphasis will now be placed on attacking the pernicious problem of toxics that are so pervasive. No more will we tolerate, nor require our citizens to be subjected to, the wanton and mindless discharge of dangerous toxics and carcinogens. The Clean Water Act will assure more rapid action in this area, while preserving the due process rights of those who are polluting.

Mr. President, the Clean Water Act is legislation we can all be proud of. It is a well conceived approach to a difficult set of problems, the solution of which will assure some significant progress toward continuing the clean-up and protection of our Nation's waters. The committee has taken some difficult steps to handle some tough questions. All the better to assure the motherhood status of clean water.

I urge all my colleagues to support the Clean Water Act of 1977.

ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS—CONFERENCE REPORT

Mr. PELL. Mr. President, I submit a report of the committee of conference on H.R. 6179 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SARBANES). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 3, 1977.)

Mr. PELL. Mr. President, on June 16, the Senate approved this legislation by a unanimous rollcall vote, 82 to 0, and the committee of conference has accepted the Senate bill.

Mr. President, I believe that the Arms Control and Disarmament Act Amendments of 1977, is an excellent piece of legislation. It authorizes $16,600,000 in expenditures for the Arms Control and Disarmament Agency in fiscal year 1978, and includes provisions which will increase the activities and effectiveness of the Agency in a number of important areas.

I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

CLEAN WATER ACT OF 1977

The Senate continued with the consideration of S. 1952.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time consumed by the quorum call be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF LEGISLATION AFFECTING THE BUDGET PROCESS

Mr. MUSKIE. Mr. President, I send a unanimous-consent request to the desk.

Mr. President, I ask unanimous consent that legislation affecting the congressional budget process, as described below, be referred jointly to the Committees on the Budget and on Governmental Affairs. If one committee acts to report a jointly-referred measure, the other must act within 30 calendar days of continuous possession, or be automatirally discharged.

Legislative proposals affecting the congressional budget process to which this order applies are:

First. The functions, duties, and powers of the Budget Committee—as described in title I of the act;

Second. The functions, duties, and powers of the Congressional Budget Office—as described in title II and IV of the act);

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the etablishment of: mandatory ceilings on spending and appropriations; a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills; and enforcement mechanisms for the limits and timetables, all as described in titles III and IV of the act.

Fourth. The limiting of backdoor spending device—as described in title IV of the act;

Fifth. The timetables for Presidential submission of appropriations and authorization requests—as described in title VI of the act;

Sixth. The definitions of what constitutes impoundment—such as "rescissions" and "deferrals," as provided in the Impoundment Control Act, title X;

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X;

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

Ninth. The provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof.

This consent agreement has been worked out carefully by Senator RIBICOFF, who is chairman of the Government Affairs Committee, by Senator PERCY, who is ranking Republican, by myself as chairman of the Committee on the Budget, and by Senator BELLMON as ranking member of the Budget Committee. The attempt is to divide between the two committees those legislative proposals which made an impact on the budget process without denigrating the Committee on Government Affairs general jurisdiction over such budgetary matters. It has been cleared by both committees. It has been examined by the majority leader. I ask for its approval.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, as chairman of the Senate Budget Committee, I express my appreciation to the distinguished majority leader for his cooperation in the formulation of this unanimous consent agreement with respect to joint referral to the Budget Committee and the Committee on Governmental Affairs of legislative matters affecting the congressional budget process. The distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, and his ranking minority member, Senator PERCY, have worked closely with me and Senator BELLMON, the ranking minority member of the Budget Committee, to reach agreement on an appropriate referral of legislation that affects the congressional budget process.

Under these circumstances, we have agreed that legislative proposals to revise the congressional budget process could best be referred to our two committees jointly, with the proviso that if one committee orders the bill reported, the other must report within 30 calendar days of continuous session or be automatically discharged.

The subjects to which we wish joint referral to apply are:

First. The functions, duties, and powers of the Budget Committee—described in title I of the act.

Second. The functions, duties, and powers of the Congressional Budget Office—as described in title II and IV of the act.

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the establishment of: mandatory ceilings on spending and appropriations; a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills; and enforcement mechanisms for the limits and timetables. All as described in title III and IV of the act.

Fourth. The limiting of backdoor spending devices—as described in title IV of the act.

Fifth. The timetables for Presidential submission of appropriation and authorization requests—as described in title VI of the act.

Sixth. The definitions of what constitutes impoundment—such as "rescissions" and "deferral," as provided in the Impoundment Control Act, title X.

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X.

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits, and

Ninth. The provisions which affect the content or the determination of amounts included in or excluded from the Congressional Budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof.

We have consulted with the distinguished majority leader and minority leader on the appropriate form for the joint referral. At this time, I express my appreciation to the leadership on both sides of the aisle for their cooperation in this matter.

We have agreed that legislation affecting the congressional budget process as described above shall be referred jointly to the Committees on the Budget and Governmental Affairs, whereupon if one committee acts to report a measure, the other must act within 30 days of continuous session or be automatically discharged.

Mr. President, I believe that this joint referral will expedite the handling of these legislative matters by both the Budget Committee and the Governmental Affairs Committee.

Mr. ROBERT C. BYRD. Let me ask the chairman of the Budget Committee for clarification on this matter. Is it his understanding that the joint referral order covers all matters with respect to impoundment?

Mr. MUSKIE. The distinguished majority leader raises an important point. As a cosponsor and floor manager of the Budget and Impoundment Control Act of 1974, the Senator from West Virginia is keenly aware that Congress adopted title X of the act to establish a structure for decisionmaking on impoundment matters. The procedures are spelled out in the provisions of title X. It is revisions or amendments of title X to which this order is addressed.

Mr. ROBERT C. BYRD. Does the Senator understand this order to include legislative matters which address the constitutional dimensions of impoundments?

Mr. MUSKIE. I recognize that the distinguished Senator from West Virginia, as a member of the Judiciary Committee, has a continuing interest in the separation of powers doctrine. Let me assure the Senator that this order in no way detracts from the jurisdiction of the Judiciary Committee of constitutional matters which may arise with respect to the relationship between the role of the executive and the legislature on impoundment matters. This order simply seeks to recognize the joint interest of the Budget Committee and the Committee on Governmental Affairs in orderly development of any revisions to the congressional budget process.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Human Resources may be authorized to meet until 12 o'clock noon today.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS AND JOINT RESOLUTION

A message from the President of the United States announced that he had approved and signed the following bills:

On August 1, 1977:

S. 1474. An act to authorize certain construction at military installations, and for other purposes.

On August 4, 1977:

S. 826. An act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

S.J. Res. 79. Joint resolution to amend the Federal Home Loan Bank Act.

CLEAN WATER ACT OF 1977

The Senate continued with the consideration of S. 1952.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON. Mr. President, I yield 5 minutes to the Senator from Texas.

UP AMENDMENT NO. 726

Mr. BENTSEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 726.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, beginning on line 14, strike out all through line 12 on page 76 and insert in lieu thereof the following:

SEC. 49. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to navigable waters, that support freshwater vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters and in wetlands other than adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act (except for effluent standards or prohibition under section 307), or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters and in wetlands other than adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material

under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(b) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation.

"(k) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to any fresh water lake located entirely within the boundaries of such State (other than such a lake constructed, in whole or in part, by either the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of the Interior) if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation.".

The PRESIDING OFFICER. On this amendment there is a limitation of 2 hours, evenly divided.

Mr. BENTSEN. Mr. President, for 2 years now, the people of America have lived with section 404 of the Federal Water Pollution Control Act as interpreted by the courts and administered by the Corps of Engineers. Mr. President, we can now say with certainty that this is one Federal program that has been weighed in the balance and found wanting. Section 404 has become a symbol to many Americans of how a well-intentioned legislative initiative can turn into a quagmire of disruption, frustration, and bureaucratic entanglement for the ranchers, farmers, foresters, and average citizens of this country.

The message we have heard from the people is clear and unequivocal; they have told us with their letters, their telegrams, their telephone calls, and their personal appeals that they are sick and tired of attempting to cope with the provisions of section 404. With the passage of time, their anxiety has turned to resentment, their concern has become determination.

Section 404 has assumed an importance that extends far beyond dredge and fill activities; it has become synonomous with Federal overregulation, overcontrol, cumbersome bureaucratic procedures, and a general lack of realism. Accordingly, our debate today will be seen by many Americans as a test case in which Congress attempts to come to grips with a blatant example of unwarranted Federal intrusion into the daily lives of millions of Americans, the sort of intrusion that costs us the support of the people as we strive to realize commendable objectives.

Mr. President, it is with regret that I rise to oppose my good friend, the Senator from Maine.

I had hoped that we would be able to report legislation that resolved the problems inherent in section 404, but such is not the case. The committee has failed to recommend any reduction in the scope of the section 404 permit program as interpreted by the courts. It has not addressed the concerns and frustrations so evident to all of us.

Mr. MUSKIE. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I would be pleased to yield to my distinguished friend who, I think, has done as much for clean water and clean air as any Member of Congress, and I regret to have to oppose him on this one.

Mr. MUSKIE. So I understand.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Maine.

Mr. MUSKIE. I think it ought to be clear that no Member of the Senate, as far as I know, defends section 404. The Senator knows that I vigorously opposed the interpretation of section 404 which the Corps of Engineers undertook to implement, and the committee undertook in its proposal to meet the objections of section 404 in one way, and the Senator's amendment seeks to meet it in another way. So the contest is really not between those who defend section 404 and those who object to it but rather it is a competition between two different methods of dealing with the problems created by the corps' interpretation of section 404.

I just thought it might be useful to have that point stated.

Mr. BENTSEN. I would say to the Senator from Maine that I think that is a fair statement. But I do not believe the committee proposal really addresses the problem. I think you still have, in effect, a shadow Federal program that is imposed on the people of this country.

The committee's amendment skirts the fundamental problem: the definition of Federal jurisdiction in the regulation of dredge and fill activities. The program would still cover all waters of the United States, including small streams, ponds, isolated marshes, and intermittently flowing gullies. We are left with a scope of jurisdiction as defined by the courts, a jurisdiction that runs counter to the original intent of the legislation as passed by Congress.

True, the committee has provided for possible delegation of authority to the States in the enforcement of 404. But will this formula reduce the number of activities subject to control? It does not. Does it diminish the burden on the average citizen? It does not. The committee amendment merely shuffles the administrative structure for enforcing a federally imposed permit program.

Under the committee proposal, it is clear that the individual States would have minimal flexibility in developing diversified permit programs to meet their specific requirements and environmental conditions.

Let us consider for a moment how this phantom delegation of power would operate in practice. Before a State could be authorized to assume delegated authority over phase II and III waters, EPA would have to review and approve the State proposals. The EPA, in turn, would be required to consult with the Corps of Engineers and the Fish and Wildlife Service before acting on a State plan. Since that troika of original enforcers, EPA, the Corps, and the Fish and Wildlife Service, each retains an effective veto over any State proposal. I fail to see how we can realistically claim much in the way of progress.

Furthermore, under the committee proposal, EPA would retain authority to withdraw approval of State programs if they are not administered in strict accordance with the federally sanctioned guidelines. The committee has also accorded EPA the right to review and disapprove individual permits granted by the States in accordance with delegation of powers under 404.

If the committee language is accepted by the Senate, we will be dealing with a shadow Federal program that would saddle the individual States with the administrative burden of implementation.

I sincerely question whether many States will accept delegation of 404 power under such conditions. If the States do not accept delegation, the Corps will continue to administer the permit program over all waters of the United States. Nothing will be changed. We will have done nothing to resolve what is obviously an unacceptable situation.

The amendment I am proposing would provide for effective delegation of power to the individual States. It would allow States the freedom to develop programs that reflect their individual needs and situations, but would also require States to demonstrate that they have the resources and the capability to effectively manage the program.

Mr. President, I believe we are entering a period in the life of our Nation when people are becoming concerned—perhaps even resentful—about the growing control Washington is exerting over their daily lives. We now have a new

President who was elected to office on a platform that called for less government, and a return to a simplier way of life. Jimmy Carter understood the mood of America, and responded to it with a message that the voting public embraced as their own.

Faced with the prevailing anti-Washington sentiment, I am confident those Senators now facing reelection will soon begin to hear that same message from their constituents. It would be difficult, indeed, to face the voters at home after tomorrow's recess without having voted to limit this pervasive and excessive Federal regulatory program.

Since enactment of the 1972 act, the budget for the Corps of Engineers Permit Division has escalated from $8 million to a requested $41 million for the next fiscal year. More than 95 percent of this budget increase has occured since the 1975 court ordered expansion of the 404 program. Furthermore, other agencies are also spending vast sums of tax money simply to keep up with the growing number of 404 permits that they must jointly process. For example, the Fish and Wildlife Service has 160 full-time employees—at a cost to the public of nearly $3 million—just to review permits and send their comments to the corps. EPA has budgeted $1.5 million next year for section 404 activities. But despite these rapidly growing expenditures, the average application still takes 125 days to review.

I find it offensive that before a small farmer can dig new irrigation ditches he must first write the U.S. Army for permission, complete the necessary Federal forms, and then wait an average of 125 days while his request is shuffled from one bureaucrat's in-box to another. I also find it offensive that a farmer who paid hard-earned money for new land 2 years ago may now be prohibited by the Government from improving that land for agriculturally productive uses, and will not receive a penny in just compensation for his loss of income from the property.

Mr. President, most individuals currently affected by section 404 are completely unaware that they must petition for Government permission to conduct many of their routine business activities. As more and more people learn what is necessary to comply with this law, public outrage will continue to build. The expressions of alarm that we now hear will be insignificant compared to the deafening cries that we are destined to hear.

Our amendment offers the only responsible approach to resolving this controversial problem. By limiting the scope of section 404 coverage to those waters that are navigable for interstate and foreign commerce, this amendment will restore the program back to the manageable dimensions originally intended by Congress. It also provides protection for our valuable coastal wetlands and for wetlands adjoining navigable waters. Further, because I realize the importance of protecting important wetland that may not fall within this jurisdiction, our amendment calls for Governors to designate those wetlands and flowing waters within their States which shall be covered in the Corps' administration of the program.

The overall thrust of this amendment is to preserve strong measures protecting important wetlands while dramatically cutting the size, redtape, and bureaucratic entanglements of the present program. It is a reasonable approach, and identical to the language that has been overwhelmingly adopted for the past 2 years by the House of Representatives.

I am aware, Mr. President, that one lobbyist who opposes this amendment was calling news organizations throughout Washington yesterday and advising them that this legislation would permit toxic discharges into smaller, nonnavigable, waterways.

This is false, Mr. President. Nothing could be further from the truth and I am deeply disappointed that the Washington Post, on its editorial page this morning reported the assertion of this lobbyist in an editorial, when it said:

> The dumping of toxic spoil in a creek, for instance, can poison water supplies miles downstream.

The Washington Post has a deserved reputation for accuracy, Mr. President, for careful research of the facts that it includes in its editorials.

In this case, though, this newspaper made a grievous error.

The fact in this case is that our amendment deals with section 404 of the water pollution law which regulates dredging and filling activities on navigable waters. Section 404 does not speak to toxic discharges, that falls within the purview of section 307 and we do not propose to change the law and permit any relaxation of our efforts to clamp down on the dumping of sewage or "toxic spoil" or any other toxic discharges in even the smallest creek in this Nation.

Any assertion to the contrary is inaccurate, Mr. President, and has no place in the debate taking place today.

I urge my colleagues in the Senate to rise above this atmosphere of emotionalism and deception, and join with me in supporting this reasonable and responsible amendment.

Mr. President, I ask unanimous consent to add as cosponsors of the amendment Senators HANSEN, HAYAKAWA, HELMS, and BARTLETT.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Mike Naeve, Margaret Blaszak, Bill Taggart, and Jim Giltmier be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I told my friend I would yield to him, and I yield to him.

Mr. MUSKIE. I simply wanted the Senator to yield on a point of correction. The Senator's discussion referred to his understanding of the committee bill.

Mr. ANDERSON. I cannot hear.

Mr. BENTSEN. I understand. If it is a matter of discussion, I would like to yield on the Senator's time if I may.

Mr. MUSKIE. I yield on my time. I was going to yield to the Senator from Colorado.

Mr. BENTSEN. All right.

Mr. MUSKIE. It seems to me that the Senator probably inadvertently made a reference to the committee bill which I consider to be inaccurate when he said that in the committee bill it is necessary for a farmer to write to Washington to get permission to dig an irrigation ditch.

The committee bill explicitly exempts construction, and I am reading from the bill, "construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches."

So there is no such requirement for a farmer, under the committee bill, to write to Washington to get any kind of permission to dig an irrigation ditch.

Mr. BENTSEN. To my understanding, it does exempt the construction of new irrigation ditches. I was referring to drainage ditches.

Mr. MUSKIE. But the word "construction" is in the language of the bill.

Mr. BENTSEN. Of the ditches for drainage?

Mr. MUSKIE. It says:

> * * * construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches; * * *

Mr. BENTSEN. Is it "or the maintenance"?

Mr. MUSKIE. Yes.

Mr. BENTSEN. But not the construction, of drainage ditches?

Mr. MUSKIE. No, the word "construction" does not occur there.

Mr. BENTSEN. But not the construction, that is right.

Mr. HART. Mr. President, will the chairman or the manager of the bill yield me such time as I may need under the limitation?

Mr. ANDERSON. I yield the Senator from Colorado such time as he may require.

Mr. HART. Mr. President, I believe the Senator from Texas has urged us not to bend to emotionalism here. I think if that admonition is followed by Senators, then the amendment of the Senator from Texas will be rejected, because that is exactly what the amendment of the Senator from Texas is based on—emotionalism and fear of a set of circumstances that will not exist if the committee bill is passed.

We could start out by arguing whether the farm organizations supported this amendment or not. I do not necessarily debate with the Senator from Texas about the misinformation and fear flowing from Washington offices about what this program may or may not do.

So I think the Senator from Maine is absolutely correct in describing the decision before the Senate here today as one between the amendment of the Senator from Texas and the committee proposal. It is not a debate, as the Senator from Texas would have us believe from some of his remarks, between his amendment and the previous program. That is not the decision we have before us.

I think the issue has to be clarified as

to what the decision before Senators is. The Senator from Texas is correct in saying we should not bend to emotionalism. The important issue is that of regulation. The Senator from Texas couched many of his remarks in terms of whether we are for or against Government regulation.

Mr. President, that obviously is not the issue before the Senate today. If it were simply a matter of political rhetoric, and trying to calculate how best to pander to the mood in the country today, we would seek to abolish a lot of the laws we have, and try to curry public favor by eliminating regulations. But that is not the business of the Congress of the United States. The business of the Congress of the United States is to solve national problems, and to lead, not to retreat. The position of the amendment of the Senator from Texas is to retreat, and much of the justification for that retreat is that there is a public mood in this country against regulation.

The committee bill does not increase regulation. It very sanely and soundly addresses the difficulties that were caused by the original act and the misinterpretations of that act. It puts to rest the fears that developed in large part through misinterpretations of what the 404 program does. The committee amendment addresses the problem in a sane and moderate way, and not a Draconian way, as I think the amendment of the Senator from Texas does.

The question here as posed by the amendment before us is a jurisdictional question: What should be the interpretation of "navigable waters?"

Mr. President, the analogy here is organic. I think we can use the human body.

So now what the Senator from Texas is suggesting is that we are only going to treat the cancer if it occurs in the trunk of the body, but not to allow any treatments for the arms and the legs, so that if you have cancer in the hand, the arm, the foot, or the knee, we cannot treat that even though it may spread to the rest of the body or cause the loss of that limb.

The Senator from Texas has a very appealing approach because it is very simple; but, like most simple approaches to difficult problems, it is wrong, and it seeks to limit the treatment available by saying we can only control pollutants if they occur at a certain place, and not at another place, even though all those places are interrelated from an ecological and environmental point of view.

The difficulty with the Bentsen amendment is that it takes a meat-ax approach; and, like most other amendments that take a meat-ax approach, it destroys more than it corrects.

The Senator from Texas has said, I think wrongly, that the committee amendment does not change any issue under the present law, or exempt any activity. The fact is that it does exempt activities which are normal farming or agricultural activities, run by individuals or family farmers. The Senator from Maine, I think, has corrected the record, and did so accurately.

That, in short, should be the basis upon which Senators make their judgment, and not the erroneous statement that nothing is changed here, because the committee bill does in fact make a substantial change, and alleviates the problem which many people had fears about in previous days.

I have heard from probably as many farmers and agricultural interests in the State of Colorado and around the country as has the Senator from Texas. If we weighed our legislative solutions to problems by trying to respond to those contacts, I think we would make a lot of mistakes. The Bentsen amendment would certainly be a mistake. The committee approach is not merely to chop off sections of the law people are afraid of, but to make those sections work.

There is a Federal and national interest in the waterways of this country. There is a national and Federal interest in waterways other than those on which a ship can be floated. That is essentially the issue here today.

The Congress can capitulate. The Congress can abandon the national interest. The Congress can permit activities of a dredge-and-fill nature to go forward on those small streams, marshes, wetlands, and swamps which will make their way into the bigger waterways of this country and have a tremendous adverse effect on the people of this country and on their welfare, on their crops, on many of their activities. Or we can establish a program of the sort the committee has established, which will protect all of those water systems, which will protect all of the elements of those systems, which will not permit dredge and fill activities to deposit very toxic materials into those waterways.

The Senator from Texas talked about resistance to Federal intrusion. Again, if we took the meat-ax approach we would just lop off laws that anybody does not like, or particularly laws somebody may be afraid of as to what their effect might be. I think the better solution is to educate people, to eliminate those, fears, to deal with the problems, and not just say, "We are going to respond to your fears by just chopping up this law, regardless of what the effect might be."

Mr. President, the basic decision before the Senate today is between a Draconian and overly reactive solution as proposed by the Senator from Texas, or a moderate, balanced, and reasonable approach such as proposed by the committee.

Mr. President, I just want to make a couple more points.

The proponents of the Bentsen amendment have circulated and have on the desks of our colleagues, correspondence conveying the import and the elements of the amendment being offered. I just want to cite one or two statements which I think are absolutely misleading as to the issue we confront.

In the first paragraph of that correspondence the proponents say:

> Ever since the courts dramatically expanded the responsibility of the Corps of Engineers to regulate dredge and fill activities, this permit program has become an unfortunate example of extensive federal interference in the routine activities of farmers, ranchers, foresters, and numerous other private citizens.

Mr. President, that is not the case. The permit program which is so feared here today has never yet really gone into effect. The proposed third phase permits were revised before they were ever imposed on the farmers, ranchers, and foresters.

I do not disagree with the Senator from Texas that this has been an unfortunate example. It is an unfortunate example of misinformation and, I think, poor initial judgment on the part of the Corps. That has been corrected. Much of that was corrected before this committee action was ever taken. I think that should be acknowledged.

Just because people were afraid of certain interference in their activities does not legitimatize an effort here today to take a legislative approach which is going to have tremendously adverse effects on water quality in this country.

If, Mr. President, we permit this amendment to be adopted, substances such as mercury and cadmium, PCB's, arsenic, oil, and grease, which are contained in much of the dredged material of this country, could be dumped into the waterways and wetlands as a result of the dredging activity. I do not believe the Senator from Texas wants that to happen.

For example, Mr. President, under the Bentsen amendment, if the tributaries of the James River contain kepone in their sediment, we could have, under this program, a situation where those tributaries would be dredged and that dredged spoil could be deposited back to the waterways or into the adjacent wetlands releasing that toxic material into those waterways. That would not serve the people of this country.

The fact of the matter is that if this amendment is adopted it will remove 98 percent of all the rivers, streams, and lakes from the protection program which the Congress has adopted. It will remove 85 percent of the wetland areas of this country from this kind of necessary national and Federal protection. It will also allow coverage of the above waters and wetlands only if a State decides to take action. If a State decides not to take action, Mr. President, the people in that area are just in trouble, and the people in the downstream areas of the water system are in trouble.

Mr. BENTSEN. Will the Senator yield?

Mr. HART. I am just about to conclude, and I will then yield.

Mr. President, I am very hopeful that the Senate will not be panicked today because of a lot of misinformation, and I certainly hope the Senate will not adopt a meat-ax approach to a very serious national problem.

I yield back the floor to the manager of the bill.

Mr. BENTSEN. Mr. President, I yield myself 3 minutes.

I certainly share with my friend from Colorado that I hope the decision will not be made on misinformation or emo-

tionalism but we disagree obviously on the information.

Certainly, the Hazardous Waste Disposal Act is still in effect. Certainly, the Toxic Substance Control Act is still in effect. Certainly, section 307 is still in effect. So I do not agree at all that we are going to find toxic substances suddenly dumped in there by this amendment. I would share his concern if that was the case, but I do not believe that is so. I think these other situations will take care of that.

It now seems we have taken the position that all of a sudden we are omniscient; that we are clairvoyant; that we know better how to do it here on the Federal level in Washington than they know how to do it back in the States; that the States cannot regulate this type of thing, and that they do not better understand their local conditions and what should be done. That is a serious mistake.

We give them that kind of authority under my amendment. I believe it is the most appropriate approach. I reserve the remainder of my time.

Mr. HART. Will the Senator from Minnesota yield, Mr. President?

Mr. ANDERSON. I yield.

Mr. HART. Merely saying that there is a section 307 in the law which authorizes the EPA Administrator to list toxic substances does not solve this problem. How is the Administrator to know that somebody is off on some tributary of an interstate stream conducting dredge and fill operations and putting toxic dredged spoil into that waterway or adjacent wetlands unless we have a program which permits him to do something about it?

Just to say there is a section in the law which deals with toxic substances does not solve the problem. The problem is how to control people from conducting activities which are going to have tremendously adverse impacts on the water system. That is the problem. Section 307 does not deal with that problem.

I yield to the Senator from Maine.

Mr. MUSKIE. I believe the Senator from Vermont wishes to speak at this point.

Mr. STAFFORD. Will the Senator yield 10 minutes?

Mr. MUSKIE. I yield.

Mr. STAFFORD. Mr. President, section 404 of the Federal Water Pollution Control Act Amendments of 1972 established a permit program to control the following adverse effects caused by point source discharges of dredged or fill material into waters: First, the destruction and degradation of aquatic resources that results from replacing water with dredged material or fill material; and second, the contamination of water resources with dredged or fill material that contains toxic substances.

The committee amendment is designed to reaffirm this intent and dispel the widespread fears that the program is regulating activities that were not intended to be regulated.

Issues raised concerning the section 404 program may be divided into four categories:

First. Jurisdiction. The role of the Federal Government in regulation of waters beyond waters that support navigation;

Second. Activities exempt from the section 404 permit program. Certain activities that do not involve point source discharges and those activities that are more appropriately dealt with under section 208 management practices and performance standards;

Third. State programs. The manner in which the States will be authorized to administer the program;

Fourth. Unnecessary regulation and redtape. The use of general permits and time constraints on Federal review to eliminate unnecessary paperwork and delays in permit processing.

SECTION 404 JURISDICTION

Initial consideration of the section 404 controversy stimulated discussion on the extent of the waters in which discharges of dredged or fill material will be regulated.

The 1972 Federal Water Pollution Control Act exercised comprehensive jurisdiction over the Nation's waters to control pollution. This decision was the result of extensive and careful study and debate. In its report on that legislation, the Senate Public Works Committee stated "waters move in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source."

It is the objective of the 1972 act to protect the physical, chemical and biological integrity of the Nation's waters. Restriction of jurisdiction to those relatively few waterways that are used or are susceptible to use for navigation would render this purpose impossible to achieve. Discharges of dredged or fill material into lakes and tributaries of these waters can physically disrupt the chemical and biological integrity of the Nation's waters and adversely affect their quality. The presence of toxic pollutants in these materials compounds this pollution problem and further dictates that the adverse effects of such materials must be addressed where the material is first discharged into the Nation's waters. To limit the jurisdiction of the Federal Water Pollution Control Act with reference to discharges of the pollutants of dredged or fill material would cripple efforts to achieve the act's objectives.

After extensive deliberation, the committee amendment rejects the redefinition of navigable waters. Instead, the committee amendment insures continued protection of the Nation's waters, but allows States to assume the primary responsibility for protecting those lakes, rivers, streams, swamps, marshes and similar areas that lie outside the corps program in the so-called "Phase I waters." Under the committee amendment, the corps will continue to administer the section 404 permit program in all navigable waters until the approval of a State program.

ACTIVITIES EXEMPT FROM PERMITS

Testimony received concerning the types of activities that are subject to section 404 permits revealed two basic problems: confusion over whether permits are required for certain "gray area" types of activities, and the inappropriate use of the permit mechanism for regulating certain point source discharges of dredged or fill material.

The committee amendment addresses those concerns. The amendment clearly assigns responsibility to the section 208 program for earth moving activities that do not involve discharges of dredged or fill material into navigable waters. Thus, no permits are required for farming, silviculture and ranching activities such as plowing, seeding, cultivating and harvesting, or for upland construction of minor drainage ditches and of soil and water conversation measures including sediment basins and terraces to prevent pollutants from entering the Nation's waters. Similarly, no permits are required for other such "gray area" practices involving those agriculture, mining and construction activities listed in section 208(b)(2)(F) through (I) that are more properly controlled by State and local agencies under section 208(b)(4). For example, section 208(b)((4) regulatory programs are responsible for controlling pollution that may result from sheet flow across a site prepared for construction or from the placement of pilings in water to support structures such as highways, railroad tracks, and docking facilities. Under the committee amendment, no permits are required for such activities.

The committee amendment also addresses the recognition that certain activities that involve the addition of dredged or fill material into water can meet the objectives of the Act if conducted in accordance with performance standards and best management practices established under the section 208 program, and thus do not require the detailed scrutiny of a Federal permit program. The amendment exempts from permit requirements the maintenance and emergency reconstruction of existing fills such as highways, bridge abutements, dikes, dams, levees, and other currently serviceable structures. This does not include maintenance that changes the character, scope or size of the original fill. Emergency reconstruction must occur within a reasonable period of time after destruction of the previously serviceable structure to qualify for this exemption.

The committee amendment specifically exempts construction or maintenance of farm or stock ponds, as well as construction and maintenance of agricultural irrigation ditches and the maintenance of drainage ditches from the permit requirements.

The construction of farm and forest roads is exempted from section 404 permits. The committee feels that permit issuances for such activities would delay and interfere with timely construction of access for cultivation and harvesting of crops and trees with no countervailing environmental benefit. The prescribed management practices for construction of exempt roads require that the construction, use, and maintenance of the

roads not significantly alter the biological character or flow, reach, and circulation of affected waters.

During the Committee oversight of the Corps program last year, testimony was received regarding potential disruption of mining operations due to delays resulting from permit review of routine filling activities. The committee amendment exempts the construction of temporary mining roads for the movement of equipment from permits. These roads must not only be designed and constructed in accord with the prescribed requirements for protection of the navigable waters applicable to roads; they must be removed in a manner consistent with those requirements.

These specified activities should have only a minor impact on water quality if performed in a manner that will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody, and that will not reduce the reach of the affected waterbody.

All exempt activities will be required to have permits if the activity introduces toxic materials into the navigable waters in other than trace amounts. For this purpose, toxic materials shall include those substances for which, because of their harmful properties, EPA is developing standards and guidelines pursuant to sections 301, 304, 307, and 404 because of their harmful properties.

The committee amendment continues the requirement that a permit must be obtained under section 402(1) or section 404 to minimize or prevent adverse effects caused by altering the flow or the reach of the navigable waters from direct discharges of dredged or fill material. For example, permit review is necessary for discharges to convert a hardwood swamp to another use through construction of dikes or drainage channels.

STATE PROGRAMS

Testimony received firmly established that the permit review process is most appropriate for regulating discharges of dredged or fill material. During the last 2 years the section 404 permit review process resulted in the modification of more than 3,500 projects to protect the aquatic environment.

The committee amendment is in accord with the stated policy of Public Law 92–500 of "preserving and protecting the primary responsibilities and rights of States or prevent, reduce and eliminate pollution." It provides for assumption of the permit authority by States with approved programs for control of discharges for dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b) and 404(b)(1).

By using the established mechanism in section 402 of Public Law 92–500, the committee anticipates the authorization of State management of the permit program will be substantially expedited. At least 28 State entities which have already obtained approval of the national pollutant discharge elimination system under the section should be able to assume the program quickly.

The use of this mechanism will also expedite State authorization because the administrator only has to amend guidelines under section 304(h)(2) of the Act to establish the exact procedures and other requirements that a State must meet to achieve approval of its program.

Under the amendment, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a national pollutant discharge elimination system program. This will prevent any delay in processing applications for the national pollutant discharge elimination system.

The amendment also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program. Several States have already established separate State agencies to control discharges of dredge or fill materials. These agencies need not be the same as the National Pollutant Discharge Elimination System agency. The committee expects the administrator to insist that any designation of a non-National Pollutant Discharge Elimination System agency be accompanied by a demonstration of full capability to adequately administer this program.

The amendment encourages the use of a variety of existing or developing State and local management agencies and recognizes mapping, protective orders, standards of performance and the like as useful management tools. It is anticipated that State and local government will coordinate and integrate the permit program for discharges or dredged or fill material with the section 208(b)(4) program for regulating pollution from nonpoint sources and from the placement of materials where such placement results from activities that are explicitly exempted from obtaining section 404 permits.

Although discretion is granted to establish separate administration for a State permit program, the authority of the administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402 (c) through (k) and 404(c) is in no way diminished or compromised.

The authority for control of discharges of dredged or fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment, and the responsibility of the Corps of Engineers under the Rivers and Harbors Act of 1899 is not affected or altered by this amendment.

The committee adds that the administrator consult with the Secretary of the Army and the Director of the Fish and Wildlife Service prior to his approval of a State permit program for control of discharges of dredge and fill material—Sec. 402 (1)(2). The committee amendments relating to the Fish and Wildlife Service are designed to, first, recognize the particular expertise of that agency and the relationship between its goals for fish and wildlife protection and the goals of the Water Act, and second, encourage the exercise of its capabilities in the early stages of planning. By soliciting the views of the principal Federal agencies involved in the review of these programs at an early stage, objections can be resolved that might otherwise surface later and impede the operation of a State program approved by the administrator. This consultation preserves the administrator's discretion in addressing the concerns of these agencies, yet affords them reasonable and early participation which can both strengthen the State program and avoid delays in implementation.

That is, early participation in the development and design of programs, guidelines, and regulations should serve to reduce the emphasis now placed on the review by the Fish and Wildlife Service of individual applications for permits under the Water Act.

The committee expects that this consultation process be carried out in an expeditious manner and that it will not be used to delay approval of acceptable State programs. These additional requirements will add to present demands on the Service and it is expected that the Secretary of the Interior will take appropriate action to insure availability of resources to get this job done.

The committee has added a requirement for a consultation process with the State agency having primary jurisdiction over fish and wildlife resources in developing the 208 regulatory program. This amendment is needed because many State water pollution control agencies with jurisdiction over section 208 activities may be not cognizant of important fish and wildlife values and the water quality conditions necessary to maintain those values. The amendment would help insure that the insights and concerns of the State fish and wildlife agency are reflected in the design and implementation of programs. Their participation will also decrease the probabilities of delays based on environmental challenges to the issuance of individual permits or other regulatory actions taken under section 208.

In this regard, the committee has also included an amendment to section 208 which would authorize and direct the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, to consult with and provide technical assistance to any State or designated agency in developing and operating a continuing planning process—Sec. 208(j)(1). Early involvement of the service in the 208 planning process will assure proper consideration of the ecological goals of the act and will minimize the potential for objections in the implementation phase.

The committee added a requirement for a coordination process with the Fish and Wildlife Service, including a process for use of the national wetland inventory being conducted by that agency, as part of the State's regulatory program under section 208(b)(4). The service is a primary source of ecological information

in the Federal establishment and has stewardship responsibilities for fish and wildlife resources. The basic reason for this coordination process and the consultation with State fish and wildlife agencies mandated elsewhere in the amendments is to assure that the ecological goals of the Water Act are adequately addressed.

The national wetland inventory is developing information about the extent and distribution of wetlands types that will be invaluable in the decisionmaking process under statewide 208 regulatory programs. The inventory identified the boundaries of wetlands and defines different vegetational areas within the wetlands. This information, coupled with a knowledge of species commonly associated with these types, as well as such other natural values as their contributions to water quality through filtering action, maintenance of water tables, amelioration of drought and flooding conditions, and the like, will aid decisionmakers in determining less sensitive areas. By using the nationwide inventory, the committee believes that more informed choices can be made, more promptly, among alternative plans and proposals.

The committee is aware that the implementation of this program under the 208 process may require significantly more of State and local 208 agencies than at present.

It is the committee's intent that the administrator seriously scrutinize any 208 proposal, and monitor any such approved program on a continuing basis to assure that the program represents a realistic way to achieve the goals of the act.

The committee has included an authorization of $6 million to the Secretary of the Interior to complete the initial phase of the national wetland inventory by December 31, 1977. The inventory identifies the ecological attributes of wetlands with regard to vegetational types. It will provide valuable information which can be used in the 208 planning process as well as other coastal planning activities under the Coastal Zone Management Act.

UNNECESSARY REGULATION AND REDTAPE

The committee amendment reaffirms the use of general permits by the corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environment impact.

The general permits mechanism is derived from the Corps of Engineers regulations. The corps, during the last 2 years of administering the section 404 program, has issued general permits on a regional and nationwide basis to eliminate the need for individual permits for a number of activities involving the discharge of dredged or fill material. These include streambank protection, stream alterations, backfill for bridges, erosion control, and, in at least one instance, a general permit for road fill and culverting on a statewide basis. For general construction activities, general permits issued on a statewide or regionwide basis will greatly reduce administrative paperwork and delay.

The committee amendment also responds to concerns that were expressed during testimony over delays in permit processing by the corps, including those caused by other Federal programs which interface with the corps' section 404 program. The amendment requires the corps to issue a public notice within 15 days of receipt of all required information necessary to evaluate a section 404 permit application. It also requires the Secretary of the Army to enter into memoranda of understanding with other Federal agencies to coordinate their respective reviews in order that a decision can be reached in most cases within 75 days of the public notice. In some cases, this would require revisions to existing memoranda of understanding, including the one that now exists between the Secretaries of the Army and the Interior to implement the Fish and Wildlife Coordination Act.

(The following proceedings occurred earlier in the day and are printed at this point in the RECORD by unanimous consent.)

Mr. MUSKIE. Mr. President, the next amendment will be offered by the distinguished Senator from Texas (Mr. BENTSEN). He has not yet arrived. For personal reasons, Senator CHAFEE would like, at this point, to make his statement on the section 404 issue. I ask unanimous consent that he may make his statement at this point and that it follow Senator BENTSEN's statement when Senator BENTSEN arrives to present his amendment and begin debate on the issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MUSKIE. How much time would the Senator like?

Mr. CHAFEE. Ten minutes.

Mr. MUSKIE. I yield 10 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. CHAFEE. Mr. President, I thank the managers of the bill for this opportunity to speak on a subject that I think is of tremendous importance to our Nation. Of course, what I am talking about is the matter covered by section 404, which will be the subject of an amendment to be presented by the two distinguished Senators from Texas.

The part of this amendment that particularly concerns me is the part that deals with our wetlands. It is hard to believe that at least 75 percent of our wetlands are covered by the so-called phase II and phase III waters, which, under this amendment, would be very drastically removed from Federal jurisdiction. The amendment presented by the Senator from Texas would leave many of our Nation's ecologically important wetlands with no protection and many with uncertain protection from discharges of dredged or fill materials. Such discharges are potentially destructive to the integrity of wetlands, streams, and rivers, and must be regulated if we are to reach the national goal of restoring the quality of our waters.

Mr. President, I think it is important to bear in mind that marshes and wetlands are not a parochial responsibility or an asset; they are not a local asset; they are a national asset. They are not just confined within boundaries which happen to exist for any one of our States.

The wetlands perform a vital part of the food chain for our wildlife.

Mr. President, I call the attention of the Members of the Senate to the fact that 90 percent of the fish and shellfish in the whole Gulf of Mexico, that mammoth body of water, 90 percent of those fish and shellfish spend some part of their life cycle in Louisiana wetlands. More than two-thirds of the cash value of fish harvested along the Atlantic coast is derived from species that depend upon the estuaries.

In other words, it is a life chain that starts with the tiny little organisms that grow in these marshlands, are generated there, and then go to provide food up through the animal chain.

As we all know, the New England commercial fishery is vital to our economy. It is one of our more productive industries, For instance, in the State of Maine, in 1975, the last year for which we have figures, nearly $50 million was the value of the fishing harvest there. Ninety-eight percent of that was made up of species that depended upon the wetlands for some part of their life cycle.

Some of these wetlands are coastal and may be protected under this bill. But the inland marshes and the wetlands and those above the high water mark will suffer because, under the Bentsen amendment, the protection by the Federal Government of the coastal wetlands only goes up to mean high water mark. Those above mean high water will suffer because they will not be definitely protected. So we have to care about these marshes above the high water mark and about our inland wetlands.

It is also important for those who are sportsmen to remember that these wetlands provide the breeding and feeding areas for our migratory waterfowl and for furbearing mammals and the spawning grounds and nursery areas for fish.

We must care about what happens to inland wetlands. We must do more than this. I must say, Mr. President and Members of the Senate, that I did not fully appreciate this until I got into this study in connection with the whole Clean Water Act. I learned that wetlands not only are nurseries for the fish and waterfowl and for the mammals, but also they retard the flow of water from the land and thus reduce the opportunities for flooding. They prevent erosion.

Furthermore, the wetlands serve to purify the water by filtering out and absorbing silt, nutrients, and pollutants that otherwise would enter into domestic water supplies. They help to preserve the waters for irrigation, for streams, estuaries, and ground water.

Furthermore, and this is very apparent up our way, in our State, where we are subject to hurricanes in the autumn,

in September and early October, the wetlands stabilize the shorelines against erosion of the beaches, against the assaults of storms, winds, and waves. Of course, in some areas, the production of hardwood timber depends upon the wetlands ecosystems.

Then there is an aesthetic purpose that the wetlands serve. I think many of us have seen the beauty and the different moods and the diversity of the worlds that exist within swamps, bogs, and marshes. Who has not seen the mist rise over the bogs in the State of Maine in the early morning?

Think of the classic swamplands in the Southeast, such as the great Okefenokee, the Great Swamp of New Jersey, which lies just across the Hudson River from the city of New York, and the majestic, sweeping marshes of the Everglades, the remote Alakai in Hawaii, and the tiny mountain bogs of New England.

Mr. President, in connection with my service on the Environment and Public Works Committee, I recently had the privilege of going to Louisiana for a committee hearing on this very bill and this very section, section 404, and wetlands protection. I was fortunate enough to spend an afternoon in the Atchafalaya River Basin, an extraordinary river basin, just off the Mississippi River, up near Baton Rouge. This basin is tremendously important to the fish and water fowl in the gulf area. The Atchafalaya is not only esthetically beautiful but is ecologically bountiful. It serves a very important place as an overflow area when the Mississippi River rises to unprecedented heights, as it has in the past. We cannot afford to lose areas such as this and other similar marshes and wetlands.

The real tragedy for this Nation is that Congress had not wrestled with this problem decades ago. Now we are here, and let us do something about it. The wetlands in this Nation are disappearing.

The Department of the Interior estimates—listen to this figure, if you do not think it is a shocker—that between 50 percent and 65 percent of our Nation's wetlands, coastal and interior, have been lost. No region is exempt.

In the area of the distinguished Senator from Minnesota (Mr. ANDERSON), the Minnesota Conservation Federation told the committee that during the last 10 years wetlands decreased in Minnesota's 19 western counties at the rate of 4 percent a year. Salami that off every year, and pretty soon you do not have any wetlands left.

Listen to this statistic: In California, they started with 3.5 million acres of wetlands, and now less than a half million are left. What a waste of our natural resources. We do not just blame the people in California. We are all responsible for this. Here is a chance to do something about it.

I think we can take some slight consolation—very slight—that as a result of the protection act that was passed in 1972, this rate of attrition has been diminished to some extent.

I certainly agree with the desire of many Members of the Senate with respect to the responsibility of the States. I am a State's righter. I was a Governor. I believe in the States being given responsibility to have a large part of the program for regulating discharges of dredged and fill material. Some States already have some excellent wetlands protection acts. Georgia does; my own State of Rhode Island does. But many States do not.

Under this act, we acknowledge that States can have a responsibility in phase II and phase III. We have provided for a delegation to the States, under more than one means, of the materials disposal program for these waters. But the amendment by the Senator from Texas leaves phase II and phase III in limbo. It provides for no certain Federal or State protection for waters other than navigable waters and adjacent wetlands. That leaves lots of areas out of it, and furthermore, the areas included are very narrowly defined in the amendment.

This amendment excludes numerous ecologically important wetlands and streams. Second, it provides that those excluded waters or portions of them may be regulated only through the formation of Federal-State agreements that are optional to begin with and that can be revoked by either party, and apparently for any reason. That is not much of an agreement. That does not give much protection to the Federal Government or to the citizens of this Nation.

I should like to stress that these wetlands are not something that belong to Louisiana or Rhode Island or Michigan or Minnesota. They belong to all the citizens. They are much too valuable to be abandoned to some unstable, fragmentary kind of protection. We must bear in mind that these wetlands are part of this larger system. They are not independent. They do not belong only to Minnesota, so that if Minnesota wants to fill them in, it is too bad for the Nation. We have to remember that it affects everything else downstream. There is a linkage between wetlands and streams and estuaries and rivers, and they all must live in harmony, through wise management.

Here is an example, and I did not know about this until we started work on the clean water bill. Let us take the Kissimmee River, in south central Florida. In the early 1960s, this 90-mile-long stream, with its 45,000 acres of flood plain marshes, was channelized to form a 50-mile canal, leaving intact only about 8,000 acres of the original marsh, and essentially eliminating the naturally occurring water level fluctuations of the river marsh. They drug the canal and channelized it and poured concrete all over the place. This was the idea when concrete was in its hay day. The unexpected result of that project is a gross deterioration of water quality in the Kissimmee River and in Lake Okeechobee.

The PRESIDING OFFICER (Mr. BURDICK). The time of the Senator has expired.

Mr. CHAFEE. Will the Senator yield me 2 additional minutes?

Mr. ANDERSON. I yield the Senator 3 minutes.

Mr. CHAFEE. What has happened as a result of all this? All the leaders in Florida, from the Governor down, fear that unless something is done, this marvelous lake will become unfit for game and fish and water fowl and may be unfit as a source of water for the people in southern Florida.

They are going to try to undo all this damage. It is going to cost a lot more money to undo it; and when you try to restore the marsh, it is practically impossible.

We know enough now to avoid the terrible disasters such as took place in the Kissimmee River in Florida. We know enough to intelligently regulate the uses of wetlands so as to prevent the collapse of the vital functions they serve. We will soon have a national wetlands inventory, which will give us an accurate, comprehensive picture of our remaining wetlands resources and provide a systematic means for up-to-date tracking of wetland losses and alterations. We now have an opportunity for a sound, balanced, and responsible program to regulate discharge of dredged and fill materials into wetlands.

That does not mean that if you are a farmer, you cannot plow your field. That is one of the red herrings that has been raised in this bill. No one was watching over this more carefully than our distinguished presiding officer. He comes from farmland. He made sure that the farmers are protected under this bill, and they are.

But what we are talking about is just indiscriminately filling in, and that is what the committee bill takes care of.

I must say, Mr. President, that I support the bill enthusiastically. I hope that everybody who is interested in the chain of life of our fish and game, will support it and oppose the amendment that is about to be presented by the Senator from Texas.

(This concludes proceedings which occurred earlier.)

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 7 minutes to the distinguished Senator from New Mexico.

Mr. BAKER. Will the Senator from Maine yield me a few minutes to speak to this issue?

The PRESIDING OFFICER. The Senator from Texas has yielded 7 minutes to the Senator from New Mexico.

Mr. BENTSEN. I leave it to my two Republican colleagues to decide who wants to proceed first.

Mr. DOMENICI. I prefer to hear what the Senator from Tennessee has to say and follow him, so I shall yield to the Senator from Maine to yield to the distinguished minority leader.

We are on the same side of this, but I would like the last word.

Mr. BAKER. Mr. President, the distinguished Senator from New Mexico almost always has the last word, and I admire him for that.

Mr. President, if the Senator from Maine can yield me 5 minutes, I shall be grateful.

Mr. MUSKIE. I yield 5 minutes to the Senator from Tennessee.

Mr. BAKER. I thank the Senator.

I thank my colleague from New Mexico, who is such an extraordinarily effective member of the Public Works Committee, and whom I support in his positions, almost without variation. I find it a unique and unlikely prospect that we are in disagreement on this issue, but I am afraid we may be.

Mr. President, with the passage of the 1972 amendments to the Federal Water Pollution Control Act, our fundamental objective became the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters.

Implementation of the 404 decisionmaking process is imperative if we are to achieve that goal. Section 404 represents an essential tool for moderating the degradation, and sometimes the irrevocable destruction, of aquatic areas that naturally control the quality of water, including those vital areas of shallow water known as wetlands.

I might add that if we did not have those wetlands, the cost of abating pollution in this country by industry and municipalities would be enormously increased because of the additional costs that would be required by the technology to take the place of what nature has provided us.

The Federal Water Pollution Control Act places the responsibility upon EPA to administer a permit program for industrial and municipal discharges. The act reserved to the Corps of Engineers a separate permit program under section 404 for discharges of dredged or fill material into the Nation's waters.

The statutory language authorizing the 404 program requires the cooperation of the corps and EPA to insure that discharges of dredged material and fill material will not have unacceptable adverse effects on municipal water supplies, shellfish beds, fisheries, wildlife, and recreation.

A fundamental element of the Water Act is broad jurisdiction over water for pollution control purposes. Several Federal courts have endorsed the wisdom, and constitutionality, of this Committee's observation that:

> Water moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source. Therefore, reference to the control requirements must be made to the navigable waters, portions thereof, and their tributaries.

Comprehensive jurisdiction is necessary not only to protect the natural environment but also to avoid creating unfair competition. Unless Federal jurisdiction is uniformly implemented for all waters, dischargers located on nonnavigable tributaries upstream from the larger rivers and estuaries would not be required to comply with the same procedural and substantive standards imposed upon their downstream competitors.

Thus, artificially limiting the jurisdiction can create a considerable competitive disadvantage for certain discharges.

Mr. President, continued applicability of the 404 program to our Nation's waters is essential if we are to moderate the two most significant types of harm caused by dredged or fill material.

First, just as water uses are degraded by industrial and municipal wastes, adverse effects also occur from dredged and fill materials that contain a wide range of pollutants, including toxic substances.

An initial screening of sediments from over 700 harbor and waterway locations showed that sediments in over half of the locations contained a significant pollutant load. Pollutants identified in the sampling included lead, arsenic, cyanide, PCB's, mercury, and cadmium.

Contaminated materials threaten water supplies, fisheries and other beneficial water uses unless carefully managed. The Corps and EPA are currently using the 404 decisionmaking process to assess the risk of dredging James River sediments that are contaminated with Kepone.

It is important to understand that toxic substances threaten the aquatic environment when discharged into small streams or into major waterways. Similarly, pollutants are available to degrade water and attendant biota when discharged in marshes and swamps, both below and above the mean and ordinary high water marks.

Second, unlike most industrial and municipal pollution, dredged and fill material can physically destroy essential parts of the aquatic system, including swamps, marshes, submerged grass flats and shellfish beds. These critical aquatic areas are essential to many water uses, not the least of which is a viable commercial and sports fishery.

Wetlands serve as spawning and nursery areas while providing natural control of organic and inorganic nutrient transfers that dictate quantity and quality of life in the water. The declining availability of swamps, marshes, and free-flowing streams to assimilate pollution from point and nonpoint sources will greatly increase the dollar and energy costs of maintaining desirable water uses.

For example, discharge of fill material into certain swamps in New York and New Jersey can affect the quantity and quality of water seeping into the aquifers from which many communities draw their water supply, thereby naturally causing increased treatment costs.

Mr. President, I have some additional remarks on the section 404 issue that basically reflect on the background and status of the existing program and testimony received before the committee during its hearings in June.

The Army Corps of Engineers and EPA have cooperated to establish a joint program under section 404.

Interim final regulations were promulgated by the corps on July 25, 1975. These regulations were followed by the publication of interim final guidelines by EPA on September 5, 1975.

Together the regulations and guidelines established a manageable program that focused the decisionmaking process on significant threats to aquatic areas while avoiding unnecessary regulation of minor activities. On July 19, 1977, the corps revised its regulations to further streamline the program and correct several misunderstandings. I understand that the revisions have received a favorable reaction by all interest groups involved with the section 404 issue.

Continuation of the comprehensive coverage of this program is essential for the protection of the aquatic environment. The once seemingly separable types of aquatic systems are, we now know, interrelated and interdependent. We cannot expect to preserve the remaining qualities of our water resources without providing appropriate protection for the entire resource.

Earlier jurisdictional approaches under the 1899 act established artificial and often arbitrary boundaries that included only part of some bodies of water. For example, the old jurisdictional mean high water line in our coastal waters was costly to establish and excluded one-half to one-third of most coastal marshes. Depending on the degree of control exercised by the States, this situation allowed for little or no protection of these important coastal resources.

Today this problem has been eliminated. The location of a coastal marsh by using the aquatic vegetation line accurately identifies most marsh areas. One Florida developer informed us that with the new approach, the location of coastal marshes is less time consuming and less expensive. No longer is it necessary to expend thousands of dollars for tide experts and surveyors to establish the exact mean high water mark as required by the old corps program.

Second, let me emphasize that while the geographical jurisdiction of the program is broad, confusion has continued to plague the program over the type of activities that actually require permits. The committee's amendment has responded to this confusion and makes it clear, for example, that normal farming, silviculture and ranching activities such as plowing, cultivating, seeding, harvesting, upland soil and water conservation practices and minor drainage are excluded from section 404 altogether.

Third, the corps has used nationwide and general permits to the maximum extent possible to authorize categories of discharge that cause only minimal harm to water quality.

Thus, the need for dischargers to apply for individual permits is eliminated except in those instances involving environmentally significant activities. General permits to authorize erosion control bulkhead and fill and for fills associated with highways and long roads have already been issued and the committee amendment allows this practice to continue.

Fourth, phased implementation of the broad jurisdiction over water has provided a measure of moderation and

flexibility we all see as necessary to a reasonable program. A commendable management effort by the Corps of Engineers has already resulted in improved coordination with EPA, other Federal and State agencies, and the public.

I would like to emphasize, I think the corps has done an outstanding job in moving this program forward and developing reasonable and manageable regulations. Everyone who testified in the committee's hearings was strongly supportive of the corps' effort in this regard, and indicated that they really have done an outstanding job.

Finally, considerable effort has been made in developing a 404 program that would directly involve the States in the decisionmaking process. Several States with existing permit programs to regulate the same types of activities that are regulated under section 404 are taking advantage of the opportunity to participate in the joint processing of Federal-State permit applications.

Iowa, Michigan, and Maryland are notable examples. I believe this opportunity to establish joint programs will encourage needed improvement in many States that have not yet adequately addressed the environmental problems caused by discharging dredged or fill material into the water environment and provide the mechanism to readily transfer the permit issuing responsibility to the States as provided by the committee's amendment.

To conclude my remarks, let me emphasize that the protection of water quality must encompass the protection of the interior wetlands and smaller streams.

In this regard, I should remind you that through the International Convention on the Prevention of Marine Pollution by the Dumping of Wastes and Other Matter and our own Ocean Dumping Act of 1972, the United States has established both international and domestic programs to protect the oceans from uncontrolled discharges of sludges and dredged material.

The criteria for permitting the ocean dumping of dredged or fill material are, by design, consistent and very similar to those issued under section 404(b). Without an appropriate and effective program under section 404, only ocean dumping of dredged material will be closely regulated while many of our more productive and more limited inland water resources will be unprotected from both chemical and physical degradation.

The Department of the Interior has estimated that almost half of the wetlands which originally contributed to aquatic resources of our Nation have already been lost through draining, dredging, or filling.

Even with numerous programs aimed at their preservation, in excess of 25,000 acres of prime wetlands are lost each year. Our most productive aquatic systems have already been drastically reduced from their original 127 million acres to less than 80 million acres.

As you know, wetlands are a priceless, multiuse resource. They perform the following services:

First, high yield food source for aquatic animals;

Second, spawning and nursery areas for commercial and sports fish;

Third, natural treatment of waterborne and airborne pollutants;

Fourth, recharge of ground water for water supply;

Fifth, natural protection from floods and storms; and

Sixth, essential nesting and wintering areas for waterfowl.

We should be mindful of the fact that when these areas are polluted out of existence, we will have lost the very valuable free service of nature; and if toxic-laden dredged or fill material is discharged into wetlands, we risk poisoning the very foundation of our aquatic system.

Mr. President, I thank the distinguished Senator from Maine for yielding. I thank my friend from New Mexico for permitting me to go first and out of sequence so that I could make these remarks at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Texas.

Mr. President, I say to my friends in the Senate that I find myself supporting the amendment of the distinguished Senator from Texas, not because I do not want to protect the wetlands of this country, but rather, because I think we have an opportunity here in the Senate to undo something that has grown up that we really never intended, and not to continue to ignore the fact that we never intended under section 404 that the Corps of Engineers be involved in the daily lives of our farmers, realtors, people involved in forestry, anyone that is moving a little bit of earth anywhere in this country that might have an impact on navigable streams. We just did not intend that.

What we are doing with the committee amendment is to say now, after we have a situation in existence in this country that we never intended, let us try to exclude some things from it. That means whatever we did not exclude is included within it, and so the universe of activities by Americans is still subject, unless we were smart enough to include it in an exemption, to the permit system under 404 and under the supervision of the Corps of Engineers.

The Senator from Texas and the committee have seen hundreds of examples of situations, that were absolutely never contemplated to come under 404, come within its purview. Then we come along and, because we find them, we try to exempt them.

How many hundreds, if not thousands, of citizens are going to be either still subject to this or questionable in terms of the general exemptions we have in it?

We exempt ordinary farming, but farming should not have been involved to begin with. So the farmer still does not know whether his activity is normal or not.

As to any kind of forestry, we say that normal forestry activities are excluded, but what is normal and what is not?

So we have the universe included, the universe of activities, and we exempt a few that we have been advised of.

Now, how did we get ourselves in this situation? I have no objection at all to protecting the wetlands, no objection to protecting what Senator BAKER has indicated we ought to be protecting. But the plain facts are that section 404 was put into the original clean water bill, in my opinion, by a few selfish people who wanted to leave the Corps of Engineers involved in dredge and fill activities in navigable streams.

They were concerned that EPA might be taking that jurisdiction away. So at some point in its evolution, they plugged in an exemption to EPA and left jurisdiction in the Corps of Engineers for dredge and fill in navigable streams—a very limited intention, and selfishly motivated by those who wanted to protect the corps and who had an interest in protecting dredge and fill operations and wanted it over them.

Then we get to the interpretation, saying almost all waters in the country were navigable and, therefore, dredge and fill, and the corps ends up being a national permit system.

All we are doing with the committee bill is saying that to the best of our knowledge, from the aberrations we found, we are going to exempt some of them.

I say that for those who are concerned about super regulation in this country, and it is greater by leaps and bonds, that the way to address it is to adopt the amendment of the Senator from Texas and let the Senate and the House prepare a wetlands protection bill. If they cannot do it, then it does not seem to me that the activities of Americans across this country—and I will give some examples in a minute—ought to be used by us as a means of getting a wetlands protection bill, because we cannot draw one.

If we cannot draw one, why should it be on the shoulders and in the backyards and in the offices of Americans, and in the corps, and in the Bureau of Reclamation, across this country, to try to protect the wetlands when that was not even what we were talking about when we started this action, but rather the dredge and fill activities of the corps as it might affect wetlands?

We have situations in the State of New Mexico where we held up for a year and a half the building of a bridge across the river, which bridge had been planned, gone through EIA, been under consideration for 8 years, and because they had to move some sand to build pilasters to build the bridge across it, it was a fill activity, under dredge and fill, and the corps had to permit the State highway commission, which had been cleared by every agency around.

The Senator from Texas has two dams. I have one. I will speak about mine.

After 16 years of planning, clearing

every environmental mandate of the Congress, the Bureau of Reclamation has to submit under 404 to the Corps of Engineers because they are going to move some earth to build a dam and that dam is going to put some dirt in some waters which might end up in the navigable streams of this country.

We are saying we will exempt those activities. But the point I am making is, how many other activities are we not yet aware of that Americans are going to have to be concerned about as to whether or not they must go to the Corps of Engineers or wait for a State plan to implement something we never intended from the beginning?

I say let us undo it now, and next year Congress can do it right. We can prepare a wetlands protection bill. We can define the needs of the Corps of Engineers in dredge and fill activities the way we intended and not the way it evolved in a rather cavalier district court opinion where the issue was navigable streams, not what dredge and fill meant.

Besides the example I have given, it is obvious as to the activities of farmers, ranchers, and those involved in forestry that we are exempting them with uses such as normal, day-to-day——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Will the Senator yield me 2 additional minutes?

Mr. BENSTEN. I yield the Senator 1 minute. I am running short on time.

Mr. DOMENICI. I thank the Senator.

Mr. President, I am on the side of those who want to protect the wetlands.

I believe that other sections of this bill give EPA jurisdiction to do most of the protection we want. However, I see no reason to perpetuate the interpretation of section 404 beyond any bounds of what Congress ever intended and then justify the continuation of that by saying, "Well, we have exempted those activities that have come to our attention. They are not in it any more." That is not the way to make good law. We should get rid of this section, start over again, leave intact EPA's protective mechanisms, many of which have not been used because of the strained interpretation of section 404 and the power vested in the corps. So there is not going to be any great damage.

The EPA will broaden its jurisdiction where it should be, and we can start over again with a clear intent and a more lucid understanding of the problems in protecting wetlands, but we need not burden all American activities or try to exempt them one at a time. Next year we will have more exemptions in order to have it make sense.

Mr. HART. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. HART. Mr. President, either there is a problem of disposition of toxic and dangerous materials in waterways of this country or there is not. If there is a problem, the way to handle it is not to exempt 98 percent of U.S. waters from this part of the law. Section 307 will not handle the problem, because there is no mechanism in that section to determine when an activity is going to take place that is going to deposit those toxic substances in that system.

To say there are other sections of the law that are going to handle this is erroneous. If we were to follow the recommendation of the Senator from Texas and the Senator from New Mexico, we would subject 98 percent of the waters of this country to those kinds of harmful activities, as well as the people who depend upon those waters. That is the issue. To say that Congress can take a look at it next year does not solve the problem, either.

Mr. BENTSEN. Mr. President, I yield myself 1 minute.

There are pieces of legislation that do take care of the problem. The Hazardous Waste Disposal Act does and the Toxic Substance Control Act does. The committee report from the House on this piece of legislation states:

. . . "any disposal of dredged material may be included in such a category [of effluent standards or prohibitions relating to the discharge of toxic substances]". In the interest of clarity, however, language was added to subsection (e) of section 16 to specifically provide that section 307 would be applicable to the discharge of dredged or fill materials into any of the waters of the United States as broadly defined in section 502 of the Act.

Mr. HART. Mr. President, will the Senator yield me 1 minute?

Mr. ANDERSON. I yield.

Mr. HART. I cite testimony by the Assistant Attorney General of the Department of Justice on July 27, 1976, before a House committee, with regard to the Wright amendment, which I understand to be identical, for all practical purposes, to the amendment before us. I quote:

While some have argued that EPA could still control discharges of pollutants into waters excepted from the coverage of section 404, Mr. Chairman, I must state the firm opinion of the Department of Justice that this conclusion is of substantial doubt, and that this section could remove all federal control over discharges of dredged or fill material, whatever its physical characteristics, be they dirt, sand and gravel, or Kepone and arsenic laden spoils or soil.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON. I yield to Senator MUSKIE.

Mr. MUSKIE. Mr. President, how much time remains?

The PRESIDING OFFICER. The opponents have 27 minutes remaining, and the proponents have 26 minutes remaining.

Mr. MUSKIE. I yield myself 5 minutes, if I may, with the permission of the floor manager of the bill.

Mr. President, I must say, with all the assurances on both sides, that this is such a serious matter that we should not react to it in an emotional or an irrational way.

Listening to some of the debate puts me in a state of considerable confusion. What is it that we are trying to do in this provision of the bill?

No. 1, we are trying to eliminate the impact and the implications of section 404, which has generated much emotion all across the Nation. No one on this floor is defending section 404; yet, much of the debate to which I listened has been directed against section 404.

I hope that Senators—there will not be many, because there are not many on the floor—will focus on the real issue, which consists of at least these questions:

First, is there a problem of protecting wetlands that is of national interest? Second, is there a rational proposal before us, either in the form of the committee bill or the Bentsen amendment, which will enable us to protect that national interest without imposing unreasonable, burdensome and unjustified regulation upon citizens who are powerless to do anything about the problem?

If I am right in stating those questions, then there is such a proposition, and I disagree wholeheartedly with my good friend from New Mexico, Senator DOMENICI, on that proposition.

We have had at least 2 years—as a matter of fact, we have had since 1972—to consider this problem, and we know there is a problem. Let me state what it is.

There is no question that the systematic destruction of the Nation's wetlands is causing serious permanent ecological damage. I have not heard even the proponents of the Bentsen amendment dispute that conclusion.

The wetlands and bays, the estuaries and deltas are the Nation's most biologically active areas. I have not heard the proponents of the Bentsen amendment argue against that.

They are a principal source of food supply. They are the spawning grounds for much of the fish and shellfish which populate the oceans, and they are passages for numerous upland game fish.

They also provide nesting areas for a myriad of species of birds and wildlife.

If there are those on the Senate floor who argue that those are not sound premises for national policymakers, I wish they would stand and tell me so. But I have heard nobody say that in the course of this debate.

So there is a problem. How do we deal with it? So far as the committee position is concerned, it says two things: One, there is a legitimate national role, roughly spelled out by the 1899 Refuse Act, which has been the basis of the Corps of Engineers' jurisdiction over dredge and fill operations for the last 80 years.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STAFFORD. I yield the Senator 5 minutes.

Mr. MUSKIE. Within that broad jurisdiction, the committee bill would continue the jurisdiction of the Corps of Engineers, which it has always had.

It was the purpose of section 404 to discipline the Corps of Engineers' discharge of its responsibilities under the 1899 act by requiring it to take into account the toxic nature of the materials which it was shifting from the bottoms of our waterways into wetlands and other vul-

nerable areas. That was the purpose of section 404, and it is a legitimate purpose and it is a purpose which I hope will continue to be served by the decisions which the Senate makes on this question today.

But there are other wetlands problems, and they happen to exist in areas which are also the subject of rather normal human activities by foresters, by farmers, and by others who are using the land to make a living.

The initial response to section 404 was to interpret it so as to extend its potential jurisdiction over those normal activities which would subject citizens to overregulation, and we all began to get letters protesting that potential intrusion upon their normal activities.

Every proposal before this Senate, every one, is designed to exempt those normal activities from that kind of overregulation by the Corps of Engineers or anybody else. Any argument that is made on the floor to the contrary simply misrepresents one or the other of the proposals upon which we will be asked to vote before this debate is over.

The committee bill is very clear on this proposition, very clear. For instance, in response to this question let me give an answer: How does the committee proposal handle minor agricultural drainage? I put this question because the Senator from Texas put it to me earlier. The answer is this: First, the committee's program does not apply to any drainage activities which occur in upland areas.

The committee amendment also specifically exempts the construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches.

For instance, if the drainage is being constructed in a field already in agricultural use for crops such as soybeans or corn, the drainage activity would not be subject to any permit under the provisions of the committee bill.

What types of farming and forestry practices are exempt from permit requirements under the committee bill? Let me list them: Normal farming and forestry activities such as plowing, seeding, harvesting and cultivating, minor drainage, upland soil and water conservation practices, maintenance and emergency reconstruction of existing fills such as dikes, dams and levees; construction and maintenance of farm or stock ponds and irrigation ditches; maintenance of drainage ditches, construction and maintenance of farm and forest roads, placement of dredge and fill material from farming and forestry practices which the State chooses to regulate by best management practices.

Now, it is the implication of some of the debate that has been offered by the Senator from Texas that these activities cannot be permitted unless the farmer comes here to Washington and gets a permit from some bureaucrat. That simply is not the case under the Senate bill. These activities are exempted from Federal regulation under the committee bill.

We leave those kinds of activities and other activities which involve agricultural runoff or runoff from any activities whatsoever to States under the section 208 program, and that is very clear. Or if what are involved are point sources, they will be subject to permits under the section 402 program. So these normal activities which have aroused normal Americans——

The PRESIDING OFFICER (Mr. BUMPERS). The Senator's 5 minutes have expired.

Mr. ANDERSON. I yield 5 more minutes.

Mr. MUSKIE (continuing). Normal Americans against the threat of overregulation by the Corps of Engineers have been exempted from that threat, and yet it is a threat which is the underlying and principal argument of those who urge adoption of the Bentsen amendment.

The question of toxics has been raised. Toxics have not been dealt with effectively by this Congress under any piece of legislation we have even enacted into law. Never, never. The Bentsen amendment would eliminate one of the few tools that are available under present law to EPA to at least identify what toxics particular dredge and fill activities are discharging into the waterways by eliminating the permit system.

It is all well and good to say, "Well, 307 is still there." That is like saying the Lord's Prayer is still there. But 307 will not work even to identify the toxics unless somebody has some authority to find out where they are, where they are coming from, where they are being discharged, and which ones ought to be stopped.

I am getting a little fed up myself, having written environmental laws for 15 years, to keep picking up the paper and reading about a new toxic that is killing more people, that is making more people ill because I have not done my job. We ought to be doing a better job, not a lesser job, to protect the people of this country against toxics, and the Bentsen amendment is a step backward. It is not a step sideways, it is a step backward.

I listened to the Senator from Texas make his arguments on the toxics. The Washington Post is absolutely right on this point. Section 307 does nothing to prevent the discharge of toxics into waterways because you wipe away with your amendment the permit system, which is the one way of giving teeth to section 307.

Those are the kinds of facts that most Senators ought to be listening to. You know, I have been living with this problem for a long, long time. This particular one of dealing with fill materials, dredge materials, runoff materials, is one the committee has found one of the most difficult with which it has had to deal.

Senator DOMENICI has been a very constructive force in committee debate on this question. Senator MCCLURE has been, Senator BENTSEN has been, we all have been. But, gentlemen, what the committee has proposed here is not some Draconian overregulatory scheme we are foisting on the American people. What it is is a scheme to insure that the Corps of Engineers respects environmental values within its traditional jurisdiction, and that the States are given the responsibility under section 402 to manage other sources of pollution.

If anybody in this body, including Senator DOMENICI, thinks we are going to have a better answer if we do nothing this year, he has learned nothing from his experience on the committee. We have learned in the committee that you have to build in an evolutionary way to deal with these problems.

The next big problem—it is not next, it is now—is not conventional pollutants which eat up oxygen contents of the waterways, it is toxics, toxics that cannot be dealt with effectively by secondary treatment, toxics for which we have found no total effective answer, and toxics are part of the problem we are talking about this afternoon.

I think the committee amendment, with its shortcomings—and it has them—is far preferable to the meat ax approach which is taken by the Bentsen amendment. When I say that I am not in any way denigrating the quality of the Senator from Texas, his public spirit, and his concern for the public welfare. I have had too much evidence to the contrary on that point to challenge it. We just happen to disagree on this point, and he knows when I disagree I often do it with considerable vigor.

[Laughter.]

The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. BENTSEN. Mr. President, the nice thing about the Senator from Maine is he does not have to be disagreeable when he disagrees, and he is not. I appreciate that.

I yield to the distinguished senior Senator from Texas whatever time he needs.

Mr. TOWER. Six minutes.

Mr. BENTSEN. I yield 6 minutes to the distinguished senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. I thank my colleague from Texas.

Mr. President, last year, as in this session of the 95th Congress, I introduced an amendment aimed at diminishing the control which the Corps of Engineers has acquired through judicial interpretation in the courts. The amendment of my colleague from Texas which is now under consideration is almost identical to my amendment which failed in the Senate by a single vote last year.

I applaud the distinguished Senator from Texas for offering it this year.

It is neither the judicial nor the executive branch's right nor responsibility to dicate legislation. This particular usurpation of State's rights is what we will continue to be faced with if we fail to adequately design legislation which is both clear and precise.

This is very much the case regarding the Federal Water Pollution Control Act. A court decision, coupled with an administrative decision, is causing us to be

faced with a regulatory scheme which covers not just the rivers of the Nation but all surface waters and wetlands of the United States.

It is imperative that we make clear the terminology and bring it in line with the original intent of navigable waters. When this issue was considered in 1972, the conference committee intended that "navigable waters" was to include "all water bodies such as lakes, streams and rivers regarded as public navigable waters in law which are navigable in fact." However, in addition it was to encompass waters susceptible to use in their natural condition as a means of transporting interstate or foreign commerce.

Now, the courts contend that navigable waters include all waters of the United States. Now, the corps is in the position to obtain jurisdiction over waters which are navigable neither in law nor in fact, and furthermore, not even critical to navigation.

This court interpretation additionally creates the need for protecting major wetlands which can be better protected through a thorough and precise definition of what wetlands actually comprise. If this is done, there will be no doubt as to where the corps' jurisdiction lies. If the current definition of navigable waters is allowed to stand, it will mean that many day-to-day activities on lands that are wet, swampy, or poorly drained will require a permit.

If we are to take a practical, but effective, approach to regulating the discharge of dredged or fill material in navigable waters and adjacent wetlands, we must have a practical, but effective, definition of what those terms actually comprise. The corps may indeed find itself continuing with authority over land areas not within the boundaries of water bodies or lands which merely have a high water table.

Each of us is aware of the importance of regulating polluting activities on those waters which feed into larger bodies. Under our amendment States would thus be able to preserve and protect the quality of both nonnavigable and navigable waters with the assistance of the Federal Government if the States see fit.

Those favoring the committee provision assume that the definition presently used by the corps will remain constant, and that, as a result, streams with a discharge of less than 5 cubic feet per second and standing bodies of water less than 10 acres will be exempt forever from permit requirements. The committee bill depends on the corps definition. Section 329.3, part II of the Federal Register, dated July 19, 1977, states in part:

> Precise definitions of navigable waters or navigability are ultimately dependent on judicial interpretation, and cannot be made conclusively by administrative agencies.

If the committee amendment on section 404 is adopted, the courts ultimately may enlarge the definition of navigable waters even further. It is not unreasonable to say that once the present battle over 404 is concluded, nothing prohibits further litigation by groups to expand the jurisdiction of the corps to include those areas it presently exempts. If we leave the matter in the hands of the courts, the original problem may reoccur and we will have "reinvented the wheel."

If we do not act affirmatively and clean up the language in Public Law 92–500, it will result in unwarranted and despotic intrusion by the Federal Government over every brook, creek, cattle tank, mud puddle, slough, or damp spot in every landowner's backyard across this Nation. It seems unreasonable that we should choose to force more Federal Government on our citizens in an era when they want and need less.

States are currently making great strides in their efforts to protect their wetlands through their own laws and Federal laws which are already in existence. Let us allow them to continue in this manner. We should not set forth legislation which will result in a mass of national, all-encompassing regulations.

Often what may appear to be in the national interest could be diametrically opposed to what is in the States' best interest. We must take action to insure that permits are not required for those activities which either individually or collectively have little, if any environmental impact.

Our amendment effectively remedies two problems—it halts the seemingly never-ending growth of the bureaucracy and it protects our water resources at the same time. The amendment would provide a legislative mandate whereby the corps and the States would jointly be responsible and accountable for sustaining our vital wetlands. At the same time, State and local governments can provide protection based upon local knowledge and experience with existing problems.

Vital projects are being delayed because the sponsors are unsure whether or not a 404 permit is required. Critical projects are being delayed as the Fish and Wildlife Coordination Act is abused and cited as the basis for requiring mitigation of damage to wildlife habitats in public works projects approved by this body. As a result, we find 404 being used to halt progress in areas where progress is essential in providing jobs and water resources.

If we allow these and other infringements of States' rights to protect their water resources to continue; if we allow this Nation to become infested with even more bureaucracy when local areas could make viable decisions; if we allow the courts to set forth the meaning of legislation in a manner not in keeping with legislative intent; and if we allow the creation of regulations which were not envisioned as law by Congress, then in my view we are shirking our responsibilities as legislators.

If this trend is not checked or rechanneled, we may indeed reach the point where it will be difficult, if not impossible, to correct the difficulties created by the court interpretation of the 1972 Water Act. We must do all that is within our power to keep our agricultural economy and our housing industry flourishing. If we do not stop these unwarranted encroachments on decision-making responsibility, our efforts will be worthless. I urge adoption of this amendment because we need jobs for the unemployed, water for our farms and cities, and less Government infringement on people and progress.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas who was one of the very early proponents of this amendment and has been supporting it for some time.

Mr. DOLE. Mr. President, I was a member of the Public Works Committee—as it was then called—when the landmark Water Pollution Control Act was considered and passed in 1971–72. It was, and is, a credit to the environmental consciousness of Congress. The act was a giant step toward protecting the purity of our Nation's waters. But it was not a "perfect" measure, nor were its provisions sacrosanct. We have all learned a great deal about the weaknesses and the shortcomings of that original measure during the past 5 years.

One of the provisions which we have learned most about is section 404, the so-called "dredge and fill" regulatory authority. This provision has been a matter of deep personal interest to me. My involvement, as I mentioned before, began as a member of the drafting committee. In addition, the provision, as originally passed by Congress, would potentially have a tremendous impact on many of my constituents in the State of Kansas. Beyond that, the original version of section 404 could have a severe impact on many sectors of our entire economy. It has gained the reputation as one of the most excessive examples of overregulation and redtape by the Federal Government.

So the Senator from Kansas is pleased that today we can hopefully resolve this controversy in a conclusive manner to protect the navigable waters of this country as the Congress originally intended to do. Hopefully, however, what we agree on today will result in a reasonable and effective regulatory program that will not inundate agriculture and other sectors of our economy in redtape.

The so-called Bentsen amendment we are considering has been the product of a long and detailed debate over the precise form that section 404 should take. As a Senator from Kansas, I have been personally involved in this debate and in the process of developing the compromise over the past 2 years. Hopefully, the amendment we are considering reflects some of the efforts I have made.

In 1975, after the controversy over section 404 originally erupted, I introduced a bill to resolve the difficulties. The compromise Bentsen amendment reflects many of the provisions of my bill, which I would like to discuss later in greater detail. In addition, on July 27, 1976, I testified before the Senate Public Works Committee on the changes that should be made in section 404. In June of 1976, I joined 29 other Senators in asking President Ford to delay the imple-

mentation of "dredge and fill" regulations until Congress could clarify the provision. As a result of that request, President Ford did provide a reasonable delay.

On June 3 of this year, I initiated a request signed by 27 Senators to President Carter that the moratorium be extended to give Congress an opportunity to resolve the controversy in a reasonable manner. The response we received from Mr. Stuart E. Eizenstat indicates that apparently President Carter and the present administration are less sensitive to the problem. Hopefully, however, the compromise amendment we are debating today will resolve this matter conclusively. I ask unanimous consent that my letter to President Carter and the response from Mr. Eizenstat be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 3, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Many of our country's citizens—particularly those engaged in farming, ranching, forestry, and construction activities—are extremely concerned about federal regulation under the auspices of Section 404 of the Federal Water Pollution Control Act. We, as representatives of those citizens, want to register our own concern about the expanding jurisdiction of the "dredge and fill" permit program, and respectfully request a 90-day moratorium on implementation of "Phase III" regulations by the Army Corps of Engineers.

When Congress originally authorized the Section 404 Corps permit program in 1972, it was principally intended to regulate the disposal of dredged fill material in "navigable waters" of the United States. A U.S. District Court interpretation of Congressional intent during 1975 effectively expanded the Corps' regulatory jurisdiction over a variety of dredging and filling operations on virtually all waters of the United States. Subsequently, Interim Final Regulations were issued by the Corps of Engineers in 1975, to implement the much expanded permit program in three stages.

Phase III is scheduled to take effect on July 1, 1977. Under the regulatory provisions, Corps permit authority will cover a broad range of major and minor dredging and filling operations on the nation's rivers, streams, and tributaries, up to their headwaters.

At this time, we believe a temporary, 90-day moratorium on the implementation of Phase III is advisable for the following reasons:

1. The House of Representatives has already approved major revisions in the Section 404 program, including a more restrictive definition of "navigable waters" which would eliminate the legislative basis for Phase III (H.R. 3199). The Senate Committee on Environment and Public Works has scheduled hearings on the issue during June and recommendations for changes in Section 404 will likely follow.

2. The Secretary of Agriculture has endorsed the intent of H.R. 3199, has supported clarification of the definition of navigable waters, and has stated, "We believe the enactment of Phase III on July 1, 1977, will significantly increase . . . delays, duplications, and expenses" in production of food, fiber, and forest products.

3. Preparation of "Final Regulations" with additional details by the Corps of Engineers for the Section 404 program has been considerably delayed. Provisions for a "nationwide permit system," along with additional exemptions, were published only last week. There will not be adequate time for thorough consideration and public comment on all aspects of Final Regulations for Phase III prior to the effective date of July 1, 1977.

In short, there are serious problems associated with implementation of Phase III in July, and Congress is now moving towards a legislative resolution of the "dredge and fill" permit issue. We are asking that you direct the Corps of Engineers and the Environmental Protection Agency to delay implementation and enforcement of Phase III of Section 404 regulations for 90 days, pending a final resolution of associated issues by Congress.

We appreciate your earliest attention to this matter, and will look forward to hearing from you in this respect.

Sincerely yours,

BOB DOLE,
U.S. SENATOR.

THE WHITE HOUSE,
Washington, June 27, 1977.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your letter of June 3, requesting that the President declare a moratorium on program implementation in Phase III waters under section 404 of the Federal Water Pollution Control Act.

As you point out, the program for regulating discharges of dredged or fill material under section 404 has attracted the attention of numerous citizen groups. We believe, however, that appropriate procedures have evolved over the last five years to accommodate concerns raised by Congress, the Courts, the public and the Executive Branch. It is our view that the program is operating effectively in Phase I and Phase II waters, and that the final stage of implementation in Phase III waters beginning July 1 of this year will also proceed smoothly.

The Corps of Engineers proposed a regulation on May 16, 1977 to authorize a number of discharges by nationwide permit. Encouraging comments from several critics of the program and our experience with general permits issued on a regional basis convince us that these nationwide permits will resolve many of the fears raised over unnecessary regulation in Phase III waters. In addition, the Corps of Engineers expects to publish by July 1 a complete revision of the current program regulation which will clarify and streamline the permitting process.

The President has decided, therefore, that it is in the best interest of the Nation to allow program implementation to continue as scheduled two years ago. We all recall the confusion and uncertainty created by imposition of a Presidential moratorium on Phase II last fall. To suspend the ongoing processing of Phase III applications for projects that are scheduled to begin later this year, would only repeat the unfortunate delays that occurred during the last such moratorium.

The President announced in his message on the environment that he will recommend to Congress some adjustments to the section 404 program which will further improve its effectiveness and efficiency of administration. These recommendations are based in part upon legislative proposals debated by the House of Representatives and the Senate during the last two years. Specifically, as part of this package we expect to request authority to transfer the permitting responsibility in Phase II and III waters to States that demonstrate the capability to administer the program. We believe that the experience gained by the Federal agencies in administration of the program coupled with the authority to transfer primary responsibility to the States will ensure that the section 404 program will continue to play an essential role in protecting water resources including our rapidly diminishing wetlands.

Thus, while I can understand your concern and desire to impose a moratorium, the President is of the view that a moratorium is not required in light of the experience acquired to date and the refinements embodied in the forthcoming Corps of Engineers regulations.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President
For Domestic Affairs and Policy.

ORIGIN OF CONTROVERSY

Mr. DOLE. Section 404 of the 1972 act gives the Army Corps of Engineers primary authority to regulate dredge-and-fill operations in "navigable waters" of the United States. Historically, the corps' duties have related to preventing navigational obstructions and facilitating interstate commerce. The corps' expanded powers under section 404, however, resulted from a broader concern for environmental protection. The matter of "protection," per se, has not been at issue. Instead, it is the mechanism, and the extent of jurisdiction reflected in the administration of section 404 that has been justifiably challenged. It is time that congressional intent is clarified.

UNANSWERED QUESTIONS

Congressional intent as reflected in the language of section 404 in 1972 was admittedly vague and unspecific with respect to the issues of Federal wetlands protection, tributary protection, and of defining "dredging" and "filling" activities. A 1974 district court decision in Florida—United States against Holland—suggested that—

> Even though it seems certain that Congress sought to broaden Federal jurisdiction under the Act, it did so in a manner that appears calculated to force courts to engage in verbal acrobatics.

Subsequent attention to section 404 in scattered judicial decisions has led to interpretive gyrations that bear questionable relationship to congressional language.

Confusion and uncertainty about the scope of section 404 after 1975 resulted from the haziness of corps of guidelines for distinguishing between legal and illegal conduct. Just as the farmer needs clearcut guidelines addressed to his specific daily activities, so does the Corps of Engineers require an easily definable scope of authority to facilitate permit processing.

For these reasons, it is time for Congress to take positive steps to clarify the proper scope of the section 404 permit program and to resolve jurisdictional questions. In my opinion, House approval of section 16 to H.R. 3199 last April was an appropriate step in the right direction. It is now up to the Senate to finally resolve the issue in a manner acceptable to farming, ranching, and other affected industries.

BASIC ISSUES

There are at least three very basic issues that must be resolved at this time by Congress. What constitutes "navigable

waters" for the purposes of this act? What specific types of normal and routine activities—as practiced by farming, forestry, mining, and construction industries—are to be considered dredging or filling for the purposes of the permit program? And to what extent is Federal regulation of small waters desirable or necessary to achieve the purposes of the 1972 Water Pollution Control Act? These questions strike at the very heart of the controversy that has engulfed the section 404 provision since its enactment. A practical and definitive resolution of all these issues at this time by Congress would, I believe, largely eliminate the distress caused by undue Federal interference into routine aspects of private business.

A very fundamental question lingers about the proper definition of navigable waters. Of course, this is an issue that related to other provisions in the 1972 act as well. The courts have interpreted the term to encompass most waters in the United States and this has spread the scope of this Federal program far beyond traditional boundaries. We all understand the importance of regulating genuine polluting activities on tributaries that feed into larger waters. But whether the Federal Government should be involved in that regulation, whether routine agricultural activities fit the description of polluting sources, and whether nonnavigable water bodies wholly contained upon private property should be subject to oversight are all questions that must be resolved by Congress. If we legislate in a thoughtful and practical frame of mind, environmental protection efforts can proceed without undue encumbrance, while private business can proceed without undue regulation.

REGULATING ACTIVITIES

Following the district court decision NRDC against Calloway—1975—opposition to the section 404 permit program arose from agricultural and forestry interests who feared an expanded program would interfere with normal daily activities near inland waters and on wetland areas, such as plowing, digging irrigation ditches, et cetera. There is certainly no obvious language in the 1972 act to arouse such concern, but the imprecise definitions of dredging and filling, and the court's order covering lakes, ponds, tributaries, headwaters, and adjacent wetlands, made such regulation of normal farming acts a very real possibility.

Following the 1974 court decision, I introduced in early 1975, S. 1843, a bill that essentially parallels the Bentsen amendment by redefining navigable waters. As is often the case, action on this legislation was deferred due to the desire of the committee to resolve the issue without regulation.

SIMILAR PROPOSALS

A great many groups on both sides of this issue participated in the development of the proposal I made earlier. The outcome of the various efforts that produced the Bentsen amendment and my own proposal have many common features. In view of the interest about these proposals on the part of many different individuals and groups, I would like to call attention to several of the more significant common features.

Both pieces of legislation would define navigable waters as only those waters presently used or that could be reasonably used in interstate commerce. In my State of Kansas, for example, while we have a large surface area of water, very little of it could ever be used for interstate commerce. It would be unnecessary and excessive to require permits for these waters under the definition of navigable waters.

Those projects which meet the standards set out in the National Environmental Policy Act and which have been approved under that authority are put outside the jurisdiction of the Water Pollution Control Act. This provision which was in the first piece of legislation that I introduced would avoid the problems created by complying with two overlapping Federal regulatory schemes.

One of the major problems contained in the original version was the requirement for a permit for even normal routine activities. The Bentsen proposal and my own both would authorize the Corps of Engineers to issue general permits for activities which would not have a substantial adverse impact on the affected waters.

A matter which has been of great concern to many under the original version of section 404 was the implication that might be required for a Federal permit and a State permit where States already have equal or stricter programs. This concern has been expressed in a recent letter to me by the Governor of Kansas. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF KANSAS,
OFFICE OF THE GOVERNOR,
Topeka, Kans., July 26, 1977.

Hon. BOB DOLE,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR BOB: The Governors and representatives of the Missouri River Basin states at the most recent Missouri River Basin Governors' Conference on Water, in Omaha, Nebraska, passed a resolution expressing concern about Section 404 of the Federal Water Pollution Control Act. The Act confers jurisdiction upon the Army Corps of Engineers for all water of the United States and I therefore must raise strenuous objections to Section 404 on the basis of duplication of federal and state efforts.

The Kansas Legislature has enacted a number of regulatory laws dealing with activities in and on the floodplain and stream channels. These laws are administered by the Chief Engineer within our State Board of Agriculture, Division of Water Resources. Additionally, my Secretary of Health and Environment is charged with administering the national discharge permit system. I have been advised by administrators of these two agencies that if Kansas issues a permit, the Corps of Engineers has agreed to regard such action as evidence of compliance under Section 404. Presently we are asking the citizens of Kansas to acquire a permit from the State as well as a permit from the Army Corps of Engineers for the same purpose. I would request therefore that careful consideration be given to elimination of unnecessary duplication of effort. If laws of a State meet or exceed the federal guidelines under Section 404, such an action would save federal tax dollars.

I look forward to your early response on this suggestion.

Very sincerely,

ROBERT F. BENNETT,
Governor of Kansas.

Mr. DOLE. Most significantly, this compromise amendment—as did my earlier proposal—clearly exempts from regulation those routine agricultural activities and other commercial activities that have nothing to do with actual navigable waters. It is this basic change that avoids the unnecessary regulation contained in the original version of section 404.

Both my original proposal and the Bentsen amendment would provide an opportunity for States, if they so desire, to administer their own permit programs under the act. Hopefully, this will avoid any requirement for an individual who obtained a permit under the State program and then subsequently be required to obtain a similar permit under the Federal program. This feature will avoid a redtape problem contained in the original section 404.

Mr. President, the adoption of this amendment is essential to the farm sector and other sectors of this Nation. It is essential if we are to avoid excessive overregulation by the Federal Government.

I commend the Senators from Texas—Senators TOWER and BENTSEN—for their efforts. Without this amendment, our farmers and ranchers and others could be subjected to unnecessary bureaucratic harassment. Yet, with this compromise proposal, we will retain the meaningful protection of our navigable waters that was originally intended by Congress. We will have the effective protection that will reserve our rivers and waterways for future generations.

I support this amendment and urge my colleagues interested in this Nation's agriculture to also support the amendment.

The Senator from Kansas had the opportunity to listen to a number of the arguments today, but I would just suggest that the amendment we are considering, authored by Senator BENTSEN, and others, who are now members of that committee, who understand the problems and the shortcomings, is a product of a long and detailed debate, and I think perhaps it does address the question. To go back to the controversy in 1975, a bill was introduced at that time and the Bentsen amendment reflects many of the provisions of the bill introduced at that time.

In addition, on July 27, 1976, this Senator testified before the Public Works Committee, and he in June 1976 joined with 29 other Senators in asking President Ford to delay the implementation of dredge and fill. The result of that request was that President Ford did provide a reasonable delay.

On June 3, of this year, I initiated a request signed by 27 Senators to President Carter that the moratorium be extended to give Congress an opportunity to resolve the controversy in a reasonable manner. Then we had

response from Mr. Eizenstat, who indicated that apparently President Carter and the present administration felt that there was no danger.

It seems to me that the matter is being properly addressed today. There really are three very basic issues: First of all, what constitutes navigable waters, what specific types of normal and routine activities as practiced by farming, forestry, mining, and construction industries are to be considered dredging and filling for the purpose of the permit program, and to what extent is Federal regulation of small waterways desirable or necessary to achieve the purposes of the 1972 Water Pollution Control Act? That controversy has engulfed section 404 since its enactment.

A very fundamental question lingers about the proper definition of navigable waters. The Senator from New Mexico and others have discussed this in great detail and with considerable expertise, but it seems to this Senator that we have an opportunity today to at least clarify it further.

I can say that from the standpoint of the States, in a letter received from the Governor of Kansas less than a week ago, he indicated that the Governors of Kansas and the other States in the Missouri River basin had passed a resolution expressing concern about section 404, about the jurisdiction of the Army Corps of Engineers, and about the permit program, whether the requirement is for State permits or corps permits, and asking that it be clarified.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. Mr. President, if it is agreeable to the Senator from Colorado, the managers of the bill, and others who are interested, I think we can sum up the arguments on each side in 2 minutes, and yield back the remainder of our time.

The PRESIDING OFFICER. Will the Senator use his microphone? Is there a unanimous-consent request that each side have 2 minutes to sum up, and then yield back the remainder of their time?

Mr. HART. Yes, Mr. President, I make such a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. BENTSEN. Mr. President, I yield myself 2 minutes.

One of the questions here is the issue of toxic substances. The argument has been made that the Bentsent amendment would allow the dumping of toxic substances into a stream such as that found in Rock Creek Park. That simply is not true.

It has been said that some of this legislation, particularly under section 307, is not effective. If it is not effective, why did they not try to amend section 307 in the committee? At that time they apparently felt it was satisfactory.

On the question of permits, the committee bill would establish a system which would perpetuate the scope of the present system which bury Government administrators under mountains of red-tape and minutiae. I think it is much better if we restore the program to manageable dimensions, and free the farmers, ranchers, and private citizens of this unnecessary burden.

It has been said today that my amendment leaves the wetlands unprotected. That is not true. Under this proposal the coastal wetlands remain protected, as do the wetlands adjoining navigable streams. It further authorizes Governors to designate important wetlands within their States that would be protected under the corps jurisdiction. I think that is doing an injustice to the State governments to say that they would not seek protection for these wetlands. I do not think we have all the answers in Washington, nor can we anticipate here the varied conditions that exist across the length and breadth of the United States.

Regulations—submitting all of the waters of the United States to permits. That, in effect, is what is done by the committee bill. They say, "We have moved it on over to the States," but what they have created is shadow Federal regulations. What they actually say is, "You cannot have a State program unless every "i" is dotted, every comma is in the proper place, and every detail is approved by the Federal bureaucracy. If at any time we decide to change our mind on it, we can withdraw that."

That is the kind of Federal regulation we are talking about.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. HART. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator's request is well taken. The Senator from Colorado is recognized for 2 minutes. The Senate will be in order.

Mr. HART. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, there is either a problem of the deposition of toxic and harmful materials in the water systems of this country, or there is not. If there is a problem, that problem either represents a national interest, or it does not. The Senator from Texas and the proponents of the amendment cannot have it both ways.

What they are saying is that by abandoning Federal responsibility over this problem, there is no problem in 98 percent of the waters of this country. On the other hand, they say it is a State responsibility. If it is a problem, it is a national problem, and the Federal Government and the Congress of the United States have to address it.

That is what the Environment and Public Works Committee of the Senate has done in a reasonable, moderate, and responsible manner, and that is the alternative that the Senate has before it today: That reasonable approach, or the Draconian, meat axe approach of this amendment.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HART. I have limited time; then I think the Senator can make his request.

Mr. President, the adoption of this amendment will not create a lasting solution to this problem. The people of the United States will have to be back before the appropriate committees of Congress next year, seeking to solve the problem. We would not, by adopting this amendment, be solving the problems of 98 percent of the waterways of this country.

This is an open invitation for the dredgers of this country to find wetland areas for the disposal of their contaminated waste and spoil. If we adopt the amendment, that is what will happen. We will be jeopardizing the health and safety of the people of this country if we permit that to happen. There is no other remedy in the law to solve that problem.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. HART. I urge my colleagues to reject the amendment offered by the Senator from Texas.

Mr. STONE. Mr. President, I ask unanimous consent that Bruce Rowen of my staff may be present on the floor during the deliberations and voting on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HANSEN. Mr. President, I rise in support of Senator BENTSEN'S amendment to the Clean Water Act of 1977. It is my belief that the adoption of this amendment would return the Federal Water Pollution Control Act to the state originally intended by Members of this Congress when the matter came before us in 1972.

I firmly believe that we should follow the wise lead of the House of Representatives in adopting an amendment which would withdraw from the permit authority of the Corps of Engineers its coverage of a broad range of major and minor dredging and filling operations on the Nation's rivers, streams, and tributaries, up to their headwaters.

Mr. President, I have received numerous letters and telegrams concerning the matter of section 404 of the Federal Water Pollution Control Act and the exercise of jurisdiction by the Corps of Engineers in that area. One of the letters which I have received came from Leno Menghini, superintendent and chief engineer of the Wyoming State Highway Department.

Mr. Menghini's concern revolved about the costly delays and unnecessary duplication which result from the Corps of Engineers involvement in an area in which the State of Wyoming has long had a concern and in which State government has operated effectively. According to Mr. Menghini, as a result of a longstanding agreement between the Wyoming Highway Department and the Wyoming Game and Fish Commission, efforts are made and precautions taken to insure the protection and improvement of Wyoming waters. The corps permit procedures merely add another bureaucratic layer to the process causing increased delays and frustration.

It is much the same with so much that is done at the Federal level. The

processes and procedures which the States are most capable of handling, and Federal Government involves itself in isolated and insulated as it is, distant from the men and women whose daily lives it affects, the Federal Government acts in ignorance of so much that State and local governments know simply as a result of their proximity to the people. If there is one lesson that is clear from so much recent history, it is that the local government is the government best capable of governing, best capable of understanding the needs and desires of the American people.

There is an analogous matter concerning our Nation's waters which I would like to discuss briefly while this entire question of the Water Pollution Control Act amendments lies before the Senate. That concerns the ongoing development by the U.S. Water Resources Council of a national water resource policy.

On July 6, the Water Resources Council published in the Federal Register an announcement that, in accordance with a directive of President Carter, the Water Resources Council, the Office of Management and Budget, and the Council on Environmental Quality were entering into a review of existing water resource policy and would develop recommended reforms. The notice announced hearings scheduled for late July and early August and established the time frame for the developments of such reforms. On July 15 and then again on July 25, the Water Resources Council published in the Federal Register, five issue papers containing 21 perceived problems and 111 options to be considered.

Two days after the fifth issue paper was published in the Federal Register, the first hearings were held in Denver, Colo., at which the State of Wyoming was represented. The Governor of Wyoming, representing thousands of water users in the State, discussing the massive changes proposed by the options suggested by the National Water Resources Council, was limited to a 10-minute presentation.

Yet perhaps the most distressing fact of these hearings was the time frame for the development of the issue papers as published on the 6th of July. While the hearings were to be conducted on July 27 and 28 and August 1 and 2, and the comment period is to remain open until August 20, on August 1 the Policy Committee of the Water Resources Council was to begin to redraft the option papers. On August 16, the members of the task forces are to select preferred options and preliminary agency positions.

Between August 17 and September 1 the final option papers are to be drafted. It is my very real fear that the thoughts and ideas expressed by those who testify and write concerning this developing national water policy will be ignored and will serve only as window dressing to decisions which have already been made, options which have already been selected.

However, my concerns go beyond the manner in which this developing water policy has been administered. I have very real concerns and fears with regard to the entire thrust of these proposals, particularly with regard to issue papers, three, institutions and institutional arrangements; four, water conservation; and five, Federal reserved water rights.

Ever since gold was panned in California, the concept of prior appropriations has been the system upon which the West has relied in the utilization and development of its water. Based upon this system and the State water laws developed around it, farms and ranches were created from the frontier. Based upon this system, industry developed. And based upon this system, cities and towns grew up. For over 100 years the arid West has relied upon this system and developed in accordance with it and grown strong and economically prosperous because of it.

Now the Federal Government, through a national water policy as developed by the Water Resources Council, declares that the system is inadequate because it ignores this consideration or that consideration. Now the Federal Government declares that it will make use of the 50 percent of the land that it owns in the West, that it will make use of its position as trustee for Indian lands, that it will make use of the money which it returns to the American taxpayer, to change the water law of the West and put in its place a system that someone in Washington thinks is better.

Mr. President, it is my intention to do all that I can in order to prevent the adoption of a national water policy which abrogates and destroys the ability of States to deal with problems which are State problems. It is my intent to be clear on this issue, that State water laws are matters to be dealt with by the States and not by some official in Washington.

Mr. BARTLETT. Mr. President, today we are again debating section 404 of the Water Pollution Control Act. This matter was acted on by the House of Representatives during the 94th Congress, and they provided the Senate with a reasonable solution. However, the Senate would not take the lead provided by the House, and we are again confronted with attempting to specify the parameters of Federal authority.

This amendment by my distinguished colleague from Texas, Senator BENTSEN, provides a realistic approach to defining navigable waters. It is imperative that Congress clearly express its intent so that the Corps of Engineers and other Federal agencies will have clear and specific guidelines within which to operate. Also, it is necessary that Congress define the parameters of the Water Pollution Control Act for Federal courts, thereby precluding any opportunity for the courts to misinterpret the intention of Congess.

The Corps of Engineers has published regulations requiring permits for many types of agricultural and nonagricultural activities. These requirements are in addition to applicable State and local requirements, which include compliance with State environmental policy acts, State forest acts, and State and local land use regulation. Also, there are other Federal requirements from specific agencies such as the Department of Agriculture, which must be complied with.

Delays can be ill-afforded by the agriculture community, or any other type of business. Business decisions are made on the basis of a number of tangible and intangible considerations, but depend primarily on immediate need, anticipated need, availability of capital, and present costs. Lengthy delays detrimentally affect the business planning which has become increasingly imperative in complex business and agribusiness.

The U.S. Department of Agriculture has estimated that 60,000 additional permits per year would be required if the normal conservation practices now being carried on by USDA and farmers are continued. Each of these conservation practices would be delayed, thus perpetuating the environmental problem that the "practice" is seeking to solve.

First. If the court decision to expand the jurisdiction of the corps to all bodies of water, both public and private, in excess of 5 acres is an accurate reflection of legislative intent, then it should stand. However, if the Congress should decide that it was not their intention to extend such jurisdiction, then it should immediately act to correct this error, by adopting this amendment.

Second. If Congress is serious about eliminating unnecessary paper work, redtape, and bureaucratic interference, this is the specific place to begin.

The problem is apparent, and I urge that the Members consider the present situation and move to expedite the passage of this amendment.

Mr. HUDDLESTON. Mr. President, it is my understanding that your amendment will exempt from the permit requirements the placement of dredged or fill material into navigable waters when it results from normal farming and ranching activities. I do, however, wish a clarification with respect to the application of the amendment to a large and important agricultural activity, the breeding and raising of horses. In the last quarter century many people seem to have forgotten the important part that the horse has played and still plays in the American agricultural system. Since the second World War, the number of horse farms and ranches, particularly smaller ones, has increased.

The Water Pollution Control Act was aimed at preventing the pollution of our Nation's navigable waterways. Any regulations adopted under the act should focus on the uncontrolled disposal of polluted dredge spoil and major land fillings into our waterways. Applying the act to normal agricultural activities such as horse farms and ranches is unnecessary. Requiring a permit whenever an American horseman places fill into a navigable water is a severe disincentive to American farms and ranches, particularly smaller ones.

It is my understanding that your amendment would apply to horse farms and ranches. I would like to ask the Senator from Texas whether it is his intent that the amendment exempt horse farms and ranches from the act as it does other agricultural activities.

Mr. BENTSEN. As the Senator from Kentucky well knows, Texas is one of the major producers of horses in the United States. The American Quarter Horse Association is headquartered in Amarillo. It is certainly the intent of my amend-

ment to exempt horse farms and ranches from the act. The language following "such as" is not to be read restrictively as exempting only activities that are listed. Rather, they are examples. Certainly the discharge of dredged or fill material from normal horse farming and ranching activities would not be prohibited by or otherwise subject to regulation under my amendment to the act.

I thank the Senator from Kentucky for his question and support for my amendment.

CLEAN WATER ACT TELLS AMERICAN LANDOWNERS, "BIG BROTHER IS WATCHING YOU"

Mr. TALMADGE. Mr. President, I think it is appropriate here to read a small portion of the regulatory impact statement contained in the report on this bill. It says:

The existing Federal Water Pollution Control Act has substantial regulatory impact throughout the nation. Approximately 6,000 industrial sources are regulated as to the amount of discharge into the nation's waters. In addition, virtually every municipality in the country is required to construct treatment facilities which will treat sewage. Under present law many of these sources of pollution are in violation of the 1977 deadline for secondary treatment and are thus subject to enforcement orders by EPA.

Existing law governs all discharges, not just large industrial sources and municipal dischargers. Further, the regulatory impact of section 404 requires many sources who discharge dredge or fill material into navigable waters to obtain permits from the Army Corps of Engineers. The potential regulatory impact of this program is quite extensive.

Mr. President, having said that, the report incredibly goes on to say, "The bill has no impact on the personal privacy of individuals."

First of all I would point out that the word "sources" in this report language refers to voters on whom the report admits "the potential regulatory impact of this program is quite extensive."

While section 404 purports to exact permits for dredging and filling only in the navigable waters of the United States, nowhere has the term navigable been defined, except by a court, which has determined that section 404 applies to virtually all waters of the United States.

In efficient forest and agricultural management you have to move dirt. And while this bill purports to exempt agriculture and forestry from the permit system, it does not.

On page 76 the report says that minor drainage is intended to deal with situations such as drainage in Northwestern forests or other upland areas. The exemption for minor drainage does not apply to the drainage of swamps or other wetlands.

First of all there is no determination either in the bill or the report of what a wetland is. Second, what is the point in bothering to make an exemption for uplands. The water is going to run off from those areas anyway. In other words, the bill provides an exemption for areas that are not even within the scope of the program.

However, there are no exemptions for minor drainage practices which are an every day occurence in the wise practice of agriculture and forestry.

In my State we have many lowland forests, both hardwood and pine, that would be classified as wetlands. These productive forest lands often require minor surface drainage usually with small ditches, to insure satisfactory establishment of the next tree crop—that is, to practice good forest management—after a timber harvest. It is important that this type of activity is included in the exemption. To do otherwise is to legislate against good forest management. Most of the lowland hardwood forests in my State are "wetlands" because they have excess soil moisture and a high water table at certain times of the year. This minor surface drainage is necessary to ensure proper reforestation and growing conditions for the Nation's important hardwood timber resources. It is not used to convert the site to a different land use, nor is it a threat to other forest values.

The report says that no permits will be required for practices involving those agriculture, mining, and construction practices that are properly controlled by State agencies and for which there approved best management practice programs.

I am forced to infer from this that the States will be required to establish lists of so-called best management practices for farming, which in effect will be telling a farmer how to farm his own land.

The report says on page 77 that the term normal silviculture activities—which are exempted—does not include clearcutting of eastern mixed hardwoods or harvesting associated with the even-aged management of timber.

As far as I know, the Committee on Environment and Public Works has heard no testimony related to this report language. It has conducted no studies to identify what is normal forestry practice in the East.

I would point out that if this report language is interpreted literally, it would affect virtually every private and public forest in the South, where a hardwood understudy grows even in pine plantations.

Last year the subject of clearcutting was examined extensively by the Agriculture, Nutrition, and Forestry Committee and the Committee on Energy and Natural Resources. Following extensive hearings and study the two committees sent to the Senate what was to become the National Forest Management Act of 1976.

We learned in our hearings that clearcutting was indeed a common and valid practice in the East as well as in the Western forests. Several noted scientists showed us conclusively that clearcutting does not of itself cause soil erosion.

The Congress decided that it would not stop clearcutting on public lands. Yet, this year we are being asked to submit to the idea that there should be no clearcutting on privately owned lands, as well as reverse what we said last year for the public lands.

That makes no sense at all.

What we are being asked to do here today is unduly impose the heavy hand of Government on the day-to-day lives of those Americans who work the land to provide food and fiber for this Nation.

What we are telling these people is that Government knows best.

What we are telling them is that their Government does not trust them.

For myself I refuse to participate in such a directive.

I believe that it is in the economic self-interest of farmers and foresters to protect the resource base to insure their future income.

I do not believe that bureaucrats, whether they be State or Federal, can, or ought to, be telling farmers how to farm or private foresters how to manage the woods.

If the Senate decides that it is going to diminish the ability of the private land owner to make day-to-day management decisions on his own land, then it is appropriate that section 404 be in the hands of the Army. Because it will take a fully mobilized army to enforce such a law, and in truth, it cannot be enforced.

The people are telling us they want the Government to be smaller and to spend less of their money. They are telling us to leave them alone. Yet we meet here today to pass legislation that will affect 6,000 industrial practices; that will affect every city and town in the country; that will affect virtually every private property owner. There is not a soul in this room who can predict what this bill will cost in terms of higher local taxes, higher food costs, higher wood product costs and higher costs for consumer goods.

Mr. President, I urge my colleagues to vote for Mr. BENTSEN's amendment.

Mr. HUDDLESTON. Mr. President, though I believe the Senate Committee on Environment and Public Works has made a good faith effort to solve many of the problems which are attendant to the persistent controversy over section 404 of the Federal Water Pollution Control Act, I intend to continue my support for the approach being offered by the distinguished Senator from Texas, Senator BENTSEN.

First and foremost, I support the Bentsen amendment because the members of the agricultural community in my State have examined both the Bentsen amendment and the committee bill and have indicated to me that there remain many problems with the committee approach. Primary among these problems, according to the farmers in the westernmost portions of Kentucky, is the remaining requirement in the Senate bill for a permit from the Corps of Engineers to bring wetland areas into the production of food, fiber or forest products.

Mr. President, the farmers in western Kentucky have, over the years, begun to develop heretofore unmanageable land areas into viable agricultural production. I believe very strongly that they should be able to continue this expansion of our Nation's food and grain supply without the possible intrusion of the Federal Government into their affairs. I believe that Senator BENTSEN's amendment will, once and for all, make it very clear that the Federal Government shall not intrude.

Also Senator BENTSEN's amendment will exempt from permit requirements

congressionally authorized projects if they have already been reviewed in an environmental assessment. In my view, the filing of a 404 permit application is simply duplicative effort on the part of those involved in trying to develop a project which has already received the intense scrutiny of congressional committees and also has been subject to the environmental impact statement process.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. McCLELLAN), would vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "nay."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—45

Abourezk	Gravel	Nunn
Allen	Hansen	Packwood
Bartlett	Hatch	Pearson
Bellmon	Hayakawa	Sasser
Byrd, Harry F., Jr.	Helms	Schmitt
	Hollings	Scott
Cannon	Huddleston	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eastland	McGovern	Young
Ford	Melcher	Zorinsky
Garn	Metcalf	
Goldwater	Morgan	

NAYS—51

Anderson	Eagleton	Metzenbaum
Baker	Glenn	Moynihan
Bayh	Griffin	Muskie
Bentsen	Hart	Nelson
Biden	Haskell	Pell
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Heinz	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Case	Jackson	Roth
Chafee	Javits	Sarbanes
Chiles	Kennedy	Schweiker
Clark	Leahy	Stafford
Cranston	Magnuson	Stevenson
Culver	Mathias	Stone
DeConcini	Matsunaga	Weicker
Durkin	McIntyre	Williams

NOT VOTING—4

Humphrey	Percy	Sparkman
McClellan		

So the amendment of Mr. BENTSEN was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. TOWER. Mr. President, a motion to reconsider is debatable, is it not?

The PRESIDING OFFICER. A motion to reconsider is debatable. There are 30 minutes, under the special order, for debate on the motion to reconsider.

Mr. MUSKIE. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The motion is not in order until the time has been used under the agreement.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided between the two sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered. The clerk will call the roll.

Mr. METCALF. Mr. President, the Senate is not in order. We cannot hear the responses.

The PRESIDING OFFICER. The Senate will be in order.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend the call of the roll until we have order in the Senate. Will all Senators please take their seats or retire to the cloakroom? Will all Senators either take their seats or retire to the cloakroom, please? Order has been requested. The request is well taken.

The clerk may proceed.

The assistant legislative clerk resumed the call of the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. May I speak to the Senator from Colorado and the manager of the bill. I ask if we can have an agreement that 5 minutes be allowed to the proponent and 5 minutes to the opponent, that it be limited to that, and that we not use the time of the Senate beyond that.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. If it is agreeable to the manager of the bill, Mr. President, I have no objection to that. I think that, since the attendance was so sparse this morning, the Senate is going to benefit from a 10-minute debate. I have no objection.

The PRESIDING OFFICER. Does the Senator from Wisconsin wish to object?

Mr. NELSON. No.

The PRESIDING OFFICER. In that case, the agreement will be 5 minutes on either side, 5 minutes to be controlled by the junior Senator from Texas and 5 minutes by the Senator from Minnesota.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I want to make a unanimous-consent request.

The PRESIDING OFFICER. Does anybody wish to yield time to the Senator from Wisconsin for him to make that request?

Mr. NELSON. Mr. President, I ask unanimous consent that I be allowed 10 seconds for a unanimous-consent request, without the time being deducted from either side.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. NELSON, Jeffery Nedelman and Judy Affeldt; Mr. BARTLETT, Ed King and Joe Heaton; Mr. CHAFEE, Mimi Feller; Mr. McCLURE, Marsha Johnson; Mr. GRIFFIN, Cathy Shafran and Sue Corbett; Mr. MOYNIHAN, Dr. Jared Cohon; Mr. DOMENICI, Lee Rawls; Mr. STAFFORD, Mary Goldde; Mr. ANDERSON, Deming Cowles; Mr. EAGLETON, Jack Lewis; and Mr. GLENN, Tom Dougherty.

The PRESIDING OFFICER. Who yields time?

There are 5 minutes on either side. Who yields time?

Is all time yielded back? If neither side yields time, time runs equally against both sides.

Mr. MUSKIE. Mr. President, I will be glad to open the debate.

First of all, let me disabuse the Senate on one point. There is not a Senator on the floor, including the Senator who is speaking, who supports section 404 as it has been interpreted and implemented by the Corps of Engineers. Much of the rationale of the Bentsen amendment is based on the reaction of the country to overregulation by the Corps of Engineers of small farmers, foresters, normal agricultural activities, and so on.

Nobody defends section 404. The committee bill does not defend section 404. The Bentsen amendment is aimed at section 404.

So what we are talking about is two approaches to deal with a national problem. What is that national problem? That national problem, if there is one, involves the protection of the Nation's wetlands.

With respect to the Bentsen amendment, if it is adopted, 85 percent of the wetlands of this country will be left unprotected. Two percent of the waterways of the country will be left unprotected.

Now, what the committee bill does is very simple. It undertakes to continue the corps' traditional jurisdiction exercised since the Refuse Act of 1899 and before.

It was under that jurisdiction that the corps for all these decades has policed and monitored and approved dredging in the waterways of our country and disposing of the dredged spoil wherever it chose without any consideration for the environmental values concerned or the damage that was done because of that insensitivity.

For the purpose of disciplining the corps in that respect, section 404 was enacted into law in 1972. The corps proceeded to take that section and, by its interpretation, expand it far beyond any intent of the Congress so that it found itself threatening regulation in areas of the country which the corps had never imagined it had any jurisdiction over.

We all began to get letters from farmers, foresters, ranchers, from people whose activities in the mind of the Congress were not in the slightest bit intended to be affected by 404 when we enacted section 404.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. MUSKIE. I have just 5 minutes, I say to the Senator, but I will yield for the question.

Mr. DOMENICI. I just wanted to ask, the Senator said the corps began to expand its permit system, is it not true a court intervened and interpreted this section so that they had to expand their jurisdiction?

Mr. MUSKIE. That is right. In 5 minutes, I could not cover every detail.

But the effect of it was that the corps with the courts—and whatever other footnotes the Senator wants to add—found itself in the posture of threatening all these small citizens who are trying to conduct normal activities without undue interference by the Federal Government. That is the problem as it was put in our laps.

But the other problem remains, the protection of the wetlands of this country.

If we do not regard that as a problem, then there is no problem with the Bentsen amendment. If we regard it as a problem——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MUSKIE. As I said to the Senator, my 5 minutes was too little.

I urge to the Senators the committee's approach as a sensible approach which exempts, specifically exempts, the kinds of activities which created this storm.

Mr. BENTSEN. Mr. President, we are all agreed that 404 is bad and it ought to be changed.

My contention is that what the committee actually did was to create a shadow program by the Federal Government. That means that before a State program is approved it has to have the EPA's Good Housekeeping stamp of approval on it. They have to have the "i's" dotted and the commas in the proper place, and that is determined by the Federal Government, and not just by one agency. States have to have the approval of the EPA, they have to have the approval of Fish and Wildlife, and they have to have the approval of the Corps of Engineers.

I still contend that all of the waters in the United States will be subject to a permit program, under the legislation proposed by the committee.

Mr. MUSKIE. Will the Senator yield?

Mr. BENTSEN. I have the same problem with time that the Senator had before, but will yield for a question, not for a speech.

Mr. MUSKIE. Yes. I want to make it clear, the exempt activities in the committee bill are not subject to any Federal agencies.

Mr. BENTSEN. I understand. Concerning exempt activities, there is substantial question as to the meaning of many of those exemptions.

One of the other questions was, what do we do about toxic substances?

Section 307 was not changed; 307 is still in full force and effect to protect on toxic substances.

The point was made that it really is not effective. If it was not effective, then why did they not try to modify it, improve it, during the committee hearings?

In addition to section 307, the Toxic Substance Act, the Waste Disposal Act provide tough penalties for toxics which are still in force. My amendment does not restrict these important measures that protect waters from toxics.

Perhaps the most crucial issue is that people are fed up with Federal regulations. All the committee approach does is substitute State regulation for Federal regulation. The bill sends a clear message to State authorities, "Just keep watching over your shoulder because unless you continue to satisfy the Federal bureaucrat, he can pull back his authorization to you any time he wants to."

When they give him that Good Housekeeping stamp of approval, that is not permanent, not by any means.

The bill also permits EPA to review and veto individual permits. The Federal Government retains that kind of restrictive authority under the committee's measure.

So I do not really think the committee has addressed the problem of trying to cut back on paperwork, on redtape, on bureaucracy in this country. I believe the Bentsen amendment does accomplish that. We decided that the Federal Government does not have all the answers, that the States and the Governors and their legislators can best adapt to local conditions and can take care of the wetlands in their jurisdictions. We continue to protect the wetlands along with the navigable streams and along the coastlines. Those are fully protected, under the Bentsen amendment.

I urge the Senate to adopt this amendment. I urge Senators to put their action where their words are, when they say they want to cut back on overregulation and bureaucracy in this country. Here is a chance for Senators to show that they mean it by voting for the Bentsen amendment. I urge Senators to vote in the affirmative.

Mr. MUSKIE. Mr. President, I move to table the motion to reconsider.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HATHAWAY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. MCCLELLAN), would vote "nay."

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—51

Anderson	Griffin	Metzenbaum
Baker	Hart	Moynihan
Bayh	Haskell	Muskie
Biden	Hatfield	Nelson
Brooke	Hathaway	Pell
Bumpers	Heinz	Proxmire
Burdick	Huddleston	Randolph
Case	Humphrey	Ribicoff
Chafee	Inouye	Riegle
Chiles	Jackson	Roth
Clark	Javits	Sarbanes
Cranston	Kennedy	Schweiker
Culver	Leahy	Stafford
DeConcini	Magnuson	Stevenson
Durkin	Mathias	Stone
Eagleton	McIntyre	Weicker
Glenn	Metcalf	Williams

NAYS—45

Allen	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hatch	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Byrd, Robert C.	Helms	Scott
Cannon	Hollings	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	Matsunaga	Wallop
Eastland	McClure	Young
Ford	McGovern	Zorinsky
Garn	Meicher	
	Morgan	

NOT VOTING—4

Abourezk	Percy	Sparkman
McClellan		

So the motion to table the motion to reconsider Mr. BENTSEN's amendment was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

UP AMENDMENT NO. 727

Mr. ANDERSON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. ANDERSON), for himself and Mr. CULVER, Mr. RIEGLE, Mr. HUDDLESTON, Mr. FORD, Mr. SARBANES, and Mr. MATHIAS, proposes unprinted amendment No. 727.

Mr. ANDERSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 15, strike the quotation marks and following period.

On page 12, after line 15, insert the following:

"(3) For the fiscal years 1978, 1979, 1980, 1981, and 1982, no State shall receive an allotment of less than the lower dollar amount it would have received under either (A) an allotment based on the ratio of its 1975 population to the 1975 population of all the States or (B) the ratio of its total needs for categories of treatment works eligible under this Act indicated in the 1976 Needs Survey to such total needs in all the States. For the purpose of carrying out this paragraph, there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $60,000,000 in each of fiscal years 1978, 1979, 1980, 1981, and 1982.

"(4) For the fiscal years 1978, 1979, 1980, 1981, and 1982, no State's proportional share

allotment shall be reduced by more than 25 per centum of its proportional share allotment for fiscal year 1977 under paragraph (1) of this subsection, and any State's proportional share allotment which would be reduced by more than 25 per centum of the proportional share allotment for fiscal year 1977 shall be adjusted to provide a proportional share allotment representing no more than such a 25 per centum reduction. For the purpose of carrying out this paragraph there are authorized to be appropriated such amounts as may be necessary in each of fiscal years 1978, 1979, 1980, 1981, and 1982, subject to such amounts as are provided in appropriation Acts.".

Mr. ANDERSON. Mr. President, this is an amendment offered by myself and Senators CULVER, RIEGLE, HUDDLESTON, FORD, SARBANES, and MATHIAS.

It deals with two problems.

First, we discovered this morning that the allocation formula deals very unfairly with one of our States. It would lose 48 percent of the funds from one year to the next. There are eight other States that lose substantially this amount.

This amendment, has the support of both the minority and majority sides with respect to the leadership on this bill, and I hope that the Senate will support it as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I was going to call up an amendment, but I will withhold momentarily and yield to the Senator from Colorado.

Mr. HASKELL. I thank the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 728

Mr. HASKELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes unprinted amendment No. 728.

Mr. HASKELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, line 3, strike the quotation marks and the period.

On page 73, after line 3, insert the following:

"(h) No permit shall be required under this section for any Federal water resource project specifically authorized by the Congress for which a final environmental impact statement under section 102(2)(C) of the National Environmental Policy Act has been prepared.".

Mr. HASKELL. Mr. President, I should state that I have cleared this amendment both with the distinguished Senator from Maine, Senator MUSKIE, and the distinguished Senator from Vermont, Senator STAFFORD, and it is my understanding it is acceptable to them.

Basically what this amendment says is that, when you have a Federally authorized water resource project for which a final NEPA environmental statement has been filed, there will be no need for a permit for the construction to be issued by the Corps of Engineers.

In my State certain groups have indicated that they would challenge the authority of the Corps of Engineers in issuing a certain permit on water projects saying they are not in accordance with the Corps of Engineers regulations.

To my way of thinking this is merely obstructionism, and for this reason I have proposed this amendment and ask, Mr. President, that it be accepted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HASKELL. I yield back the remainder of my time.

Mr. ANDERSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 810, AS MODIFIED

Mr. NELSON. Mr. President, I call up amendment No. 810, as modified, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. ANDERSON, Mr. MOYNIHAN, Mr. HART, Mr. PROXMIRE, Mr. RIEGLE, Mr. LEAHY, Mr. BAYH, and Mr. METZENBAUM, proposes amendment No. 810, as modified.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, after line 9, insert the following new section and renumber subsequent sections accordingly:

SEC. 46. Title III of the Federal Water Pollution Control Act is amended by inserting at the end thereof the following:

REGULATION OF DETERGENTS IN GREAT LAKES REGION

"SEC. 302. (a) In recognition of the particular danger to the Great Lakes and the residents of the Great Lakes region represented by the use of phosphates in cleaning agents and water-conditioning agents is in the purpose of this section to regulate such use in such region and to provide for a study to determine whether such regulation should be made nationwide.

"(b) As used in this section the term—

"(1) 'Great Lakes region' means the States of New York, Ohio, Indiana, Michigan, Illinois, Wisconsin, and Minnesota; and that portion of Pennsylvania which is in the Great Lakes drainage basin;

"(2) 'cleaning agent' means a heavy duty laundry detergent, laundry additive, dishwashing compound, household cleaner, industrial cleaner, phosphate compound, or other substance intended to be used for cleaning purposes;

"(3) 'chemical water conditioner' means a water-softening chemical, antiscale chemical, corrosion inhibitor, or other substance intended to be used to treat water;

"(4) 'dishwashing machine' means equipment manufactured for the purpose of cleaning dishes, glassware, and other utensils involved in food preparation, consumption, or use, using a combination of water agitation and high temperature; and

"(5) 'phosphorus' means elemental phosphorus as further defined by the Administrator for the purpose of this section.

"(c) The Administrator shall prescribe regulations to be effective after one hundred and eighty days following the date of enactment of this section prohibiting the sale, offering for sale, or distribution, for use within the Great Lakes region of cleaning agents or chemical water conditioners containing phosphates in excess of maximum permissible concentrations prescribed by the Administrator for the purpose of this section. Such regulations shall take into consideration—

"(1) The availability of safe, nonpolluting, and effective substitutes.

"(2) The differing needs of industrial, commercial, and household users of cleaning agents and chemical water conditioners.

The maximum amount of phosphorus allowed in the following cleaning agents or chemical water conditioners shall be as follows:

"(A) laundry detergents and built soaps for machine laundry excluding chemical water conditioners, not to exceed 0.5 per centum phosphorus, by weight;

"(B) household and commercial detergents for machine dishwashing, not to exceed 8.7 per centum phosphorus, by weight;

"(C) all household cleaning agents except those listed in clauses (A) and (B) intended to be used in the home, not to exceed 0.5 per centum phosphorus, by weight; and

"(D) chemical water conditioners for machine laundry use, not to exceed 20 per centum phosphorus, by weight.

The concentration by weight of prescribed phosphates in any cleaning agent or chemical water conditioner shall be determined by the current applicable method prescribed by the American Society for Testing and Materials.

"(d) In any case where, upon application, the Administrator finds that by reason of exceptional circumstances the strict enforcement of any provision of such regulations would cause undue economic hardship on the user of a cleaning agent or chemical water conditioner; that the use of cleaning or water conditioning agents containing phosphorus in excess of the permissible levels set forth herein is necessary for the public health, safety, or welfare; or that strict conformities with these limits would be unreasonable, impractical, or not feasible under the circumstances, the Administrator may permit a variance therefrom upon such conditions as he may prescribe for prevention, control, or abatement of pollution in harmony with the general purpose of such regulations and the intent of this section.

"(e)(1) It shall be unlawful after the effective date of such regulations for any person to sell, offer for sale, or distribute for use in the Great Lakes region any cleaning agent or chemical water conditioner, unless such agent or conditioner conforms with regulations prescribed with respect to such agent or conditioner pursuant to this section.

"(2) Any person who violates paragraph (1) of this subsection shall be subject to a civil penalty of not to exceed $10,000 for each such violation.

"(f) The Administrator shall carry out a full and complete investigation and study in order to determine whether the regulations prescribed for the Great Lakes region pursuant to this section should be applied nationwide. Such investigation and study shall consider the cost to the consumer, cost to industry, benefits to be gained, and other appropriate factors. The results of such investigation and study shall be submitted to

the President and the Congress, together with any legislation necessary to carry out the recommendations, not later than one year after the date of enactment of this section.

"(g) Nothing in this section shall prevent any State in the Great Lakes region from placing into, or keeping in, effect any control over the sale, distribution, or use of any cleaning agent or chemical water conditioner if such control is more stringent than that provided pursuant to this section.".

"(h) Nothing in this section shall supersede or preclude the Administrator of the Environmental Protection Agency from issuing regulations under the Toxic Substances Control Act (P.L. 94-469) limiting the use of phosphates in cleaning agents and water conditioning agents."

Mr. NELSON. Mr. President, this modification strikes the enforcement provisions of the amendment as introduced because Public Law 92-500 has adequate enforcement mechanisms.

Mr. President, this amendment contains two major provisions.

One, it creates a series of limitations for the amount of phosphates contained in laundry detergents, dishwashing compounds, and water conditioners sold within the eight Great Lakes Basin States.

Two, it calls upon the Environmental Protection Agency to undertake a study to determine whether a national phosphate limitations program should be enacted by Congress.

This approach is the single most important step that should be taken to protect the ecological health of the Great Lakes. Every water control report issued by the International Joint Commission on the Great Lakes since 1970 has recommended that such a limitation, a phosphate ban, be enacted throughout the Great Lakes Basin.

A combination of sewage treatment and product limitation via a phosphate ban is the only way that the total phosphorus loadings in Lakes Superior, Huron, and Michigan can be reduced enough to stabilize the eutrophication process. We have inadequate information on Lake Ontario and only Lake Erie is so bad that this combination of efforts cannot resolve the immediate problem.

This approach will remove 6.3 percent of phosphorus loading from Lake Superior, 37 percent from Lake Michigan, 27.4 percent from Lake Huron, and almost 32 percent from Lake Erie.

This approach coordinates and supports programs of phosphate limitations already enacted in New York, Indiana, Chicago, and Akron, and the regulations propounded for a ban in the State of Minnesota which are being contested in court.

Over 32 million people reside in areas that have already attempted some sort of product limitation. Alternatives exist that cost the consumer no more, on a per wash basis, and that get clothes just as clean. In fact, every major manufacturer of phosphate detergents now is marketing a nonphosphate product.

So this proposal is simple and straightforward. It bans the use of detergents containing more than .5 percent phosphorus, it sets a limit of 8.7 percent by weight for phosphates contained in Automatic dishwashing compounds, and it sets a 20-percent-by-weight limitation on the amounts of phosphates contained in chemical water conditioners for machine laundry use sold in the Great Lakes Basin States.

All the necessary studies that have been done, including a very substantial 2-year study by region 5 of the Environmental Protection Agency. Every independent evaluation states that the only way to stop the deterioration of the lakes, at this time, is to stop the introduction, or dramatically reduce the introduction, of phosphorus, through phosphate detergents.

Specifically, this amendment establishes a 0.5 percent by weight limitation on the amount of phosphorus contained in laundry detergents, an 8.7 percent by weight limitation on the amount of phosphates contained in commercial and household dishwashing compounds, and a 20 percent by weight limitation on the amount of phosphorus contained in water conditioners sold within the Great Lakes Basin States. These limitations would take effect 6 months after the date of enactment of this act. In addition, this amendment directs the EPA to conduct a study to determine the economic feasibility and environmental desirability of extending this limitation program to the rest of the Nation. A report and recommendations for further action is due within 6 months.

This amendment is a reasonable, practical, and responsible approach to solving an extremely serious problem. It is based upon proven techniques and actual field experience. Basically, this language is a blending of the Minnesota Pollution Control Agency's regulation and the New York State law. The amendment, originally drafted as S. 1015, has been refined through a series of negotiations over the past 6 months with the EPA and State officials.

It provides for one uniform performance standard for all the Great Lakes States—Wisconsin, Minnesota, Michigan, Illinois, Ohio, Indiana, Pennsylvania, and New York. It is an effective step that should be immediately taken.

Getting the phosphorus out of detergents sold within the Great Lakes Basin is the single most important step that should be taken to protect the ecological integrity of the lakes.

The EPA, in a June 1977 report entitled "Detergent Phosphate Ban: Position Paper prepared by the Region V Phosphorus Committee," conclusively shows that the Great Lakes are dying a premature death. The acceleration of the lakes' natural aging process, the eutrophication process, is being caused by excessive levels of nutrients, of phosphorus. There is no dispute that the largest man-made and controllable source of this phosphorus influent is detergents. There is no dispute that by implementing a uniform basinwide standard immediate and dramatic improvements in water quality can be obtained. As a result, the acceleration in the aging process can be slowed, and the problem can be stabilized.

Detergents are not the only source of phosphorus contamination. Phosphates occur naturally throughout the Basin. Agricultural runoff and atmospheric loading contribute large amounts to the Lakes in the form of nonpoint source pollution. However, immediate action is necessary now and quite simply, we do not now have the technology to control other sources of phosphorus influent. Work needs to be expanded in all areas of control.

EPA estimates that a series of limitations like the set proposed in this amendment, will reduce by 40 percent the amount of phosphorus contained in wastewater reaching the sewage treatment plant. EPA believes that a "phosphate ban" will reduce the amount of phosphorus effluent—the actual discharge from the plant to the receiving waterways, the Great Lakes—by 50 percent.

This approach, a product limitation, is a major and significant departure from existing policy that was established in 1971. It is a necessary departure because existing policy has failed to protect the Lakes from degradation.

This approach has been endorsed by the EPA, the Carter administration, the International Joint Commission on the Great Lakes—IJC, the Great Lakes Basin Commission, and the Great Lakes Water Quality Board.

The Great Lakes Water Quality Agreements of 1972—the basic understanding on water quality this nation has with Canada—calls for the achievement in the lower lakes of 1 part per million phosphorus in the sewage effluent of all plants that produce more than 1 million gallons per day. In 1971, many people believed this standard would stabilize the problem. Recent scientific evidence demonstrates that these people and the EPA were wrong. Not only have we been unable to achieve this 1 milligram per liter guideline, but we have now discovered that the 1 part per million objective is inadequate to protect the lakes. EPA now suggests that the standard for the lower lakes should be lowered to 0.1 milligrams per liter.

There is no exclusive technological methodology that can be utilized to achieve this effluent guideline. The only way this level of treatment can be achieved so that eutrophication is stabilized is through a combination of product limitation and advanced phosphorus removal technology.

The Great Lakes are a unique international resource. They are the world's largest body of fresh water, a series of five large lakes containing over 65 trillion gallons of water. Almost 24 million people throughout the Great Lakes Basin receive their drinking water from public water systems. Of this 24 million, over 73 percent—17.2 miliion people—get their drinking water from the lakes. In Wisconsin, for example, 1.8 million people reside within the watershed of the Great Lakes. Of these residents, over 1.3 million—71 percent—get their drinking water from the lakes. The Great Lakes is such a vital resource that it is in our own vested interest to abate and halt the degradation.

The problem of accelerated eutrophication continues to grow worse almost on a daily basis. The 1975 report from

the Great Lakes Water Quality Board stressed that while eutrophication may have been slowed in some isolated locations, overall, its acceleration beyond natural rates remains "a threat" to the Great Lakes. Scientists have warned that fundamental, and probably irreversible, changes in the natural biological systems of the lakes were being caused by man's contributions to the high nutrient levels.

We in the Congress must recognize an unpleasant truth; with present technology, the only readily controllable source of phosphorus input to the environment is sewage effluent. Technology has not been able to resolve the issue. There is no technological fix to this problem. Current information from EPA's Grosse Isle Laboratory indicates that even the most modern sewage treatment plant cannot achieve and maintain over time the 1 mg/l recommended effluent guideline. The average effluent from major plants located throughout the basin runs in the range from 2–4 mgs./l, two to four times the suggested level. In fact, recent studies question whether the 1 part per million limitation will be sufficient to achieve and maintain the desired water quality levels in the Great Lakes.

Several models have been developed that demonstrate that even if the 1 part per million level is achieved and maintained consistently at all possible places throughout the basin, the phosphorus loadings to the lakes will remain so high that the eutrophication rates will not be stabilized.

We are left with the hard reality that reducing the nutrient input is the soundest preventative and restorative measures that can be taken toward reducing rates of eutrophication in the Great Lakes.

A detergent limitation works. In areas where a ban on phosphates has been implemented, measurable decreases in the concentrations of phosphorus in sewage have been reported within months of operation. Measurable decreases in total phosphorus loadings of the receiving waterway have been reported within a year of implementation. These findings are based not on theory, but on actual testing and field experience in Chicago, New York State, and in the State of Indiana.

LAKE SUPERIOR

Superior is in the best ecological shape of all the Great Lakes. However, even this lake—the cleanest and largest body of fresh water in the world—is threatened by excessive levels of phosphorus. The International Joint Commission on the Great Lakes estimates that Superior currently receives 4,140 metric tons per year of phosphorus. Scientists agree that to stabilize the eutrophication process this loading should be reduced to 3,900 metric tons per year. Sewage treatment plants can only remove 200 metric tons per year, 4.83 percent of the loading, if the 1 part per million guideline can be consistently achieved at all point sources.

A detergent limitation will remove another 60 metric tons per year, another 1.45 percent of the loading. Through a combination of technology and product limitation, the phosphorus loading of Lake Superior can be reduced by 6.3 percent, lowering the lake's overall phosphate loading to 3,880 metric tons per year, 20 metric tons below the IJC's recommended target. Neither technology nor a phosphate ban alone can achieve this necessary water quality objective.

LAKE MICHIGAN

Michigan is generally classified as mesotrophic. The IJC reports that this lake receives now 7,100 metric tons of phosphorus per year. Its recommended load is 5,350 metric tons per year. As in the case of Lake Superior, technology alone cannot reduce the amount of phosphorus entering the lake to sufficient levels to stabilize the problem. Sewage treatment can only reduce the phosphorus loading by 16.13 percent, 1,145 metric tons per year. A detergent limitation can reduce the phosphorus loading by another 1,479 metric tons per year, an additional 20.83 percent. Only through a combination of strategies, of technology plus product limitation, can the residual phosphorus loading of the lake be reduced 37 percent to 4,476 metric tons per year, 874 metric tons per year below the current target levels.

LAKE HURON

Lake Huron is the only lake in the system for which complete data exists and whose eutrophication problems can be stabilized through technology, acting independently of any other policy decision. The IJC recommends that the lake's current load of 3,720 metric tons per year be reduced to 3,600 metric tons per year. Advanced phosphorus removal can reduce the loadings 18.81 percent, to 3,020 metric tons per year. A detergent limitation will add an additional 8.6 percent reduction, removing another 320 metric tons per year. A combination of the two pollution abatement strategies will reduce phosphorus loadings by 27.4 percent.

LAKE ERIE

There is no question that Lake Erie is the most eutrophic of the Great Lakes. Recent reports that the lake is returning and recovering from its massive doses of industrial and municipal pollution are at best hopeful projections. It seems that the recent cycle of high water has helped dilute the pollution. Abatement efforts thus far have had only localized and marginal impacts. We are now entering a period where the high water is receding and the pollution, especially in the western segment of the lake, is intensifying.

Lake Erie receives, according to the Corps of Engineers, 19,607 metric tons of phosphates per year while its recommended level is 12,525. Sewage treatment can only remove 24.2 percent of the phosphorus from the influent. A detergent limitation will remove another 7.6 percent, an additional 1,494 metric tons per year. A combination of efforts will remove 31.8 percent of the phosphorus loading, but even this effort will not be sufficient enough to stabilize the lake. The lake will still receive 843 metric tons per year of phosphorus above the recommended loading guideline.

LAKE ONTARIO

Incomplete information is available for Lake Ontario.

OVERALL CONCLUSION

EPA estimates that a product limitation will reduce the amount of phosphorus contained in sewage influent—wastewater reaching the plant—by 40 percent. This in turn, if the 1 part per million standard is achieved and maintained, will reduce the amount of phosphates in sewage effluent—the discharge into the lakes—by 50 percent. As water quality improves, total phosphorus loadings in the lakes will be reduced at least 27 percent. The remainder of the phosphorus loading is nonpoint source.

ECONOMIC SAVINGS

It is in the economic interest for all concerned, including soap manufacturers, to remove phosphorus from soap products. Substantial amounts of tax dollars can be saved if phosphorus can be removed before the wastewater reaches the sewage treatment plant. Sewage treatment plants require large amounts of chemicals to remove the phosphorus, producing even greater amounts of sludge as a by-product. The sludge must be disposed of, typically by burning or transferring to a disposal site. A phosphorus ban would have many benefits:

First, less sludge would be generated at the sewage plant;

Second, less equipment would be required to handle the sludge;

Third, less sludge would have to be disposed of.

Dr. Edwin Barth of EPA's National Environmental Research Center in Cincinnati, estimates that a one-third reduction in the phosphorus concentration of sewage could reduce chemical and operating costs by 20 percent. EPA estimates that a cost savings of $1.20 per capita, per year, would result from a phosphorus ban for treatment facilities with a flow greater than 100 million gallons per day. This would mean a $41.5 million a year savings for the Great Lakes. By reducing chemical and sludge disposal costs, EPA estimates that the residents of the basin would save at least $26.3 million a year. In Wisconsin, this would amount to a savings of at least $3,800,000 per year if a detergent phosphate ban is implemented.

The city of Chicago has had a 0.5 percent by weight phosphorus ban for detergents in effect since July 1972. Mr. Wally Poston, Commissioner of the Department of Environmental Control for the city of Chicago, speaks very favorably about the beneficial effects of a ban. In testimony before the Michigan Water Resources Commission on August 27, 1976, he said, "Again, the city of Chicago has achieved an 87 percent reduction of phosphorus in effluent from the world's greatest sewage treatment plant of the Metropolitan Sanitary District of Greater Chicago, at no additional cost to the public, as a result of limiting the phosphorus in detergents." He further stated that the Chicago treatment plant would have incurred additional operating costs ranging from $14–$73 per million gallons of wastewater treated if phosphorus was to be removed by additional treatment. This would have resulted in a yearly

additional treatment cost to Chicago residents ranging from $5,100 to $30,645 per million gallons per day of sewage flow into the plant. It is important to note that figure does not even include the cost of sludge handling and disposal.

The evidence is very compelling that the alternative of controlling phosphorus before it enters the plant provides a significant savings compared to treatment at the plant. Even the soap manufacturers realize that phosphorus may not be as cost-effective. A recent article in Chemical Engineering points out that phosphorus has tripled in cost during the last 3 years. Lever Brothers, one of the big three detergent manufacturers, has been working on a less costly total phosphate substitute termed CMOS. The world's largest detergent manufacturer, Procter and Gamble, is also looking for phosphate alternatives. Last fall, the president of Procter and Gamble, Mr. John G. Smale, announced that the company is developing a new aluminsilicate product which would reduce their reliance on phosphates.

There are alternatives to phosphate detergents on the market that get clothes just as clean as their phosphate counterparts without being harmful to the environment. In areas where phosphate detergents can be sold, these nonphosphate products are setting on the shelves next to the phosphate detergents and are being purchased in rapidly increasing numbers. For example, liquid detergents which are primarily nonphosphates account for 19.3 percent of the total U.S. detergent market.

It is significant to note that industry does not make a distinction between marketing phosphate and nonphosphate detergents. In Chicago, people buy nonphosphate Tide and get their clothes just as clean as the consumers in Milwaukee and La Crosse buying phosphate Tide. The boxes are the same, the washing instructions are the same, and the advertising claims are the same.

It is obvious consumers have a stake in controlling phosphorus. State and local efforts to ban phosphorus in detergents have won widespread consumer support. More than 32 million people, 14.9 percent or 1 out of 7 Americans, live in areas prohibiting the use of phosphorus in detergents. Even in areas where phosphates have not been banned, the heavy duty liquid detergents, which are primarily nonphosphate, are being purchased by consumers. For instance, in Michigan, where a very limited ban is in effect, 20 percent of all the detergents purchased are nonphosphates.

Reports have shown that customer complaints in nonphosphate areas are very low. For example, a study in Indiana—where a 0.5 percent ban is in effect—shows that 70 percent of those interviewed were satisfied with their detergents, and the remaining 30 percent still supported the ban. Moreover, last year during hearings on a proposed 0.5 percent ban in Michigan, not one citizen came forward to oppose the ban.

In endorsing a phosphate ban for the Great Lakes Basin, EPA states that there is general public support for a phosphate ban in detergent.

Dr. Anthony Schwartz, a leading authority on phosphates, said that nonphosphate, noncarbonate detergents now being offered by the leading detergent manufacturers are as effective in overall performance as their phosphate containing counterparts. Particularly significant, he found no difference in price per load for the nonphosphate detergents to the phosphate detergents.

The major detergent manufacturers—Procter & Gamble, Lever Bros., and Colgate-Palmolive—all manufacture nonphosphate detergents. A variety of nonphosphate detergents is available for the consumer. Significantly, in areas where phosphates have been banned, liquids have taken an important share of the market, the most popular being Era—a Procter & Gamble product, Dynamo—a Colgate product, and Wisk—a Lever Bros. product.

ENERGY SAVINGS

Banning phosphorus would also help to conserve energy. The burning of sludge is a wasteful process and consumes large quantities of energy. For every ton of sludge burned, 50 gallons of oil must be used. The savings can be rather substantial; in Wisconsin, for example, 655,000 gallons of No. 2 fuel would be saved. In the Great Lakes Basin, 5,540,000 to 7,160,000 gallons of No. 2 fuel oil would be saved for home fuel consumption or other purposes.

CONCLUSION

The Great Lakes are a vital international resource that must be protected from further degradation. We know that the lakes' natural aging process is being accelerated. We know the cause of the eutrophication is excessive levels of nutrients. We know that the limiting factor is phosphorus. We know that the largest manmade and controllable source of the phosphorus throughout the basin is detergents. We know that this is not the only source of phosphate influent, but that detergents are the only source that we currently have the technology to control.

We now know the standards developed by the International Joint Commission on the Great Lakes—standards of 1 part per million phosphorus in the effluent of major sewage treatment plants—is not being achieved. We know that the loadings from the most modern treatment plants on the lakes average two to four times that limitation. And we now know that even if the 1 mg/1 guideline was achieved and maintained, not enough phosphorus would be removed to stabilize the problem in any of the lakes. Recent scientific evidence suggests that rather than an effluent guideline of 1 mg/1 phosphorus, the limitation should be 0.1 mg/1. We know that only a combination of product limitation and technology can achieve this new lower level.

We know, based upon the Chicago, New York, and Indiana experiences, that such a product limitation has an immediate and positive impact on water quality. We know that a product limitation plus technology will stabilize the eutrophication in Lakes Superior, Michigan, and Huron. We have incomplete information on Lake Ontario. Only Lake Erie's problems cannot be resolved through a combination of a product limitation and technology.

We also know that such a product limitation in the Great Lakes region of this Nation would be good for taxpayers. Operating costs of sewage treatment plants would be reduced. A potential savings of over $40 million a year could be realized. Less energy would be used. Less sludge would have to be disposed of either by burning or in landfills. And we know that alternatives exist for the consumer that are safe, acceptable, and competitive on a per wash basis.

This program of limiting the amount of phosphorus contained in detergents is the single most important step that should be taken to protect the ecological integrity of the Great Lakes. We need immediate and effective action now.

Mr. President, this is the largest collection of fresh water in the world. Lake Superior is the largest lake in terms of surface area. They are magnificent national assets, and their deterioration should be stopped.

Such a ban on the use of phosphate detergents has been in effect in Chicago, Indiana, and New York, and is working very well; and in my judgment we should not continue to unnecessarily introduce phosphates into these magnificent national assets.

If we adopt this legislation, we well, in three of those lakes, be able to stabilize the deterioration caused by phosphorus going into the lakes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr President, I am pleased to join the distinguished Senator from Wisconsin as a cosponsor of this amendment to the Federal Water Pollution Control Act. This is a good amendment that will help preserve a wonderful natural treasure of the Nation.

The Great Lakes represent an important commercial, recreational, and esthetic resource of my State and for those other States in the Great Lakes region. With respect to the aesthetic attributes of the Great Lakes, I would like to share with you a New Yorker's description of Lake Ontario from the vantage point of the mouth of the Oswego River at a site which is now the town of Oswego, N.Y. These are the words of James Fenimore Cooper, writing in 1841, as he describes the experience of a girl who sees Lake Ontario for the first time:

> Here a new scene presented itself: although expected, it was not without a start, and a low exclamation indicative of pleasure, that the eager eyes of the girl drank in its beauties. To the north, and east, and west, in every direction, in short, over one entire half of the novel panorama, lay a field of rolling waters. No land was to be seen, with the exception of the adjacent coast, which stretched to the right and left in an unbroken outline of forest with wide bays and low headlands or points; still, much

of the shore was rocky, and into its caverns the sluggish waters occasionally rolled, producing a hollow sound, which resembled the concussions of a distant gun. It was a scene, on one side, of apparently endless forests, while a waste of seemingly interminable water spread itself on the other. Nature appeared to have delighted in producing grand effects, by setting two of her principal agents in bold relief to each other, neglecting details; the eye turning from the broad carpet of leaves to the still broader field of fluid, from the endless but gentle heavings of the lake to the holy calm and poetical solitude of the forest, with wonder and delight.

Now all of Lake Ontario may not still resemble Mr. Cooper's description; however, there are parts of it that still generate deep feelings in its beholder.

It is the intent of this bill to maintain the remaining beauty of the Great Lakes. I endorse the amendment and trust that my colleagues will, as well.

I would state to other Members of this body who might have some interest in the actual effect of this legislation, that, as the Senator from Wisconsin has stated, two States have adopted such legislation or the essential equivalent, Indiana and New York. I believe New York is the first to have done it. New York, which takes such an extraordinary amount of the discharge of Lake Erie and the whole discharge of Lake Ontario, has had experience with this legislation, in effect, and, as I am sure my senior colleague from New York would agree, our experience has been altogether a good one.

This legislation will work. It has been working with respect to large portions of Lake Erie and Lake Ontario now for some years. There were apprehensions and there were protests when the law went into effect. The process that the Senator from Wisconsin has described immediately took over; substitutes were provided; the people of New York are as well scrubbed today as they have ever been; and what is more, they swim in Lake Ontario a lot more than they used to do.

The words of James Fenimore Cooper show what a great, incomparable heritage these lakes are, and how we were on the way to losing them, how we talked about Lake Erie dying, and how Lake Ontario began the process of eutrophication and for years people did not swim along its shores, which were occupied only by small dead fish.

New York has done its share; but inevitably Lake Michigan, Lake Superior, and Lake Huron flow out through Lake Erie and Lake Ontario. As a matter of good judgment for your own sakes and good neighborliness for our sake, I ask that Senators support this measure.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from Wisconsin yield me 2 minutes?

Mr. NELSON. I yield the Senator 2 minutes.

Mr. JAVITS. Mr. President, I simply want to join Senator MOYNIHAN in what he says. In this case, it is a little late for him to be calling me his "senior colleague." He is an outstanding Senator and we work very well together, but it is a fact that I have had somewhat more experience, having been around a little longer than he.

It so happens that, at its worst, I made an inspection tour of Lake Erie, and it was really awful. We were really dealing with pitch, and the worst kind of evidence of pollution, even to the eyes of a layman like myself.

I was deeply impressed with the laws of my State, and was deeply impressed with the fact that we tried to help ourselves, and I have joined Senator NELSON, Senator MUSKIE, and others from time to time in their efforts to deal with these matters.

But I am even more impressed with the fact that it seems to have worked. It seems to have worked; whether this particular type of regulation has everything in the world to do with it or not I cannot say, but it certainly must have made a contribution, because the results have indicated the beginning of improvement.

Having seen what I saw, and having been as appalled as I was, it was terribly impressive to me. So I, too, support Senator Nelson's amendment.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I have a perfecting amendment which I send to the desk.

The PRESIDING OFFICER. The chair will state a perfecting amendment will not be in order until the time has expired on the initial amendment.

Mr. EAGLETON. I ask unanimous consent that my perfecting amendment be in order at this time.

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, it was my understanding that the members of the committee had agreed that time on the pending amendment would be yielded to the Senator from Idaho.

Mr. EAGLETION. I take it the Senator from Idaho wishes to speak at this moment?

Mr. McCLURE. Yes, if I can.

Mr. EAGLETON. I ask that my amendment be held at the desk.

Mr. McCLURE. Mr. President, I wanted to take this time now while both Senators from New York, who have spoken in support of this legislation, are on the floor, because both of them have spoken in terms of the New York experience, saying that New York has passed or adopted such a piece of legislation, and that it is working.

I think the evidence is that New York has passed a piece of legislation, and stream pollution in some areas in their State has lessened since that law was passed. But the scientific evidence fails to connect the cause and the effect.

The betterment of pollution there is a fact. The senior Senator from New York perhaps adequately hazarded a guess in his statement that that may not be the reason, but the evidence is that the streams are getting better.

The Senator is correct; the streams are getting better where there is adequate sewage treatment, and not getting better where there is a failure of adequate sewage treatment. So it may be the result of the sewage treatment facilities' operation, rather than the phosphate ban.

I wanted to take this time, while the Senators are on the floor, to make that comment, so that they would know what the position of the Senator from Idaho is, and would have an opportunity to respond on that point, if indeed they wish to, at this time.

Mr. President, at this time I ask unanimous consent that it be in order for the Senator from Missouri to offer his perfecting amendment at this time, without all time having been yielded back on the principal amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I thank my colleague from Idaho.

Mr. NELSON. Will the Senator yield for a parliamentary inquiry?

Mr. EAGLETON. I yield.

Mr. NELSON. Mr. President, what time is allowed by the unanimous-consent agreement for the amendment to be offered by the Senator from Missouri?

The PRESIDING OFFICER. A total time of 30 minutes on a perfecting amendment, 15 minutes to each side.

UP AMENDMENT NO. 729

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes unprinted amendment No. 729 to the Nelson amendment No. 810, as modified:

On page 10, after subsection (h) add the following new subsection "(i)":

(i) Notwithstanding subsection (h) of this section, nothing in this section shall limit or modify the authority of the Administator under the Toxic Substances Control Act to make an independent finding on the need to continue the prohibition under subparagraph (c) or to alter the terms of the prohibition based on studies and other evidence available to the Administrator.

Mr. EAGLETON. Mr. President, I believe the reading of this amendment makes very clear what I am seeking to do. For example, 6 months from now, a year from now, or 3 years from now, if the administrator should decide he wishes to alter or remove the prohibition on phosphates he would have the right to do so, exercising his statutory authority under the Toxic Substances Control Act.

Mr. President, I cite page 4 of the Nelson amendment, wherein household detergents are not to exceed 0.5 percent phosphorus by weight.

It may be that a year from now, or at some undetermined future time, the administrator might wish to alter that 0.5 percent phosphorus. He might want to make it 0.6, he might want to make it 0.4, or he might want to make it 0.0 and take it out in toto.

Thus, under this amendment, he would have that authority at such unspecified time. This clarifies the administrator's authority under the Toxic Substances Control Act. I presume at a later point in the debate the Senator from Wisconsin will place in the RECORD the letter from Mr. Costle to Senator NELSON on this subject matter.

Mr. President, I am prepared to yield

back the remainder of my time when the Senator from Wisconsin has completed.

Mr. NELSON. If I understand, the amendment of the Senator from Missouri it simply provides that if studies, conducted pursuant to section 6 of the Toxic Substances Control Act, conclude that there should be a modification of the statute the administrator would have the authority to make an adjustment in limitations based upon scientific evidence. For example, if the administrator found that the lakes could be stabilized, if detergents contained 1 percent or 1.5 percent phosphorus by weight, under those circumstances, with evidence demonstrating that fact, he would have the authority to modify the amounts that could be used in these various agents. Is that what the Senator is saying?

Mr. EAGLETON. That is correct. Also, it could remove in toto the prohibition which the Senator seeks by the amendment now pending. It would cover the whole range from changing the percentums to removing the prohibition entirely, based upon evidence or whatever the standard administrative test is.

Mr. NELSON. So that the legislative history would be accurate—the Senator is saying that if the Administrator decides to modify or withdraw the ban on the use of phosphates, that action would only be based upon compelling scientific evidence.

Mr. EAGLETON. That is absolutely correct. The evidence would have to be "clear and convincing," whatever the standard administrative test is which is used by the Administrator.

Mr. NELSON. I have no objection to the amendment.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

Mr. NELSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment.

The perfecting amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment, as amended. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may require.

Mr. President, I am not going to prolong this. Obviously, there are not many Members who may be persuaded. I suspect whatever instant reaction they have when they some through the door will determine the outcome of the vote on this amendment.

The fact is, and I believe the Senator from Wisconsin would agree, that the committee has not held hearings on this matter in the last 7 years; that 7 years ago the committee held exhaustive hearings and the results were inconclusive, at least in the minds of the committee. I have no doubt that the Senator from Wisconsin is convinced now, as he was convinced then, that this action is both necessary and desirable. I am sure, from my conversations with the Senator, not only of his sincerity in that belief, but also the fact that he was exhaustively studied that question. As he has put it to me, and I will not attempt to quote, he has kept abreast of the developments during all of the period of time over the past 7 years while this matter has been debated in his State, where the States around the Great Lakes region have, in fact, legislated in this area.

The fact of the matter is the committee has not done that. I would pledge to the Senator that I will cooperate with him in seeing that the committee holds hearings, and that the committee, after holding hearings, will deliberate upon this matter and make a decision pro or con on the subject of the phosphate detergent ban.

The committee would have to say that it is acting blindly, even though the Senator from Wisconsin is not, at this time.

I would have to say to my friends from New York, as I said a few moments ago, that while they may be convinced that the pollution is reducing, the evidence is far, far from conclusive that the reason it is reducing is because of the phosphate ban. As a matter of fact, there is substantial evidence that wherever there is improvement, it is in the presence of adequate sewage treatment, not the phosphate ban. In the absence of adequate sewage treatment, there is an increase in pollution, in spite of the phosphate ban. This would suggest to me that the improvement is not the result of the ban but the result of the treatment.

I am no going to argue now, because I am not sure that I could argue effectively, that I know that the alternative which we believed 7 years was a viable alternative to be studied, phosphate removal and treatment, is a better alternative than attemping to remove it from a part of the sources.

I understand the Senator from Wisconsin is convinced that the later technical evidence indicates that is not true. But there is still substantial doubt on that question, and the committee of the Congress assigned with this responsibility has not looked at that question again in the last seven years.

I have a number of studies which are current, some coming from the State of New York and some from the State of Indiana, which indicate that the phosphate ban, while reducing the level of phosphate in the waters, has not had a measurable effect upon the improvement of the pollution effects which it is designed to correct.

I think it is premature for us, based upon our knowledge, unless we are simply going to take the conclusion that the Senator from Wisconsin has reached and take it as being totally determinative, for Congress to act upon this now.

I hope that the Senator from Wisconsin, having made his point, will allow us to hold the hearings which ought to be held, so that we can know whether or not this is the appropriate measure to take; so we can find out whether or not the cost, with the other indirect costs to our society, of this ban will be worth it in terms of measurable increases in the levels of pollutant reduction. I submit that the record at this time is not adequate on that subject. For that reason, we ought not to pass the amendment until we have had the opportunity to have hearings on the matter.

The Senator did introduce legislation on this subject. The amendment before modification was simply that of the bill he introduced earlier this year, a bill which, even though introduced and referred to the committee, has had no hearings on it. It has been pending before the committee. The Senator knows, as I know, the reasons why—simply the pressure of business on that committee on items of higher priority in the judgment of the chairman and the members of the committee.

That is not to say that the committee cannot, after having dealt with the Water Pollution Control Act amendments and the Clean Air Act amendments, now return to consideration of other matters such as this one.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have left?

The PRESIDING OFFICER The Senator has 20 minutes.

Mr. NELSON. Mr. President, on two points raised by the distinguished Senator from Idaho as to whether adequate studies have been made as to the impact of a reduction of phosphorus on receiving bodies of water, I refer the Senator and Members of the Senate to the EPA's detergent phosphate position paper prepared by the Region V Phosphorus Committee. Specifically, I refer the Senator to page 51 through page 57. It lists study after study that shows that, once the ban was in place, there was a measurable reduction in the amount of phosphate in the water. I quote just one paragraph on page 51:

> In areas where a ban on phosphates has been implemented, measurable decreases in the concentrations of phosphorous in sewage have been reported within months of implementation. Measurable decreases in total and the phosphate in receiving streams were observed within a year. Thus, dual benefits of conservation of resources while also reducing expenditures of both energy and capital for wastewater treatment facilities are achieved.

At this point, I ask unanimous consent that five pages of technical studies, excerpts from technical reports supporting the phosphorous ban, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM TECHNICAL REPORTS SUPPORTING A PHOSPHORUS BAN IN DETERGENTS USED IN THE GREAT LAKES

Fourth Annual Report, Great Lakes Water Quality, International Joint Commission, 1975:

(1) "Since 1970 the Commission has recommended the limitation of phosphates in detergents. Recent studies and short-term results where limitations have been implemented have not only supported this recommendation, but suggest even greater limitations are in order. Therefore, the Commission believes that a uniform 0.5% phosphorus by weight be placed on all detergents manufactured for use in the Great Lakes Basin, including dishwashing materials, should be implemented by the appropriate authorities as quickly as procedures will permit."

Great Lakes Water Quality Agreement, between the United States and Canada, April 15, 1972. Annex 2, Control of Phosphorus:

(1) "In addition, programs may include regulations limiting or eliminating phosphorus from detergents sold for use within the basin of the Great Lakes System."

Great Lakes Water Quality 1975 Annual Report, International Joint Commission, Great Lakes Water Quality Board:

(1) "In summary, phosphorus limitation in detergents can result in reduced chemical costs. Furthermore, with less chemicals and lower phosphorus influent concentrations, the amount of sludge resulting from the separation process is also reduced. This would lessen the costs and problems associated with sludge disposal." (Page 66)

(2) ". . . that Great Lakes states which have not already done so should seriously consider the imposition of phosphorus limitations in detergents marketed in the Great Lakes Basin." (Page 70)

(3) Recommendations:

"Those jurisdictions in the Great Lakes Basin not now having any limitation on the phosphorus content of detergents, namely Ohio, Pennsylvania, and Wisconsin, consider the imposition of a ban on phosphorus in detergents, and further that—

Those jurisdictions having partial limitations, namely Canada and Michigan, also consider banning phosphorus from detergents for use in the Great Lakes Basin, and further that

Pending such action by the respective states, the municipalities in the major metropolitan areas of Cleveland and Detroit in the Lake Erie Basin give immediate consideration to banning phosphorus in detergents for use in their jurisdictions.

The Governments meet to consider the alternatives for the reformulation of detergents to exclude phosphorus compounds." (Page 12 of the Recommendations)

The Chicago Phosphate Ordinance and Meeting Phosphorus Effluent Standards through Product Control by H. W. Poston, Commissioner, Department of Environmental Control, City of Chicago:

(1) "As a consequence of the Chicago experience, we strongly recommend the regulation of phosphates in household laundry detergents as an alternative to treatment to meet effluent standards or to improve existing effluent quality as measured by BOD_5 and suspended solids concentrations." (Page 8)

Detergent Phosphate Ban Review, Environmental Protection Agency, 1977:

(1) "Region V of the U.S. Environmental Protection Agency now advocates that all States in the Great Lakes Basin that have not already done so, should give urgent consideration to the adoption of a ban on phosphorus in detergents." (Page 1)

(2) "AP (phosphorus)—ban would result in an immediate reduction of the eutrhophication rate of receiving waters, a reduction of sludge generated and resultant air and land pollution, a reduction of total dissolved solids added to the receiving waters and a reduction of energy consumption." (Page 31)

(3) "Another beneficial effect of a P-Ban is the cost saving due to the reduction of chemicals needed for phosphorus removal, equipment to handle the chemical sludge generated, and its ultimate disposal. In addition to this cost saving, a P-Ban also conserves phosphorus for food production, chemicals for other industrial use, and reduces the required treatment at small plants." (Page 37)

(4) "Region V staff feel that public sentiment, as evidenced in these conservations, public hearings, and the various studies and contacts that are referenced elsewhere in this report, indicate general public support for a phosphate ban." (Page 54)

(5) "Control of phosphorus in laundry detergents will reduce the influent phosphorus loading to all wastewater treatment facilities by about 40 percent and effluent phosphorus loading to all wastewater treatment facilities by about 40 percent and effluent phosphorus concentrations by about 50 percent. . . ."

(6) "Studies conducted by the State of Indiana have demonstrated positive effects by reducing phosphorus concentration in Indiana lakes and reservoirs." (Page 32)

Effects of the 1971 Phosphate Detergent Law, April 16, 1976 (Indiana):

(1) "In order to determine if the phosphorus reductions achieved as a result of the Phosphorus Detergent Law have had any positive effects by reducing phosphate concentrations in Indiana lakes and reservoirs, . . . Surveys conducted as part of the State's Lake Studies Program indicate that significant phosphorus reductions have occurred in a number of other lakes and reservoirs. (Page 347) On the basis of previously listed results, one can conclude that the Indiana Phosphate Detergent Ban has succeeded in its intended purpose." (Page 349)

The Chicago Phosphate Ordinance and Meeting Phosphorus Effluent Standards through Product Control by H. W. Poston, Commissioner, Department of Environmental Control, City of Chicago:

(1) "The passage and enforcement of the Chicago ordinance, limiting phosphorus in detergent formulations, provides an opportunity to study the effectiveness of controlling product formulation as a procedure to reduce the concentration of phosphorus in treatment plant effluents. A study by the Department of Environmental Control showed that an average reduction of 87 percent of phosphorus in effluent was achieved after the ordinance went into effect." (Page 3)

(2) "It is the opinion of the Metropolitan Sanitary District of Greater Chicago's Research and Development Division that there is a direct relationship between the ban and the improved effluent quality from the West-Southwest Treatment Plant." (Page 5)

(3) ". . . after July, 1972, the date from which the ban on phosphates in household laundry detergents went into effect, there followed a substantial decline in effluent phosphate concentrations to less than 1 mg/1." (Page 3)

Great Lakes Water Quality Appendix C, 1975 IJC Great Lakes Water Quality Board:

(1) "The following studies show that the reduction of phosphorus content in detergent has resulted in a significantly lower phosphorus influent concentration in sewage.

(a) During an evaluation of a demonstration pressure sewer system in New York State a small group of single family homes, the phosphorus concentration in the domestic wastewater was determined during separate 3-week periods when phosphorus detergents and nonphosphate, heavy duty soap was used. A phosphorus reduction of 48 percent observed during this study. Monthly data collected pre- and post-ban from Monroe County New York facility indicated a 55 percent phosphorus reduction from 1973 to 1975.

(b) A review of available phosphorus data from municipal discharges in the New York portion of the Great Lakes Basin has been undertaken to evaluate the effectiveness of the phosphorus-in-detergent ban. The majority of these dischargers are in Erie County where a countywide ban preceded the statewide ban by 1½ years. The statewide ban, which became effective on June 1, 1973, limited phosphorus to 0.5 percent by weight of the product content. Influent and effluent samples have been collected at most municipal facilities at least once a year in connection with New York's operation and maintenance inspection program. This annual data was evaluated for discrete time periods in order to determine the trend in municipal phosphorus concentrations. Figure 3 shows a reduction in influent phosphorus concentrations. Figure 3 shows a reduction in influent phosphorus concentrations of 53 percent by 1972 to 1975." (Page 104)

(2) Further studies indicate:

(a) "A Phosphate Detergent Law in Indiana limited the phosphorus contents of laundry detergents to 8.7 percent by weight in January 1972 and 0.5 percent in 1973. Water samples were collected from over 50 water quality monitoring stations on major streams throughout the state from 1971– to 1975. Under this program state-wide phosphorus concentrations in Indiana streams were calculated from the results of more than 100 separate analyses per month from 1971–1973 and 85 samples per month for 1974 and 1975. The combined monthly average phosphorus concentrations for the major streams indicate a decreasing trend." (Page 104–107)

(b) "To answer the question. 'what response in the open waters can be expected from the phosphorus control program?' a consultant's study was authorized and completed. It simulated Lake Ontario's ten-year response to various loading conditions . . .

The study strongly suggests the need for a new emphasis on phosphorus reduction in Lake Ontario and by inference the upstream lakes. In fact, Annex 2 of the Agreement recognized "that additional programs may be required to minimize eutrophication problems in the future" as more information is received. Because of the new estimates and forecasts contained in the study, the reasons for increasing the effectiveness of the phosphorus control program are more compelling than ever. Only marginal reductions beyond the 1 mg/1 requirement are possible from municipal point sources. . . .

The Subcommittee observes that the phosphorus reduction program currently underway in the Lower Lakes may not be adequate to reduce eutrophication in Lake Ontario. In fact, it is unlikely that the attainment of the 1 mg/1 phosphorus effluent requirement from point sources will be sufficient to maintain the present mesotropic state of the lake over the next decade." (Page 107)

Letter from Mike Stifler, Sanitary Engineer, Comprehensive Studies Section, Department of Natural Resources, Michigan:

(1) "In June 1976, staff of the Environmental Protection Agency, of the Department of Natural Resources, began collecting information in considering a total ban on phosphorus in household laundry detergents. Based on this information, the Department is strongly supporting a ban on household laundry detergents which contain phosphorus."

Comments by Nelson Thomas (Chief, Large Lakes Research Station) on Fred Lee's testimony at the December 8, 1976 Hearings in Lansing, Michigan on the Detergent Phosphate Ban:

(1) "The present phosphorus load to Lake Ontario is 12417 mta. The IJC Water Quality Agreement load limit is 9072 mta. Neither the original 1972 load limit or the lower 1975 Surveillance Subcommittee load (7450 mta) can meet with present programs. One of the problems with meeting the desired load limit in Lake Ontario is the lack of reduction in the load from Lake Erie. This results from the higher flows from Lake Erie and the lack of chemical removal at Detroit and other Lake Erie communities. A phosphorus detergent ban would decrease phosphorus input to Lake Erie 2000 mta from Detroit alone. The total maximum reduction would be 3774 mta. This includes combined sewer, unsewered and other plants not meeting 1 mg p/1 effluent. A phosphorus detergent ban would decrease the phosphorus load to Lake Ontario from 210 to 510 mta. A phosphorus detergent ban in the Lakes Huron and Superior Basin would decrease the phosphorus

inputs from 36 to 320 and 7 to 60 mta, respectively. The major benefits would be for the high population areas such as Saginaw Bay and Lake Erie. Minor near shore problems would also be lessened through a detergent phosphorus ban."

Mr. NELSON. On the question of whether or not sewage treatment plants can handle this problem, I refer to page 1 of the position paper prepared by the Region 5 Phosphorous Committee, and quote from it:

Region 5 of the United States Environmental Protection Agency now advocates that States in the Great Lakes Basin that have not already done so, give urgent consideration to the adoption of a ban on phosphorous in detergents.

This position is a departure from the EPA policy on phosphorous control from 1971 to the present. The policy was to rely on chemical treatment to reduce phosphorous levels in municipal sewage and industrial wastes discharged into waterways.

Because this policy has failed to achieve the water quality goal of sufficiently decreasing and stabilizing rates of eutrophication in both inland lakes and the Great Lakes, not only Region V of EPA, but State governments and other regional and international agencies have recently been reconsidering the need and means of reducing phosphorus loadings. No other single factor is so important for the future water quality of the Great Lakes Region.

This comprehensive 2-year study makes it clear beyond refutation that the only way to stabilize those lakes from further deterioration is by the removal of phosphates. I do not understand why the companies that manufacture detergents with phosphates continue the battle; to continue to pollute and destroy some of the most valuable assets that this country. In fact, there are a large number of alternatives, manufactured by the same people, detergents that accomplish the same purpose just as well, without destroying these lakes. It is incomprehensible to me why they continue this lobbying effort.

I live on those lakes. I have watched that deterioration. I have talked with the scientists. Not a single one who is not hired by the soap companies contests the fact that we have to reduce substantially the introduction of phosphorus and that there is only one way, at this time, to make an effective dent on the amount going in—that is by taking phosphorus out of the detergents.

I have been with this problem for 14 years. I introduced legislation in 1970 and 1971. As a matter of fact, in 1971, we were about to move to knock out the phosphates because they had a substitute—NTA. However, serious questions were raised as to whether NTA was carcinogenic. That is why action failed at that time.

Now we have adequate substitutes. Now we have a ban within the city of Chicago; the State of Indiana has a phosphate ban; the State of New York has banned phosphorus in detergents; the State of Minnesota has a ban. Now is the time to move this legislation and stop the further deterioration of those lakes.

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN. Will the Senator from Wisconsin yield?

Mr. NELSON. I am yielding the floor.

Mr. GRIFFIN. Who has control of the time?

Mr. NELSON. Does the Senator from Michigan want time?

Mr. McCLURE. The Senator from Wyoming wants some time.

Mr. WALLOP. I would like to address a few questions to the Senator from Wisconsin, if I may.

Mr. McCLURE. I yield to the Senator 3 minutes.

Mr. WALLOP. May I have the attention of the Senator from Wisconsin?

Did his ban apply to the sale of phosphates in all the States that border the Great Lakes?

Mr. NELSON. Yes, except that it applies only to that portion of Pennsylvania that drains into Lake Erie. Otherwise, it bans it in all of them.

Mr. WALLOP. Does all of the watershed of Wisconsin drain into the lakes?

Mr. NELSON. No, it does not.

Mr. WALLOP. One of the things that concerns me about the amendment—and I appreciate what the Senator is trying to do—is that the phosphates of which the Senator speaks are a small proportion of the total phosphate drainage into those watersheds. The Senator comes from an agricultural State, as do I. I am sure he appreciates the fact that the agricultural runoff is a far greater supplier of phosphates than are the detergents. To apply it uniformly across those States, even in those areas which do not drain into the lakes, seems to me to be a bit unfair, if you will, to the consumers in the rest of the areas of those States, his own State included.

The mechanism exists through the amendments already in this act to take care of the Senator's problems, the total phosphorous loadings in the Great Lakes. The mechanism exists in the Toxic Substances Control Act without this amendment and without, indeed, penalizing the consumers in the rest of the Senator's State that do not drain into those lakes.

I think it fails to take into account, although I think it is improved with the amendment that was accepted by the Senator from Missouri (Mr. EAGLETON), that there are significant advances in the detergent industry, as the Senator already mentioned.

These are the kind of things I hope would come up and be developed in the hearings, which the Senator from Idaho referred to.

But I think it is safe to say that the cost to the consumer is far greater in removing the phosphates from his detergent than it is to the consumer in removing the phosphates from his effluents, and less effective to boot.

Would the Senator care to comment on that?

Mr. NELSON. The statistics we have——

The PRESIDING OFFICER (Mr. CHILES). The Senator's 3 minutes have expired.

Mr. NELSON. I will respond on my time.

On that point, I say to the Senator from Wyoming that in terms of sewerage treatment costs alone, it will save $8,300,000 a year in costs of processing sewerage in the State of Wisconsin and over $40 million in the Great Lakes States. So there is one reduction.

Two, these other detergents do not cost any more and work as well, so where is the increased cost to the consumer?

Mr. WALLOP. The information we have is that they do cost more and more is required to provide the same cleaning efficiency.

All I am asking is, why should those people who do not drain into the lakes the Senator seeks to protect be required to submit to the same kinds of natural restraints as those who do live on them.

Mr. NELSON. In response to that, first, a watershed limitation creates a horrendous administrative problem. We cannot draw artificial lines on a map that arbitrarily cut across the 1,500 rivers. We should not let phosphates contaminate the St. Croix River, the Wisconsin River, even though these magnificent resources drain in the Mississippi. We cannot only control the Rock River, and other tributaries that end up in Lake Michigan. In addition, phosphorus is a nutrient no matter where it goes and it ought to be out of the marketplace and out of our rivers even if they are not running into the great lakes.

The lakes are at a critical state now. That is why the Environmental Protection Agency has no objection to proceeding with this statute, because they recognize, from the studies done by region 5, that we need immediate and effective action.

I hope and trust that when they are done examining this issue EPA will ban phosphates all over the United States, and the sooner the better.

Mr. WALLOP. Will the Senator allow me to respond?

Mr. NELSON. How much time does the Senator from Wisconsin have?

The PRESIDING OFFICER. The Senator from Wisconsin has 10 minutes remaining.

Mr. NELSON. Will the Senator respond on the time of my distinguished friend?

Mr. McCLURE. I will yield 2 minutes to the Senator.

Mr. WALLOP. That is fine.

I say to my friend from Wisconsin that I do not quarrel with some of what he is saying. But I do quarrel with his assessment of the cost of removing the phosphates from detergents under these amendments because the phosphates from the detergents are a small part of the phosphate removal provisions in this Water Pollution Control Act.

It is the detergents that represent a minimal part. The phosphates come from other sources in those waste waters.

That is the only point I try to make. I do not quarrel with the Senator's desire to get it out, but I think this is pouncing on a mouse when we have a lion in the cage.

I really do not see that it is an effective thing in terms of the consumers.

With regard to one other thing the Senator mentioned, it is difficult to take the drainage. It is a fairly simple deal to take a topographic map and choose those

drainages, as has been done, I understand, in the Senator's amendment in the case of Pennsylvania.

I do not oppose that by any stretch of the imagination. I do agree with the Senator from Idaho that it would be wise for us to hold hearings on these matters, and he has committed himself to seeing we can get these done as quickly as possible and accommodate the Senator's wishes.

Mr. NELSON. Let me say in response to the distinguished Senator from Wyoming and his remark that the phosphates coming into the watershed through detergents is a small amount. In fact, phosphorus from point sources of pollution constitute a substantial percentage of the total amount of phosphorus loading entering the lakes. In Lake Erie, for example, point sources contributes over 43 percent of the total loading.

No. 2, and more important, point sources are the only controllable influents of phosphate.

No. 3, in the studies, the scientists concluded that if we could reduce the loadings going into these lakes to a certain level, to 1 part million, then we would be able to stabilize those lakes against further deterioration. As a direct consequence of this ban, the eutrophication rates in Lake Superior, Lake Michigan, and Lake Huron, will be stabilized, the lakes protected against further deterioration.

On the question of how significant a ban is, let me give the Senator the figures. As to Lake Superior, it amounts to 6.3 percent.

That happens to be one of the purest lakes in the world and it has the least pollutants going into it because, as the Senator knows, there are not many big cities on that lake. However, a ban and adequate treatment does reduce the total loadings to a level the scientists say will stop further deterioration.

Now, Lake Michigan. Adoption of this provision would reduce by 37 percent the total amount of phosphorus going into the lake.

It amounts to 27.4 percent in Lake Huron and almost 32 percent in Lake Erie.

Those are very substantial amounts, and they are the only amounts we can control at this time very effectively because, as the Senator well knows, the agricultural runoff question is a long-term problem that we hope we will be able to substantially control somewhere down the road in the next decade or two.

The following Senators requested and, by unanimous consent was granted, in behalf of the following staff members, privilege of the floor during the consideration of this measure: Senator STAFFORD, Catherine Cutlipp; Senator ANDERSON, Judy Hefner; Senator WALLOP, Mike Morgan.

Mr. GRIFFIN. Mr. President, will the Senator in control of the time yield a few minutes to me?

Mr. NELSON. I agree to yield a minute or two to the Senator from Minnesota.

Mr. ANDERSON. Mr. President, I support the amendment of the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. NELSON. I yield 1 minute to the Senator from Minnesota.

Mr. ANDERSON. Mr. President, I call attention of the Senate to the fact that in 1971 my State, after extensive hearings, passed legislation which would prohibit phosphates from being used in my State. Thirty-three million people now purchase phosphate-free detergents. They are available; they do work. This has given the State of Wisconsin an opportunity to catch up to its neighboring State in at least one important area, and I think the amendment deserves support.

Mr. NELSON. Mr. President, this would be in partial response to the question raised by the Senator from Wyoming. I ask unanimous consent to have the following items printed in the RECORD, in support of this measure: a letter from the Department of Natural Resources of the State of Michigan, signed by Michael Stifler, sanitary engineer, comprehensive studies section, endorsing the measure; a letter from the Department of Environment, city of Chicago, signed by Mr. Poston, commissioner, endorsing this provision, plus a study done by Mr. Richard T. Prentki of the University of Wisconsin, on the importance of limiting detergent phosphorus inputs to lakes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF MICHIGAN,
DEPARTMENT OF NATURAL RESOURCES,
Lansing, Mich., July 22, 1977.

Senator GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I appreciate this opportunity to endorse S. 1015, the bill proposing a ban on phosphate laundry detergents sold in the Great Lakes states. Michigan has been attempting to control phosphorus discharges to its waters for several years. We know that phosphorus controls the growth of nuisance algae and slimes in over 70 percent of Michigan's inland lakes and in all of the Great Lakes. Efforts to reduce the amount of phosphorus from municipal and industrial sources began in the late sixties. In 1972 a Michigan law was passed which limited the phosphorus level in laundry detergents and several other cleaning agents to 8.7 percent. However, recent scientific studies of the Great Lakes indicate that the efforts, to date, are not enough.

Michigan's Department of Natural Resources held several public hearings on a proposed phosphate detergent ban for the state. We are in the midst of the administrative rules change process to enact this ban. At the same time several bills proposing bans have been introduced in the legislature. However, these efforts are moving slowly.

The information compiled at the hearings supports the need for a ban. The scientific fact that more stringent phosphorous control is necessary is well established. It is obvious that the Great Lakes will benefit from a ban. An important point to consider is that tourism, centered about our water resources, is Michigan's second ranked industry.

The question of whether consumers will suffer is not so well established. We have reviewed much conflicting testimony. Increased consumer costs associated with a ban have been projected as well as cost savings from having less phosphorus to remove at sewage treatment plants. However, the results of these studies are either conflicting or inconclusive. In every state, city or county where a ban has been enacted, the consumer has adjusted to the new washing conditions. This is because there are adequate substitutes for phosphate detergents. Citizen response to the proposed ban in Michigan has been overwhelmingly favorable.

I shall be happy to offer you or the Environmental Pollution Subcommittee further information on Michigan's experience. Again, thank you for this chance to endorse S. 1015.

Very truly yours,

ENVIRONMENTAL SERVICES DIVISION,
MICHAEL STIFLER,
Sanitary Engineer, Comprehensive Studies Section.

CITY OF CHICAGO,
DEPARTMENT OF ENVIRONMENT,
July 6, 1977.

GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for forwarding a copy of Bill S. 1015, which limits the amount of phosphorus contained in cleaning agents to be found in the Great Lakes area.

It was heartening, indeed, to learn the extent of the attention now being given at the congressional level to the excessive discharge of phosphorus. By limiting the amount in cleaning agents, the quality of Great Lakes waters should be greatly improved. The Bill will also serve notice on the detergent industry to intensify its research efforts to find an acceptable substitute.

The City of Chicago's Mayor, Michael A. Bilandic, in October of 1970, in his capacity as Chairman of the City Council Committee on Environmental Control, was instrumental in obtaining the passage of an ordinance banning the use of phosphorus in detergents.

Because of the success the City of Chicago has had in reducing the phosphorus level of its influent to the Sewage Treatment Plant, I wholeheartedly endorse S. 1015.

Sincerely,

H. W. POSTON,
Commissioner.

THE IMPORTANCE OF LIMITING DETERGENT PHOSPHORUS INPUTS TO LAKES

(By Richard T. Prentki)

(Statement presented to the Environmental Protection Committee Hearing on Assembly Bill 881 to limit phosphate detergent, July 26, 1977.)

For the past eight years I have worked on the problem of phosphorus in lakes. During the last 2½ years as an Assistant Scientist in the Institute for Environmental Studies at the University of Wisconsin I have specifically studied the relationship of phosphorus pollution to aquatic weed growth in Wisconsin lakes.

I have concluded that decreasing the phosphorus content of detergents in Wisconsin is an important and necessary step in slowing euthrophication of Wisconsin's waters. I am using the term eutrophication to encompass the replacement of less objectionable algal species by the offensive bluegreen algal blooms; depletion of lakewater oxygen and consequent fish kills; decreased water clarity; and development of dense aquatic weedbeds.

In the early 1970's detergents and soaps accounted for 50–60% of the phosphorus in municipal sewage. The quantity of detergent P used annually by a town of 600 alone would have been sufficient to eutrophy a pristine lake the size of Lake Wingra. Since the early 1970's the average phosphorus concen-

trations in laundry and dish powders and liquids have decreased perhaps 50%, thus requiring the dirty clothes and dishes of 1200 people to ruin a lake. Detergents are the greatest contributor of phosphorus to lower Green Bay, and are also the most easily controllable. However, even the complete removal of detergent phosphorus would reduce at most only 20% of the total phosphorus input to the lake and should be considered only a first step in saving the Great Lakes.

Where removal of detergents may be of greater value is in slowing or in some cases even reversing the eutrophication of Wisconsin's many smaller, clear-water lakes. Many of Wisconsin's most valuable recreational lakes are heavily cottaged, each cottage with its own septic system, and each septic system doomed to eventual saturation and failure. Lake shores are notoriously poor septic system sites. Soils are often sandy or calcareous with little binding capacity for phosphorus and with high water tables which drain toward the lake. This problem has not been well researched in Wisconsin or elsewhere to my knowledge. But in three nutrient budget studies of cottaged lakes in New Hampshire, Connecticut, and Alaska with which I am familiar, leaky septic systems have been implicated as major phosphorus sources and causes of increasing eutrophication.

Decreasing the input of phosphorus has been shown to reverse the euthrophication process in several originally clear water lakes. Sewage diversion from Lake Washington, Seattle, and more effective phosphorus-removal sewage treatment in Sweden are often cited examples of decreased phosphorus loading followed by enchanced lakewater clarity, decreased phosphorus concentrations, and decreased algal populations. In Onondaga Lake near Syracuse, New York, a county ban on phosphate detergents in 1971 followed by a statewide ban in 1972 resulted in a 50% decrease in lakewater phosphate concentrations and replacement of blue-green algae by less objectionable green algae species. The replacement of the blue-green algae with greens leads to a tremendous population explosion of the zooplankton, which prefer to feed on the green algae. This increased grazing greatly clarifies the water. Simple Vollenwider-type models of lake processes used by detergent manufacturers do not include this mechanism and therefore may underestimate potential water quality improvements resulting from the proposed detergent phosphorus ban.

In conclusion, detergent phosphorus has been shown to be an important contributing cause of lake eutrophication. Removal of this phosphorus input to severely eutrophic lakes may show no immediate improvement; however, for clear water lakes, where detergent phosphorus constitutes a much greater percentage of the phosphorus input, limiting this pollutant can be effective in reversing, or at least slowing the eutrophication process.

Mr. NELSON. Also, I ask unanimous consent to have printed in the RECORD a series of jurisdictions where the ban has been put into effect, which includes a number of additional States which have banned or partially banned, and a long list of cities in Illinois, Maine, New Hampshire, and Ohio which have banned the use of detergents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JURISDICTIONS WITH PHOSPHORUS LIMITATIONS

Jurisdiction, limitation, and effective date:

STATES

Indiana, 8.7 percent, January 1, 1972; 0.5 percent, January 1, 1973.

New York, 8.7 percent, December 31, 1971; trace, June 1, 1973.

Minnesota, 0.5 percent, January 1, 1977 (in litigation).

Vermont, 0.5 percent, January 1, 1978.

Michigan, 8.7 percent, July 7, 1972.

COUNTIES

Orange County, Florida, 8.7 percent, December 31, 1971; 0.01 percent, December 31, 1972.

Dade County, Florida, 0 percent, January 1, 1972.

CITIES

Chicago, Ill., 8.7 percent, February 1, 1971; 0 percent, June 30, 1972.

Aurora, Ill., 8.7 percent, July 1, 1971; 0 percent, June 30, 1972.

Elgin, Ill., 8.7 percent, July 1, 1971; 0 percent, December 31, 1973.

Elmwood Park, Ill., 0 percent, December 31, 1971.

Harwood Heights, Ill., 8.7 percent, June 1, 1971; 0 percent, June 30, 1972.

Kankakee, Ill., 8.7 percent, October 1, 1971; 0 percent, January 1, 1973.

Niles, Ill., 8.7 percent, July 1, 1971; 0 percent, June 30, 1972.

Northlake, Ill., 8.7 percent, September 1, 1971; 0 percent, January 1, 1977.

Park Forest, Ill., 8.7 percent, May 1, 1971; 0 percent, June 30, 1972.

Round Lake Beach, Ill., 8.7 percent, June 1, 1971; 0 percent, June 30, 1972.

Skokie, Ill., 8.7 percent, June 30, 1971; 0 percent, June 1, 1972.

Bridgeton, Me., 0 percent, June 1, 1971.

Naples, Me., 0 percent, March 1, 1971.

Alton, N.H., 0 percent, June 1, 1971.

Sanborton, N.H., 0 percent, June 1, 1971.

Akron, Ohio, 8.7 percent, February 1, 1971; 0 percent, June 30, 1972.

Cuyahoga Falls, Ohio, 0 percent, May 15, 1973.

Fairlawn, Ohio, 0 percent, February 1, 1973.

Independence, Ohio, 8.7 percent, June 1, 1971; 0 percent, July 1, 1973.

Munroe Falls, Ohio, 0 percent, June 1, 1973.

Painesville, Ohio, 8.7 percent, September 1, 1971.

Stow, Ohio, 0 percent, April 12, 1973.

Talmadge, Ohio, 0 percent, April 13, 1973.

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 4 minutes remaining.

Mr. GRIFFIN. Mr. President, will the Senator from Idaho yield to me?

Mr. McCLURE. I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I am inclined to support the amendment of the Senator from Wisconsin on its merits.

Since 1971, I have been the sponsor of legislation to control the use of phosphates in detergents. My own State of Michigan is on the verge of prohibiting such use of phosphates, although there is a question whether the Department of Natural Resources has authority to take such action.

While I support the objectives of the amendment, I must say I was disturbed to learn that there have been no hearings held on this matter, which obviously involves some controversy. Obviously, it will impose inconvenience on many consumers and is bound to cause some economic dislocation.

I feel constrained to ask the Senator from Wisconsin whether he pressed for hearings before the committee with jurisdiction? If he did so, then he may be within his rights to move in this way on the floor. If he has not, I think the legislative process would be better served by handling this matter in the regular way, so that those who are opposed or have reservations will at least have an opportunity to put their position on the record.

Mr. NELSON. We have been waiting for a long time for the completion and printing of this comprehensive study. The preliminary recommendations were available in January. They were subjected to industry review. Finally, in June, EPA came out with its final report, making the recommendations which will be implemented by this amendment.

We submitted legislation then, but the committee did not have adequate time to conduct hearings on it. That is the reason it did not happen.

I realize what the Senator is saying, but there has been an agreement between Canada and the United States to significantly reduce the phosphorus loading of the Great Lakes. Every report since 1970 by the International Joint Commission has advocated a phosphate ban. Now we have this study by EPA's region 5. In my opinion, not a single word could be added by a hearing. If the Senate had received this report in January, I am sure the Senator from Maine would have included it in hearings on this bill, but we did not have the full report at that time.

That is the explanation for it.

Mr. GRIFFIN. Did the Senator from Wisconsin take his case to the committee and ask the committee to consider his amendment? That would seem to be the orderly way to proceed.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. GRIFFIN. Are we short of time?

Mr. McCLURE. I yield the Senator 2 additional minutes.

Mr. GRIFFIN. For example, I note that there are some 10 pages of judicial procedures included in this amendment. I assume they may be all right and accord due process. But I really do not know.

Mr. NELSON. I can help the Senator on that point.

All those regulatory pages to which the Senator is referring have been stricken in the amendment, as modified.

Mr. GRIFFIN. Then, how will it be enforced?

Mr. NELSON. By the provisions of the 1972 act.

Mr. GRIFFIN. I might note that the chairman and the ranking minority member of the committee are on the floor now. I would think they might be asked to make a commitment that the committee would hold hearings and report back to the Senate within a limited period of time. It seems to me that would be the proper way to proceed.

Mr. McCLURE. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I support the position taken by several Members, including my good friend the Senator from Idaho, who has yielded me time. I would like to associate myself fully with his remarks.

The violence that is inherent in the amendment proposed by the distinguished Senator from Wisconsin arises from the fact that we are legislating on

the floor. We are dealing with concerns and factual data that obviously deserve examination but upon which no hearings have been held. Thus, those persons and industries most directly affected have not as yet had an opportunity to present their case.

This entire matter illustrates how very easy it is to get caught up in the enthusiasm for a cause. While we all want to clean up the water, or to contribute toward removing some of the pollutants from the air it is imperative that we not become caught up with phrases, catch words or causes. It is imperative that we—as last week or a few weeks ago, I should say, and signed only this legislators—conduct careful, thoughtful investigations prior to enacting legislation.

The trouble I find in the amendment proposed by the distinguished Senator from Wisconsin is that I do not believe the American people or a majority of the Members of the Senate know enough about this issue to make the kind of balanced judgment that our constituents might expect and deserve.

I believe that we need to know more about this entire matter. We need the facts.

It is too easy to assume that the prohibition proposed in this amendment would achieve the results which we all desire—the cleaning up of our Great Lakes. However, that may not be the case. It is my understanding that there is scientific evidence on both sides of this question and while we may be able to decide who is correct, now is not the time and the floor of the Senate is not the place. These matters are the reasons we hold hearings and that is where this issue belongs.

Let me conclude by saying that I will not support this amendment despite the fact that I share with the distinguished Senator from Wisconsin a desire to achieve the goal toward which he believes this amendment will work.

I only hope that before we take such an important action as this amendment propose we will stop, look and listen, and expose to the light of day the unanswered questions implicit in this amendment.

I thank my friend from Idaho.

Mr. McCLURE. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Wisconsin has 4 minutes; the Senator from Idaho has 8.

Mr. McCLURE. I thank the Chair.

Mr. President, I will yield myself such time as I may consume.

The Senator from Wisconsin makes a case which, as I said earlier, I am sure he sincerely believes. That is nothing new. He believed that before this study came in. He believed that before the study was commissioned. He believed that before the study was ordered. He believed that before we had our hearings 7 years ago, and he has not changed his mind. I think the Senator would confess that is true.

Mr. NELSON. I agree with that.

Mr. McCLURE. As a matter of fact, if the study had come in and said quite the opposite he still would have believed what he believes. So the study only reinforced that opinion which he already had, and I commend him for that steadfastness of purpose.

There are some of us, however, who did not believe it or know it then, who are not yet convinced that it is unalterably true, and while the Senator from Wisconsin can say, as he does so eloquently, that "everybody agrees this is true," everybody does not agree this is true. There is a substantial argument about what the facts are.

I might just mention to my friend from Wisconsin that there are some offsetting questions of pollution that have not even been addressed in the discussion today, and I will give him a personal example.

Last weekend was "Honeydew Weekend" at my house—"Honey, do this; and, Honey, do that." And Honey said, "Paint the porch floor." So I painted the porch floor, and I was using a good oil-based paint, which may have been made in the State of Wisconsin, I am not sure.

But when it came time for me to complete that job, I was washing out the brushes. Have you ever tried to wash a brush out with a non-phosphate-based detergent? I could have used something else. I could have gotten some of those mineral spirits and cleaned the brush with mineral spirits, which would have had different pollution effects than does the phosphate, different pollution effects to the air as well as to the water, as well as a much less satisfactory result.

If the Senator from Wisconsin is the messy kind of painter the Senator from Idaho is, he would have known that I would get some paint on myself in that process, and I had to get the paint off. I found it very convenient to have a phosphate detergent that made it very easy to get that paint off my elbow. You know how it runs down the brush and drips onto your elbow? Well, the phosphate was of very great help to me at that particular time in removing that residue of my efforts that did not result in getting paint on the deck instead of on me.

So there are some offsetting pollution effects that are not even addressed, and I think the fundamental question is, do we know what we are doing? Do we know what the offsetting effects are?

I submit that we do not. This matter was presented to the committee and the committee said, "Let us pass over it without prejudice because we do not know enough about it."

So we are going to act on the floor, admitting that the committee does not know enough about it, but we will still go ahead and legislate.

That, Mr. President, in my mind is precisely the wrong way to proceed here. It may well be that if we have hearings, and the studies are presented, if we hear the conflicting evidence, and we have had the opportunity to weigh that evidence, I might very well join with the Senator from Wisconsin, and I say that most sincerely.

I have no mind fixed on this question. It is just that, based upon the hearings we had, there was a substantial question about whether this would be effective.

I made some reference earlier to the studies of Erie County, N.Y., studies in Indiana, studies that are current, studies and comments that are right now indicating favorable effects of the phosphate reduction, and that removal from detergents is simply not as effective as the Senator from Wisconsin and others believe.

Mr. President, I ask unanimous consent that at this point in the RECORD I may have printed some remarks, and editorial that appeared in the Staten Island, N.Y., Advance on July 16, 1977, and an article from the Chicago Sun-Times of January 30, 1977, detailing the failure of the phosphate ban to accomplish what was suggested for it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDEPENDENT SCIENTIFIC EVALUATIONS OF RESULTS OF PHOSPHATE DETERGENT BANS IN NEW YORK STATE AND INDIANA

1. Erie County, New York.—

Erie County enacted an ordinance reducing the level of phosphorus in detergents to 8.7 percent, effective April 30, 1971, with a total ban taking effect January 1, 1972. (This ban later became statewide.)

A. In 1973, Dr. Robert A. Sweeney of the Great Lakes Laboratory[1] issued a report which concluded that, "A reduction of the phosphate content of detergents sold in Erie County, New York, did result in an improvement in stream quality in terms of decreases in phytoplankton (Ed. note: Nuisance algae) production and biochemical oxygen demand."

This assertion has been widely quoted by pro-ban forces. However, it is contradicted by the findings of a "1973 Erie County Stream Survey" conducted by the Public Health Division, Erie County Laboratory.[2] This survey was an extension and continuation of the Erie County Stream Survey of 1970. One of the objectives of this study was to maintain a surveillance on phosphorus levels in county streams after a phosphate ban. Using the 1970 data as a guide, 14 of the 28 streams studied in 1970 were selected for reexamination, centering in the more urban areas of the County, where effects of the ban would be more readily apparent. Comparing 1973 data with that gathered in 1970, Erie County officials found no significant improvement in the streams during the 1970–1973 period. Erie County officials reported, in fact, that the condition of two streams—Scajaquada and Ellicott Creek—had deteriorated during the period. The report found that the basic problem of water quality in Erie County streams was actually a failure of the sewage treatment plants to treat sewage adequately. Nuisance algae were found to flourish in Erie County streams despite a 36 percent reduction in phosphorus concentrations between 1970 and 1973.

Erie County streams remain eutrophied to this day. Dr. Sweeney's badly flawed report (it failed, for example, to take into account the massive impact on Erie County waters of Hurricane Agnes during his study period) has never been published by the Environmental Protection Agency, which commissioned it.

B. J. Howard Brown is a Ph.D. chemist who testified in February, 1975, before the Minnesota Pollution Control Agency on

[1] Sweeney, Robert A., "Evaluation of Detergent Phosphate Reductions on Water Quality—Erie County, New York." Great Lakes Laboratory State University College, Buffalo, New York, for the Office of Research and Monitoring Environmental Protection Agency, Project No. 801227, Feb. 1973.

[2] Puleo, Joseph, Matthew C. Lanighan, Charles O. Masters, "1973 Erie County Stream Survey," Public Health Division, Erie County Laboratory, 2100 City Hall, Buffalo N.Y.

results of an Erie County, New York, stream monitoring project he had been engaged in during the two years preceding his testimony.[3] In that testimony, Mr. Brown, an environmental consultant, said the following:

"Our stream data in Erie County for 1973 is in remarkably close agreement with the data and conclusions published in the 1973 Erie County Stream Survey. Moreover, our 1974 data clearly demonstrate that there has been improvement in the subject streams over 1973 only where there have been improvements in operation of sewage treatments plants. In other words, while the phosphorus level of most Erie County streams has decreased since 1970 due to the phosphate ban, the concentrations are still far above the amount required to limit the growth of algae. I believe that these slides (Ed. note: Shown by Mr. Brown as part of his testimony) vividly illustrate the statement from the Erie County Stream Survey that I read earlier, namely: 'Because of the pollution of the County's streams as a result of inability to effectively treat sewage by the County's sewage treatment plants, these sewage nutrients apparently override any local beneficial effects of phosphate level lowering.' "

2. Indiana.—The state of Indiana imposed a phosphate detergent ban in January, 1973. During the summer of 1974, a study was made of nutrient levels in Indiana streams by Professor James E. Etzel and Professor John M Bell, Department of Environmental Engineering, Purdue University, and the results of their study were presented at a Lake Management Conference, Angola, Indiana, on May 13, 1975 Their conclusions included the following: [4]

"Results of a 1974 study of nutrient levels in Indiana streams suggest that the legislative ban on detergent phosphates has failed to reduce the remaining stream phosphorus to levels low enough to be of any biological significance in reducing the potential for algal growth. However, nutrient removal through flocculation at sewage treatment plants can be used to reduce the discharge of all nutrients.

"Since the discharge of phosphates from all sources contributes to the nutrient content of natural waters, it has been proposed by some environmentalists to decrease the nutrient content by banning the use of detergent phosphates. The desired beneficial effects of this action on water quality will, however, only be realized if aquatic plant growth is reduced by the change in concentration of the nutrient in question.

"Although eutrophication research programs typically are concerned with lakes and impoundments, where most problems with excessive algal growth usually occurs, our first season of research was aimed at Indiana's rivers primarily because the large majority of Indiana's population does not impact the state's relatively few lakes of significant size, but instead impacts the vast network of river systems that drain the state. Many locations on these rivers, especially near major population centers, are showing advanced signs of deterioration due to the excessive discharge of nutrients and cannot be ignored in a discussion of eutrophication in Indiana.

"The real issue, however, is not a demonstrated reduction in stream phosphorus concentration as a consequence of the phosphate ban, but whether or not the remaining phosphorus levels are low enough to be of any biological significance with respect to reducing stream algal growth potential. It is in this crucial respect that the results of the present study strongly suggests that the detergent phosphate ban has failed in its intended purpose. Our results consistently show that the remaining stream phosphorus levels in regions receiving significant treated-sewage discharges are still far too high to be of any biological consequence; the simultaneous failure of bioassay and extraction experiments to detect phosphorus growth-limitation confirm this. Moreover, the excess phosphorus remaining in the state's rivers relative to the commonly accepted growth-limiting range is primarily the consequence of man's impact, and is a direct function of the degree to which the rivers receive treated sewage, even when such discharges no longer contain phosphorus from detergents."

[3] Brown, J. Howard, Testimony before Minnesota Pollution Control Agency, February 11–13, 1975 (Minneapolis, Minnesota).

[4] Etzel, James E., and Bell, John M. Dept. of Environmental Engineering, Purdue University, *Water & Sewage Works*, September, October and November 1975.

[From the Staten Island (N.Y.) Advance July 16, 1977]

BANNING PHOSPHATES DIDN'T SOLVE PROBLEM

(By Peter Weaver)

A while back, there was a big move against phosphates in detergents because it was thought that phosphorus (the main ingredient in phosphates) contributed to killing fish.

Phosphates are used in laundry detergents primarily to separate hard water minerals that leave a scum on clothes. But phosphorus combined with nitrogen, carbon and other plant nutrients speeds up algae growth in rivers and lakes. This in turn can choke off the oxygen source fish need to live.

So the use of phosphates in laundry detergents has been banned in Indiana, Minnesota, Akron, Chicago and Dade County, Florida. Because of fishkill protests from Canada and protests from environmentalists on this side of the Great Lakes, phosphates may be banned in Michigan and other nearby states.

But the ban on phosphates in laundry detergents doesn't seem to be working as expected. At least not in Indiana. A recent study of three Indiana rivers—White, Wabash and Tippecanoe—showed a 40 percent drop of phosphorus in the water. But the fish-killing eutrophication was continuing. Apparently, there were still plenty of nutrients feeding the algae.

There have been other problems, human problems, with phosphate bans. In Indiana, for example, it wasn't long before home laundry hands found they could buy such non-detergent products as certain dishwasher detergents which are loaded with phosphates. They pay extra for the non-phosphate detergents plus dishwater powder and, of course, the phosphates continue to be dumped into waste waters.

Elsewhere, laundry experts in phosphate-ban areas are finding that highly alkaline dishwasher detergents (which contain phosphates and are not usually banned) work well with soap flakes on white or fast-color clothes. Soap flakes or powders also work well in areas where the water is soft (low mineral content).

Soft water is the key to the whole problem. When water is "hard" (lots of minerals), the soap or detergent can't work well. The minerals form a scum and you get a dingy wash. When you put enough phosphates in the detergent, they act as instant water softeners and produce a clean, scumless wash.

You can have naturally hard water "softened" by equipment purchased or rented from such companies as Culligan, Servi-Soft and Lindsey. The softening devices take out calcium and other scum-causing minerals by exchanging a salt ion. Softened water and phosphate-free soap flakes work quite well.

It's not a particularly good idea to drink or cook with softened water because of the extra sodium (salt) it contains. People on salt-restricted diets for such things as kidney problems and high blood pressure have to reduce their overall salt intake. Speak to your doctor or a dietician about this.

One way around the softened-water drinking problem is to have the softener flow through your hot water tank, your laundry area (hot and cold) and to any other areas where you might do washing. Keep a cold-water drinking tap in the kitchen and your outside water free of the softener.

As for the chemical softeners, such as phosphates, laundry experts claim the substitutes—sodium carbonate and sodium silicate—just don't do a good job. And sodium carbonate, when combined with minerals in hard water, is seriously shortening the lives of washing machines. They heavy mineral scale clogs them up.

The most phosphate you can get now is 7. to 8.7 per cent concentration in such things as Cold Power, Fab and All. The lowest (6.1 per cent) can be found in such brands as Tide and Cheer. Procter and Gamble is working to bring its Tide phosphate level down to 3 per cent by combining another softener, "zeolite." You can check phosphate percentages on the side of the box.

[From the Sun-Times, Jan. 30, 1977]

INDIANA BANS PHOSPHATES IN DETERGENTS

For the last four years it has been illegal in Indiana to sell laundry detergents containing phosphates. The phosphates are accused of promoting the growth of algae and other plant life that contribute to decay and stagnation of waterways.

In that time there has been a 50 per cent reduction in the phoshorus found in sewage before treatment and a 25 per cent drop in the phosphorus found in rivers and streams, noted Oral Hert, technical secretary of the Indiana Stream Pollution Control Board.

Hert said the state has no reliable information, however, on the effect of the phosphate reduction on algae growth. But "with that much less phosphorus to induce the growth of algae, it's bound to have an impact," he guessed.

Not necessarily so, at least in central Indiana, according to an official of Indianapolis Water Co., which draws its water from the White River and from Fall Creek. "We've noticed a reduction in the phosphate levels in raw water but we've not experienced a vast improvement in algae concentrations," said Robert Becker, vice president for plant operation.

"We had algae problems prior to World War II, which was when phosphate detergent really came on the market," Becker added. "The bulk of phosphates (in waterways) occurs, naturally from a number of sources."

Mr. McCLURE. Let me conclude, Mr. President, by saying this: 7 years ago at the end of those hearings we said we do not know, the evidence is conflicting, so we asked that studies be conducted. Those studies were conducted in response to the congressional request that studies be conducted.

We have not even looked at the studies. That is not the way to legislate, Mr. President.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. May I say to the distinguished Senator from Idaho, here is the result of the studies, and the result is unanimous. You have to stop using phosphorus in detergents.

Now, the Senator is correct that long before the study came out I was satisfied that you had to get those nutrients

out of the water. Anybody who knows anything about eutrophication, knows that when one excessively fertilizes the waters the lakes begin to die.

So in 1963, 14 years ago, I introduced legislation to undertake studies to demonstrate the necessity of a phosphorus ban.

Now, 14 years later there are arguments on the floor of the Senate that we need more studies. Do we have to wait 14 more years, a total of 28 years, while that whole crowd of soap salesmen run around the country lobbying against sound legislation to clean up the environment? It is the same argument we have been hearing from the auto industry year after year after year after year until we have had to fight them right to the floor and freeze them in because they will not do anything until they are forced to do it.

I do not clean paint brushes in my house, I might say. I do not even paint. My wife does the painting and she cleans the brushes. We use no phosphates in our house, and she has made no complaint to me about not being able to get the paint brushes clean, and I tell you she would not be bashful about it if, in fact, it was creating problems.

The evidence is so overwhelming that I am astonished we are on the floor debating the question. The evidence is that you cannot do it, as the EPA thought they could do it in 1971, by using sewage treatment plants. So now they say we cannot do it that way; that we have got to get the phosphorus out of the detergents.

So 7 years later the EPA changes its mind based upon overwhelming scientific evidence. The studies indicate that if we do not stop using phosphate detergents, we will continue to destroy these magnificent bodies of water, which are one of America's greatest assets.

Why should we be arguing about the soap companies keeping phosphates in their detergents when you have got all the alternatives you need? They work. Nobody is complaining about them. And we are in an argument here about "Letting us let them pollute the waters while we study the matter to death."

We have just been arguing for years. Senator MUSKIE has been leading the fight almost to exhaustion to 3 o'clock in the morning. Finally, after 7 years he has them pinned down.

Now it is time to pin down the soapers and get rid of those unnecessary nutrients that are destroying our lakes.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. McCLURE. I thank the Chair.

Mr. NELSON. I ask unanimous consent that two charts listing alternatives and the phosphorus content of laundry detergents, automatic dishwashing compounds, and water conditioners be printed in the RECORD. Moreover, I ask unanimous consent that two speeches on this subject from 1970 and 1971 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NON-PHOSPHORUS ALTERNATIVES

Product name and manufacturer.—

DETERGENTS

Bold, Procter and Gamble.
Cheer, Procter and Gamble.
Dreft, Procter and Gamble.
Gain, Procter and Gamble.
Miracle White Laundry Soil and Stain Remover, Miracle White Company.
Montgomery Ward Non-Phosphate Laundry Detergent, Essential Chemicals Corp.
Miracle White Non-Polluting Laundry Detergent, Miracle White Company.
Era (liquid), Procter and Gamble.
Dynamo (liquid), Colgate-Palmolive Company.
Whisk (liquid), Lever Brothers.
Arm and Hammer Laundry Detergent, Church and Dwight Company, Inc.
Tide, Procter and Gamble.
Instant Fels Laundry Detergent, Purex Company.

CLEANSERS

Mr. Clean, Procter and Gamble.
Oxydol, Procter and Gamble.
Spic and Span, Procter and Gamble.
Top Job, Procter and Gamble.
Kleen King Copper and Stainless Steel Cleaner, Faultless Starch Company.
Kleen King Rust and Stain Remover, Faultless Starch Company.
Bab-O Cleanser, Purex Corporation.
Basic H, Shaklee Products, Inc.
Fantastik Bathroom Cleaner, Texize Chemicals Co.
Miracle White Super Cleaner, Miracle White Company.
Texize Bleach, Texize Chemicals Co.
Texize Fantastik Spray Cleaner, Texize Chemicals Co.
Texize Spray 'N Wash, Texize Chemicals Co.
Texize Pine Power, Texize Chemicals Co.
Texize Pine Household Cleaner, Texize Chemicals Co.
Bon Ami Power Cleanser, Faultless Starch Company.
Brillo Soap Pads, Purex Corporation.
Dobie Pads, Purex Corporation.
Parson's Clear Ammonia, Armour-Dail, Inc.
S.O.S. Steel Wool Soap Pads, Miles Laboratories, Inc.
Wax Remover, Amway Corporation.

DISHWASHING LIQUIDS (HAND)

Colgate Lotion Detergent, Colgate-Palmolive Company.
Culligan Liquid for Dishes, Lan-O-Sheen, Inc.
Dove Liquid, Lever Brothers.
Gaylord Liquid Hand-Dishwashing Detergent, Gateway Industries, Inc.
Gentle Fels Dishwashing Liquid, Purex Corporation.
Lux Liquid, Lever Brothers.

AUTOMATIC DISHWASHING POWDERS

(8.7 percent phosphorus limitation)

Automatic Dishwasher Compound, Amway Corporation.
Electrasol, Economics Laboratory, Inc.
Palmolive Crystal-Clear Automatic Dishwasher Powder, Colgate-Palmolive Company.
Topoco Automatic Machine Dishwasher Detergent, Gateway Industries, Inc.
Sears Automatic Dishwasher Detergent Powder, DeSoto, Inc.
Culligan Powdered Automatic Dishwasher Concentrate, Lan-O-Sheen, Inc.

WATER CONDITIONERS

(20 percent limitation)

Calgon Water Conditioner, Calgon Corporation.

PRODUCTS WITH PHOSPHORUS

Product name, manufacturer, and phosphorus percentage.—

DETERGENTS

Biz, Procter and Gamble, 17.6.
Bold, Procter and Gamble, 6.1.
Culligan Laundry Freshner, Lan-O-Sheen, Inc., 25.90.
Detergent Purge, Lan-O-Sheen, Inc., 25.90.
Tide, Procter and Gamble, 6.1.
Cold Power Laundry Detergent, Colgate-Palmolive Company, 8.0.
Cheer, Procter and Gamble, 8.7.
Super Suds Laundry Detergent, Colgate-Palmolive Company, 8.0.
Axion Laundry Pre-Soak, Colgate-Palmolive Company, 8.04.
Fab Laundry Detergent, Colgate-Palmolive Company, 8.30.
Ajax Laundry Detergent, Colgate-Palmolive Company, 8.0.
Hy-Vee All-Purpose Detergent, Darrill Industries, Inc., 6.3.
Punch Laundry Detergent, Colgate-Palmolive Company, 8.14.
Rinso, Lever Brothers, 6.2.
Rex Lo Suds, National Purity Soap & Chemical Company, 10.70.

CLEANSERS

Comet, Procter and Gamble, 2.9.
Ajax Cleanser, Colgate-Palmolive Company, 0.85.
Miracle White Powerizer Super Cleaner, Miracle White Company, 4.3.
Top Job, Procter and Gamble, 2.4.

AUTOMATIC DISHWASHING POWDERS

(8.7 Percent Phosphorus limitation)

Automatic Dishwashing Compound, Amway Corporation, 10.9.
Calgonite Dishwashing Detergent, Calgon Corporation, 13.15.
Dishwasher "All", Lever Brothers, 12.6.
Sears Automatic Dishwasher Detergent, DeSoto, Inc., 13.5.
S.O.S. Automatic Dishwasher Detergent, Miles Laboratories, Inc., 14.3.
Target Automatic Dishwashing Detergent, Fremont Industries, 12.5.

[From the CONGRESSIONAL RECORD, Nov. 10, 1971]

LEGISLATIVE RESPONSE TO "SOFT SOAP" ON DETERGENTS

Mr. McINTYRE. Mr. President, the environmental concern of our friend and colleague, the distinguished Senator from Wisconsin (Mr. NELSON) has been translated into many thoughtful and prescient legislative initiatives during the 8 years he has been in the U.S. Senate.

In the case of controlling detergent pollution, Senator NELSON'S awareness of the problem and efforts to develop a coordinated, comprehensive program to provide safe nonpolluting detergent ingredients stems from his experiences and Governor of Wisconsin.

In his first year as a Senator, in 1963, Senator NELSON joined me and four other Senator in the 88th Congress in sponsoring S. 1183, the first legislative proposal in this body which focused on the national problem of detergent pollution. In each of the suceeding four Congresses, as this issue has persisted unresolved and unabated, the Senator from Wisconsin has responded legislatively and enunciated a Federal program to bring an orderly institutional response to the ongoing question of detergents, environment, and health.

Last week Senator NELSON testified before the Commerce Committee's Environmental Subcommittee on the persistent problem of detergent pollution. In his testimony, Senator NELSON concluded:

It is time that we take the experimentation on the safety and environmental impact

of detergents out of the marketplace and put it in the laboratory.

The Wisconsin Senator went on to articulate a "First Time Safe" philosophy for all detergents sold in this country.

This "First Time Safe" concept for detergents would be specifically implemented by a Federal detergent program containing these three elements: First, a limitation for the present time on phosphate content in detergents with a clear mandate for thier eventual total removal; second, establishment of test protocols, standards, and regulations for all detergent ingredients; and third, an intensified Federal program for the development of substitutes for phosphates in detergents which are safe to health and will not harm the environment. This program would in no way diminish efforts to institute the control of all nutrients at the municipal treatment stage, but would complement it.

Mr. President, so that the Senator from Wisconsin's long experience with this issue and his suggestion on how to legislatively implement a reasonable detergent pollution control program can be brought to the attention of the Senate, I ask unanimous consent that his testimony of October 15, 1971, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GAYLORD NELSON BEFORE THE SUBCOMMITTEE ON THE ENVIRONMENT, COMMITTEE ON COMMERCE, U.S. SENATE, OCTOBER 15, 1971

Mr. Chairman and Members of the Environment Subcommittee, I appreciate the opportunity to appear before this Subcommittee to discuss the legislative proposals dealing with the control of toxic and hazardous chemicals entering the environment, and, in particular, to testify on the subject of synthetic detergent pollution.

Eight years ago tomorrow, on October 16, 1963, the Senate was debating S. 649, the Federal Water Pollution Control Act, at that time my remarks on a specific portion of that legislation, which dealt with the control of detergent pollution, were prefaced with the following statement:

"In an age of almost continual cold war crisis, with a civil rights revolution exploding in our backyards, with serious economic and social problems all around us, it may seem easy and convenient to postpone solutions to a problem which we always have with us—the problem of our own destruction of our natural resources."

"But the solution to this problem cannot be postponed. It grows worse every day and every hour. And if we continue to delay facing up to it, we may discover some day that it is too late—that our natural resources have been destroyed to such an extent that they can never be restored again."

Eight years later, on October 15, 1971, these thoughts are still an accurate assessment of the manner in which we continue to approach the degradation of our nation's lakes and waterways. This is particularly true in our attitudes and actions regarding detergent pollution.

As growing amounts and varieties of pollutants and waste products foul the waters of America—adding toxic poisons and excessive nutrients—we placidly continue to play environmental "brinkmanship" with this critical natural resource. After yet another summer of bacterially contaminated bathing beaches and floating masses of foul algal blooms in our lakes and rivers, we still have refused to take the prohibitive and the preventive actions that are necessary to insure that the nation's water supplies are not irretrievably damaged.

Of primary importance is the fact that we are still without the institutional capability of taking any appropriate preventive or prohibitive actions. In the case of our capability to deal with long-standing problems of detergent pollution, we are still solely dependent upon industry's (quote) "voluntary" (unquote) efforts while the federal government conducts a rotating series of government press conferences as this unpleasant subject is passed like a hot potato from agency to agency.

Recognized sources of water pollution continue unabated in 1971. Consequently, even less is being done to anticipate future harmful or toxic substances before they enter the environment. As a result, we remain unable to take prospective preventive action, but must react to a series of crisis situations. It would also seem that our governmental agencies are only begrudgingly moved to activity on problems of environmental contamination after the damage has been done.

This is an extremely short-sighted and costly method of public administration of our natural resources. The safety and environmental integrity of our natural resources cannot remain dependent upon eleventh hour ad hoc decisions.

The past and present history of industry and federal government efforts to control the adverse health and environmental effects of synthetic detergents is a glaring and acute example of the failure to provide measured institutional structures and procedures capable of developing answers for a known, specific, reoccurring and chronic environmental problem.

It should be noted that the detergent controversy has been sputtering and foaming for over a decade without resolution and the issue involves the health and environmental safety of all synthetic detergent ingredients, not only the present serious controversy over phosphates and their replacements.

My concern about this problem began a little over ten years ago when, as Governor of Wisconsin, it was brought to my attention that almost one third of the shallow wells in Wisconsin were polluted by detergents. Subsequently a special investigation by several agencies of the State of Wisconsin revealed a vast amount of information on this problem.

In each of the five Congresses since I entered the Senate in 1963, I have sponsored legislation to control detergent pollution, and, of course, here we are again today discussing what has become a very familiar subject over the years.

In 1963, this country was faced with mountains of foam floating on the surface of our rivers and lakes, giving dramatic evidence to the vast quantity and persistent nature of synthetic detergents which were polluting the nation's surface and underground water supplies. Developed about the time of World War II, the soap and detergent industry and the American public did not investigate or recognize the polluting potential of synthetic detergents when they were first put on the market. The rush to capitalize upon the cleaning power of synthetic detergents was the primary goal and by 1963 the industry was marketing close to 4 billion pounds a year.

It was discovered in the late 1950's that because of the particular molecular structure of a component of this first generation of synthetic detergents, the cleaning agents were not easily attacked by the bacteria in sewage treatment systems and broken down into harmless byproducts. Instead, synthetic detergent chemicals passed through our municipal sewage disposal plants and household septic tanks into lakes, streams, underground water supplies and wells. As a result of these non-degradable detergents, foaming rivers, contaminated wells, and fears of damage to recreational resources, aquatic life, and possibly human health became a cause for concern throughout the entire United States.

In the 88th Congress I joined the distinguished Chairman of the Commerce Committee, Senator Magnuson, and several other Senators concerned with this problem in sponsoring S. 1183. This legislation, which was introduced on March 25, 1963, directed the Secretary of Health, Education, and Welfare to study the problems of detergent pollution and develop standards of decomposability which must be met by all synthetic detergents by June 30, 1965. This proposal was incorporated into S. 649, the Clean Water Act of 1963, which passed the Senate by a vote of 69–11 on October 16, 1963 but which was not acted on by the House of Representatives.

A little more of this frustrating legislative history should be detailed to the Subcommittee as the patterns of industry actions will have a familiar ring.

The soap and detergent industry reacted to the 1963 legislative proposal by denying that the mountains of foam presented any kind of a pollution problem which affected the public interest. In fact, statements were made that the foaming might even have some value in acting as a visual tracer for other sources of pollution.

While the industry admitted that detergents did cause some but not all the foaming on lakes, rivers, and at sewage plants, they argued that the problem was basically one of esthetics and denied that the detergents posed any threat to public health or aquatic life.

Claims were also made that legislation to bring detergent pollution under control would impede scientific progress, that the costs of control would exceed several hundred million dollars, and that the legislative deadline of June 30, 1965, could not be met.

In spite of these claims, on April 18, 1963, just three weeks after our bill had been introduced in the Senate, and while similar legislation was before the Wisconsin legislature, the Soap and Detergent Association announced at a public hearing before a committee of the Wisconsin State Legislature that the industry would (quote) "voluntarily" (unquote) undertake to change over to a new kind of detergent by December 31, 1965.

The Soap and Detergent Association was to later inform me that the changeover which earlier had been strenuously opposed as unnecessary and impossible could be achieved by June 30, 1965—the date set in the original Senate bill and the deadline which the industry itself had opposed as unrealistic.

Unfortunately, the detergent pollution problem was not solved by the rapid substitution of the "hard" original component of synthetic detergents known as ABS with a new "soft" detergent chemical known as LAS. While this new formulation was accompanied by impressive claims as to its biodegradability, by March of 1965, when a substantial portion of the changeover from the AMS formulation to the LAS formulation had already taken place, there was growing evidence that the new LAS formulation did not live up to its advertised pollution-free biodegradability.

Thus, on March 10, 1965, I introduced an updated detergent control bill in the Senate, S. 1479. This legislation called for a national advisory committee of experts, including representatives of the detergent industry, to recommend national standards of biodegradability to be met by the cleaning component of all detergents. The express intent of the legislative approach enunciated in S. 1479 was to establish a principle of thoroughly considering the environmental and health implications of a new chemical formulation before it is mass produced and introduced into our environment and to avoid the costly belated reactions after the damage has been done.

As Senator Spong, the sponsor of Amendment No. 338 to the Administration's proposed Toxic Substances Control Act, well

knows, we are still fighting in the Congress, and particularly with the Senator's efforts here in this Subcommittee legislatively establish the principle of thorough premarket testing of environmental and health aspects of chemicals and products which enter commerce at an ever-expanding rate. I refer to this concept as "First Time Safe".

As we discovered in our experience with the first generation of "hard" synthetic detergents in the early 1960's, an environmental or health protection system that is unable to look prospectively but merely allows the substitution of new problems to pose as the solution for old ones is no system at all.

In the last five years of the 1960's attention became focused upon the role of phosphate based detergents in the over-fertilization and accelerated eutrophication of our waterways. And now, as we fumble into the 1970's with the problem of phosphates, we also stumble into the known and unknown dangers of replacing phosphates with chemicals or compounds which have not been thoroughly considered for their health effects or long range impact upon the environment. And still there is no comprehensive or coordinated national effort to bring a systematics scientific approach to the problem of formulating laundry products which are safe and do not harm the environment.

When research published in 1966 by scientists of the U.S. Public Health Service and the report of the Lake Erie Enforcement Conference Technical Committee early the next year confirmed in my mind the critical role of detergent phosphates in water pollution and the accelerated eutrophication of lakes and other standing bodies of water, the legislation which had been introduced in the preceding two Congresses was expanded and strengthened.

S. 1343, which was introduced March 21, 1967, would have directed the development of national detergent standards to describe the biodegradability, decomposability and water eutrophication ability that must be met by all the constituents of synthetic detergents regardless of their chemical nature or function in the detergent. Once again, these standards would have governed the composition of detergents before they entered the public market place and are introduced into the national water system.

Furthermore, this legislation would have involved the cooperative efforts of the detergent industry in helping to develop the systematic and orderly progression of test protocols and procedures necessary to any rational and fair system of standards and regulations.

Recognizing the serious national need for safe non-polluting detergents this 1967 proposal would have also provided financial assistance to the public and private research efforts to develop synthetic detergents which will break down readily and will not impair the efficiency of any sewage treatment processes and whose residues will not be toxic or harmful to humans, fish, or plant life. The research program would also have been directed toward finding methods of improving existing sewage treatment processes so as to remove nutrients and developing new methods of control.

Needless to say, two Congresses and two more pieces of legislation later, the country still needs a systematic coordinated federal effort of research into the development of safe non-polluting detergent ingredients and formulations, backed up by a system of standards and regulations which must be met by all detergents before they enter the market place.

National annual detergent sales now exceed some 5.5 billion pounds or approximately 27.5 pounds for every man, woman, and child in this country. The detergent builder is usually sodium tripolyphosphate and this compound amounts to some 2.2 billion pounds annually. This is a $1.5 billion sales market that involves some degree of competition between over 50 nationally marketed brands and an uncounted number of locally packaged and marketed brands.

The point which must be stressed, Mr. Chairman, is that with a business this large and widespread, touching every home and corner of this country, we cannot begin our experimentation on health and environmental safety in the market place, and expect to have other than chaos. Chaos for the consumer who must try and wend his way through rows of supermarket shelves informally blindfolded and trying to balance health interests, against environmental interests, against cost interests, against cleaning efficiency interests. Chaos for the business community which has no idea which detergent ingredient or product is going to be on the market for how long. And chaos for the governmental administrators who must continually prepare a new press statement, or a clarification of a previous statement, as another problem in the continuing detergent debate emerges.

Mr. Chairman, it is time that we take the experimentation on the safety and environmental impact of detergents out of the marketplace and put it in the laboratory.

A "First Time Safe" philosophy for detergents sold in this country implemented by a national program of subjecting all ingredients and formulations to standards and regulations based on thorough laboratory testing before national marketing is a reasonable goal. This policy, backed by a major development program to find safe substitutes for phosphates, would end the present market, consumer, governmental, and environmental chaos.

In large measure, this situation derives from the absence of strong coordinated authority in one federal agency to deal with this issue. At the present time, federal authority to deal with detergents is almost nonexistent, and what mandate exists is scattered among a variety of agencies.

At this point in my testimony, Mr. Chairman, I would like to submit for the hearing record a study which was prepared at my request earlier this year by the Library of Congress on the authority of certain agencies to regulate detergents:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 31, 1977.

To: Honorable Gaylord Nelson.
From: Harold Berkson, Specialist in Environmental Policy, Environmental Policy Division.
Subject: Authority of certain agencies to regulate detergents.

In response to your request concerning the regulation of detergents the following is submitted.

There appears to be constitutional basis for such legislation in the commerce clause, art, I, sec. 8, cl. 3.

The report "Phosphates in Detergents and the Eutrophication of America's Waters" (House Report 91–1004) indicates that the Fair Packaging and Labeling Act already authorizes the Federal Trade Commission to require package labels of consumer products containing two or more ingredients to bear the names of the ingredients. The F.T.C. may require this listing of ingredients after first finding such regulation "necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity." 15 U.S.C. 1454(c). That section might be utilized to require that detergent labels reveal the presence of phosphates and other ingredients, but does not appear to authorize a requirement that the amount or percentage of ingredients be listed.

The report on phosphates in detergents (House Report No. 91–1004) indicates at page 65, footnote 51, that the definition of "cosmetic" found in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 (i), and incorporated in the Fair Packaging and Labeling Act, 15 U.S.C. 1459, includes products "intended for cleansing the human body and which are not soap." The footnote then concludes that "products labeled as 'detergents' are covered by the Federal Food, Drug and Cosmetic Act, and therefore, by the Fair Packaging and Labeling Act." It would appear, however, that detergents are "cosmetics" only if "intended for cleansing the human body" and that those detergents intended for use as laundry or dishwashing cleaners only would not fall within the definition. The distinction may have some importance because 21 U.S.C. 362 (a) defines as "misbranded" a cosmetic with labeling which is "false or misleading in any particular." The act prohibits the introduction into interstate commerce of "misbranded" cosmetics. As the report on phosphates in detergents points out, much of the labeling on laundry and dishwashing detergents can be considered "misleading" in the characterization of ingredients. If the Federal Food, Drug and Cosmetic Act were applicable to Laundry and dishwasher detergents, then the Federal Trade Commission might be able to issue regulations which go beyond those authorized by the Fair Packaging and Labeling Act.

Laundry and dishwashing detergents are apparently covered by the Fair Packaging and Labeling Act, because the definition of "consumer Commodity" continues, after incorporation of the definition from the Food Drug and Cosmetic Act, to include:

"Any other . . . product . . . of any kind . . . which is customarily produced . . . for use by individuals . . . or in the performance of services ordinarily rendered within the household, and which usually is . . . expended in the course of such . . . use."

The Federal Hazardous Substances Labeling Act, 15 U.S.C. 1261, might also be invoked to require a labeling warning of the polluting effect of commodities such as detergents. That law defines as "hazardous" any substance which is "toxic," "corrosive," or an "irritant," if such substance may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use.

Excepted are foods, drugs and cosmetics as defined by the Federal Food, Drug and Cosmetic Act. Detergents could be considered "toxic" within the meaning of the law:

"Any substance . . . which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface."

Although it is questionable whether such toxicity could often be considered to proximately cause substantial personal injury or illness through pollution of waters from which drinking water is taken and treated, Suffolk County, Long Island, has recently found a threat to the public health in the presence of detergents in the ground water supply. See p. 5, *infra*. It may be that a detergent could be found "hazardous" because of its corrosive or irritating effect on human skin, but that water pollution would not be considered a "principal hazard" requiring specific mention on the label. If a substance is "hazardous" within the meaning of the act, then its label must contain the word "Warning" or the word "Caution", and "an affirmative statement of the principal hazard or hazards."

The above summary of existing laws possibly related to a pollution warning on labels of consumer products reveals no clear authorization for any federal agency to require such a warning. Any of the three laws noted—the Fair Packaging and Labeling Act, the Food, Drug and Cosmetic Act, and the Hazardous Substances Labeling Act—might be appropriate sections of the code to amend to require a labeling warning of the polluting effects of products.

The Environmental Protection Agency has

authority and jurisdiction over detergents only as water quality might be degraded to below that existing or as their presence may prevent improvement of water quality to comply with established standards. The EPA may also take action if it can be demonstrated that the presence of detergents degrades or damages the water resource. In most cases EPA jurisdiction is restricted to interstate waters and their tributaries (standards violation) or to navigable waters (damage). The more effective role of EPA in regulating detergents might be manifested in the approval and awarding of various grants for treatment facilities or for state and local programs. To the best of my knowledge, there currently is no Federal legislation specifically regulating detergents.

Several bills were introduced in the 91st Congress to regulate pollution by packaging and by detergents, but it appears that no bill was introduced to require a warning on the labels of detergent packages. These bills were:

H.R. 12435, a copy of which appears in Appendix I of the *Hearings on Phosphates in Detergents and the Eutrophication of America's Waters*, would amend the Water Pollution Control Act to require that detergents manufactured or imported into the United States contain no phosphorus.

H.R. 19278 would amend the Water Pollution Control Act to prohibit discharge into the navigable waters of substances listed by the Secretary of Interior as "hazardous" to public health or welfare.

H.R. 6751 the "Detergent Pollution Control Act of 1969" would amend the Water Pollution Control Act to establish standards of "bio-degradability, decomposability, and water eutrophication ability which must be met by all synthetic detergents."

State and local governments have also passed legislation to control pollution caused by detergents.

New York State law now requires that labeling of soaps and detergents plainly reveal the phosphate content.

After finding detergents in ground water at public-supply well fields, Suffolk County, Long Island, has recently passed an ordinance barring the sale and exchange of detergents on and after March 1, 1971.

Wisconsin has banned the sale and use of nondegradable detergents containing alkyl benzene sulfonate. Wisc. Stats. Ann. § 144.14.

Chicago has enacted a municipal ordinance requiring all detergents to be limited to 8.7% phosphorous by February 1, 1971 and prohibits all phosphorous by June 1972.

In Akron, a local ordinance requires labeling as to content by February 1, 1971 and complete ban on all phosphorous by June 30, 1972. This law is currently being contested by the Association of Soap and Detergent Manufacturers who have recently won an injunction against the city enforcing the law.

The city of Duluth, Minnesota, is considering an ordinance which would require retail merchants to post a list of the phosphate content of detergents offered for sale in their stores.

These and other state and local laws which may be enacted to attempt to control pollution caused by detergents raise the question of whether federal legislation proposed to regulate detergents should pre-empt the field or whether state and local regulations should be permitted to impose standards different from those of federal law. It was in order to prevent "chaotic marketing conditions and consumer confusion" which might be caused by a "multiplicity of state and local regulations" that Congress inserted a pre-emption clause in the Federal Cigarette Labeling and Advertising Act. House Report No. 449, 89th Congress, 1st Session (1965). Any pre-emption clause should precisely specify what is pre-empted; the cigarette labeling preemption clause states:

"No statement relating to smoking and health, other than the statement required by section 1333 of this title shall be required on any cigarette package." 15 U.S.C. 1334.

A similar clause pre-empting state and local regulation of detergent labeling would not prohibit ordinances such as Suffolk County's banning sale of detergents altogether.

The result of this diluted and scattered authority to deal with detergent pollution has been a continued reliance on the "voluntary" efforts of the soap and detergent industry to make costly investments that are sure to disrupt a lucrative market, a "pass-the-buck" attitude within the federal structure as they attempt to deal with a difficult subject involving powerful interests with only partial administrative tools and a weak Congressional mandate, a growing number of state and local government actions as they respond to a rising public demand for an end to water pollution from this source.

The role of detergent phosphates in water pollution and the need for their removal was firmly established by the end of 1970. The Twenty-third Report of the House Committee on Government Operations, issued April 14, 1970, and entitled "Phosphates in Detergents and the Eutrophication of America's Waters" (House Report 91–1004), recommanded an eight point program concentrated upon the removal of phosphates in detergents.

As a result of studies of the eutrophication in the lower Great Lakes carried out by the Advisory Boards to the International Joint Commission, the IJC confirmed in their interim report in April and in their final report of December 1970 the recommendations of the Advisory Boards for effective phosphate controls: a) phosphates in detergents would be replaced by environmentally less harmful substances by 1972; b) a nutrient removal program would be implemented at sewage treatment plants in all large cities discharging into the Great Lakes; and c) the input of agricultural phosphates from the drainage basins would be brought under control.

The IJC recommendations were paralleled in the First Annual Report of the President's Council on Environmental Quality in August 1970. At that time CEQ considered eutrophication as perhaps the single-most difficult water pollution control problem; they concluded that phosphates are the most important nutrient to control if eutrophication is to be successfully attacked, and recommended three actions: 1) Phase phosphates out of detergents as soon as possible; 2) Find better methods to control agricultural runoff; and 3) Remove more of the nutrients from wastes generated by towns and cities, particularly in urban centers and in critical areas such as the Great Lakes.

Now let's us take a quick look at the vagaries of government and industry's actions with regard to detergent pollution in the last two years. Let us measure what has been said with what has been done.

When attention was given to finding substitutes for detergent phosphates, NTA (nitrilotriacetic acid) was considered the most likely replacement. By May of 1970, Procter and Gamble was making public announcements that they would be replacing 25% of the phosphates (by weight) in its detergents with NTA.

This industry effort was communicated later in the year directly to the Administration in the October 1970 Report of the Detergent Sub-Council of the National Industrial Pollution Control Council. Chaired by Howard J. Morgens, President of Procter and Gamble, the nation's largest detergent maker, the Sub-Council reported to the Department of Commerce in their summary: "The detergent industry has undertaken a massive voluntary program to reduce the phosphate content of its laundry products." . . . and "This reduction is being achieved by the substitution of new ingredients for phosphates."

Unfortunately for the public, the substitution was made without the thorough public testing which could give assurances as to the safety of NTA. During hearings before the Subcommittee on Air and Water Pollution of the Senate Public Works Committee, Dr. Samuel Epstein presented testimony on "Potential Biological Hazards Due to Nitrates in Water and Due to Proposed Use of Nitrilotriacetic acid (N.T.A.) Detergents".

The initial questions by Dr. Epstein in May 1970 sent the Federal Water Quality Administration scrambling to do some testing. FWQA (now the Federal Water Quality Office under the Environmental Protection Agency) requested studies on NTA to be conducted by the National Institute of Environmental Health Sciences.

On December 19, 1970, at the urging of the Environmental Protection Agency and following a joint statement that previous day the EPA Administrator and the Surgeon General, the major detergent manufacturers "voluntarily" agreed to discontinue the use and production of NTA as a detergent builder pending further study.

In a Staff Report to the Public Works Committee released at the same time as the NTA announcement and resulting from his May testimony raising questions about the degree of testing conducted on NTA, Dr. Epstein recommended: "The present use of high-level phosphate detergents should be disallowed to prevent further eutrophication and to reverse existing eutrophication." In referring to the experience with NTA replacement, however, the report said: "Concern for the protection of environmental quality is no reason to replace a relatively defined and otherwise controllable ecologic problem by a solution posing potential hazards to human health and environmental safety or undefined and unpredictable dimension."

The methods by which industry was forced to halt the replacement of phosphates with NTA in 1970 are under a great deal of criticism, and the NTA controversy is not yet ended. In particular, the criticism focuses on the experimental design and significance of the statistical data obtained by the admittedly rapid governmental tests.

One thing is certain from this experience. The situation with NTA replacement of phosphates is exemplary of the continuing problem in detergent pollution control and the marketing of a safe, efficient and economical detergent which is not harmful to health or does not degrade the environment:

(1) detergents are marketed without the date and knowledge as to its impact upon human health and environmental safety;

(2) neither the industry nor the federal government has an established on-going coordinated public program to test detergent ingredients;

(3) the rapid replacement of phosphates with NTA or any other ingredient does not automatically assure the reduction of the rate of eutrophication; and

(4) the costs of rapid replacement of phosphates with unknown, untested ingredients may greatly exceed the benefits—environmentally, financially, and in the loss of public confidence in industry and government capability or desire to solve the problem.

Despite the experience with NTA, we seem to be repeaating the same industry-government merry-go-round this year. Following the discontinuance of NTA as a replacement there has been a rush of detergent products upon the market claiming to be "non-polluting" alternatives to phosphate detergents. In many instances, these new detergents have played upon environmental themes in their advertising and in their brand names. As with NTA, however, these alternatives are being suggested as replace-

ments for phosphate detergents without comparable knowledge of their potential environmental or public health effects.

Thus, on March 8, 1971, the Food and Drug Administration seized two detergents manufactured by the Ecolo-G Corporation of America because tests showed them to be highly alkaline and toxic and corrosive to the skin and the cause of severe eye irritation. The FDA authority, however, is restricted to the requirements of the Federal Hazardous Substances Act. These requirements were satisfied by the manufacturer with the labeling of the products to warn of the hazardous nature of the product.

Even labeling requirements as a means of promulgating information about detergent formulations have produced controversy between federal agencies, and confusion among the public. On January 25, 1971, the Federal Trade Commission proposed a trade regulation rule which would require manufacturers of detergents to list all ingredients on packages, and to disclose clearly that their phosphate-containing products contribute to water pollution and should not be used excessively and that it is unnecessary to use phosphates in soft water areas.

When Administration witnesses appeared at a hearing on the FTC proposal on April 26, 1971, they asked the Commission to defer action pending further studies. The officials agreed that "We must continue and intensify our efforts to obtain reduction or elimination of phosphates in detergents as soon as assurance is available that the material or materials to be used as a substitute will not cause equal or worse problems and will not endanger human health" (Russell Train, Chairman of CEQ). Still, they argued, no labeling action should be taken presently by the FTC because the present alternatives to phosphate detergents, the growing number of nonphosphate detergents may not be safe.

The Surgeon General concluded his testimony on April 26, 1971 by saying: "Finally, because scientifically much is still unknown, we must conduct additional research on phosphate substitutes to ascertain their place and the place of labelling in an affective overall program."

"The U.S. Public Health Service therefore urges the Federal Trade Commission to defer making a decision regarding labeling at this time."

The Chairman of the President's Council on Environmental Quality echoed the Surgeon General's comments about the rethinking going on in the Administration on detergents: ". . . We are also in the process of developing legislative and administrative proposals which would limit the use of phoshates in detergents and ensure protection of public health."

"Once this review is completed which will be prior to the scheduled conclusion of these proceedings, we will be in a position to advise the Commission both on the Administration's program to deal with environmental and health problems from detergents and to indicate how labeling requirements fit into the overall program."

"Accordingly we recommend that the Commission not make a decision on its proposed rule at this time."

If the right hand washes the left hand in this Administration, it apparently does not do so with detergents, for eleven days after the Administration spokesman testified for no action on the Federal Trade Commission's proposed phosphate labeling ruling, I received a written response from the Environmental Protection Agency to a question regarding EPA's discontinuance of listing phosphate contents of detergents. Let me quote the May 7, 1971 letter from the Environmental Protection Agency:

"At one time such a listing was published. However, because of this industry's continuing awareness of consumer interest, and the introduction of new research into the products, it became impossible to keep such a listing current and thus accurate."

"A far better approach is one which requires clear labeling on detergent products and we understand that the Federal Trade Commission has had a great deal of success in achieving voluntary labeling among various manufacturers of these detergents . . ."

Well, that "far better approach which requires clear labeling" was opposed by spokesmen for two offices of the federal government less than two weeks previously, and it appears that the FTC was having such a success with the "voluntary" efforts of the industry that they proposed a mandatory program.

Mr. Chairman, at this point in the record let me submit the full text of the May 7, 1971, letter from the Environmental Protection Agency:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 7, 1971.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: This is in response to a telephone request from Miss Anderson of your office concerning the questions of EPA's failure to publish a listing of phosphate contents of detergents.

At one time such a listing was published. However, because of this industry's continuing awareness of consumer interest, and the introduction of new research into the products, it became impossible to keep such a listing current and thus accurate.

A far better approach is one which requires clear labeling on detergent products and we understand that the Federal Trade Commission has had a great deal of success in achieving voluntary labeling among the various manufacturers of these detergents. Should you have additional questions on this subject, you will want to contact the FTC about them.

Thank you for your interest.

Sincerely yours,

GRAHAM W. MCGOWAN,
Director of Congressional Affairs.

Mr. Chairman, the strong stance on the labeling of phosphate detergents of this Administration was also the subject of editorials in the May 1st edition of the Minneapolis Tribune and the May 8th edition of the Milwaukee Journal and I would like to submit the text of the two editorials for the record at this point:

[From the Minneapolis Tribune, May 1, 1971]

WHY WAIT TO LABEL DETERGENTS?

Representatives of the Nixon administration appearing before the Federal Trade Commission this week set up a straw man. The FTC was conducting hearings on a proposal to require detergent manufacturers to tell consumers the phosphate levels of their products and to warn them that phosphates contribute to water pollution. The information would be printed on the products' labels.

Jesse L. Steinfeld, the surgeon general, and Russell E. Train, chairman of the Council on Environmental Quality, agreed that phosphates are a major cause of the rapid aging of lakes. "It has also been generally agreed," Steinfeld said, "that the principal controllable source of those phosphates is sewage, and that the principal source of phosphates in sewage is detergents."

Yet the two administration spokesmen asked the FTC to delay action on the labeling proposal. Why? Because some phosphate substitutes have been found to be potentially harmful to humans. And, as the president of Procter & Gamble, the nation's largest detergent maker, told the FTC. "The industry would have to replace the phosphates with other materials before those other materials have been proved to be safe for people and the environment."

There's only one thing wrong with that argument: It's directed at something other than the proposal under consideration. The regulation the FTC is considering wouldn't require manufacturers to halt the use of phosphates, thus forcing them to use untested substitutes. All it would do is to have them tell consumers the amounts of phosphates in their products and remind them of the substance's role in water pollution. Consumers concerned about water pollution could use the information to help them select a detergent with a low phosphate level. Those who were unconcerned could ignore the warning.

If, after all, phosphates contribute to pollution, but no satisfactory substitutes have been found, then it would seem desirable for the government to encourage the use of detergents with low levels of phosphates as an interim measure, at the same time encouraging the industry to continue its search for safe alternatives. That's all the proposed labeling requirement would do. By asking the FTC to delay action on it, the administration, in effect, is seeking to postpone efforts to cut back on the use of phosphates and is reducing the industry's incentive to eliminate them entirely.

[From the Milwaukee Journal, May 8, 1971]

STRANGE STANCE ON DETERGENTS

The Nixon administration puts itself in an untenable position in opposing a proposed Federal Trade Commission rule requiring manufacturers to warn consumers that phosphate detergents speed water pollution.

Russell Train, chairman of the Council on Environmental Quality, and Surgeon General Jesse Steinfeld said at recent FTC hearings that phosphate substitutes not in themselves dangerous to health should be found first. They agreed that phosphates are a serious factor in water pollution.

In fact, Train's agency last August pointed out that most phosphates speeding eutrophication of lakes and streams come from municipal sources, and 50% of that amount comes from phosphate detergents. It then recommended phasing out phosphates, a step that Canada, Chicago and some other places have since ordered.

The FTC is not proposing an outright ban on phosphate detergents. It is only proposing that each package carry this message: "Warning: Each recommended use level of this product contains (whatever number of) grams of phosphorus, which contributes to water pollution. Do not use in excess. In soft water areas use of phosphates is not necessary."

Detergent makers don't like this because printing new labels would be costly. And it might lead to consumers' using less detergent, as some experts say they should do, and could do without any adverse effect on their laundry. Raising the specter of untested phosphate substitutes in an effort to block a sensible warning to housewives about excess phosphate detergent use is a scare tactic. The administration should have no part of it.

Then, a little more than one month later, the Food and Drug Administration announced on June 28, 1971 that it ". . . will require a number (25) of manufacturers to improve labeling on household laundry and dishwashing detergents to warn against eye and skin irritations and injury from ingestion . . ." The press release went on to say that the need for this labeling was confirmed by FDA on the basis of tests performed by Agency scientists on 39 detergent products, out of the 200 or so in common use in this country.

The exact nature of the harmful ingredients, however, or whether it was just nonphosphate detergents which needed additional labeling because of hazards was not revealed in the June 28th release. The public had to wait for another three months

to find out any more information about the relative merits of the 39 detergents tested by FDA.

On September 15, 1971, one month ago, the Council on Environmental Quality, the Department of Health, Education, and Welfare and the Environmental Protection Agency jointly announced a number of conclusions with respect to health and environmental problems associated with detergents.

These three agencies concluded that the NTA controversy remains unresolved and therefore it was not a suitable substitute at the present time, that there was cause for serious concern about the health hazards of caustic substitutes for phosphates, and that EPA was launching an extensive study to identify bodies of water in the country subject to eutrophication problems and will assist local governments in reducing phosphates through municipal waste treatment.

Apparently this was intended to clarify the Administration's position on phosphates and detergents. I doubt if that modest goal was obtained, or if the position was indeed clear, it was certainly not accepted without opposition.

Mr. Chairman, at this point in the record I should like to submit three editorial comments on the Agencies' September 15, 1971 announcement: (1) an editorial in the September 22, 1971 New York Times entitled "Whitewash for Phosphates"; (2) an editorial from the October 2, 1971 Washington Post entitled "Ring Around the Government's Collar"; and (3) an opinion page article by Peter Vanderpoel from the October 7, 1971, issue of the Minneapolis Tribune entitled "Washington's Poor Advice":

[From the New York Times, Sept. 22, 1971]

WHITEWASH FOR PHOSPHATES

The Federal Government succeeded last week in undoing several years of public education on the harm that detergents do to the nation's waters. In an act as unnecessary as it was sudden and confusing, four of its top health and environmental officials urged a return to phosphate detergents on the ground that alternative cleansers were worse.

Nothing in the Government's explanation justified its panicky reversal. Its explanation, it may be pointed out, followed closely the line of reasoning advanced by leading elements in the soap and detergent lobby. Whether or not it was industry pressure that accounted for the change, people who have been accurately warned of how much damage phosphates can do to lakes and streams will find it difficult to take on faith the next warning that issues from the guardians of the environment.

Admittedly, a dilemma has been building up in the matter of how America should wash its clothes. With the spreading knowledge that phosphates can choke the life out of a lake by nourishing destructive algae and vegetation, alternative cleansers came into use—but they, too, presented problems.

Some contained NTA, a chemical compound that might possibly cause cancer. Other detergents, including some of the biggest sellers at the supermarket, contained caustic soda, though not in its free form; these pose just enough threat of damage to the eyes, nose and throat, not to mention the innards of children, for the Surgeon General to talk of having them banned, though he has so far refrained from directly recommending that course. Old-fashioned soap, it might be added, is not adapted to dishwashers, leaves a scum in laundry machines and is impractical for use on synthetic fabrics designed to be cleaned only by the chemical action of detergents.

The Environmental Protection Agency suggests now that the solution must lie in the building of special sewage treatment facilities, or the adaptation of existing plants, with a view to ridding effluents of all harmful phosphates, not just those from detergents. Such a program, if carried out immediately, would be ideal, since phosphate detergents account for only part of the phosphorus which induces eutrophication in our waters. The rest comes from agricultural fertilizers, animal feeds and industrial products. Phosphorus can be precipiated at a treatment plant without difficulty. The trouble is that governments move at the pace of a leisurely snail; by the time essential equipment is installed, untold damage may be done.

The question, then, is what to do in the meantime. And here the Government's position is untenable. Instead of rescinding bans on phosphate detergents, as the Federal officials now urge, states and localities that have such bans should keep them in force—at least until the E.P.A. completes a proposed study that will identify those endangered waters that might be saved from decay by appropriate sewage treatment.

Less harm would be done for the time being if housewives continued, with reasonable care, to use so-called caustic sodas, especially in combination with regular soap. A nation that suffers the lethal automobile and allows handguns is not likely to be overwhelmed by the presence of washing sodas in the home—along with a dozen other potentially risky substances such as drain cleansers, dangerous drugs or even kitchen matches. Time, moreover, gives promise of producing really harmless detergents, several of which are reported to be well on the way.

A holding pattern of this sort, rather than the implausible course the Government has chosen, would allow a continuing effort to save the nation's waters without causing more than a minimal risk to health. There would perhaps be some social risk in wearing clothes with a touch of tattle-tale grey. But then again, that just might be viewed as a badge of honor.

[From the Washington Post, Oct. 2, 1971]

RING AROUND THE GOVERNMENT'S COLLAR

Choosing between the lesser of two evils is always, like the daily washload, messy business. Especially so when the choice involves detergents. The federal government's recent reversal of environmental policy—go back to phosphates, they are safe for human health, said the Surgeon General to houseworkers—may have delighted the detergent industry (Procter & Gamble, Lever Brothers, Stauffer Chemical, Monsanto, among others), but it has only confused the women and men who load the wash. If anything useful has resulted from this policy shift, it is another lesson in the hard truth that caring for the environment at this late date is an enormous complexity involving politics, vested interests, profits and social customs.

The government's original stricture against phosphates was correct. Lakes and waterways were being choked to lifelessness when phosphates—fresh from the washing machine—flowed into them. When the detergent industry saw both public and legal sentiment awakening to the danger of this touted cleaner, it cleared away the phosphate suds and came up with substitutes. The government examined these substitutes—alkaline compounds known as caustics—and found them less desirable than the original product; instead of harming the nation's waterways, they could harm the nation's human beings. The caustics are health hazards to the eyes, nose and throat, and are especially dangerous to children: officials reported the death of an infant who swallowed a mouthful of caustics.

The logic of the government's latest decision is, much like many of the vanishing streams it once worried about, clear but shallow. Instead of reversing its original phosphate decision—and thereby confusing the public, which is awash with enough confusion about cyclamates, tuna fish, swordfish, vichyssoise—why not inform the houseworker that caustics are dangerous, to be kept away from children and to be used with great care, like iodine, matches, sharp knives, the automobile? The government's concern for children who might ingest caustics is fine; it is a strangely sudden concern, though, if you examine the government's careless record on protecting children from such proven and often deadly threats as flammable nightwear, lead poison or dangerous toys. Or is the concern really for the detergent industry? At any rate, the latter assuredly has a warm feeling for the government, now that the latter has come around to the industry view. Instead of away with phosphates, it is now phosphates away.

Looking back to the days of clear water and clear thinking, much of this wash problem could have been avoided if the advertising agencies had not over-rinsed the public with whiter-than-white pitches. To achieve a washday miracle, powerful phosphates were introduced. So, mistakenly conned, we became a nation of super-clean shirts but super-dirty lakes. What is needed now is a return to the reality that clean, not super-clean garments are just fine, and your neighbor or boss won't mind if your shirt or dress is merely white rather than whiter-than-white. The detergent industry should have no trouble supplying us with cleaners for that modest goal, and spare us our lakes and our health. If they don't there is the advice Jerome Kretchmer, New York City's Environmental Protection Administrator, gave to New Yorkers; use a combination of soap and washing soda instead of detergents. "Your clothes," he said, "may not glow in the dark, but they will be clean and fresh at lower cost and without adding phosphates to our waters."

[From the Minneapolis Tribune, Oct. 7, 1971]

WASHINGTON'S POOR ADVICE

(By Peter Vanderpoel)

Federal officials dealing with environment, food and health offered some poor, and surprisingly short-sighted, advice to Americans in the last several weeks.

First came the about-face on phosphate detergents. The government has discouraged their use for several years because phosphates feed algal growth, which contributes to the stagnation and death of lakes. Detergents contribute the largest share of phosphorus from man-made sources to water in the country—between 1.5 and 1.8 billion pounds a year. In 1970, a U.S. House Government Operations Committee report recommended that all phosphates be ordered removed from detergents by 1972.

Soap-makers, as a result of the government position, had begun to replace phosphates in their detergents with a chemical, NTA, or caustic soda. But NTA may have harmful effects on both the environment and human health, and caustic soda (which is harmful to the eyes, nose and throat) can be fatal if ingested.

So federal officials, in what Rep. Reuss of Wisconsin termed as "capitulation to soap and detergent-makers" (who had been exerting heavy pressure in Washington), urged housewives to return to phosphate detergents as the least harmful alternative.

Maybe, they suggested, the water-pollution problem could be solved by spending between $1 billion and $1.5 billion on sewage-treatment plants capable of removing phosphates. (That kind of treatment can double the capital and operating costs of such plants.)

The government had at least three better options:

Require that detergents containing caustic soda be marked with a warning that they

are potentially harmful and should be kept out of the reach of children—the procedure used with countless household products now allowed on the market. As Edward B. Osborn, president of Economics Laboratory, Inc., said at the company's annual stockholders meeting Tuesday in St. Paul, "literally dozens of common household products are dangerous if ingested.

Return to the use of soap. Detergents are the most effective product in automatic washers, but they don't get clothes much cleaner—only "whiter and brighter"—than old-fashioned soap.

Allow only low-phosphate detergents on the market. The amount of phosphates in some products now reaches above 70 percent, up to perhaps 10 times as much as necessary.

The second example of poor advice came last week, when officials criticized public concern about PCBs, the DDT-related chemicals recently found in large amounts in chickens, eggs, turkeys, salmon and fish meal. The government position was based on findings that PCBs pose only a "potential, but not immediate, (human) health hazard," said Dr. Charles Edwards, head of the federal Food and Drug Administration.

It's reassuring to hear this. But Edwards was short-sighted in concentrating on the public health question to the exclusion of advocating a more balanced, long-term concern for the environment. Until such a traditional "public health" approach ("It's no problem until someone becomes sick or dies") was superseded in this country by a broader ecological view, very little progress was made against pollution.

A panel of Nobel laureates, meeting in Sweden, concluded recently that PCB concentrations may "damage ecosystems irreversibly on a worldwide scale before the damage is recognized." It recommended that "their entry into the environment be curtailed to every practical extent, even if this requires constrictions on production and use." England has baned PCBs.

The lesson in both cases is that far too many new chemicals are being manufactured and introduced into the environment without regard for, or knowledge of, their ultimate effects on people or the environment.

William Ruckelshaus, head of the federal Environmental Protection Agency, said in a recent speech: "Each year thousands of new chemical compounds are put into use. The way we consume and dispose of these goods has become a major environmental problem and a potential threat to the health and comfort of the human race, if not to its survival."

He recommended much stricter government control of new chemical products—a position shared by members of the President's Council on Environmental Quality.

If Ruckelshaus and the council are right—and the evidence indicates they are—then the ultimate threat to humans posed by products such as phosphate detergents and PCBs is far too "potential" (Dr. Edwards' word). And it's Ruckelshaus' perspective that the government should have reflected in its two announcements.

Part of the confusion created by the September 15th announcement stems from the fact that simultaneously the Food and Drug Administration made public the list of 39 detergents it had analyzed and assessed for potential health hazards in June. The FDA also revealed a health safety rating system for these 39 detergents which ranges from "(1) Caution, harmful if swallowed" to "(5) Danger, may cause burns to skin and eyes, harmful if swallowed".

Mr. Chairman, I ask that a listing of the FDA's list of 39 detergents and their ratings according to the FDA's assessment of their safety as reported in the September 16, 1971 issue of the New York Times be printed at this point in the RECORD:

[From the New York Times, Sept. 16, 1971]

THIRTY-NINE DETERGENTS ASSESSED

WASHINGTON, September 16.—Following is a list made public today by the Food and Drug Administration of 39 detergents it has analyzed and assessed for potential health hazards:

The rating system is: 1. Caution, harmful if swallowed. 2. Caution, harmful if swallowed, eye irritant. 2A. Caution, eye irritant. 3. Warning, injurious to eyes, harmful if swallowed. 4. Warning, injurious to skin and eyes, harmful if swallowed. 5. Danger, may cause burns to skin and eyes, harmful if swallowed.

The 39 products, which are only a sampling of some 200 detergents in common use, are:

[Product, phosphate content and rating]

Par, none	3
M-W Lo Suds, none	1
B-70, none	4
Crystal Clear, yes	2
Concern, none	4
Amway SA-8, yes	2
T-Rif, none	1
Pure Water, none	3
Giant OW, yes	5
Phosphate Free, none	3
Klean, yes	5
Miracle White, none	3
Kink Kullen, none	3
Arm and Hammer, none	2
Basic L, none	3
Control, none	3
Burst, yes	2A
Cascade, yes	2
All, yes	2
Tide XK, yes	*
Drive, yes	**
Phos-Free, none	†
Bio-D, none	3
Amway SA-8, none	2
Sears, none	4
Fab, yes	4
Breeze, yes	2
Cheer, yes	2
Logic, none	4
Cold Power, low	#
Ecolo-G, none	4
Triumph, none	3
Acme, none	4
Balance, none	5
Un-Polluter, none	3
Trend, none	2
Cold Water, low	2
PFD, none	4
Spring Clean, none	2

*Eye and skin irritant.
**Toxic, eye and skin.
†Eye and skin.
#Eye, skin.

The F.D.A. list contains one duplicate name, that of Amway SA-8. In the two references it was said, without explanation, that the product both contained phosphate and was free of it.

On the one hand, three agencies were stating "Certain of the non-phosphate detergents now on the market contain ingredients that, if accidentally ingested, aspirated, or introduced into the eyes, may be extremely injurious to humans, particularly to children. These particular products utilize materials as a substitute for phosphates that are highly caustic and that clearly consitute a health hazard, *which phosphates do not* (emphasis mine)."

At the same time, the FDA listing of detergents gave the non-phosphate product M-W Lo Suds a (1) rating, that is the least harmful in a rating system of (1) to (5). At the same time the phosphate-containing product Giant OW was rated (5), that is the most dangerous in the FDA's testing system. Other phosphate-containing products in the FDA's list scored (5) (the product called Klean) and (4) (Fab), yet the Surgeon General was quoted as generally recommending phosphate detergents for families with small children precisely because of the caustic dangers that could be associated with some non-phosphate detergents.

Unfortunately, the term "caustic" was made the equivalent of "non-phosphate" in statements about the announcement by some Administration officials while others were announcing that the problem is not quite that simple. In an attempt to simplify a compliicated scientific concept—that is explaining about alkalinity and pH, as well as the effects of concentration upon causticity—understanding and clarity were lost.

There is also some confusion as to the alternate solutions proposed by the agencies and amplified by the Administrator of EPA in his testimony here two weeks ago. In particular, the Administrator of EPA mentioned that instead of wringing the phosphates out of detergents before they enter the laundry water, EPA would be supporting programs for the construction of municipal waste treatment facilities which will remove phosphates at the 80% level or above.

Now, there is no argument about the need to remove nutrients from waste water at the sewage treatment stage. What is arguable is that this has never been viewed by anyone other than the soap and detergent indusutry as a substitute for the removal of phosphates from detergents. As the Council on Environmental Quality stated in their First Annual Report in August of 1970, nutrient removal at the sewage treatment plant stage is only one part of a three-pronged program which also includes phosphate replacement in detergents and control of agricultural runoff.

Thus, it is not the enunciation of the goal which is important, it is the amount of commitment in hard dollars that counts. When viewed in this way, a $500 million phosphate removal program in this Administration's $12 billion national program for waste treatment facilities soon becomes glaringly inadequate when it is unsupported by the other two prongs of the CEQ program.

That $12 billion program really is only a $6 billion Federal program and this is to be spread over 3 years. With the National League of Cities and the U.S. Conference of Mayors estimating that the country's water pollution control needs over the next 5 years will be between $33 billion and $37 billion, with a Federal program of $3 to $4 billion required each year to meet these needs, construction of nutrient control facilities appears to be a long distance away.

The program for rescuing the Great Lakes alone is estimated to cost the United States $1.5 billion for treating the sewage that goes into the lakes and the St. Lawrence River. And there the chief culprit is phosphates.

Mr. Chairman, at this point I should like to include in the record an editorial from the January 28, 1971 issue of the Washington Evening Star entitled "Rescue Mission" which comments on the control of phosphates entering the Great Lakes:

[From the Washington Star, Jan. 28, 1971]

RESCUE MISSION

The proposal by a joint United States-Canadian commission for rescuing the Great Lakes offers a shocking clue of what man is up against in the struggle to cleanse the environment of the poisons he has put there.

The proposed expenditure—$1.5 billion for the United States, $250 million for Canada—just for treatment of the sewage that goes into the lakes and the St. Lawrence River, gives an indication of the tab for the total environment. And the difficulty entailed in trying to save the lakes offers a hint of the overwhelming obstacles that face a planetary rescue mission.

The Great Lakes is the right place to start, for it is there that the deep wounds inflicted by man's thoughtless ravagement of the environment are most obvious. Lake Erie is moribund. Lake Ontario is on the critical list. Throughout the lower lakes and the St. Lawrence, the complex system of aquatic and animal life has been poisoned and is dying.

The commission identifies the chief culprit as the phosphates that form an important part of modern detergents. It is not the only villain; the lakes have long been used as a dumping ground for a variety of poisons. But the phosphate problem is the place to start.

Phosphates, it is now known, do their deadly work by promoting the wild-fire growth of algae. This primitive plant life is produced in quantities greater than the lake can naturally support. It dies and decays, and the process of eutrophication—the elimination of oxygen from the water—sets in. Finally the water is unable to support life and the lake, quite literally, dies.

Canada has announced that phosphates must be eliminated totally from all detergents used in that country by the end of 1972. The Nixon administration has let it be known that it will neither recommend nor support such an action until a suitable replacement for phosphates can be found.

The administration's position is economically sound and ecologically outrageous. The ban should be imposed by Congress—over a presidential veto if necessary—to take effect no later than 1972. If a safe substitute can be found before the deadline, everyone will be happy. If not the detergent industry will be hurt and the rest of us will have to get along with less-white whites and less snap in our colors. But it is time for us all to face the fact that the environmental crisis cannot be overcome by talk, that survival is going to require some real sacrifices, a lot of money and an infinite determination.

That the current situation concerning the control of detergent pollution is in a state of muddled confusion is an understatement. The soap and detergent industry still promotes phosphate detergents as highly desirable to the maintenance of health safety and laundering, yet these products are recognized as a major contributor to the eutrophication of our waters and are considered unnecessarily in soft water regions of our country.

At the same time, questionable substitutes for these phosphate detergents are being introduced into the market and promoted as environmentally safe nonpolluting laundry agents. However, none of these product claims can be supported by an accepted program of pre-market testing for the ingredients' impact upon health and environment.

Much has been said about the research drive by industry and the government into the development of safe substitutes for phosphates. Two weeks ago the Administrator of the Environmental Protection Agency said to this Subcommittee ". . . we will continue our efforts to stimulate the detergent industry to increase its research on the development of a safe non-phosphate detergent. We will also continue our research on substitutes for phosphates." When asked by this Subcommittee to give a dollar estimate of industry's research efforts into the development of phosphate replacements, the EPA spokesmen said that the industry figures were unavailable. When asked by this Subcommittee about the level of federal government effort into the development of phosphate replacements, the EPA spokesmen quoted one contract with the Gillette Company Research Institute. This contract was awarded in June of last year and involves a mighty research effort of $250,000 this year.

Finally, even though effective control of eutrophication is recognized to require not only the eliminattion of phosphates and other nutrients from municipal and industrial effluent, little is being done to upgrade sewage treatment plants. More than a paper commitment to nutrient removal is necessary. This is a bricks and mortar program that requires hard cash and which must compete with programs to obtain the most basic forms of treatment in some metropolitan areas.

In this murky situation, it is the public that is losing. They are receiving little assistance from either the soap and detergent industry or the government, yet they are expected to make important informed consumer decisions about complex matters of health, environment, and economics.

It is in this situation that it is appropriate and necessary for the Congress to offer some sensible leadership and, instead of throwing up its hands, map out a reasoned program for attacking the problem.

First of all, let the Congress put some financial muscle into the program for catching up with the backlog of waste treatment plant construction in this country. We are not going to take care of the backlog and achieve any acceptable level of nutrient removal—no matter how extensive the technology which is available—if we are unwilling to commit the funds required to construct and operate the equipment. $2 billion of Federal funding a year for three years is not adequate. I have suggested a $25 billion program covering five years and involving a Federal-State sharing ratio that is the same as the Highway program, 90–10. It is not known for sure what will emerge from the Senate Public Works Committee when it reports its Clean Water legislation, but it is expected that the Senate will soon be voting on a construction grant program for municipal treatment facilities which more closely approaches the needed level of financial commitment.

This Administration must be commended for offering S. 1478, the proposed Toxic Substances Control Act. The recognition of the need for pre-market testing of chemicals entering the environment—that is, a First Time Safe philosophy—is vitally important. I believe, however, that Senator Spong's amendment #338 to S. 1478, is a necessary improvement for any meaningful First Time Safe legislation. The concept of pre-market testing must be broadly applied, not only to any new chemicals, but as Senator Spong's amendment directs, to "potentially hazardous existing chemical substances" as well.

This coverage also cannot just be limited to those substances which are *found* to be toxic, which is merely taking retrospective action, but should apply prospectively to those substances which may be harmful to human health and the environment.

While a broad program of pre-market testing of all chemicals which may be harmful to health or the environment is a desirable legislative goal, this legislation should specifically focus on the chemicals in detergents. As a singular national problem which has existed unabated for over ten years, legislative attention to this issue is long overdue.

Both goals certainly could be achieved in a Toxic Substances bill. By directing attention to the issue of replacing phosphates with safe substitutes an exemplary program would be established for the broader range of substances which may prove harmful to health or the environment.

To achieve this specific goal, the replacement of phosphates in detergents with safe substitutes, a limitation should be placed upon the phosphate content in detergents. While a program of development of phosphate substitutes continues, while these substitutes are being tested, and while municipal treatment plants capable of removing a broad range of nutrients are being constructed, it is perfectly reasonable to set a ceiling upon the phosphate content in detergents. The City of Chicago and Canada have recognized that we cannot wait until the ultimate solution is found to take action. The phosphate problem exists now and the restriction against high-phosphate detergents will provide some measure of relief, yet not unduly inhibit laundry efficiency, or pose a danger to health.

I personally feel that a legislative deadline should be placed on the removal of *all* phosphates from detergents. Considering the amount of damage which is occuring to our waterways, this must remain our goal. After ten years of frustration and industry foot-dragging, the message should be spelled out loud and clear. However, the complete removal of phosphates from detergents should not be required unless *all* ingredients including the phosphate replacement are subjected to adequate testing and an agreed system of standards and regulations.

The establishment of standards of water eutrophication ability, biodegradability, toxicity and effects upon public health and welfare which must be met by *all* synthetic detergents was the first step in the legislative proposal, S. 75, which I offered this past January.

In addition to the establishment of standards and regulations covering all detergent ingredients, S. 75 called for a specific program of federal assistance to accelerate the development and manufacture of detergents that are free of phosphorus and whose other ingredients, including the phosphorus substitute, are pollution free. The safe detergent R & D program in S. 75 calls for a $10,000,000 effort for each of six years. If the Congress is going to exercise a greater degree of control in calling for the elimination of phosphates in detergents and subjecting all ingredients to testing protocols, standards, and regulations, then in all fairness to the industry it should complete its commitment by a much greater federal participation in the research and development of pollution free safe phosphate substitutes.

A specific federal detergent program containing these three elements: (1) a limitation for the present time on the phosphate content with a clear mandate for their eventual total removal, (2) establishment of test protocols, standards, and regulations for *all* detergent ingredients; and (3) an intensified federal program for the development of safe substitutes for phosphates—would be a firm and decisive step in ending the confusion and the environmental and health insults that we continue to suffer as a direct cause of phosphate detergents.

S. 1478 is, I believe, an appropriate legislative vehicle for implementing the federal detergent program which was enunciated in S. 75. In directly applying a measured First Time Safe program to the known and chronic hazards of detergents, a strong precedent would be achieved for the type of anticipatory approach to all chemicals which may be harmful which is stated in amendment No. 38 to S. 1478.

Mr. Chairman, I would like to conclude my remarks by offering three editorial comments for the record from the Minneapolis Tribune, the Capital Times of Madison, Wisconsin, and television station WITI–TV, Milwaukee, Wisconsin, which discuss the need for a First Time Safe program for detergents and other chemicals entering the environment:

[From the Madison (Wis.) Capital Times, Mar. 13, 1971]

PRICE OF "WHITER THAN WHITE"

The continuing controversy over phosphates in detergents—which peaked here in Wisconsin last week at legislative hearings on a number of phosphate-ban bills—is a symptom of a larger problem. It is one that goes far beyond a housewife's vexation over grey wash.

The real issue, it seems to us, is how long this country can continue to revere such meaningless symbols of affluence as "whiter than white" laundry, at the expense of a clean environment.

Housewives have been brainwashed into thinking they will be social misfits if their laundry is not at least as white as that of the woman next door. Meanwhile, the phosphates which produces that whiteness go into our

lakes and streams, and nourish the growth of oxygen-consuming algae.

Many of those who testified at last week's hearings indicated that, if forced to choose between whiter-than-white laundry and a clean lake, they'd choose the latter.

That they are prepared to make that choice indicates that people are becoming more and more concerned about the quality of their lives and their surroundings. They are questioning whether our population and Gross National Product can continue to soar, while the resources which support us all are being depleted by our gluttonous, wasteful consumption patterns.

The soap and detergent manufacturers are a part of the industrial complex which stimulates those consumption patterns by creating an artificial "need" (in this case, whiter-than-white laundry) in the minds of consumers, and then proceeding to satisfy it.

We need whiter-than-white wash about as much as we need electric can openers.

[From the Minneapolis Tribune, Oct. 7, 1971]

REGULATING NEW PRODUCTS

Federal officials concerned about the environment warn that far too many new substances are put on the market in this country without any assessment of their ultimate effects.

An article on this page discusses some examples. No one considered the possible damage to lakes when soapmakers began producing phosphate detergents in the 1940s, although phosphorous had been identified before 1900 as a cause of dying lakes. The effects on humans and the environment of the chemical NTA, a phosphate substitute in detergents, are still unknown, although it was introduced commercially five years ago.

PCBs, which closely resemble DDT, came into use in 1929; until a few years ago, scientists were unable even to distinguish them from DDT in laboratory samples. Now, some researchers have found that PCBs act as do DDT and "hard" (long-lasting) pesticides—they accumulate in wildlife, move up the food chain in increasing concentrations and are harmful to birds and other wildlife. (DDT and pesticides are themselves examples of products introduced without full knowledge of their effects).

The President's Council on Environmental Quality pointed out last year that the nation became aware of mercury pollution only after "it had become critical in some areas." Add cadmium and lead to the list. Add, too, the "large and rapidly increasing number of harmful and potentially harmful chemicals that are commercially used and eventually enter the environment," as the council said in August.

William Ruckelshaus, head of the federal Environmental Protection Agency (EPA), and council members are correct, we believe, in calling for federal controls over new substances put on the market. "People," Ruckelshaus says, "no longer want benefits promised without due regard to the detriments they may produce . . ."

The risks and benefits should be weighed *before* a decision is made to market new products that may harm the environment. Manufacturers should be required to provide EPA with information on the makeup and expected effects of new chemical products; the agency should have authority to test and to hold questionable products off the market.

A government procedure requiring the careful assessment of all new chemicals would not impinge harshly on technological development, as some fear. But it would result in a better understanding of the ultimate impact of technology. And, as Ruckelshaus points out, in the long run this promises to be far cheaper than undoing mistakes after the fact.

BE SURE PHOSPHATES NOT REPLACED WITH DANGEROUS INGREDIENTS

There's little doubt that scientific investigation has proved that phosphorus can bring rapid deterioration to our lakes, rivers and streams. So one would suppose the only logical step would be to ban all phosphorous from our waters. Order all detergent makers who insist on using phosphates to take their product off the market. Apparently, though, it's not quite that simple. Most of us are willing to give up our "whiter than white" shirts and bed sheets . . . but we find now that may not be the only sacrifice we could be forced to make.

At a public hearing in Madison last week, Milwaukee Health Commissioner, Dr. E. R. Krumbiegel, said that 64% of the phosphate detergents sold are for home laundry and could be safely banned. But, detergents with special uses, particularly in food processing and health institutions, could not be banned immediately. So, we could be faced with serious problems in some areas if we move too quickly.

An interesting moment occurred during the Madison public hearing. A woman produced a box of widely advertised non-phosphate detergent as "proof" that suitable substitutes are already available. At the same time, the federal food and drug administration was ordering the withdrawal of the product from the market, because lab tests showed that it is "highly dangerous, toxic, corrosive and upon contact, it creates severe eye irritation, open wounds and sores on the skin." She wanted that product to replace phosphate detergents.

TV6 feels it is extremely important that both sides know what they're talking about. Much of the argument in this battle against phosphate detergents is based more on emotion than on solid fact. We're as anxious as anyone to clean our rivers, lakes and streams of damaging phosphates. But, let's follow the advice of unemotional, unbiased experts . . . like Milwaukee's Dr. Krumbiegel whose only interest is the health and welfare of the people of the state. He stresses caution. Before we ban phosphates in detergents, let's be absolutely sure we're not replacing them with even more dangerous ingredients.

[From the Congressional Record, Feb. 26, 1970]

THE DETERGENT POLLUTION CONTROL ACT OF 1970

Mr. NELSON. Mr. President, I have introduced proposed legislation to ban polyphosphates in detergents in the United States by June 30, 1972, and to set and implement national pollution control standards on all detergent ingredients by the same date. The bill is entitled "The Detergent Pollution Control Act of 1970."

Such legislation is essential to put a halt once and for all to the massive pollution of our rivers and lakes by detergents, which are now being used in this country at the incredible rate of 5.5 billion pounds per year, 27.5 pounds for every man, woman, and child.

The continuing pollution of our environment from detergents is a classic example of industry's reluctance to accept environmental responsibilities for its products beyond the end of the production line. And it is evident that the detergent industry has no intention of moving expeditiously on its own to meet the problem. This is a situation that America can no longer tolerate, if it is really to make an effective national commitment to halting the tide of environmental destruction.

Seven years ago, I introduced a bill which would have brought Federal action on the detergent pollution problem. The bill, which passed the Senate, would have created a commission to study and make recommendations that would lead to effective controls.

Today, we still delay, while the detergent pollution accelerates, just as we have delayed action on toxic-persistent pesticides until they have brought on an environmental disaster of worldwide proportions.

There is no doubt we will soon reach the same sorry state with detergents, unless Congress acts now to eliminate the pollution from this source once and for all.

With its provisions requiring the elimination of the polyphosphates in detergents, and requiring the establishment of national environmental standards on all detergent ingredients, the Detergent Pollution Control Act would be a major step forward in accomplishing this.

For at least 18 years, scientists and the detergent industries have known that the polyphosphate ingredients—which comprise up to 50 percent of almost every pound of laundry detergent and up to 90 percent of mechanical dishwashing compounds—were concentrating to ever higher levels in the Nation's waters, contributing to an environmental disaster of staggering proportions.

Research published in 1966 by scientists of the U.S. Public Health Service; the report of the Lake Erie Enforcement Conference Technical Committee, March 1967 and the report of the Technical and Advisory Boards to the U.S.-Canada International Joint Commission of September 1969, as well as other scientific studies in the United States and abroad demonstrate that polyphosphates in detergents are an undeniable major cause of algae water pollution.

The detergent polyphosphates pass through all but the most advanced sewage treatment systems into our waterways, where they feed tiny, green plants—algae—which then multiply until they become a large green mass called an algae mat. When the algae mats die off, their decay depletes the water of its life-giving oxygen, choking other forms of more desirable aquatic life, including fish, and algae masses drift up on miles of beaches, destroying all recreation values with their stench and slime. This whole process also can give drinking water both a bad taste and an unpleasant odor.

The algae growth also contributes to "eutrophication," the process by which our lakes fill and die. Normally, eutrophication is a centuries-long process, but algae and other pollution can cut it to a few decades.

Algae pollution has already taken a tragic toll on our Great Lakes and on other major U.S. lakes such as Douglas Lake in Michigan, Green Lake in Washington, Upper Klamath Lake in Oregon, Lake Mendota in Wisconsin and Lake Zoar in Connecticut, in addition to affecting hundreds of smaller lakes and rivers across the country. During the summer time, the western part of Lake Erie, a dying lake, contains algae mats that sometimes cover 800 square miles and are two feet thick.

Although there are other sources, detergents are the major contributor of polluting polyphosphates into our environment. According to the U.S.-Canadian International Joint Commission, 50 to 70 percent of the total input of phosphorus from all municipal and industrial wastes into Lake Erie and other lower Great Lakes stems from detergents. If the polyphosphates in detergents are not controlled, the commission predicted that in 16 years the input would top 70 percent.

On Lake Erie alone, two thirds of the huge phosphate input from municipal sewage comes ultimately from synthetic detergents. Altogether, 26 million pounds of phosphates from detergents are going into already polluted Lake Erie every year.

On a national scale, 2.6 billion pounds of phosphates used in detergents ultimately end in our waterways.

Unless we are to continue the difficult, if not impossible, effort to deal with these and other persistent, polluting compounds after

they get into the environment, the only real solution will be requiring a substitute in detergents for the polyphosphates. Otherwise, these compounds will continue to accumulate and persist in our waters, catalyzing massive algae growths, further degrading the quality of our waters, and depriving our citizens of priceless recreation assets.

Fortunately, there are non-polluting substitutes within reach now for this polluting ingredient, substitutes which are capable of doing the polyphosphates job of softening water and preventing soil from redepositing on clothes in the washing machine.

The most recent dramatic instance of this was testimony before House Subcommittee on Conservation and Natural Resources last December in a hearing on detergent pollution chaired by Congressman REUSS of Wisconsin.

Dr. I. A. Eldib, president of Eldib Engineering and Research, Inc., said that one substitute that he has developed for the polyphosphates are organic polyelectrolytes chemicals containing only carbon, hydrogen, and oxygen. Dr. Eldib said practical washing tests have shown that the polyelectrolytes are feasible as substitutes for the polyphosphates in both household and industrial detergents, and added that the polyelectrolytes can be derived from natural resources such as starch as well as from petroleum chemicals.

Dr. John J. Singer, Jr., president of Hamshire Chemical Division, W. R. Grace and Company, testified before the same subcommittee that NTA—a nitrogen-based compound known as nitriolotriacetic acid—could also be effective in alleviating the polyphosphate pollution. Dr. Singer said that NTA could act as an effective partial substitute for the polyphosphates, in combination with the phosphate ingredient.

Polyphosphate substitutes made from corn and potato starch have also been reported by Eldib Engineering.

And in Sweden, AB Helios, which makes detergents sold in consumer cooperative supermarket outlets, has removed most of the phosphate builder from its products and has substituted an organic nitrogen compound.

Yet at the December hearing, the Soap and Detergent Association, representing the major U.S. detergent manufacturers, continued to deny that the polyphosphates are a major contributor to pollution. Further, even in the face of the rapidly growing evidence of feasible substitutes, the association in its testimony continued to deny even the need for a polyphosphate replacement, or even for a reduction in the pholyphosphates, which as noted earlier, comprise up to 50 percent of each pound of detergents.

Though industry continues to drag its heels, the public recognition of the detergent pollution is increasing at a dramatic rate. Just recently, the Canadian Government announced that it plans to make detergent phosphate pollution a criminal offense under the water pollution control legislation now before Parliament, and further, that it would outlaw the phosphates in detergents in two years. I ask unanimous consent that the article reporting this highly significant move be printed in the CONGRESSIONAL RECORD at the end of these remarks.

Grave concern over the future of the Great Lakes brought similar recommendations recently from technical advisory boards to the U.S.-Canadian International Joint Commission. The boards urged immediate reduction in the phosphorus content of detergents to minimum practical levels, and by 1972, complete replacement with substitutes less harmful to the environment.

And while the U.S. Department of the Interior showed reluctance at the House hearing in December to support phosphorus elimination or reduction now, more recent statements indicate a firmer position urging elimination of the compound.

The history is clear. The detergent industry has not, and apparently does not intend to act on the phosphates unless it is evident there is no other choice. This was also the case in the early 1960's with another detergent pollution problem. Then, only when it became obvious that Congress was deeply concerned about the massive mountains of suds that were building up on our rivers and lakes because of another detergent ingredient, did the industry move to modify its products and cut the foaming problem.

The important first section of the bill I have introduced this week would bring the necessary first step in ending current detergent pollution by declaring that phosphorus would be banned in detergents by June 30, 1972, under the enforcement of the Secretary of the Interior.

The second part of the legislation is designed to eliminate other current and potential detergent pollution by establishing national environmental standards on all detergent ingredients, which industry must meet by June 30, 1972.

Although the attention is now focused on the phosphates, other detergent ingredients also are posing environmental dangers. Although the detergent industry several years ago replaced the branch chain of poorly biodegradable wetting agents by a new compound called LAS—linear alkylbenzene sulphonate—there is evidence that even the LAS does not decompose adequately, especially in septic tanks. Further, reports from Europe in 1966 gave evidence that LAS byproducts of decomposition after entering the waters are toxic to fish and lower forms of aquatic life.

Enzymes are another present detergent ingredient over which there is cause for environmental and health concern. Enzymes are now being put into practically every type of household detergent, even though we have not even begun to understand their possible environmental effects. For instance, reports from England indicate that some workers manufacturing enzymes may have suffered severe asthmatic attacks, possibly as a result of exposure to the enzymes. Even now, the Federal Trade Commission is investigating these possible enzyme dangers. Also, if enzymes are not completely free from live spores, which can be a byproduct of their production, scientists point out that they have a potential as carriers of disease.

As I pointed out January 19 in a speech on the Senate floor, a fundamental step in achieving an effective national policy to protect our environment must be the establishment of national performance standards, so that products will be tested and environmental and health protections built in before, not after, they reach the marketplace.

It is on this concept that the portion of my bill establishing national standards for all ingredients in detergents, including whatever substitute is made for the phosphates, is based. This approach to the detergent program was first proposed in the legislation I introduced in 1963. I believe it is increasingly evident that action is needed now to establish and implement such standards.

A section-by-section analysis of the Detergent Pollution Control Act of 1970 follows:

Section 1 is the short title of the act—the Detergent Pollution Control Act of 1970.

Section 2 is the declaration of policy and purpose.

Section 3 amends the Federal Water Pollution Control Act to add four sections as follows:

A new section 19 which adds definitions essential for the purpose of this act;

A new section 20 which will make it unlawful after June 30, 1972, for any person to import into the United States or manufacture in the United States any detergent containing phosphorous. The remainder of this section establishes the procedures by which the ban will be implemented and enforced;

A new section 21 which directs the Secretary of the Interior to establish standards of ability, biodegradability, toxicity, and of effects on the public health and welfare which must be met by all synthetic detergents.

Under this section, the Secretary will prescribe and publish the standards in the Federal Register on or before June 30, 1971. Detergents will be required to be in compliance with the standards a year later, after June 30, 1972. Violators will be guilty of a misdemeanor and upon conviction of such will be subject to a first offense fine of up to $5,000 and a fine of up to $20,000 for subsequent violations.

The standards shall be designed to insure that synthetic detergents will not encourage the growth of algae, will decompose in sewage treatment processes, will not pollute surface or ground waters receiving effluent from these processes, will not be toxic to fish and wildlife, and will not pose hazards to human health.

A new section 22 which authorizes a $10 million a year Federal assistance program for the next 5 years to accelerate the development and manufacture of near-pollution-free detergents. Under this section, the Secretary of the Interior would inventory and report existing technology and assist in the research and development of ingredient formulations which would eliminate pollution from detergents.

In carrying out the purposes of sections 21 and 22, the Secretary is authorized to make grants and contracts.

Mr. President, I ask unanimous consent that the Detergent Pollution Control Act, which was numbered S. 3507 and referred to the Committee on Public Works, be printed in the RECORD at the end of these remarks.

Also, I ask unanimous consent that a column written by Art Buchwald and published in today's Washington Post be printed in the RECORD, along with the New York Times story reporting Canada's recent moves against detergent pollution. Mr. Buchwald's column makes the point about pollution from detergents with devastating effectiveness.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 3507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Detergent Pollution Control Act of 1970".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. The Congress finds and declares that:

(a) The surface and groundwaters in the United States are being seriously polluted and degraded by the continuing discharge into such waters of synthetic detergents whose ingredients feed polluting green algae, deprive lakes and rivers of life-giving oxygen, decompose slowly or not at all, and can be toxic to fish and wildlife and pose human health hazards;

(b) To abate and control the pollution and degradation of surface and groundwaters in the public interest, it is necessary to insure that the components of synthetic detergents which are offered for introduction or delivery into interstate commerce in the United States, or imported into the United States, and which may eventually be discharged into such waters, not cause or contribute to the pollution or degradation of such waters;

(c) Research published in 1966 by scientists of the U.S. Public Health Service; the report of the Lake Erie Enforcement Conference Technical Committee, March, 1967 and the report of the Technical and Advisory Boards to the U.S.-Canada International Joint Commission of September, 1969, as well as other scientific studies in the

United States and abroad demonstrate that polyphosphates in detergents are an undeniable major cause of water pollution, accelerating beyond control the growth of algae which interfere with fishing, navigation, recreational use of water, and degrade the water to the detriment of our water resources and the environment generally;

(d) Published findings in the patent and scientific literature and recent public scientific testimony before Congress confirm that non-phosphorus based ingredients have been found which perform at least as well as the present polyphosphate ingredients in synthetic detergents and soaps;

(e) Congress must require the use of non-polluting substitutes for deterrent polyphosphates in order to protect our lakes and rivers from further degradation from this pollution source;

(f) There are strong indications that the wetting agents in detergents such as the linear alkylbenzene sulfonates (LAS) and alkylphenone derivatives are not adequately degradable in septic tanks and continuously operated biological treatment units and that they are toxic to a degree which affects lower forms of aquatic life; and that the recently added enzyme ingredients in pre-soak compounds and laundry detergents have been found to pose health hazards to humans on direct exposure, and may also act as disease carriers if they are not free from live spores;

(g) In order to eliminate wherever possible massive damage to the environment from unforeseen or ignored consequences of the products and byproducts of our society, and to minimize public expenditures frequently required to restore the damaged environment, it is necessary that national standards be established that require all ingredients, present and proposed, in detergents be tested for environment and health protection before they enter the environment;

(h) Congress must direct the establishment of standards of detergents biodegradability, water eutrophication ability, toxicity, and effects on the public health and welfare, to achieve pollution free detergents;

(i) To accelerate the development of manufacture of detergents that are free of phosphorus and whose other ingredients, including the phosphorus substitutes, are pollution-free, there is a need for the Federal government to inventory and report on the presently available technology on the substitutes for polyphosphates in detergents and other technology relating to the development of pollution-free detergents, and to provide assistance for research and development of new technology where needed.

SEC. 3. The Federal Water Pollution Control Act is amended by redesignating section 19 as Section 23 and by inserting after section 18 new sections as follows:

DEFINITIONS

"SEC. 19. For the purposes of this section and sections 20, 21, and 22.

"(a) The term 'synthetic detergent' or 'detergent' means a cleaning compound composed of inorganic and organic components, including surface active agents, soaps, water, softening agents, builders, dispersing agents, corrosion inhibitors, foaming agents, buffering agents, brighteners, fabric softeners, dyes, perfumes, enzymes, and fillers, which is available for household, personal, laundry, industrial and other uses in liquid, bar, spray, tablet, flake, powder, or other form.

"(b) The term 'polyphosphate builder' or 'phosphorus' means a detergent ingredient used principally as a water softening and soil spending agent made from condensed phosphates, including the pyrophosphates, the triphosphates (frequently called tripolyphosphates) and the glossy phosphates or metaphosphates.

"(c) The term 'Secretary' means the Secretary of the Interior.

"BAN OF PHOSPHORUS IN DETERGENTS

"SEC. 20. (a) It shall be unlawful after June 30, 1972, for any person to import into the United States or manufacture in the United States any detergent containing phosphorus.

"(b)(1) Any detergent containing phosphorus imported or manufactured in violation of this section shall be liable to be proceeded against on libel of information and condemned in any district court in the United States within the jurisdiction of which such detergent is found.

"(2) Such detergent shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this subsection shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this subsection, involving the same claimant and the same issues, are pending in two or more jurisdictions, such pending proceedings, upon application of the United States or the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (A) any district selected by the applicant where one of such proceedings is pending; or (B) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the United States or the claimant may apply to the court of one such jurisdiction, and such court (after giving the other party, the claimant, or the United States attorney for such district, reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

"(3) Any detergent condemned under this subsection shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this subsection, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such detergent shall not be sold under such decree for a use which would result in the pollution of the navigable waters of the United States; except that after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such detergent shall not be sold or disposed of contrary to the provisions of this section, the court may by order direct that such detergent be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this section under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the detergent under bond.

"(4) When a decree of condemnation is entered against the detergent, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the detergent

"(5) In the case of removal for trial of any case as provided by paragraph (2) of this subsection—

"(A) the clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction; and

"(B) the court to which such case is removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

"(c)(1) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this section.

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of this section, trial shall be by the court or, upon demand of the accused, by a jury Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(d) All libel or injunction procedings for the enforcement, or to restrain violations, of this section shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district in any such proceeding.

"(e) The Secretary of the Treasury and the Secretary shall jointly prescribe regulations for the efficient enforcement of the provisions of subsection (g) of this section, except as otherwise provided therein. Such regulations shall be promulgated in such manner and take effect at such time, after due notice, as the Secretary shall determine.

"(f)(1) The Secretary is authorized to conduct examinations, inspections, and investigations for the purposes of this section.

"(2) For purposes of enforcement of this section, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (A) to enter, at reasonable times, any factory, warehouse, or establishment in which detergents are manufactured, processed, packed, or held, or to enter any vehicle being used to transport or hold such detergents; (B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials; and (C) to obtain samples of such materials. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any sample, prior to leaving the premises, he shall give it to the owner, operator, or agent in charge a receipt describing the samples obtained. If an analysis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge. If the owner, operator, or agent in charge of the factory, warehouse, establishment or vehicle refuses to permit the Secretary's designee to enter, inspect or obtain samples as authorized by this subsection, the Secretary's designee may seek a warrant from any court or magistrate to enter, request or obtain samples as authorized by the subsection, and such warrant shall be granted if the court or magistrate finds probable cause to believe that detergents containing phosphorus which were imported or manufactured in violation of this section are in the factory, warehouse, establishment or vehicle.

"(g)(1) The Secretary of the Treasury shall deliver to the Secretary, upon his request, samples of detergents which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary and have the right to introduce testimony. If it appears from the examination, of such samples or otherwise that such detergent contains phosphorus, such detergent shall be refused admission, except as provided in paragraph (2) of this subsection. The Secretary of the Treasury shall cause the destruction of any such detergent refused

admission unless such detergent is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

"(2) Pending decision as to the admission of a detergent being imported or offered for import, the Secretary of the Treasury may authorize delivery of such detergent to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury.

"DETERGENT STANDARDS

"SEC. 21 (a) The Secretary shall establish standards of water eutrophication ability, biodegradability, toxicity, and of effects on the public health and welfare which must be met by all synthetic detergents, according to the procedures prescribed herein.

"(b) The standards shall be designed to insure that synthetic detergents will not encourage the growth of algae and other undesirable aquatic plants, will substantially decompose or degrade in municipal, industrial, and other sewage treatment processes without impairing the efficiency of such processes, will not pollute surface or ground waters receiving effluent from such processes, will not be toxic to, or threaten or interfere with the conditions of the reproduction or the survival of fish and other forms of aquatic life, and will not pose hazards to human health.

"(c) The standards shall be based on studies which shall include a water eutrophication ability test in algae growth basal media containing each of the individual components of synthetic detergents, and a biodegradability test which shall truly simulate the operation of municipal and industrial sewage treatment processes employing biological treatment with practical and typical retention times in order to predict the concentration of undegraded or undecomposed components of synthetic detergents which would enter the waters receiving the effluent from such processes, and other tests which the Secretary determines may be appropriate.

"(d) The Secretary shall, on or before June 30, 1971, prescribe and publish in the Federal Register, pursuant to section 553 of title 5, United States Code, such standards and rules and regulations as are necessary to carry out the policy of this section.

"(e) Any detergent which after June 30, 1972, does not conform with standards, rules and regulations prescribed pursuant to subsection (d) of this section shall be liable to be proceeded against on libel of information and condemned in any district in the United States within the jurisdiction of which such detergent is found.

"(f) The Secretary and the Secretary of the Treasury shall jointly promulgate rules and regulations that prohibit the importation of any synthetic detergent which fails to meet the standards as established herein.

"(g) Any person who willfully violates any provision of rules and regulations established pursuant to this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than $5,000 and for any subsequent offense to a fine of not more than $20,000.

"(h) In carrying out the purposes of this section, the Secretary is authorized to make grants and contracts.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

FEDERAL ASSISTANCE

"SEC. 22. (a) To accelerate the development and manufacture of detergents that are free of phosphorus and whose other ingredients, including the phosphorus substitute, are pollution free, the Secretary shall inventory and report existing technology on substitutes for polyphosphates in detergents and other technology relating to the development of pollution free detergents, and shall also assist in the research and development of formulations which will eliminate pollution from detergents. In carrying out the puposes of this subsection, the Secretary is authorized to make grants and contracts.

"(b) For the purposes of this section, there is authorized to be approrpiated to the Secretary for the fiscal year beginning July 1, 1970, and for each of five subsequent fiscal years, $10 million.".

CANADA TO BAN ALL PHOSPHATES IN DETERGENTS OVER 2-YEAR SPAN

(By Jay Walz)

OTTAWA.—The government, confident that it has the full backing of the 10 provinces, plans to ban phosphates in detergents in two years.

J. J. Greene, Minister of Energy, Mines and Resources, said today that phosphate pollution of water would be made a criminal offense under the Canada water control legislation now before Parliament.

Mr. Greene announced a few days ago that the Canadian Goverment would join the United States in a cooperative drive against boundary waters such as the St. Lawrence River and the Great Lakes. This week Mr. Greene discussed the problem with provincial premiers here for a conference with Federal authorities.

"There was a clear agreement—everyone said they would go for it," Mr. Greene said afterward.

Pollution control in Canada is mostly within the jurisdiction of the provinces, because they own most of the waters. Mr. Greene's pending bill would implement a Federal clean-up policy in waters that are outside provincial boundaries or are regarded as national waterways.

WOULD OFFER INCENTIVES

Under the bill, the Federal Government would offer aid and incentives to provinces undertaking antipollution projects in their own waters. It would also seek agreements with the provinces to establish specific areas of joint control where penalties under the Canada Criminal Code would be applied to violators of pollution controls.

Phosphates, used to give detergents their whitening powers, speed the growth of algae when washed into lakes or rivers. The increased algae upset the ecology and other marine life dies.

Mr. Greene said he would propose amending the pending bill to have phosphates eliminated progressively from detergents until they are completely outlawed by the end of 1972. The minister said he would notify the detergent-manufacturers that he expected the first cutbacks to begin Aug. 1.

A new concern among Canadians over the widespread use of laundry detergents resulted from a recent survey by Pollution Probe, a study group at the University of Toronto. It showed some leading brands of detergents containing more than 40 per cent phosphate. The laboratory analysis of 24 brands indicated also that some products had four times as much phosphate as others.

In Toronto, Brian Kelly, spokesman for the study, said the survey was aimed at informing consumers of the different phosphate levels in various products and to persuade them to switch to soap or low-phosphate detergents.

PRODUCTS ARE ANALYZED

The analysis showed that Whisk, a Lever Brothers product, had a phosphate content of only 10.5 percent, compared with 41.5 per cent for the same company's Drive. Colgate-Palmolive's Bio-Ad was 49 per cent phosphate compared with the same company's Ajax 2, which had 36 per cent phosphate. Procter & Gamble's Cheer showed 44.5 per cent phosphate in the analysis, while the same company's Bold had only 32.5 per cent.

Spokesmen for Procter & Gamble and Colgate-Palmolive have declined comment on the findings. However, Alan Rae, president of Lever Detergents, Ltd., (Toronto) said the company had introduced Whisk, the low-phosphate detergent, about 15 years ago without great success.

Housewives, he said, had not been attracted to it, "although it is quite usable" in washing machines and "is effective as a presoaker." As a result, he said, the company has spent little money promoting Whisk. It might now consider spending more, he indicated.

Pollution Probe said in a brief release that copies of the analysis results might be obtained by sending stamped, self-addressed envelopes to Pollution Probe, University of Toronto, Toronto 181, Ontario.

LAUNDRY FANATIC STARTED IT ALL

(By Art Buchwald)

Everyone talks about water pollution, but no one seems to know who started it. The history of modern water pollution in the United States dates back to Feb. 28, 1931, when Mrs. Frieda Murphy leaned over her backyard fence and said to Mrs. Sophie Holbrook, "You call those shirts white?"

Mrs. Holbrook blushed and said, "They're as white as I can get them with this ordinary laundry soap."

"What you should use is this Formula Cake soap which guarantees against the dull washtub gray look that the family wash has always had."

Skeptical, but adventurous, Mrs. Holbrook tried the Formula Cake Soap, which happily did take the gray out of her husband's shirts. But what Mrs. Holbrook didn't know was that after the water was drained from the tub, it emptied into the sewer, which emptied into the Blue Sky River, killing two fish.

Three years later Mrs. Murphy leaned over the fence and said to Mrs. Holbrook. "It's none of my business, but are you still using that Formula Cake Soap?"

"Yes, I am."

"No wonder your husband's shirts always look dirty around the collar."

"I can never get the dirt off the collar," Mrs. Holbrook cried.

"You can if you use Klonk Soap Chips. They were designed especially for collar dirt. Here, you can have my box."

Mrs. Holbrook used the Klonk and the next time her husband put on his shirt he remarked, "How on earth did you get the collar clean?"

"That's my secret," said Mrs. Holbrook, and then she whispered to no one in particular, "and Mrs. Murphy's."

But unbeknownst to Mrs. Holbrook, the water from Klonk Soap Chips prevented any fish downstream from hatching eggs.

Four years later, Mrs. Murphy was hanging up her shirts and Mrs. Holbrook said, "How did you ever get your cuffs so white, surely not with Klonk?"

"Not ordinary Klonk," Mrs. Murphy said. "But I did with Super Fortified Klonk with the XLP additive. You see, Super Fortified Klonk attacks dirt and destroys it. Here, try it on your shirts."

Mrs. Holbrook did and discovered that her husband's shirt cuffs turned pure white. What she couldn't possibly know was that it turned the river water pure white as well.

The years went by, and poor Mrs. Murphy died. Her daughter-in-law took over the house. Mrs. Holbrook noticed how the daughter-in-law always used to sing as she hung up her wash.

"Why do you always sing?" asked Mrs. Holbrook.

"Because of this New Dynamite detergent.

It literally dynamites my clothes clean. Here try it, and then let's go to a movie, since Dynamite detergent takes the drudgery out of washing."

Six months later the Blue Sky River was declared a health hazard.

Finally, last year Mrs. Murphy's daughter-in-law called over to Mrs. Holbrook, "Have you heard about Zap, the enzyme giant killer?"

A few days later, as Mr. Holbrook was walking home from work, he accidentally fell into the Blue Sky River, swallowed a mouthful of water and died immediately.

At the funeral services the minister said, "You can say anything you want about Holbrook, but no one can deny he had the cleanest shirts in town."

Mr. McCLURE. Mr. President, again I will say to the Senator from Wisconsin, that study is in, he has seen it, and he is satisfied. But, as I said before, he was satisfied before this study came in.

The only thing that has changed is that he now has one other bit of evidence which he has seen which has not been considered by the committee. The committee has not had the opportunity to look at it. People who disagree with the study have not had an opportunity to attempt to refute it. I do not know whether they can or not.

There has been much said in recent weeks, months, and over the last several years about openness in Government, the access to the processes of Government for the input of all of its citizens, and here we are trying at the last minute to cut out those who disagree with the position that is taken by the Senator from Wisconsin.

I think they should have their day in court, whether they are right or wrong, whether I agree with them when they are all finished or not. The legislative process that allows them the opportunity to come in and present their case should not be short circuited.

I am astonished that someone who has been as vehement in support of that principle over the years, as the Senator from Wisconsin, now finds that on the altar of expediency a point of view which he believes and has for 20 years should be sacrificed in order to get the end that he desires.

I think it is the wrong way to do it, and I hope the Senate will reject the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

The result was announced—yeas 77, nays 17, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—77

Allen	Griffin	Metzenbaum
Anderson	Hart	Morgan
Bayh	Haskell	Moynihan
Bentsen	Hatch	Muskie
Biden	Hatfield	Nelson
Brooke	Hathaway	Nunn
Bumpers	Heinz	Packwood
Burdick	Helms	Pearson
Byrd, Harry F., Jr.	Hollings	Pell
	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Roth
Chiles	Javits	Sarbanes
Clark	Johnston	Schmitt
Cranston	Kennedy	Schweiker
Culver	Laxalt	Stafford
Danforth	Leahy	Stennis
DeConcini	Long	Stevens
Dole	Lugar	Stevenson
Durkin	Magnuson	Stone
Eagleton	Mathias	Talmadge
Eastland	Matsunaga	Thurmond
Ford	McGovern	Weicker
Glenn	McIntyre	Williams
Gravel	Melcher	Zorinsky

NAYS—17

Baker	Garn	Sasser
Bartlett	Goldwater	Scott
Bellmon	Hansen	Tower
Church	Hayakawa	Wallop
Curtis	McClure	Young
Domenici	Randolph	

NOT VOTING—6

Abourezk	McClellan	Percy
Chafee	Metcalf	Sparkman

So Mr. NELSON'S amendment was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 730

Mr. KENNEDY. Mr. President, I send to the desk an amendment, on behalf of myself and the distinguished senior Senator from New York, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. JAVITS, proposes unprinted amendment No. 730.

Mr. KENNEDY. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, between lines 21 and 22, insert the following new section and renumber the subsequent sections accordingly:

"JUDICIAL REVIEW

"SEC. 51. Section 509 is amended by striking the existing subsection (b) and inserting in lieu thereof the following:

'(b)(1) A petition for the review of the Administrator's action in (A) promulgating any standard of performance under section 306, (B) promulgating any effluent standard, prohibition, or pretreatment standard under section 307, (C) approving or promulgating any effluent limitation or other limitation under sections 301, 302, or 306, (D) promulgating any regulation issued under sections 301 or 402, or (E) promulgating any regulation under section 311 or any standard or regulation under section 312(b) and (c), may be filed only in the United States Court of Appeals for the District of Columbia Circuit.

'(2) A petition for the review of the Administrator's action in making any determination as to a State permit program submitted under section 402(b) may be filed only in the United States Court of Appeals for the Judicial Circuit which includes the State submitting the permit program.

'(3) A petition for the review of the Administrator's action in making any determination as to a State water quality standard, or promulgating a water quality standard, under section 303 may be filed only in United States Court of Appeals having territorial jurisdiction over any waters to which the water quality standard applies.

'(4) A petition for the review of the Adminstrator's action in issuing or denying any permit under section 402 or in objecting to any permit pursuant to section 402(d)(2), may be filed only in the United States Court of Appeals having territorial jurisdiction over the facility which is the subject of the permit action being challenged.

'(5) All of the petitions described in subsections (b)(1), (b)(2), (b)(3), and b(4) of this section shall be made within ninety days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such petition is based solely on grounds arising after such ninetieth day.

'(6) Action of the Administrator with respect to which review could have been obtained under subsections (b)(1), (b)(2), (b)(3), and (b)(4) of this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.' ".

Mr. KENNEDY. Mr. President, I ask unanimous consent that Tom Sussman be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for order in the Senate Chamber, Mr. President.

The PRESIDING OFFICER. The Senator is entitled to have order. Will the Senate please come to order? Will Senators please carry their conversations to the cloakrooms? Will the staffs please retire to the back rooms?

The Senator may proceed.

Mr. KENNEDY. Mr. President, I understand there is a time limitation. Am I correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct. There is 1 hour, to be equally divided.

Mr. KENNEDY. I yield myself such time as I might use.

Mr. President, I have sent to the desk an amendment which will centralize judicial review of national regulations promulgated under the Federal Water Pollution Control Act. Under this amendment, petitions for review of the EPA Administrator's action in issuing national standards and regulations may only be reviewed in the U.S. Court of Appeals for the District of Columbia.

I stress, Mr. President, that what we are talking about in this amendment are the national standards and national regulations.

Petitions for review of State and local

issues, such as State permit programs and individual permit actions, would be reviewed in the appropriate court of appeals where the State or facility is located.

Passage of this amendment is critical to the effective implementation of the Clean Water Act.

Under the present law, the EPA's effluent standards may be challenged in any of the 11 circuits of the U.S. courts of appeals. Conflicts which may result among these courts often culminate in contradictory instructions to the EPA. The results have been differing judicial interpretations of national regulations and standards which Congress intended to be uniform. The EPA has been forced to repeatedly litigate the same issues in different circuits, thereby delaying the implementation of the act and wasting valuable and limited resources.

Furthermore, it is clear that industry will often choose to seek review in the most favorable court.

In short, Mr. President, the current system of reviewing national water standards and regulations has resulted in an unjustifiable waste of time, effort, and money. Most important, it has proved to be a roadblock to the strong intent of Congress that we move quickly and effectively toward a national program to halt the continued degradation of our rivers, streams, and oceans.

Mr. President, there is ample precedent for this amendment. Similar provisions exist in the Clean Air Act, in which all national primary and secondary air quality standards are reviewed exclusively in the U.S. Court of Appeals for the District of Columbia.

Such provisions also exist in the Safe Drinking Water Act and the Resource Conservation and Recovery Act of 1976. Basically, Mr. President, we are tracking those pieces of legislation for the same reasons that similar provisions were included in those pieces of legislation. It should also be pointed out that this type of centralized judicial review of water quality standards has been strongly recommended by the Administrative Conference of the United States and by the National Academy of Sciences.

I believe it is appropriate, Mr. President, to mention the Administrative Conference of the United States—where they are interested in the soundness and the administration of justice and actions which would be taken to expedite justice—and what the Administrative Conference of the United States says on this particular issue.

(d) This series of recommendations urges that, when Congress reconsiders the judicial review provisions of the principal pollution statutes, it rationalize, alter and clarify them, guided especially by the principle that jurisdictional provisions should draw bright lines to minimize the waste and expense of litigation over whether a case has been brought in the right court.

Then it continues on:

Thus the FWPCA provides for a decentralized review of national standards, whereas the Clean Air Act requires that analogous standards be reviewed only in the D.C. Circuit. This inconsistency in approach should be resolved; the advantages of expeditious and authoritative review of all national standards in the D.C. Circuit suggests that it is the FWPCA's venue provision which should be amended. All national standards under the FWPCA should be made reviewable in the D.C. Circuit. Review of all other regulations, standards and determinations that are reviewable in the courts of appeals under the FWPCA should be in the circuit containing the affected state or facility. These amendments would entirely supplant the present provisions for review in the circuit in which the petitioner resides or transacts business.

They understand, Mr. President, after studying this as an objective issue in terms of the issue of justice, fairness, and the implementation of the legislation what ought to be done. After considerable study, they recommend following the way that we are providing with our particular amendment.

Some might suggest that the Environmental Protection Agency is simply looking for special or favored treatment in the District of Columbia. But EPA has won and lost decisions in the District of Columbia Circuit Court as well as in other circuits. Judges in the District of Columbia Circuit Court have been divided on environmental issues. The District of Columbia Circuit Court does have, however, the important advantage of easy access by the court and all parties to EPA records here in Washington.

Mr. President, the importance of centralized judicial review to this bill cannot be overemphasized. The effective implementation of the bill depends on it.

The amendment has the strong support of the administration.

I ask unanimous consent to have printed in the RECORD, a letter from Mr. Moorman, who has written on this issue.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 13, 1977.

Hon. JENNINGS RANDOLPH,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: One of the most important amendments to the Federal Water Pollution Control Act which has been recommended by the Administration relates to Section 509. This section presently provides for judicial review, in the U.S. Court of Appeals for any of the 11 federal circuits, of a number of actions taken under the Act by the Administrator of the Environmental Protection Agency.

Under the proposed amendment to this section, petitions for review of the Administrator's action in promulgating certain regulations of national application would be filed only in the United States Court of Appeals for the District of Columbia. These actions include the promulgation of new source performance standards under Section 306; toxic pollutant effluent standards and pretreatment standards under Section 307; approving or promulgating any effluent limitation or other limitation under Sections 301, 302, or 306; promulgating any regulation issued under Sections 301 or 402; or promulgating any regulation under Section 311 or any standard or regulation under Section 312 (b) and (c).

Review of EPA's determinations concerning state NPDES permit programs submitted under Section 402(b) could be taken only in the circuit which includes the state whose permit program is at issue. Review of EPA action concerning state water quality standards for a particular facility would be in the circuit where the state or facility is located.

This provision for centralized review of the national regulations is intended to avoid the extensive delays, duplicative litigation, and very substantial costs which have resulted over the past three years from review of national regulations in numerous different circuit courts of appeals. As you know, the Justice Department represents EPA in all of its litigation arising out of challenges to these regulations. In handling these cases we work closely with the EPA Office of General Counsel and the various program offices as well.

The multiple circuit review of national regulations which has taken place over the past three years has resulted in very substantial demands upon the time, energy, and resources of this Department as well as the Environmental Protection Agency, much of which could have been avoided by centralized single-circuit review. Furthermore, it has resulted in conflicting interpretations among the circuits of regulations of national application, with the result that frequently the Agency is given contradictory instructions by different courts of appeals in implementing essentially identical regulations. Such conflicts then persist, often for years, before they are resolved, if at all, by the U.S. Supreme Court.

We strongly support the Administration's amendment to Section 509, and urge its prompt enactment into law by Congress. As you know, there is ample precedent for this type of centralized review of national regulations in the U.S. Courts of Appeals for the District of Columbia in other federal laws relating to environmental protection. These include the provisions in Section 307(b)(1) of the Clean Air Act in which national primary and secondary air quality standards, plus a number of other regulations of nationwide impact, are reviewable exclusively in this court. Similar provisions also exist in Section 1448(a)(1) of the Safe Drinking Water Act, and Section 7006 of the Resource Conservation and Recovery Act. Centralized review as proposed by the Administration has, in addition, been strongly recommended by both the Administrative Conference of the United States and the National Academy of Sciences.

Our support for this amendment does not arise from any thought that EPA's regulations might somehow fare better in the U.S. Court of Appeals for the District of Columbia Circuit. Indeed, this Circuit has proven time and again to give EPA's regulations a searching and careful review, and has remanded regulations in the majority of cases which have come before that Circuit under the Clean Air Act and Federal Water Pollution Control Act.

Rather, our support for this amendment derives solely from our conviction that if the programs of the Federal Water Pollution Control Act are to be carried out in an orderly fashion within the general time frame mandated by Congress, it is essential that the confusion, duplication of efforts, and extensive delays which have resulted from the conflicting U.S. Court of Appeals decisions on regulations of national application be eliminated. Such a result is also very much in the interest of the taxpayers of this country, who must bear the expenses of the substantial and duplicative litigation which has already resulted and which will continue to result unless and until such an amendment is passed.

Sincerely yours,

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

Mr. KENNEDY. I will read the appropriate portions of that letter:

This provision for centralized review of the national regulations is intended to avoid the extensive delays, duplicative litigation, and very substantial costs which have resulted over the past three years from review of national regulations in numerous different circuit courts of appeals. As you know, the Justice Department represents EPA in all of

its litigation arising out of challenges to these regulations. In handling these cases we work closely with the EPA Office of General Counsel and the various program offices as well.

The multiple circuit review of national regulations which has taken place over the past three years has resulted in very substantial demands upon the time, energy, and resources of this Department as well as the Environmental Protection Agency, much of which could have been avoided by centralized single-circuit review. Furthermore, it has resulted in conflicting interpretations among the circuits of regulations of national application, with the result that frequently the Agency is given contradictory instructions by different courts of appeals in implementing essentially identical regulations.

What we are talking about is regulations which should apply to Massachusetts as well as the State of Washington. We have to ask ourselves, are we going to find that in 11 different circuits these issues are being challenged? The point is made by the Justice Department, by EPA, and by the Administrative Conference of the United States that it delays the whole national application of these particular questions.

So, Mr. President, I would hope that this amendment would be accepted. As I mentioned earlier, there are clear precedents in the Clean Air Act and the Safe Drinking Water Act, and the Resource Conservation Act and Recovery Act of 1976.

Mr. President, I ask unanimous consent that the letter from Mr. Costle be printed as part of my presentation at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., July 21, 1977.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express my strong support for the Administration's proposal to amend section 509 of the Federal Water Pollution Control Act to provide that petitions for review of nationwide effluent limitations, promulgated under sections 301, 302, 304, 306, or 307, would be reviewed solely in the U.S. Court of Appeals for District of Columbia Circuit, while petitions for review of State permit programs, water quality standards and individual permit actions would be reviewed in the appropriate Court of Appeals where the State, body of water or facility is located. This balancing of national and local concerns presently exists for comparable regulations issued under the Clean Air Act, the Safe Drinking Water Act and the Resource Conservation and Recovery Act.

This amendment is critical to the effective implementation of the Act. Under the present section 509, the Agency's effluent limitations may be challenged in any of the eleven circuits of the U.S. Court of Appeals system. Inevitably, conflicts result among the various Courts of Appeals which culminate in contradictory instructions to the Agency regarding implementation of national regulatory programs under sections 301, 304, 306, and 307 of the Act. Moreover, some of the conflicts with respect to such fundamental issues are literally impossible to reconcile and comply with; hence the Agency is in the position of being under a statutory command to issue regulations which are certain to be remanded for further work by at least one court of appeals but which may be compatible with the command of another court. Industry obviously chooses to seek review in the most favorable court.

In order to avoid these conflicts and duplications, the Administrative Conference of the United States and the National Academy of Sciences have recommended that review of all national standards issued under the FWPCA should be in the U.S. Court of Appeals for the District of Columbia.

One glaring example of the serious problems caused by multiple circuit review is the history of our regulations governing slaughterhouses and packinghouses. In 1975, the Seventh Circuit largely upheld the regulations against the challenge of an industry trade association. Another industry trade association then challenged the exact regulations in the Eighth Circuit. EPA's motion to dismiss was denied, and it now appears that the Eighth Circuit is going to review the same regulations which have already been reviewed and largely upheld by the Seventh Circuit.

Contradictory opinions from as many as seven Courts of Appeals have occurred again and again on such crucial issues as the need to provide for excursions and variances from effluent limitations; EPA's ability to issue effluent limitations under section 301 of the Act; the necessity for "ranges" in effluent limitations rather than "single number" limitations; the reviewability of the 1983 BAT effluent limitations; the need for a cost-benefit analysis for BAT effluent limitations; the relative stringency of BAT effluent limitations and new source performance standards; and, significantly, over the validity of toxic pollutant effluent standards. The conflicts set forth above have resulted in major delays, substantial duplication of efforts relitigating issues in numerous forums, and wasted efforts in preparations to comply with one circuit only to be told something different by another circuit.

Although industry attorneys have suggested that EPA is simply seeking an advantageous forum in the District of Columbia, EPA has won and lost decisions in the District of Columbia Circuit as well as in other Circuits. In fact, a look at the composition of this Court makes it clear that the judges are evently divided on environmental issues. The real advantage of the District of Columbia Circuit, as opposed to any other single Circuit, is that the Court and all the parties have ready access to EPA records (which in many cases are quite voluminous) and the D.C. Circuit has a distinguished background in handling questions of administrative law.

Multiple circuit review under the FWPCA is a severe threat to the implementation of the entire program. The problem of conflicts is a continuing one, since new issues continue to surface, and any of the industries which are subject to EPA regulations are sufficiently large (with plants throughout the country) as to be able to challenge our regulations in virtually any circuit(s) they wish. The present state of the law in this area has resulted in ridiculous situations where opposing sides race to different courts and venue, which is determined by the first petition for review filed, is decided by a matter of ten seconds or less. I believe that our proposed amendment will unquestionably result in a far more efficient implementation of the Act by the Agency, in terms of avoiding delays, duplication and waste of scarce resources.

I urge your support of the Administration's proposed amendment to section 509.

Sincerely yours,

DOUGLAS M. COSTLE.

(Mr. CLARK assumed the Chair.)

Mr. KENNEDY. In the letter from Mr. Costle, there is a rather revealing example of where these duplications have taken place and how, because of the failure of national applications, a particular national regulation was delayed and delayed, compromising the effective protection of valuable resources. Perhaps during the course of debate, we shall have a chance to examine this in detail.

Before concluding, I ask the distinguished Senator from Maine whether, in the Clean Air Act, for example, this type of provision—again that applied only to national standards—has been a workable and functioning provision. I ask whether there have been inequities and injustices which have been perpetrated because of that provision, or whether it has functioned well? Perhaps he can tell us from his experience with that legislation, as well as his understanding of the broader issues which are included in the legislation, whether he thinks that this is a workable solution.

Mr. MUSKIE. Yes. I say to my good friend from Massachusetts that I do support this amendment. It was considered briefly in the committee, then put aside on a list of items which we felt we would not have time to address fully. We did not resolve those issues, so they were not decided by the committee.

My own position is favorable to it for the reasons that I think were so well set out in the letter from Mr. Costle, dated July 21, 1977. It is a provision that is found in the Clean Air Act. It is applicable to nationally applicable regulations, as it should be.

A recent example of the kind of confusion that can develop without this kind of approach is provided in this example: In January of 1977, EPA promulgated toxic effluent limitations for six toxic pollutants. EDA was sued on three of these standards in the U.S. Court of Appeals for the Third, Fourth, Fifth, Sixth, and District of Columbia circuits. Five months were wasted in motions and other procedural activities before the case was finally consolidated in the District of Columbia court.

The effect of the Senator's amendment would be to consolidate such cases, in effect, in the District of Columbia court. I think there is great merit to his proposal.

With respect to the risk that the district court may be tilted one way or another, I think the Senator has correctly stated the record. There have been 19 cases which have been decided by the district court. Ten of those upheld EPA, and nine substantially reversed EPA. It is an evenly balanced court. On most issues, there are four liberal votes and four conservative votes, with the ninth as a swing vote in case of a tie. So it seems to me the forum to which these cases would be referred under the Senator's amendment would be a balanced one. There is also the benefit of easy access to EPA records.

For those reasons and the others which Senator Kennedy has so cogently stated, I personally support the amendment. But there is no committee position on it.

Mr. KENNEDY. I would be interested whether the Senator thinks injustices would be perpetrated on interests, for example, by requiring that they come to Washington to litigate. This is an argument that will be raised and made. Will the Senator not agree with me that

most of the interests that probably would be affected, for the most part, either have offices here or, certainly, representation here?

We obviously have to be sensitive to that issue under any circumstances, but, as we have seen in legislation which has been considered previously, this has not worked much of a hardship. I wonder what the Senator from Maine thinks of that.

Mr. MUSKIE. My instinct on that question is the same as the Senator's. As I view the audiences which we have during markup sessions, I am under the very strong impression that every interest involved in every provision of the Act is effectively represented by somebody in that room, who had to get there by traveling from some other place in the country. They have no difficulty in doing so.

I think that the issues involved in regulatory legislation of this magnitude is of such importance to interests all over the country that they would be benefited by a uniformity of judicial interpretation. They would not be inconvenienced by the necessity to come to Washington.

On the other hand, they have developed a habit of coming to Washington. So I think that is not a significant argument.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BURDICK. Will the Senator yield?

Mr. KENNEDY. If I could, I would like to yield to the cosponsor of the amendment, the Senator from New York, whatever time he would like.

Mr. JAVITS. I need 1 minute.

I wish to say to the Senator that what interested me about his amendment is that, in my own experience of practicing as a lawyer for years, forum shopping or jurisdiction shopping or even judge shopping is not unknown to practicing lawyers in the high corporate astral regions. We do want, if we can get it, to have a coordinated approach to the law. It seemed to me, therefore, that the opportunity to centralize in Washington the national legal decision, in view of the fact that appeals go to the same court—to wit, the Supreme Court—as a matter of convenience and as a matter of knowledge and experience with the law, is very valuable.

I have a whole host of cases which have come to my attention, showing that a district judge of a particular community can issue and does issue an injunction tying up a national policy. That is sometimes for me, for things I believe in, and sometimes against me. But, on the whole, it is not a desirable way to run a railroad, or to run a legal system.

It seems to me that the Kennedy amendment gave the necessary balance—to wit, resort to local fora for individuals or corporations having regional or local problems; resort to the national forum where a national issue is involved and could be judicially dealt with. For that reason, I joined Senator KENNEDY in the amendment and I hope very much that the Senate will approve it.

Mr. McCLURE. Will the Senator from New York yield?

Mr. JAVITS. Yes.

Mr. KENNEDY. May I yield to the Senator from North Dakota just for a moment? He had asked for that earlier, and I would like to yield to him.

Mr. BURDICK. Apparently, the thrust of the argument of the Senator from Massachusetts is that we have different decisions in different circuits. The Senator is well aware that that is a situation where the matter can be decided by the Supreme Court, does he not?

Mr. KENNEDY. Yes.

Mr. BURDICK. When there is a conflict in the circuits.

If we transfer all of these cases to the District of Columbia, to the circuit court there, that does not end the matter, does it? Any decision they issue is appealable to the Supreme Court.

Mr. KENNEDY. The Senator is correct, if they decide to grant certiorari.

Mr. BURDICK. How do you decide that case?

Mr. KENNEDY. Very clearly. As the Senator from Maine has pointed out, what we are having is a proliferation of different cases in different circuits around the country. That happens to be the fact today. It involves enormous duplication and replication of time and energy and judicial time and procedure. It may, eventually, under the circumstances, through the Justice Department, be consolidated, or it may eventually trickle its way on up to the Supreme Court for resolution. In the meantime, we have an enormous amount of judicial activity.

I say to the Senator from North Dakota that, in the meantime, we have recognized, for close to 30 years, the special prerogatives of the District of Columbia Court of Appeals. That is well understood in terms of administrative law and agency law.

They have developed and been recognized by the Congress to have special expertise in law affecting the administrative agency and regulatory agency.

We have, in a whole host of legislation, given to them either sole jurisdiction or concurrent jurisdiction—most recently in concurrent jurisdiction on the Freedom of Information Act, and the other acts I mentioned earlier today. And this is just in the limited area of national standards, recognizing the importance of State activities, State courts in terms of those rules and regulations and decisions that will affect the States.

But in terms of national standards, to get the final resolution and decision, we believe it justifies this action.

Mr. BURDICK. If we have a conflict in circuits, we can take an appeal to the Supreme Court, or if we have a decision by the circuit court of the District of Columbia, we can take an appeal, timewise it is the same.

What I am afraid of is, removing this from the State or areas of concern, the areas of the people concerned with this particular situation. I would be very reluctant to move it out of the areas of concern if there is not a better reason.

I do not see any time saving because, as I say, the decision of the Circuit Court of the District of Columbia is also appealable.

Mr. KENNEDY. The response I make to the Senator from North Dakota is that there may be appeal from the circuit courts around the country, but there may not be. But even if there is, cert may be granted or it may not be.

If it is not granted, we may have a variety of interpretations and leave the courts completely confused as to the state of the law.

If it is not in the circuit court, and there is refusal to take it, at least we have one refusal which will be uniform in terms of its application.

So it seems to me there is a rather clear distinction in terms of what the outcome would be.

In one instance, it is a certainty, but that if the Supreme Court does not take it or it is not appealed, very considerable uncertainty, at least, for a considerable period of time on an issue where time is of importance and consequence.

Mr. BURDICK. I say to the able Senator that I know very few instances, if any, where the court denies certiorari, if there is a conflict in the circuits on an important question.

Mr. KENNEDY. This is a question, Mr. President, that we will remedy with this particular amendment, so that there will be a resolution.

Mr. President, how much time have we used?

The PRESIDING OFFICER. The Senator has used 23 minutes.

Mr. KENNEDY. I would like to reserve the remainder of my time.

How much time has the other side used?

Mr. SCOTT. Who controls the time in opposition to the amendment?

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes remaining.

Mr. KENNEDY. I would like to reserve the remainder of my time and use it to make responses to the arguments of the opponents.

Mr. McCLURE. Will the Senator from Vermont yield just 2 minutes to me?

Mr. STAFFORD. I am glad to yield 2 minutes to the Senator.

Mr. McCLURE. I thank the Senator.

The Senator from New York in a response to the Senator from Massachusetts had indicated there needed to be a balance struck between those which are not national issues and those which are national issues, reposing then in the Circuit Court for the District of Columbia, those which are national issues.

I would say that, first, somebody asked which are national issues. I assume somebody has to make that determination.

I ask the Senator from New York, Who it is that he envisages as the one who has the prerogative to make the decision which is national and which is not?

Mr. JAVITS. Every court has jurisdiction to determine whether it has jurisdiction.

Mr. McCLURE. So any circuit court could look at it and determine whether it is a national interest?

Mr. JAVITS. That is correct.

Mr. McCLURE. And if it is, they would review that question?

Mr. JAVITS. Exactly.

I assume that is correct. I ask the Senator from Massachusetts (Mr. KENNEDY)

if my interpretation of the amendment is correct.

Mr. KENNEDY. Would the Senator state it again?

Mr. JAVITS. I can state it.

The question is, Who will determine what is a national issue? And I said if the amendment becomes law, a matter of the jurisdiction, every circuit court, every district court, will determine whether it has jurisdiction, subject to the right of appeal.

The PRESIDING OFFICER. The Senator from Idaho's 2 minutes have expired.

Mr. McCLURE. May I have 2 more minutes?

Mr. STAFFORD. Yes.

Mr. McCLURE. I yield to the Senator from Massachusetts to respond.

Mr. KENNEDY. In the amendment, there are a series of sections that spell out national regulations, and they are indicated in the amendment, 301, 302, 306, and it continues on.

The areas that deal with the State are included in other sections.

So it is defined in the amendment.

Mr. McCLURE. May I say to the Senator, my concern is this, It is not just under this act we had to strike that balance. It is not just in this instance that national issues are raised.

Are we establishing the precedent, does the Senator from New York contend it would be appropriate for us in all legislation to have the issues which are national issues removed from the circuits around the United States and all national issues appealed automatically into the circuit court?

Mr. JAVITS. No. The Senate cannot and will not do that, of course, because in many cases there are matters which involve individual rights to determine national issues and national rights. That is why I said what I did, and I think I am right, that each court will have to determine whether or not under this law it has jurisdiction. If it determines it has, that is subject to appeal.

Mr. McCLURE. Let me say to the Senator from New York that I am very profoundly distressed by the idea that national issues can be settled only in the circuit court by hearing, because if they are to be certified, in the District in this instance, it would seem logical to me that if it is a national interest or national question, on any human rights, on any one of the appellate rights, on any one of the civil rights of any citizen of this country, that it would be just as logical——

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. JAVITS. To concentrate on all of the appeals in all of those instances in the——

The PRESIDING OFFICER. The time has expired.

Mr. JAVITS. Will the Senator yield me 1 minute?

Mr. KENNEDY. Yes.

Mr. JAVITS. Just to clarify the legal situation, Senator KENNEDY pointed out that the specific issues to be defined as national issues—I used the generic term—are spelled out in the specific sections which are referred to here under (b) (1) of his amendment.

The only point I added to that, because, as I say, I used the generic term, was that every court has the right to determine whether it does or does not have jurisdiction.

I thank my colleague.

Mr. KENNEDY. The Senator stated, for example, section 301. This standard relates to national effluent limitations. 306, the national performance standards and then down to the 402. I should point out that State permit programs submitted under 402(b) may only be filed in the circuit court which includes that State.

So we tried to spell out the particular provisions that apply to the State and we make reference to the studies done by the Administrative Conference which does an analysis of the whole administrative and judicial process relating to this bill.

In terms of these particular standards, it gets into rather considerable elaboration in each of these areas, the reasons why some were national and some State.

They have done a very effective analysis of it. So there should not be any difficulty in terms of filling this particular requirement.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. I yield 5 minutes to the distinguished Senator from Virginia.

Mr. SCOTT. Mr. President, I had not seen this amendment before coming to the floor. I notice that it is an unprinted amendment. I assume that it was not considered by the committee.

It seems to me that this is a matter that might be considered by the Judiciary Committee. The distinguished author of the amendment, the Senator from Massachusetts, is one of the senior members of that committee. I assume it has not been considered by our Judiciary Committee. I, too, serve on that committee.

I share the concerns that have been expressed by the distinguished Senator from North Dakota. It seems to me that someone who is affected by a rule that has been made by the administrator should not have to come to Washington to be heard on the matter. We have our various judicial circuits, and I think that is one of the reasons for having our circuits.

The distinguished Senator from Massachusetts spoke of the need for unanimity. That is one of the major reasons why the Supreme Court grants certiorari when there is conflict within the judiciary circuits. That is a prime reason for the granting of the writ of certiorari, so the Supreme Court can adjust or certainly review the differences between the circuits and try to arrive at a uniform rule.

I have just made a cursory examination of this; it is an unprinted amendment. I assume that various Senators did not have an opportunity to review it in advance; I did not.

As I see it, the amendment was not considered either by the Committee on Environment and Public Works or the Judiciary Committee. Yet, it seems to be quite an important amendment.

As I see it, if we are talking about a review of the Administrator's action in promulgating any standard of performance by relating to effluent standards, prohibition or pretreatment standards, then you have to come to the District of Columbia. But if we are talking about a determination as to a State permit program, then you can go to the circuit court of appeals in the judicial circuit that includes the State submitting the permit program. It seems to me that you should be able to go to the circuit court within your own circuit in all instances.

Mr. President, I am opposed to the amendment. I am glad that the distinguished Senator asked for a rollcall vote. I hope the amendment will be defeated.

I ask this question of the distinguished Senator from Massachusetts: Am I correct in assuming that this amendment was present for the first time here on the floor today?

Mr. KENNEDY. The answer to that is in the negative.

Mr. SCOTT. Has it been considered in the committee?

Mr. KENNEDY. It was discussed and considered. No final resolution was made in the committee. This issue was raised and it was discussed and it was debated, as the Senator from Maine indicated, but no final resolution was made. No votes were taken on the issue.

Mr. SCOTT. I see the distinguished chairman of the full committee on the floor. I ask him to what extent the Committee on Environment and Public Works considered the proposed amendment, the jurisdiction of the courts to hear this matter?

Mr. RANDOLPH. In response to my colleague from Virginia, who raises the question of the consideration of the proposal in the committee, I say this: This, of course, is factual, as I understand it and remember it. There was a discussion of this subject. No amendment actually was offered. There was a decision, I think, by members or a member of the committee that the discussion may have been sufficient to indicate that the committee members might vote against such a proposition.

I want to be very fair to the proponent or proponents of the idea, but I rather had the feeling, as I recall—perhaps that can be the understanding of someone else or it might not be—but I do feel that there was considerable opposition in the committee to the proposal; and on my own time, a little later, I will speak against the amendment.

Mr. SCOTT. I appreciate the response of the distinguished Senator. As I understand it, even though the matter was brought up, it was not acted upon by the Committee on Environment and Public Works, and it was not referred to the Judiciary Committee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. May I have 1 additional minute?

Mr. STAFFORD. I yield 1 minute to the Senator.

Mr. SCOTT. It was not considered by the Judiciary Committee.

Mr. President, this is a matter of vital importance to the various States. We have 50 States, and it seems to me that we should not make all 50 States come to the District of Columbia to litigate a problem in which a State is vitally interested.

I appreciate very much the distinguished Senator from Vermont yielding this time to me. I again urge that the amendment be defeated.

Mr. STAFFORD. Mr. President, I yield 5 minutes to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. I thank the ranking member of the committee.

I say to the Members of the Senate that if it is relevant as to what happened in the committee, I assume we will all have different versions of what could have happened.

However, the fact is that neither the subcommittee nor the full committee considered this amendment, at least sufficiently to vote on it. So I do not believe anyone should leave the impression that the committee had enough time, considered it, and left it hanging. The truth is that we did not get around to considering it at all, in spite of the fact that we considered many other amendments to be relevant to the present modification of the Clean Air Act.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I yield.

Mr. KENNEDY. Is not this the same committee that has jurisdiction of the Clean Air Act?

Mr. DOMENICI. It is.

Mr. KENNEDY. Does the Senator realize that this is identical to the language that was included in the Clean Air Act?

Mr. DOMENICI. I do.

Mr. KENNEDY. I thank the Senator.

Mr. DOMENICI. I thank the Senator for the questions. I was going to address that in my remarks.

In my opinion, we should not, in bits and pieces, decide that the circuit court system in this country has no validity. We can do it either by abolishing jurisdiction of other circuit courts and vesting it in one national circuit court all at once, or we can come to this floor with every bill that has some national significance of a regulatory manner and we can find some precedent somewhere that they have jurisdiction, and we can nickel and dime the district courts of the United States out of business. I, for one, am not in favor of doing that, as a matter of basic principle, no more than I would be in favor of establishing one Federal district court in the District of Columbia to hear cases involving my constituents, be they individual or corporate, in trials ab initio.

I believe in the system of hearing cases as close to the people as possible in the first instance, and I believe in appealing them in the Federal system to a court as close to the people in the first instance.

Make no bones about it: All we are doing here is saying that some people do not like how the circuit courts have ruled on matters of national interest. So we are saying, "Let's bring it all here to Washington, where it's nice and convenient." For whom? For the Federal Government.

What have the people of America been saying? They do not want to accommodate the Federal Government. They want to be accommodated for a change. These cases should be heard in the circuit courts. The ultimate decider is the U.S. Supreme Court. Whether it comes from this district court on appeal or the circuit court for New Mexico or the one in the South, the U.S. Supreme Court resolves it.

I, for one, am pleased that the circuit courts disagree and that certiorari is granted and that their diverse views from regions of this country go to the one court. I think that is salutary and healthy.

I say to EPA and the National Government, "If you have got conflicting circuit court cases that make it difficult for you to enforce the law that we passed," I hate to say it this way, but "that is tough, because two very competent courts have apparently ruled differently, and you will just have to, big federal Government, take your chance and wait around for the U.S. Supreme Court to resolve it, and if they do not want to you will just have to live with the confusion created by the interpretation of our law or you will have to ask Congress to clarify the dispute. We are here for that, too."

These contrary decisions we want to get rid of are not incurable. They can be cured by the U.S. Supreme Court or by Congress which passed the law that is now patently interpreted in two different ways.

I am not prepared in a minor matter piecemeal or otherwise to conclude we need one national regulatory appeals court. And if we were, I am not so sure I would want it in Washington, but I am positive I do not want it without knowing more about whether our circuits are functioning properly.

I know I do not want it to be the appeals court here in Washington, D.C. It appears to me there is just as much justification to let it be the circuit court that has California or look at the cases that have been filed and see where most of the constituents come from and choose the one that has had the most cases, and say that circuit will have it.

I would let EPA go to that circuit and let the evidence be construed there.

I know the argument will be that we have done it in the Clean Water Act. I say they have not heard any cases under that. That is a johnny-come-lately, too, to clear up the disputes. The disputes have been cleared up without that jurisdiction in a national circuit court. We have got them cleared up one way or another, and I think we ought to consider very carefully whether now is the time to really create one national circuit court for matters as important as the ones that are going to be heard under the Clean Water Act, vital to business, vital to the consumer. I will trust the circuits out there where the people are, and ultimately trust the Supreme Court or Congress to resolve the disputes far sooner than creating only one court to resolve those appellate disputes.

I thank the Senator from Vermont for yielding.

Mr. STAFFORD. Does the Senator from South Carolina desire some time? I would be glad to yield the Senator 3 minutes?

Mr. THURMOND. Three minutes.

Mr. President, I rise in opposition to this amendment. I would like to be associated with the remarks of the distinguished gentleman from Virginia and the distinguished Senator from New Mexico in what they have had to say on this subject.

I do not know what the purpose is in trying to centralize everything in Washington. Washington has too much centralized here already. We have got too many employees of the Federal Government, and we have got too many other workers here connected with the Government one way or the other, judicial and otherwise.

Mr. President, I do not concede that the judges here have any monopoly on brains, on character, on dedication, or on courage. I do not know why the judges here can decide cases any better than they can in Richmond, Va., or the fourth circuit court of appeals, the circuit in which I live, which has jurisdiction of my State of South Carolina.

I do not know why the judges here can decide cases better than the other circuits throughout the United States.

I think it is a mistake to centralize any more power of any kind in the Capital of the United States. I think we have got to get Government back closer to the people. The closer Government is to the people, the better Government is going to be.

It seems that Congress passes laws every year more and more to bring more power to Washington. We ought to be decentralizing that power. We ought to be sending it back to the States, back to the people where the Constitution put it.

I hope after consideration the Senate will see fit to defeat this amendment.

Mr. STAFFORD. Mr. President, I yield 4 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator from Vermont for yielding this time, and I appreciate the comments made by my colleagues on the committee and in the Senate in opposition to the amendment.

Mr. President, you might have been able to tell from my question addressed to the distinguished senior Senator from New York in regard to the centralization of all national issues in a single circuit court of appeals that that is my ultimate concern, not this particular amendment in this particular act or in this particular way.

I think if anybody brought before this Congress the suggestion that every national issue's appeal from a Federal district court must be heard at a single Federal circuit court in the city of Washington, D.C., that outrageous suggestion would be rejected out of hand. It is an outrageous suggestion.

So rather than try to take a whole bite at once, rather than try to reveal the entire desire to destroy the diversity of the judicial system by forcing a concentration in one area, they will do it piecemeal, a little bit here, a little bit there, a little bit now, a little bit then, and accomplish the same goal over a period of time, something that they would

never dare suggest in one suggestion, in one proposition, before the Senate.

The words have been used that the circuit here has well-recognized prerogatives. What sheer nonsense. Prerogatives? The only powers the circuit has are those given by the Congress of the United States in the enactment of laws and by the rules of the Supreme Court under the laws. Prerogatives? This court has none.

It has been suggested that this court alone has the expertise. What absolute sophistry. Expertise? Is it to be said that the other circuits of the United States lack expertise? Is it to be said that the other circuit judges are not competent, that they are not capable of dealing with these problems of such great magnitude, of such great and national scope and magnitude? What nonsense.

I think this amendment is nothing more or less than the continuing pattern, as my friend from South Carolina indicated, to centralize, to concentrate, to aggrandize the power, to put it all in one place, and that in the clear light must be what is seen. It is a grasp for power to dictate uniformity, to destroy the diversity of the judicial system.

I hope this amendment is rejected. I thank the Senator from Vermont for yielding his time, and I yield back the remainder of my time.

Mr. STAFFORD. I thank the Senator for his remarks.

Mr. President, does the chairman of the committee, the Senator from West Virginia, desire some time?

Mr. RANDOLPH. If convenient.

What is the time remaining?

Mr. STAFFORD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. RANDOLPH. I will take 3 minutes, if I may.

Mr. STAFFORD. I yield 3 minutes to the distinguished chairman of the committee.

Mr. RANDOLPH. I thank the Senator.

Mr. President, I can understand the logic of the able Senator from Massachusetts (Mr. KENNEDY), but it is his logic and I cannot agree with him. I know the earnest manner in which he always presents amendments to the Members of this body, and very often, as the record will indicate, I support him. But there comes a time, and now is another time, when I must oppose the amendment that is before us.

We have been for over two centuries in this country developing a judicial system. The judicial system, with all of its flaws, is certainly a bulwark of the checks and balances within the system of our form of republican government. Not party, I will say to my friend from North Carolina (Mr. HELMS) who looked to me with approval at that point, but it is a republic, of course. We work without regard to party in a partnership at times to keep the erosion which, in this instance, would be moving into the judiciary, frankly, to the distress of the public and the American system of government.

I think one of the strengths of America has always been our diversity. I have felt that. Sometimes even the differences we have are our strengths, and I think it is important always for us to realize that Jefferson told us in other words, but we can speak out today in our own language, that if we straightjacket ourselves in the processes of government, why, we do a disservice.

So we have tried, and I think we have been successful to resolve the legal issues in this country and, by and large, although there are, perhaps, the mistakes and errors and, yes, they do occur, we have done it in an orderly manner, in a fair and equitable way.

So this diversity that I have spoken of and of which I approve means to me in this case that we should not attempt to prejudge decisions or limit the opportunities for the presentation of varying viewpoints.

We have, as the able proponent of the amendment knows——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STAFFORD. Mr. President, I yield 2 more minutes to the distinguished Senator from West Virginia.

Mr. RANDOLPH. We have, as I was beginning to indicate, 11 circuit courts in the United States of America. Each of these units of our court system has a competency to act on the issues, very frankly important issues that we are discussing in this Chamber today.

Also, and this is a further bulwark of our system, the final decision rests with the Supreme Court of the United States but coming to the Supreme Court through the processes of the districts we develop, of course, these matters that must be determined.

So, I have a confidence in the judicial system. I say to my able colleague from Vermont, who is against the amendment, and also my able colleague from North Dakota, Mr. BURDICK, who has spoken as I understand it against the amendment, I do not believe that it is wise, Mr. President, that we vest sole authority in a single circuit court because to do that would advance the development or execution of justice in the country in reverse rather than in a positive way.

I say that I think it is an important subject. We are considering it very carefully. But I do hope that the amendment will be defeated.

Mr. STAFFORD. Mr. President, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. Two minutes remain.

Mr. STAFFORD. I yield to the distinguished Senator for a unanimous-consent request.

Mr. HATCH. Mr. President, I ask unanimous consent that Randy Gruber, of my staff, be accorded the privilege of the floor during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I yield myself the remaining time on this side.

Mr. President, I say to my colleagues that my recollection of the situation in the Committee on the Environment and Public Works with respect to Mr. KENNEDY's amendment is exactly the same as that of the chairman of the committee, Senator RANDOLPH, of West Virginia.

We did discuss it. We did not vote on it. My impression, likewise, was that had it been voted on in the committee it would have been at that point defeated.

I find myself for the first time in a long time, Mr. President, on the opposite side of a discussion from that of my good friend, the distinguished Senator from Massachusetts, the chairman of our subcommittee, Senator MUSKIE, and my very distinguished friend from New York, Senator JAVITS, but that is the way it must be in this case.

In very brief, in conclusion, I agree with the argument that this is not the time to take another step in dismembering the U.S. circuit courts of appeal in this country by bringing another matter to Washington for exclusive determination.

People of this country have been indicating, at least in the opinion of this Senator, that they do not want a further concentration of power in Washington, the Nation's capital, and that through the sections of the country served by the circuit courts of appeal they would prefer to have matters affecting them and their parts of the Nation determined there and taken to Washington only if it is necessary to bring the litigation on to the U.S. Supreme Court.

So I have to find myself opposed to the Kennedy amendment and I hope, Mr. President, that the Senate will defeat it.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes remain to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I address the question of the distinguished Senator from West Virginia, my good friend. He is familiar with James Mooreman, the Acting Assistant Attorney General for Lands and Natural Resources Division; is he not?

Mr. RANDOLPH. Yes, I am familiar with him and know him personally.

Mr. KENNEDY. Is he from West Virginia by any chance?

Mr. RANDOLPH. He is not from West Virginia.

Mr. KENNEDY. He is not from Logan or Mingo or Fayetteville?

Mr. RANDOLPH. Not even from McDowell.

Mr. KENNEDY. Not McDowell. Well, that is all right.

Mr. RANDOLPH. Yes.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia.

This amendment is not an original idea of mine, Mr. President, in terms of trying to bring a sense of justice and fairness and equity in the rather limited area of the application of national standards.

I just remind the Members of this Senate what the Judicial Conference of the United States has stated about the particular provisions of this bill having studied this provision. The Administrative Conference is made up of some of the most distinguished lawyers and jurists in this country, who come from the western parts of the country, the eastern parts of the country, the northern parts

of the country, and the southern parts of the country.

And this is what they have said about the particular provisions of the current Clean Air Act which we are attempting to change:

On the current act the Congress has enacted provisions for judicial review in the Clean Air Act and the Federal Water Pollution Control Act that in some respects are inconsistent, incomplete, ambiguous, and unsound.

That is what the Administrative Conference says, and when we hear the statements and the comments of those here in the Chamber in terms of trying to get equity, fairness, and justice here is the conclusion not only of the Senator from Massachusetts, but of one of the most distinguished groups of lawyers and students of the law, who are concerned about the fairness in the application of national legislation.

It would be interesting, Mr. President, in listening to the comments of some of my colleagues and friends; if they were talking about collecting all legislation and putting it in the district, they would find myself among their lists.

But what we are talking about here are only those applications of national standards. And when you have the national standards where do you have the hearings? Do you have them in Pocatello or do you have them in Salem, Oreg., or do you have them in Ogden, Utah? No. You have them here in Washington, D.C. Hearings on national standards are held here in Washington, D.C.

Hearings on local standards are held in the local communities as it should be. But what we are talking about is an extremely narrow area of specialized administrative law, which is complex, involved, and applicable generally across the country.

Beyond that, Mr. President, one of the very important aspects of this bill is the timeliness of the different provisions of the bill. One of the reasons that we face the furor in the Clean Air Act is because of the confusion and the ambiguity in terms of understanding the provisions of the Clean Air Act, and we come back to Congress time and time again to slip the time limits. One of the most effective parts of this current legislation is the timely application of the different provisions.

Without this amendment of myself and the Senator from New York, or amendments similar to this, you might as well write off those time limitations because you are going to force them to be delayed time and time again.

The complexities in the different jurisdictions of the circuit courts are spelled out in a myriad of different cases that may be appealed or may not be appealed, but in any extent that will leave the law in a state of confusion.

I hope the amendment will be accepted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. Mr. President, will the Senator yield 30 seconds?

Mr. STAFFORD. Mr. President, I yield the Senator 30 seconds.

Mr. STEVENS. I ask unanimous consent that Jon De Vore, my staff member, be granted the privilege of the floor.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, I move that the amendment be laid on the table, and I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The clerk may proceed.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—59

Allen	Ford	Morgan
Baker	Garn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Randolph
Bumpers	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Helms	Stafford
Chiles	Hollings	Stennis
Church	Huddleston	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
DeConcini	Long	Thurmond
Dole	Lugar	Tower
Domenici	Magnuson	Wallop
Eagleton	Matsunaga	Weicker
Eastland	McClure	Young
	Metcalf	Zorinsky

NAYS—36

Abourezk	Haskell	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Heinz	Muskie
Biden	Humphrey	Nelson
Brooke	Inouye	Pell
Case	Jackson	Proxmire
Clark	Javits	Ribicoff
Cranston	Kennedy	Riegle
Culver	Leahy	Sarbanes
Durkin	Mathias	Sasser
Glenn	McGovern	Stevenson
Hart	McIntyre	Williams

NOT VOTING—5

Chafee	Melcher	Sparkman
McClellan	Percy	

So the motion to lay Mr. KENNEDY's amendment on the table was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. STAFFORD. Mr. President, may we have order?

The PRESIDING OFFICER. Will Senators please take their seats.

UNANIMOUS-CONSENT AGREEMENT—S. 926

Mr. CANNON. Mr. President, I ask unanimous consent that notwithstanding the third reading, passage and reconsideration of the vote by which the bill, S. 926, was passed, that the text of the amendment by the Senator from Idaho (Mr. MCCLURE) was agreed to, unprinted amendment No. 723, be corrected to read as follows:

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a)(10) of the Act (2 U.S.C. 438(a)(10)) is amended by inserting at the end thereof the following: "In prescribing such rules and regulations, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules and regulations which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this paragraph.

Mr. President, I may say that this correction was necessary because there were two amendments pending. We acted on one of them and mistakenly the RECORD shows us as acting on the other one. It has been cleared with Senator MCCLURE.

Mr. McCLURE. Will the Senator yield?

Mr. CANNON. I yield.

Mr. McCLURE. I concur completely. Let me say that the confusion was probably engendered by the way in which I transmitted the amendment to the desk. The Senator from Nevada is exactly correct. The RECORD has the amendments reversed.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Without objection, it is so ordered.

Several Senators addressed the Chair.

PRIVILEGES OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Jim Bennett on the clean air conference report, H.R. 6161, be granted privilege of the floor; that Gene Lawrimore on the foreign assistance appropriations, H.R. 7797, be granted privilege of the floor, and John Napier on the Labor-HEW conference report, H.R. 7555, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN WATER ACT OF 1977

The Senate continued with the consideration of the bill S. 1952.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I want to ask a question of the manager of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON. Mr. President, I yield 2 minutes to the Senator from South Dakota.

Mr. ABOUREZK. On the Clean Water Act, I wanted to ask the manager if there is anything in this act which in any way alters the jurisdictional situation on the Indian reservations of the United States.

Mr. ANDERSON. No.

Mr. ABOUREZK. It neither adds nor takes away jurisdiction, whatever the situation might be?

Mr. ANDERSON. That is correct.

UP AMENDMENT NO. 731

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment on behalf of myself and Senator HART. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP), for himself and Mr. HART, proposes unprinted amendment No. 731.

Mr. WALLOP. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, line 21, insert the following:

"Sec. . Section 510 of the Federal Water Pollution Control Act is amended by adding the following:

"Nothing in this Act shall be construed to supersede or abrogate or in any other way affect any authority now vested in any State to establish or operate programs for the allocation of quantities of water within its respective boundaries, or any rights to, or allocations of, quantities of water which have been established pursuant to such programs."

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be granted the privilege of the floor during discussion and vote on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, this is a simple amendment and I shall not take much time on it. I have talked with the managers of the bill on both sides and I believe they will accept it.

The amendment simply states that nothing in the act shall be construed to supersede or abrogate or in any other way, affect any authority now vested in any State to establish or operate programs for the allocation of quantities of water within its respective boundaries, or any rights to or allocations of quantities of water which have been established pursuant to such program.

Mr. President, I compliment the Committee on Environment and Public Works on both sides for the understanding that they have shown to the unique problems of western water law and western water pollution problems. I think the committee's understanding in the case of irrigated agriculture was a splendid example of how people on both sides were able to come to conclusions that are logical and flexible. I thank them for that.

This simply affirms, more or less, the same notion. It is an attempt to recognize the historic allocation rights contained in State constitutions.

It is designed to protect historic rights from mischievous abrogation by those who would use an act, designed solely to protect water quality and wetlands, for other purposes. It does not interfere with the legitimate purposes for which the act was designed.

The amendment speaks only—but significantly—to the rights of States to allocate quantities of their water and to determine priority uses. It recognizes the differences in types of water law across the Nation. It recognizes patterns of use.

When Wyoming became a State and the Congress ratified our Constitution in the Act of Admission, that Constitution stated then and states today, "The water of all natural streams, springs, or lakes or other collections of still water within the boundaries of this State are hereby declared to be the property of the State."

Water quality and interstate movement is an acceptable Federal role and influence. But the States historic rights to allocate quantity, and establish priority of usage remains inviolate because of this amendment. This act remains an act to protect the quality of water and to protect critical wetlands in concert with the various States. In short a responsible Federal role.

Mr. ANDERSON. Mr. President, we accept the amendment.

Mr. WALLOP. I would just like to make two short remarks and I shall be finished.

Mr. STAFFORD. Mr. President, before I yield back what time we have, on behalf of the minority, we also accept this amendment, which is proposed by a very valued member of the Environment and Public Works Committee.

Mr. WALLOP. Mr. President, I thank the distinguished manager. I yield back my time.

Mr. ANDERSON. I yield my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 732

Mr. HASKELL. Mr. President, I ask unanimous consent that I be permitted to offer an amendment to amendment No. 728, which was previously adopted. I ask unanimous consent that I be empowered to offer it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HASKELL. I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes unprinted amendment No. 732 to amendment No. 728.

Mr. HASKELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After the word "project" insert the words "west of the 100th principal meridian."

Mr. HASKELL. The President, this amendment to an amendment applies the amendment previously adopted only to water resources west of the 100th meridian. The distinguished Senator from Arkansas (Mr. BUMPERS) called my attention to a difference in situations between the western part of the country and the other parts of the country. For that reason, I offer this amendment to my amendment.

I understand that the distinguished Senator from Arkansas has cleared this with the managers of the bill. That is my understanding.

Mr. ANDERSON. Mr. President, we have no objection to the amendment.

Mr. STAFFORD. We have no objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HASKELL. I yield back my time.

Mr. STAFFORD. I yield back my time.

I understand that the amendment of the Senator does not apply to Federal projects involving dredging, excavation, channelization, and other modifications of water other than impoundments of water that are specifically authorized by Congress.

Mr. HASKELL. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 733

Mr. BURDICK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) proposes unprinted amendment No. 733.

Mr. BURDICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, after line 2, insert the following:

Sec. . Section 204(a) of the Federal Water Pollution Control Act is amended by adding the following paragraph:

"(7) that the applicant has analyzed the potential recreation and open space opportunities in the design of the proposed treatment works."; and

On page 21, after line 8, insert the following:

Sec. . Section 208(b)(2)(A) of the Federal Water Pollution Control Act is amended by inserting before the semicolon a comma and the following:

"and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including methods and procedures to assure public access to navigable waters for recreation purposes.".

Mr. BURDICK. Mr. President, the Federal Government's water pollution control efforts have, from the beginning, emphasized potential recreation benefits. The goal of swimmable lakes, streams, and rivers is fully embraced in the Federal Water Pollution Control Act. Yet, we have seen little actual implementation of plans to encourage the realization of direct recreation benefits in the design and construction works. For this reason, I am offering minor amendments to the act before us today to require analysis of recreation and open space

potential in the waste treatment planning process and to maximize the public recreation opportunities when they are identified.

One good example of what I am trying to accomplish appears in a letter to the Philadelphia office of the Environmental Protection Agency from the general manager of the Washington Suburban Sanitary Commission; the letter, dated June 24, 1977, described the potential multiple benefits of joint sewer line-bike trail projects.

First, lower administrative and construction costs realized by the employment of a single contractor for both the trail and sewer, rather than separate contractors for each project,

Second, lower overall restoration costs incurred by combining sewer and trail construction activities,

Third, less environmental damage to the stream valley achieved by not having to return for a second time to construct the trail, and

Four, the installation of a trial system serving both recreational and commuter needs and promoting energy conservation. In addition, the WSSC also benefits by using the trails as access roads for inspection and maintenance of the sewer lines.

Imaginative public officials have built tennis courts on top of sewer interceptor lines and have planned open space greenways along shorefronts to provide public access to waters becoming cleaner every day. However, we have only begun to realize the benefits of such planning. As the National Recreation and Park Association pointed out to the committee in a recent letter, these multiple-use examples are the exception rather than the rule. The encouragement of such multiple uses must be strengthened beyond what is provided for in Public Law 92–500 and the executive branch should be directed to actively seek out these multiple benefits. There should be, in my opinion, a relationship between waste water treatment plans and State and local recreation and open space plans. Such legislative action will not only provide additional recreation benefits to citizens in surrounding areas, but will also give the public the greatest benefit for local and Federal tax dollars spent.

The National Recreation and Park Association completed a survey last summer of planners around the country working for park and recreation agencies, 208 water quality planning agencies, and agency recipients of section 201 construction grants. The survey results were supportive of the need for these amendments in that respondents overwhelmingly indicated the desirability of linking recreation benefits to water quality improvement efforts. The theme running through all the responses was that multiple-use design principles must be incorporated into the planning processes from the very beginning. Mr. President, the effect of the amendments I am offering today is to meet that need by requiring the consideration of recreation and open space benefits prior to final approval and grant award for the construction of a treatment works.

Mr. MUSKIE. Mr. President, as I understand the amendments of the Senator from North Dakota, they would encourage the planning of related recreational projects?

Mr. BURDICK. That is correct.

Mr. MUSKIE. Is it fair to conclude that the Senator's amendments would not divert grant money away from the construction of needed treatment works, but rather would force consideration of design modifications by the grantees?

Mr. BURDICK. That is correct.

Mr. MUSKIE. I also understand that under the Senator's amendments, should recreation considerations alter the total cost of a treatment works, such alterations, to be eligible for Federal funding, could not significantly raise the total project cost.

Mr. BURDICK. Yes, that is my intent in offering this amendment.

Mr. MUSKIE. With that understanding, Mr. President, the committee accepts the Senator's amendments.

Mr. BURDICK. In summary, Mr. President, the section 204 amendment requires the addition of one factor to the EPA checkoff list prior to the final approval of a grant. That factor is that the applicant has analyzed the potential recreation opportunities of the proposed treatment works.

The section 208 amendment requires consideration of open space and recreation opportunities in the development of section 208 areawide waste treatment plans.

Mr. ANDERSON. We have no objection, Mr. President.

Mr. STAFFORD. We have no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STAFFORD. All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 734

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes unprinted amendment No. 734.

Mr. GRAVEL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 16, insert the following: and new section (3) and renumber existing sections (3) and (4), as follows:

"(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;"

On page 31, line 22, insert the following: add new section (5) and renumber existing sections (5) and (6), as follows:

"(5) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from non-industrial sources into such treatment works.)

Mr. GRAVEL. Mr. President, I am introducing this minor amendment today to allay some of the fears expressed that my provision for waivers from the requirement of secondary treatment for publicly owned treatment works does not sufficiently address the question of toxics and the problem of proving that water quality violations will not result from any waivers granted.

This amendment is simple, but it should provide reasonable assurances that any waivers granted from secondary treatment requirements will not create environmental problems. My original provision, appearing as section 27, was intended to take care of these concerns. Report language further explains constraints to be placed on an applicant for any waivers, but I am willing to further clarify the statutory language.

The first addition will require an applicant, to the extent practicable, to design and implement a system of monitoring which will show the impact on the environment of any discharges resulting from any waiver granted. This system does not need to be a continuous monitoring system, but must measure impacts at least periodically enough to be a meaningful indication of no water quality violations resulting from the discharge. If adequate systems for monitoring do not exist, it is my intention that some other methods be employed, if feasible, while systems are developed either by the EPA, private labs or universities, in conjunction with municipalities. This is in no way meant to delay the granting of waivers if adequate monitoring systems do not exist at this time.

The second addition requires the applicant to develop a schedule to be used in the applicant's efforts to stop the entrance of toxics into the treatment system from nonindustrial sources, primarily from street runoff. To the extent feasible the schedule should investigate and establish methods to eliminate toxics from other sources to the treatment system. This provision is included to encourage the investigation of eliminating the entrance of toxics from homes and commercial establishments. It is in no way intended to preclude the granting of waivers if it cannot be shown that elimination of toxics from home and commercial users is practicable.

One final thought: my original provision is meant to encourage the improvement of treatment works such that reduction of volume to be treated can occur over time. It is essential that water be conserved. This is why my provision allows continued Federal funding for things such as infiltration and inflow work. Any other methods of encouraging reduction should be considered, particularly with regard to climatic peculiarities of specific locales. For example, better insulation in cold climates can help reduce the use of water, which is sometimes allowed to flow for long periods of time to prevent pipes from freezing. In addition, municipalities are to be encouraged to develop techniques to recycle and reuse wastes, to the extent practicable.

I think both the majority and minority leaders and the managers of the bill are acquainted with this amendment. I shall not go into any more details.

Mr. ANDERSON. We have no objection.

Mr. STAFFORD. Mr. President, we have no objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STAFFORD. I yield back my time.

Mr. ANDERSON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 735

Mr. GRAVEL. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes unprinted amendment No. 735.

Mr. GRAVEL. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, in line 17, strike out "or" and insert in lieu thereof a comma;

On page 5, in line 17, after "104" insert a comma and the following "or section 113".

Mr. GRAVEL. Mr. President, the amendment in the bill was originally intended to address a problem raised by Senator ANDERSON regarding operating and maintenance costs of demonstration projects conducted by the EPA. It was the purpose to provide local communities with the necessary funds to maintain facilities which were of an innovative nature. Such a project was conducted in two Alaska villages, Emmonak and Wainwright, under section 113 of the existing law. Once the project was completed, it was discovered that the operating and maintenance costs far surpassed that which could be reasonably assumed by the small communities. Currently the EPA is assuming these costs, but there is no assurance the EPA will continue to assume these costs.

This technical amendment would just add to the current amendment those two projects conducted under another section of the act. These projects are of the same nature as those referred to in the amendment to section 105.

I simply would like these projects being considered to have the same consideration that Senator ANDERSON's demonstration projects will. I understand the managers of the bill are favorably disposed.

Mr. ANDERSON. We have no objection.

Mr. STEVENS. Will the Senator yield so I may understand what we are doing? Does this have anything to do with seafood processing plants?

Mr. GRAVEL. No.

If I may answer my colleague, we did include in the RECORD earlier today a colloquy between the Senator from Rhode Island and myself involving seafood processors relative to an understanding we had with the committee earlier. That is the only thing that has been done thus far.

I yield back my time.

The PRESIDING OFFICER. Does the Senator from Vermont yield back his time?

Mr. STAFFORD. On this matter, the Senator from Vermont does.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 736

Mr. DOMENICI. Mr. President, I have an unprinted amendment. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment No. 736.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 6, strike the words "two thousand five hundred", and insert in lieu thereof "three thousand five hundred".

Mr. DOMENICI. Mr. President, this is a simple amendment. There is a provision in the bill for a rural set-aside for alternative systems. It carries a figure of communities having a population of 2,500 or less. My amendment changes that 2,500 to 3,500, thus enlarging the universe against which this set-aside can be applied; thus, in my opinion, minimizing the chance that there would not be projects that could use this set-aside. It makes the availability of projects broader, thus enabling the States to use the set-aside that the Senator from Vermont and the Senator from West Virginia contemplate as a means of promoting an alternate kind of sewer system out in the rural areas.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I have examined the amendment offered by the distinguished and very valued Senator from New Mexico. I think it will improve the bill as the committee wrote it and, for this side of the aisle, I am prepared to accept it.

Mr. DOMENICI. I thank the Senator from Vermont.

Mr. President, let me just say to the Senator from Vermont, I think we all understand that there is a need to promote this alternate kind of system. It is my understanding the Senator, who is the principal sponsor, would be interested in monitoring this on a yearly basis through EPA and then we take another look into them.

Mr. STAFFORD. Yes. The Senator from Vermont would certainly want to see how this works out over the next year and review its success.

Mr. ANDERSON. We have no objection.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, will the Senator yield to me before that?

Mr. DOMENICI. I am delighted to.

Mr. McCLURE. I just want to commend the Senator for the amendment he has offered. I am a strong supporter of the amendment and the program. I think the amendment of the Senator from New Mexico improves the amendment, makes certain it will accomplish what we have in mind for this provision of the bill.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. I yield back the remainder of my time.

Mr. ANDERSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. STEVENS. Will the Senator yield me just enough time to make an inquiry that I think will forestall the need to consider an amendment?

Mr. STAFFORD. I am pleased to yield to the Senator from Alaska whatever time he may need off the bill.

Mr. STEVENS. At the most, 5 minutes.

Mr. STAFFORD. I am happy to yield to the Senator.

Mr. STEVENS. Mr. President, I am concerned about one provision in the report that indicates that the Environmental Protection Agency is to conduct a study that can be completed by January 1978, to ascertain if there is merit in the argument that disposal can be environmentally acceptable, or possibly beneficial in terms of certain seafood processors.

An administrator, I think, will conduct that in most areas within that timeframe, and I certainly am reflecting only the Alaska situation. But in certain Alaskan waters, particularly in the Dutch Harbor area, we have a situation where the dispersal area is required to be a radious of 30 meters from the outfall of the disposal pipe that comes from seafood processors.

Currently, the industry at Dutch Harbor, which is a growing port—as a matter of fact, it is the second largest fish processing port now in the United States—has improved the situation, has extended their outfall lines and we find that the outfalls are terminating on a slope where the radius probably cannot be met. At least, the standard set by the Administrator cannot be met if it is confined to a 30-meter radius.

We believe the dispersal location could be contained in an area equivalent to a circle with a 30-meter radius.

As it comes down the slope, the disposal material slides down and, therefore, it is more dispersed over a broader area from the outfall pipe and, obviously, it cannot flow back uphill as it goes down the slope from the disposal pipe.

I have asked the State of Alaska to conduct a study of what has happened at Finger Bay, which is located in Alaska where the seafood processing industry was previously located, to find what has occurred with regard to the material that was disposed of previously there.

We believe we can show that in Alaskan waters, particularly off the Aleutian Chain, that it is better for the total food chain to have a broader disposal than that contained within a 30-meter radius. Particularly, as I say, it would be better where there are canyons on the ocean floor, that the material can be dispersed down the slopes and, therefore, with the nutrients that come from the discharges—and this is natural fish

waste, it is not an industrial discharge involving any toxicity at all—that the growth of the fish and shellfish can be improved.

Rather than incurring a great deal of extra expenses involved in this process, we would like to have the time extended.

My question to the manager of the bill, with regard to this January 1978, is the committee willing to have any leeway? We think the State study and the EPA study could be conducted if we had an extension of a year involved there. They have just finished a study in 1975, another study in 1976. We feel that with this deadline, what will happen will be that they will just, in effect, rewrite the last study and we will not have a new study in that period of time.

I am hopeful the committee will agree with me that with regard to the study that will be necessary in the area of Dutch Harbor pertaining to the shellfish industry that that deadline of January 1978 can be considered to be January 1979, and that we are talking about a new study with regard to the shellfish industry, not——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is speaking?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate is not in order. Will Senators cease their conversations?

Mr. STEVENS. Mr. President, should I redirect that question to the distinguished Senator, the manager of the bill?

Mr. ANDERSON. I have been listening to two different groups.

Mr. STEVENS. I understand the problem.

Mr. ANDERSON. The staff tells me the clear intent of the study is that on issues the Senator has raised with respect to the question of whether or not they would like to allow an extra year, we would like a little time to consider it.

Mr. STEVENS. My problem is that I do not have anything to amend. I understand the EPA does listen to the committee and it is a very firm date of January 1978.

I would not want to offer an amendment to the bill to, in effect, correct the report.

I am only talking about one location in Alaska that I know of. It is the only one with a critical problem now.

As a matter of fact, both the EPA and the shellfish processing people are in town now working on the definition of the study to be completed.

As I say, I am asking my State to make a related study in Finger Bay which would not be covered by this deadline anyway. But to get that study completed in Finger Bay to show the EPA what actually occurred when the seafood processing industry worked in Finger Bay for a period of years—I believe it was in excess of 4 years.

We now will go back in and show what happened to it at Finger Bay and find whether it is better to have dispersal over a broader area and the depth of it limited, or whether the EPA is correct in limiting the circumference of the disposal area and not to consider at all the depth of the material.

On this incident in Sitka Bay where the disposal piled up year after year after year, we had a chemical reaction underneath it and the bay literally exploded by virtue of coverage there because of the depth of the material.

The EPA seems to be taking us back to the idea that the dispersal should be limited in area on the ocean floor. We take the position it should be as broad as possible on the ocean floor, and we would like the time to prove that to EPA.

But the committee has said, "Get this done by January 1978."

Now, we cannot do it in Dutch Harbor in that time, and EPA is saying to the people in the seafood processing industry at Dutch Harbor that unless they can demonstrate the EPA is wrong, they will have to start barging this material for dispersal out further into the ocean.

This is an area of extreme winds, extreme weather, extreme icing.

We believe that the safety factors of using a barge there, as opposed to using the outfall sewers, are such that we should discourage barging. The industry has indicated that it is willing to extend the outfall pipes but it wants an opportunity to demonstrate to EPA that the radius they currently require—it is a circle with a 30-meter radius—and that the dispersal from any pipe cannot exceed that area on the ocean floor are wrong, particularly where they are dispersing material on a slope, which by nature means that you are limited to half the circle for dispersal area.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MUSKIE. I gather what the Senator is concerned about is that the time allotted for the study will not be sufficient to cover all points in which he is interested.

Mr. STEVENS. That is our point, that it cannot be done properly by the State, by the industry, and by EPA within the time frame of the committee's direction to the EPA.

Mr. MUSKIE. May I recommend this to the Senator: Every member of the committee was puzzled about this whole question of alternatives to secondary treatment for discharges into the oceans, and we all felt the lack of complete knowledge on which to base a policy. If the Senator will address a letter to me—I assume that I will be chairman of the Senate conferees, at least—I will address it specifically and undertake to stretch out the time of the study and even further refine the characteristics of the study, so that we may get into the questions that the Senator has raised, if that will be of help to the Senator.

Mr. STEVENS. My good friend from Maine makes an offer I can hardly refuse, except for the fact that—I do not refuse it yet—the direction of the committee is that the study must be completed by December of 1978.

Is the Senator indicating to me that he thinks perhaps the committee would authorize a letter that would say to the EPA, in effect, with regard to Dutch Harbor, that the deadline can be January of 1979? If the Senator is willing to consider that, I do not think that is an offer we should refuse. I do not have anything to amend.

Mr. MUSKIE. I cannot predict what the House may agree to, but I think that 6 months to a year in addition to what we have allowed is something the House would consider reasonable, and we can talk to each other before then and try to be more precise as to the scope of the study, the characteristics of the study, and the time of the study. I assure the Senator of my cooperation.

I have a similar problem in my State—not as complicated as that of the Senator—and we are all puzzled as to what the best answer is. We all need more information. The Senator's colleague, Senator GRAVEL, has communicated some of the same concerns.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. MUSKIE. I yield.

Mr. GRAVEL. This language in the report is language of Senator CHAFEE's and mine. Based on information we now have, we ask that the report be changed to reflect an extension of an additional 6 months, so that they have a full year to perform this study. I think the representations made by the Senator from Maine to go into more precise definition of this study will be helpful. I certainly want to go on record now that the study would include Dutch Harbor as one of the areas in question.

However, the area that will rise as a difficulty will be the period from June 30, and I presume my colleague would join me in extending it in the report language to June 30.

Mr. MUSKIE. Yes.

Mr. GRAVEL. That would not require an amendment. I think this is sufficient to do that. But the time element between then and the end of October, when EPA would be constrained under the law to force these people if they chose to barge, might pose a problem. The companies in question tell me that the leadtime to get the barges and to do this, if they are compelled to do this, might pose a problem.

I think we could focus on that in conference and have the staff go into that. We have been communicating with EPA on it, and we are assured that we are in a good holding pattern with what we have right now, and the next step is the conference and working with the staff to resolve it at a later time.

Mr. MUSKIE. I will work with both Senators from Alaska to try to accommodate the need for the study and the expedition of the matter, but not so much that the job does not get done.

Mr. STEVENS. I appreciate the comment of the Senator from Maine and of my colleague from Alaska.

My problem is that this fishing season is a winter season.

Mr. MUSKIE. I understand that.

Mr. STEVENS. To put the industry in a position of studying the dispersal at a time when the studies cannot be made is wrong. If this is due, it should be due at the end of the next season, which would be January of 1979.

It seems to me that we should have the ability to demonstrate to EPA our Alaska feeling that the broadest possible dispersal from a fixed pipe is much better

than trying the barges on the Aleutian chain. But that is going to take some time.

I am willing to accept the offer of both Senators with respect to their assistance, because I think we are working for the same purpose. I assume that in conference, the conference committee could modify this January 1978 provision in the conference report.

Mr. MUSKIE. I have no doubt about that.

Mr. STEVENS. On that basis, that will be my plea to the Senator, that he consider that. An amendment would not lie to change this. That would raise a ruckus here that is not necessary over this issue.

With the Senator's assurance that he is willing to consider it, I appreciate the cooperation of the Senator from Maine, and I thank the Senator from Vermont for yielding time. I am grateful for the Senators' consideration.

Mr. DOMENICI. Mr. President, will the Senator from Vermont yield me 3 minutes?

Mr. STAFFORD. Mr. President, I am glad to yield 5 minutes on the bill to the distinguised Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if I may get the attention of the Senator from Maine for a question.

While the Senator from Maine is returning to his desk, I want to spend a few moments discussing the user fee section of the bill. Specifically, I say to the Senator from Maine that on page 27 of the report there is a discussion under the general topic of metering with which I find no fault. It discusses what happened in our committee.

Incidentally, historically we would say that the Senator from Maine had an amendment that was adopted, indicating that metering was not a necessary approach to establish user fees; and then the junior Senator from New York, joined by the Senator from New Mexico, amended the amendment that the Senator from Maine offered, and further clarified that ad valorem taxes could be used under certain circumstances to defray the requirements of our bill that there be user fees. I just want to ask one very specific question about that.

In the last paragraph, it reads:

> Greater flexibility will be provided for the assessment of user charges among residential users. The community may use water meters, sewer meters, flat rates—

Which was one of the conclusions we had arrived at—

> or ad valorem taxes, so long as the basic requirement of proportionality in the distribution of costs among each recipient of waste treatment services is assured.

I say to the Senator from Maine that I believe that the thrust of the Moynihan-Domenici amendment permitting ad valorem taxes would be totally lost unless the word "proportionality" there means no more proportionality is required than is required of a flat fee. Otherwise, I think we are back to requiring that ad valorem taxes be either as accurate as metering or some other technique that I do not think we intended nor the committee intended in permitting ad valorems and their set-aside for O&M internally in a community.

Will the Senator discuss that with me?

Mr. MUSKIE. Let me say to the Senator that the phrase "flat fee" is subject to the same ambiguity that the Senator attributes to the word "proportionality."

By flat fee, I take it from my recollection of our discussion in committee, that the Senator did not mean that every person in the community shall be charged the same rate. You can have classes of flat rates.

Mr. DOMENICI. That is correct.

Mr. MUSKIE. And those classes of flat rates can be geared to the best evaluation that one can make of proportional use of the water upon which the sewage discharge volume is based.

Mr. DOMENICI. In the judgment of the community.

Mr. MUSKIE. In the judgment of the community.

Mr. DOMENICI. Correct.

Mr. MUSKIE. So proportionality in terms of the committee amendment means the same thing it means with respect to flat rate. We do not mean everybody is charged the same rate. The community is free to take into account the size of the household, the size of the residence, the number of facilities which draw upon water and which discharge sewage. In other words, you can classify residences upon the basis of objective tests that can be fair, that can be legitimate and that can be justified. But that is something different from the kind of precise metering of each household's use that metering implies.

I do not really think the Senator and I are apart, although our rhetoric in committee sometimes suggests we are further apart than we really are. But I think when the Senator talks about flat rate he is talking about the same thing I am talking about when I am talking about proportionality—that there must be a rational basis for distributing the costs of the system based upon some objective tests of the uses imposed or the burden imposed on the system by the users.

Mr. DOMENICI. I just want to clarify in establishing these kinds of classes, all I want to be sure of is, that they need not do it on the precise basis of consumption nor need there be a different fee for each house. It can be some general scheme that lends itself to the conclusion discussed in this report.

Mr. MUSKIE. I agree with the Senator.

May I commend to the Senator my rather extensive discussion of this subject in my prepared presentation this morning, which was at such an early hour that I would not expect anybody except the floor manager to be present. I think he will find that discussion to be consistent with this informal colloquy we have just had.

Mr. DOMENICI. I thank the Senator.

Mr. MUSKIE. I appreciate the Senator's raising the question because it is going to continue to be controversial, going to continue to be subject to interpretation. What we want to do in this is to establish some aura of certainty about what it is the committee and Congress desire, and I think the Senator's question and colloquy may have contributed to that.

Mr. DOMENICI. We also clearly intended to allow the local community as much flexibility and exercise of its own judgment with reference to the assurance we seek from them.

Mr. MUSKIE. That is exactly right.

Mr. DOMENICI. I thank the Senator.

ADDITIONAL STATEMENTS SUBMITTED

Mr. ALLEN. Mr. President, I applaud the committee's recognition in S. 1952 that everyday minor drainage activities for the production of food and forest products are worthy of an exemption from permit requirements under section 404. As I read the report of the committee I am confused, however. The report states that—

> The exemption for minor drainage is intended to deal with situations such as drainage in Northwestern forests or other upland areas. The exemption for minor drainage does not apply to the drainage of swampland or other wetlands.

In my State we have many lowland forests, both hardwood and pine, that may at times contain excess moisture. These are not wetlands as that term is normally thought of in connection with the legitimate and specific concerns of the environmentalists. Instead, they are lands that are normally used for the production of wood products which may, under some circumstances, require minor surface drainage. This drainage is done usually with small ditches, to insure satisfactory establishment of the next tree crop—that is, to practice good forest management—after a timber harvest. It is important that this type of activity is included in the exemption.

To do otherwise is to legislate against good forest management. Most of the lowland hardwood forests in my State are wet because they have excess soil moisture and a high water table at certain times of the year. This minor surface drainage is necessary to insure proper reforestation and growing conditions for the Nation's important hardwood timber resources. It is not used to convert the site to a different land use, nor is it a threat to other forest values.

Minor drainage is a normal management practice in all crop production on lands that have excessive soil moisture. It is essential to achieve optimum productivity of our important farm, ranch, and forest resources. Minor drainage removes the excess soil moisture that otherwise would drown out newly planted crops or impede good plant growth. For instance, in 1975 more than 150 million acres of lands in farm and ranch production and 92 million acres of productive forest lands had problems with excess soil water.

The wet crop and forest lands which are generally lowland or flood plain areas that fall under the corps 404 jurisdiction are where the exclusion of minor drainage is needed. It serves no purpose whatsoever to exclude activities on upland or other areas that do not fall within the scope of the section 404 permit program, as the committee report would seem to indicate, I trust then, that it is actually the committee's intent to exclude minor drainage activities on those lands such as I have described which are used for the production of food, fiber, and forest products. Am I correct?

Mr. MUSKIE. Mr. President, the drainage exemption is very clearly intended to put to rest, once and for all, the fears that permits are required for draining poorly drained farm or forest land, of which millions of acres exist. No permits are required for such drainage. Permits are required only where ditches or channels are dredged in a swamp, marsh, bog, or other truly aquatic area.

Mr. DOLE. Mr. President, among the examples of normal farming, ranching, and forestry activities which would be excluded from the 404 program under section 49 of the bill, reference is made to minor drainage. The committee report indicates an intention to limit the definition of minor drainage to the construction of drainage facilities in upland areas and in northwestern forests. The effect of the report language negates the exemption for farm and forest drainage facilities because the permit program is not applicable to upland areas in the first place.

This does not make sense for another reason. Construction of minor drainage facilities is just as typical a farming and forestry practice in the Midwest, the South, and the East.

I agree that the construction of major canals and waterways designed to modify significantly or to drain an entire swamp or marshland should not fall within the category of "minor drainage." On the other hand ditching, tiling, and the construction of related facilities for the removal of excess soil moisture incidental to planting, protecting, or harvesting crops or to improve the productivity of land devoted to agriculture, silviculture, or ranching does indeed constitute normal farming or forestry practice and is not significant in terms of water quality impact.

I should like to ask the managers whether in the event one or two farmers got together and dug small ditches or installed tiling in order to drain a low-lying area of their adjoining farmlands to improve the production of crops, would they have to obtain a permit from the Corps of Engineers?

Wetlands are defined by Corps of Engineers regulations as areas periodically inundated with water and characterized by aquatic vegetation. So, theoretically, any standing water in a field where cattails, or other weeds have grown up around it, would require a license from the corps to drain.

Mr. MUSKIE. Mr. President, I would first like to respond to your statement regarding the corps regulations. The corps definition requires a prevalence of aquatic vegetation and is intended to describe only the true swamps and marshes that are part of the aquatic ecosystem.

The type of draining you have described in many cases would not require a permit since the drainage could be performed without discharging dredged or fill material in water, or would occur in areas that are not true marshes or swamps intended to be protected by section 404.

PROJECTS ELIGIBLE FOR FEDERAL FUNDS

Mr. MOYNIHAN. I would like to ask a question with regard to section 22 of S. 1952, which amends section 211 of the Federal Water Pollution Control Act. The proposed amendment would limit the range of projects that are eligible for Federal funding. It is my understanding that the rehabilitation of a collector sewer system subject to excessive infiltration would continue to be eligible for Federal funds available under the construction grant program of the act. Is my understanding correct, Senator?

Mr. MUSKIE. Yes, the Senator from New York is correct in his interpretation of the proposed modification of section 211. In the case of sewage collecting systems, subject to excessive infiltration, the rehabilitation must be necessary for the total performance and integrity of the waste treatment works. The rehabilitation must also be the most cost-effective alternative for the elimination of the excessive infiltration.

Mr. President, during the markup of S. 1952, this committee included an amendment providing for cost sharing with farmers through the Soil Conservation Service to help them bring their land into compliance with the intent of section 208 of the Clean Water Act.

This amendment is similar in intent and objective to S. 1280, a bill by Mr. CLARK of Iowa.

Mr. CLARK's bill was referred to the Committee on Agriculture, Nutrition, and Forestry. The conservation operations programs of the U.S. Department of Agriculture are under the jurisdiction of the Committee on Agriculture, Nutrition, and Forestry.

I have been informed by Mr. CLARK that in the interest of expediting this essential legislation, the Committee on Agriculture, Nutrition, and Forestry has chosen not to delay its completion by debating the jurisdiction over this amendment, for which we are grateful to the members of that committee.

As you may know, the Committee on Environment and Public Works is concerned about the effect of nonpoint source pollution on water quality. The Environmental Pollution Subcommittee conducted field hearings in Iowa, Minnesota, and Colorado and in Washington this year on section 208 and nonprofit source problems.

But in the interest of fairness to Mr. CLARK and the other committee, I did want to make it clear that the Agriculture Committee has held two sets of hearings on S. 1286. We are grateful for their work on behalf of water quality and also for their cooperation in this matter.

The Committee on Environment and Public Works recognizes the jurisdiction of the Committee on Agriculture, Nutrition, and Forestry over most of the Soil Conservation Service responsibilities, as I am sure the Senator from Iowa recognizes the jurisdiction of the Committee on Environment and Public Works over environmental legislation.

The Committee on Environment and Public Works does not in any way intend to usurp the jurisdiction of the Agriculture Committee. We chose to use the Soil Conservation Service to get at the difficult problem of pollution from farm runoff to avoid creating a new agency and a new bureaucracy.

We know the Soil Conservation Service is experienced in doing this work and we know the farmers have confidence in the Soil Conservation Service.

INDUSTRIAL DEADLINES AND THERMAL EFFLUENTS

Mr. MOYNIHAN. I would like to ask the Senator from Maine a question with regard to the bill S. 1952. Section 309 of the Federal Water Pollution Control Act is amended by section 38 of S. 1952 to deal with those industrial dischargers that are not in compliance with the July 1, 1977 deadline.

It is my understanding that new subsection (5) of section 309(a) gives the administration of the Environmental Protection Agency several options for dealing with noncomplying industrial sources. New paragraph (A) instructs the Administrator to require compliance within 30 days in the case of an interim compliance schedule and, in the case of a final deadline, the Administrator has the authority to require compliance within a time determined by the Administrator to be reasonable.

It is also my understanding that new paragraph (B) of new subsection (5) relates to those industrial sources which are subject to permit restrictions under section 402 of the act. In such cases, the Administrator has the authority to grant an extension to the July 1, 1977 deadline which will require compliance by a date no later than January 1, 1979.

My primary concern, for the moment, is the thermal effluent from steam electric powerplants and the way in which amended section 309 will deal with such a discharge. The treatment of thermal discharges presents a special problem because of important economic and energy considerations. It costs $60 to $100 million to retrofit a cooling tower on a single powerplant. In addition, it can take 24 or more months to complete the construction, at time during which the plant must be removed from operation for 6 months. This has implications for the reliability of the impacted electrical system.

In the New York City area there are six powerplants, without cooling towers: Indian Point in Westchester County, Roseton in Dutchess County, and Bowline in Rockland County. These plants represent a significant portion of the electrical generating capacity of the region. Closing these plants simultaneously would seriously impact the ability of the local electric utilities to reliably supply energy.

The installation of cooling towers also results in a reduction of the power output from electrical generators. If cooling towers were retrofit on the six power plants mentioned above, the cost to New York residents to replace the lost capacity with an energy equivalent of oil would be $840 million per year.

The Federal Water Pollution Control Act recognizes the special nature of thermal effluents from powerplants by providing under section 316(a) for possible waivers from thermal effluent limitations. Several powerplants, including those that I have mentioned in the New York City area, are under study for possible exemption under section 316(a). Strictly speaking, these powerplants are not in compliance; so the question arises as to

how the administrator will deal with such noncomplying sources.

It is my understanding that the Environmental Protection Agency will deal with thermal effluents from powerplants under new paragraph (A) of section 309 (a)(5). That is, if a 316(a) study finds that a powerplant must comply with an effluent limitation, then the administration will require compliance within a reasonable amount of time. Furthermore, new paragraph (B) will not apply to thermal effluents from powerplants.

Is my interpretation correct, Senator?

Mr. MUSKIE. The Senator is correct in his interpretation of section 38 of S. 1952. I would, however, clarify the interpretation of section 316(a) of the Federal Water Pollution Control Act.

The Senator from New York is correct in his statement that section 316(a) provides possible waivers for federally promulgated thermal effluents limitation. In fact, this was the only waiver provision from effluent limitations required by those amendments. The intent was to allow for a limited number of waivers for federally promulgated thermal effluent limitations if the source could show that those effluent limitations are more stringent than necessary to assure protection and propagation of balanced indigenous populations of shellfish, fish, and wildlife in and on the body of water into which the discharge is made.

Another misunderstanding seems to exist with respect to section 316(a), in that the provision does not preempt State water quality standards or effluent limits for heat. With regard to all pollutants, including heat, the Act allows the States to establish standards that are more stringent than Federal standards.

The result of the delays in treating thermal effluents under section 316(a) is that today heat is an unregulated pollutant. It is the intent of the law, and my hope, that the Administrator will expedite pending 316(a) proceedings so that thermal effluent limitations may be established and so that the job of treating this pollutant can proceed.

Mr. CRANSTON. Mr. President, I want to commend the manager of the bill for his outstanding work in bringing this important measure to the floor prior to the August recess. Since June 1, the Senate Environment and Public Works Committee conducted 15 days of public hearings on the Federal Water Pollution Control program and spent 2 weeks of intensive markup sessions to complete its action on the bill.

I strongly support the Clean Water Act of 1977 as reported by the Senate Environment and Public Works Committee. The committee bill authorizes an additional $26.5 billion for the construction of municipal sewage treatment plants, extends authorizations for the Environmental Protection Agency's water cleanup programs, and makes a number of changes and refinements in the 1972 Clean Water Act based on our last 5 years of experience with the water pollution program. I am particularly pleased to see the committee's modification of the 1972 Act with regard to the secondary treatment requirements for existing publicly owned treatment plants which discharge wastes into marine waters.

I know that the Senate Environment and Public Works Committee heard from many of my constituents, California coastal cities and counties, questioning the need for costly secondary treatment for those municipalities who discharge into ocean waters. I greatly appreciate the committee's taking their testimony into account.

California has had considerable experience with discharges of municipal wastewater into deep ocean waters, and numerous scientific studies have been made of the performance of existing systems in the State. To date no evidence has been developed to demonstrate the need for secondary treatment to treat biological oxygen demand—BOD—in such deep ocean discharges. On the contrary, environmental scientists, engineers, municipal officials, and California State agencies have all concluded that BOD is not a significant pollutant when discharged through deep ocean outfalls into ocean waters.

However, under the Federal Water Pollution Control Act of 1972, all municipalities including ocean dischargers must go to secondary treatment this year. If left unchanged, this secondary treatment requirement would have resulted in large expenditures in instances where there is no measurable water quality benefit. The California Water Resources Control Board estimates that capital costs to construct marine waste disposal treatment systems in California would be $454 million to meet State ocean plan requirements, but would increase to $899 million under the 1972 Federal BOD requirement for major municipal dischargers. In addition, operation costs would almost double.

I am convinced that the best method to solve the sewage treatment problems of a city discharging into marine waters is not necessarily the best method to solve the problems of other cities situated differently in the United States. I believe the administrator of the Environmental Protection Agency should have the authority to waive the secondary treatment requirement for cities discharging into marine waters if certain requirements are met, such as demonstrating that the discharge would not affect drinking water supplies or interfere with the achievement of national water quality standards. I understand that the committee's bill amends section 301 of the 1972 Clean Water Act to give the administrator of EPA this flexibility, and grant waivers for secondary treatment on a case-by-case basis.

Mr. MUSKIE. I thank the senior Senator from California for his comments. He is correct that the bill before us grants the Administrator of EPA the authority to waive the secondary treatment requirement for existing municipal treatment plants under specific conditions. The provision is designed to provide an opportunity for communities in California and elsewhere as the Senator from California mentioned.

To make a case for something other than secondary treatment, I would hope the result of this flexibility would be a greater emphasis on reclamation and recycling of wastes rather than continued discharge of freshwater and nutrients to the oceans.

I would like also to emphasize as I did in my colloquy with Senator JACKSON, that while this amendment provides relief for the discharge of conventional pollutants, the provision is not intended to in any way relax the overall objective for publicly owned treatment works to achieve recycling of water and confined and contained disposal of pollutants. It is expected, therefore, that Seattle METRO and others qualifying for the provision will, as part of permit conditions, apply research and development resources to continue to develop systems which will achieve these objectives.

Mr. CRANSTON. I am delighted that this is the case. I had intended to offer an amendment on the floor to give the administrator of EPA flexibility with regards to ocean dischargers had this problem not been taken care of in committee. I again thank the senior Senator from Maine for his good work and his assistance in resolving this problem.

EXPEDITED DREDGE AND FILL PERMITS BY SECRETARY OF THE ARMY

Mr. MATHIAS. Mr. President, harbor dredging and filling activities are essential to maintain the flow of commerce into and out of our Nation's ports. A major problem facing the port authorities around the country is the long delay they experience in securing U.S. Army Corps of Engineers permits for these vital harbor activities.

For example, Baltimore Harbor recently suffered through a delay of 3 years to gain a permit for a minor 5 acre filling project. And it took 5 years to obtain a permit for a diked disposal area vital to maintenance and new dredging activities in Baltimore Harbor.

The lengthy permit process resulted in higher dredging and construction costs to both the State and Federal Governments. The bill before us attempts to deal with this time delay problem by encouraging, to the maximum extent practicable, that decisions on permits be made within 75 days after a public notice is issued.

I wholeheartedly concur with this proviso and hope that it will spur the Corps of Engineers and the agencies with which it must consult to adhere to a time certain for reaching decisions on section 404 dredge and fill permits.

The problem of long delays experienced in securing dredging and filling permits was recently discussed in a publication of the U.S. Department of Commerce entitled, "Untangling Dredging Regulations." The Department of Commerce concluded that:

> Shortening the time required for permit approval is the most beneficial of dredging regulation reforms.

Unquestionably, a certain amount of time is necessary to prepare environmental analyses, conduct public hearings and complete technical work on major dredge and fill applications. Presently, Corps of Engineers' decisions on appropriate levels of environmental analysis and public hearings requirements are performed or decided at the District level. Typically, for example, a staff of environmental specialists in the district office

prepares environmental assessments or environmental impact statements. By shortening the decisionmaking time frame at higher levels, we are merely forcing positive or negative decisions in a timely fashion based on information already prepared at the district level.

Upper level decisionmaking or review presently operates in an adjudicatory fashion without additional analysis being performed.

A look at the way this "bucking" process works illustrates the need for the time proviso in this bill. For example, if another Government agency objects to the application, the Corps of Engineers sends the application from the district level office to the divisional office; then to the Chief of Army Engineers, and ultimately to the Secretary of the Army. The Department of Commerce study indicates that this process gives the objecting agency an indirect "veto power" because of the very long delays that occur when a proposed project must go to the Secretary of the Army for approval.

The Corps of Engineers' division office, the Chief Engineer's office, and the Secretary of the Army only decide one way or another on a permit application which has received adverse comment. No additional environmental analysis is undertaken, nor is any other substantive technical work performed. Yet, months and even years of delay can occur while a decision is debated at higher levels. This potential for delay exists simply because there is no time limit for the final decision.

The bill before us would expedite the decisionmaking process on section 404 dredge and fill permits by setting a time certain for those decisions whenever possible.

This approach is similar to that of the Deepwater Port Act, which requires the Secretary of Transportation to approve or disapprove a proposed deepwater port site within 90 days after the last public hearing.

I ask my colleague from Vermont if the facts that I have outlined here concerning the bill's provisions for timely decisions on 404 permits are correct?

Mr. STAFFORD. Mr. President, I am pleased to report to my good friend, the distinguished Senator from Maryland: First, the committee amendment requires the corps to issue the public notice on every permit within 15 days of receipt of a completed permit application; second, the committee amendment directs all Federal agencies involved in the permit review process to speed up their coordination procedures with the goal of issuing permits within 75 days of the public notice.

The committee is concerned with the delays that some have experienced on getting decisions on their permit applications. Several approaches were considered to address this problem.

In some of the cases where delays have been excessive, the committee found that the cases were extremely controversial and the modifications of the water resources extensive. At the same time, the committee discovered that some of these cases were also delayed by disagreements between Federal agencies involved or the review of a particular project, and that these disagreements resulted in a "paralysis analysis" between these agencies.

The committee's amendment corrects this situation.

It should also be noted that the corps has just published revisions to its regulation that will streamline the review process and much of this unneeded delay in the processing.

I believe these two approaches will respond to this problem.

Mr. MOYNIHAN. Mr. President, the Committee on Environment and Public Works has today reported a bill which amends the Federal Water Pollution Control Act. These are fair and sensible amendments, which deal successfully with several issues of greatest complexity. It is particularly pleasing to me that the committee was able to strike a balance between environmental protection and economic growth, and that it recognized and attempted to resolve the local administrative problems that the 1972 laws had created. I would like to take this opportunity to elaborate on several sections of the bill to demonstrate these points.

ENVIRONMENT AND THE ECONOMY

Environmental and economic objectives conflict because environmental protection costs money—lots of it—and because environmental legislation constrains economic activity. These are facts of life which imply that one can achieve improved environmental quality only if one is willing to make some sacrifices. This tradeoff is of particular significance for large urban areas which, independent of any environmental constraints that the Federal Government chooses to place on them, face economic distress. The Committee on Environment and Public Works demonstrated admirable sensitivity to this issue in making its "mid-course corrections" to the 1972 Clean Water Amendments.

One of the major issues that the committee took up is the 1983 requirement for "best available technology"—the next round of water pollution abatement alternatives. The enormous expense of treating the next few percent of pollutants for some industries was brought to the attention of the committee. It was clear that the tradeoff between water quality and the costs of achieving it had to be carefully examined before the next control step was taken. The committee has proposed, therefore, to give the administrator of the Environmental Protection Agency—EPA—the authority to grant a waiver from the 1983 requirements for those dischargers whose treatments costs outweigh the water quality benefits to be gained from the treatment.

In the same spirit, the committee has proposed a provision which gives EPA the authority to grant extensions of the 1977 technology requirement deadline to those industrial dischargers who have acted in good faith in attempting to comply with the deadline. In passing this provision, the committee recognized the effort that the overwhelming majority of the industrial dischargers has put forth in attempting to comply with the deadlines, and that it would have been unnecessarily punitive to penalize those industrial dischargers who failed to comply with the deadline for reasons largely beyond their control.

Sensitivity to economic consequences does not imply that the environmental values of the Nation are to be ignored or abused. The committee demonstrated that it could accommodate valid economic motivations for waivers from environmental controls without abandoning a strong environmental protection program. The committee indicated that it would not tolerate a weakened control program for toxic pollutants. The wetlands program of section 404 of the 1972 act is also intact; the modifications of the program are minor, excluding only incidental agricultural and silvicultural activities from the regulatory program.

The bill that has been reported today, particularly the sections that I have cited, demonstrates that reasonable accommodations can be achieved on the most controversial issues of environmental protection. The actions of the committee, and, I anticipate, of the full Senate, augur well for a balanced approach to environmental protection.

LOCAL ADMINISTRATION OF FEDERAL PROGRAMS

Many large Federal programs necessarily impact localities, usually in ways that are intentional, but occasionally in a manner that was not intended. Such was the case with the 1972 Federal Water Pollution Control Act which, by intent, affected local water quality but, in so doing, presented many local governments with inordinately large administrative burdens. Two aspects of the local administrative burden of the 1972 act—metering and industrial cost recovery—are alleviated by the bill which the committee has reported.

The act requires that localities which receive Federal grants for the construction of a sewage treatment plant must establish a plan for collecting from the users sufficient funds for the proper operation and maintenance of the treatment plant. The 1972 act further required the collection to be based on water metering. Many localities, however, do not have water meters, and others have historically used different mechanisms for collecting operating funds. There are no compelling reasons for the Federal Government to insist on metering. There is no justification for the constraints that the 1972 act places on local governments.

The intent of Congress in 1972 was to insure that adequate funds for sewage treatment would be available. Congress did not want to create local administrative problems, but it did, inadvertently. Accordingly, the committee adopted my amendment which, by permitting other user charge plans, focuses the law on the perceived problem—adequate operating funds—without imposing unreasonable burdens on localities.

The requirement for industrial cost recovery is another provision of the 1972 act that resulted in a large, albeit unintended local administrative burden. The 1972 act requires the recipient of Federal funds to recover and repay that portion of the funds attributable to industrial users of the sewage treatment plant. For the prototypical city of average size,

characterized by a few, large industrial dischargers, the industrial cost recovery provision makes sense. The requirement, however, has caused severe administrative problems in many large, older cities which have many small industries. Industrial cost recovery also creates inequities in those very large cities which have several separate sewage treatment systems. In such urban areas, identical businesses may be required to pay very different amounts due to historical location patterns that have put the businesses in different sewage treatment systems.

The committee reacted to these local problems by adopting amendments that will alleviate the problems without modifying the intent of the 1972 act. Large cities with multiple treatment plants can now consider them as one system for the purpose of industrial cost recovery. This permits an equitable treatment of industrial dischargers.

The committee also adopted an amendment to exempt small businesses from cost recovery. This is a reasonable modification that recognizes the economic problems that small businesses are experiencing. The exemption also avoids the large administrative costs, in many cases greater than the recoverable costs themselves, that are required to collect the capital cost from small dischargers.

The committee has worked hard to improve the Water Pollution Act. A reduction in administrative complexity while providing local flexibility without altering the intent of the law constitutes a significant improvement, indeed. Streamlined Federal legislation which is easier to implement at the local level is an admirable goal that we have achieved with this bill and that we should attempt to attain in other legislative areas.

Mr. INOUYE. Mr. President, I wish to heartily commend the leadership of the Committee on Environment and Public Works for their most comprehensive review of our Nation's water pollution control program and especially for their sensitivity for responding to the unique needs of the State of Hawaii.

I understand that one of the recommended modifications proposed by the committee's Clean Water Act would permit a case-by-case waiver of the secondary treatment requirements for coastal communities which discharge wastes into areas with strong tidal action. A series of conditions are included to assure that the waiver is only available for discharges that will not interfere with the attainment or maintenance of water quality which assures protection of public water supplies and propagation of a balanced population of shellfish, fish and wildlife, and allows recreational activities, in and on the water.

Since 1973, the committee has been considering the plight of Hawaii, Guam, American Samoa and the Trust Territories of the Pacific's truly unique ecological composition and the expected adverse consequences that a strict enforcement of the secondary sewage treatment requirements would have on our ecology, coral, fishlife, et cetera. Hawaii State agencies, in conjunction with local environmental groups and the University of Hawaii, have reviewed the probable impact of deep ocean outfall off Hawaii and concluded that no deleterious effects on the receiving environment would result. A detailed study also reported that discharges with less than secondary treatment would probably provide a beneficial effect due to the availability of organic nutrients to zooplankton.

On March 18, 1974, the Subcommittee on Environmental Pollution, Senate Committee on Public Works, held extensive hearings in Honolulu on this very matter.

Accordingly, I am most pleased to see that this issue of extreme importance to the Pacific Basin area has been specifically addressed in the committee's bill and that the administration will have the authority to make those case-by-case exemptions that are deemed appropriate.

COLLOQUY

Mr. JACKSON. Would the Senator yield?

Mr. MUSKIE. I am happy to yield to the junior Senator from Washington State.

Mr. JACKSON. I was very pleased to note that the Environment and Public Works Committee addressed the important question of modifications to secondary treatment requirements, especially as it relates to discharges into marine waters.

As the Senator from Maine knows so well, Senator MAGNUSON and I have long felt that action needs to be taken to relieve Seattle Metro of the burden of moving to secondary treatment of their four treatment facilities which discharge into deep, saline waters of Puget Sound.

While there is no argument as to Seattle Metro's intent to maintain our water quality in accordance with the fishable, swimmable goals of Public Law 92–500, neither do they want to be slapped with a potential bill of $150 million—the costs of moving the secondary treatment—without there being some significant benefit in water quality. Extensive studies conducted over the last several years have suggested that the existing discharges of conventional described pollutants have no adverse impact upon water quality in the Puget Sound.

It is my understanding that to be eligible for a waiver of the secondary treatment requirements, the Administrator of EPA must make a determination that Seattle Metro meets the six stringent requirements outlined in the bill we are considering today. At a recent hearing in Seattle on June 6, and in many previously printed reports, the Metro people have put forth evidence that they should be able to satisfy these criteria.

My question to the Senator is, does the committee intend that the central basin of Puget Sound be included within the committee's definition of "marine waters"?

Mr. MUSKIE. The answer is "Yes." In fact, it was the specific instance of Seattle which prompted the committee to address the secondary treatment question. As the Senator realizes, the Administrator of EPA is responsible for defining "marine waters" in those hydrological and geological characteristics necessary to insure that the modified secondary treatment requirements would not jeopardize the goal of attaining and maintaining water quality which will provide for the protection of public water supplies and the protection of the propagation of fish, shellfish, and wildlife, and allow recreation, in and on the water. I think it is clear that the extensive research done by Seattle Metro and other west coast dischargers will assist the Administrator in defining those characteristics.

I would like to emphasize that while this amendment provides relief for the discharge of conventional pollutants, the provision is not intended to in any way relax the overall objective for publicly owned treatment works to achieve recycling of water and confined and contained disposal of pollutants. It is expected, therefore, that Seattle Metro and others qualifying for the provision will, as part of permit conditions, apply research and development resources to continue to develop systems which will achieve these objectives.

Mr. JACKSON. I wish to thank the Senator and indicate that his answers are consistent with my understanding of the committee report as well.

Mr. STONE. Mr. President, this year the committee bill provides for delegation of phase 2 and 3 permit authority under section 404 to those States with approved programs for control of discharges for dredged and fill material. As the Senator from Maine knows, my own State of Florida has been a leader in the protection of wetland areas and has established a permit program to control those discharges. Is this the kind of program the committee had in mind when they provided for this delegation?

Mr. MUSKIE. Yes; in fact the committee was impressed by the testimony of Jay Landers, secretary of the Florida Department of Environmental Regulation who requested us to authorize State delegation.

Mr. NUNN. Will the Senator from Maine yield for a few questions to clarify certain provisions of the pending measure?

Mr. MUSKIE. I am delighted to yield to the Senator from Georgia.

Mr. NUNN. I thank the distinguished Senator. It is my understanding that, under this amendment, a State may receive authority to regulate dredge or fill activities in phase II or III areas whether or not it has completed its section 208 planning and had its 208 programs approved. Is that correct?

Mr. MUSKIE. Yes, the Senator understands this correctly.

Mr. NUNN. Therefore, is it true that a State with such authority could issue a general permit for agricultural, silvicultural, mining and other nonpoint source activities described in section 208 before it has obtained approval of its section 208 program?

Mr. MUSKIE. Once again, the Senator is correct. The answer is yes.

Mr. NUNN. I believe that general permits for dredge and fill activities can help eliminate lengthy delay and administrative redtape. However, it is important that such general permits be drafted in a reasonable manner so as not to negate their usefulness. For example, the corps' proposed general permit for mining in Georgia contains a require-

ment that even though an activity is generally permitted, a person wishing to conduct such permitted activity must still give the corps notice 45 days in advance of conducting the activity. The corps then would have an unlimited time to approve or disapprove the activity. Thus, the corps in essence is requiring activities to be individually permitted even though it purports to generally permit the activities. Obviously, this procedure imposes burdensome and potentially lengthy delays which could severely disrupt normal mining activities.

For general permits to be meaningful, it seems to me that once a general permit is obtained, it should authorize activities generally without separate approval being required before undertaking each such permitted activity. Am I correct that the general permits contemplated here are intended to grant permission to conduct activities without such separate approval from the corps or a State each time that activity is to be conducted, or without any more than reasonable notice?

Mr. MUSKIE. Yes; the Senator is correct.

Mr. NUNN. I thank the Senator.

Last month, the corps issued nationwide permits with respect to certain dredge and fill activities. This amendment contemplated such permits, and I assume that your committee thought the activities now permitted in the corps' nationwide permits are within the powers of the corps by these amendments.

Mr. MUSKIE. The committee did not specifically endorse the corps' nationwide permit regulations already issued. The content of such general nationwide permits would be a matter of agency interpretation of the language of this amendment. The bill does, however, grant authority for nationwide permits as contemplated in the recent corps regulations.

Mr. NUNN. I thank the Senator from Maine for his clarification.

Mr. JACKSON. I have another question also related to the marine waters of Washington State, which I would like clarified. Washington has a number of pulp and paper mills which, while taking action to comply with the secondary treatment requirements of Public Law 92–500, are currently in court in an attempt to clarify certain BOD discharge differences between themselves and EPA with regard to secondary treatment. In the committee report there is language authorizing up to an 18 month extension of the 1977 deadline where the administrator finds that the discharger acted in good faith in an attempt to meet the best practicable technology for industrial discharges.

My concern here is the words "good faith," because I do not believe that the committee intended that just because a party or parties are in litigation necessarily serves as prima facie evidence of bad faith. Is it not true that a source could be involved in seeking available administrative or judicial relief from the requirements of this act and still be found by the administrator to be acting in good faith?

Mr. MUSKIE. Certainly, but that is something on which the administrator must make the final determination before providing any extensions.

Mr. JACKSON. The reason I am pursuing this matter is Washington State's Department of Ecology has been working with all of the mills currently in the above-mentioned court case and is now at the point of agreement with five of the six mills in question, and they will install secondary treatment facilities. So that the record will be clear I would request that the Washington Department of Ecology statement of March 1, 1977 on this matter be included in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WASHINGTON DEPARTMENT OF ECOLOGY PUBLIC STATEMENT

Acting D.O.E. director Wesley A. Hunter expressed his disappointment today, March 7, on the decision by the E.P.A. to take legal action against six Pudget Sound area pulp and paper mills. Hunter said, "this is a highly technical issue complicated by legal procedures. The state has been working closely with the industries involved to bring about water quality improvement, and this action may, in fact, delay clean-up. Complicated environmental, technical, economic and legal actions are involved. Added Federal litigation can only confuse and delay.

A major problem is that E.P.A. has delayed almost 2 years after their own deadline in promulgating the national guideline. As a result, industry appeals of the guidelines have extended past the compliance dates in the state's permits.

The D.O.E. has been in litigation with all six of these mills for two years trying to achieve the secondary treatment requirements mandated by Congress. We are now at the point of agreement with five of the six mills in question, and they will install secondary treatment. EPA wants us to impose monetary penalties against these mills because they took appeals which were authorized by law.

The state has been involved with regulating waste discharges with the pulp and paper industry since 1945. In 1972, Congress passed Federal legislation authorizing the EPA to establish national guidelines covering waste discharged from industrial plants. The states were then required to issue waste discharge permits consistent with EPA guidelines.

Mr. CHAFEE. During the markup of the Clean Water Act I requested that the EPA conduct a study to determine whether certain seafood processors could safely dispose of natural wastes resulting from their operation into marine waters in an untreated state. That study is described in the report on page 82. I made the request because of my interest in helping resolve an issue that came before the committee shortly before markup. It is my understanding that several States such as Alaska could be affected. Senator GRAVEL, are there any other items that you had in mind to be included in the study when we discussed this in markup?

Mr. GRAVEL. Yes, in addition to the study of the merits of the case and the environmental effects of disposal without treatment of natural wastes, I would understand the study would cover the costs of providing additional treatment and the benefits to be derived from the additional treatment. Also, the study would include consideration of alternative methods of dispersal, alternative locations for discharging and whether the wastes could economically be used in some other product, such as in the making of fertilizer. Any discussion of costs would of course make reference to the profits of the companies. In discussing the biology of the receiving waters I would think the study would delve into the question of what organisms or other fish or mammal life feed on the wastes and at what rates of consumption. With regard to the hydrological characteristics of the receiving waters I would think the study would discuss among other things the flushing effect of tides and currents. With regard to dispersal of wastes, I would think the study would be incomplete without a thorough analysis of the plausibility and environmental effect of moving the outfall line to eliminate the problem of accumulation of wastes as well as other methods of dispersal.

Mr. CHAFEE. Yes, those are essentially the same things I had contemplated the study would address. Other than EPA and the National Marine Fisheries, I would think that university research groups well versed on the subject should be contacted.

Mr. GRAVEL. I agree. For example, the University of Alaska Institute of Marine Sciences or other universities in the locale of the problem should be asked. In addition, I would think EPA would consult with the industry and the affected State or States.

Mr. CHAFEE. Yes, and any other agencies or individuals whom the EPA felt would be able to contribute constructively to the resolution of the question. Well, I appreciate your thoughts. They are parallel to mine regarding the study. And the Environment and Public Works Committee will receive the results of the study by the first of next year.

Mr. GRAVEL. Yes, that is right. And thank you for your sponsorship of the study which will be helpful to all of us in deciding the question.

THE CONSTRUCTION GRANT FORMULA

Mr. MATHIAS. Mr. President, under the formula proposed in this bill for construction of sewage treatment facilities, Maryland's share of the national pot of money would be reduced by 48 percent. The reason for this is because the category III–B of the SPA Needs Survey has been dropped from the Senate formula for no apparent reason.

I am shocked that this proposed formula change has this effect on my home State as well as several other States. And I would hope my colleagues would see the patent unfairness of this radical difference in the construction grant formula.

Earlier today, we attempted to address this problem by approving an amendment which restricted any State's funds reduction to not more than 25 percent. This partial relief, however, does not address the longer range problem with which many States are faced—a sharp reduction in construction grant funding.

Under category III–B which contains needed major sewer rehabilitation, Maryland's need had totaled 20 percent of the total national needs in this category. The reason my State had such a high share of those needs is because a good deal of the water and sewer systems in Maryland are separate with

wastewater in one system and sewage in the other.

With the exception of New York City and a few other areas of the country, Maryland is unique in this respect. Most States have combined systems.

Much of the sewer system and water system in the Baltimore and Washington, D.C. metropolitan areas is 40 to 60 years old and in need of major rehabilitation. Without category III–B, these systems cannot be repaired and updated. The quality of water in those municipal water supplies will be threatened and economic growth and development will be further stymied due to water and sewer moratoria which the State health department is forced to impose on those areas. For example, in Prince Georges County, the Anacostia drainage basin has been under a building moratorium since 1971 due to its overloaded existing sewage system. This system cannot be upgraded and expanded without funds from this construction grant program.

Under the formula proposed in this bill, my State will experience almost a 50-percent cutback in funding. The State cannot qualify for funds under any other needs category in this formula because of the unique nature of its separate water and sewer systems.

With the funding that will be available, it will take at least 5 years to complete work on one of our highest priority projects—expanded sewer capacity in the Washington metropolitan area. This is but one of 384 projects on Maryland's priority needs list for water and sewer construction.

As a result of this severe curtailment of funds, the Maryland pollution abatement plan, one of the more stringent in the country, will not be able to be implemented. Major rehabilitation projects of sewage treatment plants needed at Back River and the Patapsco River to serve the residents of Metropolitan Baltimore, will have to be put off indefinitely. Meanwhile, those aging plants will continue to deteriorate. We will be unable to update and expand the collector system there. Water quality for the Baltimore region will not improve, and may, in fact, deteriorate.

I would like to cite for my colleagues some of the other projects in Maryland which will have to be scrapped due to this radical formula change. Four towns presently dumping raw sewage into nearby rivers will get no relief. They are Oakland, which dumps its sewage into the Youghiogheny River, and the towns of Lonacoming, Barton, and Midland which dump into Georges Creek.

Three other Maryland towns which have only primary treatment facilities will not be able to move to secondary treatment because of the funds cutback resulting from this Senate formula. They are Aberdeen, Snow Hill, and Chesapeake City.

In Anne Arundel County on the Mayo Peninsula, a sewage treatment plant exists but there is a limited collector system to get the sewage to the plant. We had hoped to remedy that situation using construction grant money.

Mr. President, I have recited this litany of projects which will not come to fruition, to point out to the Senate just how serious the omission of category III–B is. I would hope the Environment and Public Works Committee would see the error in its ways in the formula it has come up with. Or at a very minimum, I would hope that when this bill is taken to conference, the House formula will prevail or the conferees will direct EPA to allow separate water and sewer systems in another needs category.

I thank my colleagues for their attention.

COLLOQUY ON BEST MANAGEMENT PRACTICES

Mr. McCLURE. The committee's bill introduces the term "best management practices" in connection with exempting certain activities from both section 402 and section 404 discharge permit requirements. Since this important term is not defined in either the bill or the committee report, I believe it is important to make the committee's intentions known. The following definition represents the meaning intended for that term is intended by the committe to mean an effective practicable means of preventing or reducing the amount of pollution from the discharge or dredged or fill material that shall be based on problem assessment; examination of alternative abatement practices; public participation; and on technological, economic, and institutional considerations. For areas found by a Governor to require application of BMP programs, the State is encouraged to adopt the most effective approach after consideration of financial incentives, technical assistance and education programs, or regulatory programs.

Mr. MUSKIE. The committee amendment does not define best management practices because it is intended that State agencies involved in the section 404 and 208 programs should be given administrative flexibility to develop practices, techniques, methods and performance standards that can be required to prevent the pollution of the Nation's waters. I believe that your definition reflects primarily the procedure by which such practices can be identified. It is not, however, exhaustive of the factors that should be considered in developing these practies.

Mr. McCLURE. As I understand the bill, until such time as the various States develop best management practices for a program submitted for approval under the new section 208(b)(4)(C), the Corps of Engineers will provide for such activities through general permits under section 404(f). General permits for such activities can be conditioned on compliance with management practices or standards. I believe that in order for a Federal agency to develop a workable set of management practices for application across the Nation to diverse situations, they ought to be stated in simple terms. This will allow easy application of these management practices by landowners of sometimes modest technical and financial means and easy adaptation of these nationwide practies to local conditions so as to optimize their effectiveness in controlling water pollution.

In fact, the Corps of Engineers has already developed a set of management practices by regulation in connection with nationwide permits under the existing section 404. One of those permits concerns the placement of fill material to enable minor road stream crossings. While I do not pass judgment on all those lengthy regulations, I believe that the management practices found at 40 CFR section 323.4(b)(1) through (8), 42 Fed. Reg. 37146 (1977), may satisfy the committee's intention as to the substance of best management practices.

Mr. MUSKIE. The committee amendment intends that, until a State develops best management practices, the Corps of Engineers may prescribe management practices and performance standards through permit conditions in general permits the types of management practices will vary depending on the nature of the pollution problem. I agree that these practices should be stated in simple, understandable terms as they are in the corps regulations. Management practices for minor road stream crossings are certainly appropriate for general permits, and the corps regulations should continue in this regard.

Mr. CHURCH. Mr. President, would the distinguished chairman of the committee yield for a brief colloquy?

Mr. RANDOLPH. I am happy to yield to answer the questions of my able colleague from Idaho.

Mr. CHURCH. As I understand it, section 404(e)(1)(A) as proposed under the committee's bill would exempt normal silviculture activities from the dredge and fill permit requirements.

Mr. RANDOLPH. The Senator is correct.

Mr. CHURCH. On page 77 of the committee report, I noticed that the term "normal silviculture activities" is interpreted as excluding for eastern mixed hardwood forests, "clearcutting of timber or harvesting associated with even-aged management of timber."

Would the diligent Senator from West Virginia agree then, that it is the committee's intention that the term "normal silviculture activities" may include clearcutting or other even-aged management techniques, if those techniques were used on forest lands other than eastern mixed hardwood forests?

Mr. RANDOLPH. Yes, the Senator from Idaho is correct. I know that in the Pacific Northwest, and other parts of the country, clearcutting and similar even-aged management techniques are fairly standardized. It was not the intent of the committee to necessarily require a dredge and fill permit for discharges resulting from such activities, except on the eastern mixed hardwood forests.

Mr. CHURCH. As my good friend from West Virginia is well aware, Congress last year in the National Forest Management Act adopted my guidelines on clearcutting. Those guidelines, which were first developed by the Public Lands Subcommittee back in 1972, and which were endorsed by the major environmental organizations and the forest products industry, have helped lessen the abuses which have occurred from poorly planned clearcuts. These guidelines are now the law of the land, and they should assure that clearcutting can continue to be safely used on the national forests in the West.

Mr. RANDOLPH. The Senator from Idaho has demonstrated a leadership role on this issue, and I certainly appreciate having his thoughts. He knows that I have been an active advocate for selective cutting in many areas of the country.

Mr. CHURCH. I thank the distinguished chairman for yielding on this point and helping us to set forth this clarification.

KIRKWOOD COLLEGE'S ENVIRONMENTAL EDUCATION PROGRAM

Mr. CULVER. Mr. President, the Federal Water Pollution Control Act Amendments of 1972—Public Law 92–500—included an authorization of $250,000 in section 109(b) for financial assistance to States for establishing State centers for training wastewater treatment plant operators. These training centers are to help provide communities with well-qualified personnel for operating and maintaining highly technical and complex municipal treatment systems.

The first training center to be established under this provision was at Kirkwood Community College in Cedar Rapids, Iowa. In 1976, Kirkwood opened the doors of its modern facility constructed with funds from this program, and Iowa communities are eagerly taking advantage of its location in Iowa. Kirkwood's experience with this source of funding and its leadership role in environmental education have, however, highlighted several shortcomings in this section of the law.

The original authorization for this program is simply inadequate to meet the growing costs of constructing a modern, well-equipped State facility for training municipal wastewater treatment operators. The State of Iowa and Kirkwood College, for instance, had to subsidize over $100,000 of the total amount of money needed to establish Iowa's training center, and bids at this facility exceeded the $250,000 authorization by at least 50 percent.

Additional funds will be needed to install such necessary equipment as digesters, sludge drying beds, and analytical devices to complete the center, and these additional items will not be inexpensive. I understand that those other States which are developing State wastewater training centers under section 109(b), such as Maryland, New Mexico, Colorado, and Oklahoma, are having similar difficulties; and the insufficient level of authorization may be a deterrent for participation in some instances.

The $26 billion authorization for sewage treatment construction grants in the legislation before the Senate today strongly reaffirms the commitment of the Federal Government to helping cities and communities fund the sizable public investment in municipal treatment facilities. If we are going to make progress in reducing the discharge of municipal effluents into our rivers and streams, we must have the manpower to run the complicated treatment systems properly. Local officials in Iowa have indicated to me on several occasions the need for well-trained personnel, and it is clear from our experience under this provision of the Clean Water Act that the authorization must be increased in order to let States develop the most up-to-date training facilities. I am gratified that the Committee on Environment and Public Works approved an amendment which I offered to increase the authorization for training grants from $250,000 to $500,000. This new level of funding is prudent and reasonable and will encourage more States to use this source of funding for programs providing individuals with the necessary skills.

The committee also approved a provision in the bill we are now considering which would exempt applications for training grants under section 109(b) from the requirements for applications for municipal treatment construction grants. Presently, the Environmental Protection Agency, EPA, applies to those grant applications for training centers the same procedural conditions, especially State priority listings in section 204, that are now required for municipal treatment grant applications. The training facilities are not intended for "on-line" treatment of municipal discharges and are over and above the regular State allocations for wastewater treatment construction grants. This process has resulted in costly and unnecessary delays at Kirkwood Community College. The committee's amendment remedies this problem by exempting applications for training center grants from the requirements applicable to treatment plants in section 204.

Mr. President, recently the Community & Junior College Journal contained an article about Kirkwood Community College's leadership in the field of environmental education and sewage treatment training. Kirkwood began training treatment plant personnel in 1969, and it has conducted seminars on wastewater treatment for the Department of Defense and the EPA throughout the country and overseas. I believe Kirkwood should be commended for its outstanding role in meeting the growing demand for wastewater plant operators. Iowans are fortunate to have Kirkwood's far-sighted curriculum in environmental science located in our State.

I believe that article from the May 1977 issue of the Community & Junior College Journal fully describes Kirkwood Community College's landmark efforts in environmental studies, and I would like to ask unanimous consent to have it made a part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KIRKWOOD ACCEPTS NEW LABEL AS "THE HARVARD OF THE SEWAGE WORLD"

(By Bill Duffy)

A national radio commentator recently took America's colleges and universities to task for ignoring certain essential training areas because it might tarnish their images. He should visit Kirkwood Community College in Iowa today.

The commentator used the example of sewage treatment technology in his admonition. He said that thousands of waste-water plant technicians will be needed in the coming decade. Nobody was interested in training them, he said, because sewage just isn't one of your basic glamor fields in society.

Kirkwood began training plant operators in 1969, and today the Eastern Iowa school is being praised as a leader in the field of environmental studies as well as water treatment and wastewater plant operator training.

The college used federal and state manpower grants to conduct its first training classes in 1969. In the early 1970's the school was selected by the U.S. Defense Department to sponsor overseas classes in water and wastewater treatment under "Project Transition," designed to provide U.S. GIs with preparation for careers after discharge.

The Environmental Protection Agency selected Kirkwood to conduct a workshop for municipal officials in 1972 at Annapolis, Md. The program was designed to encourage administrative support for water and wastewater plant operator training.

As manpower funds for the training were phased out, Kirkwood added wastewater technology to its own growing curriculum. The school also gained recognition for its training programs for environmental health technicians.

The college has agreements with the city of Cedar Rapids allowing student groups to use the city's facilities for laboratory purposes.

Kirkwood's willingness to take responsibility in wastewater training paid off in 1973 when the U.S. Environmental Protection Agency began doling out construction grants for state training centers for municipal treatment plant operators. Kirkwood received the first of the 50 grants, and in 1976 opened its modern pilot facility for training and upgrading of some 3,000 Iowa plant operators and technicians.

There's a new concern about efficient operation of the plants, which in turn means less pollution for the nation's rivers and streams .

The new image is appealing to different people now. A good example is Richard Marshall, who studied anthropology for three years at a state university before switching to wastewater training at Kirkwood.

"I like mechanical things, I like being outdoors and I like the chance to run my own operation," explains Marshall. He's now the wastewater plant operator for the small town of Mount Vernon, Iowa.

In addition to wastewater technology, Kirkwood offers a full-time curriculum for environmental health assistants. Many graduates are employed by city, county and state agencies.

And how does President Selby Ballantyne feel about his school's image? "Some people are calling us the Harvard of the sewage world, and I'm perfectly happy about that," he said.

FINANCIAL ASSISTANCE FOR REDUCING AGRICULTURAL RUNOFF

Mr. CULVER. Mr. President, the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92–500) represented a fundamental shift in our Nation's approach to improving water quality. It strictly regulated the discharge of pollutants from point sources such as sewers and industrial discharges by a permit program. On the other hand, section 208 of Public Law 92–500 established an area-wide planning mechanism for controlling nonpoint source pollution such as silviculture and soil erosion.

Under this latter provision, the Governor of each State is required to identify each area within his State with significant water quality problems and to designate an agency for developing an effective regional water quality management plan. Among its basic tasks, the designated 208 agency must establish

procedures for controlling various nonpoint sources of water pollution at the local level.

The broad goals of the continuing planning process are to assure that the necessary arrangements are established to implement coordinated decisions to achieve our water quality goals. Under this process, guidelines for regional "Best Management Practices" have been identified by the EPA for improving water quality. Such conservation practices must be compatible with water quality goals and should be the most effective measures for preventing pollution. Because of the variability of sources and geography, no one "Best Management Practice" will be applicable to all activities. They must be tailored to local needs, and local expertise will be utilized in the final selection.

Almost one-half of the available land area of the United States is committed to some kind of agricultural activity. Routine farming operations release substantial quantities of contaminants including sediment, salts, nutrients, pesticides, organic materials, and pathogens into our waterways. It has been estimated, for instance, by the U.S. Soil Conservation Service, that cropland is responsible for 50 percent of the total sediment entering inland waterways.

The problems of nonpoint source pollution have increased significantly over the last several years, and a growing number of recent studies have demonstrated the magnitude of nonpoint water pollution. The suspended solids reaching our Nation's streams from agricultural runoff are 700 times greater than those from sewer discharges. Over 400 million acres of cropland contribute 2 billion tons of sediment annually to our streams, lakes, and rivers; and total phosphorus emissions from nonpoint sources may be as high as 800,000 tons annually.

Nonpoint source pollution may be so severe as to overshadow current water quality improvements from controls on point sources. In fact, the National Commission on Water Quality indicated last year that nonpoint source pollution may prevent the attainment of the water quality goals of the Federal Water Pollution Control Act.

Agricultural runoff represents a dual loss to our Nation. Soil erosion both depletes the productivity of our land and degrades water quality. By reducing this form of nonpoint source pollution, we conserve our topsoil and improve water quality. The investments for controlling nonpoint sources under section 208 are substantial and place a major burden on the average landowner. The National Water Quality Commission, for instance, estimates that the costs of instituting appropriate practices could be as high as $12 billion. To help landowners comply with water quality goals, a system of technical and financial assistance for instituting conservation practices for improving water quality is essential. Without such an arrangement, it will be difficult to expect farm operators and owners to implement the necessary practices for reducing soil erosion and improving water quality.

We must recognize that effective water quality-related soil conservation practices will benefit all of us. Existing soil conservation practices have simply not been effective in addressing the problem of water degradation. The General Accounting Office, for example, recently reported that existing measures are too production-oriented and not geographically related. Currently, there is no attempt to focus conservation efforts on those areas which have serious water quality problems caused by soil erosion.

Mr. President, the Environmental Pollution Subcommittee has long been concerned about the urgent need to reduce nonpoint sources of pollution, and has conducted several field hearings this year to determine what midcourse corrections regarding section 208 are needed. Hearings by the subcommittee in Iowa, which I chaired, and others in Colorado and Minnesota focused on the progress being made under the section 208 process for regulating nonpoint sources. At a hearing in LeMars, Iowa, members of various Iowa farming organizations and environmental groups strongly endorsed the concept of reducing soil erosion and the need to address many of the existing deficiencies in conservation efforts in order to improve water quality.

During the consideration of amendments to the Clean Water Act by the Committee on Environment and Public Works, I offered an amendment, which was approved, to provide technical and financial assistance to landowners and operators in rural areas for implementing area-wide management plans under section 208 of the Federal Water Pollution Control Act. In order to carry out this cost-sharing program, $200,000,000 is authorized for fiscal year 1979 and $400,000,000 for fiscal year 1980.

Financial assistance under this provision is delivered through a cost-sharing program for implementing long-term practices for improving water quality under section 208.

Acting through the Soil Conservation Service, the Secretary with the concurrence of the Administrator of the Environmental Protection Agency, would enter into contracts with farm operators and owners for the purposes of installing measures to reduce agricultural runoff. Only those soil conservation measures identified under section 208 as "Best Management Practices" would be eligible for funding. The Federal cost share may be as high as 50 percent.

These cost-sharing funds would be made available to those areas which have approved management plans under section 208. To assure that this program reduces water quality problems, the Secretary must give priority to projects in those areas which have critical nonpoint source pollution problems from agricultural runoff, and the section 208 management agencies will assure an appropriate level of participation by landowners and operators in the area before funding becomes available. These factors address a major deficiency of current soil conservation practices which have been criticized recently for not emphasizing land with the most severe soil erosion. It is important that these funds be used to reduce runoff in those areas with major nonpoint source pollution, and that they not be used for practices by one or two operators or owners when broader participation is needed in a conservation district.

The Secretary is authorized to carry out this cost-sharing program through the State soil conservation districts. Conservation districts are uniquely equipped to help plan, manage, and implement portions of the State- and area-wide water quality management plans, particularly those related to the control of nonpoint pollution from erosion and sediment. They have not only perfected working arrangements with a host of Federal and State agencies and institutions, but have also developed a widespread and effective delivery system as well.

In addition to the provision which I have just described, this legislation makes several other essential mid-course corrections in our water pollution control program. It reaffirms a strong Federal commitment to assisting communities with the construction of municipal wastewater treatment plants, and it removes the current shortcomings of the dredge-and-fill permit process under section 404. The Public Works Committee has thoroughly reviewed the necessary water quality issues and has developed a far-sighted measure.

Mr. President, I want to commend the chairman of the Committee on Environment and Public Works (Mr. RANDOLPH) and the chairman of the Environmental Pollution Subcommittee (Mr. MUSKIE) for their leadership on this vital legislation. I encourage my colleagues to approve this bill.

Mr. HUMPHREY. Third reading.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment and the third reading of the bill.

The bill was ordered engrossed for a third reading, and was read the third time.

Mr. HUMPHREY. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator wish to go to the House bill?

Mr. ANDERSON. Yes.

Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 3199, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDERSON. Mr. President, I move to strike all after the enacting clause of H.R. 3199, and to substitute therefor

the text of S. 1952, as amended, and that the bill be considered as having been read the third time.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. STAFFORD. Mr. President, I ask for the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "yea."

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—96

Abourezk	Goldwater	Morgan
Allen	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hansen	Nelson
Bartlett	Hart	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield	Pell
Biden	Hathaway	Proxmire
Brooke	Hayakawa	Randolph
Bumpers	Heinz	Ribicoff
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Scott
Clark	Johnston	Stafford
Cranston	Kennedy	Stennis
Culver	Laxalt	Stevens
Curtis	Leahy	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Durkin	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	McGovern	Williams
Ford	McIntyre	Young
Garn	Melcher	Zorinsky
Glenn	Metcalf	
	Metzenbaum	

NAYS—0

NOT VOTING—4

Chafee	Percy	Sparkman
McClellan		

So the bill (H.R. 3199), as amended, was passed, as follows:

SECTION 1. This Act may be cited as the "Clean Water Act of 1977".

SEC. 2. Section 518 of the Federal Water Pollution Control Act is amended to read as follows:

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Clean Water Act'.".

AUTHORIZATIONS

SEC. 3. (a) Section 104(u)(2) of the Clean Water Act is amended by striking out "1975" and inserting in lieu thereof "1975, $7,500,000 for each of fiscal years 1978, 1979, and 1980".

(b) Section 104(u)(3) of the Clean Water Act is amended by striking out "1975" and inserting in lieu thereof "1975, $2,500,000 for each of fiscal years 1978, 1979, and 1980,".

(c) Section 106(a)(2) of the Clean Water Act is amended by striking out "and the fiscal year ending June 30, 1975," and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $75,000,000 for each of the fiscal years ending September 30, 1978, 1979, and 1980,".

(d) Section 112(c) of the Clean Water Act is amended by inserting "$25,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980," immediately after "June 30, 1975,".

(e) Section 208(f)(3) of the Clean Water Act is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1978, September 30, 1979, and September 30, 1980.".

(f) Section 314(c)(2) of the Clean Water Act is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof ", $150,000,000 for the fiscal year 1975; and $150,000,000 for each of fiscal years 1978, 1979, and 1980".

(g) Section 517 of the Clean Water Act is amended by striking out "and $350,000,000 for the year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980,".

ESTUARINE STUDY

SEC. 4. Section 104(n)(3) of the Clean Water Act is amended by striking the phrase "any three-year period" and adding in lieu thereof the phrase "any six-year period".

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

SEC. 5. Section 104(q) of the Clean Water Act is amended by adding the following:

"(3) The Administrator shall establish, through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this Act related to paragraph (1) of this subsection and to subsection (e)(2) of section 105; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities and persons.".

GRANTS FOR INNOVATIVE TECHNOLOGY

SEC. 6. Subsection (f) of section 105 of the Clean Water Act (33 U.S.C. 1255(f)) is amended—

(a) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Federal grant for any project shall not exceed 75 per centum of the cost thereof as determined by the Administrator, except that in any case where a project is entitled to priority pursuant to subsection (e) of section 303 of this Act, the Administrator is authorized to utilize an amount, not to exceed one-half of 1 per centum, of the sums allotted to the State in which such project is located pursuant to section 205 of this Act, to pay the non-Federal costs of such project;"; and

(b) by striking the period following paragraph (3), inserting in lieu thereof a semicolon followed by the word "and" and adding a new paragraph (4) as follows:

"(4) In any case where the Administrator pays the non-Federal costs of a project, the State, municipal, interstate, or intermunicipal agency or agencies receiving the grant shall comply with all appropriate conditions, limitations, and requirements under title II of this Act.".

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

SEC. 7. Section 105 of the Clean Water Act is amended by adding the following new subsection:

"(i) The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 104 or section 113 of this Act in order to reduce the operation and maintenance costs born by the recipients of services from such project to costs comparable to those for projects assisted under title II of this Act.".

PRIORITY LIST REQUIREMENTS

SEC. 8. Section 106(f) of the Clean Water Act is amended by adding the following paragraph:

"(4) In approving any priority list or making any determination as to priority under this subsection or sections 204(a)(3) or 303(e) of this Act for grants for design or construction, the Administrator shall require that highest priority be given to treatment works which are necessary to comply with sections 301 (b) or 201 (b), (d), and (g)(2)(A) of this Act.".

TRAINING GRANTS

SEC. 9. (a) Section 109(b)(3) of the Clean Water Act is amended by striking "$250,000" and inserting in lieu thereof "$500,000".

(b) Section 109(b) of the Federal Water Pollution Control Act is amended by adding the following new paragraph:

"(4) The Administrator may exempt a grant under this section from any requirement under section 204 of this Act. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.".

(c) Section 109(b)(1) of the Clean Water Act is amended by adding before the period the following: "and for the costs of other State operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material".

RURAL VILLAGE STUDY

SEC. 10. Section 113 of the Clean Water Act is amended by adding new sections (e), (f), (g), and (h) as follows:

"(e) The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31,

1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

"(f) The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) are implemented.

"(g) There are authorized to be appropriated not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979, to carry out this section.

"(h) For the purpose of this section, the term 'village' shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term 'sanitation services' shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.".

REALLOTMENT

SEC. 11. Subsection (b)(1) of section 205 of the Clean Water Act is amended by striking "one-year" and by inserting after the second sentence the following: "The sums first made available for obligation during fiscal year 1976 shall continue to be available for obligation until September 30, 1978.".

CONSTRUCTION GRANT PROGRAM

SEC. 12. (a) Section 207 of the Clear Water Act is amended by striking the period at the end of the sentence and adding ", for the fiscal year ending September 30, 1977, in addition to that appropriated in Public Law 95-26 and subject to such amounts as are provided in further appropriations Acts, $3,500,000,000, and, for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, subject to such amounts as are provided in appropriation Acts, not to exceed $4,500,000,000.".

(b) The first sentence of subsection (a) of section 205 of the Clear Water Act is amended by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972, and before September 30, 1976,".

(c) Such section 205 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which authorized. Sums authorized for the fiscal year ending September 30, 1977, shall be allotted in accordance with the following table:

"State	Proportional share
Alabama	0.0110
Alaska	.0048
Arizona	.0064
Arkansas	.0109
California	.0831
Colorado	.0081
Connecticut	.0123
Delaware	.0040
District of Columbia	.0040
Florida	.0361
Georgia	.0201
Hawaii	.0070
Idaho	.0041
Illinois	.0526
Indiana	.0219
Iowa	.0111
Kansas	.0123
Kentucky	.0151
Louisiana	.0126
Maine	.0055
Maryland	.0382
Massachusetts	.0279
Michigan	.0473
Minnesota	.0152
Mississippi	.0076
Missouri	.0200
Montana	.0020
Nebraska	.0062
Nevada	.0030
New Hampshire	.0068
New Jersey	.0480
New Mexico	.0026
New York	.1062
North Carolina	.0209
North Dakota	.0019
Ohio	.0560
Oklahoma	.0136
Oregon	.0084
Pennsylvania	.0471
Rhode Island	.0040
South Carolina	.0132
South Dakota	.0016
Tennessee	.0150
Texas	.0434
Utah	.0051
Vermont	.0022
Virginia	.0222
Washington	.0155
West Virginia	.0218
Wisconsin	.0201
Wyoming	.0012
Virgin Islands	.0005
Puerto Rico	.0090
American Samoa	.0003
Trust Territories	.0020
Guam	.0010
Total	1

Sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be allotted in accordance with the following table:

"State	Proportional share
Alabama	0.0141
Alaska	.0030
Arizona	.0087
Arkansas	.0083
California	.0833
Colorado	.0099
Connecticut	.0121
Delaware	.0027
District of Columbia	.0028
Florida	.0328
Georgia	.0193
Hawaii	.0071
Idaho	.0039
Illinois	.0577
Indiana	.0307
Iowa	.0112
Kansas	.0089
Kentucky	.0133
Louisiana	.0148
Maine	.0089
Maryland	.0199
Massachusetts	.0291
Michigan	.0385
Minnesota	.0165
Mississippi	.0092
Missouri	.0281
Montana	.0029
Nebraska	.0060
Nevada	.0028
New Hampshire	.0094
New Jersey	.0328
New Mexico	.0045
New York	.1014
North Carolina	.0214
North Dakota	.0028
Ohio	.0679
Oklahoma	.0106
Oregon	.0128
Pennsylvania	.0464
Rhode Island	.0056
South Carolina	.0110
South Dakota	.0028
Tennessee	.0163
Texas	.0480
Utah	.0047
Vermont	.0035
Virginia	.0195
Washington	.0170
West Virginia	.0180
Wisconsin	.0180
Wyoming	.0014
American Samoa	.0005
Guam	.0008
Puerto Rico	.0123
Trust Territories	.0013
Virgin Islands	.0003
Total	1

If the sums allotted to the States for a fiscal year are made subject to a limitation on obligation by an appropriation Act, such limitation shall apply to each State in proportion to its allotment.

"(2) For the fiscal years 1977, 1978, 1979, 1980, 1981, and 1982, no State Shall receive less than one-half of 1 per centum of the total allotment under the first paragraph of this subsection, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories, not more than forty one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this paragraph there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $40,000,000 for the fiscal year ending September 30, 1977, and not to exceed $92,000,000 for each of fiscal years 1978, 1979, 1980, 1981, and 1982.

"(3) For the fiscal years 1978, 1979, 1980, 1981, and 1982, no State shall receive an allotment of less than the lower dollar amount it would have received under either (A) an allotment based on the ratio of its 1975 population to the 1975 population of all the States or (B) the ratio of its total needs for categories of treatment works eligible under this Act indicated in the 1976 Needs Survey to such total needs in all the States. For the purpose of carrying out this paragraph, there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $60,000,000 in each of fiscal years 1978, 1979, 1980, 1981, and 1982.

"(4) For the fiscal years 1978, 1979, 1980, 1981, and 1982, no State's proportional share allotment shall be reduced by more than 25 per centum of its proportional share allotment for fiscal year 1977 under paragraph (1) of this subsection, and any State's proportional share allotment which would be reduced by more than 25 per centum of the proportional share allotment for fiscal year 1977 shall be adjusted to provide a proportional share allotment representing no more than such a 25 per centum reduction. For the purpose of carrying out this paragraph there are authorized to be appropriated such amounts as may be necessary in each of fiscal years 1978, 1979, 1980, 1981, and 1982, subject to such amounts as are provided in appropriation Acts.".

AREAWIDE PLANNING

SEC. 13. (a) Section 208(b)(1) of the Clean Water Act is amended by inserting "(A)" after "(b)(1)" and by adding the following new subparagraph:

"(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.".

(b) Section 208(f)(2) of the Clean Water Act is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1978, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

(c) The second sentence of section 208(f)(3) of the Clean Water Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

INDIVIDUAL SYSTEMS

SEC. 14. Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(h) A grant may be made under this section to construct a privately owned treatment works serving one or more existing individual primary residences or small commercial establishments where (1) a public body otherwise eligible for a grant under subsection (g) of this section applies on behalf of a number of such units and enters into an enforceable agreement with the Administrator to assure that such treatment works are properly operated and maintained and in compliance with all other requirements of section 204 of this Act and (2) the Administrator determines that the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than with a system for collection and central treatment.".

RESERVE CAPACITY

SEC. 15. (a) Section 202 of the Clean Water Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, after September 30, 1977, the Administrator shall approve grants only for that portion of a treatment works directly related to the needs to be served by such works for the ten years from the time such treatment works is estimated to become operational (or twenty years in the case of interceptor sewers and associated appurtenances) as determined by the Administrator. In determining the needs to be served by treatment works during such ten-year period the Administrator shall take into account the projected population and associated commercial and industrial establishments within the the proposed service area within ten years of the time such treatment works is estimated to become operational. In determining the needs to be served by interceptor sewers and associated appurtenances during such twenty-year period the Administrator shall take into account the projected population and associated commercial and industrial establishments within the proposed service area within twenty years of the time such interceptor sewers and associated appurtenances are estimated to become operational. For purposes of this paragraph population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator by regulation determines to be appropriate.".

(b) Subsection (a)(5) of section 204 is amended by inserting after the material added by section 18(b) of this Act the following: "The cost of such reserve capacity eligible for a grant under this Act shall be determined in accordance with section 202(c);".

COMBINED GRANTS

SEC. 16. Section 203(a) of the Clean Water Act is amended by adding at the end thereof the following new sentence: "In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the grantee municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. In the case of States found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost does not exceed $3,000,000.".

CONTRACT ENFORCEMENT

SEC. 17. Section 203 of the Clean Water Act is amended by adding the following additional new subsection:

"(d) At the request of the grantee, the Administrator or the State may be made a party to any contract in connection with treatment works assisted under this title.".

LIMITATIONS AND CONDITIONS

SEC. 18. Section 204(a) of the Clean Water Federal Water Pollution Control Act is amended by adding the following paragraph:

"(7) that the applicant has analyzed the potential recreation and open space opportunities in the design of the proposed treatment works.".

METERING

SEC. 19. Section 204(b)(1) of the Clean Water Act is amended by adding the following sentence: "A system of charges which meets the requirement of subparagraph (A) of this paragraph may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (i) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (ii) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the operation and maintenance of the treatment works.".

WATER CONSERVATION

SEC. 20. (a) Section 204(b)(3) of the Clean Water Act is amended by adding: "Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.".

(b) Section 204(a)(5) of the Clean Water Act is amended by striking the semicolon at the end thereof and inserting in lieu thereof a comma and the following: "after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption.".

INDUSTRIAL COST RECOVERY

SEC. 21. (a) Section 204(b)(3)(B) of the Clean Water Act is amended by inserting after "necessary for" the following: "the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and".

(b) Section 204(b) of the Clean Water Act is amended by adding the following new paragraph:

"(5) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works of less than twenty-five hundred gallons per day if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of, such works.".

(c) Section 204(b)(1)(B) of the Clean Water Act is amended by inserting before the semicolon the following: "(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)".

STATE MANAGEMENT ASSISTANCE

SEC. 22. Section 205 of the Clean Water Act is amended by adding after new subsection (c) the following new subsection:

"(d)(1) The Administrator may reserve an amount not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, but no less than $400,000 per fiscal year. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (b) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 201, 203, and 204 of this Act the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 402, administering a statewide waste treatment management planning program under section 208, and managing waste treatment construction grants for small communities.".

SET ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

SEC. 23. Section 205 of the Clean Water Act is amended by adding a new subsection (e) after new subsection (d) as follows:

"(e) The Administrator shall set aside not less than 5 nor more than 10 per centum of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than 10 per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternative or unconventional sewage treatment works for communities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger communities, as defined by the Administrator.".

AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 24. Section 208(b)(2)(A) of the Clean Water Act is amended by inserting before the semicolon a comma and the following: "and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including methods and procedures to assure public access to navigable waters for recreation purposes.".

IRRIGATION RETURN FLOWS

SEC. 25. (a) Section 208(b)(2)(F) of the Clean Water Act is amended by adding after "sources of pollution, including" the following: "return flows from irrigated agriculture, and their cumulative effects,".

(b) Section 402 of the Clean Water Act is amended by adding a new subsection after that added by section 53 of this Act:

"(m) No permit under this section shall be required for discharges composed entirely of return flows from irrigated agriculture.".

AGRICULTURAL COST SHARING

SEC. 26. Section 208 of the Clean Water Act is amended by adding the following new subsection:

"(i)(1) The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, with the concurrence of the Administrator, is authorized and directed to establish and administer a program to enter into contracts of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality soil conservation in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

"(i) to effectuate a plan approved by a soil conservation district under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

"(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district board or the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

"(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

"(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

"(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

"(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

"(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

"(5) The Secretary may enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary.

"(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas.

"(7) The Secretary, in consultation with the Administrator and subject to section 304(k) of this Act, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

"(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566.

"(9) There are hereby authorized to be appropriated $200,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.".

GRANT ELIGIBLE CATEGORIES

SEC. 27. Section 211 of the Clean Water Act is amended to read as follows:

"SEC. 211. (a) No grant shall be made under this title for replacement or major rehabilitation of a sewage collection system unless such replacement or major rehabilitation is necessary (1) to the total integrity and performance of the waste treatment works serving such community, and (2) for grants made from funds authorized for any fiscal year beginning after September 30, 1977, as the most cost-effective alternative to eliminate excessive infiltration.

"(b) No grant shall be made under this title for a new collector sewer system unless (1) such grant is limited to the capacity to serve the population in such community as of the date of enactment of the Clean Water Act of 1977; (2) there is or will be sufficient existing capacity to treat such collected sewage in compliance with sections 201 and 301 of this Act at the time such collector sewer system is completed; (3) such system is necessary to correct discharges constituting a threat to ground or surface water supplies or preventing the attainment of applicable water quality standards; and (4) alternatives to central treatment with collector sewers have been evaluated for such community and demonstrated to be less cost effective than the proposed collector sewer system in protecting ground or surface water quality.

"(c) No grant shall be made under this title from funds authorized for any fiscal year beginning after September 30, 1977, for treatment works for control of pollutant discharges from separate storm sewer systems.".

COST-EFFECTIVENESS GUIDELINES

SEC. 28. Title II of the Clean Water Act is amended by adding the following new section:

"COST-EFFECTIVENESS GUIDELINES

"SEC. 213. Any guidelines for cost-effectiveness analysis published by the Administrator under this title shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of the Act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B) of the Act.".

MODIFICATION OF BEST AVAILABLE TECHNOLOGY REQUIREMENT

SEC. 29. (a) Section 301 of the Clean Water Act is amended by inserting a new subsection (d) after subsection (c) as follows and redesignating succeeding sections accordingly:

"(d) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

"(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(4) of this Act;

"(2) such modified requirements will represent that reduction in effluents for which the reduction in effluents bears a reasonable relationship to the costs of attaining such reduction;

"(3) such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1)(A) or (C) of this section, whichever is applicable;

"(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

"(5) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water: *Provided*, That the Administrator may not modify the re-

quirements of subsection (b)(2)(A) of this section with respect to any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 or 311 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled Natural Resources Defense Council, Incorporated, et al., against Russell E. Train, or for which there is a primary drinking water standard under the Safe Drinking Water Act.". (b) Section 304(a) of the Clean Water Act is amended by adding the following new paragraph:

"(4) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annually thereafter, for purposes of section 301 (d) and (e) of this Act publish and revise as appropriate information identifying each water quality standard in effect under this Act or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.".

(c) Section 301(c) of the Clean Water Act is amended by striking the period and inserting a colon and the following: *"Provided,* That the Administrator may not modify the requirements of subsection (b)(2)(A) of this section with respect to any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled Natural Resources Defense Council, Incorporated, et al., against Russell E. Train, or for which there is a primary drinking water standard under the Safe Drinking Water Act.".

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

SEC. 30. Section 301 of the Clean Water Act is amended by inserting a new subsection (e) as follows after new subsection (d) and redesignating succeeding subsections accordingly:

"(e) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(4) of this Act;

"(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

"(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

"(4) such modified requirements will not result in any additional requirements on any other point or non-point source;

"(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

"(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from non-industrial sources into such treatment works;

"(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(8) any funds available to the owner of such treatment works under title II of this Act will be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection.

For the purposes of this subsection the phrase 'the discharge of any pollutant into marine waters' refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection and section 101(a)(2) of this Act.".

MUNICIPAL TIME EXTENSIONS

SEC. 31. Section 301 of the Clean Water Act is amended by inserting a new subsection (f) as follows after new subsection (e) and by redesignating subsequent subsections accordingly:

"(f)(1) Where major construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (i) construction cannot reasonably be completed within the time required in such subsection, or (ii) financial assistance under this Act is unavailable in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a pemit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within ninety days after enactment of this subsection. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available and construction can be completed, but in no event later than July 1, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations as he determines are necessary to carry out the provisions of this Act.

"(2)(A) Where a point source, other than a publicly owned treatment works, will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section because a permit issued prior to July 1, 1977, to such point source contemplates a discharge into a publicly owned treatment works which is presently unable to accept such discharge without major construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within ninety days after enactment of this subsection or the filing of a request by the appropriate publicly owned works under paragraph (1) of this subsection whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements, as he determines are necessary to carry out the provisions of this Act.

"(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires it to meet all requirements under section 307 (a) and (b) during the period of such time modification.".

PROCEDURE FOR MODIFICATIONS

SEC. 32. Section 301 of the Clean Water Act is amended by adding the following new subsection:

"(j)(1) Any application filed under this section for a modification of the provisions of—

"(A) subsection (b)(1)(B) under subsection (e) of this section shall be filed within nine months after the date of enactment of the Clean Water Act of 1977;

"(B) subsection (b)(2)(A) shall be filed within nine months after the date of promulgation of an appropriate effluent guideline under section 304 or nine months after the date of enactment of the Clean Water Act of 1977, whichever is later.

"(2) Any application for a modification filed under subsection (d) or subsection (e) of this section shall not operate to stay any requirement under this Act, unless in the judgment of the Administrator there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (b)(2)(A) the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.".

INNOVATIVE TECHNOLOGY

SEC. 33. Section 301 of the Clean Water Act is amended by adding a new subsection as follows:

"(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection (b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent

limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402) may establish a date for compliance under subsection (b)(2)(A) of this section no later than July 1, 1985; if he also determines that such innovative system has the potential for industrywide application.".

INFORMATION AND GUIDELINES

SEC. 34. Section 304(a) of the Clean Water Act is amended by adding the following new paragraph:

"(5) The Administrator, to the extent practicable before consideration of any request under section 301 (d) and (e) of this Act and within six months after enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection and propagation of balanced, indigenous populations of shellfish, fish, and wildlife, and to allow recreational activities, in and on the water.".

BEST MANAGEMENT PRACTICES FOR INDUSTRY

SEC. 35. Section 304 of the Clean Water Act is amended by changing subsection (e) to subsection "(f)", by redesignating subsequent subsections accordingly, and by inserting a new subsection (e) as follows:

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b), (c), and (d) of this section for a category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 or 311 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled Natural Resources Defense Council, Incorporated, et al., against Russell E. Train, or for which there is a primary drinking water standard under the Safe Drinking Water Act, setting forth treatment requirements or operating techniques, processes, procedures, and methods, for measures and practices including but not limited to measures or practices affecting plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which he determines are associated with or ancillary to the industrial manufacturing or treatment process within such category or class of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable requirements or techniques established under this subsection shall be included as a requirement for the purposes of sections 301, 302, 307, or 403 as appropriate in any permit issued to a point source pursuant to section 402 of this Act.".

INTERAGENCY AGREEMENTS

SEC. 36. Section 304(k) of the Clean Water Act as redesignated by this Act is amended to read as follows:

"(k)(1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and other secretaries or independent agency heads, as he determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

"(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and to any secretary or independent agency head, as he determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal years 1979 through 1983.".

STATE REPORTS

SEC. 37. Subsection (b) of section 305 of the Clean Water Act is amended—

(1) by striking out "January 1, 1975, and shall bring up to date each year thereafter," in paragraph (1) and inserting in lieu thereof "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter,"; and

(2) by striking out "annually" in paragraph (2) and inserting in lieu thereof the following: "October 1, 1976, and biennially".

TOXIC POLLUTANTS

SEC. 38. (a) Paragraphs (1), (2), and (3) of section 307(a) of the Clean Water Act are amended to read as follows:

"(a)(1) Whenever the Administrator determines, based upon information available to him, that an effluent standard should be established under this section for any toxic pollutant or combination of such pollutants (which standard may include a prohibition of the discharge of such pollutant or combination of such pollutants), the Administrator shall identify such pollutant or combination of pollutants by publication in the Federal Register. In making any such determination the Administrator shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under section 301 of this Act or other regulatory authority.

"(2) Within one hundred and eighty days after the date of identification by publication of any toxic pollutant or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persitence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under section 301 of this Act or other regulatory authority. The Administrator shall allow a period of not less than sixty days following any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standards. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standards, the Administrator shall promulgate such standards (or prohibition) with such modifications as he finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standards.

"(3) Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.".

(b) Paragraph (6) of section 307(a) of the Clean Water Act is amended by striking the period at the end thereof and inserting a colon and the following: *"Provided*, That if the Administrator determines that compliance within one year is technologically infeasible for a category of sources and the owners or operators of such sources demonstrate to the satisfaction of the Administrator that there will be no significant risk to public health, public water supplies, or the environment from an extended time for compliance, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.".

PRETREATMENT

SEC. 39. (a)(1) Section 307(b)(1) of the Clean Water Act is amended by striking the period at the end of the first sentence thereof and inserting the following: "or which would contaminate the sludge from such treatment works or otherwise reduce the utility of such sludge."; and in the third sentence thereof by inserting after "passes through," the following: "contaminates or reduces the utility of the sludge of,".

(2) Section 307(b)(1) of the Clean Water Act is amended by adding the following: "Such pretreatment standards shall require at a minimum the application of the best available technology.".

(3) The last sentence of section 307(c) of the Clean Water Act is amended by inserting after "pass through," the following: "contaminate or reduce the utility of the sludge of," and by striking the period at the end thereof and inserting a comma and the following: "and such standards shall require at a minimum the application of the best available technology.".

(4) Section 307(b) of the Clean Water Act is amended by adding the following new paragraph:

"(5) A program to assure compliance with pretreatment standards under this section shall be a condition on any grant made under title II of this Act and any permit to a publicly owned treatment works under section 402 of this Act.".

(b)(1) The second sentence of section 304(g)(1) of the Clean Water Act as redesignated by this Act is amended by inserting after "passes through," the following: "contaminates or reduces the utility of the sludge of,"; and by striking the period at the end thereof and inserting a comma and the following: "and such guidelines shall identify the degree of control attainable through the application of the best available technology.".

(2) Section 304(g)(2) of the Clean Water Act, as redesignated by this Act, is amended by inserting after "treatment works" the following: "and the classes or categories of sources potentially discharging into such treatment works,".

(c)(1) Section 402(b)(8) is amended by inserting after "includes conditions to require" the following: "the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pertreatment standards by each such source, in addition to".

(2) Section 402(b)(8) of the Clean Water Act is amended by inserting after the first sentence the following: "Any requirement imposed on a source introducing pollutants into such treatment works by a program

under this paragraph shall be deemed a permit condition applicable to such source and enforceable against such source under section 309 or 505 of this Act.".

(d) Section 309 of the Clean Water Act is amended by adding a new subsection:

"(f) Any person who introduces or discharges any pollutant subject to a pretreatment standard under section 307(b) of this Act into a publicly owned treatment works shall immediately notify such treatment works, the State, and the Administrator. Any such person who fails to notify immediately such treatment works, the State, or the Administrator, or who fails to provide the information or notice required under section 402 (b)(8) of this Act, shall be subject to a civil penalty not to exceed $10,000.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 40. (a) Paragraph (1) of subsection (a) of section 309 of the Clean Water Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(b) Paragraph (3) of subsection (a) of section 309 of the Clean Water Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(c) Paragraph (1) of subsection (c) of section 309 of the Clean Water Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405"; and by inserting after the words "or by a State," in the first sentence thereof, the following: "or any person who willfully or negligently violates any order issued under subsection (a) of this section,".

(d) Subsection (d) of section 309 of the Clean Water Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

1977 INDUSTRIAL DEADLINES

SEC. 41. (a) Section 309(a)(2)(A) of the Clean Water Act is amended by striking "or".

(b) Section 309(a)(2)(B) of the Clean Water Act is amended by striking the period and adding "or".

(c) Section 309(a)(2) of the Clean Water Act is amended by adding a new subparagraph as follows:

"(C) by granting an extension pursuant to paragraph (5)(B) of this subsection."

(d) Section 309(a)(4) of the Clean Water Act is amended by striking the second sentence thereof.

(e) Section 309(a) of the Clean Water Act is amended by adding a new paragraph as follows:

"(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(B) The Administrator may, if he determines that such violation is the result of actions or conditions outside the control of such person and (i) such person has acted in good faith; (ii) such person has made a commitment (in the form of contracts or other security) of necessary resources to achieve compliance at the earliest possible date after July 1, 1977, but in no event later than January 1, 1979; (iii) such extension will not result in imposition of any additional controls on any other point or nonpoint source; (iv) application for permits under section 402 of this Act was filed prior to December 31, 1974; and (v) the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 301(b)(1)(A) to a date which will achieve compliance at the earliest time possible but not later than January 1, 1979.".

MITIGATION COSTS

SEC. 42. Subsection (b) of section 311 of the Clean Water Act is amended by adding a new clause (v) to paragraph (2)(B), as follows:

"(v) In addition to establishing a penalty for the discharge of a hazardous substance determined not to be removable pursuant to clauses (ii) through (iv) of this subparagraph, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.".

OILSPILL LIABILITY

SEC. 43. (a)(1) Section 311(b)(1) of the Clean Water Act is amended by striking the period at the end thereof and inserting in lieu thereof a comma and the following: "or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act) or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976.".

(2) Section 311(b)(2)(A) of the Clean Water Act is amended by inserting after "the contiguous zone" the following: "or the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act) or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976".

(3) Section 311(b)(3) of the Clean Water Act is amended by inserting after the phrase "into or upon the waters of the contiguous zone" a comma and the following: "or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or into or upon the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976,".

(4) Section 311(b)(4) of the Clean Water Act is amended by striking all after "beaches" and inserting a period.

(5) Each time the phrase "subsection (b)(2)" appears in subsection (f), (g), and (i) of section 311 of the Clean Water Act it is amended by striking "(2)".

(b) Section 311(c)(1) of the Clean Water Act is amended by inserting after "discharged," the following: "or there is a substantial threat of such discharge,".

(c)(1) Section 311(c)(1) of the Clean Water Act is further amended by inserting after "contiguous zone," the following: "or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or into or upon the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976,".

(2) Section 311(d) of the Clean Water Act is amended by inserting after "the navigable waters of the United States" a comma and the following: "the waters of the contiguous zone, the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976".

(d)(1) Section 311(f)(1) of the Clean Water Act is amended by striking "$100 per gross ton of such vessel or $14,000,000, whichever is lesser," and inserting in lieu thereof "$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is greater)".

(2) Section 311(f)(2) of the Clean Water Act is amended by striking "$8,000,000" and inserting in lieu thereof "$50,000,000".

(3) Section 311(f)(3) of the Clean Water Act is amended by striking "$8,000,000" and inserting in lieu thereof "$50,000,000".

(4) Section 311(g) of the Clean Water Act is amended by striking "$100 per gross ton of such vessel or $14,000,000, whichever is the lesser." and inserting in lieu thereof "$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is the greater)."

(5) Section 311(p)(1) of the Clean Water Act is amended by striking "$100 per gross ton, or $14,000,000, whichever is the lesser," and inserting in lieu thereof "$150 per gross ton, (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is the greater)".

(e) Section 311(c)(2)(D) of the Clean Water Act is amended by striking "to the appropriate Federal agency;" and inserting in lieu thereof "and imminent threats of such discharges to the appropriate State and Federal agencies;".

(f) Section 311(g) of the Clean Water Act is amended by inserting after "(g)" the following: "Where the owner or operator of a vessel carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk; from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection.".

(g) Section 311(f) of the Clean Water Act is amended by adding the following new paragraphs:

"(4) The costs of removal of oil or hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or hazardous substance in violation of subsection (b) of this section.

"(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.".

MARINE SANITATION DEVICES

SEC. 44. (a) Section 312(a)(6) of the Clean Water Act is amended by adding before the period at the end thereof the following: "except that, with respect to commercial vessels on the Great Lakes and the navigable waters generally (other than the territorial seas), such term shall include greywater".

(b) Section 312(c)(1) of the Clean Water Act is amended by inserting "(A)" after "(1)" and by adding a new subparagraph (B) as follows:

"(B) The Administrator shall, with respect to commercial vessels on the Great Lakes and the navigable waters generally (other than the territorial seas), establish standards and regulations which require at a minimum the equivalent of secondary treatment as defined under section 304(d) of this Act. Such

standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.".

(c) Section 312(f)(4) of the Clean Water Act is amended by inserting "(A)" after "(4)" and by adding a new subparagraph (B) as follows:

"(B) Whenever a State requests a prohibition on the discharge of sewage from vessels in any drinking water intake zone, the Administrator shall promulgate such a prohibition for such zone.".

FEDERAL FACILITY COMPLIANCE

SEC. 45. (a) Section 313 of the Clean Water Act is amended by striking in the first sentence thereof the words "comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges." and inserting in lieu thereof the words "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of pollution in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States nor any agent, employee, nor officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of such injunctive relief.".

(b) Section 401(a) of the Clean Water Act is amended by striking paragraph (6) and renumbering succeeding paragraphs accordingly.

(c) Section 404 of the Federal Water Pollution Control Act is amended by adding the following new subsection:

"(h) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State, local, or interstate requirements both substantive and procedural to control the discharge or dredged or fill material to the same extent that any person is subject to such requirements.".

CLEAN LAKES

SEC. 46. (a) Section 314(b) of the Clean Water Act is amended by adding: "The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.".

(b) Section 304(j) of the Clean Water Act as redesignated by this Act, is amended to read as follows: "The Administrator shall issue information biannually on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.".

AQUACULTURE

SEC. 47. Section 318 of the Clean Water Act is amended to read as follows:

"SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 402 of this Act.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

"(c) Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objectives of this Act.".

NONCOMPLIANCE FEE

SEC. 48. Title III of the Clean Water Act is amended by adding a new section as follows:

"NONCOMPLIANCE FEE

"SEC. 319. (a) A noncompliance fee established pursuant to this section shall be imposed automatically and payable to the Administrator or a State with an approved program under section 403, as appropriate, either quarterly or monthly, for any point source (other than a publicly owned treatment works) which is not in compliance on or after (1) July 1, 1979, with any effluent limitation or standard under section 301(b)(1), 306, 307, or 316 of this Act, or (2) January 1, 1984, with any effluent limitation or standard under section 301(b)(2), 302, or 307 of this Act. Any permit issued under section 402 of this Act for such source shall be amended to incorporate such fee requirements.

"(b)(1) The owner or operator of any such point source for which the Administrator or a State with an approved program under section 402 intends to impose a noncompliance fee under this section shall upon request by the Administrator or the State furnish to the Administrator or the State (with a copy to the Administrator) information containing a detailed description of the control technology or system proposed to achieve compliance with such effluent limitation or standard and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply with such limitation or standard, and the estimated annual costs of operation and maintenance of any technology or system required in order to maintain such compliance, together with such information as the State (or the Administrator) may require on the economic value which a delay in compliance beyond July 1, 1979, or January 1, 1984, as the case may be, may have for the owner or operator of such source.

"(2) The Administrator or the State shall issue specific notice to the owner or operator of a point source subject to this section requiring the information described in this subsection. If the owner or operator of any source subject to this section fails to submit a calculation of the fee assessment, a schedule for payment, and the information necessary for independent verification thereof, the State (or the Administrator, as the case may be) may enter into a contract with any person who has no financial interest in the owner or operator of the source (or in any person controlling, controlled by, or under common control with such source) to assist in determining the amount of the fee assessment or payment schedule with respect to such source. The cost of carrying out such contract may be added to the penalty to be assessed against the owner or operator of such source. In addition, the State or the Administrator, as appropriate, may use cost information developed under section 304(b) of this Act.

"(c)(1) A notice of receipt of information pursuant to subsection (b) of this section shall be published in the newspapers in general circulation in such State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

"(2)(A) Within thirty days following the date of publication of the notice issued under paragraph (1) of this subsection, or at any time the Administrator or a State with an approved program under section 402 proposes to establish a noncompliance fee under this section, there shall be published in the newspapers in general circulation in such State (and, as appropriate, the Federal Register or any publication required as part of any rulemaking activity in such State) the proposed noncompliance fee applicable to the source with an announcement of an opportunity for a public hearing on such action.

"(B) A proposed noncompliance fee under this section, determined in accordance with guidelines published by the Administrator, shall be a monthly or quarterly payment in an amount no less than the monthly or quarterly equivalent of the economic value of noncompliance, including, but not limited to, planning costs, design costs, supply costs, capital costs and costs of capital over a normal amortization period not to exceed ten years, start-up costs, operation and maintenance costs, and such other factors deemed appropriate by the Administrator relating to the economic value which a delay in compliance beyond July 1, 1977, or January 1, 1984, as the case may be, or such other date required for compliance, or any other noncompliance, may have for the owner or operator of such source.

"(C) The Administrator or the State shall take final action establishing such noncompliance fee within ninety days after the date of publication of the proposed fee under subparagraph (A) of this paragraph.

"(d)(1) A noncompliance fee established by a State under this section shall apply unless the Administrator, within sixty days after the date of publication of the proposed fee under subsection (c)(2)(A) of this section, objects in writing to the amount of the fee as less than would be required to comply with guidelines established by the Administrator.

"(2) If the Administrator objects under this subsection, he shall simultaneously establish a substitute noncompliance fee applicable to such source in accordance with the requirements of subsection (c) of this section.

"(e)(1) In the event an owner or operator contests the noncompliance fee established under this section, the owner or operator may within thirty days seek review of such penalty in the appropriate United States district court.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a source to commence monthly payment of the noncompliance fee as determined by the Administrator or the State on the date established to begin such payment, pending the outcome of any such review.

"(B) In any challenge of the imposition of the fee based on an allegation that the failure to comply by such date was due to reasons entirely beyond the control of the owner or operator and there is a substantial likelihood that the owner or operator will prevail in the merits, the obligation to commence monthly payment on the noncompliance fee may be stayed pending the outcome of such challenge: *Provided*, That as a condition of such stay, the owner or operator of such source shall post a bond or other surety in an amount equal to the potential liability for such fee during the period of the stay.

"(3) If an owner or operator is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

"(f) In any case where a State does not have sufficient authority to issue a noncompliance fee, the Administrator after thirty days' notice to the State shall establish, implement, and enforce such fee.

"(g) Failure to make any payment required under this section or to submit information required under this section shall constitute a violation of this section and section 301 and shall, in addition to liability for such payments, subject the owner or operator of a source to all penalties under section 309 of this Act.

"(h) Any payments or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way effect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

"(i) Upon making a determination that a source with respect to which a fee has been paid under this section is in compliance and is maintaining compliance with the applicable requirement, the State (or the Administrator as the case may be) shall review the actual expenditures made by the owner or operator of such source for the purpose of attaining and maintaining compliance, and shall within one hundred and eighty days after such source comes into compliance—

"(A) provide reimbursement with interest (to be paid by the State or Secretary of the Treasury, as the case may be) at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any overpayment by such person, or

"(B) assess and collect an additional payment with interest at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any underpayment by such person.".

REGULATION OF DETERGENTS IN GREAT LAKES REGION

SEC. 49. Title III of the Clean Water Act is amended by inserting at the end thereof the following:

"REGULATION OF DETERGENTS IN GREAT LAKES REGION

"SEC. 320. (a) In recognition of the particular danger to the Great Lakes and the residents of the Great Lakes region represented by the use of phosphates in cleaning agents and water-conditioning agents it is the purpose of this section to regulate such use in such region and to provide for a study to determine whether such regulation should be made nationwide.

"(b) As used in this section the term—

"(1) 'Great Lakes region' means the States of New York, Ohio, Indiana, Michigan, Illinois, Wisconsin, and Minnesota; and that portion of Pennsylvania which is in the Great Lakes drainage basin;

"(2) 'cleaning agent' means a heavy duty laundry detergent, laundry additive, dishwashing compound, household cleaner, industrial cleaner, phosphate compound, or other substance intended to be used for cleaning purposes;

"(3) 'chemical water conditioner' means a water-softening chemical, antiscale chemical, corrosion inhibitor, or other substance intended to be used to treat water;

"(4) 'dishwashing machine' means equipment manufactured for the purpose of cleaning dishes, glassware, and other utensils involved in food preparation, consumption, or use, using a combination of water agitation and high temperature; and

"(5) 'phosphorus' means elemental phosphorus as further defined by the Administrator for the purpose of this section.

"(c) The Administrator shall prescribe regulations to be effective after one hundred and eighty days following the date of enactment of this section prohibiting the sale, offering for sale, or distribution, for use within the Great Lakes region of cleaning agents or chemical water conditioners containing phosphates in excess of maximum permissible concentrations prescribed by the Administrator for the purpose of this section. Such regulations shall take into consideration—

"(1) The availability of safe, nonpolluting, and effective substitutes.

"(2) The differing needs of industrial, and household users of cleaning agents and chemical water conditioners.

The maximum amount of phosphorus allowed in the following cleaning agents or chemical water conditioners shall be as follows:

"(A) laundry detergents and built soaps for machine laundry excluding chemical water conditioners, not to exceed 0.5 per centum phosphorus, by weight;

"(B) household and commercial deterents for machine dishwashing, not to exceed 8.7 per centum phosphorus, by weight;

"(C) all household cleaning agents except those listed in clause (A) and (B) intended to be used in the home, not to exceed 0.5 per centum phosphorus, by weight; and

"(D) chemical water conditioners for machine laundry use, not to exceed 20 per centum phosphorus, by weight.

The concentration by weight of prescribed phosphates in any cleaning agent or chemical water conditioner shall be determined by the current applicable method prescribed by the American Society for Testing and Materials.

"(d) In any case where, upon application, the Administrator finds that by reason of exceptional circumstances the strict enforcement of any provision of such regulations would cause undue economic hardship on the user of a cleaning agent or chemical water conditioner; that the use of cleaning or water conditioning agents containing phosphorus in excess of the permissible levels set forth herein is necessary for the public health, safety, or welfare; or that strict conformities with these limits would be unreasonable, impractical, or not feasible under the circumstances, the Administrator may permit a variance therefrom upon such conditions as he may prescribe for prevention, control, or abatement of pollution in harmony with the general purpose of such regulations and the intent of this section.

"(e)(1) It shall be unlawful after the effective date of such regulations for any person to sell, offer for sale, or distribute for use in the Great Lakes region any cleaning agent or chemical water conditioner, unless such agent or conditioner conforms with regulations prescribed with respect to such agent or conditioner pursuant to this section.

"(2) Any person who violates paragraph (1) of this subsection shall be subject to a civil penalty of not to exceed $10,000 for each such violation.

"(f) The Administrator shall carry out a full and complete investigation and study in order to determine whether the regulations prescribed for the Great Lakes region pursuant to this section should be applied nationwide. Such investigation and study shall consider the cost to the consumer, cost to industry, benefits to be gained, and other appropriate factors. The results of such investigation and study shall be submitted to the President and the Congress, together with any legislation necessary to carry out the recommendations, not later than one year after the date of enactment of this section.

"(g) Nothing in this section shall prevent any State in the Great Lakes region from placing into, or keeping in, effect any control over the sale, distribution, or use of any cleaning agent or chemical water conditioner if such control is more stringent than that provided pursuant to this section.

"(h) Nothing in this section shall supercede or preclude the Administrator of the Environmental Protection Agency from issuing regulations under the Toxic Substances Control Act (Public Law 94-469) limiting the use of phosphates in cleaning agents and water conditioning agents.

"(i) Notwithstanding subsection (h) of this section, nothing in this section shall limit or modify the authority of the Administrator under the Toxic Substances Control Act to make an independent finding on the need to continue the prohibition under subparagraph (c) or to alter the terms of the prohibition based on studies and other evidence available to the Administrator."

COMPLIANCE WITH STATE REQUIREMENTS

SEC. 50. (a) Section 401 of the Clean Water Act is amended in each occurrence of the phrase "sections 301, 302, 306, and 307 of this Act" by inserting "303," after "302,".

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

SEC. 51. Section 402(d) of the Clean Water Act is amended by adding the following new paragraph:

"(4) Where the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, the Administrator may simultaneously issue a permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act. Nothing in this subsection shall modify the provisions of section 510 of this Act, and any permit issued under this paragraph shall be subject to the State's refusal to certify such permit under section 401 of this Act for a period of sixty days after such issuance.".

ENFORCEMENT OF MUNICIPAL PERMITS

SEC. 52. Section 402(h) of the Clean Water Act is amended by striking the comma after "is approved" and inserting the following: "or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit,".

DREDGE AND FILL PERMIT PROGRAM

SEC. 53. (a) Section 402 of the Clean Water Act is amended by adding a new subsection (l) to read as follows:

"(l)(1) At any time after the publication of guidelines under paragraph (4) of this subsection, the Governor of each State desiring to administer the permit program for controlling discharges of dredged or fill material into the navigable waters specified in paragraph (5) of this subsection may seek approval of its program in accordance with subsection (b) of this section.

"(2) The Administrator, in consultation with the Secretary of the Army and the Director of the Fish and Wildlife Service, shall approve each such program within one hundred and eighty days of submission unless he determines that (A) the State does not have adequate authority in accordance with subsection (b) of this section with respect to discharges of dredged or fill material; or (B) it does not contain guidelines comparable to or more stringent than those under section 404(b)(1) of this Act or is not in accordance with guidelines adopted pursuant to paragraph (2) of this subsection.

"(3) Any State program approved under this subsection shall be subject to provisions of subsections (c) through (k) of this section. Approval of a program otherwise submitted under subsection (b) of this section or operation of a program approved under subsection (b) shall not be delayed by submittal of a program under this paragraph.

"(4)(A) Within one hundred and eighty days after enactment of the Clean Water Act of 1977, the Administrator, in consultation with the Secretary of the Army and the heads of other appropriate Federal agencies,

shall amend the guidelines required by subsection (h)(2) of section 304 of this Act to establish minimum procedural and other elements of any State program for discharges of dredged or fill material including but not limited to guidelines for—

"(i) State review and coordination of interstate, State, regional, and local agenies which administer portions of any State program for discharges of dredged or fill material;

"(ii) program coverage of the navigable waters specified in paragraph (5) of this subsection through the use of vegetation or other appropriate criteria;

"(iii) contained coordination with Federal and Federal-State water-related planning and review requirements; and

"(iv) identification of and testing for toxic pollutants in dredge or fill material, including methods for determining whether or not any discharge requires a permit pursuant to section 307(a) or is otherwise subject to section 307(a) or 311 of this Act.

"(B) A State program for discharges of dredged or fill material may include—

"(i) designation of one or more interstate, State, regional, or local agencies with jurisdiction over a defined geographic area and with sufficient authority, expertise, and resources to administer a program for discharges of dredged or fill material;

"(ii) mapping, protective orders, standards of performance, or other techniques to assist in the review of proposed discharges of dredged or fill material.

"(5) State programs for discharges of dredged or fill material that are subject to approval under this subsection shall include all navigable waters within the State except any coastal waters of the United States subject to the ebb and flow of the tide, including any adjacent marshes, shallows, swamps, and mudflats, and any inland waters of the United States that are used, have been used or are susceptible to use for transport of interstate or foreign commerce, including any adjacent marshes, shallows, swamps, and mudflats.

"(6) Upon approval by the Administrator of a State program pursuant to this subsection, the issuance of permits under section 404(a) of this Act shall be suspended as to those discharges subject to the approved program.

"(7) In the case of a State with a program approved under this subsection, the Administrator may object to the issuance of a permit under subsection (d)(2) of this section only where such permit is clearly outside the guidelines and requirements of this section and section 404 and where the Administrator provides a written statement of the reasons for such objection.

"(8) Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof or interstate agency to regulate, pursuant to other authorities, activities in the navigable waters within the jurisdiction of such State, political subdivision, or agency.".

(b) Section 404 of the Clean Water Act is amended by adding the following new subsections:

"(d) At any time after the enactment of the Clean Water Act of 1977 a State may assume the authority of the Secretary of the Army under this section in accordance with section 402(1) for the navigable waters within such State other than as specified in section 402(1)(5).

"(e)(1) For the purposes of this section and section 402 the placement of dredged or fill material into the navigable waters shall not be required to have a permit where such placement—

"(A) results from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(B) involves any other activities identified in section 208(b)(2)(F) through (I) for which a State has adopted and obtained approval of a regulatory program under section 208(b)(4) for all such placement and nonpoint source activities throughout such State which applies best management practices for such activities;

"(C) involves maintenance, including emergency reconstruction of recently damaged parts, of currently servicable structures such as dikes, dams, levees, groins, rip-rap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(D) involves construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

"(E) involves construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters; or

"(F) involves construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized.

"(2) Nothing in paragraph (1) of this subsection shall be construed to limit or affect the ability of a State or designated management agency to control such activities under sections 208 and 303 (d) and (e) of this Act.

"(3) Any discharge of dredged or fill material into the navigable waters incidental to the construction of a dike or other activity for the purpose of bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section or section 402 of this Act.

"(4) Any placement of dredged or fill material containing toxic pollutants into the navigable waters shall be required to have a permit under this section or section 402 of the Act, and to be in compliance with sections 301, 307(a), 403, and 404 (b)(1) and (c) of this Act.

"(f)(1) Consistent with the requirements of this section and section 208, the Secretary of the Army under this section, or a State with a permit program approved under section 402(1) may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis, as appropriate, for classes or categories of discharges of dredged or fill material if the Secretary or the State determines that the discharges in the class or category are similar in nature, cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.

"(2) Any such general permit issued under this subsection shall be in lieu of individual permits required under this section (or section 402(1)). Such general permits shall be conditioned on compliance with (A) specific requirements or standards, including State standards or management practices for the activity authorized by such general permit, and (B) the guidelines under subsection (b)(1) of this section.

"(3) Any general permit shall be for a maximum period of three years and shall be subject to being revoked or modified, after opportunity for public hearing, if the requirements of this paragraph are not being compiled with, or if the activities authorized by such general permit may have an effect which is more appropriate for consideration in individual permits.

"(g)(1) The notice required in subsection (a) of this section shall be distributed by the Chief of Engineers not later than fifteen days following submission by an applicant of all information required to complete an application for a permit.

"(2) The Secretary shall, within six months after the date of enactment of the Clean Water Act of 1977, enter into agreements with the Administrator, and the Secretaries of Agriculture, Commerce, Interior, and Transportation and heads of other appropriate Federal agencies to minimize to the maximum extent possible duplication, needless paperwork and delays in the issuance of permits under this section. Such agreements shall be developed to insure that, to the maximum extent practicable, a decision in an application for a permit will be made not more than seventy-five days after publication of the notice specified in paragraph (1).

"(h) No permit shall be required under this section for any Federal water resource project west of the 100th principal meridian, specifically authorized by the Congress for which a final environment impact statement under section 102(2)(C) of the National Environmental Policy Act has been prepared.".

(c) Section 208(b)(4) of the Clean Water Control Act is amended to read as follows:

"(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, including the application of best management practices under this paragraph, the requirements of subparagraphs (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to all areas and all such activities within such State.

"(B) Any such program submitted under this paragraph shall include the following:

"(i) designation of a management agency or agencies to implement the strategy for controlling the placement of dredged or fill material into the navigable waters;

"(ii) a consultation process that includes the State agency with primary jurisdiction over fish and wildlife resources;

"(iii) a process to identify and control the placement of dredged and fill material and other point and nonpoint sources of pollution that adversely affect wetlands and other critical aquatic resources;

"(iv) a process for coordination with the Fish and Wildlife Service in the Department of the Interior, including a process for using and improving the National Wetland Inventory and the information that is a part thereof.

"(C) Whenever the Governor obtains approval of a statewide regulatory program which requires best management practices for the placement and nonpoint source activities identified in subparagraphs (F) through (I) no permit, either general or specific, shall be required for such activities under section 404 or 402(1).

"(D) Whenever there is a dispute with respect to a requirement for a permit under section 402 or section 404 for any activity included under an approved State regulatory program under this paragraph, the Administrator or the Secretary, as appropriate, shall be required to demonstrate that (i) the activity is, in fact, a discharge subject to section 402 or section 404 except for the application of this paragraph; (ii) the size and location of the activity is causing or is likely to cause a significant adverse environmental impact in the affected navigable waters, as identified in guidelines promulgated pursuant to section 404; and (iii) the applicable

best management practices are insufficient to minimize any adverse environmental effect.

"(E) (i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.".

(d) Section 208 of the Clean Water Act is further amended by adding a new subsection to read as follows:

"(j) (1) The Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, is authorized and directed to consult with, and provide technical assistance to any State or agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) There are hereby authorized to be appropriated to the Secretary of the Interior $6,000,000 beginning in fiscal year 1978 to complete the National Wetland Inventory of the United States by December 31, 1978, and to provide information from this survey to such planning agencies as it becomes available to assist in the development and operation of such plans, including those that are administered by agencies designated by a Governor pursuant to subsection 208(b) (4) (A) of this section.".

SLUDGE DISPOSAL

SEC. 54. (a) Section 405(a) of the Clean Water Act is amended by striking "under this section" and inserting in lieu thereof "under section 402 of this Act".

(b) Section 405(b) of the Clean Water Act is amended by striking the period at the end of the first sentence and inserting in lieu thereof "and section 402 of this Act.".

STATES' JURISDICTION

SEC. 55. Section 510 of the Clean Water Act is amended by adding the following: "Nothing in this Act shall be construed to supersede or abrogate or in any other way affect any authority now vested in any State to establish or operate programs for the allocation of quantites of water within its respective boundaries, or any rights to, or allocations of, quantities of water which have been established pursuant to such programs."

COMBINED SEWER OVERFLOWS

SEC. 56. Section 516 is amended by adding a new subsection as follows:

"(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment work operations. The report shall include (1) the status of any projects funded under this Act to address combined sewer overflows, (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $4,500,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municpalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.".

UTILIZATION OF TREATED SLUDGE

SEC. 57. Section 516 is amended by adding an additional new subsection as follows:

"(d) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results to research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 104 and 105 of this Act, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes.".

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 737

Mr. ANDERSON. Mr. President, I ask unanimous consent that notwithstanding the agreement to substitute the House bill, and the third reading and passage thereof, the following amendment be in order.

The PRESIDING OFFICER (Mr. METZENBAUM). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ANDERSON. Mr. President, I move that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 3, strike line 4.

(2) On page 1, after line 4, insert the following new section and renumber succeeding sections accordingly:

"SEC. 2. Section 518 of the Federal Water Pollution Control Act is amended to read as follows:

SHORT TITLE

"SEC. 518. This Act may be cited as the 'Clean Water Act'."

(3) In each place the bill uses the phrase "Federal Water Pollution Control Act" strike it and insert in lieu thereof "Clean Water Act".

Mr. ANDERSON. Mr. President, this is a technical amendment that we failed to offer at the proper time.

The PRESIDING OFFICER. Is there objection to the amendment being in order at this time?

Mr. BUMPERS. Mr. President, reserving the right to object—and I hope we do not have to go through this again—is there anything on there dealing with page 73 of the bill?

Mr. ANDERSON. No.

The PRESIDING OFFICER. Without objection, the amendment is considered and agreed to.

Mr. ANDERSON. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 3199.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I ask unanimous consent that S. 1952 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. I ask unanimous consent that 500 copies of the bill (H.R. 3199) as passed by the Senate be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses on H.R. 3199, and that the chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. MUSKIE, Mr. GRAVEL, Mr. BURDICK, Mr. CULVER, Mr. HART, Mr. ANDERSON, Mr. STAFFORD, Mr. CHAFEE, Mr. WALLOP, Mr. MCCLURE, Mr. DOMENICI, and Mr. BAKER conferees on the part of the Senate.

CLEAN WATER ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ordinarily would not take the Senate's time at this point, but I think we ought to commend the manager of the bill that has just been passed, the able Senator from Minnesota (Mr. ANDERSON) for his skill in successfully guiding the water pollution legislation to passage in the Senate today. I believe this is the first legislation that Mr. ANDERSON has floor managed, and I feel it is appropriate not only to commend him for this achievement, but to point out that he chaired several of the hearings on this important legislation. In fact, Mr. ANDERSON has been deeply involved in this water polution legislation since coming to the Senate in January of this year. He has demonstrated great competence in his understanding of this important legislative field, and I congratulate him for his work.

I also wish to congratulate the distinguished chairman of the Committee on Environment and Public Works, my friend and senior colleague from West Virginia (Mr. RANDOLPH) for his continuing efforts in bringing important conservation measures to the Senate floor. Moreover, Mr. President, the able Senator from Maine (Mr. MUSKIE) continues to show his dedication to the environment by his untiring efforts on this bill and in connection with the clean air

conference, while at the same time he has been conducting hearings on the second budget resolution.

I salute him for his dedicated efforts on behalf of the environmental health of the Nation.

Mr. President, my statement would not be complete, and I would certainly be remiss in my duty to my own conscience, if I did not recognize the extremely good work and the fine cooperation and dedication that has been shown, as always, by the very distinguished Senator from Vermont (Mr. STAFFORD). He has demonstrated his usual exemplary skill in helping to floor manage that bill. From this side of the aisle, I salute him as I have saluted those on my side.

Mr. BAKER. Will the Senator yield for one moment?

Mr. ROBERT C. BYRD. I yield

Mr. BAKER. I would like to associate myself with the remarks of the distinguished majority leader, Mr. President, and particularly to congratulate our colleague (Mr. ANDERSON) for his first experience in managing a bill. This is a controversial bill and one which created substantial disagreements which were resolved on the floor of the Senate.

I commend Senator STAFFORD in particular for guiding the bill on this side of the aisle, those who offered amendments, those who succeeded and those which did not. I am pleased that the Senate has passed a piece of legislation which I believe does credit to it.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I am yielding to my colleagues at the sufferance and patience of Mr. MAGNUSON, if he will allow me another minute.

Mr. MAGNUSON. I am very patient. [Laughter.]

Mr. ROBERT C. BYRD. I yield to my senior colleague, Mr. President.

Mr. RANDOLPH. Mr. President, I especially wish to underscore the commendation, which is merited, by the able majority leader of WENDELL ANDERSON and ROBERT STAFFORD, and, of course, all those persons who have been mentioned, other than myself, in connection with the matters which have been the concern of the Senate today.

I believe Senator BAKER would want to be a part of what I am now saying, that it has been the policy within the Environment and Public Works Committee to bring into active leadership on the floor the younger members of our committee. I think this is a good practice. I think they appreciate it, and the Senate profits by their work.

Mr. BAKER. If the Senator will yield for a moment, Mr. President, the distinguished chairman is right. We owe a great deal to the chairman of the Environment and Public Works Committee for his diligence in championing successful efforts to pass good legislation. I would only conclude by saying in addition to my great admiration for him for many years, I would confess to being one of those younger members, but by now I have fully recovered.

(The following proceedings occurred earlier and are printed at this point in the RECORD by unanimous consent.)

SENATOR SCOTT'S REPORT ON HIS RECENT TRIP TO PANAMA, ARGENTINA, AND CHILE

Mr. SCOTT. Mr. President, earlier today I made a report to the Committee on Armed Services on a recent trip to Panama, Argentina, and Chile to ascertain information primarily for the committee with regard to the Canal Zone and the feeling of the people in the general area regarding the proposed transfer of title, of jurisdiction, and control to the country of Panama.

I ask unanimous consent, Mr. President, that a copy of the report and the enclosures contained therein be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCOTT. Let me add that three volumes of material filed with the committee are too voluminous to include in the RECORD, and that further information was provided to the Committee on Armed Services in executive session which would not be appropriate to be made public.

I would hope, Mr. President, that all Members of the Senate will obtain independent information with regard to the proposed transfer of the canal in addition to what may be made available from our own State Department.

My report may be helpful to Senators, and the enclosures include a brief summary of the history of the canal, a copy of the 1903 treaty, a position paper presented by the civic councils of several American communities within the area of the Canal Zone, and a recent statement by Adm. Thomas H. Moorer who retired from the Navy after service as Chairman of the Joint Chiefs of Staff for a 4-year period. This statement by a gentleman who was our top military officer from 1970 to 1974 expresses the same concern that I heard from more than 100 individuals, both Americans and foreign nationals, during the trip last month.

The Subcommittee on Separation of Powers of the Senate Judiciary Committee has also had rather extensive hearings primarily on constitutional questions relating to the status of the canal, the authority of the executive branch of Government to negotiate for a transfer of title in view of section 3 of article IV of the Constitution which provides that—

> The Congress shall have power to dispose of and make all necessary rules and regulations respecting the territory or other property belonging to the United States . . .

Our Subcommittee on Separation of Powers also discussed the treaty power of the President under article II, section 2, of the Constitution.

Based upon the facts as I have been able to ascertain them, Mr. President, from the hearings before the Judiciary Committee, from discussions with officials and private persons, both Americans and foreign, the contemplated transfer appears to be against the best interests of the United States from an economic, political and a national defense point of view. The Supreme Court has held that we own title to the Canal Zone and the fifth circuit court of appeals has held that it is the unincorporated territory of the United States. Therefore, unless the Congress, or the American people can prevail upon the White House or the Department of State not to enter into a treaty to give away our property, the only recourse is for the Senate to refuse to ratify the treaty and for the Congress to refuse to appropriate funds specified in the proposed treaty.

EXHIBIT 1

REPORT OF SENATOR WILLIAM L. SCOTT OF VIRGINIA ON PANAMA CANAL TRIP

Mr. Conneely and I left Dulles airport near midnight on June 29th and arrived in Panama early the following morning. In order to obtain an overview we were provided with a helicopter flight over the entire Canal Zone with Lt. General Dennis McAuliffe accompanying us and explaining various details. Thereafter, we visited a set of locks on the ground and were provided with a film study of the history and the operation of the canal. Then we visited the American Ambassador William J. Jorden who discussed the proposed treaty with us. Later we visited the Governor of the Canal Zone. Governor Parfitt is a major general in the army and has general supervisory jurisdiction over the maintenance and operation of the canal, as well as executive oversight of the Zone and the Panama Railroad Company.

We arranged to have a detailed discussion with General McAuliffe and his staff, including a number of colonels and naval captains at a joint meeting. They were most cooperative in sharing their thoughts and responded freely to questions with the understanding that we were attempting to obtain general information to share with the committee and possibly with the full Senate. Each of the general's staff was asked his personal views on the future of the canal, whether it would be operated efficiently if turned over to the Panamanians; whether there was any danger of Communist influence, and whether there would be any policy changes regarding the use of the canal or the fees charged for its use.

Similar questions were put to Americans employed in the operation of the canal and later to businessmen, intelligence officials and staffs of the American Embassies in both Argentina and Chile. Argentine officials included the minister of defense, undersecretary of foreign affairs and assistant to the president. Chilean officials included the president, foreign minister, defense minister, other cabinet officials and the Chilean Ambassador to the United Nations. During the 10-day trip we obtained the views of more than 100 individuals, some American citizens and some foreign nationals.

Our Ambassador to Panama and a former Foreign Minister of Panama favored the proposed treaty. Others had a different point of view. The general consensus of these views was that the United States had constructed the canal and utilized it in the best interests of all countries of the world without profit, and with toll charges only to cover the cost of operation. In fact, it was suggested that the name "Panama Canal" should never have been used but it could better have been named the "American International Canal." Fear was expressed that the Panamanians would not have the necessary skills, or expertise to operate the canal, although they had waged a very successful propaganda effort in favor of obtaining control.

We were also told that there were Communists with important positions within the Panamanian Government and regardless of the terms of a treaty, the canal might be nationalized by the Panamanians and might come under the control of Communists domnated by Cuba and Russia. The committee

might want to obtain the views of Admiral Turner and the C.I.A. in this regard.

There was a common belief that tolls would be raised substantially and statistics were cited that 70 percent of the ships using the canal either came from, or were destined for American ports.

In Argentina we were told that the canal was not as important to it and to other Atlantic nations as it was to countries on the Pacific side of the South American continent or nations closer to the canal.

Chilean officials stated that although they could go around Cape Horn more easily than more northern countries, it was more convenient and economical for their ships to utilize the canal and 95 percent of their shipping did pass through the canal.

In both Chile and Argentina surprise was expressed that we would solicit their views on the future of the canal as State Department officials had led them to believe that the United States had lost interest in continuing its operation. They indicated, however, that the United States had always kept the canal in very good operational condition, but that it would deteriorate under the Panamanians; that Panama would have to obtain outside help to operate the canal and it would not be in the interest of other Nations for the operation or the control of the canal to be turned over to the Panamanians. We were advised that the Panamanian Government itself was inefficient and that the Government could not be expected to do any better in the operation of the canal.

Concern was expressed that terrorists' tactics might be employed if the United States did not execute a treaty under which control of the canal would be given to the Panamanians and that while our troops could successfully meet a direct threat against the canal, military personnel would probably have to board ships as they entered the canal and accompany them through the various locks and no guarantee could be made that a small group of terrorists, under cover of darkness and jungle growth, could not penetrate our defenses and plant explosives at vital spots which would make the canal inoperative. It was not believed, however, that this would happen as it would be very detrimental to the interest of the Panamanian people and their Government since their economic prosperity, to a considerable extent, depended upon uninterrupted operation of the canal.

Concern was expressed that the State Department was proceeding as if it had the full backing of the American people and without considering opposition in the Congress. We were told that Panamanians respected strength and resoluteness and in recent years our Government had shown little firmness and even encouraged Panamanians and others to believe that we intended to give up our rights to the Canal Zone. We were told it would be easier to maintain the security of the canal by continuing our control than it would be to guarantee its security in the event it was operated by Panamanians or to retain control once it was transferred to others.

Americans working and living in the Canal Zone were especially bitter about the prospects of transferring control to Panama. They indicated that all of our military ships but 13 could go through the canal; that war material of all kinds could transit it, including men and equipment; that over 96% of all ships afloat throughout the world could go through the canal; and that the fares paid by ships of any Nation flying any flag were the same with no discrimination, and in time of peace all Nations of the world are permitted to utilize the canal.

Americans living in the Canal Zone stated that the Panamanian Government was inefficient and ineffective; that it was socialistic in nature, headed by a dictator, with little freedom of the press, speech or other civil liberties. It was indicated that our government had been more than generous to the country of Panama not only with regard to the Canal Zone but in conveying to Panama American property outside the Canal Zone worth many million of dollars; property that had formally been used by our Government as quarters for U.S. employees, schools, hospitals and hotels, and for other purposes.

It might be well, Mr. Chairman, to insert, at this point in the Record, a short factual statement of the history of the canal, the American role in the establishment of the country of Panama, as well as a copy of the 1903 treaty. It is interesting to note that the width of the canal is 5 miles on each side of a center line and about 50 miles in length, containing somewhat more than 500 square miles, or more than 5 times the original size of the District of Columbia.

I would also like to make available other written material given to us but for committee use only, not to be made a part of the Record. This material was given to us by American citizens living in the Canal Zone and even a casual reading indicates the deep concern of our own citizens, who should be most familiar with conditions in Panama, about the proposed transfer. For example, a position paper to the House Subcommittee on the Panama Canal on April 12th of this year contains this statement: "The State Department is negotiating a treaty which it is willing to ratify. They make the assumption that they know what is 'in the best interest of the United States' and all other opinions are to be considered ill-informed, unenlightened, and out of step with modern times."

We were told military personnel would appear if requested by the committee and express their opinions in the same manner as they expressed them to us if the committee asked for an expression of personal opinion. My overall impression from the entire trip is that there is a variance between official opinions and private ones. Military and civilian Americans are hesitant to speak out against the transfer of the canal while our State Department is negotiating a transfer of ownership and control.

Moreover, there is little doubt that Pan American nations privately desire the United States to continue both operation and control but are hesitant to publicly oppose the Panamanian position, especially when the United States has not attempted to cultivate a contrary view: I believe it would be against the interests of our Government to transfer control of the canal; that there is evidence of communist influence and that a transfer would have an adverse effect on both American commerce, and defense posture. Since our government did pay the Panamanians for the right to construct the canal, operate it in perpetuity, exercise the rights of sovereignty, paid the French and Columbian Governments for their interests, and purchased title to the property from private owners and even squatters on the property, the claims of the Panamanians do not appear reasonable.

There is also the question the effect the transfer of the control of the canal might have upon the size and composition of our navy and the committee might want to make inquiry in this regard of the Chief of Naval Operations or Chairman of the Joint Chiefs. A former chairman of the Joint Chiefs Adm. Thomas H. Moorer in recent testimony before the Subcommittee on Separation of Powers of our Senate Judiciary Committee spoke out very strongly against the transfer and in response to questions expressed the opinion that transferring the control of the canal to Panama could very well result in Communist control of the canal. I would like to insert a copy of his direct testimony at this point in the record.

I would ask for a short closed session that would take only a few minutes to go over some sensitive information and identify its sources.

[From the Military Engineer, July–August 1974]

A Panama Summary

(By John J. Kern)

Then felt I like some watcher of the skies
When a new planet swims into his ken;
Or like stout Cortez when with eagle eyes
He star'd at the Pacific,—and all his men
Look'd at each other with a wild surmise—
Silent, upon a peak in Darien.
(John Keats, "On First Looking Into Chapman's Homer.")

In this sonnet Keats ascribes the discovery of the Pacific Ocean to Cortez. Although his sonnet is a masterpiece, Keats was historically inaccurate since it was actually Vasco Nuñez de Balboa who discovered the Pacific Ocean in 1513 while atop a mountain peak in the Darien province of eastern Panama.

EARLY EXPLORERS

Rodrigo de Bastidas of Seville discovered Panama in 1501 from the Atlantic side. Christopher Columbus explored the area on his fourth American voyage in 1502. Surprisingly, within 50 years of the discovery of Panama, all of the presently discussed possible canal routes across Central America had been identified, described, and to a certain extent surveyed. Alvaro de Saavedra Ceron, a cousin of Cortez, drafted the first plan for a transisthmian canal in 1529. In 1534, Charles V of Spain directed that a survey be made for a ship canal between the Chagres River and the Pacific Ocean.

EARLY HISTORY OF REGION

The Camino Real was in use by 1535 and over it millions of dollars worth of Peruvian and Mexican gold was transported for ocean shipment to Spain. The Panama area was subsequently incorporated into the viceroyalty of New Granada of Spain's western empire. A preliminary Spanish attempt to construct a canal in 1814 was interrupted by a revolt of her colonies. Panama severed political relations with Spain in 1821 and joined with Colombia in the Republic of Greater Colombia. In 1831, New Granada became an independent republic incorporating Panama as a state. Ten years later Panama seceded from New Granada and maintained its independence for thirteen months.

UNITED STATES INVOLVEMENT

The 1846 Treaty between the United States and New Granada gave the United States a transportation concession across the Isthmus in return for a guarantee to protect the sovereignty of New Granada. One year later the Panama Railroad Company was organized, and in 1848 gold was discovered at Sutter's Mill in California. This event soon brought to the Isthmus a tidal wave of immigrants seeking a better route to the gold fields of California rather than the arduous overland route. Congress co-operated in the same year and authorized steamship lines from New York and New Orleans to Chagres and from Panama City to California and Oregon. The economic pressure of an emerging nation was beginning to be felt on the Isthmus.

Difficulties again between Panama and New Granada resulted in Panama's temporary secession in 1853. In 1856 the United States Marines landed to protect the Panama Railroad during a riot. Thus began the military involvement of the United States.

In 1869 a diplomatic agreement between the United States and Colombia (which had changed its name from New Granada in 1861) provided for the construction of a canal. This was rejected by the Colombian Senate. This same year the opening of the Suez Canal focused international attention on a similar canal in Panama. The United States Congress, in 1872, authorized appointment of the first of many such committees—The Interoceanic Canal Commission—to de-

termine the most practical route for a waterway between the Atlantic and the Pacific. Its report recommended construction of a lock canal across Nicaragua.

FRENCH INVOLVEMENT

In 1875 Ferdinand de Lesseps, the successful builder of the Suez Canal, proposed a sea-level canal at Panama. The Société Civile International du Canal Interoceanique was organized in 1876 to make surveys and explorations. The negotiations in 1878 between Lucien Napoleon Bonaparte Wyse and the Government of Colombia for a canal concession and subsequent French proposals of de Lepiney for a lock canal, resulted in counteraction by the United States. On June 25, 1879, the United States Congress resolved that any attempt of a European power to establish a ship canal across the Isthmus would be considered "a manifestation of an unfriendly disposition towards the United States." Thus, politics and diplomacy joined previous United States economic and military pressures for action in constructing a canal across the Isthmus of Panama.

Nevertheless, in the same year, the Compagnie Universelle du Canal Interoceanique de Panama was organized with de Lesseps as president. The new company ceremoniously started digging a sea-level canal on January 1, 1880, on the Pacific side of the Isthmus. Excavation of Culebra Cut was started in ten days although it was not until one year later that sizable numbers of French construction gangs arrived at Colon. Within five months, the first deaths from yellow fever occurred among Canal employees.

FRENCH CONSTRUCTION DIFFICULTIES

In September 1882, a severe earthquake damanged the canal railroad and buildings. Internal security remained a problem and in May 1885, Colon was burned during a Panamanian revolution. The following year the status of Panama was changed from a Colombian state to a department governed by federal appointees. Corporate difficulties increased within the Compagnie Universelle. Philippe Bunau-Varilla was appointed canal engineer in 1885, only to be relieved one year later. Construction difficulties increased and it became apparent that a sea-level canal was beyond the capabilities of the French company. The plan was changed to a lock canal in 1887. In 1888, after further unsuccessful efforts, the Compagnie Universelle went into receivership.

Meanwhile, independent United States efforts to build a canal across Nicaragua continued. In 1889 the United States Congress incorporated the Maritime Canal Company which began an unsuccessful four-year effort to construct a canal over the San Juan route. These efforts coincided with the suspension of work by the French company on the Panama Canal. The latter company was replaced by the Compagnie Nouvelle du Canal de Panama, but little progress was made and efforts were further hindered by the start of a five-year revolt against Colombia by Panama in 1898.

ISTHMIAN CANAL COMMISSION

On March 3, 1899, the First Isthmian Canal Commission was created by President McKinley to examine all practicable routes across the Isthmus. A year later, this Commission determined from the engineering aspects that a Nicaraguan or a Panamanian route would be about equally feasible. With the expectation of difficulty in acquiring the assets of the French company and operating rights in Panama, the Commission recommended the Nicaragua route. In 1902 the Isthmian Canal Commission reversed its decision and favored adoption of the Panama route after the French company reduced its demands to approximate the appraisal of its assets. United States attention finally settled on Panama as the site of the canal. The Compagnie Nouvelle then agreed to a sale of its canal assets for $40,000,000. The United States Congress promptly granted broad powers to the President to construct the Panama Canal.

PANAMANIAN REVOLT AND THE HAY/BUNAU-VARILLA TREATY

On March 17, 1903, the Senate ratified the Hay-Herran Treaty which would grant construction rights in a canal zone in return for payment of $10,000,000 to Colombia and an annuity of $250,000. This treaty was rejected by Colombia on August 12, 1903, and on November 3 the final Panamian revolt against Colombia resulted in a declaration of independence. Three days later the new Government of Panama was recognized by the United States and within an additional 12 days the Hay/Bunau-Varilla Treaty was signed and ratified by both sides, granting United States occupation of the Canal Zone in perpetuity under similar financial terms as originally offered to Colombia. Relations between the United States and Panama were thus initiated, and assumed much of their later character.

In 1904 the French canal properties were transferred to United States ownership and in November of that year the first American construction effort began. Work was steadily pushed ahead for the next decade and on August 15, 1914, the SS Ancon transited the canal, officially opening the waterway to world commerce.

RECENT STUDIES

The 1929 Study.—Several years after the opening of the Panama Canal, concern that traffic demands would eventually exceed canal capacity led Congress, in 1929, to direct a survey in Panama and Nicaragua to decide the feasibility of adding additional locks to the existing canal, or of constructing another canal at some other location. The United States Army Interoceanic Canal Board of 1929–1931 was created and its report, submitted in 1931, proposed three long-term alternatives: a third set of locks for the existing canal; conversion of the existing canal to sea level; or construction of a new lock canal in Nicaragua.

The Third Locks Project Study (1936–1939).—Congress authorized the Governor of the Panama Canal to study the possibilities of increasing the capacity of the canal. The study report revised a concept which was considered in the original design of the canal and further revised in the 1929 study, and proposed a third set of locks separated from each of the existing locks. In 1939 the Congress authorized its construction, but the project was suspended in 1942 and has never been resumed.

The 1947 Report.—Congress again directed the Governor, in late 1945, to study methods of increasing canal capacity and defenses as well as to consider other alternative routes. Thirty possible routes from Mexico to Colombia were identified and numbered. The report recommended that the existing canal (Route 15) be converted to a sea-level canal by deepening and straightening the existing alignment along a new route called Route 14.

1957–1960 Ad Hoc Committee for Isthmian Canal Plans. The Board of Directors of the Panama Canal Company authorized this study in which recommendations included the first mention of nuclear excavation. The report recommended planning for construction of a sea-level canal using nucelar excavation along a route outside of the Canal Zone. If such plans were not available to implement by the early 1970's, the existing canal was to be converted to a sea-level canal.

1957–1960 Board of Consultants Study.—Concurrently with the Ad Hoc Committee's study, the House Committee on Merchant Marine and Fisheries appointed a Board of Consultants to prepare short- and long-range improvement plans. The report recommended that a sea-level conversion project should not be undertaken in the near future, but that the situation should be reviewed by 1970. In the interim, new studies should continue on conventional and nuclear construction methods.

1964 Isthmian Canal Studies.—This report was prepared by the president of the Panama Canal Company with the participation of the Atomic Energy Commission, the Corps of Engineers, and consultants. This comprehensive study summarized canal traffic projections and capacity, examined methods of improving lock canal facilities, provided a detailed analysis of the Third Locks Plan and a modification of this plan called the Terminal Lakes Plan, and proposed a sea-level canal within the Canal Zone. This report also set the number of lockages per year which could be accommodated at about 26,000. It also examined the technical feasibility of using nuclear excavation on sea-level canals in eastern Panama and northwestern Colombia.

Interoceanic Canal Studies 1970.—This Study Commission was required by Public Law 88–609 of the 88th Congress, September 22, 1964, to study the feasibility of, and the most suitable site for, a sea-level canal connecting the Atlantic and Pacific Oceans. The Commission was appointed in April 1965 and presented its report to President Nixon on December 1, 1970. Concerning nuclear excavation, the report concludes that this technology will not be available because its technical feasibility and international acceptability has not been established. Using conventional construction means, a sea-level canal is physically feasible and the most suitable site is along Route 10 in the Republic of Panama. Construction cost was estimated at $2.88 billion in 1970 dollars. A suitable treaty should be negotiated with Panama providing for a unified canal system (existing canal plus a sea-level canal on Route 10) to be operated and defended jointly by the United States and Panama. Construction should be started no later than 1985.

PRESENT LEGISLATIVE STATUS

House Resolution 1517 is pending before Congress and would authorize completion of a third lane of locks. Beyond this, there is no legislation pending which would provide for radically altering the existing canal or constructing another canal in some other location. Thus, future definitive action will apparently depend on an increase in the pressure areas (economic, military, political, and diplomatic) which originally combined to result in construction of the present canal.

ISTHMIAN CANAL CONVENTION, NOVEMBER, 18, 1903

(Convention between the United States and the Republic of Panama for the construction of a ship canal to connect the waters of the Atlantic and Pacific oceans. Signed at Washington, November 18, 1903; ratification advised by the Senate, February 23, 1904; ratified by the President, February 25, 1904; ratified by Panama, December 2, 1903; ratifications exchanged at Washington, February 26, 1904; proclaimed, February 26, 1904.)

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a Convention between the United States of America and the Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, was concluded and signed by their respective Plenipotentiaries at Washington, on the eighteenth day of November, one thousand nine hundred and three, the original of which Convention, being in the English language, is word for word as follows:

ISTHMIAN CANAL CONVENTION

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the

Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, JOHN HAY, Secretary of State, and

The Government of the Republic of Panama, PHILIPPE BUNAUVARILLA, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land underwater for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V

The Republic of Panama grants to the United States in pereptuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE VII

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance of the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ARTICLES VIII

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

ARTICLE IX

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

ARTICLE X

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad

and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

ARTICLE XI

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ARTICLE XIII

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imports, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section 1 of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ARTICLE XXIII

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th

day of November in the year of our Lord nineteen hundred and three.

JOHN HAY,
P. BUNAU-VARILLA.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eighth.

THEODORE ROOSEVELT.

By the President:
JOHN HAY, *Secretary of State.*

A POSITION PAPER, PRESENTED BY U.S. CIVIC COUNCILS TO THE HOUSE SUBCOMMITTEE ON THE PANAMA CANAL, APRIL 12, 1977

The Panama Canal was created by United States taxpayers' dollars, American ingenuity, engineering and medical expertise, and dedicated labor, transforming a sparsely populated, fever-infested jungle into the eighth wonder of the world. In fact, the Republic of Panama owes its very existence to the United States and the Panama Canal. Anyone who has seen the Nicaraguan area which was once considered for a Canal route can readily imagine what Panama would look like today had there been no Canal built here. Likewise, Panama owes its former prosperity to the United States and the Canal Zone, not just from the annual railroad annuity, but also from wages paid to Panamanian employees in the Canal Zone, from purchases made by U.S. citizens and agencies of the Canal Zone, and from the millions of dollars in foreign aid given so lavishly out of U.S. taxpayers' money.

The U.S. citizen work force in the Canal Zone is comprised largely of highly-skilled, dedicated, technical employees, who have left their homeland, not for service in a foreign country, but in the service of the United States government under the flag of the United States. Their outstanding record of accomplishments in keeping the Canal running smoothly and efficiently has been due largely to their sense of pride in their work, their sense of loyalty to the United States, and their attitude of concern for their country's welfare. These people believe strongly that the Panama Canal cannot operate effectively or efficiently without a Canal Zone which is under the jurisdiction of the United States—with U.S. laws, courts, postal system, police and fire protection, and schools with U.S. curriculum and U.S. citizen teachers. We believe that the U.S. government owes a strong legal and moral responsibility to these loyal employees to protect their job security, their lives, their property, and their families, while at the same time protecting the tremendous investment of taxpayers' money in the Canal.

For the past 3½ years, the U.S. Civic Councils in the Canal Zone have been preparing position papers and formal statements of community opinion for submission to Congressmen, Canal Zone officials, Department of Army representatives, treaty negotiators, and State Department officials. We have tried to maintain an attitude of rationality, calmness, and sensible perspective on the subject of a new Panama Canal treaty with the Republic of Panama. One of the many points we have tried to make so often, so much so that we feel like "broken records," is that the U.S. citizen in the Canal Zone feels very apprehensive about living under the type of "legal system" now in force in the Republic of Panama.

We live next-door to the Republic of Panama all year long! We use our eyes and ears to observe what is going on there and we are not naive enough to believe that the Guardia Nacional, that mistreats fellow Panamanians with arbitrary beatings, imprisonment, expatriation and murder, is going to give special treatment to those "hated colonialist gringoes" who have finally come under their jurisdiction. (This attitude of hostility is encouraged and developed by the Government-controlled news media in the Republic of Panama.) The actions of the Panamanian government during the past year-and-a-half have done nothing to sell the U.S. employee in the Canal Zone on the idea of living under Panamanian jurisdiction. Let us cite a few examples:

1 In January, 1976, a group of Panamanian businessmen and professionals were exiled, contrary to the Panamanian constitution, for their opposition to the Torrijos regime.

2. The student riots in Panama City in September, 1976, were clumsily handled by the Guardia Nacional, so much so that the disorder continued almost daily for a week-and-a-half. When the Guardia finally took decisive action, it was brutal.

3. The October bombings in the Canal Zone have been credited to members of the G–2 of the Guardia Nacional, although members of the U.S. Embassy speculated informally that Bill Drummond might have bombed his own cars and participated in bombings at other sites in order to gain sympathy for his anti-treaty stand.

4. An Air Panama pilot, officially charged with possession of bombs to be used against the Panamanian government, told people at Paitilla Medical Center that the bomb that exploded in his car was tossed in there by a passing G–2 car. According to the Panamanian government's "official version", the man's wife was holding a bomb in her lap (a somewhat incredible tale) when the bomb exploded, injuring her seriously. Incidentally, his wife was sentenced to five years in prison.

5. Guardia Nacional escorted groups of students into the Canal Zone January 9, 1977, where American flags were burned and Panamanian flags were raised. (This last ritual seemed somewhat unnecessary because Panamanian flags are already flying in the Canal Zone.)

6. William Drummond, while passing through Tooumen Airport on February 11, 1977, en route to Washington on labor union business, was detained by G–2 agents and questioned for about three hours in the downtown Panama City office. When he tried to board another plane the following day, he was detained for 15 minutes at the foot of the boarding ramp, and seven friends who accompanied him to the airport were also detained and questioned because one of them took pictures of Mr. Drummond being stopped by G–2 agents. The film was confiscated by the G–2.

It seems inconsistent with the stated refusal of our government to deal with countries who have violated human rights that any negotiations should be carried on with a government which is in power illegally, and which has a record of frequent violation of human rights. The Torrijos dictatorship has used extreme repression against political, professional, business, student and labor groups. The expatriation of what is estimated to be about 1300 Panamanians and the murder of some 500 persons in a country of only 1,700,000 inhabitants would compare to 168,000 expatriations and 65,000 murders in the United States. (Definitive, authoritative figures on expatriations and political murders are difficult to obtain in Panama because of Government secrecy and suppression of information which the Government does not want its people to have.)

What exists now in the Canal Zone, after many attempts on our part to send out warning signals and indications of problems to come, is a "seige mentality" and crisis atmosphere. Now that one of the Civic Council presidents whose signature appears at the conclusion of this paper (Harold Green of Gamboa) has had recent experience with arbitrary detention, arrest, interrogation and search in the Republic, we are having real difficulty in maintaining an attitude of composure and calm rationality.

In short, our people have told us that they are more rigidly opposed than ever to living under Panamanian jurisdiction. The list of 15 assurances, recently released by Governor Harold R. Parfitt, spelled out for them the cold hard reality that Panamanian law would go into effect when the treaty was inaugurated, and many, many of our people now tell us that "the day that the Canal Zone Police go, we go," and also, more alarmingly, "When the U.S. workers see the day getting closer when jurisdiction will be handed to Panama, you can expect to see the Canal shut down."

Last year Dr. Richard Cheville addressed your committee not long after the March sick-out, and he explained in his testimony some of the factors that led up to the closing of the Panama Canal. Morale at that time was extremely low; this year we have to say honestly that our people are so demoralized that they are ready to give up and quit—a shutdown of the Canal, if it occurs, will not happen over a labor issue. It will result from apprehensive employees, who in their fear for their physical security, will simply leave their jobsites, go home and pack their suitcases for repatriation. We do not say this lightly; we do not say it as a threat. But we must make the honest observation that our people feel so thoroughly discouraged and so exhausted after several years' worth of worry and insecurity (with nothing much to look forward to), that it would not take much to get some of them to join a job action.

In contrast to our position as year-round residents and as elected representatives of U.S. citizens living in the Panama Canal communities, the treaty negotiators and State Department officials have little at stake themselves personally, other than to successfully negotiate a treaty which will, in their minds, ease hemispheric tensions and get rid of chronic problems in our relations with Panama. When they finish their assignment, they will move on to other missions, leaving us to live with what they have arranged in treaty form. Generally, the treaty negotiators came to Panama for short periods of time, followed by journalists who become experts after a three-day tour that includes standard briefings by the Panamanian and Canal Zone governments.

These negotiators for the most part stay in isolation on the island of Contadora, and when they have consented to meet with Canal Zone labor and civic representatives, they have said relatively nothing of any significance on the treaty issue. We sincerely resent the fact that our services and the future security of our nation are being negotiated under a cloak and dagger atmosphere, particularly since the secrecy is unilateral. Secrecy, in recent years, has been closely linked with dishonest, illegal or shady dealings. We in the Canal Zone are hard pressed to accurately define the secrecy attached to the Panama Canal negotiations. (Imagine our chagrin to daily read in the Panama papers that a Panamanian government spokesman is briefing Panamanian student, professional, business or labor groups on the "progress of the negotiations." And the presidents of Costa Rica, Colombia, Venezuela seemed to be briefed regularly by General Torrijos about treaty matters. Does the U.S.

State Department believe that the American people are not mature enough to properly accept and assimilate such highly important information?)

Let us make clear that we are American citizens deeply concerned with the present and future well-being of our nation. Our opinions on what the U.S. has at stake in the negotiation of a new Canal treaty are also affected by our conversations with Panamanian friends, our reading of Spanish-language and English-language newspapers in Panama, and our understanding of the behavioral traits of the Panamanian government (something which one does not arrive at overnight or even in three days.) Because of the present situation in the Republic of Panama, many of us do not "cross the border" as often, as freely, or even as nonchalantly as we used to. Fear, apprehension, and deep concern for our personal safety brought about by a succession of events in Panama, have given us an increasing "looked-in" feeling in the Canal Zone. When Panamanians are deported, or arrested, tortured and even killed for having dissident opinions, and when even our own people are subject to arrest in Tocuman Airport, in violation of existing treaty agreements—the average U.S. citizen in the Canal Zone is not at all enthusiastic about arbitrarily being subjected to the legal jurisdiction of such a repressive government. As an additional item of evidence, we have had numerous conversations with many Panamanians that you will never be able to meet. Our impression from these conversations is that when the Panamanian government officials speak today, they are not speaking for all the people.

Let us cite a statement made recently by an educated businesswoman from Panama City. Speaking to a Civic Council president informally, she said, "The United States is a world leader and so is the Soviet Union. But the United States has the advantage of liberty and freedom. Yet your country is doing nothing to help promote the spread of liberty in Latin America today. I understand that your government cannot interfere in our internal affairs, but your government COULD withhold foreign aid and could stop giving military assistance to our government. Our people are growing in their resentment of the United States government because they see your government selling weapons, armored cars, and other equipment to this government that oppresses us." The Panamanian people seem to be overtly silent because they have no effective means that they can see with which to fight back. However, the ever increasing opposition to the dictatorial Government of Omar Terrijos became glaringly evident during the past Seprampant for months in the Canal Zone and Panama that more antigovernment riots may be imminent in the months of April and May.

What effect does all this have on the operation of the Canal? Right now it is having a disastrous effect on the quality of work being performed because workers are "uptight" constantly about physical and economic security. The pride in working on the Panama Canal that has been part of our historical heritage here since the Canal's construction is now giving way to constant preoccupation with one's personal welfare. The recent arrests of U.S. citizens at Tocumen Airport was not highly regarded by our people, many of whom wonder about their own safety in passing through this airport. The Panamanian government has not yet responded to the official protest concerning their violation of the Air Transport Service Agreement of 1949. Comments in the Panamanian press were that the Panamanian government did not like the agreement, a sentiment that does not augur well for any commitments made in a new treaty. The Panamanian government could decide, sooner or later, that they "don't like the agreement" again. On the subject of Tocumen Airport, let us add that our requests for use of Howard Air Force Base as the point of air departure and arrival from the Canal Zone were denied because "one arrest does not justify the civilian use of this military air terminal." U.S. residents who one year ago thought William Drummond was an eccentric who made his own problems, have been so jarred by events of the past year that now they identify fully with what happened to him at Tocumen Airport. The reason thusly: "If it can happen to Bill Drummond, then perhaps it can happen to me." Our people are now asking us, "How many arrests *are* needed for someone in our federal government to take steps to insure our protection in travel by air to and from the Canal Zone?"

Turning now to the subject of employee status under a new treaty with Panama, we would like to respond to the recent list of 15 items which the U.S. presumably proposes to submit at the negotiating table. In spite of the fact that the Panamanian government has said that this list of "assurances" would not be acceptable, we wish to let you know the reaction from the U.S. community in the Canal Zone. Assurances of U.S.-provided schooling and medical care, adequate housing, duty-free import and purchasing privileges and exemption from Panamanian income tax were good news to us, as you may be well aware. The language regarding job assurances was somewhat vague and left us wondering if we would be given help or if we would not. The assurances seem to promise only what we already have: "all eligible employees are *guaranteed by current regulation* reduction-in-force and reassignment rights, transfer of function rights, and discontinued service retirement following involuntary separation." We were also told that "Civil Service Commission approval will be sought to provide any present U.S. citizen employee requesting such assistance with priority placement consideration for appropriate vacancies in federal government agencies." This is still vague and uncertain, and our people have had about all they can tolerate of uncertainty.

The irony of the list of 15 assurances is that, in spite of advantages which the U.S. citizen who might consider remaining here will have over the locally-hired Panamanian citizen employee, our people have such strong objections to the fifth item in that list, that they have little interest in the other somewhat positive assurances. The item which caught the exclusive attention of the U.S. community reads like this: "In connection with offenses arising from acts of omission punishable under the laws of the Republic of Panama, United States citizen employees and their dependents will be entitled to specific procedural guarantees, such as prompt and speedy trial, specific charges, cross-examination of witnesses and legal representation of choice."

Disregarding the fact that Panamanian government officials have announced in their local newspapers that they would never allow U.S. employees in the Canal enterprise to have a SOFA-type of agreement such as the U.S. military will have, and assuming for the sake of argument that the Panamanian negotiators agree to this assurance as part of the new treaty, who will guarantee that the Panamanian government will *consistently comply* with the request to give U.S. citizen employees these "procedural guarantees"?

After reveiwing the list of assurances, we would like to hear something more specific and concrete, in language that we can understand, concerning priority transfers to government jobs in the United States. In addition, we would like to express concern for two particular job categories: teachers and policemen. At this point, teachers have no transfer rights from the Canal Zone into the U.S. Civil Service system, other than for jobs at Indian reservations. They have worked faithfully and well in educating our chidren, and we are distressed that they are left "out on a limb" when it comes to job transfers. Those who do not choose to participate in the DOD school system which will probably go into effect down here should be given first priority for employment in the U.S. and assistance in obtaining such employment. The men and women of the Canal Zone Policies Division are among those living under a "death sentence" because treaty negotiators have made it quite clear that law enforcement functions of the present Canal Zone Government will cease within three years after the new treaty goes into effect. The morale in this particular division continues daily at an all-time low because these employees only know that they will be out of a job soon; they know nothing about any future employment that will allow them to provide for their families.

In general, our people were appreciative of the attempt to give them some information about their status under a new treaty, even if that list of assurances is rejected by the Panamanian government. Nevertheless, our Personnel Bureau continues to have difficulty in recruiting pilots, doctors, nurses, marine engineers, electricians, tugboat masters, and other needed workers for the Canal enterprise. Our constituents tell us that June will witness another mass exodus from the Canal Zone, further magnifying the problem for our job recruitment specialists.

During the past three to four years, while job security has been a major concern for our people, they have been receiving an "education" from the State Department concerning the treaty. In briefings, newspaper articles, and informal discussions, the State Department officials make clear these basic premises for their argument that a new treaty is needed:

1. A Canal Zone is not necessary for the successful operation of the Canal. (They tell us that we wouldn't WANT to live in the Canal Zone if Panama did not get the treaty it desires.)

2. The countries of Latin America give full support to Panama's claims for sovereignty over the Canal Zone and eventual control of the Canal operation.

3. The turnover of the Canal to Panama is in the best interests of the United States because not to do so would possibly involve our country in another Viet Nam-style guerrilla war.

4. Panama has a sincere interest in keeping the Canal open and would not do anything to jeopardize the efficient operation of the Canal.

5. The Canal Zone is an anachronism; it is a source of irritation. Once the U.S. citizens are scattered throughout Panama City and Colon, they will no longer be identified as "Zonians," thus easing tensions and friction between the U.S. and Panama.

6. The economic growth of Panama depends on acquiring the lands in the Canal Zone so that Panama City and Colon can expand their business interests.

7. The denial of basic human rights within the Republic of Panama is not a matter that needs to be brought into the treaty negotiations. After all, Panama is one of the "developing countries of the world," and such behavior is normal for such countries.

8. The State Department would not negotiate a treaty which the U.S. Congress would not ratify.

The above concepts might be plausible to someone who has not lived here, to someone who has little or no dealings with the Panamanian government and its officials. They make the negotiation of a new treaty with Panama under the Kissinger-Tack conceptual principles as the most logical course to follow. Permit us to provide some responses to these concepts we have listed.

1. When the Canal Zone U.S.-based legal system ceases to exist, many, if not all U.S. employees will leave because they prefer to work and live under an orderly system of laws that guarantees them justice and fair play. They are becoming increasingly resistant to the thought of living under Panamanian legal system as it is now administered.

2. The countries of Latin America say one thing in public and another privately. In the newspapers they pledge full support for Panama's claims to the Canal. In private, to people such as former Under Secretary of State William Rogers, they say that they are satisfied with the course that the U.S. is taking in the Canal treaty negotiations. From observation of the political behavior and egocentrism of Latin American governments, one can safely say that Omar Torrijos could not depend on his Latin American neighbors for monetary or military support in an open conflict with the United States. Those other countries wish to preserve their own ties to the United States in foreign aid allotments and commercial ventures. They would not sacrifice their own interests for the sake of Torrijos' "just aspirations" concerning the Canal. Rhetorical support is about all that General Torrijos can expect from Central and South America.

3. Turning over the Canal to prevent "guerrilla warfare" is NOT in the best interests of the United States because:

a. construction of enough warships to provide a "two-ocean navy" would be necessary in case Panama became whimsical in permitting us access to the Canal for military vessels. The extra cost in fuel for sending these ships around the tip of South America would be astronomical.

b. The Moscow-Havana axis has been casting lustful eyes for a long time toward our Canal as well as at other straits and waterways of the world. Panama does not have the military strength (even with the armored cars new in their possession) to withstand an assault from ANY country that would choose to invade and occupy it. The Panamanian people are not "fighters" by tradition; they have never fought a war of liberation. The average campesino reasons in this way: "Why should I get myself killed for the sake of a dictator? What will it gain me or my family? Absolutely nothing. Therefore I will simply adjust to whoever is in power. One ruler is as bad as another."

c. The flow of Alaskan oil through the Panama Canal en route to eastern ports in the United States will be in serious jeopardy when Panama has control over access to the Canal and over the setting of tolls.

d. Our first line of defense in the western hemisphere would suddenly become Harlingen or McAllen, Texas (or perhaps Key West, Florida.)

e. The threat of "guerrilla warfare" amounts to nothing more than an attempt at political "blackmail" and appears to be contradictory in nature, based on the actions of the State Department. How valid is the threat if the State Department permits the sale and assists in the movement of armed personnel carriers to the Panamanian government? This military equipment was furnished in two installments, the first in October, 1976, and the second on March 5, 1977. The second installment, consisting of 12 armored vehicles, was delivered under Canal Zone police escort, to the Republic of Panama. What can justify the sale of military equipment to a potential enemy? How does one explain this situation to a U.S. soldier who may some day face his own death at the hands of an enemy who is using equipment built in the United States and delivered with the help of our own Government officials? (One rather weak explanation from the U.S. Embassy in Panama is "Well, if they don't buy from us, they'll buy from someone else. It's better that US industry gets the money and we can control the supply of replacement parts."

4. The Panamanian government is not noted for rational, logical behavior, nor for extensive attention toward preventive maintenance of government equipment. At this point, the Panamanian government, nearly bankrupt, needs money so desperately that we agree they have a sincere interest in keeping the Canal open and operating efficiently. We further believe that the Canal will remain open and operating efficiently even if the Panamanian government does not gain control of the Canal and the Canal Zone. Panama presently derives about one-third of its national income ($256,000,000 in 1976) from Canal sources and they are not about to jeopardize that income by foolishly attempting to sabotage the Canal. Any terrorist or guerrilla type action, if at all, will be aimed at targets other than the Canal. In short, U.S. taxpayers are being required to sacrifice their tax dollars, land and national security in order to protect the investment of multinational business corporations.

One of the differences between U.S. control and Panamanian control of the Canal and Canal Zone is the anticipated exorbitant increase in tolls which Panama would levy. Any such increase would seriously jeopardize the economic health of the Canal and increase the cost of products in countries that can ill afford such an increase. Sabotage and toll increases will hurt most of these Central and South American countries who are supposedly solidly behind the "just aspirations" of General Torrijos.

The lackadaisical attitude toward repairs and maintenance would contribute to the mechanical and structural breakdown of the Canal and appurtenances (unless the United States agreed to continue supplying parts and maintenance indefinitely.)

5. The "gringo" as he is often called here in Panama will continue to receive harassment, whether he lives in Panama or the present Canal Zone. The United States has been a rather convenient whipping-boy for the Republic of Panama for years and years. Criticism of the U.S. has always been used to distract the Panamanian's attention from the incompetence, graft, corruption, and poor judgment of his government. Besides, the average Panamanian (when he permits himself to talk freely,) DOES NOT want a treaty signed under the regime of Omar Torrijos. Such a treaty would reinforce the already crushing power of the Torrijos government on the Panamanian people.

6. The economic growth of Panama will need more than a Canal to restore it to health. The repressive atmosphere has inhibited consumers from visiting stores and businesses; it has inhibited investors from putting their money to work in Panamanian enterprises. The acquisition of Canal Zone lands for use by Panamanian commercial interests still requires the intelligent use and exploitation of those lands by competent businessmen. Such people are not the ones in control in the Panamanian government today. The ones in power are military men without adequate training in economics and business management. At this point we will not even attempt to explore the plight of the businessman in Panama who is weighed down by a pyramid of government taxes and fees, a labor code full of headaches for everyone, and abundant government red tape necessary in order to operate a business in the Republic.

7. The denial of basic human rights within the Republic of Panama IS a matter that should be considered in the treaty negotiations. President Carter has expressed repeated interest in the matter of human rights. If our country is to participate in a metaphorical "marriage" by means of a treaty with another country, we should know just WHO that "spouse" is. Denial of human rights is bound to make further problems for Canal employees later on, no matter WHAT nationality they are. Rather than taking an amoral stance, our country should apply its influence on the Panamanian government, to the extent that U.S. citizens (who DO come under the legitimate concern of our federal government) will not be permitted to live under such repression. We cannot rightfully interfere in the domestic policies of another nation, but we can let them know that they will not receive what they want so desperately from us until they make some changes in those policies.

8. The State Department is negotiating a treaty which IT is willing to ratify. They make the assumption that they know what is "in the best interest of the United States" and that all other opinions are to be considered ill-informed, unenlightened and out of step with modern times.

In past years, civic leaders from the Canal Zone have presented to you concerns they had about day-to-day items such as health care, commissaries, substandard housing, and schools. We continue to have such concerns, but in an important hearing such as this, when your time is at a premium, we emphasize that our concern this year is the survival of the Canal and the physical well-being of the Canal operation.

U.S. citizens in the Canal Zone have been greatly disturbed in the past year with the direction in which the treaty negotiations seem to be going. They tend to feel powerless in the writing of a major agreement between two countries, an agreement which will have far-reaching effects on these workers as well as on the United States as a nation. Because of the political unrest in Panama today as opposition to the Torrijos regime mounts because of economic and political problems, we know we live and work here with a certain amount of risk. But at the same time we are concerned with the implications that the treaty being negotiated with Omar Torrijos will have on the United States. The behavior of the Panamanian government in the past year should be testimony enough in itself to give our Senators and Representatives some serious reservations about the wisdom of a treaty with a government that runs roughshod over its citizens' human rights and that drains the national treasury to supply a comfortable lifestyle for numerous high-ranking officials. A case in point is the current trip to Libya, during which General Torrijos and 49 other dignitaries will expend government funds while their nation is on the threshhold of bankruptcy and the people at home are exhorted to make "sacrifices" for the national good.

While all these things have been going on in Panama, State Department officials have assumed that the Panama Canal worker would stay in his place and patiently await the verdict on the treaty. They can no longer make that assumption safely. If the U.S. Government wishes the Canal to continue operating efficiently for world commerce, it will need to supply employees who are willing to work under the present tense and uncertain conditions. The U.S. Government may find them, but with some difficulty and probably at great cost in financial enticements. It would seem to make more sense to respond to the needs of the current workforce and likewise to avoid any haste in ratifying a treaty with Panama that promises to bring even more headaches in the future.

For ourselves as U.S. citizens living and working thousands of miles from our homeland, we can say, "Pack us up tomorrow. We're ready to go." But for the sake of U.S. commerce and of U.S. national interests in general in the Western Hemisphere, we urge you to examine the proposed treaty (whenever it is announced) in minute detail. We urge you to visit here for more than three days, to observe the situation with your own eyes and not to depend solely on briefings by U.S. or Panamanian government officials. The new treaty with Panama will have long-range repercussions that coming generations will have to live with; we urge you not to

ratify a new treaty solely because the State Department says that a treaty is the cure-all to problems with Panama. The Russia-Cuba axis and the American electorate are waiting to see which way the treaty goes. A hasty decision on the part of our Congressmen without giving deep and thoughtful study to the question would please the former and infuriate the latter.

Mrs. Charlotte Kennedy, President, Cristobal-Margarita-Brazos Heights Civic Council; Mrs. Patricia Fulton, President, Pacific Civic Council; Mr. Harold B. Green, Jr., President, Gamboa Civic Council; Mr. Dale Windle, President, Gatun Civic Council; Dr. Melvin Boreham, President, Coco Solo-France Field Civic Council.

STATEMENT BY ADMIRAL THOMAS H. MOORER

Mr. Chairman and Distinguished Members of the Subcommittee on the Separation of Powers,

I am honored to be here as a witness. I hope my testimony will prove helpful in these hearings regarding the U.S. Canal Zone and the Panama Canal.

My military experience during the last twelve years of active duty, from 1962 to 1974, offered me some extraordinary and unique opportunities to assess the importance of the Panama Canal to the United States, as well as its value to our Allies and friends and, indeed, to all maritime nations.

My evaluation of this waterway as an invaluable possession of the United States was intensified in 1962. At that time I was Commander Seventh Fleet operating in the Western Pacific. Frequently my fleet's capabilities depended on the prompt arrival of supplies from the Atlantic seaboard, supplies loaded aboard ships which were utilizing the Panama Canal.

From the Seventh Fleet I went to Commander-in-Chief, Pacific; from there to Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, Atlantic; from there to Chief of Naval Operations and from there to Chairman of the Joint Chiefs of Staff. Each of these commands provided unique opportunities, and sometimes urgent reasons, to evaluate the Panama Canal. I saw this strategic waterway from many vantage points and under stressful circumstances.

As Commander-in-Chief, Pacific, I recall in some detail the Tonkin Gulf era of 1964. During that period I saw the Panama Canal as a conduit for rapid reinforcement from the Atlantic Fleet should the naval forces of the Soviet Union or mainland China become involved in the Vietnamese War. The U.S. high command was never sure during those early phases of the war of the intentions of either the Soviet Union or mainland China. We knew they had the naval and air capabilities to make trouble and therefore we had to draw up contingency plans for such eventualities. In order to equalize the wartime explosure and hardship throughout the entire Navy, large numbers of Atlantic Fleet units were continuously rotated through the Canal to the combat theatre in the Pacific. In addition, as the Pacific Fleet Commander, I looked to the Atlantic side for rapid logistics support. The U.S. Army, the U.S. Air Force, the U.S. Marine Corps and the U.S. Navy all required a continuous and heavy flow of logistic support; such necessities as fuel, ammunition, spare parts and food. Our allies fighting with us in Vietnam also required considerable support from the United States. If the Panama Canal had not been open and available, the war in Vietnam would have been much more difficult and costly to conduct. This conclusion is also true for the war in Korea.

To give you some idea of the magnitude of Panama Canal usage and its relationship to the war effort, in 1963 there was a total of 300 U.S. government transits through the Panama Canal. As the war escalated, the number of government ships transiting by 1966 had almost doubled. The records show for that year—1966—a total of 591 government ships transited the Canal. Most of these ships were carrying critically needed logistics support to the forces operating under my command.

As Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, I saw the situation at Panama in another perspective. That was for the period 1965 to 1967. The war in Vietnam was still expanding, but now I was looking at the Canal not only as a means of sending support to the Commander-in-Chief, Pacific, but also from the Atlantic perspective. I saw the possible need to reverse the flow of ships through the Canal, particularly if the situation deteriorated in the Middle East or in the Caribbean during those volatile months of tension and conflict in both these areas.

Both in our U.S. planning and in our NATO planning we envisioned contingencies calling for reinforcements from the Pacific Ocean areas. We envisioned the need for combatant tonnage, Army and Marine Divisions, and particularly we saw the need for amphibious lift.

As Chief of Naval Operations I had to look at the Panama Canal as an essential means of equalizing the strength and providing the balance between the Atlantic and Pacific fleets. The Canal made it possible to preposition certain types and tonnages, but always with the knowledge that the balance could be shifted to meet unforeseen situations. The Panama Canal gives the naval planner much flexibility and versatility that he would be deprived of without it.

As Chairman of the Joint Chiefs of Staff I became even more sensitive to the strategic value of this U.S. Canal as a means of protecting the security of the United States. My job as Chairman involved all of the Armed Forces of the United States—their collective requirements—and I was primarily responsible to the President for their ability to carry out their roles and missions as assigned by the Congress. Any Commander acting in that capacity will immediately perceive that it is vital to United States interests to retain complete ownership and control of the Panama Canal.

It was at this juncture of my command responsibility that I became concerned about the proposals to surrender the Panama Canal to a leftist oriented government allied with Cuba. There existed the potential danger for giving this U.S. advantage to a man who might allow or might be persuaded that it was in his best interest to permit Soviet power and influence to prevail by proxy over the Canal, in much the same manner as happened in Cuba. I was convinced as Chairman of the JCS—and I remain convinced today—that if the Soviet Union ever gained even proxy sovereignty and control over the U.S. Canal Zone and Canal through Cuba, U.S. security as well as U.S. prosperity would be placed in serious jeopardy.

The United States would be placed in jeopardy because interocean mobility would be threatened. The mobility of allied commercial shipping and naval forces would face the same threat. The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized, and the point is: there is *no point* in surrendering this vital interest. I have yet to see any solid justification advanced as to why the United States should willingly sacrifice the strategic advantages afforded to us by our possession of the Panama Canal. Also, by relinquishing control of the Canal Zone and the Canal, we would force all those nations who depend on our power and leadership to accommodate to the adverse implications of such action on our part. The Canal Zone could become the satellite base of an adversary, and the advocates of "giveaway" do not appear to take this factor into account.

For the foregoing reasons and others not listed, I co-signed with three former Chiefs of Naval Operations a letter to President Carter. The key message in that letter was this: "Under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense with enormous potential consequences for evil."

The military and commercial considerations are obvious.

Although the large aircraft carriers and large supertankers cannot use the Canal, 97 percent of the world's commercial and naval fleets can use the Canal as it is. The Canal does need some modernization.

About two-thirds of all the current Canal traffic is bound to or from U.S. ports. When ships round the Horn instead of going through the Canal, they must travel about 8,000 extra miles, have 8,000 extra miles of wear and tear, need 8,000 extra miles of fuel. On an average it takes 31 extra days to round the Horn.

If we were denied use of the Canal, we would have to build a much larger Navy; much larger storage and harbor facilities on both the East and West Coasts of the United States, and provide more merchant ships as well as escorts.

Surrender of U.S. sovereignty over the Canal Zone would inevitably lead to the transformation of the entire friendly character of the Caribbean and the Gulf of Mexico. Everything would depend on the atitude of those who held sovereignty and ownership.

In military affairs there is no substitute for ownership of the territory and the ability to control or to deny the waters and the air space.

After having lived through three decades of conflict I don't believe it takes much imagination to envisage some of the pitfalls we might face in turning the U.S. Canal Zone and Canal over to any government that might see fit to use it against us. Mr. Chairman, I would like to include in the record the letter signed by four Chiefs of Naval Operations, including myself, and the forwarding endorsement signed by four distinguished members of the United States Senate as part of my statement.

Regarding the question of sovereignty, ownership and control of the U.S. Canal Zone and the Canal, I am not a lawyer, but I am satisfied with the Supreme Court's decision of 1907 in the famous Wilson vs. Shaw case that the United States does have legal sovereignty and ownership for the purposes enumerated in the Treaty of 1903. This ruling was reaffirmed as recently as 1972. Also, our Constitution states in Article IV, Section 3, Clause 2, that only Congress has the authority to dispose of U.S. territory and other property of the United States. The language in the Supreme Court's decision of 1907 is quite precise. It is not ambiguous. So is the language in our Constitution. Since the Supreme Court's decision of 1907 still stands—it has never been overruled—and since the Constitution, in my opinion, is still the best governing document in existence. I can only conclude that we would be well advised to abide by these documents in our negotiations with other countries.

Thank you, Mr. Chairman.

LEGAL ACTIONS OF INDIAN TRIBES—CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, I submit a report of the committee of conference on S. 1377 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S.

1377) to extend the time for commencing actions on behalf of an Indian tribe, band, or group, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 20, 1977.)

Mr. ABOUREZK. This has been cleared on both sides, and this is the extension of the statute of limitations on filing Indian claims. The conferees agreed to April 1, 1980 as a compromise date.

I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(This concludes proceedings which occurred earlier.)

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask that the distinguished Senator from Washington (Mr. MAGNUSON) be recognized, and that he then be permitted to yield to me without losing his right to the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I yield to the Senator from West Virginia.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are four nominations at the desk, reported earlier in the day by the Committee on Energy and Natural Resources. I ask unanimous consent that the Senate go into executive session to consider those four nominations.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the majority leader and I have discussed these four nominations, and I will simply say they are clear on this side and we have no objection to proceeding to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will come to order. Senators will take their seats.

The clerk will state the first nomination.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of James R. Schlesinger of Virginia to be Secretary of Energy.

Mr. HANSEN. Mr. President, I rise in support of the nomination of Dr. James Schlesinger to be this Nation's first Secretary of Energy. Dr. Schlesinger will head the new Department of Energy, which will be established by legislation we passed on Tuesday.

Dr. Schlesinger has served this Nation well in the nearly 10 years since he came to Washington. As a senior official in the Office of Management and Budget, the Chairman of the Atomic Energy Commission, the Secretary of Defense, and most recently as the Assistant to the President, heading the White House Office of Energy Policy and Analysis, he has devoted himself to a carefully analyzed view of the best interests of the United States and the American people. While I have not always agreed with his policy positions in those jobs, I sincerely believe that Dr. Schlesinger is motivated by the highest ideals and brings to his responsibilities a brilliant intellect and the strong courage of his convictions, once having analyzed a problem or an issue.

I want to commend the President for his nomination of Dr. Schlesinger. The nomination indicates how seriously the President views our energy situation and also his willingness to use this country's best talents in dealing with it. It certainly is no secret that I disagree with many aspects of the President's energy policy, but I am encouraged that the President is launching this new department with the strong and balanced leadership of Dr. Schlesinger. Hopefully, with Dr. Schlesinger at the helm, this country can proceed with all due dispatch, despite our current differences, to achieve a balanced and effective energy policy, with both needed energy conservation and energy production.

At this time, I would like to inform my colleagues of a series of questions I asked Dr. Schlesinger, and his answers, yesterday in his confirmation hearing before the Energy and Natural Resources Committee. All Members of this body should be aware of the questions and answers as they relate to the operations of the new Department of Energy and some of the policies of the Department. I asked these questions as one of the conferees for the Energy and Natural Resources Committee on S. 826, the bill to establish the new department. Dr. Schlesinger's answers should serve as a valuable part of the legislative history on S. 826, and an important statement of Dr. Schlesinger's commitments as he embarks in this new position and responsibility.

Dr. Schlesinger's answers will be paraphrased from his testimony yesterday, since we do not have an edited transcript available:

I. Department of Energy Act:

A. Leasing of Federal lands:

Q. The bill in section 209 mandates the establishment of a leasing liaison committee to insure required liaison between the Department of Energy and the Department of Interior. The Senate was greatly concerned about the continued development of our Federal energy resources. Is it your intention to move swiftly to get the leasing liaison committee set up and moving? Would you propose to make this a powerful instrument for carrying out our Federal leasing policies?

A. Dr. Schlesinger agreed to quickly get the leasing liaison committee established and to insure it was an effective vehicle for maintaining close liaison and coordination in leasing policy between the two departments.

Q. The bill effectively gives the Interior Department the lead role for environmental impact statements (EIS's) for most, if not all, Federal leasing actions under the National Environmental Policy Act (NEPA). Since these EIS's are often the "pacing" or "critical path" items in new leasing schedules, I am concerned that this control over EIS's could be used by the Interior Department to delay or frustrate our leasing programs. Can you assure us that your Department will be an active participant in these EIS's and insure that there are no unnecessary delays? And, can you assure us that you will inform this committee if there is any such delay or frustration of our leasing policy, so we can review the statute?

A. Dr. Schlesinger supported the lead role in EIS's for Interior, since the Department remains the actual leasing agent and manager for the Federal Government. He agreed, however, to insure that the Department of Energy closely monitors the progress of EIS's and insures that they are completed in a timely fashion. He also agreed to keep the committee informed about any EIS problem.

Q. The new split of leasing responsibilities between the Energy and Interior Departments could take a long time to sort out and get new regulations, if necessary, in place. This could introduce some serious delays in our Federal leasing? How soon do you expect to have any new regulations ready to go?

A. Dr. Schlesinger stated the regulations would be in place as soon as possible, and the Department will be functioning approximately by October 1 of this year. He agreed that it was important to provide predictability in the new leasing arrangement.

B. Regulatory transfers into the new department:

Q. The new Department will have many of the functions of the FPC and the ICC in the Federal Energy Regulatory Commission. Other FPC and ICC functions will be in your authority. It is extremely important that these authorities and functions be sorted out so that the energy industries can have a predictable and available "regulator." When will you have your regulations for the separation of these authorities and functions? Can you assure us the regulations will closely follow the legislative history we have established, including a colloquy I had with Senator Ribicoff on these transfers in the Senate floor debate on the conference report? Can you assure us we will see and be briefed on the regulations as soon as you have a draft available? I might state that Senator Ribicoff and Senator Stevens, myself, and other Senators attach great importance to those regulations.

A. Dr. Schlesinger agreed to insure that the regulations will closely follow the legislative history established, including the colloquy in the floor debate. He agreed that predictability for the regulated industries was important. He also agreed to make the draft regulations available to the committee as soon as available.

Q. The conference bill repealed section 7 (k) of the Federal Energy Administration Act. I understand you submitted a letter yesterday saying the Department would continue the policies of section 7(k) even though the mandatory requirement has been repealed. Can you assure us to that effect? (The letter was placed in the Congressional Record at page S. 13284).

A. Dr. Schlesinger assured the committee that the section 7(k) policy would be continued.

C. Energy information and planning:

Q. The D.O.E. bill sets up an energy industry profile analysis. I was concerned that this ultimately would be the first step toward divestiture actions. Do I understand that you will not necessarily move, immediately, to use this profile for divestiture planning and actions? Can you assure us that you will keep us informed of the intended uses of this energy industry information?

A. Dr. Schlesinger assured the committee that the administration now opposes divestiture and that the information would only be used for energy analysis and policy. He further stated that the profile information, in fact, may further demonstrate that there

is no compelling need for divestiture. He also agreed to keep the committee informed of the uses of this information.

Q. The bill also mandates a major, formal energy planning effort by the Department. Most parts of the provision which smacked of a Humphrey-Hawkins planned economy approach to energy planning were knocked out in conference. Can you assure us that the remaining energy planning provisions will not be used to impose a fully, Federal Government-planned, energy economy on our people.

A. Dr. Schlesinger disavowed any intention to move toward a Federal Government-planned energy economy under that mandated planning. He stated his personal convictions that no energy plan will ever succeed without the voluntary decisions and support of the American people.

D. Energy conservation:

Q. The bill gives energy conservation "the highest priority" in energy planning. There are many voluntary conservation programs now in law under the Energy Policy and Conservation Act and the Energy Conservation and Production Act. Can you assure us that you will give these voluntary programs, which in my opinion have been underfunded and underemphasized, a full chance to work? (Give American people and industry a voluntary chance before mandatory regulation takes over.)

A. Without giving up the authority, where it now or may in the future exist, for mandatory conservation measures when necessary, Dr. Schlesinger agreed to support the full implementation of voluntary programs now in law.

Q. The National Energy Extension Service Act became law this spring—it is a good example of giving our people assistance and support for voluntary conservation. Can you assure us you will vigorously pursue that concept?

A. Dr. Schlesinger agreed to vigorously pursue the energy extension service concept.

E. "Fully and currently informed":

Q. As chairman of the A.E.C., you became familiar with the requirement of the Atomic Energy Act to keep the Joint Committee on Atomic Energy "fully and currently informed". Can you assure us that you will continue to follow that requirement, as required by the Act, in the new Department?

A. Dr. Schlesinger agreed to keep the Energy and Natural Resources Committee fully and currently informed.

II. Nuclear matters:

Q. We are greatly concerned that our nuclear energy and nonproliferation policies are increasingly dominated by the State Department and the Arms Control and Disarmament Agency. For instance, under a bill reported this week, a new "international nuclear fuel authority" is being mandated—apparently with administration approval. This new authority could make major changes in our own nuclear program, including a stockpiling of enriched uranium and possibly internationalized spent fuel storage. Will you get the Department actively into these fast changing policy areas? We would hope that the Department of Energy will closely review these matters—will that occur?

A. Dr. Schlesinger indicated that the new Department will become actively involved in these matters. He also stated that he has no intention of allowing our domestic nuclear programs to be subordinated to any international authority, saying we will not allow an international authority to dictate to our programs.

Q. We also are greatly concerned that our nonproliferation policy, particularly the nonproliferation bill with its stringent and procedurally unwieldy export controls, will have a tremendous negative impact on our domestic nuclear industry. Can you assure us that the new Department will carefully monitor our policies to prevent that result? (The administration's own plan will lead to increased need for domestic nuclear power).

A. Dr. Schlesinger indicated that the Department will closely review any potential negative impacts on our industry, stating that a viable domestic industry is an important part of our energy future. (He separately indicated that legislation to streamline the nuclear power plant licensing process would be forthcoming in early September.)

Q. As you well know, we have had an unfortunate problem with the administration over the Clinch River breeder reactor project, which required us to start two GAO investigations. You and Senator Baker and Senator Jackson apparently have resolved the disagreement, so that finally the administration has agreed to keep the project alive until the final decision is made for fiscal year 1978. The conference bill mandates an annual authorization for the new Department. This committee will handle that authorization. Can you assure us that you will closely follow that annual authorization, and that we won't have a succession of "Clinch Rivers"?

A. Dr. Schlesinger, without disavowing the President's constitutional powers of veto, stated that the Department would work with the Congress to make the authorization process work.

Q. Also, there is a feeling that the administration intends to try to delay this year's ERDA authorization "to death," because of Clinch River and other controversial provisions. Can you assure us that you, as Secretary, will make a good faith effort to get this year's and following year authorization bills into law, even if we disagree on some parts? Specifically, would you commit yourself to make a good faith effort on behalf of the administration to get the ERDA authorization for F.Y. 1978 (which, of course, eventually would be for the new Department's former-ERDA programs) enacted this session—despite any differences we may have to work out.

A. Again, without disavowing the President's veto power, Dr. Schlesinger pledged himself to make a good faith effort to enact an ERDA authorization for F.Y. 1978.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the second nomination.

FEDERAL POWER COMMISSION

The assistant legislative clerk read the nomination of Georgiana H. Sheldon, of Virginia, to be a member of the Federal Power Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the third nomination.

FEDERAL ENERGY ADMINISTRATION

The assistant legislative clerk read the nomination of Hazel R. Rollins, of the District of Columbia, to be an assistant administrator.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the fourth nomination.

FEDERAL POWER COMMISSION

The assistant legislative clerk read the nomination of Charles Brent Curtis, of Maryland, to be a member.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Will the distinguished Senator from Washington yield to me 2 minutes longer?

Mr. MAGNUSON. I yield.

PRIVILEGE OF THE FLOOR—LABOR-HEW APPROPRIATIONS CONFERENCE REPORT

Mr. BAYH. I appreciate the courtesy, Mr. President.

Mr. President, I ask unanimous consent that Barbara Dixon and Abby Reed, of my staff be granted privilege of the floor during debate and votes on the conference report on H.R. 7555.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR–HEW APPROPRIATIONS—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of

conference on H.R. 7555 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report, on which there is a 1-hour limitation of time.

(The conference report is printed in the House proceedings of the RECORD of July 26, 1977.)

Mr. MAGNUSON. Mr. President, I have a statement regarding the conference and the agreement.

Mr. President, the Senate should be pleased with the conference agreement on the fiscal year 1978 Labor–HEW appropriations bill, totaling $60.2 billion. This is $425 million below the budget request. Overall, we retained well over 50 percent for most of the Senate priorities added to the House version of the bill, and the House accepted 90 percent of our Senate cuts. We did better in almost every area than last year, particularly in the field of health.

Far more important than percentages, however, is the fact that we have developed a good bill—one of our best—carefully selecting our priorities to hold down spending, but still providing a record level of services.

I have already discussed this bill in detail when we originally brought it to the floor on June 28. Therefore, I will now just discuss some of the key issues of the conference.

DEPARTMENT OF LABOR

SUMMER YOUTH JOBS

We have agreed to a record $693 million appropriation for approximately 1,165,000 jobs for disadvantaged youth next summer. With 40-percent unemployment among minority youth, I would like to have seen even more jobs provided. However, it appears we will be taking another look at this program in a supplemental, since more funds may be needed to cover a possible minimum wage increase.

SECRETARY'S DISCRETIONARY FUNDS

A partial restoration of the Secretary of Labor's discretionary funds was agreed to, sufficient to guarantee continuation of jobs for the elderly as well as funding drought-related emergency employment projects.

In addition to increased numbers of jobs for the elderly provided in the community services employment for older Americans appropriation, we also provided for the continuation of jobs for the elderly previously funded under the now-expired title X of the Public Works Economic Development Act. As of July 1, 1978, 47,500 jobs will be funded by the community services employment for older Americans appropriation, including 2,600 of the total 4,800 PWEDA title X jobs which can be converted to this program. In the meantime, the Secretary of Labor is directed to continue funding the 4,800 jobs with discretionary funds under title I of the Comprehensive Employment and Training Act.

OCCUPATIONAL SAFETY AND HEALTH

We ended up with the same bill language for the Occupational Safety and Health Administration that we had last year. However, the conference report directs the Secretary of Labor to develop a detailed plan for providing consultation services to small businesses and submit it to the Appropriations Committees by January 1, 1978.

HEALTH

Health programs continue to be one of our highest priorities. We have allowed over $6 billion for the prevention, research, and training programs of the Public Health Service, more than $200 million over the House allowance—a greater share of our Senate increases over the House than I can recall.

I am particularly pleased that the funding levels in this bill will make our health training, community health programs, and our Public Health Service hospitals much stronger.

In addition, I should note that the committee feels very strongly about continuing our efforts to strengthen the PHS hospitals and clinics. They are all in urban underserved areas, and we ought to be using them.

One final health initiative started by the committee is our strong emphasis on health education for young children and new research and service programs in the area of nutrition. These are all simple prevention programs. They are vital in the long run to help contain our health costs.

EDUCATION

The conferees have agreed upon a total of $10 billion for education programs, an increase of $562 million above the 1977 funding level.

I am pleased that the conferees agreed upon $20 million for the magnet schools under emergency school aid. Magnet schools can serve as an important alternative to busing and can assist in crisis prevention. A magnet school is designed to stimulate desegregation through the development of school programs which attract students of different racial backgrounds to that school.

The recommendation for basic educational opportunity grants, or BOG's, is $2.2 billion. This will provide for a maximum $1,600 grant and allow approximately $90 million to expand the BOG's eligibility so that some of the inequities, especially as they relate to middle-income students, can be eliminated.

WELFARE

In the welfare area we reduced welfare payments and medicaid costs by one and a half billion dollars before the House. This was $1.9 billion below the President's budget estimates. After 2 months of disputing our estimates, the administration recently revised their numbers to come into total agreement wtih the Senate's estimates. In conference the House agreed, too.

We came up with the lower numbers because aged people on welfare have declined by over 8 percent, and welfare families are also decreasing in size and numbers. In addition, the rate of medicaid cost increase is down about 5 percent.

We will provide $15 million out of medicaid for health projects in underserved rural areas. The conferees decided not to require a 1-year limitation on the amount of time the States have to file prior-year public assistance claims.

HEAD START

Another area where we added significantly to the budget request was for the head start program. The final $625 million conference agreement is $138 million over the woefully inadequate budget request. I certainly hope next year's budget is more realistic in requesting an adequate funding level for the head start program—this is the program's first increase in 10 years.

POVERTY PROGRAMS

For the Community Services Administration, the conference agreement provides $596 million, retaining more than 70 percent of the Senate increases. The budget request of only $442 million proposed to wipe out several antipoverty programs. This is an example of where the Congress has been forced to add well in excess of $100 million over the budget request, just to restore the Nation's antipoverty efforts back to last year's level. For local community action agencies, a modest increase was provided—the first increase in seven years—helping to counteract the impact of inflation.

SCHOOL CIVIL RIGHTS SURVEY

The conferees deleted bill language added on the Senate floor that would have prohibited HEW from requiring another civil rights survey of school year 1977–78.

In place of bill language the conferees agreed on strong wording in the conference report that any questions asked of schools last year cannot be repeated under any authority for this next school year. The one exception is for questions necessary to determine the eligibility of applicants for Emergency School Aid money. This language is a good starting point in our efforts to cut back on the mountain of required paperwork.

ABORTION

Once again the conferees are deadlocked over the language of the abortion prohibition. The House has voted 238 to 182 to offer last year's language prohibiting the Federal funding of "abortions except where the life of the mother would be endangered if the fetus were carried to term."

On the Senate side we voted 9 to 5 in conference to reject this language and 8 to 6 to stick with the language adopted on the Senate floor which allows abortions where "medically necessary" or for the "treatment of rape or incest victims."

CONCLUSION

Mr. President, I believe we have come out of conference with a bill most of my colleagues can support. It provides for

a high percentage of our Senate priority increases, but it is still more than $400 million below the President's budget request. I trust the Senate will quickly adopt this conference report and that the President will subsequently sign this bill into public law.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the provisions of the conference report as agreed to by the conferees.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978

TITLE I—DEPARTMENT OF LABOR

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMPLOYMENT AND TRAINING ADMINISTRATION									
Program administration:									
Planning, evaluation and research	$5,266,000	$5,715,000	$5,715,000	$5,715,000	$5,715,000	+$449,000			
Comprehensive employment development	38,442,000	49,103,000	49,103,000	49,103,000	49,103,000	+10,661,000			
Trust funds	(2,409,000)	(2,428,000)	(2,428,000)	(2,428,000)	(2,428,000)	(+19,000)			
Apprenticeship services	12,989,000	14,146,000	13,856,000	13,856,000	13,856,000	+867,000	−$290,000		
U.S. employment service	708,000	708,000	708,000	708,000	708,000				
Trust funds	(14,738,000)	(15,161,000)	(15,161,000)	(15,161,000)	(15,161,000)	(+423,000)			
Unemployment insurance service	1,341,000	1,621,000	1,621,000	1,621,000	1,621,000	+280,000			
Trust funds	(10,037,000)	(11,070,000)	(10,890,000)	(10,890,000)	(10,890,000)	(+853,000)	(−180,000)		
Investigation and compliance	751,000	870,000	870,000	870,000	870,000	+119,000			
Trust funds	(1,139,000)	(1,131,000)	(1,131,000)	(1,131,000)	(1,131,000)	(−8,000)			
Executive direction and management	16,725,000	19,324,000	18,959,000	18,959,000	18,959,000	+2,234,000	−365,000		
Trust funds	(3,911,000)	(4,024,000)	(4,024,000)	(4,024,000)	(4,024,000)	(+113,000)			
Subtotal, program administration	108,456,000	125,301,000	124,466,000	124,466,000	124,466,000	+16,010,000	−835,000		
Federal funds	76,222,000	91,487,000	90,832,000	90,832,000	90,832,000	+14,610,000	−655,000		
Trust funds	(32,234,000)	(33,814,000)	(33,634,000)	(33,634,000)	(33,634,000)	(+1,400,000)	(−180,000)		
Employment and training assistance (CETA):									
Title I	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000				
Title II (public employment)	1,540,000,000					−1,540,000,000			
Title III:									
National training programs	1,558,360,000	1,135,060,000	301,060,000	385,060,000	343,060,000	−1,215,300,000	−792,000,000	+$42,000,000	−$42,000,000
Program support	42,370,000	44,870,000	44,870,000	44,870,000	44,870,000	+2,500,000			
Title IV (Job Corps)	274,100,000	487,100,000	417,000,000	417,000,000	417,000,000	+142,900,000	−70,100,000		
Summer youth employment program	595,000,000	525,000,000	595,000,000	893,000,000	693,000,000	+98,000,000	+168,000,000	+98,000,000	−200,000,000
Subtotal, regular program	5,889,830,000	4,072,030,000	3,237,930,000	3,619,930,000	3,377,930,000	−2,511,900,000	−694,100,000	+140,000,000	−242,000,000
Temporary employment assistance (CETA): Title VI	6,847,000,000					−6,847,000,000			
Community service employment for older Americans	150,000,000	200,000,000	180,400,000	200,000,000	190,400,000	+40,400,000	−9,600,000	+10,000,000	−9,600,000
Federal unemployment benefits and allowances:									
Payments to former Federal personnel	440,000,000	560,000,000	560,000,000	560,000,000	560,000,000	+120,000,000			
Trade adjustment assistance	120,000,000	240,000,000	240,000,000	240,000,000	240,000,000	+120,000,000			
Unemployment assistance and payments under other Federal unemployment programs	300,000,000	400,000,000	400,000,000	400,000,000	400,000,000	+100,000,000			
Subtotal, FUBA	860,000,000	1,200,000,000	1,200,000,000	1,200,000,000	1,200,000,000	+340,000,000			
Grants to States for unemployment insurance and employment services:									
Unemployment insurance service	(697,000,000)	(754,600,000)	(771,100,000)	(771,100,000)	(771,100,000)	(+74,100,000	(+16,500,000)		
Employment services:									
Federal	89,100,000	53,600,000	53,600,000	53,600,000	53,600,000	−35,500,000			
Trust	(475,900,000)	(583,500,000)	(583,500,000)	(603,500,000)	(583,500,000)	(+107,600,000)			(−20,000,000)
Subtotal, employment services	565,000,000	637,100,000	637,100,000	657,100,000	637,100,000	+72,100,000			−20,000,000
Contingency fund	(239,800,000)	(174,400,000)	(174,400,000)	(174,400,000)	(174,400,000)	(−65,400,000)			
Subtotal, grants to States	1,501,800,000	1,566,100,000	1,582,600,000	1,602,600,000	1,582,600,000	+80,800,000	+16,500,000		−20,000,000
Federal funds	89,100,000	53,600,000	53,600,000	53,600,000	53,600,000	−35,500,000			
Trust funds	(1,412,700,000)	(1,512,500,000)	(1,529,000,000)	(1,549,000,000)	(1,529,000,000)	(+116,300,000)	(+16,500,000)		(−20,000,000)
Advances to unemployment trust fund and other funds	5,000,000,000					−5,000,000,000			
Subtotal, Employment and Training Administration	20,357,086,000	7,163,431,000	6,325,396,000	6,746,996,000	6,475,396,000	−13,881,690,000	−688,035,000	+150,000,000	−271,600,000
Federal funds	18,912,152,000	5,617,117,000	4,762,762,000	5,164,362,000	4,912,762,000	−13,999,390,000	−704,355,000	+150,000,000	−251,600,000
Trust funds	(1,444,934,000)	(1,546,314,000)	(1,562,634,000)	(1,582,634,000)	(1,562,634,000)	(+117,700,000)	(+16,320,000)		(−20,000,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses:									
Labor-Management relations policy and service	3,208,000	3,518,000	3,280,000	3,280,000	3,280,000	+72,000	−238,000		
Labor-Management standards enforcement	14,430,000	15,926,000	15,026,000	15,026,000	15,026,000	+596,000			
Veterans reemployment rights	2,682,000	2,772,000	2,772,000	2,772,000	2,772,000	+90,000			
Federal labor-management relations	5,034,000	5,897,000	5,897,000	5,897,000	5,897,000	+863,000			
Employee benefits security	21,841,000	25,309,000	25,309,000	25,309,000	25,309,000	+3,468,000			
Executive direction, management and support	3,559,000	3,677,000	3,677,000	3,677,000	3,677,000	+118,000			
Subtotal, LMSA	50,754,000	56,199,000	55,961,000	55,961,000	55,961,000	+5,207,000	−238,000		

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses:									
Improving and protecting wages	$43,722,000	$47,045,000	$47,045,000	$47,045,000	$47,045,000	+$3,323,000			
Elimination of discrimination in employment	15,472,000	16,317,000	16,317,000	16,317,000	16,317,000	+845,000			
Workers' compensation	27,516,000	32,624,000	32,624,000	36,124,000	35,124,000	+7,608,000	+$2,500,000	+$2,500,000	−$1,000,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(265,000)	(+5,000)			
Program development and administration	12,282,000	13,294,000	12,794,000	12,794,000	12,794,000	+512,000	−500,000		
Subtotal, salaries and expenses	99,252,000	109,545,000	109,045,000	112,545,000	111,545,000	+12,293,000	+2,000,000	+2,500,000	−1,000,000
Federal funds	98,992,000	109,280,000	108,780,000	112,280,000	111,280,000	+12,288,000	+2,000,000	+2,500,000	−1,000,000
Trust funds	(260,000)	(265,000	(265,000)	(265,000)	(265,000)	(+5,000)			
Special benefits:									
Federal Employees Compensation Act benefits	307,407,000	292,325,000	292,325,000	292,325,000	292,325,000	−15,082,000			
Disabled coal miners benefits	27,100,000	24,300,000	24,300,000	24,300,000	24,300,000	−2,800,000			
Longshore and harbor workers' benefits	2,442,000	2,735,000	2,735,000	2,735,000	2,735,000	+293,000			
Subtotal, special benefits	336,949,000	319,360,000	319,360,000	319,360,000	319,360,000	−17,589,000			
Subtotal ESA	436,201,000	428,905,000	428,405,000	431,905,000	430,905,000	−5,296,000	+2,000,000	+2,500,000	−1,000,000
Federal funds	435,941,000	428,640,000	428,140,000	431,640,000	430,640,000	−5,301,000	+2,000,000	+2,500,000	−1,000,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(265,000)	(+5,000)			
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses									
Safety and health standards	8,338,000	8,692,000	8,692,000	8,692,000	8,692,000	+354,000			
Compliance:									
Federal inspections	57,616,000	59,151,000	59,151,000	62,151,000	60,651,000	+3,035,000	+1,500,000	+1,500,000	−1,500,000
State programs	35,605,000	35,605,000	35,605,000	32,605,000	34,105,000	−1,500,000	−1,500,000	−1,500,000	+1,500,000
Education, consultation, and information	18,897,000	19,902,000	21,902,000	21,902,000	21,902,000	+3,005,000	+2,000,000		
Safety and health statistics	6,206,000	6,301,000	6,301,000	6,301,000	6,301,000	+95,000			
Executive direction and administration	3,671,000	4,989,000	4,989,000	4,989,000	4,989,000	+1,318,000			
Subtotal, OSHA	130,333,000	134,640,000	136,640,000	136,640,000	136,640,000	+6,307,000	+2,000,000		
BUREAU OF LABOR STATISTICS									
Salaries and expenses:									
Labor force statistics	27,878,000	32,314,000	33,314,000	32,314,000	33,314,000	+5,436,000	+1,000,000		+1,000,000
Prices and cost of living	15,310,000	21,943,000	17,768,000	21,943,000	19,768,000	+4,458,000	−2,175,000	+2,000,000	−2,175,000
Wages and industrial relations	11,573,000	12,441,000	12,180,000	12,180,000	12,180,000	+607,000	−261,000		
Productivity and technology	2,789,000	3,010,000	2,937,000	2,937,000	2,937,000	+148,000	−73,000		
Economic growth	694,000	731,000	731,000	731,000	731,000	+37,000			
Executive direction and staff services	10,157,000	10,327,000	10,327,000	10,327,000	10,327,000	+170,000			
Revision of the Consumer Price Index	7,216,000	3,600,000	3,600,000	3,600,000	3,600,000	−3,616,000			
Subtotal, Bureau of Labor Statistics	75,617,000	84,366,000	80,857,000	84,032,000	82,857,000	+7,240,000	−1,509,000	+2,000,000	−1,175,000
DEPARTMENTAL MANAGEMENT									
Salaries and expenses:									
Executive direction	10,983,000	9,836,000	9,697,000	9,697,000	9,697,000	−1,286,000	−139,000		
Legal services	19,616,000	22,435,000	22,048,000	22,048,000	22,048,000	+2,432,000	−387,000		
Trust funds	(177,000)	(177,000)	(177,000)	(177,000)	(177,000)				
International labor affairs	5,093,000	5,899,000	5,899,000	5,899,000	5,899,000	+806,000			
Administration and management	14,516,000	17,489,000	16,810,000	16,810,000	16,810,000	+2,294,000	−679,000		
Trust funds	(355,000)	(1,065,000)	(1,065,000)	(1,065,000)	(1,065,000)	(+750,000)			
Adjudication	282,000	4,371,000	4,371,000	4,371,000	4,371,000	+4,089,000			
Trust funds	(820,000)	(320,000)	(320,000)	(320,000)	(320,000)	(−500,000)			
Promoting employment of the handicapped	1,446,000	1,432,000	1,432,000	1,432,000	1,432,000	−14,000			
Subtotal, salaries and expenses	53,248,000	63,024,000	61,819,000	61,819,000	61,819,000	+8,571,000	−1,205,000		
Federal funds	51,936,000	61,462,000	60,257,000	60,257,000	60,257,000	+8,321,000	−1,205,000		
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)			
Special foreign currency program	70,000	70,000	70,000	70,000	70,000				
Subtotal, departmental management	53,318,000	63,094,000	61,889,000	61,889,000	61,889,000	+8,571,000	−1,205,000		
Federal funds	52,006,000	61,532,000	60,327,000	60,327,000	60,327,000	+8,321,000	−1,205,000		
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)			
Total, Labor Department	21,103,309,000	7,930,635,000	7,089,148,000	7,517,423,000	7,243,648,000	−13,859,661,000	−686,987,000	+154,500,000	−273,775,000
Federal funds	19,656,803,000	6,382,494,000	5,524,687,000	5,932,962,000	5,679,187,000	−13,977,616,000	−703,307,000	+154,500,000	−253,775,000
Trust funds	(1,446,506,000)	(1,548,141,000)	(1,564,461,000)	(1,584,461,000)	(1,564,461,000)	(+117,955,000)	(+16,320,000)		(−20,000,000)

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH SERVICES ADMINISTRATION									
Community health services:									
Community health centers	$215,148,000	$229,148,000	$247,000,000	$247,000,000	$247,000,000	+$31,852,000	+$17,852,000	----------	----------
Comprehensive health grants to States	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	----------	----------	----------	----------
Genetic information and counseling	----------	----------	----------	5,000,000	4,000,000	+4,000,000	+4,000,000	+$4,000,000	−$1,000,000
Maternal and child health:									
Grants to States	315,000,000	315,000,000	315,000,000	350,000,000	332,500,000	+17,500,000	+17,500,000	+17,500,000	−17,500,000
Sudden infant death information dissemination	1,716,000	1,716,000	1,716,000	3,650,000	3,000,000	+1,284,000	+1,284,000	+1,284,000	−650,000
Research and training	28,708,000	28,708,000	28,708,000	30,000,000	29,354,000	+646,000	+646,000	+646,000	−646,000
Subtotal, maternal and child health	345,424,000	345,424,000	345,424,000	383,650,000	364,854,000	+19,430,000	+19,430,000	+19,430,000	−18,796,000
Family planning	113,615,000	123,615,000	123,615,000	140,000,000	135,000,000	+21,385,000	+11,385,000	+11,385,000	−5,000,000
Migrant health	30,000,000	30,000,000	34,500,000	34,500,000	34,500,000	+4,500,000	+4,500,000	----------	----------
National Health Service Corps	25,381,000	37,599,000	42,599,000	42,599,000	42,599,000	+17,218,000	+5,000,000	----------	----------
Hemophilia treatment centers	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	----------	----------	----------	----------
Hypertension	9,000,000	9,000,000	10,000,000	12,000,000	11,000,000	+2,000,000	+2,000,000	+1,000,000	−1,000,000
Home health services	3,000,000	3,000,000	8,000,000	5,000,000	6,000,000	+3,000,000	+3,000,000	−2,000,000	+1,000,000
Program support	22,894,000	23,886,000	24,790,500	24,790,000	24,790,000	+1,896,000	+904,000	−500	----------
Subtotal, community health	857,462,000	894,672,000	928,928,500	987,539,000	962,743,000	+105,281,000	+68,071,000	+33,814,500	−24,796,000
Quality assurance:									
Medical care standards	4,215,000	5,665,000	5,665,000	5,665,000	5,665,000	+1,450,000	----------	----------	----------
Professional standards review organizations	61,125,000	72,234,000	72,234,000	72,234,000	72,234,000	+11,109,000	----------	----------	----------
Program support	1,212,000	1,348,000	1,348,000	1,348,000	1,348,000	+136,000	----------	----------	----------
Subtotal, quality assurance	66,552,000	79,247,000	79,247,000	79,247,000	79,247,000	+12,695,000	----------	----------	----------
Health care services and systems:									
Patient care and special health services:									
Hospitals and clinics	130,818,000	135,511,000	135,511,000	210,000,000	170,511,000	+39,693,000	+35,000,000	+35,000,000	−39,489,000
Federal employee health	629,000	641,000	641,000	641,000	641,000	+12,000	----------	----------	----------
Construction and modernization	----------	----------	----------	60,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	−45,000,000
Payment to Hawaii	1,200,000	1,200,000	1,200,000	2,200,000	1,400,000	+200,000	+200,000	+200,000	−800,000
Subtotal	132,647,000	137,352,000	137,352,000	272,841,000	187,552,000	+54,905,000	+50,200,000	+50,220,000	−85,289,000
Health maintenance organizations	18,100,000	18,100,000	21,100,000	21,100,000	21,100,000	+3,000,000	+3,000,000	----------	----------
Emergency medical services	40,125,000	33,625,000	39,625,000	45,000,000	42,625,000	+2,500,000	+9,000,000	+3,000,000	−2,375,000
Program support	9,466,000	9,779,000	9,779,000	9,779,000	9,779,000	+313,000	----------	----------	----------
Subtotal, health care systems	200,338,000	198,856,000	207,856,000	348,720,000	261,056,000	+60,718,000	+62,200,000	+53,200,000	−87,664,000
Program management	5,700,000	6,474,000	6,474,000	6,474,000	6,474,000	+774,000	----------	----------	----------
Less: Trust fund transfer	−40,121,000	−34,934,000	−34,937,000	−34,934,000	−34,934,000	+5,187,000	----------	----------	----------
Subtotal, health services	1,089,931,000	1,144,315,000	1,187,571,500	1,387,046,000	1,274,586,000	+184,655,000	+130,271,000	+87,014,500	−112,460,000
CENTER FOR DISEASE CONTROL									
Disease control:									
Project grants:									
Venereal disease	25,000,000	18,000,000	27,000,000	37,000,000	32,000,000	+7,000,000	+14,000,000	+5,000,000	−5,000,000
Immunization	17,000,000	19,000,000	22,000,000	23,000,000	23,000,000	+6,000,000	+4,000,000	+1,000,000	----------
Rat control	13,000,000	13,000,000	13,000,000	14,000,000	13,000,000	----------	----------	----------	−1,000,000
Lead-based paint poisoning prevention	8,500,000	8,500,000	8,500,000	12,000,000	10,250,000	+1,750,000	+1,750,000	+1,750,000	−1,750,000
Disease surveillance	54,100,000	53,607,000	55,107,000	45,000,000	53,000,000	−1,100,000	−607,000	−2,107,000	+8,000,000
Laboratory improvements	15,803,000	15,490,000	17,490,000	17,490,000	17,490,000	+1,687,000	+2,000,000	----------	----------
Health education	4,564,000	7,064,000	7,064,000	2,500,000	4,500,000	−64,000	−2,564,000	−2,564,000	+2,000,000
Occupational health:									
Grants	8,500,000	4,900,000	10,900,000	10,900,000	10,900,000	+2,400,000	+6,000,000	----------	----------
Direct operations	42,269,000	44,277,000	45,277,000	44,277,000	44,277,000	+2,008,000	----------	−1,000,000	----------
Buildings and facilities	----------	----------	----------	1,000,000	----------	----------	----------	----------	−1,000,000
Program management	3,037,000	3,088,000	3,088,000	3,088,000	3,088,000	+51,000	----------	----------	----------
Subtotal, preventive health	191,773,000	186,926,000	209,426,000	210,255,000	211,505,000	+19,732,000	+24,579,000	+2,079,000	+1,250,000
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	814,936,000	818,936,000	831,936,000	920,000,000	867,136,000	+52,200,000	+48,200,000	+35,200,000	−52,864,000
National Heart, Lung and Blood Institute	396,661,000	403,642,000	432,642,000	456,000,000	445,642,000	+48,981,000	+42,000,000	+13,000,000	−10,358,000
National Institute of Dental Research	55,573,000	57,981,000	58,981,000	63,000,000	60,981,000	+5,408,000	+3,000,000	+2,000,000	−2,019,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	219,600,000	216,961,000	237,461,000	273,000,000	258,461,000	+38,861,000	+41,500,000	+21,000,000	−14,539,000
National Institute of Neurological and Communicative Disorders and Stroke	155,500,000	161,461,000	175,000,000	179,000,000	177,000,000	+21,500,000	+15,539,000	+2,000,000	−2,000,000

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
NATIONAL INSTITUTES OF HEALTH—Continued									
National Institute of Allergy and Infectious Diseases	$141,000,000	$153,442,000	$157,042,000	$162,000,000	$161,042,000	+$20,042,000	+$7 600,000	+$4,000,000	−$958,000
National Institute of General Medical Sciences	205,000,000	219,896,000	225,396,000	235,000,000	230,396,000	+25,396,000	+10,500,000	+5,000,000	−4,604,000
National Institute of Child Health and Human Development	145,543,000	155,761,000	162,761,000	167,000,000	165,261,000	+19,718,000	+9,500,000	+2,500,000	−1,739,000
National Institute on Aging	30,000,000	34,500,000	39,000,000	35,000,000	37,000,000	+7,000,000	+2,500,000	−2,000,000	+2,000,000
National Eye Institute	64,000,000	64,981,000	85,000,000	74,952,000	85,000,000	+21,000,000	+20,019,000	----------	+10,048,000
National Institute of Environmental Health Sciences	51,141,000	58,100,000	63,600,000	58,000,000	63,600,000	+12,459,000	+5,500,000	----------	+5,600,000
Research resources	137,500,000	102,074,000	144,947,000	144,947,000	144,947,000	+7,447,000	+42,873,000	----------	----------
John E. Fogarty International Center	7,992,000	8,369,000	8,369,000	8,369,000	8,369,000	+377,000	----------	----------	----------
Subtotal, biomedical research	2,424,446,000	2,456,104,000	2,622,135,000	2,776,268,000	2,704,835,000	+280,389,000	+248,731,000	+82,700,000	−71,433,000
National Library of Medicine	35,234,000	36,746,000	36,746,000	36,746,000	36,746,000	+1,512,000	----------	----------	----------
Office of the Director	16,934,000	17,871,000	17,871,000	17,871,000	17,871,000	+937,000	----------	----------	----------
Buildings and facilities	67,400,000	65,650,000	65,650,000	65,650,000	65,650,000	−1,750,000	----------	----------	----------
Total, National Institutes of Health	2,544,014,000	2,576,371,000	2,742,402,000	2,896,535,000	2,825,102,000	+281,088,000	+248,731,000	+82,700,000	−71,433,000
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION									
General mental health:									
Research	108,908,000	106,908,000	116,908,000	116,908,000	116,908,000	+8,000,000	+10,000,000	----------	----------
Training	86,600,000	86,600,000	86,600,000	86,600,000	86,600,000	----------	----------	----------	----------
Community programs:									
Planning	1,000,000	----------	----------	----------	----------	−1,000,000	----------	----------	----------
Operations:									
1st year	17,967,000	----------	22,775,000	30,000,000	26,387,000	+8,420,000	+26,387,000	+3,612,000	−3,613,000
Continuation:									
Grants initiated under new law	29,851,000	53,340,000	53,340,000	53,340,000	53,340,000	+23,489,000	----------	----------	----------
Converted staffing grants	49,914,000	104,754,000	104,754,000	104,754,000	104,754,000	+54,840,000	----------	----------	----------
Conversion	20,000,000	9,372,000	19,372,000	19,372,000	19,372,000	−628,000	+10,000,000	----------	----------
Consultation and education	8,000,000	8,245,000	8,245,000	8,245,000	8,245,000	+245,000	----------	----------	----------
Financial distress	7,000,000	4,988,000	4,988,000	6,988,000	5,488,000	−1,512,000	+500,000	+500,000	−1,500,000
Continuations under old law:									
Staffing	79,806,000	38,247,000	38,247,000	38,247,000	38,247,000	−41,559,000	----------	----------	----------
Child mental health	18,786,000	13,900,000	13,900,000	13,900,000	13,900,000	−4,886,000	----------	----------	----------
Subtotal, cummunity programs	232,324,000	232,846,000	265,621,000	274,846,000	269,733,000	+37,409,000	+36,887,000	+4,112,000	−5,113,000
Program support	28,502,000	27,695,000	27,695,000	27,695,000	27,695,000	−807,000	----------	----------	----------
Subtotal, mental health	456,334,000	454,049,000	496,824,000	506,049,000	500,936,000	+44,602,000	+46,887,000	+4,112,000	−5,113,000
Drug abuse:									
Research	34,000,000	34,000,000	34,000,000	34,000,000	34,000,000	----------	----------	----------	----------
Training	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	----------	----------	----------	----------
Community programs:									
Project grants and contracts	160,000,000	161,500,000	161,500,000	161,500,000	161,500,000	+1,500,000	----------	----------	----------
Grants to States	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	----------	----------	----------	----------
Program support	16,686,000	16,572,000	16,572,000	16,572,000	16,572,000	−114,000	----------	----------	----------
Subtotal, drug abuse	260,686,000	262,072,000	262,072,000	262,072,000	262,072,000	+1,386,000	----------	----------	----------
Alcoholism:									
Research	14,808,000	13,179,000	16,179,000	16,179,000	16,179,000	+1,371,000	+3,000,000	----------	----------
Training	7,200,000	7,200,000	7,200,000	7,200,000	7,200,000	----------	----------	----------	----------
Community programs:									
Project grants and contracts	73,008,000	68,719,000	75,008,000	82,508,000	78,758,000	+5,750,000	+10,039,000	+3,750,000	−3,750,000
Grants to States	56,800,000	55,500,000	56,800,000	56,800,000	56,800,000	----------	+1,300,000	----------	----------
Program support	9,538,000	9,468,000	9,468,000	9,468,000	9,468,000	−70,000	----------	----------	----------
Subtotal, alcoholism	161,354,000	154,066,000	164,655,000	172,155,000	168,405,000	+7,051,000	+14,339,000	+3,750,000	−3,750,000
Buildings and facilities	----------	350,000	350,000	350,000	350,000	+350,000	----------	----------	----------
Program management	7,197,000	7,119,000	7,119,000	7,119,000	7,119,000	−78,000	----------	----------	----------
Subtotal, alcohol, drug abuse and mental health	885,571,000	877,656,000	931,020,000	947,745,000	938,882,000	+53,311,000	+61,226,000	+7,862,000	−8,863,000
St. Elizabeths Hospital	64,514,000	68,746,000	68,746,000	68,746,000	68,746,000	+4,232,000	----------	----------	----------
Construction and renovation (SEH)	----------	810,000	2,010,000	2,010,000	2,010,000	+2,010,000	+1,200,000	----------	----------
Subtotal, ADAMHA	950,085,000	947,212,000	1,001,776,000	1,018,501,000	1,009,638,000	+59,553,000	+62,426,000	+7,862,000	−8,863,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH RESOURCES ADMINISTRATION									
National health statistics	$29,349,000	$34,778,000	$35,278,000	$33,600,000	$35,278,000	+$5,929,000	+$500,000		+$1,678,000
Health planning and resources development:									
Health planning	130,000,000	125,000,000	140,000,000	150,000,000	145,000,000	+15,000,000	+20,000,000	+$5,000,000	−5,000,000
Special medical facilities	9,000,000			1,750,000	1,750,000	−7,250,000	+1,750,000	+1,750,000	
Program support	11,921,000	11,924,000	11,924,000	11,924,000	11,924,000	+3,000			
Subtotal, planning and resources	150,921,000	136,924,000	151,924,000	163,674,000	158,674,000	+7,753,000	+21,750,000	+6,750,000	−5,000,000
Health services research	30,134,000	30,442,000	33,542,000	32,442,000	33,542,000	+3,408,000	+3,100,000		+1,100,000
Health manpower:									
Health professions institutional assistance:									
Capitation grants	125,000,000	114,500,000	144,000,000	125,000,000	144,000,000	+19,000,000	+29,000,000		+19,000,000
(MOD)	(101,100,000)	(114,500,000)	(120,100,000)	(101,100,000)	(120,100,000)	(+19,000,000)	(+5,600,000)		(+19,000,000)
(VOPP)	(18,000,000)		(18,000,000)	(18,000,000)	(18,000,000)		(+18,000,000)		
(Public health)	(5,900,000)		(5,900,000)	(5,900,000)	(5,900,000)		(+5,900,000)		
Health teaching facilities	26,000,000		5,000,000	8,500,000	8,500,000	−17,500,000	+8,500,000	+3,500,000	
Health professions student assistance:									
Loans	24,000,000		10,000,000	26,000,000	20,000,000	−4,000,000	+20,000,000	+10,000,000	−6,000,000
Loan repayment	2,000,000	1,500,000	1,500,000	1,500,000	1,500,000	−500,000			
National health service scholarships	40,000,000	40,000,000	55,000,000	75,000,000	60,000,000	+20,000,000	+20,000,00	+5,000,000	−15,000,000
Scholarships	1,000,000					−1,000,000			
Exceptional need scholarships		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000			
Shortage area scholarships	400,000					−400,000			
Subtotal, student assistance	67,400,000	46,500,000	71,500,000	107,500,000	86,500,000	+19,100,000	+40,000,000	+15,000,000	−21,000,000
Health professions special educational assistance:									
Family medicine residencies and training	39,000,000	45,000,000	45,000,000	45,000,000	45,000,000	+6,000,000			
Primary care residencies and training	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000				
Project grants—VOPP	5,350,000					−5,350,000			
Interdisciplinary training				5,000,000	3,500,000	+3,500,000	+3,500,000	+3,500,000	−1,500,000
Physicians/dental extenders	10,500,000	11,100,000	11,100,000	11,100,000	11,100,000	+600,000			
Area health education centers	14,000,000	15,500,000	17,000,000	17,000,000	17,000,000	+3,000,000	+1,500,000		
Disadvantaged assistance	10,000,000	8,000,000	14,500,000	14,500,000	14,500,000	+4,500,000	+6,500,000		
Foreign medical graduates	1,000,000	2,000,000	2,000,000	2,000,000	2,000,000	+1,000,000			
Manpower initiatives	10,000,000					−10,000,000			
Project grants (MOD)	14,850,000					−14,850,000			
Emergency medical training	6,000,000		6,000,000	6,000,000	6,000,000		+6,000,000		
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Health profession startup	3,326,000	1,000,000	1,000,000	2,000,000	2,000,000	−1,326,000	+1,000,000	+1,000,000	
Financial distress	3,500,000	2,000,000	2,000,000	4,000,000	3,000,000	−500,000	+1,000,000	+1,000,000	−1,000,000
Supply and distribution reports	1,000,000	2,000,000	2,000,000		1,000,000		−1,000,000	−1,000,000	+1,000,000
Subtotal, special programs	134,526,000	102,600,000	116,600,000	122,600,000	121,100,000	−13,426,000	+18,500,000	+4,500,000	−1,500,000
Dental health education	8,000,000	2,100,000	4,000,000	4,000,000	4,000,000	−4,000,000	+1,900,000		
Nursing institutional assistance:									
Capitation grants	40,000,000		32,000,000	30,000,000	30,000,000	−10,000,000	+30,000,000	−2,000,000	
Advanced nurse training	9,000,000		10,000,000	12,000,000	12,000,000	+3,000,000	+12,000,000	+2,000,000	
Nurse practitioner training	9,000,000	9,000,000	13,000,000	13,000,000	13,000,000	+4,000,000	+4,000,000		
Special projects	15,000,000	6,000,000	15,000,000	15,000,000	15,000,000		+9,000,000		
Subtotal	73,000,000	15,000,000	70,000,000	70,000,000	70,000,000	−3,000,000	+55,000,000		
Nursing student assistance:									
Loans	22,500,000		20,000,000	22,500,000	22,500,000		+22,500,000	+2,500,000	
Scholarships	6,500,000	9,000,000	9,000,000	9,000,000	9,000,000	+2,500,000			
Traineeships	13,000,000		13,000,000	13,000,000	13,000,000		+13,000,000		
Loan repayment	3,000,000		1,500,000	1,500,000	1,500,000	−1,500,000	+1,500,000		
Fellowships	1,000,000		1,000,000	1,000,000	1,000,000		+1,000,000		
Subtotal	46,000,000	9,000,000	44,500,000	47,000,000	47,000,000	+1,000,000	+38,000,000	+2,500,000	
Nursing research	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Subtotal, nursing programs	124,000,000	24,000,000	119,500,000	122,000,000	122,000,000	−2,000,000	+98,000,000	+2,500,000	
District of Columbia medical and dental	8,900,000					−8,900,000			
Allied health (institutional)	24,000,000	8,000,000	20,000,000	20,000,000	20,000,000	−4,000,000	+12,000,000		
Public health:									
Special projects and health administration	5,500,000	5,000,000	5,000,000	5,000,000	5,000,000	−500,000			
Public health traineeships	9,120,000		7,000,000	7,000,000	7,000,000	−2,120,000	+7,000,000		
Health administration graduate programs		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Health administration traineeships			1,000,000	2,000,000	1,500,000	+1,500,000	+1,500,000	+500,000	−500,000
Subtotal, public health	14,620,000	8,000,000	16,000,000	17,000,000	16,500,000	+1,880,000	+8,500,000	+500,000	−500,000

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH RESOURCES ADMINISTRATION—Con.									
Health teaching facility interest subsidies		$2,000,000	$2,000,000	$2,000,000	$2,000,000	+$2,000,000			
Program support	$22,577,000	23,020,000	23,020,000	23,020,000	23,020,000	+443,000			
Subtotal, health manpower	555,023,000	330,720,000	521,620,000	551,620,000	546,620,000	−7,403,000	+$216,900,000	+$26,000,000	−$4,000,000
Program management	10,947,000	11,755,000	11,755,000	11,755,000	11,755,000	+808,000			
Subtotal, health resources	776,374,000	544,619,000	754,119,000	793,091,000	786,869,000	+10,495,000	+242,250,000	+32,750,000	−6,222,000
Payments of sales insufficiencies	4,000,000	2,592,000	2,592,000	2,592,000	2,592,000	−1,408,000			
Medical facilities guarantee and loan fund	31,000,000	41,000,000	41,000,000	41,000,000	41,000,000	+10,000,000			
Subtotal, Health Resources Administration	811,374,000	588,211,000	797,711,000	836,683,000	830,461,000	+19,087,000	+242,250,000	+32,750,000	−6,222,000
ASSISTANT SECRETARY FOR HEALTH									
Salaries and expenses	23,177,000	23,178,000	23,178,000	23,178,000	23,178,000	+1,000			
Health education and promotion	2,500,000	1,500,000	+1,500,000	+1,500,000	+1,500,000	−1,000,000			
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	56,948,000	56,948,000	56,948,000	+4,596,000			
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	11,387,000	+9,887,000			
Subtotal, Assistant Secretary for Health	77,029,000	91,513,000	91,513,000	94,013,000	93,013,000	+15,984,000	+1,500,000	+1,500,000	−1,000,000
Subtotal, health	5,664,206,000	5,534,548,000	6,030,399,500	6,443,033,000	6,244,305,000	+580,099,000	+709,757,000	+213,905,500	−198,728,000
EDUCATION DIVISION									
Office of Education									
ELEMENTARY AND SECONDARY EDUCATION									
Grants for disadvantaged children (title I)	2,285,000,000	2,635,000,000	2,735,000,000	2,735,000,000	2,735,000,000	+450,000,000	+100,000,000		
Support and innovation grants	194,000,000	194,000,000	194,000,000	201,000,000	197,500,000	+3,500,000	+3,500,000	+3,500,000	−3,500,000
Bilingual education:									
Grants to school districts	74,300,000	81,000,000	81,000,000	81,000,000	81,000,000	+6,700,000			
Training grants	29,700,000	36,975,000	36,975,000	36,975,000	36,975,000	+7,275,000			
Materials	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000			
Grants to State agencies	3,900,000	4,375,000	4,375,000	4,375,000	4,375,000	+475,000			
Advisory council	100,000	150,000	150,000	150,000	150,000	+50,000			
Information clearinghouse	167,000	500,000	500,000	500,000	500,000	+333,000			
Model replication and studies		2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000			
Subtotal, bilingual education	115,167,000	135,000,000	135,000,000	135,000,000	135,000,000	+19,833,000			
Right to Read	26,000,000	26,000,000	27,000,000	27,000,000	27,000,000	+1,000,000	+1,000,000		
Follow Through	59,000,000	59,000,000	59,000,000	59,000,000	59,000,000				
Drug abuse education	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Environmental education	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000				
Educational broadcasting facilities	15,000,000	15,000,000	15,000,000	22,500,000	19,000,000	+4,000,000	+4,000,000	+4,000,000	−3,500,000
Ellender fellowships	750,000	750,000	750,000	750,000	750,000				
Ethnic heritage studies	2,300,000	2,300,000	2,300,000	2,300,000	2,300,000				
State equalization grants	10,500,000					−10,500,000			
Indochinese refugee assistance	18,500,000					−18,500,000			
Subtotal, elementary and secondary education	2,731,717,000	3,072,550,000	3,173,550,000	3,188,050,000	3,181,050,000	+449,333,000	+108,500,000	+7,500,000	−7,000,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS									
Maintenance and operations:									
Payments for A children	271,600,000	295,700,000	298,300,000	298,300,000	298,300,000	+27,600,000	+2,600,000		
Payments for B children	341,550,000		344,900,000	344,900,000	344,900,000	+3,350,000	+344,900,000		
Special provisions	15,350,000	16,600,000	16,600,000	16,600,000	16,600,000	+1,250,000			
Payments to other Federal agencies	52,500,000	57,700,000	57,700,000	57,700,000	57,700,000	+5,200,000			
Savings provisions	87,000,000		52,500,000	52,500,000	52,500,000	−34,500,000	+52,500,000		
Subtotal	768,000,000	370,000,000	770,000,000	770,000,000	770,000,000	+2,000,000	+400,000,000		
Construction	25,000,000	25,000,000	30,000,000	50,000,000	30,000,000	+5,000,000	+5,000,000		−20,000,000
Subtotal	793,000,000	395,000,000	800,000,000	820,000,000	800,000,00	+7,000,000	+405,000,000		20,000,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
EMERGENCY SCHOOL AID									
National competition projects:									
Bilingual education projects	$8,600,000	$8,600,000	$8,600,000	$8,600,000	$8,600,000				
Educational television	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000				
Special programs and projects	45,750,000	50,750,000	48,250,000	55,000,000	51,250,000	+$5,500,000	+$500,000	+$3,000,000	−$3,750,000
Evaluation	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000				
Magnet schools	7,500,000	5,000,000	7,500,000	30,000,000	20,000,000	+12,500,000	+15,000,000	+12,500,000	−10,000,000
State apportioned projects:									
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000				
Grants to nonprofit organizations	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000				
General grants to school districts	137,600,000	137,600,000	137,600,000	137,600,000	137,600,000				
Subtotal, emergency school aid (direct)	257,500,000	260,000,000	260,000,000	289,250,000	275,500,000	+18,000,000	+15,500,000	+15,500,000	−13,750,000
Civil rights advisory services	34,700,000	34,700,000	34,700,000	34,700,000	34,700,000				
Subtotal, emergency school aid	292,200,000	294,700,000	294,700,000	323,950,000	310,200,000	+18,000,000	+15,500,000	+15,500,000	−13,750,000
EDUCATION FOR THE HANDICAPPED									
State assistance:									
State grant program	315,000,000	365,000,000	465,000,000	485,000,000	465,000,000	+150,000,000	+100,000,000		−20,000,000
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000				
Preschool incentive grants	12,500,000	12,500,000	12,500,000	15,000,000	15,000,000	+2,500,000	+2,500,000	+2,500,000	
Subtotal, State assistance	343,500,000	393,500,000	493,500,000	516,000,000	496,000,000	+152,500,000	+102,500,000	+2,500,000	−20,000,000
Special population programs:									
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Specific learning disabilities	9,000,000	9,000,000	9,000,000			−9,000,000	−9,000,000	−9,000,000	
Early childhood projects	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000				
Subtotal, special population programs	36,000,000	36,000,000	36,000,000	27,000,000	27,000,000	−9,000,000	−9,000,000	−9,000,000	
Regional vocational, adult, and postsecondary programs	2,000,000	2,000,000	2,000,000	3,000,000	2,400,000	+400,000	+400,000	+400,000	−600,000
Innovation and development	11,000,000	11,000,000	11,000,000	20,000,000	20,000,000	+9,000,000	+9,000,000	+9,000,000	
Media and resource services:									
Media services and captioned films	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000				
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000	9,750,000				
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000				
Special education manpower development	45,375,000	45,375,000	45,375,000	43,375,000	45,375,000				
Special studies	1,735,000	2,300,000	2,300,000	2,300,000	2,300,000	+565,000			
Subtotal, education for the handicapped	469,360,000	519,925,000	619,925,000	643,425,000	622,825,000	+153,465,000	+102,900,000	+2,900,000	−20,600,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION									
Vocational education grants, academic year 1976–77	(451,246,000)					(−451,246,000)			
Vocational education (1977–78 academic year versus 1978–79 academic Year):									
Grants to States for vocational education:									
Basic vocation education program	412,719,000	393,719,000	430,266,000	430,266,000	430,266,000	+17,547,000	+36,547,000		
Program improvement supportive services	103,180,000	98,430,000	107,567,000	107,567,000	107,567,000	+4,387,000	+9,137,000		
Programs for students with special needs	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000				
Consumer and homemaking education	40,994,000	40,994,000	40,994,000	40,994,000	40,994,000				
State advisory councils	5,066,000	5,066,000	5,066,000	5,066,000	5,066,000				
Subtotal, staff grants	581,959,000	558,209,000	603,893,000	603,893,000	603,893,000	+21,934,000	+45,684,000		
Programs of national significance	27,153,000	25,903,000	28,307,000	28,307,000	28,307,000	+1,154,000	+2,404,000		
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000				
Subtotal, vocational education 1978–79	651,912,000	586,912,000	635,000,000	635,000,000	635,000,000	+23,088,000	+48,088,000		
Adult education	90,750,000	80,500,000	90,750,000	90,750,000	90,750,000		+10,650,000		
Subtotal, occupational, vocational and adult education	1,153,908,000	667,412,000	725,750,000	75,750,000	725,7250,000	−428,558,000	+58,338,000		

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
HIGHER EDUCATION									
Student assistance:									
Basic educational opportunity grants	$1,903,900,000	$2,316,000,000	$2,300,000,000	$2,070,000,000	$2,160,000,000	+$256,100,000	−$156,000,000	−$100,000,000	+$90,000,000
Supplemental educational opportunity grants	250,093,000	240,093,000	270,093,000	270,093,000	270,093,000	+20,000,000	+30,000,000	----------	----------
Work-study	390,000,000	390,000,000	420,000,000	450,000,000	435,000,000	+45,000,000	+45,000,000	+15,000,000	−15,000,000
Direct loans:									
Federal capital contributions	310,500,000	----------	310,500,000	310,500,000	310,500,000	----------	+310,500,000	----------	----------
Loans to institutions	800,000	----------	1,000,000	----------	----------	−800,000	----------	−1,000,000	----------
Teacher cancellations	11,920,000	15,160,000	15,160,000	15,160,000	15,160,000	+3,240,000	----------	----------	----------
Incentive grants for State scholarships	60,000,000	44,000,000	63,750,000	63,750,000	63,750,000	+3,750,000	+19,750,000	----------	----------
Subtotal, student assistance	2,927,213,000	3,005,253,000	3,380,503,000	3,179,503,000	3,254,503,000	+327,290,000	+249,250,000	−126,000,000	+75,000,000
Special programs for the disadvantaged	85,000,000	70,331,000	125,000,000	100,000,000	115,000,000	+30,000,000	+44,669,000	−10,000,000	+15,000,000
Educational information centers	----------	----------	5,000,000	----------	2,000,000	+2,000,000	+2,000,000	−3,000,000	+2,000,000
Minorities in the professions	----------	4,000,000	3,250,000	----------	3,250,000	+3,250,000	−750,000	----------	+3,250,000
Institutional assistance:									
Strengthening developing institutions	110,000,000	120,000,000	120,000,000	120,000,000	120,000,000	+10,000,000	----------	----------	----------
Language training and area studies	17,650,000	16,300,000	18,000,000	18,000,000	18,000,000	+350,000	+1,700,000	----------	----------
University community services	14,125,000	12,125,000	18,000,000	18,000,000	18,000,000	+3,875,000	+5,875,000	----------	----------
Aid to land-grant colleges	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	----------	----------	----------	----------
State postsecondary education commissions	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	----------	----------	----------	----------
Veterans cost of instruction	23,750,000	23,750,000	23,750,000	23,750,000	23,750,000	----------	----------	----------	----------
Cooperative education	12,250,000	10,750,000	15,000,000	15,000,000	15,000,000	+2,750,000	+4,250,000	----------	----------
Construction—Annual interest grants	----------	4,000,000	4,000,000	4,000,000	4,000,000	+4,000,000	----------	----------	----------
Subtotal, Institutional assistance	192,775,000	201,925,000	213,750,000	213,750,000	213,750,000	+20,975,000	+11,825,000	----------	----------
Personnel development:									
College teacher fellowships	100,000	----------	----------	----------	----------	−100,000	----------	----------	----------
Local training for disadvantaged (CLEO)	750,000	----------	1,000,000	1,000,000	1,000,000	+250,000	+1,000,000	----------	----------
Public service fellowships	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	----------	----------	----------	----------
Mining fellowships	4,500,000	3,000,000	4,500,000	4,500,000	4,500,000	----------	+1,500,000	----------	----------
Law school clinical experience	----------	----------	1,000,000	----------	1,000,000	+1,000,000	+1,000,000	----------	+1,000,000
Subtotal, personnel development	9,350,000	7,000,000	10,500,000	9,500,000	10,500,000	+1,150,000	+3,500,000	----------	+1,000,000
Wayne Morse Chair on Law and Politics	----------	----------	----------	500,000	500,000	+500,000	+500,000	+500,000	----------
Subtotal, higher education	3,214,338,000	3,288,509,000	3,738,003,000	3,503,253,000	3,599,503,000	+385,165,000	+310,994,000	−138,500,000	+96,250,000
LIBRARY RESOURCES									
Public libraries	60,237,000	60,237,000	60,237,000	60,237,000	60,237,000	----------	----------	----------	----------
School libraries and instructional resources	154,330,000	154,330,000	160,000,000	180,000,000	167,500,000	+13,170,000	+13,170,000	+7,500,000	−12,500,000
College library resources	9,975,000	9,975,000	9,975,000	9,975,000	9,975,000	----------	----------	----------	----------
Research Libraries	----------	----------	3,000,000	7,000,000	5,000,000	+5,000,000	+5,000,000	+2,000,000	−2,000,000
Training and demonstration	3,000,000	1,500,000	3,000,000	3,000,000	3,000,000	----------	+1,500,000	----------	----------
Undergraduate instructional equipment	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000	----------	----------	----------	----------
Guidance, counseling and testing	3,000,000	----------	3,000,000	----------	----------	−3,000,000	----------	−3,000,000	----------
Subtotal, library resources	238,042,000	233,542,000	246,712,000	267,712,000	253,212,000	+15,170,000	+19,670,000	+6,500,000	−14,500,000
SPECIAL PROJECTS AND TRAINING									
Special projects:									
Metric education projects	2,090,000	2,090,000	2,090,000	2,090,000	2,090,000	----------	----------	----------	----------
Gifted and talented children	2,560,000	2,560,000	2,560,000	2,560,000	2,560,000	----------	----------	----------	----------
Community shcools	3,553,000	3,553,000	3,553,000	3,553,000	3,553,000	----------	----------	----------	----------
Career education	10,135,000	10,135,000	10,135,000	10,135,000	10,135,100	----------	----------	----------	----------
Consumer education	3,135,000	3,135,000	3,135,000	5,000,000	4,068,000	+933,000	+933,000	+933,000	−932,000
Women's educational equity	7,270,000	8,085,000	8,085,000	8,085,000	8,085,000	+815,000	----------	----------	----------
Arts in education program	1,750,000	1,750,000	2,000,000	2,000,000	2,000,000	+250,000	+250,000	----------	----------
Packaging and field testing	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	----------	----------	----------	----------
Educational TV programing	7,000,000	7,000,000	5,000,000	5,0000,00	5,000,000	−2,000,000	−2,000,000	----------	----------
Subtotal	47,493,000	48,308,000	46,558,000	48,423,000	47,491,000	−2,000	−817,000	+933,000	−932,000
Educational personnel training:									
Teacher centers	----------	5,000,000	5,000,000	12,500,000	8,250,000	+8,250,000	+3,250,000	+3,250,000	−4,250,000
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000	37,500,000	----------	----------	----------	----------
Planning and evaluation	7,085,000	7,200,000	7,085,000	7,085,000	7,085,000	----------	−155,000	----------	----------
General program dissemination	500,000	500,000	----------	----------	----------	−500,000	−500,000	----------	----------
Information clearinghouse	333,000	400,000	400,000	333,000	333,000	----------	−67,000	−67,000	----------
Subtotal, special projects and training	92,911,000	98,908,000	96,543,000	105,841,000	100,659,000	+7,748,000	+1,751,000	+4,116,000	−5,182,000

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
SPECIAL PROJECTS AND TRAINING—Continued									
Guaranteed student loan program:									
Interest subsidies	$325,000,000	$121,781,000	$121,781,000	$121,781,000	$121,781,000	−$203,219,000			
Student loan insurance fund	32,012,000	133,943,000	133,943,000	133,943,000	133,943,000	+101,631,000			
Contingency borrowing authority (SLIF)		25,000,000	25,000,000	25,000,000	25,000,000	+25,000,000			
Subtotal, guaranteed student loan program	357,312,000	280,724,000	280,724,000	280,724,000	280,724,000	−76,588,000			
Higher education facilities loan and insurance fund	2,119,000	1,847,000	1,847,000	1,847,000	1,847,000	−272,000			
Educational activities overseas:									
Special foreign currency program	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Salaries and expenses:									
Advisory committees	2,281,000	2,041,000	2,261,000	2,261,000	2,261,000	−20,000	+$220,000		
Program administration	112,976,000	127,018,000	123,128,000	123,128,000	123,128,000	+10,152,000	−3,890,000		
Subtotal, salaries and expenses	115,257,000	129,059,000	125,389,000	125,389,000	125,389,000	+10,132,000	−3,670,000		
Subtotal, Office of Education	9,462,164,000	8,934,176,000	10,105,143,000	9,987,941,000	10,003,159,000	+540,995,000	+1,018,983,000	−$101,984,000	+$15,218,000
NATIONAL INSTITUTE OF EDUCATION									
Research and development	58,300,000	96,000,000	76,600,000	76,600,000	76,600,000	+18,300,000	−19,400,000		
Program administration	12,085,000	13,000,000	13,000,000	13,000,000	13,000,000	+915,000			
Subtotal, National Institute of Education	70,385,000	109,000,000	89,600,000	89,600,000	89,600,000	+19,215,000	−19,400,000		
ASSISTANT SECRETARY FOR EDUCATION									
Improvement of postsecondary education	11,500,000	14,500,000	12,500,000	11,500,000	12,000,000	+500,000	−2,500,000	−500,000	+500,000
Salaries and expenses	9,062,000	10,159,000	9,939,000	9,939,000	9,939,000	+877,000	−220,000		
National Center for Educational Statisics	13,120,000	15,940,000	14,940,000	13,120,000	13,940,000	+820,000	−2,000,000	−1,000,000	+820,000
Subtotal, Assistant Secretary for Education	33,682,000	40,599,000	37,379,000	34,559,000	35,879,000	+2,197,000	−4,720,000	−1,500,000	+1,320,000
Subtotal, Education Division	9,566,231,000	9,133,775,000	10,232,122,000	10,112,100,000	10,128,638,000	+562,407,000	+994,863,000	−103,484,000	+16,538,000
SOCIAL AND REHABILITATION SERVICE									
Public assistance:									
Maintenance assistance	6,306,430,000	6,605,800,000	6,585,800,000	6,300,000,000	6,300,000,000	−6,430,000	−305,800,000	−285,800,000	
Medical assistance	10,229,318,000	11,816,000,000	11,464,400,000	10,750,000,000	10,750,000,000	+520,682,000	−1,066,000,000	−714,400,000	
Social services	2,576,589,000	2,401,300,000	2,401,300,000	2,401,300,000	2,401,300,000	−175,289,000			
State and local training	79,860,000	75,000,000	75,000,000	75,000,000	75,000,000	−4,860,000			
Child welfare services	56,500,000	56,500,000	56,500,000	56,500,000	56,500,000				
Research	9,200,000	9,200,000	9,200,000	9,200,000	9,200,000				
Training projects	8,150,000		8,150,000	10,000,000	8,150,000		+8,150,000		−1,850,000
Subtotal	19,266,047,000	20,963,800,000	20,600,350,000	19,602,000,000	19,600,150,000	+334,103,000	−1,363,650,000	−1,000,200,000	−1,850,000
Work incentives:									
Grants to States	356,995,000	351,995,000	351,995,000	351,995,000	351,995,000	−5,000,000			
Program direction	13,005,000	13,005,000	13,005,000	13,005,000	13,005,000				
Subtotal	370,000,000	365,000,000	365,000,000	365,000,000	365,000,000	−5,000,000			
Cuban refugee program	82,000,000	67,700,000	67,700,000	76,200,000	71,950,000	−10,050,000	+4,250,000	+4,250,000	−4,250,000
Special assistance to refugees Cambodia, Vietnam, and Loas in the United States	50,000,000					−50,000,000			
Program administration	65,751,000	74,535,000	73,000,000	73,000,000	73,000,000	+7,249,000	−1,535,000		
Subtotal	19,833,798,000	21,471,035,000	21,106,050,000	20,116,200,000	20,110,100,000	+276,302,000	−1,360,935,000	−995,950,000	−6,100,000
SOCIAL SECURITY ADMINISTRATION									
Federal Funds									
Payments to the social security trust fund:									
Federal payments for supplementary medical insurance	5,053,000,000	6,383,000,000	6,383,000,000	6,383,000,000	6,383,000,000	+1,330,000,000			
Hospital insurance for the uninsured	803,000,000	687,941,000	687,941,000	687,941,000	687,941,000	−115,059,000			
Military service credits	622,000,000	656,000,000	656,000,000	656,000,000	656,000,000	+34,000,000			
Special payments for certain uninsured persons	235,902,000	228,203,000	228,203,000	228,203,000	628,203,000	−7,699,000			

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
SOCIAL SECURITY ADMINISTRATION—Continued									
Subtotal, payments to social security trust fund	$6,713,902,000	$7,955,144,000	$7,955,144,000	$7,955,144,000	$7,955,144,000	+$1,241,242,000			
(Subtotal, health function 550)	(5,997,000,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(+1,216,941,000)			
Subtotal, income maintenance function 600)	(716,902,000)	(741,203,000)	(741,203,000)	(741,203,000)	(741,203,000)	(+24,301,000)			
Special benefits for disabled coal miners:									
Benefit payments	947,865,000	958,000,000	958,000,000	958,000,000	958,000,000	+10,135,000			
Administration	14,100,000	9,623,000	9,623,000	9,623,000	9,623,000	−4,477,000			
Subtotal, special benefits	961,965,000	967,623,000	967,623,000	967,623,000	967,623,000	+5,658,000			
Supplemental security income program:									
Benefit payments	5,230,000,000	5,000,000,000	5,000,000,000	4,500,000,000	4,500,000,000	−730,000,000	−$500,000,000	−$500,000,000	
State supplementation payments	55,000,000	45,000,000	45,000,000	45,000,000	45,000,000	−10,000,000			
Vocational rehabilitation services	52,770,000	75,180,000	75,180,000	75,180,000	75,180,000	+22,410,000			
Administration	500,352,000	542,958,000	542,958,000	542,958,000	542,958,000	+42,606,000			
Federal fiscal liability	57,000,000	86,862,000	86,862,000	86,862,000	86,862,000	+29,862,000			
Subtotal	5,895,122,000	5,750,000,000	5,750,000,000	5,250,000,000	5,250,000,000	−645,122,000	−500,000,000	−500,000,000	
Limitation on salaries and expenses	(2,597,655,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(+88,296,000)			
Limitations on construction	(14,400,000)	(14,600,000)	(14,600,000)	(14,600,000)	(14,600,000)	(+200,000)			
Subtotal, Social Security Administration	16,183,044,000	17,373,318,000	17,373,318,000	16,873,318,000	16,873,318,000	+690,274,000	−500,000,000	−500,000,000	
Federal funds	13,570,989,000	14,672,767,000	14,672,767,000	14,172,767,000	14,172,767,000	+601,778,000	−500,000,000	−500,000,000	
Trust fund limitation	(2,612,055,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(+88,496,000)			
SPECIAL INSTITUTIONS									
American Printing House for the Blind	3,012,000	3,498,000	3,498,000	3,498,000	3,498,000	+486,000			
National Technical Institute for the Deaf: Academic program	12,675,000	14,630,000	14,630,000	14,630,000	14,630,000	+1,955,000			
Gallaudet College:									
Academic program	15,610,000	17,510,000	17,510,000	17,510,000	17,510,000	+1,900,000			
Model Secondary School for the Deaf	7,343,000	8,343,000	8,343,000	8,343,000	8,343,000	+1,000,000			
Kendall Demonstration Elementary School	3,270,000	3,907,000	3,907,000	3,907,000	3,907,900	+637,000			
Construction	15,575,000	16,216,000	16,216,000	16,216,000	16,216,000	+641,000			
Subtotal, Gallaudet College	41,798,000	45,976,900	45,976,000	45,976,000	45,976,000	+4,178,000			
Howard University:									
Academic program	63,487,900	73,087,000	73,087,000	73,087,900	73,087,000	+9,600,000			
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000				
Construction	2,500,000	3,925,000	3,925,000	3,925,000	3,925,000	+1,425,000			
Subtotal, Howard University	88,093,000	99,118,000	99,118,000	99,118,000	99,118,000	+11,025,000			
Subtotal, special institutions	145,578,000	163,222,000	163,222,000	163,222,000	163,222,000	+17,644,000			
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
Child development:									
Head Start	475,000,000	485,000,000	595,000,000	655,000,000	625,000,000	+150,000,000	+140,000,000	+30,000,000	−$30,000,000
Research, demonstration, and evaluation	14,700,000	16,700,000	14,700,000	14,700,000	14,700,000		−2,000,000		
Child abuse	18,928,000	18,928,000	18,928,000	18,928,000	18,928,000				
Subtotal, child development	508,628,000	520,628,000	628,628,000	688,628,000	658,628,000	+150,000,000	+138,000,000	+30,000,000	−30,000,000
Youth development	9,000,000	9,000,000	9,000,000	16,000,000	12,000,000	+3,000,000	+3,000,000	+3,000,000	−4,000,000
Aging programs:									
Community services (title III):									
State agency activities	17,000,000	17,000,000	18,000,000	20,000,000	19,000,000	+2,000,000	+2,000,000	+1,000,000	−1,000,000
Area planning and social services	122,000,000	122,000,000	153,000,000	153,000,000	153,000,000	+31,000,000	+31,000,000		
Model projects	14,700,000	12,000,000	15,000,000	15,000,000	15,000,000	+300,000	+3,000,000		
Subtotal, community services	153,700,000	151,000,000	186,000,000	188,000,000	187,000,000	+33,300,000	+36,000,000	+1,000,000	−1,000,000
Nutrition (title VII)	203,525,000	225,000,000	250,000,000	250,000,000	250,000,000	+46,475,000	+25,000,000		

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 7555), FISCAL YEAR 1978—Continued

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT—Continued									
Research, demonstration, and manpower (title IV):									
Research	$8,500,000	$7,000,000	$8,500,000	$8,500,000	$8,500,000	----------	+$1,500,000	----------	----------
Training	14,200,000	14,200,000	16,000,000	18,000,000	17,000,000	+$2,800,000	+2,800,000	+$1,000,000	−$1,000,000
Multidisplinary centers on gerontology	3,800,000	3,800,000	3,800,000	3,800,000	3,800,000	----------	----------	----------	----------
Subtotal, research, development, and manpower	26,500,000	25,000,000	28,300,000	30,300,000	29,300,000	+2,800,000	+4,300,000	+1,000,000	−1,000,000
Federal Council on Aging	575,000	450,000	450,000	450,000	450,000	−125,000	----------	----------	----------
Multipurpose Senior Center (title V)	20,000,000	20,000,000	40,000,000	30,000,000	40,000,000	+20,000,000	+20,000,000	----------	+10,000,000
National clearinghouse	----------	2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000	----------	----------	----------
Subtotal, Aging programs	404,300,000	423,450,000	506,750,000	500,750,000	508,750,000	+104,450,000	+85,300,000	+2,000,000	+8,000,000
Rehabilitation Service and Facilities:									
Basic State grants	740,309,000	760,472,050	760,472,050	760,472,000	760,472,000	+20,163,000	−50	−50	----------
Service projects:									
Innovation and expansion	18,000,000	18,000,000	18,000,000	18,000,000	18,000,000	----------	----------	----------	----------
Deaf-blind Center	2,100,000	2,500,000	2,500,000	2,500,000	2,500,000	+400,000	----------	----------	----------
Special projects	17,150,000	14,327,950	19,328,000	17,028,000	19,828,000	+2,678,000	+5,500,050	+500,000	+2,800,000
Training and facilities grants:									
Training services	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	----------	----------	----------	----------
Facility improvements	2,400,000	2,400,000	2,400,000	2,400,000	2,400,000	----------	----------	----------	----------
Subtotal, service projects	44,650,000	42,227,950	47,228,000	44,928,000	47,728,000	+3,078,000	+5,500,050	+500,000	+2,800,000
Research	29,000,000	29,000,000	30,000,000	33,000,000	31,500,000	+2,500,000	+2,500,000	+1,500,000	−1,500,000
Training	30,500,000	20,000,000	30,500,000	30,500,000	30,500,000	----------	+10,500,000	----------	----------
Subtotal	844,459,000	851,700,000	868,200,050	868,900,000	870,200,000	+25,741,000	+18,500,000	+1,999,950	+1,300,000
Grants for the developmentally disabled:									
State grants	33,058,000	33,058,000	33,058,000	33,058,000	33,058,000	----------	----------	----------	----------
Service grants	19,617,000	19,567,000	19,567,000	19,567,000	19,567,000	−50,000	----------	----------	----------
University affiliated facilities	5,250,000	5,500,000	6,500,000	7,500,000	6,500,000	+1,250,000	+1,000,000	----------	−1,000,000
Subtotal	57,925,000	58,125,000	59,125,000	60,125,000	59,125,000	+1,200,000	+1,000,000	----------	−1,000,000
Special programs for native Americans	33,000,000	33,000,000	33,000,000	33,000,000	33,000,000	----------	----------	----------	----------
White House Conference on Handicapped Individuals	1,436,000	----------	----------	----------	----------	−1,436,000	----------	----------	----------
White House Conference on Families	----------	3,000,000	----------	3,000,000	3,000,000	+3,000,000	----------	+3,000,000	----------
Salaries and expenses	49,449,000	51,875,000	51,875,000	51,875,000	51,875,000	+2,426,000	----------	----------	----------
Less: Trust fund transfer	−600,000	−600,000	−600,000	−600,000	−600,000	----------	----------	----------	----------
Subtotal, human development	1,907,597,000	1,950,178,000	2,155,978,050	2,221,678,000	2,195,978,000	+288,381,000	+245,800,000	+39,999,950	−25,700,000
DEPARTMENTAL MANAGEMENT									
Office for Civil Rights	29,770,000	36,061,000	33,821,000	33,821,000	33,821,000	+4,051,000	−2,240,000	----------	----------
Less: Trust fund transfer	−919,000	−514,000	−514,000	−514,000	−514,000	+405,000	----------	----------	----------
Subtotal, Office of Civil Rights, Federal funds	28,851,000	35,547,000	33,307,000	33,307,000	33,307,000	+4,456,000	−2,240,000	----------	----------
General department management:									
Department direction	45,026,000	51,810,000	49,260,000	49,260,000	49,260,000	+4,234,000	−2,550,000	----------	----------
Department operations	38,703,000	42,646,000	42,196,000	42,196,000	42,196,000	+3,493,000	−450,000	----------	----------
Less: Trust fund transfer	−9,443,000	−9,579,000	−9,579,000	−9,579,000	−9,579,000	−136,000	----------	----------	----------
Subtotal, general department management	74,286,000	84,877,000	81,877,000	81,877,000	81,877,000	+7,591,000	−3,000,000	----------	----------
Office of the Inspector General	27,453,000	29,633,000	29,633,000	29,633,000	29,633,000	+2,180,000	----------	----------	----------
Less: Trust fund transfer	−3,905,000	−4,290,000	−4,290,000	−4,290,000	−4,290,000	−385,000	----------	----------	----------
Subtotal, Inspector General, Federal funds	23,548,000	25,343,000	25,343,000	25,343,000	25,343,000	+1,795,000	----------	----------	----------
Policy research	20,000,000	22,400,000	40,000,000	22,400,000	30,000,000	+10,000,000	+7,600,000	−10,000,000	+7,600,000
Subtotal, departmental management	146,685,000	168,167,000	180,527,000	162,927,000	170,527,000	+23,842,000	+2,360,000	−10,000,000	+7,300,000
Total, Health, Education, and Welfare	53,502,127,000	55,844,160,000	57,291,533,550	56,142,395,000	55,936,005,000	+2,433,878,000	+91,845,000	−1,355,528,550	−206,390,000
Federal funds	50,835,084,000	53,093,692,000	54,541,065,550	53,391,927,000	53,185,537,000	+2,350,453,000	+91,845,000	−1,355,528,550	−206,390,000
Trust funds	(2,667,043,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(+83,425,000)	----------	----------	----------

	1977 comparable appropriation	1978 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1977	Conference compared to 1978 estimates	Conference compared to House bill	Conference compared to Senate bill
ACTION (Domestic Programs):									
Volunteers in Service to America (VISTA)	$23,000,000	$25,350,000	$25,350,000	$26,750,000	$25,350,000	+$2,350,000			−$1,400,000
Service learning programs	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000				
Older Americans volunteer programs:									
Foster Grandparents program	34,000,000	34,900,000	34,900,000	34,900,000	34,900,000	+900,000			
Senior Companion Program	3,800,000	6,600,000	7,000,000	7,000,000	7,000,000	+3,200,000	+$400,000		
Retired Senior Volunteer Program	19,000,000	20,100,000	20,100,000	20,100,000	20,100,000	+1,100,000			
Subtotal, older volunteers	56,800,000	61,600,000	62,000,000	62,000,000	62,000,000	+5,200,000	+400,000		
Special volunteer programs	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000				
Program support	21,310,000	21,910,000	21,910,000	21,910,000	21,910,000	+600,000			
Subtotal, ACTION	109,110,000	116,860,000	117,260,000	118,660,000	117,260,000	+8,150,000	+400,000		−1,400,000
Community Services Administration:									
Research and demonstration	5,000,000		6,000,000	6,000,000	6,000,000	+1,000,000	+6,000,000		
Community Action operations:									
Local initiative	330,000,000	330,000,000	363,000,000	375,000,000	369,000,000	+39,000,000	+39,000,000	+$6,000,000	−6,000,000
Senior opportunities and service	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
State economic opportunity offices	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Community food and nutrition	27,500,000	27,500,000	27,500,000	35,000,000	30,000,000	+2,500,000	+2,500,000	+2,500,000	−5,000,000
Emergency energy conservation services	110,000,000		45,000,000	65,000,000	65,000,000	−45,000,000	+65,000,000	+20,000,000	
Crisis intervention program (energy)	200,000,000					−200,000,000			
National youth sports program	6,000,000		6,000,000	6,000,000	6,000,000		+6,000,000		
Summer youth recreation and transportation	17,000,000		17,000,000	17,000,000	17,000,000		+17,000,000		
Training and technical assistance		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000			
Migrant program	1,000,000		1,000,000	1,000,000	1,000,000		+1,000,000		
Subtotal, Community Action	713,500,000	380,500,000	482,500,000	522,000,000	511,000,000	−202,500,000	+130,500,000	+28,500,000	−11,000,000
Community economic development	48,170,000	30,000,000	48,170,000	48,170,000	48,170,000		+18,170,000		
Evaluation		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000			
Program administration	27,883,000	31,000,000	30,183,000	30,183,000	30,183,000	+2,300,000	−817,000		
Subtotal, Community Services Administration	794,553,000	442,500,000	567,853,000	607,353,000	596,353,000	−198,200,000	+153,853,000	+28,500,000	−11,000,000
Corporation for Public Broadcasting	103,000,000					−103,000,000			
Advance 1978	107,150,000					−107,150,000			
Advance 1979	120,200,000					−120,200,000			
Advance 1980		120,200,000	145,000,000	155,000,000	152,000,000	+152,000,000	+31,800,000	+7,000,000	−3,000,000
Subtotal, Corporation for Public Broadcasting	330,350,000	120,200,000	145,000,000	155,000,000	152,000,000	[1] −178,350,000	+31,800,000	+7,000,000	−3,000,000
Federal Mediation and Conciliation Service	21,177,000	21,932,000	21,932,000	21,932,000	21,932,000	+755,000			
National Commission on Libraries and Information Science	4,007,575	563,000	563,000	563,000	563,000	−3,444,575			
National Labor Relations Board	80,908,000	88,520,000	88,520,000	88,520,000	88,520,000	+7,612,000			
National Mediation Board	3,660,000	3,703,000	3,703,000	3,703,000	3,703,000	+43,000			
Occupational Safety and Health Review Commission	6,607,000	7,150,000	7,150,000	7,150,000	7,150,000	+543,000			
Railroad Retirement Board:									
Payment to railroad retirement trust fund	250,000,000	250,000,000	250,000,000	250,000,000	250,000,000				
Regional rail transportation protective account	65,000,000	50,000,000	50,000,000	50,000,000	50,000,000	−15,000,000			
Limitation on salaries and expenses	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)			
Soldier's and Airmen's Home (trust fund appropriation):									
Operation and maintenance	16,099,000	16,356,000	16,356,000	16,356,000	16,356,000	+257,000			
Subtotal, related agencies	1,715,194,575	1,151,066,000	1,301,619,000	1,352,519,000	1,337,119,000	−378,075,575	+186,053,000	+35,500,000	−15,400,000
Federal funds	1,681,471,575	1,117,784,000	1,268,337,000	1,319,237,000	1,303,837,000	−377,634,575	+186,053,000	+35,500,000	−15,400,000
Trust funds	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)			
Final total, Labor-HEW	76,320,630,575	64,925,861,000	65,682,300,550	65,012,337,000	64,516,772,000	−11,803,858,575	−409,089,000	−1,165,528,550	−495,565,000
Federal funds	72,173,358,575	60,593,970,000	61,334,089,550	60,644,126,000	60,168,561,000	−12,004,797,575	−425,409,000	−1,165,528,550	−475,565,000
Limitation on trust fund transfers	(4,147,272,000)	(4,331,891,000)	(4,348,211,000)	(4,368,211,000)	(4,348,211,000)	(+200,939,000)	(+16,320,000)		(−20,000,000)

[1] This is a 3 year advanced appropriation. The fiscal year 1977 amount was the first year under the advanced system and includes funds for 1977, 1978 and 1979. The fiscal year 1978 appropriation includes funds for 1980 only.

Mr. BROOKE. Mr. President, I am glad to join with our distinguished chairman, Senator MAGNUSON, in recommending adoption of the conference report on H.R. 7555, the fiscal year 1978 Labor-HEW appropriations bill.

This bill is of major significance to the citizens of this Nation. It provides for a wide range of human needs, from training and jobs for the unemployed, to medical care and biomedical research, education, and programs to aid the poor, elderly, and disabled—those least able to care for themselves.

In relative terms, the conferees have developed a prudent but responsible bill. As it now stands, the bill totals $60,168,561,000. This amount is $1,165,528,550 less than the House recommendation and $495,565,000 below the Senate figure. It is also noteworthy that the Labor-HEW bill is under even the President's budget request. In this case, it is under by $425,409,000. This is achieved through lower welfare requirements as a result of prior year overestimates.

Still, the Senate was able to prevail on many of its additions to the House bill. Of the 89 Senate amendments, our body receded completely on only 16. While we did not get all we wanted, I believe the bill is a reasonable compromise.

I would make only one exception to that statement. I am very displeased with the bill language limiting the use of transportation to deal with illegal school desegregation. This language is a blatant attempt to restrict HEW's responsibilities under title VI of the Civil Rights Act of 1964. It is an unconstitutional provision, and I am confident it will be challenged in the courts.

Another language amendment deals with abortion. This amendment is reported in complete disagreement and will be taken up after we complete the conference report.

Let me discuss some of the other important results of our conference.

LABOR

I am pleased to report that the Senate was able to convince the House to retain $98,000,000 of the increase we had recommended for summer youth employment. The $693,000,000 which the bill provides will support part-time summer jobs for 1,165,000 young people ages 14 through 21. The unemployment rate for black young people in this category now ranges up to 40 percent.

For older workers, the conferees agreed to a level of $190,400,000—a $10,000,000 increase over the House bill. This amount will provide funding for about 47,500 community service jobs for persons 55 years of age and older. The conferees also agreed that 80 percent of the job slots would be administered by national contractors and 20 percent by the States, according to the formula in the basic law.

In the area of occupational safety and health, the conferees provided an additional $1,500,000 for an added 100 health compliance positions.

HEALTH

For health programs, the Senate conferees were able to convince the House to accept more than half of the Senate's recommended increase in the House bill.

For the sudden infant death information and counseling program, I am pleased to report that the conferees agreed to a level of $3,000,000. This will provide for a 75-percent increase in this small but important program to aid the families of SIDS victims. The increase will allow expansion of the program to most of the 30 States and territories which do not presently have any SIDS projects available. It will provide thousands of parents of infants struck by this little-understood killer with help in coping with their loss.

For family planning, the conferees agreed to $135,000,000. This is $11,300,000 more than the House recommendation and $21,000,000 above the current year level. The increase will permit expansion of family planning services to more than a half million additional high-risk persons, particularly teenagers and low-income women who need services but cannot get them.

The conferees agreed to an additional $50,000,000 to improve the productivity of the public health service hospital and clinic system and to begin the expensive task of upgrading the existing facilities to comply with fire and safety codes and to make urgently needed repairs.

Under disease control, the conference bill provided increases for expansion of venereal disease screening projects, immunization of children, and lead-based paint poisoning prevention projects. The total for these three programs is $65,250,000.

I am pleased to report that the conferees agreed to substantial increases for all areas of biomedical research at the National Institutes of Health. The NIH total was $2,704,835,000—an increase of $82,700,000 over the House allowance and an average of 12 percent above the prior year level.

For the National Cancer Institute, the conference bill provides $867,136,000. This is an increase of $35,200,000 over the House and $48,200,000 over the budget request. Still, the conference result is well below the $920,000,000 provided by the Senate for this important research institute. With cancer claiming some 385,000 deaths a year, it is essential that we not only maintain, but also expand, our research into this most feared of all killer diseases. The increase provided by the conferees will just about take care of inflation—and no more. I earnestly hope that in fiscal 1979 it will be possible to do better for the cancer program.

For most of the other institutes the House agreed to more than half of the Senate's recommended 15-percent increase over last year. For the National Eye Institute and the Institutes on Aging and Environmental Health Sciences, the conferees agreed to the higher House figures.

I also am pleased to report that the conference allowance for the National Child Health Institute will provide a total of $12,500,000 for direct and related research on sudden infant death. This is some $4,800,000 more than provided in the budget request.

In the area of community mental health, the bill provides $26,387,000 for first year operations of about 45 new community mental health centers. The increase will bring the total number of centers to about 715 nationwide, still less than half the number set as a goal by authorizing legislation, but a significant improvement nonetheless.

For community alcoholism projects, the conferees provided $78,758,000 to expand services to high risk and underserved groups including women and teenagers.

Under health resources, I am glad to report the conferees restored the $19,000,000 cut for capitation grants to medical, osteopathic, and dental schools; accepted $5,000,000 of the proposed Senate increase in national health service scholarships, for a total of $60,000,000; and accepted the higher Senate figures of $12,000,000 for advanced nurse training and $22,500,000 for nursing student loans.

EDUCATION

For emergency school aid, I was especially pleased that the conferees accepted $3,000,000 of the Senate's proposed increase for special programs to assist additional school districts undertaking voluntary desegregation efforts, and agreed to $20,000,000 for the important new magnet schools program. The magnet schools program was initiated in fiscal year 1977 with only enough money for a few projects. Thus, it will begin its first year of full-scale operation with the 1978 funds. I believe this program has great potential for school districts seeking innovative solutions to problems of racial isolation.

For handicapped education, the conferees accepted the lower House figure of $465,000,000 for State grants. While I believe the additional $20,000,000 recommended by the Senate will be needed, the conference action makes it almost inevitable that Congress will have to appropriate supplemental amounts to assure that all eligible handicapped children will be covered as the law requires. On the other hand, I was pleased that the conferees agreed to accept the Senate's recommended 20 percent increase in the pre-school incentive grant program for the handicapped, bringing it to $15,000,000. The program will provide help to the States in identifying and serving preschool handicapped children. At present, only 25 percent of these children are served by the States.

In higher education, the conferees agreed to a figure of $2,160,000,000 for the basic grant—BOGs—program. This amount will provide for a $200 increase—to $1,600—in the maximum BOG that may be awarded. This is the first increase in the ceiling since the program's inception in 1972. It will also permit significant expansion of eligibility to middle-income families increasingly hard-pressed to meet the rising cost of a college education.

The conferees also agreed to $15,000,000 of the Senate's recommended in-

crease, to $435,000,000, for work-study, to meet wage increases and expand job slots. I was pleased that the conferees agreed to the House level of $3,250,000 for the new Minorities-in-the-Professions program. Our agreement was made possible by HEW belatedly supplying more specific information on how it planned to use the money. The program is designed to help minorities and women get graduate training for entry into fields in which they presently are woefully underrepresented.

The conference bill also provides an additional $7,500,000 above the House level, for a total of $167,500,000, for school libraries, to help meet the rising cost of instructional materials. It also added another $3,250,000 to the House level of $5,000,000 for the new teacher centers program. This provides aid to States for upgrading teachers' skills particularly in such areas as handicapped education.

WELFARE

For the public assistance and social security entitlement programs, the conferees have accepted the lower Senate estimates and have agreed to the Senate language providing for the carryover of unused fiscal 1977 funds for use in 1978.

Under human development, I am pleased to report that the conference bill provides $625,000,000 for the Headstart program. This amount will permit the first significant expansion of Headstart in several years. Although the program still serves less than one-fifth of the eligible children, the conference figure will permit a 30-percent increase over last year's level.

For multipurpose senior centers, I was pleased that the conferees concurred with my recommendation to accept the higher House level of $40,000,000. This amount will permit expansion of these centers, which provide one-stop referral services for the elderly, helping them with information to meet their health, welfare, housing, and transportation needs.

RELATED AGENCIES

For the VISTA program, the House would not accept the Senate's recommendation to increase volunteers' stipends on grounds it had received no information as to the need in this area. However, the conferees did agree to provide for an increase once the agency makes the case for it.

For local initiative under the Community Services Administration, the conferees agreed to half of the Senate's recommended $12,000,000 increase. The conference level of $369,000,000 provides the first increase for community action agencies in 7 years.

I am particularly pleased that the conferees accepted the Senate's figure of $65,000,000 for emergency energy conservation. This will permit the cost-effective weatherization of a quarter of a million homes of poor families, the elderly, and the disabled. Such weatherizing has been shown to reduce monthly fuel bills by more than a third. This will result in savings to the participants of about $136 million in fiscal year 1978, according to CSA.

AUTHORIZING LANGUAGE

As I mentioned, the conference retained the unconstitutional anti-busing language. The abortion language is reported in total disagreement and is responsible for holding up the bill. A number of other language amendments, in the areas of OSHA, civil rights, and public welfare, were not included in the conference bill.

In the particular cases of the amendments on OSHA mandatory consultation and civil rights surveys, the administration urged deletion of both. However, we have included strong report language on both items. We believe the report language will achieve the results intended by the amendments.

All-in-all, I think we have come out of conference with a supportable bill, one which is reasonable given the problems which this bill addresses. I urge the Senate to adopt the conference report.

Mr. President, again I want to assure my colleagues, as the chairman has, that he and I would be very pleased to answer any questions relative to any other portion of the conference report on which they seek information. There is only one part of it, of course, which is in real disagreement, and that will be the subject of an amendment or amendments which will be proposed on the floor of the Senate during the consideration of this conference report.

Mr. MAGNUSON. Mr. President, I move the Senate adopt the conference report.

The PRESIDING OFFICER. Do the Senators yield back their time on the report?

Mr. MAGNUSON. Yes.

Mr. BROOKE. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

Mr. BROOKE. Does the Senator from Kansas seek recognition on this particular section?

Mr. DOLE. This is the HEW conference report?

Mr. BROOKE. It is.

Mr. DOLE. The Senator from Kansas offered an amendment with reference to OSHA consultations before fines were imposed on nonserious violations. We are in the process of preparing a colloquy which we would hope the distinguished Senator from Washington might agree with, which would indicate that there is in the works a study by the Secretary which will be reported to Congress by January 1, 1978.

Mr. BROOKE. I will yield to the floor manager.

Mr. MAGNUSON. I think the Senator from Kansas wants to have it cleared up by a colloquy about the conference report. I think what he wants to know is whether he can assume that the mandatory OSHA consultation plan the conferees intended to have developed by the Secretary of Labor will focus on consultation after violations have been found.

Is that correct?

Mr. DOLE. That is correct.

Mr. MAGNUSON. And that is my understanding of the intent of the conferees on this matter.

Mr. DOLE. If I could ask one additional question, Mr. President, the alternative interpretation would be language which forces employers to seek an OSHA consultation. Would the Senator agree that the Secretary of Labor should not interpret the conference report as a mandate to impose a plan forcing employers to have mandatory consultation outside of the inspection processes?

Mr. MAGNUSON. That is the way I read the language I believe the conferees intended this mandate to be interpreted in the light of the Dole amendment, which address itself to consultation after normal inspection processes.

Mr. BROOKE. That is my understanding, as well.

Mr. DOLE. In light of what happened on the floor, I might say that I understand that both the Senator from Massachusetts and the Senator from Washington did their best on the amendment. The vote was 61 to 27 in favor of the amendment.

In light of that vote, the distinguished Senator from Washington and the distinguished Senator from Massachusetts intended to put the Labor Department OSHA report on the agenda for committee consideration next year.

Mr. MAGNUSON. That is why we picked the due date that we did, the date being January 1, 1978, so that the OSHA report would be available for committee consideration next year.

Mr. DOLE. I thank the distinguished manager of the bill.

I only say that it seems to this Senator that the intent of the Senate was quite clear. Certainly, the amendment was clear and concise. For some reason, the National Federation of Independent Businesses opposed the amendment. I thought business was out trying to improve their lot, but apparently, in this particular case, they do not want it improved.

Despite their efforts to kill off the amendments, which they did, I am pleased that the report language indicates that we will have a report in January of next year that will be given committee consideration; and that there has been a recognition that OSHA is not a revenue-raising measure, it is an effort to protect the safety and health of workers, and consultation can be a good thing. I believe that, based on the vote, most Senators feel the same way.

Mr. BROOKE. That is correct.

Mr. JAVITS. Will the Senators yield?

Mr. MAGNUSON. Yes, I yield.

Mr. BROOKE. Yes.

Mr. JAVITS. I want to be sure that what they said about an OSHA report in no way short-circuited the legislative oversight jurisdiction of the Committee on Human Resources.

Mr. MAGNUSON. Not at all.

Mr. JAVITS. Of course, the Labor-HEW Committee has an interest, but the primary interest is with us.

Mr. BROOKE. That is not the intent.

Mr. JAVITS. I have already given assurances to the Senator that we are really going to dig into the OSHA picture.

Mr. DOLE. I thank my distinguished colleague.

CUBAN REFUGEE ASSISTANCE PROGRAM

Mr. CHILES. Mr. President, I would like to take this opportunity to clarify what the Labor-HEW Conference Committee agreed to concerning the Cuban Refugee Assistance program.

The House had accepted the administration's proposal for a 4-year phaseout of the entire program, beginning with 90-percent funding in 1978. Their action was presumably based on the improved economic conditions of the Cuban community.

The Senate considered the 4-year phaseout too drastic, in light of the fact that the per capita Cuban income is still 20 percent below non-Cubans, using Dade County data as an example. Most people are not aware that the United States was still encouraging Cuban refugees to immigrate as recently as 1974, so the total registration in the program has continued to increase. In particular, the House action did not take account of the large number of elderly and disabled poor in the Cuban refugee population. While Cubans only represent 30 percent of the total Dade County population, they represent 64 percent of the persons eligible for supplemental security income assistance. While Federal funds from SSI pay the income maintenance costs for these persons, the Cuban Refugee program pays their medical costs, which are quite substantial. The Senate therefore exempted the medical costs of SSI-eligible persons from the 8-year phaseout it proposed.

This special treatment of the costs associated with the elderly and disabled poor was the major point of contention in the conference. We compromised at a 6-year phaseout, beginning with 95 percent in 1978, and an appropriation of $71.95 million, as opposed to the $67.7 million in the House bill and the $76.2 million in the Senate version. After considerable discussion, we decided to remain silent on the reimbursement rate for costs for SSI-eligible persons.

I would like to clarify for the record that by remaining silent on SSI-related costs when speaking of a 6-year phaseout, we intend that HEW will continue its present practice in reimbursing these costs. I would also like to draw the chairman's attention to the final provision in the conference report, which states that:

The Conferees are agreed that the earmarking in the Senate report should be used as a guideline in allocating increases over the amounts proposed by the House, except where more explicit instructions are given in this statement.

It is my understanding that in the case of maintaining present practice in reimbursing costs for SSI-eligible persons, since the conference report was silent, the Senate instructions to continue this 100-percent funding have first claim on the $4,250,000 by which the conference appropriation exceeds the amount proposed by the House.

Does the Chairman agree with my understanding of the conference action?

Mr. MAGNUSON. Yes, you are correct in that interpretation, Senator CHILES. The act authorizing Cuban refugee assistance is permanent. If the Appropriations Committee reduces funding for certain portions of the program based on a projected phase-out, it must instruct the Department of HEW how to make reductions. By remaining silent on the issue of SSI-related costs, the Conference Committee left intact the present practice of full reimbursement as authorized and as instructed by the Senate report. I think you impressed the committee with the magnitude of the problem and the special economic burden represented by the elderly. A case can be made that the economic condition of the younger families has improved, and on that basis we agreed to phase down the reimbursement for AFDC, general assistance, social services and educational assistance. No one has yet presented any evidence to show that the elderly and disabled are going to work or pay taxes. I therefore think it is necessary for the Federal Government to continue its full support of costs for the elderly and disabled poor.

Mr. CHILES. Thank you for that assurance, Mr. Chairman. I would also like to thank you for your support in carrying this program through to a reasonable compromise. The elderly poor and disabled will be particularly grateful to you for maintaining these vital services. As we have discussed, the Cuban Refugee situation is unique, since Federal policy resulted in 475,000 Cubans—almost the population of central Boston—locating in a single county. While we welcome the Cubans as valued members of our community, it is necessary for the Federal Government to continue to recognize the financial burden imposed for providing medical, welfare, educational, and social service assistance to the disproportionate number of poor elderly and disabled who settled in Dade County, Fla.

FUNDING FOR DIABETES

Mr. SCHWEIKER. Mr. President, I am pleased to join in support of the conference report on this year's Labor-HEW appropriations bill. I think that Chairman MAGNUSON and Senator BROOKE did an excellent job of representing the Senate's positions on health research funding, and that we came out with some pretty good results. I salute them for this and for the fine job they did throughout the year.

When the Senate considered this bill, I inserted into the RECORD several tables dealing with diabetes funding. As many of my colleagues know, I strongly believe that diabetes has been a neglected health problem in this country that deserved more attention at the Federal level.

This year, I am happy to report, the story is different. For the first time, diabetes is truly receiving the kind of support at the National Institutes of Health that is appropriate for the third leading cause of death. I was especially pleased that a large portion of the funds added by the Senate for diabetes remain in the final bill approved by the conferees. The final total of over $102,000,000 for diabetes research will allow funding of a research program that should take us a long way towards solving the mystery of this disease.

Mr. President, I ask unanimous consent that a table showing diabetes funding levels at the National Institutes of Health and a table showing the breakdown of all funding at NIH by disease be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS FOR DIABETES RESEARCH, NATIONAL INSTITUTES OF HEALTH

	1976 actual	1977 appropriation	1978 President's budget	1978 House allowance	1978 Senate allowance	Conference allowance
National Institute of Arthritis, Metabolism and Digestive Diseases	$18,348,000	$39,826,000	$37,907,000	$43,907,000	$66,407,000	$57,204,000
National Heart, Lung, and Blood Institute	7,000,000	11,900,000	12,400,000	12,800,000	14,200,000	13,579,000
National Eye Institute:						
Diabetic retinopathy	5,008,000	6,627,000	6,563,000	7,724,000	7,724,000	7,724,000
Diabetes total NEI	5,246,000	9,065,000	9,065,000	10,565,000	11,517,000	11,517,000
Research resources	6,075,000	6,355,000	7,378,000	8,253,000	7,783,000	7,783,000
National Institute of Child Health and Human Development	2,230,000	4,619,000	4,750,000	5,750,000	5,900,000	5,838,000
National Institute of Neurological and Communicative Disorders and Stroke	1,606,000	1,860,000	1,931,000	3,380,000	3,380,000	3,380,000
National Institute of General Medical Sciences	775,000	1,000,000	1,000,000	1,300,000	1,300,000	1,300,000
National Institute of Dental Research	400,000	600,000	600,000	600,000	600,000	600,000
National Institute of Aging	490,000	563,000	575,000	650,000	575,000	612,000
National Cancer Institute	235,000	250,000	250,000	250,000	250,000	250,000
Total	40,284,000	76,037,000	76,013,000	87,455,000	111,912,000	102,063,000

NATIONAL INSTITUTES OF HEALTH—1978 PROGRAM AREAS OF SPECIAL CONCERN

[In thousands of dollars]

Appropriation/program	1976 actual	Estimates of the amounts to be obligated: 1977 appropriation [1]	1978 congressional justification	1978 House allowance	1978 Senate allowance	1978 conferee's allowance
National Cancer Institute:						
Nutrition	5,385	7,389	7,640	7,877	8,975	8,316
Cancer task forces	29,589	30,835	30,692	30,692	34,542	32,231
Smoking and health	9,500	10,000	10,000	10,000	10,000	10,000
Cancer research centers	128,411	138,553	139,569	139,569	160,498	148,323
Cancer control	56,471	60,101	60,835	60,835	68,080	63,500
Cancer construction	25,496	22,873	12,895	12,895	23,000	16,500
Combined treatment modalities	57,087	60,775	61,775	63,149	69,828	65,819
Environmental carcinogenesis	134,666	149,500	160,200	165,200	179,952	171,096
Virus cancer research	102,026	98,836	97,756	97,756	102,915	99,818
Immunology research	71,336	77,216	78,326	78,868	80,171	79,389
Other cancer research [2]	110,270	125,349	127,601	131,448	145,239	137,064
Research manpower development	30,311	33,510	31,647	33,647	36,800	35,080
Subtotal	760,548	814,937	818,936	831,936	920,000	867,136
Training programs	(18,160)	(20,000)	(18,163)	(20,163)	(21,270)	(20,163)
Pap testing	(9,695)	(11,500)	(11,000)	(11,000)	(11,500)	(11,200)
Breast cancer detection and treatment	(29,000)	(34,700)	(33,200)	(33,200)	(34,700)	(33,800)
Diabetes	(250)	(250)	(250)	(250)	(250)	(250)
National Heart, Lung, and Blood Institute:						
Hypertension	52,250	56,059	57,045	61,506	64,607	63,232
Arteriosclerosis	69,508	74,546	75,861	81,773	86,062	84,160
Coronary heart disease	45,215	48,827	49,681	53,575	56,151	55,009
Pulmonary disease	58,984	63,466	64,585	69,221	72,958	71,301
Blood resources and thrombosis	32,296	34,903	35,387	36,531	38,578	37,670
Hemophilia	7,500	8,046	8,188	8,566	9,040	8,830
Cooley's anemia	3,000	3,500	3,700	3,868	4,082	3,987
Sickle cell disease	18,031	19,000	19,335	20,733	21,852	21,356
Cerebrovascular and peripheral vascular diseases	10,419	11,252	11,449	12,336	12,899	12,649
Arrhythmias and heart failure and shock	39,317	42,458	43,201	46,584	50,085	48,533
Congenital and rheumatic heart disease, cardiomyopathy and infections	13,368	14,436	14,689	15,832	16,481	16,193
Circulatory assistance	18,676	20,168	20,521	22,117	23,205	22,722
Subtotal	368,564	396,661	403,642	432,642	456,000	445,642
Training programs	(20,559)	(21,988)	(19,954)	(21,954)	(27,000)	(24,762)
Diabetes	(4,570)	(11,900)	(12,400)	(12,800)	(14,200)	(13,579)
National Institute of Dental Research:						
Caries	12,193	13,827	14,495	14,565	15,316	14,939
Periodontal diseases	11,321	12,786	13,376	13,766	14,222	13,993
Restorative materials	3,048	3,307	3,478	3,478	3,829	3,653
Craniofacial anomalies	9,144	9,702	9,956	10,196	10,940	10,566
Pain control and behavioral studies	2,613	2,509	2,899	2,959	3,282	3,120
Soft tissue, stomatology, and nutrition	5,225	6,612	6,577	6,817	7,111	6,963
Dental research institutes	7,146	7,200	7,200	7,200	8,300	7,747
Subtotal	50,690	55,573	57,981	58,981	63,000	60,981
Training programs	(5,059)	(4,131)	(2,974)	(3,974)	(4,424)	(4,198)
Diabetes	(400)	(600)	(600)	(600)	(600)	(600)
National Institute of Arthritis, Metabolism and Digestive Diseases:						
Cystic fibrosis	2,050	2,185	2,100	2,200	2,300	2,200
Arthritis	17,709	23,394	25,761	26,961	29,711	29,661
Cooley's anemia	1,311	1,238	1,251	1,351	1,400	1,381
Diabetes	14,538	35,727	34,012	40,012	62,512	53,309
Digestive diseases/gastroenterology	24,725	28,288	28,061	30,561	32,811	32,361
Kidney disease	18,848	24,694	24,340	26,440	28,690	27,384
(Artificial kidney)	(2,734)	(5,470)	(5,450)	(5,450)	(5,450)	(5,450)
Nutrition	9,763	10,298	10,304	11,404	12,059	11,807
Psoriasis	1,542	2,068	1,986	2,086	2,086	2,086
Endocrinology	23,423	25,424	23,760	26,860	28,440	26,860
Metabolism (except cystic fibrosis)	31,126	32,833	32,178	34,778	36,357	34,778
Hematology (except Cooley's anemia)	10,438	10,906	11,254	12,154	12,780	12,780
Dermatology (except psoriasis)	3,036	4,067	4,298	4,498	4,498	4,498
Orthopedics	8,028	8,871	8,976	9,476	9,676	9,676
Direct operations and program management	8,396	9,607	8,680	8,680	9,680	9,680
Subtotal	174,933	219,600	216,961	237,461	273,000	258,461)
Training programs	(1,879)	(9,646)	(11,777)	(11,777)	(16,777)	(16,777)
Total for diabetes and related research	(18,348)	(39,826)	(37,907)	(43,907)	(66,407)	(57,204)
National Institute of Neurological and Communicative Disorders and Stroke:						
Stroke	9,965	10,869	11,285	12,233	12,520	12,376
Epilepsy	12,960	14,135	14,676	15,909	16,270	16,090
Trauma, spinal cord and head injury	10,304	11,320	11,754	12,741	15,707	14,224
(CNS regeneration)	(1,970)	(2,164)	(2,247)	(3,000)	(5,747)	(4,374)
Multiple sclerosis	7,085	10,000	10,383	11,255	11,520	11,388
Fundamental neurosciences research	16,278	17,762	18,442	19,991	20,010	20,000
Communicative disorders research	20,360	22,208	23,059	24,996	25,020	25,008
Neurological disorders research	63,442	69,206	71,862	77,875	77,953	77,914
Diabetes (diabetic neuropathy)	(1,606)	(1,860)	(2,088)	(3,380)	(3,380)	(3,380)
Subtotal	140,394	155,500	161,461	175,000	179,000	177,000
Training programs	(7,709)	(7,100)	(6,572)	(7,172)	(7,472)	(7,322)
Total multiple sclerosis related research	(9,590)	(11,060)	(11,484)	(12,449)	(12,730)	(12,590)
National Institute of Allergy and Infectious Diseases:						
Asthma and allergic disease centers program	3,456	3,832	4,181	5,081	5,081	5,081
Hepatitis	2,677	3,023	3,133	3,133	3,383	3,335
Influenza and other respiratory infections	6,203	7,503	8,203	8,203	8,753	8,647
Sexually transmitted diseases	4,324	5,198	6,098	6,738	6,788	6,778
Hospital associated infections	3,114	3,434	3,584	3,584	3,834	3,786
Nucleic acid recombinants	2,257	4,056	4,913	4,913	5,413	5,316
Tropical diseases	5,413	5,913	6,613	6,613	6,713	6,693
Meningitis	443	513	663	663	763	744
The immune system and its disorders	37,442	40,765	44,628	45,088	46,988	46,621
(Clinical immunology and transplantation)	(12,334)	(13,346)	(14,551)	(14,701)	(14,951)	(14,903)
Fundamnetal research related to immunologic, infectious, and allergic diseases	60,233	66,763	71,426	73,026	74,284	74,041
Subtotal	125,562	141,000	153,442	157,042	162,000	161,042
Training programs	(7,809)	(8,081)	(6,481)	(8,081)	(8,381)	(8,323)

Appropriation/program	1976 actual	Estimates of the amounts to be obligated: 1977 appropriation [1]	1978 congressional justification	1978 House allowance	1978 Senate allowance	1978 conferee's allowance
National Institute of General Medical Sciences:						
Pharmacology-toxicology	25,940	27,904	27,913	28,491	29,695	28,878
Biomedical engineering	18,688	17,465	17,612	17,939	18,389	18,098
Trauma research centers	2,079	2,900	2,900	2,900	2,900	2,900
Burn research centers	607	1,750	1,950	1,950	1,950	1,950
Genetics	57,786	63,583	71,561	73,071	75,371	74,067
(Cooley's anemia/sickle cell disease)	(400)	(450)	(450)	(450)	(450	(450)
Cellular and molecular basis of disease	65,231	71,820	78,867	81,472	85,222	83,923
Minority access to research careers (MARC)	268	1,783	2,211	2,361	3,211	3,211
Clinical and physiological sciences	16,346	17,795	16,882	17,212	18,262	17,369
Diabetes	(775)	(1,000)	(1,000)	(1,300)	(1,300)	(1,300)
Subtotal	186,945	205,000	219,896	225,396	235,000	230,396
Training programs	(40,845)	(43,851)	(39,630)	(43,130)	(46,630)	(46,630)
National Institute of Child Health and Human Development:						
Population	56,211	59,481	63,444	66,767	68,506	67,793
Pregnancy and infancy	28,298	34,686	37,929	39,751	40,786	40,361
(Sudden infant death syndrome)	(7,445)	(7,700)	(7,700)	(8,200)	(8,500)	(8,377)
Growth and development	27,417	26,989	29,521	30,579	31,375	31,048
Mental retardation	23,946	24,387	24,867	25,664	26,333	26,059
Subtotal	135,872	145,543	155,761	162,761	167,000	165,261
Training programs	(9,508	(9,745)	(9,202)	(9,702)	(9,902)	(9,820)
Diabetes	(2,230)	(4,618)	(4,750)	(5,750)	(5,900)	(5,838)
Nutrition	(12,838)	(13,528)	(13,950)	(15,100)	(15,300)	(15,218)
National Institute on Aging:						
Clinical and comparative physiology of aging	6,122	9,825	11,240	12,829	11,410	12,120
Molecular and cellular basis of aging	8,913	12,606	14,440	16,224	14,655	15,440
Behavioral and societal aspects of aging	3,909	6,822	7,860	8,678	7,975	8,326
Development of animal models for aging research	277	747	960	1,269	960	1,114
Subtotal	19,221	30,000	34,500	39,000	35,000	37,000
Training programs	(1,750)	(2,200)	(1,990)	(2,490)	(2,290)	(2,390)
Diabetes	(490)	(563)	(575)	(650)	(575)	(612)
Nutrition	(540)	(1,318)	(1,400)	(1,760)	(1,400)	(1,610)
Senility	(857)	(1,500)	(1,700)	(2,340)	(1,900)	(2,120)
National Eye Institute:						
Retinal and choroidal diseases	13,432	19,933	19,951	27,345	24,268	27,345
Corneal diseases	8,359	9,156	8,631	11,770	9,880	11,770
Diabetic retinopathy	5,008	6,627	6,563	7,724	7,724	7,724
Cataract	5,087	6,702	6,924	7,947	7,358	7,947
Glaucoma	7,856	9,262	10,507	12,902	12,457	12,902
Sensory-motor disorders and rehabilitation	10,357	12,320	12,405	17,312	13,265	17,312
Subtotal	50,099	64,000	64,981	85,000	74,952	85,000
Training programs	(4,642)	(4,640)	(4,143)	(4,643)	(4,643)	(4,643)
Diabetes	(5,540)	(9,065)	(9,065)	(10,565)	(11,517)	(11,517)
National Institute of Environmental Health Sciences:						
Environmental health sciences centers	5,287	7,210	8,331	8,331	7,731	8,331
Marine biomedical research centers			600	600	400	600
Environmental mutagenesis and reproductive toxicology (environmentally caused genetic and birth defects)	7,750	10,407	12,858	13,647	12,452	13,647
(Mutagenicity screening)	(.....)	(600)	(1,000)	(1,000)	(800)	(1,000)
Etiology of environmental diseases and disorders (causes of environmental diseases and disorders)	9,838	13,184	13,680	15,506	14,132	15,506
Environmental pharmacology and toxicology (mechanisms of action of environmental agents)	11,593	17,365	18,477	20,851	19,169	20,851
(Toxicity bioassay)	(.....)	(600)	(1,000)	(1,000)	(800)	(1,000)
Environmental Pathogenesis (Development of environmental diseases and disorders)	2,319	2,975	4,154	4,665	4,116	4,665
Subtotal	36,787	51,141	58,100	63,600	58,000	63,600
Training programs	(1,745)	(4,243)	(1,485)	(5,485)	(4,243)	(5,485)
Asbestos	(1,700)	(1,860)	(2,200)	(2,200)	(2,200)	(2,200)
Research resources:						
Clinical research	43,660	48,444	57,643	56,739	53,591	53,591
Biotechnology research	12,547	13,185	13,383	13,211	13,226	13,226
Laboratory animal sciences and primate research	21,315	22,696	20,866	20,597	23,712	23,712
Minority biomedical support	7,782	9,993	9,147	11,107	11,100	11,100
Biomedical research support	43,929	42,060	0	42,086	42,118	42,118
Chemical/biological information-handling research	1,023	1,122	1,215	1,207	1,200	1,200
Subtotal	130,256	137,500	102,074	144,947	144,947	144,947
Training programs	(334)	(515)	(515)	(515)	(515)	(515)
Cooley's anemia	(300)	(330)	(345)	(367)	(345)	(345)
Nutrition	(5,553)	(6,158)	(7,078)	(7,104)	(6,729)	(6,729)
Diabetes	(6,075)	(6,355)	(7,378)	(8,253)	(7,783)	(7,783)
Total	2,179,871	2,416,455	2,447,735	2,613,766	2,767,899	2,696,466
Diabetes	(40,284)	(76,037)	(76,013)	(87,455)	(111,912)	(102,063)
Training programs	(119,999)	(136,140)	(122,886)	(139,086)	(153,547)	(151,028)

[1] Includes supplemental.

[2] Includes research in the areas of epidemiology, tumor biology, diagnostic research, and preclinical treatment research and rehabilitation.

Mr. MAGNUSON. Mr. President, I ask that the Chair act on my other motion.

The PRESIDING OFFICER. Have the Senators yielded back their time?

Mr. MAGNUSON. Yes.

Mr. BROOKE. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate certain amendments which are in disagreement.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert $152,320,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: leprosy, and $15,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service hospitals and clinics:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $211,505,000.

Resolved, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,750,000.

Resolved, that the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: $622,825,000, of which $2,400,000 shall be available until expended for carrying out the programs of section 625.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $19,600,150,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further*, That funds appropriated for carrying out title XVI of the Social Security Act for fiscal year 1977 shall remain available for obligation and expenditure during fiscal year 1978.

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 3, 12, 13, 28, 45, 66, and 72 en bloc.

The PRESIDING OFFICER. Without objection, the motion is in order.

The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the last amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Mr. MAGNUSON. Mr. President, I move that the Senate disagree to the amendment of the House to the amendment of the Senate No. 82. That is the language on abortion.

Mr. HELMS addressed the Chair.

Mr. SCHWEIKER. Mr. President, in behalf of myself and the Senator from North Carolina, I move that the Senate concur in the House amendment to Senate amendment No. 82. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I am not going to make a long speech.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield such time as the Senator needs.

The time situation—since the Senator is offering a substitute, or another amendment—the time is in his own hands, one-half hour.

Mr. SCHWEIKER. I yield myself 3 minutes.

The PRESIDING OFFICER. The time on this amendment is equally divided between the Senator from Washington and the Senator from Tennessee or his designee.

Who yields time? The Senator from Pennsylvania, I assume, will take his time out of the time of the Senator from Tennessee.

Mr. MAGNUSON. Who, Mr. President?

The PRESIDING OFFICER. Senator BAKER. The agreement was written that the time should be equally allocated between the Senator from Washington and the minority leader or his designee.

Mr. BROOKE. Mr. President, if I may, it seems to me that the proponent of the amendment should have some time on his amendment. The Senator from Pennsylvania has an amendment.

The PRESIDING OFFICER. The Senator from Massachusetts makes a logical point, but the agreement was not written in that form and the Chair has no right to change the terms of the agreement.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the time of the Senator from Tennessee be delegated to the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I yield myself 3 minutes.

The motion before us is to accept the revision that the House has made in the abortion amendment. The House on Tuesday took action. They backed off their original position, which had no provision exempting the life of the mother and, now, by a strong vote, they support a revision in their position to include the life of the mother. This is exactly the same language which the House and Senate conferees agreed to last year. If we vote yes on this, we can conclude the issue and have the same language that we had last year. This language funds only those abortions where the life of the mother would be in danger if the fetus were carried to term.

The Senate position, of course, in contrast to the House, funds abortion wherever the doctor finds an abortion medically necessary. I am not going to make a long speech, but there are a few facts I would like to bring out.

First, I believe this language is sound public policy. I think it is wrong for the Federal taxpayers to finance hundreds of thousands of abortions each year.

We could get into a debate over whether abortion is the taking of human life or the taking of potential human life. But there can be no argument that, whichever view you take, except for outside intervention, each one of those abortions represented someone who would have breathed and laughed and cried, but never got the chance. I think that is wrong, and I think it is sad. We should encourage the reverence for life, not treat it as something casual that can be ended when somebody thinks it is convenient.

I recognize that we cannot act in this bill to stop abortions. The Supreme Court has ruled that a State cannot treat abortion as a crime, and it will take a constitutional amendment to reverse that ruling.

But there is something we can do here today. Every time Congress appropriates money, we say that this or that is such a social benefit that society's money ought to be spent to support it.

This legislation is full of programs that Congress has approved, because we want our people to be employed, we want our people to be healthy, we want them to be educated. This bill will help our communities to improve themselves, and it will help us find the cures to the diseases that kill us.

I think it would be a horrible tragedy if we also include over $50 million in this bill to assure that 300,000 children will never come into this world. This is a bill that celebrates life and hope for the future. Let us not make it a bill for death.

Therefore, I believe, on the merits, that we should adopt the same language on abortion that we approved last year.

My second argument is that the American people agree with this view.

For years, those of us on this side of the abortion question have been accused of trying to force the morality of a small group of Americans on the rest of society. I do not believe that has ever been true, but we have clear evidence now that it is false.

On July 29, 1977, the New York Times published a poll, based on interviews with over 1,300 people—the standard size sample for national surveys. They asked a series of questions about the very question now before the Senate which I would like to share with my colleagues.

First, they asked if the Government should help a poor woman with her medical bills when she has a baby; 64 percent said yes, only 26 percent said no.

Then they asked about providing the poor with contraceptives; 63 percent thought that was a good idea, only 29 percent were opposed.

But when they asked about paying a poor woman's medical bills if she wants an abortion, the answers changed radically, this time, 55 percent opposed using tax dollars for this purpose, while only 38 percent approved.

I submit this is a significant finding. Most of the national polls we are shown talk only about a woman's supposed right to have an abortion when the question is asked whether people want their tax dollars used for those abortions, though, the people respond with an overwhelming no.

I am aware that the managers of this bill, of whom I have the highest respect want a second conference. They will tell us that the Senate has already passed restrictive abortion funding language, and we should work out a compromise with the House.

I do not think we passed restrictive language at all. To be sure, we rejected an amendment which would have taken all abortion language out of this bill. But

the version we ended up with is not much better than nothing.

A leading population expert, Louis Hellman, of the respected Population Reference Bureau, was quoted in the Washington Post last month as saying that the Senate-passed language would allow 90 percent of all the abortions currently being performed. Ninety percent. That is a fraud on the American people. I have spoken with others on this matter since the Senate acted—people who oppose restrictions on abortions, not people who generally agree with me on this issue—and they confirm this. Funding abortions where "medically necessary" is the equivalent of funding abortion on demand. That is no restriction, and we should not pretend to the American people that it is.

We should adopt the House-passed language, which is the same language that the Senate and House conferees agreed to last year. We should do it because the American people want us to do it. And because it is right.

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. I yield 3 minutes to the Senator from North Carolina.

Mr. HELMS. Mr. President, I call to the attention of the Senate the fact that the temporary restraining order preventing the enforcement of the present Hyde amendment limitation on the use of Federal funds to pay for the performance of abortions was lifted by Federal district court judge, John Dooling, at 1:30 p.m. today. Earlier, Judge Dooling denied several applications for an extension of the injunction.

The Hyde amendment is, for all practical effect, the subject of the Senator's motion.

In ruling that the Hyde amendment was lawful, Dooling rejected the contention of some abortionists during the hearing that a doctor would be unable to determine when the mother's life was "endangered" because of pregnancy as would be required under present law.

Mr. President, Judge Dooling stated that the matter of Government financing of elective, convenience abortions had been decided by the U.S. Supreme Court in its recent decisions regarding similar limitations by three States; and that in light of those decisions the Hyde amendment should go into effect.

Today's Federal district court decision maintains that the Hyde amendment language which was again adopted Tuesday night by the House in an effort to reach a compromise with the Senate is both constitutional and its language regarding "endangerment" sets a medically proper standard.

Mr. President, I see no purpose in further delaying the Senate on this matter. As the Senator from Pennsylvania has indicated, recent polls indicate the preponderance of the American people favor the position of the Hyde amendment which was adopted again by the House of Representatives on Tuesday night.

Therefore, I do hope that the Senate will vote in support of the motion of the Senator from Pennsylvania.

Incidentally, Mr. President, Judge Dooling's ruling, which lifted the injunction, was made on the application submitted by Representative HYDE, former Senator Buckley, and the Senator from North Carolina.

I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. Mr. President, I ask that my colleagues reject the House language regarding the medicaid funding of abortions and to, in effect, reaffirm our Senate position on this issue. I would remind my colleagues that on June 29, they rejected the wording of the House language now before us and now introduced by the distinguished Senator from Pennsylvania by a vote of 65 to 33. And furthermore, I would remind them that the Senate language already is a compromise, developed through many long rollcall votes in this Chamber.

The House objects to funding abortions for victims of rape or incest and where medically necessary. I find this unrealistic and inhumane. Funding must be provided for abortions where the health of the woman or fetus is endangered and not just where the life of the woman is endangered, which is the only exception the House conferees would allow. The position of the Senate is reasonable. We must not in conscience say to poor women that we have no concern for their health or the health of the fetus which the House conferees would force them to bear.

And decisions about the health of patients and the medical procedures necessary to insure that health must be left where Congress has always left those decisions, with the Nation's doctors. It is not within the competence of the Senate or the House to make such decisions. There is not one doctor in the Senate and few in the House. And even if there were medical expertise in these Chambers, it would still be impossible to crystalize in bill language the thousands of medical conditions which might warrant an abortion for medical reasons. The language in the Senate bill allowing abortions "where medically necessary" is practical and the only alternative if we are to make any provision for the health as well as the life of the patient. Our leading medical organizations have gone on record to that effect.

The American Medical Association states:

> The "medical necessity" for any medical procedure is dependent upon innumerable factors bearing on the conditions of a patient as judged by the physician, on the basis of his or her training, experience and judgment. These conditions cannot be listed so as to cover every possibility nor are all conditions applicable in the same way in every situation. Each patient is different and each must be evaluated individually. Therefore, the determination of whether or not a proper medical procedure should be performed should not be defined by Congress.

The American College of Obstetricians and Gynecologists states:

> If Congress chooses to restrict federal payment for abortion, basing payment on medical necessity, the College must strenuously oppose any attempt on the part of Congress (or administrative agencies) to define in any law, report, or regulation, the circumstances under which an abortion is medically necessary. To do otherwise would countenance the interposition of a third party—the Government—without medical expertise between the patient and her attending physician. The most astute medical minds could not possibly devise a predetermined list of conditions completely including each individual patient for whom a procedure is medically necessary and excluding all others. This is because each patient presents a combination of conditions, and degrees of severity, the total weight of which can only be determined by the physician who evaluates that individual patient.
>
> In summary, I can only repeat the College policy that ". . . the final decision as to performing the abortion must be left to the medical judgment of the pregnant woman's attending physician, in consultation with the patient." That responsibility is the physician's, both ethically and by reason of his expertise. It is hoped that the conferees will reject the presumption that a law can answer a question of great medical complexity. This is quite the wrong arena for the intrusion of legislative edicts.

It would be extremely irresponsible, Mr. President, if we ignored the judgment expressed by these most respected medical organizations and our own commonsense.

The Senate voted in favor of the Senate language by an overwhelming margin of 56 to 39. We must now say again to the House that the Senate language is humane, responsible, and practical and that we reaffirm that it is the only position which protects the legitimate health concerns of poor women in this country.

Mr. President, I hope that this motion by the distinguished Senator from Pennsylvania will be rejected overwhelmingly, as it was when it came before the House on June 29.

Mr. MAGNUSON. Will the Senator yield for one observation?

Mr. BROOKE. I am very pleased to.

Mr. MAGNUSON. I have checked, and so has the Senator from Massachusetts and the rest of us, the voluminous hearings on this whole bill, hundreds of witnesses dealing with every conceivable subject, and there was not one expert witness that testified, either in the House or in the Senate, on this very important matter to give us their professional judgment on this. Not one witness.

The reason, of course, was obvious, because it is legislation on an appropriation bill.

Here we are making a decision on a most complex, emotional, and probably the most sensitive subject today in the United States, without a single bit of expert testimony on either side, House or Senate.

I think that is significant when we stand here today and try to write some law, as the Senator pointed out, on this important subject without any background or anything else—any failures or anything.

Mr. BROOKE. I agree with the distinguished chairman. He is absolutely correct. We have had no expert testimony in either House on this subject. This is not a proper subject to come before the Appropriations Committee, because, as the Senator has said time and time

again, it is legislation on an appropriations bill. It is a matter that should come up in the authorizing committees, where there would be hearings, with the kind of information that I read from letters I have received from the American Medical Association and from the American College of Obstetricians and Gynecologists. They should have appeared before the committee and testified. Every year this matter comes before us on this appropriations bill, which is wrong. We have said time and time again that this is wrong, and we hope that the proper authorizing committees some day will have the courage to stand up, hold hearings on it, vote upon it, and let us know what we should do.

We are here faced with the same issue we were faced with the year before and probably will be faced with next year.

Mr. MAGNUSON. Not if I can help it.

Mr. BROOKE. By parliamentary maneuvering and using language saying that "none of the funds shall be used for et cetera" they have been able to get their foot in the door; and hence we have been faced with it. Having been faced with it, I say again that the Senate has acted, and acted overwhelmingly, on the same language that the Senator from Pennsylvania is presenting to us at this time, because that was the House position. We know what that position is, and I hope we will reaffirm the Senate position and go back to conference with the House, where I hope we might be able to work out some language at least to assure not only that the rich or the middle-income people but also the poor will be able to have abortions if those abortions are medically necessary—but only if they are medically necessary, because that is how the Senate has said it should be.

With our bill, we do not take the extreme position. The Packwood amendment, which I voted for, and still support, was defeated by the Senate.

The other extreme position, which provided total prohibition, without even taking into consideration the life of the mother, was rejected by the Senate.

So this does represent a compromise in the Senate as to what we believe to be a very reasonable position—namely, that it is a matter that should be left to the patient and her doctor, because they are the experts. We are not the experts. We hope that the Senate will stand firm on this.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. MAGNUSON. I yield such time as the Senator requires.

Mr. JAVITS. Mr. President, I am definitely on the side of the Senate voting to retain its position, which means rejecting the motion of the Senator from Pennsylvania.

Second, I pay tribute—I have been a conferee many times—to Senator MAGNUSON, Senator BROOKE, and their colleagues, who have stood by their guns and brought this amendment back in disagreement, notwithstanding that it is a matter of great heat and great emotion.

To me, this is a question of discrimination, a basic right of the Constitution that the poor shall not be discriminated against in favor of the rich.

Mr. President, I have stood on the floor and defended the rich, too, that they should not be discriminated against, either. This time, it is the turn of the poor. That is what this does.

Looking through this glass of parliamentary procedure and various legal terms, the fact is that poor women will not get abortions and middle class and wealthy women will get them. We know that to be the case from the Supreme Court's decision, and we know the result of this particular amendment. It is directly against the interests of poor women. They are the worst sufferers, because they can help themselves the least, not only for the reason of their poverty and their inability to pay for abortion or get the facilities to do it but also because they live in areas where they are the most susceptible to rape.

Our records indicate that there are probably 100,000 rapes a year and that the incident of those rapes in the cities, especially in the 58 core cities of the country, is about three times what it is in suburban or in country areas. So that they are the most exposed.

Second, they are the most subject to butchering which comes from self-inflicted abortion. They have to be pretty desperate to do that; yet they do it by the thousands. I will cite some figures.

Harlem Hospital, in New York City, which is a center of a population which is 95 percent black and 5 percent Spanish: Our figures indicate that they receive a thousand or more when there is no opportunity for the poor to have an abortion. They receive a thousand or more cases a year that involve some kind of infection or some kind of accident with the use of a homemade instrument, and so forth. The hospitalizations are for 3 or 4 weeks, if they are lucky enough not to get peritonitis. When the poor do have an opportunity for abortion, that drops down to about 300.

Think of it. It drops down to a third of the total number, and that is generally the experience of the hospitals in the major core cities.

This is no child's play that we are talking about. We are talking about life and its meaning.

One final point: We talk about welfare, and we are very outraged when a mother has 11 children, all of whom are on welfare; but when she tries to help herself not to have them, we are going to make her quit, because we say the Federal Government's money or resources cannot be used for that purpose.

Mr. President, it just does not make any sense. We are not being honest with ourselves, and we are responding to our prejudices, not to the justice which the country requires between rich and poor and not to the basic national interests of the United States.

Mr. President, I pay tribute to Senator BROOKE, Senator MAGNUSON, and their colleagues for the great fight they have put up for the Senate position, which is a compromise position. It is not the Packwood amendment, but it is not the knownothingness of the amendment we are asked to take out as a fair and reasonable ground which the Senate should stand by. We should at least have faith to believe in what we believe by having voted as we did and not throw in at the first sign of a fight.

The PRESIDING OFFICER. Who yields time

Mr. SCHWEIKER. Mr. President, I yield 5 minutes to the distinguished Senator from Oklahoma, who has been a leader in this fight.

Mr. BARTLETT. I thank the distinguished Senator from Pennsylvania.

Mr. President, I remind a distinguished Senator from New York that the first time we had an amendment similar to the Hyde amendment, it was authored by the Senator from Oklahoma and passed. It was knocked out in conference, and later an effort was made to pass it again, and it then was considered not germane. So the track record of the Senate has not always been the same.

Mr. President, a year ago, the Senate first considered the Hyde amendment, prohibiting the expenditure of Federal funds for abortion except in cases where the life of the mother is endangered. Now that issue is before us again, but in a somewhat different context. For during the past year, much has happened to validate and to vindicate the position of those who, all along, have opposed Federal funding for discretionary abortions.

The Supreme Court has made it clear to the world that the Congress has full power to decide whether Federal funds are to be used for abortions. Last year's debate on this subject was laden with emphatic declarations that the Hyde amendment was unconstitutional. We should not hear that argument repeated today. The Court has told us what no one should ever have doubted: that the power of the purse, assigned to the Congress by our Constitution, gives this body full control over its appropriations.

During the past year, the public has grown increasingly aware of the abortion issue and increasingly informed about its true implications. According to a recent poll conducted by the New York Times and CBS—neither of which can be accused of a prolife bias—the American people strongly oppose the Federal financing of abortion. Fully 55 percent disapprove of it, while 38 percent approve. At the same time, the public—by a margin of 64 to 26 percent—overwhelmingly supports the use of Federal funds for the medical expenses of poor women for pregnancy and childbirth.

That demonstrates what we should already know: That the American people are generous, compassionate, and concerned. They will give to the needy until it hurts. But they do not want their taxes used for the taking of innocent life.

Unfortunately, there are some things about the Senate's discussion of the Hyde amendment which have not changed since last year. The assertion is still made that abortion is different from the taking of life; that it is only a medical procedure; that it could not possibly be the equivalent of taking of hu-

man life because, if it were, decent people would not support it.

Yet, in all the hours and days of debate on this matter, the opponents of the Hyde amendment have failed to justify the assumptions upon which their position is based:

That the Federal Government should subsidize abortion at all.

That such a program should serve only to encourage abortion among the poor.

If the Federal Government is to remain in the abortion business, why should it discriminate against the rich? Perhaps the opponents of the Hyde amendment will next propose tax incentives to encourage abortion among the rich as well as the poor.

In a recent editorial, supporting Federal funding for abortion, the New Republic candidly admitted, in words which should stun all those who read them, that—

> Those who believe a woman should be free to have an abortion must face the consequences of their beliefs, metaphysical arguments about the beginning of life are fruitless. But there clearly is no logical or moral distinction between a fetus and a young baby; free availability of abortion cannot be reasonably distinguished from euthanasia. Nevertheless we are for it. It is too facile to say that human life is always sacred; obviously it is not, and the social cost of preserving against the mother's will the lives of fetuses who are not yet selfconscious is simply too great.

Those words should be read carefully for their frank logic and horrible implications. The most astounding thing about them is that they were not written in Hitler's Germany or Stalin's Russia, but in our free Republic, which is dedicated to human rights.

Another holdover from the debates of last year concerning the Hyde amendment is the long list of organizations, some of them religious and others merely social groups, which support Federal funding of abortions. Ironically, that list, purporting to show church support for abortion, is used by those who object to the interjection of religion into public affairs. Both this year and last, that has seemed to me to be a peculiar contradiction.

We should keep religion out of the debate on abortion. This is not a matter of denominations and theology. It is a matter of science, pure and simple.

When a brutal killer stalks the streets of New York, shooting innocent victims, we do not use theology to condemn his actions. When some Americans are abused because of the color of their skin, we do not use religious doctrines to insist that they be protected by law. And when hundreds of thousands of unborn children are killed, with the legal sanction of a tenuous majority on the Supreme Court, it is not religion that makes us demand an end to the carnage. It is our abhorrence of the destruction of human life and human rights.

Mr. President, some will argue that the issue before us is merely one of dollars and cents, of agency budgets, and Federal expenditures. If some of my colleagues find the issue easier to face with that rationale, then so be it. For my part, the issue before us is far more fundamental. In essence, we are considering whether the resources of the Federal Government should be used to deny the most basic of human rights, the right of life to unborn children—the most helpless, the most defenseless, the most innocent among us. Their lives are being taken because they are small and because they are incapable of any defense for themselves.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. JOHNSTON). Who yields time?

Mr. MAGNUSON. Mr. President, unless there is somebody else—I do not see anyone—I yield back the remainder of my time.

Mr. SCHWEIKER. I would like to yield 5 minutes, Mr. President, to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Pennsylvania. I do not think I need the full 5 minutes.

However, I do want to say I really do not believe the argument made by the distinguished Senator from Massachusetts (Mr. BROOKE) has much relevance today because I was here on the floor, as were a goodly number of Senators, when the Senator from Massachusetts offered an amendment using these words for the first time in the Senate "medically necessary."

I honestly believe that Senators who have voted repeatedly for the Hyde amendment or its predecessor, the Bartlett amendment, totally misunderstood, and I am not being accusatory, I just believe the words sound wonderful "medically necessary," and I think they were misled into assuming this was really some kind of a check on abortion on demand.

I say to the Senators if they did not know then they should know now that those words of art mean absolutely nothing with reference to a restraint or anything like a restraint that is related to the life of the mother or the life of the fetus. It is so much broader that experts conclude that 90—not 9, but 90—percent of the abortions that were permitted under the abortion-on-demand concept, paid for by medicaid, will be paid for under this approach.

If the Senators want to vote for that, they ought to understand what they are doing. I do not believe many of them understood when they voted in favor of the amendment which included the words "medically necessary."

There is no doubt that "medically necessary" approaches the will of the expectant mother. If she does not feel good, if it appears she is not going to be able to afford the child, she goes to a doctor. The good Senator from Massachusetts would have the Senate believe the decision is going to be made by some medical expertise, that only the medical profession can make the decision. All the doctors are going to have to have is a lady saying, "I am uncomfortable, I am pregnant, doctor, and I am not so sure I can take care of this child," and I defy anyone to say that this is not going to be a medically necessary abortion.

If that is what we want to do, we ought to all understand we are doing it. That is no restriction at all. That is not a medical case. The medical case is if the life of the mother or the life of the fetus is involved. The Senator from Massachusetts is not willing to use those words. Those are not words of art, and everybody understands that. But "medically necessary" are words of art derived from the first Supreme Court decision which upheld a State statute that said, "Mental anguish justifies a doctor's finding that the woman needs an abortion and, therefore, it is valid under that Missouri law," and no one ought to mislead anyone. That is where it came from.

So if you think you are voting for any kind of limitation, you are not voting for any kind of limitation by the use of the words "medically necessary."

The issue is not one of relegating this to the expertise of the doctor merely because there is therapy involved in the removal of the fetus. What we are doing is saying if a woman wants an abortion, medicaid ought to pay for it if she qualifies. I think that is the issue, and it should not be diffused.

So it would be appropriate for the U.S. Senate today to say, "We have now looked into this and we did not know we were voting for 90 percent or even more of abortions-on-demand."

I wholeheartedly agree with the Senator from Oklahoma. This is no longer an issue of a right, and I am sure the good Senator from New York was not implying there was any right that we have, that there is a right that we must pay for.

We are here to determine whether or not we want to assume the responsibility for that last Supreme Court statement which said the responsibility is on us. If we want to pay for them we must decide that we want to pay for them. The right exists, but Congress does not have the responsibility to pay for those abortions on demand, and that is now clear. So nobody can get out of this issue by talking about a right because there are many rights in America we do not pay for, and we all know that. We have gone through that issue, and the Supreme Court has already said it. So the issue today is did we understand that "medically necessary" meant what we understand it to mean today.

And for those who did not, they should feel free to vote for the amendment for the Senator from Pennsylvania and go back to the position that this body maintained some 2 years ago when they voted for the Bartlett amendment and do not anyone misunderstand. Those are not even close. Anyone who says those are close, that Hyde and Bartlett are close to the Brooke amendment, just has not studied it, and that is absolutely wishful thinking, trying to get out from under a hard decision, so he can write his constituents and say, "I am against abortion, I am against using taxpayers' money, because I said it has to be 'medically necessary.' "

They are all going to soon find out what that means. That means that if you support the Senate's original language as per the Brooke amendment you are now saying we will pay for abortion-on-demand and there are not go-

ing to be any limitations, and there can be no doubt about that.

I thank the Senator from Pennsylvania.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BROOKE. Mr. President, I think the distinguished Senator from New Mexico underestimates the intelligence of his colleagues in the Senate if he thinks they have either been misled or they do not understand the significance of the Hyde language or the significance of the so-called Brooke amendment which included the words "medically necessary."

I hope that the Senator did not mean that the Senator from Massachusetts intended to mislead anyone in the Senate, because I have the highest regard for the intelligence of all of my colleagues. I think the distinguished Senator from North Carolina understood it. I think the distinguished Senator from Pennsylvania understood it. And I think the distinguished Senator from New Mexico understood it and understood it well. I will remind the Senator from New Mexico that he even had a vote on this particular issue, if he will recall it, and he discussed it at some great length. There were many Members of the Senate present at that time, and the Senate overwhelmingly rejected his position.

So let us not get into the question of the Senate not understanding what it is doing. Let us not mislead the country that the Senate does not know what it is doing when it votes on these matters, because the Senate does know what it is doing.

The motion of the Senator from Pennsylvania to go back to the House position goes back so far that we would not even include instances of rape and incest. If a child is raped, and the Senator from New York brought this out very clearly, that child cannot have an abortion. If a child is taken advantage of by her father, and that happens in this country, that child cannot have an abortion.

The Senator has said we want to open up the doors, so that anybody can have an abortion. I do not even like the term "pro abortion." I do not think there is anyone who is pro abortion. They are pro choice. And when we say "medically necessary," we mean "medically necessary."

I just want to cite to the Senator what the Supreme Court said on the Pennsylvania regulations, which is Beal against Doe. The Court said:

> Whether "an abortion is necessary" is a professional judgment, that . . . may be exercised in the light of all factors—physical, emotional, psychological, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment.

"Medical necessity" appears in other laws of this country. It is nothing new. We know what it means. We know what it does not mean.

I think that it is mischievous to suggest that any woman can walk in and say that she has a cough and that a doctor who is qualified is going to say: "Therefore, yes, my dear young lady, you are entitled to an abortion."

That is not it at all. We are concerned about the life of the mother.

We are also concerned about the health of the mother.

We are also concerned about the health of the fetus.

There are some things worse than death. There are some things in life that are worse than death. There are some diseases——

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BROOKE. I will after a moment.

There are some diseases that are worse than death. Take the Tay-Sachs disease, for example. When a child is afflicted with it, that child will live at most 3 or 4 years, and while that child is living that child is going to be in pain and is going to be suffering. Abortion is the only humane thing to do to avoid such an instance. If the judgment is made by a physician that that pregnancy should be aborted, then it should be aborted.

That is what we are saying. So we admit that it is a question of health as well as life, and as I said before there are many health conditions that are even worse than death itself. So let us not say we are misleading anyone. We are not trying to mislead anyone. What we are saying by rejecting the amendment of the Senator from Pennsylvania is that we are too humane, we are too wise to go back to the position where we do not even include rape and incest and where, if it is medically necessary to save the life of that patient, to save the health of that patient and the health of that fetus, we will not do so. We are saying that we will leave it up to doctors, not to the Senator from New Mexico, nor to the Senator from Massachusetts, neither of whom, in my opinion, are competent to make that judgment.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BROOKE. Yes, I am very pleased to yield.

Mr. BARTLETT. The Senator said he is equally interested in the life of the fetus and the life of the mother.

Mr. BROOKE. I meant the health of the fetus and the mother.

Mr. BARTLETT. Of the thousands and thousands of abortions that have taken place, could the Senator tell me what percentage of fetuses have lived and what percentage of fetus lives have been saved?

Mr. BROOKE. The key point that I make is not a percentage of how many have been saved. When there is an abortion, I presume there are none that are going to be saved. But what I am saying, there is abortion to preserve the life of that mother or that that child will not be born, as I said, with Tay-Sachs disease or sickle cell anemia or that if the child lives after the mother has had breast cancer and has to take chemotherapy, for example, and the fetus is injured thereby. There are many, many situations, but we are getting into medical questions. I say rather than the Senator from Oklahoma and the Senator from Massachusetts getting into medical questions, which I presume the Senator from Oklahoma is not much more prepared to make judgment on than I, then I say let us leave it to the doctors, and that is what the Senate said.

Mr. BARTLETT. No. The point I am making, though, is I do not think the life of the fetus is considered at all in the matter of abortion, and I was taking issue with the Senator.

Mr. BROOKE. I see.

Mr. BARTLETT. He was saying that it was, because clearly it is not. The life of the fetus is certainly not considered at all. I do not think that the Senator——

Mr. BROOKE. In the general term of what life would that fetus have, that is what I am talking about. What kind of life would that fetus have if that fetus is going to be born with Tay-Sachs disease. I gave that example, and I think it is a very important example. It is going to be a life of pain and suffering and that child is not going to last 4 years at the most. It is not only going to be a life of pain and suffering for that child, but it is going to be a life of suffering for the mother, the father, the family, and the friends of the child who is born.

Mr. BARTLETT. I think, if the Senator will yield further, that the Senator is misleading because there is no finding by the doctor that the fetus is diseased or the fetus is in any way impaired, or that the fetus is not healthy. This is not a finding. It is based on the fact that the fetus is small, 6 months or less.

Mr. BROOKE. Medical science has made the determination that if the mother has a certain disease or is being treated by certain drugs it will have a certain effect upon a fetus. That is the medical determination. But again we are getting into medical science. I do not think the Senator from Oklahoma—and I am not being facetious—is a doctor. I assure him I am not a doctor.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BARTLETT. This is not a general determination.

Mr. MAGNUSON. I want to add another thing that happened in conference. It shows how incompetent we are to be judging this matter. The Senator asked the question. We do not have any statistics on that which he asked. We will have no chance to get them until a proper committee does it. But three Members of the House suggested that we add language that an abortion could be performed by a doctor if he looked at the situation for anyone who became pregnant under 15 years of age—a woman. Does the Senator think we are competent to make that decision? Under 15, a child; and the House language would not allow that.

Mr. BARTLETT. I think we are incompetent under this bill.

Mr. MAGNUSON. A child, and they wanted to drop it to 13, and in the House the conference would not take 13 years. What kind of a competency do we have to make a decision like that? Thirteen years old, a child, and some accident happened.

Mr. BARTLETT. I agree with the Senator that this competency does not exist.

Mr. MAGNUSON. I point out the problem that we have, and I know how emotional this thing is on both sides.

Mr. BARTLETT. I agree with the Senator the competency does not exist in the committee, but what is being proposed is that the fetus of a 15-year-old, 14-year-old, 13-year-old, or whatever age mother, will be taken if the mother and the doctor agree that it is to be taken.

There is no problem in getting that agreement. So I think it is wholesale abortion that is taking place, and thousands and thousands——

Mr. MAGNUSON. I do not want to make the decision. If I have a girl 12 or 13 years old, I do not want the U.S. Senate to have to make a decision. If that young child became pregnant, I just do not think we are competent. This is my problem with this whole matter. I just do not know.

I just want to take 30 seconds to say that the HEW appropriation bill is getting to be the repository of every single tough problem in the United States that should belong to a legislative committee. It is a standing joke around here. When we finished the bill, the next day several Senators asked me, "When are we going to move to reconsider and bring it up again? We forgot to put gun control on, and we forgot to put on recognition of Cuba and recognition of Red China, and a lot of things."

I guess next, the Palestinian question will be put on it, too. The Senator from South Dakota was ready to do that. The door was wide open.

This is why we are so incompetent to make this decision on cold, hard, factual matters. This is my problem.

Mr. BROOKE. I think the Senator from Oklahoma knows that there are thousands of genetic diseases, all kinds of diseases that could have an adverse effect upon the life of the mother, the health of the mother, and the health of the fetus.

As the Senator knows, in the conference report language of the 1977 appropriation bill, we listed renal disease and multiple sclerosis. The report language excluded other diseases far more dangerous, perhaps, than renal disease and multiple sclerosis. Again, that shows the incompetence of Congress to sit in judgment on such matters.

I want to make one further remark to the Senator from New Mexico.

Mr. BARTLETT. Will the Senator yield——

Mr. BROOKE. The Supreme Court, in 1973, said that abortion is a personal and private matter between a woman patient and her doctor, and that she has a constitutional right to abortion. The case was reviewed, and the distinguished Senator from North Carolina cited it. It did not in any way change that opinion of the Supreme Court

What the Supreme Court said in the case it recently decided was that as far as medicaid is concerned, this matter is best left up to the courage and the justice of Congress and the State legislatures to make the decision.

I think the Supreme Court is getting a little tired of taking all the important issues on by itself. They are saying to us, in short, "Stand up and be counted; act on these things yourselves." But it did not take away the constitutional right.

What good is a constitutional right if there is no remedy? When that statement was made—and I trust it was made inadvertently—the other day that women can go and get an abortion if they want it, it should also be stated that poor women cannot go to a hospital and get an abortion.

Mr. DOMENICI. I did not make that statement.

Mr. BROOKE. Not you. I did not attribute it to you. Rich women can do so, because they do have the money to pay. You know this is unfair, that there is inequity in this country and unfairness in this country. I pray to God we will never accept that as a national policy. We have always got to strive for equality, fairness, and equity in this country, and I cannot see how we can discriminate against the poor.

That is what the distinguished Senator from New York is saying. We are not stopping abortions by this bill. If we want to do that, do it someplace else. All we are saying by this bill is that women who are raped, children who have been violated by incest, or if it is medically necessary, can get an abortion if they are too poor to pay for it.

We are saying to you we hope the Senate will stand firm in its position, and reject the House position.

Mr. DOMENICI. Mr. President, will the Senator yield for one point?

Mr. BROOKE. If I may yield on the Senator from Pennsylvania's time.

Mr. SCHWEIKER. Mr. President, how much time does the Senator from Pennsylvania have?

The PRESIDING OFFICER. Ten minutes.

Mr. SCHWEIKER. One minute.

Mr. DOMENICI. I just want to clarify for the Senator from Massachusetts that I in no way said he misled anyone, but I did maintain and still do that there were many Members of the U.S. Senate who did not understand the significance of the words "medically necessary." That is all I was saying, and I hope no one feels that that is an accusation or an insinuation on my fellow Senators in this institution. It is just that those words came up here in an argument late in the afternoon, in the heat of an abortion debate, and we were talking about limiting abortions.

All I am saying, as of this point, is that it will not limit abortions. I think the Senator from Pennsylvania will address that issue, and I thank him for yielding 1 minute to the Senator from New Mexico.

Mr. BAYH. Mr. President, will the Senator from New Mexico or the Senator from Pennsylvania yield?

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. I cannot yield any.

Mr. BAYH. I would like to have something to say on this matter.

Mr. MAGNUSON. I yield whatever time I have left to the Senator from Indiana.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BAYH. I think the Senator from Pennsylvania described that he had 10 minutes.

Mr. SCHWEIKER. I yield the Senator 1 minute, to go along with the other minute yielded by the Senator from Washington.

Mr. BAYH. Is that 2 whole minutes?

Mr. BROOKE. Mr. President, was all that time that the Senator from Oklahoma was talking on the Senator from Washington's time, or was it on the time of the Senator from Pennsylvania?

The PRESIDING OFFICER. No, it was on the time of the Senator from Pennsylvania.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Indiana be allowed 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, I shall not object provided our side gets an additional 5 minutes.

Mr. MAGNUSON. I ask unanimous consent that an additional 10 minutes be added to the unanimous-consent agreement, 5 minutes to the Senator from Indiana and 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAYH. Mr. President, I appreciate the courtesy of our chairman. Before I say just a few words on this matter, I would like to say that I think the Senate, regardless of where we stand on this issue, owes the chairman a great debt for the perseverance and patience he has brought to one of the most tedious jobs in the U.S. Senate, working out the difficult questions in conference. I say the same thing with regard to our distinguished colleague from Massachusetts, who has worked in cooperation with the Senator from Washington.

Mr. President, I do not think we have ever had a problem, and I have said this before, that involves a combination of deeper and more sincere feelings. They are religious and moral feelings and decisions. They are also medical decisions.

It has been said before, and I think accurately so, that we are not qualified to make medical decisions. Personally speaking, I do not feel qualified to make such moral decisions or religious decisions.

It has been said that the Senate of the United States really did not know what we were voting on. Anyone who bothered to read last year's conference report saw that medical necessity was in there before. This is not the first time we have been confronted with the language of "medical necessity." It is right in here in the conference report we voted on.

It says:

> It is the intent of the conferees to limit the financing of abortions under the Medicaid program to instances where the performance of an abortion is deemed by a physician to be of medical necessity.

Do not tell us we have not done this before. You may disagree with us, but we have done it before.

When we voted on the conference report last year, I think every Member of this Senate had reason to believe that the stricter Hyde language would be modified by the report language which clearly said "medical necessity." The Attorney General's memorandum to Secretary Califano has, however, made it clear that this is not how the Justice Department will interpret this language.

I must say to the Senator from New Mexico I share his concern for the abortion of convenience. That really worries me. But we are talking about placenta tumors, heart disease, narrowing of the aorta, arterioaneurysms, malignant hypertension, pulmonary tuberculosis, cancer of the ovary, cystic fibrosis, brain tumors, right down the list.

Maybe Members of this body are prepared to make a decision that if there is a rape or incestuous pregnancy, abortion should be prohibited. I am not. I think we need to understand.

The Senator from Washington, I believe, touched on one of the most sensitive and compelling concerns I have where we are talking about a significant number of teenage pregnancies.

If we accept the Senate language, we are not saying to a daughter, to a granddaughter, to a sister who becomes pregnant and is 14, or to someone we do not even know who is pregnant as a result of a rape, to whip out and have an abortion.

What we are saying is that that ought to be a decision made personally within the heart and mind of the woman involved and not have 100 men here make that decision. Let the doctors make the medical decision, but, more importantly, it seems to me, give the human being, the mother involved with that pregnancy, the right in consultation with her doctor to make the personal decision that she and only she can make.

Let us not kid ourselves. This is not a question where we are going to vote it away. I held hearings on this matter for nearly 2 years. We are not going to vote it away. If we can say in our conscience it would disappear if we vote one way or another, we might have one thing. But we are not. We are talking about somewhere between 200,000 and 300,000 abortions. That is my best judgment. Senators may not like it, but that is a fact.

Here, in very practical terms, we are determining where those abortions are going to be conducted, under what kind of conditions they are going to be conducted, and whether they are going to have a professional do a job, one who is a medical doctor, or whether it is going to be performed by some butcher with a coat hanger, when, out of desperation, a mother, a child, resorts to something to save herself from a kind of condition that threatens her.

Let us have everybody make that decision for themselves. I have told this Senate how I came to a decision on abortion, but I am not prepared to force my decision on everyone else. Let them make that decision personally. Let us not make it for them.

I thank the distinguished Senator from Washington and my colleagues for giving me the chance to be heard.

Mr. SCHWEIKER. Mr. President, I yield myself 3 minutes.

Mr. President, much has been made of the argument about what "medical necessity" means. The distinguished Senator from New Mexico pointed out that in his opinion it was a loophole, it was a barn door, it was an exemption that would allow virtually all abortions. I do not think there is any question about that.

I am a little surprised that the other side argues that there is any question about it.

Here is a story in the Washington Post dated July 8, entitled "Senate Measure Found To Permit Most Abortions."

It is written by a very distinguished writer who is now sitting in the Senate gallery. It says:

A leading population expert, Louis Hellman, of the respected Population Reference Bureau, estimated yesterday that under a Senate-passed restriction on the Federal financing of abortions—

And, of course, that is the medical necessity we are talking about here today—

90 percent of those now performed could still be done. That is because of a number of exceptions written into the Senate legislation and especially a very broad exception permitting any abortion medically necessary, Hellman told a reporter.

Who is Louis Hellman? He is the former Deputy Assistant Secretary of HEW for Population Affairs. He is a pro-choice person, and he is saying that with the words "medically necessary," 90 percent of the abortions can be performed.

Let us not deceive ourselves about what this means. If someone on the other side of the issue, not on our side, who headed the Department of HEW's efforts in population affairs, and who is an advocate of the pro-choice viewpoint says that 90 percent of the abortions shall continue, there is no doubt in my mind that he means it and that he is right, and that it is very clear this is a barn door loophole and a very clever one.

Mr. BAYH. Will the Senator yield? Does the Senator really want to know all that Dr. Hellman said? Is he interested that Dr. Hellman pointed out this statement was really a guess, and it was not based on an understanding of the Senate language but rather a definition used by the World Health Organization which allowed for social abortions. This, of course, is a far broader definition than any of of us have in mind here? I just wanted to point that out to the Senator.

Mr. SCHWEIKER. I am pleased to have that information. I do not think it subtracts one iota from the fact that here is the leading population expert in the country, who just presided over the government program, who says "medical necessary" means 90 percent of the abortions can continue. I think in all fairness the Senators who voted last time should be aware that that is what the Senate language does. It does not just take care of this situation or that situation.

Mr. JAVITS. Will the Senator yield?

Mr. SCHWEIKER. Yes.

Mr. JAVITS. Is it true that even with 60 or 70 or 40 percent, the Senator would still be taking the position he is taking? The Senator is against it altogether. It is not just the 90 percent.

Mr. SCHWEIKER. I thank the distinguished Senator for the observation. That is certainly true. But I was responding to the argument being made by the Senator from Massachusetts about what "medical necessity" was. My point was that an expert in the field says it is a loophole, it is a barn door, it is wide open, it is "no holds barred."

I think that is relevant.

I think it is also relevant to point out that we have a very interesting poll compiled by CBS News and the New York Times, certainly no advocates of my particular position, which asked three very important questions on this issue. First they asked the question:

Do you think the government should help a poor woman with her medical bills when she has a baby?

Yes, 64 percent; no, 26 percent.

Do you think the government should help a poor woman with the cost of contraceptives to prevent pregnancy?

Yes, 63 percent; no, 29 percent.

Do you think the government should help a poor woman with her medical bills if she wants an abortion?

Yes, 38 percent; no, 55 percent.

That ought to lay to rest the argument which has been used against us on this floor time and time again that a few people, a tiny minority, are imposing their views and their wills on the American public.

The truth is just the opposite. It is the group who is opposite our position which is really imposing their views. The majority, the overwhelming majority, of the American people, by a poll that was just taken a few days ago and released on July 29 of this year, do not think it should be public policy to pay for abortions.

They do think it should be public policy to pay medical bills when she has a baby, and the cost of contraceptives to prevent pregnancy, but they believe abortion is not a Government function.

The Court has said we have the right to make that decision. That is what the judge ruled today.

My point is that where tax dollars go, social approval goes, and public policy goes. All this argument that we are imposing our views here, is hogwash, because the American people overwhelmingly support the position I have.

This poll makes it very clear that there are certain limits to public financing, public support, and social policy where the public believes we should draw the line. That is the position that we are taking here today.

Mr. BROOKE. Will the Senator yield?

Mr. SCHWEIKER. Yes.

Mr. BROOKE. The Senator knows polls. He has used polls in his campaign. He uses them very well, obviously, because the Senator has been elected and reelected. He understands polling. He also understands the significance of how questions are framed.

In the poll the Senator mentioned, was there a question whether the public would favor medicaid abortions for poor women, if it is medically necessary?

Mr. SCHWEIKER. Let me say that the CBS News and New York Times, in

their composite wisdom, made up this poll.

Mr. BROOKE. Will the Senator answer that question?

Mr. SCHWEIKER. I am trying to answer it.

I read very specifically the three questions that they posed. They posed questions on paying for having a baby, paying to prevent pregnancy, and paying for abortions. Those are the only three questions they asked.

Mr. BROOKE. Wherever they say using public funds for abortion, I am amazed they got 38 percent, with what that means. I think that is a very high percentage. I think the Senator is using polls to support his position, rather than the other way. I do not think that is overwhelming, when we consider the question that was asked of the public.

Actually, we do not even get into the question of whether it would save the life of the mother, whether it was rape or incest, whether it is medically necessary. We do not get into any of these things. Once that question is put to the public, I am certain the public would see the significance of that as distinct from what the Senator read.

The Senator knows polls come out depending on how the question is framed. I suggest most respectfully to the Senator from Pennsylvania that, with the question framed as it was, that 38 percent is a very high percentage, not a very low percentage, as the Senator from Pennsylvania suggested.

Mr. SCHWEIKER. Let me thank the Senator for his observation and say that the people who took this poll, the New York Times and CBS News, are not known as advocates of right wing causes. They framed the question in a way that they thought was fair and even-handed. So what is wrong with that? How fair can it be?

I am surprised, a little bit, that the Senator from Massachusetts is amazed about these figures. I have heard arguments, in the last few debates we had on this issue, that a few people were dictating the rights of the majority on this issue and we were imposing our views on other people; they were saying, in essence, that we are judging everybody.

The fact is that the people have made the judgment and they made their judgment 55 to 38, so the shoe is now on the other foot.

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. BROOKE. May I first correct the quote? It is a misquote. I never said "dictating" at all. I think, in the heat of the argument, the Senator may have mistaken me for somebody else.

Mr. DOMENICI. Will the Senator yield 1 minute for observation?

Mr. SCHWEIKER. Yes.

Mr. DOMENICI. I say to the Senator from Massachusetts, whoever took that poll with reference to the use of words "medically necessary," in this Senator's opinion, were extremely prudent not to use the words, because the words do not mean anything, so the poll would not mean anything.

They put it right on the nose when they asked about using public tax dollars to pay for abortions. If they had said to the people of this country, if they are medically necessary, then they would not know what that meant, just as no one here knows what that means.

Mr. BROOKE. Will the Senator yield?

Mr. DOMENICI. I do not have the time.

Mr. BROOKE. Does the Senator realize that "medically necessary" is contained in a number of laws?

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. We have how much time left, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 2½ minutes left.

Mr. SCHWEIKER. I yield that to the Senator from North Carolina.

Mr. HELMS. Mr. President, perhaps in the closing minutes of this debate we had better get our perspective back on the track. The issue here is the use of taxpayers' funds to terminate innocent human lives or, put it more bluntly, using the taxpayers' money to kill the babies. That is as blunt as it can be put.

Not long ago I visited the Duke University Medical Center, and I went to the Children's Hospital of that great institution in my State. I went to the intensive care ward, where the latest in medical technology was being used by some of the best trained medical personnel in the world were struggling to save the lives of tiny little infants no bigger than my hand. And across the hall from that intensive care facility is a waiting room where young parents, some of them on their knees, were praying that the Lord would spare the lives of the fragile little ones who had been born prematurely. The following day, when I returned to Washington, I was appalled at the contradiction of those 2 days. At Duke Hospital, there was a dedicated effort to save lives. The next day, the Senate debated the question of using tax funds to finance abortions.

That is all we are talking about, Mr. President. We are talking about the deliberate termination of innocent human life, using tax funds to do it, in the face of the fact that the vast majority of American people are opposed to it.

Just so that the record will be clear, Mr. President, those who favor the deliberate termination of innocent human life will vote against the pending motion of the Senator from Pennsylvania and the Senator from North Carolina.

Mr. BROOKE. Will the Senator from North Carolina yield for a question?

Mr. HELMS. How much time remains, Mr. President?

The PRESIDING OFFICER. One minute.

Mr. HELMS. I yield 30 seconds to the able Senator.

Mr. BROOKE. Does the Senator from North Carolina believe that a child who has been abused by a father and becomes pregnant, and is poor, should be entitled to a medicaid abortion?

Mr. HELMS. I say to the Senator that he knows as well as I do that the incidence of this is so infinitesimal as to be ridiculous as a defensive argument by those who favor abortion on demand. It is a red herring that is dragged across the path.

Mr. BROOKE. If there is one case, does the Senator believe that one case should be entitled to a medicaid abortion?

Mr. HELMS. There is no problem about that, as the Senator knows.

Mr. BROOKE. There is a problem. There are some of these cases. I ask the Senator, if it is only one case in the country——

Mr. HELMS. I wish the Senator would put any specific case that he knows of personally in the record, and I would be willing to pay for the treatment.

Mr. BROOKE. Does the Senator believe that, in the case of the rape of a 13-year-old girl, that child, if she is poor, should be entitled to a medicaid abortion?

Mr. HELMS. I say again, the Senator knows that the statistics on that are so infinitesimal that that is a red herring.

Mr. BROOKE. Did the Senator hear the number of rape cases in New York alone?

Mr. HELMS. The Senator did not say how many are pregnant. As a result of proven or demonstrable rape. I imagine he would have difficulty in producing even one such instance. I repeat, this is a red herring to obscure the real issue.

Mr. BROOKE. They have to be pregnant to get an abortion.

Mr. HELMS. Here comes the red herring again.

Mr. BROOKE. They are not red herrings at all.

Mr. HELMS. Of course they are.

Mr. BROOKE. The reason I asked the Senator that question is, if he believes they are entitled to an abortion, he cannot support the language of the Senator from Pennsylvania, because the language the Senator from Pennsylvania is trying to impose upon the Senate does not even include rape and incest. It does not even include it.

Mr. HELMS. I say, Mr. President, that this is a red herring that is used by the very people who know that those statistics are so infinitesimal as to be impossible of serious consideration in a discussion of such magnitude.

Mr. THURMOND. Mr. President, I heretofore have taken the position that Federal funds for abortions should be restricted to situations where the life of the mother is endangered, or in the case of rape, incest, or dread disease.

Language which permits Federal funds "where medically necessary" is too broad, and, in my view, unacceptable.

Under the current parliamentary situation, it is impossible for my vote to accurately reflect my views on this complicated issue. A "yea" vote will not take into account my feeling that we should allow funds for rape, incest, and dread disease. A "nay" vote will be interpreted as a vote in favor of a more liberalized approach.

With these considerations in mind, I shall vote "yea," as I believe there is less danger in restricting Federal funds than in opening the door to abortions under unwarranted circumstances.

Ideally, Mr. President, the matter of abortions should be settled once and for all by the people through the constitutional amendment process. Accordingly, Mr. President, I favor a constitutional amendment to leave the question of abortions to the States.

The PRESIDING OFFICER. All time has expired.

Mr. MAGNUSON. Mr. President, the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the motion of the Senator from Pennsylvania to concur in the House amendment to Senate amendment No. 82. The clerk will call the roll.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. A vote "yes" on the motion of the Senator from Pennsylvania will be to concur with the House language; a vote "no" will be not to concur, and we then go back to the Senate language.

Is that the motion? I want everybody to understand.

The PRESIDING OFFICER. A vote "no" brings back the motion of the Senator from Washington to disagree with the House language.

The question is on agreeing to the motion of the Senator from Pennsylvania to concur in the House amendment to Senate amendment No. 82. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

(Mr. DECONCINI assumed the Chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "nay."

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—34

Allen	Eastland	Melcher
Bartlett	Ford	Proxmire
Biden	Garn	Randolph
Byrd, Harry F., Jr.	Griffin	Roth
Curtis	Hatch	Schweiker
Danforth	Hatfield	Stennis
DeConcini	Helms	Stevens
Dole	Huddleston	Stone
Domenici	Johnston	Thurmond
Durkin	Laxalt	Young
Eagleton	Lugar	Zorinsky
	McClure	

NAYS—59

Anderson	Burdick	Clark
Baker	Byrd, Robert C.	Cranston
Bayh	Cannon	Culver
Bentsen	Case	Glenn
Brooke	Chiles	Goldwater
Bumpers	Church	Gravel
Hansen	Magnuson	Ribicoff
Hart	Mathias	Riegle
Haskell	Matsunaga	Sarbanes
Hathaway	McGovern	Sasser
Hayakawa	McIntyre	Schmitt
Heinz	Metzenbaum	Scott
Hollings	Morgan	Stafford
Humphrey	Moynihan	Stevenson
Inouye	Muskie	Talmadge
Jackson	Nelson	Tower
Javits	Nunn	Wallop
Kennedy	Packwood	Weicker
Leahy	Pearson	Williams
Long	Pell	

NOT VOTING—7

Abourezk	McClellan	Sparkman
Bellmon	Metcalf	
Chafee	Percy	

So the motion to concur in the House amendment to Senate amendment No. 82 was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, the question now recurs on my original motion, in which I move that the Senate disagree with the amendment of the House to the amendment of the Senate numbered 82, the abortion language.

The PRESIDING OFFICER. The Senator in correct.

Mr. MAGNUSON. A vote "aye" would be in disagreement. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "yea."

The result was announced—yeas 60, nays 33, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—60

Anderson	Hart	Moynihan
Baker	Haskell	Nelson
Bayh	Hathaway	Nunn
Bentsen	Hayakawa	Packwood
Brooke	Heinz	Pearson
Bumpers	Hollings	Pell
Burdick	Humphrey	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chiles	Kennedy	Schmitt
Church	Leahy	Scott
Clark	Long	Stafford
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
Eastland	Matsunaga	Talmadge
Glenn	McGovern	Tower
Goldwater	McIntyre	Wallop
Gravel	Metzenbaum	Weicker
Hansen	Morgan	Williams

NAYS—33

Allen	Ford	Muskie
Bartlett	Garn	Proxmire
Biden	Griffin	Randolph
Byrd, Harry F., Jr.	Hatch	Roth
Curtis	Hatfield	Schweiker
Danforth	Helms	Stennis
DeConcini	Huddleston	Stone
Dole	Johnston	Thurmond
Domenici	Laxalt	Young
Durkin	Lugar	Zorinsky
Eagleton	McClure	
	Melcher	

NOT VOTING—7

Abourezk	McClellan	Sparkman
Bellmon	Metcalf	
Chafee	Percy	

So, the motion that the Senate disagree to the amendment of the House to the amendment of the Senate (No. 82) was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate request a further conference with the House on the disagreement to the amendment of the House to Senate amendment No. 82 and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Mr. President, the Senator from Washington has made a motion to go back to conference. Is that correct?

The PRESIDING OFFICER. On this one matter, that is correct, and that motion has been agreed to.

Mr. HEINZ. I understand that he is about to ask the specific conferees be appointed. Is that correct?

The PRESIDING OFFICER. That is correct, and it has not been accomplished yet.

Mr. HEINZ. Mr. President, I ask unanimous consent that I might be permitted to proceed for 1 minute.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, for what purpose?

Mr. HEINZ. I wish to discuss the question of instructing the conferees.

Mr. ROBERT C. BYRD. Does the Senator from Pennslyvania merely wish to make a statement?

Mr. HEINZ. Yes.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 1 minute.

Mr. HEINZ. Mr. President, I thank the Senators for their indulgence.

I take this time because I am concerned about the direction in which we are heading on this question.

Frankly, I am concerned that the language in the Senate bill is—or at least could be construed to be—too broad on the question of when we will permit abortions to be federally funded. Were it in order at this time, I would seek to instruct the conferees to modify the Senate language so it would read as follows: "None of the funds in this act shall be used to perform abortions except in cases where carrying the fetus to term would endanger the mother's life or cause her grave bodily harm by reason of a physical maternal disease or condition." I would seek to further clarify the Senate position by adding: "The preceding sentence shall not be construed to prohibit the use of funds in this act for the performance of medical procedures necessary for the termination of an ectopic pregnancy or for the treatment of rape or incest victims, and nor shall it be construed to prohibit the use of funds in this act for drugs or devices to prevent the implantation of the fertilized ovum."

Mr. President, I am aware that a motion to instruct, such as I have just stated, would be subject to a valid point of order, so I do not make that as a motion to instruct. But I want to commend my proposal to the conferees' consideration. I hope the conferees will take this suggestion into account, and I hope it may serve as a useful direction to them.

I again stress that it is my concern that the term "medically necessary" may be construed to permit greater use of Federal funds for abortions than I myself would wish, and that is why, Mr. President, I have taken the time of my colleagues.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair appoints the following conferees:

Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG.

Mr. HEINZ. I thank the Senator for his indulgence.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7797, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to the consideration of the bill, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Time for debate on this bill is limited to 5 hours, with 1 hour each for the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER), and with 3 hours for the Senator from Virginia (Mr. HARRY F. BYRD); with 1 hour on any amendment in the first degree, except three amendments by the Senator from Alabama (Mr. ALLEN), on which there shall be no time limitation and no tabling motions thereto in order; with 30 minutes on any amendment in the second degree; and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Hawaii is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Hawaii, the manager of the bill, yield to me briefly?

Mr. INOUYE. I am very happy to yield.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order. Senators will clear the well and retire to their seats or cloakrooms. The Senate is not in order. The Senator from West Virginia is entitled to be heard. Senators will retire to their seats.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, the other body has just adopted the clean air conference report by a voice vote. That conference report should be over to the Senate Chamber by 8 o'clock, I should think. The Senate will proceed with the foreign assistance appropriation bill until such time as Mr. MUSKIE, following the receipt of the clean air conference report in this Chamber, determines to call it up. He has that right under the rules, it being a privileged matter, and I have discussed the matter also with the distinguished manager of the foreign assistance appropriation bill, who understands that that will be the procedure. He very patiently has waited for several days now for the calling up of the foreign assistance appropriation bill, but is very agreeable to proceeding in that fashion.

I think I should say to Senators that in view of the extreme importance of the adoption of the clean air conference report before the Senate goes out, by virtue of the adverse impact that failure to do that would have upon the automobile plants, the economy of the country, and the jobs of workmen in those auto factories and associated industries, it is the intention of the leadership to stay on the clean air conference report until action thereon is completed.

The Senate has already adopted the concurrent resolution which was initiated in the House of Representatives adjourning at the close of business Saturday. I entered a motion to reconsider that vote the day before yesterday. The Senate, by unanimous vote, supported my motion to request return of the papers. The papers have been returned by the Speaker of the House of Representatives, and if it is necessary—I hope it will not be, and I do not believe it will be necessary—to amend that resolution, then, of course, I would have no alternative but to attempt to do that. But I think Senators should be aware of the fact that this will be a late evening. I hope the confernce report on the Clean Air Act will not require too long, but in any event, it is my intention at the moment to stay in session until it is adopted.

I thank the distinguished Senator from Hawaii for yielding.

Mr. INOUYE. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I wish to echo the majority leader's views on the importance of the Clean Air Act, and as soon as the papers are here and we are ready to go to work on it, we will do so, and undertake to discuss any aspects of it which may be of interest to Senators.

In the meantime, Mr. President, I ask unanimous consent that Madeleine Albright of my staff be given the privileges of the floor during the debate on H.R. 7797.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted on behalf of the following staff members: Mr. CLARK: Pauline Baker; Mr. DECONCINI: Romano Romani and Jerry Bonham; Mr. HARRY F. BYRD, Jr.: Christopher Lehman; Mr. HEINZ: Bill Reinsch and Stewart Lanholtz; Mr. LUGAR: Mark Lubbers.

Mr. INOUYE. Mr. President, I am pleased to report H.R. 7797, the foreign assistance and related programs appropriations bill for fiscal year 1978. Although the Appropriations Committee has once again been delayed by the tardy passage of authorizing legislation, I still have hopes that we can enact a timely appropriations bill. The legislative calendar is crowded and the time we have is short. I would hope, therefore, that we can have responsible action on this bill and move quickly to insure that it will be enacted before the start of the fiscal year.

The House passed this bill on June 23; in the Senate, the Appropriations Subcommittee on Foreign Operations marked up the bill on July 15; the Appropriations Committee marked up the bill and ordered it reported on July 18. We have acted expeditiously because of the requirements of the Budget and Impoundment Control Act of 1974. To meet the statutory requirements of that act, we had no choice but to act, and to act with dispatch. The Appropriations Committee has made every effort to meet its responsibilities. And yet, Mr. President, we have had to act without the benefit of approved authorizing legislation.

Delay in the enactment of authorizing legislation immeasurably compli-

cates the work of the Appropriations Committee. Today, I will offer a number of amendments to the bill reported by the Appropriations Committee—amendments which will be offered only because they are necessary to bring our bill within limits established by the authorizing committees. Because of the requirements of the Budget and Impoundment Control Act, we could not afford to wait for authorizing legislation. Now we find that we must make adjustments to carefully considered recommendations for appropriations. In other words, because of the delay in passage of authorizing legislation, we have to do again what we did before reporting this bill. This redundancy of effort could easily be avoided, if only the authorizing committees would move their legislation: There are six separate pieces of authorizing legislation which affect this appropriations bill; not one of them is, at this moment, public law.

It is my hope that in the coming fiscal year there will be early enactment of authorizing legislation. If there is, the Appropriations Committee will be able to do its work in a more orderly manner.

Now, if I may, I would like to discuss the bill.

Mr. President, the bill recommended by the committee for fiscal year 1978 totals $7,074,372,763. This amount is $1,477,875,763 more than the fiscal year 1977 appropriation and $380,241,463 above the amount provided in the House bill. It is, however, $524,588,373 below the President's fiscal year 1978 budget request.

Mr. President, I will not discuss each item in the bill in detail. I will limit my remarks to several specific committee recommendations which, I believe, may be of particular interest. I would note that the report which accompanies this bill (No. 95–352) provides a detailed commentary on the programs in the bill and a framework of understanding for the recommendations of the committee. I hope that it will be widely read, both by those within this Chamber and by those who are charged with the responsibility of carrying out our foreign assistance policies.

I believe that the bill brought forward by the committee demonstrates our concern for the world's poor while responding to the need for fiscal responsibility in our programs. It is a balanced bill, a good bill, and one which we can ask the American taxpayer to support. There can be no doubt that the taxpayers of this country have been generous in their support of foreign assistance programs. Since the end of the Second World War the United States has supported a vast program of foreign assistance which has directly benefited most of the nations of the World. It is estimated that through fiscal year 1977, the United States will have provided well over $231 billion in assistance to foreign nations.

The record is there, Mr. President. The United States has been generous. This country has given much, and in doing so we have given truth to the ideals we live by. We must continue to uphold this humanitarian tradition. We must also take care to insure that our assistance programs meet the stringent economic requirements of our time. Without a just proportion between humanitarian concern and prudent economic management our assistance efforts will be doomed to failure. I believe that the bill recommended by the committee effects such a balance.

The bill recommended by the committee provides a total of $930 million for the five so-called functional categories of assistance: food and nutrition. population planning, health, education, and technical assistance. This amount is $74 million greater than the amount provided in fiscal year 1977, but is some $76 million less than the President requested. The committee has given careful consideration to these programs and has recommended funding levels which are larger than those provided last year and which will enable the Agency for International Development to make an effective and manageable response to the needs of the poor for assistance. It is our judgment that any further increases in funding for these programs would not be productive.

As you know, Mr. President, these programs provide foreign countries either loans or grants to assist them in their economic development. Obviously, the countries receiving our assistance differ greatly in their prospects for economic growth. The committee believes that the terms of our assistance should reflect this diversity. We have, therefore, recommended a limitation on the terms of development loans, similar to that which was incorporated into the fiscal year 1977 Foreign Assistance Appropriations Act.

It may be of interest to some Senators that even today Venezuela has an outstanding balance of more than $27 million on earlier U.S. development loans which carry interest rates of only 0.75 percent, and Iran has an outstanding balance on similar loans totaling about $38 million at interest rates between 0.75 and 3.5 percent. It is entirely likely that other countries now receiving development assistance loans will experience, within the next several years, an improvement in their economic standing similar to that recently experienced by Venezuela and Iran. In anticipation of this improvement, the committee recommends that of the $310,500,000 provided in new budget authority for loans, $37,000,000 should be repayable within 30 years and $98,500,000 should be repayable within 20 years.

A similar limitation has been proposed for loans which are made under the security supporting assistance program.

For voluntary contributions to international organizations and programs, the committee has recommended $243,850,000. In a moment, I will offer an amendment to reduce this amount to $234,350,000; the reduction being necessary because of action taken by the authorizing committee.

Included in the committee's recommendation is full funding of the administration's request for the U.N. environment program, the U.N. Children's Fund, and the U.N. Decade for Women. We have recommended $110,000,000 for the United Nations development program, an amount which is less than the administration's request but which represents a 10-percent increase over the amount provided last year. I should note, Mr. President, that after thorough discussion in the committee markup, a proposal to increase the U.S. contribution to the UNDP by $10 million was defeated by a vote of 18 to 4.

Further recommendations made by the committee with regard to the international organizations and programs account include a recommendation that the administration's request for contributions to the United Nations University be denied; and at the request of the new U.S. Ambassador to the Organization of American States, Ambassador McGee, we have earmarked $2.5 million of the U.S. contribution to the OAS for special development purposes.

It will also be noted that the committee has recommended the deletion of a line item appropriation for United Nations forces in Cyprus. In keeping with our effort to fund all U.S. contributions to U.N. activities under one account, the committee has transferred funding of the U.N. force in Cyprus to the International Organizations and Programs account.

Mr. President, I have long believed that our assistance programs have not adequately provided for the very real needs for development assistance in Africa. I am particlularly pleased to report that the committee has recommended an appropriation of $50 million for the Sahel development program. We have, to be sure, been very generous in the past in meeting the drought emergency in the Sahel, but this program is forward looking; it seeks to avert the recurrence of the terrible drought conditions which held the Sahel in a state of desolation and despair for more than 5 years.

It is my urgent hope that the Senate will approve this recommendation. The Sahel development program is a long term and comprehensive effort which is being undertaken by several donor countries on a coordinated basis. The committee recognizes that the program may ultimately entail the expenditure of large amounts of U.S. assistance, but we have taken steps to insure that the United States will not bear a disproportionate share of the burden. The committee has recommended bill language which will limit the U.S. contribution to no more than 10 percent of total cash contributions to the program, and I can assure the Senate that we will closely review U.S. participation in the program as we consider requests for further appropriations.

For security supporting assistance, Mr. President, the committee recommended the appropriation of $2,222,200,000. Again, because of action taken by the authorizing committee, I will offer an amendment to reduce the amount recommended by the Appropriations Committee. Because the Southern Africa Special Requirements Fund is only authorized $80 million for fiscal year 1978, I will ask for a $20 million reduction in the amount recommended by the committee.

This year the overwhelming share of security supporting assistance, some $1,730,200,000, is again to go to the Middle East region, with the bulk of this amount going to Israel, Egypt, Jordan, and Syria. A second major item is a special $300 million balance-of-payments loan to Portugal. The committee recognizes that the strength and vitality of democracy in Portugal is of considerable importance to our national interests. We have recommended the appropriation of the full amount requested by the administration because we believe these funds will ease Portugal's temporary and unusual balance-of-payments deficit.

With regard to the Southern Africa Special Requirements Fund, the committee has noted that political change has engendered economic change as the nations of the region have become engaged in the effort to bring about a transition to majority rule in Rhodesia and in southwest Africa. A particularly urgent problem is the need in the emerging countries of Zimbabwe and Namibia for skilled manpower. The program proposed by the administration for the Southern Africa Special Requirements Fund addresses a broad spectrum of economic difficulties which range from refugees to balance-of-payments problems and disruptions of transport systems. It provides, as well, funds to support manpower programs for black African participants from both majority and minority ruled countries. The committee shares the administration's belief that the United States has a unique opportunity to bring a stabilizing influence to the volatile processes of political change in Southern Africa.

Mr. President, the committee has also provided, within the security supporting assistance account, relief and rehabilitation assistance to Cyprus—$15 million—and Lebanon—$20 million. Following the administration's request and action taken by the House, the Appropriations Committee has provided $12.2 million to fund the Sinai support mission in fiscal year 1978. These funds were transferred from the Middle East Special Requirements Fund.

Under the international security assistance accounts, that is under the accounts: Military assistance, international military education and training, and foreign military credit sales, the committee has proposed modest reductions. We have recommended the deletion of specific country references from the House passed bill, but have made reductions for those countries which have publicly announced that they will not participate in these programs: Argentina, Brazil, El Salvador, and Guatemala. In addition, I will soon offer an amendment to further reduce the amount the committee recommended for foreign military credit sales to the level authorized. This will be a reduction from $688,350,000 to $677,000,000.

We come now, Mr. President, to the largest item in this bill: appropriations for international financial institutions. The committee recommends:

For the Asian Development Bank, $263,571,563;

For the International Finance Corporation, $44,597,200; and

For the African Development Fund, $10,000,000.

These amounts are equivalent to the President's budget request. For the remaining institutions, the committee recommends to the Senate the amounts provided in the House-passed bill:

For the Inter-American Development Bank, $523,000,000;

For the International Bank for Reconstruction and Development, $400,000,000; and

For the International Development Association, $950,000,000.

Mr. President, these are the dollar amounts which the committee has recommended for U.S. contributions to the international financial institutions. They are contributions to the current replenishments of resources of the international development banks. The committee considers the current U.S. share of current replenishments to be too high and not reflective of the worldwide shift in capital resources over the last 30 years.

To give guidance to those who will be charged with negotiating future replenishments the committee recomends that the Senate adopt language in the bill which conveys the "sense of the Senate" and specifies maximum percentage shares for accounts in each of the international financial institutions. I believe that it is very important for the Senate to make its views known. All too often we are told that U.S. negotiators have not had clear guidance, and did not know what the Congress considers a "fair share" for the United States. This language will remove all doubt.

Mr. President, the issue of what is a fair share for the United States is not the only issue which concerns the committee. We have seen these international financial institutions become more and more divorced from the legitimate development assistance concerns of their primary contributors. The committee report details a number of excesses in the management and personnel practices of the international banks. I urge every Member of the Senate to read that section of the report which deals with salaries and personnel practices, lending patterns, and secrecy within the banks. I ask unanimous consent, Mr. President, that that section of the report be printed in the RECORD at this point. I refer to pages 121 through 130 of report No. 95-352.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE CONCERNS REGARDING THE OPERATIONS AND MANAGEMENT OF THE INTERNATIONAL FINANCIAL INSTITUTIONS

For more than thirty years, the United States has been a leading participant in international financial institutions. Indeed, in most instances, the United States played a formative role in the creation of these institutions. When they first appeared on the international economic scene, the development banks were met with enthusiasm. They were to be truly international lending institutions which would stand above the parochial political concerns and narrow policy interests of their member nations. They held the promise of a new wave of multilateral development assistance, guided by a fraternity of international civil servants who were dedicated to the social and economic enrichment of the impoverished peoples of the world.

Today, enthusiasm has given way to increasing disenchantment, as the interests of the banks become more and more divorced from the legitimate development assistance concerns of their primary contributors. The pattern of their lending services not the impoverished peoples of the world but the rich of developing and developed countries alike. They have become the banks of banks, protecting the international financial community from the ravages of inflation, often at the expense of the poor. Rather than strengthening economic development, they strengthen the development of government control over national and international economies.

The much heralded cadre of international civil servants has become the aristocracy of development finance, jealous guardians of privilege and position. Facing no threat of removal from office by a voting public incensed by excesses, those who have been entrusted with the oversight of public funds have awarded themselves extraordinary salaries, travel allowances, and benefits. Somewhere, lost in their rhetoric of global internationalism, is the fact that these public funds are contributions, made by ordinary taxpayers through their governments, to provide assistance to the poor.

Excesses in the management and personnel practices of the international banks have attracted attention in many quarters. Prominent newspapers, government investigators, and citizens' groups in this country have chided the banks for their excesses and have called for basic reforms. In his foreign assistance message to the Congress, the President of the United States said, "We recognize that salaries and living styles of some employees have been too lavish, and we will insist that the international programs we support will do more to control their administrative overhead."

The excesses of the banks hang like storm clouds over future contributions. This Committee was among the first to see the gathering storm. For more than five years, we have articulated our concerns. We have raised these issues time and again—in our hearings, in our reports, and in direct communications with the U.S. Executive Directors to the various banks. The Committee had hoped that the banks would respond to these concerns and take action to correct the abuses which we had identified. Instead, our concerns have been met with a studied indifference, an arrogance which is both an assault on reason and an affront to all who have generously contributed to the banks. Indeed, recent actions by certain of these institutions are, in the words of the Secretary of the Treasury, Mr. Blumenthal, "unworthy of organizations dedicated to monetary stability and aid to the world's neediest peoples."

In the following paragraphs the Committee will chart several points of excess or abuse in the management and personnel practices of the banks and in the policies they have adopted. We deal with the banks here in collective fashion, because the abuses we have found occur in the several international financial institutions but are particularly acute in the Inter-American Development Bank, the International Bank for Reconstruction and Development, and the International Monetary Fund (there are no appropriations for the IMF in the bill before us). We will treat the specific requests for approrpiations for each of the banks under separate sections, but here the Committee wishes to set forth those matters which offend our concept of what international financial institutions ought to be.

Salary Levels in International Financial Institutions.—The most egregious of all excesses in the international development banks is the salaries which are paid to their employees.

The U.S. Executive Director to the International Bank for Reconstruction and Development receives a gross annual salary of $83,830; in the Inter-American Development Bank the U.S. Executive Director receives a gross annual salary of $78,820. These salaries, which are set by the Banks, are far in excess of the salaries paid Cabinet officers in the United States ($66,000).

In May of this year, plans were being made to raise the salaries of Executive Directors of the Inter-American Development Bank. Facing strong opposition by the Congress and the President of the United States, the IDB abandoned, for the time, its salary push. On the other hand, at the time this Report went into publication, the World Bank and the International Monetary Fund were considering proposals to increase the gross compensation of the Executive Directors in both institutions by over nine percent. If they are provided, these raises would increase the taxable income of an Executive Director at the IMF and the IBRD to over $90,000.

Professional staff salaries in the international financial institutions are also extraordinarily high. The Assistant Secretary of the Conference Service Sector of the Inter-American Development Bank, for example, is three grades below the top professional rank and ninth from the top of the bank salary structure. The Assistant Secretary of the Conference Service Sector, according to the IDB's description of duties, "Prepares and organizes meetings sponsored by the Bank such as those of the Board of Governors and its committees. Processes special votings of the Board of Directors. Handles the appointments, resignations, and other matters related to the Governors of the Bank." The Assistant Secretary of the Conference Service Sector is paid $69,680.

There are many other examples which the Committee could recite to demonstrate excessive salary levels in the international financial institutions which the United States supports through its contributions. The people of this country would be outraged, and rightly so, if they were called upon to pay salaries at these levels to employees of their government. But, because the true salaries of the employees of the international financial institutions are not widely known, the "governments" of the international development banks continue to pay their employees exorbitant salaries.

In our hearings, the Treasury Department provided the Committee with information having more than a tangential bearing on the subject at hand. We quote it in full:

Currently, the number of people that can be categorized as "have nots" is almost 75 percent of the world's population. Almost three billion people out of the current global population of 3.9 billion have a per capita GNP of less than $300 (using constant 1972 dollars) according to the most recently published World Bank figures.

When it is considered that almost three billion people in the world today have a per capita GNP of less than $300, the exorbitant salaries which are paid to employees of the international development banks cannot be regarded as mere excesses; reflected in the mirror of world poverty, they are unconscionable offenses to humanity. That the employees of these institutions would continue in their insatiable demands for even greater remuneration is but one measure of the distance between the aristocracy of development and those whom they are supposed to serve. New meaning is given to the often repeated phrase "the gap between the rich and the poor of the world is growing wider."

It is true that the Congress of the United States cannot control the salaries of the employees of the International Financial Institutions. We do believe, however, that it is within our jurisdiction to require readjustment of the excessive salaries being paid the United States Executive Directors and their alternates who are charged with representing the interests of the United States within the Banks. We, therefore, recommend bill language which would limit the payment of U.S. fiscal year 1978 contributions to the banks until the compensation of these individuals is adjusted to a level not exceeding their superiors at the Department of the Treasury of the United States.

Frankly, we hope that this action on the part of the United States will begin to bring about a public awareness of this issue in other nations. Once this happens we know that necessary across-the-board adjustments will take place and these institutions can return to the high calling for which they were created.

Hiring of Retired United States Government Personnel by the International Financial Institutions.—Not only have the international banks adopted salary schedules and other benefits which are higher than United States government salaries but they have attracted at least 39 retired United States government employees who enjoy not only the high salaries and benefits of the banks but in addition draw full retirement benefits from the banks' largest contributor. From limited checks we have learned that at least one employee has passed the $100,000 mark in combined annual compensation from both systems. As an issue "double dipping" is one on which honest men can disagree but there can be little argument that the banks should not be allowed to recruit from those Federal employees who have held policymaking positions relative to United States participation in these same institutions.

Disclosure and Public Access to Information Regarding IFI Operations.—Again, for more than five years the Committee has pressed the banks to open their doors and encourage both their supporters and the media to make informed judgments as to how well and how efficiently they are carrying out their international mandate. It is apparent that our exhortations have fallen on deaf ears for:

As of December 31, 1976 (January 31, 1977 for the IBRD) well over $10 billion in liquid assets of the banks were held in various securities and in sundry commercial and governmental financial institutions throughout the world. It is true that a large portion of these funds, which are surplus to current needs, earn interest, but we see no reason why the location of depositories and the rates of interest should not be made public. Indeed, most of our own state and local money managers have learned that when such funds have been openly and competitively placed there is a substantial increase in return. We believe the same result could be achieved by the International Financial Institutions.

All working sessions of the boards of the banks are closed to outside observers and loan documents and supporting materials are classified.

Information regarding salaries, travel costs, and other benefits of individual employees of the IFIs is closely held in institutional channels. When requested by the Committee, related information was only reluctantly provided and after numbers had been assigned to individual records. An extreme illustration of the aura of secrecy surrounding the operations of these institutions was the unwillingness of officials of one of the institutions, over a period of several months, to provide the Committee with a copy of its telephone directory.

IFI Development Assistance Through the Private Sector.—The Committee believes that there can be little development without fully exploiting the initiative, the efficiency and the competitive spirit of the private sector in each of the developing nations of the world. We are, therefore, greatly concerned that only 5.3 percent of the lending by the International Financial Institutions is made directly to the private sector. We note that an additional 16.8 percent is made to the private sector, but this is only indirectly through intermediate credit institutions. We believe there is much to be gained by encouraging development of the non-governmental capacity of developing nations and strongly urge that this be done by the IFIs as a matter of primary importance. The following table reflects present lending patterns:

TABLE I.—IFI LENDING TO THE PRIVATE SECTOR FOR 1976

[Dollar amounts in millions]

	IBRD	IDA	IFC	ADB	IDB	AFDF	Total	Percent of total
I. Loans direct to private sector	$171.2	$8.0	$170.9	$70.0	$54.9	----------	$475.0	5.3
II. Loans through official intermediate credit institutions	898.0	72.6	34.1	123.5	385.5	$0.2	1,513.9	16.8
Subtotal	1,069.2	80.6	205.0	193.5	440.5	.2	1,988.9	22.1
III. Total loans	5,288.6	1,206.7	205.0	776.0	1,443.9	79.0	8,999.2	100.0
IV. Private as a percent of total lending	20.2	6.7	100.0	24.9	30.5	----------	22.1	----------

Note: International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC), Asian Development Bank (ADB), Inter-American Development Bank (IDB) and African Development Fund (AFDF). Source: OIDB/Department of Treasury.

Support of Mutual Credit Institutions.—The Committee believes that the International Development Banks have afforded meager support and encouragement to mutual credit institutions, particularly credit unions, savings and loan associations, and cooperatives which are independent of government control. We believe that there is extensive justification for extending support to such institutions and that much leverage can be gained for development dollars in doing so. We request a detailed report on this matter from the United States Department of the Treasury. When it comes before the Committee to justify fiscal year 1978 contributions to the International Financial Institutions it should be prepared to speak to this issue.

Control of Administrative Costs.—Over the years, we have documented many expenditures by the IFIs which lead us to the conclusion that there are substantial sums to be saved by a tightening of administrative practices and an encouragement of cost consciousness among bank officials and employees. It is our understanding that an extensive review of these costs is now under-

way. We welcome this initiative and hope that it will give priority to such items as:

The justification for first class and SST travel;

The propriety of spouse travel at bank expense;

Subsidies which are provided for dining and recreational facilities;

Retirement costs and benefits.

Use of limousines.

FUTURE CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

The Committee is aware of the difficulty of negotiating international replenishments of the resources of the International Financial Institutions without clear guidance as to what the Congress considers to be a "fair share" for the United States.

The committee considers the current "U.S. share" of current replenishments to be too high and not reflective of the worldwide shift in capital resources over the last 30 years. To give expression to our views and in an effort to provide advance guidance to those who will be charged with negotiating future replenishments we recommend "sense of the Senate" language specifying maximum percentage shares for accounts in each of the International Financial Institutions. This language is set forth below and is followed by a table indicating the U.S. share as a percentage of both cumulative and current replenishments:

Future United States Contributions to the International Financial Institutions

It is the sense of the Senate that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:

Paid-in capital, 16.3 percent;

Callable capital, 16.3 percent;

Asian Development Fund, 22.2 percent.

African Development Bank: Special Fund, 10.6 percent.

Inter-American Development Bank:

Paid-in ordinary capital, 34.5 percent;

Callable ordinary capital, 34.5 percent;

Paid-in interregional capital, 34.5 percent.

Callable interregional capital, 34.5 percent.

Fund for Special Operations, 40 percent.

International Bank for Reconstruction and Development:

Paid-in capital, 18.7 percent;

Callable capital, 18.7 percent;

International Development Association, 25 percent;

International Finance Corporation, 23 percent.

CUMULATIVE CONTRIBUTIONS BY THE UNITED STATES RELATIVE TO TOTAL CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS AND THE U.S. SHARE OF THE CURRENT AND PREVIOUS REPLENISHMENTS

[In percent]

Institution	Cumulative U.S. share of total contributions	U.S. share or previous replenishment	U.S. share of current replenishment
World Bank:[1]			
International Bank for Reconstruction and Development	25.3	[2] 34.0	18.7
International Development Association	[3] 31.4	33.3	31.4
International Finance Corporation	32.5	[4] 32.5	23.0
Inter-American Development Bank:[5]			
Ordinary capital	34.9	41.2	32.3
Fund for special operations	63.9	66.7	57.4
Asian Development Bank:[5]			
Ordinary capital	16.4	18.2	16.3
Asian Development Fund[6]	[6] 13.1	28.6	22.2
African Development Fund:[5]			
Special fund	3.7	(7)	(8)

[1] Data as of Mar. 31, 1977.

[2] Represents original subscription; subsequent capital increases are not considered comparable to current replenishment.

[3] Includes only funds actually contributed and paid-in; it does not include commitments.

[4] Original subscription, the current replenishments is the 1st replenishment.

[5] Data as of June 30, 1977.

[6] The 13.1 percent cummulative share is due to the slower schedule of contributions by the United States relative to the other donors.

[7] United States did not participate in the previous replenishment.

[8] The 2d general replenishment is expected to commence in November 1977; the proposed U.S. share is still to be determined.

INTERNATIONAL FINANCIAL INSTITUTIONS SALARY LEVELS AND RELATED BENEFITS

ASIAN DEVELOPMENT BANK SALARIES.[1]

[In U.S. dollars]

Level	Minimum	Maximum
Management:[2]		
President[3]		$54,500
Vice President[3]		49,050
Executive Directors[4]		42,350
Alternate Executive Directors		36,550
Professionals:[2]		
VII	$36,630	42,170
VI	34,440	41,110
V	30,740	38,630
IV	26,850	34,440
III	22,820	30,740
II	19,950	26,850
I	9,990	22,820
Nonprofessionals:[5]		
8	3,955	6,611
7	3,207	5,375
6	2,669	4,357
5	2,254	3,581
4	1,952	2,961
3	1,677	2,427
2	1,476	2,047
1	1,725	1,776

[1] U.S. nationals are not reimbursed for U.S. Federal tax payments. If IRS requirements are met individuals can reduce income taxes owed by a $3,010 credit for foreign source income. U.S. nationals' taxes will be increased by the taxable value of home leave and other fringe benefits.

[2] These individuals may also receive a dependency allowance, for presentation purposes we have included $1,550 per annum for a family of 4.

[3] Residence provided by ADB.

[4] Under the provisions of sec. 3-B of the Asian Development Bank Act, the USED is entitled to compensation and allowances equal to those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946. The USED is entitled to receive the difference between the $52,500 salary of a Chief of Mission, and the ADB's salary for an Executive Director ($40,800). He also has a residence provided by the U.S. Treasury Department.

[5] Assuming no dependency allowance. No U.S. citizens are involved.

THE WORLD BANK SALARIES

[In U.S. dollars]

Position	Net salaries[1][2]		Taxable gross equivalent[3]	
	Minimum	Maximum	Minimum	Maximum
President		$60,000		$111,570
Senior Vice President	58,030			106,950
Executive Directors	47,605			83,830
Alternate Executive Director	37,658			61,730
Professionals:				
Q (Vice Presidents)	$45,900	53,680	$80,000	97,320
P	41,980	50,190	71,320	89,570
O	40,420	48,810	67,840	86,470
N	35,220	43,610	56,310	74,960
M	29,970	38,940	44,980	64,560
L	25,130	34,360	35,530	54,390
K	20,650	29,210	27,320	43,450
J	16,640	24,320	20,880	33,940
Nonprofessionals:[4]				
H	13,680	19,810	18,750	30,440
I	12,540	19,810	16,880	30,440
G	11,920	17,620	15,900	25,940
E	10,530	15,540	13,730	22,030
F	9,150	15,540	11,730	22,030
D	9,150	13,680	11,730	18,750
C	8,530	12,360	10,850	16,610
B	7,800	11,450	9,810	15,150
A	7,800	10,070	9,810	13,060

[1] Ranges after last salary adjustment, Mar. 1, 1977, salary paid to non-U.S. citizens; non-U.S. citizens are not liable for U.S. Federal and State income taxes on their Bank salaries. Salaries for ED's became effective after the Board of Governors vote in November 1976.

[2] Salary paid non-U.S. citizens including dependency allowance consisting of (1) for spouse, $530 plus 1½ percent of salary over $10,000, (2) for each child, $420. For presentation purposes we have assumed a spouse and 2 children.

[3] Salary paid U.S. citizens assuming spouse and 2 dependents; District of Columbia residence, and is "grossed up" by IBRD using standard deductions, to cover Federal and State income taxes and social security taxes.

[4] Assuming District of Columbia residence, 1 exemption, standard deductions and no dependency allowances.

INTER-AMERICAN DEVELOPMENT BANK SALARIES

[In U.S. dollars]

Position	Net salaries		Gross salaries	
	Minimum	Maximum	Minimum	Maximum
Management:[1]				
President		$55,000		(2)
Executive Vice President	50,475			$91,180
Executive Directors	44,985			78,820
Alternate Executive Directors	35,675			57,920
Manager[3]	$44,772	44,965	$78,360	78,790
Deputy Managers	43,666	44,965	75,900	78,790
Professionals:[1]				
I	35,316	42,769	57,110	73,860
II	31,305	41,143	48,230	70,200
III	27,618	39,269	40,710	65,990
IV	24,290	34,837	34,270	56,030
V	21,484	30,862	29,000	47,280
VI	19,001	27,242	24,780	39,990
VII	17,054	24,454	21,665	34,580
VIII	15,056	21,794	18,610	29,560
IX	13,811	19,575	16,820	25,720
Nonprofessionals:[4]				
X	11,039	16,330	14,360	20,460
XI	9,861	14,550	12,610	20,180
XII	8,770	12,893	11,040	17,350
XIII	7,771	11,573	9,620	15,200
XIV	6,904	10,140	8,380	13,020
XV	6,187	9,138	7,390	11,570

[1] Assuming District of Columbia residence, 4 exemptions, standard deductions. Dependency allowance of $1,475 unless noted otherwise is included in both net and grossed-up salaries.

[2] Positions held by non-Americans not subject to U.S. tax schedule.

[3] Included in the Manager, and Deputy Manager range are 2 individuals with the titles of Senior Manager and Senior Deputy Manager.

[4] Assuming District of Columbia residence, 1 exemption, standard deductions, and no dependency allowance.

Mr. INOUYE. Mr. President, I will not take time now to review all of the abuses which we have found in the banks, but let me speak for a moment on the subject of salaries.

Professional staff salaries in the international financial institutions are extraordinarily high. The assistant secretary of the conference service sector of the Inter-American Development Bank, for example, is three grades below the top professional rank and ninth from the top of the bank salary structure. The assistant secretary of the conference service sector, according to the IDB's description of duties, prepares and organizes meetings sponsored by the bank such as those of the board of governors and its committees. Processes special votings of the board of directors. Handles the appointments, resignations, and other matters related to the governors of the bank. The assistant secretary of the conference service sector is paid $69,680—which, incidentally, is more than the Secretary of the Treasury.

The deputy manager of the administrative department assists the department manager in the planning, coordination and control of all technical and administrative activities related to budget and management accounting, personnel, systems analysis, data processing and administrative services for the bank. For this, the deputy manager is paid a gross annual salary of $76,613.

I shall not go on, Mr. President, but I ask unanimous consent that a table of selected Inter-American Development Bank positions be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Position	Grade	Net salary range [1]	Gross salary [2] of incumbent	Description of duties
Adviser: Office of External Relations	EX	$43,665–$44,965	$75,220	Serves as the principal staff adviser to the President for assuring that the publics of the member countries are kept adequately informed of the Bank's activities. Assists management in working with the communications media and groups in all the member countries.
Representative: Field Office in Brazil	A	27,618– 42,769	69,680	Acts as Bank's chief officer in the designated country. Represents the Bank in its relations with government authorities, institutions, and borrowers. Assists borrowers in the preparation of loan and technical cooperation applications and cooperates in the administration of projects in execution.
Representative: Field Office in Jamaica	A	27,618– 42,769		Acts as Bank's chief officer in the designated country. Represents the Bank in its relations with government authorities, institutions, and borrowers. Assists borrowers in the preparation of loan and technical cooperation applications and cooperates in the administration of projects in execution.
Secretary: Pension Committee	Ex-officio Bank.	Secretary of the		Provides secretariat services to the Pension Committee, which has overall responsibility for the Administration of the Staff Retirement Plan, with authority to decide all matters of policy and to develop and establish rules and procedures for the plan.
Chief: Management Services Office	II	31,305– 41,143		Coordinates the development of recommendations related to the Bank's organization, manpower, management, reporting system, manuals, and procedures.
Chief: Organization and Manuals Section	III	27,618– 39,269		Supervises studies to recommend the optimum organization and manpower allocation for the Bank. Administers the program for the preparation and maintenance of the system of manuals and regulations of the Bank. Recommends the establishment of policies on the above mentioned areas.
Adviser: Office of the Controller	II	31,305– 41,143	54,644	Provides technical advice to the Controller on basic policy issues regarding the responsibility of the Controller to assure that the Bank's activities conform to the provisions governing the Bank and its programs. Assists the Controller on special projects.
Representative: Field Office in Venezuela	A	27,618– 42,769		Acts as the Bank's chief officer in the designated country. Represents the Bank in its relations with government authorities, institutions, and borrowers. Assists borrowers in the preparation of loan and technical cooperation applications and cooperates in the administration of projects in execution.
Chief: Technical Cooperation Information Unit	IV	24,290– 34,887		Develops and prepares system specifications of computerized statistical information for management, on the activities of Technical Cooperation. Maintains updated information on progress of all Technical Cooperation activities.
Chief: Infrastructure Division	I	35,316– 42,769	73,230	To administer the activities of a professional multidisciplinary group, in analyzing requests for loans in the fields of energy, transportation, and telecommunications as well as the related technical cooperation activities. Technically advises and leads the Bank's personnel and the borrowers during the phases of project's identification, study, formulation, design, financing and operation.
Chief: Energy Section	III	27,618– 39,269	59,625	Supervises the promotion and analysis of loan applications in the energy sector, including execution and evaluation of projects and related technical assistance activities.
Member: Group of Controllers of the Review and Evaluation System.	T/C	35,225– 35,665	56,720	Under the direct supervision of the Board of Executive Directors, examines selected areas of significant Bank activities to determine if they are conducted in a manner designed (a) to attain Bank objectives in an effective and efficient way at the lowest possible cost and (b) to assure the most beneficial results to the member countries. Conducts analytical studies, reviews, evaluations and appraisals of Bank policies, systems, procedures, and operations with a view toward (a) identifying any significant problem areas that may exist and (b) offering suggested changes and improvements that might enhance the Bank's ability to accomplish its mission.
Chief: Payroll, Tax and Retirement Section	IV	24,290– 34,887		Supervises the development of payroll system, income tax reimbursement and the Retirement Plan as well as its control, accounting and disbursement. Makes sure that all payments are made on time and in accordance with the Bank's policies and procedures.
Chief: Salary Administration Section	IV	24,290– 34,887		Administers the planning, organization and execution of all activities related with the Bank's program on remuneration, job classification and performance evaluation. These activities comprise development of policies, regulations and procedures; provides advice on these matters to all levels of supervision. Administers the established programs, for both headquarters and the Representations.
Chief: Agricultural Economics Section	III	27,618– 39,269		Orient and prepare basic, sectoral and subsectoral studies for use in determining priorities and identifying investment opportunities in the member countries in the assigned area of responsibility, as well as recommendations for Bank policy in the respective sectors.
Coordinator: Methodology Unit	III	27,618– 39,369	57,881	Supervises the development of methodological techniques to be used for the economic analysis of countries and economic evaluation of projects. Prepare policy documents.
Manager: Finance Department	EX	43,665– 44,965	78,150	Serves as the principal adviser to the President on capital requirements, sources of funds, borrowings in the capital markets and other financial matters. He is responsible for the management of the Bank's funds and resources and the maintenance of the accounting and financial records of its operations.
Chief: Library	III	27,618– 39,269		Has the full technical and administrative responsibility of the Library. Conducts library research and manages the acquisition, cataloging and classification of books, periodicals, publications and daily newspapers.
Deputy Manager: Integration Sub-Department	EX	43,665– 44,965		Directs the activities to provide the Banks and member countries with technical advice on economic integration. This includes supervising studies and the development of proposals on operating policies, standards, and procedures concerning loans and technical cooperation operations of the Bank in the field of economic integration.
Director: INTAL	I	35,316– 42,169		Manages the activities of the Institute for the Integration of Latin America. Coordinates the working relationship between INTAL and IDB headquarters. Plans and coordinates research studies, training activities, and advisory assistance to governments and national organizations in the fields of economics, law, and social affairs in the context of integration.
Chief: Professional Services Firms Office	III	27,618– 39,269	63,729	Supervises and coordinates the activities of the professionals in charge of analyzing the work performed by consulting firms and external audit firms utilized by the borrowers, beneficiaries and the Bank during the different phases of the operations.
Chief: Social Projects Division	I	35,316– 42,769		To administer the activities of a professional multidisciplinary group, in analyzing requests for loans in the fields of urban development, sanitary engineering, education, science and technology and public health, as well as the related technical cooperation activities. Technically advises and leads the Bank's personnel and the borrowers during the phases of project's indentification, study, formulation, design, financing and operation.
Deputy Manager: Administrative Department	EX	43,665– 44,965	76,613	Assists the Department Manager in the planning, coordination and control of all technical and administrative activities related to Budget and Management Accounting, Personnel, Systems Analysis, Data Processing and Administrative Services for the Bank.
Chief: Division of Administrative Services	I	35,316– 42,769	58,711	Supervises the planning and execution of all the administrative services required by the Bank's activities. Performs as a principal adviser to the Administrative Manager in matters related to administrative services.
Assistant Secretary: Conference Service Sector	III	27,618– 39,269	69,680	Prepares and organizes meetings sponsored by the Bank such as those of the Board of Governors and its committees. Processes special votings of the Board of Governors. Handles the appointments, resignations, and other matters related to the Governors of the Bank.
Chief: Documents Section	VI	19,001– 27,242	34,788	Supervises the classification, numbering, cataloging and maintenance of the official documents of the Bank and preparation of the indices for registered documents. Handles requests for official documents.
Manager: Plans and Programs	EX	43,665– 44,965		Serves as the principal adviser to the President on the formulation, coordination and analysis of the plans, programs and proposed policies related to all activities of the Bank.
Chairman: Compensation Policy Committee	Ex-officio Bank, Exec. Vice President.			Presides the periodic meetings of the Committee whose function is to oversee the application of the Position Classification and Remuneration policies of the Bank and to review or establish systems guidelines and criteria under which actions are to be taken within established policy.
Secretary to Compensation Policy Committee	Ex-officio Bank, Chief Personnel Division.			Advises the Committee on Position Classification and Remuneration matters and provides secretariat services.

[1] Salary ranges include a dependency allowance of $1,475.

[2] Gross salary estimates are given only when incumbent is U.S. citizen. For most but not all employees of other nationalities the gross and net salaries are the same.

Mr. INOUYE. Mr. President, the Appropriations Committee has tried for more than 5 years to encourage the banks to correct abuses in their management and personnel practices. We have articulated our concerns in hearings, in our reports, and in direct communications with the U.S. executive directors to the banks. The committee had hoped that the banks would respond to these concerns and take action to correct the abuses which we had identified. Instead, our concerns have been met with what we termed in our report "a studied indifference, an arrogance * * *"

I note, Mr. President, that some have suggested that the committee's report may have been too harsh in using the word "arrogance." I read in the July 23 edition of the Washington Post, after the committee's report had been made public, that a World Bank spokesman had said, "We reserve the right to determine how to operate the World Bank and our salary structure is part of that." If that is not an arrogant attitude, I do not know what is.

The Washington Post is not the only newspaper which has highlighted the excessive salaries and benefits provided to employees of international financial institutions. I ask unanimous consent that an article from Fortune magazine entitled "The Good Life at the IMF" and an article from The Christian Science Monitor entitled "Are Global Bureaucrats Overpaid?" be printed in the RECORD at this point.

(Mr. STONE assumed the chair.)

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE GOOD LIFE AT THE IMF

The pay is great, the perquisites are marvelous, and many of the jobs confer on their holders the heady sense of importance that comes from dealing with chiefs of state. The 1,400 employees who work at IMF headquarters in Washington, D.C., have, in short, a good deal—despite which many of them went on strike last year.

Take salaries. A new Ph.D. with no work experience can make $19,140, a senior department head up to $51,680. Over 40 percent of the professional staff (which numbers 800) earn $30,000 a year or more. Furthermore, that's *tax free*. Most non-U.S. staffers come from countries that don't levy income taxes on employees of international organizations when they are abroad. Americans are expected to pay their own taxes, but their salaries are calculated so as to give them after-tax incomes equal to those of their non-U.S. colleagues at similar levels. And even that's not the end of the tax break. In figuring what those Americans' salaries should be, the IMF assumes that they all take the standard deduction. If in fact they have expenses that can be itemized, U.S.-employees can realize substantial windfall gains.

A non-American can also do quite nicely by the U.S. tax code. If, for example, he has investment income, it's taxed as if it were his *only* income—and not at the marginal rates that would apply above his salary. (An American with investment income would pay at those higher rates.)

SURROUNDED BY SUBSIDIES

The perquisites that come with IMF employment are equally impressive. Staffers park their cars in a subsidized garage, eat in a subsidized cafeteria, and, if they come from abroad, have home leave for themselves and their families once every two years. Foreigners also receive a tidy education allowance; the Fund will pay up to $2,000 a year of the cost of sending a child to a U.S. primary or secondary school.

Expatriates may elect to send their kids back home or to a third country for their education; in that case, the allowance rises to a maximum of $2,500 plus two round-trip air fares to Washington each year. And while it will not help out with college education in the U.S., the Fund will pick up $2,500 of the tab for overseas college costs.

The most visible manifestation of the good life is Bretton Woods, the IMF's own country club, or "recreation center," as the Fund stoutly insists on calling it. It was built in 1968, in part because of the bias of neighboring clubs against the IMF's African and Asian employees.

The club, which is open to employees of the World Bank and other international organizations, is set on 282 acres of rolling Maryland countryside, about forty minutes northwest of the city. It includes such amenities as an eighteen-hole golf course, a swimming pool, a soccer field, and fourteen tennis courts, twelve of them lighted. The locker rooms and clubhouse are relatively austere; even so, the low level of dues makes the club a fantastic bargain for most staffers. An IMF messenger can pay as little as $2.20 a month, and a department head pays no more than $42. At Chevy Chase, a private club, the going rate is $83.33 a month plus a $5,000 initiation fee.

The psychic rewards of working at the IMF also seem to be considerable. "I've been present at the birth and collapse of governments," says a Fund economist with obvious enthusiasm. "I can't think of any other place where, at my age, I could be dealing with the top people in so many different countries. This job lets me see how the world really works."

It sounds hard to believe, but some IMF staffers have registered unhappiness with their lot. There was a flare-up in April, 1976, after U.S. Secretary of the Treasury William E. Simon decided to resist a proposed pay increase for Fund employees. Perhaps because he had learned that more than ninety people at the Fund had higher after-tax incomes than U.S. Cabinet officers, Simon persuaded his fellow finance ministers to hold the pay hike to a cost-of-living increase—which was some three percentage points less than the Fund's management had originally requested.

THE BUREAUCRATS AND THE BEAST

Simon's behavior did not sit well with the IMF staff. Contending that they had not received a real increase in three years, about half the staff staked a one-day strike, during which they received expressions of support from many colleagues on assignment overseas. In Washington, some staffers were said to be calling Simon the "Beast of the Hour"—and he retorted, in an official press release: "I hope I get to pick the type of animal because I guarantee you it will be carnivorous."

Tensions about compensation have persisted at the IMF, particularly among some non-U.S. staffers. Many of them argue that they should receive separate allowances. They complain that their spouses are not allowed to work in the U.S. and they cite the fact—or presumption—that they could earn even more themselves if they had other jobs back home.

Right now the controversy is relatively quiescent. In April, Managing Director H. Johannes Witteveen, along with World Bank President Robert McNamara, established a joint study group that will broadly review compensation at both institutions. The group is supposed to report in November.

In the meantime, however, a small group of staffers, concerned about employees' lack of "contractual rights," is examining the legal basis for a bona fide employment contract covering all staff members. If that should come to pass, the Fund would, in effect, have a union shop—a development its founders could hardly have envisaged back in 1944.—ALEXANDER STUART.

[From the Chrisitian Science Monitor, June 24, 1977]

ARE GLOBAL BUREAUCRATS OVERPAID?

(By John Dillin)

WASHINGTON.—High salaries at world organizations supported in part by U.S. taxpayers are causing growing concern in Congress and the White House.

Pay scales of the World Bank, the United Nations, and other organizations such as the Inter-American Development Bank far exceed those for similar jobs in the U.S. government.

For example, a U.S. federal employee with a GS–18 rank earns $47,500 as a result of this year's pay hike. But at the World Bank, pay for the same type of job is $74,100, and at the United Nations it is $85,500.

Bureaucrats drawing salaries of $40,000 and up have become commonplace. Figures compiled here show that at the World Bank, the average salary for more than 2,000 members of the "professional" staff—administrators, educators, economists, agriculturalists, and others—is $48,050 a year.

Such salaries in world organizations often are supplemented by fringe benefits such as country club privileges, education allowances, subsidized cafeterias, and free trips around the world.

Salary levels run ahead of federal scales at every grade, but are most pronounced at the upper end.

This strikes some members of Congress as ironic. Speaking on the Senate floor, Sen. Jesse Helms (R) of North Carolina said:

"If these international organizations are truly set up to help the poor, as is so often proclaimed, let us at least see to it that the funds of the taxpayers of the United States going into these organizations in fact go to the poor, and not to line the pockets of international bureaucrats."

A report on international banks by the Committee on Appropriations put it bluntly:

"Our investigations have led us to the distressing conclusions that, rather than the rewards of a career of service, there is found in the banks a broad policy of personal enrichment. The personnel management practices of the banks are suggestive of an institutionalized granting of lifetime sinecures where extraordinarily high salaries are commonplace and the pursuit of fringe benefits has been raised to a form of art."

CARTER: I AGREE

President Carter shares some of these concerns. At a recent Cabinet meeting, the President is reported to have scrawled, "I agree with the Congress—JC," on a memo about World Bank salaries.

But there is some question about how hard the United States can push to change the salary structure—and how far U.S. officials will go by pushing for change.

In response to criticism, various world bodies defend themselves by observing that they must compete for the most talented professionals. That requires, they say, competitive salaries.

At the World Bank, most professionals are recruited when they are about 40 years of age, near the high point of their careers. Without adequate salaries, the quality of recruits for the bank could diminish, it is argued.

The U.S. Treasury, which oversees agencies such as the World Bank, has conducted a

quiet effort to control salaries since the Ford administration. For example in 1976, former Treasury head William Simon won the title, "beast of the hour" from striking employees of the International Monetary Fund. Mr. Simon had lobbied successfully to block a 16 percent pay hike. He held it to 5.8 percent.

The new Assistant Secretary for International Affairs at the Treasury, C. Fred Bergsten, says: "We think we have made a lot of progress."

SOME SUCCESS NOTED

Mr. Bergsten cites successful efforts last month to kill a move by the Inter-American Development Bank to raise the $74,750 annual salaries of the executive directors. However, other staffers won a 6.8 percent raise.

The Treasury is making hold-the-line appeals to other nations to bring salaries of world bodies into line with civil service pay in member countries.

But chances for substantial change appear slim. For the most part, influential nations such as West Germany, Japan, and Brazil want even higher salaries.

For example, West Germans tell the U.S. Treasury that World Bank salaries are too low to attract their citizens away from high-paying jobs at home. Japan uses the same argument.

As a result, those two nations have very little representation among the staffs of key agencies.

Congress has acted, somewhat tentatively, to send the world organizations a message. Capitol Hill, of course, controls the purse strings.

In a vote June 14, the Senate adopted a proposal by Mr. Helms directing the President to take all appropriate action to keep salaries and benefits of world banking organizations comparable to those in "private business and the United States Government."

COMPARISON CITED

However, the note about "private business" confused some observers. They said that private industry often pays higher wages than government. Mr. Bergsten, noting that section, said:

"The inference would be that things aren't too badly out of line."

Senator Helms, however, retorts: "I certainly do not agree with Mr. Bergsten's view. . . . I think they are out of line, or else there would be no great difference between U.S. Civil Service and the international financial institutions."

The notation about private industry was inserted only to give the banks some "flexibility," Mr. Helms notes. "I construe my amendment this way: the international financial institutions are on notice. If the great disparity continues to exist, surely Congress will not sit idly by."

A report by the General Accounting Office, Mr. Helms says, found that the average World Bank salary was 57 percent higher than U.S. Civil Service.

World Bank officials note that while they pay more than private industry for some lower-level positions, they still trail private industry badly at upper levels, where recruitment can be most difficult.

Similar jobs—different pay

U.S. Civil Service (GS–18)	$47,500
World Bank	74,100
United Nations	85,500
Organization for Economic Cooperation and Development (OECD)	86,450
European Community	92,600

Average figures, not adjusted for cost-of-living differences between Washington, New York, Paris, and Brussels.—U.S. Treasury Department.

Mr. INOUYE. Mr. President, the committee recognizes that the Congress of the United States cannot control the salaries of the employees of the international financial institutions. We do believe, however, that it is within our jurisdiction to require readjustment of the excessive salaries being paid the U.S. executive directors and their alternates who are charged with representing the interests of the United States within the banks. We, therefore, recommend bill language which would limit the payment of U.S. fiscal year 1978 contributions to the banks until the compensation of these individuals is adjusted to a level not exceeding their superiors at the Department of the Treasury of the United States.

Frankly, we hope that this action on the part of the United States will begin to bring about a public awareness of this issue in other nations. Once this happens, we know that necessary across-the-board adjustments will take place and these institutions can return to the high calling for which they were created.

Mr. President, I conclude my remarks by reporting on the efforts of the committee to resolve a long-standing difficulty relating to the reprograming of funds. As you know, for many years, the foreign assistance program was presented on an "illustrative basis." Program presentations made to the Congress were not inclusive of all projects and purposes for which funds were to be obligated. The Congress, therefore, had incomplete knowledge of the ultimate purpose for which it was being requested to appropriate funds.

Moreover, the agencies and departments which administer foreign assistance could, under the procedure which then prevailed, reprogram funds at will, without even informing Congress. Projects and proposals which had never been scrutinized or approved by the Congress could be funded without the knowledge of Congress.

In an effort to improve oversight of foreign assistance programs, the Congress, beginning in fiscal year 1975, requested the agencies and departments concerned to detail the specifics of individual items for which funds were to be obligated. Furthermore, once specific items and specific amounts had been justified, approval of any proposal to fund a new item was to be sought by notifying the Appropriations Committees 15 days in advance.

Early in 1977, the committee sought to obtain reaffirmation that the agencies concerned would honor any committee objection which might be raised to a new item not previously presented to the Congress or to an increase in the level of obligations for items approved by the Congress at lesser amounts. When the committee did not receive this reaffirmation, an atmosphere of uncertainty was created as to the extent to which certain agencies were willing to submit reprogramings on other than an informational basis. Under these unfortunate circumstances the committee saw no alternative other than to propose bill language restricting fiscal year 1978 funding only to those particular items and amounts which had been formally justified in the annual congressional presentation.

Mr. President, I urge the Senate to support the committee on this issue. If the Congress is to retain the right to object to departures from programs approved by and funded by the Congress, this language must stand until the committee obtains satisfactory agreements which will preserve these rights for the Congress. If the Congress is to be assured that the programs it funds are carried out, and alternatively, if the Congress is to be certain that programs it does not choose to fund are not funded, this language must, for the present, be kept intact. The Committee on Appropriations is striving to reach an agreement with the executive branch which will preserve these rights. I hope that the Senate will support us in our efforts.

U.P. AMENDMENT NO. 738

Mr. INOUYE. Mr. President, as authorized by the Senate Committee on Appropriations, I send to the desk modifications of the bill as reported by the committee.

The conference report on several related authorization bills had not been filed at the time the committee made its report and these modifications are responsive to actions taken by the authorizing committee.

The PRESIDING OFFICER. The committee amendments will be so modified.

Mr. ALLEN. Will the Senator yield?

Mr. INOUYE. I am happy to.

Mr. ALLEN. These modifications may cut back to the authorization figure the amount of certain of the appropriations contained in the appropriation bill. Is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. Would the Senator state what the modifications are?

The PRESIDING OFFICER. The clerk will state the modifications.

The assistant legislative clerk read as follows:

On page 4, line 3, strike out "$243,850,000" and insert in lieu thereof "$234,350,000".

On page 9, line 2, before the period, insert a colon and the following: "*Provided further*, That none of the funds appropriated under this heading may be used to carry out those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission".

On page 9, line 5, strike out "531" and insert in lieu thereof "497, 531, and 533".

On page 9, line 6, immediately after the second comma insert the following: "and those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission,".

On page 9, line 7, strike out "$2,222,200,000" and insert in lieu thereof "$2,202,200,000".

On page 16, line 14, strike out "$688,350,000" and insert in lieu thereof "$677,000,000".

Mr. ALLEN. Mr. President, I called attention last night on the floor, as reported in the RECORD, to an instance of $20 million where the appropriation exceeded the authorization.

I believe it was on the African fund. That was $20 million.

What other adjustments are being made and what are the amounts of the adjustments?

Mr INOUYE. The reduction of $9.5 million in UNRWA.

Mr. ALLEN. That is where the appropriation exceeded the authorization?

Mr. INOUYE. The Senator is correct.

And a reduction in security supporting assistance of $20 million. This was part

of the Southern Africa Special Requirements Fund.

Mr. ALLEN. Is that the $20 million to which I alluded a moment ago?

Mr. INOUYE. And the correct reference numbers in the authorization bill.

Mr. ALLEN. In other words, some $50 million by which the appropriation bill inadvertently exceeded the authorization?

Mr. INOUYE. I will not say "inadvertently," because of the——

Mr. ALLEN. I said it to be charitable to the committee.

Mr. INOUYE. We did this with great deliberation, but we could not wait for the authorizing bill, because if we waited for the authorizing bill we would not be standing here today.

Mr. ALLEN. I see.

Mr. INOUYE. But in order to insure that there would be some appropriation measure before the beginning of the fiscal year, we are taking this unusual step.

Mr. ALLEN. I thank the distinguished Senator. He is always gracious and kind.

Mr. INOUYE. Mr. President, I ask unanimous consent that Mr. Doug Racine of Senator LEAHY's staff and Miss Allyn Kreps of Senator CRANSTON's staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded for purposes of amendment as an original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. ALLEN. Did the Chair understand that an objection was raised?

The PRESIDING OFFICER. The Chair has announced that an objection was heard.

Mr. ALLEN. I thank the Chair.

Mr. INOUYE. Mr. President, may I inquire of the Senators from Virginia and Alabama, would they object to considering those sections that are not in controversy as far as they are concerned?

Mr. ALLEN. I have no objection to considering them, assuming we could locate some that we have no objection to. I think it would take a little while. I am not trying to be facetious.

A number of amendments we would not object to. As a matter of fact, the first amendment to consider would be one on page 3 having to do with allocating certain funds for 40-, 30-, and 20-year loans.

I have an amendment I would like to offer to that at the proper time which would not change the dollar amount, but take $100 million that is being set aside for 40-year loans, no payment on the principal for 10 years, and move that number over to the 30- and 20-year category.

I would hope that distinguished Senator might accept that amendment. But that is the first amendment I would like to have consideration on.

Mr. HARRY F. BYRD, JR. I might say, if the Senator will yield, I have six or seven amendments which I would like to have removed from any unanimous-consent arrangement and have those amendments accepted.

Mr. INOUYE. I thank the Senator.

Mr. HARRY F. BYRD, JR. I think if we move along, there may be others.

I might say, not just the Senator from Alabama and the Senator from Virginia have some reluctance to have the committee amendments agreed to en bloc, but there are others also, I understand, who have some reluctance. But as we move on, I think we can work it out.

Mr. INOUYE. I am certain we can.

Mr. SCHWEIKER. I yield myself 6 minutes.

Mr. President, at the outset of my remarks on this measure, I express my appreciation to the distinguished chairman of the Foreign Operations Subcommittee. Throughout the consideration of this bill he has been fair and considerate, and I dare say that no other subcommittee chairman has examined his responsibility in more depth than has the senior Senator from Hawaii. I appreciate the thoughtful consideration he has given to my views; and although we occasionally disagreed, for the most part we were able to come to a position that we both could support.

The task given us in considering the budget request covered in this bill was a difficult one. At a time when the administration was calling for less spending for health, farm, and water resource programs, the request for new budget authority in this bill is nearly $2 billion more than enacted last year, a whopping 35-percent increase. Our westerners are being told that water projects, whose costs are directly repaid by users or whose benefits save millions of dollars in flood damage, are too expensive. Our farmers, presently getting prices for their crops that are below production costs, are being asked to wait another year before adequate farm legislation is enacted. Health costs are way up, but the administration is opposing funding increases some of us feel are desperately needed. Against this background, the administration is asking for substantial increases in virtually every account contained in this bill, with an especially large increase being asked for international financial institutions.

Mr. President, I do not see how we can ask the American people to sacrifice on important domestic programs, and at the same time ask them to pay for substantial increases in foreign assistance programs. Therefore, the recommendations the committee has made in reducing the request by $524 million is, I believe, a justifiable position. The level of spending recommended by the committee will insure the continuation of a strong foreign assistance program. The cuts we recommend will not adversely affect any of our foreign aid programs, but it will surely be a strong message to the administration that so long as belt tightening is necessary in domestic programs, that belt tightening must also apply to foreign aid.

While the committee received pressure to uphold the budget request, it was confronted by just the opposite pressure from the House of Representatives. Although the House Appropriations Committee reported a bill calling for $7.046 billion, just under the $7.074 billion recommended by the Senate Appropriations Committee, in action on the floor of the House a provision was added to the bill which mandated an additional 5 percent cut. This action further reduced the total by $352 million, making the Senate Appropriations Committee's recommendation $380 million over the amount passed by the House. Mr. President, as in the past, the committee did not accept the percentage cut passed by the House. Instead, we went over each of the line items and today we bring to the Senate recommendations which the committee feels are both dollar prudent and program wise. Parenthetically, Mr. President, I should emphasize that I believe we will have to resist any sizeable dollar increases here on the floor if we are going to persuade the House that its 5 percent cut is unwise.

Mr President, of great concern to the committee, as well as Congress and the administration, were questions of providing aid to various countries which are human rights violators. While the committee sympathizes with those who would cut aid to various countries on human rights grounds, it did not feel that this appropriations bill was a good vehicle to rationally develop human rights policy. Therefore, the committee calls upon the President to develop and apply such a policy, and I strongly suggest that those Senators interested in this matter read the section in our report dealing with this subject.

I call the attention of the Senate to the recommendations the committee has made with respect to the Sahel development program. This program is an effort to bring about major development assistance to the area of the Sahel which has suffered the results of severe drought during the last several years. This effort will be a coordinated program of bilateral assistance from various countries, and it is anticipated that it will take 10 years and cost between $10 to $15 billion. This bill provides $50 million for the United States' first contribution to the program. At the hearings held earlier this year, administration witnesses indicated that the U.S. share of the entire program would be about 10 percent, for a total of $1 to $1½ billion over the life of the program. It was my strong feeling that we should not commit ourselves to a level any higher than 10 percent, and therefore I offered an amendment which would so limit our contribution. This amendment was accepted by the committee as an indication to the administration and the other countries participating in this program that, while the United States supports this effort, it will not provide the 30 percent to 50 percent of the funding that has heretofore been the practice in many development programs.

It puts people on notice, before the project starts, as to what our percent share is, what we are going to contribute, and what the other countries must do if this project is going to succeed, and that

is 90 percent. That is a departure from our past policy of normally starting projects and hitting the United States for 20, 30, or 40 percent of the bill and asking us to swallow it because, in effect, we have agreed to it, even though Congress had no say on what that agreement was.

This is an attempt to give Congress a say before the spending starts and to put all the parties on notice that this is our share and that this is the ceiling of our share.

Mr. President, a matter of particular concern to me is the amount of funds which we provide to the various international financial institutions. When the legislation authorizing contributions to various IFI's was before the Senate, I offered an amendment which would have made it the Sense of the Congress that such contributions be no more than 25 percent of the total funds contributed by all donors, which is not the case now. While my amendment was accepted by the Senate, it was greatly watered down and made meaningless in conference action. Therefore, this legislation contains a sense of the Senate provision that contributions to future replenishments of the IFI's should not exceed the percentages enumerated in the provision.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHWEIKER. I yield myself 3 additional minutes.

We want to put the administration on notice that they cannot write a blank check for Congress and spend money we have not yet appropriated. I think this is an equitable way to proceed, and we cover that by a sense of the Senate provision.

Mr. President, the time has come for the Congress to play a role in the commitment of U.S. taxpayer funds to these banks. With a limit on the percentage of our contribution, the administration will have a guideline above which it can not go and then come back to Congress and declare that if its commitment is not met, the prestige of the United States will suffer, which is often the case and often the way Congress is put in a bind to cough up the blank check. Too often, Congress has been told that a certain amount of money must be provided for these purposes without having played a role in determining the level of such commitments. The most recent example of this is the fifth replenishment of the International Development Association. This bill contains $800 million for IDA V, which is one-third of the total commitment. Congress was told by the administration that providing even $1 less than this amount would all but destroy our international financial relations. It is exactly this type of situation which will be avoided by providing a limit to the commitment of our taxpayers' money. To emphasize that position, the committee did not provide the full budget request for the IDA IV replenishment which, ironically, has not been paid off, even though we are committing ourselves to IDA V. I think this cutback in the IDA IV replenishment will give notice that we are taking very seriously any commitments made carte blanche or without consulting the proper authorities in making financial obligations for the legislative branch.

I hope this action and what I have just said will be taken very seriously by the administration.

Mr. President, while I am talking about the international financial institutions, I think that it should be pointed out that this area is one I believe needs thorough study, both by Congress and the administration. Should the mammoth debts developing countries hold go bad, the United States would stand to lose billions of dollars because we are the major shore upon which these institutions rest. It is my strong belief that we must be extremely cautious about getting more involved with these institutions. I fully intend to look into this matter thoroughly, and I urge the other committees of Congress that have jurisdiction to do likewise; because in many cases, while we have not put up actual dollars, we have promised them callable capital, which means that if they get into a panic situation, and if the less developed countries cannot pay their bills and go to those financial institutions, those financial institutions can then come to us and say we are committed to pay x amount of dollars that the IFI's need. That is a pretty bad way to run a railroad.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHWEIKER. I yield myself 3 additional minutes.

If we are going to avert a panic situation that could be triggered by one of the less developed countries running on one of the institutions, we had better look carefully at these financial obligations.

Mr. President, before closing I would like to discuss one further recommendation the committee has made. That is the recommendation that the U.S. contribution to the U.N. development program be $110 million, $20 million below the President's budget, but an increase of $10 million over that appropriated last year. In earlier action, the Senate approved the State-Justice-Commerce and Judiciary appropriations bill excluding approximately $20 million for technical assistance for developing countries which was contained in the assessed budgets of various U.N. specialized agencies. The committee felt that technical assistance should be provided as a voluntary contribution through UNDP. Unfortunately, this position was lost in conference, despite five GAO reports, a report by the Government Operations Committee, and stated U.S. policy that such assistance should go through UNDP as the sole development agency of the United Nations. This approach not only makes good managerial sense, but it makes good commonsense. Until the administration succeeds in getting the various specialized U.N. agencies away from ballooning their own development assistance programs, the committee did not feel it prudent to substantially increase our contribution to the U.N. development program.

Mr. President, I believe the committee has reported a balanced bill and I urge my colleagues to support it.

The PRESIDING OFFICER. Who yields time? The clerk will report the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 11, strike "$535,000,000" and insert "$515,000,000";

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. ALLEN. Mr. President, no one has been assigned to control the time in opposition to the committee amendments.

The PRESIDING OFFICER. In that situation the time in opposition will be controlled by the minority manager of the bill or his designee, the majority leader.

Mr. ALLEN. I do not care to discuss that amendment. The amendment I care to discuss is on page 3, line 17.

Mr. INOUYE. Mr. President, if there is no objection to the amendment set forth on page 2, line 11, I am willing to yield back the remainder of my time.

Mr. SCHWEIKER. I yield back my time.

Mr. ALLEN. May I make this suggestion to expedite matters, that we approve en bloc all committee amendments down through line 16 on page 3.

The PRESIDING OFFICER. Is there objection? If not, all committee amendments through and including page 3, line 16, are agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 2, line 11, strike "$535,000,000" and insert "$515,000,000";

On page 2, line 11, beginning with the colon, strike through and including line 13;

On page 2, line 16, strike "$160,600,000" and insert "$155,000,000";

On page 2, line 16, beginning with the colon, strike through and including line 18;

On page 2, line 21, strike "$100,000,000" and insert "$95,000,000";

On page 2, line 16, beginning with the colon, strike through and including line 25;

On page 3, line 3, strike "$80,000,000" and insert "$75,000,000";

On page 3, line 3, beginning with the colon, strike through and including line 6;

On page 3, line 10, strike "$95,000,000" and insert "$90,000,000";

On page 3, line 10, beginning with the colon, strike through and including line 12.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 17, following "1978" insert a colon and "Provided, That of this amount $175,000,000 shall be available for loans repayable within forty years following the date on which the funds were initially made available under such loans; $37,000,000 shall be available for loans repayable within thirty years following such date; and $98,500,000 of such amount shall be available for loans repayable within twenty years following such date";

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. Does the Senator want time?

Mr. ALLEN. Yes. Inasmuch as the Senator from Pennsylvania seems to be for these amendments, I wonder if he would agree that someone else might control the time?

Mr. INOUYE. Let the Senator from Alabama control the time.

Mr. SCHWEIKER. I would like to reserve that on some individual amendments. In this case I would be glad to do that.

Mr. ALLEN. Mr. President, will the Senator yield me 15 minutes?

Mr. SCHWEIKER. Which amendment is the Senator discussing?

The PRESIDING OFFICER. There are 30 minutes allotted in opposition.

Mr. SCHWEIKER. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHWEIKER. Does he not have that time then if he is in opposition?

The PRESIDING OFFICER. Not unless it is yielded.

Mr. SCHWEIKER. I yield him 30 minutes.

Mr. ALLEN. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I wish to discuss this amendment, and at the end of the time set aside for the consideration of amendments, I have an amendment to the amendment that I would like to offer.

What this amendment does is to take the sum of $310,500,000 for loan allocation and development assistance and it stipulates that $175 million of this amount shall be available for loans repayable within 40 years following the date on which the funds were initially made available under such loans.

We do not have any such loans available to Alabama citizens, Alabama companies, Alabama municipalities, counties or the State. It is provided that these loans, I believe these particular loans, require no payment of principal for 10 years, and in some cases the interest is 1 percent—I think it gets up as high as 3 percent possibly. It would seem to me that there at least ought to be a reallocation of this money.

The Appropriations Committee has set the sum of $310,500,000 as the amount available for this purpose. I am not quarreling at this time with that tremendous amount of money which is going to be loaned as soft loans, loans where there is very little hope of their ever being repaid.

To set aside of that amount $175 million for 40-year loans, with nothing paid on the principal for 10 years, and an interest rate of a very small figure—I am not absolutely sure, it could be as much as 3 percent, and I think actually it is around three-quarters of 1 percent, with a quarter of 1 percent service charge, something in this area—and a little later on I am going to offer an amendment to reallocate that and move $100 million—I am not quarreling with the amount set by the Appropriations Committee, although I disagree with this practice, but accepting that as a sound judgment, questioning the judgment of setting aside well over half of this money for 40-year loans, my amendment I will later offer, after the time has expired on this amendment, would take $100 million of the $175 million and divide that between the 30-year loans and the 20-year loans, which would raise the 30-year loan figure to $87 million, and would raise the 20-year loan-figure to $148 million, leaving the 40-year loan figure at $75 million, which is still too high. It ought to be none. They ought not to make 40-year loans, in my judgment, on this giveaway basis.

(Mr. SARBANES assumed the chair.)

Mr. ALLEN. All through the reading of these reports, reading about the activities of these various international banks, international financial institutions, it seems all of them have a soft loan window, I will say to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.). They have got a front window there where they make pretty decent sort of loans that have some chance of getting the money back. But at the back door they have a soft loan window where countries can come and apply for the soft loans. A soft loan means just like its name would imply. It is not a hard business deal. It is a soft loan. It is going to, in effect, be given away in all likelihood.

That is the way, I believe, the International Development Agency, if I am not mistaken, is the soft loan window. I am not expert in this window, but I am outraged at this foreign aid program, and this giveaway program, and at some time during the night I am going to point out the very fine work of the Senate Appropriations Committee in analyzing this whole foreign aid program.

I believe this appropriation is some $7 billion, but the committee is frank and candid enough to point out other billions tucked away in other items adding up to some $15 billion this year in foreign aid. At a time, Mr. President, when we are running a trade deficit of around $25 billion this year, how should we be expected to dump billions of dollars overseas in the form of outright gifts in these soft loans?

I do not believe the Senate should approve this particular item, and they are all through the bill. This is just one little spot that we are calling attention to at this time. I do not believe we should set aside this $310 million. If we have $310 million in this spot in the bill—and there are billions in other pages here—but if we have $310,500,000 to loan for development assistance, let us have a little better allocation of it than over half of it going to a 40-year loan.

So my amendment which I am going to offer later would not change the amount at all but it would say cut down a little bit, gentlemen, than the 40-year loan. Let us move that over into a somewhat more businesslike approach. Thirty years is a long time. Move the $50 million over to the 30-year soft loan window.

I guess they have a window there where you apply for soft loans at 40 years and another window probably a soft loan for 30 years and 20 years.

I just believe it should be reallocated.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ALLEN. Yes; I am delighted to yield.

Mr. HARRY F. BYRD, JR. I support the position of the Senator from Alabama and I think it is a sound one. The Senator from Alabama speaking of the low-interest 40-year loans, the first 10 years no payment on the principal, brings to mind that yesterday our Treasury Department sold a few billion dollars in Government paper and paid 7.2 percent to get that money. That was relatively short-term money.

Mr. ALLEN. Yes.

Mr. HARRY F. BYRD, JR. I think it was for 3 years. They paid 7.2 percent to borrow the money. That money that has been borrowed at 7.2 percent will be going to these international financial institutions to be loaned, you might say even given away, to the heads of foreign governments at an interest rate of something around 1 percent, between 1 and 3 percent. That does not seem reasonable or fair to taxpayers of our country.

I think the Senator from Alabama has a good amendment and I would hope that the committee would accept it.

Mr. ALLEN. I thank the distinguished Senator from Virginia who has taken the lead so many times in trying to have some degree of fiscal responsibility in our Government and fiscal responsibility in our foreign assistance program. I appreciate the comments that he has made.

Possibly this will not be the time to inject this item into the proceedings, but all Senators are in receipt or will soon be in receipt of a letter dated August 4, 1977, from our distinguished colleague over in the House, Mr. C. W. (BILL) YOUNG from the State of Florida. He has a pretty much of a scare story here, but he is able to back it up with a Xerox copy of what you might call the docket of the International Development Association and International Bank for Reconstruction and Development. It gives their pending docket of application for loans, and he points out that contrary to the intent of Congress, as expressed in both Houses of Congress, the World Bank through its soft loan agency, the IDA, seems to have on the docket of loans under consideration a loan to Vietnam, of all places, and it is interesting here, and at the proper time I am going to offer this document for the RECORD if there be no objections. But Mr. YOUNG says:

> How would your constituents feel if they knew that the World Bank through IDA, International Development Association, its soft loan window, is planning to send American money to Vietnam?

That is right. The Vietnamese will pay no interest, will pay no interest for 50 years, according to Mr. YOUNG, who is a very distinguished Member of the House, and I feel that his investigation has convinced him that that is the correct statement.

In our foreign aid appropriation bill this year Americans will be contributing $950 million hard-earned dollars to the same IDA of the World Bank, and this is one of the projects that they are going to fund.

I remember reading in the newspapers long before I came to the Senate where President Johnson was talking about the Mekong Delta over in Vietnam. He was going to put in dams and going to develop that river system there sort of like the TVA.

I see the Mekong Delta is coming into

play here on this loan application, being considered there right now.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. HARRY F. BYRD, JR. Does the Senator think it will be named the Ho Chi Minh Dam?

Mr. ALLEN. I imagine it would. He is sort of a local hero over there, but not much of a hero over in this country, I will say to the distinguished Senator. That will probably be what it is named.

As to this project, and they are a little close-lipped about the amount here, just for example they specify the first country on the docket is Botswana and they say about $10 billion for livestock development to Botswana and they have the Botswana Development Corp.—BDC—and there they have about $5 million, and then the Ministry of Local Government and Land, and they are down on an application that the World Bank is considering and put it on the docket, and I am sure if they had not put it on the docket they would not be considered. But they put in on the docket. Then the Minister of Education is coming in for $10 million there in Botswana and then there is another project here, PAL one project to be defined. They have not even defined it, and I guess they will let the money out before they even define what the project is.

They say that is going to be determined, the amount is.

Then they provide $20 million to Thailand. I might say this: It is interesting here that one column says "amount and probable lender," and if you see one that sounds like it might be fair to construct that there might be some chance of getting it back for the lender, they put in parentheses "bank." That is the World Bank that is going to make that loan. But these other loans that there is no chance of ever getting back, for instance Bangladesh here, the lender there is IDA.

India is down for multiple millions. They start off with marine fisheries. This is where our money is going. This is not just fancy, this is hard-earned dollars, contributed in large degree, in substantial degree, by the American taxpayer.

India is down initially for $25 million for marine fisheries, development of harbors and shore facilities, provision of credit for fishing vessels.

You know, it is hard for a man down on the gulf who has a little boat to get financing, but here they are going to finance fishing vessels over in India.

Mr. HARRY F. BYRD, JR. Mr. President, in that connection, it might be well for the record to show that up to this point the United States has given to India $9,494,800,000, according to page 10 of the committee report.

Mr. ALLEN. That is certainly interesting. It looks like the ones we do the most for, I say to the distinguished Senator from Virginia, respect us the least and are the least friendly to us—proving the old adage, of course, that you cannot buy friendship. A country cannot buy friendship; an individual cannot buy friends. Here we are, I assume, trying to influence people and win friends, but I submit we are not doing it.

Mr. HARRY F. BYRD, JR. Would the Senator from Alabama not feel that after the expenditure of $231 billion in foreign aid, and our country having less friends today than probably at any time in the past, we should have learned by this point, if not many years earlier, that we cannot buy friendship? And yet we continue to do that.

Mr. ALLEN. It looks like we would learn our lesson some day, but we are hard to teach, it seems to me.

Of course, it has been said that those who do not profit by the lessons of history are destined to make the same mistakes again; and apparently we are continuing duplicating the mistakes we have been making through the years.

Here is $120 million, still in India. This is on a 500 MW thermal station at Trombay. That may be a typographical error; it may be Bombay, but it says Trombay.

I am not very familiar with India; I have not been making many of these junkets over there, and I am not very familiar with that. That may be Trombay, or it could be Bombay, but at any rate, $120 million to India; and significantly, parenthetically it states "bank." So the World Bank is going to make that loan. And what is the comment of IDA here? "Appraisal mission in the field."

The appraisal mission has already gone out. I do not know what they would see out there, because they have not got the money yet to build a power installation; but the appraisal mission is out there in the field.

Now, here is $200 million from the IDA for India. A soft loan, Mr. President. A soft loan, not a hard loan. Not one that has got any chance of being paid back. Two hundred million dollars, Agricultural Refinance and Development Corporation.

Our farmers are in desperate plight, and they are calling on their Government and their elected representatives in Congress to give them some assistance to avoid bankruptcy as a result of the worst drought in the history of this country. And what are we doing with our money? Two hundred million dollars, by IDA, for agricultural refinance.

I bet you there are a lot of farmers down in Mississippi and Alabama and Virginia who would like to have their loans refinanced, because they are in serious danger of losing their farms as a result of their economic plight. But here we are, through the IDA, which does have participation by other countries, providing $200 million for agricultural refinance development, and they do not even call it a hard loan. It is done by IDA, indicating there is little chance of getting it back.

Then here is rural electrification. All of this is in India, for developing India. Rural electrification, $70 million by the bank, $80 million by IDA.

Now, the next item, $100 million, IDA, water supply, Bombay II. I did suspect a typographical error higher up in the column, where it said $120 million to Trombay. I would have thought they would be able to spell correctly the name of the city to which they were lending $120 million, but they get it right on the $100 million loan. But $300 million to Bombay, from IDA.

Another $100 million project, the BEMA irrigation project.

You know, some of these projects that we are financing around the world, halfway around the world, it seems to me are somewhat similar to the projects that we see cancelled here in our country. But here we are, through the IDA, lending money by the hundreds of millions of dollars in India. That is what we are appropriating money for in this tremendous bill, a $7 billion bill, give or take a few hundred million. Or give a few hundred million; it would not be take a few hundred million. And that is only part of our foreign aid program, as the committee points out. The total that they have been able to find and report on is over $15 billion for foreign aid. It is in the report; I am not making the figure up.

So this is what we are doing under the foreign aid bill.

Here is Nepal, up to $15 million, by IDA, for rural development. I have been on the Agriculture Committee for over 8 years, and we always talk about rural development, going to do something in the interest of rural development, rural development.

We have a fine program on paper, but they do not get around to funding it a great deal. But through the IDA we can lend $15 million to Nepal and not worry about it at all.

Let us consider Mr. YOUNG's statement further.

At this very moment—

And this letter was written today, August 4, 1977—

an official from the World Bank is in Hanoi negotiating with the Vietnamese, and how much would you bet that the negotiations do not include any discussion about Americans still listed as missing in action.

Every time they want concessions out of the United States they somehow or other are able to locate a few more bodies of American soldiers to return to us in black bags. They will keep dribbling those bodies out as long as they think there is any chance of getting millions and billions of dollars from the American taxpayer.

According to World Bank officials the loans are only in the "preliminary" stages but I would respectfully suggest that the stage of the loans is more than just preliminary because already they have determined the locations and types of projects that they intend to fund. In one case, they plan to rehabilitate and expand some coal mines in Quang Ninh Province.

We have a lot of coal mines here in this country. With our tremendous energy crisis and our need for more production from our coal mines, we need to rehabilitate some of our mines, to make them safer for the miners, to enable the mines to give greater production. But here we are, through the IDA, consideraing a loan to Vietnam to enable it to rehabilitate and expand some coal mines in that country.

I just do not believe the American taxpayer looks with favor on these foreign aid giveaways. It is beginning to dawn on the American taxpayer that, in many

cases, we do for people in foreign countries what we are unwilling to do to assist our own citizens.

In another project in Vietnam, they are planning on improving and expanding an irrigation and drainage facility in the Mekong Delta. That is right, a water project.

They talk about judging these water projects on a cost-benefit ratio. I wonder what benefits we are going to get from this irrigation project, this water project, in the Mekong Delta. I ask that question of the Senator from Virginia. I believe that cost-benefit ratio would not be very favorable to the American taxpayers. The benefits would be zero.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. ALLEN. I thank the Chair. I was wondering when the Chair was going to end my time. I appreciate the Chair calling my attention to the expiration of my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, what is the pending business?

Mr. ALLEN. Is all time yielded back, Mr. President?

The PRESIDING OFFICER. The pending business is the committee amendment on page 3 of the bill, line 17.

Mr. INOUYE. Mr. President, I move the adoption——

Mr. ALLEN. Mr. President, has the time been yielded back? My time has expired. Has the other side yielded back their time? If so, I have an amendment to offer.

Mr. INOUYE. I have not yielded back my time.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired. The time of the manager of the bill, the Senator from Hawaii, has not expired.

Mr. INOUYE. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 29 minutes.

Mr. INOUYE. May I inquire of the Senator from Alabama what is his wish?

Mr. ALLEN. Sir?

Mr. INOUYE. What does the Senator wish to do?

Mr. ALLEN. As soon as the Senator yields back his time, I have an amendment which I discussed somewhat, reallocating this 40-year loan money.

Mr. INOUYE. May I yield to the Senator to submit his amendment at this point?

Mr. ALLEN. If the Senator will yield back his time, the amendment would be in order. Otherwise, it would not be in order. I am ready to offer the amendment as soon as the Senator yields back his time. I am not permitted to do so until he does so.

Mr. INOUYE. Mr. President, the discussions for the past 30 minutes spoke of loans to the Mekong Delta, projects in Hanoi, a $150 million grant to the city of Bombay, and on and on. I am certain the Senator from Alabama was referring to the International Development Association or the World Bank. The section which he wishes to amend, Mr. President, has nothing to do with the World Bank or the International Development Association. In fact, the section he proposes to amend relates to bilateral loans provided by the United States to certain selected countries.

So that I may carry on a discussion, will the Senator from Alabama yield for a few questions?

Mr. ALLEN. Yes.

Mr. INOUYE. What does the Senator wish to change between line 17 and line 23? I am in a quandary because there is nothing before us.

Mr. ALLEN. I am not able to offer my amendment until the time on the committee amendment has expired. I sought to explain——

Mr. INOUYE. I realize that. As the Senator knows, he was speaking of the banks in his discussion.

Mr. ALLEN. I stated it might not be the appropriate time to mention that, but I was speaking about the overall program generally of which this is a part.

Mr. INOUYE. On line 17——

Mr. ALLEN. As I stated, what I seek to do by the amendment is to reduce the $175 million in 40-year loans, to cut that down to $75 million, and move that $100 million in 40-year loans and divide it equally between 30-year loans and 20-year loans. That is the purpose of the amendment. It does not change the figures set by the distinguished Senator's committee.

Mr. INOUYE. Mr. President, I wish to point out that since the Senator from Hawaii has been chairman of this subcommittee, we have made diligent attempts to reallocate the loan portfolio under development assistance. Last year, for example, AID proposed that every dollar proposed for loans be for 40 years. As the Senator from Alabama is well aware, we made changes to that, setting aside a certain portion for 40 years and another portion for 30, and 20 years respectively.

This year, once again the proposal made by AID was quite liberal. For example, for 40-year loans they have provided $234.5 million. This we reduced to $175 million. We increased the 20-year loans from $53.5 million to $98.5 million.

I would like the Senator from Alabama to know this committee has been rather diligent in this area in protesting and insisting that not all loans be on a 40-year basis.

Because of the Senator's discussion on the IDA and the World Bank, I think it should be emphasized once again that these are bilateral loans, and these are not multilateral international financial institution loans.

Mr. President, throughout this debate we will be speaking of the providing of assistance to so-called developing countries, the poor nations of this world.

It is true that by providing this assistance we will be fulfilling a tradition of the United States, the humanitarian tradition.

Although the committee report does not suggest otherwise, there is also a practical motive on the part of the United States in providing these loans, these grants, and these assistance programs.

This Nation of ours is affluent; this Nation of ours is powerful; and this Nation of ours is influential throughout the world because we have been blessed with technical know-how, with the skills in manufacturing, and with the ability to sell our products.

Mr. President, in order to sell our products, we must have raw materials made available to us. For example, if some of the southern African countries should decide tomorrow that they have no desire to deal with the United States, we may find ourselves being denied certain materials that are essential to the industries of the United States. Detroit will be out of business in a week. Most of our steel plants will be out of business in a month.

Consider, in addition, the most important weapons system we have in the defense of the United States, the Minuteman missile, the intercontinental ballistics missile. In the development and production of this ICBM, the weapon that we hope will save democracy for posterity, we can provide only about 15 percent of the material required. Eighty-five percent of all the parts, all the raw material, has to come from foreign suppliers.

We are not self-sufficient. We have very little aluminum in the United States, almost no bauxite whatsoever. If the countries with bauxite should decide that they will have an embargo, we can count on Detroit going out of business in short order.

We have almost no manganese in the United States. We have no platinum. All of these exotic minerals that are necessary, that provide the raw material for technology, are presently found in most of the underdeveloped, poor countries. If we should decide to divorce ourselves completely from these underdeveloped countries and decide to live on our own, the affluence we enjoy today will soon be a thing of the past. The influence we enjoy in the nations will soon be a thing of the past. The power that we have will be soon minimized.

It is not only the goodness of our heart; it is not only the humanitarian aspect of the foreign assistance program that leads us to set aside $7 billion. We do have self-interest in this. We are hoping, first, to create markets for our products. We cannot sell to countries without money. The only way they will have money is for us to assist them to develop themselves.

(Mr. ZORINSKY assumed the chair.)

Mr. INOUYE. Second, in order to keep our factories running, in order to keep our smokestacks billowing, in order to keep our assembly lines running, we need bauxite, we need manganese, we need titanium, we need chromium, we need copper, we need platinum. There is not an adequate supply of any of these materials in the United States.

Not too long ago, the citizens of the United States were coming close to hysteria when, as a result of the Yom Kippur war in the Middle East, we suddenly came face to face with an oil embargo. Men and women found themselves lined up in front of gas stations 12 hours before they opened, guarding their positions with shotguns, just to get that tank of gas. We thought that our economy was

coming to a complete halt. Imagine what would happen if the countries that are presently selling us bauxite—a very simple commodity—decided not to sell us any more bauxite. That one item alone would just about shut down the so-called industry of the United States.

This foreign assistance bill is not just a gift; it is, in many ways, an investment. The committee report points out correctly that, since the end of World War II, the United States, in its great generosity, has provided the many nations of this world an amount in excess of $231 billion. The largest sum was the initial amount we contributed in the Marshall plan. Oh, there was a little ulterior motive on our part. We could have, if we wanted to, let our European allies and friends die on the vine and be consumed by the Communists. We could have done that. But we knew that for our economy to exist, for our position of power to exist, and for democracy to continue, our European friends had to be assisted. So we poured in billions of dollars.

As a result, today, we have free countries serving, if I may use the word, as a barrier between us and the Eastern Socialist countries.

It has cost many dollars—many, many tax dollars. But I doubt that any Senator would come up and say it was not well spent. I think it was a good investment. In many ways, the dollars that we are passing out, may be a crucial investment, an investment that may be the difference between dealing with us, trading with us, or not trading with us.

So, Mr. President, I hope that, as we consider this bill, we keep in mind that, while we are fulfilling our humanitarian desires, we are, at the same time, investing in the future—not just of the Africans or the Latin Americans or the Asians, but in the future of Americans.

I hope that we consider this measure calmly, and, if I may use the word, with calculation, because, believe me, Mr. President, what we are proposing here is in the best interest of the people of the United States. It is in the best interest of the future of our country. I hope that the Senate will support the committee amendment.

We have studied this bill very carefully. We have considered all consequences, and we feel that the adjustments we have made are reasonable, workable, and will serve the best interests of our country.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Hawaii has 16 minutes remaining.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I am prepared to yield back the remainder of my time.

Does the Senator wish some time?

Mr. SCHWEIKER. No.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on——

UP AMENDMENT NO. 739

Mr. ALLEN. Mr. President, I send an amendment to the desk.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 739.

The amendment is as follows:

On page 3 line 17 strike "$175,000,000" and insert in lieu thereof the following "$75,000,000."

On page 3 line 20 strike "$37,000,000" and insert in lieu thereof the following "$87,000,000"

On page 3 lines 21 and 22 strike "$98,500,000" and insert in lieu thereof "$148,500,000"

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield such time as the Senator from West Virginia may require.

ORDER TO CALL UP CONFERENCE REPORT ON CLEAN AIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at any time after 9:30 p.m. today Mr. MUSKIE be recognized to call up the conference report on clean air.

Mr. ALLEN. Reserving the right to object, and I shall not object, that does not give any indication as to when it might come up. I wonder if he might be willing to state that he would bring it up sometime between 9:30 and 10, would that be satisfactory?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. It hangs over us without knowing when it is coming up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at any time between 9:30 and 9:45—the reason I say 9:45, that will allow the Senator, if he wishes——

Mr. ALLEN. Yes. Of course, he could bring it up at any time without this permission, of course, on getting recognized.

Mr. ROBERT C. BYRD. The Senator did not yield the floor. We could not take the Senator off his feet.

Mr. ALLEN. Yes.

Well, these amendments are limited to 15 minutes.

Mr. ROBERT C. BYRD. Yes, the Senator from Alabama told me that.

Mr. ALLEN. I have no objection to the clean air conference report coming up.

Mr. ROBERT C. BYRD. At any time between 9:30 and 9:45?

Mr. ALLEN. That is perfectly all right.

Mr. ROBERT C. BYRD. Or thereafter, Mr. MUSKIE be recognized to call up the clean air conference report?

Mr ALLEN. Well, that gets back to the original request.

Mr. President, I have no objection.

Mr. MUSKIE. If the Senator will yield, it might be a good time to clear the air.

Mr. ALLEN. I agree.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7797.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield such time as I may require.

Mr. President, this amendment does not take issue with the amount made available for this item of appropriation under the heading, "Loan Allocation Development Assistance," and this is just one of many such appropriations throughout the bill.

On this particular allocation, the Senate committee added an amendment to the language of the House which had merely set the amount that could be lent at $310.5 million. Then the Senate committee divides that money up on the basis of length of term of the loan and somewhat over half of the $310 million is allocated to making 40-year loans, with the first 10 years nothing on the principal being paid and very small interest.

I do not know the exact figure. I could ask the distinguished manager of the bill. Somewhere between 1 and 3 percent.

The distinguished Senator from Virginia just pointed out the Treasury sold some bills or notes just the other day paying over 7 percent interest.

They set aside $175 million for 40-year loans, $37 million for 30-year loans, and $98 million for 20-year loans.

All this amendment respectfully requests is that not such a large concentration of loans be made in the 40-year classification. That loan is unheard of in the United States, a 40-year loan to an individual.

I read in the paper that homeowners—I am always paying on my mortgage of many years ago—new home purchasers, are paying, American citizens are paying, 9.5 percent for home loans, and here we are lending $175 million for 40 years at little or no interest.

Now, is that fair to the American taxpayer? I submit it is not.

My amendment does not change the $310 million set aside for this purpose. But it does say, "Please cut down this $175 million in 40-year loans and make it $75 million and take that $100 million and divide it between the 30-year loans and the 20-year loans."

That is all it does. It still leaves $75

million for making 40-year loans. That should be enough.

I note here they slight the 30-year loan category anyhow. Instead of putting $175 million in that area, they just have $37 million in 30-year loans.

So this amendment would move $50 million from the 40-year basis, put it over in the 30-year basis, and it would take $50 million, not new money but money moved from the other item, and put it in the 20-year loans.

So when we got through, we would have this money available for loan on these giveaway terms. $75 million for 40-year loans, $87 million for 30-year loans, and $148 million, almost half, for 20-year loans.

It would seem to me, Mr. President, that would be fair and more equitable, fairer to the American taxpayer than having such a high concentration of 40-year loan money.

That is all the amendment does, Mr. President, and I hope that the Senate will agree to the amendment.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I have discussed this amendment with the ranking minority member of the subcommittee.

As the Senate is well aware, it was the Foreign Operations Subcommittee that took the initiative 2 years ago to bring about this type of allocation. As the Senate is well aware, the House bill provides that all the loans be on a 40-year basis.

Although I could spend 30 minutes now to argue over differences in the numbers and suggest that instead of $75 million, it go up to $100 million, I do not think that type of discussion would serve any good purpose.

In principle, following the subcommittee's actions, I agree with the amendment submitted by the Senator from Alabama.

However, in order that the record be clear, and since during the debate much was said about IDA and the World Bank, I hope Senators will note that these loans are bilateral loans, loans that are made directly by the U.S. Government to recipient countries.

It also should be noted that a study of the project requests would indicate that there are no large dams, no large infrastructure projects here. These are moneys to provide food. These are moneys to provide nutrition.

These are moneys to bring about population planning, so that we can cut down the dangerous growth we are now experiencing in the world, whereby in less than 40 years we will find the world's population being doubled; and most conservative estimates indicate that, if nothing were done, in 5 years we will be experiencing one of the worst famines in the history of mankind.

That is what we have in here—moneys for population planning, moneys to assist people in setting up farms so that they can feed themselves, money to improve their diet.

Mr. President, this is very important. If we do not assist these people in improving their diets, we may find the next generations of this world made up of men and women whose brain cells have not fully developed because of a lack of adequate nutrition.

It also should be noted that at the present time there is the so-called ratio between "haves" and "have-nots." By "haves" I am talking about countries with a per capita income of $500 a year or more. Those are the "haves" people. Those with less than $500—$150 a year per capita income, $200 a year—are the "have-nots." On that basis, the "have-nots" constitute more than 65 percent of the world's population and the "haves" constitute 35 percent.

If we let the present trend continue without any change in the growth in the world's population, if we permit young children to grow without proper nutrition, we will soon reach the stage—rather shortly—when that ratio will no longer be the acceptable ratio of 35 percent to 65 percent. It may become 10 percent "haves," much of it in the United States, and 90 percent "have-nots." That is a dangerous division. That is a volatile division. This program hopes somehow to bring about a resolution of that problem.

The economic assistance program that these loans speak of also covers health. There are today millions of Africans who are suffering from river blindness. In the United States, if 10,000 Americans were to become blind in a year, we would become concerned, and we should be concerned. But there are parts of Africa where in 1 year hundreds of thousands of people become blind. We hope to bring adequate health care to these people.

We are also spending some money for education and human resources. The safeguard of democracy is an educated population. A population that would be susceptible to dictatorship is an illiterate one. We hope to bring about an educated population in the world.

Also, we are providing technical assistance to those countries that need such assistance.

So I hope the Senate will not think these are loans to build huge dams, that these are loans for Hanoi and for the Mekong Delta. These are very basic loans. This is the heart and soul of the foreign assistance program.

With this in mind, I hope the Senate will approve the whole bill as we get to the end of it, because this section speaks of the spirit of this bill. As I said earlier, I do not wish to get into a colloquy as to whether it should be $37 million or $87 million or $98 million or $148.5 million. So long as the spirit remains here, the Senator's amendment does not diminish the gross amount; and because of that, I am prepared to accept the amendment and take it to conference.

I have been advised that the amendments relating to $37 million and $98 million have not been called up yet. May the clerk read the pending amendment, so that we will make certain that we know what we are dealing with?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 17, strike $175 million and insert in lieu thereof $75 million.

On page 3, line 20, strike $37 million and insert in lieu thereof $87 million.

On page 3, lines 21 and 22, strike $98.5 million and insert in lieu thereof $148.5 million.

Mr. INOUYE. Mr. President, as manager of the bill, with the concurrence of the ranking minority member, I am prepared to accept the amendment.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

I appreciate the courtesy of the distinguished manager of the bill and the distinguished ranking minority member of the committee for agreeing to accept this amendment.

Commenting on the distinguished manager of the bill's statement about this having nothing to do with IDA and other programs that the Senator from Alabama discussed, the Senator from Alabama sought to make clear that in addition to addressing his remarks to the amendment itself that he was going to try to discuss the impact of the entire foreign aid bill package.

He has no time on the bill allocated to him. He had no opportunity to make an opening statement. The only opportunity he has to discuss the bill itself is on time allotted on the amendments. So it is true the Senator from Alabama discussed the soft loans, the loans in prospect for Vietnam from the International Development Association, because he was using this time so as not to be required to request time on the bill, using such time as he had on the amendment to discuss not only the pending amendment but the whole scope of the bill, the whole scope of the program.

As I pointed out, later this evening, if I have the opportunity, I will discuss the whole range of the foreign aid appropriations we are making.

Later I will have an opportunity when I bring up one of the amendments on which there is no time limit, I will be able to discuss the bill fully and completely at that time, I imagine. But at this time, I am just using such segments as I have allotted to me on the amendments that we will discuss.

I appreciate the acceptance of the amendment, and we have a number of other amendments we will offer after the committee amendments have been approved. But we are still working on the committee amendments. We want to scrutinize them to see why they left out some of the provisions of the House bill and why they added amendments to this bill, and we want the committee to justify some of these amendments. That is the reason we are asking that they be considered separately.

I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the amendment, the committee amendment, as amended by the Allen amendment, be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 3, strike out "$243,850,000" and insert in lieu thereof "$234,350,000".

The PRESIDING OFFICER. That is a committee modification.

There is 1 hour equally divided on this amendment. Who yields time?

Mr. HARRY F. BYRD, JR. If I have time, I yield it back.

Mr. INOUYE. Does this amendment cover down to line 8?

The PRESIDING OFFICER. Time is equally divided between the Senator from Pennsylvania and the Senator from Hawaii.

The assistant legislative clerk read as follows:

"$234,350,000, of which amount "$500,000 shall be for the Organization of American States Special Cultural Account, $500,000 shall be for the Organization of American States Special Development Assistance Fund, and $1,500,000 shall be for the Organization of American States Special Multilateral Fund:";

Mr. SCHWEIKER. I would like to ask the distinguished Senator from Virginia how much time he would like?

Mr. HARRY F. BYRD, JR. Up to that point through page 4, line 10, the Senator from Virginia would need no time.

Mr. SCHWEIKER. How much time would the Senator like?

Mr. HARRY F. BYRD, JR. I beg pardon?

Mr. SCHWEIKER. I will be glad to yield the Senator time.

Mr. HARRY F. BYRD, JR. The Senator from Virginia will need no time until you finish the amendment up to and including line 10.

Mr. INOUYE. Would the Senator accept those two amendments?

Mr. HARRY F. BYRD, JR. Accept the amendments up through line 10.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 9, strike "$120,000,000" and insert "$110,000,000";

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 10, following "Program" insert a colon, and *"Provided further*, That no part of any such appropriation for "International organizations and programs" may be available to make any contribution of the United States to the United Nations University";

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me 2 minutes?

Mr. INOUYE. I am very happy to yield, sir.

Mr. HARRY F. BYRD, JR. I want to commend the committee on this amendment. The Senate in a previous year approved a similar amendment, knocking out funds for a United Nations University in Tokyo.

I especially commend the distinguished Senator from Arizona, Mr. DECONCINI, for the effective work he has done in leading opposition to using American tax dollars to fund such a project.

I commend the committee on this amendment. I move its adoption and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that consideration of the committee amendment appearing on page 4, lines 11 through 14, be temporarily set aside for not more than 15 minutes to consider the following amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 14, after the word University, strike through and including line 25.

Mr. INOUYE. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

On the surface, Mr. President, this looks like it might be a good amendment, but it is not. I would say that if the House language had appropriated these funds to these various organizations and then been stricken out that would be fine, but it does just the reverse of that. The striking out of the amendment would make the sky the limit within the limitation of the appropriation.

The House very wisely put a cap on how much could be given to the United Nations Children's Fund, $25 million. They put a cap of $1 million, that is a ceiling of not more than $1 million to be available for the United Nations educational and training program for Southern Africa. Not more than $500,000 shall be available for the United Nations Namibia Institute. Not more than, which is certainly the greatest amount, but without a ceiling they could give them whatever they wanted to out of this appropriation of $110 million.

So the House language is very constructive and what the committee amendment would do in striking this section out would be to lift the ceiling on these recipients. Instead of Namibia Institute being limited to $500,000, they could raise it whatever they wanted to if the Senate committee amendment is allowed to stand. This language is good language that the committee seeks to strike out.

Let us go on. Not more than $3 million shall be available for the United Nations Decade for Women. What in the shall be available to United Nations Decade for Women, $3 million. That would seem to me to be a pretty good sum for the Decade for Women, though it is a highly worthy organization, I am sure. But I would think the $3 million should be an adequate limit.

But if you go along with the Senate committee you are going to lift that ceiling, and it appears they could give them anything they wanted within the $110 million appropriation because these are words of limitation. These are words of limitation .

Let us go on: Not more than $2 million shall be available to United Nations Capital Development Fund. Without that they could raise it. Let us keep these words of limitation.

Not more than $5,600,000 shall be available to strengthen the International Atomic Energy Agency's safeguard program out of the total contribution made available to the agency.

So, they could shift these figures around, double pet projects in here, take from a worthy cause if they wanted to, but the House language is good and the Senate committee seeks to strike out that language.

I hope that these words of limitation will not be stricken out, that they will be retained in the bill.

I reserve the remainder of my time.

Mr. INOUYE. Mr. President, the subcommittee recommended to the full committee and the full committee agreed that we should cross out this total section for the following reasons: The United Nations Namibia Institute and the United Nations Capital Development Fund were not discussed by the committee, were not presented to the committee, and were not part of the President's budget request.

Therefore, we decided that, in order

to learn from the House their rationale and justification for including such items, we thought that we would put the entire section in conference. That was our purpose.

It was not to give an open door, because there is a gross limitation on this, but we wanted to know why the House had included the United Nations Namibia Institute, when the President has not requested it, and the same for the United Nations Capital Development Fund. These are not provided for in our gross figures.

So I would hope the Senator would accept that, and give the conferees an opportunity to get together with the House conferees and learn from them why they included these items. Then, if they are not justified, arrangements can be made on the other funds.

Mr. ALLEN. I disagree with the reasoning of the distinguished Senator. I feel that these limitations are good, and if the language is allowed to stand, these items would not be in conference. The House has seen fit to impose a ceiling on these items.

Take, for instance, the Namibia Institute. That is located in Zambia, and it is limited in the bill to $500,000.

What is the Namibia Institute? It is an institute in Lusaka, Zambia, operates on a $17 million United Nations budget intended to span the next 5 years, is admitting only Namibians to its courses. This information is from the Christian Science Monitor, a leading nonpartisan publication.

Politically, it seems closely allied to the SWAPO, the Southwest Africa Peoples Organization, the leading liberation movement in Namibia.

Mr. Geingob, the director of the Institute, a former SWAPO representative in the United States at the United Nations, said 80 percent of this year's intake of students comes from that organization.

If we knock out these limitations, it would be possible to give this institute as much of the $110 million as they wanted to. I would think that a half million dollar gift from the American taxpayers would be a pretty nice little gift for the Namibia Institute. But without this ceiling, they could give anything they wanted to, the United Nations could.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. INOUYE. As manager of this bill, I would be very pleased to accept an amendment on line 17, beginning after the last word, to read as follows:

None of the funds made available by this section shall be for the Namibia Institute.

And on line 20, for the last two words, "not more," to substitute therefor:

None of the funds made available by this section shall be for the United Nations Capital Development Fund.

And restore the rest of the House language.

Mr. ALLEN. What about the United Nations Decade for Women? You keep that in?

Mr. INOUYE. Yes; that has been justified, and was requested by the administration.

Mr. ALLEN. You keep the $3 million ceiling in?

Mr. INOUYE. Yes, that would remain unchanged.

Mr. ALLEN. In other words, you would leave the cap on the Namibia Institute, the cap on the United Nations Decade for Women——

Mr. INOUYE. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. INOUYE. No, just delete that. None of the funds to be spent for the Namibia Institute or for the United Nations Capital Development Fund.

Mr. ALLEN. I am talking about the United Nations Decade for Women.

Mr. INOUYE. No, I would rather that was left in there, because that was justified before the committee, and requested by the administration.

Mr. ALLEN. What about the cap of $3 million?

Mr. INOUYE. We will have the cap; not more than $3 million.

Mr. ALLEN. Very well. In other words, we would request the parliamentarian or the staff to draft an amendment that would limit the United Nations Decade for Women to $3 million, to say that the Namibia Institute would get nothing, and the Capital Development Fund would get nothing; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. I would certainly agree to that. I wonder if we could have a short quorum call while we draft the amendment.

THE SENATE IS MAKING A MISTAKE ON THE UNITED NATIONS UNIVERSITY

Mr. HUMPHREY. Mr. President, I want to take this opportunity to express my concern over the action of the Appropriations Committee in prohibiting the use of funds in H.R. 7797 for our contribution to the United Nations University.

I appreciate the concerns raised by my distinguished friend and colleague, Senator DECONCINI, during our discussion of this matter in the authorizing legislation.

However, I want to briefly recapsulize my reasons for attaching importance to U.S. participation in this endeavor.

Our Government has made very strong representations to the Government of Japan in support of the United Nations University.

When the Vice President of the United States visited Japan shortly after taking office, he discussed this matter with Japanese officials and indicated the strong support of the Carter administration for a $10 million U.S. contribution to UNU.

A number of nations already have made substantial contributions to the endowment fund that will provide the resources for UNU. That fund, hopefully, will reach $500 million.

Austria, a very little country, has already pledged $470,000, Ghana, in Africa, $2.5 million, Saudi Arabia $5 million, Sudan, $5 million, Venezuela $10 million and Japan $100 million.

These are just examples of what has been pledged thus far. A total of $123.2 million has been pledged of which an actual $63.4 million has been paid.

Mr. President, the United Nations University was created as an autonomous body under U.N. General Assembly auspices in 1972. It became operational in 1975 with the appointment of a rector and the establishment of the University Center in Tokyo.

It provided a new mechanism on a technical, nonpolitical level to promote collaborative research and intellectual cooperation in seeking practical solutions to pressing global problems. The United Nations University is not a traditional university, but rather consists of worldwide networks of advanced research and training institutions. Financed entirely by voluntary contributions, the university relies almost entirely upon income derived from its endowment fund. It is giving special attention to research program priorities of developing countries. Today, agreements have been reached with three institutes engaged in applied research programs in nutrition and postharvest food conservation to enable them to serve as centers for establishing networks for collaborative research with other facilities in Africa, Asia, and Latin America.

Mr. President, from the outset Japan has taken the lead in supporting and promoting the United Nations University. Since we have long encouraged Japan to take on greater responsibility in multilateral affairs, as it is now doing with the UNU, a U.S. contribution would demonstrate our active interest in the University and our endorsement of Japan's leadership role in its program.

To place the philosophy behind the need for a United Nations University in its proper perspective, I would like to quote from a lecture delivered on May 13, 1976 by Dr. James M. Hester, an American, who is rector of the university. In his remarks to the fifth Sir David Owen memorial lecture given at University College in Cardiff, Wales in the United Kingdom, Dr. Hester pointed out:

Let me begin by placing the establishment of the University in the context of the times in which we live. It is no exaggeration to say that our world is in the midst of one of its greatest metamorphases. A concatenation of crises—political, social, economic and environmental—has contributed to the dissolution of the post-World War II international order and the creation of a global condition in which new uncertainties, new attitudes and new possibilities abound. These crises are caused by a multitude of forces at work in the world, three of which are particularly significant.

The first of these is the pressure of sheer numbers of people that the planet is being called upon to feed, shelter, clothe, and provide employment. In a short 25 years there may be close to seven billion people on the planet, all seeking a fair share of what may well be finite resources for survival. Eighty percent of these will be living in Third World countries where resources are already in short supply.

A second force is that of industrialization that not only brings material progress but also despoils the environment, consumes staggering quantities of dwindling resources, and also causes massive migrations of peoples to cities that cannot provide them decent lives. Here again, it is the Third World that is feeling the major deleterious effects. In 1959, there were only 70 cities in the world with a population of a million or more. By the year 2000, it is projected that there will be 276 cities of a million or more in the Third World alone. The industrial revolution has brought extreme affluence to some nations, but to others it has brought staggering social problems and human misery.

A third pressure, "the revolution of rising expectations," is the outcome of miracles in communications and travel that enable people everywhere to see how others live and encourage them to want some or all of "the good life." Unless some accommodations are made to this aspiration, massive confrontations between the poor and the rich are not surprising prospects for the future.

These transformations are results of man's activities. Ultimately, it will also be human beings whose actions will determine whether the future these forces affect holds improved existence of chaos. So profound and far-reaching are these changes that it would seem most improvident to rely solely on traditional concepts and institutions designed for other conditions to cope with them.

It is for this reason that the United Nations University has been established as an instrument through which scholars can seek to achieve more genuinely international perspectives on problems of survival and development than national institutions can provide. The creation of the United Nations University is a response to the recognition that the major problems confronting humanity are not the problems and responsibilities of single nations, however rich or poor, but the entire interdependent world.

Mr. President, I believe Dr. Hester's remarks place the university, and the need for such a mechanism in its proper perspective.

Today, we are debating a foreign aid bill that attempts to address pressing needs which not only impact on our own quality of life but also, if not resolved, can threaten the United States as a viable society.

Foreign aid is like an insurance policy. You do not like to put out the money, but you know if you do not the future disaster you are insuring against will be much more costly had not you made the prudent and wise investment earlier.

We are attempting to invest in the future of this world. We are trying to insure our children and our children's children against the prospects of disaster.

How many times must we learn the bitter lesson that we cannot exist in this world as an island of wealth in a sea of poverty. Every time the American consumer fills up his car, clothes his children, buys food for his table and heats his home we are repeatedly reminded of the interdependent nature of our world.

How many disasters do we have to endure before we realize that it is much cheaper to practice a little preventive medicine is always much cheaper than treating a disease which has grown out of control—grown out of control only because we failed or refused to take preventive measures.

Mr. President, I believe the United Nations University and U.S. support for the institution is in our national interest. The world will not go away because Congress hides its head in the sand.

Unfortunately, I regret that we may be seeing the demise of UNU because of congressional action—because we were not willing to make a little investment in our future and our children's future.

While I will not attempt to restore funds for the United Nations University, I did want to express my concern over this action taken by the Appropriations Committee.

The PRESIDING OFFICER. The question recurs on the previous committee amendment on which the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

The result was announced—yeas 50, nays 35, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—50

Allen	Glenn	Morgan
Bartlett	Hansen	Moynihan
Bayh	Hatch	Nelson
Bentsen	Hayakawa	Nunn
Biden	Heinz	Proxmire
Bumpers	Helms	Roth
Burdick	Huddleston	Sasser
Byrd, Harry F., Jr.	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott
Cannon	Johnston	Stafford
Church	Leahy	Stevens
DeConcini	Long	Stone
Dole	Magnuson	Talmadge
Domenici	Matsunaga	Thurmond
Eagleton	McClure	Tower
Garn	McIntyre	Wallop
	Melcher	Zorinsky

NAYS—35

Anderson	Hart	Muskie
Baker	Haskell	Packwood
Brooke	Hatfield	Pearson
Chiles	Hathaway	Pell
Clark	Hollings	Randolph
Cranston	Humphrey	Ribicoff
Culver	Javits	Riegle
Danforth	Kennedy	Sarbanes
Durkin	Lugar	Schmitt
Ford	Mathias	Stevenson
Gravel	McGovern	Williams
Griffin	Metzenbaum	

NOT VOTING—15

Abourezk	Eastland	Percy
Bellmon	Goldwater	Sparkman
Case	Laxalt	Stennis
Chafee	McClellan	Weicker
Curtis	Metcalf	Young

So the committee amendment on page 4, line 10, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

CLEAN AIR ACT—CONFERENCE REPORT

Mr. MUSKIE. Mr. President I submit a report of the committee of conference on H.R. 6161 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SASSER). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 3, 1977.)

PRIVILEGE OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. MUSKIE: John Yago, Philip Cummings, Leon Billinges, Haven Whiteside, Karl Braithwaite, Charlene Sturbitts, Katherine Cudlipp, Richard Herod, Lee Rawls, July Parents, Richard Herod, Richard Harris, Sally Walker, Kevin Cornell, Mike Hathaway, Ron Katz and James Range; Mr. STEVENS: Steve Berlitz; Mr. HAYAKAWA: Tom Carter; Mr. McCLURE: Mike Hathaway.

Mr. MUSKIE. Mr. President, may I have the attention of the Senate?

Mr. McINTYRE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SASSER). The Senate will be in order. Those Senators engaging in conversation will retire from the Chamber to the cloakroom, and all others will be seated.

The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, the conference agreement on the Clean Air Act represents a culmination of 2½ years of effort on the part of the House and Senate to develop answers to questions which have been raised in the process of implementation of that complex and far-reaching law. The agreement is a compromise in every sense of the term. It does not represent everything that either body wanted. It does represent a middle ground between two bills which took very different approaches to very controversial issues. Later in this statement I will elaborate on each provision, its basis and the intent of the Congress it expresses. These remarks will be essential to administrative and judicial understanding of the agreement before the Senate because so much was created in the conference which either was not in the Senate bill or was not in the House bill or was so markedly different from either bill as to have little or no legislative history.

All and all, Mr. President, this bill represents something less than that which we set out to do in 1970. Under this legislation, the Administrator of the Environmental Protection Agency will have fewer tools to accomplish the job of protecting America's health and welfare from the threat of air pollution. The Administrator will be more reliant on

local and State capabilities to create the institutional and infrastructural changes necessary to achieve clean air. And perhaps this is as it should be. We have learned that there is little political support for inartfully conceived national measures which require people to change their way of living. We have learned that where change can be made it must be made with the full understanding and support of the people who are affected by that change. It is fair to say that the National Government has the capacity to regulate major direct sources of air pollution. It is fair to say that the national government has the authority to provide the informational support that local and State governments need to determine the best options for controlling air pollution. And it is fair to say that the National Government may be the most effective center for enforcement activity to ensure equity among regions, maximum progress toward emission reductions and a limitation on the natural tendency to play one locality off against another to lessen the degree of air pollution restriction required.

But beyond that, Mr. President, we have learned a great deal since 1970 about what it will take to clean up the Nation's air specifically, and to protect the environment generally. We have learned that any lack of enthusiasm or negativism or sign of weakness on the part of the national program directors is magnified tenfold at the local level. We have learned that only with maximum political, technical and education support can the local political leaders who must inevitably bear the burden for change withstand the kind of pressures which arise when change is undertaken.

We saw the concept of transportation controls—that is the idea that people would have to change the way they move about—irreparably damaged by the initial neglect of the program by national leadership. We saw many of the programs envisioned by the 1970 act fail before they were even tried because of a lack of commitment by national leadership. We have seen the results of the failure to fund the kinds of ancillary programs needed to make possible changes in transportation patterns and transportation modes. And we have seen a lack of commitment on the part of Federal agencies charged with other responsibilities raise doubts about the efficacy of environmental controls.

So, Mr. President, we begin again. This time with a more specified law; this time with a greater burden on localities; this time with more tools and more flexibility. But still with a very basic objective—the objective of protecting the health and welfare of the people of this land. No one, and I underscore no one, should be led to believe that this act by its modification of the 1970 law means an abandonment of those objectives. There is built into this new law the very necessary provisions which will force communities to make choices, the result of which will be protection of public health.

By the fact that the Federal Government has withdrawn from the field of regulation of certain kinds of land use-related activities, and certain kinds of minor emitting sources, and certain kinds of small businesses does not in any way suggest that decisions regarding these facilities and sources can be ignored. Air quality-related land use decisions, regulation of small sources, vapor recovery from moderate to small-sized service stations all continue to be tools in the State and local air pollution control bag. That they cannot be imposed by the Federal Government is only a recognition that the manner by which they are imposed, the pace at which they are imposed, and the degree to which they are imposed should be made as a part of a local balancing judgment.

This law will use as the basic regulatory mechanism the one logical tool which is available for protecting the environment. This law will establish environmental protection—achievement of public health-related air quality standards—as a price for new economic activity. A community which chooses to languish in its current economic situation will need to make few of the really tough decisions on matters such as land use and indirect source controls. The power of the Federal Government to force these kinds of judgments has been seriously restricted. But a community which is anxious to attract new capital and relies on heavy economic activity will have to show that it has a plan to achieve health standards by specific dates and at each point that major new economic activity becomes attractive, that plan will have to be checked and the time schedule reviewed to assure that a community is fulfilling its commitment.

It was alleged that the 1970 act was a no-growth bill and subsequently alleged that the amendments to the act had no growth implications. Nothing could be further from the truth. These amendments will make clear that it is through the anticipation of growth that the public can begin to expect local political leaders to press for clean air measures. These amendments seek to turn the momentum for economic activity into a force of clean air. These amendments expect the great genius of American enterprise to become the great advocate for land use controls, indirect source regulation, changes in transportation patterns, development of public transportation systems, development of alternative systems for moving people about, and the host of other measures which are absolutely essential to protection of public health.

As a result of these amendments, developers should become advocates of land use regulatory policy, car dealers and auto clubs should become advocates of inspection and maintenance programs, electric utilities should become advocates of conservation and the host of business and enterprise should become the spokesmen for mass transportation, change in growth patterns, deemphasis on the use of the private automobile when effective substitutes can be found.

These amendments tell the American people that the Congress got the message; that the National Government realizes that change without an adequate underpinning cannot be forced; that local decisions, locally arrived at with proper incentives, can achieve the goals we share. It will now be in the hands of the new administration, with new Administrators committed to these objectives, to assure that communities and States get the kind of technical, financial, and educational systems necessary to meet these purposes.

I, for one, am satisfied that this can be done, with or without the cooperation of the major polluting industries. They have had their day in court and they have had their days in Congress. The policy has been laid down, the methods have been established, the penalties for noncompliance are available and we should now be able to watch the implementation of these measures with little further appeal to the Congress from those powerful sources who for so long have been committed to making this policy fail.

This conference report is a composite that meets the public interest test. Most important of its provisions are, in my opinion, Senate requirements applicable to stationary sources. These provisions seek to put an end to the first round of efforts to circumvent emission control requirements by establishing new deadlines for existing industrial sources and penalties for failure to meet those new deadlines.

Mr. President, there are clear messages in this bill. The first message is to the Nation's major industries. It can be taken from the amendment to which I just referred. That message is that the time for talk is over—the time for compliance is here. The health of the people can wait no longer. And the conferees have a similar message for the Nation's auto companies. We do not want to know what cannot be done; we want to see what can be done. We are tired of their foot dragging. We are tired of their constant effort to solve problems by lobbying Congress instead of developing technology. I think my colleagues can appreciate the sense of frustration which comes from over 10 years of these confrontations.

I sense no stronger feeling from the collective Senate conferees than a desire to resolve the final auto emissions requirement. We know that the technology exists to produce cars meeting standards which will provide a significant degree of health protection. It is out there. It has been tested. It is being used and it is being used without unacceptable cost or fuel economy penalty. I say to Detroit that the time has come to show us that the job can be done by American manufacturers on American cars.

At this point I would like to discuss some of the major provisions of the conference bill.

The conference bill addresses the regulation of stationary sources in numerous ways.

DELAYED COMPLIANCE ORDERS

With respect to the approximately 1,400 of 23,000 major emitting facilities not in compliance with requirements under the Clean Air Act, the conference bill adopts an expeditious cleanup schedule.

This section of the bill establishes a procedure which limits the authority to issue administrative orders allowing a delay in compliance to narrowly defined circumstances. These requirements shall govern all enforcement orders issued by

either State or Federal authority which extend the time for compliance. Such orders must contain final compliance dates that are as expeditious as practicable, but in no event later than 3 years from the date attainment of the national ambient air quality standards would otherwise have been required. Should a source wish to comply by use of innovative technology, however, it may be granted up to 5 years to achieve final compliance. A source would not be eligible for a delayed compliance order if the delay is requested for convenience or for economic advantage.

The State retains primary responsibility for enforcement. Issuance of a delayed compliance order must be preceded by notice and opportunity for a hearing. The EPA Administrator may also issue an order with the consent of the Governor of the State in which the source is located. A Governor may withhold consent only to prevent the Administrator from issuing an extension less stringent than any extension the State would issue. In addition, the Administrator may object to a State order within 90 days, and must then immediately issue his own order to the source involved.

Nothing in this provision is intended to affect the ability of States to revise their State implementation plans under section 110. To the extent that a noncomplying source is affected by a substantive revision making its emission limitations more stringent or imposing new requirements on the source, then the appropriate elements of the delayed compliance order for the source would also be changed accordingly. Thus, a source would be eligible for a delayed compliance order with a final compliance date 3 years from the date the source is required to comply with the new requirements.

The issuance of a delayed compliance order shall serve as notice for purposes of noncompliance penalties should the affected source not comply by the applicable date. A source receiving an order must comply with all interim requirements which the Administrator deems reasonable and practicable. The Administrator may revoke an order if he determines that the conditions upon which the order was based no longer exist or that the source is in violation of interim requirements. Where a source wishes to comply by replacing the facility, terminating operations, or completely changing the production process, it may receive an extension requiring no interim steps before final compliance if it agrees to post a bond or surety equal to the cost of compliance had the owner decided to comply by installing control equipment.

Compliance schedules established through administrative orders before enactment of the provision must be modified to reflect the final compliance date required by this section. The only other procedure available to a noncomplying source to gain an extension of its final compliance date is under section 110(f) which allows the Governor of a State to request a 1-year extension.

NONCOMPLIANCE PENALTIES

The bill also requires the States and/or Administrator of the Environmental Protection Agency to assess and collect noncompliance penalties. Using the variables set forth in the amendment, the noncompliance penalty would be calculated on the basis of the costs of noncomplying source avoids by delaying compliance. Specifically, the calculation of the noncompliance penalty must consider the capital costs of compliance and debt service over a normal amortization period not to exceed 10 years, operation and maintenance costs foregone, and any additional economic value of a delay. In essence, the penalty would reflect financial savings realized by the firm as a result of noncompliance with the law.

The purpose of the penalties is to capture these economic savings and remove any advantage of delay. In other words, the noncompliance penalty will eliminate any economic advantage that delayed compliance will confer on a noncomplying firm relative to a firm that complies in a timely manner. This effect would also result in more equitable application of air emission standards.

In determining the fee, the calculations are to be made on a monthly basis and would represent the monthly equivalent of the financial savings a noncomplying firm would realize during its period of noncompliance. However, in order to minimize the administrative costs associated with the collection of the fee, the firm is required to make its scheduled payments quarterly.

All payments after the first quarter's payment are to be equal in constant dollar terms. However, since inflation could lead to the firm actually saving money in real terms, the administrator may include an inflation factor to adjust the equal payments in constant dollar terms to increasing payments in current dollars.

The provisions of the amendment also require that the firm be given a credit for compliance expenditures during the period of noncompliance if these compliance expenditures are not taken into account in the calculation of the penalty. The intent of this provision, however, is not to allow a noncomplying firm to subtract from its penalty payments for any period all of the capital costs or operating and maintenance costs incurred during the period of noncompliance. Rather, the intent is to require the penalty to be calculated on the basis of the incremental costs necessary to come into compliance. However, if the calculation of the penalty gives due consideration to all relevant compliance costs and expenditures, the firm would not be permitted to deduct any compliance expenditures from its noncompliance penalty payments.

In addition there are certain exemptions from the penalty, including, among others, cases where a firm's inability to comply is attributable to causes completely beyond the control of the source owner or operator. An exemption due to causes attributable to third parties is fraught with numerous potential abuses. Therefore, the intent is to limit exemptions for delays to those clearly beyond the control of the owner/operator such as fires or floods at the noncomplying facility.

This section is similar to one in last year's bill regarding the ability of a source to be exempted from the penalty under certain very limited conditions. Last year, Senator STAFFORD and I had a dialog on the floor of the Senate on this question in order to more fully explain the conditions under which a source could get an exemption from the penalty. I would like to have that explanation printed in the RECORD now because I intend that this explanation should still apply to the delayed compliance penalty in the bill we are now considering.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. STAFFORD. I am pleased that the committee has sought in this bill to find imaginative new means for encouraging the most expeditious abatement of pollution, while minimizing the effects of these measures on the economy and the Nation's supply of energy. In particular, I believe that the delayed compliance penalty provision will provide a significant incentive for compliance while assuring that noncompliance will not result in unwarranted closing down of energy and other facilities. I think this measure will also go a long way toward assuring fairness to all subject to the Clean Air Act, by guaranteeing to those who have complied with the law that they will not be at an unfair disadvantage in competing with those who have not met their obligations.

I believe this penalty incorporates a sound principle. In passing the 1970 act, we provided that during the formulation of the State implementation plan, the States were required to hold public hearings on the measures they proposed to use to attain the national health protective air quality standards. We expected that those industries who might be affected by the State plans would have an ample opportunity to present their views concerning the cost or feasibility of the measures proposed by the State to meet the standards. The States would then have the best information available to decide what measures for abating pollution were available, and how to meet the standards most economically. It was expected that claims of excess cost or infeasibility would be raised and decided by the States at this point. These claims would then be foreclosed in later enforcement proceedings although they might form the basis for a subsequent revision of a State plan. Dicta to the contrary in the Supreme Court's recent opinion in Union Electric against EPA are, in my opinion, incorrect.

Without this rule, the congressional plan for expeditiously attaining healthful air quality could have been easily frustrated by those who ignored the original planning process, then waited until an enforcement action to raise their objections to the requirements of the plan.

In the pending bill, we have recognized the unfortunate fact that a large number of pollution sources did not meet their timetables for compliance in the State plans. For those who have not yet complied, we have allowed the States to put off the day of reckoning until as late as 1979, or 1981 in some cases. At that time, those who have still not complied will, and should, be subject to the full enforcement of the law, including the delayed compliance penalty.

At that time, the requirements of the State implementation plans will have been in effect for 7 to 9 years. The time for questioning the cost or feasibility of these requirements will be long past. For this reason I wish to be certain that I am correct in my understanding that claims regarding neither the cost nor availability of the technology, systems, or other measures needed to

comply can be raised to question or delay the imposition or full effectiveness of the delayed compliance penalty.

I note with approval that the bill does not grant jurisdiction in the courts for reviewing a delayed compliance penalty on the ground that meeting the applicable requirement of the State plan would be costly; and that the commitee's report specifically notes the issue of cost may not be the basis for review of a penalty. I wish to be sure, however, that the same applies to a claim that technology is not available to meet the requirement.

Mr. MUSKIE. Your understanding is correct. Since the question of feasibility was to have been addressed in the process of formulating the State implementation plan, the Federal courts would not have jurisdiction to review delayed compliance penalty on the basis of a claim that technology was not available to meet the applicable requirement. The opportunity to present these claims was available when the plan was formulated. It remains available as a grounds for requesting a revision of a general requirement of a State implementation plan. It may not be raised in defense to a delayed compliance penalty or other enforcement action.

Mr. STAFFORD. I note that the bill provides that a penalty could not be applied where compliance with the applicable requirement was impossible owing to reasons "wholly beyond the control" of the source owner. Am I correct, then, in assuming that this exception does not cover a claim that technology is not available?

Mr. MUSKIE. Yes, you are correct. The exceptions for events wholly beyond the control of the source owner is intended to be limited very narrowly, in keeping with the bill's intent that the penalty should provide a strong incentive for compliance and a safeguard against unfairness to those who more expeditiously meet the act's cleanup requirements.

It is intended to apply only in cases of natural disaster, fire, embargo, or the like, which interfere with the timely installation of the equipment, systems or techniques, required to meet the State plan's requirements, and then only for a period equal to the duration of the delay-causing event. It might be available where a supplier or contractor was unable to meet a final completion date for emission control equipment, but even in this case, it would not be available if there was evidence suggesting that the delay was in any way caused or encouraged by the source owner himself. For example, if the source owner unduly delayed negotiations for needed equipment in the first instance by demanding unusual guarantees or by making other demands not typical of contract negotiations in its industry for production equipment, the exception would not be available. Likewise, it would not be available where the source owner placed unusual restrictions on the construction work of the supplier, or delayed shakedown testing beyond the normal interval for equipment used in its production process. And in addition to the conditions it would not be available in any case unless the source owner could show, by reference to his own financial and organizational records, that procuring and implementing the needed measures had been given highest priority in the owner's planning and budgeting process.

It was our view that by the time the penalty was imposed, the opportunity for arguing that the necessary pollution control equipment or other systems or measures were not available or technologically feasible had long since lapsed.

Mr. STAFFORD. That was my understanding also, and I am reassured to hear that it was the intent of the committee when it drafted this bill.

Mr. MUSKIE. Mr. President, cost of compliance does not serve as a basis for an exemption. It is recognized that the purpose of the noncompliance penalty itself is to capture the financial savings that are presently realized from delayed compliance. However, when the civil and criminal penalties are considered in addition to the noncompliance penalty, the act will have eliminated incentives to delay compliance and there will be positive incentives to come into compliance. The owner or operator of a major emitting source will no longer have anything to gain from delayed compliance but will have a lot to lose.

SMELTERS

Delayed compliance orders are also permitted for smelters under the conference bill. Two such orders may be obtained by a given smelter, neither of which may exceed 5 years in duration.

As applied to smelters, the availability of a delayed compliance order is a relief measure which recognizes the unique economic circumstances of the industry. In consequence of these special circumstances, smelters may, during the term of a delayed compliance order, do what no other category of sources is permitted under the Clean Air Act. Specifically, smelters may employ dispersion technology devices such as tall stacks and supplemental control strategy along with constant controls as an interim means of meeting ambient standards. By permitting this interim relief measure for smelters, there is no implied intent to relax the Clean Air Act's long-standing prohibition against the use of dispersion technology as a means of meeting ambient standards. Nor is there any intent to permit similar relief to other industries or sources, irrespective of cost considerations.

During the term of the first delayed compliance order, those smelters now having constant controls on line could not be required to install additional controls. For this purpose the phrase "constant controls on line" is intended to mean an acid plant which: First, was designed to achieve an optimum level of SO_2 control at the site where it is located; and second, is properly operated and maintained at that site. Where acid plants now in use do not measure up to this standard, it is intended that such acid plants will be upgraded to a level which EPA determines to be optimum either on a smelter-by-smelter or industrywide basis.

A second delayed compliance order issued to a smelter would have to be based on a public hearing and a showing that the ultimate emission limitation contained in the plan was not reasonably available as to it despite good faith efforts by the source to assure that the necessary controls would be available on the expiration of the first order. During such second order, the smelter could be required to install additional controls beyond a well designed, operated and maintained acid plant if such additional control are economically reasonable and adequately demonstrated.

As to the latter requirement, it is the intent of the bill that the burden will be on the source to show that a device is either economically infeasible or not adequately demonstrated. This is intended to overrule the recent decision of the Ninth Circuit Court of Appeals in Bunker Hill in which the court suggests that the burden in such matters would be on the Environmental Protection Agency.

It is also intended to give teeth to the technology-forcing principles of the act and to make more meaningful the requirement of the bill that, during the term of a smelter compliance date extension, the smelter must engage in a research and development program if EPA deems such to be desirable. New hearings may be held by the Administrator at any time on the question whether additional controls are either adequately demonstrated or economically feasible.

For those few smelters which presently lack acid plants, the bill provides a mechanism for obtaining a delayed compliance order without the obligation to install an acid plant as an interim measure. Basically, such exemption can be approved by the Administrator only if the smelter in question can prove that the cost of an acid plant will result in a permanent shutdown or a temporary shutdown of more than 1 year. This showing must be made to the Administrator in a hearing petitioned for by the State and conducted by the Agency. Notice of the hearing must be given to the public. The Administrator's determination must be based on the record of the hearing, and must be forwarded to the State. The State and the Administrator must take such determination into account in any subsequent delayed compliance order that the State proposes for a smelter and the Administrator must do the same in approving or disapproving such proposed delayed compliance order.

If the Administrator determines that a smelter is violating any applicable requirement of a delayed compliance order, he may enforce the requirement under section 113 of the act, revoke the order and enforce the original State implementation plan requirement, seek a noncompliance penalty, or take a combination of these actions.

The term "enforceable supplemental controls" is used advisedly. As I have made clear repeatedly—see my statements recorded at 119 CONGRESSIONAL RECORD, pages 19183–19205, June 12, 1973; and 120 CONGRESSIONAL RECORD, pages 18956–18974, June 12, 1974—I seriously doubt whether any system of supplemental controls can meet the test of enforceability.

The Committee on Environment and Public Works has repeatedly received testimony from State officials and representatives of the public to the effect that no enforcement mechanism exists that will assure the air quality standards are achieved at all times in the vicinity of sources using supplemental control systems. It is the intent of the Congress that permission to use such measures, even on the sharply limited temporary basis that might be authorized under this legislation, shall not be given if either the Federal or State environmental agencies have any doubt that the air quality standards mentioned previously can be protected at all times by the proposed system.

It is also contemplated that among the elements that must be included, at a minimum, in any proposed supplemental control system before either EPA or a State can authorize its use, are the following. First, it must provide that the source shall be considered in violation if concentrations of pollutants in excess of the applicable air quality standard are recorded anywhere within the "liability area" to be set under the provisions of the bill; or if emissions from the source exceed specific emission limitations predetermined by the control agencies to be necessary to assure achievement of applicable air quality standards under various meteorological conditions.

Second, the source must formally agree that it will accept liability for a violation whenever concentrations of pollutants in excess of the applicable air quality requirement are recorded within its liability area, and that it will not contest assessments of liability for exceeding the emission limitations referred to previously on the grounds that the failure to meet these emission limitations did not result in measured concentrations of pollutants exceeding the applicable air quality requirements.

Third, it is contemplated that the Environmental Protection Agency shall refuse permission for the use of supplemental controls unless the Administrator is satisfied that the State agency has adequate resources to provide the surveillance and enforcement needed to assure all the conditions applicable to the facility are met. If necessary to assure adequate resources, the source should be required to pay the State a license fee sufficient to defray these costs. Under no circumstances is it contemplated that the task of surveillance—monitoring of either emissions or ambient air quality—should be assumed by employees, contractors, or other persons affiliated with or paid by the owner of the source.

The bill provides that permission for temporary use of enforceable supplemental control systems may be given if the smelter is unable to comply with the ultimate emission limitation contained in the State implementation plan. It therefore does not allow, even on a temporary basis, the use of such systems as an alternative to continuous emission control requirements promulgated by State or Federal agencies under section 111 (a) or (d) of the act.

The bill also provides that in the event the Administrator determines that continuous emissions control measures become adequately demonstrated to be reasonably available, he may revoke an order permitting the use of supplemental control systems. The cost of continuous emission controls is stated to be a factor to be considered in reaching such a decision. The Congress contemplates that in evaluating the cost of a continuous emission control system, the Administrator shall include any cost savings that might accrue to the source as a result of greater process efficiency or productivity, as well as any income that might be derived from the sale of any byproduct produced by the continuous emission control system. In determining what costs are reasonable for a source to bear, the Congress intends that the Administrator shall consider the resources of the owner of the source, or of any other entity of which the owner is a subsidiary or affiliate, rather than looking only to the resources of the source itself.

Finally, it is contemplated that any request for an order allowing delayed compliance that is based on an allegation that the cost of installing continuous emission controls would result in the closing down of the facility shall trigger the subpena and other powers provided the Administrator.

PREVENTION OF SIGNIFICANT DETERIORATION

The conference bill contains provisions to prevent the significant deterioration of air quality where air quality is presently cleaner than existing ambient air quality standards. The conference agreement adopts a three-class program similar to that provided in last year's conference bill. The specific increments are set forth in the statute as in the Senate bill, and are as follows: First, class I, Senate bill; second, class II, House bill except the 3-hour sulfur dioxide increment, which becomes 512 micrograms per cubic meter; and third, class III, House bill, except the 3-hour sulfur dioxide, which becomes 700 micrograms per cubic meter.

The listing of lands to be included in mandatory class I areas is as in the Senate bill. All other nondegradation areas are initially designated class II by statute upon enactment.

The Federal land manager is required to review national monuments, primitive areas, and national preserves, and shall recommend any appropriate areas for class I designation where air quality related values are an important attribute of the area. The recommendations must be made within 1 year, with recommendations going to the State involved, and to Congress. The Federal land manager shall consult with the States in determining these recommendations.

The procedural requirements for redesignating an area as class III are accepted from the House bill. The following areas are not eligible for class III designation if the area is over 10,000 acres: national monuments, national primitive areas, national preserves, national wildlife refuges, national lakeshores and national seashores, new national parks, new national wilderness areas, and any other new areas in these categories created after enactment. This conference agreed to procedures whereby a source could be granted a variance from the class I increments for sulfur dioxide. The variance authorizes the Governor of the State to permit the maximum allowable increase specified for 3-hour and 24-hour concentrations of sulfur dioxide in class I areas to be exceeded during 5 percent of the days of the year.

In no event would the maximum concentrations in the class I area be allowed to exceed the class I increments by more than 8 percent of the primary air quality standards when the terrain in the class I area is below the center line of the plume from the source, or exceed the class I increments by more than 15 percent of the primary standards when the terrain in the class I area is 900 feet above the base of the stack.

In order to grant a variance from the sulfur dioxide class I increment for a proposed source, the Governor, after notice and opportunity for public hearing, must find that the facility cannot be built without the variances. This would include such determinations as these:

There exists no economically feasible alternative sites at which the proposed facility could be located such that the sulfur dioxide class I increments would not be violated; and

The proposed facility is needed by a specific date and that the size of the facility at the proposed site cannot be reduced to meet the class I increments and continue to operate in an economically efficient manner.

In the case of Federal mandatory class I areas, the Governor must also find that the class I variance will not adversely affect the air quality related values in the area. In making this finding the Governor is required to seek the recommendation of the Federal land manager and in granting the variance he must obtain the concurrence of the Federal land manager. In situations where the proposed facility is located in one State and the affected class area is in an adjacent State, the Governor must consult with the Governor of the adjacent State.

If the Governor recommends a variance for Federal mandatory class I areas contrary to the recommendation of the Federal land manager, the Governor's recommendation and the recommendation of the Federal land manager are to be transmitted promptly to the President. The variance could not become effective until the President approves the Governor's recommendation. The President must grant or deny the variance within 90 days.

In making this decision, it is intended that, in addition to the air quality impacts of the proposed facility, the President consider the need for such facility in the national interest, the availability of alternative sites for the facility and the potential to provide the service of the proposed source from alternative sources or category of sources. The President's decision will be a final, nonreviewable decision.

Throughout the debate on nondegradation, there have been concerns expressed that the scheme in the Senate bill was too restrictive for new sources attempting to locate in clean air areas. I have consistently opposed that view. I think that the Senate bill provided ample room for the kind of new growth that can best meet the country's needs.

But those who continue to disagree with my view should look closely at the conference report. It has the potential for a State to allow more emissions in clean air areas than did the Senate bill. Such an opportunity is available uder the class III increments

The Senate did not have class III increments. The most crucial and limiting increment is frequently the 24-hour sulfur dioxide increment. The class III in

the conference report would allow an 80-percent increase beyond the Senate bill in the amount of sulfur dioxide that could be added to existing air quality in an area. It is my hope that States will use the class III approach with great care.

There are important procedures for the designation of a class III area. The decision to establish such an area should not be made lightly. Once it is made, it is not likely to be reversed, though reversal is not precluded. The steps that must be taken to redesignate an area as a class III area are these:

First. The Governor of the State, after consultation with the legislative committees in the State Legislature, approves the redesignation.

Second. Local governments representing a majority of the residents of the area must agree with such a designation. This agreement is most likely to be in the form of a resolution adopted by the local governmental unit. The local government that analyzes the decision is intended to be that governmental unit with statutory or constitutional authority to make such decisions and would not be required of each unit of Government in the area unless such authority was vested in such unit.

Third. The creation of a class III area cannot lead to emissions that will cause another area to exceed the increments that apply in this second area. For example, a class III area would have to be located at a sufficient distance from a national park so that the emissions resulting from activity in the class III area to not exceed the class I increments over the park. We know from the studies of powerplant siting that have been conducted that once major sources of emissions move a reasonable distance, there is room for very large facilities to be located without exceeding the class I increments.

If Federal lands are involved, the Federal land manager must be consulted, but the Federal land manager has no veto over the authority of the State and local governments in this redesignation. That is an important concession to States with substantial Federal lands.

It will be possible for areas to be designated as class III. It will require analysis and political support of the community and State. It is not an impossible burden, nor an unreasonable requirement to ask people who live in these areas to participate in decisions which affect their air quality.

NEW SOURCE PERFORMANCE STANDARDS

Under the Clean Air Act Amendments of 1971, section 111 requires that EPA promulgate performance standards reflecting the best system of emission limitation for new sources. Congress had several reasons for including this requirement. First, standards with a degree of uniformity are needed to avoid situations where some States may attract industries by relaxing standards relative to other States. Second, stringent standards enhance the potential for long-term growth. Third, stringent standards may help achieve long-term cost savings by avoiding the need for more expensive retrofitting when pollution ceilings may be reduced in the future. Fourth, certain types of standards for coal burning sources can adversely affect the coal market by driving up the price of low-sulfur coal or effectively excluding certain coals from the reserve base because their untreated pollution potentials are high. Congress does not intend that new source performance standards contribute to these problems. Fifth, the standard-setting process should create incentives for improved technology.

In conference, it was agreed to clarify Congress intent in section 111. In particular, the requirement for best system of emissions reduction has been more narrowly redefined as best technological system of continuous emission reduction. Where control technology to accomplish a substantial degree of pollutant removal exists, no sources may comply simply by burning untreated fuels. All new source performance standards must be revised to reflect this change within 1 year of these amendments' passage.

A new provision would require that the new source performance standard for fuel-burning sources be comprised of both an enforceable percentage reduction requirement and an emission ceiling. If new sources use precombustion fuel treatment in order to meet pollutant reduction requirements, the new sources and their suppliers must document the pollutant reduction taking place.

In requiring a percentage removal standard, EPA is authorized to give credit for minemouth and other precombustion fuel treatment processes whether or not undertaken by the source itself.

EPA's Administrator is given the flexibility to set a range of pollutant removal based on varying fuel characteristics if he finds that the NSPS objectives described are not undermined.

COAL CONVERSIONS

The coal conversion provisions of the bill amend the Clean Air Act by extending EPA's authority to grant compliance date extensions to sources which must convert to coal burning as a result of Federal Energy Administration, FEA, orders or natural gas curtailments and by improving on the procedures for granting such extensions by eliminating the "significant risk" provision, making the regional limitation a rebuttable presumption, and providing for State disapproval of EPA certifications to FEA of the date a source can burn coal and meet primary standard conditions.

Under the bill, compliance date extensions for sources converting to coal may be issued in the same manner as any delayed compliance order, except that certain provisions are included to take account of the special circumstances which affect these sources. First, although coal conversion may be accomplished under a delayed compliance order before a source can burn coal and meet the applicable State implementation plan, the "primary standard condition" assures that such a source will not convert until it meets whatever enforceable conditions are necessary to assure that the national primary ambient air quality standards will be met at all times.

Second, if the source is located in an area where the primary standards are already being exceeded, the "regional limitation" assures that the source will not convert until it meets the implementation plan requirements. The Administrator will presume the applicability of the regional limitation if the primary standards are being exceeded anywhere in the relevant air quality control region unless the source owner—or some other person—presents evidence upon which the Administrator determines that the source's emissions will not effect concentrations of pollutants where the standards are being exceeded and that the source's emissions will not cause or contribute to excursions above the national standards. This is a change from the present provision which automatically imposes a regional limitation without an opportunity to rebut the presumption of impact on primary standards.

However, the question of applicability of the limitation would not remain open indefinitely, and evidence must be submitted well before the Administrator makes his certification to FEA. In addition, the Administrator should require clear and convincing evidence before finding that a regional limitation does not apply since wherever there is doubt, health should be protected by requiring that the implementation plan be met before conversion.

Finally, a delayed compliance order issued to a converting source must provide for compliance by December 31, 1980. However, in recognition of the special problems such sources may encounter, an additional order of up to 5 years' duration may be issued if a source is unable to comply by December 31, 1980. No extension beyond December 31, 1980, could be granted unless the source cannot, by acting expeditiously and in good faith, comply by that date.

In recognition of the concern of State authorities about the impact of increased air pollution from sources converting to coal, the bill adds a new procedure by which a State may veto any decision of the Administrator to permit coal burning prior to compliance with applicable State implementation plan requirements. The State veto would be in the form of a disapproval of the Administrator's certification to FEA of the date the source can burn coal and comply with applicable primary standard conditions. This provision protects the States' interest while preserving the Federal nature of the air pollution control aspects of the coal conversion program in accordance with pending energy legislation.

The bill would also eliminate the present provision of the Clean Air Act for EPA suspension of FEA prohibition orders where emissions from a coal conversion source would result in significant risk to public health.

NONATTAINMENT

The nonattainment sections of the conference bill represent an amalgamation of the House and Senate bills. For areas violating any national ambient air quality standard—NAAQS—the States must submit revised implementation plans no

later than January 1, 1979. These plans must provide for NAAQS attainment as expeditiously as practicable, but no later than July 1, 1982. The only exception is for the automotive-related national ambient quality standards. Where a State submits a plan by January 1979 which provides for enforcement of all reasonably available measures as expeditiously as practicable, the State may provide for attainment in a two-phased submission, with the final submission not due until January 1, 1982. This revision must provide for attainment as expeditiously as practicable, but not later than the firm deadline of December 31, 1987. Where States do not submit adequate plans, the Administrator must promulgate his own plan insuring attainment by firm deadlines.

An important aspect of these provisions is the treatment of new and modified stationary sources in nonattainment areas. The conference bill ratifies EPA's "emission offset" interpretative regulation, published in the December 21, 1976 Federal Register at pages 55524–30. Permits may be issued to new and modified sources before July 1, 1979 only if the requirements of this interpretative regulation are followed. Of course, States are free to apply more stringent requirements if they choose.

The conferees were aware that EPA, in implementing the interpretative regulation, has provided some allowance for the phenomena of natural dust and long-range transport of photochemical oxidants and their precursors. EPA may continue to authorize States to take account of these phenomena so long as attainment of the NAAQS by the required dates is assured.

On and after July 1, 1979, new and modified sources may be granted construction permits only if the permits are in conformity with the requirements for revised implementation plans set forth in the conference bill. Under the revised implementation plan, a State which desires to permit new and modified sources in nonattainment areas may do so under two options: First, it may continue, under the basic "emission offset" policy, to allow new sources only when more-than-offsetting emission reductions are secured prior to the new facility's startup date; or second, it may provide an allowance for new source growth in its plan, so that new sources may be permitted without case-by-case offset determinations so long as the emissions are within the approved quantified allowance and the net effect will be reasonable further progress toward NAAQS attainment by the time required.

The Administrator will be required to monitor the States' implementation of these requirements. Whenever a State issues a permit which does not insure that the requirements of the act are being—or will be—met, he will be obligated to take whatever action may be necessary, whether in an administrative or judicial forum, to prevent the source from constructing or modifying.

I should note that the test for determining whether a new or modified source is subject to the EPA interpretative regulation—and to the permit requirements of the revised implementation plans under the conference bill—is whether the source will emit a pollutant into an area which is exceeding a national ambient air quality standard for that pollutant—or precursor. Thus, a new source is still subject to such requirements as "lowest achievement emission rate" even if it is constructed as a replacement for an older facility resulting in a net reduction from previous emission levels.

A source—including an existing facility ordered to convert to coal—is subject to all the nonattainment requirements as a modified source if it makes any physical change which increases the amount of any air pollutant for which the standards in the area are exceeded.

I should also make an important point about the provision which allows States to submit their plan revisions in two phases for the automotive-related NAAQS's. The States must include all reasonably available measures in the first phase, 1979. The fact that the second phase may be deferred until 1982 does not excuse States from including measures in the 1979 submission which might take more than 3 years to develop and implement fully. The advantage of the two-tiered approach, with a possible 10-year extension for attainment, is to provide a longer time frame to plan for and phase in necessary controls so as to minimize disruption. The purpose is not to put off facing the attainment problem until 1982. Therefore, any measure which is necessary to insure attainment by 1987 must be included in the 1979 revision if planning and implementation must begin now in order to be successful by 1987.

Under the conference bill, the Administrator will be required to promulgate plan revisions insuring NAAQS attainment by the appropriate deadlines where a State's plan is inadequate. Whenever the Administrator promulgates a plan revision, he will not be authorized to include the allowance for new source growth described in the second option above. Under an EPA plan revision, new and modified sources may be permitted only if sufficient emission offsets are secured prior to issuance of the permit.

AUTO EMISSION STANDARDS

The following table deals with the auto emission standards and what was done on this in conference as compared to the House bill.

Model year	House bill			Conference bill		
1977–79	1.5	15	2.0	1.5	15	2.0
1980	.41	9	2.0	.41	7.0	2.0
1981	.41	9	2.0	.41	[1] 3.4	[2] 1.0
1982	.41	9	[3] 1.0			

[1] Possible 2-yr waiver to 7 gpm.
[2] Innovative technology or diesel waiver to 1.5 gpm.
[3] Indefinite waiver available to 2.0.

This, of course, was one of the most difficult issues between the House and the Senate. The two versions represented, I think, the widest gap between the House and the Senate, and there were negotiations in both directions over a considerable time. The conference finally adopted the standards for hydrocarbons, carbon monoxide, and NO_x which are indicated in the table I have inserted in the RECORD.

The most important aspect of the conference agreement on this issue is its finality with respect to the achievement of the ultimate auto emission standards required for public health, by a date certain. It was the overriding sentiment of the conferees that we agree on a timetable which would not provide only more opportunity for the auto industry to lobby for further delay. It is high time this issue was settled; in fact, the Congress is long overdue in its final resolution of the issue. I would not have believed in 1970 that we would ultimately provide the auto industry for a longer period of time to comply with emission standards than the manufacturers themselves requested of President Nixon in 1969. So be it. We have finally completed the last round. The conference bill schedule contains no allowance for lobbying time. It does allow more than adequate lead time, but if the industry is to meet the final 1981 standards, the job must be started today. They have only one additional model year before the statutory hydrocarbon standard must be met in 1981. They have only two additional model years, 1979 and 1980, before all three of the statutory standards must be met, in 1981.

There are limited waivers available. The 1981 carbon monoxide standard may be waived for any model line of vehicles in 1981 or 1982 if the Administrator makes several specific findings: that public health does not require attainment of the statutory standard; that the waiver is essential to the public interest; that all good faith efforts have been made to meet the statutory standard; that control technology to meet the statutory standard will not be available, taking into account cost, driveability and fuel economy; and the study by the National Academy of Sciences does not disagree with his finding on availability of technology.

The applicant must apply for such a waiver for each model line he wishes to certify at 7.0 carbon monoxide instead of the statutory 3.4 standard. The Administrator is then required to make each of the findings specifically for each model in order to grant the waiver.

The determination of whether a carbon monoxide waiver is essential to the public interest or the public health or welfare of the United States will, of course, be affected by the performance of the industry as a whole. If only a small percentage of cars appear unable to meet the statutory standard of 3.4 grams, the denial of such a waiver would not make it impossible for the industry to meet the basic demand for automobiles. In addition, the inability of only a small number of cars to meet the statutory carbon monoxide question may call into question the good faith effort of the manufacturer.

This waiver is based upon the feeling of some of the conferees that there may be difficulty in meeting the statutory standards across the board in 1981. I do not share that view myself. From the testimony I have seen, it is clear that if the manufacturers put forth a good faith effort, the statutory standards can be met on every single model line in that year. However, if a manufacturer does

put forth a good faith effort, and it does develop that a particular model line will be unable to meet the 3.4 CO standard in 1981, then the waiver is available, if the Administrator makes certain findings.

This waiver is not a general waiver for all manufacturers, nor is it a general waiver for all models of vehicles produced by a single manufacturer. The waiver is intended to assist in the deployment of new technology. It is not to be considered a step in the direction of relaxation of the statutory carbon monoxide standard. The committee has received testimony that carbon monoxide emissions by vehicles on the road are double the amount permitted by the standards. There are projections that show that a relaxed standard for carbon monoxide would cause between 65 and 130 percent more violations of the health standard between 1980 and the year 2000. And, when we deal with reality, not with computer projections, we find that today, Louisville, Ky. is 263 percent above the carbon monoxide standards; Fairbanks, Alaska, is 254 percent above it; and New York City is 392 percent above the health-based standard. In the face of this reality it would be absurd and irresponsible to consider relaxation of the statutory carbon monoxide standard. Therefore, the waiver in this bill is tightly constrained to apply only to the minimum extent necessary.

The NO_x waivers are also narrow. Diesel engine vehicles are eligible for a single waiver up to 1.5 NO_x from the 1981 standard of 1.0 NO_x for 4 model years, through 1984, only if the waiver is necessary to permit the use of diesel technology in that class of engines or vehicles, in order to stimulate exploration of its value as a passenger car engine. This waiver is to be applied on a class or category basis, rather than across the board. It is only available for a particular class or category of light duty vehicles if it is necessary to the application of diesel technology to that class or category of light duty vehicles. Thus, for example, it may develop that the diesel waiver is unnecessary for demonstration of the diesel technology in the lower weight classes.

A similar waiver of the 1.0 NO_x standard to 1.5 NO_x is available for any 4-year period beginning in 1981, to allow the use of innovative technology. The conferees defined the category of innovative technology to assure that the waiver was used only for the purpose of stimulating new, currently unmarketed technologies. The Administrator must find specifically that such waiver will not endanger public health; that such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act; and that the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

The innovative technology waiver is intended to provide encouragement for manufacturers to develop innovative power train or emission control technology. It is not intended to be available for existing technologies.

Therefore, it may not be used for any technology which was utilized by more than 1 percent of the light duty vehicles sold in the United States in the 1975 model year. In making such determination, the Administrator is to include variants of a given technology together in determining whether a 1-percent sales figure was reached, rather than considering modest variations of a given technology to be "different technologies." Then, to emphasize the experimental nature of this provision, the waiver cannot be applied to more than 5 percent of a manufacturer's production or 50,000 vehicles, whichever is greater, in any model year even though several innovative technologies may be tried by a manufacturer in a given year. The waiver may be granted for a period of up to 4 model years, but if a shorter period is sufficient to demonstrate the technology, as determined by EPA, the Administrator shall grant the waiver for a shorter period of time. And, only one waiver should be necessary to demonstrate the capability of a particular technology. Furthermore the waiver applies only to the nitrogen oxide standard, which can be waived to a level as high as 1.5 grams per mile. But, if a lower emission level is adequate to permit demonstration of the technology, then the waiver should only be given up to that lower level, and if the technology can be adequately demonstrated at 1.0 grams per mile of NO_x, then no waiver shall be granted.

For both waivers there are additional protections offered: notice, and opportunity for public hearing, a requirement that such waiver not endanger public health, a requirement that diesel engines meet the average fuel economy standards in each year under the Energy Policy and Conservation Act, or amendment thereto, and a requirement that the innovative engines have good prospects of meeting the fuel economy standards at the end of the waiver period. And finally, in order to assure that the waiver will be targeted towards long term air quality benefits, the waivers may only be granted if there is a substantial likelihood that the engines will be able to comply at the end of the waiver period with the statutory emission standards. Thus the waiver is not intended to provide a loophole in the statutory standards, but only to provide an opportunity for technology development which may lead to greatly improved emissions performance in the next decade.

Mr. President, we have adopted an auto emissions schedule which meets our public health needs, and accommodates the industry's lead time requirements.

First, we have set a date in the near future by which all auto emission standards required for achievement of the health-related air quality standards will be met. The statutory hydrocarbon standard must be met 1 year earlier, in 1980. This is significant because control of hydrocarbon is the key to control of oxidant, the irritant factor in photochemical smog.

In a year when Washington, D.C., is reporting more smog alerts than ever before, and rural States suffer statewide air pollution alerts, it is absurd to even consider a delay in statutory HC control. The conference bill requires this important step to be taken as soon as it is possible with due regard for leadtime, in model year 1980.

The health-related carbon monoxide standard is retained, despite strong urging, but with no health data, from the House to permanently relax the standard to 9.0 grams.

A firm NO_x standard is also required. This, in conjunction with the hydrocarbon standard, speeds the cleanup of severe oxidant levels in our cities down to the health-related ambient standard. The House bill, on the other hand, allowed such expansive waivers of the NO_x standard up to the current 1977 level that the statutory standard would never have been required to be met.

Second, the conference substitute also provides a reasonable level of NO_x control. The tightest NO_x standard required by the House bill for all practical purposes is the current requirement of 2.0 grams/mile, which represents only 43 percent control compared to the 3.5 grams/mile emitted by uncontrolled autos in 1968. NO_x control has clearly lagged behind that for HC and CO, where 83 percent control has already been achieved. The conference bill would require 71 percent control of NO_x compared to uncontrolled vehicles, a level that will reduce national NO_x emissions in 1990 by 4 million tons.

Third, the conference substitute provides enough leadtime to meet tighter standards in 1980, despite industry arguments to the contrary. Data supplied by the manufacturers themselves show that they will enter, in a few months, the first phase of their emissions development program for that model year. This "production development" phase normally would last about 6 months, leading to basic system selection next April or May, so the leadtime is clearly adequate. Furthermore, present law requires compliance with even tougher standards in 1978, so we must assume that they have already done much of the production development to meet 1978 standards, or have simply completely ignored the requirements of present law. Finally, all manufacturers are already meeting the California standards of 0.41/9/1.5, which are more stringent overall than those in the conference bill in 1980.

Fourth, the conference bill provides flexibility through limited waivers to stimulate the development of innovative technologies, and the diesel, which require additional time to achieve the 1.0 NO_x standard.

The carbon monoxide waivers provide the industry with time to solve the problem they appear to have in meeting the 3.4 standard in conjunction with a 1.0 NO_x standard.

All in all, the conference bill auto emission cleanup schedule is an equitable one. I would have preferred some statutory cars in 1980, but I have accommo-

dated the desires of other conferees in an effort to resolve this issue for the last time.

PRODUCTION LINE TESTING

With regard to production line testing, this bill does not specifically demand that EPA require testing on every car although we believe that EPA already has the necessary authority to do that. Rather the conference bill reflects a desire by the conferees to have production line testing provide assurances by means of short tests that, with reasonable statistical certainty, each car in the hands of individual consumers could pass an inspection maintenance short test. This does not of course interfere with EPA's existing authority to require full Federal test procedure tests on selected configurations of cars coming off assembly lines.

We have not adopted the Senate bill provision authorizing States to require new cars to pass inspection tests as a condition of sale in nonattainment areas but have susbtituted the requirement that dealers certify at time of sale that the vehicle would pass the I/M test. Since States will not be preempted from requiring that the vehicle pass an I/M test as soon after registration as desired, this compromise does not significantly change the Senate bill. Should vehicles fail this I/M test, of course, the consumer would be protected by the warranty.

In the area of performance warranty, we have provided for full coverage of the vehicle for 24 months or 24,000 miles. The manufacturer will be required to restore to standards any car which fails an inspection test comparable to the production line test unless the manufacturer can establish either that the owner's failure to perform the required maintenance as set forth in the owner's manual or improper vehicle operation caused the failure. Further, the performance of emission control devices or systems, i.e. components installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions, would be warranted for 5 years or 50,000 miles. If failures of such devices or systems cause a vehicle to fail an inspection test during this time, the manufacturer would again be responsible for the repair of the car unless he could show the cause of the failure to be improper maintenance or use.

The bill enacted before us today will enhance the effectiveness of the consumer's emission warranty by placing the burden of proof on the manufacturer to show that a vehicle has been improperly maintained. Consumers must only be able to demonstrate that they brought their vehicles to bona fide service facilities to have relevant maintenance performed. However, it is up to the manufacturer, if he chooses not to honor the warranty, to demonstrate that the maintenance actually performed on the vehicle which caused the vehicle to fail an emissions test constituted gross malmaintenance which could not have been foreseen by the manufacturer.

A major improvement in the bill is the explicit recognition that warranty repairs can be made by any commercial repair facility using certified aftermarket parts. The cost of such repairs of course would be borne by the automobile manufacturers.

As mentioned previously, the Senate bill would require implementation of all reasonably available control measures in order to qualify for an extension in nonattainment areas. Since I/M programs are certainly reasonably available as well as highly effective, the Senate bill requires I/M in all nonattainment areas. The conference bill reinforces this by specifically requiring I/M in all areas which required transportation control measures as part of an implementation plan in effect on June 30, 1975.

DEALER CERTIFICATION TESTING NEW VEHICLES

The Congress does not intend that the new dealer certification procedure be a meaningless exercise producing a meaningless piece of paper. It is intended to assure that new cars meet the emission standards. If they do not, it is the responsibility of the manufacturer to make them right. The testing necessary is not only allowed by the act, but it is to be strongly encouraged.

The authority of States to require postsale, predelivery testing of new automobiles, if they wish, is not preempted by section 209 of the act. Therefore, States with inspection and maintenance programs in being or planned, like Arizona, Colorado, New Jersey, and Oregon and others do have an opportunity to provide a realistic assurance to customers that new autos as purchased do meet the emission test required by the inspection and maintenance program. This opportunity for States to require postsale, predelivery testing can be just as helpful in reducing excess emissions as testing of in-use vehicles from time to time later on during their useful life. Therefore, States containing regions where primary air quality standards are being exceeded for auto-related pollutants are especially encouraged to consider postsale, predelivery testing as an attainment strategy.

Other States may also establish a similar postsale, predelivery test. This would be an excellent way of verification of the dealer certification provided in section 212 of the Clean Air Act Amendments of 1977, clearly making it more than just a paper requirement.

FUEL ADDITIVES

The conference adopted an amendment to deal with the problem of the fuel additive MMT which will effectively deal with this situation. It will also prevent the untested use of additives with cavalier disregard for harmful effects on emission control systems and devices.

The Administrator of the Environmental Protection Agency has been given broad authority to prohibit the use of an additive expeditiously between the period 6 months after enactment until September 15, 1978. At that point, the burden of proof is put on the manufacturer. Unless he can demonstrate to the Administrator that the additive is not harmful to emission control systems or devices, the additive is banned from use. The standard of proof to be met by the Administrator if he undertakes expedited action is the same as that to be met by a manufacturer to obtain a waiver of a prohibition of an additive. It must be shown that such a substance does not cause or contribute to the failure over its useful life of an emission control device or system to comply with emission standards to which it has been certified pursuant to section 206.

The measure of failure is noncompliance with the emission standards to which a car has been certified, taking into account deterioration factors. If an additive would cause or even contribute to noncompliance with an applicable emission standard at any time in the 5-year/50,000-mile useful life of an emission control system or device, the Administrator may not waive the prohibition of any additive not substantially similar to the certification fuel used in model year 1975 or subsequent model years.

As has been the interpretation in the past, the term "emission control device or system" means the entire emission performance of a vehicle. Thus, if a fuel or fuel additive causes an increase in engine emissions so as to increase tail pipe emissions or interferes with performance of a specific device or element of emission control so as to cause or contribute to the vehicle's failure to meet the standards at any point in its useful life, the Administrator could not waive the prohibition.

INDIRECT SOURCES

No conference allows one body to win on all the issues. We had to accept a number of measures that I would have preferred not to accept. I have little taste for the kind of exemption the House voted to give to so-called indirect sources. All sources ought to carry a fair share of the responsibility of cleaning up our Nation's cities. The limitation provided on the ability to control indirect sources is not an environmental step forward.

However, I underscore once again the availability of indirect source regulation as a tool to be used at the State and local levels. Although the Administrator may require indirect source review programs only with respect to Federally funded projects, he may approve and enforce an indirect source program adopted by a State as part of its implementation plan. This provision does not affect in any way any such program already approved by the Administrator and contained in a State implementation plan.

It is hoped that EPA will share its expertise and experience in this area with the States which may desire to implement such a program.

WARRANTIES

It is also unfortunate that the aftermarket issue became so volatile that the conferees felt it was necessary to reduce the warranty coverage provided in the performance warranty under the Clean Air Act. However, the retention of the original 5 year/50,000 mile performance warranty for the components of engine systems which function primarily for emission control purposes was a major victory for the Senate. I think we have

finally resolved the issue in a way satisfactory to both the consumer and the aftermarket industry.

We retained other significant measures to protect the consumer and the aftermarket which were in the Senate bill. These relate to maintenance instructions, replacement costs, and the prohibition on any communication to a car owner that his warranty is conditioned upon the use of manufacturer parts and services. The Senate also accepted strengthening amendments from the House bill which prohibit the invalidation of a warranty by the use of any part certified under regulations promulgated by the Administrator not to result in failure of an engine to comply with emission standards and require a boldface statement in car owners' manuals that maintenance may be performed at any service shop, with any certified part without invalidating the warranty.

Implementation of these amendments will enable a consumer to discharge the proper maintenance obligation under section 207 by making a reasonable effort to obtain proper maintenance, as in the use of a certified part, without having to counter a charge by the vehicle manufacturer that the non-original equipment part caused the emissions failure. The threat of such conflict might otherwise induce owners to avoid non-original parts in favor of original equipment parts.

The bill also addresses problems that could arise if a manufacturer certifies a car as requiring a replacement prior to the 50,000 miles of any part of device "principally for emissions control." When the vehicle industry uses parts related solely to emissions control, it can and should build them to avoid periodic replacement. But in those rare instances when that is not feasible, the cost should be included as an initial part of the price of the vehicle, not added later. This is intended to affect only major parts which are a part of the vehicle solely for emission control purposes, such as the catalytic muffler, air pump, or thermal reactor. It does not extend to sparkplugs or any part of the system necessary for the basic operation of the vehicle. And this requirement only extends to parts whose cost is greater than 2 percent of the retail cost of the vehicle. The replacement cost provision does not apply to heavy duty vehicles.

The committee is aware that there is potential for manufacturers to charge for such replacements, which are then never installed. The Administrator should discourage such a replacement plan, and must closely monitor the replacement outlays versus the sums paid by consumers under this provision.

With respect to the actual length of the warranty, the conferees agreed to set the 207(b) performance warranty at 24 months/24,000 miles. During this warranty period, the vehicle manufacturer would be required to bring into compliance with emission standards any car which failed an inspection and maintenance test. The warranty could be invalidated only upon a showing by the manufacturer that the owner did not perform the required maintenance or repair as set forth in the owner's manual or abused the vehicle in its operation. Requisite repairs and maintenance could be performed by any establishment—including an independent garage or service station—that uses parts certified in accordance with section 207(a). After the 24 months/24,000 mile warranty terminates, the performance warranty on the emission control system under section 207(b) would require the repair or replacement only of an "emission control device" or "component designed for emission control." The vehicle manufacturer's warranty after 24,000 miles, thus, would be limited to the catalytic converter, thermal reactor or other component installed on or in a vehicle for the sake or primary purpose of reducing vehicle emissions and would be invoked in the event of failure of the vehicle to meet emission standards at any time up to 60 months. Such limitation does not apply to section 207(a) warranties or to section 207(c) recall actions.

To the extent permitted by the Moss-Magnuson Act any establishment that uses certified parts could provide parts and services as specified in the warranty at any time during or after the warranty. This would include the right to perform work covered by the section 207(b) warranty with the right to reimbursement by the vehicle manufacturer, to the extent permitted by the Moss-Magnuson Act or by subsequently enacted legislation which amends or supersedes that act. The provisions of this section are not intended to supersede or alter warranty provisions provided under any other law.

OZONE

The stratospheric ozone protection section provides for a comprehensive study of the cumulative effects of all substances, practices, processes, and activities on the stratosphere. This section establishes a Federal coordinating committee to review and comment on plans for research and the results of such research and studies. Furthermore, this section provides the Administrator with authority to propose regulations for the control of any substance, practice, process, or activity which may reasonably be anticipated to affect the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare.

This section assures that there is adequate Federal authority to prevent all actual or potential risks to the stratosphere—including, for example, any risk posed by the supersonic transport—and complements the existing statutory provisions in the Toxic Substances Control Act, the Federal Food, Drug, and Cosmetic Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Consumer Product Safety Act. This provision is not intended to prevent the Administrator from relying upon other authority within his jurisdiction in appropriate cases. Should the Administrator determine that further regulation is warranted in the 2-year period following enactment during which time further research and evaluation will be conducted, he should take any necessary steps within his authority to reduce or eliminate such risk.

I endorse the actions the Federal agencies have already taken in addressing the potential threat to the ozone layer from halocarbon emissions and wish to encourage further coordination or regulatory and research activities.

ECONOMIC IMPACT ASSESSMENTS

The requirement that EPA must perform Economic Impact Assessments on certain regulations is intended to assure that EPA does a responsible assessment of the cost and economic implications of its regulatory actions. The intent here is to make sure that appropriate information is made available regarding these impacts; but this section is not intended to require that Agency resouces be devoted to doing analyses that will not provide useful information, nor is it intended to allow delay of, or alteration in the criteria for, regulatory actions.

Consequently, the Administrator may make reasonable judgments about which analyses must be done to comply with this section and the depth of analysis required. For example, the Administrator might reasonably conclude that consideration of the inflationary effects of a given regulation should be limited to analysis of price increases for directly affected products if the magnitude of expenditures is small enough to cause insignificant effects on nationwide price indices; hence, in such a case macroeconomic projections need not be performed to comply with this section. Nor is it intended that detailed analyses be done to quantify the impacts of actions where the impacts are obviously inconsequential.

It is not intended that compliance with this section should place an undue burden on Agency resources. The Agency is currently meeting the intent of Congress in this regard in most cases through compliance with Executive Order 11821 on inflation impact statements.

ADMINISTRATIVE PROCEDURES

I am pleased to report that the Senate position prevailed with respect to changes the House had proposed in the administrative procedures applicable to EPA's actions under the Clean Air Act, which might have had grave consequences for the entire regulatory program.

The House bill would have overformalized the rulemaking procedures of the Environmental Protection Agency. The administrative procedures of the Federal agencies have only in the past decade recovered from the stasis induced in the 1950's by an overdose of procedures suitable for the courtroom, but unsuited for policymaking in Federal administrative agencies.

The Senate conferees succeeded in eliminating a House provision that would have provided for cross-examination in EPA rulemaking. In the minds of the Senate conferees, the potential for abuse in this proposal far outweighed any advantages it might have had.

The House had also proposed that the rules promulgated by EPA be subject to a different standard of review in the courts—the "substantial evidence" test—than those promulgated by other Federal

agencies. The Senate conferees could see no reason why the Environmental Protection Agency should be singled out in this way, and we were able to persuade the House conferees to agree with us. Thus, the conference bill continues the usual standard—the "arbitrary and capricious" test—for review of the agency's actions.

I think it is important to emphasize this action of the conference because some continue to suggest that for some reason EPA's actions should be scrutinized more carefully than those of other agencies. I fail to see the logic of this, and I think I speak for the majority of the members of the conference committees. I am not suggesting that the courts should not discharge their duties with respect to EPA as they do with other agencies; at the same time, I want to emphasize the intent of most members of the two committees that nothing in the bill or its legislative history was meant to single out EPA for special scrutiny either.

What disturbs me is the thought that the real issue here may not be procedure, but rather substance. To the extent that this may be true, I must strongly reiterate my objection to it.

Mr. STAFFORD. Mr. President, the Senate, the Congress and the country have waited a long time for this conference report. It is my hope that the wait will soon be over.

The conference agreement just passed by the House is a compromise. I am sure no one who participated in the conference is completely satisfied. I am sure that no one who is familiar with the issues supports every section of the bill.

But it does represent a reasonable middle ground between the positions of the two Houses on the major issues.

I am not completely happy with the schedule established for auto emissions. Nor were all other Senate conferees.

But the numbers do promise progress in automobile exhaust clean up. Those of us who wanted the final standards in place in 1980 were forced to give up 1 more year. But those who wanted to delay final standards until 1982 and then set more relaxed emissions levels also gave in.

The conference sets the final levels as they were in the Senate bill, with the possibility of only a 2-year waiver for carbon monoxide emissions from 3.4 up to 7.0 grams per mile.

Perhaps more important than the final numbers are provisions to reduce the likelihood that emissions controls in use will deteriorate drastically. Two factors contribute to better in-use results: greater care in the design and production of new cars and better maintenance by car owners.

Here again, the conference bill is not all some of us wanted, but it does promise some improvement in both factors. Dealers are required to certify that new cars will meet emissions standards. If a car fails an inspection test before the expiration of 24 months or 24,000 miles, the manufacturer must pay to bring it into compliance if the owner has performed routine maintenance.

Because areas with auto-related air problems are required by the bill to have inspection and maintenance programs, the warranty program which has been part of the law since 1970 may finally begin to have some bite.

I cannot overstate the emphasis the conferees place on the need for EPA to develop a short emissions test which correlates with certification testing. Such a test is needed to improve testing of automobiles coming off the assembly line and to make effective State I and M programs.

The need will grow as States begin to implement I and M requirements and consumers demand a test which gives them recourse against the manufacturer for deficiencies in auto design or assembly. While the conferees did not mandate it, I would say that a crash program to develop such a test should be among the agency's highest priorities. The payoff in improved air quality would be tremendous.

The differences between the House and Senate over autos gained the bulk of public attention, but several other issues are also of significance for clean air in this country.

The conferees adopted a program to prevent significant deterioration in clean air areas. While the provision differs from the one carefully developed by the Senate Environment and Public Works Committee, I believe it strikes an acceptable balance between air quality values and economic growth.

The major responsibility for case-by-case decisions on new facilities rests with the States. The determination of which areas to designate as most deserving of protection rests to a great extent with the States. The conferees rejected House provisions vastly expanding the territory required to be included in class I areas.

The Senate bill's flexibility to vary—up or down—from specified ceilings for emission increases in class I areas was retained.

In addition, a modification of the so-called Breaux amendment—the Stevens amendment in the Senate—was adopted. This would allow the President to approve a permit for a new facility where a Governor and the Federal land manager disagree on its adverse effects on a park or wilderness area.

As the Senator from Maine has pointed out, the significant deterioration scheme contains a great deal of flexibility. Its most important function may be to require thorough analysis of the effects of proposed facilities on valuable national lands before irrevocable decisions are made.

The third major issue confronting the conferees was how to deal with proposed new sources of pollution in dirty air areas. The House and Senate had dealt with this issue in similar ways, and the conference agreement, as ably described by the Senator from Maine, is a combination of the two provisions.

I would only like to note that the so-called "nonattainment" issue, which was not the subject of much controversy in conference, embodies one of the most difficult questions in our quest for clean air.

We will continue to be faced with the problem of how to strike a balance between health and growth. The resolution in this year's bill is not the resolution for all time. But it is, in this Senator's view, reasonable at this time.

The conferees did modify a provision in which I have special interest. The Senate bill included a requirement that the Administrator of EPA arrange for warnings of unhealthy air at access points to metropolitan areas. The provision contemplated highway signs and notices at major transportation terminals.

The purpose for the provision, which I introduced, was to bring to public attention the need to do better in cleaning up our air. Until the public is generally aware that air in many areas is unhealthy, there will be resistance to some of the tough measures needed to control emissions.

The conference report modified the Senate provision to require States to implement measures which effectively notify the public of unhealthy air episodes and areas. The report goes further and requires that the public be warned of the hazards associated with pollution and informed of measures which may improve air quality.

It was clear from the discussion that the conferees did not consider weather reports containing air quality information as fulfilling the bill's requirements.

States are intended to have wide latitude in devising their notification and education campaigns but they must propose measures substantially more effective than current practices in order to have their plans approved.

Mr. President, I began by saying the country has waited a long time for this bill. In order not to contribute to further delay, I will conclude by urging all my colleagues to support the conference agreement in the interest of cleaner air.

Mr. MUSKIE. Mr. President, I am sure all my colleagues are aware of the controversy underlying this issue on the occasion of our consideration of it in the Senate, the controversies underlying the deliberations of the conference committee, and the questions that have been raised about the conference result.

I want to say that we have made every effort to clarify the meaning of the conference result in a way that reassures all those who have raised questions of which we are aware. As a result, it is not my intention to call for a rollcall vote. If there are those in the Chamber who would like to have a rollcall vote, I would suggest that they indicate that at this point in order that Seantors may make their plans for the rest of the evening.

It is my understanding that that will be the last item of business for the evening. We will spend a decent amount of time explaining what we did in conference so that the record will reflect what we did, but I see no need at this point for a rollcall vote to resolve any outstanding issues of which I am aware.

The conference result and our explanation of it seems to have reassured those who had questions that the Senate conferees effectively represented the point of view of the Senate and resolved the outstanding issues in a way which is

consistent with the action taken by the Senate.

So that unless any other Senator at this point indicates the desire for a rollcall vote, there will be no more rollcall votes this evening, if I may speak for the majority leader on that point.

I would like Senators to advise on that question.

I yield to the Senator from Idaho.

Mr. McCLURE. Did I understand that the Senator is not talking about just of this conference report, but other votes throughout?

Mr. MUSKIE. There will be absolutely no rollcall votes this evening.

Mr. McCLURE. I thank the Senator.

Mr. MUSKIE. I have an understanding that no rollcall votes will be requested on the clean air conference report and we will pass that by voice vote.

Mr. SCOTT. Will the Senator yield?

Mr. MUSKIE. Yes, I yield to my good friend from Virginia.

Mr. SCOTT. A unanimous consent that there would not be a vote on final passage of the conference report?

Mr. ROBERT C. BYRD. Mr. President, I think the Senators can be taken on their word. The Senator who is managing the conference report has indicated that there will be no rollcall vote if nobody at this time asks for it.

So if no one asks for it now, the Senators understand there will be no more rollcall votes.

Mr. STEVENS. Will the Senator yield to me on this?

Mr. MUSKIE. Yes.

Mr. STEVENS. I want to say to the Senator from Maine, what he has said is correct. We have spent a great part of the afternoon and evening working on these understandings. To my knowledge, there are none left on this side, none of the misunderstandings are left on this side, and I make no request for a rollcall vote.

I must express my admiration for the way the Senator from Maine has handled the afternoon and evening and has eliminated the cause of the misunderstandings.

Mr. MUSKIE. Let me make this clear to my colleagues, I am not one to shrink from an interesting contest on the floor of the Senate, as Senators understand. But, on the other hand, I am interested in effective legislation, and I think this clean air conference report represents effective legislation in the sense that it is reflective of the reasonable kinds of accommodations necessary to make it possible for Senators of widely differing points of view to reach agreement on a national policy.

Mr. STEVENS. I shall not ask for a rollcall vote, but I would like the record to show, if there were one, I would vote for this bill, notwithstanding the fact I voted against it when it left the Senate before as it went to conference.

Mr. MUSKIE. I thank my good friend from Alaska.

I yield to the distinguished chairman of the committee.

Mr. RANDOLPH. Mr. President, I commend Senator MUSKIE.

The record, of course, indicates, as Senators know, that he was the chairman of the conference of the Senate and House on this very complex but important measure.

The Senate certainly does not necessarily follow any action taken at a prior time by the House of Representatives, but I think it is important to Senators to know that this conference report was agreed to in the House earlier today without a rollcall vote on final passage.

Mr. President, the conference report on the Clean Air Act Amendments represents more than 3 years of effort by the members of the Committee on Environment and Public Works. Work on this subject was initiated early in the 94th Congress, continued for 2 years and has been completed after 7 months of the 95th Congress. It is a thorough and careful revision of the basic statute which is intended to reduce pollution of the air from all sources in the United States.

Legislation of this type was last enacted in 1970. At that time we established a broad program to achieve steady reduction of pollutants from both stationary and mobile sources. Progress has been made but the job is incomplete. The repeated pollution alerts in Washington, D.C. this summer are just one indication that we must continue with a vigorous yet reasonable air pollution control program.

The measure before the Senate continues that program but it recognizes that the goal of enhanced environmental quality must be sought in the context of other national objectives. Some of the most extensively discussed portions of this measure, in fact, are those providing a mechanism to continue economic growth at the same time we reduce pollution levels. I believe we have succeeded in providing this balance so that pollution can be abated while orderly economic growth is sustained.

Mr. President, the conference with the House of Representatives on this legislation began in July. The conference committee met on eight occasions. Approximately 90 points of disagreement existed between the Senate and House bills. I believe it is an indication of the determination of both Senate and House conferees that these differences have been resolved and the report is before the Senate for final approvement. We moved to expedite our consideration of the issues but did not rush into hasty, ill-conceived solutions. The product of these deliberations is a measure that accommodates the approaches of both the Senate and House of Representatives and continues the basic thrust of the clean air program.

While the general objective of the Clean Air Act is the continued reduction of pollution, this bill recognizes that industrial and commercial activity cannot be and should not be stopped to achieve this purpose. The bill, therefore, enumerates conditions under which commercial and industrial expansion can take place in areas where air quality standards have not been achieved as well as in areas that are clean. The heaviest concentrations of pollution are generally found in industrialized urban areas. Most of the need for continued expansion is likely to occur in those areas. The conference report, therefore, establishes procedures under which carefully controlled growth will be permitted. The price of this expansion, however, is continued progress toward pollution abatement.

At the same time, the Members of the Senate and House recognized that there would need to be development in areas that are now relatively free of air pollution. Although this issue is of primary concern to western States, it is applicable throughout the country. The present policy of sharply restricted growth in clean air areas is, therefore, modified by the bill so that development can take place in these portions of the country. Such activities must take place under carefully controlled conditions to assure that air quality is not severely affected.

The other general area of major concern is the reduction of pollution from motor vehicles. The revision of those portions of the act relating to mobile sources was one of the most difficult tasks faced by both the Senate Committee on Environment and Public Works and by the conference committee. The standards set in the 1970 act have not been achieved and cannot for various reasons be achieved at this time. An extension was necessary. The Senate conferees felt that the extension should not be so lengthy as to result in a relaxation in efforts to achieve the goal of automobiles which emit minimum amounts of pollution. The extra time desired by the industry is provided in this bill, but the general thrust of the pollution reduction program is maintained. I hope, Mr. President, that this is the last time that the Congress will be called upon to act on this subject. I believe that the conference agreement establishes realistic emission standards and a realistic timetable for their achievement.

Mr. President, during development of this legislation I was particularly concerned with the issues that relate to the production of energy in our country.

Specifically, I gave attention to those portions of the bill which relate to the utilization of coal in meeting these energy needs. I have long believed that a clean environment and energy independence are compatible. We must expand our utilization of domestic coal to meet energy needs and I am convinced that this can be done without reducing our commitment to improved environmental quality.

If we are to use more coal, adjustments must be made in the pollution program. The amendments to the Clean Air Act, therefore, do not envision any relaxation of air quality standards but provide mechanisms to facilitate the continued substitution of domestic coal for oil and natural gas. In cases when conversion of coal is taking place, compliance deadlines can be adjusted. Elsewhere in the conference report are requirements that advanced technology be used on coal-burning facilities to assure the lowest possible level of emissions.

Yet another coal-related provision is one I sponsored with the Senator from Ohio, Mr. METZENBAUM. This section provides that sources burning coal or those ordered to convert to coal can be directed to use locally available supplies rather

than importing their fuel from other areas. Recognizing that in some instances this may involve the burning of high-sulfur coal, the provision also requires the use of pollution control technology to keep emissions at the lowest levels.

Mr. President, I have discussed briefly some of the major points of this conference report. Like the program it modifies, this legislation is broad and comprehensive. It affects individuals and businesses throughout the United States. To achieve the clean air goals we established in 1970, a substantial effort will continue to be required but I do not believe the requirements of this legislation will impose intolerable burdens on any individual or segment of our society. The conferees were fair and balanced in their approach to this bill. I believe it to be a well-reasoned response to a complex and difficult problem. Mr. President, I urge the Senate to approve the conference report.

Mr. GARN. The bill requires analysis of "areas which may be affected by the proposed redesignation."

Do you mean local area "directly" affected, or areas where coal is mined a long way away, or exactly what?

Mr. MUSKIE. The term used in the bill is "of the area so redesignated." So only governments representing people in the area must give approval. This means the area within the boundary of the proposed area.

Mr. GARN. If a plant is sited near a mountainous area and modeling indicates that violation would occur on a few days a year, could the State redesignate only that small area class III.

Mr. MUSKIE. Yes, but it must be within the context of the class III designation process set forth; a State could so redesignate if the criteria in the approved implementation plan were followed.

Mr. GARN. Mr. President, I would like to ask the gentleman from Maine some questions about the intent of the conferees on a matter pertaining to class II.

It is my understanding that in the conference a consideration for the differences between high and low terrain was taken into consideration with respect to class I areas, is that correct?

Mr. MUSKIE. That is correct.

Mr. GARN. I understand that the conferees made no allowance for any kind of a variance in class II because the conferees agreed to increase a key pollution increment by 50 percent, and also provided three classes. Such problems can be solved, therefore, by the ability of the Governor to redesignate lands from class II to class III. Does this mean that the bill is somewhat flexible to meet these kinds of special problems in local areas?

Mr. MUSKIE. Yes, to the extent that it does not violate the purposes, procedures or requirements of this part and allow a deterioration of air quality in those areas. If it is necessary to accommodate an industrial facility in a class II area, the bill does provide for the means by which the Governor could redesignate the areas class III.

Mr. GARN. One of the major problems in establishing the effect of pollutants is the difficulty in establishing modeling techniques which fit the circumstances. Is it the intent of the conferees that the EPA require use of modeling techniques which will take into account and accurately predict air quality when siting plants in high terrain?

Mr. MUSKIE. The conferees recognize the problems related to modeling and siting in areas of elevated terrain. It is intended that those areas can be redesignated if necessary, and that appropriate and accurate modeling techniques be developed by the EPA through an air quality modeling conference, including models which apply in cases of plants proposing to site in areas where impact on high terrain occurs.

Mr. GARN. Is the analysis reviewable in the courts for adequacy?

Can any citizen bring the suit, or only EPA?

Mr. MUSKIE. The analysis would be reviewable in court under existing legal procedures. Either side would have access to the courts. Citizens have the right to sue in court to enforce certain specific requirements of the State plan set forth by the State.

Citizen suits are limited against a source to certain requirements of the act and the administrator for failure to perform a nondiscretionary function.

Mr. GARN. Can land currently under study as part of a "roadless area review," or for possible wilderness, be redesignated class III?

Mr. MUSKIE. Yes, as long as it has not been established as a wilderness area. Once it has been made a wilderness area, it is a class II area. It can be redesignated class I by the State, but not class III.

Mr. GARN. Is it your opinion that this entire redesignation process would take months, rather than years?

Mr. MUSKIE. Yes, if the full procedures set forth in the State plan have been fulfilled. On the other hand, if the redesignation were for a specific county, and that county had not approved the redesignation, then it might take years for the county to give its approval, or it might never give such approval.

If no air quality data had been gathered in the area, then a few months might not develop adequate data. As long as a variety of weather conditions and other such factors are considered, the analysis will be deemed adequate.

Mr. GARN. Who is the Federal land manager?

Mr. MUSKIE. The Federal land manager is the Secretary of the Department with jurisdiction over the land involved. He makes the decisions involved.

Mr. GARN. One of the major problems in establishing the effect of pollutants is the difficulty in establishing modeling techniques which fit the circumstances. Is it the intent of the conferees that the niques which will accurately reflect the differences between high terrain as compEPA be directed to use modeling techpared to ordinary terrain?

Mr. MUSKIE. The conferees recognize the problems related to modeling and siting in areas of elevated terrain. And that modeling techniques should be developed by the EPA to more accurately reflect the condition in high terrain areas and do not discriminate by applying inappropriate techniques in high terrain areas.

Mr. GARN. The act requires the State to provide an analysis of the impacts of the proposed redesignation. The effects specified in the act are health, environmental, economic, social and energy.

How extensive must this analysis be?

How long would it take to prepare such a document?

If the area in question is fairly small, can this process be shortened?

How long must the analysis be available prior to the public hearing?

Mr. MUSKIE. The State will revise its State plan to establish the appropriate procedures. So the initiative and the basic decision rests with the State. EPA then approves the State plan. Those procedures then govern all redesignations in a similar fashion. Only if EPA found some significant flaws in the State procedures proposed would EPA disapprove those, and then EPA would only disapprove the portion of the plan that was flawed. EPA would then promulgate that portion of the plan, and it would provide the certainty desired in redesignating class II to class III.

The length of the documents, the time the analysis would be available for public examination, and other such important details would be set forth in the State plan.

Mr. GARN. EPA has the right to disapprove the redesignation on procedural grounds. Can you give me some examples of some procedural error which might trigger a disapproval?

Mr. MUSKIE. Yes. If the State held a hearing without having the analysis available prior to the hearing, then that would violate the procedural requirements and might trigger disapproval.

If the redesignation had not been approved by the appropriate local governments—principally by resolution—the redesignation could be disapproved.

If no notice had been given regarding the hearing, the redesignation could be disapproved.

Mr. STEVENS. Mr. President, I would like to engage the manager of this conference report in a colloquy regarding the status of certain Federal lands located in Alaska. My understanding is that the national resource lands, as designated by the Federal Land Policy and Management Act of 1976, which were formerly referred to as the public domain are class 2 lands under this conference report and subject to redesignation as class 3 under appropriate authority outlined in the report.

Alaska has nearly one-half of the country's public lands and the great majority of the national resource lands.

However, virtually all the national resource lands in Alaska are withdrawn under specific public land order or by legislation pursuant to a particular Federal purpose. My question is what the status of these withdrawn lands are under the conference report.

There are three separate withdrawals that act upon the national resource lands in Alaska. All are related to the implementation of the Alaska Native Claims Settlement Act which was passed in 1971. The first of these withdrawals is a statutory withdrawal under section 11 of the Alaska Native Claims Settlement Act for selection by Alaska Natives pursuant to the entitlement granted them under the legislation. Additionally, other lands are withdrawn for selection by public land order for Native selection pursuant to the Claims Act.

The second type of withdrawal is what we call a d-2 withdrawal. This withdrawal extends to approximately 80 million acres of the national resource lands which are currently under study as potential additions to the national parks, wildlife refuges, wild and scenic rivers, and forest systems pursuant to section 17(d)(2) of the Alaska Native Claim Settlement Act. The third type of withdrawal extends to the remaining national resource lands in Alaska and the d-2 withdrawals and those lands withdrawn for native selection.

The Secretary, under section 17(d)(1) of the Alaska Native Claims Settlement Act has withdrawn the remainder of the national resource lands and these other lands under what we call a d-1 underlay pursuant to the development of regulations for classification for specific land uses on these lands.

I would ask the manager of this report what the status of these lands are. I presume they are class 2 lands subject to redesignation as class 3, but it is very important that such definition be made clear. The fact that these lands are withdrawn for potential study as areas that may eventually be designated as class 1 or class 2 lands not subject to redesignation leaves this matter unclear. Please clarify this for me.

Mr. MUSKIE. There is no question that these lands are all class 2 lands subject to redesignation as class 3. The specific Federal withdrawal pursuant to a public land order does not affect their status under the Clean Air Act. All national resource lands, so long as they remain national resource lands, are class 2 lands subject to redesignation under the act to class 3. The only class 2 lands not subject to redesignation to class 3 are listed in the statute. The national resource lands, withdrawn or otherwise, are not among these and therefore are subject to redesignation.

If these lands are ever established as one of the land categories that cannot be designated class III—such as national monuments or national wildlife refuges—then the class III redesignation would no longer be available for that specific area unless specifically provided by statute.

Mr. STEVENS. I am thankful for my good friend Senator MUSKIE's clarification of this matter. His explanation of the conference reports treatment of the air quality classification for the lands in question eliminate any confusion as to their status.

Mr. McCLURE. Mr. President, to provide an explicit understanding of the requirements of section 128, regarding visibility protection for Federal class I areas, I would like to ask the distinguished floor manager several questions. First, are the provisions of this section limited to only existing major stationary sources which cause or contribute to visibility impairment in Federal class I areas?

Mr. MUSKIE. Yes, the Federal interest is limited to existing sources, which have been in existence 15 years or less. Visibility restrictions with regard to new sources would result under the provisions of section 127, concerning prevention of significant deterioration.

Mr. McCLURE. Once a promise has been granted to a new source and the question of visibility has been considered as a part of air quality values under the significant deterioration provisions, could the source be subjected later to the requirements of section 128?

Mr. MUSKIE. It is my understanding that that was not the intent of the conferees.

Mr. McCLURE. When a new source satisfies the requirements of significant deterioration increments but is determined by the Federal Land Manager to conflict with the air quality values of a class I area would the Governor's decision to grant a permit be final for the purposes of visibility as well as for significant deterioration.

Mr. MUSKIE. Yes, it is my understanding that the conferees intended to provide no additional basis for any person to seek further regulation under section 128.

Mr. McCLURE. And while those existing sources are limited to the 28 major sources contained in the Senate bill's definition of major emitting facilities, exempting any such source which has the maximum potential to emit less than 250 tons per year, Federal guidelines apply only to fossil-fuel fired generating plants in excess of 750 megawatts?

Mr. MUSKIE. That is correct.

Mr. McCLURE. Under the conference agreement, does the State retain sole authority for identification of sources for the purpose of visibility issues under this section?

Mr. MUSKIE. Yes; the State, not the Administrator, identifies a source that may impair visibility and thereby falls within the requirement of section 128.

Mr. McCLURE. And does this also hold true for determination of "Best Available Retrofit Technology"?

Mr. MUSKIE. Yes; here again it is the State which determines what constitutes "Best Available Retrofit Technology," as defined in section 128. The Federal guidelines apply only to the large powerplants we have described.

Mr. McCLURE. And, in making such determinations, the State must take into consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result?

Mr. MUSKIE. That is specified in the act.

Mr. McCLURE. With regard to citizen suits, the House bill prohibited such suits in order to compel attainment of the national goal by a specific date. Is my understanding correct that this provision was accepted by the Senate conference?

Mr. MUSKIE. Yes; your understanding is correct. And, the prohibition is specifically discussed in the statement of managers. In addition, the Senate accepted the House prohibition against the Administrator imposing any mandatory or uniform buffer zone around a Federal class I area, in order to accomplish the purpose of section 128.

Mr. McCLURE. I thank the distinguished floor manager.

Mr. HART. The Senate bill contained a provision to remove the preemption which is in existing law, preempting States from "requiring certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as a condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment." The Senate bill would have allowed States with an emission inspection and maintenance program to require autos to pass a State inspection test prior to sale, with the cost to be borne by the manufacturer. Does that mean that States are preempted from emission inspection tests under the act, as amended by the conference agreement?

Mr. MUSKIE. No. States may conduct such testing, and may include it as a transportation control measure in the State implementation plan, if they wish. However, the testing must be conducted at a time consistent with the requirement of section 209 of the act which you have just cited.

Mr. HART. I understand that four States: Arizona, Colorado, New Jersey, and Oregon already have acted to provide for presale testing of new vehicles, but their plans are in abeyance because of the statutory restriction under section 209. Do these States have any recourse? Apparently they feel that this is a necessary part of a clean air strategy.

Mr. MUSKIE. Yes, those States do have recourse. They may test automobiles at any time after initial retail sale, titling, or registration. That opportunity is not preempted under section 209 for those States or for any other State for that matter.

Mr. HART. How could such a procedure work to insure that the purchaser of a new car is getting a car which does meet the required emission standards?

Mr. MUSKIE. It would be presumptuous of me to suggest how any individual State might choose to accomplish its goals in an inspection and maintenance program. However, some possibilities come to mind. There could be a postsale, predelivery test required by State law, and passage of that test could be a requirement for driving the newly

purchased vehicle on the highways of the State. Or, it could be made a requirement for obtaining a sticker similar to a safety inspection sticker, which would have to be obtained within a period of a few days after initial purchase and perhaps renewed from time thereafter. Or, a temporary registration could be issued at the time of purchase, with the emissions test made a requirement for reregistration after the temporary period had expired. These are just some ideas that would be permissible under the law, and I am sure that the States in their wisdom can develop many others. Therefore, I believe the States you have mentioned, including your own State of Colorado, can establish and enforce a meaningful inspection and maintenance program that will assure that new cars being driven on the roads of Colorado and other States do meet the emission standards.

Mr. HART. Thank you, Mr. Chairman.

Mr. RANDOLPH. I wish to clarify the effect of the conference report with respect to coal conversion. It is my understanding that the conference agreement follows the Senate bill in providing greater flexibility for sources converting to coal from other fuels. Under the provisions I sponsored in the Senate bill, the ability to convert to coal would be facilitated.

Is it the understanding of the able floor manager who chaired the Senate-House conference, that by adopting these provisions the greater use of coal will be encouraged?

Mr. MUSKIE. The Senator from West Virginia has been diligent in encouraging the expanded use of coal in environmentally sound ways. He is correct in his interpretation of the conference report in this respect.

TRANSFERENCE OF AUTHORITY ON RADIOACTIVE MATERIAL FROM NRC TO EPA

Mr. JOHNSTON. Mr. President, the Clean Air Act amendments currently being considered include a provision whereby responsibility for establishing emission standards for radioactive materials will be transferred from the Nuclear Regulatory Commission to the Environmental Protection Agency (EPA). In addition to transferring these currently regulated authorities, the Act would establish for the first time EPA authority over unregulated radiological emissions. The original provision was included in the House version of the Clean Air Act amendments and during Conference was agreed to by the Senate. During the House deliberations, there were no public hearings on this provision and, in my opinion, at no time were the potential impacts on the Nation's energy program adequately considered or investigated. It is my understanding that, during the conference deliberations, the administration expressed some concern over this provision but their concerns were not incorporated into the final agreement. In expressing their concerns, the administration did not present specific energy impacts or possible interferences with the President's national energy plan. I have significant reservations over the fact that delegating this authority to EPA, which by the provisions of the Clean Air Act provide for additional delegation to States and localities, will adversely affect the necessary development of energy facilities. In addition, I believe that there is a need in this area for national standards and only in extreme circumstances where local conditions require, should higher standards be established. I hope that the administration will take a close look at this provision and report back to the Congress at the earliest possible time the potential adverse effects of this change and recommend as necessary legislative changes to this amendment.

Mr. GRAVEL. Mr. President, this is indeed a momentous day. Only a few hours ago we were passing the Clean Water Act of 1977 unanimously. Now we are considering the Clean Air Act, as reported out of conference earlier this week. May I take this time to compliment Senator MUSKIE, Senator RANDOLPH, and Senator STAFFORD for leading a strong group of conferees through a difficult conference to the culmination in what is by and large a very good bill. The people of America owe a great deal to the dedicated conferees who labored to bring about the legislation we are discussing, and hopefully agreeing to today.

Mr. President, the conference bill is a good one, as I said. It is a fair compromise for the auto industry. Finally, the automotive emission standards are established, and the companies will now move to stepping up their progress toward cleaning up unhealthy auto exhaust wastes. The bill ties together the areas of nonattainment, transportation controls, and indirect source controls, as they should be. The bill minimizes variances that can be given under significant deterioration provisions. The bill will allow areas now encumbered with increasingly frequent foul air to begin to filter out the pollutants, with now more than a hope that our cities and heavily industrialized areas may again become healthy places to work and live. Areas with clean air will be assured that the quality of air will not be severely impacted. All in all, this is a fine start toward correcting many of the existing deficiencies under current law.

I support the bill, and the primary concepts behind the bill. But I do not do so completely without reservation. The grave concern I have is that the class III areas are not sufficiently attuned to the industrial growth that we can expect in the future. Actually, the makeup of the class III area may be such that no growth may be the result. For example, a refinery in our port city of Valdez may not be able to locate because the class III designation may be too stringently drawn. I would have preferred that class III areas be defined in the same terms that the Environmental Protection Agency has defined them in their existing regulations. I pushed for this approach in committee when the Senate considered its bill, because I could foresee the problems that are now possible as a result of the conference bill. I laud the goals of tightening up all classes of land so as to protect their respective air quality. Unfortunately, many of us have to work and are dependent on factories that must be constructed in these class III areas. I hope I am wrong, but I am afraid that we will be back shortly to discuss the need to alter the definition of class III.

Perhaps a real culprit in the problem of locating new facilities is the modeling system. It is not a precise tool, but a form of witchcraft or mental gymnastics which can be off by a factor of from 2 to 20. If the model shows violation of the allowable increments, construction will not be allowed as proposed. That is regardless of the actual pollution that would be emitted from the facility were it constructed. A further problem is that the allowables in the class I areas are probably beyond the realm of sensitivity.

With that reservation I gladly support the conference bill, and hope for its immediate implementation so that we can get on with the work of restoring polluted areas and protecting already clean air areas.

Mr. DOMENICI. Mr. President, after 3 years of debate and endless controversy, it is difficult to imagine that a few hundred extra words on the subject of the Clean Air Act amendments of 1977 would make any difference. Nevertheless, there are several points that I feel are worth making at this late date.

In the hurried preparation of the final bill and the statement of managers, there is agreement that there was an oversight in regard to smelter orders. Under the smelter order provision, it is stated that no smelter may get a smelter order and a delayed compliance order at the same time. The generalization is true as far as both orders relate to the same pollutant.

However, since the smelter order provision is limited to sulfur dioxide emissions, obviously a delayed compliance order may be received on another criteria pollutant, or perhaps even a future criteria pollutant such as arsenic.

I would also like to commend the conferees in adopting a waiver from new source standards for innovative technology. I authored such a provision in the Senate bill to help address the problems New Mexico Public Service was having under the inflexible provisions of the present law. I am pleased that this truly innovative company will be given the latitude that it now needs to press ahead with an advanced round of scrubber technology.

In closing, I would like to commend my colleagues on the conference for their dogged persistence and the pride and sense of craftsmanship they have brought to the job at hand.

Mr. McCLURE. Mr. President, I would like to make several points with respect to the conference report on the Clean Air Act, and also to ask Senator MUSKIE, the chairman of the conference, for clarification on one troubling matter.

As every legislator knows, meshing two opposing bills in conference can be a confusing matter. Moreover, with a bill as detailed as the Clean Air Act, the confusion is exacerbated by the complexity of the issues. Certainly, one of the most complex areas of the bill is the nondegradation provision. The Senate, however, has discussed the issue at great length, and despite its intricacies, had agreed

on a procedure to require new facilities in pristine areas of the country to meet a strict set of requirements to protect the quality of the air in clean air regions. Since the House had a similar provision, the two were meshed during Conference into a coherent, although complex, set of requirements for new facilities in clean air regions.

My concerns are not with the actual conference agreement on nondegradation, but rather the relationship of that agreement with respect to an ambiguous and little understood House provision which dealt with the protection of visibility. In the House's presentation on visibility, and in the final conference agreement, the focus of concern was on the impact of existing sources on visibility in class I areas. Since the visibility section was adopted before the nondegradation section was approved, the issue of the relationship of the visibility section to new sources in pristine areas was not discussed at the time the visibility section was adopted.

Mr. DOMENICI. Would the distinguished Senator from Idaho yield for a comment?

Mr. McCLURE. I would be delighted to yield.

Mr. DOMENICI. As one who was heavily involved in the debate on whether the Senate should adopt the House provision, I can say with authority that the debate on the visibility provision centered over whether such a provision was needed to retrofit existing sources. In fact, at my urging, the scope of the visibility section was limited in conference. The Federal Government could only issue guidelines to the States for existing powerplants over 750 megawatts. The identification of those existing sources which impair visibility is a State determination which is followed by a subsequent State determination of what constitutes "best available retrofit technology."

During the course of the visibility discussion, the relationship of the section to new sources was not discussed since nondegradation remained unsettled at the time. When the conferees addressed nondegration, it was agreed that State revisions of their implementation plans to comply with the requirements of nondegradation would satisfy any statutory requirements for new sources with respect to visibility.

Mr. McCLURE. I appreciate the remarks of my colleague. I believe his citations serve a useful purpose in pinpointing the difference between the two sections. Obviously, nondegradation was concerned with imposing stringent requirements on new sources, while the visibility section was aimed at retrofitting those facilities constructed in the recent past which have already impaired the quality of the air over many of our national parks and wilderness areas.

Mr. MUSKIE. Mr. President, I urge the adoption of the conference report.

SEVERAL SENATORS. Vote! Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF THE REPORT ENTITLED "CONGRESSIONAL ADVISERS REPORT TO THE CONFERENCE ON INTERNATIONAL COOPERATION"

Mr. RIBICOFF. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

SENATE RESOLUTION 248

Resolved, That the report entitled "Congressional Advisers Report to the Conference on International Economic Cooperation (The North/South Conference)" be printed as a Senate document, and that three thousand copies of such document be printed.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. RIBICOFF. This resolution has been cleared with Senator ROBERT C. BYRD, the majority leader, with Senator BAKER, the minority leader, with Senator CANNON and Senator HATFIELD of the Committee on Rules and Administration.

It authorizes the printing of the CIEC report. It will cost $339.03 for 3,000 additional copies.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 248) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION IN ENROLLMENT OF H.R. 6161

Mr. MUSKIE. Mr. President, I ask the Chair to lay before the Senate House Concurrent Resolution 327.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives on House Concurrent Resolution 327, which will be stated.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 327) to correct the enrollment of the bill H.R. 6161.

The PRESIDING OFFICER. Without objection, the concurrent resolution is considered and agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I am happy to say that my labors for the day are concluded, and I wish the Chair a pleasant evening. [Laughter.]

The PRESIDING OFFICER. The Chair thanks the distinguished Senator from Maine.

FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The PRESIDING OFFICER. The Senate will now continue with the consideration of H.R. 7797, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Mr. Lewis Ashley, a member of my staff, have the privilege of the floor during the consideration of the foreign aid bill that will be before the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for Mr. Tinker and Mr. Debar, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, after consultation with the majority leader and the minority leader, it was decided that the foreign aid appropriation bill be taken up tomorrow morning. I believe the Senate will convene at 10 and the foreign aid bill will be taken up. That may not be the exact time, but the foreign aid bill will be coming up sometime after 10 o'clock tomorrow morning.

Accordingly, I ask unanimous consent that this measure be set aside at this time and taken up tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against either side for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the bill (S. 2001) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and for other purposes.

The House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1235) to further amend the Peace Corps Act.

The resolution (H. Con. Res. 317) providing for an adjournment of the House from

August 5 until Septmeber 7, 1977, and an adjournment of the Senate from August 6 until September 7, 1977, is returned to the Senate, in compliance with a request of the Senate for the return thereof.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 1377) to extend the time for commencing actions on behalf of an Indian tribe, band, or group.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6689) to authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, to make certain changes in the Foreign Service personnel system, and for other purposes.

At 7:55 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the resolution (H. R. 6161) to amend the Clean Air Act, and for other purposes.

The House agrees to the concurrent resolution (H. Con. Res. 327) to correct the enrollment of the bill (H. R. 6161), in which it requests the concurrence of the Senate.

At 8:37 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4991) to authorize appropriations for activities of the National Science Foundation, and for other purposes;

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes.

ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

S. 1235. An act to authorize appropriations for the Peace Corps for fiscal year 1978.

S. 1765. An act for the relief of the Federal Life and Casualty Company of Battle Creek, Michigan.

S. 2001. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for floor control, water conservation, recreation, hydroelectric power and other purposes.

H.R. 6689. An act to authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

S. Res. 243. An original resolution authorizing supplemental expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations (Rept. No. 95–395).

By Mr. EASTLAND, from the Committee on the Judiciary:

With amendments:

S. 262. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes (together with additional views) (Rept. No. 95–396).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 229. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1217 (Rept. No. 95–397).

S. Res. 235. A resolution waiving the provisions of section 402(a) of the Congressional Budget Act of 1974 with respect to S. 1306 (Rept. No. 95–398).

S. Con. Res. 43. An original concurrent resolution revising the Congressional budget for the U.S. Government for the fiscal year 1978 (together with supplemental and minority views) (Rept. No. 95–399).

By Mr. STENNIS, from the Committee on Armed Services:

With an amendment:

S. 1731. A bill to amend section 2 of the act of May 6, 1974, to extend the special pay provision for physicians and dentists in the uniformed services (title amendment) (Rept. No. 95–400).

S. Res. 246. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1731. Referred to the Committee on the Budget.

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Without amendment:

H.R. 2563. An act for the relief of Velzora Carr (Rept. No. 95–401).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

James R. Schlesinger, of Virginia, to be Secretary of Energy.

Hazel R. Rollins, of the District of Columbia, to be an Assistant Administrator of the Federal Energy Administration.

Georgiana H. Sheldon, of Virginia, to be a member of the Federal Power Commission.

Charles Brent Curtis, of Maryland, to be a member of the Federal Power Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Lawrence Connell, Jr., of Connecticut, to be Administrator of the National Credit Union Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

Roland Ray Mora, of California, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Roland Ray Mora, of California, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

George V. Grant, of New York, to be U.S. marshal for the southern district of New York.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

T. F. Gilroy Daly, of Connecticut, to be U.S. district judge for the district of Connecticut.

Mr. MORGAN. As in executive session, from the Committee on Armed Services, I report favorably the nominations of Col. James C. Good, Army National Guard, for appointment to the grade of brigadier general; and Maj. Gen. Harold R. Aaron, U.S. Army, to be lieutenant general; and Vice Adm. John G. Finneran, U.S. Navy—age 53—for appointment to the grade of vice admiral on the retired list. Also, Rear Adm. Charles H. Griffiths, U.S. Navy, for appointment to the grade of vice admiral. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. In addition, Mr. President, there are 51 in the Air Force for appointment to the grade of lieutenant colonel and below (list beginning with James E. Payne); and there are 47 military students for appointment in the Regular Army of the United States, in the grade of second lieutenant (list beginning with William J. Allison); and there are 536 in the Navy for permanent promotion to the grade of captain (list beginning with John Lewis Adams). Also, there are 1,609 in the Army of the United States, for promotion to the grade of lieutenant colonel (list beginning with Robert O. Abney); and there are 13 to be permanent ensigns and lieutenants in the Navy (list beginning with Joseph M. Carwile). Since these names have already appeared in the CONGRESSIONAL RECORD

and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's Desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 18 and July 21, 1977, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 2004. A bill to amend the Internal Revenue Code of 1954 to permit an individual who is an active participant in a retirement plan to claim the deduction for retirement savings for amounts contributed by him to an individual retirement account, for an individual retirement annuity, or for a retirement bond, to the extent that the amounts paid by him or on his behalf under the retirement plan does not equal the maximum amount of the retirement savings deduction to which he would be entitled if he were not an active participant in such plan; to the Committee on Finance.

By Mr. BELLMON:

S. 2005. A bill to amend title XIX of the Social Security Act to delay the effective date for implementing certain methods of determining reasonable costs for skilled nursing facility services and intermediate care facility services, and for other purposes; to the Committee on Finance.

By Mr. CURTIS:

S. 2006. A bill to amend title II of the Social Security Act to provide that widow's and widower's benefits shall be based upon the amount of the monthly benefit of the deceased individual in the case of a deceased individual who delayed his retirement; to the Committee on Finance.

By Mr. PELL:

S. 2007. A bill for the relief of William J. Games; to the Committee on Finance.

By Mr. INOUYE:

S. 2008. A bill to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the U.S. foreign trade; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 2009. A bill to amend title XVIII of the Social Security Act to eliminate certain restrictions and limitations imposed for the receipt of home health services, to redesignate such services as "home care services," to broaden the items and services included within such term "home care services," and otherwise to expand, improve, and make more accessible home care services to those in need thereof; and to amend title XIX to include home care services (as defined in title XVIII) among the services which must be covered under an approved State plan for medical assistance under title XIX; to the Committee on Finance.

By Mr. THURMOND:

S. 2010. A bill for the relief of Pil Mun Hzo; to the Committee on the Judiciary.

By Mr. SCHMITT (for himself, Mr. MCCLURE, Mr. THURMOND, Mr. HELMS, Mr. TOWER, and Mr. GARN):

S. 2011. A bill to amend title 5, United States Code, to preserve and strengthen the separation of powers in Federal Government by establishing a uniform procedure for congressional review of executive branch rules which may have a harmful impact on the public, may be contrary to law or may be inconsistent with congressional intent; to expand opportunities for public participation in Federal agency rulemaking; and for other purposes; to the Committee on the Judiciary.

By Mr. HASKELL:

S. 2012. A bill to amend the Trade Expansion Act of 1962 with respect to investigation of the effects on national security of importation of refined petroleum products; to the Committee on Finance.

By Mr. EASTLAND (for himself, Mr. THURMOND, Mr. CRANSTON, Mr. SCHWEIKER, Mr. STONE, Mr. HEINZ, Mr. LAXALT, Mr. HATCH, and Mr. HELMS):

S. 2013. A bill to amend chapter 40, title 18, United States Code, to require the addition of taggants to explosive materials for the purpose of identification and detection; to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. RIEGLE):

S. 2014. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. LEAHY):

S. 2015. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2016. A bill to establish fees for services performed by U.S. marshals; to the Committee on the Judiciary.

By Mr. HELMS:

S. 2017. A bill to provide objective definitions of unitary school systems for uniform court enforcement of the Civil Rights Act of 1964, to provide objective standards for statewide postsecondary educational systems under that act and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools, and for other purposes; to the Committee on Human Resources.

By Mr. CURTIS:

S. 2018. A bill to amend section 514(b) of the Employee Retirement Income Security Act of 1974 to restrict preemption of State law as it relates to employee welfare benefits plans only to the extent such plans are subject to other titles of the employee welfare benefit plans only to the extent that such plans are subject to other titles of the Employee Retirement Income Security Act; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

By Mr. JAVITS:

S. 2019. A bill to delay the effective date for mandatory coverage of multiemployer plans under title IV of the Employee Retirement Income Security Act of 1974; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2004. A bill to amend the Internal Revenue Code of 1954 to permit an individual who is an active participant in a retirement plan to claim the deduction for retirement savings for amounts contributed by him to an individual retirement account, for an individual retirement annuity, or for a retirement bond, to the extent that the amounts paid by him or on his behalf under the retirement plan does not equal the maximum amount of the retirement savings deduction to which he would be entitled if he were not an active participant in such plan; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am reintroducing legislation to expand the coverage of our current employee retirement legislation in order to permit employees who are covered by a pension or profit-sharing plan by their employer to also establish an independent retirement account—IRA.

Under the Employee Retirement Income Security Act of 1974—ERISA—individuals who are not active participants in a qualified retirement plan, a Government plan, or a section 403(b) annuity contract are entitled to make tax deductible contributions to an individual retirement account, individual annuity, or individual retirement bond. The deduction allowed for the taxable year is the lesser of $1,500 or 15 percent of the individual's compensation. Upon reaching age 59, the individual may reclaim his retirement savings.

Inequitably, however, employees who are active participants in qualified pension plans but whose plans have a value less than $1,500 or 15 percent of their income are not permitted to contribute the difference to an IRA. As a result, these individuals cannot establish IRA's, even if the benefits available under the employer's plan are significantly less than would be available under an IRA.

Under this bill, individuals in "Qualified Retirement Plans" will also be allowed to establish IRA's but they will be limited to depositing only the difference between what their employer already deposits and the $1,500 or 15-percent legal limit.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 219(b)(2) of the Internal Revenue Code of 1954 (relating to limitations and restrictions on the deduction allowable to individuals covered by certain other plans) is amended to read as follows:

"(2) INDIVIDUALS COVERED BY CERTAIN OTHER PLANS.—In the case of an individual who, for any part of the taxable year, was covered by another retirement plan, the amount allowable as a deduction under subsection (a) to that individual for the taxable year after the application of paragraph (1) of this subsection shall be reduced by an amount equal to the sum of the amounts contributed by or on behalf of such individual to such plan for the taxable year.".

(b) Section 219(c) of such Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(5) COVERED BY ANOTHER RETIREMENT PLAN.— For purposes of this section an individual is treated as covered by another retirement plan for the taxable year if for any part of such year—

"(A) he was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees

by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foreging, or

"(B) amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not his rights in such contract are nonforfeitable).".

SEC. 2. The amendments made by the first section of this Act apply to taxable years beginning after December 31, 1976.

By Mr. BELLMON:

S. 2005. A bill to amend title XIX of the Social Security Act to delay the effective date for implementing certain methods of determining reasonable costs for skilled nursing facility services and intermediate care facility services, and for other purposes; to the Committee on Finance.

Mr. BELLMON. Mr. President, today I introduce legislation to amend section 249(a) of Public Law 92-603. Section 249 (a) amended the Social Security Act by adding the requirement that payment under the title XIX program for skilled nursing and intermediate care facility services be made on a cost-related basis. This amendment resulted in the promulgation of Federal regulations on July 1, 1976, requiring that states utilize either title XVIII cost-reimbursement principles or an alternative cost-reimbursement method as set out in detail in the regulations. The regulations require that rates of reimbursement based upon these cost-reimbursement principles must be in effect by January 1, 1978.

Mr. President, this has been a controversial and questionable requirement which needs to be seriously reexamined. The rapidly increasing cost of medical care has become a major concern of both the State and Federal Governments. Several States have developed major cost containment programs. These programs have been undertaken by local officials familiar with the special problems and needs of their area. Successful cost containment programs have eliminated cost-reimbursement methods of payment as it is generally recognized that retrospective reimbursement has been a major factor in health care cost inflation. Since successful cost-containment involves elimination of the cost escalation incentives inherent in cost-reimbursement systems, it would seem unwise to implement such a system at this time without careful consideration of alternatives currently being developed.

Mr. President, the financial implications of the cost related reimbursement requirement are serious and will increase as the proportion of older persons in the population continue to expand. In 1975, CBO estimated that total Federal, State, and local government expenditures for long-term care was between $5.7 and $5.8 billion. Private citizens spent another $5.9 to $7.7 billion and total government and private spending is expected to grow to $26 to $31 billion by 1980. The mandating of cost-reimbursement methods of payment will inflate costs to all payors and, consequently, inflation impact estimates do not actually reflect the total potential costs of this legislation. Despite this fact, however, the cost of implementing the cost-relatedness requirement will significantly increase Federal expenditures, especially for medicaid which accounts for about 77 percent of Government financing for long-term care. According to an inflation impact statement prepared by DHEW following the statutory amendment in 1972, the first year's increase in reimbursement is estimated to be between $152 and $300 million. As a result of cost inflation in the health sector since 1972, these costs could easily double by 1978.

Mr. President, it may be argued that the cost-related reimbursement provision will help to insure quality care for older persons in nursing facilities. Unfortunately, we have little evidence to support this view. Some of the most flagrant violations of appropriate standards of care and fraud and abuse have been found in States with relatively high reimbursement rates. In a study published by the New York State Marland Act Commission on Nursing homes—1976—for example, it was reported that the highest medicaid per diem rate for skilled nursing care is more than triple the lowest rate. The report further concluded that the rate variations did not reflect different needs of patients for service as high rate facilities did not have sicker or harder-to-manage patients. Quality standards can best be assured, therefore, by giving States greater authority to use reimbursement rates as leverage to insure compliance to appropriate levels of care. The cost-related requirement actually weakens the quality control power of the State in its negotiation with providers.

The cost-related reimbursement is not necessary in order to insure an adequate supply of high quality facilities. In my State, the number of beds increased from 26,298 in 1974 to 27,234 in 1977. During the past 3 years, health planning agencies have refused to issue certificates-of-need for most new construction requests due to the lack of need for new beds.

Mr. President, the legislation which I propose is designed to achieve two objectives. First, it delays implementation of the section 249(A) requirement until January 1, 1979. Second, this proposed legislation would protect States from liability for retroactive payments. The protection against retroactive payment is especially important in lieu of a recent decision by the Middle District Court of Alabama—Nursing Home Association of Alabama against Califano, et al, July 12, 1977—which held that the regulations for implementation of the cost-relatedness reimbursement requirement by January 1, 1978, are not in compliance with the law. Thus, many States who have been acting in good faith to develop an appropriate reimbursement system by January 1, 1978, are faced with the possibility of retroactive payments to July 1, 1976.

Mr. President, rising health care costs, especially for medicaid, are already placing great strain on State and local resources. Many States have had to cut back on services and are seeking other ways of reducing costs without further erosion of essential programs. Most authorities agree that cost-reimbursement methods of payment have been a major factor in promoting higher costs in health care. The consensus is that alternative reimbursement schemes involving careful rate review, negotiation, and prospective reimbursement must be developed. Thus, it is inconceivable that while we are desperately attempting to control rising health costs, we are gearing up to comply with requirements which mandate the use of cost-relatedness principles for skilled and intermediate care facilities this amendment will provide a year's delay in implementation of this cost-related reimbursement requirement and protect States against retroactive costs. This will allow time for States to evaluate alternative, prospective methods of reimbursement.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1902(a)(13)(E) of the Social Security Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1979".

(b) Notwithstanding the provisions of section 1902(a)(13)(E) of the Social Security Act, the amount payable to any State for any calendar quarter ending prior to January 1, 1979, on account of expenditures made under a State plan approved under title XIX of such Act, shall not be decreased by reason of the failure of such State to meet the requirements of such subsection during any calendar quarter ending prior to January 1, 1979.

By Mr. INOUYE:

S. 2008. A bill to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the U.S. foreign trade; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, basically the national shipping policy of the United States is embodied in the Merchant Marine Act of 1936, as amended and the Shipping Act of 1916, as amended.

The Merchant Marine Act constitutes the basic statutory scheme of Federal aid to the private shipping industry.

It is designed to establish and maintain a strong merchant fleet owned by American citizens, operated by American crews, and fully capable of serving our international economic, military, and political commitments under all foreseeable circumstances.

The act recognizes that even in times of peace, economic and political tensions and other unforeseen contingencies may seriously disrupt or distort traditional patterns of commercial intercourse on international trade routes.

As such, it reflects the realization that an international power such as the United States cannot be dependent upon ocean transportation media owing allegiance to alien flags without threatening its national security.

The Shipping Act of 1916, as amended, embodies the other half of our national shipping policy. It is regulatory in nature, and its purpose is to safeguard against agreements and practices in the U.S. ocean liner trades which would be detri-

mental to the commercial interests of the United States. To that end it is aimed at preserving competition in these trades.

Thus, all carriers operating in the foreign commerce of the United States, whether U.S.-flag or foreign, whether subsidized or not, whether conference members or independents, must compete fairly with one another.

Although our national shipping policy is bifurcated, both parts—the promotional and the regulatory—are harmonious and complement each other.

Each, if permitted to operate fully and independently, will further the objectives of the other.

Conversely, impairment of one part would in all probability adversely affect the other.

For example, if the Government aid to the U.S. shipping industry authorized by the Merchant Marine Act is not sufficient to establish and maintain a merchant fleet capable of carrying a "substantial portion" of U.S. foreign commerce, the purpose of the Shipping Act of 1916 to preserve competition in our ocean liner trades is to a large extent rendered moot.

Or, if the regulatory provisions of the Shipping Act of 1916, are applied in a manner which discriminates against or otherwise impairs the ability of U.S.-flag carriers to compete against their foreign counterparts in our liner trades, not only is the purpose of the Shipping Act frustrated, but the objective of the Merchant Marine Act to establish and maintain a strong merchant fleet is thwarted as well.

Our national shipping policy is administered by two Federal agencies.

The Maritime Administration, an agency of the Department of Commerce, is responsible for the direct promotion of the American merchant marine and our domestic shipbuilding industry, including administration of the Federal subsidy programs for ship construction and ship operation. Other promotional activities include research and development programs, training of officers for the Merchant Marine, maintenance of the reserve fleet and administration of a variety of other aids—such as title XI—low interest—mortgages, which assist American operators in purchasing vessels.

The Federal Maritime Commission, on the other hand, is an independent regulatory agency charged by Congress with responsibility for implementing a number of Federal statutes that are basically concerned with regulating both U.S. and foreign shipping lines engaged in carrying our country's import and export trade by water, as well as certain closely related domestic activities such as ocean freight forwarding and terminal operation at U.S. ports. The Commission also has regulatory jurisdiction over the domestic offshore commerce of the United States; that is, movement of cargo by ship between points on the U.S. mainland and any other possessions, States, or territories of the United States.

An idea of how successful our national shipping policy is in achieving its dual objectives of maritime fleet promotion and preservation of competition may be gathered from the International Economic Report of the President—transmitted to Congress, January 1977.

That report states at pages 115–116:

Despite innovations introduced by the U.S. maritime industry in recent years and the financial assistance provided to it by the Federal Government, the U.S.-flag merchant fleet ranks 10th in size among the national fleets of the world and accounts for only a small fraction of the world fleet.

The report goes on to say that the share of U.S. foreign trade tonnage carried in U.S. vessels in 1976 is approximately 17 percent less than 1970, and that the percentage of commercial cargo carried in U.S. oceanborne foreign trade by U.S.-flag ships was a mere 4.4 percent in 1976 as opposed to 42.3 percent in 1950.

Mr. President, recently the president of the Transportation Institute, Mr. Herbert Brand, described the state of the American-flag fleet as "appalling." He said, and I quote:

Our nation's foreign trade—almost all of it—is carried on foreign-flag vessels. Today, less than 5 percent of our export-import commerce is transported on ships that fly the American flag, and only 2 percent of our dry bulk trade and less than 4 percent of our vital oil import trade are carried on American vessels.

Yet, no other major world power permits the carriage of its trade to be so totally controlled by the merchant fleets of foreign nations. The Soviet fleet today carries about 50 percent of Russia's foreign trade. Nearly 40 percent of Japan's foreign trade is carried on its national flag vessels. The Greek-flag fleet carries about 45 percent of its international commerce. For Norway and Spain, the figure is 37 percent. For Great Britain, 34 percent. West Germany and France each carry 30 percent of their foreign trade on vessels flying their national ensigns.

Today, . . . nations [have] come to understand that their economic security is vitally linked to their maritime independence.

In fact, the emergence of national maritime independence among the major world powers makes it more necessary than before that the United States achieve a measure of self-sufficiency in its oceanborne transport capability. As we look at the state of our merchant marine today, we see that we are woefully inadequate to assure an American shipping capability ready and able to respond to national and international requirements.

The U.S. shipping industry is beset with a number of serious problems which are in large measure responsible for the "appalling" state of affairs described by Mr. Brand. Some of them have their genesis in the promotional part of our national shipping policy, while others stem from the administration of the regulatory aspect. Whatever the source, however, our overall policy is adversely affected, and the industry suffers.

Mr. President, the most pressing of these problems, in the judgment of many including myself, is caused by the illegal rebating and other malpractices which are widespread throughout our liner trades.

Sections 16 and 18(b)(3) of the Shipping Act, 1916, as amended, prohibit common carriers by water in our ocean trades from allowing any person to obtain transportation or related services for property at less than the published rates in their tariffs on file with the Commission.

In other words, the statute prohibits any carrier subject to the jurisdiction of the Federal Maritime Commission from offering any direct or indirect monetary inducement to attract cargo that departs from the rates contained in its published tariff.

The act likewise prohibits shippers, consignors, consignees, forwarders, brokers, or other persons subject to the jurisdiction of the Commission, from obtaining or attempting to obtain transportation at less than the published tariff rates.

Violations of these prohibitions are called "malpractices," of which rebates are one example. Clearly, the statutory prohibitions constitute a mandate for "fair" competition in the U.S. liner trades.

Rebating is simply a device to attract traffic away from competitors. Generally speaking, when times are good, the load factors experienced by carriers in U.S. liner trades are sufficiently high that the incentive for "cargo stealing" diminishes, even without the existence of other stabilizing mechanisms.

Conversely, when times are bad, traffic is light and the incentive to "steal cargo" increases, since there are no effective stabilizing mechanisms in the trade.

In other words, since there is no effective mechanism in a given U.S. trade to smooth out fluctuations in traffic and their economic impact on individual carriers, rebating goes hand-in-hand with the ratio between available cargo and the liner tonnage competing for that traffic.

Unlike a railroad that can increase or decrease the size of its trains to conform to the traffic, ocean carriers incur substantially the same voyage costs for bunkers, insurance, and crews' wages, whether the vessel is empty or fully loaded. Therefore, in periods of slack traffic, the demand for any cargo is progressively accelerated.

Mr. President, here is the crux of the matter. We operate our liner trades on a "come one, come all" basis, inviting participation of foreign-flag carriers as cross traders, as well as in our bilateral trades. Given the range, value, amount, and predictability of ocean cargo to and from the United States, our policy of freedom of access to our liner trades has attracted cross traders away from less lucrative routes. The result is that our liner trades tend to be overtonnaged even in good times, and, since there is no effective mechanism provided under our national shipping policy to stabilize the liner cargo/tonnage ratio, a climate conducive to rebating prevails in the ocean trades of the United States.

Not only is rebating widespread in our liner trades Mr. President, it operates to the detriment of the U.S.-flag merchant marine as distinguished from its foreign competition.

On this point I would like to quote from the 1962 report on the Ocean Freight Industry published by the Antitrust Subcommittee No. 5 of the House Judiciary Committee:

. . . . one of the chief characteristics of [rebating] is its discriminatory impact. Frequency the beneficiary of a rebate or other malpractice is the large or regular shipper who by virtue of his economic power and ability to offer substantial cargoes obtains from the carrier privileges not extended to his smaller competitors.

Much of the hard-core malpractice which the subcommittee studied took place on inbound trade routes to the United States. In these trades, U.S.-flag operators frequently found themselves losing cargoes as a result of rebating by their competitors and were thus forced themselves to engage in such practices. On the other hand, the subcommittee has observed that from time to time, U.S.-flag lines have attempted to secure adherence to conference regulation and the establishment of machinery to curb malpractice . . . . a fact which tends to support the conclusion that malpractice in general works against the relative well-being of lines flying this country's flag.

That committee concluded that malpractice in the ocean freight industry is contrary to basic tenets of U.S. maritime policy, including the need for promotion of the U.S. merchant marine and the principle of equitable treatment of American shippers, consignees, and their representatives. Time has only reaffirmed that assessment.

Recently, during hearings which my subcommittee held on illegal rebating, the Chairman of the Federal Maritime Commission testified that when he assumed the chairmanship of the Federal Maritime Commission in November 1975, it was clear that rebating in our ocean trades was one of the major regulatory problems confronting the Commission. He said the problem of rebating and related malpractices must be a top priority subject for consideration by the Congress.

His estimate of the situation was shared by a number of other witnesses.

The Director of the FMC's Bureau of Enforcement, which was reactivated in May of 1976, to deal with the problem, estimated that rebating in U.S. liner trades in all probability exceeded $100 million annually.

Another witness, Manuel Diaz, president of Adherence Group, Inc., with 30 years' experience in ocean shipping succinctly stated why rebating in U.S. liner trades is so pernicious. He said:

It results in unreasonable preference and advantage or prejudice and disadvantage, to shippers, ports, and other concerned interests.

It never benefits the consumer; and ultimately, must result in predatory competition leading to unbridled rate wars which will ultimately make it impossible for privately-owned companies to continue to operate much less to replace their fleets.

In a nutshell, the result of illegal rebating, whatever its degree, is the enrichment of a few at the expense of the public interest and commerce between nations.

The subcommittee asked Mr. Diaz what, in his view, was the future of U.S. lines, if, as a Government, we did nothing and permitted the present situation to continue. He replied:

I don't think they have any future. First of all, I don't know how any man in his right mind would invest one single cent in the building of U.S. vessels for the liner trade. I think a perfect example is what has happened to us in the dry bulk business. Less than 2 percent of our dry bulk imports and exports are carried on U.S.-flag vessels, less than 2 percent—that is, ridiculous. I hate to even discuss it. I think the situation has to be dealt with, because it has gotten so bad that from now on, it's completely downhill. The U.S.-flag carriers cannot survive.

Mr. President, I believe Mr. Diaz' reply clearly illustrates how failure to implement one segment of our national shipping policy—that is, the regulatory segment—also frustrates the objectives of the promotional segment of that policy.

In this context, if we permit rebating to continue in our liner trade it makes little sense for the Maritime Administration to attempt to promote the American merchant marine and our domestic shipbuilding industry through Federal subsidy programs because they simply will not be able to compete in our ocean liner trades.

Mr. President, I should add that the situation is further exacerbated by the rapidly increasing competition in our liner trades from Communist state fleets. The Soviets, for exemple, have put very large numbers of ships into the world's most lucrative cross trades at rates 30 percent or more below the market levels, according to one source.

Mr. President, the Government's awareness that rebating is rife in our ocean liner trades, and indeed has been a fact of life for many years, is not something new.

It was the subject of much discussion during the hearings of the Alexander committee from 1912 to 1914 which resulted in the Shipping Act of 1916.

The 1962 report of the Antitrust Subcommittee—No. 5—of the House Judiciary Committee, to which I have already referred, devoted an entire chapter of 35 pages to the subject of "Malpractices and Other Abuses" in our ocean freight industry.

That report concluded that U.S. foreign trade routes were rife with malpractices, there were "general widespread abuses of law and of agreements, both filed and unfiled," and that "administration of the Shipping Act and the enforcement of laws regulating ocean shipping has been woefully deficient."

And, the most recent hearings which my subcommittee held in March of this year, have confirmed that the situation has not changed for the better. In all probability it has become worse, especially with the advent of heavy cross-trading by Soviet-owned liners.

Mr. President, the question which readily suggests itself is why, as a Government, have we permitted this situation to flourish in contravention of our shipping laws and to the detriment of our expressed national shipping policy.

Based on my own experience and the testimony at the subcommittee's hearings, the reasons, I submit are two-fold.

First, there has been a notable lack of a unified, organized effort to correct the situation on the part of the several Federal agencies having statutory responsibilities that are affected by illegal rebating in the U.S. liner trades. In addition to the FMC, these agencies include the Department of Justice, the Department of State, the Security and Exchange Commission, the Internal Revenue Service, and the U.S. Customs Service.

Historically, as I have said, all of these agencies have long been aware of the problem.

In fairness to the FMC, it has recently began an attempt to enforce its statutory responsibilities but, as Chairman Bakke and other witnesses testified, the Commission's efforts are severely hampered by the lack of a concerted Federal effort, and the inadequacies of existing law and agency resources.

And this, Mr. President, brings me to the second reason why as a government we have failed. Our present laws are simply inadequate to enable these agencies to regulate effectively the foreign flag carriers which transport the vast majority of the export-import commerce in our ocean liner trades.

Not only are the vast majority of malpractices in these trades beyond the pale of our enforcement authority, what action that is taken is usually taken against our own flag-carriers. This, of course, further exacerbates the situation because regulation and enforcement is uneven and discriminatory to the detriment of our merchant fleet.

Chairman Bakke summarized these problems as well as the lack of agency resources very succinctly in his testimony before the subcommittee. He said:

There are, of course, greater obstacles to enforcement of our laws against foreign carriers. We can expect opposition from foreign carriers, some of whose governments actually have passed laws forbidding their nationals to produce documents for our inspection. At present, the United Kingdom, Belgium, Sweden, France, Finland, the Netherlands, the Federal Republic of Germany, Australia, and Norway have enacted such secrecy laws.

Also, we are severely limited in resources. As you know, we are a small agency of some 315 employees, of whom 33 are investigative personnel. We estimate optimistically that, given our current resources, it will take until April 1979 to complete the investigations we now have underway. This projection is based upon concentration of all investigative personnel solely on these rebate cases. That would, however, preclude carrying out other enforcement programs, such as audits of cruise operators for protection of passengers who are required to make advance ticket deposits with bookings, freight forwarder compliance checks, field investigation of freight forwarder applicants, a rate surveillance program, cargo inspection, section 15 agreement matters, and informal complaints. As of February 1, 1977, 657 such cases were under investigation by our field offices. In the meantime, the statute of limitations continues to run; indeed, it is conceivable that the Commission may lose the opportunity to prosecute these past violations.

. . . although uniformity of enforcement continues to be one of our foremost considerations in conducting the Commission's drive against rebating, it must be borne in mind that the Commission's recent success in developing facts and leads with which to proceed is due, in large measure, to voluntary disclosures by carriers and by shippers or consignees. Therefore, the regulatory tools that I have discussed should be judged with that caveat in mind. And when so viewed, as I have said already, it is clear that if rebating continues to prevail in our ocean trades, the Commission will need a more viable approach to enforcement of the statutory prohibitions against that practice than is presently authorized.

I am not prepared at this point to say what the approach should be, or even what options there may be. But I am in full accord, Mr. Chairman, with your views that rebating and related malpractices must be a top

priority subject for consideration by the Congress.

Clearly, Mr. President, a longstanding, serious, debilitating situation affecting our ocean freight industry has become progressively worse, and threatens the very existence of a substantial segment of our merchant fleet.

Equally apparent, existing law is not adequate to correct the abuses.

Today, therefore, I am introducing legislation which I believe will go a long way toward remedying the situation. Essentially, the bill would provide a 3-year period for the United States, as a Government, to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

Its principal features are:

1. A requirement that any common carrier by water in the foreign commerce of the United States, or any shipper, consignor, consignee, forwarder, broker, or other person subject to the Commission must respond fully to an FMC order of hearing and investigation to determine whether such carrier or its agent is, or seeks to engage in, rebating or other malpractices in foreign commerce in violation of specified provisions of the Shipping Act of 1916.

Failure to respond fully includes the failure to comply with depositions, written interrogatories, discovery procedures, and subpoenas.

Upon failure to respond fully by a carrier, the FMC is directed to suspend all of its tariffs filed pursuant to Section 18 of the Shipping Act; and all vessels of the carrier shall be denied entry to any U.S. port until the carrier has responded.

2. A provision for a year period within which any person who has given or received a rebate in violation of the Shipping Act of 1916, prior to enactment of the legislation may disclose such fact to the FMC, and receive immunity from any criminal prosecution which is premised on the violation of the Shipping Act which the person disclosed to the FMC.

Provided, however, that such disclosure is made prior to the time such person had actual notice that it was the subject of an investigation relating to that violation by any agency of the Federal government. The civil penalty which would have attached for the violation will attach if the person subsequently engages in rebating or other malpractices.

3. A requirement that the FMC, within 18 months of the enactment of the legislation, report to the Congress on the results of the rebating disclosures encouraged by the amnesty provision, together with the Agency's recommendations for corrective action.

4. An express provision that nothing in the amnesty provision of the legislation shall be construed to abrogate or rescind any civil penalties under any agreements now signed with the United States pursuant to Public Law 92-416.

Among other things, this provision is intended to assure that the legislation is in no way intended to mitigate or otherwise affect the settlement agreement between Sea-Land Service, Inc. and the FMC under which Sea Land disclosed information and details on what the Commission believed to be violations of the Shipping Act of 1916; and agreed to pay a monetary penalty of $4 million, with a right to petition the FMC for mitigation or modification.

5. A provision that the amendments made to the Shipping Act of 1916, by this legislation shall expire three years from the effective date of enactment of the legislation unless otherwise extended by law.

Mr. President, this legislation will, I believe, enable the FMC and the Congress to gather the information necessary to deal effectively and conclusively with a most serious threat of our merchant shipping.

By closing our ports to those carriers who fail to cooperate with FMC investigations the legislation will, I believe, enable the Commission to overcome the most serious barrier to enforcement of our laws against foreign carriers.

The amnesty provision is intended to encourage everyone who has been involved in rebating to come forward and disclose the nature and extent of their activities. This too should greatly assist the FMC in acquiring the necessary information to make appropriate recommendations to the Congress.

Mr. President, shortly my subcommittee expects to hold hearings on the bill, and among the witnesses the Committee will expect all agencies of Government having statutory responsibilities that are affected by illegal rebating in the U.S. liner trades.

By Mr. DOMENICI:

S. 2009. A bill to amend title XVIII of the Social Security Act to eliminate certain restrictions and limitations imposed for the receipt of home health services, to redesignate such services as "home care services," to broaden the items and services included within such term "home care services," and otherwise to expand, improve, and make more accessible home care services to those in need thereof; and to amend title XIX to include home care services (as defined in title XVIII) among the services which must be covered under an approved State plan for medical assistance under title XIX; to the Committee on Finance.

Mr. DOMENICI. Mr. President, I am today introducing a bill to amend title XVIII of the Social Security Act to eliminate certain restrictions and limitations imposed for the receipt of home health services, and to redesignate such services as "home care service."

The Committee on Aging has recently held four hearings on "Health Care for Older Americans—The Alternatives Issue". Witnesses testified that the confusing inconsistency of the requirements under the various programs which provide services to the home, such as titles XVIII, XIX, XX of the Social Security Act, and title III of the Older Americans Act, and the difficulties in differing reimbursement procedures for these programs, have not only hampered the expansion of the delivery of services, but in many instances seriously curtailed home care.

Less than 1 percent of medicare expenditures were made for home health care in 1975, although medicare remains the largest single source of funding. The restrictive requirements such as: 3-day hospitalization under part A of medicare; the need for "skilled" care, "acute restorative care"; "confined to the home"; and the need for two or more services have largely negated the use of home health services. There has also been the problem of retroactive denial of reimbursement. A determination would be made by a physician that home care was necessary, only to have the care denied by a third-party insurer. This denial of reimbursement for expenses already incurred has forced many home health agencies out of business.

Medicaid has also been a source of funding for care in the home, but services vary widely from State to State. Many States are now using the restrictive requirements of medicare in order to lessen their caseload.

Without exception, professionals in the field of aging have expressed the opinion that an individual should be helped to remain in his or her own home for as long as possible. If this can be done, when the time comes that institutionalization is necessary, the length of time in the institution will be lessened.

In these days of ever increasing health costs, it is obvious we must seek ways to find alternatives to the extraordinarily high cost of hospitalization. Health care services at home would be one way of shortening the number of days in a hospital. There are many patients who could be discharged from the hospital if there were an assurance that they would be properly cared for at home. The reverse is also true. A patient might be able to recover from a disabling illness without hospitalization if services could be given at home. We do know that in most instances, people will recover more quickly from an illness if they can be cared for in their own home.

In addition to health care at home, there are support services such as the preparation of a meal, personal care, shopping, transportation, and light housekeeping that would enable many elderly to remain at home. Such services would be in essence, a preventive measure—an effort to keep the elderly in a stable condition of health for as long as possible. At present, few of these services are reimbursed by any Government program. My bill would include these services as a part of medicare. I ask unanimous consent that the text of this bill be included in the RECORD at the conclusion of my remarks.

Mr. President, I cannot stress too strongly the need to coordinate our health care resources and to eliminate the unnecessary and artificial barriers in our programs which make the treatment, rehabilitation, or medical care of the ill, the disabled, and the frail elderly, very difficult to effect.

Growth and development of home care services should be based on careful community planning for the total spectrum of health services. A local agency, such as area agency on aging, a public health department, or possibly one determined by the Governor, could take the initiative in developing home care services through the establishment of home care agency, or through the formal coordination of services with existing community based agencies. All levels of home care should be available to the patient, dependent upon his professionally assessed needs. The agency would have the responsibility of monitoring the quality and extent of services required.

National standards for home services and peer review mechanisms have been developed by such groups as the Nation-

al Council for Home Health Services, Homemaker Inc., American Association of Home Health Agencies and the American Nurses Association and should be accepted by third party payors. Reimbursement for services should be made without the need for a further determination of need for service by an accountant in a distant office who has little or no knowledge of the case. The determination of need of home care, as certified by physicians, visiting nurses, and similar professionals should be sufficient. This will require legislation to change the current law and my bill is intended to remedy this situation.

Secretary Califano has stated that as many as 100,000 of the 700,000 people in the Nation's acute care hospitals do not need to be there and could be better cared for at home. He said that this extra cost amounted to approximately $2.6 billion a year. This is one example of where funds could be better used to pay for the costs of home care.

Mr. President, I know that the costs of this bill will be high. A briefing paper researched by Diana Porter, and prepared by Kathy Deignan of the Committee on Aging staff discusses the cost effectiveness of home services:

> While there is continuing debate on this issue, definitive answers on cost effectiveness cannot be achieved until much more progress is made on the development and provision of various alternatives services.

In other words, we can not know until we try. The paper also mentions that there is increasing evidence, however, that various forms of alternative services can have a direct effect on the overall well being of an impaired older population, as shown by a study in the Cleveland area by the Benjamin Rose Institute.

More people will take advantage of home care when it becomes available. We do not really know how many there are who need this service but cannot afford it. They wait until they are acutely ill, and then enter an institution and the care is paid for by medicare. Our entire present reimbursement system is geared toward care in expensive institutions. I am recommending a change by providing medicare reimbursement for care in the home, whenever possible. Initial costs will be high. However, considering the ever increasing numbers of older persons, many of whom will need care at some time, unless steps are taken now to prevent unnecessary institutionalization, the cost of health care in institutions will take up such a large share of the GNP that little will be left for other services to the Nation.

I would like to reiterate that perhaps the largest single factor behind the lack of adequate or appropriate long-term care for a large number of the chronically disabled is the general lack of formal alternatives to institutional care, as reported in the budget issue paper on "Long-Term Care for the Elderly and Disabled" prepared by the Congressional Budget Office in February 1977. The report stated that:

> Generally, older persons do not prefer nursing home care. It represents rejection by family and friends, loss of independence, isolation and separation from society.
>
> In general, the elderly face a bewildering array of ragmented long-term care services and financing arrangements. Often community based care of an elderly person is not considered because it takes more effort to devise a home care schedule than to place the person in a nursing home.

While it may not always be less expensive to provide home care instead of institutionalization, it would certainly be more humane.

By the simple statement of eligibility for services, under medicare, as stated in my bill, many of the restrictions now imposed on the program would be eliminated such as:

The 3 day hospitalization requirement under Part A of Medicare,
The "skilled" nursing requirement,
Intermittent care,
"Acute, restorative" care,
"Confined to home", and
Condition for which patient was hospitalized.

In addition the bill would authorize payment for support services delivered in the home, including personal hygiene and care, preparation of meals, shopping, transportation, and light housekeeping.

Payment would also be authorized for services to the mentally impaired or disabled.

All of the witnesses at our recent hearings expressed almost a plea for coordination. As stated by Judy Walden, the original director of Hospital Home Health care in Albuquerque, N. Mex.:

> The primary concern of witnesses at the public hearings sponsored by HEW across the country between September 20 and October 1, 1976, was for an expanded, coordinated range of high quality home health services as part of an essential continuum of health, social, and support services.

Ms. Walden further stated:

> That payment should not be hindered by artificial categories of covered care. With the elimination of these recognized barriers and the provision for the acceptance of equivalent standards, quality care can be assured by the home health agency.

Studies and demonstration programs are being conducted by the Administration on Aging, by the GAO in Cleveland, and by others. The results will hopefully tell us, in due time, what we should do. As we all know, there have been so many studies of this situation, without any subsequent action, that I believe it is high time that we focus on a concrete initiative, that we take action to relieve the plight of our elderly, now, before it is too late for all of us. We should repeal the emphasis we have legislated on institutional care, and begin now to provide services at home in consideration of the dignity and desire for a measure of independence of the elderly. I hope that my colleagues will agree. I urge consideration of this measure as soon as possible in order that we can implement the recommendations which have come to us from all over the Nation in regard to the best method of providing long term care for the elderly now, and for the large number to come in the near future.

Mr. President, The Congressional Research Service at the Library of Congress has prepared a section-by-section analysis of S. 2009; and I ask unanimous consent that this Congressional Research Service summary be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 2009

A bill to amend title XVIII of the Social Security Act to eliminate certain restrictions and limitations imposed for the receipt of home health services, to redesignate such services as "home care services", to broaden the items and services included within such term "home care services", and otherwise to expand, improve, and make more accessible home care services to those in need thereof; and to amend title XIX to include home care services (as defined in title XVIII) among the services which must be covered under an approved State plan for medical assistance under title XIX

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT

SEC. 101. (a) Section 1811 of the Social Security Act is amended by inserting "and home care services" immediately after "hospital and related post-hospital services".

(b) Section 1812 of such Act is amended—

(1) in subsection (a), by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) home care services for up to 100 visits during any one-year period.";

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) Payment under this part may be made for home care services furnished an individual for only 100 visits during any one-year period. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1961(m), shall be determined in accordance with regulations. Under such regulations, a visit to a patient by two or more persons, as a group or team, to provide any one or more of the items or services described in section 1861(m), shall be counted as a single visit."; and

(3) in subsection (e) by striking out "post-hospital home health services" and inserting in lieu thereof "home care services".

(c)(1) Section 1814(a)(2)(D) of such Act is amended to read as follows:

"(D) the individual's mental or physical condition is such that he requires one or more of the services described in section 1861(m) in order to remain in his home; a plan for the furnishing of such services that he so requires has been established and is periodically reviewed by a physician or by any other health professional certified as being competent to establish and review such a plan (as determined pursuant to regulations of the Secretary); and such services are or were furnished while the individual was under the care of a physician; or".

(2) Section 1814(1) of such Act is amended—

(A) in the heading thereto, by striking out "Post-hospital Home Health Services" and inserting in lieu thereof "Home Care Services";

(B) by striking out the term "posthospital home health services" each place it appears therein and inserting in lieu thereof "home care services";

(C) in paragraph (1)(B) by striking out "states that the medical condition of the individual is a condition designated in regulations" and inserting in lieu thereof "describes in medical terms the mental or physical condition or conditions by reason of which the individual requires one or more of the services described in section 1861(m)";

(D) in paragraph (2)(A), by striking out "that individuals have conditions designated

in regulations as provided in this subsection" and inserting in lieu thereof "with respect to the condition or conditions by reason of which the individual is required to have home care services".

SEC. 102. (a) Section 1832(a)(2)(A) of the Social Security Act is amended to read as follows:

"(A) home care services for any visit with respect to which the individual is not entitled to have payment for such services made part A;".

(b) Section 1833(a)(2) of such Act is amended by striking out "home health services" and inserting in lieu thereof "home care services".

(c) Section 1834 of such Act is repealed.

(d) Section 1835 (a)(2)(A) of such Act is amended to read as follows:

"(A) in the case of home care services, the individual's mental or physical condition is such that (i) he requires one or more of the services described in section 1861(m) in order to remain in his home, (ii) a plan for the furnishing of such services that he so requires has been established and is periodically reviewed by a physician or by any other health professional certified as being competent to establish and review such a plan (as determined pursuant to regulations of the Secretary), and (iii) such services are or were furnished while the individual was under the care of a physician;".

SEC. 103. (a) Section 1861 (m) of the Social Security Act is amended—

(1) in the heading thereto, by striking out "Health" and inserting in lieu thereof "Care",

(2) in the matter preceding paragraph (1)—

(A) by inserting "(or by such other health professional as may be certified for such purpose under regulations of the Secretary)" immediately after "reviewed by a physician",

(B) by inserting "(including a day care center in which the individual receives care)" immediately after "home",

(3) in paragraph (3), by striking out "under the direction of a physician",

(4) by striking out "home health services" wherever it appears and inserting in lieu thereof "home care services",

(5) by striking out "home health agency" wherever it appears and inserting in lieu thereof "home care agency", and

(6) by—

(A) striking out "and" at the end of paragraph (6),

(B) inserting "and" at the end of paragraph (7),

(C) striking out the matter following paragraph (7) and inserting in lieu thereof the following:

"(8) personal and home support services furnished to such individual (including assistance to the individual with respect to personal hygiene and care, preparation of meals, shopping, transportation, and light housekeeping services) together with such additional support services as may be specified under regulations of the Secretary;

excluding, in the case of items and services referred to in paragraphs (1) through (7), any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.".

(b)(1) Section 1861(n) of such Act is repealed.

(2) Section 1861(e) of such Act is amended by striking out "subsections (i) and (n) of this section" each place it appears therein and inserting in lieu thereof "subsection (i) of this section".

(c)(1) The heading to section 1861(o) of such Act is amended by striking out "Health" and inserting in lieu thereof "Care".

(2) Section 1861(o) of such Act is amended—

(A) by striking out "home health agency" wherever it appears therein and inserting in lieu thereof "home care agency",

(B) by striking out "and" at the end of paragraph (5),

(C) by inserting "and" at the end of paragraph (6),

(D) by inserting after paragraph (6) "has its own capability (or through arrangements with others is able) to furnish to patients in the area served by it personal and home support services authorized to be furnished under subsection (m)(8);", and

(E) by striking out "; and except that for purposes of part A such term shall not include any agency or organization which is primarily for the care and treatment of mental disease".

(3) Section 1861(v) of such Act is amended by striking out "home health agency" and inserting in lieu thereof "home care agency".

SEC. 104. Section 1862(a) of the Social Security Act is amended—

(a) by striking out the period at the end thereof and inserting in lieu of such period a semicolon, and

(b) by adding after and below paragraph (13) thereof the following new clause:

"except that nothing contained in paragraph (1), (6), or (9) shall be deemed to be applicable to any personal and home support service referred to in section 1861 (m)(8).".

SEC. 105. Section 1864 of the Social Security Act is amended by striking out "home health agency" whenever it appears therein and inserting in lieu thereof "home care agency".

SEC. 106. The amendments made by the preceding provisions of this title shall apply with respect to items and services furnished on and after the first day of the first calendar month which commences more than 60 days after the date of enactment of this Act.

TITLE II—AMENDMENTS TO TITLE XIX OF THE SOCIAL SECURITY ACT

SEC. 201. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (35),

(2) by striking out the period at the end of paragraph (36) and inserting in lieu of such period "; and", and

(3) by adding after and below paragraph (36) the following new paragraph:

"(37) provide that payment will be made under the plan for all home care services (as defined in section 1861(m)) furnished by a home care agency (as defined in section 1861 (o)) to individuals who are eligible for assistance under the State plan and who would be entitled to receive such services if they were insured under the programs established by parts A and B of title XVIII, and that, under the State plan, payment for such services shall be made in like manner and like amount as if such services had been furnished to individuals insured under such programs.".

(b) The amendments made by subsection (a) shall take effect on the first day of the first calendar quarter which commences more than ninety days after the date of enactment of this Act.

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 19, 1977.

To: Honorable Peter V. Domenici.

From: Education and Public Welfare Division.

Subject: Section-by-section analysis of legislation on home care under Medicare and Medicaid.

TITLE I AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT

Section 101(a). This section amends Section 181 of the Social Security Act to describe non-hospital related home care services as one of the basic services which beneficiaries are entitled to receive under Part A of Medicare, the Hospital Insurance Program.

Section 101(b). This section amends Section 1812 to authorize 100 home care services per year in the scope of benefits offered under Part A of Medicare, in lieu of the 100 post-hospital home health care benefits per spell of illness offered under current law. This section also authorizes reimbursement for home care services under Part A. In addition, this section specifies that a home care visit made to a beneficiary by more than one person in order to provide authorized services would count as a single visit for the purposes of satisfying the 100-visit limitation under Part A.

Section 101(c). This section amends Section 1814(a)(2)(D) to provide new eligibility requirements for receipt of home care services under Part A of Medicare. This section also replaces the term "home health care services" with the term "home care services." In order to receive Part A home health care services under current law, a patient must, among other requirements: (1) be in need of intermittent skilled nursing care or physical or speech therapy, (2) need further treatment for a condition for which he was hospitalized and (3) be confined to his home. This section would replace these current law requirements and, in lieu, would make a Medicare beneficiary eligible to receive home care service if: (1) his mental or physical condition requires home care services in order to remain at home, (2) there is an established plan to furnish home care services which is periodically reviewed by a physician or by any other health professional certified to establish the plan, and (3) the home care services are furnished while the patient is under a physician's care. This section also makes certain technical and conforming amendments.

Section 102(a). This section amends section 1832(a)(2)(A) to make Medicare beneficiaries entitled to receive home care services under Part B of Medicare. The section specifies that Part B home care services will be provided to a beneficiary if such services cannot be reimbursed under Part A. The 100-visit per calendar year limit under Part B would be repealed. Beneficiaries would now be entitled to receive up to 100 visits per year under Part A of Medicare and once that benefit is exhausted, unlimited benefits under Part B.

Section 102(b). This section amends Section 1833(a) to authorize reimbursement for Part B home care services.

Section 102(c). This section repeals Section 1834.

Section 102(d). This section amends Section 1835(a)(2)(A) to set forth a new set of eligibility requirements for the provision of home care services under Part B of Medicare. A beneficiary would be able to receive home care services under Part B if: (1) limits on receipt of services under Part A are reached, (2) his mental or physical condition requires him to remain at home, (3) there is an established plan for furnishing services which is periodically reviewed by a physician or another health professional certified to establish and review the plan, and (4) the services are furnished while the beneficiary is under the care of a physician.

Section 103(a). This section amends Section 1861(m), current law definition of Medicare's home health care services, to expand this definition. The term "home health care" would be replaced by the term "home care." The types of services which are now reimbursable under Medicare would be expanded to include personal and home support services furnished to an eligible beneficiary. These services would include assistance with personal hygiene and care, preparation of meals, shopping, transportation, light housekeeping, and such additional support services as specified under regulations. In addition, this section would permit home care services to be provided to a beneficiary in a day care center as well as at his place of residence. Also, medical social services offered as a home care service could be pro-

vided under the direction of a physician or under the direction of other qualified persons.

Section 103(b). This section repeals Section 1861(n) of the Social Security Act.

Section 103(c). This section amends Section 1861(o) which defines the term "home health agency" under Medicare. The term "home health agency" would be replaced by a new term, "home care agency." A home care agency must meet all the requirements set forth for home health agencies under current law but would also be required to have the capability to furnish (either directly or through arrangements with others) personal and home support services, as newly defined under Section 1861(m), to beneficiaries located in the area it serves. In addition, this section specifies that an agency primarily for the care and treatment of mental diseases, such as a community mental health center, would be able to provide home care services under Part A of Medicare. This section also amends Section 1861(u) which defines a "provider or service" under Medicare to include a home care agency in lieu of a home health agency.

Section 104. This section amends Section 1862(a), which specifies those types of service which are not reimbursable under Medicare, to ensure that any personal and home support service as newly defined under Section 1861(m), would be covered under Medicare.

Section 105. This section amends Section 1864 in a technical and conforming way to permit State agencies, under agreements with the Secretary of Health, Education, and Welfare, to certify home care agencies providing services under Medicare.

Section 106. This section sets forth the effective date of the amendments made by Title I of this legislation. The amendments would apply to items and services furnished on or after the first day of the first calendar month beginning 60 days after this legislation is enacted.

TITLE II—AMENDMENTS TO TITLE XIX OF THE SOCIAL SECURITY ACT

Section 201(a). This section amends Section 1902(a) of the Social Security Act to add a new paragraph (37) which would authorize Federal matching assistance under a State plan for medical assistance for all home care services (as newly defined by this legislation under Section 1861(m) of the Social Security Act) furnished by home care agencies (as newly defined by the bill under Section 1861(o) of the Social Security Act) to Medicaid recipients eligible to receive such services. However, this section specifies that in order to receive these services, recipients would have to meet the eligibility requirements for receipt of home care services set forth under Parts A and B of Medicare as newly amended by this legislation. This section also provides that a State Medicaid program must use Medicare's methods of reimbursement for home care services provided to recipients and must pay the same amounts as paid under Medicare for the provision of such home care services to eligible recipients.

Section 201(b). This section sets forth the effective date of the amendments made by Title II of this legislation. These amendments will take effect on the first day of the first calendar quarter that begins more than 90 days after the date this legislation is enacted.

By Mr. SCHMITT (for himself, Mr. MCCLURE, Mr. THURMOND, Mr. HELMS, Mr. TOWER, and Mr. GARN):

S. 2011. A bill to amend title 5, United States Code, to preserve and strengthen the separation of powers in Federal Government by establishing a uniform procedure for congressional review of executive branch rules which may have a harmful impact on the public, may be contrary to law or may be inconsistent with congressional intent; to expand opportunities for public participation in Federal agency rulemaking; and for other purposes; to the Committee on the Judiciary.

REGULATORY REDUCTION AND CONGRESSIONAL CONTROL ACT OF 1977

Mr. SCHMITT. Mr. President, I am introducing today a piece of legislation which is long overdue. The bill is entitled the Regulatory Reduction and Congressional Control Act of 1977. It is designed to return to the Congress its constitutionally mandated prerogative to create law. This would be accomplished by returning to the Congress the opportunity to approve or disapprove the major rulemaking decisions of the regulatory agencies of the executive branch.

Let me review for a few moments, the reason that this legislation is required. Recent years have witnessed an eruption of regulations and regulatory bureaucracies which impact on almost every facet of the lives of the citizenry.

The American citizen, the small businessman, business in general, and Government are staggering under an increasingly heavy load of regulations. There is a general perception among the people that the regulatory bureaucracy is running out of control. There is a mandate to the Congress to do something about reestablishing control of the regulatory process and to reform existing regulations.

The size of this massive burden can be appreciated by recognizing that there are 44 independent regulatory agencies at the Federal level, plus 1,240 boards, commissions, et cetera. These organizations employ over 100,000 individuals responsible for controlling the lives of our citizens. The cost to the taxpayers to finance these bureaucracies is equally large, growing from just over $2 billion in 1974 to an estimated $3,500,000,000 in 1977.

There is little question that in recent decades Congress has increasingly given up much control over the "making of law" to the regulatory agencies. This loss of constitutional congressional authority has occurred through the passage of legislation that calls for the "promulgation" of rules and regulations that supposedly will cure some social ill. Subsequent congressional oversight over the rules and regulations so "promulgated" has been poor to nonexistent. Thus, the constitutional concept of the separation of powers between the legislative and executive branches of government have been seriously blurred and compromised.

The Senate has before it several pieces of legislation aimed at controlling the large number of regulations impacting on our citizens. One initiative sponsored by the distinguished Senator from Maine, Senator MUSKIE, is S. 2, a bil designed to require the "sunset" of authorizations every 5 years. This bill is cosponsored by myself and numerous other Members. In addition, the distinguished Senator from Illinois, Senator PERCY, has introduced S. 600 which would provide for the reorganization of Federal regulatory agencies to prevent excessive and duplicative regulation. I am proud to be one of numerous cosponsors of this legislation also.

In addition to these efforts, it seems clear that a Regulatory Reduction and Congressional Control Act is required which would preserve and strengthen the constitutional separation of powers between the legislative and executive branches. This bill is intended to accomplish this task.

SUMMARY OF THIS LEGISLATION

Mr. President, this bill, if adopted would preserve and strengthen the separation of powers between the legislative and executive branches by:

First, establishing a uniform procedure for systematic and comprehensive congressional review of proposed rules and regulations which may have serious impact on the public;

Second, expanding opportunities for public participation in the agency rulemaking process;

Third, strengthening congressional oversight over Federal regulatory agencies;

Fourth, requiring agencies, when proposing new rules and regulations, to consider carefully the impact of their proposals on the economy—costs versus benefits—on Federal paperwork, and on the workload of the Federal court system;

Fifth, providing more complete information to the public and the Congress about rules and regulations so that they can make informed decisions on future courses of action;

Sixth, making Federal agencies more responsive to the needs, concerns, and interests of the public;

Seventh, substantially reducing the costs of Government regulation, alleviate Federal report filing and recordkeeping requirements and eliminate regulatory excesses; and

Eighth, restoring public confidence in Government institutions.

CONGRESSIONAL REVIEW

This legislation would mandate a review period by Congress before substantive, major agency rules or regulations could go into effect.

This legislation would require the agency head promulgating a new rule to publish in the Federal Register the text of the proposed rule and a cross-referenced index of all regulations pertaining to the same subject matter. This information also would be transmitted to the Congress. It also would require the agency to publish in the Federal Register an economic impact analysis of each proposed rule and any alternative approaches considered by the agency.

Mr. President, the concept of returning to the elected representatives of the people the control over governmental decisionmaking is a familiar one in recent years. Three years ago the Congress passed the Congressional Budget and Impoundment Control Act to reassert its authority over the Federal budget proc-

ess. The legislation which I am introducing today would employ a similar set of procedures to reestablish congressional control in the area of regulatory rulemaking by executive branch agencies.

As I noted a few moments ago, this legislation would require that an economic impact statement be filed with major regulatory proposals to help the public and the Congress determine the value of the proposed rule to our society. A recent article by James C. Miller in the journal Regulation analyzes the record thus far on economic impact statements, and I request that it be printed in full in the RECORD following my remarks.

Mr. President, now that the Congress has moved to regain control of the budget through the Congressional Budget and Impoundment Control Act of 1974, I am introducing the Regulatory Reduction and Congressional Control Act of 1977 as a means of accomplishing a similar reassertion of congressional control. I ask unanimous consent that the full text of this bill and a section by section analysis be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reduction and Congressional Control Act of 1977".

STATEMENT OF FINDINGS AND PURPOSES

It is the finding of the Congress that the steady usurpation of quasi Judicial and Legislative Powers by the regulatory agencies and departments of the Executive Branch of the Federal Government represents a clear and dangerous challenge to the Constitutional provisions establishing a Separation of Powers among the three equal branches of the Federal Government. In so finding, the Congress has determined that:

(a) There is an urgent requirement for a Legislatively-approved uniform procedure to oversee the rule-making activities of the Executive Branch of the Federal Government. Such a uniform procedure will preserve and protect the Constitutional doctrine relating to the Separation of Powers among the three equal branches of the Federal Government.

(b) There is an urgent need for the Legislative Branch to supervise the regulatory agencies in the exercise of the limited Judicial and Legislative Powers which have been granted by it to the Executive Branch. The often arbitrary exercise of these Powers has seriously eroded the citizenry's confidence in the Executive Branch and in so doing has weakened the citizenry's confidence in our system of Federal Government.

(c) There is a need for greater participation on the part of our citizenry in the decision-making process relating to the exercise of these properly mandated regulatory activities of the Executive Branch. This can best be accomplished by making regulatory agencies more responsive to the citizenry's need for information and participation in these activities.

(d) The citizenry of the country, being overwhelmed by the often unnecessary, arbitrary and capricious actions by the regulatory agencies need to be protected from such actions when they result in significant economic, legal, or bureaucratic burdens.

(e) The Legislative Branch of our Federal Government, the branch closest and most responsive to the needs of the citizenry from whence all powers flow, must re-assert on behalf of the people their Constitutional right to be secure from these unreasonable, arbitrary actions of the Executive Branch. These actions result from the usurpation by that Branch of the Powers granted by the people to the Judicial and Legislative Branches of our Federal Government.

AMENDMENTS

SEC. 2. (a) Section 551 of title 5, United States Code is amended—

(1) by striking out paragraph (4) of such section and inserting in lieu thereof the following:

"(4) 'rule' means the whole or part of an agency statement of general applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency and includes any amendment, revision, or repeal of such a statement;";

(2) by inserting immediately after paragraph (4) of such section the following new paragraph:

"(5) 'emergency rule' means a rule which is temporarily effective without the expiration of the otherwise specified periods of time for public notice and comment which was duly promulgated by an agency pursuant to a finding that delay in the effective date thereof would—

"(A) seriously injure an important public interest,

"(B) substantially frustrate legislative policy and intent, or

"(C) seriously damage a person or class of persons without serving any important public interest;"; and

(3) by redesignating paragraphs (5) through (13) of such section as paragraphs (6) through (14), respectively.

(b) Section 553(b) of such title is amended by striking out paragraph (B) and inserting in lieu thereof the following:

"(B) when the agency for good cause finds that public notice and comment are unnecessary due to the routine nature or matter or insignificant impact of the rule, or that emergency rules should be promulgated.

An agency which finds that a rule is within an exception specified in subparagraph (A) or (B) of this paragraph shall publish in the document promulgating such rule that finding and a brief statement of reasons therefor. The requirements of this subsection shall not preclude an agency from—

"(i) inviting persons representing different points of view to submit,

"(ii) creating an advisory committee to report, or

"(iii) using such other devices to obtain suggestions regarding the content of proposed rules prior to notice of rulemaking.".

(c) Section 553 of such title is further amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Unless a longer period of time is required by law or provided in the rule:

"(1) a rule may become effective immediately if it—

"(A) grants or recognizes an exemption to or relieves a restriction from a rule, or

"(B) is exempt from public notice and comment under the last sentence of subsection (b) of this section;

"(2) a rule which is subject to concurrent approval pursuant to chapter 6 of this title shall not take effect except as provided in section 603 of such chapter;

"(3) a rule which is subject to disapproval pursuant to chapter 6 of this title shall not take effect except as provided in section 604 of such chapter.

"(e) At the time of promulgation of an emergency rule the agency shall commence rulemaking proceedings in accordance with subsections (b) and (c), except that the period for public comment shall be limited to sixty days unless the agency determines that an additional thirty days are necessary to enable diligent, interested persons to participate. Within thirty days after the close of the period for public comment, the agency shall issue a final rule to take effect as provided in subsection (d). Unless earlier withdrawn by the agency, disapproved by resolution of Congress pursuant to chapter 6 of this title, or set aside by court action, an emergency rule shall expire sixty legislative days (calculated in accordance with section 604 of this title) after the date by which a final rule is required to be promulgated under the preceding sentence.".

SEC. 3. Section 553(c) of title 5, United States Code, is amended—

(1) by striking out "an opportunity" and inserting in lieu thereof "not less than sixty days"; and

(2) by inserting immediately after the first sentence the following new sentence: "The agency may extend this period of time if it appears that such period is too short to permit diligent, interested persons to prepare comments or if the agency determines that other circumstances justify an extension.".

Sec. 4. (a) Title 5 of the United States Code is amended by inserting immediately after chapter 5 the following new chapter:

"Chapter 6—Congressional Review of Agency Rulemaking

"Sec.
"601. Definitions.
"602. Economic impact analysis; paperwork impact analysis; judicial impact analysis;
"603. Concurrent resolution of approval.
"604. Resolution of disapproval.
"605. Effect on statutory time limits.
"606. Computation of legislative days.
"607. Procedure for consideration of resolution.
"608. Effect on judicial review.
"609. Sunset; continuation of rule.
"610. Agency implementation.

"§ 601. Definitions

"The definitions set forth in section 551 of this title shall apply to this chapter except that—

"(1) those functions excluded from the definition of the term 'agency' by paragraph (1) (H) of such section are included in such definition for purposes of this chapter;

"(2) the terms 'rule' and 'emergency rule' shall not include—

"(A) a rule of agency organization, practice, and procedure;

"(B) a rule relating to agency management and personnel;

"(C) a rule granting or recognizing an exception or relieving a restriction; or

"(D) a rule adopted without public notice and comment pursuant to a valid agency finding that such notice and comment were unnecessary due to the routine nature or insignificant public impact of the rule;

"(3) the term 'promulgation' means filing with the Office of the Federal Register for publication in the Federal Register a rule together with all findings, statements, analyses, and other materials required under section 602 of this Act with respect to such rule. The Administrator of General Services shall take such steps as may be necessary to enforce prompt publication of all materials required to be promulgated with respect to an agency rule.

"§ 602. Economic impact analysis; paperwork impact analysis; judicial impact analysis

"(a) Simultaneously with promulgation of any rule, including an emergency rule, the agency head promulgating such rule shall transmit a copy of the complete text thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Each proposed rule shall be accompanied by——

"(1) a comprehensive cross-referenced index of all regulations pertaining to the same subject matter as the proposed rule which shall list all such regulations by title and subject matter and shall include a printed text of the regulations in their entirety;

"(2) an economic impact analysis for each proposed rule (including any alternatives considered) which takes into account:

"(A) the cost impact on and benefits to consumers, wage earners, businesses, markets and Federal, State and local governments;

"(B) the effects on productivity, competition, supplies of important manufactured products or services, employment, the quantity of energy resource supply and demand, and the environment; and

"(C) additional criteria that may be developed for executive agencies by the Office of Management and Budget and for independent regulatory agencies by the General Accounting Office; and

"(D) where impacts cannot be assessed, a statement of the nature and extent of nonquantifiable costs and benefits.

"(3) a paperwork impact analysis for each proposed rule (including any alternatives considered) which shows for each occurrence of compliance therewith or fulfillment thereof an estimate of:

"(A) the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records and fulfill any of the information-gathering requirements under the rule;

"(B) the nature and amount of the information that would be required to be filed in such reports and the frequency of such reports under the rule;

"(C) the nature and number of records that would have to be kept by such persons under the rule;

"(D) the man-hours and costs that would be required to keep such records and make such reports under the rule; and

"(E) steps that are, will or should be taken by the agency to insure that there would be no unnecessary duplication in record keeping and report filing requirements under the rule.

"(4) a judicial impact analysis which shows the probable consequences of adoption of the proposed rule (including any alternatives considered) on the operation, work load and efficiency of the Federal courts, including an estimate of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction and demands on court personnel;

Where quantifiable data for support of impact analyses required under paragraphs (2), (3) and (4) of this subsection cannot be practicably obtained by the agency by any means, including direct inquiries to businesses, consumers and other persons or inquiries subject to the provisions of the Federal Reports Act (82 Stat. 1302 et seq.), the agency shall substitute therefor its most reasoned estimate based upon the experience of such agency and other external information sources.

"(5) such other explanatory and supportive statements and materials as the agency deems necessary and appropriate for Congressional consideration of each such rule.

"§ 603. Concurrent resolution of approval.

"(a) If a proposed rule, other than an emergency rule, contains provisions which—

"(1) prescribe a civil or criminal penalty or forfeiture in excess of $1,000 per offense or $100 per day;

"(2) require an inspection of the premises by an agency or representative thereof acting in an official capacity;

"(3) are likely to cause serious harm to the public health, safety and welfare; or

"(4) will result in increased costs—

"(A) for the national economy, of $100,000,000 in any one year or $150,000,000 in any two-year period, or

"(B) for any economic sector, industry, or level of government, $50,000,000 in any one year or $75,000,000 in any two-year period; or

"(5) are likely to lessen substantially competition, limit market entry, restrain market information, or tend to create a monopoly or monopolistic market power in any line of commerce in any section of the country, provided that commerce in the relevant market exceeds $100,000,000 per year; or

"(6) will result in a direct change in total employment—

"(A) for the national economy, of two-thirds of one per centum in total employment, or

"(B) for any specific industry, regional economy, level of government or category of employees, of 10,000 or more jobs; or

"(7) will affect products or services having an annual wholesale or retail value in excess of 1/20 of one per centum of the gross national product; or

"(8) are likely to result in costs in excess of benefits, as determined by the agency pursuant to section 602 of this title, such rule shall not become effective unless, within 60 legislative days after the date of promulgation, both Houses of Congress adopt a concurrent resolution approving such rule.

"(b) If at the end of sixty legislative days after the date of promulgation of a rule, other than an emergency rule, both Houses of Congress have adopted a concurrent resolution approving the rule, the rule shall take effect.

"§ 604. Resolution of disapproval

"(a) If a proposed rule, other than an emergency rule, contains provisions which—

"(1) violate provisions of existing law;

"(2) are in conflict with court decisions;

"(3) go beyond the mandate of the legislation which they are designed to implement;

"(4) are redundant, overlapping or inconsistent with the provisions of the same or another rule;

"(5) would seriously injure an important public interest; or

"(6) are inconsistent with Congressional intent, such rule shall not become effective, if within sixty legislative days after the date of promulgation, either House of Congress adopts a resolution disapproving such rule.

"(b) If at the end of sixty legislative days after the date of promulgation of a rule, other than an emergency rule, neither House of Congress has adopted a resolution disapproving the rule, the rule shall take effect unless a later date may be required by law or specified in the rule.

"(c)(1) An agency may not promulgate a new rule or an emergency rule identical to one disapproved pursuant to this section unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule.

"(2) If an agency proposes a new rule dealing with the same subject matter as a disapproved rule, the agency shall comply with the procedures required for the issuance of a new rule, except that, if less than twelve months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"§ 605. Effect on statutory time limits

"If a resolution of Congress disapproves a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"§ 606. Computation of legislative days

"For the purposes of this chapter the term 'legislative days' does not include any calendar day in which either House of the Congress is not in session.

"§ 607. Procedure for consideration of resolutions

"(a) The provisions of this section are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by sections 603 and 604 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b)(1) Resolutions of approval or disapproval of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Representatives to the standing committee having oversight and legislative responsibility with respect to the promulgating agency in accordance with the rules of the respective House; and such resolutions shall not be referred to any other committee.

"(2) If a committee to which is referred a resolution of approval or disapproval which has not been adopted by the other House of Congress does not report such resolution within forty-five legislative days after such referral, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(3) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(c)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of approval or disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of approval or disapproval with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. The motion is highly privilege and is not de-

batable. An amendment to the motion is not in order and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3) Debate on a resolution of approval or disapproval shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"§ 608. Effect on judicial review

"Congressional inaction on or rejection of a resolution of approval or of a resolution for disapproval shall not be deemed an expression of approval of such rule.

"§ 609. Sunset; continuation of rule.

"(a) Each rule, including an emergency rule, which has been adopted pursuant to sections 603 and 604, shall automatically cease to be effective within five years after the effective date thereof.

"(b) On or before the automatic termination date of a rule, the agency shall report to each House of Congress its recommendations with respect to whether the rule, or any part thereof, shall be continued or modified and continued as modified. If the agency recommends that the rule be continued or modified and continued as modified, it shall comply with the provisions of chapters 5 and 6 of title 5, United States Code, including procedures required for the issuance of a new rule.

"§ 610. Agency implementation

"The Administrator of General Services shall take such steps as may be necessary including, but not limited to, the revision of the Document Drafting Handbook published by the Office of The Federal Register, to insure that officers and employees of the United States receive information and training necessary to permit them to expeditiously prepare the statements, analyses, and findings required by section 602 of this Act."

(b) The table of chapters for part I of title 5 is amended by inserting immediately after

"5 Administrative Procedure..... 501"

the following:

"6 Congressional review of Agency Rule Making ..... 601"

(c) The provisions of chapter 6 of title 5, United States Code shall supersede any other provisions of law governing procedures for Congressional review of agency rules to the extent such other provisions are inconsistent with such chapter.

SEC. 5. (a) This Act shall become effective at the beginning of the session of the Congress immediately following its enactment.

(b) Section 5 of this Act shall lapse at the adjournment sine die of the fifth Congress following its enactment unless renewed prior thereto.

REGULATORY REDUCTION AND CONGRESSIONAL CONTROL ACT OF 1977

SECTION-BY-SECTION ANALYSIS

SECTION 1. This is the bill's title and the findings section.

SECTION 2. This section makes several changes in Sections 551 and 553 of the Administrative Procedures Act, principally affecting the Act's definitions, public notice and comment provisions and establishing a special mechanism for emergency rules.

Subsection (a). The definition of "rule" in Section 551(4) of Title 5, U.S. Code is amended to provide a clearer distinction between rule making and adjudication by agencies.

Reference to "particular applicability and future effect" is deleted from the definition of "rule" in order to bring the statutory definition in line with actual application and use. Administrative functions that are primarily legislative in nature would be contrasted with functions judicial in nature, that is, regulations setting forth general policy as opposed to decisions affecting particular individuals in particular cases.

Rate making would also be removed from the general definition of "rule". Ratemaking proceedings are frequently adjudicatory in nature and should require more formal APA procedures under 5 U.S.C. §§ 554 and 556–7. It also makes clear that agency rate decisions would not be subject to congressional review and approval or veto.

This subsection adds a new concept to the APA: the "emergency rule". An agency could promulgate and place a regulation into effect immediately, for a limited period of time, whenever an emergency exists that necessitates immediate action, that is, if the agency finds that delay in the effective date of the rule would—

"(A) seriously injure an important public interest,

(B) substantially frustrate legislative policy and intent, or

(C) seriously damage a person or class of persons without serving any important public interest".

The emergency rule concept is significant for those provisions of the bill dealing with Congressional review of agency regulations. Thus, an agency could put an emergency rule immediately into effect if it could be justified under any of the alternative criteria listed in Section 2(a)(2), despite the fact that Congressional review had not occurred.

Subsection (b). The "good cause" exception in the APA would be changed to permit greater public participation in the agency rule making process.

Under present law an agency can bypass the public notice and comment procedure where it finds it to be "impracticable, unnecessary, or contrary to the public interest". 5 U.S.C. § 553(b)(B). This amendment would reduce the instances when an agency can ignore notice and comment requirements. Henceforth these would be only when the agency "for good cause" determines that the rules are of "routine nature or matter" or would have an "insignificant impact" or that temporary "emergency rules should be promulgated".

Subsection (c). Amends Section 553 of Title 5, U.S. Code to provide that once a final rule has been adopted by an agency, it may go into effect immediately if it grants an exemption from, or relieves a restriction in a rule, or falls within one of the categories made exempt from public notice and comment in § 553(b)(3) (see above). All other final rules adopted by an agency shall not become effective until the Congressional review and approval or disapproval procedures in Section 602 (see below) are completed.

SECTION 4: Provides for a new chapter in Title 5 of the U.S. Code to be entitled "Congressional Review of Agency Rulemaking"

Subsection 601: The same definitions set forth in Section 551 with the exceptions that "agency" includes the Congress; federal courts; are applicable and extended to include those agency functions now excluded from coverage of the Administrative Procedure Act in 5 U.S.C. § 551(1)(H). In other words, regulations concerning mortgage insurance, termination of war contracts, disposal of surplus government property and veterans hearings will also be subject to Congressional review. Provides that, for the purposes of the review procedures set forth in this bill, purely internal agency rules and regulations and rules granting or recognizing an exception or relieving a restriction and rules which, in the view of the agency, require no public notice or comment (in other words, agency regulations which have "insignificant public impact"), will not be subject to Congressional approval or disapproval. Defines the term "promulgation" to include publication in the Federal Register of each proposed new rule, together with the economic, paperwork, and judicial impact analyses for each rule, as required under Section 602. The G.S.A. is responsible for ensuring prompt publication, with appropriate explanations, of such information for each rule. (See also Subsection 610).

Subsection 602(a): Requires each federal agency, at the time it promulgates a new rule, to transmit a copy of the complete text of the rule to both Houses of Congress, together with (i) a comprehensive index of all existing rules on the same matter, cross-referenced by subject; (ii) an economic impact analysis of each proposed rule and any alternatives that may have been seriously considered by the agency; (iii) a paperwork impact analysis of each proposed rule and alternatives; and (iv) a judicial impact analysis of each proposed rule and alternatives, requirements, as well as internal measures being taken by the agency to eliminate duplication. In the case where an agency cannot access the impact as required, the agency would be required to file a statement with the House and Senate which lists the qualitative costs and benefits. In addition, when qualitative evidence is not available, the agency shall forward to the Congress the supporting documentation necessary for Congressional considerations of each rule. The information provided by the agency should be at its best estimate, based on its experience and other external data. The agency should not attempt to burden businesses, consumers or other parties with "fishing expeditions," unnecessary paperwork, surveys or the like in order to obtain the required information. All of its direct inquiries are subject to the limits prescribed by the Federal Reports Act, including the requirement that it obtain data available from existing government sources.

Subsection 602(a)(2): sets out the information that the agency must provide in an economic impact analysis. This includes an estimate of costs vs. benefits of the regulation to consumers, businesses, markets and levels of government, and its effects on productivity, competition, supplies of important manufactured products or services, employment, energy supply and demand, and the environment. Where the agency is unable to make an estimate, it must explain the nature and extent of costs and benefits that it cannot quantify. This identical information is currently required of Executive Branch agencies and contained in inflationary impact statements which accompany new regulations proposed by those agencies. As part of the Ford Administration's regulatory reform programs, the President, on November 27, 1974, issued Executive Order No. 11821, which specified the criteria that agencies should consider when weighing the costs and benefits of proposed regulations. In January, 1975, the Office of Management and Budget issued a circular implementing this executive order, which resulted in the widespread use of inflationary impact statements. This program has been supported by most of the departments and agencies responsible for its implementation, and has been extended by President Carter. (See discussion by James C. Miller in Regulation issue of the AEI Journal on Government and Society, July/Aug. 1977.) The Congress already requires an estimate of costs and regulatory impact of proposed legislation to be included in committee reports on bills.

Subsection 602(a)(3): sets out the information that the agency must provide in a paperwork impact analysis. This includes an estimate of the nature, amount, frequency, costs and man-hours that would be required under the new regulation for fulfilling information, report filing and record-

keeping, as well as the steps that are, will or should be taken by the agency to eliminate duplication in paperwork requirements. The Congress currently requires a paperwork impact statement in committee bill reports and has established the Federal Paperwork Commission to find ways to reduce the Government paperwork burden.

Subsection 602(a)(4): sets out the information that the agency must provide in a judicial impact analysis to measure probable effects of the rule on the operation, work load and efficiency of the Federal courts. This requirement is in line with the recommendation of Chief Justice Warren Burger that the Federal Government carefully consider the impact of its actions on the court system and the administration of justice in the United States.

Subsection 602(a)(5): provides that the agency provide such other information as it deems appropriate for Congressional review of each proposed rule.

Subsection 603(a): This subsection adds a new concept to the A.P.A. by establishing the "concurrent resolution of approval" for certain rules and regulations as part of the Congressional review process. Sets forth the criteria for determining when and if both Houses of Congress must take affirmative action, *i.e.*, adopt a concurrent resolution approving a proposed rule or regulation (except an emergency rule), in order for the rule or regulation to be put into effect. The standards to be used by the House and Senate Committee reviewing the rule relate to the impact of the rule on civil or criminal penalties, agency actions (inspection), public health, safety and welfare, or the economy. The economic criteria in (4), (5) and (6) are similar to those used in connection with the Ford Administration's regulatory reform program affecting "major" rules proposed by Executive Branch agencies (see discussion under Subsection 602(a)(2) above). The information provided by the proposing agency in its economic impact analysis will assist the Congress in its determination of whether the criteria in (4), (5), (6), (7), or (8) are met and joint approval is required. If the proposed rule has a "major" impact on the economy, or any economic sector, industry or level of government, or will likely cause serious harm to the public, or will result in greater costs than benefits, as shown by the agency, then both Houses must act favorably on the rule for it to become effective. However, the concurrent resolution must be adopted within 60 legislative days after the date the rule has been promulgated by the proposing agency.

Subsection 603(b): Provides that if both Houses have taken affirmative action within the 60-day period on the "major" rule meeting the Subsection 603(a) criteria, then it shall take effect; if either House or Senate or both fail to adopt the resolution, the rule cannot go into effect.

Subsection 604(a): This subsection adds a new concept to the A.P.A. by establishing the "resolution of disapproval" for certain rules and regulations as part of the Congressional review process. Sets forth the criteria for determining when and if either House can take action to prevent a rule (except an emergency rule) from becoming effective within 60 legislative days after its promulgation date, *i.e.*, adopt a resolution disapproving the proposed rule or regulation. A resolution of disapproval could be adopted in either House if it determines that the rule contains provisions which (i) violate existing law; (ii) conflict with court decisions; (iii) exceed the legislative mandate; (iv) are inconsistent, redundant or overlapping with other rules; (v) would seriously injure an important public interest; or (vi) are inconsistent with Congressional intent.

Subsection 604(b): Provides that if either House has failed to adopt a resolution of disapproval the proposed rule will go into effect automatically within 60 legislative days after the date the rule has been promulgated unless a later date is required by law or specified in the rule.

Subsection 604(c): Prohibits an agency from promulgating a new rule or an emergency rule identical to the one disapproved already unless permitted by statute. A new rule dealing with the same subject matter as a disapproved rule is subject to the procedures for any proposed rule, unless it has been less than twelve months since the disapproval, in which case the procedures apply only to changes in the disapproved rule.

Subsection 605: Provides that disapproval of a proposed rule does not relieve an agency from adopting a rule; however, any statutory time limit will apply to a renewed rule only from the date on which the resolution is adopted.

Subsection 606: Provides that the time periods for the Congressional review procedures shall be computed in "legislative days." States that "legislative days" does not count calendar days on which either House is not in session.

Subsection 607(a): Recognizes that the provisions for consideration of resolutions of approval or disapproval are an exercise of the rulemaking power of the Senate and the House and, as such, are adopted with a full recognition of the constitutional right of either House to change its own rules at any time as it may determine.

Subsection 607(b): Provides that resolutions of approval or disapproval shall be referred to the standing committee in each House which has oversight and legislative jurisdiction over the agency proposing the particular rule and cannot be referred to any other committee. Provides that it will be in order to make a motion to discharge a committee from further consideration of the resolution within 45 legislative days after the date of refusal if the committee has not yet taken action. The discharge motion must be supported by at least 20 Senators or 87 Representatives. It is highly privileged, is not debatable and amendments or motions to reconsider are not in order. This accelerated discharge procedure, patterned after the Budget Control and Impoundment Act, 31 U.S.C. § 1017(b), is to prevent a committee from sitting on a proposed rule, so that it will automatically go into effect or lapse at the end of the 60-legislative-day period. Debate on the resolution of approval or disapproval is limited to not more than two hours, to be divided equally between proponents and opponents.

Subsection 608: States that the failure of Congress to act or approve a resolution of approval or disapproval should not be regarded legally as an expression of approval of the proposed regulation.

Subsection 609: Provides that every rule (including an emergency rule) adopted pursuant to the new Congressional procedures in Chapter 6 will "sunset" automatically at the end of five years from the effective date. Before that termination date, the proposing agency can recommend to the Congress whether the rule should be continued or amended, but if the agency recommends that the rule be extended, it must again promulgate the rule and submit it to the Congress for review pursuant to the procedures in Chapter 6.

Subsection 610: Provides that the GSA will take appropriate steps to instruct those Federal officials responsible in the preparation of the information referred for the economic, paperwork and judicial impact analyses, etc. Provides also that the Congressional review procedures in Chapter 6 will supersede any other similar provisions already enacted into law to the extent they are inconsistent with the new procedures.

SECTION 5. This section provides an effective date for this legislation (at the beginning of the next session immediately following its enactment). It also provides for a "sunset" date at the end of the fifth Congress following enactment unless it is renewed.

[From Regulation, July/August, 1977]

LESSONS OF THE ECONOMIC IMPACT STATEMENT PROGRAM

(By James C. Miller III)

Addressing the Congress in October 1974, President Ford announced that he would require government agencies to assess the inflationary impact of their major proposed regulations and legislative recommendations. A month later he established, by executive order, an Inflation Impact Statement (IIS) Program that was to run through 1976 and apply to all executive branch agencies. At the end of 1976, Ford extended the program and changed its title to the more descriptively accurate Economic Impact Statement (EIS) Program. (In the interests of simplicity, this title and acronym will be used here, with the caveat that they should not be confused with those of the Environmental Impact Statement Program.)

Because of strong opposition from organized labor—owing especially to claims that the EIS requirement delayed regulations at the Occupational Safety and Health Administration (OSHA)—many thought that President Carter would terminate the program. Instead, he has given it strong support, most recently on April 15, when he announced several measures dealing with inflation. Specifically, he asked that full consideration be given to "the economic cost of major government regulations, through a more effective analysis of their economic impact," and directed the Council on Wage and Price Stability (CWPS) "to provide relevant agencies with analyses of the inflation implications of specific government regulatory and legislative actions."

Meanwhile, support for the EIS initiative has been growing in Congress, where there is considerable interest in strengthening the program and applying it to the independent regulatory agencies as well as those within the executive branch. Bills have been introduced to require all agencies to prepare "regulatory cost/benefit assessments" of their proposed legislation and regulations having a significant economic impact (H.R. 351 and H.R. 701); to have the Congressional Budget Office prepare economic impact statements for proposed legislation and agency regulations (H.R. 1743); and to require agencies to prepare economic impact statements for proposed regulations, submit them to CWPS for comments thirty days in advance of their appearance in the Federal Register, and publish the analysis and CWPS's comments along with the proposed regulation (H.R. 2100).

In view of President Carter's interest in continuing and perhaps even strengthening the EIS program, and in view of forthcoming deliberations over such proposals on Capitol Hill, it is appropriate to review the record in order to learn what has been accomplished to date and what might be done to make such efforts more effective.[1]

BACKGROUND

During 1974, rising anxiety about "double digit" inflation stimulated popular and of-

[1] A thorough assessment of the program is contained in Thomas D. Hopkins, *An Evaluation of the Inflation Impact Statement Program* (Washington, D.C.: Council on Wage and Price Stability, December 7, 1976).

ficial interest in the problem and led President Ford, in one of his first steps, to convene a series of summit conferences on inflation. These meetings produced a variety of recommendations in September and October of that year.

At the same time, the unprecedented growth in federal regulation was also causing concern. The early 1970s had seen the creation of seven new regulatory agencies, including the Environmental Protection Agency (EPA), the Consumer Product Safety Commission (CPSC), and OSHA. Between 1970 and 1974 the number of pages in the Federal Register had grown from 20,036 to 42,422 per year; the number of pages in the *Code of Federal Regulations* had grown from 54,105 to 69,270; and some twenty-nine major regulatory statutes had been enacted (see summary and table on page 43, this issue). Many business leaders, academics, and policymakers were urging that regulatory activity be given closer scrutiny and that careful attention be paid to the costs and benefits of major regulations *before* rather than *after* they become effective.

These two concerns came together at two inflation summit conferences attended exclusively by economists. At the first session (Washington, September 5, 1974), there was considerable discussion about the extent to which "sacred-cow" regulations constrained economic growth, created unemployment, and caused prices to be higher than they would have been otherwise. At the second session (New York City, September 23), Thomas G. Moore, senior fellow at the Hoover Institute and an AEI adjunct scholar, circulated a petition calling for the elimination of a long list of federal regulatory and legislative restraints. Included on the list were laws restricting competition in transportation and limiting supplies of energy, as well as regulations setting the maximum interest rates payable by financial institutions and mandating safety devices on new automobiles. This petition was signed (with minor qualifications in some instances) by twenty-one of the twenty-three economists in attendance.

Thus, worry over inflation—and over regulation as a factor contributing to it—was the major reason the EIS program was established. But the officials responsible for the program were after more than a simple tracing through of the cost impact of proposed regulations and legislative recommendations.[2] They wanted to use the requirement to improve agency decision-making, and this meant getting the agencies to address the costs and benefits of their proposals. What program officials wished to avoid was the tendency for agencies to serve special constituent interests, often at great cost to the general public; to view the objects of their regulations as natural enemies, to be dealt with punitively; to forge ahead with regulatory and legislative proposals without knowing enough about the problem being addressed or the effects of the proposed solution; and to resist suggestions for alternative, more efficient ways of dealing with economic problems.

In briefings on the program, agencies were told that a proposal need not be considered inflationary simply because it might generate costs. Rather, if the proposal would increase real output (that is, generate tangible and intangible benefits in excess of costs), then in real sense it was *anti-inflationary*, but if the action would decrease real output (that is, generate costs in excess of benefits), it was inflationary. Agencies were not required under the program to place exclusive, or even primary, reliance in their decision-making on cost-benefit calculations, for such a requirement could have been imposed only through legislation. Nevertheless it was believed that requiring agency officials to address costs and benefits systematically would make them more sensitive to these issues.

A first step in the program was to establish criteria for determining whether a proposed regulation or legislative recommendation should be considered "major." Obviously to attempt assessments of all proposals would spread resources far too thin. So a principal objective was to flag for analysis (and possible reconsideration) those proposals having costs greatly exceeding benefits. Since it tends to be easier to make a preliminary estimate of costs than benefits—especially at the initial stage of a proposal—the criteria focused on this aspect. Although supplemental criteria were developed, nearly every EIS issued during the first two years of the program was triggered by a preliminary finding that the proposal would cost $100 million during the first year it would be in effect or $150 million during the first two years.

Each EIS was required to analyze the proposal's estimated costs and benefits. These estimates were to include intangibles as well as tangibles and were to be expressed in dollar terms whenever possible. The EISs also had to review the costs and benefits of alternative approaches for achieving the same goal.

The administration of the EIS program was decentralized. Each agency was responsible for determining which of its proposals was major and for preparing the statements. Upon request, statements on proposed legislation were given to the Office of Management and Budget (OMB) and those on regulatory proposals were given to CWPS. Eventually, agencies were required to certify in the Federal Register that the inflationary impact of their proposed regulations had been considered and, in the case of major proposals, that an EIS had been prepared; also, upon request, agencies had to explain to CWPS why, in their judgment, a proposal was not major.

Finally, since the program was a presidential initiative established by executive order, it applied only to executive-branch agencies, and not to the independent regulatory agencies such as the Interstate Commerce Commission (ICC) and the Civil Aeronautics Board (CAB). The independents were urged to conform with the program, but each invoked its right not to be bound by it. Also, unlike its sister program, the Environmental Impact Statement, the EIS did not provide grounds for court action. As ultimately resolved in the *Independent Meat Packers* case (8th Circuit, 1975), an agency's failure to complete an EIS when required or to prepare one conforming to the specifications of the program could not be used to overturn a regulatory decision. In essence, conformance with the program depended on agency support and "policing" by CWPS and OMB.

EXPERIENCE WITH THE PROGRAM

As of mid-April 1977, a total of sixty-five EISs had been prepared—fifty-seven for proposed regulations and eight for proposed legislation. The table (see page 20) lists the date each of these analyses was completed, the responsible agency, the subject matter, and whether the proposal was regulatory or legislative. As can be seen, most EISs have been prepared by a handful of agencies—notably the U.S. Department of Agriculture (USDA), EPA, and OSHA. This reflects the important role these agencies have played recently in generating regulations and legislative proposals.

The quality of the individual EISs varies considerably. Some are quite detailed, broad in scope, and analytically sophisticated. But altogether too many are unduly brief, fail to address the relevant issues, and contain grossly defective analysis. Part of the explanation is that some agencies—for example, EPA and the Department of Transportation—have devoted substantial analytical resources to the task, while others—for example, USDA and the Food and Drug Administration (FDA)—have not. This, in turn, reflects the agencies' relative commitment to the program. While some have given it strong support, others have been hostile to it or, at best, have viewed it as a necessary hurdle.

Overall, the analyses contain reasonably good estimates of costs, but their assessments of benefits are weak, and alternatives are usually ignored. Typically, of course, costs are easier to analyze than benefits and alternatives. But the reluctance of some agencies to go beyond analyzing costs appears to be caused more by pressures from constituents than by an inability to cope with the technical problems of economic analysis. This seems particularly true of OSHA, which, despite repeated criticism from CWPS and OMB, steadfastly refuses to attempt monetary estimates of benefits or to analyze alternatives. Apparently, organized labor believes that its interests are better served by detailed, stringent standards, even though such standards may prove very costly, and objects to having OSHA, or anyone else, perform careful benefit estimates or analyze alternatives, either of which might make the proposed standards seem less desirable. For instance, taking a strong position on approaches for reducing worker exposure to harmful substances, organized labor supports the installation of "engineering controls" (exhaust fans, enclosed transport, et cetera) rather than the use of "personal protective devices" (respirators, gloves, special suits, et cetera). Research by CWPS economists indicates that almost invariably the latter approach can reduce worker exposure at a small fraction of the cost of engineering controls.

Has the EIS program improved agency decision-making? It may be too early to tell. Since the gestation period for a proposed regulation or law is generally several years and since the program has been in full swing for only two years, we do not have enough cases to make a definitive judgment. Furthermore, in evaluating the program we are dealing with a very subjective output—the quality of decision-making. Also, even if adequate "before" and "after" comparisons were possible, we must be careful about attributing changes solely to the program; obviously, many factors could have intervened, such as worse or better regulatory appointments, political pressures from the administration and the Congress, and changes in the relative effectiveness of adversaries in regulatory proceedings. These problems make rigorous evaluation impossible at this stage, leaving us with personal and unsystematic appraisals from those who have observed the program or participated in it.

On August 3, 1976, CWPS asked for public comments on the EIS program by means of a notice in the *Federal Register*. Thirty-one replies were received, all favorable. These included comments from Senator Hubert H. Humphrey (then chairman of the Joint Eco-

[2] These officials were under no illusion that the program would *solve* the inflation problem, or even make a substantial contribution for that matter. In contrast with fiscal and monetary policy, regulation has a very small effect on the rate of inflation. But for a given impact on that rate, regulation often has a greater effect upon consumer welfare because it operates directly upon the real supply of goods and services rather than working through aggregate demand.

nomic Committee of the Congress) and a number of manufacturers and trade organizations. No replies were received from labor organizations, but it was widely reported in the press that certain labor leaders, including George Meany and Leonard Woodcock, were openly hostile to the program, especially as it affected OSHA.

About the same time, CWPS solicited the views of key personnel at the agencies, and followed up with a score of in-depth interviews with agency staff members responsible for the program. In addition, several agencies commented on various drafts of the report prepared by an evaluation team headed by Thomas Hopkins of CWPS. From these various comments we learned several things about how the program is functioning.

First, officials at all of the agencies, except for two, wished the EIS program to continue. Generally, they found the analyses helpful to them in weighing the component parts of a proposal and in making trade-offs to reduce the cost of meeting a given objective. They also found the analyses useful in defending a decision not to adopt as strong a regulation or legislative proposal as some of their more extreme constituents would have liked. This appears to be the primary reason why OSHA supported the program, albeit reluctantly.

The two agencies that formally opposed the program were USDA and the Federal Energy Administration (FEA). Indeed, in late August 1976 the USDA unilaterally stopped complying with the program, arguing that it represented "meaningless paperwork" and denying that regulation could have any impact on inflation. Such an attitude is, perhaps, understandable since, by their very nature, many USDA regulations that come under the EIS program—agricultural marketing orders, price support programs, and the like—can be shown to generate costs in excess of benefits. The reason for the FEA's strong opposition to the EIS program was different. At that agency the program was viewed as an impediment to the deregulation of petroleum prices, despite efforts by those responsible for the program to assure FEA officials that in a relevant sense such action would be *anti*-inflationary—that is, it would stimulate production and reduce excess demand. A major problem was FEA's dependence on macroeconomic, econometric models for predicting the outcomes of policy changes. Such models, by their very design, indicate a price-enhancing effect for deregulation. Moreover, officials were concerned about the public's perception of the effects of deregulation, and in their view the EIS simply drew attention to rising petroleum prices.

A second thing we learned from comments by agency officials and the public is that the program is not well integrated into the process of formulating proposals and making decisions about them. Typically, an EIS is prepared *after* a proposal has been drawn up and thus the analysts' task becomes one of justifying the approach taken. One reason for this is that usually the initiative for a new regulation or legislative proposal is taken not by the agency's economists or policy analysts, but by its lawyers and administrators. Their focus tends to be upon meeting the procedural requirements of timeliness, due process, the weighing of constituent interests, and defensibility in the courts, rather than upon the economic costs and benefits of their actions. Thus, the decision-making process often proceeds along two, almost distinct tracks—one for the decision-makers and one for the analysts. It is especially lamentable that typically the EIS is not relied upon as an input at the proposal formulation stage, since that is the time when information on costs, benefits, and alternatives is most likely to affect the ultimate decision. Once an agency has gone into print with its original proposal, the chances it will take a new direction are very slim.

Not surprisingly, then, a third major thing we learned is that the program receives higher marks from agency economists and policy analysts than from lawyers and administrators more directly responsible for the decisions. The lawyers' interest is to ensure ample discretion for the ultimate decision-maker and to minimize the risk that decisions will be challenged and perhaps overturned in court. They see the EIS as narrowing that discretion and as providing a potentially damaging piece of evidence in court. (For this reason, there is some reluctance to make EISs public.) On the other hand, economists and policy analysts generally see the EIS as strengthening their hand within the agency. It may give them somewhat more influence on policy decisions, and it often leads to an increase in their share of agency resources. The program also tends to be supported more strongly by senior officials in the agencies than by junior officials—partly because it is regarded as a means of "controlling the bureaucracy" and partly because it is a presidential program. Senior officials, as political appointees, are more apt to reflect presidential concerns about policy and the responsiveness of the bureaucracy than are employees protected by the Civil Service system.

The fourth thing we learned is that the program costs the agencies little in terms of resources. One reason is that the OMB circular promulgating the program stated that it would be met within the existing budget. The argument was that agencies already possessed a capability for economic analysis and that the EIS program would merely redirect that effort. Predictably, this has proved to be a bone of contention, and nearly every agency has urged that this policy be reconsidered. It appears, however, that few additional resources have been required. Existing policy staffs have been utilized a bit more intensively than they were, with their efforts supplemented on occasion by other personnel in the agency. The major exception is OSHA, which has contracted out its EISs, often at six figures. But even at OSHA *some* economic analysis would have been done in the absence of the EIS program.

On the basis of these conclusions and my own experience with the program, a tentative assessment may be made. First, as noted, the costs of the program appear to be low. Second, despite wide variations among agencies, there is some evidence, albeit highly subjective, that the program is having a substantial effect. Policy-makers now appear to be taking the economic implications of their proposals more seriously than they used to. In agency discussions and in formal proceedings, the EIS is serving as a rallying point for those arguing that regulation should be consistent with economic efficiency. The EIS is often an important component of CWPS filings before regulatory agencies—and, because CWPS is part of the Executive Office of the President and because its interventions are highly publicized, it has considerable clout. Moreover, although agencies seldom alter their proposals once announced, there have been cases where, arguably, the EIS and the attention drawn to it have caused the ultimate outcome to be different than it otherwise would have been. More important, an agency's concern that its EIS may be criticized and that the analysis may undercut, rather than support, its proposal has led to closer coordination between the lawyers and economists at the proposal formulation stage—and, therefore, to more carefully considered proposals and better analyses. Thus, summing up, it appears that the benefits of the program substantially outweigh the costs.

WHERE DO WE GO FROM HERE?

When contemplating the future of the EIS program, one should keep in mind that economic analysis is merely one instrument for improving the quality of decision-making and that there are others—including better regulatory appointments, greater oversight by OMB and the Congress, and revisions in the Civil Service system to improve the quality and accountability of agency staff. While the EIS program alone cannot produce perfection, it can be—and, as we have seen, has been—a useful device. It should be continued. It should also be improved.

First, steps should be taken to improve the overall quality of EISs. Specifically, minimal standards should be established. Clearly, decision-making is not aided if the analysis on which it is based is incompetent. This objective could be addressed by requiring that regulatory agencies, before taikng action, obtain CWPS or OMB approval for the quality of their analysis (not the desirability of the proposal). Any impasse between CWPS or OMB and the initiating agency could be resolved by the Economic Policy Group (EPG) or some other representative designated by the President. Changes of this kind might require legislation.

Second, steps should be taken to ensure that the EIS is utilized as an input into the regulatory decision-making process—especially at the proposal formulation stake. One way of bringing this about would be to require agencies to submit their EIS evaluations to CWPS (or perhaps some other group like the EPG) *prior* to publication in the Federal Register. This would give proposal formulators the opportunity to draw upon outside expertise and would provide an extra incentive for them to utilize the analyses.

Third, the EISs should be made public and should be featured more prominently by the agencies. As mentioned earlier, the possibility that an EIS will be criticized spurs agencies to improve their analyses and make better use of them. Formal EISs should accompany major legislative proposals sent to the Congress by the administration. In the case of regulatory proposals, the formal EIS (or, if lengthy, an executive summary) should be published in the Federal Register.

Fourth, the program needs to be extended to *existing* regulations and programs. This could be done without legislation, utilizing OMB in its normal management and budget roles. Or, to maintain flexibility and avoid undue bureaucratization, CWPS and/or OMB might be given explicit authority to request from each agency each year a limited number of analyses of existing regulations or programs.

Fifth, the program should also be expanded to include the independent regulatory agencies—for example, the ICC, the CAB, the Federal Power Commission, the Federal Communications Commission, and the Federal Trade Commission. These agencies generate important legislative and regulatory proposals whose overall quality could be enhanced by a rigorous application of economic reasoning. This recommendation also would require legislation.

Sixth, all agencies should have the discretion to consider costs and benefits in developing their regulatory proposals and in making their decisions. This would mean, for example, (1) repealing the "Delaney amendment" to the Food, Drug, and Cosmetics Act (which requires the FDA to ban any food additive found to be carcinogenic, regardless of the benefits and costs of such a ban) and (2) modifyng the Clean Air Act (which, as it is interpreted by EPA, requires the agency *not* to consider costs and benefits in certain instances).

Seventh, Congress should require that, according to reasonably informed judgement, major new regulations have favorable cost-benefit ratios and meet their given objectives at the lowest cost, considering all the available alternatives. Along with this, Congress might grant interested parties the right not only to appeal in the federal courts but to have the regulatory decision determined in the courts (that is, *denovo* review) if there were clear and convincing evidence that the agency had failed to consider the benefits and costs of the proposal.

In practice, regulatory decision-making and legislative proposal-making fall far short of the theoretical ideal. Our objective should be to make them as rational as possible, and the EIS technique is an important contribution to that end. To attain its full usefulness, however, it should be strengthened by administrative action and supplemented by legislation.

ECONOMIC IMPACT STATEMENTS COMPLETED BY FEDERAL AGENCIES

Date EIS completed, agency, subject, and nature of proposal:

March 1975, DOC, proposed Patent Modernization and Reform Act, legislation.

March 1975, USDA, standards for beef grading, regulation.

April 1975, FEA, proposed Energy Conservation and Production Act, legislation.

May 1975, USDA, support for U.S. agricultural exports, regulation.

May 1975, USDA, tobacco price supports, regulation.

June 1975, USDA, peanut price supports, regulation.

June 1975, HUD, construction standards for mobile-home safety, regulation.

July 1975, FEA, proposed Electric Power Construction Act of 1975, legislation.

July 1975, USDA, U.S. agricultural export program of Commodity Credit Corporation, regulation.

July 1975, DOL, proposed Unemployment Compensation Amendments Act, legislation.

July 1975, EPA, registration of pesticides, regulation.

August 1975, DOL, proposed Work Incentive Program Amendments Act, legislation.

September 1975, EPA, drinking water standards, regulation.

October 1975, EPA, motorcycle emissions, regulation.

October 1975, EPA, effluents from offshore gas and oil production, regulation.

October 1975, USDA, milk price supports, regulation.

October 1975, USDA, labeling of meat and poultry products, regulation.

October 1975, USDA, support and regulation of cotton crop program, regulation.

October 1975, DOT, proposed Aviation Act of 1975 (regulatory reform), legislation.

November 1975, EPA, maintenance of ambient air quality standards, regulation.

November 1975, EPA, coal mining effluents, regulation.

November 1975, HUD, mortgage insurance and assistance, regulation.

November 1975, DOT, proposed Northeast Regional Railroads Additional Service Act, legislation.

January 1976, USDA, support for U.S. agricultural exports, regulation.

January 1976, EPA, effluent guidelines for paper industry, regulation.

January 1976, HEW/FDA, ban of idethylstilbestrol (DES) in cattle feed, regulation.

February 1976, HEW, discrimination against handicapped persons, regulation.

February 1976, DOL/OSHA, worker exposure to coke-oven emissions, regulation.

February 1976, FEA, exemption of residual fuel oil from mandatory petroleum allocation and price regulations, regulation.

February 1976, EPA, standards for measuring evaporative hydrocarbon emissions from automobiles, regulation.

February 1976, EPA, limitations on organic-chemical effluents, regulation.

March 1976, USDA, milk price supports, regulation.

March 1976, USDA, modifications in food stamp program, regulation.

March 1976, DOD/CE, permits for dredge-and-fill operations, regulation.

March 1976, EPA, emissions from light-duty trucks, regulation.

April 1976, HEW, Medicaid reimbursements to nursing homes, regulation.

April 1976, HEW/FDA, banning of nitrofurans in chicken feed, regulation.

April 1976, DOL/OSHA, worker exposure to industrial noise, regulation.

April 1976, DOL/OSHA, worker exposure to inorganic arsenic, regulation.

May 1976, FEA, proposed Energy Independence Authority Act, legislation.

May 1976, USDA, tobacco price supports, regulation.

May 1976, DOT, financing of rehabilitation of railroad facilities, regulation.

June 1976, EPA, guidelines for iron and steel effluents, regulation.

June 1976, EPA, effluents from photographic processing, regulation.

June 1976, FEA, guidelines for federal support of state energy conservation plans, regulation.

July 1976, DOT/NHTSA, occupant crash protection (air bags), regulation.

July 1976, FEA, definition and allocation of nonproduct cost increases, regulation.

August 1976, USDA, support for U.S. agricultural exports, regulation.

September 1976, EPA effluents from pesticides, regulation.

September 1976, FEA, contingency plan for gasoline and diesel-fuel rationing, regulation.

November 1976, EPA, limits on polychlorinated biphenyl (PCB) effluents, regulation.

November 1976, FEA, exemption of motor gasoline from mandatory allocation and price controls, regulation.

December 1976, EPA, guidelines for effluents from onshore oil production, regulation.

December 1976, EPA, noise emissions for wheel and crawler tractors, regulation.

January 1977, EPA, dust emissions from grain elevators, regulation.

January 1977, DOC, guidelines for federal support of coastal energy impact programs, regulation.

January 1977, DOL/OSHA, occupational exposure to sulfur dioxide, regulation.

January 1977, DOT/FAA, abatement of airport noise, regulation.

February 1977, FEA, allocation of increased costs to gasoline, regulation.

February 1977, FEA, entitlements program for strategic petroleum reserve, regulation.

February 1977, DOL/OSHA, occupational exposure to lead, regulation.

March 1977, FEA, incentives for industry to switch from oil and gas to coal, regulation.

April 1977, USDA, milk marketing order in the New York-New Jersey area, regulation.

April 1977, HEW/FDA, banning of saccharin and its salts, regulation.

April 1977, FEA, consistent control treatment for Californian and Alaskan crude oil, regulation.

Source: Council on Wage and Price Stability and Office of Management and Budget.

By Mr. HASKELL:

S. 2012. A bill to amend the Trade Expansion Act of 1962 with respect to investigation of the effects on national security of importation of refined petroleum products; to the Committee on Finance.

DOMESTIC REFINERS

Mr. HASKELL. Mr. President, I am today introducing a bill to clarify the President's national security authority and to help preserve a healthy U.S. refinery industry. My bill would allow the President to make adjustments to license fees or other charges on imported petroleum products that he determines are necessary to protect national security.

In recent years, domestic crude oil price controls and the entitlements program have allowed domestic refiners to remain competitive with foreign refiners. However, the crude oil equalization tax, when added to existing environmental and safety requirements could have a serious adverse impact on the competitive position of this important industry.

My bill merely clarifies existing Presidential authority to protect national security. This authority was the subject of litigation when the President used it to impose a $2 per barrel import fee on crude oil in 1975. The U.S. Supreme Court, in *FEA* v. *Alqonquin SNG, Inc.*, 426 U.S. 548 (1976), held that the President has some authority to regulate imports of oil and oil products, but the decision is not definitive on the limits of that authority. My bill would modify section 232 of the Trade Expansion Act of 1962 to explicitly delegate to the President the authority to impose import fees that he determines are required to protect the domestic refining industry.

The bill also expedites the required study by the Secretary of the Treasury, increasing the chances for early Presidential review. The Secretary of the Treasury's national security study deadline would be reduced from 12 to 6 months for petroleum products under my bill.

Without such an amendment, the energy program before us could weaken our domestic refining capacity and thus impair our national security by perpetuating our dependence on unreliable source of foreign oil products.

I therefore urge the support of my colleagues for the bill I offer today.

By Mr. WILLIAMS (for himself and Mr. RIEGLE):

S. 2014. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

Mr. WILLIAMS. Mr. President, today, on behalf of Senator RIEGLE and myself, I am introducing a measure to afford greater protection to consumers in bankruptcy proceedings. Under current law, consumers are "general unsecured creditors," at the bottom of the list of those to be paid from a bankrupt's estate. General unsecured creditors can recover their losses only after secured and priority claims have been taken care of. In cases where a bankrupt firm has some assets, general unsecured creditors now receive an average of only 7 cents for each dollar they are owed. If this measure becomes law, consumers will be in a much better position to collect.

Consumers are truly disadvantaged, forgotten parties in bankruptcy proceedings. They are in an especially weak position vis-a-vis trade creditors. Commercial creditors know the risks of doing business without a secured interest and adjust their compensation accordingly. Those who make purchases for their personal, family, or household use do not

see themselves as creditors in that relationship. Their intention in the transaction is neither profit-making nor risk-taking. They are not in the market as sellers, but rather solely to buy for their own use. Nothing in their situation seems analogous to the position of a financing bank or other lender.

The measure I introduce today would create a new priority for consumer creditors—after secured creditors, administrative costs, and wage and employee benefits claims, but before taxes, Government debts, and general unsecured creditors. A priority will be especially meaningful for consumer creditors of a firm which undergoes a reorganization form of bankruptcy, where the firm is allowed to continue operating if it arranges to pay off its debts. Significantly, the idea of a priority for consumers in bankruptcy is endorsed by the National Association of Attorneys General and the Consumer Federation of America. A similar measure has been introduced in the House by Mrs. FENWICK.

S. 2014 will provide greater protection for those who have prepaid for continuing or future services, such as correspondence school lessons; those who prepaid for goods, for example, purchases made on a layaway plan; those who possess merchandise certificates or who have returned goods for credit; and those who have left their own goods with the company to be repaired. Low-income consumers are especially vulnerable because they are more apt to buy on credit in a financially marginal neighborhood store.

The failure of the giant W. T. Grant Co. provides a perfect example of the short shrift which consumers can, and all too frequently do get. While a great deal of concern was expressed about the effect on Grant's bankruptcy on commercial creditors—little attention was focused on the plight of consumer creditors. There seemed to be little concern for the thousands who had made lay-away purchases from Grant in the weeks preceding the bankruptcy, for those who held "Grant's cash" or merchandise certificates and had not converted them into goods prior to the bankruptcy.

Mr. President, the current bankruptcy law was drafted in 1938 when little need was paid to the interests of consumers. Today, the interests of consumers are given greater attention—and rightly so. However, the movement for greater consumer protection which has produced significant changes in the law of consumer credit, marketing practices and product safety has yet to have impact in the bankruptcy arena. I urge enactment of S. 2014 which will extend a greater degree of protection and equity for the consumer who finds himself innocently thrust into the bankruptcy arena.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 64. a. (11 U.S.C. 104(a)) of the Bankruptcy Act is amended—

(1) by inserting immediately after clause (3) the following new clause: "(4) debts owing to a natural person on account of a deposit of money made in connection with the purchase, lease, or rental of goods or services for personal, family, or household use.

(2) by redesignating clauses (4) and (5) as (5) and (6), respectively.

By Mr. CHILES (for himself and Mr. LEAHY):

S. 2015. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Governmental Affairs.

Mr. CHILES. Mr. President, I am introducing on behalf of myself and Senator LEAHY legislation to provide better information to the public and the Congress on how Federal funds are distributed to State and local governments. This proposal is a companion measure to H.R. 8458 which Congressman FASCELL has introduced in the House of Representatives.

Each year billions of Federal dollars are funneled to State and local jurisdictions. Just in the recent past, some $6 billion were allocated under the Public Works Employment Act. The competition for this money is keen and the need on the part of many communities is great. At times, however, the program for distribution of funds may seem to resemble a giant roulette wheel with little rhyme or reason to the winners and losers. To many cities seeking funding under the public works jobs bill, I am sure this appeared to be the case. Almost every State had a story of a tiny community receiving millions in funds while a major metropolitan area received nothing.

The Congress obviously sets the policy for the allocation of Federal funds. This may involve the development of a general formula to include such factors as population, per capita income, State and local taxes, and other criteria. However, as efforts are made to insure regional and State equity as well as take care of unique or particularly pressing situations, these formulas can become rather complicated. With such formulas it becomes not merely a case of feeding the data into the computer but determining just what constitutes the appropriate data and what assumptions need to be made in programing the computer.

These all important determinations are made not by the Congress, but by whatever agency or department that has administrative responsibility for the program. With so much money at stake the decisions of an agency with respect to implementing a formula can mean millions of dollars won or lost for a community or State. In some cases, an arbitrary assumption or subjective judgment by an agency can even serve to thwart clear congressional intent.

Our recent experience with the emergency public works jobs program provides a good illustration of the problems that can arise and points to the need for Congress to get a better handle on how its funding decisions are being carried out. I am sure just about every Member of Congress was faced with the almost impossible task of trying to explain the rationale for why one city was funded and another was not. It certainly did not seem to have much to do with how serious the unemployment problem was in a particular area.

What became evident in the aftermath of the public works legislation is the scope of decisionmaking that is left to the agencies after enactment. An example of what takes place with a formula can be seen from the Economic Development Administration's use of a "logarithmic transformation" to score public works projects in the first round of public works funding. As the General Accounting Office reported:

> Another problem frequently mentioned was that many large cities, where unemployment problems are reported to be the most severe, received little or no funds under the program. Reportedly, nearly half of the Nation's 100 largest cities—including Miami, Florida; Pittsburgh, Pennsylvania; Syracuse, New York; and Seattle, Washington—are in this category. One of the contributing factors to this situation was that EDA converted the absolute number of unemployed workers residing in project areas to logarithms, which had the effect of reducing the relative importance of the unemployment scores of the large urban areas.

This type of judgment by an agency can result in areas with critical needs being denied funds while other locales receive funds excess to their needs. This is hardly an economic use of Federal dollars and not what Congress intends when it passes measures such as the Public Works Employment Act.

Obviously, there are no easy solutions to this problem and Congress is not really equipped to make many of the decisions Federal agencies do with respect to handling data. It is very apparent though that more information should be made available on the assumptions and subjective decisions made by those who implement Federal programs. This will serve to enable Congress and the public to monitor in a more effective way just how well Federal assistance programs are fulfilling their original purpose.

Under the bill which I and Senator LEAHY are proposing, the Director of the Office of Management and Budget would have the responsibility of insuring that complete and detailed information is available on the way funds are distributed under Federal programs. This information would include the nature and source of each data element, any assumptions or projections made and the probable percentage of error.

The availability of such information will on the one hand enable Congress, funding applicants and others to duplicate the computer programing and test how well Federal programs are meeting their goals. It would also make it more practicable to experiment with different factors in an attempt to improve the efficiency and economy of Federal programs.

We cannot continue to permit bureaucrats and technicians to make subjective decisions on how billions of dollars are distributed with no review or guidance from elected officials or the public. This

legislation will provide a start toward reversing that situation so that with adequate information we can improve the fairness and effectiveness of Federal funding distribution.

Mr. President, I ask unanimous consent that the text of the legislation we are introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services; and

(2) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government.

SEC. 2. The Director of the Office of Management and Budget shall identify all existing Federal domestic assistance programs and make available to the public, information describing, as to any domestic assistance program which provides for the distribution of funds on the basis of any distribution, allocation, or other formula—

(1) the formula and assumptions under which program funds are distributed, including—

(A) a narrative statement of the formula;

(B) a mathematical statement of the formula;

(C) an annotated listing of any computer program used in the application of the formula; and

(D) as to each of the items listed in clauses (A), (B), and (C), a statement of the nature and date of any revision; and

(2) the data and assumptions used in the application of the formula, including—

(A) the definition of each data element, and the nature and date of any revision of such definition;

(B) the source of data, the method of data collection, and the cost of such collection;

(C) the period of time covered by the data, or for which the data is accurate;

(D) the imputation techniques used to supply missing elements of data; and

(E) the statistical properties of the data, including sampling error rates if known, as to each class or size of beneficiary.

Mr. LEAHY. Mr. President, the legislation Senator CHILES and I are introducing today will insure that all the factors in formulas used to distribute billions of dollars under congressionally mandated Federal grant programs are made public in a clearly understandable fashion. It will allow the Congress, as well as affected State and local governments, groups and individuals to make certain that both congressional intent and national needs are properly met.

Ideally, this legislation should not be necessary. Unfortunately, because all too often either the Congress is not precise enough in spelling out how funds are to be distributed, or the executive agencies charged with disbursing the funds ignore, misinterpret or do not understand the legislative mandate, this remedial legislation is essential.

The bill directs the Director of the Office of Management and Budget to identify all Federal domestic assistance programs and issue a public explanation of the elements involved in deriving the formula by which program funds are distributed. The Director is required to describe the formulas in narrative and mathematical statements as well as detail any computer programs used.

With this information available, better congressional oversight can be exercised to make certain that legislative directives are being followed. In addition, the beneficiaries of the legislation will be better equipped to advise Congress of legislative or administrative flaws in the programs.

For example, I plan to distribute the formula information to people in my State to help me determine which programs enacted with all of America in mind have in fact been implemented with a decided urban bias. Armed with their expert advice and experience, I am confident that we can restore the proper balance between the needs of urban and rural America.

I believe that this bill and use of the mechanisms it provides will result in both better legislative programs and eventual implementation.

I am looking forward to working with Senator CHILES to push this legislation through the Senate, and I commend Congressmen FASCELL and ROSE for their initiative on this matter in the House of Representatives.

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2016. A bill to establish fees for services performed by United States marshals; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, on behalf of myself and Senator WALLOP, I am today introducing a bill which would allow the Attorney General to modify fees now set by law for the service of process by the U.S. Marshal Service—USMS. The fees to be set by the Attorney General would permit recovery of the actual costs of providing such services to private litigants who currently receive this unique benefit when a party to civil litigation.

The cost to the American taxpayer due to the loss of Federal revenues for service of civil process has accelerated for the past 10 years. The costs of these services are not recovered through fees imposed by USMS but are paid from general Federal revenues. In fiscal year 1975, GAO estimated that costs for private civil process exceeded revenues by more than $3,800,000.

Establishment of fees based on annual USMS computations is the most effective method for meeting these continually rising expenses and is consistent with the principle that Government programs having particular benefits for identifiable recipients should be self-sustaining to the extent practical. Service of process by the USMS is not mandatory for litigants and it would be possible to use commercial firms for this purpose; however, the fees of the Federal Government will still by comparison be very low.

Mr. President, this bill is the result of efforts by the Attorney General, and the Office of Management and Budget has advised that enactment of the proposed legislation would be consistent with the objectives of the administration.

By Mr. HELMS:

S. 2017. A bill to provide objective definitions of unitary school systems for uniform court enforcement of the Civil Rights Act of 1964, to provide objective standards for statewide postsecondary educational systems under that act and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools, and for other purposes; to the Committee on Human Resources.

THE FREEDOM OF CHOICE IN EDUCATION ACT

Mr. HELMS. Mr. President, recently a Federal district court ordered the Department of Health, Education, and Welfare to adopt new guidelines regarding the elimination of racial duality in the public higher education systems of Arkansas, Florida, Georgia, North Carolina, Oklahoma, and Virginia. The desegregation guidelines developed by the Department of Health, Education, and Welfare on the basis of the Federal court order seek comprehensive control over the State systems of higher education involved, including that of North Carolina.

In part, the guidelines require that the University of North Carolina submit to the Office of Civil Rights for approval its plans regarding physical construction projects, new programs of study or new academic departments and plans for the closing or merger of institutions.

The guidelines impose admission quotas by setting specific goals for the admission of black students. The guidelines require that the proportion of black high school graduates who enter undergraduate school be at least equal to the proportion of white students and that the proportion of black undergraduate students who enter professional school be at least equal to the proportion of white undergraduate students. Some university officials in North Carolina estimate that it will not be possible to comply with such quotas without resorting to reverse discrimination since they would require the admission of black students with substantially lower academic credentials than those who are presently being admitted.

The HEW guidelines impose hiring quotas among faculty and administrative personnel by requiring that the proportion of black faculty and administrators equal the proportion of blacks with the required credentials for such positions in the relevant labor market area. The guidelines also deal with the integration of university faculty members by promoting faculty "interchange" on a temporary or permanent basis among predominantly black and white institutions.

These guidelines display a simplistic

approach to the problems confronting higher education and too often confuse the situation of these institutions with those of elementary and secondary schools. The presumption underlying substantial portions of the guidelines, that desegregation methods which have been applied to elementary and secondary schools can automatically be transferred to universities, is profoundly at odds with reality.

Universities vary considerably in their academic functions and missions, whereas elementary and secondary schools have a unified academic role. Attendance at the elementary and secondary level is compulsory, but at postsecondary institutions attendance is voluntary. While attendance at elementary and secondary schools is dictated by attendance zones, in higher education students select schools on the basis of academic programs, faculty, athletics, and many other variables.

The HEW guidelines issued as a result of the Federal court order represent the latest development in an 11-year pattern of increasing Federal control over the higher education system of the State of North Carolina. The far-reaching effects of these guidelines threaten to change the fundamental character of higher education in North Carolina and the five other States affected by the court order. Clearly, it threatens to make them different from postsecondary systems in all other parts of the country.

The goal of the University of North Carolina has been to implement programs and planning decisions which make each institution of higher education, whether predominantly black or predominantly white, attractive to students on a basis other than race. University officials have sought to maximize each student's freedom of choice in attending an institution and in so doing to make that choice a meaningful one.

Under its present desegregation plan, the University of North Carolina has done an excellent job in dealing with the problems associated with its former dual education system. University officials have taken affirmative steps to increase the number of black students at historically white institutions. For example, in 1973, only 18 percent of the black students in the University of North Carolina system were attending historically white institutions. By 1976, over one-fourth of the black students attending college were doing so at such schools.

While recent surveys show that there is a difference in the academic standing of black and white applicants admitted to the various institutions within the public university system, that difference has not weakened the educational standards of the university. In the fall of 1974, the University of North Carolina at Chapel Hill accepted 65 percent of the black applicants who applied, while accepting only 45 percent of the white applicants. The average score on the scholastic aptitude test—SAT—for the black applicants was 887 while the average SAT score for white applicants who were accepted was 1,152.

In 1974, the last year for which figures are available, the SAT averages for freshmen at the predominantly white schools were as follows:

Institution	*White*	*Black*
UNC-Chapel Hill	1,152	887
NC State U	1,044	853
UNC-Greensboro	992	885
East Carolina U	900	746
UNC-Charlotte	963	826
Pembroke State U	771	714
UNC-Asheville	944	697
UNC-Wilmington	915	750

(Statistics were not available for Appalachian State University or Western Carolina University.)

Although precise figures for last year's freshman class are not yet available, university officials report that the academic credentials of black applicants granted admission were still lower than their white counterparts.

North Carolina's efforts during these years has dismantled a dual system of higher education with a minimum disruption of the existing institutions and a minimum adverse impact to their students. Many factors affect a student's selection of a college; including peer pressure, parental preferences, familiar ties with particular institutions, financial considerations, academic and athletic programs. Significant progress has been made in promoting each student's freedom of choice in obtaining a college education free from racial considerations.

Federal intervention in the North Carolina system of public higher education began in 1970, when the Department of Health, Education, and Welfare determined that 10 States, including North Carolina, were maintaining racially dual systems of higher education. The Department requested that North Carolina and the other States submit voluntary desegregation plans for their systems of public higher education.

During the extensive discussion and negotiation between the Department and the University of North Carolina following this request, a suit was filed by several persons against the Secretary of HEW to force HEW to commence enforcement proceedings against these State higher education systems and abandon the goal of voluntary compliance through negotiation; see *Adams* v. *Richardson*, 356 F. Supp. 92 (1973).

In 1973, that Federal district court ordered HEW to direct each State to submit desegregation plans within 4 months or face the loss of all Federal financial assistance under title VI of the Civil Rights Act of 1964. North Carolina filed a desegregation plan entitled: "A State Program to Enlarge Educational Opportunity in North Carolina" with the Office of Civil Rights in 1973. Several months later, the Office rejected the North Carolina plan and requested a more comprehensive program.

The university then submitted "The Revised North Carolina State Plan for the Further Elimination of Racial Duality in the Public Post-Secondary Education Systems." That plan was accepted by the Department of HEW in 1974, and North Carolina made semiannual reports to the Department regarding the implementation of its plan. North Carolina received frequent communications from HEW that the State was performing well under the plan. North Carolina was described by the director of the Office of Civil Rights as a model which other States might well emulate.

In August 1975, the plaintiffs in the Adams against Richardson case went back into Court; this time requesting that the court instruct HEW to revoke its approval of eight States' desegregation plans, including that of North Carolina.

During 1977, the Federal district court granted this request and instructed the Secretary of HEW to develop new Department guidelines and require new desegregation plans from six States including North Carolina. The new HEW guidelines have recently been issued and North Carolina is presently developing a further revision of its program in order to comply with the Federal court mandate.

Mr. President, University of North Carolina officials have provided equal opportunity for the students of North Carolina while maintaining high academic standards. Because of their efforts, the high educational standards of the UNC system have not yet been weakened as a result of past HEW guidelines, but that standard could well be undermined in the future.

What is disturbing about HEW's activity is the increasing pattern of Federal intervention in North Carolina's system of public higher education. Whether one considers UNC's early voluntary efforts, the 1973 plan, the 1974 plan or the present programs which were recently ruled inadequate, the more UNC succeeds in realizing the goal of equal opportunity for its students the greater the Federal burden becomes.

When the present 4-year plan was implemented in 1974, it was reasonable to expect a relaxation of Federal control with its succsesful completion in 1978. To the contrary, although HEW assured UNC officials they were doing well under the plan, a Federal court has now judged their performance inadequate and imposed a new 5-year plan. At the end of this time there is every reason to suppose that some new alleged "inadequacy" will again be "discovered" in UNC's program, and further controls will be mandated.

Last year the U.S. Supreme Court considered the problem of continuing an indefinite Federal court jurisdiction over school desegregation matters. In *Pasadena City Board of Education* v. *Spangler*, 44 L.W. 5114 (1976), a Federal judge maintained that his court's jurisdiction over Pasadena's schools was to continue, and I now quote him, "at least during my lifetime."

The Supreme Court rejected that extreme view of Federal jurisdiction in desegregation matters and ruled that where the initial implementation of a court-ordered plan accomplished the objective of racial neutrality in the attendance of students at the public schools in question,

(T)he District Court was not entitled to require the School District to rearrange its attendance zones each year so as to ensure that the racial mix desired by the court was maintained in perpetuity. For having once implemented a racially neutral attendance pattern in order to remedy the perceived constitutional violation on the part of the

defendants, the District Court had fully performed its function of providing the appropriate remedy for previous racially discriminatory attendance patterns.

The history of the Federal court's involvement and that of HEW in the affairs of the North Carolina system of public higher education would also suggest the need for clear legislative guidelines regarding Federal jurisdiction in desegregation cases. On the basis of the Supreme Court's objection to perpetual redistricting in the Pasadena case, it would be appropriate to accept the reasoning of the Court and provide a uniform method for releasing school systems from Federal court jurisdiction if they have been in compliance with court orders for a full school year.

Mr. President, the legislation I am introducing today addresses itself to the problem outlined in the Swann case by Chief Justice Burger:

> The constant theme and thrust of every holding from Brown I to date is that State-enforced separation of races in public schools is discrimination that violates the Equal Protection Clause. The remedy commanded was to dismantle dual school systems.
>
> We are concerned in these cases with the elimination of the discrimination inherent in the dual school systems, not with myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from Brown I to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage . . .
>
> Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race; it does not and cannot embrace all the problems of racial prejudice, even when those problems contribute to disproportionate racial concentrations in some schools (402 US 1 at page 22).

Mr. President, the legislation which I am introducing today provides procedures by which Federal court jurisdiction over a system of public higher education may be released. Under this proposal after the public post-secondary system has complied with an HEW or court-ordered desegregation plan for 1 year, any university official or student could go into Federal court and seek a finding that the State system had ended its dual system of education; that the student's decision to attend a university was not determined by racial considerations; and that the university had met its obligation to remedy the effects of past practices.

The determination that the State was now operating a unified public higher education system would be a finding of fact to be made by a jury, rather than a judge. If such a determination were made regarding any State system Federal courts and HEW would still retain strong remedies to correct any new instances of discrimination under the bill's provisions. State courts also would begin to assume greater responsibility for desegregation matters. However, under the bill, Federal courts would not have the jurisdiction and HEW would not have the authority to order the assignment of any student to any institution; or the assignment of any faculty or administrative staff to any institution; or the expenditure of funds for construction or maintenance; or regarding the accreditation of any institution within the system. These drastic measures to remedy the effects of a dual educational system would no longer be necessary after the jury determination that these past effects had been remedied.

ELEMENTARY AND SECONDARY SCHOOLS UNDER THE FREEDOM OF CHOICE IN EDUCATION ACT

In framing a remedy for the problem of educational disruption through court orders to achieve racial balance, we must focus precisely upon the nature of the problem, the restraints of the Constitution as currently interpreted by the Supreme Court, and the practical effects of the solutions proposed. Moreover, we want a remedy that will work, and work now.

A further complication is that such a remedy must be universally applicable in cases arising both out of de jure and de facto segregation. Since the Denver decision, it may be assumed that court orders will now be issued in geographic areas where it had formerly been assumed that segregated schools were the result of de facto situations. The mere absence in the past of legislation or regulations requiring the separation of students by race no longer protects school systems outside the South from assault by the courts. The school system in South Boston is a case in point. It is urgent, therefore that both North and South join in framing a remedy.

Nor can a legislative remedy deal directly with the desire of most people for neighborhood and community schools, and their distaste for court-imposed busing and other mandatory assignment plans and integration devices. I believe that any attempt to restrict the hands of the courts would ultimately be set aside, even though I disagree with the basic premise the courts are using. It would be deeply disappointing to pass a bill providing relief against busing for racial balance only to have it thrown out by the courts.

Finally, our remedy must be a solution that can be supported in good conscience by all men of good will, whatever their political persuasion. We must not forget that the ultimate aim of relief legislation is to promote good community relations and a wholesome atmosphere for sound education. The research report by Harvard sociologist David J. Armor ("The Evidence on Busing" in The Public Interest, No. 28, summer 1972) and the subsequent discussions clearly demonstrate that the sociology of mandatory integration without freedom of choice has proven to be either erroneous or much more complex than formerly imagined. It does nothing to improve relationships between the races or academic achievement; in fact the evidence is that it engenders hostility and lowers self-esteem and achievement. Until our constitutional interpretation can be brought into line with reality, we must take legislative steps to foreclose the harm being done to the children.

If such steps are to survive a court test, they must not violate the internal logic of the current mythology attributed to the 14th amendment. We must focus the issue more narrowly upon what the courts have decided, not upon what we think they have decided, or what we would like them to decide. Changing judicial thinking is a process of years, even if a constitutional amendment were passed overnight. The only ready remedy is one written within the grammar of recent court decisions. And contrary to the popular impression, the major court decisions—although sweeping in their effects—have been quite narrowly defined.

AFFIRMATIVE ACTION TO ACHIEVE RACIAL BALANCE

Although "busing" gets the headlines, there are many other techniques also prescribed by courts to achieve what is commonly called "a racial balance." These other techniques are just as disruptive—some even more so—of the organic patterns of community development. These techniques include pairing of schools, reorganization of junior and senior high schools, building of new schools, gerrymandering of attendance zones, and other devices apparently intended to create a racial balance in each school. Yet the common impression that the courts have required a racial balance as an end in itself is misleading. On the contrary, the U.S. Supreme Court has never required that a school system must have a racial balance for its own sake. In specific situations, however, the Court has upheld orders that are weighted heavily on the side of accomplishing in each school of the system a racial distribution that approximates the racial balance of the locality.

Such orders have been generally issued by the lower courts under their equity powers, usually in the form of decrees or orders of a continuing quality which retain jurisdiction in the courts without limit of time or circumstances. Civil rights cases and in particular school cases have created a special form of constitutional interpretation. Until such cases came to the courts, the Constitution was viewed as a prohibitory instrument forbidding discrimination under "State action." The lower Federal courts, in particular, have devised an affirmative or "compensatory" interpretation of the Constitution on the ground that preexisting deprivation of constitutional right must be affirmatively adjusted to a given point of defined equality before the normal constitutional limits can be restored.

In effect, then, when the Supreme Court is upholding a lower court order that requires some affirmative action—in the form of busing, pairing, zoning, et cetera—it is requiring the school authorities to demonstrate that the State is no longer encouraging segregation. In order to prove that the past practices which resulted in segregation and are now declared unconstitutional have been abandoned, the school authorities must take steps to achieve the uniform racial distribution that presumably would have resulted had it not been for past State action. In short, the Court does not hold that it is the Constitution that requires

a uniform racial distribution; it is the doctrine of equity that requires busing and similar artificial steps to achieve racial balance until a supposedly normal state of constitutional rights can be restored.

For example, in approving the district court's formula for a racial balance of 71–29 percent, the Supreme Court in Swann against Charlotte-Mecklenburg Board of Education, specifically called it "a useful starting point in shaping a remedy to correct past constitutional violations." It was a starting point, not an end in itself. The Supreme Court found that, "in sum, the very limited use made of mathematical ratios was within the equitable remedial discretion of the district court."

These are subtle distinctions which are of no comfort to parents who find their children's lives disrupted and their educational achievement threatened by the instability and social chaos which so frequently follows such court orders. I strongly dissent from the fine-spun constitutional theory that invents momentous new doctrines of "affirmative action" out of whole cloth. Yet we must use as our starting point the fact that these theories are the prevailing law and that there is little hope that they will be overturned in the near future. Our legislative remedy must be framed out of the same distinctions.

THE REQUIREMENT FOR A UNITARY SCHOOL SYSTEM

If racial balance is not the end sought by present constitutional interpretation, then what is that end? In judicial language, the requirement is that a State, under the recent interpretations of the 14th amendment, must convert any "dual school system" into a "unitary school system." The Supreme Court has emphasized this over and over.

In the pivotal Green decision, the Court said:

The transition to a unitary, nonracial system of public education was and is the ultimate end to be brought about. [391 US 430 at 436; 20 Law Ed 2nd 716 at 722; 88SCt 1689 at 1693]

Referring back to Brown II, the Court's opinion in Green was very specific:

School boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch. [391 US 430 at 437; 20 Law Ed 2nd 716 at 723: 88SCt 1689 at 1694]

Unfortunately the phrase "a unitary system" has never been defined. Yet we can deduce the Court's concept from the way it was handled in the Swann opinion. There we find that "the objective today remains to eliminate from the public schools all vestiges of state-imposed segregation." Over and over again, Swann deals with the problem of racial composition strictly in accord with whether or not the pattern was "state-imposed."

The constant theme and thrust of every holding from *Brown I* to date is that state-enforced separation of races in public schools is discrimination that violates the Equal Protection Clause. The remedy commanded was to dismantle dual school systems. [402 US 1 at 22; 28 Law Ed 2nd at 570; 91SCt 1267 at 1279]

And again, the Court narrowly defined its mission to include only State-sanctioned discrimination in schools, not discrimination which might arise from other factors:

We are concerned in these cases with the elimination of the discrimination inherent in the dual school systems, not with the myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from Brown I to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage. It would not serve the important objective of Brown I to seek to use school desegregation cases for purposes beyond their scope, although desegregation of schools ultimately will have impact on other forms of discrimination. [402 US 1 at 22; 28 Law Ed 2nd at 570; 91Ct 1267 at 1279]

Finally, the Court came as close as it ever has done to defining a unitary school system when it said:

Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly on account of race; it does not and cannot embrace all the problems of racial prejudice, even when those problems contribute to disproportionate racial concentrations in some schools. [402 US 1 at 23; 28 Law Ed 2nd at 570; 91SCt 1267 at 1279]

We may conclude that a unitary school system is one in which the school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race. At the same time, the Court recognizes that a unitary school system might include disproportionate racial concentrations in some schools, so long as those disproportionate concentrations are not caused by action on the part of school authorities with intent to segregate. State discriminatory actions are proscribed; other factors which result in racial imbalance in the schools are beyond the scope of the Court's activity. In fact, the Court said specifically:

The Constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole. [402 US 1 at 24; 28 Law Ed 2nd 554 at 24; 91 SCt 1267 at 1280]

In fact, the Court tells us that "absent a constitutional violation, there would be no basis for judicially ordering assignment of students on a racial basis."

To summarize these important distinctions, we may say that the Supreme Court holds it unconstitutional to assign pupils on the basis of race; however, when a court finds a situation where pupils have been assigned on the basis of race, then equity requires that this constitutional violation be compensated by pupil assignment on a racial basis. Yet this compensatory action is obviously of limited duration. Compensation cannot go on forever; nor can a sound theory of the Constitution endure a permanent suspension of the constitutional right not to be assigned on a racial basis.

The Court itself calls this suspension an interim period. Referring to remedial altering of school zones in Swann, it said:

As an interim corrective measure, this cannot be said to be beyond the broad remedial powers of a Court. [402 US 1 at page 27; 28 Law Ed 2nd 554 at page 573; 91 SCt 1267 at 1282]

Noting the burdens which court orders impose—burdens the Court itself admits may be "administratively awkward, inconvenient and even bizarre"—the Court says:

But all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems. [402 US 1 page 28; Law Ed 2nd 554 at page 575; 91 SCt 1267 at 1282]

It follows therefore that Congress is at liberty to impose a legislative definition of a normal interim period. Moreover, the situation which the courts are seeking to remedy is in constant flux. School authorities, pupils, and families come and go. The inherent logic of the Supreme Court's argument demands that the extraordinary suspension of constitutional rights come to an end within a reasonable length of time. The Court itself accepted its own logic. In the remarkable concluding paragraphs of Swann, the Court had this to say:

At some point, these school authorities and others like them should have achieved full compliance with this Court's decision in *Brown I*. The systems will then be "unitary" in the sense required by our decisions in Green and Alexander.

It does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system. This does not mean that Federal courts are without power to deal with future problems; but in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary. [402 US 1 at 31; 28 Law Ed 2nd 554 at 575; 91SCt 1267 at 1283]

Working strictly within the constraints of the Court's reasoning, we can see therefore that there can and must be an end to pupil assignments on the basis of race. There can and must be an end to busing, pairing, zoning, and so forth. A return to neighborhood schools is not only desirable, but feasible under current court decisions. The only question is when.

THE DURATION OF COURT JURISDICTION

Thus neither school authorities nor district courts are required to adjust the racial composition of student bodies "once the affirmative duty to desegregate has been accomplished and racial discrimination through official action has been eliminated from the system." The suspension of the constitutional right of pupils not to be assigned to a school on the basis of race is of limited, but indefi-

nite duration. Since the Supreme Court itself has admitted that the suspension of rights is of limited duration, it is entirely proper for the Congress of the United States to pass legislation setting a definite time limit during which the courts can suspend these rights.

I believe that a great majority of school systems have by this time become desegregated under the terms of the original orders of the Federal courts, by compliance with the guidelines issued by the Commissioner of Education, or remain in a form historically instituted without reference to racial separation either by law or collusive drawing of attendance zones. Current problems before the courts accordingly are, in possibly a majority of cases, directed against resegregation caused by population shifts occurring subsequent to prior school desegregation. Quite frequently it is argued that the actions of school authorities, although possibly taken today without regard to race, are tainted by the vestiges of past actions. In the forefront of such actions are those which attempt to overcome the increasing concentration of blacks in inner city areas by overriding political boundaries existing between different school systems as in the cases of Richmond and Detroit where massive busing into suburbs has been directed.

Yet in every case, the orders are different, the standards are different, and the burdens to be borne and the levels of compliance are different. The length of time the school systems remain under court jurisdiction is entirely at the discretion of the court. Every court commands the establishment of a "unitary system," but the level of compliance varies. There are two difficulties. First, "unitary" is indefinite both in quantum and period of time. Second, the equitable doctrine of continuing jurisdiction over an existing decree permits the courts to change preexisting orders from time to time in order to correct situations which have changed after an initial determination and local compliance.

It is within the power of Congress to statutorily define the unitary concept, to fix its effective period, and to terminate continuing district court jurisdiction, provided only that in so doing the Congress does not specifically or by implication permit the restoration of a school system based on racial separation.

THE REMEDY

The Freedom of Choice in Education Act provides the required remedy. It defines a "unitary school system" within the constraints of current practices.

First of all, it accepts the work of any Federal court that has approved a desegregation plan to achieve a unitary system. If the court has said that such and such a plan will bring a system into compliance then the act agrees that it is a plan which will bring about compliance. In the same way, the act also accepts compliance with any specific plan or generally published guideline authorized or approved by the Commissioner of Education. Both accomplish the same end and should have equal standing in the light of numerous court references to such guidelines as indicative of the meaning of the term "desegregated school."

Thus this first definition does not negate any plan currently in effect. It makes every court order and every HEW pupil assignment plan part of the definition of "unitary school system." There are some activists who say that present plans do not go far enough. Yet, present plans must go at least as far as the Supreme Court itself has gone. Those who want to go further are not arguing law, but questions of policy.

Second, the act's second definition of a unitary school system accepts the decision of any court of the United States upholding a pupil assignment plan as in compliance with the laws and Constitution of the United States. Thus any school system which has successfully defended itself against the charge of unconstitutional actions is, on the face of it, a unitary school system. This is really a corollary of the first definition. A court decides whether a school system is unitary or not.

Third, the act's third definition of a unitary school system also involves a court test. Here, if a court decided that attendance zones were originally established with reasonable geographical divisions without the intent to discriminate—and no changes had been made except for reasonable educational discretion—then such a school system is a unitary school system. Such a finding is a reasonable defense against demands that school attendance zones be altered within a system, or that the system be merged with adjacent systems in other political jurisdictions.

Fourth, the act's fourth definition recognizes that many courts under a plea of equity have tried to fashion some formula for the overall racial composition of student bodies as evidence of the school authorities' affirmative action. Up to now, this has been left to the decision of the individual judge, with no guidelines for him to follow. The courts have acted variously with respect to their racial ratio requirements, which, despite Federal assistance legislation to the contrary, is being used by the Federal courts and to some extent as well by the Department of Health, Education, and Welfare as a target for the requirements of busing and the other techniques. Most courts have differed in the extent to which they view an approximation of local racial ratios as being required and the extent to which it will be applied across the board to all public schools in the system or be compromised to lessen the amount of change required.

In fact, in Swann, the Supreme Court was at pains to point out that it approved the district court's order only because that order was not to be interpreted as a "fixed mathematical racial balance." The Court said:

> If we were to read the holding of the District Court to require, as a matter of substantive Constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The Constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole. [402 US 1 at 24; 28 Law Ed 2nd 554 at 571; 91SCt 1267 at 1280]

Indeed, the Supreme Court quoted approvingly from the district court's own explanation as follows:

> This court [the District Court] has not ruled and does not rule that 'racial balance' is required under the Constitution; nor that all black schools in all cities are unlawful; nor that all school boards must bus children or violate the Constitution; *nor that the particular order entered in this case would be correct in other circumstances not before this court.* (Emphasis in original) [402 US 1 at 24 (n. 9); 28 Law Ed 2d 554 at 571 (n. 9); 91 SCt 1267 at 1280 (n. 9)]

Although the Supreme Court thus holds that there does not have to be a rigid mathematical formula, there are still no guidelines for a lower court to follow in fashioning a remedy in equity. The act has a formula under which Congress sets up the parameters. It provides for the kind of flexibility which the Supreme Court demanded in Swann, keeping in mind that the Court only approved a "very limited use made of mathematical ratios . . . within the equitable remedial discretion of the District Court." These limitations must be borne in mind. [402 US 1 at 25; 28 Law Ed 2d 554 at 572; 91 SCt 1267 at 1280].

Basically, the formula would provide that a control group of not less than two-thirds of the schools of a local educational agency would have to meet certain standards of racial composition in enrollment if the school system does not otherwise qualify as a unitary school system. These standards would be based upon the ratio of whites and blacks in the school system; an individual school in the control group would have to have at least one-third of the percentage of majority students in the school population as a whole, and one-third of the percentage of minority students in the school population taken as a whole.

All in all these are not definitions which I endorse for their substance; I endorse them because they will work within the system as it is now constituted. They provide fair definitions of a unitary school system so that judges will have an objective standard of justice, nor do they upset current legislation or court orders on the subject.

Fifth, the other aspect of definition is to put a limitation on the duration of the suspension of the constitutional right of students not to be assigned to schools on the basis of race. As I have already pointed out, it is unhealthy for constitutional rights to be suspended indefinitely. Congress can put a reasonable limitation on the length of time required to demonstrate that a dual school system has been abandoned. It would be highly suspect if Congress were to put severe limitations on the so-called remedies available to courts in equity. It might be charged that due process of law or equal protection was being abridged by statute. But a reasonable time limitation violates neither. The courts would still have all the powers that they now have to order desegregation plans, to order busing, pairing, or so forth. The power to order the organizational disruption

that we now have in our school systems would not be abated. The only difference would be that it could not go on forever.

The act sets a limitation of 1 full school year. This would apply either to schools on a 9-month plan or on a 12-month plan. It assumes that the school authorities are acting in good faith and that they actually do what they are ordered to do. One year is a significant administrative unit in a school system, as pupils normally move from one grade to another in that year's time. The courts will see to it that the assignment plan is comprehensive enough to compensate for past unconstitutional practices; the year's duration under the court's jurisdiction will see to it that a constitutional assignment plan is actually in operation.

It must be remembered that the Supreme Court has said that the Constitution itself does not command proportional racial composition of student bodies; once a violation has been corrected, the Constitution is indifferent to assignment methods, so long as school authorities do not make assignments on the basis of race. School authorities are not required to make pupil assignment adjustments for discrimination that may result from other factors in society, once the affirmative duty to discriminate has been accomplished. This means that the neighborhood school—favored by the overwhelming majority of Americans of both races—can return once the violations have been corrected.

During the space of a school year, the dislocations of student bodies and teachers would have to be endured. There is no way within the present grammar of the court decisions that this can be evaded where the schools have been found to be operating dual systems. But it would be endurable because the end would be in sight.

Moreover, many school systems have already met and have been meeting the definition of a unitary school system for 1, 2, 3, or 4 years. Under the act, they could pass the test immediately. What counts as far as meeting the constitutional test is the actual time served under court orders without regard to the passage of the act. A statute cannot affect the constitutionality of an action.

At the end of a full school year, the school authorities, State officials, or any parent can apply to have the case reopened so that the judge involved can submit the case to a jury to make a determination that the school system has met the statutory definition of a unitary school system for a full school year. The determination is narrowly limited to questions of fact, that is, whether the plan decreed by the court has in fact been followed. The judge would have no opportunity to reassess the case itself or to consider new data.

Upon reopening of the case, enforcement of the judge's court order is stayed until the final determination has been made. This would insure prompt actions by the court so that any affected parties could make a timely appeal if desired.

Sixth, once the determination was made that the school authorities had been operating a unitary school system for the required length of time, then the system would be released from Federal district or appeals court jurisdiction in matters relating to segregation and allied problems. The matters could not be raised again in the Federal courts.

Nevertheless, the full system of State courts remains open to plaintiffs who allege that their constitutional rights have been abridged by some action of the school authorities, including appeal to the U.S. Supreme Court.

Thus it is clear that due process and equal protection are carefully preserved by the act. Every school system may be brought into Federal court at least once, and that court will have the opportunity to apply the full range of so-called "remedies" that it perceives to be necessary. The "unitary school system" which the U.S. Supreme Court says is constitutionally required will have been established and it will have actually been put into operation. If further State-directed discrimination occurs, the full range of State courts is available for redress. The U.S. Constitution would assure this, but for the sake of clarity, the act spells it out.

Seventh, finally the act provides a specific exemption to preserve the right of any student who feels he has secured particular advantages under any current assignment plan. I think we can be sure that most parents will wish their children to attend school under a neighborhood school plan if one is offered. There may be some who are being transported to schools outside their neighborhood where they feel they have special advantages. If there are such, they can be allowed to continue to be transported to those schools if they so choose. They have this right not by constitutional protection, but in the interests of good educational policy and sound community relations. Thus, under the act, no child would lose what he or his parent perceive to be an advantage from the current system.

Eighth, the act preserves the interests of all those concerned. It maintains current court holdings, decrees, and HEW plans. It preserves all constitutional rights under the present mode of interpretation. It provides for the orderly termination of Federal court jurisdiction so that standards are uniform throughout the Nation. It provides for the early restoration of local control over attendance plans. And it safeguards the interests of those who feel they have obtained advantages under the present situation.

But most of all, it will bring about the rebuilding of a wholesome educational atmosphere and constructive community relations. The best society is the society that has the maximum of free choice and evolves from the myriad of decisions of each citizen over the years, and over the generations. To destroy that organic development is to destroy the very fabric of a healthy society. The destruction has been imposed upon us by the courts, and it is time for Congress to begin rebuilding.

Mr. President, I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Freedom of Choice in Education Act".

SEC. 2. (a) The Congress finds that—

(1) the Supreme Court has repeatedly ruled that the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) these and related court rulings have imposed upon public school agencies the burden of eliminating the vestiges of dual school systems and of establishing all school systems upon a unitary basis;

(3) the lack of appropriate statutory definition of a unitary school system has left the courts without objective standards in enforcing the equal protection of the laws in regard to pupil assignment, with a resulting lack of uniformity in enforcement and regulatory requirements;

(4) the courts have been overburdened with the complexity and length of the litigation and continuing judicial process for effective enforcement of the fourteenth amendment and the Civil Rights Act of 1964, and other related statutes.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, including, but not limited to section 5 of the fourteenth amendment, take action to enhance the enforcement of court determinations under the Civil Rights Act of 1964, to make court enforcement uniform by setting standards and definitions relative to a unitary school system, to provide objective standards for Statewide postsecondary educational systems under the Civil Rights Act of 1964, and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated public schools and Statewide postsecondary educational systems.

SEC. 3. Section 401 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following:

"(e) 'Local educational agency' means any local educational agency as defined by section 801 (f) of the Elementary and Secondary Education Act of 1965.

"(f) 'Institution of higher education' means any institution as defined in section 1201 (a) of the Higher Education Act of 1965.

"(g) 'State educational agency' means a State educational agency as defined by section 801 (k) of the Elementary and Secondary Education Act of 1965.

"(h) 'Statewide postsecondary educational system' means all public institutions of higher education within the State, whether or not under the governance of the same State agency, board, or commission.

"(i) 'Unitary school system' means any public school system in which—

"(1) the local educational agency, has complied with an order of any court of the United States based on racial enrollment criteria for the public schools of that agency, or is in compliance with any specific plan or published guideline authorized or approved by the Commissioner of Education with respect to such enrollment criteria; or

"(2) the presently used procedure for assignment of students and teachers in the elementary and secondary schools of the local educational agency has been found by any court of the United States to be in compliance with the Constitution and laws of the United States against a charge that the schools of such agency were segregated; or

"(3) the assignment of children to elementary and secondary schools of that agency is by attendance zones which are or have been

found by any court of the United States (A) to have been originally established with reasonable geographical divisions without intent to discriminate between areas on the basis of race, color, or national origin, and (B) to have not thereafter been altered except to accord with and meet conditions caused by population increases or decreases in the area served, granting to such agency the right to reasonable educational discretion in the creation or elimination of neighborhood school zones in geographically contiguous areas without regard to the racial composition of the affected residential area; or

"(4) not less than two-thirds of the schools of a local educational agency have a racial composition of the student body of each school which shall contain a percentage of majority students which is not less than one-third of the percentage of majority students in the school population taken as a whole, and a percentage of minority students which is not less than one-third of the percentage of minority students in the school population taken as a whole.".

SEC. 4. Title IV of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new section:

"ORDERLY TERMINATION OF FEDERAL JURISDICTION OVER STATE EDUCATIONAL AGENCIES AND STATEWIDE POSTSECONDARY EDUCATIONAL SYSTEMS

"SEC. 411. (a)(1) The continuing applicability of any order of any district court or court of appeals of the United States requiring the desegregation of the public elementary and secondary schools of a local educational agency shall terminate upon a determination by jury in the issuing court or by a court having review jurisdiction that such schools of the defendant local educational agency are and have been a unitary school system as defined in section 401(i) of this Act for a period of not les than a full school year since the establishment of such schools or following any voluntary or required organization thereof.

"(2) The continuing applicability of any order of any district court or court of appeals of the United States requiring the desegregation of any Statewide postsecondary educational system shall terminate upon a determination by jury in the issuing court or by a court having review jurisdiction that the Statewide postsecondary educational system has overcome past discrimination and is not an established dual educational system, and that under such system students are and have been attracted to each institution of higher education on the basis of educational programs and opportunities, and the decision of students to attend institutions of higher education within the system is not determined by any practice of discrimination by officials of the State postsecondary educational system, for a period of not less than a full year since the entering of such an order or the voluntary acceptance of a plan submitted to the Department of Health, Education and Welfare.

"(b) No district court or court of appeals of the United States shall have original, continuing, or pendent jurisdiction to issue in any case or controversy, in law or in equity, any writ, process, rule, decree, order or command directing, forbidding, or changing—

"(A) the assignment or transportation of any student to any public elementary or secondary school made, provided, or proposed pursuant to the determination and direction of the State or local educational agency operating or having supervisory powers over the operation of such school, or

"(B) the employment, assignment, reassignment, transfer, or retention of any member of the teaching or administrative staff of any such school, or

"(C) any appropriation or expenditure of any funds for the construction, maintenance, equipment, or operation of any such school, or

"(D) the accreditation of any such school by any public or private agency, or its inclusion in any published list or directory of accredited schools,

if such school is, or is part of, a unitary public school system as defined in section 401 (i) of this Act, and has been so for the period specified in paragraph (1) of subsection (a) of this section.

"(2) No district court or court of appeals of the United States shall have original, continuing, or pendent jurisdiction to issue in any case of controversy, in law or in equity, any writ, process, rule, decree, order or command directing, forbidding, or changing—

"(A) the admission or assignment of any student to any institution of higher education within any Statewide postsecondary educational system, or

"(B) the employment, assignment, reassignment, transfer or retention of any member of the teaching or administrative staff of any such institution, or

"(C) any appropriation or expenditure of funds for the construction, maintenance, equipment, or operation of any such institution, or

"(D) the accreditation of any such institution by any public or private agency, or its inclusion in any published list or directory of accredited schools,

if the Statewide postsecondary educational system is and has been in compliance with paragraph (2) of subsection (a) of this section for the period specified in that paragraph.

"(3) No department or agency of the United States may terminate, withhold, defer, or otherwise condition any federal financial assistance to any public elementary or secondary school of a local educational agency, to any State or local educational agency, to any institution of higher education which is part of a statewide postsecondary educational system or to any such system if such a school, agency, institution or system is in compliance with the provisions of subsection (a) of this section.

"(c)(1) The provisions of this section shall apply with respect to any civil case or controversy now pending or hereafter brought in or removed to any court of the United States for or with respect to the desegregation of the public elementary and secondary schools of any local educational agency or for or with respect to the appropriation or expenditure of funds for the construction, equipment, maintenance, operation, or support thereof.

"(2) The provisions of this section shall apply with respect to any civil case or controversy now pending or hereafter brought in or removed to any court of the United States or with respect to the desegregation of any Statewide postsecondary educational system, or for or with respect to the appropriation or expenditure of funds for the construction, equipment, maintenance, operation or support thereof.

"(d)(1) On application therefor by any local educational agency, or by the parent of any student enrolled in any school operated by such agency, or by any State educational agency or any State officer having supervisory authority over the public elementary and secondary schools of such local educational agency, any prior judgment, decree, or order of any district court of the United States or of any court of appeals of the United States related to, providing for, or concerning the assignment or transportation of students in or to the public elementary and secondary schools of such local educational agency, as a means to end or prevent or correct the effects of segregation of students in the schools of such agency on the basis of race, color, or national origin, shall be reopened by such court. The court shall thereupon promptly submit to jury determination as a question of fact whether or not the public elementary and secondary schools of such agency are, and have been, for the period specified in paragraph (1) of subsection (a) of this section, a unitary school system as defined in section 401(i) of this Act.

"(2) On application therefor by any State with respect to the statewide postsecondary educational system, or any student, any prior judgment, decree, or order of any district court of the United States or of any court of appeals of the United States related to, providing for, or concerning the assignment of students or the employment, assignment, reassignment, transfer, or retention of any member of the teaching or administrative staff within that system as a means to end or prevent or correct the effects of segregation in any such system on the basis of race, color, or national origin, shall be reopened by such court. The court shall promptly submit to jury determination as a question of fact whether or not that system is in compliance with paragraph (2) of subsection (a) of this section for the period specified in that paragraph.

"(3) Each application under this subsection shall be made by a motion in the cause in the case or controversy and in the court in which such judgment, decree, or order has been requested or was entered. Such application shall be heard and the determination thereby prayed shall be made within twelve months from the date on which the application was filed. The filing of any such application shall stay the enforcement of any existing order pending final determination of the issue thereby raised.

"(e) Nothing contained in this section shall limit the right of a State local educational agency to change or alter its administrative or financial policies following the termination of Federal jurisdiction by reason of this section, except that—

"(i) no such change after such termination may be made for the purpose of discriminating against any class of students or employees on the basis of race, color, or national origin, and

"(ii) no student may be denied the right to continue after such termination to attend the school to which such student was assigned prior to such change and, in the case of elementary and secondary schools to be furnished the necessary transportation.

"(f) Nothing contained in this section shall limit the existing jurisdiction of the courts of any State with respect to the public elementary and secondary schools of that State, or with respect to the statewide postsecondary educational system of that State, nor limit or affect the established review jurisdiction of the Supreme Court of the United States over decisions of the highest courts of the several States.".

SEC. 5. If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstances is held invalid, the remainder of the provisions of this Act and of the amendments made by this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

By Mr. CURTIS:

S. 2018. A bill to amend section 514(b) of the Employee Retirement Income Security Act of 1974 to restrict preemption of State law as it relates to employee welfare benefit plans only to the extent such plans are subject to other titles of the employee welfare benefit plans only to the extent that such plans are subject to other titles of the Employee Retirement Income Security Act; to the Committee on Finance and the Committee on Hu-

man Resources, jointly, by unanimous consent.

Mr. CURTIS. Mr. President, I am today introducing a bill to make certain health insurance trusts, ostensibly issued under the protection of the Pension Reform Act of 1974, subject to State regulation. Less than 2 months ago I made a statement on the floor calling attention to a very serious and shocking situation concerning the possible widespread sale of fraudulent health insurance. At that time, I called for a thorough investigation by the Attorney General, the Postmaster General, and the Secretary of Labor to determine if any criminal statutes have been violated and if, in fact, State insurance commissioners may assert jurisdiction and bring these practices to a halt.

The problem arises because of a provision in the Employment Retirement Income Security Act—ERISA—which excludes certain health insurance trusts from State regulation. It was originally enacted to encourage employers to offer health insurance policies to their employees in conjunction with qualified pension plans. However, the law was drafted too broadly and various self-funded, fly-by-night insurance trusts, claiming to be ERISA trusts, have sprung up and are selling policies not in conjunction with qualified pension plans or even with the employer-employee relationship. Indeed, one of my constituents, who was duped by this scheme, is a farmer, and not the employee of anyone.

I have been contacted by various State insurance commissioners and those in the insurance industry who have advised me that the problem is even more serious than originally feared.

A California trust, receiving over $1 million a month in premiums has filed for bankruptcy leaving thousands of unpaid claims. Another California trust has collapsed with a deficit that could reach $4 million. State insurance commissioners in California, Arizona, Minnesota, Indiana, Kansas, and New Hampshire have filed suits against various self-funded organizations which are claiming protection under ERISA. Investigations continue in a number of other States.

If these trusts can successfully claim to be ERISA trusts they not only avoid regulation by the States, but the provisions of ERISA do not even subject them to the minimum standards of funding, participation and vesting. Consequently, they operate without adequate reserves and typically, 85 percent of the premiums collected are spent for "promotion costs."

I do not mean to condemn all health programs initiated under ERISA, and my bill would not, I repeat, not affect those insurance trusts which are issued in conjunction with a qualified pension plan which is otherwise subject to the minimum standards of ERISA, including funding and participation. This bill is aimed at those charlatans who would claim authority from the U.S. Government to sell worthless health insurance policies to the unsuspecting populace. This bill would subject health insurance trusts, which are not otherwise part of a qualified pension program, to State regulation.

Mr. President, I urge my colleagues to inquire of the insurance commissioner in their own State as to the magnitude of the problem and then join me in supporting this legislation.

ADDITIONAL COSPONSORS

S. 274

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. STENNIS), the Senator from Washington (Mr. JACKSON), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of S. 274, to prohibit unionization of the military.

S. 752

At the request of Mr. MCGOVERN, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 752, the Young Farmers Homestead Act.

S. 896

At the request of Mr. MCGOVERN, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 896, to amend Public Law 91–118, providing for a Great Plains conservation program.

S. 1493

At the request of Mr. HART, the Senator from Colorado (Mr. HASKELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. GRAVEL), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1493, the Inland Energy Development Impact Assistance Act.

S. 1616

At the request of Mr. CLARK, the Senator from Minnesota (Mr. ANDERSON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Montana (Mr. METCALF), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Vermont (Mr. LEAHY), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 1616, the National Agricultural, Range and Forest Land Policy Act.

S. 1644

At the request of Mr. PACKWOOD, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1644, to give tax equity to parents without partners.

S. 1780

At the request of Mr. DOMENICI, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1780, the Elementary and Secondary Education Optional Consolidation and Reorganization Act.

S. 1824

At the request of Mr. MCCLURE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1824, to suspend use of Office of Civil Rights Forms 101 and 102.

S. 1868

At the request of Mr. MELCHER, the Senator from Idaho (Mr. MCCLURE) and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 1868, to expedite the issuance of Federal permits.

S. 1871

At the request of Mr. WILLIAMS, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1871, to amend the Fair Labor Standards Act of 1938.

S. 1923

At the request of Mr. ROTH, the Senator from Indiana (Mr. BAYH) and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 1923, to amend the Consolidated Farm and Rural Development Act and title V of the Housing Act of 1949.

S. 1977

At the request of Mr. JAVITS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1977, the welfare reform bill.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Montana (Mr. METCALF), the Senator from Wyoming (Mr. WALLOP), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. WEICKER), the Senator from Wyoming (Mr. HANSEN), the Senator from Utah (Mr. HATCH), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Concurrent Resolution 26.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Joint Resolution 29, to proclaim National Family Week.

SENATE JOINT RESOLUTION 60

At the request of Mr. STONE, the Senator from Maryland (Mr. MATHIAS), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Carolina (Mr. MORGAN), the Senator from Oregon (Mr. HATFIELD), the Senator from Rhode Island (Mr. PELL), and the Senator from Vermont (Mr. LEAHY) were added as cosopnsors of Senate Joint Resolution 60, to establish a White House Conference on Energy Conservation.

SENATE CONCURRENT RESOLUTION 42—SUBMISSION OF A CONCURRENT RESOLUTION PROVIDING FOR A REVIEW OF THE U.S. EMPLOYMENT SERVICE

(Referred to the Committee on Human Resources.)

Mr. HELMS submitted the following concurrent resolution:

S. CON. RES. 42

Resolved by the Senate (the House of Representatives concurring), That, in this time of unacceptably high nationwide unemployment and economic uncertainty every agency and avenue available for the placement of the unemployed, whether public or private in nature, be utilized to give the highest priority of effort to such purpose; and be it further

Resolved, That, in dedication of its resources to this objective, the United States Employment Service be charged, in its central and State offices, with directing its resources, in its funding and personnel, to assisting those groups who traditionally suffer

most from unemployment, including, but not limited to: minorities, teenagers, handicapped, veterans, and persons forty-five years of age and older; and be it further

Resolved, That, the better to discharge its responsibility to the Nation's unemployed and disadvantaged, the Congress shall review, evaluate, and further amend the Wagner-Peyser Act and subsequent pertinent legislation, certain provisions of which now appear outdated and inhibitory, with the single purpose of bringing into practical, current conformity the Wagner-Peyser Act and all subsequent legislation and statutory regulation pertinent thereto.

TIME TO REVIEW THE ACTIVITIES OF THE U.S. EMPLOYMENT SERVICE

Mr. HELMS. Mr. President, latest estimates from the Labor Department indicate that 6,151,000 Americans are out of work. This is 6.9 percent of the total work-force in the United States. But unemployment is more than just bare statistics and percentages.

Unemployment is human beings without a livelihood, without the dignity and self-esteem that comes from making your own way, in a job, depending on your own ability and wits for your livelihood.

Unemployment means higher welfare costs for the already over-burdened taxpayer. And welfare means loss of self-respect and self-reliance for those Americans who want to pay their own way but do not have the jobs with which to do so.

In the end, welfare so stifles individual self-reliance that recipients lose all incentives to find a job. They become trapped in a vicious device of our making.

Unfortunately, a large amount of attention is given to Federal efforts to make welfare "better," while programs designed to find jobs for unemployed Americans are ignored.

What we need is to make efforts to find jobs work "better;" that is the best way to take unemployed Americans off the welfare rolls.

There is a Federal agency, the U.S. Employment Service, whose duty it is to find jobs for unemployed Americans. The USES is not doing its job effectively, according to a recent report from the General Accounting Office. With more than 28,000 employees in 2,400 locations and an annual budget of better than one-half billion dollars, you would think that USES would be doing an excellent job at finding placements for unemployed Americans.

Not so, says GAO. "In fiscal year 1975," GAO states, USES reportedly "placed only 17 percent of its 18.5 million applicants. Over half the applicants—10.8 million men and women—did not receive any help."

Mr. President, is this what the Congress intended to spend more than one-half billion dollars of the taxpayers' money for?

The GAO report goes on to point out a number of abuses in the operation of USES. Last year in this Chamber, I pointed to many of these abuses in a speech to my colleagues. Let me recount just a few of those today:

First. Instead of concentrating its funds and its personnel on the jobless, USES was spending more than $3 million to enhance its image in a multimedia campaign across the country.

Second. Many offices of USES were relocated in plush facilities in suburban areas, far from pockets of poverty and unemployment.

Third. USES placed expensive newspaper ads offering jobs at salary levels of $20,000 and above; this not only costs the taxpayers money, but it competes directly with private enterprise: a Government agency was assuming an area of enterprise properly belonging to the private sector.

Mr. President, it is time for the Congress to follow up on the GAO report and review in a comprehensive way what USES is doing. Is USES working primarily to find jobs for this Nation's unemployed? Or is USES competing with private enterprise in encouraging persons already having jobs to find new ones?

Is USES spending its money wisely? Or is there waste, duplication of effort, overstaffing, and too many plush offices?

If USES is doing its job properly, it will get a clean bill of health from the Congress. If not, ways must be found to either improve USES, replace it, or save the taxpayers the burden of continuing it any longer.

Mr. President, to this end, I am introducing a Senate concurring resolution today, asking the Congress to study USES and make necessary recommendations for its improvement. This is only a first step, following up on the GAO report.

The unemployed of this Nation need jobs. USES is not doing an effective job in finding them jobs. It is our duty to find out why, and—if possible—correct the problem.

SENATE CONCURRENT RESOLUTION 43—ORIGINAL CONCURRENT RESOLUTION REPORTED REVISING THE CONGRESSIONAL BUDGET FOR 1978

(Placed on the Calendar.)

Mr. MUSKIE, from the Committee on the Budget, reported the following concurrent resolution:

S. CON. RES. 43

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1977—

(1) the recommended level of Federal revenues is $395,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $600,000,000;

(2) the appropriate level of total new budget authority is $501,200,000,000;

(3) the appropriate level of total budget outlays is $459,000,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $64,000,000,000; and

(5) the appropriate level of the public debt is $778,200,000,000, and the amount by which the temporary statutory limit on such debt should be accordingly increased is $78,200,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1977, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $116,600,000,000.
(B) Outlays, $110,100,000,000.
(2) International Affairs (150):
(A) New budget authority, $8,300,000,000.
(B) Outlays, $6,600,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,700,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $24,900,000,000.
(B) Outlays, $20,800,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,100,000,000.
(B) Outlays, $5,600,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $20,500,000,000.
(B) Outlays, $19,600,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $8,000,000,000.
(B) Outlays, $10,400,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $26,100,000,000.
(B) Outlays, $26,400,000,000.
(9) Health (550):
(A) New budget authority, $47,700,000,000.
(B) Outlays, $44,200,000,000.
(10) Income Security (600):
(A) New budget authority, $178,800,000,000.
(B) Outlays, $146,600,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $19,900,000,000.
(B) Outlays, $20,200,000,000.
(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $4,000,000,000.
(13) General Government (800):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,700,000,000.
(15) Interest (900):
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,700,000,000.
(16) Allowances (920):
(A) New budget authority, $900,000,000.
(B) Outlays, $1,000,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority,—$16,400,000,000.
(B) Outlays, —$16,400,000,000.

SEC. 3. Pursuant to section 310 of the Congressional Budget and Impoundment Control Act of 1974, the Committee on Agriculture is instructed to report promptly in accordance with section 310(c), reconciliation legislation recommending change in new budget authority, budget authority initially provided for prior fiscal years, and new spending authority for fiscal year 1978 contained in laws, bills, and resolutions within the jurisdiction of that committee so that the outlays therefrom do not exceed $12,660,000,000.

SENATE RESOLUTION 242—SUBMISSION OF A RESOLUTION RELATING TO POLICY CHANGES BY THE INTERNAL REVENUE SERVICE

(Referred to the Committee on Finance.)

Mr. HATCH submitted the following resolution:

SENATE RESOLUTION 242

Whereupon, an essential element of tax planning and administration is a consistent application of the Internal Revenue laws; and

Whereas, the Internal Revenue Service has proposed changes in certain longstanding applications of such laws through administrative interpretation and without consultation with Congress: Now, therefore, be it

Resolved, That the Senate expresses its displeasure towards any policy of the Internal Revenue Service which changes through administrative interpretation longstanding applications of the internal revenue laws.

SEC. 2. It is the sense of the Senate that the Internal Revenue Service refrain from changing longstanding applications of the internal revenue laws, including its policy with respect to taxation of benefits (other than cash remuneration) given to employees, without submission to Congress of any such proposed changes.

THE IRS IS ATTEMPTING TO RAISE TAX RATES BY TAXING FRINGE BENEFITS

Mr. HATCH. Mr. President, so far this year permanent reductions in the personal income tax rates of Americans have been voted down five times in the Congress, three times in the House, and twice in the Senate. The Congress has also this year voted down the effort to neutralize the harmful effect that inflation has on the tax burden of all Americans. The effort to index the tax rates so that tax revenues no longer rise faster than the rate of inflation was defeated. The way it stands today, the taxpayer is hit first with higher prices from inflation and then hit again when inflation pushes his money income, but not his purchasing power, into higher tax brackets.

So far this year, then, the Congress has missed numerous opportunities to do something positive for the millions of productive people who provide the economic strength of this Nation. This year alone the Congress has come down so often on the side of higher taxes that people are beginning to think of us as representatives of the Internal Revenue Service rather than as representatives of the people. The Congress may not be a popular institution, but I do not see how we improve our image in the minds of the people by being identified with the IRS.

Now the IRS says that people are going to be taxed on their fringe benefits. Mr. President, my colleagues in the Senate, I do not see how the Congress can again come to heel for the IRS, as the new Commissioner apparently expects. In an interview in the July 18 U.S. News & World Report, the Commissioner was asked: Why do you not assume that if Congress wanted employee fringe benefits taxed, it would have told you? The Commissioner responded, and I quote:

> We really don't have the option simply to stand still for practices that have been followed in the past. Our revenue agents in the field are bright and inventive.

The Commissioner adds that he is looking at employee fringe benefits "with considerable intensity." He says he takes "a very broad approach. I believe they're basically taxable."

Mr. President, my fellow Senators, I did not know that the tax laws of this Nation were decided by "bright and inventive revenue agents." I did not know that the IRS Commissioner could not stand still for the tax practices established by the Congress.

I believe that the Congress had better intervene before this matter goes any further, because what the Commissioner is talking about is raising the tax rates on existing wage and salary incomes. The Commissioner says that if an employer provides parking for his employees and equivalent commercial parking costs $100 a month, then "a person who gets free parking is realizing income of $100 a month." What that means to the IRS is that these employees must now add $1,200 to their taxable incomes. Today the marginal tax rate—the rate paid on additional earnings—is 24 percent for the average wage and salary income earner. That means that the average employee's taxes will go up by $288 if his employer provides him with a place to park that is worth $100 a month.

Where is this $288 going to come from? The Commissioner says that the employee is realizing income of $100 a month from the parking place, but, of course, he is not. He is not realizing a single dollar in money income. He is simply realizing a place to put his car. When the IRS says that it is going to levy a money tax on nonmonetary benefits, it is saying that it is raising the tax rates on the existing money income. The employee cannot pay this additional tax bill by turning over 24 percent of his parking place to the IRS. The IRS does not accept payments in kind, only in dollars. Therefore, to levy a money tax on a nonmoney benefit means that the tax rates on the existing wage and salary income are raised. For the average wage and salary earner, the Commissioner's parking space example means a 26-percent increase in taxes. The Congress should understand clearly that for the IRS to levy a money tax on fringe benefits is identical to the IRS raising the tax rates on existing income levels. The IRS has no authority to change the tax rates.

I have used the Commissioner's example of $100 a month parking spaces to illustrate that the taxing of fringe benefits is identical to raising the tax rates on existing money incomes. I realize, of course, that outside of a few large metropolitan areas $100 a month parking spaces are rare. The Commissioner's example is a safe one for demagogs because it evokes the image of "fat cats" whose small numbers make them an easy political target. However, their small numbers also make them an unlikely source from which to raise any substantial amount of tax revenues. It will be the large number of average guys that bear the burden of the taxation of fringe benefits.

The Bureau of Economic Analysis reports that employee fringe benefits, excluding employer contributions to social security, total $75.9 billion in 1976. These fringe benefits consist primarily of employer contributions to health, insurance, and pension programs for their employees. According to the IRS, there were 75.5 million tax returns filed in 1975 that reported wage and salary income. That averages $1,000 in fringe benefits per tax return. The marginal tax rate today on the average wage and salary earner is 24 percent. If these fringe benefits were taxed today, it would mean an increase in taxes of $240 on the average taxpayer.

The fringe benefits that the IRS is talking about taxing are parking places and discounts that department stores grant to their employees. They are benefits that BEA does not include in its $75.9 billion fringe benefit figure. The IRS is also talking about changing regulations in order to redefine as income such things as railroad and airline passes and free tuition that some colleges grant to the children of their professors.

Mr. President, I do not believe that the budget of the average taxpayer has any slack in it. The average taxpayer does not have the spare cash on hand to pay taxes on his parking place, taxes on the discounts that his employer gives him, and taxes on recreational facilities provided by the employer. None of this has anything to do with a few "fat cats." But it has a lot to do with a lot of skinny cats. The Commissioner did say that, and I quote him,

> We have a ruling that says that if an employee gets a ham or turkey from his employer at Christmas, that's tax-free. Exemptions of that sort don't offend my sensibilities very much.

How gracious of the IRS not to tax Christmas presents.

It may mean, however, only that the IRS is after bigger game. The Commissioner said, ominously, that:

> When I was in the Treasury in 1966, we proposed to tax Social Security benefits, eliminate the retirement-income credit, and do away with the extra exemption for the elderly.

It seems to me that if the Commissioner is still prepared to tax social security benefits, he may also be prepared to suggest that the employer's contributions to the employee's social security, health, insurance, and pension programs be treated as taxable income to the employee. Is the Commissioner considering sending such tax proposals to the Congress? At the existing marginal tax rate on additional wage and salary income, to tax all of these benefits would mean approximately a 50-percent increase in the taxes paid by the average taxpayer. If other benefits such as parking and discounts, for which we have no dollar figures, are also counted as taxable income to the employee, the resulting increase in taxes would be even greater.

Since we do not know the total value of parking, discount, and other such fringe benefits, we do not know the burden on the taxpayer and on the economy that would result from the taxation of these benefits. With an uncertain economic recovery, this is no time for the Commissioner to be talking about increasing taxation. With saving and investment rates that are among the lowest in the industrialized world, we need to be talking about reducing taxation.

Mr. President, when we tax noncash income, where do we stop? If a parking space is taxable income because it is a benefit, does this mean that the benefits of a housewife are also taxable income where they produce income in kind, rather than to take a paying job, are avoiding their fair share of the tax burden. They are producing untaxed fringe benefits for which families with working wives must pay.

Mr. President, to remind the new IRS Commissioner that it is the prerogative

of the Congress to alter the tax rates, I have introduced in the Senate, together with Senator CURTIS, a resolution, which is also being introduced in the House by Representatives KEMP and CONABLE. I ask unanimous consent that the resolution be printed in the RECORD. Senator CURTIS and I welcome cosponsors, and we hope that our colleagues will see that the resolution rapidly passes in the Senate.

Mr. President, there are a few provisions in the Internal Revenue Code where Congress expressly authorizes the issuance of regulations to govern the application of a section. Outside of these provisions, when the Department of Treasury or the Commissioner of Internal Revenue, in the absence of an ambiguity, places an enlarged construction on a statute it should be disregarded by the courts. Further, in the absence of error, there is little or no justification for unilaterally changing a longstanding administrative position.

The Constitution of the United States provides that all revenue measures must originate in the House of Representatives. Thus, I am greatly disturbed when it is reported that the Commissioner of Internal Revenue in addition to his task of administering our tax laws now wants to set policy by promulgating new laws.

Mr. President, we feel strongly that if the Commissioner of Internal Revenue Service wants to change the existing policy relating to taxation of certain fringe benefits he should submit his proposals to the Congress for our consideration.

I ask unanimous consent that the U.S. News & World Report interview with Commissioner Kurtz be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 242

Whereas, an essential element of tax planning and administration is a consistent application of the Internal Revenue laws; and

Whereas, the Internal Revenue Service has proposed changes in certain long-standing applications of such laws through administrative interpretation and without consultation with Congress: Now, therefore, be it:

Resolved, That the Senate expresses its displeasure toward any policy of the Internal Revenue Service which changes through administrative interpretation long-standing applications of the internal revenue laws.

SEC. 2. It is the sense of the Senate that the Internal Revenue Service refrain from changing long-standing applications of the internal revenue laws, including its policy with respect to taxation of benefits (other than cash remuneration) given to employees, without submission to Congress of any such proposed changes.

[From U.S. News & World Report, July 18, 1977]

NEXT: YOU'LL PAY TAXES ON YOUR FRINGE BENEFITS

Q. Commissioner Kurtz, how will people be affected by the change of leadership in the Internal Revenue Service?

A. For one thing, we will audit more returns covering tax shelters and partnerships. It's important that people with high incomes are seen to pay their fair share of the tax burden.

Continuing IRS's persistent efforts, we're also spending a considerable amount of time trying to improve the tax forms so that they will be easier to understand and fill out. For the first time, we are releasing drafts of proposed forms to the public to get reactions before they go into use. We're going to test these forms on citizen groups. For example, we will prepare hypothetical examples of elderly taxpayers and give them, with the proposed form and instructions, to a test group to see what problems form and instructions, to a test group to see what problems they run into.

And we're designating someone in each district to be a problem-resolution officer to whom the taxpayer can go for systemic problems: when he or she has paid the tax and still gets billed for it, or when there is a foul-up in the computer, or some other problem of that sort. This will be an officer who knows the system who can cut through these problems and get them resolved. The plan was tried in several districts by my predecessor on an experimental basis, and we're instituting it in all.

Q. Will employe fringe benefits—such as free parking or free airline passes—be taxed as income?

A. That is one area we are looking into with considerable intensity. I start from the basic definition in the Internal Revenue Code, which states that income from whatever source is taxable. It's very hard for me, as the administrator of the statute, to exempt items that are clearly income.

For example, take an executive's use of a company airplane or free airline rides granted to airline employes. I don't think there is any question that those fringes represent taxable income, and that a court would so hold if a case were filed.

Q. Why are these tax-free fringes being questioned now when some of them have gone untaxed for so many years?

A. Partly because times change, and a rule made for one time may not be appropriate for another.

The failure to tax airline travel stemmed from the treatment of railroad passes years ago. But a railroad pass in 1924 is quite different from free worldwide travel on airlines today for an employe and his entire family, which may be worth $10,000 a year.

Besides, we really don't have the option simply to stand still for practices that have been followed in the past. Our revenue agents in the field are bright and inventive, and they read the cases that have come up in the courts, which have held that benefits of this sort are taxable income.

If an agent knows about free cafeteria lunches that an employer provides for his employes, he assesses additional tax liability to the employes on that basis. The taxpayers dispute that, and the agent then asks for technical advice from Washington. We are obliged to answer his question. He wants to know whether the free lunches are taxable or not. We don't have the luxury of putting off the decision.

Q. Have revenue agents just started asking such questions in the past few years?

A. No, but these items are being questioned more frequently today.

Q. Has IRS headquarters encouraged this sort of thing?

A. Not directly.

Q. Last year the IRS proposed that free tuition for the children of college professors, granted by various colleges and universities on a reciprocal basis, should be classed as income. Do you consider that income?

A. The problem there is somewhat different. There's a regulation in force which says that free tuition is not income. As a result, no agent will question a taxpayer's failure to report this benefit. Before the treatment can be changed, a different regulation has to be issued, and there have to be public hearings on it. But that's the only example I know of where a fringe benefit is clearly exempt under regulations.

Now, there are rulings outstanding on some other fringes. For instance, the agents will not question airline passes, because there is a ruling in effect on railroad passes that could reasonably be read to cover airlines, too.

On the other hand, there are hundreds of other benefits for which there are no rulings or regulations that say they are not taxable.

Q. What's your philosophy on this whole subject?

A. I take a very broad approach. I believe they're basically, taxable. Economic benefits that are received as a result of employment are taxable income.

Q. How do you propose to go about collecting tax on them?

A. We're trying right now to figure out how to go about it, when to do it, and how extensive the new policy should be.

There is a countervailing consideration, and that is whether the amounts involved are worth the effort and whether trying to collect them is administratively feasible. In some cases, the benefit may be small and difficult to evaluate, and that may be reason enough to forgo the tax on it. We have a ruling that says that if an employe gets a ham or turkey from his employer at Christmas, that's tax-free. Exemptions of that sort don't offend my sensibilities very much.

Q. How do you feel about free parking provided by an employer?

A. That's a case that affects a very large number of employes, and I would be hard-pressed to find a reason for saying it is not taxable income.

Valuing the benefit is a problem, however, A person may work in an office park in the suburbs where there is a big outdoor parking lot, and parking may not be at a premium there. But someone who drives into Manhattan, where parking a car on a daily basis costs $100 or more a month, and who gets free parking in a building is realizing income of $100 a month. People take that into account when they accept a job, or when they consider whether to switch to another job that pays a higher salary but does not provide parking.

Q. What about health insurance that is paid for by employers?

A. The code specifically exempts that from tax.

And that raises another possibility: If we enforce the law in many of these areas, Congress may choose to exempt some of them.

Q. Will you recommend that?

A. No.

Q. Many of these fringe benefits have gone untaxed for years. Why not just assume that if Congress wanted them to be taxed, it would have told you to start collecting?

A. The fact that the IRS has taken a certain position in the past doesn't necessarily mean that it's right. The IRS has made mistakes, and will make some in the future. I would hate to think that any mistake I make would bind the Internal Revenue Service for all eternity unless Congress saw fit to do something about it.

Q. What about exempting all fringe benefits up to a certain dollar value?

A. That might be a good over-all approach if I had legislative authority to take it, but I don't. These benefits are either income or they're not income, and we are dealing with them individually.

Q. How could the Internal Revenue Service determine how much free parking is worth in every city all over the United States?

A. That determination would be made by the revenue agents in the area.

There won't be anything in the regulation that says that free parking is worth $50 a month.

Q. Do you mean the value will depend on what the charges are for similar parking in every section of a city, which may differ from block to block?

A. Probably, unless we decide that assessing taxes on this basis is so difficult that it cannot be administered. That is one criterion we have to apply in deciding on each of these fringe benefits.

Q. Would that same criterion apply also to the discounts a department store grants to its employes?

A. Yes. We might decide that if the item purchased is worth less than $20, because of the administrative problems, we won't bother to include the discount in the clerk's taxable income.

Q. In addition to auditing tax shelters more closely, are you planning to increase the number of other returns that receive this kind of detailed scrutiny?

A. I would like to. We're concerned about the over-all level of audits. We're only auditing 2½ per cent of all returns now. A dozen years ago, we were auditing 5 per cent.

Q. Will you need additional money if you're planning to increase the number of audits?

A. Yes. I intend to ask for more.

Q. You said recently that taxpayers should be required to indicate on their returns any deductions they're not sure they're entitled to take. Just what are you aiming at?

A. There are some areas where we should be getting more information. For example, a tax-shelter partnership is formed, and interests in it are sold to the public. In connection with the sale, materials are prepared describing in some detail the tax benefits that are sought, the risk that the Internal Revenue Service will challenge those benefits on audit, and the fact that the plan runs counter to the position taken by IRS on other cases.

The information is filed with the State securities commissions, and we can get it, but we have to tie up a lot of agents' time going to 50 State capitals. It seems to me that no one could seriously object to a requirement that a partnership that sells interests to the public include as part of its first tax return a copy of any offering materials describing the tax benefits. We have similar requirements now in many corporate areas.

Q. The change wouldn't affect most taxpayers—

A. It would only apply to taxpayers with more sophisticated financial transactions.

Q. How much emphasis should be given to simplifying the tax law in the reform legislation the President plans to send to Congress later this year?

A. I'd like to see a lot of simplification. The new tax law this year makes a good start in that direction by raising the standard deduction, making it a flat amount, and providing for greater use of the tables.

If we can offer more people the standard deduction, make it possible for more people to file the short form, eliminate minor credits or combine some of them, this will result in major simplification.

Q. What do you think of the idea of eliminating all deductions as a means of simplifying the law?

A. As an administrator, I'd like to see fewer deductions. That would make the tax returns simpler and make everybody's life easier. Depending on which deductions were eliminated, it would not substantially change equity and, in fact, would improve it in many cases.

A lot of people talk a great deal about simplification, but when it comes down to eliminating a deduction which is a favorite of theirs, they look more kindly on complexity.

Still, we mustn't give up hope. If revenues gained from eliminating some deductions were used to provide for corresponding rate reductions, that would be a big improvement.

Q. Do you think that capital gains should be treated as ordinary income?

A. Yes.

Q. Should Social Security and unemployment benefits be included in taxable income?

A. That depends on how it's done. When I was in the Treasury in 1966, we proposed to tax Social Security benefits, eliminate the retirement-income credit, and do away with the extra exemption for the elderly. In substitution, we proposed a flat dollar exclusion for anyone over 65. This would have been a vast simplification, and 95 per cent of all people over 65 would have paid less tax if the change had been enacted.

But once we got the words "tax Social Security" out of our mouths, that was the end of it. It's my impression that public opinion hasn't changed.

Q. Didn't you also propose that charitable contributions be deductible only to the extent that they exceed 3 per cent of the taxpayer's income?

A. Yes. These small contributions tend to be in cash and are very difficult to audit.

It's hard to see that deducting contributions in a range of 2 or 3 or 4 per cent of adjusted gross income is really an incentive for anyone to be generous. So it's probably not a deduction that does the charitable institutions any good, and it creates administrative problems.

Q. Do people cheat more on their tax returns nowadays?

A. There has been some decline in compliance as we measure it. The decline is quite small, and we're not sure whether it's statistically significant. We attribute it to the fact that we are auditing fewer returns.

Q. People complain that IRS agents rule different ways on similar tax questions in different cities. Can you do anything to provide more uniformity?

A. I think the lack of uniformity is greatly exaggerated. We're dealing with 100 million taxpayers, 28 million telephone calls a year, millions of office visits. Obviously there are going to be some inconsistencies. The amazing thing is that there are so few.

We already have a quality-control monitoring system, where a supervisor listens in on telephone calls from taxpayers to our offices on a random basis to check on the accuracy of the information our people are giving out over the telephone. The accuracy rate this year is over 95 per cent, and that's not bad.

Q. Do your figures indicate that the accuracy rate is a lot less than that on the tax returns your people help to prepare?

A. Yes, but remember that those figures do not differentiate as to the size of the error—whether it is a gross error or a subtle error. So the figures are a bit misleading. A dollar error on a complicated return goes into the tally as a wrong return. I don't worry too much about that type of mistake. Perfection is unattainable.

We provide our employes with a lot of training. We think the quality of our staff is good, and we try to make it better. When we hear of discrepancies between regions, we try to reconcile them.

There are also questions on which the courts in different regions have ruled differently. We can't do anything about that unless we can get the Solicitor General to appeal the adverse ruling to the Supreme Court, and then get the Court to take the case and hand down an opinion.

You have to remember, too, that the IRS is a highly decentralized system, and a great deal of discretion is left to the regional commissioners and district directors. They may come out initially with differing interpretations of the law, and if that comes to our attention, we attempt to reconcile them. Situations also come up on which there is no national-headquarters guideline. The magnitude and variety of the questions cannot be comprehended unless you are actually dealing with them.

Q. Do more and more ordinary people feel they need professional help to fill out their tax returns?

A. Yes. About half of all individual returns are prepared by professional preparers.

Q. Will there be less need of that as a result of the simplification enacted this year?

A. There should be fewer people who need help. Whether fewer will seek help is another matter. Unfortunately, many people who are competent to make out their own returns feel incompetent. That's a question of attitude.

Q. Commissioner Kurtz, shouldn't the tax law be simple enough so that the typical persons can understand the return and pay tax without being forced to pay a fee for professional help?

A Sure. That's a terrific goal, but it requires legislation.

SENATE RESOLUTION 243—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, reported the following original resolution:

S. RES. 243

Resolved, That section 2 of Senate Resolution 164, Ninety-fifth Congress, agreed to June 14 (legislative day May 18), 1977, is amended by striking out the amount "$610,000" and inserting in lieu thereof "$670,000."

SENATE RESOLUTION 244—SUBMISSION OF A RESOLUTION RELATING TO THE FEDERAL RETIREMENT SYSTEMS

(Referred to the Committee on Governmental Affairs.)

Mr. STEVENS (for himself, Mr. RIBICOFF, Mr. PERCY, and Mr. HEINZ) submitted the following resolution:

S. RES. 244

Resolved, That it is the sense of the Senate that in addition to any study which is conducted under section 402 of the Act of November 13, 1966, relating to the report of the Secretary of the Treasury on national debt and tax structure (Public Law-89-809; 31 U.S.C. 757f), the Secretary of the Treasury or his delegate conduct a complete study and investigation of the retirement systems listed in section 3 utilizing estimates computed on the dynamic assumptions basis to determine the extent of the present and future unfunded liability of each system, the method of financing each such system, and the actions which the Secretary or his delegate finds necessary to be taken to insure the solvency of each such system.

SEC. 2. It is further the sense of the Senate that the Secretary of the Treasury or his delegate report to the Congress not later than June 30, 1978, the results of any study and investigation conducted under the first section of this resolution together with such recommendations, including recommendations for legislation, as the Secretary or his delegate considers appropriate.

SEC. 3. The retirement systems referred to in the first section of this resolution are the retirement systems which are provided for—

(1) any individual or a surviving spouse under title II of the Social Security Act;

(2) any officer or employee of the Federal Government under chapter 83 of title 5, United States Code;

(3) any officer or member of the uniformed services;

(4) any officer or employee of the Foreign Service;

(5) the Federal judiciary;

(6) judges of the United States Tax Court;
(7) the Federal Reserve Board;
(8) officers and employees of the Tennessee Valley Authority;
(9) policemen and firemen of the District of Columbia;
(10) teachers of the District of Columbia; and
(11) judges of the District of Columbia.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of the Treasury.

Mr. STEVENS. Mr. President, today I am introducing a sense of the Senate resolution requesting that the Department of Treasury review the unfunded liability status of our Federal retirement systems, using a dynamic estimate economic model. As we all know, there has recently been a great deal of concern expressed, both publicly and otherwise, regarding the future viability of the social security retirement fund. My resolution is concerned not only with the Social Security Act, but would also provide for equivalent review of all other major Federal retirement systems. This resolution would require the Secretary of the Treasury to report to Congress no later than June 30, 1978, to determine the extent of the present and future unfunded liability, the method of financing, and the actions which the Secretary of the Treasury, or his delegate, find necessary to be taken to insure the solvency of all Federal retirement systems.

As you know, Federal law already requires the Secretary of the Treasury to report annually the aggregate and individual amounts of the contingent liabilities and the unfunded liabilities of insurance and annuity programs, including actuarial status. Unfortunately, because of an apparent lack of actuarial facilities and the failure to utilize estimates computed on the dynamic assumption basis, the information currently available is confusing and unreliable. Part of this confusion, incidently, results from the fact that Congress continues to use the outmoded static assumptions basis in making provision for financing these programs.

In any case, I want to point out that I do not intend, nor do I conceive that this resolution will result in duplication of efforts that have been or are presently being made to determine the unfunded liability of any of the various retirement systems contemplated by the resolution. It is my intention that any useful information already existing or in process would be incorporated into the Treasury study so long as it is consistent with requirements regarding uniformity. The essential point is that there has to be a focal point where the responsibility rests for synthesizing and collating all necessary information, including existing studies, into a format which provides us with definitive information regarding unfunded liability.

It is vital, Mr. President, that we begin action now on this resolution so that concerned citizens everywhere may know that their pleas have not gone unheeded. There are those who would insist that we are already too late. The important thing, however, is that we take steps to correct the course we are on before we get into an obvious crisis situation. Part of our job here, it seems to me is to anticipate problems and begin appropriate action which will hopefully mitigate or resolve problems such as this one, which affect so many Americans. But we need to know the facts.

I for one, intend to learn more about the current and projected status of our retirement systems, and I would urge all other Senators to do the same. I would also like to emphasize that I in no way anticipate that the thrust of this resolution should be a vehicle for advocating decreased retirement benefits. Obviously, those who devote their working lives to serving the people of this great Nation deserve suitable annuities. And there can be no question that we have an obligation to make sure that all retirement systems are financially capable of paying those annuities. It is, therefore, crucial that the present systems must now be carefully evaluated in a consistent manner to make sure that they are sound.

SENATE RESOLUTION 245—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF S. 1682

(Referred to the Committee on the Judiciary.)

Mr. BIDEN submitted the following resolution:

S. RES. 245

Resolved, That pursuant to Section 402 (c) of the Congressional Budget Act of 1974, the provisions of Section 402(a) of such Act are waived with respect to the consideration of S. 1682, legislation to provide for the implementation of treaties for the transfer of offenders to or from foreign countries. Such waiver is necessary to allow for the authorization of $900,000 of Fiscal Year 1978 funds for use in the implementation of these treaties.

Compliance with Section 402(a) of the Congressional Budget Act of 1974, was not possible by May 15, 1977 because the treaties with Canada and Mexico which this legislation implements were not ratified until July 19 and July 21, 1977.

SENATE RESOLUTION 246—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1731

(Referred to the Committee on the Budget.)

Mr. STENNIS, from the Committee on Armed Services, reported the following resolution:

S. RES. 246

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1731, a bill to extend the special pay provisions for physicians and dentists in the uniformed services and reinstate the special pay provisions for optometrists and veterinarians in the uniformed services.

Such waiver is necessary because section 402(a) of the Congress Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The special pay provisions for physicians and dentists would expire September 30, 1977 under current law.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1731 as reported by the Committee on Armed Services.

SENATE RESOLUTION 247—SUBCOMMISSION OF A RESOLUTION RELATING TO ROBERTO CLEMENTE

(Referred to the Committee on the Judiciary.)

Mr. HEINZ submitted the following resolution:

S. RES. 247

Whereas the finest baseball player in Pittsburgh's history, Roberto Clemente, died tragically on January 31, 1972, while attempting to aid Nicaraguan earthquake victims; and,

Whereas Roberto Clemente was a concerned Puerto Rican citizen and humanitarian as well as a superb athlete; and,

Whereas Roberto Clemente's dream was the construction of a children's sports center, and such a center, the "Ciudad Deportiva" is now actually under construction near San Juan, Puerto Rico; and,

Whereas it is fitting and proper that Roberto Clemente, a great American, be remembered for his efforts to help those less fortunate than himself: Now, therefore, be it

Resolved, That it is the sense of the Senate that August 14, 1977, be recognized as "A Day for the Commemoration of Roberto Clemente's dream", and that the Senate joins in honoring Roberto Clemente for his efforts in helping underprivileged children in Puerto Rico.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Vera Clemente, the widow of the late Roberto Clemente.

Mr. HEINZ. Mr. President, I am today introducing a resolution commemorating Roberto Clemente and his dream to build a sports complex for the children of Puerto Rico.

Roberto Clemente was best known for his talents on the baseball field. Prior to his death in 1972, he played 18 years for the Pittsburgh Pirates. Each season, he exhibited flair and excitement which enthralled fans and players alike.

It was his tragic death, however, that let the world know that this great baseball player was also a great humanitarian. Roberto Clemente died in a plane crash en route to Managua, Nicaragua, where he had planned to assist the victims of a devastating earthquake.

Unfortunately, Roberto's untimely death resulted in the postponement of plans for Ciudad Deportiva, a sports complex for Puerto Rican children. Roberto's dream is still alive, however, thanks to the efforts of thousands of concerned people, the Baseball Commissioner's Office, the Major League Baseball Players Association, and the individual major league baseball clubs.

I understand that the construction of four baseball diamonds on a 200-acre tract of land donated by the Puerto Rican Government has already been completed. Subsequent plans provide for

tennis courts, a swimming pool, track, football and soccer fields, and other athletic facilities.

Mr. President, this distinguished body can show its respect for Roberto Clemente, the humanitarian, by recognizing August 14, 1977, as a "Day for the Commemoration of Roberto Clemente's Dream." I urge my colleagues to give this resolution speedy consideration and I ask unanimous consent that a recent Pittsburgh Press article, outlining more specifics of Roberto's dream sports complex, be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROBERTO'S DREAM $2 MILLION SHY OF REALITY

(By Phil Musick)

The streets of the Barrio San Anton twist up a long hill, so that when a tin can is struck squarely with a broomstick, it tends to ricochet wildly downhill and become a home run unless stopped by a poinciana tree or a dog or a boy's desperate grasp.

The face of the barrio is timeless. White adobe houses stagger imprecisely up the hillside, separated by chain-link fences. In the hard-scrabble patches of dirt between them, goats graze among junked automobiles and brown, laughing boys play beisbol. In the daylight hours, the sound of the bouncing tin can is ceaseless.

Roberto Clemente's Dream was born on those mean streets. It languishes now, thousands of miles away.

No boy in all the years of the barrio could lash a tin can quite so viciously as Roberto Clemente.

"That is how I came to find him," I never hear a can make so much noise when it is hit," a part-time Dodger scout named Roberto Marin one afternoon was saying of the day he had launched Clemente's baseball career. "He did not like the cans, but he love the game."

One rainy evening at Shea Stadium in 1970, a guy needled Clemente about the encroachments of old age. "Pretty soon, you're going to be too old for this, what then?" Clemente was asked.

"I will work with the children," he announced after a while. "That will keep me in the game forever. I'd like to work with kids all the time. This is my dream. . . ."

Roberto Clemente's Dream—and he used the word melodramatically because he invested himself deeply in all the things of his life, large and small—was Ciudad Deportiva. Sports City. A place of space and purpose and freedom for the kids of the barrios.

"I don't know exactly what this sports city will look like, but it will be beautiful," he had said, staring into space, eyes alive with the thought of it. "And it will be open to everybody.

"And, after I open the first one, there will be others. I will do this thing because that is what God means me to do."

A few months after Clemente's death, I drove out of downtown San Juan on the Iturreque Road to a site ironically only miles from the San Juan airport, where Clemente died in an airplane crash in the final hours of 1972.

"There are no dorms, no facilities . . . because there's no money."

Bibro and the Jaycees are trying to breathe fresh life into the dream. "A couple of years ago, Joe L. Brown thought about trying a one-day, fund-raising drive and we're going to do it," says Bibro, cochairman of A Buck for Roberto's Dream.

Roberto's Dream needs a financial transfusion. "We've gotten about $500,000 for the Sports City, most of it through Pittsburgh," Bibro says. "I asked Joe to give me a dollar-figure on what we need."

Two million bucks. Or, as Brown said, whatever they could get. A Buck for Roberto's Dream will take place Aug. 14. There will be a ceremony at Three Rivers and the Jaycees are mounting a national campaign.

"How much more do we need . . . I don't know," Bibro says. "We need money for tennis courts, a swimming pool, instruction, soccer fields . . . We need a lot more."

Death, of course, prevented Clemente from realizing the dream, but it also triggered a beginning for Ciudad Deportiva. Now the dream is fading, as time has withered the memory of Clemente, the ballyard magician.

What is remembered is this: For a single generation, no one played the game of baseball with more grace or dignity or fire, and no one had a grander dream.

Marin and I sat in the car and watched the wind blow the sawgrass double. The Puerto Rican government had donated 602 acres worth $18 million for the Ciudad Deportiva. Money, almost $500,000, was pouring in. The earth was rich and red and flat, awaiting only the kids who hit tin cans. Marin looked sadder than a torn kite.

"It was his dream," he sighed that afternoon. "I wonder if it come true."

The dream was ambitious. Groups of kids, 1,200 at a time, eating hot food, learning to read, playing the games, and leaving after two weeks for another group, aware that they, too, owned a piece of the Puerto Rican future.

But the dream hasn't come true. Ciudad Deportiva is in existence, four immaculate baseball fields. But there is little else but the sawgrass and the rich, red earth.

"What's happened is that Sports City is about 10-percent of Roberto's Dream," says Mark Bibro of the Pittsburgh Jaycees. "There is no substantial revenue coming in except for the two-game series the Pirates play in Puerto Rico every year.

AMENDMENTS SUBMITTED FOR PRINTING

IMPLEMENTATION OF CERTAIN TREATIES—S. 1682

AMENDMENT NO. 811

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill (S. 1682) to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

NATIONAL ENERGY POLICY—H.R. 6831

AMENDMENTS NOS. 812, 813, AND 814

(Ordered to be printed and to lie on the table.)

Mr. BIDEN (for himself, Mr. RANDOLPH, and Mr. HASKELL) submitted three amendments intended to be proposed by them jointly to the bill (H.R. 6831) to establish a comprehensive national energy policy.

Mr. BIDEN. Mr. President, independence—greater dignity—full participation in every aspect of life—these are the objectives that every handicapped person struggles with every day.

Recently, the White House Conference on Handicapped Individuals reaffirmed a series of goals stressing the importance of independent mobility for handicapped people—"an accessible America through accessible transportation systems." Without negating the importance of mass transit, the major source of transportation for handicapped individuals is specially equipped vehicles. These vehicles are almost always large "gas guzzling" automobiles.

In many cases the vehicles are converted vans or station wagons. Other-times, they are large cars equipped with specialized hand equipment to allow the handicapped person to drive himself. Whatever the modification, such vehicles are, by necessity, large and powerful, thereby assuring their "gas guzzling" status.

I am, today, offering three amendments to the national energy plan. These amendments are designed to alleviate any penalties that may be placed on the handicapped owner of large energy inefficient vehicles. The first amendment would exempt the handicapped individual from the tax imposed on the sale of an automobile which is identified as energy inefficient. The second amendment would allow handicapped individuals an additional income tax exemption on the proposed rebate of the standby gasoline tax proposed in the President's energy legislation. The third amendment which I am offering today would reinstate the personal deduction on Federal income tax for State and local gasoline taxes paid by the handicapped. In action on H.R. 6831, the House Ways and Means Committee voted to repeal this Federal tax deduction. All three of these measures would remove the punitive aspects of gasoline consumption for those Americans who cannot help but use larger vehicles for their transportation.

My amendments have no other purpose but to reaffirm our commitment to the independence of all handicapped people. Thus, I have worked with the White House Conference in developing a definition of a handicapped person that will not exclude those who should be covered without indiscriminately giving anyone the benefits these amendments would:

A handicapped individual is one who has a physical or mental impairment, or condition which places him at a disadvantage in a major life activity such as ambulation or transportation. The physical impairment must be static, of long duration, or slowly progressive.

The definition intentionally excludes conditions of the "get sick-get well" variety. It also excludes conditions of aging since this in itself is not a handicap.

For too long we have excluded the handicapped individual from freely participating in all activities of life. We do not provide special treatment for them under the terms of the proposed energy legislation. When handicapped individuals are for the first time striking out on their own, when new opportunities for independent action are presenting themselves everyday, when technological advancements are enabling handicapped individuals to discover never before dreamed of mobility—how can we afford not to

offer them immunity from legislation which would compromise these advances?

VETERANS EDUCATIONAL BENEFITS—S. 457

AMENDMENT NO. 815

(Order to be printed and referred to the Committee on Veterans' Affairs.)

Mr. MELCHER. Mr. President, the Senate will be considering a bill to reform the veterans educational benefits program after Labor Day. The bill is needed and I am pleased that the Veterans' Affairs Committee's bill provides a form of acceleration of payments. However, I am disappointed that the most important feature as far as Vietnam veterans are concerned has been dropped from the bill. This is the extension of the delimiting date so that those needy veterans who still have entitlement to benefits may complete their education by extending the time to do so.

I am pleased that the Montana Veterans of Foreign Wars and the Montana Department of the American Legion, at their conventions this summer, unanimously endorsed my bill, S. 1421, which contains the key provision of extension of the delimiting date for needy veterans.

I intend to urge the Senate to correct this injustice. I ask that the amendment to do this be printed and be included in the RECORD immediately following these remarks. So that Senators may be fully informed as to the facts of the matter, I request permission to insert in the RECORD an exhaustive study of the plight of the Vietnam veteran relative to his education opportunities. This article by Forrest "Rusty" Lindley is from the July 21, 1977, issue of Stars and Stripes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 815

Add a new section 204 after section 203 of title II:

SEC. 204. Subsection (a) of section 1662 of title 38, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (f) of this section, no educational assistance shall be afforded an eligible veteran under this chapter beyond the date ten years after the veteran's last discharge or release from active duty.".

(b) Subsection (b) of such section is amended by inserting "or eligible peacetime post-Korean veteran" after "any eligible veteran".

(c) Section 1662 of such title is further amended by adding at the end thereof the following new subsection:

"(f) (1) Notwithstanding the provisions of subsection (a), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran or eligible peacetime post-Korean veteran if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education within the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country.

"(2) Under no circumstance may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after enactment of this provision, whichever is the lesser period of time.".

[From the Stars and Stripes—The National Tribune, July 21, 1977]

FAILURES AND INEQUITIES OF THE VIETNAM ERA GI BILL

(By Forrest "Rusty" Lindley)

During the year 1974 a concerted effort was made by the Congress to make the GI Bill fair and equitable for all Vietnam veterans. In July of 1974, Senator Robert Dole [R-KS], in a statement made on the floor of the United States Senate, said, "There is room for debate over the amount of subsistence increase veterans in school should receive, but clearly there can be no debate that all veterans should have equal opportunities to enter school".

In reaction to that statement, President Richard Nixon, in a letter to the House and Senate Veterans Affairs Committees, established the policy that the government would oppose any changes in the GI Bill that would enable many of the most needy and deserving veterans to effectively use their rightfully earned readjustment entitlement because, "If only 10% of the eligibles [500,000] who had not used their benefits were to do so, the cost would rise by $1.5 billion. This is clearly excessive, inflationary, and unnecessary for veterans to assume productive roles in society". [Richard Nixon, July 1974.]

It has been, since then, the deliberate policy to maintain the structural inadequacies in the GI Bill that deny many of the most needy and deserving Vietnam veterans meaningful access to their rightfully earned readjustment benefits.

This month the Veterans Affairs Committees will consider legislation [S. 1421, H.R. 2231] that will enable hundreds of thousands of veterans to effectively use their benefits for the first time. They will decide whether Nixon's bitter and vicious legacy will endure or if, for the first time, meaningful readjustment will be accorded veterans.

The following is a detailed analysis of the inequities of the Vietnam era GI Bill that previous Administrations have sought to perpetuate:

THE VIETNAM ERA GI BILL

Discriminates against poor, minority and educationally disadvantaged veterans.

Discriminates against veterans with families to support.

Discriminates against veterans who live in states with high cost public education.

Severely restricts the effective use of a veteran's total benefits.

Discriminates against veterans desiring trade, technical and vocational educations.

Severely limits the number, types and quality of educational and training programs available to veterans.

"Educates and trains" veterans for nonexistent jobs.

Induces veterans to pursue ineffective or worthless education and training programs and correspondence courses.

Discriminates against veterans desiring educations at private institutions of higher learning.

Poses an extremely serious inflationary threat to the National economy when used as supplemental income.

Causes the Government to waste billions of dollars on welfare, public service jobs, and unemployment compensation for veterans who could and should be in education and training programs for productive and self-sufficient careers if there were an effective and equitable GI Bill readjustment program.

Is subject to massive abuse, wasting billions of dollars through overpayments, ineffective correspondence courses, and unscrupulous proprietary schools.

These conclusions are supported and verified by the Congressionally commissioned study conducted by the Educational Testing Service of Princeton, N.J.; the Report of the 20th Century Task Force on Policies Toward Veterans; surveys conducted by Louis Harris and Daniel Yankelovich; and hearings held by the National League of Cities and U.S. Conference of Mayors, The American Association of Community and Junior Colleges, New York City Mayor's Office of Veterans Action, and the House and Senate Veterans Affairs Committees. The inadequacies of the GI Bill have been reported in articles by Reader's Digest, Parade Magazine, Penthouse, The Washington Post, The New York Times, The Washington Star News, Associated Press, United Press International, Jack Anderson, Mary McGrory, and numerous other newspapers and magazines. The GI Bill's failings are borne out by the personal experiences and testaments of Vietnam era veterans as well as their high rates of unemployment.

HISTORY OF THE GI BILL

"The World War II GI Bill was one of the most important and effective pieces of social legislation ever enacted. It profoundly affected the fortunes of veterans and post-war society and it transformed the Nation's higher education system."

Report of the Educational Testing Service on Educational Assistance Programs for Veterans

The World War II GI Bill extended education and training opportunities to veterans, assisted their readjustment to society, eased the impact of 17 million returning servicemen on the economy and employment, and gave the Nation some of its most productive citizens. The WWII GI Bill produced: 450,000 engineers; 180,000 doctors, dentists, and nurses; 360,000 teachers, 150,000 lawyers; 223,000 accountants; 36,000 ministers; 380,000 metal workers; 138,000 electricians; 83,000 policemen and firemen; 700,000 businessmen: and 17,000 writers and journalists.

More than 65 members of the House of Representatives and Senators trained under the WWII GI Bill. Among the many noted persons who received their education and training from the WWII GI Bill are: Senators George McGovern, Charles Mathias, Daniel Inouye, Robert Dole, Frank Church, William Hathaway, Edward Brooke, Robert Griffin and many others.

The GI Bill was directly responsible for a 200% increase in the number of undergraduate, graduate and doctoral degrees conferred by institutions of higher learning . . . from 160,000 in 1946 to over half a million in 1950. GI Bill dollars enabled public colleges and universities to expand their facilities, academic resources and develop faculties to the extent that a college education became possible for the average American.

The massive scientific, educational, medical, technological, cultural, political, economic, vocational, industrial and social contributions of WWII veterans and others who owe their education to the WWII GI Bill can not be measured; but the economic contributions of what the VA called the "best investment in American history" can be. The Internal Revenue Service estimates that the $14 bil-

lion invested in the WWII GI Bill was returned 3 times over by veterans in increased tax revenues. If the Government's $45 billion GI Bill profit were to include revenues from non-veterans who benefited from the GI Bill's expansion of the Nation's educational system, it would probably exceed $100 billion.

A comparison of the Vietnam-era GI Bill and the WWII GI Bill shows that while the Vietnam era GI Bill is subject to many of the same serious abuses (and possibly more serious than the WWII GI Bill because of the deliberate effort to deny many veterans readjustment under the Vietnam GI Bill) the adequacy of the Vietnam program and the assistance and opportunities it provides are far LESS than the WWII program.

COMPARISON OF THE WORLD WAR II GI BILL AND THE VIETNAM ERA GI BILL

I. TUITION ASSISTANCE

A. World War II GI Bill

The World War II GI Bill paid a monthly subsistence allowance and the full cost of tuition, books, equipment and fees at almost every public and private college, university, vocational, professional and technical institution in America. By paying tuition, WWII GI Bill accorded all veterans an equal opportunity to enter education and training programs.

In the few schools (primarily law and medical) where tuition, books, fees and supplies exceeded the $500 a school-year ceiling on tuition payments, a veteran could accelerate the consumption of his 48-month entitlement to cover the difference. In current buying power, the WW II direct tuition payment is equivalent to $2,860 per nine-month school year. (source: VA figure Jan. 1975).

NOTE: Given inflation and the drastic increase in tuitions, the real value of the WWII tuition payment is now well over $3000.

B. Vietnam Era GI bill

The Vietnam era GI Bill provides no direct payment for tuition, books, and fees. It pays only a monthly subsistence allowance to veterans enrolled in education and training programs. Vietnam era veterans unable to pay the "educational" costs necessary to enter education and training institutions receive none of the education and training benefits they are entitled to. The financial resources available through the Vietnam GI Bill limits veterans without supplemental resources to education and training programs at low-cost institutions.

II. MONTHLY SUBSISTENCE ALLOWANCE

A. World War II GI Bill

The World War II GI Bill paid a monthly subsistence allowance of $75 for a single veteran, $105 for one dependent, and $120 to veteran with 2 or more dependents. Since WWII GI Bill paid for tuition, books, fees and supplies, all of the veterans subsistence allowance could be devoted to "living expenses".

B. Vietnam Era GI Bill

The Vienam era GI Bill pays only a monthly subsistence allowance to veterans enrolled in school of $292 for a single veteran, $347 to a veteran with one dependent, $396 to a veteran with two dependents, plus $22 for each additional dependent. Since the Vietnam veteran must pay the cost of tuition, books, fees, and supplies from his monthly subsistence allowance, the portion of his subsistence allowance that can be devoted to "living expenses" depends upon the amount of the subsistence allowance remaining after payment of "educational expenses".

All WWII veterans were assured of paid "educational expenses" and of receiving an equal monthly subsistence allowance for their "living expenses". The amount of a Vietnam veteran's monthly subsistence allowance that can be devoted to "living expenses" after educational expenses are paid varies greatly from veteran to veteran, school to school, and state to state.

III. COST OF "LIVING EXPENSES", FOOD, SHELTER, TRANSPORTATION, ETC.

A. World War II GI Bill

The World War II GI Bill went a long way toward providing the basic living essentials. Food and transportation were not expensive and often low-cost housing was available. Government housing was provided to many WWII veteran students by converting existing military and federal facilities into student housing; furnishings, beds and equipment were provided at government expense; public war housing projects were converted into low-rent student housing facilities, and government surplus housing (quonset huts, barracks, etc.) were transported to and erected at government expense on college sites.

B. Vietnam Era GI Bill

The Vietnam era veteran must not only cover the cost of "living expenses" but the cost of "educational expenses" [tuition, books, fees and supplies] with his monthly GI Bill subsistence allowance. The cost of living has incerased over 200% since WWII. Government subsidized housing for veterans is no longer available and housing near schools, especially for married veterans, is limited and expensive. The cost of food has increased by 14% in the last year and inflation and the Energy crisis has inordinately increased housing and transportation expenses.

Many married Vietnam veterans have been denied access to readjustment assistance as they cannot afford to sacrifice jobs nor the investments they have in their homes to move to other states or areas where low-cost or "free" education is available.

IV. PART TIME EMPLOYMENT

A. World War II Era

Part time employment was available after WWII, and most veterans required litle or no supplementation of their GI Bill benefits.

B. Vietnam Era

The Vietnam era GI Bill requires substantial supplementation for veterans in private institutions, in states with high cost public education, and for veterans with families to support. Both full and part time employment is scarce and Vietnam era veterans must compete with many other needy students for available jobs. Unemployment rates for young veterans [ages 20–24] stand at nearly 17% and are even higher for minority veterans.

V. FINANCIAL AID

A. World War II GI Bill

The World War II GI bill required little or no supplemental financial aid since it paid the veteran's "educational expenses" at almost every public and private school in America. Veterans received as much as $300 in mustering out pay (worth nearly $750 in 1975 dollars), which could be used to supplement a veteran's financial needs.

B. Vietnam Era GI Bill

The Vietnam era GI Bill requires substantial supplemental assistance for veterans attending private schools [particularly trade, technical and vocational], out-of-state public schools, schools in states with high-cost public education, and for veterans with dependent responsibilities. Despite a great need for financial assistance, Vietnam veterans are often discriminated against by financial officers who refuse veterans scholarships because they are receiving "aid" from the GI Bill. While this is true it must be taken into account that most veterans are older, "on-their-own", and do not receive financial support from or live with their parents as do many younger non-veteran college students. The influx of many minority and economically disadvantaged persons into the educational system has placed a substantial demand on student financial assistance that might otherwise be available to veterans.

Vietnam era veterans do have the Work/Study and Cost-of-Instruction programs which were not available to veterans of WWII. Presently, these programs amount to less than $8 a month per veteran in training. Public Law 93–508 provides for loans up to $600 for veterans in training. The loan program is so encumbered by red tape and high interest rates that few veterans have applied for loans.

VI. PERIOD OF ENTITLEMENT

A. World War II GI Bill

The World War II veteran with 36 months of service was entitled to 48 months of benefits which could be accelerated to cover "educational expenses" in excess of $500 a school year.

B. Vietnam Era GI Bill

The Vietnam era veteran with 18 months of service is entitled to 45 months of benefits if he is in an undergraduate program, or 36 months of benefits if he is pursuing a graduate program. The Vietnam veteran must now use his benefits over the 45 or 36 month period or longer. He can not accelerate his benefits as the WWII veteran could.

VII. SPECIAL PROGRAMS

A. World War II GI Bill

Mustering out pay

World War II veterans received $300 (equivalent to $750 current dollars) if they served at least 60 days including service outside the U.S.

"Mustering out" money could be used however the veteran chose, including supplementing his education and training needs.

52–20 program

The 52–20 Program, a Federal unemployment insurance payment, provided the unemployed World War II veteran with $20 a week for 52 weeks.

48-Month entitlement

There were no "special programs" for "educationally disadvantaged" WWII veterans (veterans with less than a high school education), 28.3% of WWII veterans had 8 years or less education, and 26.3% had 1–3 years of high school, which made 54.6% of the World War II veterans "educationally disadvantaged" by today's standards. The 48-month entitlement period, however, did enable WWII veterans to take 12 months of remedial or preparatory work and still have sufficient benefits to pursue a normal 4-year college education. Under the WWII GI Bill, there were thousands of institutions that provided "educationally disadvantaged" veterans with technical, vocational and professional skills and opportunities they would not otherwise have been able to obtain.

B. Vietnam Era GI Bill

There are 3 special programs for "educationally disadvantaged" Vietnam era veterans with remedial or preparatory needs that provide the same opportunities as the 48-months of education and training entitlement that were available to WWII veterans. They are:

Free Entitlement assists veterans with academic deficiencies in attaining a high school diploma, General Educational Development Certificate, or refresher or preparatory courses needed to qualify for enrollment in post-secondary programs, without charge to the veterans' total entitlement.

Predischarge Education Program. This is the "inservice free entitlement" program. It

enables veterans to prepare [without charge to their entitlement] for their future education or training while in service.

Tutorial Assistance. Tutorial assistance programs provide special help to veterans in overcoming difficulties in a subject required for the satisfactory pursuit of an educational objective. In addition to his educational subsistence allowance a veteran may receive an additional $60 per month for a maximum of up to $720.

Other special programs

Work-Study Program. The work-study program provides an allowance to veterans pursuing full-time programs in exchange for services such as outreach, paper processing, school liaison and telephone staffing. The program provides a maximum of $625 per school year. The number of work-study slots open for veterans is small.

VCIP [Veterans Cost-of-Instruction Payment] Program. The VCIP Program provides funds to schools who offer specific services and incentives to attract and assist Vietnam era veterans. The program is perpetually underfunded and slated for discontinuation.

Veterans Educational Loan Program. The Loan program provides loans up to $1500. The program is so encumbered by restrictions and high interest rates that very few veterans use it.

INADEQUACIES OF THE VIETNAM ERA VETERAN'S READJUSTMENT ASSISTANCE ACT

The Vietnam era GI Bill is one of the most fiscally irresponsible and ineffective programs administered by the Federal government. It is subject to massive abuses while the structure of the current GI Bill denies effective readjustment assistance to the most needy veterans. The Vietnam era GI Bill contradicts the Veterans Administration's mission "to care for him who has borne the battle and his widow and his orphan" and fails to effectively assist millions of veterans with the difficult transition from military to civilian life.

The Vietnam era GI Bill violates the intent of Congress for the Veterans Education Assistance Program.

"The Congress of the United States hereby declares that the purpose of the educational program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service. . . ."

THE USE OF THE CURRENT GI BILL IS VERY OFTEN INVERSE TO THE NEED FOR EFFECTIVE EDUCATION, TRAINING AND READJUSTMENT ASSISTANCE!

The current GI Bill has been reasonably effective for (and in many instances generous to) the most vocal and visible advocates for increases or amendments to the program, and has been least effective for and most discriminatory against those veterans who have the greatest need for readjustment assistance, but who have neither the understanding of the solutions or an advocate to make their needs known.

The assistance accorded by the Vietnam era GI Bill (in 1976) to single veterans (and many veterans with dependents) attending low-cost readily accessible community and junior colleges exceeds the assistance accorded any other generation of veterans.

The post-Korean, peace-time veteran has been the beneficiary of far more liberal and generous benefits than were ever accorded to veterans of the Korean war. The Korean war veteran was entitled to a maximum of $175; he had to initiate an education within three years after separation and complete within eight.

A 37-year old post-Korean veteran separated from services 12 to 21 years ago earned over $300 a month for as little as 12 hours a week in a low-cost or free community college.

The GI Bill must be developed and implemented primarily as a READJUSTMENT PROGRAM for veterans who served during a time of armed conflict and not as an educational subsidy for a unique peace-time veterans' special interest group. The veterans requiring and deserving the greatest readjustment assistance will never be a political force or have influential advocates.

The GI Bill must be structured on the basis of what the most needy and deserving Vietnam War veterans require for effective readjustment; and not on the basis of what special interest groups desire for themselves and their unique constituencies!

Most consideration of the current GI Bill is based on seven INVALID assumptions:

1. The veteran is single.

Less than one-third of the veterans currently eligible for readjustment assistance are single. 75% of the Vietnam era veterans in training half-time or more are receiving payments for one or more dependents. According to the VA, the average veteran has a wife and "1.4" children.

2. The Vietnam veteran's readjustment needs are well served by a liberal arts education at a low cost community college.

Many Vietnam era veterans lack college preparatory backgrounds. There are very few jobs available to graduates of liberal arts educations. A liberal arts degree no longer means the opportunities it did 10 years ago. If a veteran is interested in using the GI Bill for supplemental income ($270 to over $400 a month tax-free for twelve classroom hours a week) he is served very well by a liberal arts education at a low cost community college.

3. Most of the veterans needing readjustment assistance are in school.

Many of the most needy and deserving Vietnam veterans are denied effective access to readjustment assistance and have never been in school or have dropped out of training.

4. Veteran's administration participation rates are indicators of the GI Bill's effectiveness.

The Veterans Administration has used participation rates only as an indicator of what entitlement and not as a measure of whether the GI Bill education programs are serving their intended purpose.

The VA's participation rate statistics measure only the number of veterans who have received some benefits and not:

The number of veterans who have completed education and training programs.

The number of veterans who have terminated GI Bill programs and the reasons for their termination.

The number of months veterans have used benefits under the GI Bill.

Lastly, whether the GI Bill is providing the veteran with meaningful and productive readjustment.

5. That veterans are mostly responsible for abuses and problems of the current GI bill!

The veteran is only partially responsible for the problems and abuses of the current GI Bill. The VA has been little more than a "disbursing agent for a program of adjusted compensation for veterans with access to education". It has made little effort to develop or administer the GI Bill as a readjustment program, or to enforce laws and regulations that would preclude or eliminate abuse. State Approving Agencies and recognized accrediting associations have often done little to insure the quality or effectiveness of training under the GI Bill. Congress has demonstrated little sustained concern about abuses or structural problems in the GI Bill beyond that motivated by publicity or expediency.

6. That the most serious problem affecting the GI Bill is the post-Korean peace-time veterans delimiting date.

Far more serious than the termination of financial subsidation of peace-time veterans is the continued denial of effective readjustment assistance to needy wartime veterans, and the potential for massive abuse in the current program.

7. That the current GI Bill is equally effective for all eras of veterans.

The current GI Bill currently serves or will serve veterans separated over a period of 32 years (1955 to 1987); yet it is least effective for those who served during the period of greatest armed conflict and have most need for readjustment assistance (1966 to 1972)!

Those seven invalid assumptions must be discarded if the most needy veterans are to be accorded effective readjustment assistance.

The current GI Bill is most effective for the following:

Single veterans

Veterans separated prior to 1966 or after 1972

Veterans in states with low-cost public education

Veterans in college programs

Veterans using the GI Bill for supplemental income rather than readjustment assistance

Veterans having the least need for readjustment assistance

The Current GI Bill is LEAST effective for the following:

Veterans with dependents

Veterans separated during the height of the Vietnam War

Educationally disadvantaged veterans

Veterans in states without readily accessible low-cost public education systems

Veterans desiring to attend private schools

Veterans requiring trade, technical, vocational or professional training

Unemployed or underemployed veterans

Veterans having the greatest need for readjustment assistance

ANALYSIS OF THE INEQUITIES AND INADEQUACIES OF THE CURRENT READJUSTMENT PROGRAM

1. Denial of effective readjustment assistance to veterans with dependents.

The accessibility and effectiveness of the current GI Bill for veterans with dependent responsibilities is seriously constrained (with the possible exception of veterans with access to low-cost night school programs and veterans with working wives) when compared to the accessibility and effectiveness of the GI Bill for single veterans. In order to use their GI Bill benefits, veterans with dependents require substantial supplementary income. Excluding "educational expenses" (tuitions, books, fees and supplies) which are constant regardless of the veteran's dependency status; the current subsistence allowance for a single veteran ($270) is sufficient to meet most single veterans's "living expenses" (room, board, transportation, and other non-educational expenses); whereas the veteran with one dependent requires an average of an additional $184 and a veteran with two or more dependents requires over $248 in supplemental income to meet "living expenses".

Average Monthly "Living Expenses" for Vietnam Era Veterans Attending School

While most nonveteran students are single, the vast ma'ority of veterans in training half-time or more are receiving payments for dependents (78.7%; 93.5% of the post-Korean veterans were receiving dependent benefits). The current all-time high levels of veterans with dependents in school is not only attributable to the fact that most persons of the veteran's age are married but also to the influx of veterans affected by their delimiting date and of other married veterans who have enrolled in community colleges offering night programs. Attending night school twelve hours a week provides

veterans with $321 to over $400 a month in tax-free supplemental income.

	Single veteran	Married veteran	Married with children
Housing	$107	$191	$213
Food	81	150	210
Apparel and upkeep	23	38	48
Transportation	58	58	58
Medical	10	31	38
Child care			27
Miscellaneous	28	57	50
Total monthly expenses	307	525	644
Total monthly GI bill subsistence payment	292	347	396
Supplemental income needed to meet monthly living expenses	15	178	248

Source: Educational Testing Service Report (excluding educational expenses and adjusted to April 1976 Consumer Price Index).

However, if the married veteran does not have access to a community college offering the type of training necessary for his readjustment or does not have sufficient supplemental income to attend a higher cost school and support his family, he is denied access to effective readjustment assistance. The married veteran just does not have the mobility of the young single non-veteran student or that of the single veteran to take advantage of readjustment assistance.

Most tragic is the plight of the married Vietnam veteran. Forty percent of the enlisted men who served in Vietnam were married. Salaries for enlisted servicemen were well below the national poverty level (less than $250 a month for a married private, E–3). These veterans could not afford to enter training programs at the time of their separation. They had to seek immediate employment to pay off the debts incurred while in the service of their country. Readjustment benefits were insufficient to provide meaningful support without substantial income, especially for veterans requiring trade, technical, and vocational training. Many veterans who attempted to enter training programs were forced to terminate prior to completion of their objective.

One in five married Vietnam veterans was divorced or separated within six months of his return from Vietnam. (According to uncompleted studies, the divorce rate is nearing 50% for the married Vietnam veterans). The task of restoring emotional bonds severed by war's separation, of easing the psychosocial impact of the war, and of the difficult readjusting process was substantial; especially without benefit of the psychological counseling that had been available to the World War II veteran and his dependents. To have to work, hold a family together, and devote time to studies is often too much for a married veteran and his family; it adversely affects work, study, and the family, thereby compounding the problems of readjustment. Many Vietnam veterans are now paying alimony or child support which is an additional drain on their readjustment benefits.

II. Denial of effective readjustment to veterans separated during the height of the Vietnam war.

The principal intent of the GI Bill is to serve the readjustment needs of those who served during a period of armed conflict, especially those who saw combat. Vietnam veterans who served between 1966 and 1972 are the veterans least served and most discriminated against by the current GI Bill.

The current GI Bill has served, is serving, or will serve veterans separated over a 32-year period. Those veterans separated during the six years of the Vietnam War's greatest intensity will receive the least assistance of all if the current structure of the GI Bill is not reformed.

The peacetime post-Korean veterans have been separated 10 to 20 years yet they received (until the May 31, 1976 delimiting date) the same benefits as Vietnam War veterans. Post-Korean veterans were separated during a period of reasonable prospects for good employment and favorable public opinion toward veterans. Post-Korean veterans have by and large secure careers, stable families, and few, if any, readjustment problems attributable to their military service. Post-Korean veterans with access to low-cost public institutions offering evening and weekend courses have ample educational opportunities as well as the potential of earning $292 to over $400 a month tax-free supplemental income for as little as 12 hours a week classroom participation. Over half of the post-Korean veterans receiving GI Bill benefits are in community colleges with tuitions averaging less than $300, according to the VA. Veterans Administration figures show a 73% increase from FY 74 to FY 75 in the number of post-Korean veterans enrolled in community colleges. Many, no doubt, motivated by the prospects of losing several thousand dollars in tax-free benefits from the government.

In contrast to the post-Korean veteran, the Vietnam veteran was separated with poor employment prospects and adverse public opinion toward the war and the Vietnam veteran. The GI Bill benefits during the peak years of Vietnam combat and separation totaled less than $180 for a single veteran, $230 for a veteran with a wife and family. Military salaries during the Vietnam War were one-half to one-third what they are today for low-ranking enlisted personnel ($102 for a private in 1968 versus $386 for a private entering the armed forces today).

Participation rates are not realistic indicators of effective utilization of GI Bill benefits by married veterans. Too often married veterans are using the GI Bill for supplemental income because the current structure of the GI Bill denies them access to their principal educational or training objective. Many married veterans who ardently desire and need readjustment assistance through trade, technical, or vocational training, through private institutions, or through graduate programs are forced to attend an institution of marginal effectiveness and pursue a program of minimal utility . . . or not use the GI Bill at all.

Many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the time of their separation from the service. Readjustment benefits were insufficient to provide meaningful support without supplemental income, especially for veterans with families and veterans requiring trade, technical, and vocational training. Many veterans who did enter training were forced to terminate their training prior to completion of their objective.

Vietnam veterans separating from the service between 1966 and 1972 were often denied admissions to colleges because they were overcrowded with "students" seeking deferments from military service, while trade, technical, and vocational training was impossible with their limited monthly benefits. Veterans who did enter college were often met with indifference, hostility, and abuse for their role in Vietnam.

As an integral part of his readjustment, a veteran may expect to encounter personal, psychological, or emotional readjustment problems as well as vocational and educational problems. While the GI Bill (now totaling $12,000 to $16,000) was intended to assist veterans in overcoming educational and vocational problems impeding his readjustment, the VA lacks the statutory authority to assist veterans with personal adjustment problems. After WWII, the VA was highly sensitive to the adverse effects personal adjustment problems would have on vocational and educational readjustment.

"Where there are problems of personal adjustment, assistance along vocational and educational lines may become secondary to the soldier's readjustment. Many cases can not be handled as vocational and/or educational problems until the emotional phase of the veteran's problems has been cleared up. Vocational and educational assistance is sterile for individuals with unsolved problems of personal adjustment."

Technical Manual on Separation Classification issued by the War Department, 1944

"Unless these cases (veterans with personal adjustment problems) are given aid in the readjustment process at the time the problem is acute, many of these veterans will fail to make the transition necessary for accepting the duties and responsibilities of civilian life. Such cases, if unaided, usually flounder about because of these overwhelming emotional difficulties, and failure to make the adaption to industrial and professional life is due not so much to any willful disregard of responsibilities as to the inability to cope with emotional problems too complex and difficult to handle unaided."

Veterans Administration Manual of Advisement and Guidance, 1945

In a letter to Sen. Alan Cranston (D-CA), member of the Senate Veterans Affairs Committee, former VA Administrator, Donald Johnson, stated:

"After every war the great majority of veterans are young adults who must go through a critical period of transition from military to civilian life. The impact of absence from home, of exposure to different life styles and cultures, and of personal, physical, and psychological trauma is such that readjustment is a highly complex process. The difficulty of this process has been markedly greater for the Vietnam veteran because of the controversial nature of the Vietnam conflict and of the rapid social and economic changes that occurred in his absence. Reliable surveys and studies conducted by the military indicate that serious and prolonged readjustment problems exist in approximately one out of five new veterans but, to a lesser degree, are experienced by all.

"Since current statutory provisions governing DM&S (Dept. of Medicine & Surgery of the VA) health care services are tied to an illness rather than preventive health care model, only a small proportion of veterans have sought or received critically needed mental health psychosocial readjustment services. The consequence includes major economic and social cost to society stemming from the failure of the veterans to make effective readjustments, as well as personal adverse psychological effects on the veterans and their families who served their country during a long and difficult conflict."

Congressional Record, Nov. 20, 1973.

Many of the veterans with personal adjustment problems are unable to pursue or to complete education and training programs. Many veterans with personal adjustment and psychological problems are using the GI Bill at low-cost community colleges to avoid adjustment and the responsibilities of a productive role in society because the GI Bill provides sufficient financial subsidization to maintain maladjusted lifestyles.

A substantial portion of the nearly $2 billion in GI Bill overpayments can be attributed to the VA's failure to assist veterans in overcoming personal adjustment problems forcing them to terminate or fail in GI Bill vocational and educational readjustment programs.

A very few post-Korean peacetime veterans or post-Vietnam veterans are experiencing significant personal or psychological readjustment problems as a result of their military service. They are thus emotionally unencumbered in their pursuit of education and training under the GI Bill.

Should Vietnam veterans with personal adjustment problems or those generally alienated from society use the GI Bill to subsidize alternative life styles, they often

are further encumbered in their ability to readjust or assume productive roles in society.

In contrast to the Vietnam era veteran serving between 1966 and 1972, persons entering the service after 1972 did so voluntarily. They received salaries two or three times those of persons serving between 1966 and 1972. They have ample opportunity to utilize the many educational opportunities accorded servicemen. Most Vietnam era veterans, especially those who served in a combat situation, had little opportunity for anything outside of their principal military mission. A post-Vietnam veterans' GI Bill benefits far exceed those available to the Vietnam veteran at the time of his separation ($270 a month compared to $130 a month for a veteran separated prior to 1970). Post Vietnam veterans are no longer met with the hostility and indifference on college campuses, and in fact, in many institutions, they are actively recruited to offset the declining enrollment of nonveteran students.

The year 1972 was a highly significant period in the nation's efforts to improve assistance to veterans. It was the year in which veterans' assistance efforts and outreach programs were initiated. Efforts prior to 1972 were largely token public relations, usually irrelevant and ineffective for the most needy Vietnam veterans. The outreach, Veterans Cost-of-Instruction Program, the VetRep on Campus, veterans' self-help groups, media efforts addressing the plight of the veteran did not go into effect until 1972, long after many of the most needy veterans requiring the greatest readjustment assistance had been separated.

Tragically, the Vietnam veteran was being stigmatized extensively as an "unemployable, drug-addicted, psychologically disturbed, violence prone, poor risk whom employers and educators should beware of Thus many of the efforts in outreach and veterans services designed to increase Vietnam veterans participation in GI Bill programs were most beneficial to settled post-Korean veterans and the recently released post-1972 veterans.

Since the major effective veterans' outreach program is the Veterans' Cost-of-Instruction Program (VCIP) based out of predominately low-cost public community colleges, veterans living within areas lacking community colleges or accessible public institutions are not accorded the services and assistance provided by the VCIP program.

Recently separated veterans are faced with serious employment problems. However, they are entitled to substantial unemployment compensation for 63 weeks (in many states veterans may receive both veterans benefits and unemployment compensation simultaneously, totaling $500 to $600 a month). In comparison, post-Vietnam veterans often do not have the family responsibilities, psychological adjustment problems, financial obligations, and Vietnam war stigma which encumbers veterans who served between 1966 and 1972.

Recently separated veterans have sufficient time to pursue educations at less than full time basis without being terminated by their delimiting date. While many of the most needy Vietnam veterans denied effective readjustment assistance will soon be deprived of any further opportunity for education and training by their delimiting date.

III. Denial of effective readjustment assistance to veterans without access to low cost community and junior colleges.

The World War II GI Bill paid the full cost of "educational expenses" (tuition, books, fees and supplies) at almost every public and private educational, technical, vocational or professional institution in America. Regardless of his lack of financial resources, or place of residence, a World War II veteran needed only to meet the admissions requirements of an educational or training institution and the GI Bill would pay his "educational expenses" up to $500 a school year. According to the VA, the $500 paid to WWII veterans for educational expenses is the equivalent of $2,860 (in constant dollars as of January 1975). The actual amount is much higher given inflation over the past 18 months and the inordinate rise in educational expenses in excess of normal inflation. In the few institutions where educational expenses exceeded $500 a school year, the veteran could accelerate the consumption of his 48-month entitlement.

The World War II GI Bill provided all veterans an equal opportunity to attend the educational or training program of their choice. Under the current GI Bill's structure, most of the private colleges, universities, trade, technical and vocational institutions that educated WWII veterans are closed to Vietnam era veterans who can not pay their "educational expenses."

The current GI Bill pays only a monthly subsistance allowance to veterans enrolled in school. If a Vietnam era veteran can not pay the "educational expenses" needed to enter an education or training institution, he will receive none of the readjustment benefits he is entitled to.

"Educational expenses" were not a significant factor in a WWII veteran's choice of education and training programs and institutions because the GI Bill paid the full cost of "educational expenses."

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses."

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of education and training programs and the number and locations of education and training institutions available to Vietnam era veterans without substantial supplemental income.

Under the WWII GI Bill, 50% of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at a private institute of higher learning under the WWII GI Bill was $446 for an ordinary school year (9 mos.) $54 under the $500 a school year GI Bill "education expense" tuition payment.

The 1976 cost of "educational expenses" at private college-level institutions is an average of $2,568 a school year. This completely rules out a private education for veterans without substantial supplemental resources. "Educational expenses" at a private institution are greater than a single veterans total yearly GI Bill benefits. Only 18.4% of the veterans in college level training are enrolled in private colleges and universities.

The accessibility and effectiveness of the current GI Bill is directly related to the availability of low-cost readily accessible community and junior colleges. The VA recognizes that:

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This is due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west."

Veterans Administration DVB Information Bulletin, April 1973

The Congressionally-commissioned Educational Testing Service Study of the GI Bill confirmed the VA's contention that access to readjustment benefits was a function of ready access to low-cost public institutions:

"The accessibility of post-secondary education for the Vietnam conflict veteran is a function of not only his military service but also of his state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veterans seeking to use their education benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at post-secondary schools.

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidization by the VA. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."

Report of the Educational Testing Service, Sept. 19, 1973

Analysis of participation rates by states indicates a direct correlation between GI Bill college level participation and the availability of low-cost easily accessible community and junior colleges. The VA's "Veterans Benefits Under Current Educational Programs" Information Bulletin (DVB 1B 20–76–3) accurately analyzes the utilization of community colleges:

"Junior college training: Junior college training has expanded faster than other types of college training so that it now constitutes the majority of the college level Chapter 34 (Veterans Educational Assistance) trainees.

"Of the 1,294,517 Chapter 34 trainees enrolled at the college level on November 30, 1975, 55% were in junior colleges (the rate for peacetime post-Korean veterans is 70%).

"One reason for this (the extensive use of community colleges) is that the benefit for veterans is a fixed amount per month to assist with tuition and subsistence expense and training in low tuition public junior colleges enables veterans to retain more of the benefit for subsistence purposes. The group that chose junior college training most often are the peacetime post-Korean conflict veterans.

"Growth: Over the 3 year period, Nov. 1972 to Nov. 1975, the number training in junior colleges grew from 279,935 to 711,413, an increase of 431,478. The total number training in college (including correspondence training) grew from 759,063 in Nov. 1972 to 1,294,517 in Nov. 1975, an increase of 535,454.

"This means that 80.6% of the increase in college training during this period can be attributed to the growth in the number of junior college trainees. There are several possible causes for the upsurge in junior college training when compared with other college training:

Junior colleges have continued to become more readily available in many communities all over the United States.

The substantial increase in monetary benefits in both October 1972 and December 1974 probably enabled many veterans to enter these primarily low-cost institutions who previously had felt unable to make it financially.

Junior college training is an alternative to unemployment, particularly for veterans with less than a high school education who have GI Bill benefits available. Untrained veterans are the most likely to be affected adversely by unemployment and many choose to train when unemployment rises. Junior college is more often the type of training chosen when this occurs, for the following reasons:

1. Junior colleges offer a low-cost way to train and receive needed financial assistance.

2. Junior colleges are usually in urban communities where they are readily accessible for training.

3. Most junior colleges offer practical vocational and technical training (this is particularly true in the South, other states the majority of veterans continue to pursue liberal arts programs) which on completion gives trainees a good chance for employment.

4. Junior colleges generally have lower academic standards and a more open admission policy, thereby attracting veterans who

usually may not qualify for 4 year colleges." (NOTE: Many junior colleges also have liberal attendance requirements and lax standards of required programs, factors contributing substantially to the overpayment problem.)

Veterans Administration DVB 1B 20–76–3

Despite the many advantages offered by low-cost community colleges, there are also numerous disadvantages associated with the extensive reliance by veterans on junior college training:

1. There is the obvious incentive to attend a community college for the supplemental income accorded by the GI Bill.

2. While many junior colleges offer trade, technical or vocational training, there is still a heavy reliance on liberal arts college level training (over 90% of the veterans in junior colleges are taking college level training). Job opportunities for liberal arts graduates are extremely scarce (15% employment rate for recent B.A. graduates). Veterans with dependent responsibilities often can not afford to accept the low entry salaries of job requirements of the younger nonveteran graduates.

3. The substantial attraction community colleges offer to earn supplemental income contributes to not only overpayments, but diminishes the incentive for the veteran to use his benefits for education and training that would facilitate his effective readjustment and enhance his prospects for productive employment.

4. Community and junior colleges often enable veterans to use their benefits as a form of financial subsidy to perpetuate maladjusted or alternative life styles that will preclude their effective readjustment and reintegration into society once their benefits expire.

5. The many financial and other attractions of junior colleges often detour veterans from pursuing programs of education and training that would be more beneficial to their readjustment and future employment needs.

6. Junior colleges being the reference point by which many persons measure the effectiveness of the GI Bill detracts from the attention and assistance required by veterans without access to low-cost community colleges. The principal advocates and organizations "representing the Vietnam veteran" are almost entirely based out of low-cost junior colleges.

7. With the proliferation of students in community colleges and their generally lower academic standards, a degree from a community college may have little value despite the expectations of the veteran and the expenditures by the taxpayer on GI Bill benefits.

8. Taxpayers in states without extensive junior college systems are subsidizing the benefits paid veterans in states with low-cost public education systems while the veterans in their own states are not only denied readjustment assistance but must pay for other veterans' education in low cost states.

9. Taxpayers in states and communities with low-cost public junior colleges in many instances are not subsidizing educational programs but the most expeditious method for many veterans to collect their benefits. Unless educated or trained for productive and available employment, these veterans may become a future drain on community resources because they have failed to successfully readjust.

10. States with low cost or free educational systems tend to attract veterans from out of state to take advantage of the benefits low-cost schools offer. The State of California (with no tuition at its community colleges) accounts for the greatest number of veterans in training with 300,595 trainees. This is about two and one half the number for the next largest states, New York and Texas, with 123,391 and 109,747 respectively.

Veterans needing trade, technical, vocational or professional training (in areas without low-cost, readily accessible public institutions) are the most discriminated against by the current structure of the GI Bill. They must not only pay "educational expenses" at proprietary institutions averaging in excess of their total yearly benefit ($2600), but they are also required 22 or more clock hours classroom attendance a week to qualify for full-time benefits (12 hours attendance is sufficient to qualify a veteran in a college-level program to full-time benefits). Most vocational programs are such that their hours and requirements are not sufficiently flexible to permit effective evening or weekend training.

Many of the most needy and deserving Vietnam era veterans would be far better served by a technical or vocational education. But because educational expenses consume most of their monthly GI Bill payment, they must find supplemental income of employment to meet their living expenses. This is often impossible. One consequence of the GI Bill's denial of effective access to trade, technical, vocational and professional programs is that it forces veterans to rely upon notoriously poor and ineffective correspondence courses. The completion rates for correspondence courses is 43.2%. Veterans Administration statistics show that over one-half a million veterans have failed to complete correspondence training, costing the taxpayer close to a billion dollars.

In the southeastern states where there are extensive and high quality public trade, technical and vocational training programs, veterans have high participation rates in those institutions.

IV. Denial of effective readjustment assistance to educationally disadvantaged veterans.

The participation rates for the over 1,500,000 educationally disadvantaged veterans (veterans with less than a high school education) are only 38% compared to 55.5% for all other veterans. Thus the veterans with the greatest need for education and training and readjustment assistance are the least users of the GI Bill. This is attributable to many factors.

1. The structure of the GI Bill is geared to college level programs rather than the trade, technical, vocational, and professional training most educationally disadvantaged veterans require.

2. Many educationally disadvantaged veterans lack the preparatory background or basic skills and the necessary self confidence to pursue GI Bill training.

3. Many educationally disadvantaged veterans have dependent responsibilities necessitating full-time employment and cannot afford either the time or the money to pursue educational training.

4. Many of the veterans' self-help, assistance and outreach (particularly the Veterans Cost-of-Instruction Program) are based in areas where there is infrequent contact with educationally disadvantaged veterans. This is particularly true of educationally disadvantaged veterans who live in states with high cost public education and lack community and junior colleges with trade and technical training.

5. Many educationally disadvantaged veterans are unaware of their benefits, unsure of their eligibility, or afraid to cope with the VA bureaucracy.

6. Educationally disadvantaged veterans are often the prime victims of unscrupulous proprietary and correspondence programs and thus are easily "ripped off" or are afraid to get involved in training programs.

7. Educationally disadvantaged veterans are more likely to have family or personal adjustment problems (many evolving from their military service, since they served disproportionately in combat situations) that interfere with the pursuit of GI Bill programs or force them to drop out of education and training readjustment programs because of psychological problems. These individuals are often the most reluctant to seek counseling or help for personal adjustment problems or admit serious educational deficiencies.

8. Many educationally disadvantaged veterans require greater assistance in planning realistic career objectives and choosing training compatible with their abilities.

9. Many educationally disadvantaged veterans live in fixed locations and cannot afford to move their families and belongings to a state or location with effective readjustment opportunities. Many of the low-cost community and junior colleges offering the best access to readjustment programs are located in the more affluent suburbs where educationally disadvantaged veterans cannot afford to live.

While there has been a substantial increase in the participation rates for educationally disadvantaged veterans since 1973, the Veterans Administration attributes "much to the increase in training by educationally disadvantaged veterans to the PREP program and other programs such as 'Free Entitlement' and 'Tutorial' ".

These programs have been invaluable in attracting principally educationally disadvantaged veterans separated after 1972. But the programs have been substantially less successful in reaching or assisting veterans separated during the height of the Vietnam War (1966–1972). Many of the programs designed to assist educationally disadvantaged veterans are dependent upon access to low-cost community, junior or low-case public institutions and colleges. In states without readily accessible low-cost educational institutions, little assistance is available to the educationally disadvantaged veteran. Many of the most needy and deserving educationally disadvantaged veterans will be precluded from pursuing a four-year program by their delimiting date expiring.

V. Denial of effective readjustment assistance to unemployed and underemployed veterans.

While it is not the intent of the GI Bill to be an unemployment compensation or income supplementation program, it is being used as such by many veterans denied access to effective readjustment assistance. Unemployed veterans without access to low-cost institutions can not afford to pursue educations or training programs, support families and fulfill financial obligations such as mortgages, car payments, etc. Many of the most needy veterans denied readjustment assistance have strong roots in their communities and can not relocate to areas offering effective readjustment opportunities. The vast majority of unemployed and underemployed veterans do not have the mobility traditionally associated with young, single veterans and non-veteran students.

Veterans forced to work at low wages or part-time (underemployed) are often reluctant to let go of their current jobs, fearing loss of any employment in the current labor market beset by high unemployment. The skills and training most unemployed and underemployed veterans require are trade, technical, vocational and professional rather than college level; the GI Bill is most discriminatory against these veterans.

The following Veterans Administration chart demonstrates the inequity and inaccessibility of readjustment assistance under the current GI Bill by state of residence. Note the high participation rates for veterans in western states wtih low-cost readily-accessible community and junior colleges. Note higher

participation rates for veterans in other residence schools in the Southeast, where trade, technical and vocational training is available at low-cost public schools. And note the inordinately high rates of correspondence courses used in state lacking low cost public education and training institutions.

This Veterans Administration chart clearly demonstrates that one's state of residence is a far greater factor in receiving effective readjustment assistance than is one's service to his country in the Armed Forces.

PARTICIPATION RATE FOR VIETNAM ERA VETERANS BY STATE AND TYPE OF TRAINING CUMULATIVE THROUGH NOVEMBER 1976

CHAPTER 34

	Veteran population (thousands)	Trainees	Percent of veteran population				
		Total trainees	Total	College	Other residence schools [1]	On-job training	Correspondence
Grand total	8,332	4,594,663	55.1	33.8	9.1	5.0	7.2
United States—State total	8,238	4,566,855	55.4	34.0	9.1	5.1	7.3
Alabama	117	81,751	69.9	39.7	19.7	5.9	4.6
Alaska	15	7,688	51.3	29.9	11.1	4.8	5.5
Arizona	89	66,651	74.9	55.3	7.4	5.5	6.7
Arkansas	71	40,560	57.1	26.4	18.6	6.5	5.6
California	944	659,626	69.9	53.9	7.6	3.7	4.8
Colorado	116	77,270	66.6	43.6	9.9	4.4	8.8
Connecticut	123	53,300	43.3	24.3	5.5	7.4	6.2
Delaware	25	13,819	55.3	33.2	6.8	4.2	11.1
District of Columbia	24	[2] 41,547	NA	NA	NA	NA	NA
Florida	308	182,318	59.2	36.2	11.6	4.7	6.7
Georgia	200	115,163	57.6	27.2	19.6	5.4	5.3
Hawaii	33	27,184	82.4	53.5	12.1	10.0	6.9
Idaho	30	17,249	57.5	36.6	5.0	5.4	10.5
Illinois	407	200,425	49.2	30.4	6.4	4.7	7.7
Indiana	215	92,760	43.1	20.0	7.0	5.1	11.0
Iowa	106	51,960	49.0	24.1	10.4	4.4	10.2
Kansas	87	48,643	55.9	34.4	10.0	4.1	7.5
Kentucky	113	60,054	53.1	30.2	9.5	4.0	9.5
Louisiana	122	71,365	58.5	28.8	14.7	8.3	6.7
Maine	40	22,752	56.9	29.7	10.6	9.5	7.1
Maryland	181	83,298	46.0	28.8	6.6	4.4	6.2
Massachusetts	240	104,146	43.4	29.9	5.8	3.4	4.2
Michigan	345	183,432	53.2	32.6	6.5	4.4	9.7
Minnesota	175	89,038	50.9	23.9	13.2	7.1	6.7
Mississippi	60	35,226	58.7	32.6	12.9	7.0	6.2
Missouri	191	106,959	46.0	32.2	10.4	4.9	8.4
Montana	30	17,226	57.4	31.7	9.9	9.0	6.9
Nebraska	58	34,701	59.8	32.9	10.5	9.2	7.3
Nevada	27	14,745	54.6	33.9	10.0	3.5	7.2
New Hampshire	37	17,341	46.9	28.9	4.4	7.0	6.5
New Jersey	273	106,517	39.0	22.1	6.1	4.2	6.6
New Mexico	39	30,173	77.4	45.4	16.7	5.3	9.9
New York	590	302,845	51.3	31.5	7.0	6.1	6.7
North Carolina	184	124,035	67.4	39.7	14.5	8.1	5.2
North Dakota	18	16,691	92.7	48.3	19.5	14.6	10.3
Ohio	424	189,249	44.6	24.2	6.6	4.3	9.5
Oklahoma	118	68,589	58.1	37.4	11.9	3.7	5.2
Oregon	109	57,551	52.8	37.1	5.5	5.1	5.1
Pennsylvania	460	199,726	43.4	20.0	7.6	5.4	10.4
Rhode Island	42	22,847	54.4	37.0	7.3	5.4	4.7
South Carolina	104	69,997	67.3	36.2	18.6	7.0	5.5
South Dakota	19	15,908	83.7	48.5	15.1	9.2	10.9
Tennessee	155	92,546	59.7	32.6	13.4	5.3	8.4
Texas	472	268,757	56.9	38.7	8.5	3.3	6.5
Utah	51	27,544	54.0	38.7	3.3	3.5	8.4
Vermont	20	7,151	35.8	17.0	3.6	8.4	6.7
Virginia	199	106,629	53.6	33.4	6.5	5.6	8.1
Washington	188	113,888	60.6	39.8	9.3	4.4	7.1
West Virginia	59	33,445	56.7	28.9	9.5	8.8	9.5
Wisconsin	171	86,377	50.5	26.2	7.7	5.7	10.9
Wyoming	14	8,163	58.3	36.8	5.1	7.5	8.9
Puerto Rico	45	17,868	39.7	26.3	11.5	.9	.9
All otner [3]	49	9,940	20.3	4.9	13.6	.8	1.0

[1] The other residence schools percentage is derived by subtracting the correspondence percentage from the other schools percentage. This percentage will be slightly understated due to the small number of college level training contained in correspondence (about 1 percent).

[2] The number of trainees from the District of Columbia is overstated. See text sec. III. K. 1. a. (2)

[3] Includes persons training in U.S. possessions and territories and in other countries.

AVERAGE TOTAL ENTITLEMENTS FOR 2-YRS MILITARY SERVICE, 1966 TO 1976

[Military pay and allowances of plus GI bill benefits]

Years	No dependents	1 dependent	2 dependents
1966–70:			
Military pay and allowances	$3,304.80	$4,744.80	$4,744.80
Veterans benefits	4,680.00	5,580.00	6,300.00
Total entitlements	7,984.00	10,324.80	11,044.80
1971–72:			
Military pay and allowances	4,341.60	5,781.60	5,781.60
Veterans benefits	6,300.00	7,380.00	8,280.00
Total entitlements	10,641.60	13,161.60	14,061.60
1973–76:			
Military pay and allowances	10,036.80	12,810.80	12,820.80
Veterans benefits	12,150.00	14,445.00	16,470.00
Total entitlements	22,186.80	27,265.80	29,290.80

DIFFERENCE IN AVERAGE FOR 2 YR MILITARY SERVICE AT TIME OF SEPARATION: [1966 TO 1976]

[Following is the difference in military pay and veterans benefits a serviceman received or was entitled to at the time of his separation from the service compared to the entitlements available to a person serving between 1973–1976]

	No dependents	1 dependent	2 dependents
1966–70	$14,202 less or 35.9 percent.	$16,941 less or 37.8 percent.	$19,246 less or. 37.8 percent.
1971–72	$11,545 less or 47.9 percent.	$14,104 less or 48.2 percent.	$15,229 less or 48.0 percent.

Note: Based upon the serviceman receiving an average of E–3 pay during his 2-yr tour of duty. Add $780 a year combat pay

VA AND TREASURY COMPARISON OF GI BILL PAYMENTS AND USE RATES, BY STATES AND PER CAPITA

Cumulative GI bill use rates for college and junior college and for all purposes

States ranked by GI bill college participation rate	1975 Viet vet population	Junior and 4-yr college GI bill use rate		Total GI bill use rate	
		Rank	Percent	Rank	Percent
1. Arizona	81,000	1	52.0	4	72.9
2. California	891,000	2	50.8	6	66.9
3. Hawaii	32,000	3	45.0	5	71.8
4. North Dakota	18,000	4	43.0	1	83.1
5. New Mexico	37,000	5	41.8	3	73.5
6. South Dakota	18,000	6	41.6	2	75.8
7. Colorado	107,000	7	41.1	9	64.2
8. Utah	48,000	8	37.3	27	53.2
9. Alabama	110,000	9	36.9	7	66.7
10. North Carolina	172,000	10	36.8	8	64.3
11. Washington	177,000	11	36.6	12	57.0
12. Oregon	101,000	12	36.1	29	52.4
13. Texas	441,000	13	36.0	23	54.7
14. Oklahoma	111,000	14	35.2	18	55.9
15. Rhode Island	40,000	15	35.2	28	52.6
16. Wyoming	13,000	16	35.1	16	56.5
17. Florida	284,000	17	34.4	15	56.5
18. Idaho	29,000	18	33.9	24	54.4
19. South Carolina	97,000	19	32.7	10	64.2
20. Kansas	82,000	20	32.5	26	54.0

GI bill payments by State—Total payments and payments on a per capita basis [fiscal year 1968–76]

States ranked by Viet vet population	Viet vet population	State GI bill payments [fiscal year 1968–76]		Permits on per capita basis [fiscal year 1968–76]	
		Rank	Amount	Rank	Number
1. California	891,000	1	$3,173,570,000	8	3,562
2. New York	561,000	3	1,124,349,000	43	2,004
3. Texas	441,000	2	1,235,637,000	15	2,802
4. Pennsylvania	433,000	6	781,276,000	47	1,804
5. Ohio	400,000	8	747,161,000	46	1,868
6. Illinois	385,000	4	900,584,000	33	2,339
7. Michigan	325,000	7	762,480,000	32	2,346
8. Florida	284,000	5	825,071,000	13	2,905
9. New Jersey	256,000	14	418,551,000	49	1,635
10. Massachusetts	226,000	13	464,041,000	42	2,053
11. Indiana	202,000	22	350,087,000	48	1,733
12. Georgia	188,000	10	508,434,000	19	2,704
13. Virginia	188,000	18	374,404,000	45	1,992
14. Missouri	178,000	11	483,093,000	17	2,714
15. Washington	177,000	12	479,665,000	18	2,710
16. North Carolina	172,000	9	537,879,000	10	3,127
17. Maryland	170,000	21	361,091,000	39	2,124
18. Minnesota	164,000	19	373,209,000	34	2,276
19. Wisconsin	160,000	20	362,710,000	35	2,267
20. Tennessee	145,000	16	400,236,000	16	2,760

Payments ranked by State on per capita basis [fiscal year 1968–76]

States	Number
1. Hawaii	4,470
2. Arizona	4,095
3. North Dakota	4,070
4. South Dakota	3,908
5. Alabama	3,734
6. Colorado	3,597
7. New Mexico	3,596
8. California	3,562
9. Utah	3,208
10. North Carolina	3,127
11. South Carolina	2,998
12. Oklahoma	2,929
13. Florida	2,905
14. Rhode Island	2,880
15. Texas	2,802
16. Tennessee	2,760
17. Missouri	2,174
18. Washington	2,710
19. Georgia	2,704
20. Arkansas	2,679

VA AND TREASURY COMPARISON OF GI BILL PAYMENTS AND USE RATES, BY STATES AND PER CAPITA

Cumulative GI bill use rates for college and junior college and for all purposes

States ranked by GI bill college participation rate	1975 Viet vet population	Junior and 4-yr college GI bill use rate: Rank	Junior and 4-yr college GI bill use rate: Percent	Total GI bill use rate: Rank	Total GI bill use rate: Percent
21. Montana	28,000	21	30.9	17	56.2
22. Michigan	325,000	22	30.8	31	51.9
23. Missouri	178,000	23	30.7	25	54.4
24. Delaware	24,000	24	30.5	36	49.9
25. Tennessee	145,000	25	30.5	11	57.8
26. Nebraska	55,000	26	30.0	13	56.7
27. Nevada	25,000	27	29.9	32	51.0
28. Virginia	188,000	28	29.9	37	49.9
29. Mississippi	57,000	29	29.5	22	54.7
30. New York	561,000	30	28.9	38	49.1
31. Illinois	385,000	31	28.5	39	48.1
32. Massachusetts	226,000	32	27.5	48	41.6
33. Alaska	14,000	33	27.4	41	47.3
34. Louisiana	115,000	34	27.4	14	56.6
35. Maryland	170,000	35	27.3	42	44.8
36. Kentucky	105,000	36	27.2	34	50.5
37. Maine	37,000	37	26.6	21	54.7
38. Wisconsin	160,000	38	25.4	35	50.1
39. Georgia	188,000	39	25.1	19	55.4
40. New Hampshire	35,000	40	24.9	43	43.6
41. Arkansas	66,000	41	24.7	20	55.3
42. West Virginia	56,000	42	24.0	30	52.1
43. Minnesota	164,000	43	23.5	33	50.7
44. Connecticut	115,000	44	23.5	46	42.9
45. Iowa	100,000	45	22.7	40	47.9
46. Ohio	400,000	46	22.3	44	43.1
47. New Jersey	256,000	47	21.0	49	38.3
48. Pennsylvania	433,000	48	19.2	45	43.0
49. Indiana	202,000	49	18.7	47	42.0
50. Vermont	19,000	50	15.9	50	34.6
Total	7,721,000	Avg.	31.2	Avg.	56.5

GI bill payments by State—Total payments and payments on a per capita basis [fiscal year 1968–76]

States ranked by Viet vet population	Viet vet population	State GI bill payments [fiscal year 1968–76]: Rank	State GI bill payments [fiscal year 1968–76]: Amount	Permits on per capita basis [fiscal year 1968–76]: Rank	Permits on per capita basis [fiscal year 1968–76]: Number
21. Connecticut	115,000	29	230,062,000	44	2,001
22. Louisiana	115,000	26	307,021,000	21	2,670
23. Oklahoma	111,000	24	325,173,000	12	2,929
24. Alabama	110,000	15	410,780,000	5	3,734
25. Colorado	107,000	17	384,883,000	6	3,597
26. Kentucky	105,000	28	249,356,000	31	2,375
27. Oregon	101,000	29	262,789,000	24	2,602
28. Iowa	100,000	30	210,163,000	40	2,102
29. South Carolina	97,000	26	290,811,000	11	2,998
30. Kansas	82,000	31	200,670,000	29	2,447
31. Arizona	81,000	23	331,725,000	2	4,095
32. Arkansas	66,000	32	176,842,000	20	2,679
33. Mississippi	57,000	34	150,990,000	23	2,649
34. West Virginia	56,000	38	125,152,000	37	2,235
35. Nebraska	55,000	35	146,468,000	22	2,663
36. Utah	48,000	33	153,975,000	9	3,208
37. Rhode Island	40,000	39	115,185,000	14	2,880
38. Maine	37,000	40	91,919,000	27	2,484
39. New Mexico	37,000	37	133,069,000	7	3,596
40. New Hampshire	35,000	41	73,427,000	41	2,098
41. Hawaii	32,000	36	143,048,000	1	4,470
42. Idaho	29,000	43	71,746,000	28	2,474
43. Montana	28,000	44	70,647,000	26	2,523
44. Nevada	25,000	46	63,793,000	25	2,552
45. Delaware	24,000	47	53,711,000	38	2,238
46. Vermont	19,000	50	26,647,000	50	1,402
47. North Dakota	18,000	42	73,260,000	3	4,070
48. South Dakota	18,000	45	70,344,000	4	3,908
49. Alaska	14,000	48	31,385,000	36	2,242
50. Wyoming	13,000	49	31,136,000	30	2,395

Payments ranked by State on per capita basis [fiscal year 1968–76]

States	Number
21. Louisiana	2,673
22. Nebraska	2,660
23. Mississippi	2,649
24. Oregon	2,602
25. Nevada	2,552
26. Montana	2,523
27. Maine	2,484
28. Idaho	2,474
29. Kansas	2,447
30. Wyoming	2,395
31. Kentucky	2,375
32. Michigan	2,346
33. Illinois	2,339
34. Minnesota	2,276
35. Wisconsin	2,267
36. Alaska	2,242
37. Delaware	2,238
38. West Virginia	2,235
39. Maryland	2,124
40. Iowa	2,102
41. New Hampshire	2,098
42. Massachusetts	2,053
43. New York	2,004
44. Connecticut	2,001
45. Virginia	1,992
46. Ohio	1,868
47. Pennsylvania	1,804
48. Indiana	1,733
49. New Jersey	1,635
50. Vermont	1,402

Note: Fiscal year 1976 figures from published VA data.

Source: Federal outlays compiled annually for U.S. Treasury by OEO/CSA and VA's Department of Veterans Benefits information bulletin.

RECODIFICATION OF TITLE 18, UNITED STATES CODE—S. 1437

AMENDMENT NO. 816

(Ordered to be printed and referred to the Committee on the Judiciary).

Mr. ROBERT C. BYRD (for Mr. McCLELLAN) submitted an amendment intended to be proposed to the bill (S. 1437) to codify, revise, and reform title 18 of the United States Code; and for other purposes.

FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 7797

AMENDMENT NO. 817

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. CHURCH) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7797) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

AMENDMENT NO. 818

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7797), supra.

AMENDMENT NO. 819

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. CLARK, Mr. HUMPHREY, Mr. PELL, and Mr. MATHIAS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7797), supra.

AMENDMENT NO. 820

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (H.R. 7797), supra.

NOTICES OF HEARINGS

AUTOMOTIVE SAFETY STANDARDS

Mr. MAGNUSON. Mr. President, the Congress is presently considering an extremely important automotive safety standard promulgated by the Department of Transportation. This safety standard would require passive restraint safety devices to be placed in new automobiles under a phase-in schedule during model years 1982–84. Secretary Adams has estimated that such systems could save 9,000 lives and more than 100,000 injuries annually. The Department of Transportation further has projected "substantial insurance savings" once passive restraint systems are fully deployed in the automotive fleet. DOT has stated that such savings are expected to "offset the initial and operating costs of passive restraints." In light of the extreme public importance of this decision, the Senate Commerce, Science, and Transportation Committee has scheduled 2 days of hearings to consider this matter on September 8 and 9. These hearings will provide an opportunity for a thorough examination of all the various aspects of the passive restraint decision.

Mr. President, in order further to assist my colleagues in the consideration of this issue, I ask unanimous consent to have printed in the RECORD the following three items: a Gallup poll analyzing public opinion in regard to this issue, a New York Times editorial, and an article by Colman McCarthy in the Washington Post supporting Secretary Adams' decision.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[Gallup Poll]

PUBLIC FAVORS AIR BAGS IN ALL NEW CARS

PRINCETON, N.J.—Although most drivers fail to use their seat belts—and oppose laws that would fine a person for failing to do so—they nevertheless vote 46 to 37 per cent in favor of requiring car manufacturers to equip all new cars with air safety bags.

The air bag, which would cost $100 to $300 per car, is a balloon that inflates automatically when sensors detect a collision, keeping riders from slamming into the windshield, dashboard and steering wheel.

The Transportation Department has estimated that passive restraints could save 9,000 to 12,000 lives each year and prevent 100,000 to 200,000 serious injuries.

Interestingly, it is among the nation's youngest adults, 18 to 29, who have the highest car accident and death rate, that support is greatest.

When the results are limited to men alone, the proposal to have air bags installed is voted down. Among women, on the other hand, support is heavily in favor.

Sharp regional differences emerge as well, with Easterners considerably more inclined than persons in other regions to favor new cars being equipped with air safety bags.

The questions:

"Would you favor or oppose requiring car manufacturers to equip all new cars with air safety bags?"

[In percent]

	Favor	Oppose	No opinion
National	46	37	17
Men	42	47	11
Women	51	27	22
East	53	29	18
Midwest	41	47	12
South	48	33	19
West	44	38	18
18–29 years	65	27	8
30–49 years	48	37	15
50 and older	31	44	25

"Would you favor or oppose a law that would fine a person $25 if he did not wear a seat belt?"

[In percent]

	Favor	Oppose	No opinion
National	17	76	7
Men	17	78	5
Women	18	74	8
East	21	71	8
Midwest	13	83	4
South	18	75	7
West	17	76	7
18–29 years	19	77	4
30–49 years	18	76	6
50 and older	15	76	9

[From the New York Times, July 24, 1977]

DON'T DEFLATE THE AIR BAG

Transportation Secretary Brock Adams's recent ruling that automobiles produced in the early 1980's must contain automatic safety systems to protect drivers and front-seat passengers during crashes has provoked opposition from the automobile industry and in Congress. But the opponents should proceed with caution because the automatic restraint systems offer genuine promise of saving lives on the nation's highways.

Although traffic fatalities have generally declined in the past decade, some 46,000 Americans died in motor vehicle accidents in 1976. Another 1.8 million were injured. And as cars are made smaller to reduce gasoline consumption, injuries and fatalities may climb.

The chief protection currently offered to crash victims is the seat belt. Unfortunately, only about 20 percent of the driving public takes the trouble to buckle up. A mechanism that made it impossible to start cars unless the belts were fastened caused such an uproar several years ago that Congress revoked the requirement.

Thus attention has focused on passive restraint systems that protect automobile occupants without annoying them. Former Transportation Secretary William Coleman concluded that passive restraints were feasible and effective but, in the anti-regulation atmosphere of the Ford Administration, he shied away from requiring their use. Now Secretary Adams would require all new cars to provide passive protection for front-seat occupants under a three-year phase-in schedule starting with the 1982 models.

Two systems are most apt to meet the proposed standard. One is the air bag, a cushion that fills with gas the instant a crash occurs, thus protecting the occupant from smashing into the steering wheel or dashboard. The other is a passive belt system, which wraps around the occupant as the door closes.

Both systems have proved effective in tests and in actual use. The Transportation Department estimates that the air bag would save 9,000 lives over and above those now saved by seat belts. The air bags offer better protection in high-speed frontal crashes, but little or no protection in lateral crashes, rear-end crashes or rollovers. Thus a combination of air bag and lap belt is deemed best.

The cost of the devices seems reasonable. The Transportation Department estimates the purchase price of air bags at $112 and the lifetime operating cost at $29 more. Although the claim should be viewed skeptically, some insurance companies predict, as highway losses subside, that drivers will save most of that cost in insurance premium reductions.

Some opponents of passive restraints argue that drivers ought to be allowed to risk their necks without interference from a paternalistic Government. But it is hard to see how, in principle, passive restraints differ from safety devices already mandated by the Government such as shatterproof glass, energy-absorbing steering columns, added dashboards, strengthened bumpers and seat belts. In any event, those who purchase an automobile are seldom the only persons at risk. Teen-age drivers, young children and others who have had no voice in choosing safety options may find their lives endangered. Nor are drivers who get hurt needlessly harming only themselves. Their fellow citizens pick up the tab for police officers, ambulances, hospital care, insurance payments and government benefits.

To judge by a new Gallup Poll, the public as a whole—and especially the young-adult group which experiences the highest accident rate—now favors air bags. The new rule on passive restraints will take effect unless both the House and Senate veto it. Let both houses practice some active restraint.

[From the Washington Post, July 10, 1977]

THE FREEDOM TO CHOOSE SAFETY

(By Colman McCarthy)

As a listener to nearly every meaningful syllable uttered in the current debate on air bags, I have yet to hear from the one citizen I've been waiting for: a crash victim saved by an air bag who is against air bags. I have listened to other opponents, from those who see the Department of Transportation's favorable ruling on this passive restraint system as Big Brotherism on the march again to others who believe air bags are being imposed as unproven and costly gimmicks that represent still another theft of what one congressman calls "our individual freedoms."

Many have been persuaded by these arguments, but for myself nothing would be more convincing than the words of a man who should be dead but who lives to denounce the federal government for denying him the individual freedom to be killed in his car. I would be persuaded by a man who walked away from a head-on collision livid that he had to pay $100 or even $200 to have his life saved.

If we haven't heard from this person, assumptions can be safely made, as our cars are not, that he doesn't exist. It is hard to imagine the automobile industry—the air bag's most stubborn opponent—not searching out, and then gleefully exploiting, at least one negative reaction from the one group of motorists whose knowledge of air bags is experiential, not theoretical.

This group is not large but it is alive, well and has seen the gore in crashes from Mercer, Pa., to Needles, Calif. Although no air bag cars are currently on sale, about 12,000 vehicles so equipped—mostly General Motors cars from 1974 to 1976—have been on the highways. As of July 1, 153 crashes have occurred, involving 219 front-seat occupants. Of the 219 crashers, 215 survived, and nearly all of those without major injuries. From a sampling of the survivors' sentiments, an ardency for air bags is evident.

The most recent partisan is C. W. Beck, a state senator from Port Orchard, Wash. On June 18, he wrote a letter to his friend Brock Adams, the Secretary of Transportation, who was then in the process of deciding favorably on air bags and hoping his decision would not be vetoed by Congress. Beck reported the details of his crash:

"On Tuesday, June 7, 1977, I was involved in a two-car collision on a perfectly clear, warm, dry day at the intersection of two Kitsap County arterials in which the lady who was driving the other car was killed. I am able to be sitting here today writing to you without a scratch, bruise, ache or pain because my car was equipped with an ACRS [air cushion restraint system]. I'm sure I owe my life to this device.

"You may not recall the car, but you rode in it about two years ago for a short distance in Seattle to the Olympic Hotel. It was a gray Cadillac Eldorado and was new then. It now has about 49,000 miles on it. It is no more, both cars were totaled out. . .

"I was driving in a 40 mph speed zone with my cruise control set at 39 mph. Only two cars were visible to me, one coming towards me and the one which I hit. It had pulled up to a boulevard stop sign and made what looked to be a legal stop.

"When I was about 50–75 feet from the intersection, the other car suddenly darted out, fast. I applied my brakes and swerved to the right but could not prevent the impact. I hit the right side of the other car head-on with my brakes set and skidding to swerve to the right.

"After the impact, both cars were diverted, mine to the right and the other to the left. My car had a multiple impact; it hit a telephone pole and sheared the pole off at the ground level.

"The sudden explosion and puff from the inflator assembly was heard and the bag inflated before I felt the impact and sudden stop of the vehicle. The inflation of this air bag was astounding. I worked as an engineer during the war and for many years with tools as an instrument maker and I couldn't believe the sensors from the bumper could actuate the inflators so fast.

"Normally, I wear seat belts, but this time I neglected them. This did not impair the air bags from performing their duty. The lap belt would have prevented me from being thrown around in the front seat.

"The bag in the steering wheel was the most effective; the passenger air cushion inflated and prevented me from being thrown to the floor on the passenger side. In fact, it shoved me back into an upright position behind the wheel. I was protected by both bags . . .

"At no time was my vision impaired by any part of the [air bag]. Rolling around with the lower part of my face in the steering wheel bag, I knocked my glasses off and they fell to the floor but they were not broken and I put them on before I got out of the car."

Similar testimony has come from other survivors, including a movie stunt man. He told the Department of Transportation last year that "when you look at a 44-ton brick wall and you know it is coming at you, you think of a whole lot of things, but the least of which is how much this air bag costs you."

For me, these voices are the most credible, and therefore the most persuasive. But even then, a judgment on air bags can be made in the area of the debate in which its opponents are most comfortable, the so-called "individual freedom" issue: The individual motorist must be free of the government's excessive power to restrict his liberty, even if government officials mean to keep you from danger. A Pennsylvania congressman, Bud Shuster, says "this air bag edict is a very small piece

of a heavy and dark blanket, gradually being lowered over a free people by their paternalistic government."

Put that way, the question becomes even broader. Whom do we choose to trust and believe: Big Brother in Washington or Big Cousin in Detroit? Both relatives have their nasty habits, but if I had a choice to disown either, it would be Big Cousin. Not only have automakers repeatedly resisted safety innovations but they have raised the cost of cars by heavily promoting those features of their products that do nothing at all to protect motorists.

When pressed by the gory consequences, auto executives plead their case with the argument of innocence: Don't blame us, we just give the customer what he wants. If that's the case, the showrooms of America are jammed with customers clamoring for cars that are incessantly being recalled for safety defects, that poison the air and can cost up to $686 in repairs for a front-end crash at 10 mph.

One who trusted Detroit more than the pro-air bag advisers in his own department was former Transportation Secretary William E. Coleman Jr. Last December, when he decided not to decide on air bags, Coleman struck an agreement with GM, Ford and Mercedes to offer air bags as options on a small number of cars. The agreement was a curious one, in light of earlier industry promises:

In 1970, General Motors said, as quoted in a recent report from the Insurance Institute for Highway Safety, "In the fall of 1974, the air cushion would be made standard equipment on all 1975 GM passenger cars . . ." Chrysler said, "We hope to be in a position to provide passive restraint systems in volume production by Jan. 1, 1975." Ford said in 1970 that "air bags for the front right and center occupants could be installed in all 1975 model cars . . ."

Now it is 1983 before citizens can buy air bags as standard equipment on all cars. Tens of thousands of men, women and children will be killed before then. Few of these potential victims are likely to have strong ideological feeling one way or the other about air bags and the moral responsibility of government or industry to provide them. Most people probably assume that whatever is in the marketplace has to be safe or else it wouldn't be there. We have safety laws, don't we? And isn't there competition?

But the carnage occurs daily. The emotional cost to bereaved families is beyond counting. Estimates of other costs are more easily figured: Nationwide Insurance says air bags would mean an annual reduction of $2.5 billion in insurance premiums. The hospital care for citizens crippled in car crashes exceeds $1 billion a year.

Neither I nor anyone I know expects to be killed or maimed in a car crash, either today, this year or this century. But this is an expectation of the heart, not the head, because somewhere in America more than 100 people die every day in car crashes. The issue is less whether the government should protect lovers of liberty like Rep. Shuster than what it should do about the safety of countless citizens. Cars have become love objects, dream fulfillments, as well as common transporters, but who except the rare citizen suspects them of being potential exterminators? The air bag is merely the best system yet devised to give an individual the freedom to get in his car and drive off without suspecting that he may be killed. Such a freedom is worth preserving.

REDWOOD NATIONAL PARK, CALIF.

Mr. ABOUREZK. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Subcommittee on Parks and Recreation of the Senate Energy and Natural Resources Committee.

The hearings are scheduled for Tuesday, September 6, and Wednesday, September 7, beginning at 10:00 a.m., in a room to be announced.

Testimony is invited regarding S. 1976, a bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes.

The committee has carefully reviewed the extensive record compiled by the House Subcommittee on Parks and Insular Affairs and, in order to facilitate consideration of this measure, will reserve September 6 to receive testimony from the sponsors of the legislation and other interested Members of Congress, the Administration, the affected companies and the environmental-conservation community. While the committee will carefully consider all testimony and material submitted to us, I have directed the subcommittee staff to avoid any duplication in oral testimony for the hearing on September 7, and wherever possible to combine witnesses who share similar viewpoints into panels. All witnesses should be prepared to submit their formal statements, which will be printed in the hearing record, and orally summarized. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Parks and Recreation Subcommittee, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

SENATOR RANDOLPH ON THE VERSATILITY OF COAL

Mr. HEINZ. Mr. President, yesterday evening the distinguished Senator from West Virginia (Mr. RANDOLPH) delivered an extremely thoughtful address on "the versatility of coal" to the Fourth International Conference on Coal Gasification, Liquefaction, and Conversion to Electricity at the University of Pittsburgh School of Engineering.

Senator RANDOLPH comments with clarity and in detail about the multiplicity of forms coal can take and the many uses to which its different products can be put. Coal distillates and tar yield literally hundreds of products from dyes and disinfectants to perfumes, saccharin, and explosives.

One of the most exciting and important uses for coal that is becoming apparent during our current energy crisis is its use in creating synthetic fuels through gasification and liquefaction. That that may seem to some a new idea, Senator RANDOLPH makes clear it is in fact quite an old one, pointing out his role as an author of the Synthetic Liquid Fuels Act signed into law in 1944. Regrettably we did not pay sufficient attention to Senator RANDOLPH's concern at that time and did not pursue this energy alternative as aggressively as we should have.

Despite our belated realization of coal's versatility in the energy sector, we are now beginning to embark on a larger scale coal development program, and once again JENNINGS RANDOLPH is in the lead. Along with Senator JACKSON, he introduced S. 977, the National Gas and Petroleum Conservation and Coal Utilization Act of 1977, which will soon be considered by the Senate. That act will give a further boost to the role of coal in our Nation's economy.

Throughout the past 40 years Senator RANDOLPH has been an articulate, effective, and prescient advocate of the increased use and versatility of coal. His address last night is both a testament to the past and a cogent discussion of what we can look forward to in this field and what is going on in Government to stimulate further development. I commend his comments to my colleagues, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

THE VERSATILITY OF COAL

(BY JENNINGS RANDOLPH)

This conference provides the opportunity for participants to counsel together in a discussion of one of the most crucial problems facing our country. It is not the identification and solution of a new problem. It is the recognition of this Nation's need to change our definition of energy use from one of uncontrolled proliferation to one of finding alternative and synthetic supplies for our overtaxed sources of oil and gas. In short, we must reappraise our attitudes toward the production and utilization of non-renewable resources.

As we do this it is a must that we temper any natural or synthetic development with concern for the quality of environment, and with a realization that the energy we develop is a precious asset necessary for the vitality and strength of the United States. Energy is tantamount to power. It is appropriate, therefore, that this conference is being held in Pittsburgh, because even as I speak the furnace and coke ovens are using energy to produce steel just a few blocks away. Pittsburgh is the hub of Appalachia, just as Appalachia itself is the prime Eastern source of domestic energy supplies. Thus, this city, this State, and this region will have a special role in the achievement of energy self-sufficiency by our country.

It is a privilege to know and to serve with the two capable United States Senators for the Commonwealth of Pennsylvania, John Heinz, of this city, and Richard Schweiker, of Worcester, Pennsylvania. This commendation of your legislators also provides me with the opportunity to state that the Congress as a whole is at this particular time in our history a branch of the Federal Government which must possess a high degree of personal responsibility.

Many of you in this room tonight probably think that it is easy for me to talk about the versatility of coal—and you are absolutely right. I am continually fascinated by the many uses of the substance.

One of the raw materials yielded from coal is coal tar. Coal tar is a black gummy substance, a by-product in the manufacture of illuminating gas and coke. It is a mixture of exceedingly complex organic substances out of which a chemist seems able to dig almost anything he wishes, from a disinfectant to a grease-spot remover, from a dye to a perfume, from drugs and fertilizers to explosives. The tar yields only about a dozen primary substances, but from these the chemist builds thousands of new compounds. About 5,000 different dyes can be obtained from coal tar; 1,500 are suitable for use on textiles. One distillate is a source of synthetic perfume, called oil of bitter almond used for scenting soap. Other products from coal are used as food preservatives,

explosives (such as TNT), saccharin, 400 times sweeter than cane sugar, and as a substitute for vanilla extract.

Coal distillates yield antiseptics, sulfa drugs and part of aspirin compounds, as well as, products used in motor fuels to increase power. Coal aids in the manufacture of photo chemicals, plastic, and synthetic rubber.

Even the last residue product of coal distillates—pitch—is used in making roofing paper, wood preservatives, paints; for binding coal dust together to make charcoal briquettes for our barbecue fires and in paving materials.

In 1897 the first successful diesel engine was developed using powdered coal as a fuel. First commercial use of this engine in a locomotive was in St. Louis, Missouri the next year.

These products are obtained from coal. What, then is the potential impact of coal-derived synthetic fuels on the U.S. energy supply? It will be substantial. If we had fostered a more uniform energy development policy over the years oil and gas requirements of utilities and industry would be more manageable today with exclusive use of domestic supplies.

The first congressional initiative to develop nonnuclear energy technologies was in the mid-1940's when Senator Joseph O'Mahoney of Wyoming and I introduced in the Senate and House of Representatives, the Synthetic Liquid Fuels Act, which was signed by President Franklin Roosevelt on April 5, 1944. That law authorized the first Federal programs for gasification of coal, liquefaction of coal and lignite, and production of synthetic crude oil from oil shale. In conjunction with the Department of Agriculture, the Bureau of Mines initiated new technologies to produce alcohol and other liquid fuels from agricultural residues. Experience under this program led Secretary of the Interior Julius Krug to conclude in January, 1948 that—the establishment of a synthetic fuel industry is far too large an operation . . . to be undertaken under emergency or war conditions . . . it should be undertaken now when the country is at peace and completed over a period of five to ten years.

On November 6, 1943, I flew with Arthur Hyde, on the first airplane flight in the United States, using gasoline produced from coal in Pittsburgh. It was from Morgantown, West Virginia to Washington, D.C. During the 11 years of the program under the Synthetic Fuels Act about $82 million of Federal funds were expended from appropriations totalling $85.2 million.

The extensive knowledge and skill acquired in the conversion of coals and oil shale into liquid and gaseous fuels, for the most part have been lost in the intervening years. These coal based technologies did not become realities in the United States because gas and oil were much easier and cheaper to extract than coal.

The pattern of coal utilization changed significantly since 1945 because of the comparative price of oil and gas and certain environmental considerations. At the end of World War II, the two biggest markets were railroads and manufacturing industries (primarily chemical), with home heating third and coking plants for the steel industry running fourth. Coking operations continue as major coal consumers, but the railroads have disappeared as a coal market, the home heating market is almost gone, and the chemical industry has switched almost completely from acetylene (made from coal-derived calcium carbide) to ethylene (made from natural gas liquids and petroleum fractions).

The loss of these three markets has changed coal from a broad-spectrum basic raw material into almost a one-market product. That one major market is electric utilities. This is clear.

We must be careful not to overlook how, in the next few years, we are going to supply needed energy to homes, utilities, and industries. The Administration emphasizes conservation, which of course is needed, but we must assure a continued energy supply through development of coal gasification and liquefaction. To date the supply question has, I believe, been underemphasized. Coal research and development now must be aimed at taking synthetic coal technology out of the laboratory and into the marketplace.

Coal gasification is a chemical process in which pulverized coal is converted into gas. Three kinds of gases are currently being considered for commercial development. They are characterized by their heating value. High Btu, referred to as substitute natural gas (SNG), has a heating value of about 1,000 Btu/cubic foot. SNG has almost the same chemical and physical properties as natural gas, and they are completely interchangeable. Intermediate Btu has a heating value of 300 to 400 Btu, and low Btu has a heating value of about 150 Btu/cubic foot.

Substitute natural gas is intended for use in existing city gas systems. Low- and intermediate-Btu gases are industrial fuels that are not intended for distribution in present pipelines because their relatively low heating value makes them impractical. But since these gases are less expensive to produce and cleaner fuels than coal, their development is being encouraged for use in gas turbines or combined cycle plants for the generation of electricity.

Several gasification pilot plants that are capable of producing either low-, medium-, or high-Btu gas, based on modified and improved versions of earlier technology used in Europe, and, in many cases, on entirely new technology are in operation or under construction. Among these are the Hygas process, developed by the Institute of Gas Technology located in Chicago; the CO-2 Acceptor Coal-Gasification process, developed by the Consolidation Coal Company; the Synthane process, developed by the U.S. Bureau of Mines; and the Bi-Gas process, developed by Bituminous Coal Research, Inc.

Foreign technology has used gasified coal on a commercial scale since 1801. It produces water gas, a medium-Btu gas. The three coal gasification processes that typify commercial use are Lurgi, Koppers-Totzek, and Winkler. The first gas-from-coal plants that will be built within the next few years in the United States will utilize the Lurgi process.

Synthetic natural gas for cooking, clothes drying, space and hot water heating is significantly cheaper than is electricity. The production, transportation and distribution of natural gas also is more efficient—67 percent for synthetic natural gas compared to 37 percent for electricity.

The capital required to produce and deliver a unit of energy in the form of synthetic natural gas from coal also is less than that required to produce electricity from coal.

For residential customers, synthetic natural gas is more efficient and less costly than electricity.

LIQUEFACTION

Coal liquefaction is the process of converting sized coal to synthetic liquid fuel. According to "U.S. Energy Outlook," a publication by the National Petroleum Council, production of synthetic liquids from coal will depend on further technological developments in the hydrogenation of coal or coal-derived material.

The coal liquefaction program, under the U.S. Office of Coal Research, has received less attention than the processes to make gas. The production of synthetic liquid fuels from coal has had a long history. In Germany between 1930 and 1945 large scale operations produced liquid fuels from coal. The technology known as the Bergius process was utilized to produce up to 90 percent of the peak war-time aviation and motor fuel demand in Germany. Much of the German production of oil, over 5 million tons per year, was obtained by this process in which hydrogen is added to coal.

Several coal liquefaction pilot plants are in the planning stage or in operation in the U.S. One example, the Solvent Refined Coal pilot plant in the State of Washington produces a heavy organic material that has a low ash content, less than 1 percent sulfur, and a heating value of about 16,000 Btu's per pound, regardless of the quality of the original coal feedstock. Solvent refined coal could be a good potential source of solid fuel for power plants and industrial installations that now burn coal.

Some industry has made considerable effort to produce liquid products from coal. Emphasis has been on the development of a process that will be mechanically simple, yet produce a liquid product, which, when properly burned, will meet anticipated air pollution regulations. Also the possibilities of producing aviation jet fuel from coal were studied by the Committee on Aeronautical and Space Sciences in April of last year. In addition, the Navy is looking for synthetic-oil fuel for propulsion of ships in boilers, gas turbines, and pumps over the next 3 years. This effort is called "Seacoal".

Timely commercial development of coal liquefaction by the private sector, without federal assistance, appears unlikely. Direct funding by the Federal government, with some industry participation, seems necessary for the development of this technology before the 1990s.

In June 1975 the Federal Energy Research and Development Administration projected that coal liquefaction would contribute 2.5 million barrels of oil per day by 1985 from first generation processes. The General Accounting Office recently found that, "it (is) highly unlikely that any commercial-size coal liquefaction plant will be operating in the United States in 1985."

We must now stockpile high cost oil in an attempt to neutralize oil against the possibility of another embargo. Oil, I emphasize, is too important to our economy and the economy of the world to be used as the political weapon of a few privileged producing countries.

By the end of 1978 approximately 150 million barrels of crude oil will be stored at Federal expense. The full reserve system will entail one billion barrels. This is enough to supply three million barrels per day for one year. Such a strategic reserve capability should protect our nation's economy against a recurrence of the massive unemployment that confronted the nation during the 1973 embargo.

But let us consider the costs and what could be achieved for the same investment. These emergency stockpiles will cost about $12.5 billion. An identical Federal investment could construct coal gasification facilities capable of supplying the equivalent of 1 million barrels of oil per day for at least 20 years.

While these longer-term and more exotic coal technologies undergo development, we as a Nation must also, especially over the 5-10-20 years, must insist on a policy involving more direct coal utilization. Natural gas and oil will become less available and increasingly expensive, and as this happens their advantages over coal will diminish. Bulk energy supplies, such as industrial steam and electric power generation, thus will convert to coal. Cost, rather than the conveniences of oil or gas, is the prime consideration for these large-scale users.

For example, the cost of electricity is very sensitive to increases in the cost of primary energy, such as the increase in international oil prices over the last three years. Since these prices can be expected to continue to

rise, it would be in the consumers' and the national interest for utilities to convert to coal.

To encourage greater coal utilization Senator Jackson and I introduced S. 977, the National Gas and Petroleum Conservation and Coal Utilization Act of 1977, on March 10. Under the provisions of this bill certain new and existing electric powerplants and major fuel-burning installations, with specified exemptions, must use coal and other fuel resources in lieu of natural gas or petroleum. This measure has been reported from the Energy and Natural Resources Committee, and I expect Senate action to come either late this week or soon after the August recess. Experience with the ESECA of 1974, which I sponsored, indicates that numerous powerplants and industries can be converted from oil to coal at reduced electricity costs to consumers. Also included in our measure are provisions which may provide loans and loan guarantees for the purchase of scrubbers and other devices which will enable utilities and industries converting to coal with the financial abilities to do it cleanly.

There are in addition parts of this legislation which will attempt to alleviate adverse socio-economic impacts on coalfield communities that are likely to occur from the coal conversion program.

Direct coal utilization in this and other ways, such as fluidized bed combustion, will hopefully give the Congress time to establish a comprehensive National Synthetic Fuels Policy which could promote the orderly development of a coal based synfuels industry. Such a policy may:

Weigh the need for synfuels against possible environmental and social costs.

Consider direct financial costs to Federal, State, and local governments.

Take into account economic and distributional effects on our citizens, and

Provide a framework on which an environmentally acceptable and economically feasible industry might grow.

Energy policy rests on a legislated foundation. The urgency of the country's energy demand and decisive congressional action. We, however, as a representative body must act with due deliberation. We must process contradictory information to formulate a sense of the public will. From this sense of the public will, there could follow law and policy. Recently, most legislative action affecting energy issues has focused on restricting consumption and changing the regulatory climate so that consumption patterns would change. With the commercialization of synthetic fuels and the associated legislation, Congress is faced with the possibility of taking a positive step to increase energy supply. It will involve acceleration, not simply development, and it requires that the Government mesh with already functioning structures in private industry.

I believe that coal, gas, and utility companies generally want to produce a strong national energy policy and are willing to work with the Administration and Congress to see that it is achieved. They realize, as participants at this conference do, that oil and gas supplies are limited and they must develop a resource that will be readily available and not subject to embargos or domestic shortages.

An indication of the growing consensus and recognition in the Senate that we must increase coal utilization to assure our energy independence is evidenced by the following examples:

In June, the Energy Research and Development Administration Authorization Act of 1978 was passed. It included $965 million for fossil energy development of which $140 million more was provided for increased coal technology than in fiscal year 1977. Because of the need for assessment of new technologies, I introduced an amendment attached to the authorization bill, which was passed, providing the Administrator of ERDA the authority to make Federal loan guarantees of up to 75 percent to companies utilizing new coal technologies.

This amendment does not provide loan guarantee or economic aid without further action by the Congress. The Congress, based on ERDA's request, would specifically have to appropriate the amount and kind of financial assistance to be provided. Where the cost of a demonstration facility exceeds $50 million, the amount of loan guarantees, extent of economic aid, and the amount of borrowing authority granted to the Administrator, must be approved by both Houses of Congress. No specific sum of loan guarantee authority was authorized by the Committee, however. Requests would be revived on a project by project basis. I initially introduced this provision in 1974 and twice since then. The Senate approved the provision three times. This amendment is identical to the loan guarantee provisions contained in the House version of the ERDA authorization bill recently reported by the Science and Technology Committee. The amendment has the full support of John O'Leary, Administrator of the Federal Energy Administration.

The laws that most affect coal substitution are in the process of change this week in a conference committee which reached agreement on the Clean Air Amendments early this morning. (2:15 A.M.) I believe the policies adopted with regard to coal conversion in this conference are consistent with the President's coal use program. The conference position provides the flexibility necessary in allowing conversion to coal and the building of new coal-burning facilities. Specifically it:

1. Incorporates in the delayed compliance order, an extension (to December 31, 1980) for any source that can't meet state implementation plan requirements because of order to convert to coal, with authority for additional delay for up to 5 years.

2. Allows sources ordered to convert to actually begin to burn coal only when they can do so without causing or contributing to concentrations of any pollutant in excess of primary air quality standards.

3. Requires the Administrator of the Environmental Protection Agency to certify the date on which the primary standard condition can be met, subject to disapproval by the State.

4. Eliminates special showing that conversion will not pose a significant risk to public health from non-criteria pollutants.

5. Makes the current law's limitation on conversion in any part of an air quality control region in which an air quality standard is violated (the "regional limitation") a rebuttable presumption rather than an absolute.

An amendment passed in the Senate by Senator Metzenbaum and myself to the Clean Air Act, and accepted by the conference, authorizes the President to require major industrial firms burning coal but not meeting proper air standards, to burn coal supplies that are locally and regionally available. Many industries currently transport coal long distances to achieve air quality standards without installing sulfur removing devices. Moving such low-sulfur coal to avoid sulfur removal, requires the same 508 percent energy loss for transportation as does the scrubbing process itself. The cross-country transportation of coal to avoid sulfur removal, therefore, is not economical.

Earlier this year the Senate took action establishing new mining and restoration practices, as well as adopting new requirements related to health and safety in the mining environment. These measures should aid those in industry responsible for production of coal in making decisions and defining problems associated with assured coal markets of specific dimensions.

Those of us living in Appalachia know the importance and responsibility of increasing coal production. But as we gear-up for this effort we must protect not only the environment outside the mine but assure that the miner's environment is as safe and healthy as possible.

Coal technologies for the most part will involve long leadtimes. I re-emphasize decisions must be made now if the Nation is to rely on increased coal use in the future. In determining the price we are willing to pay, the issue is one of the scope and the strength of the national commitment to increased coal use. The interest shown in coal is increasing and forums such as this significant meeting are most encouraging. I hope in the near future participants here can make the decisions necessary to provide greater utilization of this fossil resource.

Decisions made in the 95th Congress, together with the Carter Administration and private industry, to issues on coal-related programs will do much to strengthen the use of the coal substitution option in the next decade. Dr. Albert Einstein stated, "The most incomprehensible thing about the world is that it is comprehensible." By working together at a well reasoned pace, Americans can comprehend and solve their energy problems. The time is NOW!

INDICTMENT OF FBI SPECIAL AGENT JOHN J. KEARNEY

Mr. HELMS. Mr. President, the Department of Justice has indicted FBI Special Agent John J. Kearney, a retired veteran of 25 years, on five criminal counts. This is a case which is significant not for what Special Agent Kearney is alleged to have done; it is significant for what the Department of Justice and the Attorney General have done. For we have reached one of those strange turning points in a nation's history when a nation's leaders seem to turn inward upon themselves, hiding from reality. It is a point that leads to self-induced national disintegration.

Special Agent Kearney is charged with being overzealous in protecting the safety and lives of U.S. citizens. He is charged, in effect, with putting the welfare of his Nation above the welfare of malefactors. Moreover, he is charged with doing that job well.

For this he is to be accounted a criminal, humiliated in court, ruined financially, and possibly imprisoned.

No man is above the law, not even Special Agent Kearney. No one can say that the end justifies the means. But the activities for which Special Agent Kearney now stands indicted were by no means settled questions of law. The interpretation of the law has perhaps changed since the period cited in the indictment—as a result of U.S. Supreme Court decisions which, in the opinion of this Senator, have undermined the security of our liberties and freedom. Any fair assessment of the evidence comes down on the side that Mr. Kearney was acting under sound constitutional doctrine, under law, and under the long-standing orders and practice of his superiors.

This is not the forum for the trial of a case at law, and I shall not attempt to do so. I shall leave to the lawyers the fine-spun legalisms and technicalities upon which judges often seize to avoid confronting the substance of an issue.

The indictment of Special Agent Kearney goes beyond the realm of legal issues, and enters the field of political judgment. Indeed, the indictment is

fundamentally a political indictment, an instrument of opportunism and vengeance.

Now I do not mean that this is crassly political, in the sense that it is partisan. It is a deeper and dangerous kind of politics, a philosophical confrontation between those who wish to change our political system and rights in a radical manner, and those who wish to maintain our traditional freedoms and institutions. The issue is not simply the extent of the rights of suspects and the rights of malefactors, both of which comprise an area of legitimate debate. Rather, the tendency here is to sympathize with revolutionaries and radicals simply because they seek to undermine the existing order.

Thus the tables are turned: The revolutionary is the hero, and the peace officers who seek to contain and prevent revolutionary acts are branded the criminals.

The long-range revolutionary program is to dismantle any effective anti-revolutionary force. What better method than through harassment and demoralization? Does this not explain why Special Agent Kearney is being singled out, so many years after the fact?

THE WEATHER UNDERGROUND

What, specifically, did Special Agent Kearney do? He is charged with illegal surveillance of the Weather Underground between 1970 and 1972. He is charged with, first, conspiracy to intercept mail, and to possess keys to authorized mail receptacles with intent to use them or cause them to be used to intercept mail; second, conspiracy to intercept wire communications; third, two counts of obstruction of correspondence; and fourth, one count of unlawful wiretapping.

What was the Weather Underground? For those who have already forgotten, the Weather Underground was a group of radical activists, numbering close to 1,500 identified members, with the self-publicized goal of violent overthrow of the United States, and who boasted that they were the perpetrators of crimes of terrorism and violence against the citizens of the United States. Three of its leaders were on the FBI "Ten Most Wanted" list at the same time. Many traveled to Cuba for instruction and indoctrination where they also met North Vietnamese. The organizing manifesto stated: "The goal is the destruction of U.S. imperialism and the achievement of a classless state: world communism."

A stated tactic of the Weathermen operation was to demoralize law enforcement officers; another was to disrupt the U.S. military; a third was to disrupt U.S. domestic agencies. Their technique included bombings, murders, riots, and threatened abductions. Among the bombings, as described by their own inflammatory literature, were the following:

To retaliate for the most savage criminal attacks against Black and Third World people especially by the police apparatus:

Haymarket police statue, Chicago, October 1969 and October 1970;

Chicago police cars, following the murder of Fred Hampton and Mark Clark, December 1969;

New York City Police Headquarters, June 1970;

Marin County Courthouse, following the murder of Jonathan Jackson, William Christmas and James McClain, August 1970;

Long Island City Courthouse, in Queens, in solidarity with prison revolts taking place in New York City, October 1970;

Department of Corrections in San Francisco and Office of California Prisons in Sacramento, for the murder of George Jackson in San Quentin, August 1971;

Department of Corrections in Albany, N.Y., for the murder and assault against the prisoners of Attica, September 1971;

103rd precinct of the New York City police, for the murder of 10-year-old Clifford Glover, May 1973 . . .

To disrupt and agitate against US aggression and terror against Vietnam and the Third World:

Harvard war research Center for Internal Affairs, Proud Eagle Tribe (women's brigade) October 1970;

U.S. Capitol, after the invasion of Laos, March 1971;

MIT research center, William Bundy's office, Proud Eagle Tribe (women's brigade), October 1970;

The Pentagon, after the bombing of Hanoi and mining of the harbors of North Vietnam, May 1972;

Draft and recruiting centers;

ROTC buildings;

ITT Latin American, Headquarters; following the fascist counter-revolution in Chile, September 1973 . . .

To expose and focus attention against the power and institutions which most cruelly oppress, exploit and delude the people:

National Guard Headquarters, Washington, D.C., after the murders at Jackson State and Kent State, May 1970;

Presidio Army Base and MP Station, San Francisco, July 26, 1970;

Federal Offices of HEW (Health, Education, and Welfare), (women's brigade), San Francisco, March 1971;

Liberation of Timothy Leary from California Men's Colony, San Luis Obispo, September 1970 . . .

The list, made public by the Weatherman group itself, is only a partial list, and fails to include the March 6, 1970, dynamite explosion that destroyed the Wilkerson townhouse in Greenwich Village, that killed three members of the Weatherman Underground who were in the townhouse making bombs for other targets.

But more important, it is worth while to look closely at the rhetorical technique of the puerile boasting: in every case, law enforcement officers and agencies are referred to as criminals; the deaths of men engaged in criminal activity are referred to as murders to be avenged; the escape of a criminal is referred to as liberation. The parallel with the present criminal indictment of the special agent of the FBI who was working to protect the American people is almost too obvious a tactic to be mentioned.

It is no wonder that L. Patrick Gray III, at that time acting Director of the FBI, and Special Agent Kearney's boss, told Congress in March 1973 that members of the Weatherman Group were "committed to overthrowing and destroying our system of government." "Since early 1970," he said, "they have been in an underground status from which they have claimed responsibility for bombings and have also been involved in other criminal activities such as bank fraud and embezzlement."

He said of the Weathermen that "their very existence in an underground apparatus and past advocacy and tactics of terrorism makes them a continued threat to the public safety of the citizens of this country."

So much then, for the Weather Underground, whose constitutional rights were allegedly violated by Special Agent Kearney's purportedly illegal surveillance. What is important is not the moral revulsion which decent citizens should feel against such a group. Nor are they victims of discrimination against unpopular political opinions because of that revulsion. What is important in the Kearney case is that the Weather Underground, first, advocated violence; second, admittedly practiced violence; and, third, received support and direction from foreign powers. These three points must be kept in mind in the discussion that follows—along with the Weathermen's rhetorical technique of making the law enforcement officer to be the criminal.

THE LEGAL QUESTION

The circumstances surrounding the Weatherman Group's activities must be kept in mind to understand the context of Special Agent Kearney's activities. Moreover, it was a period when the United States was involved in a major war against Communist adversaries, and when domestic unrest had reached unprecedented heights. The heart of whole cities, such as Detroit, Watts, Newark, and Washington, D.C., had been ravaged and destroyed by arsonists and rioters.

The appearance, therefore, of an underground group, acting with the aid and encouragement of foreign powers, and actively exploiting anti-war sentiment and domestic unrest posed a problem of serious magnitude. The members of this organization had continuously violated at least seven provisions of Federal law prohibiting the manufacture, use, transportation, and possession of firearms and explosives to create civil disorder, teaching and demonstrating the use of explosives for such a purpose, sabotage, conspiracy, and seditious conspiracy. The leaders were fugitives under indictment from the law.

The theory that the civil rights of the Weathermen were infringed because of their political beliefs just will not hold. What was concerned was a clear case of national security, including foreign involvement, against dangerous fugitives who had already demonstrated that at any moment they threatened the lives and property of U.S. citizens. Although the fourth amendment protects against unreasonable search and seizure, the actions of Special Agent Kearney were reasonable in light of the threat involved, and followed a long line of Presidential and Department of Justice guidelines and regulations. The particular fourth amendment question involved, particularly with regard to the issue of electronic surveillance, was not even reached by the U.S. Supreme Court until after the actions named in the Kearney indictment had ceased.

To prosecute a man for alleged crimes that were not even determined to be crimes by the Supreme Court until after the actions involved took place is akin

to the legislature passing an ex post facto law. Moreover, even if Special Agent Kearney's actions were illegal, it is a gross breach of equity for the U.S. Attorney General to single out for prosecution a lower echelon agent, acting under generally approved practice, while passing over those in similar situations and those in higher authority who failed to issue proper guidelines. Under these circumstances, the indictment places the Attorney General in the position of supporting the alleged civil rights of terrorists over the rights of law-abiding American people.

The development of law with respect to national security wiretaps was as follows:

First. In the early history of the wiretapping question, a distinction was made between obtaining evidence and obtaining intelligence. The basic wire-tap decision from the U.S. Supreme Court was Olmstead against United States, which held that a wiretap was not a search within the meaning of the fourth amendment if there were no physical trespass. Olmsted was developed further in 1937 in Nardone against United States, which prohibited the divulgence of wiretap information, but not the wiretap itself.

Second. In 1939, President Roosevelt assigned to the FBI the responsibility to handle, within the United States, all espionage, counterespionage, and sabotage matters. That assignment has never been rescinded.

Third. In May 1940, President Roosevelt authorized Attorney General Jackson to utilize wiretapping in "matters involving the defense of the Nation." This authorization was based upon the Olmstead and Nardone cases.

Fourth. In July 1967, Katz against United States overruled Olmstead after 29 years, and held for the first time that electronic surveillance violates the fourth amendment. But Katz specifically left open the question of whether wiretaps were valid in national security cases. The Court said:

Whether safeguards other than prior authorization by a magistrate would satisfy the Fouth Amendment in a situation involving the national security is a question not presented by this case. (Katz, 389 U.S. 515)

Fifth. With the increasing emphasis on civil rights in the 1960's, FBI Director J. Edgar Hoover had ordered sharp restrictions against many FBI intelligence operations in 1966 and early 1967. But with increasing lawlessness in the United States, Mr. Hoover's superior, Attorney General Ramsey Clark, in September 1967, after the Katz case, issued the following directive to all agencies and offices within the Justice Department involved in the collection and use of criminal intelligence:

It is imperative that the Department seek to obtain the most comprehensive intelligence possible regarding organization or other purposeful stimulation of domestic dissension, civil disorders, and riots. To carry out these responsibilities, we must make full use of and constantly endeavor to increase and refine the intelligence available to us, both from internal and external sources, concerning organizations and individuals throughout the country who may play a role in either instigating or spreading disorder or in preventing or checking them.

The entire directive was a strong directive, and presumably had the effect of superseding Director Hoover's earlier restrictions.

Sixth. In 1968 Congress passed the Omnibus Crime Control and Safe Streets Act. Title III outlawed electronic surveillance except in certain specific circumstances. But title III also stated that it is not to be construed as a limitation upon the constitutional authority of the President to protect national security.

Seventh. In June 1972, in the so-called Keith case—United States against U.S. District Court—the U.S. Supreme Court ruled that the President lacks constitutional authority to authorize wiretaps over "wholly domestic" groups not substantially financed, dominated, or controlled by foreign governments or other entities. Up to this time, there was no reason for any FBI official to believe that the President's authority in national security cases involved a distinction between internal and external enemies.

Eighth. All of the activities alleged in the indictment of FBI Special Agent Kearney preceded the decision in the Keith case in June 1972. There was no way that Kearney could have predicted the capricious decision of the Supreme Court against practices that had been accepted Government practices for 33 years. He had no reason to believe that they were illegal, since they involved national security matters.

Ninth. But in any case, the distinction in Keith was between domestic and foreign supported groups. The FBI had reason to believe that Cuban and Al Fatah Communist groups, backed up by the Soviet Union, played significant roles in training and indoctrination of the Weatherman Group. Thus, in either case, Special Agent Kearney's activities would not have been affected.

THE MAIL OPENING OPERATION

Among the counts of the Kearney indictment are conspiracy to intercept mail, and to possess keys to authorized mail receptacles with intent to use them or cause them to be used to intercept mail, and two counts of obstruction of correspondence.

The issue of whether the President's constitutional authority to preserve the national security includes the power to open mail or keep it under surveillance is one which has paralleled the question of electronic surveillance. It is only in the last decade that these issues have come to the courts. But the Department of Justice itself has provided the rationale for not indicting Special Agent Kearney.

On January 14, 1977, Attorney General Edward H. Levi issued a 57 page public statement explaining why it would be unfair to prosecute a group of CIA employees who had been engaged in a mail opening operation for national security purposes, an operation that was remarkably similar to that conducted by the FBI in the Kearney case. In the CIA case, the Attorney General concluded:

Questions of the legality of intelligence methods and of the scope and exercise of the national security power did not reach the courts until this decade. The preceding sections of this report have described the development, primarily in the last ten years, of Fourth Amendment law governing the use by the Executive Branch of surveillance that invades privacy, and the principles that the Department believes now govern its scope and exercise. But whatever can be said about the law now, the Department believes at the time the potential defendants acted, there was a substantial basis for thinking that the law was otherwise.

What would make the contemplated prosecution particularly unfair is the fact that ignorance of the developing law, and the consequent existence of erroneous assumptions of legality, were in large part the fault of the government, and indeed the Department of Justice itself . . .

Whatever its cause, the failure of officials at the highest levels who were generally aware of these activities (though they did not participate in them) to clarify the law and establish institutional controls, and their apparent contentment to leave the individuals operating in this field to proceed according to their best estimates of legal constraints in a vague and yet vitally important area—all this would render a prosecution by the government hypocritical.

Indeed, the Department of Justice memorandum goes on to point out that high officials were generally aware of mail opening operations in both the CIA and the FBI, and did nothing to stop them. In fact, the memo points out that on at least two occasions, the Department of Justice withheld prosecutions on two cases where the evidence was obtained by mail opening—either because the Department thought the evidence would be excluded from the cases, or because they did not want to reveal the existence of the mail opening operations. In either case, they allowed the mail opening operations to continue. If, according to the Justice Department memo, these agents had "substantial basis for thinking" their operations were lawful, then so too did Special Agent Kearney.

In fact, the defense of Special Agent Kearney must be in essential respects a trial of the Department of Justice. The Department itself is suspect, and is therefore totally disqualified to prosecute him.

It is incredible that in January the Department and the Attorney General could produce a well-reasoned memorandum explaining why prosecution would not be undertaken in these cases, and yet only 3 months later single out an outstanding agent for prosecution. This seems to suggest that justice depends on a change of personnel, not on rule of law.

ATTORNEY GENERAL BELL'S DECISION

The action of Attorney General Bell, in allowing the indictment of Special Agent Kearney to proceed, calls into question his control over his own department and his sense of the delicate balance demanded by equity and patriotism. For, above all, the Attorney General has full power, full discretion to decide who is to be prosecuted and who is not. Even if Special Agent Kearney had been engaged in unlawful activity—and the bulk of the circumstances seems to indicate that he was not—the Attorney General would still have to weigh whether prosectuion would enhance the

Nation's respect for law and equity, or whether it would not. The fundamental question is whether justice would be served by his conviction.

It is absolutely clear that there was not criminal motivation in Special Agent Kearney's actions. There was no personal aggrandizement, either of power or of money. There was no lust for notoriety. There was no intent to cause harm to law abiding persons. What does emerge is a picture of a man who was doing his duty, doing it well, carrying out his responsibilities to protect the people of this Nation from harm—as best as he knew how and within a traditional framework of counterintelligence operations. I am confident that almost every American would applaud his diligence.

Indeed, his conviction would be far more devastating to the feeling of equity and justice in this land. Although certain extremist civil libertarians would place the rights of a terrorist above that of the safety of the Nation and of individual citizens, most Americans would not. The Constitution wisely impowers the President to protect our national security. The first interest of the Nation is alway self-survival. We cannot allow subversive activities to undermine our freedom and independence, or even the security of our people. If we allow terrorists to operate, we lose bit by bit the very freedom which the extreme upholders of civil liberties profess to protect. It is a contradiction to proclaim a policy of freedom that inevitably destrovs freedom.

Moreover, it is one thing for the courts to demand that our peace officers stand by and allow the Nation to be subverted, but it is quite another for the Department of Justice itself to prosecute gratuitously our peace officers who, in good faith, attempt to protect our freedoms. The Department of Justice itself becomes the subverters: It joins the radicals who are trying to overthrow our form of government. In the jargon of the Weathermen, the criminals become the liberators, and the liberators become the criminals. It is institutional suicide.

Needless to say, such an action generates reaction. It destroys the morale of our intelligence and peace officers. It causes them to surrender to despair, and to shy away from doing their duty for fear that they too will become objects of attack. We cannot hold up a loyal agent of the FBI to ridicule, slander, emotional and financial pressure, and perhaps even imprisonment without destroying the FBI itself.

If the Attorney General wished to destroy our domestic intelligence and peacekeeping capabilities, to deprive the Nation of the systemic tools for protecting ourselves against subversion and disintegration, he could not have chosen a better way. For the sake of freedom, for the sake of justice, the indictment against Special Agent John J. Kearney should be quashed immediately.

INSIDE RHODESIA

Mr. HARRY F. BYRD, JR. Mr. President, earlier this week a distinguished friend shared with me a newspaper article from the Daily Telegraph of London, England. The article was written by a Member of Parliament, the Honorable Stephen Hastings.

To me, it provides an insight into the situation in Rhodesia that has largely been ignored. It is a down-to-earth profile of the people of this beleaguered country not found in the political rhetoric that has swirled for too many years around this friendly nation.

I encourage my colleagues to read this provocative piece. It should do much to clarify the actual situation among that nation's citizenry as well as the positive attitudes of the government officials who face such a trying task.

Mr. President, I ask unanimous consent that the article by Mr. Hastings be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London (England) Daily Telegraph, July 27, 1977]

RHODESIA THE RESILIENT

(By Stephen Hastings, M.P.)

"Ladies and gentlemen," the air hostess's voice on the Johannesburg/Salisbury flight comes over the intercom. "We are now crossing the Limpopo River into Rhodesia." The passengers break into a cheer. When the aircraft lands at Salisbury they cheer again.

Why is it that in spite of all gloom prognostications in the British Press, and virtual censorship of the Rhodesian case on television, one returns from Salisbury inspired rather than depressed? However real the risk of collapse—and it is certainly there—here is a small nation with no help but its own faith, fighting for its life; striving to maintain and even to develop the achievement of 80 years against an infiltration across its long borders, which by numbers and terrain it is powerless to stop.

After our own sour preoccupations in this country the prospect does inspire. For four years the Rhodesians have fought it out against a background of universal malice and discouragement; of sneering and misrepresentation. Yet though wounded and a little weary, Rhodesia is far from defeated. It behooves all who will her downfall to consider carefully where this would leave her peoples and, indeed, the rest of us as well.

As so often before, I return shocked at the yawning gap between the official international liberal-think and the realities of Africa. The Anglo-America negotiators descend once again on Salisbury, spend two days holed up in Meikles Hotel, dispensing their long preconceived doctrines and listening to the usual mixture of threats, appeals and complaints before returning to report to their Governments, which in turn apply one more mindless twist to the wheel of impending tragedy which their own mixed motives and ignorance have done so much to precipitate over the years.

David Owen made a good impression in Salisbury. There was relief that at last a British Labour Minister really seemed willing to listen and learn something of this infinitely complex problem. Now, a few weeks later, the Rhodesian Government is presented with conditions so harsh as to amount to unconditional surrender.

I understand that particular points of contention included British-American insistence on a single chamber of 100 seats of which just three to five might be European; no adequate entrenchment of pensions obligations; and a provision by which the successor Government could turn all freehold land into leasehold.

But the main sticking point was probably the security forces. The Rhodesians urged repeatedly that chaos could be averted only by keeping the forces intact and politically neutral under existing commanders. The Anglo-Americans refused and seem to have been playing with some wildly unrealistic scheme for creating a new "third force" by gradually integrating the terrorists with the Rhodesian forces. In the meantime the terrorists would presumably be entitled to parade about fully armed with consequences which any child could foresee.

Yet the British apparently expected to take over the Government of Rhodesia immediately, through a Commissioner with a few assistants, relying on the long-suffering Rhodesian Civil Service, whose worst fears they had just confirmed.

These conditions would have three distinct and inevitable consequences. They would destroy the confidence of the white Rhodesian farmers who have endured so much for four years and without whom the Rhodesian economy and cities must collapse. They would demoralise a civil service and internal affairs department of the highest calibre whose only crime is to have served their Government and people loyally and without whom the country could not function for a day. Finally, they invite a total and immediate collapse of law and order, and the bloody tribal war which would immediately follow it.

I find it difficult to believe that these proposals reflect our Foreign Secretary's original intentions, and it is to be profoundly hoped that they have since been modified. As they stand they can only indicate that British and American Governments now consider it expedient to sacrifice the white Rhodesians and destroy the cohesion of the country, at the risk of no matter what horror, in order to appease the men of violence, and satisfy the "Front Line" Presidents. How they will square the consequences with their collective conscience I do not know. After the holocaust, when the Russians, East Germans and Czechs are picking over the ruins, I suppose they will say it was inevitable.

It is not inevitable. Whatever mistakes it may have made in the past, the Rhodesian Government had no choice but to reject this ultimatum and it is understandable that Mr. Smith should feel it necessary to establish a fresh mandate before seeking an alternative solution. What are the chances if he wins?

Rhodesia's problems are imported; they are not essentially internal. Within the country the will for change now exists among all races—and not least in the Rhodesian Forces. Despite continued recruiting to the terrorists, there is now in all probability a large majority of Africans of all tribes who are disillusioned, who long for an end to the war and who do not want the Europeans to go. These groups possess leaders with the standing and authority to represent them and to negotiate majority rule.

In spite of everything, race relations overall remain remarkably harmonious. No risk of a Soweto in Rhodesia unless or until the terrorist campaign succeeds in establishing a base in the townships. The police in Harari go unarmed and are in less danger than their unfortunate colleagues in Willesden. Discrimination over land tenure and jobs concerns the majority of Africans far more than one-man-one-vote. Indeed, the concept of secret ballot is still anathema to the tribal African, whose social cohesion depends on consensus, openly and gradually evolved.

Under Mr. Smith's proposals discrimination is now finally to be demolished. The monolithic nature of the Rhodesian Front is dissolving and there are able and wise men of all races ready to join the interim Government. Nor is there any reason why Nkomo and Mugabe should not be invited to return to take part in the referendum, provided they come peacefully.

Despite the exigencies of the war there is a

flexibility in the situation which is new in my experience, and which may prove enough to pull off the settlement, provided the international meddlers, and particularly the British Government, can be restrained.

Whether or not the Western way of life will ever truly supersede the African in Rhodesia, change is well under way, yet for the large majority of Rhodesian Africans their religion and chiefly system will continue for many years to provide the main basis of order and tranquility. Throughout the transition the protection and understanding of those tireless and often selfless officials, the Rhodesian District Commissioners, are essential. Would to God that some of our zealots in the Foreign and Commonwealth Office could be exposed to them.

The integrity and cohesion of the Rhodesian defense forces is critical. I have some experience on both sides in this kind of warfare and I have yet to see the equal of the small Rhodesian Army. Its regular units are tough, resourceful and wonderfully well led. African recruiting to the Army and police is booming. Pay, of course, is a factor here, but recruiting on the present scale would be inconceivable if there was anything like preponderant support for the guerrillas. Patrols of white reservists under a command of black NCOs are now a commonplace.

The commanders of the Defense Forces and police have made clear that they will serve any legal government in Rhodesia with impartial loyalty. It is no secret that the defence chiefs of the day advised Mr. Smith strongly against UDI yet, because his Government was constitutionally elected, they conceived they had no choice but to defend it.

There is a powerful lesson here for the African nationalists. The Rhodesian Army as it stands today is the ally, not the enemy of change and the only guarantee of stability thereafter.

The consequences of failure are unmistakable. Africans have long memories. Before the pioneers arrived these lands were inhabited by the Matabele, descendants of the Zulu regiments who settled it from what is now Natal, and by the scattered tribes of the Mashona people, who provided their annual prey. Asked recently in Lusaka how he proposed to deal with the Mashona should he obtain power, Nkomo the Matabele did not hesitate. "We shall hunt them as we hunted them before the white man came."

Matabele recruits to Nkomo's guerrillas are not enjoined to fight the white man, for he, it is assumed, will be destroyed by the machinations of the Anglo-Americans and the slow strangulation of the European economy. Every kraal or family must send a man to fight "the Shona dog."

Marxist Mozambique is now in economic ruins. The wretched Frelimo soldiers come begging food from the Rhodesians across their self-imposed iron curtain. Zambia's monoeconomy is near to collapse, her tobacco production down from 15 million pounds at independence to a bare 5 million today. Rhodesia, if left to develop, and in spite of her population explosion, will be one of a very few countries which by AD 2000 could still be a net exporter of food. Who else is to cope with the starvation and chaos of Central Africa?

If Rhodesia survives as a non-racial State, South Africa will be encouraged to follow suit. If she succumbs, then the South Africans will retreat beneath the wagon wheels, sullen, determined, deaf to argument, and armed to the teeth. What hope is there here for African emancipation?

There have been plenty of mistakes on all sides in this lamentable story, but given magnanimity and wisdom there is still a chance. It is my profound hope that the Conservative party, at least, will stand back and judge the internal solution on its merits. If it makes this intention clear there will be a greater chance of the nationalist leaders engaging in serious negotiation.

If a workable agreement is reached and the British and American Governments fail to respond, then history will not find it hard to judge between the present heroism of Rhodesia and the blindness, prejudice and cowardice which turned so much that was good and full of hope for all races into a blood-soaked, smoking ruin.

It need not—must not—happen and some of us who share the privilege of knowing Rhodesia will do all in our power to prevent it.

COMPULSORY NATIONAL SERVICE

Mr. CHAFEE. Mr. President, on June 17 and 18, the U.S. Military Academy at West Point hosted a senior conference and seminar on the All Volunteer Force and proposals for a national service system.

About 50 people attended the conference and seminars. Most had academic or research interests in the volunteer force and a few were former Defense officials.

The main proponent at the conference of imposing a national service system in the United States was Prof. William R. King of the school of business at the University of Pittsburgh. In March 1977, Dr. King presented a study entitled, "Achieving America's Goals: National Service or the All Volunteer Armed Force?" to the Subcommittee on Manpower and Personnel of the Senate Committee on the Armed Services. As many Members of the Senate will recall, Dr. King proposed compulsory national service on the basis of criticisms he made of the volunteer force and on the basis of pessimistic projections he made about its future. Compulsory national service would be tremendously expensive, difficult to manage, and repugnant to individual freedom.

Recently, I received from Mr. Gus C. Lee, who attended the West Point Conference, his comments on the study by Dr. King. Mr. Lee was a career civil servant for 26 years in the office of the Secretary of Defense. He was Director of Manpower Procurement Policy and was the Staff Director of Project Volunteer, which led to the end of the draft. He has also recently published a book entitled "Ending the Draft: The Story of the All Volunteer Force." He is now a senior research scientist at the Human Resources Research Organization in Alexandria, Va.

Mr. Lee is exceptionally well qualified to comment on Dr. King's study. Mr. Lee's comments add perspective, and in my opinion, counter balance some of the unduly pessimistic conclusions of Dr. King.

Mr. President, I ask unanimous consent that the study of Dr. Gus C. Lee be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

NATIONAL SERVICE OR THE VOLUNTEER FORCE: AN APPRAISAL

(By Gus C. Lee)

Within the past year there has been a resurgence of public concern over the viability of the All Volunteer Force policy to meet the military manpower needs of the Armed Services.

There are many reasons for this concern. The Selected Reserve strengths of the Army Reserve and National Guard components have declined since the beginning of FY 1976. As a result, Army officials have stated that the AVF is an "unqualified success" for the active Army but is not yet successful for the Army Reserve components. Several studies by the Department of Defense and others have called attention to Census Bureau estimates that the size of the 17–21 year old male population—the military age group—will be lower after 1982 than the size of this population was during the 1970's when the volunteer force was attained.

Most important, two influential members of the Senate Armed Services Committee—Senator John Stennis of Mississippi and Senator Sam Nunn of Georgia—have expressed their reservations and doubts. Senator Nunn stated that the volunteer force is on the "ragged edge." The news and magazine media, in turn, focus on stories of failure: after nearly five years without the draft it is not news to report that the military strength of the active forces is being maintained at authorized levels on a volunteer basis.

It is difficult for the public to sort out the facts from the opinions and the rhetoric.

Some of the recent difficulty comes from the reports, articls, and press conferences of Dr. William R. King, Professor of Business Administration at the University of Pittsburgh. King was employed as a consultant to Senator Nunn, who is Chairman of the Manpower and Personnel Subcommittee of the Senate Committe on Armed Services. King's basic study was published in February 1977 as a Committee Print of the Senate Armed Services Committee. The title is "Achieving America's Goals: National Service or the All Volunteer Armed Force?". In testifying before Senator Nunn's Subcommittee, King referred to the volunteer force as a "sinking ship which was increasingly costly to keep afloat."

Using the study prepared for Senator Nunn as a point of departure, the purpose of this article is to separate the facts from the opinions and the rhetoric in order to clarify the issues and to facilitate understanding. After all, there are good reasons to proceed with a careful examination of the problems of the volunteer force and a careful examination of alternatives, as Senator Nunn has suggested.

SUMMARY OF THE STUDY

There are two major parts to the study which Professor King made for Senator Nunn. One part discusses the status, problems and future of the AVF; a second part discusses the rationale, feasibility, costs and impact of national service.

There is also an introductory discussion of national goals and a brief discussion of other alternatives besides the "minimally coercive" national service plan recommended by Dr. King.

The conclusions of this study can be summarized briefly. The report states that there are serious questions that present voluntary military manpower policies meet or will meet national security needs and desirable social goals. According to the study, the best alternative to the All Volunteer Force would be a "minimally coercive" national service plan which would require young people to register, as they did for the draft, and to see a counselor in order to have their aptitudes and their work experiences "evaluated." The registrant could then voluntarily choose military service or some other government funded programs such as Peace Corps, Vista, Job Corps, Youth Conservation Corps, Neighborhood Youth Corps. The registrants could go to college, find a job, or "drop out," just as they may now do; they are not compelled to enter a national service program.

Dr. King's hypothesis is that both national security requirements and social goals could be better met through "minimum compulsion and maximum utilization of volunteers." But "minimum compulsion" could become

more coercive. According to King, the system should be implemented and evaluated, "using the draft if necessary to ensure that defense needs are met." King says that the evaluation of the minimally coercive system could be made carefully and deliberately before any transition to a more compulsive system, if such a system seemed to be desirable. Initially at least, the national service program would be "minimally coercive" but could easily become a fully coercive peace time military manpower system.

Volunteer force problems

Most of the discussion of present purely voluntary manpower policies covers the military manpower policies, not the civilian sector.

The report concludes that aggregate statistics show that the All Volunteer Force has been largely successful but states that there are problems and potential problems which could be solved by "minimally coercive" national service.

The problems differ in importance. Some of the problems, although real, would not be affected by moving to "minimally coercive" national service. Other so-called problems related by the study are mostly misperceptions which stem from faulty interpretation of data. Dr. King's diverse findings about the volunteer force have to be separately considered.

Cost

One of the major problems discussed in the study is the high cost of an expansion or mobilization of military manpower under volunteer policies. King concludes that the high costs of manpower would force a return to the draft in the event of a national emergency.

The study confuses the issue of military pay levels in event of mobilization with the question of whether voluntary or involuntary manpower policies would be followed.

Defense officials have repeatedly made clear their view that a large scale mobilization would require involuntary manpower policies. For example, former Assistant Secretary of Defense William Brehm fully discussed the subject of military manpower mobilization before the House Appropriations Committee in an open hearing in March 1976. The discussion clearly states that involuntary recall of the Reserve Components, as well as use of the draft, would be needed in the event of a future military emergency.

The involuntary manpower mobilization actions are required by the military considerations likely to be involved. The major consideration would be the need for rapid deployment. Required actions—involuntary termination of losses from service, involuntary recall of the Reserves, and use of the draft—would be the same whether manpower costs reflected the "cheap labor" costs which formerly existed under the draft or the competitive labor costs of the volunteer force. Congress would have to make a separate decision on the military pay policies which would be followed during a period of mobilization or during war time.

The manpower issues arising out of mobilization or war time operations are not clarified by citing the high cost of "defense manpower" or by citing the high costs of expanding the military force by voluntary military manpower procurement. The figures on "Defense Manpower Costs" used in the report are a broad "umbrella" of costs which add up to about half the Defense budget. The costs of the kitchen sinks in barracks are not included but it so happens, literally, that costs of the kitchen sinks in Defense family housing are included. Also included are the costs of civilian pay, half the costs of operating and maintaining military bases, the costs of individual training and other costs which are not governed by the method of procuring military manpower. Since Defense officials have made clear that we would not mobilize under voluntary policies it is not particularly revelant to cite estimates that it might cost as much as $67.5 billion to do so.

An explanation of the background of present military pay policies may be helpful. The present military pay policies are largely based on legislation enacted in 1969 to make military pay equal to civilian pay. In 1971, largely for reasons of equity, Congress amended the military pay tables so that military pay of entry grade personnel is equal to civilian pay. Prior to the establishment of the 1971 military pay tables by Congress, pay comparability had been largely limited to the military career force. The 1971 pay tables did away with the "cheap labor" of the draft. Until the draft ended in 1973, draftees were paid at the higher pay scales just as were volunteer enlistees. The 1971 pay increases for entry personnel facilitated ending the draft, but many Congressmen who favored the draft and opposed the volunteer force voted for ending the "cheap labor" military pay policy which had been one characteristic of the draft.

The manpower costs of full mobilization would indeed be high under a policy of equal pay for military service. One reasonable estimate, based on FY 1976 cost levels, is that $12 billion would be the annual cost for the military pay of nearly 1 million members of the Reserve Components, if they were recalled to Active Duty in an emergency. About $5 billion would be needed for the addition of another million of new personnel—mostly junior enlisted personnel who would enter through the draft. During a mobilization a "subsistence wage" or a "minimum wage" military pay policy would be cheaper. But equal pay has been accepted by Congress as a matter of equity for peace time military service. In time of mobilization or war the forces would be raised by involuntary methods, irrespective of the pay policies followed by Congress.

Quantity of recruits

The second problem discussed in the study is that the outlook for military recruiting is not perceived to be as favorable as it has been since the end of the draft. The problem is real but it is not insurmountable. Fortunately the Department of Defense has already begun to make contingency plans for a less favorable recruiting environment.

One factor which adversely affects the recruiting outlook is the population trend of young men of military age. Under U.S. Census estimates the population of 17–21 year old males peaks in 1978, declines gradually until 1993, and rises gradually after that. For the next five years, although declining slowly, the population of this prime age group is just as high as it was in 1975. Trends in the military age population alone do not compel immediate abandonment of the voluntary system. The male military age population does not fall below the 1975 level until 1983. After 1983 the decline in the population of young men of military age, especially if it occurs along with high youth employment rates, would likely result in unacceptable shortages of military strengths if nothing is done to avoid the shortages. The options for avoiding shortages, even under the "worse case," are discussed later in the section "Sustaining the All Volunteer Force in the Future."

Reserves

Another problem discussed in the King report is "the shortfalls and quality declines which have existed and are predicted to continue to exist in reserve forces." The shortfall, which currently is about 6.7% of authorized strength, needs to be corrected and current plans to reinforce Reserve recruiting, if approved by Congress, are expected to improve the situation. But the so-called "quality declines" are not a real problem.

The current shortfalls are a result of the relatively low priority accorded to the Reserve Components during the transition to the volunteer force. Active Force problems received greater attention. Through 1975 the Reserve Components were able to maintain strengths fairly well by enlisting large numbers of trained and experienced prior service personnel. The Reserve Components, compared to the Active Forces, had during the Viet Nam era much smaller proportions of Mental Category IV personnel (below average), smaller proportions of non-high school graduates, and smaller proportions of women among new personnel. After the end of the draft, the Reserve Components were able to expand their intake of non prior service personnel by enlistments from the Mental IV Group, from non-high school graduates, and from women. Partly, for these reasons, the resources for a full-time, dedicated, stable recruiting force were not provided to the Reserve Components in all cases and a system of enlistment incentives was not made available.

All Services have now requested resources which would enable a full time effective professional recruiting force to be in place in the Reserve Components by the end of FY 1978. Legislation to authorize payment of enlistment and reenlistment bonuses for the Reserve Components is under consideration. Such actions have proved effective in the Active Forces and they should result in the correction of recruiting shortfalls in the Reserve Components.

One factual error in the report concerning the Reserve Components should be mentioned. The quality of the Reserve Forces is described as "in clear contrast to the situation in the Active Forces where quality levels have held up reasonably well under the AVF." As a matter of fact, the quality of the Reserve Components' enlisted strength in March 1977 was on the whole higher than the Active Forces. The Mental Group I–III strength (average and above average) of the Reserve Components was 91.7% and the high school graduate, or above, content was 83.2%. This high quality reserve forces is attributable to the favorable quality enjoyed by the Reserve Components at the end of the draft and the high quality of prior service accessions, all of whom have successfully completed an Active Duty tour. Non-prior service accessions have not been as highly selected but they constitute less than a third of all accessions. At the present time we need not worry about the quality of personnel in the Reserve Components.

Race

The King report considers the number and proportion of blacks in the volunteer force to be another problem. The report says that blacks shoulder a disproportionate share of the "Defense burden" and that "this may have negative consequences to the society should war occur." The argument is one that is frequently heard despite the fact that black leaders have pointed out that voluntary military services provides an opportunity for blacks, not a burden.

There are a number of reasons for the increase in the number of blacks in military service. One is the higher increase in the black male population relative to white males. A second reason is that relatively more blacks can qualify for military service than was the case years ago. A third reason is that equal military pay attracts relatively more blacks because their alternate economic opportunities are not as great. A fourth reason is that the services do not discriminate against the enlistment of blacks. A high proportion of blacks in military service would continue to a large extent under a national service plan—as well as under a volunteer force—so long as the military offers more favorable opportunities to blacks than the civilian sector.

Military in civilian society

Another supposed problem of the volunteer force is the increasing role which is played in civilian society by the military. Not much factual evidence of this "increasing role" is

presented. The study cites the fact that the Armed Services Vocational Aptitude Test Battery was given to 1,500,000 high school students in schools whose officials request the test. This program was started in 1958. The Junior ROTC program, which dates back 60 years, is also mentioned.

There are about 1400 Junior ROTC units in secondary schools. These are the specific points made to support an argument that the sustainability of the volunteer force is in doubt in part because the public is expected to object to the "military establishment's role in civilian society" as a result of the volunteer force recruiting effort.

Readiness

Finally, the impacts of high attrition, trends in representation, the growth in non judicial punishment (minor offenses), sample personnel surveys of the feeling of soldiers about combat, and the lack of a standby draft are supposed to have such an adverse effect on military effectiveness as to leave the volunteer policy in doubt.

Professor King concedes that Defense officials have testified frequently that the forces are effective but he appears to discount this because "measurements are imprecise." In fact, there is a precise system for reporting combat readiness which is a much more reliable indication of military effectiveness than speculation about the effects of attrition, non-judicial punishments, trends in representation, and so on. For example, the Army has reported that as of January 1977, 100% of all major combat units of the Active Forces have achieved their personnel readiness goals under the Combat Readiness Reporting System, and are considered ready to perform their combat mission. This is a considerably higher status than existed at the end of the draft. There is little justification for an analysis to be speculative on the subject of military effectivenes, or combat readiness, because the present high state of readiness of the Active Forces is a matter of record.

Standby draft and the IRR

Defense officials have testified that there are two other problems of military manpower mobilization which need attention, and the King report also mentions them. The first is the lack of adequate standby draft machinery and the second is the strength decline in the Army's Individual Ready Reserve. Both of these are military manpower mobilization problems.

The old Selective Service System is now merely a planning agency. Its former Local Boards have been abolished and new procedures have not yet been developed to produce the rapid flow of draftees in the event of mobilization. The annual registration under a "minimally coercive" national service system would facilitate such a flow of draftees, but other procedures which do not require advance registration are being considered by Defense planners.

The Individual Ready Reserve, which is a source of replacements during war time, consists of service veterans, mostly those who have a remaining military obligation. The decline in strength of the Individual Ready Reserve is attributable to the longer terms of Active Force enlistment under the volunteer force; the ramaining obligation for most members who complete active service is shorter than it was under the draft.

The decline in Individual Ready Reserve strengths can be met by lengthening the duration of the enlistment obligation, extending the obligation of Reservists to age 28, or by other means. Some method other than a return to the draft can and should be developed to restore strengths in Army's Individual Ready Reserve. A "minimally coercive" national service plan such as Professor King describes would not automatically increase the strength of the Individual Ready Reserve if there were no change in terms of enlistment or in the length of the military obligation.

Social goals

Most of the diagnosis of the supposed deficiencies in the present "pure voluntary" plan is focused on the military considerations discussed above. The diagnosis of the shortcomings of present programs in meeting social goals is largely related to youth unemployment. According to the study, much of the youth unemployment problem is caused by lack of skills or unawareness of the meaning of work. National service programs would not only deal directly with the problem through creating jobs but also through programs that will motivate youth, give them educational and vocational competence and provide work experience.

The study briefly discusses vocational needs, medical needs and attitudinal needs of youth. According to the study, the vocational needs of youth include a need for vocational aptitude testing, a need for work experience, and a need of awareness. Only 50 percent of American 17-year olds have taken aptitude tests and only 16 percent have discussed the results with counselors. The "Minimally Coercive National Service Plan" would provide all youth the most elemental information which they need to make a vocational choice. The W.P.A. and C.C.C. programs of the 1930's are cited as ways to fill the work experience needs of youth by providing "richness and variety of experience."

Among those whose attitudinal needs would be helped by a "minimally coercive" plan are those who do not understand the "work ethic." Also, there are those who do not help others in any organized way, who are not able to identify ways to influence government action, or who are intolerant of popular views. Participants in national service would be given an opportunity to see national problems first hand and participate in group efforts at solving them.

This utopian state of affairs is brought about at a net additional cost of $8 billion dollars annually. The details of the "minimally coercive" plan are discussed later.

SUSTAINING THE VOLUNTEER FORCE IN THE FUTURE

As was mentioned earlier, there are a number of options for coping with the real military recruiting problems on a voluntary basis as the problems emerge. These options are far less costly than the "minimally coercive" national service plan.

Some of the major options for sustaining the volunteer force in the future are:

1. More productive recruiting and advertising would likely be sufficient to maintain future strengths in Navy and Air Force. The Air Force and Navy have high enlistment appeal and low accession requirements so that the costs of this option would not be great—probably less than $10 million annually for both services. Variations in the level of the recruiting effort have been a much more significant predictor of enlistments for all services than has the population variable, as measured by population shifts. But the diminishing yield from the addition of more recruits and advertising would preclude depending solely on this option for the Army: much higher costs would be involved.

2. Increased enlistments could be obtained from among high school graduates who score below 50 percentile on the entry test, despite the fact that enlistees from among this group are less preferred than those who score higher. The preferred group of enlistees consists of high school graduates who score above the 50th percentile (Mental Groups I–III). The supply of personnel in this preferred group is limited. If those who are not qualified and who are not available because they are in college are excluded, only about 6% of military age males falls in this sub-population. The enlisted force is remarkably selective since the services obtain about half of their enlistments from this preferred group. The non-preferred group, consisting of non-high school graduates and those who score below the 50th percentile on the mental test, tends to be demand limited. There is a larger supply of personnel in the non-preferred group than the services—who desire to maximize their selectivity—wish to accept. There are attrition costs and training costs associated with accepting more enlistees from the less preferred group, but the costs could reasonably be accepted in order to obtain an additional 20,000–30,000 enlistments annually.

3. Attrition rates could be reduced, leading to lower turnover and a reduction in the number of accessions needed. In varying degrees the services have moved to an "easy discharge" policy in the volunteer environment. One of the purposes is to maintain the selectivity of the force. Many Defense officials believe that a service member should be able to "volunteer out," as well as to volunteer to enter service. The consequence has been that the lower attrition rates expected in a highly selective volunteer force have not materialized. If the services told each new member that he was expected to fulfill the terms of his enlistment contract and helped him to do so, attrition rates could be lowered. If the Army, for example, could return to the attrition rates which existed prior to 1973, male accession requirements could be reduced about 15,000 annually.

4. The services could make greater use of civilians and military women, substituting civilian jobs and jobs for military women for positions which now utilize male military personnel. During the transition from the draft to the volunteer force, accessions requirements were reduced about 50,000 through greater use of civilians and military women as substitutes for male military personnel. The services are limited by rotation policies as to how far they can wisely go in this direction, but it is likely that substitutions of about the magnitude previously accomplished could again be accomplished.

5. The use of enlistment and reenlistment bonuses could be expanded to a limited degree, and in particular, Congress could authorize their use in the Reserve Components in order to help maintain the strength of the Selected Reserve.

In summary, it is very likely that the future combined effects of population declines and high youth employment could be offset by a combination of options which would reduce male accession requirements or increase the supply of personnel. The additional budgetary costs need not exceed $50 million annually, if prudent use were made of additional recruiting resources and bonus authorities. The King study dismisses this approach, which is correctly described as a "better managed A.V.F.", on the basis that it would require "a substantial change in the viewpoint and operating practices of some D.O.D. managers." Such changes in viewpoints and practices were necessary, of course, to end the draft over four years ago.

"MINIMALLY COERCIVE" NATIONAL SERVICE

Discarding a "better managed AVF," the study recommends a "minimally coercive" national service plan. In spite of the problems which he perceives, King concludes that the AVF era has demonstrated that volunteers can be attracted at reasonable costs and in reasonable numbers to sustain an AVF at current force levels but that "other inducements may be required if this is to continue into the future or if higher force levels need to be sustained at reasonable costs." The need for "other inducements" suggests the magical cure—"a voluntary program of service which would provide medical and vocational evaluation and diagnosis, as well as information on non military jobs to registrants." In this manner Dr. King links the military manpower con-

siderations to his social and economic justification for "minimally coercive" national service.

The suggested benefits of "Minimally Coercive" National Service are "evaluation, diagnosis, and counseling" so as to

(a) "Identify and assess the skills and deficiencies of young Americans,

(b) "Prescribe remedial or skill-enhancing activities which the individual may wish to consider,

(c) "Offer factual information concerning a wide range of service and training opportunities for which the individual may be suited,

(d) "Facilitate the channeling of resources into areas of national need, and

(e) "Provide the basic registration system and information which is essential to a 'back up' military draft."

The list sounds like an expanded employment service with some elements of a Selective Service operation.

The chapter on the feasibility and costs of national service gives some idea of the scope of the program. A Selective Service system, or a similar system would be established to register about 4 million young men and women each year. About 10% would be exempt or deferred, and about 50% would voluntarily accept one year of service commitment.

About 1.8 million a year would enter military service, or some other program. A cost factor of $4,100 per participant is used. The study is not clear on what, if any, cost of those who enter military service are included.

The current catalog of Federal Domestic programs involving youth is described in an appendix. Most of the programs would be continued under the national service proposal and are considered to be offsetting costs. Programs which are mentioned in the study as possible national service programs are:

Manpower Training and Employment Programs
Summer Youth Employment programs
Job Corps
Youth Conservation Corps
Peace Corps
Vista

The study recommends that the program be largely implemented through local and private volunteer and civic groups. The Boy Scouts, the American Red Cross, and the Civil Air Patrol are mentioned in this connection. The costs include $1,800 million for grants to such private organizations.

The annual costs of a "minimally coercive" national service system, as estimated in the study, are shown below:

Costs of "minimally coercive" national service plan

	Millions
Grants to private organizations	$1,800
Registration system	150
Salaries, maintenance and overhead	7,380
Other counseling, medical, etc	360
National administration	100
Additional military bonus, as needed	120
Less offsetting costs	2,000
Net additional cost	$7,910

Most of the costs appear to be in programs to alleviate youth unemployment. From the viewpoint of military manpower procurement, the chief flaw in the plan is its supposition that registration and counseling under "minimally coercive" national service would help enable military manpower needs to be met by volunteers. Dr. King is sufficiently confident that he proposes to cut recruiting resources by $350 million, reducing the military recruiting services below their size in 1970. The study assumes a far greater propensity for enlistment in military service in the future under the "minimally coercive" national service plan than has existed in the past. The study does not present a good case in favor of "minimally coercive" national service as a means of solving the problems of the volunteer force.

CONCLUSIONS

A "minimally coercive" national service plan which relies largely on annual registration and counseling as a substitute for a vigorous recruiting effort is not likely to meet military manpower needs. Whether the benefits of the plan are worth the estimated $8 billion of additional costs is largely a judgment of the social and economic considerations, not the military considerations.

Professor King would simply return to the peacetime draft if military manpower needs are not met. In discussing implementation of "minimally coercive" national service he says, "The system could be implemented and evaluated, using the draft as necessary to insure that Defense needs are met." At the present time, however, the military manpower situation does not require us to move to a policy which may take the country back to a peace time draft.

The volunteer force policy has provided highly selected military personnel on the basis of a policy of equitable military pay and other reasonable costs, mostly in recruiting. Sustaining the volunteer force will be more difficult in the future, but it can be done with good management, continuation of the present level of incentives in the Active Forces, Congressional support for modest increases in resources, (mostly for the Reserve Components), and a lot of hard work by the military services.

The Department of Defense could probably "live with" the competition for volunteers offered by a "minimally coercive" national service plan if military pay and other incentives were kept at present levels. By itself, however, the minimally coercive plan does not solve the basic problems of peace time military manpower procurement or the problems of a war time military manpower mobilization. There would be some advantages to the military services from an annual registration. If an annual registration were needed solely for military reasons it could be conducted at a cost of about $10 million annually. The additional $8 billion of annual costs of the "minimally coercive" plan are largely for the social and economic programs which the plan provides. If the plan is to be debated, it should be considered as an addition to the volunteer force for social and economic reasons, not as an alternative to it. From the standpoint of military manpower policy, there is no compelling reason to substitute the "minimally coercive" national service plan for the volunteer force.

RATIFY THE GENOCIDE CONVENTION THIS SESSION

Mr. PROXMIRE. Mr. President, last week Richard Holbrooke, Assistant Secretary of State for East Asian Affairs, stated that as many as 1.2 million Cambodians may have died since the Communists seized Phnom Penh in April of 1975. In testimony before a House International Relations subcommittee examining the status of human rights in Cambodia and Vietnam, Holbrooke maintained that:

The Communists have ordered or permitted extensive killings; forcibly relocated the urban population; brutally treated supporters of the previous government, and suppressed personal and political freedoms.

He concluded that:

We should speak out. You don't know what will be the impact of your words.

Mr. President, I could not agree more strongly with Mr. Holbrooke. We must speak out whenever any nation violates the human rights of its people. In the words of Charles Twining, a diplomat who recently returned from our embassy in Bangkok, it is a "moral imperative" to condemn any abridgement of basic rights.

I dare say that there is no more fundamental human right than the right of a people to exist. The crime of genocide is the most outrageous act that man can commit against his fellow man. Mr. President, I need hardly remind the Members of this body that the United Nations condemned genocide more than 28 years ago. It was in 1948 that the General Assembly unanimously endorsed the International Convention on the Prevention and Punishment of the Crime of Genocide. Yet in these three decades, this Nation has consistently failed to ratify the convention.

It is our duty as a free people to oppose all violations of human rights, no matter where in the world they occur. Let us finally join the 83 nations which already have ratified the convention. And let us do it this session. We have been silent for too long.

NATIONAL FAMILY WEEK

Mr. WALLOP. Mr. President, the American family is the basic structural unit of our society. From within each home the opportunity exists to instill a quest for knowledge, an understanding of human weakness, and an ability to distinguish between good and bad.

The family structure goes beyond that of parent and child and includes all relatives and loved ones. The American family provides stability, security, and morality in an otherwise unstable and unstructured world. The success of our country can only be measured by the well-being of its people.

The week beginning November 20 of this year includes Thanksgiving, a traditional American holiday. On this day millions of Americans celebrate with their families. Therefore, it is only fitting to establish a special time to commemorate the institution of the American family.

I urge my colleagues to support House Joint Resolution 372, authorizing the President to issue a proclamation designating the week beginning on November 20, 1977, as National Family Week, a week designed to preserve and promote the American way of life.

THE PIPELINE IS IN THE RIGHT PLACE

Mr. GRAVEL. Mr. President, as the consequences of the so-called oil glut on the west coast become more widely known, we hear increasingly, through statement or through implication, the assertion that Alaska's oil pipeline is in the wrong place. According to this view, the pipeline should have crossed Canada in order to reach oil-short markets in the East and Midwest States.

This assumpton underlay a recent editorial in the Washington Star called

"After Valdez." I challenged the assumption in a letter to the editor which was published August 1.

Mr. President, I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Washington Star, August 1, 1977]

LETTER TO THE EDITOR

How soon we forget!

A number of recent newspaper items, among them a Washington Star editorial, suggest that the Trans-Alaska oil pipeline is in the wrong place. They say the line should have crossed Canada, "to get the oil where it is needed."

This piece of hindsight overlooks several facts: (1) No trans-Canada route was seriously proposed when planning for the Alaska pipeline was underway; (2) Such a pipeline would involve great delays—it probably would not even yet be under construction; and (3) it is government mismanagement which has created the so-called oil glut on the West Coast and prevented the movement of Alaskan oil from the West Coast to the Midwest.

The argument over the Alaska pipeline in Congress took place in the late spring of 1973, a full six months before the Arab oil embargo focused our attention on the oil import problem. The issue at that time was not where the pipeline would be located, but whether it would be built at all. The dependence of the East Coast and the Midwest on imported oil was not widely appreciated, and there was no application before any government nor any plan by any oil company to move Alaskan oil through Canada.

Rather, the argument centered on environmental questions. In fact, the only suggestion for a trans-Canadian route came from environmentalistis, whose real purpose was to stop any line, Canadian or Alaskan.

The pipeline schedule had already been set back considerably by environmental court challenges. The prospect of an unending series of such challenges was what prompted me to offer the amendment, which passed by one vote, accepting the environmental studies that had been performed (more than $400 million worth) and authorizing the construction of the line.

The situation today, in which a proposed trans-Alaska natural gas line is in competition with two trans-Canada proposals, may tempt some to believe there was an alternative to the Alaskan route during the oil pipeline debate, but this was not the fact.

The case of the gas line is, however, instructive.

Canada has now been working for some time on its decision to allow or disallow a U.S. gas line through its territory. The problems involved—from native claims to Arctic engineering—are enormous. And if Canada's difficulties in resolving these problems today are any indication of what we would have faced with an oil line through Canada, construction of the oil line would not even yet be underway and North Slope oil would not reach any market before 1983. The Alaskan oil that will in fact reach markets via Valdez, Alaska, between now and 1983 will be worth some $30 billion, and that oil will reduce our imports and hence our balance of trade deficit.

The point here is that even had the trans-Canada route been a viable alternative in 1973, it would not necessarily have been the better choice. It would have brought the oil to the Midwest, but probably only after great delay and at a resultant high cost to the nation.

Even more important here is a final point: North Slope oil delivered through the trans-Alaska line could be reaching the East Coast and Midwest this year (cheaper than through any hypothetical Canadian line) were it not for government mismanagement. The "oil glut" is a product of misguided energy policy.

A surplus gas pipeline already exists between Southern California and Midland, Tex., that could easily be connected with oil lines to the Midwest and Northeast. In July, 1975, the Sohio oil company proposed converting this pipeline for oil transportation eastward from the Port of Long Beach. The construction of some 288 miles of new pipe would be necessary, in addition to building terminal facilities, all requiring about two years. In this way, as much as a million barrels a day of Alaskan oil, landed in California, could move to the Midwest. The Sohio proposal has been held up by the Federal Power Commission and the State of California.

Another existing pipeline is proposed for conversion by ARCO. This is the Trans-Mountain line between Cherry Point, near Seattle, and Edmondton in Alberta, Canada. From Edmonton, Alaskan oil could be shipped via the Interprovincial Pipeline to Montana, North Dakota, Minnesota and the Chicago area. It could handle 950,000 barrels of Alaskan crude per day by 1981, ARCO says. Its future is currently in doubt because of an action by the Washington legislature prohibiting the construction of a necessary superport.

To sum up: Alaska's crude oil may be especially needed in the Midwest, but that doesn't mean a trans-Canadian line would have been the answer. There was no reason to believe in 1974 that Alaskan oil could not reach Chicago by way of Valdez and the West Coast—unless one took a very jaundiced view of the government's ability to make energy policy.

Events since that time reflect not on the location of the pipeline but on the unsound decisions the government has made.

DON'T DELIVER ISRAEL

Mr. PACKWOOD. Mr. President, in the wake of Prime Minister Begin's successful visit to the United States one fact is perfectly clear: Israel's new Prime Minister is an erudite and articulate spokesman for the justice of Israel's cause and the reasonableness of Israel's need to maintain defensible borders.

Mr. Begin came to the United States with a simple message—a full and lasting peace can best be obtained in the Middle East by face-to-face negotiations between Israel and the Arab States. It is a message which President Carter must heed. Certainly, now is not the time for the United States to continue its attempts to force concessions from Israel before any negotiations have ever begun. To do so will only give hopes to the Arabs that the United States will provide them with victories that they were unable to win on the battlefield.

A recent article in the New Republic entitled "Don't Deliver Israel" emphasized graphically this important point—

Peace is best made between those who have been at war with one another. It's an ancient way of settling disputes; it may be the only way. The US can serve as middleman or intermediary; it should not be a surrogate for the Arabs.

I strongly believe, Mr. President, that peace will come to the Middle East only when the Arabs are willing to establish over the negotiating table a meaningful dialog with the State of Israel. Until that day, the United States must continue its long and firm commitment to the people of Israel and resist the temptation to try to impose a settlement which in the long run will be unsatisfactory to Israeli and Arab alike.

Mr. President, because many of our colleagues may not have had an opportunity to read the excellent article from the New Republic which I mentioned before, I ask unanimous consent that "Don't Deliver Israel" be printed in the RECORD. I believe it provides an extremely perceptive look into the impact that the recent Begin-Carter talks may have on the chances for peace in the Middle East.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DON'T DELIVER ISRAEL

A few weeks before Prime Minister Begin's recent visit to the United States, a seasoned diplomat predicted that his talks with President Carter were "doomed to success." And they did succeed. The ominous shadows that hung for long months over American-Israeli relations suddenly seem to have passed. Carter declined to preside over the witches' sabbath that Dr. Brzezinski had been planning as an occasion to dance around the Israeli leader and frighten some "sense" into him. Carter could ill afford such a self-indulgence, either in Congress or in public opinion. Begin left for home strengthened by a personal triumph which inevitably will add to the political capital of his country in the diplomatic struggles ahead. Whether or not you believe the pro forma claims of authentic rapport with Carter himself, Begin did persuade some people anew of the justice of Israel's cause and the reasonableness of her strategic case.

A triumph might be there for our President too, if he can continue to resist his own missionary impatience and the corollary temptation to impose some tidy formulae and fanciful maps on the good reasons of history. It would be a modest victory for peace if the Arabs were to realize at last that there are no short-cut American alternatives to the painstaking process of direct give and take with Israel. With Carter's enthusiasim for making a deal in the Middle East—just about any deal, it sometimes appeared—the administration had led the Arabs to believe that they have only to negotiate with the United States to get what they wanted from Israel—and what they want is something they couldn't win on the battlefield and wouldn't win at a real peace conference.

The Arabs have demanded from successive American Presidents that they deliver up Israel. The danger is that Carter sometimes seems on the brink of doing just that, under the mistaken impression that he is delivering Israel in the more flattering biblical sense. Henry Kissinger had never called for a return to the pre-1967 borders, knowing them to be indefensible. He never sought a way to help create a PLO-dominated state, knowing it to be a point of entry for the Soviets and a base for violent irredentism. On March 16 in his talk to the townspeople at Clinton, Massachusetts, Carter outlined a peace plan that addressed both Israeli fears and Arab ambitions. We were gratified by his approach (see TNR April 9, 1977). But within weeks he was diminishing the meaning of "full peace," which is what Israel wants, and eviscerating his suggestion of defense lines beyond formal borders, which is minimally what Israel requires. Security Council resolutions 242 and 338, which remain the only internationally sanctioned bases for negotiations, recognize explicitly this fundamental need for secure frontiers. An invitation to capitulation is the only message the Arabs could have read from Carter's ensuing relentless pressures on Israel for particular and barely reciprocated concessions in advance—and almost in lieu—of negotiations.

Begin drove the point home: Israel will not participate in such a scenario. We should be grateful to him. By refusing his cooperation in this venture Begin has lifted an enormous burden off American shoulders. If Israel were to have knuckled under to an American diktat that made its borders more vulnerable to attack and inviting to terrorism, the US would have added to its longstanding ethical and political commitments to Israel an obligation for the military defense of the Jewish state. Most Israelis do not want us to have such responsibilities; and many do not believe that, even in the most fateful extremities, we could be counted on to meet them.

Whether they are right or wrong on this score is irrelevant. Peace is best made between those who have been at war with one another. It's an ancient way of settling disputes; it may be the only way. The US can serve as middleman or intermediary; it should not be a surrogate for the Arabs. If Jerusalem and Washington had to agree on a common position before official talks began, the Israelis would already have made concessions to the Arabs on behalf of America's perceived interests where it barely reached the table at Geneva. Under such circumstances, Israel would be forced to negotiate its positions not only with the State Department, but with the television networks and the news magazines. After these warm-up sessions, the Israelis would face the critical partners in any settlement, the Arabs, whose further demands would be fully backed to just about every extreme by mischievous Moscow. (The Russians don't really have to be serious. Their clients in the area are the madmen: Libya, Iraq and the PLO.) There is already too much asymmetry in the Arab-Israeli conflict: the asymmetry of numbers and geographical size, of wealth and influence, of allies and of stakes. The peace process should not be a way to increase the imbalance. (That doesn't faze Senator McGovern, who said last week, in a scarcely veiled threat to Israel, that international pressure would not allow any party to withstand the momentum for a settlement. What kind of settlement he didn't say. He may not even care. Munich was also a settlement.)

It is easy, then, to understand why Israel was leery of a renewed Geneva Conference. Nevertheless, to Carter's yen for Geneva Begin agreeably brought a target date of October 10. Apparently the President now understands that Israel will be more flexible and willing to take risks if her cards have not already been played by the Americans.

Apparently, the President also understands the ground rules of the Geneva talks, which stipulate that there are to be no new participants in the discussions without the assent of every previous participant. So Israel's legal right to deny a role to the PLO is unchallenged and unchallengeable. But it is not simply because of legal properties that President Carter, Secretary Vance and Dr. Brzezinski should abide by their agreement with Begin on PLO non-participation. It would be another breach of trust if the administration were to style some fatuous disguise which might allow the PLO in at Geneva after all.

The case against the PLO as a party to the talks is the case against the PLO as a party to any settlement. Even if this fractured and murderous rump suddenly were to cease its holy war rhetoric and publicly revoke its historical commitments, there would be no reason to believe that its essential purposes had changed or that an agreement would be anything but a new stage for its war against Zionism. Words, gestures, meanings are fluid in the Arab world. One day's embrace easily gives way to another day's killing. Fortunately the PLO has the virtue of public candor; it is only that self-styled peacemakers prefer to heed the private whispers and ignore the slogans reiterated to the Arab masses. Representative Lee Hamilton, for example, goes to the Middle East and Arafat hints to him that Israel is a fact. That's all Hamilton has to know. He jets back to counsel Israel on whom it should welcome as a neighboring government. But the PLO undermines these interlocutors even as they enjoy their moments in the limelight. An anointed moderate on the PLO's national council, Dr. Fayez A. Sayegh, denied in an article in the Boston Globe of July 24, 1977, "the right of Israel to exist as a Jewish state" and went on to demand "Palestinian statehood in Mandated Palestine . . . PLO homes inside Israel . . . a pluralistic society of Israelis and Palestinians in a reunited Holy Land." It's not quite a coherent proposal, but its fundamental character is evident. The details can be worked out later; Lebanese Christians, for example, might be called upon to testify as to the PLO definition of a pluralistic society.

And why precisely the PLO, or rather, why not? With heady victories at Rabat and in the UN, the PLO still does not, as David Payce-Jones wrote in these pages three years ago, (TNR, August 31, 1974) even "go through the motions of recruiting a mass movement." The PLO has never engaged Israeli military forces in battle, either in Israel or in the territories. Its ribbons are won in crowded markets, schools, airports; its victims all are civilians, indiscriminate and innocent targets. Expelled from Jordan, kept out of Syria, defeated in Lebanon, despised just about everywhere else in Islam, Arafat's ragtag army of extremists remains the convenience of the other Arabs and the best hope of the Soviets. Compare the PLO with the NLF in Vietnam, the FLN in Algeria, the Hagannah in pre-independence Palestine: it is a national liberation movement only if the Baader-Meinhof gang is as well. The active presence of the PLO at Geneva would preclude a meaningful agreement there. Even Sadat now seems to acknowledge that. Hussein knows it best of all, whatever throwaway lines he uses to keep Arafat off balance and himself in agreement with the official Arab line.

If the Arabs really want to test Israel's will to peace, Begin has given them the opportunity to do that. And if not in Geneva, in direct or proximity talks anywhere. Israel is anxious to test the Arabs' will to peace also. The ball is now in their court. If they do not take it we will know they are not yet ready for peace. We should not be surprised if that turns out to be the case.

If negotiations actually do take place, however, the focus will not be on the Arabs alone. Israel will have to demonstrate its willingness to withdraw on all fronts. The extent and the timing of the withdrawal in the Golan and in Sinai will be among the easier points at issue. Israel is open to a large scale pullback if the Arabs will demilitarize the areas and make other specific moves toward normal relations and peace. Much more vexing, however, is the West Bank. There, historical and strategic considerations make Israeli withdrawal more complicated. But it is a first principle of a just peace that many hundreds of thousands of West Bank Arabs not be obliged to live under permanent Israeli occupation. There may well be justice to the claim that Jews should not be forbidden to live in areas of the West Bank where they had lived from ancient times until the riots of the 1920s and 1930s, in some places; and until the 1948 war of independence, in others. These rights are coextensive with the rights of Arabs who live now in Jaffa, Haifa, and the Galilee. That is about all that can be said for settlements beyond the 1967 lines. In the present circumstances, any new settlement is an obstacle to negotiations for the secure and recognized borders which Israel seeks.

There is nothing to commend a third state between Israel and Jordan. It is a contrivance that would not solve the Palestinian problem. It would, however, provide a broader base on which the problem could fester and explode. None of this can be said about an agreement about the West Bank between Israel and Jordan, where the greatest proportion of the Palestinians already live. Foreign Minister Moshe Dayan already has indicated Israel's willingness to turn over civilian administration of the West Bank to Jordan. That is the essence of self-determination, an attribute of politics and not of empty deserts. With that as a given in the talks, it should not be intrinsically difficult for Amman and Jerusalem to make the kind of territorial and security arrangements needed for Israel to keep Arab tanks and planes from waging war on her people.

At best, however, all of this is likely to be a long process, with periodic interruptions and frustrations. It is particularly important that the US, and President Carter particularly, not lose patience when the inevitable impediments appear. The President's measured response to the approval by the Begin cabinet of three settlements begun during the Rabin years is a sign that he is no longer looking for a quick fix.

If Carter can keep his own hopes down, and his disappointments in perspective, he may well get Arab and Jew to sit together in search of peace. That would be a truly extraordinary achievement.

THE LONG ISLAND SOUND HERITAGE

Mr. RIBICOFF. Mr. President, on August 1 I introduced S. 1968, which authorizes the creation of the Long Island Sound Heritage, an expanded system of parks, beaches, and wildlife areas in Connecticut and New York. The response to the proposal has been very encouraging. Inquiries have been received about the possibility of adding sites to the 15 which have been proposed for initial inclusion in the heritage.

The editorial support which the Long Island Sound heritage bill has received is particularly welcome. The Hartford Courant observed that—

If more people can enjoy the natural resources, experience the scenic beauty and view the wildlife of the area, there will be great public interest in preserving Long Island Sound.

In a very perceptive editorial the New Haven Register aptly observed that the sound is "a resource that gives Connecticut a special heritage, a natural resource that makes for a quality of life enjoyed by rich and poor alike." In supporting my bill and commenting on the need to save the sound, the Register also stated that—

The proposed Long Island Sound Heritage project seems a good way to get moving on this urgent environmental need.

Mr. President, the unique location of Long Island Sound is the source of both its value and its vulnerability. Its salt water and shorelines are treasures to be carefully guarded in the heart of the industrial and urban Northeast.

I ask unanimous consent that the two editorials to which I referred as well as recent news articles on the Long Island Sound Heritage bill be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Aug. 3, 1977]

PRESERVING THE SOUND

Senator Ribicoff has proposed an important step toward preserving the beauty and wildlife of Long Island Sound through an ex-

panded system of public parks, beaches and conservation areas in Connecticut and New York.

The Senator pointed out that the sound, with its 1,300 square miles, is the largest protected saltwater harbor area available to the country, and that it is "situated in the midst of North America's greatest population center."

This location, however, is at once the source of its problems—the greatest of which are pollution and unplanned development—and the reason why the sound needs a plan of preservation. If the need to protect the natural resources and beauty of the sound are balanced with wise development, the area can be preserved and improved as a major economic and life-enriching resource for the more than 12 million people who live near it.

Senator Ribicoff's bill, introduced Monday, would establish the expanded parks and beaches system under the designation, "Long Island Sound Heritage." It would provide $50 million in federal funds for as much as 75 percent assistance for state and local acquisitions and development in 15 areas which have what he calls "particular recreation, conservation and scenic opportunity." Nine of the areas are in Connecticut; six in New York. Most of the sites are already publicly owned parks or conservation areas, but would be improved if local, state and federal officials decided they should be protected under the Heritage legislation. The Interior Department would oversee the continuing maintenance.

The Heritage concept was the principal recommendation made by the New England River Basins Commission after a four-year study of the sound. The recommendations include proposals for attacking pollution and other problems of the sound.

The Ribicoff bill is key to the success of the other recommendations. If more people can enjoy the natural resources, experience the scenic beauty and view the wildlife of the area, there will be greater public interest in preserving Long Island Sound.

Daniel Webster called it the "American Mediterranean." Senator Ribicoff calls it the "catch-basin for urban wastes." Let's return to Mr. Webster's definition.

[From the New Haven (Conn.) Register, July 31, 1977]

A VITAL 'SAVE THE SOUND' BILL

A few years ago, the expression "Save the Sound" was a familiar one to Nutmeggers. It came into prominence about 1970 when Sen. Ribicoff, mindful that the Sound was on the brink of sustaining irreparable damage, launched a campaign to preserve and protect this most valuable and scenic body of water.

The cry of "Save the Sound" was lost while the quiet, hard, practical work of devising a plan of action was carried out. But the goal has been retained and once again comes to the forefront.

It's time to revive "Save the Sound" spirit. And Sen. Ribicoff has hit upon the vehicle that can do it meaningfully—the Long Island Sound Heritage bill that he will introduce tomorrow. It provides for an expanded system of parks, beaches and wildlife areas in Connecticut and New York. Fifteen sites in the two states are proposed for initial inclusion in the Heritage project.

The conservation program envisioned in the legislation would be a vital, concrete culmination of extensive groundwork that has been laid. The effort started in 1969 when Ribicoff introduced legislation that led to a comprehensive study of the Sound and its shoreline. Hearings were held in many parts of the state and a sordid picture emerged. The deterioration of the Sound was documented.

What Daniel Webster had described as the "American Mediterranean" had become an urban sea that was fast degenerating.

It became obvious that unless a plan was developed, the quality of life along the shores of Southern Connecticut and Northern Long Island was menaced. What marshlands remained, the ecologically fragile wetlands and various rare species of waterfowl were in danger of extinction. There has been water pollution, shoreline erosion, and loss of open shoreline space as private and public development was pursued carelessly by companies, municipalities and the states.

It was plain enough that something had to be done to save the Sound for the more than 12 million people who live near it. And in 1971 a plan of action was initiated by the New England Riber River Basins Commission. After four years of study, the commission produced a blueprint that could "Save the Sound"—more than 600 recommendations for guiding shoreline development.

Since the commission crystallized its plans, a period of uncertainty has set in. What with states, towns, cities and the federal government involved, it's difficult to know precisely how to proceed so that the many fine recommendations can be implemented.

The proposed Long Island Sound Heritage project seems a good way to get moving on this urgent environmental need.

The Heritage project is one of the key recommendations of the Long Island Sound Study. Under the project, the federal government would provide a fund infusion of $50 million to help reverse the trend of pollution and misuse and enhance the Sound's economic, recreational and esthetic potential.

Federal action in this matter is justified because the Sound is an interstate natural resource. Nevertheless, the bill recognizes the fact that the success of the Heritage project requires a close working relationship between Washington, the states and the local communities. The federal government would supply up to 75 percent assistance for state and local acquisition and/or development of areas that offer opportunities for recreation, conservation and esthetic satisfactions.

On paper, the Heritage project sounds great. It offers a chance to improve and expand such areas as Stony Creek Quarry and Faulkner's Island in Guilford; Lighthouse Point Park in New Haven; Silver Sands State Park in Milford and a number of other excellent sites in the state. But much depends upon the willingness of local and private interests to go along with the details.

It will be recalled that Sen. Ribicoff pushed elaborate plans for creation of a national park along the Connecticut River almost ten years ago. But local opposition greatly curtailed that visionary program. Residents of the river area feared an influx of tourists, with heavy traffic, and the possibility of commercial type of recreation. But the idea did not go for nought. A conservation zone along the banks of the Connecticut was created by state legislation, with millions of dollars appropriated to purchase scenic easements and development rights along the waterfront.

The tangle of local taxes, state and regional interests, to say nothing of private-property rights, will undoubtedly present a formidable obstacle to the Heritage undertaking—presuming Congress passes it. No time should be lost in developing the best methods to acquire, improve and maintain properties.

In partnership, the federal government, the states, the communities near the Sound, and private interests, can indeed "Save the Sound." From every aspect it's worth saying. It's a resource that gives Connecticut a special heritage, a natural resource that makes for a quality of life enjoyed by rich and poor alike.

[From Newsday, Aug. 2, 1977]

A SOUND PLAN FOR TWO STATES TO BUILD ON

Like a row of tent stakes, the numbered locations on the map in Newsday stretched along the North Shore and the Connecticut coast. If those "stakes" were driven in to stay, they could put a protective shelter over Long Island Sound.

There are 15 of these sites: state parks, islands, beaches, marshes and woodlands. Some of them are tiny; others cover hundreds of acres. Together they would be recognized and preserved as a "Long Island Sound Heritage" under a bill introduced yesterday by Senator Abraham Ribicoff (D-Conn.).

The project is intended to protect and even add to the 20 per cent of Sound shoreline that remains public property. Not the least of its attractions is the opportunity for the people of Connecticut and Long Island to work together—an old habit whose recent decline has helped complicate the Island's transportation problems. But Ribicoff's general plan, developed out of a long study by the New England River Basins Commission, also raises immediate, practical questions.

For instance, the bill envisions recreational, residential and commercial development of the Port Washington Sand Pits. In theory that's splendid. But it will be expensive—as costly experience with condemnation has already shown.

Skepticism in these cases is essential. It wasn't until last year that Congress finally provided $2 million for the Fire Island National Seashore, after a $16 million federal fanfare 12 years earlier. The same pattern—initial enthusiasm and subsequent stalling—has been apparent with Gateway National Park in Queens.

That need not happen on the Sound. Long Island planning officials are pleased with Ribicoff's general plan, and they're prepared to recommend other Nassau and Suffolk sites for acquisition under the program. They deserve special attention at hearings on the legislation; numerically, at least, Connecticut is ahead on sites, and it would be fatal if the bill became known as some kind of a federal bailout for Ribicoff's home state. With careful planning and plenty of input from the four New York counties affected, a genuinely cooperative plan can evolve.

[From the New York Times, July 31, 1977]

CONGRESS TO GET PLAN FOR THE SOUND

(By Edward C. Burks)

WASHINGTON.—Fifteen recreational areas along the shores of Long Island Sound—just so many flyspecks on most maps—will become pearls on a strong new necklace of Federal financing if Senator Abraham Ribicoff of Connecticut gets his new bill through Congress.

If that kind of language sounds fancy, well, why not? The whole concept, incorporated in new legislation to be introduced here tomorow, has been given a fancy title by the Senator and by area planners, including the New England River Basins Commission. They want to create a Federally owned and Federally supported system of protected parks, beaches and wildlife areas from the 15 sites and dub the whole works "the Long Island Sound Heritage."

The scattered sites—nine in Connecticut and six in New York State—range in size from tiny islands with little development to beaches and state parks as large as 800 acres.

The bill would require the Interior Department, which operates the national park system, to develop within a year plans for the acquisition, development, protection and administration of the 15 sites.

Although the Federal government would be called on to buy or receive the sites as donations, they would then be administered by state or local agencies with Washington

contributing up to 75 percent of these administrative costs. For 1978—the first year—the Ribicoff bill would provide for spending $50 million in Federal funds for these various costs.

The initial unofficial reaction of the Interior Department was that the Ribicoff scheme was very fancy indeed and a very expensive proposition. It was not, officials of the agency said, the kind of legislation that the department would be eager to participate in. The bill probably will have a long and stormy course through Congress, and probably will be subject to substantial modification. So much for initial unofficial reactions.

Senator Ribicoff is obviously aware of the reluctance of the Department of the Interior to assume such a tough task. Scattered pearls on a necklace are frequently much more expensive and difficult to maintain than a big, sprawling national park. For one thing it is very difficult to keep the small recreational areas from being blighted by uncontrolled commercial zones and pollution in immediately adjacent areas.

It is also clear that the department does not like being considered a dumping ground for park projects too expensive or difficult for states to maintain.

But Senator Ribicoff feels he has a trump card. In an environmental message in late May, President Carter spoke of the need "to acquire and protect our natural and historic heritage." The President emphasized rapid acquisition of the "most significant and endangered areas."

Mr. Ribicoff feels that Long Island Sound, described by Daniel Webster as "the American Mediterranean" and now threatened with pollution of its waters and shores, is an ideal candidate for the kind of protection mentioned by the President.

He sought the recommendations of state and local officials in Connecticut and New York before introducing his bill.

In remarks prepared for delivery on the floor of the Senate tomorrow when he introduces his bill, Mr. Ribicoff wrote:

"I believe that the Long Island Sound Heritage is precisely what Mr. Carter has in mind. Long Island Sound is at a critical turning point in its centuries-old history. It can no longer be ignored or abused by the people who live and work along its shores or who govern activities related to it. The long Island Sound Heritage is a first step but an important one in reversing public and private indifference to the future of the Sound."

The 1,300 square miles of Long Island Sound separating Connecticut and Long Island represent a unique study in contradictions, according to Senator Ribicoff. "On the one hand," he wrote, "it is a popular area for swimming, boating and sport fishing; on the other, it serves as a catch basin for urban waste. In some locations, the Sound is bordered by industrial harbors and decaying waterfronts, while elsewhere there are bright, clean beaches and scenic areas of magnificent beauty."

His bill is in line with a recommendation of the four-year Long Island Sound Study that was conducted by the New England River Basins Commission and included a series of hearings in both Connecticut and New York.

Essentially the bill provides for protecting and developing the sites, expanding them or adding more of them, and giving them better public access, including development of mass transportation. The concept is somewhat akin to the Gateway National Recreation Area project in New York and New Jersey at the entrance to New York Harbor.

As a starter for the proposed Federally supported "heritage," Mr. Ribicoff's bill suggests these 15 general sites:

CONNECTICUT

Bluff Point State Park in Groton, 806 acres, including 100 acres of salt marsh, shellfishing areas and forest preserve.

The Ram, Dodges and Andres Islands, a single site, in the Mystic Island group off Stonington.

Rocky Neck State Park in East Lyme, 708 acres including beach, hiking and camp sites plus areas for fishing and scuba diving.

Stony Creek Quarry and Faulkner's Island off Guilford.

Lighthouse Point Park in New Haven.

Silver Sands State Park in Milford.

Pleasure Beach in Bridgeport, Long Beach in Stratford and the Great Meadow wetland complex in that area, the three adjacent facilities constituting a single "site".

Sheffield Island and Chimon Island off Norwalk.

Sherwood Island State Park in Westport.

NEW YORK

David's Island off New Rochelle in Westchester County.

Fort Totten in Queens.

Hen Island near Rye in Westchester.

The Port Washington Sand Pits in Nassau County.

Caumsette State Park in Suffolk County.

Roanoke Point in Suffolk.

Under the Ribicoff bill, Congress would set up the Long Island Sound Heritage to restore, preserve and protect areas "reflecting the unique natural and cultural heritage of the region."

Within a year of the bill's enactment, Secretary of the Interior Cecil D. Andrus would be required to formulate detailed plans for the "heritage." This would be done with the cooperation of Connecticut, New York State, affected local governments, Federal and regional agencies, and conservation and environmental groups. On-site public hearings would be conducted.

The plans would contain precise delineations of the areas, proposed uses, and provisions for public access and mass transportation where appropriate. The Interior Secretary can acquire land through donation or purchase. He could then enter into agreements with Connecticut, New York and local governments for them to administer, operate and maintain areas within the "heritage."

Financial help, including grants of up to 75 percent of the cost of administering the areas, would, under the plan, be made available by the Federal government. The bill would provide for "open-ended authorizations" after fiscal 1978.

Citing the Long Island Sound Study findings, Mr. Ribicoff said that Federal help was needed to protect and "wisely develop" the Sound and its shorelines as a major economic and life-enriching resource for the more than 12 million people who live near it.

And finally he used the words of the late poet, Mark Van Doren, to sum up the situation, writing about the Sound, Mr. Van Doren said:

"All such glories must be preserved, and if damage has already been done to them, they must be restored as nearly as possible to their original state. The beauty of beaches is nothing slight; it is solid, it is substantial, it is health and wealth and life itself for millions of people who have every right to take its natural continuation for granted."

[From the New Haven (Conn.) Register, July 31, 1977]

$50 MILLION UPLIFT OF SHORE PARKS URGED—RIBICOFF PRESENTATION SCHEDULED FOR MONDAY

Legislation to create 15 public parks, beaches and wildlife areas on both sides of Long Island Sound will be introduced in Congress Monday by U.S. Sen. Abraham A. Ribicoff, D-Conn.

Ribicoff, long identified with efforts to preserve the 1,300 square miles of the waterway surrounded almost completely by Connecticut and New York shorelines, will be filing his Long Island Sound Heritage Bill exactly two years and four days after completion of a massive study by the New England River Basins Commission.

It calls for $50 million in federal funds to assist states and local governments in acquisition and initial development of the 10 sites in Connecticut and five remaining properties in New York City and Long Island.

The 15 Long Island Sound Heritage units are a key element in the recommendations outlined by the New England River Basins Commission in its study which took nearly four years to complete and cost $3.5 million.

Among the 10 Heritage units in Connecticut is Lighthouse Point Park in New Haven where efforts would be made for acquisition by donating or purchase of flood-prone land, along Shell Beach, development of a half-mile section of beach, 500 picnic sites and provision for future ferry service to downtown New Haven.

Other portions of the Heritage plan as outlined in the commission study, created under legislation authorized by Ribicoff in 1969, include expansion of Rocky Neck State Park in East Lyme, development and expansion of Silver Sands State Park in Milford, additional improvements at Pleasure Beach in Bridgeport and purchase of Stony Creek Quarry in Branford.

Faulkner's Island, three miles off the Guilford shoreline, would be preserved as a "single, interrelated casual recreation resource." Fire destroyed the U.S. Coast Guard station and disabled the adjoining lighthouse signal equipment on the rocky outpost in March, 1976.

Other Heritage units would be located at Bluff Point State Park in Groton, Ram Dodges and Andres Islands in Stonington, Sheffield and Chimon Island in Norwalk, where the River Basins Commission study was unveiled July 28, 1975, and Sherwood Island State Park, in Westport.

The five units on the New York side of Long Island Sound, which Daniel Webster once referred to as "the American Mediterranean," include Fort Totten, in Queens, Hen Island in Rye, David's Island in New Rochelle, Port Washington Sand Pits in Nassau County, Caumsett State Park, also in Nassau and Roanoke Point in Suffolk County.

Ribicoff's bill will serve primarily as a target for consideration by state and local authorities and does not advocate immediate acquisition of the Heritage sites at this time. They are based on recommendations in the River Basin Commission study, the culmination of 30 public hearings on both sides of the Sound.

Additional on-site public hearings are scheduled during the next session of Congress, starting in January, Ribicoff said in a telephone interview.

The actual plan "could really start moving" in 1979, the Democrat hopes.

The $50 million in his bill, Ribicoff said, will cover 75 per cent of future land acquisition and initial administration with Connecticut contributing an estimated $10 million and New York $7 million in the first phase. He had no estimates on what additional funding would be required.

The U.S. Department of the Interior will be responsible for purchasing those properties not donated and enter into agreements with local and state officials on the administration and maintenance of the various Heritage sites.

In his prepared remarks to the Senate, Ribicoff notes that Long Island Sound, a popular 90-mile-long body of water located in the middle of North America's greatest population center represents a unique study in contradictions.

"On the one hand it is a popular area for swimming, boating and sport fishing; on the other it serves as a catch basin for urban waste," he noted. "In some locations the Sound is bordered by industrial harbors and decaying waterfronts while elsewhere there

are bright, clean beaches and scenic areas of magnificent beauty," the senator continued.

The Sound, Ribicoff predicted, is "on the brink of suffering irreparable harm."

The shores bordering the once rich and fluid extension of the Atlantic, now an urban sea sustaining only algae and similar growth in some locations is also menaced, he said.

"The remaining marshland, the ecological fragile wetlands and various rare and endangered species of waterfowl (such as Terns, Ibis, Egrets) are in even greater danger," Ribicoff asserted.

Among the other major recommendations outlined in the River Basin Commission study were:

The spending of $3 billion in federal, state and local funds to reclaim water quality in Long Island Sound with a 1990 target date, through meaningful land management in coastal zones and neutralizing current and future pollution from storm water and sewage drainage through new treatment facilities;

Consolidation of oil import terminals to reduce the hazards of pollution from oil spill mishaps.

Cleaning up present harbor debris such as rotting piers, barges in New Haven and other ports around the Sound by the year 1985 in addition to moving industries which do not relate to waterfront activities, further inland;

And formation of a management group to follow up the 600 study recommendations. The two-state management group has not been formed to date.

[From the Bridgeport (Conn.) Post, July 31, 1977]

RIBICOFF PROPOSES HERITAGE AREA

(By Herbert F. Geller)

Four recreation and open space properties in southwestern Connecticut are among 15 sites proposed by U.S. Sen. Abraham Ribicoff, D-Conn., for inclusion in a Long Island Sound Heritage area which would be an expanded system of parks, beaches and wildlife regions in Connecticut and New York.

Senator Ribicoff announced he will introduce legislation in the Senate tomorrow to authorize the creation of the Heritage area.

Sites in this area include Pleasure Beach in Bridgeport, Long Beach in Stratford and Great Meadows area of Stratford, all considered one site because of their close proximity to each other. There is also Silver Sands State park in Milford; Sheffield island and Chimon island, two of the 16 Norwalk islands, and Sherwood Island State Park in Westport which includes a beach and wetlands area on Mill creek.

Senator Ribicoff's bill would allow the Secretary of the Interior to acquire the sites through donation or purchase if it is decided they should be included in the Heritage areas following consultations with responsible local, state and federal officials.

The Interior department would then enter into agreements with local and state officials on the administration and maintenance of the various sites. The bill, also authorizes an appropriation of $50 million by the federal government to provide up to 75 per cent assistance to the states and local communities to aid them in administering the sites.

Senator Ribicoff said his bill carries out a recommendation of the Long Island Sound Study conducted by the New England River Basins commission. The four-year study resulted from legislation introduced by Senator Ribicoff in 1969 and included a series of public hearings in Connecticut and New York in the early 1970s.

Senator Ribicoff's bill is expected to be greeted cautiously by local officials in the areas that would be covered by the legislation. On one hand, they would be happy to have the Federal government pay the costs of purchasing the recreation areas and spending up to 70 per cent of the cost of their maintenance. On the other, they would like to know what it is going to cost in the way of additional police protection, new roads and other services that would have to be provided if the areas are expanded to their full recreation potential.

Mayor Jennie Cave of Norwalk echoed this attitude when she commented on the proposal for the Sunday Post yesterday. She discussed the possibility that the federal government might buy Chimon and Sheffield islands and provide up to 75 per cent of the cost of their maintenance up turning them over to the city of Norwalk.

William Garafolo, the owner of Chimon, has asked $1,500,000 for that island alone and Sheffield would no doubt cost a large additional amount. The city of Norwalk has appropriated $200,000 toward acquisition of the two islands and the state General Assembly has appropriated $500,000 for the same purpose.

Mayor Cave said that at this point she would say "yes" to the proposal. "It sounds like a good proposal but let's look into it first. We know that you don't get anything for nothing, there are always strings attached. I want to know more about protecting the city from the extra costs that would ensue if we acquire the islands. For instance who is going to provide the police patrols that we would need for these islands? We don't have enough police in Norwalk now. Where would we get the extra men we would surely need?"

Mayor Cave said as the representative of the 83,000 people of Norwalk she has to ask all pertinent questions on Senator Ribicoff's bill.

"We also have to talk to the planning and zoning people, the police and the general public see what they think of this proposal," she said. "We must see what the story is. The people must be protected."

On the proposal to include Long Beach in Stratford in the Heritage area, Stratford Town Manager Bern Ewart said that local officials didn't understand why Long Beach, which is public property and used for recreation, was included in the list. He said the town has questioned the beach's inclusion in a letter to Senator Ribicoff.

As for the Great Meadows area, the town will appreciate "anything they can do for us," Mr. Ewart said.

The Great Meadows now consist of about 370 acres of marshland, directly across Lewis Gut from Pleasure Beach and Long Beach. The area is owned by the Stratford Land Improvement corporation headed by Martin Ryan. Mr. Ryan has long proposed building a deepwater port in the marsh area which could handle container ships and cargo. Carrying out the proposal would mean demolishing and rebuilding the present Pleasure Beach bridge plus dredging the presently shallow Lewis Gut to a depth of 30 to 40 feet, and other changes in the area.

Mr. Ryan's proposal is bitterly opposed by conservation groups due to its possible effect on the marsh area which is one of the few remaining wetlands along the Connecticut coast. The marsh area serves as a breeding ground for fish, birds and other wildlife, they state.

The town of Stratford also opposes the proposal and is currently in litigation with the Stratford Land Improvement corporation over the issue. The town has sought a federal grant to buy the wetland area and maintain it as open space.

On Pleasure Beach, Bridgeport officials over the years have heard pros and cons on either developing the area into a commercial recreation center or letting it revert to a wildlife and beach area. Except for some minor repairs to the area's roads and facilities, little has been done on improvements to Pleasure Beach.

YOUTH UNEMPLOYMENT

Mr. JAVITS. Mr. President, an article appearing in Tuesday's New York Times confirms our most pessimistic estimates of the severity of endemic structural unemployment among youths in our country's major cities. For some time I have been saying that unemployment among youths in our central cities is far worse than official statistics indicate. This is because the recorded data do not count accurately either those who work part-time because full-time jobs are unavailable or those who have despaired of ever finding a job so have given up looking for work—the discouraged workers.

The Bureau of Labor Statistics reports that 86 percent of ethnic minority teenagers in New York City do not have jobs. This is the highest youth unemployment rate in the United States. The Regional Commissioner of BLS, Herbert Bienstock, indicates the severity of the problem by saying that "New York City is today the nonworking teenage capital in the country." Mr. Bienstock, who is a distinguished labor market analyst, calls this situation "close to a youth employment disaster."

Mr. President, recently Congress passed and sent to the President the Youth Employment Demonstration Projects Act of 1977—a $1.5 billion comprehensive measure designed to relieve the disproportionate burden of unemployment borne by our young people. It contains in sec. 343(b) a provision which I authored and which was agreed to by the members of our committee during our markup which targets 37½ percent of the subpart 3 funds at areas of substantial unemployment.

When I proposed this amendment I explained my belief that minority youth unemployment approached the shocking rate of 50 percent and more in our inner cities. Now, for the first time, the appalling severity of youth unemployment has been revealed.

Now, Mr. President, I am not one who is given to emotional outbursts or hyperbole. But a few weeks ago we New Yorkers experienced a frightening incident of looting in our city which must not and cannot be excused on any basis. However, when we realize that in New York City, of more than 515,000 youths between the ages of 16 and 19, 402,000 are out of work, at least we can begin to perceive the conditions of "social dynamite" that characterize life in our central cities. Seventy-eight percent of the young people in New York, then, face the desperate prospect of not obtaining the dignity and self-respect that redounds to those who have regular employment in our society.

And New York City is by no means alone in this regard. In Philadelphia, 72 percent of the city's youths are out of regular jobs; in Washington, D.C. and Detroit about 74 percent; and in Baltimore, 76 percent.

Mr. President, the youth of our country are, at once, our most precious national resource and our future. We must not be so improvident as to heap upon so many of them the hopelessness that is bred by pernicious and persistent unemployment or underemployment; or, to

expect that we are not making it much more difficult to build in these young Americans the necessary confidence in and commitment to our political, economic, and social system. Is it not clear that in the long run we all stand to be the losers as a result?

The youth employment bill which the President is expected tomorrow to sign into law, and on which I and many of our Senate and House colleagues worked so hard, will help to deal with this problem by creating some 200,000 youth jobs nationally and about 6,000 in New York City. But this is really small in comparison to the problem we now know to be every bit as severe as some of us have been saying.

I am asking the President to consider requesting of the Congress additional appropriations of $2 billion for the programs authorized under the new Youth Employment Demonstration Projects Act.

The President's original request early this year was for $1.5 billion, to be available for the balance of fiscal year 1977 and all of fiscal year 1978. I believe the newly released data reveal that the problem of youth unemployment in our country is far worse than was believed when the President made his original request for appropriations. The new BLS study confirms that in New York City alone, over 400,000 young people are without jobs.

It is apparent that we must do much more in the coming months to provide Federal youth jobs funds for areas suffering from heavy unemployment. I hope the President will act favorably on my request.

The central cities of our country are in very deep trouble and we must act decisively to make more substantial commitment to deal with this particular dimension of the overall problem. We must also make every effort to convince the American people that it is in their own best interests in the long run to deal with this problem now—before it is too late, for the youth and for our country.

Mr. President. I ask unanimous consent to have printed in the RECORD the article which appeared in the August 2 edition of the New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW YORK IS LOWEST IN YOUTH EMPLOYMENT

(By Charlayne Hunter-Gault)

A Federal study reported yesterday that 86 percent of ethnic-minority teenagers and 74 percent of white teen-agers in New York City did not have jobs—the highest rate of youth unemployment found in 11 major American cities.

In the first study of its kind aimed at counting not only youths seeking jobs but also those who have given up looking, the survey showed that in New York City only 113,000 youths between the ages of 16 and 19 were employed in a population of more than 515,000 in that age group.

"This new survey has confirmed the notion that New York City is today the nonworking teen-age capital in the country," said Herbert Bienstock, regional commissioner of the United States Department of Labor's Bureau of statistics. "The situation brings New York City pretty close to a youth employment disaster."

A RATIO TO POPULATION

The study focuses on the employment population ratio, which measures the percentage of the civilian noninstitutional population (those not in hospitals or jails) who are actually employed.

Nationally, between 1970 and 1976, the percentage of youths holding jobs rose somewhat from 42.3 to 44.3. But in 10 of the 11 cities the rate declined, with New York's drop being the most severe. The only exception was Houston, Tex., where the rate rose from 41.2 to 46.8 percent.

In Dallas, for example, the youth employment rate declined from 50.9 to 45.6 between 1970 and 1976.

In Philadelphia, the rate went from 41. percent to 27.8 percent; in Washington, from 39.1 percent to 26.1; in Detroit, from 37.6 to 25.8 and in Baltimore from 32.8 to 23.5.

The employment rate here for white youths was 26.1 percent, substantially below the national average of 47.9 percent.

SOME YOUTHS IN SCHOOL

And for black youth, it was 13.5 percent, compared with 23.7 percent for black youth nationwide.

Mr. Bienstock said that "it was possible" that a large number of the youths who were not working were in school or "keeping house" or that there were some other considerations.

"But all of those caveats," he said, "apply to all of those other places.

"What is true here, is that we have lost 542,000 jobs, and that makes a substantial difference. It's nice to say that 'they' don't want to work. But you must relate their not working to the unavailability of jobs."

Mr. Bienstock pointed out that the year from 1976 to 1977 reflected some degree of economic recovery, but that teenagers did not participate in that recovery.

FINANCIAL STATEMENT OF SENATOR BROOKE

Mr. BROOKE. Mr. President, for the last 3 years, I have placed in the RECORD a financial disclosure statement and I intend to do so for the remainder of my service in the Senate. This fourth annual statement covers the calendar year of 1976 and will be largely repetitive.

First. I am not engaged in the practice of law, nor am I associated with a law firm.

Second. I do not have an interest in a private business firm.

Third. I received as earned income my Senate salary of $44,474 and honoraria for speaking engagements in the amount of $18,000.

Fourth. I received rental income before expenses from my St. Martin, French West Indies, property in the amount of $2,800.

Fifth. I realized a stock dividend income of $24 and a bond interest income of $85.

Sixth. There has been no change in my stockholdings since my last report.

Seventh. There has been no change in my real estate holdings since my last report.

Eighth. I paid Federal income tax in the amount of $12,153 and Commonwealth of Massachusetts income tax in the amount of $2,932.

TERRORISM IN NEW YORK

Mr. MOYNIHAN. Mr. President, I rise this afternoon to speak about a violent act of terrorism committed yesterday, August 3, 1977, in New York City.

I refer to the bombings in two midtown Manhattan office buildings which killed one man and injured seven others. Additional bomb threats caused more than 100,000 people to vacate their offices. To the burdens of economic distress, of the recent blackout, of the presence on the city's streets of a psychopathic murderer, the people of New York now find added the presence of murderous political terrorism. These acts of terrorism are not, it must be stated clearly, the acts of a single individual, nor are they the result of mental illness or madness. They are the deliberate, carefully calculated, intended result of the FALN, a terrorist group dedicated to the overthrow of the Government of Puerto Rico. This group—which calls itself a Marxist-Leninist organization—also committed the bombing of Fraunces Tavern in New York City on January 24, 1975. It has been responsible for a total of 5 deaths and 75 injuries in the 61 bombings it has perpetrated.

The FALN may well have ties to foreign powers, and I would note that its objectives have been supported by the Government of Cuba. So let us be clear that what we saw in New York City yesterday was not the mindless act of a deranged individual. We saw carefully planned political terrorism resulting in murder. We saw a Marxist-Leninist group bring political violence to the streets of New York.

These terrorists have no support among the people of New York or among the people of Puerto Rico. Indeed, this organization has no more than 30 members, but that is sufficient to terrorize a whole city, especially with bombing techniques learned in Cuba. Their goal should be obvious: They wish to establish a Marxist-Leninist regime on the island of Puerto Rico. And it is already obvious that they do not particularly care how many people they maim or kill in attempting to achieve this goal.

This morning I raised the matter of FALN terrorism with Director Stansfield Turner of the Central Intelligence Agency and with Dr. Zbigniew Brzezinski, assistant to the President for national security affairs, during a meeting at the White House. Senator JAVITS and I will, in addition, convey to Secretary of State Vance our very strong view that he must make clear to the Government of Cuba, now engaged in talks with the U.S. Government, that it must denounce the methods and the goals of the FALN. The people of New York will firmly oppose any improvement in United States-Cuban relations until Cuban support for the FALN is entirely renounced and eliminated.

This morning, acting on behalf of myself and Senator JAVITS, I met with Director Clarence Kelley of the Federal Bureau of Investigation to discuss the FALN bombings. The FBI has been hard at work on FALN terrorism, and Director Kelley informed me that a senior inspector of the FBI is devoting full time to this matter. The Director assured me that the FBI will continue to devote its resources to the solution of these crimes.

Mr. President, let us resolve never to give in to this kind of violence. Let us re-

solve never to give these despicable murderers a single victory. Let us resolve to give the Federal Bureau of Investigation and the other law enforcement agencies involved here our full support and cooperation in apprehending and imprisoning these Communist terrorists. They must clearly understand that their violence will never produce capitulation on our part to their political goals. On the contrary, it will produce renewed firmness in our intention to preserve the liberty which is the ultimate target of these terrorists and their like throughout the world.

Mr. JAVITS. Mr. President, I wish to associate myself with the remarks of my colleague, Senator MOYNIHAN, on the tragedy of bombings in New York City yesterday, attributable to the FALN, a terrorist group seeking, by the aid of such terror, to overthrow the duly elected government of the people of Puerto Rico. It is a most execrable act of murder, deliberate and planned, on the people of New York City, and we must not rest until we catch the perpetrators and end this dread terror; nor must we yield to it lest it be prepetrated for this and other fancied causes.

I will join with Senator MOYNIHAN in presenting our strong views to the President, with a request that they be communicated to the Government of Cuba, that as it has heretofore reportedly declared its sympathy with the FALN, they should now denounce it.

Such action by our President should be greatly facilitated by the fact that a U.S. mission, functioning under the Swiss flag, is expected to be in place in Cuba by September 1.

THE U.S.S. "INDIANAPOLIS"

Mr. LUGAR. Mr. President, last Saturday I had the privilege of delivering the dedicatory address at the launching of the U.S.S. *Indianapolis*, (SSN 697), a *Los Angeles* class nuclear submarine bearing the name of the capital city of my State of Indiana.

The ceremonies in Groton, Conn., were poignant because they also marked the 32d anniversary of the sinking of the World War II cruiser *Indianapolis*. As many of my colleagues are aware, the World War II *Indianapolis* was sunk in July 1945 after delivering parts for the atomic bomb to Okinawa. It was the last ship lost in the war and was the worst wartime disaster for the U.S. Navy. Of the 1,199 crewmembers on board, 833 died.

At Saturday's launching of the new *Indianapolis*, we were honored by the presence of 63 survivors of the 1945 tragedy, and a large gathering of Indiana submarine veterans.

This new submarine symbolizes our Nation's determination to preserve the peace, and its name pays tribute to those who served our country so bravely in the past and those who will serve with loyalty in the future.

To share with my Senate colleagues a sense of the moment of last Saturday's ceremonies, I ask unanimous consent that my remarks of that day be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

My first press conferences as Mayor of Indianapolis were conducted squarely in front of a large bronze office plaque which commemorated the U.S.S. *Indianapolis*, a great Cruiser of the United States Navy.

Many citizens wrote to ask about the plaque and about the ship. Interest mounted to such an extent that movement of the plaque to the central hallway of the City-County Building was suggested in order that all citizens might see the plaque and read about the U.S.S. *Indianapolis* and her crew.

In 1970, the plaque was moved to a prominent vantage point when the City of Indianapolis was honored by the presence of the 25th reunion of the survivors of the U.S.S. *Indianapolis*. Those days of reunion were days of tears and very deep emotional expression. They were also days of recognition and rediscovery which excited all who have ever been a part of the United States Navy or interested in the majesty and excitement of seapower and fighting ships.

This day, some seven years after that 25th reunion, is truly a day of victory. A new U.S.S. *Indianapolis* will be launched before the admiring eyes of those who manned her previous namesake and before a host of submariners, Navy men and women, and other citizens who revere the Naval tradition of Indianapolis and of the Hoosier state. For a variety of important reasons, it has been extraordinarily important that a new U.S.S. *Indianapolis* should take a vital place in the Fleet.

The whole world knows that we are determined to have antisubmarine warfare capabilities adequate to prevent the Soviet Navy or any other navy from dominating the vital sealanes of this planet through the ability to sink ships carrying people and cargo. World peace is dependent upon this assurance. Every democracy in the world today is dependent upon the food, fuels, and minerals that sustain employment and the complex civilization we have evolved through absolute reliance on free trade in open and safe ocean traffic.

The health and prosperity of the people of this nation to be served by the U.S.S. Indianapolis is heavily dependent upon our unconditional ability to import petroleum, natural gas, metals, and minerals, and our ability to export farm products, machinery, and a host of products which we produce efficiently and which sustain full employment in our cities, suburbs, and rural areas.

The U.S.S. Indianapolis will face an armada of foreign submarines unparalleled in history. We cannot be confident that we know the extent of those submarine-building programs or the motivation for such a concerted and extended buildup.

Our ceremony is public. Many of the characteristics of this magnificent boat are known to Naval experts and lay citizens of many countries. Monies appropriated for construction have been debated in full public view by the Congress of the United States. Free citizens have taken great pride in their day-to-day work which brings us to this day.

In a democracy, citizens make a continuous stream of choices through the votes of their elected representatives on how much of our national income will be consumed on services of the moment, and what portions will be set aside as capital stock for the future. The U.S.S. Indianapolis is the product of several decisions in which money was allocated to this attack nuclear submarine as opposed to other important capital projects such as dams, bridges, public transportation or immediate services in the fields of health, education, or welfare expenditures.

In recent years, serious questions have been raised at home and abroad about whether we have the will in this country to spend the monies necessary for adequate defense of our country and whether we have the will to actually use the elements of national defense which we possess.

Convincing and credible symbols of our national will are very important. This ceremony signifies the sacrifice of money which might have been allocated in different ways in a free society and it signifies a long term commitment to the maintenance of crews, over the years, totaling 1500 citizens, and to the physical condition of the submarine. We are indicating to potential friends and foes alike that we are prepared by majority vote to dedicate a significant portion of our resources to national defense.

A further question will be raised. In addition to spending our money, are we confident that the very best intelligence that we can devote to the subject of national defense is available and at work. Are we out-thinking the rest of the world and entrusting proper resources to the best ideas and options? The example of Admiral Hyman Rickover and the evolution of nuclear submarine programs offer us some confidence in this regard. In a free nation, dedicated and courageous individual leaders have been able to penetrate the deadening effects of bureaucracy and mindless tradition and to insist on new programs and more effective strategies.

This is a good time to reaffirm the importance of openness of debate and decision making and the need to make certain that the free play of ideas, which our country is prepared to defend with awesome power, actually occurs—and that talent, initiative, and merit are recognized and rewarded. In our debates on domestic policy, we have sometimes been inclined to pit abnormal regards for courage, talent, and risk as an opposite course of action to greater emphasis on a search for social equity and justice. In the national defense area, let us lean strongly toward stimulating the best of persons and ideas lest the important equity issues become academic. A world in which we are not able to defend our independence will be a world of injustice for all of us. The degrees of injustice will be unequal and beyond our control under the tyranny of others.

Even if we dedicate the required funds and we are successful in spending those monies on the best of projects under the best of leadership, what prospects do we have in answering the bottom line question: "Will we maintain the will to resist at the appropriate times and places as history unfolds from this day forward?"

The answer to this question can never be taken for granted. The history of this country, an appreciation of its splendor, a recognition of the duties of citizenship, a willingness to lay down property, time and ultimately life in its defense are a part of the individual character of each citizen . . . usually because parents, teachers, neighbors, and other close friends over the years took time to inculcate these concepts. And they took hold and grew.

We must each have a deep-seated feeling of why we cherish the opportunity to be citizens of the United States. We must each have a healthy self-image of how our basic goals of survival, self-improvement, self-discipline that leads to a productive search for relationships with God and with people is truly dependent upon the ability of this country to remain free and to remain as a potential refuge for all who seek freedom.

In November of 1940, my father and mother took my brother and me, ages 8 and 7, to the launching of the U.S.S. Indiana, in Newport News, Virginia. We saw the Secretary of the Navy, the Governors of Indiana and Virginia, and the Mayor of Indianapolis, Reginald Sullivan, who is still a great citizen of Indianapolis at age 101. It was a festive event and I remember very lit-

tle, if any, conversation which suggested that we would be at war in just over a year.

As I heard the news of Pearl Harbor and of the sinking of the great ships on December 7, I was grateful that those in charge of our government had exercised sufficient foresight to launch the U.S.S. Indiana. Without knowing what else we had, I knew that one great warship was prepared. That launching experience also fixed in my thoughts a lot of other ideas which I did not try to articulate for many years until I was questioned by fellow students in graduate school as to why I volunteered to join the U.S. Navy in the spring of 1956.

It is a point of great personal satisfaction to me that my wife, Charlene, and our boys are here at this moment as we think together about public service, patriotism, and the compact which each generation makes with others about our mutual obligations. We pledge, together, to nourish and to maintain the freedom to love and to achieve and also the freedom to err under God alone.

The mantle of responsibility passes on from the crew of one U.S.S. Indianapolis to the crew of another U.S.S. Indianapolis, from fathers and mothers to sons and daughters, from those who strove mightily to maintain peace in one era to those of us dedicated to maintain freedom in our generation. We have confidence that the openness of our planning, sacrifice, and evident healthy patriotism in this country will lead all nations to respect our witness and our will to resist aggression.

May the U.S.S. Indianapolis have a long life of important service and good experiences. May each of us savor these moments of dedication and then try to impart what all of this means to our children and to our friends and neighbors. Decision making in a democracy proceeds every day. With conviction and energy, we need to spread the good news, widely of what we are celebrating today.

PRICING OF ALASKA NATURAL GAS

Mr. GRAVEL. Mr. President, on May 1, 1977, the Federal Power Commission made its recommendations to the President pursuant to section 5 of the Alaska Natural Gas Transportation Act of 1976. That recommendation included the FPC's preference for routing of the line as well as a conclusion as to the pricing of the Alaska gas to be transported by the line. The appropriate pricing of North Slope gas is of substantial importance to Alaska and the Nation. The pricing policy proposed by the Federal Power Commission in its recommendation to the President will risk the future development of Alaskan gas reserves with grave consequences to the energy needs and the balance of payments of the Nation.

The Federal Power Commission recommended a field price for Prudhoe Bay gas to be determined by netting back to the field the transportation costs from the city-gate market value. The FPC also recommended a minimum field price sufficient to cover the producer's incremental costs of producing and conditioning the gas. This essentially constitutes a minimum field price at a level sufficient only to account for the incremental cost of producing and processing the gas.

In support of its approach, the FPC observed that consumers would be protected from higher prices resulting from inflating pipeline tariffs. This protection would be provided by reducing the field price for any increased transportation costs, rather than by passing increased transportation costs on to the consumers.

Shifting the burden of increases in transportation costs is misguided. The effect of the FPC approach would be to condone cost overruns and mismanagement. Rather, a pricing approach should be adopted which would effectively reduce the transportation costs and correspondingly reduce the price to consumers without sacrificing future exploration and development of Alaskan gas reserves.

Transportation costs can be reduced effectively in two ways. First, transportation costs can be reduced by increasing the volume of gas transported through the pipeline. Increased volume can be assured by granting a field price sufficient to provide positive incentives for future exploration and development of Alaskan gas. Secondly, transportation costs can be reduced by adopting a pipeline tariff which discourages pipeline mismanagement, construction overruns, and pipeline delays. This can be accomplished by providing a variable rate of return on pipeline operations weighted to discourage pipeline waste and delay.

The FPC scheme shifts the transportation costs, but does not attack the main problem of reducing the high transportation cost. The greatest likelihood of reducing the transportation cost can be provided by increasing pipeline throughput. Thus, providing adequate price incentives has the greatest probability of lowering transportation costs.

A cost of service sensitivity analysis performed by the State of Alaska concluded that a 10-percent increase in the throughput volume could decrease the cost of service by 9.1 percent. Likewise, a 10-percent decrease in the volume would increase the cost of 11.1 percent.

There are probably 4 trillion cubic feet of gas in the Lisburne and Kuparak River formations, in addition to the some 28 trillion cubic feet of gas in the main Prudhoe pool. In addition, the State will have a joint sale with the Federal Government in the Beaufort Sea where there is a great possibility of additional reserves. Further exploration, production, and development of these formations depend on adequate price incentives being provided by Government. Adequate price incentives have a high probability of success in lowering the high cost of service. A major discovery in the Beaufort Sea that could increase the initial throughput of 2 Bcf a day some 60 percent to 3.2 Bcf could lower the cost of service by 54 percent. Any Government pricing policy that shortchanges the possibility of this sort of type of reduction in cost of services is doing the Nation and its consumers a great disservice. The contrast between policies that shift transportation costs versus policies that lower costs should be self-evident.

The State of Alaska advocates a policy of a variable rate of return to the owners of the pipeline to reduce the overall transportation charges. The return to the owners should vary from 20 to 12 percent—based on certain predetermined goals, such as the total dollar cost of the pipeline and a target delivery date. For instance, a company would be allowed a 20-percent rate of return on equity if they incurred no cost overruns and met the target date for completion. Or, if for example, the project suffered a 10-percent cost overrun the rate of return would be lowered to 18 percent or 90 percent of the maximum goal. This flexible rate of return would be applied until some minimum guarantee rate on the project—such as a 12-percent rate of return—was reached.

The same State of Alaska sensitivity analysis concluded that a 10-percent change in the cost of equity capital would affect the cost of service by 3.5 percent. A 10-percent increase in the capital costs of the project would result approximately in an 8.6-percent change in the cost of service. Thus, the net impact of a 10-percent overrun would be only 5.5 percent.

A variable rate of return to the investor would place a smaller burden on the cost of service. The investor in the project would bear the major share of any risk of cost overruns. After all, the investor is the appropriate party to bear cost overruns because he has the most control over the risk of cost overruns.

In addition to the ineffectiveness of the FPC proposal to control transportation cost increases, the FPC proposal does not provide price incentives necessary for future development of Alaskan gas reserves. Since the field price would be set at a level sufficient only to cover the producer's incremental costs of production and processing it is unlikely that future Alaskan gas reserves would be produced. Certainly an astounding prospect.

How surprising it is that the FPC would recommend depressed field pricing, since it clearly flies in the face of the President's announced policy of valuing the Nation's energy resources at their replacement value. The President's philosophy of valuation provides an important key to assuring the fullest possible development of the remainder of the Nation's oil and gas reserves. That philosophy should be implemented in the form of a national pricing policy.

This important national policy could be accomplished by setting a field price for Prudhoe Bay gas high enough to assure the future development of Alaskan gas. The FPC proposed minimum field price not only does not provide this assurance, but actually provides disincentive to future development.

Accordingly, recommendation of the FPC on North Slope gas pricing should be rejected as being at odds with the President's announced energy policy. It is clearly in the best interests of the Nation.

If the President follows the FPC recommendations on the tariff and pricing questions, he should at least exclude from the pricing formula two items that are not necessary to complete the project. First, an allowance should be made in the final price for oversizing the pipeline. This will insure that those who benefited from additional gas supplies transported in this larger pipeline will share in the costs. The FPC recommen-

dation would instead have the producers bear this risk of future discovery reserves through a net-back formula, regardless of whether these same producers discover the additional reserves.

A second national goal stated in the FPC report was the distribution of gas on a pro-rata share to the various areas of the country. This national goal is in conflict with the economics of pipelines, which in general dictates that gas be shipped in the largest volume possible for the shortest distance. The market price for the FPC approach should be based on the entry point in the lower 48. Those who benefit from this wide distribution should pay the additional transportation cost from the point of entry.

Mr. President, the question of pricing Alaskan gas is crucial to all involved. It is crucial to provide the producers adequate incentives to produce more gas. It is crucial to the consumer so that he is assured a fair price now and continued and hopefully increased gas supplies later. It is crucial that the appropriate agencies begin to provide adequate incentives and fair pricing policies so that all parties involved can have faith in Government pricing policies. I urge my colleagues to consider these thoughts carefully.

Mr. President, I also state my appreciation for Mr. Sterling Gallagher, Commissioner of the Department of Revenue, State of Alaska, for his continuing efforts in this area.

WESTERN WATER

Mr. SCHMITT. Mr. President, events of the last 2 weeks have made it clear that there is a great misunderstanding in the White House about the importance of water to the Western States. There is no other domestic issue that will so unite or so influence Western opinion as the issue of water.

Recent action related to water policy announced in the Federal Register of July 15 and 25 strongly suggest a calculated move by special interests within the administration to usurp private and State water rights in Western States.

The precipitous nature of these actions further suggest that the President's mind is made up. The western coalition of Senators, and others who oppose this concentration of Federal power, must do everything possible to change the President's mind and to preserve this most precious of material rights in a parched land.

At issue is the publication of five issue and option papers prepared during the water resource policy study ordered by President Carter on May 23. Some of the issues raised by the Water Resources Council, the group performing the study, are appropriate. It is unfortunate that the tone and structure of the study and the all too brief period for public comment do not reflect the decades of negotiations and litigation among States, private citizens and the Federal Government.

Perhaps the single most important "issue area" is that dealing with policy considerations relative to institutional relationships. In unambiguous terms the policy study alleges the "prior appropriation doctrine" is inefficient and equitable. Further, the Policy Study alleges that Federal control would be most effective in altering the inflexibility of State water transfer procedures. Adoption of this type of Federal solution would significantly alter long-standing agreements—and, in some cases, treaties—and would involve such enormous transfers of personal and public wealth, that Western State governments and people would find that solution totally unacceptable. Such solutions would be unenforceable.

An option swept aside by the Water Resources Council is the improvement of the existing partnership between the States and the Federal Government. For example, the Federal Government can and should play an important role in the regional development and distribution of abundant water resources to areas where they are scarce. If the Federal Government finds it necessary in this role to change its evaluation criteria for cost-benefit analysis or to alter its cost-sharing policies for joint ventures, positive improvements may result which reflect new national priorities. The dissolution of State and regional water agreements by Federal usurpation destroys the partnership necessary to realize such improvements.

The United States has abundant natural resources which are widely, though unevenly, distributed. Western States are rich in energy and mineral resources, but poor in water resources. Continuation of the Federal/State partnership can result in the efficient transfer of the resource needed most by each part of the Nation. Watersheds in the Pacific Northwest or the Arkansas wetlands might be shared to supply the water-proof Rocky Mountain, Southwestern and High Plains States in exchange for fuel and nonfuel minerals. The technological challenge of such an exchange should be shared by the Federal Government.

The Federal Government can also play another vital role in the improvement of water use through research and development. New subirrigation techniques should be developed to reduce water evaporation. More efficient desalinization techniques are needed for productive use of existing brackish water in addition to advanced research into crops that can be cultivated in such waters. Improved climate forecasting would result in better water reservoir management.

However, these positive solutions to the problem associated with Western Water are in danger of being innundated by the good intentions of those completely uninvolved with the realities of Western Water. The recent fight over existing water projects was merely another round in a long continuing battle. The next round has been joined on even more serious and more volatile ground.

Mr. President, there are many, including myself, who believe that imaginative, modern solutions must be found for the problems facing this country now and in the future. We believe in the evolution of more effective partnerships between the private, State and Federal sectors. On the other hand, Mr. President, we do not believe that the Federal Government can or should do everything if we are to preserve and nurture the fragile seed of individual freedom on this planet.

The Carter administration, after campaigning on a platform of less government, is clearly going in the opposite direction toward vastly enlarged government. Major steps have been taken or proposed which are toward nationalization of the energy industry, especially coal; toward nationalizing the health care system; toward Federal control of elections; and now toward nationalizing Western water.

Mr. President, I am not prepared to claim that the existing situation with water rights in the West is perfect, far from it. However, highhanded action by the Federal Government will only result in needless additional confrontation between West and East. The Nation will be the loser in such a confrontation.

UNITED STATES LOSING INTERNATIONAL NUCLEAR POLICY LEADERSHIP

Mr. CHURCH. Mr. President, over the past several months I have expressed the belief that the President's policy regarding fast breeder reactors and nuclear fuel reprocessing may in fact be leading this United States toward nuclear isolationism. Recent actions in Western Europe and Japan highlight the failure of the new U.S. approach. As a consequence of our actions, we are forcing these nations to aggressively pursue routes independent of the United States in the areas of uranium supply and enrichment technology. The United States, which has previously played a crucial role in helping to establish international nuclear fuel safeguards, is weakening its own position.

An article in the July 11 edition of the London Financial Times illustrates the flow of Western European events. Similarly, another article in the July 20 edition of the Energy Daily details the impact of our new policy on Japan's Tokaimura reprocessing plant. As noted in this account, the Japanese are beginning to take measures to reduce their dependence on the United States and are now looking elsewhere for uranium supplies and may even turn to the Soviet Union for enrichment technology.

Mr. President, I ask unanimous consent that these two informative articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

[From the London Financial Times, July 11, 1977]

PLUTONIUM STRONGROOM PLANNED

(By David Fishlock)

Britain may build an internationally supervised "strongroom" for the storage of plutonium at Windscale, in Cumbria, guarded by special British police but managed by U.N. nuclear officials and inspectors.

The idea of international storage and surveillance of the plutonium by-product of civil nuclear power programmes is seen by the Government as the most promising counter-measure available at present to the proliferation of nuclear explosives.

The plutonium strongroom—a pre-stressed

concrete bunker—could probably be set up within two years of an agreement between a group of nations to accept international rules for plutonium storage.

By nuclear standards the cost would be modest—an estimated £4.5m. to construct storage capacity for 10 tonnes of plutonium oxide and another £1.75m. to £3m. a year to run. But costs would increase roughly in proportion to the size.

Britain already has a stockpile of several tonnes of plutonium at Windscale, some of which it is storing for other nations.

President Carter's antiproliferation proposals, which aim to ban the separation of plutonium from spent nuclear fuel by reprocessing, are seen in Whitehall as having suffered three severe rebuffs in the past week.

First, Mr. Malcolm Fraser, Australia's Prime Minister, threatened to withhold uranium supplies from EEC nations if they refused to open their markets to Australia's steel and dairy products.

Without abundant and assured supplies of uranium—of which Australia is by far the largest untapped source open to Europe—Mr. Carter's anti-proliferation policy cannot succeed.

Mr. Fraser is expected to announce this week the terms on which his Government is prepared to export uranium.

The second rebuff for Mr. Carter was the decision of the West German Government to press ahead with construction of a large commercial reprocessing plant in the South of Germany.

His third rebuff came when France and West Germany signed an agreement to push ahead in partnership with the development of the commercial fast breeder reactor—a reactor fuelled by plutonium.

Until last week President Carter was apparently convinced that international opinion would eventually support his proposed ban on civil—although not military—plutonium.

U.S. officials have been opposing the study of plutonium storage under international surveillance on the grounds that it legitimizes the existence of plutonium at a time when official U.S. policy is to proscribe the fuel.

But other nuclear nations—including the USSR—see international plutonium storage as a very promising interim measure, which might be implemented much more quickly than any other anti-proliferation measure.

The International Atomic Energy Agency is wrestling with two problems the idea raises, the more serious of which is that of the so-called "release criteria."

These are the precise terms under which an individual nation would be allowed to withdraw plutonium deposited in such a store.

Less serious but still unresolved is the question whether, if all national reprocessing plants were to be provided with an international plutonium store, how small a plant would qualify. Would it, for example, employ pilot plants on the scale Brazil and Pakistan are proposing to build?

The British view is that the place to resolve such questions is at the meetings of the International Nuclear Fuel Cycle Evaluation Programme, a major exercise called for by President Carter earlier this year, which is due to hold its first meeting this autumn.

This exercise was originally seen in Whitehall simply as an attempt to prove that the new U.S. anti-proliferation theories were correct. But Britain and other nations have succeeded in broadening its terms to make a down to earth comparison of all potential nuclear fuel cycles, including the use of reprocessing and the fast breeder reactor.

[From the Energy Daily, July 20, 1977]

STUDY OF TOKAIMURA REPROCESSING PLANT TURNS UP NO FOOLPROOF OPTIONS

(By Ann MacLachlan)

Japan's Tokaimura reprocessing plant appears headed for some kind of co-processing, to judge from unofficial reports out of Washington. But, far from being a simple matter of turning a dial, the transformation of Tokaimura could prove much more intricate and time-consuming than some U.S. officials had hoped. And there are indications that the plant, even if remodeled, still might not be as proliferation-proof as the U.S. believes necessary, and that additional, more stringent safeguards would have to be provided for.

The U.S. contingent of a joint American-Japanese study team sent to Tokaimura to examine the plant's potential returned to Washington July 11. They bore a voluminous report on their findings, the result of what one source close to the investigation called "an enormous undertaking" for the two weeks allocated them.

The report, presenting some 18 options for Tokaimura and their implications for Japan's energy situation, is now destined for Secretary of State Cyrus Vance and other top Executive Branch officials. But the final decision will be made only by Jimmy Carter, following a final round of high-level bilateral negotiations due to begin in Washington at the end of this month.

The review process is likely to take as long as four months, according to Lawrence Scheinman from the State Department, who led the study team at Tokai. Despite the Japanese government's intense desire to start hot runs at Tokai as soon as possible (original start-up was set for July), they have no choice but to wait, since the U.S. retains veto power over reprocessing of the U.S.-enriched spent fuel that would be run through the plant.

According to a well-informed source, the study team at Tokaimura found that refitting the plant to co-process would be by no means a simple procedure. Potentially, it could involve three to five years of remodeling and re-licensing at considerable expense (the plant's operators have estimated $50 million).

Nor can Tokaimura be regarded in a vacuum: as an integral part of Japan's fuel cycle (planned years ago with the blessing of the U.S.), it is related closely to conservation plans and environmental considerations. Specifically, the operation of Tokai is crucial to the future of Japan's Joyo and Monju breeder reactors (and their successors), as well as Japan's advanced thermal reactor.

Even more important is the symbolic value the plant has taken on for the Japanese nation. The Fukuda government and its predecessors have insisted that nuclear power is crucial to keeping Japan "alive" economically, a Japanese businessman points out. If one portion of the full cycle is changed, delayed, or eliminated, he fears, the Japanese public will lose faith in the nuclear option altogether.

What's worse from the electric power viewpoint is that, in the current emotional climate, Japan's utilities can't build any spent fuel ponds—so they risk ending up with no reprocessing, and no place to put their spent fuel. "They're very uptight," an Administration official sums up.

Although there are multiple ways to co-process, the study team reportedly found that Tokaimura could not be remodeled sufficiently to eliminate the risk of diversion of weapons-grade material.

Chemical experts explain that in order to obtain the proper plutonium enrichment in the co-processed product (which contains only one percent fissile material, as Pu and U-235), either pure plutonium must be added to the product after processing, or uranium must be extracted during processing. In the first case—the simplest from an operational point of view—the existence of a "sweetner" stock of pure plutonium would in itself pose a proliferation danger.

The alternate method calls for careful control of just how much uranium is extracted from the system—a degree of control that some reprocessing experts believe is not possible at a small, old-design plant like Tokaimura.

And although this method does bypass the physical separation of plutonium, the risk of proliferation still is not nil. For if the plant is capable of reducing the amount of uranium so as to generate a 10 percent or 20 percent plutonium-enriched product, it might also be able to continue reducing the uranium content until the end product was 50 percent plutonium—enough, it is said, to construct a crude nuclear weapon. This would, of course, take more time than usual, which is the Carter Administration's main argument for going to co-processing.

Japanese sources report that government and industry officials in Japan are very pessimistic about the plant's prospects, fearing it could be years before the Tokaimura plant is in normal operation. In the meantime, the Japanese are taking quiet measures to reduce their dependence on what appears to them the whims of successive American administrations in nuclear matters. They recently have begun buying interests in uranium mines in Africa, are helping the Colombians with uranium prospecting and development, and, informed sources say, are discussing enrichment very seriously with the USSR.

CAPTIVE NATIONS WEEK

Mr. SCHMITT. Mr. President, recently, we commemorated the 19th annual observance of Captive Nations Weeks. I would like to take this opportunity to add a few thoughts to those already voiced by many of my colleagues.

Since the first Captive Nations Proclamation in 1959, the world around us has changed, grown smaller in many cases, and has achieved many advances. Since 1959 we have seen technology develop for the benefit of all mankind; we have reached farther into outer space and have set foot on the moon; we have witnessed the birth of new nations throughout the world; but, we have also seen more nations submerged by Communist tyranny and we have witnessed the invasion of Czechoslovakia by the Warsaw Pact nations led by the Soviet Union.

Two years ago, 35 nations of Europe and North America met in Helsinki to discuss the future of security, cooperation, and peace in Europe and in the world. All these nations signed an agreement of cooperation, which has become known as the Helsinki accords. Many saw new opportunities for peace since the Helsinki accords included not only pledges for cooperation in political, economic, and military affairs, but also commitments to the observance of the basic human rights outlined in Basket Three of the accords.

Throughout the Soviet Union and Eastern Europe, committees of concerned

individuals were formed to monitor the implementation of the agreement. Proclamations and reports have been issued by groups such as the Moscow Group and the Charter 77 group in Czechoslovakia. The response of the Soviet Union was to arrest those individuals, to try them behind closed door, which is illegal even according to the Soviet constitution, and to sentence them to unreasonable and harsh terms.

At the very time we were commemorating Captive Nations Week, the follow-up meeting to discuss the implementation of the Helsinki accords was taking place in Belgrade. Also taking place was the trial of two members of the Kiev Group for the implementation of the Helsinki accords in the Soviet Union. Those two members were sentenced to 12 and 15 years of imprisonment for their commitment to the principles of Helsinki.

At the very time we were commemorating Captive Nations Week, we were also discussing the ending of the embargo against and the extension of diplomatic recognition to Cuba. At that same time, Cuban troops representing the Soviet Union were involved in the fomenting of terror and aggression throughout Africa.

At the very time we were commemorating Captive Nations Week, we were moving toward the admission of Vietnam into the United Nations and our de facto recognition of Vietnam. At that same time, people in Vietnam were being rounded up and sent to camps from which many may never return.

I congratulate and support President Carter's commitment to the principle of human rights. I urge the President to continue and strengthen that commitment. I am, however, concerned whether our foreign policy is truly reflecting that concern for human rights. I am also concerned whether it is understood that the basis of human rights has historically been national rights, that is, the right of a people to determine their destiny as a nation. Foreign domination has always involved violation of the rights of the subjugated people. This is what Captive Nations is about. In 1959, we committed ourselves and, every year since, we have recommitted ourselves to both human rights and national rights.

I was concerned when I learned that halfway through Captive Nations Week, a proclamation was still not issued by the President. It was reassuring that the proclamation was finally issued. I hope that the lateness, which is the first time it has been issued late, is not an indication that the administration's commitment to human rights is giving way to "pragmatic" politics.

Later this month, we will be observing the ninth anniversary of the Soviet led invasion of Czechoslovakia. That invasion of the country which was once the cornerstone of democracy in Eastern Europe should serve as a reminder of the reality of international relations and especially Soviet international design.

We must continue to pursue all available avenues to peace but at no time should we compromise our basic commitment to human rights and the right of a people to freedom and self-determination. As we conduct our foreign policy, we must remember that, in the past, the Soviet Union has not always observed its agreements. We must remain militarily and morally strong in our commitment to freedom.

QUALITY EDUCATION

Mr. PELL. Mr. President, one of the most disturbing developments in our country today is the widespread belief that students' ability to master educational basics is declining. Public opinion polls show that over 65 percent of the parents in our Nation do not believe that their children are receiving adequate instruction in the basic skills. The facts seem to support this belief.

In a survey of writing skills taken by the National Assessment of Educational Progress first in 1970 and repeated in 1974, it was found that students in 1974 aged 13 and 17 used a simpler vocabulary, wrote in a shorter, primerlike style, and had more incoherent paragraphs than their counterparts in school 4 years earlier. The first assessment of mathematics has shown that while the majority of 17-year-olds and young adults have mastered the fundamentals of addition, subtraction, multiplication, and division, they flounder when it comes to applying these basic skills to everyday situations. Assessments have indicated that science knowledge in our schools is declining. And, since 1963, the verbal scores on the College Board Test have gone down some 50 points, while the mathematics scores have declined about 30 points.

This decline in basics has caused many States to take action; 49 States are either planning, debating, or have enacted legislation concerning testing for competency or proficiency; 23 States have introduced such legislation since January of this year alone.

A recent task force of the National Association of Secondary School Principals called for the establishment of competency requirements for high school graduation in communication skills, mathematics, and American history.

The National School Boards Association polled its members and found that more than 75 percent believed schools should concentrate more heavily on the three basic skills of reading, writing, and computation.

Gallup's latest annual poll of attitudes toward the public schools showed that 65 percent of the American public now believe that all high school students should be required to pass a nationwide examination prior to graduating from high school.

It is against this background that the Federal Government must look at what is happening in American education today and decide what action it should take.

Recently the Subcommittee on Education, Arts, and Humanities, of which I am chairman, held 2 days of public hearings on the subject of quality in education. We heard from witnesses who confirmed the belief that American education is facing serious times. And, we discussed what possible courses of action the Federal Government might take to turn this development around.

Mr. President, over the next few weeks I will be meeting with teachers, students, parents, and school of education personnel in my home State of Rhode Island to talk about the fact that our children are not learning as well as students did 10 or so years ago. I hope to learn from these meetings the beliefs and attitudes my constituents hold concerning quality in education, and I intend to discuss with them what steps might be taken to restore a sense of accomplishment in our educational system when it comes to basic skills. I plan to use much of the information I gather from these meetings to focus the work of the Education Subcommittee over the coming months.

Mr. President, the decline in basic skills is a serious problem. It is a problem that touches the very heart of our educational system. It is one that deserves the full attention of this Congress over the next few months.

INITIATIVE CONSTITUTIONAL AMENDMENTS

Mr. ABOUREZK. Mr. President, since July 11 when Senator HATFIELD and I introduced Senate Joint Resolution 67, proposing a constitutional amendment to allow the use of the initiative process at the national level, I have fielded a tremendous number of encouraging questions about the proposal. One of the questions I have responded to deals with the signature requirement.

The initiative process allows citizens to place proposed law on the ballot by gathering the signatures of a required number of registered voters. Once a proposed law has been placed on the ballot, the voters will either enact or reject it by a majority vote in the next general election. While everyone agrees that the concept merits close examination, some wonder whether the process will protect us from frivolous efforts yet remain open to the serious concerns of the individual citizens, working through community organizations to prompt national discussion and debate on an important issue.

The signature requirement must be set high enough to insure that the issue properly warrants the consideration of the voting public, but low enough to insure that the process is workable and available to as many people as possible.

My proposal would allow petition sponsors a maximum of 18 months to collect signatures equal in number to at least 3 percent of the number of votes cast for President at the last election, with a minimum distribution of 3 percent in each of 10 States. Though it may be theoretically possible to collect signatures exclusively in 10 States, the practical demands of a national campaign will probably require signature gathering in a majority of the States.

The collection of large numbers of signatures on an initiated proposal requires the support and involvement of many Americans over an extended period of time. Fads will not be translated into initiative proposals because they will fade before the necessary signatures can be

collected. Only truly deep, long-lasting concerns are suitable for the initiative process. The collection of so many signatures nationwide is a stiff test of an issue's importance. Because of the nature of the initiative process, the vast majority of proposals never qualify for the ballot for lack of the needed public support and commitment.

The signature requirements provided by my amendment—3 percent of the number of votes cast for President in the last election with a minimum distribution of 3 percent in each of 10 States—guarantee both that the initiative process will be accessible for issues of great popular concern and impractical for those issues that do not merit such concern. A lower figure would invite some petition campaigns that would have no chance of eventual passage, but a higher figure would unnecessarily limit access to the process. The 3-percent figure guarantees that only suitably important issues reach the ballot.

In 1976, a total of 81.5 million Americans cast ballots for the Office of the President of the United States. Based on that election, the 3-percent national requirement equals 2.45 million signatures of registered voters. The breakdown on a State-by-State basis follows:

State	1976 Presidential vote	3 percent
Alabama	1,182,850	35,486
Alaska	123,574	3,708
Arizona	742,719	22,282
Arkansas	767,535	23,027
California	7,803,770	234,114
Colorado	1,081,439	32,444
Connecticut	1,386,355	41,591
Delaware	235,642	7,070
Florida	3,150,631	94,519
Georgia	1,463,152	43,895
Hawaii	291,301	8,740
Idaho	340,932	10,228
Illinois	4,721,282	141,639
Indiana	2,222,362	66,671
Iowa	1,279,306	38,380
Kansas	957,845	28,736
Kentucky	1,167,142	35,015
Louisiana	1,277,383	38,322
Maine	482,968	14,490
Maryland	1,432,273	42,969
Massachusetts	2,547,558	76,427
Michigan	3,651,590	109,548
Minnesota	1,949,931	58,498
Mississippi	768,390	23,052
Missouri	1,953,600	58,608
Montana	328,734	9,863
Nebraska	606,749	18,203
Nevada	201,876	6,057
New Hampshire	339,627	10,189
New Jersey	3,014,472	90,435
New Mexico	416,590	12,498
New York	6,668,262	200,048
North Carolina	1,677,906	50,338
North Dakota	297,308	8,920
Ohio	4,110,456	123,314
Oklahoma	1,092,251	32,768
Oregon	1,029,876	30,897
Pennsylvania	4,620,787	138,624
Rhode Island	410,584	12,318
South Carolina	802,583	24,078
South Dakota	300,678	9,021
Tennessee	1,476,346	44,291
Texas	4,071,884	122,157
Utah	541,218	16,237
Vermont	183,902	5,518
Virginia	1,697,094	50,913
Washington	1,555,534	46,667
West Virginia	750,590	22,518
Wisconsin	2,101,336	63,041
Wyoming	156,343	4,691
Washington, D.C.	168,830	5,065
Nationwide total	81,603,346	2,448,100

The above list makes it quite clear that only a concerted effort organized locally in each State can hope to fulfill the signature requirements. Centralized, national organizations may be useful in coordinating local efforts across the country, but by themselves they would be helpless without the grassroots participation of thousands of volunteers. Obviously, a tremendous number of volunteers would be necessary to collect the 2.45 million signatures of registered voters required.

The distribution requirement of 3 percent in 10 States insures that only issues of recognized national importance are advanced by the initiative. Even by meeting the 3-percent requirement in the 12 largest States, approximately 1 million additional signatures would still be required. This proposal demands a distribution of signatures such that only a truly national issue could qualify for the ballot. Limited, regional issues would be unlikely to reach a vote.

It is also important to note that any signature gathering campaign must take into account an invalidation rate for nonlegal signatures of anywhere from 33 to 50 percent. The practical goal for any national initiative campaign would likely be between 4 and 5 million signatures to insure that the measure would reach the ballot.

In the 23 States which now authorize State initiatives, use of the process has increased significantly in the past few years. Many liberal and conservative issues are now being addressed by the initiative and even those that fail at the polls have a great impact through education and debate. Now is the time to consider a national initiative.

CHANGES IN TAX LAWS CAN HELP OLDER AMERICANS

Mr. CHURCH. Mr. President, inadequate income is the No. 1 problem confronting the elderly.

However, between 9 and 10 million persons 65 years or older have a sufficient amount to file a Federal income tax return.

Several provisions in the tax law—many of which I sponsored or supported—are designed to ease the tax burden for senior citizens.

Each year the Committee on Aging publishes a checklist of itemized deductions to alert older Americans about possible tax savings. Another purpose is to help protect elderly persons from overlooking any deduction, credit, or exemption to which they are entitled.

Recently the Congress enacted a Tax Reduction and Simplification Act which not only makes changes for taxable year 1977 but also for taxable year 1976.

One example is my amendment to give persons 65 or older the option of claiming for 1976 the former retirement income credit or the new elderly credit, whichever is more advantageous.

This measure will provide, on the average, $182 in tax relief for 165,000 qualifying retirees.

These individuals, though, must file an amended return to claim their refund plus interest.

A recent article in the Wall Street Journal describes in greater detail this provision and other measures to ease the tax burden of older Americans.

Mr. President, I commend this account—explaining how recent changes in the tax law can help the elderly—to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 1, 1977]

CHANGES IN TAX LAWS CAN HELP PENSIONERS; SOME MAY GAIN BY FILING AMENDED RETURN

(By Donald Moffitt)

NEW YORK.—Some 22 million Americans, 11% of the population, endure the special hardships of advancing age. One sixth of these Americans over 65 are considered poor, and the incomes of most retired people are either fixed or only modestly rising. "The economic equation for retired people," says William M. Mercer, Inc., employee benefit consultants, "is frightening."

This means, among other things, that even meager tax savings can amount to a sizable proportion of the retired person's budget. And in some cases, the tax savings available to the retired person are surprisingly generous. From Citibank of New York and other sources, here is a rundown of tax breaks that includes changes made by the 1976 and 1977 tax laws:

EXEMPTIONS AND CREDIT

Over 65, you get two personal exemptions of $750 each; that's $1,500 on which you pay no income tax. If your spouse also is over 65, together you take a total of four personal exemptions. Under the 1977 Tax Reduction and Simplification Act, the number of exemptions you take will increase your general tax credit on your 1977 return in some cases. The top credit is either 2 percent of your taxable income up to $9,000—that is, a credit up to $180—or $35 times your number of exemptions, whichever gives you the greater credit. For 1976, however, you could only count one personal exemption for yourself and one each for your spouse or dependents to figure the $35-per-exemption credit. Under the law effective for 1977, you can multiply the $35 by all your old-age exemptions. This means that many lower-income taxpayers over 65 will get a large 1977 tax credit.

A more complicated change in the special retirement-income tax credit for the elderly means that some taxpayers should file an amended 1976 income-tax return. This will be dealt with below.

PENSION INCOME

None of your Social Security benefits are taxable. Neither are funds that you yourself contributed to an employer-sponsored pension plan and that you now are withdrawing. If it will take longer than three years for you to collect an amount equal to your own contribution to the plan, a portion of your yearly pension income is treated as your contribution and the remainder of the income, representing earnings on your funds or your employer's contributions, is taxable. The proportions depend on your life expendency. IRS Publication No. 75, Tax Information on Pension and Annuity Income, shows how to make the calculations.

JOINT FILING

If you are a married couple and one of you works, you can still file jointly. You can itemize deductions that "belong" to the nonworking spouse—mortgage interest and taxes, for example, on a home owned in the name of the nonworker. Also, if you expect to owe no income tax for 1977, the working spouse can stop employer withholding from his or her salary. To do so, get your employer a new (May 1977) W-4 form for claiming exemptions and write "exempt" on Line 3.

MEDICAL DEDUCTIONS

You can deduct the cost of prescription drugs, of course, when they exceed 1% of your adjusted gross income. You also can

deduct the cost of non-prescription medications like aspirin, other painkillers and laxatives even if your doctor didn't specifically recommend them. But you can't deduct the cost of drugstore products used for general health purposes rather than specific ailments or complaints. The nondeductible items include vitamins, iron supplements, toothpaste, and other toiletries and cosmetics.

You can deduct the cost of special equipment installed in your home on a doctor's recommendation. Citibank uses the example of a new bathroom on a lower floor to make things easier for a person with arthritis or heart disease. However, there's a catch. If the installation increases the value of your home, you must reduce your deduction by that increase. For example, if a $2,000 bathroom increases the value of your house by $1,500, your deduction is only $500. You can deduct all maintenance expenses for special medical equipment, even an allowance for electricity. If the equipment is detachable—a window air-conditioner that your doctor advises, for example—you can deduct its entire cost regardless of the potential increase in value of your home. And if you rent, you can deduct the full cost of all installations or equipment because no property of yours has been enhanced in value.

It's important to document such deductions. You need a statement from your doctor that the installation or equipment is necessary. Keep your invoices and canceled checks. And get a written real estate appraisal to prove how little or how much the installation has boosted the value of your home. The appraisal cost is deductible.

LIFE INSURANCE

If you become the beneficiary of a life insurance policy, the proceeds aren't taxable to you. If you invest the money, of course, your dividends or interest do become taxable. Also, an amount equal to the proceeds of the policy may be included in the taxable value of the insured person's estate.

SELLING YOUR HOME

At 65 or older, you pay no tax on any gain you make by selling your house for $35,000 or less. If the house fetches more than $35,000, part of any gain is tax-free. The tax-free part is equal to the proportion of $35,000 to your sales price. For example: $35,000 is 58.33 percent of $60,000. If you sell your house for $60,000 and your gain is $24,000, then 58.33% of your gain, or $14,000, is tax-free. To more easily calculate the amount of your tax-free gain, multiply the gain by $35,000 and divide by the sales price.

There are ways to avoid or minimize any taxable gain. If you sell your house on an installment contract, the gain is spread over a period of years to keep your tax bracket low. If your gain is exceptionally large, you can save modestly by income-averaging. Or you can buy another home within a year-and-a-half of the sale, or build a home within two years, and avoid any taxation on your gain. You subtract the amount of your tax-free gain from the sales price of the house you sold. If the revised sales figure is equal to or greater than the cost of your new home, your gain is tax-free. If the cost of your new home is less than the revised sales figure of your old one, the difference is taxable as gain.

Citibank's Consumer Views publication explores these and other tax rules applicable to the elderly. Copies are available from the bank at 399 Park Avenue, New York, N.Y. 10022.

Several tax advisers, including Commerce Clearing House, the publishers, and Seidman & Seidman, the accountants, observe that a little-publicized change in the 1977 tax law can benefit a few elderly taxpayers. But to benefit, these taxpayers will have to file an amended 1976 tax return.

The special case deals with the retirement income credit. Intended to help elderly taxpayers who receive little if any Social Security benefits, the credit before the 1976 Tax Reform Act could amount to as much as $457 for a married couple filing a joint return. The 1976 law, in effect, increased the maximum credit to $562. However, some tinkering with the complicated rules for calculating the credit resulted in denying a credit to some elderly taxpayers and reducing it for others.

To remedy the situation, the 1977 law permits taxpayers to file an amended return calculating the credit by the old method, if it is more favorable. Generally, the old method will be more favorable for a married couple if they receive no Social Security or other pension benefits and their dividend, interest, rental and other income amounts to $12,900 or more. With income of $15,000, such a couple could save as much as $160 in taxes under the old method. For single people with incomes of $9,450 or more, smaller savings may be available.

A new form, Schedule RIC (Form 1040), Retirement Income Credit Computation, must be filed with Form 1040X (for amended returns). Only for the tax year 1976 is the pre-1976 credit-calculation method available.

SCIENTIFIC CURIOSITY AND PERSISTENCE PAYS OFF

Mr. SCHWEIKER. Mr. President, a little more than a year has gone by since an unknown disease claimed the lives of 29 persons attending the American Legion Convention in Philadelphia. An additional 180 people were struck at that time with a serious, although not fatal, form of the same illness.

Since then, the so-called "Legionnaires' disease" has faded from the public eye, but the investigation into the cause and treatment of the disease has continued. Many theories have been advanced by experts over the past year, some of which proved very difficult to check out due to failures in sample collection and other flaws which some authorities feel seriously marred the conduct of the original investigation. At long last, however, progress in identifying the mysterious illness and appropriate treatment for it has been made. Through the persistence and scientific curiosity of Dr. Joseph E. McDade, an individualistic microbiologist at the Center for Disease Control, the unusual bacterium which caused Legionnaires' disease has been discovered and isolated, and the effectiveness of a certain antibiotic against it has been demonstrated.

We have now connected the bacterium responsible for Legionnaires disease with other mysterious outbreaks in Pontiac, Mich., and Washington, D.C. So far this year, 19 cases of the illness have occurred, 6 of them fatal. The importance of discovering the cause of this disease is hard to overestimate: It looks like many lives may be saved in the future, now that an appropriate therapy can be prescribed. Many important questions still remain unanswered at this point, including the questions of how the bacterium is transmitted and how the Legionnaires came into contact with it. I am hopeful that the search will continue and be fruitful in finding these answers as well.

I congratulate Dr. McDade for his individualism and scientific curiosity, which appear to have paid off handsomely in this case and I ask unanimous consent that the Philadelphia Inquirer story detailing this important investigation and discovery be printed in the RECORD.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

TWISTS, TURNS AND EUREKA! THE LEGION BUG

(By Donald C. Drake)

It had been a disastrously unsuccessful year for the Center for Disease Control (CDC) in Atlanta. By December, the mood of the disease investigators was as depressing as the cold weather that was beginning to sweep across the country.

Few medical agencies had ever received so much publicity in one year, and all of it was bad. It seemed that everything possible had gone wrong with the highly publicized, (CDC) inspired swine-flu inoculation program. And then there was "Legionnaires' disease" and the CDC's complete inability to solve it.

It was so ironic. Year after year, the CDC had been building up a worldwide reputation in medical circles by finding the causes of epidemics quietly, quickly and efficiently. And now, for the most publicized epidemic of modern history, the CDC was not even able to come up with a plausible theory.

It was not for want of trying. The investigation had been the most sweeping epidemiologic inquiry ever undertaken. CDC scientists had been going at it for four months. And now, in December, they were still no closer to solving it than they had been on Aug. 2, when the epidemic was discovered.

The investigation was winding down now. The only tests being run were designed to check for the most obscure and unlikely possible causes of the outbreak. In another month or so even those tests would be completed, and after that, for all practical purposes, the CDC would be ready to give up.

Dr. Joseph E. McDade, a 37-year-old mustachioed, individualistic microbiologist in the leprosy and rickettsia laboratory, hadn't worked on the mystery since September.

But in only a few weeks a phrase in a technical report would trigger his curiosity and lead to his discovery of the bacterium that caused Legionnaires' disease.

Since September, when it began to seem clear that the CDC was not going to find the Legion "bug," there had been more and more criticism of how the scientists handled the case.

The main criticism was that the investigators had wanted to prove that Legionnaires' disease was really the long-awaited swine-flu epidemic, and that, therefore, they concentrated their investigation on proving that a virus, rather than a bacterium or a toxin, had caused the disease. By the time the toxicologists were called in to look for poisons, the critics said, all the important clues had been lost or destroyed by inadequate autopsies.

It was true that the investigation initially had centered on looking for an infective agent. But the CDC insisted that was because the 180 persons believed to have been stricken in the epidemic, including the 29 who died, had had high fevers, pneumonia and other symptoms suggestive of a virus or bacterial infection.

Still, the longer the mystery went unsolved, the more vociferous the critics had become.

The pressure didn't seem to bother Dr. David Fraser, the 33-year-old physician in charge of the epidemiologic section of the investigation. But no one could ever be sure how this stylish but informal physician felt about such things, because it wasn't his way to reveal any emotions, let alone feelings of insecurity or anger toward critics.

All through the hard months of the in-

vestigation, the tall, long-haired epidemiologist had smiled when confronted by reporters, answering questions with charm and self-assurance—which could not have been easy to do considering how baffled Dr. Fraser and his people were by the Legionnaires' case.

And even now in December, at the lowest point of all in the investigation, when the CDC was at the point of conceding failure, Dr. Fraser was still his charming, boyish, Ivy-League self. Dressed in his workman's boots and open-necked business shirt, he would go from office to office, checking with the dwindling number of colleagues still working on the project. He was told that things weren't going well at all and probably never would.

At the height of the investigation, a couple of hundred experts had been studying the mystery. Now there were only a dozen or so, and these were working part-time, more out of personal curiosity than as part of a work assignment.

THE FIRST HINTS: A ROUTINE REPORT

Dr. Fraser will never know why he was so insistent on seeing to it that everyone received a copy of the EPI–2 he had just completed. This was the second epidemiologic report on the declining investigation.

Probably more out of a passion for completeness than anything else, Dr. Fraser took it around to all the labs that had been working on Legionnaires' disease.

Reports like these are standard at the CDC, keeping everyone informed about what everyone else is doing in a given study.

An epidemiologic investigation as big as the one on Legionnaires' disease involves hundreds of people in the laboratory and in the field at one point or another. Many of them work essentially independently, studying tiny pieces of the puzzle, and never come into contact with their colleagues working elsewhere. They never know when a scientist next door, or down the hall or up in Philadelphia might have uncovered information that is essential for them to progress with their work.

Grabbing several of the freshly printed reports that his secretary had just brought in, Dr. Fraser bounded out of his fifth-floor office in Building One, took the elevator to the first floor and walked across the open-air walkway to Building Seven, which houses the infectious-disease laboratories.

While he was there, he decided to drop off a report at the leprosy and rickettsia laboratory of Dr. Charles C. Shepard. It had seemed unlikely that Legionnaires' disease was related to leprosy or caused by rickettsia, a microorganism that causes such things as spotted fever and is usually insect-borne. But in August, Dr. Shepard's laboratory had taken a look at the blood samples just to make sure.

Dr. Fraser's compulsive thoroughness in seeing that Dr. Shepard's lab received a copy of the EPI–2 would pay off handsomely. One of the people who would browse through the report would be the mustachioed individualist, Dr. McDade.

FOR ONE SCIENTIST, A TIME OF LEISURE

The scientific process is not as precise and straightforward as laymen presume. Scientists don't move steadily from one point to another, methodically peeling away the layers of nature's mysteries. They use a much more random, much more creative process than that.

Just as the poet wanders through his mind, trying to find just the right word, or an artist tries to envision the right colors, so does the creative scientist pursue his work.

Sometimes, said Dr. Shepard, the CDC's world-renowned rickettsial expert, a scientist needs the freedom of leisure to explore without direction or restraint. Inspiration, the "Eureka!" moments, often come when the scientist is just barely thinking about his problem. Suddenly the answer is there, in clear outline, embarrassingly obvious after having been hidden for so long.

No such leisure was available at the height of the Legionnaires' disease investigation. Everyone was under such pressure to produce results—especially during the first few days, when a widespread epidemic was feared—that the lab people had barely time enough to do what was demanded of them.

Dr. McDade had been responsible for testing the Philadelphia blood samples for the presence of rickettsia, and only rickettsia. Other labs would be checking the samples for viruses, bacteria and toxins.

Working feverishly during the first few days, Dr. McDade and the others in the rickettsial lab checked slide after slide, looking for the short, rodshaped, red-stained form characteristic of rickettsia, which is something between a virus and a bacterium. But nothing resembling it showed up.

There were some large, isolated rods, but they seemed much too long and fat to be rickettsiae. They also were few in number, so Dr. McDade assumed that they were only chance bacterial contaminants.

He was looking for rickettsia because it causes Q-fever pneumonia, which produces symptoms similar to those of Legionnaires' disease. However, common sources of Q-fever infection are animals or contaminated hay, and it was hard to imagine how these could be related to an epidemic in the middle of Philadelphia.

So it was no surprise when Dr. Shepard's lab informed Dr. Fraser that the studies were negative.

It was ironic that, of all the people who worked so hard to identify what caused Legionnaires' disease, it was Joe McDade who was destined to make the historic discovery.

Top-ranking scientists and physicians all over the country had been vigorously pursuing all sorts of unlikely theories, some working nights and on weekends, driven by the thought that they might succeed where so many others had failed.

Dr. McDade, of course, also wanted to solve the mystery, but he was not driven by the same passion for recognition. A hard worker who was respected within his small, specialized field, Dr. McDade had long ago given up an intention of becoming a renowned scientist.

As is true in most fields, greatness in science comes to those who are not only gifted, but also willing to devote their lives to their work.

But life held too many other interests for Dr. McDade to give everything to science. He was devoted to his wife and children and to tennis and hiking and biking. The physical vigor of his life was obvious in his broad shoulders and muscular body.

The slides were then filed away, in accordance with lab procedure, and no one thought they would be needed again.

Again, compulsive routine would pay off. The microorganism that hundreds of people would search for in vain for months was contained on the slides that Dr. McDade filed away that day in the wooden slide box on his desk.

Dr. McDade wasn't at all like his boss, Dr. Shepard, who was continually returning to the laboratory at night and on weekends to pursue research projects. Dr. McDade worked hard, but he usually left on time, unless he was in the middle of a test run or some other project that forced him to stay.

So it was not compulsion or ambition that prompted him to go through the EPI–2 report that Dr. Shepard had left for him on the morning of Dec. 27. It was intellectual curiosity.

Idly thumbing through the report, Dr. McDade came across a reference to the fact that the SGOT levels in some Legionnaires' disease patients were elevated. Elevation of the enzyme SGOT indicates liver damage and is frequently, though not exclusively, associated with rickettsial infections.

Dr. McDade was also intrigued by a statement that Q-fever still should not be ruled out as a possible explanation for the mystery because its symptoms were so similar to those of Legionnaires' disease.

Suddenly, the words and figures seemed to jump out of the pages at him. "What if this was a new group of rickettsia?" Dr. McDade asked himself as he stared at the report. It was a presumptuous speculation, and Dr. McDade knew it, because no new type of rickettsia had been identified in more than 40 years.

Still, there was always the possibility, Dr. McDade thought as he reached across the desk to the wooden slidebox. What harm would it do to examine the slides again, now that he had the leisure to do it?

This time, instead of looking only for rickettsiae of the usual size and shape, he would pay particular attention to anything unfamiliar, in case it might be a new rickettsial form.

This probably wouldn't lead to anything, Dr. McDade thought as he began the tedious process of reviewing the slides. But it was a slow day, and he didn't have anything better to do.

SOME CLUES FROM THE PAST

It was no accident that Dr. McDade still had the old slides. The CDC keeps slides and blood samples from disease outbreaks indefinitely so that investigators can always check back for links between one outbreak and another. The practice had enabled the CDC to solve a number of epidemiologic mysteries, and it was about to do so again.

Blood samples, or more accurately serum (blood without red corpuscles), are extremely valuable to disease detectives because they contain antibodies, the clues essential in identifying particular disease agents. Even years after an infection, these clues persist in the serum.

Antibodies are proteins custom-made by the body to fight off "bugs"—microorganisms—that invade it. Each antibody is specifically designed to do battle with a particular disease agent, and that is why, even when the bug itself is gone, scientists can tell you what it was by the antibodies it left behind. For example, if tests show measles antibodies in a person's blood, there is no question that the person once was infected by measles viruses. Polio antibodies reveal a prior polio infection, and so on.

The CDC has more than 250,000 vials of serum, many containing antibodies that are clues to unsolved mysteries. The vials date back to the 1950s. Put in styrofoam trays and lined up in rows, they are stored in one of 37 home-style freezers in a low-ceilinged room that looks like a showroom for an appliance manufacturer.

The chief of the serum bank is Charles F. Peters, who talks about his serums the way a stamp collector discusses his prize samples. He has serums from a malaria outbreak in Trinidad, a gastric enteritis epidemic in Honduras, an encephalitis epidemic in Texas. He has serums from Cuban refugees, South Vietnamese soldiers and the first 4,000 children in the Salk polio vaccine trial.

The samples are listed by 255 classifications so that common characteristics of unsolved cases can be used to find associations. The patients' ages, sex, races, symptoms and length of illness are among the classifications. So if there is an outbreak of illness, say, among women who develop pneumonia as part of it, the investigator can contact Peters and obtain serum samples from numerous female pneumonia victims.

Open-stock serum—that is, serum that an

investigator can get at any time—is stored in vials with white labels. Posterity serum, which is very rare and available only on approval by an executive committee of the serum bank, is kept in pink-labeled bottles. Restricted serum, which can be obtained without committee approval but only when the need is great, is kept in yellow-labeled bottles.

Among the serums stored in yellow-labeled vials were 146 samples from a 1965 outbreak of pneumonia at St. Elizabeth's Hospital in the District of Columbia. Eighteen persons died in the St. Elizabeth's epidemic, which was one of the two major unsolved epidemics in the CDC's files.

Dr. Shepard was impressed by the similarity of the St. Elizabeth's and Philadelphia epidemics. But until a bug was isolated, it would be impossible to prove that the two epidemics had been caused by the same agent.

The other major unsolved case was represented in Peter's freezers by serums in 2,242 restricted and posterity vials. They were from a 1968 epidemic that struck 144 persons who visited or worked in a health-department building in Pontiac, Mich.

The Pontiac outbreak did not appear at all similar to either Legionnaires' disease or the St. Elizabeth's epidemic. The Pontiac illness was much milder, no one died and there was no pneumonia.

There was no longer anyone working on the St. Elizabeth's and Pontiac cases. They probably would remain unsolved unless the bugs that caused them struck again.

Should that happen, and the bug be isolated, then the scientists could obtain some of Peters' old blood serums, run antibody tests and discover the relationship.

But so far those two vexing mysteries remained unsolved.

"IT LOOKS LIKE IT'S SOMETHING"

Dr. McDade saw nothing in the first few slides he reviewed. Staring at each one for 20 to 30 minutes, he slowly manipulated the slides under the microscope, carefully examining the myriad patterns, looking for something that resembled a rickettsia or a bacterium.

By 11 am., he had found what he was looking for. The bugs almost popped out at him as he brought them into the center of the microscopic field.

There was a group of bright red rods within the purplish blob of a spleen cell. They seemed to be the same kind of long, fat rods he had seen in August—but those had been few and scattered, while these were clustered, which indicated a serious infection.

Dr. McDade spent the next hour going over more slides, but rushing excitedly through them now. Then he called in his boss, Dr. Shepard, who knows as much as or more about rickettsia than any other scientist in the world.

Dr. McDade wanted an unbiased evaluation of what he had found. So, without telling Dr. Shepard where the slide had come from, he merely stood aside as his boss stared into the microscope.

"That's the most impressive thing you've hit yet," Dr. Shepard said, thinking that it was a slide from a spotted-fever case that Dr. McDade had been working on. "It looks like it might be something."

Still, Dr. McDade mentioned nothing about Legionnaires' disease, and Dr. Shepard left, unaware of the historic discovery that was taking place in his laboratory.

Buoyed by Dr. Shepard's comments, Dr. McDade pulled out his notebooks and reviewed the work he had done four months earlier, trying to find out why he had not picked up anything then.

He would soon learn that he had missed the bug in August because he was concentrating too much then on finding a rickettsia. In fact, the guilty agent was a bacterium.

All along the disease detectives had doubted that Legionnaires' disease was a bacterial infection, because the symptoms suggested a virus and because no one had been able to grow bacteria in an artificial medium, which is the standard test.

They had no way of knowing it, of course, but the Legionnaires' disease bug was a very unusual bacterium that just didn't like to grow in artificial media. And so the emphasis was placed on finding a virus or a rickettsia or even a toxin.

The process of isolating viruses or rickettsiae is complicated. Scientists can't simply take tissue from a disease victim and find the bug by looking for it under a microscope. The chances are too good that the tissue won't happen to have many bugs in it.

Instead, the microbiologists take tissue believed to contain bugs, put it into a likely growth medium—usually an animal—and hope that the bugs will multiply to the point that they can be detected.

That's exactly what Dr. McDade did last August. He took lung tissue from a Legionnaire killed in the outbreak and injected it into guinea pigs. If rickettsiae were hiding in the tissue, it would take three to seven days for them to multiply to the point of killing the pigs or making them sick.

Dr. McDade's pigs died or became sick within 36 hours. That was much too fast for rickettsiae. Such rapid lethality was more characteristic of bacteria—but bacteria had already been discounted as a possibility by the other negative tests.

If bacteria were killing the pigs, Dr. McDade thought, it was much more likely that bacteria were an accidental contaminant than that they were the cause of Legionnaires' disease. It is common for bacteria to invade the defenseless lungs of dying or dead pneumonia victims whose disease was caused by something else entirely.

The way microbiologists rule out bacteria contaminants is by trying to pass bugs from a set of infected guinea pigs to a set of healthy animals. The first set of animals is used as a biologic filter to screen out the contaminants, which are usually weak, while permitting the more virulent primary infection to get through to the second group of animals. The screening effect is pronounced with guinea pigs because, for some reason, they are particularly good at fighting bacterial contamination.

Again Dr. McDade followed the established procedure. Grinding up the lungs of the infected animals, he made a new inoculum, which he injected into the second set of animals.

He made the inoculum from lung tissue because, he reasoned, pneumonia is a disease of the lungs and if the bugs were hiding anywhere in the body the most likely place would be in this organ.

It was here that Dr. McDade made a serious mistake.

Pneumonia bacteria do not act the same way in guinea pigs that they do in human beings. The bacteria don't collect in the lungs. They concentrate in the guinea pigs' spleens, organs used as part of the animals' immunologic defense system against disease.

The guinea pigs that Dr. McDade had used last August were filled with bacteria, but he failed to find them because the lung tissue he injected into the second set of animals contained few bugs. So none of the newly inoculated animals became sick, and it appeared that Dr. McDade was right in presuming that the bacteria in the first set were merely contaminants.

It was only one of many times that the bacterium managed to elude Dr. McDade and other scientists at the CDC.

Upstairs in the laboratory of Dr. Vester J. Lewis, attempts were made to grow rickettsiae in eggs. Here, instead of using guinea pigs to screen out bacterial contaminants, the scientists used penicillin and streptomycin, which kill bacteria but leave rickettsiae alone.

This test failed, of course, for the ironic reason that instead of screening out contaminants, the antibiotics had killed the very bacteria everyone was looking for. The sterilized inoculumn didn't hurt the eggs at all, and again the scientists wondered whether there were any important bugs in the tissue, or whether Legionnaires' disease was really caused by a toxin after all.

As a final check, Dr. McDade sent the tissue from the diseased guinea pigs off to the bacteriologists, who again failed to grow any bacteria in their artificial media. The blood of the sick guinea pigs was checked for ricketsital antibodies. but naturally none was found.

Sitting alone in his crowded office, the data from the hectic work he had done months earlier scattered about him, Dr. McDade unknowingly hit upon the idea that would crack the mystery.

He would try again to make the bug grow, but this time he would use tissue from guinea pigs' spleens and inject it into the eggs without antibiotics. If this strange bug he had seen was an unusual rickettsia or in fact a bacterium, he wanted to give it every chance to grow.

Dr. McDade even went so far as to order special eggs from flocks of chickens that hadn't been given antibiotics with their feed, a common practice in egg production. It took three days for the eggs to come in, but they finally arrived. And, on Dec. 30, Dr. McDade injected them. If he was on to anything, the chicken embryos should start dying within a week.

That night Dr. McDade and his wife went to the home of a neighbor and had coffee and cake with two other couples. He had trouble concentrating on the conversation because he kept thinking about the eggs he had just inoculated, wondering whether the bugs would start to grow.

Dr. McDade's reverie was broken when he realized that the others had begun talking about the CDC.

"Do you think you will ever find out what caused the epidemic in Philadelphia?" a man was asking him with some hostility, "Aren't you guys ever going to solve that mystery, or have you given up?"

Dr. McDade was shocked by the coincidence. He wanted to yell out his growing excitement. He wanted to tell the man about the eggs he had just inoculated. What a magnificent putdown it would have been for this man and the other people who had been ribbing him and his colleagues at the CDC.

But he didn't feel free to reveal any of this. Instead, he just shrugged his shoulders.

"You just can't tell about those things," he said, sipping some coffee. "A lot of people are still working on it. Who knows? Maybe someone found something today that could lead to the solution."

TESTING AND MORE TESTING

The next few days were anxious ones for Dr. McDade. He started each morning by examining the eggs over a light to see if the embryos inside were alive or dead. Nothing happened for the first few days—but then, on Jan. 5, six days after inoculation, the embryos started to die. By Jan. 6, most of them were dead.

Dr. McDade was sure he had the bug. Quickly he made slides from the egg material, stained them and put the material under the microscope.

The microscopic field was littered with clusters of red rods. The eggs were filled with the strange organism.

Trying to contain his excitement and appear the cool scientist, Dr. McDade told Dr. Shepard and a couple of colleagues in the small laboratory. What a secret they shared! But they couldn't tell anyone outside the laboratory until they were more certain.

It was clear that Dr. McDade had found something. But was it the same microorganism that had caused Legionnaires' Disease? There was one way to tell. Did the victims' blood contain antibodies to this bug?

Dr. McDade would determine this by mixing the bugs he had just grown with blood from Legionnaires' disease victims. If the victims had been infected by this bacterium, the antibodies in their blood would attack it, a reaction that the laboratory could easily detect with a procedure called an indirect fluorescent antibody (IFA) test.

In an IFA test, the slides are treated with a substance that fluoresces under ultraviolet light if the antibodies present react with the bacteria. Using his influence, Dr. Shepard got four samples of the precious Legionnaire blood from the virology lab on the floor above without explaining why he wanted it.

It took a while to prepare the slides, so it wasn't until almost 4 o'clock on Jan. 7 that the scientists were ready to look at them under the ultraviolet light. Snapping off the overhead light in the small microscope room, they put a slide under the microscope and turned on the ultraviolet light.

Blotches of eerie green fluoresced under the microscope. The test was positive. There was an antibody reaction. This particular victim had been infected with the bacteria that Dr. McDade had isolated.

Quickly the scientists tested the sample from the other three patients. From one, there was fluorescence. But the two other samples were negative. Could it have been a fluke? Dr. Shepard rushed upstairs to get more samples before the CDC closed for the day.

These were paired samples, meaning that two blood samples had been taken from each patient. The first was drawn during the acute phase of the illness, soon after the patient was infected and before his body was able to develop immunity by producing antibodies.

The second blood sample was obtained weeks later, during the convalescent period, when the blood contained millions of the antibodies it had made to fight the bug.

If the second sample in the paired serums showed a sharp rise in antibodies over the first sample, it would constitute convincing evidence that the scientists had the right bug.

Once again the samples were prepared by Martha Redus, a microbiologist, and Dr. Verne Newhouse, an insect specialist, who were more experienced with the IFA test than anyone else in the laboratory.

It was just as well that they were running the tests, because Dr. McDade was too exhausted and excited at this point to do anything constructive. So he went home. Miss Redus would call him as soon as they had something.

Dr. McDade had little appetite when he got home that night and couldn't concentrate on anything. All week long he had been having trouble sleeping. His wife didn't know what was wrong because he hadn't told her about what was going on in the lab.

Finally, at 8 p.m. on June 7, the telephone rang in the McDade home. It was Martha Redus. Two of the five paired serums showed a sharp increase in the antibody level, she said.

The test was holding up. It was becoming more and more likely that Dr. McDade had found the bug that had caused Legionnaires' disease.

The next few days were exciting and hectic as the handful of scientists, directed by Dr. Shepard, started running through dozens of blood samples in the small laboratory.

What was needed now was numbers. Was this test specific for Legionnaires' disease, or would it come up positive with any pneumonia case, even those caused by viruses, other bacteria or rickettsia? If it was nonspecific, if it always came up positive, then it would be worthless.

The scientists tested serums from patients known to have had viral pneumonia. The results were negative. They tested serums from persons caused by rickettsiae. These tests were negative, too. Serums from patients with psittacosis, a pneumonia caused by a fungus, were tested. Negative.

But time after time the samples from Legionnaires' disease patients came up positive.

A Legionnaires' disease victim was defined as anyone who had had a temperature above 102 degrees, pneumonia, a cough and had attended the American Legion convention or gone into the Bellevue Stratford between July 21 and July 24, 1976.

But what about the patients with the so-called Broad Street pneumonia? These were persons who had the same symptoms as Legionnaires' disease patient, and who had come within a block of the Bellevue Stratford—but had not entered the hotel.

This was an important distinction for the epidemiologists because, if the Broad Street victims had had the same bus as Legion victims, it would mean that the microorganism was not necessarily confined to the Bellevue Stratford.

Two of four samples from Broad Street pneumonia patients tested out positive.

HOLDING BACK THE BIG NEWS

By the middle of January, Dr. Shepard was sure enough about what his lab had found to call Dr. David J. Sencer, the head of the CDC, and request a conference.

The meeting was held on Jan. 13 in Dr. Sencer's spacious, second-floor office. Among those present was Dr. Fraser, head of the epidemiological investigation of Legionnaires' disease. It was the first time that Dr. McDade had met him.

Drs. McDade and Shepard quietly outlined the data they had accumulated over the previous week, without drawing any conclusions. They didn't have to. The data were spectacular. Their significance was obvious.

The scientists might have been expected to call a press conference and proudly announce the breakthrough. But everyone in the room that day was still too wary. Already too many scientists around the country had announced promising theories, only to retract them a few weeks later.

What with the swine flu fiasco and the frustrations of Legionnaire's disease, the CDC was having too much trouble with its credibility to want to jeopardize it further.

But conversely, with an epidemic as well publicized and frightening as Legionnaires' disease, the CDC couldn't hold back important information long. As more and more people in the CDC discovered what was happening the press would be more and more likely to hear about it.

The laboratory moved quickly now to amass as much information as possible, knowing that it was only a matter of days before some kind of announcement would be made. If the new bacterium was going to prove a ringer, let it be now before the announcement, everyone prayed. Dozens more serums were rushed through the IFA test. The results continued to be consistent.

For months Dr. Shepard had been intrigued by the similarity of Legionnaires' disease to whatever caused the 1965 St. Elizabeth's epidemic, which had struck 94 persons and killed 16.

Now he had a reliable way to determine whether there was a connection. Once again the CDC's policy of preserving blood samples and tissue from disease outbreaks would pay off.

Peters was asked to provide serums from the St. Elizabeth's victims. He wasn't told why, because the scientists were still trying to keep the investigation secret.

The little vials of serum, still cold from their long, frigid hibernation, were quickly prepared by Miss Redus and Newhouse, tagged with the fluorescent substance and put under the microscope with the ultraviolet light.

There was no mistaking it. Thirteen of the 14 slides fluoresced with the glow of the bugs that caused Legionnaire's disease.

It was strange feeling for the people in the darkened room, looking at the greenish glow and realizing that it was produced by the same microorganisms that had caused a lethal epidemic so long ago. For 11 years these bacteria had hibernated in Peters' freezers, eluding detection. But now they had been unmasked.

Another request was sent to Peters. This time the scientists wanted samples from the epidemic in Pontiac, Mich. It seemed less likely that this epidemic would be linked to the Legion bug, because the disease had seemed so different. None of the 144 persons who were stricken died and there was no pneumonia.

But the scientists ran the tests anyway. About 90 percent of the serums were positive.

It was amazing. In one sweeping move the CDC had cracked three of its most vexing unsolved cases. And all because Dr. McDade was curious about something mentioned in a technical report on a day when he had nothing better to do.

An announcement was scheduled for Jan. 18, much against the wishes of Dr. Shepard and other scientists, who were not accustomed to high-pressure, celebrity science. They felt that more tests should be run to make absolutely certain that what they had found wasn't a fluke.

The evidence was already overwhelming, but not absolutely definite. Respected scientists gain their reputation by avoiding foolish mistakes and by being so consistently conservative in their conclusions that they are rarely wrong. To err in a case like Legionnaires' disease with a premature announcement could cost the CDC scientists some of their carefully built reputation. But officials in the CDC insisted on making the announcement as soon as possible.

And so on that Tuesday afternoon, in an auditorium filled with 300 cheering CDC employes, Dr. Sencer made the historic announcement.

He used a lot of the vague, qualified phrases that scientists like saying, for instance, that they had found a bacterium "quite definitely associated with the disease." But it was clear to everyone what it really amounted to:

The Center for Disease Control had found the cause of Legionnaires' disease.

NEW ANSWER, OLD QUESTIONS

Though the CDC had finally found the bacterium, much of the mystery remained. The three most obvious and important questions were:

Where had the bacterium come from?

How and why had it been transmitted primarily to Legionnaires?

Would there be any more epidemics?

Once again, dozens of scientists started work on the project that they had abandoned in despair only months earlier.

Now they had a crucial advantage. Before, Legionnaires' disease had been defined only a set of vague symptoms and other criteria. No one could be sure that someone who met that definition really had had Legionnaires' disease; he or she might have had something else entirely.

Now, though, the question was settled once and for all. If someone had been infected with Dr. McDade's bacterium, that person had had Legionnaires' disease.

This narrowed the field of research and meant that many projects could get under way with good prospects of success.

For obvious reasons, priority was given to testing antibiotics against the newly isolated organism. If another epidemic should occur, it would be essential to be able to tell physicians what drugs to give their patients.

And there was another pressing reason: As more and more CDC laboratory people began working with the lethal organism, the chance increased that they themselves would be infected.

Dr. Vester Lewis, who was in charge of the laboratory that studied animal-transmitted diseases, was given the assignment of testing for an antibiotic that would kill the Legion bug.

There was no reason to believe that Legionnaires' disease was transmitted by animals, but Dr. Lewis' lab did a lot of work with eggs, and this was how it would test for the right antibiotic.

Working with Legion bacteria that Dr. McDade had provided, and testing one antibiotic a week, Dr. Lewis intended to screen about 10 major antibiotics.

The plan was to put various doses of antibiotics into eggs, and then inject the eggs with bacteria at various concentrations. In this way the scientists would determine that antibiotics protected the chicken embryos from being killed by the bugs.

Because both the doses of antibiotic and the concentration of bacteria would vary from egg to egg, many eggs would be needed to test each antibiotic.

Erythromycin, the first antibiotic to be checked, alone would require 160 eggs. Erythromycin was chosen to lead the tests because it had appeared to be the most effective in treating patients during the summer epidemic.

Dr. Lewis' work went well, and by Feb. 10 it was obvious that erythromycin was a good drug for Legionnaires' disease. At the four highest concentrations of the drug, none of the eggs died.

Still, protecting eggs with antibiotics before they are infected doesn't anticipate real medical care. Human beings neither seek nor obtain antibiotics until after they become sick. The CDC's egg test was only a preliminary screen.

But two months later, the effectiveness of erythromycin was proved more substantially in studies done by Dr. Philip Nash and Karen Shectman in the laboratories of the Pennsylvania Health Department on Girard Avenue in Philadelphia.

The Pennsylvania scientists infected 10 guinea pigs with the Legion bug. The moment they developed symptoms—in most cases 24 hours after inoculations—six were given injections of erythromycin. The four others were left alone.

Within 96 hours, the untreated animals were dead. None of those that received the antibiotic died.

It was convincing proof that erythromycin was the drug to give if someone came down with Legionnaires' disease.

The rush to identify an effective drug may have saved the life of a 53-year-old carbon-plant employe in St. Mary's, Pa., who came down with Legionnaires' disease on March 27.

Initial attempts to treat the man's pneumonia failed and he became progressively worse. Finally, near Geisinger Medical Center in Danville, where Drs. John Dennehy and F. L. Jones, Jr. began to suspect Legionnaires' disease.

Both physicians remembered the CDC and state reports saying that erythromycin might be effective against the bacterium. They immediately gave him the drug, though normally they would have tried something else.

Within 24 hours the man began to improve dramatically, and a few days later he was out of danger.

Dr. Dennehy said that he did not know whether erythromycin had been responsible for the sudden improvement, but that if it hadn't, he was impressed by the coincidence.

The second important project for the CDC scientists was growing the Legion bacterium in an artificial medium. This would enable the bacteriologists to obtain large quantities of it for the kind of study necessary to determine its characteristics.

It was always possible that the Legion bug had been identified in another context, perhaps so long ago or in such an obscure case that everyone had forgotten about it. If this were so, and the records could be found, it could save the CDC scientists months or years of work that other scientists had already done.

But they had to know many things about the bacterium before they could even look for such records.

The physical appearance of a bacterium—its size and shape—does not usually suffice to identify it. Too many of them look alike. The bacteriologist also must determine how a given bacterium grows, what type of nutrients it uses, what effect it has on different biochemicals, whether it needs oxygen to grow or can't survive with it, how much carbon dioxide it needs if any.

Once the scientists have determined all of these things and more for a newly discovered bacterium, they then can turn to their reference books and see if anything else with the same characteristics has been discovered.

But before all these things can be done, it is essential to find a medium that the bacterium will grow in.

Dr. Robert Weaver, 49, the meticuously cautious and nervous chief of the special bacteriology section at the CDC, was assigned the job of finding the medium.

Dr. Weaver was doubtful that he would be able to find the right medium, and he also was concerned about exposing his laboratory to a lethal microorganism that, at that point, had no known cure.

The first four media that Dr. Weaver tried failed to produce any bacteria. This was no surprise, since during the epidemic bacteriologists in dozens of hospitals had tried unsuccessfully to grow the Legion bug in conventional clinical media.

On Friday, Febuary 25, Dr. Weaver inoculated a "chocolate" agar with a huge dose of the bacteria. The agar wasn't really chocolate, but looked that way because it was rich with brownish-red hemoglobin, a substance some bacteria thrive on. Dr. Weaver then put the cultures into incubators with various concentrations of carbon dioxide and left for his weekend.

When he returned to the laboratory Monday morning, the first thing he did was check his incubating media. The moment he looked at the culture dishes, his success was obvious. Bumps had appeared all over the normally smooth surface of the agar. It was filled with bacteria.

On only the fifth try, Dr. Weaver had found a medium that would grow the Legion bacterium.

Two weeks later, an amazing coincidence occurred. A package arrived in the mail from a laboratory in Flint, Mich. It contained a screw-top test tube with bacteria from a case of pneumonia that had killed a 39-year-old woman weakened by a chronic disease.

The Flint physicians wanted help in identifying the mysterious bacterium, which they had been trying to classify for two months, ever since they isolated it in January. They sent it to Dr. Weaver because his is the major bacteria-reference lab in the country, used by hospitals and health departments for hard-to-classify bacteria.

Studying the lab data that accompanied the bacteria, Dr. Weaver as impressed by two striking facts. The Flint bug grew only in a medium that was remarkably similar to the one he had just used to grow the Legion bug. And the description of the bacterium was the same as that of the Legion bug.

Could it be that this woman had been killed by Legionnaires' disease, months after the Philadelphia epidemic had ended? If so, it would mean that the Legion bug was still active and perhaps roaming throughout the country.

There was one way to tell for sure—the IFA test. Dr. Weaver crossed the open-air walkway that connected Building Five to Building Seven, and went downstairs to Dr. Shepard's basement laboratory. He said he had something that Dr. Shepard's people might be interested in looking at.

Quickly Martha Redus prepared a sample with the fluorescent substance, put it under the microscope and snapped on the untraviolet light. The slide glowed with greenish clumps of bacteria. It was filled with Legion-like bugs. The woman had been stricken by the same bacterium that has caused Legionnaires' disease.

Of all the specialists working on the Legionnaires' disease investigation, none was more excited by Dr. McDade's discovery than the energetic Dr. Fraser, who headed up the epidemiologic section of the study.

Now that laboratory tests could identify Legionnaires' disease victims, Dr. Fraser would be able to search the country for them. Perhaps he would find a common thread that might explain how and why the disease infected certain people.

Ironically, the very thing that helped health officials realize that there was an epidemic in Philadlephia—the fact that most of its victims were Legionnaires—had concealed further solutions.

Most of the Legionnaires at the convention were about the same age, from the same socioeconomic background, did the same things in Philadelphia during the week of the epidemic and so on. No doubt the people who got sick did something different from the healthy people that exposed or made them vulnerable to the bug—but what was it? No one had been able to find out.

Now, by surveying hundreds if not thousands of patients with unclassified pneumonia, people who were very much different from one another, the thread that linked them as disease victims might be found.

But to do this Dr. Fraser had to start a huge nationwide effort to bring in blood and tissue samples from pneumonia victims.

Not only would this require a considerable amount of work on the part of the epidemiologists and the cooperation of private physicians, but it also would put a tremendous load on the already overburdened laboratories of the CDC.

But it would be worth it, if they should succeed.

In the back of everyone's mind was the thought that the Legionnaires' disease bacterium might be responsible for a large percentage of the thousands of cases of pneumonia each year that are caused by unknown microorganisms.

In about 30 percent of cases of viral-like pneumonia, physicians are unable to find the bug that caused the disease. If the CDC could link the Legion bacterium to many such cases, the scientists would be close to a public-health achievement that would dwarf the original value of solving the Legion mystery.

At a hastily assembled meeting in Harrisburg, Dr. Fraser conferred with Pennsylvania and Philadelphia health officials. The investi-

gation would be broken into three sections along the lines of the geographical responsibilities of the three agencies.

Dr. Robert G. Sharrar, the city's epidemiologist and a former CDC officer, would try to find out whether the epidemic had spread to the area surrounding the hotel.

Perhaps the Legion bacterium had caused a lot of other disease in Philadelphia that had gone unnoticed because the victims weren't associated with the Legion convention or the Bellevue Stratford. Now that the bacterium had been identified, this possibility could be checked through blood tests.

Dr. Sharrar would send letters to the emergency rooms and infectious-disease specialists of all the hospitals in the area, requesting the number of pneumonia cases they treated between June and October in 1974 and 1975 and the names of all the patients they treated in 1976.

Blood samples from the 1976 patients would be given the IFA test to see if they contained antibodies to the Legion bug. All of the Philadelphia Legionnaires who got sick would also be tested and questioned again. And blood samples would be taken from people who worked near the Bellevue Stratford.

Health department workers would put traps on the roofs and in the cellars of buildings near the Bellevue Stratford as well as in the hotel itself, now closed, to trap rats and pigeons.

It was crucial to learn whether animals could transmit the disease. If those around the hotel had done so, then they might have been infected by the bacterium themselves. This could be learned by testing their blood for antibodies.

A CDC veterinarian came up to teach city pest-control supervisor Charles Herbert how to bleed rats and pigeons, something he had never been called upon to do in his 28 years as an exterminator.

For several weeks city workers went out each day, bringing back rats and pigeons to the little white office in the sewer department garage at Holt and Mifflin Streets where Herbert bled the animals. By the end of March he had bled 100 rats and pigeons, and had sent the blood in vials to the CDC for study.

Unlike the city agency, the State Health Department had its own laboratories and could duplicate a lot of the CDC work, including the all-important IFA test.

Pushed along by the state health secretary, Dr. Leonard Bachman, who gave the investigation the highest priority, the state people rushed ahead not only as participants in the federal effort but also as competitors.

It would have been a tremendous achievement for the state department and Dr. Bachman if the comparatively small state laboratory could beat out the larger and better-equipped labs of the CDC. Dr. Bachman put Leonard Sideman, director of the chemistry and hematology division, in charge of the state effort.

The CDC refused to give out samples of the bacteria—on the ground, it said, that it would be too dangerous to distribute the bug around the country—so Dr. Philip Nash, in the Girard Avenue lab, isolated his own bacterium from the lungs of a Legionnaire killed by the epidemic.

Soon Kareen Shectman, the Martha Redus of Pennsylvania, was running her own IFA tests on all the pneumonia cases that were coming into the State Health Department labs.

While the state labs were working with the blood samples and reviewing old seriums from undiagnosed cases of pneumonia in its freezers, state epidemiologists were making plans to start knocking on the doors of Legionnaires to get more blood and have more questionnaires filled out.

The national part of the investigation was taken over by Dr. Fraser, who contacted health officers in Ohio, Connecticut, Maryland, the District of Columbia, Delaware and Florida, asking them to send serum from all cases of pneumonia whose cause was not known. He hoped to find out how many of these mystery cases could be traced to the newly discovered Legion bacterium.

In a few weeks the serums started coming in to the CDC, not only from its own high-gear surveillance program, but also from worried physicians and state labs now highly suspicious of any pneumonia that was not quickly diagnosed.

The samples were routed to Martha Redus and Verne Newhouse and the IFA tests were run. The IFA is a complicated and time-consuming procedure, and the little laboratory in the basement of Building Seven was being overwhelmed.

A quicker test was needed. Dr. McDade was trying to develop one that could be performed easily by labs throughout the country, but so far he had had no success.

And cases of pneumonia caused by the Legion bug were popping up all over the country.

A man from Michigan, who developed pneumonia last summer but had never visited Philadelphia, was found to have been infected by the bug. In October an Indiana man was killed by the bacterium. A West Coast merchant marine sailor who sailed up and down the California coast came down with the disease and survived. A woman in Vermont. Someone else in Tennessee.

Dr. Theodore Tsai, an epidemiologist in Dr. Fraser's section, was particularly excited about the case of the sailor because the patient's movements were so restricted that his activities could be easily followed.

During the period when he must have been infected, the sailor was either inside his house in Los Angeles or on the ship—the only exception being when it stopped to drop off some cargo at San Luis Obispo in California. The sailor remembered walking up and down the pier there and seeing a lot of pigeons.

Struck by the possibility that the man might have been infected by the birds, Dr. Tsai contacted a CDC epidemiologist in California, who visited the area to test the people and birds. Nothing; neither human nor pigeons had been sick.

By July, 19 cases of Legionnaires' disease-type pneumonia had been identified among the samples of serum that were raining on the CDC laboratories. The samples were coming from all over the country. But there were no epidemics.

It was beginning to become clear that the Legion bacterium did not account for a major number of the undiagnosed pneumonia cases. But it wasn't rare, either. About 1.5 to 2 percent of all such viral-like pneumonias apparently had been caused by this bug.

The scientists were at a loss to explain why the disease repeatedly struck isolated individuals without spreading, but then, every once in a while, caused a terrible epidemic like those in Philadelphia, Pontiac and the District of Columbia.

The only intriguing similarity among the three outbreaks was that they had occurred during the warm summer months, when pneumonia is not frequently found.

Work in Dr. Shepard's basement laboratory stopped suddenly, and Building Seven was placed on a restricted status, when a custodian and a warehouseman became sick and died of a mysterious illness.

Because death came so swifty—in five days—and because one of the victims appeared to have had pneumonia, everyone feared that the Legion bug had gotten out.

Other people were kept away while Drs. McDade and Shepard worked desperately to determine the cause of the two deaths.

They took fluid and tissue from the two dead men, made inoculums and injected them into guinea pigs. Soon they saw a reddening and swelling of the pigs' scrotal areas.

This was a strong indication that the men had been infected by the rickettsia that causes Rocky Mountain fever, not the Legion bug. The spotted-fever rickettsia emigrates to the scrotum in guinea pigs because it likes the cooler environment there.

Antibodies to the spotted-fever rickettsia were found in the pigs, and evidence of rickettsia was found in the spleens of the two men who had died. Some lab error had loosed the microorganism that killed the men, but it was not the Legion bug.

AN EXCHANGE OF INFORMATION

The investigators in the CDC had no deadline to meet in answering the questions raised by the Legion mystery. But a lot of the epidemiologists were trying to get as much done as possible by April 25.

This was the start of the annual week-long Epidemic Intelligence Service (EIS) Conference held by the CDC. It was the CDC's equivalent to a class reunion, when present and former EIS officers gathered to talk about old times, new epidemics and all of the intriguing things happening in epidemiologistal circles.

The human inclination was to be able to go before one's peers with the best and most advanced work possible. So a lot of the Legionnaires' disease investigators used this annual occasion as an unofficial deadline to get everything they could into final shape.

The mood was high when they went before 500 or so of their colleagues in the CDC auditorium to discuss what they had learned. And it was an impressive amount of information but many questions still remained.

One of the most vexing ones was why the mysterious disease had struck the Legionnaires at the Bellevue Stratford while sparing the employes of the hotel.

A shocking partial answer to that question had been provided by IFA tests on the blood of 61 employes.

The tests showed that the employes had not been spared. In fact, 16 percent of them, 10 of the 61 tested, had Legion antibodies in their blood. Either they had been infected by the bug during the epidemic last summer without knowing it, or else they had been infected sometime before that and were immune by the time the bug hit a second time at the Legion convention.

If they had been infected previously, when was it?

A tantalizing though speculative explanation was provided by Dr. Stephen B. Thacker, an EIS officer who told his colleagues at the conference about an investigation involving the annual meeting of the Independent Order of Odd Fellows.

Dr. Thacker said that about 1,500 members of this group attended the meeting, which was held in Philadelphia in 1974. Its headquarters was the Bellevue Stratford. And, just like the Legionnaires two years later, the Odd Fellows were stricken by an epidemic.

About 60 persons had symptoms similar to those of Legionnaires' disease.

Because of the similarity between the two epidemics, Dr. Thacker told his colleagues, blood had been drawn from six persons who had attended the meeting and given the IFA test. Two of the Odd Fellows clearly had had the Legion bug.

The auditorium buzzed. Was it possible that the bug that had struck down the Odd Fellows lingered in or around the Bellevue Stratford for two years, and then came alive again to hit the Legion convention last year?

Could the Odd Fellows epidemic explain why so many of the hotel employes were immune to the Legion bug? Could it be that they had been infected and gained protection, just as a child who has had one kind of measles won't get that kind again?

The Odd Fellows information was intriguing, but it left many questions, including an important one: If hotel employes had been infected by the Legion bug during the Odd Fellows convention, then why didn't

they get sick like the conventioneers. The epidemiologists could not answer that question.

Still, the CDC investigators thought that the Odd Fellows discovery strengthened the theory that the bug was associated with the Bellevue Stratford, either inside the hotel or near it.

The city epidemiologist interpreted it in exactly the opposite way. If this were true, Dr. Sharrar asked, then why hadn't more employes been infected? Why only 16 percent?

Dr. Sharrar interpreted the Odd Fellows data to mean that the bug was lurking about outside the hotel, someplace that many, but not all, of the conventioneers and hotel employes had frequented.

Was it possible that the bacteria could survive for years in a dormant state, only to break out in active form every few years?

Bacteria might not be able to exist like this, but the semi-lifelike spores that they produce could. The spores are something like seeds that can exist in terribly harsh environments—such as in the dry dirt or dust of construction sites—and then begin growing into bacteria when the conditions become favorable.

WHAT THE EXPERTS STILL DON'T KNOW

When the EIS conference ended, the CDC field officers returned to their assignments throughout the country with renewed expectations that they might help find the missing pieces in the mystery.

All were anxious to get the simplified lab tests that were being developed, and they were all alert for suspicious cases of pneumonia. Especially with the coming of summer, which seemed to be a period favored by Legionnaires' disease, the officers were anticipating exciting weeks ahead.

But since the meeting, for some reason, the investigators have started to run into problems depressingly reminiscent of the failures last fall.

It is almost as if all the easy breakthroughs made possible by discovery of the bacterium have been made. And now the investigators are on new ground, where perhaps they will need more than just the tests made possible by Dr. McDade's discovery.

By the beginning of this month, Dr. Fraser had accumulated serum from more than 1,200 patients in the six states participating in his national survey. But so far he has been unable to analyze the material because the simpler lab test that has been developed—a procedure called a micro-agglutination test—is not producing consistent results.

Sometimes the test finds a sample clearly positive, and the next time the same sample will be on the borderline or negative. It takes time to adjust such tests to make them give precise results, and sometimes they never do work out well.

In another phase of the investigation, the CDC scientists have finally tested all of the pigeon and rodent samples that had been collected near the Bellevue Stratford. It was a blind alley: None of them showed evidence of the Legion bacterium.

Meanwhile, Dr. McDade has been working on tissue samples from test animals that were exposed to water and air samples in the health-department building during the 1968 outbreak in Pontiac.

There had been a leak from a water cooling tower into the central air-conditioning system. The possibility existed that the water contained bacteria that were blown around the building through the air conditioning.

Dr. McDade has already determined that guinea pigs exposed to the air had antibodies to the Legion bug. Now he is working on a second question—did animals that drank the water also have the antibodies? If they did, it would mean that the original source of the bacteria might have been the water.

Interestingly, Philadelphia officials had found an improper connection between the Bellevue Stratford's air-conditioning units and its water pipes. But this was probably just a coincidence, and it seems likely that neither connection problem had anything to do with the epidemics.

In Philadelphia, Dr. Sharrar continues to work on his theory that the original source of the bacteria was not the hotel, but some other place in the city—possibly near the hotel but not actually in it.

Dr. Sharrar's people have surveyed businesses in center city, taking blood samples from 445 persons who came to work in the area five days a week. If the center-city area was a pocket of infection, a greater percentage of these people should have antibodies to the Legion bug than in the general population.

Again, tantalizing information has been uncovered, but nothing conclusive. Fifteen of these people—3.4 percent of the sample—had antibodies to the Legion bug.

None of them reported having had pneumonia or even having felt sick in recent months. Obviously they had developed such a mild form of the disease that no noticeable symptoms were produced.

In another aspect of the city study, Dr. Sharrar obtained the names of 62 non-Legionnaires who developed pneumonia in Philadephia during the months of July, August and September last year.

More than half of the pneumonia victims—34—turned out to have been infected by the Legion bug. Twenty-eight had not. What had those who were infected by the bug done that the others did not?

Pursuing his theory that the pocket of infection might be somewhere other than the neighborhood of the Bellevue Stratford, Dr. Sharrar had charted 25 grids, each covering a nine to 12-square block area between fifth and 22d Streets and South and Vine Streets.

He intends to find out what grids each of the 62 pneumonia victims spent time in during the period just before they got sick. If it turns out that all of those stricken with the Legion bug spent a lot of time in an area that the other pneumonia victims did not visit much, then Dr. Sharrar might be on to a new and exciting clue about where the Legion bug has been hiding.

But he has some doubt that he will find anything from these two populations—the Legion-infected and non-Legion-infected pneumonia victims—because they are not necessarily comparable on the basis of age, smoking habits, sex, occupation, place of residence and other factors that might explain the difference in the diseases they contracted.

For a true scientific comparison, such factors must be matched to rule out extraneous variables that might explain differences.

Accordingly, Dr. Sharrar plans to follow up the grid survey with a second study—this time comparing Legionnaires who became ill to those who did not on the basis of common characteristics stored in the CDC computer.

He plans to ask state epidemiologists to fan out through the state with questionnaires and grid maps, trying to determine whether the sick Legionnaires spent more time in one part of his city grid than the healthy ones.

It's a long shot.

Once again, the Legionnaires' disease investigation has begun to slow down, as it had last December.

Some of the big questions still remain: Where is the bug hiding? How was it transmitted?

The city, state and federal investigators know a lot more now than they did in those dark days last year. But they haven't solved all of the mysteries. Will they ever solve them?

As Dr. McDade said to his friend on the eve of his momentous discovery seven months ago:

Maybe someone found something today that could lead to the final solution.

DOMESTIC TRADITION NOW AN INTERNATIONAL ASSET

Mr. BAYH. Mr. President, the Senate today considers the foreign operations appropriations bill. This legislation provides over $7 billion in support of direct and indirect U.S. foreign aid efforts for fiscal year 1978. The programs funded by this measure have already been debated during our consideration of the authorizing legislation earlier in June. Since consideration of those bills, Congress and the administration have expressed differences on significant issues with profound international implications—the deployment of the neutron bomb and the sale of airborne warning and control aircraft to Iran. Those issues have demonstrated that Congress intends to remain a dynamic partner in the shaping of U.S. foreign policy.

However, as is so often the case, the points of controversy overshadow the areas of comprehensive agreement which are so vital to the execution of a creative foreign policy that will serve America's best interest in an often hostile and constantly changing world. The programs covered by the bill we consider today constitute the entire range of our foreign policy efforts. These programs will be successful to the extent that they are competently implemented by our public servants and supported by the American people. That support requires a basic understanding of our fundamental objectives. Those objectives, I believe, are now in basic harmony with the traditional values of our country.

During my own travel overseas as an official representative of our Government to a Conference of the Interparliamentarians Union earlier this year, it was refreshing to know that American foreign policy again stands for something that people the world over can relate to. President Carter's emphasis on human rights has, indeed, "provided fresh faith in an old dream." But in order to appreciate the value of such purpose, we must constantly measure just how effective our efforts in pursuit of these principles truly are.

Mr. President, on June 13 Anthony Lake, who is Director of the Policy Planning Staff for the Department of State, addressed the World Affairs Council meeting in Boston. At that time he summarized in a comprehensive yet succinct way the great opportunities—and pitfalls—which will accompany U.S. foreign policy into the next decade. Today we examine with some rigor the various parts of our diplomacy. However, we must not neglect the values which they are intended to serve. The nature of this task is, I believe, admirably explained in Mr. Lake's address. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PRAGMATISM AND PRINCIPLE IN U.S. FOREIGN POLICY

President Carter and Secretary Vance have adopted, I believe, a rather new approach to foreign policy. In brief, it is an effort to harness a truly pragmatic approach to the service of traditional American principles.

Most of us were taught by our professors

and our pundits that pragmatism and principle represent two poles, and that American foreign policy has swung back and forth between them. The wisest course, we understood, was to steer carefully between them. This view rested on the implicit assumption that our principles—our national ideals—are often inconsistent with our national interests and therefore are inconsistent with a pragmatic approach to the problems of the so-called "real world." That assumption is false.

It is in our interest to understand that the causes of peace, economic development, and individual rights are the most powerful animating forces in the world. It is to our advantage to promote them and help shape a new world in which those causes prevail. For we can best flourish in such a world.

It is in our interest to have foreign policies that recognize the power of our ideas. Such policies can gain the support of individuals abroad as well as within our country, because our political philosophy expresses fundamentally our concern for the quality of life of those individuals—for the liberty, the happiness, and the life of each.

Since our principles require us to judge the effect of our policies on people's lives, they also force us to ask the right questions. How will our decisions affect the way people live a generation hence? And what actual difference will our decisions make, right now, to the welfare of Americans and others? Foreign policy is too often made on the basis of abstract doctrines. Our principles lead us back to the only reality and our true interests—people themselves.

Principles, of course, are more easily stated than applied. A principle is a goal to be served with all the practical skill we can find. It should not become a doctrine that requires self-defeating rigidity.

Our belief in principles lay behind our approach to a bipolar world. It was the rigidity with which we pursued those principles that led to the tragedy of Vietnam, not the principles themselves.

A pragmatic approach is also required because, when applied to specific, short-term situations, our principles sometimes come in conflict.

We are sometimes forced to choose one principle over another. Our commitment to peace may come in conflict with our dedication to human rights, when we decide on military assistance to a nation that faces a serious external threat and has a government that abuses its citizens. Our belief in economic growth and justice is inconsistent with the promotion of political justice when we consider a loan for a country with a repressive regime, whose poor people are desperately in need of assistance.

In such cases we must decide by looking at the cases themselves. If war is likely without continuing American security assistance, it would be cold comfort to the people whose lives would be devastated that we cut off our aid in the name of their political rights. It would have been better to find other means of expressing our views to that government. Or, how do we explain to the mother of a child who starves because we refuse to support an agricultural project, that we acted for the sake of her liberties? On the other hand, how often do we fail to promote human rights for the sake of unnecessary military relationships, or of aid programs that benefit the rich more than the needy?

Such dilemmas can only be resolved case by case, through analysis of the human consequences of our choices. And by this I mean a strong regard for the effect on the American taxpayer, consumer or producer, as well as on foreign individuals. This approach means, inevitably, that we will be charged with inconsistency, with compromising this principle in this case or that principle in another. And reasonable people will always be able to disagree on the wisdom of our choices.

More serious would be the charge that we abondoned principle for the sake of expediency, that our pragmatism was no longer harnessed to our goals. So I ask each of you to help keep us honest, to debate our choices, to help us set our priorities. But I also ask you not to conclude from our statements of principle that we are rigidly impractical, or from our pragmatic actions that we are necessarily backing away from those principles.

My argument can be summarized in a paraphrase of a slogan from 1964: pragmatism in pursuit of principle is no vice. After all, the importance we place on our principles must finally be measured by the progress we achieve through practical action.

MAJOR FOREIGN POLICY THEMES

Let me briefly review how this approach is being translated into action. Six major themes are woven through the fabric of our foreign policies:

Preserving and building peace, not only where we ourselves may be directly threatened, but also in far-flung parts of the world where regional conflicts could escalate and ultimately become direct threats to our national well-being.

Strengthening the sense of cohesion and cooperation among this country's traditional allies in this hemisphere and in Western Europe and Japan, with whom common interests far transcend the differences that may emerge on specific issues.

Avoidance of nuclear holocaust, a simple and almost self-evident proposition to state, but one which involves both arms control negotiations and details and subtle judgments about the whole state of East-West relations. Reduction of tensions with the Soviet Union is a clear imperative of U.S. foreign policy. So is insuring that the benefits of this process are reciprocal.

Building the confidence of our own people in their government's policies, foreign as well as domestic.

Developing a sensitivity and awareness for all the complex new global issues—energy, food, population, economic development—that were never traditional concerns of diplomacy, yet which loom as the most vexing foreign policy challenges for the decade to come.

Finally, basing our foreign policy decisions firmly on the values of the American people.

There is, of course, overlap and interaction among these themes. Preserving peace is centrally related to reducing tensions with the Soviet Union, but we must not let the Soviet relationship so dominate our foreign policy that we neglect or distort other important relationships.

The new global issues, usually placed in a North-South context, relate to our consultation and cohesion with our traditional allies of the industrial world. To a larger extent than ever before, we face common problems, and no one government or people has all the answers.

The surest way to pursue one of our goals, that of building the confidence of the American people in our policies, is by insuring that those policies are grounded in our people's system of values.

PRESERVING PEACE

Preserving the peace of the world means more than meeting our security commitments and maintaining our military strength. It also means new diplomatic initiatives in various trouble spots, where the fears of war are a constant burden on the daily lives of the people who live there.

The Middle East. We are systematically seeking the ideas of Arab leaders and the Israelis, suggesting as well some ideas of our own, not to impose any preconceived peace plan but to stimulate discussion and replace the exchange of sterile slogans by creative thought and the search for mutuality of interests. Secretary of State Vance met with leaders in the Middle East, and the President has subsequently met with them here and in Europe. There are clear signs of willingness on both sides to enter into negotiations toward an enduring settlement. But there are still wide differences to be bridged if peace is to come at last.

Southern Africa.—Here our interests in calming warlike tensions and honoring the values of our own society are too obvious to be belabored. Our nation was founded on the principle of majority rule: we cannot support or condone the systematic denial of that principle to other peoples anywhere in the world. As in the Middle East, the United States cannot enforce a peace in southern Africa. But we can and must encourage it in every way possible. And there will be no peace until there is racial justice.

The Congress, with strong Administration support, has repealed the Byrd amendment, thus bringing our country into line with international law and U.N. sanctions against the illegal white-dominated regime in Rhodesia. With the British, we are ready to assist in a Rhodesian settlement with elections leading to majority rule in 1978. We are also taking strong diplomatic steps to break the Namibia deadlock. Vice President Mondale and Ambassador Young have made our policies clear to the parties themselves.

For South Africa itself, the practical problem is still more difficult, even if the principles remain the same. For a start, we have sent the clearest of signals to the South African authorities that our opposition to apartheid is serious and an essential element in our approach to that region.

I want to emphasize the constructive role which the American business community can play by pursuing practices designed to promote our national interest in peaceful evolution to a system of full political participation by South African citizens of all races.

The Eastern Mediterranean.—[Special Presidential Envoy] Clark Clifford's trip to the area in the first days of the new Administration affirmed our willingness to be helpful in resolving the regional disputes that weaken NATO and complicate our own relations with our friends there.

Normalization of Bilateral Relations.—We are pursuing, in a reciprocal and measured fashion, opportunities to normalize relations with Vietnam, Cuba, China, and others. We do so in the belief that diplomatic relations are an essential means of communicating our views, promoting our own interests, and building better relations through identifying common interests. Diplomatic relations are a means, not an end in themselves.

Panama.—We are negotiating a new treaty with Panama that will protect our interest in a secure, open, and neutral canal.

STRENGTHENING OUR ALLIES

Our second theme—strengthening ties to our allies and closest friends—was dramatically displayed in the recent London Economic Summit and by Vice President Mondale's trip to four of our European allies and Japan shortly after the inauguration. Among the first visitors to Washington were the Prime Ministers of Japan, Mexico, and Canada.

The London summit helped us in two important ways. First, there was agreement on a common analysis of the global economic situation and the need for our countries to adjust their domestic policies. The adjustments will differ in each case but all of us prefer moderate rates of growth and inflation to the wide fluctuations of the recent past. And we are committed to providing more jobs, especially for the young.

Second, there was a large measure of agreement on specific issues: to increase the resources of the IMF [International Monetary Fund]; to resist protectionist measures and expand trade; to take a common approach to issues that arise primarily in the

North-South dialogue; and to reach greater understanding on energy issues, including restraints on nuclear technology.

ARMS CONTROL AND DETENTE

The third theme involves strategic arms control and the pursuit of detente. There has been progress. A framework for a SALT agreement has been found, but major differences remain. Joint working groups on a variety of subjects have been agreed to.

Let me emphasize that SALT is part of a process, not a single event. The confidence that we can establish between our governments in this process is the best guarantee against a nuclear confrontation between the two superpowers, each one of which has the capacity to destroy the world. If we can succeed in not only limiting the two sides' arsenals of strategic weapons, but also reducing them from their present high levels, we will have achieved an equally important second purpose as well—releasing badly needed state resources for other, more fruitful uses.

The arms race is dangerous; it is also wasteful. We will never negotiate away our essential ability to defend ourself and our allies. It is the hard base of our security. But we must never fumble any opportunity to secure our defenses by mutually binding agreements that can serve our interests and well-being far more effectively than a never-ending arms spiral.

Our pursuit of detente recognizes that there will be competitive as well as cooperative elements in our relations. Our approach also recognizes that we can compete most effectively through positive rather than reactive policies. In Africa, for example, we can be most effective by supporting African nationalism and by seeking to resolve problems peacefully.

BUILDING CONFIDENCE IN GOVERNMENT POLICY

Confidence-building among our own citiens must rank high on the list of our foreign policy priorities. There is hardly need to rehearse once again the past decade's disillusionments and disappointments. Indeed, we should put them behind us. But we are determined in this Administration that our foreign policymakers will never again lose touch with our public in any foreign enterprise.

I am aware that a new style of openness has caused some confusion, largely among professional observers in this country and abroad who have long been accustomed to more traditional diplomatic styles. It is a pity when there is confusion. But I make no apology for our style. It is a means of raising issues for public discussion before our decisions are made. And it is a way of breaking entrenched habits of discourse that have stultified meaningful discussion and brought a sterility of dialogue—in the Middle East, for instance, where fruitful dialogue has been so long immobilized by constant repetition of slogan and ideology.

NEW GLOBAL ISSUES

Our fifth theme involves a subtle intellectual shift of gears for many of us in government, a realization that while political and security concerns remains at the heart of our policies, and of survival itself, a new range of issues is pressing upon us. These are such global issues as food and population, the future of the seas, energy, and the need for profound economic progress to meet the human needs of peoples everywhere.

North-South Dialogue.—Some of these issues are coming to be examined in what is called the North-South dialogue. These discussions spread across many different forums. The overlapping and interconnections of these issues are complex and often difficult to grasp. We in the government are still defining our overall approach. There is a real danger that we can become rigid and self-defeating if we fail to consider the connections between, say, nuclear proliferation and energy concerns.

We are seeking to be responsive to the developing countries' call for international economic justice, in which the potentials of all societies can be realized for the common benefit. We have made some new proposals. We are supporting an increase in concessionary lending by the World Bank to help the poorest countries. As we announced in Paris, we intend to seek in extra $375 million in bilateral aid, all of which is to be directed to the needs of the poorest people. And we are redirecting the thrust of our entire bilateral assistance program to help the poor in their own societies.

We hope to be able to develop other ideas, as well, that can turn past confrontation into a common pursuit of progress. Like SALT, the North-South dialogue is not a diplomatic episode that can be opened and closed on a fixed timetable. It is an ongoing process that will ebb and flow across all our national policies for decades to come.

Energy.—One issue facing all countries, rich and poor, is energy. As you know, the thrust of the President's energy proposals was to increase conservation and to transform our energy consumption toward those fuels more abundant at home. Let me suggest a few international benefits to be gained:

It would reduce the worldwide demand for petroleum and thereby lessen the upward pressure on price.

It would decrease our dependence on foreign sources for nearly half of our petroleum consumption.

Eventually, it would help to balance our trade position with other countries.

It has been very difficult to promote real cooperation with other countries on the question of energy. To a large extent this has been our own fault. By failing to exercise restraint at home, we have been in a poor position to ask for sacrifices by others. If Congress enacts an energy program that marks a turning point in the national indifference to our exposed energy situation, the stage could be set for more international progress on the subject.

Arms Transfers.—President Carter has also developed new policies and priorities that will help us come to grips with two other key issues that will decide the quality of life, or even its existence, for future generations: nuclear proliferation and the growth of conventional arms sales.

I believe you know of the efforts being made to head off a world of proliferated nuclear weapons. Several weeks ago the President also announced a new conventional arms transfer policy for the United States. These are the main points:

We will use arms transfers only as an exceptional foreign policy instrument; the burden of persuasion will be on those who favor particular arms sales rather than on those who oppose them.

We will reduce the dollar volume of new commitments for weapons and related items in Fiscal Year 1978 below the Fiscal Year 1977 total, and it will be our goal to reduce total dollar volume in each subsequent year.

We will not be the first supplier to introduce into any region newly developed, advanced weapons systems that would create significantly higher combat capability.

We plan to meet with other arms suppliers, including the Soviet Union, to begin discussion on joint restraint. We also will work to encourage regional agreements among buyers to limit arms imports.

FOREIGN POLICY AND AMERICAN VALUES

Finally, there is the theme of injecting the principles which we hold as a people into the policies which we carry out around the world. The phrase "human rights" is the abbreviation for many of these principles: our belief in the ultimate sovereignty of the individual, the obligation of society and government to respect that sovereignty and nurture the individual's capacity to develop to his or her fullest potential.

These rights fall into three categories:

First, there is the right to be free from governmental violation of integrity of the person. Such violations include torture and cruel and unusual punishment. They include arbitrary arrest or imprisonment. And they include denial of fair public trial.

Second, we recognize the right to the fulfillment of such vital needs as food, shelter, health care, and education.

Third, there is the right to civil and political liberties—freedom of thought, of religion, of assembly, of speech, of the press, of movement both within and outside one's own country—and the freedom to take part in government.

These human rights are enshrined in eloquent statements from our own and other revolutionary thinkers, starting with Thomas Jefferson. They are confirmed in international law.

Our policies toward other countries cannot help but be colored by our attitudes toward their records in promoting the political and economic rights of their citizens. To do otherwise would only invite cynicism and scorn at home and abroad. But our concern for human rights means more than penalizing and lecturing. It also means positive efforts to promote them in both multilateral and bilateral forms. And it means recognizing progress.

We can never be dogmatic in attempting to judge other societies. Alongside our belief in the sovereignty of the individual is our belief in the necessity and virtue of pluralism and of individual and national choice. We must also be pragmatic in deciding, in each case, the most effective way to proceed, while we make sure it is always clear that ours is a global policy and not a political weapon aimed at any single nation.

A PLURALISTIC WORLD

The themes and initiatives that I have outlined are tailored to meet our national needs for peace in the world, for an international order more responsive to changing times, and for cooperation on global issues too large to be managed by states acting individually.

Too often national debates on foreign policy have been mired in the perspectives of an earlier, somewhat simpler era. Too often, because of our proper concern for security issues, we still divide other countries into neat categories of friend and foe. We must certainly make this distinction when our security is threatened. But painting the world in only two colors obscures the particular hues of the many governments of a diverse world and of our relations with them.

Differences with another nation should not make us enemies; a declaration of friendship or even an alliance does not mean we will always agree. No matter how we look at the issues facing us, the choices are difficult and complex.

Interdependence is no longer a prediction or concept. It is a fact of great political as well as economic importance. Our domestic interests are increasingly affected by events abroad; other nations are in a like situation. Along with other governments, we must accommodate our separate domestic needs within the context of the international system. In the process, we may all have to make some adjustments that may seem unwelcome for the short term.

States can still marshal military strength in support of security objectives, but cooperation on global issues may mean efforts to redirect economic forces that are not necessarily susceptible to governmental control.

Another complicating factor in the world of the 1970's and 1980's is the dispersion of

power. At one time, in restricted meetings, a few great powers could lay down the framework for global cooperation that other, smaller nations would then be asked to join. No restricted group of countries can now make such decisions. The influence of the Group of 77 developing countries and the nonaligned movement indicate the vitality of these new power centers. While the major industrial powers can and still must cooperate among themselves and provide leadership when appropriate, they have no illusion about their power to establish global frameworks which they expect others to accept unquestioningly.

What then is the leadership required? We are participating in the construction of a pluralistic world order in which all states, of necessity, must join. It is an order of shifting coalitions, formed to confront individual issues, even as the members continue to differ in their culture, political orientation, and economic development. It is an order in which the importance of the United Nations must inevitably grow.

The basic and most familiar coalition will remain our security alliances. Without the peace that depends on them we cannot otherwise make progress. And they remain a base on which to build cooperation on nonsecurity issues. But there are and will be other coalitions which will be in constant motion, coming together on one issue, but moving apart on another. Any state will belong to many different coalitions, with loyalties and interests that cut across traditional lines.

Building these global coalitions requires flexibility. It is unlikely that any nation will agree with us on all issues, and we hope none will oppose us consistently without regard to the merits of a position. Seeking the common ground on a case-by-case basis means particular attention to the needs of others. In the process compromise must come not only from others but from ourselves as well, for the sake of our long-term interests.

The task of American leadership is to help build these coalitions. The opportunity of leadership is to help steer these coalitions in positive directions. No other people has so well learned the workings of a pluralist society and the political skills needed to keep it working. No other nation is composed of such diverse groups and shifting coalitions as the United States. Our domestic tradition is now our greatest international asset.

CONCLUSION

We must be skeptical of ourselves to avoid arrogance and the rigidity of thinking that feeds on arrogance. We must also be duly skeptical of others, to probe their positions and seek the highest common ground. We must inquire not only into the immediate effect of each agreement that is reached, but also ask if it helps create peace with progress and stability.

Often the nature of the real choices we face will be obscure and difficult to define. But there can be no refuge in the images of simpler days, no attempt to deal with complex issues in simple doctrines. Such doctrines may be easier to explain to the American public. But they would also mislead our citizens rather than create the kind of dialogue we seek.

In this age of diversity and ambiguity, the demands upon our leadership are great, but America's strength, determination, and traditions prepare us well. I have no doubt our nation can meet them.

THE RECOMBINANT-DNA DEBATE

Mr. SCHMITT. Mr. President, the issue of recombinant-DNA research and the manner in which it is carried out should be of great concern to Congress, scientists and all Americans. The proposed creation of a Federal regulatory commission to control DNA (S. 1217) research is a tremendous shift in scientific policy in this country. The resolution of the controversy surrounding the regulation of recombinant-DNA research may well establish a national precedence with great impact on scientific progress and thus on the future of this country.

The article by Clifford Grobstein in the current issue of Scientific American concerning the 4-year controversy presents a summary of the recombinant-DNA issue and a balanced view of the broader issues of science regulatory policy.

Mr. President, I ask unanimous consent to have this printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE RECOMBINANT-DNA DEBATE

(By Clifford Grobstein)

The guidelines for research involving recombinant-DNA molecules issued a year ago by the National Institutes of Health were the culmination of an extraordinary effort at self-regulation on the part of the scientific community. Yet the policy debate over recombinant-DNA research was clearly not laid to rest by the appearance of the NIH guidelines. Instead the debate has escalated in recent months both in intensity and in the range of public involvement. A watershed of sorts was reached in March at a public forum held by the National Academy of Sciences in Washington. The forum was in part a repeat performance by scientists arguing fixed positions that were established early in the debate. There were, however, new participants on the scene, and they presented a varied and rapidly shifting agenda. They made it clear that research with recombinant DNA had become a political issue. As one speaker remarked, the Academy forum may have been the last major public discussion of recombinant DNA arranged by the scientists involved in the research. Nonscientists at the forum, by word and deed, reiterated the theme that science has become too consequential either to be left to the self-regulation of scientists or to be allowed to wear a veil of political chastity.

Science of course is crucially consequential to society, precisely because it is an intensifying source of both benefits and risks. Research with recombinant DNA may provide major new social benefits of uncertain magnitude: more effective and cheaper pharmaceutical products; better understanding of the causes of cancer; more abundant food crops; even new approaches to the energy problem. These and other possible outcomes are envisioned in "best-case scenarios" for the future application of recombinant-DNA technology. "Worst-case scenarios" can also be conceived: worldwide epidemics caused by newly created pathogens; the triggering of catastrophic ecological imbalances; new tools for militarists and terrorists; the power to dominate and control the human spirit.

Both the best-case and worst-case scenarios are largely speculative; the gap between them symbolizes the large degree of uncertainty that surrounds this major step forward in molecular genetics. The material basis of biological heredity has been broken into in the past two decades, and it seems as though each of the fragments has acquired a life of its own. In this resulting period of instability fear threatens to override wonder as the implications of the research diffuse more widely. The fear is not so much of any clear and present danger as it is of imagined future hazards. The classic response to such fears is rigid containment: the Great Wall, the Maginot Line, the cold war. All are manifestations of the effort to provide absolute security against unpredictable risks, and yet each generates its own risk. The escalation of the recombinant-DNA debate has a component of this kind of behavior, but there is a more rational component as well.

The first round of the fateful debate began in 1974, when investigators at the leading edge of work in this field declared a voluntary moratorium on several types of experiment judged to be conceivably risky. A set of techniques had been developed that made it possible to cut the long, threadlike molecules of DNA into pieces with the aid of certain enzymes, to recombine the resulting segments of DNA with the DNA of a suitable vector, or carrier, and to reinsert the recombinant into an appropriate host cell to propagate and possibly to function.

The significance of the new developments is rooted in the central biological role of DNA as the transmitter of genetic information between generations. The transmission of the encoded genetic message depends on the ability of a cell to generate exact replicas of the parental DNA and to allocate the replicas among the offspring. In addition the success of genetic transmission depends on the ability of the offspring to "express" the encoded information properly by referring to it to control essential life processes. The mechanism of genetic expression in higher organisms is at present only dimly understood, and the discovery of the new recombinant-DNA techniques seemed immediately to open a broad new avenue to increased knowledge in this field.

The detailed mechanisms of genetic replication and expression are enormously complex. The essence of the matter, however, is found in the famous "double helix" structure of DNA. Both of the two long, interwound and complementary strands of the DNA molecule are made up of four kinds of nucleotides, cytosine, guanine, adenine and theymine (abbreviated C, G, A, and T), which are linked end to end like a train of boxcars. The genetic message of each strand is embodied in the particular sequence of nucleotides, any one of which may follow any other. For example, the sequences CATTACTAG contains five identifiable English words: CAT, AT, TACT, ACT and TAG. The genetic message, however, is "written" in triplets: CAT, TAC and TAG. In general each triplet "codon" determines, through a series of intermediate steps, the position of a specific amino acid in a protein molecule.

Proteins, like nucleic acids, can be visualized as long trains of boxcars coupled end to end; here, however, the subunits are amino acids rather than nucleotides. The sequence of nucleotides in a given DNA molecule determines the sequence of amino acids in a particular protein, with each triple-nucleotide codon placing one of the 20 possible amino acids at each successive positions in the protein chain. The sequence of amino acids in turn specifically establishes both the structure and the function of the protein. Thus the nucleotide sequence of DNA precisely specifies the protein-building properties of the organism. Moreover, virtually every property of the organism, from enzymatic action to eye color, depends on protein structure in one way or another.

The transmission of the essential genetic information between generations depends on the precise replication of the nucleotide sequences of DNA. The mechanism for replication stems from the complementary relation between the two strands of the DNA molecule. A sequence on one strand (for example CATTACTAG) lies immediately opposite a complementary sequence (GTAATGATC) on the other strand. The strands are complementary because C and G are always opposite on the intercoiled strands, as are A and T. Complementarity depends on the special chemical affinity, or binding, between C and G on the one hand and A and T on the

other. The sum of these bonds, repeating along the length of the strands, is what holds the strands together in the double helix. Under appropriate conditions affinity is reduced and the two strands can unwind and separate. The single strands can again pair and rewind when conditions for high affinity are restored.

Double-strand DNA replicates by means of an extension of these properties. The unwinding and separation of the strands begins at a localized site along the DNA molecule. In the presence of suitable enzymes and free nucleotides a new chain is formed next to the exposed portion of each unpaired older chain. Each nucleotide lines up next to its opposite number (C next to G, A next to T). The complementary sequence thus established is then linked end to end by an enzyme that closes the nucleotide couplings. When the replication process has traveled along the entire length of the original double helix, two new helixes identical with the first one have been focused. The replication of DNA is the most fundamental chemical reaction in the living world. It fully accounts for the classical first principle of heredity: like begets like.

If DNA replication always worked without error, life would be far more homogeneous than it is. Here, however, a second classical principle of heredity intervenes: the principle of the mutational variation, or the appearance in the offspring of new hereditary characteristics not present in the progenitors. Mutations arise through error, at least partly in the replication process. For example, the substitution of one nucleotide by another changes the triplet codon and puts a different amino acid in the corresponding position in the resulting protein. Single-nucleotide errors lead to single-amino-acid errors. Thus, a single-nucleotide error is responsible for the human disease sickle-cell anemia. Most mutations are not such simple, single-nucleotide exchanges; nevertheless, they correlate directly with altered, transposed or deleted nucleotide sequences in DNA. When these changes appear in a gene (that is, a segment of DNA that codes the amino acid sequence of a particular protein), a change in the protein and hence in the hereditary properties it controls is the result.

Therein lies the crux of recombinant-DNA technology. It makes possible for the first time the direct manipulation of nucleotide sequences. Changes in nucleotide sequence that are produced by "natural" errors are random, even when their overall frequency is artificially increased. In natural populations Darwinian selection "chooses" among the random errors, increasing the representation in breeding populations of those errors that lead to more offspring in particular environments. Artificial selection, practiced by human beings for millenniums, favors errors that meet human needs (agricultural breeding) or whims (exotic-pet breeding). The success of both natural and artificial selection, however, is dependent on the random occurrence of desirable mutations. There was no way to direct genetic change itself until recombinant-DNA techniques came along. The new techniques enable one to deliberately introduce known and successful nucleotide sequences from one strain or species into another, thereby conferring a desired property.

The recombinant-DNA approach involves experimental ingenuity and detailed knowledge of the DNA molecule. It begins with an attack on DNA by the proteins called restriction enzymes, which are isolated from bacteria. The enzyme attack breaks the double chain of DNA at particular sequences, say at the sequence CATTAC, which is opposite the complementary sequence GTAATG. The break does not always occur at the same point on the two strands. It may, for example, be between the two T's in the first strand but just to the right of the ATG in the second strand. On separation one piece therefore ends in TAC, whereas the other ends in ATG. Since the single-strand ends are complementary, they will under suitable conditions stick side by side, and they can then be coupled together end to end. If the same restriction enzyme is used on the DNA from two different sources, both of which have the appropriate target sequence, then sequences with the same "sticky" ends will result. By taking advantage of this stickiness two sequences from any source can be recombined into a single DNA molecule.

The only further step necessary is to put the recombinant DNA into a suitable host organism. The recombinant must have the ability to penetrate the host and become part of its genetic system. An effective way to accomplish this has been developed for the common intestinal bacterium *Escherichia coli*. In addition to its single large circular chromosome the *E. coli* bacterium may have one or more independently replicating, smaller loops of DNA known as plasmids. The plasmids can be isolated from the bacteria, broken open by restriction enzymes and used as one component of a recombinant. After linking up the plasmid DNA with the "foreign" DNA the circular form of the plasmid can be restored and the structure returned to a whole cell. There it can resume replication, duplicating not only its own native sequence but also the foreign one. A strain of bacteria is thus obtained that will yield an indefinite number of copies of the inserted nucleotide sequence from the foreign source.

Standing alone, none of this appears to be particularly momentous or threatening; it is only a new and intriguing kind of chemistry applied to living organisms. Given the complexity of living organisms and the still more complex world of social phenomena, however, this new chemistry quickly builds into varied new potentials, both speculative and real. Suppose, for example, one were to isolate the nucleotide sequence necessary to produce a potent toxin and to transfer it to *E. coli*, usually a harmless inhabitant of every human intestinal tract. Would a dangerous new pathogen be created? Would the transformed *E. coli* release a toxin in the human gut? Might such a new pathogen escape from control and induce epidemics? Questions of this kind have answers, but they take time to find. To gain some time for reflection investigators in 1974 called for a partial and temporary moratorium on those experiments thought to be potentially the riskiest. The separation of the certainly safe experiments from the less certainly safe ones became the chief function of the guidelines released by the NIH in June, 1976. The guidelines, which replaced the temporary moratorium, were derived from worst-case analyses of various kinds of experiments; the object was to evaluate the possible range of hazards and to prescribe appropriate matching safeguards in order to minimize the unknown risks. The guidelines assigned heavy responsibility to individual investigators, and they buttressed this responsibility with special monitoring committees in the sponsoring institutions and in the funding agency.

If such regulations have been adopted, why is debate continuing? Briefly, it is because the matching of estimated risk and prescribed containment adopted by the guidelines is regarded by critics as being inadequate in dealing with potential biohazards and incomplete in failing to address other important issues. The most vocal critics have presented their own worst-case analyses in the scientific and general press. These accounts have led to widespread alarm and to public-policy deliberations at the level of local communities, states and the Federal Government. The expressed concerns of the critics have generated a revised agenda for what is now emerging as a broadened second round of policymaking.

Potential biohazards and estimated degrees of risk continue to dominate the debate. The NIH guidelines balance the estimated risk of a given experiment and recommend specific measures for containing the risks. (Risk, it must be remembered, means possible danger, not demonstrated danger.) Those experiments judged to present an excessive risk are entirely proscribed. At the other end of the spectrum experiments judged to present an insignificant risk require only the safeguards of good laboratory practice. Between these extremes the guidelines establish various levels of estimated risk and prescribe combinations of suitably increasing physical and biological containment. The release into the environment of any recombinant organisms is forbidden.

Unfortunately, given the growing but still limited state of knowledge, wide disagreement is possible, both as to estimated degrees of risk and as to the efficacy of the proposed containment. Some critics project fragmentary information into the inevitable spread of dangerous, newly created organisms, threatening both the public health and the environment. Some defenders project the same fragmentary information to the conclusion that the NIH guidelines are already overly cautious. They believe the actual hazard under existing precautions will turn out to be no greater than that routinely faced in the use of automobiles, jet aircraft and other accepted technologies. The wide range of estimates is possible because of the multiplicity of conceivable experiments and because experience and critical data are inadequate for certainty on many points. One fact that is certain is that no known untoward event has yet resulted from recombinant-DNA research.

What emerges on the new policy agenda, then, is the need for effective policy-oriented research to reduce the current uncertainty as to the risk of particular kinds of experiments. For example, there is dispute over the use of *E. coli* as a host for recombinant DNA. One side argues that scientists must be mad to pick a normal human inhabitant (and a sometime human pathogen) to serve as a host for recombinant DNA. This view, in extreme form, demands the suspension of all recombinant-DNA research until an organism safer than *E. coli* can be found. The other side argues (1) that the vast amount of information available on *E. coli* makes it invaluable, (2) that the *K*-12 strain of *E. coli* actually used in laboratory research has been so modified genetically in adapting to laboratory conditions that it survives only with difficulty in the human intestine and (3) that new strains of *K*-12 have been developed with additional genetic deficiencies that will make survival outside of laboratory conditions essentially impossible. The use of such genetically deficient strains is what is meant by the term "biological containment." The concept is supported by proponents of the research as an efficacious new approach to safety and derided by critics as likely to be circumvented by natural recombination.

Such differences of opinion are normally reduced by scientists to experimental questions. For example, the suitability of the *K*-12 strain of *E. coli* as an experimental organism can be judged only from the effect of recombinant genes on the ecological relations of *E. coli* within the human intestine, including the degree of success of recombinant strains in competing with other strains of *E. coli* and with other organisms. Information on these matters is growing. Such questions, however, are not normally subjects of profound scientific interest. They have recently become matters of priority only because they may provide information that

would be useful in arriving at a policy decision. Research on policy-oriented questions has never had a very high status among scientists engaged in basic research or even among those engaged in applied research. Therefore policy-oriented research must be encouraged through special funding mechanisms and through suitable new institutional arrangements. A regulatory agency for recombinant-DNA research and other conceivably hazardous kinds of research is urgently needed outside the NIH, and it should include a research component. The Center for Disease Control and its National Institute for Occupational Safety and Health come to mind as possible models for such a dual-purpose agency.

Also related to the question of biohazards is a controversy over the desirability of centralizing recombinant-DNA research facilities. Some of those who fear severe dangers from recombinant organisms have urged that the potentially more hazardous research be concentrated in remote places with extremely stringent containment procedures. Those who minimize the hazard are opposed to the concentration concept because it would tend to separate the research from the intellectual mainstream and would be unnecessarily expensive in facilities. The argument has been particularly strenuous with respect to experiments requiring P3 facilities, which are defined as those necessary to contain "moderate risk" experiments. P4 facilities for "high risk" experimentation are expected to be fewer in number because of their high cost; generally speaking they are likely also to be comparatively isolated. The current NIH guidelines provide little direction in these matters. A decision on a firmer policy belongs on the discussion agenda. Particularly urgent is careful consideration of such intermediate possibilities as the use of centralized, high-risk facilities for making particular recombinations for the first time. These activities, together with preliminary testing of new recombinants for possible hazards, might also be carried out by the proposed new regulatory agency.

A special case that emphasizes the advantages of initial testing in a central facility is provided by what are called "shotgun" experiments. These experiments, which offer special advantages to the investigator, may also present special hazards. Shotgun experiments involve exposing the total DNA of a given organism to restriction enzymes in order to obtain many DNA fragments. The fragments are then each recombined with DNA from a suitable vector and the recombinants are randomly reinserted into E. coli host cells. The next step is to spread the E. coli cells on a nutrient substrate so that each recipient cell, containing a particular inserted foreign sequence, grows into a colony. If the experiment is successful, the yield is a "library" of all the nucleotide sequences of a particular organism, each sequence growing in a separate strain and accessible to manipulation and cross-combination at will.

This experimental approach is laborious but far less so than anything else available for the exploration of the complex genetic systems of higher organisms. There is, however, a risk of unknown magnitude that portions of the DNA with unknown or repressed functions might duplicate and create unanticipated hazards. The result might be particularly unfortunate if the original DNA preparation were to contain genetic material from parasites or from viruses associated with the species under study. Under the NIH guidelines, therefore, shotgun experiments are regarded as being more dangerous than those involving purified and characterized DNA. Experiments in this category are treated as being increasingly more dangerous as the test organism under study is biologically more like the human organism. Thus experiments with primate DNA are considered to be more dangerous than experiments with mouse DNA. This approach appears to represent a reasonable precaution with respect to human health hazards, but it is less reasonable with respect to potential ecological effects. For example, shotgun recombinants involving DNA from plant sources could conceivably lead to ecologically dangerous effects if they were to escape into the environment. Shotgun procedures might therefore be best conducted first in special centralized facilities that could also act as storage and distribution centers for the recombinant products once they had been tested for safety.

These examples suggest several advantages for the creation of a Center for Genetic Resources. The center might not only carry out DNA recombinations suspected to be hazardous but also function to preserve genetic information contained in threatened natural species and in special strains of cells or organisms developed for research and other purposes. Stored genetic information can be expected to be increasingly important in the future. For example, new genetic infusions into domesticated stocks of plants and animals from their wild progenitors have long been used to strengthen the response of the domesticated stocks to changing conditions of husbandry. The sources of wild progenitors are threatened by the reduction of wild habitats all over the world.

The possibility of a biohazard need not arise only as a by-product of basic research. The practical applications of recombinant-DNA techniques, together with the applied research and development leading to them, are at least equally likely sources. For example, recombinant techniques may enormously expand the use of bacteria (and other microorganisms) for the production of certain proteins and other pharmacological products. Microorganisms have long played an essential role in the food, beverage, pharmaceutical and chemical industries, and more precise genetic control of their characteristics has already yielded large benefits. The recombinant-DNA techniques not only offer advances on current practice but also suggest a new realm of "bacterifacture" in which the rapid, controlled growth of microorganisms is coupled to the production of specific products normally made only by higher organisms. Included among the possibilities are the production of insulin, blood-clotting factors and immunological agents. The probability of those possibilities ever being realized is no more easily assessed than the risks, but success in realizing them clearly could provide substantial economic and social benefits. Accordingly entrepreneurial interests have been aroused.

The NIH guidelines are silent on the matter of commercial applications other than stipulating that large-scale experiments (beyond production batches of 10 liters) with recombinants "known to make harmful products" be prohibited unless specially sanctioned. The guidelines also require detailed reporting of proposed recombinant-DNA experiments, a provision that runs counter to the protection of proprietary interest. There have been discussions of these matters between the NIH and representatives of industry. In addition industry spokesmen have testified at Congressional hearings. It is known that some industrial research already is under way and that representatives of industry generally endorse the precautionary approach of the NIH guidelines, but they are resistant to limitations on proprietary rights and on the size of batch production. Moreover, patent policy has come up as an issue and there has been some uncertainty in the Department of Commerce as to how it should be handled. Indeed, the possible commercial applications of recombinant-DNO techniques have yet to be publicly evaluated as a serious policy question, and they must be high on the agenda of the next round of discussions.

The problems of commercial applications lead from immediate issues to broader ones and to a larger time frame. Recombinant-DNA techniques have revived the debate over "genetic engineering" and have once again raised questions about the applications of fundamental biomedical research to technology, to the quality of life and to the future of society. Recombinant DNA has now joined nuclear fission, overpopulation, famine and resource shortages in the doomsday scenarios of "creative pessimism." These issues are even more difficult to deal with objectively than those related to potential biohazards, but they are plainly apparent in the general public discussion and in the public statements of respected scientists.

For example, Robert L. Sinsheimer of the California Institute of Technology has persistently raised issues that are in part practical and in part philosophical. Along with George Wald of Harvard University and Erwin H. Chargaff of the Columbia University College of Physicians and Surgeons, he suggests that the entire recombinant-DNA approach to gaining an understanding of the complexities of higher genetic systems is misbegotten. The argument is not that the approach may not work but that its alleged huge risks are unnecessary because less risky, although slower, means are available. Sinsheimer emphasizes the fundamental difference between simple prokaryotic organisms such as bacteria and complex eukaryotic organisms, including human beings. Prokaryotes, typically one-cell organisms, have a single, comparatively simple chromosome floating freely within the cell body, whereas eukaryotic cells have a nucleus that is bounded by a membrane and contains a number of far more complex chromosomes. The paleontological record suggests that prokaryotes existed on the earth for a billion or more years before the more complex eukaryotes arrived on the scene. Sinsheimer proposes that throughout the evolution of the eukaryotes there has been a genetic barrier between them and the prokaryotes, behind which eukaryotes have developed their more complex mechanisms of genetic control. To transfer these mechanisms, which are possibly the key to the evolutionary success and enormous diversity of eukaryotes, to prokaryotes may introduce, he says, incalculable evolutionary dangers. The prokaryotes may be made far more effective, both as competitors and as parasites, negating an ancient evolutionary strategy.

Sinsheimer's argument has won only a few vocal adherents among biologists, and he himself concedes that it is speculative. Nevertheless, his argument has attracted significant public attention, and it is widely cited to support opposition to continued recombinant-DNA research. Bernard D. Davis, a Harvard Medical School microbiologist, has provided a rebuttal, particularly with respect to the concept of a genetic barrier between prokaryotes and eukaryotes. He believes there has been an ample and continuous opportunity for the exchange of DNA between the two groups. He points out that bacteria can take up naked DNA from their immediate environment and that *E. coli* would be exposed to such DNA arising from dead human cells in the human intestine. Microorganisms might similarly take up DNA in the process of decomposing dead animals. Therefore, Davis argues, most recombinants probably have already been tried in the natural evolutionary arena and have been found wanting. Reasoning on analogy with extensive information on pathogenic bacteria, Davis concludes that under the existing NIH guidelines the probability for survival in nature of laboratory-produced prokaryote-eukaryote recombinants is vanishingly small.

This clash of opinion on a major bio-

logical issue illustrates the difficulty of assessment of even comparatively value-free questions when critical information is fragmentary. The controversy over the risk-benefit ratio becomes even more intense when issues involve substantial value judgments as well. Here again a concern of skeptics and opponents of recombinant techniques is sharply articulated by Sinsheimer. He asks: "Do we want to assume the basic responsibility for life on this planet? To develop new living forms for our own purposes? Shall we take into our own hands our own future evolution?" Since the questions include such concepts as responsibility, purpose and control of the future, they clearly involve considerations beyond science alone.

The human species has, of course, been altering life on this planet from the beginnings of human culture. When hunting and gathering gave rise to animal husbandry and agriculture, human choice and purpose began to influence the evolution of selected species. Unconscious human selection was replaced by deliberate plant and animal breeding, and the further development of human culture is now clearly altering the entire ecosystem. Moreover, the biocultural progression of the human species, based partly on human purpose, is undoubtedly altering the human gene pool and will slowly modify the species in unpredictable ways. Nevertheless, the advent of recombinant-DNA techniques has obviously enhanced the prospects for genetic engineering and has restressed the need to assess its implications. Can it be assumed that success in introducing recombinant DNA's into *E. coli* means that there will be similar success in introducing them into the human species? If it can, what is the probable time frame for applying the technique to the human species? Is it accurate and responsible to suggest that we have almost in hand control of "our own future evolution"? These certainly are questions for scientific assessment, and they should have a prominent place on the new policy agenda.

Sinsheimer has gone into still another controversial area, not only for the scientific community but also for the entire society. Arguing that time may be needed to "pace" new genetic knowledge to human capacities for putting nature to intelligent use, he wonders whether "there are certain matters best left unknown, at least for a time." This is high heresy in the scientific community, whose fundamental premise is that the growth of knowledge is the driver and not the captive of other values. The rejection of the concept of "forbidden knowledge" was part of the heroic period at the beginning of modern science, when it included willingness to face the Inquisition and the stake. Having been seared by the nuclear flame and now confronting the more subtle implications of the innermost language of life, 20th-century scientists fear not the stake but the judgment of history. Chargaff, a pioneer in the investigations that led to the decipherment of the genetic language, says: "My generation, or perhaps the one preceding mine, has been the first to engage, under the leadership of the exact sciences, in a destructive colonial warfare against nature. The future will curse us for it."

Sinsheimer and Chargaff, along with a number of philosophers, historians and sociologists of science, are clearly suggesting that the possible consequences of knowing must be consciously included in decisions about the directions of the search for knowledge itself. No issue cuts more deeply to the core of modern science. The self-doubt expressed by some scientists reflects a general questioning in the U.S. of the net benefits of science and technology. Cost-benefit analysis is a current preoccupation, and it is being increasingly applied to the generation of knowledge itself. It is hard enough to assess what we may gain or lose from particular new knowledge; it is even harder to assess the costs of not having it. This problem is epitomized by the recombinant-DNA controversy. The rise of molecular genetics in the U.S. is the direct product of a series of decisions made after World War II that provided funds for biomedical research. The objective was the conquest of the "killer" diseases: cancer, heart disease and stroke. Those diseases are still much with us, although they are better understood and cared for. Meanwhile, out of Federally supported research also came the impetus that led to the discovery of the double helix, the genetic code, the structure of proteins and recombinant DNA. In a classic "double take" the public is now asking whether it has been buying health and well-being or chimeric monsters. Is molecular genetics and all biomedical technology a sorcerer's apprentice? Are we increasing rather than lessening our burden of pain and anxiety?

The last question leads to yet another issue. Biohazard and ecohazard may arise inadvertently, but "sociohazard" may be the product of deliberate malevolence. The U.S. is a signatory to an international legal convention that has renounced biological warfare, including research to produce the necessary agents. Not all countries have taken this step, and public renunciation without adequate inspection cannot ensure that covert activities do not exist. Opponents of recombinant-DNA research see its techniques as being ideally suited to serve malevolent purposes, either as agents of organized warfare or of sabotage and terrorism. The techniques do not require large installations or highly sophisticated instrumentation. Contrary views have not denied this but have noted that recombinant-DNA techniques would not be the first technology to have potential malevolent applications. Explosives have such applications, but society does not completely ban them; it takes prudent precautions against their misuse.

Nevertheless, the issue of the possible misuse of recombinant-DNA technology deserves a place on the policy agenda, because it emphasizes the need for international discussion of the implications and management of recombinant-DNA research and recombinant-DNA applications. It can be argued that the U.S. is not ready for such discussion until its own policies are in better order. It is not too early, however, to begin the internal consideration of how best to approach the international arena.

These are the chief issues that have emerged from the policy debate so far. It is a not inconsiderable list. The debate has not been raging on every street corner, but it became strenuous enough in Cambridge last summer to have repercussions across the continent. For example, an evaluation presented by a panel of nonscientists to the Cambridge City Council was not too different in content from one produced by a task force of the Quality of Life Board of the City of San Diego, where I live. Both groups accepted within their community the continuance of recombinant-DNA research requiring P3 facilities but sought somewhat greater assurances of safety than those provided by the NIH guidelines. Meanwhile the Attorney General of the State of New York held a public hearing, and a joint hearing was conducted by two committees of the Assembly of the State of California Legislature. Legislation regulating DNA research was later introduced in the California Assembly, and it is still under consideration. Congress has also held several hearings and various items of regulatory legislation have been introduced in both the Senate and the House of Representatives. These local, state and Federal initiatives emphasize the necessity to get on with the policy agenda.

The agenda should be viewed in at least two time frames: immediate and longer range. A consensus has been growing that there is an immediate need to give the quasi regulation represented by the NIH guidelines a statutory base. In particular, regulation must be extended to activities not supported by Federal agencies, especially in the industrial sector. However this is to be done, it is important to maintain flexibility, since the problems to be dealt with will change as greater knowledge and experience are acquired.

Moreover, given the complexity of the longer-term issues, immediate legislation probably should be provisional and limited. A mechanism should be included, however, that actively leads toward a more definitive future policy. This requires provision for a new, comprehensive assessment of all the issues raised by recombinant-DNA research, including the probable effectiveness of the regulatory devices put in place under the NIH guidelines.

The need for such a new national assessment is demonstrated by the nature of the critical challenge to the product of the earlier assessment. First, it has been alleged that the 1975 Asilomar conference establishing the pattern for the NIH guidelines was dominated by scientists involved in the research, and therefore it could not yield a broad enough perspective. Second, it is argued that the earlier assessment was devoted primarily to the question of potential biohazards and did not address in any depth other gravely important questions. The passage of time has added several more points: that circumstances already have changed as research has progressed, that experience has grown and that a wider range of opinion has come to bear on the issue. Whatever format is adopted for the reappraisal of the recombinant-DNA issue, the public must be assured that the process is a comprehensive and objective one.

Whoever undertakes this new national review should first carefully examine the current situation, including the actual effectiveness of the regulatory mechanisms provided by the NIH guidelines. Particular attention needs to be paid to the local institutional biohazards committees mandated by the NIH guidelines. Beyond the responsibility assigned to the principal investigator these committees are the only source of local surveillance and standard-setting. Their composition and charge are unique, yet their authority and procedures are stipulated only generally in the NIH guidelines. They may well need the stimulus and support of external interests to carry out their important task. Moreover, no provision has been made for budgeting what may turn out to be their considerable cost for technical surveillance, personnel training and medical monitoring. Like all insurance, security against biohazard must be bought. The cost should be borne as an additional expense of the research, not as a competitor for existing funds.

Similarly, the actual performance of the NIH study sections, which are mandated by the guidelines to be independent evaluators of biohazards and containment, needs to be examined. Study sections are already heavily overloaded with the job of evaluating scientific quality. Yet these part-time peer groups are asked to assume another difficult function. If the responsibility is to be taken seriously, it too will entail additional costs.

Of special importance for early attention is an effective monitoring system for following the actual directions of recombinant-DNA research. The techniques involved are so rich in possibilities, whether for fundamental research or applications, for benefit or risk, that "early warning" is essential. Systematic following of the directions of investigators' interests, from applications for support through informal communication to formal publication, is essential to the early

detection and assessment of either risks or opportunities. Needless to say, monitoring is particularly difficult in industrial research. It might therefore be desirable to limit or postpone certain development efforts pending closer study and greater knowledge of the underlying problems.

Equally urgent is a determined effort toward a more effective assessment of risks and their limitation. The specific assignment of responsibility for this kind of policy-oriented research should be an early recommendation of the body undertaking the reassessment. Given the differing perspectives required by regulation and the NIH mission to promote health-related research, the regulatory function probably belongs elsewhere in the long run. On the other hand, given the need for careful study of the implications of relying on existing agencies or establishing a new one, the temporary continued assignment of this responsibility to the NIH may be desirable. This interim solution, if it is adopted, must be accompanied by additional funding to carry it out effectively.

Considerations of biohazards and physical and biological containment have necessarily had a high priority in this early phase of recombinant-DNA research. Many informed observers believe, however, that these concerns will decline in importance as research continues and experience grows. Therefore although the current furor makes a rational approach to the biohazards question an essential part of any successful recombinant-DNA policy, this approach does not exhaust the longer-term requirements and may even distort them. More crucial in the long run may be several other issues that have been raised directly or indirectly.

For example, in investing in fundamental genetic research that can profit from recombinant-DNA techniques, what relative priorities should be assigned to potential applications? In the past the national strategy in biomedical research has been to invest directly in basic research, without declared objectives, while also investing in specific objectives, allowing some of the latter support to "trickle down" to basic research. Thus an investigator of the interaction of viruses and cells, say, might be alternatively or simultaneously supported by funds for fundamental investigation and by funds intended for promoting the development of an effective therapy for cancer. What should be the priorities among possible practical applications of molecular genetics? Competing lines of inquiry include the microbiological synthesis of drugs, specific human gene therapies, the improved efficiency of photosynthesis, nitrogen fixation by food crops, enhanced agricultural production and so on. There are quite different potential risks and benefits in each of these directions, and all are unlikely to be maximally supported at once. In the new areas that are opening up is a new research strategy called for? If it is, by what procedures should it be formulated and how should it be implemented?

It is widely recognized that there is a logical continuum running from basic research through applied research and development to technological application. It is also recognized that movement along this continuum is neither smooth nor fully predictable and that varying motivations and institutional arrangements operate along its length. Recombinant-DNA techniques are the product of fundamental investigation, supported almost entirely by the partnership of the Federal Government and the universities. For the moment, at least, the techniques are likely to remain useful primarily in that area. The techniques may also be useful for various industrial purposes, however. Given the nature of the original investment as well as the complex issues raised, should technological uses, at least for a time, be kept under Federal control? Should some of the return from successful applications be employed to recycle the original investment of Federal resources? Should this promising new technology be a prototype for establishing a revolving capital fund to support a more stably financed basic-research effort?

The possibilities of genetic engineering and evolutionary control illustrate the fundamental dilemmas raised by the new capabilities conferred by scientific knowledge. Society has entered an age of intervention, in which the automatic operation of natural processes is increasingly, through informed intervention, brought consciously into the orbit of human purpose. Many events that humanity formerly could regard only as a boon or a scourge—an act of God or of nature—are now the partial product of human decision and intervention. If human beings do not have the capability today to invent new organisms or to initiate life itself, they may soon have that capability. If they cannot today consciously and fully control the behavior of large ecosystems, that power is not far beyond what has already been achieved. The humility of individuals understandably shrinks from awesome powers that were earlier assigned to divine will. It was not, however, the humility of individuals that conferred these emerging capabilities or is called on to control them today. It was the social interaction of individuals, operating through social institutions, that brought us to the present fateful decision making. Imperfect though they are, our social institutions built the platform for the age of intervention.

The policy challenge we face, refracted in the exquisite structure and potential of the double helix, is whether we can create institutions able to transform the fruits of an age of reason into the achievements of an age of intervention. There are voices today urging us not only to eschew conscious intervention but also to distrust and limit the uses and consequences of reason itself. Perhaps it needs to be restated that it was, after all, natural selection that evoked the double helix and all it conveys. Included among the products are human knowledge and judgment, to which has now passed the duty of designing social processes and structures that can cope with the manipulability of the double helix itself.

The concept and control of the double helix signal a new frontier of biocultural progression. A stereoscopic vision that includes both "creative pessimism" and "creative optimism" is now required. Neither alone can do justice to the profound revelations human beings have recently experienced. A single eye is particularly limited in yielding depth and perspective. For the age of intervention at least two are needed.

THE RUSSIANS' OLYMPIC PLOY

Mr. MOYNIHAN. Mr. President, in 1980—with the decision to hold the summer Olympic games in Moscow—the Olympic traditions of sportsmanship and hospitality and fair play will become hostage to the political designs of the world's foremost totalitarian government. In the meantime, there are disturbing signs that the Soviet Union will continue its campaign to exclude Israel from international organizations and meetings—ultimately from the Olympic games themselves. These questions are addressed by William F. Buckley in his column in the Washington Star of August 4, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE RUSSIANS' OLYMPIC PLOY

(By William F. Buckley, Jr.)

The wag in London tells how the British and the French could have solved their Concorde problem once and for all. "Simple. It would have cost us the price of a single airplane—that's all." You bite, of course. "What would you have done with one Concorde?" Answer: "Given it to El Al."

It's a good joke, and recognition of the great power of the pro-Israel lobby in the United States. The word "lobby," by the way, is by no means necessarily invidious. One can say for instance that the ACLU is a pro-First Amendment lobby, and no one is supposed to get sore. The pro-Israelites are concerned for the survival of the State of Israel, and for the respect it is due as a sovereign power.

Well here is something looming which isn't going to be solved by the gift of one airplane to Israel. The background is one of the great propaganda operations being planned—for 1980. It is the Olympic Games, which is scheduled to take place in Moscow, and will be brought to the American public by NBC–TV, for which franchise the NBC people paid over $80 million, many times the highest price previously paid.

As we all know, the Soviet Union turns any spectacular into an excuse for aggrandizing the Soviet revolution and the Socialist state. It is not enough to breed fine athletes, stuff them like Strasbourg geese, and have them win the prizes: It must be brought home that they have won these prizes owing to the spiritual nourishment they received as children of the glorious Socialist revolution.

That the Communists intend to milk the Olympics until all mankind curdles was never in doubt. Sergei Pavlov, chairman of the Soviet Committee of Physical Education and Sport, recently wrote that "for the first time in the history of the Olympic movement the games are to be held in a Socialist state. We are planning to make this event a festival of peace which will serve the vital cause of mutual understanding and cooperation between people." When the Soviet Union sets out to achieve peace and mutual understanding, it is time to batten down the hatches.

The editors of *National Review* have learned that the Soviet Union intends, as one of its propaganda points, to forbid Israeli participation in the Moscow games. I am glad they picked on Israel. Because Israel is about the only country in the world one can think of, the superpowers apart, which predictably will make the Soviets rue their decision.

This isn't Trudeau truckling to the squalid oligarchs of Red China at the last minute by denying participation to the Taiwanese athletes—there were protests then against this arrant violation of the Olympic Code. But there is no Taiwanese lobby to speak of. And the Canadian government had going for it the hot lust of the whole world to see the games: Trudeau knew that the Olympic Committee, at the margin, would not call the games off.

The Soviet Union, intending to slight Israel and make headway in its strategic desire to ingratiate itself with the Arab countries of the Third World, will start playing an intricate game of technicalities.

Here is one way to do it. There are 26 Olympic sports federations, each featuring a recognized Olympic event. In order to qualify to compete at an international Olympic, a nation must belong to at least five federations. The Israelis do—but they do not belong to all 26. For instance, they do not compete in the winter games.

The strategy is one of attrition: To disqualify Israel from one after another federation until they wake one day to find themselves members of less than the requisitive

five. This administrative demarche can proceed hand in hand with ideological combat. South Africa has been (quite illegally) excluded from the Olympics. Moscow is always in a position to brandish the U.N. resolution equating Zionism with racism, invoking the South African precedent, and lock the gates on Israel.

There are signs of movement. In November of last year, the Soviets, Hungarians and Yugoslavs pulled out of the World Chess Championship rather than play in Haifa. They set up their own "International Chess Olympics" in Libya.

Well, let them try.

I predict that if the Soviet Union prevails against Israel in the Olympics, the Moscow Olympics will take place without the participation of the United States. 1980, by the way, is an election year.

NINTH ANNIVERSARY OF THE OCCUPATION OF CZECHOSLOVAKIA

Mr. DOLE. Mr. President, in a few weeks the free world will again recall with sorrow and dismay the fateful day of August 21, 1968 when the Soviet-led armies of the Warsaw pact and their tanks rumbled into Prague. It brought to an end the leadership of Alexander Dubcek and the far-reaching program of political and economic reforms.

MOSCOW FORCES "NORMALIZATION"

The Moscow agreement of August 26, 1968 was imposed on the Czechoslovak Government and bound it to a policy of "normalization," that is, the abandonment of most of the reforms, and the stationing of Soviet forces on Czechoslovak soil. In 1968, the number of troops used for this "normalization" was half a million. Today the Soviets still maintain their military presence with 80,000 troops violating the rights of the Czechoslovak people and government.

"DAY OF SHAME"

Nine years have passed since then but August 21 has become known as the "day of shame" and is commemorated by the people of Czechoslovakia and their friends in the free world. Nor is the name of Thomas Garrigue Masaryk forgotten. The striving for those values that he represents has not diminished. It is important that we also not forget them.

HUMAN RIGHTS TRAMPLED

Nine years ago, the Soviet forces trampled the strivings of the Czechoslovak people for liberty and human rights that we take for granted. Many of those who fled Czechoslovakia then, left behind children, parents, or spouses. Today they are still trying to reunite their families. The invasion produced and is still producing suffering in spite of the promises made and provisions signed by the Soviets at Helsinki. But these are facts I will not forget and I will not let them be forgotten in Belgrade.

Mr. STENNIS. Mr. President, the Armed Services Committee voted unanimously yesterday to report to the Senate a bill to prohibit unionization of the military services. Senator THURMOND, who has worked hard on this question for some time, will report the bill for the committee in due course. I thought it might be helpful at this point to outline some of the committee's thinking on this important matter, and to explain what the bill would do.

We held extensive hearings on the issue of unions in the military, and the witnesses established without question the grave dangers to our national security that would be posed by a unionized military. We examined carefully the possible dangers to readiness, discipline and morale, and concluded that decisive legislative action was needed. We also found that there is a very real threat that efforts will be made to organize the military.

The committee also engaged two consultants on constitutional law, former dean of the Harvard Law School and former Solicitor General Erwin Griswold, and Prof. Charles Alan Wright of the University of Texas Law School. Since a bill to prohibit membership and union activity could raise serious constitutional questions, the committee wanted to be sure of its legal ground. The opinions of these distinguished lawyers were very helpful to us, and many of their ideas were incorporated into the final composite committee bill. That bill, in our judgment, is sensitive to constitutional limitations and is well within Congress power to legislate in this area.

Secretary Brown has taken the position that no legislation is necessary to deal with the problem and has recommended that the Congress delay any action on military unionization for 9 to 12 months while the Defense Department experiments with measures to limit unionization through departmental directive. The committee believes that this approach will be ineffective. In our view the Congress cannot afford to wait and take the risk that unionization of the military services might take place.

The composite bill agreed on by the committee to be reported is a comprehensive effort to deal with all aspects of the unionization problem. I would like to take a few more moments to explain its provisions.

The bill defines "labor organization" for purposes of the bill as any organization that seeks to first, negotiate with the Government concerning terms and conditions of military service, second, represent service members in grievance proceedings, or three, strike, picket or engage in other concerted action against the Government.

The bill would make it unlawful for an active or reserve military member, to:

1. be a member of a labor organization, knowing of the activities and objectives of the organization;

2. solicit another to join a particular labor organization;

3. bargain on military issues with a labor organization purporting to represent other military members, or bargain on behalf of any such organization;

4. participate in a strike, picket line or similar activity by military members against the government, or to organize such activity, or

5. use any military property for a meeting which concerns activities prohibited by the bill, or to permti or authorize such use.

The bill would also make it unlawful for civilian employees of DOD to:

1. bargain on military issues with a labor organization purporting to represent military members; or

2. permit or authorize the use of any military property for a meeting which concerns activities prohibited by the bill.

The bill would also make it unlawful for any individual, civilian or military, to:

1. bargain on military issues with the Government on behalf of military members;

2. organize or attempt to organize, or participate in, a strike or other concerted action by military members against the government; or

3. use any military property for a meeting which concerns activities prohibited by the bill.

The bill would make it unlawful for any labor organization, as defined, to:

1. enroll a military member in the organization, or solicit or accept dues or fees from military members;

2. bargain or attempt to bargain on military issues with the Government on behalf of military members; or

3. represent service members in grievance proceedings.

More broadly, the bill would make it unlawful for any organization to:

1. bargain or attempt to bargain on military issues with the Government on behalf of military members;

2. organize or attempt to organize, or participate in a strike or other concerted action by military members against the Government; or

3. use any military property for a meeting which concerns activities prohibited by the bill.

The bill would specifically exclude from its provisions, so long as they did not espouse any of the prohibited objectives, present military and veterans associations. It would also not interfere with the right of military members to join civilian unions in their off-duty employment. Again, as long as those unions do not attempt to organize the military. The bill would explicitly apply to dual-status civilian technicians employed by the Reserve and Guard components, with the effect that dual-status technicians would be required to resign from their civilian unions.

The committee intends to report this legislation during the recess, along with a detailed report spelling out the scope and justification for each of the prohibitions in the bill. I urge each Senator to read these carefully, and I hope that this bill can be taken up soon after we return. I also urge each Member to join the unanimous committee in support of the bill.

BILL TO PROHIBIT UNIONIZATION OF THE MILITARY

Mr. THURMOND. Mr. President, I am pleased to report to the Senate that the Senate Armed Services Committee yesterday unanimously voted in favor of S. 274, my bill as amended, which would prohibit unions in the military.

In addition to the unanimous vote in the committee, five additional committee members have requested that they be added as cosponsors of the bill.

These Senators include the distin-

guished committee chairman, Senator JOHN C. STENNIS of Mississippi; the ranking majority member, the distinguished junior Senator from Washington, Senator HENRY JACKSON; Senator HOWARD CANNON, the distinguished senior Senator from Nevada; Senator THOMAS MCINTYRE, the distinguished senior Senator from New Hampshire; and the distinguished junior Senator from Minnesota, Senator WENDELL ANDERSON.

These additions to the bill bring the cosponsors to 48, plus myself as author, means 49 Senators are signed in favor of this legislation.

The earlier cosponsors, in alphabetical order are: Senators ALLEN, BAKER, BARTLETT, BELLMON, BENTSEN, BIDEN, BURDICK, HARRY F. BYRD, JR., CHILES, CURTIS, DANFORTH, DOLE, DOMENICI, EASTLAND, FORD, GARN, GLENN, GOLDWATER, HANSEN, HATCH, HATHAWAY, HAYAKAWA, HEINZ, HELMS, HOLLINGS, JOHNSTON, LAXALT, LUGAR, MCCLELLAN, MCCLURE, MORGAN, NUNN, ROTH, SCHMITT, SCHWEIKER, SCOTT, STEVENS, STONE, TALMADGE, TOWER, WALLOP, and YOUNG.

Mr. President, S. 274 as introduced will come to the Senate floor in a revised form. As presently written it combines the best features of the original bill and S. 997, the latter bill introduced by the distinguished committee chairman, Mr. STENNIS.

In addition, changes were made by the committee as a whole in order to delete provisions of questionable constitutionality as well as include new provisions recommended by legal experts. It is my opinion these changes strengthen the bill while at the same time the bill still contains the safeguards we need to clearly prohibit military unions.

In 4 days of hearings the committee heard testimony from Gen. Bernard Rogers, Army Chief of Staff, representing the Joint Chiefs, and military witnesses of all services including enlisted personnel. They unanimously favored the bill and General Rogers used the term "disastrous" in describing the results, should the military be unionized.

In addition, the committee heard Secretary of Defense Harold Brown who, while opposed to military unions, expressed the view the problem could possibly be contained by Department regulations.

Other witnesses, with the exception of the president of the American Federation of Government Employees, opposed military unions.

Two witnesses, representing the Teamsters Union, expressed support for the bill in the belief that while they hold closely to the principle of civilian unions, they felt unions had no place in the military.

Mr. President, it is my understanding this bill will actually be reported under a special agreement during the recess. However, in order that the Senate might know as much as possible about its provisions, I ask unanimous consent that a memorandum prepared by the staff and used in the final markup prior to the vote be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. In conclusion, Mr. President, I wish to commend the able committee chairman, Mr. STENNIS, for his leadership and counsel during the hearings and development of this landmark legislation. His legislative skill and leadership qualities were most instrumental in bringing this important bill to such a successful conclusion within the committee.

The hearings definitely established there is a serious threat to unionize the military forces. This threat can be dealt with most effectively by action of the Congress which has the clear responsibility for "raising and maintaining" our Armed Forces.

In the unanimous approval of S. 274 by the Senate Armed Services Committee this threat is recognized and met by the committee of the Senate upon which the responsibility clearly rests.

Upon the return of the Senate from the August recess I shall urge early and favorable consideration of S. 274.

EXHIBIT 1

MEMORANDUM

The composite draft combines ideas from S. 274, S. 997, legal consultants' work and staff research.

The bill defines "labor organization" for purposes of the bill as any organization that seeks to (1) negotiate with the government concerning terms and conditions of military service, (2) represent service members in grievance proceedings, or (3) strike, picket or engage in other concerted action against the government.

Military Members—the bill would make it a crime for an active or reserve military member, including members of the coast guard, to:

1. be a member of a labor organization, knowing of the activities and objectives of the organization;

2. solicit another to join a particular labor organization;

3. bargain on military issues with a labor organization purporting to represent other military members, or bargain on behalf of any such organization;

4. participate in a strike, picket line or similar activity by military members against the government, or to organize such activity; or

5. use any military property for a meeting which concerns activities prohibited by the bill, or to permit or authorize such use.

Civilian Employees of DoD—the bill would also make it a crime for civilian employees of DoD to:

1. bargain on military issues with a labor organization purporting to represent military members; or

2. permit or authorize the use of any military property for a meeting which concerns activities prohibited by the bill.

Any Individual—the bill would also make it a crime for any individual, civilian or military, to:

1. bargain on military issues with the government on behalf of military members;

2. organize or attempt to organize, or participate in, a strike or other concerted action by military members against the government; or

3. use any military property for a meeting which concerns activities prohibited by the bill.

Labor Organization—the bill would make it a crime for any labor organization, as defined, to:

1. enroll a military member in the organization, or solicit or accept dues or fees from military members;

2. bargain or attempt to bargain on military issues with the Government on behalf of military members; or

3. represent service members in grievance proceedings.

Any Organization, Including a Labor Organization—more broadly, the bill would make it a crime for any organization to:

1. bargain or attempt to bargain on military issues with the Government on behalf of military members;

2. organize or attempt to organize, or participate in a strike or other concerted action by military members against the Government; or

3. use any military property for a meeting which concerns activities prohibited by the bill.

Military Associations—the bill would specifically exclude from its provisions, so long as they did not espouse any of the prohibited objectives, present military and veterans associations.

Civilian Technicians—the bill would explicitly apply to dual-status civilian technicians employed by the Reserve and Guard components, with the effect that dual-status technicians would be required to resign from their civilian unions.

Saving Clause—the bill makes it clear that the Congress does not intend to abridge the right to counsel in judicial or administrative proceedings, or the right to pursue any remedies now open under laws and regulations.

FOREIGN SURVEILLANCE

Mr. MOYNIHAN. Mr. President, on July 27, 1977, I introduced the Foreign Surveillance Prevention Act, a bill designed to strengthen the ability of the President to deal with the growing threat to the privacy of American citizens posed by the interception of telephone conversations by foreign governments. The legislation is designed to establish clear statutory guidelines for government action in this area.

Since then, the following Senators have joined as cosponsors of S. 1950, as the bill is designated: the majority leader, Senator ROBERT C. BYRD, and Senators HEINZ, STONE, MELCHER, DOLE, GOLDWATER, HAYAKAWA, INOUYE, CHILES, JACKSON, BROOKE, MATSUNAGA, and LUGAR.

The American Civil Liberties Union has also expressed its support for the legislation.

Mr. President, I believe the President of the United States wishes to respond to the concerns of those of us who, in cosponsoring S. 1950, are urging upon him a more vigorous response to the blatant Soviet use of electronic technology to violate the fourth amendment rights of Americans. All of us look forward to cooperating with him in devising a remedy for this problem.

Finally, Mr. President, Tom Wicker of the New York Times and Karen Keegan of the New Republic have recently written perceptive commentaries on this question, and I ask unanimous consent that their articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SHUTTING OFF SOVIET EARPHONES

(By Tom Wicker)

If an American President were to discover that the Soviet Union was systematically intercepting the telephone calls of millions of Americans, surely it would be good policy and good politics for him to tell the Russians

sternly to remove their eaves-dropping equipment and maybe even to order a few Soviet diplomats out of the country.

In fact the Russians are doing it, and rather openly, and neither President Carter nor President Ford before him has taken any known steps to protect the rights and privacy of American citizens from Russian snoops. Mr. Ford even had an official report on the matter from a commission headed by his Vice President, Nelson A. Rockefeller, but did nothing.

When the matter was called to Mr. Carter's attention at a recent news conference, he replied mildly that he would "not interpret this [activity] by the Soviet Union or by other embassies to be an act of aggression." Besides, he said, steps had been taken to protect the telephone lines of the White House, the Pentagon and other important agencies.

There are a number of reasons—none of them particularly good ones—why first Mr. Ford, then Mr. Carter preferred to see no evil, hear no evil.

Unquestionably, for one thing, the United States is doing the same kind of eavesdropping in Soviet cities that the Russians are doing in Washington, New York and elsewhere. But in Moscow, the Russians have taken strong electronic countermeasures, possibly even endangering the health of those working in the American Embassy.

It's unlikely, moreover, that American listeners in Moscow hear anywhere near as much as the Soviet's electronic ears in the United States. The Russians are not as pervasively dependent on the telephone or on electronic data transmission as are Americans, and their society is more oriented towards secrecy.

Second, it may well be that Mr. Ford and Mr. Carter have been inhibited by the likelihood that the United States is doing some of the same kind of eavesdropping *in the United States* as the Soviets are doing here. The National Security Agency is empowered to listen in on conversations with one foreign terminus, and while agency officials say this activity is carried on under strict guidelines from the Attorney General, millions of Americans must nevertheless be overheard in innocent conversations. The Senate Intelligence Committee is looking into the possibility of bringing such eavesdropping under legislative control.

Also, Mr. Carter also believes that if White House and Pentagon phones are protected, there's no need to do anything else. But there is, for at least two reasons. An American's rights and privacy should no more be invaded by Russian snoopers than by the F.B.I. or the C.I.A.; and while there's no known case of Russian blackmail, it's not hard to imagine circumstances in which that tactic might be used against American citizens.

Aside from privacy, however, electronic telephone intercepts by the Russians in a financial capital like New York or, say, of grain crop reports coming into the Agriculture Department, could give them valuable advance and inside information on a wide variety of subjects other than "national security" questions.

But probably the major reason for American acquiescence in Russian eavesdropping here is Russian-American relations. The Ford Administration apparently feared to make an issue of the matter, despite the Rockefeller report, lest its detente policy be damaged. Mr. Carter, having offended the Russians with his human rights statements and been rebuffed by them on arms control, can hardly be anxious to inject another sour note into the resulting shaky relationship.

There may be some merit in such caution, but it still means that the right of Americans to be secure in their houses and places of work is being sacrificed to diplomatic expedience. Therefore, Senator Daniel P. Moynihan of New York has introduced a bill that would put Mr. Carter in a stronger position to enforce the law and the Constitution.

The measure would require the President to inform citizens when he had grounds to believe they were eavesdrop victims of any foreign country, to request the responsible foreign officials to stop the eavesdropping, and to order them out of the country if they persist in the offense.

Undoubtedly, the President already has such authority somewhere in his constitutional powers; but to endorse that authority in specific legislation would notify the Russians that the United States was placing new importance on the issue. And it would allow Mr. Carter to take steps to halt—or at least reduce—Russian eavesdropping, not as an Administration policy the Kremlin could take as another affront but as a necessity imposed on him by Congress.

BUGS IN THE SYSTEM

(By Karen Keegan)

With all the attention in recent years focused on bugging of American citizens by their own government, it is puzzling that Senator Daniel Patrick Moynihan's charges of massive Soviet interception of U.S. phone calls have been virtually ignored. Moynihan, a member of the Senate Select Committee on Intelligence, warns that the Soviet Union is tapping the telephones of "literally millions" of American citizens. "It must be made clear," he says," that Soviet espionage has not been directed merely against government activities. It has involved the wholesale invasion of the privacy of individuals, private businesses, stock exchanges, commodity exchanges, national and international banking—and, for all we know, the press, the universities, and similar centers of information and exchange throughout the nation." Asked to substantiate this vast claim, Moynihan said, "It's a world of conjecture. You can monitor thousands of calls with the technology they have. . . . There is no way to know" who exactly is being monitored. But the government does know. It has grudgingly admitted how widespread the practice is. Yet it seems unflappably reluctant to try to have the practice stopped.

The Soviets are able to intercept phone calls within the U.S. because 68 percent of U.S. long distance calls are transmitted through microwaves, a more modern but also more vulnerable system than telephone cables. Microwaves are high frequency radio signals that are relayed by towers all over the country. An eaves-dropper, using sophisticated equipment, can "pluck" phone calls from the air and find sensitive information in them by computer sorting. Since microwaves are point-to-point transmissions; they can only be intercepted by a station near where the call is made. Apparently the Soviets have interception machinery perched atop their Washington embassy, their United Nations offices in New York, their residences on Long Island, in the Bronx and in Maryland, and at their consulates in San Francisco and Chicago. The new Soviet embassy on which construction will begin shortly at Washington's Mt. Alto will allow the Russians to increase their bugging capacity.

The government has known, in fact, for at least two years that American phone calls are being monitored by Soviet interception equipment. President Ford never made the issue public; instead a National Security Council committee was asked to study the problem. Carter also has avoided public debate on the subject, although he has admitted under questioning that "the intercept on a passive basis of these kinds of transmissions has become a common ability for nations to pursue." He told a few senators that the *Washington Post* has been exercising discretion on the issue. It is known that for several months, at least, the *Post's* Bob Woodward has sat on the story. Continuing along the Ford line, President Carter set up his own interdepartmental study of Soviet eavesdropping. Recommendations from that committee are expected soon, and probably will concern themselves with securing government phone calls rather than those in the private sector. The President has already assured the press that his lines and Dr. Brezezinski's are adequately covered. That's not really the point, however. We can assume that the security apparatus protects itself. But who protects us? Neither the White House nor any of the departments involved in Carters' special coordinating committee of the National Security Council had any comment to make about the completion date of the study or what its recommendations would be.

In the meantime, the Carter administration seems to have found a convenient compromise with principle. Without making public the continuous Soviet intrusions on private US citizens, the government has informed those large corporations it knows are under surveillance.

The secrecy in which Soviet wiretapping has been shrouded is an indication of the difficult position the Carter administration faces. On the one hand, if the President does not make it clear that he is concerned about Soviet violation of American privacy, he is liable to take a beating from those who are understandably upset about it. On the other hand, if he does make a public disclosure of Soviet activities, he will also have to admit that similar activities are carried on by American intelligence agencies. Such information could jeopardize further American eavesdropping and other surveillance activities.

Ironically, the fourth amendment's guarantee against unreasonable searches and seizures protects us against bugging by our own government, but not specifically against bugging by foreign governments. The CIA general counsel made the distinction to justify withholding this information from the public. It is a particularly narrow interpretation of the Constitution that encourages official indifference to the systematic violation of what are thought of in this country as natural rights.

The irony, of course, is that if freedom from bugging by foreign governments is a "natural right," it is one Soviet citizens are entitled to as well and one we apparently violate. But a unilateral American decision to honor the "right" of Soviet citizens to be free from bugging would be a pointless gesture, since it is a right their own government ignores as a matter of course. Clearly this mutual bugging is a problem more amenable to a pragmatic tradeoff than to abstract invocational of "rights." President Carter should tell the American people exactly what he knows about Russian interception of our telephone calls. Then he should arrange to sit down with the Russians and negotiate an end to the practice, preferably in both countries.

THE PROBLEM OF HIDDEN HANDICAPS

Mr. HASKELL. Mr. President, Americans have become increasingly aware of the range of problems confronted by millions of handicapped people on a daily basis—physical barriers which inhibit access to buildings and services, and barriers of prejudice and ignorance which often inhibit access to education, recreational, and employment opportunities.

Strides are slowly being made in remedying these long-standing problems. I share the profound hope of handicapped Americans that we have only begun to

make progress in this regard. Physical barriers as well as the less tangible kind are beginning to come down. But much more remains to be done.

Yet, if we have begun to become more sensitive to the problems of people whose handicaps are readily apparent, such as the blind, the deaf, and those confined to wheelchairs, we have yet to give attention to the problems of people whose handicaps are not clearly visible—people with "hidden handicaps." Handicapping conditions which are not visible yet cause serious difficulties for the individuals afflicted, include epilepsy, cystic fibrosis, diabetes, autism and various types of cancer. People in this subgroup of the handicapped face special social and economic problems for which there is often little understanding because their appearance betrays no evidence of a handicap.

Their handicaps do not show but are there nonetheless and have serious ramifications. Often this creates a situation in which individuals are denied equality of opportunity for employment and services and yet also denied the kinds of special support services and training opportunities available to people whose handicaps can easily be seen.

One such handicapped individual described the situation this way:

When we reveal our handicap, we are denied jobs, insurance, vocational training, drivers' licenses, residences, etc. If we do not identify it, and our handicap is discovered, we are accused of deceit and fraud. We are damned if we do, and damned if we don't.

This situation is perhaps most acute and widespread among individuals afflicted with epilepsy, a condition about which a great many myths and misconceptions still abound. Many individuals subject to epileptic seizures face serious employment discrimination. While seizures may be controlled by medication, the fact that the condition exists may be basis for a private sector employer to deny a person with epilepsy a job—even though their ability to perform the job is unaffected by the affliction. Individuals with cystic fibrosis also face serious difficulties in obtaining necessary benefits because of the less visible nature of their affliction.

As a result the Epilepsy Foundation of America and the Cystic Fibrosis Foundation formed the Hidden Handicaps Caucus to broaden understanding and increase awareness of the special needs and problems of individuals with these afflictions in the areas of employment discrimination, access to services and benefits, health insurance, and education. At the White House Conference on the Handicapped held in May of this year, a resolution authored by the Hidden Handicaps Caucus was adopted by the conference with the support of 393 out of 473 of the voting delegates. This level of support put the resolution among the top five resolutions adopted by the conference. Because the thoughts contained in this important resolution deserve wide exposure, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the White House Conference on Handicapped Individuals is designed to consider the needs of all United States citizens affected by handicapping conditions, and

Whereas, the Conference is described as addressing "the aspirations, abilities and problems of physically and mentally disabled Americans of all ages . . .", and

Whereas, the classifications "physically" and "mentally" have created some uncertainty and confusion among the conference delegates, particularly as those terms relate to neurological impairments such as epilepsy, autism, and certain communicative disorders, and

Whereas, These impairments are not necessarily obvious or readily apparent and therefore may be considered "hidden handicaps", and

Whereas, under the general classifications of "physically and mentally disabled," other hidden handicaps such as cystic fibrosis, diabetes, neoplastic diseases and other handicapping medical disorders are included as physical disabilities, and

Whereas, this fact requires clarification and emphasis, since public opinion generally perceives of physically handicapped individuals as persons who have orthopedic impairments or other obvious handicapping conditions.

Now, therefore be it resolved, That the White House Conference on the Handicapped reaffirms and emphasizes that neurological impairments and other handicapping medical disorders are considered to be physical handicaps under the classifications used at the White House Conference on Handicapped Individuals, and

Be it further resolved, That delegates to the White House Conference on the Handicapped are of the opinion that the undiscernible or "hidden handicaps" should receive equitable consideration and emphasis to ensure that the needs of persons disabled by these conditions are not overlooked in resultant planning and services for the handicapped in the United States of America, and

Be it finally resolved, That the substance of this resolution be included in the final report of this Conference to be submitted to the President and the United States Congress, and also in the implementation plan of the White House Conference.

SCHOOL VIOLENCE AND THREATENED TEACHERS

Mr. ANDERSON. Mr. President, in recent months I have been disturbed to learn of the increasing problem of violence in the schools. According to several sources, including the July 11 Time magazine article on youth crime, some 70,000 teachers were assaulted in schools last year.

In response to this alarming problem, S. 794, the "Juvenile Delinquency in the Schools Act," was introduced in February. This legislation, which I cosponsored in the Senate would establish a safe school center within the Office of Juvenile Justice and Delinquency Prevention to provide information and technical assistance to schools, juvenile authorities and communities working to prevent violence and vandalism. It would also provide a grant program to help schools and communities whose resources for implementing these programs are particularly limited. Under the bill's provisions, a national safe school panel composed of 21 members would be established. Representatives of the various fields in education and juvenile delinquency, including juvenile authorities, students, teachers, parents, principals, administrators, and school security directors would serve on the panel, and through this mechanism would advise the Office of Juvenile Justice concerning the program's direction.

No school, no matter how well funded or well staffed, can operate effectively without at least a modicum of discipline and order. Teachers cannot teach while being threatened and harassed. That is why I believe school violence is the most singularly important noneconomic issue facing teachers today.

Although the Federal role in reducing school violence is limited, S. 794 would assist State and community efforts in this area. The legislation would provide critically needed support to programs aimed at protecting schools from vandalism, and most importantly protecting students and teachers who are threatened by school violence.

I ask unanimous consent that the June 2 Washington Star article on violence in the schools be printed in the RECORD for the information of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 2, 1977]

TEACHERS IN THE TRENCHES

(By Laurie R. Laurienzo)

The scene is not a pretty one. Many of our finest teachers are being bombarded by nasty kids, tongue-lashed by guilt-ridden, ineffective parents, and intimidated by principals who are pressured by various factions to tolerate all forms of anti-social behavior.

In "The Battered Teacher," March 1977, *Today's Education,* Dr. Alfred Block details the study he did on the threats and violence teachers are faced with in the classroom today. He reports that during the 1975–76 school year, the National Education Association estimated that 63,000 teachers were physically attacked by students. Locally, the Prince George's Educators' Association reports that physical attacks on teachers average three per week. Dr. Block reports that "teachers are disillusioned by their vulnerability and helplessness and their absence of protection or support from the administration."

Teachers are forced to internalize the psychological assaults, such as threats, harassments and intimidations. Many principals would rather not hear about discipline problems and use various means to get this message across. In fact, many principals are guilty of one or more of the following:

They shun responsibility for arrogant behavior of students by criticizing the teacher while pacifying the student and parent.

They discourage teachers from referring students to the office, and use a catalog of tactics to accomplish this.

They tolerate all forms of student misconduct, but demand that teachers follow instructions from A to Z.

They harass teachers instead of correcting persistently disruptive behavior of students.

They are more concerned with low suspension rates than with teachers' morale.

Some are unwilling to tell aggressive parents the truth about certain nasty kids, for it is safer to intimidate teachers by threatening bad evaluations.

They are fearful that too many parent complaints (no matter how irrational or unjustified the complaints are) will affect their job security. Let the teacher be burdened with the nastiness, the student, the hostile parent, and the principal. So to all concerned, the principal prefers to have a good-guy image unmarred.

All social behavior is learned. In most

cases, children who are properly disciplined at home have little need for it at school. The truth is that children draw strength from parents' ability to discipline them fairly. But we are living in the difficult '70s. Schools alone are not responsible for the permissiveness that prevails in our society. We must, however, define the educational dilemma, and challenge it.

Leadership now is needed to relieve the monumental pressures being forced on the classroom teachers. The following intolerable conditions and philosophies must be corrected:

Teachers are told, "Don't make waves. Accommodate difficult children. Look the other way. Be deaf. Don't fight back. Don't bother the office with problems. Control your emotions under all circumstances."

Some principals caution, "It is not in your best interest to report incidents because you may appear to be an unsuccessful teacher."

Teachers in many schools cannot report serious threats immediately. Intercoms are one-way, from the office to the classroom, or non-existent.

When the administration has "no where else to put a belligerent student," after a token suspension, he is returned to the same teacher.

Administrators must take necessary measures to deal with incorrigible behavior in their schools. Procrastination will result in further deterioration of the educational process. We must act now to restore safety, order, and respect in our schools.

FINANCIAL STATEMENT OF SENATOR LUGAR

Mr. LUGAR. Mr. President, in keeping with a practice I established during my service as Mayor of Indianapolis, I am submitting today for public inspection a personal financial disclosure. Included are itemizations of net worth, income, and taxes paid by myself and my wife, Charlene.

I ask unanimous consent that my financial statements for calendar year 1976 be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENT

Assets:	
Cash in savings and checking accounts	$14,621.82
Cash value of life insurance	37,469.86
Residence-Land and improvement costs	164,500.00
Less: Mortgage	(83,500.00)
Located in McLean, Virginia	81,000.00
Automobiles-current blue-book values	7,300.00
Thomas L. Green & Company, Inc. (233½ shares of common stock at cost, December, 1962)	61,293.25
Lugar Stock Farm Inc. (168 shares owned by Richard and 60 shares owned by Charlene at cost, December, 1959)	22,800.00
Lugar Farm Company (⅛ shares of partnership-book value as indicated in 1976 tax return)	4,058.46
Individual Retirement Account ($1,500 deposited both in 1975 and 1976 at 1st Federal Savings and Loan, Indianapolis, Ind	3,256.87
Total net assets	231,800.26

Notes: The shares of Thomas L. Green & Company, Inc. and Lugar Stock Farm, Inc. represent minority interests in closely held family businesses. The last transaction in the stock of Thomas L. Green & Company, Inc. occurred in December of 1962 when Thomas R. Lugar and Richard G. Lugar purchased an equal number of shares at the cost presented in this statement. That business has operated profitably during each subsequent year and it is probable that the shares have increased in value, substantially.

No transactions have occurred in the stock of Lugar Stock Farm, Inc. since its incorporation in December of 1959. The cost of the shares was then based on an Internal Revenue Service appraisal when the estate of the late Marvin L. Lugar was settled. The 604.5 acre Lugar farm was valued at $305.00 per acre in November, 1956.

Secretary-Treasurer, Thomas L. Green & Company, Inc	$40,596.25
Visiting Professor and Director of the Department of Public Affairs, Indiana Central University-Indianapolis, Indiana	18,000.00
Lugar Farm Company-Partnership Distribution	3,597.15
Lugar Stock Farm, Inc.—Salary	500.00
Thomas L. Green & Company, Inc.—Dividends	6,711.50
Honoraria from speeches	1,885.00
Interest on savings accounts	261.00
Reimbursement from campaign fund for expenses	787.79
Total income	72,398.69
1976 Federal income taxes paid	18,069.00
1976 Indiana State and Local Taxes Paid	4,029.00
Total Federal, State and local taxes	22,098.00

PRISON CONSTRUCTION LEGISLATION

Mr. GRIFFIN. Mr. President, on April 6 of this year, I introduced S. 1245, the Corrections Construction and Program Development Act of 1977.

The purpose of this bill is twofold. First, it provides Federal matching assistance to State and local governments for the construction, acquisition, and renovation of correctional facilities. And, second, it provides additional resources for the development and improvement of correctional programs and practices within such facilities.

The lack of available prison space has become a very serious national problem, disrupting our criminal justice system at every level. Across the Nation, the prison population has been increasing at a record pace. In 1975, every State but one experienced a prison population gain.

My bill would authorize $150 million for fiscal year 1978 and $350 million for fiscal year 1979, with a requirement that Federal funds be matched by local or State funds of at least 25 percent.

Since introducing this measure on April 6, I have received many expressions of support from across the country. I ask unanimous consent that a number of letters, received from Governors and chief correctional officers be printed in the RECORD.

Particularly in view of this strong showing of support, it is my hope that the Committee on the Judiciary will soon schedule hearings on S. 1245.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF MICHIGAN,
Lansing, July 8, 1977.

Hon. ROBERT GRIFFIN,
U.S. Senate.
Washington, D.C.

DEAR BOB: Thank you for sending a copy of your Bill S1245 with your letter of June 10. Your effort to provide federal support for adequate institutional space for corrections is right on target. It would be difficult to overstate the correctional crisis in Michigan; we face seriously overcrowded facilities which, in some cases, are also deteriorated and unfit for their function. We have already made a heavy commitment of state funds for construction ($17 million in general fund expenditures for FY 1978 and possibly $400 million over the next 20 years under a bonding proposal). Obviously, any help from the federal government would be extremely beneficial.

The Administration is considering converting the LEAAA program to a form of revenue-sharing. If this concept is near being the majority view of Congress, perhaps there should also be a contingency plan for adapting the Prison Construction Grant as well. As I understand the proposal, LEAA funds could be either tacked on to general revenue-sharing or allocated on another formula limited to criminal justice purposes. I wonder if there could be a special formula for corrections construction based on need—that is, overcapacity or inadequacy of corrections facilities based on generally accepted ratings or standards. There could be some delineation of state versus local allocation to accommodate the jails and lockups, which are too often overcrowded or dangerously deficient. I also hope your idea will be considered an add-on and not a substitute for existing LEAA funds.

In any event, you have addressed one of this state's greatest problems and I am very hopeful that federal assistance will soon result. It is not often that such aid arrives when, and for the purposes, we most need it.

Warm personal regards.

Sincerely,

WILLIAM G. MILLIKEN,
Governor.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: Thank you for your recent letter concerning the Corrections Construction and Program Development Act of 1977. Since the beginning of 1975, Florida's adult correctional inmate population has shown a net gain of 7,754 persons. There is a case currently pending in the United States District Court, Middle District of Florida, *Costello* v. *Wainright*, which addresses the availability of space for inmates in Florida's crowded prisons. We are therefore in a position to appreciate the importance of your proposed legislation.

The current resources of the Law Enforcement Assistance Administration, available under the Part E Program, are insufficient to meet the pressing demand for additional correctional facilities. Passage of your bill could assist this State in providing adequate space and treatment alternatives for the increasing numbers of offenders entering our correctional system.

Please be assured that I am most interested in this legislation and that I will urge Florida's Congressional delegation to support your bill.

With kind regards,

Sincerely,

REUBIN ASKEW,
Governor.

EXECUTIVE CHAMBERS,
Honolulu, July 11, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: The burgeoning prison population statistics recently published by the National Criminal Justice Information and Statistics Service's advanced report on prisoners in State and Federal institutions is an excellent indicator of what prison officials are expected to face and resolve. The multi-faceted problems generated by inmate discontent are increased considerably in most states because of the antiquated and obsolete facilities that house inmates. The Law Enforcement Assistance Administration program provided the financial means to numerous states for the development and implementation of their respective Correctional Master Plan. Hawaii has benefited from such participation in the LEAA program for the receipt of federal funds for programs and facilities.

With the increasing number of inmates being confined yearly, and as new legislation is enforced, a high impact on the projected incarcerated population is expected. For example, Act 181, Session Laws of Hawaii 1976, relating to sentencing of repeat offenders, was recently put into effect in Hawaii. The first offender sentenced under this Act was sentenced to prison for a maximum of ten years on a first degree burglary offense but a provision in the Act stipulated that a second conviction for the same offense required a minimum term of five years without possibility of parole. Hawaii faces the prospects in the future of not being able to adequately care for all of its commitments with the facilities presently being constructed.

Legislation such as your Bill, S. 1245, the "Corrections Construction and Program Development Act of 1977," would certainly respond to the current needs of most state and county prison problems. The $500 million requested in this Bill would only satisfy a miniscule portion of most states' construction needs. However, at best, these funds would allow most states to sequentially phase all of their construction projects within a corresponding schedule for program development, thus allowing states to project their needs in a deliberate and systematic manner.

Title II, Supplemental Grant Program under Part E of Crime Control Act, appears to be an excellent mechanism requiring all states to meet the minimum requirements as previously established. However, Section 202 (b) requires "at least 75 per centum of the funds allocated to the State for any fiscal year must be used for the construction, acquisition, and renovation of correctional institutions and facilities, the balance to be used for the improvement of correctional programs and practices within such institutions and facilities." This provision appears too restrictive and does not allow for any flexibility. If certain states, through their earlier efforts in addressing Part E requirements, have successfully developed and implemented their State Correctional Master Plan which covers an adequate building program to meet the needs of the existing and projected population, then those states should be permitted to utilize 100 percent of the funds of programs. This would allow flexibility to the states for prioritizing their correctional needs which would assure the orderly implementation of their Correctional Master Plan.

We are in support of S. 1245, provided that states be allowed to utililize those funds for either facilities or programs.

With warm personal regards, I remain,
Yours very truly,

GEORGE R. ARIYOSHI.

STATE OF MONTANA,
Helena, July 19, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: I support wholeheartedly your Senate Bill 1245 in the U.S. Senate entitled "Corrections Construction and Program Development Act of 1977."

Montana, like all other states, has experienced extreme population increases at the prison. In 1975, the prison population increased 10 per cent and in 1976, 29 per cent. In the last four years, our prison population has more than doubled.

In an attempt to provide adequate facilities for the inmates, we committed ourselves to a new prison in 1972. At that time, our prison population had established a steady five-year downward trend and we only had 249 inmates. The institution was designed for 334 inmates but no sooner had these commitments been made than the trend reversed itself. The Montana State Legislature appropriated an additional 3.8 million dollars to complete our new prison that is already too small during the recently adjourned 1977 Session. The National Clearing House for Criminal Justice Planning and Architecture projects that by 1983 we will have 726 inmates and that by 1985 we will have 803 inmates. If we double bunk the new 200-man unit that we are going to build (an admittedly undesirable procedure) and the Clearing House projections are accurate, we will only be able to provide space for the inmate population increase through 1983.

With the above information, in addition to changes in state laws that will mean individuals will be serving longer prison terms, Montana may well benefit from the legislation you propose.

In the years to come, we fully intend to develop our probation, parole and community corrections segment of the system to maximum capacity, but we also must concern ourselves with the increase in prison population. I think it is interesting to note that Montana incarcerates fewer people per 100,000 population than all but five other states in the nation and, even with this "enviable" record, we have prison population problems.

Best regards.
Sincerely,

THOMAS L. JUDGE,
Governor.

EXECUTIVE OFFICE,
Jefferson City, Mo., July 5, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: The State of Missouri strongly supports the concept of Federal-State funding of corrections construction. This bill could enable us to develop alternatives to prisons, while we also develop humane correctional facilities to replace the architectural monstrosities now in existence that frequently demean the residents.

I am encouraging Missouri's Congressional delegation to look into S. 1245, and to consider its support.

Very truly yours,

JOSEPH P. TEASDALE,
Governor.

STATE OF KANSAS,
Topeka, July 13, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: Thank you for your letter with regard to S. 1245 which you have introduced in this session of the Congress.

First of all, let me say that I am in agreement with the rationale and the statements made in support of your bill. I, as well as other Governors, know full well the serious problem with regard to prison overpopulation. At the present time, we are approximately 200 inmates over our designed capacity and the problem will not be alleviated within the very near future. We are also faced with the stark reality of having several institutions that are quite antiquated and outmoded to meet today's modern correctional philosophies.

My administration proposed to the Kansas Legislature that a new medium security prison plus a 100-bed minimum security dorm be constructed in the State of Kansas to help accommodate the increase in prison population as well as to help update our facilities to provide a more manageable environment and an environment that would provide an inducement for rehabilitation. As in any issue there were differences in philosophies; however, a major thrust of opposition was the cost the taxpayers would have to bear for the construction of these new facilities. Your bill would go a long way in financially assisting states to meet this most pressing need. I support your bill and shall endeavor to communicate my support to other members of Congress.

Very sincerely,

ROBERT F. BENNETT,
Governor.

THE CAPITOL,
Jackson, Miss., June 20, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: I appreciate your letter and the attached transcript from the Congressional Record on Senate Bill 1245 "Corrections Construction and Program Development Act of 1977" and feel that this is certainly on target because states such as ours are in dire need of assistance in the construction of modern, well equipped facilities.

I appreciate your calling this matter to our attention and we look forward to giving you what assistance we may in your behalf.

With warmest personal regards, I am
Sincerely,

CLIFF FINCH,
Governor.

STATE OF OKLAHOMA,
Oklahoma City, June 20, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: Thank you very much for your letter of June 10, 1977. I very much appreciate the fact that you have taken the time to consider Oklahoma's problems with recent Federal Court decisions.

The irony of the situation is that during the last three years, with some help from LEAA, Oklahoma has embarked on a $50,000,000 construction program anticipating the necessity of additional bed spaces in our prison facilities. At the present time, we project that the new facilities, when complete, will adequately house the current inmate population with an allowance for a slight increase in inmate population. It is indeed unfortunate that the Federal Judge feels compelled to order us to release inmates approximately six months before we will have clearly adequate space for all of our inmate population.

Although the State of Oklahoma has anticipated the problem and is very close to finding a financial solution to our overcrowding population, your proposed legislation would be of great benefit to many, many other States that are or soon will be facing similar Federal intervention. If your bill needs the support of any of the Oklahoma Delegation, please do not hesitate to contact me in the future.

Sincerely,

DAVID L. BOREN.

STATE OF TENNESSEE,
Nashville, July 11, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: I read with interest your remarks concerning the bill you introduced relating to Construction in Corrections and Program Development. I agree that all aspects must be fully funded if our Criminal Justice System has any chance of success.

While there is diversity of opinion as to the benefits of incarceration, there is, as you pointed out in your remarks, a tremendous problem of overcrowding, which only can be remedied by further construction of penal institutions. Unless we can reduce the population of our large institutions, positive rehabilitation cannot be effectuated.

The State of Tennessee and my Administration still believe that rehabilitation of offenders is possible, but to do so, we must have adequate facilities and programs. Tennessee is now embarked on a program of regionalization of our correctional system. While we have had some success, it is apparent that future funding from the Federal level will be an absolute necessity. I support the concept of your bill and hope that our Senators and Representatives will work with you in securing its passage.

Sincerely,

RAY BLANTON.

STATE OF UTAH,
Salt Lake City, June 27, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR GRIFFIN: I have read with great interest your recently introduced bill S. 1245 entitled Corrections Construction and Program Development Act of 1977.

Inasmuch as Utah is in the process of a thorough evaluation of its penal system, your legislation and the rationale that motivated it is timely, and I am by copy of this letter indicating my strong support for the bill to our Senatorial delegation.

Sincerely,

SCOTT M. MATHESON,
Governor.

STATE OF WASHINGTON,
Olympia, June 28, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR GRIFFIN: I have received your letter and extract from the Congressional Record relative to Senate Bill 1245.

Your analysis coincides precisely with the findings of our Correctional Services personnel and Washington's Law and Justice Planning Office.

We in Washington endorse your efforts and sincerely hope that the various State Planning Agencies will have the opportunity to assist LEAA in developing guidelines for implementation. I would like to also encourage you to consider seeking a higher level of appropriation. It is my belief that $500 million would not adequately address the problem on a nationwide basis.

Thank you for the opportunity to comment on your proposed legislation and should you have further questions and information, please feel free to contact my State Planning Agency directly.

Sincerely,

DIXY LEE RAY,
Governor.

STATE OF CONNECTICUT,
Hartford, July 19, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: Thank you for your letter requesting my support for S. 1245, a bill entitled, "Corrections Construction and Program Development Act of 1977", which you introduced in the United States Senate.

In general, I am in support of S. 1245 because it will provide funds to states for prison construction and renovation. However, I hope that the bill, in its final version, would include provisions for the purchase of the above essential services from the private sector, should non-public agencies like halfway houses be able to provide such services.

I understand this legislation provides for construction and renovation of correctional facilities, and the balance to be utilized for program improvements within such facilities. It is not clear whether this provision would preclude the use of such funds for half-way houses and other pre-release services which often are contracted in the private sector. In Connecticut we are increasingly utilizing the services of private contractors as an alternative to costly state-operated facilities.

My concern is that states which do not have drastic prison over-population problems, or which have until recently held the line on prison population increases, should not be penalized by the inability to have access to federal funds because those funds are limited to public sector construction of both prisons and "halfway" facilities.

Thank you for your consideration.

With best wishes,

Cordially,

ELLA GRASSO,
Governor.

STATE OF ALABAMA,
BOARD OF CORRECTIONS,
Montgomery, Ala., July 21, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: On behalf of the Alabama Board of Corrections, I would like to lend my support to bill S. 1245, the Corrections Construction and Program Development Act of 1977. The relief from overcrowding in prisons that such an act would provide is desperately needed by most state penal systems. It would help to increase the effectiveness of all correctional programs.

Some modifications to S. 1245 might increase the likelihood of achieving success for its stated goals. From the viewpoint of the Alabama Board of Corrections, I would like to offer the following suggestions:

1. In order to direct the monies to those states that have the most significant problems within their penal systems, a set of weighted guidelines could be established similar to those used in the Local Public Works grants. Part of the guidelines should allow a higher priority to be given to states that are operating under Federal Court Orders.

2. Funds should be prorated on the basis of state prison population, overcrowding, and other justifiable needs.

3. Funds could be divided for a series of long term construction projects such as several work release centers, agricultural stations, of multi-stage development of major facilities. These funds could be used over a period of several years.

If I can provide any assistance in promoting the passage of S. 1245, I will be happy to do so.

Sincerely,

JUDSON C. LOCKE, Jr.,
Commissioner.

STATE OF NEW MEXICO,
DEPARTMENT OF CORRECTIONS,
June 21, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: I am in receipt of your letter of June 10, 1977, concerning S.B. 1245 entitled the "Corrections Construction and Program Development Act of 1977".

In my position of Secretary of Corrections for the State of New Mexico, I strongly endorse passage of S. 1245.

The State of New Mexico faces serious overcrowding problems and could surely utilize funds proposed in S. 1245. In fact, I would be pleased to testify on behalf of the proposed legislation if you desire.

Thank you for your letter and I wish you success in your endeavor to enact S. 1245. I have contacted all four members of the New Mexico congressional delegation seeking their support.

Sincerely,

EDWIN T. MAHR,
Secretary of Corrections.

DEPARTMENT OF REHABILITATION
AND CORRECTION,
Columbus, Ohio, June 23, 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: Thank you for providing Governor Rhodes and myself a copy of your proposed legislation entitled "Corrections Construction and Program Development Act of 1977".

Please be advised that we support this legislation and will be interested in its progress.

Very truly yours,

GEORGE F. DENTON,
Director.

PENNSYLVANIA BUREAU OF CORRECTION,
Camp Hill, Pa., June 22, 1977.

Re Bill S. 1245. Corrections Construction and Program Development Act of 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senator, Washington, D.C.

DEAR SENATOR GRIFFIN: I certainly appreciated receiving your letter, with attachments, dated June 10, 1977, relative to the introduction of bill (S. 1245) in the United States Senate, entitled the "Corrections Construction and Program Development Act of 1977."

As Commissioner, Pennsylvania Bureau of Correction, and also as President of the Pennsylvania Prison Wardens Association, I personally strongly endorse this bill. I have sent a copy of this letter and a copy of bill S. 1245 to all sixty nine Wardens in the State of Pennsylvania, as well as all eight State Correctional Institution Superintendents, and Correctional personnel, asking them for their sincere endorsement and a gennuine campaign of letters addressed to their United States Senators and House Representatives in Washington, D.C., and in the state of Pennsylvania, supporting this Act.

I, as one administrator of a Correctional System in the State of Pennsylvania, do thank you for your concern and your keen insight into the problems facing corrections in the United States.

Certainly on this issue you will concur that we are NOT receiving our due share of the Criminal Justice Funds, even though we are charged with the awesome task of trying to upgrade and up-date both our facilities and our programs to make them conducive to modern correctional philosophies.

Certainly it can parallel education when programs and ideas do become part and partial to programs in the United States. We did not stay in the one room school house. If the public is demanding, and rightly so, that we send people back into society rehabilitated and able to pickup the tools and take their rightful place in the labor market, our physical plants and our programs must likewise be able to have modern facilities and only with acquisition and the backage of this bill, can we in corrections in Pennsylvania, and the entire United States, be able to accomplish this assignment.

I, as well as the 6,000 staff complement in the Bureau of Correction, State of Pennsylvania, want to personally thank you for

your efforts on our behalf and for bringing this bill to our attention.

If there is anything I can do to further this cause, do not hesitate to telephone my office. It indeed is quite important to this Bureau and our correctional system in this great Commonwealth.

Again, thank you.

Sincerely,

WILLIAM B. ROBINSON,
Commissioner.

STATE CORRECTIONAL INSTITUTION,
Bellefonte, Pa., June 28, 1977.

Re Bill S. 1245. Corrections Construction and Program Development Act of 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: The Commissioner of the Pennsylvania Bureau of Correction, William B. Robinson, has shared your letter of June 10 received by him regarding the above-cited Senate Bill 1245 introduced by you along with a reprint of remarks delivered by you when the Bill was introduced. I wish to express my personal appreciation for your concern, your foresight, and your actions in support of corrections in the United States by the introduction of this Bill.

As you stated in your remarks and as is known to you all our correctional facilities have become dangerously overcrowded, and despite any efforts on our part we are unable to fully meet the expectations of our society in doing the job that we ought to be doing and could be doing if we had sufficient physical and program resources available to us. Most of our institutions were built to house inmates with very little prior considerations to providing adequate living and program space to permit us to reach the inmates committed to our care. Over the years we have attempted to utilize every existing bit of space available to us, and it is apparent that either programs must suffer for lack of adequate space to conduct the programs or housing space must suffer because cell areas have been converted to permit minimal programs of educational/vocational training, counseling, etc. to exist. Your Bill appears to directly address the problems that prison administrators have been wrestling with, for the most part, for many years in all of our states. Consequently, your proposed approach begins to offer us some new hope for the possibility of solving some of our dilemmas with the view of being able to provide more adequate housing and program facilities for the men and women in our institutions.

I fully agree that the conditions cited by you in your declaration and purpose of the Bill do constitute a growing threat to the national welfare to the extent that it requires immediate action by the federal government to assist state and local governments. If such attention and immediate action is not forthcoming, the problem will become even greater and more resistant to solution.

Please accept my sincerest appreciation and personal support for all your efforts in seeking enactment of your Bill into law and consequently all your efforts on behalf of improving corrections in the United States.

Sincerely yours,

J. F. MAZURKIEWICZ, Ph.D.,
Superintendent.

STATE CORRECTIONAL INSTITUTION,
Pittsburgh, Pa., July 13, 1977.

Re Bill S. 1245. Corrections Construction and Program Development Act of 1977.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: Honorable William B. Robinson, the Commissioner of the Pennsylvania Bureau of Corrections, has brought to my attention your introduction of Senate Bill 1245.

May I applaud you for your efforts in taking what I must consider a very important step in resolving one of this nation's great problems.

As an administrator of a correctional institution, that is nearly 100 years old, I can speak with experience as to the needs that could be met through the passage of your Bill. I and other members of the staff of the State Correctional Institution at Pittsburgh are proud of our facility. We are proud of the fact that we are able to hold it together with a Maintenance Department that is fanatically dedicated to maintaining an institution that can meet the humane needs of our inmate population. However, there has to be a point in our efforts that sufficient dollars be made available to us to totally and completely meet the needs of the more than 1,000 men who are committed to us by the courts of the Commonwealth of Pennsylvania. This problem, which is one of the Commonwealth and thus of our total nation, is not limited to either our facility or our State. Passage of your Bill will allow us to move towards the much needed renovation of correctional facilities everywhere.

If there is anything that I may do, please feel free to call upon me.

Yours truly,

JAMES F. HOWARD,
Superintendent.

STATE CORRECTIONAL INSTITUTION,
Pittsburgh, Pa., July 1, 1977.

Re: Bill S. 1245.

Hon. ROBERT P. GRIFFIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRIFFIN: This lettter is written to lend support to the introduction of Bill S 1245 to the Senate of the United States.

I am presently employed as the Maintenance Superintendent in the oldest State Prison in the State of Pennsylvania. This Institution is about 100 years old, all attempts to up grade the Physical Plant to bring it within the guidelines of the Modern Concept of Corrections have failed due to the lack of funding. It seems to me that with the passage of your bill, we would be a step closer to providing what is needed to accomplish the mandate of both the courts and the citizens of this state.

Again may I commend you for your efforts in our behalf and say that if we can do anything to help you in the passage of this bill, feel free to contact me.

Sincerely,

R. J. BURNS,
Institute Maintenance Superintendent.

UNITED STATES-PEOPLE'S REPUBLIC OF CHINA RELATIONS

Mr. CURTIS. Mr. President, later this month Secretary of State Cyrus Vance will journey to Peking in order to hold discussions with the government of the People's Republic of China. This mission will represent both the first high-level official contact between the two new governments in Peking and Washington and at the same time a continuation of the process of normalization begun under the administration of President Nixon.

With the prospective visit to Peking coupled with Secretary Vance's recent speech to the Asia Society meeting in New York, we must once again confront the so-called China problem. Unfortunately, most of the discussion has never progressed much beyond the simplistic formulations we have been hearing for several years; but fortunately movement toward full diplomatic relations with Peking has not progressed either, at least at the expense of Taiwan.

The central issue in United States-People's Republic of China relations continues to be Taiwan, or more accurately the Republic of China. This is as it should be because quite simply we have at stake here a basic contest as to who will compromise their principles. The PRC has issued a tripartite ultimatum to the United States to, in effect, abandon Taiwan by breaking diplomatic relations, close military bases, and repudiate our mutual defense treaty.

In the face of these demands, the United States has admirably stood her ground in defense of the continuation of the freedom and independence of the people of the Republic of China.

In a time when much concern has been expressed about human rights around the world, the American position on the destiny of the 16 million people on Taiwan constitutes the most conspicuous litmus test of our commitment to our political principles. It would be absolutely unconscionable for the United States to take any actions that may lead to the forcible incarceration of the people of Taiwan under the totalitarian rule of Peking. The People's Republic of China has the worst human rights record of any major country in the world; we must not lose sight of that fact even if we can pragmatically work with them in some common endeavors.

We must maintain as a matter of principle that our relations with the Republic of China will remain intact. The Peoples Republic of China, facing the prospective encirclement by the Soviet Union, certainly needs American support in world affairs more than we need theirs. Thus Peking must acknowledge the reality of the sovereignty and independence of Taiwan if they expect to have full diplomatic relations with the United States. I am convinced that the maintenance of anything less than full diplomatic relations with the Republic of China by the United States will only lead to the eventual demise of free China.

Rather than struggling with ultimately unworkable formulas for breaking relations with Taiwan, we should be faithful both to our allies in the Republic of China and faithful to our own ideals and beliefs about the human rights of all people.

RETIREMENT OF BEN GORDON

Mr. LONG. Mr. President, a little over 10 years ago, I addressed this body concerning an international price-fixing conspiracy involving antibiotic drugs. In the investigations and litigation which followed, a number of drug companies were finally forced to pay massive damages to antibiotic users. My own State of Louisiana received millions of dollars in compensation.

At roughly the same time, I offered an amendment to 13 different authorization bills to give taxpayers the benefit of patents derived from Government-funded research. That principle is now law.

In each of these matters I worked closely with a highly able and knowl-

edgeable Senate investigator, Mr. Ben Gordon, who last week resigned as the Chief Economist of the Monopoly Subcommittee of the Small Business Committee. Ben's Government career spanned a generation, including over 20 years with the Senate.

I would like to join those who are congratulating him for a long and singularly distinguished career. His vigorous defense of the public interest on every issue with which he became involved will long remain an outstanding example of Senate staff professionalism.

I believe many of my colleagues would enjoy the glimpse of Ben provided by Washington Post columnist Haynes Johnson.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Washington Post, July 27, 1977]

A BOAT-ROCKER TAKES HIS LEAVE

(By Haynes Johnson)

Ben Gordon was talking about the unflattering public perception of government, how people think Washington's the problem and government's the enemy. Bloated, overpaid, underworked. The hell with them, he said, warming to the subject. Then, with impish immodesty, he blurted out: "I'll be perfectly candid with you. The people don't deserve me."

The phone rang, Gordon grabbed the receiver, listened for a moment and leafed through the papers on his desk until he came up with a medical magazine, opened to a full-page advertisement. It was a bureaucrat on the line, calling from the Food and Drug Administraton. Gordon's manner changed instantly. He became aggressive, combative, inquisitorial.

"Now Thorazine is an anti-psychotic," he said, "and I notice they are advertising here for, quote, chronic neurotic anxiety and agitation, end quote. Damm it! This is a powerful drug. Since when do you advertise a drug like this for anxiety? And incidentally, I notice that whereas the pushing comes in big letters, the adverse reaction and caution come in very small letters. When a doctor sees 'chronic neurotic anxiety,' he's apt to give Thorazine instead of, say Valium or Librium or something like that, which is considerably milder and considerably more likely to take care of the anxiety."

A pause, as he listened to the response, and then an explosion:

"How the hell can these bastards get away with it?"

Another pause, and another outburst:

"Damn right, it's a good question. Can't we do something about it? Why the hell do we have to put up with this . . . In my opinion we ought to have corrective advertising so that doctors are aware this is an anti-psychotic drug, extremely dangerous, and should be used only under limited conditions. And if we can't get a corrective ad, at the very least can we get a cessation of this advertisement?"

Longer pause, listening intently, and finally a milder reply:

"All right, do your best, will you? Let me know in the next day or so, will you?"

He hung up.

Whether power in Washington is really shifting from the White House to Capitol Hill, as many believe, there's no doubt that the congressional staffers are becoming more influential. In the increasingly complex world of government, they have more and more to do with selecting the issues, investigating the chosen subjects, picking the witnesses, drafting the speeches and shaping the legislation. A a rule, they are anonymous, the seldom seen but indispensable agents of Congress. How well they work, and whether what they do makes a difference, often are disputed matters. Their quality and impact vary from staff to staff and committee to committee. But about Ben Gordon there's no disagreement.

In this bland, passionless present, Gordon's a rarity. He's not afraid to be angry, to say what he thinks. He's a boat-rocker who glories in taking on the giants. As always with that breed, they are uncomfortable people to have around. They are usually cantankerous, driven, controversial, egocentric, prodding and pushing being common scolds. As Gordon himself says, "I'm not a self-effacing type. You've got to be aggressive, you've got to be strong, and somehow or other I've managed to survive." They are gadflies. Without them, all our lives would be poorer. They are the ones who make the difference.

You probably won't recognize Ben Gordon's name, although you might have seen his face at some televised congressional hearing, or heard him ask barbed questions with his broad-A Boston accent. But after 20 years as staff economist with the Monopoly Subcommittee, Gordon, a gnome of a man, has left his mark on a wide range of public issues.

He's investigated the dangers of combination antibiotics, false and misleading advertising of oral contraceptives, overpricing of brand-name drugs compared to generic drugs. Fifteen years ago he was instrumental in pushing the late Sen. Estes Kefauver to lead a vain effort to provide for government ownership of the satellite system, resulting in a filibuster and the first vote for cloture in 35 years. He's helped senators take on corporate giants such as ITT and AT&T. And he's looked into a variety of other consumer rip-offs: Why you're paying far more than you should for eyeglasses, why research and development corporations should get to keep patents for valuable products for which the government has paid.

In that time, Gordon's developed a network of contacts around the country, and even overseas. People call him with tips and information that they hope will lead to congressional hearings and corrective legislation. The other day he got a typical call. It was a Republican congressman, passing on information from a doctor in his district. The doctor had gone to five different hospitals, carefully noting the prices paid by each for the same drugs. They differed dramatically. He turned the list over to his congressman, who passed it on to Gordon.

Normally, Gordon puts that kind of information into a folder, letting the information build until he's arrived at a hypothesis. Then he tries to prove it, often by inspiring a public hearing and calling witnesses. This time, however, Gordon didn't keep the material. He passed it on to someone else. At the end of this week, Ben Gordon's leaving the government. He's conducted his last investigation.

After 20 years on the Hill and 12 more in government service with the Army and then the CIA as a specialist on China, Gordon's going on his own. His wife tells him, he says, "Look, you worked for the public, now why don't you go out and start working for yourself?"

"I saw the other day where 67 per cent of the public thinks government workers are getting too much money," he says. "Now look at these fellows in government, look at what I deal with. I save the government millions upon millions of dollars. In fact, as a result of our drug hearings, many lives have been saved. And at the same time they're paying a basketball player maybe $200,000 a year and a guy who makes automobiles, the head of the concern, a half a million a year.

"What the hell does he do? He probably doesn't know a damn thing about the making of automobiles anyway. There may be many government workers who aren't worth what they're getting, but I submit that I'm vastly underpaid. If the public doesn't want to pay, they deserve what they're getting."

That's part of it, the gadfly part. The rest is that, at 63, Gordon's had a lifetime of government service and knows it's time to look toward other interests. Underneath that seemingly gruff manner, Gordon's a sentimentalist with a sharp sense of humor. He's a story-teller himself. And what, after all those years and all those struggles, strikes him most about the changes in Washington? "Now everybody's so damned serious," he says. "How many people tell jokes and stories? Nobody. In fact, my staff director tells me when I leave, there's nobody to tell stories."

That's not the only reason people are going to miss Ben Gordon.

THE ENERGY CRISIS AND WORLD ORDER

Mr. STEVENS. Mr. President, yesterday Dr. Henry Kissinger addressed the annual meeting of National Conference of State Legislators in Detroit regarding "The Energy Crisis and World Order." Former Secretary Kissinger warns us that the small 13 oil producing countries may well bring disorder to the "world monetary and financial system" because of the Western World and Japan's dependence on oil imports.

The consequences are unsettling. This dependence on Mideast oil has strengthened the hand of opponents of democratic governments, says Dr. Kissinger. But he believes there is a solution. We should provide a range of incentives for increasing domestic energy production. This idea is sound; the Republican Policy Committee in both Houses has reported out an alternative to Carter's energy package which would provide oil and gas production incentives. Just yesterday, on the House side, the National Policy Act passed the House of Representatives by an overwhelming vote, but one of the most critical amendments was defeated—the Brown natural gas deregulation amendment. An amendment viewed by many as the single most important step for providing price incentives for oil and gas exploration.

Doctor Kissinger's comments are timely in that soon the Senate will also be considering the Carter National Energy Policy Act. It is my hope that incentives for domestic exploration and production will be added to the Senate version of this bill because, as Dr. Kissinger tells us, it is critical that we lessen our dependence on foreign crude oil, not only for the good of our own land but for the security of the Western World.

It was some years ago that I introduced a bill that would have established a counter-OPEC, an international organization of oil importing countries that would include Japan, Western Europe and the United States. I was hopeful at that time that the oil-importing countries would join together to exert some leverage on the members of the oil-producing countries and put a lid on the spiraling oil prices.

As former Ambassador to Saudi Arabia Jim Atkins once told me, there was a time when the United States may have been

able to influence the oil-producing countries. But, not now when we see that they can biannually raise world oil prices without consequence. Since 1973 the oil-producing countries have quadrupled crude oil prices, garnering in excess of $46 billion last year alone. Now, the die is cast.

Today, it is evident to me that international diplomacy is not the only way to resolve our energy crisis. A strong domestic policy that encourages development of our natural resources is the most attractive alternative.

I ask unanimous consent to have Dr. Kissinger's speech printed in the RECORD and hope that it helps the Senate understand the gravity of our energy crisis and the threat that it brings to the free world.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE ENERGY CRISIS AND WORLD ORDER

(Remarks by Henry A. Kissinger)

Ladies and Gentlemen:

My subject today is the Energy Crisis—a problem that is at the intersection of the public policy concerns that you wrestle with from day to day, and the global and strategic issues with which I have been involved.

A Gallup Poll in the spring of 1977 produced the startling result that only half of the American public knew that the United States must import oil to meet its energy needs, and only 17 percent had a perception of just how great our dependence is. When such a large proportion of our population is unaware of one of our most urgent national problems, it is difficult to gain public support for a major program even when our peril is already clear and in another decade could become overwhelming. We face a massive challenge to leadership at all levels of our society. You in this audience have a major role to play. However much national and state leaders may debate about specific aspects of the energy problem, we all have a major responsibility to educate the American public about its reality, its gravity and about the urgency of a coherent strategy.

The Energy Crisis is not just a technical problem; it is not an abstract playground for specialists. It has wide-ranging implications for our daily lives and some of our deepest values. Energy is central to our own economy. It affects our jobs, prices, and prosperity. And internationally the energy crisis has global dimensions; it is one of the most fundamental challenges to international stability in a generation. It poses a fundamental challenge to vitality of the world economy. And for the first time in our history, a small group of nations controlling a scarce resource could over time be tempted to pressure us into foreign policy decision not dictated by our national interest.

The question is quite simply whether energy will bring about the destruction of the system of world order we have been building slowly and painfully over the last two decades, or whether it will serve as the instrument and vital proof of our common progress. The energy crisis therefore goes beyond the technical problem of establishing a better balance between supply and demand. It is the supreme test of nations' ability to live together on this shrinking planet, to prevent this increasingly scarce resource from leading to major conflict, and, above all, to understand and act upon the mutual dependence on different nations—of producer and consumer, developed and developing nations, the wealthy and debt-ridden.

I believe that in the final analysis the interests of the nations of the world are, though different, complementary. But that complementarity is not self-evident; a new commitment to international cooperation will not emerge from the crisis of the last four years automatically. It is the supreme task of statesmanship for our age to create out of the elements of our mutual dependence a new dedication to positive collaboration, and in this way to turn the energy challenge into a powerful positive force for world cooperation, order and progress.

THE ENERGY CHALLENGE AND ITS CONSEQUENCES

What is the Energy Crisis?

The last three decades have been a history of our increasing dependence on imported energy. In 1959, the United States was virtually self-sufficient in oil. In 1960, our reliance on foreign oil had grown to 16 percent of our requirements. In 1973, the year of the embargo and the massive price increase, America's dependence had doubled to 35 percent. Since then our dependence has grown, not diminished; in the winter months of this year, oil imports for the first time in our history reached 50 percent of our oil consumption—a development which only two years ago was not expected until the 1980's.

When the United States was self-sufficient, or a net exporter of oil, not only were we invulnerable to embargoes but we also had some influence over the world price. We could go far toward ensuring that the world economy had available to it adequate supplies of oil at reasonable prices.

In the last two decades conditions have changed dramatically. We have become net importers of oil and on a growing scale. Western Europe's and Japan's energy needs increased rapidly. Developing countries around the world began their own efforts toward industrialization, and in consequence became for the first time major consumers of energy. Prices remained low. And so for two decades the world economic system was based on the expectation of cheap and plentiful petroleum, while supply, except in the Middle East, fell far behind the explosive energy demand.

The effect on the United States of this structural change in the world energy market was dramatic. As we grew increasingly dependent on outside oil, we became vulnerable to external manipulation of price and interruption of our supply.

It was against this background that OPEC began to make its influence felt. Forged into an effective mechanism for agreement on prices and production among the few nations in the world that were oil exporters, OPEC embarked on what in 1973 became a successful effort to quadruple the world price of oil. In the same year, in an added demonstration of the central role of petroleum in the world's economy, the major producers cut off their exports to certain countries during the Arab-Israeli war.

These events made explicit the energy crisis which had been building for decades. They caused an immediate economic crisis both in this country and around the world. A drop of only ten percent of our imported oil, lasting less than half a year, cost Americans half a million jobs and over ten billion dollars of national output. The massive price increases of 1973 added at least five percentage points to the price index, contributing to our worst inflation since World War II. It set the stage for a serious recession, in this country and worldwide, from which we are only now recovering.

Internationally, the energy crisis reduced the annual growth rate of the industrial countries by 1.2 percent and accelerated the average rate of inflation in the industrialized world by three percent. It has also had a massive adverse effect on the balance of payments of all the industrial nations. Since 1973, the oil consuming countries have paid $367 billion in oil import bills to the 13 OPEC countries; this is the equivalent of a huge excise tax and constitutes one of the greatest and most sudden transfers of wealth in human history. Today, each 10 percent price increase adds an additional $14 billion to the OPEC balances.

For the United States, the quadrupled oil price, worsened our balance of payments by $36.4 billion in 1976 alone. To put it another way: President Carter has stated that this year our balance of payments deficit is running at a rate of $25 billion a year; without oil imports, we would be running a surplus of $20 billion a year. Oil imports mark a $45 billion difference, which over time could spell an economic disaster.

The enormous surplus earnings of the oil producers overhang the world economy. They are a factor of instability even if not manipulated for political motives. In another Middle East crisis the vast accumulated petrodollars could become a weapon against the world monetary and financial system.

Since the dramatic events of 1973 America's dependence on imported oil has increased by nearly fifty percent despite the efforts of three Presidents to mobilize an effective national response to the energy challenge. This growing dependence is intolerable. Even when the oil producers behave responsibly and seek to be moderate—as they have in recent years—their decisions are determined by *their* conception of their interests, priorities and political choices, and not by ours. Our ability to conduct a fair and responsible foreign policy according to *our* values and *our* choices is contrained. Our country's freedom of action in foreign policy is to that degree circumscribed.

If the economic and political consequences of the energy crisis are severe for the United States, the impact on other countries more dependent on imported oil is correspondingly greater. Simultaneous recession and inflation—stagflation—has created severe problems in many countries, including many of our allies in Europe. Political and social difficulties that were already at the margin of governments' ability to manage threaten in some cases to get out of control. Economic crisis was a rude shock to large numbers of ordinary people in Western Europe whose aspirations had been raised so dramatically in the years since the war.

Thus too much of Western Europe of the '70's has become fertile ground for social friction and political turmoil within nations and economic conflict between them. The energy crisis has hampered the progress of European unity. It has strengthened the hand of opponents of democracy as democratic governments and moderate leaders have come under severe attack for failing to solve their economic problems, to a degree not experienced since the '20's and '30's. If Communist Parties come to power in Western Europe, it will mark a tragic watershed in America's relationship to its alliances, transforming the North Atlantic Alliance as well as the purposes and practices of European integration. The irony is that some of the most conservative and anti-Communist governments in the world will have contributed to this state of affairs.

Even short of this prospect, the consequences for the cohesion of the Western Alliance are grave. Nations in economic travail are inevitably tempted to resort to protectionism in a desperate effort to keep jobs and markets at home. The result can be a vicious spiral of shrinking trade and further economic deterioration for all nations. Today even while the industrial democracies are embarked on the difficult process of recovery, protectionist pressures are high and still mounting. This is because the recovery is uneven, and unemployment remains a problem almost everywhere.

Nor is the impact of the oil crisis confined to the industrial nations. In fact, it is the nations of the developing world that suffer most from the massive balance of payments deficits caused by the oil price rises. Indeed, the

severest blow to the economic development of new nations has come out from the "imperialist exploitation" so loudly assailed in international forums but from an arbitrary price increase by their Third World brethren. The developing countries do not have the means, as the industrial nations have, to pass on the price rises to some extent to other nations in exports of manufactures. If they are to be able even to feed themselves they must achieve agricultural modernization, which depends on chemical fertilizers which are petroleum-based. The higher energy costs are to the developing nations permanent, chronic and massive. The increase in their energy costs now in fact equals the total flow of external economic aid they receive. The entire world's assistance thus barely enables them to stand still.

In short, the energy crisis has placed at risk the entire range of our foreign policy. It mortgages the prospects of our own economy; it weakens the industrial democracies economically and potentially militarily; it undermines the world economy and it frustrates the hope for progress of most of the new nations.

RESPONDING TO THE ENERGY CHALLENGE

Many of the challenges this country faces in international affairs are unavoidable, as other nations grow inevitably in strength and as the specter of nuclear warfare overshadows the planet. But the threat that oil, and its price and supply, pose to the national interest and world order can be significantly reduced by determined action—at home and in cooperation with others. The failure to do so will be a blow to all our national purposes. To be sure, the crisis will evolve slowly, almost imperceptibly, and its full consequences may not be apparent for a decade. But when our vulnerability threatens our standard of well-being and when our destiny and that of our allies has become hostage to unpredictable decisions, shall we then tell our people that knowing our peril we absorbed ourselves in sterile domestic debate and were afraid to put before them the relatively minor sacrifices and inconveniences that could have avoided a calamity?

The United States is in a unique and fortunate position, which imposes on us for that very reason a responsibility of leadership and a duty to be resolute. Our allies cannot aspire to reduce their dependence significantly by their own efforts. We can—and in so doing we are in a position to affect the condition of all nations psychologically as well as materially. The United States has the opportunity to create a new unity of purpose among the democracies on an issue of vital common concern; to give direction to the world's tentative steps toward wider patterns of fruitful cooperation.

The United States needs, most of all, an energy strategy. First, there must be recognition of the severity of our present circumstances—by leaders, legislatures, and public. The steps that are taken must not be random responses but elements of a coherent strategy that links both domestic and foreign concerns. Such a strategy requires above all a determined national energy program for the United States. It must mobilize the solidarity of the industrial democracies.

It must address the international financial implications of the crisis. It must accommodate the needs of the developing nations. And it must engage the oil producing nations as constructive participants and partners in a thriving global economic system.

In the absence of such a program, diplomatic attempts to persuade the cartel to be moderate in pricing policy are at best a stop-gap measure. "International jaw-boning," as it were, is a weak reed on which to rest the future of the world economy and the autonomy of our foreign policy. It puts us in danger of being supplicants instead of equal partners in constructing a world order based on equity. It adds to the temptations to set the price on political grounds and to ask a political price in return. The price of oil will be restrained only by objective market conditions; energy crises can be averted only if the industrial nations' dependence on imported oil is diminished by determined national programs.

Thus we in this country should set ourselves a clear goal: we should seek to reduce our oil imports, within a reasonable period of time, to a point where our lessened vulnerability to supply interruption and our reduced balance of payments drain restore balance to the international energy dialogue.

ELEMENTS OF AN ENERGY STRATEGY

An effective national energy strategy to bring about this result must include the following elements:

Conservation;

Development of new supply;

Collaboration among the consumer nations, including safeguarding the world financial system; and

Shaping a reliable long-term relationship between the consumers and producers.

President Carter in a series of public appearances in April called attention to the urgency of the energy challenge. He also vigorously advocated a determined program for energy conservation. Whatever the merit of specific elements of the program, the President's objective deserves the support of all Americans. To discover new sources of oil and to develop alternative supplies of energy will take years. In the near-term future, only conservation will enable us both to absorb the present burden of energy costs and to begin to restore balance between supply and demand.

President Carter's conservation aim is to reduce the annual growth of national energy demand to less than 2 percent by 1985, from the present 4.6 percent; to limit gasoline consumption to 10 percent below its present level by 1985; to reduce oil imports from a potential level of 16 million barrels per day to 6 million; to establish a Strategic Petroleum Reserve of 1 billion barrels as insurance against emergencies; to increase coal production by two-thirds to more than 1 billion tons annually; to insulate 90 percent of existing homes and all new buildings; and to install solar energy in more than 2.5 million homes.

The United States is theoretically capable of reducing its energy consumption by as much as 30 percent without affecting the rate of growth of our GNP or our standard of living. In 1975, Americans wasted more fossil fuel than was used by two thirds of the world's population. Energy is wasted whenever energy expenditure can be reduced without higher economic or social costs. To give but one example: In the past two decades architects have more and more tended towards sealed constructions, that is to say buildings whose windows cannot be opened—especially office constructions. But in most cities of America, temperatures for many months each year are comfortable.. Thus in sealed buildings a great deal of energy is wasted in achieving a temperature that already exists outside and that would be available for free if windows could be opened. This simple conservation measure would obviously impose no hardship and could be rapidly achieved by changing building codes.

Given the high cost of energy, conservation is in the clear self-interest of every hard-headed businessman or every cost-conscious homeowner. It is a classic example of how the national interest can be exactly consistent with self-interest. Conservation is not a new burden to be imposed on our pocket books; it is the discipline and effort required to ease the burden of energy costs on the national economy and on individual families.

Conservation requires above all the more efficient use of the energy now available. It means getting 30 to 40 miles to the gallon instead of seven; better insulated houses with more efficient heating systems; and a national commitment to eliminate waste by turning out unneeded lights, television sets, air conditioning; and the greatest possible use of public transit.

If we fail to take these relatively simple measures, we doom ourselves to fifty percent or even greater dependency on imported energy. We will have delegated crucial decisions to foreign countries to whom our prosperity is not in all circumstances an overiding objective and who cannot be expected to show a greater concern for our well-being than we do.

It is imperative that Congress and the President reach agreement on a comprehensive, far-reaching conservation plan. If we are to restore balance to the world energy market, an effective conservation program must be enacted and soon.

The second essential element of an energy strategy is development of new and alternative energy supplies. Conservation alone, crucial as it is, cannot permanently reduce our dependence on OPEC oil. Even the most ambitious conservation plan could not expect to do more than reduce our dependence on imported oil to the level of 1973—when an embargo caused the most serious recession since the 1930s.

The Administration has, frankly, been much less energetic in pressinng for new sources of energy and in fostering coperation with the industrial democracies than in stressing conservation. We should urgently complete a coherent national energy program.

Much more can and must be done to develop new sources of oil. We should provide every incentive to maximize domestic production. We should also pursue a conscious policy of diversification of foreign sources. Any new source of oil is additional insurance against an embargo and a contribution to equilibrium in the international energy dialogue.

It is clearly in the interest of the United States and all the industrial democracies to diversify technologically as well as geographically. It has been said that the United States is the Saudi Arabia of coal, so vast are our deposits. Moreover, the industrial democracies have the technical skill and resources to create fuels from shale oil, tar sands, and coal gasification and liquefaction. And much progress has been made and more can be made on advanced methods such as nuclear power, fusion, and solar power.

It is important to face the fact that nuclear power represents one of the best hopes to close the gap between supply and demand, especially for some of our allies in Western Europe and Japan. They are committed to civilian nuclear power as a matter of urgent national policy, and they will not be easily dissuaded. It is time to end the disputes triggered by our very legitimate worries about the proliferation of nuclear weapons and to work with the industrial democracies on a coherent nuclear energy policy. If the United States uses its ability to supply nuclear fuels as a form of pressure, it may only accelerate the temptations to develop autonomous national nuclear programs.

The investment required to develop new and alternative sources in the near-term future is as massive as it is essential. A serious review of the incentives and disincentives for energy development provided by our tax system and environmental policies is therefore in order. Such a review should also address the question whether existing incentives can work rapidly enough to produce the alternative energy sources in the time available. If the answer is in the negative, government guaranteed financing should be considered.

THE COHERENCE OF THE INDUSTRIAL DEMOCRACIES

Our own national effort must be part of an international strategy which has these additional elements:

A coordinated program among the industrial democracies, that are the major market for international oil production, including measures to protect and strengthen the international financial system;

Assisting the non-oil producing developing countries whose development plans are shattered by exorbitant energy costs;

And for the long-term, shaping a productive relationship of economic cooperation in which the oil producers become ready partners, with a shared stake in a common global effort.

First, as to the nations bordering the North Atlantic and Japan, cooperation among all the industrial democracies is required to influence world energy markets decisively. We cannot do the job alone, but we are the crucial element since we consume half the oil of the industrialized world.

We, who are blessed with greater resources than any of our allies, who are less vulnerable to outside pressures, have a responsibility to take the initiative to organize the collective effort by our example and by our leadership. With a major American effort, the field of energy can in the 70's give a new impetus to the unit among the democracies that in the immediate postwar period spurred common defense, diplomatic cooperation and progress towards European integration.

For these reasons, the United States took the initiative in 1974 first to organize the Washington Energy Conference and then to help bring about the International Energy Agency. This body, the IEA, has been in operation for three years now. It is the principal institution of energy cooperation among the nineteen leading industrial nations of the democratic world. It is a firm foundation on which to build the future common effort of the industrial democracies.

The IEA has set conservation targets for its members to encourage and coordinate national conservation programs. The goal for 1977 is to hold collective oil consumption to 35 million barrels per day or 3 percent above 1973 levels. Additional goals will be set for 1980 and 1985. A successful joint effort can mark a major step toward reducing the vulnerability of the industrialized world.

IEA programs, secondly, call for joint projects drawing on capital, technology and manpower from IEA members to develop new energy sources. Priority areas have been chosen for research and development. Pooling the research efforts of the most advanced industrial nations will multiply the prospects for breakthroughs in technology and exploration.

The capacities of the industrial countries to develop new energy sources vary widely. Some have rich untapped deposits of fossil fuels; some have industrial skills and advanced technology; some have considerable capital available for investment. Few have all three. Nothing would do more to encourage a sense of common purpose among the industrial democracies than to find ways to undertake joint energy development programs.

Thirdly, an emergency program has been approved by all IEA members to maintain reserve stocks and to share supplies during any future oil embargo. The significance of this program cannot be exaggerated. It greatly reduces the impact of selective embargoes against individual countries. And it eases even the impact of a general embargo, which in any event involves such political risks that it could be invoked only in the most extraordinary circumstances. The emergency sharing program thus serves as both insurance and deterrent against any new embargo.

The IEA represents a collective response to one of the most serious challenges the West has faced in a generation. It demonstrates the recognition by the democracies that their destiny is shared, and that their best hope of a solution is through unity and common effort. It is of major political importance because it enables the new Administration to make energy conservation a further stimulus to the strength and cooperation of the democracies.

At the same time, our international energy strategy must include measures to safeguard the global financial system against disruption.

There are two enduring consequences of the oil crisis—the creation of massive petrodollar surpluses in the OPEC countries, and the need of consumers, both rich and poor, to overcome the grave balance of payments difficulties created by the high price of oil. It is essential that we guard against the possibility of instability, arising either from the inability of one or several consumer countries to meet their balance of payments needs, or from manipulation of petrodollar surpluses by the producers.

Two measures have been explored in recent years to meet that need. One was a $25 billion Financial Support Fund, negotiated in 1975 by the industrial democracies for mutual assistance in an oil payments crisis. The failure of the United States Congress to ratify the Fund—the only legislature among the industrialized countries to do so—was unfortunate. But the negotiation for the Fund served an important purpose in giving the world assurance that as a last resort the industrial democracies had the resources to defend the financial system.

Within the next few days the major financial powers are meeting in Paris to discuss a new facility within the International Monetary Fund, which would provide additional resources to countries which suffer balance of payments emergencies. It would draw on important contributions from OPEC members, and be available to borrowers if they were making satisfactory efforts at home to curb inflation and to reduce imports.

Provided its funds are available without conditions dependent on the solution of regional conflicts, the new facility in the IMF will serve an important function, and should be implemented rapidly. It is an important first step. Early consideration should be given to arranging a second tranche, perhaps with less rigid dependence on OPEC funds than the presently discussed fifty percent. If this should prove difficult, or if burdensome political conditions are attached by the oil producers, new and urgent consideration should be given to resurrecting the Financial Support Fund of the democracies which was designed to safeguard their economies independently of OPEC.

THE ROLE OF THE DEVELOPING COUNTRIES

If international order is to be made secure against instabilities caused by energy, the needs of the developing countries which are not blessed with oil must be addressed by the world community.

These developing countries were caught in the middle by the 1973 oil crisis. Because of the energy-induced recession in the industrialized countries, their oil import bill shot up, and their export prospects sharply declined. They seek desperately to resume their advance toward a more hopeful future, but they do so now under less hopeful circumstances. From 1973 to 1975, the foreign debt of those countries nearly doubled, from $67 billion to $117 billion. They need relief from the enormous blight of high energy costs on their development hopes and plans. Relief for the poorer developing countries is an appropriate task for the joint efforts of newly rich oil producers and the industrial democracies. Specifically:

We should rapidly expand all forms of assistance, capital and technical to aid developing countries to expand their own domestic energy production. Many developing countries possess considerable promise for oil, coal and other forms of energy. They have been unable to exploit them for lack of the capital and technical knowhow which modern energy development demands.

The world financial system has performed remarkably well in channeling some of the petrodollar surpluses to the needy developing countries. Now, however, is the time to consolidate their debt structures and expand the flow of official, longer-term capital. The development assistance resources of the World Bank and other international financial institutions must be expanded.

In the final analysis, the long term solution to the developing countries' payments problems is trade. We must stem the retreat to protectionism, and complete the Tokyo Round of trade negotiations, if we hope to offer any permanent prospects of development to the poorer nations of the world.

THE ROLE OF THE OIL PRODUCERS

Every one of the tasks enumerated here calls for a joint effort by the oil producers and the industrial democracies. This brings me to the fourth, but perhaps most challenging, element of any international energy strategy: the role of the oil producers in the emerging world energy order.

Clearly, the democracies must safeguard their economies against the hazard of conflict. But, in doing all we can to reduce our vulnerability to pressure and threat, we must take care not to make it inevitable. On the contrary, the basic reality of the present situation is the economic and political interdependence between the energy producing nations and the energy consumers. The challenge to creative diplomacy in the years ahead is to mold this mutuality of interest into a stable and positive long-term relationship.

What are these mutual interests?

First of all, obviously, the producers need markets for their oil. Disruption of the economies of the industrial democracies reduces world growth and world demand for energy. In 1975 as the result of the recession in the industrial democracies, market conditions were depressed to the point where some producers committed to ambitions development programs found themselves in difficulty and were looking for means to sell their oil surpluses despite the production restrictions of OPEC.

Secondly, the producers have a stake in the financial stability of the industrial democracies which are after all the only places where they can productively invest their payments surpluses. The global economy cannot be disrupted as it was in 1973 without severe damage to the interests of the oil-producing countries themselves. Under present conditions, a world economic crisis would have a massive impact on the oil producers because their overseas investments would be in severe jeopardy.

Thirdly, the industrialized world is the only source of the technology, capital goods, training, and management skills which the oil producers require to develop their economies. In a climate of confrontation, the governments and publics of the industrialized world have little incentive to support such programs.

Fourth, many of the oil producers are concerned about their own stability and safety. A cooperative relationship with the West enhances their security. They cannot be eager to shatter ties which might expose them to the designs of avaricous and hostile countries; they have a major political interest,

therefore, in the friendship of the industrial democracies.

Thus, most of the oil producers can have no interest in confrontation; indeed, if they understand their interests, they have an important stake in the ability of the industrial democracies to solve their energy problems. Some of the more enlightened OPEC countries are therefore, paradoxically, leading advocates of energy conservation. They know theirs is a depleting resource and they are eager to extend its life over the longest period of time. They want to use their oil revenues to develop and diversify their economies. Some of them also believe that the world's oil reserves are too valuable to be used up for fuel; they are seeking to switch their own oil resources into new petrochemical industries for their own economic advance.

Thus energy conservation and the reduction of the West's oil import requirements are as much in the producers' long-term interest as they are in our own. This reflects the basic reality that the ultimate "solution" to the world's energy problem is a thriving interdependent global economy which promotes economic advance in every region through the free flow of trade and knowhow and international cooperation.

In building such a world, the industrial nations have an obligation to take serious account of the developing countries' and oil producers' legitimate aspiration for long-term income security and economic growth. The developing countries and producers in their turn must recognize that pressure or blackmail will in time backfire on those who use such tactics. The United States, as the world's strongest economy would be injured less than others in an environment of economic warfare. But this would be incompatible with the open economic system that has nourished the world's prosperity and our own. And it would be inconsistent with basic American values and the American people's hopes for a world of peace, compassion, economic progress, and justice.

A cooperative solution for energy thus merges with the problem of world order. The United States has no more important task than to contribute its creativity to building an international system that all nations have a stake in preserving because they participate in its construction and share in its benefits. In a world of 150 sovereign states, there is no peaceful alternative to a cooperative international system.

Consumers, producers, and developing countries should learn from the energy crisis both the dangers of economic warfare and a more helpful recognition of their common stake in a flourishing and just world order.

For the United States particularly, this is an extraordinary moment. For a generation we have carried out our responsibility to maintain the world balance of power and to lead the alliances of the free nations. We have behind us an era of great accomplishment. The energy crisis is the challenge of a new era. Republicans and Democrats, Congress and the Executive, the private sector and government—can work together in the great common enterprise of meeting a challenge that faces us not as partisans but as a nation.

The combination of technical genius and moral ideals is the extraordinary quality of the American people. We have the potential to turn energy from a crisis into a new advance toward our traditional goals of peace and cooperation, justice and progress, toward a future in which all nations and peoples come to participate in the freedom and well-being with which we have been blessed.

THE CARTER FAMILY

Mr. SASSER. Mr. President, today in Hilton, Va., special ceremonies are being held to commemorate a milestone in the field of country music. And I am proud to say that milestone occurred in my home State of Tennessee, and affected an entire Nation of country music fans.

On August 2, 1927, a man named Alvin Pleasant Carter; his wife, Sara Carter; and their sister-in-law, Maybelle Carter, traveled some 20 miles from their homes in Maces Springs, Va., to Bristol, Tenn., to meet Ralph Peer, a talent agent for RCA Victor. In a makeshift studio, using primitive wax cylinders, they recorded six simple folk songs. That short, chance recording session marked the beginning of the Carter Family's brilliant career in music and entertainment. As importantly, that day in Bristol, Tenn., was the birth of the multimillion-dollar country music industry.

It is my pleasure today to pay tribute to the entire Carter Family. The three members of the original Carter Family were true pioneers; for this reason, I would like to express my appreciation and respect for them and to relate some of the Carter Family's accomplishments.

From 1927 until World War II the Carter Family was one of the most famous and respected country music groups in the Nation. During this time, they recorded 250 songs that sold millions of copies; they appeared on hundreds of music shows all over the country, and they gained worldwide popularity during the Golden Age of Radio.

A. P. Carter was the group's leader, bass singer, and chief lyricist. He wrote over 300 songs. Many became trademarks of the Carter Family. Others are recognized as classic recordings of fellow artists. A. P. Carter billed his show as "morally good" and cared about his work in a way that can only be attributed to his deep love of people and their music. Profits from admissions at performances meant nothing to A. P. as long as every one was having a good time and enjoying the family's show. Sara Carter sang lead and solo, and played the autoharp, an instrument she had mastered as a child in her father's living room. Maybelle Carter sang tenor and played the guitar. Maybelle's self-taught playing style is renowned, and even today is admired by the best of country music's "pickers." The combined talents of these three family members produced what critics and fans agree to be one of the single most influential forces in country music in America.

The Carter Family's distinctive style of close harmony and simple accompaniment was imitated by dozens of other groups. Even today, 50 years later, their influence is immeasurable. Every country entertainer owes something to the Carters, either in words or songs, or in style. And music fans still find themselves singing the Carter Family classics "Wildwood Flower," "Will the Circle be Unbroken?" "Coal Miner's Blues," "My Clinch Mountain Home," and "Cowboy Jack."

After Sara Carter retired in 1943, and A. P. Carter died in 1960, Maybelle continued the family tradition. She formed a group with her daughters in the early 1950's, and backed an unknown singer named Elvis Presley. Later Mother Maybelle's group achieved recognition of their own as members of Nashville's Grand Ole Opry. Maybelle's daughter June later met and married Johnny Cash, and the group became regulars on his road show and his television show.

The spirit of the original Carter family lives on, as a labor of love. Never did they consider themselves professionals—they had grown up with singing and fiddle playing in their homes, and their talents reflect this simple, rural style of living. In fact, A. P.'s plain tombstone lists no date or verse, and has imbedded on it a gold record. That record is the Family's theme song—and the maxim of A. P.'s life: "Keep on the Sunny Side."

Each member of the Carter family earned a place in history. Their contributions to American country music are unparalleled and I am proud they made their beginnings in Tennessee.

LABOR LAW REFORM

Mr. HATCH. Mr. President, in the weeks and months to come, this body will be called upon to focus considerable attention on labor law reform. President Carter has sent a message to Congress calling for major amendments in the Taft-Hartley Act, the effect of which will enhance the ability of labor unions to organize nonunion workers, primarily in the southern part of our country. His message has been transformed into legislation in the form of S. 1883, introduced by Senator WILLIAMS on July 19, 1977.

Although the President states that his goal is to "protect the rights of labor and management by strengthening NLRB sanctions against those who break the law," I am disturbed that nothing in the message is directed toward labor organizations that flagrantly violate the National Labor Relations Act. Moreover, his message ignores the rights of employees who are so often caught in the middle of a labor-management conflict.

Senator TOWER and I have introduced S. 1855 on July 14, 1977, which we view as an alternative to the Carter-Williams proposal. Whereas the administration bill strengthens authority in the hands of the NLRB and organized labor, our bill, among other things, gives employees the right to secret ballot elections for union representation, protects employees from fines for exercising any rights guaranteed by the NLRB, protects the right of employees to hear from both union and management during an election campaign, and provides employees with the right to a secret ballot election to determine whether to call, maintain, or resume a strike.

We feel there are other attractive features to our bill which our colleagues will want to review and eventually support.

I ask unanimous consent that two recent articles on the subject of Taft-Hartley reform be printed in the RECORD. They are: "The Battle That's Brewing Over Changes in Labor Laws," appearing in the July 25, 1977, edition of U.S. News and World Report and a Victor Riesel column entitled, "Industry Girds for Epic Battle with Carter-Meany."

There being no objection the articles were ordered to be printed in the RECORD, as follows:

THE BATTLE THAT'S BREWING OVER CHANGES IN LABOR LAWS

With the blessing of Jimmy Carter, organized labor is beginning to push in earnest for a major overhaul of the nation's basic labor-relations laws.

The President was prepared in late July to send Congress a list of recommended labor-law changes that the unions believe will simplify their job of enrolling new members. These amendments would correct what Carter and the unions call inequities in the National Labor Relations Act of 1935 and the Taft-Hartley Act of 1947. Carter's sponsorship of this legislation also will go far toward ending his strained relationship with top labor leaders.

In essence, the legislation seeks to speed up the decision-making processes of the National Labor Relations Board and to stiffen the penalties assessed against labor-law violators.

Carter thus is lighting the fuse for what may turn out to be an emotion-laden political explosion. "This will be the most-lobbied bill in Congress," predicts Victor S. Kamber, the 33-year-old lawyer assigned to direct the AFL–CIO Task Force for Labor Law Reform.

LABOR'S DRIVE

Long before the President lent his support to the unions' goals, the AFL-CIO began gearing up for a campaign in search of grassroots support unlike anything the labor movement has attempted in years.

Business and industry groups appear no less determined to mold public opinion against any changes in the labor law. As one business lobbyist in Washington phrased it: "There will be so much grass-roots pulling by both sides in months ahead that the lawn will be bare by the time we're done."

The AFL-CIO set its sights on overhauling labor laws soon after counting the results of last fall's elections. Subsequently, the unions suffered several political setbacks including the unexpected defeat in the House last spring of a bill to broaden the picketing rights of construction unions at building sites.

These reversals prompted a rethinking of what could reasonably be expected to be made into law. More give-and-take followed involving the unions, their congressional allies and Labor Secretary Ray Marshall.

Marshall took the results of these talks to the White House, where Carter's staff and the President himself reviewed the proposals item by item.

What is emerging from Carter's office is a package from which some of the most controversial contents have been removed. Missing are such proposals as the repeal of a Taft-Hartley provision allowing States to ban union membership as a condition for holding a job. Gone also is a section to permit employe elections to be bypassed and unions automatically to be certified as bargaining agents if 55 per cent or more of the workers at a company approve by signing authorization cards.

What remains, however, is still the most comprehensive reshaping of labor laws since Taft-Hartley's enactment 32 years ago. These are the major points in the White House proposal:

Elections among workers on whether to be represented by unions would be conducted by the NLRB almost immediately after a filing. The legislation to be introduced in Congress will specify 15 days for most elections and 75 days at the outside. It now takes the NLRB about 50 days to conduct a typical representation election.

To speed up the NLRB's work, the Board would be increased in size from five to seven members. Also, panels of two rather than three members would decide routine appeals of rulings made by hearing officers, and decisions of hearing officers would be final unless an appeal were filed within 30 days. Under present rules, all decisions of hearing officers must be reviewed by NLRB members, and this requires much added time.

When an employer refuses to bargain with a union in good faith, it could be ordered by the NLRB to pay the employes money they would have obtained from a pay increase had a contract been signed. Such a "fine" might equal in percentage terms the average negotiated wage increase in the U.S.

To prevent time-consuming legal hassles prior to an election, the NLRB would be required to enact standard rules for determining appropriate bargaining units.

Workers illegally fired for union activity would get double back pay when reinstated to their jobs, rather than only their actual lost wages.

U.S. Government contracts would be denied to companies that willfully and repeatedly violate the labor laws.

All of this is much less than the AFL-CIO had hoped to get from Congress, and the labor federation admits a tough fight lies ahead if even a portion of the package is to become law.

An informal coalition of business groups—essentially the same ones that mounted a big lobbying effort to defeat the construction-picketing bill—is turning its attention now to the labor-force revisions. Early efforts by these organizations to persuade the Carter Administration to remain neutral on labor-law changes failed, however.

"Carter felt obligated to take this position," contends Harold P. Coxson, director of labor law for the Chamber of Commerce of the U.S.

Employers may find themselves at a disadvantage in the coming legislative wrangling, too, some observers believe. Fighting the construction-picketing bill, business lobbyists succeeded in part in portraying the building-trades unions as all-powerful Goliaths trampling upon helpless contractors.

"HORROR STORIES"

This time, though, the "underdog" mantle may be worn by the unions. The AFL–CIO is amassing "horror stories" to tell Congress and the public of companies that deliberately set out to thwart unionization of their employes by fair means or foul—and succeeded. Some labor people are calling this legislation a "human-rights bill."

Also affecting the business coalition will be the absence of active help from the National Right to Work Committee. With its huge mailing lists, this committee is capable of stimulating a flood of letters and postcards on legislative matters. But Right to Work Committee officials say that its own interests—lobbying against compulsory union membership—are not directly at stake now.

On the other side, months of intense preparations by organized labor on the labor-law proposals are just now becoming visible. Even as Carter put the finishing touches on his message to Congress, hundreds of union leaders from around the U.S. trooped into Washington for briefings by AFL–CIO staff members on why changes in labor law are necessary, and how they can help drum up support. They left with armloads of background materials.

SOFT-PEDALING "OLD DEBTS"

What the unions will not do this time is rely on repayment of "old debts" by Congressmen or arm twisting by labor lobbyists to get the labor-law changes enacted. Instead, labor is out to form a broad coalition of support for its aims with sympathetic individuals and groups around the country—including prominent businessmen if possible.

"What it amounts to," says Kamber, the staff director of this effort, "is reaching out to people—selling ourselves to the public, to put it bluntly. We can't turn public opinion around in six months. We hope, however, to educate opinion leaders, to make the climate better for such a law, to make Congress comfortable in voting to pass it."

A speakers' bureau of 1,000 labor leaders, including AFL–CIO President George Meany, will take labor's message to audiences as large as national conventions or as small as college classes. The speakers will bring with them a 22-minute film, "Reform at Last," produced for the AFL–CIO.

The labor federation is not sitting back and waiting for invitations, either. Letters are being mailed to 23,000 organizations—more than half not connected with the labor movement—to advertise the availability of speakers. A test mailing of 100 such invitations got an acceptance rate of 24 per cent.

Another group of 100 union officials will be available for appearances on television talk shows. "We discovered there are 21 talk shows originating in Washington, 37 in Chicago and 11 even a place like Champaign, Ill., my home town," says Kamber.

While a national coalition called "Americans for Justice on the Job" is being formed, each State and city central body of the AFL–CIO will be putting together its own citizens' group. All are being asked to stage a public event during the second week in September—just prior to an expected vote on the new labor measure in the House. Sums up Kamber: "We don't like to lose."

A LOSING TREND

Others in the labor movement are convinced that the unions also cannot afford to lose this time. As the chart on the preceding page points out, unions have been losing a growing percentage of the representation elections conducted by the NLRB among nonunionized workers.

Countless factors could lie behind this trend. For instance, public employees, who are flocking to unions in greatest numbers these days, are outside the NLRB's jurisdiction and do not show up in the statistics. The most easily organized workers in the private sector may have long since been recruited. Or the statistics may reflect skepticism about the whole labor movement.

The unions, however, are betting that much of the cause for their poor showing in NLRB elections lies in the labor board's own bureaucratic tangles with a mushrooming case load and with what they contend are employer abuses of the law and NLRB procedures.

Political conditions for attacking such problems are better now than at any time within memory, the AFL–CIO figures. So the stage is set in Washington for an employer-versus-union encounter unlike anything seen by the politicians in years.

VICTOR RIESEL—INDUSTRY GIRDS FOR EPIC BATTLE WITH CARTER-MEANY

WASHINGTON.—In olden days—about 1972—ponderous global and domestic matters would be decided when labor chief George Meany got out on the Burning Tree Country Club golf links with powerful Cabinet members and even the President of the U.S. But Jimmy Carter doesn't play golf.

So when Brothers Carter and Meany decided time had come to revamp the national labor law, an aide of each met over the tepid July 16 weekend in the White House. Laboriously, point by point, they worked out Jimmy Carter's "labor law reform" proposals to Congress—something no recent President has delivered.

There's a new cast of leading characters slowly emerging in this steaming town. So they're certainly worth putting on the record. Representing Jimmy Carter that July 16 weekend was David Rubentsein, deputy to Stu Eizenstat, the President's assistant for domestic affairs and policy. And for Meany, there was labor's special counsel, Larry Gold.

The last Monday Jimmy Carter sent Congress his proposals for special alterations of the National Labor Relations Act which positively will help unions push into the South in one of their most sweeping organizing drives since the bloody '30s.

Swiftly American industry mobilized for the counterattack. Not even during the Lyndon Johnson or Jack Kennedy Administrations had it faced such a united front of the White House and the House of Labor.

It was, and is, and will be for another year, political battalion against political battalion. Businessmen who had come to praise Mr. Carter now are organizing to bury him politically. And with him, inter the Democratic majority in the Congress.

This will be industry's broadest-based counterattack in history.

"We will organize the broadest coalition ever put together by management in the history of battle on Capitol Hill," predicts Richard Creighton, assistant executive director of the Associated General Contractors. He and his AGC colleagues directed the businessmen's National Action Committee's recent famed successful battle against Congressional passage of the extended picketing common situs bill, which labor lost:

But does industry, which is geared to production-management and lobbying, have the potential political expertise for a final conflict with such experienced, veteran infighters as Jimmy Carter and George Meany, not to mention the auto workers' president Doug Fraser?

Well, according to the Federal Election Commission there now are some 500 corporate political action committees. And such giants as AT&T have signalled their operating companies that the time has come to get rolling. And soon Ma Bell itself will have its own national PAC. This comes some 32 years after the men's clothing union's late leader, Sidney Hillman, launched the first at Franklin Roosevelt's "suggestion." But industry is catching up.

Further, the battalions are turning into legions. There are some 375 trade association PACs. In this broad front of which Creighton talks will be Chamber of Commerce, the National Association of Manufacturers, the Associated General Contractors' 8,300 affiliated firms and 20,000 associate and affiliate members in 114 chapters.

And, for example, such trade outfits as the National Federation of Independent Business, Inc., which alone has over 500,000 member firms. If they can market politics as they do air-conditioners, blenders, TV sets and autos, they'll have it made because their juices are up.

On July 27 some 400 leaders of commerce and industry will meet in the Capitol Hilton for the new coalition's first major anti-Carter/Meany strategy session.

Business targets come to far more than stopping the Carter-Meany "labor law reform" campaign and more than halting a Southern unionizing drive. The men of management have a bill of their own which they hope to push through the Congress. The Employe Freedom of Representation Act of 1977, introduced by a former member of the AFL–CIO building and construction trades, Sen. Orrin Hatch of Utah and Texas' John Tower. Says the 43-year-old Hatch:

The intent of the bill is "to give individual employes the freedom of choice to join or refrain from joining labor unions or from financially supporting them, unless they desire to do so." And a similar bill now is in the House.

Thus industry is going eyeball to eyeball with labor and Carter. They'll be nose to nose right into the spring of the 1978 election year. I do believe it's make or break politically and perhaps industrially for both sides. One will bury the other, first in the Congress and then during the Congressional campaign. Just watch.

HUMAN RIGHTS VIOLATIONS IN EL SALVADOR

Mr. KENNEDY. Mr. President, like many other Members of Congress, I am deeply concerned about the appalling human rights situation in El Salvador. On July 22, I conveyed these concerns to Secretary of State Vance, drawing his attention particularly to War Order No. 6 of the White Warriors Union, which vowed to kill immediately and systematically any Jesuits found in El Salvador after July 20. Unfortunately, this is only the latest in a series of threats and violent acts. The tragic pattern of human rights violations in this "tiny, densely populated and extremely poor Central American republic" is described compellingly in "Uncivil strife in El Salvador", an article by Joe Eldridge and Cressida McKean in the July issue of Sojourners magazine which I commend to all of my colleagues.

I greatly welcome the rapid response of the administration to these concerns. Its representations over the past month in both San Salvador and Washington appear to have resulted in substantial Salvadoran Government efforts to protect the courageous Jesuit community. The actions of the State Department and response by El Salvador are detailed in the testimony of Deputy Assistant Secretary Richard Arellano before the House Subcommittee on International Operations on July 29, 1977.

Mr. President, I ask unanimous consent to have the article by Mr. Eldridge and Ms. McKean, and the testimony of Mr. Arellano, printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

UNCIVIL STRIFE IN EL SALVADOR

(By Joe Eldridge and Cressida McKean)

"Serve your country, kill a priest" was the advice given recently in leaflets distributed in wealthy residential areas of San Salvador. This hostile attitude toward the Church closely parallels the view of President-elect Carlos Humberto Romero.

General Romero, the declared winner of the February 20 Presidential elections despite allegations of fraud, reportedly intends to expel from the country every Jesuit by July 1, the date of his inauguration. Government actions since the election strongly suggest that President-elect Romero may not only live up to that promise, but that he and the current president, Arturo Armando Molina, may also end up violating the human rights of hundreds, possibly thousands, of Salvadoran citizens.

The Roman Catholic Bishops of El Salvador, formerly noted for their conservatism, have done a dramatic about-face in their view of the military government. Led by Archbishop Oscar Romero, their Conference made a strong statement on violations of human rights in their March 5 "Pastoral Message." The church leadership denounced all forms of violence by both private paramilitary groups and government forces, torture, arbitrary deportation of priests and violations of human rights in general.

In a May 22 statement, the Catholic Bishops formally accused the military government of "persecution of the church . . . in the name of the struggle against atheistic communism." This confrontation by the Church is the strongest challenge which the military government has had to face since the February 20 Presidential elections.

What is at stake in this tiny, densely populated and extremely poor Central American republic is control of the land. As the Agency for International Development states in its Fiscal Year 1978, Congressional Presentation, "Ownership of agricultural land (in El Salvador) is concentrated in the hands of a few." The crux of the bitter struggle between the Church and the present military government is the polarization in the country effected by the recent undermining of the government's land reform program.

In 1976, put under pressure by the landless peasantry, the Molina government announced the creation of an Agrarian Reform Institute and of a land reform program. Tremendous hopes were raised among peasants, the socially conscious clergy, and in many other sectors. However, the landowners, staunchly opposed to any sort of land reform, organized themselves and launched a tremendous campaign against the government's agrarian reform program.

Finally, a government decree in August 1976 announced the modification of several measures of the land reform, in effect debilitating the entire effort. General Romero, President Molina's Defense Minister at the time, had never supported the land reform and had actually been a key figure in the government's efforts to weaken the project.

The Catholic Church, on the other hand, had become more socially conscious, largely in response to the conclusions of the 1968 Bishops Conference in Medellin, Colombia. As 61% of the population in El Salvador lives in rural areas where the oppressive land tenure system continues, pastoral work became more responsive to the needs of the rural poor. Since 1969, the Church has worked to help peasants in particular to become aware of their social situation in rural parishes.

As the Bishops' statements attest, persecution of the Church, peasants, political leaders of the opposition, and others has intensified, particularly since the February elections. General Romero, a hard-line conservative, "won" these elections soon after the substantial "modification" of President Molina's land reform program. In light of the sharp rise in government repression since the elections, effective control of the executive branch appears to be firmly in the hands of President-elect Romero rather than President Molina, even though Romero will not be formally inaugurated till July 1, 1977.

Persecution of the Church by government security forces and right wing paramilitary groups have resulted in the deportation of twelve priests and the killing of two others, according to the May 22 declaration of the Catholic bishops. The brutal assassination of Father Rutilio Grande and his two assistants on March 12, while on their way to Mass, was the catalyst in the confrontation between the Church and the military government. The murder was blatantly political. Rutilio Grande, a Jesuit priest, was well known for his pastoral work in Aguilares, a rural area noted for its poverty and its socially conscious peasantry.

In response to Father Grande's death, the religious community took an unprecedented step by calling for a national Mass in recognition of Father Grande's life. Over the opposition of government, the Bishops decided to celebrate one single Mass, closing all other churches. Over 100,000 Christians gathered with 200 priests in the central cathedral. Thousands more were turned back by National Guard troops. Massive participation by the landless peasantry signaled the birth of a new alliance, the beginning of a prophetic witness by the Church in the struggle against repression in El Salvador.

The second clergy killed, Alfonso Navarro

Oviedo, was a diocesan priest serving a parish north of San Salvador. He was murdered on May 11, by an extreme right wing group, calling itself the *Union Guerrera Blanca*. Father Oviedo's assassination was essentially a revenge by the extreme right for the death of Foreign Minister Mauricio Borgonovo Pohl, at the hands of his kidnappers, the *Fuerzas Populares del Pueblo*, a left-wing guerrilla group.

A June 7 report by Salvadoran Church sources states that the Catholic Church presently has 15 parishes without priests and that approximately 25 priests, both nationals and foreigners, have been compelled to leave the country. Recently the military government threatened to close down the Church media, the only news source not controlled by the government. Soon afterwards, a bomb destroyed the Church's newspaper press.

Repression has by no means been limited to the Church alone. On February 28, after a week of peaceful demonstration in the central plaza of the capital city protesting the fraudulent elections, soldiers opened fire on demonstrators and nearby observers, killing close to 100 people, according to the U.S. diplomatic sources. Estimates by eye witnesses place the number of persons killed during the military occupation of the central plaza from 120 to 700. A state of seige was imposed and continues in effect.

Even well after the election, opposition political party leaders were still being persecuted. For example, on April 22, Christian Democrat leader Ruben Zamora, his wife, and a colleague were arrested at the Catholic University where Zamora worked. Many opposition leaders, believers in democratic processes, have been driven underground or forced into exile. Ernesto Claramont, candidate in the February elections is now in Costa Rica, and the 1972 presidential candidate, Napoleon Duarte, lives in Venezuela.

Violations of human rights of all citizens by the Army and especially by the National Guard, headed by the ruthless Col. Alvarenga, continue daily. Houses are searched without warrant, and often looted. Persons frequently just "disappear"; as the government generally has not responded to petitions of *habeas corpus*, concerned parents or spouses place the picture of their "disappeared" loved one in the newspaper in the hope that someone had seen them. Torture has become much more common and disfigured corpses are often spotted floating the rivers that run through the countryside.

The most dramatic incident of repression in recent weeks was the seige of Aguilares, the small rural province approximately 40 miles north of San Salvador. On May 18th, troops entering the area by truck forcibly removed approximately 150 families from the San Francisco farm in the village of Paisnal. These peasant families had occupied the land for close to a month, and intended to defend the land which the government had promised them. More than 300 soldiers with armored cars, helicopters, and a contingent of parachutists confronted the peasants, who fled. On the 19th, new troop contingents arrived with tanks and armored cars surrounding the Aguilares area. Eyewitnesses—four priests and two nuns—estimate that literally hundreds were killed in the occupation of the town.

For two days, the area was surrounded and the highway was sealed off by troops. Homes were searched and often looted; several were allegedly burned; women were raped. Several foreign correspondents had gone to the Aguilares area to witness the army's maneuvers. However, the Sargeant at the entry point, after a thorough body search, threatened them by saying, "You have two minutes to get out of here or I'll handcuff you and take you with me." The report of this seizure of Aguilares came from high Church sources and from newspapers in Guatemala.

The brutality of the Aguilares attack was no accident, nor was it the result of overzealous National Guardsmen. The maneuver was calculated to create a climate of terror. The peasantry, which in recent weeks has demonstrated great courage, was warned that this kind of official military intervention might be repeated. This policy of humiliation and intimidation will be ruthlessly implemented until all hopes by the people for reform are abandoned.

President Carter, in his address to the United Nations on March 17, said that concern for human rights transcends national boundaries. Protection of human rights has become a rhetorical cornerstone of overall U.S. foreign policy. Historically, the U.S. has been deeply involved in the affairs of the republics in Central America, intervening militarily many times. Furthermore, U.S. economic, political, and cultural penetration in the area is massive.

How then has the Carter administration responded to the flagrant human rights abuses in El Salvador? Has the new administration seized on the opportunities to exercise its commitment to human rights? While the jury is still out, and definitive judgments are premature, some initial evaluations are still appropriate.

The first occasion came on February 20, 1977, when the Republic of El Salvador held elections for a new president. El Salvador is one of the few countries in Latin America which even bothers to hold elections. Elections have traditionally been used solely for effect, designed to pay only lip service to democratic processes. Given the sensitivity of the political arrangements in El Salvador to U.S. attitude, it was anticipated that the U.S. would strongly endorse the electoral process and adopt a posture of strict neutrality. The new administration did neither.

More than a month prior to the election, it was clear that the military government would mount a fraud using intimidation and harassment, similar to the tactics employed in the 1972 presidential election. Weeks before, ballot boxes were found full of votes already marked in favor of the government party. The voting lists were rewritten. The military was called out and authorized to carry on a house search for 'concealed weapons," indirectly warning the people to vote "correctly."

Congressman Don Fraser (D. Minn.) even wrote to Secretary of State Vance on February 3, 1977, uging him "to indicate to the Government of El Salvador the interest which many U.S. friends of the people of El Salvador have in the conduct of fair elections." In the light of the serious allegations of electoral fraud and the government repression following the election, Congressman Fraser felt compelled to hold a series of hearings on U.S. foreign policy and the presidential elections in El Salvador.

The Subcommittee on International Organizations and the Subcommittee on Inter-American Affairs held these hearings in the light of Article 21 of the U.N. Declaration of Human Rights, guaranteeing the right to vote, which the United States and El Salvador have signed. The testimony and documentation provided in that series of hearings clearly demonstrated the validity of the allegations of electoral fraud by government officials and subsequent repression. President Carter, on the other hand, took no apparent precautionary measures with regard to the elections in El Salvador.

The second opportunity which the administration had to test its human rights policy in El Salvador was when Manwin, Inc., an arms contractor, requested State Department approval for export licenses for "crowd control materials." A State Department desk officer initially approved the sale, only to have the decision overturned and the request ultimately denied, fundamentally on human rights grounds.

Human rights as a consideration in U.S. policy toward El Salvador also entered into the vote of the United States in a $90 million Inter-American Development Bank loan to the government of El Salvador for the construction of a hydro-electric plant. Numerous Congresspersons and Senators had called the U.S. representative to the Inter-American Development Bank demanding an explanation of the loan in light of the Harkin Amendment which requires a "no" vote from the U.S. if violations of human rights is in question in the recipient country, and if such aid does not go to "needy" people.

The case of El Salvador appeared to fit those criteria: first, violations of human rights were severe and apparently getting worse. Second, this loan would not be reaching "needy" people. According to one administration official, pandemonium broke loose in the Treasury Department. The administration was being forced to take human rights into serious consideration in the evaluation of loans from a multilateral bank. Feeling the heat, El Salvador reluctantly agreed to withdraw the loan application.

More importantly, however, this incident apparently prompted the administration to form an "Inter-Agency Committee on Human Rights." This newly formed group within the executive branch is intended to meet regularly and make decisions on multilateral lending policy when human rights are a consideration.

El Salvador has been a test case for President Carter's human rights policy. The fraudulent elections and the subsequent escalation of human rights violations demanded a response. The administration was tardy in expressing its concern: now it appears to be taking the flagrant human rights violations in El Salvador a little more seriously. The vast majority of Salvadorans are hoping that U.S. rhetoric on human rights will match its actions.

STATEMENT OF RICHARD ARELLANO

Your subcommittee is examining the situation of clergymen in El Salvador—a situation brought into high relief by the recent terrorist threat to kill Jesuits remaining in that country. At your invitation, I am pleased to be here for the Department of State to speak about our concerns and policy related to this and other human rights issues of importance in our relations with El Salvador.

In another session, on July 21, you received an extensive cataloguing of recent incidents in El Salvador which have raised human rights questions. I would like to describe the overall human rights climate in El Salvador, as we see it—noting some of the salient recent developments as well as more fundamental, chronic factors. I shall also comment upon attitudes toward and treatment of priests in that country in recent months. Finally, I will describe our actions and policy toward El Salvador in light of these conditions.

In March of this year, before a joint session of your subcommittee and that of Congressman Yatron, we reported upon human rights in El Salvador, primarily with respect to political and related civil liberties. At that time, El Salvador was overshadowed by the unsettling aftermath of a controversial presidential election. This included charges of fraud and mass demonstrations protesting the election outcome. Security forces dispersed the protestors with several deaths occurring in the process. A state of siege was in effect temporarily suspending certain constitutional rights. (Those rights included freedom of speech, assembly, movement and private correspondence.) Given these circumstances, we attempted to assess the "normal" state of affairs in that country as well as specific human rights concerns related to the elections.

Since March, and even prior to that, a number of incidents have been changing the

complexion of the human rights situation in El Salvador. These incidents have derived from, been part of, three major acute developments:

(1) The violence surrounding the election and its aftermath which I have previously noted;

(2) A marked increase in terrorist activities by both rightist and leftist extremists, and government reactions to this threat; and (3) increased focus and criticism directed at priests, especially Jesuits, related to their exhortations and activism for socio-economic reforms. The unfortunate merging of these developments has contributed substantially to the current atmosphere of tension, insecurity and polarization which prevails in El Salvador today.

During the past year or so, there has been an increased number of assaults against government officials and the wealthy elite of the country. Notably, one of the large landowners was killed in December of 1976; Director of Tourism Roberto Poma, generally acknowledged as being among the more progressive members of the upper class, was kidnapped and killed around the end of December 1976; and Foreign Minister Borgonovo Pohl, also one of the more liberal-minded elite, was kidnapped and murdered in April/May of this year. Policemen and National Guards have been attacked and killed. Deputies of the legislative assembly have been threatened as have various sectors of the community of the "14 families" in control of the country's economy. An octogenarian former President of El Salvador, Col. Osmin Aguirre y Salinas was recently shot down in front of his home. Leftist terrorist groups principally the FPL (Fuerzas Populares de Liberacion—or Popular Liberation Forces) and the ERP (Ejercito Revolucionario Popular—or People's Revolutionary Army) have claimed responsibility for these actions.

Government reaction to perceived threats from the left climaxed in mid-May when government troops swept into the rural areas of El Paisnal and Aguilares. The Paisnal action was aimed at thousands of peasant squatters, the latter resulted from a search for evidence of arms and other evidence of subversive activity.

Rightist terrorists have meanwhile launched a campaign of intimidation and attacks against clergymen who have been outspoken or active in efforts to improve the lot of the poor, mainly rural, masses. Notably, they have killed two priests, Father Rutilio Grande and Father Alfonso Navarro, and threatened others. Roman Catholic institutions have been bombed at least six times. And, as we well know, the entire Jesuit community was recently confronted with a terrorist ultimatum to leave El Salvador or be killed. The main rightist terrorist group which has claimed responsibility for these actions calls itself the Union Guerrera Blanca (UGB), or the White Warriors Union. As far as we can determine, this group was formed in late 1976 in response to leftist terrorist actions.

Various speculations have been made about the linkage of the rightist and leftist terrorist groups to other elements in El Salvador. There are those who assert that ex-military or government officials are involved in the White Warriors Union. Others claim that some government officials have used the cloak of leftist groups to hide purely criminal activities. The Government of El Salvador contends that some former clerics are part of extreme leftist terrorist groups. We are unable to substantiate or disprove the accuracy of these allegations.

Thus, the past several months have been unsettled, in the face of a series of crisscrossing assaults, bombings, kidnappings and murders by extreme left and right elements. At the same time, other, related factors have exacerbated the uncertainties in El Salvador. Some are of recent vintage, others more intrinsic to the Salvadoran setting.

CHURCH-STATE ESTRANGEMENT

The Catholic Church and priests in El Salvador have been increasingly criticized by rightists groups and by the Government of El Salvador as well. Since the 1968 Medellin Conference, and following in the footsteps of Pope John XXIII, the Roman Catholic Church has been committed to improving the material as well as spiritual lot of the poor and oppressed in Latin America. In addition, Pope Paul VI's Evangelii Nuntiandi has provided evangelical guidance directed at the concrete needs of the underprivileged. As we understand it, this approach has been adopted by clergymen in El Salvador particularly in the past three years. For example, since 1974, Father Inocencio Alas and his brother, Higinio Alas, have been in the forefront of efforts to have campesinos demonstrate and otherwise press for improvement of their conditions—i.e., higher minimum wages, more favorable land rent arrangements and land redistribution. Thus, priests in El Salvador have, comparatively recently, become more active in working for socio-economic reform in that country.

The Government of El Salvador accused the Church and the priests of becoming involved in political affairs. It charged that the clergymen's exhortations for reforms contribute to subversive, leftist actions aimed at undermining the security of the country. In the past year, primarily since the sensitive February election period, some 15 priests have either been expelled from El Salvador or refused reentry. At least three, the two Alas brothers and an American priest (Father John Murphy), left on their own, fearing for their safety. The Government has said that the excluded or deported foreign priests had engaged in subversive activities in El Salvador. In addition, several priests have been arrested, some charging physical and verbal abuse while in the custody of the National Police or National Guard. (As far as we can see, more accusations of human rights violations have been directed at the security police, rather than the armed forces.) The estrangement between the Church and State was symbolized by the absence of the Archbishop of San Salvador from the July 1 inauguration of the new President.

PEASANTS AND AGRARIAN REFORM

Another factor augmenting tensions in El Salvador has been the growing dissatisfaction of campesinos over the Government of El Salvador's lack of progress on long-promised agrarian reform. Former President Molina, throughout his campaign and most of his tenure as president, endeavored to launch a meaningful agrarian transformation project. Large landowners and private sector elements vehemently opposed efforts for agrarian reform. FARO (Frente Agropecuario Regional Organizado—or Organized Regional Agricultural Front), a group of landowners originally in the Eastern region and later national in scope, was formed by landowners to protect their property interests, with their lives if necessary. It is believed that FARO has subsidized the strong media criticism against the Catholic Church and priests. Another important group, ANEP (Association Nacional de Empresas Privadas—or (National Association of Private Enterprises) also did not support the agrarian reform. In late 1976, the status quo advocates apparently prevailed as the agrarian reform was presented to the Legislative Assembly in a much diluted version. It has not been passed to date. Campesino disappointment and impatience were heightened by this development.

With this as backdrop, hundreds of squatterers occupied land near El Paisnal in April, demanding changes in land rent and distribution. After several weeks, the government forces moved in to evict the squatters in mid-May. As far as we know, there were no casualties resulting from that operation. There is, in fact, evidence that human rights discussions took place among the military, preceding the carrying out of this action. However, two days later there was a massive roundup of people in nearby Aguilares as the Government sought instigators of the peasant actions. Three priests were among those arrested. There were also at least eight persons killed—two on the Government side. Reports of additional deaths have been received from non-government organizations, including some in testimony to the Committee.

Thus, campesino confrontation with government forces, the active support of clergymen for socio-economic changes, and the Government's sensitivity to opposition which they often equate to subversion have interacted to create a climate of insecurity and tension.

The matrix for virtually all of these problems is basically the skewed nature of El Salvador's socio-economic structure. El Salvador is the most densely populated country in the Western Hemisphere. Its per capita income is the fifth lowest of the Latin American and Caribbean nations. A very small percentage of the population possesses a disproportionately large percentage of land. A small circle of wealthy families controls the country's resources. The quality of life for large numbers of persons is generally just tolerable. Landlessness and high unemployment with under employment feed the discontent of the masses.

Meanwhile, certain individuals, in particular the few active members of the PCES (Partido Comunista de El Salvador—or Communist Party of El Salvador), and other groups have despaired of working change through the political system. For over 30 years, the Government of El Salvador has been headed by various military figures, with the support of the rich elite. Since its inception in 1961, the government party, the PCN (National Conciliation Party), headed by military figures but with civilian participation, has held the reins of government. In 1972, opposition groups joined forces to support a presidential candidate. In 1976, the opposition boycotted the legislative elections, charging unfair electoral procedures. In 1972 and 1976, as in 1977, the opposition coalition charged that electoral fraud deprived them of a true opportunity to win.

President Carlos Humberto Romero was inaugurated on July 1. With his ascension to power, came an end to the state of siege in force since the end of February. He has indicated his intent to pursue socio-economic reform. He has made conciliatory gestures toward the Church. We understand, for example, that a joint Church-State commission has been formed to cope with the differences between the religious community and the Government. He took vigorous measures to protect the Jesuits threatened by the White Warriors Union—placing patrols and guards around the priests and their institutions. Through his Minister of Defense and Public Security and through his own statements to the press, President Romero has deplored terrorism of any ilk—rightist or leftist. He has also stated that all Salvadoran political exiles can return to El Salvador. We hope that these initial steps constitute the first of many actions by the Government of El Salvador to improve the human rights situation in that country.

UNITED STATES ACTIONS AND POLICY

The United States Government has maintained a strong human rights stance throughout this unsettled period in El Salvador. Repeatedly, upon instructions from Washington, the Embassy has made formal

demarches, sent protest notes and otherwise actively sought to impress upon Salvadoran authorities and others the abiding concern of the American people and Government with the human rights ramifications of developments in El Salvador.

Complicating our bilateral relations have been two principal matters. In recent months, we have been disturbed by a number of problems of consular access to and questionable treatment of Americans when detained by Salvadoran authorities. Protest notes concerning such cases have been presented to the Government of El Salvador. This week we received reply to those notes, stating that Salvadoran personnel are being instructed to comply strictly with the 1963 Vienna Convention provisions concerning consular access and treatment of detained persons. Also the Government of El Salvador's reply includes assurances that it will be careful to adhere to those provisions in the future. The other issue affecting our bilateral relations in recent months has involved the case of a missing American believed killed in El Salvador. For some moths we have been seeking a satisfactory response from the Government of El Salvador regarding his fate. Yesterday our Embassy received the detailed report of the Salvadoran Attorney General's investigation of the case. The results of that investigation did not provide concrete evidence sufficient for establishing criminal liability and taking the case to court. However, the Government of El Salvador has presented its apologies for what may have happened, despite its inability to establish what in fact did occur. The Government of El Salvador has also assured us that the new administration will take all measures and precautions to avoid situations which can affect the traditionally good relations that have existed between the two countries.

In addition, our human rights scrutiny of El Salvadoir in the wake of its controversial election led to El Salvador's renunciation of future U.S. security assistance, with the Government of El Salvador charging that we were interfering in internal matters.

We recogize the sovereignty of El Salvador and do not propose to tell its government how to run its internal affairs. Nonetheless, we have persistently expressed our concerns to the Government of El Salvador about violations of fundamental human rights which we believe transcend geographic and political boundaries. Most recently, we made several demarches concerning the terrorist threat against the Jesuits and actions to protect them. We were concerned by the initial public reticence of the Government of El Salvador after the threat was made. Later, we were pleased to note the protective measures taken by the Government on behalf of the Jesuits and the statements of Salvadoran authorities denouncing all forms of terrorism.

As we promised in the March hearing, we have been assessing our security assistance to El Salvador (as well as arms transfers destined for use by security forces or police) with human rights consideration greatly in mind. The Salvadoran renunciation of future U.S. security assistance applied to FY 78 and on. FY 77 and prior year items are being reviewed on a case-by-case basis. We have declined to provide licenses for the export of some weapons.

We are aware of increased abridgement of internationally recognized human rights in El Salvador from the time of the February election to the assumption of office by President Romero on July 1. We are anxious to work with the Salvadoran government to prevent the trend of an anomalous, unsettled period becoming a continuing part of normal Salvadoran life.

We are prepared to pursue diverse means of stimulating improvement in the human rights situation in El Salvador. We would like to be constructive in our approach. The advent of a new regime in that country may present us with new opportunities for cooperation in dealing with both the immediate, acute problems and the longer range, more endemic conditions. However, we must bear in mind that the complexities of engendering meaningful change in any society are immense. As Deputy Secretary of State Warren Christopher has said, "If we are to do justice to our goals, we must act always with a concern to achieve practical results. . . ."

To assure the cessation of harassment and intimidation of clergymen and other human rights transgressions in El Salvador, it may be fruitful to seek multilateral approaches, for example, through the Inter-American Human Rights Commission. In addition, as you are aware, we are committed to using our voice and vote in the international financial institutions to reflect human rights considerations and we have discussed this policy with the Government of El Salvador.

There will be no diminution of resolve by the U.S. Government in addressing human rights issues with the Government of El Salvador. We would like to have them join in a cooperative pursuit in that regard. Our commitment to fundamental rights of all individuals remains firm. We recognize some of the valid concerns of the Government of El Salvador. We also are keenly aware of the inequities and just grievances which underlie pressures for socio-economic reform in that nation. We are certainly aware of the instances of terrorism which have occurred in El Salvador. Yet we shall always maintain that, in the words of Secretary Vance, "the surest way to defeat terrorism is to promote justice in our societies—legal, economic and social justice." It is with that premise and moral logic that we wish to conduct our relations with El Salvador and all countries.

I will now try to respond to questions you may have.

ENERGY

Mr. TOWER. Mr. President, we sometimes hear it said that Congress has allowed itself to be dominated and overpowered by the President and the executive branch. I believe that there have been periods in our recent history which could be characterized in terms of executive domination of the legislative branch. However, I do think that, for the most part, executive domination has become a thing of the past. Rather, let me put it this way: Congress has the ability and the capacity to play a full and independent role if it chooses to do so.

In the past, Congress was often at a substantial disadvantage because it lacked the major research and analysis capability necessary to permit independent analyses of information and policy proposals prepared by the White House and the numerous agencies and departments of the executive branch. That congressional disadvantage has been reduced substantially in the last several years through the creation of the Congressional Budget Office and the Office of Technology Assessment. Together with the Congressional Research Service and the General Accounting Office, these newer congressional agencies have clearly demonstrated both a willingness and a capability to provide thorough and independent analyses of major executive branch policy initiatives.

The agencies' analyses of President Carter's national energy plan provide an important case in point. The General Accounting Office, the Congressional Research Service, the Office of Technology Assessment, and the Congressional Budget Office have each completed rather extensive analyses of the President's energy plan. The results are rather revealing. To put it mildly, each of these agencies has indicated a substantial degree of skepticism about the ability of the Carter plan to achieve the goals of the Carter plan.

The staff of the Republican Policy Committee recently completed an analysis of these four studies of the Carter energy plan. A summary of the staff's findings was contained in an August 1 memo to the Republican members of the Senate. As part of their work, the staff also prepared a chart entitled "Are Carter's Energy Goals Realistic?" which portrays in a graphic and easily readable manner the very glaring shortcomings of the Carter plan. Although this material was prepared primarily for the benefit of Republican Senators, I believe that it will be helpful to every Member of the Senate.

For that reason, Mr. President, I ask unanimous consent to have this material printed in the RECORD.

Mr. President, I urge every Member of the Senate to examine these congressional studies closely. They provide information and insight which will be invaluable to us as we begin in September to bring parts of the President's plan to the Senate floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPUBLICAN POLICY SUBCOMMITTEE,
Washington, D.C., August 1, 1977.

MEMORANDUM FOR REPUBLICAN SENATORS

From: Max L. Friedersdorf.
Subject: Carter's Energy-Tax Plan Fails Before It Begins.

CONGRESSIONAL STUDIES DISPUTE ENERGY GOALS

Four independent research arms of the Democratic Congress conclude, in separate reports, that the President's energy goals will not be realized.

The General Accounting Office, Congressional Budget, Library of Congress' Congressional Research Service, and the Office of Technology Assessment each critique the Administration's announced energy proposals. Each of the agencies find significant discrepancies in import goals, shortfalls in domestic energy supplies, and energy conservation measures.

It is important to note that these studies, released in June and July of this year, clearly do not represent the work of the Republican Party, oil companies, or private interest groups. In every case, the analyses were requested by Democratic Senators and Congressmen.

A COMMENT

The Policy Committee staff has prepared the following synopsis of these papers assessing President Carter's energy goals from this perspective: Are the national energy goals reasonable and can they be achieved? The review clearly indicates that the Carter energy estimates are exaggerated and that the American people have received overly optimistic forecasts.

It is vital that the public be apprised of the Carter energy-tax program deception prior to Senate consideration of this legislation in September.

The Administration's proposed policies, which will not stand on their own merits, can accurately be described as a tax and redistribution plan, emphasizing conservation to the exclusion of significant increases in the production of domestic energy resources. The Senate Republican Energy Initiative takes strong exception to these policies which are oriented away from free market operations and which impose additional onerous tax burdens on the American people.

The effects of the Carter plan would result in inadequate domestic energy supplies, withdrawal of vitally needed energy sources, and a stagnant economy.

EXCERPTS OF RECENT ANALYSES

In recent correspondence to the Congress, the General Accounting Office (GAO) criticizes goals of the National Energy Plan:

"Based on the Administration's own estimates, with a few exceptions, the Plan will fall short of the goals—even if the Plan is fully implemented. We believe it is somewhat incongruous to ask the Congress to establish a set of National Energy Goals, and then propose a National Energy Plan that is not expected to achieve them."

And yet the National Energy Plan clearly misrepresents its goals to the American public. For example, it states that:

"The plan does not seek illusory goals . . . Rather it seeks goals that are ambitious, but that are achievable . . ."

Such a statement is simply not supportable. As the Director of the Congressional Budget Office (CBO) recently stated:

"If the Administration's goals on reducing oil imports are as stated, then this plan probably won't get you there by 1985."

In a GAO comment on the Administration's goal to sharply reduce oil imports:

"GAO believes that the plan could fall short by 4.3 million barrels a day because GAO doubts that the plan's 1985 domestic production forecasts for coal, nuclear power, and natural gas can be achieved."

In its assessment of the proposed energy plan, the Office of Technology Assessment (OTA) also regards the goals as not achievable:

"Domestic supplies of all energy sources are likely to fall below the Plan's projections.

"The Plan's goal of expanded coal use is not likely to be reached."

The Congressional Research Service (CRS) challenges the Plan's energy goals, both for oil imports and coal conversion:

"On the whole, the oil import goal is not likely to be achieved without measures more stringent than those proposed, or a substantial drop in the economy.

"The prospects for intervention and litigation in mandatory coal conversion actions coupled with a complicated regulatory process probably will delay achievement of the Plan's conversion goals."

President Carter's response to these independent assessments was reflected in a letter responding to GAO's report in which the President's Energy Policy and Planning staff express their concern over misinterpretations by readers of the GAO report. The Administration believes that a national energy plan should not be just a federal plan but should call for a response from states and citizens as well. The GAO responded:

"We believe that a national energy plan should insure to the maximum extent possible that the response (to energy goals) desired from all sectors will be achieved, and not rely so heavily on unspecified voluntary and other actions. Further, since under the best of circumstances, plans designed to meet goals often fall short, *we continue to believe that the plan should be redesigned to provide a reasonable opportunity of achieving the stated goals*" (emphasis added).

A SIDE-BY-SIDE COMPARISON

Critical reviews of the proposed national energy goals are numerous. However, the four assessments performed by the Congressional research arms provide the best objective frameworks for analyzing how unrealistic are the goals of the energy plan. Findings of the four pieces of research are compared in side-by-side fashion in the accompanying chart.

In each instance except the Strategic Oil Reserve, the Administration's goals are judged to be bloated according to the four studies.

The generation of electricity from nuclear plants will also fall short of the President's stated objectives. Both the GAO and OTA estimate the Plan to overstate the nuclear energy contribution by 18,000 megawatts or the equivalent of 600,000 barrels of oil per day. Again the Plan's goals are high, in this case by nearly 20 percent.

Thus, the energy goals are overstated in each category between 20 and 150 percent.

CONCLUSION

The Senate Republican Energy Initiative offers what we feel to be a superior course of action to the Nation with regard to solving the energy shortage. Our program has sought to balance the two crucial needs of conservation *and* production.

The American people deserve a more honest assessment of where and when the President's energy plan is taking us. Unrealistic goals which convince the public they are getting something which is not achievable can only hamper what must truly be a national effort toward greater energy independence.

The Administration should restructure its energy package to fit the stated goals, or give some straight talk to the American public about what the real goals of this Administration's energy package are. Otherwise, Carter's energy plan fails before it begins.

Carter's present program will raise taxes; bring no significant production increase; spread the shortage; create more bureaucratic strangulation; further reject the free market system; and, most tragic of all, cause more Americans to lose their jobs.

ARE CARTER'S ENERGY GOALS REALISTIC?

Proposed energy goals		Independent assessments of plan accomplishments through 1985				Summary
The administration		GAO	CRS	OTA	CBO	
Carter's proposed 1985 energy goals	(Carter's estimate of plan accomplishments by 1985)	General Accounting Office	Congressional Research Service	Office of Technology Assessment	Congressional Budget Office	Will the plan accomplish the energy goals?
Reduce energy growth to below 2 percent per year.	(Reduction to 2.2 percent).	Reduction to 2.5 percent.	Reduction to 2.9 percent.	Reduction to 2.5 percent.		No; about 2.6 percent is more likely—the goal is optimistic by 25 percent.
Reduce oil imports to below 6 million barrels per day.	(Reduction to 7 million barrels per day).	10.3 million barrels per day.	11.8 million barrels per day.	8.4 to 10.4 million barrels per day.	7.9 million barrels per day.	No; about 10 million barrels per day is more likely—the goal is optimistic by 40 percent.
Reduce gasoline consumption by 10 percent from 1977 levels.	(Same).	Reduction of 5 percent.	No measurable impact.	Too optimistic.	Reduction of 5 percent.	No; a 5 percent-reduction is more likely—the goal is 100 percent high.
Increase coal production by two-thirds; or an. . .	. . . increase of 565 million tons annually.	Increase by 335 million tons unlikely.	Increase by 275 million tons.	Increase by 365 million tons.	Increase by 500 million tons.	No; 370 million tons is more likely—the goal is 50 percent high.
Insulate 90 percent of all homes and all new buildings.	(Insulate approximately 60 percent).	Insulate approximately 60 percent.	Insulate 70-90 percent at current Federal minimum standards.	Too optimistic.	Insulate approximately 70 percent.	No; 70 percent of homes insulated is more likely—the goal is 30 percent high.
Use solar energy in more than 2½ million homes.	(Use solar energy in 1.3 million homes).		Approximately 1 million installations.	1.3 million homes is feasible, but goal is ambiguous.	Approximately 773,000 homes.	No; 1 million homes is more likely—the goal is 150 percent high.
Establish a strategic oil reserve of 1 billion barrels.	(Same).	(Study continuing on size of and industry participation in strategic reserve).	Ambitious but attainable.			?; problems of high cost and transportation could hamper this goal.

Prepared by: Senate Republican Policy Committee Aug. 2, 1977.

THE UNITED STATES SHOULD NOT WITHDRAW FROM THE INTERNATIONAL LABOR ORGANIZATION

Mr. HUMPHREY. Mr. President, one of the most thoughtful writers and advocates on the crucial, social issues of our times is the Reverend Monsignor George G. Higgins, secretary for research of the National Catholic Conference.

Many of us know him as a careful observer and outspoken analyst of countless matters bearing on the welfare of our own and the world's neediest people. His years of counsel and support were of invaluable assistance in bringing the dawn of organization to, and equitable treatment for, our migrant workers. Just last week, before the House Labor-Management Subcommittee, he added his eloquent voice to those urging Congress to give the National Labor Relations Board added procedural and remedial powers to carry out the original purposes of our labor law.

Just recently, in a series of his weekly newsletters, Monsignor Higgins reviewed much of the unheralded work of the International Labor Organization—work which has been obscured by the contro-

versy over possible U.S. withdrawal pursuant to the notice given in 1975 by then Secretary of State Henry Kissinger.

These articles provide a fresh look at, and reminder of, the International Labor Organization's broad range of activities that should be borne in mind as our country approaches the moment of truth on the withdrawal issue. His warning of the danger that our withdrawal may result in the crippling or demise of the ILO is most timely. His appeal that we stay in and carry on our struggle for the true principles of the ILO from the inside is most compelling. These views, which I share, deserve serious and widespread consideration.

Mr. President, I ask unanimous consent that these series of articles written by Monsignor Higgins be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FUTURE OF THE INTERNATIONAL LABOR ORGANIZATION SHAKY

(By Msgr. George G. Higgins)

The International Labor Organization (ILO) currently holding its annual conference in Geneva, Switzerland, is the only UN specialized agency with a tripartite system of representation. Each national delegation is made up of government, business and labor representatives.

In recent years, the U.S. labor delegation has been waging a campaign to keep extraneous political issues (e.g., Soviet and Arab-inspired anti-Zionist resolutions) off the agenda of the agency's annual conference. This may be a losing battle. In the opening days of the current conference, a U.S.-supported proposal calling for the depoliticization of the ILO was defeated. This proposal, supported by the ILO governing body, would have amended the assembly's rules to screen out politically motivated resolutions unrelated to the ILO's basic goals and purposes. Using a procedural device, the Communist, Arab and Third World countries blocked action on the proposal. They thus demonstrated again that they are determined to use the ILO for their own political purposes as they have repeatedly used the United Nations itself and other UN specialized agencies in recent years.

Their apparent "victory" may prove to have disastrous consequences. It is possible, of course, that between now and the conclusion of the Geneva conference at the end of June, the ILO assembly will find a way to reverse itself and will succeed in working out a compromise solution. If it fails to do so, however, the United States may well decide to withdraw from the ILO. A year-and-a-half ago, our government served notice of its intention to withdraw unless the situation changed. This withdrawal notice will become effective in November unless it is rescinded.

I would strongly urge the United States to reconsider its intention to withdraw, not because I disagree with the U.S. position on the current controversy, but because I feel that U.S. withdrawal might eventually result in the demise of the organization. Short of that, even if the ILO managed to survive, it would be badly crippled and its ability to carry out its basic purpose—the protection and promotion of workers' rights—would be severely limited.

Some critics of the AFL–CIO, which is responsible for nominating the U.S. labor delegation to the ILO and has been leading the campaign to depoliticize the organization, are quick to say that George Meany and his associates are being too stubborn about this matter and too doctrinaire in their opposition to the Soviet Union and its subservient satellites in the ILO. In my opinion, that's an oversimplication of a very complicated issue. Moreover, it's unfair to the federation. To be sure, the AFL–CIO, considering the power it wields in international labor affairs, ought to think long and hard before it decides to pull out of the ILO. I sincerely hope the federation will decide to stay in the organization and keep fighting until it becomes absolutely certain that its legitimate campaign to depoliticize the ILO is a completely lost cause. I would urge the federation to swallow its pride this time and to give it another try in 1978.

On the other hand, the time has come for those who believe in the importance of the ILO to start putting the heat on the real enemies of the organization—the Communist, Arab and Third World delegations that are clearly bent on misusing the ILO for their own political purposes, even at the obvious risk of cutting the entire operation in the process. The Soviet delegation and its satellites would like to pretend that they are the authentic voice of the working people of the world and that the AFL–CIO is the subservient mouthpiece of American imperialism. That's sheer nonsense, of course, and it is time for American liberals and their counterparts in other countries to say so in no uncertain terms. Lecturing the AFL–CIO on the need for a statesmanlike approach to the current crisis while winking at the destructive tactics of the Soviet-Arab bloc is utterly naive. It serves no purpose I can think of except to delay the necessary process of depoliticizing the ILO.

Until this process has been completed, the future of the organization will remain uncertain at best. Meanwhile so much attention is being centered on the current political controversy that the essential work of the ILO is being badly neglected and the basic purpose of the organization is being almost completely ignored by the media in the United States. I hope to make up for this gap, in some small measure, by devoting my next two or three columns to some of ILO's specific programs—programs aimed at promoting human rights in the economic and social order and having nothing to do with East-West politics.

HUMAN RIGHTS AND INTERNATIONAL ACTION

(By Msgr. George G. Higgins)

The 19th anniversary of the adoption of the United Nations Universal Declaration of Human Rights will be observed toward the end of this year, but it would be idle to pretend that the average person today is even aware of the anniversary much less the degree of achievement of the declaration's goals. There are too many countries where men do not enjoy basic human rights and many of those who felt the declaration was a landmark in 1948 are no doubt disappointed in the progress achieved. The United States, under President Carter's leadership, is endeavoring to stimulate renewed interest and action among the nations of the world in the quest of mankind for individual liberty and human freedoms.

The International Labor Organization (ILO) has diligently been trying to bring meaning to human rights problems by supervising the application of the international standards it has adopted over its 58-year history. Implementation is the central problem. If a sovereign state accepts, but then ignores an international convention, what can be done about it?

The problem of implementing human rights conventions is fundamentally different from that of enforcing treaties regulating relationships between nations. Enforcement of the latter type of compact can be obtained, or at least attempted, by various sorts of sanctions. If such a pact is not honored, the confrontation is among states.

The human rights convention, on the other hand, generally regulates the relations of the individual with his own community, behind the wall of independent nationhood. If it is broken, the confrontation is between individual men and women and the fearsome authority of the modern state.

This kind of treaty was scarcely known before 1906, when the Bern Conference secured the agreement of 13 nations to restricting night work for women and prohibiting the use of certain poisonous substances in manufacturing processes. The problem of enforcing the Bern Conventions had not yet been worked out by the time of the outbreak of the First World War. Revolutionary as they were in principle, these conventions still did not plunge into the deep waters of basic human rights.

Not until the ILO was founded in 1919 as an integral part of the League of Nations (now a Specialized Agency of the UN) did the world make a concerted effort to establish the individual's basic rights by international agreement.

The drawing up and implementation of international standards by the representatives of governments, employers and workers is the key way to ILO works. The ILO's experience is, therefore, of particular significance as the United States pushes its campaign for a renewed stocktaking of the adequacy of what has been done so far, both nationally and internationally.

For over 57 years the Geneva-based organization has worked out procedures for supervising international conventions which, by and large, have produced satisfactory results. Many of these conventions cover such matters as working hours, safety regulations, fair wages, etc. Others lay down fundamental human rights within the ILO's province—freedom of worker and employer association, freedom from forced labor, and freedom from discrimination in employment.

The methods employed by the ILO to monitor and supervise these agreements will be discussed in next week's column.

INTERNATIONAL LABOR ORGANIZATION CONVENTIONS

(By Msgr. George G. Higgins)

Last week's column, the first of a series of four on the work of the International Labor Organization (ILO), a United Nations Specialized Agency, discussed some of the specific human rights agreements adopted by the ILO during the past half century. This week's column will outline some of the procedures used to supervise these international agreements or so-called "conventions."

States which have ratified ILO conventions are required to report on the application of the measures at regular intervals. These reports are carefully scrutinized each year by the ILO Committee of experts on the Application of Conventions and Recommendations, a body of high-ranking jurists from all parts of the world each serving in his individual capacity. The committee reports on countries that may be violating ILO conventions.

Its findings are reviewed by a special tripartite Committee of the International Labor Conference, where the representatives of workers, employers and governments discuss the remedial action required. Member states persistently disregarding their obligations may be put on a Special List by the conference. Obviously such action also requires the persistent vigilance of the workers' representatives, the free trade unions, such as the AFL–CIO, and interested governments and employer organizations, in their ILO participation. Of course, in the nature of things, the main burden for such policing falls to the free workers.

The Special List practice by itself has secured the amendment of a country's laws or practices in hundreds of instances. In a recent report by the Committee of Experts, some 70 cases were mentioned where changes in national law or practice had been made as a result of this procedure. Ten of these concerned basic human rights—one case in Africa, four in the Americas, three in Asia, one in Western Europe and one in Eastern Europe.

Other procedures may be set in motion when necessary. A member state may lay a complaint of noncompliance against another member state regarding a convention that both have ratified, with a request for a Commission of Inquiry. This procedure has been invoked twice in recent years in connection with allegations of forced labor. Both inquiries—in then Portuguese Africa and Liberia—led to changes in the law.

Delegates to the conference may also file complaints; in fact, complaints by workers' representatives led to a Commission of Inquiry into the trade union situation in Greece. In addition, workers' or employers' organizations may make representations to the ILO concerning alleged infringements of conventions, and this procedure, too, has been used a number of times.

Special ILO machinery has been set up in consultation with the UN's Economic and Social Council for examining alleged abuses of freedom of association. Complaints may be filed against states whether or not they have ratified ILO conventions. Such allegations are analyzed by the ILO Governing Body's Committee on Freedom of Association, composed of three government, three employer and three worker representatives. This committee examined more than 700 complaints in its first 20 years, in many cases with positive results. Particularly intractable situations may be referred to a Fact-Finding and Conciliation Commission.

The influence of these supervisory techniques is felt in all parts of the world. After one country of Western Europe ratified the Abortion of Forced Labor Convention, the Committee of Experts drew the government's attention to provisions in its maritime laws which authorized imprisonment of merchant seamen for breaches of discipline. In a reform of the law, the features criticized by the committee were eliminated. In 1968, a Far Eastern country repealed legislation which had permitted compulsory labor for public workers after adverse comments had been made by the Committee of Experts. In 1970, an Eastern European country withdrew a decree under which workers might be directed to employment by a people's council, after it had been pointed out that the decree violated an ILO convention.

Encouraging as the results often are, nobody would claim that the problem of implementing international standards and obligations concerning human rights has been solved. The effectiveness of ILO action still depends on the cooperation of member governments and the militancy, vigilance, ability and dedication of ILO's free employers and free workers as they participate in ILO affairs.

Basic Needs, the United States and the International Labor Organization

(By Msgr. George G. Higgins)

This is the third of a series of columns on the work of the International Labor Organization (ILO). It will discuss the ILO's program in the field of international economic development.

The new technology proliferates. This side of the ocean in AID and other government agencies, one speaks of the "participative" development strategies, the "employment oriented" strategies and the "people-oriented" approaches. In Geneva, the 1976 ILO World Employment Conference endorsed the "basic needs" approach. In essence, however, the new jargon on both sides concerns the same shift in approach from efforts to produce all-round development in the Third World through stimulating growth, to the belief that economic growth has to be coupled with far-reaching changes in the priorities in the developing countries so that provision for the poorest becomes the prime objective.

Rather than only seek a larger national cake and assume that the richer crumbs will better satisfy the poor, the common idea underlying both AID and UN strategies is that growth must be linked to a better distribution of wealth within the developing countries.

From World War II until 1976, most international conferences on the subject of development were truly international in the sense that they were concerned with ways of regulating the relations of states and the terms of trade in such a manner as to stimulate economic and hopefully social progress. The World Employment Program of the ILO inaugurated in 1969 marked a new departure, since it was recognized that no redistribution among countries could solve the problem. The onus was shifted to a complex of domestic policies, to be assisted by the international community.

The basic needs approach to development unanimously endorsed by the World Employment Conference held under the auspices of the ILO in 1976, corresponds to a synthesis of growth, employment and poverty eradication goals. The Program of Action adopted by the conference recognizes that in developing countries, satisfaction of basic needs cannot be achieved without both acceleration in their economic goals and measures aimed at changing the pattern of growth and access to the use of productive resources by the lowest income groups.

This approach has been in full accord with U.S. AID thinking as formulated even before the World Employment Conference, where preoccupations of some other U.S. departments of government about an alleged ILO underplaying of growth were expressed.

The basic needs approach obviously goes far beyond the traditional ILO field of responsibility. Hence the necessity to work in a closely integrated way with the other institutions in the UN system that have already gathered experience and are given specific responsibilities for a large number of the questions to be covered within the basic needs approach; for example, FAO for nutrition, WHO for health, UNESCO for education. Close contacts have been established at all levels between the ILO and these organizations. Such collaboration has started effectively on preparation of a world survey of the state of basic needs fulfillment and an assessment of policies seeking to implement the basic needs-oriented strategy. Under the World Employment Conference Program of Action, the results would be submitted to an ILO conference before the end of the decade.

Concerted action by the UN family of organizations also takes other forms. Regional review meetings are planned more effectively to pinpoint local needs and formulate policies to achieve their realization.

From the beginning, while working for the improvement of material conditions, the ILO was conscious that man does not live by bread alone. This new program also is not taken to mean merely the provision of a material minimum for subsistence.

The Program of Action states that the concept of basic needs should be placed in the context of a nation's overall social development, national independence, freedom and the dignity of the individual.

Here again the parallel with U.S. development aid policy is striking. The very first statement of the new U.S. administration firmly linked aid policy to the furtherance of human rights. Speaking last month at the University of Georgia, the new U.S. Secretary of State, Cyrus Vance, indicated two fields of human rights which the United States intended to pursue: firstly the right to be free from government violation of the integrity of the person, and secondly the right to fulfillment of such vital needs as food, shelter, health care and education. Basic needs and basic rights are the twin pillars of both AID and ILO's World Employment Program.

The ILO and Vocational and Management Training

(By Msgr. George G. Higgins)

Economic and social development, which has become one of the great aspirations—and needs—of our time, is a many-sided process involving a host of interrelated factors, many of direct concern to the International Labor Organization (ILO) as it goes about its job of promoting and protecting the interests of the world's workers. Thus, ILO programs in the fields of vocational training and management development represent two faces of essentially the same coin.

In its response to the challenge of underdevelopment in the world, the ILO has by the nature of its mandate been led to place stress on the development of human resources. The thrust of ILO's technical cooperation work has thus increasingly been to help countries train and employ people in ways which promote economic and social advancement under conditions of freedom and equality of treatment.

On the one hand, competent people are wanted everywhere, at all levels, in all trades and occupations. The prevailing shortage of skills reduces the efficiency of agriculture, industry, commerce and services. Badly farmed, the land does not give of its best; expensive machinery wears out if not properly maintained and operated; customers shy away from shops and hotels where service is not up to standard. The shortage of men and women with the know-how to reap abundant harvests, turn the wheels of industry and provide efficient service, slows down the process of development.

On the other hand, a great many people are excluded from economic progress and social betterment for lack of training opportunities. Boys and girls are not prepared for a career because proper schools and apprenticeship facilities are simply not available. Country people exchange their plough shares for a screwdriver or a trowel, miners move into the factories, and blue collar workers go into offices and shops.

It is, therefore, obvious that vocational training is essential to both individual fulfillment and to national growth, and it would be difficult to find a country which does not have a program to expand its training facilities and improve its methods. Many training projects as part of ILO's overall technical cooperation activities are financed through the United Nations Development Program (UNDP).

On the equally important management development side, in the past 29 years ILO has provided the services of more than 900 management development experts. Study tours abroad have been arranged for more than 800 managers and administrators from developing countries and millions of dollars worth of management training equipment has been provided. The system is reinforced by a network of regional advisors who are based at strategic points around the world and who are available to counsel governments and employers' and workers' organizations.

An increasingly important element in ILO's work to raise levels of knowledge and skill in developing countries, as part of its campaign to raise working and living standards

everywhere, is its International Center for Advanced Technical and Vocational Training in Turin, Italy. The center, which opened in 1965, offers programs in management development, vocational training and training methodology. Management programs are designed for practicing managers from medium and large-sized enterprises, mainly in developing countries, and for trade union officials concerned with such enterprises.

Experience has proved that economic development depends to a large degree upon the availability of competent managers. These are the men who initiate ventures and apply resources to the provision of goods and services to satisfy the needs of their communities. They plan and direct the efficient use of human energy which is the essential fuel of progress. ILO's work in this field is perhaps less well known than its traditional standard-setting activities. Nevertheless, every year 25,000 men and women undergo management training in projects to which the ILO is providing significant technical cooperation. Each of these participants has the opportunity of passing on to colleagues the know-how thus acquired. As a result, attitudes, skills, and techniques, in harmony with the ILO philosophy of social justice, are being widely disseminated in more than 50 countries.

NATIONAL FISCAL RESPONSIBILITY

Mr. TOWER. Mr. President, a condition we in the Congress are most susceptible to is isolation from our constituents. I have, therefore, consistently tried to avoid falling victim to that syndrome by regular and frequent visits to communities throughout the State of Texas. In my travels I am finding more and more often a growing concern among the citizens of my State about the continued viability of the United States as an economic entity.

On one such recent visit, it was my pleasure to engage in a most fruitful discussion on the future course of this Nation with Mr. John F. Castle of Honey Grove, Tex. Mr. Castle is a dedicated American who loves his country and his State wholeheartedly, and who views with deep concern, if not alarm, the prospect that continued Government action on the one hand to reduce taxes while, at the same time, increasing Federal spending on the other, will lead this Nation into bankruptcy. His are feelings being expressed by many Americans.

Mr. Castle made his views known to other Texans through a letter to the editor of the Honey Grove Signal-Citizen on June 17, 1977, and I would like to share his insights with all my colleagues. I, therefore, ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER TO THE EDITOR

DEAR EDITOR: I am deeply concerned about the financial stability of our nation. With the President and Congress determined to make cuts in the Federal taxes and just as determined to increase Federal spending, I wonder how long a time until our Government will be faced with a New York City situation, bankruptcy.

Of course there are many people who would say it cannot happen. It has happened to other countries during our life time. It can happen to us. Congress can increase the authorized debt limit any time they choose to do so, such action only makes the situation worse. Our dollars have detriorated badly on the world money market. Could our dollars become next to worthless?

I believe Government, like a business, can go bankrupt. When a person or business owes more money than they can pay, they are bankrupt. If a person or business can continue to borrow and operate at a profit perhaps the process, by law, of bankruptcy can be avoided, but our Government has not had a balanced budget except one year, since the beginning of President Roosevelt's administration. And there seems to be no way of making a profit

The congress is not willing to take the taxes necessary to balance the budget, much less have some money left over to pay on our national debt. Nor are they willing to reduce federal spending to help balance the budget.

So long as the people, the voters, and their representatives to Congress, elected on a promise to spend more for the good of all and to cut taxes, decreasing Government income, then the national debt will continue to increase.

Each and every dollar the Government spends over and above Government income adds to our inflation. With the inflation continuing, the demand for higher wages and increased margins of profits, returns on investments being met by still higher prices, inflation will continue. This can and will result in more unemployment. Providing an income for the unemployed will be a responsibility of the Government, thereby increasing Government spending and reducing the Government's income.

Cutting taxes and spending large sums of money to stimulate the economy will further increase the National debt and feed the fire of inflation.

If continued, this process will surely result in a very serious depression, possibly bankruptcy. President Roosevelt's Administration provided leadership to help us recover from our depression of the 1930's. But our National debt was under 20 billion dollars then and Government could provide financial assistance on jobs paying less than $50.00 per month, for many thousands of families. The $50.00 now days would not pay for having an infected finger treated at the local hospital much less feed a family and provide medical care of the most limited kind.

Massive relief programs cannot be provided by the Federal Government under existing conditions, because we, the people have been demanding and getting too much from Government and not paying for what we got. The annual interest on our Federal debt is greater than the Federal (Government) income was when the Roosevelt administration established WPA to make jobs for millions of the unemployed and put food on their tables.

With a national debt of 600 billion dollars and the spending at our present rate, we will be in debt over a trillion dollars before President Carter's term of office is ended.

The Federal Government acted to rescue New York City from bankruptcy. Who will act to rescue the Government of the U.S.A.?

Do we have serious inflation? The answer is yes, over six hundred billion dollars worth of it. Are we going to continue to have unemployment? The answer is yes. How much? That depends on whether or not we, the people, are willing to sacrifice some luxuries, so others may have the necessities.

Respectfully yours,

JOHN F. CASTLE.

COMPUTERS AND REPRESSION

Mr. KENNEDY. Mr. President, last February I called to the attention of the Senate the growing use of American computer systems as tools of repression regimes in Latin America. I noted evidence that the regime in Chile was using extensive computer facilities in its political repression and torture centers. And I called for further steps to prevent such equipment from being used to track down opponents of the regime.

I would like to share with my colleagues correspondence exchanged with Secretary of Commerce Juanita Kreps on this issue. Despite the belated response of the Commerce Department, it is clear that at long last it is moving to restrict computer transfers which could be used for the repression of human rights. I hope that the administration's present review of U.S. policy on resale of smaller computers and parts to police or military entities will result in equally stringent limitations.

I will report further to this Chamber as the results of the administration review, including country-by-country data on computer transfers, become available. In the light of this information, I believe we should make a final judgment on the need for further legislation to prevent such technological repression of human rights outside our country's borders.

I ask unanimous consent that my letter of March 16 and Secretary Kreps' reply on July 19 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 16, 1977.

The Hon. JUANITA KREPS,
Secretary of Commerce,
Washington, D.C.

DEAR MADAME SECRETARY: As part of my work on the Judiciary Committee I have been exploring the issue of computer sales to foreign police agencies. I have made several requests for information from the Department of Commerce during the last year. I was told that I could not obtain information on whether individual computer firms had been selling computers to foreign police forces unless I agreed to keep the information confidential. I also requested that this information be made available on a country-by-country basis. I was told that the information was not available in that form.

Export of computers to foreign governments fall clearly within a different category than exports from one business concern to another. Such exports have been recognized by the Department of State as being integral to United States foreign policy. As I'm sure you're aware, the State Department has recently announced that they would recommend denial of licenses for computer sales if the end user was a foreign police force.

On February 10, 1977, I had an article by Hesh Weiner and Laurie Nadel in *Computer Decisions* inserted in the *Congressional Record* which reported that computer systems are being used in Latin America as tools of repression. The article indicated that in Chile computers are used to keep track of political opponents, including exiles. Reports of torture in Latin America indicate that one of its major purposes is to generate more information on friends and acquaintances. The granting of export licenses and the export of computers by private firms is a back-door way of the United States involving itself in the repression of human rights abroad. This is in contrast to the clear congressional statement that foreign police forces are no longer to be supported by the United States' government. It is also in contrast with the commitment of the present administration to international human rights.

With these considerations in mind, I hope that you would concur in the release of information indicating what firms have been selling computers to which governments, military forces, and police forces on a country-by-country basis during the past three years. It clearly is in the national interest for this information to be made available.

I would also like to know what steps the Department is planning to take to insure adequate review of computer licenses.

There are some serious problems that confront the Department of Commerce in determining who the end users are. Many sales are not made to specific parties but to subsidiary operations. These sales, to my understanding, do not include the name of the final end user. However, the subsidiaries may well be aware of who the end users are and should be required to report on who ultimately purchases the computers. From the material that I received on the volume of sales to Argentina, Brazil, Chile, and Uruguay, it becomes obvious that there is a large and growing market for computers in Latin American countries with a history of abuse of human rights. The total value of licenses in these four countries for computer systems increased by over $16 million between 1975 and 1976.

I would appreciate your prompt attention to this matter.

Sincerely,

EDWARD M. KENNEDY.

THE SECRETARY OF COMMERCE,
Washington, D.C., July 19, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in further response to your letter of March 16 about exports over the last three years of computers to foreign governments, military forces, and police forces and inquiring about steps the Department is planning to take to insure adequate review of computer export license applications.

During the past three years, the Department has on occasion licensed computers for sale to foreign governments and military and police forces. We do not yet have statistics on a country-by-country basis, as requested, indicating which firms have made such sales to those entities, but we are in the process of compiling that information and hope to have it soon. Under the Export Administration Act such information can be made available upon the request of any Committee or Subcommittee of Congress of appropriate jurisdiction. However, we have no definite information that those computers are being used for the repression of human rights. Currently, any application for sale of a computer to police or internal security forces is taken up with the Department of State for its advice. It is the U.S. Government's policy not to approve any shipments where there is evidence indicating that the computer would be used to suppress dissidents. This policy led us to deny a license to export a computerized fingerprint processing system to Chile late in 1976.

Certain of our bulk licensing procedures permit the resale by approved foreign distributors of U.S. suppliers of small and medium sized computers and their parts within the countries in which those distributors operate. To date, approved distributors have not been precluded from selling to police or internal security forces, because the computer equipment exportable under these licenses is of relatively modest size. This policy is currently under review, and the feasibility of effectively prohibiting approved distributors from selling even these modest computers to police or military entities is being explored. A final decision is expected shortly. We shall inform you promptly when the decision is made.

Sincerely,

JUANITA M. KREPS.

THE GREAT PLAINS CONSERVATION PROGRAM AMENDENTS OF 1977—S. 896

Mr. DOLE. Mr. President, the Great Plains conservation program has served Kansas and nine other States exceedingly well since its inception in 1956. The Great Plains conservation program must be extended in order to fully achieve its goals and to provide for the installation of conservation measures on land dried out by the recent severe drought. Senate bill 896, the Great Plains Conservation Program Amendments of 1977, accomplishes this purpose.

GREAT PLAINS—UNIQUE PROBLEMS

Sustained agricultural production in the Plains States in the western part of the United States is vital to all the people of America. This large, very productive area normally produces 60 percent of our wheat and 30 percent of our cattle.

This region has natural conservation problems that are unique to its environment.

It is subject to drought, destructive winds, floods, ice storms and other natural disasters and severe climatic variations that periodically bring wide suffering and severe economic losses.

The region has a continuing need for protection of its good cultivated lands against eroding soil during seasons of high winds and frequent periods of extremely dry weather.

At one time this area was called the great American desert. Good conservation measures have helped the area be one of the largest and most productive agricultural areas in the world.

GREAT PLAINS CONSERVATION PROGRAM

Under the Great Plains conservation program, farmers and ranchers are provided cost-sharing contracts with the Secretary of Agriculture in implementing soil and water conservation projects.

Since the inception of the program in 1956, over $175,000,000 have been paid out in cost shares for such improvements as the construction of shelterbelts and terraces, the installation of tail water recovery systems to recycle irrigation water, and the establishment of permanent vegetative cover on erosion-prone rangelands.

It is estimated that the $300,000,000 authorized under current law for the program will be exhausted within 5 years.

The program has been well received by farmers and ranchers in eligible counties. Although more than 2,000 new contracts were signed in fiscal year 1977, there is still a backlog of almost 5,000 applications awaiting processing and funding.

RECENT SEVERE LONG-TERM DROUGHT

Several large areas in the Western States have recently seen the recurrence of severe long-term drought. In some areas, the drought has persisted since 1974.

It is estimated that in 352 of the 469 counties currently eligible for the program, over 6 million acres—almost all of it productive cropland—were damaged by wind erosion stemming from the drought during the 1975–76 winter and spring. We are just now learning the details of the wind erosion damage incurred last winter. However, the Soil Conservation Service now estimates that nearly 8,000 dried-out acres in the Plains States have been severely eroded by the wind since November 1976. Moreover, there are 7 million additional acres that are so dry and unprotected that serious erosion could yet result from prolonged high winds.

GREAT PLAINS CONSERVATION PROGRAM MUST BE MADE PERMANENT

The Great Plains conservation program must be extended in order to fully achieve its goals and to provide for the installation of conservation measures on land dried out by the recent severe drought.

This bill would meet these needs by: First, striking out the provisions in current law prohibiting the execution of new conservation contracts after December 31, 1981; and second, striking out the provisions in current law limiting appropriations to a total of $300 million and $25 million annually.

MORE COUNTIES MUST BE INCLUDED

Under current law, not all counties in the 10 States designated for the program have been designated by the Secretary of Agriculture for the program. This is due to the fact that some of the counties in these States do not qualify as being perennially "semiarid."

The serious long-term droughts that periodically recur in these States, however, are not restricted to these permanently dry areas, but can, and do, occur over much larger areas.

There is a clear need to give the Secretary of Agriculture more flexibility in applying cost-sharing funds within the designated States, so that he may respond appropriately to the periodic shifts in climatic conditions.

This bill would meet that need by removing the current provisions in section 16(b) that limit the program to certain dryland counties within the 10 States designated by the Secretary. The program would be open to any farmer in the 10 States on whose land erosion is so serious as to make the program necessary for the protection of the land. I commend Senator BELLMON for his insight that all the counties of the 10 States needed to be included in the program.

Mr. President, I believe S. 896 to be vitally needed by farmers in Kansas and the other 10 States. The bill provides for long-run investments in the future of this area and America. I urge the adoption of S. 896.

FULL EMPLOYMENT WEEK: SENDING A MESSAGE TO WASHINGTON

Mr. HUMPHREY. Mr. President, meetings, rallies, and a wide variety of other public events urging immediate congressional and administration action to achieve and sustain a full employment economy will be staged in communities across the Nation by hundreds of thousands of people during Full Employment Week, September 4 to 10.

Full Employment Action Coalition organizations in communities across the Nation will conduct programs throughout the week to focus attention on the country's continuing intolerable level of joblessness, which has once more risen above 7 percent.

The collective voice of these citizens—

businessmen, professional people, organized labor, civil rights, church, farm, and community groups, and many others—will say to the administration and Congress that H.R. 50 and S. 50, the Full Employment and Balanced Growth Act of 1977, provides a solid framework and procedures to move toward achieving the bill's stated goal of an opportunity for a meaningful job at decent wages for everyone willing, able, and seeking work.

In effect, they will send our Government a message that achievement of a full employment economy continues to the Nation's first priority and that H.R. 50 and S. 50 constitute the best course of action to fulfill this aim.

MINNEAPOLIS

Full Employment Week will be marked in my own State of Minnesota on Tuesday, September 6, when the Joint Economic Committee's Subcommittee on Economic Growth and Stabilization, of which I am cochairman, will hold a field hearing on full employment and the Full Employment and Balanced Growth Act in Minneapolis.

It is my hope that most if not all the Members of Minnesota's congressional delegation will be able to participate in this hearing.

Witnesses include Prof. Charles Killingsworth of the University of Michigan; Prof. Harvey Brenner of John Hopkins University; Prof. Barbara Bergmann of the University of Maryland, and William Norris, president of Minneapolis' Control Data Corp.

Other witnesses will come from the ranks of the unemployed and will represent minority youth and skilled, but jobless professional people. The impact of unemployment on the family and the correlation between unemployment and crime will be dealt with by witnesses representing social welfare and criminal-justice agencies. And a cross section of our community leaders will present their views to the committee.

During the evening of Tuesday, September 6, the Full Employment Action Coalition will commemorate the 10th anniversary of the State's Human Rights Department at a dinner.

BUFFALO-NIAGARA-SYRACUSE

One of the largest programs will be held in the Buffalo-Niagara-Syracuse region of New York State. Within that area the mayors of eight cities will issue proclamations designating the week of September 4 to 10 as Full Employment Week. The proclamation will be read from the pulpits of many of the region churches at Sunday services.

During the week the subject of unemployment and what can be done about it will be aired in discussion programs on radio and television stations.

A 24-hour full employment vigil will be held at Buffalo.

The Buffalo Philharmonic Orchestra will present a concert.

A full employment rally, with Senator DANIEL PATRICK MOYNIHAN as its chief speaker, will be held.

A petition seeking up to 100,000 signatures urging immediate congressional action to achieve a full employment economy will be circulated and later delivered to Washington.

BALTIMORE

Baltimore will stage its Union Label Day on Saturday, September 10, at the Civic Center. As many as 40,000 people are expected to participate in activities scheduled there. During the week the theme of full employment will be stressed on the city's radio and television stations and in its newspapers.

ST. LOUIS

The Urban League will hold a 1-day seminar on full employment. Representatives of the entire community will participate.

COLUMBUS

Up to 5,000 people are expected to attend and participate in the full employment Labor Day program to be held Monday, September 5, in the Columbus, Ohio, baseball stadium.

DISTRICT OF COLUMBIA

Full Employment Week activities in the District of Columbia include a Labor Day mass on Monday, September 5; a full employment luncheon scheduled for Wednesday, September 8; a City Council hearing on full employment for Thursday, September 8; and a full employment rally for Friday, September 9, in Lafayette Park.

Mr. President, these activities are but a sample of programs that will be staged in many other cities throughout the Nation during Full Employment Week. In addition to the activities I have described, programs are being organized for Long Island, Chicago, Racine and Milwaukee, Des Moines, Boston, San Francisco, and in many other communities.

CONTINUED STRONG SUPPORT

All of this activity reflects the continued strong support given H.R. 50 and S. 50 by organizations and individuals throughout the country. Some examples of concern about the devastating unemployment that still prevails throughout much of the Nation and the reaction to the Full Employment and Balanced Growth Act of 1977 as an answer to this problem, follow:

The Office & Professional Employees, AFL–CIO, the Tennessee Valley Authority Employees Association, and officials of affiliated organizations representing almost 10,000 White Collar workers have adopted and endorsed the important goals of Humphrey/Hawkins. We urge our membership to join with us in raising a voice with the Congress and the President in support of H.R. 50 and S. 50—taken from Impact, Spring issue, published by the TVA Office & Professional Employees Union.

At our June 27th Meeting of the Governing Board of the Community Action Commission of Belmont County (Ohio), a motion was made and unanimously agreed to fully support the Full Employment and Balanced Growth Act of 1977 . . .

Work and productivity are certainly more desirable than forced unemployment and wasted productive capability . . . Our future can be greater than our past, if we take the initiative to build a twenty-first century tricentennial America morally, economically, technologically and environmentally prosperous and proud.

MILLIONS SEEKING WORK

For the millions seeking work and the millions more in fear of losing it, the only recourse in this session of Congress is the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1977. We cannot over emphasize the importance of this legislation. On the economic level, it provides an efficient framework within which the private sector can function. On the policy level, it permits the coordination of government policies and programs to stimulate the economy towards achieving goals spelled out openly by the President. On a human level, it demonstrates our commitment to providing a job for everybody who wants one, and proves that we are capable of being sensitive to the well-being of every American. Taken from a letter to members of Congress from the Reverend Jesse Jackson, National President, People United to Save Humanity, May 1977.

. . . The continued very high rate of unemployment in this country suggests to me the need for efforts more basic than those in the President's anti-recession program.

I would commend to you the Full Employment and Balanced Growth Act of 1977. This legislation, as you know, provides a mechanism for national policy planning. I believe that without such planning we will, for the foreseeable future, be involved in ever-worsening economic cycle.—Taken from a letter from Marvin Rich, Long Island City, N.Y., to members of the New York Congressional Delegation, May 1977.

The time has come for Congress to forthrightly face this (unemployment) problem by enacting the Full Employment and Balanced Growth Act of 1977 . . .

The Humphrey-Hawkins bill would require Congress and the Administration to share the responsibility for setting full employment and other economic goals for planning and implementing policies and programs to reach these goals. As revised since its original introduction, the Humphrey-Hawkins bill meets the objections of those who feared that it would have an inflationary impact. It specifically directs anti-inflation policies, including a comprehensive system for monitoring and analyzing inflationary trends. Moreover, it seeks a balanced federal budget within a full and balanced national economy.

With so much that needs to be done to meet the nation's needs in energy, food supply, housing, mass transportation, education, health and the environment, it is time to tap the reservoir of human skills that is now being wasted through enforced idleness.

On behalf of the 925,000 working men and women who make up the Machinists Union, I urge you to support the forthcoming effort to get Humphrey-Hawkins moving through Congress and on to the statute books—Taken from a letter from William W. Winpisinger, International President-Elect, International Association of Machinists and Aerospace Workers, to members of the Senate of June 1977.

I will be pleased to join the coalition to pass the Full Employment and Balanced Growth Act.

Of course, our Washington Bureau will coordinate our support efforts and we will continue our communications with Congress and the Administration. Letter written to Senator Humphrey by Roy Wilkins, former Executive Director, National Association for the Advancement of Colored People, May 10, 1977.

DOING JUSTICE

I know that you are intimately familiar with the Humphrey/Hawkins Full Employment bill in its revised form. In that form it seems to me that the bill would establish policy and procedure for bringing about the

re-employment of our people and for doing justice to all those who have been unable to find remunerative employment. Getting our people back to work was one of the primary appeals of President Carter all during the campaign and anyone like yourself or myself who has seen the devastating effect on families of major unemployment will, I feel, recognize the fundamental needs for this legislation—Taken from a letter from Jerry Voorhis, former member of Congress, former Executive Secretary of the national Co-op League, to members of the California Congressional Delegation, May 9, 1977.

As minority businesspersons, we support the premise and concept of H.R. 50 because we realize that minorities are often the foundation of structural unemployment and other inquities within our economic system—Taken from a letter from Ronald E. Lewis, Vice President, National Association of Black Manufacturers, to Representative Hawkins, April 26, 1977.

As the representative of the 1,000 rural electric cooperatives serving 25 million members in 2,600 countries throughout rural America, NRECA is vitally concerned with the Full Employment and Balanced Growth Act of 1977 in general and with its provisions dealing with rural unemployment in particular.

Legislation intended to promote balanced economic growth and employment opportunities is most commendable. Certainly the previous inadequate and misdirected federal policies have contributed to the present excessive unemployment levels. Establishing national priorities to reduce adult unemployment to 3% or less would hopefully place the government's economic machinery back on the right track.—Taken from a letter from Robert D. Partridge, Executive Vice President, National Rural Electric Cooperative Association, to Senator Humphrey, April 26, 1977.

The National Association of Minority Contractors has recently reviewed S. 50 and H.R. 50, commonly known as the Humphrey-Hawkins Full Employment bill. Because of the potential impact of this legislation on inner-city communities across our Nation, it is our feeling that we should not simply sit on the sidelines while others do the hard "nitty-gritty" work of getting this legislation passed.—Taken from a letter from Frank C. Kent, Acting Executive Director, National Association of Minority Contractors, to Senator Humphrey, April 25, 1977.

LOS ANGELES.—A press conference and public rally in support of H.R. 50 and S. 50, the Humphrey-Hawkins Full Employment Bill, was held at the Los Angeles Convention Center late last month. Humberto Camachc, President of UE Local 1421, participated along with Congressman Augustus Hawkins (D-Calif.), leaders from other Los Angeles union and community groups, as well as state and local government officials.

The press conference and rally was called by a coalition of labor, community, church and other organizations to demonstrate grassroots support for the bill—Taken from UE News, published by the United Electrical, Radio and Machine Workers Union, April 11, 1977.

ESTABLISHING THE NUMBER ONE POLICY

The International Brotherhood of Electrical Workers strongly endorses H.R. 50/S. 50, the Full Employment and Balanced Growth Act of 1977. This act sets out to establish that the number one economic policy of the nation is the right to every adult American to secure useful employment at fair wages.

We believe that H.R. 50/S. 50 will close the loopholes that have undermined the employment commitment of the Employment Act of 1946. This legislation will strengthen many of the provisions of the original act and will promote a balanced and healthy development of the American worker.

The IBEW representing all branches of the electrical industry with over 1,000,000 members, strongly urges you to push for passage of H.R. 50/S. 50 and put American workers back to work.—Mailgram sent by Charles H. Pillard, International President, International Brotherhood of Electrical Workers, to members of the House and Senate.

The majority of the employment benefits incorporated in H.R. 50 will come from the private sector. This is encouraged by the language of H.R. 50. It is a well established fact that employment in the private sector reflects increases in production and purchasing power.

The increase in private sector of employment if H.R. 50 is adopted, is expected to be about three times as great as increases in public jobs and this alone brings extended economic benefits to our nation.

Because H.R. 50 would insure many substantial economic gains for our society, we sincerely request on behalf of the 425,000 members of the International Union of Operating Engineers and its officers, that your administration exert every effort to have H.R. 50 adopted into law in this session of Congress.—Taken from a letter from J. C. Turner, General President, International Union of Operating Engineers, to President Carter, March 30, 1977.

A national economic policy must be formulated to boost the country's lagging economy and to remedy the high unemployment rate. That formula is implanted in the Full Employment and Balanced Growth Act of 1977. The primary emphasis of this legislation is directed toward creating job opportunities in commerce and industry through general fiscal and monetary policies and through programs that will establish an economic climate promoting maximum utilization of capacity by the private sector. Chronically depressed areas and other sectors of structural unemployment would be targeted for special attention through federal incentives for business. The proposed legislation would make it national policy to reduce unemployment to no more than 3% by 1980 for those over 20 years old. Any gap between private sector performance and the legislation's employment goal would be temporarily filled with federally funded public works and job training programs. Economic stability and balanced growth would be encouraged by establishing an economic environment of full employment that motivates both production and consumption at near capacity levels.

VICTIMS OF SLAP-DASH POLICIES

. . . The nation's workers refuse to continue to be victimized by slap-dash policies adopted in response to one crisis or another. The United Mine Workers of America, desirous of a better future for coal miners and all workers, lends strong support for the Full Employment and Balanced Growth Act of 1977 and urges that Congress enact this legislation without delay . . . Taken from a letter from Arnold Miller, President, United Mine Workers of America, to President Carter, April 11, 1977.

We certainly need full employment in our country if we are ever going to be able to have a balanced budget and get people off the relief and unemployment rolls and back to gainful employment.

Your support (for H.R. 50 and S. 50) is being solicited in behalf of the United Cement, Lime and Gypsum Workers International Union as well as by myself personally . . . Taken from a letter from Henry W. Bechtholdt, International Vice President, to Representative Bonker.

Support H.R. 50, the Humphrey-Hawkins Full Employment Bill—This vital legislation would set goals for the next four years to reduce unemployment, and it offers specific ways to put people back to work . . . From the Carpenter, published by the United Brotherhood of Carpenters and Joiners of America, August 1977.

A PROFESSION WORTHY OF THE PUBLIC TRUST

Mr. KENNEDY. Mr. President, I commend to the attention of my colleagues a speech presented at the 130th annual meeting of the American Psychiatric Association in Toronto, Ontario, Canada, in May of this year, by its President, Robert W. Gibson, M.D.

I am pleased to note that in his address Dr. Gibson agreed that "the national concern about increasing health care costs is valid"; urged his psychiatrist colleagues to "enhance prospects for a more rational and effective mental health care system"; and indicated that with respect to psychiatry "that a new level of accountability is expected of us and we stand prepared, through our peer review and related efforts, to show that we are equal to the challenge."

In his speech, Dr. Gibson reviewed the activities of the APA. I was gratified to learn of the APA's support for peer review; their leadership with respect to protecting the confidentiality of the doctor-patient relationship, having initiated the formation of a National Commission on Confidentiality of Health Records; their support for insuring continued competence of psychiatrists through certification and recertification programs; and their commitment to use the knowledge obtained in the scientific advancement of psychiatry, in service, as advocates for the mentally ill.

In closing, I would like to share my strong support for Dr. Gibson's view that "[c]ontrol of health care is no longer the professional prerogative of the physician. Health care, much like a public utility, belongs to the public."

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL PAPERS: 1977—PRESIDENTIAL ADDRESS: A PROFESSION WORTHY OF THE PUBLIC TRUST

(By Robert W. Gibson, M.D.)

The threefold escalation of health care expenditures from 1965 to 1975 has prevented the United States from making good on the commitment that adequate health care is a right. Government leaders, third-party payers, and the consumer, responding to inflationary pressures, have served notice that the amount and allocation of resources—dollars, facilities, personnel, and supplies—will be contingent on the ability of those of us who provide care to demonstrate that treatment services not only are effective but are delivered efficiently.

The leadership role of health care professionals has steadily eroded. Government planners and managers are setting health policy and establishing priorities. In many instances they lack clinical experience, and sometimes they seem insensitive to the needs of the mentally ill. If we as mental health professionals fail to act, we will lose our ability to influence the quality and character of care provided to our patients.

Protestations of outrage may provide catharsis but are not enough. We must acknowledge that abuses do occur and that the

health care delivery system has many flaws. Because health is influenced by many social forces, psychiatry interacts with a multitude of systems, making rational control difficult and complex.

But increased government regulation is not the solution; more often it is the problem. In my judgment it is our professional responsibility to strengthen our own systems' of quality assurance, show that external regulation is only minimally necessary, and reaffirm the public trust. This is why I requested that the theme of this Toronto meeting be "Professional Responsibility and the Public Trust."

In this address I hope to demonstrate that: 1) while the national concern about increasing health care costs is valid, simply adding government regulation is *not* the solution—in fact, inappropriate regulation can cause many problems; 2) APA has moved into many new areas and has attempted to strengthen its activities in other areas so as to enhance prospects for a more rational and effective mental health care system; and 3) we recognize that a new level of accountability is expected of us and we stand prepared, through our peer review and related, efforts, to show that we are equal to the challenge.

THE PROBLEM OF RISING HEALTH COSTS

In 1976, total expenditures for health in the United States amounted to $139.3 billion, or $638 per person; these expenses claimed 8.6% of the gross national product, with 42.2% coming from tax dollars. These 1976 expenditures represented a 14% increase over fiscal year 1975, and inflation continues at close to 10% anually. At 8.6% of the GNP health care expenditures have a significant impact on the overall economy, and with over 42% of the funds coming from tax dollars the cost of health care has become a significant political issue and provides the government with enough leverage to control the system.

Alarmed by runaway costs, legislators are hedging on the original declaration that health care is right. For example, the statement of purpose of the Health Planning Act (PL 93–641) stipulates: "The achievement of equal access to health care at a reasonable cost is the priority of the federal government." Equal access is now a priority, not a right; even that is conditional on "reasonable cost." The determination of what is a reasonable cost will be a political decision, not a medical decision.

National health insurance is still a significant political issue but is being pushed with less vigor because of concern about costs. Instead, the current government emphasis is on efforts to control and reshape the health care system and presumably to make it more efficient and cost effective.

For example, appropriations to assist health maintenance organizations are intended to promote organized systems of health care as opposed to individual private practice. Legislation authorizing Professional Standards Review Organizations is designed to increase participation by physicians in utilization review activities. The Health Planning Act establishes a network of local, state, and national citizen groups to plan, coordinate, and control health care resources. The Health Professions Educational Assistance Act of 1976 provides the mechanisms to control that most important of all health resources—trained personnel.

It appears that the strategy is to move cautiously on national health insurance until the various controls are in place and working effectively. This reflects the convicion of government planners that simply adding dollars and benefits will not improve the health of our nation., The message is plain. Payers whether they be federal or state government or insurance carriers, will make resources available only to the degree that providers can demonstrate they can control these resources and use them effectively and efficiently. Evaluation and quality assurance are now preconditions that must be met before mental health benefits will be increased.

SPECIAL CHALLENGES FOR PSYCHIATRY

Satisfying such expectations of accountability is difficult for all segments of the health care industry. Regrettably, mental health is often singled out for special challenge while other types of care are not. Consider that the National Ambulatory Medical Care Services (NAMCS) estimates that in 1973–74, visits to physicians numbered 14 million for colds, 18 million for back problems, 12 million for headaches, 12 million for fatigue, and so forth. Many of these conditions were probably psychosomatic, many were not amenable to difinitive medical treatment, and outcome and cost benefit would be impossible to judge. But expenditures for such care are not challenged to the same degree as mental health services.

Some of the more difficult tasks confronting psychiatry are: (1) completion of valid outcome studies; (2) refinement of standards and criteria; (3) achieving a balance between humanistic concerns and cost effectiveness; and (4) preservation of confidentiality. Psychiatrists have not been derelict; as we interact with other social systems the increased exposure inevitably opens us to new challenges and new demands to justify our practice.

BUREAUCRATIC INTRUSIONS

The demands frequently take the form of bureaucratic intrusion seemingly to the point of harassment. A task force on regulation created by the Hospital Association of New York State to assemble information on the scope of the problem found that no less than 164 different regulatory agencies had some jurisdiction over hospitals in the state (1). Acknowledging that government has the right to regulate hospitals, the task force, in its study of the impact of regulation, wondered why 25 separate agencies must review hospital admitting procedures, why 33 agencies protect patients' rights, and why 31 agencies insure patients' safety. The task force found that during the past 10 years, while the total number of employees in the state health department went from 2,000 to 3,500, the number of accountants went from 2 to 170 and the number of attorneys went from 3 to 30. But the number of physicians declined from 69 to 60. The state's new austerity budget calls for 568 new regulatory positions in the department!

Most of the regulatory efforts are well intentioned. But unfortunately the controls overlap, are sometimes contradictory, and add to the cost of care. Preoccupation with these multiple requirements may distract mental health professionals from their main goal; providing high quality treatment services appropriate to the patient's need. In exasperation, staff protest that it has become more important to document that some arbitrary requirement has been met than it is to do something that will be really helpful to the patient.

Despite the heavy emphasis on reducing length of stay, an October 1976 report commissioned by the Department of Health, Education, and Welfare (2) estimated that utilization controls would reduce the cost of additional services under the American Medical Association's national health insurance proposal by $0.3 billion (less than 0.2%) and under the Health Security Bill by $1.4 billion (only 0.7%). Regulation adds to costs through special reports, legal services, requirements for documentation, and the like. Beyond that comes the time of clinicians diverted from patient care as they are kept busy meeting the requirements. It would not surprise me if these activities add 5% to 10% to the health care budget. Surely our profession can develop a better system.

CONSEQUENCES OF REGULATION BY THIRD-PARTY PAYERS

The funding mechanism is seen as a tool to manage the health care system through planning, organizing, coordinating, staffing, motivating, and controlling. Although other nations have established a national health service under which the government owns the facilities, hires the personnel, chooses locations for dispensing care, and by taxation pays whatever costs are required, there appears to be no significant support in this country for such a solution. Instead, the approach will probably be one of voluntary participation by providers and possibly by consumers. More liberal benefits and coverage for participants will be strong inducements to consumers to seek care from those providers who are a part of the system. Government planners, by reshaping the health care system, hope to overcome maldistribution of providers, inaccessibility of services, and inappropriate utilization of personnel.

A troublesome consequence is that as our health care system becomes more complex, the decisionmaking process is removed further and further from those providing direct patient care. Clinicians find it increasingly difficult to participate in top management decisions such as the allocation of resources and the setting of priorities.

Third-party payers, both government and private, have already gained strong control over the health care system. Under Medicare and Medicaid, government officials decide what benefits should be available, set standards for providers, and establish criteria for the services themselves. All national health insurance proposals contain schemes of economic incentives and disincentives to reshape the system.

The techniques used by large private health insurance carriers, such as the federal employees programs, provide insight into the way the funding mechanism can influence psychiatric care. Faced with escalating costs, insurance carriers have initiated claims review; a patient seeks help, a practitioner provides the service, a claim is submitted to the third-party payer, the claim is paid or it is not. This last step establishes a crucial feedback to the system. As long as claims are paid, psychiatrists continue to provide services in accordance with their best clinical judgment.

Clinicians are disturbed when claims review leads to the denial of treatment for a particular patient. This is of grave concern to the patient, and the long-term consequences are even more serious. Professionals would in most cases continue to provide the services they deem medically necessary and appropriate without regard for payment. Nevertheless, decisions about payment over a period of time would undoubtedly exert an influence. Psychiatric care might evolve in a sequence akin to the process of the survival of the fittest, or perhaps, it should be called "the survival of the most reimbursable." It could become a monstrous application of the behavior modification technique. Presumably those facilities and those practitioners who favored the kind of treatment supported by third-party payers would flourish, while the rest would languish.

There is no question that those who pay for care have the right to make determinations about the care. They are accountable for the expenditures of tax dollars in the case of government programs, the premiums of subscribers in the case of private insurance, or the fringe benefits in the case of a union or employer. There is nothing inherently wrong with using funding to better organize the health care system. The

danger is that decisions will be based on standards and criteria that do not reflect the best professional opinion of practicing psychiatrists—that the requirements of administrators and managers will outweigh the needs of patients.

Increasing regulation and the growing demand for accountability disturb the professional because they challenge the basic concept that members of the profession are capable of self-discipline. Have we failed to maintain adequate standards of professional responsibility? Do our systems overlap so much that responsibility must be shared? Have professionals lost the public trust?

Many clinicians, particularly physicians, are so accustomed to society's sanction they are convinced that complete autonomy is a prerogative automatically granted with the professional degree. This is simply not true. Practice of a profession is not a right, it is a privilege—a privilege that must be earned and repeatedly reaffirmed by responsible action and behavior.

EXPANDED ACTIVITIES

I will return to this matter of professional responsibility shortly. But first I want to highlight for you a few of the extensive activities APA has undertaken recently to increase our level of participation in decisions that affect our profession and the quality of care given to our patients.

Government Relations

The Joint Commission on Government Relations, composed of members from each of the seven geographic areas, coordinates the legislative network of district branch representatives. Mr. Jay Cutler, an attorney who served as Minority Counsel to the U.S. Senate Health Subcommittee and the Alcholism and Narcotic Subcommittee and more recently as Minority Counsel and Staff Director of the Senate Labor and Public Welfare Committee, has been appointed Special Counsel and Director of the expanded Office of Government Relations. The annual Institutes on Governmental Operations (the sixth was held in March) have helped district branch legislative representatives to become more knowledgeable and effective in their presentations to government leaders. The Joint Commission has developed 10 key principles dealing with private practice, continuing education, malpractice, primary care, PSROs, health care system, professional responsibility for medical education, input into regulations, and accountability. Legislative proposals are continuously monitored, contacts with key Congressional leaders made, and testimony provided as needed.

President Carter has shown a special interest in mental health by appointing a Presidential Commission on Mental Health under the honorary chairmanship of Mrs. Rosalyn Carter. This commission has been charged with preparing a final report by April 1978 that will, among other things, project needs for dealing with emotional stress over the next 25 years, find ways to more efficiently treat the underserved mentally ill, identify the types of research and educational systems needed, and estimate the cost of programs and how financing should be diivded among federal, state, and local governments and the private sector. This 20-person commission has a strong consumer majority, but among its membership are 3 psychiatrists: Allan Beigel, M.D., Mildred Mitchell-Bateman, M.D., and George Tarjan, M.D. There are 2 additional physicians, one of whom is closely allied to child psychiatry; the other has had considerable experience with drug abuse problems. Advisory groups dealing with a number of special areas are being appointed. APA will work quite closely with this commission.

Commission on Public Affairs

To back up our governmental activities through a strong base of public support, the Joint Commission on Public Affairs has begun to set up mechanisms to enable the Association to become more active in informing the general public about the psychiatric profession, to monitor public attitudes toward psychiatry, and to cooperate on a continuing basis with the media and other institutions that influence the public's view of psychiatry.

Some of the means for achieving these goals are: publication in the *American Journal of Psychiatry* of guidelines for psychiatrists working with the communications media, establishment of a roster of press contacts, formation of a public affairs network with representation in each of the district branches, a public opinion survey, identification of friends and advocates of psychiatry, responding to attacks on psychiatry, informing major networks of the APA position on televised violence, and a planned symposium for science writers in the late fall of 1977.

Commission on Standards of Practice

The Commission on Standards of Practice and Third-Party Payment has represented APA on issues concerning government programs and private insurance carriers. In 1974, when serious cutbacks in the Blue Cross and Blue Shield federal employees program and in CHAMPUS were threatened, the commission spearheaded an effort that preserved the psychiatric benefits in these programs. A dialogue has been maintaind with various third-party payers concerning standards and criteria for care, procedures for reporting claims, and the claims review process. A joint task force of APA and the federal employees Blue Cross and Blue Shield program is revising guidelines to reflect professional judgments of psychiatrists; peer review will be incorporated into the review process of claims for psychiatric care. The commission and the APA's Medical Director have also been authorized by the Board of Trustees to enter into a contract to help CHAMPUS set up a retrospective review system regarding claims presented to CHAMPUS for payment. APA will be asked to identify psychiatrists willing to participate in this system (with reimbursement at a level comparable to their regular hourly rate) and to provide an educational program for the psychiatrists participating.

Peer review

Peer review activities have been advocated by APA as the most appropriate way to meet demands for accountability. The Peer Review Committee has prepared *Model Screening Criteria to Assist Professional Standards Review Organizations* for the AMA PSRO manual and has published the *Manual of Psychiatric Peer Review*. Richard Dorsey, M.D., an APA member, has consulted with about 40 district branches over the past year, supplying assistance in the development of their peer review efforts. In March of this year a National Conference on Peer Review brought together third-party representatives, consumers, technical experts, and psychiatric leaders to further refine and develop the APA peer review system. It is anticipated that the proceedings of this conference will be published by early fall.

Interprofessional relations

Differences among the major mental health professions—psychiatry, psychology, social work, and nursing—are being discussed and sometimes heatedly debated. *Advance*, published by the Association for the Advancement of Psychology, has repeatedly criticized the officers of the Board and the Assembly of the American Psychiatric Association. In an article headlined "No Peace in Our Time" (3), *Advance* objected to what they labeled the "Gibson Syndrome." In testimony on national health insurance before the House Interstate and Foreign Commerce Committee I had said, "In my judgment, the diagnosis and determination that services are medically necessary should be made by a physician, a psychiatrist."

Although, the Association for the Advancement of Psychology, in a complaint filed with the Federal Trade Commission, alleged: "The Joint Commission on Accreditation of Hospitals standards are nothing less than artificial and predatory barriers . . . imposed with no medical, social, or economic justification. . . . [This] effectively and systematically prevents hospital patients from exercising their free choice of attending therapist. . . . Indisputedly, psychiatrists benefit from this arrangement." The Federal Trade Commission, which is still considering this complaint, was provided with a point-by-point refutation of the allegations that was prepared by APA's legal counsel.

Changes in traditional staffing patterns, greater emphasis on the team approach, and shifts in the level and degrees of responsibility are evolving. APA is not against change as long as it is rational and there are sufficient safeguards to maintain the safety and quality of treatment. An Ad Hoc Committee on Professional Relations has met for almost 3 years with representatives from psychology, social work, nursing, and the Mental Health Association to define more precisely the areas of practice appropriate for each of these professions. The presidents and executive directors of the two APAs have also met to improve communication between our two associations. The mental health professions are confronted by difficult questions. In articulating our positions scientific study is preferable to power politics. Considered judgment, restraint, and statesmanship are needed; our professional associations have an opportunity to work together collaboratively and responsibly.

Confidentiality

Concerning problems affecting the confidentiality of the doctor-patient relationship, I think we can be proud of the leadership that APA has provided in recent years. In a series of steps beginning with the Conference on the Confidentiality of Health Records held in Key Biscayne in November 1974, APA was able to organize 17 national organizations into forming the new National Commission on Confidentiality of Health Records in Washington, D.C. The commission, chaired by APA Past-President Alfred M. Freedman, is an action-oriented organization dedicated to coping more effectively with the growing threat to the confidentiality of health records implicit in the growth of third-party payments, "need to know" agencies, and computer technology.

Role conflicts

We may also be pleased that after several years of effort, APA was able to conduct the first major conference on problems of "role conflicts in psychiatry" in cooperation with the Hastings Institute of Society, Ethics, and the Life Sciences. While we must be concerned and alarmed about the abuses of psychiatry and psychiatrists in other countries, it behooves us also to cast a questioning eye at our own practices in the service of patients, on the one hand, and institutions, on the other, in the complex roles we play in the military, in universities, in hospitals, in prisons, and in other institutional frameworks. The report of the Hastings conference, which will be published within the next several months, will go far to raise our consciousness about the philosophical, ethical, and socioeconomic aspects of this problem area. Also, at the request of APA an open forum will be held during the World Congress of Psychiatry meetings in Hawaii to deal with the use of psychiatry to control political dissent.

Commission on Judicial Action

Through its Commission on Judicial Action, APA has proven remarkably effective in

monitoring federal Courts of Appeal and Supreme Court proceedings and in submitting amicus curiae briefs in cases that promise great positive or negative impact on the treatment of the mentally ill and our future as a profession. The resources we can put into this important area are of course limited and the legal costs high. However, we anticipate increased activity following the appointment last January of Mr. Joel Klein, a member of a Washington, D.C., law firm, as counsel; he will coordinate the activities of the commission and represent APA in its role as amicus curiae in cases selected by the commission.

Continuing medical education; certification and recertification

Continuing education requirements were voted by the APA membership in 1974; now we have to see that the system is fully implemented in a manner designed to help our members meet state licensure requirements as well as APA standards. For example, we are changing the format of our annual meeting to enable members to earn more continuing education credits than ever before. For those who are unable to attend the annual meeting, the Psychiatric Knowledge and Skills Self-Assessment Program will serve a similar purpose. We have also been collaborating with the AMA in its continuing education activities.

A rational plan for insuring the continuing competence of psychiatrists through certification and recertification programs is making headway under our auspices. While we are mindful of the heterogeneity of our membership, we see these efforts as a symbol of our strong commitment to meeting our professional responsibility.

ADVOCATES OF THE MENTALLY ILL

In these extensive activities our Association rarely has explicity designated authority. No longer does the public automatically accept our opinions and recommendations in areas of professional expertise. We must rely on educative efforts, carefully reasoned professional opinions, and effective presentations and leadership.

As we have become more active we have—through our national officers, the Assembly of District Branches, the district branches themselves, and our Medical Director and Central Office staff—engaged in a myriad of activities that go far beyond the scope of medical practice and scientific inquiry. Although the main concern of APA continues to be the scientific advancement of psychiatry, we must use this knowledge to serve as advocates for the mentally ill.

Some APA members interpret our actions as "selling out to the enemy" and repudiating what they believe to be our professional preregotives. They have a point; there *is* a delicate balance. But we must recognize that controls and regulatory authorities have already been established. We do not have absolute authority over the manner in which we perform professional tasks. We do not have complete control over the setting or conditions under which we practice. Militant refusal to become involved may succeed in some instances, but these victories are shortlived. Control of health care is no longer the professional prerogative of the physician. Health care, much like a public utility, belongs to the public.

The involvement of APA is not a passive accommodation. It is active, with particular emphasis on advocacy of the needs of patients. APA does represent the interests of its members, but it does so as a profession, not as a trade association. There need be no fundamental conflict. Patients and psychiatrists share a common goal—adequate health care for the mentally ill. Patients want care to be accessible, appropriate, and timely. Psychiatrists want adequate resources to provide such care and the opportunity to practice their profession under conditions that are in the best interests of the patient.

A NEW LEVEL OF ACCOUNTABILITY

In this day and age of accountability it is unrealistic to think that any profession can retain total control over professional tasks. We can achieve significant influence only by active participation with government, the consumer, third-party payers, and allied professions. We have known this for years, but we must now recognize that the current climate is more complex and more demanding. In the interest of quality patient care, responsible professional action is essential.

Of high priority is the introduction of peer review into the systems used for claims review and quality assurance. Claims review conducted by third-party payers has many disadvantages: 1) clinical judgments are susceptible to financial pressures, 2) third-party payers seldom have the clinicians capable of adeqaute review, 3) standards and criteria are established by the payers and not the providers, 4) the criteria are not open to public scrutiny, and 5) the findings of such reviews may be used by third-party payers to change the basic contract agreements under which treatment is provided. In short, reviews conducted by those outside the profession are designed to control costs, not to improve the health care system. They become a constraint imposed upon the professional.

On the other hand, if psychiatrists are made a part of the review system: 1) clinical judgments will reflect current psychiatric concepts; 2) psychiatrists with specialized competence will conduct meaningful clinical studies; 3) standards and criteria will be established, refined, and modified by the profession; 4) the standards and criteria will be open to public scrutiny; 5) and the findings will be used to improve psychiatric care as well as to control abuse and unnecessary expenditures. Claims review will no longer be a constraint; it will become a part of our professional quality assurance system—a resource contributing to the improvement of mental health care.

Peer review further illustrates the need for participation at both the national level and the local level. At the national level the Association, supported by the Office of Peer Review, has developed guidelines, influenced legislation and regulations, carried the message to members of Congress, worked with the major insurance carriers, and provided consultation to district branch peer review committees. But the actual review by peers must be carried out at the local level in accordance with standards and criteria developed for the area. Agreements with local carriers, the review of cases, and corrective actions must be done by district branch committees. The strength and the effectiveness of the American Psychiatric Association is based on the active participation of the total membership.

These are challenging times. A new level of accountability is expected from all professions. But this is not the problem. The danger is in allowing leadership to slip away from the mental health professions. This would be catastrophic, because the essence of professionalism is control over both the performance of professional tasks and the setting and conditions under which such tasks are performed. Individually and collectively we must demonstrate through responsible action that psychiatry is a profession worthy of the public trust.

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SENATOR RUSSELL LONG—CARRYING ON THE FAMILY TRADITION OF PUBLIC SERVICE WITH DISTINCTION

Mr. HUMPHREY. Mr. President, I would like to take just a moment to call to the attention of my fellow Senators a superb article on a fascinating subject—our colleague, RUSSELL LONG.

The August 1977 issue of Nation's Business has a well-researched article written by senior editor Vernon Louviere on RUSSELL which weaves the historical background of the Long family with the issues facing the Senate today.

As you know, RUSSELL is the third Long to be a Senator. Both his father and mother preceded him, serving here with distinction and honor.

RUSSELL and I have been friends a long time, longer than I care to recount in public. We attended college together at LSU in his native State of Louisiana—and that does go back a few years.

Mr. President, I ask unanimous consent to have printed in the RECORD a very fine article about a very great Senator.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR RUSSELL LONG: HE CAN INFLUENCE YOUR LIFE FOR YEARS TO COME

At 1600 Pennsylvania Avenue N.W., in the White House, Jimmy Carter ponders legislation that will affect the nation for years to come—legislation involving taxes to pay for Medicare, welfare, Social Security, and massive new health programs.

On Capitol Hill, less than two miles away along the avenue, one senator will pass judgment almost single-handedly on what President Carter gets or doesn't get in these areas.

Russell B. Long (D-La.) is chairman of the Senate Finance Committee, and, as such, his decisions influence the lives of all Americans. The man who fashions the tax policies of this nation ultimately touches us all.

Although he has almost as much power as any man in Washington, Sen. Long rarely, if ever, flaunts it publicly.

NO CHIP OFF THE OLD BLOCK

The son of flamboyant, outgoing, petulant Huey P. Long, Louisiana governor who also became a U.S. senator, he is no chip off the old block. Huey Long, who was felled by an assassin at age 42, when Russell was 17, did pass on many of his traits to his son. Russell Long is clever—some say brilliant. He is a master at legislative tactics and strategy, and he is a good storyteller. But the Kingfish, as Huey Long was called, was a spellbinder before an audience. Russell is rather lackluster.

Huey Long "was more a revolutionary," Russell Long says. "I am more the evolutionary type."

Russell Long shows no outward signs of wanting to be President, as his father did. Huey Long published a book in 1935, the year he was assassinated. It was called, "My First Years in the White House."

DEFEAT FOR ROOSEVELT?

"I think he would have been elected in 1940 if he had lived," Russell says. "He would have run as a third-party candidate. President Roosevelt had polls indicating that Huey Long would get so many votes as a third-party candidate in 1936 that a Republican would run ahead of Mr. Roosevelt.

"If that had been the case, and the people had gotten four more years of the kind of government that they had under Herbert Hoover, the public would have been inclined to look toward someone like Huey Long. At that point, I think, he would have had a chance to win."

NAME TO RECKON WITH

After Huey Long came out of the scrub country of northern Louisiana in 1918 to serve in his first elected office, as a member of the old state railroad commission in Baton Rouge, the name Long became synonymous with politics in the Bayou State. It still is.

The Kingfish dominated the political scene during his years as governor and senator. Russell Long's mother, Rose, completed Huey's unexpired term in the Senate. Russell's tempestuous uncle, Earl, who took over the so-called Long political machine in 1935, twice served as governor and won a seat in the House of Representatives in 1960, but died before he could take office.

Another uncle, Dr. George Long, a dentist, served in the House. So did a distant cousin, Speedy Long. Another distant cousin, Gillis Long, is an incumbent congressman.

A SENATOR AT 30

Russell Long's own plunge into politics started early. After a colorful, hoopla-filled campaign, he was elected president of the Louisiana State University student body. He later received his law degree at L.S.U.

In 1948, at age 29, he won a special election to fill the two-year unexpired U.S. Senate term of the late John P. Overton. He had to stand aside briefly before taking the seat because the Constitution sets the minimum age for a senator at 30.

Today he is sixth in seniority in the 100-member Senate, having served half his life there. He was named chairman of the Senate Finance Committee in January, 1966, after Sen. Harry F. Byrd, Sr. (D.-Va.) resigned for health reasons. At 58, Sen. Long has been a Senate committee chairman longer than all but four other chairmen. Some chairmen are in their late 70's.

Sen. Long has been described as a conservative, a liberal, a populist, and a reactionary, depending on who was hanging the label on him. In an interview with a Nation's Business editor, he said of himself:

'I am a populist in some respects, and I would like to think I am a conservative in other respects. I think some of the best senators and best Presidents are both conservative and liberal by the best definition of those words. If you mean conservative because they favor keeping the good things about the existing order, I would call them conservatives. And if you mean liberal because they favor aggressive, constructive change, I favor that.

"In some respects I even regard myself as a reactionary because there were some very good things in our lives that we let get away and should try to regain. Some of the old values had much more to be said for them than some of these new values we hear so much about. Whatever it was that gave us our inner strength as a nation, we should try to recapture it."

It is easy to see why Sen. Long will be called a conservative one day and a liberal the next. He can fight for some tax laws that make him the daling of the business community and turn right around and press for extensive new social benefits, winning kudos from liberals. Over the long haul, however, he is not looked upon with favor in the vote ratings of the liberal-oriented Americans for Democratic Action. He chalks up high marks with the conservative-leaning Americans for Constitutional Action.

FRIEND OF THE OIL INDUSTRY

He has long been champion of the oil industry, which is not unexpected in view of the prominence of Louisiana oil. He also has enjoyed a comfortable income over the years from personal oil holdings.

Russell Long is one of the most popular members of the Senate. He is respected by Democrats and Republicans alike. Sen. Bob Packwood (R.-Oregon) has said of him: "He is clever, he is crafty, he is smart, he is fair."

His popularity hit a low ebb in 1967, however, when Sen. Edward Kennedy (D.-Mass.) unseated him as Senate Democratic whip. This followed a period in which Sen. Long had joined with a handful of others in defending former Sen. Thomas J. Dodd (D.-Conn.) against charges of misusing political funds. About that same time Sen. Long staged a filibuster and successfully pushed through an amendment allowing taxpayers the right to apply $1 of their tax liability to presidential campaign funds. Although the filibuster was unpopular with other senators, Sen. Long regards this as one of the great triumphs of his career.

EXPERT ON TAX CODE

His father knew Louisiana law like the back of his hand, and Russell Long has no peer when it comes to the U.S. Tax Code. He manages a tax bill on the Senate floor with the consummate skill of a star quarterback moving his team toward the goal line. Sen. William Proxmire (D.-Wis.), who once came out on the short end of a skirmish with the Louisiana senator, said of him: "He knows the Tax Code about as thoroughly as the Pope knows the Lord's Prayer."

If Russell Long is center stage in matters affecting taxes, it was not always so. When Rep. Wilbur Mills (D.-Ark.) dominated the House Ways and Means Committee, his committee got most of the public attention. Mr. Mills, who was almost an institution of government, never let Sen. Long enjoy equal status.

Today, in a sense, the tables are turned. Rep. Al Ullman (D.-Oregon), who now heads the House Ways and Means Committee, sits in Sen. Long's shadow.

The senator has played a leading role in two massive restructurings of the American tax system—the Tax Reform Act of 1969 and the Tax Reform Act of 1976. He does not take lightly the charge by his detractors that the tax system is still full of loopholes.

"I would like to make the public understand something that is not apparent to everybody," he told Nation's Business. "We want people to contribute to charity, so we allow a deduction for charitable giving. We want manufacturers to buy new equipment, start new plants, and put more people to work, so we give them tax credits and deductions for doing those things. We want those who can to give money toward education. All these things are beneficial to society.

"Is it not fair, then, to give a tax advantage to those who contribute in this fashion over those who don't? There must be incentives in the system if we are to continue to enjoy such contributions."

The easygoing senator speaks out vigorously and sometimes bitterly if he feels he is unjustly criticized for looking after special interests or for engineering "midnight loopholes" in tax revision bills.

"FALSE TAX REFORM"

Last year he took on Sens. Kennedy and Proxmire, who had leveled such accusations. In a lengthy letter to "The Washington Post," the Louisiana lawmaker said:

"If the ringleaders of the false tax reform group had their way, they would not return the revenue gains of their 'reforms' to taxpayers by lowering tax rates. They would end many of the incentives which encourage private enterprise to expand and to create new jobs, in order to plow these billions into bigger government, more bureaucracy, and ever-expanding social welfare programs.

"If that is what the American taxpayer really wants, then he should have it. But it should not be fed to him under the guise of tax reform."

Sen. Long says he appreciates the criticism that the more tax forms supposedly are simplified, the more complicated they become. He is convinced, however, that the estimated 76 percent of taxpayers who will use the standard deduction next year will find the income tax form the simplest in several decades.

Even those who file itemized deductions should be happy with the 1977 form, he says.

ADVICE FOR BUSINESSMEN

Sen. Long has advice for businessmen who feel they get shortchanged by Congress: Get organized and stop talking only with lawmakers who are friendly to business.

"The business community will have to gear itself to communicate its story to the middle in Congress," he says. "The business community could be twice as effective if it would recognize that the outcomes of these difficult debates in Congress are decided by the middle, not the fellows on the left or the right.

"The trouble with business is that it communicates too much with the people who are with it already and too little with the people who are doubtful or who may be committed to the other side. Business should try to talk with the moderates and those who are left of center in more meaningful language.

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consumer, state, and local taxes that the mind of man can conceive. They are paying high gift taxes, and when they die, up to 70 percent of what they own is taken in inheritance taxes."

America may have reached the point of diminishing returns as far as adding new tax burdens at upper levels of income is concerned, Sen. Long says. "If you tax these people too heavily, they will simply reduce their effort," he says. "They will not create the new jobs and opportunities that we need."

ENERGY "DISASTER"

The President and the senator are almost certain to have a major confrontation over energy legislation. A hint of this came recently when Sen. Long commented on a Mobil Corp. newspaper advertisement which suggested that the core of the energy problem is not shortage, but deliverability of domestic energy. Sen. Long said in a letter to his 99 colleagues:

"This article points out briefly and clearly what is wrong with the President's proposed energy plan: It is an unmitigated disaster on the production side.

"The conservation side of the equation must be pursued. However, the most that this aspect can accomplish in the foreseeable future is to reduce the gross rate in energy consumption.

"To get at the energy problem in a way which does not stultify and impede the growth of the American economy, this country must place far more emphasis on the production side."

WELFARE REFORM

The senator has equally strong views about correcting the welfare system, which he feels does not offer incentives that are adequate for getting the able-bodied poor to help support themselves.

He says he agrees with Labor Secretary Ray Marshall that private-sector jobs are preferable but that, when they cannot be provided, the government should step in and make jobs available.

"We are generally talking about families of two, three, or more members where at least one person is able-bodied and in a position to earn some pay," he explains. "We should offer a work opportunity sufficiently rewarding to move that family out of poverty.

"If such jobs are turned down, this kind of family should not be privileged to live on the tax money of people who are working at the same relative wage scale and are paying their fair share of taxes.

"I don't want anyone to starve, of course.

But I see no reason why help should be extended to those who are able and yet reject employment opportunities."

Sen. Long thinks true welfare reform will finally come about someday. He doesn't know when.

Among the senator's proudest accomplishments is that he was able to help block adoption of President Nixon's proposed family assistance plan, which would have added low-income wage earners to welfare rolls for the first time.

"This would have doubled the number of people on welfare immediately and quadrupled the number in time," Sen. Long explains. "If this legislation had passed, our form of government could have been destroyed. There would have been so many people on welfare that the politicians could not have avoided continuing to raise benefits. And more and more people would have gone on welfare, to the point where those on welfare would have outnumbered those not on welfare.

"By defeating this legislation, we may have saved the American free enterprise system."

Does the senator see the private enterprise system as being in trouble now?

"It sure is. So many burdens are being piled on business—on an environmental basis, on a safety basis, on the basis of the government telling business how to produce its products and to whom they can be sold.

"Today's businessman must have the genius of an Einstein, the memory of an elephant, and the education of a lawyer, scientist, and educator all wrapped in one.

"If we keep adding burdens on business, the system will fail. Businessmen simply cannot shoulder all of these burdens. We must reduce government interference in the operation of businesses and in the lives of our people in general."

SHARING THE WEALTH

When Huey Long pushed a program of heavier taxation on businesses and prosperous individuals in Louisiana, he hit on a slogan—"share the wealth"—which made him a popular figure in what was then a generally impoverished America.

Russell Long would like to share the wealth, too, but not in his father's fashion of taking from the haves and giving to the have-nots.

"My greatest hope is to see us reach a day when the great majority of our people will enjoy the good things of this country," he says. "I don't seek to redistribute the wealth as my father did in his day. I would just like to see us distribute the wealth somewhat more evenly."

He estimates that about 85 percent of today's property, money, tangible goods, etc., are owned by 15 percent of the people, while 35 percent own about ten percent and the other 50 percent have the remaining five percent.

"I would like to see this redistributed in such a fashion that 30 percent would be owned by the 15 percent of the people at the top, about 35 percent by the 35 percent in the middle, and the balance by the other 50 percent of our citizens."

He adds that he sees "an America where someday everybody will live above the poverty line."

How would the senator accomplish this? He explains:

"You would need more employee stock ownership plans and expanded pension plans, and you may need some other things that I can't anticipate at this time."

Sen. Long advocates an employee stock ownership plan which, he says, is gaining popularity around the country. He sponsored a provision in the Tax Reduction Act of 1975 which cleared the way for creation of ESOP's.

When a company files for a ten percent investment tax credit, the government adds an extra one percent tax credit for setting up an ESOP trust fund. Monies accumulating in the fund are converted to shares of stock which in turn are assigned to employees. [See "How to Motivate Your Employees and Raise Capital, Too," Nation's Business, October, 1976.]

There is no question that Russell Long enjoys his work. He rarely misses a Finance Committee session and will sit through hours of tedious testimony, seemingly relishing every word.

In 1973, in a rare display of emotion, the entire Senate spontaneously applauded Sen. Long after passage of a complicated Social Security bill. For 2½ days, and well into the night, Mr. Long had been on the floor managing the bill. Dozens of amendments were debated and voted upon.

THE ULTIMATE ACCOLADE

The ultimate accolade came from then Senate Majority Leader Mike Mansfield (D.-Mont.), who, when the final vote was taken, rose and said:

"I commend the distinguished senator from Louisiana for doing his usual skillful managerial job on a most difficult piece of legislation.

"Speaking personally, I am glad I am not in his shoes because this is a most difficult committee to chair, and this piece of legislation, which the Senate has just agreed to, was one of the most difficult to manage through this chamber.

"When one considers all the amendments which have been offered today and one becomes aware of the skill, the knowledge, and the maneuverability of the distinguished senator, one cannot help but admire him."

ISSUES BEFORE SENATOR LONG'S COMMITTEE NOW

Here is some of the major legislation being considered this year by Chairman Russell Long's Senate Finance Committee:

Energy tax measures.—Impose a crude oil equalization tax to bring the market price of price-controlled oil up to the price of uncontrolled oil by 1980. Grant per capita tax rebates to all taxpayers and special rebates to individuals using home heating oil. Levy a two-tiered tax on industrial users of oil and natural gas who consume in excess of the equivalent of 50,000 barrels per year. Impose a tax on new cars obtaining less than 15 miles per gallon of gasoline and offer tax-credit incentives for home insulation and other conservation measures.

Public Assistance Amendments of 1977.—Expand federal support for child welfare services with particular emphasis on taking children out of foster care, either by reuniting them with their families or by arranging for their adoption. Provide an additional $200 million in child care funds and extend the federal program of supplemental security income to needy, aged, and disabled persons in Puerto Rico.

Social Security financing.—The Social Security system faces a serious long-term deficit and needs additional funding in the near future. President Carter has proposed a combination of tax increases and benefit modifications to deal with this financing problem.

Medicare and Medicaid abuses.—This bill contains a number of provisions designed to curb abuse of the Medicare and Medicaid programs by providers of medical care.

Hospital cost containment.—President Carter has proposed short-term measures to limit reimbursement to hospitals in order to save funds under major federal health programs. Other proposals pending in the committee deal with curbing hospital cost increases over the long term.

PRESIDENT'S PROPOSAL ON UNDOCUMENTED ALIENS

Mr. KENNEDY. Mr. President, I welcome President Carter's message today regarding his recommendations to help reduce the increasing flow of undocumented aliens into the United States and to help regulate the presence of such aliens already here.

The problem of undocumented aliens has festered too long, injuring many people and our society as a whole. For too many years, it has been the subject of much controversy and debate. And the time is past due for action in this significant area of public policy and concern.

In recent weeks legislative and administrative remedies have been the subject of intense study by the President and members of his administration. There has been a good deal of public discussion, and consultations with Members of Congress and others have been held on a regular basis.

No proposal will be a panacea. Moreover, the problem before us clearly has economic and social dimensions, which not only involve undocumented aliens and our own citizens and society—but also our diplomacy in the international community, and our relations with other countries. And the foreign dimensions of the problem we cannot neglect.

But the President's initiative is an important first step—even a breakthrough—in finding new and reasonable alternatives to deal with the problem of undocumented aliens.

Although there may be some reservations about specific aspects of the President's recommendations, his efforts to sort out and remedy the complex problems of undocumented aliens deserve the support of all Americans. And I am hopeful that Congress will give full and early consideration to the bill which the administration will send to Congress within the coming weeks.

I am also gratified, Mr. President, that a comprehensive review of all aspects of our national immigration policy will be undertaken by an interagency committee appointed by the President.

HYDROCARBON TREATY WITH CANADA

Mr. HUMPHREY. Mr. President, I am 100 percent in support of the Hydrocarbon Treaty with Canada which we passed yesterday. I want to make my position on this issue very clear—it is absolutely essential that we clear up any misunderstandings concerning the treaty at this time.

Our colleague, Senator STEVENS, suggested that the payments under consideration by the Canadian Government for offsetting the socioeconomic impacts of a pipeline built north of the 60th parallel should be in violation of the treaty. I disagree.

It is important that we recognize the responsibility of the Canadian Government to protect the interests of their countrymen.

It is also important that we not tie the President's hands in negotiating an acceptable transport route for Alaskan natural gas.

A required payment to offset the socioeconomic impact of a pipeline would not be a discriminatory tax—especially since the rationale behind such a payment is that it would be required of any pro-

posed pipeline to be constructed above the 60th parallel.

The State Department, as part of the administration's task force evaluation of Alaskan natural gas, has indicated that this issue can be easily resolved and friendly relations with Canada maintained under the existing provisions of the treaty.

Let me stress that this is the sort of issue the treaty is intended to resolve. It provides—among other things—the framework necessary for negotiating the details of a trans-Canada, Alaskan gas pipeline.

The $200 million socioeconomic payment requested by Canada is not yet official. It does not threaten the economic feasibility of a trans-Canada pipeline.

It is a matter which the President must work out in his decision concerning a route for transporting Alaskan natural gas, and in his subsequent negotiations with the Canadian Government.

As my colleagues know, I have maintained a deep interest in relations between the United States and our Canadian friends across the northern border since first coming to this body to represent the State of Minnesota—indeed, even before then. I want to express my gratitude to Senator STEVENS for withdrawing his reservations to the Transit Pipeline Treaty with Canada.

The remarks of the Senator are evidence of his deep sense of responsibility and service to his constituents in Alaska. He has made clear their desire that gas from Alaska's North Slope be carried to markets in the lower 48 States by the El Paso project which he so ardently supports.

However, the Transit Pipeline Treaty with Canada should be viewed from the larger perspectives of Canadian-American relations and the needs of the American consumer. It provides government-to-government assurances on a reciprocal basis that pipelines carrying hydrocarbons owned by one country across the territory of the other will be free from interruptions in flow and from discriminatory taxation. The Committee on Foreign Relations held full hearings on this treaty in June, and ordered without dissent that it be reported favorably.

The points raised by the Senator from Alaska were fully covered by representatives from the State Department at the hearings on the treaty. The Government of Canada has consistently taken the position that native claims are not required to be settled before construction of a pipeline can begin and that any costs of native claims' settlements will not be assessed against the pipeline project. The letter of July 28 from the Department of State to the Foreign Relations Committee which the distinguished chairman of the committee has inserted into the RECORD confirms this position.

It has also been clearly established as I have just noted that any contribution for the indirect socioeconomic costs of the pipeline project in the area north of the 60th parallel would not be a discriminatory tax. Socioeconomic compensation required of any pipeline project sponsor cannot be construed as a tax or as discriminatory; it would not violate article III of the treaty.

As for the Senator's concern about the level of provincial taxes which may be imposed on the pipeline, it must be remembered that the Transit Pipeline Treaty is of mutual benefit to consumers in both countries. In fact, Canadians are much more dependent on oil and gas pipelines which run through American territory than we are on pipelines through Canada. It would not be in the self-interest of provincial governments in Canada to levy unreasonable taxes on a transit pipeline because State and Federal governments in the United States would be able to retaliate in kind against pipelines carrying oil and gas to Canadian consumers.

One other point should be clarified for the record. The Senator observed in his remarks that an additional protocol would be necessary before the Alcan pipeline could be built, and that such a protocol must be ratified by the Senate. In the hearings on the treaty and in correspondence with the committee, the Assistant Secretary of State for Economic and Business Affairs and the Deputy Legal Adviser in the Department of State both made clear that while a protocol may be negotiated, it is not required; and in any event, it might not be subject to the advice and consent of the Senate. If the protocol were to involve only questions of administrative detail which supplement the treaty provisions, it could properly be handled through an executive agreement.

In conclusion, let me express my gratitude to the Senator from Alaska for his continued attention and concern in this sensitive area, and for his agreement to withdraw conditions to the Pipeline Treaty. I believe these conditions, if imposed, would serve only to unduly embarrass our good Canadian friends and, in any case, their have already been adequately covered in the committee's hearings and report. In speaking on the natural gas shortage in this country, earlier this week, I mentioned that Canada has been one of our greatest benefactors in providing us with natural gas. She deserves our sincere appreciation for her emergency gas exports this past winter. We must continue to work cooperatively with her to produce, transport, and utilize efficiently the vast natural gas resources we share in Alaska and the northern Yukon.

HUMAN RIGHTS VIOLATIONS IN BOLIVIA

Mr. KENNEDY. Mr. President, I want to call the attention of my colleagues to the fact that the administration's commendable concern and commitment to human rights does not appear to have extended to the case of Bolivia. The State Department Report on Human Rights did not report "consistent pattern of gross violations of internationally recognized human rights" in Bolivia under the requirements of the Foreign Assistance Act. However, this report has been challenged by a group of North American missionaries, residing in Bolivia. In a letter handed to Assistant Secretary of State Todman in La Paz, on May 14, 1977, the missionaries indicate that such a pattern of human rights violations does in fact exist in Bolivia.

Between 1971 and 1974 Bolivia suffered a period of massive arrests, torture and deportation, in which a large number of political and labor leaders were exiled. Since then, however, the repression has continued. Laws enacted on November 9, 1974 bar all forms of organization, especially by political parties and labor unions, thereby severely curtailing freedom of association. The freedom to work was also curbed through the Decree of Obligatory Civil Service, which requires every adult civilian to accept arbitrary job assignments by the government. Freedom of speech has been undermined by forcible termination of radio stations and imprisonment or exile of journalists and editors.

In the case of Bolivia, repression has been institutionalized by so-called legal decrees. The "rule of law" is now the rule of repression. This new rule of law not only tolerates the violation of human rights in the form of arbitrary arrests, imprisonment and torture, but also legitimizes the violation of the basic social and economic rights of the Bolivian citizens. Regrettably, this legal form of repression is emerging as a pattern in other nations in this hemisphere and elsewhere.

Mr. President, the North American missionaries agreed to draft and deliver the letter to Assistant Secretary of State Todman on the condition that their names would not become public knowledge so that they could continue their work in Bolivia. Accordingly, I ask unanimous consent that the letter handed Mr. Todman be printed in the RECORD, excluding the names of the North American missionaries.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
HUMAN RIGHTS SUBDIVISION,
Washington, D.C.

DEAR SIR: We who have read the State Department Report on Human Rights in Bolivia officially presented to the Congress and presumably prepared by the U.S. Consulate in Bolivia. As U.S. citizens (the majority of us with many years experience in Bolivia), we believe that the report as it stands gives a false impression of the human right situation in Bolivia. Many vague and misleading points need clarifying; other erroneous statements need correction; and finally, a number of significant facts need to be added, because they are simply omitted from the report. What follows is a topical commentary on the report, prepared in common by the group in the hope of offering to President Carter and the Congress a truer and more accurate picture of the situation of human rights in Bolivia.

1. *General Comments on the Report—*

In general, we feel that the value of the report is weakened by several serious flaws:

(1.1) Ambiguity of expression. As an example, we might cite the following statement: "A majority of the peope are still not protected from occasional infringement of the right to life on the part of military and security forces." By the use of the word "majority" here, the report concedes that practically no one, whatever his position, is im-

mune to the threat of assassination by the Government or its agents. This is verified by the fact that an ex-minister, Colonel Andres Selich, as well as masses of peasants, has been liquidated by the present government. But the use of the word "occasional" in the same statement seems intended to weaken this reality perhaps by implying that because the violation is infrequent, it is not systematic and that therefore the threat of loss of life is not really a factor in the Bolivian political system. Whatever the intent of the statement, it is extremely ambiguous as it stands.

(1.2) This vagueness and ambiguity result often from an ignorance of the concrete reality; e.g., the naive statements about the official government amnesties (cf. below, point No. 2.7)

(1.3) Often the information reported is out of date; e.g., the number of political prisoners.

(1.4) In the majority of cases, the sources of information cited are not direct; e.g., there is no evidence that political prisoners or labor leaders have been quoted or interviewed, whereas official government statements are accepted at face value ("no torture)."

2. Clarifications and Additions:

2.1 Freedom of unions and labor activity—

(2.1.1) All union elections have been officially proscribed since the promulgation of the November, 1974, decrees, even in the least politicized unions where elections are carried out with full assurance of freedom and democracy.

(2.1.2) Despite this prohibition, the Government was not able to prevent the powerful Miners' Federation from holding democratic elections on local and national levels. However, as a result of the elimination of this Federation, it has not been possible since May of 1976 to hold any union elections whatever, whether they be labor or professional unions.

(2.1.3.) The Bolivian Workers' Central (C.O.B.), which is the central organization uniting the particular unions and federations, has been proscribed by the Government since August of 1971.

(2.1.4.) All federations have been shut down since November, 1974.

(2.1.5.) All the present union leaders (called coordinators), both on the national and regional level, have been named directly by the Government.

(2.1.6.) Those labor leaders who were democratically elected by the workers have been disauthorized by the Government.

(2.1.7.) All the officials of the Bolivian Workers' Central and the majority of the officials of the different national federations are actively persecuted and sought by the Government, or have already been exiled from the country.

(2.1.8.) The strikes which the report simply says "do occur", are carried out at great personal risk to the workers, who must suffer severe reprisals by the Government. As a result of the miners' strike in 1976, fifty-three union leaders were sent into exile to Chile, where they remained confined in small and inhospitable villages in the South, and were subjected to strict police vigilance. As a result of both the miners' strike and the Manaco Shoe Factory strike in Cochabamba, also in 1976, a large number of workers were arrested, or threatened with exile and with being fired with loss of all their social benefits, in conformity with the November decrees.

(2.1.9.) At present there is not one labor union which functions. Workers prepresentation is exercised exclusively by the coordinators, in every case named directly by the Government through the Labor Ministry.

2.2. Economic situation of the Bolivian workers.—

(2.2.1.) Workers' salaries have been frozen since November 1972. But the cost of living has continued to rise, at moderate but constant rates. In 1976, the economy suffered a rate of 15% rate of inflation. The work "bonuses" granted by the Government have not been able to keep pace with this increase (cf. No. 3 below).

2.2.2.) The modest economic development which Bolivia is experiencing favors almost exclusively business sectors and the military and state bureaucracy, and not the workers or peasants.

(2.2.3.) Despite a 6.3% increase in the G.N.P. in 1976 a recent study published by the Catholic Church has shown that the real salaries of workers are 25% lower than six years ago. (cf. "Boletin de la Conferencia de Religiosos de Bolivia", No. 23).

2.3 Legal situation of the Country.—

(2.3.1.) The legislature has not been operative in Bolivia in the past ten years.

(2.3.2.) The Government of President Banzer formally recognizes the Constitution of 1967; nevertheless, in fact the Government has practically annulled the Constitution with its decree of 1972 stating that the provisions of the Constitution remain in effect only insofar as they are "not opposed to the present Government statute, to the dispositions of an institutional character and to the Decree-Laws which this Government adopts in the interests of the country."

(2.3.3.) Besides the latter decree, the Law of State Security is still in effect.

(2.3.4.) In Bolivia, the judiciary branch has traditionally been subordinated to the executive. At the prest time, this subordination of the judicial power is more strict and ironclad than ever before.

(2.3.5.) Since 1973, no "habeas corpus" has been heard by the courts.

(2.3.6.) Prior to that date, all the "habeas corpus" that were heard by the Banzer Government were declared null.

(2.3.7.) Not one political prisoner has been granted due process in the last two years.

(2.3.8.) The legal system suffers not only from the defect of "justice delayed" but also from the aberration of the presumption of guilt without trial. Furthermore, the Bolivian jail system includes many places of confinement for which there is no legal provision—illegal prisons where there are no visits by officials of the court, no legal controls, no checks against abuses of discipline, and where prison life, punishments, torture, etc., are subject to the arbitrary determination of the director. Such is the case, for example, in the prisons for political prisoners in Chonchocoro, and Achocalla, outside of La Paza, as well as the "granjas," prisons for common criminals in Caranavi and Santa Cruz.

(2.3.9.) At present, the Bolivian Government sentences many political opponents to confinement, not only carcelary but territorial as well. Many political prisoners, once they are released from jail, still are obliged to present themselves to the security forces daily or weekly. The least suspicion is cause for their being arrested again.

(2.3.11.) In Bolivia, terrorism by leftist groups does not exist as a political tactic. With but few exceptions, persons are imprisoned or persecuted exclusively because of their opinions or because of non-violent political and labor activities.

2.4 Situation of political prisoners—

(2.4.1.) There are many prisoners who have been in jail for more than one year with no possibility of initiating a legal process; e.g. Nila Heredia, Antonio Peredo, Jorge Sologuren and Marcos Farfan.

(2.4.2.) The vast majority of political prisoners, after spending a lengthy period of time in jail with no trial, are expelled from the country. Those who avoid exile and succeed in staying in the country, are subjected to permanent vigilance by the security forces.

(2.4.3.) Although there are no accurate figures on the subject, it is estimated that since the Banzer Government took power, more than six thousand Bolivians have been exiled and can not return to Bolivia. They represent all the diverse social classes and walks of life: miners, professionals, university students, factory workers, professors and teachers, Indian peasants, political leaders, priests and nuns, etc.

(2.4.4.) The raiding of private homes without judicial permission or warrant is very common. In these raids, the agents usually confiscate all personal documents and not infrequently steal whatever they find of value in the home, even from the poorest of families.

(2.4.5.) There are at present some 120 to 150 political prisoners.

2.5 Treatment of Political Prisoners—

(2.5.1.) It is common practice to hold prisoners in solitary confinement during the first few weeks of their detention.

(2.5.2.) Political prisoners of more importance are held totally incommunicado for months. At present there are twenty such prisoners. We can cite the names of Antonio Perede, Jose Fimentel, Ruben Eguino, Zenón Barrientos Mamani, Alejandre Rojas, Ivan Paz, Artemio Camargo, David Zapata, Ricardo Fernandez, Remberto Cardenas, Teodore Sarmiento.

(2.5.3.) There are also nine women prisoners being held in jail in *Viacha* in literally sub-human conditions. Some of them have been in prison for more than a year without legal process.

(2.5.4.) With regard to torture, we can affirm that it continues, only now in a much more subtle and systematic fashion. We submit the following proofs:

(2.5.4.1.) Bishop Alejandro Mestre, Catholic Auxiliary Bishop of Sucre and Executive Secretary of the Episcopal Conference, who for more than two years was the Bishops' official representative in visiting the prisoners, publicly affirmed the following: "Unfortunately I must admit that even at that time (1974 and 1975), and afterwards as well, there were deplorable cases of prisoners' being treated inhumanly. These can be found in the records of the Ministry of the Interior, undoubtedly, together with various letters of my own addressed to the Minister, protesting strongly against the excesses committed by some of the agents. . . . Recently there have been cases of inhuman treatment using ropes, whips, and beatings with truncheons, administered even to girls. I don't say this from mere hearsay, but I have been able to confirm it myself, at times seeing their bruises and wounds. Some prisoners were held manacled in their cells for some time. . . . I have repeatedly expressed verbally to the Minister my disagreement with the method followed in arrests, sometimes made on the basis of mere accusations (perhaps out of bad will or for personal ends), while due trial is delayed or omitted altogether." According to the newspaper which quoted this statement, "Bishop Mestre expressed the Catholic Church's concern, made known to the Minister of Interior, about political arrests made on the basis of intrigues or denunciations against innocent persons." (*"Presencia"*, March 17, 1977).

(2.5.4.2.) Report of Father Robert Leibrecht, official representative of the Episcopal Conference from March, 1976, to December of the same year: "Some prisoners have signs of having been beaten or tortured; we saw their legs with wounds, their hands with no circulation, their bodies covered with bruises . . . (visit to the Panoptico jail, La Paz, June 16, 1976)

"We saw the signs (of beatings) on the bodies of five prisoners who had been tortured." (visit to the Department of Political Order, La Paz, June 17, 1976).

"There is a group (of prisoners) which has not received any visits for six months.

The prisoners who have been in jail the longest time have had not a change of clothes for quite some time. The families of some of these prisoners did not know where they were because the Ministry of the Interior did not give them any information despite their pleas." (visit to D. O. P., La Paz, June 17, 1976).

"One group of ten prisoners has only one blanket among them. There are several who were beaten when taken prisoner. One has a fractured hand; another has broken ribs; and still another urgently needs a chest x-ray since he is in bad condition due to the beatings. They go to the bathroom in the open fields. No showers, no light, no running water. They have received no visit for two months, with the exception of one prisoner. Their families don't know where they are." (visit to the prison of Chonchocoro, June 17, 1976).

"There is a lack of blankets and mattresses. The five women prisoners urinate blood due to the cold. The men can go to the bathroom only twice a day; at 9:00 A.M. and at 8:00 P.M. The women have cans in their cells . . . There are four women who were badly tortured in Cochabamba and Oruro when they were taken prisoners. One of them was submitted to three interrogations at dawn, whipped and kicked in the stomach. Another was taken prisoner with her nine-month-old daughter, whom they used to torture her. Until our visit, they had no light, and they were given a light bulb the night before our visit. Their relatives don't know they are there. Ours is the first visit they've had in six months." (visit to the prison of Viacha, June 18, 1976),

(2.5.4.3.) On the sixth day of May 1977, the priests of six parishes in the City of Cochabamba made a declaration publicly denouncing the torture of the student Faustino Tarrico in the police cells of the city prison. (*Presencia*, May 6, 1977).

(2.5.4.4.) There are many prisoners who remain totally incommunicado (even for the official Church and Red Cross representatives) precisely because visible on their bodies are the wounds from the torture they have received.

(2.5.4.5.) Some of the investigation group have heard tapes of trustworthy prisoners in which detailed information is given as to modern methods of torture, and in which they identify their torturers with their real and code names. Among the torturers still used by the Government are the notorious.

(2.5.4.6.) Also, some of us have personally helped to pay the medical expenses of prisoners who were badly tortured and then freed when their innocence was proved.

2.6 Serious violations of International Norms—

The Government of President Banzer has violated and continues to violate in a grave and systematic way established international norms with respect to Bolivian citizens who are forced to leave the country. Thousands of citizens have been expelled from Bolivia without any hope of returning. But, because most countries would object to receiving such persons as residents instead of tourists, the Bolivian Government has recourse to a stratagem calculated to fool the immigration officials of other countries. The passport of the expelled person contains nothing to indicate his condition of political deportee. He leaves Bolivia and enters another country officially as a tourist; nevertheless, he can not return to Bolivia, because the seal and signature in his passport are in red ink. This means that the security forces of Bolivia will no longer permit him to return to his country. Because of this fictitious tourist status, the person exiled must travel with return trip tickets, which of course he will never use.

2.7 Christmas Amnesty—

It is a tradition in Bolivia for the Government to dictate an amnesty on Christmas Eve. The Banzer Government could hardly deviate from this custom. However, not infrequently the amnesty has turned out to be a farce, for the following reasons:

(2.7.1.) Included in the list of those favored with amnesty are some prisoners who have been freed weeks or even months previously.

(2.7.2.) Some days before the amnesty, innocent peasants and workers are arrested, so that their release on Chirstmas Eve can swell the list of thcse freed.

(2.7.3.) In 1974, the Commission of Justice and Peace presented a report to the Bolivian Episcopal Conference proving that more than 50% of those released by amnesty were totally innocent and did not even have any political background.

(2.7.4.) Although the Government presents the Christmas amnesty as benefiting only political prisoners, it usually includes common criminals convicted of various crimes, again to swell the list.

2.8 Real faculties of the Bishops' representative who visits the prisoners—

According to the testimony of the priest who presently is the Bishops' representative to visit the jails, his mission is seriously limited by the following factors:

(2.8.1) He can not visit at all times all the places of detention (and never can he visit the cells in the Ministry of Interior itself).

(2.8.2) He can never speak to the more important political prisoners without agents of the Intelligence Service being present.

(2.8.3) There are some prisoners whom not even a priest has been allowed to visit for close to a year; e.g. Zenon Barrientos Mamani, Edmir Espinoza, Luis Stamponió . . .

(2.8.4) Knowing that the priest who actually visits the prisoners would never cover up the truth and that he could formulate serious accusations against the Security Forces, the Ministry of the Interior has itself appointed a priest to visit the jails who enjoys the confidence of the Government. In this way there is no danger that this official Church representative will make a public declaration which is contrary to the Govenment's interests.

2.9 The reports of the Red Cross and of Amnesty International—

(2.9.1) The International Red Cross does not enjoy enough independence of the Government to allow it to visit all the political prisoners and to press for an improvement in the inhuman conditions in which most of them live. The Bolivian Red Cross, unfortunately, is excessively subordinated to the Government.

(2.9.3.) With reference to Amnesty International, it is most desriable that an official commission from Amnesty visit Bolivia to analyze the present situation of human rights. The last official visit of Amnesty to Bolivia was in 1974.

2.10. Freedom of the Press—

With regard to freedom of the press, it is sufficient to cite a few salient facts in order to put into perspective the present situation of oppression.

(2.10.1) There are fifty-eight Bolivian journalists who are presently living in exile. (We have the complete list.)

(2.10.2) Two journalists are presently prisoners in the Department of Political Order (D.O.P.) in La Paz, incommunicado for over two months: Ivan Paz and David Zapata.

(2.10.3) There are several radio stations under government interventions; e.g., the radios in the mining areas.

(2.10.4) The Church radio, Radio Fides was fined by the Government, and Radio Pio XII was destroyed by agents of the Government Intelligence Service in 1975. Radio Progreso was recently suspended for a week for opposing a government proposed exchange of territory with Chile to allow Bolivia an exit to the sea.

(2.10.5) Since June of 1976, no Bolivian or foreign journalist has been allowed to enter the mining centers to report on the situation there. This prohibition has been strictly enforced.

(2.10.6) By official communique of the High Command of the Armed Forces, October, 1976, the publication of all articles and commentaries critical of "state dignitaries" and members of the Armed Forces is forbidden.

14 de May, 1977.

LA PAZ, BOLIVIA.

NOTE.—A representative group of American citizens has signed this Report which was presented to Mr. Terence Todman on May 14, 1977.

CANADIAN RECOMMENDATIONS SUPPORT THE ALCAN TRANS-CANADIAN PIPELINE

Mr. HUMPHREY. Mr. President, the recent reports by two Canadian boards of inquiry support the Alcan Company's proposed pipeline for transporting Alaskan natural gas across Canada to U.S. markets.

In their interim report last week, the Canadian Environmental Assessment Panel endorsed the proposed Alcan pipeline as "environmentally acceptable." Their findings are based on extensive public hearings and expert testimony from several witnesses.

The Panel's report confirms the recommendations of Canada's National Energy Board, and supports the findings of the Administration's Task Force study and the Environmental Protection Agency.

This unprecedented agreement on the environmental feasibility of such a mammoth project is noteworthy in itself. But this also represents a very significant step toward Canada's selection and approval of the much needed Alaskan gas pipeline.

Tuesday, the Canadian board established to evaluate the socio-economic impacts of the pipeline gave its unanimous approval of the project. The board, chaired by Dean Lysyk of the University of British Columbia Law School, stated that negotiations for the settlement of native land claims in the Southern Yukon are currently progressing well. These land claims had been viewed as a major stumbling block to the approval of the pipeline. However, the Board expressed confidence that a "settlement-in-principle" concerning these claims would be made next year.

The Lysyk Board also recommended some delay in the pipeline construction schedule in order to implement the eventual claims settlement. According to Alcan officials, this will mean an increased efficiency in construction of the pipeline, plus additional savings as a result of more careful planning. By reordering construction plans, the Alcan Co. will be able to minimize this delay to 8 or 9 months.

In light of the fact that Alcan's projected completion date is 6 months earlier than any other proposed route for transporting Alaskan gas, this delay is further minimized.

Some additional time would also allow for more careful study of the National

Energy Board's requested rerouting of the Alcan pipeline in the southern Yukon. This could mean additional savings to U.S. consumers, depending on the route selected.

The Lysyk Board recommended that once the Alcan pipeline is "approved-in-principle," a single Canadian agency be established immediately in order to oversee the comprehensive development of the project. This likewise would expedite the flow of Alaskan gas to U.S. customers and avoid any unnecessary bureaucratic redtape.

Mr. President, the Alcan proposal is in the best interests of both the United States and Canadian consumers. It will assure the flow of Canadian gas imports to this country and help provide Canada access to her vast polar reserves of natural gas.

It is my hope that when the Canadian Parliament meets today and Friday to debate this issue, they will support the prompt development of the Alcan pipeline as recommended by all Canadian authorities who have evaluated the system.

SENATOR DICK CLARK'S LEADERSHIP ON REFORM OF CAMPAIGN FINANCING

Mr. KENNEDY. Mr. President, the temporary setback to the cause of public financing of elections at the hands of the Senate filibuster over the past 2 weeks should not be allowed to eclipse the outstanding leadership of the distinguished Senator from Iowa (Mr. CLARK) on this issue.

Since he came to the Senate in 1972, Senator CLARK has been an effective leader on election reform. He played a key role in the enactment of the Election Reform Act of 1974 in the 93d Congress and an equally effective role in the enactment of the 1976 reform legislation in the 94th Congress. Together, these two landmark bills laid the groundwork for the highly successful application of public financing in the Presidential elections of 1976.

From the beginning of the present Congress, Senator CLARK has worked brilliantly and tirelessly to extend the concept of public financing to Senate and House elections. As the principal sponsor of S. 926, he devoted many hours and enormous energy to the bill over a period of many months, skillfully shepherding it from its introduction last March, through the committee hearing and markup stages, and then to the Senate floor for the long and difficult debate that ended yesterday.

It was primarily because of Senator CLARK's able and articulate leadership that the public financing provisions of S. 926 came so close to approval by the Senate. All of us are well aware of the substantial and continuing efforts he made to explain the complex provisions of the bill to other Senators in personal meetings and on the Senate floor. It was a remarkable and an imaginative effort, and no less so because the Senate did not succeed in breaking the filibuster on this occasion. It was through Senator CLARK's leadership that we came so close to achieving our goal. He may feel he has won a Purple Heart, but he deserves a Congressional Medal of Honor.

We know the strong forces of opposition arrayed against the bill. We know the entrenched power of the special interest groups bent on retaining the status quo. But we also know the urgent need for reforms capable of ending the corruption and the appearance of corruption that mar the financing of our Senate and House elections and that diminish the integrity of Congress in the eyes of the people of this Nation.

With leadership like Senator CLARK's, I am confident that we shall eventually prevail in the drive for election reform. He is a great credit to the Senate, and I look forward to working with him in the battles to come.

Mr. President, I would also like to take this occasion to commend other leaders in the Senate who worked hard to achieve our goal. Our extremely able majority leader, Senator ROBERT C. BYRD, gave his strong commitment to this legislation and skillfully provided us with the maximum possible opportunity to defeat the filibuster. The assistant majority leader, Senator ALAN CRANSTON, was an effective leader on the Senate floor and in rallying support for the legislation. And the distinguished chairman of the Committee on Rules and Administration, Senator HOWARD W. CANNON, was a skillful proponent of the legislation in his committee and on the Senate floor.

I also commend the fine work of the many Senate staff aides who participated in the effort to enact this legislalation, particularly Andy Loewi of Senator CLARK's office, Ed Hall of the Committee on Rules and Administration, Tom Hart of the Democratic Policy Committee, Roy Greenaway of Senator CRANSTON's office, and Mary Jane Checchi of Senator ROBERT C. BYRD's office.

Finally, Mr. President, I commend Common Cause for its lengthy and effective lobbying work in support of the legislation. Over the years, Common Cause has succeeded in generating strong and continuing grassroots support throughout the Nation for election reform. Once again, in this debate, they had earned their nickname of the People's Lobby. All of us who believe in the need for reform of campaign financing are grateful for the efforts of this outstanding organization that serves the public interest so well.

TO AVOID DISASTER ON CHINA

Mr. HUMPHREY. Mr. President, John K. Fairbank, formerly a professor of Chinese history at Harvard for some 41 years, has written an elucidating and cogent article in the New York Times on the possible outlines of U.S. policy toward China.

Mr. Fairbank presents an option for achieving normalization of our relations with Peking, and, at the same time, for insuring de facto autonomy for Taiwan and a continued American presence there in the form of trade, investment, travel, and cultural exchanges.

Mr. President, to enhance discussion in this area, I ask unanimous consent that Mr. Fairbank's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 1977]

TO AVOID DISASTER ON CHINA

(By John K. Fairbank)

CAMBRIDGE, MASS.—As Secretary of State Cyrus Vance prepares to visit Peking in August, let us note how China-policy misconceptions have twice led us into warfare and disaster. China remains so incomprehensible we fall back on the high school debater's axiom: When you don't know the facts, assert the principles. Principled ignorance led us to fight China in Korea and to fight Chinese puppets, as we assumed them to be, in Vietnam.

For example, repelling North Korea's aggression in 1950 was a principled, necessary act, but after doing so we changed our war aim to unify Korea by force, on the very frontier of China's industrial base in Manchuria. This was not necessary, wise or feasible.

The Chinese intervened in self-defense, giving us a defeat and a stalemate, but we saw them as "expansionist" and therefore to be "contained." Since the Chinese actually were not expansionist, our containment policy simply moved us into the role vacated by the defeated French in Indochina.

After 1954 we tried to "contain" the Vietnamese national Communist revolution. This also was not necessary, wise, or feasible. Thus, Korea led us on to Vietnam, one failure requiring another, because people of principle *do not give up*, even if their continued ignorance continues to trap them in unwise causes.

Today we are again in danger of asserting American principles while ignoring Chinese realities. For example, self-determination, so cherished by us, is not what our Taipei allies have in mind, and there is no prospect of holding a plebiscite among the people there.

Taiwan, despite appearances, is not seeking the "independence" that President Carter once offhandedly ascribed to it. It is not a country separate from China. Its Government claims to be the rightful government of all China. Americans who respond to Taipei's pleas for support seem not to recognize what they are asked to do, namely, back one side in an ongoing Chinese civil war.

Taiwan is acknowledged by all sides to be a province of the One China that remains the central political myth of the Chinese state. The One China ideal goes back to antiquity. Chiang Kai-shek's career was devoted to it. It is as potent in China, including Taiwan, today as the concept of the supremacy of law and the Constitution is with us.

Peking has inherited the 2,000-year-old belief that there must be one central authority in the Chinese realm. Peking's legitimacy cannot be finally established as long as Taipei keeps on claiming to be the true One China. This it does in vigorous terms, and this is why Peking's line toward us is hardening, five years after normalization was accepted as our mutual goal in the Shanghai Communique of 1972.

Peking's three conditions seem minimal to establish One China: no more recognition of the rival Republic of China, no security treaty with it, no American military in Taiwan.

The Taiwan campaign to prevent this normalization is as shrewd and well-calculated as our own would be in Taiwan's place, for Taiwan is attached to the American realm almost as much as Hong Kong is to the British. Both are places of new growth, left over from the imperialist expansion of the 19th century. Our trade, travel and Christian missions continue to flourish in Taiwan, which has more

export trade than the People's Republic and is industrializing like a small Japan.

Taiwan is run partly by martial law and partly by our college graduates. It is a tourist haven full of our longtime friends—many deserving and talented people on our side.

In the Middle East, we ask both sides to compromise. In the Far East, Peking has in fact offered a compromise in the terms of the Shanghai Communiqué. To drop our recognition of Taipei and therefore our treaty, and to withdraw our remaining military, sets no bar to the "Japan formula" of continued trade, investment, travel and cultural contact with Taiwan.

Since Tokyo recognized Peking in 1972, Japanese activity in all parts of China has increased. Tokyo's recognition of Peking's *de jure* sovereignty over Taiwan has proved compatible with Taiwan's *de facto* autonomy.

The one difference between us and Japan is the Washington-Taipei security treaty of 1954. In it we pledge to defend an ally that is still today pledging to liberate China from the People's Republic. The treaty embodies a cold war, pro-civil war American policy toward China. It is out of date and needs to be substituted by careful legislation and a new relationship.

Thus, the real issue in the Taiwan question is not the survival of Taiwan but the survival of the Chinese civil war. Taiwan will survive both by its own vitality (17 million people) and by the lively and continued American interest in it, which like the Japanese interest shows no sign of withering.

This American interest can be expressed unilaterally in polite and general terms: "an interest in continued stability in the Western Pacific." We can never expect Peking as a proud sovereign power to make promises to foreigners about a domestic matter. (Would *we* do so?) But just as American intervention in Chinese life developed gradually over a century, so it cannot be liquidated overnight. The British intervention in the New Territories at Hong Kong is scheduled for liquidation only in 1997. In the meantime, American naval power will be needed in the Western Pacific as protection against Soviet hegemonism.

Principled ignorance is no substitute for practical realism—either for liberals who want to see self-determination where it will not be accepted, or for conservatives who want formal guarantees for Taiwan in a future that we can hardly guarantee for ourselves.

As we prepare to accept Peking's three conditions for normalization we should equally prepare the legislative and other unilateral actions to insure continued American trade, investment, travel and cultural contact with Taiwan. But if we assert only American principles, ignoring the Chinese principle of One China, we shall court disaster again.

THE WESTERN STATES CONSERVATION ACT OF 1977

Mr. DOLE. Mr. President, in Senate bill 1614, the distinguished Senator from California, Senator HAYAKAWA, has recognized the need to expand the excellent features of the Great Plains conservation program to all of the Western States. I commend Senator HAYAKAWA for his insight into drought and conservation problems and for his excellent contribution to the Senate Agriculture Committee these past 7 months.

Senator HAYAKAWA's bill, S. 1614, amends 16(b) of the Soil Conservation and Domestic Allotment Act. S. 1614 would, effective October 1, 1978,

First, extend the program into all 22 contiguous States west of the Mississippi River;

Second, authorize farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and

Third, add a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses.

Sustained agricultural production in the States west of the Mississippi River is vital to all the people of America. This vast productive region, spanning two-thirds of the Nation's contiguous continental land mass, produces the great preponderance of the Nation's food, feed, and fiber.

While the region has great productive capacity if wisely managed, there are problems peculiar to its environment. The area is subject to periodic drought, destructive winds, floods, and other natural disasters which put great stress on land used for agricultural production.

Soil erosion is a major problem in all the Western States. Erosion affects the public and private land resource base through excessive agricultural soil losses and the resultant lower productivity, higher production costs, and social costs. Sediment, the product of erosion, causes damage in streams, rivers, lakes, and wherever it is deposited. It accumulates in reservoirs, increases treatment costs of municipal and industrial water supplies, clogs navigable streams and irrigation and drainage improvements, smothers growing plants and harvestable crops, increases maintenance costs for transportation and public utility facilities, decreases the recreational value of water, and adversely affects the fishing resource.

An additional major concern closely related to soil erosion is the depletion of water resources. The problem of water depletion—both surface water and ground water—is a problem with obvious and chilling implications for western agriculture, which is, in large areas, highly dependent on irrigation.

Finally, producers in the Far West are now confronted with the problem of increasing salinity in river systems.

Irrigation is the major contributor to increasing salinity. Irrigation consumes large amounts of water leaving less water in the stream systems to dilute natural salts. Also, growing plants, in addition to consuming water, leave salt behind, resulting in a concentration of dissolved mineral salts already present. Irrigation return flows provide the vehicle for conveying the concentrated salts to a receiving stream.

All of these problems indicate an obvious and immediate need to improve soil and water resource management in the Western States.

Senate bill 1614 will greatly expand soil and water conservation in the Western States of the United States. This expanded conservation program can be an excellent investment not merely for farmers and ranchers, but for all consumers who depend upon a reliable and reasonably priced supply of grain and livestock products.

Mr. President, I urge adoption of Senate bill 1614.

CONSIDERATION OF MEASURES ON THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, while some other matters are being resolved, hopefully, I ask unanimous consent that the Senate proceed to the consideration of four measures on the Unanimous Consent Calendar that have been cleared previously for action, and in connection with which there is no budget waiver needed. They are Calendar Orders Nos. 348 through 353.

I ask unanimous consent that the Senate proceed to the consideration of those matters.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the measures are on the Unanimous Consent Calendar and were moved there, I believe, on yesterday by the majority leader and fully cleared on this side for passage, and there is no objection to their being passed.

AMVETS

The bill (H.R. 1952) to amend the corporate name of Amvets (American Veterans of World War II, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an except from the report (No. 95-376), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 1952 would amend the Federal charter of the AMVETS (American Veterans of World War II), to confirm with that organization's practice of admitting men and women who served in the Armed Forces of the United States in "the Second World War, and the Korean and Vietnam war." The bill would amend both the name of the organization, "American Veterans of World War II, Korea, and Vietnam," and summarily the provisions of the Federal charter, where necessary. The amendment made by H.R. 1952 would become effective the first day of the second calendar month following the date of enactment.

STATEMENT

AMVETS, American Veterans of World War II, first adopted a national constitution, bylaws and a declaration of principles and elected national officers in convention in Chicago, Ill., on October 12 to 14, 1945. In accordance with established principles, the Congress granted to AMVETS a Federal charter in 1947 (act of July 23, 1947, 61 Stat. 403, 36 U.S.C. § 67-67s).

Until recently, only persons who served honorably "in the Armed Forces of the United States or (citizens) who served in the armed forces of an allied nation of the United States on or after September 6, 1940, and on or before the date of cessation of

hostilities as determined by the Government of the United States" were admitted by AMVETS as regular members (36 U.S.C. § 67).

On August 1, 1971, the Constitution and By-Laws Committee recommended to the 27th Annual Convention at Los Angeles, Calif., that the preamble of the constitution be made to conform to the preamble (appearing in the "Officer's Manual", which later publication makes reference to Korea and Vietnam. A motion to that effect was made, carried, and the amendment agreed to. Subsequently, AMVETS petitioned the Congress to reflect this change of policy in the organization's Federal charter.

NATIONAL FAMILY WEEK

The joint resolution (H.J. Res. 372) to authorize the President to issue a proclamation designating the week beginning on November 20, 1977, as "National Family Week", was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-378), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize the President to designate that week in November of each year which includes Thanksgiving Day as "National Family Week."

STATEMENT

By designating that week in November of each year which includes Thanksgiving Day as "National Family Week," a specific time out of each year will be set aside for recognizing the significance of the family in the American way of life.

The committee believes it appropriate that the President proclaim that week in November of each year which includes Thanksgiving Day as "National Family Week."

Senator Quentin N. Burdick of North Dakota, made the following statement when introducing the companion legislation to this resolution in the Senate:

"Mr. President, I am today introducing a joint resolution authorizing the President to issue an annual proclamation designating the week in November which includes Thanksgiving as "National Family Week." The purpose of this resolution is simple: It sets aside a specific time each year to recognize the importance of the family in American life and the fundamental role it has played in forming the values upon which the Nation is founded. The resolution picks the Thanksgiving week—a time when families traditionally gather—as an appropriate time to recognize the contributions family life has made to our shared values of liberty, justice, equality and compassion.

"While I realize many people are skeptical about a proliferation of official holidays it is important to remember that "National Family Week" is not commercial or promotional. Its purpose is not to encourage sales or promote festivities. It is simply a way of encouraging people to pause for a moment and reflect, each in his own way, about the role families have played in our lives and in the course of our Nation.

"Nearly every State in the Union has set aside some time for a celebration of this kind over the past few years. With the strong backing of the American Legion, the Committee for a National Family Week, and the Mormon Church, both the 92d and the 94th Congress approved resolutions authorizing National Family Weeks. In the last Congress, 22 Senators joined me in cosponsoring this measure. This support combined with President Carter's desire to emphasize the importance of the family in American life, makes this year the time for passage of a resolution authorizing National Family Week on an annual basis. I hope it will be quickly enacted."

CHIN AH PARK AND CHIN SUK PARK

The Senate proceeded to consider the bill (S. 948) for the relief of Chin-Ah-Park and Chin-Suk-Park, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Chin Ah Park and Chin Suk Park may be classified as children and within the meaning of section 101 (b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Marjorie L. Valleau, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Chin Ah Park and Chin Suk Park.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-384), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States of the prospective adopted children of a U.S. citizen. The purpose of the amendments is to conform the language of the bill to established precedents and to correct the spelling of the beneficiaries' names.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Korea. They are natural sisters born September 14, 1965, and July 21, 1967, respectively. They reside in that country in a leper colony with their parents and brothers. Their parents are lepers; however, the beneficiaries show no evidence of the disease. The prospective adoptive mother, Marjorie Lois Valleau, is single and resides in Milford, Pa. She wishes to adopt the children to provide for them a better way of life.

A letter, with attached memorandum, dated June 1, 1977, from the Commissioner of Immigration and Naturalization to the chairman of the Senate Judiciary Committee with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 1, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 948) for the relief of Chin Ah Park and Chin Suk Park, there is attached a memorandum of information concerning the beneficiaries.

The bill would provide that the beneficiaries, ages 11 and 9, respectively, who are to be adopted by a U.S. citizen, may be classified as children and granted immediate relative status upon approval of petitions filed in their behalf by Miss Marjorie L. Valleau.

Absent enactment of the bill, the beneficiaires, natives, and citizens of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 948

Information concerning the case was obtained from Marjorie Lois Valleau, the prospective adoptive mother of the beneficiaries.

The beneficiaries, Chin Ah Park and Chin Suk Park, who are natural sisters, were born in Korea on September 14, 1965, and July 21, 1967, respectively, and have continuously resided there in a leper colony with their parents and two brothers. Although their parents are lepers, the beneficiaries display no indications of this disease. The national parents have irrevocably released the children for adoption by Ms. Valleau, who stated the parents want the children to have a better life.

Marjorie Lois Valleau, an unmarried U.S. citizen, was born on February 17, 1931, in Bronx, N.Y. She received a high school diploma in 1950. Ms. Valleau and her mother reside together in Milford, Pa. She has been employed as a computer programmer since 1962, presently earning $16,000 per annum. Her assets include a home valued at $40,000, carrying a mortgage of $18,000; checking and savings accounts containing $4,600; an automobile valued at $3,300; and other personal property valued at $12,000.

A home study has been completed, and the preadoption requirements of the State of Pennsylvania have been met by Ms. Valleau.

ME YOUNG LEE

The Senate proceeded to consider the bill (S. 1003) for the relief of Me Young Lee, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 11, strike "Immigation" and insert "Immigration"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationaliy Act, Me Young Lee may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Lawrence Schuman, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-385), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States of the prospective adopted child of U.S. citizens. The purpose of the amendment is to correct a typographical error.

STATEMENT OF FACTS

The beneficiary of the bill is a 10-year native and citizen of Korea who currently resides there with her natural parents. She is in the custody of the Social Welfare Service of Korea inasmuch as her natural parents are unable to support her. The prospective adoptive parents, Mr. and Mrs. Lawrence Schuman, reside in Foley, Minn., where Mr. Schuman is self-employed as a farmer. He is a native and citizen of the United States; his wife is a native of Korea and a naturalized U.S. citizen.

A letter, with attached memorandum, dated June 7, 1977, to the chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE,

Washington, D.C., June 7, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 1003) for the relief of Me Young Lee, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the 10-year-old beneficiary, who is to be adopted by U.S. citizens, may be classified as a child and granted immediate relative status subject to the provisions of the Immigration and Nationality Act relating to adoption requirements. The bill contains the usual provision that the natural parents, brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO, *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1003

Information concerning this case was obtained from Mr. and Mrs. Lawrence Schuman, the interested parties.

The beneficiary, Me Young Lee, a native and citizen of Korea, was born September 27, 1966. She resides in Korea with her natural parents, but is in the custody of the Social Welfare Service of Korea. The natural parents are unable to support the child adequately owing to the amputation of both of the father's hands in an industrial accident in 1973. The prospective adoptive family has been approved by the Department of Public Welfare of Minnesota but no final State consent for the adoption can be issued until the necessary court action terminating parental rights has been concluded in Korea.

Lawrence John Schuman, native and citizen of the United States, was born March 27, 1937. Patricia Schuman nee Lee, native of Korea and citizen of the United States through naturalization in 1960, was born on August 1, 1934. They were married on September 22, 1958, and reside in Foley, Minn. Their daughter, Helena Lee Schuman, was adopted in Korea in 1960 and lives with them. Mr. Schuman served 20 years in the U.S. Army and retired in 1976. He has completed 2 years toward a college degree in business. He is now self-employed as a farmer. Mrs. Schuman is licensed as a hairdresser and is presently employed part time as a beautician in Foley. Their income is approximately $12,000 a year. They wholly own their 80-acre farm and equipment valued at $60,000. Their net worth is estimated at $100,000.

H.R. 4247, 95th Congress, introduced on behalf of the beneficiary, is also pending.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver at the desk, Senate Resolution 235, which has reference to Calendar Order No. 343 on the Unanimous-Consent Calendar, and I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 235.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Senate Resolution 235 waiving the provisions of section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1306.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

Resolved, That the provisions of section 402(a) of the Congressional Budget Act of 1974 are waived with respect to S. 1306, a bill to create a temporary drought relief program in the Small Business Administration.

SMALL BUSINESS ADMINISTRATION TEMPORARY DROUGHT RELIEF PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 343.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—after the passage of the budget waiver resolution there is no further objection to the passage of this measure on the Unanimous Consent Calendar.

The Senate proceeded to consider the bill (S. 1306) to provide temporary authority to the Administrator of the Small Business Administration to facilitate water conservation practices and emergency actions to mitigate the impacts of the 1976–77 drought, which had been reported from the Select Committee on Small Business with an amendment on page 1, beginning with line 5, strike through and including line 6, page 4, and insert in lieu thereof:

SEC. 2. (a) The Small Business Administration may make direct loans to small business concerns, as defined by section 3 of the Small Business Act and regulations thereunder, to remedy the effects of actual or prospective substantial economic injury resulting from the 1976–1977 drought, and for short-term projects to improve water conservation practices or to rehabilitate, replace, or augment water supply facilities adversely affected by the 1976–1977 drought in drought-designated areas as determined by the President, the Secretary of Agriculture, or the Administrator of the Small Business Administration.

(b) Such loans are subject to the following conditions:

(1) the interest rate for loans under this Act shall be at a rate of 5 per centum per annum;

(2) no loan may be made for a period exceeding thirty years;

(3) to be eligible for loans under section 2(a), a small business concern must demonstrate that such concern has suffered or is likely to suffer substantial economic injury without assistance under the Act;

(4) loan applications must be submitted and approved before October 1, 1978.

the need for immediate assistance. Accordingly, actions taken pursuant to this Act shall not be deemed to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969.

SEC. 6. There is hereby authorized to be appropriated to the revolving fund established by section 4(c)(1)(A) of the Small Business Act the sum of $50,000,000. All repayments of loans, payments of interest, and other receipts arising out of transactions under this Act, shall be paid into the fund established by section 4(c)(1)(A) of the Small Business Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Small Business Emergency Drought Disaster Loan Act of 1977".

SEC. 2. (a) The Small Business Administration may make direct loans to small business concerns, as defined by section 3 of the Small Business Act and regulations thereunder, to remedy the effects of actual or prospective substantial economic injury resulting from the 1976–1977 drought, and for short-term projects to improve water conservation practices or to rehabilitate, replace, or augment water supply facilities adversely affected by the 1976–1977 drought in drought-designated areas as determined by the President, the Secretary of Agriculture, or the Administrator of the Small Business Administration.

(b) Such loans are subject to the following conditions:

(1) the interest rate for loans under this Act shall be at a rate of 5 per centum per annum;

(2) no loan may be made for a period exceeding thirty years;

(3) to be eligible for loans under section 2(a), a small business concern must demonstrate that such concern has suffered or is likely to suffer substantial economic injury without assistance under the Act;

(4) loan applications must be submitted and approved before October 1, 1978.

(c) Any funds to be used for purposes of assistance under section 2(a) must be committed before October 1, 1978. In addition, any short-term projects for which these loan proceeds may be used must be completed by November 30, 1978, unless, under special circumstances or hardship, the Administrator of the Small Business Administration allows a project completion extension.

SEC. 3. The Administrator of the Small Business Administration may designate any area in the United States as an emergency drought impact area if he finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas. Provisions of this Act apply to drought disaster areas currently designated under existing law, as well as those to be designated pursuant to this Act.

SEC. 4. Insofar as possible and if not expressly changed by any provision of this Act, the provisions of the Small Business Act applicable to loans authorized by sec-

tions 7(b)(1) and 7(b)(2) of the Small Business Act and the rules and regulations relating thereto shall apply to loans made under this Act.

SEC. 5. Since this is an emergency relief program, applications will be processed as quickly as possible recognizing the need for immediate assistance. Accordingly, actions taken pursuant to this Act shall not be deemed to be major Federal actions significantly affected the quality of the human environment for purposes of the National Environmental Policy Act of 1969.

SEC. 6. There is hereby authorized to be appropriated to the revolving funds established by section 4(c)(1)(A) of the Small Business Act the sum of $50,000,000. All repayments of loans, payments of interest, and other receipts arising out of transactions under this Act, shall be paid into the fund established by section 4(c)(1)(A) of the Small Business Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-371), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

BACKGROUND

Drought conditions have been plaguing small farms and businesses in Western States for over 2 years. In the past year, the drought has been moving east progressively. Most recently, farmers in Georgia suffered major losses due to extremely low levels of rainfall.

Drought has affected small farms most severely. Many farmers in drought States have had almost total crop losses as a result of low or nonexistent rainfall. Because crop damage due to drought is uninsurable, the resulting financial loss to the farmer is totally non-recoverable. For this reason, farmers have been forced to rely on working capital disaster loans to tide them over through unfavorable weather conditions.

Senator Nunn warned during hearings on this bill that farmers in Georgia drought counties are being severely pressed by this unexpected, additional debt. Also, many farmers are not able to obtain even the 6⅝ percent Federal disaster loans, because higher cost conventional loan money is otherwise available to them. These farmers are thus faced with the added dilemma of being ineligible for the lower cost Federal loans.

Senators Nunn and Haskell, therefore, requested that the Small Business Administration make physical disaster loans available to those in declared drought areas to cover physical damage to crops caused by lack of rainfall. The availability of physical disaster loans is important, because such loans can be made without any demonstration by the applicant of inability to obtain financing elsewhere. On the other hand, economic injury loans, the only form of SBA loan assistance presently available in drought disaster areas, can be made only after it is shown that a conventional loan is not otherwise available.

The SBA Administrator, A. Vernon Weaver, agreed that SBA could make such physical disaster loans available and would investigate the possibility of doing so in some drought disaster areas.

Small businesses in drought disaster areas usually feel the effect of low rainfall after it lingers for some time. Affected businesses include firms that need water to operate, such as car washes, nurseries, and industries that use large amounts of water in their industrial processes such as the chemical, food processing, and canning industries. In addition, firms that sell to small farms or to any of the directly affected small businesses in drought disaster areas would be impacted.

Such small businesses need working capital loans to cover lost volume due to drought conditions.

If the drought remains for several years, small farms and businesses may be forced to take more action of a more permanent nature other than simply obtaining additional working capital loans. The farmer and small business person may have to augment or construct new water supply or conservation facilities to either reduce water required for business operations or farming or to tap previously unused water sources. Small firms and businesses in the West have already begun to take such action.

SUMMARY OF SENATE BILL 1306

The bill authorizes the Small Business Administration to make disaster loans to relieve economic injury caused by the 1976-77 drought. Loans may also be made by the SBA to construct short term projects to improve water conservation practices or to rehabilitate, replace, or augment water supply facilities adversely affected by the 1976-77 drought. Farms and businesses in drought-designated areas as determined by the President, the Secretary of Agriculture, or the Administrator of the Small Business Administration may be eligible for such loans.

Pursuant to this act loans can be made at a 5 percent rate. Loans may be made for up to 30 years. To be eligible, a small business must demonstrate that it has suffered or is likely to suffer substantial economic injury without the assistance provided under this act.

Loan applications must be submitted and approved before October 1, 1978. Any funds used for assistance under this act must be committed before October 1, 1978. Any short term projects for which loans are made must be completed by November 30, 1978.

All presently existing drought disaster areas are eligible for loans made under this act. The SBA Administrator is also authorized to declare other areas as emergency drought impact areas if he finds that continuing, adverse drought conditions exist there.

Fifty million dollars is authorized for this emergency program.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the various measures were agreed to and passed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make such a motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are four measures on the calendar which have been cleared for passage by unanimous consent. They are Calendar Orders Nos. 354, 355, and 357. I ask that the clerk transfer those to the Unanimous Consent Calendar.

The PRESIDING OFFICER. They will be so transferred.

AUTHORITY FOR THE SECRETARY TO MAKE TECHNICAL AND CLERICAL CORRECTIONS—SENATE RESOLUTION 241

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate Resolution 241.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF TWO BILLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two bills introduced earlier today, one by the Senator from Nebraska (Mr. CURTIS), and one by the Senator from New York (Mr. JAVITS), relative to amending the Employee Retirement Income Security Act of 1974, be jointly referred to the Committees on Human Resources and Finance.

I am told that this request has been cleared with Mr. JAVITS and Mr. CURTIS and Mr. BAKER, I am told, also.

Mr. BAKER. Mr. President, the majority leader is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL AND RELEASE OF CERTAIN DOCUMENTS

Mr. JACKSON. Mr. President, I report today a resolution to permit the withdrawal and release of documents and other materials obtained by, and in the possession of, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

By letter of July 22, 1977, the Securities and Exchange Commission, Division of Enforcement, formally requested the release to them of certain documents and materials received by subcommittee staff during the course of an energy oversight inquiry and pertaining to contractual and/or commission arrangements between certain companies, which companies are the subject of a nonpublic SEC investigation.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such documentation and material may not be released without a resolution of the Senate.

Accordingly, I report the following resolution, approved by the Committee on Governmental Affairs, and ask that the resolution to be adopted.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

S. RES. 249

Whereas, the Securities and Exchange Commission, Division of Enforcement, has, by letter dated July 22, 1977, formally requested certain documents, records and materials in the possession of the Subcommittee; and

Whereas, the documents, records and materials were obtained by the Subcommittee

in the course of an authorized energy oversight investigation; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, such documents, papers and other materials so secured by the Subcommittee may not be revealed without the consent of the Senate, therefore, be it

Resolved that the Permanent Subcommittee on Investigations is authorized, at the direction of its Chairman, to provide the documents, records and other materials formally requested by the Securities and Exchange Commission, Division of Enforcement, in its letter of July 22, 1977.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the Securities and Exchange Commission, Division of Enforcement, Attention: Robert T. D'Elia, Attorney, Washington, D.C. 20549.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGULATION OF UNDOCUMENTED ALIENS—PM 104

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

I am proposing to Congress today a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.

These proposed actions are based on the results of a thorough Cabinet-level study and on the groundwork which has been laid, since the beginning of the decade, by Congressmen Rodino and Eilberg and Senators Eastland and Kennedy. These actions will:

Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil—injunctions and fines of $1,000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers, and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.

Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.

Adjust the immigration status of undocumented aliens who have resided in the U.S. continuously from before January 1, 1970 to the present and who apply with the immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the U.S. continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the U.S. after January 1, 1977.

Substantially increase resources available to control the southern border, and other entry points, in order to prevent illegal immigration.

Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Each of these actions will play a distinct, but closely related, role in helping to solve one of our most complex domestic problems: In the last several years, millions of undocumented aliens have illegally immigrated to the United States. They have breached our Nation's immigration laws, displaced many American citizens from jobs, and placed an increased financial burden on many states and local governments.

The set of actions I am proposing cannot solve this enormous problem overnight, but they will signal the beginning of an effective Federal response. My Administration is strongly committed to aggressive and comprehensive steps toward resolving this problem, and I am therefore proposing the following actions:

EMPLOYER SANCTIONS

The principal attraction of the United States for undocumented aliens is economic—the opportunity to obtain a job paying considerably more than any available in their own countries. If that opportunity is severely restricted, I am convinced that far fewer aliens will attempt illegal entry.

I am therefore proposing that Congress make unlawful the hiring by any employer of any undocumented alien. This employment bar would be implemented in the following way:

Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.

Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines—a maximum of $1,000 for each undocumented alien hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.

An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.

The Social Security card would be designated as one of the authorized identification documents; and we will accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, only to legal residents. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card, or any other card, a national identification document.

To further restrict job opportunities, criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien obtain or retain employment, or who knowingly contract with such person for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. It is *not* directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would pre-empt any existing state sanctions.

In addition to the creation of these new sanctions, efforts to increase enforcement of existing sanctions will be significantly increased. The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, would not only be strictly enforced, but its existing civil and criminal penalties would be sought much more frequently by the government. To date, the inability of the government to enforce fully this act, due in part to a lack of resources, has resulted in the hiring of undocumented aliens at sub-minimum wages, thereby often displacing American workers. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment. Similarly, the Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, would be tightly enforced. The Departments of Justice and Labor will work closely in exchanging information developed in their separate enforcement activities.

While I believe that both the new and existing employer sanctions, and their strict enforcement, are required to control the employment of undocumented aliens, the possibility that these sanctions might lead employers to discriminate against Mexican-American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. However, to prevent any

discriminatory hiring, the federal civil rights agencies will be charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

BORDER ENFORCEMENT

The proposed employer sanctions will not, by themselves, be enough to stop the entry of undocumented aliens. Measures must also be taken to significantly increase existing border enforcement efforts. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions.

I am proposing to take the following increased enforcement measures, most of which will require Congressional approval for the necessary additional resources:

Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well the amount of additional enforcement personnel, will be determined after the completion in September of our ongoing border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be placed on the Mexican border.

INS will shift a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.

An anti-smuggling Task Force will be established in order to seek ways to reduce the number and effectiveness of the smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The U.S. Attorneys will be instructed to give high priority to prosecuting individuals involved in alien smuggling.

The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.

Passage will be sought of pending legislation to impose criminal sanctions on those who knowingly use false information to obtain identifiers issued by our Government, or knowingly use fraudulent Government documents to obtain legitimate Government documents.

The State Department will consult with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and anti-smuggling efforts.

COOPERATION WITH SOURCE COUNTRIES

The proposed employer sanctions and border enforcement will clearly discourage a significant percentage of those who would otherwise attempt to enter or remain in the United States illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective may be difficult to achieve within the near future. The economies of most of the source countries are still not sufficiently developed to produce, even with significant U.S. aid, enough jobs over the short-term to match their rapidly growing workforce.

Over the longer-term, however, I believe that marked improvements in source countries' economies are achieveable by their own efforts with support from the United States. I welcome the economic development efforts now being made by the dynamic and competent leaders of Mexico. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. I will explore with source countries means of providing such assistance. In some cases this will mean bilateral or multilateral economic assistance. In others, it will involve technical assistance, encouragement of private financing and enhanced trade, or population programs.

ADJUSTMENT OF STATUS

The fact that there are millions of undocumented aliens already residing in this country presents one of the most difficult questions surrounding the aliens phenomenon. These aliens entered the U.S. illegally and have willfully remained here in violation of the immigration laws. On the other hand, many of them have been law-abiding residents who are looking for a new life and are productive members of their communities.

I have concluded that an adjustment of status is necessary to avoid having a permanent "underclass" of millions of persons who have not been and cannot practicably be deported, and who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the law's protections.

I therefore recommend the following adjustments of status:

First, I propose that permanent resident alien status be granted to all undocumented aliens who have resided continuously in the United States from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U.S. citizenship could be sought five years after the granting of permanent status, as provided in existing immigration laws.

The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

Second, all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977 will be eligible for a temporary resident alien status for five years.

Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period.

The purpose of granting a temporary status is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the U.S. But they could leave and re-enter this country, and they could seek employment, under the same rules as permanent resident aliens.

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal social services as Medicaid, Food Stamps, Aid to Families with Dependent Children, and Supplemental Security Income. However, the allocation formulas for Revenue Sharing, which are based on population, would be adjusted to reflect the presence of temporary resident aliens. The adjustment would compensate states and local communities for the fact that some of these residents—undocumented aliens—are currently not included in the Census Bureau's population counts. That undercount deprives certain states and communities of Revenue Sharing funds which, if Census figures were completely accurate, would be received and used to defray certain expenses caused by the presence of undocumented aliens. Those receiving adjustments of status through the actions I am proposing would be included in the 1980 Census, so that the allocation charges would have to be made only through 1980.

Third, for those undocumented aliens who entered the United States after January 1, 1977, there would be *no* adjustment of status. The immigration laws would still be enforced against these undocumented aliens. Similarly, those undocumented aliens, who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

In addition, the INS would expedite its handling of the substantial backlog of adjustment of status applications from those aliens entitled to an adjustment under existing law.

Finally, those persons who would be eligible for an adjustment of status under these proposals must not be ineligible under other provisions of the immigration laws.

TEMPORARY FOREIGN WORKERS

As part of these efforts to control the problem of undocumented aliens, I am asking the Secretary of Labor to conduct, in consultation with the Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H–2) certification program. I believe it is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed workforce. However, I am not considering the reintroduction of a bracero-type program for the importation of temporary workers.

IMMIGRATION POLICY

Our present immigration statutes are in need of a comprehensive review. I am therefore directing the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of our existing immigration laws and policies.

In the interim, I am supporting pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000, allocated between them according to demand. This legislation will help provide an incentive to legal immigration.

I urge the Congress to consider promptly, and to pass, the legislation I will submit containing the proposals described in this Message.

JIMMY CARTER.

THE WHITE HOUSE, *August 4, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message received today from the President of the United States, dealing with undocumented aliens in this country, be jointly referred to the Committee on Judiciary, Foreign Relations, and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

PRIVILEGE OF THE FLOOR—H.R. 7797

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Jack F. Davis of my staff, be granted the privilege of the floor during consideration of the foreign aid bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Paris, France, September 18–24, 1977: the Senator from Alabama (Mr. SPARKMAN), chairman; the Senator from Indiana (Mr. BAYH); the Senator from South Dakota (Mr. ABOUREZK); the Senator from Delaware (Mr. BIDEN); the Senator from New Jersey (Mr. CASE); the Senator from New York (Mr. JAVITS); the Senator from Kansas (Mr. PEARSON); and the Senator from Pennsylvania (Mr. HEINZ).

COMMITTEE MEETINGS

LABOR SUBCOMMITTEE OF THE COMMITTEE ON HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Labor Subcommittee of the Human Resources Committee be authorized to meet up to 2 hours tomorrow, in excess of the time normally given under the Stevenson resolution, during the session of the Senate, to consider minimum wage legislation.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, was that request agreed to?

The PRESIDING OFFICER. The request was agreed to.

HOUSE CONCURRENT RESOLUTION 317—VITIATION OF MOTION TO RECONSIDER

Mr. ROBERT C. BYRD. Mr. President, on the day before yesterday I entered a motion to reconsider the vote by which House Concurrent Resolution 317 was adopted, providing for the adjournment of the House and the Senate during the month of August and until September 7, 1977, beginning with August 5 for the House of Representatives and the close of business August 6 for the Senate.

The Senate adopted a motion to request the House of Representatives to return the papers. The House of Representatives returned the papers.

I ask unanimous consent, now that the Clean Air Act conference report has been adopted, to vitiate the motion to reconsider that vote, and that House Concurrent Resolution 317 be returned to the House of Representatives.

The PRESIDING OFFICER. Without objection, the entry of the motion will be vitiated.

Mr. ROBERT C. BYRD. Mr. President, I wish to to take this occasion to thank the Speaker of the House and the Members of the House for their cooperation in the matter. I also wish to thank the distinguished minority leader, the distinguished Senator from Maine (Mr. MUSKIE), the distinguished Senator from Vermont (Mr. STAFFORD), the ranking Republican member of the committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), the two Senators from Utah (Mr. GARN and Mr. HATCH), and other Senators for the work that they did which allowed the Senate to complete action on the conference report on the Clean Air Act this evening, without necessitating any further action on the resolution which was returned by the House of Representatives.

I also wish to express the appreciation of the leadership for the staff work done, not only on the Clean Air Conference report, but also on the clean water bill passed today in the Senate by Mr. Leon Billings of the Environment and Public Works Committee staff and all the staff of that committee.

I am aware of the time and work which the committee staff put into these measures and I believe it deserving of special notice.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF THE FOREIGN AID APPROPRIATION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow morning, the Senate resume the consideration of the foreign aid appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. It may be, Mr. President, that the Senate will take up another matter tomorrow morning for a brief period of time, if such matter has been cleared for action on both sides of the aisle. At the moment, I can only say that the Senate will resume consideration of the foreign aid appropriation bill after the two leaders have been recognized. Rollcall votes are expected throughout the day on tomorrow.

Mr. ALLEN. Mr. President, when did the distinguished majority leader say the foreign aid bill would be laid before the Senate?

Mr. ROBERT C. BYRD. As of now, it will come up immediately after the two leaders or their designees have been recognized, but the distinguished minority leader and I are working on another matter which might consume a few minutes, 30 minutes, or an hour, we are not sure. We are not even sure we will be able to call that up tomorrow, but in order to dispose of it, if it can be called up by 11 o'clock, we thought we should come in at 10 o'clock.

The majority leader is aware of the problem of the distinguished Senator from Alabama, who wishes to attend two committee meetings in the morning; and even though he is recognized by all to be a very ubiquitous Senator, as well as all of the other wonderful adjectives that I could call to mind, he obviously cannot be at those two committee meetings and on the Senate floor at the same time.

So we have that very much in mind and we will protect the Senator.

Mr. ALLEN. I thank the Senator for his courtesy.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 10:55 p.m. the Senate recessed until Friday, August 5, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 4, 1977:

DEPARTMENT OF ENERGY

James R. Schlesinger, of Virginia, to be Secretary of Energy (new position).

THE JUDICIARY

Harry H. MacLaughlin, of Minnesota, to be U.S. district judge for the district of Minnesota, vice Earl R. Larson, retired.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Carlisle Edward Pratt, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Orman W. Ketcham, retired.

Frederick Howard Weisberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Charles W. Halleck, term expired.

IN THE ARMY

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. William Emmett Ingram, xxx-xx-xxxx.

Brig. Gen. James George Sieben, xxx-xx-x...

To be brigadier general

Col. Robert Lee Childers, xxx-xx-xxxx.
Col. Francis Alphonse Ianni, xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code section 3442 and 3447:

MEDICAL CORPS

To be colonel

Albert, Harold L., xxx-xx-xxxx.
Albright, John D., xxx-xx-xxxx.
Blight, Edward M. Jr., xxx-xx-xxxx.
Buck, Alfred S., xxx-xx-xxxx.
Campbell, Peter M., xxx-xx-xxxx.
Coggin, Julian T., xxx-xx-xxxx.
Davia, James E., xxx-xx-xxxx.
Hays, Leonard L., xxx-xx-xxxx.
Hunt, Keith K. Jr., xxx-xx-xxxx.
Kaplan, Burton H., xxx-xx-xxxx.
Kott, Daniel F., xxx-xx-xxxx.
Matthews, Marshall D., xxx-xx-xxxx.
Miller, Franklin C., xxx-xx-xxxx.
Pettyjohn, Frank S., xxx-xx-xxxx.
Ranadive, Manmohan V., xxx-xx-xxxx.
Rich, John D., xxx-xx-xxxx.
Ruymann, Frederick B., xxx-xx-xxxx.
Vichick, Donald A., xxx-xx-xxxx.
Watson, Robert L., xxx-xx-xxxx.
Welch, Richard D., xxx-xx-xxxx.

ARMY NURSE CORPS

To be lieutenant colonel

Smith, Arthur A., xxx-xx-xxxx.

The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code section 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Loffert, George U., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code section 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Abcouwer, James K., xxx-xx-xxxx.
Abiles, Jose C., xxx-xx-xxxx.
Abt, Frederic E., xxx-xx-xxxx.
Acevedo, Robert F., xxx-xx-xxxx.
Acojedo, Rudolph D., xxx-xx-xxxx.
Acree, Malcolm T., xxx-xx-xxxx.
Adams, Anthony J., xxx-xx-xxxx.
Adams, Bruce K., xxx-xx-xxxx.
Adams, John A., xxx-xx-xxxx.
Agness, Wayne C., xxx-xx-xxxx.
Ahle, Neil W., xxx-xx-xxxx.
Akamatsu, Jeffrey C., xxx-xx-xxxx.
Alberts, Roger E., xxx-xx-xxxx.
Alexander, Daniel R., xxx-xx-xxxx.
Allen, Douglas L., xxx-xx-xxxx.
Allen, Johnnie L., xxx-xx-xxxx.
Allison, Ralph E., xxx-xx-xxxx.
Allison, Roy R., xxx-xx-xxxx.
Almas, William F., xxx-xx-xxxx.
Alt, Leonard A., xxx-xx-xxxx.
Altherr, Robert F., xxx-xx-xxxx.
Alvarado, Esteban, xxx-xx-xxxx.
Anderson, Dorian T., xxx-xx-xxxx.
Anderson, Douglas C., xxx-xx-xxxx.
Anderson, Edgar, Jr., xxx-xx-xxxx.
Anderson, Edward B., xxx-xx-xxxx.
Anderson, Johnny M., xxx-xx-xxxx.
Anderson, Oscar R., xxx-xx-xxxx.
Anderson, Peter C., xxx-xx-xxxx.
Anderson, Richard B., xxx-xx-xxxx.
Anderson, Ronald, xxx-xx-xxxx.
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Tate, Vaughn L., xxx-xx-xxxx.
Tatum, John S., xxx-xx-xxxx.
Taylor, Frank D., xxx-xx-xxxx.
Taylor, James R., xxx-xx-xxxx.
Taylor, Porcher L., xxx-xx-xxxx.
Taylor, Robert L., xxx-xx-xxxx.
Taylor, Robert P., xxx-xx-xxxx.
Telle, Theodore E., xxx-xx-xxxx.
Tellier, Richard D., xxx-xx-xxxx.
Temple, Merdith W., xxx-xx-xxxx.
Testerman, Dan E., xxx-xx-xxxx.
Thacker, William R., xxx-xx-xxxx.
Thaden, Russell H., xxx-xx-xxxx.
Tharp, James G., xxx-xx-xxxx.
Thayer, George E., xxx-xx-xxxx.
Thigpen, Harry G., xxx-xx-xxxx.
Thigpen, Willie L., xxx-xx-xxxx.
Thomas, Daniel R., xxx-xx-xxxx.
Thomas, David A., xxx-xx-xxxx.
Thomas, David J., xxx-xx-xxxx.
Thomas, Hugh H., xxx-xx-xxxx.
Thomas, James H., xxx-xx-xxxx.
Thomas, Lawrence E., xxx-xx-xxxx.
Thompson, Michael L., xxx-xx-xxxx.
Thomson, Mark C., xxx-xx-xxxx.
Thomson, Robert J., xxx-xx-xxxx.
Thomson, Robert L., xxx-xx-xxxx.
Thornton, William R., xxx-xx-xxxx.
Thrasher, William H., xxx-xx-xxxx.
Thunker, Robert R., xxx-xx-xxxx.
Thurman, James D., xxx-xx-xxxx.
Tibbs, Nathan D., xxx-xx-xxxx.
Tiffany, Robert S., xxx-xx-xxxx.
Tigner, Michael D., xxx-xx-xxxx.
Tilley, John J., xxx-xx-xxxx.
Timm, Thomas H., xxx-xx-xxxx.
Tindoll, Davis D., xxx-xx-xxxx.
Tirey, James R., xxx-xx-xxxx.
Tobin, Daniel H., xxx-xx-xxxx.
Tokarz, Richard S., xxx-xx-xxxx.

Tolbert, James, Jr., xxx-xx-xxxx
Tomson, Alan A., xxx-xx-xxxx
Tonello, Stephen J., xxx-xx-xxxx
Toney, Gordon D., xxx-xx-xxxx
Tovar, Roberto, xxx-xx-xxxx
Townes, James E., xxx-xx-xxxx
Townes, Stephen D., xxx-xx-xxxx
Townsend, David R., xxx-xx-xxxx
Townsend, Robert E., xxx-xx-xxxx
Traverzo, Louis A., xxx-xx-xxxx
Trede, Gary A., xxx-xx-xxxx
Tremper, Edward G., xxx-xx-xxxx
Treuting, David F., xxx-xx-xxxx
Trice, James E., xxx-xx-xxxx
Trimble, Dan, xxx-xx-xxxx
Troup, Eric G., xxx-xx-xxxx
Trout, James F., xxx-xx-xxxx
Troy, William J., xxx-xx-xxxx
Tucker, Archie L., xxx-xx-xxxx
Tucker, Eddie L., xxx-xx-xxxx
Tucker, Edward B., xxx-xx-xxxx
Tucker, Edward D., xxx-xx-xxxx
Turner, Allen P., xxx-xx-xxxx
Turner, Hughes S., xxx-xx-xxxx
Turner, James T., xxx-xx-xxxx
Turner, Samuel W., xxx-xx-xxxx
Turner, Steven G., xxx-xx-xxxx
Tyler, John E., xxx-xx-xxxx
Tyler, Marion J., xxx-xx-xxxx
Tyson, Bruce C., xxx-xx-xxxx
Uhorchak, John M., xxx-xx-xxxx
Ulekowski, Michael, xxx-xx-xxxx
Umanos, Henry A., xxx-xx-xxxx
Unti, Michael L., xxx-xx-xxxx
Urias, John M., xxx-xx-xxxx
Vacca, Joseph L., xxx-xx-xxxx
Vanatta, Michael J., xxx-xx-xxxx
Vanderbeek, Walter, xxx-xx-xxxx
Vanderlike, Robert, xxx-xx-xxxx
Vanderwall, Gregory, xxx-xx-xxxx
Vandeusen, Robin W., xxx-xx-xxxx
Vandeusen, William, xxx-xx-xxxx
Vandiver, Ronald W., xxx-xx-xxxx
Vandyke, John M., xxx-xx-xxxx
Vane, Michael A., xxx-xx-xxxx
Vankeuren, Edwin J., xxx-xx-xxxx
Vanschoyck, Patrick, xxx-xx-xxxx
Varnado, Frederick, xxx-xx-xxxx
Vasquez, Jose A., xxx-xx-xxxx
Vasquez, Jose A., xxx-xx-xxxx
Veenstra, Roger H., xxx-xx-xxxx
Veiga, Edwin F., xxx-xx-xxxx
Veitch, William A., xxx-xx-xxxx
Veldhouse, Lonnie A., xxx-xx-xxxx
Veleker, Thomas R., xxx-xx-xxxx
Velez, Thomas W., xxx-xx-xxxx
Venema, William H., xxx-xx-xxxx
Verde, Leslie H., xxx-xx-xxxx
Vernon, Walter L., xxx-xx-xxxx
Vest, Dewey F., xxx-xx-xxxx
Vick, James E., xxx-xx-xxxx
Victor, Chester S., xxx-xx-xxxx
Vik, Lawrence G., xxx-xx-xxxx
Villone, Earl S., xxx-xx-xxxx
Vins, Joseph J., xxx-xx-xxxx
Vogel, William S., xxx-xx-xxxx
Vosilus, John D., xxx-xx-xxxx
Vuckovic, Charles M., xxx-xx-xxxx
Waddell, Vaun L., xxx-xx-xxxx
Wagner, Alan K., xxx-xx-xxxx
Wahlgren, Lynn M., xxx-xx-xxxx
Waks, Larry E., xxx-xx-xxxx
Walker, Bradford L., xxx-xx-xxxx
Walker, Brent D., xxx-xx-xxxx
Walker, Geary L., xxx-xx-xxxx
Walker, Norman G., xxx-xx-xxxx
Walker, Sam S. II, xxx-xx-xxxx
Wallace, Brooke J., xxx-xx-xxxx
Wallace, Steven H., xxx-xx-xxxx
Wallace, Thomas C., xxx-xx-xxxx
Wallace, Tom H., xxx-xx-xxxx
Walley, James R., xxx-xx-xxxx
Walling, Herbert M., xxx-xx-xxxx
Walls, Charles G., xxx-xx-xxxx
Walsh, Gary L., xxx-xx-xxxx
Walsh, Robert V., xxx-xx-xxxx
Walsh, Stephen P., xxx-xx-xxxx
Walters, Jerel B., xxx-xx-xxxx
Warburton, Robert P., xxx-xx-xxxx
Ward, Barry M., xxx-xx-xxxx
Ward, Jeffrey A., xxx-xx-xxxx
Ward, Stephen L., xxx-xx-xxxx
Wardell David E., xxx-xx-xxxx
Wardlow, Kevin N., xxx-xx-xxxx
Wark, James M., xxx-xx-xxxx
Warren, Tom E., xxx-xx-xxxx
Washechek, David W., xxx-xx-xxxx
Wasiak, Joseph E., xxx-xx-xxxx
Wasilition, Timothy, xxx-xx-xxxx
Waterhouse, Richard, xxx-xx-xxxx
Watermeier, Ralph G., xxx-xx-xxxx
Waters, Calvin S., xxx-xx-xxxx
Waters, David M., xxx-xx-xxxx
Waters, William G., xxx-xx-xxxx
Watkin, William W., xxx-xx-xxxx
Weaver, Franklin, B., xxx-xx-xxxx
Weaverling, Ronald, xxx-xx-xxxx
Webb, Robert F., xxx-xx-xxxx
Webb, William H., xxx-xx-xxxx
Weber, Ross W., xxx-xx-xxxx
Weber, William C., xxx-xx-xxxx
Wedemeyer, Albert S., xxx-xx-xxxx
Wegmann, Robert E., xxx-xx-xxxx
Weinstein, Michael, xxx-xx-xxxx
Weishar, Doyle J., xxx-xx-xxxx
Weiskopf, Harry F., xxx-xx-xxxx
Welch, George E., xxx-xx-xxxx
Wells, Billy E., xxx-xx-xxxx
Wells, Bruce R., xxx-xx-xxxx
Werner, Richard M., xxx-xx-xxxx
West, Thomas C., xxx-xx-xxxx
West, Twain D., Jr., xxx-xx-xxxx
Westbrook, Lynn A., xxx-xx-xxxx
Westfall, Steven F., xxx-xx-xxxx
Westover, Dan O., xxx-xx-xxxx
Wetherell, Richard, xxx-xx-xxxx
Wheeler, George F., xxx-xx-xxxx
Wheeler, Stephen G., xxx-xx-xxxx
Whisler, John L., xxx-xx-xxxx
Whitaker, John F., xxx-xx-xxxx
White, David C., xxx-xx-xxxx
White, Kenneth C., xxx-xx-xxxx
White, Ronald W., xxx-xx-xxxx
Whitehead, Ennis C., xxx-xx-xxxx
Whitehead, Michael, xxx-xx-xxxx
Whitesel, William T., xxx-xx-xxxx
Whitney, David J., xxx-xx-xxxx
Wilbourn, Donald E., xxx-xx-xxxx
Wilde, Ronnie L., xxx-xx-xxxx
Wiles, Bryan L., xxx-xx-xxxx
Wiles, Douglass F., xxx-xx-xxxx
Wilhelm, Joseph F., xxx-xx-xxxx
Willwhite, Derwood J., xxx-xx-xxxx
Williams, Arthur E., xxx-xx-xxxx
Williams, David L., xxx-xx-xxxx
Williams, David L., xxx-xx-xxxx
Williams, Frederick, xxx-xx-xxxx
Williams, Gary L., xxx-xx-xxxx
Williams, Gary R., xxx-xx-xxxx
Williams, Glenn F., xxx-xx-xxxx
Williams, James P., xxx-xx-xxxx
Williams, Joseph W., xxx-xx-xxxx
Williams, Michael R., xxx-xx-xxxx
Williams, Timothy D., xxx-xx-xxxx
Williams, William V., xxx-xx-xxxx
Wilson, David B., xxx-xx-xxxx
Wilson, Kevin S., xxx-xx-xxxx
Wilson, Michael P., xxx-xx-xxxx
Wilson, Stephen D., xxx-xx-xxxx
Wimmer, Michael W., xxx-xx-xxxx
Windham, Michael C., xxx-xx-xxxx
Windham, Orval, xxx-xx-xxxx
Winkles, Daniel T., xxx-xx-xxxx
Winslow, Harold L., xxx-xx-xxxx
Wisdom, William D., xxx-xx-xxxx
Wisenbaker, James D., xxx-xx-xxxx
Wiser, Edward H., xxx-xx-xxxx
Witthman, William W., xxx-xx-xxxx
Woeste, Dennis C., xxx-xx-xxxx
Woffinden, Duard S., xxx-xx-xxxx
Woityna, Edward F., xxx-xx-xxxx
Wolf, Paul J., xxx-xx-xxxx
Wolfe, Paul G., xxx-xx-xxxx
Wolfkill, Albert J., xxx-xx-xxxx
Wolkowitz, Felix H., xxx-xx-xxxx
Wood, Kenneth R., xxx-xx-xxxx
Woodbery, Edward H., xxx-xx-xxxx
Woods, Gary C., xxx-xx-xxxx
Woody, Leonard S., xxx-xx-xxxx
Woolery, James K., xxx-xx-xxxx
Wooley, William J., xxx-xx-xxxx
Wooten, James B., xxx-xx-xxxx
Worley, Gary L., xxx-xx-xxxx
Wray, Lewis T., xxx-xx-xxxx
Wright, Edward J., xxx-xx-xxxx
Wright, James E., xxx-xx-xxxx
Wright, Randy C., xxx-xx-xxxx
Wright, Thomas H., xxx-xx-xxxx
Wright, Walter E., xxx-xx-xxxx
Wynarsky, Andrew E., xxx-xx-xxxx
Wynn, John M., xxx-xx-xxxx
Yakubik, John E., xxx-xx-xxxx
Yates, Norman C., xxx-xx-xxxx
Yeager, Jackie B., xxx-xx-xxxx
Yelverton, Bruce J., xxx-xx-xxxx
Yerby, Stephen R., xxx-xx-xxxx
Yocom, Charles W., xxx-xx-xxxx
Yocum, James W., xxx-xx-xxxx
Young, Anthony H., xxx-xx-xxxx
Young, Drew M., xxx-xx-xxxx
Young, John L., xxx-xx-xxxx
Young, Peter T., xxx-xx-xxxx
Younger, Kenneth M., xxx-xx-xxxx
Zagorski, Donald R., xxx-xx-xxxx
Zak, Richard E., xxx-xx-xxxx
Zigoris, Thomas, xxx-xx-xxxx

WOMEN'S ARMY CORPS

To be first lieutenant

Erlenkotter, Sue, xxx-xx-xxxx
Ford, Linda K., xxx-xx-xxxx
Halter, Susan S., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be first lieutenant

Agosta, Richard H., xxx-xx-xxxx
Algeo, James H., xxx-xx-xxxx
Ballard, Glen L., xxx-xx-xxxx
Barney, Casey T., xxx-xx-xxxx
Belknap, Raymond M., xxx-xx-xxxx
Bender, Gregory N., xxx-xx-xxxx
Berg, Eric W., xxx-xx-xxxx
Billingsley, William, xxx-xx-xxxx
Birdsall, Gregory L., xxx-xx-xxxx
Bissel, James B., xxx-xx-xxxx
Boedecker, David L., xxx-xx-xxxx
Bolinder, Scott W., xxx-xx-xxxx
Bridgman, Michael L., xxx-xx-xxxx
Burns, David C., xxx-xx-xxxx
Butler, Ronald C., xxx-xx-xxxx
Caldwall, Charles A., xxx-xx-xxxx
Carlson, Charles R., xxx-xx-xxxx
Cesaretti, George M., xxx-xx-xxxx
Christal, Gary W., xxx-xx-xxxx
Clark, James R., xxx-xx-xxxx
Davis, Samuel S., xxx-xx-xxxx
Davis, Terry M., xxx-xx-xxxx
Deardorff, Stephen, xxx-xx-xxxx
Enzenauer, Robert W., xxx-xx-xxxx
Fletcher, Stephen C., xxx-xx-xxxx
Flood, Randell G., xxx-xx-xxxx
Fournet, Ronald A., xxx-xx-xxxx
Freeman, Philip J., xxx-xx-xxxx
Gardner, Henry S., xxx-xx-xxxx
Garrett, Michael D., xxx-xx-xxxx
Gillette, Paul E., xxx-xx-xxxx
Glasgo, Stephen C., xxx-xx-xxxx
Good, Harry R., xxx-xx-xxxx
Harrell, Michael L., xxx-xx-xxxx
Haug, Arden D., xxx-xx-xxxx
Herrig, James A., xxx-xx-xxxx
Highfill, William T., xxx-xx-xxxx
Hild, Fred S., xxx-xx-xxxx
Johns, James C., xxx-xx-xxxx
Johnston, Michael D., xxx-xx-xxxx
Jones, Monte L., xxx-xx-xxxx
Keels, Rod M., xxx-xx-xxxx
Kubej, Gerard J., xxx-xx-xxxx
Lindsey, Gary D., xxx-xx-xxxx
Lyerly, William H., xxx-xx-xxxx
Lyon, George L., xxx-xx-xxxx
Madigan, Robert M., xxx-xx-xxxx
Mansfield, Kim D., xxx-xx-xxxx
McCrary, Guy R., xxx-xx-xxxx
McFarlain, Patrick, xxx-xx-xxxx
Meyers, Robert J., xxx-xx-xxxx
Newbrander, William, xxx-xx-xxxx
Oates, Jerry D., xxx-xx-xxxx
Patton, Daniel A., xxx-xx-xxxx
Perry, Norton L., xxx-xx-xxxx
Perry, Randy, xxx-xx-xxxx
Phillips, George A., xxx-xx-xxxx
Poole, Donald R., xxx-xx-xxxx

Porter, Billy R., xxx-xx-xxxx.
Prouty, Richard W., xxx-xx-xxxx.
Ramsberger, Peter R., xxx-xx-xxxx.
Reid, Henry L., xxx-xx-xxxx.
Richardson, Danny G., xxx-xx-xxxx.
Robertus, Paul D., xxx-xx-xxxx.
Rogers, Alan S., xxx-xx-xxxx.
Rohrdanz, Frederick, xxx-xx-xxxx.
Roland, Robert R., xxx-xx-xxxx.
Rosenberger, John D., xxx-xx-xxxx.
Ross, James W., xxx-xx-xxxx.
Ruck, David C., xxx-xx-xxxx.
Schaefer, Paul S., xxx-xx-xxxx.
Seidlitz, Timothy H., xxx-xx-xxxx.
Sheehan, Terry L., xxx-xx-xxxx.
Siebold, James R., xxx-xx-xxxx.
Sierra, Nestor A., xxx-xx-xxxx.
Slaughter, David W., xxx-xx-xxxx.
Smajd, Michael A., xxx-xx-xxxx.
Stewart, Gene B., xxx-xx-xxxx.
Supon, Patrick A., xxx-xx-xxxx.
Swinney, Phillip W., xxx-xx-xxxx.
Sylvia, Bruce F., xxx-xx-xxxx.
Thomas, Glynn O., xxx-xx-xxxx.
Tolley, Stephen G., xxx-xx-xxxx.
Turner, Stanley D., xxx-xx-xxxx.
Vandertulip, William, xxx-xx-xxxx.
Walker, Stephen J., xxx-xx-xxxx.
Wilbanks, James C., xxx-xx-xxxx.
Williams, Duke R., xxx-xx-xxxx.
Williamson, Timothy, xxx-xx-xxxx.
Zeidman, Eric J., xxx-xx-xxxx.

ARMY NURSE CORPS

To be first lieutenant

Boone, Barbara M., xxx-xx-xxxx.
DeSalva, Stephanie, xxx-xx-xxxx.
Hix, Gary D., xxx-xx-xxxx.
Ross, James W., xxx-xx-xxxx.
Saye, Jackie W., xxx-xx-xxxx.
Shandera, Thomas J., xxx-xx-xxxx.
Simmons, Myra D., xxx-xx-xxxx.
Spring, William B., xxx-xx-xxxx.
Thomas, Steven C., xxx-xx-xxxx.
Young, Barbara J., xxx-xx-xxxx.

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 2107, subject to the qualifications therefor as provided by law:

Holt, Joseph P. — Nunez, Andres J.
Jones, Kevin L. — Skelton, David L.

The following-named (Marine Corps enlisted commissioning education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 5583, subject to the qualifications therefor as provided by law.

Carringer, Michael D. — Vandenbout, Philip D.
Finn, Thomas A. — Wampler, Terry L.
Polansky, James R.

The following-named (Navy enlisted scientific education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 5583, subject to the qualifications therefor as provided by law:

Becker, Arlen R. — Edelen, Russell M.
Blevins, Russell C. — Guerrero, James P.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 4, 1977:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Alonzo Lowry McDonald, Jr., of Connecticut, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

DEPARTMENT OF AGRICULTURE

Sarah Weddington, of Texas, to be General Counsel of the Department of Agriculture.

Ray V. Fitzgerald, of South Dakota, to be a member of the Board of Directors of the Commodity Credit Corporation.

DEPARTMENT OF JUSTICE

John C. Krsul, of Montana, to be U.S. marshal for the district of Montana for the term of 4 years.

TENNESSEE VALLEY AUTHORITY

Simon David Freeman, of Maryland, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1984.

RAILROAD RETIREMENT BOARD

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1978.

ACTION AGENCY

John Robert Lewis, of Georgia, to be an Associate Director of the ACTION Agency.

DEPARTMENT OF ENERGY

James R. Schlesinger, of Virginia, to be Secretary of Energy.

FEDERAL ENERGY ADMINISTRATION

Hazel R. Rollins, of the District of Columbia, to be an Assistant Administrator of the Federal Energy Administration.

FEDERAL POWER COMMISSION

Georgiana H. Sheldon, of Virginia, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1979.

Charles Brent Curtis, of Maryland, to be a member of the Federal Power Commission for the term expiring June 22, 1982.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Earl E. Veron, of Louisiana, to be U.S. district judge for the western district of Louisiana.

HOUSE OF REPRESENTATIVES—*Thursday, August 4, 1977*

The House met at 10 o'clock a.m.

The Reverend Charles Mallon, St. Matthias Church, Lanham, Md., offered the following prayer:

The world and all that is in it belongs to the Lord; the Earth and all who live on it are His. He built it on the deep waters beneath the Earth and laid its foundations in the ocean depths.—Psalms 23: 1–2.

Father, it is Your light and Your energy that sustains all creation. There is nothing in creation that escapes this mystery. Your plan of creation has provided us with abundant natural energy resources. We pray for the discernment to dispose of these resources wisely.

On behalf of this membership and the employees of this body, I ask You to heal this Nation from greed and selfishness and to give life to those qualities which seek to establish brotherhood among men.

We ask this through Christ our Lord, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I; and

H.R. 7345. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 896. An act to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program;

S. 911. An act for the relief of Mee Hwa Hong;

S. 1614. An act to establish the Western States conservation program;

S. 2001. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power, and other purposes;

S.J. Res. 71. Joint resolution to authorize and request the President to issue a proclamation designating September 1977 as "National Sickle Cell Month."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7933, DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING FUNDS FOR PROJECTS IN CERTAIN COMPREHENSIVE RIVER BASIN FLOOD CONTROL PROJECTS

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2001) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power, and other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to previous authorizations there is hereby authorized to be appropriated for the prosecution of the comprehensive plans of development of the river basins under the jurisdiction of the Secretary of the Army referred to in the first column below, which was authorized by the Act referred to in the second column below, an amount not to exceed that shown opposite such river basin in the third column below.

Basin—Brazos River Basin; Act of Congress—Sept. 3, 1954, FCA 1954, PL 780–83rd Cong.; Amount—$7,500,000.

Basin—San Joaquin River Basin; Act of Congress—Dec. 22, 1944, FCA 1944, PL 534–78th Con.; Amount—$6,000,000.

Mr. JOHNSON of California. Mr. Speaker, this bill is an interim measure which will allow work to continue on water resources projects in the Brazos River basin in Texas and the San Joaquin River basin in California through the end of October. In these basins the appropriations and expenditure limitations will be reached very soon. One out-of-funds notice has already been issued by the Corps of Engineers to a contractor in the Brazos River basin, and another will be issued very shortly. The bill provides increases in authorizations of $7.5 million for the Brazos and $6 million for the San Joaquin basin. A number of other river basins will be exhausting their funding limitations in October.

In May of this year the House passed H.R. 5885, which contained increases in basin monetary authorizations sufficient to continue projects in affected basins through fiscal year 1980. However, this bill, as amended by the Senate, contained a waterway user charge provision. Because of the constitutional requirement that revenue raising measures originate in the House, no further action on that bill can be taken. We will be developing another comprehensive basin authorization bill in September after the August district work period.

S. 2001 will allow work to continue in the Brazos and San Joaquin basins until that legislation can be passed. Without the increased authorizations provided by this bill work on projects in these two basins would have to be stopped. Accordingly, I urge passage of this very necessary legislation.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I rise in support of this bill.

First I would like to express my appreciation to the chairman of the Public Works and Transportation Committee, the gentleman from California (Mr. JOHNSON), and the chairman of the Water Resources Subcommittee, the gentleman from Texas (Mr. ROBERTS), for their efforts in helping to bring this measure to the floor for consideration.

I also want to express my sincere thanks to my able colleague in the other body, the distinguished junior Senator from the State of Texas, Mr. BENTSEN, who successfully moved this emergency legislation through the other body last night. I congratulate him for his effort, without which we would be "up that proverbial creek."

I would like to take a moment to explain to my colleagues the importance of this legislation and the reason that we have had to bring up this rather unusual bill under this procedure.

The bill authorizes $7.5 million for the Brazos River basin in Texas. This authorization will enable construction to continue on the San Gabriel project in Williamson County which is partially in my district and partially in the district of my colleague the gentleman from Texas (Mr. POAGE). It is basically a two-lake flood control project on which construction began in 1972. Two of the lakes, Granger Dam and Lake and the North Fork Dam and Lake, are presently about 85 percent complete.

Because the contractors on this project have been very diligent and worked very hard, they are ahead of schedule. They have expended nearly all of their present authorization ahead of schedule and without this emergency authorization, construction on one lake would stop next week and all construction activities on the project would end by mid-September.

In May, the House passed H.R. 5885 which included a $60 million authorization for the basin. However, when the bill went to the other body, they attached the controversial Locks and Dam 26 authorization and the waterways user fee to this bill. This brought an immediate halt to the legislation until the differences on these two issues were worked out between the two Houses.

This emergency legislation will give the San Gabriel project in the Brazos basin enough funds to get through the end of October by which time we should be able to resolve the other issues in the main authorization bill and pass it.

I hope that the House will pass this bill without objection so that we can keep this project moving forward and prevent delays which could result in millions of dollars in additional expense.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

U.S. AID TO VIETNAM—"INDIRECTLY"?

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, in my continuing effort to keep the Members of the House advised on the activities of the World Bank and some of its lending policies. I want to tell the Members about something which I learned a few days ago. That is the subject of loans for Vietnam through IDA of the World Bank. That is the soft loan window. When I learned about several projects the World Bank is pursuing in Vietnam, I talked to the U.S. Executive Director to the World Bank, to find out what he knew about it. And guess what? He did not know anything about it. But IDA is already preparing for loans to Vietnam. They have already identified the projects they intend to fund; what they will be and where they will be located.

One is to be the rehabilitation and expansion of coal mines in Quang Ninh Province, and the other is a big water project in the Mekong Delta, drainage and irrigation using U.S. funds, to a great extent.

This year alone, we have appropriated $950 million to IDA and that does not include the $55 million in the supplemental.

NATIONAL ENERGY ACT

Mr. BOLLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8444) to establish a comprehensive national energy policy.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. BOLLING).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 3, not voting 52, as follows:

[Roll No. 502]

YEAS—378

Abdnor	Bafalis	Bonior
Akaka	Barnard	Bowen
Alexander	Baucus	Brademas
Allen	Bauman	Breaux
Ambro	Beard, R.I.	Breckinridge
Ammerman	Beard, Tenn.	Brinkley
Anderson, Calif.	Bedell	Brodhead
	Bellenson	Brooks
Andrews, N. Dak.	Benjamin	Broomfield
	Bennett	Brown, Calif.
Annunzio	Bevill	Brown, Mich.
Applegate	Biaggi	Brown, Ohio
Armstrong	Bingham	Broyhill
Ashbrook	Blanchard	Buchanan
Ashley	Boggs	Burgener
Aspin	Boland	Burleson, Tex.
AuCoin	Bolling	Burlison, Mo.

Burton, Phillip	Harris	O'Brien
Butler	Harsha	Oakar
Byron	Hawkins	Oberstar
Caputo	Heckler	Obey
Carney	Hefner	Ottinger
Carr	Heftel	Panetta
Carter	Hightower	Patten
Cavanaugh	Hillis	Pattison
Cederberg	Holland	Pease
Clausen, Don H.	Holtzman	Pepper
	Horton	Perkins
Clawson, Del	Howard	Pettis
Clay	Hubbard	Pickle
Cleveland	Huckaby	Pike
Cochran	Hughes	Poage
Cohen	Hyde	Pressler
Coleman	Ichord	Preyer
Collins, Tex.	Ireland	Price
Conable	Jacobs	Pritchard
Conte	Jeffords	Quayle
Corcoran	Jenkins	Quie
Corman	Jenrette	Quillen
Cornell	Johnson, Calif.	Rahall
Cornwell	Johnson, Colo.	Railsback
Cotter	Jones, N.C.	Rangel
Coughlin	Jones, Okla.	Regula
Crane	Jones, Tenn.	Reuss
Cunningham	Jordan	Rhodes
D'Amours	Kasten	Richmond
Daniel, Dan	Kastenmeier	Rinaldo
Daniel, R. W.	Kazen	Risenhoover
Davis	Kelly	Roberts
de la Garza	Ketchum	Robinson
Delaney	Keys	Rodino
Dellums	Kildee	Roe
Derrick	Kindness	Rogers
Derwinski	Kostmayer	Rooney
Devine	Krebs	Rose
Dickinson	LaFalce	Rosenthal
Dicks	Lagomarsino	Rostenkowski
Dodd	Latta	Rousselot
Dornan	Leach	Roybal
Downey	Lederer	Rudd
Drinan	Leggett	Runnels
Duncan, Oreg.	Lehman	Russo
Duncan, Tenn.	Lent	Ryan
Early	Levitas	Santini
Eckhardt	Lloyd, Tenn.	Sarasin
Edgar	Long, La.	Satterfield
Edwards, Ala.	Long, Md.	Sawyer
Edwards, Calif.	Lott	Scheuer
Edwards, Okla.	Lujan	Schroeder
Eilberg	Luken	Schulze
Emery	Lundine	Sebelius
English	McClory	Sharp
Erlenborn	McCloskey	Shipley
Ertel	McCormack	Shuster
Evans, Colo.	McDonald	Sikes
Evans, Del.	McEwen	Simon
Evans, Ga.	McFall	Sisk
Evans, Ind.	McHugh	Skelton
Fary	McKay	Skubitz
Fascell	Madigan	Slack
Fenwick	Maguire	Smith, Iowa
Findley	Mahon	Smith, Nebr.
Fish	Mann	Snyder
Fisher	Markey	Solarz
Fithian	Marks	Spellman
Flood	Marriott	Spence
Florio	Martin	St Germain
Flowers	Mathis	Staggers
Flynt	Mattox	Stangeland
Foley	Mazzoli	Stanton
Ford, Tenn.	Meeds	Steers
Forsythe	Metcalfe	Steiger
Fountain	Meyner	Stockman
Fowler	Mikulski	Stokes
Fraser	Mikva	Stratton
Frey	Milford	Studds
Fuqua	Miller, Calif.	Stump
Gammage	Miller, Ohio	Taylor
Gaydos	Mineta	Thompson
Gephardt	Minish	Thone
Giaimo	Mitchell, N.Y.	Thornton
Gibbons	Moffett	Traxler
Gilman	Mollohan	Treen
Ginn	Montgomery	Trible
Glickman	Moore	Tsongas
Gonzalez	Moorhead, Calif.	Udall
Goodling		Ullman
Gore	Moorhead, Pa.	Van Deerlin
Gradison	Mottl	Vanik
Grassley	Murphy, Ill.	Vento
Gudger	Murphy, Pa.	Volkmer
Guyer	Murtha	Waggonner
Hagedorn	Myers, Gary	Walgren
Hall	Myers, John	Walker
Hamilton	Myers, Michael	Walsh
Hammer-schmidt	Natcher	Wampler
	Neal	Watkins
Hanley	Nedzi	Waxman
Hannaford	Nichols	Weaver
Hansen	Nix	Weiss
Harkin	Nolan	Whalen
Harrington	Nowak	White
Whitehurst	Wirth	Yatron
Whitley	Wolff	Young, Fla.
Whitten	Wright	Young, Mo.
Wiggins	Wydler	Zablocki
Wilson, C. H.	Wylie	Zeferetti
Winn	Yates	

NAYS—3

Lloyd, Calif.	Symms	Wilson, Bob

NOT VOTING—52

Addabbo	Dent	Moakley
Anderson, Ill.	Diggs	Moss
Andrews, N.C.	Dingell	Murphy, N.Y.
Archer	Flippo	Patterson
Badham	Ford, Mich.	Pursell
Badillo	Frenzel	Roncalio
Baldus	Goldwater	Ruppe
Blouin	Hollenbeck	Seiberling
Bonker	Holt	Stark
Burke, Calif.	Kemp	Steed
Burke, Fla.	Koch	Teague
Burke, Mass.	Krueger	Tucker
Burton, John	Le Fante	Vander Jagt
Chappell	McDade	Wilson, Tex.
Chisholm	McKinney	Young, Alaska
Collins, Ill.	Marlenee	Young, Tex.
Conyers	Michel	
Danielson	Mitchell, Md.	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8444, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, August 3, 1977, section 2001 of title II was under consideration.

The Clerk will designate the next part of the bill.

The Clerk read as follows:

Section 2002 amendment of 1954 code.
(Section 2002 of title II reads as follows:)

SEC. 2002. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Let the Chair indicate that all signs point to the fact that this bill will be completed tonight if we get the cooperation of the members of the Committee of the Whole.

Mr. ALLEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have the attention of the distinguished gentleman from Ohio (Mr. ASHLEY) and the gentleman from Michigan (Mr. DINGELL), if he is in the House, for the purpose of asking a question.

Mr. Chairman, on May 12 I wrote to the President as follows:

The Democratic Platform adopted in July 1976 at the National Convention of our Party stated:

"We will support the reform of the utility rate structures and regulatory rules to encourage conservation and"—

Now pay attention to these words—

"ease the utility rate burden on residential users, farmers, and other consumers who can least afford it."

During your first Campaign television debate with President Ford, you adopted this view as a personal pledge of your own.

In my conference on April 15 with Dr. Schlesinger, he assured me several times that I would be "90 to 95 percent pleased" with the Administration's proposed energy bill.

In this respect I should like to ask the gentleman from Ohio (Mr. ASHLEY) if he will, if he can, direct to my attention the section or sections in the bill now before us designed to carry out this pledge; that is, "to ease the utility rate burden on residential users, farmers, and consumers who can least afford it."

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, I would refer the gentleman to title I, section 511 and following, which sets forth national minimum standards for State-regulated utility rate regulations. I think if the gentleman will refer to the sections which I have just suggested that his inquiry will be answered.

Mr. ALLEN. Mr. Chairman, if the gentleman will respond further, do I understand further that the sections named by the distinguished chairman of the committee would indeed serve to reduce. or, to use the language in the Democratic platform, "ease the utility rate burden on residential users, farmers, and consumers who can least afford it." And, if so, wherein in the bill is the language?

Mr. ASHLEY. If the gentleman will refer to the sections I have indicated, again I say his question will be answered.

I can assure the gentleman that ratepayers in general are not going to have an absolute reduction.

Mr. ALLEN. We are not going to have an absolute reduction?

Mr. ASHLEY. No.

Mr. ALLEN. Then how are we going to ease the burden?

Mr. ASHLEY. No, no more than the prices of automobiles are going to go down. The gentleman is surely aware of the fact that we have an energy problem and the energy bill before us does not mean the earth will cease spinning on its orbit, but it does mean, although we will not dramatically reduce the price of fuel, we will proceed at a much more temperate pace and provide opportunities for consumers to save on their electric bills.

Mr. ALLEN. In other words, as I understand the gentleman's answer, he is saying in effect that the price of electricity and gas that goes to residential users, to farmers, and those who can least afford it, will go up under this bill and the prices and the burden will not be eased. Is that not correct?

Mr. ASHLEY. The effort is to moderate to the extent that is possible the fuel costs to the American consumer, be he residential or be he industrial. The fact of the matter is, fuel represents about one-third of the cost of generating electricity, and that one-third limits our ability to bring about reductions in cost.

Mr. ALLEN. But I believe that the chairman has said we should all realize that the price of electricity is going up. Is that correct?

Mr. ASHLEY. Well, in the future it is going to go up.

Mr. ALLEN. Under this bill, it will go up?

Mr. ASHLEY. Not because of this bill.

Mr. ALLEN. But notwithstanding any provision in this bill, it will go up?

Mr. ASHLEY. We are not in this bill legislating price controls, let this be clear. We are not doing this. We are trying to provide rate structures that will reflect the true cost of providing electric service to each class of electric consumers and will provide electric consumers with opportunities to conserve energy and their money through peakload pricing techniques.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, the price of electricity would not be held down in the immediate future; but, hopefully, the minimum Federal standards will result in capital savings in the next 5 to 10 years, thereby preventing an increase in prices that would otherwise occur. That is one of the benefits. Also, it has the benefit of taking less energy to produce the electricity. That is why we are going to those standards in the bill.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words and to comment on the colloquy that has taken place.

Under this section of the bill, the question of life-line rates, as with most other kinds of rates to encourage conservation, was left to the State utility commissions to decide. In a thorough study of the life-line problem in our Subcommittee on Energy and Power hearings and in the decisions taken by the subcommittee and the full Committee on Commerce, the concern was that life-line rates, by the definitions that could be written into the legislation, might, in fact, be extended to summer cottages for the wealthy, because they would be low users of electricity and that high users of electricity were sometimes those that needed relief most because they are low and fixed income people. Therefore, we felt it was probably better to leave it up to the States to make those determinations.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, does the gentleman say, in effect, there is nothing in this bill which will in the immediate future, or the foreseeable future, either ease or reduce the utility rate burden on residential users, farmers, and other consumers who can least afford it?

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will look on page 228, section 511(b) under the general title Lower Rates, (1), it says:

(b) LOWER RATES.—(1) No provision of this title shall prevent an electric utility, a State regulatory authority, or other State agency from fixing, approving, or allowing to go into effect a rate for electric energy for essential needs of residential electric consumers (as defined by the State regulatory authority) which is lower than that otherwise required by paragraph (1) of subsection (a).

Then it goes on to say:

(2) A State regulatory authority which has enforcement responsibility may, upon application of any electric consumer, prescribe a temporary exception pursuant to which an electric utility rate schedule which does not comply with the requirements of subsection (a) will be fixed, approved, or allowed to go into effect, with respect to such consumer. Any such exception shall comply with the following requirements:

It describes whether such exceptions shall comply with the following requirements.

Mr. ALLEN. Will the gentleman yield further?

Mr. BROWN of Ohio. I shall be glad to yield.

Mr. ALLEN. Then what this is, is merely a permissive provision that would permit the States to review the matter. But there is nothing in this act that would mandate the easing of utility rates on residential users, farmers, and other consumers.

Mr. BROWN of Ohio. By the very inclusion in the legislation it encourages the States to take this into account in their planning, but in the general area of telling the States what to do with rate structures, we do not mandate life-line rates. I think that accomplishes the concern, addresses the concern of the gentleman from Tennessee, who I know has been very much involved in this issue.

The CHAIRMAN. The Clerk will designate the heading of the part now pending.

The Clerk read as follows:

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 2011. RESIDENTIAL ENERGY CREDIT.

(Part I of title II reads as follows:)

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 2011. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified solar and wind energy expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) SOLAR AND WIND.—In the case of any dwelling unit, the qualified solar and wind energy expenditures are the following percentages of the solar and wind energy expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $1,500, plus

"(B) 20 percent of so much of such expenditures as exceeds $1,500 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or solar and wind energy expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) SOLAR AND WIND ENERGY EXPENDITURE.—

"(A) IN GENERAL.—The term 'solar and wind energy expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for solar and wind energy property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'solar and wind energy expenditure' includes only expenditures for—

"(i) solar and wind energy property, or

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of solar and wind energy property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'solar and wind energy expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specificially and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) a clock thermostat,

"(vi) caulking or weatherstripping of an exterior door or window, or

"(vii) an item of a kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) SOLAR AND WIND ENERGY PROPERTY.—The term 'solar and wind energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) uses wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which, when installed in connection with a dwelling, meets the performance and quality standards which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (3), (4), and (5) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of solar and wind energy expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used duriny any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of solar and wind energy expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraphs (4) and (5) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section, such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216 (b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528 (c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are unused as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1982."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C (e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

The CHAIRMAN. The Clerk will designate the page and line number of the first ad hoc committee amendment to part I.

The Clerk read as follows:

Ad hoc committee amendment: Page 414, line 10: delete: "December 31, 1982" and insert: "December 31, 1984".

Mr. ASHLEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as originally reported by the Ways and Means Committee, the income tax credit for weatherization terminated on December 31, 1982. The ad hoc committee amendment extends the availability of the tax credit through December 31, 1984.

Very briefly, Mr. Chairman, let me say that I fully support this extension. Were we to go with the earlier cutoff date, this would, in my judgment, exacerbate the supply problem for insulation materials, which is a serious one. By extending the date through December 31, 1984, the amendment permits a more orderly approach to the providing of insulation services in conformity with the goal established by the President of weatherizing or insulating 90 percent of our American homes by 1985.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, we looked at this in the Ways and Means Committee. The gentleman's amendment does make sense. I think that it is very legitimate. I have no objection to it whatsoever, and I hope we can adopt it and proceed expeditiously.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I find myself in that proverbial difficult position because I really do not like the insulation credit at all. If I had a preference, I would have hoped that the Committee on Rules, in its infinite wisdom and in its meritorious efforts to achieve democracy on the floor, would have enabled the gentleman from California (Mr. STARK), and others, myself included, to offer an amendment to strike the insulation credit. But the Committee on Rules decided that that was not an issue they wanted the House to deal with. Therefore, we are not allowed to do that.

Given that, the choice for the House is whether or not we go with the committee bill, as reported by the Committee on Ways and Means, or to adopt the Fisher amendment. Our distinguished colleague, the gentleman from Virginia (Mr. FISHER), who is an able economist and an exceedingly effective representative, wisely modified the Ways and Means Committee provision. The choice that we thus are faced with is: Do we keep just that 1982 date, as the Committee on Ways and Means decided, or do we extend it to 1984?

My guess is that the American consumer is better off, the American worker is better off, everybody is better off, except perhaps the U.S. Treasury or our tax code if we adopt the Fisher amendment.

To alleviate a very real time problem, we would force everybody in a short period of time to insulate without the Fisher amendment thus artificially rais-

ing the price of insulation and doing damage, in the long term, to energy conservation.

As members of the committee know, I am sure, the increase in cost, or decrease in revenue, depending on how one looks at it, will be $784 million in fiscal year 1984 and $710 million in fiscal year 1985. But it will decrease consumption by about 20 million barrels of oil per day, and I think it is worthwhile.

Mr. Chairman, I support the amendment.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before it goes by without anybody's saying more than a passing word for the U.S. Treasury—and I do appreciate the passing comment of the gentleman from Wisconsin (Mr. STEIGER), who indeed did oppose this insulation credit in the committee—I think the record ought to show that it is not a complete love fest for this raid on the U.S. Treasury. We are talking about one-half billion dollars a year from the U.S. Treasury to pay our next-door neighbor to insulate his or her home, where we may have already done it ourselves, or where he or she should have done it if he or she had the gumption to understand that it would save one-third of his or her fuel bill.

Mr. Chairman, I do not think when you have a bad situation that the best thing to do is compound it by extending it for 2 more years. Let me put it this way: If this is an incentive for those who are too dull witted to insulate their homes, knowing that they can save one-third of their fuel bills, if this is really an incentive, why is it they are not going to rush out and grab this big tax raid on the U.S. Treasury and save the one-third of their fuel bill for the soonest winter available? Why extend it for another 2 years? What effect is that really going to have on the market?

So I suppose it is all greased, like some of the other petroleum aspects of this bill, but I want to show for the record, when we read it 2 or 3 years from now, that not everybody here is interested in raiding the U.S. Treasury of one-half billion dollars a year to pay somebody or to bribe somebody to insulate his home, when saving a fuel bill ought to have been enough incentive, in the first place. Actually it is not so much a raid on the Treasury as a raid on the value of the dollar. The Treasury does not have the half a billion. The money would be the funny kind produced by U.S. printing presses.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words, and in support of the ad hoc committee amendment.

Mr. Chairman, my dear friend, the gentleman from Indiana (Mr. JACOBS) and his concern for the Treasury remind me of the thinking of some of the water officials in Marin County, which is just north of San Francisco to the north of my district.

In that county they have had a severe water shortage for a couple of years. As a result, the situation has become very, very critical. Because of that shortage the citizens began to conduct a program for conservation of water. The program became a policy function of the county government of Marin County. In fact, they were so successful that instead of cutting back on the target of 25 percent of consumption, they cut back almost 40 percent, at which point the water officials in Marin County wrote to their constituents in the county and said, "Please use more water." They wanted the people to use more water even though the reservoirs did not have the water to spare.

Why? They did it because the water district revenues were getting smaller and smaller and district officials could not pay their salary bills.

That is the kind of thinking we have seen here when my friend, Mr. JACOBS says that this is going to mean there will be some kind of a loss to the Treasury.

It seems to me there are two most important sources of energy in this country that we have not yet even touched, in comparison to those such as nuclear and coal which we have stressed. I refer to solar energy and the conservation of energy. We have not encouraged our people much on the cutting down of energy use, and yet that is exactly where we can achieve the greatest single advantage to ourselves. We can create greater conservation of energy through insulation of our homes and industries. Among other things, one result of this would be the creation of a whole new industry to take care of the problem of conserving the energy we already use.

I do not see any loss to the Treasury by this; I see a gain, providing the incentives are great enough to develop a whole new industry that can retrofit all existing backlogs. If there is any criticism of this particular amendment, it is that it does not go far enough or fast enough.

Mr. Chairman, I urge the Members not to succumb to the kind of Marin County water thinking about which I spoke, where the people were urged to use less water. The revenues went down and they were encouraged to use more, even though they did not have the water.

The way to balance the budget, which my friend from Indiana wants, is to create more industry, more jobs—and then there will be the additional tax revenue that will save the Treasury—not drain it.

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment of the ad hoc committee to part I, title II.

The ad hoc committee amendment was agreed to.

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire of the gentleman from Washington (Mr. CUNNINGHAM) whether or not this amendment is permitted under the rule.

Mr. CUNNINGHAM. Mr. Chairman, it is my understanding that at present it is not. It is also my understanding, in talking with the gentleman from Ohio (Mr. ASHLEY), that should the House be allowed to totally exert its rules, the amendment could be made in order.

The CHAIRMAN. Does the gentleman from Washington (Mr. CUNNINGHAM) seek unanimous consent to consider the amendment?

Mr. CUNNINGHAM. Mr. Chairman, what I would prefer would be first to explain the amendment.

At the Chair's suggestion, I do ask unanimous consent that the amendment be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. BOLLING. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Missouri (Mr. BOLLING) reserves the right to object.

Mr. ALLEN. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the amendment.

Mr. ALLEN. Mr. Chairman, I object.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: On page 404, line 22, strike "20 percent" and insert in lieu thereof "100 percent", and on page 404, line 23, after the word "taxpayer", insert "for materials only", and on page 404, line 25, strike "$2,000.00", and insert "$400.00".

The CHAIRMAN. The gentleman from Missouri (Mr. BOLLING) has reserved the right to object.

Mr. ALLEN. I object, Mr. Chairman.

Mr. CUNNINGHAM. Mr. Chairman, may I inquire, would the gentleman from Missouri (Mr. BOLLING) reserve his right to object?

Mr. BOLLING. Mr. Chairman, I have reserved my right to object to the consideration of the amendment, and the gentleman from Tennessee (Mr. ALLEN) has objected.

The CHAIRMAN. That objection of the gentleman from Tennessee (Mr. ALLEN) is heard.

Mr. CUNNINGHAM. Mr. Chairman, may I inquire, would the gentleman permit me the opportunity to explain my amendment before he objects? I wondered if the gentleman would simply reserve his right to object.

Mr. ALLEN. Mr. Chairman, if the gentleman will yield, I have not been permitted the opportunity to offer a single amendment myself, and that being the case, I object.

The CHAIRMAN. Objection is heard.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

I would apologize to the body for being so brash as to suddenly roar into this matter, but it is because I am concerned about a weakness in the insulation tax credit. Therefore, I have offered or tried to offer what I consider to be a friendly amendment.

I have discussed it with the chairman of the Ad Hoc Committee, and I have discussed it with the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. Chairman, the insulation tax credit, as we know, does very well for the wealthy, and further in the bill the ability to insulate is handled for the poor. However, as usual, in our rush to meet all goals for everyone, we are again standing on the brink of prohibiting anyone the incentive of doing it for himself, by using his own labor to install

needed insulation—and have the same tax treatment as the very wealthy.

Mr. Chairman, the purpose of my amendment was simply to say that those who choose to insulate their own homes, with their own hands, the average worker, the man who pays the cost of our Government, would be given the same incentive tax-wise as the wealthy.

Frankly, Mr. Chairman, I had come to the floor in the hope that this body, recognizing the rules of the majority and the rules of the House would seriously consider a friendly amendment.

I regret the gentleman raising objection to even consider this amendment—for that objection denies the average American taxpayer the right he has to have equal treatment under the law.

The CHAIRMAN. The Clerk will designate the heading of the part now pending.

The Clerk read as follows:

Page 415, line 12, Part II—Transportation.

(Part II of Title II reads as follows:)

PART II—TRANSPORTATION

Subpart A—Gas Guzzler Tax

SEC. 2021. GAS GUZZLER TAX.

(a) GENERAL RULE.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. GAS GUZZLER TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1979 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 15	0
At least 14 but less than 15	$339
At least 13 but less than 14	438
Less than 13	553

"(2) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 17	0
At least 16 but less than 17	$249
At least 15 but less than 16	333
At least 14 but less than 15	428
At least 13 but less than 14	538
Less than 13	666

"(3) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 18.5	0
At least 17.5 but less than 18.5	$245
At least 16.5 but less than 17.5	341
At least 15.5 but less than 16.5	458
At least 14.5 but less than 15.5	597
At least 13.5 but less than 14.5	764
At least 12.5 but less than 13.5	968
Less than 12.5	1,216

"(4) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 20	0
At least 19 but less than 20	$266
At least 18 but less than 19	369
At least 17 but less than 18	491
At least 16 but less than 17	636
At least 15 but less than 16	809
At least 14 but less than 15	1,015
At least 13 but less than 14	1,264
Less than 13	1,565

"(5) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 20.5	0
At least 19.5 but less than 20.5	$345
At least 18.5 but less than 19.5	459
At least 17.5 but less than 18.5	593
At least 16.5 but less than 17.5	751
At least 15.5 but less than 16.5	938
At least 14.5 but less than 15.5	1,161
At least 13.5 but less than 14.5	1,427
At least 12.5 but less than 13.5	1,747
Less than 12.5	2,134

"(6) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 22	0
At least 21 but less than 22	$371
At least 20 but less than 21	490
At least 19 but less than 20	631
At least 18 but less than 19	797
At least 17 but less than 18	990
At least 16 but less than 17	1,218
At least 15 but less than 16	1,486
At least 14 but less than 15	1,804
At least 13 but less than 14	2,183
Less than 13	2,638

"(7) In the case of a 1985 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:

	The tax is:
At least 23.5	0
At least 22.5 but less than 23.5	$397
At least 21.5 but less than 22.5	524
At least 20.5 but less than 21.5	671
At least 19.5 but less than 20.5	843
At least 18.5 but less than 19.5	1,043
At least 17.5 but less than 18.5	1,276
At least 16.5 but less than 17.5	1,550
At least 15.5 but less than 16.5	1,868
At least 14.5 but less than 15.5	2,244
At least 13.5 but less than 14.5	2,688
At least 12.5 but less than 13.5	3,219
Less than 12.5	3,856

"(b) DEFINITIONS.—For purposes of this section—

"(1) AUTOMOBILE.—The term 'automobile' means any 4-wheeled vehicle propelled by fuel—

"(A) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(B) which is rated at 6,000 pounds gross vehicle weight or less.

Such term does not include a truck designed primarily to carry property and the cargo capacity of which is at least 1,000 pounds.

"(2) FUEL ECONOMY.—The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

"(3) MODEL TYPE.—*The term 'model type'* means a particular class of automobile as determined by regulation by the EPA Administrator.

"(4) MODEL YEAR.—The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(5) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(6) EPA ADMINISTRATOR.—The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(7) FUEL.—The term 'fuel' means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(c) DETERMINATION OF FUEL ECONOMY.—For purposes of this section—

"(1) IN GENERAL.—Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

"(2) SPECIAL RULE FOR FUELS OTHER THAN GASOLINE.—The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) TIME BY WHICH REGULATIONS MUST BE ISSUED.—Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply."

(b) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(c) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence:

"Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

(2) UNITED STATES AND POSSESSIONS.—Section 4293 (relating to exemption for United States and possessions) is amended by inserting "(other than section 4064)" after "chapters 31 and 32".

(3) DENIAL OF REFUNDS FOR CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(d) PAYMENT OF TAX IN CASE OF LEASED AUTOMOBILES.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) LEASES OF AUTOMOBILES SUBJECT TO GAS GUZZLER TAX.—

"(1) IN GENERAL.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) PAYMENT OF TAX.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(B) TOTAL GAS GUZZLER TAX.—The term 'total gas guzzler tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Gas guzzler tax."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to 1979 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1954).

SEC. 2022. TRUST FUND FOR PURPOSE OF REDUCING PUBLIC DEBT.

(a) ESTABLISHMENT OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Public Debt Retirement Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be appropriated and transferred to it as provided in subsection (b).

(b) TRANSFER OF GAS GUZZLER TAX TO THE TRUST FUND.—

(1) IN GENERAL.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the taxes which are imposed by section 4064 of the Internal Revenue Code of 1954 (relating to gas guzzler tax) and which are received in the Treasury.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of amounts referred to in such paragraph received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than amounts required to be transferred.

(c) USE OF TRUST FUND.—Amounts in the Trust Fund may be used only for the payment at maturity, or the redemption or purchase before maturity, of any of the obligations of the United States included in the public debt of the United States. All obligations of the United States paid, redeemed, or purchased with money out of the Trust Fund shall be canceled and retired and shall not be reissued.

Subpart B—Motor Fuels

SEC. 2023. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164(a) (relating to deduction for taxes) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the close of December 31, 1977.

SEC. 2024. EXTENSION TO 1985 OF EXISTING RATE OF TAX ON GASOLINE AND OTHER MOTOR FUELS.

(a) IN GENERAL.—The following provisions are amended by striking out "1979" and inserting in lieu thereof "1985":

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4081(b) (relating to imposition of tax on gasoline).

(3) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 4041(c) (relating to rate of tax) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(2) Subsection (a) of section 6412 (relating to floor stocks refunds) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF TAX ON GASOLINE.—In the case of gasoline subject to the tax imposed by section 4081, paragraph (1) shall be applied—

"(A) by substituting '1985' for '1979' each place it appears, and

"(B) by substituting '1986' for '1980' each place it appears."

SEC. 2025. AMENDMENT OF MOTORBOAT FUEL PROVISIONS.

(a) 2-CENT INCREASE IN TAX ON MOTORBOAT FUEL.—

(1) The second sentence of section 4041(b) (relating to tax on special motor fuels) is amended by striking out "the tax imposed" and inserting in lieu thereof "and otherwise than as a fuel in a motorboat, the tax imposed".

(2) The third sentence of section 4041(b) is amended by striking out "a tax of 2 cents a gallon" and inserting in lieu thereof "or is used as a fuel in a motorboat, a tax of 2 cents a gallon".

(b) REFUND OF GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES.—The first sentence of section 6421(a) (relating to nonhighway uses) is amended by striking out "the Secretary" and inserting in lieu thereof "and otherwise than as a fuel in a motorboat, the Secretary".

(c) LAND AND WATER CONSERVATION FUND.—Paragraph (1) of section 201(b) of the Land and Water Conservation Fund Act of 1965 is amended—

(1) by striking out "1980" and inserting in lieu thereof "1978", and

(2) by striking out "1979" and inserting in lieu thereof "1977"

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1977.

Subpart C—Provisions Related to Buses

SEC. 2026. REMOVAL OF EXCISE TAX ON BUSES.

(a) GENERAL RULE.—Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows:

"(6) BUSES.—The tax imposed under section 4061 (a) shall not apply in the case of any automobile bus chassis or automobile bus body."

(b) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 (a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulation prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of

which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, in sofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218 (a) on or after April 20, 1977.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributors, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES".

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a) (6) or (7)" and inserting in lieu thereof "4063(a)(7)".

(g) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply with respect to articles sold on or after April 20, 1977.

(2) For purposes of paragraph (1), an article shall not be considered sold before April 20, 1977, unless possession or right to possession passes to the purchaser before such day.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into before April 20, 1977, payments made on or after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold on or after such date, if the lessor or vendor establishes that the amount of payments payable on or after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable on or after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold before April 20, 1977.

SEC. 2027. REMOVAL OF EXCISE TAX ON BUS PARTS

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph.

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessary which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows:

"(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 2028. REMOVAL OF EXCISE TAX ON CERTAIN ITEMS USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES

(a) TIRES, TUBES, AND TREAD RUBBER.—

(1) IN GENERAL.—Paragraph (5) of section 4221 (e) (relating to school buses) is amended to read as follows:

"(5) TIRES, TUBES, AND TREAD RUBBER USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

(2) QUALIFIED BUS DEFINED.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED BUS.—

"(A) IN GENERAL.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) INTERCITY OR LOCAL BUS.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the passenger seating capacity of such bus is at least 20 adults (not including the driver).

"(C) SCHOOL BUS.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

(3) TECHNICAL AMENDMENT.—Paragraph (2) of section 6416(b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

(b) REPAYMENT OF TAX ON LUBRICATING OIL USED IN INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) IN GENERAL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows:

"(a) PAYMENTS.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

"(1) otherwise than in a highway motor vehicle, or

"(2) in a qualified bus (as defined in section 4221(d)(7)),

the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTER VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES".

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes".

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes".

(D) Section 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes".

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes".

(c) REPAYMENT OF TAX ON FUELS USED BY PUBLIC TRANSIT BUSES OR SCHOOL BUSES.—

(1) GASOLINE.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(2) OTHER FUELS.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if any fuel on the sale of which tax was imposed by sub-

section (a) or (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (d) of section 6421 is amended to read as follows:

"(d) GASOLINE DEFINED.—For purposes of this section, the term 'gasoline' has the meaning given to such term by section 4082(b)."

(B) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1977)" after "section 6421(b)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

Subpart D—Credit for Electric Motor Vehicles

SEC. 2029. CREDIT FOR QUALIFIED ELECTRIC MOTOR VEHICLES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. QUALIFIED ELECTRIC MOTOR VEHICLES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the cost to the taxpayer to acquire a qualified electric motor vehicle during the taxable year, to the extent that such cost does not exceed $300.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number of letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(2) JOINT ACQUISITION.—If any qualified electric motor vehicle is jointly acquired by 2 or more individuals—

"(A) the aggregate amount allowable as a credit under subsection (a) to such individuals with respect to such vehicle shall not exceed $300 and

"(B) the amount allowable as a credit for the taxable year shall be apportioned among such individuals on the basis of their respective shares of the cost.

"(c) QUALIFIED ELECTRIC MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'qualified electric motor vehicle' means any 4-wheeled vehicle—

"(1) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails),

"(2) which is powered primarily by an electric motor drawing current from rechargeable storage batteries or other portable sources of electric current,

"(3) which is acquired by the taxpayer on or after April 20, 1977, for the personal use of the taxpayer or a member of his family, and

"(4) the original use of which begins with the taxpayer or a member of his family.

"(d) TERMINATION.—This section shall not apply to any qualified electric motor vehicle acquired after December 31, 1982."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Qualified electric motor vehicles."

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired on or after April 20, 1977, in taxable years ending on or after such date.

The CHAIRMAN. The Clerk will designate the page and the line number of the ad hoc committee amendment to part II of title II.

The Clerk read as follows:

Ad hoc committee amendment: Page 425, line 14, insert the matter beginning on page 425, line 14, through page 448, line 10.

(The ad hoc committee amendment reads as follows:)

Page 425, line 14, insert:

Subpart B—Fuel Conservation Taxes; Energy Conservation and Conversion Trust Fund

SEC. 2023. GASOLINE CONSERVATION TAX.

(a) GENERAL RULE.—Part III of subchapter A of chapter 32 (relating to petroleum products) is amended by redesignating subparts B and C as subparts C and D, respectively, and by inserting after subpart A the following new subpart:

"Subpart B—Gasoline Conservation Tax

"Sec. 4086. Imposition of tax.

"SEC. 4086. IMPOSITION OF TAX.

(a) IMPOSITION OF ADDITIONAL TAX.—In addition to any tax imposed by section 4081, there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of—

"(1) in the case of gasoline so sold during 1978, 2 cents a gallon; or

"(2) in the case of gasoline so sold after December 31, 1978, 4 cents a gallon.

"(b) TAX TO BE DEPOSITED IN TRUST FUND.—

"For provisions for depositing amounts of the tax imposed by this section in the Energy Conservation and Conversion Trust Fund, see section 2024 of the Energy Tax Act of 1977."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1978.

SEC. 2023A. DIESEL AND SPECIAL MOTOR VEHICLES FUELS CONSERVATION TAXES.

(a) IN GENERAL.—Chapter 31 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. IMPOSITION OF DIESEL AND SPECIAL MOTOR FUELS CONSERVATION TAXES.

"(a) DIESEL FUEL.—In addition to any tax imposed by section 4041(a), there is hereby imposed a tax of 4 cents a gallon (2 cents a gallon in the case of a sale or use in 1978) upon any liquid (other than any product taxable under section 4086)—

"(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

"(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

"(b) SPECIAL MOTOR FUELS.—In addition to any tax imposed by section 4041(b), there is hereby imposed a tax of 4 cents a gallon (2 cents a gallon in the case of a sale or use in 1978) upon benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4086 or subsection (a) of this section)—

"(1) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat; or

"(2) used by any person as a fuel in a motor vehicle or motorboat, unless there was a taxable sale of such liquid under this section.

"(c) EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on any liquid sold for use or used if such sale or use is exempt from the tax imposed by section 4041 by reason of subsection (f), (g), or (h) of section 4041.

"(d) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1978, except that no tax shall be imposed under section 4042 of the Internal Revenue Code of 1954 (as added by subsection (a)) with respect to the use by any person of any fuel sold to such person before January 1, 1978, if such sale would have been taxable under such section 4042 if it had occurred on January 1, 1978.

SEC. 2023B. FLOOR STOCKS TAXES; TECHNICAL AND CONFORMING AMENDMENTS.

(a) FLOOR STOCK TAXES.—Subchapter G of chapter 32 (relating to exemptions, registration, etc.) is amended by inserting after section 4225 the following new section:

"SEC. 4226. FLOOR STOCKS TAXES ON GASOLINE.

"(a) GASOLINE CONSERVATION TAX.—

"(1) IMPOSITION OF TAX.—On gasoline (as defined in section 4082(b)) which, on a gasoline tax increase date, is held by a dealer for sale, there is hereby imposed a floor stocks tax at a rate equal to the difference between (A) the tax (if any) imposed by section 4086 on the sale of such gasoline by the producer or importer, and (B) the tax which would have been imposed by such section on such sale if that sale had occurred on such gasoline tax increase date. The tax imposed by this paragraph shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

"(2) GASOLINE TAX INCREASE DATE DEFINED.—For purposes of this section, the term 'gasoline tax increase date' means January 1, 1978, and January 1, 1979.

"(b) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

"(c) MEANING OF TERMS.—For purposes of subsection (a), the terms 'dealer' and 'held by dealer' have the meaning assigned to them by section 6412(a)(2).

"(d) DUE DATE OF TAXES.—Any tax imposed by subsection (a) shall be paid at such time, not less than 90 days after the gasoline tax increase date in respect of which such tax was imposed, as may be prescribed by the Secretary."

(b) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Paragraph (2) shall not apply to the tax imposed by section 4086."

(2) Section 4293 is amended by striking out "section 4064" and inserting in lieu thereof "section 4042, 4064, or 4086".

(3) Paragraph (6)(C) of section 4221(d) (relating to use in further manufacture) and paragraph (3)(F) of section 6416(b) (relating to tax-paid articles used for further manufacture, etc.) are each amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086".

(c) ALLOWANCE OF REFUNDS IN CASE OF CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in case of specified uses and resales) is amended—

(1) by inserting after "section 4041 (a)(1) or (b)(1)" the following: "or section 4042", and

(2) by adding at the end thereof the following new sentence:

"Subparagraph (A) shall not apply to any tax paid under section 4086 or 4042."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 is amended by adding at the end thereof the following new item:

"Sec. 4042. Imposition of diesel and special motor fuels conservation taxes."

(2) The table of subparts for part III of subchapter A of chapter 32 is amended by striking out the last two items and inserting in lieu thereof the following

"Subpart B. Gasoline conservation tax.
"Subpart C. Lubricating oil.
"Subpart D. Special provisions applicable to petroleum products."

(3) Subsections (a) and (b) of section 4082 are each amended by striking out "in this subpart" and inserting in lieu thereof "in this subpart and subpart B".

(4) Section 4083 is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086".

(5) Section 4101 is amended by striking out "section 4081 or section 4091" and inserting in lieu thereof "section 4081, 4086, or 4091".

(6) The table of sections for subchapter G of chapter 32 is amended by inserting after the item relating to section 4225 the following new item:

"Sec. 4226. Floor stocks taxes on gasoline."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1978.

SEC. 2023C. REPAYMENT OF GASOLINE AND SPECIAL FUELS CONSERVATION TAXES IN CASE OF CERTAIN USES.

(a) GENERAL RULES.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6430. REPAYMENT OF GASOLINE, DIESEL, AND SPECIAL FUELS CONSERVATION TAXES IN CASE OF CERTAIN USES.

"(a) USE FOR FARMING PURPOSES.—

"(1) IN GENERAL.—Except as provided in subsection (g), if any gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which a tax was imposed by section 4042 is used by any purchaser of such gasoline or fuel on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to such purchaser an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(2) SPECIAL RULE.—If gasoline on which tax was imposed under section 4086, or any other fuel on the sale of which tax was imposed under section 4042, is used on a farm by any person other than the owner, tenant, or operator of such farm, such owner, tenant, or operator shall be treated as the user and purchaser of such gasoline or other fuel.

"(b) INTERCITY, LOCAL, AND SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which tax was imposed by section 4042 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline or fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(c) USE IN AIRCRAFT AND CERTAIN OTHER NONTAXABLE USES.—

"(1) AIRCRAFT.—Except as provided in subsection (g), if any gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which a tax was imposed by section 4042 is used by any person as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(2) NONTAXABLE USES OF DIESEL OR SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—Except as provided in subsection (g), if tax has been imposed by subsection (a) or (b) of section 4042 on the sale of any fuel and the purchaser uses such fuel for a nontaxable use, or resells such fuel, the Secretary shall pay (without interest) to such purchaser an amount equal to the amount of tax imposed by subsection (a) or (b) of section 4042 on the sale of the fuel to such purchaser.

"(B) NONTAXABLE USE.—For purposes of subparagraph (A), the term 'nontaxable use' means any use (other than in an aircraft) of a fuel if a tax would not be imposed by subsection (a) or (b) of section 4042 on such use (determined as if no tax had been imposed by section 4042 on the sale of such fuel).

"(3) USE BY CERTAIN AIRCRAFT MUSEUMS.—Except as provided in subsection (g), if—

"(A) any gasoline on which tax was imposed by section 4086, or

"(B) any fuel on the sale of which was imposed under section 4042,

is used by an aircraft museum (as defined in section 4041(h)(2)) in a vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(d) SPECIAL RULE AND DEFINITION.—

"(1) EXEMPT SALES.—No amount shall be payable under this section with respect to any gasoline or fuel which the Secretary determines was exempt from the tax imposed by section 4086 or 4042, as the case may be.

"(2) GASOLINE.—The term 'gasoline' has the meaning given to such term by section 4082(b).

"(e) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided by paragraph (2), not more than one claim may be filed under subsection (a), (b), or (c) by any person with respect to gasoline or any other fuel used during his taxable year. No claim shall be allowed under this section with respect to gasoline or any other fuel used by such person during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purpose of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to gasoline or any other fuel used during any of the first three quarters of any taxable year, a claim may be filed under this section by such person with respect to gasoline or any other fuel used during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

"(f) APPLICABLE LAWS.—

"(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4042 or 4086 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds or overpayments of the tax so imposed.

"(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect to any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(g) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(1) PERSONS NOT SUBJECT TO INCOME TAX.—Payments shall be made under this section only to—

"(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(2) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A for certain uses of gasoline and other fuels, see section 39.

"(h) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(i) CROSS REFERENCES.—

"(1) For civil penalty for excessive claims under this section, see section 6675.

"(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

(b) ALLOWANCE OF CREDIT FOR CERTAIN USES.—

(1) IN GENERAL.—Subsection (a) of section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding after paragraph (4) the following new paragraph:

"(5) under section 6430 with respect to gasoline, diesel, and special fuels used during the taxable year (determined without regard to section 6430(g))."

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 39 is amended by striking out "or 6427" and inserting in lieu thereof "6427, or 6430" and by striking out "or 6427(g)" and inserting in lieu thereof "6427(g), or 6430 (g)".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Repayment of gasoline, diesel, and special fuels conservation taxes in case of certain uses."

(2) Section 6206 is amended—

(A) by striking out "AND 6427" in the section heading and inserting in lieu thereof "6427, AND 6430";

(B) by striking out "or 6427" each place it appears and inserting in lieu thereof "6427, or 6430";

(C) by striking out "or 4041" and inserting in lieu thereof "4041"; and

(D) by inserting after "under section 6427)" the following: ", or by section 4042 or 4086 (with respect to payments under section 6430)".

(3) Section 6675 is amended—

(A) by striking out "or" before "6429" in subsection (a);

(B) by inserting ", or 6430 (relating to repayment of gasoline, diesel, and special fuels conservation taxes in case of certain uses)" before "for an excessive amount" in subsection (a); and

(C) by striking out "or 6429" in subsection (b) and inserting in lieu thereof "6429, or 6430".

(4) Sections 7210, 7603, 7604(b), and 7610(c) are each amended by striking out "6429(g)(2)" and inserting in lieu thereof "6429(g)(2), 6430(f)(2)".

(5) Section 1604(c)(2) is amended by inserting "6430(f)(2)," after "6427(e)(2)".

(6) Section 7605(a) is amended—

(A) by striking out "6429(g)(2)" the first place it appears and inserting in lieu thereof "6429(g)(2), 6430(f)(2)"; and

(B) by striking out "or 6429(g)(2)" and inserting in lieu thereof "6429(g)(2), or 6430(f)(2)".

(7) Paragraph (1) of section 7609(c) is amended by striking out "or 6429(g)(2)" and inserting in lieu thereof "6429(g)(2), or 6430(f)(2)".

(d) EFFECTIVE DATES.—

(1) FOR SUBSECTIONS (a) AND (c).—The amendments made by subsections (a) and (c) shall take effect on January 1, 1978.

(2) FOR SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years ending on or after January 1, 1978.

SEC. 2023D. TECHNICAL AMENDMENTS WITH RESPECT TO CERTAIN TRUST FUNDS.

(a) AIRPORT AND AIRWAY TRUST FUND.—Paragraph (3) of section 208(f) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to amounts equivalent to the credits so allowed to the extent that the credits so allowed are estimated by the Secretary of the Treasury to be attributable to the tax imposed by section 4086 of such Code (relating to gasoline conservation tax) or section 4042 of such Code (relating to diesel and special fuels conservation tax)."

(b) HIGHWAY TRUST FUND.—

(1) Paragraph (1) of section 209(c) of the Highway Revenue Act of 1956 is amended—

(A) by inserting "and" at the end of subparagraph (F),

(B) by striking out subparagraph (G),

(C) by redesignating subparagraph (H) as subparagraph (G), and

(D) by striking out "subparagraph (H)" in the last sentence and inserting in lieu thereof "subparagraph (G)".

(2) Paragraph (6) of section 209(f) of such Act is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to amounts equivalent to the credits so allowed to the extent that the credits so allowed are estimated by the Secretary of the Treasury to be attributable to the tax imposed by section 4086 of such Code (relating to gasoline conservation tax) or section 4042 of such Code (relating to diesel and special fuels conservation tax)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1978.

SEC. 2024. ESTABLISHMENT OF ENERGY CONSERVATION AND CONVERSION TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Energy Conservation and Conversion Trust Fund" (hereinafter in this subpart referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subpart referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under—

(A) section 4086 of the Internal Revenue Code of 1954 (relating to gasoline conservation tax),

(B) section 4042 of such Code (relating to diesel and special motor fuels conservation taxes), and

(C) section 4226(a) of such Code (relating to gasoline floor stocks taxes),

reduced by the amount of the credits or payments allowable under such Code which are properly chargeable against the amount of such taxes.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) ESTABLISHMENT OF ACCOUNTS.—

(1) IN GENERAL.—There are hereby established within the Trust Fund the following 3 accounts:

(A) the Energy Program Account,

(B) the Mass Transportation (Including Car Pooling, Etc.) Account, and

(C) the States Account.

(2) TRANSFERS TO ACCOUNTS.—Of each amount transferred to the Trust Fund under subsection (b)(1), the Secretary shall place—

(A) 50 percent of such amount in the Energy Program Account,

(B) 37½ percent of such amount in the Mass Transportation (Including Car Pooling, Etc.) Account, and

(C) 12½ percent of such amount in the States Account.

(d) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund (and of each Account contained therein) during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—

(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of any account in the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in any account in the Trust Fund shall be credited to and form a part of such account.

SEC. 2024. EXPENDITURES FROM TRUST FUND FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Amounts in any Account of the Trust Fund shall be available, as provided by appropriations Acts, for making expenditures for the purposes applicable to such Account under this section. Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

(b) ENERGY PROGRAM ACCOUNT.—For purposes of this section, amounts in the Energy Program Account may be used only for purposes of the Federal energy program, including but not limited to—

(1) the maintenance of the Strategic Petroleum Reserve created by part B of title I of the Energy Policy and Conservation Act (Public Law 94-163);

(2) basic and applied research programs related to new energy technologies;

(3) development and demonstration of new energy technologies; and

(4) programs relating to the development of energy resources from properties (including offshore properties) in which the United States has an interest.

(c) MASS TRANSPORTATION (INCLUDING CAR POOLING, ETC.) ACCOUNT.—For purposes of this section, amounts in the Mass Transportation (Including Car Pooling, Etc.) Account may be used only for—

(1) mass transportation by bus, rail, etc.,

(2) exclusive or preferential lanes for buses, vans, and cars, and

(3) car and van pooling.

(d) STATES ACCOUNT.—For purposes of this section, amounts in the States Account may be used only for payments to States (including the District of Columbia) and only if—

(1) the amount of the payment to each State is determined on the basis of the portion of the taxes imposed by sections 4086 and 4042 of the Internal Revenue Code of 1954 during the year in which the payment is to be made which is attributable to fuels used in such State,

(2) the payments are to be used by the States in transportation programs, including the maintenance and rebuilding of highways, and

(3) the States may not use any such payment, directly or indirectly, as a contribution for the purposes of obtaining other Federal funds under any law of the United States which requires such State to make a contribution in order to receive such funds.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the ad hoc committee amendment.

Mr. Chairman, those of us who consider ourselves realists understand that a gasoline tax is a highly emotional and politicized issue. Regardless of the outcome of this vote it is good that the ad hoc committee has given us the opportunity to consider this issue today, because it is a fact of life that someday very soon we in the Congress are going to have to pass a significant tax on gasoline. I hope we have few illusions about the enormity of the fuel crisis we face and our responsibility to the American public. We need to indicate by our actions that the era of cheap, ever-plentiful refined petroleum products is over. This is why I have believed and continue to believe that a gasoline tax is an essential element of a comprehensive energy bill.

In the Committee on Ways and Means I offered a 3 cent a gallon tax on gas as an alternative to the President's 5-cent standby tax. That measure was defeated in part because no plan existed for disposition of the revenues created by the tax. I felt then, and I feel now, that a tax was a necessary signal to our constituents that the crisis we face is real and that they are the key to its solution. In the ad hoc committee I have offered a 4-cent tax with a distribution of revenues from an energy trust fund to be created by the act.

Briefly, my amendment would—

Impose a 4-cent-a-gallon tax on gasoline and diesel fuel in two stages: Two cents would be imposed in 1978 and 2 cents in 1979.

Proceeds from the tax would be deposited in an energy trust fund which would be divided into three accounts in the following manner:

One, one-half cent would be designated for the States, on the basis of total gasoline consumption, for transportation purposes.

Two, 1½ cents would be designated for car pooling, van pooling and mass transit purposes, and

Three, 2 cents would be designated primarily for energy research and development purposes, but also for strengthening the strategic petroleum reserve.

The amounts paid into the trust fund would be spent only as appropriated by the various congressional committees having jurisdiction over the matters involved.

This proposal was adopted at least in part because my colleagues on the committee could see a logical distribution of revenues designed to help provide alternative forms of transportation and fuels.

Subsequent to that amendment I took part in the discussions which led to the substitute proposal which Jim Howard will shortly describe. I accepted it and support it because it offers greater attractiveness to a broader range of interests and because it logically addresses the needs created by our energy crisis. It recognizes that we must give leadership to the American people by indicating to them that the gasoline they use will, someday in the not too distant future, run out. It provides much needed revenue for a mass transit trust fund to help States and localities all over this country provide alternative means of transportation. It also provides significant resources for shoring up, maintaining and improving our primary and secondary roads and bridges in all sectors of the country. In short, it logically applies the proceeds of the tax to solving our transportation dilemma and to maintaining what we have already got.

I believe this distribution of revenues will be very important to each State in terms of highway and bridge maintenance, repair, and safety. Each district should benefit from the revenues produced. Beyond that, the revenues will help us to begin to answer the pleas of those who now have no other alternative but to use their automobiles. It will help us provide for that time when gasoline supplies will be exhausted.

It takes no courage to understand today's grim statistics: Our constituents are consuming more and more gasoline each month. According to the FEA, in the 4 weeks ending in mid-July, our constituents used 4.7 percent more oil, much of it in the form of gasoline, than they did at the same time last year. Our imports of oil for the same period are up 12 percent more than last year.

Yes; this tax imposes sacrifices on us all. Some will bear a heavier burden than others. But when we come to 1985 the shortages and economic dislocations which will result from inaction now will make those sacrifices pale by comparison. Our transportation sector is a vital component of our economy. Unless we begin to provide for the future—and the future lies in alternatives to the use of gasoline—we will foolishly allow this opportunity to slip by to change our transportation lifestyles.

The American people have asked for leadership in this area. Let us provide it while there is still time to act.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I appreciate the gentleman from Illinois yielding to me. Mr. Chairman, I will say that I am going to seek my own time but I just wanted to take this time in order to commend my friend, the gentleman from the State of Illinois (Mr. ROSTENKOWSKI), for the statesmanlike proposal the gentleman has presented.

Mr. ROSTENKOWSKI. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. ROSTENKOWSKI was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I gather from the gentleman's statement that one of the major purposes of offering this tax is for the purpose of discouraging unnecessary use of motor vehicles and gasoline. If that be true, what is the rationale for also placing an equal tax on diesel fuel?

Mr. ROSTENKOWSKI. The tax has been in the past imposed on the use of diesel fuel, and since it is also a petroleum product, the ad hoc committee felt that it was only fair that diesel fuel be taxed as well.

Mr. ECKHARDT. But will this cause trucks to drive less on the highways? Does the gentleman feel that the placing of the tax of 4 cents will result, say, in a trucking company reducing its driving, say, 2 percent?

Mr. ROSTENKOWSKI. No. I do not believe so. It is really a business expense, which I am sure the truck companies will deduct on the tax forms.

Mr. ECKHARDT. As a cost of business.

Mr. ROSTENKOWSKI. Yes.

Mr. ECKHARDT. That is, of course, a deduction from gross. It is not a deduction at the top, so ultimately most of that increase in cost goes to the person who buys the goods shipped by truck; is that not true?

Mr. ROSTENKOWSKI. That is true.

Mr. ECKHARDT. I cannot see the rationale of adding a tax on an inflexible demand. I can see some rationale in placing the tax on gasoline which might tend to reduce to some extent—although I do not think much evidence has been brought into play on this point—the use of automobiles. But it seems to me we are very foolish to treat diesel in the same way as we do gasoline.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROSTENKOWSKI was allowed to proceed for 1 additional minute.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Illinois for his foresight and wisdom in offering an amendment which will increase the gas tax for the purpose of cutting down oil and gasoline consumption. It is not easy or pleasant to increase the tax burdens of our people. This proposal is not exactly the best formula for insuring congressional tenure, but every disincentive we can develop to suppress our demand and reduce our imports must be followed.

Today we are spending $43 billion to buy the oil out of which gasoline is made. In effect we have already sold several States of the Union in order to buy this oil, and yet people seem indifferent to the problem. We either have to provide a tax

which is going to provide a disincentive, a price which will provide a disincentive, or we must go to rationing. We may have to consider reducing the national speed limit. We have got to take some action, or this country will impoverish itself of its own wealth and resources in order to maintain the comfort and convenience of our people. We have to deal with this proposal realistically, and the distinguished gentleman from Illinois has offered a very sound proposal. Mr. Chairman, I urge its adoption.

Mr. Chairman, I rise in support of the amendment, and I will support the substitute which the rule has made in order, the substitute which will be offered by the distinguished gentleman from New Jersey (Mr. HOWARD).

My reason for taking the floor at this time, Mr. Chairman, is simply to point out that one of the energy goals articulated by the President, with which few of us, if any of us, here quarrel, was that goal of reducing gasoline consumption by 10 percent by the year 1985. An excellent goal, we say, supportable, a justifiable goal. But, in fact, Mr. Chairman, we have not shown all the stomach that we might for achieving that goal.

The record is clear. The distinguished Committee on Ways and Means—and I think properly in its judgment—went halfway in providing the strategy to achieve this goal of reducing gasoline consumption by 10 percent by 1985.

It adopted a significant gas guzzler tax which is going to be effective in the immediate years in reducing gasoline consumption. In its judgment—and here I think properly so—it raised real questions about the efficacy of the standby gasoline tax proposed by the President and it rejected that proposal by a substantial vote.

At that juncture the gentleman from Illinois, with his usual foresight and courage, if not good fortune, offered an amendment to increase the tax on gasoline by 3 cents. The gentleman's amendment was not adopted, but it should be noted that as offered in the Committee on Ways and Means it did not include a trust fund or any provision for the use of the funds.

That left us with only one strategy to achieve the goal with which we all agree: Gasoline consumption must be reduced by 10 percent by 1985. The only strategy that left us with was the tax on inefficient automobiles, the so-called gas guzzler tax. That strategy in and of itself, worthy as it is, will not by itself achieve the energy goal which we all support.

So here today, Mr. Chairman, what we are saying is that the ad hoc committee in consultation with, and with the approval of, the chairman and majority members of the Ways and Means Committee has brought forward an alternative strategy, an alternative mechanism that will help us achieve the energy goal that we are committed to. So it is on this basis, Mr. Chairman, that I take the floor and that I urge support of the amendment and the substitute that we will be considering.

Let there be no question as to what the facts are, and they are very disquieting. We are using more and more gasoline all the time. There was a 4½-percent increase this year over last year, and last year there was a 4.2-percent increase over the year before. This potential increase in the use of gasoline has really got to be curbed.

How important would this gasoline tax be in the curbing of this voracious appetite? I think that question has got to be addressed and answered in this way. A 5 cent gasoline tax will in and of itself result in a reduction in gasoline consumption of only about 100,000 barrels a day. But it is not going to be only in and of itself.

It is going to be in relation with the increase in the cost of gasoline by virtue of the oil equalization tax, so what we are really talking about, and let us put it where it belongs, let us put it to the American people, we are talking of an increase by 1980 of from 8 cents to 10 cents.

Now this is going to have a deterrent effect on the driving habits of our American families and that is what we want to bring about. If we are going to achieve the goal, this is what we must bring about. But further than this, further than the fact that it is going to be 100,000 barrels, it is going to be, under this, about 150,000 barrels a day of virtue of the 8 to 10 cents increase in the price of gasoline that the American people will be paying; but more than this there will be a total net saving by 1985 of close to, or over, 300,000 barrels per day by virtue of the fact that the tax proceeds will be directed specifically for mass transportation. This is a very important secondary aspect of the proposition before us.

Mr. Chairman, what I am saying, in conclusion, is that the gentleman from Illinois (Mr. ROSTENKOWSKI) and the gentleman from New Jersey (Mr. HOWARD) have collaborated on an unpopular tax. I acknowledge that, but it is a tax which is necessary, and in the best interest of the American people, if we are going to seriously address the urgent need—the urgent need—to curb the voracious appetite that we have in the use of our automobiles.

Now, 75 percent of the gasoline consumption in this country is attributable to the use of the automobile. Now, 33 percent of the automobile usage is for the purpose of going to and from work; generally just one person in one car. Thirty-three percent of the use of automobiles is for vacation and recreational purposes. Nineteen percent is going to or from the grocery store and other personal business, including going to church and the doctor, but 33 percent is for vacation and recreation.

Is there not someplace where we can get the 10 percent savings? Of course, there is; but we cannot do it by sitting on our hands. We cannot do it unless we have the courage to address the question directly headon. That is what the gentleman from New Jersey (Mr. HOWARD) will propose.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think the gentleman has made a very logical argument, if not an altogether persuasive one, that this tax would reduce driving by the ordinary driver; but does the gentleman really think this would have a deterrent effect on the driving habits of truckdrivers?

Mr ASHLEY. The gentleman is back to truck drivers.

Mr. ECKHARDT. That is right. It is a very important question.

Mr. ASHLEY. I understand what the gentleman is saying. I would suppose that the requirements of truckdrivers are certainly different than those of the American people generally; that is to say the truckdriver is not wheeling that semi through the hills of West Virginia for recreation, nor is he on the way to a doctor, hopefully. He is doing it because that is the way he derives his living. I can understand what the gentleman is saying.

My impression, from those serving on the Tax Committee, is that in the past this fact has been recognized

I would certainly suppose, I say to the gentleman from Texas, that this would be the case. This is not the final step in the legislative process, surely. We are going to be looking at this with the Senate conferees.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr Chairman, we did have this tax before the Committee on Ways and Means. We fought long and hard for it. We did not prevail in the committee; but the gentleman is correct. It is a tax that should be imposed.

I think the gentleman from New Jersey is going to offer a provision that accommodates a lot of problems and I think the committee and this House should very seriously consider what we are doing. I think this is an important provision that should be adopted by the House.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has again expired.

(At the request of Mr. ALEXANDER, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY I yield to the gentleman from Arkansas

Mr. ALEXANDER. Mr. Chairman, I will seek my own time on this later; but on the subject of conservation I have received some additional data which I think is relevant to the gentleman's discussion. Based upon 1975 data from the

Department of Transportation on annual national consumption of gasoline, at the present rate of maintenance, without additional maintenance on our highways, by 1985 there will be a national degradation in our highways which will cause a 2-percent increase in gasoline consumption, based on the present number of automobiles, which will increase the national consumption of gasoline by 2,272,120,000 gallons.

I would just like to add that in support of the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I appreciate that information.

Of course, the substitute amendment to be offered by the gentleman from New Jersey (Mr. HOWARD) would direct some of the tax proceeds to the repair and refurbishing of our primary and secondary roads; is that correct?

Mr. ALEXANDER. That is correct.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I listened with great interest to the statesmanlike position taken by the gentleman from Illinois.

I commend the gentleman for his courage, but I think he is wrong. The gentleman from Ohio, the distinguished chairman of the ad hoc committee would, if I understood him correctly, apparently wants us to go back to some day that we used to have. What bothers me in all of this is that we are already going to raise the price of gasoline by 7 cents as a result of the crude oil equalization tax, and we are going to—if we look at the figures of what we are doing—we are going to pay $100,000 per barrel of oil saved on 1 day in 1979 under the ad hoc committee provision. We are going to pay $75,000 in taxes per barrel saved on 1 day in 1985 under the ad hoc committee provision; $100,000 per barrel of oil saved as a result of the effort to raise $4.4 billion in 1979. Who is kidding whom? This is not a conservation measure, and we cannot change the development of shopping centers. We cannot change the fact that much of the mass transit we used to have is closed down. Railroads do not run through Oshkosh anymore. We cannot go back and remake the world.

But apparently the administration is dedicated to taxing those who work and those who vacation and those who have no other means of transportation. It makes absolutely no sense to me at all. I think it is bad from a public policy standpoint. I think it is bad tax policy, and worse than that, it has absolutely nothing to do with the national energy policy. It is not going to make a single bit of difference in attempting to reach that goal of a 10-percent reduction because that goal is going to be reached, in my view, as a result of EPCA and the gas guzzler tax without imposing onerous additional taxes upon the American people.

So, my hope is that the committee will act wisely, prudently and with great statesmanship in rejecting both the Howard amendment and the siren song of the Howard amendment which is, "Just get a little more money in here, pave the roads, repair bridges, give a little to mass transit." That is the siren song I am hearing from some who are interested. It should be rejected, and also the ad hoc committee amendment, because it will not achieve a single bit of additional conservation. But, what it will do is to add, not 8 to 10 cents, but 12 cents—12 cents of extra cost for gasoline.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. ASHLEY. Did the gentleman think that the goal that the President articulated, and that I referred to, is a justifiable goal?

Mr. STEIGER. A reduction in the rate of gasoline consumption by 10 percent?

Mr. ASHLEY. By 1985.

Mr. STEIGER. The goal by 1985 is embodied even within the Republican substitute that we will be debating a little later. Yes, I do think that goal is a worthy objective.

Mr. ASHLEY. The next question is, part of that goal is going to be achieved by virtue of more efficient automobiles that will be produced in the years ahead, is that not a fact? That it is also necessary, if we are to achieve this goal, that there has got to be a change in the driving habits, to some extent, on the part of the American people; is that not a fact?

Mr. STEIGER. But that is going to happen, I will say to my friend from Ohio, that will happen as a result of the crude oil equalization tax, about which we will be debating soon. But, that will raise the retail price of gasoline by about 7 cents. That will bring about more conservation in the pattern of the driving of the American people.

Mr. ASHLEY. I understand. The gentleman had me confused, because I would have sworn that he said that this gasoline tax would not change the driving habits of the American people at all.

Mr. STEIGER. It will not.

Mr. ASHLEY. The other tax will change the driving habits of the American people, but not this tax?

Mr. STEIGER. It does not change the habits but it can influence efficiency and enhance conservation. All the gentleman is doing is socking it to them one more time, I will say to my friend from Ohio.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the distinguished gentleman from Texas.

Mr. ARCHER. The gentleman has used the administration figures when he says the crude oil equalization tax will raise the price of gasoline 7 cents per gallon.

Mr. STEIGER. That is true.

Mr. ARCHER. The raw figures, actually, on the crude oil equalization tax will raise the price of gasoline between 10 cents and 11 cents per gallon. The administration assumes, in talking about 7 cents per gallon, that one-third of this will be absorbed by the refineries. And yet one-third of the crude oil equalization tax is the total profit earned by all of the refineries in the last year, and there is no way it can be absorbed.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

(By unanimous consent, Mr. STEIGER was allowed to proceed for 5 additional minutes.)

Mr. ARCHER. If the gentleman will yield further, I think it is important for the record to show that when the facts are in on the effect of the crude oil equalization tax, that it will be closer to 10 cents a gallon that is actually passed on to the consumer. It makes it easier and more palatable for the administration to say one-third will be absorbed or all of the tax will be passed on. That, in my opinion, does not recognize the marketplace. It does not recognize what happens. If we add another 5 cents on top, we are talking about 15 cents or 16 cents per gallon.

Mr. STEIGER. I thank the gentleman for his contribution.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding.

As the gentleman knows, we discussed the gasoline tax at great length in the Committee on Ways and Means during our deliberations, not only this year, but last year, and it was rejected out of hand because it will not—and the gentleman is quite correct—it will not in any way impact on the driving habits, of at least the people of the Western United States, who have no other way to go to their jobs. They have to drive. What it really means is they will stop buying some of the products which some of your constituents are making.

When we talk about 33 percent of fuel used in recreation driving, I think we ought to recognize the impact that the abolition of that driving would have on those areas of our country which are devoted to recreation, the trucks we talked about a little while ago which are hauling goods and services into the recreational areas.

It is very difficult for me to balance this off in my own mind. I sat here yesterday and listened to the Speaker, who gave an impassioned plea against raising natural gas prices. So I have a right to expect, the Speaker of the House of Representatives, speaking on behalf of the President of the United States, to take the well today and give me another impassioned plea as to why we should increase the price of gasoline to our constituents. One never can tell, he might convince me.

Lacking that, I must then assume that the Speaker of the House of Representatives does not agree with the President in the drive for this gasoline tax which, as the Members may recall, was presented to the Committee on Ways and Means as sort of an alternative on the part of the Secretary of Transportation, Mr. Brock. He was then admonished by the administration that that was not their idea, until it was killed totally by

the Committee on Ways and Means, and now we have it as the President's program.

I am waiting, Mr. Speaker, for your speech.

Mr. STEIGER. Mr. Chairman, if I could go to just one other thing, then I would be delighted to yield to my colleague, the gentleman from Ohio, who I know has very strong feelings in support of raising the tax.

Mr. Chairman, if we look back to where we were in January 1973 the average selling price of regular gasoline in a full-service gas station was 37.3 cents per gallon. In December 1976 it was up to 59.9 cents per gallon, a rate of increase of 60.6 percent.

My colleague from Ohio, in his remarks in defense of this otherwise indefensible position, said that we are using gasoline at an ever-increasing rate, as if to say that if we could just raise that price but a little bit more, we would begin the process of reducing. I think the facts clearly indicate that that has not been the case.

If we look, for example, at what the estimated price would be as to the average selling price of regular gasoline, under H.R. 8444, it is going up 10.5 cents, up to 70.4 cents, which is a rate of increase of 17.5 percent, as compared to a rate of increase between 1975 and the present time of 17.8 percent. If we go with the Howard amendment, the price of gasoline will go up 11.5 cents, from 59.9 cents to 71.4 cents, for a rate of increase of 19.2 percent.

I think it is fairly clear what has happened as a result of the Arab oil embargo and the incredible rate of increase in prices that has taken place. The price increases have not produced the kind of change in driving patterns and habits that the gasoline tax proponents seem to think their proposal will. I think they are wrong in thinking that it will.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Wisconsin.

Mr. VANIK. Mr. Chairman, I would like to ask my good friend, the gentleman from Wisconsin (Mr. STEIGER), whether he is comfortable with the $25 billion trade deficit we have because of oil purchases and what he proposes we do about that.

Mr. STEIGER. Mr. Chairman, I hope my friend, the gentleman from Ohio, will support the substitute that will be offered, because that will combine production, conservation, and alternative sources and will result in a much better trust fund concept for the use of the taxes that would be raised. That is a far better method to handle that problem.

Mr. Chairman, I urge the defeat of both the Howard amendment and the Rostenkowski amendment so that we do not saddle the American people unnecessarily.

AMENDMENT OFFERED BY MR. HOWARD AS A SUBSTITUTE FOR THE AD HOC COMMITTEE AMENDMENT TO PART II, TITLE II

Mr. HOWARD. Mr. Chairman, I offer an amendment as a substitute for the ad hoc committee amendment to part II, title II.

The CHAIRMAN. The Chair will inquire whether or not the substitute amendment is in order under the rule?

Mr. HOWARD. Mr. Chairman, I understand it is.

The CHAIRMAN. The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD as a substitute for the ad hoc committee amendment to part II, title II: On page 425, strike out line 14, through line 10 on page 448 and insert:

Subpart B—Fuel Conservation Taxes, Highway and Mass Transportation Trust Fund

SEC. 2023. GASOLINE CONSERVATION TAX.

(a) GENERAL RULE.—Part III of subchapter A of chapter 32 (relating to petroleum products) is amended by redesignating subparts B and C as subparts C and D, respectively, and by inserting after subpart A the following new subpart:

"Subpart B—Gasoline Conservation Tax

"SEC. 4086. IMPOSITION OF TAX.

"(a) IMPOSITION OF ADDITIONAL TAX.—In addition to any tax imposed by section 4081, there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 5 cents a gallon.

"(b) TAX TO BE DEPOSITED IN TRUST FUND.—

"For provisions for depositing amounts of the tax imposed by this section in the Highway and Mass Transportation Trust Fund, see section 2024 of the Energy Tax Act of 1977."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1979.

Sec. 2023A. DIESEL AND SPECIAL MOTOR VEHICLE FUELS CONSERVATION TAXES

(a) IN GENERAL.—Chapter 31 (relating to special fuels) is amended by adding at the end thereof the following new section:

SEC. 2023A. DIESEL AND SPECIAL MOTOR VEHICLE FUELS CONSERVATION TAXES

"(a) DIESEL FUEL.—In addition to any tax imposed by section 4041(a), there is hereby imposed a tax of 5 cents a gallon upon any liquid (other than any product taxable under section 4086)—

"(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

"(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

"(b) SPECIAL MOTOR FUELS.—In addition to any tax imposed by section 4041(b), there is hereby imposed a tax of 5 cents a gallon upon benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4086 or subsection (a) of this section)—

"(1) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat; or

"(2) used by any person as a fuel in a motor vehicle or motorboat, unless there was a taxable sale of such liquid under this section.

"(c) EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on any liquid sold for use or used if such sale or use is exempt from the tax imposed by section 4041 by reason of subsection (f), (g), or (h) of section 4041.

"(d) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1979, except that no tax shall be imposed under section 4042 of the Internal Revenue Code of 1954 (as added by subsection (a)) with respect to the use by any person of any fuel sold to such person before January 1, 1979, if such sale would have been taxable under such section 4042 if it had occurred on January 1, 1979.

SEC. 2023B. FLOOR STOCKS TAXES; TECHNICAL AND CONFORMING AMENDMENTS

(a) FLOOR STOCKS TAXES.—Subchapter G of chapter 32 (relating to exemptions, registration, etc.) is amended by inserting after section 4225 the following new section:

"SEC. 4426. FLOOR STOCKS TAXES ON GASOLINE

"(a) GASOLINE CONSERVATION TAX.—On gasoline (as defined in section 4082(b)) which, on January 1, 1979, is held by a dealer for sale, there is hereby imposed a floor stocks tax at a rate equal to the difference between (1) the tax (if any) imposed by section 4086 on the sale of such gasoline by the producer or importer, and (2) the tax which would have been imposed by such section on such sale if that sale had occurred on January 1, 1979. The tax imposed by this subsection shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

"(B) OPERATION OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

"(c) MEANING OF TERMS.—For purposes of subsection (a), the terms 'dealer' and 'held by dealer' have the meaning assigned to them by section 6412(a)(2).

"(d) DUE DATE OF TAXES.—Any tax imposed by subsection (a) shall be paid at such time, not less than 90 days after the gasoline tax increase date in respect of which such tax was imposed, as may be prescribed by the Secretary."

(b) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Paragraph (2) shall not apply to the tax imposed by section 4086."

(2) Section 4293 is amended by striking out "section 4064" and inserting in lieu thereof "section 4042, 4064, or 4086."

(3) Paragraph (6)(C) of section 4221(d) (relating to use in further manufacture) and paragraph (3)(F) of section 6416(b) (relating to tax-paid articles used for further manufacture etc.) are each amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086."

(c) ALLOWANCE OF REFUNDS IN CASE OF CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in case of specified uses and resales) is amended—

(1) by inserting after "section 4041(a)(1) or (b)(1)" the following: or section 4042," and

(2) by adding at the end thereof the following new sentence:
"Subparagraph (A) shall not apply to any tax paid under section 4086 or 4042."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 is amended by adding at the end thereof the following new item:
"Sec. 4042. Imposition of diesel and special motor fuels conservation taxes."

(2) The table of subparts for part III of subchapter A of chapter 32 is amended by striking out the last two items and inserting in lieu thereof the following:

"Subpart B. Gasoline conservation tax.
"Subpart C. Lubricating oil.
"Subpart D. Special provisions applicable to petroleum products."

(3) Subsections (a) and (b) of section 4082 are each amended by striking out "in this subpart" and inserting in lieu thereof "in this subpart and subpart B".

(4) Section 4083 is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086".

(5) Section 4101 is amended by striking out "section 4081 or section 4091" and inserting in lieu thereof "section 4081, 4086, or 4091".

(6) The table of sections for subchapter (G) of chapter 32 is amended by inserting after the item relating to section 4225 the following new item:

"Sec. 4226. Floor stocks taxes on gasoline."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

SEC. 2023C.—REPAYMENT OF GASOLINE AND SPECIAL FUELS CONSERVATION TAXES IN CASE OF CERTAIN USES.

(a) GENERAL RULE.—Subchapter B of chapter 65 (relating to rules of special application for abatement, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6430.—REPAYMENT OF GASOLINE, DIESEL, AND SPECIAL FUELS CONSERVATION TAXES IN CASE OF CERTAIN USES.

"(a) USE FOR FARMING PURPOSES.—

"(1) IN GENERAL.—Except as provided in subsection (g), if any gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which a tax was imposed by section 4042 is used by any purchaser of such gasoline or fuel on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to such purchaser an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(2) SPECIAL RULE.—If gasoline on which tax was imposed under section 4086, or any other fuel on the sale of which tax was imposed under section 4042, is used on a farm by any person other than the owner, tenant, or operator of such farm, such owner, tenant, or operator shall be treated as the user and purchaser of such gasoline or other fuel.

"(b) INTERCITY, LOCAL AND SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which tax was imposed by section 4042 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of Section 4221(d)(7)(C), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(2) LIMITATION IN CASE OF ON SCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline or fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver.)

"(c) USE IN AIRCRAFT AND CERTAIN OTHER NONTAXABLE USES.—

"(1) AIRCRAFT.—Except as provided in subsection (g), if any gasoline on which tax was imposed by section 4086 or any other fuel on the sale of which a tax was imposed by section 4042 is used by any person as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel

"(2) NONTAXABLE USES OF DIESEL OR SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—Except as provided in subsection (g), if tax has been imposed by subsection (a) or (b) of section 4042 on the sale of any fuel and the purchaser uses such fuel for a nontaxable use, or resells such fuel, the Secretary shall pay (without interest) to such purchaser an amount equal to the amount of tax imposed by subsection (a) or (b) of section 404, on the sale of the fuel to such purchaser.

"(B) NONTAXABLE USE.—For purposes of subparagraph (A), the term 'nontaxable use' means any use (other than in an aircraft) of a fuel if a tax would not be imposed by subsection (a) or (b) of section 4042 on such use (determined as if no tax had been imposed by section 4042 on the sale of such fuel).

"(3) USE BY CERTAIN AIRCRAFT MUSEUMS.—Except as provided in subsection (g), if—

"(A) any gasoline on which tax was imposed by section 4086, or

"(B) any fuel on the sale of which tax was imposed under section 4042, is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), the Secretary shall pay (without interest) to the ultimate purchase of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed by section 4086 or 4042 on such gasoline or fuel.

"(d) SPECIAL RULES AND DEFINITION.—

"(1) EXEMPT SALES.—No amount shall be payable under this section with respect to any gasoline or fuel which the Secretary determines was exempt from the tax imposed by section 4086 or 4042, as the case may be.

"(2) GASOLINE.—The term 'gasoline' has the meaning given to such term by section 4082(b).

"(e) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULES.—Except as provided by paragraph (2), not more than one claim may be filed under subsection (2), (b) or (c) by any person with respect to gasoline or any other fuel used during his taxable year. No claim shall be allowed under this section with respect to gasoline or any other fuel used by such person during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year for purposes of subtitle A.

"(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to gasoline or any other fuel used during any of the first three quarters of any taxable year, a claim may be filed under this section by such person with respect to gasoline or any other fuel used during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

"(f) APPLICABLE LAWS.—

"(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4042 or 4086 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as of such payments constituted refunds or overpayments of the tax so imposed.

"(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(g) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(1) PERSONS NOT SUBJECT TO INCOME TAX.—Payments shall be made under this section only to—

"(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(2) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A for certain uses of gasoline and other fuels, see section 39.

"(h) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(i) CROSS REFERENCES.—

"(1) For civil penalty for excessive claims under this section, see section 6675.

"(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

(b) ALLOWANCE OF CREDIT FOR CERTAIN USES.—

(1) IN GENERAL.—Subsection (a) of section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding after paragraph (4) the following new paragraph:

"(5) under section 6430 with respect to gasoline, diesel, and special fuels used during the taxable year (determined without regard to section 6430(g))".

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 39 is amended by striking out "or 6427" and inserting in lieu thereof "6427, or 6430" and by striking out "or 6427(g)" and inserting in lieu thereof "6427(g), or 6430(g)".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Repayment of gasoline, diesel, and special fuels conservation taxes in case of certain uses."

(2) Section 6206 is amended—

(A) by striking out "AND 6427" in the section heading and inserting in lieu thereof "6427, AND 6430".

(B) by striking out "or 6427" each place it

appears and inserting in lieu thereof "6427, or 6430".

(C) by striking out "or 4041" and inserting in lieu thereof "4041", and

(D) by inserting after "under section 6427)" the following ", or by section 4042 or 4086 (with respect to payments under section 6430)".

(3) Section 6675 is amended—

(A) by striking out "or" before "6429" in subsection (a);

(B) by inserting ", or 6430 (relating to repayment of gasoline, diesel, and special fuels conservation taxes in case of certain uses)" before "for an excessive amount" in subsection (a); and

(C) by striking out "or 6429" in subsection (b) and inserting in lieu thereof "6429, or 6430".

(4) Sections 7210, 7603, 7604(b), and 7610 (c) are each amended by striking out "6429 (g)(2), 6430(f)(2)".

(5 Section 7604(c)(2) is amended by inserting "6430(f)(2)," after "6427(e)(2),".

(6) Section 7605(a) is amended—

(A) by striking out "6429(g)(2)" the first place it appears and inserting in lieu thereof "6429(g)(2), 6430(f)(2)"; and

(B) by striking out "or 6429(g)(2)" and inserting in lieu thereof "6429(g)(2), or 6430 (f)(2)".

(7) Paragraph (1) of section 7609(c) is amended by striking out "or 6420(g)(2)" and inserting in lieu thereof "6429(g)(2), or 6430 (f)(2)".

(d) EFFECTIVE DATES.—

(1) For subsections (a) and (c)—The amendments made by subsections (a) and (c) shall take effect on January 1, 1979.

(2) For subsection (b).—The amendments made by subsection (b) shall apply to taxable years ending on or after January 1, 1979.

SEC. 2023D. TECHNICAL AMENDMENTS WITH RESPECT TO CERTAIN TRUST FUNDS.

(a) AIRPORT AND AIRWAY TRUST FUND.—Paragraph (3) of section 208(f) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to amounts equivalent to the credits so allowed to the extent that the credits so allowed are estimated by the Secretary of the Treasury to be attributable to the tax imposed by section 4086 of such Code (relating to gasoline conservation tax) or section 4042 of such conservation tax) or section 4042 of such Code (relating to diesel and special fuels conservation tax)."

(b) HIGHWAY TRUST FUND.—

(1) Paragraph (1) of section 209(c) of the Highway Revenue Act of 1956 is amended—

(A) by inserting "and" at the end of subparagraph (F).

(B) by striking out subparagraph (G).

(C) by redesignating subparagraph (H) as subparagraph (G), and

(D) by striking out "subparagraph (H)" in the last sentence and inserting in lieu thereof "subparagraph (G)".

(2) Paragraph (6) of section 209(f) of such Act is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to amounts equivalent to the credits so allowed to the extent that the credits so allowed are estimated by the Secretary of the Treasury to be attributable to the tax imposed by section 4086 of such Code (relating to gasoline conservation tax) or section 4042 of such Code (relating to diesel and special fuels conservation tax)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

SEC. 2024. ESTABLISHMENT OF HIGHWAY AND MASS TRANSPORTATION TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Highway and Mass Transportation Trust Fund" (hereinafter in this subpart referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subpart referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under—

(A) section 4086 of the Internal Revenue Code of 1954 (relating to gasoline conservation tax),

(B) section 4042 of such Code (relating to diesel and special motor fuels conservation taxes), and

(C) section 4226(a) of such Code (relating to gasoline floor stocks taxes), reduced by the amount of the credits or payments allowable under such Code which are properly chargeable against the amount of such taxes and further reduced by that portion of such taxes which is attributable to fuel used in aircraft (to the extent that payments are not allowable under such Code with respect to such fuel).

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) ESTABLISHMENT OF ACCOUNTS.—

(1) IN GENERAL.—There are hereby established within the Trust Fund the following 2 accounts:

(A) the Highway Account, and

(B) the Mass Transportation Account.

(2) TRANSFERS TO ACCOUNTS.—Of each amount transferred to the Trust Fund under subsection (b)(1), the Secretary shall place—

(A) 50 percent of such amount in the Highway Account, and

(B) 50 percent of such amount in the Mass Transportation Account.

(d) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund (and of each Account contained therein) during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of any account in the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purposes, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in any account in the Trust Fund shall be credited to and form a part of such account.

SEC. 2024A. EXPENDITURES FROM TRUST FUND FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Amounts in any Account of the Trust Fund shall be available, as provided by appropriations Acts, for making expenditures for the purposes applicable to such account under this section. Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

(b) HIGHWAY ACCOUNT.—For purposes of this section amounts in the Highway Account may be used only for highway purposes as provided in title 23 of the United States Code.

(c) MASS TRANSPORTATION ACCOUNT.—For purposes of this section, amounts in the Mass Transportation Account may be used only for expenditures relating to mass transportation made pursuant to the Urban Mass Transportation Act of 1964.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the ad hoc committee amendment to part II, title II, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from New Jersey (Mr. HOWARD) is recognized for 10 minutes in support of his substitute amendment.

Mr. HOWARD. Mr. Chairman, in explaining the amendment that I am offering as a substitute for the amendment offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) in the committee, I will simply state that this amendment will increase the price of gasoline 5 cents per gallon, with half of the money, 2½ cents, the other half of the amount, going into what will be established as a public transit fund.

Mr. Chairman, we may ask the question: Why is this amendment before the Committee today?

I would state that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation has the jurisdiction over highways and highway-related programs and also jurisdiction over mass transportation. Since receiving that jurisdiction, for the past 2½ years this subcommittee has held extensive hearings, hearing 168 separate witnesses alone in the last Congress, who came before the committee and stated what they feel this Nation should be doing for the next 15 to 20 years in the field of total surface transportation.

We are in the process of developing legislation which will meet the demonstrated needs of the people in this country, whether they be city dwellers or suburban, urban or rural or town citizens.

During this time we found that a great deal needs to be done, and we were prepared to develop this legislation, to mark up the bill, and to go to the Committee on Ways and Means next year and say, "This is what our committee feels is necessary. Will you help us with the funding?" But we found some difficulty with this legislation.

Placed before this Committee today is an amendment to raise gasoline taxes, to raise them by 4 cents for some noble purposes, and I wish to commend the gentleman from Illinois (Mr. ROSTENKOWSKI) for having the courage to be the first Member to face this problem and to come up with an alternative to deal with the problem as that committee saw it. I thank the gentleman and the Committee for being so generous and so cooperative with those of us on the Committee on Public Works and Transportation that we are allowed to have this substitute made in order.

Mr. Chairman, this amendment, it is said, is not an energy amendment, it is not a fuel conservation amendment, but it is a transportation amendment. That is not totally true. This is an energy amendment; this is a conservation amendment, as well as being also, very importantly, a transportation amendment.

This will be the only vote that we will have in this Congress and I believe in several Congresses to come, a vote on funding for transportation, down through the years.

Mr. Chairman, if this amendment is not adopted, I see no way that the Committee on Public Works and Transportation will want to go or will be willing to go to the Committee on Ways and Means to ask at a later date for a further increase or an increase in the use of gasoline.

Let me tell the Members what we found in the subcommittee up to now. In looking over transportation in this country, one of the things that was brought forth was the condition of the bridges in this Nation. At this time there are over 105,000 unsafe bridges in the United States, on the system and off the system. The estimated cost to repair and replace these bridges in every State over which all of our people ride daily, through the Federal aid system, is $12.4 billion. The cost to fix the 65,000 unsafe bridges off the system is over $10 billion, which makes a total cost of $23 billion.

Present legislation puts $180 million a year—that is all—in bridge repair and replacement. It will take us over 100 years at that rate just to fix the unsafe bridges that we have today.

We looked further and we found something else. With the great emphasis on the interstate system and implementing the interstate system, we have permitted our primary and secondary roads to deteriorate drastically. The Department of Transportation has a study that shows that the primary and secondary road systems in this country are deteriorating 50 percent faster than we are able to maintain, upgrade, modernize, and make them safe.

Let us take safety. We have done demonstration projects on safety, and we find now that we have the means in many areas to make our roads more safe.

No. 1, and it is a conservation measure, is traffic signalization. When we talk about conserving fuel and having the people drive less, most of the gasoline that is wasted and that is used but should not be used is not in the amount of driving that we do. It is how we drive. We have an antiquated system whereby we must keep starting and stopping. There are haphazard red lights here and there where people are constantly stopping their cars and then going into low gear, with the waste of gasoline that that causes. A comprehensive traffic signalization program in this Nation will do more to conserve gasoline than the whole program before us today.

Then let us take safety at railroad crossings. Hundreds of our people are killed every year because of the railroad crossing situation that developed over the years. We have to eliminate as many of those crossings as possible. We can put additional money in the railroad crossing program, on the system and off the system.

Secondly, for the first time we have the opportunity to expand the public transit systems in this country. Through the adoption of this amendment, with the amount that will go into a mass transit trust fund, we can have mass transit not in the way we have it today, not only propping up a few large cities in the country, but in some of the rural areas and small towns.

Mr. Chairman, I want to see this money going into mass transit. This will be the opportunity to expand mass transit to the smaller towns, to the smaller villages, and to the smaller counties through the use of buses and other means of transportation so that we will have, wherever it can be used, some mass transit alternative for the people in this country.

Mr. Chairman, I have not even gone into the number of jobs that would be produced by this amendment. With the exception of housing possibility, there is no way to put money into jobs better than through the expansion of transportation programs.

Where will the money go for this effort? Last Friday, with 24 cosponsors, both Democrats and Republicans, I introduced a bill, H.R. 8648, that would show where the money would go. We could sustain approximately $3.2 billion additional in this amendment for each of the two modes of mass transportation and for the highway program. Not one penny of additional highway money will go to build one foot of new road in this country. We need this money to take care of the road system as it is today. There is a $23 billion bill that we have for bridges. We have a bridge collapse in this country on the average of 1 every 2 days. According to a count we had, there were 176 last year.

Mr. Chairman, for $2 billion we could go into an accelerated bridge replacement and repair program.

I have a booklet here which the Members received in their offices and perhaps in their States pointing out where that $2 billion would go into taking care of the unsafe bridges in Members' congressional districts.

Two billion dollars would go there.

We can divide up $1 billion, three-fourths on the primary system, and one-fourth on the secondary system to upgrade, modernize, dualize, and add safety features to our deteriorating primary and secondary roads in this country that are in such desperate need.

We can put additional funds under this program into traffic signalization. We can put additional funds into the removal of highway hazards. We can put additional money into the elimination of railroad crossings both on and off the system. We can also provide for the return of 1 cent in a combination between mass transit and highways to the States. A lot of our States need the money directly because they do not have the matching money for it. That can be provided, but only if we pass this amendment. This is the only time this kind of an amendment will be before us for years to come.

As to conservation, will a nickel gas tax cut down the use of gasoline? Maybe not directly. But, think of this, if we can put half of that money into the mass transit systems all the way down from the big cities to the rural areas, we will provide the best alternative to the use of the automobile. If we do not expand mass transit and if we do not find an alternative, the price of gasoline can go to $3 a gallon. They will still have to buy gasoline because they have no other way to go. This will help in that area.

We also know that traffic signalization can help.

I would like to point out a few things in relation to bridges in our country. Wherever you go, you will find school buses, other buses, that cannot go across many of the bridges and have to go down the river for 10 or 15 miles, cross over and then come back. That is a waste of gasoline. In Allegheny County, Pa., the Pittsburgh area, just the bus companies have expended over $600,000 additional each year because of the extra mileage that their buses have to go because they cannot go across certain bridges. This is true all over the country. Also that $600,000 does not include any automobiles that have to do the same thing. Also in those areas, as we have seen in Pennsylvania, we have situations where fire trucks located on one side of a river at a bridge cannot cross that bridge.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. HOWARD was allowed to proceed for 5 additional minutes.)

Mr. HOWARD. Mr. Chairman, I thank the gentleman from Texas (Mr. ECKHARDT) for getting me the additional time. I will yield to the gentleman in a moment or two, as soon as I have completed my statement.

So we do have an opportunity here in this amendment, and, as I say, there will

be no other chance. The Committee on Public Works and Transportation will have to come out next year with a totally inadequate transportation program, totally inadequate without this, and all we will be able to say is, "We told you so." So, do not do that to the Committee on Public Works and Transportation. Give us the wherewithal today to meet the problem of bridges, because what you are voting on here is whether or not to take care of the unsafe bridges, you are voting on whether or not you want to reclaim our primary and secondary highway systems, and you are voting today as to whether or not you want to have adequate mass transportation all the way down the line. There will be no other chance. We cannot come back, as some of the Members on the other side said in 1979 because the highway program expires in fiscal year 1978. So we must come up with at least a highwy program during this Congress, during next year and if we do not have the wherewithal, we cannot meet these problems. So I ask the Members to look at this not only as an energy measure, but also as a transportation vote for the next decade in this country.

It is not easy to vote for a gasoline tax but one has to come. I do not know of any way to better utilize the money that will be collected than for the future of transportation, as well as this energy package before us here today.

I now yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, do I understand from the gentleman from New Jersey (Mr. HOWARD) that his amendment differs from the Rostenkowski amendment largely in the use of the funds derived from the tax, and, of course, it increases the tax by 1 cent?

Mr. HOWARD. I did state that. The major difference in this is, I think, distribution of the funds.

Mr. ECKHARDT. Under his provision half of the funds go to highways and bridges.

Mr. HOWARD. None of which will go toward adding additional new roads but to fix up the system we have.

Mr. ECKHARDT. I understand. Under the Rostenkowski amendment about 12½ percent would go to the States for any use, and that could be roads and bridges, but it could also be other things; could it not?

Mr. HOWARD. That is true.

Mr. ECKHARDT. For instance, it could go for dredging waterways.

Mr. HOWARD. Yes.

Mr. ECKHARDT. Do I understand correctly that the gentleman's amendment, like the Rostenkowski amendment, would tax motorboats?

Mr. HOWARD. The gentleman has got me on motorboats as to whether or not this goes into the highway trust fund. I believe that it is only the purchase of gasoline. I would say if you go to a gas station pump and buy gasoline, that would go into the highway trust fund.

Mr. ECKHARDT. Let me say this, that under this provision diesel fuel would be taxed at 5 cents. The ordinary shrimp boat in Louisiana and Texas, and all along the gulf coast, uses diesel fuel, and I assume it is a motorboat. It would seem to me that what we are doing is adding to the cost of diesel fuel for shrimping which has already trebled since the Arab embargo—5 more cents, and we are taking it and putting half of it in a highway fund to build bridges and roads. I cannot see how a shrimp boat can go over a bridge.

Mr. HOWARD. It can certainly go under it, I will say to the gentleman from Texas, and we want to make sure that it is safe so it does not collapse on the shrimp boats.

If I can respond to the gentleman, we are talking about diesel fuel and other things. We are talking about the truckers, and I would say that if this amendment is defeated today, with all due respect, we have to give credit where credit is due. It is the American Trucking Association, the ones who have the heaviest vehicles going over our bridges and on our roads, that can derive all the credit for it.

Mr. ECKHARDT. Perhaps, but the American people do not want an additional cost placed on them.

Mr. HOWARD. This is the point. We had to write this amendment up in a matter of hours. I have stated publicly, and I state again, that when we charge the truckers who use our roads greatly, we know that this is a commercial use, and a big part of the cost of their operation, and we know that that cost is passed on to the consumer. So when the gentleman's wife or my wife buys gasoline for her automobile, in most cases she pays for her own gasoline tax, and she also pays for the truckers' tax. We want to get to the use of diesel fuel because it is a less-polluting and more efficient fuel. When we complete our highway bill next year, I have stated that I would certainly give serious consideration, because we are going to go back to the Committee on Ways and Means with our whole package anyway, even though we do not have to, to have them look it over for one of two things, perhaps to exempt the diesel fuel from this increase, thereby saving the consumers money, or benefits for the consumer.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. HOWARD was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I want to compliment the gentleman for his amendment. I think it is a good amendment, and I think he has correctly stated the magnitude of the bridge problem in this country.

I am, however, a little concerned about the difference between what the gentleman stated in the well as to the fact that there are more than 105,000 bridges. I assume that is both on and off system.

Mr. HOWARD. About 39,500 deficient bridges at the last count were on the system, and some 60-some thousand off system. We intend in our bill, H.R. 8648, to take care and look at the problem proportionately and equally of all the unsafe bridges, both on and off the system.

Mr. HARKIN. I compliment the gentleman for that. I just wondered, because I have a letter dated July 29 from the Office of the Secretary of Transportation. On page 2 he stated:

> For example, the 1976 Department of Transportation Bridge Study found that there are now approximately 40,000 bridges on the Federal Highway System that are structurally deficient, or that require repair to safely service the system on which they are critical links.

I am wondering if there is some kind of disagreement between the gentleman in the well and the Secretary of Transportation as to where the money is going, because he talks about 40,000 bridges on the Federal system alone.

Mr. HOWARD. Yes.

Mr. HARKIN. But if I understand the thrust of the gentleman's amendment, it would go to both on- and off-system bridges.

Mr. HOWARD. That is right. The statement the Secretary made has to do with the 40,000 on the system. His cost estimate is $12.4 billion. That is only for those on the system. There are 60-some thousand more off system, and the cost to repair them would be $10.6 billion, where we get a total of $23 billion.

Mr. HARKIN. I compliment the gentleman for his amendment.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Oregon, the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Chairman, let me say to the gentleman, he has always cooperated with the Ways and Means Committee, and we have always cooperated with him.

There will be some adjustment required, as the gentleman has indicated. When the transportation program comes to it, the Ways and Means Committee then will look at it and establish equitably whatever tax changes are required in order to make the program meet the needs of the country and not become an undue burden on those who should not have to bear that burden.

Mr. HOWARD. I thank the gentleman. When we pass the transportation bill out, we will voluntarily come to the Ways and Means Committee, who should look at it and give us this further direction.

However, if this amendment fails today, we will not be able to do that because we will not have that chance.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

Mr. ULLMAN. Mr. Chairman, I ask unanimous consent that the gentleman from New Jersey (Mr. HOWARD) may be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. MARTIN. Mr. Chairman, reserving the right to object, and I will not object, I reserve the right to object only for the purpose of asking if there will be an opportunity for us on this side of the aisle to have some time.

The CHAIRMAN pro tempore. The Chair would like to advise the gentleman he will alternate between both sides in recognizing Members.

Mr. MARTIN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New Jersey is recognized for 2 additional minutes.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, what the gentleman from New Jersey is saying is, if we adopt this provision today, it can be modified to meet the needs of the country, but, if we fail to adopt this provision, we are practically out of business as far as solving the basic statewide and nationwide problems on the highways.

Mr. HOWARD. For the next 10 years.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I thank my colleague, the gentleman from New Jersey (Mr. HOWARD), for yielding.

I understand the predicament in which my colleague finds himself. I do not think that this gasoline tax belongs in an energy bill. I know that it is not of my colleague's making, and my colleague's amendment is certainly preferable to what is in the bill. But that still does not cure my strong opposition to either a 4- or 5-percent gas tax.

Let me just say to my colleague this. I do not think there is any rational basis to conclude that energy conservation will result from increasing the price of gasoline by 5 cents. My district is a rural district. We have no mass transit. Where are they to turn for travel? They depend on the automobile as a means of getting to work, and to the shopping centers, and other places. They are going to be the ones who unfortunately will be hurt by what I believe is an extremely ill-advised policy.

Mr. HOWARD. The genteman from New Jersey makes a very fine point. In my amendment we meet that, because this is the one and only opportunity we will have to be able to give the rural and small town areas an opportunity to provide for their people the kind of public transportation that they need and can use and will be a great help in conserving energy.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support, not the 5-cent tax, not the 4-cent tax, not even the 50-cent tax, but the people who are going to be expected to pay those taxes that are being offered here today.

I oppose any increase in the tax on gasoline. In committee I opposed President Carter's proposal for a 50-cents-a-gallon gasoline tax. He calls it a "standby" tax, because he thinks the American people are going to stand by while he and his party stick this punitive tax on them. I think he is wrong about that.

I oppose a 50-cent tax; I oppose adding a 5-cent tax or 4-cent tax. Who needs it? Will it increase the available supply of gasoline? Not a drop.

Will it restrain American motorists from buying the gasoline they need? Will it make them walk to work or do their shopping on a bicycle or do their plowing on foot?

The fact is that the price increase of 20 cents or more so far has not reduced gasoline consumption; in fact, it has risen. It has not reduced oil imports, in fact, they are at an alltime high.

Then what good will it do? Will it help President Carter in his pledge to balance the budget? "You betcha." Instead of balancing the budget the right way by cutting unnecessary spending, he wants to raise taxes.

Now, the sponsors of this extra unnecessary tax have acknowledged that this tax will require sacrifices. Sacrifices? "You betcha."

But let us not kid ourselves that the sacrifice will be borne equally, or that it will be fair and equitable. Americans who live in rural areas will find that attitude a little cavalier. "Cavalier" means they are going to be expected to ride a horse. They certainly are not going to get to ride mass transit around their farm.

Let me tell this House where the sacrifice will fall. In the Committee on Ways and Means, the gentleman from Arkansas (Mr. TUCKER) presented a comparison of 50 States and the District of Columbia to show the per capita gasoline use. There is a great variation. Rural States consume roughly twice as much gasoline per capita as do the urban States. Wyoming has the highest per capita, 749 gallons per capita. New York State, which is blessed with the lowest consumption per capita, uses only 301 gallons per capita.

So the burden will fall on the rural States in order to pay for mass transit for urban citizens who do not have to use as much gasoline.

Another thing, the list also compared the States in per capita income. Generally speaking, the lowest income per capita falls in the rural States.

So do you see what that means? The lower income States are the rural, and necessarily high-mileage States. That means the lower income ranking States will have to pay more tax per capita to subsidize the high-income States.

I could read a few examples. The State of Missouri, which is 31st in rank from the highest in per capita income is 13th in the highest rank of gasoline use.

The State of New Mexico, which is 50th in rank of this list of 51, including the District of Columbia, in per capita income, is 3d in gasoline consumption per capita.

The State of Tennessee, which is 41st in per capita income, is 11th in per capita gasoline use.

The State of Texas, which is 33d in per capita income, is 4th in per capita gasoline use.

Generally what we find then is that there is an inverse relation between the per capita income and the per capita gasoline use. That is not because of a direct cause-effect relationship, but because of the rural nature of those States.

Now, I ask, where is the compassion in that?

Where is the great political party that boasts and preens that it is the party of the little people? That party is the one that is telling us from the White House and the Congress why we are going to slap this tax on those people. I do not believe they will get full support in their own party in the House.

They call us the party of business, but they want to give the business to the people. So let them vote for it.

Let them tell the rural citizens they have to pay twice as much tax per capita in order to pay for subways in cities.

If it is defeated, then do as the gentleman from New Jersey (Mr. HOWARD) said, give credit where credit is due, to the party that stands solidly against it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's very complete statement on the impact that this bill will have on all of the driving public and especially on lower income people. What the gentleman has provided for the House with carefully drawn facts was shown overwhelmingly in our Budget Committee as we began to review the impact of new taxes. If either one of these add-in gasoline taxes is adopted, low- and moderate-income working people will be very adversely affected.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. MARTIN was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further? As the facts presented show and as committee after committee has borne out in testimony, the impact of this add-on tax will be against the very people we constantly talk about trying to help, the lower income working people of this country. Those are the ones that will pay a very heavy price.

Mr. Chairman, I compliment my colleague (Mr. MARTIN), for the detailed and complete facts that he has presented.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think we ought to look rather carefully at what we are doing here today. I would say this is not one of our happiest moments. It is not mine. I take no pleasure in opposing this portion of the President's program, but it is an ill-advised portion.

Remember that we have three increases that we are actually going to be watching go into effect over the next few years. Progressively, we are going to have about a 5-cent increase as a result of EPCA, the Energy Price and Conservation Act of 1975, already on the statute books. There

is an equalization tax in this package that will add another 5 cents. We are talking about 5 cents on the Howard amendment or 4 cents, alternatively, on the Rostenkowski amendment. That is talking about a 16- to 17-cent increase, and what do we get for it?

We take the figures of the ad hoc committee itself and translate them into percentage, and we find that in 1978 they estimate that we would save .24—.24 percent; by 1979, .57 percent; by 1985, 1.14 percent of the total gasoline consumed. So, we are not talking about a significant conservation effort here. As a matter of fact, there is a concession made that we are not now apparently debating the conservation policy of America. We are debating a national transportation policy.

This is a tax on the users of motor vehicles, and it is not an equitable tax. It falls most heavily on the poor, and a study of American energy consumers, a report by the Ford Foundation energy policy project in 1975, found that the poor—and they are defined as the incomes of $2,500 or less—spent 4 percent of their income for gasoline; The low middle, 3.2 percent of their income; the upper middle, approximately the same; and the more affluent of our society, 2.2 percent of income. And where do they spend that most heavily? As the gentleman who preceded me indicated, it is in the rural areas of this country. Out in the State of Montana, just used as an illustration in the gentleman's comments, we find that in the State of Montana, characteristic of many of the Western States, the average motorist drives 600 miles a month. In the Eastern States, the average being driven is 300 miles.

The rural users are going to have a very severe impact, and I would say that not in this decade would it be possible to put into place a mass transit system. In the first place, there is no mass to move in the rural areas.

But, this is a totally inequitable step to take in an energy program. It is appropriate to a national taxation policy or a national transportation policy, but it is not appropriate here. There are things that could be done, that are not being done in this bill, to conserve energy; significant conservation features that could be enacted into law. They are not in this legislation.

There are far too many portions of this legislation, in this Member's opinion, that rely upon taxes as a means of discouraging use, and that is a particularly cruel form of discrimination because it consistently puts the heaviest burden on those least able to bear it. It is not consistent with my own philosophy, and I did not think it was consistent with the philosophy either of the President or of my colleagues in the majority.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. One thing that disturbs me about this, is a point which the distinguished gentleman from California (Mr. Moss) has already raised. That is that this amendment does have impact on transportation policy, particularly in the area of the diesel tax. If we are not going to discourage use of diesel on the highways, and I am sure we will not—because a truck has to drive—why should we place a tax on diesel use for highways? We do not tax diesel use by railroads.

It strikes me that such a policy is totally oblivious to the question of a balanced transportation policy.

Mr. MOSS. Of course, if it is to refer to a balanced taxation policy, it should be addressed more comprehensively in legislation exclusively dealing with that.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am doing something that I find I am doing to an increasing degree over the last couple of weeks. I am sure it makes him nervous. It makes me just a little nervous. And that is to rise in support of the gentleman from California (Mr. Moss) and his viewpoint.

He has given us some average figures here about the number of miles per year driven in the West, 3,600; the number of miles per year driven in the East, 1,800, if I got his figures correct; the average national driving per car, 2,400 miles per year—that is, driving to work, to the grocery, to take the kids to school, to pick them up after the ball game, and so forth.

I am not concerned about the average miles. I am concerned about the average guy and what happens to him, the average family. I am also concerned about the savings that the ad hoc committee has suggested are going to come from this modest, little 4-cent or 5-cent increase in tax.

On page 69 of the report there is an estimate that in 1985 this tax will save 85,000 barrels of oil a day. That is 365 days a year. So presumably in 1985 we would save 31 million barrels of oil.

The gentleman from Illinois (Mr. ROSTENKOWSKI) says that that saving will cost us $6 billion by 1985.

If we divide $6 billion by 31 million barrels of oil that is saved in that year, what we get is $194 a barrel. I mean it costs us $194 to save that barrel.

If imported oil costs $25 a barrel by that time, we could import eight barrels of foreign oil for that $194.

My question is: Would we be better off spending $194 trying to save a barrel of oil, or would we be better off spending $194 to import eight barrels of oil?

What would it cost us to save a gallon of gasoline by 1985?

Using the same figures, I come up with $4.62 a gallon to save a gallon of gasoline.

It may be worth it. It may be worth it because those OPEC nation Arabs, and all of those people, are not nice folks to try to charge more money for the gasoline we use.

Let us take the average guy who drives to work 20 miles per day. Maybe not in Toledo, but in my district 20 miles a day to work is not too far. That equals 5,000 miles a year.

That equals 5,000 miles a year. At 15 miles per gallon on his car, if he has an efficient one, that will cost him 333 gallons of gasoline a year times 12 cents a gallon, which is what the fuel oil equalization tax and the extra 5 cents is going to cost him. That is $44 a year, and we might say, "That is not very much in order to save a lot of gasoline."

That may be true, except that it amounts to a 2- or 3-cent increase in the income tax at the Federal level for the average $12,000-a-year income worker. He pays about $1,800 a year in Federal income tax, and this will mean $44 or $50 added right in there as an increase.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, let us look at just one more example, and then I will yield for questions.

If we take the 7 cents and the 5 cents and add that up to 12 cents—and on this I am pretty sure my math is right—$12 billion is the estimate of what that will cost. That is the combination of the fuel oil equalization tax and the Carter-Howard gasoline tax program. That $12 billion divided by 210 million Americans, times 4 to a family, amounts to $228 per family of 4 members by 1985, and that would mean a 13-percent tax increase in the average worker's income tax.

My question is: How much is it worth for us to try to save this gallon of gasoline? Is this a tax to do all the wonderful things that the gentleman from New Jersey (Mr. HOWARD) says we need to do? And it is true that we do need to do some of these things. We need to improve our roads, I suppose, so people can drive more. I guess that would be so.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the chairman of the ad hoc committee.

Mr. ASHLEY. Mr. Chairman, the gentleman is making a few general assumptions which I do not think are well founded.

Mr. BROWN of Ohio. Those assumptions were used on natural gas, I might say, when we were arguing yesterday on that subject, and so I thought they may also be appropriate to gasoline. They may not be, however.

Mr. ASHLEY. I am simply suggesting to the gentleman that the average cost of operating a motor vehicle today is 4.1 cents per mile. Because of the increased efficiency of our vehicular fleet that will be achieved by 1985, the average cost per mile will not be 4.1 cents per mile; it will be 3.7 cents per mile.

Mr. BROWN of Ohio. Is that based on the new gasoline cost or on the old gasoline cost?

Mr. ASHLEY. That includes the 5-cent tax that is being proposed by the gentleman from New Jersey (Mr. HOWARD).

So I hope the gentleman will see what we are suggesting. There is not going to be an increase in the cost; there is going to be a decrease.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman,

if I understand what my colleague, the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY), is saying, the assumption is that if we put on a 12-cent gasoline tax, it will actually be cheaper for a man to drive his car in 1985 than it is now. I am going back to my desk and work on that one.

Mr. ASHLEY. I wish the gentleman would do just that.

Mr. BROWN of Ohio. I am afraid I do not grasp it too quickly.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I simply want to compliment the gentleman from Ohio (Mr. BROWN) on his elaborate and ingenious statistical inquiry, which I am sure is worth at least as much as the statistical basis for this entire bill.

Mr. BROWN of Ohio. It is worth as much as $260 billion, which is the figure we heard yesterday on the increase in natural gas costs. I think so, anyway.

Mr. CONABLE. Mr. Chairman, I again want to thank the gentleman and to sum up his conclusions by saying that this is going to cost the American public a great deal, and it will not do a great deal in effecting energy conservation.

Mr. BROWN of Ohio. It is going to cost $4.62 to save a gallon of gasoline, and it is going to cost the average worker somewhere between a 3-percent and 13-percent increase in his annual Federal tax bill.

Let us face the facts. This is not designed to save gasoline as its primary objective; it is designed to raise taxes.

Come on, fellas. Let us just be square with the people and tell them that we want to raise their taxes to do these wonderful things, that we want to do what the gentleman from New Jersey (Mr. HOWARD) wants to do, or that we want to raise the welfare payments, which is what Mr. Schlesinger says he wants to do, or that maybe we want to do some of the other things we may think up.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from Ohio (Mr. BROWN) has again expired.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, Both of the amendments offered by the ad hoc committee increasing the gasoline tax should be defeated.

In the first place, the wellhead tax will raise the price of gas at the pump by at least 7 cents to 11 cents by some estimates—when fully operative. The FEA tells us that the price will rise another 13 cents due to other justifiable costs in the industry. That 20-cent boost is more than enough. This Congress would be heartless and irresponsible to add 4 cents, or 5 cents, or both to that already burdensome tax load.

Yes, it would be nice to have the trust funds to play with. But, I have never noticed that Congress feels inhibited about spending the taxpayers' money if it can rationalize a good public purpose.

A new trust fund is not the only way to finance worthy needs. In fact, as a matter of tax policy, trust funds are to be avoided because they limit flexibility in governmental operations long after their original need has faded from memory.

Yes, it would also be nice if States could be helped in their transportation needs. I believe most State highway departments would love us to levy a tax for them to disburse. Each could catalog an endless list of needs. But each State has the authority to pass its own gas tax if it feels the needs are acute enough.

The Federal Government and the State tax the same highway users. The money available to the States is about the same, or should be. Therefore, if the States need the tax, they can surely lay it on themselves.

There seems to be little evidence that the extra gas tax will discourage energy use. I believe it is just another regressive tax to permit congressional spenders to do their thing. Five billion dollars in new taxes simply does not make sense.

A gas tax is in many respects a tax on employment. In my district, and throughout the country, many people drive long distances to work, not because they like driving, but because they must do so to find work. These people will already be socked 20 more cents a gallon because of this bill and because of other circumstances. I cannot explain to them why we need to boost that tax another nickel when we cannot even prove it will save energy.

When all the rhetoric is stripped from this issue, it becomes just another tax. Our people are tired of more taxes. We ought to defeat these amendments.

As a matter of fact, the problem with this whole bill is that it is just one big tax bill. It brings with it the usual regulations, redtape and growth of bureaucracy. It will, when fully implemented, cost the average family of four about $1,000 per year as a result of new taxes. We may not be able to save our people from paying more for energy, but we can surely save them from taxes and regulations which never expire, and from a never-ending increase in the Federal bureaucracy.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. BROWN) may be permitted to proceed for 2 additional minutes.)

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ALEXANDER. Mr. Chairman, I object.

Mr. HEFNER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. WRIGHT. Mr. Chairman, there seems to be a basic misconception as to the purpose of this amendment.

Let us just be honest with ourselves. A 4-cent tax or a 5-cent tax on gasoline is not going to save gasoline by discouraging its purchase. That is not the purpose.

I think one of the things the public surely must resent is the implication that by adding on taxes, we deliberately would be making the price of fuel so God-awful expensive that they could not afford it and therefore would not buy it. The public rightly resents that. I would resent it, too. That is not the rationale of this amendment.

The purpose of the 4-cent or 5-cent tax is to raise revenue so as to finance beneficial activities. Some of those activities are energy related, and some of them are not. It would be inaccurate to try to attribute the whole cost to an energy program.

It would be grossly misleading of me to suggest that all of this money is going to go into the conservation of energy. It is not. Some of it would go into the construction of needed roads. Some of it would go into the construction, repair, and renovation of unsafe bridges. There are more than 105,000 bridges in the United States that are in a desperately bad state of repair. This is one of the long neglected needs of a national transportation policy.

So let us not confuse the issue. Let us face squarely what it is that we are being asked to do. We are being asked to raise revenue to do a variety of things: to repair bridges that need repairing; to build better roads; and to improve public transportation facilities, including both bus and rail systems.

Public transportation facilities do very definitely have an energy-related objective. A full bus gets about 200 passenger miles to the gallon. An automobile with 1 passenger gets perhaps 15 or 16 passenger miles to the gallon. That is the difference.

What good is that, you may ask, to the person from a Western State who must drive a long distance to work? That is a fair question. I represent a lot of those people. I know people who drive 50 miles a day one way to work. Their daily travel is 100 miles. Those people have chosen to live in relatively remote areas in order that they may have small farms to supplement the income that they derive from their industrial employment. That is their choice.

Of course, a gasoline tax impacts unfairly in one sense upon those people, but they are the very people to whom the availability of adequate road systems is most important. Most of those people have never resented paying their share of the taxes for good roads and needed road repairs.

Now let me address one other question. Why is it important to them to improve public transportation when that public transportation is not available to them? When they either cannot or do not use it? That is a harder question. It may be unreasonable to expect them to appreciate its value to them personally. But it is important to them because they who have no alternative to the private automobile are the very people in our society to whom the continued availability of fuel is most important.

If those who have to drive to work, those whose daily travel is work-related, run out of fuel because of a national scarcity, then they are the ones who will be most severely and adversely affected

by that scarcity. Therefore, if by providing effective and adequate public transportation facilities in other areas of the country we can make it attractive for more city dwellers to opt for public transportation, we will free up some of this scarce fuel and stretch out the supply so as to make more of it available to those who need to drive to and from work. Then, whether they see it as a direct benefit or not, we have provided a benefit for them. Whether he realizes it or not, every user of gasoline in this country has a personal stake in the success of public transportation. So it is a balanced approach.

I like the idea personally of putting some of this money into a trust fund for long-term energy research and development. We have not done enough to encourage additional supplies for the future. None of us should suggest that the purpose of this amendment in any sense is to discourage consumption of gasoline by creating a higher price through the addition of this tax. But Members who look at it as a frightful thing should stop and realize that our failure to have an effective energy policy has allowed prices to go up in the last 3 or 4 years by some 30 cents a gallon.

The public has gained no measurable benefit from that increased cost. It has not slowed down gasoline consumption. It has not built any roads. It has not supplied a single bus or repaired a single bridge. It has not financed research for alternate supplies. So far as I can tell, the only beneficiaries have been the Arabs and the oil companies.

In some areas of my State gasoline was selling for 30 cents a gallon in 1973 and is selling at 60 cents a gallon today. Why should we suppose that the public is reconciled to that situation from which it gains no benefit but unwilling to pay 4 cents or 5 cents to meet legitimate public needs?

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, just a few moments ago a request was made for the gentleman from Ohio to extend his time, and objection was heard from the majority side. I am not going to object to the extension of the majority leader's time. I know that in heated debate some people are constrained to exercise their right to object. But I do serve notice that if minority members are not permitted full debate on this side of the aisle that there will be no further extension of time for those on the other side.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HOWARD. Mr. Chairman, reserving the right to object, I would like to state in reference to what the gentleman from Maryland (Mr. BAUMAN) said that all sides did accord me a great deal of additional time so people could discuss this within the reasonable period of time we have. Later on we may try to set a time limit but I would hope we would permit on both sides all requests for additional time, especially when there is a dialog that is continuing where a special point is being made.

I appreciate the time that was accorded to me and I would hope that others would be accorded the same.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. WRIGHT) is recognized for 1 minute.

Mr. WRIGHT. Mr. Chairman, I shall not ask for another extension of time. I have only asked for 1 minute, and that's all I will use.

I do not really expect either of these amendments to be agreed to. Voting taxes is always an unpopular thing to do. But it is important, I think, to see the situation in its true light and in proper context.

The purpose of this proposal by the ad hoc committee and that by the gentleman from New Jersey (Mr. HOWARD) is basically to raise revenue. Most Americans in my opinion are willing to pay a fair amount when they know that the money is going for a needed public purpose. The purpose of the amendment is to serve the needs of a balanced transportation system in this country and to make some improvements in energy consumption through the development of viable public transportation systems. In my judgment, the American people would resent this much less than they resent the enormous increases which already have been foisted upon them and from which they can see no benefits whatever.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose both amendments.

Mr. Chairman, immediately after my election last November I received a gift from two constituents—a young married couple who had worked in my campaign. It was not a very expensive gift but it did have strings attached to it. Oh, it really had strings attached. It was a small paperweight and on it were these words:

Congratulations, Congressman MICKEY EDWARDS. Always remember the little taxpayers.

Always remember the little taxpayers. Do not go to Washington and catch Po'omac fever, they were saying. Do not start going to picnics at the White House and forget about the little people who sent you there.

I now sit in this Chamber and I am now making nearly $60,000 a year and I am surrounded on all sides by people who make nearly $60,000 a year. I am 1,000 miles away from the people who elected me to represent them—people who, together, have a median family income in my district, Mr. Chairman, of $9,000 a year.

How easy it is when you spend $2 billion a day, for every day we are in session, when billions become routine and millions become meaningless, how easy it is to forget what it is like to be poor, or old, or young and newly married, and to really feel the pinch of every price increase and every tax increase.

There is a fine old lady in my district named Nettie Couron. I want to tell you about her. She never expected her name to be mentioned on the floor of the House. But, Nettie is poor and she is widowed and she is in her sixties and she lives in a very small house half a block from the railroad tracks in Edmond, Okla., and she works. She is a licensed practical nurse. She works day shift and she works night shift to make ends meet.

She has driven many miles every day to work and back from work.

What about the Nettie Courons of this world who do not get their names mentioned on this floor? You great champions of the poor and the oppressed that we hear so much about, where is your compassion now? Where is your love? Where is your concern for the poor? Where is the concern that we hear so much about in the mellifluous tones of the majority?

Mr. Chairman, I owe nothing to the country clubs and to the corporations, but I owe my seat in this Congress to the working people, the little people as they are so easily refered to by the majority. I will not forget them. If every other Member of this Congress votes for this gasoline tax increase, I will vote against it. If you care about the poor—if you care about the poor that you talk so much about—you will vote no, too.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

Mr. Chairman, I have a technical question to ask. I appreciate the gentleman from Oklahoma yielding for me to propound this technical question at this dramatic moment with respect to the trust fund and with respect to the expenditures from the trust fund.

I would like to ask the chairman of the ad hoc committee, the gentleman from Ohio (Mr. ASHLEY), a question concerning language dealing with the expenditures from the trust fund that is identical in both the committee amendment and the Howard amendment.

If this amendment were adopted, is it the gentleman's understanding that before any funds could be obligated or expended, or made available in any other way, from the trust fund, it would be necessary to have appropriations made in appropriation acts?

Mr. Chairman, would the gentleman from Oklahoma yield to the gentleman from Ohio (Mr. ASHLEY) for a response?

Mr. EDWARDS of Oklahoma. I will be happy to yield to the gentleman from Ohio.

Mr. ASHLEY. I appreciate the gentleman's yielding.

I will say to the gentleman that this is precisely what was intended by the members of the committee and, as a

matter of fact, is precisely what is provided in the language of the bill found on page 446 where the following language occurs:

Amounts in any account of the trust fund shall be available, as provided by appropriations acts, for making expenditures for the purposes applicable to such account under this section. Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

The answer to the gentleman is in the affirmative on both counts.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. MAHON, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. MAHON. Mr. Chairman, I thank the gentleman from Oklahoma for yielding, and I thank the chairman of the committee, the gentleman from Ohio (Mr. ASHLEY).

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

I want to state that I have attended five public meetings within the past few weeks, and on each occasion I asked the people what they thought of an increase in the gasoline tax. On every occasion every person said that he opposed it. There was no one who supported an increased tax on gasoline.

I would ask my distinguished friend, the gentleman in the well, if it is not true that there is built in this a $3 tax per barrel on oil at the wellhead which would translate into 7 cents per gallon, about which we can do nothing unless we vote down the bill?

Mr. EDWARDS of Oklahoma. That is my understanding.

Mr. CARTER. I would suggest that if we vote to increase the tax on gasoline our people are going to regard it as a nuisance tax. It will not deter or diminish driving one whit.

I thank my distinguished friend for yielding.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

In response to the gentleman's stated concern for the poor people and the fact that he opposes any gasoline tax in reference to them, it just surprises me that a Representative such as the gentleman from the great State of Oklahoma would come out in such total opposition to the present Highway Trust Fund which now is supported by the gasoline tax.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I would like to follow up the statement of the gentleman from New Jersey. It seems to me there should be some clarification by the gentleman from Oklahoma with respect to his blanket opposition to gas taxes. Is the gentleman inclined to think that no Congress at any time should have ever placed a gas tax at the Federal level and the gentleman as a Representative would never vote for an increase no matter how dramatic the needs were for highway development?

Mr. EDWARDS of Oklahoma. I am glad the gentleman gives me an opportunity to respond to the gentleman from New Jersey.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma has expired.

Mr. GARY A. MYERS. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma may be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HEFNER. Mr. Chairman, reserving the right to object, and I shall not object, on the earlier request I objected. It seems to me so many times in this debate we have gotten away from the issue and have become sarcastic and talked about things that have nothing to do with the debate. In this kind of thing I shall object. The American people expect more of us than sarcasm and innuendo.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman from Oklahoma would yield further and would care to answer, I ask the gentleman to respond.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for giving me an opportunity to respond to my friend, the gentleman from New Jersey. I was not saying I was opposed to the trust fund. I am opposed to this tax increase. People are already paying sufficient taxes on gasoline. There are many opportunities not connected with an energy bill, to come to the floor to try to work on improving the bridges and highways.

Mr. GARY A. MYERS. If the gentleman will yield for further clarification, would the gentleman not be interested in protecting the taxing potential we have in this session of the Congress for addressing the needs of the highway interests in some parliamentary procedure? In other words, at least we should accept the Howard amendment at the substitute level, and if the gentleman is opposed to the gas tax at this time, vote against the amendment as substituted, which would protect the interest of the highway and bridge development.

Mr. ASHLEY. Mr. Chairman, I would like to get an indication as to a possible limitation of time.

Mr. BAUMAN. Mr. Chairman, with this many Members standing, and only one noncommittee member having spoken, I would be opposed to a limitation of time.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that debate on this amendment conclude at 1:30.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Chairman, I object.

Mr. ASHBROOK. Mr. Chairman, I object.

Mr. GARY A. MYERS. Mr. Chairman, reserving the right to object, I would like to point out that many of the Members who are now standing seeking to share in the limited time are Members who have consumed considerable time on their own. It seems to me unfair to those Members not members of the committee to be completely prevented from adequately participating. I would ask the gentleman to give some consideration to noncommittee members so they may be given time first and then ask for a limitation of time later on.

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, it is not only persons who are nonmembers of this committee who have not been recognized on this matter, but also Members who are on this committee have not been recognized, such as the gentleman from Virginia (Mr. FISHER) and myself and others.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I move that debate on this amendment conclude at 2 o'clock.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 37, noes 20.

So the motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, unless this country can turn down the curve of gasoline consumption, we are in real trouble. I hear a lot of talk and a lot of fear about what we are going to do if we have a new Arab oil embargo. Well, OPEC can wreck the economy of the Nation in 2 or 3 or 4 or 5 years, not by an embargo, but simply by continuing to sell us the same quantity of oil they are selling us now. If the increase in demand goes on, consumption goes on. We are going to be in real trouble even at present import levels.

There is only one place we can go and that is to the OPEC countries for oil, unless we begin a conservation program.

I do not know how much reduction in consumption we will get from a 5-cent tax; but to me, it is a symbol, it is a signal. That tax will send a signal to the American people at the gas pumps. Those signals, those messages say to car pool and to slow down and double up on trips to the grocery store and the next time to which we change our place of residence, move a little closer to the place of work, and all the rest.

This money is not going to go for useless things. It is going to go to restore a balanced transportation system, to repair the bridges and the highways of this great system we have built.

More than that, it will begin to do some things about mass transit. There has been a lot of talk here about the poor people in our society. This is the first

major attempt to do something about mass transit. That is what the poorest people rely upon.

I have not had any pickets in front of my office saying, "Impose a gas tax on me."

I get relatively few letters asking me to impose any taxes on anybody.

But this tax makes sense. It is a package, a balanced package, carefully put together by the gentleman from New Jersey, and I think we will make a great mistake today if we do not gather up the courage to do the right thing and adopt this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, I advise the Committee that immediately upon the Committee rising, I will ask unanimous consent of the full House to include extraneous matter immediately following my remarks.

Mr. Chairman, I rise in support of the Howard substitute.

During the debate I was particularly impressed with the remarks that have been made this morning by the gentleman from the other side of the aisle, and especially the remarks of the gentleman from Oklahoma (Mr. EDWARDS). I would like to refer, if I may, to a recent publication of the Construction News, the July 13 issue, and quote from that periodical. It says on page 20:

> Oklahoma trails only Louisiana in the number of unsafe bridges on the federal-aid system, according to ARTBA, with 1,731, as compared to 2,879 in Louisiana. Louisiana Department of Transportation officials view the problem with more than some alarm. "We know the problem. We know its ramifications. What we don't know is where in the . . . . we're going to come up with the money."

In reply to the illustration stated by the gentleman from Oklahoma, I hope that his constituent to whom he has referred—a licensed practical nurse—is not required to drive over the unsafe highways and bridges that we have in the State of Arkansas; and I hope that she lives in town so that she is not required to drive long distances to work like the majority of the people in Arkansas.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Under the rules of the House, are not Members who have already spoken to wait until all other Members are recognized until they speak again on a pending amendment?

The CHAIRMAN. No one was up at the time the Chair rapped the gavel, and the gentleman from New Jersey was standing at the time the Chair recognized him. We will be going back and forth, but of course, the limitation abrogates the 5-minute rule.

Mr. BAUMAN. Is that not the rule of the House?

The CHAIRMAN. There is no such rule.

Mr. HOWARD. Mr. Chairman, I wish to thank the gentleman from Arkansas for the work he has done over the years, not being a member of the Committee on Public Works and Transportation, in behalf most especially of the needs of rural transportation in this Nation, which has been ignored for a great number of years. It is due to his work in the previous Congresses that we have been able to meet these needs. I wish to thank him for his position today and for his continued interest in the rural people in the field of transportation.

I wish the gentleman would continue with his statement, and I yield to him.

Mr. ALEXANDER. Mr. Chairman, 2 years ago I authorized the amendment to strike the administration's proposed gasoline tax. This effort resulted in a defeat of the tax on gasoline. The House voted overwhelmingly 2 to 1 to defeat that proposal.

Two years ago I opposed the proposed tax on gasoline because it was unfair to the people in the medium cities, small towns and rural areas.

That was a tax that did nothing to solve the urgent transportation needs of the countryside.

Two years ago I was motivated by another factor. At that time, I was also laboring under the delusion that the States would meet their transportation responsibilities.

That was a fair assumption because there was no dispute about the facts then, as there is no dispute about the facts now.

UNSAFE HIGHWAYS AND BRIDGES

I am advised that we have invested more than $76 billion in our highways and roads systems. And, at the present rate of Federal investment the system is falling apart 50 percent faster than it is being replaced.

There are more than 100,000 unsafe bridges on the highways and roads of this Nation.

The established replacement cost is estimated to be about $23 billion.

And at the present rate of Federal funding it would take 80 years just to replace the unsafe and inadequate bridges already identified in the Federal-aid system alone. This does not include those that will deteriorate or those already unsafe and deficient on non-Federal-aid highways and roads. And I remind you that the off-systems roads are included in this funding proposal.

In Arkansas alone there are more than 4,353 bridges on the Federal-aid system that are unsafe or incapable of safely carrying more than marginal loads. That is 67.8 percent of all the Federal-aid system bridges. It does not include the unsafe and inadequate bridges on State and county off-system highways and roads.

For the total highway system in rural areas the situation is even more serious.

The most recent highway conditions inventory made under the U.S. Department of Transportation guidelines shows that 89.9 percent of Arkansas' rural highways are unsafe or inadequate to meet the needs of the traffic system of which they are a part. For Mississippi this figure is 72.6 percent and for Tennessee it is 82 percent. Nationally, the percent of rural mileage under this study that was judged unsafe or inadequate was 56.6 percent.

In the Middle South States such as Arkansas, Mississippi, and Tennessee the 1975 average bridge replacement costs had reached $450,000 and is still rising. During the past 15 years the cost of building a mile of noninterstate, Federal-aid highway almost tripled, going from $84,500 to $340,000.

A recent Arkansas Highway Commission study estimates that in the next decade the State will need $1.2 billion more to make needed highway improvements that present funding schemes will produce.

GASOLINE CONSERVATION

The U.S. Department of Transportation has estimated that without increased maintenance of the Nation's highways, pavement degradation alone would increase transportation consumption of energy by 2 percent by 1985. Based on the gallons of gasoline consumed in 1975 the energy cost in Arkansas would be 26,641,320 gallons per year, in Tennessee it would be 51,127,880 gallons and in Mississippi it would be 26,456,340 gallons. On a national basis the yearly gasoline energy consumption increase would be 2,272,120,000.

A study of the highway improvements proposed in the Surface Transportation Assistance Act of 1977, which would be funded by this gasoline tax concludes that the proposed improvements would save 10,000 American lives annually.

The General Accounting Office study titled "Unsafe Bridges On Federal-Aid Highways Need More Attention" sent to Congress in 1975 makes clear a number of safety problems created by structurally deficient and functionally obsolete bridges. It cites example after example of bridges collapsing while being used by loaded school buses or passenger cars.

At one point, for instance, the study prefaces its discussion of an Ohio bridge collapsing under a loaded school bus saying:

> Many structurally deficient bridges are located on rural roads and present hazards to school buses, usually the most frequent heavy vehicles traveling over these bridges.

The study goes on to say that the bridge collapsed under the bus even though the vehicle did not exceed the posted weight limit.

The GAO study also cites a report made by Purdue University. This university study found 6,500 county bridges in Indiana that could not be safely used by loaded, standard-sized school buses.

Unsafe bridges and inadequate highways produce economic price tags for such groups as farmers, consumers, and trucking firms.

REDUCE FARM PROFITS, INCREASE CONSUMER PRICES

The 1975 GAO study discusses a protest filed with Ohio transportation officials by a professional drivers organization. The drivers were angry because a large freight firm was requiring its drivers to cross a bridge with trucks exceeding the safe posted weight limits. The study noted that freight companies and drivers:

. . . apparently disregarded the bridge posting limitations, rather than incur the extra cost associated with rerouting or carrying less than capacity loads. . . .

The GAO bridge study said:

Many of the unsafe bridges in rural areas impede the flow of farm goods to market, possibly resulting in higher food prices for consumers.

It went on to report that a study by the road information program in California indicated that—

Improving rural roads and bridges would enable farmers to use larger trucks, thereby increasing efficiency and saving time and money for producers and consumers. . . .

According to studies by the U.S. Department of Agriculture, transportation constitutes the third largest cost factor in the price of food reaching the consumer. The two factors that cost more are labor and packaging.

Carl F. Schwensen, testifying before a House subcommittee as executive assistant for the National Association of Wheat Growers, has said that—

Transportation is a key element of rural economies and farm life. It is of particular significance to grain producers since it is a principal determinant of the price they receive for their product. If the price of wheat is $3.50 a bushel in Kansas City, the price to the producer in Western Nebraska will be about $3 per bushel—or the Kansas City price minus the cost of moving it to market. So, it's easy to see that transportation not only accounts for the difference between farm and terminal market prices, but also figures significantly in the determination of the growing spread between farm and retail prices.

The "Transportation in Rural America" study issued by USDA underscored the importance of highways and roads to food production and distribution. It noted that almost all of the livestock bought or sold by handlers and feedlots move by trucks, and that 65 percent of the fresh vegetables and fruits sold in commercial markets is moved by trucks.

In February 1974, James H. Lauth, Director of the Transportation and Warehouse Division of the Agricultural Marketing Service at USDA, told a Senate subcommittee that a 10-percent reduction in transportation facilities would increase the price of meat to consumers in New York City by 26 cents a pound and reduce the price of cattle in cattle feeding areas by 7.6 cents a pound.

No one questions the need for highway improvements.

None of us believe that these improvements are going to be given to us free.

It is obvious that the States will not act.

So, given all these circumstances!

If you want to see our school children ride twice each day over unsafe bridges that could collapse, vote against this tax.

If you want to see our farmers pay an unnecessary part of their hard earned profits for added transportation cost, vote against this tax.

Vote "no" if you want to see consumers pay more for food at the market place than is necessary.

Vote "no" if you want to sit back and watch America waste millions of precious fuel for American motorists to travel over inefficient and obsolete roads.

A "no" vote will deprive our opponents of an argument against us next year.

But: If we want to face up to our responsibilities as members of Congress:

If we want to help establish a national transportation policy;

If we want to make a beginning that will ultimately resolve both the mass transit problem in the cities and the highway problems in the countryside and, will save lives, save fuel and make Americans money.

I urge you to consider voting "yes."

The charts which follow and give State by State information on unsafe bridges across the Nation will, I believe, be of interest to my colleagues.

The data in table I was prepared by the U.S. Department of Transportation and relates only to unsafe bridges on the Federal-aid highway system.

The data in table II was made available by the American Association of State Highway and Transportation Officials. This data on unsafe bridges on non-Federal Aid highway system roads is incomplete because inventories have not been reported for all States.

The charts follow:

TABLE I.—*Statistics taken from inventory data received prior to Nov. 15, 1976*

(Data Source: U.S. Department of Transportation.)

	Structurally deficient bridges [1]	Functionally obsolete bridges [2]
Alabama	63	312
Alaska	16	17
Arizona	29	137
Arkansas	70	760
California	132	369
Colorado	47	69
Connecticut	14	47
Delaware	14	21
District of Columbia	7	22
Florida	84	972
Georgia	381	603
Hawaii	19	44
Idaho	224	38
Illinois	170	1,917
Indiana	380	815
Iowa	465	1,456
Kansas	593	863
Kentucky	80	1,705
Louisiana	148	2,731
Maine	52	23
Maryland	54	250
Massachusetts	45	136
Michigan	263	529
Minnesota	103	1,042
Mississippi	302	60
Missouri	245	372
Montana	29	121
Nebraska	521	793
Nevada	7	159
New Hampshire	40	319
New Jersey	63	142
New Mexico	23	333
New York	1,320	691
North Carolina	105	2,814
North Dakota	110	261
Ohio	426	571
Oklahoma	570	1,161
Oregon	41	272
Pennsylvania	184	719
Puerto Rico	80	365
Rhode Island	2	24
South Carolina	304	351
South Dakota	124	1,053
Tennessee	403	262
Texas	61	1,418
Utah	11	5
Vermont	19	488
Virginia	39	808
Washington	30	159
West Virginia	284	757
Wisconsin	189	1,277
Wyoming	18	274
Total [1]	9,003	30,917

[1] The total number of deficient bridges used (Structurally Deficient and Functionally Obsolete) reflect the Federal Highway Administration's interpretation of the States' Inventory Data and does not necessarily agree with the States' records for these two categories.

[2] A Structurally Deficient bridge is one that has been restricted to light vehicles only or closed, while a Functionally Obsolete bridge is identified as one whose deck geometry, clearance or approach roadway alignment can no longer safely service the system of which it is an integral part.

TABLE II.—DATA ON FUNCTIONALLY OBSOLETE AND STRUCTURALLY DEFICIENT BRIDGES ON NONFEDERAL AID HIGHWAYS AND ROADS

[Bridge data given in square feet of bridge surface]

State [1]	Local rural roads		Rural State highways		Urban State highways		Totals	
	Functionally obsolete	Structurally deficient	Functionally obsolete	Structurally deficient	Functionally obsolete	Structurally deficient	Square feet	Replacement cost
Alabama	2,795,000	2,019,000	78,540	86,189	121,905	58,307	5,158,941	$21,939,884
Alaska	264	0	48,466	40,546	16,646	4,402	110,324	5,378,327
Arizona	[3] NR	NR	0	2,330	0	0	2,330	65,659
Arkansas	25,295	1,429	373,249	105,757	35,753	946	542,429	11,391,009
California	312,000	2,448,000	0	15,080	0	16,250	2,791,330	72,809,706
Colorado	0	6,910	8,630	2,260	0	0	17,800	509,970
Connecticut	NR	NR	NR	NR	NR	NR		
Delaware	0	0	60,037	40,618	480	480	101,615	5,793,182
District of Columbia	NR	NR	0	0	0	0		
Florida	NR	NR	NR	NR	NR	NR		
Georgia	NR	NR	255	13,932	0	0	14,187	293,670
Hawaii	NR	NR	NR	NR	NR	NR		
Idaho	599,000	96,000	3,495	0	0	0	698,495	23,469,432

Footnotes at end of table.

TABLE II.—DATA ON FUNCTIONALLY OBSOLETE AND STRUCTURALLY DEFICIENT BRIDGES ON NONFEDERAL AID HIGHWAYS AND ROADS—Continued

[Bridge data given in square feet of bridge surface]

State [1]	Local rural roads		Rural State highways		Urban State highways		Totals	
	Functionally obsolete	Structurally deficient	Functionally obsolete	Structurally deficient	Functionally obsolete	Structurally deficient	Square feet	Replacement cost
Illinois	713,705	1,026,547	100,840	152,103	32,568	0	2,025,763	$81,354,641
Indiana	NR	NR	NR	NR	NR	NR		
Iowa	NR	NR	NR	NR	NR	NR		
Kansas	NR	NR	NR	NR	NR	NR		
Kentucky	954	6,764	33,244	612,605	10,858	64,969	728,824	25,456,434
Louisiana	NR	NR	1,417,004	70,222				
Maine	NR	NR	50,000	0	NR	NR	50,000	2,115,000
Maryland	90,000	200,000	13,200	73,000	0	15,000	389,200	55,432,500
Massachusetts	NR	NR	NR	NR	NR	NR		
Michigan	NR	NR	NR	NR	NR	NR		
Minnesota	341,318	2,500,138	0	5,834	0	7,289	2,854,579	74,989,790
Mississippi	NR	NR	NR	NR	NR	NR		
Missouri	NR	NR	41,123	88,239	NR	NR	129,362	3,507,003
Montana	NR	NR	NR	NR	NR	NR		
Nebraska	NR	NR	NR	NR	NR	NR		
Nevada	NR	NR	NR	NR	NR	NR		
New Hampshire	NR	NR	62,968	240,051	4,473	5,330	312,822	15,637,971
New Jersey	NR	NR	10,010	3,871	0	0	13,881	842,299
New Mexico	NR	NR	NR	NR	NR	NR		
New York	NR	NR	NR	NR	NR	NR		
North Carolina	0	0	1,122,753	7,028,799	35,017	532,537	8,719,106	38,231,099
North Carolina	2,617,000	208,000	0	0	0	0	2,825,000	74,043,250
Ohio	640,573	1,140,789	91,152	178,035	16,895	16,748	2,080,192	71,454,594
Oklahoma	NR	NR	NR	NR	NR	NR		
Oregon	NR	NR	NR	NR	NR	NR		
Pennsylvania	NR	NR	NR	NR	NR	NR		
Puerto Rico	13,792	38,623	134,663	219,030	11,092	5,799	422,999	12,622,290
Rhode Island	2,850	0	0	0	0	0	2,850	163,020
South Carolina	NR	NR	407,623	629,711	10,184	36,003	1,083,521	94,377,131
South Dakota	2,446,418	1,933,566	2,691	15,207	0	6,600	4,404,482	115,441,473
Tennessee	NR	NR	NR	NR	NR	NR		
Texas	NR	NR	44,402	441,105	NR	96,461	581,969	11,988,542
Utah	32,500	118,500	4,116	2,112	0	1,430	158,658	4,402,384
Vermont	NR	NR	6,678	6,678	0	0	13,356	564,958
Virginia	27,710	5,040	NR	NR	NR	NR	32,750	1,146,250
Washington	NR	NR	NR	NR	NR	NR		
West Virginia	NR	NR	NR	NR	NR	NR		
Wisconsin	362,040	2,408,129	0	2,958	0	0	2,773,127	72,850,045
Wyoming	3,080,000	2,618,000	1,180	19,000	0	0	5,718,180	16,103,588

[1] In the case of each State the data relates only to those bridges which have been inventoried. Some States have made only partial inventories, so it can be assumed that in those States a complete inventory would result in increases in the figures given.

[2] NR means that the bridge data for these States has not been reported to AASHTO.

Data source: American Association of State Highway and Transportation Officials.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, I rise in opposition to the proposed increase in the Federal tax on gasoline and diesel fuel contained in this amendment and to the increased tax already contained in the bill.

Mr. Chairman, my credentials for supporting the highway trust fund are equal to that of any Member in this House. I have fought any diversion from that fund, believing that our highways and our bridges need improvement. But let us not perpetrate a fraud upon the American people. This is an energy bill. This increase in tax as proposed is a blueprint for disaster. The working people of this nation will have to pay and pay and pay, and they cannot provide now the food for their tables necessary to provide the nutrition for a healthful life. And let us not shadowbox with the American people. Let us not divert from the energy bill that is before us. Let us defeat this tax. Let us defeat the fraud upon the American people. Let us bring about an energy program that is not only built upon conversion and conservation, but additional domestic production to provide more energy at less cost as well. And let us not talk about the highway trust fund.

I hold open-door meetings in my district. I have spent 3½ months of saturdays covering my 13 counties. I am one of the Members of this House who came out quickly against a gasoline tax. People came up to me in overalls and gingham dresses at these meetings and said, "Mr. Congressman, I drove to this open-door meeting to see you. I cannot afford any more tax on gasoline. I drive to work. I drive to the grocery store and I drive to take my children to the doctor."

So let us defeat the proposed increase in Federal taxes contained in the amendment and in the bill as well.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. May the Chair state that the Chair begs the indulgence of the members of the committee. There are some 35 Members on the majority side and some 9 Members on the minority side who wish to speak, so it would seem that the Chair ought to recognize 2 or 3 from the majority side and then go to the minority side, if that is agreeable to the minority.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I thought this was an energy conservation provision. I thought so in 1975, and indeed voted for both the 3-cents tax and the 20-cents standby tax at that time. Now I find it is not. Our information has somewhat changed. Experience and analysis show us that there will not be a reduction in the use of gasoline because of a 4-cent tax or a 5-cent tax.

On the basis of this experience and analysis, I have frankly changed my mind. Furthermore, this tax cannot possibly work its purpose with respect to diesel fuel. Its demand is quite inflexible.

It seems to me that when our respected majority leader comes to the well and says this tax is one to raise revenues, we should give that our grave attention, but at a different time. If it is for the purpose of raising revenues, I suggest we have enough to do here to try to conserve energy.

Mr. Chairman, I would urge Members to vote against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I rise in opposition to the amendment and to any tax on fuel unless we are really going to do it in the nature of and as a part of rationing.

There is one thing that has not been mentioned here, and I would like all of us to think about this because it is a real danger. This is the head of the camel under the tent, in that we are beginning to approach this problem with the institution of a national sales tax. I do not like the idea of beginning to say that we can start a sales tax for worthy purposes. This tax is the most regressive way to tax the people in this country who can least afford it. We are avoiding the authorization and appropriation process. That is not the way to do it. If we want to spend money on research, if we want to spend money on new programs, we should authorize it and we should appropriate the funds.

If we do this, if we vote for this tax, we will never before have asked so many to do so much for so little in terms of energy conservation.

Mr. Chairman, I hope the Members vote against any tax of this sort, even though it is a small amount, on gasoline. All the testimony before us, certainly be-

fore the Committee on Ways and Means, and all the indications from the public polls show that this will do nothing to conserve gasoline.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, I rise in strong support of the Howard amendment.

Sitting on the Committee on Public Works and Transportation, it has been interesting to me to hear many Members on my side of the aisle who have written communications or introduced bills on the subject of increasing funding for bridges and highways across the United States speak against the Howard amendment today. I wish to express my concern for our highway system if this attitude prevails.

I ask for the Members' support at least of the Howard amendment on this subject so we can protect the integrity of the trust fund and to meet those needs. I think the Howard amendment shows us the most responsible way to deal with this matter.

If there are highway needs, we should find what they cost and fund them. I think we have too many bills introduced to authorize the funds without producing revenues. This amendment will supply the needed highway, bridge, and mass transit revenues.

I do think that perhaps this does not belong in this particular bill, but because of the interest and the tendency to include every tangentially remote subject matters that might affect energy, we have brought together a bill that is so comprehensive, thus I believe we must follow up on those issues laid at our footsteps today.

I think there has been somewhat of an overplay concerning the difference between rural and metropolitan areas. I come from a rural area. I lived 4 miles away from my work, and I was able to drive to and from work without the problem of massively congested highways. I did it most efficiently in that atmosphere. Therefore, I think that is somewhat of an overplay.

The question about $194 for 8 barrels of oil referred to earlier seems not to me to be a question of energy conservation effect but a question of whether we can always continue to be able to purchase the next 8 barrels that we want. That is the real question of conservation today.

I would have hoped the House would move toward total deregulation of our gas and oil programs, so we can stimulate the growth of these and alternative sources, such as solar and synthetic fuels, although that is not apparently the pleasure of the majority.

But all of us do have an interest in this if we want to protect the integrity of the highway system across the United States, so we should at least vote for the Howard amendment, and then if we want to vote down a gas tax in this bill, we can vote against the amendment as it has been amended.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I rise in opposition to the proposals to increase the tax on gasoline. While these are certainly substantial differences in the two alternatives before us, I do not feel either one is fair to the person who must commute many miles to work and would certainly be an undue hardship on persons living in rural areas of the country.

The amendment to raise the gasoline tax by 4 cents is totally unacceptable to me. The revenue raised from this tax would go into the general revenue fund and would not provide any direct benefits to the persons who must pay the tax. Such a tax is merely a penalty and I object to penalizing persons who drive automobiles.

The second proposal would increase the gasoline tax by cents a gallon but would earmark 2½ cents for mass transit and 2½ cents for highway and bridge construction and repair. While spending at least a portion of the revenue raised to benefit the people who pay the tax is much more reasonable, I still object to this plan because any increase in the gasoline tax would hurt poor people and people living in rural areas. We should not place this additional burden on these people and I believe strongly that we should not increase the gasoline tax at all.

People living in sprawling rural areas would be penalized because they do not choose to live in congested cities. Oftentimes these people, due to economic conditions, must drive many miles to work. While their job may be in the city, their families, their homes, the schools their children attend, in short, their roots, are in the small town. Such people should not be forced to shoulder the bulk of the burden of providing mass transit assistance for the city dwellers. If we want to improve the mass transit network, we should increase taxes on the users and potential users of the system, not on a person who may never in his life ride in a subway train or a downtown bus.

Additionally, farmers who must drive into the small towns for medical care, supplies and trade should not shoulder the mass transit burden for the same reasons I mention above.

Let me add that in my area of Florida many families send their sons and daughters to colleges in towns within commuting distance. The student drives to and from school each day, thus saving the family large sums of money. Also, the student frequently returns home to do chores on the farm or assist in the family business.

The people who would pay the bulk of this tax are not the ones who would reap the majority of the benefits. This, again, is nothing but a penalty tax and I object strenuously to penalizing these people.

I support efforts to improve fuel economy in automobiles and believe this is the best approach to the problem of reducing the amount of gasoline consumed. No one has said that the people I defend are "wasting" gasoline. They certainly use no more than necessary and I welcome efforts to insure that the car they use is the most economical modern technology can supply.

We do not need any more taxes on gasoline. The rural resident, the poor person and the person who has just saved enough money to buy a car, the marginal car owner, these people would suffer. The rich and affluent city resident could afford the additional taxes. Mr. Chairman, I ask what the aim of this tax is. Are we truly going to vote a penalty on some people when they are not wealthy and cannot afford more taxes? I certainly hope that this body will not stoop to that.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, this could very well be the straw that breaks the camel's back. And there are a lot of straws blowing in the wind, not only the wellhead tax, which represents about a 7-cent-a-gallon tax to the retail buyer, but also whatever the Arabs have in mind or whatever the oil companies of the United States have in mind privately with respect to the raising the price.

Therefore, Mr. Chairman, I think this straw could very easily break John Q. Camel's back. Enough already.

Mrs. KEYS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentlewoman from Kansas.

Mrs. KEYS. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to both of the proposed tax amendments.

I do so because I believe they are both unjust and ineffective. The tax will certainly fall hardest upon the poor and upon those in rural areas who have to drive long distances to meet the basic needs of themselves and their families.

It is a widely accepted fact, which was well discussed in the Committee on Ways and Means when this tax issue was defeated, that an increase in the price of gas will have little effect on consumption. For example, Data Resources, Inc., tell us that elasticity in the demand for gasoline is between .06 and one-tenth of 1 percent. That means that if we enact an increase in the price of as much as 10 percent, we might expect a decrease in consumption of as little as 1 percent.

Mr. Chairman, one does not have to be an economist to figure this out. When we look at recent past history and realize that since 1973 we have seen an increase of at least 20 cents in gasoline prices, we must still realize that Americans are using more gasoline than ever before.

Mr. Chairman, the effect the amendment will have is to penalize those Americans who must drive and those who cannot afford to pay the tax.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JACOBS) has expired.

The Chair recognizes the gentlewoman from Kansas (Mrs. KEYS).

Mrs. KEYS. Mr. Chairman, I would just like to point out that there are 10 States which have the highest per capita consumption of gasoline. I would like to mention them because they all turn out to be rural States, including my own State of Kansas. They are Wyoming, Nevada, New Mexico, Texas, Oklahoma, Georgia, Montana, North Dakota, Kansas, and Arkansas.

These are States that have no alternative modes of transportation. Mass transit is not an option. Farmers cannot move their fertilizer by public transportation. Grocery stores, hospitals, churches, and schools are a long distance away, and there is no way to get there except to drive.

Mr. Chairman, Kansans, Montanans, Oklahomans, and the others are not more wasteful of energy than those who live in other States. They simply must drive farther, and they have no alternative in order to reach their needed destination.

The other rises in energy costs due to this bill, due to the oil equalization tax, and due to the natural consequences of shortages are going to cause inequities that cannot be avoided. We do not need to impose additional inequities by voting for a tax that will fall heaviest upon those in rural areas.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, if we take the $3 tax per barrel at the wellhead, it translates into 7 cents per gallon of gas. To defeat the 7 cents tax we would have to vote against the bill. If we would avoid the 5 cents a gallon tax, we must vote down this amendment. This is a tax on the millions of people in this country who own cars. It is a very inequitable tax and it is a nuisance tax and one which will not deter people from traveling.

I would add that a rose by any other name is just as sweet—a tax by any other name is just as sour.

I urge defeat of both the Howard amendment and the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, this is a tough decision for all of us. I think that the gentleman from Pennsylvania (Mr. MYERS), who is a Republican from a district in Pennsylvania different from mine, articulated the point well. I think we are at the point in this country where the rural-urban debate has to come to an end just as the highway-public transit debate has to come to an end. We have to put into place a national transportation policy that makes sense, one that moves people and moves them by the most efficient mode.

It is true that in metropolitan New York, and Philadelphia, Chicago, and Los Angeles, the most energy efficient means of moving people is through the means of a public transportation system. In the rural areas the most efficient means may still be the private automobile, or perhaps through van pooling.

I think the gentleman from New Jersey (Mr. HOWARD) has taken a very difficult and very courageous stand in asking us to place a 5 cent tax on gasoline to bring the total up to 9 cents. Remember that in 1959 we set the tax at 4 cents and we have not changed that figure since then. Even though the cost of gasoline since 1973 has doubled—from 30 cents to 60 cents—we still receive only 4 cents in Federal taxes and this 4 cents buys much less than it once did. The amendment offered by the gentleman from New Jersey (Mr. HOWARD) provides for putting into place a viable and stable transportation program for the 1980's and beyond.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that my time be yielded to the gentleman from Pennsylvania (Mr. EDGAR).

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair now recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, out in Iowa mass transit is three people and a pickup truck. There is not going to be any mass transit available under any bill which will provide transportation for an Iowa farmer who has a tire down on his combine, to take it to the tire shop. What he needs is a vehicle and he must use the highway. He does not mind paying for the highway, but he does not want to drive on an unsafe highway while paying for somebody else's mass transit system.

Under the Howard amendment, Iowans would pay in new taxes $125 million and get $50 million back for highways. Under the ad hoc committee amendment, Iowans would pay $100 million into the fund and get $5 million back for the highways.

We need those highways and they need to be maintained.

Whenever they need some sides of beef in New York from Colorado, they go across Iowa and often on highways. Whenever they send manufactured goods from Chicago to Colorado or Denver, they go across Iowa.

Our roads need repair and rehabilitation for better usage and for better safety. We need the money for highways, but only a small portion would go for that purpose. This provision should not have even been in this bill. If this were really an energy related provision, then why were not members of the Committee on Public Works and Transportation put on the ad hoc committee? The ad hoc committee was supposed to be composed of members of committees which had jurisdiction over the subject matters to be covered, but the Speaker left off members of the Public Works and Transportation Committee. So obviously this was not supposed to be an energy related matter.

The first vote is on whether we prefer the Howard substitute to the ad hoc provision.

I urge the Members to vote for the Howard substitute, just because it is less unfair, but then to vote against the ad hoc committee amendment as amended when that time comes.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I believe this Nation needs a mass transit system and I will be prepared in the future to vote for financing a mass transit system out of the general revenues of the Treasury.

I believe this Nation needs a good highway system and I will vote without hesitation for the additional taxes to take care of the road systems in our Nation. But this is an ill-advised proposal and I must vote for the Howard amendment and then vote against the tax, as a whole. I think the Howard amendment has some merits and addresses a real problem. I would hope that the Committee on Ways and Means and the other committees can address those in the future.

In the Committee on Ways and Means I proposed the action which extended for 5 years the current 4-cent Federal tax on gasoline. We needed it, but it is a tax our people will have to bear. In addition, the oil-equalization tax will produce an increase in cost at the pump, directly as a result of the tax, from 7 to 12 cents a gallon at the outset. That amount will increase as OPEC price increases continue. As more new oil comes on stream, there will be further price increases under price controls. State taxes currently run from zero cents per gallon in Texas to 8½ cents in Arkansas to 11 cents per gallon in Connecticut. No conservation would result from this tax. The only result to be achieved if this tax is passed, will be as the majority leader said, increased revenue. We do need increased revenue, but that revenue should not come from this regressive tax.

There are other alternatives to simple price increases to be used as a factor in controlling consumption. Those alternatives include stronger gas-guzzling taxes, which I support, import controls, which are contained in the Committee on Ways and Means' recommendations, and rationing, if we reach that point. The only patriotic Americans who will conserve gasoline as a result of this tax would be rural, low-income Americans who simply would be priced out of the market.

Mr. Chairman, I urge the adoption of the Howard substitute and then the defeat of the resulting ad hoc committee amendment.

There are a large number of people who genuinely believe that this extra 5-cents-per-gallon tax will be a conservation measure. The facts are that the most optimistic projection of conservation by any proponent of this tax is that it will save 80,000 barrels of oil a way. While that may sound like a good level of saving, it represents only three one-hundredths of 1 percent of this Nation's daily oil consumption. Translated into annual terms, if the most optimistic projections were correct, we would save from 25 to 30 million barrels of oil per year which would represent between 1¼ and 1½ day's consumption of oil. Thus, I particularly appreciated the candor of the majority leader, who rose in support of these amendments, when he pointed out that this tax was solely a revenue measure. The revenue that would be raised would indeed be significant and I readily agree that revenue is needed for our roads and for our mass transit systems.

In the future I will support a gasoline tax increase to maintain our roads, to replace and strengthen our bridges.

I will also support appropriations from general tax revenues, income taxes, for

the expansion and strengthening of much needed mass transit systems in our Nation's cities. But I will not support a gasoline tax on the people of Arkansas to build subway systems for the people of New York City, or any other city in the Nation.

I was distressed that the distinguished chairman of the Transportation Subcommittee stated that he would not return to the Congress with a tax proposal to finance needed improvements in our roads if his amendment failed. I was distressed because, as the distinguished subcommittee chairman knows, this proposed amendment has not yet had a hearing in the Public Works Committee, it has not had a hearing in his own subcommittee, nor has it had a hearing in the Ways and Means Committee on which I serve. Indeed, the one gasoline tax proposal that was voted on in our committee, the 4 cents per gallon to be used for purposes other than highway and road maintenance, was defeated by the overwhelming vote of 25 against and 11 for. I believe this Congress will take care of the legitimate needs of the primary and secondary road systems and the bridges in our Nation. And I encourage the chairman of the Transportation Subcommittee to give this Congress the opportunity to do that, either this year, or next year, or in the following year.

I would also hope that the chairman of the subcommittee will give this Congress the opportunity to show its support and belief in a mass transit system. But this is the wrong way to do it, and I am confident that my Democratic colleagues will join me in defeating a new tax of this nature.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, it is my intention to reluctantly vote against the Howard amendment we are now considering primarily for the reason that I do not feel proposals of this kind should be considered within the framework of this bill, which is really not an energy measure but a tax bill.

I support the underlying concept of the Howard amendment and will support separated from H.R. 8444 the proposed 5-cent tax under the amendment which would be divided equally between the highway trust fund and mass transportation is by far preferable to the trust fund created under the ad hoc committee amendment proposing a 4-cents-per-gallon tax. While I have reservations regarding the mass transit portion, the half of the 5-cent tax applied to the highway trust fund is a means to finance critically needed primary highway improvements and bridge replacements for which there is a tremendous local need. In fact I am a cosponsor of a bill with my good friend, Mr. HOWARD, which would speak to this need.

Mr. Chairman, I have assured my constituents that I would not support any increases in taxes in this bill, but certainly the Howard proposal represent a far better approach than that of the ad hoc committee amendment.

There were no representatives assigned from the House Public Works and Transportation Committee, on which I serve, to the ad hoc committee and I believe that we should have been represented, since the aspects of energy we are now considering are related in such a direct way to highway transportation matters.

In any event, I have predicted that both of these amendments would go down in defeat. They have no place within the framework of H.R. 8444 and I urge their rejection.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, in the Sixth Congressional District of Missouri we have great need for the type highway improvements the sponsors of these amendments promise. We have, in the Kansas City area, a very heavily traveled bridge that has received nationwide publicity about its hazardous conditions. It is an unsafe bridge. The money these amendments would provide might help replace the ASB Bridge.

Throughout other parts of the Sixth District we have many bridges and roads in need of repair for safety reasons. It is tempting, because these needs are so great in my area, to vote for these tax amendments.

However, Mr. Chairman, I wish to add my voice in opposition to these gasoline tax amendments. They are being offered at the wrong place and for the wrong purpose. If Congress wishes to spend Federal funds to repair roads and bridges then it should have the courage to stand up and vote for a public works bill that contains spending authorizations for such purposes. This energy legislation is critical to our Nation's future and yet Congress is being told to play the old game of trying to get something for our constituents that might take their minds away from what we are really giving them—namely, a big tax increase.

This bill is rapidly becoming a tax bill and not an energy bill. These amendments are tax amendments. They are not designed to find new oil. It would be contradictory to discourage gasoline consumption by taxing it to make it more expensive and then to build more roads.

From the perspective of reducing gasoline consumption, this tax amendment seems questionable at best. It would add a burden that falls unfairly on many people. Most people in this Nation do not have much choice about how they travel. Our Nation is built around the concept of private transportation and private transportation is the only mode available to most people. It seems that if we are going to increase the cost of gasoline used in transportation, the funds should be used to find more gasoline or alternative energy sources for private transportation. This proposed burden of higher taxes would not fall just on the rich, or just on the poor. It would not even fall on the people who waste gasoline.

I oppose these amendments and hope other Members will see the desirability of rejecting these tax amendments.

Mr. ASHBROOK. Mr. Chairman, having sat through this entire debate, with the exception of a few minutes, it always seems when we want to get 5 minutes to speak, some of us get 2 minutes, but that might be enough.

Mr. Chairman, I think there is a gigantic ploy or gigantic fraud going on today beyond anything I could possibly have imagined. Here we are talking about a 4- or 5-cent tax. I think we see the script. We have dozens and dozens on the majority side somewhat hurting because of the political implications of this partisan energy bill, rising to oppose a 4-cent or 5-cent gas tax, where deep down in the labyrinth of this 500-odd-page bill is already a tax of between 5 cents and 7 cents that will be imposed on the average American. Under your partisan-enforced rules, we cannot vote on that hidden gas tax which will go into effect, and is hardly being mentioned here. That is the ploy.

Oh, yes, it is great to swat a little fly, this extra, repeat extra, 5 cents. We are going to swat it while a great big horsefly is buzzing around; that is, the 5 to 7 cents you are going to be voting for when you vote for this partisan energy package. Oh, yes, under the rules, we cannot get at that; we cannot vote it down. It is great to hold up this 5-cent tax and knock it down and then go back home and tell our people, "I voted against that tax." But I do not think the American people are going to have such lack of perception that they will not be able to recognize just what you in the majority party are doing, putting up a strawman to knock down while passing a tax of between 5 and 7 cents that the American people will have to pay.

Mr. Chairman, I oppose the Howard amendment, which would increase the Federal tax on gasoline by 5 cents a gallon. I am strongly opposed to any increase in the gasoline tax. I also oppose the 4-cent gas tax amendment.

The Speaker of the House has called the proposed nickel-a-gallon tax so important that the President's energy program would fall apart without it. If that is the case, it merely shows how inadequate the program really is.

Increasing the gasoline tax will not produce any more energy. I repeat, not one single drop of new gasoline will result from this proposal. Like so much of the rest of the bill, the emphasis is on trying to conserve what we have rather than developing additional energy resources.

Although the tax would not produce more energy, it would substantially increase the burden of inflation. Middle- and low-income Americans, already hurt by escalating prices, would be faced with even more expenses. The tax would not just increase their basic gasoline costs. It would also increase their costs indirectly by raising the prices of items shipped via surface transportation.

Imposition of the gas tax would be very onerous for people living in the more rural areas of our Nation. They have little choice but to drive long distances to get to a store or see their doctor.

Driving a car is hardly a luxury in the 17th District of Ohio. Mass transit systems and public transportation simply are not available. Any increase in the gas tax means that those who must use a car would have an even heavier financial burden.

The commuter who drives back and forth to work also would be hard hit. Factory workers and others often have to cover long distances to reach their jobs. They too have little choice in whether or not they use their cars. Consequently the proposed nickel-a-gallon gasoline tax should properly be called a jobs tax.

I urge the defeat of any new Federal tax on gasoline. It would only increase the burden of inflation while doing nothing to increase our energy resources.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I rise to speak for the ad hoc committee's amendment for the 4 cents per gallon gasoline tax and against the 5-cent Howard substitute.

I do favor a tax on gasoline. It would not save much gas in the near term, but will later on as it provides additional incentive, along with the gas guzzler tax, for people to replace their present cars with more efficient ones and to do less driving.

Furthermore, a gas tax will bring home to people the critical nature of the energy problem in a way everyone will understand.

My preference for the ad hoc committee's proposal over the Howard version is straightforward. The Howard version would dedicate 2½ cents, half the total of 5 cents per gallon, to highways, principally the primary and secondary road systems and bridges. However much they may be needed, I do not think the funds should be provided for in an energy bill the main purposes of which is to conserve energy including gasoline and to develop new energy sources. It simply does not make sense to tax gasoline to discourage its use over the longer run to 1980 and 1985, and then to use half the tax proceeds to make automobile and truck travel easier.

Of course I approve the use of gas tax funds for mass transit and carpooling which would save energy. Both propositions before us contain such a feature. But it is the other part of the Howard version that bothers me and strikes me as counterproductive. I greatly prefer the ad hoc committee approach which would dedicate 2 cents per gallon to energy R. & D. and to outlays for the strategic oil reserve, 1½ cents for mass transit, and ½ cent to be rebated to the States on the basis of per capita gasoline consumption. This last ½ cent, I believe, protects the States, especially those in which people have to drive a lot, from any diminution of regular Federal gas tax receipts on account of lower gas use.

Furthermore, the Committee on Ways and Means in its part of the energy bill has provided for a continuation of the regular 4 cents per gallon gasoline tax which otherwise would soon drop automatically to 1½ cents.

Adding 2½ cents a gallon—roughly $3 billion a year—out of this energy conservation and development bill to the regular 4 cents per gallon would constitute a bonanza for highways and the various groups supporting highways that they could hardly have dreamed possible a few short days ago. The irony of a 62½-percent increase in Federal trust funds going to highways as a result of passing an energy conservation bill is really something to contemplate.

We have had a lot of talk about whether this tax will reduce gasoline consumption. I think it will after a while but not right away. It will if the proceeds are used for energy conservation and development. It certainly will not if the money is used for building and improving highways.

I urge my colleagues to vote against the Howard version and for the ad hoc committee amendment which was thought through deliberately and is consistent with the purposes of the proposed energy program.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise to support the amendment offered by my good friend and committee colleague from New Jersey (Mr. HOWARD). This amendment, which would provide for a 5-cent increase in the Federal gasoline tax by 1979, is one which has evoked a good deal of emotional reaction in the press, among the general public, and even here in this body. But, emotionalism aside, I think it is time to take a hard look at the cold realities of the situation—the revenues which would be raised by this tax are critically needed to pay for pressing needs in the Nation's surface transportation system.

Lengthy testimony before the Public Works Subcommittee on Surface Transportation earlier this year detailed graphically the problems of deteriorating bridges—one of which I am sure all of you are aware. In fact, 19 Members of this House appeared before that subcommittee urging major increases in the Federal bridge replacement programs, and nearly 60 of our colleagues have sponsored legislation to that effect. The Federal Highway Administration has identified needs for repair and reconstruction on the Nation's bridges which total more than $23 billion.

That same subcommittee, Mr. Chairman, heard much testimony from the States that their Federal-aid primary and secondary highway systems are in grave need of repair—particularly in light of the harshness of this past winter and its impact on roads and highways. The deterioration which has taken place has presented the State with safety problems which must also be addressed, and this too will require more money.

Turning to the area of Mass Transit, we see no less bleak a picture. From the biggest city to the smallest towns and rural areas which operate public transit facilities we hear an urgent plea for help in meeting the ever mounting cost of operating these systems and in maintaining and improving their capital equipment.

On July 29, I cosponsored with Mr. HOWARD, and 23 of our other colleagues H.R. 8648, which seeks to address these needs which I have outlined. It provides for major increases in the bridge replacement program and for highway safety and repair; it embarks on a major and enlightened new mass transit program which we feel will go a long way toward solving the urban transportation ills in this Nation. But, that bill leaves us with an unanswered question. It has identified our needs and has attempted to suggest at least some tentative solutions—but it has not dealt with the most critical question: Where will the money come from?

This amendment, I believe, can answer that question. It provides a source of revenue which can be channeled to those needs, by placing half in the highway account, and half in the mass transportation account.

There is also a possibility that the revenues would be sufficient to permit a return of a portion to the States. The reason for this, of course, Mr. Chairman, is that underlying all of this obvious need is one less evident, but no less urgent. I speak of the States' increasing problems in putting up their share of the cost of these transportation programs. With their more limited tax bases, the States have been unable to keep pace with the spiraling costs in these programs. The authorizing legislation which I referred to can make provision for that return if it appears possible.

Delay will not solve the crisis in surface transportation which exists today. The needs will not go away—they will only be exacerbated if we do not deal with them and I believe that this amendment is imperative to provide the necessary financing for meeting those needs.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, it is of course difficult under these procedures to clearly get a thorough evaluation of the points at issue in this debate, but I would like to quickly address two questions.

First, to the question that we heard that this tax will fall hardest on the poor, I would like to suggest to my colleagues that if we fail to develop a public transportation system that works for the eighties and the nineties, that will, in fact, fall hardest on the urban poor. If we fail to repair the many necessary bridges that need reconstruction, that will fall hard on the rural poor, and if we fail to get a viable national transportation policy, that will fall on both the rich and the poor alike.

And to the other question of energy efficiency in the longer run the development of public transportation systems in our cities will change the urban form itself. Transit lines will promote the concentration of office and retail employment and discourage the sprawl to residential areas, and in that very point of trying to concentrate people and goods in urban areas, we in fact save energy.

I believe that the development of this

particular tax at this time is critical for us to have a viable future transportation policy that includes bridges and public transportation.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I rise in strong support of the substitute offered by my good friend and colleague on the Public Works Committee, JIM HOWARD.

This amendment would increase the motor fuel tax by 5 cents per gallon. Half would go for highways, and half for a trust fund for public transportation.

We will be deciding the future of public transportation for the next decade when we cast our vote on this substitute. As the ranking member on the Surface Transportation Subcommittee, and a member of the National Transportation Policy Study Commission, I have been following very closely the many hearings over the past several years on this problem.

This substitute before us today is no last minute response to this well-documented problem. This proposal is the result of many hundreds of man-hours of hearings, staff work, and intense research.

Chairman HOWARD's substitute will provide for increased funding on a reliable, long-term basis. It will allow our committee to authorize programs that communities can use to carry out urgently needed improvements on a predictable, orderly, systematic, and economical basis.

It is clear that the Congress needs to act now to attack head-on the problem of not having enough money to do the things that need to be done.

UNSAFE BRIDGES

Even though there are over 100,000 unsafe bridges across this Nation, and even though a bridge collapses every other day somewhere in the United States, we are currently spending only $180 million per year to repair and replace them. It is estimated that it would cost $23 billion to do the job correctly.

But as we all know, the present highway trust fund can in no way cover such expenditures and at the same time keep our interstate highways in good condition.

PRIMARY AND SECONDARY ROADS

And what about those primary and secondary roads? All we need do is visit our districts and we can see the need to devote our attention to their improvement.

PUBLIC TRANSIT SYSTEMS

What are we to do about funding public transit systems in our large cities? I would like to read to you what one large city mayor would like us to do:

> I urge you to support the Howard amendment . . . this amendment will provide much needed funds to assist in our transportation efforts and for the provision of needed public transportation facilities. The measure offers a realistic approach to furthering energy conservation goals and also providing alternative transportation means. I strongly support efforts in this direction.
>
> TOM BRADLEY,
> *Mayor, Los Angeles.*

INTERSTATE HIGHWAY SYSTEM

One last item should be made clear. Not 1 cent of the money derived from this nickel tax will go toward new construction of our interstate highway system. I repeat, not 1 cent.

And in addition, each Member of this House will have the opportunity to have imput on how this money will be spent, because authorizations will be required and appropriations recommended. All we are really doing today is setting up a long overdue trust fund that will address the critical needs of our mass transportation system and highway safety and repair.

AIRPORT AND AIRWAY TRUST FUND

I assure you that this substitute will not in any way affect our Airport and Airway Trust Fund. Nor will it place any additional burden on general aviation. As chairman of the Aviation Subcommittee, I am quite certain of this.

Let us show our concern, support, and foresight today and adopt this substitute. For unless we do, we will place a dagger into the heart of our transportation needs, and it will take years to recover.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I rise in support of the amendment by the distinguished gentleman from New Jersey to the National Energy Act which would increase the price of gasoline in this Nation by 5 cents per gallon, with an allocation formula of 50 percent for a new public mass-transit trust fund and 50 percent to go into the existing highway trust fund.

I would like to discuss for a moment the objective that we hope to accomplish through this amendment. Although it is clearly the intent of the National Energy Act to reduce our consumption of gasoline, the intent of this amendment is not to increase the gas tax and thereby reduce the consumption of gasoline. The issue here is not how much we can charge consumers for gasoline to force them to reduce consumption—rather, it is an issue of what we can and must do with the proceeds from this gas tax and make transportation an integral part of an energy program. The real significance of the Howard amendment is what it will enable us to do. Each penny increase in the gasoline tax would raise approximately $1 billion in revenues. Thus, $5 billion in annual revenues will be generated by the Howard amendment; 50 percent of this revenue will go for mass transit programs, and 50 percent will go for highways. It is also important to note that none of this money can be spent until the Public Works and Welfare Committee comes back with a bill to the floor. If this is not adopted, then there is no financing mechanism to take care of the needs that have been so clearly enumerated by the gentleman from New Jersey. Let us look at what the effect of this amendment would be on highway programs and transit programs.

In the highway program, the major impact will be beneficial to rural and urban areas, in the area of safety programs; repair and replacement of unsafe bridges, elimination of unsafe railway crossings, removal of obstacles in high-hazard locations, and traffic signalization.

Most importantly, however, the impact of this amendment will be felt in the area of mass transit.

Petroleum dependence is a key element in transportation in this country. Petroleum products account for more than 95 percent of the energy used to operate transportation, and transportation uses more than half the annual petroleum consumption. We all recognize that the automobile—one of the cornerstones of our American lifestyle—is an overwhelming consumer of petroleum products. Most of that petroleum consumption is related to the major function of the automobile in our lifestyle, that of providing transportation to and from work. Any dramatic savings which we will realize in fuel consumption must be tied to a reduction of the use of the automobile for work related transportation. Americans will not, and, in truth, cannot, forsake the convenience and comfort of their own car unless a reliable, low-cost, suitable, and convenient alternative is available.

As a former mayor, the designation of 2½ cents from the Federal gas tax would, for the first time, give public transit, for both rural and urban areas, the reliable and predictable funding source it must have to succeed. As more and more urban areas develop an integrated transportation program, they must be able to look ahead with certainty to the availability of funds, for the rural areas, section 3 of UMTA of 1964 as amended. The benefits from this reliable funding source include much more than a reduction in petroleum consumption. The long term benefits include a vastly improved urban environment for all of us to enjoy.

It provides a specific $150 million for transit purposes.

In determining the cost of the automobile to our society, the price of gasoline is actually a very small piece. In fact, in one study entitled "Societal Cost Accounting: A New Tool for Planners," by Brian Ketchum, the author claims that if auto users were required to bear the full brunt of the allocated costs of congestion, traffic accidents, and air pollution—it would be the equivalent of levying a $7.50 tax per gallon of gasoline. When we consider all costs relating to automobile use and its energy consumption, public transportation seems like a terrific bargain. And it is. Public transportation is not only a bargain, it is a good investment in terms of reducing our dependence on depleting petroleum reserves and in terms of providing a quality environment for our future.

I am pleased to join with the Nation's Governors, mayors, the cities, and the counties in supporting this amendment and I commend the chairman of the House Surface Transportation Subcommittee for his valuable contribution to the energy bill.

It is important to note that the Department of Transportation and the administration firmly support this 5-cent tax provision. They regard it, as I do, as an essential part of any meaningful energy program. I urge my colleagues to carefully evaluate the benefits which all

of us will gain from the Howard amendment, and I urge that it be accepted.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, we all got a letter from Secretary Brock Adams, our former colleague and good friend urging support for the Howard substitute gas tax. I must disagree with my good friend, the gentleman from Pennsylvania, about the impact of this tax on the poor. It is an intriguing argument, but let me give the one Secretary Adams made. I quote from an attachment to the letter he sent to us all:

Q. Doesn't the gas tax hurt the poor and the elderly?

A. The average family, driving 15,000 miles per year, currently spends $690 per year for gasoline. By 1985, because of greater fuel efficiency, this cost will drop to $530 even with the addition of the 5c gas tax, for a savings of $160.

Mr. Chairman, I think we should go out and ask the poor and elderly people in this country where they are going to find the money to buy the new automobiles to get that efficiency by 1985. It just simply is not there. People on low, limited, or fixed incomes are not going to be able to afford the higher and higher priced automobiles we have in this country today. The statistics already show that people are keeping their cars longer; instead of 2 years, it is now averaging 4 years.

That is going to rise. These people are not going to be able to afford the kind of wisdom that they know they ought to be following. I ask the Members to defeat the Howard amendment and knock down the gas tax.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Will the poor people be able to afford the $2 and $3 per ride it will cost them on public transit?

Mr. CARR. I would tell the gentleman that I would be happy, just as our colleague from Arkansas (Mr. TUCKER) pointed out, to join the gentleman in adequate funding for mass transit. I do not think this is the way to do it.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, members of the committee, I think we have heard from all sides, and I think all of us have made up our minds. I was very intrigued with the argument of the distinguished majority leader. I think he makes a good case as far as the need for repairs to our bridge system and to our highway program, but I cannot support these amendments. This is not the place for an additional tax which does not help conservation.

I want to lay before the Members briefly what we are really faced with as far as the working people of this country are concerned. In this energy conservation bill that we are apparently about to pass, we have from 7 to 9 cents a gallon in a crude oil tax that will be applied to every working man and woman in this country. In addition to that, we have, in this bill, deleted the exemption for State gasoline taxes, income tax exemptions for those who itemize and who are now traveling back and forth to work. They will lose that exemption.

I hear several Members in this House say that, really, this is going to help the poor people because they are going to be driving more fuel efficient automobiles. Let me ask the Members this: Who are the people who are going to continue to drive the older automobiles? The people who cannot afford to buy a new automobile next year. It is the working people who have to put up with an automobile 4 and 5 years old, and they are going to be paying more and more because that automobile is less efficient. This is not the place to impress an additional tax upon the working people of this Nation. I would hope that all of us will eliminate this portion of the proposal.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, this is the people's House, and I am sure that most of the Members are hearing from their constituents regularly. I conducted a poll recently in Ohio's 10th District on current national issues. In the last few days we completed the tally of the results.

One of the questions was: Whether the people favored increased gasoline taxes as part of a national energy policy.

By an overwhelming 83 percent, 10th district residents said "no" to increased gasoline taxes. The tax before us today is supposed to be a conservation measure designed to limit gas consumption. Well, it may sound good on the surface, but I am not sure how much we will actually conserve. Consider the dramatic increase in the market price of fuel over the past few years. It did not lower consumption.

There are two things certain to happen under this omnibus bill. Energy will cost more and there will be less of it in the years ahead.

Make no mistake about it. This is a tax and regulatory bill that will redistribute the Nation's income and create a bureaucratic nightmare that will tie market forces into knots.

The bill fails to deliver on the one crucial element necessary to solve our energy crisis: that being, realistic incentives to accelerate the development and production of domestic energy reserves.

The new and higher taxes in the bill may, in the last analysis, not be for the stated purpose of curbing the Nation's energy consumption, but rather for the purpose of raising revenues to spend on nonenergy programs. Once confiscated by the Government, these tax dollars can, at some future date, be easily siphoned off into new social and welfare schemes.

It is bad enough that the House has all but once rejected my amendment to cut appropriation bills 5 percent, yet now seriously entertains a new 5-cent-a-gallon gasoline tax and all the other new taxes already in the bill.

I think it is vitally important that we listen to the people. My poll says 83 out of 100 do not want the tax. I urge the Members to vote against the tax.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WEISS).

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I strongly support the Howard amendment and I believe it is the only chance we in the great metropolitan areas of this country have to obtain funds for mass transit, funds which are absolutely essential if we are to cut down this country's most prodigious waste of energy, the unnecessary use of private automobiles.

On April 20, when the President unveiled his energy program, I was one of those who were quick to announce support of the plan. I thought then, and I still do, that the Carter program is a long step toward the comprehensive national energy policy which this Nation needs to insure its survival.

But I had one major reservation about the Carter plan. I was frankly shocked that the President omitted any serious reference to support of public transportation. There were various suggestions designed to limit gasoline consumption but these were all, in a sense, negative. The standby gas and guzzler taxes were designed to dicsourage wasteful automobile use but neither did anything in a positive way to provide Americans with alternate ways of getting to work, or shopping, or to recreation facilities.

This was a serious gap indeed. In our urban areas it is the existence of public transit systems that keeps people out of their cars—or keeps them from buying cars at all. Our energy problems would be much worse if commuters in New York, Chicago, Boston, and Philadelphia had no choice but to drive to work. At one time virtually all our major cities had good mass transit systems. Even Los Angeles' sprawling suburbs were crisscrossed by an electric rail system and southern California developed along its lines. But in the era of cheap gasoline many urban transit systems were bankrupted and sold off. Today our older cities have aging, declining, often unsafe, usually unpleasant subway and bus systems. Our newer cities, especially in the west, often have virtually no public transit systems at all. It would be folly to permit the loss of our existing public transit systems and it would be shortsighted not to build more.

The Howard amendment addresses this issue. The 5 cent gasoline tax which it would impose would raise almost $3 billion a year for mass transit. It would raise another $3 billion for repair and rehabilitation of the Federal highway system. A serious interest in improving our energy situation requires support for this tax.

I do not like taxes on necessities of life. Nor do I like taxes that hit the poor

harder than they hit the rich. Ideally, the funds needed for mass transit ought to be provided through general revenues, instead of through an additional tax on gasoline, but I see no chance of this being done.

Moreover, we have long been accustomed to Federal gasoline taxes, which have been used very heavily for an interstate highway system that few of our poor could enjoy. The Howard amendment will tend to correct that injustice because at least half of the proceeds will be returned to lower income groups in the form of public transportation benefits. The median annual income of the public transportation rider is under $7,500. These are the people who will gain most from this tax. It should also be noted that according to the GAO—

Gas consumption increases with family income. This reflects the fact that higher income people tend to have more cars per family, that they drive each car more miles and . . . that their cars tend to be less energy efficient.

Also important is the fact that, even with the 5 cents additional tax, our automobile drivers will still be paying only about half what most drivers in Europe pay for gasoline. And if the additional 5 cents will discourage some unnecessary driving, that will also contribute to the overall energy conservation objectives of this bill.

The bottom line is that, if mass transportation facilities are to be maintained and improved, there really is no alternative to this amendment. We need the funds for mass transit and we need to tap a reasonable source for them. For years Members of Congress have been saying, "sure, mass transit is vital, but where are we going to find the money necessary to pay for it?" Our plans for mass transit have been stymied because we just did not know where to go for the capital. Now we can tax a reliable and reasonable source for transit funds—gasoline taxes. This tax will give us an earmarked source of funding. We are doing this in the context of an national energy conserving measure and this makes sense too. The centerpiece of the Carter energy plan is to bring the cost of oil and gas up to its replacement cost and to discourage their use. Thirteen percent of all the oil we use goes to the automobile. It is appropriate and it is right to raise the price of gasoline and to apply at least part of the revenues to energy efficient mass transit. Every dollar we spend on mass transit is a dollar spent on energy conservation. Every person who switches from the private automobile to mass transit or sticks with mass transit rather than abandoning it makes a very real contribution to energy conservation. Mass transit aid will help alleviate the problem of gas guzzling—not just by drivers of large cars but by a whole society.

I know that many will say that mass transit can only work in large metropolitan areas and that it is unfair to penalize people living in places without bus or subway service. This is clearly a "chicken and egg" proposition. Surely there are many smaller cities—and some large ones, too—without decent public transit. Until recently public transportation was low on most lists of vital public services. But today—with half our oil coming from abroad—most mayors and Governors would like to build or improve mass transit but the money is not there. The Howard proposal would enable the Federal Government to aid those cities and towns with proposals for transit pending right now before DOT. It hardly makes sense to say that we ought not raise revenue for mass transit because Omaha or Houston do not have mass transit systems and would be unduly penalized. The point is that we are going to raise the money so that these cities can get to work on public transit systems. They need them as much as New York or Boston does. Without new revenue sources, new systems could never be built.

I am not saying that this amendment would not be of great help to cities like New York, Boston, or Philadelphia which long ago invested in mass transit systems. Of course, it would. These cities need help—both in capital aid and operating subsidies—and they deserve help. They have long made their contribution to energy conservation by keeping their own use of gasoline low. New York State has the lowest per capita gas consumption of all the States—and the District of Columbia—because of New York City's mass transit system. Every gallon of gasoline saved in New York holds down the cost of gasoline for motorists in all parts of the country. Every gallon saved by mass transit makes the United States less dependent on outside sources of petroleum.

In conclusion, I want to say that the Congress has shown in these last few weeks just how serious it is about dealing with the energy situation. We have taken some actions that are not necessarily popular but are essential if we are to reduce oil and gas consumption in this country. The Howard amendment will be an important part of this program. It will give mass transit the boost it needs to make it competitive with the automobile throughout the United States. It will help us insure that, as oil becomes increasingly more expensive or even begins to run out, we will have in place a transportation system that can keep this Nation moving despite shortages and embargoes. Without the Howard amendment, we will not be able to fund mass transit. Without the Howard amendment we again face the situation where mass transit is a good idea but an unrealizable one. The Howard amendment is our last chance. If we are serious about the energy shortage we will adopt the Howard amendment and pass the entire bill.

Mr. WEISS. Mr. Chairman, I fully share the sentiments expressed by my colleague, the gentleman from New York (Mr. BINGHAM), and support wholeheartedly the substitute amendment offered by my colleague, the gentleman from New Jersey (Mr. HOWARD).

Mr. Chairman, I cannot understand those statements which indicate that this particular amendment and this approach has no place in an energy conservation measure.

I remember when the President's proposals first came down here. The one big flaw that everybody found in it was that there was no reference to mass transit. This amendment cures that flaw.

Nor can I understand the arguments that by providing for mass transit assistance in the urban areas we are not helping to conserve gas. In New York City, per capita, we use 47 percent less energy sources than any place in the country. That is because we have an extended bus and rail mass transit system. But the rail system is falling apart. We do not have a very well funded and dependable source of funding to keep it alive. And as it deteriorates, more and more people abandon it for reasons of comfort, health, and safety. When they leave the subways they climb into cars and use more energy. The moneys provided by the mass transit trust fund will help to reverse that trend.

I urge support of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I agree with President Carter that we do indeed need to cut back on our waste in consumption of crude oil if we are to meet the energy crisis. But I do not believe that either a tax on crude oil or an added 4 or 5 cents tax on gasoline is the way to meet the problem. We could accomplish the same goal by simply amending and updating the Allocation Act of 1974, giving the President the power to allocate and fix the maximum amount of crude oil the petroleum companies could refine each year, as supplies and reserves require. This would do away with the need for extra taxes on either crude oil or gasoline, and it would be a simple and easily enforced plan that would work.

On the other hand, all we know for sure about the proposed taxes on domestic crude oil and gasoline is that they would increase the price of gasoline by 11 cents to 14 cents a gallon.

Further, such a heavy tax on domestic crude oil that would be imposed by this bill would skyrocket the price of fuel oil used for both heating and for manufacturing.

All of these taxes would bear hardest on the families and individuals on low and modest incomes, and would place an especially cruel burden on the elderly with low and fixed incomes.

Mr. Chairman, for these reasons I urge this committee to reject all of these taxes by whatever votes we have to cast.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Chairman, I would just like to comment, as we get near the end of this debate, on the reference made by the gentleman from Ohio (Mr. MILLER), who said that he sent a poll out to his constituents and on that poll he felt obliged to ask his constituents whether or not they would like to pay more taxes.

Eighty-three percent of them said no. It would appear to me that that is a wilder spending congressional district than mine, because I am sure that I

would get an even more negative response from the same question.

I think we could also send out a poll and ask the people in our districts if they feel we ought to repair the 105,000 unsafe bridges in this country, if they think we ought to repair the deteriorating primary and secondary highway system in this country, and if they feel we ought to have adequate mass transportation. In response to that straight question, I am sure we could get a higher percentage than 83 percent.

Let me make this one point. We talk about what we are voting for if we vote for the amendment. Let us think for a moment what we are voting for if we vote against this amendment. If we do that, we are voting to lose the only chance we will have in the next 5 or 6 years to accomplish these things, we will be voting to a continuation of the lack of safety on our bridges, and we will be voting for continued deterioration in our highway system, as well as a neglect of mass transportation systems.

This amendment should not be in this bill, I agree, but it is here. It is here now, and there is no way out.

Mr. Chairman, if we are going to make this decision in the next 5 years, it is going to have to be done today, and our vote will be for or against those needs.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I rise in reluctant opposition to the substitute 5-cent gasoline tax amendment without offering any prejudice on the mass transit and highway repair projects which it promises to fund.

Those of us in the House who favor a greater Federal commitment to mass transit are now told that we face a choice between funding from the gas tax or no funding at all.

We are faced with a "surface transportation program" conceived only in a matter of days, and the Department of Transportation openly admits its uncertainty as to the impact of this program on the equity of our tax code and the distribution of American income.

Analyses of gasoline price increases by both the Federal Energy Administration—FEA—and Data Resources Institute—DRI—show clearly that gasoline taxes are a regressive form of taxation. The FEA determined in 1976 that each incremental increase in the cost of gasoline will have 50 percent more impact on disposable income among poor families than among affluent ones, and four times as much impact among low-income families reliant upon automobiles for transportation.

DRI reached almost identical conclusions, finding that the poorest 10 percent of the American public spends 24.4 percent of its disposable income on gasoline, compared with about 5 percent at the median income level, and 2.2 percent for the most affluent.

To frame this amendment as an "environmental issue" merely because worthwhile mass transit projects would be funded is to negate any appreciation of tax equity or economic justice.

On perhaps a broader level, I cannot impose an added 5-cent tax on every gallon of gasoline for these purposes until we also bring some equity and justice into the relative amount of taxes paid by the producers and consumers of petroleum.

There are several ways by which the energy companies are able to avoid their fair share of taxation. One of the ways is the "bonanza" enjoyed by the oil companies as a result of a 22-year-old tax ruling that has become a very lucrative part of the international oil business. The 1955 ruling of the IRS, provided that taxes paid to Saudi Arabia by American companies producing crude oil in that nation were income taxes, not royalties. As income taxes the payments can be treated as tax credits and not tax deductions. With the corporate income tax rate at 48 percent a credit may be worth as much as twice as much as a deduction.

There is some evidence that the 1955 ruling in the Eisenhower administration was motivated at least in part by political considerations. At that time, Washington was almost desperate to contain Soviet expansionism and as a result they sought to encourage the Arab oil states by a ruling which would obviously be a tremendous incentive to American corporations to develop their oil properties in those countries.

In 1972, American oil companies claimed $3 billion in foreign tax credits. That figure rose to $5.2 billion in 1973, jumped to $15.5 billion in 1974 and will come $17.6 billion in 1977.

This escalation in the amount of taxes paid to foreign governments and made creditable rather than deductible under American law is the source from which we should seek money to fund mass transit and repair American roads and bridges.

No all OPEC countries have laws which permit American oil companies to turn their royalties paid to a foreign nation into tax credits under the IRS Code. But Indonesia, among other nations, is presently seeking to alter its own law so that American corporations operating in Indonesia can obtain tax credits rather than deductions for the vast payments which they give to that government.

The Senate Foreign Relations Committee has recently been examining a proposed new tax treaty with Great Britain. The treaty includes a provision that would allow oil company payments of Britain's petroleum tax on North Sea production to be a credit for American corporations against their taxes due to the IRS. Such a concession to American oil companies would clearly be an inducement for them to move away from the OPEC nations. At the same time it raises a basic question as to how the IRS can permit payments to Saudi Arabia to be a tax credit while payments to Britain are only tax deductions.

Mr. Speaker, until the United States has a satisfactory arrangement to recoup some part of that $17.6 billion which American oil companies pay in royalties to Arab nations and credit against their own taxes to the U.S. Treasury, I do not think it is fair or just to bill the American consumer 5 cents for every gallon of gasoline which he or she purchases.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the Howard amendment which would establish an additional 5-cents-a-gallon tax on gasoline beginning January 1, 1979. My opposition also extends to any other ad hoc committee amendment to raise gasoline taxes. The tax, as proposed, would provide revenues for mass transit and the highway trust fund. These are noble purposes, but this kind of tax does not belong in this energy bill. First, this tax cannot possibly reduce fuel consumption. For that reason alone, it ought to be rejected. Second, this energy bill should not be used to raise additional revenue, because the Federal Government raises enough money as it is, and the component parts of the amendment should be considered in separate legislation apart from this energy package.

Finally, and most importantly, the working people of this country are the ones hardest hit on this inequitable tax. They are already paying through the nose just to survive, and the 5-cent tax per gallon, coupled with the crude oil equalization tax, they will be paying as much as 12 cents per gallon in additional gasoline taxes. That is too much of a burden for the poor and middle-income wage earner to pay. It will be exceptionally difficult for people in rural and agricultural areas, who have to drive great distances just to survive in this world. Kansas would be harder hit than most other States. Therefore, I urge the defeat of this and related amendments.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I would like to present my current view on the gasoline tax.

This is 1977, and across this country gasoline is plentiful. The American people go about their summer business unaffected by the energy issue before this Congress.

The energy crisis is unfelt. It is apparently not the function of this Congress to jar that pleasant unreality.

No one wants a tax on gasoline. The consumers do not want it, and the politicians, who rely on consumers for their votes, certainly do not want it.

The ad hoc committee referred to this tax as "un-American" and as a "threat to the American way of life." Those arguments will, I am afraid, carry the day.

After the defeat of the gasoline tax, we will go on to another issue, and the people will continue to drive as usual and everybody lives happily ever after—but not quite ever after.

The fact is that some time in the 1980's, whether it is 1981, as the MIT/WAES study would indicate, or 1985 or 1987, supply and demand of oil are going to cross. Then we will see one or all of the following:

Rationing, shortages, or prohibitive costs.

That burden in the 1980's will make a 4-cent or a 5-cent gasoline tax seem very benign, especially to the poor people we seem to be concerned about today.

America must change its way if it is going to survive, and we need long lead time. The time will come only if we send a message.

The CHAIRMAN. The time of the gentleman from Montana (Mr. BAUCUS) has expired.

The Chair recognizes the gentleman from California (Mr. LLOYD).

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, if I may continue with my presentation, we tried 2 years ago to do something about this, and I am sure the Members remember the 20-cent gasoline tax. We did not even come close.

That message that we must change our ways is to me the value of the 5-cent gasoline tax, as it was to me 2 years ago with the 20-cent tax. That message is how we can express our concern for the average person—the person who will find the chaos of the 1980's as a matter of survival.

Prime Minister Baldwin said it very well:

> The test of a democracy is whether it can recognize the truth before it hits it in the face.

Mr. Chairman, we know what is coming, and it is time to say so.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. WHITLEY).

Mr. WHITLEY. Mr. Chairman, all of us have listened to one another for a long time, and we have heard this issue debated fully. We have heard all the pros and cons, but I think the bottom line is that we are supposed to be here today, this week, and this year in this situation considering what has been titled the "National Energy Act."

I think most of the provisions in this act have a very direct bearing on energy and energy conservation in this country. This is not the Mass Transit Act. It is not the National Highway Act. It is not the National Gasoline Tax Act, but, instead, it is the National Energy Act. We are having to stretch a point a very long way to suggest that a 5-cent-a-gallon or a 4-cent-a-gallon additional tax on gasoline is really significant to the extent that it will aid in the conservation of energy in this country.

I reject the argument that this is the only chance we will ever have to do anything about mass transit. I reject the argument that it is the only chance we will ever have to do anything about the highway trust fund. We are going to keep on giving consideration to those issues. They have been around for years. They are going to be around for years more.

When we get to the crux of this matter, we ought not to saddle the National Energy Act, which is designed to conserve energy, with an extra tax on gasoline.

Therefore, Mr. Chairman, I urge rejection of both amendments.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, the problem is that the birth of this tax was not a revenue measure; but it really was presented to the country in terms of conserving or cutting down the consumption of gasoline. That is the way the President presented this issue to the country, saying that this tax would help conserve gasoline, and that there would be rebates to those who have to pay their additional tax.

That is no longer the case, Mr. Chairman. This tax is now being argued as a basis for additional funds for the highway trust fund, mass transit and for other expenditures. That is a totally different basis on which people are being asked to pay more taxes.

The problem is that people, I think, are willing to make sacrifices if there is something that comes back in return; but the issue is, Is there going to be anything in return, particularly in rural areas? The public is being asked to trust those Government programs that have failed to give them a share of what they pay in taxes.

Mr. Chairman, on the public works employment bill, small communities had to struggle and fight for a few cents and the same is true in transportation and in housing; and now we are asking them to trust that they indeed will get a piece of this package.

I would argue that the real responsibility here is not to add additional burdens onto the taxpayer, but to insure that Government and this Congress make present programs and this energy program work. We should not use this energy bill to fund old transportation programs. Before we add greater taxes on the American public, let us work to restore the trust in present programs; let us work to give taxpayers a legitimate return on the heavy tax burden that people already carry in this country. I ask that these amendments be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, we all know that this country must establish a program that will conserve energy, and that every American must make economic sacrifices in support of our national energy needs. I support our energy efforts, but I strongly believe that the 5-cents-per-gallon tax on gasoline proposed by Representative HOWARD of New Jersey, or any similar tax, is not the way to achieve them.

The proposed tax offers us tremendous inflationary pressures, almost no economic benefits, and minimal energy savings. I hope my colleagues will take a long, detailed look at this ill-advised tax and will realize that there are better ways to save energy.

The energy price increases that have been proposed in the name of national energy conservation are already substantial, and this proposed gasoline tax will only add an unnecessary burden to the consumer's energy bill. I find it unconscionable to support a 5-cent-per-gallon gasoline tax when we already have a 4 cent tax on gasoline and when consumers already face increases in the prices of home heating oil, natural gas, and many petroleum related products. I think it economic suicide to tax urban residents who already pay excessive highway and bridge tolls, sales taxes, State and city income taxes, and mass transit fares. The crucial question we must answer is whether New York or any other city can absorb another tax in return for several million dollars in mass transit funds; should we face price increases from every gasoline-using industry in return for mass transit money? I think not, and in the Howard amendment I believe we have come to the point at which we must draw the line on energy-related price increases.

I also find it hard to believe that this tax will reduce gasoline consumption; the record of American drivers and gasoline prices during the past 5 years proves this point. And if the tax will not save energy, it then becomes revenue for revenue's sake and not a viable part of the national energy plan.

More importantly, the national energy plan contains many other taxes and programs that will save substantial energy. The crude oil equalization tax, the partial deregulation of natural gas prices, the gas-guzzler tax, the auto-inefficiency tax, and numerous other programs constitute enough economic sacrifice and energy savings for the present. We do not need the Howard amendment or an additional gasoline tax.

The Howard amendment, in conclusion, goes against the dictates of a commonsense, consumer-oriented national energy plan. We can use the tax mechanism to induce energy savings, but we must try every other alternative before turning to further economic sacrifice and hardship for energy conservation. We must turn our attention from the number of barrels of oil saved to the number of people saved from inflation. We need the complete cooperation of the American people in facing the energy crisis, and passing on to them a tax whose economic and energy benefits are open to question is not the best way to enlist their support. I hope my colleagues will defeat the Howard amendment and any other similar proposals.

Mr. WEAVER. Mr. Chairman, I am going to vote against the gas tax for the reason that it falls most heavily on those least able to afford it.

We can accomplish the same goals; we can accomplish conservation far more effectively, far more fairly, by facing the economic reality that we have two prices for energy: old, cheap energy, and new, expensive energy, and we should price energy to our people accordingly.

Cheap energy would allow for the modest necessities, the costs of driving to work, heating our homes, whatever is necessary for our daily lives. Expensive energy would be for all other energy consumed; and one can produce as much and spend as much to buy it as he wishes, but he is charged through the nose for that additional amount purchased.

The two-price system contained in an amendment that I asked the Committee on Rules to permit me to offer would, I believe, have had a very good chance of passing this House of Representatives today. I would hope that the leadership of this House would bring the two-price system, which would bring about economic reality and fairness to the people of this country, to the floor some day.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Chairman, I do not disagree with anyone who has made arguments about the need for mass transit. I am prepared to support a bill that calls for funds for mass transit and highway maintenance.

Mr. Chairman, I think there is something wrong with a gas tax for mass transit and highway funds in an energy bill. We already have a gas tax built in this bill which we cannot vote on. But we do have an opportunity to vote against this unfair tax and should.

I respect the judgment of the gentleman from New Jersey (Mr. HOWARD), who is our subcommittee chairman. However, it just seems to me that if we add a 5-cent-a-gallon tax, we are going to destroy a lot of the credibility of this energy bill because it is going to be very difficult for a Member to go to his district and explain to the people how 5 cents on each gallon of gas is helping the energy situation in this country.

Mr. Chairman, on the steps of the Capitol this morning I had four families from my district in North Carolina. They work in a textile mill. They make $3.11 an hour, and it makes no sense to them; nor can I rationalize how that 5 cents on each gallon of gas is going to help alleviate the energy problem in this country.

I am prepared to vote for mass transit and for highway funds because we have in North Carolina more paved roads than any State in the Union. I would like to be able to support my chairman, but at this particular time I cannot see how, in good conscience, that Members of this House can vote an extra 5 cents a gallon on gas for their constituents.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, as the energy tax sinks slowly in the west, I want to extend my official sympathies to the Speaker of the House and the majority leader. It is a very difficult task trying to lead a majority that does not exist, for a change, but it is even more difficult when you have to defend a bad idea whose time has not come.

I am sorry the Speaker did not see fit to join us on the floor in order to take part in the debate. Yesterday when the issue was deregulation of natural gas he expressed a great concern for the poor consumers who were going to be ripped off to the tune of $53 to $79 billion by deregulation. Admittedly the 4- or 5-cent gasoline tax now pending will only rip off the very same consumers about $60 to $70 billion, which is apparently somehow different.

The Speaker expressed great concern about the average American family having to pay between 1978 and 1985, $260 more each year because of deregulation, but he has nothing to say about how this gas tax will rip off those same families by some $450. Why such great concern yesterday for the same poor average family and only silence today?

The issue here is fundamental.

Yesterday the discussion was all about the big oil companies. The Speaker and the majority leader were saying that they did not believe in big oil, and they did not think it was a good idea to give big oil billions in profits. But today they love and serve a power greater than big oil—big government, because they are big government. American taxpayers are paying 35 to 45 percent of their annual incomes in taxes to all levels of government, State, local, and Federal. Now they are being asked by President Carter and his agents to pay enormous taxes not to conserve energy, but to build highways when we are already spending nearly $8 billion annually for highways.

This tax is typical of this whole horrendous bill. For 30 years Federal policy has encouraged artificially cheap energy. That has failed and now Mr. Carter wants artificially expensive energy. We ought to oppose both these tax amendments. We ought to oppose the whole bill because this provision is just the tip of the iceberg.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, first, let me correct the record. There has been a lot of talk here about what the equalization tax would do to the price of gasoline. The Joint Committee on Taxation has made a very thorough, in-depth analysis of the impact of the crude oil equalization tax on the price of gasoline. Remember, this crude oil tax is phased in. As it is phased in, there is not going to be the full impact until 1980, and there will be less old oil and more new-new oil. When you put all of this together, the maximum impact on the price of gasoline by the equalization tax will be about 4 cents. Now it could run as low as 3 cents. The very maximum would be 4½ cents. The Joint Committee on Taxation says that it in all probability will not exceed 4½ cents a gallon.

Let me say that there is no constituency that favors a gas tax; of course not. If you go out and talk to the voters in your district, they are not going to say, "Lay it on me, baby." But there is a constituency, let me say, that favors better roads. Roads are one of the hottest political issues in this country. Let me say, we are not going to get the funds to repair bridges and rebuild roads out of the general revenues.

They have to be paid for, and we are going to have to face the hard, cold facts of paying for these restructurings in one way or another. This bill is the proper place to do so.

Let me say there is a constituency for mass transit. It is part of the solution to the energy problem. We are going to have to face up to that. We are also going to have to pay for mass transit, but there is not enough money in the general revenues to do so. This is the bill where we ought to face up to the issue. So let us really take a good, real look at where we are. The only trouble with the Howard proposal is that it makes too much sense. It is too eminently reasonable. It is the kind of thing we ought to do if we are to face up to our responsibility.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the amendment before us is typical of the approach characteristic of this bill. Rather than an energy bill, this legislation should be entitled for what it is—a bill to increase taxes—a total of $93.2 billion, plus approximately $35 hidden billion over the next 8 years. This figure is the amount projected in the second budget resolution adopted by the House Budget Committee recently.

The $93 plus billion in new taxes to be levied in excess of proposed rebates under the terms of this legislation are extremely regressive, in that the impact of energy taxes will be far more severe on the low to middle income consumers. These are people who will pay the taxes through increased costs for fuels, for petrochemical products, for fertilizer and many other derivations of petroleums, but who cannot deduct the costs as business expense. It should be clearly understood by those who support this measure that they are imposing an unfair burden on those least able to pay. I will not belabor the inequities, as many of the speeches have already made this point.

The increased taxes in this bill will not only be inequitable in application, but also will be highly inflationary at a time when our efforts should be directed toward checking inflation.

This proposal, with its provision for increasing the cost of petroleum, will be an open invitation to OPEC countries to increase the price of oil. The absence of incentives to produce new oil will reduce world competition and can only result in higher prices for imported oil and thereby exacerbate our balance of payments problem and invite the threat of future embargoes with all the attendant dangers to our Nation's security.

The absence of any incentive for production will be wasteful of our Nation's resources for the reason that many marginal wells that have future potential for production will be abandoned.

The temper of the debate thus far makes it clear that this amendment will

probably be rejected because it is clearly a tax. However, far more insidious is the crude oil and gas equalization tax, or better described as the barrel tax, because it is a hidden tax. It is concealed from the consumer, but will add substantially to the everyday costs of the multitude of petroleum products that are part of our daily life.

For example, it is estimated that the barrel tax will add 7 cents a gallon to the cost of gasoline—substantially more than the amendment before us. To the credit of the Howard amendment, it would produce a direct benefit in highway improvements, whereas the bulk of the barrel tax will go to the general fund to be spent by Government in its typically wasteful fashion, instead of by the taxpayers who earned it in the first place.

I urge defeat of the direct tax amendments and on final passage the entire bill with its hidden taxes.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, for almost 3 days, I have been listening to the debate on this bill. While the debate has ranged back and forth over the merits and demerits of various proposals, there has emerged one incontrovertible fact: This is a tax bill and not an energy bill.

This is a measure of far-reaching consequences which, through both overt and hidden taxes, would cost the average American family of four an estimated $1,000 a year. I do not believe an average family of four can afford that.

In the name of energy, which has been likened to a crisis such as war, I fear the proponents of this tax-raising measure have produced the first casualty: the truth.

Let us be honest with the American people.

This is a measure that would take money from the pockets of the American people and put it into the Government's coffers.

When President Carter first proposed his energy package, I indicated that, although I opposed the gasoline tax, I supported major parts of his plan. The present mish-mash bears little relation to the President's original proposal.

To cite one example, I originally proposed a tax rebate measure to encourage fuel-efficient automobiles back in March of 1975.

This program essentially was similar to President Carter's proposal: penalize the gas guzzlers and reward the fuel efficient. I reintroduced this measure on the first day of this new Congress and was the only Congressional sponsor prior to the Presidential suggestion.

What has the Democratic majority done to this proposal? The tax is in the bill but not the rebates.

This is also true of other portions of the measure. The taxes are there but the rebates have vanished.

There is a crude oil equalization tax. There is a coal conversion tax. There is a gasoline tax. There is a guzzler tax.

Tax oil. Tax natural gas. Tax gasoline. Tax automobiles. Tax. Tax. Tax. Tax.

As a member of the original House Task Force on Energy, I submit that I am far from a Johnny-Come-Lately when it comes to the need for energy conservation, developing new energy sources and cutting our dependence on imported oil.

But I decline to wrap myself in the shrouds of an energy crisis and become part of a grand deception to convince the American people that this bill would help our energy dilemma when all it will do is produce more tax revenues, cut the purchasing power of Americans and fuel inflation.

This is not an energy bill. It walks and squawks and looks like a tax bill. And I oppose it.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, this amendment, which would increase the Federal excise tax on gasoline, is bad. I intend to vote against it and make no apologies to anyone for that—none are required. Some might argue that such a vote indicates a lack of statesmanship or whatever. They say that it is our duty, from time to time, to support measures which are unpopular; further, that this is just such an occasion. In response I can only observe that increasing the Federal gasoline tax at this point in time and space is deservedly unpopular. We have a duty, to be responsive to the people who sent us here.

The rationale of those who back this latest attack on the embattled American taxpayer and consumer is that such a tax increase will encourage gasoline conservation and foster more efficient use of this commodity. Some estimate that demand will be reduced by approximately 70,000 barrels per day. Whether or not this is true is speculative. Past experience indicates, however, that the demand for gasoline is relatively inelastic. In recent years the price of gasoline has more than doubled. Demand has continued to increase.

Just because a person opposes this particular gasoline tax does not mean that he is opposed to conserving gasoline. There are other ways of reaching a mutually desired end. This amendment is nothing more than a revenue generating measure. It has been aptly described as yet another rip-off of the American taxpayer. For each 1-cent increase in the Federal gasoline tax an additional $1.2 billion will flow into the Federal Treasury.

Such funds will be spent in two ways—2½ cents of the tax will be used to further mass transit. This may be fine for the citizens of Washington, D.C., Chicago, or a pretty good sized town located in the State of New York which used to be known as "the Big Apple." Indeed the chairman of the Regional Transportation Authority in Chicago was kind enough to send me a telegram urging my support of the Howard amendment.

Despite vague assurances to the contrary, I do not believe that mass transit can be successfully transplanted to the rural areas and small towns of America. Subways just won't work in some of the small towns, such as Clear Lake, Waverly, or Steamboat Rock which I have the privilege of representing here in Congress.

The other 2½ cents per gallon tax will be channeled into a fund similar to the existing Federal highway trust funds. These moneys will be used to repair primary and secondary roads which are not part of the interstate highway system. I am all for improving and maintaining the quality of primary and secondary roads. But this is a matter which should be decided at the State and local levels of government. If the people of a certain locality want to improve a certain stretch of road, then they ought to be willing to pay the freight. There is a limit to what the Federal Government can and should do in this and other areas.

In summary, the proposed gasoline tax increase will fall inequitably upon those Americans who can least afford it. The lower and middle income groups, as well as those millions who happen to live outside of a large urban area, will be most adversely affected. The crude oil equalization tax will add another 7 cents to the cost of a gallon of gasoline and diesel fuel. We do not need another 5-cent-per-gallon increase at this time. I urge my colleagues to vote against this most unwise proposal.

Mr. TRIBLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Chairman, I rise in opposition to both of these amendments calling for an increase of the Federal tax on gasoline. What we do not need in America today are more taxes. If enacted this tax would mean an annual transfer of more than $5 billion from the consumer to the coffers of the U.S. Treasury and the big spenders of the Congress and the administration.

This tax is regressive in every way. It falls heaviest on those least able to pay, for example large working families where the breadwinner has to travel dozens of miles each way to work.

Also, the tax is regressive in that it drains off billions annually from the productive private sectors into the general nonproductive Government sectors of our economy.

Third, a gas tax is assuredly not a conservation tax. An increase in the gas tax will simply not result in reduced energy consumption.

I urge my colleagues to say no to an increase in taxes on the hard-pressed taxpayers of this Nation.

Mr. STEIGER. Mr. Chairman, I want to pay tribute to all of those speeches. They were just excellent.

The issue is clear. This is not a conservation measure. It comes in this bill under the guise of a public works project, and I think it ought to be absolutely clear to all of the Members, and they can make up their own minds as to how they want to vote. It does not belong in the national energy policy. It will not contribute to national energy policy. I think both the Howard amendment and the Rostenkowski amendment ought to be defeated.

PARLIAMENTARY INQUIRY

Mr. GARY A. MYERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARY A. MYERS. The parliamentary inquiry is, Mr. Chairman, did the House not limit itself to debate until 2 o'clock?

The CHAIRMAN. The gentleman is correct.

Mr. GARY A. MYERS. Under that limitation, I would like to ask unanimous consent to speak on the unclaimed time of the gentleman from Ohio (Mr. WHALEN).

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania may claim his own time.

Mr. GARY A. MYERS. Mr. Chairman, I have a further parliamentary inquiry. Is it not the right of a Member of the House to ask unanimous consent to speak, when procedures of the House normally would prevent him from speaking? I ask the courtesy of the Chair at this time.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to strike the requisite number of words and be recognized?

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KAZEN. Supposing there are 20 of us who want to do the same thing.

The CHAIRMAN. If there are 20 who want to do the same thing, and they can all do it before 2 o'clock, they will all be recognized, or if feasible, the Chair could divide the remaining time among other Members seeking recognition who were not included in the original limitation.

The gentleman from Pennsylvania (Mr. GARY A. MYERS) has now been recognized.

Mr. GARY A. MYERS. Mr. Chairman, I would like to point to what is a particularly important issue at this time. We have two proposals pending before us, the one of the gentleman from Illinois (Mr. ROSTENKOWSKI), and the one of the gentleman from New Jersey (Mr. HOWARD).

Mr. Chairman, on the two amendments that are pending, even if Members are violently opposed to a gas tax in this bill, I would suggest they vote for the Howard amendment if in fact they have any of the many associated transportation problems that most States have. As I said earlier, there are many Members who have communicated to the Public Works Committee in this session their great concern with the bridge repair program being inadequate and the funds from the Federal level going back to those States being totally inadequate because of the States' very difficult financial conditions over the last winter and as a result of some revenue problems with their own gas taxes. But if Members have those types of problems, I think the best sequence of votes is at least to vote for the Howard amendment, even though a Member is opposed to a tax on gas in this particular bill.

I tend to agree that the gentleman from New Jersey (Mr. HOWARD) would not normally have brought forward the funding mechanism at this time, nor would I, but it is before us. At this point even if Members do not want a gas tax at all, I ask they vote for the Howard substitute, and then if they are so violently opposed to the gas tax vote against the Rostenkowski amendment as amended. This would protect funding for a transportation bill which might come through later this year.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I support the Howard amendment.

It is the only way we will get the needed and meaningful funds for public transportation in this particular sector of the economy. I think it is very important that it be passed, it being far preferable to the ad hoc committee 4-cent gasoline tax which has only 1.5 cents for public transportation and an unneeded and unwarranted 2 cents for every research and development that already receives full funding.

In response to the many who have said the tax is too burdensome, I would point out that the savings in auto efficiency mandated in the bill will more than overcome the tax. As my friend from Ohio (Mr. VANIK) has pointed out, he owned a car in 1935 that got 10 miles per gallon. Then gasoline cost 35 cents. Today he is paying less for gasoline with a car that gets 25 miles per gallon at 65 cents per gallon.

So, this provision should not be overly burdensome and it should save substantial oil—not via the tax itself as has been excessively pointed out—but as a result of increased public transportation and bridge restorations.

I urge adoption of the amendment as a far preferable substitute to the committee amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendments proposing an additional Federal tax on gasoline. While it may well be that raising the price of gasoline could discourage some gasoline sales and to that extent result in a move to conserve energy, the tax which is proposed appears to be for other purposes.

It is conceded that many States are in need of additional funds to improve, maintain, and expand their highways. Funds are also in demand for mass transit. However, these are State issues which should be decided by the State legislatures and not by the Federal Congress. For us to assume the burden of our State legislators in imposing this tax upon the consumers of America would seem to shift responsibility from where it belongs, that is, the States—to the more remote Federal Government.

Mr. Chairman, the imposition of an added gasoline tax to support mass transit poses a highly controversial and unattractive issue in my congressional district in Illinois. Under the existing structure of the regional transportation authority—RTA—the control of that body is weighted in favor of the city of Chicago and the so-called Chicago Transit Authority—CTA. Accordingly, to mandate a new gasoline tax, a portion of which would be allocated to our States to be utilized for mass transit—could further complicate the dilemma in which many of my constituents find themselves under the existing authority of an unpopular RTA.

Mr. Chairman, these are some of the reasons why I feel that insofar as I am concerned the proposed new gasoline tax should be defeated.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I commend the gentleman from Pennsylvania in the well for his independence and his ability to take the issues and look at them and analyze them and make his own decisions.

I support the gentleman's point of view, that the Howard amendment represents the best opportunity for us to deal with a mass transit policy.

Mr. GARY A. MYERS. Mr. Chairman, I would like to say in closing that I introduced a bill earlier this year which would address the bridge repair problem by increasing the funding from the present totally inadequate $180 million to $1 billion per year.

Associated with that bill was a 1-cent gas tax increase. I had no objection from anybody in my district when the two were coupled. I think if we coupled the needs of the highways our taxpayers would not object. I find more opposition and more frustration expressed by people trying to go to work who are detoured several miles by bridges which are reduced in capacity or totally out of commission because of unsafe conditions. This is going to increase over the next few years. In this respect, we are talking about the middle-class and the middle-income people who have to be able to get to work.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Chairman, I commend the gentleman for his support of the Howard approach as the only fair direction in which to go.

My one quick observation is that we have various districts in this country but we all are part of the country. People in Iowa indicated in a recent questionnaire that they support President Carter's plan for a phased-in arrangement if consumption does not increase, but I think people understand more than we give them credit for the severity of the crisis before us and I do not think it takes too much to understand that proper handling of the transportation problem, the transportation network is one of the answers to the inefficient consumption pattern in this country.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not quarrel with one of the purposes to which this tax shall be applied, that is mass transit. But, Mr. Chairman, this is in fact a tax and an important element in a discussion of a tax is: Who will carry the burden of that tax?

There is not one person on the floor of Congress that can convince me it is not the near poor and the working class, that will carry the burden of this tax.

One guiding principle on the question of taxes is the principle of equity, but there is no equity involved in this tax.

I do not challenge the Secretary of Transportation or any of my colleagues that we very desperately need mass transit. We do, and we ought to have that fight on the floor of Congress if we are committed to the future of this country; but let us not superimpose upon this discussion the rather flimsy justification for an absurd tax that will be levied primarily upon that person with a 1963 inefficient automobile that has to travel 80 miles round trip from urban America to suburban America where heavy industry has moved. They will carry the burden, not the people who drive Mercedes Benz' with $75,000 to $100,000 a year incomes. It is the working-class people that will feel this tax.

Mr. Chairman, again in summary, to the question of purpose I agree.

To the issue of taxes, let us discuss taxes in a tax bill, not in this bill.

We would not conserve energy. We will simply harm millions of American people.

There has been no discussion of equity or of veracity or of the validity of this tax. If we understand that, we will reject this tax. We will reject the notion that levying this tax in some way will help working-class people.

I have been in the District of Columbia for 6½ years. We have still not completed Metro; but let us for a moment grant that if we levy this tax that within 5 years every single city would have a mass transit system. That is insanity, but let us do it for the purpose of this discussion. It has been rather absurd to this point, anyway. For 5 years, who carries the burden of this tax? It is the working-class people, the black, brown, red, yellow, and white, who are already feeling the desperate pains of the economics of this country today.

Do not ram it down our throats. If we want to fight on the issue of mass transit on the floor of the Congress, let us do it on its merit. Let us have a mass transit fund and do it cleanly; but do not tell me it is the last time we will deal with the question of mass transit. If it is the last time, we all are doomed, anyway.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I just regret that the gentleman made the statement that I was trying to do something not above board.

Mr. DELLUMS. I did not suggest that of my colleague. I think if my colleague feels that, the gentleman is oversensitive.

I am not challenging the gentleman. I respect the gentleman. I just say we ought not to have this tax. I will argue very adamantly against it. I am not against repairing the existing highways. We already have enough to do that; $8 billion is an awful lot of money to repair and build highways.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, do I gather that the gentleman does not agree with the President on this tax?

Mr. DELLUMS. In a few moments I will register a "no" vote on both issues on this question of a tax.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, will the gentleman agree that the Federal income tax is also a regressive tax?

Mr. DELLUMS. That is a good question. I came to this Congress to correct that, but I have been frustrated by the more moderate nature of this body.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, in terms of the tax hurting poor people, which is the gentleman's principal argument, the poor in the cities do not own cars and therefore would not pay the gas tax; they will be the ones benefiting from mass transit provided by the amendment. More efficient cars will more than nullify the tax for others.

Mr. DELLUMS. Of course, the working poor and working class people will sustain the heavy burden of the tax, the people making between $6,000 and $12,000 a year, which is an extremely low income, given the economics of our country today, that particular income group will bear the burden. I do not believe they should carry the burden of a tax for a program that will ultimately benefit all the people.

Mr. MILFORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say, briefly, I join my colleague, the gentleman from California, in his opposition to these two measures and ask if the gentleman would not agree there is another inequity, too. In some parts of the country we are dependent upon the automobile to earn our daily bread, and, hence, it is unfair to levy a tax on those who use their automobiles just to get to and from work.

Mr. DELLUMS. I would agree, given the present evolution of the national transportation system of this country, the gentleman is perfectly correct.

Mr. CORCORAN of Illinois. Mr. Chairman, I oppose the ad hoc Committee on Energy amendment to increase the Federal tax on motor fuel by 4 cents per gallon and accordingly, I also oppose the 5-cent increase proposed by the gentleman from New Jersey (Mr. HOWARD).

First, this regressive tax is inequitable because it affects all citizens regardless of their income. Obviously it would create hardships for those in low- and moderate-income categories, who are always hardest hit by taxes which apply equally across the board. Such a tax is simply not fair.

Furthermore, this tax discriminates against many Americans who will not get to use its revenues for mass transportation. Many people have no alternative but the automobile when it comes to work, recreation, and other transportation needs.

In addition, I take vigorous exception to the manner in which this 5-cent tax is being brought before the full House. No public hearings were held on it; thus we did not get the benefit of outside testimony on this measure. Our tax-writing committee—the House Committee on Ways and Means—did not hear from the people we represent on this particular tax matter. And during consideration of H.R. 6831, the committee rejected taxing motor fuel as a part of the energy package.

Since this 5-cent tax proposal surfaced recently, I have received a great number of letters opposing it. Moreover, my district is not out of step with the country on this matter. A recent survey conducted by the Cambridge Research Institute revealed that only 34 percent of those polled favored the tax, while 59 percent opposed it; 7 percent were undecided.

Finally, this tax is not only unwanted but ineffective. It will not appreciably curb gasoline consumption. Nothing in the debate thus far and nothing I have analyzed on the subject supports the view that this particular tax would help us achieve our energy conservation goals.

Mr. Chairman, I urge my colleagues to be realistic and vote down these ill-advised amendments.

Mr. HARRIS. Mr. Chairman, I oppose and will cast my vote against the gas tax—be it 4 or 5 cents—because I believe it is unfair to burden the average family and make the middle income worker make most of the sacrifices in the Nation's energy program. Two amendments to H.R. 8444, the National Energy Act will be offered: One to add 4 cents to the current 4-cents Federal tax on gasoline, and another to add a new 5-cent tax.

Another gas tax, which is really a sales tax—the most regressive and unfair of all taxes—is unconscionable, coming on top of a doubling of the price of gas in the last 4 years. In my State, if a gas tax amendment is adopted, the motorist will be paying about 23 cents a gallon in taxes for gasoline. State and local taxes are 9 cents; Federal taxes are currently 4 cents; the Howard amendment would add another 5 cents and the crude oil equalization provision of the bill could mean an additional 5 cents. This means that for a 60-cents gallon of gas, 23 cents is paid in taxes.

MIDDLE INCOME PERSON WILL SUFFER THE MOST

The average family will bear the brunt of this unfair tax. The wealthy will buy gas and drive their cars whether gasoline costs 60 cents or $1.60. But the gas tax

will virtually drive the low and middle income person "off the road." In my district—a large surburban area—cross-county public transportation is practically nonexistent. Almost 40,000 students commute to Northern Virginia Community College campuses spread out all over the area. Another 8,700 drive to George Mason University. They depend on automobiles; they have no other choice.

THE HOWARD AMENDMENT IS A HIDDEN TAX

A most disturbing part of the Howard gas tax amendment is that it imposes a 51-cents tax on diesel fuel: Diesel fuel is used to transport almost all goods in this country today. For example, in the case of food 3.4 billion gallons of diesel fuel and 375 million gallons of gasoline are used a year to transport agricultural products by truck, rail and water.

A 5-cents gas tax on diesel fuel would add $180 million to the cost of agricultural products. This translates into $1 billion to the added cost of food on the dinner tables for the Nation's 72,867,000 households across the country.

I do not think the family budget can stand more taxes and food price increases. Food prices have jumped 50 percent in the last 5 years. Groceries that cost the family $10 in 1972, now cost almost $15. The Washington-area family paid 53 cents for a dozen eggs in 1971; today they are paying about 86 cents. Bread that cost 23 cents a pound in 1971 costs 30 cents today. We cannot let this price spiral go on. And the gas tax is just another ring in this upward spiral.

NOT THE ANSWER TO CONSERVATION

One of the arguments used for the additional gas tax is that it will encourage conservation of gasoline. In other words, if the motorist has to pay more, he or she will use the car less and therefore use less gas. I reject that notion. Adding 5 cents to a gallon of gas will not reduce consumption. Best estimates are that 60 cents would have to be added to the current price before any substantive reduction in work-related gas consumption would take place. Look at the facts. The price of gas has doubled in 4 years, and there has been little impact on consumption.

A modern, convenient, balanced mass transit system available at prices people can afford will get people out of their cars. Washington is on the verge of having such a system. Mass transit, fuel-efficient automobiles, and alternative methods of transportation are the keys to conservation of gasoline. A more equitable means for raising revenues for mass transit would be to get serious about closing some of the remaining oil company tax loopholes, such as the foreign tax credit, as embodied in my bill H.R. 8559. Taxing the middle income family is not the answer to the Nation's energy problems.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendments imposing additional taxes on gasoline. In my State of Idaho everyone is dependent on the automobile for transportation. In the Western States people drive long distances every day and think nothing of it; it is a necessity. Consequently, an additional tax on gasoline would do nothing for conservation in my State. It would only be an additional tax burden on the people. I think this is also the situation in most parts of the country, actually, not just the West. Furthermore, contrary to the desires of the social planners in Washington, D.C., most people value the personal freedom that private automobile transportation affords—it is worth a lot to us. We must remind our colleagues, Mr. Chairman, that the New York City lifestyle is not in the majority in this country.

Mr. Chairman, there are essentially two paths that we can travel with regard to our energy requirements. One, we can capitulate to the socioeconomic manipulators, as I discussed yesterday during the debate on the amendment to deregulate natural gas, who are working for a centrally controlled society with a drastically lower standard of living. This, mind you, is the goal of many of those who advocate the so-called "soft path" in future energy development—emphasizing zero energy growth and "soft" technologies such as solar houses and windmills as opposed to nuclear power, coal, oil, and gas. This is the path advocated by the Ford Foundation, Environmental Action, Inc., and their mentors. We are told that the emphasis must be on energy conservation rather than on increased production. Now, I am all for conservation, but there are two ways that one can conserve energy—by using it more efficiently or simply using less. The latter type of conservation is the type practiced in Sri Lanka and Outer Mongolia. It is also the type of conservation advocated by the Ford Foundation's energy policy report which was prepared under the direction of Mr. David Freeman who is now Deputy Assistant to President Carter for energy policy. This is also the path advocated by Mr. Amory Lovins in the fall 1976 issue of Foreign Affairs published by the Council on Foreign Relations. Mr. Lovins openly states that the "soft energy" movement is really a movement for social change. He admits that the controls on energy production and allocation are really controls on the people—that this so-called "soft energy path" will lead to a more democratic and benign society. Now in all due respects that is just a fancy slogan for socialism. Unfortunately, that is just where H.R. 8444, this energy-tax bill is leading us, especially if this additional tax amendment is adopted.

The other alternative, the other path we can travel, is the path of freedom of enterprise, allowing free individuals to advance energy technology and production unrestrained by Government controls. The result of this path would be increased production, ample supplies at a fair market price, and, most important, a free society with the high standard of living characteristic of America.

But, unfortunately, Mr. Chairman, there are no production incentives in this bill; this bill does not reduce Government control. Rather, this is only a tax bill designed to redistribute income and place even more controls over the American people by controlling their access to energy. I am tired of being told that we must accept a lower living standard, that "less is better." I am tired of the American people being told by politicians mouthing the Ford Foundation line that we should give up our private automobiles in favor of bicycles and Government—sometimes called public—transportation systems that deny freedom of mobility. We are not running out of natural resources; rather, we are running out of the freedom of innovation that made America the most advanced Nation on Earth. Our capital is being confiscated at an accelerated rate by the ever-growing welfare state built by self-serving politicians buying the people's votes with their own money. So serious is this problem that it is the real reason for this bill. This energy-tax bill is designed to provide a broader tax base for the central government. This administration and this Congress know that the people of this Nation will not tolerate additional direct taxes. So this bill is a method of hiding the additional taxes a little and setting up a straw man—the energy producers—to bear the brunt of the public wrath. The people are being sold this bill of goods as "taxes on the big bad oil and gas industry" by the opinionmaking national media. This is the scheme to make it all politically acceptable. The central planners behind all of this know very well that these new taxes on crude oil will show up on the gas pumps, but the people will be told that the oil companies are making obscene profits and that they should therefore be broken up or even nationalized.

In conclusion, Mr. Chairman, if all of what I have just said is not so then why is it that higher consumer prices are acceptable if they result from new taxes that flow to Government but are unacceptable if they result from fair market prices for oil and gas that would result in greater production and less dependence on foreign oil? I urge my colleagues in this House to reject all of these new taxes and new controls and let freedom of enterprise work once more.

Mr. BAUCUS. Mr. Chairman, I find that I must oppose the proposed amendment to add 4 cents more Federal tax to the already heavily taxed general aviation fuel. In so many ways, those of us who live in sparsely populated areas of this country are making sacrifices unequaled by those living in other parts of the country. In a State such as Montana, where it is not uncommon to drive 150 miles just to go to the store, we have already been hit hard by the 55-mile-per-hour speed limit. The imposition of automobile gasoline taxes affect our livelihoods with much more severity than those parts of the country where population centers are closer together.

And now, Mr. Chairman, an increase in the tax on general aviation fuel is proposed. Most people who hear about this tax will assume that it applies to wealthy folks with nothing better to do than fly around using up precious fuel. In truth, life in Montana would be close to impossible without general aviation. Montana is a big State—550 miles long and 275 miles wide. But its population is less than a million. Only 15 percent of that population is served by commercial airlines in seven airports. All the other centers of population must be served by gen-

eral aviation at 160 airfields and heliports. Montana ranks second only to Alaska among all the States with 24.1 planes per 10,000 units of population. It is easy, therefore, to understand that more than 95 percent of Montana's general aviation is for business or commercial purposes—not recreational.

The lifeblood of Montana literally flows through general aviation because the blood bank in Billings contracts with general aviation to deliver blood throughout the State. Some areas, such as Jordan, are as much as 100 miles from the nearest doctor. But a small hospital can be kept going by flying visits from doctors on general aviation. In a similar manner, special education teachers can bring otherwise unobtainable programs to children on Indian reservations. Checks move between banks and mail is delivered in the same way.

General aviation controls fires, floods, and disease as well as seeding lakes and streams with fish and tracking wildlife under contract with the Department of the Interior and the U.S. Forest Service. Montana's timber industry, farms, and ranches depend upon general aviation for crop dusting, stock spotting, and the delivery of parts and equipment. Needless to say, that if costs rise for the production of these important commodities, consumers all over the country are going to feel the pinch.

Last year, nationwide, 100 million intercity passengers were carried by general aviation. Eleven million of those were on scheduled commuter flights or air taxi services. These passenger flight services make possible the rapid movement of people to and from rural communities all over the country which do not have airline service.

Corporate use of general aviation makes possible the attraction of industry and business to sparsely settled areas where small craft flight makes major centers of population much more accessible. These rural towns need the tax revenue that such industries and businesses can provide.

It is obvious that the West depends on general aviation for a wide variety of transportation services. The providers of these services are small businesses which are frequently struggling to survive. There is already a 7-cent Federal tax on general aviation fuel. That is 3 cents more than the Federal tax on automotive fuel. This proposed additional 4 cents would bring the total Federal taxes to 11 cents. And 41 States have levied their own taxes on general aviation as well.

Will this burdensome tax on small businesses providing much needed services reduce energy consumption? General aviation uses less than 1 percent of all fuel used for transportation. Although the numbers of small planes and helicopters have increased substantially, the fuel they consume has not—the increase has been one-tenth of 1 percent over the past 4 years.

Mr. Chairman, the Ad Hoc Energy Committee has voted to impose a tax for which the Ways and Means Committee could not substantiate a need. In fact, the ad hoc committee report states that the energy savings from this proposal are estimated to be negligible.

What is not negligible is the cost of this proposed tax to these small aviation businesses. The same committee report says that $464 million will be paid to meet this tax by 1985. And not a cent of this money will go to projects that directly benefit general aviation.

Three things about this proposed tax are clear:

First, it will jeopardize a greatly needed service to the rural and Western States such as Montana.

Second, it will not provide energy savings.

Third, as a source of revenue, it places an unequal burden on one group of small businesses.

In summary, it simply is a tax measure with no merit. I will vote against it.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to this amendment which would impose an additional permanent 4-cents-per-gallon tax on gasoline. As I understand it, the first 2 cents of the new tax would be imposed in 1978 and the next 2 cents in 1979. While the purpose of this amendment is said to be to discourage gasoline consumption and to save energy, my fear is that it will do that to far too great an extent. I am thinking now of the many residents of this country who must use their automobiles to transport themselves from their homes to their employment; I am thinking of those who are so poor that they have no alternative to recreation than to get into their cars and take a Sunday afternoon drive; I am thinking of those who are without financial means to pay for the skyrocketing rail, bus, and air fares and are, thus, compelled to drive to other parts of the country in order to visit their relatives. Just yesterday, in fact, I read in the newspaper that the CAB has given the airlines the go-ahead to raise by 2 percent the airfare across this Nation. This continuous rise in the prices of transportation has already kept many people from visiting their friends and relatives as often as they would like and the 4-cents-per-gallon tax on their automobile gasoline will certainly make that situation worse.

While it is true that urban residents would benefit from improvements in mass transportation systems, I think that historically—and the record certainly speaks for itself—that the urban poor are the last to get good transportation systems. As a matter of fact, I can recall a number of instances in which people living in Chicago suffered when CTA buses were removed from their former routes and when bus service was cut back drastically. CTA said at that time that this cut in service was necessary because people did not use the buses. Poor people have always been the ones who had to of necessity rely on public transportation.

Now all of a sudden this proposed increase in gas prices which is going to come out of their pockets is going to be used so that they can be better served. While that might seem to be plausible, I reiterate that such has not historically been the case: buses and streetcars have always been removed from the routes of the poorer sections of town first. The poor have always been the first to have their bus service slowed to intervals of one every 30 or 40 minutes instead of the 5 or 10 minutes scheduled between buses in more affluent neighborhoods, and they will be the last ones to receive any benefits of any urban mass transit funds that would come through the pipeline if this very repressive tax is passed and enacted.

Now, to the argument of whether this tax will reduce gas consumption, I draw your attention to the recent Harris survey which indicated that the price of automobile gasoline would have to be raised exorbitantly before anybody would even consider reducing its use. It is my understanding that an increase of 25 cents or more per gallon would be needed to induce most Americans to consider limiting use of their cars and that it would take at least a 60-cent-a-gallon increase before they would consider not using their cars for travel back and forth to work. In light of this, it seems to me that the argument that this 4-cent tax would reduce use of the car and, consequently, gasoline, falls flat on its face.

Therefore, I urge my colleagues to vote against this tax and the Howard substitute which is going to be coming up because this additional tax burden plus other tax increases that are in this bill could result in the immediate net increase of some 8 to 10 cents per gallon for the gasoline that goes into the cars of the poor as well as everybody elses. Just the other day, I had the occasion to fill my car up. I looked at the pump and found that I was paying 70 cents a gallon for regular. Now while many of you can afford to pay that price for gasoline, that 70 cents plus the estimated 8 to 10-cent increase would mean that the financially disadvantaged will have to pay about 80 cents for each gallon of gasoline that goes into their cars. This kind of increase landing on top of the enormous fuel bills that many of them are still today trying to pay off is just plain unreasonable and will place an unconscionable burden on them.

I urge my colleagues to vote against this legislation.

Mr. Chairman, I also rise in opposition to the Howard substitute which would place a 5-cent-per-gallon tax on gasoline. I find this amendment to be even worse than that offered by the ad hoc committee—which I also do not support. This amendment would establish the additional 5-cent a gallon tax beginning January 1, 1977. Just as in the 4-cent-per-gallon proposal, I see this tax as being extremely repressive for low-income Americans who unjustifiably would have to bear a greater burden of this energy program.

It has been said that this tax will be used to reduce gas consumption in the short term and to improve the Nation's mass transit system over the long run. While there is no argument that mass transit systems sorely need a great deal of improvement, this 5-cent-per-gallon tax would further repress those upon whose proportionate costs would impact greater than for more financially secure users of the el or the bus.

All of us are familiar with the hardships caused by the almost doubling of gas at the pump that have already been placed on poor Americans who must drive their cars to and from work. We are further cognizant of the many people, in both urban areas and rural, who have suffered tremendously from the increased cost of fuel for use in both heating, and lighting and livelihood.

I am at a loss to know why this tax is being touted as a fuel conservation measure. No reduction in consumption of gasoline is expected to occur with the imposition of this tax. According to the recent Harris survey, a 25-cent-per-gallon increase in the price of gasoline would be needed before most of the Americans will even consider limiting use of their automobiles and a 60-cent-per-gallon increase would be needed before they will seriously consider not using their cars for work-related purposes. Thus, I do not see how either the Howard substitute or the Rostenkowski amendment can be said to be a deterrent to the use of gasoline. These measures are clearly tax measures and as such need not be made an integral part of this energy package.

Other arguments for passage of the Howard amendment are that this 5-cent-per-gallon tax will help to alleviate the emerging coal transportation problem which is attributable to the poor condition of many roads between coalfields and railfields. I see no reason why Congress cannot take action to provide funds for these purposes if the need is there. It has always done so and I see no reason for it to shirk that responsibility at this time. Similarly, I have heard arguments that many of the railroad crossings will have to be changed to allow for longer coal trains. Here again, we write legislation to cover other purposes and I do not see why separate legislation cannot be written and funding authorized to solve that situation.

Finally, this amendment would impact even greater on America's poor than would the 4-cent-per-gallon tax offered by the ad hoc committee. I urge my colleagues to vote this substitute and the Rostenkowski amendment down.

Mr. LENT. Mr. Speaker, I want to express my strong opposition to the proposed amendments which will provide for an increase of up to 5 cents per gallon in the gasoline tax.

Purely and simply, an increase in the gasoline tax will place an unjustifiable and unnecessary burden on the people who have no alternative to the automobile as a means of transportation. It will do nothing more than increase the cost of driving for most Americans, regardless of income or economic status. I do not quarrel with the fact that the added revenues would be put to worthwhile uses, but the tax itself is regressive, and that is what should concern us.

H.R. 8444 contains a number of provisions which have dubious merit and which will serve to increase the cost of energy for the consumer. I hope we will resist this opportunity to add a regressive gasoline tax increase to the legislation.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD) as a substitute for the ad hoc committee amendment to part II, title II.

The question was taken.

RECORDED VOTE

Mr. MARTIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 339, not voting 12, as follows:

[Roll No. 503]

AYES—82

Alexander	Evans, Colo.	Ottinger
Anderson, Calif.	Fascell	Pickle
Andrews, N. Dak.	Flowers	Pritchard
Ashley	Fowler	Rangel
Aspin	Fraser	Reuss
Badillo	Gephardt	Richmond
Baldus	Giaimo	Roberts
Bedillo	Gibbons	Roncalio
Beilenson	Ginn	Rosenthal
Bennett	Harkin	Rostenkowski
Bingham	Holtzman	Ryan
Blouin	Howard	Sharp
Bolling	Ireland	Simon
Brademas	Johnson, Calif.	Skubitz
Brodhead	Long, Md.	Smith, Iowa
Brown, Calif.	McCloskey	Solarz
Burlison, Mo.	McCormack	Staggers
Burton, John	Madigan	Steed
Burton, Phillip	Mathis	Stratton
Corman	Mazzoli	Tsongas
de la Garza	Mineta	Tucker
Delaney	Moorhead, Pa.	Udall
Diggs	Murphy, N.Y.	Ullman
Duncan, Oreg.	Myers, Gary	Van Deerlin
Edgar	Nix	Vanik
Edwards, Calif.	Nolan	Vento
Eilberg	Nowak	Weiss
	Obey	Wright

NOES—339

Abdnor	Chappell	Fary
Addabbo	Chisholm	Fenwick
Akaka	Clausen, Don H.	Findley
Allen	Clawson, Del	Fish
Ambro	Clay	Fisher
Ammerman	Cleveland	Fithian
Andrews, N.C.	Cochran	Flood
Annunzio	Cohen	Florio
Applegate	Coleman	Flynt
Archer	Collins, Ill.	Foley
Armstrong	Collins, Tex.	Ford, Mich.
Ashbrook	Conable	Ford, Tenn.
AuCoin	Conte	Forsythe
Badham	Conyers	Fountain
Bafalis	Corcoran	Frenzel
Barnard	Cornell	Frey
Baucus	Cornwell	Fuqua
Bauman	Cotter	Gammage
Beard, R.I.	Coughlin	Gaydos
Beard, Tenn.	Crane	Gilman
Bedell	Cunningham	Glickman
Benjamin	D'Amours	Goldwater
Bevill	Daniel, Dan	Gonzalez
Biaggi	Daniel, R. W.	Goodling
Blanchard	Danielson	Gore
Boggs	Davis	Gradison
Boland	Dellums	Grassley
Bonior	Derrick	Gudger
Bowen	Derwinski	Guyer
Breaux	Devine	Hagedorn
Breckinridge	Dickinson	Hall
Brinkley	Dicks	Hamilton
Brooks	Dingell	Hammer-schmidt
Broomfield	Dodd	Hanley
Brown, Mich.	Dornan	Hannaford
Brown, Ohio	Downey	Hansen
Broyhill	Drinan	Harrington
Buchanan	Duncan, Tenn.	Harris
Burgener	Early	Harsha
Burke, Calif.	Eckhardt	Hawkins
Burke, Fla.	Edwards, Ala.	Heckler
Burleson, Tex.	Edwards, Okla.	Hefner
Butler	Emery	Heftel
Byron	English	Hightower
Caputo	Erlenborn	Hillis
Carney	Ertel	Holland
Carr	Evans, Del.	Hollenbeck
Carter	Evans, Ga.	Horton
Cavanaugh	Evans, Ind.	Hubbard
Cederberg	Huckaby	Miller, Calif.
Hughes	Miller, Ohio	Schroeder
Hyde	Minish	Schulze
Ichord	Mitchell, Md.	Sebelius
Jacobs	Mitchell, N.Y.	Seiberling
Jeffords	Moakley	Shipley
Jenkins	Moffett	Shuster
Jenrette	Mollohan	Sikes
Johnson, Colo.	Montgomery	Sisk
Jones, N.C.	Moore	Skelton
Jones, Okla.	Moorhead, Calif.	Slack
Jones, Tenn.	Moss	Smith, Nebr.
Jordan	Mottl	Snyder
Kasten	Murphy, Ill.	Spellman
Kastenmeier	Murphy, Pa.	Spence
Kazen	Murtha	St Germain
Kelly	Myers, John	Stangeland
Kemp	Myers, Michael	Stanton
Ketchum	Natcher	Stark
Keys	Neal	Steers
Kildee	Nedzi	Steiger
Kindness	Nichols	Stockman
Kostmayer	O'Brien	Stokes
Krebs	Oakar	Studds
Krueger	Oberstar	Symms
LaFalce	Panetta	Taylor
Lagomarsino	Patten	Thompson
Latta	Pattison	Thone
Le Fante	Pease	Thornton
Leach	Pepper	Traxler
Lederer	Perkins	Treen
Leggett	Pettis	Trible
Lehman	Pike	Vander Jagt
Lent	Poage	Volkmer
Levitas	Pressler	Waggonner
Lloyd, Calif.	Preyer	Walgren
Lloyd, Tenn.	Price	Walker
Long, La.	Pursell	Walsh
Lott	Quayle	Wampler
Lujan	Quie	Watkins
Luken	Quillen	Waxman
Lundine	Rahall	Weaver
McClory	Railsback	Whalen
McDade	Regula	White
McDonald	Rhodes	Whitehurst
McEwen	Rinaldo	Whitley
McFall	Risenhoover	Whitten
McHugh	Robinson	Wiggins
McKay	Rodino	Wilson, Bob
Maguire	Roe	Wilson, C. H.
Mahon	Rogers	Wilson, Tex.
Mann	Rooney	Winn
Markey	Rose	Wirth
Marks	Rousselot	Wolff
Marlenee	Roybal	Wydler
Marriott	Rudd	Wylie
Martin	Runnels	Yates
Mattox	Ruppe	Yatron
Meeds	Russo	Young, Alaska
Metcalfe	Santini	Young, Fla.
Meyner	Sarasin	Young, Mo.
Mikulski	Satterfield	Young, Tex.
Mikva	Sawyer	Zablocki
Milford		Zeferetti

NOT VOTING—12

Anderson, Ill.	Flippo	Michel
Bonker	Holt	Patterson
Burke, Mass.	Koch	Scheuer
Dent	McKinney	Teague

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Messrs. RODINO, THOMPSON, LEFANTE, HANNAFORD, HAMMERSCHMIDT, DANIELSON, BONIOR, and FARY, and Mrs. FENWICK changed their vote from "aye" to "no."

So the amendment offered as a substitute for the ad hoc committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the ad hoc committee amendment to part III, title II.

RECORDED VOTE

Mr. STEIGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 52, noes 370, not voting 11, as follows:

[Roll No. 504]

AYES—52

Ashley	Fraser	Rostenkowski
Badillo	Gephardt	Ryan
Beilenson	Giaimo	Seiberling
Bennett	Gibbons	Sharp
Bingham	Howard	Simon
Bolling	Johnson, Calif.	Solarz
Brademas	Long, Md.	Staggers
Brown, Calif.	McCloskey	Tsongas
Burlison, Mo.	Mazzoli	Udall
Burton, John	Mineta	Ullman
Burton, Phillip	Nix	Van Deerlin
Corman	Nolan	Vanik
Diggs	Obey	Vento
Dingell	Pattison	Weiss
Edwards, Calif.	Pike	Wright
Eilberg	Pritchard	Yates
Fascell	Rangel	
Fisher	Richmond	

NOES—370

Abdnor	Cunningham	Hillis
Addabbo	D'Amours	Holland
Akaka	Daniel, Dan	Hollenbeck
Alexander	Daniel, R. W.	Holtzman
Allen	Danielson	Horton
Ambro	Davis	Hubbard
Ammerman	de la Garza	Huckaby
Anderson, Calif.	Delaney	Hughes
	Dellums	Hyde
Andrews, N.C.	Derrick	Ichord
Andrews, N. Dak.	Derwinski	Ireland
	Devine	Jacobs
Annunzio	Dickinson	Jeffords
Applegate	Dicks	Jenkins
Archer	Dodd	Jenrette
Armstrong	Dornan	Johnson, Colo.
Ashbrook	Downey	Jones, N.C.
Aspin	Drinan	Jones, Okla.
AuCoin	Duncan, Oreg.	Jones, Tenn.
Badham	Duncan, Tenn.	Jordan
Bafalis	Early	Kasten
Baldus	Eckhardt	Kastenmeier
Barnard	Edgar	Kazen
Baucus	Edwards, Ala.	Kelly
Bauman	Edwards, Okla.	Kemp
Beard, R.I.	Emery	Ketchum
Beard, Tenn.	English	Keys
Bedell	Erlenborn	Kildee
Benjamin	Ertel	Kindness
Bevill	Evans, Colo.	Kostmayer
Biaggi	Evans, Del.	Krebs
Blanchard	Evans, Ga.	Krueger
Blouin	Evans, Ind.	LaFalce
Boggs	Fary	Lagomarsino
Boland	Fenwick	Latta
Bonior	Findley	Le Fante
Bonker	Fish	Leach
Bowen	Fithian	Lederer
Breaux	Flood	Leggett
Breckinridge	Florio	Lehman
Brinkley	Flowers	Lent
Brodhead	Flynt	Levitas
Brooks	Foley	Lloyd, Calif.
Broomfield	Ford, Mich.	Lloyd, Tenn.
Brown, Mich.	Ford, Tenn.	Long, La.
Brown, Ohio	Forsythe	Lott
Broyhill	Fountain	Lujan
Buchanan	Fowler	Luken
Burgener	Frenzel	Lundine
Burke, Calif.	Frey	McClory
Burke, Fla.	Fuqua	McCormack
Burleson, Tex.	Gammage	McDade
Butler	Gaydos	McDonald
Byron	Gilman	McEwen
Caputo	Ginn	McFall
Carney	Glickman	McHugh
Carr	Goldwater	McKay
Carter	Gonzalez	Madigan
Cavanaugh	Goodling	Maguire
Cederberg	Gore	Mahon
Chappell	Gradison	Mann
Chisholm	Grassley	Markey
Clausen, Don H.	Gudger	Marks
	Guyer	Marlenee
Clawson, Del	Hagedorn	Marriott
Clay	Hall	Martin
Cleveland	Hamilton	Mathis
Cochran	Hammer-schmidt	Mattox
Cohen		Meeds
Coleman	Hanley	Metcalfe
Collins, Ill.	Hannaford	Meyner
Collins, Tex.	Hansen	Mikulski
Conable	Harkin	Mikva
Conte	Harrington	Milford
Conyers	Harris	Miller, Calif.
Corcoran	Harsha	Miller, Ohio
Cornell	Hawkins	Minish
Cornwell	Heckler	Mitchell, Md.
Cotter	Hefner	Mitchell, N.Y.
Coughlin	Heftel	Moakley
Crane	Hightower	Moffett
Mollohan	Rinaldo	Stokes
Montgomery	Risenhoover	Stratton
Moore	Roberts	Studds
Moorhead, Calif.	Robinson	Stump
	Rodino	Symms
Moorhead, Pa.	Roe	Taylor
Moss	Rogers	Thompson
Mottl	Roncalio	Thone
Murphy, Ill.	Rooney	Thornton
Murphy, N.Y.	Rose	Traxler
Murphy, Pa.	Rosenthal	Treen
Murtha	Rousselot	Trible
Myers, Gary	Roybal	Tucker
Myers, John	Rudd	Vander Jagt
Myers, Michael	Runnels	Volkmer
Natcher	Ruppe	Waggonner
Neal	Russo	Walgren
Nedzi	Santini	Walker
Nichols	Sarasin	Walsh
Nowak	Satterfield	Wampler
O'Brien	Sawyer	Watkins
Oakar	Schroeder	Waxman
Oberstar	Schulze	Weaver
Ottinger	Sebelius	Whalen
Panetta	Shipley	White
Patten	Shuster	Whitehurst
Pease	Sikes	Whitley
Pepper	Sisk	Whitten
Perkins	Skelton	Wiggins
Pettis	Skubitz	Wilson, Bob
Pickle	Slack	Wilson, C. H.
Poage	Smith, Iowa	Wilson, Tex.
Pressler	Smith, Nebr.	Winn
Preyer	Snyder	Wirth
Price	Spellman	Wolff
Pursell	Spence	Wydler
Quayle	St Germain	Wylie
Quie	Stangeland	Yatron
Quillen	Stanton	Young, Alaska
Rahall	Stark	Young, Fla.
Railsback	Steed	Young, Mo.
Regula	Steers	Young, Tex.
Reuss	Steiger	Zablocki
Rhodes	Stockman	Zeferetti

NOT VOTING—11

Anderson, Ill.	Holt	Patterson
Burke, Mass.	Koch	Scheuer
Dent	McKinney	Teague
Flippo	Michel	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

So the ad hoc committee amendment to part II, title II, was rejected.

The result of the vote was announced as above recorded.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and the line numbers of the next ad hoc committee amendment to part II, title II.

The Clerk read as follows:

Ad hoc committee amendment: Insert the matter beginning on page 448, line 11, through page 449, line 23:

(The ad hoc committee amendment reads as follows:)

SEC. 2024B. INCREASE IN TAX ON FUELS USED IN NONCOMMERCIAL AVIATION.

(a) GASOLINE.—Paragraph (1) of section 6430(c) (relating to repayment of fuel conservation taxes on fuels used in aircraft), as added by section 2023C, is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any fuel used in an aircraft in noncommercial aviation (as defined in section 4041(c)(4))."

(b) OTHER FUELS.—Section 4042 (relating to imposition of diesel and special motor fuels conservation taxes), as added by section 2023A, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) NONCOMMERCIAL AVIATION.—In addition to any tax imposed by section 4041(c), there is hereby imposed a tax of 4 cents a gallon upon any liquid (other than any product taxable under section 4086)—

"(1) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation (as defined in section 4041(c)(4)); or

"(2) used by any person as a fuel in an aircraft in noncommercial aviation (as so defined), unless there was a taxable sale of such liquid under this section.

Rules similar to the rules provided by section 4041(i) shall apply for purposes of the preceding sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1978, except that no tax shall be imposed under section 4042(c) of the Internal Revenue Code of 1954 (as added by subsection (b)) with respect to the use by any person of any fuel sold to such person before January 1, 1978, if such use would have been taxable under such section 4042(b) if it had occurred on January 1, 1978.

Mr. ASHLEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it has been suggested that this amendment, which would increase the tax on general aviation gasoline by 4 cents a gallon, may have trouble getting off the ground, let alone fly.

It is a fact, Mr. Chairman, that this amendment was adopted in the ad hoc committee following the adoption of the Rostenkowski amendment providing for a 4-cent tax on automotive gasoline that was just disposed of.

Mr. Chairman, I do not think that it is going to be necessary to debate this long and extensively. Let me simply say that in 1978 it is estimated that 1.1 billion gallons of gasoline will be consumed by general aviation, and by 1985 the amount consumed will be 1.9 billion gallons, almost a doubling of the general aviation consumption of fuel by 1985.

This clearly goes contrary to the direction set forth, which we all applaud, in the President's plan calling for a 10-percent in reduction in gasoline consumption by 1985.

We can see what we are looking forward to here, since if there is no change in the tax on fuel used by general aviation, there will be an 8-percent compound annual growth rating in the amount of fuel used by general aviation.

It is on this basis, Mr. Chairman, that I offer the amendment, as well as the equity basis that was also a motive at the time that I offered the amendment in the ad hoc committee; so I offer the amendment for the consideration of this body, Mr. Chairman, and I hope it will be approved.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I would like to point out to my colleague that in the use of thousands of barrels of gasoline in 1976, these are the figures I have in barrels of fuel; automobiles consumed 2,553,833,000.

Aviation barrels consumed were 13,362,000.

But I ask the gentleman, does he believe that general aviation is a pleasure type of aviation? Does he see it as that?

Mr. ASHLEY. Well, it is really both. I must say that I have flown a good deal—not as much as the gentleman has—and, as a matter of fact, it was suggested that I might have been flying when I offered

this amendment in the ad hoc committee. That was not the case.

I have had 3,000 flying hours, and I expect that two-thirds of those hours were for pleasure and the rest were for business. I have flown all over the country. I have flown outside the country. I am pretty familiar with general aviation. The gentleman can make a case that it is not all pleasure flying, but there is a very substantial amount of general aviation that is pleasure flying.

Mr. LLOYD of California. I concur with my colleague on that, that some of it is, but let me point out to my colleague that most of the pilots who fly commercial aviation today, most of those who fly military aviation today, learned their trade, got their start in basics and got their interest in general aviation.

Let me ask another question: In dealing with this, does my colleague recognize that, for instance, about 75 percent of all general aviation today is a "tax write-off flight"? I honestly believe that these people actually are flying for commercial purposes. Does the gentleman understand that?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. LLOYD of California. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to continue for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HILLIS. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to continue for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. Skipping over the point about whether it is pleasure or business, I happen to own my own plane. In flights from different towns in my district, it takes me three-quarters of an hour and I burn 7.5 gallons of gasoline. If I drive my car, which gets 20 miles per gallon, it takes me 3 hours for 180 miles at 20 miles per gallon, which is 9 gallons. I use more gas if I drive my car, so it does not make any difference whether it is pleasure or business, I am still using more if I drive.

Mr. ASHLEY. I do not think a persuasive case can be made for pleasure flying as a conservation activity, as compared to the use of the automobile. I do not think the gentleman can make that case.

Mr. HARKIN. I think the gentleman can make that case. I can use less gasoline by flying to certain parts of my district than by using my car.

Mr. ASHLEY. Is it not a fact that if it is a single-engine airplane, it has to be consuming 12 or 15 gallons per hour?

Mr. HARKIN. Negative. I burn less than 10 gallons. I can get down to a little over 9 gallons an hour.

Mr. ASHLEY. Well, try to find a car that matches that.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding to me. I have here an analysis by the chairman of the Committee on Taxation on the various sections of the bill. It refers to this amendment. I would like to read this. It says:

The committee amendment would increase the present 7-cent-a-gallon taxes on fuel used in noncommercial (general) aviation by 4 cents a gallon (for a total tax rate of 11 cents).

The committee believed that it was equitable to increase the burden on general aviation by the same 4 cents a gallon as is provided for other users of gasoline, diesel fuel, and special motor fuels to the extent that such users are currently subject to a fuels tax.

In general, this provision is to take effect on January 1, 1978.

ENERGY SAVINGS ESTIMATE

The energy savings from this proposal is estimated to be negligible.

REVENUE ESTIMATE

It is estimated that this provision will result in an increase in budget receipts by $38 million in fiscal year 1978, $47 million in fiscal 1979, and $76 million in fiscal 1985.

The question I wanted to propose to the gentleman is this: It is apparent that the tax here was proposed to be linked or to go with the two taxes which have just been voted down. It looks to me that now, to put it on, it is a penalty and it is obviously not going to be an energy saving.

Mr. ASHLEY. Did the gentleman hear my opening remarks?

Mr. HILLIS. I did not hear it all, I am sorry.

Mr. ASHLEY. In a very quiet way, I covered the ground that the gentleman just covered.

Mr. HILLIS. I want to be more than quiet about this matter. As I recall the figures, less than 1 percent of the fuel in the country is used in general aviation. It looks like this is going to be pulled out, the red flags will be waved, and it will be said that this is going to be used for saving gasoline, when the rest of them were voted down overwhelmingly.

Mr. ASHLEY. I appreciate the gentleman's contribution.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not use the 5 minutes. I have no wish to prolong this debate on this great tax bill that we have been working on. There are a number of us in this Chamber who are private pilots. Those of us who are, know that general aviation probably saves more fuel than any other form of transportations. The administration came before the Committee on Ways and Means, and the Assistant Secretary of the Treasury attempted, in his very best fashion, to tell us how many gallons of gasoline general aviation was wasting. That is simply not the truth. The truth is that general aviation is far more fuel efficient than

Bear in mind, at the same time, that automobiles, by a long way.

our companions in the aviation business, the commercial aviation business, particularly those in the jet field, pay not one penny of tax. A head tax, yes. But only on the number of people who are in that aircraft. That diverges somewhat from this amendment. This amendment is absolutely, positively ridiculous. It is a smoke screen, a straw man, trying to throw a little more load on another segment of society.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I would tell the Members of the House that for many years I was under the mistaken impression that there was great fuel inefficiency in general aviation. But as chairman of the National Transportation Policy Commission, we have held hearings last month and, one of the things we learned—and for me, it was a great revelation—was that general aviation is very fuel efficient. I just never guessed it, but having seen the facts, I am now persuaded. I think it would be very unwise for us to proceed under the kind of myth which I proceeded under for many years.

Mr. KETCHUM. I thank the gentleman for his contribution.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, the general aviation industry supports the decision of the House Ways and Means Committee not to impose a 4-cent tax on aviation fuel as has been now proposed by the Ad Hoc Select Committee on Energy.

There was much discussion during the Ways and Means consideration of an aviation fuel tax as part of the overall fuel tax proposal. It was clearly established that such a tax is without merit and would not achieve energy consideration.

Seventy-five percent of general aviation flying is for business and commercial purposes. The growth of fuel efficient general aviation flying in recent years is directly related to the decrease in airline availability and the reduced speed limit on the Nation's highways. General aviation has proven to be an economical user of fuel, flying the shortest direct routes to the thousands of small communities throughout the Nation, and connecting with scheduled airlines, using less than 0.7 percent of the fuel used in transportation.

General aviation is already paying 7 cents tax per gallon which goes into the airport and airways development trust fund, plus gasoline taxes in 41 States.

The general aviation industry has consistently asked for fair and equitable treatment. If Congress adopts a tax policy on all users of transportation, general aviation will pay its share. However, general aviation should not be asked to pay a tax which is not imposed on other users. If a new aviation fuel

tax is imposed. revenues should be used for aviation related activities.

Mrs. KEYS. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentlewoman from Kansas.

Mrs. KEYS. Mr. Chairman, the Ad Hoc Committee on Energy has unwisely chosen to recommend an increase in the tax on general aviation fuel—a proposal which was rejected by the Ways and Means Committee. The measure would increase the price of fuel used for general aviation from 7 to 11 cents a gallon resulting in the highest tax on any transportation fuel.

The provision is neither wise nor just. General aviation consumes only seventenths of 1 percent of all the fuel used for transportation in the United States. While general aviation makes up almost 90 percent of the planes in the United States—180,000 aircraft—it consumes less than 8 percent of the fuel. By contrast, approximately 2,500 scheduled airliners use 68 percent of the fuel and 20,000 military aircraft use another 24 percent. Clearly, general aviation is not the "gas guzzler" of the United States air fleet.

More importantly, however, small aircraft are more energy efficient than automobiles over long distances. For example, an auto traveling between Memphis and Philadelphia consumes 105 gallons of gasoline while a small plane consumes less than half that amount—only 51 gallons. Small aircraft efficiency and direct route flights can make significant differences in energy usage.

The ad hoc committee has proposed a tax on both gasoline and general aviation fuel. In rural areas where the automobile and the airplane are the only forms of transportation, these taxes will have an unusually severe impact.

In the vast rural sections of the United States, small aircraft are the only form of mass transit available. There are some 12,200 airports across the country which are served exclusively by general aviation. In Kansas, for example, only 12 airports are served by scheduled airlines. The other 302 public and private airports must rely solely on general aviation for flight service.

Mr. Chairman, I am strongly committed to the goal of energy conservation. However, even the proponents of the gas and aviation fuel taxes do not pretend that they are aimed at conserving fuel. In fact, the aviation tax runs counter to the other energy-saving provisions of the bill. In view of the unfair burden which the aviation tax places on rural States, I cannot support it and must urge my colleagues to reject the amendment.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise against the proposal to increase the tax on noncommercial aviation fuel from 7 to 11 cents per gallon. There is no real justification for this increase. It will not encourage conservation as it is well recognized that the demand for gasoline is not directly responsive to changes in price of only a few cents per gallon. This small price increase is extremely unlikely to discourage increase in the use of aviation gasoline. Fuel costs are not a major factor for most airplane owners. An analysis by the Joint Committee on Taxation has shown that the projected energy savings from this tax would be negligible. Noncommercial aviation fuel usage accounts for less than one half of 1 percent of the total gasoline used in the United States. It is unfair to place this price burden on the small group of noncommercial aviators without commensurate likely savings in energy.

Mr. Chairman, 75 percent of general aviation activities are business related. Many small businesses use unscheduled air service to ship materials and products. There is no doubt in my mind that the burden of this tax will pass directly to these businesses and their customers and, in case anyone has not noticed, small business is reeling from an already staggering tax burden as it is. To tax general aviation when every member of the ad hoc committee and the House knows full well where the increased costs will finally hit is unjustifiable. When the administration proposed this tax not one shred of evidence was produced to show that the general aviation industry is not being as fuel efficient as possible or to show that this tax would produce any further energy conservation.

General aviation is already paying a federally imposed 7 cents a gallon fuel tax, in addition to paying fuel taxes in 41 States.

Make no mistake about it, the sole object of this amendment is to raise revenue for the Treasury of the Federal Government.

This amendment is unjustified, wrongheaded, unfair, and a blatant ripoff.

I urge my colleagues to defeat it.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Arkansas.

Mr. TUCKER. Mr. Chairman, I thank my colleague on the Committee on Ways and Means for yielding.

As the gentleman knows, we defeated this tax amendment in the Committee on Ways and Means. There may be a good case to be made for additional taxes on general aviation, and when we hold a hearing on that subject, we can look at the aviation trust fund and consider that matter.

As an energy conservation measure, there is no justification for this tax, and as a revenue measure, it would not produce enough revenue to justify adoption of the amendment.

Mr. Chairman, I thank my colleague for yielding.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise to associate myself with the remarks of my friend from California (Mr. KETCHUM) and commend him for his statement in opposition to the ad hoc committee amendment which would increase the fuel tax on general aviation type aircraft.

This would be a punitive tax measure being presented and advocated as an energy conservation proposal. In my view, this is a charade, would have very little impact on conserving energy and would penalize those people who use general aviation type aircraft because of their flexibility, efficiency, and accessibility to the multitude of small communities located in the sparsely populated areas of the country. The people I refer to are engineers, medical people handling emergencies, sales people, and thousands of people who are the decisionmakers in our great free enterprise system that make an extraordinary contribution to economic growth and stability throughout the country.

Too few people understand the contribution our air transportation system and, in particular, our general aviation fleet, make to the economic and social well-being of all Americans.

General aviation is already contributing 7 cents a gallon to the airport-airways trust fund which is dedicated to providing us with a safe and efficient en route navigation, approach control and airport system for the air travel users of America.

The proposed additional 4 cents would not be used for aviation purposes but rather be transferred to the energy conservation and conversion trust fund. This does not seem to be fair and equitable and, as I have stated before, is, in fact, punitive.

So, I hope my colleagues will reject the amendment overwhelmingly.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, as the gentleman knows as a fellow private pilot, a peculiar thing has happened in our country, and that is that the base level of new pilots emerging into the private and general aviation field is static; it is not growing.

One of the reasons for that is that the cost of general aviation is up at all levels, partly as a result of Government interference.

General aviation in this country and in any country that retains its freedom in the world is a treasure.

Contrary to what those people say who feel very strongly about private ownership of guns, the first thing a totalitarian power does when it takes over any nation is not to seize all the guns but to completely end private and general aviation. General aviation is immediately shut down, and every plane that goes into the air thereafter is subservient to the state.

Mr. Chairman, putting one more tax on this area would lead us further to the destruction of general aviation.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

(By unanimous consent, Mr. KETCHUM was allowed to proceed for 1 additional minute.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I appreciate the gentleman's yielding, and I appreciate the gentleman's comments.

I have spoken with the chairman of

the ad hoc committee, and he advised me that he does not think this tax will go through. Therefore, I suggest we vote on it and get it over with.

Mr. KETCHUM. Mr. Chairman, I yield back the balance of my time.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the ad hoc committee amendment.

Mr. GLICKMAN. Mr. Chairman, I rise in strong opposition to the ad hoc committee amendment to increase the present 7-cent-a-gallon tax on general aviation fuel to 11 cents a gallon.

We all believe that the various segments of society should be treated equitably. But general aviation is perhaps the most energy efficient means of transportation we have available. The statistics speak clearly to this issue. In addition, vast numbers of people, particularly in sparsely populated areas, rely almost exclusively on general aviation just to survive. This amendment strikes at the heart of these users.

I hope that the Members of this body will understand that the vast majority of general aviation flying is, in fact, business and commercially related, and not recreational in nature. To a great extent, our economic strength is dependent upon general aviation for survival.

The CHAIRMAN. The question is on the ad hoc committee amendment to part II, title II.

The ad hoc committee amendment to part II, title II was rejected.

The CHAIRMAN. The Clerk will designate the page and line numbers of the next committee amendment to part II, title II.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that we be permitted to consider the remaining technical amendments to this part en bloc, as they appear on pages 450 and 451, and that the amendments be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, may I ask, how many amendments is the gentleman talking about?

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, I am talking about three amendments.

One amendment is at the top of page 450, on lines 1 and 2; another amendment is on line 16, page 451; and the other amendment is on line 18, page 451.

Mr. ASHBROOK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TECHNICAL AD HOC COMMITTEE AMENDMENTS TO PART II, TITLE II

(The technical amendments of the ad hoc committee to part II, title II, are as follows:)

Technical ad hoc committee amendments to part II, title II:

Page 450, line 1, strike "Subpart B" and insert "Subpart C";

Line 2, strike "SEC. 2023." and insert "SEC. 2025.";

Line 16, strike "SEC. 2024." and insert "SEC. 2025A."; and

Page 451, line 18, strike "SEC. 2025." and insert "SEC. 2025B."

The technical ad hoc committee amendments to part II, title II, were agreed to.

The CHAIRMAN. The Clerk will designate the heading of the part now pending.

The Clerk read as follows:

Page 469, line 12, part III—crude oil equalization taxes.

(Part III, title II, reads as follows:)

PART III—CRUDE OIL EQUALIZATION TAXES

Subpart A—Imposition of Taxes

SEC. 2031. CRUDE OIL EQUALIZATION TAXES.

(a) IN GENERAL.—Subtitle D (relating to excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—ENERGY EXCISE TAXES

"SUBCHAPTER A. Crude oil equalization taxes.
"SUBCHAPTER B. Tax on business use of oil and gas; rebates.

"Subchapter A—Crude Oil Equalization Taxes

"Sec. 4986. Crude oil equalization taxes.
"Sec. 4987. Rules relating to application of section 4986.
"Sec. 4988. Definitions and special rules.

"SEC. 4986. CRUDE OIL EQUALIZATION TAXES.

"(a) IMPOSITION OF TAX ON CONTROLLED CRUDE OIL.—A tax is hereby imposed on the first purchase—

"(1) during 1978 or 1979, of lower tier crude oil and

"(2) after 1979 and on or before the termination date, of controlled crude oil.

"(b) AMOUNT OF CONTROLLED CRUDE OIL TAX.—The amount per barrel of the tax imposed by subsection (a) is—

"(1) 1978.—In the case of a first purchase during 1978, $3.50.

"(2) 1979.—In the case of a first purchase during any calendar month in 1979, the excess (if any) of—

"(A) the national average refiner acquisition cost for such month of upper tier crude oil, over

"(B) the national average refiner acquisition cost for such month of lower tier crude oil.

"(3) AFTER 1979 AND ON OR BEFORE THE TERMINATION DATE.—In the case of a first purchase of controlled crude oil of any classification during any period after 1979 and on or before the termination date, the excess (if any) of—

"(A) the uncontrolled price for such period of crude oil of the same classification, over

"(B) the controlled price for such controlled crude oil.

For purposes of subparagraph (B), now new oil (as defined in section 4988(a)(7)) which is controlled crude oil shall be deemed to be controlled at the highest controlled price for oil of the same classification.

"(c) IMPOSITION OF TAX ON NATURAL GAS LIQUIDS.—

"(1) IN GENERAL.—A tax is hereby imposed upon any controlled natural gas liquid—

"(A) sold by any person for use by the purchaser, or

"(B) used by any person unless there was a taxable sale of such liquid under subparagraph (A).

For purposes of this paragraph, the placing by a manufacturer of a liquid in a container having a capacity of 2 gallons or less shall be treated as a use.

"(2) EXEMPTIONS.—No tax shall be imposed under paragraph (1) on any controlled natural gas liquid sold for use or used—

"(A) on a farm for farming purposes (within the meaning of section 6420(c)),

"(B) in an exempt structure (within the meaning of section 6429(b)), or

"(C) as a feedstock in the production of natural gas liquids.

"(d) AMOUNT OF TAX ON NATURAL GAS LIQUIDS.—

"(1) IN GENERAL.—The amount per barrel of the tax imposed by subsection (c) is—

"(A) 1978.—In the case of a taxable sale or use during 1978, ⅓ of the amount of the price gap.

"(B) 1979.—In the case of a taxable sale or use during 1979, ⅔ of the amount of the price gap.

"(C) AFTER 1979 AND ON OR BEFORE THE TERMINATION DATE.—In the case of a taxable sale or use after 1979 and on or before the termination date, the amount of the price gap.

"(2) PRICE GAP DEFINED.—For purposes of paragraph (1), the term 'price gap' means, with respect to any taxable sale or use of any natural gas liquid during any calendar month, the excess of—

"(A) the average wholesale price of a barrel of No. 2 distillate oil in the region in which such sale or use occurred (for the most recent calendar month for which data is available) adjusted—

"(i) to reflect differences in energy content between such liquid and No. 2 distillate oil, and

"(ii) to reflect seasonal price differences between the month for which data is available and the month in which the sale or use occurred, over

"(B) the controlled price for a barrel of such natural gas liquid.

"(e) TERMINATION DATE.—For purposes of this subchapter, the termination date is September 30, 1981.

"SEC. 4987. RULES RELATING TO APPLICATION OF SECTION 4986.

"(a) LIABILITY AND COLLECTION OF TAX ON CRUDE OIL.—

"(1) FIRST PURCHASER LIABLE FOR TAX.—The first purchaser of the controlled crude oil shall be liable for the tax imposed by section 4986(a) on the first purchase thereof.

"(2) COLLECTION AND PAYMENT OF TAX.—

"(A) IN GENERAL.—Except in the case of a jeopardy assessment, and except as otherwise provided in this subsection, the tax imposed by section 4986(a) shall be due and payable on the first day of the 4th calendar month following the month of the first purchase.

"(B) COLLECTION OF TAX IN CERTAIN CASES.—The Secretary may by regulations provide for the collection from a subsequent purchaser, user, or exporter of the tax imposed by section 4986(a) on the first purchaser—

"(i) where the first purchaser is not a United States person and is not engaged in a trade or business in the United States, and

"(ii) in any other case where there is substantial likelihood that such tax will not be paid.

"(b) LIABILITY AND COLLECTION OF TAX ON NATURAL GAS LIQUIDS.—The tax imposed by section 4986(c)—

"(1) on any sale shall be paid by the purchaser and collected by the seller at the time of the sale, or

"(2) on any use shall be paid by the user, and shall be due and payable on the 15th day of the second month following the month in which such sale or use occurred.

"(c) CREDIT OR REFUND OF CRUDE OIL TAX WHERE CRUDE OIL IS USED TO PRODUCE NATURAL GAS LIQUIDS.—

"(1) IN GENERAL.—If any natural gas liquid is produced in the United States by a refiner from crude oil, the amount determined under paragraph (3)—

"(A) shall be allowed as a credit against any tax which is imposed by section 4986(a) for which the refiner is liable, and

"(B) to the extent not allowed as a credit under subparagraph (A), shall be paid by the Secretary to the refiner at such times (not less frequently than once each calendar

quarter) as the Secretary may by regulations prescribe.

"(2) CREDIT OR PAYMENT MUST BE PASSED ON.—No credit or payment shall be allowed or made under paragraph (1) unless the refiner furnishes such evidence as may be prescribed by the Secretary by regulations that the price of the natural gas liquid has not been increased to reflect any portion of the tax imposed by section 4986(a) for which credit or payment is claimed.

"(3) AMOUNT OF CREDIT OR PAYMENT.—The amount determined under this paragraph for any refiner for any period is the number of barrels of petroleum products produced by the refiner during such period multiplied by the amount determined—

"(A) by multiplying 42 times the amount per gallon determined under section 6429(c) for the calendar year in which such period occurs, by

"(B) a fraction—

"(i) the numerator of which is the aggregate Btu of natural gas liquids produced by the refiner from crude oil during such period, and

"(ii) the denominator of which is the aggregate Btu of all petroleum products produced by the refiner from crude oil during such period.

"(4) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4986(a) shall, insofar as applicable and not inconsistent with this subsection, apply in respect of the payments provided for in paragraph (1)(B) to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this subsection, or the correctness of any payment in respect to any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for the tax.

"(d) AUTHORITY OF PRESIDENT TO SUSPEND INCREASES IN TAX.—

"(1) GRANT OF AUTHORITY.—If the President determines—

"(A) that, by reason of a significant increase in the world price of oil, there has been or will be an increase in any tax imposed by section 4986, and

"(B) that such increase in tax will have a significant adverse effect on the economy of the United States,

he may submit to the Congress a suspension plan providing for the suspension of part or all of such increase in tax for the period specified in such plan. Such period may not begin before the date on which the plan takes effect and may not exceed 1 year in the case of any 1 plan.

"(2) PLAN MUST STATE CIRCUMSTANCES.—Any plan submitted under paragraph (1) shall set forth the circumstances leading to the submission of the plan and the considerations which the President took into account in formulating the scope and duration of the plan.

"(3) METHOD OF SUSPENSION.—Any plan submitted under paragraph (1) shall provide for the suspension by placing a cap on the increase (or prospective increase) in the price or cost which would (but for such suspension plan) be taken into account—

"(A) under section 4986(b)(3)(A), in the case of crude oil, or

"(B) under section 4986(d)(2)(A), in the case of natural gas liquids.

"(4) TAKING EFFECT OF PLAN.—A suspension plan described in paragraph (1) shall take effect only if—

"(A) such plan is submitted to the Congress in accordance with section 2081(a) of the Energy Tax Act of 1977, and

"(B) before the close of the 15th day (as defined in section 2081(c)(5) of such Act) after the day on which such plan is delivered to the Congress, neither the House of Representatives nor the Senate disapproves such plan in accordance with the procedures set forth in section 2081(b) of the Energy Tax Act of 1977.

"SEC. 4988. DEFINITIONS AND SPECIAL RULES

"(a) ITEMS SUBJECT TO TAX.—For purposes of this subchapter—

"(1) CRUDE OIL.—The term 'crude oil' means a mixture of hydrocarbons which existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Such term includes condensate recovered in associated or nonassociated production by mechanical separators located at any point at or before the inlet side of a gas processing plant.

"(2) NATURAL GAS LIQUIDS.—The term 'natural gas liquids' means a hydrocarbon stream containing, in whole or in substantial part—

"(A) ethane, butane (iso-butane and normal butane), propane, or natural gasoline, or

"(B) a mixture of any substance described in subparagraph (A).

The term does not include crude oil.

"(3) LIQUID.—The term 'liquid' means crude oil or natural gas liquid.

"(4) LOWER TIER CRUDE OIL.—The term 'lower tier crude oil' means controlled crude oil which is certified by the producer as having been sold pursuant to the lower tier ceiling price rule in effect (at the time of the first purchase) under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

"(5) UPPER TIER CRUDE OIL.—The term 'upper tier crude oil' means controlled crude oil which is certified by the producer as having been sold pursuant to the upper tier ceiling price rule in effect (at the time of the first purchase) under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

"(6) CONTROLLED LIQUID.—

"(A) CRUDE OIL.—Crude oil shall be treated as controlled if such crude oil is subject to a first sale ceiling price under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

"(B) NATURAL GAS LIQUIDS.—Any natural gas liquid shall be treated as controlled if—

"(i) in the case of a sale for use described in subparagraph (A) of section 4986(c)(1), such sale is subject to a ceiling price under section 4(a) of the Emergency Petroleum Allocation Act of 1973, or

"(ii) in the case of a use described in subparagraph (B) of section 4986(c)(1), such use would be subject to a ceiling price under such section 4(a) if the user sold such liquid instead of using it.

"(7) NEW NEW OIL.—

"(A) IN GENERAL.—The term 'new new oil' means production from a property which did not have commercial production at any time during the 90 day period ending on April 20, 1977.

"(B) DEFINITION OF PROPERTY.—For purposes of this paragraph—

"(i) the term 'property' means the right, arising from a lease or from a fee interest, to produce crude oil, and

"(ii) a producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, if such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation which is separate and distinct from, and not in communication with, any other producing formation.

"(b) TERRITORIAL EXTENT.—

"(1) IN GENERAL.—

"(A) CRUDE OIL.—The tax imposed by section 4986(a) shall apply only to liquids produced in the United States.

"(B) NATURAL GAS LIQUIDS.—The tax imposed by section 4986(c) shall only apply to liquids sold or used in the United States.

"(2) UNITED STATES.—For purposes of this subchapter, the term 'United States' means the United States and any possession of the United States (as such terms are defined in section 638).

"(c) FIRST PURCHASE AND FIRST PURCHASER.—For purposes of this subchapter—

"(1) FIRST PURCHASE.—

"(A) IN GENERAL.—The term 'first purchase' means the first transfer for value by the producer or royalty owner.

"(B) USE OF CRUDE OIL BEFORE FIRST PURCHASE.—Where crude oil is refined or otherwise used (or is exported) before its first purchase, the first purchase shall be treated as occurring at the time of removal from the lease or lease storage.

"(2) FIRST PURCHASER.—The term 'first purchaser' means a transferee determined under paragraph (1).

"(3) EXEMPTION FOR CRUDE OIL USED IN EXTRACTION.—The use of crude oil in the extraction of crude oil, natural gas, or natural gas liquids shall not be treated as a first purchase.

"(4) EXEMPTION FOR CERTAIN REFINED PRODUCTS USED IN EXTRACTION.—The transfer of crude oil to a refiner for refining, and the refining of such crude oil, shall not be treated as a first purchase to the extent that—

"(A) such crude oil is transferred by the producer to a refiner for refining, and

"(B) the producer receives in return for such crude oil products refined from crude oil by such refiner which are used by the producer in the extraction of crude oil, natural gas, or natural gas liquids.

"(d) DEFINITIONS RELATING TO PRICE.—For purposes of this subchapter—

"(1) CONTROLLED PRICE.—The term 'controlled price' means—

"(A) with respect to crude oil, the ceiling price applicable to the first sale of such crude oil under section 4(a) of the Emergency Petroleum Allocation Act of 1973, and

"(B) with respect to any natural gas liquid—

"(i) in the case of a sale for use described in subparagraph (A) of section 4986(c)(1), the ceiling price applicable to such sale under section 4(a) of the Emergency Petroleum Allocation Act of 1973, or

"(ii) in the case of a use described in subparagraph (B) of section 4986(c)(1), the ceiling price which would be applicable under such section 4(a) if the user sold such liquid instead of using it.

"(2) UNCONTROLLED PRICE.—The term 'uncontrolled price' means, with respect to any classification of crude oil, the price at which the first sale of crude oil of the such classification would have been made if such first sale had not been subject to a ceiling price.

"(3) NATIONAL AVERAGE REFINER ACQUISITION COST.—The national average refiner acquisition cost of any tier of crude oil for any month means the average cost to refineries in the United States of crude oil of such tier delivered during such month (properly reduced for the amount of any tax imposed by section 4986).

"(4) CLASSIFICATION.—The Secretary shall establish classifications for crude oil which are based on grade, type, and location and which are designed to avoid undue financial hardship or benefits to producers or first purchasers.

"(5) DETERMINATIONS OF PRICE, ETC.—All determinations of price, cost, and classification necessary to the application of this subchapter shall be made by the Secretary (after consultation with the Secretary of Energy) on the basis of the best available information. Such determinations shall be made not less frequently than once each calendar quarter (or once each calendar month, in the case of natural gas liquids). Such determinations shall be made under procedures established by the Secretary by regulations.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) BARREL.—The term 'barrel' means 42 gallons.

"(2) FRACTIONAL BARRELS.—In the case of a fraction of a barrel, the amount of the tax shall be the same fraction of the amount determined under subsection (b) or (d) of section 4986 (whichever applies).

"(3) DETERMINATION OF REGIONS.—The Secretary, after consultation with the Secretary of Energy, shall divide the United States into such regions as may be necessary to carry out the purposes of the tax imposed by section 4986(c)."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"Chapter 45. Energy excise taxes."

(c) TECHNICAL AMENDMENTS.—

(1) CREDIT OF NATURAL GAS LIQUID TAX MUST BE PASSED ON TO USER.—Subsections (a), (b), and (c) of section 6415 (relating to credits or refunds to persons who collected certain taxes) are each amended by striking out "or 4271" and inserting in lieu thereof "4271, or 4986(c)".

(2) SEPARATE ACCOUNTING FOR NATURAL GAS LIQUID TAX COLLECTIONS REQUIRED IN CERTAIN CASES.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(A) by striking out "or by chapter 33" each place it appears and inserting in lieu thereof ", chapter 33, or section 4986(c)", and

(B) by striking out "or chapter 33" each place it appears and inserting in lieu thereof ", chapter 33, or section 4986(c)".

(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO REFUND OF TAX ON CRUDE OIL USED TO PRODUCE NATURAL GAS LIQUIDS.—

(A) Subsection (a) of section 6675 is amended by inserting "4987(c) (relating to crude oil used to produce natural gas liquids)," before "6420 (relating to gasoline".

(B) Subsection (b) of section 6675 is amended by striking out "section 6420" and inserting in lieu thereof "section 4987(c), 6420".

(C) The section heading of section 6675 is amended by striking out "LUBRICATING OIL" and inserting in lieu thereof "LUBRICATING OIL AND WITH RESPECT TO REFUNDS OF CRUDE OIL EQUALIZATION TAXES".

(D) The table of sections for subchapter B of chapter 68 is amended by striking out "lubricating oil" in the item relating to section 6675 and inserting in lieu thereof "lubricating oil and with respect to refunds of crude oil equalization taxes".

(E) Sections 7210, 7603, 7604(b), 7605, 7609(c)(1), and 7610(c) are each amended by striking out "6420(e)(2)" each place it appears and inserting in lieu thereof "4987(c)(4)(B), 6420(e)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) crude oil the first purchase (within the meaning of section 4988(c)(1) of the Internal Revenue Code of 1954) of which occurs after December 31, 1977, and before October 1, 1981, and

(2) sales or uses of natural gas liquids after December 31, 1977, and before October 1, 1981.

SEC. 2032. MISCELLANEOUS PROVISIONS.

(a) STUDY OF SMALL AND INDEPENDENT REFINERS.—

(1) STUDY.—The Secretary of Energy shall conduct a study of the competitive viability of small and independent refiners. Such study shall include an examination of the possible hardships which might be placed on such refiners as a result of the crude oil equalization taxes.

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report on his findings under the study conducted under subsection (a), together with such recommendations for legislation as he determines to be appropriate.

(b) EFFECT OF CRUDE OIL EQUALIZATION TAXES ON CERTAIN NATURAL GAS CONTRACTS.—The taxes imposed by subchapter A of chapter 45 of the Internal Revenue Code of 1954 shall not be taken into account for purposes of determining or redetermining natural gas prices under any contract which was entered into before the date of the enactment of this Act.

Subpart B—Return of Crude Oil Equalization Taxes

SEC. 2033. ESTABLISHMENT OF TRUST FUND FOR THE RETURN OF CRUDE OIL EQUALIZATION TAXES.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Crude Oil Equalization Taxes Trust Fund (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated to the Trust Fund as provided in subsection (b).

(b) TRANSFER TO TRUST FUND OF NET REVENUES FOR 1978 FROM THE CRUDE OIL EQUALIZATION TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the excess (if any) of—

(A) the amount of the taxes under section 4986 of the Internal Revenue Code of 1954 (relating to crude oil equalization taxes) received in the Treasury before January 1, 1980, and attributable to liabilities incurred during 1978, over

(B) the sum of—

(i) the estimated reduction in the taxes imposed by chapter 1 of the Internal Revenue Code of 1954 resulting from the imposition for the calendar year 1978 of taxes by section 4986 of such Code, plus

(ii) the credits or payments allowed or made under section 4987(c) for 1978.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1)(A) received in the Treasury, properly reduced for that portion of the sum referred to in paragraph (1)(B) which is attributable to such amounts. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) USE OF AMOUNTS IN THE TRUST FUND.—Amounts in the Trust Fund may be used only for—

(1) making the payments provided by sections 2035, 2036, 2037, and 2040 of the Energy Tax Act of 1977 and section 6429 of the Internal Revenue Code of 1954,

(2) the payment or reimbursement of the administrative costs in connection with the making of the payments referred to in paragraph (1), and

(3) the aggregate amount of the credits allowable under section 44E of the Internal Revenue Code of 1954 solely by reason of subsection (d)(2) of such section 44E,

and such amounts are authorized to be appropriated for such purposes.

(d) TERMINATION.—The Secretary shall transfer from the Trust Fund into the general fund of the Treasury any amount in the Trust Fund at the close of December 31, 1979, which is not obligated for expenditure.

SEC. 2034. PER TAXPAYER CREDIT OF CRUDE OIL EQUALIZATION TAX RECEIPTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44D the following new section:

"SEC. 44E. CRUDE OIL EQUALIZATION TAX RECEIPTS CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxpayer's first taxable year beginning in 1978 an amount equal to the crude oil payment for 1978.

"(b) 2 PAYMENTS IN THE CASE OF A JOINT RETURN OR A HEAD OF HOUSEHOLD.—In the case of—

"(1) a joint return made under section 6013, or

"(2) a head of household (within the meaning of section 2(b)),

the amount of the credit allowable by subsection (a) shall be equal to 2 times the crude oil payment for 1978.

"(c) AMOUNT OF PAYMENT.—The Secretary, in consultation with the Secretary of Energy, shall publish in the Federal Register before October 1, 1978, the amount of the crude oil payment for 1978. The Secretary shall determine such amount by dividing—

"(1) the estimated revenue to be derived from the taxes imposed by section 4986 for calendar year 1978, reduced by the sum of—

"(A) the estimated reduction in the taxes imposed by this chapter resulting from the imposition for the calendar year 1978 of taxes by section 4986,

"(B) the estimated aggregate amount with respect to the calendar year 1978 which will be credited or paid under section 6429 (relating to payments for heating oil for residences, hospitals, schools, and churches) or 4987(c)(1) (relating to credits or payments to refiners who use crude oil), and

"(C) the estimated administrative costs to be borne by the United States in connection with sections 2035, 2036, 2037, and 2040 of the Energy Tax Act of 1977, and in connection with the operation of section 6429 of this title with respect to the calendar year 1978, by

"(2) the estimated number of crude oil payments for 1978.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(2) REFUND MADE IF TAXPAYER IS ENTITLED TO EARNED INCOME CREDIT.—Paragraph (1) shall not apply to any individual who, for his first taxable year beginning in 1978, is entitled to a credit under section 43 (relating to credit for earned income). For purposes of section 6401(b) (the amount of the credit allowable by reason of the preceding sentence shall be treated as a credit allowed by section 43.

"(e) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 6096 is amended by striking out "and 44D" and inserting in lieu thereof "44D, and 44E".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44E. Crude oil equalization tax receipts credit."

(d) WITHHOLDING.—The tables prescribed under section 3402(a) of the Internal Revenue Code of 1954 which apply to wages paid during 1978 shall reflect the reductions in the withholding amounts which the Secretary of the Treasury estimates (as of October 1, 1977) will be appropriate in the light

of the credit provided by section 44E of such Code.

SEC. 2035. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER SOCIAL SECURITY, RAILROAD RETIREMENT, AND SUPPLEMENTAL SECURITY INCOME PROGRAMS.

(a) PAYMENT.—Except as otherwise provided in this section, the Secretary of the Treasury shall, before October 1, 1979, make a payment equal to the crude oil payment for 1978 (as determined under section 44E(c) of the Internal Revenue Code of 1954) to each individual who, for the month of May 1979 (June 1979 in the case of a supplemental security income benefit), was entitled to—

(1) a monthly benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act (as an eligible individual or as an eligible spouse).

The determination of whether an individual was entitled for May 1979 to a benefit described in paragraph (1) shall be made without regard to sections 202(j)(1) and 223(b) of the Social Security Act; and the determination of whether an individual was entitled for such month to an annuity or pension described in paragraph (2) shall be made without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974.

(b) SPECIAL RULES.—In the application of subsection (a)—

(1) payment under subsection (a) shall be made only to an individual who is paid the benefit, annuity, or pension for May or June (as the case may be) of 1979 in a check issued no later than June 30, 1979;

(2) no payment under subsection (a) shall be made to any individual who is not a resident of the United States; and

(3) no individual shall be entitled to receive more than one payment under subsection (a).

For purposes of this subsection, the term "resident of the United States" means an individual whose address of record for purposes of paying the benefit, annuity, or pension for May or June (as the case may be) of 1979 is located within the United States. For purposes of the preceding sentence, the term "United States" means the 50 States and the District of Columbia.

(c) LIMITATION ON PAYMENT WHERE INDIVIDUAL RECEIVES INCOME TAX CREDIT.—Notwithstanding any other provision of this section, if any individual otherwise entitled to a payment under subsection (a) shows on his return of tax under chapter 1 of the Internal Revenue Code of 1954 a credit under section 44E of such Code, the amount of the payment to which such individual would otherwise be entitled under subsection (a) shall be reduced (but not below zero) by the amount of the credit so shown under such section 44E (determined as of June 1, 1979).

(d) CERTAIN CHILDREN EXCLUDED.—No payment shall be made under this section to an individual described in section 202(d) of the Social Security Act unless such individual is entitled to a benefit under section 202(d)(1)(B)(ii) of the Social Security Act (relating to disabled adult children).

(e) TERMINATION.—No payment shall be made under this section to any individual unless the name of such individual has been submitted to the Treasury under section 2038(a)(1) before August 1, 1979.

SEC. 2036. SPECIAL PAYMENT TO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN UNDER APPROVED STATE PLANS.

(a) PAYMENT.—Every State which has in effect a plan for aid and services to needy family with children approval under section 402(a) of such Act shall, before October 1, 1979, make a payment equal to the crude oil payment for 1978 (as determined under section 44E(c) of the Internal Revenue Code of 1954) to each individual who, for the month of June 1979—

(1) received aid to families with dependent children under the plan as a relative with whom a dependent child was living, or

(2) was the spouse of such relative living with such relative, or was an adult individual living in the same home whose needs were taken into account in making the determination under section 402(a)(7) of such Act.

(b) TWO PAYMENTS WHERE RELATIVE IS HEAD OF HOUSEHOLD.—If for the month of June 1979 the relative referred to in subsection (a)(1) was either not married or not living with such relative's spouse, the amount of the payment under subsection (a) shall be 2 times the crude oil payment for 1978.

(c) SPECIAL RULES.—In the application of subsection (a)—

(1) payment under subsection (a) shall be made only to individuals with respect to whom aid to families with dependent children for June 1979 is paid in a check issued no later than June 30, 1979; and

(2) in the case of an individual who is entitled for May 1979 to a benefit, annuity, or pension under a program referred to in paragraph (1) or (2) of section 2035, the amount of the payment to which such individual would otherwise be entitled under subsection (a) shall be reduced by the amount to which such individual is entitled under section 2035 (determined without regard to subsection (c) thereof).

Compliance by any State with the requirement of subsection (a) shall be a condition of its eligibility for Federal financial participation under section 403 of the Social Security Act for the first calendar quarter of 1980, and the State's plan approved under section 402(a) of such Act shall be deemed to so provide.

(d) FULL FEDERAL REIMBURSEMENT OF STATE COSTS.—Notwithstanding any other provision of law (or of any State plan approved under section 402(a) of the Social Security Act), the Secretary of the Treasury shall pay to each State, in advance on the basis of satisfactory estimates or by way of reimbursement, the full amount of all payments made by such State under subsection (a), plus an additional sum, as compensation for the administrative costs incurred in connection with such payments, equal to the product of $2 multiplied by the number of relatives referred to in subsection (a)(1) who for June 1979 received aid to families with dependent children under the State plan.

(e) STATE DEFINED.—For purposes of this section, the term "State" includes the District of Columbia.

SEC. 2037. OTHER SPECIAL PAYMENTS.

(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after September 30, 1979, make a payment under this section to each individual who, on or before December 31, 1979, files a request with the Secretary for payment under this section. Such request shall be in such form, and filed in such manner, as the Secretary may by regulations prescribe and shall include such individual's social security account number.

(b) ELIGIBILITY FOR PAYMENT.—An individual shall be eligible for payment under this section only if—

(1) on December 31, 1978, such individual was a resident of the United States (as defined in the last sentence of section 2035(b)) who had attained age 18, and

(2) such individual has not received by reason of section 44E of the Internal Revenue Code of 1954 and sections 2035 and 2036 of this Act the full amount of the payment to which he is entitled under this section.

(c) AMOUNT OF PAYMENT.—The amount of the payment to which an individual is entitled under this section shall be—

(1) the amount of the crude oil payment for 1978 (determined under section 44E(c) of the Internal Revenue Code of 1954), reduced by

(2) the sum of—

(A) the amount of the credit under such section 44E shown on such individual's return, and

(B) the amounts (if any) of the payments to such individual under sections 2035 and 2036 of this Act.

(d) TWO PAYMENTS FOR HEAD OF HOUSEHOLDS.—In the case of an individual who was a head of household (within the meaning of section 2(b) of the Internal Revenue Code of 1954) as of December 31, 1978, the amount taken into account under subsection (c)(1) shall be 2 times the amount set forth therein.

SEC. 2038. PROVISIONS APPLICABLE TO SPECIAL PAYMENT GENERALLY.

(a) RECIPIENT IDENTIFICATION.—

(1) IN GENERAL.—Notwithstanding any provision of Federal law heretofore enacted—

(A) the Secretary of Health, Education, and Welfare and the Railroad Retirement Board (i) shall provide the Secretary of the Treasury with such information and data, in such form and after such processing, as the Secretary of the Treasury may determine to be necessary to enable him to make the payments authorized under section 2035 or 2037 (and to determine the amount of any such payment), and (ii) shall provide the State agencies referred to in subparagraph (B) of this paragraph with such information and data, in such form and after such processing, as the Secretary may determine to be necessary to enable them to exercise their responsibilities under section 2036; and

(B) the appropriate agency of each State administering or supervising the administration of its State plan approved under section 402 of the Social Security Act and the Secretary of Health, Education, and Welfare shall furnish the Secretary of the Treasury with such information and data, in such form and after such processing, as the Secretary of the Treasury may determine to be necessary to enable him to exercise his responsibilities under this subpart.

(2) RESTRICTION ON USE AND DISCLOSURE OF INFORMATION.—Information and data furnished by any officer or agency to the Secretary of the Treasury or to another officer or agency under paragraph (1) shall be used by the Secretary or such other officer or agency only for purposes directly connected with carrying out the relevant provisions of this subpart, and the Secretary and such other officer or agency shall establish such safeguards as may be necessary to restrict the use or disclosure of such information and data to those purposes.

(b) PAYMENTS TO BE MADE AS SOON AS PRACTICABLE, ETC.—

(1) IN GENERAL.—Payments under this subpart shall be made as soon as practicable. If the Secretary of the Treasury determines that, because of the lack of information on compatible computer tapes or for similar reasons, the application of subsection (b)(3) or (c) of section 2035, of subsection (c)(2) of section 2036, or of subsection (c)(2)(B) of section 2037 will unduly postpone the making of payments under this subpart to any category of individuals or would unduly increase the costs of administering this subpart, the Secretary shall waive the application of that provision to such category of individuals. In the case of any waiver under the preceding sentence, the Secretary of the Treasury shall promptly notify the Congress of the waiver, the category of individuals affected by the waiver, the circumstances surrounding the waiver, and the reasons why such waiver is necessary to carry out the purposes of this subpart.

(2) RELIEF FROM LIABILITY.—Under regulations prescribed by the Secretary, in the absence of fraud or gross negligence, to the extent any erroneous payment is attributable to subsection (b)(3) or (c) of section 2035, to subsection (c)(2) of section 2036, or to subsection (c)(2)(B) of section 2037—

(A) the recipient of such payment shall not be liable to repay such payment, and

(B) all fiscal, disbursing, and other officers shall be relieved of liability with respect to the making of such payment.

(c) SPECIAL RULE FOR JOINT RETURNS.—For purposes of sections 2035 and 2037, in the case of a joint return of the tax imposed by chapter 1 of the Internal Revenue Code of 1954, one-half of the credit under section 44E of such Code shown on such return shall be allocated to each spouse.

(d) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made to any individual by the Secretary of the Treasury under section 2035 or 2037 or by a State under section 2036(a) (and any credit to an individual under section 44E of the Internal Revenue Code of 1954 which exceeds such individual's tax liability) shall not be regarded as income (or, in the calendar year 1979 or 1980, as a resource) of such individual (or of such individual's family) for purposes of any Federal, State, or local program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any such State or local program of aid or assistance for the first calendar quarter of 1980.

(e) PAYMENTS NOT TO BE CONSIDERED INCOME.—Payments made under sections 2035, 2036, and 2037 shall not be considered as gross income for purposes of the Internal Revenue Code of 1954.

SEC. 2039. REFUNDS OF CRUDE OIL EQUALIZATION TAXES FOR RESIDENTIAL, ETC., USE.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. HEATING OIL FOR RESIDENCES, HOSPITALS, SCHOOLS, AND CHURCHES.

"(a) PAYMENTS.—

"(1) IN GENERAL.—If any heating oil has been sold and delivered into the tank of an exempt structure for use in such structure, the Secretary shall pay (without interest) to the ultimate vendor of such oil an amount per gallon determined under subsection (c).

"(2) PAYMENTS MUST BE PASSED ON TO USER.—No payment may be made under paragraph (1) with respect to any heating oil unless the ultimate vendor furnishes such evidence as may be prescribed by the Secretary by regulations that the price of heating oil will not be increased to reflect any portion of the tax imposed by section 4986 for which payment is claimed.

"(b) EXEMPT STRUCTURE DEFINED.—For purposes of subsection (a), the term 'exempt structure' means any building or other structure 80 percent or more of the internal usable space of which is used as—

"(1) a residence, or

"(2) a hospital, school, or church.

"(c) AMOUNT PER GALLON.—On or before December 1 of 1977 and of each subsequent calendar year the Secretary, after consultation with the Secretary of Energy, shall determine the amount per gallon which will be applicable under subsection (a) for sales by ultimate vendors occurring during the succeeding calendar year. The Secretary shall determine such amount per gallon by dividing—

"(1) the estimated revenues to be derived from the taxes imposed by section 4986 for such succeeding calendar year, reduced by the estimated reduction in the taxes imposed by chapter 1 resulting from the imposition for such succeeding calendar year of taxes by section 4986, by

"(2) the estimated number of gallons of petroleum and petroleum products to be used in the United States during such succeeding calendar year.

For purposes of the preceding sentence, if the tax imposed by section 4986(a) applies to only a portion of any calendar year, such portion shall be substituted for the calendar year.

"(d) HEATING OIL DEFINED.—For purposes of this section, the term 'heating oil' means—

"(1) No. 2 distillate oil, and

"(2) residual fuel oil.

"(e) DEFINITIONS AND SPECIAL RULES RELATING TO RESIDENCES, HOSPITALS, SCHOOLS, AND CHURCHES.—For purposes of this section—

"(1) RESIDENCE.—The term 'residence' includes an apartment or other multifamily dwelling, but does not include lodging facilities where the predominant portion of the accommodations is used by transients.

"(2) MAXIMUM PAYMENT PER RESIDENTIAL UNIT.—The maximum amount allowed under this section with respect to any dwelling unit of any calendar year shall not exceed the applicable amount set forth in the schedule published by the Secretary as the amount of heating oil to be used in a representative dwelling unit for the calendar year concerned and for the region in which the dwelling unit is located.

"(3) SCHOOL.—The term 'school' means a public or private educational organization—

"(A) which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

"(B) the primary function of which is to advance the educational or career objectives of individuals (rather than their avocational or recreational objectives, and

"(C) not more than 20 percent of the student course hours of which are normally hours devoted to courses enrollment in which would be disapproved by the Administrator of Veterans' Affairs under section 1723 of title 38 of the United States Code.

"(4) UNRELATED BUSINESS, INVESTMENT, ETC., USE NOT TAKEN INTO ACCOUNT.—In the case of a hospital, school, or church, there shall be taken into account only use which is an integral part of its function as a hospital, school, or church, as the case may be.

"(f) MONTHLY CLAIMS; ADVANCE PAYMENTS.—

"(1) MONTHLY CLAIMS.—The claim of any person for payment under this section with respect to such person's sales during such month shall be filed on or before such date as may be prescribed by the Secretary by regulations.

"(2) ADVANCE PAYMENTS.—The regulations prescribed under this subsection shall provide for—

"(A) at the election of the ultimate vendor, advance payments with respect to the estimated sales which will qualify for payment under this section for any month, and

"(B) a reconciliation of—

"(i) the advance payments made pursuant to subparagraph (A) for the calendar months during any period, with,

"(ii) the payments to which the ultimate vendor was entitled for such months.

"(g) APPLICABLE LAWS.—

"(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4986(a) shall, insofar as applicable and not inconsistent with this section, apply in respect of the payment provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for the tax.

"(h) REGULATIONS.—The Secretary may in the regulations under this section prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(i) CROSS REFERENCES.—

"(1) For civil penalty for excessive claims under this section, see section 6675.

"(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

(b) CLERICAL AMENDMENTS.—The table of sections for such subchapter B is amended by adding at the end thereof the following:

"Sec. 6429. Heating oil for residences, hospitals, schools, and churches."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6675 (relating to excessive claims with respect to the use of certain fuels or lubricating oil) is amended by striking out "or" before "6427" and by inserting ", or 6429 (relating to heating oil for residences, hospitals, schools, and churches)" before "for an excessive amount".

(2) Subsection (b) of section 6675 is amended by striking out "or 6427" and inserting in lieu thereof "6427, or 6429".

(3) Sections 7210, 7603, and 7604(b) are each amended by striking out "6427(f)(2)" and inserting in lieu thereof "6427(f)(2), 6429(g)(2)".

(4) Subsection (a) of section 7605 is amended—

(A) by striking out "6427(f)(2)" the first place it appears and inserting in lieu thereof "6427(f)(2), 6429(g)(2)", and

(B) by striking out "or 6427(f)(2)" and inserting in lieu thereof "6427(f)(2), or 6429(g)(2)".

(5) Paragraph (1) of section 7609(c) is amended by striking out "or 6427(e)(2)" and inserting in lieu thereof "6427(f)(2), or 6429(g)(2)".

(6) Subsection (c) of section 7610 is amended by striking out "or 6427(e)(2)" and inserting in lieu thereof "6427(f)(2), or 6429(g)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to heating oil sold after December 31, 1977, and before October 1, 1981.

SEC. 2040. PAYMENTS TO PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.

(a) SUBMISSION OF PLAN.—The Governor of Puerto Rico and the Governor of each possession of the United States may submit to the Secretary of the Treasury a plan for the distribution of crude oil payments for 1978 among the residents of Puerto Rico or such possession, as the case may be.

(b) APPROVAL OF PLANS.—The Secretary of the Treasury shall (not later than 90 days after the date on which any plan is submitted under subsection (a)) approve such plan if he determines—

(1) that such plan will result in the distribution of approximately the same amounts to approximately the same individuals who are residents of such Commonwealth or possession as would be the case if the provisions of section 44E of the Internal Revenue Code of 1954 and the provisions of sections 2035, 2036, and 2037 of this Act applied with re-

spect to such Commonwealth or possession, and

(2) that the costs of administering such plan will not be excessive.

(c) PAYMENTS.—In the case of any plan approved under subsection (b), the Secretary of the Treasury shall make a payment to the Governor of the Commonwealth or possession in an amount equal to the sum of—

(1) the product of—

(A) the amount of the crude oil payment for 1978 (determined under section 44E of the Internal Revenue Code of 1954), and

(B) the number of crude oil payments for 1978 which the Secretary of the Treasury estimates will be made under the plan, and

(2) the amount which the Secretary of the Treasury estimates will be necessary to administer the plan.

AD HOC COMMITTEE AMENDMENT TO PART III, TITLE II

The CHAIRMAN. The Clerk will designate the page and line numbers of the first ad hoc committee amendment to part III of title II.

The Clerk read as follows:

Ad hoc committee amendment: On page 471, strike out the matter on lines 3 through 6.

(The Ad Hoc Committee amendment reads as follows:)

Page 471, lines 3 through 6, strike out: "For purposes of subparagraph (B), new new oil (as defined in section 4988(a)(7)) which is controlled crude oil shall be deemed to be controlled at the highest controlled price for oil of the same classification".

Mr. ASHLEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the bill of the Committee on Ways and Means provides its own definition of "new new oil" for purposes of the crude oil tax. Since price controls on oil under present law are determined by the FEA, this leaves open the possibility that the tax definition and price control definition would not be consistent.

The ad hoc committee amendment eliminates this potential inconsistency by deleting the separate definition of "new new oil" for tax purposes.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the bill of the Committee on Ways and Means purported to define "new new oil" in a different way from that which is contained in the President's energy proposal. In the President's energy proposal it was designated as that oil found 2½ miles away from an existing well or 1,000 feet deeper than the existing find.

The amendment very broadly defines "new new oil" in a broader way even than the new gas provision that we adopted yesterday. But the point is not what we want to call new new oil. We might decide to either go the President's route or ultimately we might decide to broaden the definition; but the trouble with putting it in here is that it simply does not hit the mark.

This bill does not open the Energy Policy and Conservation Act for amendment with respect to the establishing of price. That continues to be within the authority of the President, and the President may set a category of oil at any level so long as the final result does not exceed the composite price of $7.66 or whatever that composite price is at a given time.

The only thing that this provision can do, Mr. Chairman, is say that any definition that the President makes different from that contained in the bill of the Ways and Means Committee will prohibit the application of any tax to the refiner on that portion of oil within the definition of the Committee on Ways and Means. The result would simply be that if the President follows the program that he has presently propounded, a certain quantity of oil within a 2½ mile area and that not deeper than 1,000 feet below an existing well would not be subject to a tax to the refiner, which would be a total windfall to the refiner.

The provision, if it stayed in the bill, would not give producers one nickel more. It would simply insulate the refiner from the tax that would otherwise apply.

Mr. TUCKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment does need to be adopted. However, I regret that it needs to be adopted.

The reason we must strike this provision of the act is that we have failed in this bill to address the pricing problem of oil in this country.

Mr. Chairman, I would like to have a brief colloquy, if I may, with my colleague, the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield for just a moment, I entirely agree with the gentleman's analysis of what the bill does.

Mr. TUCKER. Mr. Chairman, my colleague, the gentleman from Oklahoma (Mr. JONES), who, I think, will speak in a moment, will address himself to the question of the adoption of this new definition for "new new oil," which reflected the desire of the Committee on Ways and Means to provide a new incentive for people to find new oil, in new reservoirs, and bring it to the people of our country.

However, my colleague, the gentleman from Texas (Mr. ECKHARDT), might explain, if he will, why, as I understand it, under our present oil pricing policy, we must reach toward a composite price of roughly $7.66 a barrel.

Does that mean that if we were to decontrol new-new oil by forcing the President's hand through this amendment without changing the composite price requirement, that the President would have no flexibility to increase prices of such items as stripper oil or other marginal oils?

Mr. ECKHARDT. That is true unless it came back to the Congress in an energy action, for instance, or by asking for a change in the law.

Mr. TUCKER. Is it the gentleman's understanding of the bill as drafted that the President does have authority to increase significantly the price of various petroleum products ranging from marginal oil to new-new oil?

Mr. ECKHARDT. He does.

Mr. TUCKER. Is it the gentleman's understanding of the present pricing policy that the only thing that really saves us from an emergency in the area of composite price restriction is the fact that the new Alaskan oil, which will be coming on, due to transportation costs, will be priced below the legal price that it could be?

Mr. ECKHARDT. Below the ceiling price of new oil because the ceiling price will probably be somewhere in the area of $11.28, and the Alaskan oil will have to be priced below the composite price, that is below $7.66. The result will be that the President will have enough flexibility because that oil is selling below the control price and thus other oil may sell at a higher ceiling price than would otherwise be possible.

Mr. TUCKER. I thank the gentleman from Texas (Mr. ECKHARDT) for his explanation. This should not be, at this point, a controversial amendment. But the issue it raises obviously demands future action to deal with it. It is crucial to the entire energy program. I hope very much we will be able to do it in this Congress, and ideally do it this year, addressing the price strictures that exist on truly newly discovered oil and marginal oil. I regret we are not addressing that in this bill. I hope we will do so in the future.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding and I would like to associate myself with the gentleman's remarks, and would ask the gentleman and those who are interested, to join with me in a letter I intend to send to Mr. Schlesinger which will ask the administration to do two things: First, to promulgate, as they do under the present law, a definition of new-new oil that would be defined exactly like new-new gas, that definition being much more geologically sound than the definition the President proposed in his energy plan.

Second, we use this definition to raise the composite price of oil over the limit of the existing EPCA law, so that he can ask Congress to amend EPCA to accommodate this more realistic definition.

I do this because I agree with the gentleman in the well that we do need to provide an incentive to all production of new oil, defining new oil, and the best way to do it is to properly define new-new oil, to give that incentive. This is the only way we will do it, is to define new-new oil.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, let me say that we can do that by an energy action submitted by the President, but the energy action of course would have to be subject to an either-House veto.

Mr. GEPHARDT. I understand that.

It is also my understanding that he could not go over that composite price without legislative change.

Mr. ECKHARDT. He could not do so without an energy action not legislatively vetoed. Otherwise this would require a Federal legislative change.

Mr. TUCKER. Mr. Chairman, I thank my colleague, the gentleman from Missouri (Mr. GEPHARDT) and I will be happy to join the gentleman in his letter. The only regret I have is that it is necessary to send the letter. I hope he can make the administration take action and the

Secretary, to solve the problem, but, as long as the composite price continues to limit the price, we are going to be faced with serious strictures in the future.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the general debate we debated this issue at some length, as those Members who are in the room now who were present know from listening to that debate, or through having read the RECORD extensively. It is an argument, in my view, without substance.

If you adopt the Eckhardt amendment, even though you send Gephardt letters, you can send Tucker letters, you can send Ullman letters, and we can send Steiger letters asking Jim Schlesinger to change the definition from that of the President of the United States and perhaps he will do that. But if we adopt the Eckhardt amendment, then what we have done is to lose our leverage. There is no guarantee that he is going to do that at all.

The Jones definition adopted by the Committee on Ways and Means, which admittedly has nothing to do with EPCA or anything else and has only to do with the tax policy, was designed to do one thing. It was designed to say to the President of the United States that we want a chance, we want a shot, we want some leverage on the definition that you promulgate.

I know the Eckhardt amendment will be adopted. I know those wells are already drilled, or those skids are already greased, or however one says that in this business. But I would not want the opportunity to pass by without some little small voice of protest and to note that the gentleman from Oklahoma (Mr. JONES) did an excellent job. He gave us an excellent amendment of a new definition of new-new oil. It deserves to be adopted if for no other reason than I think this House ought to stand up and be counted.

I want to make one other comment on the point that has been made by the gentleman from Arkansas (Mr. TUCKER). He is right. He is absolutely right that this whole program is deficient, because even if the President does redefine new-new oil, then it faces the composite problem, price, under the Energy Policy and Conservation Act, and he cannot do anything unless he submits something. This is the whole problem with this bill, that we do not have a chance to deal with oil pricing. So I suspect my friend, the gentleman from Arkansas, will be one of those who will be statesmanlike in his position on the Republican substitute. It does deal with oil pricing. It does raise that, and it does it in an effective manner, and it gives us a far better, more comprehensive energy bill.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course, I will yield to my friend, the gentleman from Arkansas (Mr. TUCKER), whose vote I am begging for at the moment, may I say to my friend.

Mr. TUCKER. I thank the gentleman for his comments. He is correct that our colleague, the gentleman from Oklahoma, did a superb job on this, and part of the objective of this language was, indeed, to send a message to the President. But my friend also recognizes apparently that it is necessary to strike this language or we would in fact end up with an untenable result. I wish I could cast my vote in protest against the amendment with him, but I think he recognizes that we do in reality have to strike the language.

Mr. STEIGER. I disagree with the gentleman's analysis that the amendment is necessary to be adopted, because I really do not think it is. I think that argument is not a good argument. I think the Jones language should be adopted.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I will yield to the author of the amendment.

Mr. ECKHARDT. I thank the gentleman for yielding.

My distinguished colleague, the gentleman from Wisconsin, is one of the sharpest men on the very complicated questions related to education that I know in this House. I know that some of that sharpness of intellect will permit him to understand what our problem is here. If we should force the President to designate arbitrarily a body of oil as new-new oil, and at the same time retain the composite—and that is all we would do—we would deprive him then of any margin, for instance, to take care of the problem of my colleague, the gentleman from Texas (Mr. YOUNG), regarding the wells that ought to be strippers that produce 35 barrels, but 9 times as much water. We would deprive him of having some margin, for instance, to give some additional price to tertiary recovery, and we would deprive him of certain other flexibility in oil pricing to bring on new oil.

As my friend, the gentleman from Arkansas, has carefully pointed out, the only way to resolve these questions is either by an energy action with the approval of both bodies, or by legislation, but merely to attempt to force the President to take action within EPCA will not do the job.

Mr. STEIGER. My friend, the gentleman from Texas, is very, very perceptive. Of course, my effort in trying to defeat the gentleman's amendment that strikes the Jones language is to force the President to take that energy action, or, even better, to force him to send up something to us that deals in oil pricing. I do not kid anybody about this.

Mr. JONES of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, the ad hoc committee amendment offered by Mr. ECKHARDT bases its hope for finding more than a few drops of new oil on the goodness and grace of the bureaucracy. Now, I may be a cynic but that behemoth has never to my knowledge found any oil, nor has it adequately satisfied the needs of anyone except its own employees.

The amendment is founded on the belief that the bureaucracy will be able to make careful and expeditious decisions on something it cannot see and has no expertise in judging. I would venture that there is scarcely a Member present who believes the bureaucracy possesses these qualities if he has spent a day since the last election listening to his constituents or reading his mail.

Under the Eckhardt amendment, the appropriate governmental regulatory agency will be given the authority to determine on a case-by-case basis whether wells within 2.5 miles of, or less than 1,000 feet deeper than any existing well are in fact new reservoirs.

The skeptics among us, those who have worked directly with the bureaucracy, believe that relatively few, if any, wells, will be exempted from the 2.5 mile/1,000 feet deep regulation.

Several studies which have been conducted to determine the impact of this provision on oil exploration and production reveal that a serious reduction in new wells will result.

In Oklahoma, a recent study reported that less than 6 percent of the wells sunk in 1976 which then qualified as new, would now qualify. In other words, 94 percent of last year's wells may not have been drilled had this law been in effect.

A Texas study notes that 97 percent of all new-field oil discoveries in recent years have been within the 2.5 mile limit.

During consideration of the bill, the Ways and Means Committee adopted a proposal by Mr. JONES which utilizes the property definition concept. Under the Jones provision, "new-new" oil would be defined as that oil produced from a property not in production 90 days prior to April 20. This concept is both rational and geologically sound; the Eckhardt amendment sets arbitrary criteria which are neither necessary nor sufficient to define new discoveries.

I urge my colleagues to oppose the Eckhardt amendment which will at best present an administrative "tapemeasure" nightmare. I further urge them to support the property definition concept, which has been geologically and geophysically proven a more equitable method.

Mr. JONES of Oklahoma. Mr. Chairman, since I was the author of this amendment which gives a rational definition to the term "new-new oil," I would like to say a few words about what we have before us. I rise to strike the last word as opposed to arguing against this motion to strike. The reason is that the parliamentary situation we find ourselves in is clearly one in which we should not continue the definition as it is in the bill because it would in fact give a windfall to the refiners as opposed to giving some incentive to the producer of crude oil in this country, which was the purpose of this whole exercise on energy.

I offered this amendment in the Ways and Means Committee and I applied it only to the tax structure because that was the only jurisdiction in which I had to offer it.

Those who believe the administration is suddenly going to see the light in the 11th hour of debate on this bill and suddenly produce a rational definition and an incentive in the way of a new price to newly discovered oil are kidding themselves and trying to justify some of the

pressure under which we have been put over the last few days to vote against my plowback amendment.

As a matter of fact, from the very beginning in the Ways and Means Committee, the administration opposed this definition of "new-new oil." For the last 3 weeks to a month, since the bill left the Ways and Means Committee, the administration has said they might work out something which approached the language which we passed on a 22 to 15 vote in the Ways and Means Committee, and to this day they have yet to send anything to me, written or oral, which clearly demonstrates they are willing and able to give a rational definition to newly discovered oil.

So the situation we are in today is that this definition is being challenged on procedural and germaneness reasons and not on the substance or value of this definition for newly discovered oil. On that basis I will not oppose this motion to strike, and I hope that those in the other body who are trying to make some rational sense out of this supposed energy policy will adopt this definition of newly discovered oil. I would hope that they could do it even though the administration continues to resist and continues to oppose these efforts.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to say the gentleman raised the issue in the only way he could under the parliamentary situation that existed. I think he well put forth his point. I agree that this amendment is primarily related to the jurisdictional question rather than to the merits.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I thank the gentleman from Oklahoma for yielding.

Mr. Chairman, at exactly 2 o'clock, an hour and a quarter ago, I was at the White House conferring with Secretary-designate James Schlesinger of the Department of Energy and New York City Administrator Robert Loew about urgent national energy policy programs and their impact on New York.

I regret very much that I missed the two Committee votes on the Rostenkowski amendment and the Howard amendment.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I commend the gentleman from Oklahoma. I think in making this fight he has highlighted a basic problem in the whole energy picture that has to do with pricing. I think that we must pass this amendment, but I think in raising the issue the gentleman has rendered a service to the whole energy program.

Mr. JONES of Oklahoma. I thank the chairman for his generosity, but I do want to reiterate that for a month now the administration has resisted this rational definition that will give the only incentive—there is no other incentive—in this bill to increase our production of domestic oil particularly. They have resisted it, they have opposed it, and here at the last minute there seems to be some indication they have agreed with my colleague, the gentleman from Missouri, that they would take another look at it.

I want to see it, and I think this Congress and this House has a responsibility to do something to give an incentive.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(On request of Mr. GEPHARDT and by unanimous consent, Mr. JONES of Oklahoma was allowed to proceed for 1 additional minute.)

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman from Oklahoma for yielding.

I commend him as others have in the Ways and Means Committee. It was a very constructive approach he took in offering a legitimate and proper incentive to oil producers to produce more oil.

I ask the gentleman to join with me in a letter to Mr. Schlesinger to reform the present administration policy in the pricing of oil.

Mr. JONES of Oklahoma. Mr. Chairman, may I ask the gentleman, would the gentleman be willing to draft the letter and ask the administration to adopt the definition that we adopted by a vote of 22 to 15 in the Committee on Ways and Means, which does give a rational definition and does underscore what the FEA considers to be rational definition today.

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield further, I certainly would and I would go a step further and say if they do not respond positively, I would join with my friend and sponsor legislation to attack this oil-pricing problem.

The CHAIRMAN. The question is on the ad hoc committee amendment to part III, title II.

The question was taken; and the Chairman being in doubt, the Committee divided and there were—ayes 44, noes 20.

So the ad hoc committee amendment was agreed to.

AD HOC COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the page and line numbers of the next ad hoc committee amendment to part III, title II.

The Clerk read as follows:

Ad hoc committee amendment: Strike out the matter beginning on page 480, line 20, through page 481, line 13:

(The ad hoc committee amendment reads as follows:)

"(7) NEW NEW OIL.—

"(A) IN GENERAL.—The term 'new new oil' means production from a property which did not have commercial production at any time during the 90 day period ending on April 20, 1977.

"(B) DEFINITION OF PROPERTY.—For purposes of this paragraph—

"(i) the term 'property' means the right, arising from a lease or from a fee interest, to produce crude oil, and

"(ii) a producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, if such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation which is separate and distinct from, and not in communication with, any other producing formation.—

The CHAIRMAN. The question is on the ad hoc committee amendment to part III, title II.

The ad hoc committee amendment was agreed to.

AMENDMENT OFFERED BY MR. HANNAFORD

Mr. HANNAFORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANNAFORD: On page 470, strike all after line 11 through line 18 and insert the following:

"(1) 1978—In the case of a first purchase of lower tier crude oil of any classification during any calendar month in 1978, one-half the excess (if any) of:

"(i) the ceiling price for such month of upper tier crude oil of the same classification, over

"(ii) the ceiling price for such lower tier crude oil."

"(2) 1979—In the case of a first purchase of lower tier crude oil of any classification during any calendar month in 1979, the excess (if any) of:

"(i) the ceiling price for such month of upper tier crude oil of the same classification, over

"(ii) the ceiling price for such lower tier crude oil."

Mr. HANNAFORD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HANNAFORD. Mr. Chairman, I commend my good friend and colleague, the gentleman from California (Mr. KETCHUM) for the gentleman's diligent work on this amendment and the lingering problem it addresses.

I would like to thank the Committee on Ways and Means, the chairman and my colleague, the gentleman from California (Mr. CORMAN) for addressing this problem in the bill, H.R. 8444.

The problem is addressed in the bill and it states that the Secretary of the Treasury will impose a variable tax on all grades, types, and locations of oil beginning in 1980.

Our amendment endorses the committee variable tax concept and simply sets up a mechanism for implementing the tax in 1978.

Now, what is happening is this: the lower the quality of oil with the fixed tax or the fixed entitlement, the heavier the percentage of burden. If you have $4 oil and a $4 tax, you are paying a 100-percent burden to market that oil. If you have $6 lower tier oil and a $4 tax, you are paying a 66-percent burden. This makes the lower quality oil depressed in price; indeed, so depressed in price that production is being curtailed. A large amount of production in the Wilmington field in California has been curtailed and the flexibility of the entitlement program

has made it impossible, with all our efforts, to get that adjusted.

The present legislation will lock that inequity in for the next 2 years, the fixed tax replacing the fixed entitlement.

To put it another way, if you put a $1,000 tax on a Pinto and a $1,000 tax on a Cadillac, which is going to be the greater burden competing in the marketplace, both with other domestic models and with foreign competition?

Obviously, the Cadillac can carry the burden and the Pinto cannot carry it nearly as well.

To clarify my position, some history is in order. Under the entitlements program FEA shifts millions of dollars around the country to equalize the cost of crude oil to refiners. To determine who gives and who gets, FEA uses national average acquisition costs. The problem arises when you produce a poorer quality of oil whose price is below the averages. In California, where over half of the domestic heavy crude oils are produced, the average price of crude is $4.30 per barrel; yet it is more economical for refiners to process foreign crudes at over $14 per barrel. Oil wells are being shut down.

On marginal wells, the State of California and independent producers are not reinvesting in the necessary remedial work to keep older wells pumping. It is estimated that California has up to 1 billion barrels of recoverable oil reserves. This oil will not be produced if the inequities of FEA regulations are perpetuated by this legislation.

Over the last 2½ years, I have worked with FEA to prevent this tragic loss to the Nation. I first petitioned FEA to review and resolve this problem in February 1975. After many proposals, rulemakings, and hearings, FEA tells me that it knows we have a problem, but it cannot figure out how to solve it. The State of California, the independent producer, and, most importantly, the American consumer have waited long enough.

The Hannaford-Ketchum amendment, by instituting a variable tax in 1978 and 1979, provides the necessary pricing flexibility to encourage refiners to process the less expensive domestic lower tier crudes without any loss of revenue to the Federal Government.

In short, Mr. Chairman, I urge my colleagues to support the Hannaford-Ketchum amendment.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I will be glad to yield to the chairman.

Mr. ULLMAN. I think the Ways and Means Committee recognizes that there is a problem in this tax with respect to low grade crude oil, particularly that crude coming out of California. Now, as of 1980, I think we recognize that fact by applying a variable tax rate based upon oil classification. Is it correct that the gentleman's amendment moves that same general classification procedure up 2 years, to 1978; applies it to 1978 and 1979? Is that the impact of the gentleman's amendment?

Mr. HANNAFORD. That is quite right, Mr. Chairman.

Mr. ULLMAN. I want to say that it is a matter of equity. There is an equity in the treatment of different grades of oil, if we use the averaging mechanism for establishing the tax. This amendment does, in my judgment, meet the equity problem. Therefore, we would have no objection to the amendment.

Mr. HANNAFORD. I thank the gentleman very much.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I will be glad to yield to my colleague.

Mr. KETCHUM. I thank the gentleman for yielding. I commend him for his efforts, such as this particular amendment, in attempting to address a very serious problem in the State of California.

I thank the gentleman from Oregon, the chairman of the Ways and Means Committee. Mr. HANNAFORD and myself have been working on this problem since 1974. We have the support, I believe, of the comptroller of the State of California, the Governor of California, and anyone who has any acquaintanceship with this problem. I commend the gentleman.

Mr. Chairman, the purpose of this amendment is to adjust the crude oil equalization tax schedule on lower tier crude oil according to grade and location difference beginning in 1978 and 1979. My amendment will remove inequities in this tax as proposed in the committee bill which by computing the equalization tax on national averages would penalize producers of heavy and/or high sulfur crude oil across the country.

The effect of the tax is similar to FEA's crude oil entitlements program, established in November 1974. The entitlements program was implemented on the premise that it would equalize the price of all crude oils. However, it has failed in its objected goal by not recognizing gravity differentials.

Lower quality crude oils, particularly in California, are placed at a competitive disadvantage relative to higher quality domestic and imported crude oils. The cost of the entitlements is proportionately greater on lower quality crudes—the lower the price the greater the relative burden. The entitlement program has consequently caused downward pressure on prices for lower quality crudes.

In the summer of 1976 the Energy Conservation and Production Act included a provision to adjust ceiling prices for the lower quality crude oils which resulted in a subsequent regulatory change that increased California lower tier crude oil ceiling prices. However, because of the inabiilty of the entitlements program to take into account quality, gravity, and location differences between crudes, selling prices for the California crudes have not been adjusted up to the ceiling prices. (There is an average $.54/bbl. difference between ceiling and posted prices for lower tier California crude.) Were it not for an inappropriately high entitlement cost, the true value of these crudes could be reflected in the selling price without causing any competitive disadvantage to refiners.

H.R. 8444 now provides that the Secretary of the Treasury will impose a variable tax on all grades, types, and locations of oil beginning in 1980. However, the tax proposal for the years 1978 and 1979 will only perpetuate indefinitely the current price inequities.

The combination of a flat rate tax and an entitlement, both based on the average of crude oil acquisition costs nationally, will continue the problems currently being experienced by refiners and producers on lower quality oils. In California, for example, the lower quality lower tier crude oil is more expensive to refineries after entitlements adjustments than upper tier or stripper oil of similar quality. This inequity prohibits refineries from making equipment adjustments to process our heavy and/or high sulphur crude oils and Alaskan heavy high sulphur crude oil.

In addition, the arrival of Alaskan crude oil will result in a glut of heavy crude oil on the west coast market. Unless the Federal policy addresses the current inequities in the market conditions there will be no market for the indigenous California crude oil.

At a time when we desperately need more domestic crude oil, I sincerely question the prudence of continuing this disparity. It is my sincere hope that my colleagues will grant prompt relief to the gravity differential penalty now applied to heavy crude oils by adopting the Ketchum-Hannaford amendment.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I will be glad to yield to the chairman.

Mr. ASHLEY. Mr. Chairman, I am pleased to say to the gentleman that the majority members of the ad hoc committee support the gentleman's amendment.

Mr. HANNAFORD. I thank the chairman. I appreciate his support, and I am awed by his hard work.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HANNAFORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma: Page 469, line 19, after the item relating to section 4988 insert the following new item: "Sec. 4989. Plowback credit against tax."

Page 473, strike out line 12 and all that follows through line 15 and insert in lieu thereof the following:

"(1) LIABILITY FOR TAX.—The person entitled to the deduction under section 611 for depletion with respect to the controlled crude oil shall be liable for the tax imposed by section 4986(a) on the first purchase thereof to the extent of such person's economic interest in such oil.

Page 473, strike out line 23 and all that follows through line 8, page 474 and insert in lieu thereof the following:

"(B) ALTERNATIVE METHOD OF COLLECTING TAX.—The Secretary may by regulations provide for the collection of the tax imposed by section 4986(a) from the first purchaser or a subsequent purchaser, user, or exporter of the controlled crude oil to which such tax applies.

Page 485, line 16, strike out the quotation marks and after such line insert the following:

"SEC. 4989. PLOWBACK CREDIT AGAINST TAX.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed to each person liable for the tax imposed by section 4986(a) for calendar year 1978, as a credit against such tax paid or incurred by such person for such year, an amount equal to 90 percent of the plowback investment of such person for such year.

"(b) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of credit allowed under subsection (a) to any person for calendar year 1978 shall not exceed the sum of the amounts determined under paragraph (2) for each calendar month ending in such year.

"(2) AMOUNT FOR EACH MONTH.—The amount determined under this paragraph with respect to any person for any calendar month is an amount equal to—

"(A) the amount of the tax imposed by section 4986(a) paid or incurred by such person for such month, multiplied by

"(B) a percentage determined by multiplying one-half of 1 percent by the number of calendar months in the period beginning with the month of January 1978 and ending with the month to which such percentage applies.

"(c) PLOWBACK INVESTMENT.—For purposes of this section, the plowback investment of any person for calendar year 1978 shall be the excess of—

"(1) an amount equal to the qualified investment of such person for such year, over

"(2) an amount equal to the plowback threshold of such person for such year.

"(d) PLOWBACK THRESHOLD.—

"(1) IN GENERAL.—For purposes of this section, the plowback threshold of any person for calendar year 1978 is an amount equal to the sum of the amounts determined under paragraph (2) for each property with respect to which the deduction for depletion under section 611 is allowable to such person for such year.

"(2) AMOUNT FOR EACH PROPERTY.—

"(A) IN GENERAL.—The amount determined under this paragraph with respect to the property of any person for calendar year 1978 is an amount equal to 25 percent of the gross income of such person from such property (within the meaning of section 613(a)) for such year.

"(B) LIMITATION BASED ON 75 PERCENT OF TAXABLE INCOME.—The amount determined under this paragraph for any property for calendar year 1978 shall not exceed an amount equal to 75 percent of the taxable income of such person from such property for such year. For purposes of the preceding sentence, the taxable income from a property shall be determined by taking the taxable income from such property (within the meaning of section 613(a)) for such year, computed with the allowance for depletion and without any deduction for any qualified investment with respect to such property made in such period.

"(e) QUALIFIED INVESTMENT.—For purposes of this section, the qualified investment of any person for calendar year 1978 is the amount paid or incurred by such person for such year (with respect to areas within the United States) for—

"(1) intangible drilling and development costs described in section 263(c);

"(2) geological and geophysical costs;

"(3) drilling any nonproductive well;

"(4) the construction, reconstruction, erection, or acquisition of—

"(A) any depreciable asset used for the exploration for, the development of, or the production of crude oil or natural gas, or

"(B) any pipeline used for gathering crude oil or natural gas from wells in a field (or under a lease) to the point at which the first purchase of such crude oil or natural gas occurs;

"(5) the secondary or tertiary recovery of crude oil or natural gas; or

"(6) the acquisition of on-shore crude oil or natural gas leases.

"(f) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED INVESTMENT.—

"(1) EXPENSES.—If credit is allowed under subsection (a) to any person for any expenditure for calendar year 1978—

"(A) which is not chargeable to capital account, and

"(B) which is allowable as a deduction under chapter 1 for any taxable year,

the amount of the deduction for each such expenditure which would (but for this paragraph) be so allowable shall be reduced by an amount which bears the same ratio to the amount of credit allowed under subsection (a) to such person for such year as the amount of such expenditure bears to the amount of qualified investment of such person for such year.

"(2) DEPRECIABLE EXPENDITURES.—If credit is allowed under subsection (a) to any person for calendar year 1978 for any expenditure which is of a character subject to the allowance for depreciation, the increase in the basis of any property which would (but for this paragraph) result from such expenditure shall be reduced by an amount which bears the same ratio to the amount of credit allowed under subsection (a) to such person for such year as the amount of such expenditure bears to the amount of qualified investment of such person for such year.

"(3) DEPLETABLE EXPENDITURES.—

"(A) Expenditures to which cost depletion applies.—If credit is allowed under subsection (a) to any person for calendar year 1978 for any expenditure to which the allowance for cost depletion under section 612 applies, the increase in the basis of any property which would (but for this paragraph) result from such expenditure shall be reduced by an amount which bears the same ratio to the credit allowed under subsection (a) to such person for such year as the amount of such expenditure bears to the amount of qualified investment of such person for such year.

"(B) EXPENDITURES TO WHICH PERCENTAGE DEPLETION APPLIES.—If credit is allowed under subsection (a) to any person for calendar year 1978 for any expenditure of a character subject to the allowance for cost depletion with respect to any property to which the allowance for percentage depletion under section 613 applies, the aggregate amount of percentage depletion deductions which would (but for this paragraph) be allowable with respect to such property for each of the first five taxable years ending after calendar year 1978 shall be reduced by one-fifth of an amount which bears the same ratio to the credit allowed under subsection (a) to such person for calendar year 1978 as the amount of such expenditure bears to the amount of qualified investment of such person for such calendar year. For purposes of the preceding sentence, in the case of any expenditure which resulted in a reduction in basis under subparagraph (A), if, in any taxable year, percentage depletion under section 613 is elected with respect to the property to which such expenditure applies, the reduction in aggregate amount of deductions which would but for this sentence occur under this subparagraph for any taxable year shall be adjusted to take into account the amount of deduction denied under subparagraph (A).

"(g) GEOLOGICAL AND GEOPHYSICAL COSTS.—For purposes of this section, the term 'geological and geophysical costs' means any amount paid or incurred for the purposes of ascertaining the existence, location, extent, or quality of any deposit of crude oil or natural gas."

Page 488, after line 17, insert the following new subsection:

(c) Effect of Crude Oil Equalization Taxes on Crude Oil Pricing.—For purposes of the Emergency Petroleum Allocation Act of 1973 as amended, the tax imposed by section 4986 (a) shall not be considered an element of the ceiling price applicable to the first sale of crude oil under section 4(a) of such Act.

Page 489, line 22, strike out "section 4987 (c)" and insert in lieu thereof "sections 4987 (c) and 4989".

Page 492, strike out lines 13 and 14 and insert in lieu thereof the following: "schools, and churches), 4987(c)(1) (relating to credits or payments to refiners who use crude oil), or 4989 (relating to plowback credit against tax),".

Mr. JONES of Oklahoma (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Chairman, I ask unanimous consent to extend my remarks for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 10 minutes in support of his amendment.

Mr. JONES of Oklahoma. Mr. Chairman, I asked for this additional time in order to fully correct many of the misunderstandings and misinformation which has been disseminated concerning the amendment which the gentlewoman from Colorado (Ms. SCHROEDER) and I offer today. Our amendment would plow back a small portion of the crude oil taxes collected and paid by the producer at the wellhead for the purpose of increasing domestic oil and gas production here in the United States. Harry Truman once said that even if you are on the right track, you will get run over if you just sit there.

The administration is on the right track, to the extent that they say that the price of oil should reflect its replacement cost. But they are sitting on that track without coupling a program of proper incentives to their energy train. They are wrong by providing absolutely no incentive, no new capital for those who are drilling exploratory wells in this country to find new sources of oil and gas.

Let me clearly set in focus what the policy issue before us is before we get to the technical explanation of our amendment.

Simply put, the policy issue is whether or not we believe that this energy program should provide at least one incentive to increase domestic oil and gas production.

The administration was apprised of this plowback amendment when members of the Committee on Ways and Means went to the White House some weeks ago. The chief spokesman for the administration at that point said he opposed the plowback for this reason—and it is a policy reason, and a valid one, at least from his perspective. His opposition stemmed from the belief that we have sufficient drilling activity in the

United States today and that we should not increase that drilling activity or increase our level of production of domestic oil and gas.

That is a valid policy position. But I disagree with it. And the reason we offer this amendment is that we think the policy should be to increase our domestic oil and gas production, for two reasons. The first reason has to do with national security, economic security, and foreign policy questions. We are too highly dependent upon imports for our daily oil needs. Over the past year, our daily consumption of oil amounted to between 42 and 50 percent of imports. At the present time, 43 percent of our daily consumption of oil comes from overseas. That is a significant increase over 5 years ago, when only about 30 percent of our daily consumption came from foreign sources.

Mr. Chairman, what really disturbs me from a foreign policy point of view, is that 72 percent of those imports come from OPEC, and most of that comes from the Middle East. I think that is dangerous for our foreign policy commitments in the Middle East, for our allies, and for the leadership role that we are trying to assert in the Middle East to bring about some kinds of a peaceful solution there.

The administration started out, when they presented this package, saying that their goal was to add 6 million barrels of oil a day in 1985 in imports. Subsequent to announcing that goal, they had to admit that they were wrong by 1 million barrels a day. So that under their plan they feel oil imports will be 7 million barrels a day in 1985.

The General Accounting Office, at the request of Congress, conducted a very thorough study of the administration's program, particularly in the area of oil. The GAO study shows that the administration's estimates and goals will be missed by 4.3 million barrels a day in 1985 under its policy, including a new definition of new oil. And if that is the case, the GAO tells us that under the administration's program, in 1985 we will be dependent on foreign sources for 47 percent of our oil. I think that is too high.

So the first reason why we offer this amendment is for foreign policy, economic and national security reasons, to increase our domestic supply of oil slightly so that we can decrease that dependence on imports.

The second reason is that we have to increase production by increased drilling activity today if we are going to maintain in 1985 the level of domestic production that we have today.

Mr. Chairman, it has been estimated that we will have to drill approximately a thousand new wells a year in order to maintain present domestic production at the same level in 1985 as it is today.

So that is the policy. I hope that none of the Members try to confuse what is at issue here. If you think we have enough domestic production, if you think 43 to 47 percent dependence on foreign imports is fine, you should vote against the amendment. But if you think we ought to do something to increase domestic supplies and decrease imports, you will support this amendment.

Let me explain very briefly what the amendment does. The amendment in essence says that we will take the last 5 years, which have been the highest in the last 17 years as far as the level of domestic drilling activity is concerned. We take the average over those last 5 years, with what the industry has put in as its own investment into domestic exploratory activity, up to 25 percent of the gross revenues they receive from production income sources.

Then we say, "Let us take this high level of 25 percent," and we say to them, "If you do better than that, if you do better than you have done in these last 5 high years of explanatory activity, we will let you recapture in 1978 approximately 3 percent of what you paid in crude oil taxes in order to give you some cash flow to go out and sink more exploratory wells and development wells."

That is all the amendment does. We know that the crude oil tax will be applied. Under the amendment the producer will pay it, and all our amendment says is that for every $100 the administration was supposedly going to rebate to the consumer, instead, three of those dollars will come back to the producer if he exceeds what he has done before in domestic exploratory activity.

Let me answer some of the criticism that has been floating around the floor. First of all, it seems that we have gone back to the old rhetoric. The first criticism was that this was nothing but a ripoff for the domestic companies, the integrated oil companies. I challenge that statement.

I have not been able to find any one of the big eight that would be able to qualify under this amendment for any plowback credit. The fact of the matter is we do not think any of the major integrated oil companies would qualify, because the level of their investment in domestic activity is far too low. If they decide that they are through investing in circuses and real estate and various nonenergy related investments, and want to sink money into the ground of the United States to increase domestic production, then I say this is the incentive to get that done, and it coincides with our national energy policy.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I will be happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I am asking this question in order to clarify a dispute in the facts which I have received from the proponents of this amendment and the opponents of the amendment.

I received some information which corroborates what the gentleman from Oklahoma (Mr. JONES) said, and that is that the major oil companies would not generally qualify because their investment is somewhere in the range of 18 to 20 percent, and the threshold is 25 percent. But I have received another sheet of information which says that the investment by major companies is running at 30 percent of gross income and goes as high as 63 percent of gross income.

I was also told that the study called the Chase Group Study indicated that 45 percent was the approximate investment figure, which would qualify them under this amendment.

Mr. JONES of Oklahoma. Mr. Chairman, I would say they are mixing apples and oranges.

Mr. LEVITAS. Mr. Chairman, I wish the gentleman would clarify that.

Mr. JONES of Oklahoma. All I can say in answer to the gentleman is that we get our statistics from the Census Bureau records, which is the same place the administration theoretically got its statistics.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. JONES) has expired.

(On request of Mr. HILLIS and by unanimous consent, Mr. JONES of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I want to commend the gentleman for offering this amendment.

As far as I have seen—of course, I have not heard all the debate, but I have heard practically all of it—this is the only place in the legislation where anything has been offered to increase the supply of energy and energy production. Am I correct in that?

Mr. JONES of Oklahoma. The gentleman is correct. If this amendment is agreed to, this will be the only incentive for increased domestic production of oil in the bill. I recognize that there has been unprecedented pressure placed on a lot of Members.

This morning I was told that some State delegations were asked to adopt the unit rule to oppose this particular amendment. I think that is repugnant, particularly to Democrats, Democrats who, at the 1972 convention and at the 1976 convention which nominated Jimmy Carter, fought against the unit rule and fought for the principle that every representative at those conventions ought to be treated as an individual, as a valued person, and as someone with intelligence.

I think that those kinds of tactics and pressure ought to be resisted.

I would hope that those who have told the gentlewoman from Colorado (Mrs. SCHROEDER) and myself that they have studied the principle would agree that we must do something to increase the domestic supply of oil and will help us in adopting that policy.

We must pass this amendment, and this will be the only item in the whole bill that will have anything to do with providing incentive for increased production.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. JONES of OKLAHOMA. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, the major complaint against this bill all along has been and continues to be that it does not really do anything substantial to increase the exploration and production of oil and gas.

I realize that the gentleman's amendment would not be a major step forward, but it could be considerably helpful, and it would, to some extent, establish a sound principle.

The CHAIRMAN pro tempore (Mr. VOLKMER). The time of the gentleman from Oklahoma (Mr. JONES) has expired.

(On request of Mr. MAHON and by unanimous consent, Mr. JONES of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. MAHON. Mr. Chairman, will the gentleman yield further?

Mr. JONES of Oklahoma. I yield to the gentleman from Texas.

Mr. MAHON. To continue, Mr. Chairman, I think that the gentleman's amendment would show that we are interested in encouraging additional exploration and production.

I rise in strong support of the gentleman's position. I know how diligently he has tried to get something done about this matter through the adoption of this amendment.

Mr. Chairman, I support it. I have appealed to my colleagues to support it, and I hope it will receive favorable consideration.

The gentleman is deserving of credit for trying to do something to increase the domestic supply of oil and gas so urgently required in this country in the coming years.

Mr. JONES of Oklahoma. I thank the chairman.

I would like to try to complete my answer to the gentleman from Georgia (Mr. LEVITAS).

First of all, one chart has been floating around the Chamber that shows the top 20 integrated oil companies produce 67 percent of the old oil in this country, and therefore they are going to get two-thirds of this plowback credit.

The fact of the matter is that this simply is not true. Very few, if any, of the majors will qualify for the threshold. This can be demonstrated by the fact that this amendment's revenue impact is only $82 million, as opposed to the roughly $150 million that it might be if the majors qualified.

As to the other point which the gentleman raised with respect to the threshold level, I can only cite the Census Bureau statistics that show the 5-year average is roughly 18 or 19 percent for integrated companies for the total percentage of their investment which is going into domestic exploration in the qualified investment categories.

However, the figures which I think the gentleman was talking about deal with such things as investment in the Alaskan pipeline, investment in offshore drilling, and several nonrelated energy-producing investments which we do not allow in order to meet the qualification threshold.

That is the difference in those statistics.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

First of all, let me say I am grateful for his response. This Member is very much in doubt as to what he intends to do.

We are not operating under a unit rule in my delegation. It would be a wonderful day if we in Georgia could all agree on anything at any one time, but it might be a good idea just to try it.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma (Mr. JONES) has again expired.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma (Mr. JONES) be allowed to proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. ASHBROOK. Reserving the right to object, Mr. Chairman, even those of us who cannot get 2 minutes recognize that the sponsor of a major amendment should have a little more latitude, but the gentleman has had 12 minutes.

If this is the last request, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. JONES of Oklahoma. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I have two questions I would like to ask the gentleman from Oklahoma (Mr. JONES).

The first is whether the gentleman could tell me if the data he and the gentlewoman from Colorado (Mrs. SCHROEDER) have supplied as to the threshold information is 1970 data or is it current data?

The second question is this, and I think this one lies at the heart of the great concern of many of us: We do want to build in incentives for the production of oil, but I have also been given information which indicates there are great incentives in this legislation by permitting what will be new oil to rise from the present new oil price of something over $11 to the world price of $13.50, not the $2.22 price.

Mr. JONES of Oklahoma. Let me try to answer both of those questions.

In the first place, the data I just gave is a 5-year average for the last 5 years, which were the highest years' production of drilling activity in the last 17. We do not have it broken down, I believe, by years, within this 5-year category, but we are talking about a 5-year average.

In the second place, the administration is absolutely opposed to a new oil definition price. This is what we were talking about in the previous amendment.

The point I have tried to make is the one that the General Accounting Office has argued. They say there is no incentive, but even if you include possible incentives for the world price for new-new oil, the fact is the administration said the composite price would remain the same, so that in 1985, according to the GAO, producers of new oil today will have less capital to invest in 1985 under the administration's program than they will have under existing law.

For that reason the GAO says it is deficient in incentives to meet the goals in the administration's request.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I do want to commend the gentleman from Oklahoma (Mr. JONES) for his persistence in this matter. He did raise the subject matter in the committee. We had quite a number of votes there. In each instance, we tried different alternatives, but we voted down any plowback concept. This particular concept was not presented in the Committee on Ways and Means. But, in looking at it, I find perhaps not as much validity in this particular amendment or this approach as in some of the others that we did look at and consider in the committee.

Aside from lesser objections, such as administrative complications and the tax under the bill applies to 200 or 300 persons in the form of first purchasers, and the amendment would now apply to the producers who are in the thousands or perhaps hundreds of thousands when royalty holders are added in.

I believe the thing we have to look at in this amendment is: What does it apply to? It applies only to old oil. Then we have to look at this only in that respect.

I think there is no question about the statistics that about 15 major oil companies own 67 percent of the old oil. Then if you follow the argument of my friend the gentleman from Oklahoma (Mr. JONES) he would say, but, they own it, but they are not ever going to reach the threshold.

Well, in the first place, if they do not hit the threshold then it is a shocking thing that the major oil companies are not putting more money back into exploration and development. That is about as shocking a statistic as I have ever heard.

But I question that statistic. The statistics that show that pattern are not available. The statement quoted by the gentleman from Oklahoma may include new definitions and criteria that might have come out within the year.

But I venture to say that if you get to defining the kind of expenditures, in tertiary recovery, and all these other types, I think that there is no question but what the major oil companies are up to 25 or 30 percent.

So I think there is no question that this applies to the major oil companies predominantly.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. Not at this time. I will yield later on, or I hope to be able to do so later on.

Mr. Chairman, I think we also have to recognize that the whole theory of this equalization tax is that we set up a rebate to the American people. That is what justifies it and gives it a neutral effect on the economy. The consumers of America are made at least partly whole through the rebates that we have applied to them.

So, to the extent, under this amendment, that you do have a plowback to the oil companies, and I say again to the major oil companies, you are depriving the American consumer, the American citizen, of rebates.

There has been a great deal of argument about incentives—it is an old cliche—that there are no incentives in

this bill. That is the simple truth. Anybody who knows the American marketplace knows that price is the most dynamic incentive we have. There is no question about it. We are giving to the finders of new oil the world price, and what more dynamic incentive can one have than that? On top of that, in this bill we have adopted the Carter recommendation of relieving from the minimum tax the intangible drilling expenses. That is a major incentive. If one does not believe it, he should have been subject to the kind of pressures that we were when the town was full of the independent oil companies, the small producers. They are the people who produce the new oil. Their intangible drilling expense incentive is tremendously significant. That, coupled with price, it seems to me, puts the incentive picture back in proper perspective. We have all the incentives in the world for the oil companies to go out and develop and produce the new oil in this country.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. JONES of Oklahoma, and by unanimous consent, Mr. ULLMAN was allowed to proceed for 1 additional minute.)

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

I want to clarify a few points. Our statistics come from the Census Bureau, and it does take some work to extrapolate these figures. We had to take only those investments which would qualify under this amendment and determine what the majors actually spent in those investment categories. In 1973 the majors put in 20 percent in these categories; in 1974, 19 percent; and in 1975, 22 percent.

With regard to rebate to consumers, if this amendment passes, the consumer will be deprived of 66 cents according to the Joint Committee on Taxation. Sixty-six cents, less than a dollar—for giving this kind of incentive on an annual basis to increase domestic production. And finally, the statement "there are no incentives on oil" was not my statement; that was the statement of the General Accounting Office who studied the administration's program.

Mr. ULLMAN. Let me say again that the best judgment that our Joint Committee on Taxation can possibly come up with is that the majors who own 67 percent of this oil will be the people who benefit from this.

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do not think that there is an amendment that we will consider during this entire energy bill that could do more to undermine the intentions of the National Energy Act than the plowback provisions that are proposed by this amendment.

Let me say to my colleague, the gentleman from Oklahoma, no one has a higher regard for him than I do. I do not know of any State that sought to implement a unit rule on this amendment. I do not think anyone has been seeking to take unfair advantage of our distinguished colleague. A lot of us happen to think he is wrong. He is hard-working, very able, and he has put together a very ingenious amendment which makes it very hard to separate out the apples from the oranges. But as far as I am concerned, he is only wrong, not pernicious.

The figures he has been using to show you where this money will go have, in fact, confused a lot of people; what he has done is to take the census figures and put some things in and take other things out. He has taken out the money spent on offshore drilling expenses—which it is true is a lot of money that the major oil companies spend—but he has put in the second and tertiary drilling expenses which benefit the majors the most. A lot of us happen to think that most of this money will go to the major 15 oil producers.

But whether he is right or we are right as to where it goes, there is no doubt as to from whence it comes. It comes from the consumer. And every penny that this amendment spends, whether it is $80 million as the gentleman from Oklahoma says, or $2 billion as we project down the line, that is the money, the $80 million or $2 billion, that will not go to the consumer. That is rebate money that will be pulled out of the pool, skimmed off the top and it will not go to the consumer even though the consumer is paying it.

We just voted down by overwhelming margins two efforts to tax still further the consumer on the cost of gasoline. The arguments were made that even though the money would go for laudable things like mass transportation and research, it was not right to take that money from the consumer through a regressive tax and give it even to mass transit, which so many of us favor.

I question how many of us can go home and say we taxed our people more on gasoline to give to the oil companies so they could dig more dry holes or even wet holes. I question how generous our consumers will be about that argument.

The gentleman from Oklahoma says it is 66 cents per consumer. Of course we can draw it out and eventually it can sound de minimis. It can be only $2 billion if we stay with this.

The gentleman says it will be for only 1 year. But the first time the depletion allowance was put on the books I understood it was for 1 year. It took a long time to get it off. If anyone thinks this amendment will be taken off after 1 year and that it is only desperately needed for 1977 and 1978 and not for future years, then that one sees this Congress in a different light than I do.

We are being asked to take money from the consumer and give it to the oil companies as a tax break. That is the plan and the equation. Whether it is $80 million or $2 billion and whether it is for the top 15 companies or whether it goes down to some of the mom-and-pop producers, it is wrong and ought not to be done.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I would just like again to confirm that these figures I mentioned, the 66 cents per taxpayer and the $83 million total, are not mine. They are from the Joint Committee on Taxation.

The second point I would like to underline is that if we pass this bill in its form as it is today, what we are doing is going back to our constituents and saying we are increasing their gasoline 7 cents by Government action and we are going to probably give it back to our constituents hoping they will conserve, but we are not doing anything to find any new domestic supplies of oil.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to say to the distinguished gentleman from Illinois, some of us have a different perception of this than he does. He sees the plan of the gentleman from Oklahoma as a very ingenious one. I find his own argument is the ingenious one.

The wellhead tax itself is going to come out of the consumer.

Mr. MIKVA. Absolutely.

Mr. CONABLE. A tiny portion of that as proposed by the gentleman from Oklahoma would go to try to bring about some additional production. What is going to the consumer out of the wellhead tax is a maximum of $22 per person under the rebate plan, and we reduce that by roughly the 6 percent plowback the gentleman proposes. That is what we are taking from the consumer. The wellhead tax itself is taxing much more from him, and giving him nothing in return, certainly not the hope of more domestic energy.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. MIKVA was allowed to proceed for 1 additional minute.)

Mr. MIKVA. Mr. Chairman, the gentleman can say it is smaller and it may be a smaller piece of the salami, but the equation of taking it from the consumer and giving it to the principal oil companies is something I cannot believe this House would adopt.

Three times we had the plowback proposal before the Ways and Means Committee. Three times that distinguished body voted it down. I hope this House is equally wise.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to urge my colleagues to join me in supporting the gentlewoman from Colorado, PAT SCHROEDER, and the gentleman from Oklahoma, JIM JONES, in what is an altogether reasonable amendment.

All this amendment does is return a comparatively small amount of the crude oil tax to producers for a very specific purpose and for a very short time.

I do not think for one moment that this amendment is going to solve all of our energy problems. I do not believe that either PAT SCHROEDER or JIM JONES believe it will do that; but it is a small

step in that direction, a small incentive for increased production.

Heaven knows it is time that we added something to this bill that encourages production. We cannot continue to act in this body as though it is our deliberate policy not to encourage development of future oil supplies.

Let us try some kind of a small return for increased production and see what happens. We are talking about a return of one-half of 1 percent per month for 1 year, and yet we have all this great rush by the administration and the Democratic leadership in this Congress to try to kill this simple amendment. The leadership that supported a 5-cent-a-gallon gasoline tax now opposes as outrageous this one amendment that encourages production.

I believe my friend, the gentleman from Oklahoma, and the gentlewoman from Colorado have done a good job with this amendment. I commend them for it and I hope the House will support it

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, it seems to me as I listen to this debate, and I would like the gentleman to correct me, I am not an expert and I am not on the committee, but if we took this pool for consumer rebate, as domestic production goes down, and as it has, at least as a percentage of our usage of national energy, the pool is going to go down; is that correct?

Mr. EDWARDS of Oklahoma. That is correct, absolutely.

Mr. HILLIS. The amount of salami or the pie, whatever it is, that comes from off-shore is going to go up.

Mr. EDWARDS of Oklahoma. That is correct.

Mr. HILLIS. Who is going to pay for that off-shore oil?

Mr. EDWARDS of Oklahoma. The same person that is paying for everything else we do in this body, the consumer.

Mr. HILLIS. The consumer gets no rebate from the Arabs?

Mr. EDWARDS of Oklahoma. Absolutely not. The Arabs have not yet passed a rebate for our taxpayers.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words. I rise against the amendment.

Mr. Chairman, I want to talk about the mom and pop producers. They do not sell salami and they do not sell fruits. They are pretty big people, some of them. Those of them that would get the greatest advantage are those that hold the greatest proportion of old oil.

Now, who are these people? I know some of them. I know them in Texas. They are the people that made their fortunes a good while ago. They did it when oil drilling was relatively cheap. The people we want to help, if anyone, with this kind of a measure are the people that are heavy in new oil, not the old. There are many persons who inherited oil production who still produce vast quantities of old oil in east Texas and in south Texas. They are complaining, because they are only getting $5.25 for it now; but they drilled those wells when it was profitable to drill them anticipating about $3.25 a barrel and the wells have long ago paid out their drilling costs.

Now, the way this amendment works, this goes to persons only in 1978. Of course, in 1978 only old oil suffers the tax. Therefore, only the persons heavy in old oil get the plowback.

I want to point out a few other things with respect to this point. I have already, I think, demonstrated the fact that exactly the wrong type of people, the ones heavy in old oil, are getting the biggest profits.

The second point is this; that in order to apply this scheme, we must give up the rather simple method of applying the tax to the refiner. There are only about 200 to 300 refineries involved; but what we have to do to apply this amendment is to determine the plowback tax credit based upon particular circumstances of each type of producer regarding qualified investment income from depletable property or off-setting production and other tax benefits. We would have to tax perhaps 10,000 or 12,000 or 20,000 or 100,000 persons at various rates rather than to simply collect the tax from the refiner.

The gentleman from Oklahoma is very sincere about this proposition, and so is the gentleman from Colorado; but before we go into the plowback proposition, we ought to look at what its impact is. We ought to consider exactly how hard it is to collect the money and what the difficulties are involved.

Now, this is an amendment that goes far beyond anything else that the two appropriate committees dealt with in this energy bill. I rather agree with my colleagues from Oklahoma and Louisiana and Texas that we ought to, at some time, look at the whole question of oil price control and oil taxes, but if we got into that question here we could not possibly do it justice. We would not come out with a well reasoned bill, nor would we have considered it within the committtees that have studied the problem the most.

This comes up from Ways and Means, when the committee that has done the most with the plowback question and studied most the price control question has been the Committee on Interstate and Foreign Commerce. Ways and Means would properly be in this field and knows a lot about the practicality of collecting taxes, but when we get into a question like this, we had better consider it in both the committees, and not in a mere amendment that comes up on the floor of this House as this one has done.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I would like to make two points of clarification. First, this is a much more modest version of an amendment that was brought up in Ways and Means which lost by a 20 to 17 vote. This is much more modest.

The second point is that the gentleman complained about the administrative complexities. The amendment allows the Secretary of the Treasury to collect the tax in the same fashion as under the administration bill, but the tax liability would be on the producer. The tax collection could be on that refiner.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. The problem is, though, that in order to determine the amount of the plowback the conduct of each one of the producers must be considered, which would not have to be done under the original bill. I am certain that if producers are, as Mr. JONES argues, putting 25 percent of their gross back into drilling—and indeed my figures show that they put about 40 or 45 percent back—we do not have to give a bonus to make them do it. What are we gaining by giving them some of this money back from earnings on old oil if they are already pumping back 25 percent of their earnings into drilling?

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield.

Mr. HUCKABY. It is my understanding that most of the new oil and new gas that is found today in Oklahoma, Texas, and Louisiana is found by small independents, and not the eight major oil companies.

Mr. ECKHARDT. That is not the point I was making.

Mr. HUCKABY. Is that still true?

Mr. ECKHARDT. Yes, that is true, and that is the reason that the most productive producers are heavier in new oil than in old.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. HUCKABY and by unanimous consent Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. HUCKABY. Have not most of these small independent producers been in business for a number of years? Are they not today producing? Will they not benefit from this? Certainly they will, so it comes to a question——

Mr. ECKHARDT. Will the gentleman permit me to answer his question? The producers that are the most active in the field are, in general, producers that have not been in as long as either the majors or some of the big, old independents. The new producers, the active producers the gentleman is talking about, run into proportions of 50 or 75 percent new oil. The old producers and the ones that would get the greatest benefit out of this plowback are the persons who inherited land, have produced for many years, perhaps for many generations.

Mr. HUCKABY. But nevertheless the fact remains that this money would go to production and exploration of new oil and new gas rather than coming to Washington.

Mr. CONABLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think it is important that the Members understand what we are talking about here so that we can keep our perspective on it. There seems to be an impression abroad in this Chamber that the gentle-

man from Oklahoma is trying to give a magnificent windfall to those people who are in the energy production business, in oil. I think the facts are quite the contrary. It is a much more modest amendment than any considered by the Committee on Ways and Means. It provides for a maximum plowback of 6 percent.

The basic idea of this energy program, as conceived by the President and as embodied in the final ad hoc committee bill, is that, while we are not going to allow any additional return to the oil companies through a higher price for oil, we are going to raise the price for domestic oil to the world market price by an oil equalization tax.

In other words, our producers are going to continue to get the same return on their oil that they have had under the price controls imposed on them. But the consumers are going to be buying the oil at the world price, where before they bought it below the world price. Obviously, that is going to mean that the people are going to be spending a lot more for oil. The theory is that this tax-imposed price hike will result in some conservation.

Conservation is the whole idea back of this bill, and it is the exclusive idea back of this bill. The American people, accepting this bill as an energy program, can have a vision only of increasing scarcity. So many of us have been trying to find some way in which we can give them some assurance that there would be additional efforts made to produce more oil in this country so that they would not have gradually dwindling domestic supplies to deal with.

I have heard it said that the oil industry does not need any additional incentive, that they are making plenty of money now. I do not want to get into that issue. All I know is that we are getting a declining amount of oil now in relation to the amount we are having to import. If we can possibly find some way to get more oil, we ought to do it. This kind of modest plowback, a 6-percent plowback, I think is going to have a marginal impact. But it embodies a principle which I think can give the American people some confidence that Congress is worrying about how we are going to get more domestic supplies and not just how to spread the scarcity.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I endorse what the gentleman is saying, I will ask the gentleman if it is not true at the present time that we are running in our foreign trade account an imbalance of historic proportions.

Mr. CONABLE. Yes.

Mr. DUNCAN of Oregon. If the gentleman will yield further, is it not also true that the value of the dollar is falling against foreign currencies, even against the British pound?

Mr. CONABLE. That has been the case generally in recent times, yes.

Mr. DUNCAN of Oregon. The necessity for this Nation to import foreign oil is one of the largest sources of outflow of our currency into foreign nations. That, it seems to me, from the standpoint of the consumer for whom I think we all have a concern, is going to inevitably result in an increase in prices for all imported products.

Furthermore, I think it is vital to try to maintain the stability of the American dollar in the world market, and I think this is a modest effort in that direction.

Mr. CONABLE. It is a modest effort indeed. I would urge my colleagues not to be carried away with the thought that somehow we are creating a windfall, when we are expecting to produce oil in this country far below the world price, while we are expecting the American people to pay the world price.

Mr. DUNCAN of Oregon. If the gentleman will yield further, I want the Members to know that we are not operating under the unit rule in Oregon either.

Mr. PIKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of this amendment a couple of questions. Before I do, I would like to say that there are some things the gentleman from Oklahoma (Mr. JONES) said with which I agree.

I do not like the fact that we import 43 percent of our oil, and while I am in favor of encouraging conservation first, I am in favor of a little more production also. I would rather see it in alternate sources, though.

Where I have trouble with the gentleman's amendment is in his conclusion that it is going to cause more production of energy.

First of all, I honestly find it hard to believe that the oil companies need more money in order to drill more holes. I do not care whether they are big oil companies or little oil companies. I do not think that they need more money.

As I read the language of the gentleman's amendment, the threshold is 25 percent, and any amount of money that is spent over 25 percent of gross income for these allowed exploration credits would be eligible for their credit; is that correct?

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, that is correct to this extent: Any investment over 25 percent of gross income would make the company eligible for credit. Even as credit, though, they would only get 90 cents on the dollar of the allowable credit. For example, we can assume that they would only have $100 coming back.

Mr. PIKE. Mr. Chairman, the gentleman has answered my question. I do not want him to take all my time.

Let us suppose that today the company is plowing back 50 percent of its gross into drilling new holes and it reduces that to 30 percent. Would the company then still be entitled to the credit under the gentleman's amendment?

Mr. JONES of Oklahoma. I suppose if that were the situation, the company would be entitled to it.

Mr. PIKE. Now the gentleman has answered my question.

I do not see how that generates more oil. If a man is entitled to the credit even while he is reducing the amount of money that he is putting into exploration and drilling, that does not produce any more oil.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, the point is that the people who are eligible and who are qualified for this are spending the money to find new oil. I do not know of any who would reduce their domestic exploration, and I do not know of any who are putting 50 percent in.

Mr. PIKE. But my whole point is that while the gentleman is selling this as something that is going to increase the amount of money that is put into exploration, drilling, and production, the fact is that these people can get this credit even while they decrease the amount of money they are putting into drilling and production.

Mr. JONES of Oklahoma. I do not think that is a practical problem. If it is, however, it is something that can be worked out in conference. I think we need to establish the principle of this here and now.

Mr. PIKE. Mr. Chairman, I will work it out here on my time by voting against the gentleman's amendment.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am coming down to the well for fear of what will happen if I stay up there at the other microphone.

Mr. Chairman, I rise reluctantly in support of the Jones-Schroeder amendment. I say that because while it establishes the principle—and I think that principle is of value—it is not anywhere nearly as good as I think it could be or even as good as the one that was offered in the Committee on Ways and Means by the distinguished gentleman from Louisiana (Mr. WAGGONNER). That called for a 20-percent plowback.

I am under no illusions about what has happened in this Chamber over the last few days. There have been 2 issues about which the President of the United States and the administration have felt most strongly.

The first was that issue that we debated and voted upon yesterday, and that involved the lifting of price controls on new natural gas.

Then, second, we have this amendment, the Jones-Schroeder plowback amendment.

In both cases the adoption of either one or both of these amendments would in fact have reflected a significant change in the position taken by the administration, and it would have reflected a defeat for the administration as to the direction in which it wants this country to go.

Let me refer to the vote that we had not long ago. My friend, the gentleman from Missouri (Mr. BOLLING), said that having gone from 72 to 82, he thought he was making great strides in support of gasoline taxes. But that was a throwaway vote, and let us not kid ourselves

about that. It was an exceedingly good vote from the standpoint of the leadership which wants to keep votes together on all other amendments. The gas tax has been dead from the very beginning. So that vote was a good vote because it gave everybody a chance to vent their spleen.

Excuse me. That is not quite the right way to say that. It gave everybody a chance to be recorded on an issue that was politically sensitive in their own districts. However, when we get to this one, we can tell it is important by the exceedingly ingenious methods by which it is being argued by such gentlemen as the gentleman from Illinois and by our yachtsman, the gentleman from New York (Mr. PIKE). They can quibble about little details here and there and ask, Does it go up or down and what if it is 50 percent and goes to 35 percent?

I really do not have much confidence in the arguments they are making against the amendment because I think the amendment is exceedingly well drawn, and I know of no oil company that is at the 50 percent level.

Therefore, I do not think the Pike bogeyman will ever come to pass; but if it were to come to pass, I am sure the distinguished Senator from Louisiana in the other body would be able to deal with just that problem.

Mr. Chairman, what we are really dealing with here is a reasonably fundamental choice that the House is going to have as to whether or not to simply continue to have the American consumer pay at the world price and get absolutely nothing back for it, or whether to give the American consumer some opportunity for some reasonable additional production from American industry.

That is what the choice is, Mr. Chairman. That is what the argument is all about.

I think the gentleman from Oklahoma (Mr. JONES) has done an exceedingly good job in offering to us the chance to take a step in the right direction, and that is a modification of the President's program which is a basic improvement in strategy, tactics, and direction.

Mr. Chairman, I urge that the amendment be adopted.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is a most curious one. It might fairly be denominated as the amendment which will encourage reinvestment of oil profits by massive oil companies in circuses and London newspapers and massive housing developments, firms in the Fortune top 500 like Marcor Corp. and investments of that kind.

Mr. Chairman, why is this amendment a bad amendment? First of all, studies by Chase show that major oil companies are presently investing about 45 percent of their gross income from oil and natural gas production in new exploration and development.

The amendment only requires that a threshold of 25 percent of income be invested in new exploration to qualify for the credit. So it requires no increased investment by the major oil companies to qualify for the generous benefits of the amendment.

Who will be the principal beneficiaries? Because of the way the equalization tax is written, the amendment does not benefit the little independent. It is the major oil companies who benefit from the amendment. Why? Because the major oil companies own approximately 67 percent of the old oil now priced at $5.50 per barrel and they are fortunate individuals who would receive a 6-percent credit the first year and 12-percent credit the second year and God knows what size credit the third year if the Congress, in its wisdom, is foolish enough to extend this program beyond the first year.

Let us look at the situation in the industry to determine whether this amendment is needed. The situation in the industry is that every drilling rig that can be working is out drilling. They are drilling like crazy for oil and gas.

The beneficiaries of this amendment are the major oil companies who have the low-cost old oil, the $5.50 oil, not the independents who have the new oil.

That tax levied against this oil of about $3.50 per barrel will obtain not this year only, but next year, too. It will be at least 2 years before the new oil now going for around $11.28 will be taxed and the reinvestment credit will become available to these independents. These independents, who find most of the oil and gas in the country, will only then be able to begin to get aboard this gravy train and to enjoy the bonanza we are now giving the majors.

Let us not weep too much for the majors. Although their profits are down a little bit this year over last year, they continue to enjoy the highest profits in their history; this is an industry which has rivaled Midas insofar as its success in coining money is concerned.

The consequences of this amendment will be no new drilling activity because the drilling rigs are already all out drilling to beat all get out.

There will only be more benefits for the big boys for doing nothing.

The price of new-new oil is increased under the President's national energy plan as an incentive, which will benefit not just the giants of the industry but which will also benefit the little independents. Adoption of this amendment will probably cause such new oil price to be reconsidered under the Energy Policy and Conservation Act by Mr. Schlesinger and the administration to ascertain whether that same level of price should be allowed to the select group of giants of the industry, the Chase Manhattan companies, the 29 that would receive this monstrous advantage in higher profits on old oil.

We would not be giving an incentive to the little independents but a windfall to the majors. We would not be encouraging investment in new oil. What we would be doing is making the fat fatter.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Of course I yield to the gentleman from Oklahoma, the author of the amendment.

Mr. JONES of Oklahoma. Mr. Chairman, if I were to use a pun I could say that I would not like to plough some of the ground that has been covered.

Mr. DINGELL. The gentleman could not do so because he knows full well I am correct.

Mr. JONES of Oklahoma. But I would like to point out two things and the first is that at the present time there are 200 idle rigs in this country. The second point is the argument about Chase Manhattan's study and the 45 percent, which was made. Just before this debate began, I called Chase Manhattan and they say they have no such breakdown of that nature or report of that nature.

Mr. DINGELL. Two hundred rigs could be idle just in moving them from one drill site to another or in performing essential maintenance.

The gentleman may have made the phone call, but the hard fact is that drilling activity is near the highest level in history and nearly every available rig is being utilized today.

With respect to another aspect of this tax, the Ways and Means Committee noted the hardships small refiners might experience by loss of the small refiner bias by reason of the crude oil equalization tax. The committee therefore provided for a study of the issue to be completed within 90 days of enactment of the act. The committee report expressed the hope that the administration and the Commerce Committee, which has jurdiction of the entitlements program, would evaluate the possible hardships small refiners might experience during the 90-day period of study and initiate whatever action might be necessary and appropriate. The Ways and Means Committee, therefore, recognized that the FEA Administrator should not be denied the necessary discretion to determine what programs are needed to preserve the competitive viability of the small refiners during this interim period.

The FEA Administrator has, under existing law, the authority to make compensating adjustments to the entitlements program. In rejecting an amendment which would have required adjustments for an indeterminate period, and without regard to the outcome of the study, the ad hoc committee did not intend that the Administrator should not evaluate the possible hardships of the crude oil equalization tax on small refiners and take appropriate action under existing law, after affording interested persons an opportunity to comment on the issue, to maintain the competitive viability of small refiners. In conclusion, the objectives of the Emergency Petroleum Allocation Act of 1973 are intended to govern the actions of the FEA Administrator with respect to assuring preservation of the competitive viability of small refiners during this period of study.

Mr. Chairman, with respect to title I of this legislation, questions have been raised regarding the committee's intention.

Specifically, section 416 subjects SNG facilities to the jurisdiction of the Federal Power Commission under the Natural Gas Act. Concern has been ex-

pressed that this section may encourage production of synthetic natural gas from liquid hydrocarbon feedstocks. In that case the section might actually run counter to our objective of reducing our Nation's reliance on imported petroleum.

The gentleman from Connecticut (Mr. MOFFETT) has discussed this issue with me. The gentleman has inquired whether it was the intent of the committee to encourage development of new, liquid-based SNG plants.

I commend the gentleman for his perception in recognizing the apparent conflict between encouraging expanded SNG development and reducing petroleum imports.

The answer to the gentleman's inquiry is that the FPC, in administering this program, is expected to balance these competing objectives.

In considering whether to grant a certificate of public convenience and necessity to liquid-based SNG plants the FPC must take into account factors other than just the need for such SNG facilities. Specifically, the Commission should consider alternative uses of the raw materials used for producing SNG; the impact of diversions of scarce liquid hydrocarbons away from high priority users, such as residences, farmers, and petrochemical producers, to SNG plants; whether such SNG plants increase our vulnerability to and reliance on foreign sources for petroleum and petroleum products; the cost to the economy of high priced SNG rolled into the rate base of gas pipelines; and whether or not liquid-based SNG is the highest and best use of scarce liquid hydrocarbons. In summary, the Commission should consider these and many other factors before granting such a certificate, and should issue such a certificate when the Commission determines that it would be in the public interest to do so.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the floor to speak to the Members and to say that I have heard some of them call me different names, such as here comes the "Voice of Oil." Representing oil is a role that I must say that I have not been accustomed to taking.

I would also point out that it appears that this debate that we are having now and that we have had for the last 2 weeks is developing into a morality play where you have the good guys and the bad guys. Everybody knows that I have been nicknamed "Plowback PATTY," and "Sell-out SCHROEDER." I have also heard the remarks around here that my husband has lots of oil companies for his clients. Let me say that my husband is listed in the phone book, and he will be glad to answer your calls and show you that he has no oil clients.

I believe that I must confess about the oil companies and disclose every gift I have received from them, so I will tell you about all of the gifts that I have ever gotten from the oil industry: one was a corsage with two carnations; another two 7-Up's, one which had a marachino cherry in it which I did not drink, because marachino cherries have red dye No. 2 in them; and the other was a birthday card. From the consumers, I have received $17.35 worth of nickels for the Consumer Protection Agency.

But, let me tell you why I am here. I am here because I think the debate we are having is becoming a morality play, and we are having a great time between the bad guys and the good guys. But let us look at the international fishbowl, because I am one of those people who believes one of the greatest problems we have in this country is that we send the Arabs who sell us the oil to the Harvard Business School where they learn our business ways. Maybe we should stop doing this. Perhaps then they will not do as well as they seem to be doing. In any event, I believe it depends on which fishbowl you are talking about.

I do know that all of the oil drilling rigs are not up and drilling. I do not know a whole lot about oil, but I know that I can tell when a rig is up or down around my district, and there are many rigs that are down because the costs have risen incredibly.

One of the side effects of this amendment has been that since the beginning of the week I have never seen such lobbying activities in my life. Blue Cross is going to have to raise our group rates if the arm-twisting does not slow down a little bit.

Let me just answer some of the things I have heard being talked about. If old oil gets the benefits of this—and you are right; they might—they get it only as they are putting money back in the ground. Why do I get so concerned about this area? First of all, we should not even use the word "production." It is the wrong word. If we are using the word "production," we are misconstruing the whole area. We do not produce it. It comes out; it is gone. It is not like it is on a line forever. So we should not use the word "production."

The next thing is that with almost any kind of investment you make in America, if the bottom falls out of it you may lose 50 cents on the dollar. If you drive a drilling hole to zero you have nothing, but someone says, "Aha! they can deduct all of those costs." That is true, but you have got to have income to make deductions count for anything. How many of you are plowing back 25 percent of your income into your office? I doubt if many are.

What we are trying to say is we need some incentives for these people to keep gambling. They are gambling to kingdom come. The majors have done a very brilliant thing. They are drilling abroad because it is cheaper to drill abroad. They are much more apt to hit a flowing hole abroad. They are also able to get a foreign investment tax credit, which is one of the wonderful things they have. Why do we not have the same kind of equity for domestic drillers?

There are some good things in the energy bill, but we still are not treating our domestic drillers equitably. I think there is irony in this situation.

As I sat through the Agriculture Act debate not too long ago, I heard how important it is to have a domestic sugar industry so we would not be subject to foreign whims. I cannot believe that this Congress thinks it is more important to have a domestic sugar industry than it is to have a strong domestic energy industry.

This amendment is probably not perfect, but this amendment certainly does give some message to domestic producers that we as a Congress care.

The CHAIRMAN. The time of the gentlewoman has expired.

(At the request of Mr. MAGUIRE, and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentlewoman for yielding.

I wonder if the gentlewoman is aware, and I think she is, that the industry's capital and exploration budget for this year is more than three times what it was just 4 years ago. It is in the range of $30 billion a year now, whereas it was $9 billion in 1973. All the indications are that even under existing prices—never mind the prices that will be in effect in future years under the Carter program—the trend for plowing back capital into exploration and drilling is going right up through the ceiling now. Is the gentlewoman aware of that?

Mrs. SCHROEDER. The gentle lady is aware that the 5-year average was 26 percent. I doubt if increasing the threshold would do any good—anyone who is complaining about the threshold of 25 percent still probably would not vote for plow-backs if it went to 50 percent. Yes, it is increasing, and let me tell you why. These are environmentalists' figures I think the gentleman would agree with. In the petroleum industry today, for every employee in the field a capital investment of $109,000 is required. In general manufacturing, for every employee a capital investment of $19,500 is required. Once again, to treat oil production the same as regular production is not quite fair, because it does require a phenomenal capital investment.

Mr. MAGUIRE. I have a second question if the gentlewoman will yield further. Is she aware that the margin of return on a barrel of new oil produced domestically in the United States is several times the margin of return on a barrel of oil imported from abroad, given the changing profile of taxes and payments that are now required in the Middle East for every barrel of oil? Is the gentlewoman aware of that?

Mrs. SCHROEDER. I am also aware that the profits are much higher in the Middle East than they are here.

Mr. MAGUIRE. To whom? To our companies?

Mrs. SCHROEDER. I am not protecting our companies in Saudi Arabia.

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

(On request of Mr. CONABLE, and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mr. CONABLE. Mr. Chairman, if the gentlewoman will yield, I wonder if our

colleague would care to speculate about why some of our oil companies are going into other businesses like Barnum and Bailey and Montgomery Ward. I wonder if she would comment on the profitability of oil and whether they were really looking for a lower return on their investment than they could get in oil? Possibly they fear the future profitability of the oil business?

Mrs. SCHROEDER. I think they were looking for something which would give them a safer return.

They have got to have the money to buy the rigs, but once they have flowing oil the temptation to put the profits into real estate or something else must be very great.

Mr. CONABLE. I think it must be very great. The whole purpose of this bill should be to try to get some reinvestment in energy and not in real estate or other nonenergy businesses. If we continue to follow the course we are, we will find our oil investors deciding to invest their money in circuses or in retail trades. That is something we want to avoid.

Mrs. SCHROEDER. Mr. Chairman, I would like to say a few more words on behalf of the Schroeder-Jones amendment. Since there seems to be some misunderstanding of the amendment, I would like to outline its provisions and try to clear up some of the controversy.

First, the amendment would permit producers to earn back a small portion of the crude oil equalization tax they will pay during 1978 if they make additional investments in the exploration and production of oil and gas. The portion of the tax which would be earned would be one-half percent in the first month of 1978, increasing one-half percent each month thereafter. The percentage would be 6 percent in December of 1978.

Despite the small plowback percentage, critics of the amendment have claimed that the plowback will be too costly. To quote from a "Dear Colleague" letter that was circulated by opponents of the amendment:

> It starts small; $80 million in the first year. But hold on. In 1980, the plowback formula would siphon almost $2 billion from consumers to the oil companies.

It seems that the amendment's critics failed to read its provisions carefully. Not only does the plowback start small, it ends small. Our proposal would run for 1978 only. Wild charges that our proposal is going to cost the consumer $2 billion in 1980 are therefore false and misleading.

Second, before producers could qualify for the plowback, they would first have to invest at least 25 percent of their gross production income in exploration and production activities. Once this threshold is reached, they could earn a credit against the equalization tax equal to 90 percent of their future expenditures. In other words, 90 cents on the dollar for qualified expenditures above the threshold level would be eligible for the credit. Moreover, by providing only a 90-percent credit, producers must risk some of their own money without being eligible for any plowback credit.

This 25-percent threshold corresponds to historic spending trends among producers and insures that they will spend the normal amount of their own funds in exploration and production before they are eligible for the credit. If producers do not spend additional money to increase crude oil or natural gas supplies, they will not get a credit.

The amendment's critics, however, are claiming that most of the benefits would flow to the large oil companies and royalty holders. They say that FEA figures show that the 20 largest oil companies produce 67 percent of our "old oil," which is subject to the crude oil equalization tax. The claim is then made that the major oil companies would reap about two-thirds of the benefits from plowback, the two-thirds corresponding to their 67 percent "old oil" production figure. However, they fail to mention one important factor: most of the major oil companies do not presently qualify for a plowback credit, because their investments in production and exploration activities are below the 25-percent threshold level. The oil majors typically reinvest roughly 18 to 20 percent of their gross income in exploration and production activities. Therefore, unless the majors dramatically increase their exploration and production activities, they will not qualify for the plowback credit. If they do qualify, they will have significantly increased their investments in exploration and production activities, which is the express purpose of the legislation.

Also, cries that the 25-percent threshold is too low are being heard. Figures from every source imaginable are being tossed out. According to some FEA figures that are being bandied about, the independents are supposedly reinvesting as much of 70 percent of their gross income in exploration and production and the majors over 30 percent. The problem here is that it is another case of trying to compare apples and oranges. The FEA figures are based on total expenditures, not on the narrow defined qualified investment categories in our proposal. Our proposal excludes offshore lease acquisition costs, severance and ad valorem taxes, overhead, operating and lifting costs from the qualified categories. The FEA figures, on the other hand, include all of these items in their figures.

In other words, we are simply not talking about the same thing. As stated previously, the 25-percent figure corresponds to historic spending trends among producers—the rounded industry average for the last 5 years is 26 percent. Moreover, it only stands to reason that, in order to have an average, some producers have to be above the threshold and some below it. Therefore, since most of the majors are below the threshold, many of the independents have to be somewhat higher than 25 percent. But, to be fair to all segments of the industry, the industrywide average is the figure that should be used.

Third, another argument along the same lines is that the plowback will help the big oil companies get bigger and that it is unfair to new companies or companies just trying to enter the industry. But the plowback credit would exist for old and new companies alike—anyone who wants to invest more than the industry average in exploration and production would be eligible. Moreover, it is typically the smaller firms which fall into this category.

Fourth, the plowback is being labeled an "administrative nightmare." The argument is made that instead of the Internal Revenue Service—IRS—having to deal with 300 refiners, it will have to deal with 16,000 oil producers. The fact is overlooked that these firms are already filing tax returns and are already being taxed in numerous ways by the Federal Government. Why "administrative nightmares" would result is a little hard to fathom.

Fifth, critics claim that plowback is not needed to encourage more oil production and that drilling activity is at a 17-year high. They fail to mention, however, that oil imports are at an all-time high despite conservation efforts—between 1957 and 1976 imports have more than quadrupled—and that demand has more than doubled in the past 17 years. What this means is that we need to increase both our conservation efforts and domestic production—conservation alone just is not going to get the job done.

Sixth, our proposal is supposed to be a "rip-off" of the consumer, because it will supposedly transfer funds from the pocketbooks of consumers to the coffers of the oil and gas companies, fail to increase oil and gas production, and be a "mockery" of efforts to encourage conservation by taxation and to refund these tax revenues to consumers. This claim is faulty on several counts:

Our amendment would plow back approximately $80 million of the more than $4.4 billion to be collected in crude oil equalization tax revenues. That is less than 2¼ percent. Moreover, the plowback would decrease the rebate of each eligible taxpayer from crude oil equalization tax revenues by about 66 cents a person—hardly a "rip-off" of the consumer.

A producer would not earn a plowback credit unless he first sinks 25 percent of his own money into exploration and production activities and then continues these activities and surpasses the industry average. The sole purpose of our amendment is to further incentives to find and produce new sources of oil and natural gas, which means enough energy to go around in the years ahead. I can think of nothing more anti-consumer than closing down factories, schools, and businesses like we did last winter because we did not have enough energy to go around.

Calling efforts to increase domestic energy supplies a "mockery" of efforts to encourage energy conservation refutes basic economics. Both are needed if we are to solve our energy crisis.

Seventh, to pursue the anticonsumer argument a step further, I think it is sheer madness to make the American consumer depend on unreliable foreign energy sources when it is possible to sig-

nificantly increase our domestic production. By increasing the incentive for domestic production and exploration, we would be helping to insure that Americans will not have to rely on unpredictable foreign sources whose prices are continually rising, risk future oil embargoes, or play the odds that another war in the Middle East would not interrupt our oil supply.

A July 25, 1977, GAO evaluation of the national energy plan states that the plan will fall short of its goals of reducing imports to 6 million barrels of oil a day in 1985. The GAO estimates a 4.3 million barrel a day shortfall, which would increase from 43 to 47 percent our dependence on imported oil.

The GAO report goes on to say that the administration expects to increase oil production by 0.1 million barrels a day over what would otherwise be expected in 1985 by proposed specifications covering oil pricing, oil taxes, natural gas pricing, and other measures. However, the GAO questions the likelihood of this increased production and states that producers' revenues and presumably capital available for exploration and production will be less under the administration's plan than under a continuation of current policy. To quote from the GAO report:

Detailed Administration estimates show that there is essentially no change in crude oil or shade oil, but that an increase in natural gas liquids accounts for the overall increase. Because crude oil prices in 1985 are no higher than under existing policy for newly discovered oil, it is not surprising that the Administration expects no increase in supply, except for natural gas liquids. However, the Administration estimates no less production of oil, new, and already discovered Alaskan oil by 1985 even though prices for these categories will be lower under the plan than under existing policy. It is possible that lower prices for old, new, and already discovered Alaskan oil will reduce production in these categories. If so, the Plan could result in less production than under a continuation of current policy.

By 1985, the Plan will result in lower prices for old, new, already discovered Alaskan, and natural gas liquids and no change in other categories. [Old oil will decrease by $1.15 a barrel by 1985 under the Administration's Plan, new oil by $2.22 a barrel, Alaskan gas by $2.22 a barrel, and natural gas liquids by $1.87 a barrel]. The result of these changes is that no category of oil will command a higher price under the Plan than under existing policy. Hence, there is no additional financial motive for producers to increase their exploration and development activities. Moreover, according to an Administration estimate, lower prices for most of the oil to be produced between now and 1985 will cut producers' revenues by 1985 by almost $13 billion (in 1977 dollars), relative to a continuation of existing policy.

This, in turn, will presumably reduce their profits and ability to attract new capital to finance additional exploration. Therefore, the Plan not only keeps incentives for new production at current levels, but potentially reduces producers' financial ability to increase their efforts to produce more oil.

The GAO's report could not be any clearer. And yet, many choose to ignore its words.

The Office of Technology Assessment in a June 1977 prepublication draft analysis of the national energy plan also raises serious questions as to whether the plan's goals can be reached:

There is no serious question as to whether resources are available to meet the goals of the National Energy Plan. There is, however, a serious question about whether new oil and gas can be discovered early enough to reverse the trend in domestic production, which is a key element of the Plan.

Oil production from existing fields containing the known reserves will drop significantly by 1985. This means that enough new reserves must be discovered and developed in the Plan period to make up the difference between production from known reserves and the Plan's production goals. The rate of discovery of new reserves of oil and gas during the period of the Plan must be two to three times the rate of discovery between 1965 and 1975. If domestic supplies do not rise to about the levels anticipated in the Plan in 1985, the U.S. would be forced to increase oil imports or reduce oil and gas demand through more stringent conservation measures.

As for oil and gas pricing, OTA states:

The price and tax provisions in the Plan would increase incentives for new oil and gas production and for tertiary oil recovery. These are offset to some extent by continued price controls on all oil and by new price controls on intrastate gas. [But] the crucial question is not whether incentives are increased, but whether they are increased enough to stimulate production of about 6 million barrels a day of new oil and gas equivalent on which the Plan relies heavily to achieve its goal of reducing imports to 6 million or 7 million barrels a day in 1985."

OTA concludes:

It is not possible to judge at this point whether the Plan's pricing policies will sustain a flow of capital adequate for the required exploration and development [and], for that reason, it seems prudent to devise some procedure as part of the Plan ensuring that the pricing policy will support an adequate exploration and production effort.

OTA even goes so far as to suggest decontrol, with a tax on excess or "windfall" profits, and a plowback provision as an alternative to the plan's proposal for continued controls.

The statements by the GAO and OTA draw the same conclusions: First, means must be sought to support an adequate exploration and production effort and increase our domestic supply, and second, there are serious doubts as to whether the administration's plan provides the incentive necessary to increase our domestic supply. I am, therefore, asking for your support of our amendment. It is a reasonable means of encouraging increased exploration and production efforts and increasing our domestic supply.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

I had not expected to speak on this bill; but I have so many reports from instant experts about the oil business that I think I might throw in a little information.

The east Texas oil field alone is comprised of 26,000 oil wells. Better than 13,000 of those are in my district, so I know a little about the oil business.

We talk about fairness and equity. Most of you are talking about the major oil companies, the big oil companies. You are assuming all oil belongs to the oil companies. That simply is not so. One out of every eight barrels of oil produced and you can ask anybody that knows anything about the oil business belongs to the landowner or the royalty owner. It belongs to the landowner if he has not sold his royalty.

Talk about fairness, let us talk about the east Texas oil fields. It was a poor area of the country that happened to be above a tremendous oil pool. They are selling their oil because of the price we have established at $5.50 a barrel. The oil is worth on today's world market $13 a barrel. Now, that is exactly the same as passing a law saying, "You have got to sell all your $20 bills for $10." It is worth $13 or $14, but we say they have got to sell it for $5.50.

Now, that little landowner is deprived without due process of the difference between $5.50 and what his oil is worth. So before we get so all-fired religious about what the oil business is all about, go down and see how it really works. Talk to somebody that knows, whether they are on my side or not, talk to the gentleman from Texas (Mr. ECKHARDT). The gentleman is an expert and he knows what I am saying is true.

But remember 12½ percent of that oil belongs to the landowner, or the royalty owner. He may have 3 acres or 10 acres or 5,000 acres. I will tell you, he is not getting what his oil is worth.

Mr. TUCKER. Mr. Chairman, I move to strike the last word.

I would like to ask the authors of this amendment, Mr. JONES and Mrs. SCHROEDER, a couple of questions about it.

I understand first that this will involve collecting the equalization tax from some 16,000 producers rather than from the relatively small number of refiners that were involved in the Ways and Means bill.

Mr. JONES of Oklahoma. If the gentleman will yield, that is not necessarily true. It says that the liability for the tax is on the producer, 16,000 or however many there are that come into the producing field, but that we give full discretion to the Secretary to determine the best way and the most administratively proper way to collect it. We give him full rein to collect it in the same fashion as it is being collected under the administration proposal.

Mrs. SCHROEDER. If the gentleman will yield further, I think the other point is to say that this is too bureaucratic, because it is even going to be worse dropping it at the other end.

Mr. TUCKER. I am not sure that is the case, for two reasons. One, in the Ways and Means Committee we had some detailed discussion of collection procedures from the refiners. It did not appear to be particularly difficult. Collecting from producers will be quite complicated. In connection with that, I have

a very deep concern about what happens to propane users. We adopted a provision in the Ways and Means Committee to make sure propane users do not have an extra price passed to them as a result of this tax.

Mr. JONES of Oklahoma. It is the intention of the authors to change in no way what we did in the committee with reference to propane users.

Mr. TUCKER. I fail to see in the gentleman's amendment how he is going to be able to take care of propane users, because I do not think he can identify the oil going into propane production if he places the tax on at the producer level.

On page 77 of the amendments that were sent out, we find the term "qualified investment." I understand the objective of this bill is to provide incentives for the exploration and development of new oil, is that correct?

Mr. JONES of Oklahoma. That is correct.

Mr. TUCKER. Is it true, on page 77, line 15, of the amendment proposals that intangible drilling and development costs, which would be a qualified investment, would include the wages and salaries and fuel paid out and expended on existing wells?

Mr. JONES of Oklahoma. It would include what is considered in intangibles; that is, drilling rigs, drilling fluids, labor costs.

Mr. TUCKER. On existing wells.

Mr. JONES of Oklahoma. Not for new exploration, no.

Mr. TUCKER. But it would be a qualified investment. It is not limited to new exploration?

Mr. JONES of Oklahoma. They get the credit for new exploration. It would be limited to new exploration to reach the threshold.

Mr. TUCKER. These qualified investments will help them reach the threshold.

Mr. JONES of Oklahoma. That is right.

Mr. TUCKER. So if an oil company purchases a new airplane, which would be a depreciable asset used for the exploration of oil, that is going to help them go toward the threshold?

Mr. JONES of Oklahoma. That is not correct.

Mr. TUCKER. That is not a qualified investment?

Mr. JONES of Oklahoma. It is not a qualified investment.

Mr. TUCKER. Line 21 says, any depreciable asset used for the exploration of oil. An airplane is a depreciable asset.

Mr. JONES of Oklahoma. If the gentleman is interested in legislative history, the answer is that it is not a qualified investment.

Mr. TUCKER. Does the gentleman stand on that answer?

Mr. JONES of Oklahoma. If the gentleman wants to go ahead and phrase it again, if I understood his question, they purchase an airplane to fly people down to the site or something like that, would that qualify—that answer to that is no. If they are using an airplane for the purpose of seismographic work, things such as that, they would qualify to that extent.

Mr. TUCKER. It becomes a debate as to what the use of the airplane is for, then.

It has been directly related to what is outlined here.

On line 24, the gentleman says "any pipeline" used for gathering oil and natural gas from fields.

That would be gathering lines and pipelines from those wells which have already been discovered but perhaps have not had gathering lines extended to them at this point; is that correct?

Mr. JONES of Oklahoma. I believe that is correct.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. TUCKER) has expired.

(By unanimous consent, Mr. TUCKER was allowed to proceed for 1 additional minute.)

Mr. TUCKER. So the conclusion that I read is that, in reaching the threshold, there is no limitation on the qualified investments, that those qualified investments must be expenditures for new oil, but, rather, it covers the whole gamut of expenditures made by big oil companies for old oil, as well.

Mr. JONES of Oklahoma. No, I do not believe that is correct.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman is raising another question that I think is of interest, and that is: Suppose a company has 75,000 barrels of old oil per year, 25,000 barrels of new. Another company is just the reverse, 75,000 of new and 25,000 of old.

It seems to me that the last company is the one that has been going out to get oil, but they are only going to be drawing this credit on one-third the amount that the lazy, lackadaisical company with a large amount of old oil draws.

Mr. TUCKER. As I read the amendment, there is no limitation that these investments be made on new oil in order to qualify.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the facts and figures fly back and forth and the arguments are made by the proponents and by the opponents, I think it is sometimes useful to go for source material, to what one would think would be a source on the other side of the issue, and see what they have to say on the subject.

Forbes magazine, one of the most well known business publications in the United States—its nickname is "Capitalist Tool"—wrote recently about the incentives that are presently available and that will be available to the oil industry under the Carter program. Reprints of this are available at the desk, but let me hit some of the highlights.

The article describes the "hefty" and "powerful" incentives that the President's pricing proposal grants for oil exploration.

The article tells how oil men privately concede these incentives. It reveals that:

> There is more drilling going on in the United States today than any time in almost 20 years.

It shows that the industry's capital and exploration budget for this year runs to $30 billion, compared to $9 billion in 1973. Expert industry analysts estimate that greater proportions of rising oil company revenues will be plowed back into drilling, not just this year, not just next year, but out to and through 1990.

Somebody over here who was supporting the amendment said a few moments ago that by 1985 there would be problems. The facts do not bear this out. Plowbacks are projected to continue to increase, proportionally, through 1990.

The article from Forbes further describes the attractiveness of drilling in the United States as "geographically second only to the Persian Gulf, and politically there is no place as attractive."

I would just interject, parenthetically, that it is amazing to me how many lives yet another special tax break for the oil companies seems to have in this Chamber. It does not matter whether we beat plowback one time or six times. It somehow always comes back to us.

It does not matter if we move way up from the average price of oil of $3, which it was in 1973.

It does not matter if we move way past the $4.65 price that all of the companies told us in 1973 would be the price they need to allow them to bring all of the oil out of the ground.

It does not matter if we go to $11.28 for new oil, which makes new oil in this country the most lucrative investment anybody has seen in the oil and gas industry anywhere in the world.

It does not matter that we eliminate the minimum tax provision; it does not matter that we have a 10-percent escalator every year that takes new and old oil and the composite up through the present ceilings; it does not matter that we have new new oil which will not have to pay a crude oil equalization tax in the future. The incentive price for that new new oil will be the world price of $13.50 and it can continue to escalate beyond that.

Yet, we still have, in spite of all this history of generosity, more proposals for more plowbacks.

I do not know how many people believe James Schlesinger when he speaks, but I would assume he would be on the safe side in statements relative to the economic viability of the oil industry in this country. Mr. Schlesinger has said:

> The oil companies can make more money in the U.S. than anywhere else in the world.

That is true at the current price, never mind the price that will be in effect after the Carter program goes into effect. In short, the companies are plowing back and will be plowing back so much under current prices that they do not need any additional plowback.

This is why I believe the Jones-Schroeder amendment should be defeated. The consumer argument others have made eloquently. The problems we will have with the other body if we give them anything to run with over there by way of a plowback are well known to our Members. But the major argument is that plowback credit is not necessary.

Mr. Chairman, on the economic merits of the case, there is no justification whatsoever for this proposal.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, while we are debating this amendment and playing this wonderful tennis match, with the ball going back and forth, from one court to another let me quote from the GAO report of July 25, 1977, which says that by 1985 under the administration plan we are passing the oil industry will be down in revenues by $13 billion in the U.S. oil and gas industry.

The CHAIRMAN pro tempore. (Mr. EVANS of Colorado). The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, in answer to the statement of the gentlewoman from Colorado, the point I was making at the beginning of my comments is that everybody will have all sorts of figures on every aspect of this thing.

But what we do in the end is we go to the other side to get the figures that are most reliable, the figures at the bottom line. If we want figures on the profits that are being made in the oil industry, we probably should not go to ANDY MAGUIRE'S office in the Longworth House Office Building, but we go to one of the major investment houses in New York to track the oil and gas industry.

If you want information as to what the margin of profit is on a barrel of oil produced in this country versus a barrel of oil that is produced abroad, if we want to find out what is actually being done in terms of drilling activitly, in terms of performance in the stock market, or in terms of drilling activity, in terms of ments, not only as an absolute amount but as a percentage on returns, we go to the data of the oil industry itself and we go to the analytical experts who look carefully at that data from the industry point of view.

I do not know what the GAO report is based on, but I would suggest to the gentlewoman, in line with the facts given by the gentleman from Michigan (Mr. DINGELL) and alluded to by the gentleman from Illinois (Mr. MIKVA), that there is not a Member of this body who does not know about the economic boom in the oil and related industries that we have had and that we will continue to have without the adoption of this amendment.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, I would point out that the GAO report is a 17-page report, and the gentleman is talking about a 1-page article.

The other problems we have had are with inflation. Inflation has gone mad in this whole area of the oil industry, as it has in many other areas. It has impacted heavily on the oil industry because there is a much higher investment per person in it.

Mr. MAGUIRE. Mr. Chairman, let me ask the gentlewoman, does the GAO report suggest that we need a plowback?

Mrs. SCHROEDER. The GAO report does not talk about a plowback. It only says the domestic oil industry will lose $13 billion in revenue in the industry by the year 1985 by our pricing program in this bill and with inflation they really will be squeezed.

Mr. MOFFETT. Mr. Chairman, if the gentleman will yield, let me ask this question: How much of that inflation has come from higher oil prices? That is the question.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman and Members of the House, I remember that a couple of years ago we were here in this same Chamber debating the wisdom of an energy bill. At that point the same arguments were being made that are being made now to the effect that there was plenty of oil and gas, that there was no relationship of price to exploration and production, and that we need not worry about the problem of cost because through conservation we could reduce demand. Regulation was the cry then and still is.

Thank God that bill was never signed into law because almost everything we proposed turned out to be wrong. Every estimate we made was in error.

First of all, I offered plowback amendments in committee with three different formulas, and they failed. My amendments would have required a greater plowback than is asked for by this amendment. This amendment asks very little.

Mr. Chairman, let me explode the idea that the gentleman from Ohio (Mr. VANIK) and some others have tried to impart that we are providing for a double credit, because that absolutely is not so.

Mr. Chairman, it is not primarily intended for these people against whom there seems to be so much animosity, for those who are classified as the "majors" in the oil and gas business. They are not the people who really do the exploration. It is intended to provide encouragement and incentive to the independent people in the business.

Mr. Chairman, many people have the wrong impression, plenty of people go broke in this business. They wear patches on their pants and they are on welfare because they gambled and lost.

Occasionally somebody makes it, and then people get jealous of them; but thank God they do because they provide for Americans more energy at a cheaper price than anybody else anywhere on the face of this earth is privileged to enjoy.

To get this miniscule plowback that the Jones-Schroeder amendment suggests, they have to give up an investment credit if they are entitled to an investment credit. The amendment specifically says that this is so. No one would be permitted to have double tax benefits if this provision is adopted, which means that more and more income tax credits would be disallowed to the extent of this plowback credit.

Mr. Chairman, my good friend, the gentleman from Michigan (Mr. DINGELL), has an awful lot of interest in some big people in the automotive business. We share that interest. It is just a tragedy that my good friend, the gentleman from Michigan (Mr. DINGELL), does not have an interest in the people who provide the fuel that propels the automobiles and trucks which he has an interest in. They are both vital to this country; there is not any mistake about that, but the gentleman from Michigan (Mr. DINGELL) says that the industry is already plowing back 45 percent of their net profit. I believe that was his figure.

Mr. Chairman, let me tell you that they are plowing back a lot more than 45 percent. They are plowing back everything they have, the industry is, and then it is borrowing money for exploration and other operations.

However, there is a lot of difference really in what they are required to do here, which is reinvesting 25 percent of their gross to get anything by way of a credit. There is a lot of difference in 25 percent of one's gross and 45 percent of his net. The 25-percent gross figure will be drastically higher.

Mr. Chairman, my good friend, the gentleman from Ohio (Mr. VANIK), stands up here and says that the industry already has some incentive, that the industry is going to be able to claim the intangible drilling costs as a business deduction. Why should they not be able to do that? They always did until retroactively, last year, we included as a minimum tax preference item a tax on intangible drilling costs, which means that we levied unwisely a tax on expenditures. That means we decreased the capital gain rate. That was the net effect of it, which means that from a cash-flow point of view, the vast majority of the independents in exploration were put at a disadvantage. Cash flow for most was in deficit more than 100 percent. Furthermore, the IDC provision of this bill applies only to independents. The corporations already have it. Independents have had it every year but 1976.

Who is not for equity of that sort? They are just being restored to a position of equity. That is all this amounts to.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Louisiana (Mr. WAGGONNER) has expired.

(On request of Mr. GIBBONS and by unanimous consent, Mr. WAGGONNER was allowed to proceed for 2 additional minutes.)

Mr. WAGGONNER. To continue, Mr. Chairman, they are being restored to a position of equity, and there is a difference between a tax on an expenditure and the tax situation which the gentleman from Ohio (Mr. VANIK) talks about.

But, yes, the independents are going to get this equitable position. The GAO report that everybody has been talking about is here, and it is a rather recent one, dated July 25, 1977. And do not tell me that you are going to say that I will believe what the GAO says tomorrow but because I do not want this provision I do not agree with it today because either

they have credibility or they do not have credibility. But here is what the GAO has to say about the administration's provision, if we do not provide for incentive. I am reading from page 4.5:

> The result of these changes is that no category of oil will command a higher price under the plan than under existing policy. Hence, there is no additional financial motive for producers to increase their exploration and development activities. Moreover, according to an administration estimate, lower prices for most of the oil to be produced between now and 1985 will cut producers' revenues by 1985 by almost $13 billion (in 1977 dollars), relative to a continuation of existing policy.
>
> This, in turn, will presumably reduce their profits and ability to attract new capital to finance additional exploration.

That is what the plowback is intended to do: provide for new capital to provide for additional exploration. It is not any more than that. But just as 2 years ago we stood here and said, "Look, these people are bleeding us dry. They are making all the money they need to. Price is not related to production. We can just tell the public to conserve and it is all accounted for."

But we were wrong and we are wrong now if we think we are going to improve the situation unless we continue to provide for something in the way of an incentive.

After all, what is wrong with making money in these great United States? Profit to some of you is a dirty word.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately this bill results in the continuation of the disastrous price control program followed so ineffectively by the Federal Government.

Even though the expressed purpose of the ad hoc committee was to consider all aspects of energy policy, the Republican effort to separately amend the Emergency Petroleum Allocation Act to provide for the restructuring of price controls on new oil so as to spur additional domestic production was ruled out of order as nongermane to the bill. Nevertheless, the bill was amended to include a study of the energy conservation potential of bicycles. Now perhaps that is desirable, I have a bicycle. But to address bicycles and not be able to address the issue of oil pricing is appalling logic.

The need for opening up for revision the oil price control law is readily apparent because the present provisions of that law—EPCA—simply have not worked. What is the test? The United States is today more dependent than ever on foreign oil—mostly Arab—and this Nation's consumers are paying more for foreign oil than they would for domestic oil if there were no price controls on domestic oil. A brief review of the oil pricing policy and its impacts since its December 1975 enactment confirms its lack of success.

Under the provisions of the Energy Policy and Conservation Act (EPCA) of December 1975, the Federal price control scheme, first enacted under the Emergency Petroleum Allocation Act of 1973, was continued in a modified form. EPCA picked up Cost of Living Council 2 tier price ceiling initially setting "old" oil frozen at May 15, 1973 posted prices plus 35 cents or $5.25 under EPCA "new" oil was allowed to float to market prices—about $12.95 by time EPCA was passed. EPCA provided for mandatory Federal price controls on crude oil to continue for 39 months (through May of 1979) with a provision that the President may, in his discretion, continue such controls through September 1981. Many of the Members who supported the Energy Policy and Conservation Act as I did did so because they felt Federal price controls were necessary for a temporary period to protect the consumer, and that any price control mechanism should last for as short a period as possible and then gradually move controlled prices toward market levels so as to provide appropriate price certainty for the producer and, thus, encourage domestic production of as much oil as possible.

The clearly stated policy of the Carter administration in submitting its energy program to Congress was to retain Federal price controls on oil as long as world oil prices are subject to OPEC's determination. This policy of continuing domestic oil price controls indefinitely will have a disastrous impact upon our energy supply. Federal price controls under the Emergency Petroleum Allocation Act have been a dismal failure for several reasons: First, domestic production has drastically declined under oil price controls; second, the certainty that is necessary to provide proper signals for investment in domestic production has been absent; and third, the consumer has not been protected, contrary to the desires of the strongest advocates of crude oil price controls. The consumer pays more for oil because more of our oil consumed in the United States is foreign oil as it is the highest priced oil we get.

With respect to domestic production, while some decline may have been inevitable even without Federal price controls, the counter-productive effect of the Emergency Petroleum Allocation Act as amended by EPCA has been to magnify the rate at which this decline has taken place. In 1973, when Federal price controls were first enacted, our average domestic production was 9.2 million barrels per day. By March of this year this had declined to only 7.8 million barrels a day.

With respect to certainty for producers, the intent of the EPCA amendments to EPAA was to try to create a mechanism whereby, although there would be price controls, there would be steady and definite increases in the controlled price that the producer was permitted to receive for his efforts. The complete opposite has been the case—the history of Federal price controls under EPCA has been a continued series of rollbacks and price freezes with the attendant result that the March 1977 controlled price of new oil—the latest figures available by the FEA—was $11.03 or almost $2 less than the price of $12.95 that the producer was receiving at the beginning of the old EPAA system in effect at the time of the enactment of EPCA in December of 1975.

The composite price of $7.66 originated in EPCA had been predicated upon information provided to Congress by the bureaucrats at FEA that 60 percent of our domestic oil was old oil, selling at $5.25, and 40 percent was new oil, selling at $12.60. Subsequently, in June 1976, FEA discovered that the figures on which Congress had based its decision were incorrect—FEA was wrong—imagine that. In fact the actual proportion of lower tier to upper tier was 57 percent to about 43 percent, and that lower tier oil was really averaging about $5.07. The result of this several-million-dollar bureaucratic blunder was that crude oil prices in February 1976 and subsequent months had exceeded the statutory composite allowed for those months. As a result, a crude oil price freeze on both upper and lower tier was imposed for July and August to allow the upward moving statutory composite price to catch up to real prices. (Under EPCA, the statutory permissible annual increase in the composite price was 10 percent—or an increase in 1976 from $7.66 to $8.24).

Later, in 1976, stripper well production was exempted from the composite price allowed for domestic oil by Federal controls and a production incentive was permitted for high cost oil. Congress took such action in the Energy Conservation Production Act. The net result of this was that much less oil was classified as low tier than had originally been anticipated. Therefore, actual prices continued to considerably exceed the statutory composite. As a result, the crude price freeze on upper and lower tier oil was extended through November, and in December of 1976, upper tier prices were actually rolled back an additional 20 cents. The result was that upper tier oil sold at $11.35 in January of 1977 rather than the $12.05 for January 1977 as originally had been projected by the composite price regulations. The problem was exacerbated by a situation with respect to the confused interpretation of the definition of a "producing property," the keystone upon which all calculations as to the breakdown between old and new oil is based. Due to a change made by FEA in the regulations defining producing property, even less oil was in the lower tier than before. As a result, on March 1 of this year, an additional rollback in upper tier oil was implemented, bringing upper tier oil down to $11.03, the lowest it has been since 1974.

Thus, at a time when our oil policy should have encouraged production, the prices of domestically produced oil have been decreasing—a clear disincentive to producers to seek and produce more domestic oil.

Finally, with respect to consumer impacts, the basic goal of enacting price controls—to protect the consumer from excessive OPEC-dictated price increases by holding down the price of oil—has not been met. Under the price control schemes of EPAA and EPCA the volume

of our imports and outflow of dollars to pay for these imports had skyrocketed. In 1972, just prior to the imposition of price controls on crude oil, the U.S. imported 2.2 million barrels of oil per day at an annual cost of $3 billion. In 1974, one year after the imposition of price controls and the Arab oil embargo, our imports averaged 3.5 barrels per day at an annual cost of $24 billion. At the end of this past year, 1976, U.S. imports were 5.3 million barrels per day at an annual cost of over $40 billion.

The significant failure of our crude oil pricing policy begs for a solution. It is a problem basic to our whole energy crisis, but the administration and the Democrats in Congress have turned their backs on this problem. Significant adjustment is necessary in the oil price control mechanism to meet the original goals that the architects of EPAA and EPCA desired—protecting the consumer from excessive energy price increases while at the same time providing appropriate incentives and certainty for the producers. H.R. 8444 fails completely to deal with these basic questions. It does not even try to address it. At least the Jones-Schroeder amendment does.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ECKHARDT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am going to attempt to be brief. We have been on this amendment some 2 hours and I think the House is ready to vote.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I hope the gentleman will be brief because, since I could not get an extension of time, I am going to have to try to impose the same standards that the gentleman from Texas (Mr. ECKHARDT) just imposed on me.

Mr. GIBBONS. When whatever remains of my 5 minutes expires, I will sit down.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I will yield for a unanimous-consent request only.

Mr. CONTE. Mr. Chairman, I join the gentleman in the well in his sentiments.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oklahoma (Mr. JONES), and the gentlewoman from Colorado (Ms. SCHROEDER). Mr. Chairman, this amendment would draw from the revenue fund created by the crude oil equalization tax, which would be intended, under this amendment, to go back to the producers for the payment of costs of intangible drilling and development, geological or geophysical; nonproductive well drilling; secondary or tertiary recovery of crude oil or natural gas; and acquisition of onshore crude oil or natural gas leases. Mr. Chairman, I am concerned that this amendment will actually result in a reduction of the number of companies who will be entering this business of oil and gas exploration and production. I believe the oil industry is "squeezing by" at present, without this additional Federal subsidy. In fact, production in this country is at a 17-year high, and shows no sign of slackening. All this without the plowback scheme that we are now considering.

Mr. Chairman, I believe this massive bill now before us, provides the necessary incentives to further increase the exploration and production of domestic oil and natural gas. The effect of this amendment would simply mean that producers who discovered new supplies of oil would receive an additional financial reward in addition to what is already provided. The profits of the majors are already at an all-time high, with the prospects for the future looking brighter. The credit provided for under this amendment would be the greatest benefit to the large, integrated major oil companies, since they receive a large portion of their income from their flowing oil production revenues.

Mr. Chairman, I further believe the threshold that is provided for in this amendment would be insufficient to accomplish the goal the sponsors desire, since the 25-percent figure would cover investments which would normally be made. Thus, we would be rewarding investments that are considered routine, and not providing the incentive the sponsors desire; that of providing new exploration and production incentives.

Mr. Chairman, I do not feel that this amendment is in the best interest of the public or our future energy requirements. I therefore urge my colleagues to reject this amendment.

Thank you, Mr. Chairman.

Mr. GIBBONS. Mr. Chairman, the charge has been made that not enough has been done to make America as self-sufficient as can be done in the matter of oil. I think all of us admit we would like to do more, but how do we do it?

First of all, the price of new oil is $13.50 a barrel or roughly that figure, and that is the highest price in the world, or is the world price, which will continue to go up.

Secondly, in this bill we remove a part of the taxes, the small taxes that some independent producers were paying. We had to remove them from the minimum tax because frankly they were not paying any tax other than the minimum tax on preferences. We could not do any more for them in the tax area.

Do we need to stimulate exploration? The facts are that exploration is going forward at a very rapid pace now in the United States, probably faster in this sophisticated society than at any time previously in the United States or anywhere else in the world.

The oil companies have plenty of cash. They demonstrated it themselves. They say it at their stockholders' meetings. They are investing in other businesses. They have plenty of cash and we all know what they have done. Their budget this year, as reported by authoritative oil journals and from Dallas shows they have about $30 billion in their capital and expenditure budgets for this year.

The Jones-Schroeder amendment at the most would produce $2 billion, but $80 million only would be in this next year, and if we produce $80 million, we would be giving them a pittance compared to what they already planned to expend.

Who would get the money? That always has got to be a subject of debate because frankly that figure is locked in the tax returns of the oil companies and none of us has access to those returns and none of the figures we get reflect those returns, but the best estimates are that the majors would get 67 percent of it, but that is only an estimate.

The facts are that if one is in the oil business and he discovers new oil he can get the world price for it in this market.

The bottom line is that if one is in the oil business and he discovers oil, he can keep more of it and more of the profit here in the United States than any place else in the world.

So incentives to explore have moved back to the United States. These people are going to explore anyway. They do not need any more encouragement than has already been given to them. If we pass the Jones-Schroeder amendment we will be taking money from the consumer and giving it back to the oil companies so some of them can go out and go into other businesses and perhaps do a very marginal amount of additional exploration.

It is a bad piece of tax policy. It would be extremely hard to administer.

The difficulties of administering this have been explained to us by the IRS. They think it would be an almost impossible thing to administer the Jones-Schroeder amendment; so I would ask and I hope we can wind up this debate now, please vote "no" on the Jones-Schroeder amendment and let us get on with the rest of this bill.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I may be one of the few Members in this Chamber who began to listen to this debate several hours ago not knowing how I would vote. I was, in truth and in fact, undecided, having previously listened to the arguments, read my constituents letters pro and con, weighed the reports of the Library of Congress and other sources, discussed the issues with experts, read the "Dear Colleague" letters and having been handed slips of information papers as I walked in and out of the Chamber. I have listened very carefully to the debate on both sides of this issue. I have now come to my own conclusion.

First of all, what we are going to have to talk about in this energy debate, whether in this bill or at some other time, is more energy. We cannot fill the empty oil barrel merely by conservation. We need more energy, not less, to main-

tain our quality of life and fuel the productivity fires of our great economy. Therefore, I confess that I have been disappointed in the entire energy policy of the administration and in this legislation because there has not been more emphasis on the development of new alternative energy sources, synthetic fuels, and more domestic production of energy. This is vital. New and more and different domestic energy is essential for our future and what we have done thus far is woefully inadequate in this regard.

I would support the principle and do, indeed, believe that if we can create incentives for the domestic energy industry for new, more, and different energy and for the oil industry in this country to produce more oil and gas—that we should and must support that approach of providing those incentives.

I would support this and any other amendment, plowback or what have you, if I believed it would result in the production of more energy, more oil, more gas. Indeed, the plowback idea is a very promising one and a fertile approach.

I really do not care whether this plowback will put more money into the pockets of Exxon or Marathan or the mom and pop producers, as long as it economically results in the production of more energy and helps make this Nation self-sufficient and less dependent on foreign oil imports and at the mercy of an oil cartel.

It has been said by some that there are no incentives in this legislation for new exploration and new production, but that is absolutely false and untrue. There may not be enough incentives but in one major respect this bill provides the best of all incentives—profit. By permitting the price of "new" oil to go up to the world market price, we will build in the most effective incentive that exists in the marketplace, which is profit, and I mean a $2.22 per barrel profit over the present "new" oil price; so there is great incentive. Do not be told there is not. There is a difference between incentive and greed.

Indeed, I believe that a plowback of taxes into exploration may very well be the best way to provide the needed incentive for additional exploration and production.

I do not believe, and in this I disagree with many of my friends in this Chamber and some downtown at the White House, that we are taking away something in a plowback that the consumer is otherwise going to get by way of rebates. I am not really convinced that the consumer is going to get any of the money that we tax and then recycle here in Washington; but I have finally concluded in my own mind after listening to the entire debate that this particular plowback amendment will not provide any incentive.

There is no assurance that a single dime of new exploration investment will result because of this amendment. There is not even any assurance that a person taking advantage of this particular plowback tax credit will invest more next year in oil exploration than he did last year. In fact, under this amendment, a person could receive the plowback credit having invested less next year than he did last year. If we do not have the assurance that someone will put more in next year in exploration than he did last year, then where is the incentive to get more exploration?

If we give credits with no assurance of more exploration, we are not serving any worthwhile purpose except giving away the taxpayers' money.

It does not concern me whether the big companies or the little companies get a rebate if it is properly used to produce more oil. What does concern me is whether we are really spending that tax credit as an incentive or whether we are working it or providing some sort of corporate welfare?

After listening to this debate, I must conclude that this particular plowback proposal is not an incentive. If the other body can devise a plowback incentive in which I and other people can be convinced that new exploration will occur and not merely dishing out money in tax benefits to producers who are making investments that they are already putting in, then I will support that plowback or any other incentive that produces the result we want, which is incentives for additional exploration and the production of more oil.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, first of all, the incentive that the gentleman says is in the bill to give the new or world price for so-called new oil is not, in fact, in the bill; in fact, is imposed by the administration.

From what the GAO report says, the producers of oil and gas today will actually be in a worse off position even if their definition is adopted in 1985.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(On request of Mr. MAGUIRE and by unanimous consent Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. JONES of Oklahoma. If the gentleman will yield further, the second point is that we have no assurance that this is going to be used to increase domestic activity. The preponderance of evidence that we have been able to come up with is the fact that if there is not increased domestic activity, then this will not cost the Treasury or the revenue in any way, shape, or form. The reason we put it in for a 1-year period only was to have at least one incentive in this bill, and we could take a look again at the end of next year and determine what is the best approach to increased domestic production.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. MAGUIRE. I just want to underline one of the points the gentleman made, which is very important. That is, we are not going to get, necessarily, any incremental benefit from this tax incentive or tax break as it is presently constituted in this amendment. The only justification for treatment through tax policy is if we get an increment. There is no increment. Therefore, it does not work even on its own terms.

Mr. FISHER. Mr. Chairman, I move to strike the last word.

I will speak but very briefly. This is a critical part of the whole energy program; that is obvious. The question is, Do we need the additional incentive of this plowback over and above the incentives built into the bill already and operating anyhow in the industry to bring forth the effort to find new oil and develop it? Do we need that?

I come to the conclusion that we do not need the plowback, the extra incentive, at this time. As I examine the evidence, I see no reason why we need to have the plowback. Looking at the companies, their cash position, and their profit position seem quite adequate. Looking at the statistics of drilling, of activity to find new oil, I see no reason for the additional plowback incentive.

It may be that 1 year from now or 2 years from now we will want to look at this again, and I would not resist that at all, but for the time being I do not think we need it. New oil is going to be brought up to the world price of $13.50 or wherever it is at this time, from $11.30 or so now. Old oil will have to face this tax, of course, but the tax will expire in a few years and that prospect, looking down the road to 1981, surely will be inviting for all oil enterprises to engage in investments in exploration and development.

So, it seems pretty clear to me that, judging on the statistics available to us now, whether they are company statistics or otherwise, we do not need this plowback incentive over and above incentives that exist at the present time in the market, and those additional incentives that would be provided under this bill. I come, therefore, to the conclusion that we should vote the plowback amendment down and get on with the remaining parts of this bill.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I apologize to the committee, but I do want to ask the gentleman from Oregon (Mr. ULLMAN) a question about a previous section which we have already passed. In relation to the gas-guzzler tax on inefficient cars, I had expressed in a letter to a number of Members who were dealing with the legislation the concern that there are a set of individuals in the country who might not be able to avoid purchasing a larger car, such as handicapped individuals, and in some cases senior citizens with particular problems.

Mr. Chairman, I received one letter back from a member of the committee, Mr. JONES, who wrote that the legislation did provide the flexibility for regulations to be drafted that would protect an exemption for these individuals.

I would like to ask the gentleman whether he can respond as to whether that is the intent of the legislation.

Mr. ULLMAN. If the gentleman will yield, let me say that in drafting the provision of the guzzler tax, we very deliberately steered away from a tax that would apply to cars that are near the mandatory standards that have been set.

It is my judgment that cars for the handicapped could and certainly should

fall within that free zone. Even though they might not meet the EPCA fleetwide standards, they should be fairly close to the standards.

Mr. GARY A. MYERS. I would like to ask if we are inaccurate in predicting the accessibility for people who are handicapped, for their family, and to take the equipment along that they need to provide adequate mobility at either end of their transportation.

Can we have some assurance that the agencies will have an opportunity to provide some mechanism for exemption?

Mr. ULLMAN. If the gentleman will yield further, let me say to the gentleman that we certainly are sympathetic to that kind of a problem, and I am sure it can be taken care of. But normally the kind of instrumentation and equipment the gentleman is talking about would not be part of an automobile at the time the car is tested to meet the gasoline efficiency standards. All one needs for the purposes you describe is an automobile of sufficient size to handle the needed equipment. But if there are some very special circumstances, we have built some flexibility into the regulatory power of the administration. I do not think it is a problem.

Mr. GARY A. MYERS. I thank the gentleman.

Prior to yielding back my time, I simply want to say that I also support the Jones-Schroeder amendment on the plowback.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize the time is late and most Members have made up their minds.

However, I rise to speak in support of the Jones-Schroeder amendment to title II of H.R. 8444, the National Energy Act. This amendment would provide a minimal, but essential, incentive to producers to increase the exploration and production of oil and natural gas.

Because Mr. JONES of Oklahoma, and Ms. SCHROEDER have already done such an excellent job in explaining the amendment, I will not delve deeply into its specifics. However, I would like to stress that the amendment has been strictly tailored to prevent any double dipping or unfair tax advantages, and also affords Congress the opportunity to make any adjustments necessary after the first year of implementation.

We have all been deluged with facts and figures, analyses, and an analysis of the analyses. However, because we are dealing with very important legislation which has dramatic impact on the domestic production of petroleum and natural gas and the extent of our reliance on foreign imports from now until 1985, I think it is absolutely essential that we have a grasp of exactly what kind of impact the legislation we are talking about will have on our Nation's energy security.

I think we all basically agree on the credibility of the General Accounting Office and can accept its analyses and figures on national legislation. In an unbiased study of the administration's energy bill, GAO concluded that this legislation would reduce revenues to producers and thereby may reduce capital availability for further exploration and production. Specifically, GAO found that, expressed in 1977 dollars, producers would be earning $13 billion less in 1985 under this legislation than they would with a continuation of current policy. For purposes of the record, I would like to insert the following text from the GAO report:

As shown, by 1985 the plan will result in lower prices for old, new, already discovered Alaskan oil, and natural gas liquids and no change in other categories.

The result of these changes is that no category of oil will command a higher price under the plan than under existing policy. Hence, there is no additional financial motive for producers to increase their exploration and development activities. Moreover, according to an administration estimate, lower prices for most of the oil to be produced between now and 1985 will cut producers' revenues by 1985 by almost $13 billion (in 1977 dollars), relative to a continuation of existing policy.

This, in turn, will presumably reduce their ability to attract new capital to finance additional exploration. Therefore, the plan not only keeps incentives for new production at current levels, but potentially reduces producers' financial ability to increase their efforts to produce more oil.

. . . By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the plan fails to come to grips with the problem of increasing domestic crude oil production.

This GAO report documents the need for the Jones-Schroeder plowback amendment.

Exploration for oil and natural gas is a highly capital-intensive venture. And, although exploration and drilling costs have been high in the past, they have absolutely skyrocketed over the past 2 years as our independent producers have exhausted the easy-to-get oil and have begun drilling for the risky oil.

The latest figures available for drilling costs cover the 1975 period. These statistics indicate the total cost of drilling and equipping oil and gas wells and sinking dry holes in the United States during that year amounted to about $6.6 billion. That represents a whopping 50.5-percent increase over the 1974 figures.

In Oklahoma alone, the total costs of drilling 3,616 wells during 1975 amounted to $639,875,839. That constituted a 52.8-percent increase over the $418,875,839 spent drilling wells in the State the previous year.

Figures for dry holes provide further enlightenment. During 1975, $187 million was spent in Oklahoma in drilling 1,237 wells that ended up as dry holes. This was 39.5 percent increase over the previous year, when 1,155 dry holes were drilled in the State at a cost of almost $134 million.

That gives you a brief idea of what it cost to drill a well in 1975. I can assure that cost will rise each year between now and 1985, as producers search for more oil and gas.

At this minute, a rotary rig is grinding away on a wildcat well in an extension of the Anadarko basin. This well, the No. 1–11 Cobb, is located in the South Madill area of Marshall County in my district. The producers of this well have already spent more than $7 million, and the drillbit has just passed 22,150 feet. They plan to drill at least 1,000 feet deeper, at a cost of $200 per foot. It takes the crew 8 hours just to pull the drill-string out of the ground. At one point, when downhole pressure rose sharply, the drilling mud bill rose to $20,000 a day as weighting material was added!

Why are drilling costs skyrocketing? Well, like all other businesses and industries, the producers have had to cope with higher wage demands and price increases for steel and other equipment. But, in addition, the easy-to-produce wells have already been drilled. Producers must now venture out into marginal and frontier areas to find new sources. They have to drill deeper holes, and, as we have already seen, the cost of drilling increases with the depth of the well.

The effect of this has been to make this capital-intensive industry even more capital-intensive. Obviously, producers must be given a price incentive simply to attract the investment capital required to achieve the administration's production goals for 1985. Yet the administration's energy bill actually reduces these same producers' revenues by $13 billion within that same timeframe!

It is obvious, therefore, that the legislation before us is counterproductive. It is inherently self-defeating, because it is based on a production goal for 1985 that can't be met without additional capital, and at the same time reduces the capital available to the producers to search for more oil and gas.

Today we have the opportunity to alleviate this problem. The solution lies within the Jones-Schroeder amendment, which provides, as I said earlier, a modest but essential financial incentive to increase exploration and production. Therefore, I urge my colleagues to support and vote for this amendment.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Jones amendment.

Mr. Chairman, the amendment to provide the oil companies with a plowback credit for a tax they do not pay is simply outrageous. Proponents of the amendment argue that the credit is needed to stimulate domestic oil production. The argument is absurd. Domestic exploratory drilling activity is at a 17-year high. There is currently a 6- to 12-month backlog in drilling equipment. Why all this activity? The answer is simple: oil and gas is a very profitable business. Forbes magazine ranks the energy industry as the third most profitable industry in our economy over the past 5 years.

WOODS PETROLEUM CORP.

But these are abstract figures. To find out more about the financial operation of an independent drilling company, I requested my staff to examine the annual report of one independent oil production company. The results were startling.

What follows is an inside look into one independent oil driller, the Woods Petroleum Corp. Woods is involved almost entirely in oil exploration and production, 94 percent of its 1976 revenues came from oil and gas sales. Table 1 shows the interests that Woods owns in oil production property. According to its 10–K annual report filed with the Securities and Exchange Commission, Woods' major domestic producing properties are located in Oklahoma, Wyoming, and Montana.

TABLE 1.—WOODS PETROLEUM CORP. INTEREST IN OIL AND GAS ACREAGE, DEC. 31, 1976

	Producing acreage		Nonproducing acreage	
	Gross [1]	Net [2]	Gross	Net
United States:				
Oklahoma	58,885	26,816	203,446	93,038
Wyoming	40,447	10,297	362,182	104,141
Ohio	1,379	905	4,777	4,687
Montana	1,280	340	38,443	35,286
Kansas	618	336	19,657	9,104
Other States (2)	3,317	691	33,321	21,869
Total	105,926	39,385	661,826	268,125
Canada:				
Alberta	10,234	3,022	76,915	21,228
British Columbia	11,206	3,908	77,023	38,172
Total	21,440	6,930	153,938	59'400
Foreign: Brunei (3), total	0	0	254,976	136,906
Overall total	127,366	46,315	1,070,740	464,431

[1] "Gross" refers to the total acres in which Woods owns an interest.
[2] "Net" refers to the gross acres multiplied by the percentage interest owned by Woods.

Source: 10–K annual report, 1976.

PROFITABILITY OF WOODS PETROLEUM

A short look at Woods' 10–K report show that the company is very profitable. Table 2 represents a comparison. Woods has a profitability of over twice that of the energy industry as a whole. When we exclude multinational oil industry and look at just the domestic energy industry, Wood is still over twice as profitable. The reasons behind this remarkable record are twofold. First, the statistics on the domestic energy industry include refining which has historically been a weak profit segment of the oil industry. Secondly, oil production has become very profitable due to increased prices. As Forbes magazine voted in its industry survey of 1976 performance—

Today analysts and industry sources agree there is an inexorable upward pressure on U.S. oil and gas prices, which obviously augurs well for domestic oil company profits in 1977 and beyond.

Looking in more detail at Woods' financial performance reveals just how important price has been. Woods suffered a 23-percent decline in oil production from 1972 to 1976. Yet, the corporation's revenues have been increasing with a 54 percent increase from 1975 to 1976. How can you explain higher revenues on lower production? The answer lies in increased prices. While production was declining 23 percent from 1972–76, prices on oil Woods sold increased 197 percent over the same time period. Domestic oil prices went from $3.38 per barrel in 1972 to $10.06 in 1976. Table 3 summarizes both the production and price trend for Woods:

TABLE 2.—RELATIVE PROFITABILITY OF WOODS PETROLEUM CORP., 1976

	Return on equity [1]	Return on total capital [2]	Debt/equity return [3]	Net profit margin [4]
All-industry medians	12.9	9.8	0.4	4.6
Energy industry medians	15.2	11.9	.4	4.8
Domestic oil and gas industry medians [5]	15.1	11.1	.5	4.4
Woods Petroleum Corp	31.5	48.5	.08	37.2

[1] Return On Stockholders' Equity: Companies obtain their capital from two sources: Stockholders and creditors. Return on Stockholders' Equity is the percentage return on the stockholders' portion of the capital.

[2] Return On Total Capital: This figure is the percentage return on a combination of stockholders' equity (both common and preferred) plus capital from long-term debt (including current maturities), minority stockholders' equity in consolidated subsidiaries and accumulated deferred taxes and investment tax credits. The profit figure used in this computation is the sum of net income, minority interests in net income and estimated aftertax interest paid on long-term debt—in other words, income before charges (primarily, interest payments on long-term debt) relating to the nonequity portion of the capital.

The Return on Total Capital is a "basic" measure of an enterprise's profitability. It does not reflect—as the Return on Stockholders' Equity does—the effects of financing decisions upon profitability. For companies that derive all of their capital from common equity, the two profitability measures would, of course, be identical. But a company that employs debt wisely can thereby boost its Return on Stockholders' Equity well above its Return on Total Capital. The time periods employed for this calculation are the same as for Return on Stockholders' Equity.

[3] Debt-To-Equity Ratio: The Debt/Equity Ratio tells us to what extent management is using borrowed funds (leverage) in an attempt to upgrade profitability. It is calculated as of the end of the last reported fiscal year by dividing long-term debt (including current maturities) by the sum of stockholders' equity, minority stockholders' interests and accumulated deferred taxes and investment tax credits. A high debt/equity ratio makes earnings more volatile and is usually considered prudent only in relatively stable industries.

[4] Net Profit Margin: The Net Profit Margin gives a view of profits different from either the Return on Stockholders' Equity of the Return on Total Capital. Calculated by dividing net profits for the latest 12 months by net sales, it reveals what percentage of each dollar of revenue is available for payment of dividends and reinvestment in the business. Net profit margins vary widely from industry to industry.

[5] Includes production and refining.

Source: Forbes Magazine, January 1, 1977, 10–K report Woods Petroleum Corporation.

TABLE 3.—OIL PRODUCTION AND SELLING PRICES, WOODS PETROLEUM, CORP.

	Year ended Dec. 31—				
	1972	1973	1974	1975	1976
Average daily oil production (barrels):					
United States	3,116	2,564	2,359	2,353	2,395
Canada	38	53	62	81	103
Total	3,154	2,617	2,421	2,434	2,498
Average oil sales price (barrels):					
United States	$3.38	$4.12	$7 27	$9.31	$10.06
Canada	2.14	3.25	4.04	6.85	8.14
Weighted average	3.36	4.10	7.19	9.23	9.98

Source: 10–K annual report.

EXPLORATION ACTIVITY OF WOODS PETROLEUM

The increasing profitability of oil production has led—as one would expect—to an increased level of oil exploration by the company. In 1972, the net exploratory oil well drilled by Woods totaled 0.28, in 1976 the net exploratory oil wells totaled 4.78. A net exploratory oil well is determined by multiplying the number of exploratory oil wells in which a company has an interest multiplied by the percentage interest the company owns. Net development oil wells over the same period increased from 4.65 to 8.19. This data is summarized in table 4.

TABLE 4.—EXPLORATION ACTIVITY OF WOODS PETROLEUM CORP.

	Year ended Dec. 31—				
	1972	1973	1974	1975	1976
Net wells:					
Exploratory oil	0.28	1.54	2.30	2.70	4.78
Development oil	4.65	3.59	9.76	10.18	8.19

Source: 10–K annual report.

In short, exploratory drilling from 1972–1976 increased by about 103 percent per year. Development drilling has increased by 15.2 percent per year. Where is the problem? Why do we need a plowback?

Woods earned last year over $10 million. It reinvested about 90 percent of these earnings back in the company. Not all of this money went to exploration. About $5 million went to retire long-term debts. Since the company borrowed

an additional $1 million in 1976, it reduced its long term borrowing from 1975 to 1976 by $4 million. The result is a remarkable debt-equity ratio of 0.08. In short, even if this company were not able to generate internally enough money to finance its exploration program, the company's capital structure has more than enough capacity to absorb more long term debt. The typical debt-equity ratio for the domestic oil industry is 0.5. If Woods were to have a similar ratio, it would borrow 50 cents for every dollar of stockholders equity. That would mean that it would not be abnormally risky for a bank to increase its long term lending to Woods to over $16 million, or an increase of $14 million over current levels. Why are we concerned with providing this company additional cash with the plowback credit? It is outrageous that we are even seriously considering this amendment.

Mr. Chairman, with this microscopic look at one oil and gas producing company, I hope we can explode the myth that the domestic oil industry is economically weak, starving for capital, and strangled by price regulations. The fact is that domestic oil production is a very profitable business. They need no help from a plowback. This amendment represents another in a long line of special subsidy programs which this industry has been pushing over the past 50 years. Like the others that preceded it, this program is inequitable, wasteful, and a perverse bit of narrow interest legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. JONES).

The question was taken.

RECORDED VOTE

Mr. BOLLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 223, not voting 12, as follows:

[Roll No. 505]

AYES—198

Abdnor	Collins, Tex.	Grassley
Alexander	Conable	Guyer
Andrews, N. Dak.	Corcoran	Hagedorn
Archer	Cornwell	Hall
Armstrong	Coughlin	Hamilton
Ashbrook	Crane	Hammer-schmidt
Aspin	Cunningham	Hansen
Badham	Daniel, Dan	Harsha
Bafalis	Daniel, R. W.	Heckler
Baucus	Davis	Hightower
Bauman	de la Garza	Hillis
Beard, Tenn.	Derrick	Hollenbeck
Boggs	Derwinski	Horton
Bowen	Devine	Huckaby
Breaux	Dickinson	Hyde
Brooks	Dornan	Ichord
Brown, Mich.	Duncan, Oreg.	Jenkins
Brown, Ohio	Duncan, Tenn.	Jenrette
Broyhill	Edwards, Ala.	Johnson, Colo.
Buchanan	Edwards, Okla.	Jones, N.C.
Burgener	English	Jones, Okla.
Burke, Fla.	Erlenborn	Jordan
Burleson, Tex.	Evans, Del.	Kasten
Butler	Evans, Ga.	Kazen
Byron	Fascell	Kelly
Carr	Findley	Kemp
Carter	Fish	Ketchum
Cederberg	Flowers	Kindness
Chappell	Flynt	Krueger
Clausen, Don H.	Forsythe	Lagomarsino
Clawson, Del	Frenzel	Latta
Cleveland	Frey	Lehman
Cochran	Gammage	Lent
Coleman	Goldwater	Long, La.
	Goodling	Lott
	Gradison	
Lujan	Pressler	Stangeland
Luken	Pritchard	Stanton
Lundine	Pursell	Steed
McClory	Quayle	Steiger
McCormack	Quie	Stockman
McDonald	Quillen	Stump
McEwen	Rahall	Symms
McKay	Railsback	Taylor
Madigan	Regula	Thone
Mahon	Rhodes	Thornton
Mann	Rinaldo	Treen
Marlenee	Risenhoover	Trible
Marriott	Roberts	Vander Jagt
Martin	Robinson	Waggonner
Mathis	Roncalio	Walker
Mattox	Rousselot	Walsh
Milford	Rudd	Wampler
Miller, Ohio	Runnels	Watkins
Mitchell, N.Y.	Ruppe	White
Montgomery	Sarasin	Whitehurst
Moore	Satterfield	Whitten
Moorhead, Calif.	Sawyer	Wiggins
Myers, Gary	Schroeder	Wilson, Bob
Myers, John	Schulze	Wilson, Tex.
Natcher	Sebelius	Winn
Nichols	Shipley	Wright
Nowak	Shuster	Wydler
O'Brien	Simon	Yatron
Pettis	Slack	Young, Fla.
Pickle	Smith, Nebr.	Young, Tex.
Poage	Snyder	
	Spence	

NOES—223

Addabbo	Fenwick	Moakley
Akaka	Fisher	Moffett
Allen	Fithian	Mollohan
Ambro	Flood	Moorhead, Pa.
Ammerman	Florio	Moss
Anderson, Calif.	Foley	Mottl
Andrews, N.C.	Ford, Mich.	Murphy, Ill.
Annunzio	Ford, Tenn.	Murphy, N.Y.
Applegate	Fountain	Murphy, Pa.
Ashley	Fowler	Murtha
AuCoin	Fraser	Myers, Michael
Badillo	Fuqua	Neal
Baldus	Gaydos	Nedzi
Barnard	Gephardt	Nix
Beard, R.I.	Giaimo	Nolan
Bedell	Gibbons	Oakar
Beilenson	Gilman	Oberstar
Benjamin	Ginn	Obey
Bennett	Glickman	Ottinger
Bevill	Gonzalez	Panetta
Biaggi	Gore	Patten
Bingham	Gudger	Pattison
Blanchard	Hanley	Pease
Blouin	Hannaford	Pepper
Boland	Harkin	Perkins
Bolling	Harrington	Pike
Bonior	Harris	Preyer
Bonker	Hawkins	Price
Brademas	Hefner	Rangel
Breckinridge	Heftel	Reuss
Brinkley	Holland	Richmond
Brodhead	Holtzman	Rodino
Broomfield	Howard	Roe
Brown, Calif.	Hubbard	Rogers
Burke, Calif.	Hughes	Rooney
Burlison, Mo.	Ireland	Rose
Burton, John	Jacobs	Rosenthal
Burton, Phillip	Jeffords	Rostenkowski
Caputo	Johnson, Calif.	Roybal
Carney	Jones, Tenn.	Russo
Cavanaugh	Kastenmeier	Ryan
Chisholm	Keys	Santini
Clay	Kildee	Scheuer
Cohen	Kostmayer	Seiberling
Collins, Ill.	Krebs	Sharp
Conte	LaFalce	Sikes
Conyers	Le Fante	Sisk
Corman	Leach	Skelton
Cornell	Lederer	Smith, Iowa
Cotter	Leggett	Solarz
D'Amours	Levitas	Spellman
Danielson	Lloyd, Calif.	St Germain
Delaney	Lloyd, Tenn.	Staggers
Dellums	Long, Md.	Stark
Dicks	McCloskey	Steers
Diggs	McDade	Stokes
Dingell	McFall	Stratton
Dodd	McHugh	Studds
Downey	Maguire	Thompson
Drinan	Markey	Traxler
Early	Marks	Tsongas
Eckhardt	Mazzoli	Tucker
Edgar	Meeds	Udall
Edwards, Calif.	Metcalfe	Ullman
Eilberg	Meyner	Van Deerlin
Emery	Mikulski	Vanik
Ertel	Mikva	Vento
Evans, Colo.	Miller, Calif.	Volkmer
Evans, Ind.	Mineta	Walgren
Fary	Minish	Waxman
	Mitchell, Md.	Weaver
Weiss	Wirth	Young, Mo.
Whalen	Wolff	Zablocki
Whitley	Wylie	Zeferetti
Wilson, C. H.	Yates	

NOT VOTING—12

Anderson, Ill.	Holt	Patterson
Burke, Mass.	Koch	Skubitz
Dent	McKinney	Teague
Flippo	Michel	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Messrs. EDGAR, PRICE, MURTHA, and EMERY changed their votes from "aye" to "no."

Mr. DERWINSKI and Mr. RINALDO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DRINAN. Mr. Chairman, while I wish to commend everyone who labored diligently on the development of this bill, I have come to the conclusion that the basic approach taken by this bill might well aggravate rather than resolve the energy problem in America.

Clearly the centerpiece of the proposed national energy policy is the imposition of a theory that increased energy supplies can best be achieved by applying OPEC-based energy prices on domestic energy supplies. This assumption was never questioned or examined in the several committees which reviewed this plan or in the Ad Hoc Committee on Energy.

The fact of the matter is that 77 percent of America's energy supplies come from domestic sources. Despite this, H.R. 8444 would impose the artificial cartel price set for the imported 23 percent to determine the price for 77 percent of our supplies.

Congressmen JOHN E. MOSS and HENRY S. REUSS stated it well in their supplemental views in the report of the ad hoc committee when they wrote—page 268—that the bill tends to "substitute OPEC regulation for Federal regulation—a motion which if clearly put to the American people would fail for a lack of a second."

It is no less than astonishing that the several committees which viewed the President's energy plan somehow agreed to the use of OPEC prices as the benchmark in fashioning U.S. energy policy.

An amendment to extend the authority to the new Department of Energy to purchase OPEC oil by secret bid and thereby drive down the price was passed by a narrow margin by the House Government Operations Committee—only to be set aside the following day when Mr. James Schlesinger and the entire oil industry pressured for the deletion of this amendment from the bill which would structure the new Department of Energy. Mr. John O'Leary, the able Administrator of the Federal Energy Agency, FEA, speaking to the New England congressional caucus, asserted that in his judgment the new Department of Energy had the inherent power to seek to drive down the quintupled cartel "blackmail" OPEC price of oil by bidding against American oil corporations which have absolutely no motivation to diminish the OPEC price.

To call the OPEC price the world price is a capitulation to the arrogance of 13 nations which in 1973 established the most powerful cartel and international conspiracy in modern history.

In response to a question from a Member of the House, Mr. James Schlesinger gave no assurance that the new Department of Energy expected to make any effort to diminish OPEC prices or to blunt the paralyzing power of this cartel.

The major premise, therefore, of H.R. 8444 is the unexamined assumption that all oil produced and sold in America must escalate to the price of $13.50 per barrel which the OPEC monopoly charges Americans for the oil which the United States imports.

The report of the Ways and Means Committee on page 10 seeks to present reasons to justify the conclusion that—

The price to consumers of U.S. crude oil should be increased to the world price.

The committee report actually gives no reasons and slides over this crucial point in one rather incoherent paragraph. The committee without proof states that the increase in the price of oil for American consumers to the world price will not cause "serious economic disruptions" if it is phased in over a 3-year period.

The fact is that granting legitimacy to the noncompetitive, cartel-set price of oil could bring about catastrophic inflation and widespread unemployment—just as the quintupling of the oil price in 1973 by the OPEC nations brought about a world depression of almost unprecedented size.

The second major premise of the proposed national energy plan is the silent suggestion that higher oil and gas prices are indispensable both to stimulate conservation and to encourage production. If the proposed higher prices could be demonstrated to have an actual relationship to the cost of production or to prices determined in a competitive marketplace, the consumers of America would be prepared to undertake the sacrifice involved. But the tragic fact is that consumers have already borne the burdens of enormous increases in energy prices for costs which have never been documented or demonstrated to be fair.

H.R. 8444 grants to the oil producers of America a way by which after 3 years they will be able to claim some legitimacy in their assertion that they are entitled to the OPEC-established prices. H.R. 8444, in other words, concedes to domestic producers, who themselves constitute a virtual cartel, who have never provided the Government with accurate or ordered information regarding the costs of finding and producing oil, a price for oil equivalent to the arbitrary cartel price established by OPEC.

It is more and more amazing to me that the energy companies of America have apparently been able to persuade the administration and Congress that the only way to produce more new oil in America is to allow the price of that crude oil to rise not to a price that can be justified by careful accounting but to that politically inspired price established by OPEC without regard to market conditions.

The tax that the Federal Government would impose under the provisions of H.R. 8444 will be rebated, it should be noted, only in 1978. The failure to extend the rebate for the 3-year life of the tax suggests that the energy industry will be lobbying the Congress to use the tax in 1979 and 1980 to subsidize oil company exploration and research efforts.

THE NATURAL GAS RIP-OFF

Another cause of distress at the provisions of H.R. 8444 arises from exorbitant escalation of prices which is granted in this bill to natural gas. The current price of $1.45 for natural gas which was set by the Federal Power Commission in the Nixon-Ford years was an almost fantastic escalation in the price charged to consumers. Over the past 11 years the price of natural gas has increased 760 percent; 184 percent of that 760 percent has occurred in the past 2½ years.

President Carter, for reasons that have never been explained, decided to increase the price of natural gas by 20 percent up to $1.75 for large amounts of gas, including substantial amounts of gas in already discovered reservoirs. The additional cost to American consumers of the natural gas provisions in H.R. 8444 is probably in the range of more than $100 billion over the next 10 years.

It may be that the Congress and the country are terrified at the unfortunate shortages of natural gas during the severe winter of 1976–77. It would appear that the administration and the Congress have so panicked that they have capitulated to a powerful gas lobby which has made all forms of false representations that they would or could produce more natural gas if the price were entirely deregulated.

The fact is that between 1972 and 1976, with a price increase of 445 percent for new natural gas and an increase of 126 percent in the weighted average price of all natural gas, the production of gas decreased 12 percent, and reserves declined 19 percent. During that same 4-year period the profits of the top 22 oil companies, the major producers of natural gas, increased by 50 percent.

The underlying assumption of the administration's energy program is the acceptance of existing intrastate prices for natural gas as reasonable and just. Unfortunately, there is little evidence to substantiate such an assumption. The "bottom line," therefore, is that the administration's energy plan is virtually tantamount to the deregulation of natural gas.

THE PLAN'S EXPLOSIVE INFLATIONARY IMPACT

The Ad Hoc Committee on Energy concedes on page 71 that "The plan will engender one burst of inflation." The committee report also concedes that the legislation will "exert a net inflationary effect on the economy." The committee, without notable success, tries to demonstrate that the crude oil equalization tax which may raise $13.5 billion by 1981, will have "a moderate inflationary effect."

In addition to the inflationary impact of the plan, there might well be at least a short-run effect of lowering real income and, therefore, consumer demand. The report of the Library of Congress on the President's plan stated that there are no models "that can provide assured forecasts of events so far removed from the patterns of the past." The Library's report also noted that the administration's plan failed to provide "assurance that its specific proposals for rebates, redistribution and the like will be able to provide an offset to adverse effects."

The contention by the report of the ad hoc committee "that the inflationary impact is primarily a one-shot adjustment to higher prices for energy rather than a continuing source of pressure on prices" seems to be rejected by the very statistics gathered by the committee.

Four reliable economic forecasting groups were asked for their prediction as to the percentage difference in the level of the Consumer Price Index in 1980 that will be brought about by the Carter energy plan. Data Resources, Inc., predicted 2.4 percent, the Wharton Econometric Forecasting Associates turned up with 1.6 percent, the Chase Econometrics gave 1.8 percent, and the Congressional Budget Office forecast 1.6 percent. The average of the four predictions comes close to a 2-percent rise in the Consumer Price Index for 1980—exclusively because of the plan which the ad hoc committee report tries to tell us will have only a "moderate" inflationary impact.

The standard reply to these frightening forecasts is the assertion that another Arab oil boycott would have far more devastating effects on America's economy than the foreseeable inflationary impact of the massive rise in the price of domestic energy. But the assumption behind this response is apparently the fallacy that things will be better in America if somehow the price of domestic energy is escalated to the so-called world price.

HOW MUCH WILL THE COAL COST?

One of the strangest factors in the development of the national energy plan is the complete lack of consideration which has been given to the price of coal which, under the plan, must replace oil and natural gas in vast areas of our economy. Paradoxically the most elaborate care has been taken to control and harmonize the price of crude oil and natural gas, but absolutely no consideration has been given to the present or future price of coal. In fact, in assessing the inflationary impact of the bill, the foreseeable rise in the price of coal was not factored into the equation in any way.

The conversion to coal mandated in the national energy plan gives the green light to the oil companies to move even more into the ownership and production of coal. In 1965, there was only one major coal company controlled by an oil corporation. Ten years later 32 oil and gas companies accounted for 16 percent of the total U.S. coal production.

The invasion of the oil and gas companies into the production of coal has been concomitant with the almost tripling in price of coal during the years 1970 to 1975. In 1970, bituminous coal cost 23.9 cents per million Btu; in 1975,

the price had jumped to 78.1 cents. During the same period, anthracite coal rose from 42.6 cents per Btu to 98.4.

The average delivered price of coal at utilities rose sharply in 1975 and 1976. In January 1975, a short ton cost $14.57. The same unit in December 1976, cost $18.15. There is no reason whatsoever to think that the sharp rise in the price of coal will not continue and indeed worsen. Sad to say, H.R. 8444 offers to the consumers of America not a single protection against the greed, however egregious, of those who own the coal mines of America. There is no protection against the growing monopolistic trends which have prompted the oil and gas industries to seek to dominate the world of coal. The new attractiveness given to coal in the national energy plan can only be viewed as a marriage of government and private industry to the potential or probable detriment of the consumer.

There is nothing in H.R. 8444 for a Federal plan to mine for the benefit of the people of America the approximately 40 percent of the coal which is located on Federal lands. Nor is there any vision in H.R. 8444 for the creation of something like the TVA to produce massive amounts of energy from oil or shale or nonrenewable sources like the Sun.

The President called for something like the "moral equivalent of war." But H.R. 8444 does not make war on anyone. It only declares a truce in the battle of the energy giants against the consumers of America. It pretends that the consumers of America will be better off if the Government makes things easy for the giant oil companies who occupy 8 of the top 15 positions in the list of America's largest industrial enterprises.

H.R. 8444 does virtually nothing to break up the monopoly of the energy industry. It says nothing about a measure for which last year 45 Senators voted that would call for the break-up of the integrated oil corporations and limit their adventures into other energy areas.

H.R. 8444 overlooks the exciting possibility of the formation of a Federal fuels corporation to explore and exploit for the benefit of the people of America the 80 percent of the Nation's oil shale, the 60 percent of America's geothermal resources and the 50 percent of our remaining oil and gas, all of which reside on Federal lands. A Federal fuels corporation, operating in competition with private oil companies would establish a competitive situation from which we would finally know what is the actual cost of producing energy. We would face the challenge of the energy crisis with the same imagination and creativity that America established the Manhattan project for the nuclear bomb and NASA for the exploration of space.

There is not even a provision in H.R. 8444 to prevent any energy company from taking their new vast income and investing it in totally unrelated industries. Mobil can buy another Montgomery Ward or Marcor for $1.6 billion, Gulf can purchase another Ringling Brothers Circus along with Rockwell International, and Arco can buy any number of entities just like they purchased Anaconda Copper. The 20 or so major oil companies are not made accountable to the people or to the Government for their actions in resolving the energy problem. They escape from H.R. 8444 without being required to perform a single sacrifice, a single loss, or even the threat of a possibility of a diminution of profits. It is no wonder that the major oil companies are not upset about the enactment of H.R. 8444.

OTHER INEQUITIES OF EQUALIZATION

The more one studies the first major proposal of the Carter administration in the field of energy, the more one is astonished that all of the worst ideas of the past few years have somehow been incorporated in the 110 different features embodied in H.R. 8444. In virtually every instance where a stimulus is required a tax credit or deduction of some kind is offered. New loopholes will abound for wealthy individuals and corporations. The upper-middle class will sharply diminish their taxes over the next several years by taking advantage of the very attractive tax credit up to $2,150 for the purchase of solar heating or solar air conditioning. It is distressing that President Carter, who campaigned extensively on the promise that he would reform a tax system which, in his words, has become "a disgrace to the human race" has announced an energy program which is replete with tax loopholes of all types.

Despite the vast potential giveaways for the introduction of solar energy, the plan contemplates that solar would constitute only 1.5 percent of the energy supplies of the Nation over the next 7 years.

Ralph Nader spoke perceptively about the administration's energy plan in these words: "The more I looked at the plan, the worse it got."

The tax relief for corporations and for utilities are possibly the most indefensible of all of the losses and subsidies doled out in H.R. 8444. The bill does not recognize that over one-third of the investor-owned utilities are off the tax rolls completely since they pay no tax. According to reports filed with the Federal Power Commission, the Nation's 150 largest electric utilities paid a total of only $505 million in Federal income taxes in 1974; 57 of these companies paid absolutely no Federal income tax at all in 1974. Pretax profits for these 150 utilities in 1974 were $6.8 billion. While the statutory tax rate for corporations is 48 percent, these companies with the availability of tax loopholes paid an average of only 7.4 percent of their taxable income to the Federal Government.

It will be these 150 power companies which will have a new and most important relationship to their customers under the proposed energy plan. I cannot conceive of the possibility that these companies will overnight become models of public service seeking only to bring the desired amount of energy at the most modest rates.

Last, but far from least, is the bitter disappointment that H.R. 8444 carries hardly a crumb for the harassed commuter who had hoped that the Carter administration would turn up with a whole new vision of mass transit that would relieve the middle-class worker from the mounting costs of transportation while simultaneously contributing in a significant way to energy conservation.

I am the first to acknowledge that there are elements of H.R. 8444, as reported by the ad hoc committee, which individually merit the full suport of the House. Utility rate reform based on cost-of-service and peak-load pricing was first proposed in my Electric Utility Rate Reform Act of 1975, and is a policy approach which relieves household consumers of the burden of subsidizing promotional rates for the largest industrial users.

The solar energy and weatherization program contained in H.R. 8444 will also make great strides in reducing growth in our national energy demand, and rightfully exploits those conservation opportunities which are most immediate and economical. Though I regret that tax credits were relied upon, rather than more equitable loans and grants, and regret that the income cutoff for low-income weatherization assistance was established at a meager level, I am confident that these provisions of H.R. 8444 constitute a much-needed step in the right direction.

An aggressive solar grant and loan program similar to that contained in my Solar and Energy Conservation Commercialization Act, H.R. 3981—which has been cosponsored by 90 Members of the House—will assure solar an even more significant role as a substitute for fossil fuels.

Stiff taxes on gas-guzzling automobiles are also a positive element of H.R. 8444, and warrant favorable action by the House. Such penalties are more progressive and involve a great deal more consumer discretion than outright taxes on gasoline, and should be combined with strict gas mileage requirements—beyond those mandated by the Energy Policy and Conservation Act of 1975—to insure that all new automobiles achieve reasonable standards of energy efficiency.

Finally, the legislation takes great strides in requiring the payment of attorney's fees to those consumers and State agencies who prevail as intervenors in utility regulatory proceedings, and who would otherwise be unable to participate. This is an issue which has received my longstanding attention as a member of the House Judiciary Committee and reflects elements of my own legislation. It is a principle which is long overdue and deserves our uncompromising support.

It is difficult, however, to balance and reconcile these positive issues with the major uncertainties and deficiencies of the energy plan as a whole.

It is not a pleasant task to be so critical of the work product of an administration and a Congress which has recognized the urgency of conserving energy and developing a program which will protect the Nation from the awful consequences that would result if another Arab boycott came about. No one pretends that the development of such a plan can be simple or easy. But I am afraid that H.R. 8444 is based on the delusion that we can rely upon the existing monopolistic energy companies to

bring us out of the crisis which they, more than any other force in America, helped to create—a crisis by which America consumes and wastes more energy per capita than any other highly industrialized country. It is these energy companies that have not had the decency or honesty to share even with Federal agencies, much less the Congress and the country, the basic facts about their reserves, their plans and their pricing.

H.R. 8444 offers only a series of bad choices. The Congress and the country have yet to formulate the good choices. I have the hope that the Carter administration and the Congress will recognize the grave limitations and severe deficiencies of H.R. 8444 and together will begin again to develop a solution which, because it does contain the "moral equivalent of war," will be able to bring peace at last.

AMENDMENT OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAGGONNER: Page 488, strike out line 18 and all that follows down through line 16 on page 504 and insert:

Subpart B—Transfer of Crude Oil Equalization Taxes to the Federal Old-Age and Survivors Trust Fund

SEC. 2033. TRANSFER OF CRUDE OIL EQUALIZATION TAXES TO THE FEDERAL OLD-AGE AND SURVIVORS TRUST FUND

(a) IN GENERAL.—Subsection 201 of the Social Secuirty Act is amended by striking out the period at the end of clause (4) and inserting in lieu thereof "; and" and by inserting after clause (4) the following new clause:

"(5) the taxes received in the Treasury under section 4986 of the Internal Revenue Code of 1954 (relating to crude oil equalization taxes) with respect to such taxes imposed during calendar year 1978 reduced by the amount of the credits or payments allowable under such Code which are properly chargeable against the amount of such taxes."

(b) ADMINISTRATIVE COSTS.—Subparagraph (A) of section 201(g)(1) of such Act is amended by inserting ", and subchapter A of chapter 45 of such Code" after "Internal Revenue Code of 1954" where it appears in clause (1), and where is first appears in the matter following clause (11).

(c) CONFORMING AMENDMENT.—Subsection (a) of section 201 of such Act is amended by striking out "clauses (3) and (4)" each place it appears and inserting in lieu thereof "clauses (3), (4), and (5)".

Mr. WAGGONNER. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana (Mr. WAGGONNER) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Chairman, the amendment I propose is intended to have a single purpose, a single goal, and that is to transfer for the year 1978 those dollars collected by the crude oil equalization tax designated in the bill to be rebated on a per taxpayer basis in a general way through the tax structure, and that these funds be transferred to the social security trust fund rather than rebating these equalization tax dollars.

I understand as well as any Member of this House the controversy which surrounds the desirability or even the feasibility of financing in any way any part of the social security from General Treasury funds. I have questions myself. But I would like to point out to those who say we have never financed any part of social security benefits from the Treasury, that they just do not understand the system, because we have.

Part of the system is now being financed from the Treasury, so we are not plowing new ground as some would say.

I understand your point of view, whatever it might be; however, I want to tell you at the outset what I think the basis of your decision with regard to this amendment ought to be. Now, we are going to collect under the provisions of this bill through the mechanism of the crude oil equalization tax, tax dollars. I would submit that the decision is yours in the instance of this amendment. You have got to make a decision whether or not you believe it would be better to rebate these tax dollars or put them into the troubled social security trust fund.

It is not a matter of whether or not you like the rebate. It is a matter of whether you like the rebate more or less than you do stabilizing to the extent we can with these dollars the social security trust fund.

Now, just last week we completed hearings on the administration's social security proposal. I can tell you that financing of the social security program is in trouble. I want to tell you what our findings have been. I speak of trust fund financing, short-term deficits, alternatives, and the administration proposal.

FINANCING THE SOCIAL SECURITY TRUST FUNDS

The social security system is the Nation's primary means of providing economic security to workers and their dependents or survivors in the event of retirement, death, or disability. There are presently over 33 million people receiving monthly social security benefits and about 108 million workers will contribute to the system this year.

The social security system is financed on a current-cost basis. That is, current taxes paid by workers and their employers are paid out to current beneficiaries. The benefits to present workers will be paid in the future by future workers. Any surplus paid into the trust funds remains in the funds as reserves to be used in the event that outgo from the funds exceeds income in a given year.

SHORT-TERM DEFICIT

Over the past 5 years, outlays from the old-age, survivors and disability insurance (OASDI) trust funds have been exceeding income. In 1970, the OASDI trust funds had a balance of about 1 year's outgo. At the beginning of 1977 the balance had been reduced to 47 percent of a year's outgo. This trend will continue, and the combined funds will be exhausted in 1982 unless action is taken by Congress to correct this situation. Considered separately the DI fund will be exhausted in 1979 and the OASI in the early 1980's.

The operations of the trust funds are extremely sensitive to changes in economic conditions. Outgo is higher than was estimated in the past because the rate of inflation during the last few years has been higher than had been expected, and under automatic increase provisions in the law, benefits have been raised more than was expected. On the other hand, although income is also higher than was expected, income has not risen fast enough to offset the effect of the rise in prices. In addition, the high rate of unemployment in recent years has resulted in fewer people contributing to the system, while the number of beneficiaries has increased.

ALTERNATIVES FOR SHORT-TERM FINANCING

There are basically three methods increasing trust fund revenues:

(1) Increasing the tax rate;

(2) Increasing the taxable wage base; and

(3) Using general revenue contributions.

The effect of any of these methods on the program and the taxpayers depends, of course, on the specific method or combination of methods used.

Reallocation

If short-term financing legislation is not enacted within a year, then the additional funds needed by the disability insurance program could be reallocated from the OASI fund or the HI fund. Such a transfer would require enabling legislation. Reallocations among the three trust funds have been legislated in the past. However, this measure could be considered as a last resort, inasmuch as it merely postpones, and that for only a very short time, rather than solves this serious problem.

THE ADMINISTRATION'S SHORT-TERM FINANCING PROPOSALS

The administration has recommended several changes which would provide sufficient income to enable the cash-benefits programs to meet their short-term financial obligations. Assuming that the trust funds should have year-end balances approximating 50 percent of the outgo anticipated for the following year, the administration estimates that the programs will require an additional $83 billion in the period 1978–83. The changes it recommends would (1) reduce the amount needed by $27 billion and (2) provide $56 billion in additional income as follows:

	Billions
Additional employer taxes	$30
Additional employee taxes	4
Diversion of hospital insurance taxes	7
Increase in self-employment tax rate	1
Appropriation from general revenues	14
Total	56

Specific provisions of the crude oil equalization tax are as follows:

1. Imposition of tax

The bill imposes an excise tax on the first purchaser of domestically produced crude oil. The tax is imposed in three stages and is designed to increase the price to consumers of this crude oil to the world price by 1980. The tax expires on September 30, 1981, (the "termination date"), when the existing price controls on crude oil are scheduled to expire, if the President exercises his full authority to extend those controls.

Now, the equalization tax is to be rebated.

The bill provides two basic rebates of the equalization taxes (in addition to the exemptions from these taxes described above in the explanation of the taxes themselves.) These are a system of per-adult tax credits and special payments and a heating oil refund to residences and to certain institutions.

1. Crude oil equalization tax receipts credit

The bill provides a new tax credit for individuals called the "crude oil equalization tax receipts credit." Generally, the credit will be a flat amount for each taxpayer. (In a joint return, each spouse is considered a separate taxpayer for this purpose.) This amount, referred to as the crude oil payment, will be based on the net revenue from

the equalization taxes and will be determined by the Secretary of the Treasury in a manner described below. The amount of the credit will equal the crude oil payment for single persons and for married persons who file separate returns. For married couples who file joint returns and for heads of households (that is, single persons with dependents), the amount of the credit will equal twice the crude oil payment. Estates, trusts and nonresident aliens will not be eligible for this tax credit.

Generally, the tax credit will be limited to tax liability; however, it may exceed tax liability for persons entitled to the earned income credit.

The crude oil equalization tax receipts credit will be reflected in lower withheld taxes for wages paid during 1978. The bill gives the Secretary of the Treasury the authority to issue new withholding tables for 1978 which reflect his estimate (as of October 1, 1977) of the amount of the crude oil payment for 1978. The committee intends that the credit appear as a separate line item on tax forms 1040 and 1040A.

The precise amount of the crude oil payment, on which the tax credit will be based, is to be determined by the Secretary of the Treasury in consultation with the Secretary of Energy.

The precise amounts are yet to be calculated.

In addition, special payments are provided to recipients of social security—SSI—and those who draw railroad retirement benefits. In addition, special payments are provided to aid the families with dependent children, recipients of AFDC benefits, and there are other special provisions.

Who among you would tell me that they want to provide for this benefit rather than for those who are on social security? There is what is called a roundup rebate, the roundup rebate, is to provide a tax credit and special payments to, not just social security and railroad retirement and AFDC beneficiaries.

There are other special payments even with the tax credit and the special payments to social security, SSI, railroad retirement and AFDC beneficiaries, there would be adults who would not receive any benefit under the rebate program. To insure that every adult receives some compensation for the higher energy costs which result from the crude oil equalization taxes, the bill includes a "roundup payment," which may be claimed by any individual who, on December 31, 1978, is age 18 or older and is a resident of the United States and who files the appropriate form with the Treasury Department. The committee intends that the Treasury make provision for married couples to claim the roundup payment by filing a joint return.

But, it goes further than that. Special payments are provided for the citizens of Puerto Rico as well.

Yes, the social security trust fund is in trouble. The administration opposes a rebate plan, a rebate plan very much similar to the already discredited $50 rebate proposed earlier and withdrawn. But, this is not a $50 rebate. This is estimated to be something on the order of only about $22 in 1978. I do not know what has happened. The situation in the economy has improved since that rebate plan was withdrawn earlier this year as being a discredited and unnecessary plan.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. WAGGONNER. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, am I under the understanding that the gentleman from Louisiana has already had 10 minutes?

The CHAIRMAN. That is correct.

Mr. ASHBROOK. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. WAGGONNER. They say now that we must return this crude oil equalization tax to the economy, that the economy demands it, that we need the stimulus. I do not think the situation is as bad now as it was earlier. I do not think that this is exactly so. But, it is inconsistent, if it should be returned to the economy with a request of the administration which asks that we siphon off $30 billion by taxing all the employee wages to the employer above $16,500.

Here is what my plan does: It will take about $3.4 billion of the money collected by the crude oil equalization tax in 1978 and put it into the troubled social security trust fund. It will not in any way affect the provision of the bill which provides for the home heating oil rebate that those Members in the Northeast are so vitally interested in.

It will not affect the heating oil rebate provided for institutions, hospitals, schools and churches. It is for only 1 year. The crude oil equalization tax extends for 3 years beyond 1978. The Committee on Ways and Means makes a decision what to do about those 3 years. We do not need to revise withholding tables for the year 1978 simply to redistribute through the tax mechanism $22, as estimated, to each of the taxpayers.

There are some in the administration who believe that the social security trust fund should be the beneficiary of this crude oil equalization tax. This was seriously considered by the administration and, yes, there is a division with regard to what should be done with these dollars.

The Committee on Ways and Means, in all probability, is going to do nothing this year, or next, except to do something about short-range financing for social security.

As I said at the outset, the choice is not whether or not we want the rebate, as the crude oil equalization tax, as the bill proposes, or whether we want to put it in the trust fund, as I propose, to stabilize the social security trust fund. The decision we have to make is, which would be the best expenditure, the best utilization of these dollars that are going to be collected?

I submit to you that for this one year the interests of the social security trust fund would be better served than it would be to revise all of our withholding tables and distribute a measly little $22 per capita through the taxing mechanism in this country.

Let us do what we can to help stabilize the social security trust fund by putting this money for this one year into that social security trust fund. But if we do not, the alternatives are clear. We are going to establish a rebate plan in perpetuity, in all probability, an already discredited rebate plan, which will turn out to be another welfare plan. But in addition to that, we are going to jeopardize further the social security system, which is going to mean that somewhere, sometime, we are going to have to bite a bigger bullet and we are going to have to raise social security taxes more than we want to and more than is necessary now, to both the employer and to the employee, and we are going to create further uncertainty in the minds of these 33 million people who are beneficiaries of the system now.

I say clearly it would be a better utilization of these crude oil equalization tax dollars to put them into the social security trust fund where they will reach the people rather than rebating them and then having to go and borrow the money to stabilize the fund at some later time. It is a far better expenditure now. It is late, and we ought to get on with it.

I would urge the Members to get the best utilization of these dollars now, vote for this amendment, and transfer these funds to the social security trust fund.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The distinguished gentleman from Louisiana is a very able acting chairman of the Subcommittee on Social Security and I can understand his concern about bringing legislation to the floor that would resolve the problems with social security. But let me say that there are answers to the social security problem.

The staff and the subcommittee are in the process of developing legislation that will come before the Congress shortly.

Let me say that this is not the way to solve social security problems. The whole concept of the equalization tax is that we will rebate to the consumers, to the people of America, the amount of the tax to make them whole as much as possible. To divert this tax in this way into the social security system would, it seems to me, distort the very purposes of the equalization tax.

I hope that we will not get into an extended discussion of this matter. Suffice it to say that the social security system has real problems. We will be facing up to the issues underlying those problems later on this year. This subject should be totally separated from the problems of energy and this equalization tax.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the distinguished ranking minority member of the committee.

Mr. CONABLE. Mr. Chairman, with great reluctance, I also rise in opposition to the amendment.

It seems to me that this is not the way to handle the social security problem. It

would represent a backdoor approach to General Treasury financing, and that is something I hope we will be able to avoid.

Mr. ULLMAN. Mr. Chairman, I thank the gentleman.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Waggonner amendment to the energy bill that would divert some of the proceeds of the new wellhead tax on oil to the social security trust funds.

This concept is not new. It was considered very seriously by the administration and only at the last minute rejected in favor of a rebate of these revenues through the income tax system.

I testified before the Committee on Ways and Means and its distinguished chairman on behalf of the principle of using these new energy resources to help finance social security. I do not contend that this is a permanent solution, but I do believe that it does buy a little time for the committee chairman to work out a permanent long-time solution.

Mr. Chairman, a great deal is at stake. We have a rare chance here to kill several birds with one stone. Let me begin by explaining my particular interest in this proposal.

One of the primary tasks of the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs of which I am chairman is to explore and monitor all aspects of the Nation's serious and continuing inflation problems. One of the greatly neglected aspects of the discussions on this issue is the steady rise in the payroll tax. Our social security payroll tax just on the employer now amounts on the average to about 30 cents for each hour worked, and that is up from only 5 cents 15 years ago.

The tax operates exactly like a wage increase. That is, the bulk of it is passed through in higher prices. At the same time the financial problem of the social security system is rapidly moving from the serious to the acute, and we all know that something has to be done, although we do not seem to like at this time any of the alternatives.

I can sense the way the wind is blowing. The Senate Finance Committee, by a vote of 11 to 3, has already rejected the use of general revenues, and I understand the distinguished chairman of the Committee on Ways and Means has taken the same position.

This amendment, limited to the wellhead tax revenues just for the calendar year 1978, would provide an infusion of about $3.4 billion into the social security trust fund. That is not much, but at least it would head off any further decline in the trust fund as outlays continue to exceed present revenues.

We should recognize another important point. The amendment is limited to 1978, simply because the Committee on Ways and Means decided to reserve judgment on disposition of the revenues from the tax after 1978 for later consideration.

If we establish the principle of this amendment of using these revenues to help solve social security problems, the even larger revenues from this tax in the second, third, and fourth years can be used for the same purpose.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I normally find myself in agreement with my distinguished colleague, the gentleman from Pennsylvania (Mr. MOORHEAD).

The bitter fact of the economic plight of social security is that financing our social security system is not something that we can start to address with design on the floor of the House.

I yield to no one in my concern about the well being of those who receive benefits under the social security system, and I yield to no one on the imperative that we come up with a sound financing mechanism.

However, this is too simplistic, and it is gimmickry. We cannot possibly consider rewriting legislation on financing social security on the floor of the House until the Committee on Ways and Means has at least framed the issues and heard the objections.

Mr. Chairman, I urge the amendment be rejected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman for his comments.

I assure the gentleman that I am not suggesting a permanent solution.

However, we have an opportunity, with new revenues coming in which can be devoted now to a clearly worthwhile purpose; and it will give the Committee on Ways and Means a little more breathing space in which to come up with a permanent solution which may be entirely different from this one.

Mr. Chairman, I am suggesting this amendment is merely a 1-year amendment. I would suggest to the members of the Committee on the Budget that it would help to reduce the budget deficit. It would largely offset some of the expenditures of the farm bill that has just passed the House.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. MOORHEAD) has expired.

(By unanimous consent, Mr. MOORHEAD of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the amendment, to repeat, kills several birds with one stone. It will reduce or eliminate the need for a yearly payroll tax increase and hence, will be most helpful on the energy front. It will buy us a little time, at the very least, to face up to our social security problem. It will help to balance the budget, and it will be nearly costless to our hard-working taxpayers, who will lose only a tiny amount in taxes, an amount that they would hardly see, $22 per person.

Mr. Chairman, it is not often that we have this excellent opportunity, and it does not upset the energy package. It is merely a different way of redistributing the taxes that we have already agreed upon.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I hope that we are not leaving the impression that the social security trust fund is in an increasing deficit posture. The old age survivor's trust fund this year and next is in some surplus, so there is not an imminent problem, but one of a little longer range which we will have to look at.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I would only hope that the amendment will give the gentleman from Oregon (Mr. ULLMAN) and the committee a chance to work this out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. WAGGONNER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAGGONNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 226, answered "present" 1, not voting 16, as follows:

[Roll No. 506]

AYES—190

Abdnor	Fountain	O'Brien
Alexander	Fowler	Oakar
Allen	Frenzel	Perkins
Ammerman	Frey	Pettis
Anderson, Calif.	Fuqua	Pickle
Andrews, N.C.	Gammage	Pike
Annunzio	Gaydos	Poage
Applegate	Gilman	Pressler
Ashbrook	Ginn	Pritchard
Bafalis	Glickman	Pursell
Barnard	Goodling	Quayle
Bauman	Grassley	Quillen
Beard, R.I.	Gudger	Regula
Bedell	Guyer	Risenhoover
Bennett	Hall	Roberts
Bevill	Hansen	Robinson
Biaggi	Harkin	Roncalio
Blouin	Harsha	Rose
Boggs	Heckler	Rousselot
Bowen	Hefner	Rudd
Breaux	Heftel	Runnels
Brinkley	Hightower	Ryan
Brooks	Hillis	Sarasin
Broomfield	Holland	Satterfield
Brown, Ohio	Horton	Sawyer
Buchanan	Hubbard	Schroeder
Burgener	Huckaby	Sebelius
Burke, Fla.	Ichord	Shipley
Burleson, Tex.	Ireland	Shuster
Burton, John	Jenkins	Sikes
Butler	Jenrette	Simon
Caputo	Johnson, Calif.	Sisk
Carter	Johnson, Colo.	Slack
Chappell	Jones, Okla.	Smith, Iowa
Clausen, Don H.	Jordan	Snyder
Cleveland	Kasten	Spence
Cochran	Kazen	St Germain
Coleman	Kelly	Steed
Corcoran	Krueger	Steers
Cornell	Lagomarsino	Stratton
Coughlin	Leach	Stump
Crane	Lent	Symms
Daniel, Dan	Long, La.	Taylor
Daniel, R. W.	Lott	Traxler
Davis	Lujan	Treible
de la Garza	McClory	Vander Jagt
Derwinski	McDade	Waggonner
Dickinson	McDonald	Walgren
Dornan	McKay	Walker
Early	Madigan	Walsh
Edwards, Ala.	Mahon	Wampler
Edwards, Okla.	Mathis	Watkins
Emery	Mazzoli	Weaver
English	Milford	White
Ertel	Mitchell, N.Y.	Whitehurst
Evans, Colo.	Mollohan	Whitley
Evans, Del.	Montgomery	Whitten
Evans, Ga.	Moore	Wilson, Bob
Fenwick	Moorhead, Calif.	Wmn
Flowers	Moorhead, Pa.	Wydler
Flynt	Mottl	Yatron
Foley	Murphy, Ill.	Young, Fla.
Forsythe	Myers, John	Young, Tex.
	Natcher	

NOES—226

Addabbo	Ford, Mich.	Myers, Gary
Akaka	Ford, Tenn.	Neal
Andrews, N. Dak.	Fraser	Nedzi
	Gephardt	Nichols
Archer	Giaimo	Nix
Armstrong	Gibbons	Nolan
Ashley	Goldwater	Nowak
Aspin	Gore	Oberstar
AuCoin	Gradison	Obey
Badham	Hagedorn	Ottinger
Badillo	Hamilton	Panetta
Baldus	Hammer-schmidt	Patten
Baucus		Pattison
Beard, Tenn.	Hanley	Pease
Bellenson	Hannaford	Pepper
Benjamin	Harrington	Preyer
Bingham	Harris	Price
Blanchard	Hawkins	Quie
Boland	Hollenbeck	Rahall
Bolling	Holtzman	Railsback
Bonior	Howard	Rangel
Bonker	Hughes	Reuss
Brademas	Hyde	Rhodes
Breckinridge	Jacobs	Richmond
Brodhead	Jeffords	Rinaldo
Brown, Calif.	Jones, N.C.	Rodino
Broyhill	Jones, Tenn.	Roe
Burke, Calif.	Kastenmeier	Rogers
Burlison, Mo.	Kemp	Rooney
Burton, Phillip	Ketchum	Rosenthal
Byron	Keys	Rostenkowski
Carney	Kildee	Roybal
Carr	Kindness	Ruppe
Cavanaugh	Kostmayer	Russo
Cederberg	Krebs	Santini
Chisholm	LaFalce	Scheuer
Clawson, Del	Latta	Schulze
Clay	Le Fante	Seiberling
Cohen	Lederer	Sharp
Collins, Ill.	Leggett	Skelton
Collins, Tex.	Lehman	Skubitz
Conable	Levitas	Smith, Nebr.
Conte	Lloyd, Calif.	Solarz
Conyers	Lloyd, Tenn.	Spellman
Corman	Long, Md.	Staggers
Cornwell	Luken	Stangeland
Cotter	Lundine	Stanton
Cunningham	McCloskey	Stark
D'Amours	McCormack	Steiger
Danielson	McEwen	Stockman
Delaney	McFall	Stokes
Dellums	McHugh	Studds
Derrick	Maguire	Thompson
Devine	Mann	Thone
Dicks	Markey	Thornton
Diggs	Marks	Treen
Dingell	Marlenee	Tsongas
Dodd	Marriott	Tucker
Downey	Martin	Udall
Drinan	Mattox	Ullman
Duncan, Oreg.	Meeds	Van Deerlin
Duncan, Tenn.	Metcalfe	Vanik
Eckhardt	Meyner	Vento
Edgar	Mikulski	Volkmer
Edwards, Calif.	Mikva	Waxman
Eilberg	Miller, Calif.	Weiss
Erlenborn	Miller, Ohio	Whalen
Evans, Ind.	Mineta	Wiggins
Fary	Minish	Wirth
Fascell	Mitchell, Md.	Wolff
Findley	Moakley	Wright
Fish	Moffett	Wylie
Fisher	Moss	Yates
Fithian	Murphy, N.Y.	Young, Mo.
Flood	Murphy, Pa.	Zablocki
Florio	Murtha	Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—16

Ambro	Holt	Teague
Anderson, Ill.	Koch	Wilson, C. H.
Brown, Mich.	McKinney	Wilson, Tex.
Burke, Mass.	Michel	Young, Alaska
Dent	Myers, Michael	
Flippo	Patterson	

The Clerk announced the following pairs:

Mr. Burke of Massachusetts for, with Mr. Koch against.

Mr. WEAVER and Mr. BLOUIN changed their vote from "no" to "aye."

Messrs. ARMSTRONG, MARKS, and BADHAM changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DERWINSKI. Mr. Chairman, this is not an energy bill—it is a gimmick to slug the American public with new taxes.

The so-called National Energy Act creates three new taxes. These taxes will remove billions from the economy at a time when there is a critical need for more capital funds. According to the Office of Technology Assessment and the Congressional Budget Office, the administration's estimates of the magnitudes of import savings—resulting from the tax-induced conservation—are very optimistic.

The Ways and Means Committee has a report that concludes, as a result of these new energy taxes, real growth will be 2.5 percent lower in 1985 and unemployment will be 1 percent higher.

Even without a gasoline tax, the program called for in this bill will cost taxpayers over $200 billion in new taxes between 1978 and 1985. This amounts to $4,000 for every American family.

These new taxes will not reduce consumption, and they will provide no corresponding incentive for production and increased supplies. Tax incentives that channel profits into increased production will serve our national purpose far better than penalty taxes to discourage use. A far more effective means of encouraging conservation and production would be to lift price controls on newly discovered oil. Appropriate market pricing of petroleum, reflecting its replacement value, would do much more to reduce imports and encourage the use of alternative fuels. It would be less harmful to the economy and to American consumers.

Specifically as an Illinois Representative, I am flatly opposed to the proposed Federal gasoline tax. Unless at least 2 cents of the 5 cents per gallon goes back to the States for their highways, Illinois and many other States will be faced with the grim reality of having to raise their own State motor fuel taxes at least 2 cents per gallon to accommodate the cost of the increased upkeep and maintenance on the present highway system.

The regional transit authority is presently going to receive, beginning October 1, 1977, a 5-percent sales tax from gasoline in the six northeastern counties of Cook, Will, Du Page, Kane, Lake, and McHenry, Ill. This will amount to millions of extra dollars a year going to the mass transit systems in the Chicago area. The other transit systems in the State of Illinois, namely, buses in Rockford, Peoria, Springfield, Champaign/Urbana, Decatur, and the Bi-State in East St. Louis and so forth, have been able to find ways to keep their systems running without constantly trying to force downstate motorists to pay for their operation.

It has been estimated that the crude equalization tax will force the price of gasoline up 8 cents per gallon. At the present time, the retail cost of regular gasoline in Illinois averages 66 cents and no-lead is 69 cents. When you add 8 cents a gallon, it would make regular gasoline 74 cents and no-lead 77 cents. In addition, it will increase the State sales tax, which will add approximately another 1 cent to these prices.

These prices will be forced upon rich and poor alike. However, the economic impact on the wage earner who must drive to and from work because he has no other form of transportation available will be an uncontrollable increase in his living costs.

It is clear that gas taxes are not designed to reduce energy consumption, but really to raise revenues for mass transit and highway renovation. If this is so, why should the poor and low-income workers in our country have to pay a larger share for these programs. Everyone shares in the benefits of well-maintained highways, and expanded mass transit facilities. Yet, this tax is nothing but a sales tax on gasoline. Workers across the country frequently have to travel 50 or more miles just to get to their jobs. People in rural areas have to travel far just to get to town or to the doctor. These people have little choice over the use of their cars, yet this tax would fall directly upon them.

To repeat, the evidence is clear that the new Carter gasoline taxes will have little effect on consumption. They will fall most heavily upon the middle- and low-income segments of our economy. These families are already suffering the effects of inflation, and this new tax will increase their direct gasoline costs, and will increase prices for all commodities that are shipped by surface transportation.

This national energy plan lacks both balance and effectiveness. The plan will not solve the energy crisis but it will impose unnecessary economic burdens on individuals and American businesses.

Therefore, for the above and other reasons, I am supporting the Republican substitute as an acceptable alternative; but if that proposal, as expected fails, I will vote against this sham energy bill.

Mr. EVANS of Delaware. Mr. Chairman, when I came to the House of Representatives, I considered the development of a fair and comprehensive national energy policy to be the number one legislative priority before the Congress. Now, 7 months later, I still cling to that belief. Thus, it is with great disappointment that I must oppose the bill before us today, the National Energy Act, because it is neither comprehensive in scope nor fair to the American taxpayer.

I am convinced that the national energy bill which was proposed by President Carter and emerged relatively unscathed from the Ad Hoc Energy Committee, will do nothing to increase the supply of energy in this country; will conserve precious little of existing supplies; and will lead to major increases in taxes and in prices for every American.

Before I discuss some of my specific objections to the measure, I want to make a few comments on how this awesome bill was put together. To begin with, the administration slapped their 113 proposals together in only 90 days, in order to meet an arbitrary deadline. The leadership of the House then rammed these ill-conceived proposals through the standing committees and to the Ad Hoc Energy Committee in record time. Then, the ad hoc committee—or,

to be more precise, the Democratic members of the committee—fashioned their 580-page book, which is the bill, in only 1 week.

The result of this hectic effort is a bill which does not adequately consider either the short- or long-term economic effects on our Nation. It seems that the House leadership, in what can only be called a "railroad job," is more interested in making sure the train runs on time than it is in getting to the right destination.

TOTAL COST OF THE BILL

The bill before us will cost the American people $380 billion by 1985, or about $5,500 for every American family.

The Congressional Budget Office estimates that the total net tax burden on the economy will increase by $73.6 billion by 1985, thus increasing taxes by more than $1,050 per family over that same timespan.

It will lead to a substantial decline in economic output and personal income for millions of Americans.

It will cut employment by over 1 million jobs.

Industrial production, automobile sales, and housing starts would all decline.

And for what? Certainly not for energy conservation. Expert organizations such as the Congressional Budget Office, the Office of Technology Assessment, the Congressional Research Service, and the General Accounting Office have all said that this plan will not meet the goals set for it by the administration. In fact, it will fall far short of them.

Let me quote from the GAO report evaluating the national energy plan:

GAO believes that the plan will fall short of meeting some of the goals to an even greater extent than the administration estimates, including that of reducing oil imports to 6 million barrels of oil a day by 1985. The administration acknowledges that the plan will fall short by 1 million barrels a day unless voluntary conservation actions are effective. GAO believes that the plan could fall short by 4.3 million barrels a day because GAO doubts that the plan's 1985 domestic production forecasts for coal, nuclear power, and natural gas can be achieved. This means that, even with the plan, 1985 oil imports would be 10.3 million barrels a day, or 47 percent of oil consumption. To the extent that domestic energy production in these three areas falls short of the goals, oil imports will have to be increased unless further significant conservation is achieved.

With respect to coal, GAO concludes that there are serious problems in and obstacles to achieving a production level of 1 billion tons by 1985. This is the administration's base case estimate, the amount of coal the administration says would be produced without its plan. With the plan, the administration expects coal production to increase by .2 billion tons over its base case to a total of 1.2 billion tons in 1985. The problems with coal include serious environmental obstacles, enormous capital requirements, and a deficient rail transportation network. These are not dealt with adequately in the plan.

While the administration has stated that it will use nuclear energy as a last resort, it, nevertheless, expects that in 1985 nuclear energy will be four times the current level. GAO believes that achieving such an increase in 8 years is very doubtful. It would require that by 1985 all 77 nuclear powerplants now licensed for construction be completed and that all nuclear powerplants would have to operate at an average annual capacity of 69 percent. GAO believes such an achievement to be highly unrealistic. GAO also believes that 1985 natural gas production has been overstated by about 10 percent.

Thus, the investigative arm of Congress clearly indicates that the Carter plan will not achieve the desired results.

Mr. Chairman, this is not an energy conservation bill. It is a tax bill which will substantially increase both taxes and prices for every American family.

Let me now turn to some of the specific proposals in the bill.

RESIDENTIAL ENERGY CONSERVATION

As a member of the Banking, Finance and Urban Affairs Committee, I was proud of the legislation reported by the committee regarding residential energy conservation. Under our bill, weatherization grants were provided for the 14 million low-income families who now live in poorly insulated homes. We provided a mechanism to allow low-interest loans to moderate income persons for weatherization. We also rejected plans which would have required homes to be insulated before sale or transfer. Most importantly, we prohibited utilities from financing or installing insulation or other energy-saving devices. Utilities would simply distribute to its residential customers a consumer guide which provides information concerning materials, contractors, financing and consumer protection information. Such publication would be informative, but would not provide lists of persons to do the work.

However, the ad hoc committee took this very constructive language and destroyed it. The act as reported by the ad hoc group would politicize the process by allowing Governors to develop and mail lists to consumers of "recommended" sources for insulation work. In my opinion, these lists would probably be identical to the last fund-raisers held by the Governor. Small businesses would also be overlooked. The bill also allows utilities to get into the financing and construction work, thus establishing a monopoly enterprise.

Because the ad hoc committee has taken a good idea and turned it into a bad one, I oppose this section.

NATURAL GAS

As I have mentioned previously, one of the most striking problems of this whole bill is its lack of proper incentives for exploration of new sources of energy. Nowhere is this oversight more apparent than in the natural gas section.

I believe we should have a phased deregulation of natural gas. Phasing-in the deregulation of natural gas would mitigate any economic problems caused by higher prices, and would stimulate development of new supplies of this energy source which is of critical importance not only to residential customers, but to industries as well. As we learned last winter, shortages of natural gas means unemployment. Fifty percent of natural gas supplies in my area of the country go to industrial users. We simply cannot afford another shortage. Deregulation would protect us from just such a shortage.

The Brown-Krueger amendment unfortunately does not contain the phased-in standard which I think is so important. However, since my only alternative under the rules is the Carter proposal of $1.75 Mcf, which would not increase production of more natural gas, I supported the Brown-Krueger amendment.

This amendment removes Federal price controls from a very narrowly defined quantity of new natural gas. "New" gas is defined as: First, gas sold or delivered in interstate commerce for the first time on or after April 20, 1977, provided that such gas could not have been sold or delivered prior to April 20, 1977; second, gas produced from a new well which is 2.5 miles or more from any old well or gas from a new reservoir; or third, gas from a well drilled 1,000 feet deeper than an existing well less than 2.5 miles away or in a reservoir discovered after April 20, 1977, as established by applicable State or Federal authorities.

Offshore natural gas, which must be sold to the interstate market, remains subject to Federal price controls through April 20, 1982, based on a new national ceiling reflecting prospective costs. Thereafter, federal price controls are removed on offshore gas.

Old natural gas if sold in the interstate market remains subject to present FPC cost-based price controls and present contracts—ranging from about 18 cents per Mcf to $1.46 per Mcf—remain in effect until they expire by their own terms. Many of these contracts are for the life of the well. This maintenance of gas supplies at existing old, price-controlled contracts is the first protection for interstate gas consumers.

Natural gas now being sold in the interstate market is not subject to any price control. Prices are designated in contracts but such contracts are usually for shorter periods and at higher prices. Under this amendment, when these interstate contracts expire, that gas can be bid for by buyers for interstate markets—thus bringing added supplies to interstate gas consumers.

Another protection against prices jumping too rapidly is afforded the residential consumer by assuring that all the new gas purchased to fill shortages in a pipeline will be charged to boiler fuel users of natural gas and industrial users to the extent that they use gas in excess of their base period consumption until such costs reach 120 percent of the costs of imported crude oil on a Btu basis. This means that all higher cost new gas will be charged first to large industrial boiler users and then to medium and large users using over their base allowance, thus holding residential users harmless.

Not until old low cost contracts expire and are gradually replaced by contracts for more recently developed higher cost wells will the residential user be affected by higher prices for natural gas.

As a matter of fact, as pipelines become 100 percent utilized and fixed pipeline costs are spread over more units of gas in the line, distribution and transportation costs for consumers, which now represent about 70 percent of the consumers' bill, may actually go down. And as excessively costly synthetic fuels

are no longer needed to supplement shortages of lower cost natural gas, the costs to present natural gas users may in some cases be reduced. Finally, the necessity to curtail natural gas tap-ins for new homes—in effect in many parts of the Nation since the early 1970's—may actually be ended so that new home buyers can once again use environmentally clean, economical natural gas rather than electricity which is generally four times more expensive and environmentally more damaging to produce.

The amendment provides for the Federal price controls on new natural gas to be lifted after April 30, 1978, in order to give the Congress time to enact, if it wishes, a tax on windfall profits of gas producers which may occur. I strongly support the imposition of a windfall profits tax as the best way to protect against exorbitant profits being reaped by natural gas suppliers should deregulation occur.

A careful study of the natural gas amendment versus the natural gas provisions which emerged from the House Commerce Committee indicate that the amendment will provide for 25 trillion cubic feet more gas to be produced between now and 1990—about 3 tcf per year more than the Commerce Committee plan. In the same period of time, maintaining Federal price controls as the Carter-Dingell bill proposes would cost American consumers $48 billion more than terminating Federal price controls.

GASOLINE TAXES

I am also strongly opposed to any increase in the Federal gasoline tax. Under the bill, however, gas prices will skyrocket. The crude oil equalization tax will add 5 cents to a gallon. Additional markups will add 2 cents more. And now, the administration wants to add another 5-cent gasoline tax to the pot. That means that this bill will add about 12 cents a gallon to the cost of gasoline. This increase works out to about the same percentage increase in real prices as has been the case since the beginning of the oil embargo.

Yet this burdensome gasoline tax increase will have almost no conservation impact. It is regressive and inflationary, and should be defeated.

TAX CREDITS FOR INSULATION

One of the best sections of this otherwise troubling bill is the portion dealing with tax credits for home insulation and solar and wind energy conservation equipment.

Under the proposed bill, taxpayers would receive a credit of 20 percent on the first $2,000 of cumulative expenditures on home insulation and other energy conserving components, for a maximum credit of $400. The credit would be available for installations made from April 20, 1977 through December 31, 1984.

Insulation means materials that will reduce the heat loss or heat gain of residence. Attic, floor and wall insulation made of fiberglass, rock wool, cellulose or styrofoam are examples of insulating materials. Energy conserving components include a replacement burner for a furnace that provides increased combustion efficiency, devices to modify flue openings, automatic ignition systems that replace a gas pilot light, exterior storm or thermal doors or windows, a clock thermostat and exterior caulking of weatherstripping.

The expenditures must be made for a principal residence that was in existence on April 20, 1977. Vacation homes and other residences do not qualify for the credit. If a taxpayer moves to another principal residence after taking the credit on a previous principal residence, qualifying expenditures on the other residence would be eligible for the $400 credit.

Owners and renters will be eligible for the credit. Cooperative and condominium housing owners are each eligible for the $400 credit on their proportionate shares of the common qualifying expenditures. The credit is allocated among joint occupants of a principal residence.

Also, a credit up to $2,150 would be available on the first $10,000 of expenditures on solar and wind energy equipment. The credit is 30 percent of the first $1,500 spent and 20 percent of the next $8,500 spent for installations of this equipment from April 20, 1977, through December 31, 1984.

Eligible equipment covers equipment that uses solar energy to heat or cool, or to provide hot water for a principal residence, and equipment that uses wind to generate electricity and other forms of energy. Solar and wind energy equipment only need to be installed in connection with a residence rather than in or on it, but they do not include backup systems of conventional heating or cooling equipment.

For solar and wind energy equipment, the principal residence may be either an existing or newly constructed residence. Owners and renters are eligible for the credit. Members of cooperative and condominium associations are each eligible for the $2,150 credit for their proportionate shares of the common qualifying expenditures. The credit is allocated among joint occupants of a principal residence.

Mr. Chairman, this language is similar to legislation I cosponsored in early February. We must encourage people to insulate their homes, and these provisions will do this in a very effective manner.

COAL CONVERSION

The bill seeks to require power plants and other major fuel-burning installations to convert from oil and natural gas to coal. Although this proposal sounds acceptable on the surface, there are a number of unanswered questions:

Can we mine all the coal that would be required?

Can we transport the coal to its ultimate destination?

Can it be burned and still meet strict clean air standards?

The economic costs of this conversion program are staggering. Estimates place the cost at well over $50 billion.

Coal must generally be transported by rail. Yet, in many areas of our country, existing rail facilities may not be up to the task. On the Delmarva Peninsula, for instance, I have spent a great deal of my time trying to preserve what rail service we have. The continuation of a north-south artery is in jeopardy. If that artery is cut, only one rail bridge—which has been knocked out before—would stand in the way of economic disaster.

CONCLUSION

The National Energy Act will not lead to greater production of energy for our Nation.

It will not sufficiently conserve our existing supplies.

It will tax Americans, who are already taking it on the chin, substantially.

It will lead to greater Government regulations of our daily lives.

And it will cause unneeded economic hardship in our country.

Therefore, I oppose the National Energy Act, and urge my colleagues to defeat this unwise measure.

Mr. WOLFF. Mr. Chairman, the national energy plan as submitted by President Carter and as modified by the House of Representatives grapples with the most significant domestic problem in recent history. We, as Representatives of the people of the United States are committed to the development of a cohesive, coherent, rational, as well as effective energy strategy. Failure to take action now, failure to confront the long-term implications of current energy strategies and failure to develop alternative strategies would be a failure to exercise leadership. We do not act hastily but expeditiously, not heedlessly but thoughtfully. The national energy plan does not introduce startlingly new initiatives, but it does develop more comprehensively past congressional actions. It does not pursue contradictory goals and programs, but integrates and synthesizes. We, the executive and the legislative branches act not in conflict with the past, but in concert toward a desired future.

President Carter's energy proposals are the first comprehensive executive approach toward alleviating our Nation's current energy crisis. As noted, the plan does not call for starting new initiatives, but is in fact based and redefines energy legislation already enacted by past Congresses. For instance, the Energy Policy and Conservation Act established the mandatory fuel efficiency standards for all new automobiles, a voluntary program for appliance efficiency, and authorized the implementation of a national strategic petroleum reserve program. EPCA, however, was a regulatory oriented initiative, this plan represents the first time that regulatory and tax policies have been designed to complement, and therefore rationalize energy strategies. In this sense, I endorse the basic precepts of the energy plan. We must reduce our reliance on imported oil and gas.

The President's plan, and the congressional initiatives included therein, embody the recognition that energy demand far exceeds energy supplies. While this statement may appear simplistic, past policies and implementation thereof, have failed to fully take into account the ramifications of this principle. The plan's central theme, that of promoting energy conservation through a series of tax incentives, efficiency standards, and by

moving energy prices toward replacement costs recognizes the basic law of supply and demand, and therefore confronts the realities of the present. The various proposals set forth by the administration have provided the basic framework, Congress in the spirit of full cooperation, has elaborated and in part improved on, this framework with the aid and advice of our constitutents.

The energy plan has been designed to reflect national concerns. By its very nature, energy, be it derived from fossil fuels, nuclear power or other forms, is not a problem exclusive to a single State or a single region. President Carter's energy proposals have provided the necessary leadership to serve as a base for shaping public policy as a supplement for the private market, for assuring that the national welfare and national security are protected, and to encourage regional equity in the battle to decrease energy consumption.

Adherence to the policies and proposals set forth in the plan does entail a measure of sacrifice and some slight modifications in American values and ideals—efficiency, not size, should be valued. However, the attendant sacrifices of implementing this plan, are far less damaging or injurious to the American quality of life, than the potential scenarios involving increased dependence on imported oil. A repeat of the Arab oil embargo of 1973–74 and its economic consequences would be devastating.

In sharp contrast, analyses by the Congressional Budget Office, as well as the Office of Technology Assessment, have stated that the energy plan as formulated by President Carter will have only a slight impact on the economic health of our Nation. Our gross national product may decrease slightly, inflation may increase slightly—but the extent of these effects will be mitigated by the effectiveness of the proposed rebates of energy tax revenues in offsetting the reduced purchasing power of consumers and the ability of the economy to respond to changes in relative prices as energy costs rise. Again, these effects are minimal in comparison to the intolerable prospect of future energy embargoes.

While I rise in general support of the plan as modified by the House of Representatives, I do wish to note some of the weaknesses of the plan. For instance, the levels of domestic supply projected by the plan represent the upper limits of capacity, and supplies of fuels are likely to fall below the plan's production targets due to possible postponements in leasing schedules on the outer continental shelf, slippages in construction schedules, below maximum performance of powerplants, and regulations which may delay the opening of new coal mines. The energy plan, while acknowledging environmental limitations, does not attempt to fully reconcile them, and this is a problem which should be addressed in greater detail in future congressional actions.

Another weakness in the energy strategy is its overwhelming, albeit narrow, focus on the automobile as a form of transportation. The automobile is an integral aspect of American life, but not an exclusive one. There should be a greater emphasis on the development of mass transit as a viable alternative to the automobile—viable in the sense that it is efficient, effective, and fairly inexpensive. As presented, the energy plan does little more than pay lipservice to the promotion of mass transit alternatives, be they overland such as bus, or underland such as subway systems. The encouragement of car or van pooling will decrease energy consumption, but minimally so—the cost effectiveness of van pooling really rules it out. A greater focus on mass transportation would be much more effective, and much more consistent with national energy goals.

A final, and perhaps the most glaring weakness of the plan, is the absence of a convincing strategy for developing renewable and sustainable resources of energy. I have long been an advocate of these "clean" forms of energy, such as solar, geothermal, and wind which can prove to be the solution to our energy dilemna. We must further encourage the technological development of these resources. At present they may indeed appear exotic, but greater impetus through increased funding would make solar, geothermal, and wind energy a practical, long-range, solution.

In closing, I feel that the House of Representatives has done a valiant job on a Herculean task, but the long haul will not be over when this legislation is passed. We must continually monitor whether our goals are being reached, whether equity for all citizens will be assured. Above all, we must remain flexible, adapting to the changing needs and circumstances of the future.

Mr. GRASSLEY. Mr. Chairman, the crude oil equalization tax is especially unfair to American farmers and, in addition, may ultimately prove to be an extra burden on the already overtaxed American worker.

In the production of food and fiber in this Nation, farmers use about 6½ billion gallons of gasoline and diesel fuel. Assuming even a constant use of these fuels, a 5- to 7-cent tax will translate into increased fuel costs to farmers of between $325 million and $425 million a year. In Iowa alone, farmers can expect to spend an additional $25 million to $35 million for gas and diesel fuel. Contrary to some of the unusual economic theories advocated by many of my colleagues, farmers cannot pass on increased costs of production. Their products, no matter what it costs to produce them, will bring in only what the market will bear. So once again, Congress seems prepared to impose another burden on farmers, a burden that will ultimately be borne through lower incomes, and perhaps encourage more farmers to get out of the business.

Nobody will gain from the crude oil tax. American farmers stand to lose a great deal. I hope my colleagues consider these facts when voting on the final passage of this energy legislation.

This bill ought to provide for a way of refunding this wellhead tax—the equivalent of 5 to 7 cents a gallon—back to the farmer for the nonhighway use of fuel just like the present gasoline tax is refunded.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 8444, the National Energy Act. Such a measure is absolutely necessary considering the fact that the United States faces an energy shortage arising from an increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand.

Though I support H.R. 8444, I must wholeheartedly speak out in opposition to two amendments offered to this bill.

The first amendment offered by the ad hoc committee would impose a 4-cent tax with the revenues used for a special energy conservation and convention trust fund. The other amendment, offered by my distinguished colleague, Mr. HOWARD, is a substitute which would be a 5-cent tax with revenues being applied toward mass transit and the highway trust fund.

In specific reference to the Howard amendment as a representative and resident of an urban area, I realize the importance of the benefit this amendment would have on mass transit. One-half of this new tax would be used to create a new mass transportation transit fund to support public mass transportation. It would for the first time provide for permanent funding for both capital construction and operating subsidies and would apply nationwide. The other half, which would supplement the existing highway trust fund, would be used for road repair, safety and general upgrading, including the replacement or reconstruction of more than 105,000 bridges over the Nation, the improvement of long-neglected sections of primary, secondary, and urban roads and the extension of the general improvement program to the off-system roads in the rural areas of the Nation.

Despite the benefits this amendment would have on mass transit, these taxes, both the 4-cent tax and the 5-cent tax, are sales taxes which are regressive in nature. It cannot be disputed that the burden of such a tax usually falls upon the shoulders of the poor.

Mr. Chairman, it is my feeling that the poor have too many burdens without adding more. Unemployment is still running rampant in our inner cities; particularly youth unemployment, which is 40 percent in some urban areas. Minority unemployment is even higher than the overall unemployment percentages. Minorities, the poor, and the underprivileged cannot and should not have to bear any additional and unnecessary burdens.

This is a very difficult decision for me. I realize the importance of this amendment to mass transportation. Yet I also realize the financial burden it would cause the poor. But, Mr. Chairman, when I weigh the purpose of the tax with the burden it presents, I must oppose the amendment as it is inequitable to the poor.

I additionally ask my colleagues to defeat this amendment as it would fall most heavily upon the middle- and low-income segments of the economy and would put middle- and low-income Americans in the unenviable position of financing our energy program.

Mr. ST GERMAIN. Mr. Chairman, the National Energy Act which is before us today promises, in one way or another, to touch the life of virtually every person in America. The impact of this legislation will certainly alter the manner in which we develop and use energy for many years to come. The act is far reaching and comprehensive. It will not be easy to implement, but the most important policies are usually the most difficult. Finally, and most importantly, it is a national policy.

In a country such as ours, with its diverse interests and needs, we face the task of reaching an agreement that is fair and equitable. One which asks every section of the country to share in the sacrifice; to make comparable efforts so that we, as a Nation, can emerge with strength and self-sufficiency.

As we work for the Nation as a whole, we are, at the same time, vested with the responsibility to express the interests and concerns of our constituency.

For this reason, on certain votes, I will have to go against the wishes of the leadership. But, as I have said, I am here, first of all, to let the voice of Rhode Island be heard.

The Ocean State, Rhode Island, is willing to make a fair effort to assure the success of this energy plan. In some ways, the bill will aid Rhode Island. In other ways however, it will make life more difficult.

New England, for example, relies more heavily on high-priced imported oil than any other area of the country. An increase in the already astronomical home heating bills New Englanders must now pay would be the result of any additional tax on oil.

Such an increase would, however, be less difficult to face if it were to be coupled with the home heating oil rebate that is being considered.

It is this type of approach, one which combines sacrifice with incentive, that I view to be the most workable.

At present, more than 88 percent of the energy used in New England is generated from oil. With the thrust of the Energy Act toward the conversion of oil generators to coal, our region is being asked to make major changes which would involve hundreds of millions of dollars. We cannot reasonably be expected to undertake this sort of conversion without assistance and the proper incentives.

The Energy Act calls for funds to develop new energy sources. In Rhode Island, we have already begun an active program to explore the possibility of turning the sun and wind into energy to heat our water and homes.

The bottom line of any energy proposal will be the people's willingness to accept the decisions we are making here. This willingness will be forthcoming if the people are convinced that their best interests have been promoted. On this point, however, I foresee trouble ahead for the National Energy Act.

The manner in which the "energy crisis" first hit the American people has given rise to speculation that it was a hoax perpetrated by the major oil companies. As you are well aware, much of this doubt remains today.

If the American people do not think there is an energy shortage, they will not be willing to invest money to insulate their homes and they will not support a hike in the price of oil.

Therefore, I contend that, with the decisions we are making here this week, we are but beginning the job of establishing a national energy policy. A much harder task lies ahead. We must convince the American people that the decisions we have made are, in light of a clear and understandable energy situation, unquestionably for their benefit and that of the country. And further, that we are building a strong foundation for future generations.

Mr. BROWN of California. Mr. Chairman, as we deliberate on this Energy Act, and in particular on the changeover from natural gas and petroleum to coal and other fuel resources in part VI, I would like to note with special interest the inclusion of sections 635 and 636 by the Energy Committee.

The Subcommittee on the Environment and the Atmosphere, which I chair, has just concluded 3 days of oversight hearings on the additional environmental research and monitoring which will need to accompany the increased emphasis on coal in the President's energy plan.

The subcommittee looked into the role of environmental health and safety considerations in energy decision making; the role of energy conservation; the adequacy of pollution control equipment for burning of coal; the impact of coal conversion into synthetic fuel versus direct burning of coal; the adequacy of environmental monitoring to provide a data base from which the impact of energy supply technologies can be gaged; the impact of the new energy program on water resources; the adequacy of energy transportation systems to meet the new demands; and other issues concerning environmental research and monitoring raised by the witnesses.

It is thus important to note that included in the act before us are studies for two key areas highlighted in our hearings—the monitoring of emissions and the assessment of socioeconomic impacts.

The Environment and Atmosphere Subcommittee will continue to follow the state of the art in both arenas. We will look at monitoring "the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other fuels" by virtue of the changeover from other fuels. We will also continue to look at the other end of the spectrum, environmental monitoring at plants used for R. & D. and demonstration by ERDA. And the subcommittee will also be taking a broader look this fall at the condition of our national environmental monitoring networks in general.

Finally, regarding section 636(b), the subcommittee will examine carefully any suggestions for making environmental research more available and helpful to states and local communities participating in the shift to coal. We have already examined this question generically in hearings last Congress on the proposed Environmental Research Centers Act of 1975—Science and Technology Committee print, serial 000, December 1976. We hope the Administrator will make specific recommendations in his detailed report to the Congress, seeking particularly regional, State, and local views.

Again, I am pleased to have sections 635(b) and 636 (a) and (b) in the Energy Act. We will very much look forward toward their intended products.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am happy to yield to the distinguished Speaker.

(Mr. O'NEILL asked and was given permission to speak out of order.)

FURTHER LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Chairman, I merely take this time to announce what the program is for the remainder of the evening.

The Chairman of the Committee will ask to rise and we will go forward with the conference report on the Clean Air Act amendments.

We have scheduled a conference report on the National Science Foundation authorization and a conference report on the U.S. International Trade Commission authorization.

There are several unanimous-consent requests.

So I would hope that we would rise by 8:30 for the evening for whatever business we have not completed at that time.

I understand there has been some concern about tomorrow. Tomorrow we will go forward and hope to be able to continue with the bill and finish it at a reasonable hour. That is up to the will of the Members.

There has been some talk that instead of coming in at 10 o'clock whether we should come in at 9 o'clock tomorrow. If that is the will of the Members, a request will be made when we go into the House.

The only business tomorrow will be the completion of the Energy Act and possibly several unanimous-consent requests.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8444) to establish a comprehensive national energy policy, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On August 2, 1977:

H.R. 7556. An act making appropriations for the Department of State, Justice, and

Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 7557. An act making appropriations for the Department of Transportation and related agencies for the fiscal year September 30, 1978, and for other purposes.

On August 3, 1977:

H.R. 2. An act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; and

H.R. 6714. An act to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1978, to amend the Agricultural Trade Development and Assistance Act of 1954 to make certain changes in the authorities of that act, and for other purposes.

On August 4, 1977:

H.R. 692. An act to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and Small Business set-aside programs, and for other purposes.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE A REPORT

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until midnight, tomorrow, August 5, 1977, to file a report on the second budget resolution for fiscal year 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6179) entitled "An act to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes."

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 8658

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight, tomorrow, August 5, 1977, to file a report on H.R. 8638, a bill to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why is it necessary to get unanimous consent for this?

Mr. BINGHAM. Because it is until midnight tomorrow night.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUR OF MEETING TOMORROW

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Friday, August 5, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight tomorrow, Friday, August 5, 1977, to file sundry reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5383, TO AMEND AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. No. 95–571) on the resolution (H. Res. 738) providing for the consideration of the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 6161, CLEAN AIR ACT AMENDMENTS OF 1977

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 733 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 733

Resolved, That immediately upon the adoption of this resolution it shall be in order, clause 2(a) of rule XXVIII to the contrary notwithstanding, to consider the conference report on the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, said conference report shall be considered as having been read, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 733 waives points of order against the consideration of the conference report on 6161 for failure to comply with the provisions of clause 2(a) of rule XXVIII. Clause 2(a) of the rule states that it shall not be in order to consider the report of a committee of conference until the third calendar day after such report and the accompanying statement shall have been filed in the House.

Mr. Speaker, the Committee on Rules agreed that a waiver of the 3-day layover rule was necessary under these unusual circumstances in order that the clean air standards could be set in time to avoid the shutdown of the auto industry as had been threatened if Congress did not finish consideration of this matter before August 6.

Also, House Resolution 733 waives all points of order against the conference report on H.R. 6161 for failure to comply with the provisions of clause 3 of rule XXVIII which prohibits the House conferees from agreeing to modifications which go beyond the scope of those matters committed to the conference committee. The chairman of the Commerce Committee asked, and the Committee on Rules agreed that this waiver should be granted as a precautionary step against the possibility that minor technical violations might exist. Counsel for the committee, I have been advised, feels that there are minor technical violations in the conference report.

In addition, this rule provides that the conference report shall be considered as having been read. The Committee on Rules included this provision in the resolution in order that the consideration of the conference report would be expedited.

As you know, the conferees have worked very long and hard to reach what has been referred to as a "reasonable compromise." As in many compromises neither body got everything it wanted. between the House and the Senate, But the conferees are to be commended for putting their disagreements aside—working until 2 a.m. Wednesday morning in an effort to get this bill to the President before the automobile industry begins production of their 1978 model cars.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule includes three separate provisions designed to expedite consideration of the conference report on the Clean Air Act amendments.

First, this rule waives the requirement that a conference report be available for three days prior to consideration. This conference report was not printed until today, and therefore the waiver of clause 2(a) of rule XXVIII is necessary.

Second, the rule provides that the conference report shall be considered as read. In the Rules Committee, the justification presented for this provision was that it would prevent delay. Without such a provision, any one Member could object to the conference report being considered as read, and the whole text would have to be read. Mr. Speaker while such a provision may be justified this

week, because of the tight time schedule, I certainly hope this will not be a precedent for future rules. There may be times when the House would benefit from having the text of a bill or conference report read.

The third thing that this rule does is to waive points of order for failure to comply with clause 3, rule XXVIII. Clause 3 prohibits conferees from putting anything in the conference report which was not in either the House or the Senate bill. In this case, the chairman of the Committee on Interstate and Foreign Commerce testified before the Rules Committee, that he was not aware of any significant points in the conference report that exceed the scope of conference. However, this waiver in the rule was requested out of an abundance of caution.

Mr. Speaker, this conference report contains a number of significant provisions. One of the most important deals with auto emission standards. When the House considered this bill, an amendment known as the Dingell-Broyhill amendment was adopted by a vote of 255 to 139. That amendment, among other things, set auto emission standards at a realistic level. It provided a balance between clean air on the one hand and, jobs and fuel economy on the other.

Mr. Speaker, I ask unanimous consent to submit for the record a comparison of the emission levels permitted by this conference report and by the Dingell-Broyhill amendment. These standards cover three kinds of emissions, hydrocarbons, carbon monoxide, and oxides of nitrogen.

SUMMARY OF CLEAN AIR ACT CONFERENCE REPORT 1977

	HC	CO	NO_x
Auto emission standards:			
1978–79	1.5	15.0	2
1980	.41	7.0	2
1981	.41	[1] 3.4	[2] 1
Dingell-Broyhill proposal (1977):			
1978–79	1.5	15.0	2
1980–81	.41	9.0	2
1982 plus	.41	9.0	[3] 1-to-2

[1] Up to 2-yr administrative waiver of the CO standard is authorized upon a finding of the unavailability of technology (taking into account cost, fuel economy, driveability).

[2] A 2-yr administrative waiver of NO_x standard is authorized for AMC and other small producers with financial inability to comply who must rely on other manufacturers for emission control technology. A single 4-yr innovative technology NO_x waiver is authorized up to 1.5 for new or improved technologies with potential air quality and fuel economy benefit.

[3] In 1982 and beyond, emission standards for diesels and other technologies could be set up to 2.

Mr. Speaker, I would have preferred the Dingell-Broyhill amendment as passed by the House. However, the conference report does contain the same clean air standards for 1978 and 1979 as the Dingell-Broyhill amendment. We will undoubtedly have to face this issue again in 1980 if the standards set forth in the conference report cannot possibly be met. Failure to act favorably on this conference report at this time would cause the U.S. automobile-based plants to close in a matter of days. I need not enumerate the consequences of such a shutdown.

Mr. MEEDS. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see part II of proceedings of the House of August 3, 1977.)

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) is recognized for 30 minutes, and the gentleman from Ohio (Mr. DEVINE) is recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like just briefly to tell the Members of the House how much time has been spent on this bill so that they will recognize that this has been given every consideration that it possibly could have been given by our committee.

In subcommittee hearings the members spent 5 days, and they spent 7 days in markup. The full committee spent 6 days in markup and consideration of the bill. The bill was considered on the floor of the House for 3 days, and it passed the House on May 26, 1977, by a vote of 326 to 49.

The conferees met for 8 days. It was 9 days really, because we ended up on the 9th day. We started at 7 o'clock in the evening and ended up at 2:30 on August 3. This conference report that we have before us now is the result of that work.

I will say to the Members of the House that this is a compromise. It is the best compromise the House could work out with the Senate. The Senate conferees were trying to work for what they thought were the best interests of America, and that is true as well for all the conferees from the House.

I would like especially to commend the conferees of the House and the members of the full committee, because there were many, many hours spent late in the evenings, at time when patience was thin and it was pretty hard to keep feelings and emotions under control.

I would also like to commend the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS), and the members of his subcommittee for the work they did.

I wish to extend commendations also to the members of the conference committee: The gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. ROGERS), the gentleman from California (Mr. Moss), the gentleman from New Jersey (Mr. MAGUIRE), the gentleman from California (Mr. WAXMAN), the gentleman from Ohio (Mr. DEVINE), the gentleman from North Carolina (Mr. BROYHILL), and the gentleman from Kentucky (Mr. CARTER).

We worked together as a team, trying to do what we thought was right for the best interests of this country. There were no partisan politics in it whatsoever, and it showed in the votes. We were all trying to get what we thought was the best conference report we could get to bring back to the House.

I think we have brought back a conference report that we can all agree is a good report, one that is good for America and one that will help to clean up the air.

This will help gradually to clean up the air; pollution did not all happen at one time, and we cannot stop it at one time. We are doing it gradually through this bill, and we are allowing progress at the same time. I think we have done a very good job with the conference report. We are doing what needs to be done to protect the public health.

With those words, Mr. Speaker, I would like to add my compliments to the staff. The staff worked long and hard. They worked many hours when we were not working. They worked far into the night trying to get the enormous conference report into shape and to get the statement of managers ready. It took many hours for them to complete their work, and as I say, they worked at times during which the conferees were not working. So, as I say, I would like to compliment them and say "thanks" for their work.

With that, Mr. Speaker, I now yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE), a member of the conference committee.

Mr. MAGUIRE. Mr. Speaker, I thank the distinguished chairman of the committee for yielding. I want to compliment the gentleman on his work and compliment also the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS), and I will clarify with him a couple of points for the record later, if I may.

Mr. Speaker, the conference bill requires the Environmental Protection Agency to prepare an economic impact statement when it takes any of a series of listed actions, and it provides for citizen suit against the Administrator in the event that he fails to discharge this duty. However, it also provides that the filing or resolution of such a suit shall not invalidate the regulation in question.

Am I correct in my understanding, then, that the only remedy a court can provide in such a suit is an order to the Administrator to prepare or revise an economic impact assessment?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. Your understanding is correct. Regardless of the court's ruling as to whether an assessment had been prepared, or whether an assessment fully canvassed the issues listed in the section, the courts would have no power to invalidate a rule or stay its effectiveness.

Mr. MAGUIRE. I note that the conference committee adopted a provision of the Senate bill that would allow the courts to award attorneys' and expert witnesses' fees to defendants in enforcement actions brought by the Environmental Protection Agency which the court found to be "unreasonable." Since this language was in the bill passed by the House last year as well, would I be

correct in assuming that the purpose of providing the courts this discretion is the same as that stated in last year's committee report—at page 277—

to provide protection for the parties against wholly unwarranted actions by the Administrator and to restrain the Administrator from over-zealous enforcement?

Mr. ROGERS. Yes, I think that is the intent of the conference.

Mr. MAGUIRE. I assume also that it was the intent of conferees representing this body to subscribe to the same interpretation of the term "unreasonable" as set out in last year's report?

Mr. ROGERS. Yes, I would agree.

Mr. MAGUIRE. So, this provision is not intended to authorize the courts to make the Government pay attorneys' and witnesses' fees every time the defendant prevails in an enforcement action, or the courts disagree with the Government's exercise of "prosecutorial discretion" as to whether to bring suit. It is aimed only at the situation where the Government's enforcement action is seen as frivolous or harassing, then, is it not?

Mr. ROGERS. Yes, that was our intent. We contemplate an award of fees in an enforcement action only if the Government's suit was "unreasonable"; that is, wholly without basis in the facts or the law.

Mr. MAGUIRE. On Thursday, July 28, the conference committee took up the House amendment concerning visibility protection. During the conference committee's discussion several votes were taken on a proposed agreement arrived at by the staff and now included in the conference bill.

The first vote I believe, Mr. Chairman, was a motion to eliminate the section entirely. The second motion was to remove EPA's power to supervise and assure under section 110 of the act the adequacy of the State plan revision required by the visibility protection section. The third motion attempted to strike the preamble to this section. All three motions on the Senate side were defeated 5 to 4. The staff proposal was then adopted 6 to 1, by the Senate side. Is this your recollection as well?

Mr. ROGERS. Yes, that is exactly what happened.

Mr. MAGUIRE. Mr. Speaker, in the visibility protection section of the Commerce Committee's report on this bill we clearly state that the class I increments under the section on prevention of significant deterioration are not adequate to protect class I lands from visibility impairment in all cases. In fact we had substantial testimony pointing out that very problem. One of the reasons why the committee decided to include a separate section on visibility protection was in order to remedy this situation. In many cases what we are trying to preserve in class I areas is the visibility which allows us to enjoy the magnificent scenery of the class I areas.

In our bill we required that the States revise their State implementation plans to carry out that mandate. It seems to me the conference bill enlarges that protection by adopting the Senate's air quality values test because the Senate bill requires that the Federal Land Manager protect the class I lands from visibility impairment even when the class I increments are not exceeded. Let me quote from the Senate bill and the Senate report:

Bill—"The Federal Land Manager and the Federal officials charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values of any such lands with a class I area."

Report—"He (The Federal Land Manager) is required to protect Federal Lands from deterioration of an established value, even when class I numbers are not exceeded."

These two statements indicate that under the conference report both the State and the Federal Land Manager hold a responsibility to protect class I lands from visibility impairment even if the class I increments will not be exceeded by a new source.

Mr. STAGGERS. Mr. Speaker, I yield myself 1 minute.

I would like to rectify an omission I made, the fact that the gentleman from Louisiana (Mr. BREAUX) was with us on the Breaux amendment in the conference.

Mr. Speaker, the gentleman from Louisiana (Mr. BREAUX) did an excellent job, and his patience and understanding were just superb.

We tried to work out the Breaux amendment to his satisfaction as best we could with the other body, and I hope he is satisfied with the work we did in conference.

Mr. DEVINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the clean air bill, H.R. 6161.

It has been a long and hard road arriving at this point in the clean air struggle. Everyone will remember that in the 94th Congress, the Interstate and Foreign Commerce Committee spent many months fashioning a clean air bill to present to the House for its consideration. The product was not entirely to my liking but a bill did finally reach the floor. You will recall further that it arrived in the second session and was handled on an intermittent basis which militated against its thorough and proper consideration. The conference strung along for many weeks and a conference report came back to the House in almost the closing hours of the session. In the end the conference report was not taken up by the Senate and the whole effort came to naught.

Starting over again in this first session of the 95th Congress, the committee went through the whole process once again. The issues were considered in great detail, at great length, and with sharp differences of opinion. The bill which came to the floor and which was eventually passed by this House in May, although not entirely satisfactory to anyone, was the true product of our system and probably the best bill on this complicated subject that we would expect to achieve.

The problems of the House-Senate conference committee on H.R. 6161 have been well-publicized. It was no cake walk. The conferees did try to uphold the judgments made by this body on the major issues involved. For the most part, the committee was able to come away without abandoning any of the principles embodied in the House bill and were able at the same time to gain major modifications of the Senate version where the most important differences existed. Again, I must say that I am not thrilled with some of the compromises we had to make, but I was not totally enamored of some of the provisions we took to conference in the first place. We had to work with what we had in those two bills.

The 1970 Clean Air Act is desperately in need of amendment. It would be unconscionable to toss out the product of this long effort. The immediate need for some kind of auto emission standards is well understood. We are about 2 years late in telling the auto industry what it can do for the emission standards on 1978 model cars which are already standing around in lots and on docks waiting for the other shoe to drop before they can be sent on to dealers' showrooms.

There is absolutely no alternative at this hour to approving the marketing of 1978 cars which have manufactured to existing 1977 emission standards. Congress put the industry in its present position by insistence on unrealistic emission deadlines, and Congress must rescue it right now. The industry could have put the country and Congress in a bind by refusing to manufacture anything for this new model year until the emission standards were clarified. It did not create such a situation and relied on the ultimate fairness of this body.

So here we are today with a conference report on a clean air bill which even at this stage, or perhaps I should say particularly at this stage, is not entirely to my liking. There are many things included in the conference version that I would have changed. Most of the final version, with some significant exceptions, does reasonably well by the will of the House. The automotive sections, except for allowing 1978 and 1979 models to proceed on present standards, are too restrictive thereafter whereas the 1980 emission standard of 7.0 for carbon monoxide is a slightly more realistic figure than that in last year's conference report, the standards for all three pollutants for 1981 and thereafter are identical to the unnecessarily stringent ones in last year's conference report. I realize that there are certain provisions made for innovative technology waivers for NO_x and a 2-year waiver is possible for carbon monoxide. In my view, the negligible health benefits of retaining the 3.4 carbon monoxide statutory standard may well come back to haunt us because of their likely adverse effect on technology, fuel economy, consumer costs, and driveability.

Lastly, I feel constrained to mention that there is insufficient flexibility with respect to needed growth in class II areas and I regret that the Breaux variance procedure for class II was not retained.

Despite these definite drawbacks in the conference version of this bill and for the reasons previously stated, I felt it was

necessary to agree to the conference report and I urge my colleagues to approve the report now.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, as a conferee of the House and Senate Clean Air Act conference of 1977, I can say to you and to the Members of the House, that I am satisfied with the compromise that the House and the Senate conferees came to early yesterday morning while most of the Nation was asleep. It is my firm belief that we as House conferees held to the House position to the very end.

The conferees have worked tirelessly in the last few weeks with the utmost dedication and determination to achieve a balanced law that will give protection to the health and welfare of the American people. It is my strong contention that we are moving with the best possible speed and balance in that direction.

Mr. Speaker, all throughout the Congress' deliberations on the Clean Air Act Amendments, the need for national primary and secondary ambient air quality standards has been my one main concern.

Primary air quality standards are those which are requisite to protect the public health with an adequate margin of safety. Secondary standards are those requisite to protect the public welfare from any known or anticipated adverse effects. Welfare includes, but is not limited to, effects on soils, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and personal comfort and well-being.

Again, Mr. Speaker, I believe that we upheld the House's wisdom and will in the conference. I believe in that wisdom and I adhere to it. The House creates a balance in its business of legislation, a balance which can assure us of a cleaner environment and a growing economy at the same time.

But, Mr. Speaker and my colleagues in the House, the other Chamber, the Senate, has its own wisdom and balance. Thus yesterday morning, earnest and with the greatest concern, both Chambers met and discussed the final issues to be decided.

At times discussion was strained, but having the desires and concerns of the American people uppermost in mind, both the House and Senate conferees reached the compromise now before you.

Mr. Speaker, I support this conference agreement and believe that the House will accept it. It is a good step in the right direction.

Mr. Speaker, one more thought. At the beginning of the Clean Air Act conference, Senator MUSKIE warned the conferees that they would stay and work on the clean air bill until "hell had frozen over." Well, Mr. Speaker, I can report that, because of the dedication of this Congress, may the sinners of the world still repent, for hell still is as hot as ever.

Thank you, Mr. Speaker.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I think it is just fine that this conference report has been brought out.

However, there is one matter which bothers me a little bit. It looks as though there are 150 pages of typed material, and we have not had too much explanation of what is in here.

I just wonder whether my colleague, the gentleman from Ohio (Mr. DEVINE), would dissuade this Member of any impression that this looks as though it might be a lawyers' bonanza. There is so much fine print in this report that I wonder about it.

Is this going to be easy to administer or is it going to be what I think, a bureaucratic problem?

Mr. DEVINE. Mr. Speaker, I will say to the gentleman that this is a highly complex and highly technical piece of legislation. It well could become a lawyers' bonanza, as most of the legislation does which we produce out of this body.

Mr. ASHBROOK. At this late hour I will not speak any further. It does seem to be a rather extensive conference report.

Mr. DEVINE. Mr. Speaker, I reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of the conference report on the Clean Air Act Amendments of 1977. The House conferees have been working on this for several weeks now and I think we have produced a compromise between the two bills which is fair, workable, and effective.

I would like to briefly outline a few of the most important items in the report, starting with title II, which is aimed at mobile sources.

The House bill called for automobiles to reach .41 hydrocarbons—HC; 9.0 carbon monoxide—CO; and 1.0 oxides of nitrogen (NO_x) standards in 1982, while the Senate bill called for standards of .41 HC; 3.4 CO; and 1.0 NO_x to be met in 1980. We kept the House provisions for 1980 with a slight compromise in carbon monoxide and moved to the Senate numbers in 1981 with a waiver that may allow the automobile makers as long as 1983 for meeting the carbon monoxide standard. We keep existing standards for 2 years.

The figures for automobile emission standards are:

	HC	CO	NO_x
1978–79	1.5	15.0	2.0
1980	.41	7.0	2.0
1981	.41	[1] 3.4	1.0

[1] Up to a 2-year waiver for carbon monoxide if the Administrator finds that the technology is not available and 3.4 CO standard is not necessary for the public health. Also, the Administrator takes into account cost, fuel economy, and driveability.

The conference also provides for a 4-year waiver for diesels if it is found that they cannot meet the 1.0 oxides of nitrogen—NO_x—standard. This would allow until 1985 for diesels and up to 4 years for innovative technology.

WARRANTIES

The House bill provided for warranties for 18 months or 18,000 miles. The Senate bill would have retained the 5-year 50,000 mile warranty in existing law. The conferees agreed to a compromise of 24 months or 24,000 miles for the system with an additional warranty for the high-cost parts which are required exclusively for the control of pollution.

PREVENTION OF SIGNIFICANT DETERIORATION

Under this provision, the House bill called for three air quality classes, the Senate bill had two. The conferees retained the three classes.

The House bill incorporated variances of the standards for two classes of up to 18 days a year through the Breaux amendment. The Senate had a variance in class I, but had no class II variance. The Senate bill allowed a variance in class I if approved by the Federal Land Manager. The House allowed the Governor of a State to grant the variance.

In conference, we kept a class I variance for SO^2, and used the variance elements from both the House and Senate bills.

If a class I variance is requested the Federal Land Manager would make his recommendation. The Governor would then review the recommendation of the Federal Land Manager.

If the Federal Land Manager agrees with the Governor that a variance should be granted, then the Governor may grant it. If they disagree, the variance may not be granted, but the Governor may appeal to the President. And the President may approve the variance.

In class II, the conferees realized the need for flexibility for increased new growth, so the major part of the Nation designated is class II. To provide for expansion, we increased the key increment in class II by 50 percent over the House increments. This large expansion eliminated the need for a variance. The Governor, with the concurrence of local authorities, has the power under the bill to reclassify most areas in class III.

NONATTAINMENT

The House and Senate bills were very close on this issue to begin with. We have extended the deadlines for meeting the standards for States and communities where it is necessary until 1982. In the case of severe oxidant or carbon monoxide problems, we have extended the deadlines so that they may be as late as 1987 to meet the standards. We continue to allow the States the discretion of revising their plan to accommodate for new growth or to apply for a waiver under the new section.

The House bill called for an annual incremental reduction, but in the conference we have provided for more flexibility by eliminating the House provision for equal biannual reductions.

To help States which have nonattainment areas, we retained the House provision giving them the option of adopting the stricter California automobile standards for new vehicles. We have basically taken the House provisions relating to indirect sources. We have given authority to the Governor of a State to suspend onstreet parking supply restric-

tions, gas rationing, and vehicle retrofits until January 1, 1979, and allow States to eliminate indirect source control requirements from existing plans. We have eliminated the Administrator's authority to require indirect source programs directly or indirectly except for major, federally funded projects. The State, however, may adopt, if it wishes, an indirect source control program.

I would also like to include for the record a more complete statement of intent and clarification of select provisions:

CLEAN AIR CONFERENCE REPORT (1977): STATEMENT OF INTENT; CLARIFICATION OF SELECT PROVISIONS

Because of the necessity for expedition in concluding the conference, the limited time available for preparation of the conference report and statement of managers, and the complexity and length of the conference agreement, some important points on the intention and effect of the conferees action may have been overlooked or may be unclear in the text of the conference bill or the accompanying statement of managers. This paper is intended to clarify these points.

1. PURPOSE AND INTENT

The conference agreement is founded on several major principles. First, and foremost, protection of the public health remains the paramount purpose and value under the Act. Consideration of costs, energy, and technology is expressly authorized or required in many sections of the bill, but the overriding commitment of the 1977 Act (just as the 1970 legislation) is to the protection of public health. An example of this is the conferees' provision defining "lowest achievable emission rate" for nonattainment areas.

Second, this year's legislation retains and even strengthens the technology forcing and technology encouraging goals of the 1970 Act.

Third, the conference report emphasizes new values, which did not receive such great attention in the 1970 Act. Among these are (1) a *preventive* approach to pollution abatement, as well as a remedial one; (2) protection, preservation and enhancement of the quality of life and, in particular, protection of visibility in federal parks, wilderness areas, etc; (3) a mandate for indentification and prompt regulation of unregulated ambient air pollutants, emissions, and sources; and (4) increasing commitment to give States the necessary tools and authorities to meet the requirements of the Act (e.g. the new provision permitting other States with nonattainment areas for oxidants, carbon monoxide, or nitrogen dioxide to adopt and enforce California new motor vehicle standards for cars, trucks, and other new motor vehicles).

2. PARTICULAR PROVISIONS

A. Unregulated pollutants

For the first time, the Clean Air Act authorizes and requires the Administrator and the States to regulate radioactive air pollution, including pollution from NRC-licensed facilities. A disapproval authority is given to NRC for any emission standard applicable to such facilities, but it is intended to be a carefully limited one. NRC's disapproval is authorized only if the Commission shows that public safety would be significantly endangered if compliance with the outside-the-fenceline emission standard were required, i.e. that there is no safe way available to comply by the deadline. Moreover, the President may override NRC's disapproval. The conferees were, of course, concerned about nuclear safety and are aware that the States, EPA, NRC, and the President are and will be so concerned also. But this is not intended to provide a basis for inaction or resistance to safeguards on environmental radioactive releases. The conferees expect the Agency and the Commission to work together to permit and enhance the achievement of the goals and mandates of each.

This provision, of course, is not limited to NRC-licensed facilities. As in the House bill, the conference agreement covers ERDA and DOD facilities as well as privately owned sources and facilities. No delegation of authority from EPA or NRC would be required for States to set emission limits for radioactive pollutants under section 110 or 116 of the Act.

B. Ozone protection

Two points need clarification. First, the Administrator's authorization to exempt medical uses of fluorocarbons is retained as in the House bill. Second, this provision is intended to fill certain regulatory gaps. It would not restrict or alter the authority of FDA, CSPC, or other agencies to act under other laws. Nor would it limit EPA rulemaking presently underway under the Toxic Substances Act.

C. Smelters

The primary nonferrous smelter order provision (new section 119 of the Act) should be interpreted in accordance with this understanding of the conferees: Under this provision only ultimate SO_2 emission limits may be delayed. No smelter order under section 119 is authorized for any other pollutant. Moreover, no section 113(d) delay order could be granted to a primary nonferrous smelter for an SO_2 emission limitation if that smelter has received a 119 order. However, a smelter could receive a 113(d) order for any pollutant other than sulfur oxides, under the conditions specified in section 113(d).

Furthermore, the conferees understood that, with respect to both 113(d) orders (whether or not for a smelter) and 119 orders, in determining the best practicable interim emission control requirements, consideration should be given to the requirement with which the source must ultimately comply. Similarly, the conferees understood that sources receiving 113(d) orders and smelters receiving 119 orders because of lack of technology to comply would be subject to the research and development expenditures requirement.

The language of new section 119 differs from the "adequately demonstrated to be reasonably available" test in the House bill. However, this change in language does not, in my view, reflect any intention on the part of the conferees to significantly alter the meaning or effect of the House provision.

Finally, it should be pointed out that this provision replaces existing section 119 of the law relating to coal conversion extensions. Coal conversion delay orders, in the future, will be issued under section 113(d)(5). Existing section 119 CDE's, however, would remain enforceable in accordance with the savings provision.

D. Visibility protection

The conferees essentially agreed to the House provision for visibility protection. The provision was modified to give States a greater role in identifying sources which are contributing (or may in the future contribute) to visibility problems and in establishing control requirements for those sources. However, the conferees rejected a motion to delete the national goal. The conferees also rejected a motion to delete EPA's supervisory role under section 110 to assure that the required progress toward that goal will be achieved by the revised State plan. If a State visibility protection plan is not adequate to assure such progress, then the Administrator must disapprove that portion of the SIP and promulgate a visibility protection plan under section 110(c). Thus, visibility protection in most mandatory federal Class I areas remains a national commitment, which is nationally enforceable.

Moreover, as in the House bill, the section applies both to new and existing sources. As pointed out in the House Committee report, merely meeting Class I increments under prevention of significant deterioration will not be adequate to assure visibility protection. Clearly the conferees did not want to impose two separate pre-construction permit requirements for a new source for the purpose of assuring compliance with "significant deterioration" and "visibility protection" requirements. One permit should suffice.

E. Representation in civil litigation

The Statement of Managers on the conference bill contains an indication of how, in the conferees' view, certain provisions of the DOJ–EPA Memorandum of Understanding of June 13, 1977, should be construed. The conferees expect, however, that with the new cooperative spirit between the Department and the Agency, few conflicts will arise and those which do will be easily resolved. The conference agreement underscores the faith of the Congress in the Attorney General and the Justice Department and the propriety of the Attorney General's supervision and control of civil litigation under the Act. The Statement of Managers, thus, is intended only to provide guidance on the Congress' views which the Department and the Agency should consider in executing the Memorandum of Understanding.

F. Basis of administrative standards

This section was adopted from the House bill, with only the deletion of cross-references to the unregulated pollutants section. Questions have arisen whether the amendment to section 109 of the Act under this provision would prevent the Administrator from establishing national ambient air quality standards for derivative pollutants (such as sulfates or nitrates), which are not directly emitted into, but form in, the ambient air. No such limitation is intended. The rationale for the entire section is fully articulated in the House Committee report.

G. Amendments to section 114 of the act

Section 305 of the House-passed bill contains certain amendments to existing section 114 of the Act. The conference agreement incorporates these amendments. In so doing, the conference agreement permits the Administrator to enter, inspect, test, or require testing on the premises any person other than a new motor vehicle manufacturer in order to carry out and enforce the requirements of this Act. This authority would apply to persons not previously covered by section 114, including but not limited to fuel additive manufacturers, independent garages, service stations, auto parts makers and refineries. It may be used for the purpose of assuring compliance with any requirement of the Act (including, but not limited to, vapor recovery, transportation control, air quality maintenance plan measures, anti-tampering prohibitions, MMT restrictions) which does not pertain to new motor vehicle manufacturers. The authority of the Administrator under section 114 of the Act, as amended, would be delegable to the State as it has been in the past.

H. Coal conversion

The conference agreement authorizes delayed compliance orders for sources required to convert to coal. These provisions were drafted with the likely enactment of national coal conversion legislation which would supersede ESECA (P.L. 93–319) in mind. The conferees expect that the provisions of new section 113(d) of the Clean Air Act will be administered so as to be consistent with, and supportive of, the national coal conversion program. Of course, nothing in this section or in the remainder of the bill should be construed to overturn the State or local government's right to require compliance with stronger emission limitation or to require compliance more expeditiously under section 116 of the Act.

I. Nonattainment areas

A key aspect of the conference agreement is the retention of the House provision permitting other States than California with nonattainment areas for HC, CO, NO_2 or oxidants to adopt and enforce California's new motor vehicle emission standards. Also important in this respect is the conferees' retention of the House provision liberalizing and extending the California waiver provision. Under this new addition, for example, California will be able to get a waiver for its 1982 model year standards considered as a package, even though the California CO standard may be less stringent than the applicable federal CO standard. This is so because California's 1982 NOx standard is more stringent than the federally mandated NOx standard for that year. Other States with nonattainment problems for oxidant, or NO_2 would be authorized to follow suit, but could not be required to do so by EPA.

In general, the conference agreement adopts much of the Senate's approach to the nonattainment problem. But, among other provisions from the House Bill, the "lowest achievable emission rate" definition in the House bill was agreed to. While the conferees believe cost is an appropriate factor to be considered in determining "achievability," there was general agreement with the House Committee report's treatment of consideration of cost in nonattainment areas at page 215. Here again, protection of the public health must be the primary concern.

J. Trucks and motorcycles

In agreeing to the 75 percent NO_x reduction requirement for 1985 model year trucks, the conferees made no judgment on the achievability of this target standard by that deadline. Revision authority is expressly provided in case such target cannot be met.

With respect to motorcycles, the conference agreement permits the Administrator, if he chooses to do so, to continue with his present program of establishing a separate and different set of standards for new motorcycles than for other motor vehicles.

K. Noncompliance penalties

The conference agreement basically adopted the House bill approach to this provision. Three portions of the Senate bill which were agreed to are particularly worthy of noting: (1) the requirement that the penalty be calculated essentially on the basis of the economic value derived by the failure to comply (rather than on the lesser amount of the cost of compliance); (2) the absence of a ceiling on the penalty, in keeping with the purpose of the provision—i.e. to eliminate any incentive for, or economic advantage resulting from, noncompliance; and (3) the exemption from the penalty of the Louisville Gas and Electric plants, which utility early in the 1970's agreed to a compliance order and helped demonstrate flue gas desulfurization technology.

L. Standards review

The conference agreement, as last year's conference agreement did, adopted the House provision relating to review of present national ambient air quality standards, with a slight modification. The modification provided for the first review to occur by 1980.

Nothing in this section, however, should delay EPA action to promulgate the ambient short-term NO_2 standard. Nor should that action be subject to prior review by the Scientific Review Committee. If it is appropriate to deal with any of the four unregulated pollutants referred to in section 122, then that action should proceed without respect to the standards review process set up for existing standards.

M. Stack height limitations

The Conference Committee accepted the House bill's provision relating to the height of smokestacks, which provides that the emission limitations that apply to sources of pollution shall be calculated on basis of smokestack heights sufficient to avoid "atmospheric downwash, eddies, and wakes" nearby a facility (as we defined this in the House Committee's Report on last year's bill), so long as this does not exceed 2½ times the facility's height.

It was our intent that the former condition should take precedence over the latter—that is, if it should be determined that downwash, eddies, and wakes can be prevented by stacks of less than 2½ times facility height, the Administrator's rule should give "credit" only for the height needed to avoid these conditions.

In addition, the Administrator is free to promulgate a general rule providing a "sliding scale" for stackheight, if he determines that the proportion between building height and stack height needed to avoid downwash varies according to, for example, the size of the facility—that a proportionally higher stack is needed for smaller facilities, for example, or a proportionally lower stack is sufficient for larger sources—then his rule may take this into account, so long as it generally prevents downwash eddies and wakes and not allow "credit" for stacks exceeding 2½ times building height. In other words, it was not our purpose to make a Congressional judgment about what stack height was needed to prevent downwash. We intend EPA to make this judgment, subject only to the Congressional prohibition on the excessively high stacks of over 2½ times building height.

N. New source standards of performance best available control technology

The Conferees agreed to Section 111 of the House bill with minor modifications. Senator Randolph stated, and the Conferees agreed, during the Conference discussion of the House "Best Available Control Technology" requirement that, as the House Report, 95–294, concluded, (p. 189) current best technology achieves about 85 to 90 percent sulfur removal efficiency from the emissions of fossil-fuel fired boilers.

The intent of the House provision and of the Conference agreement is to require the Administrator to revise and strengthen current lax standards for new sources under Section 111 of the Act. Particularly troublesome are EPA's current SO_2 control standards and particulate control standards for coal-fired boilers. As the House Report stated: (p. 187).

. . . For example, instead of prescribing standards which effectively required use of the best practical control technology for new coal-fired power plants, the Administrator set levels which could be met either by use of untreated low-sulfur coal or scrubbers. These standards (e.g. 1.2 lbs. of SO_2/million B.t.u's)—by not requiring use of best practicable control technology—directly conflict with the aforementioned purposes in several respects:

1. The standards give a competitive advantage to those States with cheaper low-sulfur coal and create a disadvantage for Midwestern and Eastern States where predominately higher sulfur coals are available;

2. These standards do not provide for maximum practicable emission reduction using locally available fuels, and therefore do not maximize potential for long-term growth;

3. These standards do not help to expand the energy resources (this is, higher sulfur coal) that could be burned in compliance with emission limits as intended;

4. These standards aggravate compliance problems for existing coal-burning stationary sources which cannot retrofit and which must compete with larger, new sources for low-sulfur coal;

5. These standards increase the risk of early plant shutdowns by existing plants (for the reasons stated above), with greater risk of unemployment; and

6. These standards operate as a disincentive to the improvement of technology of new sources, since untreated fuels could be burned instead of using such new, more effective technology.

Similar problems exist with respect to the standards for new oil-burning stationary sources.

The Conference adopted provision is intended to rectify these problems by requiring for fossil fuel-fired boilers that a new source standard of performance be expressed as both:

1. A numerical emission limit—such as pounds of emittants per hour, and;

2. A required percentage reduction in the pollutant content of untreated fuel.

The standard of performance can be achieved by any technological control process (including precombustion treatment of fuels, such as solvent refining) approved by the permitting authority, as long as that technology assures that on a continuous basis both the numerical emission limit and the required percentage reduction are achieved. No averaging in fuel control or in emissions-content or levels is allowed in determining whether the prescribed performance standard will be met by a source.

While the Conferees agreed that the Administrator may set the percentage reduction requirement as a percentage range, the Conferees expect the Administrator to be exceedingly cautious if he should elect to do so. Any such range of percent reduction would be allowed only to reflect varying fuel characteristics, and must be based on a carefully and completely documented finding by the Administrator that such departure from the strict requirement does not undermine the basic purpose of the House provision as expressed on pages 183 through 195 of the House Report number 95–294.

O. Prevention of significant deterioration

Both the House and Senate bills provided for authority for variance from prescribed increments. The Conferees adopted large parts of both the Senate and House provisions. The Governor of a State may grant a variance from Class I increments in Federal Mandatory Class I areas. If the Federal Land Manager concurs, that variance may be granted. If in the judgment of the Federal Land Manager the air quality values of the area (and the Conferees agreed that such values include visibility and its vigorous protection in National Parks and National Wilderness areas designated as Mandatory Class I areas) will not be adversely affected by the emissions from the source seeking a variance, and the Federal Land Manager so certifies after a complete showing by the source, the variance may be granted. If the Federal Land Manager fails to concur with the Governor's recommendation to grant a variance, the Governor may then appeal to the President. The President may grant the variance only if he finds, and so publishes, that the granting of the variance is in the national interest. Such variance shall allow Class I increments to be exceeded on no more than 18 days per year.

It is recognized that there are many difficulties in air quality modeling as applied to the 18-day variance from Class I increments. Therefore, the States, the Federal Land Managers, and the Administrator of the U.S. Environmental Protection Agency will be expected to apply reasonably conservative judgments in reviewing applications for any such variance. Furthermore, the Administrator shall carefully and completely discharge his responsibility to supervise through the required revision of the State plan, the granting of and enforcement of any variance.

The Conferees intend that any variance granted under Section 165(d)(2)(D), allow the increments spelled out for Class I areas to be exceeded on only a total of up to 18 days (or during any part of 18 days) per year. This means that the increments may be exceeded only on a total of up to 18 days

per year, by which the Conferees mean that the allowed variation of the increment take place on no more than 18 days, or any part of 18 days per year, in any and all directions. The increments may be exceeded on no more than 18 days, and that total would be arrived at by aggregating all modeled and monitored measurements of pollutant concentrations. This means that the Class I increments could be exceeded on no more than 18 days in total. An exceedence during any single measurement period (during the day at any one site (e.g. the three-SO_2 measurement period)), shall be considered a violation for one entire day.

Some provisions of this bill relating to PSD will become effective immediately upon enactment. Other sections will become effective upon modification of state implementation plans. In the meantime, existing regulations issued by EPA will continue in effect.

There will not be any gap or disruption in carrying out this Nation's policy of preventing the significant deterioration of clean air. No grace period is required because, after all, this policy has been with us since the 1967 Air Quality Act. It was not altered in the 1970 clean air amendments. The Environmental Protection Agency's predecessor for air pollution, the National Air Pollution Control Administration, defined this policy in guidelines in 1969. Acting under authority of the 1970 Clean Air Amendments, EPA eventually adopted regulations to implement this policy. So this part of the bill merely continues the policy that Congress expressed years ago and for which EPA has promulgated regulations.

On the other hand, both the House and Senate bills reflected a sensitivity to problems that might occur in the transition from the regulations to this new law. So savings clauses appear in the conference bill where appropriate to assure the validity of the EPA regulations up to the time the act becomes fully effective.

Certain questions have arisen regarding the status of certain federal lands located in Alaska. My understanding is that the national resource lands, as designated by the Federal Land Policy and Management Act of 1976, which were formerly referred to as the public domain are class II lands under this conference report and subject to redesignation as class III under appropriate authority outlined in the report. Alaska has nearly one-half of the country's public lands and the great majority of the national resource lands. However, virtually all the national resource lands in Alaska are withdrawn under specific public land order or by legislation pursuant to a particular Federal purpose.

There are three separate withdrawals that act upon the national resource lands in Alaska. All are related to the implementation of the Alaska Native Claims Settlement Act which was passed in 1971. The first of these withdrawals is a statutory withdrawal under section 11 of the Alaska Native Claims Settlement Act for selection by Alaska Natives pursuant to the entitlement granted them under the legislation. Additionally, other lands are withdrawn for selection by public land order for Native selection pursuant to the Claims Act. The second type of withdrawal is what we call a d–2 withdrawal. This withdrawal extends to approximately 80 million acres of the national resource lands which are currently under study as potential additions to the national parks, wildlife refuges, wild and scenic rivers, and forest systems pursuant to section 17(d)(2) of the Alaska Native Claims Settlement Act. The third type of withdrawal extends to the remaining national resource lands in Alaska and the d–2 withdrawals and those lands withdrawn for native selection. The Secretary, under section 17(d)(1) of the Alaska Native Claims Settlement Act has withdrawn the remainder of the national resource lands and these other lands under what we call a d–1 underlay pursuant to the development of regulations for classification for specific land uses on these lands.

Questions have arisen as to what the status of these lands are. They are class II lands subject to redesignation as class III. It is very important that such definition be made clear. The fact that these lands are withdrawn for potential study as areas that may eventually be designated as class I or class II lands not subject to redesignation for some reason has left this matter unclear.

I wish to state conclusively that there is no question that these lands are all class II lands subject to redesignation as class III. The specific federal withdrawal pursuant to a public land order does not affect their status under the Clean Air Act. All national resource lands, so long as they remain national resource lands, are class II lands subject to redesignation under the act to class III. The only class II lands not subject to redesignation to class III are listed in the statute. The national resource lands, withdrawn or otherwise, are not among these and therefore are subject to redesignation.

Mr. Speaker, in the State of Montana there is a proposed powerplant project known as Colstrip 3 and 4. I have heard allegations that this project might receive special, favored treatment under the definition of "necessary preconstruction permits" in this conference bill. I can say that the "necessary preconstruction permit" definition in this bill will apply equally to all major emitting facilities through the country. The conference committee did not intend to hand out any special exceptions or to impose any special burdens. There was some concern expressed that this might interfere with litigation now pending with respect to the Colstrip project. It is not intended to have that effect. All the issues in that litigation are preserved. I assume there is a complicated factual situation involved to which I have not been exposed. This definition of "necessary preconstruction permits" does not automatically decide whether the project is commenced or not. The effect is neutral.

Personally, not being familiar with the particular facts, I do not know if the "necessary preconstruction permits" language in this bill will help or hurt Colstrip. But no special or favored treatment was intended by the conference committee.

The conference bill provides that both States and Indian tribes will continue to have the power they now have to redesignate their lands to a new air quality classification. In cases where another State may object to such reclassification, and when the two jurisdictions cannot amicably come to agreement, the Administrator is granted the power to review the redesignation. But it is intended that the Administrator's review of such determinations by tribal governments be exercised with utmost caution to avoid unnecessarily substituting his judgment for that of the tribe. The concept of Indian sovereignty over reservation lands is a critical one, not only to native Americans, but to the Government of the United States. A fundamental incident of that sovereignty is control over the use of their air resources. Some statutes, I imagine, have encroached upon Indian sovereignty, eroding treaty rights negotiated at an earlier time. This is not such a bill, for the Administrator should reverse the determination made by an Indian governing body to reclassify its land, only under the most serious circumstances.

The language of the bill also provides that those areas which shall have been previously designated class I under prior regulations shall not become class II as a result of this bill's enactment. The House report, at page 143, further explained that any completed proposal which was submitted to the EPA Administrator prior to enactment shall remain valid. Any subsequent decision by the Administrator on such proposal also shall remain valid. This was the intent of the conference committee, and it is how such an application would be treated under this bill.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, the Clean Air Act amendments currently being considered include a provision whereby responsibility for establishing emission standards for radioactive materials will be transferred from the Nuclear Regulatory Commission to the Environmental Protection Agency—EPA. In addition to transferring these currently regulated authorities, the act would establish for the first time EPA authority over unregulated radiological emissions. The original provision was included in the House version of the Clean Air Act amendments and during conference was agreed to by the Senate. During the House deliberations, there were no public hearings on this provision and, in my opinion, at no time were the potential impacts on the Nation's energy program adequately considered or investigated. It is my understanding that, during the conference deliberations, the administration expressed some concern over this provision but their concerns were not incorporated into the final agreement. In expressing their concerns, the administration did not present specific energy impacts or possible interferences with the President's National Energy Plan. I have significant reservations over the fact that delegating this authority to EPA, which by the provisions of the Clean Air Act provide for additional delegation to States and localities, will adversely affect the neces-

sary development of energy facilities. In addition, I believe that there is a need in this area for national standards and only in extreme circumstances where local conditions require, should higher standards be established. I hope that the administration will take a close look at this provision and report back to the Congress at the earliest possible time the potential adverse effects of this change and recommend as necessary legislative changes to this amendment.

Mr. ROGERS. Mr. Chairman, I would agree with the gentleman from Alabama (Mr. FLOWERS) that there is nothing in the bill that goes to that problem at all and there is no intention to do that.

Mr. McKAY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman from Florida some questions about the intent of the conferees on a matter pertaining to class II.

On May 25, the gentleman and I had a colloquy concerning my amendment to the House bill for a high terrain class II variance procedure. The reason for my amendment was to take into consideration the effects of high and low terrain, and not penalize those few areas of the country with high terrain problems. The gentleman from Florida understood the high terrain problem and was in full support of adopting language which would allow class II variances as I proposed. Is that not correct?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. McKAY. It is my understanding that in the conference a consideration for the differences between high and low terrain was taken into consideration with respect to class I areas, is that correct?

Mr. ROGERS. That is correct.

Mr. McKAY. I understand that the conferees made no allowance for any kind of a variance in class II because the conferees agreed to increase a key pollution increment by 50 percent, and also provided three classes. Such problems can be solved, therefore, by the ability of the governor to redesignate lands from class II to class III. Does this mean that the bill is somewhat flexible to meet these kinds of special problems in local areas?

Mr. ROGERS. Yes, to the extent that it does not violate the purposes, procedures or requirements of this part and allow a deterioration of air quality in those areas. If it is necessary to accommodate an industrial facility in a class II area, the bill does provide for the means by which the governor could redesignate the areas class III.

Mr. McKAY. In States where high and rugged terrain is a problem, does this mean that the governors may redesignate only areas in the high terrain where the appropriate air quality models predict the standards for class II to be exceeded?

Mr. ROGERS. As was stated in the House committee report, page 147:

For instance, if a State wished to designate its entire area as class III, and the area contains no Federal lands which this proposed legislation indicates cannot be designated class III, the State could do so. Conversely, if it is wished to designate some parts class I and retain some class II areas, it may draw classification boundaries in any way it chooses—by entire air quality control regions, along county lines, or even along smaller subcounty lines.

Mr. McKAY. One of the major problems in establishing the effect of pollutants is the difficulty in establishing modeling techniques which fit the circumstances. Is it the intent of the conferees that the EPA require use of modeling techniques which will take into account and accurately predict air quality when siting plants in high terrain?

Mr. ROGERS. The conferees recognize the problems related to modeling and siting in areas of elevated terrain. It is intended that those areas can be redesignated if necessary, and that appropriate and accurate modeling techniques be developed by the EPA through an air quality modeling conference, including models which apply in cases of plants proposing to site in areas where impact on high terrain occurs.

Mr. McKAY. Mr. Speaker, I thank the gentleman from Florida (Mr. ROGERS) for his responses.

Mr. ROGERS. I want to thank the gentleman from Utah (Mr. McKAY), my distinguished colleague, who has always cooperated in this committee.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding, just for a query, if I may. I would like to make two points. First, as I have discussed with the gentleman, it is my understanding that in the bill the House yielded to the Senate position on the inclusion of Environmental Research and Development authorization in the air pollution field. I am not going to object to the bill on those grounds. I just want to be clear as to exactly what did take place, because in reading rapidly through the report I confess it looks rather ambiguous to me as to what actually happened.

Mr. ROGERS. It was included. We did accept it, as we had discussed with the gentleman earlier, and before we went to the conference, so it was accepted.

Mr. BROWN of California. I would just like to have on the record the fact that the Senate, which by its rules has not yet agreed to accept the Environmental Research and Development in one bill, has indicated—appropriate members of the Senate committee—that they would do so next year. I want the record to reflect that under these conditions I would not make an objection.

Mr. ROGERS. We understand and agree with the gentleman's position.

Mr. BROWN of California. May I ask one other point. I am concerned about the point raised by the gentleman from Alabama (Mr. FLOWERS) having to do with the jurisdiction over nuclear matter. I am particularly concerned because the funding for nuclear research and development in the EPA has been removed at the request of the administration, and it is dubious in my mind as to whether the capability exists there for the regulation of the nuclear functions that have been taken over from the NRC. I want to have some assurance that this entire problem will be examined to make sure that we have a program that best serves the public needs.

Mr. ROGERS. I would agree with the gentleman, and I will enter into those assurances, too, that this should be the intent and the goal for all of us. I thank the gentleman from California.

Mr. BROWN of California. Mr. Speaker, the conference committee on the Clean Air Act Amendments of 1977 has concluded its business, and agreed to report a bill. The final vote, on statutory auto emission standards, represented a genuine compromise between the House and Senate passed bills, both of which represented compromises between the current Clean Air Act, enacted in 1970, and the pressures for extensive revision and delay in clean air standards. The final product, which is a compromise of other compromises, is a complex and lengthy attempt to balance all of the pressures on the Congress and the environment.

The most important provisions of this bill, at least in my opinion, are those which allow State governments greater authority and discretion in dealing with air pollution problems. For example, for the first time States other than California can have automobile emission standards which are stricter than the Federal law if their air pollution problems need stricter standards. This is important because the conference bill gives the automobile companies 3 more years of delay over existing law. Under the compromise approved the automobile companies will not have to meet the statutory standards until 1981. In addition, the statutory NO_x standard has been changed completely, from 0.4 gm/mi. to 1.0 gm/mi, which represents a clear victory by the automobile industry in their efforts to change the standards in addition to the timetable.

In general, this bill is a retreat from our earlier goals, and represents a setback for those who hoped for clean, healthy air sooner, rather than later. However, I believe it is probably the best bill this Congress can produce, and it does represent the will of the majority. I only hope that its enforcement will be effective.

Mr. Speaker, I also note that the Clean Air Act amendments currently being considered include a provision whereby responsibility for establishing emission standards for radioactive materials will be transferred from the Nuclear Regulatory Commission to the Environmental Protection Agency—EPA. In addition to transferring these currently regulated authorities, the act would establish for the first time EPA authority over unregulated radiological emissions. The original provision was included in the House version of the Clean Air Act amendments and during conference was agreed to by the Senate. During the House deliberations, there were no public hearings on this provision and, in my opinion, at no time were the potential impacts on the Nation's energy program adequately considered or investigated. It is my understanding that, during the conference deliberations, the administration expressed some concern over this

provision but their concerns were not incorporated into the final agreement. In expressing their concerns, the administration did not present specific energy impacts or possible interferences with the President's national energy plan. I have significant reservations over the fact that delegating this authority to EPA, which by the provisions of the Clean Air Act provide for additional delegation to States and localities, will adversely affect the necessary development of energy facilities. In addition, I believe that there is a need in this area for national standards and only in extreme circumstances where local conditions require, should higher standards be established. I hope that the administration will take a close look at this provision and report back to the Congress at the earliest possible time the potential adverse effects of this change and recommend as necessary legislative changes to this amendment.

Mr. Speaker, I am informed that the bill reported by the conference committee includes the Senate bill provisions which authorize research and development under the Clean Air Act. Such provisions were not in the House passed bill, because under the rules of the House, such research and development authorization falls within the jurisdiction of another House Committee. It is my understanding that the Senate will be agreeable to dealing with research and development in separate legislation in future years. On the basis of that understanding I am agreeable to the conference committee bill.

Mr. DEVINE. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, could I have the attention of the gentleman from Florida (Mr. ROGERS). As has been brought to our attention by our colleagues from Alaska about the classification of certain Alaska lands—and that may be somewhat unclear—I wonder if the gentleman could for just a moment put in the record as to what the intent is.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I will include in my remarks a clarification of that point.

Mr. BROYHILL. There is no question that the lands that are class II lands are subject to redesignation of class III?

Mr. ROGERS. This is generally true.

Mr. BROYHILL. With certain exceptions.

Mr. ROGERS. Most class II areas may be redesignated class III, unless they are specifically precluded from doing so.

Mr. BROYHILL. There are some that are enumerated?

Mr. ROGERS. They are enumerated in new section 164(a) (1) and (2) of the act.

Mr. BROYHILL. Only those enumerated in the act.

Mr. ROGERS. The situation with respect to Alaskan lands is clarified in the summary.

Mr. BROYHILL. I was, of course, interested in several sections of the bill. One, of course, is the significant deterioration in the Breaux amendment. Of course, we did make adjustments in the House-passed bill on significant deterioration that is in an incremental number.

Also certain changes were made in Breaux amendment. I was disappointed, as the gentleman knows, that we did drop the variations that would have been permitted in class 2 areas as outlined in the Breaux amendment. There was considerable discussion on this issue, as the gentleman knows, and as he recalls in the discussion in response to a question from the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida stated in the conference that under increments for class 2 areas that earlier EPA–FEA analyses have indicated powerplants up to 6,000 megawatts could be built. Of course part of the highlights is the important role that modeling is going to play in the implementation of this part of the bill. What we have done here is to impose stringent new limitations on protected pristine areas, the parks and so forth, and we intend by specifying, as I understand it, the increments in class 2 and in class 3 to strike a balance between clean air on the one hand and on the other hand jobs and economic standards and standards of living.

Does the gentleman have some comment on what I have said and on his comments in conference?

Mr. ROGERS. The gentleman is correct. Those figures do come from FEA and EPA studies.

Also I commend the gentleman from Louisiana who presented his proposal in a most effective way. It was adhered to in class 1.

The Senate would not agree to class 2, since we had the three categories 1, 2, and 3, but I think we have reached an agreement so that the 18 days will be applied to category 1, although we do not have to since we have the three areas that the Governors of the local areas can change.

Mr. BROYHILL. And the increment numbers of course will change in those class 2 and 3 areas.

Mr. ROGERS. Yes. As a matter of fact they were raised. This is correct.

Mr. BROYHILL. Mr. Speaker, I support the conference report. We did not get everything we wanted. The Broyhill amendment on emissions is not in here. The emissions standards adopted in the House I feel were a balanced approach. They did establish standards I sincerely felt not only could be met but also would achieve clean air, and I was convinced by the agency study which was released last year that showed these could be met and the goals could be met.

The standards set in the conference report in my judgment can be met by the automobile industry, I feel, but are going to result in a higher price in fuel penalties, but in my judgment the conference report is necessary because of the possibility of a shutdown and the economic harm and damage and loss of jobs which would follow and the harm that might do at a time when economically we are recovering somewhat.

I do support the conference report. I think the conferees did a good job not only in supporting the House position but also in improving the bill we bring back here in all respects.

After approximately 2½ years of consideration and debate on the Clean Air Act amendments, both the House and the Senate have passed extensive revisions to the Clean Air Act and the conference committee has reached agreement as reflected in the conference report.

As one of the conferees, I would like to emphasize that one of the more difficult issues we had to deal with on stationary sources was the question of the 3- and 24-hour increments for class I, class II, and class III areas and the form of the variance that should be provided for the class I and class II increments. A critical decision that had to be made on the part of the House conferees on the last night of the conference was whether to accept the offer of the Senate conferees to accede to the House provision for class II and class III areas, with the increments in last year's conference bill giving up the Breaux variance provisions for class II, or go to the Senate's earlier offer to abolish class III and to increase the class II increments.

There was a considerable discussion of this issue. In that discussion, in a response to the question from Mr. DINGELL, Mr. ROGERS stated that under the conference increments for class II areas earlier EPA-FEA analyses indicated that powerplants up to 6,000 megawatts could be built and, indeed, that the conference increments for class III areas would permit construction of powerplants up to 12,000 megawatts. I believe it fair to say that his assurances on this point were one of the decisive factors leading to acceptance by the House conferees of Mr. ROGERS' motion to accept the Senate conferees' offer.

This exchange during the conference highlights the important role that diffusion modeling will play in the practical implementation of the prevention of significant deterioration provisions in the conference bill. I believe it important to make it clear in these floor debates that our conclusion that the overall provisions of the conference bill on this subject are reasonable and in the national interest rests in large measure on our assumption that EPA and the States, in specifying the kind of diffusion models and the basic assumptions that must be made in connection with model studies, will result in constraints on plant size and location roughly equivalent to those set forth in the EPA–FEA studies to which Mr. ROGERS referred. In short, this means that powerplants using best available control technology or burning fuel previously cleaned to achieve equivalent reductions in pollution can normally be built up to approximately 6,000 megawatts in the conference bill class II areas. This, of course, means that constraints on construction of other types of new plants will be in the equivalent range. Thus, while we have imposed stringent new limitations to protect pristine class I areas from any significant adverse impacts, we intend in specifying the in-

crements for class II and class III areas to strike a reasonable balance between clean air values, on the one hand, and other social needs such as jobs, standard of living, and economic development, on the other.

Also, It has been brought to my attention that the classification of certain Alaska lands has been a bit unclear. I wish to concur with Chairman ROGERS that there is no question that these lands are all class II lands subject to redesignation as class III. The specific federal withdrawal pursuant to a public land order does not affect their status under the Clean Air Act. All national resource lands, so long as they remain national resource lands, are class II lands subject to redesignation under the act to class III. The only class II lands not subject to redesignation to class III are listed in the statute. The national resource lands, withdrawn or otherwise, are not among these and therefore are subject to redesignation.

In regard to another major and critical issue addressed in this bill, automobile emission standards, I co-sponsored with my colleague, the Honorable JOHN DINGELL, a proposal which would establish meaningful, workable and balanced emission standards which we felt could be met by the industry and would greatly assist in achieving clean and healthy air. To a large extent we based our standards on data and information which was compiled through an extensive study conducted by EPA, FEA and DOT. The report of these three agencies fully supported the automobile emission standards which were contained in our proposal and the House overwhelmingly approved our amendment which embodied these standards.

However, the conference committee substantially altered these standards which were approved by the House and substituted more stringent standards, especially in regard to carbon monoxide emissions. While I feel that the standards contained in the conference agreement can be met, perhaps with some difficulty, I did not feel that such standards were needed to protect public health or welfare. In addition it is my firm belief that these standards will result in fuel penalties and higher costs to consumers. Inasmuch as these adverse effects on our consumers were unnecessary in my judgment, I strongly opposed them in the conference committee. However, the prompt passage of this conference agreement was absolutely necessary to avoid a shutdown of the automobile industry, and for this reason I decided to support its passage. My only caution to the House is that we may, once again, be forced to address this issue once in the near future.

Another provision which was contained in the House bill and was adopted by the conference committee with only minor modifications is the provision relating to administrative procedures. This provision is of special note since it establishes a totally new set of administrative procedures which EPA will be required to observe in the proposal and issuance of most of its regulations. These procedures were carefully developed by the House Commerce Committee and were intended to give the public and to the regulated industries an opportunity to become part of the regulatory process and to be heard in a meaningful way on Agency proposals.

Among other things required by this provision is that the Agency, in its notice of proposed rulemaking, shall include a statement of the basis and purpose of the rule, the factual data upon which the rule is based, the methodology used in obtaining and analyzing the data, and the major legal interpretations and policy considerations underlying the proposed rule.

Also, the Agency is required to establish a rulemaking docket which is to contain, among other matter, all written comments and documentary information received on the proposed rule during the comment period and a transcript of the public hearing held on the rule.

In addition, this provision contains the very critical requirement that the promulgated rule may not be based—in part or whole—on any information or data which has not been placed in the docket as of the date of such promulgation.

The conference committee decided to change the "substantial evidence" scope of review to the "arbitrary and capricious" scope of review. However, in changing the scope of review as contained in the House bill, the conferees were aware that there may be little practical difference between the "substantial evidence" scope of review and the "arbitrary and capricious" scope of review and that the two tests tend to converge as described by recent court decisions. See: *Associated Industries* v. *Department of Labor*, 487 F.2d 342 (2d Cir. 1973). Therefore, in order to avoid misinterpretations or confusion regarding the intent underlying a change in the existing scope of review, it was the decision of the conferees to retain the "arbitrary and capricious" scope of review.

I firmly believe that these new procedural requirements will result in the promulgation by the agency of more meaningful, workable, and responsible rules and regulations since such requirements will assure the opportunity for more extensive public participation in the rulemaking process.

With respect to the issue of warranties, the House bill had provisions reducing the life of the performance warranty to 18 months/18,000 miles and narrowly construed the definition of an emission control device or system for purposes of the defects warranty. The House had taken steps because of a widespread recognition that the previous performance warranty life of 5 years/50,000 miles and the overly broad interpretation of emission control device or system was anti-consumer and anti-competitive. Existing law threatened to restrict the practical utilization of that portion of the independent automakers parts and service industry which was not connected to the automobile manufacturer.

The conference report followed closely the spirit of the House language in regard to the above warranty issue. That is, the performance warranty was set at 24 months/24,000 miles with required repairs being able to be performed by any establishment that uses certified parts. After 24 months/24,000 miles the emission control device or system would be narrowly defined as in the House bill. I view these provisions as a victory for the free enterprise system and the consumer.

One of the more troublesome activities in which EPA had been involved was the attempted regulation of indirect sources—such as shopping centers—which attract mobile sources of pollution. I am pleased to report that the conference report, following the general intention of the House bill, prohibited the Administrator of EPA from requiring indirect source review programs. States are given authority to adopt, suspend, or revoke such programs.

Mr. DEVINE. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WAXMAN), a member of the committee of conference.

Mr. WAXMAN. Mr. Speaker, over 2 years of work on the Clean Air Act amendments is about to be completed. With enactment of this legislation, we will have charted a new course for environmental law for the next decade. This has not been an easy task; in many ways it has been a frustrating and thankless one. Less than a year ago, we were prepared to come before this House with a similar package, only to see it killed in the other body by virtue of a filibuster inspired by the most powerful lobbyists in the country.

This bill has escaped the grasp of those who would render it meaningless. We have withstood endless assaults by powerful corporations across the country. We have come back with a stronger bill this year than last year.

I want to take this opportunity to express my deepest appreciation and respect to the chairman of the subcommittee, PAUL ROGERS, for his leadership and dedication in shepherding this legislation. To bring a bill through conference twice within a year is simply an extraordinary achievement, and one of which the chairman should be very proud. He was our leader, trying repeatedly to forge a consensus—to get us to see the underlying privileges under all these complexities of the bill—to meet the challenge before us.

It is important for my colleagues to remember the purposes of the Clean Air Act: to protect the health of the American people, and to enhance their enjoyment of our precious clean air resources. It is no coincidence that this legislation was written in the Health Subcommittee. Air pollution is not merely a question of technological control, or economic growth, or land use, or transportation patterns. It is a matter, for some, of life and death. It is estimated that for automobile pollution alone, 4,000 people will die this year. For others, it is a question of increased rates of respiratory and heart disease, days which must be spent indoors, days in which exercise is impossible. And so we are talking not only

about the haze which afflicts our cities, but about cancer, bronchitis, emphysema, and cardiac dysfunctions.

Air pollution is also a threat to the Nation's economic welfare. Unless controlled, acid rain from sulfur oxide emissions will decrease agricultural yields by at least 10 percent—at the cost of billions to farmers and consumers.

And in a more tangible sense, the smogging of the pristine areas in the West means that the American people are being robbed of being able to enjoy one of our most cherished pursuits: Simple communion with the land which is the source of so much of our Nation's bounty.

We have laid out a comprehensive program to continue the progress initiated by the Congress 7 years ago. We have been responsive to the problems various industries have confronted in controlling their pollution. We have minimized any adverse impact on jobs and economic growth. We have provided our cities—which have the most serious pollution problems—another decade to reach air quality levels which will protect health.

We have taken the following steps:

First. We have provided the automobile industry with a generous 2-year extension of the current pollution control standards, and delayed until 1981 the imposition of tough limits for oxides of nitrogen, which the manufacturers claim is the most difficult pollutant to control.

I believe we could have asked for much more stringent standards. Indeed, the National Academy of Science concluded more than 2 years ago that the cars now parked on lots outside Detroit's factories should be meeting the full, statutory standards, and not the weaker ones to which we have agreed.

But because of enormous lobbying pressure, this legislative goal could not be achieved. And we have been forced to abandon, for the time being, the target of a full 90-percent reduction for NO_x. It is a decision which I believe gravely threatens the public health, and should be reconsidered.

And so I am hereby putting the automobile industry on notice: When this legislation is reconsidered in 1980, I will sponsor an amendment restoring the .4 NO_x standard. California will require its achievement in 1982. But for the rest of the Nation, the repeal of the NO_x standard means that over the next generation, there will be a 50-percent increase in respiratory disease in children alone. It means that we have compromised attainment of the health standard for NO_x in many areas of the country.

I believe such a prospect is intolerable.

The auto industry's capacity for generating arguments against even the weaker standards we have adopted is seemingly endless. Nevertheless, in order to be more than fair, we have provided, for 1981 and 1982, a waiver from the statutory CO standard if the technology does not exist. But the burden will be in the industry to make the necessary showing.

In sum, we have adopted a position consistent with the minimal pollution control needs of the Nation. I am certain Detroit can meet this schedule. But my colleagues must be aware that I consider this a compromise of a compromise of a compromise. For nonattainment States, they will have the option to adopt the more strict California standard as part of their strategy to clean up the air. This might result, as a practical matter, in a growing number of cars that may approach a majority so that a national car with the strict standards may become a reality.

Second. We have adopted a far-reaching policy of preventing the significant deterioration of air quality. We have set aside from the ravages of air pollution our national parks and other pristine areas.

We are determined to keep our clean air regions as clean as they are now.

Let no industry misunderstand our intent: in planning new facilities, there must be no consideration of siting a huge powerplant so close to a national park that it threatens the area's integrity. Protecting the Grand Canyon simply must become a normal business practice of the American industry. Preservation of our critical parks deserves no less.

At the same time, we have provided a procedure whereby new sources may build near class I areas if they can show, to the satisfaction of the Federal land manager, that their pollution will not affect the air quality values—including visibility—associated with our parks. The President can overrule a veto of these variances if he finds it is in the national interest for the source to build.

For the intermountain power project and other such endeavors this conference committee is saying: construction of your project, if it is allowed under this section, will be the exception, and not the rule. The burden is clearly on you to prove that you can build consistent with the purposes of our nondeterioration policy. You will have more than a fair chance at making these showings.

Nothing could be more equitable.

Third. For the first time, the Congress will write into law explicit protection for visibility. This will mean that the Four Corners and Navajo powerplants can expect to retrofit with additional pollution controls to limit the vast deterioration in visibility which their plumes have caused.

Impairment of visibility is the single most apparent impact air pollution has on the environment. It is our intent that aggressive steps be taken to reduce this eyesore which has defaced our grand vistas in the West.

Fourth. In order to speed compliance by industry, we are enacting a penalty applicable to each major source which will be equal to the economic value of noncompliance with emission limitations. No longer will United States Steel, or our major utilities, or our large refineries, be able to reap an economic windfall from polluting the air. No longer will they find it cheaper to send their lawyers into court instead of purchasing and installing the necessary pollution control equipment.

By making it prohibitively expensive to engage in further delays, we have provided the strongest incentive to recalcitrant polluters for them to clean up the air.

I believe we will find this economic tool the most effective one in our possession to enforce our clean air standards. It is a major regulatory breakthrough which I hope we will find useful to apply to other industries—such as Detroit—in the future.

Fifth. We have struck a proper balance betwen environmental controls and economic growth in the dirty air areas of America. Many of our cities suffer from unhealthy levels of air pollution. Without some flexibility and direction from the Congress, any further growth which adds to this pollution would be prohibited. There is no other single issue which more clearly poses the conflict between pollution control and new jobs. We have determined that neither need be compromised. The current imminent deadlines for air quality improvement will be extended for 10 years. Communities are given an option of continuing to secure trade-offs for pollution from new sources, or comprehensively revising their plans to assure attainment—through areawide pollution reductions—by the late 1980's.

This is a fair and balanced approach, which will not undermine our economic vitality, or impede achievement of our ultimate environmental objectives.

There are over 100 other major provisions in this report, Mr. Speaker, but suffice it to say that we have reached an earnest and just agreement with the other body, fully based on the House-passed bill, which will continue us along the road set out by the Clean Air Act of 1970.

I wish to conclude, Mr. Speaker, on a personal note. As many Members know, I have very strong feelings about the clean air amendments—and especially whether and to what extent the Congress would respond to the automobile industry's desire to relax—and in some instances repeal—auto pollution standards. My colleague JOHN DINGELL, from Michigan, led the fight on behalf of the opposition.

As a member of the Commerce Committee, I know JOHN DINGELL as a man of strong feelings, firmly held views, and at times a personality described as volatile. When the President announced his support for strict auto pollution standards, I knew JOHN was very upset. And while I appreciated his strong and sincere views on this issue—over which we disagree—I feared he might use his chairmanship of the Energy and Power Subcommittee in a way inconsistent with the wishes of the majority party constituency that elected him to that position; and I am one of his constituents. I wrote the gentleman for assurances that this would not be the case.

Well, I was wrong. I just did not know JOHN DINGELL well when we started with this issue. Clearly his action in recent weeks, and in recent days on the House floor, speak more clearly than any comments I might make. He is one of the hardest working and brightest Members of this House. He has taken the most difficult issue of deregulation of natural gas and shepherded it through in a gentlemanly and fair manner through a

deeply divided subcommittee, full committee, and House. His leadership and enormous skill—despite that rough exterior—makes me proud to be a colleague of his. As his constituent, I will always watch him carefully as all our constituents should do for us. When we disagree, we will not hesitate to express our differences. But, in the future, I expect to work with him not just as a constituent but as a friend and admirer.

I have learned a great deal in the past 2 years working on the Clean Air Act—about air pollution, the problems of the industries involved and a whole complex of interrelated problems associated with the legislation. But, I have learned a lot about my colleagues and the legislative process; and, I have come to respect both.

Your 10 House conferees worked as a team in trying to reconcile the sharp differences we had with each other as well as with the other body. We put in an incredible number of hours. Under the leadership of our full committee chairman HARLEY STAGGERS and subcommittee chairman PAUL ROGERS, we avoided the rancor that one might expect from a group with such sharp and differing positions, and we worked together—Democrats and Republicans, majority and minority staffs to clarify the crucial policy issues to be resolved and to move forward with our work.

The staff: Jeff Schwartz, Steve Connelly, Chris Dunn, Tom Greene, Bob Lamb and Pope Darrow—along with our personal staffs and particularly my legislative assistant Bruce Wolpe exemplified the kind of working relationships of which we can be proud.

SAM DEVINE, JIM BROYHILL and DAVE SATTERFIELD fought hard for their conservative point of view. They challenged those of us who consider ourselves liberals to re-examine our thinking to consider a perspective that needed to be considered in the developing of a compromise. DAVE SATTERFIELD is the best lawyer on the committee and constantly amazed me with his grasp of the details of this complex act.

TIM LEE CARTER was ferocious in his dedication to the primary health standards. He clearly agonized over the consequences of this bill, maybe because he knows better than any of us both professionally and personally the ravages of the kinds of diseases this act hopes to avoid. My respect for him has multiplied as I have gotten to know him better.

My fellow Californian JOHN MOSS approached his task with the honesty, integrity and principle that he adds to all his legislative efforts and for which he is so well respected in our home State and across the country.

My friend ANDY MAGUIRE championed the environmental cause. He authored much of the section on significant deterioration out of a conviction that we must protect our clean areas such as our national parks. He realized how badly his own State of New Jersey needed to get relief from the excess of pollution.

Mr. Chairman, HARLEY STAGGERS is a man national in size, but yet concerned about the little people in his West Virginia district. Asking always what impost will a provision have on the ordinary people, he held us together.

Contrary to the views that the auto industry must have of me, I am not against their industry or the men and women who work in it. As one of the largest businesses in our country, they have shown a creative genius and transformed our society for good and bad with the automobile. I was disappointed with them, and particularly the UAW for siding with them. I know that they wanted standards and deadlines that they could comfortably meet and from their own narrow self-interest that position makes sense. I was just frustrated and impatient because I didn't want to see Congress defer to their convenience at the expense of people's health.

I was pleased to hear Doug Fraser, the new head of the UAW say that the auto industry having achieved the legislative relief under this bill, should never again come to Congress for a bailout from their obligations to meet these standards.

I expect the auto industry to meet the standards in the law and to go beyond to achieve a full 90 percent reduction originally envisioned by Congress. I want to put them on notice that when their legislation is again considered in 1980, I will sponsor an amendment restoring the 0.4 No. standard. California will require its achievements in 1982. I expect them to respond to the national crisis we are in today—to look beyond narrow self-interest to help us all out of the energy and environmental dilemma that we face and to which they contribute. We must legislate that they carry this burden for the country because we know from bitter experience that unless we do so the job just won't get done. But when our national survival is at stake, I hope along with my colleagues that this most creative industry and the hard-working people in it will meet the challenge.

They now know what we expect of them. They know that we have a President in Jimmy Carter who is committed to the goals of this act and who is willing to resist the political pressures and tell the industry that they must obey the law. We have an EPA Administrator in Doug Costle who will enforce the law to its fullest. We have in Senator MUSKIE and Congressman ROGERS, men in the Congress who will challenge them on.

Despite all the assaults upon it, the Clear Air Act has retained its basic integrity and commitment. Above and beyond this legislation, we can take pride in the legislative process that produced it. The bill can be described as the best we could get and not all that bad after all. I urge you to vote for it.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, it is with great regret that I rise in strong opposition to the conference report on the Clean Air Act Amendments of 1977. My personal commitment to cleaning up our air compels me to make this vote, and my respect for the people I represent requires that I make my position known publicly.

The conferees have agreed to several provisions that make these amendments for the people of the Rocky Mountain region, the Dirty Air Amendments of 1977. They have compromised away something that is not a legitimate bargaining chip—the health and well-being of people who live at high altitudes. And make no mistake about it, the result of our actions will be an increase in the number of deaths from lung cancer, heart disease, and pulmonary problems for Americans who do not live at sea level. The recent announcement that "there is no known ill effect resulting from carbon monoxide" stuns me. That this deadly gas is a poison is common knowledge to most schoolchildren, yet apologists for the automobile industry—and it's inability to accomplish in several years what foreign manufacturers have already accomplished—are denying this common knowledge. It is appalling to me, and it is an insult to the intelligence of the American people. My only hope is that they are able to see past the political rhetoric and the self-justifying pronouncements to the heart of the matter. We are condemning them to bad health.

The claims that our economic health will suffer is a red herring. I very seriously doubt that the Big Three will close their doors and forego any profits for several years—among other things, they would have a difficult time explaining such an action to their stockholders. There is no excuse for the constant cries of "we can't do it"—such behavior is not fitting for the greatest industrialized nation in the world. What they should be saying, and what is there for us to read between the lines, is that "we don't think that the health of the American people is important enough for us to make the necessary investment and clean up our automobiles."

The amendments represent a callous insensitivity to the unique problems posed by high altitudes. As I pointed out in the debate, the current requirements do not recognize that difference. But the conference report treats the citizens of this region as second-class citizens. We are talking about permitting cars to be sold until 1984 that pollute twice as much as those at sea level. And only then will the carmakers begin offering the same protection that they are offering to the rest of the country now. And the length of time it takes to turn over a fleet of cars—between 8 and 10 years—means that we are postponing the right of these people to breathe clean air until the 1990's. And I hope that the significance of the date when we start to clean up our air—1984—is not lost on my colleagues.

It seems to me that we have the responsibility to treat all citizens of this country the same. This principle has governed our commitment to the civil rights issue, to the voting rights issue—indeed, it underlies the very basis of our society. Equal protection under law. Yet we are denying the resident of high altitude regions the protection we are giving to the rest of the country. This attitude is unconscionable, and I hope that we all recognize this provision for what it is.

Earlier, I said that I was opposing the bill with great regret. This is because there are some good provisions in the report—the noncompliance provisions, the stationary emissions requirements—these are all good provisions and should be enacted into law. But I cannot sacrifice the health of the people I represent on the altar of expediency, and I must oppose the conference report. I urge my colleagues to consider how they will justify condemning to death and disease members of society whose only fault is that they must breathe the air. These deaths could have been avoided by adhering to the commitment we made several years ago. I urge the rejection of the conference report.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX), a member of the conference committee.

Mr. BREAUX. Mr. Speaker, I thank the chairman of the committee for allowing me to speak on the conference report.

I also thank the leadership and the chairman for allowing me to serve, I guess you would call it as a partial conferee on the clean air conference. I was only allowed to speak on the so-called Breaux amendment. It is kind of a new procedure. If you have an amendment, you are allowed to go to conference, but you are not allowed to talk about anything except that amendment.

I just want to express how much I enjoyed serving with the gentleman from West Virginia. Although I am not on the committee, it was very enjoyable missing three dinners in a row and working until 11 o'clock one night and 2 o'clock the next morning.

I thoroughly enjoyed the spirit of participation.

Speaking of the Breaux amendment that we fought so hard for in the House, it is still in the conference report. It is a lot more difficult to recognize it and you really have to look and read very hard, but it is still in there, or it is sort of still in there.

We still have a variance in class 2, although the gentleman from Florida made sure that it was very tightly drawn and tightly written. I commend the gentleman for his expertise in the conference.

We have no variance left in class 2, which I thought was very important and necessary to make the bill work; but we have a class 3, which is the position we took over to the Senate, so I guess we won in that.

I just want to summarize, that as part of the legislative process I support the conference report, although I do not agree with it in total. It was arrived at in a fair process. We voted and I lost.

I support the conference report, because I think it is better than what we started off with.

I enjoyed my stay with the Committee on Interstate and Foreign Commerce. I would just leave them with the final note, please do not do this too often. I have enough to do without joining the gentleman's committee.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I want to commend the gentleman for his fine attitude and for his real contribution. He was a real gentleman about it, and a very effective advocate. The Breaux amendment is still in the bill. I agree with him.

Mr. BREAUX. I thank the gentleman.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I want to commend the gentleman for his work, and I want him to keep his promise on the bumper line and catfish pike.

Mr. BREAUX. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. ROGERS) for the purpose of answering some questions from the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield.

Mr. McCORMACK. I am reading from the report accompanying the conference report. It reads:

> Under this provision, radioactive pollutants, including source material, special nuclear material, and byproduct material are covered by Section 116 of the Clean Air Act. Thus, any State, or political subdivision thereof, may establish standards more stringent than Federal, or where a Federal standard has not been established, may establish any standards they deem appropriate. Thus the provision would not preempt States and localities from setting and enforcing stricter air pollution standards for radiation than the Federal standards, and would not follow the holding of Northern States Power Co. v. State of Minnesota, 447 F.2d 1143 (8th cir. 1971) aff'd 405 U.S. 1035 (1972) in the context of radioactive air pollution.

As I understand, what this is saying is that any county or political subdivision of any State may, on its own volition and at its own discretion, establish air quality standards for radioactive materials that are more strict than those established by the Nuclear Regulatory Commission, and have them assume the force of law under the Clean Air Act. Is that correct?

Mr. ROGERS. Yes, that has been true for all pollutants other than radioactive pollutants under the 1970 act.

Mr. McCORMACK. And is the gentleman saying that those States and local communities could preempt the Nuclear Regulatory Commission?

Mr. ROGERS. We do not say that, but under this bill States or local governments may set more stringent air quality or emission standards for radioactive air pollutants. This has been in section 116 of the law since 1970 for all other pollutants.

Mr. McCORMACK. As I understand the Northern States against Minnesota case, the individual States can not preempt the Federal Government in this area. What I am reading now seems to be saying that this conference report reverses that law.

Mr. ROGERS. I think the gentleman is talking about a water pollution control case.

Mr. McCORMACK. As it is written in this report, it is talking about air pollution. I am reading directly from the report. This is terribly important, because what I am reading in the report is that any county in the country could close down any nuclear power plant in the country just simply by establishing standards of emission that are lower than those that exist.

Mr. ROGERS. What it does say is that they may protect the ambient air and use their police powers to protect the health of the citizens in their area. This has always been true for other pollutants, and I see no reason for any exemption for radioactive pollutants.

If the gentleman will read the bill, he will also find that we give the NRC disapproval authority whenever a State or local standard would endanger public safety. NRC may veto any standard applicable to NRC facilities when it cannot be complied with safely.

Mr. McCORMACK. Is the gentleman saying that the NRC can override, then, the standards established by any county?

Mr. ROGERS. Whenever there is no way to comply with such a standard safely, certainly. Of course, NRC's disapproval could be overriden by the President.

Mr. McCORMACK. I must say that sounds to me to be a most ambiguous situation. The gentleman is saying on the one hand that counties can override the NRC——

Mr. ROGERS. We do not say counties can override NRC. We say NRC may override local standards which present a significant safety hazard, subject to Presidential review.

Mr. McCORMACK. That is not what the report says. I am glad the gentleman clarified this. NRC, then, has final authority in establishing all radioactive standards?

Mr. ROGERS. NRC's authority is for safety. EPA's is for protection of health and environment from radioactive pollution emitted into the environment.

Mr. McCORMACK. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. ROGERS) has expired.

Mr. STAGGERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, we have a very serious air pollution problem in one of the communities in my district, Waukegan, Ill., and we have been trying to identify it and to do something about it.

I notice, on page 476 of the conference report, with regard to air quality monitoring, there is augmented authority in the EPA to supplement State and local monitoring stations with Federal stations where necessary.

Mr. ROGERS. Yes.

Mr. McCLORY. This would authorize the establishment of additional monitoring stations in this area, at which we could detect the air flows and identify the different air pollutants which could then be detected, and perhaps we could

do something constructive about the serious air pollution problem there.

Mr. ROGERS. That is correct.

Ms. HOLTZMAN. Mr. Speaker, I am very pleased that this conference report on the Clean Air Act Amendments of 1977 includes my amendment to prevent New York City from being forced to impose tolls on its free bridges. This amendment will save New York from the destructive and inequitable consequences of the tolls, while at the same time assuring that essential steps will be taken to clean up our air.

The amendment requires the EPA Administrator to void a tolls strategy upon application by the Governor of a State, if the Governor certifies that the State's transporation control plan will be revised. The revised plan must include measures to improve mass transit, provide for the implementation of all transportation control measures needed to meet and maintain clean air standards, and assure that emission reductions equivalent to those expected from the tolls strategy are achieved.

Environmental groups have expressed their support for this amendment because, while eliminating the onerous burden of the tolls, it reaffirms New York's responsibility to take all necessary steps to reduce air pollution. For this reason, my colleagues from New York and I are most grateful to the conferees and to Chairman ROGERS of the Subcommittee on Health and the Environment.

Mr. MOSS. Mr. Speaker, one section of the Clean Air Act amendments currently being discussed provides for the Environmental Protection Agency, EPA, to assume responsibility for establishing radiological emission standards. This authority covers both the presently unregulated radiation sources as well as the regulated radiation sources currently under the jurisdiction of the Nuclear Regulatory Commission, NRC. It was felt that such an integrated standard-setting authority was necessary to provide a coordinated effort in this area. It was also recognized, however, that this might add to the already complex regulatory processes, particularly since States and localities could also now establish more stringent regulatory standards.

Therefore, the amendment to the Clean Air Act set up a series of requirements calling for close coordination between EPA and NRC, as well as override provisions by the NRC and utimately the President. While I think that the amendment as presented can effectively achieve the goals and objectives of the committee, I nevertheless have some reservations over the potential impact of this action on the Nation's energy program. These potential impacts were not adequately discussed during Committee debate nor has the administration provided sufficient information respecting these impacts to the Congress. I would urge the administration to look at the potential interaction of this amendment and the national energy plan and inform the Congress as quickly as possible as to any potential adverse impacts. Should there be such adverse impacts, I would hope that the administration would propose any legislative changes that might be required to remedy this situation.

Mr. STAGGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTIONS IN THE ENROLLMENT OF H.R. 6161, CLEAN AIR ACT AMENDMENTS OF 1977

Mr. STAGGERS. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 327) directing the Clerk to make certain corrections in the enrollment of H.R. 6161, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 327

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 6161), to amend the Clean Air Act and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In proposed section 165(d)(2)(D)(i) of the Clean Air Act (as contained in section 127 of the bill) (A) strike out "in any class I area", and (B) strike out "applicable to such area" and insert in lieu thereof "applicable to any class I area".

(2) In proposed section 162(a) of the Clean Air Act (as contained in section 127 of the bill) (A) strike out "1977, and all" and substitute: "1977 shall be class I areas and may not be redesignated. All" and (B) strike out "and may not be redesignated" and insert in lieu thereof "which may be redesignated as provided in this part".

(3) In proposed section 302(i) of the Clean Air Act (as contained in section 301 of the bill) insert a comma after "means" and insert a comma after "States".

(4) In proposed section 206(f) of the Clean Air Act (as contained in section 223(e) of the bill) strike out "(f)" and substitute "(g)".

(5) In proposed section 209 of the Clean Air Act (as contained in section 221 of the bill) strike out "(1)".

(6) In proposed section 223(d), strike out "redesignating section 214 as section 222" and substitute "redesignating section 214 as section 216".

(7) In section 221, relating to testing of fuel and fuel additives, after "221" insert "A".

(8) In section 219(b), after "Act" insert ", as amended by section 211 of this Act".

(9) In proposed section 207(g) of the Clean Air Act (as contained in section 212 of the bill) strike out "(g)" and insert in lieu thereof "(f)".

(10) In section 209(c), insert after "Act": ", as amended by subsection (a)".

(11) In section 207(a) of the Clean Air Act (as contained in section 205 of the bill) strike out "The cost" and insert in lieu thereof:

"(3) The cost".

(12) In section 205 of the bill strike out "new sentences".

(13) In section 206 of the bill strike out "Section 203(a)" and insert in lieu thereof "Sec. 203.".

(14) In proposed section 203(a)(4)(B) of the Clean Air Act (as contained in section 206 of the bill) strike out the comma before the period at the end thereof.

(15) In proposed section 202(b)(5)(A) of the Clean Air Act (as contained in section 201(c) of the bill) strike out "class or category" and insert in lieu thereof "model".

(16) In proposed section 202(b)(7) of the Clean Air Act (as contained in section 202 of the bill) strike out "the end of model year 1978" and insert in lieu thereof "model year 1979".

(17) In proposed section 207(g) of the Clean Air Act (as contained in section 212 of the bill) strike out the closing quotation marks and insert at the end thereof the following new paragraph:

"(3) Nothing in section 209(a) shall be construed to prohibit a State from testing, or requiring testing of, a motor vehicle after the date of sale of such vehicle to the ultimate purchaser (except that no new motor vehicle manufacturer or dealer may be required to conduct testing under this paragraph)."

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I will explain to the Members that all this resolution does is to correct technical and clerical errors in the conference report. It has been checked on both sides. We know that the corrections need to be made.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6370, INTERNATIONAL TRADE COMMISSION AUTHORIZATION, 1978

Mr. VANIK. Mr. Speaker, I call up the conference report on the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the Chairman and Vice Chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 21, 1977.)

Mr. VANIK (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) is recognized for 30 minutes, and the gentleman from Wisconsin (Mr. STEIGER) is recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 6370 is an excellent accommodation of the difference in views between the House and the Senate on the authorization of fiscal year 1978 appropriations for the U.S. International Trade Commission and on the best solution to certain administrative and organizational problems which have inhibited efficient administration and hurt employee morale in the Commission.

I want to express my appreciation to the chairman of the conference from the other body, Senator LONG, for his outstanding cooperation and understanding of the issues involved in this conference. The Members on both sides and the Trade Subcommittee staffs of both Chambers have done a fine job in this legislation in developing a consensus bill which will serve to improve the operations of the Commission.

Mr. Speaker, I also want to express my appreciation for the fine work and the cooperation of my colleague, the distinguished gentleman from Wisconsin (Mr. STEIGER).

In its consideration of H.R. 6370, the Congress is exercising its own statutory function of effective review and oversight of the International Trade Commission as required by section 175 of the Trade Act of 1974. This responsibility is particularly important since the budget submission by the Commission is independent of Presidential review or revision.

Mr. Speaker, on the issue of the authorization level for fiscal year 1978, I am pleased to report that the House figure was accepted. The House figure of $11,522,000 was $655,000 below the Senate figure, and the amount requested by the Commission.

The Commissioners should be on notice that in the authorization process Congress intends to continue to monitor their operations to assure that the Commission becomes both cost effective and efficient. If not, then next year I believe that we should consider reconstituting the Commission and its responsibilities.

The conference bill provides for a longer term for the chairman. In addition, the conference bill eliminates the present rotating chairmanship and provides for Presidential designation of chairman and vice chairman. To limit the power of the President over the chairmanship, the bill provides that the designation may not be from the two most recent appointments to the Commission. The bill provides that the chairman and vice chairman are to be of different political parties; the chairmanship is to be rotated between the parties every 2 years. This "chairmanship amendment" becomes effective after the term of the present chairman which expires June 16, 1978.

The heart of the conference bill lies in the agreement on the administrative authority of the chairman. At present no one has clear administrative authority. The conference bill provides for the chairman to administer the day-to-day activities of the Commission, subject to a disapproval of his actions by a majority of the Commission. Because the Congress has always intended the Commission to be a nonpartisan, semijudicial, semilegislative body capable of providing impartial and objective advice to the President and the Congress, the conferees did feel it necessary to withhold certain powers from the chairman so that he did not become too powerful.

In this respect, the conference agreement is close to the House provisions. It is a sound middle ground, between the present chaotic situation and the strong chairman concept of the Senate bill. It is hoped that it will end the present administrative deadlock, and at the same time preserve for the Commission as a whole those areas of responsibility most vital to its functioning as an objective independent Commission as indicated by comments on this issue in the report of the Ways and Means Committee. Thus the following two kinds of actions by the chairman are subject to the approval of the Commission: First, the formulation of the annual budget of the Commission; and second, the discharge from a position of an employee with responsibility for supervising personnel, whose duties involve substantial personal responsibility for Commission matters, and who is a GS–15 or above.

By these changes in administrative responsibility, it is hoped that the previous dissension over minor administrative matters will be replaced with a smoothly functioning Commission under which the Chairman and the Commission would appropriately delegate authority to staff position placing responsibility where it belongs, and exercise its own responsibility of holding the staff accountable for working effectively.

Regarding the discharge of key personnel, in reserving such action for Commission approval the conferees recognized that the need for an expert and objective staff is compelling. Personal differences between the Chairman and key staff personnel should not be permitted to result in the discharge of key personnel or their removal from their position if a majority of the Commission does not agree with such a proposed action by the Chairman. Clearly, the exception to this is the employees who serve as personal staff of a Commission.

With respect to reorganization, I ask unanimous consent to include in the RECORD at this point language from the House report to H.R. 6370 which requests a report from the ITC on certain administrative problems:

The Commission is directed to report to the Committee on Ways and Means six months after the date of enactment of this bill on what actions have been taken to:

1. Complete the reorganization of the Commission staff in conformity with Civil Service rules;

2. Delegate administrative matters and delegate to the staff operational responsibilities consistent with the responsibilities assigned to the organization units under the reorganization so that Commissioners may concentrate on substantive issues; and

3. Adopt a code of personal conduct with respect to employment of staff, travel, speaking engagements, prohibition on political speeches and partisan political activity, and other matters concerning personal conduct of Commissioners and staff in the interest of enhancing the public perception of the Commission as an objective, fact-finding agency with a quasi-judicial role in carrying out the trade policy of the United States.

The subcommittee expects to hold a hearing on this report prior to the end of the 1st session of the 95th Congress. Although this is less than 6 months away, the Commission has already been on notice for 3 months that this report is expected.

Finally Mr. Speaker as observed in the statement of managers the conferees expect the entire Commission to retain responsibility for administrative matters in the area of external relations involving liaison and relations with the Congress, with the President, and with the executive branch agencies. In the field of public relations, the entire Commission must also be in the position to protect the reputation of the Commission as an objective, nonpartisan, fact-finding body. In this respect, it is necessary that the Commission as a body be in a position to discipline individual members who may undertake action which would tend to discredit the Commission.

It is the intention of the conferees in agreeing to this provision to enable the Commission to devote all its energies to substantive matters within the jurisdiction of the Commission, leaving responsibility for administration of the Commission to the Chairman and his delegates. The conferees believe that ending full Commission debate of administrative matters should result in more definitive majority decisions on matters of substance.

The bill includes the House provision which attempts to insure that efforts to harmonize domestic import, production, and export statistics will proceed in coordination with a major international effort now underway to establish a uniform world system of import/export statistics.

The Senate provision is retained which provides in statute the ITC practice of making reports on the import sensitive synthetic organic chemical industry. Under the bill, these reports are to be continued for the period through the end of 1981.

In closing, it is my strong hope that this will be the beginning of a new day at the ITC and in the relations of the Commission with its oversight and legislative committees. With good will on the part of all concerned, the taxpayers of the country can be served by a well run agency staffed with public servants of high morale.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we prepare to take final action on this piece of legislation by voting on the conference report, I would like to remind my colleagues of the urgent need for the reforms put forth in this bill. Not only does H.R. 6370 authorize $11,522,000 to be appropriated for the Commission, but also provides for improved organization, ad-

ministration and, thus, efficiency of this important trade body. Over the past several years, the ITC has made for itself an unfortunate reputation from dissension, confusion, disorganization and mismanagement. A body entrusted with major responsibilities involving domestic industry, as well as this country's trade posture, cannot continue to command such little respect or trust.

This conference report represents a good compromise as to the methods that will best effect a strong, efficient, and credible International Trade Commission. The bill now provides for designation by the President of a Chairman and Vice Chairman of the Commission and for notification to the Congress of these designations. Beginning June 16, 1978, the terms of office for the Chairman and Vice Chairman will be extended to 2 years. These officials cannot be of the same political party, and neither can a Commissioner of the same party succeed the Chairman. Further, the two Commissioners most recently appointed to the Commission will not be eligible for designation as Chairman. These changes will go far in assuring the independence and continuity of leadership so badly needed at this time.

The most significant improvement this measure brings to the ITC is with regard to its administration. The bill provides that the Chairman shall assume all administration functions, subject to disapproval by a majority of the Commissioners, except for: First, the termination of supervisory personnel; and second, the budget. Decisions involving these two areas will be subject to approval by a majority of the Commissioners. In addition, the bill precludes any Commissioner from making public statements represented as being the views of the Commission without the approval of the Commission. With these changes, the Commission can avoid time-consuming arguments over minor administrative details and can proceed in a coherent and integrated manner to conduct essential business.

Finally, and quite unrelated to appropriations and structure, H.R. 6370 provides further assurance that programs for achieving international harmonization of trade statistics will proceed as a part of an ongoing program, mandated under the 1974 Trade Act, to achieve comparability among import, export, and domestic production statistics.

Mr. Speaker, both Houses have devoted a great deal of time to this bill, and have studied extensively the various alternatives before them. On several previous occasions, I have expressed my fundamental desire to see legislation of this nature enacted. Although in many ways I feel it is not stringent enough, this bill offers sorely needed improvements in the operation of the Commission. It should serve to enhance the ITC's effectiveness as an independent, quasi-legislative body entrusted with significant trade responsibilities. I urge my colleagues to approve the conference report on H.R. 6370.

Mr. VANIK. Mr. Speaker, I move the prevous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4991, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1978

Mr. THORNTON. Mr. Speaker, I call up the conference report on the bill (H.R. 4991) to authorize appropriations for activities of the National Science Foundation, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 20, 1977.)

Mr. THORNTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arkansas (Mr. THORNTON) and the gentleman from New Jersey (Mr. HOLLENBECK) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to explain the major features of the conference report on H.R. 4991 and the statement of managers.

With the exception of four sections which have been included in every recent NSF authorization—extraordinary expenses, obligation limitation, transfer limitation, and information requirement—the House and Senate were in disagreement on the bill. The conferees were able to resolve the differences as follows:

FUNDS

The bill reported by the conference includes a total authorization for the National Science Foundation of $884,250,000 for fiscal year 1978. This amount is $750,000 below the Foundation's budget request, $16,250,000 more than authorized by the House and $15,750,000 less than authorized by the Senate. The authorizations are in 10 categories, as follows:

1. For mathematical and physical sciences and engineering, the budget request was $249,200,000. The House authorized $243,800,000 and the Senate authorized $249,200,000. The conferees agreed on $246,500,000.

2. For astronomical, atmospheric, Earth and ocean sciences, the budget request was $213,400,000. The House authorized $207,600,000 and the Senate authorized $213,400,000. The conferees agreed on $210,500,000.

3. For the U.S. antarctic research program, the House, the Senate, and the conferees approved the request for $47,475,000.

4. For biological, behavioral, and social sciences, the budget request was $144,800,000. The House authorized $139,200,000, and the Senate authorized $145,800,000. The conferees agreed on $142,500,000 including an increase of $500,000 in the support of research on nitrogen fixation.

5. For basic research stability grants there was no request. The House authorized no funds, and the Senate authorized $6,800,000 or 2 percent of the funds available for categories (1), (2), and (4) above, whichever is less, for a new program. The conferees agreed on $4,500,000 or 2 percent of the funds available for categories (1), (2), and (4) above, whichever is less.

6. For science education programs, the budget request was $75,700,000. The House authorized $83,300,000 and the Senate authorized $83,900,000. The conferees agreed on $83,300,000.

Within science education the conference bill earmarks funds for 10 programs. The most significant compromises were:

First. For a Resource Center for Science and Engineering the budget request was $1,000,000. The House authorized not more than $1,000,000 and the Senate authorized $6,000,000. The conferees agreed on $3,000,000.

The statement of managers emphasizes that only one Center is to be fully funded, discusses the Center concept, and recommends that the alternative form of support for minority graduate studies proposed by the House, fellowships for minority graduate students, be funded at the level of $500,000.

Second. For science for citizens the budget request was $1,200,000. The House authorized not more than $100,000, and the Senate authorized $5,000,000. The conferees agreed on $1,800,000.

Third. For a comprehensive assessment of science education in 2-year colleges there was no request. The House authorized no funds, and the Senate authorized $1,000,000 for a new program. The conferees agreed on $500,000.

The statement of managers gives instructions on the conduct of the assessment.

Fourth. For comprehensive assistance to undergraduate science education the budget request was $14,500,000. The House recommended $17,500,000 and the Senate authorized not more than $100,000. The conferees agreed on $14,500,000.

7. For research applied to national needs, the budget request was $78,000,000. The House authorized $72,700,000, and the Senate authorized $79,000,000. The conferees agreed on $75,850,000 including an increase of $500,000 in the support of research on nitrogen fixation.

In place of a House floor of $23,000,000 in the RANN program for "applied social research" and "policy-related scientific research" the conference bill includes a floor of 25 percent of available RANN funds.

8. For Scientific, Technological, and International Affairs, the budget request was $22,600,000.

The House authorized $21,200,000 and the Senate authorized $20,600,000. The conferees agreed on $20,900,000.

Of that amount, for policy research and analysis the budget request was $4,000,000. The House authorized not less than $4,500,000 and the Senate authorized not more than $2,000,0000. The conferees agreed on $4,000,000.

9. For program development and management, the House, the Senate, and the conferees approved the Foundation request for $47,825,000.

10. For the special foreign currency program, the budget request was $6,000,000. The House authorized $4,900,000, and the Senate authorized $6,000,000. The conferees agreed on $4,900,000.

OTHER COMPROMISES

Compromises in the bill on matters other than funds were as follows:

First. The House bill was a 1-year authorization while the Senate bill was a 2-year authorization. The conference bill is a 1-year authorization.

The statement of managers presents some potential advantages of a 2-year authorization but notes that a 2-year authorization would not be acceptable to the House at this time.

Second. The Senate bill included a provision to permit researchers in the industrial sector to compete for basic research support on an equal basis with researchers in the academic sector. The Senate bill also authorized fellowships to enable academic researchers to spend up to 2 years in an industrial environment and to allow industrial researchers to spend up to 2 years in an academic environment, and directed the Foundation to increase support for cooperative research projects involving researchers from the industrial and academic sectors. The House bill included no comparable provisions. Of the three Senate provisions the conferees adopted the provision with regard to cooperative research projects.

The statement of managers endorses fellowship exchange programs between industry and academia and requests the Foundation to continue reviewing its policy regarding the support of basic research in industry.

Third. The Senate bill provided that not less than 12.5 percent of the amount available for research applied to national needs should be expended to small business concerns. The House bill had no similar provision. The conferees agreed to adopt the Senate provision.

Fourth. The Senate provided that emphasis in international cooperative Scientific activities should be placed on bilateral and multilateral research and exchange programs, particularly programs involving Western Europe and neighboring countries in the Western Hemisphere. The House bill had no similar provision. The conferees agreed to adopt the Senate provision with language added requiring coordination with the Office of Science and Technology Policy, the Secretary of State and other appropriate officials.

Fifth. The Senate bill contained provisions emphasizing activities of the programs in the Office of Science and Society of the National Science Foundation. The House bill contained no similar provisions. The conferees agreed to adopt certain of the Senate provisions with modifications in some.

The statement of managers suggests that the Foundation should give due consideration to some of the other Senate ideas for activities of that office and cites the conferees' intention that intervenors and lobbyists should not be funded in the program science for citizens.

Sixth. The bill as passed the House contained a section directing NSF to issue instructions to its curriculum development grantees to provide special protection for students involved in precollege research, pilot-testing, evaluation and experimental curriculum projects. The Senate bill contained no such provision and the managers on the part of the Senate opposed the language. Conferees agreed to retain in the bill the basic requirement for instructions to provide adequate protection for precollege students in the designated areas. They agreed that detailed implementation of this provision, however, was not essential to the legislation itself.

The statement of managers describes the intent of the provision in further detail.

Seventh. The House bill included a section establishing financial disclosure procedures to help guard against the possibility of conflicts of interest on the part of NSF employees and peer reviewers. The Senate bill included no comparable provision. The conferees agreed on the importance of guarding against possible bias in the consideration of applications for Foundation support and have included the substance of the House provision of the bill.

Eighth. Conferees agreed to three amendments to the NSF Act of 1950:

a. A House provision amending section 3(e) of the NSF Act of 1950 to emphasize that an objective of the Foundation in strengthening research and education in the sciences throughout the United States shall be to avoid undue concentration of those activities.

b. A House provision adding a new clause to the NSF Act of 1950 which requires an annual report of the National Science Board.

c. A Senate provision amending section 14(d) of the NSF Act of 1950 to permit the Chairman of the National Science Board to fix the rate of compensation for members of the Board and members of special commissions engaged in NSF business, provided this rate does not exceed the daily rate for GS–18 of the General Schedule.

Ninth. Senate provisions regarding interdisciplinary studies, a set-aside of instrumentation funds for small grants, and support of young scientists were all dropped in the conference bill. The statement of managers discusses the first two of these. The conferees were sympathetic to the difficulties facing young researchers and believe NSF should give careful attention to the support of young scientists.

Mr. Speaker, I would like to return for a moment to the matter of the 2-year authorization. The statement of managers makes this observation:

The conferees agreed that a two-year authorization would be useful in establishing a framework for planning that could be of substantial assistance to the Foundation and to the scientific community in the development of programs and policies. They agreed that a two-year authorization could be helpful in assuring full consideration by the appropriations committees of the programs and policies included in the authorization—and that a two-year authorization might also be of assistance in enabling the authorizing committees to meet the requirements of the Congressional Budget Act, under which stringent reporting deadlines must be met and projections of budget levels must be submitted.

Nonetheless conferees adopted the view of the Managers on the part of the House that a 2-year authorization would not be acceptable to the House at this time. The major reasons given by House managers were: (1) no record of fiscal year 1979 funding for NSF has been made or attempted by appropriate House committees; (2) evidence of a carefully considered 1979 budget for NSF by the Foundation itself is not available; (3) there are disadvantages as well as advantages to be considered in adopting a 2-year budget cycle—and these have not yet been thoroughly explored.

I know a number of members of the pertinent committees in both Houses are interested in eventually seeing a 2-year budget cycle of some sort developed. I have discussed the matter as it pertains to NSF at some length with Senator JAVITS and others.

Without making any commitment at this point, I am persuaded of the value in looking at a number of possible options in the budget process, especially that involving research and development, in the years ahead. Aside from the reasons stated in the conference report, I am mindful of the importance of being able to match research efforts to assured resources. This is particularly true for basic research which is frequently vulnerable to cuts in the name of economy. Of course, this is because so many people assume, mistakenly, I think, that basic research should be assigned low competitive priority since it has no immediately identifiable benefit. The need for predictable support in this area is very great indeed. So whether that need is met by multiyear budgets, long-range projections, forecasts of social needs requiring interdisciplinary scientific breakthroughs for their solution, or some other quite different approach—I do concur that we, as prudent legislators, will be obliged to consider all reasonable means for balancing predictability with a proper exercise of congressional oversight.

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report for H.R. 4991, the National Science Foundation authorization for fiscal year 1978.

The House passed H.R. 4991 in March of this year, authorizing $868 for fiscal year 1978—$17 million below the amount requested. When we took this bill to conference we were confronted by a unique situation in the Senate version. The Senate had passed a 2-year authorization, providing $900 million for NSF in fiscal year 1978 and $1.1 billion for fiscal year 1979. While a 2-year authorization does

provide some advantages in meeting the requirements of the Congressional Budget Act, the conferees accepted the House view and rejected a 2-year authorization.

The House conferees felt that the 2-year authorization was inappropriate at this time since our Science and Technology Committee had not held any hearings on proposed NSF fiscal year 1979 funding nor had NSF presented any detailed budget request for fiscal year 1979. Without first having made these considerations we felt a 2-year budget cycle should be rejected although the concept of a 2-year budget is desirable at least in this instance.

Overall, this conference report reflects the compromises worked out between the House and Senate conferees. The recommended authorization is $884.2 million. This is still slightly under the budget request and is $16 million over what the House has passed, $16 million under the Senate total.

In addition to the increased funding levels for certain categories, the House conferees also agreed to retain several other Senate provisions. The Senate bill provided that not less than 12.5 percent of the amount available for research applied to national needs should be set aside for small businesses. The conferees agreed to this Senate provision and expressed support for the small business innovation program. The House conferees also accepted a Senate provision directing the National Science Foundation to increase support for cooperative research projects involving researchers from the industrial and academic sectors and a provision emphasizing that International Cooperative Scientific Activities should concentrate on bilateral and multilateral research and exchange programs, particularly among Western European and Western Hemisphere nations.

Mr. Speaker, this is a piece of legislation that will eventually touch the lives of every citizen in a positive way. The National Science Foundation provides the bulk of the Federal support for basic scientific research in our colleges and universities. The effects of this alone will, of course, be far reaching. It will provide the basis for expanding our scientific knowledge and training young minds to insure even greater advances in the future. But the legislation will also have a more immediate effect on the everyday lives of citizens. The "science for citizens" program is designed to help the public understand science engineering and technology and their impact on public policies.

Too often we find that very important choices are made regarding scientific policy without the average citizen having any understanding of what such a choice will mean for his life. This NSF program is designed to provide a greater degree of understanding between science and society. The conferees have taken the precaution of insuring that no grant or contract under the "science for citizens" program will be made to an individual or group that would promote a special interest or be used to intervene in a judicial or administrative proceeding. This is an important safeguard that materially strengthens the program.

Mr. Speaker, I have touched only very briefly on the many aspects of this conference report. It is not substantially changed from the version of the bill that left the House. The major programs were discussed in greater detail at the time the bill was first considered on the House floor. I do have some concern over the increase in funding from the House-approved levels, but the total is still under the identical budget requests of President Ford and Carter for NSF. The conference report deserves the same strong support as H.R. 4991 originally received in the House. I urge its adoption.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I would like to compliment the gentleman for the outstanding statement he has made and for the good work he has done in this conference.

Mr. GARY A. MYERS. Mr. Speaker, will the gentleman yield?

Mr. HOLLENBECK. I am happy to yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Speaker, I would inquire of the gentleman from New Jersey in reference to the program for science for citizens and state that there was some concern that the Members had to the fact that that program might grow into an intervenor type program which will be used to provide or to influence, with Federal funds, programs and to provide some possible slowdowns when programs are going on. What is the intent there?

Mr. HOLLENBECK. Mr. Speaker, I can assure the gentleman from Pennsylvania that the conferees on this side of the House took every precaution and were able to succeed in assuring that no grant or contract under the science for citizens program will be given to any group that would intervene in any judicial or administrative proceeding.

Further, Mr. Speaker, I would like, in passing, to compliment my colleague, the genleman from Pennsylvania (Mr. GARY A. MYERS) on the amendments the gentleman offered in the original bill which were retained in the conference report.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. HOLLENBECK. Mr. Speaker, I reserve the balance of my time.

Mr. THORNTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Speaker, I want to congratulate the chairman of the subcommittee, the gentleman from Arkansas (Mr. THORNTON), upon his leadership in this matter, and also to compliment the conferees on the dedicated work that existed among them in preparing this conference report.

Mr. Speaker, it is not generally recognized by the Members that this bill was a good deal more difficult than appears on the surface. As presented to us today it seems very simple and full of sweetness and light, but there were a great many very difficult portions of the bill to negotiate. I know that it took a great deal of negotiating skill and many, many hours of hard work that were put in by the gentleman from Arkansas and the members of the conference in order to do the job. I believe they have done an especially good job and that this is an excellent bill, especially in the area of intervenors. I think it is a very important step forward for this country.

Again I want to congratulate the committee.

Mr. THORNTON. Mr. Speaker, I thank the gentleman for his kind remarks.

At this time I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I want to thank the gentleman from Arkansas (Mr. THORNTON) for yielding to me. I also want to pay a tribute to the gentleman as the chairman of the subcommittee and also to the ranking minority member. This was the first year that both of them handled this bill. I believe that the gentleman from Arkansas (Mr. THORNTON) and the gentleman from New Jersey (Mr. HOLLENBECK) have done a very outstanding job with some very, very difficult issues. I believe that some of the problems we have had with the National Science Foundation in the past have been corrected.

Again let me say that I am pleased at the fine leadership the gentleman from Arkansas (Mr. THORNTON) has asserted in this area and again congratulate the gentleman.

Mr. TEAGUE. Mr. Speaker, I am pleased to report that the committee of conference has completed its work on the bill H.R. 4991, the authorization bill for the National Science Foundation for fiscal year 1978.

The House and Senate conferees have resolved the differences in the House and Senate passed versions of H.R. 4991. The bill passed the House on March 24 and passed the Senate on May 5. In acting on the bill, the Senate struck all after the enacting clause and substituted new language. The committee of conference agreed to accept the Senate amendment with certain substitute amendments and with certain other stipulations insisted upon by the managers on the part of the House.

The conference report which the managers have developed and which we present to the House today is a compromise which has resulted from intensive negotiations. I first want to thank my colleagues on the committee of conference for their hard work on this conference report. All members made important contributions but I especially wish to recognize the distinguished chairman of the Subcommittee on Science, Research and Technology, the gentleman from Arkansas (Mr. THORNTON) and the ranking minority member of the subcommittee, the gentleman from New Jersey (Mr. HOLLENBECK).

The bill would authorize $884,250,000

for the National Science Foundation. This total is $15,750,000 less than the Senate amount of $900,000,000. The House bill authorized $868,000,000 which is $17 million less than he budget request. The conference amount is $16,250,000 more than the House figure. The conference amount is $750,000 less than the budget request of $885,000,000.

This authorization bill will provide support in two areas for which the NSF has major responsibilities: Research and science education. The conference report, in combination with a large number of recommendations in House report 95–98—which accompanied H.R. 4991 when it was passed by the House on March 24—reflects not only our legislative hearings but an extensive amount of oversight activity by the committee. In this oversight work, the committee has been assisted in important ways by the Congressional Research Service and the General Accounting Office.

There were major differences between the Senate and House bills which the conference had to resolve both in amounts authorized and in various program provisions.

Nevertheless, I believe this conference report reflects a reasonable and workable compromise with the Senate and will provide substantial support for important elements in our Nation's strength and well-being: Research and science education.

There are few problems that we have in today's world which do not depend—in the short run or in the long run—on how well we perform in these two vital areas.

Mr. Speaker, this report deserves the support of the House, and I urge its adoption.

Mr. WYDLER. Mr. Speaker, I support the conference report accompanying H.R. 4991, the fiscal year 1978 authorization for the National Science Foundation.

H.R. 4991 authorizes $884.2 million for the NSF's programs in fiscal year 1978. This amount is $16.2 million above the House-passed level and $15.8 million below the Senate-passed level. The $16.2 million increase over the House bill is equivalent to a 1.9 percent increase. The House conferees prevailed in refusing to accept a 2-year authorization, which the Senate bill contained.

The Members should be gratified to know that the final conference figure—$884.2 million—is $800,000 below the original budget request submitted to the Congress by Presidents Ford and Carter. In addition, the allocation of the funding among program elements in H.R. 4991 is very close to the Presidents' request.

The conference bill retains two important minority-sponsored amendments to the House bill. First, H.R. 4991 contains effective language to establish a statutory conflict of interest provision for NSF employees and peer reviewers. Second, it contains a provision protecting the precollege students who participate in NSF-sponsored projects which involve experimental curriculums and pilot testing. The NSF will establish criteria for protecting students and will require written approval from local school authorities before introducing experimental curriculums into local schools. Both of these provisions were House minority initiatives. I believe they will make the NSF more accountable, and I am pleased that they are part of the conference bill.

In turn, your conferees accepted several worthwhile Senate initiatives. H.R. 4991 earmarks 12.5 percent of $75.8 million in Research Applied to National Needs—RANN—for programs involving small businesses. Small business can make a contribution to NSF's activities and it is appropriate to insure they will receive a definite portion of NSF's RANN funding. Small business has many of the features and potential of the academic community, which is the NSF's principal constituency.

In structuring the NSF's program for "Science and Society," your conferees took special precaution to assure that funds available for public-interest type activities were distributed fairly. NSF funding of public-interest science investigations should contribute to the general elevation of public understanding of scientific issues and not be distorted to serve the ends of advocatory groups. The NSF should not award grants where the likely effect would be to support a program skewed to reinforce preconceived positions. Such activity is not the purpose of NSF grants.

Mr. Speaker, I believe that the conference report accompanying H.R. 4991 is a constructive compromise of the House and Senate positions on the fiscal year 1978 NSF Authorization Act. I urge my colleagues to accept the report.

Mr. THORNTON. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 4991, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EMERGENCY DROUGHT RELIEF

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1935) to amend Public Law 95–18, providing for emergency drought relief measures, and ask for its immediate consideration.

The Clerk read the Senate bill, as follows:

S. 1935

An act to amend Public Law 95–18, providing for emergency drought relief measures

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (a) of the first section of the Act entitled "An Act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought", approved April 7, 1977 (91 Stat. 36), is amended by striking out "November 30, 1977" and inserting in lieu thereof "January 31, 1978".

(b) Section 8(c) of such Act is amended by striking out "September" and inserting in lieu thereof "November".

(c) Section 9 of such Act is amended by striking out all beginning with "water purchase" through "authorized by this Act and for" and inserting in lieu thereof "provisions of this Act which shall include the".

(d) Section 10(a) of such Act is amended by striking out all beginning with "during fiscal year" through "(62 Stat. 1052)", and inserting in lieu thereof "pursuant to this Act and the Act of June 26, 1948 (62 Stat. 1052)".

(e) Section 10(b) of such Act is amended—

(1) by striking out all beginning with "during fiscal year" through "(62 Stat. 1052)", and inserting in lieu thereof "pursuant to this Act and the Act of June 26, 1948 (62 Stat. 1052)"; and

(2) in the first sentence by striking out all beginning with the colon through "State".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman explain briefly what this does for water problems in the West?

Mr. MEEDS. Mr. Speaker, I would be delighted to explain it, if the gentleman will yield under his reservation.

Mr. ROUSSELOT. I will yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding. Mr. Speaker, I would be pleased to explain my unanimous consent request to proceed in what is admittedly an irregular manner on this subject. I can assure everyone that only the most extreme urgency justifies this procedure. Last March the House passed by an overwhelming margin S. 925, which became Public Law 95–18 the Emergency Drought Assistance Act, authorizing appropriations to the Secretary of Interior in the amount of $100,000,000. These funds have been appropriated.

The act contemplated a number of individual programs and set aside funds for them. Partly because of delays in promulgating guidelines, some of the programs have not been effective and the funds provided for them have not been used. Meanwhile other programs have proved to need more money than the act allows. We are thus confronted by a situation in which most of the appropriation has been "sterilized" because the terms of the authorizing legislation allowed the Secretary no flexibility in allocating moneys to programs. In short, it is imperative that the act be immediately amended in order for it to accomplish what the Congress intended. If we do not agree to this measure, today, and get it down to the President, the practical effect of such failure to act would be effectively to nullify the Emergency

Drought Assistance Act. I would only say to my colleagues who might be inclined to object to my request, that the drought is by no means over and, if anything, is more severe and devastating today than it was 4 months ago when we first considered this matter.

Now, if the gentleman will yield further, I would like to say that S. 1935 authorizes no new appropriations nor does it appropriate any new funds. It extends the deadline under the act by 2 months and simply provides that the money heretofore appropriated may be used for any program set forth in the act without limitation. Basically, the operative effect of the measure is to remove the limitation on loans for reimburseable facilities construction on reclamation and Indian irrigation projects and provides for financial assistance to State water resources agencies for drought services furnished by the State agencies.

In summary, Mr. Speaker, this bill is desperately needed at this time and I urge the House to agree to it.

Mr. ROUSSELOT. I appreciate the gentleman's explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendments offered by Mr. MEEDS: On page 1, after line 10 insert the following: Add to Section 8 of Public Law 95–18.

"(d) The Secretary may condition grants, or may waive all or a portion of the repayment of loans made under this Act, upon the agreement of a recipient to undertake a program of water conservation and efficient management meeting standards established by the Secretary. The Secretary shall report to Congress on measures which he has undertaken to institute such conservation and management procedures."

And renumber the following sections accordingly.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 6179, ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS OF 1977

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 6179) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of August 3, 1977, part II.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) and the gentleman from Michigan (Mr. BROOMFIELD) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 6179, the Arms Control and Disarmament Act Amendments of 1977.

The major purpose of H.R. 6179, is to authorize the appropriation of $16.6 million for the Arms Control and Disarmament Agency for fiscal year 1978. Of this amount $2 million is to be used to support the nuclear safeguards programs and activities to the International Atomic Energy Agency.

Mr. Speaker, the most important provision in H.R. 6179, is that which requires the Director of the Arms Control and Disarmament Agency to report to the Congress on the verifiability of arms control agreements into which the United States has or may enter.

This is a major provision and in the judgment of the conferees, essential to the national security.

For example, verification will be a major element of any new agreement on SALT.

This provision insures that the executive branch will give proper emphasis to verification procedures before concluding any new SALT or other significant arms control agreement.

If not, Congress will be aware of the problem and will be in a position to take necessary action when ratifying or implementing the proposed agreement.

It should also be pointed out that the conference committee dropped the House provision which would have permitted the Director of the Arms Control and Disarmament Agency to grant access to restricted data to contractors and other employees.

The purpose of the amendment was to eliminate the time-consuming and costly practice of a special clearance for access to restricted data even though the contractor or employee already had a clearance from another Government agency.

This provision was dropped because the Energy Research and Development Agency and the Arms Control and Disarmament Agency assured the conference committee that the problem had been resolved administratively.

This was accomplished on July 8, 1977 when a memorandum of understanding was agreed to by the Energy Research and Development Agency and the Arms Control and Disarmament Agency which we think will eliminate unnecessary duplication of security clearances.

Since this was the objective of the House in including this provision in the bill, the conferees agreed that the provision was no longer necessary.

At this point I include the memorandum of understanding the RECORD:

INTERAGENCY AGREEMENT BETWEEN THE U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AND THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY FOR PERFORMANCE OF INDUSTRIAL AND RELATED SECURITY FUNCTIONS

This agreement, entered into by and between the U.S. Energy Research and Development Administration (hereinafter referred to as the ERDA) and the U.S. Arms Control and Disarmament Agency (hereinafter referred to as the ACDA), pursuant to the Energy Reorganization Act of 1974, Section 41 (a) of the Arms Control and Disarmament Act (22 U.S.C. 2581 (a)), and Section 601 of the Economy Act of 1932 as amended (31 U.S.C. § 686), constitutes the terms and conditions under which ERDA will perform for ACDA industrial and related security functions. This Agreement supersedes in its entirety the interagency agreement between ERDA and ACDA for industrial and related security functions effective February 12, 1976.

I. GENERAL

a. When the performance of an ACDA contract requires access to Restricted Data, ERDA security rules and regulations (specifically the Volume 2000 series of the ERDA Manual) will apply to all classified information provided to the contractor by ACDA for performance on that particular contract, except as otherwise provided herein or as otherwise required by Section 45 of the Arms Control and Disarmament Act, as amended (22 U.S.C. § 2585), or as it may be amended in the future.

b. ACDA contracts requiring the Contractor's employees to have access to Restricted Data will contain a security clause which will require that ACDA contractors adhere to ERDA security rules and regulations.

c. ACDA will assure by consultation with ERDA that the information required in the performance of the contract is properly classified as Restricted Data. ACDA will furnish to ERDA documentation necessary to enable ERDA to determine whether Restricted Data is involved.

d. The terms "contractor" and "contractors," as used herein, include actual or prospective contractors, subcontractors, suppliers, consultants, and advisory committee members including members of the General Advisory Committee on Arms Control and Disarmament. The term "contractors," for purposes of this agreement, however, shall not include ACDA contractors, subcontractors, suppliers, consultants, and advisory committee members in the capacity of licensees of the Nuclear Regulatory Commission.

e. This agreement is subject to modification by mutual agreement or termination of either party upon 30 days notice to the other.

II. PERSONNEL SECURITY

a. ACDA is responsible for requiring ACDA contractors to establish and maintain a program setting satisfactory qualification and general suitability standards for all contractor employees who will require access to classified information (including Restricted Data) before any requests for access authorizations are forwarded by ACDA to ERDA.

ACDA will require its contractors to conduct a pre-employment suitability check on each employee concerning the employee's integrity and personnel habits before access authorization is requested for such individual.

b. ACDA is responsible for screening all requests for access authorizations received from ACDA contractors to assure that the appropriate forms have been properly and fully completed, particularly in regard to identifying existing security clearances held by an individual.

c. ACDA, after determining that a contractor employee will require access to classified information (including Restricted Data) in the performance of his duties under an ACDA contract, is responsible for determining the level of access (Confidential, Secret, Top Secret) required by individuals and referring all requests for access authorizations to ERDA through agreed channels. ACDA will identify those cases that require expeditious processing by the investigative agency.

d. ERDA is responsible for processing ACDA requests for access authorizations to the appropriate investigative agency for the conduct of such investigations as are required under Section 45 of the Arms Control and Disarmament Act, as amended (22 U.S.C. § 2585), or as it may be amended in the future. A copy of requests for these investigations will be furnished to ACDA.

e. In lieu of submitting a request to an investigative agency for a background investigation as provided in subclause II.d., above, ERDA may request a copy of an investigation and report on the character, associations, and loyalty of an individual made by another Government agency.

f. ERDA is responsible for screening the results of the completed investigations under subclause II.c. and for determining the appropriateness of granting access authorizations in accordance with the established ERDA procedures and criteria in 10 CFR Part 710.

g. In those cases where ERDA determines that all the requirements of Subsection 145.c. of the Atomic Energy Act of 1954, as amended, have been fulfilled, ERDA may grant access to ACDA contractor employees on the basis of that subsection.

h. When an access authorization is granted by ERDA, ACDA will be formally notified. ERDA agrees to exercise its best efforts, within its present capabilities, to notify ACDA within 7 days after receipt by ERDA of the investigation from the investigative agency whether a determination to grant can be made on the record and, if so, that it has been made.

i. In those cases in which ERDA determines that additional or supplemental investigation is necessary, arrangements will be made by ERDA for the conduct of such investigation and ACDA will be notified of such action. ERDA agrees to exercise its best efforts to arrange for the conduct of the additional or supplemental investigation within 30 days after receipt by ERDA of the original investigation.

j. In those cases in which ERDA determines that the reports of investigation contain information requiring an interview with the ACDA contractor employee to resolve the question of eligibility for access, ERDA will arrange for the interview through ACDA. Following a review of the results of the interview, should ERDA determine that access authorization can be granted, ACDA will be notified and provided a summary or transcript of the interview, as appropriate, together with copies of the investigative reports.

k. In those cases in which ERDA determines that the reports of investigation contain information requiring the initiation of the Administrative Review Procedure, ERDA will notify ACDA before initiating such an action and subsequently will consult with and keep ACDA advised of the interim and final action to be taken by ERDA.

l. ACDA will be responsible for:

(1) timely notice to ERDA when an ACDA contractor employee no longer requires access to classified information (including Restricted Data), either during the investigative or adjudicative stage, or following the granting of an access authorization; and

(2) furnishing to ERDA, for appropriate action, any information which ACDA had developed independently or received from any other source and which might affect the continued eligibility of an ACDA contractor employee for access authorization.

m. In those cases where an ACDA contractor employee, at a DOD-approved facility, is simultaneously a DOD contractor employee who has been authorized to have access to certain Restricted Data pursuant to Section 143 of the Atomic Energy Act of 1954, as amended, ERDA in accordance with Section 45(c) of the Arms Control and Disarmament Act will accept the DOD personnel security clearance as sufficient for access to the same Restricted Data to which the contractor employee is authorized access pursuant to Section 143 of the Atomic Energy Act. In other cases where access by the ACDA contractor to different or additional Restricted Data may be required, the other provisions of this agreement shall apply.

III. PHYSICAL SECURITY

a. ACDA will be responsible for assuring that no classified information (including Restricted Data) is made available by ACDA outside of ACDA premises to ACDA contractors until ERDA has approved the storage facilities of the ACDA contractor for protection of the classified information (including Restricted Data) involved.

b. ACDA, when requesting facility clearance for an ACDA contractor, will provide ERDA with the following:

(1) The name(s) and location(s) of the place(s) where work is to be performed;

(2) The contract number, if any, or a brief description of the nature of the arrangement between the ACDA and the contractor;

(3) A description of the work to be done;

(4) The classification of each of the various elements of work;

(5) The manner in which the contractor will receive classification guidance (e.g., the existence of a classification guide);

(6) Whether the Restricted Data supplied will include Weapons Data and/or Research and Development reports;

(7) The name of the contractor's security officer, if any; and

(8) The termination date, if known, and the provisions made for closing out the security interest upon termination, of the arrangement.

c. Upon receipt of the information required in III.b. above, ERDA will survey the facility and recommend the establishment of protective measures as required by ERDA security rules and regulations. A copy of the survey and recommendations will be made available to ACDA for any necessary action. Final approval of the facility for storage of Restricted Data is the responsibility of ERDA.

d. ACDA will be responsible for advising ERDA of any deletions or additions to the facility.

e. Periodic inspections of the approved facilities will be made by ERDA and the results furnished to ACDA for information and corrective action if deficiencies are noted.

f. ERDA will consult with ACDA before taking any action to invalidate the facility approval for any ACDA accessees.

g. ACDA will notify ERDA when the need for facility clearance no longer exists.

h. ACDA will be responsible for recovering classified information (including Restricted Data) from contractors upon termination of the security interest.

IV. REIMBURSEMENT

Reimbursement for personnel and physical security services rendered by ERDA will be made by ACDA on the basis of those out-of-pocket costs directly attributable to the servicing of ACDA contractors by ERDA security inspectors and officers. Out-of-pocket costs shall consist of the pro-rata share of:

a. gross annual salary and costs of government contributions for employee benefits; and

b. any other costs such as travel, communications, etc.

In connection with the procedures required under 10 CFR Part 710, ACDA will reimburse ERDA for Personnel Security Board costs, including travel, per diem and compensation for days actually employed by board members and hearing counsel, together with travel, per diem and fees of expert witnesses.

It is agreed that if the volume of ACDA work necessitates additional ERDA personnel there will be subsequent arrangements for the purpose of deciding what would constitute a proper reimbursement to ERDA by ACDA. ACDA will be billed directly by the Civil Service Commission for charges involved in the investigations for access authorization for contractor personnel of the ACDA.

Approved for the Arms Control and Disarmament Agency:

PAUL C. WARNKE.

JULY 7, 1977.

Approved for the Energy Research and Development Administration:

ALFRED D. STARBIRD.

JULY 7, 1977.

There were two other provisions in the Senate amendment which were not in the House bill which will increase the efficiency of the Arms Control and Disarmament Agency.

The first would permit the Director to appoint officers and employees to the Agency from outside the competitive service.

This authority is only for 2 years after which time the Committee on International Relations and the Senate Committee on Foreign Relations with the assistance of the Civil Service Commission will review its effectiveness.

The purpose of the provision is to afford the Agency access to qualified experts and specialists on a temporary basis as needed.

Another Senate amendment which the conference committee adopted was a provision which permits the officers and employees of the Agency to accept reimbursement for travel and subsistence expenses incurred while performing advisory services concerned with the functions and activities of the Agency.

Mr. Speaker, this is a good conference report and deserves the approval of the House.

Mr. Speaker, I urge adoption of the conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong suport of the conference report.

Mr. Speaker: I endorse the comments of my distinguished colleague, Mr. ZABLOCKI, and fully support the con-

ference report to H.R. 6179. The legislation we have before us today contains the essential provisions of the previously passed House bill.

An essential provision—the verification provision—preserves the intent of the House amendment—that being to keep the Congress better informed as to our country's ability to verify arms control agreements—past and proposed. As adopted by the committee of conference, this provision requires ACDA to report on the verifiability of significant arms control proposals either made or received by the United States. Moreover, the provision requires ACDA to report on significant changes in the verifiability of existing agreements as well as the total number of U.S. Government personnel assigned to verification tasks.

Research—be it in verification, nuclear safeguards, or disarmament—is a keynote of this conference report. For example, the committee of conference makes clear the responsibility of ACDA in supporting verification research.

Several million dollars are actually authorized by the Conference for important research programs. A total of $16.6 million for fiscal year 1978 is authorized for ACDA, $1 million of which is to be spent on external research and public affairs programs. Moreover, $2 million is to be spent by ACDA in support of the International Atomic Energy Agency's programs, including research on nuclear safeguards and alternative nuclear fuel cycles.

Yet another section of the conference report which also concerns research, maintains a key provision of the House bill—deletion of the prohibition on the use of foreign research institutions for disarmament research. This particular provision will save the taxpayer money by allowing ACDA to field test equipment in other countries without having to incur high transportation costs and expensive technical support services. Moreover, given this provision, ACDA will be able to better draw upon foreign know-how in technical areas where our country may yet have only limited expertise.

In conclusion, I believe that the conference provisions concerning verification and nuclear safeguards are vital to our national and international security. The conference report that we have before us today will better provide the United States and other nations with opportunities to maintain the security of all, I urge my colleagues to support the legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI.)

Mr. DERWINSKI. Mr. Speaker, the gentleman from Wisconsin, Chairman CLEM ZABLOCKI, in my opinion, will go down in history as one of the great diplomats of our time.

I rise in support of the conference committee's recommendations for H.R. 6179, and in so doing I would like to commend Chairman ZABLOCKI and his staff for the manner in which they dealt with the minority conferees throughout the negotiations leading to the agreement that we now have before us.

As you are well aware, Mr. Speaker, I have a vested interest in this legislation. Section 4 of H.R. 6179—pertaining to the verification of arms control agreements—is a laudable Senate refinement of the amendment I succeeded in having attached to this bill when we originally considered it three months ago. Since there still seems to be considerable speculation in the press and elsewhere as to what motivated me to take action, I would like to devote the balance of my time to setting the record straight once and for all.

What especially sensitized me to the importance of verification in any arms control agreement was the SALT I agreement the United States struck with the Soviet Union. Some of the most ticklish and controversial issues concerning the accord centered around the question of verification. Were the Soviets enlarging their missiles in violation of the agreement or were they not? Were they deliberately camouflaging missile installations which they had promised not to hide? Were they encoding radio telemetry from their missle tests so as to prevent us from acquiring data needed to verify compliance with certain aspects of the agreement? Were they, in fact, testing their air defense radar so as to make them suitable for use against incoming missiles as well?

I could add further examples, but suffice it to say that the answers to these questions left the average American and many of us in Congress unsatisfied and very uneasy. Moreover, many Americans, well aware of the fact the Soviets do not always keep their end of a bargain, came to believe that they did cheat in some or all of the areas I have just cited. The upshot of this growing public perception—whether properly founded or not—is that it has tended to undermine confidence in the value of arms control itself. This is most unfortunate. It is in the interest of arms control that such concerns be put to rest, and it is further in the interest of arms control that future uncertainties be clarified.

Given such a "real world" atmosphere of skepticism, I felt my amendment would be a great help in addressing this problem as it would assure a more systematic and widespread evaluation of verification problems by representatives of the people and not simply technicians. ACDA officials have repeatedly stated over the years that verification is, in essence, a political problem and in this regard, they have pointed out that the degree of risk this nation decides to allow on various provisions of an arms control agreement is based ultimately on political judgments of the highest sort. Thus, in light of Congress acknowledged role in the political decisionmaking process, it stands to reason it must participate in these determinations and to do that effectively it must have the same information the executive branch has. Thanks to the oversight requirement mandated by Section 4, Congress will now have that information and, as a consequence, the prospects of a politically acceptable arms control agreement will be enhanced immeasurably.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the statement I am about to make has not been prepared by the staff but I can assure the gentleman from Illinois, that he has made a very great contribution to some of the provisions in this bill, particularly that part of the bill which requires verification. I commend the gentleman for all of his interest and the contribution he made to the bill.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thought I would ask a question of my good friend the gentleman from Illinois as to whether the verification area was tightened up. I am concerned as the gentleman. Can he tell us what happened on that?

Mr. DERWINSKI. Mr. Speaker, actually we had what I thought was a good amendment in the House bill, but the Senate amendment for all practical purposes was even stronger, and therefore there was not any real problem in the conference. The amendments contained proper controls, so as we present this conference report we actually have verification procedures somewhat stronger on the Arms Control and Disarmament Agency, that is, somewhat more extensive in controlling provisions than the House-passed bill.

Mr. ASHBROOK. If the gentleman will yield further, the only concern is that since we do not have and cannot get on-site verification, what real confidence can we have in verification?

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, as the gentleman knows, on-site verification is something the Soviets will never agree to with their absolute fear of the western presence in their installations. They would never agree to on-site inspection.

I think we have reached the point where as they develop any new weaponry, we provide that the Congress be advised and be assured that there is a verification procedure necessary to protect our national interest. We have the technology.

Mr. Speaker, may I also add that the House Committee on International Relations is very well served by our chief of staff Jack Brady who is an outstanding practitioner in his profession.

Mr. ZABLOCKI. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would be remiss if I did not concur with the last observation of the gentleman from Illinois with reference to our chief of staff, whom he

salutes every morning. Certainly we have an excellent staff, led by Dr. Brady.

Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROPOSED SET OF ACTIONS TO REDUCE FLOW OF UNDOCUMENTED ALIENS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-202)

The SPEAKER pro tempore (Mr. KILDEE) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I am proposing to Congress today a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.

These proposed actions are based on the results of a thorough Cabinet-level study and on the groundwork which has been laid, since the beginning of the decade, by Congressmen RODINO and EILBERG and Senators EASTLAND and KENNEDY. These actions will:

—Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil—injunctions and fines of $1000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers, and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.

—Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hiring occur.

—Adjust the immigration status of undocumented aliens who have resided in the U.S. continuously from before January 1, 1970 to the present and who apply with the Immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the U.S. continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the U.S. after January 1, 1977.

—Substantially increase resources available to control the Southern border, and other entry points, in order to prevent illegal immigration.

—Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Each of these actions will play a distinct, but closely related, role in helping to solve one of our most complex domestic problems: In the last several years, millions of undocumented aliens have illegally immigrated to the United States. They have breached our Nation's immigration laws, displaced many American citizens from jobs, and placed an increased financial burden on many States and local governments.

The set of actions I am proposing cannot solve this enormous problem overnight, but they will signal the beginning of an effective Federal response. My Administration is strongly committed to aggressive and comprehensive steps toward resolving this problem, and I am therefore proposing the following actions:

EMPLOYER SANCTIONS

The principal attraction of the United States for undocumented aliens is economic—the opportunity to obtain a job paying considerably more than any available in their own countries. If that opportunity is severely restricted, I am convinced that far fewer aliens will attempt illegal entry.

I am therefore proposing that Congress make unlawful the hiring by any employer of any undocumented alien. This employment bar would be implemented in the following way:

—Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.

—Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines—a maximum of $1,000 for each undocumented alien hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.

—An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.

—The Social Security card would be designated as one of the authorized identification documents; and we will accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, only to legal residents. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card, or any other card, a national identification document.

—To further restrict job opportunities, criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien obtain or retain employment, or who knowingly contract with such persons for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. It is not directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would pre-empt any existing state sanctions.

In addition to the creation of these new sanctions, efforts to increase enforcement of existing sanctions will be significantly increased. The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, would not only be strictly enforced, but its existing civil and criminal penalties would be sought much more frequently by the government. To date, the inability of the government to enforce fully this Act, due in part to a lack of resources, has resulted in the hiring of undocumented aliens at sub-minimum wages, thereby often displacing American workers. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment. Similarly, the Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, would be tightly enforced. The Departments of Justice and Labor will work closely of exchanging information developed in their separate enforcement activities.

While I believe that both the new and existing employer sanctions, and their strict enforcement, are required to control the employment of undocumented aliens, the possibility that these sanctions might lead employers to discriminate against Mexican-American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. However, to prevent any discriminatory hiring, the federal civil rights agencies will be charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

BORDER ENFORCEMENT

The proposed employer sanctions will not, by themselves, be enough to stop the

entry of undocumented aliens. Measures must also be taken to significantly increase existing border enforcement efforts. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions.

I am proposing to take the following increased enforcement measures, most of which will require Congressional approval for the necessary additional resources:

—Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well as the amount of additional enforcement personnel, will be determined after the completion in September of our ongoing border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be placed on the Mexican border.

—INS will shift a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.

—An antismuggling Task Force will be established in order to seek ways to reduce the number and effectiveness of the smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The U.S. attorneys will be instructed to give high priority to prosecuting individuals involved in alien smuggling.

—The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.

—Passage will be sought of pending legislation to impose criminal sanctions on those who knowlingly use false information to obtain identifiers issued by our Government, or who knowingly use fraudulent Government documents to obtain legitimate Government documents.

—The State Department will consult with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and antismuggling efforts.

COOPERATION WITH SOURCE COUNTRIES

The proposed employer sanctions and border enforcement will clearly discourage a significant percentage of those who would otherwise attempt to enter or remain in the U.S. illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective may be difficult to achieve within the near future. The economies of most of the source countries are still not sufficiently developed to produce, even with significant U.S. aid, enough jobs over the short-term to match their rapidly growing workforce.

Over the longer term, however, I believe that marked improvements in source countries' economies are achieveable by their own efforts with support from the United States. I welcome the economic development efforts now being made by the dynamic and competent leaders of Mexico. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. I will explore with source countries means of providing such assistance. In some cases this will mean bilateral or multilateral economic assistance. In others, it will involve technical assistance, encouragement of private financing and enhanced trade, or population programs.

ADJUSTMENT OF STATUS

The fact that there are millions of undocumented aliens already residing in this country presents one of the most difficult questions surrounding the aliens phenomenon. These aliens entered the U.S. illegally and have willfully remained here in violation of the immigration laws. On the other hand, many of them have been law-abiding residents who are looking for a new life and are productive members of their communities.

I have concluded that an adjustment of status is necessary to avoid having a permanent "underclass" of millions of persons who have not been and cannot practicably be deported, and who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the law's protections.

I therefore recommend the following adjustments of status:

First, I propose that permanent resident alien status be granted to all undocumented aliens who have resided continuously in the U.S. from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U.S. citizenship could be sought 5 years after the granting of permanent status, as provided in existing immigration laws.

The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

Second, all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977 will be eligible for a temporary resident alien status for five years.

Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period.

The purpose of granting a temporary status is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the U.S. But they could leave and re-enter this country, and they could seek employment, under the same rules as permanent resident aliens.

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal social services as Medicaid, Food Stamps, Aid to Families with Dependent Children, and Supplemental Security Income. However, the allocation formulas for Revenue Sharing, which are based on population, would be adjusted to reflect the presence of temporary resident aliens. The adjustment would compensate States and local communities for the fact that some of these residents—undocumented aliens—are currently not included in the Census Bureau's population counts. That undercount deprives certain States and communities of Revenue Sharing funds which, if Census figures were completely accurate, would be received and used to defray certain expenses caused by the presence of undocumented aliens. Those receiving adjustments of status through the actions I am proposing would be included in the 1980 Census, so that the allocation charges would have to be made only through 1980.

Third, for those undocumented aliens who entered the United States after January 1, 1977, there would be no adjustment of status. The immigration laws would still be enforced against these undocumented aliens. Similarly, those undocumented aliens, who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

In addition, the INS would expedite its handling of the substantial backlog of adjustment of status applications from those aliens entitled to an adjustment under existing law.

Finally, those persons who would be eligible for an adjustment of status under these proopsals must not be ineligible under other provisions of the immigration laws.

TEMPORARY FOREIGN WORKERS

As part of these efforts to control the problem of undocumented aliens, I am asking the Secretary of Labor to conduct, in consultation with the Congress and other interested parties, a comprehensive review of the current temporary

foreign worker (H–2) certification program. I believe it is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed workforce. However, I am not considering the reintroduction of a bracero-type program for the importation of temporary workers.

IMMIGRATION POLICY

Our present immigration statutes are in need of a comprehensive review. I am therefore directing the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of our existing immigration laws and policies.

In the interim, I am supporting pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000, allocated between them according to demand. This legislation will help provide an incentive to legal immigration.

I urge the Congress to consider promptly, and to pass, the legislation I will submit containing the proposals described in this Message.

JIMMY CARTER.

THE WHITE HOUSE, *August 4, 1977.*

TRIBUTE TO ERNEST PETINAUD

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I am sure that you and all of our colleagues present in this Chamber on December 20, 1973, will never forget the very moving tribute paid to a dear friend of ours, Ernest Petinaud. It was on the occasion of Ernest's retirement that day, that the Members of this House gave him the longest standing ovation in anyone's recollection. It was on that occasion that you, Mr. Speaker, rose and said:

Through the years, this kind of honor has been reserved for people associated with the President, mostly the President's wife, or on occasion a high monarch who would be visiting this body. So, Ernest has received, indeed, a rare privilege which all of us will always remember.

For the benefit of our colleagues who began their careers here in the 94th or 95th Congress, I would like to take just a moment to tell them a little bit about Ernest Petinaud. Ernie began his career with the House of Representatives on March 4, 1925, the day Calvin Coolidge was inaugurated to his elected term as President. His first job was as busboy in the House restaurant, where he continued working until 1930. At that time, he was not yet a U.S. citizen. He was born in Jamaica, his father was a native of the British West Indies, and his mother a native of Panama.

During the early 1930's, Ernie worked in New York and aboard ships. In 1938, he returned to the House of Representatives as a U.S. citizen. He went back to the House restaurant, where he worked his way through the ranks to become first waiter, and then maitre d' in January of 1962.

In his private life, Ernest has been an inspiration. His mother was an invalid for 25 years, and until her death in 1936, he devoted himself to her well-being. Not until her death did he enter into matrimony. In his retirement, he has been engaged heavily in social work, especially helping the needy. By a unanimous vote of this body, he has received the John McCormack Award for Excellence.

I could go on at length, listing the characteristics that made Ernest Petinaud unique in our hearts. His warmth and kindness and generosity and friendliness and genuine care for us and our families made him a joy every day. He, himself, is an institution which can never be replaced.

For all the years Ernest Petinaud was the Ambassador of Goodwill in the House Members' Dining Room, it was his room. For many of us, it still is and always will be. It is, then, altogether fitting and proper that I can say today, with great warmth and affection, that from this day forth, the House Restaurant will be known officially as the Ernest Petinaud Room. No one is more deserving of a lasting tribute in the Halls of the U.S. Capitol.

PROCLAMATION

By virtue of the authority vested in us, the facility used as the Members' Dining Room will as of this date, in honor of a great American whose association with it is acclaimed by all, be known as "The Petinaud Room."

THE HOUSE OF REPRESENTATIVES OFFICE BUILDING COMMISSION,
THOMAS P. O'NEILL, JR., *Speaker.*
JAMES C. WRIGHT, JR., *Majority Leader,*
JOHN J. RHODES, *Minority Leader.*
Dated: August 4, 1977.

JUSTICE DEPARTMENT'S POSITION ON "BRAINWASHING" AND CULTS

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, for more than a year and at the request of constituents, I have been pursuing with the Department of Justice the question of "brainwashing" and the seemingly religious cults. Many of my colleagues have joined me in this effort, and others are well aware of it through communications with their constituents.

On May 26, I reported on the meeting which I had with Justice officials. Subsequently, after giving these officials the opportunity to reflect on the issues discussed, I asked the Department to advise me of its position concerning the possible application of Federal criminal laws to this situation.

I have received the department's official reply, and it is evident that there is little if anything that the Federal Government will do to respond to these allegations of "brainwashing" by former cult members or parents. The Department states emphatically that "evidence that sect members do not have the capacity to exercise a free will is inconclusive." Even if it can be shown that sect members' consent has been diminished by the sect, the Department believes that remedies other than Federal criminal sanctions should be sought.

Mr. Speaker, I realize that the Department's conclusions will not be accepted by many of the parents of cult members. This recent letter, however, merely reiterates the response which I received last year to an earlier request for the Department's position. In addition, because of the constitutional issues involved, any attempt to draft legislation to encompass within the criminal statutes "brainwashing" or "mind control" will be considered unfavorably by the very department which would have to enforce the law.

I wish that I could advise those concerned parents and citizens of what must now be done, but I am not sure what our course should be. This entire controversy and the Justice Department's reply leave me very perplexed. As a society, we need to give this issue a great deal of thought before determining what action—if any—should be taken.

For the benefit of my colleagues, I am inserting the complete text of the Department's letter.

Hon. ROBERT N. GIAIMO,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GIAIMO: Thank you for your letter of June 24, 1977.

Since your meeting on May 18, 1977, with representatives of the Criminal Division, we have reviewed the manuscript submitted by Professor Richard Delgado. In addition, the FBI, at our request, contacted Dr. Margaret Singer, who was unable to provide any specific data. As a result we have requested the FBI to interview 18 other persons who may possibly possess information relating to criminal activity by persons associated with religious sects. In connection with these interviews, the FBI is being requested to determine: (1) if the individual was actually physically restrained by any religious sect, or (2) if the individual was actually present and observed another being physically restrained by any religious sect. The FBI has been instructed to limit the interviews to this area of inquiry and that it should be made clear to the interviewees that the FBI is not conducting a general inquiry into the activities or religious practices of any religious sect.

It continues to be the position of the Criminal Division that allegations of "brainwashing," "mind control," "thought reform" or "coercive persuasion" would not support a prosecution under the Federal kidnaping statute. We are brought to this conclusion by the statute and its judicial interpretation. In *Chatwin* v. *United States,* 326 U.S. 455, the defendants, members of a Mormon cult persuaded a 15 year old mentally retarded girl that a "celestial" or plural marriage was essential to her salvation and she was taken interstate to consummate such a marriage. Subsequently, the defendants were convicted under the Federal kidnaping statute. The Supreme Court, in reversing the convictions, concluded that there was no evidence that the victim had been confined against her will or that she lacked the mental capacity to understand the concept of "celestial" marriage and to exercise her own free will in this regard. In short, the purpose of the statute is to outlaw interstate kidnapings rather than general transgressions of morality involving the crossing of state lines. Therefore, in our view, a prosecution under the kidnaping statute could not be sustained based on evidence that an adult of normal intelligence had been "brainwashed" into continued association with a religious sect. Similarly, it

continues to be our position that these allegations would not be sufficient to sustain Federal criminal prosecutions under statutes pertaining to peonage, slavery, and involuntary servitude.

We are aware of only one criminal prosecution based on an allegation of "brainwashing." In *People of the State of New York* v. *ISKCON, Inc., et al.*, Queens County Supreme Court Nos. 2114–76, 2012–76, the defendants were charged with false imprisonment in the first degree. The prosecution's theory was that defendants, leaders of the Hare Krishna organization, falsely imprisoned members by deception and intimidation. In dismissing the indictment, the court said:

Religious proselytizing and the recruitment of and maintenance of belief through a strict regimen, meditation, chanting, self-denial and the communication of other religious teachings cannot under our laws—as presently enacted—be construed as criminal in nature and serve as the basis for a criminal indictment.

To sustain this indictment would open the so-called "Pandora's Box" to a plethora of unjustified investigations, accusations, and prosecutions that would go on ad infinitum, to the detriment of the citizens of our State and place in jeopardy our Federal and State Constitutions.

We have considered the possibility of new legislation in this area. However, any legislation which would intervene in the practices of a religious sect would be an infringement of the sect's free exercise of religion. The free exercise of religion guaranteed by the First Amendment embraces two concepts: the freedom to believe and the freedom to act. The freedom to believe is absolute, but the freedom to act may be subject to regulation for the protection of society. *Cantwell* v. *Connecticut*, 310 U.S. 296. Legal restrictions, however, cannot be placed on religious activity in the same manner that they may be applied to secular activities. The power of the government to regulate secular activities, so far as due process is concerned, includes the power to impose all of the restrictions which a legislature has a rational basis for adopting. However, religious activity may not be restricted on such grounds. It is succeptible of restriction only to prevent grave and immediate dangers to interests which government may lawfully protect. *Sherbert* v. *Verner*, 374 U.S. 398, *Church of Scientology* v. *United States*, 409 F. 2d 1146 (D.C. Cir., 1969) cert. denied 396 U.S. 963.

Even if a sect requires its members to undergo long hours to work, training, and indoctrination with limited amounts of food and sleep, it is questionable that these activities present a grave and immediate danger either to society or the member so as to warrant the imposition of Federal criminal sanctions. This problem is further complicated by the difficulty, if not impossibility, of determining whether a member conforms his actions to the dictates of a sect leader because of a sincere religious belief that the leader speaks the will of God, or because the member is merely a victim of "brainwashing." Any legislation which sought to restrict religious activity on the basis that sect members' adherence to the religion was based on "brainwashing" would seem to require a finding that the members' religious beliefs were false. Judicial determination of the truth or falsity of religious beliefs has been rejected by the Supreme Court. *United States* v. *Ballard*, 322 U.S. 78.

As Professor Delgado correctly points out in his manuscript, any government intervention in the practices of a religious sect must be based on a showing of "societal harm," and the degree of "societal harm" must be balanced against the interest of the sect in practicing its religion. Under this balancing test, any government intervention in religious activities should be of the least onerous kind as to correct the "societal harm" and at the same time recognize the interests of the sect in practicing its religion. The imposition of criminal sanctions, of course, is the harshest form of intervention that the government can impose.

It has been our experience that members of these religious sects are apparently competent, consenting adults. In our view, evidence that sect members do not have the capacity to exercise a free will is inconclusive. Even if it can be shown that sect members' consent has been diminished by the sect, we believe that this is the kind of wrong which should be corrected by remedies less onerous than Federal criminal sanctions.

Professor Delgado suggests certain preventive remedies such as disclosure requirements for certain religious sects. Such requirements, of course, invite Constitutional challenges. He also suggests post induction remedies such as tort actions and conservatorship proceedings. As you know, a number of parents have used State conservatorship laws to obtain custody of their adult children for purposes of "deprogramming." The validity of these conservatorship proceedings is now being challenged in the courts.

We recognize the hurt that parents suffer when their adult children give up their former way of life to join a religious sect. It is our position, however, that this is not a subject for judicial scrutiny by way of the Federal criminal justice system.

I hope the foregoing information clarifies our position on this subject.

Very truly yours,

BENJAMIN R. CIVILETTI,
Assistant Attorney General,
Criminal Division.

By: ROBERT L. KEUCH,
Deputy Assistant Attorney General.

DOUBLE STANDARD BY ADMINISTRATION IN TREATMENT OF REPUBLIC OF CHINA—TAIWAN

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter therein on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Mr. Speaker, the Carter administration has followed, what seems to me, a clear and deliberate double standard in its diplomatic policies. On the one hand, we have administration spokesmen as Andrew Young—and on occasion, the President himself—loudly criticizing our pro-Western friends and associated states for their internal political practices. Rhodesia has been virtually extinguished by American policy to the extent that we will no longer even permit its information office to exist on U.S. soil. We have begun to adopt a "Cold War" policy toward South Africa. Our troops will be removed from South Korea and the administration and its congressional supporters have been particularly hard on the Park regime. Many other countries around the world that were friendly to the United States have received tongue lashings for their respective attitudes toward "human rights." Some of these have reacted harshly. Five Latin American states, for example, have already independently rejected American military assistance. On the other hand, the Carter administration has begun a cautious but discernable rapprochment with some of the world's most tyrannical rulers. There are many signs that we are on the verge of closer relations with Castro's Cuba. In Latin America, again while we simultaneously criticize Chile, Argentina, and Brazil for violations of human rights, we pursue a policy of silence on human rights with Panama's Torrijos in order to arrange a transfer of sovereignty in the canal. Some of our most cultivated friends in black Africa have internal political systems many times as "repressive" as South Africa and Rhodesia are alleged to be. We are making overtures for better relations with Communist Vietnam, and we have supported Vietnam's admission to the United Nations. In short, Mr. Speaker, we seem to have our priorities reversed: We condemn our friends while we simultaneously look the other way in dealing with governments that, by their very definition, are opposed to our foreign policies and to our philosophic commitment to Western civilization and values.

Nowhere is this double standard more apparent, Mr. Speaker, than in our recent diplomatic overtures toward Communist China. Here is the clearest and most brutal testimony to the unwillingness of the administration to see the difference between friend and enemy. Secretary Vance's speech of June 30 outlined for all to see precisely what the administration has in mind for the two Chinas. He left do doubt that there will be little room for the Republic of China on Taiwan and that the President is firm in his intention to establish full relations with the Communist mainland. "We will continue to be guided by the principles of the Shanghai Communique," the Secretary said, "and on that basis we shall seek to move toward full normalization of relations." Mr. Vance's speech is all the more important since it is widely known to have been the definitive administration statement in China policy. The speech is enlightening both for what it said and for what it did not say.

In the first place, the speech is notable—in fact, amazing—since it makes absolutely no mention of the Republic of China or even Taiwan. Nor was this accidental. A State Department source, briefing reporters on the Secretary's statement, said that it was "a conscious act, both what is included in it and what is not." And yet we have full diplomatic relations with our longstanding ally, the Republic of China. The point was not lost on the Taiwanese. As they saw it, Mr. Vance not only pledged full diplomatic recognition of Peking but, more importantly, he snubbed the Nationalist Government in a way calculated to ignore them officially. "The Secretary of State's address could be construed as a calculated insult to this country," said one Taipei daily. It was bitterly noted that the Secretary's speech also ignored Taiwan's economic progress

while praising the "economic miracles" of Japan, South Korea, Singapore, Indonesia and the Philippines. In terms of economic growth, Mr. Speaker, it happens that Taiwan rivals South Korea for second place in Asia behind Japan in standard of living and development. Also, let me remind the administration that Taiwan's present trade with the United States is greater than that of France. Moreover, by the early 1980's Taiwan will almost certainly be formally ranked as one of the world's developed nations.

It would have been, of course, most impolite for Mr. Vance publicly to forsake Taiwan or to abrogate our mutual defense treaty. This he did not do. But he went out of his way to send a message to Peking that the United States is searching for the means of breaking relations with the Republic of China and "normalizing," therefore, relations with the mainland. What does this mean, Mr. Speaker, for our historic association with free China? I think that the answer to this lies in Peking itself. That government, both under Mao Tse-tung and afterwards, has made it abundantly clear that any normalization process, by its very definition, means the abandonment by the United States of its defense treaty with Taiwan. Recently, in fact, the Red Chinese have been even more insistent on this. Early in July, for example, Li Hsiennien, the senior deputy Prime Minister and third-ranking Communist Party member, repeated the three conditions necessary from Peking's view for improvement of relations: Abrogation of the 1954 mutual security treaty with Taiwan, removal of all U.S. troops, and severance of diplomatic relations. In spite of these conditions, the administration is proceeding ahead with its pro-Peking initiatives. Secretary Vance will followup his speech with a trip to the mainland on August 22. The Carter administration says that its policy stems from the 1972 Shanghai Communique, which they claim is a promise to break relations with Taiwan and to end the mutual-defense treaty. In reality, however, this not true. Both Richard Nixon and Henry Kissinger have recently said that they never explicitly promised to do either of these. In fact, former Secretary of State Kissinger said back in 1972—after the announcement of the Shanghai Communique—that the defense treaty with Taiwan "will be maintained" along with "our friendship" and "our diplomatic ties."

Clearly then, the Carter administration plans some new initiatives toward China. Perhaps not next month, but sometime in the near future. But if we accept Peking's terms, how can we continue to defend Taiwan? The answer, of course, is that we cannot and that we will not. We are headed, I'm afraid, toward the abandonment of another friend; in this case one of our oldest and most loyal of friends and a country which happens to be the 40th largest independent nation in the world.

Mr. Speaker, I rise in opposition to this foreign policy. It is immoral, hypocritical and violates our national interest. I do not believe for 1 minute that the Congress will permit our historic ties with Taiwan to be washed away in order to mend fences with one of the world's most inhumane and oppressive regimes. The pro-Western society in Taiwan has the right to exist as a free nation and we have an obligation to defend it. The mainland Chinese have scarcely disguised their future intentions toward our friends. "There are many counter-revolutionary elements on Taiwan," Peking's Vice Premier Chi Teng-huei said last May 15, "I even think that armed force may be the only way to liberate Taiwan." In light of these sentiments—which the Communist Chinese have consistently maintained—how can we justify even considering a change in policy?

In fact, there are no justifications. The Carter administration is evidently controlled by ideologues who are attempting to reverse the rich and historic ties with anti-Communist allies such as Taiwan. Although the President has alluded vaguely to the 1954 defense treaty, he will not be able to escape the moral dilemma which his pro-Peking policy has placed him in. How can we continue to defend Taiwan while we pursue normal relations with Communist China—a country which considers Taiwan to be part of its territory and which loudly announces that it will not shrink from using force to settle the issue?

Accepting Peking's terms for diplomatic relations would upset all major tenets of American foreign policy in Asia. It would practically end any further reliance which free Asian nations would have in American commitments and trigger a reassessment of the value of American commitments among even our NATO allies.

It would ridicule beyond rescue the administration's proclamation on human rights. It would completely overturn the strategic and military picture in Northeast Asia, with implications that might be profound for the remainder of this century. It could cause Japan to seek its own security wtihout American help. It might also reduce the American presence in Asia to practically zero; an isolationist stance which helped bring on World War II. In short, Mr. Speaker, we are flirting with disaster. I strongly urge the President to think deeply about the policy he is embarking upon. I am confident that neither the Congress nor the American people will stand by while Taiwan is ignored or shoved aside in favor of Red China. I hope, finally, before it is too late, that the administration will wake up to the central fact in foreign policy: that we cannot sacrifice our friends and reward our enemies and still expect to survive as a free and prosperous nation.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I would be happy to yield to my distinguished colleague.

Mr. DERWINSKI. I thank my colleague from Illinois for yielding to me.

I realize the gentleman from Illinois is by profession a historian, and he is one of the truly legitimate scholars of this House. I know that he has special concern over this inconsistency in foreign policy. Does the gentleman think that perhaps the State Department, and therefore the White House, have been befuddled by the wall posters that appear in Peking and do not realize that behind them lies nothing but the world's most brutal dictatorship?

There must be some explanation in this effort to embrace Peking. I cannot see it myself. Does the gentleman have any clue?

Mr. CRANE. I cannot really speak for the administration, and I cannot say whether it is the result of reading the wall posters in Peking, but I feel that perhaps they have succumbed to the notion that by the repudiation of little countries—and I am thinking here of at least the countries of South Korea, and the Republic of China—that they feel that abandoning little countries may serve some long-term greater gain for world peace. It seems to me that such a policy is fundamentally inconsistent with the idealism that is contained in the human rights declarations by this administration.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I personally deplore the excursion we were taking into politics, where we were led by the gentleman from Illinois (Mr. DERWINSKI), but I do want to salute the gentleman in the well for his wisdom and courage in bringing this matter to our attention, the matter of our abandonment of our longtime ally Taiwan. I think in the area of human rights, with so much stress in the media, inherent in that concept is the idea of national honor. This country has been a staunch friend to other countries in the world, and Taiwan certainly is one of our traditional allies. To even hint at the abandonment of that traditional ally because of some speculated gain of détente with the People's Republic of China would seem to me to be a gross betrayal of that integrity and that honor which has been the hallmark of this country for so many years. I hope that bringing this matter to the attention of the American people and to the Congress, as the gentleman is doing, will have a salutary effect and remind this administration and the previous administration—I am speaking of the Shanghai declaration when Mr. Nixon visited China—seemed to be in derogation of those ideals which we hold dear. So I salute the gentleman, compliment him, and I associate myself with his remarks.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, later this month Secretary of State Cyrus Vance will be going to Peking. What happens as a result of Vance's trip will tell if President Carter is bringing a change to Washington, D.C., or if he is just following in the footsteps of his predeces-

sors that he decried so much during last fall's campaign.

During the Presidential campaign Jimmy Carter promised continuing support for the independence, freedom, and security of Taiwan, the Republic of China. Lately, no words like "commitment" and "protection" are being heard. Rather the Carter administration seems determined to carry out the policy started by Secretary of State Kissinger: Full diplomatic recognition of Communist China and abandonment of our longtime friend and ally the Republic of China on Taiwan.

The people of Taiwan and the other islands are developing an advanced society. Through hard work they have become one of the major trading nations of the world. Under a largely free enterprise system the Republic of China on Taiwan is one of the very few countries of the world that once received U.S. foreign economic aid and no longer does.

What is the Carter answer to this record of success? From information circulating in Washington it appears to be cut Taiwan adrift and embrace Communist China on the Communists' terms. It is the same old policy of the State Department of ignoring our best interests and those of our friends to try to impress those who are the slavemasters of 800 million people. The old-fashioned word for such a policy is betrayal: Betrayal of the basic principles Americans hold dear.

Communist countries never have respected a policy of weakness. One of the main reasons Communist China wants closer relations with our country is to counterbalance the Soviet Union. To be a counterbalance the United States must show that it has strength. By abandoning free China U.S. policy does not exhibit strength.

A sensible and consistent American policy in Asia can be fashioned. It just takes some backbone on the part of the Carter administration. The policy can be that which is followed in regard to Germany and that is there is one China but two governments. The recognition of both governments is possible. There is no breaking of the Mutual Defense Treaty with free China and no abandonment of it.

At this point I include the text of an article on this subject by my good friend M. Stanton Evans, as it appeared in the July 30 issue of Human Events:

"NORMALIZATION" WITH RED CHINA WILL MEAN ABANDONMENT OF TAIWAN

(By M. Stanton Evans)

Having successfully blitzed our friends in Africa and Latin America, the Carter Administration is now devoting itself more closely to events in Asia.

The latest effort of the Carter regime is the abandonment of our anti-Communist allies in Taiwan in order to please the Communists in Peking. The signs of what is happening are unmistakable. Every effort is being made to "normalize" relations with Red China, prepare the abrogation of our mutual security treaty with Taiwan, and perfect the diplomatic isolation of the anti-Communists in Taipei.

The nature of this policy has been apparent for months, but Secretary of State Cyrus Vance made it official in a general way in a recent address to the Asia Society in New York. "We consider friendly relations with China to be a central part of our foreign policy," he said. "China's role in maintaining world peace is vital. A constructive relationship with China is important, not only regionally, but also for global equilibrium." He meant Communist China. No mention was made of the Republic of (anti-Communist) China.

This high-level overture, though characteristically short on specifics, assumes additional meaning in the light of President Carter's similar statement a month before at Notre Dame. In this address, the President stated: "It is important that we make progress toward normalizing relations with the People's Republic of China. We see the American-Chinese relationship as a central element of our global policy, and China as a key force for global peace. We wish to cooperate closely with the creative Chinese people on the problems that confront all mankind. We hope to find a formula that can bridge some of the difficulties that still separate us."

These statements, and the news that Vance will journey to Peking next month, merely serve to confirm the signals that have been floated out through various segments of the press for several months. The Carter regime is moving toward recognition of "the creative Chinese people," by which is meant the Communist dictatorship that rules those people from Peking.

The Communists have made it plain, however, that any such "normalization" requires the ditching of Taiwan, and it is interesting in this respect that Carter's pledges to assure the protection of Free China have been slowly vanishing like a diplomatic Cheshire Cat.

On the campaign trail last fall, candidate Carter said he would never let the quest for "normalization" with Peking "stand in the way of preservation of the independence and freedom of the people in Taiwan." He also stated: "I wouldn't go back on the commitment that we have had to assure that Taiwan is protected from military takeover." In more recent statements, such talk of "commitment" and "protection" is no longer heard. What we have instead is a sentiment or hope: "We don't want to see the Taiwanese people punished or attacked," as Carter put it in a recent press conference.

The Carter defense of all of this is that it merely continues the policy launched by Richard Nixon and Henry Kissinger—which in a sense is true. The Nixon "rapprochement" with Peking in 1971–72 set in motion a train of events that resulted in Free China's ouster from the United Nations, numerous snubs of Taiwan in our diplomatic policy, and active efforts to discourage trade and other relationships with Taipei. Free China's ambassador to the United States, for instance, has not had an audience with high American officials for four years, while Red China's spokesman had ready access to Dr. Kissinger and has frequently conferred with Vance.

From the Communists' standpoint, however, all this is not enough. They want us to abrogate our 1954 mutual security treaty with Free China, remove our few remaining forces there, and accede to Peking's claim that Taiwan is part of China to be manhandled by the Communists as an "internal matter." There is little doubt that treaty abrogation is in prospect, while the force pullbacks in considerable measure have already been accomplished (down to 1,400 from about 10,000 a few years back).

The touchy final issue is how to handle the Communists' demand that they be allowed to gobble up Taiwan as they see fit. This was glossed over in Nixon's deliberately cryptic "Shanghai communiqué," which merely acknowledged that both regimes contend "Taiwan is a part of China" without asserting which regime was the rightful claimant. For what it may be worth, Kissinger insists the United States did not intend to abandon Taiwan to a Communist takeover.

Now it appears the Carter regime may be prepared to bite this final bullet: Administration statements keep stressing the need for friendship with Peking while avoiding reference to our commitments to Taiwan. The Shanghai communiqué, which might mean anything or nothing according to whim and has no binding legal status, is treated as the lodestar of American policy. The mutual security pact with Taiwan, which is quite explicit and is a commitment of the United States at international law, is pointedly ignored. The drift of it all is plain enough: Look for a move to abrogate the mutual security treaty fairly soon.

Mr. CRANE. I thank the gentleman for his remarks.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, my friend and colleague, Representative CRANE, has performed a great service by reserving time for this Special Order for the purpose of alerting our colleagues and the public to the dangers implicit in what we must assume is the Carter policy toward China.

I say that we must assume this, because no one appears to be sure, least of all the members of the President's own administration. Most recently, the President refused to meet with Ambassador Chen of the Republic of China. Ambassador Chen is as distinguished as he is loyal as a reliable friend to our country in which he has lived for many years. Despite the history of friendship between our two nations, friendship which is formalized in treaty form and symbolized in favored trade relations, the Ambassador recently remarked that he is beginning to feel the proverbial cold shoulder from the Carter administration.

This appearance of a deliberate souring of American-Taiwan relations by the Carter administration became more pronounced with the recent White House "leaks" which indicate as reported by the press that the State Department is preparing a formalized diplomatic recognition of Red China to the deliberate exclusion of the Republic of China. Despite our long history of friendship with the island fortress of 15 million Taiwanese and Chinese who comprise the Republic of China, and despite our legal obligations as a treaty holder with that country, some would have us break these ties of friendship in pursuit of an elusive diplomatic affair with Red China.

Such a policy, if it is indeed our policy, is as unwise as it is immoral. Events in China, the most populous country in the world, have repeatedly influenced international relations. The impact of China for the rest of the world, whether for good or bad, is bound to grow rather than to decline. We cannot afford to be cavalier with them. We cannot court the free Chinese one day, only to "dump" them in favor of the Red Chinese the next without bringing upon ourselves unnecessary troubles in international affairs.

Constancy and reliability in friendship is always a sound policy. It is a good policy, and we should never have infidelity and the instability which breeds mutual distrust become institutionalized elements in the conduct of our American foreign affairs. It is to our national interest to maintain as amicable relations as we can with the People's Republic of China in lieu of our greater differences with them, never forgetting their avowed and active role as an expansionist Communist empire. Likewise, it is to our interest to maintain strong ties as we always have with the Republic of China, not jeopardizing them or antagonizing our loyal friend.

It was once said of the old Kissinger policy of unilateral détente that it was essentially a policy of preemptive appeasement. It was a policy predicated on the notion that, simply speaking, we can give away concessions in the hope of finding quick remedies to any breakout of international tensions.

Mr. CRANE. Mr. Speaker, I thank my colleague, the gentleman from Maryland, for those remarks.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I had the privilege recently of visiting Taiwan, where I spent approximately 1 week, and I returned just a week ago from my visit. The purpose of my trip was to visit the World Anti-Communist League.

About 1 year ago it was my privilege as a member of the Committee on Armed Services, to visit the People's Republic of China—Red China—where I spent about 10 days.

Following these two visits, I had a unique opportunity to compare the two governments, since I talked to people from both countries.

Let me say first that I know of no people or no ethnic group for whom I hold a higher regard than the Chinese—I do not care whether they are on the mainland or in Taipei or the United States, in San Francisco or Chinatown, wherever they are. They are hard working, industrious, and for the most part, religious—or they would like to be.

I think the Chinese people are tremendous; they are great. I have enjoyed their hospitality, and I respect their cultural background.

But when we get down to comparing Taiwan, or free China, with the people on the mainland, we cannot help but have a very deep feeling of sorrow and remorse for the 800 million-plus who are living under conditions in which the things that we consider to be human rights have been almost totally taken from them.

This administration is great, if one listens to its rhetoric or to its campaign promises. Human rights? We say, "Hurrah." What is this about human rights?

Well, it is the right to own property, it is the right to vote, the right to travel freely, the right to mingle and assemble; it is the right to exchange ideas. Human rights can be a myriad of things.

All of these things, without exception, are denied in mainland China and yet are granted on the island of Taiwan. But this administration, in some sort of a paroxysm of human rights fit, says that we are interested in human rights—but only selectively. They do not admit that, but that is the way it works out. We are interested in human rights here if it suits our purpose; we are interested in human rights there if it suits our purpose.

There are 16 million people-plus on Taiwan, and last year they conducted over $4 billion in trade with us—twice as much as we had from mainland China.

There are 800 million people in mainland China who cannot worship as they please, who cannot travel as they please, and they have no vote.

But we are in the process, Mr. Speaker, of turning our backs on our traditional friends.

I am talking about the last 25 years, and I refer to the Korean engagement and the Vietnamese engagement. We have used military bases there, they have repaired our vehicles, they have repaired our tanks; they have even offered us troops, but we have declined that offer.

I refer, of course, to the Taiwanese.

During the same conflicts, the mainland Chinese, the Red Chinese, were furnishing men, materiel, armament, and weapons of war that were used against us, and in fact they were killing American citizens, killing our servicemen.

Yet now it has become expedient to ignore that fact and turn our backs on our friends. What evidence do we have of that? I will explain that in just a moment.

It seems that we would recognize a government which is not at this point particularly stable, and I refer to mainland China.

To withdraw diplomatic relations at this point with our traditional friends and bestow diplomatic relations on those who have been our traditional enemies for at least 25 years is I believe, a mistake.

I cannot understand, Mr. Speaker, why it is that the Communist regime in Peking is allowed to dictate to us the terms—and they are telling us the terms—by which we can have normalized relations.

What do we need from them? They have even insisted upon terms: We must withdraw diplomatic recognition from Taiwan is No. 1.

Secretary of State Vance has said that there is only one China. If we withdraw diplomatic recognition here and restore it there, it is the same as what happened in the United Nations. Not only was Red China admitted; we kicked out Taiwan.

The same is true here. What we say is a contradiction in terms of what this administration has said it stands for. It is not prohuman rights. It is antihuman rights. Why we go so far out of our way to accommodate those who do not believe in God, who suppress religion, who suppress human rights in every aspect with which I am familiar, and who abrogate the rights of our traditional friends is, indeed, passing strange.

Mr. Speaker, I would like to express to my friend in the well, the gentleman from Illinois (Mr. CRANE), my appreciation for his setting up this special order and my appreciation for the opportunity to participate. I would hope that out of this and out of the participation of those who are here this evening we can at least call the attention of the people of this country to what it is that this country is doing. It is a sham, a charade, a facade; and we are fooling the American people if we think that this administration is indeed interested in human rights.

If our Secretary Vance is going over there to withdraw recognition from those who recognize human rights and to bestow recognition on those who deny human rights, it will bring eternal shame on our Nation.

Mr. Speaker, I want to share with you the experience I just had in Taipei, Republic of China, free China, during Captive Nations Week 1977, July 17–23. I was the American speaker at the assembly of the World Anti-Communist League, an organization of people who have escaped from many nations that are now dominated by Communist totalitarianism, people who know how it is to live under communism and who dream of seeing their nations free.

The theme this year was: "Anti-Communism for Freedom and Human Rights". Today we hear a lot being said about human rights in certain quarters. However, I do not believe enough is being done about the human rights of those people living under Communist domination. Indeed, persecution and the denial of fundamental human rights continues unabated behind the iron and bamboo curtains. We see an intensified clampdown on dissenters in the Soviet Union and Eastern Europe.

This get together marked the 19th anniversary of Captive Nations Week. In 1959, the U.S. Congress passed the Captive Nations Week resolution which President Dwight D. Eisenhower signed into U.S. law. The historic resolution continues to focus American moral and political attention and concern on the world's captive nations and peoples who are under Communist domination. Although the act is still in force this year, it lost a little of its meaning and impact because our President, this President, for the first time in the 19 year history of the resolution was 4 days late in signing the annual proclamation. Dr. Lev Dobriansky, who heads the National Captive Nations Committee, said he was "at first informed that there would be no proclamation." Then, 4 days later, the President signed a "weakly worded proclamation."

Today as we meet here well over a billion human beings still live under Communist domination. Many in our country urge that we "coexist" and cooperate with tyranny, but I am not one of them. Freedom and slavery are in perpetual conflict and, in the end, one or the other must triumph. We in the free world must recognize that we cannot rest cozy and

secure when other peoples one by one are losing their freedom to Communist oppression. The choices, as I see them, are either to survive by doing what we must or gradually giving in to communism.

I was personally shocked and disgusted by this and other strange inconsistencies which cut through the White House public relations campaign about human rights. Throughout the Presidential election campaign and since the inauguration—we have heard a lot of talk from the White House about the "Crusade for Human Rights." But to a lot of people, this whole human rights thing is hollow, with a lot of double talk and double dealing about whose human rights the U.S. administration is advancing. That is the way the people at Taipei saw it.

Word continues to leak out about inhumane treatment and imprisonment of human beings who simply desire to do personal things like worship God—having nothing to do with politics. We hear especially that among the President's own faith, Baptist, are some of the most persecuted in Russia today. It is clear to me, in spite of pledges to the contrary made by the Soviet and Eastern European Communists, 2 years ago during the Conference on Security and Cooperation in Europe, no actual human rights improvements have been realized in that area of the world. All we have seen this year, as the same 35 nations convened again, are public relations-type demonstrations and statements from behind the Iron Curtain about improved human rights, new constitutions and the like—but nothing of substance has been accomplished for real human rights.

In spite of the bad faith and the phonyness that we see coming from the Communist side in this total human rights matter you do not see much better coming out of our own administration. As a matter of fact, to some of the people I talked to at Taipei, it looks a lot like U.S. aid and comfort is going to the Communist dictators who are enslaving half the world and not to the enlsaved. Is the administration giving moral aid and comfort to the enslaved Cuban and Vietnamese people by initiating diplomatic relations with Castro or when our U.N. Representative welcomed the Communist dictatorship of Vietnam to U.N. membership? Of course, U.S. liberals such as Senator GEORGE MCGOVERN cheered these moves. Do these White House actions seek freedom for the enslaved Cuban and Vietnamese peoples or does it seal their fate.

I faced very concerned people all week at Taipei, who were wondering what the administration is up to. Thailand has been threatened with a cutoff of U.S. aid if she does not develop a suitable human rights plan. Anyway, if Thailand falls to communism as a result, we will have two new friends, North Vietnam and Cuba, who we are planning to aid and to trade with. And, of course, after the Thais go Communist then maybe we will drop the requirement for a human rights plan and then they can be our friends and receive aid and trade.

When we force Rhodesia to turn over power to a Communist-backed dictatorship, will any Rhodesian, black or white, be free? Let us listen to our U.N. Ambassador about the Communist in Africa. He says the Cuban Communist presence in Africa has brought stability to that area, so it is OK. I wonder what the Angolans who do not want to be Communist would say about this. Of course, Stalin brought stability to Russia and Hitler to Germany.

Will the President's withdrawal of U.S. troops from Korea be an act for human freedom if it backfires and our firm friends, the Korean people, fall under Communist bondage? A good question.

In April of last year I went to Communist China as a member of the Armed Services Committee. I saw a drab, colorless, sad society—people without joy—regimented from birth. I was saddened when I heard a propagandized child say, "I was happy when I woke up this morning because last night I dreamed of Chairman Mao." What a lot of unnatural "bull" they require their people to do. An example of the yearning for liberty by people on the mainland, was the occasion several weeks ago when a pilot of the Chinese Communist Air Force flew his Mig to Taiwan at some risk to his own safety. When asked why he did it, he replied, "I could not stand to live any longer without freedom."

What did he escape to? What did he escape from? Although starting at a point of equal devastation with the Communists in 1949, the Democratic Republic of China, ROC, has far outdistanced Communist China in every measurable field of comparable endeavor. The Republic of China has enjoyed substantial growth and now has one of the highest standards of living in Asia. The per capita income in the Republic is approximately three times that of Communist China. This progress is a characteristic of freedom.

In contrast to Communist China, the free Chinese who I just saw are bright, happy, creative and a very progressive people. I wish you could experience first hand as I have the contrast of a free people and a captive people. It is devastating. It makes you never want to do anything or support anybody or any program that might cause people to lose their freedom. Secretary of State Vance recently said, "there is but one China." This is not true, there are two Chinas—I have seen them both. One is a dictatorship that enslaves hundreds of millions and the other is free and carrying on the traditions and ancient culture of the Chinese people. Dr. Walter Judd, a former Congressman, a friend of mine, who is chairman of the Committee for a Free China recently asked:

"How could the President keep talking about defending human rights around the world and then sacrifice our long-standing relations with the free Chinese?

An administration that really believes in human rights would not abandon a free people in order to cultivate favor with a Communist regime that is opposed to the humane traditions of free people. And our experience with the Communist and plain commonsense tells us that you cannot conduct normal relations with a Communist country whether it is Russia, Red China, Vietnam, or Cuba. Communist states do not believe in normal relations between states. They aim to subvert and destroy all free nations. Does the President not know that at various times, they employ the "weapons" of military force, subversion, diplomacy, and trade.

I was asked by free Chinese, "If you Americans really believe in human rights, how can you turn the millions of us who live in freedom over to the dictatorship on the mainland?" Certainly, it would be unconscionable to push the free Chinese on Taiwan into the conditions of captivity endured by hundreds of millions of Chinese on the mainland who are deprived of all human rights.

I told such questioners that I could not answer for the Carter administration; however, as for myself, the great majority of the U.S. Congress and the American people, and I believe, the people of the Second Congressional District of Alabama, we will never agree to turn them over to the Communists. No moral man who has freedom can stand unconcerned when others are not free. We will not mute our concern, support and solidarity with dominated peoples. Free men and women must work and pray for freedom for others—no healthy free society can rest until all possess that cherished existence—freedom.

I could not explain the President's late action on the captive nations proclamation, not the administration's apparent inconsistencies about human rights. It is a shame that the people who I talked to and indeed the hundreds of millions living under communism, who look to America for moral support and encouragement, are so distressed and confused about the double talk and double standards coming from the White House on the human rights issue.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I just happened to walk in here and then I heard the discussion that was going on.

I am a little disappointed. The gentleman from Alabama (Mr. DICKINSON) is one of my very great friends, and he says he likes all Chinese. I do not like all Chinese. I do not like the Communist Chinese. I am a person who does not like any Communists.

I love the Republic of China. I think it is one of the greatest countries in the world, but I am sorry that the discussion has taken on a partisan tone because it was President Nixon and Secretary Kissinger who were the ones who drew up the Shanghai communique or whatever it was and the normalization proceedings that started this whole matter.

I was invited over to the Republic of China last year to speak before an American university group. These were

all Chinese doctors who received their education in the United States. They did not want the Ambassador, who was serving under the Nixon administration, to speak to them because the previous year he had talked about normalization. They wanted a friend of the Republic of China to come and talk to them.

I told them what they wanted to hear, and I told them there would be a new Secretary of State. I told them that whether Mr. Ford was reelected or whether Mr. Carter was elected, I was certain that this would happen under any circumstances.

Therefore, I do not think that it is proper that this should be turned into a partisan discussion. There are many Democrats who recognize the value of our friendship with the Republic of China. I respect this great country as I do the Republic of Korea, and I think that the last administration and the present administration have been very guilty of forgetting the friendship that we owe to the real allies that this country has.

When we withdrew from Vietnam, it was not the Republic of China or the Republic of Korea that criticized us. They did not take the cheap shots at the United States that the Philippines or any of the other countries in Asia did. These are our really good friends, and I support them. There are many, many Democrats who also support them.

I am disappointed, Mr. Speaker, that this has turned into a dialog against the present administration because it was the past administration, the last administration, which started this whole thing on normalization and discontinuance of relations with the Republic of China.

I appreciate the gentleman from Illinois (Mr. CRANE) bringing this subject up. It is an extremely important subject and I am happy I walked into the Chamber at the right time.

Mr. DICKINSON. Mr. Speaker, will the gentleman from Illinois yield to me an additional time since the gentleman from California has mentioned my name? I would like to respond to one point.

Mr. CRANE. I yield further to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I agree in part with what the gentleman from California (Mr. CHARLES H. WILSON) has said. The gentleman and I have traveled together and serve on the same committee. I, too, lament the fact that this appears to be a partisan debate, but it in fact is not because other Members from the Democratic side were invited to participate.

I will have to agree that the initial effort was made on behalf of the Nixon administration and at the time we took very much pride in this. But, in a very recent conversation, a private conversation that I had with former Secretary of State Kissinger, face to face, he made one point clear and that was that in that administration's dealings with Communist China they made the point very clear that they had not agreed to withdraw troops unless there were assurances that there would be peace and no military intervention.

Mr. CHARLES H. WILSON of California. Was he talking about Korea or China?

Mr. DICKINSON. I am talking about what Mr. Kissinger told me about mainland China and Taiwan.

Mr. CHARLES H. WILSON of California. We had already withdrawn our troops from the Republic of China, there were none left.

Mr. DICKINSON. Mr. Speaker, I can assure the gentleman that that is not true. As far as major forces there, the gentleman is right, but so far as a military presence and advisers, the gentleman is not.

Mr. CHARLES H. WILSON of California. The gentleman from Alabama (Mr. DICKINSON) knows as well as I do that we have practically eliminated our forces from the Republic of China.

Mr. DICKINSON. I understand, but I am trying to respond that the main hangup in the Nixon administration was in working out an agreement with Communist China, that they were to extract conditions from them that there would be no military moves against Taiwan.

So that is where the past administration differs from the present administration and I find it very distressing.

I thank the gentleman from Illinois for giving me this chance to respond to the gentleman from California.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would like to respond to my colleague, the gentleman from California (Mr. CHARLES H. WILSON) as a somewhat token Member on this side of the aisle.

Mr. CHARLES H. WILSON of California. Do not tell them in my district.

Mr. ASHBROOK. I find myself in general disagreement. I think, if the gentleman will read my statement tomorrow, the point I make is that I think this administration is probably taking a bad policy step which was started in the previous administration. As I heard the Kissinger policy, it appears to sound, as the gentleman from Alabama (Mr. DICKINSON) seems to state a little bit worse. However bad that policy was, it was at least a ringing bell of hope for the free Chinese, and, at the time it did appear that we would not let them down or permit them to be swallowed up. Now I am not sure that that bell is still ringing.

I agree, I think the previous administration made a grievous error and maybe this administration will compound that error and make bad policy worse. Maybe the successor administration, the Ford administration, would have done the same thing. We do not know. But at least there was some hope held out for the free Chinese, which some of us think happens to be hanging in the balance.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would like to say to the gentleman from California that I am very pleased to see that he came in the Chamber when he did. I regret if a special order of this sort appears partisan. However, I might point out that the well of the House is open at any time at the completion of the day's business for Members to participate in special orders. Also, that we would be more than happy to see more Members of the majority side take the well from time to time to make statements like the one the gentleman from California has made.

Mr. CRANE. I did extend the invitation, I must say, to colleagues on both sides of the aisle to participate, and we have participation by some who are not present here tonight. It was not intended to be a partisan matter.

Mr. CHARLES H. WILSON of California. If the gentleman will yield further, I am not criticizing because there are no Democrats here. I had a special order with Mr. MURPHY last year on behalf of the Republic of Korea. We were the only ones here. It is not unusual. The gentleman from California (Mr. KETCHUM) showed up, I think, and made a great contribution.

I would say to the gentleman from Oklahoma, however, that I have been here a few years. I understand the procedure, and I do not need any advice as to how to run special orders, when it is necessary to be here and when it is not necessary to be here.

But I would like to say again I am very happy I did show up because I am in complete agreement with the gentleman. There is no disagreement with this at all, except that I just feel that this started in the past administration. I am in complete disagreement with what my present President is doing. I do not like what he did on the B–1. I do not like what he has done on the withdrawal of troops in Korea. The timing is awfully bad. I do like the continuation of this activity toward the Republic of China, one of the greatest friends this country has ever had. We are not in disagreement.

Mr. EDWARDS of Oklahoma. If the gentleman will yield further, I will say to the gentleman from California I am very pleased he has participated. I agree with him completely and agree with the gentleman from California further on the statements he made about the previous administration. I, for one, while I am critical of the extent to which the present administration is carrying this abandonment of our friends in Taiwan, was equally and as vocally critical of the previous administration. I do not know that I completely agree with my colleagues on this side of the aisle who tend to point out that, yes, there are differences, and, yes, the Carter administration is going a little further. That is true, but the Nixon administration and the Ford administration share the blame and, in fact, initiated the movement toward the abandonment of Taiwan. I regret that. I think it is not a partisan issue.

I would like to make only one additional comment. I would like to say, first I hope that enough pressure will be generated by Members of this body and the public at large to force the ad-

ministration to reconsider and keep our national commitments to Taiwan.

Second, I would like to say that I keep hearing this phrase "normalization of relations." So far as I am concerned, our relations with Red China today are perfectly normal. We are dealing with them as much as we should deal with a nation of that sort.

I thank the gentleman from Illinois for yielding.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from California.

Mr. DORNAN. I probably made the shortest congressional visit to Taiwan in a long time. I was there last April for only a few hours. The reason I took the trouble to fly halfway around the world and come back so soon was the House was in session. I wanted to return on a day we were in session. The same organization that had invited the gentleman from Alabama to go to Taiwan, the World Anti-Communist League, asked me if they could not have at their yearly session this year at least one American lawmaker, one Senator or Congressman. It was at the end of our April district work period. I decided that it was worth that long, arduous trip, just to be there those few hours.

I spoke briefly in the 2 o'clock afternoon session to tell them that there were Americans on Capitol Hill who were committed to a total friendship with this noble people. When I spoke there, I took note behind me on the stage of all of the flags of the different countries that still are not ashamed to send a representative to a gathering that comes together in the name of being opposed to communism. I pointed out that on the stage was the flag of the Khmer Republic of Cambodia; that the flag of Laos was there representing a country that has slipped behind the terrorism of the Bamboo Curtain; that the South Vietnamese yellow banner with its horizontal stripes of red was still there; that strangely placed between these was the flag of the Republic of Korea which is in jeopardy of joining those other flags as a symbol only of representing an oppressed people. I wonder if this country, looking at that noble people on Taiwan, can really see them fall behind the tyranny of Communist China when we are espousing human rights as openly as any administration has ever espoused them.

I think that if we look at the genocide that has taken place in Cambodia and the terrorism going on in Laos and listen to the Communist assembly in Vietnam we can understand what is going on.

One of their congressmen who is now in our city was in my office this morning, Mr. Nguyen Cong Hoan. He leaves behind in a fishing village two others who were formerly friends of the Communists and who now realize the horror of a Communist takeover. They fled at great risk to their lives on the high seas and drifted until they were picked up by a Japanese freighter. If we listen to this Vietnamese congressman, now he is sincerely sorry he betrayed his country in that he did not realize what American friendship meant and what a bamboo curtain meant. He did not realize it meant the silence of death that occurs in South Vietnam now.

I told him I believe there are some Americans who would have literally fought to the death before seeing his people overrun by communism.

Former Secretary Kissinger has said publicly that to normalize our relations with the Red Chinese would be at the expense of the defense treaty with Taiwan, and if we remove that the Red Chinese will have to strike, because not to strike would be to declare their impotence to the whole world.

I really do not believe our President understands fully the dangerous policy we are playing with now in this selectivity of where we are applying our human rights. I made a promise to the people in Taiwan that I will keep, and that is if their country is under attack that I will endeavor to get some of us in this congressional body to travel to Taiwan in whatever last flights will be allowed to go in and see if our country is really willing to put a dagger in their back as we did in the back of our former South Vietnamese allies.

I appreciate the gentleman taking this special order and I appreciate the participation of my neighbor and friend, the gentleman from California (CHARLES H. WILSON), whose words were moving. I know his words were deeply felt.

I just hope we can keep this issue of Taiwan before the American people. I hope we can keep in mind their being thrown out of the Olympics last year and I hope we can keep in mind their being thrown ignominiously out of the U.N. and leaving with their heads held high with great dignity. I hope we can remember the Americans such as the American volunteer Flying Tigers and not become rather a nation of mewling pussy cats as we watch them slaughtered. Then I think my American citizenship will not be worth very much.

I hope we can continue this dialog.

Mr. CRANE. I thank the gentleman from California (Mr. DORNAN).

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I do appreciate this and I asked for this additional time because I feel deeply on this subject. I know the American people do not fully understand the ramifications of everything that is involved in the diplomatic dealings between this country and other countries.

Let me point particularly to our relationship with Communist China and free China. Communist China has told us that if we are to have normalization we will only have normalization: First, if we withdraw diplomatic recognition from Taiwan; second, abrogate the mutual defense treaty; and third, withdraw our military forces.

What does this mean? Secretary Vance has just recently said, and this is in public print, that we recognize only one China and so there cannot be two. We cannot give diplomatic recognition to one and not the other, and deal equally with one and not the other. Communist China has said: "We will not deal. You have got to recognize us."

Secretary Vance is on his way to China now to make some sort of announcement. If we withdraw diplomatic recognition from one and extend it to the other, then we are in effect abandoning them, and what does this mean? Will they still be a country? Will they still be autonomous?

Well, there are two islands that were very much in the press in the last 20 years, called Quemoy and Matsu, that we even sent our fleet out to protect. They are still under attack.

The day before I was there, there were 46 artillery shells lobbed over. They still do it on every other day, the 21st, the 23d, the 25th. They do not fire on the even days. They fired 46 shots the day before I got there. The best we give is a 21-gun salute. They gave a 46-gun salute, but they are under attack.

Mainland China has submarines. They can isolate the island. If they have diplomatic recognition, and this is the important point, then they can control air traffic into and out of that island. If any third country complains, they can say, "This is an internal matter. You have recognized us. The United States has recognized us. We are the government and we will determine who may go in and out."

It is for that reason that any time the Bamboo Curtain can come down and isolate, in fact, subtract from the entire people of a country their right to a living, freedom in the world has been diminished.

As I said in my prior remarks, you have 800 million people on mainland China. Not one, not one person owns an automobile. They are owned by the ruling class of the government. Only recently have they been allowed on a case-by-case basis to own a motorscooter. Compare that with this country or any other country. They cannot own property. They cannot go where they please, and we in the name of human rights are going to abandon our friends and recognize the Red Chinese. I think it is outrageous. It is not a partisan issue in this country, or should not be.

I hope our voices here on the floor of the House will be heard. I hope we can generate enough interest and determination and anger on the part of the people of this country to do something about it.

Again, I congratulate the gentleman from Illinois on his efforts to do something about it.

Mr. CRANE. Mr. Speaker, I thank the gentleman from Alabama for his remarks.

In conclusion and summary, let me for a moment dilate upon a point raised by our distinguished colleague, the gentleman from California, about the previous administration. It is my understanding, in talking to the people at the State Department, that the Shanghai communique did not involve any specific positive commitments by either Mr. Kissinger or President Nixon. To that extent I think at least this administration did

not inherit an obligation that was inflicted on them by the prior administration.

I think, further, that this administration has used that communique as a point of departure for an expansion of a policy that may, indeed, have been contemplated in the long run by the previous administration, but one which I think the gentleman from California and the other speakers tonight would agree is a course inconsistent with our national honor. We have an abiding commitment to our allies and friends to uphold those exalted principles which have been enunciated by this administration. Unfortunately, I think the current administration has put itself into the curious and paradoxical position of ignoring its own rhetoric when it promotes a policy of rejecting a continuing relation with the Republic of China in a vain effort to promote détente with the People's Republic of China.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, the problem with the Shanghai communique or the things done by Mr. Kissinger is that no one knew what was done. I recognize there are certain parts of our foreign policy and our defense policy that have to be retained in a classified manner; but I do not know whether anybody really does know what was discussed or agreed to in the Shanghai agreement.

This is the thing that is extremely disturbing. I would agree with the gentleman. I hope that the present administration is not taking what was done in Shanghai during the previous administration as something we are committed to.

You know, it is an amazing thing, I have contacted them on various subjects involving our national defense. When it is convenient to go along with the previous policy, they say, "Well, this was agreed to by the previous administration."

Yet, when it comes to something like cancelling the production of the B–1, or something like this, they are not committed to what the previous administration decided to do. Unfortunately, even though in the Armed Services Committees in both bodies we turned down the so-called Culver amendment, the Appropriations Committee unfortunately thought they won a victory by accepting the Culver amendment in order to get some limited production going.

Sometimes, I wish the gentleman's side had won the last election. I think, defensewise, our country would have been in much better shape than it is now. This is bad for me to say, of course. I may be uninvited from the breakfast I am going to tomorrow morning at the White House, but I will say it anyway.

But, the main thing is that the agreements that were reached through Mr. Kissinger—who is not one of my favorite persons; and I hate to be partisan on this and am trying to be as nonpartisan as possible—is not what I would hope our country would be committed to. I would hope that Mr. Vance would have a much more open policy than what we had in the previous administration. I really, sincerely, have great hopes for him. I hope that he will fulfill those hopes that I have.

Mr. DEL CLAWSON. Mr. Speaker, the speech on United States relations with China on June 30 by the Secretary of State was noteworthy by one conspicuous absence. In the entire speech the Republic of China was not mentioned once. Apparently this was a deliberate omission and reveals a willingness to ignore the reality of our ally on Taiwan in favor of better relations with the Communist regime in mainland China.

The terminological quagmire in discussing China deserves a comment in itself. The New York Times referred to our ties with "the Nationalist Chinese on Taiwan". Similarly, the State Department has referred to the Republic of China simply as "Taiwan". There seems to be a concerted effort to ignore the fact that the government which the United States continues to recognize as the only legitimate government of China is the government of the Republic of China whose capital is Taipei located on the island of Taiwan. There is no Taiwan government, other than a local provincial government. But by pretending that the Republic of China does not exist as an entity, the media and the State Department indicate that this is a government they would just as soon forget.

One might well reason why Secretary Vance did not mention the Republic of China in this speech. Quite simply, the administration does not have a policy that significantly takes into account the interests of our friends and allies in the Republic of China. Hopefully, in future studies by the State Department, the administration will become aware of the enormous range of relations that the United States presently has with the Republic of China and how crucial continued diplomatic relations are to the continuation of both these relations and the very survival of the Republic of China.

The importance of diplomatic relations, together with the basic principle of supporting allies, the United States should continue full relations with the Republic of China and consider extending relations to Peking only if they accept our continuing relations with the ROC. If the PRC wants improved relations with the United States, they should be willing to recognize the independence of the Republic of China. We should not submit to their imperialist designs and sacrifice our ally in the Republic of China.

Unfortunately, Mr. Speaker, the actions of the U.S. Government in recent contacts with the Republic of China gives very little confidence that we are going to adhere to our historic ties. Not only has the United States begun an official policy of openly ignoring the ROC, but we have inaugurated a series of steps which, in some cases, amounts to outright hostility. The pendulum is beginning to swing full circle. If this course of action continues, it will be only a matter of time until we have dropped the Republic of China completely as an ally. Let us be more specific:

First, although the term of the present Ambassador of the ROC expired over a year ago, the State Department has discouraged any change for fear of embarrassing developing contacts with the mainland. Second, no senior American diplomat has visited the Republic of China in an official capacity in more than a decade—with the minor exception of Vice President Rockefeller's attendance at Chiang Kai-shek's funeral. The State Department has, furthermore, openly discouraged American companies from participating in any oil or gas exploration off the cost of Taiwan. The State Department also requested the abrupt cancellation of a contract of nearly $1 million between the ROC and the Massachusetts Institute of Technology which would have provided an engineering program for internal guidance systems. To continue in 1975 the Congress repealed the Formosa Resolution without objection from the State Department. Finally, the United States removed all combat fighter planes, including F–4 Phantom jets from the ROC and has since refused to sell F–16's to help fill the void.

Each of these steps, taken singularly, may not mean a great deal, but together they paint a fairly representative picture of which direction American policy has been moving. In tandem with Secretary Vance's speech they present a pretty comprehensive understanding of the fact that we are heading inexorably toward the abandonment of one of the most loyal and important allies which this Nation has ever had. The Republic of China is a modern, industrial nation of 16 million people, the 40th country in population in the world and a leading economic power in Asia. It has a higher standard of living than most countries of the world, and in trade it gives the United States a market 10 times that of mainland China. We have a security treaty with the ROC and a private investment of almost half a billion dollars. I cannot understand, Mr. Speaker, why we insist on the abandonment of this ally, but the facts speak for themselves. Before it is too late, I call upon President Carter to pause in his announced policy and to take cognizance of the importance of maintaining relations with the ROC, regardless of his administration's intentions toward Peking. There is no reason in the world why the Republic of China has to be sacrificed on the altar of normalization with the Peking regime, which still heads the list as the largest totalitarian Communist country in world history.

Mr. DORNAN. Mr. Speaker, there is one aspect of this administration's China policy which deeply puzzles me, and which I think must puzzle other Members who closely follow the development of our foreign policies. This concerns President Carter's and Secretary Vance's oft-stated advocacy of human rights, and how that advocacy does or does not

relate to the Chinese situation. In a word, gentlemen, it does not relate at all.

Mr. Vance, in his recent Asia society address, has been most explicit in stating this administration's intention to proceed ahead toward full normalization of relations with the PRC; it also seems clear from Mr. Vance's remarks that if such a normalization does occur, it will be at the expense of our current relationship with the Republic of China on Taiwan. Now there is a great deal that could be said about why, whatever the presumed advantages of normalization with the mainland might be, this Nation should not sacrifice its historic and mutually beneficial relationship with the ROC. And other Members will undoubtedly touch on these points. What interests me personally, and what I find really galling, is the failure of this administration to apply its widely hailed policy on human rights to the China question. The double standard in this case is appalling, and deserves attention both as a measure of the sincerity of our human rights policy, and as an indicator of the minimal role assigned to human rights considerations in the formulation of our China policy.

Let us look at the two Chinas for a moment, and compare. In the area of freedom of information, the Republic of China is remarkably free. Over 30 newspapers currently flourish on Taiwan, free of any prepublication censorship. The only restriction placed on the press in the Republic of China concerns material giving sympathetic treatment to the mainland regime—an understandable limitation given the status of relations between the two governments. By contrast, public access to information on the mainland is subject to the severest limitations, and is for all intents a state monopoly. Whereas foreign periodicals and newspapers circulate freely in the ROC, they are virtually unknown on the mainland. The reasons for this difference are clear: in the ROC freedom of individual though and expression is respected, while in the PRC it is considered dangerous to the interests of the state.

Closely related to the freedom on information is the freedom of movement. Citizens of the Republic of China are permitted to move freely and live wherever they choose within the country. Such freedom is virtually unknown on the mainland, where movement is strictly controlled, and place of residence is often determined by the government. The same circumstances apply to nonnationals—journalists, diplomats, and tourists—who enjoy complete liberty of movement on Taiwan, but are subject to the severest restrictions in the PRC. Foreigners who live in Peking are confined to an area not to exceed 15 miles of the capital, and within the city itself are prohibited from direct contact with the people. Students who enter the PRC are carefully screened, and permission to enter the country is generally denied those journalists and scholars considered less than friendly toward the Peking regime. By using permission to enter as an incentive, the Peking authorities have attempted to stifle criticism of their policies by prospective foreign visitors. What, we have to ask, are they afraid of? No such limitations exist in the ROC, where diplomats, journalists, tourists, and students are free to circulate, and enjoy unrestricted access to the population.

In other areas of human freedom the contrasts between the ROC and PRC are equally stark. Citizens of the Republic of China enjoy the right to private property—a right practically unknown in the PRC. They also enjoy substantial personal and family privacy—another right long since disappeared in "People's China". There, the government apparatus functions at every level of society, from the national and provincial organs down to the factory, the block, and the street. Personal activity is at all times related to the interests and policies of the state.

The same applies to the political level as well. Dissent in the PRC is not tolerated, and deviants face long periods of "re-education" and what is euphemistically called reform through labor. The shots are called at the highest levels of the party hierarchy and outside those elite circles true political participation and expression is nonexistent. Any variation from the official ideology has been met with purges, imprisonment, and mass liquidations. According to statistics presented before the Senate Subcommittee on Internal Security, the number of Chinese who have lost their lives at Communist hands is estimated to range between 34,300,000 and 63,784,000, since the first civil war of whom some 15,000,000 to 25,000,000 are believed to have died in forced labor camps and "frontier development" projects.

This is the human cost of communism in China which is seldom discussed by the proponents of immediate recognition. But I can tell you, this is something we cannot and must not forget in our consideration of the current China problem. The facts of the situation are quite clear, and even the most respected advocates of a pro-PRC policy will admit to you that "human rights" as such are virtually unknown on the mainland today. The government reaches into the lives of virtually every citizen on a daily basis, and brooks no dissent. It controls access to information and freedom of movement, and those who deviate must do so at peril of their lives, or at the minimum, at the risk of severe social and economic sanctions. The Republic of China, on the other hand, has embraced in its policies the broad principles shared by the democratic, nontotalitarian states of the world: freedom of thought, information, movement, education, work, expression, economic opportunity, and political participation. While it must be recognized that the realization of these values in the ROC is as yet imperfect, as it is in our own country. But the principles are there, they are principles shared with we in the United States, and the history of recent years reveals that the Republic of China is one of the few nations in Asia, and the world, in which the trend has been toward a liberalization and a broadening of political and civil rights, rather than the reverse.

It is therefore a great puzzlement to me why this administration, which has publicly posed itself as the worldwide champion of human rights, is so intent on dumping the Republic of China in favor of its mainland rival. Is this consistent with our advocacy of human rights—to abandon an ally who shares the fundamental libertarian values of our society, in favor of a government which systematically and consistently represses its critics and seeks to smother every last ember of personal expression and liberty? It is not. Our policy is not just, nor is it consistent. And what will be the fate of human freedom for the 16,000,000 citizens of the Republic of China if this government should cast it adrift to the mercies of its communist neighbor? The question which I find most troubling given recent administration statements is—do we really care?

Mr. DERWINSKI. Mr. Speaker, the general thrust and tone of Secretary of State Vance's foreign policy address to the Asia Society in New York City 2 months ago indicated that the Carter administration is developing a new Asian policy which will place such a heavy emphasis on friendly relations with mainland China that our historical and treaty-linked relationship with Taiwan will be sacrificed in the process.

By acceding to the bidding of mainland China and abandoning the Republic of China on Taiwan, we lose our honor, our credibility, and our sense of morality. In my judgment, this decision will have an adverse effect on our national security interests as well. Abandonment of Taiwan would not only undermine the confidence of our other Asian allies, but would also cause our allies elsewhere in the world, whose economic and security interests are tied to ours, to question our steadfastness.

We should deal with the People's Republic from a position of strength and not be so willing to settle for a lopsided deal with a government that has so little to offer the United States. The People's Republic of China needs our friendship far more than we need theirs. They desperately need and strongly desire our presence in Asia as a counterforce to the Soviet Union.

The President has achieved worldwide attention as a result of his emphasis on human rights. The human rights situation on the mainland, as compared to Taiwan, is like night and day. It is obviously contradictory, in view of the People's Republic's horrendous human rights record, to adjust Peking's diplomatic status with the United States. Is our human rights policy credible if we are participants in consigning 17 million people to a way of life very few of them favor?

Many observers are questioning the determination and ability of the United States to remain a positive force in Asia. The controversial decision to withdraw U.S. troops from Korea, doubts raised over our long-term interest in naval and air facilities in the Philippines, and the

abandonment of the Republic of China on Taiwan would undoubtedly convince Asian countries especially, but also the Soviet Union, that the United States does not have staying power in Asia.

The Taiwan issue cannot be isolated. It is a key part of our entire Asian picture. In addition, the administration has shown an inclination to accede to Russian pressure to pull out of the Indian Ocean. I do not believe that the President's Asian policy has any credibility among our present allies in that area.

Mr. ADDABBO. Mr. Speaker, as the United States moves slowly toward a normalization of relations with the People's Republic of China, we in the Congress ought to take time out to remind the world at large that we do not intend to desert our good allies, the people of Taiwan.

I do not think it takes much experience in international matters to realize that without the strong support of the United States, the people of this tiny outpost of democracy would become immediately vulnerable to aggressive moves of the Communist Chinese. I, for one, urge the Carter administration and the Congress to take no action that would give any nation on this globe the slightest inclination to believe we no longer support Taiwan.

I strongly hope that the United States and the People's Republic of China can slowly develop a relationship of mutual benefit to both nations. Normalization of diplomatic relations with the People's Republic would help bolster the hopes for peace throughout the world.

But I hope that it is crystal clear to the leaders of the Peoples' Republic of China that however much we desire their friendship, and however much we seek sound and trustful relations with the people of that nation, that we continue to insist upon the right of the Taiwanese to continue to exist as a free and independent nation, without fear of attack from the mainland. Many years ago the United States extended the hand of friendship to the people of Taiwan, and they have done nothing to cause this Nation to withdraw that bond.

Mr. KETCHUM. Mr. Speaker, I am grateful for this opportunity to share in the remarks made by my distinguished colleague from the State of Illinois.

The question before us is not one of how we balance our relations between the Republic of China and the People's Republic of China, but rather how we are prepared to meet our past treaty obligations for the continued security and survival of the Free World.

Currently, we are being told by Secretary of State Vance that the People's Republic of China is and will be playing a vital role in maintaining peace throughout the world. For the life of me I can't figure out if he's referring to the Korean war or the Vietnam war. But it is this sort of rationale which is leading the administration to build the framework for normalization with the Peking regime.

From the other side of the mouth the administration is espousing freedom, democracy, and human rights for all nations. How in good conscience can the United States resolve such discrepancies when it continues to consider establishing ties with perhaps the most repressive government on the face of the earth?

The fact remains that since World War II the United States and the Republic of China have agreed to over 80 treaties from agriculture to trade and commerce. The most important of these has been the 1954 Mutual Defense Treaty in which we obligated ourselves to maintain strong and durable defense ties with the Republic of China.

Using the Shanghai communique as the basis for our future relations with China we are telling the Peking and Taipei regimes that their differences should be settled as a domestic matter. Yet at the same time the Communist Government of Hua Kuo-feng has just reconfirmed that it will not refrain from using military force if necessary to unite the island of Taiwan with the mainland.

Mr. Speaker, there are some of us in this Chamber who stand behind the principle that "once a friend, always a friend." I cannot see how we can gain by ignoring our past obligations as if they were meaningless. Should we turn our backs on the Republic of China we will have lost serious ground and credibility as the leader of the free world. Not only will our allies question our future commitments, but the Communist world will have won a major moral and psychological victory. In the words of Lenin it will have been the United States who provided the rope to hang the free world to death.

Mr. SPENCE. Mr. Speaker, I am grateful to our colleague, PHIL CRANE, for taking this time today to discuss the issue of our China policy. The accelerating erosion in our commitment to the free people of Taiwan demands this discussion. It is not the first time numbers of my colleagues and I have felt it necessary to take the floor of this House and point out the flaws in our current policy toward the China question. I hope—without much hope—that it might be the last.

Mr. Speaker, a policy which risks the safety and security of the 16 million people of the Republic of China is not alone a betrayal of the legitimate hopes and aspirations of a free but foreign people. It is a betrayal of many thousands of American citizens of Chinese extraction who trust the United States to uphold the principles of freedom it espouses and to protect the lives of those with whom they have blood ties and deep cultural affinity. I want to read excerpts from a letter from one of my own constituents who has urged me not to be a part of the betrayal of the people of Taiwan, and I ask unanimous consent that it be printed in its entirety at this point in my remarks:

My constituent, Mr. David Chen says:

Laos, Cambodia, Vietnam and recently Angola, one by one, each fell into Communist hands. Korea, where American soldiers had fought so gallantly, is still under constant threat by the Communists.

He says:

The Communist goal is to dominate the world.

He says:

Taiwan and China represent two most contrasting societies. Economic development in Taiwan in the past decade is very impressive. . . . On the contrary . . . China is a country where political purges and mass movements are a way of life.

He asks:

President Carter said that his foreign policies would be based on moral principles and that he supports human rights. Then why did he bring up the human rights issue with the Russians but deliberately avoid to talk about the same issue with the Chinese?

He notes:

Taiwan is one of the best friends of this country in terms of trade, cultural exchanges and in the defense of democratic principles. Morally we cannot desert our friends.

The points Mr. Chen makes are obvious ones. Anyone can see that they are true. I submit, Mr. Speaker, that they are the points the vast majority of the people of this country understand. They do not understand the convoluted, illogical "bureaucratese" with which the makers of American China policy have been trying to explain American China policy. And I do not think they will ever understand it, so long as it curries the favor of a totalitarian, nearly bankrupt and threatening regime against the interests of a free, industrious and peace-loving friend and ally.

To let Taiwan down is to let down, not just 16 million foreigners, not just a small minority of Americans with blood ties and cultural ties to this particular group of foreigners, but is to let down every true American who believes in freedom, who believes in industry, who believes that truth will out and the right will win.

Of course, I recognize that we still maintain our military defense pact with Taiwan and that those presently formulating China policy deny that diplomatic rapprochement with Communist China endangers Taiwan. But they have not explained how we can pursue détente with Communist China without ultimately abandoning Taiwan, since that is the Communist's announced price for even considering improved relations.

The makers of our China policy say there is no threat to Taiwan outside the possibility of open, armed confrontation which is not likely to occur. My colleagues today will speak to other aspects of the China question—it is to the defense and military implications that I would like to address myself in the remainder of my time.

I want to discuss the military balance between the Republic of China and Communist China in order to give my colleagues a better understanding of the military implications which the normalization of relations between the United States and mainland China will have. This will, perhaps, become the central issue between the two Chinas if and when we extend full diplomatic relations to Peking. I say that because it has been the Communists' steady insistence over the years that Taiwan is their territory, and that it will be taken by force, if necessary. As recently as May 15 of this year, Mr. Speaker, the Chinese Commu-

nist Vice Premier reiterated his country's determination to take Taiwan by armed force.

I have no doubt they will be true to their word if the circumstances permit. I have, on the other hand, no real assurance that the United States will continue to adhere to the 1954 defense pact with Taiwan, especially since Secretary Vance deliberately omitted any reference to that country in his Asian policy address of June 30. To establish relations with Peking while breaking our historic commitment to Taiwan could very well result in military conflict between the two Chinas. This is not an idle possibility or an intellectual abstraction. Over the years the two have engaged in a series of military skirmishes, some of which have produced casualties estimated as high as 50,000 per side.

In our future dealings with the China question we must be very aware of the armed capability of both sides; it might well be the one determinant factor in the ability of our friends in the Republic of China to continue to exist in freedom and prosperity.

Of necessity, the Republic of China maintains one of the largest armed forces for the size of its population of any country in the world. Nearly half a million men are under active arms at any one time, with more than double that figure available on reserve. Two armored and 12 standard infantry divisions are always deployed in addition to light infantry divisions and four special forces groups deployed along the coast. Over 2,000 light and medium tanks are either integrated with the active forces or else with the reserves.

The Air Force of the ROC is almost exclusively directed toward defense. The 90 F–100 and the 10 S F–10 aircraft are organized into six fighter-bomber squadrons, but their limited capabilities make it impossible to conduct deep forays into the mainland. The remainder of the Republic of China's Air Force consists of F–104 and F–5A fighter and interceptor planes. Overall, the ROC air arm lacks the range and payload characteristics to penetrate deeply into the mainland, but they would be useful in a naval support role in small operations along the coast.

Naval strength of the ROC is balanced between offensive and defensive forces. For offensive operations, they have 2 diesel submarines, 8 destroyers and 50 landing vehicles. Many of these ships, especially the destroyers, would also be suitable for attacking surface vehicles from Communist China. They also maintain two marine divisions, a total of about 100,000 troops, including reserves.

On the other hand, the Chinese Communists deploy one of the largest armies in the world. The PLA—Peoples' Liberation Army—has 2.8 million men under arms organized into 7 armored, 125 infantry, 4 cavalry, 6 airborne and 20 artillery divisions. This army, however, does not have the capability to conduct sustained operations against Taiwan.

In any attack against the Republic of China, the Communists would have to rely upon their 38,000 marines and the six airborne divisions deployed with the Chinese Communist Air Force The seaborne capability of the PRC is fairly limited. Even though the Communists have a much large navy, their amphibious capability would not permit them to take the Republic without a major and perhaps sustained conflict. They have only 54 seagoing landing craft. They do possess a considerable shore-based air arm composed of over 600 combat planes. However, since these are short range planes it is unlikely that they would be able to conduct offensive operations against the ROC for any length of time.

The major difference between the two armed forces, Mr. Speaker, is in the ability of the Chinese Communists to conduct strategic operations from their own shores with the missile and bomber forces presently deployed, and, more importantly, with those forces which they expect to have in the near future. The Communist have 60 TU–16 Soviet medium bombers with sufficient range to hit Taiwan with about 75 IRBM's of a range between 1,500 and 1,800 miles. They also have about 50 medium range ballistic missiles of an approximate 700-mile range. As yet, they have not deployed ICBM's but they have the capability to deploy them in the near future. A long range ICBM, with a range of more than 4,000 miles, has been available for over 2 years, but, as yet, has not been deployed. Deployment of this weapon would give the PRC an overwhelming ability to hit Taiwan from deep within its own territory. It is primarily in the area of nuclear weapons and delivery systems that the Chinese Communists have the edge over the Taiwanese. Whether they would use these systems remains a matter of conjecture, but without American aid the temptation might be overwhelming, especially given the emotional and historic importance of the Taiwan question to the Peking government.

It is clear from the military balance between the two countries that any operation against the ROC would be a major undertaking for even the PRC, a nation of more than 800 million people located next door to Taiwan. I have little doubt that the Republic of China would be able to hold its own in any limited confrontation. The major imponderable, Mr. Speaker, is the position of the United States as the major ally of Taiwan. With U.S. support, the Republic of China stands a good chance of preserving its freedom and security indefinitely. Through the 1954 mutual defense treaty the United States is committed to Taiwan's defense. This commitment is reinforced today by the U.S. Seventh Fleet currently deployed in the western Pacific and consisting of 2 attack carriers, 28 surface vessels and 2 marine units. This force is nuclear-equipped and forms an important part of the ongoing American effort to safeguard the security of our friends in the Pacific, of which Taiwan is one of the most important and, as my constituent pointed out in his letter, one of the most devoted. If this fleet were denied the ROC, or if in any other way U.S. military support were withdrawn, the security of Taiwan, in the long run, would be in grave danger. Psychologically, the larger Chinese Communist nation would be able to isolate Taiwan and, in the process, they would be able to erode the faith which the Taiwan government has always had in itself and in the United States. The Communists could deny air and sea rights to Taiwan. They could begin intensive air raids and bombings as they did back in 1958. Eventually, they could either mount a massive attack or they could strike from the mainland with their long range weapons. An isolated Taiwan would eventually be defeated, one way or the other. That is an inescapable fact of international life, Mr. Speaker, and to deny it or to shy away from it is to bury our heads in the sands of Peking-Washington "détente."

I hope that the administration, in its apparent hurry to normalize relations with the Communists will ponder this point hard and long. The abandonment of Taiwan would be a profound mistake for American foreign policy. Coupled with the loss of Vietnam and the withdrawal of troops from Korea, it would seem to the world that the United States had effectively ceased to exist as a military power in Asia. Tragically, the appearance would not belie the fact.

JULY 12, 1977.

Hon. FLOYD SPENCE,
Representative in Congress, Columbia, S.C.

DEAR MR. SPENCE: I do not question the wisdom of normalizing diplomatic relations with the People's Republic of China by the Carter Administration. To formulate a policy is one thing, to actually carry it out is another. At stake is the security of 16 million peace-loving people in Taiwan. Given a chance to decide for themselves, unquestionably they would choose to live in a country where democracy and freedom, love and peace prevail.

Looking back over the world history in the past thirty years, I wonder how badly the free world countries have fared as a result in the confrontations with the Communist countries. Laos, Cambodia, Vietnam, and recently Angola, one by one, each fell into Communists hand. Korea, where American soldiers had fought so gallantly, is still under constant threat by the Communists.

The Communist goal is to dominate the world. They will fight you when they are capable. The so-called peace talk was but an illusion successfully used by the Communists when they encountered insurmountable obstacles in battlefields. Mao Tze-tung once said that peace is but a means of continued struggles, peace can never be the goal. The tragic lesson in Indochina should awake those who are still dreaming that ultimate peace can be achieved through negotiations with the Communists.

Taiwan and China represent two most contrasting societies. Economic development in Taiwan in the past decade is very impressive. Today Taiwan ranks second among the Far Eastern countries in per capita income. The people in Taiwan have been enjoying freedom, prosperity, and basic human rights. On the contrary the Chinese on the mainland are under tight control and constant watch. Millions of innocent people have been systematically extinguished and many more times placed in labor camps inside Red China since Mao took power in 1949. China is a country where political purges and mass movements are way of life.

The Taiwanese are industrious but not aggressive. They love peace but won't appease the enemy. They teach their children Confucius lessons but are also prepared to adjust themselves with changes. Their peaceful way

of living should not be threatened by the Communists. The Taiwanese must not be betrayed by their best friend in the deal with Red China.

Some people are misguided by the wrong idea that Taiwan is a stumbling block for America and China in the normalization of their relations. But with a closer look, one will see that at issue is not the problem of Taiwan. It is rather the problems inside Red China, a country of 800 million people. After almost 30 years of Communist rule, China's economy is still backward, industry not developed, and basic human rights totally deprived.

The Communist system is fundamentally wrong because it ignores the value of human beings, the dignity of being a man, and the potential of free competitions. Thirty years of political purges and internal turmoils contributed nothing to the betterments of mankind, but resulted in painful suffering to a quarter of population on the Earth. For this reason we cannot and must not let the Communists take over Taiwan.

President Carter said that his foreign policies would be based on moral principles and that he supports human rights. Then why did he bring up the human rights issue with the Russians but deliberately avoid to talk the same issue with the Chinese?

Taiwan is one of the best friends of this country in terms of trade, cultural exchanges, and in the defense of democratic principles. Morally we cannot desert our friends. A solution must be found to guarantee that the Taiwanese can live securely and peacefully at their will before we establish diplomatic relations with China. Two hundred years of American history show that America is a warrior for freedom, justice, and love. Let us continue this American heritage.

Sincerely yours,

DAVID H. CHEN.

Mr. STUMP. Mr. Speaker. The Republic of China is one of the United States closest friend and ally. These two countries have had a long and friendly relationship for almost 30 years. Since the mutual defense treaty was signed on December 2, 1954, the United States and the Republic of China have entered into over 60 treaties and agreements regarding mutual interests in such areas as: education, commerce, trade, and defense.

The United States Armed Forces and those of the Republic of China have fought together in World War II, the Korean war, and in Vietnam.

In the very near future Secretary of State, Cyrus Vance, will leave for the People's Republic of China to discuss with the officials in Peking ways to improve and formalize relations between our two nations. I would like for Secretary of State Vance to know that I will support his efforts to accomplish the goals of improved relations between our two countries, but not at the price of abandoning Taiwan. The United States should not accept the diplomatic, economic, or defense ties with our ally, the Republic of China—Taiwan. The maintenance of these relations with one of the United States best friends through the continual recognition of the Republic of China and the mutual defense treaty is an absolute cornerstone to our foreign relations in eastern Asia.

It is my sincere hope that Secretary of State Vance understands our relationship with the Republic of China, and that he does not attempt to forfeit or harm this strong alliance.

Mr. CRANE. I thank the gentleman for those remarks. I think he expresses the hope that all of us have. It is a profound hope that not only through the colloquy we have had tonight, but through a continuing discussion between now and when the Secretary of State leaves for the People's Republic of China, that this story might be more broadly told to the American people. I cannot believe, frankly, that there is any sentiment in the United States on the part of anything more than a tiny minority, to turn our backs on the historic, long-standing commitment we have to our Chinese allies. They represent stunning examples in Asia in advancing and promoting the idealism that has been articulated by this administration.

I cannot think of anything that would create more confusion in the minds of the American people than if the administration were to reverse suddenly our long-standing ties and commitments, and put the survival of these friends in jeopardy. It would be a gross repudiation of the President's commitment to human rights to accord diplomatic recognition to a nation—not a nation; more specifically a country, that is in the hands of a very despotic tyranny—that so egregously violates those rights.

In conclusion, Mr. Speaker, I would like to say that I hope it is not too late for the administration to find out that the central issue is that we cannot sacrifice our friends and reward our enemies, and survive as a free and prosperous Nation.

UNITED STATES-CHINA RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, later this month, the Secretary of State is scheduled to visit the People's Republic of China to explore the issues of mutual concern to our two countries. The planned trip is notable for two reasons: First, it will be the first official visit to China by Secretary Vance. As such, it will be the highest representation to date by the new administration of President Carter. Second, it will come at a time of new leadership in Peking.

Because this will be the first such high-level contact between the current leadership of Washington and Peking, we probably should not expect any startling results. Instead, we should regard it as an important new step by the administration of President Carter to further communication on the basis of the Shanghai communique of 1972. It will present an opportunity for both the United States and the People's Republic to air differences and to seek ways to resolve them which satisfy the fundamental concerns of both nations.

Both the President and the Secretary of State have, in recent months, highlighted the importance of developing and maintaining friendly relations between the United States and the People's Republic. President Carter stated at Notre Dame in May that he views "the American Chinese relationship as a central element of our global policy, and China as a key force for global peace." At a meeting of the Asia Society in New York last month, Secretary Vance reemphasized this position, adding that "a constructive relationship with China is important, not only regionally, but also for global equilibrium."

I do not quarrel with this assessment. Certainly a nation of 800 million people, armed with nuclear weapons and a strong idealogical contender with Moscow, figures in strategic considerations in a major way.

The United States should encourage increased Chinese participation in addressing common problems in this interdependent and interrelated world. Chinese cooperation is important on a number of common tasks ranging from international arms control efforts to joint economic and environmental endeavors.

But a "constructive relationship" will not develop without give and take. It depends upon a willingness by both sides to acknowledge realities and to compromise where necessary.

It is worth noting that, for the United States, Secretary Vance made the following commitment in his speech before the Asia Society:

"In structuring our relationship with the Chinese, we will not enter into any agreements with others that are directed against the People's Republic of China."

To my mind, such a commitment deserves a parallel and equally unequivocal assurance on the part of Peking concerning the Republic of China.

As many of us in this Chamber are well aware, our commitments and interests involving the Republic of China run long and deep. Trade with Taiwan is 10 times that with the People's Republic. American cultural and personal relationships with the Chinese people who live on Taiwan have been long standing and are not likely to decrease in the future. The Republic of China has been a friend and ally over the many years while Peking was our adversary.

As a consequence of this longstanding friendship and alliance, 59 treaties and executive agreements formally bind our two countries together.

Moreover, the political, economic, and social situation on Taiwan is vastly different from that on the mainland. Taiwan has free enterprise, a freer governmental system than in many Asian countries, and a much higher living standard than on the mainland.

Secretary Vance indicated in his Asia Society speech the importance of "mutual and reciprocal efforts" to further the normalization process. Nowhere will the willingness to apply these efforts be so tested as in Peking's willingness to assure the American people of its effort to reciprocate on the question of Taiwan.

A basis for developing these assurances already exists in the Shanghai communique pledge that both parties "wish to reduce the danger of international military conflict." In working out a so-called formula for normalization, an added pledge is important. Both parties should declare their wish to promote peaceful political evolution in Asia and their intent to resolve out-

standing conflict through political and not military means.

I very much hope that Secretary of State Vance can explore Chinese intentions in this regard.

As he prepares to leave for Peking, I encourage the Secretary to consider the following issues and propositions:

One. Both the United States and the People's Republic need to take a long-term view of normalization. The Chinese long march took thousands of Chinese miles; the Chinese understand that any difficult process involves many difficult steps. Chinese patience might serve as a useful guide to American policy.

Two. As we make haste slowly, we can still resolve outstanding issues in an orderly fashion. The question of frozen assets can be settled in the very short term. The Secretary can further movement of this type during his trip and thereby ease outstanding points of friction between our two countries.

Three. Future relationship between the People's Republic of China and the Republic of China has a long and short term aspect.

In the long run, neither government needs to rule out the possibility of reunification. That is indeed what both claim they want. But in keeping with the Shanghai communique and in keeping with international responsibility, firm assurances are required that such reunification, if and when it occurs, will be by mutual negotiation and peaceful means.

In the short run, the People's Republic of China and the Republic of China should be able to live with one another. They have done so for the past 30 years. Neither has found intolerable the continued existence of the British colony of Hong Kong and the Portuguese colony of Macao; neither has indicated an immediate ambition to "liberate" them by force. These two colonies incidentally are independent even though large parts lie on the Chinese mainland and should be greater irritants to the sovereignty claimed by Peking than the perpetuation of the Republic of China on Taiwan would be.

Four. The issue of self determination on the part of the 16 million people who live on Taiwan should be an underlying consideration in our overall approach. No one can deny that the island of Taiwan is economically viable, that security-wise it is defensible, and that it is a political entity with foreign relations with many foreign governments. The perpetuation of a separate nation-state, therefore, is not beyond the realm of possibility or even probability. What this nation-state is called—whether the Republic of China, Taiwan, or whatever—is immaterial. Nations such as Sri Lanka and Bangladesh have changed their names without altering their identity.

We would be irresponsible not to entertain the possibility that an independent country by whatever name will continue to exist on the island of Taiwan. Moreover, our policy should in no way be devised to prevent self-determination of an independent destiny for the people of Taiwan.

Five. The United States can and does relate to all Chinese. We have a liaison office in Peking, an embassy in Taipei, a Consulate in Hong Kong. Other countries in the world have managed similar diplomatic relations.

Six. Finally, it should not be overlooked that the United States does have relations with the People's Republic. Both countries have already established procedures by which we interact to improve mutual understanding and solve problems. These procedures, that already exist, can be relied upon to develop not only a durable bilateral relationship between our two countries but also the assurances required for continued security and tranquility in the Asian region.

This being the case, before the Secretary departs on his important mission I would respectfully suggest a "go slow" policy toward normalization.

I would also like to take this opportunity to wish Secretary of State Vance good luck on his mission.

LEGISLATION TO AMEND PORTS AND WATERWAYS SAFETY ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, several oil tanker accidents earlier this year spotlighted just one of the maritime safety problems affecting port and coastal areas in our Nation. Although better vessel standards could help solve that particular problem, numerous other hazards threaten our port areas. To date, there has been no concerted effort to tackle these safety problems, analyze their causes, and work towards preventing them. These are not simply local problems—our ports are national resources.

Today I am introducing legislation to amend the Ports and Waterways Safety Act of 1972 to provide direct grants to local port authorities, up to $3 million per year, for protection against fire, explosions, natural disasters, and other navigation-related safety problems. My bill would apply to the ports themselves, to the vessels, structures, or waters in the ports, or to any land structures or shore areas adjacent to the ports; and it is intended that the funds be used in a cooperative program with State and local funds. In addition, my bill directs the Secretary of Transportation to undertake a comprehensive study of the ways ports can be protected from damage by accidents and natural disasters and to make recommendations to the Congress for future action.

This type of legislation has not been successful in the past simply because there has been no strong force to spearhead it through Congress. Almost half the Members of the House have ports within their congressional districts, and 120 of us have organized the port caucus, with the purpose of pushing for much-needed legislation such as I am introducing, legislation to make our ports and waterways safer and more efficient for transportation throughout the country.

I will appreciate your support of my bill and your consideration of the problems and needs of our port areas.

CONGRESS MUST STOP THE IRS PLAN TO RAISE TAXES ON WORKING AMERICANS BY TAXING FRINGE BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, there is a very disturbing trend in the Carter administration with regard to the attempts to oppose tax reduction initiatives in the Congress while proposing plans to balance the budget by an increase of taxes on all Americans. In April, for example, President Carter said that he would veto our Republican plan to cut tax rates across the board. Since then he has proposed higher taxes on gasoline and energy production which will affect every working American, higher social security taxes, and, most recently, his Commissioner of Internal Revenue, Jerome Kurtz, has made public an administration plan to tax fringe benefits and many other heretofore tax-exempt benefits, such as unemployment compensation and certain social security benefits for the elderly.

I believe that this is a very ominous trend which portends not only higher taxes for everyone but a threat to jobs and free enterprise. Although it may help President Carter keep his campaign promise to balance the budget, it will be done at the expense of economic growth, full employment, and prosperity without inflation. This is because our economy is already overtaxed, with government taking 42 percent of national income, any increase in this high level of taxation will be disastrous. If President Carter truly wishes to balance the budget he should do so by lowering tax rates thus encouraging employment, business expansion, and economic growth, which in turn will increase Government revenues as it reduces Government expenditures for welfare and unemployment compensation.

In an interview with U.S. News & World Report last month, Commissioner Kurtz outlined the IRS plan to tax fringe benefits. As he told an interviewer:

> I start from the basic definition in the Internal Revenue Code, which states that income from whatever source is taxable. It's very hard for me, as the administrator of the statute, to exempt items that are clearly income.
>
> "I take a very broad approach," Kurtz continued. "Economic benefits that are received as a result of employment are taxable income."

He mentioned specifically that the IRS proposed taxing the value of free parking spaces, subsidized lunches in company cafeterias, store discounts for retail employees, and free trips for airline employees, among other things.

Although Kurtz said the IRS is only studying these changes in tax regulations, there is evidence that the IRS is in fact already beginning to implement taxation of previously tax-exempt fringe

benefits. For example, the Missouri District Office of the IRS has already taken the position that the use of company-owned cars by new and used car salesmen working for dealers in Missouri, is a taxable fringe benefit.

In the Missouri case, as in all other cases in which the IRS makes a ruling that a benefit is taxable, the law compels it to take the position that such benefits have always been taxable. This means that taxes are assessed retroactively back to any period not excluded by the statute of limitations. In Missouri this meant that car dealers were assessed by the IRS for withholding taxes retroactive for six years. Interestingly, the IRS calculated the tax by computing the daily rental cost for a car as the standard of measurement in determining tax liability.

Mr. Speaker, I believe that this is a very dangerous and unfair position for the IRS to take. In effect, Kurtz and the IRS are taking the attitude that the Government has the right to tax everything we have subject only to the limitations placed in the tax code by Congress. However, the number of items specifically excluded from gross income by the tax code is very small. This includes: interest on certain government obligations—such as municipal bonds—compensation for injury or sickness, certain death benefits, rental value of parsonages, etcetera.

The vast majority of things which could broadly be construed as income are not mentioned in the tax code. It is up to the IRS itself to determine what is taxable and what is not. By way of illustration, tax exemption for churches is not statutory but the result of an IRS ruling, which the IRS could reverse at any time without action by Congress.

The Congress itself may be largely responsible for this situation. Although Congress alone has the power to levy taxes it has delegated much of this responsibility to the IRS and the Executive without considering the implications. Nevertheless, common law has always recognized the importance of long-standing practices and precedent. If such things as parking spaces have in the past always been considered tax free and if people have built their lives around this fact, I believe they have the right to expect that such things will remain tax free. In short, while I do not question the IRS's legal right to change its tax rulings, I question the desirability of doing so.

The effect of taxing fringe benefits would, of course, be an increase in taxes or virtually all Americans and a complete disruption of all labor contracts, which will have vast repercussions on the U.S. economy.

Consider the case of a person who receives free parking at work, as many working men and women do. The IRS will assess the value of this benefit according to its market value in that particular area. In an area like Buffalo or New York City this could add more than $400 per year to an individual's tax bill. This is how it works:

The IRS assesses the value of an employee's free parking at $100 per month, or $1,200 per year. If this individual is making the median income—approximately $14,000 to $15,000 per year—the added income will push this person up into the 39 percent tax bracket. The additional Federal tax in this example will amount to more than $450 per year on income the employee never actually received. If local income taxes are assessed on this "income" as well—as they certainly will be—this will add to the tax liability. In New York State this would amount to another $120 or so on top of the $450 Federal tax resulting from the taxation of a previously tax exempt parking space.

One can only guess how this will impact on the American economy, but we can make an estimate. According to the Bureau of Economic Analysis, employee fringe benefits amounted to $75.9 billion in 1976. This is only a partial estimate, however, because it primarily consists of just employer contributions to health, insurance, and pension programs for their employees. Nevertheless, using this as an estimate, it works out to $1,000 per year in fringe benefits per individual income tax return. Taking 24 percent as the average marginal tax rate this works out to an average increase in tax burden of $240 per year if the IRS taxes all fringe benefits.

Not only is this unfair, it is likely to have a severe economic effort on the economy as a whole. The increase in tax burden will reduce individual incentive and purchasing power. It will also raise the cost of hiring new employees, since existing fringe benefits will not be worth as much as previously. And lastly it will severely strain relations between management and labor. The result will be increased unemployment.

If we are to accept the philosophy of Commissioner Kurtz and the Carter administration on taxation and extend it to the logical conclusion, there is no limit to what will eventually be taxed. Already there is talk about taxing unemployment compensation and certain social security payments. The value of company-run day care centers may be taxed. Even churches are only free from taxation by an IRS ruling, not by statute. The following is a list of likely fringe benefits we all take for granted which will probably be taxed if Commissioner Kurtz has his way:

LIST OF FRINGE BENEFITS

1. Free cleaning service to uniformed employees;
2. Company-owned food facilities, cafeterias, etc.;
3. Free checking accounts for bank employees;
4. Company equipment for personal use;
5. Discount air fares for flight attendants, travel agents, airline executives, and other airline personnel;
6. Regular and WATTS line telephone use;
7. Use of company-owned recreational facilities;
8. Medical and life insurance;
9. Demonstrator vehicles for car salesmen;
10. Infirmary facilities and free consultation with doctors and nurses;
11. PX and commissary privileges;
12. Company store privileges;
13. Low interest loans for bank employees;
14. Company paid vacations;
15. Group discount pension plans;
16. Home grown foods by farmers;
17. Stock options;
18. Tuition for children of company employees;
19. Ad infinitum.

In summary, the IRS plan to tax fringe benefits will affect virtually every working American and will raise the real tax burden for each one by at least $240 per year if carried out. This represents part of a trend by the Carter administration to raise taxes in order to balance the budget. It may have the opposite effect, however, by further reducing economic growth in this Nation, which is already at historic lows in such critical areas as plant expansion and modernization. Although the IRS may have the legal right to carry out its plans, there is absolutely no justification for it.

I believe that it is important for the Congress to express its disapproval of the plan to tax fringe benefits before it goes into effect. Otherwise it will require complex legislation to undo the oversights of previous years. If Congress expresses its disapproval now, however, the IRS may drop its plans for good. This is why I have introduced the House resolution together with Mr. CONABLE, Mr. STOCKMAN, Mr. BROYHILL, Mr. BROWN of Ohio, Mr. JACOBS, Ms. KEYS, Mr. WAGGONNER, Mr. DEVINE, and Mr. ROUSSELOT. In addition, Mr. HATCH and Mr. CURTIS have introduced the same resolution in the Senate.

I hope that my colleagues will recognize the importance of this issue and join me in speedy approval of this resolution disapproving of the IRS plan.

At this point I would like to append to my remarks the interview with Commissioner Kurtz which appeared in the July 18, 1977, issue of U.S. News & World Report, referred to earlier:

NEXT: YOU'LL PAY TAXES ON YOUR FRINGE BENEFITS

(Interview With Jerome Kurtz, New Commissioner of Internal Revenue)

Millions of people get perquisites and other benefits from employers that they wouldn't dream of reporting as income—and haven't had to. The chief tax collector tells why that will change if he has his way.

Q. Commissioner Kurtz, how will people be affected by the change of leadership in the Internal Revenue Service?

A. For one thing, we will audit more returns covering tax shelters and partnerships. It's important that people with high incomes are seen to pay their fair share of the tax burden.

Continuing IRS's persistent efforts, we're also spending a considerable amount of time trying to improve the tax forms so that they will be easier to understand and fill out. For the first time, we are releasing drafts of proposed forms to the public to get reactions before they go into use. We're going to test these forms on citizen groups. For example, we will prepare hypothetical examples of elderly taxpayers and give them, with the proposed form and instructions, to a test group to see what problems they run into.

And we're designating someone in each district to be problem-resolution officer to whom the taxpayer can go for systematic problems: when he or she has paid the tax and still gets billed for it, or when there is a foul-up in the computer, or some other problem of that sort. This will be an officer

who knows the system, who can cut through these problems and get them resolved. The plan was tried in several districts by my predecessor on an experimental basis, and we're instituting it in all.

Q. Will employe fringe benefits—such as free parking or free airline passes—be taxed as income?

A. That is one area we are looking into with considerable intensity. I start from the basic definition in the Internal Revenue Code, which states that income from whatever source is taxable. It's very hard for me, as the administrator of the statute, to exempt items that are clearly income.

For example, take an executive's use of a company airplane or free airline rides granted to airline employes. I don't think there is any question that those fringes represent taxable income, and that a court would so hold if a case were filed.

Q. Why are these tax-free fringes being questioned now when some of them have gone untaxed for so many years?

A. Partly because times change, and a rule made for one time may not be appropriate for another.

The failure to tax airline travel stemmed from the treatment of railroad passes years ago. But a railroad pass in 1924 is quite different from free worldwide travel on airlines today for an employe and his entire family, which may be worth $10,000 a year.

Besides, we really don't have the option simply to stand still for practices that have been followed in the past. Our revenue agents in the field are bright and inventive, and they read the cases that have come up in the courts, which have held that benefits of this sore are taxable income.

If an agent knows about free cafeteria lunches that an employer provides for his employees, he assesses additional tax liability to the employees on that basis. The taxpayers dispute that, and the agent then asks for technical advice from Washington. We are obliged to answer his question. He wants to know whether the free lunches are taxable or not. We don't have the luxury of putting off the decision.

Q. Have revenue agents just started asking such questions in the past few years?

A. No, but these items are being questioned more frequently today.

Q. Has IRS headquarters encouraged this sort of thing?

A. Not directly.

Q. Last year the IRS proposed that free tuition for the children of college professors, granted by various colleges and universities on a reciprocal basis, should be classed as income. Do you consider that income?

A. The problem there is somewhat different. There's a regulation in force which says that free tuition is not income. As a result, no agent will question a taxpayer's failure to report this benefit. Before the treatment can be changed, a different regulation has to be issued, and there have to be public hearings on it. But that's the only example I know of where a fringe benefit is clearly exempt under regulations.

Now, there are rulings outstanding on some other fringes. For instance, the agents will not question airline passes, because there is a ruling in effect on railroad passes that could reasonably be read to cover airlines, too.

On the other hand, there are hundreds of other benefits for which there are no rulings or regulations that say they are not taxable.

Q. What's your philosophy on this whole subject?

A. I take a very broad approach. I believe they're basically taxable. Economic benefits that are received as a result of employment are taxable income.

Q. How do you propose to go about collecting tax on them?

A. We're trying right now to figure out how to go about it, when to do it, and how extensive the new policy should be.

There is a countervailing consideration, and that is whether the amounts involved are worth the effort and whether trying to collect them is administratively feasible. In some cases, the benefit may be small and difficult to evaluate, and that may be reason enough to forgo the tax on it. We have a ruling that says that if an employe gets a ham or turkey from his employer at Christmas, that's tax-free. Exemptions of that sort don't offend my sensibilities very much.

Q. How do you feel about free parking provided by an employer?

A. That's a case that affects a very large number of employes, and I would be hard-pressed to find a reason for saying it is not taxable income.

Valuing the benefit is a problem, however. A person may work in an office park in the suburbs where there is a big outdoor parking lot, and parking may not be at a premium there. But someone who drives into Manhattan, where parking a car on a daily basis costs $100 or more a month, and who gets free parking in a building is realizing income of $100 a month. People take that into account when they accept a job, or when they consider whether to switch to another job that pays a higher salary but does not provide parking.

Q. What about health insurance that is paid for by employers?

A. The code specifically exempts that from tax.

And that raises another possibility: If we enforce the law in many of these areas, Congress may choose to exempt some of them.

Q. Will you recommend that?

A. No.

Q. Many of these fringe benefits have gone untaxed for years. Why not just assume that if Congress wanted them to be taxed, it would have told you to start collecting?

A. The fact that the IRS has taken a certain position in the past doesn't necessarily mean that it's right. The IRS has made mistakes, and will make some in the future. I would hate to think that any mistake I make would bind the Internal Revenue Service for all eternity unless Congress saw fit to do something about it.

Q. What about exempting all fringe benefits up to a certain dollar value?

A. That might be a good over-all approach if I had legislative authority to take it, but I don't. These benefits are either income or they're not income, and we are dealing with them individually

Q. How could the Internal Revenue Service determine how much free parking is worth in every city all over the United States?

A. That determination would be made by the revenue agents in the area.

There won't be anything in the regulation that says that free parking is worth $50 a month.

Q. Do you mean the value will depend on what the charges are for similar parking in every section of a city, which may differ from block to block?

A. Probably, unless we decide that assessing taxes on this basis is so difficult that it cannot be administered. That is one criterion we have to apply in deciding on each of these fringe benefits.

Q. Would that same criterion apply also to the discounts a department store grants to its employes?

A. Yes. We might decide that if the item purchased is worth less than $20, because of the administrative problems, we won't bother to include the discount in the clerk's taxable income.

Q. In addition to auditing tax shelters more closely, are you planning to increase the number of other returns that receive this kind of detailed scrutiny?

A. I would like to. We're concerned about the over-all level of audits. We're only auditing 2½ per cent of all returns now. A dozen years ago, we were auditing 5 per cent.

Q. Will you need additional money if you're planning to increase the number of audits?

A. Yes. I intend to ask for more.

Q. You said recently that taxpayers should be required to indicate on their returns any deductions they're not sure they're entitled to take. Just what are you aiming at?

A. There are some areas where we should be getting more information. For example, a tax-shelter partnership is formed, and interests in it are sold to the public. In connection with the sale, materials are prepared describing in some detail the tax benefits that are sought, the risk that the Internal Revenue Service will challenge those benefits on audit, and the fact that the plan runs counter to the position taken by IRS on other cases.

The information is filed with the State securities commissions, and we can get it, but we have to tie up a lot of agents' time going to 50 State capitals. It seems to me that no one could seriously object to a requirement that a partnership that sells interests to the public include as part of its first tax return a copy of any offering materials describing the tax benefits. We have similar requirements now in many corporate areas.

Q. The change wouldn't affect most taxpayers—

A. It would apply to taxpayers with more sophisticated financial transactions.

Q. How much emphasis should be given to simplifying the tax law in the reform legislation the President plans to send to Congress later this year?

A. I'd like to see a lot of simplification. The new tax law this year makes a good start in that direction by raising the standard deduction, making it a flat amount, and providing for greater use of the tables.

If we can offer more people the standard deduction, make it possible for more people to file the short form, eliminate minor credits or combine some of them, this will result in major simplification.

Q. What do you think of the idea of eliminating all deductions as a means of simplifying the law?

A. As an administrator, I'd like to see fewer deductions. That would make the tax returns simpler and make everybody's life easier. Depending on which deductions were eliminated, it would not substantially change equity and, in fact, would improve it in many cases.

A lot of people talk a great deal about simplification, but when it comes down to eliminating a deduction which is a favorite of theirs, they look more kindly on complexity.

Still, we mustn't give up hope. If revenues gained from eliminating some deductions were used to provide for corresponding rate reductions, that would be a big improvement.

Q. Do you think that capital gains should be treated as ordinary income?

A. Yes.

Q. Should Social Security and unemployment benefits be included in taxable income?

A. That depends on how it's done. When I was in the Treasury in 1966, we proposed to tax Social Security benefits, eliminate the retirement-income credit, and do away with the extra exemption for the elderly. In substitution, we proposed a flat dollar exclusion for anyone over 65. This would have been a vast simplification, and 95 per cent of all people over 65 would have paid less tax if the change had been enacted.

But once we got the words "tax Social Security" out of our mouths, that was the end of it. It's my impression that public opinion hasn't changed.

Q. Didn't you also propose that charitable contributions be deductible only to the ex-

tent that they exceed 3 per cent of the taxpayer's income?

A. Yes. These small contributions tend to be in cash and are very difficult to audit.

It's hard to see that deducting contributions in a range of 2 or 3 or 4 per cent of adjusted gross income is really an incentive for anyone to be generous. So it's probably not a deduction that does the charitable institutions any good, and it creates administrative problems.

Q. Do people cheat more on their tax returns nowadays?

A. There has been some decline in compliance as we measure it. The decline is quite small, and we're not sure whether it's statistically significant. We attribute it to the fact that we are auditing fewer returns.

Q. People complain that IRS agents rule different ways on similar tax questions in different cities. Can you do anything to provide more uniformity?

A. I think the lack of uniformity is greatly exaggerated. We're dealing with 100 million taxpayers, 28 million telephone calls a year, millions of office visits. Obviously there are going to be some inconsistencies. The amazing thing is that there are so few.

We already have a quality-control monitoring system, where a supervisor listens in on telephone calls from taxpayers to our offices on a random basis to check on the accuracy of the information our people are giving out over the telephone. The accuracy rate this year is over 95 per cent, and that's not bad.

Q. Do your figures indicate that the accuracy rate is a lot less than that on the tax returns your people help to prepare?

A. Yes, but remember that those figures do not differentiate as to the size of the error—whether it is a gross error or a subtle error. So the figures are a bit misleading. A dollar error on a complicated return goes into the tally as a wrong return. I don't worry too much about that type of mistake. Perfection is unattainable.

We provide our employees with a lot of training. We think the quality of our staff is good, and we try to make it better. When we hear of discrepancies between regions, we try to reconcile them.

There are also questions on which the courts in different regions have ruled differently. We can't do anything about that unless we can get the Solicitor General to appeal the adverse ruling to the Supreme Court, and then get the Court to take the case and hand down an opinion.

You have to remember, too, that the IRS is a highly decentralized system, and a great deal of discretion is left to the regional commissioners and district directors. They may come out initially with differing interpretations of the law, and if that comes to our attention, we attempt to reconcile them. Situations also come up on which there is no national-headquarters guideline. The magnitude and variety of the questions cannot be comprehended unless you are actually dealing with them.

Q. Do more and more ordinary people feel they need professional help to fill out their tax returns?

A. Yes. About half of all individual returns are prepared by professional preparers.

Q. Will there be less need of that as a result of the simplification enacted this year?

A. There should be fewer people who need help. Whether fewer will seek help is another matter. Unfortunately, many people who are competent to make out their own returns feel incompetent. That's a question of attitude.

Q. Commissioner Kurtz, shouldn't the tax law be simple enough so that the typical person can understand the return and pay tax without being forced to pay a fee for professional help?

A. Sure. That's a terrific goal, but it requires legislation.

THE POSTAL DILEMMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 15 minutes.

Mr. WHALEN. Mr. Speaker, the U.S. Postal Service has come to a crossroad in its existence. Examples of postal problems abound in the numerous letters I receive from my constituents as well as in the proliferation of newspaper articles on the subject. The time has come for the Federal Government, especially the Congress, to reexamine what the U.S. Postal Service has been and what it should be in the decade of the 1980's.

The uniqueness of the postal system is evident in its relationship with the development of the United States. Born in the pre-Revolutionary period, the post office served a major role in disseminating the words of our Founding Fathers and informing the colonists on the progress of the War. Throughout America's expansionist period, the mails often remained the sole contact between the established East and the western wilderness. In 1860 the Post Office Department hired the Pony Express Co. to deliver mail between St. Joseph, Mo., and San Francisco. Barring Indian attack, delivery was guaranteed within 11 days at a price of $5 per half ounce for letters and newspapers. Throughout its existence the Postal System has taken great pride in delivering a host of educational materials, periodicals, newspapers, and personal messages to every corner of the country.

Like the nature of the American people, the postal system has changed and taken on other traits. For instance, in many rural areas of this country, the local post office has maintained a central role in the community. It often serves as a town meeting place and social center. Often the local post office is one of the few structures not boarded up or closed because of lack of business. For city dwellers, the Postal Service is one of the most visible entities of the Federal Government. Thus, the postal system plays an important psychological role in modern society.

In many areas the postal system has fallen victim to modernization in our society. For instance, because of a perceived instantaneous need to know, greater use is being made of the telephone, radio, and television. Likewise, with the quickened pace of life today, a less reading and writing public finds little time for the mails. Even with an increase in population over the past few years, the volume of mail has increased only minimally. In 1960 the postal system handled 63.7 billion pieces; in 1970 it was 84.9 billion; in 1973 it was 89.7 billion; in 1974 it was 90.1 billion; in 1975 it declined to 89.3; and in 1976 it remained almost the same with 89.8 billion pieces handled. Volume is expected to rise to 92.7 in 1977 and then drop to 89 billion by 1985.

POSTAL REORGANIZATION

Over the years a number of remedies have been offered to the rising costs and continued inefficiences of our mail system. The Postal Reorganization Act of 1970 was an attempt to deal with the problem. But now, after a 7-year trial, it appears to have been only a temporary solution. Some hard questions must be asked and an attempt made to answer them within the next year if the U.S. Postal Service is to remain a viable and effective organization.

The purpose of the Reorganization Act was to streamline postal operations by bringing the Post Office Department out of the bureaucratic confines of Government. The goals were to guarantee proper management, to eliminate political appointments at the top levels of the Department as well as at the local postmaster level, and to remove the postal operation from congressional pressures with respect to rates and labor-management relations. An additional goal of ultimate self-sufficiency was established calling for the elimination of all congressional subsidies by 1984.

Hopes remained high that these reforms, so effective in private enterprise, would result in improved performance. It soon became apparent, though, that the envisioned outcome would not materialize within an organization basically geared toward public service. Thus, since 1970 a number of amendments have been offered, some of which Congress has passed, to remedy undesirable effects to that year's law.

One frequently espoused solution is to return the Postal Service to the direction of the Government, with appropriations granted totally by Congress and the ranking officials once again appointed by the President. The justification for such an approach has been that the Postal Service is just that, a service, and should not be expected to pay its own way.

ISSUES BEFORE THE CONGRESS

Presently there are three approaches being considered by the Congress.

H.R. 7700

One bill, H.R. 7700, has been introduced by the chairmen of the House Subcommittees on Postal Operations and Services, and Postal Personnel and Modernization—Representatives JAMES M. HANLEY and CHARLES H. WILSON. While continuing to insulate the Postal Service from Government bureaucracy, this legislation would attempt to insure that the public service aspects of the mails would not be ignored or discounted. Specifically, H.R. 7700 would establish clearly defined procedures whereby Congress once again could make public policy decisions concerning rate hikes, service cutbacks, Congressional subsidies, and long-range capital investment planning. Moreover, the bill would increase the autonomy of the U.S. Postal Rate Commission, abolish the part-time Postal Service Board of Governors, and once again make the Postmaster General a Presidential appointee confirmed by the Senate.

POSTAL STUDY COMMISSION

Also before Congress is the report of the special Postal Study Commission, set up last year to investigate almost every facet of the U.S. Postal System. The seven-member Commission was composed of Postal experts, union representatives, business leaders, and ordinary consumers. It held extensive hearings and conducted numerous studies of delivery methods, financing, public services, rates and classification, and general organization and operation. The following are the Commission's most important recommendations.

First, the Commission declared that the USPS must modernize the means of mail communication, including eventual transfer of mail by electronic methods.

Second, the Commission stressed the need to streamline management and operating procedures, including efforts to permit the Postal Service to contract directly for air transportation of mail, reestablishing a permanent Postal Service Advisory Committee, establishing a new approach for measuring productivity, and making greater use of the zip code system. The Commission also suggested that private companies be allowed to carry mail in cases where the Postal Service cannot provide the needed expeditious service.

Third, the report calls for a more rational rate-setting procedure including increased congressional appropriations for public service aspects of the system. Too, the Commission recommended gradual across-the-board rate increases for all classes of mail. It also recommended that the independent Postal Rate Commission exercise final authority over rate changes without approval from the existing Postal Service Board of Governors.

Fourth, the most controversial proposal involved suggested cutbacks in the public service areas of mail delivery. Although calling for additional street collection boxes, more convenient locations, longer operation hours of local offices, and establishment of guidelines restricting the arbitrary closing of rural, less productive offices, the Commission recommended reducing home delivery to 5 days a week—one member on the Commission dissented on this point.

ADMINISTRATION PLANS

The third congressional focal point is the administration's postal reform plan which is expected to be made public in early September. Already one point of the program has been released which calls for a special reduced "citizen rate" for individual postal patrons.

Both the House and Senate committees are reviewing, or are scheduled to review, all three reform proposals. This action is essential since the Congress must play a major role in deciding the future of our mail system.

All three approaches make it clear that adoption of streamlining, modernizing and economizing efforts is imperative if the Postal Service is to be prevented from drowning in its own inefficiencies. In attaining these objectives, however, Congress still must resolve three fundamental questions.

First, how are additional revenues to be raised for continued public services? If 6-day delivery is to be maintained, what income sources should be utilized to perpetuate it—higher postal rates, cutbacks in other areas of service, or continued congressional subsidies supported by higher taxes?

It seems to me that reasonable increases in postal rates are justified. Of the major countries of the world, the United States has one of the lowest first-class mail rates and one of the best postal systems. Only Canada maintains a lower rate of 11.6 American cents per ounce. Great Britain's rate equals 14 cents, Switzerland's is 16.4 cents, Japan's 17 cents, and Sweden has one of the highest, equaling 23.9 American cents. While the price of an ordinary newspaper is normally 15 cents, it costs less than that to to mail a letter across country.

Second, to what extent should the U.S. Postal Service move into electronic communication of mail? Should electronic transmission be left to private companies entirely, or should the Postal Service compete with these firms? Or should private organizations be allowed to serve profitable areas of the country, leaving service to less profitable areas to the Postal Service. A further option would be to allow the USPS to monopolize the electronic mail field altogether.

I believe it is in the interest of the Postal Service to explore expeditiously the possibilities afforded by electronic communications (which, of course, must be done in a manner that assures protection of privacy).

Third, if a decision is made to continue the Postal Service in its present form, how should the deficit, which is expected to reach over $990 million this year, be financed? In my view it has always been more equitable for users of the mail to suppport a major portion of the system's cost. However, I do support congressional appropriations of up to $1 billion to insure that income-losing public services are not eliminated.

So, the goals of the 1970 Postal Reorganization Act are still desirable. The additional objective of making it self-sufficient is unattainable. I favor abandoning the concept of a self-financing institution and support a Postal Service which is once again considered a proper function of Government. However, efforts would have to be made to insure that the administration of the USPS is conducted in a business-like and effective manner. Finally, plans which are adopted must neither shortchange that portion of the population which may be more dependent on mail service, nor create undue economic burdens on other sectors.

VERMONT'S BICENTENNIAL COMMEMORATION OF THE BATTLE OF BENNINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

Mr. JEFFORDS. Mr. Speaker, in this, Vermont's Bicentennial year of union with the United States of America, I would like to take this opportunity to commend the brave and honorable men who risked their lives at the Battle of Bennington, Vt., to defend and protect the citizens of the newly founded America on August 16, 1777.

A few weeks prior to the battle, British troops captured Fort Ticonderoga. The fort would be recaptured in September of 1777 by the Green Mountain Boys of Vermont.

One victorious fight provoked the British to plan the great cutoff of the New England States from the other colonies. Their plan was to push to the Champlain and Hudson Valley and isolate all territories north of that land. However, upon the conclusion of the confrontations at Ticonderoga and Hubbardton, British troops, under the leadership of Gen. John Burgoyne, were in desperate need of ammunition and fresh horses. According to their reports, substantial amounts of these valuable commodities awaited them should they be able to capture the small town of Bennington. Wanting to replenish their stores, Burgoyne took great haste in heading toward the tiny Vermont community.

Alarmed at the rapid pace of Burgoyne's progress and fearing further losses, Vermont appealed to its neighbor to the east, New Hampshire, for aid to curb the rising tide of the British invasion.

The historic confrontation between the bordering States and the British troops took place on August 16. Typical of New England climate, downpours hampered a British advance for more than a day. In the meantime, anticipating excessive British movement, retired Col. John Stark and his New Hampshire yeomen departed from their stand at Bennington and met Seth Warner and his Boys near Walloomsac Heights to head off the British.

When the British troops came in contact with the surrounding Yankees, Generals Baume and Breymann, German mercenaries with no comprehension of the English language, mistook the good American citizens dressed in homespun attire rather than uniforms, for loyalists ready to join them in their quest.

However, when the first shots of the battle were fired at precisely 3 o'clock, confusion and bedlam ascended upon the British troops leaving great numbers of dead, dying, and wounded. It was in this first engagement when Colonel Baume, himself, was mortally wounded.

Later, as the procession toward Bennington commenced with the Yankee soldiers leading their captives, Colonel Breymann arrived with a second unit of Burgoyne's army. Their unanticipated arrival suprised Stark and his regiment but the exhausted and starved Americans heroically bombarded the British artillery with their own small weapons.

Amidst the raging battle from over the hills in Manchester, Vt., marched the remnants of Colonel Warner's Green Mountain Boys. Joining their remaining

allies, the American troops together pursued Breymann's final units into the woods. Fearing the capture or death of his men by some of the enemy's survivors, Stark recalled his troops.

With a united effort, Col. Seth Warner and the renowned Green Mountain Boys of Vermont and the New Hampshire militia, under Colonel Stark, succeeded in forcing the surrender of some 8,000 British, Hessian and Brunswick troops. Bennington's precious supplies were spared, but more important is the fact that this historic battle halted the planned attack on Saratoga, N.Y., a strategic Yankee stronghold.

In Bennington today stands a 306-foot stone monolith which was erected in 1891 to remind us that men such as these gave willingly and loyally to the causes of the American Revolution with their true Yankee ingenuity and rugged New England spirit.

May we, as Americans, always be proud to represent and defend the great and free country that they toiled to establish.

AFFIRMATIVE ACTION'S NEGATIVE SIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, I commend to the attention of my colleagues an outstanding editorial on quotas from the August 1, 1977, edition of the Washington Star. As the sponsor of an anti-quota amendment that successfully passed the House, I find these comments accurate and incisive.

When the editorial discusses the "devaluing of human individuality" it addresses the heart of the argument advanced by those of us who strongly oppose Government enforced quota systems.

The article follows:

AFFIRMATIVE ACTION'S NEGATIVE SIDE

More encouragement for the quota approach to hiring—despite President Carter's press conference assertion that he hates "to endorse the proposition of quotas for minority groups." Earlier last week, the President's decision to have the White House keep score on all 3,000 of the federal jobs open to political appointment was yet another step toward bloc representation in government and away from meritocracy.

The White House personnel office already runs regular checks on ratios of blacks and women among the 883 "presidential" appointments—those requiring Senate confirmation. Now federal department heads will have to report on the sex and race of their noncareer appointees too.

Collecting statistics doesn't enforce quotas, but it promotes quota thinking, for both those with jobs to fill and those with jobs to demand. James B. King, the White House personnel director whose idea it was to broaden the President's affirmative action surveillance, says his goal is to make the top echelon of the executive branch reflect "the racial, sexual and economic makeup of the nation."

Now, any time there's a political appointment to be made, the attributes considered are going to include the categories a candidate represents. Geography, economic interest groups, religion—remember when each president's cabinet had to have its token Catholic and its token Jew?

When such calculations are informal and unspoken, there's maneuvering space for the person doing the appointing. The ideal person for any job represents an extremely subtle balancing of qualities. When a few representational criteria are overstressed—we're two women short in that department and one of them's got to be black—the soundness of the balance between symbolic values and working skills is threatened.

Furthermore, it tends to limit the categories to be recognized. What about the young? The old? The handicapped? The left-handed? Even the smartest computer can have problems arriving at the human package when group entitlements, seen in fixed percentages, loom too large among job qualifications.

Besides, every floor implies a ceiling. Shall there be no more than 15 per cent of blacks permitted in federal jobs unless the population ratio changes?

But, of course, the worst aspect of such affirmative action is not that. It's not even reverse discrimination. It's the devaluing of human individuality and of a primarily functional concept of jobs. More and more forces in modern society promote the attitude that jobs exist to give people income, personal dignity, group recognition, leverage against economic and political enemies. How often does anybody remember that work is also a way of making and doing what is necessary to our comfort and, yes, survival?

FEDERAL DROUGHT RELIEF EFFORT, FARMERS HOME ADMINISTRATION UNFAIR TO SMALLER COMMUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, after all the ballyhoo, bombast and promises emitted from the White House last spring concerning millions of dollars to be spent on drought assistance in this country, many smaller communities stricken by the water shortage are finding those pronouncements to have been only so much hot air.

Because of the severe impact of this year's drought, the worst since the dust bowl days of the 1930's. Congress appropriated $844,000,000 to aid stricken communities, businesses, and individuals. That put the ball in the agencies' court to see to it that the money would go to those needing help.

The Washington contingent in at least one Federal agency, the Farmers Home Administration, is doing a poor job at carrying out its responsibility, which is to distribute $225,000,000 to water-starved communities with populations under 10,000. The tangled web of bureaucratic red tape spun by FmHA is beyond belief, and precious little help for those communities has been forthcoming. In Illinois, for example, 52 counties have been declared drought emergency areas. Yet FmHA has approved not a single grant and only one small $65,000 loan in the entire State.

Last month, Congressman BOB MICHEL and I met in Illinois with municipal officials and community leaders from drought-stricken areas in our respective districts. We could not believe the obvious disparities and discriminatory differences between how FmHA and the Economic Development Administration, which administers drought relief for communities with more than 10,000 population, are handling their respective programs.

Allow me to be more specific as to the actions of FmHA.

FmHA's procedural requirements for the drought relief program are the same as those used for the agency's basic loan program. As a result, they are entirely too extensive and too time-consuming for use in what is supposed to be an emergency program. By FmHA's own information sheet, compliance with these requirements can take up to 2 years. Yet communities under 10,000 population are expected to have their projects completed by FmHA's April 30, 1978, deadline. That's absolutely incredible.

FmHA mandates that communities be unable to obtain commercial credit before they can qualify for a low-interest drought relief loan. That imposes an excessive hardship on communities already struck a severe economic blow by the drought. The current going rate on commercial loans in Illinois is 10 percent. The Congress appropriated funds for low-interest loans to help communities recover from drought, not to force them to take higher interest rates, pushing them deeper into debt.

FmHA's application of the so-called 1-percent rule to determine grant eligibility ignores much of the indebtedness many communities are carrying. Essentially, the 1-percent rule establishes a dollar figure based on family income in a given community or county in which the community is located. FmHA then takes that figure and says the community must carry at least that much indebtedness for water supply alone before it can qualify for grant assistance. In so doing, the agency is completely disregarding the fact that a community may be up to its neck in red ink with other municipal debts.

These are the obstacles thrown up to communities under 10,000 population that need Federal drought assistance. By contrast, communities over 10,000, those served by EDA, do not encounter these problems. EDA's procedural requirements do not take years to complete, but are responsive to the time constraints involved in an emergency program. EDA does not require inability to obtain commercial credit before a loan is granted. EDA does not apply the 1-percent rule against a community's water supply indebtedness, but against its entire municipal debt.

Mr. Speaker, the inequity of this situation is inexcusable and certainly was not the intent of the Congress when we provided funds for drought relief.

Earlier this week, Congressman MICHEL, representatives of several other Illinois congressional offices, and I met with FmHA, EDA, and officials of other drought relief agencies to discuss these problems. Although the FmHA representatives acknowledged the problems, they were unable to provide workable solutions.

I find it hard to believe that administrative steps cannot be taken to relieve the burden created by FmHA regulations. EDA has managed. FmHA should also be

able to manage. It is presumptuous for that agency to apply nonemergency regulations to an emergency situation and expect smaller communities to get the relief they need.

Since our meeting, Congressman MICHEL and I have written letters to President Carter, OMB Director Lance, and agency heads to emphasize the inequity of the current situation and to strongly urge immediate administrative action to resolve the problems I have enumerated.

Today, I am introducing a resolution that would direct the Committee on Agriculture and the Committee on Public Works to hold immediate joint hearings into the policies, practices, and priorities of FmHA and EDA as they relate to the emergency drought assistance program. I urge immediate and favorable consideration of my resolution. The drought problem is far too serious for delay.

Mr. Speaker, I cannot blame our smaller communities when they view the grandiose promises surrounding announcement of a Federal drought relief effort with cynicism. They see larger communities getting help but find themselves out in the cold—and without water.

AN OBLIGATION IGNORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, 2½ years ago the American forces were driven out of Vietnam leaving behind the oppression and murder I have described in remarks made in this body yesterday.

But something else was left behind.

We left behind prisoners of war and missing in action. We knew not how many of these fine young men were alive or how many were dead—we still do not. But the public outcry for them was such that even the victorious Vietcong cooperated and reunited many men with their families and returned some remains to their homeland.

It is disheartening to note that this public furor has died down over the last 2½ years. It died down gradually. It was gradually pushed out of the national consciousness. Gradually ignored.

The refusal to remember those who were left behind was slow to gain a foothold at first. But the foothold seems to have been secured in recent months. During his campaign, President Carter assured the families of the missing in action in Vietnam that their loved ones would not be forgotten. But the trend to forget seems now to have taken hold in the White House as well.

Two months ago, a mother stood alone in a cold rain outside the White House, protesting the betrayal by her President, her son's Commander in Chief of a pledge made only weeks before.

A personal commitment had been given by President Carter to representatives of families of men missing in action in Southeast Asia. Now those very same families are afraid that the President does not, indeed, have the will to return our missing servicemen—dead or alive—to their loved ones.

That mother protested alone not because her disappointment and resentment are not shared, or because others are not equally dedicated, but because her vigil was a solitary act of frustration and sadness. She was making a powerful statement of a fact which has not escaped the notice of those who threaten our way of life. For this reason, if for no other, we must listen to her statement. Our Republic's own relevance is being judged alike by those who would strengthen her moral armor and those who would strip her contemptuously of all principle. Only cowards and fools ignore such a cry.

The cry is as blunt as "the Emperor has no clothes." For the President and his commission sent to represent us in recovering our men lost in Southeast Asia point to their official report as if to a magic cloak covering the moral emptiness of the Communist regime. Who is there who will say it bluntly, and truly: the conquerors of Vietnam, Laos, and Cambodia are quite morally naked.

The missing in action tragedy is more than an academic issue. There are Americans—still missing—in Communist Southeast Asia, and it is their Government alone which can bring them home—dead or alive.

Devoid of trust in their President but supported by returned prisoners and other concerned Americans, the families of those men turn again to their elected representatives for help. They have honored me deeply by asking that I speak for them to my distinguished colleagues here today.

I speak as an American citizen with five children who must live in the future we shape today. I speak as a former comrade of some of these men—even as godfather to one of their children. But most of all, at this moment I speak as a Member of Congress.

We have so much to think about here, so many decisions and requests asked of us. It is easy to forget sometimes why we are here—to keep faith with the past, to preserve and prepare for the future, and to strive to provide for the liberty and common defense of all our citizens against enemies foreign and domestic.

The POW/MIA story is one that the Congress and the people of the United States must hear. Its outcome will have a profound effect on our Nation's future security, and specifically on our Government's credibility with its own citizens and other peoples of the world. We can learn so much from the experiences revealed by those prisoners who returned alive 4 years ago. I urge you to read, as I have, their accounts. I shall list 14 of them at the end of my remarks. To each of these incredibly fine men we can say, in Andre Malraux's words, "You are one of those who did not return from Hell with empty hands."

Their stories are of such brutality, such barbaric acts and procedures, that even those who endured find it difficult to grasp their magnitude, when what was a daily reality to them for many long years is recounted in comfort and freedom. But they are stories, too, of victory in the physical, mental, emotional, and spiritual struggles to prevail against pain and confusion inflicted in ways we find almost impossible to imagine.

Maj. James N. (Nick) Rowe writes of "a battlefield more terrifying than any we've ever faced before—one which might be found here in our country and our people are not prepared for its horrors."

It is a battlefield as much of the mind and soul as of the body. It requires the forces of will and spirit. If we fail our sons and brothers now, we lose more than their lives. We lose the invaluable strength to meet challenges to our own lives, liberty and beliefs—challenges which may differ from those of our imprisoned servicemen, after all, only in degree.

Air Force Col. Robinson Risner was a highly honored Korean war ace. Time magazine featured his picture on its cover shortly before his capture in 1965. He was for much of the war the senior resident officer of North Vietnam's largest prison camp, and when he returned from almost 8 years in captivity he gave us his story in "The Passing of the Night." Robbie Risner outlines for us in his book the four essentials of their survival amid the unspeakable horrors of those years. It is those essentials which I hope my colleagues, and all other Americans, will consider. I ask your attention not only from respect for the ordeal of men who gave so much, but with regard to our own future survival as a free Nation.

First, says Risner, "we were fighting the common enemy—international communism." This is not the rote phrase of a propagandist, but of a man who was tortured and imprisoned for almost 10 years while most of us remained safe at home.

"We knew what we were fighting for and we believed in it," he writes. "As prisoners of war, we did not stop fighting."

Time and again, the prisoners saw their captors sacrifice defenseless individuals at the altar of the State's convenience.

Can we allow them to see this same frightening act committed by their own Government?

During the war in South Vietnam, American volunteers, civilian professionals and military men carried on tremendous mercy projects for the besieged populace. It was a humanitarian story never told adequately by the American media. The song of the American citizens helping others in the struggle for freedom and human dignity might have been "He ain't heavy, he's my brother." But it seems too difficult a tune for our leaders today, as they contemplate the fates of fellow Americans.

Our "common enemy," an ideology which still influences its believers toward aggression and oppression, is now the object of greater accommodation than has yet been shown to our captured or killed servicemen and their families.

Risner tells us second in his statement of essentials: "We were fulfilling our duty to our country." In fulfilling that duty, they looked to their President not

only as Commander in Chief, to who they owed allegiance of rank, but as the symbol of all Americans, elected by the majority to express the Nation's feelings and beliefs.

They were not men uniquely suited to the incredible ordeal they faced. They were ordinary American citizens, says Colonel Risner, and "we were only doing what any other American fighting man would have done." That calm sense of duty and purpose has always characterized the American citizen-soldier. We have taken it for granted; but it is a fragile weave of confidence and devotion which can be destroyed by betrayal and cynicism.

The American servicemen returned from captivity with prayers of thanksgiving and blessing for their country, its elected leaders, and the God in which their Nation had always placed its trust. But they returned to a dramatically changed country, and their adjustment to the new standards on which national policy is based has been more difficult than the transition from prison to freedom. They found a nation with critical new weaknesses and needs.

There is a vital need today for vigor-our leadership in defending the personal liberty and right to life which Americans often take for granted. That leadership should come from the President, as elected representative of a quarter of a billion people, and commander of those who are missing in action or hostages of war.

Yet the current administration only applauds the "sincerity" of those who withhold information from desperate and grieving families. It excuses the "honest mistake" of a government which promises 12 families the bodies of their loved ones and then leaves one grave empty, one burial rite unsaid. It pursues its design to "normalize" relations with and consider aid to the totalitarian regime which foster so much death and misery. All this is a devastating blow to the trust and honor of so many men and families who have lived and sometimes died with patriotic devotion.

Most recently they have seen the pardon and in many cases apparent vindication of those who did betray their duty to country. Our men returned to say that patriotism is not a glib phrase but a sustaining inner force. Yet that same living force is now cheapened.

Third, writes General Risner:

> I was sure that American people were behind us. . . . We were not a select group. We represented America and the American people.

There was one paralyzing fear, former prisoners tell us, which was played upon by Asian and Western Pro-Communists propagandists, and it was hardest to overcome. This was the terrifying idea that they had been deserted by the country and the people to whom they remained constant.

That fear has not yet become a reality. I pray, and beg my colleagues to join with me in working to assure, that it never will. For if we must desert our own, if we must buy our immediate peace of mind, comfort and prosperity with the lives and hopes of thousands of servicemen and their loved ones, what is left to us? What noble acts, what statesman-like words, what glorious or even mundane resolutions will be our legacy to the people we represent, to purchase back their defense and honor when we leave these Halls of Congress?

Finally, but most essential, affirms one of the ranking POW heroes, was the belief that God would deliver them—help them to endure, absolve and comfort them in their weakness, and strengthen their resistance. He says:

> Our faith in God was an essential without which I for one could not have made it.

It is a theme emphasized by most, if not all, of those who returned alive. The theme—reported in the words and lives of their families—was that faith sustained them. Personal faith in God, and the time-honored virtues that come from such communion: "comradeship, loyalty, and integrity," specified Rear Adm. Jeremiah Denton. Comradeship. Loyalty. Integrity. Like duty, honor, country, they have a noble ring. But they draw their power from deep within the heart and will and spirit of a people, and once betrayed or sullied, that power diminishes. Slowly or in a flash, it matters not. The virtues are gone, and what moral fiber, what sense of community, is left for a nation to draw on in its next hour of crisis?

Are we so naive, or so self-centered and lazy, as to claim we will never have to face such an hour? Or do we simply hope that it will come when we are gone, and only our children remain to confront it?

Time and again in the history of the world, the leaders of a free people have been warned that if they love safety and ease more than freedom and honor, they will lose them all. We must listen. This moment in history must be that in which a nation chooses wisely, or like all free peoples before us we are destined to decline, our strength and virtue dissipated by the selfish timidity of our leaders. It is a heavy decision, my distinguished colleagues, for we are chosen by our citizens to speak and act in their name and for their long-range good.

What have our leaders said so far? There is an elitist group that claims regularly that our men in uniform are simply gameplayers. Yet, when the game gets rough, it is the elite who gather up their marbles and come home safe and sound, while their countrymen remain as hostages to the less delicate—but far more sensitive—conscience of ordinary Americans.

I wrote to President Carter about our missing in action. I requested that he include among his search mission to Hanoi members of MIA families. There are men and women available from those families who have become of necessity, experts on this question. Some of them are former military officers. They have heard testimony by people who have actually seen American servicemen alive in recent months, seen them paraded along roads in Southeast Asia, or held in cave prisons in the hills of Laos. And there are former prisoners, knowledgeable and prudent men of high rank in our Nation's armed forces, who are obviously qualified for such a mission.

The President wrote back, after the commission had returned with 11 bodies and pronounced the file on hundreds of missing in action men virtually closed, beyond contest. He told me that he felt it was a mistake to include anyone in the delegation who might have an emotional interest. My only reaction was to pray that those Americans who represented the rest of us on the commission also felt some "emotional" duty to those who have sacrificed so much for their country, if only the duty to press for a full accounting of the lives and deaths of those men.

It is not so wild an idea as some say. There are men who died in captivity whose names have never been released by their captors. The same is true of servicemen captured alive. It is not an impossible dream.

We are a great and powerful nation. In an age which has manufactured so many ways to grasp for life and happiness, why cannot our President, with the blessings of his countrymen and support of his legislators, reach across an ocean to bring home the remains at least of those young men to whom so many hearts still cling?

We are reminded constantly of the high stakes we play for in war. But there are high stakes in our so-called "peace" as well. A bomb or gun can kill in an instant. The stroke of a pen kills more slowly, but it is a force that can destroy spirits as well as bodies, can consign a whole people to the living death of Communist oppression. The might of a pen has been acknowledged in many poetic ways, but we have only to look at history to see it in its clearest and most aweful reality. The President, with the approval of Congress, can use that force for good or ill, in this case as always.

Yet the lingering aura of détente extends to the consideration of our missing servicemen. Leaders solicitous of Communist governments are quick to question the motives of their own citizens, even the American families who have suffered so much for their country, and who ask so little in return.

An effort has been made to assuage their grief by conferring legal "death" status on men whose true fate is yet unknown. It is not arbitrary finality these devoted American ask. It is simply to be given any evidence however slight that their fathers, husbands, sons and brothers are already dead, and not enduring the torture and terror of indefinite imprisonment by brutal captors.

An official call for "human rights" glows insipidly against the tattletale gray background of such actions as the administration has taken these past few months.

How credible is such a call when it issues from the same source that formally, forceably denies the existence of its own citizens; when it refuses proper burial to those who have given the last full measure of devotion for their country's defense and their brothers' struggle for liberty; when families who should have tributes to reflect their pride and soothe their grief, have only an empty grave

and a last desperate, poignantly hopeful request of their representatives, with the majority of those representatives turning a deaf ear. And what do we tell our youth? French youth were inspired by the World War II resistance hero Jean Moulin, whose ashes were removed in honor to the Pantheon. If we were to serve our young people well, we would paraphrase the words spoken over those ashes, as we speak of the Americans who refused to betray their country:

Today, young people, may you think of these men as you would have extended your hands on their last day to their poor deformed faces, their poor lips that had not talked; that day, they were the face of America.

But that is not what we say, nor the example we hold up to our youth, nor even the men whom we choose to honor. We expect less, often settling for less than nothing. And when a sensitive and bright generation must recognize itself instinctively as being made into something much smaller than it might be, how dare we expect from them a better judgment for ourselves, or our nation?

Such timidity, such pathetically inconsistent defense of human rights, must ultimately leave a government impotent in the international arena. It is not an arena in which we can afford to be defenseless.

The oft-quoted lines of William B. Yeats express it best:

Things fall apart; the centre cannot hold; . . . the best lack all conviction, while the worst are full of passionate intensity.

Conviction is the best of us, a holding of the center—these will not make the world shockproof or damageproof against the passionate intensity of its worst citizens; but they are the only means of insuring our survival . . . and, moreover, of justifying it. I thank you for your attention. Please try and read any one of the inspiring books by these extraordinary men, our returned POW's on the list that follows: How are we lucky enough to have such men.

The list of books and authors follows:

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AN OMINOUS SOVIET INITIATIVE IN PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 30 minutes.

Mr. RUDD. Mr. Speaker, I am most surprised and dismayed that neither the administration nor our vigilant news media have benefitted the American people with the ominous news that Soviet negotiators have been in Panama to make highly important and significant economic and commercial agreements with the dictator Torrijos government.

I have learned from news dispatches in two Spanish-language Panama newspapers—Matutino and Critica—which are both mouthpieces for the Torrijos government, that a special Soviet commercial delegation headed by Nikolas Zinoviev met in Panama for several weeks last month with Panama Government officials led by Dr. Ernesto Perez Balladares, director of the Panamanian Commission on Legislation.

These meetings and the tentative agreements reached between the Soviet and Panamanian sides were confirmed for me this afternoon by a U.S. State Department official, who was fully aware of all aspects of the Soviet-Panama agreement.

Mr. Speaker, as we all know, the Soviet Union and Panama do not have diplomatic relations, and yet at this very time when our own American negotiators are preparing a new Panama Canal treaty to give away the Panama Canal to the Torrijos regime, the Soviet Union is initiating an economic and commercial agreement with Panama that is highly favorable to Panama and in the short run not so favorable to the Soviet Union.

The four main points informally agreed upon by the Soviet and Panama representatives on July 19 are as follows:

First. Approval of the possibility that the Soviet Union will purchase 50,000 metric tons of crude sugar from Panama.

Mr. Speaker, this is highly significant, because Panama currently has a glut of sugar and cannot sell it. The bottom has dropped out of the market. Such an agreement for the Soviets to purchase this much sugar from Panama will result in the Soviets being taken to the cleaners by paying substantially more than the world market price in order to meet Panama's demands—a concession that raises serious questions about the Soviet motive in making these agreements at this time of a new United States-Panama accord.

Second. The Soviet and Panamanian negotiators have agreed to the possibility of establishing a major factory in Panama to repair heavy equipment relating to the sugar industry.

Third. The Soviet-Panama informal agreement calls for the possibility of a Soviet-built hydroelectric plant to help Panama's plan for national electrification.

I understand from the news dispatches that this might also become an oil storage plant, with a Soviet investment of somewhere around $40 million.

Fourth. The Soviets would be allowed to take advantage of the free zone at Colon for Soviet merchandise, and to make several Soviet installations at France Field—an old Air Force base that the Panama Government is currently leasing from the Canal Zone with the idea of expanding the free zone.

Additional agreements are being worked out for the Soviets to open a major bank in Panama to conduct their economic and commercial affairs in that country. Any way one looks at it, Mr. Speaker, even without official diplomatic relations, the Soviet Union is moving very fast to make its overtures and ties with the Torrijos regime at a time when the administration is getting ready to turn over our Panama Canal to the Panamanians.

Mr. Speaker, stories about these Soviet-Panama accords, which have not yet been formally signed but which are apparently at an advanced state of agreement, have appeared prominently in the Panamanian newspapers sanctioned by the Torrijos regime.

Yet to my knowledge, no mention of such moves by the Soviet Union in Panama have been mentioned in prominent U.S. newspapers, which have been very quick on other occasions to publish the most speculative type of stories when they are trying to discredit foreign leaders or governments of which they disapprove.

Neither has the administration acknowledged these highly important and significant Soviet initiatives in Panama.

That in itself is significant. The administration is, I believe, making a highly undesirable and dangerous move in its planned turnover of America's Panama Canal to the Panamanians. The American people overwhelmingly disapprove of such a Panama Canal giveaway. The administration does not want to further fuel the fires of opposition to its questionable new treaty with Panama by admitting the Soviet-Panama initiatives.

This is highly deceitful, since the Soviet-Panama negotiations have been taking place at the same time in Panama as the United States-Panama treaty negotiations.

I believe that we should all take pause to consider the ominous meaning and significance of what is taking place. The administration is negotiating a treaty to give away U.S. ownership and control of the Panama Canal. At the same time, the Soviet Union is making initiatives to enter into important economic and commercial relations with Panama, and

to introduce its powerful presence into that country.

Can there be any question that when the United States leaves a void in Panama, as the result of the unfortunate treaty that is now being negotiated over the Panama Canal, that the imperialistic Soviet government will fill that void and move closer to our borders the powerful Soviet threat that endangers the freedom and security of our entire hemisphere?

Mr. Speaker, I believe that the administration and our news media owe a full accounting of these Soviet-Panama initiatives and their ominous implications to the American people.

I, for one, am not surprised that they have not done so to date. But I cannot permit this coverup, this deception, to continue.

Let us know now that the Soviets are losing no time to entrench themselves in Panama the moment that the U.S. presence and influence is removed from that country.

And let us consider the awesome danger that such a Soviet presence in Panama, so close to Cuba, and to our own borders, poses to the American people and to our neighbors throughout Latin America.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I would be happy to yield to my colleague, the gentleman from Washington.

Mr. CUNNINGHAM. Mr. Speaker, I applaud the gentleman from Arizona (Mr. RUDD) and commend him for his zeal on this subject. I know that he wishes that we maintain control of the Panama Canal.

Knowing that the gentleman shares with me the view that we designed the canal, we negotiated for it, we built it, and we paid for it, I would be interested to know what the gentleman's response is to the alleged viewpoint or proposal of the administration that we will build another canal, and that we will give the Panamanian Government the existing canal. The proposal, I understand, is that we in turn will reimburse them for their losses of revenue.

I am wondering if that, in the gentleman's eyes, would best protect our national interests.

Mr. RUDD. Mr. Speaker, I am thankful to the gentleman from Washington (Mr. CUNNINGHAM) for bringing this important point to light for the purpose of discussion.

There have, of course, been talks through recent years about building a second canal. Generally the canal in mind was set to cross the country of Nicaragua, through the Lake of Nicaragua, and that would be accomplished at a very great expense. There have also been some talks about another canal being built near the southern border of Panama.

What difference would it make if we had two or one other canal over these countries as to whether we would keep the one we have and enlarge it if it became necessary, which it will not be, because it will handle 97 percent of all traffic necessary to the world by way of cargo and our Navy, too? It will not handle the very large ships, of course.

This move will only ask for future problems along the lines that we have now. The Panama Canal, by our treaty, is the property of the United States. It is sovereign U.S. territory. It should be treated as such. Any other expense in the building of another canal is not going to accomplish anything further than what the present canal has.

If we turned it over to the Panamanians, this will lead to great danger for our country, for our military presence, for the defense of the Americas, for our own defense in our backyard. I think the suggestion that we build another canal to take the place of the one which would be turned over to the Panamanians is ludicrous on the face of it.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I am happy to yield to my distinguished colleague, the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I wish to commend the gentleman from Arizona (Mr. RUDD) for taking the time of the House, even at this late hour, nearly 9 o'clock at night, to relate to us something about his tenacity, industriousness, and resourcefulness in smoking out a story that has apparently been hidden by the local media, by the State Department, and by this administration.

The gentleman in the well has a long and illustrious career as an FBI agent for 20 years, during which he served his Nation well in South America, Central America, and Mexico. He is well acquainted with the thinking of the people in these areas. He is well acquainted with the problems relating to the Panama Canal, particularly the fact that a handful of revolutionary dissidents are being listened to by the State Department, by our treaty makers and by others.

He has been a stalwart and a loyal supporter of the maintenance of our sovereignty over the canal which we built with funds from the American taxpayer through a treaty that is supposed to go on into perpetuity.

I would say that the gentleman, having read these Spanish language newspapers and having developed this information, as I understand, sought answers from the State Department as late as this afternoon.

I would ask the gentleman if he would respond, or at least, alert those Members of the House who are still present this evening with respect to what the State Department said or what their attitude was, whether we are trying to keep a lid on this story or just where we are with respect to this information having to do with the Soviets constructing plants, hydroelectric, and so forth in the Panama Canal area.

Mr. RUDD. Mr. Speaker, I thank the distinguished gentleman from Ohio (Mr. DEVINE) for his remarks. He is a longtime leader in the House of Representatives and a most knowledgeable person as to the affairs of state and of Government.

I will say that late this afternoon there was an inquiry made of the State Department, of an official who was on the Panamanian desk, and he confirmed without question and very freely that those negotiations were taking place, adding to some of the comment that appeared in the daily newspapers in the Spanish language from Panama. He made no comment as to what the judgment would be or as to where this was going. It is, of course, not his position to do so. It would be passed on up to a higher level, possibly the Secretarial level or even the Presidential level. However, there was no question but what these negotiations have taken place and what the design of the Soviets is. The fact of their very presence there, their demanding presence there, their anxious presence there leaves no doubt that their intention is to replace the United States presence just as soon as and as fast as that can be done.

Mr. DEVINE. Mr. Speaker, if the gentleman will yield further, having discovered this information, does the gentleman have an opinion as to whether or not, because of the current negotiations for a possible new treaty or a change in status in the Panama Canal area, the fact that this has not been carried either by the printed or electronic media in this country is by design or by the desire of the State Department or others?

Mr. RUDD. Mr. Speaker, if one were to examine these facts carefully and rationally and without emotion, and I realize that is difficult, no other conclusion can be reached except that there must have been an attempt to hide these facts from the American people in order to continue the efforts of negotiations leading to a treaty which is to take place, and which will be presented, during the recess of this Congress this month.

Mr. DEVINE. Mr. Speaker, again I thank the gentleman from Arizona (Mr. RUDD). I think the gentleman has rendered a great service to our Nation in making these facts public. It is unfortunate that apparently all the members of the news media have gone home. There does not appear to be anyone in the press gallery.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I am happy to yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I wish to express my appreciation to the gentleman from Arizona (Mr. RUDD) upon the research the gentleman has done and for the information the gentleman has brought to the House this evening on this important subject of our Panama Canal.

I know that the gentleman from Arizona (Mr. RUDD), since he has arrived here in the Congress, has been very diligent in trying to make sure that the House is aware of the efforts of foreign nations in trying to cede that canal, which is vital to our commercial interests as well as our defense interest, over to the Panamanian Government, which is, of course, a very unstable government.

I am somewhat shocked by the information that the gentleman has given us. I myself was not aware of what the gentleman has explained here tonight. I am sure, though, that at some time soon the New York Times will have it on its front page—not really.

But, Mr. Speaker, I do compliment my colleague for bringing this information to the House. I hope it will be given proper and appropriate consideration because it does show that the Soviet Union does have an interest in seeing that the Panamanian Government gains control of that vital seaway canal. I know that many of my colleagues will be very grateful for this information and the value of the resources the gentleman has provided us.

Mr. RUDD. Mr. Speaker, I wish to thank the distinguished gentleman from Ohio (Mr. DEVINE) and the gentleman from California (Mr. ROUSSELOT) and the gentleman from Washington (Mr. CUNNINGHAM) for their incisive remarks and their assessment of this situation. I believe the situation is dangerous. I think that the American people should be made aware of just exactly what is going on in Panama and the manner in which this was not brought to the attention of the American people in an obvious effort to protect the treaty which is intended to be made during this month.

THE SIGNIFICANCE OF PRAGUE AND BELGRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. FENWICK) is recognized for 5 minutes.

Mrs. FENWICK. Mr. Speaker, we have been reminded of the way of life in Eastern Europe. Once again, the brief expression of political beliefs has been stifled in Czechoslovakia. A brave group drew up and circulated a document calling on the Government to live up to its pledges in the Helsinki accord and to honor the principles of the Czechoslovak Constitution.

The document circulated for signatures in Czechoslovakia is known to us as charter 77 and symbolizes both the designation of this as Prisoners of Conscience Year and the convening of the Belgrade conference to review implementation of the Helsinki accord. The leaders of charter 77 openly acknowledge that they did not seek to establish a basis for political opposition, but wanted to "lead in the sphere of its activity by means of a constructure dialog with the political and state authorities * * *." Yet this mere expression of concern by Czechoslovak citizens was too much for the Communist government, and many of the signers of the charter were arrested for expressing their beliefs.

As in 1968, when Soviet tanks rolled through the streets of Prague, we are reminded that the freedom of expression is looked upon as a fatal virus in Czechoslovakia and other Communist countries. And yet out of this atmosphere of official fear and repression has come a most remarkable statement of personal ethics that we have seen for some time. In charter 77, its supporters proclaim:

> The responsibility for the preservation of civil rights naturally rests with the political and state power in the country. But not on it alone. Every individual bears a share of responsibility for the general conditions and thus also for the compliance with the enacted pacts which are binding, for the government as for the people.

This reassertion of the strength and importance of the individual is the basis for our own concepts of government and freedom. We have seen in all Communist countries an attempt to subvert the relationship of the individual and the state, placing the state above the individual. That the Helsinki accord could act as a spark for an expression like charter 77 is important evidence for us that the belief in individual expression and human dignity that springs from it are not dead behind the Iron Curtain. The tanks of 1968 could not crush it and the prison bars of 1977 cannot contain it.

The Belgrade conference will begin in earnest in October, setting a precedent for reviewing implementation of an international accord. The conference may not produce stunning achievements, but it is important because it will establish the principle that the treatment of a country's citizens is no longer a purely domestic concern but one which can be discussed rationally in a diplomatic setting. This development gives us hope for the future, just as the appearance of charter 77 has done.

ADMINISTRATION SHOULD MAINTAIN TIES WITH TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BURGENER) is recognized for 5 minutes.

Mr. BURGENER. Mr. Speaker, the current pronouncements of President Carter and Secretary Vance on the formal recognition of the People's Republic of China convinces me that we are about to abandon our longtime friend and ally—the Republic of China. Further, as we drift toward more accommodation to the wishes of the Red Chinese Government, the sterner their ominous talk of liberation becomes.

I feel it would be an incredible betrayal of our previous commitments to abandon a country which upholds personal freedoms to accommodate a government with, to say the least, a history of instability and despotism.

The accomplishments of Taiwan in the past 25 years are dramatic. They have achieved an economic growth rate of 11 percent per year and a growth in individual personal income of 7 percent per year. There are only nine countries on the globe with which we carry on a larger amount of trade. And, Mr. Speaker, all this has been accomplished while maintaining an armed force of 500,000 men—one of the largest per capita forces in the world—because of recurring aggressive talk of liberation from the mainland. This incredible economic growth has made any direct American assistance unnecessary since 1965, a feat the United States has managed with few other countries. A land reform program has been administered, education made universal, and family planning institution to control population growth.

Politically, the Republic of China has a system based on the Constitution of 1947 which established a representative national assembly elected by popular vote, patterned after our own Congress.

Aside from what I believe is a strong moral obligation to continued relations with this freedom-loving nation, we are legally bound by the Defense Treaty of 1954, and any abrogation of that treaty would further degrade U.S. ideals, not to speak of American interests in the Far East.

This history of the Taiwan Government, not unlike our own, is marked by spectacular growth in the face of many obstacles, thanks to their dedication to freedom. With little assistance, this country has become one of the freest societies in Asia, with the second highest standard of living in that part of the world.

It is unthinkable to legitimatize relations with a nation which has promulgated a system contrary to our highest values at the expense of one dedicated to these very principles.

The Republic of China asks nothing more than our continued support in guaranteeing that freedom they have striven so hard for. They are equipped to plan an important international role in furnishing a prime example of political and social progress within their own island limits—if we only continue to give them the chance.

Mr. Speaker, abandonment of this trusted ally we have supported because of our shared mutual principles over the years would be unconscionable, and I urge the administration in the strongest terms to maintain our ties with Taiwan. To do otherwise would be the grossest violation of human rights, something the administration professes to be concerned with. It is my hope that they will confirm that dedication by their actions.

AMERICANS AND ALLIES OBSERVE 19TH CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the 19th observance of Captive Nations Week was marked by events in many sections of this country and among our foreign allies notably the Republic of China. This annual week is a towering and firm reminder to our citizens and others of the more than two dozen captive nations under totalitarian Communist domination from the Danube to the Pacific and into the Caribbean. The week has also provided an annual forum for the discussion of captive nations policy in the broad framework of our foreign policy. And this year the prospects for a captive

nations policy were discussed in terms of the President's commitment to human rights. Some analysts have even viewed the President's late and bland proclamation of the week as a retreat from this commitment.

These and other points, Mr. Speaker, can be gleaned from the successive reports I have submitted on the 19th Captive Nations Week, as well as from the following which I commend to the reading of my colleagues: First, the proclamation of Gov. Hugh L. Carey of New York; second, the proclamation of Mayor Ted Bates of the city of Warren, Mich.; third, R. K. Scott's commentary on the Week in America's Future; fourth, a report in the Chicago News; fifth, the editorial "Captive Nations Week" in the July 21 China Post; and sixth, the column by Charles Bartlett in the July 27 issue of the Washington Star:

PROCLAMATION

The desire for liberty and independence by the overwhelming majority of people in conquered nations constitutes a powerful deterrent to violent ambitions of aggressive leaders.

The freedom-loving people of captive nations look to the United States as the citadel of human freedom and to its people for guidance and inspiration.

Our country, under its new President, is experiencing a reawakening of the desire for human rights for all oppressed people. This emphasis will be felt in the captive nations, as well as among the leaders of the oppressors. It is appropriate to designate a week to recognize these captive nations. All should join in prayer, ceremonies and activities expressing our sympathy with and support for the just aspirations of captive people everywhere.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim the week of July 17–23, 1977, as "Captive Nations Week" in New York State.

PROCLAMATION—CAPTIVE NATIONS WEEK

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Urel, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and,

Whereas, the freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and,

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Ted Bates, Mayor of the City of Warren, do hereby proclaim the week of July 17–23, 1977, as "Captive Nations Week" in the City of Warren and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

CAPTIVE NATIONS WEEK—1977

Each July, the President of the United States issues a proclamation declaring what is called "Captive Nations Week." He does so under provisions of an act of Congress, passed by acclamation just 18 years ago. In that proclamation, the President regularly takes note of America's dedication to the principles of human freedom and national independence and expresses the hope that these principles will be recognized universally.

In the 1960's, the Presidential proclamations had a bold, brave ring to them. In effect, they exhorted the peoples of the Soviet-conquered nations of Eastern Europe to persevere for freedom and assured them of America's continuing strong support. But with the flourishing of Nikita Krushchev's so-called "peaceful coexistence" and the "spirits" of Camp David and, later, of Glassboro, the Captive Nations Week proclamations were watered down so as not to "rock the boat" and give offense to the newly "friendly" Kremlin leaders.

With the advent of Leonid Brezhnev and "détente," Captive Nations Week was all but ignored, except for the insertion of a few articles of faith by ethnic-minded members of Congress. The President's Captive Nations Week proclamations, in the words of one White House wag, were "slipped over a transom in the middle of the night so no one would notice them." The once-active and fiercely dedicated "Assembly of Captive European Nations," composed of prominent exiles from the Iron Curtain countries, was quietly disbanded in all but name after U.S. government support was withdrawn.

Because of his outspoken adherence to the cause of human rights, President Carter's Captive Nations Week Proclamation this month served to revive the hopes of many East Europeans. But only slightly. Two summers ago, in Helsinki, the U.S. President and other Western leaders had formally accepted the Soviet Union's domination of Eastern Europe, in return for Soviet-bloc promises to lift Iron Curtain restrictions dividing the peoples of East and West. Signatories to the Helsinki Declaration, now meeting in Belgrade to review the progress made, have been unable to agree even to an agenda after more than a month of meetings.

Within our own State Department, and in some segments of Congress, the news media and the academic community, the very words, "Captive Nations" are regarded as relics of the old unenlightened Cold War Days—and an embarrassment to improved relations with Moscow. To the tens of millions of East Europeans, however, there is nothing anachronistic about the term "Captive Nations." "Détente" and declarations on East-West cooperation notwithstanding, they *are* captives living in captivity . . . captured by a Communist tyranny whose appetite for world conquest is insatiable. And yet the cry for liberty is still heard—in Eastern Europe and in other conquered areas of the world where the human mind is not yet captive.

A CAPTIVE WRITER'S STRUGGLE

Reiner Kunze is being hailed as one of the most important writers to come out of the East since Alexandr Solzhenitsyn. He also is a victim of the Communist strategy of exile. Under this strategy, dissidents who refuse to conform are either forcibly exiled from their native countries or so harassed and intimidated that they accept an exit permit when offered.

Shortly after Kunze's book, *The Wonderful Years*, was published in the West last Fall, the 43-year-old author was expelled from the East German Writers' Union. It was only the start of a campaign aimed at silencing him. What displeased the Communist East German authorities was the nature of Kunze's book. It was a collection of vignettes about daily life in that captive, Soviet-dominated land. As such, it comprised a soul-searing indictment of the many subtle acts of repression and enforced conformity that casual visitors from the West never could hope to detect.

And Kunze's title, *The Wonderful Years*, was, by intention, sardonic—a literary rapier thrust into the heart of the brutish despots ruling East Germany. The Communist authorities decided that Reiner Kunze must be eliminated; his writings were much too dangerous to be allowed to circulate in the "worker's paradise."

Within a short time, Kunze's daughter, Marcella, was forced to leave school before her final exams. She had become identified as the child of an "Enemy of the State." Kunze's wife, a Czech-born doctor, was denied a promotion at the hospital where she worked. The pressure was building. Finally, last April, Kunze and his family were compelled to leave for West Germany.

Like many writers of depth and stature, Kunze experienced a wide range of ideological attachments. The son of a coal miner, Kunze studied and then taught at the University of Leipzig. He left there in 1959, disillusioned by a system that, in his words, "annihilates the individual." He became a locksmith, and, in his spare time, began writing poetry. In 1968, when Soviet-led Warsaw Pact forces invaded Czechoslovakia and crushed that small nation's attempt to give Communism a "human face," Kunze quit the East German Communist Party. Any illusions he once had about Communism were gone.

Looking back, the exiled author sees East Germany, along with the other Soviet satellites of Europe, as helpless victims of imperial Moscow. There are, he says, still many young people in East Germany who seek social change and more justice for people. "But their number is small in comparison to the masses."

Kunze offers a glimpse of what Communism has done to a generation of East Germans. In a typical high school class of 24 students, probably two—only two—are "absolutely a conformity with the system by virtue of their education and influence of the state organizations. They would do everything they are asked scrupulously, even with fanaticism, believing they are doing the right thing."

"Another two pupils," he says, "would be the sensitive ones. But if they stick to their principles, if they don't want to compromise themselves, they will have to leave school. They wouldn't be allowed to go to a university. They might even commit suicide. They have to take the consequences."

And what of the rest of the class, the twenty students comprising the majority? The typical majority, says Kunze, has been educated to accept opportunism and is willing to take it. "But those two students who don't want to give in," says Kunze, "are not alone. When added up, there really are thousands of them. They are the ones who won't make their way (in the Communist system), yet they are the ones on whom everything depends!"

THE LIGHT OF HOPE

There are small examples of non-conformity. Kunze tells of how his young daughter yearned to wear wire-rimmed glasses to school, even though the teacher had branded them as a subversive, decadent Western fad. One day, Kunze's daughter brought to class a picture postcard from Tokyo. A fellow student, one of the conformists, "told" on her.

The teacher reprimanded Marcella Kunze for "spreading capitalist propaganda."

Yet, even in the darkness and despair of the Communist society, the feeling of human compassion and the will to be free somehow survive. In his book, *The Wonderful Years*, Kunze writes of a day when, seemingly out of nowhere, vast numbers of flowers were placed at the doorstep of their East German apartment by unseen friends. It was the day after the Soviet-led armies invaded Czechoslovakia, Mrs. Kunze's native country.

In another poignant passage, Kunze tells of the death of a person the Communist authorities regarded as an "Enemy of the State" and how the authorities made it difficult for mourners to get to the funeral. When it was over, it was night. But the authorities had turned out all the lights at the cemetery and the long and winding stairway leading from the hilltop gravesite was in darkness. Joining hands, the mourners made their way slowly down the stairway, each saying only, "Step. So that nobody falls."

In the darkness of the Captive Nations, there is still the light of human kindness and of hope. It is a light that those of us blessed with freedom should help keep alive and burning.

[From the Chicago (Ill.) News, July 15, 1977]

CAPTIVE NATIONS WEEK

Captive Nations Week floats will parade through the Loop Saturday, beginning at noon. The parade starts at State and Wacker and proceeds south on State to Congress. Guest of honor at the parade will be the Rev. H. N. Grivans, who recently was freed after 16 years imprisonment in Latvia. July 11 through 16 has been declared Captive Nations Week by federal and local governments.

[From the China Post]

CAPTIVE NATIONS WEEK

The observance of Captive Nations Week from July 17 to July 23 is in full swing. More than 15 foreign delegates from 12 countries are expected to attend the mass rally tomorrow morning at the Sun Yat-sen Memorial Hall to commemorate the annual observance. They will join with several thousand Chinese government and civic leaders to pay homage to the fallen heroes behind the iron curtain and rededicate their efforts in securing the liberation of the countless millions of the enslaved people in the Captive Nations.

The observance of this week acquires added significance because of the designation of this year as Captive Nations Year as a result of the resolution passed by the 10th WACL and 23rd APACL Conferences declaring that anti-Communist strength the world over must be united together to struggle for the goal of the destruction of the Communist yoke and cruelty.

The Captive Nations Week movement was initiated by the 86th Congress of the United States in 1959 and signed into Public Law 86–90 by President Dwight Eisenhower. Since then, the third week of July was proclaimed as Captive Nations Week by every U.S. President until this year when President Jimmy Carter failed to issue the annual proclamation.

President Carter's inaction in this regard became the subject of criticism by Dr. Lev E. Dobriansky, Chairman of the National Captive Nations Committee, who described it as a "grave disappointment to millions of Americans and our allies abroad". In the same letter to Carter, Dobriansky pointed out that "For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation . . . Instead . . . you chose to ignore this traditional annual observance . . . that has consistently given coherent expression to human rights on the scale of over 27 nations held in Communist captivity".

As a matter of fact since 1920, 31 nations have fallen victims to Communist domination and captivity. As a result, hundreds of millions of innocent people have been enslaved behind the iron curtain to live in perpetual servitude. These unfortunate people have been deprived of all freedom, human rights and privileges and treated cruelly beyond imagination. The Indochinese nations are typical examples of such slavery and cruelty. Countless thousands of people were driven to the countryside to be slaughtered. The massacres thus ensuing constituted the second largest massacre since the Chinese Communists killed 60 million innocent people on the Chinese mainland.

Free people everywhere must not be complacent about the phony detente campaign of the Communists. They should be alert to Communist intrigues to expand their scope of domination of free nations leading to the domination and conquest of the world. As Dr. Ku Cheng-kang, honorary chairman of the World Anti-Communist League and chairman of the Asian People's Anti-Communist League, has pointed out that "the Communist target of world Communization and the imposition of slavery on human beings will never be changed." He also called attention to the U.S. Secretary of State "of the true nature of the Peiping regime which is the very source of all chaos and crimes, including the Korean and Vietnamese wars in Asia". He also urged the United States "not to be trapped into Communist schemes before it is too late".

It is unfortunate that at this critical juncture of world history, the United States should resort to unlimited appeasement of two major Communist powers. It is giving encouragement to their instransigence and indirectly abetting their aggrandizement. The proposed visit of U.S. Secretary of State Cyrus Vance to Peiping would undermine greatly the unity and confidence of U.S. allies without any reasonable return to be gained from the Chinese Communist. That was the reason why Dr. Ku warned that the misconceptions of Cyrus Vance must be corrected before it is too late and an inconceivable calamity to the free world can be avoided.

[From the Washington Star, July 27, 1977]

THINGS ARE LOOKING UP FOR DÉTENTE AFTER CARTER'S CONCILIATORY WORDS

The Soviets' bellwether weekly *New Times* is saying that Moscow has not lost its hope for detente, President Carter is beaming smiles of reconciliation toward the Russians, and the hiatus of uncertain relations appears to be near its end.

The Soviet propaganda chorus ascribing "cold war tendencies" to Carter has been uncomfortable for the President because elements of American public opinion have been reacting with hand-wringing concern. So he went out of his way, in addressing the Southern legislators in Charleston, to stress the "human reality that must bring us closer together."

Carter has responded so defensively to criticism that he had injected a superfluous abrasiveness into Soviet-American relations that many feared an awkward move to warm up the climate. Carter is so determined to be popular as well as right that he obviously found it hard to bear suggestions that he had been maladroit in these critical dealings.

But to his credit, the President did not blink or turn tail in the face of the Soviets' orchestrated hazing. His rhetoric in Charleston was more conciliatory than tough, but it marked no retreat from positions he had enunciated at Notre Dame nine weeks earlier.

In fact he did it just right. He reassured the Soviets that his expressions of concern on human rights are assertions of a fundamental principle, not strategic ploys. He promised to make himself clearer if he has stirred misunderstandings, but he declared his unreadiness to be diverted by the pressure of propaganda protests.

If the Soviet leaders nurse genuine doubts about Carter's aim in regard to human rights, they should gain confidence from his statement on "Captive Nations Week." This is an annual opportunity for expatriates of nations swallowed by Soviet expansion to raise a cry for liberation, and it would be a splendid opportunity if Carter were seriously bent on upsetting the fragile balance of nationalism within the Soviet Union.

But the President's letter marking the observance was so bland, so devoid of allusions to Communist enslavement that one sponsor of the event, Rep. Dan Flood, D-Pa., was moved to lament that the President's pronouncement was "as gutless as those of previous Presidents." He charged the Carter administration with measuring friendly nations with standards which it shrinks from applying against the Communists.

The Soviets have reason to feel they have made their point. The anti-Carter barrage by Moscow commentators and professors has reflected the same synthetic spontaneity which caused these spokesmen to treat Richard Nixon with saccharin kindness, even at the height of Watergate. These voices combined to convey the Kremlin's dislike of being lectured at by a moralistic President. He is unlikely to deliver more lectures. Detente will be on again because it is useful to the Soviets as a holding operation while the capitalists are devoured by their economic crises. The detente of recent years has been facilitated for them by their feeling that they were pulling ahead in the world power rivalry. Now they must adapt to peaceful dealings in times when the world's perception of power, to use Ray Cline's phrase, may be swinging in favor of the United States.

So nothing has been lost in the hiatus. The Soviets need to reach for agreements more urgently than ever. Their hopes for a post-Mao rapprochement with Peking have been dashed and their troubles with the pluralistic Communists of Western Europe are just beginning. The leadership is old, ill, and changing but the transition is unlikely to affect the pragmatic bent of Kremlin policy.

If this was a test of Carter, he passed it with a show of his puzzling ability to be simultaneously flexible and firm. The lesson of the experience for him is that friendly relations with the Russian bear require avoidance of some tender spots.

MAJOR CREDIT CARD AND EFT LEGISLATION INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I am introducing legislation today along with Mrs. SPELLMAN, Mr. VENTO, Mr. ST GERMAIN, Mr. MINISH, and Mr. FAUNTROY, which will provide needed consumer protection and relief for two of the available payment systems: credit cards and electronic funds transfers—EFT.

Never before in history have consumers had such a wide variety of payment systems to choose from: cash remains legal tender; checks are still acceptable; credit cards are no longer considered luxuries; the newer debit cards, which electronically transfer funds out of or into consumers' bank accounts, are increasingly available; and banks are now offering their customers preauthorized bill pay-

ment services. However, this situation is not as ideal for the consumer as it would seem.

Cash and checks are not always acceptable—try renting a car or checking into a motel. Consumers attempting to purchase goods with a check must at times suffer the humiliation of having their picture taken or at least being required to produce a stack of identification, including credit cards.

There is no doubt that use of credit cards continues to increase. There are over 500 million accounts in the country today. Credit cards are being accepted in places, which before today, never even extended credit; attorney's costs; funeral parlors; doctors and dentists; and taxi cab drivers, to mention only a few.

Now that card issuers have consumers in the trap they are blatantly or subtly changing card plans which were originally contracted as a free service when balances were fully paid. The only justification for these changing policies is the bankers' complaint of deficits in credit card plans.

While the actual statistics are carefully guarded, it would seem highly unlikely bankers are losing money. The facts show dual membership is spreading rapidly—that is, one bank offering both Master Charge and BankAmericard plans. If one plan has proven so unprofitable why are so many banks racing to offer both?

For example, Citibank, last year, added a 50 cents per month fee on accounts of consumers who paid their Master Charge balances in full. The bank claimed it needed this charge to begin showing a profit on this credit card plan. This was after admitting that operating costs had gone down, due to new technology, and that use of the accounts had increased—which provides extra merchant's discounts. However, if the Master Charge plan was so unprofitable for Citibank, why has the bank now offered BankAmericard also and why did it just purchase NAC, another credit card company?

My legislation will put an end to the creeping excesses imposed on credit card users, such as this extra monthly charge on the conscientious cardholder who pays his balance in full or refrains from using the card. We have a responsibility to encourage thrift, not to penalize it.

Annual fees have also been added to card plans by some banks. Bankers are not hesitant to reveal that the annual fees are used to get around State usury laws and still raise revenues.

Bankers also get larger revenues by simply waiting as long as now legally possible before mailing already prepared statements. The later the consumer receives his statement, the later he will make his payment and the larger the finance charge which will appear on his next statement.

A subtle change which increases profits, but effectively ends the grace period has become increasingly popular. In this scheme when a consumer carries an outstanding balance, finance charges will also be assessed on new purchases before the consumer is billed for them. The possible increase in finance charges is infinitely great, yet the change in policy is so subtle that most consumers do not even know what has happened to them.

One banker who began employing this scheme was asked if his customers complained about the change. He happily replied that he only received a few comments. Those, he explained, came from the attorneys of the customers who usually paid in full each month. They were afraid this charge would, somehow, apply to them. The banker's attitude was revealed in this conclusion, "Our attorneys did a good job structuring the notice. We had other attorneys call in and say, 'What the hell are you talking about?'."

The methods used to calculate the balance on which the finance charge is imposed are complicated at best and impossible to verify with computers at worst. I am prohibiting the use of one method which I find unbearable—that is, the previous balance method. With this method, if you receive a statement with a $100 balance and you do not make full payment of the $100 by the payment due date, no consideration will be given for any payment that you do make. Your next statement will show a finance charge on the total $100.

These policies have all been prohibited by the bill which I am introducing today. The consumer who is trapped into the credit card system is usually paying the maximum interest rates allowable, and the plans seem profitable enough for banks to be increasingly adding more plans to the one they offered before. I take this stand because credit cards were offered to people as a free service if balances were paid in full. The banks begged consumers to try the cards and even sent them out, unsolicited in the early days, to any address and name they could find. Now that the trap is sprung bankers are changing their tune as well as their policies. It seems that the promise of a free service was just a come-on.

In a recent Chicago Sun-Times article, a reporter tried to explain why banks need these extra charges. The blame was put on consumers: "The major problem comes from clever consumers who are paying their card balances in full each month and thereby not incurring any finance charges." A Chicago banker was quoted as complaining that, "They're using the card for convenience, not for credit." It seems comical that consumers are being blamed for doing precisely what the banks asked for in the original contract.

My legislation, besides prohibiting the changes mentioned, will also make the contract between the consumer and the card issuer more stable in the future. Card issuers will be required to fully explain to their customers any proposed change in the plan 90 days before it becomes effective. The implications of the change must be disclosed to the consumer as well. The consumer will then have enough time to organize his account and look for another issuer if the change is one which would be prohibitive.

The existing law already prohibits card issuers from sending the card unless the consumer has requested it. This law has been abused, however, since the card issuer may call consumers on the phone and ask the consumer to accept the card. Even if the consumer says "no" the card issuer can always claim that he had agreed.

I have included in my bill a provision which will prohibit cards from being sent to a consumer unless the card issuer has received from that consumer a written and signed application. Furthermore, no credit capacity may be added to any other card which the consumer may already possess without such a signed application.

I have also required that other terms of the credit plan be clearly disclosed to the conusmer to end the unnecessary embarrassment and inconvenience which daily comes to my attention through consumer mail. Consumers have been left stranded in foreign airports because they have relied on the capacity of their credit card to purchase the ticket, yet at the critical moment were informed that the needed credit could not be extended. The problem in such a situation is not within the consumer's control. It happens that due to time differences the authorization center back in New York may be shut down, thus limiting everyone's line of credit. The real problem has been, however, that such policy has not been revealed to the consumer. In such a situation the innocent consumer has no way to protect himself.

One consumer told of his embarrassment when he attempted to pay a dinner tab with his credit card only to find his account had been closed because he had not paid on his $30 balance for 2 months. Requiring policies such as this to be disclosed to the consumer before an embarrassing situation develops will be helpful for the bank as well as the consumer.

It has come to my attention, also, that some card issuers allow their participating merchants to add charges to a credit card receipt after the consumer has signed the receipt. The card companies have insisted that this "delayed charge" feature was added to their receipts as a consumer convenience. I contend that it could be a consumer "rip off." In effect the consumer is signing a blank check. A provision of my legislation will allow merchants to add delayed charges to a receipt only if the consumer initials that receipt giving such permission. I have also required such receipts to be included with the monthly statements so the consumer can check more accurately all the amounts charged to him.

Consumers are now being drawn into a newly evolving payment system, the electronic funds transfer system—EFT. Bankers have hailed EFT as the greatest invention since the wheel, but the catch is that consumers, for the most part, have not seen a need for this new service. In order for EFT to be efficient, a large volume of transactions is needed and bankers are again coaxing the consumer by offering these services free of charge and even offering extra incentives, like a free hamburger, for participating consumers. Banks are spending millions of dollars on the sophisticated equipment

necessary for these services, so it seems only a matter of time bgefore those costs will be passed on to the consumer.

Regardless of the fact that these are free services, debit cards and the other EFT services are not the Utopian payment system. As chairman of the Subcommittee on Consumer Affairs, I have become increasingly aware of the pressing need for protection of users of EFT.

Earlier this year, columnist Sylvia Porter generated much congressional mail when she informed readers of the possible perils of the "checkless society." "It is becoming dangerously late," she continued, "for once institutions have spent large sums to install new—EFT—systems it will be exceedingly difficult to make changes to protect—the consumer."

I have made provisions in the bill I am introducing today to provide the consumer protections needed. Hopefully it will not be too late.

While the primary device used in existing EFT systems, the debit card, looks much like the credit card, debit card users, in fact, have no legal protection in case of loss. A debit card lost, stolen, or misused can conceivably wipe out the consumer's entire bank account. My legislation will prohibit institutions from sending such a card to anyone who does not ask for it in writing. Consumers will also have, for the first time, limited liability for losses associated with the card, similar to credit card protection.

A staff survey of banks in the Washington area reveals that EFT services are expanding. These services are offered to consumers as a convenience. Using this approach, the banks issue debit cards and extend other EFT services without any written agreement of the responsibilities of either the consumer or the bank regarding the use of these services. If the consumer expresses concern to the bank, such as asking who would be responsible in case the bank made an error in debitting his account, he is told that if he has any fear of error, loss of security or privacy, he should not use the service. This might be a fine option for today, but what choice will the consumer have when the banks have him as locked into EFT as they now have him caught in the credit card trap?

Title I of my bill requires written agreements between the institution and the consumer, before any EFT capacity may be used by the consumer. I also require full disclosure of all terms and conditions respecting the use of the EFT services to be made by the bank.

Provision has also been made in title I for the consumer to be assured of receiving receipts when using the debit card for making a purchase, as well as when it is used to withdraw or deposit money into an account at an automated teller. The question of the value of these receipts in proving bank error has clearly been addressed in this bill. The receipt will be considered, after passage of this bill, legal proof of payment. This means that if the seller claimed the consumer did not pay for a purchase, the consumer can prove he did by showing the receipt.

If the monthly statement of an EFT account shows that the consumer withdrew $100 from his savings account through use of an automated teller and the consumer actually withdrew $10 from his checking account, that consumer may prove the error to the bank by merely showing the bank the receipt. The bank must then correct the error as of the time it was made and also reimburse the consumer for any lost interest resulting from the error.

To reduce the need for checks and to increase convenience for the consumer, banks are offering preauthorized payment services. Under such a service, the institution agrees to make specific periodic payments, automatically, for the consumer—usually utility, mortgage or insurance payments. This sounds delightful—but consider the possibility of an error.

Consider the case of the consumer who has authorized a bank to make his quarterly insurance payment, then through some electronic error the payment is not made. Who would be liable for the loss if, while the insurance policy has lapsed, the consumer's house burns down? John Fisher, a leading banker from Ohio, stated before the Consumer Affairs Subcommittee that he could not answer that question.

Other bankers are not so indefinite. Many disclose openly in their preauthorized payment agreements that in case of error the bank will assume no responsibility for losses. My bill will change this deplorable situation. Consumers will be assured that, in case of bank error, the bank will be strictly liable—and so they should.

It is not my intent by introducing this legislation to "handhold" consumers. I feel the consumers of this country have a responsibility to use payment systems conscientiously. They have a responsibility to keep their own records and to make payments promptly. Banks also should have the right to discontinue service to any consumer who abuses the system. However, consumers must know and understand the rules of the system in order to be able to comply; and they will when my disclosures are required. Consumers also must be protected from errors which are beyond their control.

Serious consideration of this bill is essential—now—before we experience a catastrophe like that of the early credit card years.

WHITHER THE DOLLAR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, there are not many people who watch the vagaries of international currency values with any interest. The interest grows when a problem arises or a crisis is brewing, and that is what we see happening right now. Official brows are knitted with worry, while official pronouncements assure one and all that everything is really all right, and international meetings are scheduled to set up yet another interim arrangement. Once more, we face the problem of a declining dollar value—yet another reminder that world trade and currency arrangements are on shaky ground. Sober thought must be given to the question: Whither the dollar?

In the postwar world, all currencies were maintained at set, official values. Every country made a strenuous effort to follow policies that contained inflation and kept trade in balance—and a currency devaluation was something to be resorted to only in the last extremity.

These arrangements were rigid in their demands, but they produced remarkable stability, and the world prospered as it never had, either before or since. But fixed currency regimes, it seems, fell into disrepute and disrepair, so that in 1971–72 the United States first devalued its currency and then scrapped fixed exchange rate values altogether. Thus began what is commonly known as a floating exchange rate system, a system in which money rates change from day to day, and in which governments are supposed to make no special effort to maintain a given currency value.

This so-called floating system, we were told, would be a self-adjusting mechanism. A country that fell into a trade deficit would see its currency depreciate, and so have to reduce imports. In time, trade would come back into balance and all would be well. It all seemed so simple—just let the market work.

The trouble with this was that nobody reckoned with the most powerful disruptive force ever introduced on the world economy, namely the OPEC oil cartel. The oil cartel sent prices soaring, and created a condition that results in a massive, and for all we can tell, permanent trade surplus for the oil exporting countries. No amount of currency depreciation will cure that surplus, and so the whole basis of a floating exchange rate system has been shattered. OPEC cannot sell less, because the world must have oil. OPEC cannot reduce its surplus, because there is no way that they can spend it all. The deficit countries cannot reduce their surplus vis a vis the major oil states, because those states, prodigious spenders though they may be, cannot spend all that they rake in.

The trouble with the world economy, and the trouble with the dollar, is that nobody anticipated the power of OPEC, and nobody knows quite what to do about it. So the finance ministers of the world temporize. The IMF sets up special financing facilities, and sells off its gold stock, to provide money to countries that need oil but lack the money to buy it, or the means to earn the money. These special financing facilities never last long, so new special lending powers are created every few months. As a matter of fact, Saturday will see the Secretary of the Treasury at yet another Paris meeting to put together a financing package for the poor countries of the world.

The past few weeks have seen a great plunge in the value of the dollar. This should be expected, in light of our huge trade deficit, which certainly will exceed $20 billion this year, and may approach $30 billion. But even though a decline in the value of the dollar is supposed to be the logical consequence of a trade deficit, the fact is that everyone knows that the decline will not cure our deficit, because

the currency float cannot work as it is supposed to—because of the OPEC factor. The Treasury more or less welcomes the drop, because that puts pressure on the Germans and Japanese, who enjoy a surplus. But the Germans and the Japanese do not want this—because a drop in the U.S. dollar threatens their own comfortable prosperity. The Federal Reserve Board does not like to see the dollar drop, either, because it only adds to the already considerable inflationary pressures that plague our own country. And OPEC, seeing inflation continue and the key currency of the world falling, may be tempted to kick oil prices up again, continuing the generally disastrous trend of world trade and economic developments.

As matters stand now, the dollar cannot help but continue to decline, unless we either cut oil imports by a drastic amount—which would threaten our economic recovery—or OPEC itself cuts prices, which seems out of the question. It seems equally unlikely that we can export enough goods to other countries to make up the deficit, because save for England and Japan, just about everybody else in the world is in the same deficit boat that we are. After all, if OPEC has a surplus of $40 billion, that is $40 billion that nobody else can spend, and $40 billion that we cannot earn—nor anyone else.

The consequence of this huge OPEC surplus is that every industrial country in the world is confronted by a case of economic pernicious anemia, or threatened by it. The prosperity of Germany and Japan is fragile indeed, and it is little wonder that they do not welcome the threatened consequences of a declining American dollar. No one else does, for that matter. Who in England would welcome a cheaper dollar, with its attendant growth in American imports, and resulting inflationary push and employment-threatening nudge? England has too much unemployment now to welcome more of it. As for Germany, no politician in his right mind would call upon Germans to join the lines of the unemployed, just to help out the world's oil poor.

In short, I do not believe that the world currency arrangements are on a sound basis. The decline of dollar values is a symptom of that—but so too is the general weakness of most of the industrial world, and the downright catastrophic poverty of the developing world.

The currency float would work, if market forces worked. There is no sign that this is the case, or can be.

In the first place, no government is anxious to see a currency change that creates domestic economic—and political—difficulties. Therefore, rather than risk a spiking of inflationary fever, a country that should be allowing its currency to drift down in value is tempted to intervene. On the reverse side, a country that has just put itself into full employment and a healthy surplus, does not want to risk new unemployment, and so is tempted to intervene in order to keep currency values from climbing upward. The result: dirty floats, in which the market forces get tampered with by central banks. Market forces become distorted, and the system works sluggishly, if at all.

In the second place, governments can take all the domestic measures that they want, and still be faced by trade deficits, so that nothing they do at home can stem the tide and make things better. The United States has choked down its money supply and induced tremendous recession, only to see inflation remain high and trade remain sour. We have seen our trading partners do likewise. It seems that the answers that once worked, no longer suffice.

Domestic economic policies do not work well because the international economy is in a state of disarray. The international economy does not work well because it has no way to find a redress for imbalances of trade and investment.

Whatever else one can say, the fact is that no international currency system can work if it is subjected to the continuing assault of an incurable trade balance. A fixed system of values will not survive a persistent, massive deficit in trade, because the values cannot be defended. A floating system cannot work, because the table has been tilted, and the economic water is piling up in one end of the saucer.

OPEC is the most powerful force in the world economy today. Because of OPEC, no system of currency valuation—floating, fixed or crawling—can really work. No patchwork solution can last longer than a few months. And each year, the world sees most of its number enjoying less and less of the wealth, as more and more flows into the coffers of OPEC, never to emerge again.

The energy policy that we have acted on is supposed to stem or stabilize the amount of oil that we import, and so to help us some day emerge from a deficit trading position. But OPEC, merely by raising the price of oil, can wreck all of that, and leave us, economically speaking, in the same hole that we are in now, or somewhere deeper, depending on their action.

It seems that the world has little choice but to confront and diminish the power of OPEC, or to somehow bring it into a responsible course of economic behavior. Since a cartel is intrinsically irresponsible, being an antimarket force, the real choice simply must be to work to end the power that OPEC has over us, and the world. Otherwise, the course of the dollar, and the course of the world, can only be a continued downward drift, perhaps even a plunge, such as the world has never seen, and from which there may be no emerging.

We may worry about the day-to-day course of events in the currency markets; we may talk of this or that speculative movement, and we may speak of elegant new IMF financing arrangements; we may play poker against the Germans and the Japanese, as Secretary Blumenthal now is; but always, we should remember the real source of our dilemma, and deal with that—first and foremost, early and late, until one day, the world will have an economy that can work. Today, the table is tilted; our task has to be to level it, by working against the hands that are holding one end higher than the other.

INTRODUCTION OF LEGISLATION TO CONTROL AND REDUCE OIL IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker on behalf of Representative RICHARD OTTINGER and myself, I am today introducing oil import control legislation similar to, but much more flexible than title I of H.R. 6860, which was reported by the Ways and Means Committee on 1975 and retained on the floor of the House.

As the committee's report on the bill stated:

> The quota is not intended as an independent discipline but rather as a means of being sure that the conservation and conversion efforts result in a reduction in imports, rather than a cutback in domestic production . . .

This legislation uses a system of quotas, import licenses, and tariffs to achieve this goal.

This amendment is not designed to force down demand, but rather, to follow demand down; its purpose is to keep a taut line on the relationship between increasing domestic production, domestic conservation, and declining imports. Chairman ULLMAN described this portion of the 1975 bill as the "centerpiece in our effort to become less dependent on foreign oil."

However, the amendment we are offering is not nearly as inflexible as the 1975 language and contains language insuring that no region of the Nation bears a special burden as a result of quotas. Rather than trying to set specific barrel figures in concrete today for 7 or 8 years from now, we allow more flexibility. Basically, the amendment requires the President each year to submit a 7-year projection of oil production and oil demand adjusted for conservation. He is then directed each year to limit imports for the following year to no more than that year's difference between planned demand and planned production. The yearly level of imports set by the President could be modified if necessary because of weather conditions or national emergencies. Any level set by the President may be rejected through a 90-day congressional veto process, thus forcing the President to revise his import figures.

In other words, the amendment is a yearly yardstick by which we measure how well we are doing in increasing production, obtaining conservation, and limiting imports. This is significantly different from the wording of the 1975 language. Instead of setting specific barrel per day figures in concrete now, we allow more flexibility. The 1975 language set a level of imports of 6 million barrels per day for 1976 and 6.5 million per day for 1977. In recent months, we were importing an average of 9.3 million barrels per day. The 1975 Act was unrealistic and too inflexible, but it also reflects our failure to moderate the increase in imports and the growth of our dependency on oil

imports. Developments since 1975 strongly demonstrate the need for limits on imports; thus while more flexible, this new language would keep the pressure on.

There is one provision, however, which would give the President the discretion to force energy conservation by setting lower levels of imports. This would be subject to congressional veto. Indeed, if the Congress thinks this is too much discretion, an amendment could be offered limiting his discretion to no more than 20 percent or 5 percent or whatever of the difference between demand and supply. If all our other efforts fail, however, this authority to begin to cut down on imports could be the one way to force America to save energy and develop domestic sources.

It is the stated goal and purpose of this legislation to enable the United States to achieve a level of oil imports of no more than 6.5 million barrels per day by 1985. We think the legislative history would make it clear that this discretion would not be used unless the other measures in the various, recent energy laws were proving inadequate.

To control the level of imports and to have a standby system for allocating imports through the free market system, the legislation provides for a licensing system similar to the one we approved in 1975. The licensing system distributes the "right" to buy and import oil through a bidding process. As in the 1975 Act, special provisions are made to protect the small refiners and marketers and to guard against fraud in the bidding process. To the extent that the quota set by the President accurately reflects the difference between demand and supply, the value of the license "tickets" will be nominal. If, however, the quota is set lower so as to create a gap between demand and supply, the value of the license tickets will be bid up in the traditional market system—there will be no Government bureaucracy set up to allocate imports among users.

As in the 1975 bill, there is provision for the Government to insure that imports are fairly distributed throughout the Nation—and that no region, such as New England, suffers economically. Specifically, the bill provides that anytime the value of import licenses in a region rises to 1 percent of the value of imported oil—which will only happen when the import restrictions are set so tightly that they begin to limit the supply of oil—then the revenue raised from the sale of those import licenses in a region will be returned to the States in that region. The State governments can then rebate the increased cost of oil to consumers or help those consumers insulate and find other sources of alternative energy.

There may be other, better ways to guard against injury to a region or set of industries, and alternatives to this proposal can be discussed in the hearing process. It is clearly our intention, however, to insure that no one area of the country, such as New England, bears the major burden in our effort to obtain energy independence.

The 1975 bill also provided for a 2 percent ad valorem tariff on crude and a 5 percent ad valorem tariff on refined petroleum—tariffs which would have raised some $2 to $3 billion per year. Since under the new plan we do not want to further increase the world price of oil, the legislation we are offering provides only a de minimus tariff on crude designed to force the adequate monitoring of imports by the Customs Service. The tariff on refined imports would be 3 percent ad valorem, equivalent to the present license fee differential between crude and refined—a differential which is necessary to protect domestic refineries and to encourage the construction of new refineries in the Eastern United States.

Finally, this legislation is not effective until January 1, 1979. This will give the Government time to put into place the administrative structure for controlling oil imports. Adequate leadtime will avoid administrative confusion.

It should be noted that this administration, like the Ford administration, claims that it already has power to control oil imports, either through the imposition of quotas or tariffs. President Ford's scheme in early 1975 to impose a $3 a barrel tariff on oil was based on the authority which still exists in section 232 of the Trade Expansion Act of 1962. Our legislation limits the President's authority under section 232 to war situations and substitutes the quota determination and licensing process carefully described in this legislation. We substitute the really dictatorial powers contained in section 232 for congressionally approved law which meets the needs of the various sectors of the importing and refining industries. We believe that it is better to debate this program now than find ourselves reading a hastily drafted Presidential decree in some future morning's newspapers.

I asked Dr. Schlesinger at one of the Ad Hoc Energy Committee hearings why there was nothing in the administration proposals to deal with controlling or monitoring imports. He said that they were still studying the import control problem and would probably be reaching a decision in 3 or 4 months. We still do not have their decision. I hope we do not wait on the administration any longer, but rather act on this matter as soon as possible.

The need to control oil imports is desperate. We will be importing about $43 billion worth of oil this year. That means we will have a trade deficit of $23 billion or more. In a major study on world energy outlook through 1990, the Library of Congress has just estimated that in 1980 we will be importing 10 million barrels per day; in 1985, our import will be 11.8 million barrels per day; and by 1990, 12.9 million barrels per day. No one can ever begin to guess intelligently what the price of oil will be in 1985 or 1990. But if we guess, perhaps conservatively, that the price in 1980 will be $15 per barrel, then in that year the United States will be spending about $55 billion on oil imports—an incredible transfer of our national treasure to foreigners in exchange for a fuel which is burned away, often inefficiently and needlessly. The administration has stated that we can expect trade deficits indefinitely. While the administration has not expressed much alarm over the size of these deficits and while the situation may be somewhat self-correcting because of floating exchange rates, I do think we should be working to reduce those deficits—if for no other reason than because they are misunderstood by the public and lead to enormous protectionist pressures.

This legislation will help us monitor imports and measure our success or failure in meeting conservation and production goals. The language allowing the President to limit imports may be the strongest conservation tool which the 95th Congress enacts. This language is more realistic than the 1975 language—and yet it is a powerful tool for helping us reduce our dependence on foreign oil.

SUPPORT FOR ENDING MANDATORY RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, as you know I have introduced legislation (H.R. 5383) which would eliminate age discrimination and mandatory retirement in the Federal Government and raise the minimum age at which workers in private business can be forced to retire from 65 to 70. This legislation was unanimously reported out by the House Education and Labor Committee, and I am hopeful that it will be on the House floor early in September.

The committee's action is a major step forward in ending age-based retirement which arbitrarily severs productive persons from their livelihood, squanders their talents, scars their health, strains an already overburdened social security system, and drives many elderly persons into poverty and despair. I wish to thank my distinguished colleagues, Representative CARL PERKINS, chairman of the Education and Labor Committee, Representative GUS HAWKINS, chairman of its Subcommittee on Employment Opportunities, Representative AL QUIE, ranking minority member, and Representative RON SARASIN, ranking minority member on the Employment Opportunities Subcommittee, for their efforts in this area.

This legislation reflects the positions of both President Carter and the Republican national platform. President Carter has said,

> We need to change the laws and policies that force retirement on older people who are willing and able to work.

The 1976 Republican national platform declared:

> We favor the abolition of arbitrary age levels for mandatory retirement.

In addition, the House Select Committee on Aging, in a September 1976 report, recommended that "Legislation to eliminate the upper age limit in the Age Discrimination in Employment Act of 1967 and to end mandatory retirement solely

because of age should be enacted as soon as possible."

For the benefit of my colleagues I would like to insert in the RECORD recent newspaper editorials and articles from the Washington Star, New York Daily News, and Christian Science Monitor, which state so well the need for enactment of H.R. 5383. These are in addition to press reports I have already placed into earlier CONGRESSIONAL RECORDS:

MANDATORY RETIREMENT

Putting them out to pasture may be okay for horses, but there's growing concern about whether it's the thing to do with humans.

The American Medical Association has said that the "sudden cessation of productive work and earning power often leads to physical and emotional deterioration and premature death."

Besides the health problem, forced retirement means living in poverty for many. According to some estimates, more than three million older Americans live below what is considered the poverty level.

In addition, there is an enormous loss to the nation of benefits from the knowledge, judgment and skills accumulated by people forced into retirement.

Does a man or woman reaching the age of 65 suddenly lose his or her ability to function productively, to make contributions to society? Of course not. Senator Jacob Javits of New York pointed out when he introduced legislation recently to amend the Age Discrimination in Employment Act that the 65 upper age limit of the act was selected simply because the Social Security Act used that age. He said the retirement age of 65 in the Social Security Act also was "selected somewhat arbitrarily," partly because Germany's social security system traditionally used it.

Senator Javits noted the use of a 65 cutoff "would have halted the work of such great individuals as Benjamin Franklin, Roosevelt and Oliver Wendell Holmes." On the House side, Rep. Claude Pepper observed: "Who would tell Margaret Mead, who is 76, that her contributions to the study of sociology ended at age 65? Who would tell Arthur Fiedler, who is 83, or Leopold Stokowski, who is 95, that those over 65 cannot contribute meaningfully to the appreciation of music?"

Indeed, who would tell Senator Javits, who is 73, that his productive days ended eight years ago? Or Mr. Pepper, 76, that his ended 11 years ago?

One of the ironies of the controversy over lifting or removing the retirement age is that the AFL–CIO is opposed to it, but George Meany is still running the union federation at the age of 82. Why must an assembly-line worker be forced to retire at 65, or even earlier under some union contracts, while Mr. Meany may stay on as long as he wants?

One of the main arguments of those who favor a mandatory retirement age is that retirements open job opportunities to younger people. But is it appropriate to put one group of people to work at the expense of another? Shouldn't the goal be to create enough jobs so that all can be productive as long as they can or want to be?

In any case, those who advocate removal of mandatory retirement ages contend that the change would not have appreciable effect on jobs available for the younger. They claim that most older people still would retire voluntarily at around the present mandatory age. A government survey indicates that about 7 per cent of workers would want to stay on the job beyond 65.

The aim is not to force people to continue working in old age, but to make it a matter of choice. Life expectancies have increased dramatically since 65 became the accepted norm for retirement. The latest Census Bureal report on population projections says that life expectancy for babies being born now is 71.8 years for men and 81 for women.

Another important consideration in abolishing or raising mandatory retirement ages is that it would relieve the strain on the Social Security system and on many private pension plans. As troublesome as financing Social Security retirements is now, it will become worse as the average age of the nation's population increases: by the year 2020, it is estimated that the number of people receiving Social Security benefits will double. The young people who supposedly get a break by having the old workers shoved aside to make way for them might find that financing Social Security through payroll taxes a heavier burden than they can bear.

The House Education and Labor Committee has approved a bill, introduced by Reps. Pepper and Paul Findley of Illinois, that would eliminate the mandatory retirement age for federal workers (now 70) and would raise the minimum age at which workers in private business can be required to retire from 65 to 70. It also would eliminate a provision of the Age Discrimination and Employment Act that allows labor unions and management to negotiate contracts forcing workers to retire before age 65. It's a move in the right direction.

If a person wants to "go fishing" at 65, fine. But suppose he doesn't like to fish, or can't afford to?

FORCED RETIREMENT AND CIVIL RIGHTS

(By Judson Hand)

Whether older workers still in the pink of health and raring to continue on their jobs should arbitrarily be forced to retire at the age of 65 is rapidly becoming one of the hottest civil rights issues of the late 1970s.

Within the last three years, in fact, a movement to abolish mandatory retirement as it now exists has gained surprising momentum in state legislatures and the federal government. The day may yet come, and soon, when it will be just as illegal to dump workers from their jobs at 65 as it is to refuse to hire people just because they are black or female.

Already, 13 states including New Jersey and Connecticut, have passed laws of one kind or another to prohibit forced retirement at age 65. In New York, such a bill passed the Assembly and gathered almost enough support to pass in the State Senate before the Legislature recessed until October. And the issue is far from dead.

Meanwhile, in Congress, Rep. Claude Pepper (D-Fla.), chairman of the House Committee on Aging, is spearhearing a drive for a federal law to abolish mandatory retirement altogether in federal jobs and to raise the permitted age for forced retirements from other jobs from 65 to 70.

In one way at least, time would seem to be on the side of Pepper and his supporters. In the next 15 years, the age group of those 65 and over will rise from about 23 million to about 30 million in this country. By the year 2000, the figure will be 41 million.

Also by the year 2000, the number of workers between 40 and 65 will jump to about 41 million.

At the same time, the number of younger workers is expected to drop significantly. As the respected economist Peter Drucker predicts in his book, "The Unseen Revolution":

"From 1978 on, we will have each year up to 30% fewer entrants into the working population than we had in the 10 years from 1967 to 1977."

Obviously, if Drucker is right, there will be fewer young people coming into the labor market to push out older workers. Hence, the need for forced retirements may be less.

As in most controversial issues, there are compelling arguments, though, on both sides.

Many large corporations and unions that oppose Pepper's bill abolishing mandatory retirements contend that, without forced retirements, too many older workers would hold on to jobs at the expense of younger workers who deserve promotions.

In addition, the retention of workers after they reach 65 would close job opportunities for minorities and females who, after years of discrimination against them, deserve a crack at jobs previously denied to them, advocates of forced retirement contend.

"I also believe that it helps older people to have a set date for retirement," says Gene Jankowski, a vice president of CBS, who testified in hearings against Pepper's bill. "That way, they can prepare themselves emotionally and financially for retirement—something many of them wouldn't do if their retirement schedules were flexible.

"Besides, if there were no set age for retirement, many older people would eventually be fired for incompetence due to aging and therefore stigmatized."

Pepper, himself a feisty 76-year old, presented his case against forced retirement at a recent hearing:

"Age-based retirement arbitrarily severs productive persons from their livelihood, squanders their talents, scars their health, strains an already overburdened Social Security system and drives many elderly persons into poverty and despair. 'Ageism' is as odious as racism or sexism."

How will the controversy end? In some form of compromise, probably. Many workers will, in fact, choose to retire at 65 or before whether they are forced to do so or not, and corporations and government agencies may well decide that it is to their advantage to encourage such a choice. And many employers may decide that older workers who do not wish to retire may fill special roles for which they are uniquely qualified because of their long experience rather than continue in the jobs they held before.

CAN TESTING, NOT AGE, BE THE DECIDING FACTOR?

(By Edward Edelson)

The Medical Paradox of retirement in the United States is this: Americans are living longer than ever before, and older Americans are healthier than ever before. But statistics indicate that fewer older Americans are working than in the past.

Just last week, a report by the Census Bureau said that the life span of Americans is expected to increase to a new high by the end of the century—up to 81 years' life expectancy for women and 71.8 years for men, mostly because the death rate from heart disease is going down considerably.

As for the health of the elderly, Dr. Robert N. Butler, director of the National Institute on Aging, sums it up in a sentence:

"When I got into this field, a quarter of a century ago, the average age of admission into a nursing home was 70. Now, it's 80. In 25 years, improvements in health have delayed admission into nursing homes by a decade."

And yet, Butler says, at the turn of the century about 70% of Americans over the age of 65 were still in the work force. Today, only about 20% of Americans over 65 are listed as still working—and that figure takes into account the fact that the percentage of older women who are working has increased over the past decade.

Statistics are hard to come by, Butler says, but there is every indication that many people over 65 want to keep working. One sign of that desire is the apparently high incidence of "bootleg" work by persons who are purportedly retired. Many retirees work but don't report their income, Butler says, because Social Security payments are reduced until the age of 72 if a person has earned income.

The desire to work can be explained by

the good health of a large proportion of the over-65 population, Butler says. The very real medical problems of the aged do not strike with real force until after 75, he says, and we must draw a careful distinction between the "young old" and the "old old."

"It's extremely important to note that of the 23 million people who are over 65, more than half are over 74," he said. "If you look at the group aged 65 to 74, you find a much higher percentage that can remain in the work force. It's over the age of 75 that you encounter the real problems of older people in many cases."

However, Butler is aware that some people grow old faster than others. One solution to the mandatory retirement issue, he said, would be the development of a "retirement activity index," which would be determined by testing the various capacities of older people. Given such an index, he said, "we wouldn't take the capricious and lazy way of retiring people on the basis of the ineffective predictor called chronological age."

Much of the basic research needed to create an aging index has already been done, Butler said. Given the proper funding, an effective set of tests could be developed within five years, he maintains, tests that would give an index of an individual's over-all functioning.

Such an index would be best if it tested a wide variety of capabilities and matched an individual's performance with the requirements of that individual's specific line of work. Such a set of tests is already being used in Canada by the DeHavilland Aircraft Corp., he said, but the concept "is something that is just beginning to be applied."

"If we do have an end to mandatory retirement, it is essential that we have a retirement function," he said. "I mean an index based on intellectual and social capacities."

One of the real problems is that the debate about mandatory retirement is being waged with an almost complete lack of solid statistics. Butler says that the Institute on Aging, which is rather new, has only "some clumsy, crude kinds of estimates" about older working Americans.

Much of the available data obscures as much as it illuminates, Butler said. For example, there are surveys showing that people with interesting and productive jobs—lawyers, doctors, writers—generally do not want to retire. The surveys show that workers with boring, assembly-line type jobs, or jobs that require hard physical labor often want early retirement.

However, there are indications that early retirement for the blue-collar worker is often just the beginning of a second, sub rosa career. These are the people who work off the books," at anything from handicrafts to odd jobs to baby-sitting. Butler says.

The case for allowing older people to go on working is growing stronger. Butler says that biomedical research work now under way could easily lead to practical methods for enhancing the abilities of older people. At the same time, the number of younger people entering the work force will drop because of lower birth rates. Medical progress and demographics could be the two big factors in the mandatory retirement question.

RIGHT TO WORK AFTER 65?

The new momentum against mandatory retirement in the United States demands attention both from institutions and from individuals. Whatever the outcome of pending federal legislation, institutions ought to take the hint to reexamine their employment and retirement policies to ensure maximum fairness for all concerned. And individuals should be reminded that the prime responsibility for security and satisfaction in later years remains with them.

No matter what employers and government programs can do to help, it is only the individual who knows himself and his resources well enough to put together the retirement package tailored best for him. This means prudent financial arrangements combining savings, private pensions, and social security. But it also means developing the interests, talents, and skills to make "retired" mean something more than the "tired" which some retirees playfully put on their new nonbusiness cards. Such inner resources can be drawn upon no less by those whose economic circumstances do not permit many options for financial preparedness.

What the legislation should do is to support the best efforts of institutions and individuals. This may not mean a ban on all mandatory retirement programs, especially when these are the result of collective bargaining. The provision for a two-year study commission in the committee-passed House legislation should not be dismissed as a compromise or delaying tactic. The question is complicated enough to repay further study.

On the one hand, as a number of spry septuagenarian congressmen argue, people should not be discriminated against simply because of chronological age. When it comes to holding a job, competence should be the criterion. It is fitting for the legislation, which will probably go to the House floor in September, to bar a mandatory retirement age in the federal government. At least a dozen states already bar it in state jobs.

Yet the issue of "rights for the elderly, a station in life open to everyone, is different from that for blacks or women, for example, who are separate and distinct groups. And, if rights are to be based on age, the rights of the young have to be considered, too. Unless the elderly are retired, especially in times of high unemployment, what happens to young people's rightful access to employment?

Such questions at least dictate caution before ruling out mandatory retirement in private business, though such mandates should have review mechanisms so that today's collective bargainers do not determine the rules for future generations. The country cannot ignore studies such as the one undertaken for the United Automobile Workers which found mandatory retirement probably costs the American economy $10 billion a year. The loss comes both from forcing the skills of skilled workers off the market and from reducing their purchasing power.

The House legislation does move with some caution. It advocates no mandatory retirement in private business before the age of 70. But it would allow two years for accommodation in cases where collective bargaining had specified earlier retirement.

It must be remembered that mandatory retirement ages came about at least partly for such constructive purposes as ensuring that people would not be forced not to retire and that young people would find jobs opening up. There is also the element of turnover without having to specify to the incompetent or unproductive that they are being let go for reasons other than age.

It should be emphasized that banning mandatory retirement would not bar voluntary retirement. Indications are that the mass of people would not stay beyond 65 anyway. Those who want to continue working and are competent to do so would probably not upset pension plans.

But, as longevity increases, later retirement ages may prove economically attractive. There is consideration now for extending from 65 to 68 the age at which full social security benefits are available. If that were to occur, clearly a mandatory retirement age of 65 would be out of keeping.

A perspective comes from Japan, where the average retirement age has been about 55. With Japan's dramatic increase in longevity, there is talk of it rising to 56 or 57.

Obviously, what might seem a clear-cut issue is not one. That two-year study will be welcome.

PROSPECTS FOR PEACE IN THE MIDDLE EAST: A FIRSTHAND REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 5 minutes.

Mr. SOLARZ. Mr. Speaker, there are few areas of the world where peace is more needed nor war more likely than the turbulent Middle East.

For almost 30 years now, ever since the establishment of Israel in 1948, the countries of the region have been embroiled in a continuing conflict which has not only taken the lives of more than 55,000 Arabs and Israelis alike, but has also wreaked havoc with the economies of the nations involved.

A growing recognition on the part of the people and politicians of the region that their mutual objectives can better be achieved by diplomacy than by war, has lent new momentum to the movement for a resumption of the Geneva Conference. And while it is by no means clear that the procedural obstacles on the path to Geneva can be surmounted—with the Arabs arguing that the PLO should be invited and the Israelis insisting that they be kept out—it is absolutely clear that the parties to the conflict would like to go there.

In an effort to make a firsthand assessment of the prospects for peace in the Middle East, I recently went on a factfinding mission to Israel for the Committee on International Relations. On previous trips to the region, I had explored Arab as well as Israeli attitudes toward the conflict in great depth. But now that a new government had taken office in Israel, I thought it would be particularly useful to discuss in detail the various components of the conflict with them.

It was a most productive mission. In 5 days, I met with a wide variety of Israeli leaders, including Prime Minister Menachem Begin, Defense Minister Ezer Weizman, Foreign Minister Moshe Dayan, Interior Minister Josef Burg, Education Minister Zvulen Hammer, Agriculture Minister Ariel Sharon, Opposition Leader Shimon Peres, former Prime Minister Yitzak Rabin, as well as Yigal Yadin, Shmuel Tamir, and Amnon Rubinstein of the Democratic Movement for Change, Zalman Shoval and Moshe Arens of the Likud, Yehuda Ben Meir of the National Religious Party, Lova Eliav of the Peace and Freedom Party, and Rabbi Menachem Porush of the Agudat Yisra'el.

In addition, I met with a number of leading intellectuals, journalists, and diplomats, including Yehoshafat Harkabi, the Intelligence Adviser to the Prime Minister, Moshe Ma'oz, the director of the Truman Institute at the Hebrew University in Jerusalem, Louis Guttmann, the director of the Institute for Applied Social Research, Hanna Zemmer, the editor of Davar, William Far-

rell, the Jerusalem correspondent of the New York Times, and our own Ambassador to Israel, Sam Lewis, who in a very brief time has already established himself as one of the most effective plenipotentiaries we have ever sent there.

Lest anyone doubt the extent to which Israel is completely committed to the principles of liberty and freedom on which our own country was founded 200 years ago, the recent elections—as a result of which the ruling Labor Party was removed from office after 29 uninterrupted years in power—provided a convincing demonstration of the depth of democracy in Israel. From a political point of view, there are few more significant events than a peaceful and orderly transfer of power. And the shift of responsibility for the fate and future of Israel from Labor to the Likud—without a single shot or divisive demonstration—reflects the extent to which our Israeli friends share with us a deeply rooted commitment to the democratic way of life.

But beyond our moral obligations to Israel as a sister democracy, in a world in which the number of democracies seems to dwindle daily, there are significant geopolitical circumstances which have historically justified our strong support for the Jewish State.

A STRATEGIC JUSTIFICATION

First and foremost is our stake in the survival and security of Israel itself. Israel does, after all, have the most powerful military machine in the Middle East. As a faithful and reliable ally, whose friendship has been demonstrated over and over again, it would presumably be available to assist us in a variety of contingencies, ranging from the Mediterranean Sea to the Persian Gulf. Indeed, I think it fair to say that Israel constitutes not only the most significant bulwark against the advance of communism in the region but is also the most important conventional deterrent to a direct Soviet incursion into the area. The Persian Gulf contains more than half of the world's proven petroleum reserves. Virtually all of our West European allies and Japan are dependent on the gulf states for the oil on which their economies run. And it would have catastrophic consequences for the international balance of power if the Russians, through external invasion or internal subversion, were able to gain control of this strategically significant area. Israel, in these terms, is potentially in a position to do as much for us as we have been doing for them.

Israel's role as a friend and ally of the United States was perhaps most effectively demonstrated in 1970 when, at the height of the Jordanian civil war, Syria sent two tank divisions across the border to provide support to the Palestinian guerrillas who were engaged in an effort to overthrow King Hussein. Only a partial mobilization by Israel, at the request of our own country, persuaded the Syrians to withdraw, thereby saving the throne of the most moderate Arab leader of them all. Had the Palestinians succeeded in overthrowing Hussein, it not only might have transformed the East Bank into a Soviet base, but would also have posed a real threat to the current regime in Saudi Arabia which, like Jordan, has been a force for moderation in the Arab world. And, in the more recent civil war in the Lebanon, had Israel not warned Syria of the consequences of a move in force into southern Lebanon, the chances are that all, rather than just part, of that strife-torn nation would today be occupied by Syrian troops.

These are particularly important considerations because there seems to be a tendency on the part of some analysts to slight the strategic significance of Israel as our one reliable democratic ally in the Middle East. To these American Arabists, Israel is at best a burden which we have to bear at the price of alienating our natural allies in the Arab world. Nothing, of course, could be further from the truth. In spite, and to some extent because of, our strong support for Israel, our relations with the Arab world have improved considerably since 1973.

And even if we were to abandon our obligations to Israel, as England once turned its back on Czechoslovakia, and Israel were somehow exorcised out of existence, the chances are that the Middle East would be as unstable tomorrow as it is today. The fact is that the dispute between Israel and the Arabs is only one—and by no means the most enduring—source of conflict in the region. The persistence of unpopular feudal regimes alongside strong modernizing forces; an ancient religion in conflict with powerful secular tendencies; dynastic rivalries such as the one between the Hashemite Kingdom of Jordan and the Royal Family in Saudi Arabia; the monopolization of wealth and power by small elites threatened by the rising expectations of impoverished millions; longstanding communal and ethnic animosities such as those between the Kurds and Iraqis, the Bedouins and Palestinians, and the Maronites and Moslems—much more than the existence of Israel, are the true source of instability in the Middle East.

Imposed upon all these present and potential conflicts is the most dangerous of them all: the concentration of fabulous wealth in four militarily insignificant Persian Gulf states. While nations remote from the region may be reluctant to resort to force in order to seize the vast treasure which the sheikdoms possess, neighboring states may not necessarily be troubled by such scruples. In these terms, it is the very presence of Israel, whose existence crystallizes Arab animosity, which tends to prevent what otherwise might be an ineluctable descent into disintegration.

But perhaps most importantly, were we to repudiate the commitments of every Congress, and every President, since the establishment of Israel in 1948, it would completely undermine the credibility of our commitments elsewhere throughout the world. Our allies in Western Europe and Northeast Asia could discount the significance of our failure to live up to our presumptive obligations to South Vietnam. But they could not, and would not, lightly dismiss a repudiation of our commitments to a country like Israel, which both shares our values, and has so much support among the American people.

PROSPECTS FOR PEACE

At the same time that we have a significant stake in the survival and security of Israel, we also have a considerable interest in the avoidance of another war. And I know few serious students of the region who do not believe that in the absence of any real movement toward peace, another war is virtually inevitable. Should the peacemaking process collapse, and the Arabs decide to launch another attack, we would probably have to implement another airlift to Israel. This, in turn, would probably provoke another oil embargo by the Arabs and create the possibility of another great power confrontation with the Russians. In short, another war in the Middle East could result in a catastrophe not only for the countries of the region but for ourselves and the rest of the world as well.

All of these considerations militate mightily in favor of a comprehensive settlement which would enable the countries of the region to begin the process of diverting their resources from continued preparations for war into meaningful development for peace. Such a settlement would, of course, also advance our own interest in the region by presumably providing for the security of Israel, the diminution of the chances of war, the removal of the threat of another embargo, and the reduction of the possibility of a serious conflict with the Russians. Indeed, since the political influence of the Soviets in the Arab world is largely a function of their need for Russian arms, it would also result in a serious setback for Soviet influence in the region.

No one, of course, would quarrel with the need—indeed, the necessity—for a just and lasting peace in the Middle East. What is open for discussion and debate is the extent to which a resolution of the conflict is possible and, more importantly, how it can be achieved.

While it may be true that the chances for a settlement are better today than they have been at any time in the last 30 years—largely as a result of a continued yearning on the part of Israel for peace, and an emerging recognition on the part of the Arabs that Israel is here to stay—the fact is that they are still not very good. The mutual mistrust which exists in the region has generated a gulf of suspicion so broad that even the President of the United States, with the best of intentions, may not be able to bridge it. And the sad but significant truth is that the most moderate Israeli position is still far apart from the most moderate Arab position on the terms of a settlement.

ARAB ATTITUDES

One cannot, of course, talk about an Arab position toward the conflict with any measure of confidence. Between the rejectionists and the responsibles there is no common ground. What would presumably be acceptable to Jordan, what might be acceptable to Egypt, what could conceivably be acceptable to Syria, would clearly never be acceptable to

either Libya or Iraq. And for all the talk about U.N. resolutions 242 and 338 which one hears these days from the capitals of the confrontation states, the Palestine Liberation Organization still rejects them. Indeed, the leadership of the PLO—which ever since the Rabat Conference in 1973 has been designated as the legitimate spokesman for the Palestinian people—continues to contend that a final settlement will require the elimination of Israel and its replacment by a so-called secular democratic state.

But even if we assume that the Iraqis and the Libyans can be isolated, and the Palestinians delivered, should the front line Arab States reach a comprehensive agreement with Israel, there is relatively little reason to believe that it is about to happen. Without exception, the confrontation states contend that the minimum basis for an agreement is an Israeli withdrawal to the 1967 borders in Sinai and the Golan, the establishment of a Palestinian state on the West Bank and Gaza, and the return of East Jerusalem to Arab sovereignty and jurisdiction. In exchange for these tangible territorial concessions, the Arab leaders have so far publicly indicated a willingness to offer nothing more than an end to the state of belligerency, and have explicitly rejected the kind of "real peace," involving trade, tourism, open borders, and diplomatic recognition called for by the Israelis.

Israel, on the other hand, has taken the position that while it is prepared to make substantial territorial concessions in the context of a final settlement, it is not willing to withdraw to the borders which prevailed prior to the 1967 war, even in the unlikely event the Arabs offered them a "real peace" in exchange.

Since any settlement between Israel and the Arabs designed to bring the conflict to an end will necessarily be subject to the vagaries and vicissitudes of politics in the Arab world—which means it could easily be repudiated before the ink on the document ratifying the agreement was dry—the Israelis feel very strongly that whatever borders are finally agreed upon must leave them in a position to defend themselves should the agreement break down. It may therefore, be useful to take a closer look at the political problems and security situation that prevails on each of the fronts currently in dispute.

THE NORTHERN FRONT

Anyone familiar with the terrain on the Golan—and the difficulty which Israel would confront in scaling the Heights should it become necessary to recapture them—must realize that were Israel to withdraw completely from the Golan, as demanded by the Syrians, it would be in a far less effective position to defend itself than it is at present should another war break out in the future. The Israelis also feel that they need the kind of strategic depth vis-a-vis the Syrians which a military presence on the Golan makes possible. Indeed, from the Israeli point of view, had the 1973 war broken out from the 1967 borders, the early fighting would have taken place on Israeli rather than on Syrian soil, within shelling distance of Haifa rather than Damascus. Since Israel has a large part of its population within easy tank and artillery range of the Heights, it is not likely to readily relinquish the natural advantages it now possesses by virtue of its present position on the Golan.

Of course, one has to assume that were Israel to withdraw from the Golan, it would insist on the demilitarization of the area from which it had withdrawn. Since Israel's main concern with the Golan is to prevent the Syrian army from occupying the Heights, rather than watching the Israeli flag fly there instead, a number of people have suggested that demilitarization would go a long way toward satisfying the territorial demands of the Syrians, while assuaging the security concerns of the Israelis. The problem is that the Golan is such a small piece of property—there are only 29 kilometers between the present Syrian position and the edge of the Heights—it could be remilitarized, should Syria decide to break the agreement, within a matter of hours.

Consequently, from Israel's point of view, the only way to make sure they are not confronted with a Syrian army on top of the Golan, prepared and ready to strike at the heartland of Israel itself, is for them to maintain at least some kind of military presence there themselves. One is forced to conclude, therefore, that between the Syrian demand for a total withdrawal from every square inch of the Golan, and the determination of the Israelis, even in the context of a final settlement, to maintain at least a small military presence on the Heights for strategic purposes, there is not much room for the kind of compromise which might make an agreement between them possible.

THE SOUTHERN FRONT

In the Sinai, where the vast distances involved implicitly provide the kind of strategic depth which Israel feels it needs on the Golan, there is much more room for accommodation. But even here there are sharply conflicting views about what would constitute a territorially acceptable agreement. From Egypt's point of view, the Sinai is Egyptian territory and, as President Sadat has said on many occasions, if the Israelis want peace they must be willing to withdraw from all of it. From Israel's point of view, there would be no problem, assuming Egypt were willing to offer a real peace, in withdrawing from almost all of the Sinai.

Now that Egypt has been given back the oil wells at Abu Rodeis as well as the Suez Canal it has, after all, possession of the only economically significant assets in this biblical wilderness. But the two blockades established by Egypt against the Israeli port of Eilat, in both 1967 and 1973, have convinced the Israelis that, in order to avoid such situations in the future, they must remain at Sharm al-Sheikh in the southern Sinai. This in turn would require an access route along the eastern coast of Sinai running from Sharm in the south to Eilat in the north. By maintaining a naval presence in Sharm, the Israelis would be in a position to potentially prevent another Egyptian blockade at Bab al-Mandeb. Failing that, they would hopefully still be able to deter an Egyptian effort to close their southern port to foreign shipping by being in a position to mount a counter-blockade of the Gulf of Suez, thereby closing the Suez Canal for as long as the Arabs closed Eilat.

Just as the underlying differences between Israel and Syria make a final disposition of the Golan unlikely at the present time, the conflicting positions of Israel and Egypt make an ultimate resolution of the Sinai difficult to envision as well. All things being equal, it should probably be easier to resolve the differences over the Sinai than the disagreement over the Golan. This is partly because Egypt has a greater economic incentive to reach a settlement than Syria, and partly because returning the Sinai would pose less of a security threat to Israel than giving back the Golan. But the unwillingness of President Sadat to opt out of the larger Arab struggle against Israel, by making a separate peace, means that the foreign policy of Cairo is effectively circumscribed by what is acceptable in Damascus. In effect, the insistence of the Arabs on a settlement involving all of the issues, makes it much more difficult to solve problems which, if they could be disposed of separately, would be far easier to resolve.

THE EASTERN FRONT

Even assuming that the territorial differences over the Sinai and Golan could somehow be resolved—it is not, after all, unheard of for countries to agree to a settlement at the conclusion of a negotiation which they explicitly rejected prior to the time it began—there would still be a need to work out an agreement on the West Bank and Gaza, the complexity of which makes the problem of the Sinai and Golan look simple by comparison.

The Arabs have taken the position that the return of these territories is an essential precondition for peace. Unlike the Sinai and Golan, however, where the Arabs have insisted on the return of all occupied land, there appears to be a willingness on the part of most Arab leaders to consider minor modifications in the truce lines that prevailed on the West Bank and Gaza from 1949 to 1967. Essentially, this is because these territories never constituted part of the historic homeland of an officially constituted Arab sovereignty as did Sinai and Golan. But whereas the Arabs have insisted on the return of Sinai to Egypt, and the Golan to Syria, they have not demanded a return of the West Bank to Jordan.

Indeed, while there is some division in Arab ranks over whether the West Bank—and presumably Gaza—should be loosely linked to Jordan in the context of a final settlement, they all see it as the appropriate area for the establishment of a Palestinian State. And ever since the Rabat Conference in 1973, at which the Arabs unanimously removed the right to negotiate for the future of the West Bank from King Hussein of Jordan and gave it to Yassir Arafat of the PLO, it has been the Palestinians rather than the Jordanians who have held the presumptive political title to this particular piece of property.

From Israel's point of view, however, the establishment of an independent Palestinian State on the West Bank and Gaza would be completely unacceptable. Such a state, in their judgment, would inevitably come under the control of the Palestine Liberation Organization whose National Covenant, which is to them what the Declaration of Independence and the Constitution are to us, clearly and unequivocally calls for the elimination of Israel and its replacement by a so-called secular democratic state. It is extremely doubtful that the Palestinians would be willing to repudiate the Covenant even if Israel were willing to permit the establishment of such a state.

But even if they were prepared to acknowledge formally the right of Israel to exist as an independent Jewish state, and to abandon their "dream" of a "secular democratic state," the Israeli Government is convinced that the inherent political dynamics of the Palestinian movement would inevitably and ineluctably bring the irredentist forces within the PLO to the fore. It would not, after all, be easy for Arafat to defend himself against the accusation that, by accepting an emasculated ministate on the West Bank and Gaza, he had betrayed the very cause on behalf of which he had fought.

No one, rejectionists like Habash and Hawatmah would argue, has the right to barter away the patrimony of the Palestinian people. Haifa, they would contend, is as much theirs as Hebron. And there is little doubt that they would not rest until Arab sovereignty had been established over both. In plain language, they would probably seek to use the West Bank and Gaza, not as a vehicle for the expression of their legitimate national interests, but as a base for an expanded and continuing war of terror against Israel.

THE PALESTINIAN PROBLEM

The establishment of an independent Palestinian state on the West Bank and Gaza would, therefore, pose an unacceptable political and military risk to Israel, in the judgment of almost all the Israeli leaders I have ever met. From the West Bank, literally every air field in Israel would be within easy range of handheld antiaircraft missiles. All of Israel's major population centers would be within the reach of Arab artillery. And Fedayeen guerrillas, emanating from bases on the West Bank and Gaza, would be in a position to launch murderous missions against the people of Israel. This is not a purely hypothetical horror. The fact is that between 1949 and 1967 approximately 1,300 Israelis lost their lives in terrorist attacks which originated from the West Bank and Gaza. Since then hundreds of other Israelis have been brutally murdered by Palestinian terrorists. And for perfectly understandable reasons, the Israelis have no intention of permitting such a situation to develop again.

It is not, of course, just the fear of the Fedayeen that has persuaded Israel that it cannot afford to permit the establishment of a Palestinian State on the West Bank and Gaza. They are also concerned about the extent to which their previous eastern border is inherently indefensible from a military point of view. Given the shifting contours of the 1967 border, there were points along the West Bank where Israel was only nine miles wide, and at Natanya in the north and Qalqiliya in the south, it would take mechanized Arab armies only 20 minutes literally to cut Israel in half, should another full-scale war break out from the dividing line which prevailed prior to the 6-day war.

Some have suggested that were Israel to return the West Bank and Gaza it would have relatively little to fear, since the area from which it withdrew would undoubtedly be demilitarized. Even assuming this to be the case, and it is hard to envision an Israeli withdrawal without demilitarization, the Israelis are by no means convinced that such an arrangement would safeguard their interests. The more experienced among them believe that, while it may be possible to demilitarize unpopulated areas, it is impossible to demilitarize populated ones. Guns, artillery, antiaircraft missiles, bombs, and even tanks, could all be smuggled in by terrorists determined to use them. The Israelis have little confidence that the Jordanians would have the ability, or even the willingness, to prevent the transfer of arms from the East to the West Bank of the Jordan River. And once Israel is deprived of the right to station its own forces in the area, in order to prevent and punish any acts of terrorism that might develop, it would lose effective control over the situation.

It might be argued that Israel, like any country, would ultimately do whatever it needed to do for its own defense. And if the only way to bring a resurgence of terrorism to an end was to send the Israeli army on search and destroy missions across the new border, an agreement to the contrary notwithstanding, it would undoubtedly do so. What this assessment fails to take into account, however, is the extent to which such raids by Israel would only inflame the very passions the peace agreement was supposed to extinguish, thereby creating real pressures in the Arab world to bring what would be considered intolerable intrusions to an end.

But perhaps more importantly, with only 40 kilometers separating the 1967 border from the Jordan River, the West Bank could easily be remilitarized within 24 hours. The reorganization of the Jordanian Army since the 1973 war into four, rather than two, mechanized divisions, has given the Kingdom a military capacity to translate such a possibility into a reality. And the developing relationship between Jordan and Syria, under which the former is moving into the embrace of the latter, increases the political potential for such a development. For Israel, which has a very small standing army, and which needs 48 to 72 hours to mobilize its reserves, the demilitarization of the West Bank does not, therefore, represent a permanent solution to the problem of a surprise attack on the Eastern front.

AMERICAN GUARANTEES

Some have suggested that the United States, and possibly even the Soviet Union, might be persuaded to guarantee the inviolability of whatever new borders emerged from a settlement. But Israel, which does not even enjoy the benefits of diplomatic relations with the Russians, understandably puts little stock in Soviet guarantees. And who can blame them. Would we, or any of our West European allies, want to make our security dependent on assurances from the Soviet Union? The question, of course, answers itself.

This leaves the United States as the only possible guarantor of such an arrangement. But how reliable would an American guarantee realistically be? From Israel's point of view, in the post-Vietnam era, not very much. It is not just that in their eyes we failed to meet our commitments to Vietnam. Historically, they believe, we have even failed to meet our commitments to them. Back in 1956, for example, when Israel withdrew under heavy American pressure from the Sinai and the Gaza strip, following its lightning conquest of these territories in the Suez war, it did so with the understanding that the Egyptian Army would not return to Gaza. Twenty-four hours after Israel pulled out of Gaza, however, the Egyptian Army moved in. And when Golda Meir, who was then Foreign Minister of Israel, forcefully protested the remilitarization of Gaza to John Foster Dulles, who was then in his heyday as Secretary of State, that renowned international moralist told her there was nothing we could do about it.

But even worse than the refusal of the Eisenhower administration to do anything about the Egyptian move into Gaza in 1956, was the failure of the Johnson administration to do anything about the blockade of Eilat in 1967. When Israel withdrew from Sinai in 1956 it did so, to a significant extent, because of an American promise to guarantee freedom of passage through the Straits of Tiran. But when Egyptian President Nasser ordered the U.N. peacekeeping force out of Sinai in April of 1967, and announced that the Straits of Tiran would henceforth be closed to Israeli shipping, President Johnson, outside of a putative effort to organize an international consortium of maritime powers to run the blockade, did nothing.

The fact that President Johnson, preoccupied with events in Vietnam, felt himself politically incapable of coming to their aid, did not provide much solace to the Israelis. And however history ultimately interprets this unfortunate incident, it has understandably reinforced the feeling in Israel that American guarantees can, at best, be a supplement to, rather than a substitute for, security arrangements which enable them, if the agreement breaks down, to defend their own interests.

THE FUTURE OF THE WEST BANK

Some have suggested that the security problems which would be created by an independent Palestinian State on the West Bank and Gaza, even a demilitarized one, could be solved if it were somehow "linked" to Jordan. President Sadat and King Hussein have both spoken publicly about such a linkage and, to the ex-

tent a constitutional connection between a Palestinian entity and Jordan would tend to legitimize the demilitarization of the West Bank and Gaza, it is probably the political sine qua non for the establishment of such a state. What Sadat and Hussein undoubtedly have in mind, however, is at best a confederation of roughly equal sovereignties, which is a far cry from the tight knit federation, conceived of by the previous Israeli Government, in which the West Bank would be nothing more than a Palestinian province within the framework of a larger Jordanian jurisdiction.

The present Israeli Government, however, is convinced that any Palestinian entity on the West Bank and Gaza, once removed from the security jurisdiction of Israel, would inevitably and ineluctably be transformed into a base for continued hostilities against them. Hussein himself, in their view, would be put in mortal personal and political jeopardy by such an arrangement. The leadership of the PLO is, after all, as much committed to the overthrow of the Government of Jordan as it is to the elimination of Israel. And with the West Bank once again linked to Jordan, the Palestinians would constitute an overwhelming majority of the population of a reconstituted Hashemite Kingdom, thereby imperiling the survival of the King.

Even if the Palestinians were not able to take over the Kingdom, however, there is no guarantee that Hussein might not be pressured or persuaded into permitting the West Bank to secede from the confederation, thereby leading to the establishment of precisely the same kind of independent Palestinian entity a "linkage" to Jordan was supposed to avoid. The breakup of a confederation in the Arab world is, after all, not exactly an unheard of phenomenon.

So far I have not even mentioned the very strong belief on the part of the new Israeli Government that Judea and Samaria are part of the historic homeland of the Jewish people. For many Americans, indeed for many Israelis, the fact that these territories were once a part of the biblical kingdom of the Judean people is not a matter of the most vital political relevance. But to the new Government of Israel, Judea and Samaria are as much a part of the patrimony of the Jewish people, as the Golan and the Sinai are, in the eyes of the Syrians and Egyptians, a part of the patrimony of their people. To those who argue that it is Jordan, not Israel, which has the most legitimate claim to the West Bank, the answer is that Jordan seized the area in the first Arab-Israeli war in 1948.

The partition resolution adopted by the U.N. in 1947, which provided for the establishment of a Jewish State in Palestine, set aside most of the West Bank for a separate Arab State as well. In other words, Jordan occupied the West Bank from 1949 to 1967 as a result of the fortunes of war, just as Israel has occupied it from 1967 to the present for the same reasons. And if Israel is not entitled to be there, as the Arabs have argued, than neither is Jordan. What all this means is that the future of the West Bank, of Judea and Samaria as the Israelis call it, should not be determined by an objective search for its historic title, but by how its ultimate disposition can best contribute to an enduring settlement of the conflict between Israel and its Arab neighbors.

WHITHER JERUSALEM

If a lasting peace is going to be achieved—and it is difficult to be excessively sanguine that it will—an agreement on the future status of Jerusalem will somehow have to be reached. Yet of all the issues currently in dispute, Jerusalem is probably the most complex and controversial of them all. For more than 100 years, ever since the Turkish census of the city in 1844, Jerusalem has had a Jewish majority. And for the last 2000 years, ever since the destruction of the second temple by Titus in 70 A.D., Jews the world over have prayed for a return to the capital of their ancient homeland.

Needless to say, now that they have it, the Israelis have no intention of giving it up. Yet Jerusalem, while it does not appear to be quite as important in historic and religious terms to the Moslems as it is to the Jews, is still a matter of great significance to the Arabs. And they have all argued that East Jerusalem, which includes not only the Moslem but the Jewish and Christian holy places as well, must be returned to Arab sovereignty and jurisdiction. The Israelis, on the other hand, while willing to give the Arabs functional control over the Al Aksa Mosque and the Dome of the Rock on the Temple Mount, are not prepared to permit the repartition of the city. What the Arabs want, however, is political rather than just religious sovereignty over the Old City and the predominantly Arab areas of Jerusalem. But the Israelis, who have already fully incorporated East Jerusalem into the legal framework of the nation, are determined to make sure that it remains the undivided capital of the country.

Both sides have forcefully rejected the internationalization of Jerusalem, as a means of solving the problem, on the grounds that it would be inimical to their own interests. And given the emotional symbolism which both Arabs and Israelis attach to the status of the Holy City, and the apparently irreconcilable positions which they have advanced, it is difficult to envision the basis for an agreement between them. Clearly, the Israelis will never agree to a return to the status quo ante. By the same token, the Arabs will never agree to a settlement in which the status quo is legitimized.

About all one can say, therefore, is that if they are able to reach an agreement on all of the other issues that divide them—the Sinai, the Golan, the West Bank, the problem of the Palestinians, and the nature of peace—then the good will which will have been generated in the process may make possible some kind of compromise over the future of Jerusalem. Whatever that agreement may entail, however, it will necessarily have to maintain the principle of Jerusalem as a united city in which the capital of Israel is located. In the meantime, unlike the situation that prevailed prior to 1967, when Jerusalem was under Jordanian control, and Israelis were not permitted to visit the Western Wall, the people of all nations and religions are at least able to pray at their holy places.

RESOLUTIONS 242 AND 338

So far the commonly accepted diplomatic framework for a settlement of the conflict is embodied in U.N. resolutions 242 and 338. These two resolutions set forth the principle that, in exchange for a withdrawal by Israel from territories occupied in the 1967 war, the Arabs should agree to recognize the sovereign existence of Israel within the framework of secure and recognized borders.

The Arabs have insisted that resolution 242 requires a return of all the territories occupied by Israel in the 1967 war. The Israelis, pointing to the deliberate ommission of the definite article "the" before "territories" in the resolution, have contended that, while it does require them to withdraw, it does not obligate them to go all the way back to the insecure and indefensible borders that existed prior to 1967.

Israel's readiness to withdraw at all, however, is dependent on the willingness of the Arabs to give them a real peace rather than a temporary truce in exchange. And so far, the most Sadat and Assad have been prepared to publicly offer in return for a complete and comprehensive withdrawal, is a peace agreement in which the state of belligerency between Israel and its Arab neighbors would be formally ended. With an end to the state of belligerency, they have contended, the Arab boycott against Israel would also be terminated, since the legal basis for it would be eliminated as well.

Sadat, who is much more forthcoming on these matters than Assad, has also indicated that, in the context of a final settlement, he would be willing to agree to the demilitarization of a large part of the Sinai—so long as Israel agreed to a proportionate demilitarization of the Negev—the presence of international peacekeeping forces in the area from which Israel withdrew, and even a mutual defense treaty between the United States and Israel, if an American military guarantee is desired by them. There is little doubt that King Hussein would also be willing to agree to such a settlement, though it is less clear that President Assad would as well. The Syrian leader has, to be sure, indicated a willingness to agree to an end of the state of belligerency, assuming Israel were willing to withdraw to the 1967 borders in Sinai and the Golan, and permit the establishment of a Palestinian state on the West Bank and Gaza.

But he has so far refrained, unlike Sadat, from publicly expressing a willingness to accept either demilitarization of the territories from which Israel withdraws, or the establishment of an international peacekeeping force to patrol the territories, once Israel withdraws from them. Since it is difficult, if not impossible, to envision even partial Israeli withdrawals without the demilitarization of the areas it has left behind, the re-

luctance of President Assad to accept in principle the possibility of demilitarization does not augur well for a settlement of the conflict.

END OF BELLIGERENCY

But whatever the differences and disagreements between Sadat and Assad over such questions as demilitarization, and whether or not a Palestinian entity on the West Bank and Gaza should be linked to Jordan, they have both ritually rejected the Israelis' demand for a peace treaty involving trade, tourism, open borders, and diplomatic recognition. According to them, the accumulated antagonisms of the last 30 years make the kind of real peace which the Israelis want both unjustified and unrealistic. Let Israel just withdraw from the territories it occupied in 1967, and give the Palestinians their rights, they contend, and these things will inevitably develop over time. In any case, the Arabs argue, an end to the state of belligerency should be enough to satisfy the Israelis. After all, they contend, the mere existence of trade and tourism, and even diplomatic recognition, hardly constitutes a guarantee that peace will prevail.

Most wars, they say, have broken out between nations that enjoyed commercial relations and diplomatic recognition. And the fact that countries do not trade and talk with each other, as we did not for many years with the Peoples Republic of China, and still do not with Cuba, hardly means that war is inevitable.

Yet no one can realistically expect the Israelis to accept the territorial demands put forth by the Arabs, thereby leaving themselves in a far less defensible position than at present, without an agreement by the Arabs to completely normalize their relationship with Israel. There is, to be sure, no guarantee that trade, tourism, open borders, and diplomatic recognition will result in the establishment of a permanent peace. But there can be little doubt that it would maximize the prospects for peace and minimize the chances of war.

More than anything else, what the Israelis have always wanted from the Arabs is acceptance—not so much of their right to exist as of their existence itself. In this sense, the kind of cultural and commercial relations, together with diplomatic recognition, which the Israelis seek, are designed first and foremost as a symbol of their acceptance by the Arabs. So long as it is kept in political and economic isolation, Israel contends, the underlying Arab attitude toward the presence of a Jewish State in the Moslem Middle East is unlikely to change. And if the Arab masses continue to see Israel as an historic anomaly whose very existence constitutes an unacceptable insult to the pride and honor of the Arab nation, then the long-term prospects for a modus vivendi between them will be dim indeed.

It is important to distinguish here among the different schools of thought that have emerged in the Arab world toward Israel over the last 30 years. First, there are those who have come to the conclusion that, for better or worse, Israel is a reality that is here to stay. For them, however unjustified the establishment of Israel may have been, there is nothing which the Arabs can realistically do about it. And, instead of continuing a futile and foredoomed effort to eliminate Israel, they believe they should try to come to terms with it. Second, there are those who, recognizing the futility of war, are prepared to make peace—not in order to come to terms with the existence of Israel as a Zionist state, but in order to shift the conflict from the field of battle to the realm of ideas. According to this school of thought, once the expansionist dynamic of Zionism is broken, and Israel is forced to withdraw to the shrunken borders which prevailed prior to 1967, it will inevitably wither away and diplomatically disappear.

Finally, there are those who, never having come to terms with the reality of Israel, are still determined to destroy it. For them, the very existence of Israel as a sovereign Jewish polity constitutes an intolerable intrusion on Islam; the idea of a settlement with Israel an anathema. What they seek is not an accommodation with Zionism buts its elimination. And they can be counted on to do everything in their power to disrupt any settlement which appears to legitimize the existence of Israel as a permanent presence in the Middle East.

THE NEED FOR REAL PEACE

In these terms, the process of peace involves, as much as anything else, a struggle to shape public opinion within the Arab world. If an agreement designed to bring the conflict to an end is going to last, it will have to produce a lasting change in the underlying Arab attitudes toward Israel. There is little that can be done to win over the "rejectionists." But there is much that can be done to shore up the de facto acceptance of Israel by the "responsibles." And, perhaps most importantly, those Arabs who see in diplomacy a more realistic means of achieving their objectives than war, can be persuaded that their interests would better be served by a lasting accommodation than by a continuation of the conflict.

Real peace thus becomes both a manifestation of the Arab willingness to live in harmony with Israel as well as a cultural, political, and economic dynamic designed to reenforce and strengthen those forces in the Arab world which are the best and only hope for a lasting peace. Were Israel to withdraw from territories which are essential to its own defense without a real peace, it would only serve to leave the conflict "open-ended," thereby lending legitimacy and encouragement to those forces in the Arab world who still reject the existence of Israel and are determined to destroy it. As time went on, and it became clear that Israel was neither falling apart nor withering away, they would be sorely tempted to try once again to win by war what they had been unable to achieve through peace. And if a settlement fails to produce a just and lasting peace, most Israelis believe, it would be far better for the next war to break out from boundaries that are defensible than from borders that are not.

Where does this rather gloomy analysis of the prospects for peace in the Middle East leave us? And what are its implications for the role of our own country in the search for a settlement between Israel and its Arab neighbors?

Whatever the theoretical merits of the President's proposal—according to which Israel would more or less return to the 1967 borders, and permit the establishment of a Palestinian homeland presumably linked to Jordan, in exchange for which the Arabs would agree to give Israel a real peace including trade, tourism, open borders and diplomatic recognition—I fear that it is simply not rooted in reality. The purpose of diplomacy, after all, is not to articulate ideal or even idealistic solutions, but to reconcile conflicting points of view within the framework of mutually acceptable agreements. For better or worse, the Israelis are no more likely to withdraw all the way to the 1967 borders than the Arabs are to make a complete commitment to peace. And the Arabs are no more likely to accept a permanent Israeli presence in the occupied territories than the Israelis are likely to accept an end to the state of belligerency in lieu of a real and lasting peace.

Under these circumstances, given the consequences for our own country of a failure to reach an agreement, there will be a real temptation on the part of the President to impose a settlement rather than wait for the parties to conclude one on their own. Fortunately, President Carter has so far carefully and deliberately precluded such a possibility. I say fortunately because it is extremely unlikely that the Israelis would ever acquiesce to such pressure. And any effort to force the Israeli Government to accept a settlement it felt was not in its own interest would only have a unifying effect on Israel and a divisive effect on America. But even if we somehow succeeded in imposing a settlement, however momentarily attractive such a strategy might be, it would ultimately contain the seeds of its own undoing.

In effect, since we have far more leverage on the Israelis than the Arabs, such a settlement would clearly be one which was forced on Israel against its better judgment. Dependent on us as they are for arms and assistance, the Israelis might feel they had no alternative but to accept an agreement that they never would have accepted on their own. But if Israel were forced to give more territorially, or get less politically, as a result of American pressure, it would inevitably lead to excessive expectations on the part of the Arabs and political demoralization on the part of the Israelis—neither of which are sound or strong foundations for a just and lasting peace.

What we need to do is use our good offices to secure a settlement that leads to a real peace rather than a temporary truce. It would, after all, avail us little if we were to get an agreement which constituted a way station between wars rather than a prelude to peace. And in

the search for a settlement there is probably nothing more counter-productive we could do than attempt to force our own conception of a compromise—no matter how equitable it may be—on the parties to the conflict.

THE NEED FOR DIRECT NEGOTIATIONS

The history of the dispute between the Jews and the Arabs for a piece of Palestine could easily be written in the prose of the proposals designed to resolve it. The Peel Commission in 1937, the Anglo-American proposal in 1946, the Partition Resolution in 1947, the Rogers Plan in 1971, and the Brookings Report in 1975, have all attempted to reconcile the conflicting interests involved without success. Whatever the theoretical virtues of these various plans and proposals—and some of them were not without merit—they all had one failing in common: By attempting to impose a settlement on the parties, instead of embodying a solution agreed upon by the parties, they only served to exacerbate instead of eliminate the differences between them.

It may well be that no settlement is possible in the foreseeable future. This is, after all, a conflict which has been going on for over half a century. And it could conceivably continue for another 50 years, if not longer, before it is finally resolved. But the lesson of history is clear: If a solution is to be found, it will have to come from the parties themselves, on the basis of the kind of mutual reconciliation and recognition that can emerge only from direct and detailed negotiations between them.

This is not to say or suggest that we do not have an important role to play in the effort to bring the parties together, and once they have been brought to the negotiating table, to facilitate the sort of creative compromises that will be necessary for peace. We are, in the final analysis, the only country which enjoys the confidence of all the countries involved. And we clearly have a very real stake in a settlement. But how we go about this essential effort will determine, in a very significant way, its chances for success. Given the political obstacles in the path of a settlement, and the extent to which public opinion makes it difficult for each of the countries involved to make the necessary compromises, the more we speak out publicly the less flexible they can be privately.

Particularly now that we may be approaching a resumption of negotiations, the time has come to diplomatically and politically cool it. Whatever suggestions we have to make should be made behind closed doors rather than in front of television cameras. Instead of forcing the leaders on both sides to publicly reject those parts of our proposals which are least acceptable to them, we should be quietly trying to narrow the differences between them.

WHAT KIND OF AGREEMENT

There is little doubt that a comprehensive settlement would be in everyone's interest. For reasons I have already described, however, such a settlement is exceedingly unlikely in the foreseeable future. Since a collapse of the effort to achieve an agreement is likely to lead to another war—with potentially devastating consequences for the countries of the region as well as ourselves—we have a significant interest in maintaining the momentum for a diplomatic resolution of the conflict.

If, and when, it turns out that a comprehensive settlement is not possible, we should use our good offices to explore the possibilities for additional interim agreements instead. It is not easy to be overly optimistic about the possibility for a partial, as distinguished from a comprehensive, agreement between them. But if it is not possible to get an agreement on a final settlement, it may still be possible to get an agreement on some of the territorial and political concessions that will have to be made if a final settlement is ever achieved. The advantage of such an approach is that it would presumably buy time for the forces of moderation on both sides to generate support for the kind of compromises that will be necessary for peace. Another advantage is that by reaching a tentative territorial accord it would presumably postpone the outbreak of another war. But most importantly, if we assume that in exchange for whatever territorial withdrawal were agreed to by Israel, the Arabs would be obligated to provide some of the political components of peace, it would be extremely helpful in inducing a greater measure of acceptance of Israel by the Arabs, and in generating a greater sense of confidence in the ultimate intentions of the Arabs on the part of the Israelis.

I am not suggesting that the effort to secure such an agreement will be easy. Clearly a comprehensive settlement would be preferable. But it would be far better to get a partial agreement between some of the parties than to end up with a war involving all of the parties.

The problem, of course, is that even if Egypt were willing to accept another interim agreement in the Sinai, which in view of its economic difficulties it might find tempting, it probably would not be prepared to do so without a simultaneous agreement on the Golan. The last time Sadat moved on his own, in September of 1975, he received so much criticism in the Arab world, it is most unlikely he would again agree to a separate settlement. And with so little territory left on the Golan, between Israel's present position and the edge of the heights, it is not only difficult to envision what Israel has to give territorially, but it is even harder to figure out what Syria would be willing to give politically.

If it should turn out that progress on the Palestinian problem becomes an essential condition for movement on the other issues as well—and I think it fair to say that the Arabs can no more make a lasting peace without the Palestinians than they can effectively wage war without the Egyptians—it will undoubtedly be necessary to reach some kind of agreement on the future of the West Bank and Gaza. Needless to say, this will not be easy to do. Even when King Solomon himself would have difficulty reconciling the demand of the Arabs for the establishment of a Palestinian state and the determination of the Israelis to prevent it. It may well be that there is no middle ground between them. But if there is, our ability to find it will depend on the kind of conceptual breakthrough which will enable Israel, as well as the Arabs, to view what is essentially an old problem in a new perspective. So long as both sides see the future of the West Bank and Gaza as a zero-sum game in which what each loses the other gains, there will never be a solution. But if a formula for the future of these territories can be devised, in which each side gets most, if not all, of what it wants, then a settlement of the Palestinian problem may be possible.

PEACE IS NOT A PANACEA

From Israel's point of view, the days ahead will be difficult ones indeed. There are real risks no matter what it does. If the negotiations collapse, or never even get off the ground, the chances are that another war will sooner or later become inevitable. Yet even if it decides to make the territorial concessions demanded by the Arabs, in exchange for a real peace, there is no guarantee that the settlement will last. Even assuming that the current crop of Arab leaders are perfectly sincere in accepting an agreement along these lines, it is entirely possible that they could be replaced by a new generation of leaders who do not. And no one can preclude the possibility that the Arabs, if the expected economic benefits of a settlement fail to materialize, will feel politically obligated to go to war once again, if only to divert the attention of the masses from the pervasive poverty in which they are trapped.

Certainly, in the aftermath of a settlement, a massive and bitter struggle will erupt in the Arab world. On one side would be the "moderates"—Egypt, Jordan, Syria, Lebanon, and Saudi Arabia—who had finally decided to come to terms with the existence of Israel. On the other would be the "rejectionists"—Iraq, Libya, and parts of the PLO—who would argue that the confrontation states had sold out the Arab cause and betrayed the Palestinian people. What the outcome of such a debate would be no one can predict. But it is clearly not beyond the realm of possibility that the forces of extremism would triumph, and that those who had committed themselves to live in peace with Israel, would be repudiated by their own people.

All of these considerations argue, it seems to me, in favor of an effort to reach an agreement that will produce the basis for a just and lasting peace in the Middle East. The chances of securing such a settlement are, of course, not very good. But we really have no alternative but to try. For us to wash our hands of the whole business, or to wallow in our own sense of despair, would be to invite the very disaster we should be doing everything in our power to prevent.

In this sense, I think it is terribly important for us to continually reaffirm our historic commitment to the survival and security of Israel. If the Arabs ever get the idea we are in the process of turning our backs on Israel, the prospects for peace, which are already dim, will significantly diminish. It is, in the final

analysis, a growing recognition on the part of the Arabs that Israel is here to stay, which has inclined the more moderate among them to opt for a diplomatic resolution of the conflict. Let them come to the conclusion that they can defeat Israel on the field of battle, and the chances of another war in the Middle East will increase dramatically. And it is precisely for this reason that I think it is so important for us to provide Israel with all of the arms and assistance it needs, not only to deter, but if necessary to defeat, another Arab attack in the future.

When it comes to foreign affairs, countries rarely have an opportunity to adopt a course of action that is both principled and pragmatic. In the case of Israel, I believe that our policy has been both morally justified and strategically sound. I only hope, in the difficult days that lie ahead, that we have the strength and wisdom to stay the course, using our influence not only to protect the interests of Israel, but to secure a settlement in which all the people of this troubled area of the world can enjoy the benefits of peace instead of suffering from the ravages of war.

CLINCH RIVER BREEDER REACTOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

Mr. SCHEUER. Mr. Speaker, the decision whether to continue full funding for the Clinch River breeder reactor—CRBR—since it will affect the most sensitive domestic and foreign policy issues of our day. The best interests of our country would be best served by our proceeding with the Clinch River project.

The most important question to be addressed is whether the development of Clinch River will hurt our country's efforts in preventing international nuclear proliferation. On May 28, along with my colleagues on the Committee on Science and Technology, I attended a conference in Vienna with the International Atomic Energy Agency—IAEA. The Agency has 110 members, 102 of which have signed and ratified the nonproliferation treaty. It is not only the international watchdog for the use and development of atomic energy, it is also probably the most well informed and impartial body in the world regulating atomic energy.

It is unfortunate that in making its decision to halt development of the CRBR, the administration did not once consult the IAEA. And in asserting for our country the role of chief watchdog over nuclear proliferation, we apparently ignored the extensive apparatus that the IAEA already has set up, scrupulously to monitor atomic energy. The IAEA, for example, is the only international body with the authority to regulate atomic energy. In fact, the United States took the lead in establishing the IAEA for this purpose. The Agency's staff, which is itself 20-percent American, see to it that member countries send sample nuclear material to the Agency where it is processed and examined. Approximately 300 facilities, under the auspices of the nonproliferation treaty or under the IAEA's general nonproliferation guidelines, report to the Agency. Its Department of Safeguards has an $11 million annual budget. And the Agency has extremely wide-ranging authority to strengthen its safeguard regulations.

Apparently, other developed countries working on the breeder cannot afford to follow our example in abandoning this important technology. According to an IAEA study, France, Britain, West Germany, and Japan, as well as other West European countries, have no choice but to develop the breeder, and they are proceeding apace to do so. The Agency estimated that France's fossil fuel resources will last 2 years, Italy's will not last even that long. They see no alternatives to the breeder reactor.

Additionally, many of the West European countries have already committed themselves to commercialization of a breeder reactor, as have the U.S.S.R. and Japan. Furthermore, most of the developing nations, where the potential for misuse of the manufactured plutonium is greatest, have shown little or no interest in the breeder reactor; their interest has been in light water reactors which by themselves produce waste materials adaptable to nonpeaceful purposes. The IAEA also concluded that any country or terrorist group that wanted to manufacture a nuclear bomb could do so regardless of the breeder since adequate technology and materials are available. In fact, the IAEA noted, materials are more readily available to manufacture a bomb from plutonium from research reactors—and it is far easier to make a bomb with these materials.

By implementing a moratorium on breeder development, the United States will lose much of its ability to influence international nonproliferation policy and agreements. Despite the announcement of our new policy, France, West Germany, and Italy enumerates of possible signed agreements to continue research and development on breeder reactor projects and to promote their sale abroad on July 6.

Mr. Speaker, the administration's policy is not only unproductive, it is counterproductive. The nuclear nonproliferation treaty, to which the United States is a party, obliges members to share nuclear technology with countries committed to its use for strictly peaceful purposes. Bad faith by our country with regard to sharing our available breeder technology and to developing it further could cause some of the member nations to abandon this important treaty, thus, ironically, hurting our nonproliferation efforts.

Foreign policy is not the only factor to be weighed, moreover. We need to consider the domestic issues of rising energy demand and declining availability of scarce fossil fuel energy resources. And we need to consider the safety and environmental implications of the breeder and the various alternatives we have, if we reject it.

First, the purpose of this legislation is simply to keep the breeder reactor technology alive. Development of the CRBR is not tantamount to commercialization of the breeder reactor. The Clinch River breeder will not be operational until 1984, and commercialization will not be feasible until the early 1990's. This period of 10 to 15 years provides more than ample time for adequate safeguards to be developed, for all interested parties to voice their concerns, and for proper administrative procedures to be set up to assure the breeder's safe and environmentally acceptable operation.

Second, the need for the breeder becomes even more evident when it is compared to the energy alternatives that will have to be developed if we reject it. The Federal Power Commission estimates that electric energy demand will increase "substantially", perhaps even double, between 1975 and 1990. The electricity to satisfy that demand can be generated from natural gas, oil, coal, or nuclear power, or any combination of the four along with the more exotic forms of alternative energy sources such as solar, tidal, wind, or geothermal power. Owing to excessive cost and decreasing supply, natural gas is already being phased out as a major energy source. Reliance on heavy imports of oil conflicts with our national goal of energy independence. The increased use of coal burning to generate electricity brings with it the environmental pitfalls of strip mining, air pollution, and safety of coal miners. Finally, the more exotic sources of energy are not expected to "come on line" rapidly enough to be of much help in the next few decades.

In New York State, and especially in New York City, these concerns are very consequential. Electric rates have risen more than 35 percent over the past 3 years, according to Con Ed. Now, due to the President's plan, oil or natural gas operated factories and power plants will eventually be converted to coal.

The consequences of this switchover are great. It is understandably disappointing for our region, which has recently made many expensive efforts to clean up the pollution of our air, water and other natural resources, to be forced to convert to coal burning for energy when another more environmentally attractive and acceptable technology is readily at hand.

I am not suggesting that coal conversion be abandoned, for my view is that this is a sound course. However, it is critical not to abandon the breeder technology as well; we must keep all reasonably encouraging options open, until we have far more data than we have now on comparable cost-benefit, safety, and environmental impact factors.

Not only is the breeder more environmentally attractive, it is also more financially attractive—to both the consumer and the power company. The New York State Public Service Commission has submitted testimony stating that electricity generated from coal-powered plants would cost the consumer an average of 25 percent more than that from a nuclear facility. This figure includes both breeder and light-water technology.

However, according to the old Atomic Energy Commission, the reserves of low-cost, high-grade uranium-235 used by the light-water reactor will last only

three to four decades at projected consumption rates. The breeder, on the other hand, uses uranium-238, which is 140 times more plentiful than uranium-235. The energy content in the known reserves of U^{235} could provide 200 years of electric power based on projected consumption rates.

For the welfare of our entire Nation, and especially for the well-being of the Northeast, the breeder reactor is an energy source we cannot afford simply to abandon in midstream.

Our Nation cannot afford to lose our powerful stabilizing influence over the international use of nuclear power by simply abandoning a proven technology and naively hoping other nations will do the same.

Our Nation cannot afford to be callous with a source of energy which is perhaps the last inexpensive and environmentally sound major electrical power source available to us.

Our Nation cannot afford to pass up a last energy source, which—by itself—could enable us to achieve energy independence and free ourself from the bullying and blackmail of a handful of feudal Arab oil sheiks.

The Northeast region cannot afford the environmental and financial costs of alternatives to the breeder reactor.

It is wrong to close the door on development of the breeder reactor. It is difficult for me to call this decision to continue funding "the next step toward commercialization" since the funding level for the demonstration project was agreed upon years ago and commercialization is still 15 years away. Let us develop the breeder and then, when all the facts are in, we will make an intelligent decision whether or not to go ahead with its broad scale commercialization.

ANNOUNCEMENT OF HEARINGS ON H.R. 8359

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that there has been a change in the date of the hearing on H.R. 8359, previously scheduled for September 8, 1977. The new date is September 9, 1977 in room 2141 Rayburn House Office Building at 9 a.m. The purpose of the bill is to restore the effective enforcement of the antitrust laws.

SPEAKER O'NEILL, OLD POLITICIAN WITH A TOUCH OF CLASS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, Joseph Kraft enjoys a reputation as a highly competent incisive commentor on the Washington scene. He also is well respected for his direct and often cutting observations of politics and politicians. He has never been accused of writing "vanity" or "puff" pieces. Therefore, his column today in the Washington Post is rather unique. In it he extols the leadership of our Speaker.

Having been sworn in as a Member of the House of Representatives on the same day as was the gentleman from Massachusetts, I can assure you that Mr. Kraft's comments are quite valid and well earned.

Although he refers to the way in which the Speaker handled the energy bill, this is only the latest of many examples of outstanding leadership that could have been cited. His column will be of interest to all of my colleagues. I would only add that the ability of Speaker O'NEILL to lead is based solidly in the trust and respect of the Members of this body. The complete text of the article follows:

[From the Washington Post, Aug. 4, 1977]

AN OLD POL WITH A TOUCH OF CLASS

(By Joseph Kraft)

"Why is Cambridge, Mass., famous these days?" Jim Schlesinger has been asking with a grin. "Because," the President's energy adviser, who just happens to be a Harvard man, replies, "it's the home of Tip O'Neill, the greatest Speaker of the House in the modern era."

That praise expresses an admiration verging on reverence that is widely felt for O'Neill's performance in managing the President's energy program. Whatever the merits of the bill, and whatever form it finally takes, getting the total package through committee and onto the floor of the House in less than a hundred days was the kind of legislative feat that has not been seen since the civil-rights bill of 1964.

The package that the President presented on April 20 was intrinsically complex and controversial. It included continuing regulation of natural-gas prices, and taxes on gasoline, big cars, oil producers and users of natural gas for fuel.

These proposals, by pitting regional interests against each other, lent themselves to the instinctive congressional habit of logrolling—trading protection against taxes on cars, for example, for protection against taxes on oil and gas. In the past that kind of accommodation had killed all efforts to work out a comprehensive energy package.

O'Neill brought the whole package onto the floor intact on his Aug. 1 target date by a variety of devices. He set fixed deadlines and pushed the leaders of the Commerce and Ways and Means committees to finish their work by mid-June. He established an ad hoc Energy Committee to maintain the general public interest against the pro-consumer bias of the Commerce Committee and the pro-business bias of Ways and Means. He kept committee chairmen and regional whips constantly informed. He encouraged compromise—notably to beat back the deregulation of natural gas.

These devices wouldn't have worked except for a variety of other conditions. For one thing, two great barons on the Democratic side—Chairman Wilbur Mills of Ways and Means and Chairman Wayne Hays of the Administration Committee—are out of the House. For another, chance has given O'Neill three strong lieutenants, Majority Leader James Wright (Tex.), Majority Whip John Brademas (Ind.) and on the Rules Committee that demon legislator Richard Bolling (Mo.)

O'Neill himself, moreover, has been a master of the old politics of getting along by going along. As Majority Whip from 1971 to 1973 and as Majority Leader from 1973 until last January, he was tireless in making speeches and helping raise funds for other members.

Those favors did him little good with the freshman and sophomore classes, who compose about half of the Democratic caucus. But O'Neill had standing with them because he broke from the Democratic majority early on Vietnam and was the powerhouse behind the impeachment hearings on Richard Nixon.

More recently, O'Neill led the way in two reforms dear to the younger members. He put across the rule by which committee members are now elected instead of automatically reaching the top through seniority. He also sponsored the measure that has required on-the-record votes on all major issues.

Finally, there are personal qualities, easier to feel than to describe. O'Neill is not only a genial giant with an irrepressible store of banter and a love of the House. He also has the broadest shoulders in town. It is practically impossible to be with him and not tell him your troubles. It is even harder to come away without the sense of having been supported.

As Speaker, O'Neill has put these talents to work for the whole House. He stood up against the initial instinct of the Carter administration to write off the Congress in favor of the country. He pushed through the pay raise so essential to many members. He also put through a tough ethics code that builds a barrier against corruption.

Years ago I asked O'Neill about the aspirations of a rival. "The House will never make him Speaker," O'Neill said confidently. "The House won't give the job to a man without class."

Maybe, and maybe not. But in O'Neill the House has found not only a leader but also a champion. He has arrested the demoralization of the past few years. He gives the members a feeling of pride, a little touch of class.

UNFOUNDED CHARGES REGARDING PASSIVE RESTRAINT SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 10 minutes.

Mr. MOSS. Mr. Speaker, the Secretary of Transportation has promulgated a proposed regulation regarding passive restraint systems for American automobiles which can, when fully implemented, save thousands of lives and millions of dollars in medical costs and insurance premiums for motorists.

Certain statements by opponents of the passive restraint proposal are inaccurate and misleading. They are a disservice to consumers, motorists, and the Congress.

In the interest of setting the record straight, myself and several colleagues will be circulating a letter to the Members of the House next week regarding the alleged hazard of certain chemical propellants which some manufacturers may use to inflate air bags—one of the methods of complying with the passive restraint regulation.

A copy of our letter is as follows:

DEAR COLLEAGUE: We are writing to provide Members of Congress with information regarding the Department of Transportation's decision to require passive restraints in new automobiles and the comments that have recently been made about the sodium azide propellant which some manufacturers may use to inflate air bags. This information has been furnished to us by the National High-

way Traffic Safety Administration, and Committee staff believes it to be accurate.

It is important to understand that the Department has not mandated the use of sodium azide or any other inflation material. The standard merely requires that vehicle manufacturers provide occupant restraint systems that protect vehicle occupants against serious injury.

It has been suggested that sodium azide might pose a threat to some people in certain situations. What has not been discussed is just how likely it is that any of the various hypothetical situations might ever come to pass and how often. There are a number of good reasons to believe that the probabilities of any of these situations being encountered are extremely slight.

The remote chance of sodium azide leaking from an air bag system can be appreciated if one considers the manner in which these systems are built. Solid pellets of sodium azide are placed inside a heavy-walled, steel canister where they are hermetically sealed. The canister is placed inside a layer of steel and then in several more layers of steel or in layers of tough ceramic material. The air bag itself is wrapped around the multilayered unit. Finally, all of these components are placed inside a plastic covering. The unit is then placed inside the dashboard of a car. Thus, it would appear to be virtually impossible for front seat occupants to come into contact with the canister, much less the sodium azide itself. This belief is based primarily on experience with the 1974–76 General Motors fleet of air bag cars. It is equally improbable that mechanics will contact the sodium azide since they will handle the systems as complete, factory-assembled modules.

Notwithstanding the low probability of the event, if some sodium azide did escape from an air bag system, any resulting risk to health would be minimal. Sodium azide rapidly degrades into nitrogen and sodium hydroxide when exposed to moisture in the air or to sunlight.

Another aspect of the air bag system that may not be appreciated is what happens to the sodium azide when an air bag system is activated. The sodium azide itself does not enter the passenger compartment because it is converted into nitrogen upon ignition in a crash.

It has been suggested that even if the sodium azide poses no threat to motor vehicle occupants or garage mechanics, that perhaps some youths, vandals, or spare parts seekers might come into contact with the substance inside abandoned cars. The Department's own environmental impact statement is cited in support of this suggestion. The function of the environmental impact statement is to raise all of the various conceivable adverse consequences no matter how unlikely their occurrence is. Attempting to break into an air bag system would be a time-consuming and difficult task whose purpose is hard to fathom. Persons seeking toxic materials can obtain better ones far more easily elsewhere.

With regard to the processing of junked cars with uninflated air bag systems, junkyard operators would face fewer problems with air bag systems than disposing of gasoline tanks and battery acids. The operators would merely have to inflate the systems and turn the propellant into a harmless gas. Further, we understand that the Department is working with the Environmental Protection Agency to develop regulations to ensure the safe disposal of sodium azide in junked cars.

THE PROBLEM OF PORNOGRAPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. McKAY) is recognized for 5 minutes.

Mr. McKAY. Mr. Speaker, on June 1, 1977, I entered into the CONGRESSIONAL RECORD, an article which dealt with the effect of pornography on sexual behavior as a rebuttal to Dr. Amitai Etzioni's position that it has no adverse effects.

In response to the requests of different groups, the most notable of which is the National Rape Prevention and Control Advisory Council, I wish to submit two supplemental articles by Dr. Victor B. Cline, a noted psychologist at the University of Utah. Dr. Cline verifies the fact that pornography does breed criminality and sexual deviance and is in fact a detriment to our society.

The two articles which I submit are, "The Problem of Pornography" and "Obscenity and Porno-Violence—Prurient Menace or Paper Tiger":

THE PROBLEM OF PORNOGRAPHY

(By Victor B. Cline, Professor of Psychology, University of Utah)

I am frequently asked by colleagues, associates, and friends, why I have concerns about pornography. If people want to expose themselves to this kind of material is it really anybody's business to stop them or censor what they can read or see?

Doesn't the First Amendment of the Constitution guarantee us all—freedom of speech, of expression and the right to see or hear anything we want? The correct answer is: no it doesn't. We have many kinds of democratically enacted prohibitions on speech and expression (which, of course, can be amended or repealed if we do wish): Examples would include libel, slander, perjury, conspiracy, false advertising, television cigarette advertisements, and also obscenity. In fact, most of the people who went to jail in the Watergate Scandal did so because of what they said, or for words they spoke (e.g. perjury and conspiracy).

The Supreme Court of the United States has repeatedly affirmed that pornography is not protected by the Constitution. We have had laws, democratically enacted for over 150 years which have placed constraints or controls over the public sale, distribution or exhibition of pornography. The presence of pornography in the community is seen as a moral pollutant affecting the quality of life of all the citizens.

When it spreads in a community unchallenged it almost invariably brings along with it other social ills: prostitution, drug traffic, and organized crime as well as a general deterioration of the surrounding neighborhods and business space. That this occurs has been well documented and demonstrated in New York City's Times Square, Boston's Combat Zone, and similar sites in Copenhagen and Hamburg in Europe (and on a lesser scale in other U.S. cities).

And of course people really are affected by the powerful fantasies that some types of pornography inject into the brains of the consumers. Time does not allow me here today to document and recite the extent and nature of all of the scientific evidence from empirical studies which demonstrate the potential risks and harms associated with pornography exposure. This is available to those of you so interested in my recent book by BYU Press, "Where Do You Draw the Line?"

Originally in this country (as well as Denmark) pornography consisted of films or books depicting explicit portrayals of sexual acts between men and women. But more recently there has been an escalation in the perversity and pathology of the product marketed. So that now we find increasingly—extremes in the dehumanization and brutalization of the participants: women are explicitly raped, tormented, and degraded. There is increasing emphasis on sex in groups, sado-masochism, and on the sexual exploitation of children, as well as humans with animals.

In treating patients in my private practice who have become emersed in this type of thing, I find three things occurring: (a) first an addition phenomena, where the individual gets hooked on this material and comes back again and again for more, (b) secondly, an escalation factor: in which the person increasingly wants to see and be exposed to more deviant and obscene material; in other words it takes, in time, "rougher" more explicit and deviant material to give the person his kicks. And (c) thirdly, I find eventually a desensitization occurs to the material's pathology; and increasingly there is an urge to act out and imitate in real life this pathology with an insensitivity to its potential harm—such as to wreck one's marriage.

In saying all of this I think it is most important to note and remind ourselves that the sexual drive in human beings is basically healthy. And I think that most of us here today are fully supportive of good sexual adjustments in our lives—for this can be a great healing bond that serves to pull a husband and wife together and can be a balm that makes our relationships more satisfying and complete.

But this same sexual drive is vulnerable, especially in males, to being twisted and distorted in ways that can be highly self-destructive, as well as having very negative effects on their partners who become their victims. And these impulses can get out of control in certain individuals. And it makes no difference what your intelligence, social status, or position in life is—we are all vulnerable and capable of being injured. The nature of these harms has been spelled out at some length in my book "Where Do You Draw the Line?" But rather than again review a number of scientific studies, let me cite a few case histories which are sometimes more helpful in communicating about this problem.

Earlier this year 46 year old Maurice Weiner, Deputy Mayor of Los Angeles, a distinguished public servant, was found guilty by a jury of committing a sex crime in a Los Angeles porno theatre. He has had to resign his prestigious job with his career now in shambles. There appears to be little doubt that the material he saw on the screen helped stimulate him to the point where he lost control.

Several weeks ago in Atlanta, Georgia, a Brownie Girl Scout was brutally raped and murdered. Some of the evidence collected later suggested that the murderer's recent prior exposure to pornography helped trigger the act, as well as suggest to his mind some of the things he did to this young girl.

This last July 12th a man who had spent an hour and a half watching a hard-core pornographic movie in a North Hollywood theatre prompted in part by what he had seen on the screen, came out and raped the theater's young cashier at knife point.

In a study of rapists in Southern California, Dr. Michael Goldstein found that 57 per cent of this group of sex offenders admitted to actually "trying out" the sexual activities they had seen during a peak exposure to pornography. Eighty seven per cent of a group of child molesters indicated the same thing—that the porno stimulated them to action, that they repeated in their real life behavior what they had seen in the obscenity witnessed.

In a national survey by Drs. Morris Lipkin and Donald Carns at the University of Chicago 254 therapists indicated that they had had patients who had been harmed or damaged by exposure to pornography with another 325 doctors indicating having patients where there was some partial evidence suggesting a harm relationship associated

with pornography use. And even though there were other therapists who reported not having such patients—I think that data of such a magnitude gives lie to anyone suggesting that there is no evidence that pornography can injure people.

In conclusion I believe that if we really believe in the notion of a democracy of self government and self determination—that it is entirely appropriate for a state or community to enact laws for their self protection—IF THE COMMUNITY DESIRES IT. In the end we wind up with the kind of community we want—or that the majority of the citizens want. And if pornography is seen as a threat to the quality of life in a community, I see two courses of action as available to the citizens. The first involves picketing establishments trafficking in pornography. Picketing is a form of free speech and expression (and is perfectly legal) as well as indicating what the community's standards are. This form of expression often persuades people who might patronize such establishments not to and is thus a type of economic sanction. In later court tests it helps establish that "wide open obscenity" is not an acceptable or tolerated standard of the community and even though being sold or displayed in some establishments this is being done "under protest" by responsible citizen groups. The second thing that citizens can do is encourage effective prosecution. Local prosecutors offices are often understaffed and sometimes they tend not to do much prosecution of pornography unless they sense community concern. And this concern can best be expressed by letters and personal phone calls for individuals as well as representatives of groups. Personal contact is also helpful. In all of this, courtesy, rationality and logical discussion and persuasion are much to be preferred over threats and emotional harrangues.

OBSCENITY AND PORNO VIOLENCE—PRURIENT MENACE OR PAPER TIGER!

By Victor B. Cline, Ph.D.

Despite some opinions to the contrary, few in our society would doubt that we are in the midst of a revolution of our values—religious, social and sexual. In the past ten years (in particular), we have witnessed a new permissiveness in the arts and nonarts in the realm of the erotic which now goes considerably beyond anything ever tolerated in our country's history. And it would appear that many educated Americans do not regard this with disfavor, but probably relish it as adding an additional spice to our cultural life. And it would probably be not unfair to say that in much of the popular press as well as the more intellectual journals there has existed a kind of benevolent tolerance, if not outright pleasure, in seeing the emergence of what some have called a "healthy obscenity."

To many this represents a kind of liberation of man's spirit from a period of repressive guilt about sex and one's body which in the past in the view of some, seemed to stifle men and women in their relations with each other.

However, there has been increasing recent concern by others that an unrestricted dissemination and diet of pornography and media violence may present a number of serious problems for our society. This possibility has seen little or no discretion or examination in our more thoughtful newspapers, journals and magazines much less the other media. The thrust of the present discussion will be to review some of these concerns and potential problems.

The situation relative to pornography, its publication and distribution in America today, is that almost anything in the way of printed words can be published, sold and mailed anywhere. Despite city, county, state and federal laws to the contrary almost any kind of visual pornography can be sold throughout most of the United States.[1] To some extent the same thing is true for motion pictures. Prosecution by local and federal authorities is rare and sporadic. This is due, in part, to public apathy, disinterest by law enforcement personnel who have greater concern about the more violent types of crime or criminal activity, previous confusing and contradictory supreme court decisions in the area, and lack of expertise in obscenity prosecutions by local, district, and county attorneys who are frequently outwitted and outflanked by high priced attorneys specializing in defending the pornographers.

Irving Kristol has recently noted, "being frustrated is disagreeable, but the real disasters in life begin when you get what you want. For almost a century now, a great many intelligent, well meaning and articulate people—of a kind generally called a liberal or intellectual or both—have argued eloquently against any kind of censorship of art and/or entertainment. Today, in the U.S. censorship has to all intents and purposes ceased to exist. Is there a sense of triumphant exhilaration in the land? Hardly. There is, on the contrary, a rapidly growing unease and disquiet. They've got a world in which homosexual rape takes place on the stage, in which the public flocks during lunch hours in some cities to witness varieties of professional fornication . . ." in which almost every conceivable antisocial act and sexual aberration can be seen in explicit detail at the downtown cinema. "But disagreeable as this may be, does it really matter? What reason is there to think anyone was ever corrupted by a book (or movie)?"

"But if you believe this then you have to believe all education is morally irrelevant." And this just isn't true. None of us would accept such a proposition. The Protestant Reformation was ignited by a written proclamation. Our whole educational system is dedicated to the proposition that books or the knowledge contained in them can change lives and effect our personal decisions. The printed word has laid the foundations for revolutions and has helped change the course of elections and governments and even possibly converted or corrupted many people to entirely new ways of living. Ralph Nader's one book. "Unsafe at Any Speed" helped put G. M.'s Corvair out of business.

There is now a good deal of evidence from the Surgeon general's office showing a causal relationship between viewing violence on TV and participating in subsequent agressive behavior. There is a great deal of clinical and experimental evidence that viewers, particularly males, are sexually aroused by looking at pornography. There is also considerable evidence from studies financed by the Commission on Obscenity and Pornography suggesting correlational relationships between viewing pornography and deviant or antisocial sexual behavior. And while this evidence went unreported in their summary reports, it is currently available in the individual research reports, many of which are now published. In the Goldstein and Kant study in Southern California (1970) they reported 55% of their rapists being "excited to sex relations by pornography:" and when reporting on peak experiences in exposure to pornography during their teens 80% of the rapists reported "wishing to try the act" that they had witnessed or seen demonstrated in the pornography exposed to them. When asked if in fact they *did follow through* with such sexual activity immediately or shortly thereafter, 30% of the rapists replied "yes."

Davis and Braucht (1970) in a commission sponsored study of seven different populations of subjects (comprising 365 people) assessed the relationship between exposure to pornography and moral character, deviance in the home and neighborhod, sex behavior, etc. In their findings they state, "One finds exposure to pornography is the strongest predictor of sexual deviance among the early age of exposure subjects." Later they again noted, "In general, then, exposure to pornography in the early age of exposure subgroup was related to a variety of precocious heterosexual and deviant sexual behaviors." In another study by Propper (1970) of 476 reformatory inmates he notes again and again a relationship between high exposure to pornography and "sexually promiscuous" and deviant behavior at very early ages, as well as affiliation with groups high in criminal activity and sex deviancy. In another study by Walker (1970) he found that 39% of the sex offenders he interviewed indicated that "pornography had something to do with their committing the sex offense they were convicted of." And while not every study gives final conclusive causal evidence of harm, they do, in sum, raise serious concerns about pornography's effects.

It must be recognized, as Max Levin has commented that, "The present is the result of the past. What we do or think at a given moment is the culmination of our whole life history up to that point. There is *overt* behavior and implicit or *internal* behavior. Crime is overt behavior. However, a man's overt behavior may be impeccable in that he never assaults anyone, yet his internal behavior may be destructive in that he harbors distorted notions of sex and morbid sex fantasies and as a consequence he victimizes those whose lives are intertwined with his, most of all his wife and children. It is probably no exaggeration to say that sexual and married maladjustment causes a sum total of human suffering greater than cancer and heart disease. The number of people who commit rape is small, whereas the number of people who suffer from sex problems is enormous. This, then is the real test of pornography: Does it pervert the feelings and attitudes that people have in the area of sex? Does it foster an unhealthy conception of the role that sex plays in life. The gravest charge against pornography is not its occasional connection with rape or some other spectacular crime that reaches the headlines. The gravest charge is the damage it does to the youngster's image of sex." Pornography actually is anti-sexual.

There is a relatively new phenomenon where we have the mass distribution of printed matter widely appearing in paperbacks at corner drug stores and supermarkets and to an increasing extent in the newer films referred to as porno-violence a la the Marquis de Sade which consistently links pornographic type material with sado-masochistic violence. Psychologists have invested a vast amount of energy in studying the processes whereby people learn things. One does not have to know a great deal about the conditioning theories of Ivan Pavlov and B. F. Skinner or understand in detail the research of Albert Bandura in modeling and imitative learning to recognize what might occur when a human organism is constantly sexually stimulated and aroused (which the research evidence shows that pornography can do) in association with printed or pictured themes and fantasies of people or women being injured, tortured or abused. The laws of learning apply here just as much as in any other setting.

In intensive case studies of the recent English "Moor Murders" it was revealed that Alan Brady and Myra Hindley committed a number of sado-masochistic sex murders of children and young adults using literary models set up by the Marquis de Sade and

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[1] Federal law now prohibits the mailing of unsolicited sexual material to those people who fill out forms requesting the non-mailing of this type of matter.

other similar porno-violence literature which they were avid students of. P. H. Johnson, in her analysis of this case, has argued that the literary descriptions of de Sade helped them to both rationalize these murders and to find explicit formulations for the methods and details used in carrying them out.

The work of Stanford psychologist Albert Bandura in the area of modeling and imitative learning certainly provides a theoretical basis with much research data to support the notion that we do indeed learn a great deal from what we see in films, on TV, in the media, as well as what we witness in real life, and that such experiences can effect us for better or worse. One in 13 Americans is alcoholic. One in four children from a home where one of the parents is alcoholic and models excessive drinking behavior will also become an alcoholic. If the child of the alcoholic is raised in a non-alcoholic foster home, where he doesn't see the excessive drinking modeled, his chances of become an alcoholic drop back to 1 in 13. Our behavior and values are indeed effected by what we see and what is repeatedly modeled for us at home, at the movies, or on TV.

Irving Kristol, professor of Urban Values at New York University has commented: "The ways in which we use our minds and imaginations do shape our characters and help define us as persons."

The plain fact is that none of us is a complete civil libertarian. We all believe that there is some point at which the public authorities ought to step in to limit "self expression" of an individual or a group, even when between consenting adults. A playwright or theatrical director might, in this crazy world of ours, find someone willing to commit suicide on the stage as called for by the script. We would not allow that—any more than we would permit scenes of real physical torture on the stage, even if the victim were a willing masochist. And I know of no one, no matter how liberal or free in spirit, who argues that we ought to permit gladiatorial contests in Yankee Stadium, similar to those once performed in the Colosseum at Rome—even if only consenting adults were involved. The basic point is that no society can be utterly indifferent to the way its citizens publicly entertain themselves. Bearbaiting and cockfighting are prohibited only in part out of compassion for the suffering animals; the main reason they were abolished was because it was felt that they debased and brutalized the citizenry who flocked to witness such spectacles. The question we face with regard to obscenity and pornography is whether they can or will brutalize or and debase and our citizenry. What is distinctive about pornography is that, in the words of D. H. Lawrence, it attempts to do dirt on sex . . . it is an insult to a vital human relationship. In other words, pornography differs from erotic art in that its whole purpose is to treat human beings obscenely, to deprive human beings of their specifically human dimension.

"Pornography is, and always has been, a man's work. Women rarely write pornography and tend to be indifferent consumers of it which suggests that this making of sex into an obscenity is not a mutual and equal transaction, but rather an act of exploitation of one of the partners (the female) by the male (as the women's liberationists have correctly noted).

"The basic psychological fact about pornography and obscenity is that it appeals to and provokes a kind of sexual regression. The sexual pleasure one gets from pornography and obscenity is autoerotic and infantile; put bluntly, it is a masturbatory exercise of the imagination, when it is not masturbation pure and simple. Now people who masturbate do not get bored with masturbation, just as sadists don't get bored with sadism and voyeurs don't get bored with voyeurism. In other words, infantile sexuality is not only a permanent temptation for the adolescent or even the adult—it can quite easily become a permanent, self-reinforcing neurosis.

"Pornography is inherently and purposefully subversive of civilization and its institutions. We've had an idea of democracy fairly common until about the beginning of the century for which the conception of the quality of public life is absolutely crucial. This idea of democracy had no problem in principle with pornography and/or obscenity. It censored them and it did so with a perfect clarity of mind and a perfectly clear conscience. It was not about to permit people capriciously to corrupt themselves, or, to put it more precisely: In this version of democracy, the people took some care not to let themselves be governed by the more infantile and irrational parts of themselves.

"If you care about the quality of life in our American democracy then you have to be for censorship. We have, with good liberal conscience, prohibited cigarette advertising on television and may yet, again with good liberal conscience, prohibit it in newspapers and magazines. This idea of restricting individual freedom, in a liberal way (and with majority consent), is not at all unfamiliar to us.

"One might also ask a question that is almost never raised: How much has literature lost from the fact that everything is now permitted? It has lost quite a bit, I should say. In a free market, Gresham's Law can work for books or theater as efficiently as it does for coinage—driving out the good, establishing the debased. The cultural market in the U.S. today is being pre-empted by dirty books, dirty movies, dirty theater. A pornographic novel has a far better chance of being published today than a non-pornographic one, and quite a few pretty good novels are not being published at all simply because they are not pornographic, and are therefore less likely to sell. Our cultural condition has not inproved as a result of the new freedom. American cultural life wasn't much to brag about 20 years ago; today one feels ashamed for it.

"If we start censoring pornography or obscenity, shall we not inevitably end up censoring political opinion? A lot of people seem to think this would be the case which only goes to show the power of doctrinaire thinking over reality. We had censorship of pornography and obscenity for 150 years, until almost yesterday, and I am not aware that freedom of opinion in this country was in any way diminished as a consequence of this fact."

Our society limits, with the approval of the citizenry, all manner and forms of speech and self expression. Criminal conspiracy, false advertising, libel, slander, pandering, are all seen as inimical to the interests of the commonwealth, and have never been protected by the first and fourteenth Amendments to the Constitution.

However, at present anyone in this room can easily purchase color, still, or motion pictures showing children having intercourse with adults in any combination or age you prefer; attractive women or teen age girls having intercourse with hogs, donkeys, dogs, horses, or orally fellating the penises of these animals; men and women being physically injured and tortured while performing explicit sex acts under duress. This is in addition to material depicting explicit sex acts of groups of homosexuals or heterosexuals in any numbers, geometry, age, sex, and racial combination that might please one's particular appetite.

Nearly all of this is in violation of most city, county, state, and federal statutes. And as mentioned before the primary cause is apathy by both citizenry and law enforcement personnel. You know, in the end we get the kind of society we deserve.

While some individuals in our society have become quite concerned about the amount of pornography and explicit sexual matter presented in the media, I would submit, that equally as obscene is the tremendous amount of violence, torture, and sadism that is presented as daily fare in our media. The rate of homocides is 10 times higher in the U.S. than in the Scandanavian countries. Comparison with other advanced Western European areas give similar distressing figures. We are one of the world leaders in other kinds of interpersonal violence. As a social scentist, I am not surprised by this. We teach our children in the media and modern literature to be violent, anti-social, psychopathic, and sexually promiscuous. These are the qualities which we model for them in many of the heroes (or better, anti-heroes) of modern fiction and on the screen.

However, now let me briefly summarize some of the major concerns as a citizen, parent, clinician and social scientist that I have about pornography and porno-violence:

1. In the first place most pornography (as opposed to erotic realism) is not true as a representation of sex. Women are frequently depicted as possessing male lust ready to rape the male at the slightest provocation which is a major fallacy with regard to female sexuality. Most pornography is unscientific, and untrue in its representation of female sexuality (in particular). It imputes to females a male sexual nature and qualities of sexual feeling that are fallacious.

2. Pornography debases women in particular. They are treated as sex objects, things, animal like in nature. Women are deprived of their humanity. Almost all pornography is anti-female and exploitive. A great deal of porno-violence deals with extreme examples of torture, physical pain and degradation inflicted upon the female. The women's liberationists have perceptively noted this anti-female quality in pornography, that it dehumanizes women.

3. Pornography makes sex dirty and obscene, not beautiful. It debases sex. Most of it is actually anti-sexual, it shows sex at its worst, not as part of a total and fulfilling human relationship.

4. Most pornography is unnatural and pathological. It presents sex unrealistically as apart from normal human relationships. There is an absence of trust, commitment, love, affection, responsibility. It presents sex almost totally out of context.

5. Pornography, following Gresham's Law (where bad money drives out good) preempts the cultural market. Instead of broadening our cultural exposure it narrows it. Many good books are not getting published because they are not pornographic. Movie houses in San Francisco, Los Angeles, and now Salt Lake that used to play quality cinema now run (in the latter two cities) hard core stag loops. American cultural life is degraded by this.

6. Pornography stimulates, in some, an acting out of immature and regressive sexual behavior. It appeals to and provokes in some a kind of sexual regression. The sexual pleasure one gets from it is autoerotic and infantile. Infantile sexuality is a temptation even to the mature adult and can become a permanent self-reinforcing neurosis.

7. Pornography and its dissemination is illegal (though violence isn't) in all Western Societies. The only known exception to this has been Denmark in 1967 and 1969. The reasons for this has been that an overwhelming majority of our citizens have found it offensive on moral and aesthetic grounds (as expressed in our laws and numerous polls). Though there probably has been an increased tolerance for erotic realism by many people in recent years, especially the young.

8. A lot of pornography models anti-social and deviant sex behavior which may sug-

gest or tempt the viewer to try out or repeat what he has been exposed to (e.g., rape, pedophilia, homosexual seducations of individuals of confused identity, sado-masochistic acts, etc.). Modeling theory certainly suggests this as a possibility for certain types of people.

9. Pornography is subversive of humanistic as well as Judeo-Christian values and their notion of the nature of man as a creative of rationality, dignity and nobility. Much pornography attacks the basic family structure, the notions of responsibilty, fidelity, affection, trust and commitment between the husband and wife.

10. Pornography demeans sex while pretending to extol it. The essence of pornography is mendacity, it lies about human relationships. The truth about sex is "imperfect striving and repeated failure."

11. Much of pornography has a sadistic violent component to it. No civilization save the Aztec has produced a literature and films of such sexual ferocity as ours. Reading and seeing sex sadism can have a cumulative effect. In Hitler Germany, the Magazine Der Sturmer mixed anti-Semitism and sex which contributed in part to the general atmosphere that made it possible to slaughter millions of Jews.

12. Finally—there is a great deal of scientific evidence linking exposure to media violence with adverse effects on the viewer. In the area of pornography there are a number of correlational studies suggesting relationships between high exposure to pornography (especially among the young) and sexual deviancy, promiscuity, and affiliation with high criminality groups. Of particular concern would be the mixing of pornography and sado-masochistic violence. Lipkin and Carnes in a nationwide survey of psychotherapists found that a significant minority of their group (57%) had seen patients in which there existed a definite or suspected casual relationship between exposure to pornography and some kind of harmful or anti-social outcome.

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ENERGY ACT SUBSTITUTE

(Mr. BROWN of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROWN of Ohio. Mr. Speaker, because of the illness of the gentleman from Illinois (Mr. ANDERSON), the ranking member of the ad hoc committee on the minority, I ask unanimous consent to insert essentially the gentleman's remarks in the RECORD at this point, because of the requirements of the rules of the House.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, later this week, at the conclusion of the amendment process on H.R. 8444, the National Energy Act, I intend to offer an amendment in the nature of a substitute which is the text of H.R. 8555 which is cosponsored by all 13 Republicans on the Ad Hoc Energy Committee. For the information of my colleagues, I am at this point in the RECORD inserting a brief summary of our substitute, our press release issued at the time it was unveiled, and a more detailed explanation. I would emphasize that while this alternative was developed by the Republican members on the Ad Hoc Energy Committee, it also incorporates the best features of the energy legislation proposed by the Carter administration and reported by our various House committees. As such, I think the substitute is bipartisan in its components and is therefore deserving of bipartisan support when it comes to a vote. I urge my colleagues to carefully study the materials below and join with us in voting for the substitute when it is offered. The materials follow:

FEATURES OF REPUBLICAN ENERGY PLAN

No gasoline tax.

Retain all insulation programs with no lists.

One year tax cut instead of rebate.

Rebate heating oil payments to consumers, not distributors.

Retain all insulation tax credits.

Retain all solar tax credits.

Retain Ways and Means version of gas guzzler tax.

Tax on industrial use of oil and gas with more reasonable exemption provision.

Adopt crude oil pricing scheme that:

Retains Price Controls on lower tier oil;

Returns upper tier oil to competitive market;

Taxes lower tier oil to world price with 50% plowback on the tax;

Brings on 2 million barrels per day of new supply;

Has same effect on crude oil price compared to Carter plan;

Put burden of proof of conversion from oil and gas to coal on FEA rather than industry:

Cuts bureaucracy funded by taxpayers;

Prevent unnecessary litigation; and

Saves money for industry from having to fight the Federal government.

Establishes trust funds from crude oil tax to:

Hold states harmless on highway maintenance;

Build mass transit;

Encourage synthetic fuels;

Remove Federal price controls on new onshore natural gas.

Retain controls on all existing contracts;

Permit bidding for intrastate supplies; and

Permit allocation of new gas costs to industry.

MINORITY MEMBERS UNVEIL SUBSTITUTE ENERGY BILL

All 13 Republican members of the House Ad Hoc Energy Committee today unveiled a complete substitute for the comprehensive energy bill reported out of the committee Friday. Among the most important features of the proposal are deregulatation of oil and natural gas prices and provision of funds for mass transit, synthetic fuel development and highway maintenance.

The plan is intended to increase domestic production while reducing domestic energy consumption and paring down imports of foreign oil.

Republican members justfy their unusual action, saying the democratically-controlled committee refused to consider minority proposals during mark-up of the bill last week. Mark-up sessions were originally estimated to take at least a week, but the 500-page bill was reported out in less than three days. Republicans say the time savings resulted from the Democrat's refusal to hear opposition viewpoints.

The energy bill supported by President Carter is written under the assumption that more energy sources cannot be found and that government must therefore manage a coming energy shortage. The Republican substitute was drafted under the assumption that there are large energy reserves, but they can only be tapped and utilized at costs above current levels. In introducing the substitute proposals, the Republican group noted that the era of cheap energy has ended. They also gave their support to efforts to clean up the environment polluted through use of cheap energy.

The two versions agree in their general goal of reduced energy consumption and increased conservation of resources. The two major areas of difference are energy growth rates and target levels of oil imports.

The Democrat's plan sets a goal of reducing growth in energy consumption to a level of 2 percent a year by 1985. Currently, the energy growth rate stands at 4 percent annually. Republicans claim this goal is unrealistic and are calling for a level of 2.5 percent annual growth by 1985, with a gradual decrease to 2 percent after that date.

The Carter-backed bill requires oil imports to drop to 6 million barrels of oil per day by 1985. The Republican plan contends imports can be reduced to less than 5 million barrels per day by that date. The plan calls for increasing domestic oil production by 2 million barrels per day, increasing natural gas production by 1.5 trillion cubic feet each year and reaching President Carter's stated goal of using 400 million more tons of coal each year.

The Republicans further propose to establish a synthetic fuels trust fund and a mass transit fund, to be financed by a tax on crude oil. The mass transit fund is specifically intended to reduce gasoline consumption. Each billion dollars invested in transit systems the federal government on a matching payment basis is estimated to save 150 million automobile rides—reducing gasoline use while helping to improve city air quality.

The synthetic fuels trust fund will be used to stimulate construction of low-BTU coal gasifiers—decreasing oil and gas consumption while increasing use of coal. Republicans say conversion of coal to clean-burning fuel is critical to achievement of their goal of increased use of coal combined with strong protection of the environment.

The Democratic bill does not address mass transit and synthetic fuel production. Republicans say they consider the omission a major flaw in the legislation reported out of committee.

The Republican proposal contains a detailed plan for increasing domestic energy production. The major provisions regarding crude oil are:

Retention of price controls on lower-tier oil (oil produced prior to May, 1972).

New taxes on lower tier oil to bring domestic price up to world price in three stages—$3.50 in 1978, $7 in 1979 and in 1980, a tax equal to the average difference between lower tier oil and the prevailing world price. Taxes would be levied against the producers.

Pricing of upper tier oil (oil produced after May, 1972) at $12.17, which is the current price. Upper tier oil prices would be permitted to rise until they reach world

prices. No new taxes would be levied on this type of oil.

Raising prices of crude oil to the consumer by one-third cent a gallon in 1978 and 1.1 cents in 1979. From that time, until 1985, price increases proposed by the minority members would be lower than those proposed by the Carter Administration.

Use of $35.6 billion dollars in crude oil taxes for the trust funds to stimulate synthetic fuel production and mass transit systems. A third trust fund would be established using a portion of this money to maintain existing roads and bridges. This is necessary because states lose gasoline tax revenues as gasoline use decreases. Yet, the cost of road maintenance remains the same.

Deregulation of upper-tier oil and all enhanced recovery oil. Enhanced recovery oil is oil reclaimed from wells after the first drilling. About two-thirds of the oil in a particular well is left in the ground due to technological limitations. Enhanced recovery uses special techniques to remove some of this additional oil.

Exploration of the outer continental shelf and other currently little-used resources.

The Republican proposal also sets new pricing policies for natural gas. The major provisions regarding gas are:

Decontrol of all newly discovered gas.

Retention of controls on gas currently under control, while allowing gas under intrastate contract to be available for interstate use when existing intrastate contracts expire.

Phasing in decontrol of all offshore natural gas over a five-year period.

Enacting a windfall profits tax to protect consumers from paying for high company profits.

The Republicans claim their proposal will significantly reduce the amount of red tape individuals and business will face from the federal government regarding energy. The minority members say the government must prove that a conversion from oil and gas to coal makes sense before ordering a business to convert to new energy sources.

The Republican plan also makes an attempt to protect small businesses and consumers involved in home insulation. The plan prevents a situation where lists of insulation material suppliers and financing institutions are to be distributed to homeowners by utility companies. Minority members claim the lists could limit the opportunity for small businesses to get work insulating homes. They also claim such a practice is open to fraud if business bribe their way onto the lists.

Instead, the Republicans propose that governors of the states publish information telling homeowners how to go about insulating their homes, but not telling them who they should get to do the job.

New Republican Goals

Reduce energy growth rate to 2.5 percent by 1985 and to 2 percent by 1995

Carter proposal

Requires total energy growth to be below 2% by 1985. Currently it is in excess of 4% per year. Reducing growth that far could require draconian measures to control energy use. Energy analysts in both private and public sector do not expect that goal to be achievable while at the same time sustaining essential economic growth.

Republican proposal

Moves steadily towards the goal of 2.5% per year by 1985 by slowly replacing the capital goods of this country that use energy. When they are in place in the post 1985 period then energy growth can steadily decrease to the 2% level without causing any negative economic effects.

Reduce oil imports to less than 5 million barrels per day

Carter proposal

Requires imports to drop to 6 million barrels per day but the plan specifically only expects it to drop to 7.

Republican proposal

The import level in the Republican plan can be reduced to less than 5 million barrels of oil per day by increasing domestic production of oil by 2 million barrels, increasing natural gas by 1.5 trillion cubic feet per year and reaching the President's goal of using 400 million more tons of coal per year by 1985.

In addition, the synthetic fuels trust fund will stimulate construction of low-BTU coal gasifiers, releasing industrial demand for fuel oil and natural gas and pushing demand for coal. It is a near term technology which with intelligently applied government support can make an impact on coal use and natural gas demand.

The mass transit trust fund will also stimulate reductions in demand for oil. For each $1 billion invested in mass transit by the federal government on a matching payment basis, 150 million rides in automobiles per year can be avoided, significantly reducing demand for gasoline and improving the quality of air in our nation's cities.

Republican Energy Production Plan

The Republicans on the Ad Hoc Committee are disturbed by the lack of sufficient incentives in the Democratic plan to stimulate domestic production of all forms of energy.

The inadequacies of the current crude oil pricing scheme are ignored in spite of the rise in imports from 29 percent to 42 percent of our total oil demand and the cost of those imports increasing 650 percent ($4.6 billion to $34.6 billion) since 1972, the year before the OPEC embargo.

In the natural gas area, the Administration and House Democrats have agreed to tie the price of natural gas on a BTU basis to the cost of crude oil produced in the U.S. This philosophy clearly fails to recognize several basic flaws:

The price of "new" gas is tied to the price of "old" oil;

The "premium" character of gas (for environmental and technical reasons) is not recognized in relating gas directly to the BTU equivalent of domestically produced oil; and

The pricing mechanism for crude oil has failed to achieve what the Congress intended—therefore why couple the viability of a truly domestic energy resource to a policy which has nearly doubled our imports problem in four short years.

And in coal, the administration and Congressional Democrats make vague and general statements about using coal. The goal of using 400 million tons of new coal in 1985 will not be met until coal is converted cleanly into low and medium BTU gas. The problem associated with these technologies are not at all addressed in the Democratic energy plan.

Crude oil

Retain price controls on lower tier oil produced from a property prior to 1972;

Tax lower tier crude up to world price in 3 stages ($3.50 in 1978, $7.00 in 1979 and in 1980, the tax would amount to the average difference between lower tier oil and the world price). The tax would be levied against the producer, not the first purchaser;

Upper tier oil would be initially priced at the current $12.17 level. All upper tier oil would be permitted to slowly rise to the world price over a 5 year time frame. No tax would be assessed against this volume of oil; and

Permit a 50 percent plowback credit against all taxes paid.

The return to a competitive marketplace of upper tier oil, all enhanced recovery oil and new oil would stimulate the extensive exploration on the outer continental shelf, in difficult formations onshore and in the far north, increasing domestic production of crude oil by and about 2 million barrels per day by 1985.

Natural gas

Removes Federal price controls from "New" onshore natural gas. "New" gas is defined as: (a) gas sold or delivered in interstate commerce for the first time on or after April 20, 1977, provided that such gas could not have been sold or delivered prior to April 20, 1977; (b) gas produced from a new well which is 2.5 miles or more from any old well or gas from a new reservoir; or (c) gas from a well drilled 1,000 feet deeper than an existing well less than 2.5 miles away or in a new reservoir.

Old natural gas to remain subject to FPC regulations.

Offshore natural gas to remain subject to Federal price controls through April 20, 1982, but the FPC must consider prospective costs in establishing new national ceiling.

Costs associated with higher cost "new" gas are allocated to boiler fuel users of natural gas until costs reach 120 percent of the costs of imported crude oil on a BTU basis.

Such policies are expected to increase domestic supplies of natural gas by about 1.5 trillion cubic feet per year (about 0.75 million barrels of oil equivalent per day) by 1985.

Coal

Establish a coal conversion energy trust fund from the revenues realized under the crude oil pricing and tax policies.

Use the trust fund to encourage the early penetration of low and medium BTU coal conversion technologies into the energy marketplace.

Because of the severe limitations placed on the use of coal by the requirements of the Clean Air Act, as amended, coal must be converted to low and medium BTU gas prior to being burned. An aggressive federal program to facilitate the early introduction of these technologies will assure that the goal of using 1.1 billion tons of coal in 1985 will be met in an environmentally and economically acceptable way.

Republican Energy Trust Fund

The provision would place the net revenues from the crude oil equalization tax into an Energy Conservation and Conversion Trust Fund to be used for energy-related purposes. Fixed percentages would be utilized for capital programs of mass transit (20 percent) and highway related purposes (15 percent). The remainder (65 percent) would be used to develop a domestic synthetic fuels program.

The revenues and expenditures under the trust fund are set out on the attached chart. All expenditures from the trust fund would be subject to annual authorization and appropriation processes.

A synthetic fuels program of the size outlined could result in the construction of various facilities which would convert solid wastes to energy as well as coal liquefaction and gasification plants. The exact mix of facilities would not be governed by the trust fund proposal.

Republican Residential Conservation Program

Subpart A establishes a program to be developed by the Governor of each State, as part of that State's Supplemental State Energy Conservation Plan, which requires each gas and electric utility above a certain threshold to distribute energy conservation material to each of its residential customers

and to offer to conduct an energy audit which would analyze the energy savings and costs of certain types of conservation measures. The audits would be paid for by the customer.

Subpart B adjusts the basic FEA weatherization program to bring it into conformance with the weatherization programs under FmHA and CSA. Basically, this is accomplished by raising the income eligibility from from poverty level to 125 percent of median and broadening the definition of weatherization materials. A limit of $800 per dwelling unit is established except that for FmHA the limit is $1,500 where it is necessary to cover labor costs which are normally covered through CETA or other volunteer groups under the FEA and CSA programs.

Subpart C provides for financing of energy conservation loans at below market rates and at the going market rate. Section 141 sets up a $2 billion authorization for GNMA to purchase energy conservation loans at a rate set by the Secretary which is not less than the Treasury borrowing rate. Loans could not be in excess of $2,200 and eligible borrowers must have incomes at or below 90 percent of median.

Section 143 broadens the FHA multi-family supplemental loan insurance program to include energy conservation improvements including individual utility meters for both FHA and non-insured projects.

Section 144 establishes a $3 billion standby GNMA program at the market rate for the purchase of energy conservation loans. These loans have no dollar limit and are not restricted to any income category.

Subpart D contains miscellaneous provisions which (1) authorize $10 million for energy conservation related to modernization of public housing; (2) directs FHA and FmHA to expedite energy performance standards for new construction; (3) authorizes an increase of up to 20 percent in FHA and FmHA mortagage limits where a solar energy system is employed for single family units and FHA multi-family projects; (4) requires a study of the need for, feasibility of, and the problems of mandating energy efficiency standards for all residential dwelling units, (5) authorizes $10 million for each of fiscal year 1978 and 1979 in addition to current $5 million for grants to States and local government to assist them to meet the costs of adopting and implementing performance standards or administering the certification or approval process under the Energy Conservation for New Buildings Act of 1976; (6) authorizes FNMA and FHLMC to purchase energy conservation loans; and (7) requires a monitoring by FEA, HUD, Agriculture and CSA of the weatherization program and to report to Congress annually.

REPUBLICAN ELECTRIC UTILITY PROGRAM

Mandates minimum national standards for rate design including cost-of-service and time-of-use (peak load) pricing. Below cost-of-service rates are permitted for essential needs of residential consumers.

Minimum standards are to be implemented and enforced by the State regulatory authorities if they notify the FPC that they will assume the responsibility. If not, the FPC will implement and enforce.

Interconnection and wheeling are made mandatory if (1) such interconnection or wheeling is in the public interest, and (2) the beneficiary of such interconnection or wheeling is determined by the FPC to be ready, willing and able to wholly reimburse the party ordered to interconnect or wheel for reasonable costs incurred.

Proposed rate increases before the FPC must have a final decision within 12 months of filing, and the filing of "pancaked" rates is prohibited unless the pending rate has been pending for 10 months.

Cogeneration is encouraged and rules are to be established by the FPC requiring electric utilities to offer to sell electricity to and purchase electricity from qualified cogenerators. Such rules must insure that rates for such sales and purchases are just, reasonable, in the public interest, and do not discriminate against cogeneration.

REPUBLICAN COAL CONVERSION PROGRAM

No new electric powerplant or major fuel burning installation may use natural gas or oil as an energy source. A temporary or permanent exemption may be granted if the person applying demonstrates that an adequate supply of fuel is unavailable, physical environmental or site specific factors prevent compliance, or the use of an energy source other than oil or gas is technically infeasible.

Major Fuel Burning Installation is defined as a unit which has a capability of consuming fuel at a rate of 300 million Btu's per hour or greater.

Administrator of FEA may prohibit, on a case-by-case basis, any existing electric powerplant or major fuel burning installation from burning petroleum or natural gas. Administration has burden of proving that powerplant or major fuel burning installation can convert.

Clean Air Act requirements must be met.

Synthetic natural gas development encouraged by providing temporary exemptions from conversion orders if existing utility or major fuel burning installation has contract for future supply of synthetic natural gas.

CRUDE OIL EQUALIZATION TAXES, TRUST FUND EXPENDITURES, AND RELATED PROVISIONS OF TITLE II OF H.R. 8500, FISCAL YEARS 1978–85

[In millions of dollars]

	1978	1979	1980	1981	1982	1983	1984	1985
Gross, crude oil equalization taxes	1,859	6,328	7,889	13,462	12,115	10,903	9,812	8,830.8
Refund for oil used to produce natural gas liquids at refineries	−29	−97	−167	−209	−221	−234	−248	−272.8
Refund for oil used to heat:								
Homes	−80	−474	−686	−784	−831	−880	−932	−1,025.2
Hospitals, schools and churches	−9	−54	−79	−90	−95	−100.7	−106	−117.6
Plow back [1]		1,140.6	1,913.2	4,332.7	4,661.4	4,844.2	4,263	3,708.1
Trust fund		4,562.4	5,043.8	8,046.3	6,306.6	4,844.1	4,263	3,708.1
Mass transit		912.4	1,008.8	1,609.3	1,261.3	968.8	852.6	741.6
Highway		684.3	756.6	1,206.9	946	726.6	639.5	556.2
Synthetic fuels		2,965.6	3,278.4	5,230.1	4,099.3	3,148.7	2,770.9	2,410.3

[1] Credit levels assume the following increases over present exploration levels: 20 percent in 1979; 27.5 percent in 1980; 35 percent in 1981; 42.5 percent in 1982; 50 percent in 1983 and thereafter.

Note: Details may not add to totals because of rounding.

ESTIMATED EFFECTS OF VARIOUS PROVISIONS OF TITLE II OF H.R. 8500, 1978–85

[In millions of dollars]

	1978	1979	1980	1981	1982	1983	1984	1985
Personal income tax reduction	−3,300	−600.0						
Gross COET	−1,859	−6,328.0	−7,889.0	−13,462.0	−12,115.0	−10,903.0	−9,812.0	−8,830.8
Trust fund outlays	[1]	−4,562.4	−5,043.8	−8,046.3	−6,306.6	−4,844.1	−4,263.0	−3,708.1
Plow back credits [1]		−1,140.6	−1,913.2	−4,332.7	−4,661.4	−4,844.2	−4,263.0	−3,708.1
Net of excise tax on business use of oil and gas		−23.0	−344.7	−89.1	−152.1	−475.2	−627.3	−654.3
Residential insulation credit	−387	−520.0	−553.0	−589.0	−663.0	−674.0	−717.0	−763.0

[1] Credit levels assume the following increases over present exploration levels; 20 percent in 1979; 27.5 percent in 1980; 35 percent in 1981; 42.5 percent in 1982; 50 percent in 1983 and thereafter.

TOTAL TRUST FUND

	1979	1980	1981	1982	1983	1984	1985	Total 1979–85
Trust funds	4,562.4	5,043.8	8,046.3	6,306.6	4,844.1	4,263.0	3,708.1	36,774
Mass transit	912.4	1,008.8	1,609.3	1,261.3	968.8	852.6	741.6	7,354
Highway	684.3	756.6	1,206.9	946.0	726.6	639.5	556.2	5,516
Synthetic fuels	2,965.6	3,278.4	5,230.1	4,099.3	3,148.7	2,770.9	2,410.3	23,903

Note: Details may not add to totals because of rounding.

PERSONAL EXPLANATION

(Mr. YATRON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YATRON. Mr. Speaker, I would like to take this opportunity to advise my colleagues of my intention to vote "aye" on roll No. 499, the amendment offered by the gentleman from Ohio (Mr. BROWN). Upon review of the Journal of yesterday's proceedings, I find that I am recorded as having voted "nay." It is difficult for me to know whether the voting machine malfunctioned, or if I inadvertently pressed the wrong voting key.

I would further like to state that I firmly believe the deregulation of natural gas to be vital to any long-term solution of this Nation's energy problems. It will insure continued growth toward full employment, rather than the widespread job lay-offs and losses that have occurred under regulation. Only through deregulation of all new gas will the exploration and development of reserves be encouraged. I believe that the present policy will have the effect of leading to greater shortages in the future, thus resulting in increased dependence on foreign oil, as well as increased costs to the consumer.

Let the record clearly show my vote and support for the gentleman's amendment. I would like to reaffirm before my colleagues that I will continue in my commitment to this principle.

AVOIDING AN IMPENDING ENERGY CATASTROPHE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am joining with my friend and colleague from Ohio, (Mr. VANIK) today to propose to the President and to the Congress that we must take much stronger conservation steps and impose import quotas to avoid an impending energy catastrophe which threatens our national security through excessive oil imports and threatens our own economy and that of the entire free world.

Good as it is as a first step, the energy bill about to be approved by the House of Representatives does not come close to enabling the Nation to solve its energy needs.

If the energy crisis does threaten "national catastrophe," as we think the President correctly describes the threat, calling for efforts which are the "moral equivalent of war," then it is essential that the Nation and all its people recognize that, and take actions commensurate with the threat.

As with growing victory gardens, sewing uniforms or even making ammunition during World War II, America's citizens need now to embark on a new course which will lead us into a new era of efficient use of our finite resources and the development of renewable, benign energy resources.

By choosing that course now, we can save our society and its freedoms, protect the global environment and, most important, have sufficient energy resources to meet our true needs.

We are introducing today legislation which would require the imposition of oil import controls, a revised version of the amendment which was approved by the House during the 94th Congress, but not enacted by the Senate. Under our bill, the President would be required to set annual targets for import levels, leading to the goal of no more than 6 million barrels per day of imports by 1985. These target goals would be met by imposing quotas at least equal to the level of the estimated gap between the President's annual estimates of domestic supply and the domestic demand, adjusted for conservation. The bill would provide for distribution of the imports through a system of licenses sold in the marketplace. The bill has new provisions assuring equity of any financial costs created by the import controls among the various regions of the country, so that no region is burdened more than any other.

To achieve the import limit goal of 6 million barrels of oil daily in 1985, the Nation will have to embark on a serious conservation initiative and fuel conversion program, we advocate to renewable resources, but it can be one which is productive and which makes maximum use of people's abilities. That program needs to be far more dramatic than the limited, mostly voluntary measures in the legislation now before the Congress.

Tens of thousands of people can be put to work building solar collectors, and hundreds of thousands more put to work installing them. Indeed, vastly more people would be employed at installing such renewable energy technologies than have ever been used on any traditional energy production facility.

Thousands of people can be put to work in a renewed beverage container recycling industry.

Thousands of people can be put to work in growing food, in a way far less energy-intensive than our present methods, and also in growing crops that can be used directly to provide fuels such as methanol and ethanol.

We can achieve these goals and not, as the "naysayers" would have it, return "to horse and buggy days" or "candlelight."

The alternative, if we do not act, is certain catastrophe. Indeed, we are like a person with a gangrene infection, ignoring it in hopes that it will go away. Failure to dress the infection adequately now can spell only disaster in the very near future. The infection is serious already, and the time for action short.

This year we are already importing oil at the rate of 9.6 million barrels a day from the OPEC countries, a dependence of about 50 percent of our oil use. This makes us their captives economically, and in terms of our national security. The continuing drain of billions of dollars in capital—$43 billion in oil payments this year—is undermining our economic institutions and those of the free world. The currnt high figure is over and above the $150 billion we have already spent on imported oil since the 1973 embargo. And Europe and Japan have spent and are spending equivalent amounts. This is an intolerable situation.

Our friends in Europe and Japan are faced with the same emergency. Their supplies of oil are limited, and available only so long as the good will of the Mideast nations holds out. Moreover, they face economic woes even more serious than ours. The economic plight of the less developed nations is already critical.

As Secretary Blumenthal said in May:

> The rising cost and volume of our oil imports is swamping our basically strong position on other parts of our trade picture. . . . As a result, our trade balance, including fuel imports, has moved from a $9 billion surplus in 1975 to a $9 billion deficit in 1976 to a projected deficit this year likely to total over $20 billion. Roughly half of this deterioration is the result of the increase in our bill for imported fuel.

Mr. Blumenthal's May testimony pales in contrast with the information on balance of payments and trade deficits put out last week by the Commerce Department.

Trade deficits have already reached $12.6 billion for the first half of this year, or about $25 billion for the whole year, as opposed to the 1976 deficit of $9 billion. Exports declined by 3 percent, and oil imports rose to record levels, costing the Nation $3.9 billion for the month of June alone.

Recent reports indicate an accumulating world oil deficit of $40 billion per year to the world's oil-exporting nations. This is caused by petrodollars moving into the Mideast faster than the oil-producing nations can buy goods. While the OPEC nations are investing their dollars in the industrialized nations depending on Mideast oil, it is no comfort to know that we are becoming more and more dependent on the willingness of unstable Arab countries to invest in our markets the wealth they have drained from us.

The impact of the loss of this much capital is monumental. Earlier this year, former Assistant Treasury Secretary Gerald Parsky assessed the impact of the 1973 embargo, combined with continuing effects resulting from a quadrupled price of OPEC oil:

> . . . The oil embargo plus the 400 percent OPEC price increases probably will cost the U.S. economy a cumulative loss in real output of about $500 billion over the period of 1974 to 1980.

This means loss of capital to invest in business, jobs, rebuilding our cities, and achieving any of the rest of our national goals.

A number of the proposals we have outlined are partly covered in existing law. In some cases authorities exist for the President to act if he chooses, as in gasoline rationing—for which the authority exists under the Energy Policy and Conservation Act. In some cases we would make mandatory the use of such authorities when conditions warrant. In other cases we would mandate measures to be implemented at once. In still other cases we would need to enact new law, and we are preparing amendments and bills for these purposes.

There is unanimity in the view that "we cannot get there from here" under the program now under consideration by the House. The General Accounting Of-

fice, the Office of Technology Assessment and the Congressional Research Service all agree that we will be importing between 10 and 12 million barrels of oil daily by 1985 under the current plan, and that we will not be able—absent drastic additional action—to meet the target of 6 million barrels of oil imported daily by 1985.

Among the measures we will be pursuing are:

Strict gasoline consumption limitations;

Expanded Federal incentives for solar energy;

Stronger utility regulatory reform;

Use of human and agricultural wastes for fuel and/or fertilizer;

Interstate Commerce Commission regulations to encourage the use of recycled materials by changing inequitable freight rates, and eliminating the "empty truck" rule;

Expanded public transit initiatives, including supporting fares in order to increase use;

Regulations to eliminate unnecessary uses of materials, including petroleum-made products (plastics) and high-energy products (aluminum) in certain cases;

Rail revitalization for transit purposes, freight purposes, and employment expansion;

Beverage container recycling;

Electric vehicle production, and conversion of the Federal fleet, to promote and develop a market; and

Progressive prohibition of production of fuel-inefficient automobiles, and search for new propulsion technologies.

These are but some of the energy conservation and fuel conversion programs the Nation might undertake. America is fortunate to possess many people with extraordinary ingenuity. It is time to put our inventiveness to work in a positive way, to solve our energy crisis, to work to stave off economic disaster and to move into a post-petroleum, renewable resource era.

PHOTOVOLTAIC ELECTRICITY—NOW!

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I strongly advocate the use of solar photovoltaic systems for the generation of electricity. These systems, which convert sunlight directly into electrical energy, are ideal in many ways. They are clean and nonpolluting; solar cells produce no noise, no fumes, no waste, and no toxins. There is no need for fuel resupply. Since there are no moving parts, maintenance requirements are extremely low. And they lend themselves to small, decentralized systems, without the need for expensive transmission.

The status of our Federal research program in photovoltaics is therefore of great importance to the Nation's energy future. "Photovoltaics: The Semiconductor Revolution Comes to Solar," an article in the July 29, 1977, issue of Science magazine, provides an excellent summary of the program and suggests some ways to encourage expansion of the photovoltaics market. I commend it to my colleagues:

PHOTOVOLTAICS: THE SEMICONDUCTOR REVOLUTION COMES TO SOLAR

If there is a dream solar technology it is probably photovoltaics—solar cells. These devices convert sunlight to electricity directly, bypassing thermodynamic cycles and mechanical generators altogether. They have no moving parts and are consequently quiet, extremely reliable, and easy to operate. Photovoltaic cells are a space age electronic marvel, at once the most sophisticated solar technology and the simplest, most environmentally benign source of electricity yet conceived.

The federal solar research program, however, has not sought aggressively to realize the photovoltaic dream. Despite growing evidence that such devices could become a competitive source of on-site power within a decade, the Energy Research and Development Administration (ERDA) characterizes photovoltaics as a long-range option with significance only in the next century. The agency's current budget allots $59 million for photovoltaic research—less than one-seventh of that being spent on fusion—and the proposed budget for fiscal year '78 would cut even that modest amount somewhat. Agency officials are considering reorienting the program to give additional emphasis to large, utility-scale applications.

The skepticism of federal energy planners regarding photovoltaics is understandable, because these devices are the most expensive source of solar power now available. Prices must drop 20- to 40-fold before photovoltaic cells could come into general use as a source of on-site power, and further reductions are needed before central power stations would be feasible. The manufacturing processes applicable to photovoltaic cells and related semiconductor devices are an unfamiliar art to those outside the industry, and officials whose experience is primarily with conventional mechanical or nuclear energy systems find the possibility of such staggering cost reductions hard to believe. Their skepticism is widely shared within the electric utility industry. On the other hand, semiconductor manufacturers and observers familiar with the even larger cost reductions routinely achieved for electronic devices based on semiconductors contemplate the problems facing solar cells with equanimity or even optimism.

PRIVATE EFFORTS ACCELERATE

Ironically, the federal photovoltaic research effort is credited by many observers as being perhaps the best conceived and most successful of the government solar programs. Despite its designation as a long-term option, the program has an ambitious set of goals that would make photovoltaic power widely available by 1986. Not only is it achieving improvements in the efficiency and reductions in the cost of silicon solar cells at a more rapid rate than that projected by its plan, but it also appears to have stimulated private industry into activity. Researchers at several major semiconductor manufacturers say that the ERDA program has attracted the attention of corporate management to the potential for near-term markets and resulted in the establishment or upgrading of proprietary development efforts. Private efforts have accelerated in the past year, and there are even indications that the smart money is betting on photovoltaics—oil companies, including at least four major firms, have concentrated their solar investments in photovoltaic technologies.

The prospects for photovoltaic power depend more on the application of mass production methods to known techniques than on fundamental breakthroughs or new concepts. Solar cells already exist and have for years reliably powered most space satellites. Modern photovoltaic devices were developed at Bell Laboratories in the early 1950's, not long after a related semiconductor device, the transistor. Unlike the transistor, however, there was at the time no prospect of a mass market and the emphasis in developmental work for space applications was on reducing weight, not cost. Even now, cells manufactured for terrestrial applications (and sold for prices 50 times lower than those that prevailed a few years ago in the space market) require between 10 and 100 man-hours of handwork per kilowatt of generating capacity. Complete automation has yet to be achieved.

Several different photovoltaic approaches are being pursued in the attempt to reduce manufacturing costs. The bulk of the federal program is based on cells cut from huge crystals of silicon, the dominant commercial technology. Both stand-alone, flat plate" arrays of cells and those designed for use with a solar collector that concentrates the sunlight are being pursued. But conventional silicon faces stiff competition on both fronts. Many investigators believe that thin films of cadmium sulfide, amorphous silicon, or other materials offer a less expensive approach for flat plate arrays. And for concentrating systems, where the cost of the cells themselves is less crucial than high efficiency, designs based on gallium arsenide are attracting increasing attention. Other, novel approaches that may permit conversion efficiencies as high as 50 percent are being considered. Events are proceeding so rapidly that there is no consensus yet as to which approach is most likely to prove successful.

There is general agreement that concentrating systems are likely to accelerate the cost-cutting process. Arrays of silicon cells now cost about $15 per watt of generating capacity in full sunlight. Reduction to about $1 per watt—a cost that is expected to make feasible a broad range of specialized applications—is widely anticipated as early as 1980, particularly for concentrating systems. Cells designed for energy densities of 100 suns (100-fold concentration), for example, do not cost appreciably more than those designed for 1 sun, but generate 100 times as much power, so that the cost of the concentrating system rapidly becomes the limiting factor. A recent report* by the congressional Office of Technology Assessment (OTA) finds that "concentrating systems can be developed which provide photovoltaic electricity in the next few years costing no more than $1200 per peak kilowatt."

Below $1 per peak watt, however, things get more difficult, and many observers believe that only flat plate arrays will be able to achieve further price reductions. The ERDA goal is $0.50 per peak watt for flat plate arrays of silicon cells by 1986—a figure that program officials acknowledge was chosen as a ballpark one which would be necessary before on-site photovoltaic power could be generally competitive. Despite this, there is growing evidence that it is an attainable goal. Within the last year, according to observers familiar with the semiconductor industry, several of the major companies that are analyzing possible production methods for the ERDA program have convinced themselves that $0.50 per watt can be achieved, without any breakthroughs, by simply extending and automating present procedures. Paul Rappaport, the new head of the Solar Energy Research Institute and a recognized photovoltaic authority, says that the cost goal "is double" if dedicated processing plants large enough to turn out 50 megawatts of generating capacity a year are built. The OTA study, comparing the ERDA cost

Applications of Solar Technology to Today's Energy Needs (Office of Technology Assessment, Washington, D.C., June 1977).

goals to historic learning curves that describe how prices have declined as producductor devices, characterizes them as near-term markets for solar cells can be "optimistic but not impossible," provided found.

Much of the optimism regarding low-cost silicon cells stems from recent systems studies and laboratory work done for the Jet Propulsion Laboratory (JPL), which is managing the flat plate silicon program for ERDA. Although the effort has so far generated more paper than cells, it is credited with having tapped some of the best industrial talent in the country. One key area is material costs—the extremely pure semiconductor grade of silicon now used to make cells costs $65 per ton and is a substantial component in the cost of the final product. Moreover, cells made with present techniques would have to operate about 12 years to recoup the energy expended in their manufacture, in part because the raw silicon is melted and remelted so many times during purification and crystal growth that it is among the most energy-intensive commercial materials in the world. But studies by Dow Corning and Union Carbide, among others, indicate that a sixfold decrease in the cost and a tenfold or greater reduction in the manufacturing energy for solar-grade silicon are feasible. Another major problem with present techniques is waste. About 80 percent of the purified silicon is left as scrap in the crucibles used to grow large cylinders of the material in crystalline form, or ends up as sawdust when the thin wafers used to make cells are cut from the cylinder. Methods of growing larger cylinders, of recharging the crucibles, and of sawing thinner slices—for example, by a new laser slicing technique being developed by Texas Instruments—are expected to reduce this waste by at least half.

The bulk of the cost of a silicon cell, however, comes from the many mechanical steps required to convert the raw wafer into a commercially useful product. Controlled amounts of impurities are diffused into the silicon to create a *p-n* junction—which creates a kind of internal electric field that propels positive charges in one direction and negative charges in the other. (Pairs of such charges are created when sunlight is absorbed in the cell.) A grid of metal contacts must be attached to the front and rear of the cell to collect the charges that migrate there and thus create a flow of current. Finally, individual cells must be assembled into an array and encapsulated to protect against deterioration.

Much of this is now done by hand, but studies by RCA, Texas Instruments, and Motorola have indicated that the cell manufacture and assembly steps can be streamlined and largely automated with substantial reduction in cost. Beyond that, improvements that are well established but not now used in solar cell manufacture are being considered—such as the use of ion implantation techniques for introducing impurities during cell manufacture. Apparently such studies have convinced these companies, experienced in assessing and manufacturing semiconductor products, that silicon cells have a future. Motorola recently announced that it is entering the solar cell business, and the others are known to be studying the prospect closely.

Still further cost reductions in silicon could come if the necessity to grow and slice large cylinders of silicon could be avoided. Development work for JPL on a process for growing continuous ribbons of crystalline silicon is going on at Mobil-Tyco and IBM. Efficiencies as high as 11 percent have been demonstrated with cells made from the ribbon, but the process introduces unwanted impurities into the silicon and is not yet as rapid as the traditional method. Several other processes for producing sheets of silicon are also being studied, but all of the ribbon and sheet processes are still regarded as uncertain by most observers and the current optimism is not based on their prospects.

Within the last year there has also been a surge of enthusiasm for concentrating photovoltaic systems based on what appear to be very attractive economics—at least for the short run. The systems under consideration are designed to operated at a range of concentrations from tenfold to well over 1000-fold. At high concentrations most collectors will require active cooling, because the performance of photovoltaic devices degrades as temperatures increase; this prospect has stimulated consideration of photovoltaic total energy systems that would produce low-temperature heat as well as electricity. A variety of innovative concentrating collectors have been designed, and some of them are being tested at ERDA's Sandia Laboratories. With one exception (Fig. 1), the concentrating photovoltaic systems under development will be sun-tracking, which may limit their use in some applications.

Most observers believe that high efficiency will prove to be the overriding requirement for photovoltaic cells to be used with concentrating systems. This accounts for a growing interest in gallium arsenide cells, despite the fact that they are now as much as ten times as expensive as silicon. V rian Corporation has demonstrated an experimental system that operated with 19 percent efficiency at a concentration of 1735 suns—sufficient to produce electricity at a density of 0.24 megawatt per square meter of cell area. IBM recently announced that experimental gallium arsenide cells made with a novel and potentially inexpensive epitaxial growth technique showed an efficiency of 22 percent. An additional advantage of gallium arsenide cells is that they can tolerate higher temperatures than silicon, up to 200° C with only modest losses in efficiency—high enough for many solar thermal and total energy applications.

Still higher efficiencies may be possible. Texas Instruments has announced a new high-efficiency design for silicon cells based on two superimposed *p-n* junctions in the same cell. Varian researchers are also working on multiple junction cells that would consist of two or more cells, using different parts of the solar spectrum, stacked one on top of the other; the theoretical efficiencies for such cells approach 40 percent. An even more provocative idea, being pursued by Richard Swanson at Stanford, is to convert the solar spectrum to a form in which photovoltaic cells can make better use of it. This approach, known as thermophotovoltaics, makes use of a complicated geometry and a refractory radiator; light that passes through a photovoltaic cell unused is absorbed and reradiated to the cell by the refractory material, in the process lowering its wavelength. In effect, the device recycles light until 30 to 50 percent of it is converted to electricity, according to Swanson's calculations with computer models. He is now fabricating experimental devices, and a Stanford engineering group is preparing to launch a major effort to develop the concept.

The Varian and the Stanford researchers, among others, believe that high-efficiency concentrating systems are the best approach for photovoltaics, and they doubt that flat plate arrays will ever be cheap enough for widespread use. At the other extreme are those who believe that flat plate arrays made from thin films of polycrystalline or amorphous semi-conductor materials can be made so cheaply that they are inevitably the way of the future, despite the low efficiencies in present devices. Rappaport, for example, says that "the technology of thin films is still in its infancy" and that they may ultimately prove a major competitor not only of concentrating systems but also of conventional crystalline silicon cells. One indicator that buttresses this point of view is the degree of private investment in thin film techniques and manufacturing facilities.

Optimism about the possibility of dramatic cost reductions with thin film techniques is based on savings in both material and manufacturing effort. Large areas of photovoltaic material can, in principle, be quickly formed by chemical deposition or spray techniques, eliminating the need to grow crystals; these techniques also lend themselves to the incorporation of additional processing steps in the same operation, and thinner cells, typically a few micrometers or less in thickness, can be formed. The only thin film cell now commercially available is based on cadmium sulfide, for which the efficiency of arrays of commercial cells is less than 5 percent, necessitating substantially more cell area than would be required to produce the same power from silicon.

Despite this disadvantage, two firms are now gearing up to produce these cells in large quantities. Solar Energy Systems of Newark, Delaware, a subsidiary of Shell Oil, already markets cells made with a batch, vacuum-deposition process at prices competitive with those for silicon cells. Photon Power of El Paso, Texas—originally a subsidiary of the D. H. Baldwin Co. but now primarily owned by the French national oil company—is developing a chemical spray technique in which solar cells are formed directly on hot float-glass. Observers familiar with both processes speculate that cells could be produced in large quantities with either method for prices of about $2 per watt or less—possibly much less if the Photon Power approach can be made to work in a combined facility that would produce both glass and cells.

THIN FILMS ARE PROMISING

Still other potentially inexpensive thin film materials are being developed. At RCA, for example, investigators are experimenting with an alloy of amorphous silicon and hydrogen. The hydrogen, which can be added in varying amounts up to about a one-to-one atomic ratio, acts to increase the absorption of light in the firm and to improve its photovoltaic properties. The RCA group has made cells with efficiencies of 6 percent and expects to reach as high as 10 percent within a few years. Other investigators are studying cells analogous to cadmium sulfide cells, but in which indium phosphide or copper indium selenide is also used, which have shown laboratory efficiencies of 12 percent.

The basic unit for photovoltaic power systems is an array of cells producing up to a few tens of kilowatts. Even large central power stations, if they were constructed, would be built up from units of this size. Thus photovoltaic systems are inherently modular, perhaps more so than any other solar technology. Engineering studies conducted for ERDA's Sandia Laboratories indicate that there is a substantial residential market for photovoltaics for example, and that there is no technical reason why they cannot compete with other sources of electricity on all scales. Nonetheless, the dominant line of thought within the ERDA program is that photovoltaics can have a major impact only if large, utility-scale applications can be found. "My view, says Henry Marvin, director of ERDA's solar energy division, "is that the only way to get the cost down is to service some large installations—megawatt size. One knowledgeable critic describes this approach as "a misapprehension; distributed applications have to be the way of the future. Because photovoltaic technology is so modular, however, the agency's centralized bias does not yet appear to have affected the technical choices made within the program to the extent evident in other solar programs.

There already exists a market for terrestrial photovoltaic power systems. Silicon cells with a capacity of about 350 kilowatts were sold in 1976, in part to the government program but also for such applications as protection of pipelines against corrosion and power supplies for remote Forest Service watchtowers. A recent study done by the Department of Defense for the Federal Energy Administration forecasts a substantial near-term market, eventually as large as 100 megawatts per year, at remote military installations and says that photovoltaic systems for such applications are competitive even at current prices.

One major on-site application now being actively studied by industry is in electrochemical plants, for which the low-voltage, direct current produced by photovoltaic cells is ideal; because the plant could adjust production to changes in the amount of sunlight available, storage of electricity would not be necessary. Observers familiar with the electrochemical industry say that this market could amount to several thousand megawatts. Given a market, many observers believe that one or more manufacturing plants, each capable of producing as much as 100 megawatts of photovoltaic capacity per year, could be built within 2 years.

Photovoltaic technology is advancing at an explosive rate, and the richness of the technical options already under investigation is a strong argument that one or more of the approaches to reducing costs will work out. Knowledgeable observers of the semiconductor industry such as John Linvill, chairman of the Stanford Electrical Engineering Department, and Lester Hogan, vice-chairman of the board of Fairchild, say in a recent article that "we believe that photoelectric conversion of solar energy can be made viable as a source of power for terrestrial use within a decade." But ERDA, in casting photovoltaics as strictly a long-term option and severely restricting its funding, appears intent on ignoring both the stated objectives of its own subprogram and the signs of dynamism in private industry.

—ALLEN L. HAMMOND.

WHOSE SIDE IS GOD ON, ANYHOW?

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, this morning the Federal Power Commission issued its preliminary report on the reasons for the Great Blackout of 1977 in New York City. Tonight's Washington Star headlined the story, "Con Ed Scored by FPC for Role in New York Blackout."

In this morning's Washington Post, however, Art Buchwald posited another theory. His headline was, "And on the Eighth Day He Caused a Blackout."

Given that not all the facts are in yet on the blackout of July 13, I will leave it to my colleagues to determine which theory they accept, and insert in the RECORD at this point both articles:

[From the Washington Star, Aug. 4, 1977]

CON ED SCORED BY FPC FOR ROLE IN NEW YORK BLACKOUT

The Federal Power Commission said today that Consolidated Edison Power Co. was inadequately prepared and failed to move quickly enough to prevent New York City's blackout on July 13–14.

FPC Chairman Richard L. Dunham said "the present system is clearly inadequate" and improving it will probably cost millions of dollars and increase the electric bills of the company's customers.

Dunham carefully avoided characterizing Con Ed's failures as "gross negligence," a term used by Mayor Abraham Beame when the power failure plunged some 10 million residents of New York City and surrounding suburbs into darkness on the night of July 13.

The blackout lasted 12 hours in most of the city, 25 hours in some parts. It also led to looting and thousands of arrests.

Dunham said the questior of negligence was something for a court to decide. He also said that the FPC itself and the New York State Public Service Commission must bear some responsibility.

The 80-page FPC report, which was ordered by President Carter and requested by Beame, recommended that Con Ed install improved devices to cut off parts of its system, a process known as "load-shedding," and urged additional manpower in the evening hours as a necessary safeguard.

One of Dunham's assistants, Jack Weiss, said the FPC found "the disturbance would have been substantially minimized if circuit breakers operated, if load-shedding took place earlier. . . . It might have avoided the blackout."

Dunham said that after the massive 1965 blackout in the Northeast, steps were taken to prevent its recurrence.

"There is no question in my mind we believed those standards of reliability were adequate. They were obviously not," he said.

Dunham said it's likely the improvements that the FPC recommended would add substantial cost to the bills of consumers in New York. But he said that last month's blackout was "clearly insupportable . . . intolerable."

[From the Washington Post, Aug. 4, 1977]

AND ON THE EIGHTH DAY HE CAUSED A BLACKOUT

(By Art Buchwald)

There are no atheists at Consolidated Edison. Ever since the New York blackout Con Ed lawyers have been working day and night to prove that what happened was an "Act of God." If they can't prove that the Lord did it, they will be spending their next 20 years in court fighting law suits from the Bronx to the tip of Staten Island.

I stopped by to see how Con Edison's lawyers were doing.

"God bless you," the receptionist said as she looked up from her Bible.

"I just wanted to speak to one of Con Edison's lawyers," I told her.

"Thou comest at the wrong time," she replied. "Mr. Flaherty is at mass, Mr. Bradley is at a prayer breakfast meeting and Mr. Seligman is with his rabbi."

"My, this sounds like a religious office."

"Con Edison would never hire a lawyer who didn't believe in God," she said.

"They must have been pretty shaken up by the blackout," I said.

She sighed. "The Lord moves in mysterious ways. We must not question his decision to black out New York at a most inopportune time. He must have been very angry at the city or he would have never sent down those bolts of lightning to smite our power lines."

"Then you people believe that it was God who did it?"

"As Mr. Flaherty wrote in his brief yesterday, 'The Lord giveth light and he taketh it away. The power of Con Edison is in his hands.'"

"So you are not looking for any other reason for the blackout?" I asked.

"What other reason could there possibly be? Every safeguard known to man was in operation at the time. But there is no failsafe when the Lord turns his wrath against sinners."

"Is it Con Edison's position that New Yorkers are sinners?"

"Verily," she said. "You have only to walk down 42d Street or Eighth Avenue to know why God was enraged. We are living in a virtual Sodom and Gomorrah," she said.

"Why didn't God just black out the porno shops and theaters showing X-rated movies if he was so mad?"

"Even the Lord cannot smash one of our circuits without putting the others out of commission. Besides, this happened in the summertime and there was sinning going on all over the city, particularly in apartments and houses where the wives were away on vacation.

"I forgot about that."

"Con Edison knew about the sinning, and our engineers feared the wrath of God for a week before the blackout. But we felt that, as a power company, it was not our place to warn the populace that if they continue their behavior the Lord would loose the fearful lightning of his powerful swift sword."

"Do you think the 'Act of God' defense will hold up in court?"

"We can only pray it will. If the courts decide against us, then no one will ever believe the Lord is trying to tell the people something. As Mr. Bradley said to his Bible class yesterday, "If this blackout doesn't make people believers, nothing will.'"

I heard an organ in the background.

"What's that" I asked.

"It's the beginning of vespers. Con Ed has vesper services for its employees every day."

"Is this something new?"

"We started them the day after the blackout. It was the legal department's idea."

"Is it an electric organ I hear?"

"No, it's manual. The Lord only knows when he will strike us again."

SOLAR POWER TOWER

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, one of the major defects in our national research and development program for solar energy is its emphasis on centralized electric generating facilities, an emphasis which parallels the historic development of nuclear power.

This concentration of funding, with concomitant neglect of smaller scale systems, is exemplified in the development of solar thermal electric capacity, where 60 percent of the research money is being devoted to the power tower. The power tower is a system in which solar energy is collected from a large field of mirrors and focused on a boiler set atop a large tower. Steam from the boiler then produces electricity in a conventional turbogenerator.

Because of ERDA's concentration of funding on the power tower, the development of intermediate temperature systems, those most likely to be used in smaller scale powerplants, has been neglected.

"Solar Thermal Electricity: Power Tower Dominates Research," an article by William D. Metz in the July 22, 1977, issue of Science magazine, discusses this important subject in detail. I commend this article to the attention of my colleagues:

SOLAR THERMAL ELECTRICITY: POWER TOWER DOMINATES RESEARCH

The centerpiece of the government's solar energy program is proceeding from small to large tests in a fashion that is remarkably parallel to the well-established pattern of

nuclear reactor development. Big facilities, big expenditures, and a multidecade development program all characterize the program for centralized solar thermal generating stations.

The eventual cost will probably not be as large as the development bill for a reactor system, but the yearly payment is already great enough that it dominates the relatively small solar program. At the present time, the project to develop the "power tower" is consuming 60 to 70 percent of the research money devoted to the conversion of sunlight into thermal energy and thence electricity. It is still far too early to judge how successful the power tower will be, but the project is a paramount example of the tendency of the Energy Research and Development Administration (ERDA) to favor centralized solar concepts and to route the development of such concepts through its own laboratories.

The power tower concept is a way to collect solar energy from a large field of mirrors and to convert it into heat at a high enough temperature for efficient electrical generation. Optical studies show that the best way to get the high temperatures is with a point-focusing mirror that tracks the sun (heliostat), and systems studies made by the Aerospace Corporation in 1974 found that the cheapest way to combine the heat from many such mirrors was to focus them all on a single boiler set atop a large tower. Steam from the boiler can produce electricity in a conventional turbogenerator. There are some engineers who favor a central system using mirrors that are not point-focusing and others who question whether the cost savings are not offset by practical problems—the tower for a 100-megawatt plant would be about 1000 feet tall. But both ERDA and the Electric Power Research Institute (EPRI), the utility's research arm, are betting heavily that the power tower, with the benefits of "photon energy transport," is the best design for a centralized solar thermal generating plant.

Although there is some criticism that the solar program gives too little support to alternative centralized generating concepts, the research area that appears to be hardest hit by the power tower's generous funding is the development of intermediate-temperature solar thermal systems that would most likely be used on a smaller scale. Systems that employ mirrors that are less optically sophisticated than those of the power tower can convert sunlight to heat in a very useful temperature range, above the 100°C limit of flat rooftop collectors and below the 500°C level achieved by point-focusing heliostats. The intermediate-performance mirrors are generally variations of parabolic troughs—line-focusing elements that track the sun in only one direction during the day. They concentrate sunlight by a factor of 10 to 40 and focus it onto an evacuated tube suspended above the trough.

SMALL SYSTEMS MAY COMPETE

Intermediate-temperature systems are less efficient than heliostats if used for electricity generation alone, but they are simpler, cheaper, and more readily adapted to applications where, in addition to electricity, they produce heat for warming or cooling. A recent report* prepared by the Office of Technology Assessment (OTA) estimated that the useful annual output of a parabolic trough collector (that is, energy delivered after thermal and optical losses are taken into account) may be only 10 percent less than the output of a heliostat. Because of the lower temperature, a parabolic trough system would convert less energy into electricity. But by utilizing the waste heat, such systems could achieve an overall efficiency that exceeds the typical efficiency (16 percent) expected for a power tower central station. Intermediate-temperature collectors and systems that use them to produce both heat and electricity (called "total energy" systems by ERDA) will be discussed further in a future article.

The economics of small systems and intermediate-temperature systems are not well known—in large part because so little money has been available to study them. But one of the most striking conclusions of the OTA report is that there is "no clear indication that large solar electric plants are more efficient or produce less costly energy than small, on-site facilities."

Recent changes have upgraded research on solar-electric systems for nonutility applications, but the bulk of solar electric research is devoted to technologies designed exclusively for large electric utilities. In the solar thermal subprogram, ERDA spent $60 million on central systems in fiscal 1977 (almost all of it for the power tower), while allocating $9 million to total energy systems. This was the case despite the fact that small systems have the potential for making energy contributions in the near future. Very large solar thermal electric stations, because they are being developed according to the nuclear analogy, are unlikely to make a contribution to commercial energy supplies in less than 20 years.

Thus, much like the breeder reactor, the power tower is scheduled to proceed from a small test to the first commercial plant in four stages. If bar graphs for the two projects were overlaid, they would show a striking similarity. The first solar stage is a 5-megawatt thermal (Mwt) test facility due to be completed next year near Albuquerque, New Mexico, for $21 million. The second will be a 10-megawatt electric (Mwe) pilot plant to be built near Barstow, California, at a cost of $120 to $130 million; construction is due to begin in 1978. These two stages, funded entirely by the government, are due to be followed by a 100-Mwe demonstration plant in the mid-1980's and finally a 100-Mwe prototype commercial plant in the 1990's. As with the breeder, the government hopes to share major parts of the costs of the latter two projects with the utilities that will use them. One difference in the solar case is that the utilities, through EPRI, are contributing small amounts of funding for studies in parallel with the first phase of the government program, and a California utility group is contributing $20 million to the Barstow project.

Whereas the government's nuclear program nurtured four large heavy-equipment companies that are now the sole suppliers of nuclear reactors in the United States, the power tower program is dispensing the bulk of its work to four large aerospace contractors. The companies that are building test hardware for the Albuquerque facility and competing for contracts on the much larger Barstow facility are Martin Marietta, Honeywell, McDonnell-Douglas, and Boeing. If the power tower proceeds apace, their names will become as synonymous with solar electricity as the names Westinghouse, General Electric, Combustion Engineering, and Babcock and Wilcox have become with nuclear power. The success of the power tower concept will probably hinge on the development of the novel high-technology components, such as collectors, receivers, and thermal storage units. But the rate of development will more likely be controlled by the logistics of designing and building the sequence of solar plants, which will be huge construction projects requiring large amounts of steel and concrete.

Commenting upon apparent similarities with nuclear development, the newly appointed head of ERDA's solar thermal branch, Gerald Braun, says that common features are less deliberate than automatic. "Because you are looking at something at the same scale," says Braun, "you go the same way. But there was certainly no intention to follow the nuclear model."

The name power tower has a friendly ring to it which conjures up something on a human scale. A view of the Albuquerque facility illustrates how large the system will actually be (Fig. 1). The tower is the height of a 20-story building, built with 5,700 cubic yards of concrete. The collectors at the Albuquerque test site will cover 100 acres. Each heliostat is anchored with a 10-ton concrete footing. As the collector field size increases, higher towers are needed. The tower for the Barstow plant will be about 500 feet high, and double that height will be needed for the customarily projected commercial size plant producing 100 megawatts.

A commercial power tower generating plant would cover about 1 square mile of land, probably at a desert site, collecting sunlight from as many as 10,000 heliostats. In the designs produced by the four ERDA contractors, the heliostats are 37 square meters in area and they concentrate the sunlight by as much as a factor of 1,000. To counter the effect of passing clouds, the ERDA pilot plant will have a thermal storage capability for 3 hours electrical generation. Although the storage could allow operation to continue briefly into the early evening, the plants are primarily intended to supply electricity to meet the midday diurnal load (often called an intermediate load) experienced by most utilities. The ERDA plans call for a steam (Rankine) cycle that would require a considerable amount of cooling water, but the concept favored by EPRI (a Brayton or gas turbine cycle) would require little or no cooling. The ERDA power tower concept would operate by evaporative cooling, and would use about as much water as a comparably-sized fossil plant.

According to most estimates, the major factor influencing the costs of the power tower plant will be the design and cost of the collector. The shape of each collector must approximate a parabola focused on the receiver, but the four aerospace contractors have accomplished that end in rather different ways. Three of the contractors have designed mirrors using steel and glass construction, while Boeing has designed a mirror made of aluminized polyester stretched across a circular frame (Fig. 2). The Honeywell design uses rectangular mirrors mounted on a geared tracking frame that tilts in two directions. The McDonnell-Douglas heliostat is a solid dish, made of 8 mirror segments, mounted on a radar pedestal. The Martin Marietta heliostat uses nine mirrors mounted on a common tracking frame. In some cases, the flat mirrors have to be stressed slightly to give a parabolic shape, and the facets have to be aligned to point at a common focus.

The Boeing heliostat is potentially less expensive than the others because it uses very lightweight materials. The collector is protected from weather, wind and dust by a plastic bubble supported by air pressure. Boeing estimates that the optical loss that occurs when sunlight passes through the bubble (about 20 percent) is more than compensated by the cost reduction achieved by using light, thin materials. All four heliostats follow the sun by tracking along two axes. The Boeing and Honeywell versions are directed by computer control. The other two versions will be controlled by feedback signals from a sensor in the reflected beam of each heliostat.

The four contractors have each tested about half a dozen heliostats built as prototypes for the 10 Mwe Barstow plant. Data on their costs and performance may become available soon, since ERDA is due to decide on the preferred prototype next month.

* "Application of Solar Technology to Today's Energy Needs," a two-volume report by the Office of Technology Assessment of the U.S. Congress published June 1977, Washington, D.C. 20510.

Heliostats of the same size have been ordered and built for the Albuquerque facility, and their costs have been quite high—in the range of $500 to $1000 per square meter. One critic has commented that, so far, the heliostats being produced by the aerospace firms are being delivered at "aerospace prices." This is also the price range of satellite tracking antennas, which are parabolic dishes and resemble heliostats in a number of ways. Clearly an important challenge to the power tower program is the problem of reducing these costs. The official goal of the ERDA program, which many observers consider unattainable, is a cost of $70 per square meter.

The reason that the heliostat cost reduction is so crucial is that the heliostats may represent 60 percent of the total cost of a power tower plant. There has been a wide range in early cost estimates prepared by McDonnell, Martin Marietta and Honeywell—from $40 per square meter to $96 per square meter. In a study of the detailed economics of many types of solar electric systems, Richard Caputo at the Jet Propulsion Laboratory concluded that with careful development work a heliostat cost of $145 per square meter (in 1975 dollars) should be attainable. But he indicated that the costs could go higher. At a cost of $145 per square meter, he calculated that the plant capital cost would be $2000 per Kwe.

The group of four aerospace contractors, minus Boeing, which is only studying the heliostat subsystem, is preparing designs for other components of the 10-Mwe plant. The design of the receiver that will set atop the tower may determine to a large degree the ultimate size of a power tower plant. Cavity-type receivers appear to be considerably more limited in total power than externally mounted receivers. Two of the contractors, Martin and Honeywell, are planning cavity receivers, while McDonnell-Douglas proposes to use an external receiver.

The heliostats of a power tower will require manufacturing techniques that meet exacting tolerances (0.1° alignment), but many solar engineers think that the greatest problem will be the receiver or boiler. With very high concentration of sunlight, the power density inside the receiver will be quite high and variable. (Some designs offset the focus of different groups of heliostats slightly to spread out the power profile.) Nevertheless, the materials used in the boiler must be able to withstand instantaneous changes in energy densities from 0 to 5 megawatts per square meter. Although the receiver may be kept operating overnight at a reduced temperature to ease the problem of a start-up each morning, the system will be subject to frequent temperature cycles. According to Charles Backus at Arizona State University in Tempe, "The design of the absorber or boiler for this concept will be the major technical challenge."

The analysis contained in a power plant study conducted for EPRI tends to substantiate and—if anything—carry further Backus' critique of the problems to be encountered in developing a power tower receiver.

Under a contract to Black and Veatch Consulting Engineers of Kansas City, EPRI commissioned a conceptual study of the general features of a large system that would use a gas turbine (not steam) generator. The EPRI study found that the best operating temperature, twice that of a steam turbine system, would be so high that it would rule out the use of metals in the high-temperature face of the receiver cavity. Instead, the study recommended the use of ceramic (silicon carbide) heat exchanger tubes and highlighted problems with installing the ceramic tubes and suitably insulating the hot air ducts in the plant.

The gas turbine power tower study also took a novel approach to the problem of energy storage, and gave some concrete indications of the size of a commercial installation. Rather than use a huge and expensive tank for energy storage, as the ERDA concept would, the EPRI concept would use fossil fuel (oil or gas) firing of the solar turbine as a backup option, one that would add very little extra cost. The tower would have two large decks at the top to hold the 750-ton receiver and the 880-ton turbine. The EPRI study found that providing stability against wind and seismic activity for the heavy load at the top would be the principal structural problem in designing the tower. The overall efficiency of the system was calculated as 18 percent and the cost was estimated between $1250 and $1660 per kilowatt, depending on heliostate costs. The study concluded that hybrid (fossil-solar) operation was feasible and in fact desirable, since fossil fuel can serve the purposes of both short- and long-term energy storage.

Although most power tower research is focused on large towers and large heliostats, there is a smaller, cheaper, simpler power tower that has been operating successfully for more than a decade. First tested by G. Francia at the University of Genoa in 1965, the system uses mirrors one meter in size, controlled by a common mechanical drive, and collects the light in a receiver hung from a short, lightweight steel tower. The system is now available in a package from ANSALDO, SpA, the major heavy electrical equipment manufacturer of Italy. A 400-kwt system, built by ANSALDO and delivered to the Georgia Institute of Technology, is due to begin operation late this summer (Fig. 4). According to Steve Bomar at Georgia Tech, 75 percent of the mirrors are aligned and the system is scheduled to make steam for the first time in August.

With a range from 400-kwt working models to 60- to 150-Mwe conceptual studies, the optimum size of a power tower plant is a matter of much guessing and some reevaluation just now. Braun at ERDA says that when the preliminary designs are in hand later this summer the agency will be in a position to rethink the validity of the 100-Mwe goal chosen 3 years ago. Charles Grosskreutz, now at the newly inaugurated Solar Energy Research Institute, says that the 100-Mwe size was not "the result of a careful study in which someone found a curve with a dip in it," but a reaction to practical limiting factors. The administrator who is in charge of evaluating the competing design studies, Alan Skinrood at the Sandia Laboratories in Livermore, California, says that it is "fairly clear" that the optimum plant size for the United States is 50 to 200 Mwe.

The outcome of the design competition may shed more light on the thinking of those in the ERDA program, because one design (Martin Marietta) has a maximum modular size of 10 Mwe. The Martin scheme would be to build up a 100-Mwe plant from ten or more modules. Its technically limiting feature is the use of a narrow-angle cavity-type receiver in a north-facing tower.

Whatever the outcome of the areo-space competition, it is clear that the costs of power tower systems are far too high just now. The present price of collectors is about ten times the $70 price ERDA set as a goal, and the total pilot plant costs—which will be over $10,000 per kilowatt for the Barstow facility—are in excess of those in other energy technologies that have reached a similar stage of development. The ERDA plan is to reduce these costs—particularly for heliostats—by bulk manufacturing techniques and steadily improved designs.

But the economies of scale presumed to be possible with large power towers could prove illusory, and the benefits of systems on smaller scales may be overlooked and forgotten by the time the final answer to the power tower is known. In particular, the rule of thumb that "energy transport by light is more economical than by heat" may only be true for large systems. The heat losses in piping depend on the average distance in the heat transport system, so the economics of distributed collectors connected to a generator by heat (rather than light transport should cross over and become favorable at some point. For much the same reason, total energy systems should be preferable on small scales. But the energy agency appears to be supporting such projects principally as a backup in case the power tower project should fail.

The history of the nuclear development program offers some pointed lessons in the dangers of over concentration of effort on too few technologies. In a huge development program, the ideas of talented workers may be wasted because of the necessity of working within rigid management structures on programs with externally imposed goals. For a number of technologies there is very little choice. But for solar energy, even for the specific purpose of converting solar energy to electricity via thermal systems, there are many choices and new inventions are appearing rapidly. It would appear to be far too soon for the solar program to be discarding innovative options and sinking its research money into steel and concrete.

—WILLIAM D. METZ.

TRIBUTE TO THE LATE JOHN N. REDDIN

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I was saddened to learn of the death of my good friend, John N. Reddin, who was an editorial page writer and former editorial page editor of the Milwaukee Journal.

I would like to take this opportunity to express my heartfelt sympathy and condolences to his wife, Marcia, and his family.

John Reddin's journalism career spanned 44 years during which he covered both the domestic and international political scenes. Those of us who had the privilege of knowing John Reddin will long remember him for his skills and fairness as a reporter and for his pleasant manner and conviviality. John Reddin's passing is a severe loss not only to those of us who had the honor of his friendship but also to the profession of journalism.

Mr. Speaker, at this point I wish to insert in the RECORD the following tribute to John Reddin which appeared in the Milwaukee Journal on July 31:

EDITORIAL WRITER JOHN REDDIN DIES

John N. Reddin, 65, an editorial writer and former editorial page editor of The Milwaukee Journal, died Saturday in Frankfurt, Germany, after a month's illness.

Reddin suffered an ulcer attack in late June while on assignment in Poland. He was flown to Hochster Hospital in Frankfurt for abdominal surgery, spent 10 days in intensive care, then suffered a stroke July 17. He developed pneumonia last week and died early Saturday, Frankfurt time.

Reddin was one of The Journal's most traveled writers. From the early years of the cold war until his death he made frequent domestic and foreign trips to places where the news was breaking—Berlin, East Europe, Southeast Asia and elsewhere.

He was a big, good humored man with a seemingly endless capacity for appreciation. He enjoyed his daily sweep through the nation's press, scanning a dozen to 20 of the major papers every morning. And he enjoyed

writing. He often said he wasn't sure what he thought until he wrote.

Politics and political debate were the stuff of his professional life, but he was never acrimonious, never mean. He looked on his adversaries as well intended but slightly benighted folk whose fate hadn't yet been decided—so he always retained his faith that people who clung to backward views might someday be brought around.

PROLIFIC PRODUCER

The volume of Reddin's production was a wonder to his colleagues in "editorial row." He wrote nearly as fast as he could talk, and he seldom had the patience to rewrite; nor did his copy need reworking as much as other writers. One colleague called Reddin "the best first-draft writer I ever knew."

Reddin said he had gotten used to high volume production as a young man on the Manitowoc Herald-Times, where he filled the entire editorial column himself every day.

One of Reddin's daily routines in Milwaukee, when he wasn't corralled into lunching at The Journal's executive dining room, was to sit at a window table at Mader's and read a book over lunch. He prided himself on the quickness and breadth of his reading.

LIKED GOOD TALK

He enjoyed good food, good drink and good conversation. At the national political conventions it was Reddin who organized the early morning dinners that often exhausted his younger but less hardy colleagues.

He read cookbooks as if they were novels, and his palate was so trained that he frequently passed up a meal altogether rather than eat the banquet fare on the political circuit.

On some occasions he would sit through the meal smoking his cigar; and once at a private dinner party he fed his main course surreptitiously to a dog under the table. When the host saw Reddin's empty plate, he served him a second helping, which Reddin also fed to the dog.

CONSTANT DOODLER

During conferences he doodled constantly and puffed his cigar. He was not easily impressed by candidates. After one recited his alleged merits, Reddin asked how many merit badges he had earned as a Boy Scout.

Reddin was born Sept. 21, 1911, in Aberdeen, S.D., and was educated in the public schools of Manitowoc. He studied at the highly select experimental college at the University of Wisconsin from 1930 to 1933 and joined the Manitowoc Herald-Times as a reporter in the latter year, leaving to become managing editor of the Berlin (Wis.) Daily Journal.

He returned to the Herald-Times in 1935 and worked as an editorial writer and reporter there until 1941.

He enlisted in the Army immediately after Pearl Harbor, was commissioned in July 1942 and left the Army as a captain in 1946.

STINT IN NEW YORK

He joined The Milwaukee Journal in the same year and was named manager of the newspaper's old New York bureau in 1948. He returned to Wisconsin the next year and wrote a series on state mental institutions that won awards from the Amvets and the Eagles Club. A note in the Journal library file, dated 1964, reads as follows:

"In 1949 I got an award and plaque from the Eagles. I didn't know then about their ban on Negro membership or I wouldn't have taken it. On learning of the ban this week I sent the thing back to them. Can that be noted on the story if it is in the file so if I drop dead it won't be listed as one of my questionable honors.—JNR"

SHIFTED SPECIALTY

Reddin shifted in 1949 from reporting to editorial writing and established himself as the paper's primary voice on national political matters.

In 1952 he reported on Communist influence in Guatemala, but his principal challenge of the early '50s was McCarthyism.

His editorials were an important part of The Journal's response to the senator's charges and the atmosphere they helped to create. He wrote a series called "Liberty Bell" editorials in which he set forth the newspaper's conception of the basic American liberties and their importance to our democratic form of government.

EDITORIALS PRAISED

In a speech on the Senate floor in May, 1953, Sen. Wayne Morse of Oregon cited the editorials for their value "at a time when the American people ought to have their attention called to the growing threats to the basic freedoms in this country. . . ."

The next year the series won a national award from the Society of Professional Journalists, Sigma Delta Chi.

Later in 1954 Reddin reported on conditions in England. His other foreign assignments took him to Berlin when the Communists erected the Berlin Wall, to the Mideast, to Indonesia when Sukarno was overthrown and to most of the major countries of Europe. He interviewed Chiang Kai-shek, Nehru and scores of American political leaders.

CIGAR A TRADEMARK

Reddin's cigar was his trademark. And he never bought a short one. When Soviet Premier Nikita Khrushchev toured the United States, he stopped in his tracks one day and asked Reddin, who accompanied him, to explain where he got such a long cigar.

From 1948 until last year's campaign he was on the Journal team at the national conventions of both major parties, and in 1972 and 1976 he headed the team.

He was named editorial page editor in 1972, succeeding Paul Ringer, and retained that post until shortly after he turned 65.

When he returned to full time writing early this year, he took up his old portfolio—editorial writing on national political and policy questions, with periodic foreign travel for the dual purposes of reporting and enriching the background of his editorials.

He served as a director of Newspapers, Inc., a subsidiary of The Journal Co., from 1973 to 1977.

Surviving are his wife Marcia, of Shorewood, and a son, Jon, an assistant district attorney here.

His daughter-in-law, Mary, also an assistant district attorney, said that at Reddin's request there would be no funeral or memorial service. The body will be cremated in Germany.

INTRODUCTION OF THE IMPORTED MEAT LABELING ACT OF 1977

(Mr. BEDELL asked and was given permission to extend his remarks at this point in the RECORD).

Mr. BEDELL. Mr. Speaker, during my brief tenure in the Congress I have had numerous discussions with farmers in my district about the question of imported meat. Largely as a result of their input, I have studied this issue in considerable detail, and I share their concerns about some of the potential problems for our society resulting from meat imports.

In considering this issue, it is important to recognize that it affects both producers and consumers. Producers have a right to full confidence in the promise their Government made in the 1964 Meat Import Act that foreign countries would not be allowed to dump their livestock products in American markets, and to assurance that foreign meat is held accountable to the same standard of wholesomeness as its American counterpart. And consumers have a right to full information about the nature of the food products they wish to purchase, at the grocery store or at a restaurant, and to assurance that such products have met strict inspection standards.

In my view, the imported meat issue should be addressed in several ways. What is needed is a combination of strict inspection standards for imported meat and meat products, effective labeling of such items, and international agreements governing the international exchange of food products.

Earlier this year, I joined in sponsoring legislation which would insure that meat imports meet the same standards of wholesomeness that we impose on American food products. At present, we have no guarantee that foreign inspection systems are as effective as ours. It is time for the USDA to implement a program which would insure that the accuracy of foreign testing programs is thoroughly verified, and which would then deny the importation meat from countries which consistently fail to meet standards prescribed by the Secretary of Agriculture. Such a program would be financed by the assessment of fees against the exporting country.

I believe that such an inspection program is necessary and fair. However, I think it should be accompanied by stronger labeling requirements for imported meat and meat products. In my judgment, such requirements are essential if we are to insure that the American people have all the necessary information upon which to make a rational choice of what meat products they wish to buy.

Yesterday, I introduced legislation which would establish such a labeling program. It would amend the Federal Meat Inspection Act to require that imported meat and meat food products be labelled "imported" at all stages of distribution until delivery to the ultimate consumer. It would also require certain eating establishments, which serve imported meat, to inform customers of this fact.

The amount of foreign meat that is imported into the United States each year is substantial—estimated at about 8 percent of U.S. domestic production in 1977. And, for the most part, such meat is absorbed into the domestic economy with little attention.

I believe that the American people are entitled to know all the essential facts about the products they buy, whether they be an automobile, a television or a cut of meat. Current labeling requirements for imported meat and meat food products are simply not adequate, where such requirements even exist. Foreign meat imported into the United States is normally transported in frozen blocks of about 50–60 pounds. Existing law does require that these blocks of meat be labeled according to country of origin. However, after processing in the United States, no further labeling as to country of origin is required.

The fact of the matter is that the current labeling practices are of no practical value to the American consumer. When he purchases meat in a grocery

store or at a public eating establishment, he has no way of ascertaining whether that product was produced in the United States or abroad. I believe that he has a need, and a right, to know such information in advance of his purchase.

Many Americans, if given the choice, would prefer to buy meat which has been raised and processed in the United States. Improved labeling is a viable mechanism for providing such an opportunity.

Mr. Speaker, in conclusion, I want to emphasize that my labeling and inspection proposals are designed to complement and not impede the current Geneva trade talks which are considering the establishment of universal standards of quality for food products traded internationally. I fully support these negotiations. My proposals do not conflict with the objectives of the Geneva talks. On the contrary, their enactment would merely demonstrate a strong congressional commitment to insuring that imported meat and meat products meet strict standards of wholesomeness and that essential labeling information as to the country of origin would be available to the American consumer as he makes his choices in the marketplace.

INTRODUCTION OF ZERO-BASE PAPERWORK ACT OF 1977

(Mr. BEDELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BEDELL. Mr. Speaker, I am today introducing legislation which I believe will make a significant contribution toward reducing and rationalizing Federal paperwork. This bill, entitled the Zero-Base Paperwork Act of 1977, would require an annual justification for the continued use of any form by the Federal Government to solicit information from private persons or Government agencies.

We are all aware of the growing grassroots dissatisfaction throughout the country with the responsiveness of the Federal Government to local problems and realities. This sentiment is evident in a great many aspects of American life, but perhaps nowhere is it more apparent than in the area of Federal reporting. The Federal Government generates a staggering amount of paperwork—more than 2 billion pieces of paper annually—with no coherent or effective review and control process.

The impact of this paperwork burden is far reaching and substantial. Individuals and businesses are spending more than $100 billion a year just to fill out and comply with Federal forms. And over $40 billion of our gross national product is devoted to the production, distribution, processing, and storage of paperwork and information.

As a lifelong small businessman, I have firsthand knowledge of the tremendous burden which existing Federal reporting requirements place on American small business. The extent of the problem should not be minimized. It is a burden which has become one of the most significant factors affecting the competitive viability of small firms.

As a Member of Congress, I have become well acquainted with the corresponding burden imposed on State and local governments and various civic organizations which seek to participate in Federal programs. In far too many cases, reporting requirements inhibit realization of the maximum potential of these programs.

The current Federal reporting system is analogous to the proverbial wild bull in the china shop, and it needs to be brought under control.

Mr. Speaker, it does not make sense to continue to pile unnecessary reporting requirements on individuals, small businesses and local public agencies. The American people are being drowned in a sea of paperwork and redtape. The actual cost of money, time and lost productivity is substantial, not to mention the psychological cost in lost initiative and stifled creativity.

Consider the following facts:

That the State of Wyoming turned down several ecology grants last year because State officials estimated that it would have cost more to comply with Federal reporting requirements than the $108,000 the State would have received in grants.

That one drug company, in attempting to market a drug for the treatment of arthritis, had to collect and file 120,000 pages of information with the Food and Drug Administration—in triplicate.

Or that for the average small business, the paperwork costs involved in setting up an employee pension program run about $700 per employee before any contribution is made to the pension plan.

I am not suggesting that all Federal reporting is unnecessary or wasteful. Indeed, the Government has a right to know certain essential information. However, there is clearly a pressing need to restore a degree of commonsense to our Federal reporting system.

What can be done about the mounting paperwork burden?

Recognizing the magnitude of the problem is a start, but alone it is not enough. It is time to move beyond the discussion and hand-wringing stage and to implement substantive procedures to deal with the paperwork problem.

The effort to reduce the Federal paperwork burden should be directed at two distinct vantage points—at the source and at the final product. Congress must acknowledge its role in the upward spiral of proliferating paperwork, and take concrete steps to remedy it. To that end, I have proposed legislation which would require that all congressional committees include in their legislative reports on a specific bill a statement which estimates the extent and cost of Federal paperwork which would be generated by enactment of such a bill. It would also estimate the complexity of the forms which would be necessary for compliance and the potential cost in time and money which would result from bookkeeping under the new statute. These changes would force the Congress to consider the potential paperwork impact of proposed legislation on the public at the time it is debating the merits of such a bill. And, in turn, it would hopefully serve to prevent the proliferation of unnecessary redtape by creating a greater awareness within the Congress of the paperwork problem.

In addition to controlling the flow of new paperwork at its source, steps should also be taken to control and reduce existing paperwork on an ongoing basis. The Congress should intensify its efforts to secure consolidation and elimination of many of the Federal forms already in effect. I think that the Zero-Base Paperwork Act would make a significant contribution toward that end.

Zero-base paperwork is a very straightforward concept. It simply requires each Federal agency to review and justify all of its public forms each year. Instead of periodically devising new forms to service existing programs, Federal officials would have to start from scratch each year and review their Agency's reporting requirements with an eye toward eliminating or consolidating unnecessary forms. All forms which are not deemed necessary to the proper performance of the functions of the Agency and which cannot be justified in terms of the benefits gained and the costs imposed would be abolished.

The Zero-Base Paperwork Act would insure that Federal officials make a case for each of their agency's forms each year. The result would, in my view, be a more simplified and rational Federal reporting system.

I believe that the implementation of zero-base paperwork procedures would provide a viable mechanism for insuring regular reassessment of Federal forms. Coupled with a concerted effort to control paperwork at its source—during the legislative process—this innovation would do much to reduce the mounting paperwork burden about which we are all concerned.

REACQUISITION OF CITIZENSHIP

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill to simplify the procedure by which U.S. citizens who lose their U.S. citizenship may regain it.

At present, there is no special procedure for such persons. Instead, former U.S. citizens must go through the same immigration and naturalization process as all other aliens. They first have to secure an immigrant visa and then wait 5 years before citizenship is restored.

Approximately 15,000 persons lost their citizenship between 1966 and 1977; about one-third of these did so in connection with the Vietnam war. Since most Americans now recognize that the nature of our involvement in Indochina was a mistake, we should no longer penalize those who renounced their citizenship in a painful act of conscience because of their opposition to the war.

Other former citizens who often wish to return to the United States are those who gave up their citizenship to marry a native of another country, and later find their circumstances changed because of divorce or death of their spouse.

Many other countries place former citizens in a different category from

those who are seeking citizenship for the first time. Several countries, including Ireland, require only an application to the appropriate ministry for full reinstatement of citizenship. Scandinavia and several Latin American nations require an application and 2 years' residence.

Enactment of my bill would shorten our country's present complicated procedure. An ex-citizen would simply have to submit an affidavit of allegiance to a clerk of a naturalization court or to a U.S. consular officer to reacquire citizenship.

The benefits of this bill and this procedure would not, however, be available to persons who lost their citizenship through denaturalization.

The text of the bill follows:

H.R. 8787

A bill to establish an additional procedure for the reacquisition of United States citizenship by former United States citizens

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end thereof the following new subsection:

"(d) (1) Notwithstanding any other provision of law, any individual who is not less than 18 years of age, who is certified by the Secretary of State as a former citizen of the United States, and who renounced or otherwise lost his or her United States citizenship (other than pursuant to any proceeding under section 340 of this Act) may reacquire such citizenship—

"(A) by submitting an application to reacquire such citizenship—

"(i) if such individual is abroad, to a diplomatic or consular officer of the United States, or

"(ii) if such individual is in the United States, to a judge or clerk of a naturalization court;

"(B) by submitting with such application an affidavit declaring allegiance to the United States and, if such individual is abroad, the intent to begin residency in the United States within 6 months after such citizenship is reacquired; and

"(C) by paying a reasonable fee to cover the administrative expenses of carrying out this subsection with respect to such individual.

The Secretary of State shall, within the 6-month period beginning on the date such application is submitted under subparagraph (A), certify whether such individual was at any time a citizen of the United States.

"(2) Beginning on the date an individual reacquires United States citizenship under this subsection, such individual shall have the status of a native-born or naturalized citizen of the United States, whichever status such individual had before renouncing or otherwise losing such citizenship. Such status shall not apply retroactively to any period during which such individual was not a citizen of the United States."

THE WATERGATE SPECIAL PROSECUTOR FAILED TO ACCOUNT FOR HIS WORK

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, the Watergate Special Prosecutor recently closed the doors of that office for the last time. A number of serious questions remain unanswered about the work of that office.

I would like to insert in the RECORD a statement I made on July 5, 1977, outlining some of these problems. I commend it to my colleagues' attention.

The text follows:

STATEMENT BY REPRESENTATIVE ELIZABETH HOLTZMAN

On June 19, 1977, saying that he was "sick" of carrying on the investigation,[1] the Watergate Special Prosecutor closed up shop and went out of business. He left open, however, serious questions about whether he had actually finished the job assigned to him and discharged fully the enormous responsibilities of his office.[2]

Why were no prosecutions ever brought against "higher-ups" for the Watergate break-in? Why were no indictments returned in connection with the Hughes-Rebozo $100,000 campaign contribution? How complete was the investigation? What role did the Special Prosecutor play in the Nixon pardon?

By closing up shop without answering these questions and explaining whether the work of his office was finished, the Special Prosecutor aped the practices and attitudes that brought Nixon and his men down: arrogance, excessive secrecy, and the belief that there is no responsibility for explaining one's actions. It is ironic that the Special Prosecutor, who was intended to hold accountable those who refused to be held accountable, would insist on being unaccountable himself.

It was never supposed to be this way. When the office was first created, Archibald Cox pledged to the Senate that a full, public accounting would be made of the work of his office, including reasons for not bringing prosecutions.[3] Mr. Cox's successors blithely ignored the commitment.

The Special Prosecutor's October 1975 report merely gave statistical information on prosecutions brought and explained the ones not brought by alluding to a list of eleven possible reasons (such as lack of evidence and a policy against prosecuting a person for more than one crime.) No statement was made as to how complete the investigations were. The so-called "Final Report"—mailed the day the office closed so that no Representative or Senator could receive it, much less review it, until it was too late—carried on the same spirit.

The only new information on the work of the Special Prosecutor's Office came in bits and snatches from prosecutors' books.[4] The information "leaked" in these books—who was called before grand juries, why Nixon was not indicted, the details of plea bargaining—raises questions about why the same information could not have been presented comlooking for.[5a]

Let me highlight some of the areas where the question of what the Special Prosecutor did or did not do is of special concern.

A. WHY WERE NO PROSECUTIONS BROUGHT AGAINST THOSE WHO ORDERED THE WATERGATE BREAK-IN?

The Watergate break-in was the central event of a scandal that ultimately brought down a President and his Administration. Who specifically ordered the break-in? What were the burglars looking for? We still don't know the answers to these questions even though five years have gone by.

The only people prosecuted for the break-in were the four Cubans, McCord, Hunt, and Liddy. Why were no higher-ups prosecuted? Was it because evidence obtained was inconclusive or was it because the Special Prosecutor never conducted a complete investigation of the break-in?

The only clue we have is Mr. Ruff's claim that it would not "make any difference" to know what the Watergate burglars were looking for.[5a]

This statement—which suggests an excuse for not investigating the break-in fully—is arrant nonsense. Learning the purpose of the Watergate break-in certainly could tell us a good deal about other persons who were involved in that crime and might provide leads to the commission of other crimes.

It is plain to me that Congress and the American public never would have tolerated the Special Prosecutor's saying at the outset of his investigation that the Watergate break-in would never be fully investigated. It should not be tolerated now.

B. WHY WAS NO PROSECUTION BROUGHT IN THE HUGHES-REBOZO MATTER?

Bebe Rebozo, Nixon's closest friend, admitted receiving $100,000 cash from Howard Hughes in 1970 but claimed he returned the identical bills to Howard Hughes in 1973—leaving them untouched in a safe deposit box during the three-year period.

The Senate Watergate Committee raised three very serious questions about this matter:

1. Why was cash given to a close friend of the President's rather than to any campaign official or organization?

2. Why were the funds contributed several years prior to the 1972 campaign for which they were allegedly intended?

3. Did Howard Hughes profit by his contribution to Rebozo on behalf of the President? [6]

The Select Committee's investigation suggested that some of the money may have been used for Mr. Nixon's personal expenses and that the contribution may have been made in order to influence decisions of the Justice Department and other government agencies.[7] With so much detailed information on the public record about a matter so close to the former President, it is disturbing that there has never been any explanation of why no prosecutions were brought.

Mr. Ruff commented to a Washington Post reporter that a lot of lawyers left the Special Prosecutor's office "shaking their heads and with really deep concerns" [8] about the Hughes-Rebozo matter. What does this mean? Was a thorough investigation conducted or not?

Explanations should be provided in at least three areas:

1. Bebe Rebozo refused to produce a number of financial records before the Senate Select Committee.[9] Did the Special Prosecutor obtain these materials or even try to obtain them?

2. From the Senate Report it appeared that Thomas Wakefield, a lawyer who claimed to have represented both Rebozo and Nixon, was privy to crucial information. Wakefield claimed that this evidence was protected by the attorney-client privilege.[10] Did the Special Prosecutor ever obtain this information? If not, did the Special Prosecutor try to question Wakefield or challenge the claim of privilege in court? If not, why not?

3. On September 21, 1975, the New York Times reported that Bebe Rebozo and Robert Abplanalp were never called before the grand jury. Was this true, and if so, why was this decision made?

C. OTHER MATTERS WHERE NO PROSECUTIONS RESULTED

1. Sale of Ambassadorships:

Mr. Ruff admitted, in the words of the Washington Post, "that his office barely scratched the surface on the alleged 'sale' of ambassadorships to political campaign donors." Mr. Ruff's explanation was: "Aren't our foreign relations more important than that?" [11]

Does this mean that Ruff simply refused to investigate the possible sale of ambassadorships or does it mean that, even when he found evidence of criminal conduct, he refused to prosecute?

Footnotes at end of article.

2. Richard Helms:

According to Stonewall, Richard Helms, the Director of the CIA, actively suppressed information that was crucial to the investigation of the Watergate cover-up. (p. 73). First, Helms filed in his "bottom drawer" letters from McCord which asserted that the White House was trying to blame the CIA for Watergate. Secondly, although the CIA kept informing the prosecutors that it had turned over all relevant documents, Helms personally retained a record of an interview which recounted Hunt's involvement in the Watergate break-in. No prosecutions were brought. Why?

3. Assault on anti-war demonstrators:

Even though *Stonewall* asserted that Howard Hunt had given the Cubans assignments "such as roughing anti-Vietnam protestors or punching out demonstrators at the funeral of J. Edgar Hoover" (p. 48), no prosecutions were brought for these actions. Why?

D. FAILURE TO EXPLAIN PLEA-BARGAINING DECISIONS

Although the Special Prosecutor entered into a number of highly controversial plea bargaining agreements, including one with Richard Kleindienst, no official or complete explanation was ever given for these decisions. Details of plea bargaining negotiations are, however, set forth in *The Right and the Power* and in *Stonewall* with respect to LaRue, Colson, Dean, Haldeman, Krogh, Mitchell, Erlichman, Kalmbach, and Kleindienst.[12]

Clearly, if this information could have been made public by prosecutors in their books, it could and should have been presented in the Reports. The Special Prosecutor's failure to explain these plea bargaining decisions fully in an official document is especially troublesome since *Stonewall* reports that the "Silbert team" had made various "deals" with witnesses that were binding on the Special Prosecutor (p. 60). Did these prior deals inhibit the work of the Special Prosecutor? Did they prevent justice from being done?

E. THE ROLE OF THE SPECIAL PROSECUTOR IN THE NIXON PARDON

According to *Stonewall*, Leon Jaworski may have actively encouraged the issuance of the Nixon pardon. (See, generally, pp. 305–315.) The authors claim that Mr. Jaworski himself suggested the argument that pre-trial publicity would prevent a fair trial of Nixon, and even asked Nixon's lawyer, Herbert Miller, to prepare a memorandum along these lines (p. 301).

Stonewall also suggests that Mr. Jaworski's meeting with Philip Buchen, President Ford's counsel, on September 4, helped precipitate the pardon. Specifically the authors' report says that, on August 29th, Philip Lacovara recommended to Mr. Jaworski that he urge President Ford to issue a pardon quickly if he was going to issue it at all.

While subsequent memoranda raise questions, it appears that (1) Lacovara's recommendation may have been transmitted to Buchen; (2) the pardon was issued only 4 days after the September 4th meeting; and (3) justifying the pardon, the White House leaned heavily on a September 4 letter from Mr. Jaworski concluding that, because of pretrial publicity, it would be "from nine months to a year, and perhaps even longer" before Nixon could receive a fair trial and released the memorandum on that subject which Mr. Jaworski had suggested Miller prepare.[13]

Frampton and Ben Veniste also assert that Mr. Jaworski had strong personal feelings against indicting Nixon, and considered the decision whether to indict a "monkey on his back" he desperately wanted to and maneuvered to shift to someone else (p. 312).

On the other hand, in his book, *The Right and the Power*, Mr. Jaworski claimed that he played a neutral role with respect to the pardon.

It seems to me essential that we learn which version of the preceding events is accurate and what role the Special Prosecutor actually played in the Nixon pardon.

Furthermore, the Special Prosecutor has never explained why his office failed to investigate the issuance of the pardon to Nixon. Under well established rules, pardons are invalid if they are issued on a basis of bribery or misrepresentation. If there were a Nixon-Ford "deal", then the pardon would have been void. While *Stonewall's* authors accuse Congress of failing to investigate the pardon fully (p. 315), they do not, and neither does any official report, explain why the Special Prosecutor failed to investigate this matter.

CONCLUSION

It is regrettable that the Special Prosecutors—who compiled such a fine record on the prosecutions they brought—should have done such a dismal job in explaining the other work of their office.

It is unfortunate that the record still needs to be set straight on Watergate.

FOOTNOTES

[1] Mr. Ruff said specifically: "I'm going to try and get these damn boxes packed as fast as I can and get the hell out of here. . . I am, for the record, sick of it. I look forward to leaving this office." *Washington Post*, June 19, 1977. p. 1.

[2] The Special Prosecutor's mandate included:

". . . full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff or Presidential appointees".

[3] At Elliot Richardson's confirmation hearings, Mr. Cox said:

"I am agreeing wholeheartedly with your observation that it is important not only that prosecutions be brought where there is a proper basis for prosecution but that the reasons for not bringing other prosecutions or reason for not indicting other figures, the exculpatory facts, if there were any, about other figures—that all those things be included certainly in the final report—conceivably in an earlier report—depending on the circumstances."

Nomination of Elliot L. Richardson to be Attorney General, Hearings before the Committee on the Judiciary of the United States Senate, May 21, 1973, p. 211.

[4] Leon Jaworski, *The Right and the Power*, (1976) and George Frampton and Richard Ben Veniste, *Stonewall*, (1977).

[5] Other information contained in these books but *not* in any official report included the "case against Nixon" and the texts of inter-office memoranda.

[5a] *Washington Post*, June 19, 1977, p. 1.

[6] The Final Report of the Select Committee on Presidential Campaign Activities, p. 1068.

[7] *Ibid.*, see generally pp. 931–1071.

[8] *Washington Post*, June 19, 1977, p. 1.

[9] Senate Select Committee, *Op. cit.*, p. 1070.

[10] *Ibid.*, p. 1037.

[11] *Washington Post*, June 19, 1977, p. 1.

[12] *The Right and the Power*, pp. 35–38, 76–82, 149–160, 268–269 and *Stonewall*, pp. 62, 63, 107, 233, 378.

[13] *Stonewall* authors state:

"In retrospect, it seems unlikely that Ford would have gone ahead with negotiations with Nixon's counsel without some indication that Special Prosecutor Jaworski would not stand firmly against a pardon." (p. 307).

CONFERENCE REPORT ON H.R. 7933

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 7933) making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–565)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7933) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 38, 52, 65, 68, 69, 72, 78, 80, and 81.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 9, 10, 36, 43, 49, 55, 56, 57, 58, 59, 60, 61, 62, 64, 70, and 77, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,741,800,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,918,400,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,199,900,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$555,600,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$171,400,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,139,413,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$490,000,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,743,263,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

ment insert "$275,000,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$615,628,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$86,650,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its agreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,335,279,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$509,000,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "law, $2,827,574,000: *Provided*, That"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$380,796,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,050,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$316,290,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$16,528,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$374,349,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,000,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$745,666,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$825,207,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$657,100,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$536,883,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,421,200,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,179,300,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "1,403,325,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$3,479,000,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, $1,703,200,000; for the SSN–688 nuclear attack submarine program, $278,500,000; for the CGN–42 nuclear-powered AEGIS cruiser program, $180,000,000; for the aircraft carrier service life extension program, $30,000,000; for the DDG–47 guided missile destroyer program, $930,000,000; for the DDG–2 guided missile destroyer modernization program, $94,500,000; for the DD–963 program, $310,000,000; for the FFG–7 guided missile frigate program, $1,163,300,000, and in addition, $42,000,000 to be derived by transfer from "Shipbuilding and Conversion, Navy, 1977/1981"; for the AO fleet oiler program, $322,700,000; for the T–ATF fleet ocean tug program, $52,700,000; for craft, outfitting, post delivery and cost growth on prior year programs, $695,600,000; in all: $5,760,500,000, and in addition, $42,000,000 in transfer as hereinbefore provided, to remain available for obligation until September 30, 1982: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

And the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,700,600,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,337,345,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$327,826,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,917,766,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$266,750,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $6,900,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 857. None of the funds appropriated in this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year.

And the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 858. None of the funds appropriated in this Act may be used for the consolidation or realignment of advanced undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

And the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, but change the section number to 859.

And the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 861. None of the funds appropriated in this Act may be used to support more than 10,201 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated July 17, 1974.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 20, 30, 40, 41, 46, 47, 54, 63, 67, 71, 76, and 82.

GEORGE H. MAHON,
ROBERT L. F. SIKES,
DANIEL J. FLOOD,
JOSEPH P. ADDABBO
(except as to amendments 17, 39, 41, 42, 52, 77, and 79),
JOHN J. MCFALL,
JOHN J. FLYNT, Jr.,
ROBERT N. GIAIMO
(except as to amendments 5, 7, 8, 9, 10, 17, 37, 39, 41, 77, and 79),
BILL CHAPPELL, Jr.,
BILL D. BURLISON,
JACK EDWARDS,
J. K. ROBINSON,
JACK KEMP,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
JOHN C. STENNIS,
WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
JAMES R. SASSER,
MILTON R. YOUNG,
CLIFFORD P. CASE,
TED STEVENS,
RICHARD S. SCHWEIKER
(except for amendment 42),
EDWARD W. BROOKE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7933), making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—MILITARY PERSONNEL

Military personnel, Army

Amendment No. 1: Appropriates $8,741,800,000 instead of $8,746,573,000 as proposed by the House and $8,704,733,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Army. Unless otherwise indicated, all items are of special interest. In addition, the conferees reached agreement with respect to the following areas of differences as explained below:

Meat Inspection Transfer.—The conferees agreed to provide $17,400,000 as proposed by the Senate instead of $14,700,000 as proposed by the House. The conferees agree that the responsibility for inspection of meat and food products now being done by Army and Air Force veterinary personnel should be transferred as expeditiously as possible to the U.S. Department of Agriculture (USDA). The House has agreed to the Senate personnel strengths and funding levels for these activities in order to provide for an orderly transition. The conferees agree that this transition should begin in fiscal year 1978 and that the Army should assume origin inspection responsibilities now performed by the Air Force in order to facilitate the transfer to USDA. The Army may reprogram funds to accommodate the addition of these Air Force responsibilities.

Communications.—The conferees agreed to provide $304,200,000 as proposed by the Senate instead of $303,600,000 as proposed by the House.

The Department of Defense has recently promulgated guidelines for consolidating General Service (GENSER) and Special Intelligence (SI) telecommunications. This directive (C5030.5 of May 16, 1977) establishes policy for insuring uniform, expeditious, and cost-effective consolidations into single telecommunications centers capable of serving all users wherever practicable. It is envisioned that a major portion of the directed personnel reductions related to consolidation of telecommunications centers will result from implementation of DOD-wide GENSER/SI telecommunications centers consolidations.

Transfer of Maintenance Functions to the Reserves.—The conferees agreed to provide $17,000,000 as proposed by the House instead of $13,600,000 as proposed by the Senate.

The conferees agreed not to transfer certain maintenance personnel from the active forces to the reserve components during fiscal year 1978 as proposed by the Senate. The conferees noted that the reserve forces are currently experiencing recruiting problems, and do not believe that the transfer, even though it was planned to occur over a five-year period, is feasible in fiscal year 1978.

The conferees are in agreement, however, that transferring maintenance manpower to the reserve forces for units not expected to deploy to Europe, or not required during the first 30 days of a European war, is a feasible and realistic proposal. The committees intend to review this matter in the future and reconsider the transfers proposed by the Senate at such time as the reserve recruiting picture improves.

Base Operating Support Personnel-Military Personnel.—The conferees agreed to provide $1,386,800,000 instead of $1,395,500,000 as proposed by the House and $1,368,900,000 as proposed by the Senate.

The conferees are in agreement that reductions in military personnel engaged in base operating support (BOS) are feasible. However, because of the limitations of the available data, the conferees believe that the illustrative allocation of the reductions as proposed by the Senate may not be the best manner of implementation, nor the appropriate number of personnel that should be reduced. Accordingly, the conferees agreed to a reduction of 3,680 military personnel for base operating support, instead of 11,870 as proposed by the Senate and no reduction as proposed by the House. In addition, the conferees agreed that the military departments will be permitted to reallocate these reductions to other functional areas besides base operating support, should that be deemed advisable.

Finally, the conferees agreed that the Department is to implement the language recommendations concerning BOS delineated in the Senate report.

Military Bands.—The conferees agreed to provide $25,400,000 for Army bands instead of $28,300,000 as proposed by the House and $22,600,000 as proposed by the Senate. The Army should accomplish an equitable geographic distribution of bands consistent with base locations.

Other Conference Decisions.—The conferees agreed to provide the amounts indicated below for all other programs under consideration by the committee of conference:

[In thousands of dollars]

	House amount	Senate amount	Conference amount
Permanent change of station	537,000	534,000	534,000
Intelligence	79,100	79,800	79,300
Strength authorization reductions	−14,300	----------	----------
Intermediate aircraft maintenance	6,700	----------	3,400
Training	1,215,000	1,205,000	1,215,000
Direct support/general support	3,800	----------	----------
Helicopter training consolidation	900	----------	----------

Military personnel, Navy

Amendment No. 2: Appropriates $6,169,662,000 as proposed by the House instead of $6,133,758,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Navy. Unless otherwise indicated, all items are of special interest. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Transfer of TAR Officers.—The House proposed to transfer 100 Navy officer billets and $2,400,000 to the Navy Reserve. The Senate disagreed with this transfer. The conferees recede to the Senate position in regard to the Training and Administration of the Reserves (TAR) officer program. The conferees direct that the Secretary of the Navy take no action that would affect the size or purpose of the TAR program without the prior approval of the Appropriations Committees of the House and Senate.

Communications.—The conferees agreed to provide $101,800,000 as recommended by the Senate instead of $100,900,000 as recommended by the House.

Reduction of MAC Airlift Funding.—The House proposed to continue Navy C–118 airlift support under Navy auspices and review the proposed shift of this function to the Military Airlift Command (MAC). The Senate disagreed and proposed the consolidation of Navy airlift with MAC in fiscal year 1978. The conferees agreed without prejudice with the House proposal to review this consolidation during fiscal year 1978. This is also discussed in the operation and maintenance section of this report.

Base Operating Support.—The conferees agreed to provide $1,277,362,000 for base operating support instead of $1,286,500,000 as recommended by the House and $1,261,300,000 as recommended by the Senate. This

item is further discussed under the heading Military personnel, Army.

Military Bands.—The conferees agreed to provide $8,700,000 for military bands in the Navy instead of $9,700,000 as proposed by the House and $7,800,000 as proposed by the Senate. The conferees also direct the Navy to seek an equitable geographic distribution of bands consistent with base locations.

Other Conference Decisions.—The conferees agreed to provide the amounts indicated below for all other programs under consideration by the committee of conference:

[In thousands of dollars]

	House amount	Senate amount	Conference amount
Permanent change of station	319,100	316,000	316,000
Intelligence	18,500	18,900	18,600
Intermediate maintenance	6,900	----------	3,500
Computer managed instruction	11,100	----------	11,100
Helicopter training consolidation	----------	13,100	13,100

Military personnel, Marine Corps

Amendment No. 3: Appropriates $1,918,400,000 instead of $1,919,522,000 as proposed by the House and $1,899,4-2,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Marine Corps. Except as otherwise noted, all items are of special interest. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Base Operating Support.—The conferees agreed to provide $141,300,000 for base operating support instead of $144,300,000 as proposed by the House and $138,200,000 as proposed by the Senate. This item is further discussed under the heading Military personnel, Army.

Military Bands.—The conferees agreed to provide $7,800,000 for Marine Corps bands instead of $8,700,000 as provided by the House and $6,900,000 as provided by the Senate. The conferees direct the Marine Corps to seek an equitable geographic distribution of military bands consistent with base locations.

Other Conference Decisions.—The conferees agreed to provide the amounts indicated below for all other programs under consideration by the committee of conference:

[In thousands of dollars]

	House amount	Senate amount	Conference amount
Strength authorization reductions	−3,400	----------	----------
Eliminating Marine Corps support	289,500	274,500	289,500
Permanent change of station	101,300	99,800	99,800
Helicopter training consolidation	----------	900	900

Military Personnel, Air Force

Amendment No. 4: Appropriates $7,199,900,000 instead of $7,204,560,000 as proposed by the House and $7,154,631,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Air Force. Except as otherwise noted, all items are of special interest. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Military Bands.—The conferees agreed to provide $12,100,000 for Air Force bands instead of $10,800,000 as proposed by the Senate and $13,500,000 as proposed by the House. The Air Force is to seek an equitable geographic distribution of band resources consistent with base locations.

Air Force Grade Growth.—The conferees agreed that the Air Force has programmed unnecessary grade growth, particularly in the officer account, in the last two fiscal years. The conferees agreed to a $4,000,000 reduction in the officer basic pay account instead of $6,000,000 as proposed by the House and $2,000,000 as proposed by the Senate. The conferees direct the Air Force to continue its efforts to control unnecessary grade escalation.

The Appropriations Committee will continue to use the Congressional Budget Office analysis of the military personnel accounts to review the Department's annual budget request in this area.

Meat Inspection Transfer.—The conferees agreed to provide $15,200,000 as proposed by the Senate instead of $11,600,000 as proposed by the House. This item is discussed under Military personnel, Army.

Communications.—The conferees agreed to provide $394,300,000 as provided by the Senate instead of $393,800,000 as provided by the House.

Transfer of Maintenance Functions to the Reserves.—The conferees agreed to provide $13,300,000 as proposed by the House instead of no funding as proposed by the Senate. This item is discussed under Military personnel, Army.

Base Operating Support.—The conferees agreed to provide $1,362,900,000 instead of $1,368,000,000 as proposed by the House and $1,344,400,000 as proposed by the Senate. This item is discussed under Military personnel, Army.

Civilianization of the Air Force Audit Agency.—The conferees agreed to provide $10,200,000 instead of $10,900,000 as proposed by the House and $7,300,000 as proposed by the Senate.

The conferees agreed that the Air Force should proceed with the civilianization of the Air Force Audit Agency as proposed by the Senate. The conferees are in agreement that this conversion should begin in fiscal year 1978, and should proceed over the next 3 to 4 years. The conferees direct that at least 10 military audit positions be civilianized in fiscal year 1978, that appropriate adjustments be made in military support man-years, and that the fiscal year 1979 budget show continued progress in this area. Appropriate adjustments have been made in the O&M, Air Force appropriation to allow the Air Force to hire additional civilian audit personnel.

Military Postal Functions.—The conferees agreed to provide $2,700,000 as proposed by the House instead of no funding as proposed by the Senate. This item is discussed under Operation and Maintenance, Air Force.

Other Conference Decisions.—The conferees agreed to provide the amounts indicated below for all programs under consideration by the committee of conference:

[In thousands of dollars]

	House amount	Senate amount	Conference amount
Authorization reduction	−2,700	----------	----------
Permanent change of station	493,400	490,800	490,800
Intelligence	199,400	200,600	200,000
ACE program	4,900	3,900	4,400
Personnel standards	2,000	----------	----------
Family practice	200	----------	200
MAC Deputy Commander for Maintenance	400	----------	----------
Intermediate aircraft maintenance	10,000	----------	8,600

Reserve personnel, Army

Amendment No. 5: Appropriates $555,600,000 instead of $546,249,000 as proposed by the House and $556,400,000 as proposed by the Senate.

The conferees reached agreement with respect to the following areas of difference as explained below:

Transfer of Positions from Pay Group A and B to D.—The House proposed to transfer all reserve personnel engaged in legal, chaplaincy, public affairs, civil affairs and research and development activities from pay categories A and B to pay category D. The Senate disagreed with this proposal. The House recedes to the Senate position and restores $8,900,000 to Reserve personnel, Army.

The conferees agree with the House that there are varying degrees of training required to maintain military proficiency of the reserve components. The conferees direct that the Secretary of Defense, in conjunction with the reserve components, develop training criteria for each military occupation and skill in the reserves and justify and report to the Congress the requirement for that occupation or skill to engage in various levels of training. This should be related to unit mission and development requirements.

The Department shall also provide to the Congress a report on all reserve units with their mobilization assignments, deployment schedules, authorized and on-board strength and readiness status. These reports are to be provided by February 1, 1978.

The conferees also urge that the Armed Services Committees of the House and Senate address the question of reserve training requirements and readiness.

Reserve Reenlistment Bonus.—The conferees agreed to provide the Army Reserve with $2,000,000 as proposed by the Senate instead of $1,500,000 as proposed by the House for a one-year test of the reserve reenlistment bonus. The House proposed to distribute the $5,000,000 authorized amount to all six reserve components and the Senate chose to fund only the Army Reserve and Guard in order to gather test data on this bonus. The Senate report language on this matter shall apply.

Transfer of Maintenance Functions from Active Forces.—The conferees agreed not to transfer certain maintenance personnel from the active forces to the reserve components during fiscal year 1978 as proposed by the Senate. The $800,000 added by the Senate for this has been deleted. This item is discussed in Military personnel, Army.

Reserve personnel, Navy

Amendment No. 6: Appropriates $206,075,000 as proposed by the Senate instead of $204,975,000 as proposed by the House.

The conferees reached agreement with respect to the following areas of difference as explained below:

Additional TAR Officer Billets.—The conferees agreed to the Senate position on the TAR program and decided not to transfer 100 Navy officers and $2,400,000 to the Navy Reserve. This item is further discussed under the heading Military personnel, Navy.

Reserve Reenlistment Bonus.—The conferees agreed to provide no funding for the Navy Reserve reenlistment bonus program as proposed by the Senate instead of $500,000 as proposed by the House. This is discussed under Reserve personnel, Army.

Reduction of MAC Airlift Funding.—The conferees agreed with the House position to review the proposed transfer of Navy Reserve C–118 airlift support for another year. The House provided no funding for this transfer in FY 1978; the Senate had provided $4,000,000. This is discussed under Military personnel, Navy.

Navy Reserve Funding Shortfall.—The Department of Defense advised the conferees that funding provided in both the House and Senate versions of the bill was inadequate

to fund 87,000 paid drill strength. The Congress intends to fund this full authorized strength. For this reason, the conferees have agreed to recede to the Senate in regard to the funding level but not to fund additional TAR officers or the reserve reenlistment bonus. This provides $2,900,000 for additional paid drill funding.

Reserve personnel, Marine Corps

Amendment No. 7: Appropriates $78,700,000 as proposed by the Senate instead of $79,025,000 as proposed by the House.

The conferees reached agreement with respect to the following areas of difference as explained below:

Transfer of Positions from Pay Groups A and B to D.—The conferees agreed to the Senate position in regard to the transfer of Marine Corps reservists from Pay Categories A and B to D and restored $200,000 to this appropriation. This is discussed in Reserve personnel, Army.

Reserve Reenlistment Bonus.—The conferees agreed to provide no funding for the Marine Corps reserve reenlistment bonus program as proposed by the Senate, instead of $500,000 as proposed by the House. This is discussed under Reserve personnel, Army.

Reserve personnel, Air Force

Amendment No. 8: Appropriates $171,400,000 instead of $168,795,000 as proposed by the House and $174,400,000 as proposed by the Senate.

The conferees reached agreement with respect to the following items as discussed below:

Transfer of Positions from Pay Groups A and B to D.—The conferees agree to the Senate position in regard to the transfer of reservists from pay categories A and B to D and restored $1,800,000 to this appropriation deleted by the House. This is discussed under Reserve personnel, Army.

Reserve Reenlistment Bonus.—The conferees agreed to provide no funding for the Air Force Reserve reenlistment bonus program as provided by the Senate instead of $500,000 as proposed by the House. This is discussed in Reserve personnel, Army.

Transfer of Maintenance Functions to the Reserves.—The conferees agreed not to transfer certain maintenance functions from the active forces to the reserves. The $3,000,000 added by the Senate for this purpose has been deleted. This item is further discussed under the heading Military personnel, Army.

WC–130 Support.—The conferees agreed to provide $1,300,000 for WC–130 special training as proposed by the Senate instead of no funding as proposed by the House.

National Guard personnel, Army

Amendment No. 9: Appropriates $782,500,000 as proposed by the Senate instead of $779,100,000 as proposed by the House.

The conferees reached agreement with respect to the following items as discussed below:

14 Days Active Duty Training.—The conferees agreed to the Senate position in regard to the transfer of National Guard personnel from pay group A to 14 days of active duty training, and restored $6,000,000 deleted by the House. This is discussed under Reserve personnel, Army.

Reserve Reenlistment Bonus.—The conferees agreed to provide $3,000,000 as proposed by the Senate for the Army National Guard Reserve reenlistment bonus instead of $1,500,000 as proposed by the House. This is discussed under Reserve personnel, Army.

Career Counselors.—The conferees agreed to provide $5,200,000 as proposed by the Senate instead of $9,300,000 as proposed by the House for the career counselor program as well as the language directing a test of this program by the Senate committee report.

National Guard personnel, Air Force

Amendment No. 10: Appropriates $231,800,000 as proposed by the Senate instead of $228,903,000 as proposed by the House.

The conferees reached agreement with respect to the following items as discussed below:

14 Days Active Duty Training.—The conferees agreed to the Senate position in regard to the transfer of Air National Guard personnel from pay category A to 14 days active duty training, and restored $3,400,000 deleted by the House. This is discussed under Reserve personnel, Army.

Reserve Reenlistment Bonus.—The conferees agreed to provide no funding for the Air National Guard reserve reenlistment bonus program as proposed by the Senate instead of $500,000 as proposed by the House. This is discussed under Reserve personnel, Army.

Other matters related to title I

The following report language was addressed by the conferees and agreed to as follows:

The conferees agreed with the House position that paid drill and active duty training time for reservists should not be used for reserve recruiting or retention activities. The Congress has increased full-time recruiting and retention personnel by more than 3,000 in the past year for these purposes. The conferees are concerned about the continuation of this practice by the reserve components, contrary to the explicit prohibition of it by both committees. Paid drill time and active duty training are justified to the Congress as necessary to maintain readiness and proficiency.

In light of current strength shortfalls, the conferees agree to permit the reserve components to use active duty and paid drill time in recruiting and retention activities only to the extent necessary to honor commitments already made to individual reservists until August 15, 1977. The Department is directed to collect data and submit to the Congress a report on the amount of reserve paid drill and active duty training time spent in recruiting and retention activities in FY 1978 by all reserve components and include in the FY 1979 budget a request for funds to conduct part-time recruiting activities, if necessary. This is not intended to limit the responsibilities or duties of unit commanders to conduct recruiting or retention activities.

TITLE III—OPERATION AND MAINTENANCE

The following items addressed by the conferees apply to all the operation and maintenance appropriations of the Department of Defense.

Inflation and Secretary of Defense Readiness Fund

The House reduced the total inflation request in all appropriations by $47,300,000, while the Senate made a reduction of $498,600,000, stipulating that only items related to military readiness would be funded. The conferees agreed to provide an additional $250,400,000 above the amount in the Senate bill for a net reduction from the budget request of $248,600,000. The budget request included $1,240,800,000 for inflation. The conferees further agreed that amounts provided for inflation would be used, to the maximum extent possible, to sustain and enhance military readiness, and would not be diverted to other purposes. The conferees agreed that they would provide no funds for items that are not related to military readiness since the DOD must cope with inflation in those areas in the same fashion as all other federal agencies, none of which is permitted to budget for inflation.

Because the conferees agreed to restore a substantial portion of the Senate reduction that is related to readiness, agreement was also reached that $100,000,000 instead of $300,000,000 as proposed by the Senate would be provided for the Secretary of Defense Readiness Fund. This was an unbudgeted item, added by the Senate, to sustain and enhance military raediness through transfers to the operation and maintenance appropriations. The House conferees noted the problem associated with such a fund, recalling the Department's actions with respect to the Emergency Fund, Defense appropriation that was provided in previous years. Because the Department of Defense indicated that it did not enthusiastically support the Senate approach, the conferees agreed to the reduced amount in order for the DOD and Congress to evaluate this concept during the next fiscal year to determine if its continuation is deemed advisable. The conferees agreed to the Senate requirement for notification reprogramming prior to transfer of these funds.

Civilian personnel reductions and base operating support (BOS)

The House made a reduction of $96,000,000 and 12,100 manyears in civilian personnel. The Senate made a reduction of $245,400,000 and 14,566 manyears, of which $181,300,000 and 10,730 manyears was related to base operating support costs (BOS).

The conferees noted that the authorization act requires reductions totaling 12,100. Accordingly, the conferees agreed to a total funding reduction of $170,000,000 and 12,100 manyears for civilian personnel. The individual service dollar adjustments are stipulated in each account. The military departments are to apply this reduction to the lowest priority civilian personnel programs, including, where feasible, reductions in base operating support civilian positions.

The conferees noted that the Senate analysis relating to BOS has certain limitations and, therefore, directs DOD to implement the language recommendations concerning BOS definitions and reports delineated in the Senate report.

High school completion programs

The conferees have agreed to funding reductions in the military services requests as indicated elsewhere in the statement of managers.

Both committees expressed considerable concern over the implications of attempting to correct educational deficiencies with programs that require school attendance during duty hours. The reductions made by the conferees reflect this concern. There has been an indication from the military departments that they also recognize the problem and are moving in the direction of off-duty programs. If the Department moves to total off-duty high school education by FY 1979, the committee will consider fully funding off-duty programs in FY 1979.

The conferees believe that more effective use of these monies would result from programs that emphasize basic educational skills prior to enlistment. Accordingly, prior to fiscal year 1979, the Secretary of Health, Education, and Welfare and the Secretary of Labor, in coordination with the Secretary of Defense, are requested to develop a basic skill program using available resources and expertise. This program will be developed to support the educational competencies required by the military services.

This program is to be designed to provide prior to enlistment: (1) the functional literacy needed for military occupations; (2) correct basic education skill deficiencies; and (3) document mastery of these skills, wherever possible, in terms of civilian academic credentials.

Airlift Services Industrial Fund

The Air Force request included $45.5 million in the operation and maintenance ap-

propriation to reimburse the Airlift Services Industrial Fund (ASIF) for the "cost" of a significant cabin load restriction placed on the C–5A. The House allocated the $45.5 million to the various O&M accounts and directed an ASIF tariff increase. The Senate accepted the budget request but made a direct reduction of $16.2 million to the C–5A flying hour program on the basis that the 3,514 hours of the 14,212 hours programmed for flying unloaded are not necessary. The Senate stated: "The Air Force should give serious consideration to maintaining a significantly reduced readiness posture for the C–5 aircraft until such time as those structural problems have been resolved."

The conferees agreed to provide the $45.5 million as requested in the budget request and to restore the $16.2 million deleted for unloaded flying. These funds are restored with the clear understanding that the conferees are not satisfied with the manner in which the Air Force/DOD is operating the C–5A fleet. Prior to obligating the last $20 million of the $94.6 million provided for unloaded or restricted flying, the Air Force will provide to the Appropriations Committees specific detailed justification for not using C–5A aircraft in the Continental United States (CONUS), for the movement of military cargo and military passengers. It is apparent that such use could reduce the amount spent for commercial transportation at a time when national policy requires the conservation of scarce energy resources. Use of these aircraft in CONUS could also help to reduce total flying hours and preserve the limited wing life of the C–5 while providing more "event intensive" training for an equal number of hours. The conferees also agreed to require the Air Force to examine carefully crew proficiency requirements, and report to the Committees not later than March 1, 1978, on possible measures that can be taken to reduce to an absolute minimum (i.e., below that now contemplated by the Air Force) the utilization of the C–5. The Air Force should give serious consideration to maintaining a significantly reduced readiness posture for C–5 aircraft until such time as the C–5 structural problems have been resolved. The $20,000,000 should not be obligated pending submission of a report covering the above matters.

Navy C–118 airlift operations

The House proposed to defer for one year a decision made by the previous administration which would have the Military Airlift Command (a Specified Command) provide airlift services for all DOD users. The Senate receded to the House position with the understanding that this matter will be given further review by the DOD and the appropriate congressional committees. The Department should prepare a detailed report, for submission with the FY 1979 budget, which will serve to justify whatever position the Department takes on the subject of continuing separate Navy airlift operations, procurement of additional aircraft, etc.

Centralized co-op program

The House deleted $2.8 million for this program on the grounds that it constituted reverse discrimination and subverted the civil service merit system. The Senate did not restore the funds but directed that the program be continued from available resources. The conferees agreed to continue the program pending further review with the understanding that all personnel will be required to take the appropriate civil service examinations prior to being given career appointments in the civil service. Individuals taking the exam need not pass it with a score which places them at the top of the register since they have, through on-the-job training, indicated their ability to perform. They should, however, complete the examination with a passing score of 80. This direction should be applied to all co-op programs managed by the Department of Defense.

Depot maintenance reprogramming

The House added $146.1 million above the budget request for various depot maintenance programs, and the Senate concurred in that increase in order to improve readiness of the military forces.

The Senate directed that all of the funds appropriated in the bill for depot maintenance be used only for that purpose and not reprogrammed, while the House included no such stipulation.

The conferees adopted the Senate limitation with respect to reprogramming depot maintenance funds. The conferees are convinced that in view of the rate stabilization, the provision for inflation and the Secretary of Defense readiness fund, reprogramming from these activities cannot be justified. The conferees expect to see significant improvements in the material readiness of the military services as a result of these actions. The conferees further direct that the Services are to make every effort to overhaul the number of ships, aircraft, major vehicles, and exchangeable items for which funds were appropriated in this bill.

Privacy Act/Freedom of Information Act training

The conferees agreed that further efforts by the DOD to develop courses of instruction on the operation of the Privacy Act and the Freedom of Information Act should be terminated. The $2,400,000 previously appropriated in the 1977 Operation and Maintenance, Army account is not to be used for this purpose.

Other matters addressed by only one committee

The reports of both the Senate and House Committees contain numerous requests for additional studies and data including requests to cooperate and support investigations and reviews by special committee staffs and the General Accounting Office. These requests do not involve substantive changes in terms of resources allocation or operating procedures. In addition, certain recommendations relating to changes in justification materiel were also made. The conferees direct the Department of Defense to treat these requests as being approved by the Committee of Conference, unless this report clearly states that the Committee of Conference has not adopted a request of this nature. This direction applies to all titles of the bill.

Operation and maintenance, Army Amendment No. 11: Appropriates $8,139,413,000 instead of $8,369,746,000 as proposed by the House and $7,949,376,000 as proposed by the Senate.

Procurement of Snowmobiles.—The House deleted $2,873,000 for the procurement of snowmobiles. The conferees agreed to the restoration of $2,591,000 as proposed by the Senate. None of the funds provided is for the procurement of snowmobiles.

Area Handbooks.—The House made no reduction in the request for Area Handbooks providing the budgeted amount, while the Senate made a reduction of $1.1 million, providing $700,000. The House conferees indicated that it was their intent to provide $700,000 for Area Handbooks—the same level provided in 1977. The Senate conferees also indicated that it was their intent to provide $700,000; however, the Army had advised the Senate Committee that $1.8 million was budgeted.

The Army advised the conferees that upon rechecking, only $700,000 was budgeted, hence the intent of both Houses would be sustained if the $1.1 million reduction made by the Senate was restored. The conferees agreed to restore this $1.1 million, providing a total in the bill of $700,000 for the Area Handbooks, the same as in 1977. The conferees further direct that this program not be terminated as recommended in the Senate report, but be considered again in fiscal year 1979, if deemed advisable by the Secretary of Defense. Area Handbooks are of special interest to both Committees.

Division Restructuring Study.—The conferees have agreed to restore the funds deleted ($8.5 million) by the Senate for this study. There remains some uncertainty as to just how much funding has been requested for this study.

Both Committees have expressed reservations on this matter. The Army is expected to comply with the Committee reports and submit a detailed study and financial plan prior to obligating any FY 1978 funds for this purpose.

Academy Visitor Program.—The conferees agreed to a reduction of $28,000 for the Educator Visitation program at West Point as proposed by the Senate. The House did not specifically address this program.

NORTHAG-Stationing of U.S. Troops in Northern Germany.—The budget request includes $27.2 million in operating costs, $12.8 million for construction, $6.8 million for military personnel and $1.7 million for housing a single U.S. armored brigade in Northern Germany. The budget also included a total of 701 personnel, including a request to hire 620 additional civilian personnel. These personnel are mostly German nationals. The conferees have agreed to the reduction of 271 positions as proposed by the Senate pending additional justification by the Army. The House report also raised some questions on the issue of stationing U.S. Army forces in Northern Germany. The Army has been somewhat less than "straightforward" with the Congress on this matter. The need to protect classified information precludes a detailed explanation in this report.

Army Automatic Data Processing.—The Senate report placed certain restrictions on the purchase of new computers to replace Univac 494 computers used to support the military pay system (JUMPS). It is the opinion of the conferees that the Army has met these restrictions except for justification of a worldwide interactive network. Therefore, no objection is interposed to resuming activities which will lead to the competitive purchase of a new system so long as no costs are incurred for the purchase of hardware or software related to an interactive worldwide system.

Summary.—In addition, the conferees agreed to provide the amounts indicated in the following table for all other items under consideration by the Committee of Conference:

OPERATION AND MAINTENANCE, ARMY

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	283.1	280.3	135.1	185.1
Real property maintenance and repair	527.2	547.2	527.2	537.2
Disposal of military equipment	44.4	28.6	27.6	27.6
Base operating support reduction			−106.9	−58.5
Civilian personnel (general reduction)		−28.0		
Airlift services industrial fund	77.7	91.7	77.7	77.7
Training extension courses	30.0	30.0	20.7	25.4
Pay for Korean Nationals, wage scale adjustments			−4.7	−4.7
Support companies	.8	.8		
Post exchange transportation subsidy	39.4	39.4	2.4	39.4
High school completion program	19.2	19.2	.9	9.0
OSHA compliance	9.5	9.5		4.8
TDY training	34.1	34.1	31.1	31.1
Medical unit self-contained (MUST)	4.5	4.5	3.0	4.5
Electronic warfare improvement	1.0	1.0		.4
Maintenance support unit expansion	14.8	14.8	11.5	13.3
Intelligence reduction		−.3	−.3	−.5
Conversion in-house to contract	12.0	12.0	8.0	12.0

	Budget	House	Senate	Conference
Air defense manning increase	2.6	2.6	.....	2.6
Bold Eagle exercise	3.5	3.5	.....	3.5
George Marshall Foundation travel	.1	.1	.....	.1
Civilian education	5.4	5.4	4.7	4.7
Military manyear related reductions	.....	.....	−31.7	.....
Helicopter pilot training consolidation	18.2	18.2	.....	.....
Military bands	2.6	2.6	2.1	2.4

Real Property Maintenance Limitation

Amendment No. 12: The House directed that not less than $500,000,000 of the total provided for Operation and Maintenance, Army, would be available only for the maintenance of real property facilities. The Senate included $480,000,000 for this purpose. The conferees agreed that not less than $490,000,000 shall be available only for the maintenance of real property facilities.

Operation and maintenance, Navy

Amendment No. 13: Appropriates $10,743,263,000 instead of $10,832,191,000 as proposed by the House and $10,573,563,000 as proposed by the Senate.

Systems Engineering and Management.—The House made a reduction of $7,500,000 and directed that staff layering be reduced. The Senate was sympathetic to the views expressed in the House report, but restored $3,000,000. The conferees agreed to the House reduction and further agreed that they expected that this will result in a reduction of not to exceed 250 civilian personnel. The conferees further agreed that such a reduction of civilians is not to be applied against project managers and support personnel engaged in ship acquisition and conversion.

Pacific Consolidation.—A reduction of $5.5 million made by the Senate to the Navy O&M appropriation has been restored with the understanding that these funds will be used to provide services to the Army, Marine Corps and Air Force through additional interservice support agreements and thereby eliminate unnecessary duplication of support activities in Hawaii and Okinawa, in particular.

Areas where the conferees believe that further support consolidation could be implemented include helicopter maintenance, calibration facilities in Hawaii, civilian personnel offices in Japan and Okinawa, procurement offices in Japan, Okinawa and Hawaii, and Army real property maintenance in Okinawa. The funds are provided for further consolidation in these functional areas. The Department will report on actions taken toward further consolidation in conjunction with the FY 1979 budget submission.

Automatic Data Processing Selection Office.—The Senate deleted $1,113,000, the entire amount budgeted for the Automatic Data Processing Selection Office (ADPSO) on the ground that this activity was not required in view of the consolidation of Navy ADP activities under the Naval Data Automation Command (NAVDAC). The House made no similar reduction.

The conferees agreed to the deletion of $1,113,000 from Automatic Data Processing activities of the Navy to be allocated against any activity determined by the Navy. This may include both NAVDAC and ADPSO. The Navy is directed to eliminate overlap of ADP office coverage within the various Navy staffs.

Navy Photographic Operations.—The conferees agreed to the reduction of $450,000 as proposed by the Senate. The conferees further direct that an actual reduction in funding take place and that contract services not be procured to offset the reduction.

Defense Resources Management Center.—The Senate deleted $679,000, the full amount requested for the Defense Resources Management Center in Monterey, California. The Senate reduction was based on the view that courses at the Center duplicate courses at the war colleges, other special schools, and the fully funded graduate programs designed specifically for such things as training in comptrollership. The House made no similar reduction.

The conferees agreed to the Senate reduction with the understanding that funds can be reprogrammed for its operation with the prior approval of the Committees. However, as a part of submitting any reprogramming action, the Department of Defense is directed to identify and provide to the Committees a report on the location, costs, civilian and military manyears, and training load for all programs at war colleges, special schools, and graduate education fully or partially funded by DOD where the course content is similar to that provided at the Defense Resources Management Center.

Naval Air Facility, Washington, D.C.—The conferees agreed to restore $4,000,000 of the $5,524,000 deleted by the Senate for the Naval Air Facility at Andrews Air Force Base. These funds are restored with the understanding that they will be used for support of Naval and Marine Corps Air Reserve units including aircraft intermediate maintenance, facilities maintenance, bachelor officer and enlisted quarters, etc. Specifically excluded from funding are terminal and passenger services for administrative flight operations. The Navy is directed to work out an agreement with the Air Force for joint use of the one terminal at Andrews Air Force Base.

Summary.—In addition, the conferees agreed to provide the amounts indicated in the following table for all other items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, NAVY

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	589.7	561.6	410.1	510.6
Maintenance of real property	291.6	311.6	291.6	301.6
Recruit advertising	17.2	16.2	17.2	17.2
Tactical flying hour program	620.8	601.0	597.5	597.5
Continuation of C–117/C–118 aircraft	22.4	3.7	5.0	3.7
Airlift services industrial fund rates	.....	10.5	.....	.....
Catapults and arresting gears	30.9	27.5	24.4	27.5
Intelligence programs	167.7	163.7	167.4	166.3
Civilian personnel general reduction	.....	−22.0	.....	.....
Base operating support reduction	.....	.....	−35.4	−6.6
KC–130 flying hours, Marine Corps	14.3	14.3	12.4	14.3
Procurement operations increases	.....	.....	−1.6	−1.6
Manufacturing technology	5.7	5.7	1.1	5.7
Postal personnel reduction	.....	.....	−2.0	.....
Post exchange transportation subsidy	13.9	13.9	1.6	13.9
High school completion program	3.2	3.2	.....	1.6
Bangor Trident missile activation	108.6	108.6	102.9	105.7
Flying hours unified commands	1.4	1.4	1.1	1.1
Reforger	4.2	4.2	1.9	4.2
Strategic systems analysis	1.3	1.3	.....	.....
Aviation command information system	4.1	4.1	2.8	2.8
Property disposal	8.2	8.2	5.3	6.7
Ship disposal	1.1	1.1	.6	.9
Carrier technical support	1.0	1.0	.8	.8
Fleet inprovement services	1.7	1.7	1.5	1.5
Visibility of support costs	2.2	2.2	1.1	2.2
Equipment systems	.....	.....	−2.3	−2.3
Motion picture services	6.3	6.3	3.7	3.7
Medical supply recoupment	3.5	3.5	.....	3.5
Other health activities	6.5	6.5	.....	6.5
Military man-year reductions	.....	.....	−5.3	.....
Helicopter training consolidation	.....	.....	9.0	9.0
Military bands	.9	.9	.7	.8

Real Property Maintenance Limitation

Amendment No. 14: The House directed that not less than $285,000,000 of the total provided for Operation and Maintenance, Navy, would be available only for the maintenance of real property facilities. The Senate included $265,000,000 for this purpose. The conferees agreed that not less than $275,000,000 shall be available only for the maintenance of real property facilities.

Operation and maintenance, Marine Corps

Amendment No. 15: Appropriates $615,628,000 instead of $633,449,0000 as proposed by the House and $592,001,000 as proposed by the Senate.

Summary.—Major items which affect all DOD Operations and Maintenance appropriations were discussed earlier under the heading Title III. In addition, the conferees agreed to provide the amounts indicated in the following table for all other items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, MARINE CORPS

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	21.9	20.4	7.7	15.8
Maintenance of real property	85.7	99.0	85.7	92.8
Continuation of C–118 support	3.1	.....	1.0	.....
Airlift services industrial fund rates	.....	1.0	.....	.....
Strength authorization reductions	.....	−2.0	.....	.....
Base operating support	.....	.....	−5.8	−2.7
Expense-type allowance items	12.0	12.0	5.9	8.9
Deferred fiscal year 1976 travel costs	26.5	26.5	26.2	26.2
Pacific consolidation	3.5	3.5	2.5	3.5
Military manyear reductions	.....	.....	−4.2	.....
Military bands	.4	.4	.3	.3

Real Property Maintenance Limitation

Amendment No. 16: The House directed that not less than $93,300,000 of the total provided for Operation and Maintenance, Marine Corps would be available only for the maintenance of real property facilities. The Senate included $80,000,000 for this purpose. The conferees agreed that not less than $86,650,000 shall be available only for the maintenance of real property facilities.

Operation and maintenance, Air Force

Amendment No. 17: Appropriates $8,335,279,000 instead of $8,346,886,000 as proposed by the House and $8,191,862,000 as proposed by the Senate.

Air Force Automatic Data Processing and Project MAX.—The House reduced Air Force Automatic Data Processing (ADP) by $45 million, including a $10 million reduction to Project MAX. The Senate restored $30 million, but retained the reduction against Project MAX. The Senate report included language relating to Project MAX, as well as a general provision prohibiting use of any of the funds in the bill for the Project MAX or Mini-MAX.

The conferees agreed to restore $15 million of the House reduction, and to strike the Senate general provision relating to MAX/Mini-MAX. The conferees direct that no funding for the Phase IV Base Operations ADP system be spent until a complete report on MAX, interim ALS and the various wholesale level systems is provided to the Committees.

The conferees further agreed that the Department is to comply in full with the Senate report language appearing on pages 61 and 62 of the Senate report. Furthermore, no funds are to be spent in fiscal year 1978 for Project MAX or any portions thereof or related thereto until the Department of

Defense has specifically delineated to the Committees its overall plan for Project MAX and the various other systems that previously were a part of ALS, interim ALS, etc., and the Appropriations Committees have approved the plan.

Accelerated Copilot Enrichment Program.—The Senate recommended a reduction of $2.1 million below the House bill for the Accelerated Copilot Enrichment (ACE) program, stating that they had serious reservations about the utility of the program. The conferees noted that this concept was tested by the Tactical Air Command (TAC), the Military Airlift Command (MAC), and the Strategic Air Command (SAC). Both TAC and MAC rejected the program as not appropriate or cost-effective, yet SAC decided to continue with it.

The conferees agreed to restore $1,050,000 of the Senate reduction; however, the Department of Defense is directed to reexamine the ACE program and report to the Committees not later than December 31, 1977, addressing the concerns outlined in the Senate report, as well as providing an analysis of whether or not this program is cost-effective. If it is cost effective for SAC, an explanation is required as to why it is not cost effective for MAC.

Defense Institute for Foreign Military Sales.—The Senate made a reduction, of $750,000 to the House bill, but receded to the House on this matter. However, the conferees direct that the Department of Defense insure that no direct funding is provided for this institute and that it be solely funded from reimbursements from foreign sales.

Postal Service Conversion.—The conferees rejected the Senate proposal to add $3.5 million to convert Air Force postal operations to contract labor or government civilians. The funds added for this purpose have been deleted. The conferees continue to believe that the U.S. Postal Service should provide postal services to military personnel stationed in the U.S. on the same basis as it provides to any other citizen. Accordingly, the conferees direct the Department to expedite negotiations with the U.S. Postal Service to reach this objective.

NAVSTAR.—The Senate receded from its reduction of $2.1 million for the NAVSTAR system since the funds had already been deleted by the House and agreed to by the Senate under the heading "transfers to RDT&E". This restoration in no way constitutes approval of funding for any NAVSTAR work in the O&M appropriation.

Air Defense Enhancement.—The conferees agreed to the restoration of $2.4 million of the $2,735,000 deleted by the Senate. Funds have not been included for the additional training of F-106 pilots since they have already undergone considerable special air defense mission training.

Family Practice.—The Senate deleted $33,000 requested to support physician training in family practice medicine. The House made no similar reduction. The conferees agreed to restore the funding.

Foreign Military Sales Transportation Charges.—The House made a reduction in the requests for transportation in both the operation and maintenance and procurement appropriations. These reductions were the result of a failure by the military services to charge foreign customers for transportation and packing and crating charges associated with foreign sales. The Senate agreed with the House reductions.

The reductions were based upon data (Object Class 22) submitted as a part of the President's budget. The Air Force budget submission contained erroneous data which resulted in a request for transportation which was considerably higher than the actual amounts the Air Force expects to spend. This resulted in a larger reduction than would have been applied had the Air Force budget submission included accurate data. Accordingly, the conferees agreed that the Air Force may reprogram sufficient funds to cover the actual costs of transportation, less amounts to be received from foreign customers in accordance with the guidance in the House report. The Committees are to be notified as to the amounts and reasons for all reprogrammings related to this matter.

Air Force ROTC Scholarship.—The conferees agreed to initiate the funding of 235 additional ROTC scholarships. The Air Force requested funding ($24,000) to pay for 475 scholarships for one month, September 1978. The House deleted the funds. A Senate floor amendment restored the funds. These additional scholarships are to be awarded to students pursuing scientific and technical-engineering courses of instruction. Any additional shortage in scholarships for students pursuing scientific and technical courses will be resolved by the conversion of a portion of the 4,775 scholarships included in the bill. A significant portion of these scholarships become available each year for award as students finish their course of instruction or drop out of the program.

Summary.—In addition, the conferees agreed to provide the amounts indicated in the following table for all other items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, AIR FORCE

[In millions of dollars]

	Budget	House	Senate	Conference
Perimeter acquisition radar	18.5	----	18.5	18.5
Inflation	218.9	209.6	100.6	180.6
Maintenance of real property	547.9	567.9	547.9	557.9
C-5A allowable cabin load	45.5	----	45.5	45.5
Airlift services industrial fund rate	----	19.9	----	----
Intelligence programs	209.2	207.6	208.3	211.6
Intelligence related programs	310.9	304.3	310.9	304.1
Strength authorization reduction	----	−16.0	----	----
Base operating support	----	----	−33.2	−10.9
Standards application	1.6	1.6	----	----
C-5 unloaded hours	16.2	16.2	----	16.2
Korea indirect hire personnel	6.7	6.7	6.2	6.2
Civilianize Air Force audit agency	11.2	11.2	17.6	12.5
SR-71 contract studies	2.5	2.5	----	2.5
High school completion programs	3.1	3.1	2.4	2.8
Electronic warfare training, United Kingdom	51.0	51.0	47.0	50.6
Additional WWMCCS disc	21.8	21.8	21.6	21.6
GPS-10 spacetrack radar	3.9	3.9	2.6	3.9
T-39 flying hours	38.4	38.4	38.0	38.0
Tactical fighter weapons center contract services	13.1	13.1	11.4	11.4
Tactical intelligence squadrons	1.3	1.3	----	.7
Airborne Command Post (NEACP)	8.6	8.6	6.1	8.6
TV production training	.8	.8	----	.8
OSD/Air Staff computer support	16.1	16.1	13.4	13.4
Logistics readiness	25.9	25.9	----	18.0
Military manyear reductions	----	----	−12.7	----
Area support	18.3	18.3	15.0	16.7
Eastern test range downrange support	2.0	2.0	−1.0	1.0
Flying hours-additional logistics personnel	10.6	10.6	----	5.3
Military bands	1.7	1.7	1.4	1.5

Real Property Maintenance Limitation

Amendment No. 18: The House directed that not less than $518,000,000 of the total provided for Operation and Maintenance, Air Force, would be available only for the maintenance of real property facilities. The Senate included $500,000,000 for this purpose. The conferees agreed that not less than $509,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Defense Agencies

Amendment No. 19: Appropriates $2,827,574,000 instead of $2,896,468,000 as proposed by the House and $2,809,686,000 as proposed by the Senate.

Defense Security Assistance Agency.—The Senate reduced the request for the Defense Security Assistance Agency by $100,000 for additional personnel. The House included no such reduction.

The Senate agreed to recede since DOD advised that these personnel were funded on a reimbursable basis from Foreign Military Sales administrative charges. However, DOD is directed to insure that these personnel are indeed funded from reimbursable sources, and that no direct appropriations be provided for the Defense Security Assistance Agency.

Tri-Service Medical Information System (TRIMIS).—The House reduced the funds for the Tri-Service Medical Information System (TRIMIS) by $7,000,000. The Senate restored these funds, but indicated strong concern about program management and system development.

The conferees agreed to the reduction recommended by the House. DOD is directed to reevaluate the fiscal year 1978 TRIMIS funding requirements, and to the extent that the funds in the bill are inadequate, the Committees will consider a reprogramming request.

The conferees further direct that TRIMIS be placed under the Defense System Acquisition Review Council (DSARC) system as recommended by the Senate. Further, the Department is to provide to the Committees the report requested in the Senate report, addressing the various management concerns raised therein.

TRIMIS is of special interest to both Committees.

Conversion of Armed Forces Radio-Television Network to Nonappropraited Fund Status.—The Senate reduced the request for the Armed Forces Radio-TV Network (AFRTVN) by $2,000,000 below the House and $3,000,000 below the budget and recommended that it be converted to nonappropriated fund status, with revenues to be derived from commercial advertisements.

The conferees agreed that the conversion needs further study prior to implementation, and restored $1,000,000. Also, restrictions on the use of Mini-TV suggested by the Senate were not agreed to by the conferees. The Department of Defense is directed to study the feasibiltiy of conversion to nonappropriated fund status and provide a detailed report on this subject not later than February 1, 1978. The report should specifically address the present situation with respect to the use of commercial advertisements, citing the legal impediments to any such action, if there are any. Should the use of commercial advertisements be considered infeasible for other reasons, they should be explicitly delineated, with specific request to modification of any restrictive covenants or practices now in effect that could be changed.

Defense Logistics Agency.—Three separate actions affecting the Defense Logistics Agency were under consideration by the conferees. These included supply support activities, contract administration services and the Defense Integrated Data System (DIDS). A total request of $892,900,000 was considered by the Committee of Conference. It was decided that a total of $845,662,000 should be provided. This amount is approximately $10.5 million more than the House provided and $10.3 million less than the Senate provided. The reduction of $47 million is to be allocated by the Secretary of Defense.

The Committee of Conference also directs that the Defense Logistics Agency/OSD prepare a written response on each of the three areas of concern discussed in the Committee reports to include detailed explanations of action taken or pending to correct deficiencies identified by the Committees and the General Accounting Office.

CHAMPUS.—The Senate added certain new subsections to the general provision which addresses the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). These changes resulted in a reduction to the amount provided for CHAMPUS. As explained later in this report (Amendment No. 63), the conferees rejected most of the Senate proposals. Therefore, $6,900,000 deleted by the Senate as a result of increasing the basic hospital admission charge and $4,900,000 deleted as a result of converting to Medicare reimbursement rates as proposed by the Senate were not agreed to. The Committees will undertake to review these proposals further with a view toward their implementation in fiscal year 1979. The conferees agreed to the $1,000,000 reduction proposed by the Senate resulting from competitive bidding for the proceessing of CHAMPUS claims. The conferees further agreed that CHAMPUS is to be permitted to continue to use the present request for proposal (RFP) for competitive claims processing. The Senate had proposed a moratorium on its use.

Summary.—In addition, the conferees agreed to provide the amounts indicated in the following table for all other items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	90.5	87.0	8.6	12.1
Overseas dependents education	270.5	265.5	261.9	261.9
Intelligence and communications (DCA, NSA, DIA):				
WWMCCS system engineering			−2.9	−2.9
Intelligence programs		8.5	−2.3	13.0
Intelligence related programs		.2	−1.4	−1.2
Communications programs		−7.7	−7.0	−3.2
Defense Audit service	11.0	9.8	11.0	10.4
Grade escalation			−4.0	−4.0

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The House provided specific amounts for many of the individual defense agencies funded in this appropriation. In conference it was agreed to provide a lump sum appropriation as proposed by the Senate, except for operation and maintenance of the Defense Logistics Agency and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) which are separately delineated. In addition, the conferees agreed to permit up to $5,000,000 to be used for loan guarantees. Loan guarantees are authorized under Title III of the Defense Production Act of 1950 as amended (50 U.S.C., Appendix 2091, 64 Statute 800). The conferees also agreed to retain a proviso inserted by the Senate which limits to $350,000 the amount that can be obligated to support activities of the Assistant Secretary of Defense for Health Affairs prior to February 1, 1978.

The amendment of the House to the amendment of the Senate follows:

Provided further, That $845,662,000 shall be available only for the Defense Logistics Agency and $614,583,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services: *Provided further,* That during fiscal year 1978 the Department of Defense may guarantee loans pursuant to Title III of the Defense Production Act of 1950 as amended (50 U.S.C., Appendix 2091, 64 Stat. 800) in an amount not to exceed $5,000,000: *Provided further,* That of this appropriation, not more than $350,000 may be obligated to support the personnel and activities of the Assistant Secretary of Defense for Health Affairs prior to February 1, 1978

Operation and Maintenance, Army Reserve

Amendment No. 21: Appropriates $380,796,000 instead of $394,725,000 as proposed by the House and $372,976,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following table for all items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, ARMY RESERVE

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	8.6	8.1	3.1	3.7
Real property maintenance	20.8	27.3	20.8	24.0
Technicians	212.2	212.2	207.2	207.2
Printing requirements	2.4	2.4	2.3	2.3
Stockage levels	11.0	11.0	9.9	9.9
Travel	26.4	26.4	26.3	26.3
Advertising	9.1	9.1	5.1	9.1

Real Property Maintenance Limitation

Amendment No. 22: The House directed that not less than $26,100,000 of the total provided for Operation and Maintenance, Army Reserve would be available only for the maintenance of real property facilities. The Senate included $20,000,000 for this purpose. The conferees agreed that not less than $230,050,000 shall be available only for the maintenance of real property facilities.

Operation and maintenance, Navy Reserve

Amendment No. 23: Appropriates $316,290,000 instead of $321,090,000 as proposed by the House and $291,166,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following House and $16,095,000 as proposed by the Committee of Conference.

OPERATION AND MAINTENANCE, NAVY RESERVE

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	20.8	20.5	12.3	19.1
Continued operation of C-118 force		9.5		9.5
Flying hours (base operations)			−6.3	
Retired module	.9	.9		
Base support	75.6	75.6	70.6	73.1

Operation and maintenance, Marine Corps Reserve

Amendment No. 24: Appropriates $16,528,000 instead of $16,838,000 as proposed by the House and $16,095,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following table for all items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	0.7	0.6	0.1	0.5
Supplies	6.2	6.2	6.0	6.0

Operation and Maintenance, Air Force Reserve

Amendment No. 25: Appropriates $374,349,000 instead of $374,536,000 as proposed by the House and $373,944,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following table for all items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	5.5	5.3	4.0	4.2
Real property maintenance	12.1	12.5	12.1	12.3
Reserve personnel center	10.2	10.2	10.0	10.0
Weather support to NOAA	4.6	3.3	4.6	4.6

Real Property Maintenance Limitation

Amendment No. 26: The House directed that not less than $11,200,000 of the total provided for Operation and Maintenance, Air Force Reserve would be available only for the maintenance of real property facilities. The Senate included $10,800,000 for this purpose. The conferees agreed that not less than $11,000,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Army National Guard

Amendment No. 27: Appropriates $745,666,000 instead of $758,921,000 as proposed by the House and $745,239,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following table for all items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[In millions of dollars]

	Budget	House	Senate	Conference
Inflation	14.5	13.9	3.9	4.3
Technician travel	6.1	6.1	5.4	5.4
Second destination transportation	14.3	14.3	11.3	11.3

Operation and Maintenance, Air National Guard

Amendment No. 28: Appropriates $825,207,000 instead of $831,200,000 as proposed by the House and $823,468,000 as proposed by the Senate.

Summary.—The conferees agreed to provide the amounts indicated in the following table for all items under consideration by the Committee of Conference.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[In millions of dollars]

	Budget	House	Senate	Conference
Maintenance of real property	18.3	21.0	18.3	19.6
Inflation	5.5	5.5	3.5	3.9
Technicians	411.1	411.1	408.6	408.6
Flying hours, recoupment of prior year reduction	.5	.5		

Real Property Maintenance Limitation

Amendment No. 29: The House directed that not less than $19,200,000 of the total provided for Operation and Maintenance, Air National Guard, be available only for the maintenance of real property facilities. The Senate included $16,500,000 for this purpose. The conferees agreed that not less than $18,000,000 shall be available only for the maintenance of real property facilities.

Secretary of Defense Readiness Fund

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide $100,000,000 for the establishment of a readiness fund as proposed by the Senate. The Senate bill included $300,000,000 for this fund. The House bill did not include a similar provision. A further explanation of the allocation of the funds included in this bill under the heading readiness is discussed earlier in Title III under the heading of Inflation".

Secretary of Defense Readiness Fund

For transfer by the Secretary of Defense to any appropriation contained in title III of this Act, to be merged with and to be available for the same purpose as the appropriation to which transferred upon determination by the Secretary of Defense that funds are necessary for high priority items directly associated with maintaining or improving military readiness of the active forces or reserve components of the Department of Defense, and in no case for items or programs for which funds have been denied or reduced by the Congress; $100,000,000: *Provided*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further*. That transfer authority provided herein shall be in addition to that provided in section 833 of this Act.

TITLE IV—PROCUREMENT

Aircraft procurement, Army

Amendment No. 31: Appropriates $657,100,000 instead of $627,700,000 as proposed by the House and $673,300,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
C-12A utility aircraft			17,200	17,200
EH-1H helicopter modifications	24,800		24,800	11,800
Spares and repair parts	73,500	72,400	72,800	72,800
Component improvement	6,400	3,200	6,400	3,200

EH-1H Helicopter Modifications

The conferees agreed to a reduction of $13,000,000 for EH-1H helicopter modifications. The conferees agreed that there should be competition for the modification program, rather than sole source procurement as proposed by the Army.

Component Improvement

With respect to component improvement, the conferees agreed to transfer $3,200,000 budgeted to improve the T700 engine for the Utility Tactical Transport Aircraft System (UH-60 helicopter) to the research and development appropriation as proposed by the House.

Missile procurement, Army

Amendment No. 32: Appropriates $536,883,000 instead of $524,183,000 as proposed by the House and $545,183,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conferance agreement
Chaparral missile	30,000	24,500	30,000	30,000
Stinger missile	34,000	34,000	42,300	34,000
Nonnuclear Lance missile		65,000	77,500	77,500
Chaparral missile modifications	5,500	5,500		
Spares and repair parts	25,700	25,700	25,900	25,900

Procurement of weapons and tracked combat vehicles, Army

Amendment No. 33: Appropriates $1,421,200,000 instead of $1,378,100,000 as proposed by the House and $1,489,100,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference agreement
M60 tank	540,300	420,300	502,900	461,600
XM-1 tank, advance procurement	57,600	37,000	57,600	37,000
M60 tank modifications	93,900	41,500	47,500	41,500
Spares and repair parts	42,400	40,600	42,400	42,400

M60A3 Tanks

With respect to M60 new tank production, the House had proposed $420,300,000 to build 759 M60A1 tanks with thermal night sights. The Senate had proposed $502,900,000 to build 800 M60A3 tanks with thermal night sights, ruby laser rangefinders, and solid state computers. The conferees agreed to $461,600,000 for about 780 M60A3 tanks.

While the conferees agreed to provide the necessary funds to equip the new production tanks with the current M60A3 fire control system, a total of $6,300,000 in research and development funding is provided in the bill to initiate development of a new, more advanced tank fire control system. The new system, which is based on XM-1 tank technology, would be less costly to procure and to operate and maintain. The conferees direct the Army to expedite the development and production of the new fire control system and to retrofit it into the remainder of the tank fleet at the earliest possible date.

M60 Tank Modifications

The conferees agreed to delete the funds budgeted for improved reliability (RISE) engine kits for M60 tank modifications, as proposed by the House. The Army has sufficient engine kits already funded in prior years to accommodate all such M60 tank modifications planned through fiscal year 1979.

Procurement of ammunition, Army

Amendment No. 34: Appropriates $1,179,300,000 instead of $1,154,400,000 as proposed by the House and $1,223,800,000 as proposed by the Senate. The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
Cannon launched guided projectile (Copperhead)	16,900		16,900	16,900
Mississippi Army Ammunition Plant	8,000		8,000	8,000
RDX/HMX explosive manufacturing facility	44,500		44,500	

RDX/HMX Explosive Manufacturing Facility

The conferees agreed to delete without prejudice the appropriation for the RDX/HMX explosive manufacturing facility proposed by the Senate.

Cannon Launched Guided Projectile (Copperhead)

The conferees agree that it willl be difficult to fulfill the requirements imposed by the conference agreement on the fiscal year 1978 defense procurement authorization bill for 5-inch and 155mm guided projectiles within authorized funding limitations. In addition, the conferees recognize that achievement of the initial operational capability for both projectiles prior to January 1, 1980, regardless of funding, cannot be achieved without abandonment of sound development practices through acceptance of inordinate cost, technical and safety risks and without subverting a reasonable definition of Initial Operational Capability. In agreeing with the Senate to appropriate $16,900,000 for procurement of special tooling for the cannon launched guided projectile, the conferees also agree that the Committees on Appropriations of the House and Senate will consider reprogramming actions necessary to achieve the additional program objectives that are prudent and reasonable.

Mississippi Army Ammunition Plant

The House agreed with the Senate position to fund the budget request for $8,000,000 to proceed with the construction of an Army Ammunition Plant for the 155 millimeter improved conventional artillery round at Bay St. Louis, Mississippi. The $45,200,000 appropriated in the fiscal year 1976 Defense Appropriation Act for this plant which had been partially embargoed by virtue of Section 752 of that Act, is to be made available for the construction of the plant without further action on the part of the Appropriations Committees. The conferees are in agreement that the appropriation provided for the Mississippi Army Ammunition Plant shall be obligated for no other purpose without prior approval through reprogramming.

Other procurement, Army

Amendment No. 35: Appropriates $1,403,325,000 instead of $1,351,750,000 as proposed by the House and $1,420,300,000 as proposed by the Senate. The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
Ground laser locator designator	14,500		14,500	
Target designator laser	16,800		16,800	16,800
TACFIRE	40,500	40,500	20,500	40,500
TACFIRE spares	3,900	3,900	2,000	3,900
Chemical agent alarms	9,800	9,800	25,800	9,800
Loran backpack			5,000	5,000
AN/TTC-38 switches	8,600		8,600	
Speech secure equipment TSEC/KY-57	37,400	20,000	37,400	37,400
Intelligence activities		−2,750	−3,600	−1,375
Intelligence-related activities		−9,400		−2,000
General reduction		−6,300	−2,700	−2,700

AN/TTC-38 Communications Switches

The Senate agreed to recede to the House position and delete the $8,600,000 requested for AN/TTC-38 communications switches. The conferees agreed the Army should await deployment of the AN/TTC-39 switches which are follow-ons to the AN/TTC-38 switches.

Secure Speech Equipment (TSEC/KY-57)

The House agreed to recede to the Senate position and provide the full amount requested for secure speech equipment. The conferees agreed that future budget requests for communications security equipment should include detailed installation schedules.

Amendment No. 36: Transfers from the fiscal year 1977 Other Procurement, Army appropriation a total of $2,700,000 as proposed by the Senate instead of $6,300,000 as proposed by the House.

Aircraft procurement, Navy

Amendment No. 37: Appropriates $3,479,000,000 instead of $3,427,400,000 and $3,000,000,000 in transfers as proposed by the House and $3,494,600,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
A–7E attack aircraft	21,000	92,500	107,400	107,400
A–7E advance procurement			5,000	5,000
T–34C trainer aircraft	28,700		28,700	28,700
Common ground equipment	129,600	122,800	129,600	122,800
Component improvement	50,200	41,400	50,200	41,400
Other production charges	39,100	35,100	38,100	38,100
Transfers from other accounts		3,000		

A–7E Attack Aircraft

For the A–7E aircraft, the budget had proposed $21,000,000 to buy ground, training, and other equipment to support approved A–7E aircraft force levels. The House had proposed $92,500,000 for twelve additional A–7E aircraft. The conferees agreed to $107,400,000 for twelve such aircraft and $5,000,000 in advance procurement funding as proposed by the Senate.

Aircraft Support Equipment and Facilities

The conferees agreed to transfer the $6,800,000 budgeted under Common Ground Equipment for Aircraft Equipment Reliability and Improvement Program, and the $8,800,000 budgeted under Component Improvement to correct deficiencies in the TF–30 engine used in the F–14 aircraft to the research and development appropriation as proposed by the House.

Undergraduate Helicopter Pilot Training

The House had proposed a $3,000,000 reduction in Other Production Charges to be offset by transferring to fiscal year 1978 the $3,000,000 provided in fiscal year 1977 to buy a 2B24 helicopter flight simulator. This recommended reduction and transfer of funds was part of a House decision to agree to the DOD proposal to consolidate all undergraduate helicopter pilot training into the Army's training program. The House receded to the Senate position not to ratify the consolidation proposal, and the conferees agreed not to recommend the reduction and transfer of $3,000,000.

It is the sense of the conference that the $3,000,000 for a 2B24 simulator and the $500,000 for a simulator building at Naval Air Station, Whiting Field, already appropriated in the fiscal years 1976 and 1977 budgets, be obligated and expended without further delay in order that Navy Helicopter Pilot Training be conducted in the most effective manner possible.

Weapons procurement, Navy

Amendment No. 38: Appropriates $2,181,900,000 as proposed by the House instead of $2,229,300,000 as proposed by the Senate.

The conferees agreed to $14,900,000 as proposed by the House for the Fleet Satellite Communications System instead of $62,300,000 as proposed by the Senate. The reduction of $47,400,000 will delete the funds to purchase spacecraft numbers four and five, and terminate this program after vehicle number 3, in favor of converting to a policy of leasing commercial satellite communications to satisfy this communications requirement.

Shipbuilding and conversion, Navy

Amendment No. 39: Appropriates $5,760,500,000 instead of $5,218,788,000 as proposed by the House and $6,146,100,000 as proposed by the Senate. The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
Trident submarine	1,490,300	1,258,588	1,490,300	1,490,300
CVN nuclear carrier advance procurement			81,600	
DD–963 destroyer			614,000	310,000

CVN Nuclear-Powered Aircraft Carrier

The conferees agreed to delete the $81,600,000 advance procurement funding proposed by the Senate above the budget to buy additional long leadtime components for a CVN Nimitz-class nuclear-powered aircraft carrier.

DD–963 Destroyer

The Senate had recommended $614,000,000 above the budget to build two DD–963 air capable ships. These ships would utilize the basic DD–963 destroyer design, but would be modified with an extended hanger to accommodate a third, and perhaps a fourth, LAMPS III helicopter. The conferees agreed to $310,000,000 to fully fund the construction of one DD–963 destroyer, but to provide the Navy with the option to build instead a DD–963 air capable ship if one could be designed and built with the $310,000,000 provided.

Other procurement, Navy

Amendment No. 40: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $2,176,410,000 instead of $2,141,471,000 as proposed by the House and $2,150,600,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
MK–23 target acquisition system	15,600		15,600	15,600
AN/BQQ–5 sonar	99,700	99,700	71,200	99,700
Secure communications equipment	38,400	32,500	38,400	38,400
Intelligence activities		−16,129		−2,690

Aircraft procurement, Air Force

Amendment No. 41: Reported in disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $7,693,400,000 instead of $7,417,705,000 as proposed by the House and $6,111,600,000 as proposed by the Senate. The Senate conferees agreed to an appropriation of $6,262,000,000.

B–1 Bomber

The item reported in disagreement is the $1,431,400,000 denied by the Senate for B–1 bomber production. That sum includes $1,172,600,000 for production of five B–1 bombers, $120,800,000 for associated initial spares, and $138,000,000 in advance procurement funding toward fiscal year 1979 production.

The Committee of Conference is in agreement on the following other items in conference:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
A–10 attack aircraft	741,800	741,800	652,000	741,800
A–10 advance procurement	48,700	48,700	43,800	48,700
F/TF–15A fighter aircraft	1,293,500	1,259,100	1,489,300	1,489,300
F–16A/B fighter aircraft	1,256,200	1,256,200	1,152,400	1,256,200
A–7 modification to TA–7D			3,000	3,000
EF–111 aircraft modification	24,100		24,100	24,100
Classified projects modification	10,100		10,100	5,800
CRAF Civil Reserve Airlift Fleet	30,000		15,000	7,500
A–10 initial spares	30,200	30,200	27,200	30,200
Classified projects initial spares	3,800		3,800	1,500
Component improvement	37,000		37,000	
Intelligence activities		−3,600		

F/TF–15A Fighter Aircraft

In addition to the $1,489,300,000 provided for 97 F–15 aircraft, the conference agreement includes $34,400,000 in transfers of prior year accounts to fund F–15 production in fiscal year 1978.

Civil Reserve Airlift Fleet (CRAF)

The Senate had recommended $15,000,000 to fund two CRAF wide-bodied aircraft modifications, one with a full modification and one with a mini-modification to serve as a pilot model for the cost and contracting procedures for the CRAF program as authorized. The House had recommended no funds for the CRAF program. The conference agreement provides for a single modification, either a full or mini-modification, of a wide-bodied passenger aircraft owned by a commercial passenger air carrier.

Component Improvement

The Committee of Conference is in agreement with the House position that component improvement of the F100 engine for the F–15 and F–16 aircraft is to be funded in the research and development appropriation.

Missile procurement, Air Force

Amendment No. 42: Appropriates $1,700,600,000 instead of $1,568,700,000 as proposed by the House and $1,737,200,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference agreement
Air launched cruise missile	40,600	20,300	40,600	40,600
Maverick missile (laser)	27,900	18,400	5,100	5,100
NAVSTAR global positioning system	43,400		25,600	
Satellite data system	83,200	39,100	83,200	83,200
Backup Titan IIID booster	61,900		61,900	61,900
Intelligence activities		−29,900		−11,000
Transfers from other Accounts		25,400	44,600	44,600

Maverick Missile (Laser)

The House bill had provided $18,400,000 in new budget obligational authority, plus

$25,400,000 in transfers from prior year accounts, for a total funding availability of $43,800,000 for the laser Maverick missile program in fiscal year 1978. The conferees agreed to the Senate proposal to provide $5,100,000 in new budget obligational authority, plus $44,600,000 in transfers of unobligated fiscal year 1977 Maverick program funds, for a total funding availability of $49,700,000 for the laser Maverick missile program during fiscal year 1978.

Amendment No. 43: Transfers from the fiscal year 1977 Missile Procurement, Air Force, appropriation a total of $44,600,000 as proposed by the Senate instead of $25,400,000 as proposed by the House.

Other procurement, Air Force

Amendment No. 44: Appropriates $2,337,345,000 instead of $2,303,998,000 as proposed by the House and $2,371,300,000 as proposed by the Senate. The items in conference dealt with intelligence activities.

Procurement, Defense agencies

Amendment No. 45: Appropriates $327,826,000 instead of $308,259,000 as proposed by the House and $334,584,000 as proposed by the Senate. The items in conference dealt with intelligence activities.

Other matters relating to title IV

Selected Acquisition Report

The Senate report directed the Department of Defense to include escalated life cycle costs as part of the Selected Acquisition Report, noting appropriate footnotes of an explanatory nature where necessary. This would disclose the full financial commitment any particular system will require in future years. The conferees on the part of the House are in agreement with this Senate requirement.

TACAMO Service Life Extension Program

The House and Senate versions of the bill denied the request for $600,100,000 to initiate a service life extension program for the EC–130 TACAMO strategic communication relay aircraft. New information concerning aircraft age and safety considerations, brought to light since this action, indicates some modification will be required while the Navy performs the study of aircraft utilization and basing directed by the House and agreed to by the Senate. Consequently, the conferees to permit the Navy to reprogram funds below threshold to perform the minimum necessary portion of this work. The conferees expect the Navy to thoroughly examine this program prior to next year's budget request.

TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Army

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $2,417,882,000 instead of $2,394,108,000 as proposed by the House and $2,402,758,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Program	Budget request	House amount	Senate amount	Conference amount
Advance concepts lab (TACOM)	1,500	----------	1,500	----------
Food technology	8,062	8,062	11,062	8,062
BMD advanced technology	107,297	107,297	83,797	107,297
Ballistic msl def sys tech	107,688	106,188	81,188	106,188
Advanced fwd area air defense system	24,206	10,000	24,206	17,103
Conventional airfield attack missile	2,968	----------	2,968	1,484
Advanced multipurpose missile	1,936	----------	1,936	1,936
Tactical surveillance system	11,274	11,274	----------	6,800
Util tac trans acft sys (UTTAS)	34,837	38,037	34,837	38,037
Interim Scout helicopter	18,300	----------	7,500	----------
Chapparal	5,229	2,329	5,229	4,229
Sam Hawk/Hawk imp prog	12,538	12,538	17,538	12,538
M60A1 tank product imp prog	4,556	9,831	10,856	9,831
Advanced micv	----------	----------	5,000	2,500
Classified projects	88,678	81,831	86,326	86,326
General reduction	----------	----------	−1,936	----------
General reduction, intelligence	----------	−1,400	----------	----------
General reduction, intelligence related	----------	−18,630	----------	−15,200
General reduction, food research	----------	−4,000	----------	----------
Naval special W/F craft	2,503	----------	2,503	2,503
Other Mar Corps development (eng)	10,487	8,487	10,487	10,487
Shipboard vulnerability/surv	----------	----------	10,000	5,000
Outlaw Shark	----------	----------	7,500	----------
Marine Corps R & D	----------	----------	5,000	----------
General reduction	----------	----------	−23,013	−11,507
ELF communications	23,741	----------	20,141	15,000
Special activities	33,600	32,500	29,500	27,800
Blue green laser communications	----------	----------	5,000	----------
General reduction—Intelligence	----------	−11,350	−5,500	----------
General reduction—Intelligence related	----------	−4,800	----------	−4,400
RTD & E Ship & ACFT Support	56,462	52,462	56,462	52,462
JT AF/Navy sea control	----------	----------	3,000	----------
Reimbursement for foreign sales	−30,000	−30,000	−34,000	−30,000

The following report language was addressed by the conferees and agreed to as follows:

Advanced Attack Helicopter

The managers direct that the competition established for the Target Acquisition Designation System and Pilot Night Vision System in the Advanced Attack Helicopter program be continued through a fly-off to obtain competitive fixed price proposals for production.

Hardened Ballistic Missile Defense Materials Program

The managers agreed that no limit on program funding will be set on the Hardened Ballistic Missile Defense Materials research program.

Research, Development, Test, and Evaluation, Navy

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows: "$3,991,791,000: *Provided*, That none of the funds appropriated for the Shipboard Intermediate Range Combat System program shall be available unless expended in compliance with existing acquisition policies and procedures prescribed in Office of Management and Budget Circular A–109."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The $3,991,791,000 compares with $3,895,517,000 as proposed by the House and $4,032,214,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Program	Budget request	House amount	Senate amount	Conference amount
Defense research sciences	160,464	150,464	160,464	155,464
Shipbd inter range cmbt sys (SIRCS)	3,894	3,894	----------	3,894
Adv submarine sonar development	9,199	14,199	24,199	24,199
Surface effect ships	43,949	6,000	43,949	43,949
Ship development (adv)	24,822	24,822	53,922	38,422
Hydrofoil craft	2,132	500	1,500	500
Landing vehicle assault	9,164	5,000	9,164	9,164
Command and control systems (adv)	6,707	617	6,617	3,617
Tact abn sig exploit sys	15,795	----------	15,795	----------
Adv self-protective sys	5,175	----------	5,175	2,588
F–14 engine program	----------	34,800	26,000	34,800
Combat sys engr dev site (CSEDS)	42,501	42,501	35,501	35,501
Hi-speed armament (HARM)	29,738	15,000	29,738	29,738
Ship development (ENG)	51,889	65,500	34,389	43,889
CSGN development	16,144	16,144	29,944	29,944

The following report language was also agreed to by the conferees:

High Speed Anti-Radiation Missile (HARM)

The managers agreed to provide $29,738,000 for the HARM program as proposed by the Senate instead of $15,000,000 as proposed by the House. The funds provided are for the development of a HARM missile with expanded capability in such a manner that the Initial Operating Capability remains essentially the same as the base line HARM program. The managers further agreed that a reprogramming request will be considered if additional funds are required.

Materials Technology Program

The managers agreed that a minimum of $4,000,000 be dedicated to the strategic missile materials project.

Ship Development (Advanced)

The managers agreed that none of the funds in the Ship Development (Advanced) program be used for designing the Landing Craft Air Cushion (LCAC). The funds budgeted for the LCAC should be used for other requirements.

Nansen Drift Project

The managers agreed that no funds be used for the Nansen Drift project.

Extremely Low Frequency Communications System (SEAFARER)

The managers agreed to provide $15,000,000 for the Extremely Low Frequency Communications System (SEAFARER) instead of no funds as proposed by the House and $20,141,000 as proposed by the Senate. The amount provided is sufficient to continue operation of the present experimental system. It will also enable the Navy to proceed with studies on possible effects of the system on humans and the environment and with equipment development.

This agreement was reached following the receipt of a letter from the President of the United States, dated Juyl 29, 1977, which said in part:

"I also would like to assure you that none of the $20.1 million SEAFARER funding now under consideration in FY 78 will be used for work on a site in Michigan. These funds will, if approved, be used for equipment development which is independent of ultimate site location, and for continued operation of the Wisconsin Test Facility and related research and development efforts.

"Finally, I want you to know that if we do decide to request funds for deployment of any sort of SEAFARER systems in Michigan, I will be reviewing this issue personally."

Based upon these assurances, the conferees have agreed to provide $15,000,000 in FY 1978 for SEAFARER.

Research, development, test, and evaluation, Air Force

Amendment No. 48: Appropriates $3,917,766,000 instead of $3,954,218,000 as proposed

by the Senate and $3,856,618,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Program	Budget request	House amount	Senate amount	Conference amount
Aerospace flight dynamics	46,960	43,960	46,960	43,960
ACFT avionics equipment development	7,500	7,500	3,800	3,800
Strategic bomber penetration	26,500	32,000	39,600	39,600
Advance space applications program	3,100	3,100	2,600	2,600
B-52 squadrons	10,800	5,400	8,800	8,800
SRAM (AGM-69)	12,200	36,400	12,200	12,200
SAC communications	18,800	----------	18,800	----------
Adv aerial target tech	7,500	5,600	7,500	5,600
Adv medium STOL trans (AMST)	25,000	7,500	10,000	10,000
Ground launched cruise missile—GLCM	27,900	14,000	27,900	18,728
Air warning and control system (AWACS)	117,600	97,600	100,000	100,000
NATO AEW C acft	15,700	----------	15,700	15,700
F-15 squadrons	28,100	60,800	28,100	60,800
Tactical AGM missiles	2,300	----------	2,300	2,300
Classified program	----------	24,100	24,600	24,100
Space communications	14,200	14,200	23,200	14,200
Def satellite comm sys	60,600	----------	60,600	60,600
General reduction—Intelligence	----------	−11,700	----------	−24,500
General reduction—Intelligence related	----------	−4,900	----------	−2,280
Air Force project RAND	9,800	9,000	9,500	9,500

The following report language was also agreed to by the conferees:

NATO AWACS Program

The conference agreement includes $15,700,000 for the NATO AWACS program as proposed by the Senate instead of no funds as proposed by the House. The funds provided may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the U.S.) enters into a contract to purchase AWACS aircraft; and the funds may not be reprcgrammed. The managers recommend that U.S. participation in development of NATO required enhancements to AWACS be undertaken only if NATO agrees to pay the research and development surcharge on prior year RDT&E expenditures.

Air Force Project RAND

The conference agreement includes $9,500,000 for Air Force Project RAND as propcsed by the Senate instead of $9,000,000 as proposed by the House. The managers agreed that none of the funds provided be used for logistics studies.

Strategic Air Command Communications System (SATIN IV)

The managers agreed to delete the $18,800,000 requested for continued development of the Strategic Air Command Communications System (SATIN IV) as proposed by the House. This action will result in cancellation of the SATIN IV program. The conferees agreed that a valid need exists for an improved system, but not a system as expensive and elaborate as SATIN IV. The Air Force is encouraged to restudy its need and resubmit to the Congress a less elaborate and less expensive system with greater utilization of standardized equipment and non-dedicated circuits.

Defense Satellite Communications System (DSCS III)

The managers agreed to provide $60,600,000 for the Defense Satellite Communications System III (DSCS III) program as proposed by the Senate instead of no funds as proposed by the House. The managers further agreed that the Department of Defense should institute some type of user charge system for DSCS III. This user charge system should be designed to ensure that user will be aware of the true costs of satellite communications services and will only use such services as are truly required. Future budget submissions should include specific details concerning how this user charge system will operate.

Research and Development Functions Funded in Air Force Operation and Maintenance Appropriation

The House report addressed a number of individual defense programs under the above heading. For some programs, transfers were made to the RDT&E appropriation; for other programs, no transfer was made but direction was given that RDT&E funds should be expended if available from within the total funding provided for RDT&E. The Senate agreed with the House action on these programs. Thus, in a strict technical sense, none of the items is in conference.

The Air Force expressed some concern that the language in the House report with respect to interim contractor support for the F-16 aircraft is not clear. The House directed that maintenance support of the F-16 system should be accomplished by military personnel and civilian employees of the Department of the Air Force to the maximum extent possible. The conferees interpose no objection to the use of RDT&E funds to train contractor personnel to provide interim test support for this weapon system during fiscal year 1978, if the Air Force believes such training is required to insure deployment of this aircraft on the approved schedule. The F-16 does not become operational until fiscal year 1979. The conferees continue to believe that intermediate level maintenance of weapons systems is a military function. The Air Force will take the necessary steps to insure that the F-16 system is fully maintainable at base level by military personnel at the earliest possible date.

Research, development, test, and evaluation, Defense agencies

Amendment No. 49: Appropriates $745,278,000 as proposed by the Senate instead of $728,468,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Program	Budget request	House amount	Senate amount	Conference amount
Tactical technology	69,600	69,600	80,600	80,600
General reduction	----------	−16,300	−6,300	−10,231
Intelligence increase	----------	5,585	1,395	5,326

Others Matters Related to Title V

The Senate report emphasized that the Department of Defense should adhere to OMB Circular A-109, and future funding of new programs will be contingent on compliance. The House managers agreed with the Senate language.

The Senate report stated that original program cost estimates have not included major components of the total system or enhancements have been developed in other programs and not included in the total cost estimate. The House report also questioned the validity of program cost estimates and the recurring changes in the estimates without any justification material is requested in future budgets. The managers agreed with both the House and Senate report language on cost estimates.

TITLE VIII—GENERAL PROVISIONS

Amendment No. 50: Provides a limitation on the Overseas Dependents Education Program of $266,750,000 instead of $268,500,000 as proposed by the House and $265,000,000 as proposed by the Senate.

The Conference Committee reemphasizes the previous position of the Congress regarding the administration of the Overseas Dependents Education Program as stated in the conference report on the Department of Defense Appropriation for fiscal year 1976 (House Report 94-710). That report directed the immediate discontinuance of the geographical manager concept and the placing of the full responsibility for the management of the program in the Office of the Secretary of Defense so that there would be only one educational program for the dependents of military personnel overseas rather than the three then in existence.

The conferees are of the opinion that the Secretary of Defense should be held solely responsible for the administration of this program for the betterment of the educational opportunities of the minor dependents of our military and civilian personnel serving overseas and there should be no interference in the administration of the program by the military Departments or other organizations of the Department of Defense.

Amendment No. 51: The House included a new provision allowing for the importation of specialty metals produced outside the United States when necessary to comply with certain agreements with foreign countries to make offsetting purchases for military equipment being sold to such countries, or when necessary to further the standardization and interoperability of equipment requirements within NATO. The Senate accepted the House provision but inserted an amendment which requires that such sale agreements comply with the requirements of section 36 of the Arms Export Control Act and, where applicable, with the Defense Appropriation Authorization Act of 1976. The conferees agreed that such sale agreements should comply where applicable to both provisions of law rather than just the Defense Appropriation Authorization Act as provided by the Senate.

Amendment No. 52: The conferees agreed to delete language proposed by the Senate which would have allowed for the set-aside of Defense contracts to labor surplus areas.

Amendment No. 53: Provides for a limitation of $6,900,000 for legislative liaison activities of the Department instead of $7,000,000 as proposed by the House and $6,800,000 as proposed by the Senate.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SEC. 836. (a) The Secretary of Defense shall require all prime contractors receiving contract awards of $500,000 or more from the Department of Defense to file a report with the Secretary at the end of the year showing the amount of Department of Defense work (in terms of dollars) each such contractor had performed by subcontractors during such year and to identify the State or States in which each subcontractor performed the work subcontracted to it.

(b) The Secretary of Defense shall submit a report annually to the Congress showing, on a State-by-State basis, the total amount of Department of Defense funds paid to subcontractors, during the year for which the report is submitted, by the prime contractors described in subsection (a).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment requires reports for contractors who have contracts in excess of $500,000, instead of $10,000 as proposed by the Senate.

Amendment Nos. 55 through 62: Adjust section numbers.

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: "changes; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the seventy-fifth percentile of

the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist, as appropriate, except as authorized by section 1079(a)(4) of Title 10, United States Code.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate included report language which permitted payments under the CHAMPUS program for certain services such as, "biofeedback" treatment, psychiatric nursing services, and nurse-midwives procedures. The conferees agreed that psychiatric nursing and nurse-midwife services are permissible reimbursements when provided in conformance with the limitations of subsection "g". However, no payments may be made for "biofeedback" treatment.

The Senate report also directed a moratorium on the use of the present request for proposal (RFP) for contract services to process CHAMPUS claims. The conferees agree that the use of the RFP should be continued as previously planned by DOD.

Amendment No. 64: The House receded to the Senate amendment which deleted the prohibition of construction of new Army ammunition plant facilities except in areas in which existing facilities were being closed, placed in layaway, or at which production was being curtailed.

Amendment No. 65: The Senate receded on its amendment which would have reduced the number of enlisted aides from 300 to 150.

Amendment No. 66: Provides a limitation of $25,000,000 on Public Affairs activities of the Department instead of $28,000,000 as proposed by the House and $24,000,000 as proposed by the Senate.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

"SEC. 852. (a) None of the funds appropriated by this Act may be used to (1) convert base operating support functions, excluding real property maintenance and repair, to commercial contract during the period October 1, 1977, through September 30, 1978, or (2) to fund continued performance during fiscal year 1978 of base operating support contracts, excluding real property maintenance and repair, awarded between the date of enactment of this Act and September 30, 1977, which covert base operating support activities performed by employees of the Government of the United States to commercial contract.

(b) None of the funds appropriated by this Act may be obligated for commercial contracts to be physically performed at an installation or facility including leased facilities for the following types of work: (1) weapons system engineering and logistical support; (2) ship, aircraft, missile, automotive and tracked vehicle intermediate level maintenance or depot maintenance; or (3) research, development, test, and evaluation, if the work to be physically performed at an installation or facility during fiscal year 1978 by commercial contracts would result in a reduction of employees of the Government of the United States at that installation or facility."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The House bill contained a general provision which limited funds available for contracting out. The Senate bill contained no similar provision.

The conferees adopted subsection (a) of the House proposal without change. This subsection addresses conversion of base operating support functions to contract.

The conferees accepted the House proposal for subsection (b) with a modification. Subsection (b) covers weapons system engineering and logistical support, intermediate and depot level maintenance and Research, Development, Test, and Evaluation.

Under the modification, new support contracts may be entered into provided that such contracts are not a result of, or would cause, reductions of employees of the Government. The modification will insure that the current employment level of civil servants is protected and that contracting out will not result in a reduction of current staff. However, at the same time the Department of Defense shall be able to place on contract additional work in weapon systems support, logistics and maintenance management systems, and general Research, Development, Test, and Evaluation projects.

The original House version required that, if additional work in these areas was placed on contract, the percentage of such work done by Government employees could not be reduced.

The conferees further agreed that the provisions of this section do not apply in any way to ongoing contracts associated with the operations cited.

Amendment Nos. 68 and 69: The Senate receded from these amendments which restore the House section numbers.

Amendment No. 70: The House receded to the Senate amendment which provides that the transfers of funds under CHAMPUS are in addition to that transfer authority provided in Section 833.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SEC. 855. Effective October 1, 1977, no appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1977, enrolled less than (a) seventeen students where the institution prescribes a four year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*. That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendments made by the conferees to this section provide for the exclusion of state-operated maritime academies and clarify the treatment of ROTC units which are a part of a consortium agreement. The House report indicated that detachments participating in consortium (cooperative agreements) should be considered as a single unit for purposes of counting enrollments. The new provision eliminates all doubt on this aspect. The conferees believed that it was necessary to exclude state-operated maritime academies for at least one year because previous attempts by the Navy to terminate their ROTC detachments have resulted in reduced enrollments.

Amendment No. 72: The Senate receded from its amendment which restores the House section number.

Amendment No. 73: The House provided a limitation on the obligation of funds provided the Central Intelligence Agency to specific times certain. The Senate deleted this limitation. The conferees agreed that funds appropriated in this Act for the Central Intelligence Agency are available for obligation only during fiscal year 1978.

Amendment No. 74: The House agreed to the Senate amendment with an amendment changing the section number.

Amendment No. 75: The conferees agreed to restore House language stricken by the Senate which prohibits the transfer of certain funds into the Reserve for Contingencies of the Central Intelligence Agency with an amendment changing the section number.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

SEC. 860. The appropriation, "Shipbuilding and Conversion, Navy", which would expire for obligation on September 30, 1977, shall remain available for obligation until September 30, 1979.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate provision extends the availability of fiscal year 1973 shipbuilding funds another two years, until September 30, 1979. Most of the funds involved are for changes and other new scope of work for six SSN-688 class submarines. The conferees direct the Navy to provide the Appropriations Committees with the unobligated balances in this account on September 30, 1977, and to notify the Committees thereafter as those unobligated balances are obligated as well as the purpose of each obligation. This provision is not to be considered as precedent-setting, but a one-time expedient to solve a unique funding problem.

Amendment No. 77: The House agreed to the Senate amendment deleting a provision which prohibited the use of appropriated funds to plan or execute assassination plots of officials of any foreign government not at war with the United States. The provision was considered to be unnecessary since assassinations are already prohibited by law and by Executive Order.

Amendment No. 78: The conferees agreed to delete a provision proposed by the Senate which prohibited the use of appropriated funds for the direct procurement of transportation for the shipment of military exchange goods overseas.

Amendment No. 79: The Senate bill included a general provision prohibiting the assignment of more than 581 military personnel to all nonappropriated fund activities. The House had no similar provision in its bill.

The conferees noted that DOD presently has assigned nearly 12,000 military personnel on a full time basis to these activities, and 2,800 on a part time basis. The cost of the military personnel is estimated to be $137 million in fiscal year 1978.

The conferees also noted that the Senate had directed that the military personnel spaces be reassigned to military duties in combat functions in order to relieve partially the undermanning of combat positions that is programmed to exceed 70,000 spaces in the 1976 budget.

The conferees agreed to the Senate's general provision in this matter, with a modification that not more than 10,201 full-time and 2,603 part-time military personnel may be used in these activities. This is a reduction of 1,750 full-time and 250 part-time military personnel. The Services are to be permitted to replace military personnel with nonappropriated fund civilians to the extent that is deemed necessary by the Services.

The conferees further direct that DOD revise Directive Number 1315.10, "Assignment of Appropriated Funded Personnel to Morale, Welfare and Recreation Activities",

within 90 days of enactment of the bill. The revised directive is to emphasize the maximum use of nonappropriated fund civilians instead of military personnel, except where military personnel are demonstrably needed.

The conferees further direct DOD to reissue Directive No. 1330.2, "Funding of Morale, Welfare and Recreation Facilities", within 90 days to clearly stipulate policy regarding the use of appropriated fund support to nonappropriated fund activities. The new directive is to reflect the commitments DOD has made to the Congress and the GAO.

Amendment No. 80: The conferees agreed to delete a Senate amendment which prohibited the use of appropriated funds for the support of certain Air Force ADP projects. This matter is addressed in detail as part of Amendment No. 17.

Amendment No. 81: The conferees agreed to delete a Senate amendment which would have precluded increasing the unit equippage (u.e.) of individual Air National Guard squadrons assigned A–7 aircraft. The House had directed in its report that the u.e. of A–7 squadrons be increased from 18 to 24 aircraft prior to converting any additional squadrons to the A–7. The conferees further agreed not to preclude the conversion of a squadron to the A–7 aircraft in fiscal year 1978, but that priority should be given to increasing the u.e. of present squadrons prior to converting squadrons currently operating aircraft other than the A–7. The conferees believe that a reasonable attempt should be made to increase the u.e. of as many squadrons as possible assuming the locations concerned have an adequate population base from which to obtain the additional pilots and any other personnel required.

TITLE IX

Related agencies

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

Office of Federal Procurement Policy

For expenses of the Office of Federal Procurement Policy, $1,000,000: *Provided*, That upon enactment of this Act, this amount shall be transferred to and merged with appropriations provided under the same head in the Treasury, Postal Service and General Government Appropriations Act, 1978.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $1,000,000 for the Federal Procurement Institute, instead of $2,000,000 as proposed by the Senate and no funds as proposed by the House.

Intelligence and Intelligence Related Activities

The conferees have agreed to reductions of $222,038,000 for intelligence and intelligence related activities instead of reductions of $422,216,000 as proposed by the House and reductions of $158,764,000 as proposed by the Senate. The reductions are spread throughout various appropriations and are explained in a classified annex to this report.

Consolidated Telecommunications and Command Control Programs

For consolidated Telecommunications and Command Control Programs, which are also funded in many appropriations, the conferees have agreed to reductions of $156,199,000 instead of reductions of $299,055,000 as proposed by the House and reductions of $62,258,000 as proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference with comparisons to the fiscal year 1977 amount, the 1978 budget estimates, and the House and Senate bills for 1978 follow:

New budget (obligational) authority, fiscal year 1977	$105,106,325,000
Transfer from other accounts, fiscal year 1977	(82,600,000)
Total funding available, 1977	105,188,925,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1978	113,877,280,000
House bill, new (obligational) authority, fiscal year 1978	110,082,308,000
Transfer from other accounts	(245,900,000)
Total funding available, 1978	110,328,208,000
Senate bill, new (obligational) authority, fiscal year 1978	109,805,080,000
Transfer from other accounts	(258,500,000)
Total funding available, 1978	110,063,580,000
Conference agreement, new (obligational) authority, fiscal year 1978	[1] 111,184,166,000
Transfer from other accounts	(258,500,000)
Total funding available, 1978	111,442,666,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+6,077,841,000
Transfer from other accounts	(+175,900,000)
Total funding available, 1977	+6,253,741,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1978	−2,693,114,000
Transfer from other accounts	(+258,500,000)
Total funding available, 1978	−2,434,614,000
House bill, new (obligational) authority, fiscal year 1978	+1,101,858,000
Transfer from other accounts	(+12,600,000)
Total funding available, 1978	+1,114,458,000
Senate bill, new (obligational) authority, fiscal year 1978	+1,379,086,000
Transfer from other accounts	(----------)
Total funding available, 1978	+1,379,086,000

[1] Includes $1,431,400,000 reported in disagreement by the Committee of Conference.

GEORGE H. MAHON,
ROBERT L. F. SIKES,
DANIEL J. FLOOD,
JOSEPH P. ADDABBO
(except as to amendments 17, 39, 41, 42, 52, 77, and 79),
JOHN J. MCFALL,
JOHN J. FLYNT, Jr.,
ROBERT N. GIAIMO
(except as to amendments 5, 7, 8, 9, 10, 17, 37, 39, 41, 77, and 79),
BILL CHAPPELL, Jr.,
BILL D. BURLISON,
JACK EDWARDS,
J. K. ROBINSON,
JACK KEMP,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
JOHN C. STENNIS,
WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
JAMES R. SASSER,
MILTON R. YOUNG,
CLIFFORD P. CASE,
TED STEVENS,
RICHARD S. SCHWEIKER
(except for amendment 42),
EDWARD W. BROOKE,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ZABLOCKI, today, for 10 minutes.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to revise and extend their remarks and include extraneous matter:)

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. FISH, for 20 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. WHALEN, for 15 minutes, today.

Mr. JEFFORDS, for 10 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. DORNAN, for 60 minutes, today.

Mr. RUDD, for 30 minutes, today.

Mrs. FENWICK, for 5 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

Mr. BURGENER, for 5 minutes, today.

(The following Members (at the request of Mr. PANETTA), to revise and extend their remarks, and to include extraneous matter to:)

Mr. FLOOD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. SOLARZ, for 5 minutes, today.

Mr. SCHEUER, for 5 minutes, today.

Ms. HOLTZMAN, for 30 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. MOSS, for 10 minutes, today.

Mr. MCKAY, for 5 minutes, today.

Mr. NEDZI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of Ohio, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the

Record and is estimated by the Public Printer to cost $966.

Mr. SYMMS, immediately preceding the vote on the Howard amendment on H.R. 8444 in the Committee of the Whole today.

Mr. ZABLOCKI, in two instances, and to include extraneous matter.

Mr. BAUCUS, to insert remarks immediately preceding vote on aviation fuel tax amendment on H.R. 8444.

(The following Members (at the request of Mr. EDWARDS of Oklahoma), and to include extraneous matter:)

Mr. BROWN of Ohio.
Mr. SARASIN.
Mr. STEERS in three instances.
Mr. SHUSTER in two instances.
Mr. COHEN.
Mr. DERWINSKI in three instances.
Mr. RAILSBACK.
Mr. BROWN of Michigan.
Mr. ASHBROOK in two instances.
Mr. HANSEN in 10 instances.
Mr. GILMAN in three instances.
Mr. COLLINS of Texas in three instances.
Mr. LENT.
Mr. LAGOMARSINO.
Mr. WHALEN.
Mr. DORNAN.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. CARNEY.
Mr. MILLER of California.
Mr. GAYDOS.
Mrs. SCHROEDER.
Mr. CORNWELL.
Mr. RODINO.
Mr. ECKHARDT.
Mr. MAZZOLI.
Mr. ALLEN.
Mr. MURTHA in three instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. VANIK in two instances.
Mr. BLOUIN in two instances.
Mr. WRIGHT in two instances.
Mr. MCKAY.
Mr. MURPHY of New York.
Mr. ULLMAN.
Mr. FLORIO.
Mr. EILBERG.
Mr. HARRIS.
Mr. PATTISON of New York.
Mr. EDGAR in two instances.
Mr. JACOBS.
Mr. ROE in two instances.
Mr. KOCH in three instances.
Mr. DE LA GARZA in five instances.
Mr. MOAKLEY in two instances.
Mr. BROOKS in two instances.
Mr. TEAGUE.
Mr. BLANCHARD.
Mr. DANIELSON in five instances.
Mr. REUSS.
Mr. SISK.
Mr. BENJAMIN.
Mr. MCDONALD in five instances.
Mr. GINN.
Mr. BRADEMAS in six instances.
Mr. MOSS.
Mr. DRINAN.
Mr. JONES of Oklahoma.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 896. An act to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program; to the Committee on Agriculture;

S. 911. An act for the relief of Mee Hwa Hong; to the Committee on the Judiciary.

S. 1614. An act to establish the Western States conservation program; to the Committee on Agriculture; and

S.J. Res. 71. Joint resolution to authorize and request the President to issue a proclamation designating September 1977 as "National Sickle Cell Month"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1235. An act to authorize appropriations for the Peace Corps for fiscal year 1978;

S. 1765. An act for the relief of the Federal Life & Casualty Co. of Battle Creek, Mich.; and

S. 2001. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and other purposes.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6689. An act to authorize fiscal year 1978 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, and for other purposes.

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 4 minutes p.m.) under its previous order, the House adjourned until tomorrow, Friday, August 5, 1977, at 9 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2077. A communication from the President of the United States, transmitting a budget amendment for fiscal year 1978 for the legislative branch and proposed supplemental appropriations for fiscal year 1978 for the Environmental Protection Agency and the Department of Health, Education, and Welfare (H. Doc. No. 95-203); to the Committee on Appropriations and ordered to be printed.

2078. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the quarter ended March 31, 1977, pursuant to Public Law 90-390; to the Committee on Banking, Finance and Urban Affairs.

2079. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the Department of Labor's high school equivalency program and college assistance migrant program, pursuant to section 521 of Public Law 94-482; to the Committee on Education and Labor.

2080. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations for the public service education progam, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2081. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 77-17, finding that the sale of defense articles and services to Egypt will strengthen the security of the United States and promote world peace, pursuant to section 3(a)(1) of the Arms Export Control Act; to the Committee on International Relations.

2082. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Andrew Ivy Killgore and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2083. A letter from the Assistant Secretary of State for Economic and Business Affairs, transmitting a report on the administration of export control measures undertaken by COCOM countries as of February 1, 1977, pursuant to section 302(b) of the Mutual Defense Assistance Control Act of 1951 (Battle Act); to the Committee on International Relations.

2084. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Switzerland (Transmittal No. 77-51 (a) and (b)), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2085. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 77-54), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2086. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Korea (Transmittal No. 77-55), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2087. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Spain (Transmittal No. 77-56), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2088. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 77-57), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2089. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Greece (Transmittal No. 77-58), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2090. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Korea (Transmittal No. 77-59), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2091. A letter from the Acting Director, Defense Security Assistance Agency, trans-

mitting notice of the Army's intention to offer to sell certain defense equipment and services to Israel (Transmittal No. 77–60), pursuant to section 36(b) of Arms Export Control Act; to the Committee on International Relations.

2092. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 77–61), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2093. A letter from the Chairman, Federal Power Commission, transmitting the Commission's annual report for fiscal year 1976 and the transition quarter; to the Committee on Interstate and Foreign Commerce.

2094. A letter from the Acting Secretary, Interstate Commerce Commission, transmitting a report on the Commission's determination to extend the time period for acting upon the appeal pending in Investigation and Suspension docket No. 9052 (Sub-No. 1), *Corn and Sorghum Grain, New Mexico and Texas to Texas Ports*, pursuant to section 17(9)(f) of the Interstate Commerce Act, as amended (90 Stat. 49); to the Committee on Interstate and Foreign Commerce.

2095. A letter from the Inspector General, Department of Health, Education, and Welfare, transmitting the first quarterly report on the activities of his office, covering the period ended June 30, 1977, pursuant to section 204(b) of Public Law 94–505; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

2096. A letter from the Comptroller General of the United States, transmitting a report on problems encountered by the Army in reorganizing its force structure to add three new combat divisions (LCD–76–454, August 4, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2097. A letter from the Comptroller General of the United States, transmitting a report on an overall policy to guide the development of Federal retirement systems (FPCD–77–48, Aug. 3, 1977); jointly, to the Committees on Government Operations, Armed Services, and Post Office and Civil Service.

2098. A letter from the Comptroller General of the United States, transmitting a report on the Federal Financing Bank and its borrowing relationship with the Treasury (PAD–77–70, Aug. 3, 1977); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee of conference. Conference report on H.R. 7933 (Rept. No. 95–565). Ordered to be printed.

Mr. CHARLES H. WILSON of California: Committee on Post Office and Civil Service. H.R. 7132. A bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; with amendment (Rept. No. 95–567). Referred to the Committee of the Whole House on the State of the Union.

Mr. CHARLES H. WILSON of California: Committee on Post Office and Civil Service. House Concurrent Resolution 277. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service (Rept. No. 95–568). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8655. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95–569). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2719. A bill to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands; with amendment (Rept. No. 95–570). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 738. Resolution providing for the consideration of H.R. 5383. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age (Rept. No. 95–571). Referred to the House Calendar.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 8065. A bill to provide for a program of projects to promote economic stability by increasing productivity through the better use of human resources in employment, to encourage the development of worker and management capabilities and to improve job security in order to enhance the well-being of workers and the quality of work life (Rept. No. 95–572, Pt. I). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. NICHOLS: Committee on Armed Services. H.R. 5503. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes (Rept. No. 95–566, Pt. I). Referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93–344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mrs. SPELLMAN, Mr. VENTO, Mr. ST GERMAIN, Mr. MINISH, and Mr. FAUNTROY).

H.R. 8753. A bill to amend the Consumer Credit Protection Act to safeguard consumers in the utilization of electronic funds transfer services; and to protect consumers in the utilization of credit cards; and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRODHEAD (for himself, Mr. AKAKA, Mr. CORRADA, Mr. DRINAN, Mr. MOAKLEY, Mr. BURKE of Massachusetts, Mr. EILBERG, Ms. HOLTZMAN, Mr. COTTER, Mr. MURPHY OF Pennsylvania, Mr. HARRINGTON, Mr. SCHEUER, Mr. ROSENTHAL, Mr. MITCHELL of New York, Mr. BINGHAM, Mr. ADDABBO, Mr. DELANEY, Mr. BADILLO, Mr. TSONGAS, Mr. PATTISON of New York, Mr. RICHMOND, Mr. RANGEL, and Mr. MARKEY):

H.R. 8754. A bill to provide for reimbursement to States experiencing high rates of insured unemployment; to the Committee on Ways and Means.

By Mr. COTTER (for himself, Mr. ROSTENKOWSKI, and Mr. VANDER JAGT):

H.R. 8755. A bill to make specific provisions for ball or roller bearing pillow block, flange, takeup, cartridge, and hanger units in the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 8756. A bill to amend the Ports and Waterways Safety Act of 1972 to provide for the award of grants to port authorities in the United States to enable such authorities to protect public ports and land areas adjacent to such ports from fires and other accidents or casualties occurring in such ports, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FASCELL (for himself, Mr. ROSE, Mr. CORCORAN of Illinois, Mr. GAYDOS, Mr. BLOUIN, Mr. BONKER, Mr. BAUCUS, Mr. HEFNER, Mr. JENRETTE, Mr. MANN, Mr. PERKINS, Mr. EDWARDS of Oklahoma, Mr. GUDGER, Mr. MINETA, Mr. PATTISON of New York, Ms. MIKULSKI, Mr. JEFFORDS, Mr. CARNEY, Mr. SEIBERLING, and Mr. CORNELL):

H.R. 8757. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Government Operations.

Mr. GOODLING:

H.R. 8758. A bill for the relief of the Shippensburg Public Library, the Ousterhout Library, the West Pittston Library, the West Shore Public Library, the Milton Public Library, and the Himmelreich Library, and certain units of local government; to the Committee on the Judiciary.

By Mr. GOODLING (for himself, Mr. SAWYER, and Mrs. FENWICK):

H.R. 8759. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mr. CHARLES H. WILSON of California, Mr. DERRICK, Mr. EMERY, Mr. FLOOD, Mr. HARRINGTON, Mr. HUBBARD, Mr. NOLAN, Mr. OTTINGER, Mrs. SMITH of Nebraska, and Mr. VENTO):

H.R. 8760. A bill to amend title 39, United States Code, to establish congressional review of postal rate decisions, to increase congressional oversight of the U.S. Postal Service, to abolish the Board of Governors of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McCLOSKEY:

H.R. 8761. A bill to amend the Merchant Marine Act, 1920, in order to provide that the coastwise laws shall extend to the Virgin Islands with respect to the transportation of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Merchant Marine and Fisheries.

By Mr. McHUGH:

H.R. 8762. A bill to amend section 1114 of title 18, United States Code, to provide for protection of airport police officers of the Federal Aviation Administration; to the Committee on the Judiciary.

By Mr. MILFORD:

H.R. 8763. A bill to improve the operational weather programs of the National Oceanic and Atmospheric Administration, to affirm the Federal responsibility for the provision of effective weather and related services, to assure to the maximum possible extent that all available Federal resources are utilized in a coordinated manner for weather-related research, development, and technology, and for other purposes; to the Committee on Science and Technology.

By Mr. MONTGOMERY (for himself and Mr. LOTT):

H.R. 8764. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. KILDEE, and Mr. ANDERSON of California):

H.R. 8765. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs, films, or electronic visual images depicting such exploitation; to the Committee on Education and Labor.

By Mr. ROSE (for himself, Mr. BALDUS, Mr. CAVANAUGH, Mr. SIMON, Mr. BUTLER, Mr. PREYER, Mr. MATTOX, Mr. MCCLORY, Mr. WINN, Mrs. HECKLER, Mr. CARR, Mr. NEAL, Mr. FISH, Mr. DOWNEY, Mr. MINETA, Mr. JENRETTE, Mr. AUCOIN, Mr. BAUCUS, Mr. COUGHLIN, Mr. WIRTH, Mr. STEERS, Mr. BENJAMIN, Mr. STOCKMAN, Mr. PATTISON of New York, and Mr. GILMAN):

H.R. 8766. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Commitee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 8767. A bill to amend the Federal Deposit Insurance Act (12 U.S.C. 1811–31b), and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 8768. A bill to amend title XVIII of the Social Security Act for the purpose of providing medicare payments for ambulance service to a physician's office if such office is the nearest facility equipped to handle the emergency; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SHUSTER:

H.R. 8769. A bill for the relief of the Shippensburg Public Library, the Ousterhout Library, the West Pittston Library, the West Shore Public Library, the Milton Public Library, and the Himmelreich Library, and certain units of local government; to the Committee on the Judiciary.

H.R. 8770. A bill to provide for a national highway safety campaign to vigorously promote the cause of highway safety through the use of mass media, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN (for herself, Mr. HEFTEL, Mr. FORD of Michigan, Mr. HARRIS, Mr. HOWARD, Mr. LEACH, and Mr. ROUSSELOT):

H.R. 8771. A bill to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the Civil Service Retirement System, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SNYDER:

H.R. 8772. A bill to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 8773. A bill to amend section 321(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1321(a)), to simplify customs procedures, and for other purposes; to the Committee on Ways and Means.

By Mr. STEERS:

H.R. 8774. A bill to amend the Fair Packaging and Labeling Act to require retail sales agencies and instrumentalities to disclose unit retail prices of consumer commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT:

H.R. 8775. A bill to amend title IV of the Social Security Act to provide that payments made under the aid to families with dependent children program may be reduced in the case of a dependent child who lives in a home in which a relative not eligible for aid under such title is also residing; to the Committee on Ways and Means.

By Mr. ZEFERETTI (for himself, Mr. ADDABBO, Mr. CLEVELAND, Mr. DAN DANIEL, Mr. DORNAN, Mr. FASCELL, Mr. GILMAN, Mr. GUYER, Mr. HORTON, Mr. HOWARD, Mr. KINDNESS, Mr. LAFALCE, Mr. LENT, Mr. LOTT, Mr. MONTGOMERY, Mr. MURPHY of New York, Mr. NEDZI, Mr. RUDD, Mr. STRATTON, and Mr. CHARLES WILSON of Texas):

H.R. 8776. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. officers and employees routinely assigned to perform investigative, inspection, or law enforcement functions, and for other purposes; to the Committee on the Judiciary.

By Mr. APPLEGATE (for himself, Mr. MILLER of Ohio, Mr. HARSHA, Mr. CARNEY, Mr. RICHMOND, Mr. JENKINS, Mr. FLIPPO, Mr. EDWARDS of Alabama, Mr. BEVILL, Mr. BUCHANAN, Mr. PERKINS, Mr. CARTER, Mr. WALGREN, Mr. MURPHY of Pennsylvania, Mr. GUDGER, Mr. HEFNER, Mr. NEAL, Mr. HANLEY, and Mr. BOWEN):

H.R. 8777. A bill to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. ASHBROOK:

H.R. 8778. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation; to the Committee on the Judiciary.

By Mr. BADILLO:

H.R. 8779. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished in kind to an eligible individual living in another person's household shall not serve to reduce such individual's SSI benefits and shall be disregarded in determining such individual's income for benefit purposes; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 8780. A bill to amend chapter 35 of title 44, United States Code, to require an annual justification for the continued use of any form used to solicit information from private persons and State and local government agencies; to the Committee on Government Operations.

By Mr. BEILENSON (for himself, Mr. ANDERSON of California, Mr. BADILLO, Mr. BINGHAM, Mr. BROWN of California, Mrs. BURKE of California, Mr. CORMAN, Mr. DELLUMS, Mr. DORNAN, Mr. EDWARDS of California, Mr. GOLDWATER, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HAWKINS, Ms. HOLTZMAN, and Mr. JEFFORDS):

H.R. 8781. A bill to establish the Channel Islands and Santa Monica Mountains National Park and Seashore in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BEILENSON (for himself, Mr. JOHNSON of California, Mr. KREBS, Mr. LEGGETT, Mr. LLOYD of California, Mr. MCCLOSKEY, Mr. MCFALL, Mr. MILLER of California, Mr. MOSS, Mr. PATTERSON of California, Mr. RODINO, Mr. ROYBAL, Mr. RYAN, Mr. SEIBERLING, Mr. SISK, Mr. VAN DEERLIN, and Mr. WAXMAN):

H.R. 8782. A bill to establish the Channel Islands and Santa Monica Mountains National Park and Seashore in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BLANCHARD (for himself and Mr. MINETA):

H.R. 8783. A bill to require authorizations of new budget authority for Government programs at least every 6 years, to provide for review of Government programs every 6 years, and for other purposes; to the Committee on Rules.

By Mr. FRASER (for himself, Ms. KEYS, Mr. AKAKA, Mr. AMMERMAN, Mr. BEARD of Rhode Island, Ms. COLLINS of Illinois, Ms. HOLTZMAN, Mr. NEAL, Mr. OTTINGER, Mrs. SPELLMAN, and Mr. STEERS):

H.R. 8784. A bill to amend title II of the Social Security Act to create portability in social security by permitting married couples to elect to combine their earnings in any year for benefit purposes, and to make other changes designed to foster the more equitable treatment of individuals and families under the social security program; to the Committee on Ways and Means.

By Mr. FUQUA (for himself, Mr. FREY, Mr. PEPPER, Mr. BADILLO, Mr. FASCELL, Mr. EILBERG, Mr. IRELAND, Mr. MCCORMACK, Mr. NIX, Mr. DRINAN, Mr. TREEN, Mr. SEBELIUS, and Mr. PATTISON of New York):

H.R. 8785. A bill to provide for fair and equitable compensation of professional employees in the performance of technical support service contracts; jointly, to the Committees on Armed Services, and Government Operations.

By Mr. HANSEN:

H.R. 8786. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the Secretary of Labor may conduct inspections at the workplace of an employer only after the issuance of a search warrant; to the Committee on Education and Labor.

By Ms. HOLTZMAN:

H.R. 8787. A bill to establish an additional procedure for the reacquisition of U.S. citizenship by former U.S. citizens; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. CARR, and Mr. BLANCHARD):

H.R. 8788. A bill to require a refund value for certain beverage containers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JEFFORDS (for himself, Mr. BRECKINRIDGE, Mr. NEAL, Mr. JENRETTE, Mr. FLORIO, and Mrs. HECKLER):

H.R. 8789. A bill to establish a national policy concerning agricultural land; to establish an Agricultural Land Review Commission; to establish a demonstration program for protecting agricultural land from being used for nonagricultural purposes; and for other purposes; to the Committee on Agriculture.

By Mr. MURPHY of New York:

H.R. 8790. A bill to amend the Canal Zone Code in order to establish procedures with respect to the disposition of land in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mrs. MEYNER (for herself, Mr. SOLARZ, Mr. ROSENTHAL, Mr. SIMON, Mr. SEIBERLING, and Mr. CONTE):

H.R. 8791. A bill to establish a Commission on Proposals for a National Academy of

Peace and Conflict Resolution; to the Committee on International Relations.

By Ms. OAKAR:

H.R. 8792. A bill to amend title IV of the National Housing Act to require an affirmative vote of the shareholders of an insured institution owning at least two-thirds of its voting stock or voting power before the Federal Home Loan Bank Board may approve the acquisition of control of the insured institution by any savings and loan holding company or any other company; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OTTINGER:

H.R. 8793. A bill to conserve the Nation's energy resources; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL:

H.R. 8794. A bill to establish an Office of Minority Economic Development within the Department of Energy; to the Committee on Government Operations.

By Mr. RICHMOND:

H.R. 8795. A bill to amend title II of the Social Security Act to provide that the marriage of a disabled individual receiving child's insurance benefits shall not operate to terminate his or her entitlement to such benefits if the marriage is to a civil service retirement or survivor annuitant, just as it would not terminate such entitlement if it were to another social security beneficiary; to the Committee on Ways and Means.

By Mr. RICHMOND (for himself, Mr. AMMERMAN, Mr. BEILENSON, Mr. COCHRAN of Mississippi, Mr. CORNWELL, Mr. FOWLER, Mr. HANLEY, Mr. HARKIN, Mr. HARRIS, Mr. HEFTEL, Mr. IRELAND, Mr. KILDEE, Mr. KOCH, Mr. LOTT, Mr. MAGUIRE, Mr. MINETA, Mr. MOFFETT, Mr. NIX, Mr. PANETTA, Mr. PRITCHARD, Mr. RYAN, Mrs. SPELLMAN, Mr. STRATTON, Mr. VAN DEERLIN, and Mr. WAXMAN):

H.R. 8796. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. ROBERTS (by request):

H.R. 8797. A bill to amend title 38, United States Code, so as to require that appointments as members of the Board of Veterans Appeals shall be limited to those who have had a period of active duty, of active duty for training, with the military, naval, or air services; to the Committee on Veterans' Affairs.

By Mr. RODINO (for himself, Mr. DANIELSON, Ms. JORDAN, Mr. MAZZOLI, Mr. HARRIS, Mr. KOCH, Mr. BAUCUS, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. DOWNEY, Mr. DRINAN, Mr. FLOOD, Mr. FORD of Tennessee, Mr. FRASER, Ms. HOLTZMAN, Mr. EDWARDS of California, Mr. LAFALCE, Mr. LEHMAN, Mr. SEIBERLING, and Mr. DODD):

H.R. 8798. A bill to amend chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act), to permit awards of reasonable attorneys' fees and other expenses for public participation in Federal agency proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 8799. A bill to provide refund of tax for repayment of supplemental unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. VANIK (for himself and Mr. OTTINGER):

H.R. 8800. A bill to reduce oil imports; to the Committee on Ways and Means.

By Mr. WALKER:

H.R. 8801. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 8802. A bill to amend the act of July 13. 1970, relating to the Tlingit and Haida Indian Tribes; to the Committee on Interior and Insular Affairs.

By Mr. BYRON (for himself, Mr. BINGHAM, Mr. PHILLIP BURTON, and Mr. SEIBERLING):

H.R. 8803. A bill to amend the National Trails System Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HEFTEL:

H.R. 8804. A bill to amend the Communications Act of 1934 to provide that the operation of pay television systems shall be licensed by the Federal Communications Commission; to the Committee on Interstate and Foreign Commerce.

H.R. 8805. A bill to amend the Communications Act of 1934 to provide that the operation of commercial television broadcasting networks shall be licensed by the Federal Communications Commission; to the Committee on Interstate and Foreign Commerce.

H.R. 8806. A bill to amend the Communications Act of 1934 to provide that the operation of commercial cable television systems shall be licensed by the Federal Communications Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.J. Res. 574. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears; to the Committee on International Relations.

By Mr. LAFALCE:

H.J. Res. 575. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN:

H. Con. Res. 328. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the Panama Canal Zone or any real property located therein; to the Committee on International Relations.

By Mr. SHUSTER (for himself, Mr. PATTERSON of California, Mr. GUDGER, Mr. NEDZI, Mr. CARR, Mr. DINGELL, Mr. SARASIN, and Mr. BRODHEAD):

H. Con. Res. 329. Concurrent resolution to disapprove Federal motor vehicle safety standard 208 transmitted June 30, 1977; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD (for himself, Mr. ABDNOR, Mr. CARNEY, Mr. FISH, Mr. GAYDOS, Mr. GUDGER, Mr. MCDONALD, Mr. MOORE, Mr. STANGELAND, and Mr. WATKINS):

H. Res. 739. Resolution insisting upon retention of undiluted U.S. sovereignty over the Canal Zone and the Panama Canal; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. CONABLE, Mr. MARTIN, Mr. STOCKMAN, Mr. BROYHILL, Mr. BROWN of Ohio, Mr. JACOBS, Ms. KEYS, Mr. WAGGONNER, Mr. DEVINE, and Mr. ROUSSELOT):

H. Res. 740. Resolution to express the sense of the House with respect to administrative policy changes by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H. Res. 741. Resolution expressing the concern of the House of Representatives with the inequitable administration of the Federal drought assistance program, and for other purposes; jointly to the Committees on Agriculture, and Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

239. By the SPEAKER. Memorial of the Legislature of the State of Michigan, relative to approval of the overland Arctic Gas project; to the Committee on Interstate and Foreign Commerce.

240. Also, memorial of the Legislature of the State of Michigan, relative to maintaining the flight inspection field office at Kellogg Airport, Battle Creek, Mich.; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 8807. A bill for the relief of Freda L. Costa; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 8808. A bill for the relief of Pranas Brazinskases; to the Committee on the Judiciary.

H.R. 8809. A bill for the relief of Algirdas Brazinskases; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 8810. A bill for the relief of Kim In Hung; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H. Res. 742. A resolution extending the best wishes of the House to the Benjamin Whitcomb Independent Corps of Rangers; to the Committee on Post Office and Civil Service.

PETITIONS, ETC.

Under clause 1 of rule XXII,

172. The SPEAKER presented a petition of Wayne E. Smith, China Lake, Calif., relative to a proposed amendment to the Constitution of the United States to increase the number of Representatives in Congress; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5383

By Mrs. SPELLMAN:

On page 5, strike out subsections (a) and (b) of section 5 of the amendment in the nature of a substitute recommended by the Committee on Education and Labor and insert in lieu thereof the following:

(a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "who are at least forty years of age" after "applicants for employment" and by inserting "personnel actions" after "except".

(b)(1) Section 3322 of title 5, United States Code, relating to limitations on appointments after age 70, is hereby repealed.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3322.

(c) Section 8335 of title 5, United States Code, is amended—

(1) by striking out subsections (a), (b), (c), (d), and (e) thereof;

(2) by redesignating subsections (f) and (g) as subsections (a) and (b), respectively; and

(3) by adding after subsection (b), as redesignated, the following:

"(c) An employee of the Alaska Railroad in Alaska and an employee who is a citizen of the United States employed on the Isth-

mus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes age 62 or completes 15 years of service in Alaska or on the Isthmus of Panama if then over that age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(d) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires.".

(d) Section 8339(d) of title 5, United States Code, is amended by striking out "section 8335(g)" and inserting in lieu thereof "section 8335(b)".

Redesignate subsection (c) of section 5 of the committee amendment as subsection (e).

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of July 28, 1977 (page 25584).

H.R. 3151. February 7, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3152. February 7, 1977. Ways and Means. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 3153. February 7, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; International Relations. Directs the Nuclear Regulatory Commission to cease the granting of licenses or construction authorizations for certain nuclear power plants pending the outcome of a comprehensive study of the Office of Technology Assessment with final reports and recommendations to be made to Congress.

H.R. 3154. February 7, 1977. Interstate and Foreign Commerce; International Relations. Amends the Horse Protection Act to prohibit the exportation of horses for slaughter.

H.R. 3155. February 7, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to declare nonreimbursable and nonreturnable the costs for safety repairs and modifications of Conconully Dam, Okanogan Unit Okanogan-Similkameen Division, Chief Joseph Dam Project, Washington.

H.R. 3156. February 7, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 3157. February 7, 1977. Education and Labor; Banking, Finance and Urban Affairs. Directs the Secretary of the Interior to acquire specified pinelands in New Jersey for public use and enjoyment.

H.R. 3158. February 7, 1977. Education and Labor. Amends the Act which established the Youth Conservation Corps to direct the Secretaries of Agriculture and Interior to jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults.

H.R. 3159. February 7, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 3160. February 7, 1977. Judiciary. Directs that reports to Congress respecting claims for compensation for damages arising out of the Teton Dam failure shall not reveal the name of the individual claimants and that information acquired by the Secretary of the Interior respecting such claims shall be maintained in such a manner as to protect the privacy of such claimants.

H.R. 3161. February 7, 1977. Post Office and Civil Service. Sets the maximum average workweek for Federal firefighters at 54 hours. Entitles such firefighters to premium pay in lieu of overtime pay equal to up to 25 percent of their basic pay rate.

H.R. 3162. February 7, 1977. Ways and Means. Increases to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 3163. February 7, 1977. Post Office and Civil Service. Sets annual salaries of Members of Congress at a certain amount plus a certain commission for reductions by certain amounts to the national debt. Sets the annual salaries of the Speaker of the House and the congressional floor leaders.

H.R. 3164. February 7, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3165. February 7, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3166. February 7, 1977. Judiciary. Prohibits persons engaged in the production of petroleum or petroleum products from acquiring or retaining coal, uranium, or geothermal power assets. Establishes procedures for divestiture of existing unlawful assets, to be enforced by the Attorney General. Imposes criminal and civil penalties for corporate and individual violations of this Act.

H.R. 3167. February 7, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by professional registered nurses in the peer review and related activities authorized under such Title.

H.R. 3168. February 7, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such Title.

H.R. 3169. February 7, 1977. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 3170. February 7, 1977. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 3171. February 7, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas boiler fuel.

H.R. 3172. February 7, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse for local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 3173. February 7, 1977. Interior and Insular Affairs. Establishes the Chattahoochee River National Recreation Area composed of a 48-mile segment of the Chattahoochee River and adjoining lands in the State of Georgia. Authorizes the Secretary of the Interior to acquire property for such recreation area and provides for its development.

H.R. 3174. February 7, 1977. Post Office and Civil Service. Repeals the Monroney Amendment which provides criteria for a survey of local industry by a lead agency to determine the prevailing local wages for the purpose of setting the wages of specified Federal employees.

H.R. 3175. February 7, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 3176. February 7, 1977. Interior and Insular Affairs. Requires the Secretary of the Interior to: (1) designate the home of Charles S. Pierce, known as Arisbe House, in the Delaware Water Gap National Recreation Area, Pennsylvania, a national historic site; (2) establish and maintain a museum in such house; and (3) construct a building near such house to be used as a center for the study of philosophy.

H.R. 3177. February 7, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3178. February 7, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3179. February 7, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3180. February 7, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3181. February 7, 1977. Government Operations; Rules. Abolishes specified Federal regulatory agencies on September 30,

1977, unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 3182. February 7, 1977. Judiciary. Prohibits the importation, manufacture, sale, purchase, transfer, receipt or transportation of handguns except as authorized by the Secretary of the Treasury. Creates exceptions for handguns utilized by Federal, State, or local governmental law enforcement officials or intended for use as a curio, museum piece, or collector's item.

H.R. 3183. February 7, 1977. Public Works and Transportation. Requires that Federal agencies prepare energy consumption analysis prior to construction or renovation of public buildings. Details information and evaluations to be included in each such analysis.

H.R. 3184. February 7, 1977. Banking, Finance and Urban Affairs. Extends the authority of the Council on Wage and Price Stability, under the Council on Wage and Price Stability Act, to September 30, 1978. Authorizes the appropriation of a specified sum for the purpose of carrying out such Act for fiscal year 1978.

H.R. 3185. February 7, 1977. Judiciary. Amends the Miller Act which requires performance bonds on specified Federal construction contracts by increasing the dollar amount of contracts to which such Act applies from $2,000 to $50,000.

H.R. 3186. February 7, 1977. Veterans' Affairs. Provides that any veteran entitled to peacetime disability compensation shall be entitled to full wartime disability compensation for any disability resulting from an injury or disease received in line of duty (1) as a direct result of armed conflict, (2) while engaged in extrahazardous service, including such service under conditions simulating war.

H.R. 3187. February 7, 1977. Veterans' Affairs. Raises and fixes the rates of disability compensation for veterans rated 10 through 90 percent disabled in the proportion which the degree of disability bears to the rate applicable for a total rating.

H.R. 3188. February 7, 1977. Science and Technology. Authorizes the Administrator of the Energy Research and Development Administration to construct and operate a National Coal Conversion Demonstration Facility for use in the coal conversion programs of the Administration.

H.R. 3189. February 7, 1977. Ways and Means. Establishes on the books of the Treasury a fund to be known as the "United States Olympic Fund." Allows an individual taxpayer to designate that one dollar of any overpayment of his tax, or one dollar of any contribution which he makes with his return be available to such fund.

Provides that amounts in the fund shall be available as stated in appropriation Acts, to the United States Olympic Committee, for specified purposes.

H.R. 3190. February 7, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) cover the commission of any of specified felonies with the use of any firearm which has been transported in commerce, rather than only the commission of Federal felonies, (2) increase the terms of imprisonment, and (3) prohibit suspended and probationary sentences for first convictions.

H.R. 3191. February 7, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property, caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 3192. February 7, 1977. Science and Technology. Authorizes appropriations to the Energy Research and Development Administration for fiscal year 1977 for nonnuclear and environmental research programs.

Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices.

Establishes criteria for the development of State energy conservation implementation plans. Directs the Administrator of Energy Research and Development to develop energy conservation plans for Federal programs.

H.R. 3193. February 7, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 3194. February 7, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitation for dependent taxpayers on the low-income allowance for the standard deduction by permitting the allowance to match the taxpayer's trust income derived from a personal injury judgment or settlement, as well as his earned income for the taxable year.

H.R. 3195. February 7, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize courts which have naturalization jurisdiction to retain up to $20,000 of the fees collected in naturalization proceedings held in such courts in any fiscal year.

H.R. 3196. February 7, 1977. Veterans' Affairs. Extends the delimiting period for completing a veteran's education program until such time as the veteran completes or ends the program, if at the close of the ordinary ten-year delimiting period the veteran is enrolled in a program.

H.R. 3197. February 7, 1977. Agriculture. Establishes, under the Agricultural Act of 1949, as amended, the support price of milk at not less than 90 percent of parity for the period beginning with the date of enactment of this Act and ending on March 31, 1976.

Declares that it is the sense of the Congress that the President: (1) limit the quantity of meat imports to a specified amount; and (2) issue a proclamation stating that import quotas on butter, butter oil, cheddar cheese, and nonfat dry milk not be increased above the levels prevailing as of June 1, 1971.

H.R. 3198. February 7, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to formulate and administer a utility stamp program under which, at the request of any State chief executive, any eligible household which has at least one member over age 60 shall have the opportunity to offset a portion of its utility bill with coupons amounting to an allotment of $25 monthly.

H.R. 3199. February 7, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such Act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging the Administrator's responsibilities under certain compliance deadlines contained in the Act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements.

Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3200. February 7, 1977. Government Operations. Creates an independent agency known as the Visa and Naturalization Administration in the executive branch to enforce and administer immigration and naturalization laws.

Transfers various powers, functions, and duties from the Departments of State, Justice, and Labor, to such Administration.

H.R. 3201. February 7, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to rates of pay for Members of Congress advisory only.

Amends the Legislative Reorganization Act of 1946 to establish the rates of pay for Members of Congress as those in effect on September 30, 1976.

H.R. 3202. February 7, 1977. Armed Services. Stipulates that the remarriage of the spouse of a deceased member of the armed forces at or after the age of 60 shall not result in the termination of the annuity payable under the Retired Serviceman's Family Protection Plan. Authorizes cost-of-living adjustments in such annuities.

H.R. 3203. February 7, 1977. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 3204. February 7, 1977. Small Business; Agriculture. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate with up to $2,500 forgiveness on the loan; or (2) a one percent interest rates with no forgiveness clause.

H.R. 3205. February 7, 1977. Armed Services. Authorizes the establishment of a National Guard for Guam.

H.R. 3206. February 7, 1977. Appropriations. Rescinds budget authority in the amount of $47,500,000 for Helium Fund, Bureau of Mines (H. Doc. 94–620), pursuant to the Impoundment Control Act of 1974.

H.R. 3207. February 7, 1977. Government Operations. Requires recipients of grants made for other than the personal use of such recipient to make available for public inspection any records such recipient is required to keep as a condition of receiving such grant. Exempts from the provisions of this Act specified information including classified information, trade secrets, and personnel and medical files.

H.R. 3208. February 7, 1977. House Administration. Amends the Presidential Primary Matching Payment Account Act to provide that contributions received by any individual after such individual ceases to be a candidate for nomination for election to the office of President shall not be eligible for matching payments.

H.R. 3209. February 7, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfer of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 3210. February 7, 1977. Education and Labor. Amends the Economic Opportunity Act of 1964 to allow the Director of the Community Services Administration, in admin-

istering the Emergency Energy Conservation Services program, to apply eligibility criteria for individuals and families to permit the participation of those whose income does not exceed 175 percent of the official poverty line established by such Act.

H.R. 3211. February 7, 1977. Armed Services. Revises the pay scales for cadets and midshipmen at the United States Military Academy, the Naval Academy, the Air Force Academy, and the Coast Guard Academy and the pay of members of, and applicants for, the Senior Reserve Officers' Training Corps while such individuals are attending field training or practice cruises.

H.R. 3212. February 7, 1977. Interstate and Foreign Commerce; Ways and Means. Establishes a heating fuel subsidy program to be administered jointly by the Community Services Administration and participating States.

Amends the Internal Revenue Code of 1954 to allow individuals a limited, refundable tax credit for qualified insulation expenditures.

H.R. 3213. February 7, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3214. February 7, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3215. February 7, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3216. February 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3217. February 7, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3218. February 7, 1977. Judiciary. Authorizes classification of certain individuals as children for purposes of the Immigration and Nationality Act.

H.R. 3219. February 7, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3220. February 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 3221. February 8, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to stipulate that any adjustment in the pay for Members of Congress shall take effect at the beginning of the Congress succeeding the Congress in which such adjustment was approved. Requires each House to specifically approve such adjustment by resolution.

Amends the Federal Salary Act of 1967 to require that recommendations of the President with respect to rates of pay for Members of Congress by specifically approved by resolution by each House before such rates may take effect.

H.R. 3222. February 8, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Defense Production Act of 1950 to prohibit Federal contracting officers from having specified financial interests in contractors doing business with the agency for which such contracting officer works. Prohibits for specified periods the employment of such officers by contractors with whom such officers dealt in their official capacity. Establishes a Conflict of Interest Review Board to monitor compliance with this Act.

H.R. 3223. February 8, 1977. Veterans' Affairs. Provides that public or private retirement, annuity, or endowment payments (including monthly social security insurance benefits) shall not be included in computing annual income for the purposes of determining eligibility for a service pension or a non-service-connected disability pension paid by the Veterans' Administration.

H.R. 3224. February 8, 1977. Appropriations. Appropriates specified amounts to the Secretary of the Interior for construction of the Natchez Trace Parkway.

H.R. 3225. February 8, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 3226. February 8, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 3227. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 3228. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 3229. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require skilled nursing and intermediate care facilities participating in Medicare and Medicaid programs to publish a statement of the rights and responsiibilities of their patients.

H.R. 3230. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require skilled nursing and intermediate care facilities participating in Medicare and Medicaid programs to publish a statement of the rights and responsibilities of their patients.

H.R. 3231. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare), Title XIV (Medicaid), and Title XX (Grants to States for Services) of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization control in such care.

H.R. 3232. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Prohibits any federally assisted continuing care institutions from requiring any cash payment in addition to or in lieu of its regular periodic charges for care and services unless such payment is made in accordance with a written contract or agreement which sets forth the rights and obligations of the parties involved.

H.R. 3233. February 8, 1977. Veterans' Affairs. Provides that if the delivery day for Veterans' Administration benefit checks falls on a Saturday, Sunday or legal public holiday, checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday, or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 3234. February 8, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to extend benefits to Puerto Rico, the Virgin Islands, and Guam on the same basis as the States.

H.R. 3235. February 8, 1977. Merchant Marine and Fisheries. Provides that the United States Canal Zone shall be represented by a Delegate to the House of Representatives. Requires that a special election be held no later than 30 days after enactment of this Act to elect a delegate to serve until the next regular Congressional election.

H.R. 3236. February 8, 1977. Public works and Transportation. Repeals the authorization for a portion of the Nanseond River Project, Virginia.

H.R. 3237. February 8, 1977. Education and Labor. Authorizes the creation of a two-year financial assistance program for all elementary and secondary school pupils in the United States. Specifies the amount of funds to be allocated by the Commissioner of Education to each pupil in public or private elementary and secondary schools.

Prohibits Federal intervention, under this Act, in the administration and operation of any school or school system.

H.R. 3238. February 8, 1977. Education and Labor. Amends the Older Americans Act by establishing in any State real property tax relief programs by the Secretary of Health, Education, and Welfare for qualifying persons age 65 or older.

H.R. 3239. February 8, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 3240. February 8, 1977. Armed Services. Requires the Secretaries of the various armed forces to establish regional boards and panels to review discharges from the armed services under less than honorable conditions. Specifies certain mitigating and extenuating factors which such boards and panels are to consider. Authorizes the issuance of honorable discharges (limited) to individuals whose post-service behavior has been exemplary. Sets forth the procedures which the boards and panels are required to follow regarding applications for review.

H.R. 3241. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for rent paid for their principal residence.

H.R. 3242. February 8, 1977. Ways and Means. Amends the tax reform act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3243. February 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation reduced because of increases in social security benefits.

H.R. 3244. February 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3245. February 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3246. February 8, 1977. Veterans' Affairs. Provides that recipients of veterans'

pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3247. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act: (1) to permit married couples filing joint tax returns to share their income for OASDI purposes as well; (2) to allow certain recipients of spouses' or survivors' benefits to include such benefits as income in determining their average monthly wage; (3) to lower the age of eligibility for such benefits to 50; (4) to eliminate the special dependency requirements for husband's and widower's benefits; and (5) to authorize children entitled to more than one child's insurance benefit to receive the total amount available.

H.R. 3248. February 8, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to conduct an investigation and study of the use of grain or grain products in the development and use of fuels.

H.R. 3249. February 8, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to set the salaries of Members of Congress and the Vice President at the rate in effect for such offices on September 30, 1976, until otherwise provided by law. Removes consideration of salaries of the Vice President, Members of Congress, and the Resident Commissioner from Puerto Rico from the jurisdiction of the Commission on Executive, Legislative, and Judicial Salaries. Freezes salaries presently subject to the Commission's review until the President determines that such positions are subject to adequate codes of conduct.

H.R. 3250. February 8, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to eliminate the requirement that industrial users pay a proportional share of construction costs for municipal waste treatment facilities. Requires recipients of Federal grants made after March 1, 1973, to repay industrial users such share of the costs as previously required under the Act.

H.R. 3251. February 8, 1977. Education and Labor. Amends the Child Nutrition Act of 1966 to forbid the Secretary of Agriculture from making breakfast assistance payments to a State which is required by law to operate a breakfast program if that State imposes school breakfast costs on localities.

H.R. 3252. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for diagnostic tests and examinations given for the detection of breast cancer under the supplementary medical insurance program.

H.R. 3253. February 8, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to require the payment of interest on Treasury Department funds held on deposit in commercial banks. Authorizes the Secretary of the Treasury to reimburse commercial banks for services performed for the United States.

H.R. 3254. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $1 of their income tax liability to be used for reducing the public debt of the United States.

H.R. 3255. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain incorporated fraternal organizations and lodges from the special tax rules applicable to private foundations.

H.R. 3256. February 8, 1977. Education and Labor; Judiciary. Exempts from the maximum hours provisions of the Walsh-Healey Act and the Fair Labor Standards Act, instances where a group of employees elect to work up to 48 hours during the week before a legal public holiday in return for additional leave during the week in which the holiday falls.

H.R. 3257. February 8, 1977. Judiciary. Renders applicable to first convictions for using a firearm to commit a Federal felony or for unlawfully carrying a firearm during the commission of such a crime, the prohibition against suspended or probationary sentences presently mandatory with respect to second or subsequent convictions.

H.R. 3258. February 8, 1977. Post Office and Civil Service. Abolishes the Commission on Executive, Legislative, and Judicial Salaries established by the Federal Salary Act of 1967.

H.R. 3259. February 8, 1977. Ways and Means. Amends the Tariff Schedules of the United States to extend for two years the suspension of the customs duty on the importation of horses, other than for immediate slaughter.

H.R. 3260. February 8, 1977. Government Operations; Ways and Means; Rules; Post Office and Civil Service; Judiciary. Requires the President to submit plans for reorganization of regulatory agencies according to a schedule set forth in this Act. Requires congressional approval of Federal agency rules. Specifies other reforms applicable to the Executive branch. Sets standards of conduct for Federal employees and officers.

H.R. 3261. February 8, 1977. Rules. Requires congressional committees to evaluate each Federal program every four years to determine whether such program merits continuation. Requires the Comptroller General to identify duplicative and inactive programs. Requires a note be printed on all bills and resolutions describing the costs of carrying out the provisions of such legislation and the expected savings from such legislation.

H.R. 3262. February 8, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 3263. February 8, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that emergency loans shall be made available in any area of the United States, Puerto Rico, or the Virgin Islands which the Secretary of Agriculture has designated an emergency area due to a labor dispute, in which farmers are not participants, but which has prevented the production, processing or sale of products produced by farming, ranching or aquaculture operations.

H.R. 3264. February 8, 1977. Public Works and Transportation. Authorizes States or political subdivisions which issued bonds the proceeds of which were used for projects on the Interstate Highway System to partially recover the interest payments made on such bonds from the Federal Government.

H.R. 3265. February 8, 1977. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 3266. February 8, 1977. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 3267. February 8, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated or who have resigned or retired.

H.R. 3268. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayer's initial deferral, whichever is earlier.

H.R. 3269. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayer's initial deferral, whichever is earlier.

H.R. 3270. February 8, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to remove the public interest requirement for the issuance of orders, permits, and regulations by the Civil Aeronautics Board with respect to foreign air carriers where the carrier is being operated pursuant to an agreement approved by the Board.

H.R. 3271. February 8, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 3272. February 8, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares for persons 60 years of age or older.

H.R. 3273. February 8, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares for persons 60 years of age or older.

H.R. 3274. February 8, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares for persons 60 years of age or older.

H.R. 3275. February 8, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule under which the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course where more than 85 percent of the students enrolled have their fees paid by either the Federal Government or the educational institution itself.

H.R. 3276. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to provide an additional income tax exemption for taxpayers, spouses, or dependents with serious mental or physical disabilities which result in death, or which can be expected to result in death or be of long-continued or indefinite duration.

H.R. 3277. February 8, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 3278. February 8, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to establish a task force to evaluate the housing for the elderly low-income housing assistance program. Requires the Secretary of Housing and Urban Development to report to Congress on such program. Requires that wages paid for the construction and operation of a low-income housing project reflect the actual wages being paid in the immediate area of the project.

H.R. 3279. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3280. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals aged 65 or more an income tax deduction for 50 percent of the amounts paid or incurred for electricity used in their principal residences.

H.R. 3281. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3282. February 8, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that support and maintenance furnished in kind shall not be counted as income in determining the eligibility of any individual for supplementary security income benefits or the amount of such benefits, regardless of whether such individual is living in another person's household.

H.R. 3283. February 8, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) cover the commission of any of specified felonies with the use of any firearm which has been transported in commerce, rather than only the commission of Federal felonies (2) increase the terms of imprisonment, and (3) prohibit suspended and probationary sentences for first convictions.

H.R. 3284. February 8, 1977. Veterans' Affairs. Extends from June 30, 1978, to September 30, 1983, the grants-in-aid program to the Veterans Memorial Hospital in the Philippine Islands.

H.R. 3285. February 8, 1977. Banking, Finance and Urban Affairs. Extends the authorization of flexible regulation of maximum interest rates on deposits and accounts in depository institutions. Designates three additional States as exempt from the prohibition against withdrawals by check against interest earning accounts.

Amends the Federal Credit Union Act with respect to the extension of credit and the duties and powers of the credit union's board of directors and credit committee.

Amends the Federal Reserve Act to extend the limitation on the aggregate amount of United States obligations which may be purchased or sold.

H.R. 3286. February 8, 1977. Banking, Finance and Urban Affairs. Amends the Federal Credit Union Act with regard to assets, loans, membership, management, including officers and directors, and required reserves. Reorganizes the National Credit Union Administration and establishes a Presidentially-appointed, Senate-confirmed Board, the National Credit Union Administration Board, to manage the Administration. Creates the National Credit Union Central Liquidity Facility to maintain the liquidity of credit unions, and to provide for the orderly transfer of funds between and among credit unions and other financial institutions.

H.R. 3287. February 8, 1977. Government Operations. Prohibits Government use of any limousine, use of any Government motor vehicle to transport any official between his place of employment and his dwelling place, and Government employment of any chauffeur.

Excepts from this Act limousines for the President, Ambassadors, and specified other persons whose personal safety depends upon the use of such limousines.

H.R. 3288. February 8, 1977. Government Operations. Prohibits Government use of any limousine, use of any Government motor vehicle to transport any official between his place of employment and his dwelling place, and Government employment of any chauffeur.

Excepts from this Act limousines for the President, Ambassadors, and specified other persons whose personal safety depends upon the use of such limousines.

H.R. 3289. February 8, 1977. Government Operations. Prohibits Government use of any limousine, use of any Government motor vehicle to transport any official between his place of employment and his dwelling place, and Government employment of any chauffeur.

Excepts from this Act limousines for the President, Ambassadors, and specified other persons whose personal safety depends upon the use of such limousines.

H.R. 3290. February 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that any packaged food containing sugar prominently display a declaration of such fact on its label if the sugar provides at least ten percent of the total number of calories in such food.

Excludes fresh fruit, fresh vegetables, and alcoholic beverages from the requirement imposed by this Act.

H.R. 3291. February 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that any packaged food containing sugar prominently display a declaration of such fact on its label if the sugar provides at least ten percent of the total number of calories in such food.

Excludes fresh fruit, fresh vegetables, and alcoholic beverages from the requirement imposed by this Act.

H.R. 3292. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 3293. February 8, 1977. Education and Labor Limits, to those elementary and secondary school facilities destroyed or damaged after January 2, 1968, and prior to October 1, 1978, the distribution of disaster relief to local educational agencies in federally impacted areas.

H.R. 3294. February 8, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to exempt from the requirement of obtaining a certificate of public convenience and necessity an interstate trunk line owned by a telephone company serving subscribers in a single State.

H.R. 3295. February 8, 1977. Public Works and Transportation. Authorizes enlargement of a turning basin of the Ashtabula Harbor, Ohio.

H.R. 3296. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to take specified steps to facilitate and encourage the rental of durable medical equipment and the purchase of such equipment used whenever possible.

H.R. 3297. February 8, 1977. Post Office and Civil Service. Establishes the overtime hourly rate of pay for an employee of the Animal and Plant Health Service, Department of Agriculture at an amount equal to one and one-half times the hourly rate of basic pay of such employee, under certain conditions.

H.R. 3298. February 8, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) increase the minimum authorized sentence, (2) remove maximum limits for such sentences, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 3299. February 8, 1977. Interstate and Foreign Commerce; Ways and Means; Banking, Finance and Urban Affairs; Judiciary. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to set forth mandatory minimum terms of imprisonment for individuals convicted of certain opiate traffic related crimes.

Amends the Federal Rules of Criminal Procedure to require a separate sentencing hearing when a person is convicted of a crime for which such sentences are authorized.

Specific release and preventive detention standards for opiate traffic violators.

Subjects to forfeiture proceeds of and money intended to be used in opiate violations.

Revises reporting requirements relative to (1) the importation or exportation of cash and (2) certain vessels upon arrival in United States ports.

H.R. 3300. February 8, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 3301. February 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for occupational therapy services under the supplementary medical insurance program.

H.R. 3302. February 8, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 3303. February 8, 1977. Merchant Marine and Fisheries. Requires the Secretary of the Interior to make a comprehensive study of the grizzly bear for the purpose of developing adequate methods of conservation.

Calls for an immediate moratorium on all killing of such mammals.

H.R. 3304. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 3305. February 8, 1977. Ways and Means. Amends the Internal Revenue Code to increase the deduction for individual retirement savings.

H.R. 3306. February 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to establish a new method of determining the initial primary insurance amount of an individual. Requires the economic indexing of a worker's earnings in determining the base amount from which an individual's payments will be computed.

Revises the method of calculating the monthly earnings limitation.

H.R. 3307. February 8, 1977. Armed Services. Authorizes the President of the United States to present a Medal of Honor to a certain individual.

H.R. 3308. February 8, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3309. February 8, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3310. February 8, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3311. February 8, 1977. Merchant Marine and Fisheries. Exempts a certain vessel owned by a certain corporation from the law prohibiting foreign vessels from transporting passengers between ports in the United States.

H.R. 3312. February 8, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full

settlement of such individual's claims against the United States.

H.R. 3313. February 8, 1977. Judiciary. Authorizes classification of certain individuals as children for purposes of the Immigration and Nationality Act.

H.R. 3314. February 8, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 3315. February 8, 1977. Judiciary. Provides that a certain individual be conditionally admitted to the United States for permanent residence.

H.R. 3316. February 9, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R. 3317. February 9, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to extend the coverage of the Act to include all aspects of production, supply, transportation, distribution, and sale of natural gas, except for sales to ultimate consumers by local distributors.

Requires all natural gas companies to file monthly reports concerning available supplies. Prohibits such companies from withholding natural gas supplies where shortages exist. Establishes procedures for seizure and allocation of natural gas reserves to alleviate shortages.

Authorizes the President to provide Federal reimbursement for a share of net losses incurred in natural gas exploration and drilling activities.

H.R. 3318. February 9, 1977. Post Office and Civil Service. Limits the individual salaries payable to the members of the staffs of former Presidents. Repeals the aggregate limit for each such former President's staff salaries for former Presidents whose service in the Office of President has terminated on or after January 18, 1977.

H.R. 3319. February 9, 1977. Agriculture. Directs the Secretary of Agriculture, through the Soil Conservation Service, to monitor soil moisture and water supplies in drought-prone areas, to provide information thereon, and to accelerate financial and technical assistance to lessen the impact of the drought on farming and ranching operations.

H.R. 3320. February 9, 1977. House Administration. Amends the Federal Election Campaign Act to limit the purposes for which contributions made to a Federal officeholder to support his official activities may be used to (1) ordinary and necessary expenses incurred in official duties and (2) charitable contributions. Prohibits use of such funds to defray campaign costs.

Limits the purposes for which a candidate for Federal office may use excess campaign contributions to (1) reimbursement of contributors, (2) deposits in the Presidential Election Campaign Fund, (3) expenses in future elections, and (4) in the case of successful candidates, expenses incurred in official duties.

H.R. 3321. February 9, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 3322. February 9, 1977. Government Operations. Establishes the Department of Health to be headed by a Secretary of Health.

Stipulates that the Department shall have the duty and function of administering all health-related programs now under the jurisdiction of the Department of Health, Education, and Welfare.

Establishes a Coordinating Commission to advise on the coordination of all Federal health programs to end waste and duplication of services.

H.R. 3323. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to limit the parimutual gambling winnings on horse and dog races and jai alai which are subject to tax withholding to one-half of the proceeds exceeding $1,000 where the winnings are at least 300 times the size of the wager.

H.R. 3324. February 9, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 3325. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 3326. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 3327. February 9, 1977. Judiciary. Permits a Federal judge or justice who is at least 65 years of age and has served at least 15 years to retire at full pay.

H.R. 3328. February 9, 1977. Interstate and Foreign Commerce. Prohibits the inspection or acquisition by agents of the United States of medical and dental records of patients who are not under a federally assisted program unless inspection or acquisition is authorized by the patient.

H.R. 3329. February 9, 1977. Ways and Means; Interstate and Foreign Commerce Amends Title XI (General Provisions) of the Social Security Act to abolish the Professional Standards Review Organizations which were established to review services covered under the Medicare and Medicaid program.

H.R. 3330. February 9, 1977. Interstate and Foreign Commerce; Ways and Means; Rules. Requires any officer or agency in the executive branch to obtain congressional review of all proposed regulations relating to cost and expenditures for health care.

H.R. 3331. February 9, 1977. Interstate and Foreign Commerce. Prohibits the inspection or acquisition by agents of the United States of medical and dental records of patients who are not under a federally-assisted program unless inspection or acquisition is authorized by the patient.

H.R. 3332. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit income tax deductions for wages paid to aliens illegally working in the United States.

H.R. 3333. February 9, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans to assist any small business concern to continue or reestablish its business or establish a new business if the Administration determines that such concern has been adversely affected by an economic disaster and has suffered or is likely to suffer economic injury without such assistance.

H.R. 3334. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 3335. February 9, 1977. District of Columbia. Creates the Saint Elizabeth Hospital Corporation to administer Saint Elizabeths Hospital. Directs the Secretary of the Interior to make available to the Board such sums as may be necessary for the renovation and restoration of certain historic buildings at Saint Elizabeths Hospital.

H.R. 3336. February 9, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to apply the safety standards under such Act and other specified standards to all vessels entering into the United States Fishery Conservation Zone established under the Fishery Conservation Management Act of 1976. Requires (previously allowed) the Secretary of the department in which the Coast Guard is operating to implement the safety standards specified in such Act. Transfers the duty of investigating navigation accidents from the Secretary to the National Transportation Safety Board.

H.R. 3337. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 3338. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 3339. February 9, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Authorizes the study of bulk commodity freight requirements on the Upper Mississippi and Illinois waterway.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 3340. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 3341. February 9, 1977. Banking, Finance and Urban Affairs. Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3342. February 9, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to exempt transactions involving persons engaged in the production or gathering and sale of natural gas from regulation by the Federal Power Commission, provided such persons are not engaged in the transmission of natural gas.

H.R. 3343. February 9, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to make grants to States, upon approval of their applications, to assist them in establishing, expanding, or improving veterans cemeteries owned by the State; to pay a portion of the cost of interment for each eligible person and the cost of perpetual care maintenance; and to pay the cost of transportation of a deceased veteran's body for burial in a national cemetery.

H.R. 3344. February 9, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to investigate the feasibility of the Trinity River Division, Whiskeytown Powerplant Central Valley Project, California.

H.R. 3345. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 3346. February 9, 1977. Post Office and Civil Service. Abolishes the Commission on Executive, Legislative, and Judicial Salaries established by the Federal Salary Act of 1967.

H.R. 3347. February 9, 1977. Appropriations. Rescinds budget authority for the Bureau of Mines' Helium Fund recommended in House document 94–620, transmitted to Congress by the President pursuant to the Impoundment Control Act of 1974.

H.R. 3348. February 9, 1977. Merchant Marine and Fisheries. Increases the appropriations authorization for the Canal Zone biological area.

H.R. 3349. February 9, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to extend the authority of Federal Reserve banks to purchase and sell obligations fully guaranteed by the United States until April 1, 1978.

H.R. 3350. February 9, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Prohibits the development of hard mineral resources of the deep seabed except under international conventions or pursuant to a license issued by the Secretary of Commerce. Prescribes requirements and imposes limitations of the granting of such licenses by the Secretary.

H.R. 3351. February 9, 1977. Judiciary. Imposes mandatory minimum prison sentences for certain offenses. Requires increased sentences for certain repeat offenders.

H.R. 3352. February 9, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) reduce the maximum authorized sentence, (2) increase the minimum authorized sentence for second and subsequent convictions, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 3353. February 9, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to revise the formula for allocation of grants to States and localities by giving greater priority to areas of higher unemployment. Increases the amount authorized to be appropriated under such Act.

H.R. 3354. February 9, 1977. Interior and Insular Affairs. Declares that specified land of the United States shall be held in trust for specified communities of the Mdewakanton Sioux in Minnesota.

H.R. 3355. February 9, 1977. Interstate and Foreign Commerce. Requires packaged foreign dairy products to be labeled in such a manner as to be readily identifiable as being imported.

Permits the Federal Trade Commission to establish labeling requirements for foreign dairy products and to grant exemptions from such requirements.

Prohibits any person from importing, offering to import, distributing, or causing to be distributed any improperly labeled imported dairy product.

Grants enforcement powers under this Act to the Federal Trade Commission and the Secretary of the Treasury.

H.R. 3356. February 9, 1977. Banking, Finance and Urban Affairs. Requires appropriate Federal financial supervisory agencies to develop programs and procedures which will encourage financial institutions to help meet the credit needs of the local communities in which they are chartered.

H.R. 3357. February 9, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 3358. February 9, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to extend for five additional calendar quarters authorization for the appropriation of funds for payments to States and local governments for the maintenance of basic services to assure that Federal efforts to stimulate economic recovery are not hindered.

Increases the base amount authorized to be appropriated for each calendar quarter for such payments.

H.R. 3359. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the tax exclusion of proceeds on industrial development bonds to certain types of issues, the proceeds of which will be used within economic development areas. Allows national banks to deal in, and underwrite, such bonds.

H.R. 3360. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that whenever cost-of-living increases are made in benefits, such amounts shall be further increased for individuals residing in high cost areas by a formula set forth in the Act.

H.R. 3361. February 9, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 3362. February 9, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 3363. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow joint employers of an employee to avoid duplicative tax payments under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act where the employers are separate corporations utilizing a common paymaster by limiting each employer's tax payment to the liability arising from the amounts actually paid the employee.

H.R. 3364. February 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the customs duty on loose glass prisms used in chandeliers and wall brackets.

H.R. 3365. February 9, 1977. Banking, Finance and Urban Affairs. Extends the authorization of flexible regulation of maximum interest rates on deposits and accounts in depository institutions. Designates three additional States as exempt from the prohibition against withdrawals by check against interest earning accounts.

Amends the Federal Credit Union Act with respect to the extension of credit and the duties and powers of the credit union's board of directors and credit committee.

Amends the Federal Reserve Act to extend the limitation on the aggregate amount of United States obligations which may be purchased or sold.

H.R. 3366. February 9, 1977. Agriculture. Directs the Secretary of Agriculture, under the Agricultural Act of 1949, to provide extensions of the repayment period for wheat and feed grain loans. Prohibits, with specified exceptions, any sale of wheat or feed grain by the Commodity Credit Corporation for less than 150 percent of the current loan level for such commodity.

H.R. 3367. February 9, 1977. Agriculture. Directs the Secretary of Agriculture, under the Agricultural Act of 1949, to administer through the Commodity Credit Corporation a special wheat acreage grazing and hay program in each of the crop years 1977 through 1981.

H.R. 3368. February 9, 1977. Science and Technology. Amends the Energy Reorganization Act of 1974 to direct the Administrator of the Energy Research and Development Administration to include studies of mixtures of gasoline and grain alcohol as part of the alternate fuels research and development program.

H.R. 3369. February 9, 1977. Agriculture. Establishes a temporary advisory committee to advise the Administrator of the Federal Grain Inspection Service. Amends the United States Grain Standards Act of 1976 to repeal the requirement that the State and other official agencies designated to perform inspection or weighing functions pay fees to the Administrator to cover certain supervisory costs.

Directs the Secretary of Agriculture to establish a single system of recordkeeping by grain storage or handling facilities which will meet the requirements of Federal law and the regulations of the Commodity Credit Corporation.

H.R. 3370. February 9, 1977. Judiciary. Amends the Clayton Act to prohibit specified concentrations of control in the energy-producing industries. Prohibits joint ventures between large producers, transporters or refiners of petroleum, petroleum products, or natural gas.

H.R. 3371. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3372. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3373. February 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to extend until June 30, 1978, the suspension of customs duties on yarns of noncontinuous silk fibers.

H.R. 3374. February 9, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

Prohibits specified unfair practices in the marketing of automotive gasoline.

H.R. 3375. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3376. February 9, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3377. February 9, 1977. Interior and Insular Affairs. Confers jurisdiction upon the Indian Claims Commission to hear any claims of the Wichita Indian Tribe of Oklahoma with respect to lands taken without compensation by the United States from that tribe. Declares that previous awards with respect to lands that are the subject of a claim under this Act shall have no effect on such a claim.

H.R. 3378. February 9, 1977. Armed Services. Directs the Secretary of Defense to take measures to insure that military discharges do not indicate the conditions under which separation from the armed forces occurred and to maintain the confidentiality of all records pertaining to the reason for such separation. Sets forth the conditions under which a less than honorable discharge may be given. Sets forth procedures for the establishment of review boards to determine whether a member should be given less than an honorable discharge and appeal boards and regional boards of review to review military discharges.

H.R. 3379. February 9, 1977. Banking, Finance and Urban Affairs. Requires any person who makes a federally related mortgage loan to maintain facilities to insure availability of information concerning such mortgages, and to provide adequate notification of foreclosure proceedings.

H.R. 3380. February 9, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish and maintain a program to reimburse providers of utility services to certified households and landlords for a percentage of the cost of such utility services.

H.R. 3381. February 9, 1977. Education and Labor; Ways and Means.

Directs the Secretary of Labor to enter into contracts with national community-based organizations for the provision of employment services, career education, and job opportunities to unemployed persons, particularly youths.

Directs the head of each agency exercising authority under specified programs to give preference to community-based organizations in providing employment services.

Amends the Comprehensive Employment and Training Act to provide year-round work experience to urban and rural youths.

Amends the Internal Revenue Code to allow a tax credit for part of the wages paid to previously unemployed persons during the first 12 months of employment.

H.R. 3382. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to permit the payment of child's insurance benefits to a great-grandchild legally adopted by a retired or disabled worker, the same as such benefits would be payable under present law to the worker's legally adopted grandchild.

H.R. 3383. February 9, 1977. Education and Labor. Stipulates that it shall not be an unfair labor practice under the National Labor Relations Act for an employer engaged in the performing arts, other than an employer in the broadcasting or motion picture industry, to enter into an agreement with a labor organization on the grounds that (1) the majority status of the organization has not yet been established in accordance with usual petition and election procedures, or (2) the agreement requires union membership as a condition of employment as of seven days after being employed or the effective date of the agreement, whichever occurs later.

H.R. 3384. February 9, 1977. Education and Labor. Exempts members of bona fide religions which historically hold conscientious objections to joining or financially supporting labor organizations from compulsory membership or support of such an organization under the National Labor Relations Act.

Stipulates that such persons may be required to pay in accordance with specified guidelines sums equal to applicable union dues and initiation fees to nonreligious charitable funds.

H.R. 3385. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to a minimum of $3,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3386. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to raise the amount by which an individual's social security benefits are to be increased on account of delayed retirement.

H.R. 3387. February 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to extend for three years the suspension of customs duties on synthetic rutile.

H.R. 3388. February 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the customs duty on synthetic rutile and to decrease the customs duty on certain metal-bearing materials used for the extraction of metal or the manufacture of chemical compounds.

H.R. 3389. February 9, 1977. Banking, Finance and Urban Affairs. Establishes a Federal Housing Bank (1) to purchase certain mortgages from the Federal National Mortgage Association and the Federal Home Bank System, (2) to refinance certain mortgages of families stricken by unemployment, and (3) to provide emergency mortgage relief.

H.R. 3390. February 9, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend until September 30, 1978, the period of time during which funds allotted to States for the construction of treatment works shall remain available.

H.R. 3391. February 9, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to plan and establish wetland areas as part of water resources development projects. Authorizes the establishment of such an area in connection with dredging for such a project where the Chief of Engineers finds that: (1) the environmental, economic, and social benefits of the area justify increased cost; (2) the cost will not exceed $300,000; and (3) the area to be established will not be substantially altered by natural or man-made causes. Requires certain reports by the Secretary of the Army to the Congress regarding water resources development projects to include consideration of wetland areas.

H.R. 3392. February 9, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging his responsibilities under certain compliance deadlines contained in the act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3393. February 9, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for one year the emergency compensation program thereunder so as to permit benefits to be paid with respect to weeks ending before March 31, 1978.

H.R. 3394. February 9, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for one year the emergency compensation program thereunder so as to permit benefits to be paid with respect to weeks ending before March 31, 1978.

H.R. 3395. February 9, 1977. Judiciary. Amends the Immigration and Nationality Act to remove specified aliens from the class of aliens whose status may be adjusted to that of an alien lawfully admitted for permanent residence.

Makes it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

H.R. 3396. February 9, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist veterans with a permanent and total service-connected disability due to the loss or loss of use of one upper and one lower extremity in acquiring specially adapted housing.

H.R. 3397. February 9, 1977. Science and Technology. Establishes a 5-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 3398. February 9, 1977. Science and Technology. Establishes a 5-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 3399. February 9, 1977. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of human activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this act, to: (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments; and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 3400. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

EXTENSIONS OF REMARKS

TRIBUTE TO THE FIRST LADY OF THE FIGHT AGAINST DIABETES

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, August 4, 1977

Mr. SCHWEIKER. Mr. President, ever since I have become involved in trying to increase the Federal effort against diabetes, I have had the outstanding fortune to have on my side one of the most energetic fighters one could imagine, Lee Ducat. Many of my colleagues in this body have witnessed Lee in action, spreading the word about diabetes as the No. 3 cause of death in this country, or rallying the parents of diabetics under the banner of the Juvenile Diabetes Foundation, which she and her husband, Edwin, founded in 1970.

The July 11, 1977, issue of People magazine featured an interview with Lee Ducat, allowing her to tell the story of diabetes as it affects those who have it, their families, and the rest of us. I would like to take this opportunity to share the article with my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEE DUCAT'S SWEET REVENGE WILL BE FINDING A CURE FOR THE NATIONAL KILLER—DIABETES

In 1966 Larry Ducat of Philadelphia was an active, athletic 9-year-old. Suddenly he was hospitalized for diabetes, a disease for which there is yet no cure. Today there are an estimated 10 million diabetics in the U.S., of whom at least a million are children. In the U.S. the disease is the No. 3 killer (behind heart disease and cancer), and the leading cause of postnatal blindness. Diabetics are 17 times more prone to kidney ailments than are nondiabetics and twice as likely to develop heart disease. Increasing at a rate of 6 percent a year, diabetes by 1986 will afflict one in five Americans, experts predict. After coping with Larry Ducat's illness, his mother, Lee, founded the Juvenile Diabetes Foundation in 1970 to help other families with young diabetics. JDF now has 88 chapters nationwide. The mother of two other children, neither diabetic, Ducat, 44, was recently appointed to the National Diabetes Advisory Board. She discussed the growing health menace posed by disabetes with Sally Moore of People.

How did you discover your son was diabetic?

The onset was sure and swift. One day he was a healthy kid, then he began to be listless. He lost five pounds in two days, was constantly thirsty, urinated often and was cranky. Our family doctor couldn't find anything and suggested he go back to school. But Larry wasn't the same child, and I knew something was terribly wrong. A blood test showed high blood sugar content, and they hospitalized him immediately.

How did you react?

We were devastated. I barely knew what diabetes was. We cried together as parents do. It was not only the shock of finding our child had an incurable disease, but we had no one to turn to. There was no information, no services for the kids or parents. During the first few months we searched desperately for someone who could understand what we were going through. That's why I started JDF.

What exactly is diabetes?

A chronic, metabolic disorder in which the cells of the pancreas responsible for the production of insulin stop working. The body is then incapable of metabolizing sugars and carbohydrates. Insulin must be injected each day in order for many diabetics to live. It is a constant, life-long battle against the deterioration of the body.

What is the difference between juvenile and adult diabetes?

A juvenile diabetic is insulin-dependent, like my son Larry. He must have two injections daily in order to live. The disease can strike anyone from birth into the late 30s, but usually comes during childhood or adolescence. In adult diabetes, which usually strikes people 40 and over, the pancreas often continues to work, if sluggishly, and the disease can usually be controlled by diet and medication. However, adult diabetes can become insulin-dependent, as well.

Isn't insulin a cure?

No. That's one of the major myths—insulin only allows a diabetic to live from day to day. So far there is no cure. That's what makes diabetics so different. Diabetes is the invisible disease. Our kids look so healthy, yet their future is heartbreaking.

How does the juvenile diabetic cope?

Every child must follow a strict regimen. He must learn to inject himself with insulin, to test his urine for sugar levels and to be constantly aware that every childhood disease and accident is life-threatening because the diabetic's metabolism is so unstable. Even a cold or a fall can be dangerous. In order to keep the blood sugar level from dropping too low, a child must be forced to eat even when he feels like throwing up.

What happens if a diabetic child neglects his regimen?

Insulin shock or coma, which could lead to death. If a child doesn't eat correctly, low blood sugar results, leading to insulin shock. The signs are sweating, clamminess and crankiness. That is why monitoring of insulin and blood sugar levels is crucial. If a diabetic were shipwrecked without insulin, he would go into a coma and die.

Who gets diabetes and how?

We know who but not how. Both the cause and prevention are still unknown. Women are 50 percent more likely to get diabetes than men, nonwhites 20 percent more likely than whites, the poor more likely than upper-and middle-class people. The chance of developing it doubles with every 20 percent of excess weight. We know it is genetically transmitted but we don't know how. A new theory is that there is a virus that attacks the pancreas, and that the disease could be contageous among children with a predisposition. Some researchers feel it is not one disease, but several. Another theory is that the stress of urban living is one cause. Environmental pollutants may be a factor, but we just don't know.

Then obesity and diet may be a cause?

Yes, and it may be why diabetes is increasing. There are 20 million obese people in this country—overweight and bad nutrition are symptomatic of diabetes.

What is the prognosis for a diabetic?

One in two will begin to suffer some severe complications—blindness, kidney disease, gangrene and loss of limbs—as well as painful side effects, such as loss of teeth, skin disease, impotence and infertility. From the time of onset life expectancy is reduced 30 percent. Many who die of cardiovascular disease are victims of diabetes, but it is often improperly diagnosed. We suspect that diabetes and its complications may really be the second leading cause of death, ahead of cancer.

How are young diabetics affected by knowing what the future holds for them?

The young actually respond better than their parents—they adjust quickly. They learn to psych themselves for the injections, which are really the least of the problems. A child under 5 presents problems with eating and taking shots. How do you tell a 3-year-old he can't have ice cream and cake at a birthday party? Adolescent diabetics often rebel and refuse to wear tags to identify them as diabetics in case they suffer insulin shock in public. Kids know they're different and do everything they can to minimize the difference. But one of the things JDF has done is make the disease public.

What are the problems that face parents of diabetic children?

Enormous. We have children who are diabetic at birth. At first their parents blame themselves, then each other. For the most part, people aren't even aware that children get diabetes. Everyone in the family is affected. The other kids must be aware of the dangers of coma and insulin shock and it is scary for them. Young parents feel they can't ever leave a diabetic child alone. The worry and strain on them and their marriage is constant and it shows. How do you teach a parent to inject a 6-month-old baby? It's one thing when you're practicing with an orange—it's another when it's your child.

What precautions must a parent take?

They must learn to be constantly aware of the child's diet. They must know the signs of insulin shock which can lead to death. They must guarantee that he is being injected properly. Life becomes a matter of planning ahead. I made sure Larry had Lifesavers in every pair of pants and jacket so that he'd have a source of sugar available when he felt his blood sugar getting low. We were grateful he was so involved in sports, but that posed special problems. He would have to eat several candy bars before basketball to compensate for the physical activity that burns off sugar. His favorite sport is surfing, but he's learned not to surf alone. At JDF we try to inform anyone who may be in contact with young people—firemen, teachers, police—that an unconscious youth may be in insulin shock or coma, not drunk or on drugs.

Is enough being done to find a cure?

We must provide more money for research. What is appalling is that diabetes still gets only about 5 percent of the total research budget for all diseases at the National Institutes of Health.

Realistically, will a cure be found?

We hope and feel that within the next five years we will see a major breakthrough in the laboratories. Genetics researchers are working on a test to show if a person is prone to diabetes. Researchers have succeeded in transplanting healthy cells into diabetic mice and cured them. We're optimistic a cure is going to be found. It's too late for those like Larry, but I want the Juvenile Diabetes Foundation to go out of business. That will be the day our children no longer need their syringes.

ALLARD LOWENSTEIN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. JACOBS. Mr. Speaker, the gentlewoman from Kansas (MARTHA KEYES), the gentleman from California (Mr. Mc-

CLOSKEY), and I had the privilege to attend the swearing in of a former colleague, Allard Lowenstein, as U.S. Ambassador to the United Nations for Special Political Affairs at the United States Mission at the U.N. in New York.

Mr. MCCLOSKEY made a few brief remarks which I place in the RECORD at this point:

REMARKS ON THE SWEARING IN OF ALLARD LOWENSTEIN AS UNITED STATES AMBASSADOR TO THE UNITED NATIONS FOR SPECIAL POLITICAL AFFAIRS

Ladies and gentlemen, there are relatively few people in our world who have these three qualities: cheerful enthusiasm, intellectual brilliance, and humanitarian impulses.

There are even fewer who can ever hope to have these qualities remain unstified by diplomatic custom and political cynicism.

Eleanor Roosevelt and Hubert Humphrey come to mind as examples from earlier times, and perhaps Andy Young is reaching towards this goal today in the difficult arena in which he operates.

To me, however, Al Lowenstein shares these qualities in greater abundance than any living American I know.

His friend, Bobby Kennedy, once said something to the effect that "whenever an individual speaks out or stands up against oppression and injustice, a little ripple goes out which gives heart and hope to others and to mankind . . ."

Al Lowenstein has been speaking out and standing up against oppression and injustice for many years. I doubt that there are any amongst us tonight who have not been inspired to do a little bit better in our own efforts and to have greater hope for the future of the world by reason of Al's words and leadership.

It is immensely difficult to break through the formalities of diplomatic custom and the political realities faced by national leaders in order to move the world towards peace and the implementation of humanitarian values. If it can be done by a person in the diplomatic service, I believe that Al Lowenstein is the most qualified individual the President of the United States could select for this purpose.

Al, Good Luck.

NATIONAL CLIMATE PROGRAM ACT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. RODINO. Mr. Speaker and colleagues, seldom do we have so excellent an opportunity to show congressional foresight and initiative as we do now in considering The National Climate Program Act of 1977, H.R. 6669. I urge early floor deliberation on it.

The climate bill, which comes to the calendar from the Science and Technology Committee, was carefully crafted in that committee. It designates a central Federal focus for climate research and provides for coordination and management. The bill builds from existing Federal effort, since continuity is so important to progress in understanding climatic phenomena and the impacts of climatic fluctuations.

One potential climatic problem, the question of carbon dioxide increase in the atmosphere, may be a prototype of the kind of problem only a coordinated national climate program can best help us deal with. Carbon dioxide buildup has recently received considerable attention, and was addressed last week by a National Academy of Sciences committee. I commend to you the July 28 New York Times editorial, describing the NAS findings and recommendations, which follows below.

To understand the CO_2 problem, which is just one example of a climate-related question mark which a chartered program of climate research and monitoring would address, requires more resources and more cooperative work. H.R. 6669 is a good vehicle for the needed increase in coherence and continuity of our national effort. Again I urge early consideration of the National Climate Program Act on the House floor and strongly recommend its passage:

[From the New York Times, July 28, 1977]

COAL, CARBON DIOXIDE AND CLIMATE

The National Academy of Sciences flashed a warning light this week at plans to rely on coal as a major energy source in coming centuries. Not that oil or natural gas, for which coal is being substituted, are much better for the environment. But those fuels are becoming scarcer and more expensive, and the Carter Administration is encouraging the conversion of major industries to coal. If the industrialized nations continue to burn significant amounts of any fossil fuel for the next 200 years, the consequences could be catastrophic.

The burnnig of fossil fuels emits carbon dioxide, which rises into the atmosphere and impedes the radiation of heat from the earth's surface into space. The increased carbon dioxide might cause the average global temperature to rise 6 degrees centigrade by 2150, an amount roughly comparable to the temperature difference between our era and the most recent ice age. Such major climatic changes could disrupt agriculture and fishing, alter deserts and semiarid regions, and cause the sea level to rise by 20 feet as ocean waters expand and ice caps slide into the sea.

Plausible—or just another doomsday prediction? Nobody can be sure. The academy experts acknowledge that their projections are shaky. They counsel not panic but rather "a lively sense of urgency" about undertaking comprehensive research that might cost $100 million.

Such money would be well spent. Too often the industrialized world has embarked on technological adventures with little thought of the long-range consequences. There were aerosol cans in virtually every household before the discovery that their gases threaten the ozone shield that protects the world from ultraviolet radiation. Nuclear reactors were deployed and operating before Government leaders began dealing seriously with problems, still unsolved, of proliferation and waste disposal.

In this case, the Administration seems to be acting promptly. The President has already added $1 million to the budget of the Energy Research and Development Administration to start an investigation into the carbon dioxide threat, and a day after the academy report was released, that agency announced the establishment of an Office of Carbon Dioxide Environmental Effects Research to serve as a focal point for all Government activities.

It may take decades to develop reliable estimates of the climatic effects of continued burning of fossil fuels. But the world may have to decide in the next 50 years whether to shift to other energy sources. The penalty for doing nothing until a climatic change is actually observed seems too high to risk. The effects of a century of fossil-fuel burning could take a millenium to dissipate.

LIMITS TO ETHNICITY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. GONZALEZ. Mr. Speaker, some of us have said for years, there are limits to ethnicity. Though the struggle for freedom and democracy and equality is not finished—never will be, for it is perennial—and each generation must preserve it or continue the fight for it—nevertheless, there are limits to ethnicity. Those limits are: violence, murder, rioting, pillaging, maiming, bombing, laying siege to cities, and hostages. There is such a thing as the end not justifying the means.

Along this general line, I offer for the record a perspicacious article by Mi hael Novak, appearing Sunday last, July 31, on page G-3 of the Washington Star.

The article is as follows:

LIES SPAWN THE MORAL INFANCY OF LOOTING

The looters in New York City during the recent blackout were a disgrace to the human race—and to this nation. There are many apologists who will tell us that the looters were not guilty; "the system" is. "The McNeil-Lehrer Report" proferred the lame description that the "have nots" attacked the "haves."

Such theories won't wash. First, the "haves" did their share of looting, too. The average welfare family in New York is above the poverty line of $5,500 per year. Besides, the poor were not alone in the looting. Looting took place in many middle-class black areas, and eyewitnesses reported many middle-class persons taking part. Not only the jobless were involved.

Secondly, poor whites outnumber poor blacks. Whites on welfare outnumber blacks on welfare. Yet the looting did not take place in poor white areas. Neither poverty, nor welfare, nor joblessness suffice as explanations for this looting. According to black reporters on the scene, the looting was overwhelmingly committed by blacks, in black neighborhoods, on black businesses as well as white.

No one wishes to admit what only Kenneth Clark has had the courage to see: urban black culture suffers an unparalleled pathology. Looting is not merely a "social problem." It is a problem of morale. It is also a problem of morality. It is a problem of culture.

What we learned in New York is that wild, destructive persons are held back by (1) lights and (2) armed force. When these weakened, social conscience failed. But true social morality is rooted in conscience, not in police forces. If it is not rooted in conscience, no police force in the world can hold it back. The looting in New York was a vivid demonstration of social immorality. Its costs are many and enduring.

To break and enter, to steal, and to destroy, are violations of an inner moral law, deeper than the public law. No matter that one is poor, or not as rich as one would like. No matter what the excuse. The looters were healthy, well-fed, clothed; they were not starvation cases. They not only committed a crime. They committed moral evil against themselves.

The proof is that high moral conscience does exist among a majority of the city's poor: black, Hispanic, yellow, and white. Most of the poor did not loot. Many blacks were not engaged in looting. Although the situation beckoned to all, many had the internal conscience not to take part. They should be praised and honored, not mocked.

Looting took place after the flood in Johnstown, Pa., my home town, until the community stiffened against it. The impulse to loot is universal. Barbarians looted Rome and won thus a reputation.

A bearded black man in New York watched the looters on his block and with disgust called them "rotten scum." Others called the thousands of sneaker-footed, healthy, athletic looters "animals." Yet I recall that 70 years ago cartoons in New York newspapers used exactly such words about my grandparents. Welcome, said the Statute of Liberty, "ye wretched refuse of the earth."

Divergences between black culture and the culture of Eastern European serfs, however, make understanding difficult. The indifference, scorn, and mocking coldness, among young blacks toward social order astonishes former Eastern European serfs, who themselves have a thousand-year dread of officials, and have as little to do with "the system" as possible.

Young blacks seem to attribute everything outside themselves to The Man. They have contempt for social reality. It is as though young blacks live in unbroken dependency, and remain in the state of social infancy. For the young black looters were in a festive mood, not a mood of rage and despair. They were in an acquisitive, not a revolutionary, mood. (Certain journalists voiced notes of despair, rage, anger, and protest, right out of the Kerner Report; the looters did not.) They threw a tantrum of infantile greed.

A professor of Africana at Cornell University dared to write: "People steal, or loot, or riot, because they do not have the money to buy what they WANT. The welfare agencies may buy what people NEED, but in a nation of conspicuous consumption as this one, such measures are just not adequate." This professor, in effect, praised the looters, and tried to scare the rest of us into expecting more of the same. "Right now," he adds, "in Black America the loss of light is largely The Man's problem, a malfunction to capitalize on with raids, instead of the effort to bring a system back to life as quickly as possible."

Such social infancy among young blacks is not attractive. Since the last blackout, in 1965, when no looting occured, young blacks have been taught too many such lies—that they are victims, that they are governed by a lesser moral and intellectual standard, that the world owes them a living, that they may take what they want.

Living out these lies, destroying their neighborhoods, some paid a price in jobs and productivity for many years to come. They destroyed their own integrity as well.

ENERGY QUESTIONNAIRE

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. BLOUIN. Mr. Speaker, during the past month, my office has been involved in coordinating an energy education program throughout the Second Congressional District of Iowa.

This program is designed to help eastern Iowans understand the Nation's energy problem, to help them recognize the crucial energy policy decisions which must be made in the very near future, and to explain as fully as possible the President's proposed National Energy Plan.

This program reflects my strong conviction that the American people must be closely involved in making those vital decisions which will shape the Nation's energy policies for years to come. Without the public's understanding and support, everything we do here in Washington will turn out to be useless. Without the public's cooperation, even the wisest energy plan will fail, just as surely as the lack of a coordinated energy policy has failed us in the past.

In an effort to measure public attitudes, my office distributed a short questionnaire on energy policy as part of a special mailing on the energy issue. Responses to this questionnaire—a summary of which I am inserting in the RECORD today— reveal that a large majority of Iowans in my district are well aware of the fact that the Nation faces a serious energy problem and they are apparently willing to follow the Federal Government's lead in finding a solution to that problem.

Although many opposed some of the President's proposals, the majority supported the tax on gas-guzzlers, the rebate on fuel-efficient cars, an excise tax on gasoline, and the rebate for home insulation. Moreover, they believe that any energy plan should prevent "windfall profits" for the energy industry and they agree with the administration's decision to postpone construction of fast-breeder reactors.

In the weeks ahead, I will be making a deliberate effort to discuss these issues in greater depth with the people of my district through call-in shows on local radio stations and a series of town meetings on energy. The initial results of our questionnaire confirm, however, that people in eastern Iowa at least are concerned about the energy issue and are willing to get involved in our efforts to formulate a meaningful national energy plan.

If there are no objections, Mr. Speaker, I insert for the RECORD the results of our energy questionnaire at this time:

SUMMARY

1. Do you agree that there is a serious energy problem which merits this kind of conservation and conversion program?

	Percent
Yes	82.1
No	12.9

2. Do you think the President's Plan is strong enough?

	Percent
Yes	45.7
No	44.6

3. Do you agree with the President's assumption that the federal government must play a leading role in developing and implementing an energy plan?

	Percent
Yes	78.9
No	15.1

4. Do you agree with the proposed tax on "gas guzzlers" and the rebate on fuel efficient cars?

	Percent
Yes	55.3
No	42.1

5. Would you favor a tax on inefficient cars without a rebate to people who buy fuel efficient cars?

	Percent
Yes	52.6
No	45.1

6. Do you think the President should be given the authority to impose a gas tax if consumptiion does not increase?

	Percent
Yes	51.4
No	46.5

7. Do you think the tax credit for home insulation and similar measures is needed to encourage greater conservation at home?

	Percent
Yes	67.8
No	29.7

8. Do you think the system of combining taxes and tax rebates as well as using tax credits to offset the cost of conservation efforts is sufficient to protect the average taxpayer from being unfairly penalized by the energy plan?

	Percent
Yes	43.1
No	43.5

9. Do you agree with the Administration's assumption that the energy industry needs additional incentives to find and recover additional supplies of oil, gas and coal?

	Percent
Yes	54.8
No	41.4

10. Do you think the energy plan should prevent "windfall profits" for the big energy companies?

	Percent
Yes	82.0
No	17.3

11. Do you agree with the Administration's decision to postpone advanced nuclear energy systems until adequate safeguards can be developed.

	Percent
Yes	65.2
No	31.0

THE DEBATE ON NICARAGUA IS NOT OVER

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. KOCH. Mr. Speaker, the debate on Nicaragua is not over. I thought our colleagues would be interested in an article that appeared in the Village Voice on August 8, 1977, in which I set forth my observations on that matter.

The article follows:

HOW A FOREIGN GOVERNMENT WON OVER THE U.S. CONGRESS

(By Edward I. Koch)

Nicaragua is the small Central American nation whose claim to fame rests on two major historical events: its "strategic importance" ended when Panama, not Nicaragua, was chosen as the site for an Inter-Oceanic canal; and, it served as the staging area for the Bay of Pigs invasion. Considering this shaky foundation, one may ask why the House of Representatives felt compelled recently to spend two hours in furious debate over whether to end military aid to that country because of repression by the Somoza

regime. Especially since the House Appropriations Committee had accepted an amendment (proposed by me) to terminate military aid to Nicaragua.

The House overturned that decision on June 23, by a vote of 225–180. The story of the vote involves a lobbying effort by Nicaraguan President Anastasio Somoza and his friends and allies in Congress, a State Department in conflict over a desire for flexibility in dealing with Somoza and a desire to dissociate itself from him, and a Nicaraguan people who, for better or worse, look to the United States for withdrawal of its support for the Somoza family.

Before President Carter raised the banner of human rights, there were those in Congress who questioned the provision of aid—especially military aid—to regimes which systematically violates the rights of their people. Early in 1976, numerous reports of atrocities in Nicaragua were circulating, and in order to ascertain whether these charges of repression were true or not. Congessman Don Fraser, chairman of an international relations subcommittee deeply concerned over the human rights issue, scheduled hearings on Central America for June 8 and 9 of that year.

Shortly after the scheduling, Congressman John Murphy (Democrat-Staten Island and lower Manhattan) asked me whether I would like to meet President Somoza. I said yes, and a meeting was arranged for Memorial Day, 1976, at the visiting Nicaraguan president's penthouse suite at New York's Waldorf-Astoria (a member of my staff and Congressman Murphy were present). We talked for nearly an hour, with President Somoza stressing that his country was under massive threat from Communist terrorists supported by Cuba, necessitating any anti-democratic security measures he had taken. One such security measure has been the imposition of martial law. To consolidate his power, Somoza has "maintained a "state of siege" since December 1974, when a band of Sandinista National Liberation Front (FSLN) guerrillas kidnapped a group of Nicaraguan dignitaries during a party in the capital city of Managua. (Informed American intelligence sources have estimated the number of guerrillas at 50 fighting men in a country of 2.5 million people.)

I also received a visit from then U.S. ambassador to Nicaragua, James Theberge, who assured me that systematic violations of human rights were not occurring in Nicaragua.

Despite the attempts of dissuasion, the hearing proceeded. Congressman Murphy delivered a vitriolic attack upon the opponents of the Somoza regime, charging them with using the human rights issue for political gain. Under questioning, Murphy, admitted being a close personal friend of President Somoza, having known the Nicaraguan leader since childhood. Nicaraguan priest Fernando Cardenal then delivered an equally vitriolic attack on the Somoza regime's political and economic domination of Nicaragua. He charged the Somoza regime with mass execution of civilians, torture and arbitrary detention. In response to doubts about how repressive the regime could be if it allowed a dissident to leave his country and testify in Washington, Father Cardenal answered with a Nicaraguan saying to the effect that the rich and the clergy are immune from reprisals. Interestingly, newspaper editor Pedro Joaquin Chamorro, who had been invited to testify, was not allowed to leave Nicaragua.

The hearings, in my mind, were inconclusive. While there were serious abuses occurring in Nicaragua, I was not convinced that the human rights abuses reached the magnitude of the totalitarian states of the Southern Cone: Chile, Uruguay, and Argentina.

Then, concurrent with President Carter's inauguration in January 1977, disturbing news was coming from Nicaragua. The hierarchy of that country's Catholic Church, led by Archbishop of Managua Miguel Obando y Bravo, issued a pastoral letter accusing the Somoza regime of "inhuman and humiliating treatment" of peasants, treatment ranging "from torture to rape to summary execution." The bishops also charged that the Nicaraguan National Guard—a combined military and police force—had taken over churches for use as military barracks and that some priests had been tortured. President Somoza banned publication of the pastoral letter, but it was read from every church pulpit in the country.

With these charges from the normally reserved and conservative bishops, it seemed essential that the U.S. reassess our military aid program in that country. In my opinion, U.S. military aid to the Nicaraguan national guard, whose primary function is maintenance of internal security, and has been described in testimony by a State Department official as "the principle power base and personal instrument of the ruling Somoza family." violated the human rights policy being enunciated by President Carter. Furthermore, I felt the United States had a special responsibility to the Nicaraguan people because of the long association between the U.S. government and the Somoza family. For several years in the 1920s. U.S. Marines occupied Nicaragua in an attempt to end a civil war there. While not able to directly subdue the guerrillas, the U.S. did establish, organize, equip, and train the Nicaraguan National Guard—headed by General Anastasio Somoza, who in addition to being the father of the present leader, used the armed force to seize the presidency after the Marines were withdrawn. The Somoza family, with the help of U.S. military and economic assistance, has controlled Nicaragua ever since.

Last April, the Foreign Operations Subcommittee of the House Appropriations Committee, held special hearings on human rights in Nicaragua. The hearings lasted two days, with both pro- and antiSomoza witnesses testifying (some of whom had come from Nicaragua). In my opinion, none of the testimony refuted the charges of the Nicaraguan Catholic bishops. The State Department, in its testimony, said it was aware of "brutal and, at times, harshly repressive tactics" of the Nicaraguan National Guard to maintain internal order. The State Department announced that it is withholding already appropriated 1977 military aid funds and would withhold 1978 funds, if appropriated, until the human rights situation improved.

A strong case has been made for terminating military aid to Nicaragua. No risk to U.S. security would be involved. Assistant Secretary of State for Security Assistance, Lucy Benson, when asked what would be lost to the United States if military aid to Nicaragua were cut, replied: "I cannot think of a single thing." Nicaragua does not appear to face any external threat, and the State Department had reported to me that Cuban support for the Nicaraguan guerrillas was not nearly as massive as Somoza defenders alleged. Finally, the charges by the Nicaraguan Catholic bishops seemed to provide irrefutable documentation of severe repression.

Others obviously felt the same way, for despite a State Department request that no countries be singled out for rebuke on human rights grounds, the subcommittee on a 5–4 vote decided to cut military aid to Nicaragua as provided for in the Foreign Assistance Appropriations bill. Gradually, it became apparent that forces other than the State Department were at work attempting to restore military funding. In the Appropriations Committee meeting of June 14, a spirited lobbying effort organized by the Nicaraguan government was made. The effort to restore funding was defeated 22–21.

I first learned of the extent of this lobby when a reporter from *The Tampa Tribune*, Jack Nease, informed me of the activities of former Florida Congressman William Cramer. In May, Cramer signed on as a paid lobbyist for the Nicaraguan government, as did former Secretary of the Navy, Fred Korth. (None of these lobbying activities are illegal. Some question, however, should be raised regarding the propriety of Cramer's work since he is counsel to the Republican National Committee.) The intensity of the lobbying increased concern over the position of the State Department—even though State said it would not actively lobby for restoration of military aid funds on the floor of the House, explaining that it did not want to appear aligned with Somoza.

On the day the debate began on the floor of the House, Congressman Clarence Long, chairman of the Foreign Operations Subcommittee and a supporter of the aid cut, received a letter from Assistant Secretary of State for Inter-American Affairs Terence Todman asking that the funds be restored. Copies of this letter were sent to congressmen John Murphy, Elford Cederberg, and George O'Brien, all ardent supporters of the Somoza regime.

The House debate on Nicaragua was a heated one. Congressman David Obey (Democrat, Wisconsin), a supporter of the ban, called the Somoza regime "one of the most disgusting, cruel, and corrupt governments in the world." Congressman Charles Wilson (Democrat, Texas), who offered the amendment to restore aid, said, in an apparent effort to discredit the charges by the Nicaraguan Catholic bishops, that as a small boy in Texas he had become suspicious of "radical preachers," Congressman John Murphy insisted that "our intelligence sources can confirm no political prisoners; no executions; no torture; no disappearances." The spectre of Cuban subversion was raised, although the State Department's own testimony was that Cuban support had diminished and that the guerrillas were on the defensive. Congressman Kika de la Garza charged that withdrawal of military support from Somoza would engender a Communist takeover: "If we knock out the existing government, right, left, dictator or whatever, what will be left?" he asked. "Communism," he answered.

The House voted to restore military aid to Nicaragua, 225–180. The defeat can be explained by a strange combination of the Nicaraguan lobby appealing to conservatives to come to the aid of a "friend" of the U.S. and the State Department appealing to moderates and liberals to give the Administration flexibility.

The vote, unfortunately, was more of a victory for the Somoza regime than it was a victory for the Carter Administration. Somoza boasted in the censored Nicaraguan press that the vote was an endorsement of his regime. When the U.S. Embassy in Managua attempted to clarify the situation by issuing a press statement saying that the military aid funds were being withheld pending an improvement in the human rights situation. Somoza prohibited the publication of the statement. With House vote in hand, Somoza is willing to brush aside State Department protestations on human rights.

While this incident will not deal a fatal blow to President Carter's human rights campaign, it should alert the President to the difficulties he may encounter in dealing, not simply with a repressive foreign government, but with recalcitrant segments of his own Administration and with a Congress willing to oppose any actions which may disrupt relations with a "friend" of the U.S.

A fitting postscript to this episode is contained in correspondence between Congressman David Obey, a subcommittee member supporting the end to military aid to Nica-

ragua, and the State Department. In his letter Congressman Obey expressed a deep frustration at the Administration's foundering on the Nicaraguan issue. He stated, "I found it disconcerting that after the Administration representatives had indicated to us that they were supporting the bill as it came out of the committee, they then misspent the greater share of their time lobbying for a minor amendment [the Nicaragua Amendment] when they should have been spending their time urging members to stick with the committee against all amendments. . . . Because of the [Administration's] lobbying effort on the Nicaragua amendment, it was apparent that the committee was not really speaking for the Administration and that made a difficult situation impossible."

The State Department's response suggests the Administration's confusion over the human rights issue. The department's letter states: "Our position on that [Nicaragua] amendment is expressed in Assistant Secretary Todman's letter to Chairman Long. . . . Unfortunately, a lower-level officer in the department, perhaps in an effort to be of service, enclosed an out-of-date memorandum with Todman's letter before it was sent out. That memorandum was subsequently used in the debate and represented as Administration policy, which it definitely was not."

A sound human rights policy can only be effective if the Administration speaks with one voice and integrates its actions. The story of the Nicaraguan military aid amendment demonstrates that the Carter Administration has not yet achieved one of its most admirable goals.

THE ETHICAL CAR EVOLVED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. SHUSTER. Mr. Speaker, I commend to my colleagues this very thought-provoking article written by Mr. Gil Carmichael, a distinguished transportation leader in America:

THE ETHICAL CAR EVOLVED

In 1974 I sat through the meetings of the third congress in San Francisco as an observer. That year you were grappling with the problems of the small car drivers surviving in the big car and truck world. I am a Chrysler and Mercedes dealer, but I am also a VW dealer. I'll never forget going to those meetings fully expecting my VW to end up being the culprit. After all, Nader and others had hit the small car with deadly accusations.

In 1974 our Nation was going through a traumatic time. The embargo of October 1973 was fresh on the minds of everyone. The cold realities of a possible energy shortage stared us in the face. Gasoline lines and the new 55 MPH speed limits were actual facts. Many of us could feel something evolving. There was an unspoken agreement that a radical event had taken place in our society.

I came away from the 1974 congress with a strange feeling of having stumbled on something new. My small car wasn't the culprit after all. The papers' evidence and the participants' discussions pointed out that the big car was unethical! The big car went too fast and the human being could not handle it well when the speed exceeded 55 MPH. The big car killed people, especially in small cars. It wasted fuel, metals, and materials, and it polluted the environment. The small car wasn't a saint, but it was getting safer and generally behaved itself better than its larger cousin.

You granted me the opportunity to make a talk in 1975 at the fourth congress. My short paper introduced the idea of the "Ethical Car." My parameters were drawn from the reverse of the errors of the big cars. Therefore the ethical car: (1) must not waste metals and materials, (2) must not waste fuels, (3) must not go too fast, and (4) must not pollute the environment.

The vehicle that did these things in an efficient manner would be a good citizen in the new era of safety and conservation. This new car would perform a major function in our mobile society. I gave it some possible numerical values and pointed out that there were many versions of this vehicle within the parametric square.

Before I repeat the numerical values, let me make an observation that probably deals with the constitutional rights of our people. Since our country is a mobile society, one must have transportation in order to be a productive citizen. If public transportation is not available then the right to a private vehicle is necessary just to function in the system. I must point out, too, that this constitutional right does not mean that you can go as fast as you want or waste as much fuel as you want.

The parameters for the Ethical Car were: (1) that it probably weighed 2000 pounds, (2) had a 4 cylinder engine that delivered 40 MPG, (3) did not exceed 60 MPH, and (4) carried up to 6 passengers. If you will visualize this vehicle you can see that it is larger than the traditional VW or Toyota car.

Many people at the congress disagreed with this concept saying that it wasn't possible. I have become quite happy in the last few months as versions of this car began to appear in the market place. I now realize that I grossly underestimated the fuel savings. It now seems that 50, 60, and 70 miles per gallon are quite attainable. The IRV automobile on display has a combined mileage of 60! In looking at IRV's Rabbit Diesel engine with a simple turbo charger, one must remember that all of this is old technology.

The next evolution of this car will probably be a safe, high economy, light weight multipurpose (van type) vehicle that carries a family of 6 people. I think the younger generation is asking for this vehicle now. I hope you can also see the huge industrial opportunity (within the ethical car parameters) for lightweight rural and commercial trucks as well as sports cars and roomier sedans.

Now let us try to put these evolving vehicles into the big picture. If the concept of an ethical car is well founded then it has more of a role to play than in just our field. It may be a clue to a new ethic in the whole transportation matrix of our country.

I'm very lucky to be a part of this Council and also to be a Commissioner of the special commission of congress called The National Transportation Policy Study Commission. It is composed of 6 senators, 6 congressmen, and 7 modal members. We have a good budget and two years to analyze the Nation's current and changing transportation policy. By December 1978 we're supposed to make recommendations for needed policy changes. It appears we'll have significant ones to offer.

You say, "It has been done before." This is true but there is something that makes this report different from the others. The White House is producing a new energy policy. That policy is significant. Prior to 1973, the Nation's transportation system was built on the thesis of "cheap fuels and increasing consumption" (29 cent gas plus increasing use of fuel to produce more tax). The President's energy speech announced the new thesis: "high price fuel and conservation!" This is exactly the opposite of the formula that built our Nation's robust economy of the last 30 years!

Whether we agree with it or not, this is our Nation's new energy policy. We have approximately twenty million more Americans coming on the scene in the next 10–20 years. How do we create the jobs needed for them? How do we build a dynamic growing transportation economy to improve the quality of life on the opposite energy policy?

Let me add some more thoughts to the big picture. As I see them, our Commission hearings have brought to light some other possible trends in transportation.

1. Railroads are deliberately shrinking. They want bulk business and they want to be unregulated. Except in rare cases, they want out of the subsidized passenger business.

2. Airlines want to shrink too. They're looking to multimodal ownership. They are not opposed to regional airports and bus terminals being together. They look at freight only for limited size parcels and speed delivery.

3. Buslines want the intercity passenger business and don't mind owning or being owned by airlines.

4. Trucks have the key to "time" in transportation and they will get bigger, wider, and longer. They'll pay the maintenance bill for the highways. Trucks are warm to multimodal ownership, as are the railroads and waterway companies.

5. Regional Transportation Systems, due to major geographical differences, are coming to the forefront. Homogenous areas of states may set their own priorities and collectively seek monies from a new National Transportation Fund.

6. Oil, in this decade, could well be valued by BTU's per Barrel and Miles per Barrel rather than "Dollars of Chemicals" per Barrel. The BTU's required to refine exotic chemicals and gasoline may be too dear.

7. Sophisticated, high performance gasoline engines may give way to fuel and mile efficient diesel engines and then evolve further to the very versatile distillate engines that beat them all. Broad range distillate fuels come from simpler refining which will produce maximum miles of transportation and will extend the life of our domestic supply of oil.

8. New Transportation speed limits for energy saving are emerging: 55 miles per gallon for cars and trucks, 550 miles per hour for jets, and 55 percent of power for general aviation airplanes. It appears speed may have topped out for now and the people seem to like the easing up.

9. Much of the so called inflation may not be inflation at all but may be simply the repricing of fuels and raw materials in the world market place. Much of the new price may be irreversible.

10. Conservation is the new consciousness of western man—especially American Industry. It will probably solve the energy question and create many new problems. America seems to be leaving the gaudy, conspicuous, wasteful and polluting era and preparing for a new era or new ethic.

I think all these things indicate that our Nation has gone through a radical change since 1973. Maybe middle age and older Americans have not changed that much, but the evidence seems to be adding up to some sort of major shift. We are in uncharted waters. The total effect of the new energy policy could well be a new set of economic values that are not written yet. Western man hasn't been too "conservation" minded. He hasn't known his limits so clearly as now.

Now, let's come back to our job of automotive safety. We must make sure that the safety standards we are dealing with are relevant to the new cars, trucks, and buses that are evolving. Let's make sure we are thinking in this new frame of thought.

First, let us go back and find the limits of the human brain in trauma. Let's do the same thing with the neck, spine, chest, knees, and intestines. These tolerances are critical elements of study and the ultimate

vehicle design (to protect the human being) depends on their accuracy.

Next, let's look at the interior of the vehicle. I'm highly suspicious of our passenger seating arrangement. For a long time we couldn't rearrange the seats for styling reasons. The younger generation has made rearrangement possible with their own custom vans and swivel seats. For safety's sake let's turn the back seat passengers sideways to see if there is value. Let's reverse the front passenger seat. It may have significant safety and as a side benefit it may even have sex appeal.

If we are building the (van type) 6 passenger vehicle, let's put a sliding door on the curbside and let all but the driver exit from this wide door. Let's extend the kneebar idea all the way down the interior's left side. Further, we should try to incorporate the hatchback door and the sunroof as possible emergency exits.

Let me give you one final example of a safety program that could have major impact on the Nation's transportation universe. Let's put a 3 cents tax on gasoline ($3 billion annually) and use it in the form of a rebate or bounty on the old cars and trucks. These are the real culprits that pollute the air and waste fuel and probably contribute greatly to injuries and fatalities. From 1968 models back, there are 44 million still on the road. Old folks, poor folks, and young folks own them. They need an economy car or truck more than anyone else and are trapped with the high fuel cost and constant repairs. The 3 cents tax would allow $300 or more in rebate. Add this to the scrap value and the dealer/manufacturer over allowance when the car is turned in and you have a good down payment! What does this do? It makes the environmentalists, the steel industry, the conservationists, and the auto industry happy. It could be the best way to stimulate employment and reduce highway deaths since the 55 MPH speed law. Even the politician could go home and tell his folks that he helped get their new car!

I'll close with this summary—the ethical car is evolving. It is a clue to a new America. This car represents a new consciousness that is seeping all through our society. You can take part credit for this evolution because of your scientific safety study in the last ten years. We can build a healthy economic future on "High Price Fuel and Conservation" if we will concentrate on recycling the wasteful products of the old era. The task is huge, but now the crisis is exciting. I like where we're going. Let's get on with the development and production of these new vehicles.

LOCAL PUBLIC WORKS GRANTS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 4, 1977

Mr. ROE. Mr. Speaker, in a recently published article in the National Journal, James Singer had done an excellent review of the second round of funding under the Local Public Works program. Mr. Singer concludes, and I agree, that both the Congress and EDA profited from the experience of round I and made a number of changes in the program to more sharply focus the program in the areas of greatest distress. This article is an excellent review of the program and I believe it will be very helpful in answering the many questions that Members are receiving on the distribution of these funds.

The article follows:

GIVING AWAY PUBLIC WORKS MONEY—IT'S EASIER NOW FOR EDA

(By James W. Singer)

(NOTE.—The Economic Development Administration has removed some of the bugs from its local grant program. And local officials are feeling better about it.)

The Commerce Department's Economic Development Administration (EDA) is finding it easier to give money away these days.

EDA, which runs the government's $6 billion countercyclical public works program, stirred up a storm of protest last December when it announced the projects that had been selected for funding during the program's first round. Big-city mayors were particularly critical, contending that not enough of the $2 billion awarded had been channeled to the areas with the greatest need.

Such cities as Pittsburgh and Seattle didn't get a penny, while Mound Bayou, Miss., with a population of 2,314, an annual budget of $200,000 and a total of 217 unemployed persons, was awarded $4.9 million—almost half the amount given to the entire state of Mississippi—for three projects.

Both Congress and EDA profited from that experience. The law was changed substantially for the second round of funding (91 Stat. 116), and EDA has set up a totally different system for awarding the remaining $4 billion. The purpose is to assure that areas with the severest unemployment problems will get more of the funds, to allow applicants to choose the projects they want funded, rather than let EDA make the choice.

While EDA has not given final approval to specific projects that will be funded in the second round, it has designated the roughly 10,000 areas and applicants eligible for funds and has set ceilings on the amount of money each may receive. (The agency had about 23,000 applications representing roughly $23 billion in work left over from the first round.) Those eligible include state governments, local governments and school districts. EDA will sign off on specific projects, but only after the various units of government have set their own priorities. EDA expects to begin the final approval phase in late July and finish by September.

On the whole, EDA has received higher marks for its handling of the second round.

Governors, big-city mayors and county officials are generally happier this time around, but officials from smaller cities and rural areas feel they have been shortchanged. And school district representatives, who must negotiate with their city officials for a share of the funds, fear that EDA is biased against school projects and that they may miss out on money before this round of distribution is completed.

Schools and local governments are supposed to receive equal treatment, and EDA is leaving the allocation of an area's funds up to the representatives of each. But if school and city officials can't reach agreement, EDA will decide for them—a situation bound to generate additional criticism of the agency.

EDA ACTION

Representatives of state and local government organizations said that EDA officials are doing a good job under difficult conditions. "We don't agree with all the decisions the EDA has made, but the people running the agency deserve a lot of credit," said Elliott A. Alman, legislative representative of the National Association of Counties (NACo). "They're more open and receptive than other federal officials and they take your views into consideration. I think they've made a gallant attempt to get rid of the problems they had under round one and put the money where the need is greatest. To a large extent, it looks like they've succeeded."

EDA is not a big bureaucracy, as government agencies go. It has about 800 regular employees in its Washington headquarters and six regional offices. But almost all the work on the local public works program, except for major decisions, is being handled by some 530 temporary employees.

The local public works program was enacted a year ago, over former President Ford's veto, to create jobs and help reduce unemployment, particularly among construction workers.

It authorizes the construction and renovation of such facilities as municipal offices, courthouses, libraries, schools, police and fire stations, water and sewer lines, streets, sidewalks, recreational buildings, convention centers and museums.

It was designed for quick implementation by authorizing funds only for those projects that could be started within 90 days of approval. Ford oppcsed the program on the grounds that public works projects are expensive, create few jobs and cannot be started and completed quickly enough to stimulate the economy in a timely fashion. (For background, see Vol. 9, No. 7, p. 245 and Vol. 8, No. 51–52, p. 1794.)

The program was redesigned and expanded by $4 billion as part of the Carter Administration's economic stimulus package. President Carter signed the new authorization for the program and the legislation appropriating the additional $4 billion on May 13.

Robert T. Hall, assistant secretary of Commerce for economic development, said that by early July, work had begun on 94 per cent of the 2,063 projects approved during the first round. Final approval of these projects was made during January and February. Hall said work on almost all projects began within the required 90-day period.

During the next few months, Hall said, he anticipates EDA will approve 7,000 to 8,000 new projects. He said preliminary estimates indicate the agency will be more successful in targeting the money to areas with the highest unemployment. For the total $6 billion program, Hall said, the Administration estimates outlays of $1 billion or less during the current fiscal year, $2.5 billion to $3 billion in fiscal 1978, which starts on Oct. 1, about $2 billion in fiscal 1979 and a "trickle" thereafter.

EDA will study the program to determine how many jobs it creates and the types of workers employed. Estimates of the number of jobs to be created by such projects have varied widely, from 16,000 direct on-site jobs for each $1 billion spent to 75,000 jobs. (*See Vol. 9, No. 7, p. 248.*)

CHANGES

Because of changes made by Congress and EDA, the second round of the local public works program is fundamentally different from the first.

In the first round, only 70 per cent of the money was available for projects submitted by applicants with the highest unemployment levels. The remaining money was reserved for applicants from areas whose unemployment rates were lower than the national average (7.8 per cent at the time) but higher than 6.5 per cent. Congress eliminated this provision.

The law originally allowed applicants to gerrymander their project areas to include unemployment data from neighboring jurisdictions from which workers could be drawn. This provision, which also was eliminated, permitted many applicants—such as Mound Bayou—to engage in what Commerce Secretary Juanita M. Kreps called "creative gamesmanship," and resulted in the kind of inequities that brought the protests last winter.

Under the first phase of the program, applicants were encouraged to submit numerous applications, but were not allowed to list their priorities. EDA decided which projects

to fund using a complicated scoring system that considered factors other than severity of unemployment. It also used a formula that discounted the importance of the actual number of unemployed persons in a project area, which helped small cities and suburban communities and hurt large cities. These provisions have all been scrapped for round two.

Under the second phase of the program, part of the $4 billion has been set aside for special uses; $100 million dollars for Indian tribes, $20 million for U.S. territories and $70 million for projects not funded during the first round because of procedural error.

The law requires EDA to allocate funds for use in each state on the basis of the state's unemployment—with 65 per cent of the funds distributed as a percentage of each state's share of the total number of unemployed persons in all states and 35 per cent allocated to states with unemployment rates above 6.5 per cent. Each state received a minimum of $30 million and no state received more than $500 million. This is somewhat different than before.

Within a state, allocations were made solely on the basis of unemployment, using the same 65–35 formula. Applicants now are able to choose the projects they want funded rather than have EDA make the choice. No applicant is eligible to receive funds unless its unemployment rate is at least 6.5 per cent or, if the state unemployment is below 6.5 per cent, higher than the state level.

EDA has handled the two rounds as a single $6 billion program. As a result, round one allocations to an area will be subtracted from the amount the area could get in round two. EDA has defined three basic areas for which allocations have been made: cities with a population over 50,000, counties that contain such cities and counties that do not have such cities.

Cities over 50,000 that do not have a high enough unemployment rate to be eligible for funds may still receive grants if there are "pockets of poverty" within the cities. Pockets of poverty are areas with at least 4,000 residents and unemployment rates of at least 8.5 per cent.

Of the funds allocated to a state, 8 per cent will go to the state government (reduced by whatever it received under the first round of funding). Eligible county governments will get a share of their state's funds based on the ratio of the value of their applications to total applications in the state.

In the first round, states received about 6 per cent of the funds, counties 13 per cent, cities 61 per cent, school districts 17 per cent and special-purpose governments about 3 per cent.

But 36 of the 100 largest cities got no money in the first round, and EDA says that 98 percent of these cities are now eligible.

Joanne Doddy Fort, staff director for community and economical development for the National Governors' Conference, said governors are more satisfied with the second round than they were with the first, even though they still have some minor complaints about EDA. She said the conference calculated that state governments received 2 percent of the funds under round one (excluding what Puerto Rico was awarded), compared to the 8 percent they will get under round two.

Fort said EDA now recognizes that more state public works projects need to be funded and that states have an important role to play in helping carry out the program. "More money is always better than less, and it's evenly distributed to state governments across the country," she said.

Both Julie M. Bingham, legislative counsel of the National League of Cities, and Dorothy V. Brodie, an assistant executive director of the U.S. Conference of Mayors, said mayors of large and medium-sized cities are much more pleased with the current phase of the program than they were before.

"The EDA has made every attempt to abide by the law and get the money where the need is," Brodie said. "The mayors around the country seem pretty satisfied now. You can always find some complaints, but we haven't received many this time and a lot of mayors who were unhappy before are happy now."

Bingham said the current distribution system is more equitable and should have been used from the beginning so that applicants could have tailored their applications to the amount of funds they will receive. The applications require engineering and architectural work and are expensive to prepare, she said, and many cities have been forced to revise the applications they originally submitted.

The league's state officials have reported that the distribution of money within states "looks pretty good," Bingham said, and has gone to the most distressed areas. She said there have been "some horror stories," but very few compared to what happened before. Bingham praised EDA for being "delightfully free of political shenanigans," and credited George T. Karras, EDA's deputy assistant secretary for operations, with being "an amazing bureaucrat," who is accessible, frank and chiefly responsible for making the program work.

While NACo's Alman also said he thinks that, for the most part, EDA has been fair, he criticized the way the agency determined the amount of funds allocated to counties. He said a more equitable method would have been to give county governments money on the basis of their normal public works spending compared to the total public works spending by all local governments and special districts in a state as computed by the Census Bureau every three years.

EDA's Robert Hall said the agency decided to use the current formula because it provided the best indication of the projects that could be started quickly. He said there was little difference nationally between the two methods—with a third of the counties doing better under the EDA formula, a third doing worse.

Small towns and rural areas have complained that they did not receive adequate allocations under round two. Rep. Charles Rose, D–N.C., in a June 29 letter to other Members of Congress, charged that EDA "violated the spirit of the act and flaunted the intent of Congress" by shortchanging small rural towns.

Hall said many of the complaints the agency has received from small towns and rural areas are based on a misconception of the local public works program. Many of these areas thought allocations were to be made on the basis of what they represented, he said, rather than on the extent of unemployment. He said many small towns have fairly high unemployment rates but comparatively few unemployed people.

"Much of the unemployment in small towns and rural areas is structural and not cyclical," Hall said. "They need the assistance of EDA's regular programs that are intended to stimulate long-term economic development rather than provide work as a countercyclical tool. We hope to help many smaller communities through our regular programs that deal with long-term, hard-core unemployment."

SCHOOLS

EDA could be in for a rough time if large numbers of local governments and school districts are unable to agree on their priorities, forcing the agency to choose between the competing demands. Understandably, agency officials hope that won't happen.

Neither EDA nor local governments wanted school districts to be treated equally with general-purpose local governments in the second phase of the public works program. But school lobbies worked hard on Capitol Hill and won the right to receive equal treatment.

Hall said EDA wanted to concentrate as much as possible in the second round on funding projects that would stimulate long-term economic development, such as sewers, water systems and access roads. School gymnasiums and swimming pools do not have the same kind of economic impact, he said.

Moreover, Hall said, many schools in the country are closing and there is a surplus of classrooms. "We weren't saying that school systems don't have legitimate needs, but they got almost 20 per cent of the money under round one and we were concerned that they not get a disproportionate share of the public works development money," he said.

"General-purpose governments must provide a variety of services and, when unemployment is high and revenue is down, the demand for many of these social and health services increases," Alman of NACo said. "Schools provide only one service—education—and it's not affected that much by unemployment."

But school board representatives said they need capital improvements. Even though the school population may be declining in some parts of the country, they said, it is increasing in other areas that need new facilities. Many older facilities also must be repaired and renovated, they said.

Kristi R. Hanson, legislative specialist for the Council of the Great City Schools, which represents 28 big-city school systems, hailed the inclusion of school systems in the public works program as a "big breakthrough" that schools have long been seeking. She said it was the first time Cngress recognized that schools are major employers that can compete with cities in providing jobs. School systems will try to get the same kind of treatment in other government programs, particularly the Comprehensive Employment and Training Act (CETA) program run by the Labor Department, she said.

After threatening to file suit to delay the grants, lobbying on Capitol Hill and negotiating with EDA, school systems succeeded in getting the agency to revise its May 24 regulations to make it easier for school districts to compete for county allocations.

It is still too early to tell how successful the school districts and their local governments will be in establishing joint priorities. (For a look at the negotiations in Grand Rapids, Mich., see box, p. 1160.)

Hanson said negotiations seem to be going smoothly in some cities, not so well in others. Bingham of the National League of Cities said she has been talking to 10 or 12 cities a day and has received widespread complaints about the process. "There seems to be some very messy stuff going on," she said.

EDA will settle any unresolved disputes after all other projects have been approved. But officials of school board groups said they are not sure that EDA will be able to judge school board applications on an equal basis with local government applications, if current city-school negotiations break down. They said they distrust EDA because the agency does not understand school systems, has not dealt with them in the past and has appeared to be biased against them. "We don't feel we'll have an equal political shot because we're coming in as outsiders and because of our recent experiences with the agency," Hanson said.

Representatives of local government groups, on the other hand, believe EDA may favor school board applications simply to refute the charges of bias. "I think the claims made by the schools that the EDA is biased

against them might make the agency act defensively," Bingham said.

Hall acknowledged it will not be easy for EDA to settle differences between school boards and local governments. "But we've set out the criteria for choosing, we're developing other criteria and we'll look at each situation on a case-by-case basis," he said. "We certainly won't favor one particular group over another. Our interest is in expediting the program and getting construction under way."

In a process that is otherwise going smoothly, the potential school-city fight looms as a problem for EDA.

At this point, it isn't clear that EDA is in fact biased against school projects. And as some cases have demonstrated, once schools and their cities are required to negotiate over federal funds, they can reach an agreement. Thus despite their apprehensions, school officials may find the process less onerous than they fear.

But if squabbling turns to stalemate, the Economic Development Administration may once again find that it is not always easy to give money away.

BLAIR ROBINETT, SURVIVOR OF BATAAN

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1977

Mr. BAUMAN. Mr. Speaker, recently the Queen Anne's Journal of Centreville, Md., published an interesting interview with Mr. Blair Robinett also of Centreville. Mr. Robinett has had a distinguished career of service with the U.S. Corps of Engineers from which he recently retired, but even more interesting to many will be the distinguished military service that he rendered during the Second World War. The article points out that Mr. Robinett served both in Korea and in the Second World War, and it was during the former service that he participated in the infamous Death March of Bataan.

There are many people who have rendered service to their Nation in war time whose stories I am sure are of equal interest, and I thought my colleagues might wish to share this one of one man who was willing and fought for his country very bravely:

BLAIR ROBINETT . . . SURVIVOR OF BATAAN DEATH MARCH

(By Pat Emory)

A consulting engineer for shore line erosion is a great distance to travel from the occupation of roads engineer in the tropical jungles of the Philippine Islands at the onset of World War II.

Blair Robinett will never forget the earliest years of his engineering career when such a large portion of his life was compacted into those war years, beginning with the bombing of the island by Japanese and the subsequent Death March of Bataan, a war tragedy which lost almost every American and Philippine soldier and civilian on the island of Luzon.

Blair Robinett is one of the few survivors of this Japanese-provoked mass death. He also survived four years of guerilla warfare in the most malaria-ridden countryside in the world, played a major part in wiping out the Makipili Party on the South Pacific Island, the party in sympathy with the Japanese causes, survived despite a 10,000 pesos reward on his head, and returned without a scratch from a later stint in the Korean conflict.

"You look back at so many things that happened," said Robinett, relaxing in an easy chair in his Centreville home on Liberty Street, "and I wonder not 'why me,' but 'why not me?' "

Robinett was involved in World War II from the first to the last day of the war. He was stationed at Nichols Airfield on Luzon when the Japanese made their initial air attack, Dec. 8, 1941.

"We couldn't do anything. We couldn't even see the planes," Robinett remembers. The Japanese made three subsequent attacks and "things went from bad to worse." On the 14th, the Japanese made an 'in force' landing at Laingyen Gulf on the north coast of Luzon, and on Christmas day the soldiers received orders to destroy everything that might be useful to the Japanese. The burning of gasoline supplies, camp buildings and equipment they couldn't carry took a week, and then "we got the hell out of town."

Robinett remembers retreating to Bataan, a peninsula about six miles wide where they tried to survive in the malaria-ridden jungles. During the three month period Robinett and 105,000 troops and civilians spent in the wild, their rations were reduced from one-half to one-eighth, and even the wild creatures of the jungles: giant lizards, 22-foot long snakes and monkeys whose meat was too tough to enjoy eating, were depleted as they were killed for food.

The American army surrendered on April 9, with 80 to 90 percent of their men suffering from malaria, berri-berri or dengue fever. The walk back to the prison grounds began the next morning.

"It seems like it has to be a long distance," said Robinett, "but it wasn't. It was only 60 miles."

It was rubber-stamped the Death March because for every mile the men walked, there were at least 25 prisoners dead along the roadside for making minute violations of the Japanese restrictions.

Up until the surrender at Bataan, Robinett's Company C, 803rd engineer battalion had lost only 27 men out of a total of 166 enlisted men and officers. In 1945 when the Americans again retook the island, only 13 of these men had survived.

During the march, "I thought I was in pretty good shape," said Robinett, though his memory of the 10 day walk is hazy because of the fatigue, the hunger and the intermittent malaria he suffered from. Also, he explained, "As you go through life you realize the things you don't enjoy are the things you won't remember." Most of what he suffered on the march, Robinett simply can't recall.

However, he does remember getting only two handfuls of rice, one cooked and one uncooked, during the entire walk. He remembers being stripped and searched in a schoolyard in Lamoa, and also recalls an incident when six Philippines were shot and an American officer beheaded up against a telephone pole.

He received his only war injury somewhere along the march when a Japanese soldier borrowed his canteen to take a drink. The soldier spilled the rest of his water over the ground, threw the canteen to the side, and then, when Robinett leaned down to pick it up, hit him over the head with the butt of his rifle, cracking his skull.

On the ninth day of the march, Robinett made his escape. It was unplanned, simply a spontaneous jump for freedom that happened to succeed. All the prisoners were herded to one side of the road to let the Japanese army pass over a small bridge. "Dust must have been four inches deep on the road," Robinett remembers. The Japanese guards stepped to the opposite side of the road to avoid being showered in dust by the passing trucks.

"I was standing there with dust all over me," said Robinett. It took him a few moments to realize that "the amount of dust was so thick, I couldn't see across the road."

He took off for a stream bank, 150 yards away and dived over the side. Later, a group of Philippines, who sympathized with the Americans, picked him up, with several other soldiers who had escaped during the wind storm, and nursed him back to health.

"So many escaped just to die a week or two later," said Robinett, estimating that about 500 prisoners attempted escapes during the Death March.

"I made up my mind I'd never be taken alive again," he said. "I'd been a prisoner one time, and I knew it was likely I would be tortured to death as many Americans were." During the remainder of the war, Robinett carried a .25 caliber pistol, too small to have any use but as a suicide gun.

He immediately joined up with the Huks, a guerilla group, after his escape. He became one of the group's key men, and reorganized the entire guerrilla outfit into smaller and more scattered squadrons and initiated their Division of Intelligence whose duties were to assassinate Japanese sympathizers, recruit for the guerrilla outfit and gain supporters among the villagers for the American cause.

Under Robinett's direction, the DOI hit the headquarters of the Makipili party, Japanese sympathizers, gained the membership list of the party and methodically wiped out one after another of the members.

To the Japanese, Robinett's death was worth 10,000 pesos, or $5,000 in gold by 1944. took Luzon and and Robinett for the first "Whenever they put a price on your head, you usually didn't last very long."

He made sure nothing was left to chance and had six guards around him all the time, guards who were not dedicated to any cause, simply "dedicated to me." He also learned to sleep very light. "For years after I got married Jean was touchy about how she woke me up, because I'd come up swinging."

One example of the same cunning which saved his life can be seen in a story Robinett tells of a short wave radio and a lack of electricity to run it.

The Japanese had cut the power lines to the town they were camped outside of, and the only electricity in the area was from a generator the Japanese had in their quarters. Across the street from their quarters lived several young Philippine women which were friendly to the Americans. Robinett convinced them to invite the commanding officer of the Japanese to dinner, serve the meal by dim candlelight, and complain about how difficult it was to see. After several dinner visits, the Japanese officer was kind enough to run an electric line across the street to the young girls' home and supply them with light.

Robinett moved in underneath the house with his short wave radio. But instead of discovering what the true state of the war was throughout the world, all he could pick up was a news broadcast about a United Mine Workers strike.

In February, 1945, the American army retook Luzon and Robinett for the first time in four years was safe, with 1500 American soldiers around him. "I couldn't sleep, I was nervous as a cat in a roomful of rocking chairs." It was as if all the worries he had kept at arm's distance throughout his guerrilla years had hit him all at once.

In war, Robinett will admit, "there's no glory. Invariably you are hungry, dirty, scared." Yet he returned during the Korean conflict to fight a year and a day, and came home with barely a scratch. The patriotism he feels toward this country, the belief that "you have to back your government in to-

tal," is the only thing to explain his return to combat.

Robinett is now retired from the Army Corps of Engineers and is a private consultant for shoreline property owners on erosion control. Queen Anne's County has been his home since 1959, when he moved to Kent Island from the Western Shore. He has lived with his wife, Jean, and three daughters Melondie, Ann, and Robena in Centreville since 1962.

But Blair Robinett still feels a piece of his home is on that little Philippine Island, Luzon. "If I could talk Jean into it, I'd go back," he said. "Manila, the capital, is a fabulous place for night life, the Pearl of the Orient. It had first class bars and restaurants, first class movies—everything except winter and snowfall," he said. But the real pull to go back, he explained, is that "I've dug some holes in the island and I'd like to go back to see if they're still there."